

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA, 18-CR-681 (WFK)
4 Plaintiff, United States Courthouse
5 -against- November 19, 2019
6 JEAN BOUSTANI, 10:40 a.m.
7 Defendant.
8 -----x

9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
10 BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES

13 For the Government: UNITED STATES ATTORNEY'S OFFICE
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Also Present: LILLIAN DINARDO, PARALEGAL
FATIMA HAQUE, SPECIAL AGENT
RAY MCLEOD, TECHNICAL ASSISTANT

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1 (In open court.)

2 THE COURTROOM DEPUTY: All rise. The Honorable
3 William F. Kuntz, II is now presiding.

4 Criminal cause for trial, Docket Number 18-CR-681,
5 U.S.A. versus Boustani.

6 Counsel, please state your names for the record.

7 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,
8 Katherine Nielsen, Lillian Dinardo and Special Agent Fatima
9 Haque for the United States. Good morning, Your Honor.

10 THE COURT: Good morning. We have the spellings.
11 Please be seated.

12 Ladies and gentlemen of the public, please be seated
13 as well.

14 MR. JACKSON: Good morning, Your Honor. Randall
15 Jackson on behalf of Mr. Boustani.

16 THE COURT: Good morning, Mr. Jackson. Please be
17 seated.

18 MR. SCHACHTER: Good morning, Your Honor. Michael
19 Schachter on behalf of Mr. Boustani.

20 THE COURT: Mr. Schachter, good morning. Please be
21 seated.

22 MS. DONNELLY: Good morning, Your Honor, Casey
23 Donnelly on behalf of Mr. Boustani.

24 THE COURT: Good morning, Miss Donnelly. Please be
25 seated.

1 MR. DiSANTO: Good morning, Your Honor. Phil
2 DiSanto on behalf of Mr. Boustani.

3 THE COURT: Good morning, sir. Please be seated.

4 MR. MCLEOD: Good morning, Your Honor. Ray Mcleod
5 on behalf of Mr. Boustani.

6 THE COURT: Good morning. Please be seated.

7 (Defendant enters the courtroom.)

8 THE COURT: And we are awaiting the arrival of
9 Mr. Boustani.

10 Welcome. Please, you can come here.

11 THE DEFENDANT: Good morning, Your Honor.

12 THE COURT: Good morning, sir. Please be seated.

13 Do we have any procedural issues to address before
14 we bring the jury in to resume the direct examination of
15 Mr. Boustani.

16 MR. BINI: Not from the government, Your Honor.

17 THE COURT: From the defense?

18 MR. SCHACHTER: Not from the defense, Your Honor.

19 There was a binder before Mr. Boustani.

20 THE COURT: Mr. Jackson will do that. I still have
21 him under the May I rules.

22 MR. SCHACHTER: Yes, Your Honor.

23 (The witness resumes the stand.)

24 **JEAN BOUSTANI**, called as a witness, having been previously
25 first duly sworn/affirmed, was examined and testified further

1 as follows:

2 MR. SCHACHTER: And, Your Honor, may I stand at the
3 podium.

4 THE COURT: Absolutely.

5 Anything else before we get started? No?

6 Okay, Mr. Jackson, please bring in the jury.

7 (Jury enters the courtroom.)

8 THE COURT: Good morning, ladies and gentlemen of
9 the jury. Welcome back. Again, thank you for your promptness
10 in the sixth and final week of our trial. So please be
11 seated.

12 Mr. Boustani, please be seated as well. You're
13 still under oath, sir.

14 Ladies and gentlemen of the public, be seated.

15 We're continuing with the direct examination of
16 Mr. Boustani.

17 Mr. Schachter, please continue, sir.

18 MR. SCHACHTER: Thank you.

19 Good morning, ladies and gentlemen.

20 And good morning, Mr. Boustani.

21 THE DEFENDANT: Good morning.

22 DIRECT EXAMINATION (Continued)

23 BY MR. SCHACHTER:

24 Q When we left off yesterday, we were talking about a
25 meeting that you had in -- or a series of meetings that you

1 had in September of 2011 in Mozambique.

2 And can you just remind us, who was present at those
3 meetings?

4 A So the meeting was -- Bassey was there. I was there.
5 And my colleague, Mr. Harpazi.

6 And the first meeting happened with the Minister of
7 Science and Technology, and there was Mr. Teofilo Nhangumele,
8 Mr. Rosario Mutota, and later on also I was taken to
9 government agency called Inamar, I-N-A-M-A-R, which is like a
10 maritime agency in the country to start discussing the concept
11 of the maritime Exclusive Economic Zone.

12 Q And can you tell us what was discussed in these meetings
13 about Mozambique's need for a coastal monitoring system?

14 A So when I discussed the concept, the vision of the
15 concept with Mr. Nhangumele, Mr. Mutota, for them it was
16 extremely, extremely strategic, important, and as a first, I
17 think you can call it idea, that came to their mind that said
18 Let's go to Inamar --

19 THE COURT: We'll get you spellings later, Madam
20 Reporter, try not to interrupt this time. We'll do it during
21 the break.

22 Go ahead.

23 A So since Inamar is a maritime agency which only existed
24 in the country since the Portuguese colonization, so we went
25 there, and what I discovered that was Inamar is institution

1 that exists but that lacks assets, lacks capabilities, lacks
2 corporate, lacks everything.

3 And the team of Inamar, however, was, when I
4 discussed the concept of EEZ they were extremely happy,
5 excited, and they said, We're looking and thinking of this
6 since long, long time.

7 Q What did they say about the needs for surveillance in
8 their waters, as well as on the land?

9 A So what we discussed in Inamar was, first of all, the
10 crucial and strategic need for Mozambique to have a monitoring
11 and protection system fore their Exclusive Economic Zone,
12 especially that now massive wealth was discovered in the
13 waters.

14 Second, they were extremely concerned about the big
15 problems that are in the Mozambique channel, which is the --
16 between Mozambique and Madagascar and the eastern part of
17 Africa and the Indian Ocean in general.

18 First by piracy, which was a very, very serious
19 danger; drug trafficking and smuggling; human trafficking,
20 poaching and stealing of fish and natural -- and the fish and
21 resources.

22 And also other kind of poaching, which is, in Africa
23 is something unfortunately a lot, which is killing of rhinos,
24 elephants, all these kind of animals that poachers kill and
25 then they smuggle it from African countries like Botswana,

1 Zimbabwe, South Africa, Mozambique through Mozambican ports
2 and to other destinations, and it's -- they were saying that
3 losses are in billions of dollars every year.

4 Q Now, did you learn whether Mozambique had had a coastal
5 monitoring system before?

6 A Yes. So Mozambique up to 1975 I think, 1976, was a
7 Portuguese colony. And political independence was gained
8 after a bitter struggle, a war.

9 And after that, again, unfortunately, that these
10 days -- so now we're in the '80s -- '70s, '80s, civil war and
11 the Cold War, so the world was divided between the west, the
12 liberated world and the east, which is the Soviet or the
13 communist world.

14 So FRELIMO -- FRELIMO is F-R-E-L-I-M-O, which was
15 the party that was formed to fight the struggle against the
16 Portuguese colonization. So it was the freedom fighters at
17 that time in Mozambique. And FRELIMO was backed by the Soviet
18 Union at that time.

19 And there was another group it was called RENAMO,
20 R-E-N-A-M-O, that was backed by the South African apartheid
21 regime, so Civil War broke out.

22 During the Civil War later on, the Soviets were in
23 Mozambique. They were supporting FRELIMO. And they have
24 installed a very sophisticated monitoring system on the
25 coastlines throughout Mozambique in order to protect

1 Mozambique from possible -- FRELIMO specifically, from
2 possible invasion from South Africa.

3 Q After these meetings in Mozambique, did Abu Dhabi MAR
4 prepare any kind of formal presentation to be provided to
5 Mozambique as part of a proposal?

6 A Yes. So I left Mozambique with the agreement with the
7 Mozambicans to -- so next step was that we would prepare a
8 presentation and the proposal will be sent to Mozambicans.

9 Q And what did you understand Mr. Nhangumele would do with
10 the presentation materials that were provided?

11 A He will start using them; presenting them, passing them
12 to the relevant decision makers and the relevant officials who
13 are, in his opinion, critical in order to potentially make
14 this project happen.

15 Q Were the presentation materials, did they -- was the
16 proposal from Privinvest or from Abu Dhabi MAR?

17 A I think it was from Abu Dhabi MAR initially.

18 Q Do you recall why that was?

19 A Abu Dhabi MAR was the -- it's a subsidiary of Privinvest
20 Group, so... And at that initial phase, the strategic
21 dimension involved also the Abu Dhabi authorities involved
22 with this, and to give it this, I would call it this strategic
23 dimension, there's no other word for it, of having the
24 government involved also was very, very important.

25 Q We'll talk about that in a moment.

1 I'd like to now focus on shortly after your meetings
2 in Mozambique.

3 Did you speak to Mr. Nhangumele about entering
4 what's called a nondisclosure agreement?

5 A Yes.

6 Q And just very generally, can you describe to the jury why
7 it was important to have a nondisclosure agreement with
8 Mr. Nhangumele?

9 A So nondisclosure agreement is something also sometimes
10 called the confidentiality agreement. So it's a legal
11 document that practically is signed between two parties when
12 one party is giving very sensitive material to the other one.

13 And the objective of it is practically to seek his
14 promise and his engagement of not using these materials with
15 competition or to share the sensitive information with people
16 or parties that shouldn't be shared with.

17 MR. SCHACHTER: Your Honor, we'll offer Defense
18 Exhibit 132 and 132A.

19 THE COURT: Will you publish it to the Court and
20 your adversary.

21 Any objection to 132?

22 MR. SCHACHTER: Actually, 132 just for now, Your
23 Honor.

24 THE COURT: All right, 132. Any objection to 132?

25 MR. BINI: Objection.

1 THE COURT: Okay.

2 MR. SCHACHTER: Your Honor, this is offered for
3 state of mind.

4 THE COURT: Objection is sustained.

5 Q Mr. Boustani, what were your feelings about the
6 importance of the coastal monitoring protection system in
7 Mozambique?

8 A I chipped in what I've seen, what I sense, what I have
9 listened. The research I've done on the internet other
10 country, the history, the facts. For me it was like, it was
11 so crucial to have it there, and it's, I mean, tremendous
12 opportunity to be able to be involved in such an important
13 project, because the value of it is enormous.

14 Q Now, after you left Mozambique, and after you provided
15 Mr. Nhangumele with the presentation materials, did you
16 receive updates from him on what was happening in Mozambique?

17 A Yes. My nature is I'm very thorough in my work. So I
18 follow up a lot and I -- I'm a doer. So I like to -- to put
19 pressure and to access everything to make things happen.

20 So I was following up with him regularly by phone,
21 by email to keep going like what's going on? Where do we
22 stand?

23 Q And what did you -- what were the updates that you
24 received from Mr. Nhangumele?

25 A So the updates were like he started the process of

1 circulating these materials with the relevant people, decision
2 makers he said, that in his opinion are crucial for the -- for
3 the project to happen. And he started his exercise in
4 presenting the concept and the project. And then things
5 started to move and in the right direction.

6 Q Was Privinvest planning on compensating Mr. Nhangumele
7 for his work?

8 A Of course.

9 Q And when typically would Privinvest compensate an agent
10 like Mr. Nhangumele for his role in the project?

11 A Privinvest, when it uses agents, compensates agents once
12 the project is completed successfully.

13 Q Now, did you ever proposal paying any money in exchange
14 for Privinvest being awarded the EEZ contract in Mozambique?

15 A No.

16 Q Did there come a point in time when Mr. Nhangumele asked
17 you if Privinvest would make an advanced payment?

18 A He did.

19 MR. SCHACHTER: Your Honor, may we publish
20 Government Exhibit 2007 in evidence?

21 THE COURT: You may.

22 (Exhibit published.)

23 MR. SCHACHTER: And, Mr. Boustani, you have a binder
24 in front of you. If it's easier for you to review the hard
25 copies, it's okay.

1 THE WITNESS: Sure.

2 THE COURT: Is there a question, counsel?

3 MR. SCHACHTER: Yes, Your Honor. I'm sorry, I'm
4 just turning to the right page.

5 Q So, sir, do you see this email from Mr. Nhangumele on
6 November 11th, 2011?

7 A Yes.

8 Q And Mr. Nhangumele writes to you -- this is between you
9 and --

10 THE COURT: You don't need to read it, it's in
11 evidence. The jury can see it.

12 Why don't you ask the witness a question about it.

13 MR. SCHACHTER: Yes, Your Honor.

14 Q Mr. Boustani, I'd like to direct your attention to the
15 last sentence of second paragraph: To secure the projects
16 granted. Go ahead, that one. Can you read that over
17 yourself?

18 And then can you tell us: What did you understand
19 Mr. Nhangumele was asking for in this email?

20 A It was clear, he was saying that to secure the project a
21 go-ahead should be given by the HoS.

22 HoS, he meant by the head of state or the president
23 of the Republic. So in order to secure that, we need to pay
24 money.

25 Q And what was your reaction to seeing this email?

1 A My reaction was based on the key orientation and
2 instructions I had from Privinvest, which we don't pay money
3 in order to secure projects.

4 Q Let's look at your email response to that, just the email
5 above that.

6 I'd like you to just to explain certain portions of
7 this.

8 You speak in this email, take a moment to read it to
9 yourself, about success fees, and you write that: We had
10 various negative experiences in Africa --

11 THE COURT: You don't have to read it.

12 MR. SCHACHTER: Yes, Your Honor.

13 THE COURT: The jury can see it. Ask him a question
14 about it.

15 MR. SCHACHTER: Yes, Your Honor.

16 Q What did you mean when you said: We have a strict policy
17 in the group consisting of not disbursing any success fees
18 before the signature of the project?

19 THE COURT: What do you mean -- what did you not
20 understand about "don't read it"?

21 MR. SCHACHTER: Yes, Your Honor.

22 Q Mr. Boustani, you reference a "strict policy".

23 What did you -- what are you referring to?

24 A As I said, the strict policy is very simple: Privinvest
25 does not pay anything in order to secure projects.

1 THE COURT: Next question.

2 MR. SCHACHTER: Yes, Your Honor.

3 May I have just a moment?

4 THE COURT: You may.

5 Q Now, I'd like to direct your attention to
6 Mr. Nhangumele's response to that.

7 And do you see -- do you recall him continuing to
8 press you for payments to be made in advance of the project's
9 contract being signed?

10 A Yes.

11 So Mr. Nhangumele was, over a period of time, now
12 we're in 2011, of course, he was always --

13 Q Mr. Boustani, I'm sorry, I just want to focus you now.

14 THE COURT: You answered the question: Do you
15 remember being pressed? Answer: Yes.

16 THE WITNESS: Yes.

17 THE COURT: You can ask leading questions that call
18 for a "yes" or "no" answer. Once he answers it, then you can
19 move on.

20 If you're going to say: What happened next? Then
21 he's allowed to say what happened next.

22 But we're not going to have, yes, and a narrative,
23 so you can lead, you start with "yes" or "no" answers. If
24 you're going to say what happened next, what's this about, you
25 can tell the jury what it's about without reading it.

1 You know how to elicit testimony, counsel, so let's
2 do it the right way.

3 MR. SCHACHTER: Yes, Your Honor.

4 Actually, Mr. Boustani, let me direct your attention
5 to the email at 5:28 p.m. from Mr. Nhangumele on that day.

6 (Exhibit published.)

7 MR. SCHACHTER: And I'd like to direct your
8 attention to the last sentence of the first paragraph. The
9 last two sentences.

10 Last three sentences.

11 (The witness is reviewing the document.)

12 Q After Mr. Nhangumele wrote even this to you, in November
13 of 2011, did Privinvest at that time agree to pay the money
14 that he was asking for?

15 A No.

16 Q And if we can look at your email responding to that.

17 When you asked about what the budget was at the
18 Mozambique authorities for the EEZ, at the top, what were you
19 asking about?

20 A Simple. I was -- at this stage, normally governments,
21 when they decide to invest in projects, in programs
22 specifically the defense, they set up a budget. So different
23 countries have different budgets, depending on their economic
24 situation and potential. So I was asking about that.

25 Q And then I'd like to ask you about the bullet points

1 under: The mechanism is simple that you wrote.

2 And can you explain to the jury --

3 Mr. Mcleod, highlight that section with the bullet
4 points.

5 And then, Mr. Boustani, can you explain to the jury
6 what you're referring to there?

7 THE COURT: You mean beyond what it says?

8 MR. SCHACHTER: Yes, Your Honor, I'm asking --

9 THE COURT: Is there anything beyond what it says
10 that you can explain, or is it self-evident?

11 MR. SCHACHTER: Yes, Your Honor.

12 THE COURT: Or is it self-evident?

13 THE WITNESS: I can, Your Honor, explain, but if you
14 wish.

15 THE COURT: No, the question is: Is there anything
16 that's not clear?

17 THE WITNESS: I think it's clear.

18 THE COURT: I think so, too. Why don't we ask
19 another question.

20 Q What's the delegation that you're referring to, and what
21 it means to be invited to Abu Dhabi?

22 A So when I spoke with Mr. Nhangumele, I said we need to
23 give this project a strategic dimension between the two
24 governments; the government of Abu Dhabi, the government of
25 Mozambique.

1 So what I was referring to is that, in our opinion,
2 as Privinvest, I did not think that this project could be
3 completed without the authorities in Mozambique to do, you can
4 say, their checking, or their due diligence, or their inquiry
5 on Abu Dhabi MAR to be sure who is Abu Dhabi MAR and with whom
6 they are dealing.

7 So I was telling Mr. Nhangumele that maybe the
8 decision makers from Mozambique should maybe meet with the
9 decision makers in Abu Dhabi to discuss this point and to
10 discuss the project, and then reach an agreement, potentially.

11 Q Now, you also refer to the critical points. And one of
12 those things are the success fees. Is that a reference to the
13 payment, the agency fee to Mr. Nhangumele?

14 A Yes.

15 Q And can you just explain to the jury what do you mean
16 when you put words in quotes?

17 A When I write like this, it means I'm trying to reference
18 like a headline, or topic, or a subject, or an emphasis; a
19 headline.

20 Q Now, you mentioned you speak a number of languages.

21 In all of those languages that you speak, where does
22 English fall?

23 What's your best language? Where does --

24 A English is third.

25 Q Now, in this email, did you also use quotes around other

1 words?

2 A I think I did.

3 MR. SCHACHTER: I'd like to direct your attention to
4 the bottom two paragraphs.

5 Can we highlight the bottom two paragraphs,
6 Mr. Mcleod.

7 Q What were you referring to when you said that: The EEZ
8 project will include massive civil and infrastructure works in
9 Mozambique?

10 A This would be the same thing I think we were talking
11 about yesterday, the turnkey project concept.

12 So massive civil and infrastructure works, because
13 to do the project, you have to build the boats, get the
14 equipment, the radars, the different equipment.

15 And then there is a lot, a lot, a lot of work that
16 would be done in country, which is to assemble the equipment,
17 make the system work together, because it's a complex system,
18 and integrate the system in the country. Build.

19 When I say civil work, like concrete by the radar
20 station, basis, headquarters, IT. So everything.

21 Q And I'd just like you to explain to the jury why you
22 wrote what you wrote in the last sentence in your email to
23 Mr. Nhangumele.

24 A So, again, this is a headline, because this is the thing
25 which for me are extremely, extremely important and crucial.

1 I told Mr. Nhangumele from day one, I said, when
2 Privinvest does a project in a country, it's not hit and run.
3 We are there, it becomes like a -- like a marriage. We are in
4 the country for long, long time and we think of other
5 opportunities. We think of how to add value to the country.
6 How we can help. How we can assist. How we can do many other
7 things.

8 So I ask him how he was going to really focus on
9 these things, and we're not just a traditional, normal foreign
10 contractor who comes and throws equipments and leaves.

11 Q Now, you wrote this email to Mr. Nhangumele about this
12 not being a hit-and-run exercise in November of 2011.

13 Did Privinvest pay Mr. Nhangumele anything at all
14 during 2011?

15 A No.

16 Q And we're going to talk about what happens during 2012,
17 but for now I just want to ask you:

18 Did Privinvest pay Mr. Nhangumele anything at all
19 during the entire calendar year of 2012?

20 A Nothing.

21 MR. SCHACHTER: Now, I'd like to direct your
22 attention to Government Exhibit 2008.

23 And, Your Honor, we'll offer Government
24 Exhibit 2008.

25 THE COURT: Any objection to 2008?

1 You may publish to the Court and to the government.
2 Can you blow it up it's a little? It's tough to
3 read it.

4 MR. BINI: Object.

5 MR. SCHACHTER: This is the government's exhibit.

6 THE COURT: Yes, I heard that.

7 Scroll it up, please, so I can see the full
8 document.

9 Overruled. It's admitted.

10 You may publish it.

11 (Government Exhibit 2008, was received in evidence.)

12 (Exhibit published.)

13 Q Can you just look at the top half.

14 Mr. Boustani, you sent this -- just an email chain
15 that you had with Mr. Nhangumele to an email address called
16 dolphin global.

