

**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING
File No. 3-19635**

**In the Matter of
STEPHEN CONDON PETERS,
Respondent.**

**DIVISION OF ENFORCEMENT'S SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT PETERS**

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I. INTRODUCTION

Respondent Stephen Condon Peters ("Peters") defrauded his advisory clients by selling them promissory notes issued by a company he controlled, VisionQuest Capital. To induce the investors, he falsely represented that the notes paid guaranteed interest of 8-9% annually; that the funds would be invested in various businesses that would yield 30-40% profit per year thereby providing a margin from which the interest would be paid. None of this was true. There were no such businesses and no such profits. In truth, Peters used the proceeds to pay for a house in his name in Costa Rica, a partial ownership interest in the farm of his IA clients, the Harrises, and for a lavish lifestyle for himself and his family, and for payments to other investors.

In a parallel criminal case, *United States v. Stephen Condon Peters*, 5:17-CR-411-1D (E.D.N.C.) ("the Criminal Case"), Peters was tried and convicted on 20 counts, including securities fraud and advisory fraud. The Commission instituted this proceeding

based on that conviction. On 2/12/2020, the Division of Enforcement (“Division”) moved the Commission for summary disposition in this matter, arguing that no genuine issue of material fact existed, and that the Commission should order associational bars against respondent Stephen Condon Peters (“Peters”), based upon his criminal conviction.

On 8/31/2022, the Commission issued an Order Requesting Additional Briefing (“Order”). Noting that the conviction in the Criminal Case was predicated on a general verdict, the Order directed the Division to provide additional information regarding ‘facts the jury [in the criminal proceeding] necessarily determined in returning [Peters’] conviction’—in other words, the facts “distinctly put in issue and directly determined’ in the criminal prosecution.” *Id.* at pg. 3. The Commission indicated that such facts were a necessary prerequisite to assessing what remedial sanction would be in the public interest. The Commission suggested that the court’s instructions to the jury regarding the elements of the offenses charged, as well as any factual findings made by the court during the sentencing hearing, would be particularly helpful.

The Division thus submits as Exhibit A a true and correct copy of 6/6/2019 transcript (Day 10) of the trial in the Criminal Case. Exhibit A includes the jury charges where the Court instructed the jury on the specific elements of each of the 20 counts against Peters. The Division also submits as Exhibit B a true and correct copy of the transcript of the Sentencing Hearing in the Criminal Trial, dated 9/13/2019. Combined, these transcripts reflect sufficient factual findings to support the Division’s requested relief in this proceeding.

III. THE JURY INSTRUCTIONS ON COUNTS 1-2

A. Count 1—Investment Adviser Fraud

In count one of the superseding indictment, Peters was charged with IA fraud, which generally alleged that Peters sold securities in the form of VisionQuest Capital notes to his IA clients and that in doing so made various untrue statements and misrepresentations to sell the investments. The Court read the entire factual allegations of the indictment including the first count to the jury in advance of the specific charge. Ex. A, pp. 89-110. In charging the jury, the Court instructed the jury that it had to find all of the following elements to convict on the IA fraud claim:

“To sustain its burden of proof for a crime charged in Count 1 of the Superseding Indictment, the Government must prove the following four elements beyond a reasonable doubt: First, the defendant was an investment advisor; second, the defendant either employed a device, scheme or artifice to defraud a client or prospective client or engaged in transactions, practices or courses of business that operated as a fraud or deceit upon a client or prospective client or engaged in any act, practice of course of business that was fraudulent, deceptive or manipulative; third, the defendant devised or participated in such act knowingly and willfully with the intent to defraud; and fourth, the defendant employed such device, scheme or artifice to defraud or engage in such transaction, practice or course of business by use of the mails or any other instrumentality of interstate commerce.”

Ex. A, pg. 111.

Thereafter, the Court charged the jury on various definitions. Ex. B, pp.111-119 and made it clear that the Government was obligated to prove the charges against Peters beyond a reasonable doubt.

B. Count 2—Securities Fraud

In the second count, Peters was charged with securities fraud which alleged that Peters sold securities in the form of VisionQuest Capital notes making untrue statements to sell the investments. The Court read the factual allegations for the indictment

including in advance of the specific charge. Ex. A, pp. 89-120. In charging the jury on this count, the Court instructed the jury that it had to find the following elements”

“To sustain its burden of proof for the crime charged in Count 2 of the Superseding Indictment, the Government must prove the following four elements beyond a reasonable doubt: First, the defendant knowingly did any one or more of the following: one, employed a device, scheme or artifice to defraud; or two made an untrue statement of material fact or omitted to state a material fact that made what was said under the circumstances misleading; or three, engaged in an act or practice or course of business that operated or would operate as a fraud or deceit upon any person. Second, the defendant did so in connection with the purchase or sale of a security described in the Superseding Indictment. Third, the defendant, in connection with such purchase or sale of the security, made use of or caused the use of any means of instrumentality of interstate commerce or the mails. And fourth, the defendant acted willfully and with the intent to defraud.”

Ex. A, pp. 120-121

Thereafter the Court charged as to definitions inherent in the charge. In light of this charge as to every element of securities fraud, that the jury thereafter found Peters guilty, shows that the jury concluded that all elements on the securities fraud count had been satisfied by the trial evidence.

Counts 1 and 2 of the Superseding Indictment are the significant ones for which Peters was found guilty, as it relates to the need for a full industry bar. Specifically, in convicting Peters for IA fraud, the jury had to find that Peters knowingly or willfully (a) devised or participated in a device, scheme or artifice to defraud or (b) engaged in transactions, practices or courses of business that operated as a fraud or deceit upon a client or prospective client. In convicting Peters for securities fraud count, the jury had to find that Peters knowingly (a) employed a device, scheme or artifice to defraud; (b) made an untrue statement of material fact or omitted to state a material fact that made what was said under the

circumstances misleading; or (3) engaged in an act or practice or course of business that operated or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.¹

II. THE COURT'S FACTUAL FINDINGS DURING THE SENTENCING HEARING

In the sentencing hearing in the Criminal Case on 9/13/2019, some 90 days after the jury had returned a guilty verdict in less than two hours,² Judge Dever partially summarized the evidence in the trial that the jury had considered in its verdict. In short, the court found that Peters had committed an egregious fraud on his advisory clients, obstructed justice or directed his employees to obstruct justice, and lied to the Commission staff during their examination of Peters' firm. The court also found that Peters had not accepted responsibility for his misconduct. Based largely on these findings, the court sentenced Peters to 40 years of incarceration.

The following are some of the more pertinent findings by the court:

A. Egregiousness of the Fraud

1. "You are a Registered Investment Advisor and this is not a one-off mistake...But this case involved systematic, prolonged fraud and deceit for 8 years. This was no is-it-close issue." Ex. B, pg. 87.

2. "The evidence at trial demonstrated that you perpetrated an extraordinary fraud, scheme from 2009 until the fraud scheme ended in 2017." Ex. B, pg. 80.

¹ For brevity, the Court's charge of the specific elements for each of the other 18 counts is not repeated here. However, Exhibit A contains the entirety of the Court's jury charge, should the Commission wish to review it, and is found at pages 68-169 of that exhibit.

² Ex. A, the trial transcript from 6/6/2019, establishes that the jury exited the courtroom at 1:26 pm that day to begin their deliberations and that they returned to the courtroom at 3:17 pm with a verdict. For a 10 day trial, the guilty verdict on all counts was deliberated and returned in less than two hours. Ex. A, pp. 169-171.

3. “But there is a crime in stealing from your clients to try and consume the greed that filled you. And steal you did. And the deceit and fraud that followed day after day, week after week, year after year. And you harmed real people in doing it.” Ex. B, pp. 83-84.

4. “You committed egregious acts of fraud against these clients of yours who came to you thinking that you, in fact, were what you purported to be, a trusted advisor, someone who had their interests at heart, ahead of your own. The evidence at trial demonstrated how untrue this was, how untrue you were to your obligation as a Registered Investment Advisor.” Ex. B, pg. 82.

5. “A registered investment advisor has a fiduciary duty to do a lot of things and there were a multiplicity of breaches of those duties by Mr. Peters as demonstrated by the trial evidence.” Ex. B, pg. 10.

6. “In refining the issue associated with what he claimed about investors. He claimed that he had always disclosed to investors how risky VisionQuest Capital notes were. That was a complete lie. And the evidence demonstrated that overwhelmingly. Ex. B, pg. 40

7. Peters “claimed that he never said that 8 or 9 percent was guaranteed to any investor. The Court finds that to be a perjurious statement.” Ex. B, pg. 41.

