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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA, .
vs. . DOCKET NO. 5:17-CR-120-XR-1
OLGA HERNANDEZ, .
DEFENDANT. .

EXCERPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE
DECEMBER 19, 2017

APPEARANCES:
FOR THE PLAINTIFF: MARK T. ROOMBERG, ESQ.
ASSISTANT UNITED STATES ATTORNEY

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REPORTED BY: GIGI SIMCOX, RMR, CRR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
SAN ANTONIO, TEXAS

1 *(San Antonio, Texas; December 19, 2017, at 8:30 a.m., in*
2 *open court.)*

3 (WHEREUPON, the jury entered the courtroom at 8:35 a.m.)

4 THE COURT: Good morning, ladies and gentlemen.

5 THE JUROR: Good morning.

6 THE COURT: As I told you yesterday, we'll be having
7 closing arguments today.

8 Sorry, for those of you who I can't see.

9 Again, I remind you what the lawyers say is not
10 evidence, but their intent today is to provide you some
11 summation of what you have heard and what they think is
12 important for you to take back when you begin your
13 deliberations.

14 with that, the government goes first.

15 (WHEREUPON, the government's closing arguments were
16 commenced.)

17 THE COURT: Mr. Reid.

18 MR. REID: Thank you, your Honor. May I proceed?

19 THE COURT: Yes.

20 MR. REID: Confirmation bias. Social scientists use
21 the word confirmation bias to describe the notion that when
22 somebody has a preconceived notion that something has
23 happened, then they evaluate each and every piece of
24 information that they acquire after that to confirm what they
25 already believe to be the case. You've heard it often said,

1 people hear what they want to hear, see what they want to see,
2 find what they want to find. And that's what happened in this
3 case.

4 The government started with the premise that there
5 was no way that Olga Hernandez could actually be friends with
6 these people, no way that she could go on these trips with
7 them, or receive these gifts from them out of pure friendship.
8 I want you to distinguish between what Olga thought, what Olga
9 said, and what Olga did versus what the people who were
10 clearly guilty said and did.

11 I don't think there is any doubt that Mr. Cerna and
12 Mr. Mullen set out to be friends with Olga for their own
13 reasons, but that doesn't mean that Olga and her husband Frank
14 didn't have a real friendship, didn't really think these
15 people were her friends.

16 Confirmation bias explains this whole case. What you
17 heard in opening statement was that government was going to
18 prove that Olga Hernandez somehow conspired to rig insurance
19 bids. What evidence have we heard that Olga rigged anything?
20 What evidence have we heard that Olga was involved in a single
21 insurance bid? A single insurance RFP? A single evaluation
22 of an RFP?

23 You heard reference a moment ago to the so-called
24 independent consultant, Mr. Haff. And we heard from Irma
25 Hernandez, the gatekeeper. Confirmation bias is the notion

1 that when you set out to confirm something you already
2 believe, well, you're going to confirm it. And that's what
3 the government did in this case.

4 You know who else set out to confirm something that
5 they thought they believed? Christopher Columbus: Him and
6 the European Explorers, they headed west 500 years ago. They
7 expected to find India. They found land, and they found
8 people, and they called those people Indians. But they are
9 not Indians. They are native Americans. Native Americans are
10 not Indians, and they are about as Indian as Olga Hernandez is
11 guilty. She is not guilty, ladies and gentlemen. Not guilty.
12 There is no proof that she rigged a single thing.

13 Let's talk about that confirmation bias and let's
14 compare Irma versus Olga. The government would have you
15 believe that from the beginning, because of a single meal in
16 which Mr. Haff was present, that Olga somehow knew he would be
17 the inside plant within the SAISD that would then help rig the
18 bidding process, based on a single meal. Let's contrast that
19 to Irma Hernandez. The government told you that she was
20 innocent, could not have known, and did not know that will
21 Haff was on the inside, or corrupt.

22 Let's confirm or compare. Irma Hernandez had an
23 affair with Steve Brooks. Irma Hernandez had slept in Diane
24 Mullen's house. Irma Hernandez was an insurance expert, had
25 worked in it in El Paso, had worked in the business for

1 decades, and came to SAISD having experienced bid rigging
2 before in El Paso, and undeniably knew beyond a shadow of a
3 doubt, beyond a reasonable doubt, that there was a connection
4 between will Haff and the Mullen Group.

5 But, yet, the government would have you believe that
6 somehow my client, Olga Hernandez, based on a single meal with
7 Mr. Haff, who came in here to save his hide, somehow knew this
8 whole scheme. But you know what everyone admits? Everyone
9 admits that Olga did not know that bribes were being paid by
10 the Mullen Group to will Haff.

11 It's kind of a critical fact; isn't it? Because if
12 you don't know that will Haff is being paid a bribe, how could
13 you possibly know anything is wrong? And that's why the
14 government will sit here and tell you Irma Hernandez had
15 nothing to do with this.

16 But let's go a little further down the path of the
17 evidence you've heard. Dayton Hoffman, an insurance
18 representative. I think he was at the Aetna or Standard, one
19 or the other, told Agent Holmes that Mr. Haff told him that he
20 got the job because of his relationship with Irma.

21 And Mr. Haff, I would call Mr. Half-truth, got on the
22 witness stand and told you that he said that, and he said it
23 was the truth. So if it's the truth that Mr. Haff got his job
24 because of his relationship with Irma, and Irma has all of
25 this knowledge about fraud, and she's an expert, how is it

1 that Irma didn't know, but somehow Olga knew? That doesn't
2 add up.

3 And that is the faulty, cracked foundation upon which
4 the house of cards this case is, is built on, because if you
5 don't start with the premise that William Haff is the would be
6 internal consultant, then the whole rest of this case makes
7 zero sense. Because then you go down the path of, well, wait
8 a minute, there is this RFP process, we've heard absolutely
9 zero evidence that Olga participated in this RFP process, but
10 what we know is that Irma was the gatekeeper -- the gatekeeper
11 through whom nothing got.

12 Nothing happened if Irma didn't approve it. But,
13 yet, somehow Irma is innocent and didn't know, and is a
14 government witness, and yet my client, a 30-year secretary who
15 had no experience in insurance, had never experienced fraud
16 before, is somehow guilty of conspiracy. Why? Because of her
17 friendship with the Mullens. And really, nothing more.

18 Confirmation bias. The government hears what it
19 wants to hear, it sees what it wants to see, and it tells you
20 only what it wants to tell you in order to make out its case
21 that literally makes no sense.

22 Let's fast-forward. Then in -- some time later --
23 and by the way, in the early years, no one disputes that
24 Olga's relationship with the Mullens and Cernas developed over
25 time, that it evolved, that in the early years it wasn't

1 merely as strong as in later years. Agent Holmes even
2 confirmed that. Mr. Cerna confirmed that, not only through
3 his words but through his body language. Mr. Cerna was
4 clearly pained to be here. He knew what he did was wrong.
5 And Mr. Mullen too.