17 Do you see that?

18 A Yes.

19 Q And what was dolphin global?

20 A So dolphin global is the email of Mr. David Harpazi, I
21 mentioned yesterday.

22 Q Why is it that you were forwarding your email exchange
23 with Mr. Nhangumele on to Mr. Harpazi?

24 A Because he's the -- at that stage, he's the project, I
25 would call manager, who was assigned to me by Privinvest and

1 my point of contact and focal point, so I can send him all the
2 outtakes of the information so he can start working on the
3 proposal.

4 Q What was going to be his role in working on this
5 proposal?

6 A So the proposal there would be the technical part, and
7 the commercial part, the pricing. So he will be preparing
8 both.

9 Q Now, after this email was sent, did there come a time
10 when a group of people from Mozambique came to Abu Dhabi in
11 order to do due diligence on Privinvest?

12 A Yes.

13 MR. SCHACHTER: Your Honor, we will offer Government
14 Exhibit 3193.

15 THE COURT: Publish it to the government and the
16 Court.

17 Any objection to 3193?

18 MR. BINI: No objection, Your Honor.

19 THE COURT: Admitted.

20 You may publish it.

21 (Government Exhibit 3193, was received in evidence.)

22 (Exhibit published.)

23 MR. SCHACHTER: And I'll just give the jury a moment
24 to read it.

25 (Pause.)

1 Q Mr. Boustani, this is an email from Mr. Nhangumele to you
2 dated November 20th, 2011.

3 A Okay.

4 Q And Mr. Nhangumele speaks of a delay in assembling
5 component -- the competent team to carry out the due
6 diligence.

7 THE COURT: Look, why don't you start reading and
8 ask him the question that you have about a document that's in
9 evidence the jury can read.

10 If you keep doing it, I'm going to keep interrupting
11 you.

12 MR. SCHACHTER: Yes, Your Honor.

13 THE COURT: So ask him the question you have about
14 documents that are in English that are before the jury.
15 They're smart, they get it. Ask him the questions you want to
16 ask him, don't read the documents.

17 MR. SCHACHTER: Yes, Your Honor.

18 Mr. Boustani, can you just take a moment to read the
19 email to yourself.

20 I'll have a question for you, by the way, so let us
21 know when you're done.

22 (The witness is reviewing the document.)

23 THE WITNESS: Okay.

24 Q What was the due diligence work that the people from
25 Mozambique were doing that's referred to here?

1 A Due diligence work was simple, was, first of all, to know
2 who is Privinvest.

3 Second question is, to know more about the proposal
4 and the project.

5 Q And it references certain people that are going to be
6 coming to do the due diligence.

7 Who are those people?

8 A So you can see there is Teofilo Nhangumele. Then there
9 is Armando Ndambi Guebuza, Bruno Langa, and Antiono do
10 Rosario.

11 Q And who are those people?

12 A Teofilo Nhangumele, as we said, is agent.

13 Armando Ndambi Guebuza was presented to me by the
14 son of President Armando Guebuza.

15 Bruno Langa was presented to me by another person,
16 an agent.

17 And Antiono do Rosario was presented to me by the
18 senior government official.

19 Q At some point did you have a dispute with Mr. Nhangumele
20 about who was going to pay for the travel expenses for this
21 delegation to come to Abu Dhabi?

22 A I did.

23 Q And can you describe what was the nature of the dispute?

24 A Mr. Nhangumele suddenly asked for that Privinvest even
25 pays for the ticket, travel tickets for the delegation from

1 Mozambique to Germany to visit one of our shipyards in
2 Germany.

3 So I referred this request to Mr. Safa. Mr. Safa
4 told me, he said: Jean, this is not serious. I do not think
5 based on my long experience that capable agents and serious
6 agents will ask to be paid the ticket just to come on an
7 official visit to do due diligence on a contractor. I've
8 never seen this.

9 Capable and serious agents, they cover up all the
10 costs. Maybe they cover the cost of the officials in their
11 countries. And later on they come and when they sure of
12 themselves, then they factor all in the success fee that they
13 will ask for.

14 So he told me, Jean, by principle, I appreciate that
15 you want to make the project happen, but by principle you tell
16 them no; if they want to come, they have to pay for their own
17 ticket.

18 Now, you know, in the Middle East we have -- we're
19 known for hostility, so when the guest arrives, from the
20 moment he arrives 'til the moment he leaves, we always take
21 care of our guest. But for principle of matters, they have to
22 pay for their own ticket.

23 Q Now, when you talk about concerns about Mr. Nhangumele
24 not being a serious agent, can you just explain what that
25 means?

1 A So at that time, two elements were factoring in and
2 giving the signal that he's not serious agent.

3 And, again, Mr. Safa was much more experienced than
4 myself. He was the one who's bringing to my knowledge and
5 attention these matters.

6 First one is when we discussed the government to
7 government issue; usually capable and strong agents will, as
8 we say, will jump on this issue because it's crucial, it's
9 strategic, important. And that immediately a high-level
10 meeting will be arranged between decision makers. That's
11 usually capable agent does that immediately.

12 And the other matter was, of course, this issue of
13 ticket, which was like a red alert. I mean the -- from the
14 point of view of Mr. Safa in terms of the seriousness of
15 Mr. Nhangumele, and the capability of Mr. Nhangumele.

16 Q Now, did you have emails with Mr. Nhangumele on the
17 subject of this dispute over who was going to pay for his
18 travel to Mozambique and the travel of the Mozambicans?

19 A Yes. It was also little bit heated, and was in the state
20 where nearly the whole trip was going to be canceled.

21 MR. SCHACHTER: Your Honor, we will offer Government
22 Exhibit 3196.

23 THE COURT: Any objection to 3196?

24 You can publish to the Court and the government.

25 MR. BINI: No objection.

1 THE COURT: Admitted.

2 You may publish it.

3 (Government Exhibit 3196, was received in evidence.)

4 (Exhibit published.)

5 Q And, Mr. Boustani, I'd like to direct your attention
6 first to the second and third emails.

7 You wrote: I never said I was the owner -- well,
8 withdrawn.

9 What are you referring to in your email to
10 Mr. Nhangumele?

11 A What I was talking about now, I -- I was -- I informed
12 him at this stage that they have to pay for their own tickets.

13 So the heated communication started. And I recall
14 on the phone he was telling me like I thought that you take
15 decisions, I mean so how come you're saying now that your boss
16 is saying that there's no tickets? So that's what I'm saying
17 I mean I'm not the owner.

18 Q And then if you just read Mr. Nhangumele's response just
19 to yourself, and then if we can look also at your response to
20 him at the top of that page.

21 What do you mean when you refer to the owner and
22 talk to the president? Why did you write that?

23 A So internally, so you can see from the emails, so since
24 you're not the owner, so we need to meet the decision maker
25 from your side. He was saying that.

1 So my answer was, Well, you're not also the decision
2 maker, obviously, so I will -- I will be happy to put my
3 decision maker with your decision maker, who is the president
4 of the country.

5 Q And why did you feel that was important to you?

6 A Now, based on my experience, but at that time based on
7 Mr. Safa's experience, projects from -- strategic projects
8 like this, of this magnitude, cannot -- cannot simply happen
9 without having tough decision makers making these decisions.

10 MR. SCHACHTER: And now, Your Honor, we'd like to
11 offer Government Exhibit 3197.

12 THE COURT: Publish to the government and the Court.

13 Any objection to 3197?

14 MR. BINI: No objection.

15 THE COURT: Admitted.

16 You may publish it.

17 (Government Exhibit 3197, was received in evidence.)

18 (Exhibit published.)

19 Q I just like to direct your attention to the top --

20 If we can blow up the top two emails, please.

21 Is the bottom email more of your what you describe
22 as a heated dispute with Mr. Nhangumele about who would pay
23 for these airline tickets?

24 A Yes. That also included some phone calls.

25 So I was -- I was like losing my tempers in this

1 email.

2 Q And then I'd like to direct your attention -- you then
3 forward that email to @dolphinglobalMoranHarpazi.

4 This is Mr. Harpazi that was working on the proposal
5 that you mentioned?

6 A Yes.

7 Q And what did you mean when you wrote: Can't and won't
8 deal with him, and IS was right?

9 What do you mean by that?

10 A So my instructions were Mr. IS, meaning Iskandar Safa.
11 So I was saying my instructions were clear, which I
12 communicated to Mr. Nhangumele, no ticket. You want to come,
13 you pay for the ticket.

14 So based on the reaction now I was talking to my
15 colleagues, Mr. David Harpazi and Mr. Moran Harpazi, and
16 telling them that, you know, I think it's over. There's -- we
17 had the meeting with them, and Iskandar Safa was right, they
18 are not serious.

19 Q Did you continue to have further discussions with
20 Mr. Nhangumele?

21 A I did.

22 Q Why?

23 A He called me after, after this heated debate, so
24 eventually after couple of days he calls back he said, Look,
25 we -- I spoke with my -- with -- I spoke with the government

1 officials, with the authorities from the delegation who are
2 coming, and they said they will buy the ticket, so they are
3 coming.

4 So that for me kept the -- kept the momentum alive.

5 Q And did they ultimately travel to one of Privinvest's
6 facilities?

7 A Yes, they came to Germany to visit our shipyard in Kiel.

8 Q And was that in or around the December of 2011?

9 A Yes.

10 Q And who from Mozambique came to visit Privinvest's
11 shipyard in Kiel, Germany?

12 A The four names you saw on the email. So Teofilo
13 Nhangumele, Armando Ndambi Guebuza, Bruno Langa, and Antiono
14 do Rosario.

15 Q And what was shown to the Mozambicans during their trip
16 to Germany to Privinvest's location?

17 A So the two headlines, as I call it, of the -- of the
18 objective of the trip, of the due diligence trip, to know who
19 is Privinvest, the group, and its capabilities, and to see in
20 detail and know what is the proposal for the -- for the
21 project of the Exclusive Economic Zone protection and
22 monitoring system for Mozambique.

23 Q And tell us what happened during the course of the visit.

24 A So visit was to our shipyards. I believe they were
25 impressed with what they've seen. We did thorough

1 presentations also to them about the concept. So it was a lot
2 of my colleagues there; that they were doing the technical
3 part.

4 I recall also I was asked directly, which I found
5 also blunt at that time that like, by the way, who else does
6 this other than you guys? So I said, Look, there are a few
7 companies who do these kinds of projects. And they said,
8 Look, we had already asked to also look in other companies to
9 evaluate differences.

10 So one of my colleagues, German colleagues, he said,
11 That look, Jean, to make a long story short, there is
12 Raytheon, which is an American company which is also they had
13 big facility in Germany, and we happen to work with Raytheon,
14 especially on the radar systems, and they do, Raytheon do
15 projects like that.

16 So my colleague said, Look, let's not waste time,
17 it's okay, let them go see Raytheon also and see what they
18 have.

19 So we arranged for them to go to see Raytheon in
20 Germany also.

21 Q Now, what was your understanding as to why this
22 delegation from Mozambique wanted to visit Privinvest's
23 competitors like Raytheon?

24 A Because they had orders and instructions to do their
25 homework in order to see different potential suppliers and

1 evaluate different proposals and pick the best for them.

2 Q And why does Privinvest -- did Privinvest actually show
3 them where Raytheon was?

4 A Yes.

5 Q Why was Privinvest willing to introduce them to your
6 competitors?

7 A Well, first of all, I had no choice. They wanted to see
8 competitors. So I thought in order to gain time so better I
9 help them do this thing and not to waste maybe six months by
10 the time or one year by the time that they return back home
11 and then they do their exercise, so I said, Let me be open
12 about it, and they could see competitors. And also in the
13 same time, eventually Raytheon do not build boats. So I said
14 we said internally, myself and my colleagues, that in the
15 worse case scenario, if they pick Raytheon, at least Raytheon
16 will cooperate with us so we can build the boats. So we will
17 not be completely cut out of the deal in a worse case
18 scenario.

19 Q And what kind of components of a coastal monitoring
20 solution could Raytheon provide?

21 A Raytheon could do what's technically called sensors. So
22 radars, cameras, the whole communication backbone of the
23 system; the center command and control. The brain of it.

24 Q And did Privinvest provide presentation materials
25 regarding the group to the Mozambican delegation?

1 A Yes.

2 MR. SCHACHTER: Your Honor, we'll offer Defense
3 Exhibit 36 and 36A.

4 THE COURT: Any objection to 36?

5 MR. BINI: Objection.

6 THE COURT: Overruled.

7 36A, let me see it.

8 Any other objection?

9 MR. BINI: No objection.

10 THE COURT: Admitted.

11 You may publish both.

12 (Government Exhibit 36, was received in evidence.)

13 (Government Exhibit 36A, was received in evidence.)

14 (Exhibit published.)

15 (Exhibit published.)

16 MR. SCHACHTER: Thank you, Your Honor.

17 Q This is an email that you wrote to Mr. Nhangumele on
18 December 27th, 2011.

19 Is that after the visit?

20 A Yes.

21 Q And you attached presentation materials?

22 A Yes.

23 Q And you also asked if there's any updates from their
24 side?

25 A Yes.

1 Q What kind of update were you looking for?

2 A So I was looking for updates because they returned back
3 home. They told me when -- before leaving going back home to
4 Mozambique from Germany that they were very impressed, happy,
5 satisfied, and that this process now will go very fast. So I
6 was asking after they returned home, So what's new?

7 MR. SCHACHTER: Now, I'll ask you about the response
8 in a moment.

9 But first, Your Honor, may I just display, just
10 briefly for the jury, just to go through the presentation
11 materials, so that they can view it?

12 THE COURT: It's in evidence. Go ahead, you can
13 display it to them.

14 MR. SCHACHTER: Publishing quickly Defense Exhibit
15 36A, Mr. Mcleod, just go through the pages.

16 (Exhibit published.)

17 MR. SCHACHTER: Actually, you can take that down.

18 Q So what was the update that you heard from Mr. Nhangumele
19 after they returned to Mozambique following their visit to
20 Germany?

21 A I got positive of this. He was saying that things are
22 now good; that he was very optimistic and positive that it
23 will be positively concluded.

24 MR. SCHACHTER: I'd like to now, Your Honor, publish
25 Government Exhibit 2013.

1 Well, before we get to that.

2 Q After you heard that report from Mr. Nhangumele, in your
3 email we saw a moment ago you talked by a proposal.

4 What did you do to prepare or to work on the
5 preparation of a proposal to Mozambique?

6 A So I forgot to put this important point.

7 So when the Mozambican delegation left for returning
8 home, so they told me, Jean, now we need to -- we need an
9 official proposal, the technical and commercial one, so price,
10 for the concept and the system that you want to present to the
11 Mozambican authorities.

12 And so you should work on this and send it to us
13 once you can, because now we are at the stage where we need to
14 put these in front of the decision makers so decision could be
15 taken.

16 Q What did you do after you got this request for a formal
17 technical and cost proposal?

18 A I told my colleagues mainly the focal point was
19 Mr. Harpazi, so please let's -- because, of course, they were
20 also in Germany during the visit. So I said, Let's put these
21 papers together, let's put this presentation, let's put the
22 commercial offer and just send it to them.

23 Q What, if any, information did Mr. Harpazi ask you for
24 before you completed the proposal?

25 A What is the agent's fee? Was the success fee? How much

1 the agent wants?

2 Q And why would that be an important piece of information
3 before Mr. Harpazi could complete the cost proposal?

4 A Because the agent fees is the cost element, it's one of
5 the costs of -- of doing the project or doing the business.
6 So he was asking about it because it was an important factor.

7 Q And so what, if anything, did you ask Mr. Nhangumele?

8 A Simple. How much you want? What's the success fee?

9 Q And did Mr. Nhangumele ultimately tell you what he was
10 looking for?

11 A He did.

12 MR. SCHACHTER: Your Honor, may we publish
13 Government Exhibit 2013 in evidence.

14 THE COURT: Yes, you may publish.

15 (Exhibit published.)

16 MR. SCHACHTER: And if we can start at the -- at
17 Mr. Boustani's email at the bottom of that page.

18 (Exhibit published.)

19 Q So after you heard from Mr. Harpazi that --

20 Do you have it, Mr. Boustani?

21 A Yes. Okay.

22 Q After --

23 THE COURT: Sir, is your microphone still on?

24 MR. SCHACHTER: Yes, Your Honor. I apologize.

25 THE COURT: If you use it, we'll hear you.

1 MR. SCHACHTER: I'll do my best.

2 THE COURT: Okay.

3 Q After -- after Mr. Harpazi said that it was important to
4 get the agent fee, is this an email that you wrote to
5 Mr. Nhangumele?

6 A Yes.

7 Q And can you explain to the jury what you're communicating
8 here?

9 A Simple. As it is. I was telling him, Okay, so now you
10 want the commercial proposal? You want what Privinvest will
11 be proposing as a price for the project?

12 So in order for that, you need to tell me what's how
13 much you want? What's your success fee as an agent so we
14 get -- put it also in the cost. Because the cost will go to
15 the -- as I said here, the head of state, the president, the
16 big boss, and everything must be -- we cannot balance
17 different prices on official papers that are going to -- going
18 to the decision maker.

19 Q And when you wrote: At the clubbing all figures, what
20 does that mean to you?

21 A I meant by -- I meant by it, which is his success fee,
22 the cost of Privinvest, the profit of Privinvest, that's the
23 clubbing and all figures.

24 Q And you said: You know our range, bro.

25 Do you see that?

1 A Yes.

2 Q And what was your range? What were you referring to?

3 A Here also what happen -- I recall that he asked, I think
4 Mr. Harpazi, how much usually Privinvest pays fees to agents?

5 And Mr. Harpazi was telling me so because this
6 happened without my presence. So I recall Mr. Harpazi telling
7 me that he told them that it could be between 5 percent. In
8 the market it can reach in some markets up to 15, 20 percent.

9 MR. SCHACHTER: And then I'll show you
10 Mr. Nhangumele's response.

11 And you're also going to blow up Mr. Boustani's
12 response to that.

13 (Exhibit published.)

14 MR. SCHACHTER: Thank you.

15 Q And what did you understand was Mr. Nhangumele's response
16 to you?

17 A The response was that he wants \$50 million.

18 Q And he referred to them as "chickens".

19 Did you have an understanding as to why he was
20 referring to them as chickens?

21 A You can see my answer where I'm putting "LOL".

22 So honestly, at that time for me I found it very
23 weird, I mean so I was laughing and saying chickens? I mean
24 what this weird and silly discussion, I mean, but I was
25 laughing so I said whatever I mean, okay.

1 Q Was it clear to you that he actually did not mean live
2 chickens?

3 A I mean cannot be -- it cannot be clearer that it's not
4 chickens, he's talking about money.

5 Q And what about this -- beyond the use of word "chickens",
6 did you find anything funny about the amount that he was
7 speaking about, \$50 million?

8 A Yeah. That also was -- for me again here I was learning
9 more about a promise to Safa.

10 So he told me, Jean, agents always ask for a
11 percentage. They never balance figures. Because sometimes
12 the project goes up, there's something called valuation
13 orders, usually always goes up. So any normal agent only goes
14 for a percentage. So if the project increases in time, his
15 percentage is there and he will keep making money.

16 So an agent just to throw out a number, he's either
17 not smart, or not capable, or both.

18 THE COURT: How many chickens did he ultimately get
19 to roost?

20 THE WITNESS: He got, Your Honor, \$8.5 million.

21 THE COURT: Go ahead.

22 Q Now, when you wrote -- you wrote actually in this email,
23 "done", and as the Court just asked you, he wasn't paid
24 50 million, correct?

25 A No.

1 Q So why did you write "done" to Mr. Nhangumele in this
2 email?

3 A In this email, I remember, so you can see the time
4 difference. I remember once I got the email, I picked up the
5 phone and called Mr. Safa.

6 Mr. Safa, as I said now, he said, Jean, look, I mean
7 I've never seen this, you know, in my entire life. So, again,
8 I hope you will be successful in this, for the company, of
9 course, and for you, but I don't see it going forward such an
10 attitude and such -- such an attitude.

11 But, look, keep the tango dancing, as we say, let's
12 see where it will go. I don't see it going nowhere, but you
13 know, let's -- let's tango dance with these guys and see where
14 it will go.

15 Q And just to -- again, we're going to talk about it in
16 greater detail, but at any time during the entire calendar
17 year of 2012, did Privinvest enter into a contract with any
18 company in Mozambique to provide this coastal monitoring
19 solution?

20 A No.

21 Q Now, notwithstanding what Mr. Safa told you, did, in
22 fact, Privinvest prepare a proposal that took into account
23 what the Mr. Nhangumele said was his agency fee?

24 A Yes.

25 MR. SCHACHTER: And, Your Honor, at this time we'd

1 like to publish Government Exhibit 2015 in evidence.

2 THE COURT: You may publish it.

3 (Exhibit published.)

4 MR. SCHACHTER: If we can just blow up the top half
5 the page, please.

6 Q Is this the email that you received from Mr. Nhangumele?
7 Do you see that as the second email?

8 A Yes.

9 Q About the chickens?

10 A Yes.

11 Q And then who did you forward that email to?

12 A So you recall yesterday we spoke that --

13 THE COURT: No, no, who did you forward the email
14 to? That's the question.

15 THE WITNESS: To Bassey.

16 THE COURT: Next question.

17 THE WITNESS: Sorry, Your Honor.

18 Q And why did you write: LOL for chickens to
19 Mr. Nhangumele?

20 A Because, again, I mean it was so silly and funny that I
21 was like laughing on it.

22 (Continued on next page.)

