

DCGBKURT1 Trial

1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 UNITED STATES OF AMERICA,

4 v.

S1 12 Cr. 376(RMB)

5 RUDY KURNIAWAN, a/k/a "Dr. Conti,"
5 a/k/a "Mr. 47,"

6 Defendant.

7 -----x

8 December 16, 2013
8 9:00 a.m.

9 Before:

10 HON. RICHARD M. BERMAN,

11 District Judge

12 APPEARANCES

13
14 PREET BHARARA,
14 United States Attorney for the
15 Southern District of New York
15 JASON HERNANDEZ,
16 JOSEPH FACCIPONTI,
16 Assistant United States Attorneys

17 WESTON, GARROU & MOONEY
18 Attorneys for defendant
18 BY: JEROME MOONEY

19 VERDIRAMO & VERDIRAMO, P.A.
20 Attorneys for defendant
20 BY: VINCENT S. VERDIRAMO

21 - also present -

22 Ariel Platt, Government paralegal

23 SA James Wynne, FBI
24 SA Adam Roeser, FBI

DCGBKURT1 Trial

1 (Trial resumed)

2 (In open court; jury not present)

3 THE COURT: So I just had a quick question in
4 connection with your motion over the weekend and the defense
5 response. Is there a certificate of service of the brief on
6 appeal? I didn't see one.

7 MR. MOONEY: They apparently don't do it that way,
8 your Honor.

9 THE COURT: Well, they apparently did do it that way
10 with respect to the follow-up letter from Mr. Kurniawan.

11 MR. MOONEY: We know that it got there --

12 THE COURT: I'm just asking a simple question.

13 MR. MOONEY: No, there is not a certificate.

14 THE COURT: There is not.

15 MR. MOONEY: There is not. And all that does come
16 from his immigration file.

17 THE COURT: All what does?

18 MR. MOONEY: The source. The source of these
19 documents is the immigration file.

20 THE COURT: Yes. Well, one document that you
21 submitted with your papers was an instruction from the
22 immigration authorities that said you're required to file
23 either overnight or priority and suggesting that you need to
24 have the certificate of service. And you do have one with
25 respect to a follow-up letter.

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1 MR. MOONEY: You do.

2 THE COURT: But I didn't see one with respect to the
3 brief on appeal. And there's some dispute, as you know, from
4 the immigration authority as to whether that brief on appeal
5 was timely filed.

6 MR. MOONEY: Although it appears from the final order
7 that we get that they accepted the brief.

8 THE COURT: You know, we're talking now cross
9 purposes. Just the very basic thing, you know, in litigation,
10 whenever you file something, you need to have a certificate of
11 service. I'm simply asking whether there was one. I didn't
12 see one.

13 MR. MOONEY: I'll look again. I don't think there is,
14 your Honor.

15 THE COURT: So we have our jury and we're going to
16 call them out. And we'll ask for the government's next
17 witness. Who would that be?

18 MR. FACCIPONTI: We call James Grathwohl.

19 Your Honor, before we call the witness, however, we
20 just want to get clarification from the Court on the motion the
21 government filed over the weekend and the defendant responded
22 to. Based upon the defendant's response, we think this can be
23 fairly simply resolved.

24 Obviously I think there should be agreement with
25 defense counsel that information about the defendant fearing to

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1 return to Indonesia because he's worried he's going to be
2 decapitated by Al Queda terrorists has no place in this trial.
3 It's completely irrelevant to all of the issues and can only
4 invite jury nullification here.

5 What I believe defense counsel want to do is put into
6 the record evidence that there is more than one address that
7 ICE had on file and that the final order of deportation denying
8 his appeal was sent to the wrong address. They can get that
9 evidence in without getting all these --

10 THE COURT: I'm sure they can through
11 cross-examination. That evidence is the basis for their
12 contention that Mr. Kurniawan assumed that his application was
13 being granted on the same terms and conditions that his
14 mother's was. It's a bit of a stretch, so to speak. But, in
15 any event, they'll be able through cross-examination to get the
16 address issue in.

17 Preliminarily -- and I'll give you a fuller ruling in
18 time -- I don't think it's appropriate to introduce the brief
19 on appeal for several reasons: Relevance among them, hearsay
20 among them, prejudice among them. And preliminarily I'm
21 interested in seeing that certificate of service to know if it
22 was ever timely filed.

23 So anyway that's a heads up. But you will through
24 cross-examination be able to get the salient point in or there
25 may be other points as well, one of which is that final

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1 notification that his appeal was denied was not sent to the
2 Naomi street address.

3 MR. FACCIPONTI: Thank you.

4 THE COURT: Let's bring the jury in.

5 (Continued on next page)

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DCGBKURT1 Trial

1 (In open court; jury present)

2 THE COURT: Okay. Nice to see everybody. Please be
3 seated.

4 So I think we're in the home stretch, as they say. It
5 may be that the government's case is concluded today. We'll
6 see how things go.

7 So you have as your first witness today whom?

8 MR. FACCIPONTI: The government calls James Grathwohl.

9 THE DEPUTY CLERK: Sir, if you could raise your right
10 hand, please.

11 JAMES GRATHWOHL,

12 called as a witness by the Government,

13 having been duly sworn, testified as follows:

14 THE DEPUTY CLERK: Could you please state your full
15 name for the record?

16 THE WITNESS: James Grathwohl. Last name is spelled
17 G-R-A-T-H-W-O-H-L.

18 THE DEPUTY CLERK: Thank you, sir. You may be seated.

19 DIRECT EXAMINATION

20 BY MR. FACCIPONTI:

21 Q. Good morning.

22 A. Good morning.

23 Q. Special Agent Grathwohl, we just want to make sure you move
24 your chair forward and pull the microphone close. The
25 acoustics in the courtroom aren't great.

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DCGBKURT1

Grathwohl - direct

1 For whom do you work?

2 A. I work for Homeland Security Investigations.

3 Q. That's commonly known as HSI?

4 A. Yes.

5 Q. How long have you worked for Homeland Security
6 Investigations?

7 A. For approximately ten years.

8 Q. And what is your title there?

9 A. I'm a special agent.

10 Q. What are your responsibilities as a special agent at
11 Homeland Security Investigations?

12 A. To investigate violations of the immigration and custom
13 laws as they pertain to homeland security of the United
14 States.

15 Q. And did Homeland Security Investigations a few years ago go
16 by a different name?

17 A. Yes. Two or three years ago we were called Immigrations
18 and Customs Enforcement.

19 Q. Is that commonly referred to as ICE?

20 A. Yes.

21 Q. I-C-E?

22 A. Yes, it is.

23 Q. What current group or task force are you now assigned to?

24 A. I'm assigned to the El Dorado task force which investigates
25 financial crimes like money laundering.

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DCGBKURT1

Grathwohl - direct

- 1 Q. Prior to working for the Department of Homeland Security,
2 what did you do?
3 A. I was a special agent for the Immigration and
4 Naturalization Service.
5 Q. And what was the Immigration and Naturalization Service?
6 A. That was the agency which is tasked with enforcing the
7 nation's immigration laws as well as administering immigration
8 benefits.
9 Q. And that was the immigration agency before the Department
10 of Homeland Security was created?
11 A. Correct.
12 Q. In total, how many years have you been working at
13 immigration agencies?
14 A. Twenty-one years.
15 Q. Are you familiar with the term "alien file" or "A file"?
16 A. Yes, I am.
17 Q. What is an A file?
18 A. An A file is short for alien file, and it's a paper
19 repository for all information on a particular alien.
20 Q. What kind of documents are kept in an A file?
21 A. Documents related to any benefits that an alien applies
22 for, and also documents relating to any arrests of an alien or
23 court proceedings involving an alien.
24 Q. Are these documents created and maintained in the ordinary
25 course of the Department of Homeland Security's business?

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DCGBKURT1

Grathwohl - direct

- 1 A. Yes, they are.
2 Q. In the course of your 21 years working in immigration
3 enforcement, have you routinely reviewed the contents of
4 A files?
5 A. Yes.
6 Q. What is an A number?
7 A. An A number is a unique number used to identify a
8 particular alien.
9 Q. Are you familiar with the term "green card"?
10 A. Yes, I am.
11 Q. What is a green card?
12 A. Green card is the slang term or common term for the lawful
13 permanent resident card which indicates that the person bearing
14 the card is allowed to live and work in the United States
15 permanently.
16 Q. What is a-- how do you apply-- how do you become a lawful
17 permanent resident?
18 A. You have to apply.
19 Q. Can there be such a thing as a permanent resident who is
20 applying for a green card?
21 A. No. If you are a permanent resident, you already have a
22 green card. You have a status.
23 Q. Are you familiar with something known as voluntary
24 departure?
25 A. Yes.

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DCGBKURT1

Grathwohl - direct

1 Q. What is that?

2 A. Voluntary departure is an active discretion by an
3 immigration judge that is sometimes granted to aliens who have
4 been ordered deported from the United States. And it
5 essentially allows them to leave on their own by a certain date
6 as opposed to being deported by the government.

7 Q. What happens if someone does not leave the United States by
8 the date set for voluntary departure?

9 A. They would then be subject to an order of removal and
10 subject to removal from the United States by the government.

11 Q. Prior to testifying today, did you review the A file of
12 someone named Rudy Kurniawan?

13 A. Yes.

14 Q. Based upon your review of Kurniawan's A file, what did you
15 learn?

16 A. I learned that Mr. Kurniawan is under an order of removal
17 from the United States and subject to removal.

18 Q. And what country is he a citizen of?

19 A. Indonesia.

20 Q. Did he come here first on a student visa?

21 A. Yes.

22 Q. When was that?

23 A. The mid-'90s. '95 or '97, I believe.

24 Q. And let me ask you a question, Special Agent Grathwohl:
25 Can someone who is not a permanent resident, a citizen of the

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DCGBKURT1

Grathwohl - direct

1 United States, have a Social Security number?

2 A. Yes.

3 Q. And how is that?

4 A. There are a lot of visas, such as work visas and student
5 visas, under which the person is allowed to work even though
6 they're not a permanent resident of the United States. And,
7 therefore, if you are allowed to work, they're going to want
8 you to pay taxes. And, therefore, your eligible to get a
9 social security number for that reason.

10 Q. And based upon your review of Mr. Kurniawan's A file, did
11 he apply to stay in the United States-- did he apply for asylum
12 in 2001?

13 A. Yes.

14 Q. And what was the result of that application?

15 A. Mr. Kurniawan's application for asylum was referred to the
16 immigration judge for a decision. So he was essentially denied
17 at first, and by referring it to the immigration judge, the
18 immigration judge would then make a decision.

19 Q. And what decision did the immigration judge make?

20 A. The immigration judge denied his application for asylum and
21 ordered-- and granted him voluntary departure from the United
22 States.

23 Q. And if he didn't voluntarily depart, what would happen?

24 A. He would be subject to an order of removal for failure to
25 depart.

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DCGBKURT1

Grathwohl - direct

1 THE COURT: Do you know when that decision was made?

2 THE WITNESS: I believe it was 2001.

3 And to correct Mr. Facciponti, I believe the
4 application for asylum was in 2000.

5 MR. FACCIPONTI: Your Honor, may I approach?

6 THE COURT: Yes.

7 Q. Would it refresh your recollection if you looked at a copy
8 of the order from the immigration judge?

9 A. Yes.

10 Q. So in front of you should be a document which is marked as
11 Government Exhibit's 28-2.

12 A. Yes.

13 Q. Does that refresh your recollection?

14 A. Yes, it does. According to this, the order of the
15 immigration judge --

16 THE COURT: Well, what do you believe now, having
17 refreshed your recollection?

18 Q. Yes. If you could just turn that aside. What did the
19 immigration judge order?

20 A. He ordered voluntary departure until May of 2001.

21 Q. And was that order in April of 2001?

22 A. Yes.

23 Q. And if the defendant did not depart by the date of
24 voluntary departure, what would happen?

25 A. He would therefore be subject to an order of removal and be

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DCGBKURT1

Grathwohl - direct

1 removed by the government.

2 Q. And how was this order communicated to the defendant?

3 A. I believe the defendant was present in court on that day
4 and he was given a copy of the order.

5 Q. Based upon your review of the immigration file, did the
6 defendant appeal that order?

7 A. Yes, he did.

8 Q. What was the result-- and to what body or entity did he
9 appeal it to?

10 A. Orders of deportation can be appealed to the Board of
11 Immigration Appeals. And that is, in fact, what the defendant
12 did. He appealed to the Board of Immigration Appeals, and that
13 appeal was ultimately denied.

14 Q. And when was that denied?

15 A. 2003.

16 Q. And what was the defendant ordered to do based upon his
17 departure from the United States?

18 THE COURT: Well, would you rephrase that?

19 MR. FACCIPONTI: Sure.

20 Q. Would it refresh your recollection to look at the order
21 from the immigration board?

22 A. Sure.

23 Q. In front of you is a document marked Government Exhibit
24 28-3.

25 A. Yes.

DCGBKURT1

Grathwohl - direct

1 Q. If you could turn that document aside.

2 A. Yes. According to the Board of Immigration Appeal's order,
3 the defendant was granted voluntary departure 30 days from the
4 date of the order and, again, would have been subject to a--
5 subject to removal from the United States had he failed to
6 depart by that time.

7 Q. And so based --

8 THE COURT: Do you remember when the date of the order
9 was?

10 THE WITNESS: I would have to refresh my memory a
11 minute.

12 THE COURT: You can. Look at that document and see if
13 that refreshes your recollection.

14 THE WITNESS: The date of the order was March 25th of
15 2003.

16 Q. So based on the terms of the order, when would the
17 defendant have to leave the country?

18 A. On or about April 26th of 2003.

19 Q. And if he didn't leave the country by then, what would
20 happen?

21 A. He would be subject to removal by the government.

22 Q. Is there anything in the defendant's A file after this
23 order that indicates he attended any further appeals?

24 A. No, there isn't.

25 Q. Is there anything in the defendant's A file that indicates

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DCGBKURT1

Grathwohl - direct

1 that he ever applied for permanent residency for the United
2 States?

3 A. No.

4 Q. Is there anything in the defendant's A file that indicates
5 he was ever a permanent resident of the United States?

6 A. No.

7 Q. Based on your review of Mr. Kurniawan's A file, what
8 was his status in or about late 2007/early 2008?

9 A. He was under an order of removal based on his failure to
10 depart as per the previous order.

11 MR. FACCIPONTI: No further questions, your Honor.

12 THE COURT: Counsel.

13 CROSS-EXAMINATION

14 BY MR. MOONEY:

15 Q. Good morning.

16 A. Good morning.

17 Q. Now, when Mr. Kurniawan filed his appeal from the
18 underlying decision by the immigration judge, that stayed the
19 removal at that point, did it not?

20 A. Yes, pending the resolution of the appeal.

21 Q. Pending the determination of what was going to happen.

22 A. Yes.

23 Q. And in the appeal, certain materials and documents and
24 proceedings would occur. Is that correct?

25 A. Yes.

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DCGBKURT1 Grathwohl - cross

1 Q. So one of the first things--

2 MR. MOONEY: And this should be just for the witness
3 to look at, please.

4 Q. Let me show you what has been marked as Defendant's Exhibit
5 F-3.

6 Do you recognize that as a document from
7 Mr. Kurniawan's immigration file?

8 A. Yes.

9 Q. And this is a notice from the Department of Justice setting
10 the briefing schedule?

11 A. Yes, it is.

12 MR. MOONEY: Your Honor, we would move the admission
13 of F-3.

14 MR. FACCIPONTI: Objection, your Honor.

15 THE COURT: Sustained.

16 Q. Is this a document that was sent to Mr. Kurniawan?

17 A. I have no idea if it was sent to him.

18 Q. Do you see an address on there addressed to Mr. Kurniawan?

19 A. Yes, I do.

20 Q. And can you tell us what address this document shows for
21 Mr. Kurniawan?

22 A. 9638 East Naomi Avenue, Arcadia, California, 91007.

23 Q. And what is the date of this document? The date of this
24 notice?

25 A. Oh, I'm sorry. February 27, 2002.

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DCGBKURT1 Grathwohl - cross

1 Q. So as of February 27, 2002, the government is showing
2 Mr. Kurniawan to be at an Arcadia, California address. Is that
3 correct?

4 A. Yes, it is.

5 Q. And that's the address to which he got notice of the
6 briefing. Is that correct?

7 A. Yes, it is.

8 Q. Now, just going back for a moment on here, what is the date
9 that Mr. Kurniawan was to file his brief?

10 A. April 1st, 2002.

11 Q. April 1st, 2002.

12 I'll show you what's been marked as Defendant's
13 Exhibit F-1.

14 Is this the appeal filed by Mr. Kurniawan in that
15 proceeding?

16 A. Yes, it is.

17 Q. And what was the date that he filed his appeal?

18 A. That document is dated March 25th, 2002.

19 Q. So it was filed prior to the April 1st deadline?

20 A. Yes.

21 THE COURT: I'm not sure--

22 MR. FACCIPONTI: Objection.

23 THE COURT: Sustained. I'm not sure you can tell that
24 from the document, when it was filed.

25 Q. Is this document in the file?

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DCGBKURT1

Grathwohl - cross

1 A. Yes, it is.

2 MR. MOONEY: Your Honor, we would offer Defendant's
3 Exhibit F-1.

4 MR. FACCIPONTI: Objection.

5 THE COURT: The application is denied.

6 Q. Let me show you what's been marked as Defendant's Exhibit
7 F-2.

8 Is this an opposition that was filed by the government
9 in Mr. Kurniawan's matter?

10 A. It appears to be. It's in the file.

11 Q. And calling your attention to the certificate of service on
12 that document, is that the certificate of service on the
13 document?

14 A. Yes, it is.

15 Q. And where was this document mailed to Mr. Kurniawan?

16 A. The same address in Arcadia, California.

17 Q. The Arcadia, California address?

18 A. Yes.

19 MR. MOONEY: Your Honor, defense would offer F-2.

20 MR. FACCIPONTI: Objection.

21 THE COURT: Sustained.

22 Q. And in response to the government's-- let me show you
23 what's been marked as Defendant's Exhibit F-6 and see if you
24 recognize this as another document from the immigration file.

25 A. I do.

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DCGBKURT1 Grathwohl - cross

1 THE COURT: Sustained.

2 Q. Now, ultimately you told us Mr. Kurniawan's application,
3 his appeal for amnesty, was denied. Is that correct?

4 A. Yeah, his appeal for asylum.

5 Q. And showing you what has been marked as Defendant's Exhibit
6 F-5, is this the order denying his appeal?

7 A. Yes, it is.

8 Q. And what's the date of that order?

9 A. March 25th, 2003.

10 Q. Now, under this order, he's still allowed voluntary
11 departure. Is that correct?

12 A. Yes.

13 Q. And that voluntary departure is supposed to be 30 days from
14 the order. Is that correct?

15 A. Yes.

16 Q. If he doesn't leave, then he would be subject to removal?

17 A. That's correct.

18 Q. Now, this document appears to have been mailed to

19 Mr. Kurniawan. Is that correct?

20 A. It's addressed to him.

21 Q. Okay. And where is this document addressed to him?

22 A. It's addressed to Mr. Kurniawan at 1263 Huntington Drive,
23 number B or 8 -- it's tough to read on the screen, I'm sorry --
24 in South Pasadena, California.

25 MR. MOONEY: Your Honor, we would offer F-5.

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DCGBKURT1 Grathwohl - cross

1 MR. FACCIPONTI: Objection.

2 THE COURT: Sustained.

3 Q. What's the date that this document was sent to
4 Mr. Kurniawan?

5 A. The date on the document is the same as the date on the
6 appeal that you just-- the decision you just showed me: March
7 25, 2003.

8 Q. Now, the briefing schedule was sent to an address in
9 Arcadia, California. Is that correct?

10 A. Yes, it is.

11 Q. The response by the government was sent to an address in
12 Arcadia, California?

13 A. Yes.

14 Q. And those took place in the early part of 2002. Is that
15 correct?

16 A. Yes.

17 Q. And then a year later, when the decision is made, that
18 decision is mailed to an address in Pasadena, to apparently an
19 apartment. Is that correct?

20 A. Yes.

21 Q. And no copy of that document is mailed to the Arcadia,
22 California address, is it?

23 A. Not based on the documents in the A file, that's right.

24 Q. Nor is a copy of it mailed to Mr. Stephens, who had filed
25 some documents in the case. Is that correct?

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DCGBKURT1 Grathwohl - cross

1 MR. FACCIPONTI: Objection.

2 THE COURT: Overruled.

3 A. That's correct.

4 Q. The only place it goes is to that address in Pasadena
5 according to what's in the file.

6 THE COURT: He's asking you.

7 Q. Is that right?

8 THE WITNESS: I'm sorry.

9 A. Yes, apparently.

10 Q. Now, when the 30 days goes by and nothing has happened, is
11 there any sort of a follow-up, anything that is later sent
12 out?

13 A. No.

14 Q. Is an order of removal actually issued at that point?

15 A. Not at that point, no.

16 Q. And is an order of removal ever issued?

17 A. No, not yet.

18 Q. In fact, after Mr. Kurniawan was arrested in 2012,
19 Immigration and Naturalization Service met with him. Right?
20 Or I guess you call yourself Homeland Security now.

21 A. Yes.

22 Q. Well, somebody from your department met with Mr. Kurniawan
23 at that point. Is that correct?

24 A. Yes.

25 Q. And at that point he actually filled out forms saying he

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DCGBKURT1

Grathwohl - cross

1 If you know.

2 A. They have a later address than the one that they used,
3 yes.

4 Q. There's nothing-- this notice, this so important notice, it
5 wasn't sent registered mail, was it?

6 A. I don't know.

7 Q. Doesn't indicate that it was sent registered mail, does
8 it?

9 A. No.

10 Q. There's nothing in the immigration file that shows that any
11 kind of follow-up of any kind was ever made, is there?

12 A. No.

13 Q. Now, if a person is granted amnesty, are they then allowed
14 permanent residency?

15 THE COURT: Wait a minute. Are you talking amnesty or
16 asylum?

17 MR. MOONEY: I'm sorry, asylum.

18 Q. If a person is granted asylum in this country, do they then
19 qualify for permanent residency?

20 A. They're eligible to apply.

21 Q. And that would be the next step that they follow?

22 A. Yes.

23 Q. So a step towards permanent residency would be to get your
24 asylum granted and then you'd file for your permanent
25 residency. Is that correct?

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DCGBKURT1 Grathwohl - cross

1 A. Yes, after a couple of years.

2 Q. So if a person was in the process of applying for amnes --
3 for asylum, that application for asylum would essentially be
4 movement toward potential permanent residency and then maybe
5 the things that would happen after that; citizenship, if all
6 goes well. Is that correct?

7 A. Well, it's up to the person. It's not automatic.

8 Q. But they would have to take those steps?

9 A. They would have to get asylum first in this case.

10 Q. And that would be the process that you would follow?

11 A. Yes.

12 Q. Are you aware that after 2003, and the years following
13 2003, Mr. Kurniawan filed tax returns in this country?

14 A. I was not aware--

15 MR. FACCIPONTI: Objection.

16 THE COURT: Overruled.

17 A. No, I was not aware of that.

18 Q. Anything in the file indicate anybody ever went looking for
19 Mr. Kurniawan after March of 2003?

20 A. No.

21 Q. They had the address in Arcadia, California in 2002, didn't
22 they?

23 A. Yes.

24 Q. And would you be surprised to learn that he was still
25 living at that address in Arcadia, California in 2012?

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DCGBKURT1 Grathwohl - cross

1 MR. FACCIPONTI: Objection.

2 THE COURT: Sustained. I'm not sure I understand
3 that.

4 MR. MOONEY: Okay.

5 Q. When he was interviewed following his arrest in 2002, and
6 he put down his--

7 MR. FACCIPONTI: 2012, your Honor.

8 THE COURT: Yes. When he was interviewed when?

9 Q. When he was interviewed by your people, after his arrest in
10 2012--

11 THE COURT: 2012, right.

12 MR. MOONEY: 2012, yes.

13 Q. -- he listed as his address at that point the Naomi,
14 California address, didn't he -- or the Arcadia, California
15 address on Naomi Street?

16 A. Yes.

17 Q. So it would appear that he lived at that same address for
18 ten years?

19 MR. FACCIPONTI: Objection.

20 THE COURT: I'll allow it if you know the answer.

21 Q. 2002 to 2012 --

22 A. Based on the math, yes.

23 MR. MOONEY: No more questions, your Honor.

24 THE COURT: Okay. Anything else?

25 MR. FACCIPONTI: Yes, your Honor.

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DCGBKURT1 Grathwohl - cross

1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY MR. FACCIPONTI:

4 Q. Now, Special Agent Grathwohl, do you remember Mr. Mooney
5 asked you some questions about the defendant's mother's
6 application for asylum? Do you remember those?

7 A. Yes.

8 Q. Are asylum applications evaluated on a case-by-case
9 basis?

10 A. Yes, they are.

11 Q. And are each person's asylum application unique and
12 different?

13 A. Yes, they are.

14 Q. And is it sometimes the case that different family members
15 who apply for asylum don't get the same decision?

16 A. Yes.

17 Q. Now, you remember Mr. Mooney asked you some questions about
18 the Pasadena address that was on the 2003 decision of the
19 immigration board?

20 A. Yes.

21 Q. Did Mr. Kurniawan provide that address in his original
22 application for asylum?

23 A. Yes, he did.

24 Q. Okay. Do you remember Mr. Mooney asked you some questions
25 about permanent residency and applying for permanent residency?

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DCGBKURT1 Grathwohl - redirect

1 authentic, true and accurate record of the Internal Revenue
2 Service which has been kept in the ordinary course of
3 business.

4 "It is further stipulated and agreed that Government
5 Exhibit 43-1 and this stipulation may be received in evidence
6 at the trial of the above-referenced matter.

7 "Dated: December 16, 2013."

8 Signed by the government and defense counsel. And
9 this stipulation is marked as Government Exhibit 29-11.

10 We offer 29-11 and the underlying Exhibit 43-1 into
11 evidence.

12 THE COURT: I'll allow it.

13 (Government's Exhibits 29-11 and 43-1 received)

14 MR. HERNANDEZ: May we publish the Exhibit 43-1 to the
15 jury?

16 THE COURT: Yes.

17 MR. HERNANDEZ: I'm showing now on the screen to the
18 Court and to the jury a tax return, a federal income tax
19 return, Form 1040, which is called the U.S. Individual Income
20 Tax Return for the 2007 tax year for Rudy Kurniawan. And on
21 the second page of this exhibit, I'm going to show that the
22 return was signed by the defendant under penalty of perjury and
23 that his occupation listed was that of entrepreneur.

24 Now I'm turning to a page, the Bates number is 7904.
25 This is the Schedule C from that tax return which shows profit

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DCGBKURT1 Egan - direct

1 BY MR. HERNANDEZ:
2 Q. Good morning, Mr. Egan.
3 A. Good morning.
4 Q. Mr. Egan, could you please introduce yourself to the jury.
5 A. I am a fine wine expert. My name is Michael Egan. I have
6 been in the business of fine wine for about 30 years now.
7 Q. Can you tell us where you're from, Mr. Egan?
8 A. I live in Bordeaux, France.
9 Q. Is that where you're from?
10 A. No, I was born in London.
11 Q. And what do you do for a living currently?
12 A. At the moment I'm a fine wine expert.
13 Q. What's that?
14 A. I authenticate wines from people's collections, both
15 private and professional. And I give people advice as to
16 purchasing and storage of their wines, for example.
17 Q. Did you go to university, Mr. Egan?
18 A. I did.
19 Q. Where and when did you graduate? What year?
20 A. I graduated 1979 at Manchester University in England.
21 Q. What did you study?
22 A. English literature, history, and American studies.
23 Q. Mr. Egan, do you have any formal education in wine?
24 A. Yes, I do. I have-- I was educated first and foremost in
25 Bordeaux for a year, where I did a course in tasting and the

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DCGBKURT1 Egan - direct

- 1 understanding of winemaking. And then in London I had a trade
2 qualification. I have the wine and spirits education trust
3 diploma.
4 Q. What is that diploma?
5 A. That's a diploma based on knowledge of wine, knowledge of
6 wine tasting, and of knowledge of wine regions and the wine
7 market, the international wine market.
8 Q. What did you have to do to get that diploma?
9 A. I had to pass a tasting evaluation and a written exam.
10 Q. Can you tell us a little bit about both components?
11 A. The components -- first of all, the tasting would have
12 been, if I remember rightly, 12 different wines; to give the
13 evaluation of the quality, the country, where they were from,
14 the winemaking methods used. And the written part, again,
15 history and geography of wine regions in the world and, also,
16 the marketing and sale of wine.
17 Q. Mr. Egan, you understand that you've been called here today
18 as an expert witness. You understand that. Right?
19 A. I do.
20 Q. Who hired you?
21 A. The United States government.
22 Q. Now, how long have you specialized in the field of fine and
23 rare wine?
24 A. I've specialized since 1982.
25 Q. And have you received any training specifically on

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DCGBKURT1 Egan - direct

1 authenticating wine?