8. “He claimed that he told the investors that this was a high risk and risky investment. That was false. He did not tell them that. He claimed that there really was a line of credit dating back to approximately 2010 or ’12. That was a complete fiction and perjury. He claimed that his accountant said to create a backdated line of credit and that’s what he did in connection with what he produced to the SEC. Complete perjury.” Ex. B, pg. 41.

9. “He also claimed that he disclosed to his investors all the details of he and his wife’s ownership of the Costa Rican property. Complete and utter perjury. He denied deleting files responsive to the SEC examination and enforcement action in 2016 and 2017. There were multiple witnesses who testified at trial to the contrary. The Court credits that testimony and finds that Mr. Peters gave false testimony concerning material matter with the willful intent to deceive.” Ex. B, pg. 41.

10. “As . . . the trial evidence demonstrated, Peters is a Registered Investment Advisor. He made numerous false statements concerning the Capital, LLC note programs. And he also committed fraud in connection with the other investments. I credit the testimony of the FBI agent who just testified, Agent Hanish. There also was testimony at the trial by Nicolas Kolbenshlag, by Stacey Beane about these entities, by Sharon Harris about these entities. And Michelle Bennett also gave some testimony about these entities.” Ex. B, pg. 43.

11. “There is a common plan or scheme or modus operandi; to wit, Stephen Peters as a Registered Investment Advisor breaching his fiduciary duty to his advisory clients with a glaring conflict of interest in connection with investments they made alongside of him. For example, Mr. Slayton did testify at the trial that there was no discussion of that with him by Peters. Likewise, Mr. Bennett talked about that. The Court does find by a preponderance of the evidence that this, in fact, is relevant conduct...” Ex. B, pg. 44.

12. “The Government presented overwhelming evidence of this fact at trial. Mr. Peters defrauded the Harrises, in fact, into buying the farm, into how it was financed. The Harrises were left in a very difficult situation, facing an option of either losing the farm to the bank or writing a check and being able to save it. If Mr. Peters had not defrauded them, none of this would have happened to them.” Ex. B, pg. 46.

13. “I think the evidence presented at the hearing today, as supplemented by the trial evidence and the governing law shows that these people are, in fact, victims. Again, they’re victims of the Registered Investment Advisor who, among other things, in violating his fiduciary duties, in letting them invest alongside him, after making false statements to the effect that he was getting 30, 40 percent returns on his investments; that they wanted to get involved with him, lies associated with his academic credentials, including allegedly having an MBA from MIT.” Ex. B, pp. 47-48.

14. “And you admitted to Stacey Beane on the tape that you had from 2008 to 2017 taken out roughly \$4.8 million total over that period. And you explained that you were going to replace, quote, ‘misplaced loan documents.’ As the trial evidence showed, that was a complete lie. And then you needed Stacey Beane to help you backdate information so that the money you stole somehow could correspond with a completely fictitious loan. And you instructed her to make sure that the money matched the line of credit that I’m going to put up, you know, establish, didn’t add after the fact. But that’s what was going on in the tapes. Steve Laska, who also went to the FBI. And you admitted, quote, ‘You know I’m not going to sit here and say that there isn’t a conflict of interest,’ end quote. You knew it. You knew it all eight years you were engaged in this fraud and you did it anyway. Then you had to get around it because you saw it all crumbling. And so you needed to come up with a plan to deceive your clients yet again. I’m going to get them to sign the disclosure statements.” Ex. B, pp. 84-85.

B. Lying to and Obstructing the Commission Staff

1. “Certainly, with respect to Stacey Beane and Travis Laska and Justin Deckert the evidence was compelling that it was all at your behest and direction. It was your firm and you were very proud of it. You were the singular micromanager in charge.” Ex. B, pg. 92.

2. Peters “directed [his employees] to create false documents and lied to the Securities and Exchange Commission. Stacey Beane, Travis Laska and Justin Deckert gave compelling testimony which this Court credits. And the documentary evidence is

overwhelming and shows that Mr. Peters committed perjury when he made – when he gave that testimony under oath in this Court.” Ex. B, pg. 40.

3. “You also as part of the fraud, scheme, obstructed justice repeatedly in connection with the SEC examination and enforcement action and continued the obstruction of justice while testifying in the trial of this case. There was a veritable tsunami of evidence in this case that demonstrated conclusively the extraordinary fraud that you perpetrated on all the victims in this case and each of these victims is a human victim.” Ex. B, pg. 80.

4. You then compounded it by laundering the money, by obstructing the SEC examination and enforcement action and capped it off with perjury in this court.” Ex. B, pp. 83-84.

5. “You conceded that you knew Stacey Beane had been herself creating fraudulent documents. All these folks were doing it at your direction. You explained how you were going to essentially hide what you needed to hide from the SEC.” Ex. B, pg. 86.

6. “It’s not just the fraud, it’s the money laundering, it’s the doubling down on the obstruction of justice in the SEC examination, it’s the tripling down in the obstruction of justice in the SEC enforcement action and it’s the quadrupling down of the repeated perjury in this courtroom.” Ex. B, pg. 87.

C. Failure to Accept Responsibility

1. “He [Peters] does not get acceptance of responsibility.” Ex. B, pg. 50.

IV. PETERS SHOULD BE BARRED FROM ALL ASPECTS OF THE SECURITIES INDUSTRY

The Commission, in applying the *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979) standards to determine whether a bar is in the public interest, considers: (1) the egregious nature of the respondent’s actions; (2) degree of scienter; (3) the isolated or recurrent nature of the infraction; (4) the respondent’s recognition of the wrongful nature of his conduct; and (5) the likelihood that his occupation will present opportunities for future violations. *See: In the Matter of Joseph P. Galluzi*, Exchange Act Release No. 46405, 2002 SEC Lexis 2202 (August 23, 2002), *aff’g* Initial Decisions Release No. 187, 2001 SEC Lexis 1582 (August 7, 2001) (Commission Op. at 17 and n. 32) (appropriate

under *Steadman* to impose a bar against respondent on basis of criminal conviction for mail and wire fraud and injunction); *In the Matter of Brownson*, 77 SEC Docket 3636, Exchange Act Rel. No. 46116, 2002 SEC Lexis 1715 (July 3, 2002), *aff'g*, Initial Decision Rel. No. 182, 2001 SEC Lexis 537 (March 23, 2001) (ALJ Foelak (same on basis of criminal conviction for securities fraud); *see also In the Matter of Wade*, (ALJ Mahony) Initial Decision Rel. No. 207, 2002 SEC Lexis 1604 (June 24, 2002) (citing *Steadman* and finding a bar in the public interest, where registered representative was enjoined from violations of the federal securities law anti-fraud provisions, due to the egregious nature of his actions, degree of scienter, extensive nature of conduct and failure to admit wrongful nature of conduct); *In the Matter of Harrington*, (ALJ McEwen) Exchange Act Rel. No. 38518, 1997 SEC Lexis 893 (April 17, 1997) (finding a bar in the public interest against respondent who had been enjoined from anti-fraud violations in underlying injunctive action).

Applying this framework to Peters' activities, as delineated by the Court's comments on the weight and nature of the evidence that the jury considered, it is apparent that a bar is appropriate and necessary in this case. As to the first *Steadman* prong, "egregiousness of the Respondent's actions," Peters sold VisionQuest Capital notes directly to his IA clients without disclosing his interests in the notes. (Ex. B, pg. 43-44; 47-48). He lied to them telling the notes paid 8-9% interest and the payments were guaranteed—both untrue. Ex. B, pg. 41. Peters falsely represented to his IA clients that profits would be generated by investing in businesses that paid exorbitant percentage profits, more than enough to cover the interest payments. Ex. B, pp. 47-48. Also not true.