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1 DIRECT EXAMINATION (Continued)

2 BY MR. SCHACHTER:

3 Q And then you went on and you wrote: I will add 62
4 million in total, 12 million for you and I, equals 5 percent?

5 Can you just explain to the jury why you wrote that
6 to Ms. Thokoane.

7 A So at that stage the budget that my colleagues came up as
8 estimated budget, the price tag was around 240 million, for
9 that request.

10 So, Ms. Thokoane, Bassey, was also asking for agency
11 fees, obviously, and she was asking for 5 percent. So what I
12 was trying to do here in this e-mail, and later on I also
13 spoke to her on the phone, I said, Bassey, look. We are not
14 optimistic about this, you know, the way it is they are
15 presenting, throwing figures like this and numbers. So if you
16 want to add on it 5 percent, also, for you, as an agency fee
17 on top of the other 50 million that they are claiming it is,
18 plus me as a salesman, also, I would be expecting sales
19 commission on that.

20 So I think it will become a red line for Mr. Safa
21 and he will say, you know, maybe the 5 percent your agency
22 fee, maybe we can, you and me, we split it together.

23 Q Now, when you are having these conversations with
24 Mr. Nhangumele in December of 2011, had you spoken to Credit
25 Suisse or any bank about loaning money to Mozambique?

1 A No.

2 Q When you were discussing these 50 million chickens, were
3 you thinking about defrauding investors who may someday buy
4 pieces of a loan from Credit Suisse or from some other bank?

5 MR. BINI: Objection.

6 THE COURT: No. Let's ask if he was thinking about
7 defrauding investors then or not.

8 THE WITNESS: I answer, Your Honor?

9 THE COURT: Sure.

10 THE WITNESS: Of course not.

11 Q Were you intending to engage in money laundering?

12 A Of course not.

13 Q Were you thinking about sending money to or from United
14 States accounts?

15 A Of course not.

16 THE COURT: Why not?

17 THE WITNESS: Your Honor, I never thought of this.

18 THE COURT: Why not, though? What's wrong with the
19 United States of America?

20 THE WITNESS: Nothing, Your Honor.

21 THE COURT: Okay. Next question.

22 Q So did Privinvest ultimately send a project proposal?

23 A Yes.

24 Q And did you decide on how much Privinvest would decide --
25 would propose to charge?

1 A Sorry, excuse me?

2 Q Was it your decision to decide how much Privinvest would
3 be charging in its proposal?

4 A No.

5 Q Whose decision was it?

6 A Ultimately, it is Mr. Safa.

7 MR. SCHACHTER: Your Honor, we will offer Government
8 Exhibit 2017.

9 THE COURT: Any objection to 2017?

10 MR. BINI: No objection.

11 THE COURT: Admitted. You may publish it.

12 (Government Exhibit 2017, was received in evidence.)

13 MR. SCHACHTER: Thank you.

14 And can we show the bottom two e-mails.

15 Q Is this a reference to the proposal that Privinvest would
16 make for the coastal monitoring system?

17 A Yes.

18 Q And you are communicating this to Mr. Harpazi?

19 A Yes.

20 Q Now how, if at all, would the fee that Mr. Nhangumele was
21 charging impact the overall price proposal that Privinvest
22 would make?

23 A Simply and obviously, the agency fee or the success fee
24 or the commission fee, as you can say, that's an extra cost,
25 so that would be added to the cost of the proposal, so the

1 total proposal cost would go up.

2 MR. SCHACHTER: Your Honor, may we publish
3 Government Exhibit 2018 in evidence?

4 THE COURT: You may.

5 Q Did you on December 31, 2011 forward the proposal to
6 Mr. Nhangumele?

7 A Yes.

8 Q And what was your understanding as to what he was going
9 to do with the proposal?

10 A Give it, not personally, but to be sent to the president
11 of the Republic.

12 Q And what did you understand was the president's role in
13 approving whether or not this project would go forward?

14 A And then at least in Africa, projects like this, in this
15 sector, are usually always decided by the head of state or the
16 president or the ruler.

17 MR. SCHACHTER: All right. And then, Your Honor,
18 may I publish Government Exhibit 2018A in evidence.

19 THE COURT: You may.

20 MR. SCHACHTER: And, Your Honor, may I just display
21 certain portions of this to the jury. It is in evidence.

22 THE COURT: It is in evidence, you may.

23 MR. SCHACHTER: So, Mr. McLeod, can we show the
24 table of contents to the jury for their review. And then the
25 next page, please.

1 Q And, Mr. Boustani, this is a 49-page proposal?

2 A Yes.

3 Q And is this what you refer to as the technical proposal?

4 A Yes.

5 MR. SCHACHTER: If we can look, Mr. McLeod, to the
6 introduction in that page that's labeled introduction. Sorry.

7 And then can we blow up the bottom half of that
8 page, the overview?

9 Q Mr. Boustani, did this section describe the various
10 components of the EEZ monitoring and protection system that
11 Privinvest was proposing?

12 A Yes.

13 MR. SCHACHTER: And if we can show, Mr. McLeod, the
14 components on the next page, the top.

15 And then if we can do the second -- the bottom half
16 so the jury may see.

17 And then if we can look at the next page, where it
18 describes the radar stations. And then below that, please.

19 And then can we look at the next page where there's
20 a description of -- we blow up that whole page. If you can
21 just highlight where it talks about the control and
22 interception vessels.

23 And then the next page, please.

24 And then, Mr. McLeod, just quickly display the
25 portions of the rest of the proposal, so the jury may see it.

1 Q Mr. Boustani, did you prepare this document?

2 A No.

3 Q And do you have any knowledge of the particular costs of
4 the various component parts of this project or the costs of
5 integrating them?

6 A No.

7 Q Who did put this together?

8 A Me and Mr. Harpazi, and also in coordination with other
9 technical colleagues in Privinvest.

10 Q And then if we can, Your Honor, may I publish -- one
11 moment, Your Honor.

12 THE COURT: Of course.

13 MR. SCHACHTER: If we can publish 2018B, in
14 evidence.

15 THE COURT: You may.

16 Q And here, did you have any role in preparing this price
17 proposal?

18 A No.

19 Q Who did?

20 A Again, Mr. Harpazi and other colleagues at Privinvest.

21 Q Now, the proposal identifies the price for various
22 components; do you see that?

23 A Yes.

24 Q Does the price proposal specify how much Privinvest's
25 profits are going to be?

1 A No.

2 Q Does the price proposal describe the raw material costs
3 in this proposal?

4 A No.

5 Q Does it lay out what the salaries are going to -- how
6 much money is going to be paid for the salaries of the workers
7 who will create the various component parts?

8 A No.

9 Q Does it break out the agency fee that Privinvest is going
10 to need to pay if the project is accepted?

11 A No.

12 Q Why not? Why aren't those different component costs
13 broken out in the price proposal, if you know?

14 A This is -- say it is price proposal, let's say you --
15 give an example. If anybody buys an iPhone, you buy an
16 iPhone, you have the price tag of it, you have no clue -- I
17 mean, iPhone doesn't tell you that I made a profit of the
18 1,500 or 50 dollars or 100 dollars and how much I am paying in
19 salary and how much I have profits or how much I am making
20 political campaign contribution. So it doesn't -- that's the
21 price tag. We just give you a price.

22 Q Have you seen other price proposals to other customers?

23 A I did.

24 Q And in its price proposals to its customers, does
25 Privinvest generally describe its profits, its raw material

1 costs, or any other costs associated with the project?

2 A Never.

3 THE COURT: Why don't we take our 15-minute break
4 now. It has been a while, and we will see you in about 10
5 minutes after 12:00, if that's okay. Thank you.

6 Please do not talk about the case yet. We are
7 almost done. We are not quite there yet. Thank you.

8 Please step down, ladies and gentlemen. Enjoy your
9 break. See you in about 15 minutes.

10 (WHEREUPON, at 11:53 a.m., the jury exited the
11 courtroom.)

12 (Continued on the next page.)

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1 (Open court; no jury present.)

2 THE COURT: All right. Thank you. You may step
3 down, Mr. Boustani.

4 You can be seated, ladies and gentlemen of the
5 public.

6 Do we have any issues to address now that the jury
7 has left the courtroom and the defendant is still present?
8 Anything from the government?

9 MR. BINI: Not from the government, Your Honor.

10 THE COURT: From defense?

11 MR. SCHACHTER: No, Your Honor. Thank you.

12 THE COURT: Thank you. Enjoy your 15-minute break.
13 We will see you in 15 minutes, ladies and gentlemen.

14 MR. MEHTA: Thank you, Your Honor.

15 (WHEREUPON, a recess was had from 11:54 a.m. to
16 12:26 p.m.)

17 THE COURT: Thank you.

18 We have the appearances. We have the defendant
19 produced. You may be seated, ladies and gentlemen.

20 Do we have any procedural issues to address
21 before -- resume the stand, sir.

22 Before we bring the jury in, anything from the
23 government?

24 MR. BINI: No.

25 THE COURT: Defense?

1 MR. SCHACHTER: No.

2 THE COURT: Thank you. Bring the jury in.

3 (Continued on the next page.)

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1 (Open court; jury present.)

2 (WHEREUPON, at 12:28 p.m., the jury re-entered the
3 courtroom.)

4 THE COURT: Welcome back, ladies and gentlemen.

5 Appreciate your promptness. Please be seated.

6 Please be seated, Mr. Boustani, ladies and gentlemen
7 of the public.

8 Please continue the examination. Thank you.

9 MR. SCHACHTER: Thank you.

10 DIRECT EXAMINATION (Continued)

11 BY MR. SCHACHTER:

12 Q Mr. Boustani, you told the jury about a due diligence
13 trip that the Mozambican delegation made to the Privinvest
14 shipyard in Kiel towards the end of 2011; is that correct?

15 A Yes.

16 Q Did there come a time when the Mozambican delegation made
17 a second due diligence trip?

18 A Yes.

19 Q And that was to where?

20 A Abu Dhabi.

21 Q And just very briefly and generally, what occurred during
22 that due diligence trip?

23 A So, again, it was the second due diligence trip that the
24 Mozambicans had requested, and I was told it was based on a
25 request from the president. So the same people who came to

1 Germany, to Kiel, came to Abu Dhabi. So they visited our
2 offices, our facilities, our shipyard. And what we did also
3 in Abu Dhabi, Mr. Safa was in Abu Dhabi because he was not in
4 Germany during their German trip. So it was more time also to
5 sit with them and talk about the strategic dimension of the
6 project, and what Privinvest would be interested and happy to
7 do in Mozambique, other than this specific project. About the
8 relationship between Abu Dhabi and Mozambique, that Privinvest
9 is happy and willing and honored to establish and to enhance.

10 And, also I recall during that trip --

11 THE COURT: Would you close the door, please, to the
12 corridor. Thank you.

13 Sorry to interrupt. Go ahead.

14 THE WITNESS: No problem.

15 A And I recall during the trip, because Armando Ndambi
16 Guebuza was there, who was the son of the Mozambican
17 president. So we asked if maybe the son of one of the Abu
18 Dhabi royals could be also come to the shipyard, you know, for
19 greeting and meeting, and just extend also officially like
20 their happiness and this and their willingness to enhance the
21 relationship, so at least the Mozambicans can relay to
22 Mozambique, to the president, that these people are serious
23 about what they are talking about.

24 Q Now, I just want you to expand on two of those topics
25 that you mentioned. You said Mr. Safa talked about other

1 investment projects Privinvest would want to do in Mozambique.
2 Can you just generally describe what he said about that?

3 A Mr. Safa presented the group, presented the business of
4 Privinvest, other than the industrial part as I described it.
5 And he said that, you know, I will be happy to invest in real
6 estate, in telecom, the other sectors of the group, which,
7 indeed, as we said, we did, and it is an activity today as we
8 speak.

9 Q What, if anything, was discussed about the relationship
10 between the royal family and Abu Dhabi and Mozambique?

11 A So, on top of it, we emphasized on Abu Dhabi at that time
12 was strategically looking for, I would call it as simply as
13 agricultural land, Aryan land, for something which is called
14 food security, food strategy. You know, the United Arab
15 Emirates is a desert, and, they were looking to have strategic
16 lands so they can have agriculture so they can feed themselves
17 because it's a dessert.

18 So, they were also, of course, extremely wealthy,
19 and they were investing in many, many, many projects all
20 around the world. So we said that for sure Abu Dhabi would be
21 happy to invest in booming opportunities in Mozambique.

22 Q Did you believe that this coastal monitoring project in
23 Mozambique would generate revenue for Mozambique?

24 A Absolutely. Always did and still do.

25 Q How?

1 A So make it also again very simple. The foreign oil and
2 gas companies who operate in Mozambique will pay, will
3 disburse millions and millions of dollars on security fees.
4 So this is not theory, it is not a fantasy, it is a fact.
5 They did it, they do it, they will keep on doing it. Millions
6 and millions of dollars.

7 And what they do, they bring other foreign private
8 security firms, that they do the job, and they take the money.
9 So the whole idea was based on a simple thing, which is like
10 this money, instead of going to foreign companies, at least
11 keep some of it, a national company that has -- will have the
12 capabilities to do the same job and maybe better even. Put
13 aside also the issue of sovereignty. So when you are a
14 sovereign nation, the minimum you could ask for is to have
15 your sovereignty in terms of security.

16 Third, is there is -- in Africa, in the Middle East,
17 also, or in any countries where you have turbulence, you have
18 instability, and when most of the things are imported -- so
19 you know when you import things, there's the cost of
20 importation of transport, which inside there is something
21 called insurance.

22 So when the risk is high, insurance cost is high.
23 So you take it as an example, car insurance. God forbid you
24 make many accidents, suddenly your insurance will become more
25 expensive. So same thing, with the risky places, the

1 insurance is high.

2 The other massive opportunity, which I told
3 Mozambique about was, look. Today you import most of what you
4 consume. So -- and you are paying high insurance costs, the
5 insurance is very high.

6 Once you secure your borders, once your -- you can
7 project to the world that you are a stable and safe place, you
8 can then impose lower insurance premiums and costs on
9 everything that you bring to the country. That alone, the
10 entire economic impact of that is astronomical. You are
11 talking billions of dollars of savings.

12 So that's what I still believe, and I believe at
13 that time that Proindicus is an ultra strategic project, both
14 from a security point of view and from an economy point of
15 view.

16 Q Did you write about some of these ideas for how to
17 generate revenue? Did you put that in writing in e-mails to
18 Mr. Nhangumele?

19 A I did.

20 Q And did you also provide Mr. Nhangumele in e-mails
21 information about Privinvest competitors?

22 A I think I did, also.

23 MR. SCHACHTER: Your Honor, we will offer Defense
24 Exhibit 50, five zero.

25 THE COURT: Any objection to 50?

1 MR. BINI: No objection.

2 THE COURT: Admitted. Published.

3 (Defense Exhibit 50, was received in evidence.)

4 MR. SCHACHTER: Can we, please, Mr. McLeod, blow up
5 the top half of the e-mail.

6 Q Did this -- was this after the trip to Abu Dhabi that you
7 described?

8 A Yes.

9 Q Why were you providing Mr. Nhangumele with information
10 about competitors?

11 A As I said, they asked, and we were extremely open in
12 doing that.

13 Q And I'd just like to direct your attention to the last
14 paragraph. And is this describing some of the concepts that
15 you just discussed with the jury?

16 A Yes. Just to add one more thing. Which is, of course,
17 you can see here there are two things that I did not mention
18 before. One is fisheries. So based on research,
19 unfortunately, hundreds of millions of dollars and maybe
20 billions of dollars are stolen, have been stolen for the last
21 decades, and are being stolen as we speak from the waters of
22 Mozambique and many other African countries by foreign
23 international fishing companies that just take the fish and
24 go.

25 And so I said, when you protect this, when you have

1 this concept of the exclusive economic zone monitoring, at
2 least saving on whatever is stolen, you are saving hundreds of
3 millions of dollars for the country.

4 The other thing here, as I mentioned, which is
5 landlocked countries. So in the southern of part of Africa,
6 you have many landlocked countries that don't have access to
7 the sea. Namely here, there is next to Mozambique, you have
8 Malawi, Zambia, Zimbabwe, Botswana, the southern part of the
9 Democratic Republic of Congo, Katanga, it is called. So all
10 these regions there, their port is Mozambique. They import
11 everything from Mozambique.

12 So, also, I said to the Mozambicans, that doing this
13 will make you like the big brother in the region, and will
14 post you strategically. And you can also gently tell your
15 African brothers, neighbors, that, look, we invested in a
16 concept that is saving lots of insurance costs for you, for
17 all your imports as well. So maybe it will be fair that you
18 can also maybe charge them a little bit, so which is also
19 another source of revenue for you.

20 Q What, if any, impact did you think that a coastal
21 monitoring system would have on Mozambique's brand and ability
22 to generate foreign investment?

23 A Since I went to Mozambique, I saw the country, I felt it,
24 and I believe that, still believe, that it could be a really
25 like extraordinary country, extraordinary brand. I was

1 telling the Mozambicans, look, in the United Arab Emirates,
2 you have the brand name Dubai, everybody knows Dubai. So why
3 not you make also Mozambique. So you have all the elements of
4 success, you just -- I mean, it is so easy to achieve. So we
5 can do this together.

6 Q And did you put your thoughts on that concept in writing
7 in an e-mail to Mr. Nhangumele?

8 A I think I did, I think.

9 MR. SCHACHTER: Your Honor, we will offer Defense
10 Exhibit 72.

11 THE COURT: Any objection?

12 MR. BINI: Objection.

13 THE COURT: Sustained.

14 Q Following the trip of the Mozambican delegation in
15 January of 2012, what, if anything, did Mr. Nhangumele tell
16 you about whether the project had been approved?

17 A I recall I was following up with him, maybe on a daily
18 basis, and I think at a certain stage in 2012 he tells me
19 that, good news, it has been approved.

20 Q And did, in fact, he e-mail you in January of 2012 about
21 the approval of the project?

22 A I think so.

23 MR. SCHACHTER: We will offer Defense Exhibit 52.

24 THE COURT: Any objection to 52?

25 MR. BINI: May we see the top of the e-mail.

1 Objection.

2 THE COURT: Sustained.

3 Q At the time that Mr. Nhangumele informed you that the
4 project had been approved, at that point in time, had
5 Privinvest paid any official in Mozambique anything?

6 A No.

7 Q Had Privinvest promised any Mozambican official any
8 payment in advance of you being informed that Mozambique had
9 approved the project?

10 A Sorry?

11 Q Had Privinvest promised any Mozambican official any
12 payment in advance of being informed that the head of state in
13 Mozambique had approved the project?

14 A No.

15 Q Had Privinvest paid Mr. Nhangumele anything before being
16 told that the project had been approved by President Guebuza?

17 A No.

18 Q Even after you were informed that the project had been
19 approved, did then the project move forward?

20 A No.

21 Q What did you understand was causing the delays during the
22 course of 2012?

23 A As per Mr. Nhangumele, and let me also say that at this
24 stage, so since I met Mr. Antoni Carlos do Rosario, and also
25 Armando Ndambi Guebuza, so I had their numbers and e-mails, so

1 I also used to sometimes communicate with them.

2 So the only message I was getting that we are doing
3 our homework. So we want to make sure that what we are -- the
4 decision we are taking -- we are taking -- what we are going
5 to take is correct, it is proper, and suits us, so then you
6 have to wait.

7 Q What, if anything, did Mr. Nhangumele tell you about the
8 work on preparing internally in Mozambique a business plan to
9 show that Proindicus would generate revenue?

10 A I remember -- so after the due diligence trip, we sent
11 the technical and commercial proposal, and the whole
12 discussions at that time was that eventually Mozambique will
13 be having a budget and paying for this project potentially
14 from its available resources, financial resources.

15 Then I recall Mr. Nhangumele saying there is a new
16 request that came, and the new request is like, okay, you are
17 saying that the impact, the economic impact of this project is
18 very high, it can generate revenues, direct or indirect, so
19 prepare a business plan and show us this.

20 Q And why did you believe Mozambique needed this business
21 plan?

22 A Simple. They were like studying carefully what they want
23 to do, taking their time. I think, also, there was like,
24 again, that's the government, it is a bureaucracy, there's
25 maybe different decision makers. So there's a big machine

1 movie. So I think that they were doing that.

2 Q And did Mr. Nhangumele e-mail you about the studying of
3 the revenue for the project?

4 A Yes. Yes.

5 MR. SCHACHTER: Your Honor, we will offer Defense
6 Exhibit 64.

7 THE COURT: Any objection to 64?

8 MR. BINI: Objection.

9 THE COURT: Sustained.

10 Q Was Privinvest asked for any information about the
11 operating costs of a coastal surveillance system over the
12 course of time?

13 A Yes.

14 Q What was Privinvest asked for and what was your
15 understanding as to why it was being asked for that
16 information?

17 A So the question, which was, and is, of course, extremely,
18 extremely important is, fine, what is the cost of acquiring
19 this system. Also, the logical other question, does it make
20 money, this system, how we can benefit from it as we have
21 discussed earlier. Third question is like how much does it
22 cost to run the system. So system like that, they were also
23 studying to see how many people they like to engage, what are
24 the salaries, the cost of running the different boats. So
25 even from fuel costs, up to maintenance costs, spare parts.