2 A. I have, indeed.

3 Q. Could you describe what that training was?

4 A. The training took place at Sotheby's Wine Department, where
5 I have worked for a good many years. And the training was very
6 much practical training; on the job, so to speak. So when I
7 began my career at Sotheby's, I was taken on visits with the
8 senior experts to people's wine collections. And working
9 alongside my senior colleagues, they imparted a lot of
10 information as to how to authenticate wine, what to look for,
11 and other wine information.

12 Q. We've heard Sotheby's come up a lot during the trial. Can
13 you remind us again what that is?

14 A. Sotheby's is an international auction house.

15 Q. And in how much of your professional career have you spent
16 in the wine industry?

17 A. About 30 years.

18 Q. Could you tell us about your first job in the wine business
19 and tell us the year and give us a brief description of what it
20 was and take us up to the present day?

21 A. Okay. Well, I started in 1980 at a retail company in
22 London, which is called Oddvins. I worked there for a year as
23 a shop assistant advising clients what to buy and just general
24 work in the store.

25 In 1981 I was able to join Sotheby's Wine Department

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DCGBKURT1

Egan - direct

1 by answering an advertisement in a trade paper. And I was
2 there -- from 1981 right through 2005, I was working in
3 Sotheby's in the London wine department. I started off as a
4 junior administrator looking after people's purchases and
5 delivery of their wines. And then I moved on, fairly swiftly,
6 to the junior cataloguer and then senior cataloguer, deputy
7 director, and then finally director.

8 (Continued on next page)

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DCGAKUR2ps Egan - direct

1 Q. And then when was your last year at Sotheby's?

2 A. 2005.

3 Q. What was your next job?

4 A. After that, having worked myself for a while, I worked with
5 a Bordeaux negociant in May 2010 called Bordeaux Wine Bank.

6 And I worked there for two years, until May 2012.

7 Q. What did you do for them?

8 A. I was the director of authenticity and auctions. Bordeaux
9 Wine Bank prided themselves on having wines of the best
10 possible provenance, that is, wines which had been purchased
11 directly from a chateau and had never left Bordeaux. And they
12 considered that a very important factor in filling their wines
13 and were very proud of that. And I was involved in getting the
14 documentation to prove to clients that the provenance was as
15 they stated, and also selling wines to clients internationally,
16 and also in putting their wines into auction.

17 Q. Do you have your own business?

18 A. Yes, I do.

19 Q. Can you tell us when it began and what it does?

20 A. It began in 2006 and is an authentication service, and also
21 advice to clients worldwide concerning purchases and sale of
22 their wines.

23 Q. I want to ask you a few questions about your time at
24 Sotheby's, which -- was it about 23 years, 23 and a half years
25 at Sotheby's?

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DCGAKUR2ps

Egan - direct

1 A. That's right.

2 Q. So were you involved in wine auctions when you were at
3 Sotheby's?

4 A. I was indeed.

5 Q. Can you give us a sense roughly for how many wine auctions
6 you were involved in?

7 A. I suppose getting an average of ten auctions a year, about
8 230 auctions.

9 Q. What was the highest position you attained at Sotheby's?

10 A. Director.

11 Q. When were you made the director?

12 A. I was made a director in 1999.

13 Q. In the course of your work at Sotheby's as the director or
14 otherwise, were you authenticating wines?

15 A. I was indeed.

16 Q. Can you describe the methodology that you applied at
17 Sotheby's for inspecting and authenticating wine.

18 A. The authenticating -- the authentication is really a visual
19 inspection first and foremost. So I look at the bottle. I
20 make sure that the bottle is, first off, in good condition,
21 therefore there's nothing wrong with the wine therein, because
22 if the level of a bottle is very low, it more often than not
23 indicates that the wine has been poorly stored, been stored at
24 too high a temperature. I look at the condition of the label,
25 the cork, the actual bottle. I also, from these factors, can

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DCGAKUR2ps Egan - direct

1 determine whether the wine, A, is in good condition and, B,
2 whether it is authentic or not.

3 THE COURT: You do this before the auction?

4 THE WITNESS: I do it before the auction, that's
5 right.

6 Q. Do you use any special tools to examine the bottle for
7 authenticity?

8 A. I use a flashlight, a magnifying glass, and a jeweler's
9 loupe.

10 THE COURT: A?

11 THE WITNESS: Jeweler's loupe. It's very small. I've
12 got one here. Such as that.

13 THE COURT: And what is that?

14 THE WITNESS: That magnifies the object you're showing
15 to quite a high degree, and is very useful for looking at
16 labels in particular, and also markings on the cork through the
17 glass of the bottle.

18 Q. And what are the things that you look for in your process?

19 A. I look for signs that the label is authentic or not: Is it
20 the right print quality of the year? Is it a label as
21 originally supplied to the winery or chateau when they actually
22 put the label on the bottle? I look at the condition of the
23 cork. I look at this branding on the cork, because in the
24 most -- the majority of the great wine domaines and chateaus
25 and wineries put the vintage and also the name of the winery or

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1 chateau on the cork.

2 I also, as I said before, look at the condition of the
3 wine, make sure the color is right, there's no cloudiness in
4 the wine, which is an indicator that it's spoiled. I look at
5 the bottle as well to make sure the bottle is of the right
6 period as the purported vintage.

7 Q. The factors that you just went through that you look at, is
8 that meant to cover every aspect of a bottle that you look at,
9 or are those some of the common ones?

10 A. Those are the common ones and which are most easily
11 identifiable.

12 Q. Is it possible for you to give us an estimate of roughly
13 how many wines you've authenticated in your career as a wine
14 authenticator?

15 A. I would say about 10,000, tens of thousands of bottles.

16 Q. Why did you leave your job at Sotheby's in 2005?

17 A. Well, sadly, my father passed away, and as he was of
18 original French origin, his -- my grandmother was French -- he
19 had a share in the house in Bordeaux, which I decided to --
20 which I inherited, and I moved to Bordeaux with my family and
21 bought out my cousin's share. It was an ideal opportunity to
22 do what I always wanted to, is that, to live in the area of the
23 wine, of where they make wine.

24 Q. Had wine authentication been your full time job, then,
25 since you left Sotheby's in 2005?

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DCGAKUR2ps Egan - direct

1 A. Just about, yes.

2 Q. Has your process for inspecting wines since you left
3 Sotheby's been the same?

4 A. It has indeed.

5 Q. Have you ever visited any of the wineries in Burgundy and
6 Bordeaux to help you understand more about what an authentic
7 bottle of wine looks like?

8 A. I have.

9 Q. Have you been to any of the wineries that have been
10 mentioned in this case so far?

11 A. Yes, I have.

12 Q. Have you been to them once or more than once?

13 A. On various occasions, on various occasions.

14 Q. Have you ever lectured on fine-wine authentication?

15 A. I have.

16 Q. Can you tell us about that.

17 A. I have lectured to quite a few wine professionals,
18 sommeliers, wine purchasers in the United States and in the Far
19 East about how to ensure the correct treatment and storage of
20 their wines, what to look out for in -- when you are purchasing
21 wines, to make sure that the wine is, A, is in good condition,
22 and, also, I gave them some pointers to look for particular,
23 particularly with older wines, as to what are the more common
24 traits that I discovered that wine counterfeiters use. So
25 basically just giving them a heads up on what to look for

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DCGAKUR2ps Egan - direct

1 concerning labels and capsules and bottles, for example.

2 Q. Mr. Egan, have you ever testified in court before?

3 A. I have.

4 Q. How many times?

5 A. Once.

6 Q. When and where was that?

7 A. It was in 2012 -- sorry -- 2013, this year. It was in New
8 York. And, I'm sorry, what was the last part of the question?

9 Q. No, I think you actually covered it.

10 A. I did.

11 Q. Was it the courthouse that's about a hundred feet from
12 here?

13 A. That's right. Southern District of New York.

14 Q. It's the old courthouse, right?

15 A. That's right.

16 Q. This one is the new courthouse.

17 A. That's right. It looked pretty old, yeah.

18 Q. What were you testifying about in that case?

19 A. I was testifying about the authenticity of a range of
20 bottles that had been filled by Mr. Greenberg for Mr. William
21 Koch.

22 Q. Did the judge in that case allow you to testify as an
23 expert witness?

24 A. He did indeed.

25 MR. HERNANDEZ: Your Honor, at this point we would
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DCGAKUR2ps Egan - direct

1 move to allow Mr. Egan to testify as an expert in the fields of
2 fine and rare wines, wine auctions, and authentication.

3 THE COURT: That application is granted.

4 Q. Mr. Egan, I'm going to ask you now a number of questions
5 about what you've done in this case and if you have any
6 opinions based on the materials that you've reviewed. But
7 before I do that, you've been a little under the weather
8 lately; isn't that right?

9 A. Yeah. I'm afraid I'm not used to the cold climes.
10 Bordeaux is quite balmy.

11 Q. Are you actually in need of a glass of water or Kleenex or
12 anything?

13 A. I'm all right the Kleenex. Maybe a glass of water, and
14 maybe a tot of rum. I don't think it's allowed.

15 Q. We'll see what we can do.

16 A. All right.

17 Q. If you do need a Kleenex or something like that, you'll let
18 me know, won't you?

19 A. I will, yes.

20 Q. OK.

21 THE WITNESS: Thank you.

22 Q. Mr. Egan, can you tell the jury why you believe you're here
23 today.

24 A. I've been employed by the United States government to
25 review items which -- bottles and other items which have been

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1 sold or presented for sale by the defendant.

2 Q. Are you here to offer your opinions about certain matters
3 and to provide your expert testimony about the areas of fine
4 and rare wine authentication?

5 A. Yes, I do.

6 Q. Have you reached any opinions in this case?

7 A. I have.

8 Q. What do you do before reaching those opinions?

9 A. I have to, if we study the bottles -- I've studied all the
10 bottles, I think 267 bottles which I've studied concerning this
11 case all very carefully. And the bottles, the vast majority
12 I've found to be counterfeit. I've also reviewed other items,
13 which I believe have been used to fabricate such counterfeit
14 bottles.

15 Q. And have you reviewed also e-mails and purchase records and
16 other documents like that?

17 A. Yes, I have. I've reviewed other documentation.

18 Q. Are you being compensated by the U.S. government for your
19 work in this case?

20 A. Yes, I have.

21 Q. Does that include the time that you spend in court
22 testifying?

23 A. Yes.

24 Q. Do you know approximately how much your fee will be to work
25 on this case?

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DCGAKUR2ps Egan - direct

1 A. Well, given the complexity of this particular job, it's
2 going to be about 18,000 euros.

3 Q. When you say "complexity," do you mean the size of the case
4 and the amount of the evidence, or something else?

5 A. Both really, but first and foremost the sheer density and,
6 and proliferation of exhibits that I've had to review.

7 Q. So you've had a lot of work to do, is what you're saying?

8 A. That's right.

9 Q. OK. I want to ask you some questions about wine auctions
10 now, and for the questions about wine auctions I'm about to ask
11 you, I'd like you to answer them for the time period 2002 to
12 2012. OK?

13 A. OK.

14 Q. So all these questions that follow about wine auctions are
15 for that period of time. Could you give the jury just a brief
16 estimation of how a wine auction works.

17 A. Well, a wine auction works virtually identically to other
18 public auctions, like works of art or furniture, for example.
19 A catalogue is produced before the auction and it is mailed out
20 to the buyers. The only difference between wine and other
21 auctions is that more often than not, or I'd say 90 percent of
22 the time, the wine bottles are not on review. They're not on
23 exhibit as you would normally find for furniture or works of
24 art. Because of the nature of wine, it has to be kept under
25 proper conditions, has to be kept under cool conditions. So it

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1 can't be in a warm room under bright light.

2 Q. And where does the wine come from in wine auctions?

3 A. The wine comes from normally a variety of owners, but
4 sometimes there can be an auction just from one single owner.
5 It can either be from private individuals or from professionals
6 such as restaurants or even wine merchants.

7 Q. What are some of the major factors that affect the price of
8 wine sold at auction or whether a wine is even offered at
9 auction at all?

10 A. As I previously said, there are two main factors, if not
11 three. The first is the condition of the wine. If the wine is
12 out of condition or looks as if it's no longer drinkable, then
13 it would normally be precluded from sale.

14 Q. Before you go any further, can you give us an example of
15 what an out-of-condition wine is or looks like.

16 A. Normally the level is very low on the bottle because the
17 cork has failed and the wine has seeped through the cork, and
18 that means that the oxygen has come in, or even bacteria, which
19 means that the wine is no longer enjoyable or even drinkable.
20 It could easily turn in vinegar.

21 Secondly, the authenticity of the bottle, that is a
22 very important factor. So if there are any questions, for
23 example, it has a copied label or it doesn't have the
24 period-appropriate bottle or capsule, then that would norm --
25 that would mean that it could not be put into auction.

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DCGAKUR2ps

Egan - direct

1 Another factor which affect the price is the condition
2 of the label, especially for young wine, because young wine
3 will normally be in very good condition because it's just been
4 made and hasn't had the time to, I suppose, acquire a patina of
5 dust or whatever in the cellar. But if the cellar is too
6 dense, too humid, then the labels can be affected very quickly
7 and that will affect the price. The wines will still be
8 saleable, but they won't achieve the same price as wines with
9 very good labels.

10 Q. Mr. Egan, does it matter to buyers of rare and fine wines
11 whether the labels, the cork, and other physical aspects of the
12 wine bottles are authentic?

13 A. Absolutely.

14 Q. Could you explain why.

15 A. The guarantee of authenticity is something that the
16 chateau, the domaine or winery, takes great pride in producing.
17 Therefore, the seal of the bottle, for example, the capsule, is
18 very important, as is the cork, because these two are the
19 guardians of the wine therein. So if the capsule is not the
20 right capsule or it has been compromised, it looks as though
21 it's been manipulated, that is a serious issue, because that
22 means that the cork can be removed or whatever. So those two
23 things are very important indeed.

24 Also the label, again, is -- the identification, and,
25 again, the guarantee of what is in the bottle corresponds to

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1 the label, the year and the particular vineyard. So this
2 authenticity question is very important.

3 Q. Now, if a bottle, the label, the cork, or the capsule or
4 the wax had been altered by someone other than the domaine,
5 would that affect the price that that bottle would command, or
6 whether it would be offered for auction at all?

7 A. Absolutely. As I said before, the authenticity revolves
8 around the capsule and the cork and the label. And if someone
9 has taken the capsule off and removed the cork and replaced it
10 with another cork and another capsule, then it's not an
11 authorized thing to do at all. So that would render the wine
12 worthless.

13 Q. If there had been any changes to the physical features of a
14 bottle of wine or even to the contents, is that the kind of
15 information that an auction house would want to know?

16 A. Absolutely. If the vendor has that sort of knowledge, the
17 vendor should impart that to the auction house.

18 Q. Is that also the kind of information that buyers would like
19 to know?

20 A. Exactly. It is the vendor's responsibility to give that
21 information, because the transaction is between the vendor and
22 the buyer.

23 Q. The jury has seen a number of auction catalogues that
24 contain detailed descriptions about wine bottles in those
25 catalogues, descriptions like a label that's bin-soiled or a

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1 corroded capsule. Could you first tell us what those two terms
2 mean.

3 A. A bin-soiled label means that the label is not pristine,
4 but more than that it has been affected by damp or by dust or
5 by mold, and so the buyer will not expect upon delivery a label
6 in very good condition. So there's an understanding when the
7 buyer purchases this bottle that the label will not be in the
8 best condition. That has nothing to do with the quality of the
9 wine. In fact, a lot of very good cellars are damp and the
10 labels get bin-soiled. But it's very good for the preservation
11 of the cork and therefore the wine therein.

12 Q. Why do auction houses include this type of information in
13 their catalogues?

14 A. Because, as I said before, the wine is not generally
15 viewable, so the potential buyers can't actually see the goods,
16 so they are reliant on the descriptions in the catalogue to
17 make their decision as to whether they want to buy the wine and
18 at what price they're prepared to pay.

19 Q. And do factors like whether the label is stained or whether
20 the capsule is corroded matter to buyers of old and rare wines?

21 A. Yes, it does matter. But the buyers, the collectors,
22 they're well aware that old and rare wine acquires this patina
23 over time. The capsules will probably get corroded, the labels
24 will get affected by damp or weathering in the cellar. And
25 that is a thing that they would expect as a normal occurrence

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DCGAKUR2ps Egan - direct

1 over time.

2 Q. You've mentioned provenance. Could you tell us what that
3 is.

4 A. Provenance is the history of the wine, history of a bottle.
5 I'd say a five-star provenance would be, you buy the wine
6 directly from the winery or the chateau. That means you are
7 absolutely guaranteed that the bottle you get has not moved
8 around the world, hasn't gone from one buyer to the next. A
9 history of provenance is very important. So if you're not the
10 first in line, if you can establish a chain of custody through
11 the various transactions, you have guaranteed -- not a
12 guarantee -- but you have a history of the provenance. And
13 more often than not, when the vendor has this sort of
14 provenance, they can tell the auctioneer that, often with
15 supporting evidence, so the auctioneer can incorporate this
16 very important information into the catalogue over -- at the
17 title to the lot from that particular vendor.

18 Q. How does a wine's provenance affect its price or whether
19 it's even offered for auction?

20 A. Wines of sketchy or provenance which is not very good may
21 not even make it into the wine catalogue. An example is a wine
22 that has traveled right around the world maybe a few times.
23 It's been initially sold in France, then it's been exported to
24 England, then to the United States, then over to Japan, back to
25 England, and so forth. That would mean that it has moved a

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1 high number of times during its life and probably will have
2 suffered. The quality of the wine will probably have aged
3 faster than it should normally have done. So it will be not so
4 desirable a purchase.

5 Q. Now, is provenance important to both the buyers and the
6 sellers of wines at auction?

7 A. Yes, it is.

8 Q. Can you explain how it's important to both.

9 A. Well, if you're a seller, you want to have this provenance
10 in order to get the best possible price for your bottles, and
11 subsequently the buyer will want to know this information, and
12 the buyers will more often than not compete with each other to
13 buy those bottles with the good provenance.

14 Q. Now, again, for that time period 2002 to 2012, in your
15 experience working at Sotheby's as well as in your other
16 capacities working in your own business and for others after
17 Sotheby's, did serious wine collectors of old and rare wine
18 keep records of their rare-wine purchases during that time
19 period?

20 A. I've found in the very -- majority of cases, yes, they
21 have.

22 Q. If someone made most or all of their money from buying or
23 selling wine, would it be more or less likely that they would
24 keep records of their rare-wine purchases?

25 A. Well, it would be more likely because that is their

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1 livelihood, that is their business. And in order to perform a
2 good administration of their stock and the sale and purchase of
3 their stock, they need the documentation and they need to have
4 good records.

5 Q. And, again, for that same time period, were there any
6 significant changes in the auction market for old and rare
7 wines?

8 A. Between 2002, yes, the market has grown a huge amount.
9 2002 the worldwide auction market for fine wine was around \$92
10 million. And by 2007, for example, it was just over \$300
11 million. And that's not just the rise in value of fine wine
12 during that period, but it's also the increase of lots, the
13 increase of activity of being sold.

14 Q. During that same time period, was there also an increase in
15 interest in old and rare Burgundy wines?

16 A. Yes.

17 Q. Based on the number of clients who you have and the people
18 who you know and have met in the fine and rare wine market,
19 were there other people besides the defendant who were seeking
20 out rare and old Burgundy wines from 2002 to 2012?

21 A. Yes there were.

22 Q. How do you know that?

23 A. Well, I know from my own experiences with the clients, my
24 clients, that many of the fine Burgundy buyers for the last few
25 decades, so they are forever on a request to purchase the best

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1 possible bottles of fine Burgundy and particularly Burgundy
2 from older vintages.

3 Q. These clients that you're referring to, are they generally,
4 is it fair to say, wealthy people?

5 A. Yes. The majority of wealthy. They have the means to buy
6 a lot of bottles. But as they are competing with each other at
7 auction or otherwise, the Burgundies get dissipated amongst
8 them. So there is keen competition for these bottles whenever
9 they come up for sale.

10 Q. OK, Mr. Egan. I'm going to change subjects on you, so you
11 can get rid of that date limitation. OK?

12 A. All right.

13 Q. All right. So I'd like to know whether you have an opinion
14 from your training and your experience working with fine wines
15 and authenticating them for more than 30 years whether you know
16 how counterfeit wines are made.

17 A. Yes, I do.

18 Q. Can you explain to us how counterfeit wines are made.

19 A. Well, there are various ways that that can be done, gaining
20 from the simple to the very sophisticated. One of the basic
21 ways to do it is to have two bottles of the same chateau, let's
22 say Chateau Petrus. You have a bottle of 1983, which is a
23 good-enough vintage. And you have a bottle of 1982, which is
24 an astounding vintage. So you drink a bottle of 1982 and you
25 just take the label off the 1982, soak it off, and you soak off

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1 the 1983, so you've just put the 1982 label onto the 1983.
2 That's not very sophisticated because at first glance all seems
3 well, and then if you look at the cork it's still going to have
4 "1983" embossed on the cork.

5 So the one step beyond that is to take the cork out --
6 well, remove the capsule as carefully as you can, remove the
7 cork with one of these devices which I think have already been
8 talked about, which clamp the cork so you can pull it out like
9 that rather than make a hole in it. And you just chip off or
10 scratch off the last digit of the vintage and replace it with
11 the "2" and then reinsert the cork and put the capsule back in.

12 The most sophisticated way probably is to start
13 completely from scratch. So you have -- you have to acquire
14 all the basic components of a bottle of wine. That means the
15 empty bottle, the label more often than not which is
16 photocopied or printed but is not the original label, the cork,
17 the means to brand the cork, and then the capsule. You need
18 adhesive, of course, to put the label onto the bottle. You
19 need to make sure the bottle is of the right period of the
20 purported wine. And then you fill it with, with, with whatever
21 you want, put all the pieces onto the bottle, and there you
22 have a counterfeit bottle created from scratch.

23 Q. Now, how about the wine that goes inside in this more
24 sophisticated example that you cited? Where does that come
25 from?

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1 A. Well, it may not even be wine. It could be anything. So
2 that's the danger of buying counterfeit wines. You just do not
3 know what is in the bottle. But if you're doing -- if you're
4 looking to the long term, if you want to maintain the business,
5 so to speak, of counterfeiting wine and perhaps selling to the
6 same clients, then what you put in the bottle has to resemble
7 to a certain extent the real wine. So if you're talking about
8 a wine from the 1920s, you have to access a wine from the 1920s
9 or 1930s, from roughly the same era, because as wine matures it
10 throws a sediments and the color changes, let's say for a red
11 wine the color changes from dark red to perhaps a light garnet.
12 So you have to make sure that the counterfeit wine, through
13 visual inspection through the bottle, looks roughly the same as
14 the real wine.

15 Q. How about the taste? Does that matter?

16 A. Yes. The taste has to, again, it has to be emulate the era
17 of the wine, so it's got to taste old. It has to -- the color,
18 as I said before, has to look old. So unless you're comparing
19 it side by side with a real wine, you may be fooled into
20 believing that it is a wine from that purported domaine or
21 chateau.

22 And also with rare wines, you have the added situation
23 where not many people would have actually tasted this
24 particular wine, given its rarity. So there may not be, I
25 suppose, a benchmark to compare the counterfeit wine with the

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1 real wine.

2 Q. And in terms of the value or the price of what I'm going to
3 call the donor wine, the wine used to make the counterfeit, how
4 does it tend to compare to the price of the authentic wine that
5 it's trying to mimic?

6 A. It will be far less, perhaps a tenth or even less of the
7 value. It's normally a concoction as well. So it may be a
8 blend of different wines or even aromatics to try and emulate
9 the flavor of a real wine.

10 Q. Are younger wines ever used in conjunction with trying to
11 counterfeit older wines?

12 A. Yes.

13 Q. Can you describe how.

14 A. Well, I suppose you could take the Frankenstein analogy.
15 So you've got the old body of the old wine, but it's lightened
16 up with a new head, so to speak. So maybe the bulk of the wine
17 in the bottle is, say, from the 1920s. Then it's freshened up
18 with a dollop of wine from 1980.

19 Q. Do you know what it means to be a good taster?

20 A. Yes.

21 Q. Can you just describe what that means.

22 A. It's a person, either profession -- in the professional
23 capacity or someone who is a keen amateur, a private person,
24 who has had the experience, has got the palate to be able to
25 distinguish one wine from another, one region from another, one

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- 1 vintage from another, usually through taking notes, doing
2 tasting notes, and having the, just the recall to know if a
3 wine that he's tasting is right for, for the vintage or if
4 there's anything wrong with it, whether it's slightly oxidized,
5 whether there's some change to the wine. So, yes, to be a
6 taster, a fine taster, you do have to have the knowledge and
7 also the palate.
- 8 Q. With respect to making counterfeit wines, you told us about
9 how you can blend certain wines to mimic, counterfeit, and
10 authenticate wines. Would someone who's making a counterfeit
11 wine need to be a good taster?
- 12 A. As I said before, if he wants to have an ongoing, I
13 suppose, business relationship with the purchaser, yes, the
14 counterfeiter has to have a very good knowledge and aptitude to
15 blend wine in order to make a pretty decent representation of
16 the real wine.
- 17 Q. I'm going to ask you a couple of subject matters, whether
18 you have an opinion on them, and ask you to tell us the
19 opinion. I'll ask you to explain your reasons a little bit
20 later. But for now, I want to know whether you have an opinion
21 about whether any of the bottles that were sold or consigned by
22 the defendants that you examined are counterfeit.
- 23 A. Yes.
- 24 Q. What is that opinion?
- 25 A. Almost all, with very few exceptions, of these bottles are

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1 counterfeit.

2 Q. When you say "these bottles" could you be more specific.

3 A. Yes. The bottles that I inspected for the purpose of this
4 case, which were put on the market by the defendant.

5 Q. All right. And do you have an opinion based on your
6 training and your experience whether any of the evidence you've
7 examined in this case was likely used to make counterfeit
8 wines?

9 A. Yeah.

10 Q. What is your opinion?

11 A. My opinion, that the materials that I've reviewed are
12 materials for the manufacture of counterfeit bottles of wine.

13 Q. Now --

14 A. And --

15 Q. I'm sorry. Go ahead.

16 A. And these materials that I've reviewed are labels, a large
17 quantity of labels, all counterfeit. I think I've got a
18 ballpark figure of 19,000 labels that I've looked at,
19 representing 27 of the world's very best wines. I've looked at
20 stamps to put on corks, to put the winery or chateau logo on
21 the cork. I have seen a proliferation of stamps showing the
22 vintages, which can be applied to corks or to labels, stamps
23 with numbers on them to apply to labels, because a fair number
24 of chateaus and domaines have serial numbers on their labels.
25 I have seen corks, blank corks, bags and bags of capsules taken

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1 from actual wine bottles, often top domaines and chateaus.
2 I've seen adhesives. I've seen ink pads. I've seen sponges to
3 apply substances to labels. I've seen a great variety of
4 counterfeit or copied import labels, vintage labels.

5 Q. And, Mr. Egan, you cited some evidence that was seized from
6 the defendant's home, among other things. Correct?

7 A. That's right.

8 Q. Would your opinion change if you were not allowed to rely
9 on the evidence seized from the defendant's home as a basis for
10 your opinion?