6 But don't make mistakes about this. The early years
7 were a time during which they were creating a relationship
8 with Olga. The government would have you believe that somehow
9 in the beginning of their relationship where they are trying
10 to become friends with two honest people -- you heard the
11 character witnesses, which, by the way, character witness
12 evidence alone can create a reasonable doubt -- but they would
13 have you believe that from the beginning of the relationship
14 they have this meal where they have this corrupt conversation,
15 oh, we're going to put Will Haff on the inside, and he's going
16 to be our guy. In the beginning of a relationship where
17 you're trying to become friends with someone who's been a
18 30-year secretary and an honest person? Does that make any
19 sense? No.

20 So let's talk about the Bay Bridge lawsuit. Sometime
21 along the way, a lawsuit is filed by an insurance company who
22 lost a bid. That insurance company alleges what? What you've
23 heard about today, that there was, in fact, a conspiracy;
24 there were, in fact, crimes; and that that conspiracy was
25 enough for the government to begin an investigation. And that

1 conspiracy, which I'll concede was proven beyond a reasonable
2 doubt, involved Mr. Cerna, Mr. Mullen, and Mr. Haff.

3 That lawsuit was known to Irma Hernandez. And
4 despite all of her history, and knowledge, and expertise, and
5 daily dealings with Mr. Haff, she didn't know, but somehow
6 beyond a reasonable doubt Olga knew. Does that add up, ladies
7 and gentlemen? Does that, in any way, create a case which
8 could be proven beyond a reasonable doubt?

9 I want to talk about that in a second, but I want to
10 stop and thank you. This service that you're serving, jury
11 service, is a vital service. No other country in the world,
12 with limited exceptions, there are some jury trials in
13 England, calls its citizens to come in and serve as judges.
14 No one is doing this in North Korea. No one is doing this in
15 China, Iran, many European countries, no one.

16 But why we do it here, is we don't put innocent
17 people in jail in this country. And we don't have one person
18 make that decision, we require that all twelve of you make it.
19 And so I want to thank you; to serve on a jury during the
20 holidays is an even greater service than during the regular
21 year. Thank you for your time and attention.

22 Let's talk about reasonable doubt. How many times
23 during that PowerPoint that got read to you did you hear the
24 words reasonable doubt? The Court has instructed you that a
25 reasonable doubt is a doubt you would have in the most

1 important of your affairs. Reasonable doubt is anywhere short
2 of beyond a reasonable doubt. So if the floor is innocent,
3 and right here is the evidence, that space alone is a
4 reasonable doubt.

5 The comparison of the government's contention that
6 Irma Hernandez had no idea versus its contention that Olga is
7 somehow guilty beyond a reasonable doubt is a big, fat
8 question mark. That alone is a reasonable doubt.

9 Another reasonable doubt is how could Olga enjoy such
10 a reputation for honesty in the community, which no one
11 refutes, but somehow she was so dishonest that she sold her
12 vote?

13 Think about this for a second. The agent,
14 Agent Holmes, admitted to you that by 2010 he had all the
15 evidence he needed against Mr. Cerna, against Mr. Mullen,
16 against Mr. Haff. He knew this conspiracy existed. What was
17 the sole purpose for letting it play forward? It was to do
18 what he does every day, target public corruption.

19 So for five years Agent Holmes did that. He recorded
20 over 250 consensual recordings with Mr. Haff. I don't know
21 how many recordings on the wiretap that he had on Mr. Cerna's
22 phone. He had surveillance. And what has been proven to you,
23 ladies and gentlemen? The conspiracy that he already knew
24 existed, apparently that Irma Hernandez didn't know, and that
25 Olga Hernandez, my client, in fact, had a friendship? No one

1 disputes that she felt she had a friendship, and yet they
2 point to the evidence of people who are trying to save their
3 hides to implicate my client.

4 what's more valuable than money? Liberty. That's
5 what's more valuable. And in our system, our legal system,
6 the government makes these deals every day. It's allowed to
7 make these deals where they can give freedom to a witness,
8 something more valuable than money in exchange for their
9 truthful testimony. Then the government, with its
10 confirmation bias and what it wants to hear and what it wants
11 to see, gets to determine whether those witnesses were
12 truthful.

13 So ask yourselves, if Mr. Haff really and truly was
14 part of a team -- which, by the way, he's the only one who
15 uses the word team on those recordings. My client never uses
16 the word team -- if he really and truly had entered into some
17 corrupt agreement with Olga back at that one meal prior to the
18 2008 vote, why is it that over the course of five years he
19 couldn't have had one call or meeting to confirm that on all
20 the tape recordings that occurred? why is that? Because it
21 didn't happen. That's why.

22 So let's fast-forward, because, you know, I think
23 that there's a lot been sold to you in this case that was
24 never proven. Like, let's just take a couple of examples.

25 Somehow Sam Mullen paid \$670 for a birthday party.

1 But then you find out the rest of the story, there was over
2 100 people there. He sat at the bar. He paid for whatever
3 part of the bill he paid for when he was actually there, then
4 he left.

5 Then you were told that my client got a \$1,200 meal,
6 but then you find out there is six people at that meal.

7 Then you get told there was a \$2,000 meal of such
8 great benefit to my client, and then you find out, wait a
9 minute, there were 17 people at that meal.

10 Then you get told, oh, my client got a gas grill, and
11 earrings, and all of this stuff. No proof of anything.

12 Okay. So why is the government doing that? Because
13 they have no case.

14 why did we spend a whole week going over all of these
15 gifts, and meals, and lodging, and entertainment that weren't
16 disclosed, only to find out that the government was telling
17 you about a law that didn't come into effect until September
18 or October of 2015?

19 why? Because they don't have a case.

20 So then ask yourselves, once Judas, AKA Josh, who was
21 my client's friend, went to ACTS with her husband, and then
22 puts on a wire, why did he bring a gift card to that
23 February 6th meeting?

24 And ask yourself, when the government put Mr. Cerna
25 on the stand, why didn't they ask him at all about the fact

1 that he had just had his wedding vows only days before that
2 meeting?

3 And why was it when they recorded that two-hour
4 conversation and only excerpted six pages, that that excerpt
5 somehow left out the wedding vow reference?

6 And do you remember when I asked Agent Holmes, wasn't
7 there some reference to thanking my client for going to the
8 wedding vows? And his answer was no, because he's very
9 precise. But then when we confronted him that there was
10 mention of it, his defense of that testimony was, well, there
11 was no word thank you.

12 Is that the kind of honesty we want from our
13 government, who is out hearing what it wants to hear, seeing
14 what it wants to see, and confirming what it thinks is the
15 case?