1 Maybe they were checking internally to say they need to
2 acquire land to build the different components of it like what
3 we propose. So they were like studying all this different
4 financial parameters for them to be taken into consideration.

5 Q And what, if anything, did those requests for information
6 tell you about the seriousness with which Mozambique was
7 taking its consideration of the coastal surveillance program?

8 A Obviously, of course, I mean, when someone asks questions
9 like this, it can only be because he's really doing all that
10 he can, he or she can, in order to take the right decision.

11 Q And some of these requests for information were in
12 writing?

13 A Yes, I remember, yes.

14 MR. SCHACHTER: Your Honor, we will offer Defense
15 Exhibit 63.

16 THE COURT: Any objection to DX 63?

17 MR. BINI: Objection.

18 THE COURT: Sustained.

19 Q In response to those requests for information, did
20 Privinvest provide information about the costs of operating
21 the program?

22 A Yes, we did.

23 MR. SCHACHTER: Your Honor, we will offer Defense
24 Exhibit 65 and 65A.

25 THE COURT: Any objection to 65?

1 MR. BINI: Objection.

2 THE COURT: Sustained.

3 65A, any objection?

4 MR. BINI: Objection.

5 THE COURT: Sustained.

6 Q Did you e-mail Mr. Nhangumele about your belief that the
7 revenues would exceed the costs associated with operating the
8 coastal monitoring project?

9 A Yes, I think so. I was trying to help, also, and he --

10 THE COURT: You answered the question. You e-mailed
11 him. Next question.

12 THE WITNESS: Sorry, Your Honor.

13 MR. SCHACHTER: Your Honor, we will offer Defense
14 Exhibit 66.

15 THE COURT: Any objection?

16 MR. BINI: Objection.

17 THE COURT: Sustained.

18 MR. SCHACHTER: Can I have a moment, Your Honor.

19 THE COURT: You may.

20 (Short pause.)

21 Q What, if any -- what, if anything, did Mr. Nhangumele
22 tell you about presentations that were being made by him
23 internally in Mozambique?

24 A I recall he was telling me that he was asked and tasked,
25 because he was a professional consultant who had previous

1 consultancy works for the government of Mozambique, and
2 helping putting all these different informations into
3 proposals and documents. He knows, also, the bureaucracy, how
4 it works in the country. So he was involved in doing this
5 exercise.

6 Q To whom did he say he was making these presentations?

7 A He said to the different decision makers, actually, the
8 president, actually also different ministers who would be
9 involved in the decision making process.

10 Q And did he ask you for assistance in preparing these
11 presentations?

12 A He did.

13 MR. SCHACHTER: Your Honor, we will offer Defense
14 Exhibit 59.

15 THE COURT: Any objection?

16 MR. BINI: Objection.

17 THE COURT: Sustained.

18 Q Did there come a time when you learned that Mozambique
19 was requesting assistance in financing its payments for the
20 project?

21 A Yes. So --

22 THE COURT: You answered the question. Next
23 question.

24 THE WITNESS: Sorry, Your Honor.

25 Q How did you learn that?

1 A They asked me. They requested me.

2 Q And what did they ask you?

3 A They asked me, so how we are going to pay for the
4 project. My answer was, like, I thought I asked you this
5 before, and you said that you had the budget. Because all
6 Privinvest clients always pay from their own treasury budget.
7 Usually they open a letter of credit from their bank and they
8 pay us. We have never, never ever dealt with the situation
9 where a client or a country we are serving has made a loan or
10 financing to pay us.

11 The second idea that came to my mind was something
12 called barter. I said, like, look. You have natural
13 resources that you already extracting and exporting like coal
14 and aluminum and other things. So maybe a barter deal is
15 something that I am aware of during my time at Deloitte.

16 So I said, maybe we can make barter. So instead of
17 paying us with money, with cash, you pay us with coal or
18 aluminum, et cetera, so we can manage that.

19 And then the third request that came from them is
20 like, how about you can help us to find a bank to make a loan
21 for that project.

22 Q And what, if anything, did Privinvest do to try to help
23 Mozambique find a bank?

24 A So I recall Mr. Nhangumele telling me, like, now there is
25 a request that came from the -- they used tell me the HOS, the

1 head of state, that better to look for a bank who could
2 finance this project, that they would be doing their homework,
3 they would be doing their exercise, and that if, also, we can
4 help in that or have ideas or find also interested banks, that
5 will be welcome and good.

6 Q Was there a point in time where actually Mr. Nhangumele
7 asked if Privinvest itself could loan money for the project?

8 A I think so. I'm not sure. But maybe.

9 MR. SCHACHTER: We will offer Defense Exhibit 60,
10 six zero.

11 THE COURT: Any objection?

12 MR. BINI: Objection.

13 THE COURT: I'm sorry, any objection?

14 MR. BINI: Objection, Your Honor.

15 THE COURT: Sustained.

16 MR. SCHACHTER: Your Honor, may I publish Government
17 Exhibit 2021, in evidence?

18 THE COURT: You may.

19 MR. SCHACHTER: And, Mr. McLeod, can you please put
20 up page two of that exhibit, top e-mail.

21 Q Mr. Boustani, how is it that you came in contact -- first
22 of all, was Said Freiha someone with Credit Suisse?

23 A Yes.

24 Q And how is it that you came in contact with Mr. Freiha
25 and why were you reaching out to him?

1 A So Said Freiha is the person who was presented to me by
2 Mr. Akram Safa, and he used to be based and living in Dubai,
3 working for Credit Suisse. And I recall, also, his uncle used
4 to be someone who was living in the United Arab Emirates and
5 friend of Mr. Safa as well.

6 Q And can you just explain what you meant when -- in the
7 second sentence of the e-mail about local Mozambican banks and
8 syndication?

9 A So I recall I contacted Said Freiha, and I told him about
10 the request of Mozambique. I even -- I recall even asking
11 him, like, do you -- there's a country that was asking us for
12 financing, because I have never done this before, so is it
13 something that you do. He told me yes. He told me yes.

14 And then I also told him that, again, relaying the
15 information that was coming to me from Mr. Nhangumele, I told
16 him, look, it seems there are local banks in Mozambique who
17 also will be instructed to participate in this exercise. So
18 if you are interested, so maybe you can join with them.

19 So syndication is, of course, is a word that I am
20 aware of and I know about this since my time in Deloitte. So
21 syndication, for me, means a group of banks joining hands
22 together in order to make a loan.

23 MR. SCHACHTER: Your Honor, we will offer Government
24 Exhibit 2023.

25 MR. BINI: No objection.

1 THE COURT: Admitted.

2 (Government Exhibit 2023, was received in evidence.)

3 THE COURT: You may publish it.

4 MR. SCHACHTER: Actually, can we blow up the full
5 e-mail, Mr. McLeod. Or, actually, just the bottom e-mail from
6 Mr. Freiha.

7 Q And, Mr. Boustani, if you can just take a quick moment
8 and look at that. And then if we can look at your response.

9 Can you just describe to the jury generally what
10 this e-mail is about and why you were communicating what you
11 were communicating.

12 A So based on my communication with Said Freiha, of course
13 he told me that Credit Suisse, in principle, of course, they
14 do this. It is part of their core business.

15 Number two, they said that, of course, they are a
16 commercial bank, so they do something called commercial loans.

17 And then he sends me this e-mail. And after that we
18 had telephone conversations as well where he told me, Jean, in
19 Africa, and now we are talking about Mozambique, usually there
20 are countries that they received financing from the
21 International Monetary Fund. Loans from the International
22 Monetary Fund.

23 And what the International Monetary Fund, what it
24 does is that it poses conditions and policies and procedures
25 on these countries in order to benefit from these loans.

1 Because the International Monetary Fund is a bank, it is like
2 a big bank owned by countries.

3 So usually there are ceilings that is given to each
4 and every country, and that Mozambique had already a certain
5 ceiling. So he told me, like, be aware of that because if
6 anything financing is above the ceiling, we will not be in a
7 position to do anything.

8 I remember I asked Mr. Nhangumele, what is this IMF
9 story, is it true. So he told me that, yes, he confirmed that
10 to me. Because, again, he had previously worked with the
11 Mozambican government.

12 And he told me that, don't worry, we are aware of
13 this, and, of course, everything will be within the ceiling,
14 and in respect of whatever there is, an understanding or an
15 engagement between the Mozambican authorities and the
16 International Monetary Fund.

17 MR. SCHACHTER: And if we can just look again,
18 Mr. McLeod, at the e-mail below this from Mr. Freiha.

19 Q What did Mr. Freiha tell you was the -- do you understand
20 NCB to be nonconcessional borrowing?

21 A Yes. At the beginning I did not, but when I asked him,
22 he told me what does it mean.

23 Q And it talks about the ceiling being what?

24 A \$900 million.

25 Q And Mr. Freiha, what do you understand him to mean when

1 he said it's been used for two loans totalling \$146 million?

2 A So Said told me that they had a ceiling with the IMF of
3 900 million, and all of it, already there are two loans,
4 totalling \$146 million. So there is still available, if you
5 do the math, \$754 million.

6 MR. SCHACHTER: You can take that down, Mr. McLeod.
7 Thank you.

8 Now, may I have just a moment, Your Honor?

9 THE COURT: You may.

10 Q I would like to show you Government Exhibit --

11 MR. SCHACHTER: Actually, Your Honor, we will offer
12 Government Exhibit 2022.

13 THE COURT: Any objection?

14 MR. BINI: No objection.

15 THE COURT: Admitted.

16 (Government Exhibit 2022, was received in evidence.)

17 THE COURT: You may publish.

18 Q Why did you write that the Mozambicans are -- why did you
19 write what you wrote in the third paragraph?

20 A So, again, based on my discussions with Mr. Teofilo
21 Nhangumele, I -- you can see here, I put office of his
22 excellency, the president. And I said -- I put this because
23 Mr. Nhangumele told me that the office of his excellency, the
24 presidents tasked him, asked him to be the consultant on this
25 project.

1 And he also told me that there would be Mozambican
2 local banks that will be participating, up to a level of \$200
3 million. And so Credit Suisse, if it is interested to do the
4 project, all that they have to do is to participate in \$150
5 million.

6 And then he asked me to ask Credit Suisse that to
7 send a letter of interest, like, either address -- he didn't
8 specify to whom it is addressed. That's why here I asked
9 Credit Suisse, like here, to send it in my name or his name,
10 because there was nothing specific at this stage.

11 Q Were you in any way trying to hide Mr. Nhangumele's
12 involvement from Credit Suisse?

13 A Obviously not.

14 Q Now, you wrote here, Mr. Nhangumele, office of HE, the
15 president; do you see that?

16 A Yes.

17 MR. SCHACHTER: I'd also like to show, Your Honor,
18 in evidence, Government Exhibit 2026.

19 THE COURT: You may publish.

20 MR. SCHACHTER: And, Mr. McLeod, can we go to the
21 third page, and blow up that e-mail, please.

22 Q And in this e-mail, what did you say about
23 Mr. Nhangumele?

24 A Again, it speaks for itself. I said the -- there's a
25 team assigned from the office of the president, and he has

1 this team in order to be the consultant for this project.

2 Q What did you understand he was doing as part of this team
3 while he was also working as an agent for you -- or for
4 Privinvest?

5 A He's the one who came to me with all the different
6 requests, starting with the commercial proposal, technical
7 proposal, business plan, operational expenditures, questions,
8 the economic model, the ideas, and, last, the request for to
9 arrange a bank to finance the project, potentially.

10 Q And is that along the lines of the preparation of the
11 business plan that Mr. Nhangumele would tell you about?

12 A Yes.

13 MR. SCHACHTER: And then I'd also, Your Honor, like
14 to publish Defense Exhibit 1510, in evidence.

15 THE COURT: You may publish.

16 MR. SCHACHTER: At the very top e-mail, please.

17 Q And this is an e-mail that you sent to Ms. Subeva and
18 Mr. Pearse, and you copy -- tell us when you're done,
19 Mr. Boustani.

20 THE COURT: Is there a question?

21 MR. SCHACHTER: He's looking at the e-mail, Your
22 Honor.

23 THE COURT: Is there a question?

24 A Yes.

25 MR. SCHACHTER: My question, I was asking him to

1 read it.

2 THE COURT: Go ahead.

3 Q And what did you mean when you said the All African Games
4 is a perfect benchmark? What did you mean in that sentence?

5 A Teo, Teofilo Nhangumele, was consultant for the
6 government of Mozambique and project, big project that
7 happened there. It's called the All African Games. That was
8 like, call it like mini Olympic games, like African Olympic
9 games that happened in Mozambique.

10 So it was massive projects in Mozambique that had to
11 build stadiums and big, big project, and hosting, I think, 50
12 nations. So he was key consultant for the government, working
13 on that exercise for them. So he knows very well how the
14 system, how the bureaucracy works and with all the procedures.
15 And he speaks perfect English, so he's -- because it is not
16 easy to find fluent English speakers in Mozambique because the
17 language is Portuguese. So he was the perfect fit.

18 (Continued on the next page.)

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1 DIRECT EXAMINATION (Continued)

2 BY MR. SCHACHTER:

3 Q Now, you also -- I just want to focus you on the email
4 address, nguila.guidema. What is that?

5 A That's the email of -- one of the email that Mr. Teofilo
6 Nhangumele used.

7 Q And what did you understand was that name?

8 A You know, Mozambique, like in all African countries,
9 the -- it's tribal, so they have different tribes. Like in
10 the Middle East as well, it's tribal. So you have the -- the
11 ethnic authentic African name, and you have also the name
12 given by the colonizing powers. So everybody had a Portuguese
13 name. So you can say Antonio, Carlos, Rosario, Teofilo,
14 Armando. So all these Portuguese names. But they have also
15 their native African names.

16 So I think Mr. Teofilo Nhangumele has an African
17 name, which is Nguila Guidema. Like Armando had the name of
18 Ndambi. Antonio do Rosario had another Hafido, so... They
19 had authentic African names and the westernized names that
20 came with the colonization.

21 Q And while we're on that subject -- well, withdrawn.

22 So --

23 MR. SCHACHTER: May I have just a moment,
24 Your Honor?

25 THE COURT: You may.

1 (Pause in proceedings.)

2 MR. SCHACHTER: Your Honor, may we publish
3 Government's Exhibit 2024 in evidence?

4 THE COURT: You may.

5 (Government's Exhibit Number 2024 is published to
6 the jury.)

7 BY MR. SCHACHTER:

8 Q And first I would like to direct your attention to the
9 second page of this email and specifically the top -- the
10 email right there. Thank you.

11 Can you just explain to the jury what you meant in
12 the third line --

13 MR. SCHACHTER: Or actually, Mr. McLeod, can we blow
14 up that and, the one below it so Mr. Boustani can read that?

15 BY MR. SCHACHTER:

16 Q Take a moment and read that over, sir.

17 A (Witness complies.)

18 Q Have you had a chance to look at it?

19 A Okay.

20 Q Okay. So first of all, there's a name of somebody named
21 Surjan Singh. Do you see that?

22 A Yes.

23 Q And had you met Mr. Singh at this time in February
24 of 2012?

25 A No.

1 Q And at this point in time, in February of 2012, had you
2 met Andrew Pearse?

3 A No.

4 Q So when you -- what did you mean -- first of all, there's
5 a reference to putting a \$350 million letter, and there's 150
6 and 200 million. Do you see that?

7 A Yes.

8 Q What did you understand that to mean?

9 A So as -- as I was communicating with Surjan Singh, now
10 they were preparing the letter of interest. So the total
11 project would be 350 million, whereby 200 million would be
12 done -- would be financed as a loan from Mozambican banks, and
13 150 million direct funding from Credit Suisse.

14 Q And you said "local" Mozambican banks?

15 A Yes.

16 Q And is that what you're referencing in the third line of
17 your email that we're looking at?

18 A Yes.

19 Q Okay. Where did you get that understanding and what was
20 that understanding, if you could just explain that to the
21 jury?

22 A So Mr. Nhangumele told me that the -- he told me, Jean,
23 forget about the barter. Forget about using government
24 resources at this stage. The instructions that -- the
25 communications that I had from the decision maker is go for

1 bank loan, bank financing. And he said that we are looking
2 for banks, but also if you find banks from your side and they
3 could do maybe half of the total or even a little bit less,
4 the other Mozambican banks would follow. And because usually
5 the local mean banks would -- would chip in would, follow any
6 international big bank that is doing a certain financing. So
7 try to secure less than half from a bank -- international
8 bank, and then the rest will be for the local banks would be
9 instructed to do.

10 Q So to the extent you had an understanding at this point
11 in time that there was going to be a syndication of this loan,
12 to whom did you -- who do you understand would be
13 participating in that syndication?

14 A So the syndication will be Credit Suisse and mean banks.

15 Q And then I would also like to ask you a question about
16 the first page of this email and your email at the bottom.
17 And you wrote to Mr. Singh about amending the addressee.

18 Do you see that?

19 A Yes.

20 Q And this was -- the addressee for what?

21 A So at the beginning I said -- I -- I asked Credit Suisse
22 to make the letter either in my name or Mr. Nhangumele's name.
23 But after further discussions with Mr. Nhangumele, so here he
24 told me he would make it the name of the -- of the president,
25 Abu Dhabi President. So here I was referring to actually as

1 the president himself.

2 Q You wrote the name -- what's name that you wrote?

3 A Armando Ndambi Guebuza.

4 Q And why did you ask Credit Suisse to address the letter
5 to that name?

6 A At that stage I felt that Armando Ndambi Guebuza was the
7 president, and that Ndambi -- you saw in other emails Ndambi
8 was his son who met in Germany and Abu Dhabi. But what I
9 meant here specifically was just to address it to the
10 president himself.

11 Q And what is the president's name?

12 A Armando Guebuza.

13 Q All right.

14 MR. SCHACHTER: Now you can take that done.

15 Q Did Credit Suisse send that letter addressed to
16 Mozambique saying that it was highly interested in providing a
17 loan?

18 A Yes.

19 Q And did Mozambique simply accept the terms and move
20 forward with the project?

21 A No.

22 Q What happened?

23 A Initially they refused.

24 MR. SCHACHTER: Your Honor, we will offer
25 Government's Exhibit 2031.

1 THE COURT: Any objection to 2031?

2 MR. BINI: No objection.

3 THE COURT: Admitted.

4 (Government Exhibit 2031, was received in evidence.)

5 THE COURT: You may publish.

6 (Government's Exhibit Number 2031 is published to
7 the jury.)

8 BY MR. SCHACHTER:

9 Q Showing you, Mr. Boustani, looking at
10 Government's Exhibit 2031, an email that you received from
11 Mr. Nhangumele on April 21, 2012 at 5:08. Could you just take
12 a moment and look at that, and then I'll ask you a question?

13 A (Witness complies.)

14 Q And let us know when you have had a chance to review it?

15 A Okay.

16 Q Now, was this after Credit Suisse had said that they were
17 highly interested in offering a loan?

18 A Yes. That's in April 2012.

19 Q What did you understand Mr. Nhangumele to be reporting
20 when he says, "We still have not gotten the answer"?

21 A No news.

22 Q And what did you understand when he said, "Even the head
23 of state does not decide a loan"?

24 A So he made it clear and also on telephone conversations,
25 so I was pressuring a lot, because now at this stage I think

1 more than a year has passed since we started the process. And
2 I was telling him the whole time, What is this? What's going
3 on? I told that you were a capable agent as you have said
4 and -- and that this thing is a done deal. So now you're
5 telling me that even the president does not decide. So he
6 explained to me that, Jean, the president, is not and will not
7 impose this project on anybody from the other decision makers
8 from talking to the other ministers or government officials
9 that are involved in the process. So he has done all that he
10 can do, and that there is a process. And that the president,
11 he wanted the process to be buttoned up. So everyone involved
12 in the process in the different ministries or agencies, up to
13 the ministers to be happy comfortable with this. And then
14 reaching out to him where he would be then making the final
15 decision of going for it or not.

16 Q And at this point in time, how many months had passed
17 since Mr. Nhangumele had emailed you about the 50 million
18 chickens and you wrote, Done?

19 A I think more than a year. A year?

20 Q Could it be that email was December of 2011?

21 A I apologize. So four months -- five months.

22 Q And still at this point in time you understand there was
23 an internal process going on to consider the merits of the
24 project in Mozambique?

25 A Yes.

1 MR. SCHACHTER: May I have a just a moment,
2 Your Honor?

3 THE COURT: You may.

4 (Pause in proceedings.)

5 BY MR. SCHACHTER:

6 Q Now, that email was in April of 2012 that we just saw,
7 was the contract awarded to Privinvest at any time during the
8 summer of 2012?

9 A No.

10 Q Or the fall of 2012?

11 A No.

12 Q Or at any time during the entire year of 2012?

13 A No.

14 Q Did there come -- well, withdrawn.

15 MR. SCHACHTER: May I have just a moment,
16 Your Honor?

17 THE COURT: You may.

18 (Pause in proceedings.)

19 MR. SCHACHTER: Your Honor, may I publish
20 Government's Exhibit 3202 in evidence?

21 THE COURT: You may.

22 (Government's Exhibit Number 3202 is published to
23 the jury.)

24 MR. SCHACHTER: And if we could, Mr. McLeod, please
25 start on the last page of this exhibit.

1 Q And, Mr. Boustani, if you could take a moment and review
2 this email, and then I will ask you about what the general
3 subject matter of this is that's being discussed in this
4 government's exhibit.