11 A. No.

12 Q. Why is that?

13 A. Because, reviewing other documentation in this matter, I've
14 seen that there have been orders for large supplies, which
15 would be indicative -- supplies indicative for counterfeiting,
16 such as vast amounts of sealing wax. I've seen empty --
17 requests for a large quantity of empty bottles. I've seen
18 invoices and e-mails concerning the purchase of cheaper wines
19 from older vintages which are not normally -- which would not
20 normally be part of the defendant's purchasing activity.

21 Q. OK. And would it help you today to use a PowerPoint
22 presentation to explain some of the reasons or the basis for
23 the opinions that you've reached in this case?

24 A. Yes, it would be.

25 Q. Did you review a PowerPoint before coming to testify here

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1 today?

2 A. I did.

3 MR. HERNANDEZ: Your Honor, we have prepared what is
4 marked as Government Exhibit 21-1. I have a hard copy I can
5 provide to the Court. We provided a copy to defense counsel
6 yesterday. This is a presentation that Mr. Egan would like to
7 use to explain his opinions and reasons therefor.

8 THE COURT: Could you tell us who prepared this
9 presentation.

10 MR. HERNANDEZ: Sure.

11 Q. Mr. Egan, can you describe how the presentation was
12 prepared.

13 A. Yes. I selected all the raw materials from the evidence
14 concerning this case, and counsel prepared the PowerPoint
15 itself, because I'm pretty hopeless at PowerPoint and you
16 wouldn't -- you know, I'd still be doing it now.

17 Q. OK. So to be more specific, I helped you prepare the
18 materials in the PowerPoint but the information and the images
19 and the evidence was selected by you?

20 A. That was selected by me from a vast range of evidence.

21 Q. And did you have a chance to review the final version?

22 A. Yes, I did.

23 Q. Is it accurate to the best of your knowledge and ability?

24 A. To the best of my knowledge and ability, yes.

25 Q. Would it help you to explain your testimony to the jury to

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1 use that PowerPoint?

2 A. Yes, it would.

3 THE COURT: So I'll allow it. And you remember, we
4 had a chart earlier in this case and I said that the chart and
5 this evidence similarly is being presented to you to help you
6 understand the testimony of the witness. But it is no more
7 valuable than the underlying evidence that supports the
8 development of this PowerPoint.

9 MR. HERNANDEZ: OK. Can we publish 21-1 to the jury,
10 please.

11 THE COURT: On the screen? Is that where you're doing
12 it?

13 MR. HERNANDEZ: We will. We will do it on the screen.
14 And I have the clicker here. Hopefully it works.

15 Q. Mr. Egan, we're all looking now at the first page of 21-1.
16 It just has your name and your title and where you live. I
17 move to the first slide -- it works. It's a slide called
18 "Counterfeit Labels." Before we go through this section, can
19 you just describe, give us a preview of what it is that we're
20 going to see.

21 A. This is a selection of the very many images which were
22 taken from the defendant's computer. And so I've tried to
23 encapsulate if I can the methodology and the creation of labels
24 and stamps and other materials. So this is the genesis of the
25 counterfeiting operation.

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1 Q. OK. Go to the first page. And before I ask you any
2 questions about this, I just want to set this up for the rest
3 of the PowerPoint. In the bottom left corner it says "from
4 Government Exhibit 14-1 & 14-3." Do you see that is this?

5 A. Yes.

6 Q. Those are government exhibits that have been admitted into
7 evidence. But tell us what these five images on the screen are
8 and where they're from.

9 A. These five images are scans of labels. And to be more
10 precise, all these are labels from the Domaine de la
11 Romanee-Conti.

12 If you look at the left, the top left-hand image,
13 that's a label which has been blanked out. So it's a scanned
14 label which has been Photoshopped so that everything has been
15 removed, erased, apart from the outside. So you have just the
16 paper, basically.

17 And then the image on the top right is a number which
18 has been scanned or -- and applied to this label. On the
19 bottom row you just have closeups of the border of the outside
20 frame of the label, as exemplified in the lower right-hand
21 corner. And the lower right-hand corner is the Domaine de la
22 Romanee-Conti label, just the perimeter.

23 Q. Are all five images that we see on slide 3 as they were on
24 the defendant's computer? In other words, did you make any
25 changes or cut and paste any of these particular images?

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1 A. No, I didn't.

2 Q. So specifically the two closeups on the lower left, you
3 didn't magnify these two images, right?

4 A. I did not.

5 Q. OK. Can we go to the next slide, if that's all right.

6 Before you explain what all the components are, just
7 tell us what it is that we're looking at.

8 A. This is basically an image of a Romanee-Conti label from
9 the Domaine de la Romanee. As an explanation, the image in the
10 center of the label is one scanned image. And all the images
11 with arrows coming from them are individual scanned images.

12 So what I've done here is just to show what can be
13 done to manipulate an existing label to make it whatever you
14 want, whatever vintage you want, whatever era you want. So the
15 "Romanee-Conti" at the top can be applied to any label. On the
16 left, the number of bottles, because the Romanee-Conti states
17 the number of bottles they produced on every vintage they do
18 now, and you can interchange that of course.

19 THE COURT: So in particular from this document,
20 you're referring to what numbers?

21 THE WITNESS: The exhibit numbers.

22 THE COURT: No, no, but you're looking at the label,
23 right? And so now I think you're talking about the numbers to
24 the left? Or no?

25 THE WITNESS: To the left, that's right.

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1 THE COURT: And they are?

2 THE WITNESS: That's the quantity of bottles produced.

3 Q. Can you just read the numbers out.

4 A. Sure. So on the main label it says 6,535 bottles produced,
5 which I believe is from the 1978 vintage. But there's been a
6 detail of another range of numbers, which can be positioned
7 onto the label.

8 You'll note that the main label doesn't have a
9 vintage. That's been taken off. That's been removed.
10 Romanee-Conti do not provide labels without a vintage on them.
11 So that has been digitally taken off.

12 Underneath you have the appellation Romanee-Conti
13 Controlee, and that font changes from one era to the next. And
14 as you will see, there's no appellation underneath the
15 "Romanee-Conti."

16 And then on the right side you'll see there two
17 versions of the signatures. The first, the earlier period, the
18 Madame Leroy, Bize-Leroy and Aubert de Villaine, and the later
19 period would be Charles Roch and Aubert de Villaine.

20 Q. What do you mean by the "late period," "early period"?

21 What do the signature differences mean?

22 A. Well, it means that up to a certain point in the 1940s,
23 50s, Madame Lalou Bize-Leroy and Aubert de Villaine were the
24 co-owners. Then Madame Leroy left the domaine and Monsieur de
25 Villaine became sole proprietor. That's why you have different

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1 signatures.

2 Q. OK. Go to slide 5 now.

3 THE COURT: Could you just stay there for a minute.

4 MR. HERNANDEZ: Sure.

5 THE COURT: So going back to the number on the left,
6 which is, looks like 6,917?

7 THE WITNESS: Yes.

8 THE COURT: So that's different from the number that
9 appears on the label?

10 THE WITNESS: That's right.

11 THE COURT: And what's the significance of the
12 difference?

13 THE WITNESS: The signatures are from a different
14 vintage, because they don't always produce exactly 6,535
15 bottles. The average for the domaine is about 7,000 bottles a
16 year.

17 THE COURT: And then below that, where it says "annee
18 1959"?

19 THE WITNESS: That is the vintage, which would appear
20 on the lower left corner of the label.

21 THE COURT: Would appear but did not appear on this
22 label?

23 THE WITNESS: No -- well, on this label, whatever
24 vintage that was on the label has been taken off. And this,
25 this obviously wasn't -- not a label from the domaine which

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1 would not have a vintage. Somehow or other that vintage has
2 been erased.

3 THE COURT: And then down below, where it says
4 "Appellation Romanee-Conti Controlee" and an arrow, what's the
5 significance of that?

6 THE WITNESS: That is where the appellation would
7 normally appear on a Romanee-Conti label. And as you see on
8 the main label, there's nothing on the label. That too has
9 been erased.

10 THE COURT: But normally it would be there?

11 THE WITNESS: It normally would be there, and in that
12 green color.

13 THE COURT: And then moving up to the right, on the
14 right-hand side, the lower right, you have a name here, or two
15 names. And what is the significance of that?

16 THE WITNESS: The two names, as I said, are the owners
17 of the domaine, signed. It's their guarantee of authenticity
18 in a way. It's their signature, which appears on labels from
19 certain eras from the domaine. And as I said, the top pair of
20 signatures is from an earlier period and the bottom pair of
21 signatures from a later period.

22 THE COURT: OK.

23 Q. All right. We can go to slide 5 now, Mr. Egan. Can you
24 tell us what this is.

25 A. Yes. This is a single image taken from the defendant's

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1 computer showing the neck labels from the Domaine de la
2 Romanee-Conti for either La Tache or Romanee-Conti, because it
3 says "monopole," which means that the Romanee-Conti, the
4 domaine Romanee-Conti are the sole owners of each of these
5 vineyards. They have the monopoly on these two vineyards.

6 And these are just images of neck labels which I
7 believe would have been used to -- they're high-quality images,
8 to send to a printer, for example.

9 Q. The vintages for these neck labels, they're in 1957, 1945,
10 and 1962; is that right?

11 A. That's correct.

12 Q. Are those considered to be good years for Burgundies from
13 the Domaine de la Romanee-Conti?

14 A. They are excellent years.

15 Q. There's a total of eight of these neck labels on this
16 exhibit; is that right?

17 A. Yes.

18 Q. Turning to slide 6, could you describe what we're seeing on
19 slide 6.

20 A. Yes. We have four labels of La Tache from Domaine de la
21 Romanee-Conti. Intriguingly, if you look at the top of the
22 label, there's the same indent on the paper. This means that
23 these are the same label but with different vintages. So on
24 the left you have two 1945 and on the right two 1949. So I
25 believe this is a clone -- this is a way of replicating one

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1 label and turning it into another. And I suspect the original
2 is 1949 and then the counterfeit is 1945. I think the vintage
3 has been altered.

4 Q. You're referring to the notch that's above the word "la,"
5 l-a, in all the labels?

6 A. That's right.

7 Q. You wouldn't expect to see that same exact notch in labels
8 that were four years apart; is that it?

9 A. It would be -- the probability of that happening is few --
10 is tiny.

11 THE COURT: You're saying the two on the right you
12 believe to be authentic labels?

13 A. That's what I believe.

14 THE COURT: And how are the two on the right different
15 than the two on the left?

16 THE WITNESS: As I say, they are all -- they all --
17 the actual labels are identical. The paper -- it is the same.
18 The image is identical. But the vintage has been altered on
19 the two labels on the left.

20 THE COURT: By "annee 1945"?

21 THE WITNESS: That's right.

22 THE COURT: In place of "annee 1949"?

23 THE WITNESS: That's right.

24 THE COURT: Otherwise the labels are, you think, the
25 same.

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1 THE WITNESS: The same.

2 Q. Can we go now to slide 7, which has four labels on it. You
3 can tell us what these labels are.

4 A. These are four labels of Romanee-Conti from four different
5 years. Reading from top left, 1943, then 1937, 1939, and 1945.
6 And if you look at the 1943 label, this is a scanned image of a
7 real label. You can see there is a tear around the "annee" on
8 the bottom left-hand corner.

9 Q. Is that -- you mean more like a scuff?

10 A. A scuff, yes. And the other three do not have the scuff.

11 Now, again, the 1943 is the scanned label, and from
12 that, digitally, these three other labels have been created and
13 the vintage substituted. Rather than reading 1943, you have
14 1937, 1939, and 1935.

15 THE COURT: 1935?

16 THE WITNESS: Sorry, '45.

17 Q. Why, Mr. Egan, do you believe that the '37, '39, and '45
18 labels came from a scan of the '43?

19 A. Because the -- there are, again, indicia that these three
20 images of the -- these three clones of the original scanned
21 image, basically it's the same label, with just the vintage
22 altered.

23 Q. And "produce of France" also altered?

24 A. That's right.

25 Q. So could we go, then, to slide 8, which I think will help

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1 you explain why you believe that.

2 A. Yes. Thank you.

3 Q. This is slide 8.

4 A. Yes. And you'll see circles. That little scuff, that
5 little mark in the border on the top of the label is identical
6 in all four images. So as I said before, the 1943 scanned
7 label had been used to be cloned into the 1937, the 1939, and
8 the 1945.

9 Q. Are there other examples of this that you're referring to
10 where there are labels cloned from one another?

11 A. Yes, there are.

12 Q. Let me go to slide 9. Is this another example.

13 A. That's another example.

14 Q. Can you tell us what you're we're looking and what the
15 similarities are.

16 A. Again, that's a 1942 Romanee-Conti label and also a 1945
17 label. And interestingly, again, they both have exactly the
18 same blemishes and circles, which would be highly improbable in
19 real life. And given the fact that the 1945 vintage is such a
20 variety, I reckon it's the 1942 label which has been scanned
21 and the 1945 label has been created from that.

22 (Continued on next page)

23

24

25

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1 BY MR. HERNANDEZ:

2 Q. And there's some other examples of labels from
3 Romanee-Conti going to Slide 10. There are, I think, three
4 slides in conjunction, that you wanted to talk about together.
5 Am I right about that?

6 A. That's right, yes.

7 Q. Why don't you first tell us about what we're seeing on
8 Slide 10 in this label.

9 A. Well, this is the old version of the Romanee-Conti label
10 which dates from the beginning of the 20th Century. It's got a
11 little tear, as you can see at the bottom, but it doesn't have
12 any vintage. It just says annee. So the vintage has been
13 removed from its label.

14 Q. Would an authentic label have the vintage on it?

15 A. An authentic label would have the vintage.

16 Q. And then did you find labels that had rare and fine
17 vintages on this old Romanee-Conti label format?

18 A. Yes, I did.

19 Q. All right. We're going to go to Slide 11.

20 A. So that's the 1911 vintage.

21 Q. Same label, just with 1911 added?

22 A. Well, it's been enhanced a little bit. The image, the
23 little tear which you saw at the bottom, has been touched up so
24 it's not there anymore. And the vintage 1911 has been applied.

25 Q. And then Slide 12.

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1 A. Again, another vintage, 1919. That's the same label image.

2 Q. Slide 13.

3 A. 1921 vintage. That's the only thing which is different.

4 Q. Then I'm going to move back and forth between the slides
5 somewhat quickly. Tell me if that's helpful to you. So we're
6 going backwards.

7 What do we see by going back and forth between the
8 images, Mr. Egan?

9 A. Well, we see that-- sorry.

10 MR. MOONEY: May I get some water?

11 A. Sorry about that.

12 Q. It's all right.

13 A. Okay. So the only thing which is different is the
14 vintages.

15 Q. Okay.

16 A. From all these four images. Everything else-- sorry. The
17 shape of the labels, the corners are all the same.

18 Q. Okay.

19 A. And also the main writing on the labels.

20 Q. All right. Very good.

21 What does Slide 14 show?

22 A. This shows four other images of the Romanee-Conti old-style
23 label: 1923, 1934, 1929 and 1936. And the vintages, which are
24 large, the 192 and the 1934, are from other images taken from
25 the computer.

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1 So it just shows that you had these vintages ready
2 to-- which were ready to paste onto these labels.

3 Q. And the arrows show from the 192 and the 1934 where their
4 placement would go on the labels. Is that right?

5 A. That's right. And, interestingly, the font is of the
6 period so it's replicating the font by probably using a
7 juxtaposition of various numbers.

8 Q. So is the information on Slide 14, where we see the full
9 vintage and then the partial vintage, does this explain how the
10 previous slides could have been made, the labels in Slides 13,
11 12 and 11?

12 A. Yes.

13 Q. All right. I'm going to move now to Slide 15. We're
14 dealing with a different domaine now. Correct?

15 A. That's right.

16 Q. Could you tell us what we see in Slide 15?

17 A. There are three labels from the Domaine Roumier. We have
18 on the left the top left-hand side Bonnes-Mares with, I think,
19 all of the information on the label apart from the vintage.
20 There it's a scanned label. The label on the right, the top
21 hand right, has had the "Domaine Roumier" taken out and the-- I
22 do apologize.

23 Q. Mr. Egan, is there anything that we can get you that would
24 help your throat a little bit?

25 A. Well, I might take a cough --

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1 THE COURT: Do you want to take a two-minute break?

2 MR. HERNANDEZ: If we could, your Honor.

3 THE COURT: Okay. So why don't we do that. Why don't
4 we excuse the jury.

5 (Jury excused)

6 (In open court; jury not present)

7 THE WITNESS: I'm sorry about that.

8 THE COURT: No problem. Everybody's been sneezing.

9 Okay. Let's take five minutes.

10 (Recess)

11 (In open court; jury present)

12 THE COURT: So please be seated, everybody, and we'll
13 continue with Mr. Egan's direct examination.

14 THE DEPUTY CLERK: Sir, before we begin, I'd like to
15 remind you you're still under oath.

16 THE WITNESS: All right.

17 BY MR. HERNANDEZ:

18 Q. Mr. Egan, when we left off, we were talking about Slide 15,
19 which has a number of labels on it from Domaine Roumier. Let
20 me ask you a few questions about this slide before I ask you
21 about the labels themselves.

22 But the construction of this slide, there are some red
23 arrows on the slide and you've seen some previous red arrows
24 and red circles. Those were put there to help you illustrate
25 your testimony. Is that right?

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1 A. That's correct.

2 Q. So the arrows themselves and this configuration wasn't
3 found on the defendant's computer. You've just put it this way
4 to help you explain your testimony. Is that correct?

5 A. That's correct.

6 Q. All right. Then, with respect to the labels and the cutout
7 of the name "Roumier" on Slide 15, can you just explain to us
8 what you think is the authentic label and what the counterfeit
9 label is?

10 A. The authentic label is the top left-hand label, which shows
11 all of the components of the Domaine Roumier label apart from
12 the vintage. The right-hand label is a doctored label -- i.e.,
13 the Domaine Roumier -- and his address is not there. So it's
14 completely blank at the bottom, which would mean that you could
15 substitute whatever you wanted onto this label.

16 So, for example, if you wanted to change the apparent
17 date of the label, you could obviously put a different vintage
18 on, but you could put other text as well on that blank area
19 below the Bonnes-Mares.

20 And, likewise, the Musigny label, the bottom, I
21 believe is a scan of a real label, but with the vintage taken
22 away so that another vintage or whatever vintage you wanted to
23 be substituted.

24 Q. So do I understand you correctly that the scanned labels
25 and the information that's removed with the little cutouts of

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1 information can be used to create any kind of label you would
2 want to make?

3 A. That is correct. You have virtually a blank canvas on
4 which to work. And it's a very sophisticated way of creating a
5 counterfeit label.

6 Q. And the labels that are created in this manner do you
7 consider to be counterfeit?

8 A. I believe so.

9 Q. All right. I'm going to move to Slide 16. Slide 16 has
10 two images. Could you tell us what these are?

11 A. Yes. Both of these vintages are images, are the shoulder
12 labels which are put mainly on Burgundy bottles, which depicts
13 the vintage. The left-hand image is a scanned label of a
14 vintage from the 1940s but, tellingly, the last digit is
15 missing. And then, on the right-hand side, the vintage has
16 been taken off completely, which would lead me to believe that
17 this is a template being produced so that other vintages could
18 be substituted. Again, a blank canvas.

19 Q. Are both of these vintage labels counterfeit labels?

20 A. They're images. As I said before, the left-hand vintage--
21 left-hand label is a scan and the right-hand label has nothing
22 on it. So it is-- I wouldn't say counterfeit labels, but
23 counterfeit labels in the middle of being prepared.

24 Q. Do you know what wineries or domaines would use a vintage
25 label like this?

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1 A. Yes. The top Burgundy domaines such as Domaine Ponsot,
2 Domaine Roumier, their older vintages.
3 Q. All right. And then on Slide 17, what do we see?
4 A. The top left hand, as you can see, has a relationship to
5 the images in the slide preceding. So this is 1949. And if I
6 look at them closely, they are clones of one image. So it's
7 one image, 1949, multiplied nine times, which would then, I
8 reckon, be tidied up a bit because there's still some staining
9 from the original label there. Which would then, if you look
10 at the subsequent labels, range of labels on the right and at
11 the bottom, these are labels which are ready to be sent to the
12 printer. Images ready to be sent to the printer.
13 Q. And the other vintage labels are for 1962, 1964 and 1966?
14 A. That is correct.
15 Q. Then on Slide 18 there are two labels. Would you tell us
16 what those are?
17 A. Yes, these are images of a Clos de la Roche from Domaine
18 Ponsot. Very high definition, very good-quality images. You
19 can see everything on that right down to-- I think it's the
20 same image of a scanned label. So this is a real Ponsot label
21 which is being scanned into the computer which then can be
22 tidied up and then sent off to the printer.
23 Q. What do you mean by "tidied up"?
24 A. Well, to be digitally enhanced. So all that little bits of
25 staining that you see on the left-hand side and top left-hand

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1 side of the table could be removed and then you have a purer
2 image without any blemishes.

3 Q. And then what can be done with the label after it comes
4 back from the printer?

5 A. Well, after it comes back from the printer, what normally
6 is the case is that the printer, before they do a run of
7 anything, they send you a proof copy just to make sure that
8 there's been no mistakes or anything which is wrong with
9 whatever's being printed.

10 Q. All right.

11 A. If there are things which have to be enhanced or changed,
12 then you would make annotations on the proof copy and send it
13 to the printer, perhaps with an explanatory note as to what
14 should be-- how it should be changed.

15 Q. On Slide 19 there's a single label. Can you tell us what
16 that is?

17 A. Yes. That's a label of Chateau Petrus, 1947, which, again,
18 is a high-resolution image scanned into the computer.

19 Q. Is 1947 Petrus a desirable wine?

20 A. It is. It is one of the great vintages for Chateau Petrus
21 and very rare now and, thus, highly desirable.

22 Q. And are wines from Chateau Petrus, say specifically from
23 1947, that are in larger formats, meaning more than just your
24 standard 750 milliliter bottle, are those even more desirable
25 and rarer?

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1 A. Much more rarer.

2 Q. And then Slide 20 has three labels on it. Can you tell us
3 what those are?

4 A. Yes. These are three labels from Comte Georges de Vogue.
5 The wine it produces is Muisgny. It produces Bonnes-Mares as
6 well.

7 I think these are the-- the lower label, with the
8 pattern around it, is a high-resolution image which has been
9 prepared for sending to the printer. Intriguingly, there are
10 the numbers, are six zeroes, and I would find it highly
11 improbable that a domaine would start their run of numbers with
12 a zero. It would always start with a 1. So that is an
13 anomaly.

14 Q. Are you referring to the serial number in the lower left
15 kind of corner on the bottom label?

16 A. That's right.

17 The top right image is a Musigny 1962, again with a
18 serial number. But the red stamp which is around the vintage
19 at the bottom is to the left, which I believe is a mistake.
20 And, again, it is an indication that items, images, can be
21 applied or taken away from these labels.

22 Q. What do you mean, it's a mistake?

23 A. Well, it's not normally found at that part of the vintage--
24 sorry, that part of the label. It's normally found around the
25 vintage. So that circle, that "Etablissements Nicolas" design

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1 is usually around the vintage and not hanging there on the left
2 of the label.

3 Q. Does that tell you that this is a counterfeit label?

4 A. It would, indeed.

5 Q. And remind us what Nicolas is again.

6 A. Well, Nicolas is a retailer. It's still in existence.

7 They have a lot of outfits in France and also in Europe.

8 They -- in the 1920s, 1930s, 1940s, '50, '60s, they were very
9 famous for having the best wine. They were great. There were
10 purchases of the Chateau Petrus, and other great bordeauxs and
11 burgundies. And their philosophy was to not release their
12 wines into the market until ten years after the vintage.

13 And they produced some very nice catalogs which have
14 become collector items, very beautifully illustrated, which
15 show-- which are dedicated to their fine wines. And they had
16 fine wine stocks until 1988, when they sold the majority of
17 these, the great majority of these stocks, to a Bordeaux
18 negociant called Grands vins de la Gironde.

19 So after 1988 they were selling normal wines, everyday
20 drinking wines, but they didn't have this great library of fine
21 wines.

22 And they also applied their stamp, because they were
23 very proud to associate their name with the product they were
24 selling, so they put their stamp, the "Etablissements Nicolas"
25 on all of the labels of fine wines that they sold. And they

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1 also sometimes have neck labels on the bottles, and they also
2 put strip labels on the back of the bottle which told the
3 purchaser to decant the wine before drinking.

4 So the fact that they had these stocks and the fact
5 that there was a lot of hearsay that they didn't apply the
6 labels prior to selling the wines, putting them into the
7 market, has made it a counterfeiter's paradise because they can
8 produce the fake label and say, well, this label is so new,
9 yes, because it was supplied by Nicolas and they only applied
10 the labels before the wines are sold.

11 So it is one of these stories that the counterfeiters
12 used in saying, well, I've got all these bottles in pristine
13 condition and they've all come from Nicolas, when in fact
14 Nicolas-- they couldn't possibly have bought them from Nicolas
15 post-1988 because Nicolas had sold the very great majority of
16 this fine wine to this negociant in Bordeaux.

17 THE COURT: So are you saying in Slide 20 that the
18 "Nicolas" insignia is normally placed where it is in the
19 bottom?

20 THE WITNESS: On the bottom, that's right, over the
21 vintage.

22 THE COURT: All right.

23 Q. And then what's in Slide 21?

24 A. Now, these are other images taken from the computer of the
25 defendant. To the left is an image of that stamp. To the

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1 right is like a contact sheet of the very colorful labels that
2 Nicolas put on their wines when they were selling to overseas
3 customers. And the image at the bottom is a scan of an actual
4 Nicolas instruction to decant the wine "ce vin doit etre
5 decante."

6 Q. So are all of the images that we're looking at on Slide 21
7 counterfeit images?

8 A. I think the "Etablissements Nicolas" and the colorful
9 images, yes, they are counterfeit. The one below is a scan of
10 an actual label.

11 Q. And if a buyer was to be shown a bottle that had a Nicolas
12 stamp or Nicolas label on it, what might that buyer think by
13 seeing that on the bottle?

14 A. Well, the buyer would think that it had -- the provenance
15 was very good. Because if it had been stored by Nicolas all
16 this time, then they took very good care of their wine
17 inventory. And the buyer would be satisfied that he would be
18 buying an authentic product which has been stored under correct
19 conditions.

20 Q. Would there be any way for the buyer to confirm with
21 Nicolas or someone else that the bottles they are looking at
22 actually came from Nicolas?

23 A. They cannot confirm with Nicolas unfortunately because
24 apparently many records are now gone, so Nicolas can't give the
25 buyer the history or the quantities of fine wine that they were

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1 holding. If he was buying from the Bordeaux negociant, he
2 would have more information there directly from the negociant,
3 or from someone who had purchased from the negociant he could
4 get the same information.

5 Q. The next slide, 22, we talked about labels. You put
6 together some information, some slides for how to make a cork.
7 Correct?

8 A. That's correct.

9 Q. So we're going to start with Slide 23. There's a whole
10 series of a number --

11 THE COURT: And just so it's clear, Slide 22 is
12 something that you all developed. Right?

13 MR. HERNANDEZ: Yes. Slide 22 is something -- a
14 heading "Making Counterfeit Corks" that was created. It's just
15 to help illustrate what's coming next.

16 Q. Right, Mr. Egan?

17 A. That's right. It's a title.

18 Q. It's a title that we created.

19 A. Right.

20 Q. And then Slide 23, this is another image that's taken from
21 the defendant's computer and it shows a number of different
22 vintages in different fonts. Is that right?

23 A. That's right. You can see you have a thicker font at the
24 bottom and you have different types of typeface for the ones at
25 the top used as vintage -- to emulate vintages to be placed on

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1 the corks, to be stamped on the corks.

2 So these are a range of vintages which could be then
3 sent to the printer saying please produce stamps-- or
4 manufacturer, I'm sorry, not the printer. Please produce
5 stamps which would exactly reproduce the vintages on this
6 sheet.

7 Q. And then, once the stamp is produced, how is it used?

8 A. It is put on an ink pad, stamped on an ink pad, and then
9 applied to the cork.

10 Q. And is there any observation you made about the vintages
11 here that are shown on Slide 23?

12 A. Well, they are consecutive. If we look to the bottom, they
13 are --

14 Q. I mean in terms of --

15 A. -- old. They start with 1915, 1919. The majority of the
16 vintages are very good, such as 1923, 1926, 1928, 1929, 1937,
17 1945, 1947, 1949, 1952, 1953, 1955 and 1959. But vintages
18 change from Bordeaux and Burgundy. So a good vintage in
19 Bordeaux may not necessarily mean a good vintage in Burgundy.