16 So let's talk about it. Why is it that Agent Holmes
17 and the FBI sent Mr. Cerna with the gift card in February of
18 2015? Why was that? You know why? Because they didn't have
19 a case before. They had to get additional evidence because
20 they knew that the meals and entertainment simply confirmed a
21 friendship. So they send Mr. Cerna in.

22 It's painful to watch. This is a close friend of
23 Olga and Frank's literally betraying her, just like Judas.
24 And he goes into that meeting knowing that there was, in fact,
25 a wedding vow days earlier. And I asked Mr. Cerna, I said,

1 Mr. Cerna, didn't you invite Olga. And did you hear what
2 Mr. Cerna said? He pulled an Agent Holmes on me. He said,
3 no, I didn't. Because the truth was, Christina did. Are
4 those the sorts of games we're going to play when somebody's
5 liberty is at stake, when the government has to prove beyond a
6 reasonable doubt that a crime was committed and it has no
7 evidence?

8 So what did Olga tell you? She got on the witness
9 stand. What did she tell you? She said, look, he said a
10 bunch of stuff. I made no commitments to anything. I heard
11 what he had to say. But in my mind, when he said us, thank
12 you for us, the reference to us, my client interpreted it as
13 Christina and Josh. But I don't have to prove that to you.
14 The government has to prove beyond a reasonable doubt that
15 somehow Olga got that gift card for what? An official act.

16 What official act occurred in this entire case that
17 my client committed in exchange for all of these entertainment
18 things that she got out of friendship? What? The answer is
19 nothing.

20 They want to keep pointing to these votes and then
21 tell you that this is evidence that there was a corrupt
22 bidding process. No. Gatekeeper Irma, who supposedly knows
23 nothing, approved all of this stuff, recommended all of this
24 stuff. And no one disputes that Olga never got involved.

25 Then there is a lot of talk about, well, maybe we

1 can't prove that there was any bid rigging, maybe we can't
2 prove that Olga got involved in the RFP, but she advocated.
3 She advocated. Come on; that's a joke.

4 She made a comment at a meeting unrelated to any
5 official act that she said was borne out by multiple sources
6 of information, that she saw the Mullen Group acting as agent,
7 and she heard from her people that they were having problems
8 with enrollment, that they were having to leave school during
9 school hours and go to the SSB building, or whatever it was,
10 and she wanted her people to be taken care of.

11 And so this whole notion that this case boils down to
12 advocacy and enrollment, I don't even get that. Okay? The
13 government doesn't even get that. But to argue that what Olga
14 did in asking questions at a board meeting unrelated to a vote
15 is somehow evidence of a corrupt agreement is literally a
16 joke.

17 So we're going to let the people who made, in the
18 Mullens' case, millions of dollars in commissions, and in
19 Mr. Haff's case, a hundred thousand dollars or \$80,000 in cash
20 money bribes, we're going to let those people reduce their
21 sentence to accuse a lady who asked questions and advocated,
22 and convict her of anything? That's nonsense.

23 So at the end of the day what this boils down to is
24 they set out to confirm what they thought to be the case and
25 they were unable to do it so they came up with this gift card

1 scheme. The only conspiracy that's been proven to you that in
2 any way implicates my client is the conspiracy the government
3 engaged in with Mr. Cerna and Mr. Haff to trap her. That's
4 the conspiracy.

5 Now, you want to know something else? You heard a
6 lot about how the taxpayers lost all this money, and these
7 contracts were terrible, and all this nonsense that has
8 nothing to do with Olga. But, you know what? Who could have
9 stopped that? You know who could have stopped that? The
10 government.

11 They could have shut this thing down in 2010. They
12 could have stopped paying Haff his hundred-thousand dollar a
13 year plus salary to be the inside guy. They could have
14 arrested all these people back then. They could have
15 prevented all of these contracts from occurring, if they were
16 truly bad. But, you know what? They let it go forward so
17 they could catch their public official. And by 2015, they
18 didn't have enough so they sent Judas, AKA Josh, in there to
19 give my client that gift card.

20 Okay. So let's fast-forward. Now we got the
21 May 2015 election. So, again, Agent Holmes gets Judas in
22 action again to give my client a campaign contribution. And
23 they tell you that that equals an express agreement with
24 direct evidence that my client did something wrong. No one
25 disputes the money was spent on her campaign for her block

1 walkers. No one. And she told you that she had forgotten to
2 report it.

3 So then what happens? She realizes when she's going
4 to see Josh on July 15, 2015 she hasn't reported it, and she
5 tells him that. And then she told you honestly, because she's
6 honest, I didn't report it afterwards. I didn't want to amend
7 my report, because to do so would flag my relationship with
8 him being a bad boy. Did she tell you that I did that because
9 I had been rigging bids and I thought that disclosure of a
10 500-dollar contribution would reveal that? No. Does that
11 even make sense? No.

12 Had she disclosed contributions with the Mullens and
13 the Cernas before? Yes. So if anyone wanted to make that
14 connection, it was already there to be made. So I don't even
15 understand how that relates. But this is one more instance of
16 confirmation bias and telling you only part of the story.
17 Right? Because what we know happens on July 15, 2015, at that
18 meeting Agent Holmes sends Judas into that meeting with a
19 totally different agenda. He sends them in there with the
20 agenda of giving her a thousand-dollar Saks card this time.
21 What did Olga do? She turned it down.

22 So let me get this straight. If Olga is somehow the
23 corrupt politician who sold her seat and is willing to do
24 whatever these people want her to do, why doesn't she take the
25 thousand-dollar Saks card? The answer is obvious. That

1 creates a reasonable doubt right there.

2 why did she pay \$500 to go to the Aransas Pass house
3 the one time that the Mullens didn't accompany her? why did
4 she do that?

5 why did she vote against wortham in 2014 to be
6 replaced? The answer is simple, because like everything else,
7 she voted consistent with what Irma recommended.

8 Now, Olga told you on the witness stand, she said, I
9 had no idea that will was separate from the Mullens, they all
10 looked the same to me. Okay. Well, you know who absolutely
11 knew that wasn't the case, undeniably beyond a reasonable
12 doubt? Irma. So if Irma is working every single day with
13 Mr. Haff and has no idea that he's doing anything wrong, how
14 is it that Olga somehow knows? How is that? That is a big,
15 massive reasonable doubt.

16 So there is the old story of the cat and the mouse
17 and the box. And if you took the cat and the mouse and you
18 put it in a box, and you tied it up, and you came back 30
19 minutes later and there is a cat but no mouse, what do you
20 know? Undeniably, beyond a reasonable doubt, the cat ate the
21 mouse. Cat's guilty of murder.

22 Let's take the same example. Put that cat and that
23 mouse in that box, and you come back 30 minutes later and
24 there is a hole in the bottom of the box and there is no
25 mouse. There is a hole. That hole is a reasonable doubt.