5 A (Witness complies.)

6 Q Okay?

7 A Okay.

8 Q First starting with the bottom email in this set, what's
9 the general subject matter of this email?

10 A So this was about a visit that I wanted to do to
11 Mozambique together with a friend of mine called Arnaud
12 Lelouvier.

13 Q For what purpose?

14 A Arnaud was a Frenchman, and he was running a company
15 that -- with some Russian partners that was investing in many
16 projects in Russia and Africa and many countries, mainly
17 focusing on oil and gas and mining.

18 Q And so what was the purpose of this particular meeting in
19 Mozambique that you were trying to organize?

20 A So I met Arnaud. Arnaud used to live in Abu Dhabi, and
21 whenever we met, we discussed Mozambique and he told me that
22 Mozambique was a very, very important place to be, to invest
23 in. He would be delighted to go to Mozambique in order to
24 find opportunities and to invest in these sectors, mining and
25 oil and gas.

1 Q And to set up these meetings, did Mr. Nhangumele ask for
2 a fee?

3 A Yes. As you can see, he asked for \$5,000.

4 Q And just looking at your response very briefly, just
5 focuses on the first three paragraphs, did you say that the
6 fee would be no problem?

7 A I did.

8 Q And then I would like to look at Mr. Nhangumele's
9 response to that. And if you can read that to yourself and
10 let us know when you're done, and then describe generally what
11 you understood Mr. Nhangumele to say?

12 A What he was telling me here is that -- because my -- my
13 answer to his -- to the original email, I said -- I was saying
14 like, Teo, come on? I mean, I don't want to -- look, that
15 even if I put \$5,000 that -- I mean, it doesn't look nice. It
16 doesn't look good even for your image in front of Arnaud. I
17 mean, how come -- you cannot talk about millions and billions
18 and oil and gas and mining and your capability with the
19 decision maker, at the same time asking for \$5,000 for I --
20 for -- for -- to arrange meeting with other public officials
21 and ministries at the oil and gas ministry.

22 So he answers here saying like -- he could see that
23 these are friends and colleagues, that meetings do not buy
24 them bread, so I thought was weird. And he was just
25 explaining the reason why he was asking for this money.

1 Q All right. And this email is not about the coastal
2 monitoring project, is it?

3 A No, no, completely different subject.

4 Q And then I would like to just look at your response to
5 Mr. Nhangumele. You say -- well, why did you ask him this
6 question about, "Is the same issue delaying the EEZ"?

7 A I was asking him, again, is it because we did not pay
8 money in advance as he had requested in the beginning? Is it
9 that -- the reason that he's making the EEZ project not
10 happening?

11 Q And then I would like to look at Mr. Nhangumele's
12 response to you. I would like to direct your attention to the
13 last two sentences, the first paragraph. But please read the
14 whole thing, and then I'll ask you a question about it.

15 A Okay.

16 Q What did you understand Mr. Nhangumele to be saying in
17 that email?

18 A Simply and clear. So he's saying, Paying money is not
19 the issue about securing the EEZ project. It is politics and
20 democratic process.

21 Q And what was your understanding of the political and
22 bureaucratic processes at issue that were resulting in delays
23 in moving forward with the project at that time?

24 A He told me that there are some ministers resisting the
25 project, and mainly, he said, the minister of finance, Manuel

1 Chang. And that so the -- the issue was stuck and nothing
2 could be done, and if the bureaucracy -- and the process --
3 and there is no meeting of minds of all the -- the
4 stakeholders, as he used to -- he has -- he used to call them,
5 the project will not happen.

6 Q And then I would like to direct your attention to
7 Mr. Nhangumele's email, two up at 12:17 on the same chain.
8 And if you could read this one over to yourself?

9 A (Witness complies.)

10 Q And let's know when you're done.

11 A Okay.

12 Q What did you understand Mr. Nhangumele to be saying in
13 the first paragraph?

14 A Again, simple. That the issue is completely out of his
15 hands. Now, the final -- the project was on the desk of the
16 president and on the desk of the different other minsters and
17 decision makers. So it's over. He cannot do anything about
18 that. When they decide, whether or not they decide, whether
19 they go for forward or not go forward. If there's something
20 that is now under their control. He has done all that he can
21 do. And this was -- this was the point.

22 Q And is the second paragraph about the other meetings with
23 respect to oil and gas that you had previously been talking to
24 him about?

25 A Yes. He said that -- because I was suggesting -- I

1 said -- I told him Teo, I am not going to pay you \$5,000 to
2 arrange meetings. You know when I come to Mozambique, I
3 always -- I pay for all expenses, you know, restaurants, going
4 out, renting a car, or a taxi, or whatever you called it. So
5 I -- I will take care of this. No problem.

6 I said, If you want me to bring -- because again,
7 it's part of our culture, you know, the Middle East and
8 African, when we meet someone, et cetera, sometimes we bring
9 nice pens. We bring nice books, nice -- like small gifts. So
10 I said, I could do this, if you want. Then he said, No. No
11 need to bring expensive pens. Maybe something like -- he
12 called it corporate gifts so. He was, like, mentioning
13 something which was in his opinion reasonable.

14 THE COURT: One thing that's reasonable is to have
15 lunch at 1:30. Ladies and Gentlemen of the Jury, it's 1:30
16 now. We'll get back here at 2:30, because we're going to move
17 this along since it's the last week of this trial.

18 All right?

19 Do not talk about the case. We're adjourned until
20 2:30. Have a nice lunch, everyone.

21 (Jury exits the courtroom.)

22 (The following matters occurred outside the presence
23 of the jury.)

24 THE COURT: Thank you.

25 Mr. Boustani, you may step down and go to your

1 counsel table. That's appropriate.

2 THE WITNESS: Thank you.

3 THE COURT: You may be seated, ladies and gentlemen.

4 Do we have any procedural issues to address before
5 the luncheon break?

6 MR. BINI: Nor for the Government, Your Honor.

7 MR. SCHACHTER: Yes, Your Honor, just very briefly.

8 Your Honor, I will attempt to make clear to the
9 prosecution what my purpose is in offering some of these
10 communications --

11 THE COURT: You don't have to make it clear to them.
12 It's clear to me. It's bolstering. It violates 608, and it's
13 not coming in. Your examination is repetitive. It is
14 bolstering. It is not proper, and you are really going to
15 tighten up your game, either with the help of the Court or on
16 your own. So I am telling you now, all right, these are not
17 admissions. You're asking him about meetings. You're
18 offering documents that are clearly designed solely to
19 bolster, and this Court is not having it. So stop wasting the
20 time of the Court and the jury.

21 This is a six-week trial, and this is the sixth
22 week. So I am telling you now, you are going finish this
23 trial this week. All right?

24 Are we clear on that?

25 MR. SCHACHTER: Your Honor, I understand, and I

1 apologize --

2 THE COURT: Good. Because it's very clear what you
3 are doing, and the Court is not going to tolerate it.

4 Now, the jury is not here, so I am giving you a
5 chance to up your game to a level I know you can up it to
6 outside of the presence of the jury.

7 But if you do not do that, you are going to see that
8 you are not going to be happy. All right? So I am telling
9 you now to do this properly. I have ruled. I have come in
10 early. I have stayed late, ruled on motions in limine. You
11 understand the rulings. Your record is preserved if you do
12 not like it.

13 But you can offer the documents in batch that are
14 the bolstering documents and I will rule on them, and that way
15 we can move this along, and we can do this in a way that is
16 not done in the front of the jury. Or you can continue to do
17 it the way you are doing it, but I would not think that that
18 is necessarily in your enlightened self-interest. But you are
19 an experienced lawyer. I am not going to tell you how to try
20 your case.

21 I will tell you this: You have offered a lot of
22 documents that are bolstering. That is all they are. I have
23 made it clear what my you ruling is. And you can do this
24 efficiently, or you can do it inefficiently. I would suggest
25 you do it efficiently.

1 Anything else?

2 MR. SCHACHTER: Your Honor, may I just have one
3 moment to confer?

4 THE COURT: Sure.

5 (Pause in proceedings.)

6 MR. SCHACHTER: Your Honor, we understand
7 the Court's rulings --

8 THE COURT: Yes. They were very clear.

9 MR. SCHACHTER: -- and --

10 THE COURT: And your record is preserved to the
11 extent you disagree with them, just as it was with respect to
12 your disagreeing with my earlier rulings twice that went up in
13 the circuit.

14 So anything else?

15 MR. SCHACHTER: Your Honor, I just wanted to say
16 that I am trying -- I'm going to try to figure out a way to
17 demonstrate that our purposes in offering some of these
18 exhibits are for a non-hearsay purpose. They're offered as
19 the state of mind of Mr. Boustani --

20 THE COURT: Mr. Boustani can testify as to what his
21 state of mind was with respect to the meeting. He can testify
22 as to what was said to him in the course of the meetings, and
23 he's doing that.

24 MR. SCHACHTER: And, Your Honor --

25 THE COURT: By offering these documents and taking

1 them through line by line, paragraph by paragraph you are
2 unduly delaying the process. I know what you're doing, and I
3 know how to stop it. There are two ways: You can stop doing
4 it, or I can stop you from doing it. It's up to you. But it
5 is going to stop.

6 MR. SCHACHTER: Yes, Your Honor, I understand.

7 THE COURT: Anything else?

8 MR. SCHACHTER: Not from the defense.

9 THE COURT: All right. See you after lunch.

10 (Continued on the next page.)

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1 A F T E R N O O N S E S S I O N

2 (Time noted: 2:38 p.m.)

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

4 THE COURTROOM DEPUTY: All rise. Judge Kuntz
5 presiding.

6 THE COURT: We have the appearances. You may be
7 seated.

8 The defendant should be produced.

9 Do we have anything that -- do we have any
10 procedural issues that we need to address --

11 MR. BINI: Not for the Government.

12 THE COURT: -- in the absence of the jury coming in?

13 MR. BINI: Not from the Government, Your Honor.

14 THE COURT: From Defense?

15 MR. SCHACHTER: Not from the defense, Your Honor.

16 THE COURT: All right. That's fine.

17 We will have the defendant produced, and then we
18 will get the jury.

19 (The witness retakes to witness stand.)

20 THE COURT: All right. Mr. Jackson the defendant is
21 here. Would you please get the jury.

22 (Pause in proceedings.)

23 (Jury enters the courtroom.)

24 (Jury present.)

25 THE COURT: Welcome back, Ladies and Gentlemen of

1 the Jury. Appreciate your promptness.

2 Please be seated, Mr. Boustani.

3 Counsel, please continue with your examination.

4 MR. SCHACHTER: Thank you, Your Honor.

5 DIRECT EXAMINATION (Continued)

6 BY MR. SCHACHTER:

7 Q Mr. Boustani, did you from time to time provide
8 information regarding the cost of private security to
9 Mr. Nhangumele?

10 A I recall I was doing lots of desktop research asking
11 people, trying to also help them in putting the different
12 facts, how much oil and gas companies in Africa pay for the
13 security for services. So -- so it could -- again, they can
14 present it to the decision maker -- makers and as a -- as
15 factual evidence, and at the same time arguments so they can
16 help them maybe make a decision.

17 THE COURT: So the answer is "yes"?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: Okay. Next question.

20 BY MR. SCHACHTER:

21 Q Why would that information be important?

22 A I'm sorry?

23 Q Why do you feel that that information was important to
24 the deliberations in Mozambique?

25 A So it could help the decision makers make their decision

1 more properly.

2 MR. SCHACHTER: Your Honor, we will offer
3 Defense Exhibit Number 74. I have discussed with
4 the Government redacting -- it is an article and we redact the
5 substance of the article and leave just the headlines.

6 MR. BINI: The Government objects.

7 THE COURT: Has the document been modified to
8 reflect the agreed-upon redactions?

9 MR. SCHACHTER: It's a proposed redaction. I don't
10 know that it's agreed with the Government.

11 MR. BINI: The Government objects.

12 THE COURT: Well, let me see it, please. Do you
13 have it in redacted or unredacted form, or do we need to have
14 a sidebar? If you have it in redacted form, I could look at
15 it on the screen. But if we're going to have to have an
16 explanation as to what would be redacted -- guess what, Ladies
17 and Gentlemen of the Jury? Welcome back.

18 Do we need a sidebar?

19 MR. SCHACHTER: Your Honor, if I may, what is
20 depicted on the screen would be the entirety of the material
21 that we would propose introducing.

22 THE COURT: All right. So let me look at this.

23 (Pause in proceedings.)

24 THE COURT: Any objection?

25 MR. BINI: The Government objects.

1 THE COURT: Sustained.

2 BY MR. SCHACHTER:

3 Q Now, as you were communicating with Mr. Nhangumele, did
4 you also receive information about piracy attacks in
5 Mozambique?

6 A I did.

7 MR. SCHACHTER: Your Honor, we'll offer Government's
8 Exhibit 2035.

9 THE COURT: Any objection to 2035?

10 MR. BINI: No objection.

11 THE COURT: It's admitted.

12 (Government Exhibit 2035, was received in evidence.)

13 THE COURT: You may publish.

14 (Government's Exhibit Number 2035 is published to
15 the jury.)

16 BY MR. SCHACHTER:

17 Q Can you take a moment to review that to yourself,
18 Mr. Boustani, once you have located that page?

19 A (Witness complies.)

20 Q Let me focus your attention on the top email.

21 A Okay.

22 Q In May of 2012 had at that point the project been
23 approved within Mozambique?

24 A No.

25 Q Now, when Mr. Nhangumele refers to a conversation with

1 Junior, who is that in reference to?

2 A Armando Guebuza, the son of the president Armondo
3 Guebuza, so, Junior.

4 Q And he references news of a pirate attack, that says, "I
5 cannot understand why we're having the delays in the
6 decision."

7 What is the decision that he is referencing there?

8 A The decision of whether to move forward or not with the
9 project.

10 Q Now --

11 MR. SCHACHTER: And you can take that down
12 Mr. Mcleod.

13 BY MR. SCHACHTER:

14 Q -- I want to return to your involvement with
15 Credit Suisse in helping to find financing for the project.
16 Can you explain to the jury why was Privinvest interested in
17 helping Mozambique obtain financing for this project?

18 A For a very simple and obvious reason, as per
19 Mr. Nhangumele, how he was reporting to me. He said that the
20 authorities are now seeking to find a bank who will finance
21 this project, and that they would prefer to find a bank to
22 finance the project and not to pay from their treasury or to
23 barter a deal like I was thinking of proposing. So for me and
24 for Privinvest, obviously, if we don't find a bank or if we
25 don't have funded in the bank, so there would be no financing,

1 and if there's no financing, there's no project. So,
2 obviously, I had -- I had all the interest to do that.

3 Q And did there come a time when you responded to due
4 diligence inquiries from Credit Suisse?

5 A Yes.

6 MR. SCHACHTER: I would like to -- Your Honor, may I
7 publish Defense 1738 and then 1738A in evidence?

8 THE COURT: You may.

9 (Defendant's Exhibit Numbers 1738 and 1738A are
10 published to the jury.)

11 BY MR. SCHACHTER:

12 Q Mr. Boustani, is this an email that you sent to
13 Mr. Subeva with answers to Credit Suisse's queries?

14 A Yes.

15 MR. SCHACHTER: And then if we can turn, Mr. Mcleod,
16 to 1738A to Question 4? It's on the fourth page.

17 If you would, focus on the top?

18 Q I would like to focus your attention on the first two
19 bullets under Paragraph 4.

20 A Okay.

21 Q Why did Privinvest tell Credit Suisse that it was not
22 aware of a formal procurement process and did not respond to a
23 formal procurement process?

24 A Because that's the truth.

25 Q Now, we saw earlier reference -- we discussed earlier a

1 reference to Credit Suisse's highly interested letter. Were
2 there then negotiations between Credit Suisse and Mozambique
3 over the terms of that loan?

4 A Yes.

5 Q And do you recall -- I would like to focus your attention
6 on the summer of 2012. Do you recall the terms generally that
7 Credit Suisse was demanding before it would agree to make a
8 loan?

9 A Yes. I can remember it a little bit.

10 Q What's your general recollection?

11 A They were asking for what they call as commercial terms.
12 So it was -- they -- I think it was they were asking for
13 something near the 3 percent as an arrangement fee, and they
14 were asking something in the range of LIBOR plus maybe 6 and a
15 half or 6.75 percent as an interest.

16 MR. SCHACHTER: Your Honor, we'll offer Government's
17 Exhibit 2040.

18 THE COURT: Any objection?

19 MR. BINI: No objection.

20 THE COURT: It's admitted.

21 (Government Exhibit 2040, was received in evidence.)

22 THE COURT: You may publish.

23 (Government's Exhibit Number 2040 is published to
24 the jury.)

25 BY MR. SCHACHTER:

1 Q Is this an email that you received from Mr. Freiha that
2 was addressed to Mr. Nhangumele but also copied you?

3 A Yes.

4 Q And this is something that you received in June of 2012?

5 A Yes.

6 Q And just focusing on the middle part, do you see the
7 reference to fees and then the LIBOR plus 6.a 25 and a
8 maturity of five years?

9 A Yes.

10 Q Are those the terms that you recall from June of 2012
11 that Credit Suisse was offering?

12 A Yes.

13 MR. SCHACHTER: And, Your Honor, just for
14 completeness, we will also offer Government's Exhibit 2040A,
15 which is the attachments.

16 THE COURT: Any objection?

17 MR. BINI: No objection.

18 THE COURT: It's admitted.

19 (Government Exhibit 2040A, was received in
20 evidence.)

21 THE COURT: You may publish.

22 (Government's Exhibit Number 2040A is published to
23 the jury.)

24 MR. SCHACHTER: Now can we turn back the 2040, the
25 section we were looking at, Mr. Mcleod?

1 Q After Credit Suisse offered these loan terms, did
2 Mozambique accept those terms and then get the money and move
3 forward?

4 A No.

5 Q And I would like to also -- well, what, if anything, did
6 Privinvest do in order to try to bridge the gap between the
7 terms that Credit Suisse was offering for a loan and the terms
8 that Mozambique was willing to pay?

9 A So I recall at a certain stage where Credit Suisse
10 balanced and proposed the idea where there -- there's
11 something called the contractor subsidy fee or the contractor
12 subsidizing a portion of the interest rate. I recall they --
13 I was told by Credit Suisse that it happened with them with
14 different other countries and transactions and contractors
15 whereby the country says, I can only pay certain amount. The
16 bank wants a higher profit, so the contractor comes in the
17 middle and he absorbs his difference in order for him to
18 proceed forward and hopefully get the project.

19 MR. SCHACHTER: Your Honor, may we publish
20 Government Exhibit 2043 in evidence?

21 THE COURT: You may.

22 (Government's Exhibit Number 2043 is published to
23 the jury.)

24 MR. SCHACHTER: And can we first start with the
25 bottom email, Mr. Mcleod?

1 Q All right. Focusing on the first few paragraphs -- well,
2 I guess, just -- well, actually just look at the email
3 yourself, Mr. Boustani, and then can you explain to the jury
4 what you're communicating to Mr. Freiha and the other
5 representatives from Credit Suisse?

6 A So here I remember Mr. Teofilo Nhangumele telling me that
7 the president had said that based probably on a -- a memo or a
8 note from the minister of finance that the offer -- or the
9 proposal of Credit Suisse is not accepted, too expensive. And
10 as -- in the same time, he said that the length of the loan
11 time, which is, I think, five years here was too short, so
12 they wanted something less expensive and long term, which is
13 much more extended.

14 Q And then if we can look at the response from Mr. Surjan
15 Singh, the response to that in June of 2012?

16 A (Witness complies.)

17 Q I would like to direct your attention to the third
18 paragraph of his email. Can you read that to yourself, and
19 then let us know what is he -- what is Mr. Singh proposing
20 here?

21 A He was proposed the contractor subsidy.

22 Q And was Privinvest willing to consider paying the
23 subsidy, was it?

24 A Yes.

25 Q And why?

1 A In order to -- to succeed in getting the project.

2 Q Did you speak to -- or did there come a time when you
3 spoke to Mr. Freiha about the size, the approximate size of
4 the subsidy that Credit Suisse would -- or that Privinvest
5 would need to pay?

6 A I did. I was inquiring about that.

7 Q And what did you learn?

8 A I recall a figure in the range of 50 million.

9 Q And do you recall him also speaking to that in percentage
10 terms or only in dollar terms?

11 A No, it was actually -- so the bank was charging the
12 interest rate, which is 6.35, I think, as we have seen before.
13 What I understood was like Mozambique would maybe pay
14 something like 3 percent. So the difference was around
15 3 percent, and I was asking the bank how much is 3 percent
16 differential and -- and -- in money figure so we can know how
17 to factor this into the costing of the project.

18 MR. SCHACHTER: And, Your Honor, now I would like to
19 publish Government Exhibit 2052 in evidence.

20 THE COURT: You may publish.

21 (Government's Exhibit Number 2052 is published to
22 the jury.)

23 BY MR. SCHACHTER:

24 Q Do you have that, Mr. Boustani?

25 A Yes.

1 Q Okay. And is this an email that you received from
2 Mr. Nhangumele in September of 2012?

3 A Yes.

4 Q And I would like to focus your attention on the first
5 sentence of that email. And what did you understand
6 Mr. Nhangumele was communicating to you here?