As the SEC exam team and later the enforcement proceeding began, Peters buckled down on his deception by creating and ordering his staff to create false documentation, which Peters then submitted to the SEC. Ex. B, pp. 84-86, 92. To cover his tracks further as the fraud crumbled, Peters went back to his IA clients and fraudulently attempted to and coerced them to sign purported disclosure documents about the investment. The “disclosure” documents were created and presented to the IA clients long after they had made their investments in the notes. Ex. B, pp. 84-86. Peters’ conduct was egregious. Indeed the Court concluded, and no doubt the jury recognized: “It’s not just the fraud, it’s the money laundering, it’s the doubling down on the obstruction of justice in the SEC examination, it’s the tripling down in the obstruction of justice in the SEC enforcement action and it’s the quadrupling down of the repeated perjury in this courtroom.” Ex. B, pg. 87

As to *Steadman’s* second prong, “the degree of scienter,” the Commission need look no further than the Court’s comments at sentencing, that the jury no doubt concluded as well. As set forth fully above, Peters admitted on tape to his employee Stacey Beane during the fraud that he “had from 2008 to 2017 taken out roughly \$4.8 million total over that period. And you [Peters] explained that you were going to replace, quote, ‘misplaced loan documents.’ As the trial evidence showed, that was a complete lie.” Ex. B, pp. 84-85. Peters further admitted to Steve Laska, “You know I’m not going to sit here and say that there isn’t a conflict of interest.” The Court and jury concluded that “You knew it. You knew it all eight years you were engaged in this fraud and you did it anyway. Then you had to get around it because you saw it all crumbling. And so you needed to come up with a plan to deceive your clients yet again. I’m going to get

them to sign the disclosure statements.” Ex. B, pp. 84-85. Peters’ degree of scienter was extremely high. He defrauded his clients without reservation knowing for the full eight years of his fraud, exactly what he was doing, that it was wrong—but yet out of *greed*, did it anyway. Ex. B, pp. 83-84

As to *Steadman*’s third prong, “the isolated or recurrent nature of the infraction,” the Commission should read the Court’s comments—that the jury no doubt concluded as well. From 2009 through 2017, Peters committed an “extraordinary fraud that you [Peters] perpetrated on all the victims in this case and each of these victims is a human victim.” Ex. B, pg. 80. The Court actually went further and listed the names of the approximately 30 IA victims and noted: “All of these people came to court and testified about the reality of the fraud that you [Peters] perpetrated as a Registered Investment Advisor.” Ex. B, pg. 81. Peters’ fraudulent conduct was repeated multiple times over an 8 year period. This persistent, recurrent nature of Peters’ violations over a long period dictates that he be barred from the industry.

As to *Steadman*’s fourth prong, “the respondent’s recognition of the wrongful nature of his conduct,” the Commission should read the Court’s comments—that the jury no doubt concluded as well. As the Court noted regarding Peters’ persistence after the fraud, “[i]t’s not just the fraud, it’s the money laundering, it’s the doubling down on the obstruction of justice in the SEC examination, it’s the tripling down in the obstruction of justice in the SEC enforcement action and it’s the quadrupling down of the repeated perjury in this courtroom.” Ex. B, pg. 87. Peters was defiant to the end. He’s never made a recognition of the wrongful nature of his conduct. Notably, the Court further stated: “He [Peters] does not get acceptance of responsibility.” Ex. B, pg. 50. Post-trial,

Peters appealed his conviction, but was unsuccessful in that appeal. This appeal suggests that Peters likely still maintains that he has done nothing wrong. He has failed to acknowledge responsibility for his actions. Peters should never again be allowed to manage, advise upon, or touch the investment funds of others. Peters' utter failure to recognize his wrongdoing should compel the Commission to bar him from the industry.

As to *Steadman's* fifth prong, "the likelihood that his occupation will present opportunities for future violations," the potential for substantial harm to investors from Peters' continued participation in the securities industry is significant. Now approximately 48 years old, Peters has worked in investment related businesses since at least 2009, shortly after his time in the military ended. It appears that he had no professional non-military experience when he was not employed by, or affiliated with, an investment related business. The Commission should not overlook the fact that Peters' fraud was against his own IA clients—precisely those to whom he owed and breached a fiduciary duty. The Division respectfully requests that Peters be permanently barred from the industry.³

September 29, 2022

Respectfully submitted,

/s/ Edward G. Sullivan

³ The Commission's 8/31/2022 Order directed the Division to address whether the Commission should take official notice of the 4th Circuit's decision affirming Peters' conviction. While recognizing that the appellate ruling adds little, if anything, to the facts that the jury considered in reaching its guilty verdict, taking official notice of the appellate decision may help to substantiate the preclusive effect of the jury charges given by the trial court as well as the facts considered by the jury as set forth herein. *See, e.g. Lopez v. Pompeo*, 923 F. 3d 444, 445 (5th Cir. 2019) ("If an appeal is taken, preclusion should attach to every ground that is in fact reviewed and affirmed by an appellate court . . ."). There is no downside that the Division perceives in the Commission taking official notice of the appellate decision in the Peters criminal conviction matter.

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Certificate of Service

On 9/29/2022, I served the foregoing by causing true and correct copies to be sent as shown below to:

Office of the Secretary (Via Electronic Filing)
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Washington, D.C. 20549

Mr. Stephen Condon Peters (Via sealed envelope, postage paid)

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EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA)
)
)

vs.)

5:17-CR-411-1D)
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)

STEPHEN CONDON PETERS,
Defendant.

JUNE 6, 2019
JURY TRIAL - DAY 10
BEFORE THE HONORABLE JAMES C. DEVER III
UNITED STATES DISTRICT JUDGE

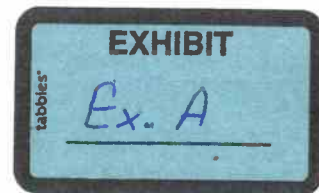
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Official Court Reporter
United States District Court
Raleigh, North Carolina
Stenotype with computer-aided transcription

I N D E X

GOVERNMENT'S WITNESSES

JULIA HANISH

Direct Examination by Mr. Gilmore

195

GOVERNMENT'S EXHIBITS

NUMBER	RECEIVED
F5	197
F1, F2, F3 and F4A	198

1 (Thursday, June 6, 2019, commencing at 9:00 a.m.)

2 P R O C E E D I N G S

3 THE COURT: Good morning, and welcome to the United
4 States District Court for the Eastern District of North
5 Carolina.

6 We're going to have closing arguments. I would ask
7 anyone who is here not move around at all during arguments;
8 it's disrespectful to the lawyers and to the process.

9 Let's bring the jury in.

10 (The jury entered the courtroom at 9:03 a.m.)

11 THE COURT: Good morning and welcome back, ladies and
12 gentlemen.

13 I need to confirm: You didn't talk about the case,
14 no one talked about the case with you and you followed my
15 instructions?

16 All right. As I told you yesterday, now is the time
17 for the lawyers to give their closing arguments; where the
18 lawyers have an opportunity to argue to you what the lawyers
19 think the evidence has shown or not shown.

20 Because the Government has the burden of proof, the
21 Government argues first. So Mr. Gilmore will argue on behalf
22 of the United States, and then defense counsel will argue on
23 behalf of Mr. Peters. And then because the United States has
24 the burden of proof, Mr. Gilmore will have essentially the last
25 argument.

1 And then after the arguments, that's when I read the
2 instructions of law to you.

3 And then after that it will be time for you to
4 deliberate.

5 That's where we are. That's where we're going.

6 At this time the Court recognizes Mr. Gilmore to give
7 a closing argument on behalf of the United States.

8 MR. GILMORE: Thank you, Your Honor.

9 May it please the Court.

10 Ladies and gentlemen, we're going to begin by letting
11 you hear the words of Stephen Condon Peters, your most trusted
12 advisor.

13 (Audio played in open court.)

14 MR. GILMORE: "I'm not independent and objective at
15 all. I own both companies."

16 If only he had presented himself to his clients in
17 that way. But he didn't. And that's what the first part of
18 this case is about, a fraud on those clients that arises from
19 that fundamental lack of objectivity. Everything flows from
20 it.

21 A fraud he committed one client at a time, one check
22 at a time. And he got away with it year after year. But the
23 wheels came off when the SEC came knocking in 2016. And that's
24 what the second part of this case has been about; covering it
25 all up, pretending like VisionQuest Wealth Management was not

1 recommending VisionQuest Capital. Changing the records,
2 fabricating the records, deleting the records, making sure
3 everyone stays on script.

4 But what happens when people go off script and say
5 that, in fact, we were advising clients to go into VisionQuest
6 Capital? Steve Peters was advising clients to go into
7 VisionQuest Capital.

8 What happens when people don't stick to the message
9 that Steve Peters writes for them?

10 (Audio played in open court.)

11 MR. GILMORE: That's the real Steve Peters. That's
12 the Steve Peters behind closed doors when no one is watching.
13 "When they cut, I cut back."

14 The sad part is -- the saddest part about all of this
15 is that these many victims of his scheme, many of which you've
16 now met, they went to him looking for someone they could trust,
17 someone who could help them.

18 Someone like Mollie Bot, her husband had recently
19 died. She got \$5,000 from his limo business and the sale of a
20 house. It was the most money she had ever had. She gave it to
21 Mr. Peters, who she trusted.

22 Some of the people were like Ms. Sharon Harris. She
23 came into money from her grandparents at age 21. And she had a
24 lot of money, but she didn't know how to preserve it. She
25 wanted help with that.

1 Some were like Harry Malitas, served up on a platter
2 to the defendant after their trusted advisor of so many years
3 sold their practice to the defendant's company, and now they
4 were looking to the defendant's company for advice.

5 Mr. Malitas and his wife had [REDACTED]

6 [REDACTED]. And they
7 took that money and they wanted to put it somewhere where it
8 could make money and last.

9 They all wanted someone who could help them, someone
10 who had their best interests in mind, someone they could trust.
11 And unfortunately for all of those people, they put their trust
12 in Steve Peters.