1 There is more holes in this case than Swiss cheese.

2 Olga versus Irma. Why did my client vote against
3 Wortham?

4 Here, I'll add another one. Why did my client not
5 try and get on the finance committee? If her important role
6 in this scheme is to assist the scheme by doing everything she
7 can to help the scheme, why didn't she ask to be on the
8 finance committee in charge of the insurance?

9 Another big question. If, as Mr. Cerna bragged on
10 all these tapes that somehow Olga was involved on the team --
11 again, a word that Agent Holmes told him to use eventually --
12 why is it that there is no words from Olga ever saying she's
13 on the team? Why does Olga never say anything?

14 So they have this quote that they played to you about
15 17 times a minute ago, "I want to make sure that he's getting
16 what he wants." Do you remember that quote from the lunch?
17 And what she told you was, I wanted to make sure that these
18 premiums were being paid so that he got whatever he needed.
19 And she asked who? Mr. Haff, the guy that was supposed to be
20 taking care of all that stuff. She didn't say, I want to make
21 sure that the Mullen products are being approved.

22 Which, by the way, I don't even know what a Mullen
23 product is. Did anyone tell you what a Mullen product is?
24 Because these contracts were all with insurance companies, and
25 they were all recommended by Irma. There was never any Mullen

1 product.

2 So to assume that somehow Olga knew what a Mullen
3 product was, or even how the Mullen Group would be
4 compensated, is crazy. But if my client had so much power on
5 this board, was able to accomplish all these things, and was
6 an integral member of the team and the conspiracy, how come it
7 was that there were always multiple agents?

8 How is it that Mullen never got what it wanted?

9 Mullen wanted to be the only agent. Never got that.

10 Mullen wanted to get rid of Irma. Never got that.

11 Do you remember we heard this whole song and dance
12 about the horse trade to put Sylvester Perez in as the
13 superintendent because he's our guy? And then that was going
14 to be orchestrated in exchange for Irma's removal? Did any,
15 other than a bunch of hot air statements, anybody see any
16 documentary evidence of that? No, because it didn't happen.

17 Irma eventually left because she chose to leave, not
18 because anyone forced her out. Did Olga have an honest belief
19 that Irma wasn't doing her job properly? Yeah, she did. She
20 told you. She had heard that from people in the district,
21 that Irma wasn't allowing them to enroll properly, that they
22 weren't getting the things they needed.

23 Did she hold an honest belief that Irma wasn't doing
24 her job right? Yeah. But did she ever once interfere with
25 the whole bidding process you've been hearing about? No.

1 The government has to prove beyond a reasonable doubt
2 that my client did a whole bunch of things, but it all comes
3 down to she had to do so with corrupt intent. She had to
4 intentionally join the scheme to do something. She had to
5 intentionally take some official act to do something, and
6 there is no evidence that she did that. None.

7 why are we here? why is the government making her go
8 through that? The answer is obvious. She didn't do what they
9 wanted her to do.

10 So when Agent Holmes goes to Mr. Mullen back in 2010
11 or '11, he tells them, yeah, I'm paying Haff, but he's got a
12 broker's license, it's legit. When Agent Holmes goes to
13 Mr. Haff, Mr. Half-truth, he flips, like that, like a light
14 switch, wears a wire.

15 when Agent Holmes goes to Mr. Cerna, he flips, like
16 that.

17 when Agent Holmes went to my client, you know what
18 she did? She's either really stupid or very brave, but she
19 told them no. He said, I want you to cooperate and get your
20 fellow board members in trouble. She said no. She said, I
21 wouldn't even know who to go to. He said, I'll tell you who.
22 She said, I wouldn't even know what to say. He said, I'll
23 tell you what to say and sound convincing.

24 You want to bet any amount of money that's the same
25 thing he told Mr. Cerna? And after all of that, the best that

1 Judas could come up with is, thanks for your support?

2 So let's talk a little bit further. What else did we hear
3 Olga say on tape? She said, um-hum. And the government,
4 again hearing what it wants to hear, interprets um-hum as,
5 yes, I'll do whatever you want.

6 And then Mr. Judas says some other comment, I forget what
7 it was, and she says, yeah. That's the best they got. That's
8 proof beyond a reasonable doubt? That's proof that you would
9 base one of the most important decisions in your life on?
10 That is ridiculous.

11 This is federal court, and in federal court we have a
12 burden on the government to prevent people from just hearing
13 what they want to hear, seeing what they want to see,
14 confirming what they think to be the case. Federal court, and
15 all courts in this country, because of our Constitution,
16 require proof beyond a reasonable doubt.

17 This case isn't even close. There is more holes in this
18 case than you can imagine, more questions than can be
19 answered, and I, and my client, have no burden to prove
20 anything. It is entirely the government's burden to prove it
21 all.

22 So what I'm going to do is I'm going to point to a couple
23 of comments that you heard in opening statement and just ask
24 if you heard anything close to this. This is from opening
25 statement. "You will hear from the evidence that there were

1 unanimous votes for the insurance products." "The evidence
2 will show that the difference is that most of the board
3 members didn't know the Mullens and Haff and the defendant
4 were rigging these bids." "The evidence will show the board
5 members voted for these, but the evidence will show the
6 defendant took bribes to do what she did."

7 what proof have you had of that? None.

8 Again, another quote, "The evidence will show that Irma
9 Hernandez never found out, or even suspected, that will Haff,
10 the so-called independent consultant, was actually working for
11 the Mullens."

12 Never even suspected. How is it that Irma could never
13 even suspect that the person she's dealing with every day is
14 somehow uninvolved in a conspiracy, but my client Olga somehow
15 knows? She's not an insurance expert. She didn't make a
16 single recommendation. She didn't evaluate this stuff. She
17 didn't choose to put it on the consent agenda. She did
18 nothing, other than vote along with everyone else pursuant to
19 the recommendation from Irma. So if Irma is innocent, why
20 isn't Olga too? Because she said no, and because she fell
21 victim and thought she was really friends with these people.

22 My colleague told you in opening that you were going to be
23 asked to approve a bad deal. The bad deal here is the notion
24 that Mr. Half-truth and Mr. Judas, Cerna, they get their time
25 reduced in exchange for coming here and saying what? Saying

1 that Olga was somehow involved in a conspiracy.

2 The jury instructions tell you that statements from a
3 coconspirator that are not corroborated can be rejected, and
4 I'll suggest to you that there is no corroboration for what
5 Half-truth and Judas told you. They are simply motivated to
6 reduce their sentence to tell the government what it wants to
7 hear.

8 Let's contrast that with Sam Mullen. In my view,
9 Mr. Mullen did a pretty brave thing. What did he tell you?
10 He said, I don't really know whether Olga knew that we were
11 rigging bids, that we were involved in a conspiracy. That
12 alone, another massive reasonable doubt. But think about the
13 risk that Mr. Mullen took in saying that. Think about that
14 for a second. Mr. Mullen has the opportunity, if he provides
15 substantial assistance, to have his sentence reduced. You
16 know who makes that determination? The government.