7 A Here? That this is a letter from the minister of finance
8 which is authorizing us also to negotiate the parameters of
9 the finance of the -- the financing of the project.

10 MR. SCHACHTER: And then let's take a look at the
11 attachments. In evidence, Your Honor,
12 Government Exhibit 2052, I would like to show you Government's
13 Exhibit 2052A.

14 (Government's Exhibit Number 2052A is published to
15 the jury.)

16 BY MR. SCHACHTER:

17 Q Is this a letter from the minister of finance that was
18 attached to this email from Mr. Nhangumele?

19 A Yes.

20 Q And then also can we turn to the bottom paragraph of this
21 letter?

22 A Sure.

23 Q If you can read that to yourself, Mr. Boustani?

24 A (Witness complies.)

25 Q Okay.

1 A Okay.

2 MR. SCHACHTER: And then I would like to publish the
3 second page of that letter, which is in evidence as
4 Government's Exhibit 2052B.

5 THE COURT: You may publish.

6 (Government's Exhibit Number 2052B is published to
7 the jury.)

8 BY MR. SCHACHTER:

9 Q And so what did you understand was the proposal that
10 the Government of Mozambique was willing to accept,
11 Mr. Boustani?

12 A As it is written by the minister of finance in August
13 of 2012, he was requesting a loan that has period of 20 years
14 with five-year grace period and an interest rate of
15 1.9 percent.

16 Q So what your reaction to receiving this news from
17 Mr. Nhangumele?

18 A For me, I -- I knew that Credit Suisse would never accept
19 that. It was impossible for them to accept that. So for me
20 it was actually very bad news.

21 Q And this position of the Government of Mozambique has
22 communicated to you now, how many months after you had
23 received the chicken email from Mr. Nhangumele in December
24 of 2011?

25 A Ten months.

1 Q Now, after receiving this information, what, if anything,
2 did you do to try to convince Mozambique to agree to pay a
3 higher interest rate?

4 A Well, here I spoke with Mr. Nhangumele after receiving
5 this letter, and I told him like, Teo, this is -- it's clear,
6 I mean, this -- this -- this letter is in a way to bury the
7 project, because you know that the bank would never accept
8 that. So the -- the minister, for him to write such a letter,
9 it's like he's just giving an excuse to -- not to do to
10 project.

11 Q What, if any, research did you do to determine other
12 rates of interest that Mozambique had paid?

13 A So I was doing also desktop research on the Internet to
14 see other financings that Mozambique has done. And I was
15 surprised to see that they are financing -- that Mozambique
16 took from Chinese banks that were more expensive and better
17 terms that the one that the minister was proposing in that
18 letter.

19 Q Okay. Did you provide that information to
20 Mr. Nhangumele?

21 A I did.

22 MR. SCHACHTER: Your Honor, we will offer Defense
23 Exhibit Number 79.

24 THE COURT: Any objection to 79?

25 MR. BINI: Objection.

1 THE COURT: Sustained.

2 MR. SCHACHTER: Your Honor, may we publish in
3 evidence Government Exhibit 2061?

4 THE COURT: You may.

5 (Government's Exhibit Number 2061 is published to
6 the jury.)

7 BY MR. SCHACHTER:

8 Q I would like to turn your attention, Mr. Boustani, to the
9 second -- well, let's look at the bottom email on the first
10 page.

11 MR. SCHACHTER: And then the rest of that email, can
12 you blow that up, Mr. Mcleod?

13 Q Can you look at that email to yourself, Mr. Boustani, and
14 then let me know when you're done and I will ask you questions
15 about it?

16 A (Witness complies.)

17 Okay.

18 Q What are you communicating in this email to Mr. Freiha
19 and other representatives from Credit Suisse?

20 A So what happened once I received the letter from
21 Minister Chang, I sent it to the Credit Suisse Bank, and I
22 told them that I know you will not do this project because
23 these terms will never be accepted by you; however, we're
24 giving it a last try. The -- the delegation from Mozambique
25 is coming again to Abu Dhabi, and their objective is to see

1 finally how much Mozambique can accept to pay and how much you
2 as Credit Suisse is ready to accept to receive so we can know
3 the difference and we see if we can do business or not.

4 I also informed Credit Suisse that we got to know
5 and we found through desktop research that -- about a project
6 that Mozambique got -- got the financing from Chinese bank at
7 the rate, it was around 4 percent, as I remember. So I said,
8 Let's try to work something based on these parameters, and
9 hopefully, we will reach a consensus at the end.

10 Q And what are the terms that you're describing in this
11 email after you say, "The Government of Mozambique will go
12 ahead with Credit Suisse"?

13 A So I recall again after communicating with Mr. Nhangumele
14 and based on the -- now to evidence that we had that
15 Mozambique had -- had borrowed from a Chinese bank at, I think
16 it was, 4 percent, as I said. So the idea came, is to put an
17 offer from Credit Suisse which is cheaper than the Chinese
18 bank on better terms, whereby, of course, the difference
19 between the cheaper offer and the Credit Suisse requested
20 profit or interest would be covered by Privinvest. So I laid
21 down the proposed parameters in this email to the bank.

22 Q And what are those parameters?

23 A You can see them. They are LIBOR plus 3.25 percent,
24 arrangement fee of 1.6 percent that Mozambique would be
25 paying, which is cheaper than the Chinese -- Chinese loan, and

1 the difference between that and what Credit Suisse wants will
2 be, of course, paid by Privinvest.

3 Q And is that -- you make a reference to -- meaning that
4 "ADM will cover," do you see that?

5 A Yes.

6 Q And is that Abu Dhabi MAR?

7 A Yes.

8 Q Now, that email also makes a reference in the middle. It
9 says, "We're ready to meet with Andrew on Thursday afternoon
10 in Abu Dhabi."

11 Do you see that?

12 A Yes.

13 Q And is that a reference to Andrew Pearse?

14 A Yes.

15 Q Did you meet with Mr. Pearse in September of 2012?

16 A Yes.

17 Q Had you ever met him before?

18 A No, this was the first time.

19 Q Okay. What was the purpose of that meeting in September
20 of 2012?

21 A So Mr. Said Freiha told me that he's so techy, he was
22 called the relationship manager at the bank. So he was the
23 man handling the relationship with the -- with clients or
24 customers of the bank. But now since we are moving into a
25 more thorough technical issue about the financing and the

1 pricing and the different other structures, he presented me to
2 Andrew Pearse and he said that he's the technical person at
3 the bank who usually deals with the technical pieces at that
4 stage.

5 Q And generally when you met with Mr. Pearse, what did you
6 discuss?

7 A So Mr. Pearse came to our office in Abu Dhabi, and we
8 discussed with the presence of the delegation from Mozambique.
9 We discussed the -- the detailed terms of the financing and
10 the issue of the pricing, the difference of the pricing. And
11 we -- we were focused as Privinvest from our side to try to
12 understand this -- the difference between what Mozambique
13 wants to pay and what Credit Suisse wants to receive; so this
14 difference so we can know and -- in money -- in money figure
15 how much Privinvest would have to pay Credit Suisse.

16 Q After that meeting, did you have emails with Mr. Pearse
17 about that, the size of that subsidy?

18 A I did.

19 MR. SCHACHTER: Your Honor, may we publish Defense
20 Exhibit 1500 in evidence?

21 THE COURT: You may.

22 (Defendant's Exhibit Number 1500 is published to the
23 jury.)

24 MR. SCHACHTER: And if we can just start with the
25 bottom email from Mr. Boustani to Mr. Pearse?

1 BY MR. SCHACHTER:

2 Q When you wrote to Mr. Pearse, "We have budgeted
3 \$40 million," what was that in reference to?

4 A This reference to the -- the subsidy.

5 MR. SCHACHTER: Oh, and I guess -- Your Honor, I'm
6 sorry.

7 Can we just go to the email right before then from
8 Mr. Pearse?

9 BY MR. SCHACHTER:

10 Q Is this an email from Mr. Pearse in which he is
11 discussing what kind of subsidy Privinvest would need to pay?

12 A Yes.

13 Q And then it's in response to that email that you talk
14 about what with Privinvest had budged?

15 A So -- yes. And so in his email he calculated a figure of
16 50 million that would be the difference that Privinvest has to
17 pay Credit Suisse. And my answer to him was like, we budged
18 40 million. So is it possible to reach this figure?

19 MR. SCHACHTER: And then let's look at Mr. Pearse's
20 response briefly.

21 Q And what was his response?

22 A His response was, as you can see, he said, "Maybe we can
23 reach 46 million." But again, he was saying that this issue
24 is depending on many, many factors. So still at this stage,
25 we were in the theoretical assumption.

1 Q And you responded just "Okay"?

2 A Yes.

3 Q Now, was Privinvest willing to go forward on those terms,
4 roughly?

5 A Yes.

6 MR. SCHACHTER: And, Your Honor, may we publish in
7 evidence Government Exhibits 2073 and 2073A.

8 THE COURT: You may.

9 (Government's Exhibit Number 2073 is published to
10 the jury.)

11 BY MR. SCHACHTER:

12 Q First starting with Government's Exhibit 2073, Mr. Pearse
13 sends to you the draft loan agreement. Do you see that?

14 A Yes.

15 Q And he also makes a reference to a fee letter. Do you
16 see that?

17 A Yes.

18 Q And what's your understanding of what that fee letter is
19 that he's refers to?

20 A So that's the subsidy fee, so it would be how much
21 Privinvest will have to pay Credit Suisse.

22 MR. SCHACHTER: And then if we can look just briefly
23 at Government Exhibit 2073A.

24 (Government's Exhibit Number 2073A is published to
25 the jury.)

1 MR. SCHACHTER: And if we can --

2 BY MR. SCHACHTER:

3 Q Well, was this the entire draft -- or was it a draft loan
4 agreement that he sent to you?

5 A Yes.

6 THE COURT: "He" being?

7 MR. SCHACHTER: I'm sorry, Your Honor.

8 Q Mr. Pearse, did Mr. Pearse send this to you?

9 A Yes.

10 Q And what's your understanding as to why he was sending it
11 to you?

12 A So I can send it to the Mozambicans.

13 Q And was Privinvest going to be a party to this loan
14 agreement?

15 A No.

16 Q Did you -- how long --

17 MR. SCHACHTER: Well, Mr. Mcleod, if we could just
18 show the last page of this document, if you look at the page
19 number?

20 BY MR. SCHACHTER:

21 Q So is this an 88-page attachment to this email?

22 A Yes.

23 Q Did you read it?

24 A No.

25 Q Why not?

1 A It does not concern me.

2 Q Why did it concern you?

3 A Because it was a loan agreement, a draft loan agreement
4 between Mozambique and Credit Suisse.

5 Q All right. And did you, in particular, pay any attention
6 to the language on Paragraph 19.8 on Page 38, oh, about --
7 well, did you pay any attention to that provision or any
8 provision?

9 A No.

10 THE COURT: He said he didn't read it. Why don't we
11 move on? If he didn't read it, he couldn't have paid any
12 attention to any of it.

13 MR. SCHACHTER: Yes, Your Honor.

14 You can take that down, Mr. Mcleod.

15 BY MR. SCHACHTER:

16 Q Did you around this time period, the fall of 2012, have
17 communications with Mr. Nhangumele about Privinvest's desires
18 to expand its investments to shipyards and other businesses in
19 Mozambique?

20 A I think I did that.

21 MR. SCHACHTER: Your Honor, we'll offer
22 Defense Exhibit 85.

23 THE COURT: Is there any objection to
24 Defense Exhibit 85?

25 MR. BINI: Objection.

1 THE COURT: Sustained.

2 BY MR. SCHACHTER:

3 Q You described earlier trying to introduce members of the
4 royal family of Abu Dhabi to the leadership in Mozambique; is
5 that correct?

6 A Yes.

7 Q Why? Why did Privinvest want to develop that
8 relationship?

9 MR. BINI: Objection, Your Honor.

10 THE COURT: Asked and answered. Sustained. Let's
11 not do it twice.

12 Keep moving.

13 MR. SCHACHTER: Yes, Your Honor.

14 BY MR. SCHACHTER:

15 Q All right. Mr. Boustani, I would like to direct your
16 attention to January of 2013. Were you in Mozambique at that
17 time?

18 A Yes.

19 Q Okay. And why were you in Mozambique now in January
20 of 2013?

21 A So the year 2012 finished and still there is no sign or
22 no hope or no news for the project. So I told myself that if
23 I don't go there and just be on the ground and sit there the
24 whole time to -- until I see what's going on exactly on the
25 ground so the probability of having the project happen is

1 maybe zero. So I decided to go there.

2 Q And what were your objectives in trying to move the
3 project? What was your hope to do in order to move the
4 project forward at that time?

5 A So since 2011, and Mr. Safa was telling me that, Jean, if
6 we don't meet the president, who is the decision maker, this
7 project will never happen. That's my experience. So as long
8 as we did not reach this stage, as long as all we have
9 proposed for -- throughout the Mozambique and agent,
10 Mr. Nhangumele, that why didn't we arrange a meeting between
11 the president and his counterpart in Abu Dhabi, and that thing
12 did not happen as well. So for Mr. Safa it was a sign that
13 this whole thing is not serious.

14 So I went to Mozambique with the clear objective of
15 doing everything I can just to meet the president. The only
16 hope I had was -- or the only sign that we had that we kept
17 the momentum going on was that I met since December of 2011,
18 senior official in the secret service of Mozambique,
19 Mr. Antonio Carlos do Rosario, and the son of the president.
20 So I felt that maybe that's the only hope I have in order to
21 sit with the decision maker and to see if this thing would be
22 finished or not.

23 Q And did there come a point in time in January of 2013
24 where you were actually successful in having an opportunity to
25 meet the president of Mozambique?

1 A I did.

2 Q And can you tell us what that occasion was and what
3 happened?

4 A So I got to Mozambique at the beginning of January, and,
5 of course, I also remember that Andrew Pearse comes from the
6 bank. There was a hope of signing some kind of term sheet
7 between the bank and Mozambique, which was not done. So I
8 stayed in Mozambique, and at that stage I speak with Armando
9 Guebuza, Jr., and I urged him for a meeting. So I see him,
10 and I expressed my frustration and said, Like, look. I mean,
11 I don't know what's -- what's going on. I mean, this has been
12 now two years. I've been -- we're talking to the bank. We
13 have already informed the authorities in Abu Dhabi, so we have
14 a credibility at stake. So I need to know if the project will
15 happen or not. And, please, if I can meet your father so I
16 can at least explain where do we stand, or at least if I can
17 hear it from him whether the project would happen. Or if
18 it's -- if not, what is the reason, so -- and we can close the
19 chapter?

20 So eventually Armando -- he told me, Look, my
21 father's birthday's is in the weekend, I think it was on a
22 Thursday or Friday, so I will take you there. That's a --
23 that's a birthday event. There are many people sitting, but
24 it will be an opportunity so you can see him maybe for half an
25 hour and you can talk. And it's where I met the president for

1 the first time on his birthday in January of 2013.

2 Q And tell us about your conversation -- is his name
3 Armando Guebuza?

4 A That's President Armando Guebuza.

5 Q Tell us about that first conversation with
6 President Guebuza?

7 A So I meet the president. It was his birthday. I think
8 it was his 70th birthday. And I said to the president, and I
9 tell him that -- first I present myself. I present
10 Privinvest. And I -- I spoke in detail about everything I was
11 trying to do with Mozambique and for Mozambique's since 2011.
12 And I explained to him that up to now, the only thing we heard
13 was a letter from Minister Chang that said that the project
14 has been approved unanimously, and there was an issue of the
15 financing, although we have -- I think we reached a certain
16 understanding. So we haven't heard yet back.

17 I also emphasized a lot on the strategy of the
18 project, on the vision of the project, so -- and then I heard
19 from him back. So he welcomed me, and he stressed also a lot
20 about his vision of the project and about his happiness to do
21 the project and about his strategic view of the importance of
22 this project for security of Mozambique and for the economy of
23 Mozambique.

24 He was a little bit surprised in the terms of the
25 bureaucracy. He thought that the issue of financing has been

1 resolved. And he also asked me to then come the next day so
2 we can -- to his office so we can talk a little bit more in
3 details.

4 (Continued on the next page.)
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1 DIRECT EXAMINATION (Continued)

2 BY MR. SCHACHTER:

3 Q And did you do that?

4 A Yes.

5 So the next day, again, I went to the -- to his
6 office, to the presidential palace with Armando, his son. And
7 then I managed to see the president also for a second time.

8 Q And can you tell us about this second discussion with
9 President Guebuza at this time in his office?

10 A At this time in the office it was a bit shorter, but more
11 straight to the point, as we say.

12 So I believe the president has inquired already
13 about what was going on with respect to the project.

14 And he told me that I have now more details about
15 what's going on. So your focal point will be the Secret
16 Service, someone from the Secret Service will be in contact
17 with you in order to move things forward.

18 The minister of finance has told me that he will be
19 ready to move toward with the final terms that has been
20 presented to him.

21 And I spoke a lot also about Abu Dhabi, the relation
22 with Abu Dhabi, the strategic importance of the relationship
23 of Abu Dhabi. I spoke about the added value of Privinvest.
24 What Privinvest wanted to do in Mozambique, in terms of other
25 investments, bringing other foreign investments to develop the

1 relationship of Mozambique with other countries.

2 We spoke about Abu Dhabi. Then we spoke about
3 Europe, also France and Germany where we have a presence. And
4 I stress also organizing a state visit for him, which would
5 also show our capability and he can also do his due diligence.

6 I also told him that my boss, the owner, the
7 chairman of Privinvest is honored and happy to come and see
8 him any time he wishes so we can also discuss these matters.

9 So I recall he told me, Let your boss be ready to
10 come in the meantime to see me.

11 Finally, he also told me that for sure I have to do
12 my due diligence on you, and I hope that whatever you telling
13 me is true, but because this is very sensitive, this is very
14 important, this is maybe one of the most important projects,
15 other than oil and gas sector that was going on in the
16 country. So it has to be with the right partners and the
17 right sense.

18 Last, I -- and I discussed this with his son before
19 telling him this -- I was very blunt, I told him, Your
20 Excellency, I have to tell you something. And he told me
21 what?

22 I said, There's a person called Teofilo Nhangumele
23 who we are dealing with as an agent, and he claimed that
24 there's arrangement fee or a payment of \$50 million that has
25 to happen. And that this -- part of this money, or the bulk

1 of the money is related to you. So I was extremely
2 straightforward with that.

3 The president, of course, he -- I mean he -- he was
4 frozen. Then he looked at his son and he asked him in
5 Portuguese like, Who is this? Who is Teofilo Nhangumele?

6 So his son told him, I don't know him, but he was
7 presented to me by one person called Bruno Langa.

8 The president looks at me straight and says,
9 Mr. Boustani, you are talking about a big strategic project.
10 You are talking about Abu Dhabi. Talking about payments.
11 You're talking about serious things here. So my answer to
12 your question is simple. Nobody, nobody, me, or not any
13 single public official in Mozambique will be allowed to take
14 one penny in order for them to do their job on this project.
15 Whoever asked you for a penny say, no, and you come to me and
16 you let me know who asks for this and you say "busta".

17 I told him, Your Excellency, it is clear, and sorry
18 for saying this, but I had to do it. And then we leave his
19 office.

20 Q I want to break down a couple of components to that.

21 You said that he talked to you about the
22 relationship with Abu Dhabi.

23 What did he say about that?

24 A He said it is very strategic and important for him.

25 Q And you say he talked about in that -- in both

1 conversations, he say you talked about the importance of the
2 project.

3 What do you recall him saying about that?

4 A During his birthday, even on this other second meeting,
5 he told me that -- and later on it was developed in many, many
6 other meetings that I had with him -- that Mozambique now is
7 on an oil and gas boom. So the country will be extremely
8 wealthy.

9 The biggest problem he saw was lack of security.
10 And he told me that, unfortunately, all African countries that
11 are blessed with natural resources are extremely unstable. He
12 cited Nigeria. He cited Angola. He cited Congo. He cited
13 many countries.

14 And the other problem he saw that when countries are
15 relying on natural resources, they become affected with
16 something technically called the Dutch disease, which is like
17 nobody works any more, the country is just sit and wait for
18 the payments that is given to them by the foreign
19 international companies and the economy does not develop.

20 So in order to avoid the Dutch disease, so he said
21 that tourism, build economy, maritime economy, so fishing,
22 shipbuilding, all the maritime issues are crucial for him.

23 Security, of course, was a must. He was extremely
24 concerned about the lack of security in the country; whether
25 it's from the rebel group, RENAMO, and he told me that he

1 started to see at that time they had reports about the
2 beginning of Islamic fundamentalism going on in the country,
3 which, unfortunately, is a disaster today, as we speak.

4 He also -- he also like focused a lot on the, I
5 would call it the -- his financial slogan, economic
6 independence.

7 He told me that he was a freedom fighter. He's a
8 general. He was in the Army. He's a freedom fighter. This
9 is the people like from the Nelson Mandela times, fighters who
10 just fought for political independence from colonization, and
11 at that time they fought for just the principle of it.

12 He told me Mozambique was a very prosperous colony
13 for Portugal, but at a certain stage, the Mozambicans asked
14 they said, like, Can we have our country back, please? And
15 the Portuguese said, No. So it was -- it was a violent world,
16 independence.