20 Q. So some of the corks we've seen, they have the vintage or
21 the date stamp, but do they also contain other information or
22 other graphics on them?

23 A. Yes. I mean, they would have the design sometimes of the
24 chateau on the cork or they would have a certain type of font,
25 the name of the chateau. It is their trademark which is put on

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1 the cork.

2 Q. So we're going to look at Slide 24 now, which has a scan of
3 three different boxes.

4 Can you tell us what these are?

5 A. Yes. They are cork brands for three very famous chateaus
6 in Bordeaux -- chateau Petrus, Chateau Cheval Blanc and Chateau
7 set L'Eglise-Clinet -- all from the Saint-Emilion/Pomerol area.

8 So these are old-style corks, these cork markings,
9 which you would find on vintages from the 1920s. Intriguingly,
10 the fonts on the Chateau Petrus, the E. Loubat Propriete --
11 which has been shortened P-R-O-P-R-E -- is exactly the same as
12 the "J.Rabier Propre," which wouldn't have been the case in
13 reality. So it's a bit of a mistake there.

14 Q. And how are these scans or templates used then?

15 A. These templates are then sent off to the manufacturer of
16 the stamps, who would then create a stamp -- reverse image, of
17 course -- of what's shown on the computer so that can then be
18 stamped onto the cork.

19 Q. And then Slide 25 has four more of those boxes, although
20 there are some small boxes beneath them. You've inserted a
21 red circle over the one in the upper right-hand corner.

22 Correct?

23 A. I have, yes.

24 Q. Is that the one that you want to address?

25 A. Yes. They are all cork stamps from the Domaine de la

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1 Romanee-Conti. The one in the top right corner is significant
2 because this is the stamp which would have been put on the very
3 famous 1937 and 1945 vintages and would be the most lucrative
4 to the counterfeiter. The bottom part, you read "Romanee-Conti
5 Vigne Originelle Francaise Non reconstituee," which is an
6 illusion, as you heard before, from the Aubert de Villaine,
7 concerning the fact that the vines up until 1945 were
8 ungrafted.

9 Q. What does that mean, "ungrafted"?

10 A. Well, after the insect epidemic from the 19th Century, the
11 Phylloxera epidemic, which gradually spread throughout France
12 and Portugal and Spain, they found the only remedy was to graft
13 European -- the plants, the stems -- to American root stocks
14 which the insects didn't like. And this is the practice which
15 continues to this day.

16 Q. So 1945 is the last year before they had to graft the
17 American root stock to the top of the French vine?

18 A. That's right. Then they had to re-- then they had to
19 reconstitute the vineyard with young vines.

20 Q. Does that make 1945 Romanee-Conti, among other reasons, a
21 very desirable wine?

22 A. Exactly, because grapes actually made from the original
23 European stocks have a different flavor completely to the wines
24 made from the grafted stocks. There is a distinction, but they
25 are very rare now because there's so few, even in the 20th

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1 Century, where the vineyards actually had any ungrafted
2 stocks.

3 THE COURT: And the cutoff point was what year?

4 THE WITNESS: Well, for the Domaine de la
5 Romanee-Conti, 1945.

6 Q. And then Slide 26, again shows a couple of the similar
7 stamps we saw that are the boxes, the squares, the rectangles,
8 and there's some ovals on the right.

9 The lower left has a red circle on it that you put
10 there. Correct?

11 A. That's correct.

12 Q. All right. Could you tell us then about the stamp in the
13 lower left-hand corner?

14 A. Well, this can be shown later because we have the actual
15 stamp, the Montrachet stamp, created from this template, and
16 which I can show you, and the actual cork in the Montrachet
17 which was stamped with the stamp. So we have the connection
18 between the image as we see here, the stamp, and the cork on
19 which it was stamped.

20 Q. Okay. In a moment I'm going to ask you to step down and
21 you can show the jury that stamp if that's all right.

22 A. Thank you, yes.

23 Q. We have two more slides, though, before we can get to
24 that.

25 And Slide 27 has four boxes in it. And the red

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1 rectangle put up above to help you illustrate your testimony
2 says it's circling two different rectangles, Mise Au Domaine
3 and Mise Au Domaine Ponsot. Correct?

4 A. That's right. Now, both of these are the brand or the type
5 of fonts used by Domaine Ponsot on which I had seen on some of
6 these counterfeit corks even. So this is, again, an image
7 called the creation of a cork stamp which are then seen on an
8 actual cork.

9 Q. Okay. And then the last slide is Slide 28.

10 A. Yes.

11 Q. And this has multiple images and multiple vintages. Can
12 you tell us what this is?

13 A. Yes. This is-- this, interestingly, because the center
14 part of each of those cork stamps is an actual photograph or an
15 image of an actual Chateau Latour cork. And it is the
16 trademark, the tower and the lion on top. And it is just a
17 range of different vintages, ranging from 1863 all the way
18 through to 1970, which would have been sent to the manufacturer
19 to create cork stamps. And I've seen a lot of these stamps
20 from the evidence that I've been reviewing from the defendant's
21 house.

22 Q. All right.

23 MR. HERNANDEZ: Your Honor, may the witness at this
24 point step down?

25 Q. I'm going to ask you, Mr. Egan, to join me at the table.

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1 MR. HERNANDEZ: And we can take the PowerPoint down
2 for the moment. For the moment take it down.

3 Q. So, Mr. Egan, there's a bottle over here on this table
4 that's already been admitted into evidence. It's 1-401. I'm
5 going to ask you if you could grab that bottle and just remind
6 us what that bottle is.

7 A. Yes, this is a bottle of Romanee-Conti, purported to be
8 Romanee-Conti 1945, which was found at the defendant's house.
9 And I've chosen this as a good example of, you know, how the
10 counterfeiting process was done, because the label is a
11 reproduction, the shoulder label is a reproduction. Even the
12 exporter's label is a reproduction. And the wax top is
13 modern.

14 So, remember I was talking about the integrity of the
15 cork protected by the capsule as the, so to speak, armor of the
16 bottle. As you can see, this, I believe, is the original
17 cork-- sorry, original capsule which has been chipped away.
18 There's some age. And --

19 Q. You're gesturing at the darker red --

20 A. At the darker red capsule around the bottle.

21 Q. And then I'm going to hand you 1-401A, which is evidence
22 also from the defendant's home. Tell us what you learned from
23 looking at that exhibit.

24 A. Well, this is like a model kit. It's all the components
25 which you can use to apply to this bottle.

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1 Q. Could you explain how?

2 A. Absolutely. First of all, you have the label here, which
3 it's stuck to the bottle. You have the-- may I take them
4 out?

5 Q. You may.

6 THE COURT: Sure.

7 A. It's easier.

8 So if I start with the label side by side, first of
9 all, this has been slightly weathered. It's been treated to
10 look old.

11 Q. You're pointing to the label on the bottle?

12 A. The label on the bottle.

13 Q. All right.

14 A. If I put this right across this bottle here, you will see
15 that it covers it. It's the exact scale and dimension as the
16 one on the bottle. And we found about 35 to 40 of these such
17 labels at the defendant's house. So this would have been put
18 on the bottle.

19 Then we have the shoulder label, the 1945 Monopole
20 which, again, would go right across there, like that. This is
21 as supplied by the printer. And this, how it's been treated,
22 to give us a semblance of age. But this is exactly the same as
23 that and so is these two labels. They're the same labels.

24 The closure of the bottle, this is-- actually, could
25 we have the cup as well?

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1 This is one of very many wax tablets which was
2 ordered by the defendant, looking at documentation. And as you
3 see --

4 Q. I'm going to hand you 1-233, which is a cup of wax.

5 A. That's a cup of wax which-- melted wax. So basically this
6 would be melted in the cup like this. And then the melted wax
7 would be applied to the-- to the top of the bottle.

8 And then from there -- there are quite a few of these
9 which, again, were found at the defendant's home. And these
10 are Domaine de la Romanee-Conti seals, you know, which you use
11 for sealing wax. And so while the wax is still molten, this
12 would be applied to the top.

13 So I've seen a great many fake Domaine de la
14 Romanee-Conti large formats, or bottles, which had these wax
15 seals applied and sealing wax and the wax seals, but they're
16 not the same skill or competence as would have been done by the
17 domaine. There is a definite quality difference.

18 And, finally, the Selection Raymond Baudouin, there
19 are a lot of these labels recovered. These are not the
20 original label. These are copies. He was a merchant in
21 France. And this was applied here to the bottom of the
22 label -- bottom of the bottle. And, again, treated-- or
23 probably treated beforehand to look old.

24 So this is a very good example, as I was talking to
25 you before, about starting the counterfeit bottle from scratch.

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1 Q. All right. Then there are two other bottles, 1-402 and
2 1-402A.

3 A. Yes.

4 Q. If you could grab those two.

5 A. These were both taken from the defendant's house. I'll put
6 them on the ledge and I'll describe them to you.

7 1-402 is a counterfeit bottle of Romanee-Conti 1899,
8 again with a counterfeit label. It's got "Ce vin doit etre
9 decante," which, as I said to you before, is the instruction
10 label supplied by Nicolas. And I don't think there's a stamp
11 on this, which is an anomaly, but normally there should be a
12 Nicolas stamp as well on the label.

13 And this is a bottle which I think has not been
14 touched. I think it's the original label or whatever has been
15 taken off and this has been put on, because this is not a real
16 Romanee-Conti label.

17 I don't think personally that this has been-- this is
18 another wine altogether. This has not been rewaxed. That's an
19 original.

20 And this bottle here, as you can see, as I was saying
21 about the level of the wine being quite low.

22 Q. You're looking now at 1-402A.

23 A. This, again, was found at the house. Very similar to this,
24 if we just look at the back. Same type of wax. There is a
25 variation of these very old bottles. Hand-blown bottles. And

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DCGBKURT3

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1 it's in handwriting the one that says "8999 RC" question mark
2 or "1875" question mark?
3 So --
4 Q. What does that writing mean to you?
5 A. I reckon this is writing denoting that this bottle could
6 pass as either an 1875 or an 1899 Romanee-Conti.
7 And I was talking to you about the bottom of the
8 bottles. You see they're very deep. These are original
9 bottles from Burgundy, prior to 1914, both of them hand blown,
10 again with a deep punt. There's no seam.
11 Q. I think you just mentioned it, but I wanted the jury to
12 understand the bottom portion here of the bottle, that if you
13 turn it on its side, you look at it, you see that the portion
14 of the bottle where it goes up and inside the bottle. Does
15 this have a name, this part of the bottle here?
16 A. They call it the punt.
17 Q. Okay. The punt, like p-u-n-t?
18 A. That's right.
19 Q. All right. And then 1-402B.
20 A. Yes. These are the parts which make up this bottle. We'll
21 start with the label.
22 Q. So you're comparing that now to 1-402.
23 A. That's right. So now we have the label as supplied by the
24 printer and delivered. And this is the slightly weathered and
25 scratched label. But if you apply it over, it's an exact fit.

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1 That's it completely. So that is the label of which we found a
2 quantity at the defendant's home.

3 And then this is a sheet of Nicolas instructions which
4 are not original. These were printed for the defendant. And
5 these have been treated, weathered. And some would have had
6 substances applied to them to make the writing more yellow.
7 You can see that the back is sort of staining and the staining
8 to the front. And then these would be put here. So you would
9 have the Nicolas-type instruction.

10 Q. Now I'm going to show you what's already been marked into
11 evidence as 1-406 and 1-407. These are also two bottles of
12 wine.

13 Could you tell us why you selected these bottles?

14 A. I selected these bottles because of the writing on them.
15 We start at the front. These are Exhibits 1-407 and 1-406.
16 This is a good pinot noir in the United States, Marcassin. It
17 retails about \$200 a bottle in Sonoma.

18 On this exhibit, 1-406, in handwriting it says
19 "40s/50s DRC." So presumably 1940s to 1950s Domaine de la
20 Romanee-Conti. And it could be that he was going to use this,
21 that this is used for producing purported bottles of
22 Romanee-Conti from that era.

23 Q. You testified earlier that if you're going to make an older
24 wine, you can't substitute in a newer wine. So why do these
25 notations lead you to believe that this could have been used to

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1 counterfeit an older wine?

2 A. Well, I believe a proportion of this would be added to the
3 blend to emulate the original wine. So I'm not saying that the
4 Marcassin pinot noir is in any way going to be used in its
5 entirety, the whole bottle, as a Romanee-Conti from the 1940s
6 or 1950s, but a proportionate would be added to the concoction.

7 Q. And then 1-407, I think it has similar notations.

8 A. It does. Interestingly, it says the same thing, "40s/50s
9 DRC," Domaine de la Romanee-Conti. So it's...

10 Q. Now, these are modern bottles, because the vintage on these
11 wines is 2006. Correct?

12 A. That's right.

13 Q. And if we show the jury the punt on these, it looks
14 different from some of the older bottles, like 1-402, if we
15 compare the punts on those. Right?

16 A. And there's also lettering and items embossed on the more
17 recent, the modern ones. And, also, that they've been made--
18 you can see the line of the mold here which all modern bottles
19 have on both sides.

20 (Continued on next page)

21
22
23
24
25

DCGAKUR4ps Egan - direct

1 Q. I'll show you, also admitted as 1-408, another bottle, and
2 1-409. Can you tell us what you selected these two bottles.

3 A. Well, 1-408 is a Merlot from -- sorry, Duckhorn -- sorry.
4 It's not a Merlot. It's the Duckhorn vineyards from the Napa
5 Valley, which is a good estate. And this is wine which is --
6 has the same grape varieties as those used in Bordeaux, the
7 Cabernet Sauvignon and Merlot, for example. And so what is
8 written on this is interesting. It says '40s to '60s, Pomerol,
9 or stroke Grave. Now, Pomerol is an appellation in the
10 Bordeaux area. And so is Grave. So, again, this would seem to
11 be an ingredient used in the production of counterfeit 1940s,
12 '50s Bordeaux.

13 Q. And this Exhibit 1-408, is that an American wine just like
14 the previous two?

15 A. Yes.

16 Q. All right. And you could look at the next exhibit, which
17 is 1-409.

18 A. So 1-409 is from Burgundy. So here we are in, in France.
19 It has the Gevrey Chambertin 1990, which was a good year for
20 Burgundy, from a producer called Laboure Roi. This is a pretty
21 good producer but not in the same league as the ones in issue
22 in this case, i.e., the Domaine Ponsot, Domaine Roumier, or
23 Domaine Romanee-Conti. There is a big price difference, a lot
24 cheaper.

25 And here, again, you have "40, 50 DRC," Domaine de la
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1 Romanee-Conti.

2 So, again, those are notations of an ingredient of the
3 concocted blend which would be used for the counterfeit bottles
4 of Domaine de la Romanee-Conti.

5 Q. And then we have Government Exhibit 1-410. This is a
6 different-size bottle. Maybe you can address the size and tell
7 us why you selected it.

8 A. This is a half bottle. And from my experience in Bordeaux,
9 when working in Bordeaux negociants, when they're blending
10 wines from various vineyards, just to use as their proprietary
11 blend, they would mark what was on the bottle and also the,
12 the, the actual proportions of the blend. But this is a blend
13 which I -- I believe this is like a list of ingredients and
14 their proportions to make up a particular wine. It's quite
15 hard to read, but I can ascertain, you have two thirds and then
16 what I believe to read is Palmer '61, which alludes to Chateau
17 Palmer 1961 from Bordeaux, a very good property. Then plus P00
18 a third. Now, this would be either 1900s or 2000. I reckon
19 the latter.

20 Q. You think it's 2000.

21 A. 2000. And "P" can be Palmer again. It could be another
22 wine. But, you know, it's a breakdown of what is in the
23 bottle.

24 And then "plus 07CC." I don't know what that alludes
25 to. But, again, it's a list, it's the ingredients and the

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1 proportions to make a blended wine.

2 And this one has been crossed out. This is namely
3 this blending bottle has been used before. It's actually used
4 in a tasting laboratory, as I said before, with a negociant.
5 So, again, M-45, which, looking at other evidence in the case
6 directing to the Mouton Rothschild 1945, which is a very rare,
7 very expensive wine, and a great vintage. And this put "CO1
8 55," which I recognize from a good Bordeaux chateau called Cos
9 d'Estournel. And inside is an appellation.

10 And then 8-M, 85, a quarter, which doesn't readily
11 spring to mind, what "HM" stands for, apart from Omar Gruzee,
12 which is a Cru Bourgeois in Bordeaux, which, quality speaking,
13 is a long way down the line from Mouton Rothschild. So, again,
14 it's just a list of ingredients and their proportions.

15 Q. And then I'm going to hand you 1-1145, which has been
16 admitted into evidence. And it's a number of different stamps.
17 And there are six stamps that last night we put a rubber band
18 around. These are the six that you want to show to illustrate
19 a portion of your testimony. Correct?

20 A. That's correct, yes.

21 Q. These were added.

22 A. Yes.

23 Q. And the stamps are for numbers 20,399, 20,406, 20,395,
24 20,397, 20,398, and 20,402. And if we could have also
25 published to the jury what's been admitted into evidence as

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1 Government Exhibit 14-1. And it's file no. 429. So that would
2 be -- Mr. Platt, you have that. All right. What we should
3 have up on the screen are closeup images of -- so Mr. Platt is
4 zooming in on bottles of 1945 Chateau Mouton Rothschild, and
5 they have serial numbers on them with a blue stamp.

6 A. Yes.

7 Q. Is there any relationship between those images on the
8 jurors' screen and the stamp that you're holding in your hand?

9 A. Well, these are the stamps which made the numbers on each
10 label. So they correspond exactly to those stamps on the
11 labels. And the ink color is the same. I know these to be
12 counterfeits, not Mouton Rothschild 1945, one of the many
13 reasons being that the color used for putting -- for the stamps
14 is not as deep a blue as would be found on genuine bottles.
15 And these -- would the jurors like to have a look at this?

16 MR. HERNANDEZ: Your Honor, may we pass a portion of
17 it around.

18 THE WITNESS: Here, ma'am. You can hold that and
19 actually examine it.

20 MR. HERNANDEZ: And I will actually go to the next
21 portion of the direct. Mr. Egan can return to the stand. That
22 will allow jurors to pass that around.

23 THE COURT: Yes.

24 Q. Mr. Egan, the stamps that are being passed around right now
25 by the jury, when looking at Government Exhibit 14-1, file

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1 no. 429, did you have any conclusions or opinions based on the
2 fact that those stamps match the images shown on the screen?

3 A. Yes, I do. My conclusions are, these were the actual
4 stamps used for applying these numbers to the labels and as
5 such are counterfeit.

6 Q. OK. Now, have you seen in this case, Mr. Egan, some
7 records of purchases by the defendant of wines from a place
8 called Patriarche?

9 A. Yes, I have.

10 Q. And also from a place called Louis Remy?

11 A. Yes, I have.

12 Q. Are you familiar with the wines of Patriarche and Louis
13 Remy?

14 A. Yes, I am.

15 Q. Can you tell us a little bit about them.

16 A. Beginning with Patriarche.

17 Q. You can sit a little closer to the microphone.

18 A. Beginning with Patriarche, it is a well-established
19 negociant, merchants in Burgundy, based in the town of Bern.
20 It was established in 1780. They owned quite a few vineyards
21 in the Burgundy area, including Richebourg and Romanee Saint
22 Vivant. But they produced a lot of proprietary blended wines,
23 and as such they make adequate wines but nowhere near on the
24 same scale of quality or desirability as the domaines that
25 we've seen in this case.

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1 Q. So the Patriarche and Louis Remy wines are not in the same
2 class as the wines that we've been talking about during the
3 trial?

4 A. That's right. It's substantially cheaper to purchase, the
5 Louis Remy, as well, for the same reason -- that they produce
6 good-enough wines but nothing spectacular.

7 Q. So are these desirable wines, highly sought after?

8 A. They are not.

9 Q. Are they the kind of wines that are sold at high-end
10 auctions?

11 A. No. You very rarely see either of them at auction.

12 Q. Now, some of your private clients for your consulting
13 business, are they -- would you consider them to be high-end
14 collectors of very high-quality Burgundy wine?

15 A. Yes, I would.

16 Q. Do any of your other clients with cellars comparable to the
17 defendant's buy wines from Patriarche or Louis Remy?

18 A. I don't believe they do. I haven't seen any in their
19 collections. Nor have we ever spoken about them.

20 Q. Part of your job for your consulting for them would include
21 going through their collections at times?

22 A. Exactly.

23 MR. HERNANDEZ: If we could show to the witness and to
24 the jury what's already been admitted as Government Exhibit
25 11-3T.

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1 Q. This is a translated document from French, Mr. Egan. Maybe
2 we could focus on just the top half of the document. Right
3 there would be perfect.

4 This is a 22-page document, Mr. Egan. First, before
5 we get into the details of what's in it, could you just tell us
6 generally what this exhibit includes.

7 A. It looks like a list of wines, either a delivery note or an
8 invoice, featuring the wines from Louis Remy.

9 Q. All right. And in this particular case, the invoice we're
10 looking at, it's delivered to 9638 East Naomi Avenue in
11 Arcadia, California?

12 A. That's correct.

13 Q. And the invoice below is the invoice to Kurniawan Rudy,
14 correct?

15 A. Yes.

16 Q. And this particular invoice, the date on this one is
17 October 25, 2010, that's on the left side?

18 A. Yes.

19 Q. And according to the body of the invoice -- and if we could
20 focus in on the description, all the way through to price unit
21 before tax or per unit before tax. So what does this invoice
22 show that the defendant purchased?

23 A. Bottle formats of various Burgundies from Louis Remy. So
24 Chambolle Musigny and Morey St. Denis. They're both village
25 wines from Burgundy.

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1 Q. We've heard some testimony about the hierarchy in Burgundy
2 and we have heard that Grand Cru is the very top, that's only 1
3 percent. Is that consistent with your understanding of the
4 Burgundy hierarchy and production?

5 A. That's correct.

6 Q. And then there's a level below Grand Cru, right?

7 A. That's Premier Cru.

8 Q. And then there's a level below that, right?

9 A. That's Village Wine.

10 Q. That's like the bronze medal, right?

11 A. That's right.

12 Q. And what medal do these wines get?

13 A. Well, these would be the bronze medal. So it's the Village
14 Wines. But, again, second class, because they wouldn't be from
15 the really great domaines from Burgundy.

16 Q. Could you just read out loud -- we won't do this for all of
17 them, but read out loud the vintage, the year, and the quantity
18 that the defendant purchased.

19 A. Well, beginning the top line, 1966 Chambolle Musigny Remy
20 Louis 75 centiliter rouge, excise CN, quantity 14.

21 THE COURT: What does that mean, "excise CN," if you
22 know?

23 THE WITNESS: I don't know. I don't know.

24 Q. You can just read -- you can skip the "excise." You can
25 just focus on "quantity" and "per unit before tax."

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1 A. Yes. 14 per unit 60. I don't know what currency that is.
2 But if it's from France, I believe it's euros.

3 Q. We'll see in a moment when we back out of the exhibit that
4 it is in euros, but -- so this is a purchase of 14 bottles of
5 the 1966 Village Wine Chambolle Musigny for 60 euros a bottle?

6 A. That's right.

7 Q. We don't need to read the rest of them. But it goes on to
8 list a number of other from the 60s of these village-level
9 wines, in quantity a 28, 48, 16, and 11, and all for \$60.
10 Correct?

11 A. Correct.

12 THE COURT: 60 euros?

13 MR. HERNANDEZ: I'm sorry. 60 euros.

14 Q. If we could back out from this page. Now, if we could go
15 to the page that ends in the Bates stamp of 076. This is
16 another invoice, if you could focus on maybe the top and a half
17 of the document. So this one shows, again, a delivery, the
18 Arcadia address, invoiced to, the date is January 18, 2007,
19 correct?

20 A. Yes.

21 Q. And if we could then go focus in on the purchases. We will
22 look just at the first third of the purchases so we can see
23 them a little bit better. All right. Here there are
24 references to that negociant Patriarche, right?

25 A. Yes.

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1 Q. So the very first purchase, for example, of the 1977
2 Richebourg Patriarche and it says "150 CL," does that tell us
3 it's a magnum?

4 A. That tells me it's a magnum, in 150 centiliter format.

5 Q. And how many of these orders?

6 A. Three.

7 Q. And what's the price?

8 A. 190, euros.

9 Q. All right. And we can see now to the right those are in
10 euros, correct?

11 Now, the purchases here that you can see on this
12 invoice, we can see from the 77 Richebourg now down to the one
13 that says 1979 Beaune, are these Patriarche wines here that are
14 identified in this invoice, are these desirable, sought-after
15 Burgundy wines?

16 A. No, they are not. Chiefly, all the vintages shown in this
17 particular section are very ordinary to poor vintages in
18 Burgundy. 1977 was a big washout. So was '74. And '79 also.

19 THE COURT: Where might one buy these wines?

20 THE WITNESS: Well, they're still available in
21 Burgundy, hence this particular -- but given the vintages, you
22 may be able to find them at auction, some of the wine auctions,
23 but it wouldn't be in ready -- you wouldn't see them very often
24 now in retail or even wholesale.

25 Q. Do you know the name of the place where these wines are

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1 bought from?

2 A. No. You'll have to refresh my memory there.

3 Q. I'll show you the document in a minute. But can we then
4 look at, as another example, the Bates page that ends in 081.
5 And can we focus just on the purchase, the description. So
6 what was purchased in this case?

7 A. 114 bottles, 75 centiliter, of Meursault Charmes from
8 Patriarche, and the vintage is 1971, which in my opinion is
9 pretty old to be drinking 1971 white Burgundy from this
10 particular negociant.

11 Q. And you said this is a white wine. This is made from
12 Chardonnay?

13 A. That's right.

14 Q. And what's the price per bottle in euros?

15 A. 64 euros.

16 Q. Is there anything about the quantity purchased here that
17 stands out to you?

18 A. It's a lot of bottles of a wine which in my opinion would
19 not be that good anymore.

20 Q. And in your -- all your experience in the wine industry and
21 wine business, have you known any high-end collectors to
22 purchase in this quantity a wine like a 1971 Patriarche
23 Meursault Charmes?

24 A. No.

25 THE COURT: Could you go back to the top of that
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1 exhibit.

2 MR. HERNANDEZ: Yes.

3 Q. And the date of this purchase is June 6, 2007?

4 THE COURT: Yes. So can you tell from this who this
5 was purchased from?

6 THE WITNESS: No, I cannot, not from this particular
7 invoice or this particular document.

8 MR. HERNANDEZ: Your Honor, may I approach? I think I
9 can refresh the witness's recollection. I'm going to show him
10 Government Exhibit 13-16.

11 Q. I'll just ask you to look at the bottom of the e-mail
12 there. Just read the signature line to yourself.

13 A. OK.

14 Q. Have you read it?

15 A. Yes.

16 Q. Does that refresh your recollection?

17 A. It does.

18 Q. Let me take that back from you, and then -- do you remember
19 now who sold these wines to the defendant?

20 A. Yes. It's a wine merchant and broker Caveau de la Tour.

21 THE COURT: And where are they?

22 THE WITNESS: They are based in Burgundy, in
23 Meursault.

24 THE COURT: And how does it work? Does somebody just
25 pick up the phone and call them and say, could you send me --

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1 THE WITNESS: That's right. I mean, there are brokers
2 where you pick up the telephone and you say, I need to know
3 various wines. And then the broker will do all the telephoning
4 to the various holders of these wines to see if there are any
5 available. The broker doesn't necessarily have to be the owner
6 of these wines.

7 THE COURT: The broker will try to get them, and then,
8 what? Ships them to the purchaser?

9 THE WITNESS: The broker certainly is involved in
10 sourcing the wines. I think in this instance, as you can see,
11 was involved in shipping the wines to the -- to the purchaser.

12 MR. HERNANDEZ: Your Honor, in a few minutes we're
13 going to offer some e-mails that show how that exchange took
14 place.