17 You think the government is going to look favorably on
18 Mr. Mullen in saying what the government didn't want to hear,
19 which is that Mr. Mullen, who knew Olga the best of the three
20 cooperators, if he didn't know whether Olga knew, how is it
21 that somehow Mr. Haff knew? Or Mr. Cerna knew?

22 He got on that witness stand. He did a brave thing. And
23 don't mistake the fact that he's going to pay a price for
24 that, because the government is going to determine whether he
25 told the truth. And if they don't like his version of the

1 truth, he's going to pay a price.

2 Mr. Cerna, Judas, and Mr. Half-truth, they said what the
3 government wanted to hear because they want their
4 get-out-of-jail-free card. They want something more valuable
5 than money. They want their freedom.

6 If Mr. Haff was willing to sell his position for cash for
7 a period of years and then live a lie from 2010 to 2015, you
8 think Mr. Haff would have any trouble at all coming into this
9 courtroom and lying, telling the government what it wanted to
10 hear in exchange for his freedom? That's a reasonable doubt.

11 You think Mr. Cerna, Judas, who betrayed a close
12 friendship came in here and was going to say anything other
13 than what the government wanted him to say?

14 But you know what? Sam Mullen did a brave thing.

15 You know who else did a brave thing? My client, Olga
16 Hernandez. She's a brave lady.

17 The FBI came into her house, told her she needed to
18 cooperate, and that all she needed to do was go talk to people
19 they told her to talk to, say what they wanted her to say, and
20 sound believable, she could have got out. But you know what?
21 She stood up to them.

22 Look at her. She stood up to them. Mr. Cerna didn't.
23 Mr. Haff didn't. And even Mr. Mullen, who has some bravery
24 I'll admit, he didn't stand up to them. That tells you
25 something. Either she's really dumb, or she's brave.

1 The power of the federal government, when they come after
2 you, do not mistake it. It is extremely powerful. The amount
3 of people that you could think about in your lifetime who have
4 stood up to the federal government, very, very limited list.
5 People like Muhammad Ali. He did it in the 1960s. Not many
6 people do it.

7 In this courtroom and in every courtroom in the country,
8 thousands of defendants plead guilty and they take the
9 get-out-of-jail-free card that Mr. Cerna, and Mr. Haff, and
10 Mr. Mullen are taking. They exchange whatever cooperation
11 they can give to the federal government in exchange for
12 reducing their sentences.

13 And you know what? 99 percent of the time it's okay
14 because the government is going up the chain to get other
15 culpable people. But when the government uses that process,
16 which is corrupt, and asks you, the ladies and gentlemen of
17 the jury to endorse it, to convict an innocent person, that's
18 where the buck stops. And that's why in this country we have
19 the jury system we have, and that's why we have the burdens we
20 have on the government to prove to you beyond a reasonable
21 doubt that my client did anything wrong, which they have
22 wholly failed to do.

23 They have cobbled their case together and make all these
24 arguments that in the end they say, ooh, that one was wrong.
25 This disclosure thing, ooh, well, sorry, we talked to you for

1 a week about all these disclosures that should have been made,
2 oh, ah, um, that was the law that came into effect afterwards.

3 why did Olga turn down the thousand-dollar gift card, if
4 she's so guilty?

5 why did Sam Mullen say, Olga, I don't even know if she
6 knew, if she's guilty?

7 why? why? why?

8 This case is entirely built on the confirmation bias of
9 the public corruption department of the FBI because they went
10 out looking for public corruption. And after five years and
11 all this work, they don't have it. They are asking you to
12 overlook that, to make various assumptions, to assume that
13 simply because Olga was friends with people, that she did
14 something wrong.

15 You heard her in the courtroom. You heard her on tape.
16 It's the same person talking on tape. The same person whose
17 friends came in here and vouched for her and told you that
18 she's an honest person and she's always been an honest person.

19 So what does the government say? well, she took this
20 James Avery gift card, a 500-dollar gift card. So somehow
21 because she took that four days after a wedding ceremony,
22 she's guilty beyond a reasonable doubt of rigging
23 multimillion-dollar insurance bids? I'll submit to you,
24 there's been no proof Olga even understood what those
25 contracts meant, other than that they have been recommended.

1 How is it that Olga corrupted the insurance rigging
2 process and Irma didn't? Another big question mark. How is
3 that possible? Because the government wants you to take its
4 version of the facts and confirm what it believes. But it's
5 your individual responsibility, each of you, to conclude that
6 they have proven their case beyond a reasonable doubt.

7 I'll submit to you, ladies and gentlemen, my client's
8 innocent, but I don't have to prove a thing. They have to
9 prove her guilt beyond a reasonable doubt to each and every
10 one of you. Each and every one of you. They haven't even
11 come close.

12 Their case is full of holes, just like the mouse with the
13 hole in the box. Except for, there isn't just one hole, there
14 is more holes than I can count. And so they are asking you,
15 well, overlook that, overlook that because she said um-hum,
16 overlook that because she said I want to make sure he's
17 getting what he wants, when it was in reference to the fact
18 that bills weren't being paid.

19 Then there was this whole discussion about commissions.
20 Do you recall all of that? I still, sitting here right now,
21 have no idea what the heck they are talking about.
22 Commissions. What are they even talking about? None of the
23 insurance contracts before the board even disclosed or
24 discussed anything about commissions. So they infer that
25 because certain insurance contracts led to commissions, that

1 somehow that equates to Olga's guilt. Like, that dog won't
2 hunt. Like, how do you even make any sense out of that?

3 So there was this notion that somehow these agents were
4 foisted on everyone and the agents were this terrible thing.
5 I'm just going to point to one exhibit which was admitted.
6 It's Defendant's Exhibit 57, for the record. This is a letter
7 from Humana who actually provided the medical insurance. And
8 remember, three agents were on the contract. In this trial,
9 it seemed oftentimes as if there was only one.

10 This is what Humana wrote to the SAISD. "This document
11 confirms our rate submission representing a premium decrease,"
12 and it is valid with the inclusion -- you heard testimony
13 about that -- of the three agents, Barrett, CVD, and Mullen.
14 And it goes on to say, "In the past four years, the agents,
15 including Mullen, have been an additional resource to SAISD
16 employees, and have attended over 300 campus meetings. Their
17 commitment to this account has been shown by working closely
18 with their designated campus benefit coordinator to ensure the
19 employees have all information needed in understanding all
20 Humana programs offered to them." It's in evidence.

21 So if the agents were this terrible thing that the
22 district was having to pay for, costing all of this taxpayer
23 money, you know the simple solution to that? Irma Hernandez
24 could have said we're not doing it, the gatekeeper, who didn't
25 know. But somehow my client's guilty beyond a reasonable

1 doubt of the inclusion of the commissions which she doesn't
2 even understand, I don't even understand, and no one has
3 explained to you at all, much less beyond a reasonable doubt.