13 One by one, one life goal at a time, one check at a
14 time, Steve Peters swallowed up their fortunes and their
15 dreams. He used it on the things that he wanted.

16 The saddest part about this is that these people
17 didn't even know it was happening. They were all spellbound,
18 trapped under the magic of Steve Peters; who sang this
19 beautiful siren song of low-risk investment, not correlated to
20 the stock market, 8 percent returns guaranteed because I have
21 direct control over these investments.

22 I, Steve Peters, steeped in success from my MBA at
23 MIT that I've used to generate 42 percent returns. I'm basking
24 in the glow of my fortune. As I come to let you stay on my
25 rolling estate so you can see what it would be like to invest

1 with me; you can be a part of that. They were all trapped
2 because they believed it was real. But it was an illusion.

3 Now, you've gotten to see Steve Peters in action,
4 haven't you? And what a salesman he was; a little tilt of the
5 head at the right time, a little smile out the corner of his
6 eye, a little twinkle. You can see how he got away with this
7 for as long as he did.

8 Each and every one of those victims heard some
9 version of that little presentation that he did with the life
10 balance chart. It's the same thing he put on his website. You
11 got to see it live. They all believed it. They believed they
12 could trust him because Steve Peters found a way to connect
13 with every single one of them. You can hear it from their
14 stories, the stories of the people who came here to talk.

15 For the religious folks who talk about God, sometimes
16 the meeting would start with a prayer.

17 For other folks, he connected with them on status;
18 meet them at the country club; I have what you want.

19 For some it was about convenience; I am a working
20 professional, I have a small business, I need someone to help
21 me, I need a personal CFO.

22 But for all of them, that trust was formed quickly
23 and deeply. And deeply.

24 Ms. Bennett you heard from, she cried the first time
25 she sat down with the defendant, crying with him.

1 Ms. Harris finds him through an internet search,
2 looks at him on his website and within a short period of time
3 is going down to the beach to stay with his family.

4 Steve Peters had a way of making these people feel
5 that he really was their most trusted advisor.

6 Why shouldn't they believe him? He had a website
7 where he talked about, on the website, the same things he would
8 tell people in person. He marketed himself as your most
9 trusted advisor, your personal CFO.

10 And remember how he set himself apart? He set
11 himself apart by saying, there's the big guys out there, the
12 big investment houses, they sell their own products, right?
13 They have a conflict of interest and you can see it, right? He
14 wrote it on the white board. The people who are out there
15 selling their own products to their clients have a conflict of
16 interest.

17 This model -- these are the words of Steve Peters,
18 this model creates a natural conflict of interest because any
19 clients that go to these firms, they aren't looking for
20 products, they're looking for solutions, they 're looking for
21 better answers. In summary, they just want advice, but they're
22 being sold products.

23 What company does that sound like?

24 Imagine those clients coming in for their quarterly
25 meetings, they think they're just coming in to get an update on

1 their finances and instead they've been targeted for a sale of
2 VisionQuest Capital. No one tells them that. That's a
3 deception. They think they're coming in to have their needs
4 met when really it's Mr. Peters' needs, need for cash, need for
5 cash flow.

6 When all these investors came in here and talked to
7 you, not one of them, not one said, he told me I have a
8 conflict of interest, I can't be objective. Not one. Mr.
9 Peters says he did. Not one of them. He said they're all
10 lying.

11 And all the while, the defendant knew that it was his
12 duty, it was his duty to be independent and objective, that he
13 owed that fiduciary duty to his clients. I mean, he literally
14 had a book on it.

15 And you're going to get the book in evidence.
16 Exhibit 1.4A. Big, fat binder full of his rules. It's written
17 right in there. "This company has designated Stephen C. Peters'
18 as its CCO. The CCO will be responsible for all compliance
19 functions."

20 He knew the rules. He knew them very well.

21 Within those rules were the Code of Ethics, which he
22 was bound by, all of his employees were bound by. Right on the
23 first page of it, "Code of Ethics." It's based on the
24 principle that all of the employees of the company, certainly
25 the persons have a fiduciary duty to place the interest of

1 clients ahead of their own. It's right there in his book.

2 And if that's not clear enough, he's got it broken
3 out by number.

4 "Place the interest of clients first. Avoid taking
5 inappropriate advantage of their position," as in they don't
6 have all the information that you have, Steve Peters. You're
7 the one with all the information. You have a duty to disclose
8 the important information to them so they can make an informed
9 judgment.

10 "Undue Influence: Access persons shall not cause or
11 attempt to cause any advisory client to purchase, sell or hold
12 any security in a manner calculated to create any personal
13 benefit."

14 That's this case.

15 If it's not clear enough from those, "No associated
16 person shall provide loans or receive loans from clients."

17 That's the whole way he did business, was by
18 violating his own rules.

19 But he didn't have to abide by the rules, did he?
20 Because he's Steve Peters. He's above all of that. He doesn't
21 have to live by the rules.

22 He was violating those rules and he knew it. You
23 heard him admit it on tape. And he didn't just do it once, it
24 was built into the fabric of his business. You saw year after
25 year, right into the strategic plan that he wrote, every year

1 there was a requirement that the employees take money from
2 their clients and put it into his pocket. It's not written
3 that way, but that's what it means. And you know that's what
4 it means. And he did it every year.

5 I want you to remember how long this was going on.
6 All the way back to 2011 you see in these strategic plans. You
7 can't blame Steve Laska when he doesn't get there until 2014,
8 Mr. Peters. You were doing it long before he got there.
9 Mr. Kolbensschlag, he may have been a young man out of college,
10 but he saw you, Mr. Peters. He saw you recommending that
11 investment. He saw you raising capital from your clients back
12 when you were the only one there, Mr. Peters. You and you
13 alone. No one to hide behind. You were the salesman.

14 But, you know, it didn't matter whether it was before
15 Mr. Laska arrived or after, Mr. Peters was still steering the
16 ship.

17 Let's be clear about one thing, this was a sale.
18 This was not people coming in and thinking about what to do and
19 picking an investment on their own. He was selling it. His
20 words, selling it.

21 They had a job to do when they went into those client
22 meetings. You heard Steve Kurvach that got up here. Steve
23 Kurvach, he was drafting the PowerPoints that the employees
24 were supposed to be using when they would go out and talk to
25 the clients. Steve Peters tells him, he's unhappy with them.

1 I had these quarterly meetings for one and one reason only and
2 that is to find out what money those clients have that I don't
3 have yet. I want it all because I'm greedy, greedy, greedy.

4 Now, that statement, when you first hear it, it's so
5 disgusting and shocking that you almost have to wonder if it's
6 even true. It's so bad. But that man testified to it. He saw
7 it. And now that you know what happens behind closed doors
8 with Mr. Peters, I submit that man told you the truth. Mr.
9 Peters wants all the money. He wanted it and he was trying to
10 get it.

11 Now, finding a reason why, that was a part of the
12 process. When you put a PowerPoint in front of someone, you
13 put a recommendation in front of someone, before you go there
14 you have to figure out why it would be good for them so you can
15 make it convincing when you talk to them. That's a fraud, when
16 you're representing that you're just looking out for their best
17 interests.

18 Get them to sign on that line. Put that money in my
19 bank account. And you don't get credit for it unless the money
20 comes over, remember?

21 With respect to what was said to get these clients to
22 sign -- remember, I talked at the beginning it was going to be
23 about what was said and what was not said. With respect to
24 what was said to get these clients to sign, you know a lot
25 about that at this point, this is a low risk, safe investment,

1 guaranteed return, secure, no fees, 100 percent invested.

2 And these clients, regardless of what was
3 specifically said, each and every one of them trusted that Mr.
4 Peters was going to be putting them in an investment that was
5 right for them.

6 How many of these people were retirees? They weren't
7 working any more. They weren't interested in high-risk
8 investments. They wanted to hang on to what they had. None of
9 them wanted high-risk investments. Not with this part of their
10 assets. This was supposed to be safe and reliable, income
11 producing.

12 That's what was said to these people, and it was a
13 lie. But there is also the whole aspect of the case of what
14 was not said to them.

15 Exhibit 2F. You saw so much of this, the Private
16 Placement Memorandum. You saw this because regardless of what
17 they were saying to the investors, in this document you have a
18 list of all the things that were important that were not being
19 said. It's captured in the red circles. They're all there. I
20 don't think you even need to go and read them at this point, I
21 think you know them very well.

22 Not one investor would have put their money into this
23 had they received this document. Not one. Nor would the
24 employees have been able to sell it no matter how much they
25 were compensated.

1 Now, don't get hung up on this issue of whether a
2 private placement memorandum was required. Who cares whether a
3 private placement memorandum was required. That's not what's
4 at issue. What's at issue is Mr. Peters telling these people
5 what they needed to know to make an informed decision.