17 He told me that when the country was independent, it
18 was a wreck. The country was destroyed. So the collateral
19 damage was huge, but the objective, which was crucial.

20 He said, What is going to happen now, and my vision,
21 and my idea, and what I want to achieve is something called
22 the economic independence. Maybe politically we will be
23 independent today, but economically we are not.

24 The foreign companies, they just use Mozambique and
25 maybe all other African countries like -- he used the term

1 "pumping station" gas, oil, natural resources, everything,
2 fisheries, and practically doing nothing to these countries.

3 He said, I want to create national companies so we
4 control our faith, our economic faith and destiny; whether
5 it's security, whether developing industries, so we can create
6 things, we can export and we can reduce the independence on
7 foreign companies, and we can keep at least a portion of the
8 wealth that we have in the eyes Mozambican as an entity to be
9 proud to foreign companies.

10 So he told me like, This is my vision. This is my
11 last term as a president, and I would love to leave this as a
12 legacy.

13 So if you want to be part of this, and if you want
14 to be sharing my vision of that and Abu Dhabi is willing to
15 invest and develop these things with other countries, this is
16 the thing that I want.

17 Q What, if anything, did he talk about in this meeting
18 regarding his own personal businesses?

19 A President Guebuza asked me for three, four things in that
20 meeting and subsequent meetings.

21 He said First of all, security is key. If there's
22 no security, there's not a single tourist who will come to
23 Mozambique. Because if it's chaos, people will be scared,
24 nobody would come.

25 If there's no security, there's not one investor who

1 will put a penny in Mozambique. If there's no security, the
2 country is traumatic. So security is key, it's paramount. So
3 please support and invest in the security. So we stand by the
4 armed force and the Secret Service.

5 Second thing he asked for, he said, You're talk
6 about Abu Dhabi, about other things. Yes, bring foreign
7 investments, bring investors, bring as much as you can, bring
8 investors to the country so they can invest in all the sectors
9 that we have. And not only natural resources but also tourism
10 and industry to create things made in Mozambique.

11 Number three, he said, I want you to invest in
12 Mozambique as well as you're saying. So I want to see that
13 you're investing in the country as well and not like you're
14 acting like any -- all contractors that come to Africa, they
15 just sell and leave. So I want you to do things in the
16 country as you're told me. I want you to -- I want to hold
17 you responsible for the things that you're talking about and
18 presenting.

19 He said that there are many business people in the
20 country. He said it's not secret. I am the biggest
21 businessman in the country as well. We have a large family
22 business, and there are also other people in the country that
23 are business people. So I'll be happy to work or choose
24 whoever I want to in order to invest in the country.

25 And last, he asked me for one last thing later on.

1 He told me, I want to also to support the party. That's it.

2 Q So focusing first on this conversation, with respect to
3 his business, what, if anything, did he say about Armando, his
4 son?

5 A He told me, We're probably the largest family business in
6 the country. So if I want to invest in the country, I'm
7 looking for local partners. Armando, he could -- we could sit
8 and Armando can see what we can do in the private sector in
9 the country.

10 Q Now, after you left that meeting in the president's
11 office, did you speak to Armando Guebuza, we'll call him
12 "Junior", after that meeting?

13 A I did.

14 Q Can you tell us about that conversation?

15 A So when I left, I told Armando Junior, I told him, So now
16 the issue of Nhangumele is key. He said, Yes, it's key.

17 I said, Good. So what shall I do now? I mean
18 I'll -- I will inform Nhangumele about this whole story of
19 chickens, as you've seen in the -- as we have sensed from the
20 beginning, as Mr. Safa also sensed that obviously it's not
21 correct.

22 So I said, What do you think? I mean, Shall we pay
23 them some kind of arrangement fee because at the end of the
24 day, maybe if they did not -- if Nhangumele did not bring
25 Bruno Langa, who then also presented me to you, there wouldn't

1 be any project in Mozambique, so in my opinion it's fair to
2 pay some kind of success fee.

3 So he told me, Look, it's up to you. You can pay
4 nothing. But at the end of the day, if you want to pay
5 something, this is up to you. So you -- you decide what to
6 do.

7 Q And who did you speak to next?

8 A I needed to call Mr. Safa to report to him, to inform him
9 of what happened.

10 First, he was obviously happy. He said, Finally,
11 you -- as you say, the moment of truth came, so you met the
12 president and you heard it from him. So now I believe, as you
13 say, I really believe that the project will happen.

14 I also informed him about the issue of
15 Mr. Nhangumele.

16 So Mr. Safa said, It's clear, let me think about it.
17 I think and I believe that it's fair to pay some kind of
18 commission for Mr. Nhangumele, but I'll decide about this and
19 I'll think about it.

20 Last I asked him I said, What about the contract?
21 Because now I'm ready to sign. So they are ready from the
22 Mozambican side. So what do I do now with respect because we
23 factored in the 50 million.

24 And I told him also that the president asked me that
25 I should -- we should support the projects.

1 Because one of the things also the president told me
2 that be ready to face a lot of hurdles. We have a very
3 difficult and slow bureaucracy. There's total challenges
4 here. And that this these companies, these projects will be
5 structured like private projects, because they are expected to
6 generate revenues. So they had to be run in a private
7 business mentality.

8 So the government has not put budget for these
9 projects, so you would be expected to support the kickoff and
10 the launch and the start of these projects.

11 He said it will be very difficult, it's very
12 challenging, I hope you're up to it. Of course, it would be
13 better if he was there.

14 So the last thing I want to see is you coming
15 knocking on my door and saying, I didn't know this, I didn't
16 know that, this is problems, problems, problems, problems. He
17 said, I don't want to hear problems. If you're up to the
18 level, you have to come and tell me there's solutions only.

19 So I told Mr. Safa about all this. So he told me,
20 Jean, it's clear, for the time being, move ahead and sign, and
21 later on we'll do may be later amendments and we see how we
22 can now, since we know that there are different payments to
23 support the project, we'll see what to do.

24 Q Did there come a time later in that week when you were
25 contacted by somebody in Mozambique about moving forward with

1 the project?

2 A Yes. So it was Antiono Carlos do Rosario.

3 So as he told me, the Secret Service will be in
4 contact with you, that there will be focal point assigned to
5 you for this project, and it was Antiono Carlos do Rosario.

6 Q And can you just describe to the jury what was -- what
7 did understand Mr. Rosario's role was in the Secret Service,
8 and why the Secret Service was going to be the focal point for
9 the project?

10 A Antiono Carlos do Rosario is the head of the economic
11 intelligence unit in the Mozambican Secret Service. And he
12 was assigned for it, obviously, because it's security project,
13 and at the same time it has economy impact.

14 So he was the person that they decided for -- for
15 him to be the focal point and to be managing and responsible
16 for this project.

17 I -- so -- and I knew Mr. Rosario since
18 December 2011, when he came for the due diligence trip in
19 Germany. So he was also fluent in English and many other
20 languages. A very smart man.

21 Q Did Mr. Rosario contact you that week after your meeting
22 with the president?

23 A He did.

24 Q For what purpose?

25 A To let me know that instructions have been received,

1 everything's clear, the bureaucracy is done, and they have
2 created -- they formed the company, which is now the famous
3 Proindicus, and that they are ready to sign the contract.

4 MR. SCHACHTER: Your Honor, may I publish Government
5 Exhibit 2110 in evidence.

6 THE COURT: You may.

7 (Exhibit published.)

8 Q And is this the contract -- is this the Proindicus
9 contract that was signed in Mozambique that week in January of
10 2013?

11 A Yes.

12 MR. SCHACHTER: And can we go to the last page.

13 Q It bears the date of January 18, 2013.

14 Is that the date when the agreement was signed?

15 A Yes.

16 Q And it shows -- is that your signature on it?

17 A Yes.

18 Q And are you able to make out who signed it for
19 Proindicus?

20 A I think it was Raufo Ira.

21 Q Who is that?

22 A Raufo Ira was -- so let me clarify this.

23 Proindicus is owned by two ministries in Mozambique;
24 the minister of defense that owns 50 percent of it, and the
25 Secret Service, who owns the other 50 percent of it.

1 THE COURT: Do the institutions own it, or do the
2 individuals own it?

3 THE WITNESS: No, Your Honor, it's the institutions.

4 THE COURT: All right. Go ahead.

5 A So Raufo Ira was the authorized person to sign on behalf
6 of the Secret Service for that project.

7 Q Now, this contract, did you draft it?

8 A No.

9 Q Who drafted the Proindicus/Privinvest contract?

10 A My colleague in Privinvest, his name is David Langford
11 and he's the in-house lawyer of Privinvest.

12 THE COURT: Did you sign it?

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: Did you read it before you signed it?

15 THE WITNESS: I did not.

16 THE COURT: Go ahead.

17 MR. SCHACHTER: And I'd like to direct your
18 attention to the ninth page of the document.

19 THE COURT: Have you read this document?

20 THE WITNESS: No, Your Honor.

21 THE COURT: So why are you asking him about it?

22 MR. SCHACHTER: Yes, Your Honor.

23 THE COURT: He signed it, and he didn't read it.

24 MR. SCHACHTER: Yes, Your Honor, I'll move on.

25 THE COURT: That will be nice.

1 Q Mr. Boustani, at the time this document was signed,
2 January 18th, 2013, had Privinvest provided any money
3 whatsoever to any official in Mozambique?

4 A No.

5 Q Had Privinvest even paid Mr. Nhangumele anything at that
6 point in time?

7 A No.

8 MR. SCHACHTER: Your Honor, may I publish Government
9 Exhibit 2114 in evidence.

10 THE COURT: You may.

11 (Exhibit published.)

12 Q Mr. Boustani, you were asked questions by the Court as to
13 whether you read the document, read that contract before you
14 signed it.

15 THE COURT: And he said he hadn't.

16 Q Can you explain why not?

17 THE COURT: Are you in the habit of signing
18 documents you don't read?

19 THE WITNESS: Sorry, Your Honor?

20 THE COURT: Are you in the habit of signing
21 documents that you have not read? Is that your habit?

22 THE WITNESS: I didn't sign a lot of documents.

23 THE COURT: Are you in the habit of signing
24 documents that you do not read?

25 THE WITNESS: When they are prepared by people I

1 trust, I don't read them.

2 THE COURT: Okay. Next question.

3 Q Looking at Government's Exhibit Number 2114, this is an
4 email that you wrote to various people at Credit Suisse. And
5 it references a contract value, a TS amount, and a CS fee.

6 Can you just explain to the jury -- and then there's
7 a reference to a subsidy.

8 Can you explain to the jury what those terms are?

9 A So TS means term sheet. So this are the term sheet
10 signed between Credit Suisse and Mozambique for a total amount
11 of \$372 million. To be precise, it was between Credit Suisse
12 and Proindicus.

13 The \$6 million are fees that were deducted by Credit
14 Suisse as fees for them. So the net amount that Credit Suisse
15 was paying to Privinvest was supposed to be 366 million, which
16 is the contract value.

17 Out of it as well, Privinvest had to pay \$49 million
18 to Credit Suisse, which is the subsidiary fee, which is the
19 interest difference that we were talking about.

20 Q And then there's a line which --

21 Mr. Mcleod, the next line.

22 Q -- it says, which means Privinvest will receive
23 \$317 million?

24 A Yes.

25 Q And what is that?

1 A So between the loan of -- total loan amount of
2 \$372 million that Mozambique would borrow from Credit Suisse,
3 Privinvest would receive \$317 net, which means that Credit
4 Suisse will be taking \$55 million as profits.

5 Q Now, this is a contract, but the Privinvest/Proindicus
6 contract is a contract between a company in the United Arab
7 Emirates and a Mozambican company; is that correct?

8 MR. BINI: Objection.

9 THE COURT: If you know; yes or no?

10 A Yes.

11 Q Why are these discussions, or why are these payments in
12 U.S. dollars?

13 THE COURT: Do you know?

14 THE WITNESS: Yes, Your Honor.

15 A The -- I mean, I don't want to develop into economics
16 now.

17 THE COURT: So don't.

18 Do you know why they're in U.S. dollars is the
19 question.

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: What's the answer?

22 THE WITNESS: The answer, Your Honor, is that 70,
23 80 percent of international trades in the global economy is
24 done in U.S. dollars.

25 THE COURT: Next question.

1 Q What -- when you are transacting in U.S. dollars, are you
2 thinking about the United States?

3 A No.

4 Q What currency -- when you're in Lebanon, what is the
5 currency that is used?

6 A I mean me, I buy my grocery in U.S. dollars.

7 Q In Beirut?

8 A In Beirut.

9 Q Yeah, is that?

10 A It's the global currency.

11 MR. SCHACHTER: You can take that down, Mr. Mcleod.

12 Q You mentioned that President Guebuza asked for Mr. Safa
13 to come to Mozambique; is that correct?

14 A Yes.

15 Q Did that happen, did Mr. Safa come to Mozambique?

16 A Yes.

17 Q Approximately how much after the contract was signed did
18 that occur?

19 A I believe Mr. Safa came to Mozambique in January 2013.
20 So at the end of January, after signature of the contract.

21 Q And were you present when he met with the president?

22 A I was.

23 Q Who else was present?

24 A There was the president. There was his advisor. His
25 name is Professor Renato Matusse. There was I remember

1 Junior. And myself.

2 Q And what, in very general terms, briefly was discussed
3 during the course of that meeting?

4 A Again, so Mr. Safa, of course, thanked the president for
5 his trust and for the contract. He promised the president
6 that he will be very proud of what we will achieve.

7 And then the discussion was, a lot of it, turning
8 into the strategic aspects of now the relationship between
9 Privinvest and Mozambique and what Privinvest will now start
10 doing for Mozambique.

11 Again, talking about the strategic relation of Abu
12 Dhabi with France, Germany, other countries. And we --
13 President Guebuza focused a lot again on the, I would call it
14 his flagship story of economic independence; that to keep the
15 wealth and the money of Mozambique in Mozambique and for the
16 Mozambicans.

17 And then the other main topic was focused on
18 organizing now first step, which is the visit of
19 President Guebuza to Abu Dhabi, a state visit, so he can do
20 his due diligence, and that he can see himself of who is
21 Privinvest from his counterparts. And that it will be an
22 opportunity to now to start activating also foreign direct
23 investments from Abu Dhabi to Mozambique.

24 So President Guebuza told Mr. Safa, I mean, Let's
25 escalate this as fast as possible, I'm waiting, and I'm ready

1 to go to Abu Dhabi as soon as possible.

2 So what's what generated meeting.

3 Q You mentioned that Mr. Safa mentioned or Mr. Safa and the
4 president spoke about France and Germany.

5 What was discussed about that?

6 A So Mr. Safa told him that today because of the shipyards
7 that we own in these countries, I knew the shipping industry
8 is a very strategic industry, especially when it's in the
9 defense sector, so our shipyard in France, the same thing.
10 It's very unique in France because it is the only shipyard
11 that has served more than 45 countries.

12 I don't think someone else had -- has this footprint
13 of servicing different countries like that.

14 We employ also people. Same thing in Germany. Same
15 strategy that I mentioned.

16 So what we said that we will put in service of
17 Mozambique our relationship and our lobbying capacity in order
18 to push the authorities there to also tell their big companies
19 there to come and invest in Mozambique, and also to build good
20 relations between Mozambique and these countries for security
21 purposes and for economic purposes.

22 Last, President Guebuza was very interested in
23 France for a very particular reason. There's a tiny, tiny
24 little island in the middle of the Mozambique Channel called
25 Island Europa, and it belongs to France, and the EEZ, as we

1 say, the Maritime Exclusive Economic Zone, this island,
2 although it's tiny, is bigger than the Mozambican entire
3 Exclusive Economic Zone.

4 So he had some points to discuss about this
5 strategy, and in the same time France was -- he had a border
6 with it. So he was very, very focused and interested on
7 developing a relationship with this particular country.

8 Q And what, if anything, was discussed during this meeting
9 about our investments that Privinvest would make in
10 Mozambique?

11 A So Mr. Safa told him that we are ready now to also
12 explore other opportunities in the country, and the sectors
13 like we've been talking about, like real estate, telecom, and
14 to join with Abu Dhabi also whatever Abu Dhabi would like to
15 invest, we'll be happy to also invest with Abu Dhabi in these
16 projects; mining, oil and gas, and other infrastructure
17 projects.

18 MR. SCHACHTER: And, Your Honor, may we publish
19 briefly Government Exhibit 5006A in evidence?

20 THE COURT: You may.

21 (Exhibit published.)

22 Q Can we turn to the -- and this is a letter from Abu Dhabi
23 MAR to President Guebuza.

24 Do you see that?

25 A Yes.

1 Q And that's just a short time in advance of this meeting,
2 the month before?

3 A Yes.

4 MR. SCHACHTER: If we can turn to the second page.

5 Q Is this a letter signed by Mr. Safa?

6 A Yes.

7 Q And I'd just like you to describe the --

8 Mr. Mcleod, if you can go just to the top paragraph.

9 A Okay.

10 Q And is this along the same lines of other investments
11 that was discussed in the meeting in January?

12 A Absolutely, that's the core spirit of the discussion.

13 MR. SCHACHTER: All right, take that down
14 Mr. Mcleod.

15 THE COURT: Why don't we take our ten-minute break,
16 and then we will be back at 4:00, ladies and gentlemen of the
17 jury, and we'll finish up for the day.

18 Don't take about the case yet.

19 (Jury exits the courtroom.)

20 THE COURT: The jury has left the room.

21 You may step down.

22 THE WITNESS: Thank you.

23 (The witness steps down.)

24 THE COURT: You may be seated, ladies and gentlemen.

25 Do we have any issues to discuss outside the

1 presence of the jury?

2 MR. BINI: Not from the government.

3 THE COURT: The defense.

4 MR. SCHACHTER: No, Your Honor. Thank you.

5 THE COURT: Enjoy your ten-minute break.

6 (A recess was taken at 3:50 p.m.)

7 (Jury enters the courtroom.)

8 THE COURT: Welcome back, ladies and gentlemen of
9 the jury. You see, I actually know what ten minutes really
10 looks like.

11 Please be seated, and we will continue to have our
12 hard stop at 5:00.

13 Please be seated, Mr. Boustani.

14 Please continue with the questioning.

15 MR. SCHACHTER: Thank you, Your Honor.

16 THE COURT: Of course.

17 DIRECT EXAMINATION (Continued)

18 BY MR. SCHACHTER:

19 Q Mr. Boustani, before the break we were talking about the
20 meeting you attended with Mr. Safa and President Guebuza in
21 January of 2013.

22 Do you recall that?

23 A Yes.

24 Q When you left Mozambique, where did you fly to from
25 there?

1 A We returned to Abu Dhabi.

2 Q And who did you travel with when you left Mozambique to
3 go to Abu Dhabi?

4 A We returned with the Armando, Jr., and Bruno Langa and
5 Teofilo Nhangumele.

6 Q And what was the reason why Mr. Nhangumele, and
7 Mr. Langa, and as well as Armando were going to Abu Dhabi from
8 Mozambique with you and Mr. Safa?

9 A So following the meeting that we had with
10 President Guebuza, so we decided to return back.

11 Mr. Safa by nature is someone who likes to make
12 things done immediately. He wants an agreement on something,
13 we move immediately. He don't waste time.

14 So the primary objective of having Armondo, Jr.
15 coming back with us is to start preparing the state visit.
16 And during the meeting, President Guebuza, we also told the
17 president like we start the meeting, you know, Abu Dhabi is --
18 is a country run by oil family, by family. So they pretty
19 much it will be nice and they appreciate if maybe someone like
20 Armando also we go to say like this envoy from his father to
21 start fast tracking the process.

22 Q And what was the reason why Mr. Langa and Mr. Nhangumele
23 were going back to Abu Dhabi?

24 A Mr. Langa and Mr. Nhangumele, so we can close the issue
25 and the chapter of the success fee, as we can call it, and

1 Mr. Safa will be deciding on what to -- what shall be paid to
2 them.

3 Q On the flight back from Mozambique to Abu Dhabi, did you
4 speak to Mr. Safa about what, if anything, would be paid to --
5 as a success fee?

6 A Yes. So on our way back, Mr. Safa, first of all he
7 congratulated me and he said that this is finally. I mean,
8 this thing has been -- has happened. This time he really, up
9 to January 2013, he didn't believe that it will happen, 'til
10 we met the president.

11 He also told me that, You see, Jean, I told you that
12 first if you don't meet the president, there will never be a
13 project, that's number one.

14 Number two, the allegation of Mr. Nhangumele that
15 this -- the payment to be -- to happen to the president in
16 order to succeed in signing the contract and doing the project
17 was a lie. Because the president, as you see, first of all,
18 is the wealthiest man in the country, he's one of the
19 wealthiest men in Africa, so surely I mean for him this is not
20 about taking money to do the project, and you -- you see the
21 man has a vision, and he wants to make a legacy before leaving
22 office. So that's his -- that's his -- the way he is seeing
23 things.

24 And he also told me that as for Mr. Nhangumele, and
25 Mr. Langa, he decided that he -- they will be paid 5 percent

1 of the total contract value as a success fee. And he asked me
2 to communicate this to him.

3 Q And in this conversation with Mr. Safa what, if anything,
4 was discussed about investments or business with
5 Mr. Guebuza -- with President Guebuza?