15 THE COURT: Great.

16 MR. HERNANDEZ: Before I do, though, already admitted
17 into evidence is Exhibit 1-403.

18 Q. Have you seen this bottle before, Mr. Egan?

19 A. I have.

20 Q. Can you just tell us what it is.

21 A. It's a magnum bottle of Corton 1908 from Patriarche Pere et
22 Fils, which has been corked and recapsuled by Patriarche
23 because they hold quite a lot of stocks of the old wines in
24 their headquarters at Beaune in those old stone-vaulted
25 cellars.

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1 Q. All right. And this is a magnum, right?

2 A. That's right. That is a magnum.

3 Q. So this is a bottle that was taken by the FBI from the
4 defendant's home. And if we look at the bottom of the bottle,
5 the punt, what observation do you have about the punt, the size
6 of the punt?

7 A. It's a very deep punt, as would be expected from that era.
8 Looks to be a hand-blown bottle as well.

9 Q. So it's an older hand-blown bottle?

10 A. But with the requisite deep punt of bottles of that era.

11 Q. Now, if we compare it to 1-406, this 2006 wine from
12 California, the bottles don't look the same, do they?

13 A. No.

14 Q. So what makes 1-403 look the way it does, and could you
15 describe this?

16 A. Again, there's no mold. There's no seam to the bottle. If
17 you put it on the table, it will probably rock. And that will
18 show that it is...

19 MR. HERNANDEZ: (Demonstrates)

20 A. Whereas the modern bottle would be flat, square on the
21 table.

22 It's got an enlarged collar around the neck, which
23 they would do to reinforce the hand-blown bottles. It is a
24 very thick collar. And you can also see there are some
25 champagne bottles. So that's there to keep the -- to reinforce

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1 the bottle because of the pressure of the wine inside. But
2 these old bottles have these thick collars because they're
3 hand-made and it's just to reinforce the rather fragile neck.

4 Q. Do I hear you right that this is mold on the outside?

5 A. It's got some dust and it's got quite a lot of patina,
6 which shows that, you know, this is the original patina from
7 the cellars of Patriarche, no doubt.

8 Q. So you're testifying today based on Exhibit 11-3T, the
9 purchases from Patriarche -- just Patriarche, not the other
10 negociants like Louis Remy. Did you add up how many bottles
11 the defendant bought?

12 A. Yeah. My calculation, 904 bottles were purchased.

13 Q. And if we could show to the jury what's already in evidence
14 as Government's Exhibit 2-21. This is a photograph from the
15 defendant's home the day of his arrest. What are we looking at
16 here? We're looking at four bottles. Can you tell us what
17 they are.

18 A. Yeah. Four bottles, two bottles on the left, Richebourg
19 1955, which they -- they are part of the vinyards of
20 Richebourg. And on the other side there are two magnums of
21 Corton 1943.

22 Q. Who made these wines?

23 A. Patriarche Pere et Fils.

24 MR. HERNANDEZ: And could we show just Mr. Egan at
25 this point Government Exhibit 13-15.

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1 Q. You have them in hard copy, actually, in front of you,
2 Mr. Egan, exhibits. It may be easier to go through the paper
3 copies right here. Just take these paper copies. I'm going to
4 go through them, a couple of them together. It may be easier.
5 Could you look first at 13-15.

6 A. Yeah.

7 Q. All right. And then take a look also at 13-16 and 13-29.

8 A. (Pause) All right.

9 Q. Have you seen those e-mails before testifying here today?

10 A. I have.

11 Q. And do these e-mails each have exchanges where the
12 defendant is purchasing wine?

13 A. Yes.

14 Q. Are they the kinds of wine, like the Patriarche wines, that
15 you have just been testifying about?

16 A. Yes, they are.

17 MR. HERNANDEZ: The government offers 13-16, 13-15,
18 and 13-29.

19 THE COURT: I'll allow them.

20 (Government's Exhibits 13-16, 13-15, and 13-29
21 received in evidence)

22 Q. Can we start with 13-15 and publish this to the jury. If
23 we could focus on the bottom e-mail that starts with "from
24 Anders." The first e-mail, Mr. Egan, you say that this is a
25 May 31, 2007 e-mail. The subject is "old Patriarche." And do

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1 you see it's from someone named Anders and it's to Caveau de la
2 Tour. Do you see that in the e-mail address?

3 A. Yes.

4 Q. So that's the name of the place you just testified about
5 that sold the Patriarche bottles --

6 A. That's right.

7 Q. -- to the defendant?

8 A. Mm-hmm.

9 Q. And what's being offered here are a range of old Patriarche
10 wines, two or three bottles each, from 1904 to 1949. Correct?

11 A. That's right.

12 Q. And if we go a little bit higher up in the next e-mail,
13 which is right above it. So the same day, the defendant wrote
14 back to the broker to say, what?

15 A. "Will confirm all that original bottles with deep" --
16 sorry.

17 Q. Look at the screen on this.

18 A. I'm sorry. "Will take all if they are all correct period
19 bottles," or b-t-l-s, "bottles."

20 Q. What do you understand "all correct period bottles" to
21 mean?

22 A. He would purchase the wine as long as they are in their
23 original bottles of the period.

24 Q. Meaning old bottles?

25 THE COURT: The period of the vintage?
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DCGAKUR4ps Egan - direct

1 THE WITNESS: The period of the vintage, that is
2 right.

3 Q. Now, is it common practice for collectors to want to know
4 that the period of the bottle matches the vintage?

5 A. Yes. It's, again, when we go back to authenticity, the
6 period of the bottles should coincide with the vintage. But it
7 is not -- it is not something which springs to mind immediately
8 when collectors are buying wines. They're first and foremost
9 interested in the domaine or the chateau, and then the vintage.

10 Q. Now, about the wines of Patriarche, you said that these are
11 not highly desirable wines, right?

12 A. I did.

13 Q. So are these wines that you have seen to have been
14 typically counterfeited and sold in the market?

15 A. I've never seen a counterfeit bottle of Patriarche Pere et
16 Fils wine. So I don't think it's a target for counterfeiters,
17 because the value isn't high enough.

18 Q. And then if we go to the e-mail right above it, which is
19 from the broker, responding also on May 31, could we just
20 highlight the first sentence in the response. He writes, "Will
21 confirm that all are original bottles with deep punts,
22 hopefully early next week," correct?

23 A. That's right. That's what he's written.

24 Q. All right. If we could next look at 13-15. And if we
25 could just start at the very bottom e-mail, the bottom two if

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- 1 we could. So this begins with an e-mail on March 7, 2007 to
2 the defendant. And in the subject line, at least the English
3 part that we can make out it, says Chambertin mag 1 1959 Leonce
4 Bocquet." I did get that right?
5 A. Yeah.
6 Q. Can you decode that for us.
7 A. A Chambertin magnum 1 1959, from Leonce Bocquet. So it's
8 regarding a box of 1 magnum, I suppose, of 1959 Chambertin from
9 that producer.
10 Q. And where does Leonce Bocquet rank in the hierarchy of
11 Burgundy producers?
12 A. He's a competent producer of Burgundy wines, but not very
13 high on the desirability scale.
14 Q. And the defendant responds the same day, and he writes,
15 "Need to see the punt," with three exclamation points. Right?
16 A. I see that, yes.
17 Q. All right. And then finally, if we could look at 13-29.
18 This is a longer e-mail exchange. Do you remember testifying
19 about the 114 bottles of 1971 Patriarche Meursault Charmes that
20 the defendant bought?
21 A. Yes.
22 Q. Is this e-mail chain -- you can look at the hard copy if
23 it's easier -- is this e-mail chain about that purchase?
24 A. I can't see a reference to the Meursault 1971 with all
25 the --

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- 1 Q. Let's go back to the second page, then, of this exhibit,
2 and if we could highlight the bottom two e-mails. Do you see
3 that the June 6, 2007 e-mail at the bottom, Mr. Egan, it says
4 "Patriarche," which is in all caps and it's underlined?
5 A. Yeah.
6 Q. And then it says "1971," and then there are some equal
7 signs in there that look like maybe were inserted by formats of
8 the computer, but it says "equals 120 equals 20," and then
9 "bottles Meursault Charmes." There are some numbers, some
10 symbols. And then it looks like "64 E," asterisks?
11 A. Yes I see that.
12 Q. Below that defendant responds, "Would like all 20 bottles
13 of 71," and then it looks like "Charmes," right?
14 A. Charmes, yes.
15 Q. And then the e-mail right above that. So the response here
16 from the broker is, "There are 120, not 20. How many would you
17 like?"
18 A. Yeah, I see that.
19 Q. I read that right?
20 A. That's right.
21 Q. And then the two e-mails before it, you have the hard copy
22 in front of you?
23 A. OK. This is --
24 Q. Well, do you see that there is an exchange about, defendant
25 asks how much it is and the response is 64 euros?

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1 A. I see that, the "64 E," yes.

2 Q. All right. Then if we go to the first page, the bottom
3 response here from the defendant, when he learns it's 120
4 bottles, not 20? What does he respond?

5 A. "Will take all 120."

6 Q. OK. And then if we could look at the e-mail right above
7 it, so the broker responds, "114 bottles confirmed." Do you
8 see that?

9 A. I see that.

10 Q. Does that lead you to believe that this is the same order
11 for the 114 bottles that you testified about a few minutes ago?

12 A. I think so, yes. It relates. The numbers coincide.

13 Q. And then the broker says that he can also offer to the
14 defendant Patriarche wines from 1972 to 1977. Correct?

15 A. I see that.

16 Q. And if we could go to the e-mail right above it in response
17 to that, the defendant writes, "I like their older wines. Have
18 any?"

19 A. I see that.

20 Q. I did read that correct?

21 A. I see that, yes.

22 Q. OK. Only one more e-mail, Mr. Egan, I promise. OK. And
23 then you have the hard copy there of 13-37.

24 A. Yes. No, I don't, actually. Oh, no, it's underneath.
25 I've got it here, yes.

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1 Q. All right. And this is an e-mail. It's from the
2 defendant. Is that right?

3 A. It looks like it, yes.

4 Q. And it's his e-mail account, RA@hotmail.com?

5 A. Yes.

6 Q. It's to someone named Eric Greenberg. Do you know who he
7 is?

8 A. I do indeed.

9 Q. Who is he?

10 A. He is a wine collector and has also been shown in court to
11 have sold fraudulent wines.

12 Q. And is this e-mail exchange in part where the defendant is
13 offering to sell some wines for the --

14 MR. MOONEY: Objection, your Honor.

15 THE COURT: Overruled.

16 Q. This is an e-mail where the defendant is offering in part
17 to sell some wines to the defendant -- for Mr. Greenberg,
18 rather?

19 A. "The additional wines are here, but I will be" --

20 Q. Don't read from the e-mail. Just if you could take a look
21 at it.

22 A. Yeah. Yes, it looks like he's supplying.

23 Q. They're talking about buying and selling wines, right?

24 A. Yes.

25 MR. HERNANDEZ: The government offers Government
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1 Exhibit 13-37.

2 MR. MOONEY: Objection, your.

3 THE COURT: I'll allow it.

4 (Government's Exhibit 13-37 received in evidence)

5 MR. HERNANDEZ: Could we publish there to the jury.

6 Q. Could we focus in just on the written, the next portion.

7 Thank you. So this e-mail from the defendant to Eric

8 Greenberg, another wine collector -- correct?

9 A. Yes.

10 Q. And what's the date on it?

11 A. Monday the 11th of October 2004.

12 Q. And I'm just going to read each of the lines and then I'm
13 going to ask you about line 4 when you get there. So it says,
14 "Eric, no. 1, got the wire. Thanks. No. 2, the additional
15 wines are here but I will be in NYC Wednesday-Sunday. Can we
16 do next week? Also perhaps some more burgs have arrived then.
17 Do you prefer refrigerated truck or overnight shipment so I can
18 arrange? 3, do you want 1919 Vogue Musigny? I forgot to
19 include on list. I can split three with you. I have six
20 coming," probably "at" -- it says a-y, but probably "at 3,000
21 each." And then no. 4: "Can you delete the wines you don't
22 want to sell and include prices of those to sell. I can move
23 some, actually try to move those 'suspects'," in quotes,
24 "Bordeaux for you." And then it concludes, "P.S. I tried the
25 Georges Churchy 1899 Petrus from Zachy's, same as your

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1 1899/1900 mag, not good for sure. Cheers, Rudy." Did I read
2 that correctly?

3 A. Yes, you did.

4 Q. My question is with respect to line 4. What do you
5 understand the word "suspects" to mean?

6 A. It was obviously doubtful wines, doubtful Bordeaux.

7 Q. Is that a word that can be used in the wine industry to
8 describe a doubtful wine?

9 A. Not, not usually, no.

10 MR. HERNANDEZ: OK. If we can take this exhibit down.

11 Now, for the next portion, your Honor, I'm going to
12 ask if the witness can step down again.

13 Q. But before you do, Mr. Egan, before coming to testify
14 today, did you examine the bottles that are at issue here in
15 the case that the government alleges are counterfeit?

16 A. Yes, I did.

17 Q. And did you use the same methodology to inspect those wines
18 for authenticity that you described earlier in your testimony
19 that you've used throughout your career?

20 A. I did.

21 Q. And I'm going to ask you now to step down so I can show you
22 some bottles of wine, and for each wine, if you have an opinion
23 as to its authenticity, I would like you to share it with the
24 jury.

25 A. All right.

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1 Q. All right?

2 THE COURT: Sure.

3 Q. So for the group of bottles -- and we tried to group them,
4 so we are going to start with the first row here, which are --
5 they all start with 4, these are the 4 series. They have all
6 been admitted into evidence. 4-1, 4-2, 4-2A, 4-3, 4-4, and
7 4-5. These are all wines that have been admitted as purchased
8 by William Koch. So in however manner you think is most
9 effective and efficient, could you explain to us whether you've
10 examined it and whether you have any opinion about its
11 authenticity.

12 A. Well, I have examined all of these bottles, from Mr. Koch,
13 on behalf of the government. And I will start with the large
14 format here 1947 Petrus double maker and Petrus 1947. The
15 immediate thing evident is that the label is not an authentic
16 label from the chateau. It is a photocopy, in fact. It is not
17 original. The capsule, which had been cut presumably on an
18 earlier occasion to view the cork, this is not from the period
19 of -- from the 1940s. It's later, from the 1960s. The cork,
20 the branding on the cork, which I can see, is pretty faint and
21 not very well applied. It's not a branding which would have
22 been done by the chateau. It's not a cork provided by the
23 chateau. And, also, the cork is too short for a real cork from
24 that era, from Chateau Petrus. So all these indications say to
25 me that this is not an authentic double magnum of Chateau

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1 Petrus 1947.

2 Q. All right. Very good. You can go to the next one.

3 A. The next two are a pair.

4 Q. So now we're looking at 4-2 and 4-2A?

5 A. That's right. These are two bottles of purported Romanee
6 Conti 1934. We have authenticity issues with both of the
7 labels because they are photocopies. Under magnification, with
8 a lens, you'll see the print peeks late out.

9 And also, all the corners are hand cut. Here you've
10 got a -- even a little tear. On this one as well. And the
11 real labels would be rounded. They would be printed as a
12 rounded rectangle.

13 There is old wax on both of these along the neck, but
14 importantly, the top of the bottle, the wax is not the same as
15 the wax on the side. It is much softer, newer, and it shows
16 that the original wax has been taken off at the top and
17 replaced with this. And this certainly would not be the
18 practice done by -- at the domaine de la Romanee-Conti. When
19 you recondition wine at the domaine, they would either put
20 their own wax completely, so that would be completely taken off
21 and new wax reapplied, or they would put a metal capsule on.

22 There is some sediments. There is definitely an old
23 wine in there.

24 Q. Can you describe "sediments."

25 A. Sediments is the -- I don't know if you can see -- but it's

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1 the solid matter which is created during the long-term storage
2 of wine. And it's basically the coloring matter and the
3 tannins in the wine coalescing together to form solids. That's
4 why when you drink an old wine, you need to decant it. You
5 have to take off the sediments that's at the bottom. Otherwise
6 you'll end up pouring sediments into your drink, which is very
7 bitter and not very nice to taste.

8 So both of these bottles have very high fill levels.
9 If they hadn't been touched, normally, through normal
10 evaporation, unless some exceptional circumstances, the wine
11 would have dropped down. And it's very high. So it shows this
12 wine has been reconditioned or wine added to this. And given
13 the fact it hasn't been done at the domain, given the fact that
14 they are photocopied labels, these are both counterfeit.

15 Q. You may want to take these two together. These are both
16 1952. So now you're looking at 4-3 and 4-4.

17 A. Again, this is a pair of purported Romanee-Conti magnums,
18 1962, which have copied labels. These are not the original
19 labels from the domaine. Nor are the shoulder labels vintage
20 labels. They have numbers as well, which have been stamped on.
21 They don't look original either. Plus the fact that the labels
22 are not original.

23 This is a very high fill, which you would normally
24 expect at this level.

25 Q. Where are you pointing?

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1 A. I'm pointing to 4-3. So it hasn't been reconditioned or
2 anything apparently. So that is exceptionally high for a wine
3 of this age. And also, you can see the cork. It's very faint
4 to read. You can hardly read the what is on the cork. But
5 given that both of these have copied labels, I would definitely
6 believe that these are counterfeit.

7 Q. And then 4-5.

8 A. Yes. Now, this is a magnum of purported Romanee-Conti
9 1937. It has a copied label, a photocopied label, it's not a
10 real label. But it looks from afar, it's quite good. But
11 close up it's not good at all.

12 It has a capsule, which would not have been applied by
13 the domaine, very roughly. It's a very rough edge here. It
14 has been chipped. Actually, I'll rephrase. I think this has
15 been chipped away so the cork can be visible. But the finish
16 at the top is very rough. It hasn't been done professionally.
17 And the branding as well is very indistinct. When the Domaine
18 de la Romanee-Conti do a brand, very finely done. You can
19 read, unless it's damaged, you can read it very easily. And
20 here it's just a mess.

21 And this is the same for the pink wax, as we've
22 already seen for the 1945 Romanee-Conti.

23 Under this light you can't see the top very well, but
24 the branding is not very well done. It's too thick. The
25 vintage is done very thickly. And it's re-- I reckon it is

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1 from one of the cork stamps that we saw, we saw at the
2 defendant's house, which has been applied onto this cork. So
3 this is a counterfeit bottle.

4 Q. Now I'm going to ask you to look at two bottles that have
5 been admitted that come from the 5 series. We'll start with
6 5-2. These are bottles that were purchased by Michael
7 Fascitelli.

8 A. So this is a magnum of La Tache 1934, with the old-style
9 Domaine de la Romanee-Conti label here. Again, this is in the
10 an original label from the domaine but a copy. The capsule,
11 again, has the same issues. There's a great big notch here.
12 This has not been chipped away. This, I think, has been
13 chipped. And obviously it's been chipped here. But the
14 domaine wouldn't have created a capsule so -- in such a
15 slovenly fashion.

16 And again there's the branding -- sorry -- the seal on
17 the top, which is very indistinct. There are letters missing
18 that haven't been very professionally applied at all. So this
19 is not -- this is not a closure done by the domaine. And the
20 label is not from the domaine. So this is counterfeit.

21 Q. All right. Then 5-3?

22 A. So this is a very large format, methuselah, purported
23 Romanee-Conti 1971. Again, this is quite a good copy of
24 Romanee-Conti's 1971 label. But it's not the real thing. The
25 printing is too flat and the green around the appellation

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1 Romanee-Conti Controlee under magnification is indistinct.

2 It's not the original label run as for the domaine.

3 Q. You can just show that over here to the jury as well on
4 this side.

5 A. Sure.

6 Q. Is there anything else you wanted to add about those?

7 A. No, just the capsule. Again, very poorly rendered. There
8 is a faint domaine there on the Romanee-Conti seal. This has
9 not been applied by the domaine.

10 Q. Then if you could look at the bottles that were purchased
11 by John Scott that are in evidence, 7-5 and 7-8. You can view
12 7-5 first.

13 A. 7-5. This is purports to be a bottle of Bonnes-Mares from
14 the domaine Roumier. As we've already had testimony on, this
15 the name G. Roumier would not have appeared on a wine of this
16 age from 1929. This is a copied label.

17 Interestingly, when I hold this to the light -- this
18 was loose like this when I saw this bottle -- it really looks
19 like there is a water mark on the -- on the label, which reads
20 "Concord," like the airplane. And having made some research on
21 this, this is actually a printer based in Indonesia who uses
22 this watermarked paper. And for all the labels that I've seen
23 from the defendant's house, the counterfeit labels, this type
24 of paper has been used for disparate producers, from Bordeaux,
25 from Burgundy. I've seen the same sort of paper used for

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1 Chateau Petrus, La Mission Haut-Brion, and also for all the
2 Burgundy domaines. So I don't think in reality it would be
3 that Bordeaux and Burgundy, way back in 1929, 1940s, would be
4 using an Indonesian paper company which was only established in
5 1983.

6 Q. And then 7-8.

7 A. 7-8, again, a Musigny, purported bottle of Musigny 1962
8 from Roumier. Then it has the same -- no, this is loose. But
9 this is not the -- this is a photo -- this is a copy of the
10 label. It's not the actual label from Roumier. The 1962,
11 again, it's the same type of paper. That is a copy as well,
12 and corresponds with the images we've seen on the computer.

13 I was looking at the -- the capsule is a generic
14 Burgundy capsule, which doesn't say much. It doesn't say one
15 thing or another. But the fact that these two labels are wrong
16 would lead me to believe that the whole bottle is counterfeit.

17 Q. Mr. Egan, you heard Christophe Roumier, the
18 third-generation wine maker, testify in this case?

19 A. I did.

20 Q. Did you hear him testify that he believed that several of
21 the Roumier wines that were presented to him were counterfeit
22 or fake?

23 A. Yes. I heard that.

24 Q. Do you agree with his assessment?

25 A. I do indeed, from looking at the evidence that I've seen in

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1 this case.

2 Q. All right. We'll return these bottles. And then I'm going
3 to ask you to look at the last collection of bottles. They all
4 start with three dash. These were admitted when Antonio
5 Castanos was testifying. These are the bottles, some of the
6 bottles that were consigned to the Spectrum auction in London
7 in February of 2012. Have you looked at these bottles
8 previously?

9 A. I have indeed.

10 Q. Have you actually looked at any portion of the consignment
11 for that auction before you were even hired for this case?

12 A. Yes. I was told by my client to look at a portion of the
13 sale, the auction consignments.

14 Q. When did you do that?

15 A. I did that in February 2012.

16 Q. What did you do?

17 A. I went to the warehouse where the wines are stored and had
18 a quick look at the 120 bottles and other formats which were
19 going to be sold, I think the next day.

20 Q. Did you have enough time to adequately examine all of the
21 bottles?

22 A. I only had a few hours' slot to do this, in very poor
23 lighting conditions. So I didn't have adequate time, in my
24 opinion, to have -- to get a good idea of the authenticity.

25 Q. Did you nonetheless find any counterfeit wines in the lots

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1 for sale?

2 A. I did.

3 Q. And is at least one of them going to be one of the bottles
4 you're about to testify about?

5 A. That's right.

6 Q. Just to be clear, when you did this examination in London,
7 that was even before the defendant was arrested in this case,
8 right?

9 A. That's right, yes.

10 Q. So I'll ask you, then, same question and methodology. If
11 you could go through the bottles, starting with 3-1, and tell
12 us what your opinion is about each bottle.

13 A. Sure. 3-1 is a magnum of Romanee-Conti 1978, or purported
14 to be. We have a problem with the label again, which is not
15 the -- an original label but a -- not applied by the domaine
16 but a copy. The stamp of the number is wrong because by the
17 time the 1978 vintage came along in the domaine, the serial
18 numbers were actually printed on the labels. So that is an
19 anomaly. The U.K. importer, Percy Fox & Co., this is an import
20 label which would be put on the bottle when it came into
21 England or perhaps coming to England. There is, I think, there
22 is a typo on the "Sackville Street." It says "Sackvillee
23 Street" instead of Sackville. Instead of S-a-c-k-v-i-l-l-e,
24 it's S-a-c-k-v-i-l-l-e-e.

25 Q. So there's an extra E at the end?

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1 A. That's right.

2 Q. Does an authentic label from Percy & Fox have their address
3 misspelled?

4 A. No, not at all.

5 Q. It's one E in the authentic version?

6 A. That's right, one E, not two.

7 Q. If you compare that to what has been admitted as Government
8 Exhibit 1-1, is there any relationship between that bottle and
9 1-1?

10 A. This is a range of labels which were recovered at the
11 defendant's house. And from the very many copies import/export
12 labels that I saw, this is one them, one of these copies. And
13 I'll pass these around. But you'll see that the address,
14 again, has the same typographical error.

15 (Continued on next page)

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DCGBKURT5

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1 BY MR. HERNANDEZ:

2 Q. So the misspelling in the street name in the bottle 3-1 is
3 also found in the misspelling of the labels 1-1 from the
4 defendant's home?

5 A. That's right.

6 Q. And an authentic label does not have that misspelling?

7 A. It does not.

8 I guess the last thing is that there's very little
9 discernible on the cork. A real cork from Domaine de la
10 Romanee-Conti would have the vintage and the name
11 "Romanee-Conti" on it. That's just another further indicia of
12 inauthenticity.

13 Q. Now I think you can move on to the next two bottles, which
14 I think you can take together, 3-2 and 3-3.

15 A. Again, these purport to be two magnum bottles of La Tache
16 1971. As with the other Romanee-Conti wines we had seen, the
17 labels are not original from the domain. They are copies. The
18 print's very flat on both the shoulder labels and the main
19 labels.

20 The printed-- sorry, the stamped numbers also are not
21 authentic.

22 They've actually got very high fills. Normally by
23 this time the fills would have descended down a bit.

24 And you can actually see the branding here on the
25 La Tache. It's not very well executed. It's not-- it is not

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1 a brand as it had been done for corks supplied to the Domaine;
2 particularly, the vintage and the actual font of the La Tache.
3 So it doesn't have an authentic cork. It doesn't have an
4 authentic label or shoulder label. So that's counterfeit, as
5 is this one.

6 You can have that.

7 THE COURT: All right. Mr. Hernandez, do you have
8 much more? We're about to take our lunch break.

9 MR. HERNANDEZ: I don't have much more, but I think we
10 should take the break.

11 THE COURT: Okay.

12 MR. HERNANDEZ: I'll finish up in about 15 minutes.

13 THE COURT: Okay. Great. And if I could see counsel
14 for a minute before we take our break.

15 (Continued on next page)

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DCGBKURT5 Egan - direct

1 (At the sidebar)

2 THE COURT: So if you could just remind Mr. Egan,
3 since he's in the middle of testifying, not to discuss the
4 testimony with anyone.

5 MR. HERNANDEZ: I will.

6 THE COURT: And not to conduct any interviews.

7 MR. HERNANDEZ: Absolutely.

8 THE COURT: And not to respond, because they'll be
9 all over him to ask questions and he shouldn't do that until
10 after.

11 MR. HERNANDEZ: I'll keep him in my custody.

12 THE COURT: Okay. Great.

13 MR. MOONEY: Thank you.

14 THE COURT: So I'm going to say 2:10. Okay?

15 (Continued on next page)

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DCGBKURT5 Egan - direct

1 (In open court; jury present)

2 THE COURT: Okay, ladies and gentlemen. We're going
3 to take our lunch break. It's about 7 minutes to 1 and I'll
4 ask you to be back in the jury room at 2:10. You have a little
5 longer time today.

6 (Jury excused)

7 THE COURT: So. Okay. I'll see you all at 2:10.

8 MR. HERNANDEZ: Thank you.

9 (Recess)

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DCGBKURT5 Egan - direct

1 A F T E R N O O N S E S S I O N

2 (In open court; jury not present)

3 THE COURT: So we're going to call in the jury and
4 continue with Mr. Egan. I owe you a more definitive ruling on
5 the motion in limine discussion that we had briefly this
6 morning. I'll give it to you, but not now.