6 This shows you all the things he wasn't telling them.
7 And whether he did that verbally, whether he did it in writing,
8 they had a right to know. That's all this document does. It's
9 not an issue of legalities, it's not an issue of whether it's
10 required. It's just to show you what they weren't being told.

11 Now, here's what the defendant and his employees were
12 selling, a note going into Capital that is supposed to be going
13 into a revenue-generating business, right? Cash flow positive
14 businesses. Oh, I'm making 30 to 42 percent on these
15 investments, that's how I can afford to pay you the 9 percent
16 returns you're getting back.

17 Well, you remember that testimony about the bank?
18 You remember where he said, I just want to share the wealth
19 with my clients, why go and get the money from a bank when I
20 can just get it from my clients and then pay them the interest?
21 It's a win-win.

22 But think about that for a minute. Is any bank going
23 to loan this company any money? Year over year losses, falling
24 revenues, increasing debt. Mr. Peters may try to say, no, I
25 wouldn't go and try to get a loan through VisionQuest Capital,

1 I would try and go get it from VQ Wealth because that's where
2 all the money is, right? There is no money in VQ Wealth. And
3 you know that now. The money was supposed to just be in Wealth
4 Management's revenue stream.

5 Well, what do you know about that? Remember that pie
6 graph net from Wealth Management. The investor money was
7 flowing into Wealth Management to keep it alive, to prop it up.
8 It wasn't profitable on its own.

9 You'll have in evidence, and you will have before you
10 when you go into the jury room, this document that lays out
11 what the deficiency was, the deficiency from operations. It
12 was, too, a failing business.

13 He couldn't get a loan from a bank if he wanted to.
14 You know what a bank would request. Many of you probably have
15 mortgage loans. At a minimum, they're going to want a
16 financial statement. He couldn't get a loan.

17 And that's why you saw in many instances in this case
18 Mr. Peters going to his clients to get the money instead. Even
19 all the way back to the foundation of the company, he didn't go
20 to a bank to get a loan, he went to his clients. \$500,000 from
21 Mr. Slayton. That was just one. You heard about three.
22 \$500,000 loan and he wasn't alone.

23 In a striking turn of events, one of the defendant's
24 own witnesses came in here, I submit that person also had a
25 loan to Wealth Management, a prohibited arrangement, but there

1 were no banks. He didn't have to give them anything.

2 And then when he bought the farm, when he bought the
3 farm surely he would have had some money from a bank to do
4 that, right? No. This exhibit shows you, once again, it was
5 client money. Even on Ms. Harris', the side he was supposed to
6 pay on the transaction, it was Ms. Harris' money that he took
7 and he rattled into that land deal.

8 Well, what about the mortgage on the property?
9 Surely, he went to a bank to get a mortgage on the property.
10 Nope, that, too, seller financed. The old Theys family are the
11 ones that financed that transaction for Mr. Peters at the time
12 they bought the house.

13 So you now know why the defendant was targeting his
14 clients. He wasn't doing it out of charity. He wasn't doing
15 it out of philanthropy. He was doing it because no bank would
16 loan him the money.

17 This is where the money was coming from, from his
18 clients. And who has knowledge and insight about where to put
19 that money? Steve Peters does. But the problem is, the money
20 wasn't going where it was supposed to go. The money was not
21 going into these cash-flow-positive businesses.

22 The money, as you can see here and as you saw --
23 heard from the witness, was going above that white line into VQ
24 Wealth where only the defendant and his wife knew what was
25 happening with it. Only they knew. And they had everyone

1 fooled.

2 Some employees thought the money was invested into
3 various other businesses generating the returns. Some thought
4 that a large portion of the money was sitting there in the
5 Cloud effectively waiting to be invested into something. But
6 they all believed that Steve Peters had done what he said he
7 was going to do, he was going to invest it, all of it.
8 Remember, there were no fees on this investment. Every single
9 penny was supposed to be invested to generate that revenue.

10 I mean, surely, Steve Peters had some other
11 businesses, right? Some other businesses that were generating
12 the revenue to pay all these returns. No. Exhibit 2B shows
13 you that is not what was happening. The money was coming from
14 the investors, 79 percent of it.

15 Where in the world did all that money go? Where did
16 my retirement savings go, Mr. Peters? Where did my family's
17 World Trade Center money go, Mr. Peters? Where did the money
18 my husband left me go, Mr. Peters? He stole it. He stole it
19 for himself. He squandered it on his credit card bills, on his
20 house, on his cars, his watches. He stole these people's
21 dreams.

22 More than half the money went to either the things he
23 wanted for himself; the other part of that was just to keep the
24 whole thing afloat, shelling out those regular interest
25 payments.

1 How is that interest payment going for you, Roberta
2 Ross? Are you getting those interest payments on time? Never
3 missed an interest payment.

4 Even this Costa Rica house here, he stole that, too.

5 You were looking out for your interests the whole
6 time, Mr. Peters, not those of your clients. And to keep that
7 scheme afloat you did use one investor to pay another, and
8 there are lots of examples of it.

9 Here are a few. That's how he kept this alive. When
10 the time came to pay up on the notes, the money didn't come
11 from anything he generated on legitimate businesses. It was
12 coming from these other investors.

13 And what about the regular interest payments?

14 There is lots of these charts. You can have all the
15 fun you want back in the jury room with these charts. But
16 there's lots of them that has a box at the end of them that
17 says investor interest payments. That's where the money was
18 going. He's masking the fact that he's not making the money he
19 said he would.

20 The sad part about this case is that these victims
21 thought he was helping them. But he was really helping
22 himself, wasn't he? He had a list. He had his own financial
23 plan, his own dreams and he was funding those dreams with his
24 clients' money.

25 He made that list. He was checking them off as he

1 got them; the horses, the farm, the custom paintings for the
2 house, the guns, the watches, the cars, the ATVs, and the Costa
3 Rica house. It's written right there on the list. He wanted
4 that Costa Rica house and he got it. But he got it using his
5 clients' money. He had his life dreams; they were financed by
6 his clients.

7 Now, Mr. Peters never told one investor -- he said he
8 did, did you believe him? Never told one investor that he was
9 going to be the owner of that property. Who would give him the
10 money for that? He lied to them and he withheld that. That's
11 a fraud by an investment advisor.

12 A luxurious Costa Rican destination, the House of the
13 Beloved Princess owned by an American family living in Raleigh,
14 North Carolina. The patriarch of the family named the home
15 after his wife Amy and his daughter Sarah. The old French and
16 Latin meaning of Amy is beloved and the Hebrew meaning for
17 Sarah is princess; hence the name, the House of the Beloved
18 Princess. Who did you think was going to own that property all
19 along?

20 The defendant wanted that house and he got it. Too
21 bad he never told his clients that. Wouldn't they have loved
22 to know what his plans were?

23 There is no doubt, ladies and gentlemen, that this
24 man committed this fraud upon his clients using their money to
25 fund his dreams.

1 There are three frauds that are charged in this case,
2 three that you'll have to consider. Now, before I show you
3 this next series of slides, I want you to remember, I am not
4 supplanting the judge's role. He's going to give you very,
5 very detailed instructions, definitions, the elements. What
6 I'm doing here is to help you as you think about the evidence,
7 the major points to consider.

8 With respect to Count 1, investment advisor fraud,
9 the defendant was an investment advisor. Well, he said he was.

10 Defendant "engaged in any act, practice or course of
11 business that were fraudulent, deceptive or manipulative."

12 Well, you know he did. And there are lots of ways he did it.

13 Defendant "devised or participated in such an act
14 knowingly and willfully with the intent to defraud." Who got
15 the money? Steve Peters got the money. Steve Peters got what
16 he wanted. That was his intent.

17 Defendant "employed device by use of any other
18 instrumentality of interstate commerce." An e-mail is
19 sufficient. And you've heard lots of evidence in this case
20 about e-mails. One example would be IRA Innovations down in
21 Alabama. That was a standard course of business. Just to
22 process these poor retirees' money through his scheme it had to
23 flow through Alabama first.

24 That's Count 1, investment advisor fraud.

25 Now, every one of these counts that you see, all

1 frauds are going to have a provision in them called aiding and
2 abetting. Aiding and abetting means that Steve Peters -- it is
3 not necessary that Steve Peters be the one to hit send on the
4 e-mail, okay? So as you think about this, consider the acts
5 that Mr. Peters willfully caused another to do. And if he
6 willfully causes someone else to do an act, it's just as though
7 he did it himself.' And he willfully caused a whole lot of acts
8 in this case.