4 So this whole case comes down to a bunch of, she couldn't
5 have been friends, she couldn't have gone on all these trips
6 without trying to help people, and so therefore there must be
7 corruption. You know who told you that? Agent Holmes. You
8 know what he said? He said, when public officials become
9 friends with people, that's where they cross the line.

10 Since when does being someone's friend, and honestly
11 believing they are your friend in this country, since when is
12 that a crime?

13 Since when is having a relationship with a political
14 contributor of yours a crime? Does anyone think for a second
15 that people you don't like are the people whose political
16 campaigns you contribute to? No. That's not the way the
17 system works. You contribute to people you like because
18 that's the way it works. That doesn't make them corrupt.
19 It's just the way it works.

20 But the government sees what it wants to see, hears what
21 it wants to hear, and would like you to confirm this story of
22 what ifs and maybes. But you know what? In this country, we
23 don't convict people on maybes. In this country we don't
24 convict people on what the government thinks. We convict
25 people based on evidence.

1 So do you remember that Wendy's commercial back 20 years
2 ago? Where's the beef? Where is the beef? Where is the
3 proof that my client took any official act based on anything?
4 Where is it?

5 Now, again, Agent Holmes, who sent Judas in to meet with
6 my client and coached him on what to say for a period of about
7 a year, told him to say, thank you for your service, thank you
8 for your helping us out. That's what he told him to say. My
9 client ever confirm that? No. Has there been any evidence
10 that she, in fact, did that? No.

11 So after trying to trap Olga for five years and coming up
12 with nothing, the government comes in here and asks you to
13 overlook all of that and to convict Olga based on a gift card
14 that was provided four days after a wedding ceremony, and
15 based on a campaign contribution for \$500, and then they
16 forget the fact that she turned down the thousand-dollar gift
17 card right after that.

18 I'll submit to you what happened in this case is exactly
19 what Agent Holmes admits happened when he came to my client's
20 house, which is he went out to Mr. Half-truth and Mr. Judas
21 and he said, I'm going to tell you what to say and you need to
22 sound convincing. And this is the best they got after all
23 those years? There isn't just a reasonable doubt in this
24 case, there are multitudes.

25 I won't have another chance to talk to you again because

1 the way our system works is the prosecutor gets to get back up
2 here, and before I turn to my concluding remarks I just want
3 to point to a few things in the jury charge that I may have
4 forgotten, which is, as I reminded you a moment ago, character
5 evidence alone, on the top of Page 6, alone, can give rise to
6 reasonable doubt. If you have any doubt that this case and
7 the conduct that has been alleged is inconsistent with the
8 person you heard about from our character witnesses, that
9 alone creates a reasonable doubt.

10 we heard a lot of testimony in this case about alleged
11 violations of disclosures.

12 By the way, I think another allegation that's been made is
13 somehow Olga was required to recuse herself based on the
14 failure to disclose gifts. Wrong and wrong.

15 So let's start with there was no disclosure requirement,
16 now that we've established that. And, secondly, there is no
17 recusal requirement; okay? So wrong and wrong. But even if I
18 was wrong, it has nothing to do with what Olga is being
19 charged with.

20 The failure to disclose gifts is not a federal crime, and
21 so what she's being charged with is, as we'll get to in a
22 moment, intentionally entering into a corrupt agreement of
23 engaging in a quid pro quo, which, by the way, to Mr. Mullen's
24 credit -- I'll call him brave -- the first time he met with
25 Agent Holmes, he told him, I made no quid pro quo, I made no

1 agreement with Olga. The second time he met with him he said
2 the same thing. And the third time that I had occasion to ask
3 him a question was in here, and he confirmed for the third
4 time, I never made any agreement with Olga. Big, fat
5 reasonable doubt.

6 So let's go to conspiracy. That's on Page 10. I'm not
7 going to replay this for you 17 times like you saw on the
8 PowerPoint, but there were three things required for
9 conspiracy, none of which have been shown.

10 The first is that the defendant made an agreement. Where
11 did she make an agreement? Because I missed that part of the
12 trial. If she made an agreement after five years of tape and
13 all these meetings, somebody would be able to come in here and
14 tell you she made an agreement.

15 Mr. Haff tried that. He said at that first meal, the
16 first time he met her, they made an agreement that he would be
17 the inside plant or whatever. That's ridiculous.

18 Second, that Olga knew of the unlawful purpose of the
19 scheme. She thought that Haff and Mullen were trying to help
20 the school district, which is kind of the overarching theme of
21 everything Olga says and Olga does, which is she tried to help
22 the district, tries to get information, tries to help her
23 people engage in enrollment.

24 why? Because she thinks they are being harmed, not
25 because it's some nefarious plot to help the Mullens, one of

1 three agents. So where is the evidence she knew there was an
2 unlawful agreement? There was absolutely a conspiracy between
3 Haff, and Mullen, and Cerna. The question in this case is:
4 what did Olga think, and what did Olga do?

5 And, lastly, that she joined this scheme somehow
6 willfully, that she made an agreement, that she knew it was
7 unlawful to rig the bids, and that she joined in it willfully.
8 There is no proof of any of that.

9 In this country, we don't convict people just because the
10 government tells you to. We require the government to prove
11 beyond a reasonable doubt that someone is guilty. This case
12 is nowhere -- it's a joke.

13 All right. Let's go to Page 11, and this is an important
14 fact because the government likes to keep pointing to the fact
15 that Olga voted for this stuff. Okay, great, so did six other
16 board members consistent with the recommendation. But it says
17 on Page 11 in the first full paragraph, the mere fact that
18 certain persons may have associated with another -- in other
19 words, the mere fact that Olga was friends with these
20 people -- proves nothing.

21 The fact that they discussed common aims, in this case
22 insurance. From Olga's perspective, insurance at a good price
23 for her people and available to her people. Now, I will
24 concede that Mr. Mullen and Mr. Cerna had an agenda, an
25 ulterior motive, but that doesn't mean that Olga knew that.

1 okay. So the fact that they discussed insurance, also no big
2 deal. It doesn't establish anything.

3 And so it goes on to say, any person who happens to act in
4 a way which advances some purpose of the conspiracy -- this is
5 at Page 11 -- is not guilty of conspiracy based on that. You
6 know who else acted in furtherance of the conspiracy
7 unwittingly? Irma Hernandez. She made every recommendation.
8 But she didn't do anything wrong.

9 The same Irma Hernandez who slept in the Mullens' house,
10 slept with Steve Brooks, knew about the relationship between
11 Will Haff and the Mullens, and was an insurance expert who had
12 experienced fraud and seen it firsthand. But somehow Olga
13 knew. Ridiculous; AKA reasonable doubt.