7 MR. MOONEY: Very good, your Honor.

8 MR. FACCIPONTI: Thank you.

9 (Continued on next page)

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DCGBKURT5 Egan - direct

1 (In open court; jury present)

2 THE COURT: So please be seated, everybody, and we'll
3 continue with the direct examination of Mr. Egan.

4 MR. HERNANDEZ: Your Honor, may Mr. Egan step down
5 again?

6 THE COURT: Yes, sure.

7 THE DEPUTY CLERK: Sir, I'd just like to remind you
8 you're still under oath.

9 THE WITNESS: Yes.

10 BY MR. HERNANDEZ:

11 Q. Before the lunch break, you were going through the
12 remainder of the bottles that start with 3 dash. These are the
13 bottles from the Spectrum auction.

14 A. Yes.

15 Q. I see that there are a number of bottles that are 1966
16 Domaine de la Romanee-Conti Montrachet. I'm going to ask you
17 to take a look at 3-10 first and then give us your opinion on
18 whether this is an authentic bottle. And, if possible, you can
19 tell us whether your opinion is uniform for the remainder of
20 those same bottles.

21 A. All right. Well, there's quite a few of these bottles, but
22 they are all similar to each other. I've established that and
23 made notes to that effect.

24 But as you can see, this, again, is a copied label.
25 It is not a label as supplied by the domaine or affixed to the

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DCGBKURT5 Egan - direct

1 bottle by the domaine. The printing, again, is very flat.
2 It's being treated in some fashion to make it look its age. It
3 has a Nicolas stamp here, which is not that well impressed.
4 The real Nicolas stamps, by and large, are much better applied
5 to the label than you see here. They have a Reserve Nicolas
6 neck label, which I think we've seen already. I've seen whole
7 quantities of these in the materials taken from the defendant's
8 house.

9 And, again, it's got "Ce vin doit etre decante" at the
10 back. Again, not original. The stamp's not original nor the
11 neck label nor the back label. And the capsule is foil. And
12 it says "Nicolas" on it, so it is I think an actual Nicolas
13 capsule which has been taken from elsewhere. And then the cork
14 is branded. And I'd like to actually show you the stamp which
15 actually was used to print the writing on the cork and also the
16 vintage.

17 Q. So I'm going to hand you what's been admitted as 1-130.
18 And within this exhibit, which is multiple stamps, you've
19 segregated a few stamps in particular. Is that right?

20 A. That's right.

21 Q. So I'll hand those to you now.

22 A. And you'll recall when we were in the PowerPoint
23 demonstration that we had the templates for these cork stamps
24 on the screen. And one of those images that you saw was for
25 Montrachet. And this is the actual stamp which was made from

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DCGBKURT5 Egan - direct

1 that template by -- I don't know who, but by I suppose a
2 professional company who makes these rubber stamps.

3 And the gap-- I don't know if you can all see this.
4 But like Cinderella, the stamp fits all the way around. It's a
5 bit high, but the line of the surrounding perimeter of the
6 stamp goes right up to the top of the cork and the Societe
7 Civile is hardly-- is cut off in parts, but the second line is
8 as on the stamp. So it's a good example because white wine
9 bottles are clearer than red wine bottles so you can normally
10 see the corks more clearly.

11 And if I could get the vintage stamp for this.

12 Q. So I'm going to hand you what's been admitted as 1-127.
13 It's a bag of vintage stamps, and you've segregated one in a
14 package that you prepared last night. Correct?

15 A. That's right. One of these vintage stamps, 1966, I have
16 here. And there, again, you have the branding at the bottom.
17 The vintage is on the bottom of the cork here. And the font of
18 the stamp actually fits the vintage. I know it's hard to see
19 because this is the mirror image, but as you can see, even
20 looking at the dimensions, they're very similar.

21 So this was the stamp I believe which was used to mark
22 up each of these Montrachet corks. And so these are all
23 counterfeit bottles. They're not the real Montrachet. And the
24 wine is-- it's very fragile. And the wine is not a very
25 healthy color. It's very cloudy. I think most of the bottles

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1 are as such. So it doesn't look like a very palatable brew.

2 Q. All right. But the other bottles that are Montrachet 3-5,
3 3-6, 3-7, 3-8 and 3-9 and 3-4, have you examined all of these
4 bottles as well?

5 A. I have indeed, yes.

6 Q. And is your opinion the same for those bottles as it is for
7 3-10?

8 A. Exactly the same. You can see all of the labels are the
9 same. They're all copies and they all have the-- almost all of
10 them have the Nicolas neck labels. This one is missing for
11 some reason. It has the Conti label. They are all the same
12 batch and they are all counterfeit.

13 Q. Okay. I'll give you two more bottles of white wine, 3-13
14 and 3-14. Can you tell us what those are?

15 A. These purport to be-- the first one is another white wine,
16 Musigny Blanc 1945 from the Domaine Comte Georges De Vogue.
17 And this label is a copy and it has been distressed, I believe.
18 It's been torn, it's been rubbed. It doesn't look authentic.
19 It's got the Nicolas stamp, again which has been very badly
20 applied. You can see there's no-- it's very smudged, indeed.
21 It might have been faintly applied and then, through the
22 manipulation, the label made even less legible.

23 Again, it has the Nicolas stamp, Nicolas capsule. And
24 if I look at the cork, it's got a branded cork there which is
25 the same as a branded cork, as a stamp which we found in the

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1 defendant's house. So I think this one also is counterfeit.

2 And then there is a Musigny Blanc 1962. Again, very
3 flat printing to the label. This is a copy as well. This is
4 not an actual Comte Georges de Vogue label. And the branding
5 on the cork is very crude, as is the other one. And, again,
6 with a very thick border.

7 So, again, this is a counterfeit bottle.

8 Q. And then the final two bottles that I'm going to show you
9 are 3-11 and 3-12.

10 A. These are very-- well, the first one is a 1945 Musigny,
11 again from the same Domaine Georges de Vogue. Again, a copied
12 label. It's not an actual label from the domaine. The
13 stamping is done by hand. And, again, it's not as you'd expect
14 on an actual label because of the font and the way it has been
15 applied. Again, it's got a half-done Nicolas stamp. It's not
16 fully impressed.

17 And then "Ce vin doit etre decante," which normally on
18 the real Nicolas bottles is always at the back normally at an
19 angle. So this is in the wrong position. And, again, it's
20 part of the vast range -- not range, but quantity of these
21 decanting strip labels that we found-- sorry, that I inspected
22 from items which were found at the defendant's house.

23 And the 1962 Musigny, again, pretty much the same.
24 Poor treatment of the label, very flat printing. And this is
25 not an original label created at the domaine. This looks like

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1 a copy of an actual label because the-- this is very well done,
2 the --

3 Q. What is "this"?

4 A. Sorry. The serial number. But the actual label is not in
5 good-- is not good. So, again, this is a counterfeit bottle in
6 my opinion.

7 Q. And one final question before I ask you to return to the
8 witness stand. You mentioned that some of the printing on the
9 labels is flat. Could you explain what you mean by that?

10 A. Well, the domaines and the chateaus, they obviously had a
11 printing at the time, especially with these older vintages, a
12 specific way of printing which makes the black ink in
13 particular very flat, very precise and very dark print;
14 whereas, all of the labels I've seen here, which are
15 counterfeit, the print is too matte. There's not the shine,
16 the slight shine you get on a real label, on the printing on
17 the real label, and is indicative that that is not -- none of
18 these labels are authentic. They are copies.

19 Q. Okay. Thank you. You can return to the stand now, please.

20 A. Thank you.

21 Q. So, Mr. Egan, I have a few concluding questions for you.

22 You also heard Laurent Ponsot testify about bottles
23 that had been admitted from Domaine Ponsot that he believed to
24 be counterfeit.

25 Do you remember hearing that testimony?

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- 1 A. Yes, I remember that. Yes.
2 Q. Do you have a different opinion than Mr. Ponsot?
3 A. No, I'm in accordance with him.
4 Q. Now, in preparing to testify here today, have you done
5 anything to determine how many other counterfeit wines were
6 either sold or consigned by the defendant besides the ones that
7 you just testified about?
8 A. To my knowledge?
9 Q. Yes.
10 A. Yes.
11 Q. Could you tell us what you did?
12 A. Well, I made a list of all wines from various clients who
13 have purchased directly from the defendant and I've concluded
14 that there is a substantial quantity of wines that they have
15 purchased which are counterfeit.
16 Q. So your data comes from just your personal client list?
17 A. That's right.
18 Q. It doesn't include a number of people who bought wine from
19 the defendant who aren't your personal clients?
20 A. No.
21 Q. All right. If we could then look at the PowerPoint, which
22 is 21-1, and go to Slide 29. So Slide 29 is something that you
23 prepared. Correct?
24 A. That's right.
25 Q. And it reads "Fake wines bought by two collectors at The

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DCGBKURT5 Egan - direct

1 Cellar I." Right?

2 A. Yes.

3 Q. These two collectors, are these two clients of yours?

4 A. Yes.

5 Q. Could you explain to us what it is that you did for those
6 two collectors?

7 A. I inspected wines they had purchased from the defendant
8 with a view as to their authenticity or inauthenticity.

9 Q. And did you personally inspect those bottles for those
10 clients?

11 A. I did, indeed.

12 Q. Before coming here to testify, that's something that you
13 did in the regular course of your work for those clients?

14 A. That's right.

15 Q. I'm going to turn now to Slide 30, which is also something
16 you created. Correct?

17 A. That is correct.

18 Q. And tell us what you found.

19 A. Well, from The Cellar I auction, which took place in
20 January of 2006, having totaled up the wines that I've
21 inspected and deemed to be inauthentic-- i.e., counterfeit-- 39
22 lots from this particular sale were sold for \$1,291,450. The
23 entire auction generated \$7,312,740. So this represents a
24 sizeable proportion of the total value of the auction.

25 Q. And, again, this is just the two collectors who are your

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1 clients. There are many other people who purchased. Right?

2 A. That's correct.

3 Q. Now, did you prepare any other analysis to put the number
4 of counterfeit wines you think have come from the defendant in
5 a broader perspective?

6 A. Yes. Out of the total wines that I've inspected since
7 2006 --

8 (Continued on next page)

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DCGAKUR6ps Egan - direct

1 Q. Well, before you --

2 A. I'm sorry.

3 Q. Before you describe what you found, tell us what you did.

4 A. I created a spreadsheet, just to show how many wines from
5 the various chateaus and domaines were counterfeit.

6 Q. OK. So slide 31 reads "counterfeit wines examined by
7 Michael Egan since 2006." Is that right?

8 A. That's right.

9 Q. So just explain to us again what it is that you did.

10 A. Well, using my usual methodology, inspecting wines for
11 various clients, various collections, I determined that wines
12 are either authentic and therefore had no problems with them,
13 and obviously told as such to the clients, or I flagged wines
14 which had serious authenticity issues and which were in fact
15 counterfeit.

16 Q. And then once you flagged those counterfeit wines or wines
17 with serious authenticity issues, did you make an effort to
18 figure out who your client got the wines from?

19 A. I was told by the clients where they purchased these wines
20 from. It was an easy job for me. I didn't have to do any
21 research.

22 Q. And then the next slide has the data that you compiled,
23 correct?

24 A. That is correct.

25 Q. Can you explain to the jury what you found.

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1 A. Well, since I started doing my fine-wine expert business,
2 out of the thousands of bottles that I checked, I found that
3 1,433 are counterfeit and, off those, 1,077, or 75 percent,
4 came from Rudy Kurniawan. And the people who bought the most
5 fakes from Rudy Kurniawan were Michael Fascitelli and William
6 Koch.

7 Q. And then did you do a breakdown of some of the wines that
8 had the highest number of counterfeits by domaine or chateau?

9 A. I did.

10 Q. Is that slide 33?

11 A. This is a selection of that. This features the most, the
12 largest to the smallest, but it's not exhaustive. Obviously
13 there are other wines which were targeted. But out of those,
14 by far the highest number were from the Domaine de la
15 Romanee-Conti, at 284. And then the next are 140 items from
16 Domaine Roumier, 118 from Domaine Ponsot, 92 from Chateau
17 Petrus, 65 are from Domaine Georges -- well, Domaine de Vogue,
18 and 45 from Chateau Mouton Rothschild.

19 Q. So, Mr. Egan, final question: Have you testified here
20 today about every opinion or finding in this case, or have you
21 just answered the questions that I've asked you?

22 A. I've just answered the questions you asked me.

23 Q. Thank you.

24 MR. HERNANDEZ: No further questions.

25 THE COURT: Counsel, cross-examination.

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DCGAKUR6ps Egan - direct

1 MR. MOONEY: Yes, your Honor.

2 THE COURT: Mr. Hernandez, he might use some more
3 water.

4 THE WITNESS: That's all right. I've got a whole
5 bottle.

6 THE COURT: You have a whole bottle?

7 THE WITNESS: Yes. Thank you.

8 CROSS EXAMINATION

9 BY MR. MOONEY:

10 Q. Good afternoon, Mr. Egan.

11 A. Good afternoon.

12 Q. Now, you've told us a little bit about your time working at
13 Sotheby's; is that correct?

14 A. I did, yes.

15 Q. And at Sotheby's you were involved in auctions that would
16 be put on?

17 A. That's right.

18 Q. And your level of responsibility over the years you were
19 there increased as you became more proficient at working with
20 fine wines.

21 A. That's right. And also, in the commercial aspects, selling
22 the wines to clients, doing the marketing, finding new vendors,
23 things like that.

24 Q. There's a lot of things involved in an auction besides --
25 you can't just sit there and wait for things to come in to you,

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DCGAKUR6ps

Egan - cross

- 1 can you?
2 A. No. It's a business. Like another business, you have to
3 be proactive.
4 Q. So you have to go out and find the people who are going to
5 consign the wines, and you've got to develop the customers who
6 are going to buy the wines.
7 A. That's right.
8 Q. If you don't have both sides of that formula, it's just not
9 going to work.
10 A. No, it's not.
11 Q. OK. And as a result, you get -- you start to learn more
12 and more about the product; is that right?
13 A. That's right.
14 Q. And the product in this case being the stuff that we drink.
15 A. Yes.
16 Q. Now, one of the things that you told us is that you also
17 become familiar with the state of the wine; is that right?
18 A. It's --
19 Q. Its condition.
20 A. Its condition, yes.
21 Q. Because -- or the -- and maybe just say drinkability.
22 A. Yes. That's a good word.
23 Q. Because after all, this is a product that was designed to
24 be consumed, isn't it?
25 A. That's right.

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DCGAKUR6ps Egan - cross

1 Q. And a good example that you gave us was the -- looking at
2 these Montrachet, they don't look right, do they?

3 A. No. They wouldn't look out of place at the urology
4 Department at Mt. Sinai.

5 Q. Sort of what I was thinking.

6 You don't know how the government stored those, do
7 you, since the auction?

8 A. I don't, no.

9 Q. And how you store the wine is pretty important, isn't it?

10 A. Absolutely.

11 Q. Because if you don't do it right, then the wine is going to
12 go bad, right?

13 A. Yes, if it's kept in too hot a condition, as I said before,
14 the corks are going to fail and the wine is going to come out.
15 And also, if it's too hot a condition the wine is going to
16 slowly cook, even.

17 THE COURT: It's going to what?

18 THE WITNESS: Cook.

19 THE COURT: Cook?

20 THE WITNESS: Yeah.

21 Q. One of the things that's really important for wine is
22 temperature, right?

23 A. Yes.

24 Q. Wine needs to be kept at a constant but also at a cooler
25 temperature, right?

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DCGAKUR6ps

Egan - cross

- 1 A. That's right. I mean, natural, in the olden days, natural
2 temperature was good, because in my opinion you need a very
3 slight variation in the temperature throughout the seasons,
4 maybe by a few degrees, which, this helps the wine along its
5 way.
- 6 Q. So, for example, if you've got a wine cellar and you can't
7 afford one of the expensive ones like some of the guys that are
8 buying this, one of the things you might have is a thermometer
9 in your cellar that shows not just what the current temperature
10 is but it will show you how much the temperature has changed
11 over a period of time, right?
- 12 A. Yes, the high and the low, the maximum and the minimum.
- 13 Q. Because we want to know. If we're starting to see that
14 maximum and minimum changing, then we're endangering our wine,
15 right?
- 16 A. That's right. If it's too high a temperature, you're in
17 the danger zone.
- 18 Q. Right. So if we pack this up in a box and leave it sitting
19 out on a shipping dock some place in the hot sun, that's not a
20 good thing.
- 21 A. It's not.
- 22 Q. Another thing that's important with regards to preserving
23 the wine is avoiding vibration, right?
- 24 A. That's right.
- 25 Q. If we stand this on top of the air conditioner and that

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DCGAKUR6ps Egan - cross

- 1 machine runs, bad things are going to happen.
2 A. That's right. And that's why, in New York or Paris where
3 the metro or the subway are very close to the street level, you
4 got to be very careful when you store wine, because the
5 vibrations, if you're near the line, will affect the wine.
6 Q. So if the restaurant puts its wine cellar right down
7 underneath where the subway runs all time --
8 A. Yeah.
9 Q. -- that might not be the place where we want to order from
10 the high end of the wine list.
11 A. That's right.
12 Q. OK. And another really important thing is sunlight, right?
13 A. Yes.
14 Q. Sunlight will also, if we leave this bottle, just sitting
15 out here like this with the sunlight coming in from the windows
16 could affect the bottles, right?
17 A. That's right. It will again, change the color,
18 particularly for white wines. They will grow darker in quite a
19 short space of time.
20 Q. So that that's why wine cellars usually don't have windows.
21 A. That's right.
22 Q. And if you're going to have an area where you're going to
23 have wine, it might be a good idea to block out the sunlight so
24 that the -- block the windows so that the sunlight can't come
25 in.

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DCGAKUR6ps Egan - cross

1 A. If you're storing wine.

2 Q. You're -- yes. If it's going to be there for any period of
3 time?

4 A. Yeah. Yeah, for storage.

5 Q. For a little while -- we can leave this sitting in the
6 kitchen for a day before we consume it and not be too worried
7 about it, right?

8 A. No. If it's for a number of weeks or months.

9 Q. Right. And then, also, of course, we want to -- we don't
10 want to leave it like these are. We want to have it lying
11 down, right?

12 A. That's right, to keep it cool and moist.

13 Q. To keep the cork moist. And that's going to help protect
14 the seal and that's going to help protect what's in there.

15 A. That's right.

16 Q. Now, these Lafon-Rochets were from the Spectrum auction; is
17 that right?

18 A. I believe so.

19 Q. And that's already in evidence as Exhibit 16-2 as the
20 catalogue. 16-3. No, 16-3, I'm sorry. I show you. Does that
21 look more like we expect that wine to look like?

22 A. The way it is lit, yes.

23 Q. As opposed to -- well, that's not going to work. Worth a
24 try.

25 THE COURT: Are you exhibiting this to the jury?

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DCGAKUR6ps

Egan - cross

1 MR. MOONEY: That is in evidence, your Honor, yes.

2 THE COURT: And you want them to look at it now?

3 MR. MOONEY: The jury should see that as well.

4 Q. So you see that's more the kind of color, or the other set
5 of Montrachet in that one is Exhibit, what, 66? Is that more
6 like it?

7 Now, you had a chance, I think you told us, to take a
8 look at the wines in the Spectrum auction before they went up
9 on the auction?

10 A. A small selection from the sale. Not all the bottles in
11 the sale.

12 Q. How many bottles did you look at?

13 A. 120.

14 Q. And of that 120 you only found one or two that gave you
15 problems; is that correct?

16 A. I had two hours to inspect those 120 bottles, which is
17 pretty breakneck speed, given my usual care and consideration.
18 So -- so can you repeat the question?

19 Q. You did find a couple of bottles. But only a couple.

20 A. I believe there were a few bottles that I mentioned to the
21 staff at Spectrum at the time of inspecting.

22 Q. But you had told us that one of the things with regards to
23 auction houses is the wines, the bottles themselves, are not
24 made available to the buyers. Is that right? Only the auction
25 catalogue.

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DCGAKUR6ps

Egan - cross

1 A. For inspection.

2 Q. For inspection.

3 A. The buyer has the, normally, the ability to contact the
4 wine auction beforehand to arrange a viewing of whatever lot he
5 wants to look at.

6 Q. So that can be arranged?

7 A. It can be arranged, but it, it means the warehouse has to
8 be prepared. The bottles have to be taken out, in question.
9 So it's quite a procedure.

10 Q. And most of the auctions employ experts to look at the
11 wines, don't they?

12 A. For catalogue -- before the, before the wines are
13 catalogued, yes.

14 Q. Because the auction house doesn't want to end up with a
15 bunch of counterfeits.

16 A. No. That's why auction houses, the staff should be expert
17 enough to be able to have some sort of competence in
18 determining which can go in for sale and which should be
19 rejected.

20 Q. And that was part of what you did with Sotheby's up to
21 2005, was to look at stuff, look at wine bottles and approve
22 them to go on to sale.

23 A. That's right.

24 Q. And during the period of time counterfeit was becoming an
25 increasing problem, wasn't it?

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DCGAKUR6ps

Egan - cross

1 A. Um, it was a -- I think it was a gradual increase in
2 incidence, as well we've started seeing doubtful and
3 counterfeit bottles.

4 Q. When the overall market went from \$19 million a year to
5 \$300 million dollars a year, isn't it true that the number of
6 counterfeits also increased?

7 A. Yes.

8 Q. So you've got, what, a 15-fold increase, so counterfeits
9 are going to go up at least 15-fold, right?

10 MR. HERNANDEZ: Objection.

11 THE COURT: Sustained. I'm not so sure, unless you
12 lay the foundation for that.

13 Q. You had testified earlier that the market was at 19 million
14 and then it increased to 300 million a year. Is that right?

15 A. Sorry. I don't -- maybe with my accent or my cold. It's
16 90 million.

17 Q. 90 million.

18 A. Nine, zero in 2002.

19 Q. So 90 million in 2002, and then it increased to 300, about?

20 THE COURT: 300 million, is that current or --

21 THE WITNESS: No, no, in 2007.

22 THE COURT: I see. 2007 and 2002.

23 Q. So three times as much.

24 A. That's right.

25 Q. And even with the auction houses doing what they can to

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DCGAKUR6ps

Egan - cross

1 watch out, a lot of counterfeit bottles got through and got
2 sold to people, right?
3 A. I think the auction houses were checking wines. Wines, the
4 counterfeit wines were not solely found at auction but through
5 private sales or, or sale through wine merchants. It was not
6 just the auction houses where counterfeit wines were found.
7 Q. Well, you gave some figures on a sale that was called the
8 Cellar I sale. That was a sale at an auction house called
9 Acker Merrall; is that right?
10 A. That's right.
11 Q. And then there was a Cellar II sale from Acker Merrall.
12 A. Yes.
13 Q. And you looked at wines from the Cellar II sale as well,
14 right.
15 A. I did, yes. For various clients.
16 Q. Mr. Fascitelli bought at both of those, right?
17 A. He did indeed, yes.
18 Q. He was one of your big clients that you looked at a lot of
19 wines for.
20 A. That's right.
21 Q. Before we go on to him, though, back at the time that you
22 were looking with Sotheby's, sometimes there would be issues,
23 there would be problems with a label that had come off of a
24 bottle or a label that was badly damaged. That would happen,
25 would it not?

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DCGAKUR6ps

Egan - cross

1 A. Yes, when we were inspecting wines in people's cellars,
2 yes, for example --

3 Q. OK. And wasn't it part of the practice at that point to
4 Sotheby's to actually request and get from the vineyards new
5 labels?

6 A. Um, at the beginning I recall when I first started at
7 Sotheby's, back in 1981, I think there were a couple of
8 instances where damaged labels were sent back to the chateaus
9 in exchange for new ones.

10 Q. So there were incidents when you would put the new label
11 on. They would send the label out and you at Sotheby's would
12 put it on. Right?

13 A. That's right.

14 Obviously there would be the actual real labels from
15 the stock at the chateau. They would not be copies.

16 Q. You didn't create a copy.

17 A. No.

18 Q. Although there would be circumstances where there would be
19 just a Xeroxed copy label on the bottle, right?

20 A. Um --

21 Q. But you would note it.

22 A. Um, yes, from, you know, someone would have put that on
23 their bottle to identify it.

24 Q. Because the label was gone. For example, we have a
25 Government's Exhibit 1-402A, has no label on it, does it?

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Egan - cross

- 1 A. It doesn't.
- 2 Q. So -- and we've seen written on the side of it what you
3 identified as maybe "1899 RC," question mark. So if that was
4 an 1899 RC and you could establish somehow that it was an
5 1899RC, I might put a label on there somewhere that says that's
6 what it is, right?
- 7 A. It depends on the situation. If someone came in off the
8 street with that about the and said, please sell that for me
9 because it is Romanee-Conti 1899, we would probably say no, at
10 Sotheby's. On the other hand, if it was in the cellar and we
11 would the record -- we had the cellar book and we could see it
12 with other wines of that era, it was within its -- how would I
13 say it -- within its context, then it could be identified as a
14 Romanee-Conti 1899.
- 15 Q. And then you might do it.
- 16 A. Yes.
- 17 Q. Or --
- 18 A. We wouldn't -- actually, we wouldn't put a label on it. We
19 would just say in the catalogue "no label but from cellar
20 records."
- 21 Q. That would be the better way to do it, wouldn't it?
- 22 A. Yeah.
- 23 Q. So say, here's the provenance and this is how it
24 establishes an 1899 Romanee-Conti.
- 25 A. That's it.

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Egan - cross

1 Q. But that's not always what happens. Sometimes people would
2 Xerox a label or copy a label and stick it on there and say,
3 OK, this is what it is so we put that label on there.

4 A. Yes. But it wouldn't be -- it could be a tag label, for
5 example.

6 Q. Could be.

7 A. But it wouldn't be anything done with any sophistication.

8 Q. As you look at this bottle --

9 THE COURT: Mr. Mooney, I think there were two
10 questions in there. One would be a label and one would be a
11 note. You're asking, could you ask them separately?

12 MR. MOONEY: Sure.

13 Q. So the first part would be: And sometimes people would
14 actually put a label on.

15 A. Yeah. But it wouldn't be a label, as I said before, of
16 any -- it wouldn't be an exact copy. It wouldn't be a label to
17 emulate the original. It would be either a handwritten label
18 or sometimes a photocopy label of another label taken from
19 another bottle.

20 Q. That would be the better way to do it?

21 A. It's basically anything to identify that bottle for what it
22 is.

23 Q. Yes. And this bottle, I think you told us that it looked
24 like the capsule was original?

25 A. I think it's from the era. I think that's an original

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Egan - cross

1 capsule.

2 Q. The punt is consistent?

3 A. Yeah. That's from the -- from that period. It's a
4 hand-blown bottle.5 Q. And the ullage would be consistent probably with that,
6 isn't it?7 A. Yeah. I think, if it has not been recorked, that's what
8 you would expect to find in a bottle of that age.9 Q. So actually the comment "1899 RC," question mark, just
10 could mean -- it also says "1875," question mark.

11 A. Yes.

12 Q. So that could be Kurniawan following up some leads or
13 trying to figure out what this really was, right?

14 MR. HERNANDEZ: Objection.

15 THE COURT: Sustained. I don't know, did we establish
16 who wrote that?

17 MR. MOONEY: I don't think we did establish that.

18 Q. So whoever wrote that on there could have been just trying
19 to figure out if that's what it is.

20 MR. HERNANDEZ: Objection.

21 THE COURT: Sustained.

22 Q. And up on the neck, we see kind of brown sort of debris.
23 What's that?24 A. Well, that's the coloring matter from the wine. As I said
25 before, as wine ages, the color starts transforming to

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DCGAKUR6ps Egan - cross

1 sediments. And it's actually a good sign to see a brown stain
2 just on one -- I think it's -- may I have a look at the bottle
3 more closely?

4 Q. Sure. Please. Please.

5 A. Yeah. I think it's on one side, isn't it?

6 Q. Appears to be.

7 A. Yeah.

8 Q. What does that tell us?

9 A. Well, it means that the bottle has lain immobile for
10 decades, so that the coloring matter has only dropped onto that
11 side. Obviously the bottle has been laying down like that.
12 Then there's nothing on this side. And it's good to see sort
13 of a clump of coloring matter there. It's just an indication
14 that the wine has been pretty well stored.

15 MR. MOONEY: If I might show this to the jury, your
16 Honor.

17 THE COURT: Sure.

18 Q. So we may be doing this bottle a real disservice leaving it
19 sitting out here like this.

20 A. Yeah.

21 THE COURT: And standing up.

22 Q. And especially standing up.

23 As the market in auctions and the purchase of wine has
24 increased, one of the major places where it's increasing is in
25 Asia; is that right?