9 Look at all these people that were slaving, slaving
10 under Steve Peters, as he berated them, as he made them cry in
11 the workplace, as he threatened them, as he withheld their pay
12 unless they did what he wanted. You've seen all of that.
13 These people were doing his bidding. He was willfully causing
14 everything at VisionQuest. And so as you think about the
15 evidence in this case, each of the frauds, consider that fact.

16 Transmission of e-mails to IRA Innovations through
17 Travis Laska or Stacey Beane or Mr. Kolbenschlag, it doesn't
18 matter. Steve Peters is causing it. It's just as good as if
19 Steve Peters did it himself.

20 Sending a false document to the SEC -- we're going to
21 get to that count in a minute -- just as good as if Steve
22 Peters did it himself if he's willfully causing Stacey Beane to
23 do it, Matt Gomoll to do it, Randall Griggs to do it.

24 Fabricating records, same thing.

25 Recommending that clients go into VisionQuest

1 Capital, sending them out on a mission where he's going to
2 compensate them for putting them in VisionQuest Capital, that's
3 willfully causing it, that's aiding and abetting.

4 Now, Count 2, the second type of fraud in this case,
5 scheme or device, untrue statement of fact, omission of a fact
6 that is misleading or that operates -- a course of business
7 that operates as a fraud or deceit. You've seen that.

8 In connection with the sale of VisionQuest Capital
9 promissory note. You've seen that.

10 Use of any means of instrumentality of interstate
11 commerce. E-mail.

12 Fourth, the defendant acted with intent to defraud.
13 You know he acted with intent to defraud. That's what it is
14 when you lie and you withhold information from your clients
15 when they trust you.

16 Counts 3 through 11, wire fraud. Okay. Wire fraud
17 sounds fancy. It's just another form of fraud. Same fraud
18 that we're talking about with everything else. Only difference
19 is for these counts there has to be, as you'll see, an
20 interstate transmission of a wire. An e-mail will do. Same
21 issue, IRA Innovations, money flowing into Mr. Peters' pocket
22 through e-mails he's causing is sufficient.

23 Here's an example.

24 Now, as you go through the counts -- I haven't
25 explained this to you yet, but as you go through the counts

1 you're going to see that the exhibits are labeled and numbered
2 in a way that helps you think about the issues in the case.

3 Count 1, there's a long series of exhibits in 1.
4 There's -- and those are going to relate largely to the issues
5 of investment advisor fraud, the fact that he's doing this in
6 his capacity as an advisor; the fact that he has a duty as an
7 advisor. So you're going to see evidence relating to that in
8 the exhibit -- in the 1 series of exhibits.

9 Also in Exhibit 1 series is 1A. 1A relates to the
10 Costa Rica property. And the reason that it's in the
11 investment advisor fraud is because, yeah, it's a
12 revenue-generating business which he was supposed to be putting
13 money into, except that he didn't disclose to the clients that
14 he was going to get to own it. That's why it's grouped in with
15 1A, with the investment advisor fraud.

16 But you can consider this evidence when you look at
17 all the frauds.

18 Same thing for Count 2. You'll see in Count 2, that
19 exhibit series, A, a series of documents relating to how the
20 money was spent. If it had been spent the way it was supposed
21 to be spent, maybe we wouldn't be here, but you're going to see
22 how he spent the money in A. In B you're going to see evidence
23 about where the money went, the fraud. You're going to see the
24 things that were said and not said.

25 So you'll see, as you go through the exhibits, the

1 way they are broken out to aid you in considering each count.

2 Counts 12 through 15, these are transactions,
3 monetary transactions in criminally-derived property. Sounds
4 really fancy. All the issue is on those counts, 12 through 15,
5 is whether the defendant received the loan money through the
6 VisionQuest Capital notes. And you know he did. It's about
7 \$15 million of it. It's all laid out in Exhibit 1 in this
8 case. That he received that money and then that he transferred
9 any portion of that money, which is criminally derived because
10 it's from a fraud -- that he transferred any of that into a
11 transaction that exceeded \$10,000. That's it.

12 And you know it's going to affect interstate commerce
13 in this case because all of the ones that are charged, you
14 heard evidence that these wires were processed in another state
15 in Wells Fargo Bank, okay? That's all that is required.

16 So here is Exhibit 12 as an example. You're going to
17 have one of these for every count. You're going to be able to
18 watch the flow of the money. And if you really are so
19 inclined, you can go and look at the underlying documents to
20 see for yourself.

21 Count 16, conspiracy to make false documents and use
22 false documents. Okay, now we're moving into the obstruction
23 part of this case. What is a conspiracy? It's nothing
24 complicated. It's an agreement to do something that's illegal.
25 It's an agreement between two people. And they don't have to

1 sit down and sign a contract to do it. They can tacitly agree,
2 just by their course of conduct. And they did that in this
3 case. There also has to be an overt act, someone has to
4 actually do something in furtherance of the conspiracy.
5 There's a whole lot of overt acts in this case. And the judge
6 will instruct you on the particulars of that count.

7 But as you think about the conspiracy count, think of
8 all the people who came in here and admitted that they did
9 things that they knew were wrong as a part of that SEC
10 examination. There was a lot of evidence about it.

11 And these are the people that helped him do it.
12 Right here in the middle is Steve Peters. He was the master
13 mind behind the responses to the SEC, ladies and gentlemen.
14 Nothing you have seen changes that. Whether he delegated a
15 specific task or whether he wrote a letter himself, he was
16 controlling that process. That's why he's in the middle. So
17 all of these people don't have to conspire. He just has to
18 conspire with at least one of them at any given time. And he
19 did it a lot.

20 Compliance letters, you saw how after the SEC becomes
21 involved he immediately begins drafting and backdating these
22 compliance letters between him and the newly-appointed
23 compliance officer, Randall Griggs. And he has Stacey Beane
24 put them on letterhead for him. And they are false. And you
25 know Mr. Peters created them on his computer, okay? And then

1 after they're created, he signs them and they're backdated and
2 they get sent to the SEC.

3 There's also a series of letters that come in from --
4 there's also a series of letters that -- a compliance letter
5 from the attorney's office RBH, Rick Starling. He directs
6 Stacey Beane to remove the date. Now, the date on that letter
7 is on the second page. Nobody said Steve Peters was smart when
8 it came to obstructing justice. Doesn't matter if he got -- if
9 someone figured it out. All that matters is that he tried to
10 do it and that he conspired with Stacey Beane to do it, and she
11 did, and he did, and they sent that document to the SEC.

12 Compliance letters back from Randall Griggs neatly
13 interwoven within the ones that Mr. Peters drafted. You've
14 seen those letters. You're going to see where when Randall
15 Griggs sends them back to Steve Peters, Steve Peters' first
16 response is, wait, you want to respond to these fake letters?
17 You see right there. But he does. And then he directs Stacey
18 Beane to put them on letterhead and they go to the SEC.

19 More compliance -- these are the false letters right
20 here on the screen.

21 Forged signatures. Now, the issue of the forged
22 signature for Nick Kolbenschlag, it's a part of both the
23 conspiracy count as well as Count 20, okay?

24 So as you consider Count 20, look at where it all
25 starts. Steve Peters sends an e-mail on October 14th, the last

1 day of Mr. Peters' hunting trip, okay? Mr. Peters has laptops.
2 He can carry them wherever he wants. He can draft those
3 letters wherever he wants. The metadata on these documents
4 show that he created them on October 13th, okay? Nothing says
5 he couldn't do that outside the office.

6 He comes back to the office or connects to Wifi at
7 the lodge and transmits these letters to Stacey Beane; put this
8 on letterhead, two of them, okay? And they're backdated. And
9 he wrote them. And she does it. She prints those to
10 letterhead, they're backdated and have Nick Kolbenschlag's
11 signature on them. Nick Kolbenschlag had been gone for months.

12 Now, one of the things the judge is going to talk to
13 you about when he gives you instructions is when people
14 fabricate records you are allowed to ask why; why is he feeling
15 the need to backdate, fabricate, forge a letter to his
16 compliance officer?

17 Well, you know why he did it. He wanted a
18 get-out-of-jail-free card. That's what this letter was
19 supposed to be. He wanted to look like he plopped the whole
20 issue of conflict of interest on to Nick Kolbenschlag all the
21 way back to 2009, and that's a fraud. He was never given that
22 responsibility.

23 You know how this letter came into existence.

24 If you think Stacey Beane wrote this letter, that's
25 up to you. Just read the letter. Look how sophisticated it

1 is. Why would Stacey Beane write this letter? This is the
2 defendant's work because he is a fraud. And instead of
3 defrauding his clients this time, he's defrauding the SEC. And
4 he's using Stacey Beane to do it. That's Count 20.

5 And the defendant knew that she forged those
6 signatures. He knew she forged those signatures, folks.
7 Listen as the defendant tells you.

8 (Audio played in open court.)