14 All right. So let's go to the bottom of Page 11, the
15 scheme to defraud. Scheme to defraud. What scheme to defraud
16 was Olga engaged in? Now, I understand, and I think
17 Mr. Mullen admitted this, that there were benefits to his
18 friendship with Olga that he derived, whether she knew it or
19 not, which is the ability to convey to insurance companies
20 that he had these relationships allowed him leverage to tell
21 them, hey, don't kick me off this account.

22 But you know what? The insurance companies were too smart
23 for them. That's why they had three agents. So to the extent
24 they need to cover their bases with whatever relationship,
25 they kept all three, and it never became the case that the

1 Mullens got in sole place. They desperately wanted that.
2 They bragged about their ability to accomplish that, but they
3 never did. why? Because they never had the power. They
4 bragged about it. That's a different thing than having it.
5 So scheme to defraud; there was no scheme to defraud involving
6 my client, not one that she knew of and participated in.

7 Page 12, second, the element is that she has to employ a
8 false material representation, false material pretense, or
9 false material promise. And false means it has to be known to
10 be untrue. So let me get this straight. When Olga advocates
11 before the board and she says, you know, I hear that they are
12 having problems with enrollment, do you think she made that
13 up? No.

14 There was evidence that she actually thought that was the
15 case. And you know who confirmed it? Mr. Mullen. And even
16 Irma said, yeah, these brokers did some stuff. And if you go
17 back to 2008 -- this whole house of cards built on the 2008,
18 March 3rd, 2008 board meeting -- the justification for hiring
19 Will Haff was that the risk management department was
20 overworked, that they needed help from someone, and that an
21 insurance consultant could help him with that.

22 And remember who wrote that recommendation? That was Irma
23 Hernandez. And so if she concluded anywhere along the way
24 that either Wortham, or Haff, or the agents, were somehow
25 unnecessary, she was gatekeeper. All she had to do was say

1 no. She never said that. And yet, she, as we saw on the
2 instructions a moment ago, unwittingly furthered the scheme by
3 writing these recommendations. She's not guilty of any crime.
4 But how is it that Olga is?

5 Lastly, on Page 13 for Count 1, she had to have the
6 specific intent to defraud. That means she had a conscious,
7 knowing intent to deceive or cheat someone. What evidence has
8 been put before this court to show she tried to cheat anyone?
9 She didn't try and cheat anyone. What she did do was thought
10 people were her friend, listened to them, hung out with them,
11 and no one disputes that she was really and truly their
12 friend.

13 So let's go on. On Page 14, the words, as consideration
14 for, mean a bilateral agreement, an illegal contract, a you
15 scratch my back I'll scratch yours. Did you ever hear any
16 testimony about, yeah, if you vote for us, Olga, we'll give
17 you the Spurs tickets this weekend? Or, if you vote for us,
18 Olga, we'll go hang out with you for three days. Like that's
19 some benefit to Olga and Frank?

20 You saw them. They really thought these people were their
21 friends. They wanted to hang out with them. They really and
22 truly thought they had a real friendship. They didn't engage
23 in any bilateral agreement, any you scratch my back I'll
24 scratch yours.

25 How many times in your lives have you been friends with

1 someone of different economic means? Like my baby sister,
2 when she was in college she never had any money. I paid for
3 her all the time. I still pay for her all the time; she's a
4 grown woman now. But I have had friends in my life when I was
5 younger who had jobs, they paid for me.

6 That pretty much describes the Mullens and Olga and Frank.
7 Olga and Frank were retired. They didn't have a lot of money.
8 Sam was a high-roller, so in order to hang out, Sam liked to
9 do what he liked to do, so he comped them. Big deal. Did he
10 do that, or did Olga do that? Did Olga go on the trip --
11 that's the question for you -- because she was involved in
12 some bilateral agreement? No. She and Frank thought these
13 people were really her friends.

14 Now, I think Mr. Cerna said it, certainly in his body
15 language, but I think he said something to the effect of,
16 unfortunately along the way, we became friends. There is no
17 doubt that Cerna and Mullen, who were bad people from the
18 beginning, remained bad people throughout. But I often say to
19 my kids, you know, no one in this life is all good, no one in
20 this life is all bad.

21 And along the way they became friends, but Olga didn't
22 need more friends, she has plenty of friends. You heard about
23 her birthday party with over 100 people there. You've seen
24 her character witnesses. Olga didn't have any ulterior
25 motive. She never had one. She was a secretary for 30 years

1 in the school district and people loved her. That was
2 valuable to people like Mullen and Cerna.

3 But the actual truth is that my client never really had a
4 position in her life where she had to worry about people
5 taking advantage of her. She took people as they came. She
6 took her friends for who they were and who she thought they
7 were. And as it turns out, as we now know, they really and
8 truly weren't her friend, with the possible exception of Sam
9 Mullen who did the brave thing and came in here. Going to pay
10 a penalty for it, but he admitted himself there is a
11 reasonable doubt.

12 why would Sam do that? It was much easier for him to say,
13 yeah, she was totally involved, yeah, she knew everything.
14 And yet everybody admits Olga never knew the bribes were being
15 paid. So if Olga never knows the bribes are being paid, how
16 is it that she knows Will Haff is the supposed inside guy, but
17 Irma Hernandez doesn't?

18 Then there is this distinction on 14 and 15 between
19 political contributions and gifts. In order to make any
20 political contribution, including the \$500 cash, and it be a
21 crime, you have to show a direct agreement -- I'm sorry --
22 direct evidence of an express agreement. In other words,
23 here's the political contribution, I want you to vote on
24 March 8th for this. Nothing close to that.

25 And the only gift that Olga got, the only gift that the

1 government wants to talk about is the 500-dollar James Avery
2 gift card. We all know that if you get a gift as a friend for
3 attending a close and personal event, like wedding vow
4 renewals after you cheat on your wife, that's a pretty
5 emotional event, and so to give someone a gift for that when
6 they are the only witnesses, that's not out of balance.

7 And, by the way, the government has to prove that that
8 gift beyond a reasonable doubt was somehow related to some
9 official act. I don't see it. How is that possible? This
10 case has not just a reasonable doubt, it has multiple doubts.
11 But the problem is that the government, all along, has simply
12 heard what it wants to hear, seen what it wants to see, and
13 found what it wants to find.

14 You, ladies and gentlemen, are charged with determining
15 whether they have proven that. You're where the buck stops.
16 You are the government in this case. You get to decide. You
17 know, 500 years ago the king would have decided this and the
18 king probably would have read off, maybe not on a PowerPoint,
19 but a bunch of charges like you heard and said, that's good
20 enough for me, throw them in the tower.

21 We don't do that in this country. We don't convict people
22 for maybe. We don't convict people simply because the FBI
23 thinks they're guilty. We convict people because the
24 government has proven it beyond a reasonable doubt. Put them
25 to their burden.