6 A Of course, so Mr. Safa told me again, he said like the
7 Guebuza family is not -- you know, they are not people who are
8 here just to take a success fee. And that he's now looking at
9 the relationship with them the same way he looks at
10 relationship he has with the Abu Dhabi oil family. So it's a
11 long-term strategic relationship based on friendship, trust,
12 and interesting ventures to do thing in Mozambique and outside
13 Mozambique with us.

14 Q Now, after he communicated that the success fee would be
15 5 percent, who did you communicate that to?

16 A So we arrived in Abu Dhabi after a long flight and after
17 resting, so the afternoon. First of all, I informed Armando,
18 I told him, Look, we decided that we will be paying Teofilo
19 Nhangumele 5 percent; that they can maybe share between
20 themselves. He said, Fine, that's good.

21 And I said that, So I will be telling them this. So
22 in case they go back to you, so you're aware. He said, Yeah,
23 no problem. If they come back, I will say that this is it,
24 you know. And I will even tell them that, you know, what --
25 the discussion between yourself and my father.

1 Because I was expecting, of course, that
2 Mr. Nhangumele would be claiming the 50 million, obviously.

3 Q And so who communicated the amount that would be paid to
4 Mr. Nhangumele?

5 A I did.

6 Q And can you tell us about that conversation?

7 A I see Teo, and I see Bruno, of course, and I tell them
8 that, Well, now we have signed a contract, thank you for
9 your -- for your help in making this happen, and that the
10 decision now is to pay you 5 percent of the total contract
11 value, which it was \$17 million.

12 It was reaction as I anticipated was like negative,
13 and Teo saying that, We agreed on 50. Then I said that, Look,
14 you can check with Armando, we saw the president and the issue
15 is so clear.

16 So you with all due respect, you have misrepresented
17 to me and not said the truth from day one, and this is it. I
18 mean I have no -- no further words to say.

19 Q Did you have any further discussions with Mr. Nhangumele
20 after that time about the size of this investment?

21 A Yes. So I believe -- not I believe, because I remember
22 he told me later on, so as expected they went to complain to
23 him. And I think they told him that they did it for me.

24 And the next day he came to me and he said, Okay,
25 we're happy with the 5 percent. Thank you.

1 MR. SCHACHTER: Your Honor, may we publish
2 Government Exhibit 2140 and 2140A in evidence?

3 THE COURT: You may.

4 (Exhibit published.)

5 (Exhibit published.)

6 Q And is this an email attaching the -- what's called a
7 standing order acknowledgment from FGB?

8 A Yes.

9 Q And it references a -- being signed by Boulos.

10 Do you see that?

11 A Yes.

12 Q Who is Boulos?

13 A Boulos, may his soul rest in peace, was my colleague at
14 Privinvest. His name is Boulos Hankach. He used to be the
15 senior manager.

16 Q And it references --

17 MR. SCHACHTER: Your Honor, may we publish 2140A in
18 evidence?

19 THE COURT: You may.

20 (Exhibit published.)

21 Q And do you see it references First Gulf Bank.

22 Do you see that?

23 A Yes.

24 Q And the first document is a letter to Mr. Langa, and if
25 we look at the second page, it's a letter from First Gulf Bank

1 to Mr. Nhangumele.

2 A Yes.

3 MR. SCHACHTER: And if we can, Mr. Mcleod, if we
4 look at the next page.

5 Q And in general terms, does this describe a standing order
6 to pay Mr. Nhangumele and Mr. Langa?

7 A Yes.

8 MR. SCHACHTER: And if we can just -- Mr. Mcleod,
9 just highlight paragraph 1 and 2. Let the jury see that.

10 (Continued on next page.)

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1 DIRECT EXAMINATION (Continued)

2 BY MR. SCHACHTER:

3 Q Did you speak to Mr. Safa about what kinds of things you
4 wanted to do?

5 A Sorry?

6 Q Did you speak to Mr. Safa about what kinds of things you
7 wanted to do?

8 A I did. Mr. Safa is -- was based in Abu Dhabi. His
9 business was focused in the Middle East and Europe. So I told
10 Mr. Safa that I believed that Africa has tremendous
11 opportunities. It is untapped, and I think we can do lots of
12 things in Africa.

13 He told me, Jean, Africa is a continent I don't
14 know. So the understanding that we had is that I could
15 probably, hopefully, develop opportunities in Africa for the
16 group, and in the Middle East, of course. So he said, okay.

17 Q Can you please describe what Privinvest businesses are?

18 A So Privinvest is a private company. It is owned by two
19 brothers, Mr. Iskandar Safa, and his brother Mr. Akram Safa.
20 It is headquarters in -- headquartered, excuse me, in Beirut,
21 with also, how you call it, the branch or second headquarter
22 in Abu Dhabi.

23 Privinvest is a holding, so a group of companies,
24 engaged in different activities. The prime industrial -- so
25 there's the industrial activity of the group, there's the

1 nonindustrial activity of the group. The industrial one is
2 ship building and the related services. And today Privinvest
3 is, I could say, it is the largest privately owned ship
4 building group in the world.

5 The nonindustrial part is focused on real estate,
6 telecom, oil and gas services and logistics, and other kind of
7 investments that Mr. Safa sometimes invest personally.

8 Q Approximately how many people work at Privinvest or one
9 of its related companies?

10 A I believe we are more than 3,000 people at the group.

11 Q And you mentioned a location in Beirut and also in Abu
12 Dhabi. Where else are its operations?

13 A So Privinvest is headquartered in Beirut and Abu Dhabi.
14 Industrially, I would say Privinvest has acquired many
15 shipyards, leading shipyards in Europe. So I think we have
16 heard a lot about CMN, which is CMN stands for Constructions
17 Mecaniques de Normandie. It is based in France in the north of
18 France, in Normandy.

19 There is also three shipyards in Germany, in the
20 city of Kiel, in the north of Germany. These shipyards were
21 also acquired. And today the shipyards we have in Germany,
22 three shipyards, I think they are at the backbone of the
23 German ship building industry. It is engaged in major
24 programs for the German Navy.

25 We have also a company in England called Sir Joseph

1 Isherwood. It is more than a hundred years old company that
2 is very much specialized in something called integrated
3 logistics support, which is softwares, training, and related
4 technologies related to the Navy.

5 Privinvest is also present in Greece, where it has
6 one of the largest shipyards in the Mediterranean that has
7 built submarines, one of the most sophisticated nonnuclear
8 submarines exist today.

9 Of course, in Abu Dhabi there's Abu Dhabi MAR, which
10 you heard about. And I think mainly that covers a lot of the
11 group.

12 Q You mentioned Abu Dhabi MAR?

13 A Yes.

14 Q Who owns Abu Dhabi MAR?

15 A Abu Dhabi MAR is owned by a company that is owned by a
16 member of the Abu Dhabi royal family, his name is Sheikh
17 Hamdan Zayed Al Nahyan, and by Privinvest.

18 Q You mentioned the location of the ship building
19 operations. How about the other businesses that you
20 described. Where are those other businesses located?

21 A So, real estate, there is a lot of real estate investment
22 in France. And the oil and gas logistics business, it is also
23 present in many African countries, Angola, Cte d'Ivoire, South
24 Africa, Congo. So we spread in many countries.

25 Q Does Privinvest still have businesses in Mozambique?

1 A Yes, absolutely.

2 Q Can you describe the business that Privinvest has --
3 continues to have in Mozambique?

4 A So today Privinvest is -- has ongoing operations in
5 Mozambique, and partnership with Mozambican partners, and it
6 is in the telecom business, and the utility business, and real
7 estate, and oil and gas logistics.

8 Q What was your job at Privinvest when you first came?

9 A Excuse me?

10 Q What was your job at Privinvest?

11 A My job is to develop the Privinvest and to sell the
12 products of Privinvest and to find opportunities for
13 Privinvest.

14 Q I would like to first focus on the time period between
15 2008 and 2011. What kinds of sales were you involved in
16 during that time period?

17 A So during that time period, I was trying to double up the
18 business of Privinvest in Africa. Obviously, from the
19 industrial part, I was trying to sell boats or systems. And I
20 was going to many African countries trying to find
21 opportunities for that. So mainly I was spending lots of time
22 on that.

23 Q And how were you compensated?

24 A As an employee of Privinvest, so I have a salary, but in
25 the same time the incentive was, as a salesman, is to sell.

1 So I would be compensated by commission on any successful deal
2 or sale I could do.

3 Q Aside from commissions upon successful sales, did you
4 receive a salary?

5 A I did.

6 Q And what was that salary?

7 A It was in UAE dirhams, the local currency, but if you
8 calculate it on dollars term, I think it was around 4,000
9 dollars a month.

10 Q Did growing up in Lebanon help prepare you for your work
11 at Privinvest selling in different countries and cultures?

12 A Lebanon is a very special place. I would call it like
13 this. Since ancient time, I'm talking 3,000 years before
14 Christ, there was people there called the Phoenicians, and it
15 was known to be -- they were known to be traders and merchants
16 and sea travelers. Even the legends say that the alphabet was
17 invented in Lebanon in a town called Byblos.

18 And we are very multi -- multi, I would call it,
19 sectarian country. You know the Middle East is very
20 emotional, especially in terms of religions and sects, and
21 emotions that would create, unfortunately, instability.

22 So Lebanon, we are 18 different religious sects,
23 living together, and I think that helps a lot in terms of
24 living with people of different thoughts, cultures, ideas, and
25 it helps exposing you from maybe young age on dealing with

1 different mentalities.

2 Q What language did you speak in your home?

3 A Sorry?

4 Q What language did you speak in your home?

5 A So the mother language is Arabic, that's my mother
6 tongue. But, again, as I said, we're -- the educational
7 system in Lebanon is pretty much advanced, so we speak also
8 many other languages. My son who's six, he speaks already
9 Arabic, English, and French. And so we speak many languages
10 at home.

11 Q You obviously speak English. When did you learn English?

12 A I started learning English by the age of maybe 13, 14.

13 Q And what other languages do you speak?

14 A I speak Arabic, my mother tongue, English, French,
15 Portuguese, and Spanish.

16 Q At what point did you pick up Portuguese?

17 A I started learning it when I started going to Mozambique.

18 Q I'd like to direct your attention to 2010. Did there
19 come a time when you were approached about an opportunity to
20 submit proposals for a coastal monitoring project for projects
21 in Africa?

22 A I was.

23 Q Who approached you with these opportunities?

24 A As I recall, one of the -- as we said, we called them
25 agent, but, I mean, like, brokers, middlemen or business

1 arrangers you can call, a lady from -- and friend from South
2 Africa, called Basetsana Thokoane.

3 Q Can you spell that, please.

4 A B-a-s-e-t-s-a-n-a, T-h-o-k-o-a-n-e.

5 Q What did you understand about Ms. Thokoane's background
6 before becoming an agent?

7 A So Ms. Thokoane, I called her Bassey, used to be an
8 official at the South African secret service.

9 Q And you mentioned that you had worked with agents or
10 lobbyists during the time period before you came to
11 Privinvest. But was it also common for Privinvest to work
12 with agents as well?

13 A Yes. Again, in the Middle East and Africa, unless you
14 personally know decision makers, you need an agent or a
15 middleman or a broker in order to arrange for you the
16 possibility of winning a project or a contract, especially in
17 the defense industry.

18 Q Where else had Privinvest worked with agents that you are
19 aware of?

20 A Many countries in the Middle East. Kuwait, Saudi Arabia,
21 Oman, at least these countries I know of.

22 Q Did Privinvest also work with agents in the United Arab
23 Emirates?

24 A In the United Arab Emirates it didn't need to because
25 Mr. Safa had and still has a very -- a relationship based on

1 friendship, trust, you know, with the Abu Dhabi royal family
2 so it didn't need the agents there.

3 Q Is there a customary way that these agents or lobbyists
4 are paid for helping Privinvest find projects?

5 A Sorry?

6 Q Is there a customary way that agents or lobbyists are
7 paid by Privinvest to help them find projects?

8 A So the business model of an agent is very simple. The
9 agent will take you, like, I will do my best in order to
10 secure for you the project, and, accordingly, he will charge a
11 percentage of the total value of the project.

12 Q What is that percentage of the project called?

13 A A commission or a success fee or an arrangement fee,
14 middleman fee, or broker fee. Can call it -- it has many
15 names, I mean, but it is the same.

16 Q Can you explain what you were working on with
17 Ms. Thokoane back in 2010?

18 A Bassey first approached me on an opportunity -- so she
19 was presenting to me many opportunities in Africa, many
20 different countries. But to go specifically to the topic, it
21 was the first the opportunity in Namibia country, called
22 Namibia in Africa, for it was a tender for what is called the
23 exclusive economic zone protection system, the EEZ that we
24 have been talking about now.

25 MR. SCHACHTER: Your Honor, we will offer Defense

1 Exhibit 4 and 4-A.

2 THE COURT: Any objection to the Defense Exhibit 4?

3 MR. BINI: Objection.

4 THE COURT: All right. Let's have our sidebar.

5 (Sidebar conference.)

6 (Continued on the next page.)

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1 (WHEREUPON, the following proceedings were had at
2 sidebar, out of the hearing of the open courtroom, to wit:)

3 THE COURT: All right. I have a copy of 4, and you
4 have a copy of 4-A as well. All right. We will get to 4.
5 Do you have a copy of 4?

6 MR. BINI: I don't have a copy of 4.

7 THE COURT: Provide the government with a copy of 4
8 while I look at it.

9 MR. BINI: Thank you.

10 THE COURT: All right. What is the objection to
11 Defense Exhibit 4?

12 MR. BINI: Your Honor, the defendant can't put in
13 his own statements. He can testify to what happened.
14 However, him putting in his own e-mail is hearsay without an
15 exception.

16 THE COURT: What is your response?

17 MR. SCHACHTER: Your Honor, first of all this
18 document does not contain a statement of the defendant. I
19 believe it contains a question, which is never hearsay, and in
20 any event, the statements that we -- the e-mails that involve
21 Mr. Boustani are all going to be relevant to his state of mind
22 and are not going to be offered for the truth of the matter
23 asserted.

24 THE COURT: What is the rule under which they are
25 being offered of the federal rules of evidence?

1 MR. SCHACHTER: Well, 401, because they are relevant
2 and they are nonhearsay, so I would say that there's no
3 hearsay exception to them.

4 THE COURT: Why do you say they are nonhearsay?
5 Where do they fall, if at all, under one of the 24 exceptions
6 to the hearsay rule? Which one?

7 MR. SCHACHTER: Outside the definition of hearsay.
8 They are not out of court statements --

9 THE COURT: They are not a party admission.

10 MR. SCHACHTER: Correct, Your Honor. Absolutely
11 not.

12 THE COURT: They are not an admission. You said
13 they are not hearsay, so I am asking you if they fall under
14 one of the exceptions for the hearsay rule.
15 So what exception are you pointing to?

16 MR. SCHACHTER: 803.3, Your Honor, which is for the
17 state of mind.

18 THE COURT: What, please, is your response to the
19 state of mind?

20 MR. BINI: Your Honor, he's seeking to also attach a
21 document.

22 THE COURT: Let's deal with 4. Your objection to 4
23 is that you don't believe it reflects the state of mind --

24 MR. BINI: There's no exception of the state of mind
25 that sets out here. And it is being offered to essentially

1 put in this document --

2 THE COURT: I am going to overrule with respect to
3 4. 4 can come in.

4 I will take a look at 4-A. What is 4-A?

5 MR. SCHACHTER: Your Honor, 4-A is a document that
6 Ms. Thokoane -- it is not a statement of the defendant at all,
7 it is a document which is part of the question that
8 Ms. Thokoane is asking Mr. Boustani, which is do you do this.
9 And it's a description of a Namibia maritime surveillance
10 program, and it's a question. Hearsay is being an out of
11 court statement which is offered for the truth of the matter
12 asserted. There is no truth that we are trying to offer with
13 respect to this document.

14 THE COURT: Let me back up. What is this document,
15 4-A?

16 MR. SCHACHTER: It is the attachment to Exhibit 4,
17 which is Ms. Thokoane's question, do you do this, and she's
18 attaching this. So it is part of her question to
19 Mr. Boustani.

20 THE COURT: It is a Namibia maritime surveillance
21 program, is the caption of this multi-page document, which
22 goes from 4-A1 through 4-A19.
23 What is your objection to the document?

24 MR. BINI: My objection is to relevance.

25 I think we have heard from the witness now that he

1 was involved in projects in other countries. He has given a
2 great deal of background, and this is unrelated to this case.

3 THE COURT: I am going to overrule the objection. 4
4 and 4-A are admitted.

5 MR. SCHACHTER: Thank you.

6 MR. BINI: Thank you.

7 (Sidebar conference ends.)

8 (Continued on the next page.)

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1 (Open court.)

2 THE COURT: The objection is overruled. Documents 4
3 and 4-A are admitted.

4 (Defense Exhibit 4 and 4-A, was received in
5 evidence.)

6 THE COURT: You may publish them to the jury.

7 MR. SCHACHTER: Thank you, Your Honor.

8 DIRECT EXAMINATION (Continued)

9 BY MR. SCHACHTER:

10 Q Mr. Boustani, showing on the screen for now Defense
11 Exhibit 4, I would like to direct your attention to the e-mail
12 from Ms. Thokoane to you, with a question, do you do this. Do
13 you see that?

14 A Yes.

15 Q And what's the date of that e-mail?

16 A Third of June, 2011.

17 Q And I'd just like to direct your attention to the
18 attachment -- I guess, hold on one second.

19 Do you see where below there's a question that's
20 being asked to Bassey? Dear Bassey, attached please find
21 herewith the presentation that was proposed by the
22 consultants? Do you see that?

23 A Yes.

24 Q And it is that which she is forwarding to you and saying,
25 do you do this? Do you see that?

1 A Yes.

2 Q And what's the topic of the e-mail?

3 A Namibia maritime presentation.

4 Q I would just briefly show you Defense Exhibit 4-A.

5 MR. SCHACHTER: Your Honor, may I publish that?

6 THE COURT: Yes, it is in evidence. You may
7 publish.

8 Q And what was this that Ms. Thokoane was forwarding you?

9 A So, as we said, it was a strategic project that the
10 authorities of Namibia wanted to do. At that time, since that
11 time, even today, the -- something which is called the blue
12 economy development, which part of it is the exclusive
13 economic zone, domain of the country, that includes also
14 resources, and the way to protect it was already priority for
15 many countries in Africa, even in the Middle East, to develop.
16 So they were looking for contractors to build these systems
17 for them and help them build their systems for them.

18 Q Around this time period in 2011, what, if any, other
19 countries were you asked to submit EEZ surveillance proposals
20 for?

21 A So with Bassey, started with Namibia, I recall there was
22 also Kenya, Tanzania, Nigeria, and then Mozambique.

23 Q I'd like to return to Defense Exhibit 4 in evidence.

24 After receiving this e-mail, you see where you forwarded it to
25 an e-mail address, which is logistics international, with an

1 FYI; do you see that?

2 A Yes.

3 Q Who were you forwarding this e-mail to?

4 A To Mr. Safa.

5 Q For what purpose?

6 A To -- first of all, he's my boss. Second, I am not a
7 technician. So since this request had obviously technical
8 details and it required a technical proposal to our
9 presentation, so I was sending it to him so he can then decide
10 whom to send to within the organization.

11 (Continued on the next page.)

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1 DIRECT EXAMINATION (Continued)

2 BY MR. SCHACHTER:

3 Q When those institutions paid Credit Suisse for pieces of
4 the Proindicus loan, did any of that money go to Privinvest?

5 A Sorry?

6 Q When Credit Suisse sold pieces of its Proindicus loan to
7 those institutions, did any of the money that those
8 institutions paid go to Privinvest?

9 MR. BINI: Objection.

10 THE COURT: If you know?

11 A Of course not.

12 BY MR. SCHACHTER:

13 Q Did any of that money go to you?

14 A Of course not.

15 MR. SCHACHTER: Your Honor, I'm about to move
16 through a new subject.

17 THE COURT: How much longer do you have of this
18 witness?

19 MR. SCHACHTER: I have a fair amount of time,
20 Your Honor.

21 THE COURT: How much longer?

22 MR. SCHACHTER: Your Honor, I would anticipate about
23 a day.

24 THE COURT: Yeah, I thought that would be the
25 answer.

1 All right. It's 5:00 o'clock. Adjourn for the day.
2 See you tomorrow, Ladies and Gentlemen of the Jury.

3 Don't talk about the case. Have a good evening
4 Ladies and Gentlemen of the Jury. Don't talk about the case.

5 (Jury exits the courtroom.)

6 (The following matters occurred outside the presence
7 of the jury.)

8 THE COURT: Thank you. You may step down, sir and
9 join at the counsel's table.

10 THE WITNESS: Thank you.

11 THE COURT: You may be seated ladies and gentlemen.

12 Do we have any procedural issues to address outside
13 of the presence of the jury before we adjourn for the day?

14 MR. BINI: No. Not for the Government, Your Honor.

15 THE COURT: Is there anything from Defense Counsel?

16 MR. SCHACHTER: No, Your Honor.

17 THE COURT: All right. Everyone have a good
18 evening.

19 MR. BINI: Thank you, Your Honor.

20 MR. SCHACHTER: Thank you.

21 * * * * *

22 (Proceedings adjourned at 5:00 p.m. to resume on
23 November 20, 2019 at 9:30 a.m.)

24

25

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3 **JEAN BOUSTANI**

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