9 MR. GILMORE: He knew the signatures were being
10 forged. And he had Stacey Beane do it because it would help
11 him to trick the SEC.

12 Count 20 is aggravated identity theft. It sounds
13 fancy. It doesn't mean someone has to go to the store with
14 your credit card and buy stuff in your name. All it means is
15 that during and in relation to another crime, specifically
16 creating false documents, that you used someone else's means of
17 identification. And a name and a signature is enough. That's
18 what the defendant did in this case. That's exactly what he
19 did.

20 Going back to Count 16, more false documents, code of
21 ethics acknowledgments. I'm not going to sit here and belabor
22 all of them, but you heard from Mr. Deckert about how those
23 were made, how they were backdated.

24 Outside business activity disclosures. You heard
25 about how he worked with Stacey Beane and Justin Deckert to

1 fabricate those.

2 E-mail omissions. You heard how he worked with
3 Stacey Beane to omit various types of e-mails from the record,
4 e-mails which those SEC examiners would have loved to read.
5 But they didn't. He deleted them.

6 Fabricating client balance sheets. You heard about
7 how the defendant directed Stacey Beane to go get those client
8 balance sheets and she couldn't do it on her own. So she
9 started by trying to do these accredited investor
10 questionnaires, it didn't work out all the time and so she went
11 to Travis to get help putting the client balance sheets
12 together, to pull them out of that software program to inflate
13 people's money, to make them look like they were more wealthy
14 than they were. You can consider that in deciding whether
15 there was a fraud with respect to these poor victims.

16 Fabricating policy statements and contracts. You
17 heard from Travis Laska about how the defendant came to him,
18 asked him to create these -- or get these records from the
19 file. He goes to do that. And what does he find? There's a
20 bunch of stuff missing.

21 They have a meeting out at the farm. The defendant
22 says do whatever you got to do, get those documents made, get
23 them in the file. And he does. And he identified the ones
24 that are false.

25 Altering financial statements. You heard about

1 Stacey Beane being directed to remove the settlement payment.
2 Do you remember that? She removed it from the financial
3 statements, the profit and loss statements, so the SEC wouldn't
4 see that he was paying someone a settlement. And they sued him
5 for fraud. It wasn't a breach of contract, it was a fraud.

6 And those were sent to the defendant's wife as well
7 because, remember, she kept the books. She was the one that
8 actually was going to be doing the taxes. Stacey kept the
9 books, but Amy was doing that for VQ Wealth and filing the
10 taxes.

11 Count 17, making and using false documents, aiding
12 and abetting: I'm not going to go through these elements with
13 you. They are pretty self-explanatory.

14 Count 18, falsifying, concealing records and aiding
15 and abetting, same concept.

16 And now look at this slide. Look at all of these
17 false documents that the defendant directed to be created. You
18 heard about how the conference room was turned into a war room.
19 Now you know why. Look at all those papers. They are all
20 false. They are all fraudulent.

21 Count 19, a corrupt endeavor to influence a federal
22 agency. This is the count that relates not to the SEC
23 examination, but to the SEC enforcement attorneys. You
24 remember, you heard from Mr. Saunders from Atlanta when he came
25 here and talked about when the defendant testified before him.

1 Well, in the lead up to that he issued subpoenas and you heard
2 about the documents that were fabricated in the lead up to that
3 testimony.

4 First it was the fabrication of this revolving
5 promissory note which would purport to explain why the money
6 was flowing from VQ Capital up to VQ Wealth. He fabricated it
7 in 2017 right before the audit.

8 I don't care what he said to you on the witness
9 stand. You shouldn't believe what he said. You can't believe
10 a word that man said.

11 This document was fabricated in 2017 for the purpose
12 of covering up the fact that he had been stealing money from
13 his clients. You'll see the document flow. It goes in order.
14 You can look at it to your heart's content in the jury room.

15 There's also a fabrication of a personal note. What
16 I want you to consider as you look at both the personal note
17 and the corporate note is that it never shows up on any
18 financial statement. If there was a loan going all the way
19 back to 2010, it didn't show up anywhere. It didn't exist.
20 He's doing it to cover up the fraud.

21 And then after you go through the evidence of the
22 fabrication of the personal promissory note, you have the fact
23 that he fabricated the subscription agreements with Mr. Matt
24 Gomoll. Remember, the purpose of those is to make it look like
25 these investors were fully informed before they went into this

1 investment with VisionQuest Capital. That's what the
2 subscription agreements are all about. He worked with
3 Mr. Gomoll and Mr. Baker to do that. This document shows the
4 first date that those were ever used by Mr. Peters. It's in
5 May, May 15 of 2017, that he sends those documents out for use
6 with clients.

7 And you hear -- you heard from the defendant himself
8 about what the plan was with respect to those subscription
9 agreements. Listen.

10 (Audio played in open court.)

11 MR. GILMORE: "All you really need to say, have them
12 do, is sign this subscription agreement and accredited
13 investors questionnaire. That's what we need."

14 That is what Steve Peters needed, but it's not what
15 the clients needed. The clients needed those documents all the
16 way back before they put their money into this investment.
17 They were entitled to every one of those disclosures that he
18 never gave them and now he's trying to cover it up. You can
19 consider that fact as you think about whether the defendant
20 committed the fraud in this case.

21 And after this meeting the defendant carries forward
22 with that plan. You see where he reaches out to Mr. Baker, has
23 Mr. Baker contact his clients, they return a signed accredited
24 investor -- a signed subscription agreements. It's not dated,
25 it's not signed by anyone at VisionQuest Capital. Mr. Peters

1 directs Stacey Beane to execute those documents and backdate
2 them, and she does. And they are sent to the SEC. Lots of
3 them.

4 Same thing with respect to Mr. Gomoll. You heard in
5 this courtroom Mr. Peters, as he entered the room with the
6 client, the purpose of that meeting was to do one and only one
7 thing, and that was to get them to sign their name on those two
8 pieces of paper so that he could cover it up with the SEC. And
9 they did that. He didn't tell them one thing about how the
10 company was failing. He didn't tell them one thing about how
11 there was no money left to be able to pay off their notes in
12 five years. He hid all of that.

13 (Audio played in open court.)

14 MR. GILMORE: "And it could get into more trouble."

15 And it did. And that's why he's charged with
16 attempting to conceal records and endeavor to corruptly
17 influence the SEC enforcement attorneys.

18 They fabricated those subscription agreements from
19 Mr. Gomoll, they sent them to the SEC. And then, if that
20 wasn't bad enough, he goes down to Atlanta and he carries
21 forward on a whole series of lies that he had been planning for
22 months.

23 He lies to them about the SEC examination first.
24 There's a document that they had as a part of the deposition
25 where they're showing him, you told the SEC examiners that you

1 never recommended or advised clients to go into VisionQuest
2 Wealth, is that true? Did you write this? Did you -- who is
3 responsible for this writing? Mr. Peters, well, I don't really
4 know in this particular case, I mean, approval wise, I'm sure I
5 looked at it at some point, I don't know how much time I spent
6 on it, I kind of relied on my compliance officer to respond to
7 the SEC. That's false. You know Steve Peters orchestrated the
8 entire response to the SEC. Steve Peters came up with this lie
9 and he wrote the script and he gave it to them to use.

10 He was also asked about whether any of the staff are
11 getting compensation for selling the VisionQuest Capital notes.
12 None of our staff gets direct compensation for selling
13 VisionQuest Capital, but they do receive incentive compensation
14 at the end of year on a quarterly basis by the firm achieving
15 its goals. Nope. Not in 2017. You've seen the compensation
16 plans. He lied to them about it. He knew it was wrong for
17 them to be receiving that type of compensation and he tried to
18 hide it, both in documents and orally.

19 Then he was asked about this line of credit,
20 \$10 million line of credit, between the companies. What is
21 this line of credit? How much is it? 10 million. And when
22 was it started? All the way back in 2010. And it would need
23 to, right? To cover all the theft of the money.

24 And then they are asking him questions, you said it
25 was back then, is it in writing? Oh, yeah, it's in writing.

1 Well, yeah, he fabricated it to make it look like it
2 existed back then, but it didn't exist.

3 E-mail deletions as a part of the subpoenas that were
4 issued in this case. You heard about those, too. All of the
5 compensation plans that were -- that would have shown the SEC
6 that these advisors were getting directly compensated for
7 selling VisionQuest Capital, all of them removed. And what did
8 they get instead? They got a version that had the VisionQuest
9 Capital compensation extracted.

10 And then there's the e-mails, e-mails for Jon
11 Gautheir up to April 15, 2017. Nothing after. Well, what
12 happens after? That's when Mr. Gautheir resigns. He sends a
13 letter and he buries Steve Peters in that letter. He tells
14 about all the risks that were not being disclosed to the
15 clients. That's the e-mail that he didn't want the SEC to get.
16 That's why he directed them not to include anything after
17 April 15.