1 Now, on Page 17, mere presence at the scene of the event
2 doesn't indicate anything. That's the same Irma versus Olga
3 dilemma. Let the prosecution explain to you how they can
4 stand up here and say Irma didn't know but Olga did. Ask them
5 that, in your minds.

6 Page 18, that the defendant corruptly, corruptly did
7 something. Let's see here. Corruptly accepted anything of
8 value with the intent to be rewarded in connection with any
9 business transaction. Do you think that Olga went on these
10 trips because she voted consistent with a recommendation?
11 That's ridiculous. She had no motive to act corruptly and
12 there's been no proof of it.

13 Now, I spoke about this a moment ago, but your duty to
14 deliberate in this case is, of course, to talk to one another
15 and to hear each other's views. But if you have an honest
16 belief this case hasn't been proven, don't let anyone convince
17 you that you should change your vote. If you think that this
18 government hasn't proven it, stand your guns. That's your
19 duty.

20 And unless all twelve of you could come to that
21 conclusion, which I submit to you this case is nowhere close,
22 you must return a verdict of not guilty. That's your
23 obligation. And you know what? That protects all of us.
24 That's the way the government ought to work, so that some
25 bureaucrat doesn't make a unilateral determination infected

1 with confirmation bias because they heard what they wanted to
2 hear and they saw what they wanted to see. You, ladies and
3 gentlemen, can put the burden on the government and keep it
4 there.

5 And by the way, what the lawyers say in this case is not
6 evidence. So if you're sitting there right now and you say,
7 I'm convinced there is a reasonable doubt, nothing the
8 prosecution can tell you adds to the evidence. What we say
9 isn't evidence. We have no burden. They do. They've come to
10 some conclusions.

11 So let me just conclude -- one second. I came up with a
12 list. Ask yourself if any of these questions have been met.

13 There is one more point I want to make. You know, this
14 system of government of ours that I've been talking about
15 isn't just a concept in the wind. It's a core concept of our
16 democracy. But one thing is absolutely true. At the end of
17 the day today, most likely today, or tomorrow if you
18 deliberate beyond, you'll go home, government will go home,
19 I'll go home, the judge will go home, the lights will go off
20 and this courthouse will be closed, but from this day forward,
21 for every day for the rest of her life, this day will stand
22 out in Olga Hernandez's life.

23 And that's why we have the protections that I've been
24 talking about, the protections against the government from
25 coming to these conclusions without proof, against the

1 government from asking you to infer things or convict on a
2 maybe, because in this country we don't convict on a maybe,
3 and we don't convict in spite of massive doubts, and we don't
4 make conclusions like Irma Hernandez somehow didn't know based
5 on overwhelming evidence that she knew far more, and yet Olga
6 knew.

7 And I'm not here to tell you that Irma did know. All I'm
8 telling you is that is a litmus test measure of how Olga could
9 not have known, because if Irma knew that much more, how is it
10 that Olga, simply based on a friendship, would have known?

11 So let's go down the list. What evidence did you hear of
12 Olga's participation, in any way, in the bidding process?
13 What evidence? Zero.

14 What questions did Olga ask at a single board meeting
15 related to a vote? Related to a vote. She asked about
16 enrollment. No one ever voted on enrollment; right? She
17 asked about what the agents were supposed to do. No one was
18 voting on that. The agents were there all along. That was
19 all recommended by staff. And that's all they got.

20 Where in the mountain of evidence that the government
21 gathered over this period of years did Olga agree to any quid
22 pro quo? Mr. Mullen told the government three times what they
23 didn't want to hear, that there was no quid pro quo, that he
24 never agreed to anything. Where did she commit to do
25 anything? Where did she say, in the Paesanos lunch or any

1 other time, hey, you know what, since you guys have been
2 taking me on all these trips, I'm going to vote for this thing
3 tonight. where? Nowhere.

4 where did she ever pledge her vote? Nowhere.

5 where did she ever interfere with anything Irma did?
6 Nowhere.

7 Did she ever try and get involved in the recommendation
8 process? No.

9 Did she ever try and block or change a recommendation?
10 No.

11 You heard evidence that Olga could somehow be used to get
12 rid of Irma. Not only did that never happen, you didn't see
13 one shred of evidence she even tried.

14 where is it in the record that Olga tried to get
15 commissions for Mullen to get Mullen to be the single agent?
16 Nowhere.

17 why would Olga fire Wortham, vote to fire Wortham, if she
18 was part of some conspiracy and they were integral to it?
19 why?

20 why would Olga vote or choose to remain off the finance
21 committee, if her role, integral to the scheme for this
22 massive stream of benefits of being Sam and Diane's friend,
23 why would she vote or choose not to be on the finance
24 committee?

25 How come Irma never got fired? why did she just choose to

1 leave?

2 How is it that Mullen never accomplished what it wanted
3 all along, to be the sole agent? Because Irma was the
4 gatekeeper.

5 what benefit did Olga get, other than friendship? The
6 James Avery gift card? Is that their case?

7 Does this multimillion-dollar bid rigging allegation case
8 come down to a James Avery gift card? And even if it did, how
9 did that prove anything beyond a reasonable doubt, other than
10 Josh Cerna is a modern-day Judas? That's about it.

11 why would Olga turn down a thousand-dollar gift card, if
12 she's so corrupt?

13 why would she pay \$500 to go to Port Aransas?

14 And ask yourself this question: why would the government
15 try and get her to take the gift cards to begin with? If they
16 already had all this evidence based on these tapes, why did
17 they have to send Judas in there with the cards? Because they
18 didn't have enough.

19 And why are we here? why are we here? we're here because
20 Olga is a brave woman. She knew she was innocent. She told
21 the government no. That's why we're here. She's being
22 punished, and when you stand up to the federal government you
23 get punished. And so they have run at her trying to trap her
24 for five years. They ran Half-truth after her, they ran Judas
25 after her, and they've tried to get you to endorse a terrible

1 deal, a deal in which known criminals who engaged in insurance
2 bid rigging get reductions in their sentence, and an innocent
3 woman gets implicated.

4 You can't let it happen, ladies and gentlemen. It is your
5 job as the jury in this case to say, we won't approve this, we
6 will not endorse this, this is garbage, and just like
7 everything else, you can throw it out. When you go back to
8 that room, I want you to all look at each other and say, this
9 is nonsense, we're not signing up for this, and vote not
10 guilty.

11 Thank you for your time and attention.

12 (Concludes excerpt.)

13 -o0o-

14 I certify that the foregoing is a correct transcript from
15 the record of proceedings in the above-entitled matter. I
16 further certify that the transcript fees and format comply
17 with those prescribed by the Court and the Judicial Conference
18 of the United States.

19

20 Date: 12/22/2017

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25

/s/ Gigi Simcox
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