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DCGAKUR6ps Egan - cross

1 A. That's correct, yes.

2 Q. And auction houses are becoming more active in Hong Kong
3 and other places in Asia?

4 A. Yes. Hong Kong.

5 Q. Lots of buyers are beginning to show up in the Asian
6 markets.

7 A. That's right.

8 Q. Have you seen a tendency in some of the Asian markets for
9 people to want to clean up, spruce up the bottles, something
10 that would never happen in the west?

11 MR. HERNANDEZ: Objection.

12 Q. If you know.

13 THE COURT: Could you lay some foundation.

14 Have you been involved in Asian auctions yourself?

15 THE WITNESS: No, I have not.

16 Q. You don't have any Asian customers.

17 A. I have a few, yes.

18 Q. So you do have some Asian buyers.

19 A. Not buyers, but people have asked me to authenticate their
20 wine.

21 Q. When you examined bottles for the clients, your clients,
22 you did a number of reports, didn't you?

23 A. Yes.

24 Q. And your reports don't necessarily identify the buyers or
25 the clients. Mr. Fascitelli was one of those people, wasn't

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Egan - cross

1 he?
2 A. I believe so, yes.
3 Q. Let me show you, I'll mark these as Defense Exhibits G-1
4 and G-2. I will show you these. I'm going to hand you copies
5 because I want you to be able to refer to these. Do you
6 recognize those two reports?
7 A. I'm looking at the title. Yes, I do.
8 Q. And those were both done for Mr. Fascitelli, were they not?
9 A. At the time I did them for Grand Cru Wine Consulting --
10 Q. And understood -- go ahead.
11 A. -- for a client of theirs.
12 Q. And you understood when you did them that these were
13 Mr. Fascitelli's wines; is that correct?
14 A. I didn't know at the time but I later learned it was from
15 Mr. Fascitelli, to my recollection. I don't recall the exact
16 day or date that I realized it was for Mr. Fascitelli.
17 Q. So you went to a location, and at that location wines had
18 been collected for you to view.
19 A. That's right.
20 Q. Was it your understanding at that point that you were
21 looking at -- and let's look first at the Cellar I auction, the
22 Cellar I purchase. Was it your understanding that you were
23 looking at that time at everything that Mr. Fascitelli had
24 purchased in cellar wine?
25 A. It's the -- the report is titled "a report on the

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1 authenticity of a selection of wine purchased at the Cellar I
2 wine auction." So I did not know, you know, if it was the
3 entire number of lots that this client had purchased or not.
4 It was just a range of bottles that I was asked to give my
5 opinion on.

6 MR. MOONEY: Could you possibly bring up Government's
7 Exhibit 15-7.

8 Q. Can you read that on your screen?

9 A. Yeah.

10 Q. So -- and maybe if you can highlight or list the wine
11 portions that are on there.

12 Now, this is a six-page document, is it not?

13 THE COURT: This is in evidence, is it not? This is
14 already in evidence.

15 MR. MOONEY: This is in evidence.

16 THE COURT: So you want the jury to be seeing this?

17 MR. MOONEY: Yes, please, your Honor.

18 THE COURT: Sure.

19 Q. So if you look at your report on Cellar I, the first, on
20 page 6 is where you actually start identifying the wines that
21 you looked at. Is that correct?

22 A. Yes.

23 Q. So the first thing we see on there is 10 bottles of the
24 Chateau Cheval Blanc of 1947. Is that correct?

25 A. That's correct.

DCGAKUR6ps

Egan - cross

- 1 Q. And of course he bought 12 bottles, but you looked at ten
2 of them.
- 3 A. No, I looked at ten.
- 4 Q. You don't know what happened to the other two.
- 5 A. No.
- 6 Q. And the next thing that you looked at was two bottles of --
7 and I'll let you pronounce that because I know you've studied
8 French.
- 9 A. Allonge.
- 10 Q. That's why I wanted you to pronounce it. And that was
11 represented to you to be something that Mr. Fascitelli had
12 purchased from Cellar I?
- 13 A. That's what I was told, yes.
- 14 Q. Have you ever seen the invoice for the Cellar I purchased
15 by Mr. Fascitelli?
- 16 A. No.
- 17 Q. Is that the Exhibit 15-7 that is up there?
- 18 A. No, apart from now.
- 19 Q. And do you see on that first page?
- 20 A. Yes. I'm looking at the first page.
- 21 Q. It's not on the first page.
- 22 A. I don't know. Are we talking about the Allonge one?
- 23 Q. Yes.
- 24 A. It's not on that page, no.
- 25 Q. OK. Would you go to page 2, please. It's not on page 2

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Egan - cross

1 either?

2 A. No.

3 Q. If you go to page 3. It's not on page 3.

4 A. No, it's not.

5 Q. And then if you would go to page 4, please. It's not there
6 either, is it?

7 A. It's not.

8 Q. And finally if you would go to page 5. Still not there.

9 A. Not there.

10 Q. So that wine that you were told was a wine that
11 Mr. Fascitelli had purchased from Mr. Kurniawan at the Cellar I
12 auction, it looks like he didn't buy it from the Cellar I
13 auction or from Mr. Kurniawan, does it?

14 A. Doesn't seem to be, no.

15 Q. OK. So I will represent to you that the Chateau Haut-Brion
16 and the Chateau LaFleur, the next two, are there. Go to the --
17 there's a chateau LaFleur --

18 THE COURT: I'm sorry.

19 Q. Chateau LaFleur 1982 on page 7 of this report. Do you see
20 that?21 THE COURT: No. I just didn't understand what your
22 representation was about.

23 MR. MOONEY: Pardon, your Honor?

24 THE COURT: You just said "I'll represent." I didn't
25 understand that.

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DCGAKUR6ps Egan - cross

1 MR. MOONEY: Oh, I'm sorry. We're just representing
2 to him that the next twos items on his list are on the list.

3 THE COURT: On which list?

4 MR. MOONEY: They're on this invoice.

5 THE COURT: So I think we should, for clarity's sake,
6 show --

7 MR. MOONEY: OK. I'll read it. Go back to page 1, if
8 you would, please.

9 Q. So the Chateau Haut-Brion is the next one on the first
10 page, on the first -- on page 6 of your report; is that
11 correct?

12 A. Yes. I see it.

13 Q. Nine bottles of Chateau Haut-Brion. And if you turn to and
14 can you look at the -- is that the first line we see on that
15 purchase?

16 A. What, the Chateau Haut-Brion 1959?

17 Q. Yes.

18 A. Yes, I see it.

19 Q. And this was one you inspected?

20 A. I inspected, yes.

21 Q. What was your conclusion with respect to the Chateau
22 Haut-Brion in 1959?

23 A. The labels and capsules appear genuine. One capsule was
24 cut by me to reveal a correctly branded cork. These nine
25 bottles appear authentic.

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DCGAKUR6ps Egan - cross

- 1 Q. So you authenticated those bottles.
2 A. Yes.
3 Q. Now, the next one we see, over on page 7, would be the
4 chateau LaFleur 1947. Is that correct?
5 A. That's right.
6 Q. And we also see -- we see 12 bottles of the Chateau LaFleur
7 1947, do we not, on the invoice?
8 A. On the invoice, yes, there are 12 bottles.
9 Q. You inspected 11. There are 12 bottles.
10 A. That's right.
11 Q. But then there's a Chateau LaFleur 1982.
12 A. Yes. 11 bottles.
13 Q. Those are bottles.
14 A. Yes.
15 Q. So we got that one. Is that right? Would that be it, the
16 Pomerol?
17 A. That's the -- yeah, it's the same name, Chateau LaFleur,
18 and the same vintage. So it would seem to tie in with what I
19 had on the report.
20 Q. The next one, then, is the Chateau LaFleur 1928. Is that
21 correct?
22 A. Yeah.
23 Q. Do you see that on here?
24 A. Don't see it on the invoice.
25 Q. That should have been here with the rest of these,

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1 shouldn't it?

2 A. Yes. I am told it always came from the cellar, auction.

3 Q. If it will help, if you go over to the top of page 8, there
4 are six bottles of Chateau LaFleur '47. Do you see those? Of
5 Pomerol?

6 A. Latour a Pomerol, yes.

7 Q. We see those, do we not?

8 A. Yeah.

9 MR. MOONEY: If you would mark the block to 1084,
10 please. So that's on your list.

11 THE COURT: Just so the jury is clear, they probably
12 already had -- the highlighted items on their screen are also
13 in Mr. Egan's report. Is that what you're saying?

14 MR. MOONEY: That's correct, your Honor.

15 THE COURT: But there are others that are not.

16 MR. MOONEY: That's correct. There are others that
17 are not.

18 Q. And finally, out of the LaTours, there were two magnums of
19 the Chateau LaTour 1961. Is that right?

20 A. LaTour a Pomerol.

21 Q. A Pomerol.

22 A. That's right.

23 Q. And there were three magnums in the invoice, correct?

24 A. That's right.

25 Q. So that was one that you looked at. And after that, you go

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1 next, in your report, to Chateau Petrus, did you not?
2 A. Yes.
3 Q. So we've got the 1947 Chateau Petrus, 12 bottles. That
4 would be 1029, am I correct, the 1947?
5 A. Yes, that's right.
6 Q. OK. You could highlight that, please. And then the
7 Chateau Trotanoy?
8 A. Trotanoy.
9 Q. Trotanoy.
10 A. Trotanoy in English, yes.
11 Q. Trotanoy. That would be lot 1129 had those, is that
12 correct?
13 A. Yes.
14 Q. What's next on the report after that?
15 A. After, one bottle of Musigny 1959 from J. Faiveley.
16 Q. Do you see that one on here?
17 A. On the invoice.
18 Q. On the invoice.
19 A. No, not on this page.
20 Q. Next after that is a magnum of the Henri Mayer?
21 A. Henri Mayer. 1978, magnum.
22 Q. That was on a different page of the invoice. Let's just
23 look at with regards to this page if we can. Do you see any of
24 the remaining wines on page 1 that were on -- of the invoice on
25 page 1 that were on your report?

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Egan - cross

- 1 A. I'll just go through the rest of -- not on page 1.
2 Q. So only the highlighted ones from page 1 are the ones that
3 you were given to review from that purchase, at least on page 1
4 of that purchase; is that correct?
5 A. It looks like that, yes.
6 Q. Let's go over to page 2. And page 2, 1577, the 1961
7 Hermitage. Do you see, is that in your report?
8 A. Six bottles, La Chapelle.
9 Q. Look on page 13?
10 A. Yes. Page 13. I've got four bottles of Hermitage La
11 Chapelle 1961.
12 Q. Your conclusion with regard to these four bottles was?
13 A. The conclusion, that they had probably been reconditioned
14 at Jaboulet to confirm their authenticity. It was suggested
15 that Paul Jaboulet Aine, which is the company who makes this
16 wine, should be contacted.
17 Q. Then if we come down the lot to no. 5, highlight that, the
18 12 bottles of the Chambertin.
19 A. 1962 Rousseau. Looks like on page 11 of my report I have
20 four bottles.
21 Q. So that would seem to match up, doesn't it?
22 A. Well, the four bottles rather than 12. Apart from that,
23 yes.
24 Q. And then if we come down to lot 203, the Richebourg.
25 A. Henri Mayer. That would seem to correspond with the magnum

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- 1 of Richebourg '78 Henri Mayer on page 9 of my report.
2 Q. And then finally just below that, lot 206.
3 A. The Vosne-Romanee Cros Parantoux 1978.
4 Q. Are those on your report?
5 A. Those are two bottles on page 10 of my report.
6 Q. Do you see any of the remaining bottles on page 2 on your
7 report?
8 A. I'll just cross-reference to my report. No, none of the
9 others seem to appear on my report.
10 Q. So if we go down to page 3, first of all, if you would
11 highlight lot no. 383, the '66 Bonnes-Mares. Is that in your
12 report?
13 A. The Bonnes-Mares from -- yes. It's on page 12. There are
14 ten bottles of Bonnes-Mares, 1966 de Vogue.
15 Q. What was your conclusion with regards to these bottles?
16 A. These ten bottles appear authentic.
17 Q. So next would be the lot 395. If you would highlight that.
18 And do you see that one?
19 A. I do. I see that.
20 Q. Directly below the Bonnes-Mares.
21 A. Yeah.
22 Q. And what's the conclusion with regards to this one?
23 A. This bottle appears authentic.
24 Q. And then next, if you would highlight both lines on lot
25 396. Do you see those, the next one down?

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Egan - cross

1 A. Yes.

2 Q. What was your conclusion with regard to these three
3 bottles?

4 A. These three bottles appear authentic.

5 Q. And then next there was a '62, lot 398? You saw how many
6 bottles? Two bottles?

7 A. Two bottles.

8 Q. And then if we come down to lot 418. See that one in your
9 report?

10 A. Yes, on page 11.

11 Q. At the top, right?

12 A. That's right.

13 Q. OK. And then drop all the way down to 516. Magnum of La
14 Tache. Do you see that in your report?

15 A. (Pause)

16 Q. Look on page 10.

17 A. Page 10. Yes, I see that.

18 Q. And then next, after that, lot 585, if you look on page 10
19 also directly above La Tache.

20 A. A magnum. It's a magnum, yes. That's on my report.

21 Q. And what was your conclusion with regards to this?

22 A. This magnum appears authentic.

23 Q. Do you see any of the remaining bottles on your report?

24 (Cellphone rings)

25 THE COURT: That's our next case.

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Egan - cross

- 1 A. No, I don't see any others from that page in the invoice.
2 Q. So here none of the rest were shown to you; is that
3 correct?
4 A. It appears not, no.
5 Q. Now, if you would go to page 4, highlight the ones on
6 there. This is page 5. Go back one, please, page 4. Do you
7 see any of those wines on your report?
8 A. They're all Italian wines. I didn't inspect any Italian
9 wines.
10 Q. And go to page 5. How about those? Did you inspect any of
11 those?
12 A. No, I did not.
13 Q. So you didn't -- you only saw the portion of the wines that
14 had been selected for you to look at; is that correct?
15 A. That's right.
16 Q. And then when you finished your report on what you had been
17 given, if you would turn to page 14, you determined, did you
18 not, that 60 percent of the wines you had been provided had
19 authenticity issues?
20 A. That's what I wrote.
21 Q. If you would put up Exhibit 15-6. And, Mr. Egan, if you
22 would go to your Cellar II report, Cellar II was the -- the
23 Cellar II report is the one that you did on the wines that were
24 purchased by Mr. Fascitelli at the Cellar II sale; is that
25 correct?

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Egan - cross

- 1 A. That's right.
- 2 Q. And if we highlight the wine portions, I will ask you to
- 3 highlight lot 691B. You see that one on your report?
- 4 A. Yes. I think it corresponds to the magnum of Chateau
- 5 Cheval Blanc 1928 on page 6 of my report.
- 6 Q. And then if you would highlight 709, does items -- does lot
- 7 709 match up to the one you looked at?
- 8 A. There are nine bottles of Chateau Cheval Blanc 1949 on page
- 9 6 of my report.
- 10 Q. What was your conclusion with regard to these bottles of
- 11 Cheval Blanc?
- 12 A. These bottles appear authentic.
- 13 Q. And then if you would come down to lot 830. Do you see the
- 14 '45 Chateau LaFleur in your report?
- 15 A. Yes, sir, nine bottles -- I see -- I have nine bottles on
- 16 page 6 of my report.
- 17 Q. And this shows a purchase of --
- 18 A. Of six.
- 19 Q. -- six bottles, doesn't it?
- 20 If you would highlight lot 840, going over to page 7,
- 21 do you see the -- is that the '49 in your report?
- 22 A. Yes. On page 7 I have four bottles of Chateau LaFleur
- 23 1949.
- 24 Q. Could we highlight lot 846. Do you see that in your
- 25 report? The Chateau LaFleur '52?

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Egan - cross

- 1 A. Yes. I have ten bottles of Chateau LaFleur 1952.
2 Q. It appears in a lot of these you're seeing, except the one
3 where there was more bottles, you're getting a few bottles
4 less, right?
5 A. That's it, on some of them, yes.
6 Q. And next, if you would highlight 867, the '79 report. Do
7 you see that in your report?
8 A. Yeah, on page 7. I have 11 bottles.
9 Q. And what was your conclusion with regards to the Chateau
10 LaFleur '79?
11 A. These 11 bottles appear authentic.
12 Q. If you would then go down to lot 1830, highlight that, the
13 '64 Bonnes-Mares. Do you see that in your report? I call your
14 attention to page 11.
15 A. Page 11, I have ten bottles of Bonnes-Mares 1964 Roumier.
16 Q. And then if you would highlight lot 1831. Two magnums. Do
17 you see that in your report on page 11?
18 A. Yes, I do. The two magnums of Bonnes-Mares 1964 Roumier.
19 Q. And then 2065A, the La Tache jeroboam. Do you see that in
20 your report?
21 A. I've got two jeroboams. Oh, I see.
22 Q. If you look at the line below, at 2066, we see another one,
23 don't we?
24 A. That's right.
25 Q. That accounts for the two.

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DCGAKUR6ps

Egan - cross

- 1 A. That's right.
- 2 Q. And with regard to the two La Tache jeroboams, you had
3 questions about them but felt that they should be referred to
4 the chateau for final evaluation. Is that correct?
- 5 A. Yes. I see that I say the labels appear to be copies and
6 the stamped serial numbers are out of position. These labels
7 could be enlarged copies of bottle labels.
- 8 Q. And then the lot 2181, please. Do you see that in the
9 report?
- 10 A. The magnum of Romanee-Conti 1964, on page 9, yes.
- 11 Q. Do you see any of the rest of these bottles in your report?
- 12 A. No. No, I don't see any others.
- 13 Q. And in your report, calling your attention to page 8 first
14 of all, at the top of the page, you see a magnum of Chateau
15 Palmer?
- 16 A. The magnum of Chateau Palmer, yes.
- 17 Q. That doesn't appear to be on this invoice, does it?
- 18 A. How many pages are there to this invoice?
- 19 Q. There's just this one.
- 20 A. Just this one. No. The Palmer 1961 is not on it.
- 21 Q. And the next one down is a magnum of Chateau Petrus 1971.
22 That's not on there either, is it?
- 23 A. No, it's not.
- 24 Q. And the next one down is two bottles from '78 to Henri
25 Jaye?

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DCGAKUR6ps

Egan - cross

- 1 A. Yes.
- 2 Q. That's not on there either, is it?
- 3 A. It's not.
- 4 Q. And on page 9, there is a methuselah of Romanee-Conti, '71?
- 5 A. Yes.
- 6 Q. That's not on this invoice either, is it?
- 7 A. No, it's not.
- 8 Q. So you don't know where the methuselah came from?
- 9 A. No.
- 10 Q. In fact, if you go over to the next page, there's another
- 11 methuselah, isn't there? Another Romanee-Conti.
- 12 A. Romanee-Conti, yes.
- 13 Q. A '78. And that's -- those no methuselaha on this invoice,
- 14 are there?
- 15 A. No.
- 16 Q. Then there is a bottle of La Tache 1949. Do you see that?
- 17 A. Yes.
- 18 Q. That's not on the invoice either, is it?
- 19 A. No.
- 20 Q. You could only rely upon the information you were given as
- 21 to what the source was; is that right?
- 22 A. That's right.
- 23 Q. You weren't there to say, oh, you didn't participate in the
- 24 sale. Other people brought them to you and said, this is what
- 25 these are.

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DCGAKUR6ps

Egan - cross

- 1 A. That's right.
2 Q. And if you go over to page 11, there are six bottles of '62
3 Bonnes-Mares, right?
4 A. That's correct.
5 Q. And there is no '62 Bonnes-Mares on this invoice, is there?
6 A. No.
7 Q. What about the four bottles of '62 Pelisimy Roumier at the
8 bottom. Do you see them on their invoice?
9 A. No, they're not on the invoice.
10 Q. Going over to page 12, do you see either of the
11 Chambertins, the five bottles of '66 or the one magnum of '71?
12 A. No, I don't.
13 Q. Going over to page 13, you've got one, two, three, four
14 different items on page 13. Are any of those located on the
15 invoice?
16 A. No.
17 Q. And page 14 -- we're at the end -- four magnums of Lafite
18 La Chapelle, are they there?
19 A. No, they're not.
20 Q. Now, you recall doing a report on the Golden Cellar, which
21 was an Acker Merrall sale in October of 2007?
22 A. Yes.
23 Q. Who did you do that one for?
24 A. Do you have a copy of the report there or --
25 Q. Yes, I do.

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DCGAKUR6ps

Egan - cross

1 A. Thank you.

2 It appears to be the same client.

3 Q. Same client, Mr. Fascitelli?

4 A. That's what I believe, yes.

5 Q. Now, if you would turn to the conclusions in that report,
6 and your conclusion in that report, there were very few
7 authenticity issues with that at auction, are there not?8 MR. HERNANDEZ: Objection. I don't think we have had
9 any evidence about the Golden Cellar auction.

10 THE COURT: Maybe you want to rephrase.

11 Q. At least with regards to this report, did you find any
12 authenticity issues?13 MR. HERNANDEZ: Objection. There's no evidence that
14 those are wines sold by the defendant or this foundation.

15 THE COURT: No, that's fine. I'll allow it.

16 A. Looking at my conclusions, I say there is a small incident
17 of problem bottles in this selection. Most appear to be
18 authentic.

19 (Continued on next page)

20

21

22

23

24

25

DCGBKURT7

Egan - cross

1 BY MR. MOONEY:

2 Q. Now, you can only conduct your evaluations on the basis of
3 what you're given. Right?

4 A. On the items that are presented to me, yes.

5 Q. And your conclusions are based upon receiving accurate
6 information as to the sources of the bottles that you're
7 looking at. Is that right?8 A. No, my conclusions are based on the physical aspects of the
9 bottles.10 Q. Okay. So you know these bottles. You can come up and here
11 they are and you've been told that there's a foundation for
12 where they came from and then you can give us an opinion with
13 regard to these. Right?14 A. What my criterion is, is to take each bottle on a
15 case-by-case basis.16 Q. And on the case-by-case basis with regards to this case,
17 you looked at 267 bottles?

18 A. That's right.

19 Q. And those 267 bottles had been selected by the government
20 for you to look at. Right?

21 A. Yes.

22 Q. And with regards to the reports that you did for Mr.
23 Fascitelli and for your other clients, you looked at whatever
24 they assembled and showed you?

25 A. That's right.

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DCGBKURT7

Egan - cross

- 1 Q. And you gave them a bottle-by-bottle conclusion as to what
2 were good and what were bad?
3 A. In essence, yes.
4 Q. Right. But when you gave us statistics here at the end of
5 your testimony, you were drawing upon your belief that what
6 they had given you and what they had shown to you was, in fact,
7 all from Mr. Kurniawan. Is that correct?
8 A. From that auction, yes.
9 Q. Yes.
10 A. That's what I was told, yes.
11 Q. And at least with respect to Mr. Fascitelli, we found out
12 that that wasn't accurate, was it?
13 A. That's right.
14 Q. Now, you talked about Mr. Kurniawan ordering older wines
15 and other wines from somebody in Europe?
16 A. From Caveau de la Tour, yes.
17 Q. I had you say that because I can't.
18 A. Right.
19 Q. And those were not really, really cheap wines, were they?
20 Sixty to 100 euros a bottle?
21 A. No, not cheap.
22 Q. What does 60 Euros translate into dollars right now?
23 A. Probably about 75, 80 dollars a bottle.
24 Q. And if you buy things in bulk, you tend to get a little
25 better prices on them. Right?

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DCGBKURT7

Egan - cross

1 A. Yes, you can apply for a quantity discount.

2 Q. Now, you've got customers, you've got some clients that you
3 work for that can afford to drink a three or four thousand
4 dollar bottle of wine every night. Right?

5 A. Yes.

6 Q. Do you drink a three or four thousand dollar bottle of wine
7 every night?

8 A. In my dreams.

9 Q. For the rest of us, we have to pretty much drink something
10 else, don't we?

11 A. Yes. I mean, you can drink what you-- even if you are a
12 very wealthy client, you can drink a \$10 bottle if you want
13 to.

14 Q. And there's some good wines.

15 A. Yes.

16 Q. And if you decide that you have an affection for bordeauxs
17 or burgundies, it makes sense to try to buy something that
18 isn't necessarily going to be expensive for drinking. Right?

19 A. Yes, you can-- there is enough choice in the market to have
20 that, to buy wines for everyday drinking.

21 Q. And one of the nice things about bordeauxs -- and now we're
22 learning more and more with regard to burgundies -- is that
23 they age and mature well?

24 A. The very top burgundies and bordeauxs age and mature well,
25 but by and large the vast majority should be drunk within a

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DCGBKURT7 Egan - cross

1 10-, 15-year period.

2 Q. Kind of like American cabernets?

3 A. That's it. They're designed to -- where they're grown, the
4 soil doesn't allow for them to last a long time. So they're
5 marketed to be drunk early rather than later.

6 Q. And some people may have a palate for some of the older
7 wines. They may just like the taste?

8 A. That's right.

9 Q. I mean, everybody's palate, everybody's taste, is different
10 in terms of what we like and in terms of wines. Right?

11 A. That's why, thank goodness, there's so many different wines
12 to choose from.

13 Q. Yes. I mean, I have a bottle of Restina at a Greek
14 restaurant the other day and my friend thought I was poisoning
15 him. It's a matter of taste. Right?

16 A. That's right.

17 Q. Okay. And so we would expect an individual to purchase
18 wines that he would like to drink?

19 A. Yes, but, for example, for consumption not in the hundreds
20 and hundreds of bottles, if it's for current drinking I
21 wouldn't have thought.

22 Q. You heard about Mr. Kurniawan's buying habits, didn't
23 you?

24 A. Yes.

25 Q. You heard that he was one of these people who could not

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DCGBKURT7

Egan - cross

- 1 stop himself from buying. When he started buying, he bought in
2 huge quantities. You heard that, didn't you?
3 A. I learned that, yes, he did buy a substantial amount of
4 wine.
5 Q. Right. And he would be one of these people that if
6 something was available, he'd buy all they had?
7 A. I don't know about that.
8 Q. You understand that he has a warehouse in Los Angeles for
9 wine. Right?
10 A. I understand he's got space in a warehouse in Los Angeles.
11 Q. And you don't know what's in there?
12 A. I do not.
13 Q. And the government seized -- they never took you to the
14 warehouse to see what was there?
15 A. No, they didn't.
16 Q. And they didn't drag bottles out of the warehouse for you
17 to take a look at, did they?
18 A. Not to my knowledge.
19 Q. They brought you bottles that they said came from his
20 house?
21 A. Yes.
22 Q. For example, there were two bottles of the Marcassin.
23 Right?
24 A. Yes.
25 Q. Any other bottles of this in the house that you know of?

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Egan - cross

- 1 A. Of Marcassin?
2 Q. Yes.
3 A. I don't know.
4 Q. That's a pretty good wine, isn't it?
5 A. It is.
6 Q. And there was one bottle of the Chambertin?
7 A. The Gevrey-Chambertin, yes.
8 Q. No other bottles of that? Just one?
9 A. I don't know. There may have been more. That's the only
10 bottle I reviewed, I think.
11 Q. You don't know if there were any others.
12 And a bottle of the Duckhorn?
13 A. One bottle of Duckhorn. There may be others. I don't
14 know.
15 Q. And this is a good wine, isn't it?
16 A. It is, yes.
17 Q. This is going to be not cheap to buy either, is it?
18 A. It's not, no.
19 Q. And certainly the Marcassin's not cheap, is it?
20 A. Not at all.
21 Q. What's a bottle of the 2006 Marcassin going to go for?
22 A. I don't know. Right about the \$200 mark.
23 Q. So some of us would consider that to be a high-end wine?
24 A. Yeah, sure.
25 Q. You testified in the Koch v. Greenberg case, did you not?

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Egan - cross

1 A. I did, yes.

2 Q. And you showed us an e-mail that purported to be between
3 Mr. Greenberg and Mr. Kurniawan.

4 Do you know anything else about that e-mail?

5 A. Well, it wasn't you that showed it. It was counsel for the
6 government.

7 Q. You weren't a party to any of the communications between
8 the two of them?

9 A. No.

10 Q. Did you ever hear of any discussions of, well, let's take
11 the suspect to wines that you've got and drink them, have a
12 tasting?

13 A. No.

14 Q. Didn't hear that?

15 A. No.

16 MR. MOONEY: Could you put up Exhibit 1329, please?
17 And if you would go to the-- I think it's the second page. And
18 if you would come down to the very bottom.

19 Q. This is the e-mail that you showed us where Mr. Kurniawan
20 was first being introduced to these wines. Is that correct?
21 You testified about this.

22 A. Yes.

23 Q. And it says "Perfectly stored old burgundies." Do you see
24 that?

25 A. Yes.

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DCGBKURT7

Egan - cross

- 1 Q. And you see below "Both vintages 4 out of 5 stars by
2 Broadbent"?
- 3 A. The vintages, yes. Both vintages.
- 4 Q. Do you know who Broadbent is?
- 5 A. I believe it's Michael Broadbent.
- 6 Q. And Michael Broadbent is -- at least in 2007 what was
7 Mr. Broadbent's position?
- 8 A. 2007, pretty eminent but maybe slightly bruised.
- 9 Q. But he had worked with your competitor, had he not?
- 10 A. That's right. He was head of Christies Wine Department for
11 a long time.
- 12 Q. And Christies and Sotheby's were the ones that were going
13 at it. He was the guy on the other side.
- 14 A. That's right.
- 15 Q. So it seems likes he liked this wine. Is that fair?
- 16 A. Well, that he liked the visions. He said "Both vintages 4
17 out of 5 stars," but he doesn't say both of these wines are
18 four out of five stars.
- 19 Q. Okay. So we're getting maybe a little puffing from the
20 broker?
- 21 A. Well, I think he's just using a bit of insertation, so to
22 speak, which doesn't...
- 23 Q. Brokers never do that to try to sell you bottles?
- 24 A. Well...

25 MR. MOONEY: You can take that down now.

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DCGBKURT7 Egan - cross

1 No more questions.

2 THE COURT: Any redirect?

3 MR. HERNANDEZ: Yes, your Honor.

4 REDIRECT EXAMINATION

5 BY MR. HERNANDEZ:

6 Q. All right. Mr. Egan, I want to start with some of the
7 questions you got about the work you did for Michael
8 Fascitelli, reviewing wine for him in The Cellar I.

9 Do you remember those questions that Mr. Mooney asked
10 you?

11 A. Yes, I do.

12 Q. And he went through the report that you prepared for the
13 wines that Mr. Fascitelli selected for you. Correct?

14 A. That were selected for me, yes. I don't know who selected
15 them.

16 Q. Okay.

17 A. I imagine it was Mr. Fascitelli.

18 Q. Well, someone in his group or someone who represents him
19 selected the wines for you. Is that fair?

20 A. That's fair, yes.

21 Q. Now, it means that there were a number of wines that
22 Mr. Fascitelli bought, as we just saw, that you didn't get to
23 examine. Right?

24 A. That's right.

25 Q. Why didn't you get to look at those?

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Egan - redirect

- 1 A. Because they were not presented to me.
2 Q. So do you have an opinion either way about whether those
3 wines are authentic or fake?
4 A. I cannot give an opinion until I actually see the bottles.
5 Q. So you don't have an opinion about the bottles you haven't
6 seen. Right?
7 A. No.
8 Q. Now let's talk about the wines that you did see. And if
9 you can look at your report, I'm going to do something similar
10 to what Mr. Mooney did. You prepared a report in August of
11 2008 examining The Cellar I wines. Correct?
12 A. Yes.
13 Q. And Mr. Mooney took you through the report to identify
14 certain of the wines. And I'm going to do something similar.
15 All right? If you can go to page 6 of your report.
16 A. Yes.
17 Q. Did you examine ten bottles of 1947 Cheval Blanc?
18 A. I did, yes.
19 Q. What was your conclusion on those?
20 A. These ten bottles appear to be counterfeit.
21 Q. On the next page, did you look at 11 bottles of '47
22 Lafleur?
23 A. Yes, I did.
24 Q. What was your conclusion?
25 A. These 11 bottles appear to be counterfeits.

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Egan - redirect

1 Q. And then on the same page, 11 bottles of 1982 Lafleur?
2 A. "Mr. and Mrs. Guinaudeau of Chateau Lafleur had mentioned
3 to me in 2006 that they have never reconditioned any 1982
4 Chateau Lafleur. Therefore any bottles or otherwise that have
5 very new-looking corks or labels are most probably counterfeit.
6 Given this information, it appears these 11 bottles of Chateau
7 Lafleur 1982 are most probably counterfeit."
8 Q. On the next page, you looked at six bottles of 1947 Latour
9 Pomerol. Correct?
10 A. Yes.
11 Q. What was your conclusion?
12 A. "Given the above, these six bottles appear to be
13 counterfeits."
14 Q. You also looked at two magnums of 1961 Latour Pomerol.
15 What was your conclusion?
16 A. "These two magnums appear to be counterfeits."
17 Q. You looked at 12 bottles of 1947 Petrus. What was your
18 conclusion?
19 A. "These 12 bottles appear to be counterfeits."
20 Q. On the next page, you looked at four bottles of Trotanoy
21 1961. What was your conclusion?
22 A. "Given the appearance of the labels, there are doubts about
23 the authenticity of these four bottles. It is suggested that
24 Monsieur Jean Claude Berrouet, who still researches
25 authenticity issues at Etablissements Jean Pierre Moueix,

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Egan - redirect

1 Should become contacted in order to obtain his opinion about
2 them.
3 Q. At the bottom, you examine a magnum of Henri Jayier 1978
4 Richebourg. What was your conclusion?
5 A. "This magnum appears to be a counterfeit."
6 Q. On the next page, you looked at two bottles of Jayier Cros
7 Parentoux 1978. What was your conclusion?
8 A. "These two bottles appear to be counterfeits."
9 Q. And the bottom of the page, a magnum of 1934 La Tache.
10 What was your conclusion?
11 A. "Given the above indications, this magnum appears to be a
12 counterfeit."
13 Q. On the next page you examine six bottles of Roumier 1962
14 Bonnes-Mares. What was your conclusion?
15 A. "Given the fact that these six bottles are identical to
16 other suspect Roumier bottles that I have inspected, these
17 appear to be counterfeits."
18 Q. And then four bottles of Rousseau 1962 Chambertin, what was
19 your conclusion?
20 A. "Given the appearance of the labels, there are doubts about
21 the authenticity of these four bottles."
22 Q. On the next page, page 12, you examine, at the bottom, two
23 bottles of de Vogue Musigny 1962. What was your conclusion?
24 A. "These two bottles appear to be counterfeit."
25 Q. Now, you also examined some bottles that you found to be

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1 authentic. Correct?

2 A. I believe so, yes.

3 Q. So is it fair to say that you found a mixture of authentic
4 and counterfeit wines from this auction? Correct?

5 A. Yes.

6 Q. All right. And I omitted the two bottles that were not
7 found on the invoice for Mr. Fascitelli. That's that Latour
8 and L'Eglise-Clinet. So we're going to exclude those two, but
9 you found a mixture of counterfeit and fake wines. Is that
10 correct?

11 A. That's correct, yes.

12 Q. So if you were could adjust perhaps your statistics that
13 you gave about the number of fakes you found and which ones
14 came from the defendant, you may want to adjust to take out the
15 Latour and the L'Eglise-Clinet because it doesn't match up to
16 the invoice?

17 A. Sure.

18 Q. And when you were doing this examination, you're relying on
19 what the customer tells you where the wine comes from. Right?

20 A. That's correct.

21 Q. Now I want to ask you about The Cellar II.

22 Do you recall when Mr. Mooney asked you questions,
23 there were far more wines on The Cellar II examination list
24 that you looked at that were not on his invoice?

25 A. I recall that, yes.

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1 Q. Okay. I'd ask first that we put up for comparison-- I want
2 you to take a look at The Cellar I post-sale, the things that
3 Mr. Fascitelli bought from Cellar I, and I want you to look at
4 the list from Cellar II. Okay?

5 A. Yeah.

6 MR. HERNANDEZ: So can we look first at Government
7 Exhibit 15-7?

8 Q. So this is the list from--

9 MR. HERNANDEZ: If we could zoom in just on maybe the
10 first half at the top.

11 Q. So this is the post-sale. These are things that
12 Mr. Fascitelli bought from The Cellar I. Correct?

13 A. Yes.

14 Q. And one of the ways we know that is if we look to the right
15 of the document, it tells you the sale number, 061. So that
16 corresponds to the first sale of auction 2006?

17 A. That's right.

18 Q. And is the date consistent also with the auction?

19 A. The invoice date.

20 Q. And then I want to focus in on-- if you could pull back--
21 the section of the invoice on the bottom. You see where it
22 says "paddle number"?

23 MR. HERNANDEZ: And, Mr. Platt, if you could focus in
24 maybe on the first three lines or so.

25 Q. All right. Do you see where it says "paddle number"?

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Egan - redirect

1 A. Yes.

2 MR. HERNANDEZ: Could we highlight that for the jury?

3 Q. All right. Based on your experience in auctions, do you
4 know what a paddle number is?5 A. Yes. It was developed while I was working at auction. It
6 was to preserve the anonymity of a buyer, because in the olden
7 days, you put your hand up and you'd win the lot. And they'd
8 say "What's your name, please?" And I'd say "Mr. Egan." And
9 maybe you didn't want everyone to know that you were Mr. Egan
10 bidding at auction.11 So that and other requirements, because people had to
12 register to bid at auction; therefore, had to give their
13 details. So they were given a number, a numbered paddle. So
14 all they had to do was stick the paddle up when they were
15 bidding. If they won the lot, then the auctioneer would have
16 to say-- just have to say "paddle number 87" rather than
17 "Mr. Egan. Sold to Mr. Egan."

18 Q. So in this case, this invoice--

19 MR. HERNANDEZ: If we could just back up from the
20 document.21 Q. -- it shows that Mr. Fascitelli was paddle number 87, and
22 this is what whoever was holding up 87 won. Right?

23 A. I suppose so, yes.

24 Q. Well, is that consistent with your understanding of how the
25 wine auctions were conducted around this time?

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1 A. That's my understanding, yes.

2 Q. Okay. So his number appears, paddle number 87.

3 MR. HERNANDEZ: Can we go to the next page of the
4 invoice? Can we focus in after where it says "paddle total"
5 towards the bottom? Right there is perfect. We'll look at the
6 rest of the document.

7 Q. All right. So the document continues and in the upper
8 right you see it says there's a "paddle total."

9 Do you know what that means?

10 A. Well, that's the total acquisitions made by the person
11 holding that paddle number.

12 Q. So paddle 87 bought a total of \$590,130 of wine?

13 A. That's correct.

14 Q. Now, look to the left there of the document. You see that
15 lone number hanging out, it says "184"?

16 A. Yes.

17 MR. HERNANDEZ: Maybe Mr. Platt can show us what the
18 heading is for that is.

19 A. It's the paddle number.

20 Q. But wait a minute. You told me Fascitelli was 87. How
21 could there be two paddles?

22 A. I really don't know.

23 Q. Does the invoice reflect, though, a second paddle number?

24 A. It does, yes.

25 Q. And whose name is under the invoice?

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Egan - redirect

1 A. Mr. Fascitelli.

2 Q. And does the invoice go on to list the wines that paddle
3 number 184 won?

4 A. It does, indeed.

5 MR. HERNANDEZ: All right. Can we then go, not to the
6 next page, but the page after that and focus in again on the
7 paddle total? And on the number-- right there is fine.
8 Perfect.

9 Q. Is this yet another paddle number for Mr. Fascitelli, 1285?

10 A. It looks like it, yes.

11 Q. So by this document, Mr. Fascitelli was bidding under three
12 paddles?

13 A. It looks like that, yes.

14 Q. And the wines that you examined from Cellar I that
15 Mr. Fascitelli told you were from Cellar I, do they come from
16 all one paddle or are they spread around to different paddles?

17 A. I think it's just the one paddle.

18 Q. Do you want to take a look at what the different ones are?

19 A. Sure. I'd like to look at the document again, the
20 highlighted. Thanks.

21 Well, paddle 1285, I didn't inspect any of those
22 because -- that's easy, because they are all Italian wines.

23 Paddle 184, I think some of the Chambertin Rousseau
24 were inspected by me.

25 And certainly paddle 87, there were some items

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1 inspected by me.

2 Q. So you were looking at wines for more than one paddle,
3 weren't you, Mr. Egan?

4 A. Looks like it, yes.

5 Q. Okay. Now I want to show the post-sale, what
6 Mr. Fascitelli bought from The Cellar II. Look at 15-6, which
7 is already in evidence.

8 MR. HERNANDEZ: Let's focus in on just the description
9 portion of the-- right there, perfect. We'll just do a couple
10 of wines is fine.

11 Q. This invoice looks different from the one from The Cellar
12 I, doesn't it?

13 A. Yes.

14 Q. Do you see in the left-hand column a title for "paddle
15 number"?

16 A. No, I don't.

17 Q. All right. The first one from Cellar I has the paddle
18 numbers listed. Right?

19 A. In Cellar I, yes.

20 Q. All right.

21 MR. HERNANDEZ: Let's back up out of this document
22 and highlight the top portion of it above the wines
23 descriptions.

24 Q. So you remember this is the document Mr. Mooney walked you
25 through, and asked you over and over again, you looked at a

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DCGBKURT7 Egan - redirect

1 wine that Mr. Fascitelli said was from Cellar II, but it's not
2 on this list. Right?

3 A. That's right.

4 Q. How many paddle numbers does this invoice cover?

5 A. One, paddle number 14.

6 Q. And that's on the right there. Correct?

7 A. Yes.

8 MR. HERNANDEZ: Could we highlight there to see that
9 it shows that?

10 A. Yes.

11 Q. Now, Mr. Egan, is it possible that Mr. Fascitelli had other
12 paddles in the Cellar II?

13 A. It is possible if he was using different paddles in the
14 Cellar I auction. That is a possibility.

15 Q. Do you remember sitting here listening to Truly Hardy
16 testify that Mr. Fascitelli used multiple paddles?

17 A. I can't-- I can't remember that.

18 Q. Okay. Fair enough.

19 A. Sorry about that.

20 Q. It's been a long week.

21 A. Yeah.

22 Q. But one of the wines -- let's use one wine as an example.

23 Mr. Mooney asked you about a huge bottle of wine, a '71

24 Romanee-Conti Methuselah that was in your report for The Cellar
25 II wines that Michael Fascitelli said he bought from Cellar II.

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DCGBKURT7 Egan - redirect

1 Correct?

2 A. Yes.

3 Q. It's not on this list, though?

4 A. It's not on the invoice, no.

5 Q. Not on this particular invoice?

6 A. No.

7 MR. HERNANDEZ: So if we can pull up what's in
8 evidence as Government Exhibit 15-2. Can we focus just on the
9 top to see what this is?

10 Q. Okay. This is the post-sale advice for 069 Cellar II for
11 the defendant. Right?

12 A. Yes.

13 Q. And I'm holding a paper copy of it. It's an 81-page
14 document. It's a long document. All right?

15 MR. HERNANDEZ: I'm going to ask Mr. Platt if he could
16 go to the Bates page that is 415. And focus at the very
17 bottom. There's an entry for a sale by the defendant of a
18 Methuselah. It's the last entry. Just focus on that.

19 Q. All right. Could you just tell us what, according to Acker
20 Merrall's records, the defendant sold at The Cellar II?

21 A. Lot 2199 one Methuselah 1971 Romanee-Conti, Domaine de la
22 Romanee-Conti. And then we've got four sets of figures:
23 50,000, then 60,000, then 80,000 and, finally, 85,000.

24 Q. So only one Methuselah. Right?

25 A. One Methuselah is shown there, yes.

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DCGBKURT7 Egan - redirect

- 1 Q. And you looked at one Methuselah that Mr. Fascitelli told
2 you came from The Cellar II. Is that right?
3 A. Yes.
4 Q. But it's not on the invoice that Mr. Mooney showed you?
5 A. It's not on the invoice.
6 MR. HERNANDEZ: May Mr. Egan step down?
7 THE COURT: Sure.
8 Q. Mr. Egan, Government Exhibit 5-3, what is this?
9 A. That is a Methuselah, a Romanee-Conti 1971.
10 Q. Is 1971 Romanee-Conti, a Methuselah, a rare wine?
11 A. Very rare in this format.
12 Q. Is there a sticker on the back?
13 A. Yes.
14 Q. What's it for?
15 A. It's for an auction and it says "The Cellar II from Acker
16 Merrall."
17 Q. Is this the bottle that you examined for Mr. Fascitelli,
18 Mr. Egan?
19 A. It is.
20 Q. And does this sticker and the invoice tell you that this is
21 the bottle that the defendant sold?
22 A. It shows that this Methuselah was acquired from The Cellar
23 II auction.
24 Q. Okay. You can return to the stand.
25 A. All right.

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DCGBKURT7 Egan - redirect

1 Q. So, Mr. Egan, given that Mr. Fascitelli has in the past
2 used multiple paddles and that the invoice that Mr. Mooney
3 showed you was just for one paddle, is there any conclusions
4 that you can draw about whether or not the bottle you examined
5 was actually sold by the defendant?

6 MR. MOONEY: Objection.

7 THE COURT: I'll allow it.

8 If you understand the question.

9 A. It would indicate that this bottle was acquired from The
10 Cellar II auction and could possibly be from another paddle
11 number used by Mr. Fascitelli.

12 Q. All right. Now, with respect to the report you prepared
13 for The Cellar II, I'm not going to go through the same
14 exercise that we did with Cellar I, but I'm going to ask you
15 some general questions.

16 Mr. Mooney asked you about wines that you found that
17 were authentic from The Cellar II examination you did for
18 Mr. Fascitelli.

19 Do you remember that?

20 A. I do, yes.

21 Q. But did you also find wines that were counterfeit?

22 A. Yes, I did.

23 Q. And was it more than just a couple or was it a substantial
24 number?

25 A. Well, I think it was quite a few which were counterfeit,

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1 but I'd have to look at the report in detail just to see how
2 many.

3 Q. I'm going to change subjects and ask you a few different
4 questions.

5 Earlier in your examination you were asked about the
6 Spectrum Auction where you examined some of the wines for a
7 private client before the auction.

8 Do you remember that?

9 A. I do.

10 Q. And you identified some counterfeit wines in your 120
11 minutes or 120 bottles? Is that how much time you had and how
12 much ground you had to cover?

13 A. That's right, 120 bottles.

14 Q. You usually spend about a minute a bottle when you're
15 examining wine for authenticity?

16 A. Well, anything from 20 minutes to even an hour.

17 Q. Okay. And Government-- one of the exhibits which we
18 offered, which is Government Exhibit 3-1, do you remember it's
19 the Romanee-Conti magnum where it has the Sackville Street
20 misspelled?

21 A. That's right.

22 Q. Did you catch that when you were examining one bottle per
23 minute in the Spectrum Auction?

24 A. No, I didn't.

25 Q. Now, you were asked some questions as well about practices

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1 at Sotheby's with relabeling wines. Do you remember those
2 questions?

3 A. Yes.

4 Q. What exactly were the circumstances and how often did
5 Sotheby's relabel a wine?

6 A. As I recall, it was very early on in my career at
7 Sotheby's. And on a handful of occasions, Sotheby's would
8 write to the chateaus saying, on behalf of the vendor, enough
9 that Sotheby's had inspected the bottles, Please note that--
10 could you do basically a favor? And we have very damaged
11 labels. In return, could you supply new labels?

12 But this is on about two, three or four occasions, no
13 more than that.

14 Q. You say it was early on. Could you fix a year or time
15 period?

16 A. Yeah, 1981.

17 Q. And --

18 A. Not later than 1982.

19 Q. In the 2002 to 2012 period, has Sotheby's or any auction
20 that you've been a part of used photocopied labels or replaced
21 labels on wine?

22 A. Not to my knowledge, no.

23 Q. Would a consigner need to disclose that they have made
24 photocopied labels on a bottle of wine?

25 A. Yes. I mean, the consigner would have disclosed that and

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DCGBKURT7 Egan - redirect

- 1 it would feature in the catalog. It would say "The following
2 12 bottles all have photocopied labels."
3 Q. And under what circumstances or under what disclosures
4 would a wine with a photocopied label be sold?
5 A. The disclosure would be that the labels, the original
6 labels, are so deteriorated they're illegible; however, the
7 auction house and the vendor all have identified the wine to be
8 correct probably by viewing what's written on the corks. And
9 that would be probably how the lot would be described in the
10 catalog.
11 Q. Okay. And I'm going to go back to one subject I asked you
12 a few questions about a minute ago. I'm going to show you
13 what's been marked as 3506-13. It's your 3500 material.
14 You said that when you examined the Spectrum
15 bottles, you didn't catch the misspelling of Sackville Street
16 on 3-1.
17 Do you remember that?
18 A. Yes.
19 Q. Could you take a look, just read to yourself the last page
20 of your report from that auction?
21 A. You want me to read the whole page?
22 Q. No, just read the portion that I've circled to yourself.
23 A. Sorry. Yes. Right. I've read it.
24 Q. All right. Let me take that back from you.
25 A. Yes.

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1 Q. So you had a minute per bottle in the Spectrum Auction.

2 Does this help you remember whether you caught the
3 Sackville misspelling?

4 A. It does.

5 Q. And did you or did you not catch the misspelling?

6 A. Having-- I probably took a photograph of the bottle and
7 from that information I discovered the misspelling. Also,
8 having reviewed the catalog, there's actually a picture of that
9 same magnum in the catalog which shows the misspelling.

10 Q. Last few questions, Mr. Egan.

11 You were asked some questions about the Patriarche
12 purchases of wine, the 64-year-old wines.

13 A. Yes.

14 Q. You said those aren't cheap wines. Right?

15 A. No. They're middle-priced. They're not hideously
16 expensive.

17 Q. But where do those wines, regardless of price, rank in
18 quality compared to the wines in this trial?

19 A. Very much below these wines.

20 Q. And in your opinion -- we were shown the 1971 rating. The
21 vintage got a 4 out of 5 stars?

22 A. That's right.

23 Q. Does that mean that the reviewer thought the particular
24 wine being sold in that e-mail got 4 out of 5 stars?

25 A. No, that's just the vintage. I don't think Mr. Broadbent

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1 would rate the Meursault-Charmes Patriarche 4 stars. It would
2 probably be minus.

3 Q. 1971 Patriarche Meursault-Charmes, if you had a client, how
4 many bottles would you recommend they buy?

5 A. Zero.

6 Q. Why?

7 A. Unless they were cooking with it. Because 1970-- it's a
8 long time for a white wine of that caliber if you're going to
9 be purchasing it now or a few years back. I'm sure the wine
10 would be-- would not be very drinkable.

11 Q. What would the color look like?

12 A. Pretty-- probably dark yellow, maybe even cloudy. It would
13 have certainly lost all its youth and, I would reckon, be
14 pretty much ocher color.

15 MR. HERNANDEZ: No further questions.

16 THE COURT: Anything else?

17 MR. MOONEY: Just very quickly.

18 RE CROSS EXAMINATION

19 BY MR. MOONEY:

20 Q. You haven't inspected any of the bottles of the Patriarche
21 or any of the burgundies or bordeauxs that Mr. Kurniawan
22 bought, have you?

23 A. I've only seen that magnum of Corton which is on display
24 here.

25 Q. So you don't know how drinkable those bottles are?

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1 A. I haven't sampled them, no.

2 MR. MOONEY: No more questions.

3 THE COURT: Thanks very much.

4 Mr. Egan, you can step down.

5 MR. HERNANDEZ: Your Honor, may we approach?

6 THE COURT: Yes, sure.

7 (Continued on next page)

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DCGBKURT7

Egan - recross

1 (At the sidebar)

2 MR. HERNANDEZ: We were otherwise ready to rest, but
3 we now would like to put in the other paddle numbers from
4 Michael Fascitelli's purchases and I need to scrounge up a
5 witness. It will take two minutes to do in the morning and
6 then we will rest.

7 THE COURT: Can you do it now?

8 MR. HERNANDEZ: I don't have a witness ready to put
9 them in.

10 THE COURT: That's fair enough. Okay.

11 And I'm not going to make you have a charge conference
12 this afternoon.

13 MR. MOONEY: Okay.

14 THE COURT: But we will give you a draft of the
15 charges.

16 MR. MOONEY: That would be good.

17 THE COURT: But we will have it at 8 o'clock tomorrow
18 morning--

19 MR. MOONEY: Okay.

20 THE COURT: -- I'm afraid to say. So is Mr. Kurniawan
21 needed at that charge conference?

22 MR. MOONEY: I don't think so.

23 THE COURT: Or does he want to be there?

24 MR. MOONEY: No, I think he's okay.

25 THE COURT: We can go forward at 8 o'clock?

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Egan - recross

1 MR. MOONEY: We can go forward at 8 o'clock.
2 THE COURT: My understanding is the defense has only
3 one witness to call?
4 MR. MOONEY: We have only one witness.
5 THE COURT: Okay. Great. Thanks.
6 (Continued on next page)
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DCGBKURT7

Egan - recross

1 (In open court; jury present)

2 THE COURT: Okay. So we're going to stop for today.
3 I'm going to excuse the jury. First I'm going to do my
4 instructions in a minute again, but where we are is we have
5 some brief testimony tomorrow morning from the government and
6 then the defense case. I'm pretty confident that we'll be
7 finished tomorrow with all of the testimony. We'll see where
8 we are at that time as to whether we have more to do in the
9 afternoon or not, but plan on a full day tomorrow. If it's
10 shorter than that, so be it.

11 So we are very much on schedule. So let me go over my
12 instructions. First, not to talk to each other about this case
13 or about anyone who has anything to do with it until the end of
14 the case when you go to the jury room to deliberate on your
15 verdict.

16 Second, do not talk with anyone else about this case
17 or about anyone who has anything to do with it until the trial
18 has ended and you've been discharged as jurors. And we're
19 talking about all forms of communications, not just
20 face-to-face as you know.

21 Third, do not let anyone talk to you about the case or
22 about anyone who has anything to do with it. And if someone
23 should try and talk to you about the case, please report that
24 to Christine or me immediately.

25 Fourth, do not read any news or internet stories or

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Egan - recross

1 articles or blogs or listen to any radio or TV or internet
2 reports about the case or about anyone who has anything to do
3 with the case.

4 And, fifth, do not do any type of research or any type
5 of investigation about the case on your own.

6 So see you tomorrow. Let's plan on the same time and
7 we'll try and start at 9. We might be a couple of minutes
8 late, but I'm going to try and start at nine o'clock. Thanks a
9 lot.

10 (Jury excused)

11 (Continued on next page)

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DCGBKURT7

Egan - recross

1 (In open court; jury not present)

2 THE COURT: So please be seated. Let's just talk a
3 couple minutes about the jury instructions or the jury charge.
4 In a moment Christine is going to give you a draft of the jury
5 instructions. And at the sidebar we determined that we would
6 have a charge conference tomorrow morning at 8 o'clock. I'll
7 meet you here in the courtroom for that purpose. Christine is
8 also going to give you a copy of a proposed verdict sheet.

9 Just let me mention how I usually do the charge
10 conference. I usually go through the jury instructions page by
11 page, and initially without a court reporter present, in order
12 to determine how much agreement there is and/or how much
13 disagreement. At the end, I'll resolve any disagreements and
14 then I'll allow each party to lodge whatever objections they
15 have on the record before the court reporter.

16 So it just speeds things along, but I just want to
17 assure you that anybody who has any objections to any part of
18 the charge gets to make that objection on the record after we
19 finish our conference.

20 Most of the charges are what I consider boilerplate,
21 or many of them are. There are some substantive charges and in
22 that regard they are substantive charges that I've used in
23 cases where fraud is charged in other instances. So they're
24 about 27, 28 pages, and that's the story.

25 So thanks very much. I'll see you tomorrow in the

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DCGBKURT7 Egan - recross

1 courtroom at 8 o'clock.
2 MR. HERNANDEZ: Thank you.
3 MR. MOONEY: Thank you.
4 (Adjourned to December 17, 2013, at 8 a.m.)
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