18 And then there's Joe Walls, an employee. And he
19 tells his technology company delete any e-mails that contain
20 Joe Walls. What do we know about Joe Walls? Joe Walls on the
21 way out the door tells Steve Peters, you are running a Ponzi
22 scheme. Steve Peters didn't want that e-mail to go to the SEC.

23 Ladies and gentlemen, when you consider all this
24 evidence and you apply your common sense to the facts, to the
25 testimony, to the documents, you will be led to one and only

1 one conclusion, and that is that Mr. Peters, Stephen Condon
2 Peters, your most trusted advisor, is guilty of all of the
3 charges.

4 Thank you.

5 THE COURT: Thank you, Mr. Gilmore.

6 At this time the Court will recognize Mr. Camden.

7 MR. CAMDEN: May it please the Court.

8 Members of the jury, each of you were selected to
9 serve on this jury because you agreed to be a fair and
10 impartial judge of the facts, the facts that have been
11 presented to you; and we believe that you will do that.

12 We also are confident that you will weigh this matter
13 carefully and closely, because it's important. It's important
14 to everyone in the courtroom today.

15 We're also confident that you will treat each other
16 during the course of your deliberations with the utmost respect
17 and that you will allow and ensure that each one of you has an
18 opportunity to be fully heard on your views with regard to the
19 evidence.

20 You have to make a decision as a collective body.
21 And sometimes there are folks who talk more than others, some
22 folks who talk less than others, but it is important that each
23 one of your voices are heard as you go through this process.
24 We're confident that you'll do that.

25 During the course of that, you may find yourself in a

1 position where you have disagreements. Reasonable minds and
2 reasonable people can disagree about things, and there is
3 nothing wrong with that. If you find that you have a
4 sincerely, truthfully-held belief that the Government has
5 failed to prove its case beyond a reasonable doubt, you are
6 free to maintain that belief until the walls of this courthouse
7 fall down.

8 As we stand here right now, Mr. Peters is presumed to
9 be innocent. He is innocent. He has to be presumed innocent
10 throughout the course of your deliberations until you come to a
11 point where you decide, if you decide, that that's no longer
12 true. You should know that the presumption of innocence alone,
13 that alone, is enough for you to find Mr. Peters not guilty.

14 And you should also know that you have to maintain
15 that presumption right now, even as we're standing there. And
16 if you cannot do that, you should let the Court know because
17 the judge will tell you that you cannot do that; if you feel
18 you cannot bring that into your process, then that would be
19 inconsistent with the laws and obligations as jurors.

20 Let's turn now and talk about reasonable doubt. What
21 it means to prove something beyond a reasonable doubt. As I
22 said, in order for you to remove this default of innocence, you
23 must find the evidence has proved to you beyond a reasonable
24 doubt that Mr. Peters committed the acts that are alleged in
25 the Superseding Indictment.

1 If the Government has failed to prove even one
2 element, one element of an offense, then that requires you to
3 find Mr. Peters not guilty of that crime.

4 A reasonable doubt is a doubt that's based on your
5 common sense and your rational thinking. If the Government has
6 failed to exclude all other reasonable explanations or rational
7 explanations for what happened, then you would be required to
8 enter a verdict of not guilty.

9 This is especially important in this case because
10 what you're being asked to do is to look inside of Mr. Peters'
11 mind, and to look inside of his mind particularly at the time
12 that these events occurred, as they were unfolding over time,
13 and to think what was in his head at that moment, what was he
14 thinking at that point in time.

15 Members of the jury, proof beyond a reasonable doubt
16 is the highest and most demanding standard in the law.

17 You heard that the Government got a search warrant
18 for Mr. Peters' businesses and his home in this case. To get
19 that search warrant, all they had to show was probable cause,
20 that there may have been some evidence of a crime located at
21 those places. That allows the Government to go in to look for
22 things and seize them.

23 You've also heard about civil lawsuits in this case.
24 And in a civil lawsuit what you're required to prove to be
25 successful is 50 percent plus one. The scale has to tip just a

1 little bit.

2 We anticipate that you'll hear from the Court -- to
3 be clear, this is not a civil case. This is not about whether
4 or not Mr. Peters met his obligations under the agreements that
5 he reached with his clients. This is a criminal case and the
6 standard is far higher.

7 In certain cases, like cases involving child abuse,
8 there's another standard, clear and convincing evidence. It's
9 evidence that should fully convince you of something, fully
10 convince you. Even that standard is lower. That standard is
11 lower than beyond a reasonable doubt.

12 So in order to -- in an attempt to animate this
13 concept, I'm going to describe something to you. I'm going to
14 describe a chemical to you. And I want -- in your mind, as I'm
15 describing it, think in your own head what you think it might
16 be as I go through its properties. This chemical can cause
17 excessive sweating and vomiting; it's a major component in acid
18 rain; in a number of industrial solvents; it can cause severe
19 burns; accidental inhalation of this chemical can kill you;
20 it's been found in the tumors of terminally-ill cancer
21 patients; and if it's ingested at too high of a level, it will
22 cause death.

23 So as you sit there, think of the chemical that you
24 think it may be. That chemical is dihydrogen monoxide or
25 sometimes known as hydroxylic-acid. The other thing you may

1 know it as is water. It's water.

2 So I use this example to show how easy it can be to
3 look at things at a superficial level and reach a conclusion
4 about what something may be. But that's not what you're being
5 asked to do. You're being asked to dig deep and to see, as you
6 walk through this evidence, does it, in fact, support a finding
7 beyond a reasonable doubt, beyond even something that should
8 fully convince you. Beyond that standard that Mr. Peters has
9 committed the alleged offenses.

10 On July 11th of 2017, Mr. Peters had a plan.
11 VisionQuest Wealth Management, they were reducing staff
12 positions, they were closing offices with the goal of
13 increasing profitability. VisionQuest Capital was identifying
14 assets that could be sold. It was looking to restructure debt.
15 And the goal was to repay investors.

16 At that time VisionQuest Wealth Management -- around
17 that time, it had 400 clients and roughly \$200 million of
18 assets under management.

19 Now, just to be clear -- and I think we brought this
20 out during the trial, to be clear, those assets that were under
21 management, there was no allegation that that was being done
22 inappropriately. I believe you heard that even from the SEC
23 examiners. None of that money was lost. The investors did not
24 lose anything that was in that \$200 million of assets under
25 management. In fact, it was simply transferred to other wealth

1 management advisors, including a number of the people who they
2 had worked with at VisionQuest.

3 VisionQuest Capital had as an asset the Costa Rican
4 property. It also had additional property and loans. You've
5 also heard about Mr. Peters having stuff, the things he had,
6 his personal property. And he did have those things. And you
7 heard him say that if he needed to meet his obligations to his
8 investors, he was ready to get rid of it all to make sure that
9 people were repaid.

10 So let's turn now to the fraud of allegations. As
11 the Government articulated, there are three fraud charges
12 raised here. The Government must prove to you beyond a
13 reasonable doubt that Mr. Peters intended to defraud the
14 VisionQuest Capital investors. They must prove to you what was
15 going on in his mind as he entered into those agreements and
16 they must exclude any other rational explanation for his
17 conduct.

18 We anticipate that you will also receive an
19 instruction from the Court about good faith and sincerely-held
20 belief. Part of that instruction states that, "A person who
21 acts on a belief or opinion honestly held is not punishable
22 merely because the belief or opinion turns out to be
23 inaccurate, incorrect or wrong. An honest mistake in judgment
24 or error in management does not rise to the level of intent to
25 defraud."

1 Good faith, if you find it, is a complete defense to
2 Counts 1 through 11. A complete defense.

3 While the Court will tell you that Mr. Peters simply
4 saying that he intended to repay his investors doesn't require
5 you to find that he was acting in good faith, it also doesn't
6 prevent you from finding that he was acting in good faith.

7 So let's look at some of the reasonable doubts here.

8 The evidence is undisputed that Mr. Peters repaid his
9 investors until July of 2017.

10 There's been much discussion about investors knowing
11 about VisionQuest Wealth Management and VisionQuest Capital and
12 the relationship between those. And the investors were aware
13 that Mr. Peters was involved in both of those entities.

14 Beyond that, you know and you heard that each
15 investor on an annual basis would receive the form ADV that had
16 been filed with the SEC. That was provided to them. We would
17 encourage you to look at those form ADVs, go through each one
18 of them. You'll see the disclosures that were made. You'll
19 read about VisionQuest Wealth Management, you'll read about
20 VisionQuest Capital, you'll read about VQ Wealth, you'll read
21 about various other investments. They were all there. And
22 you'll read that there was the potential for conflict of
23 interest. That form was sent to each of the investors. You
24 heard Mr. Kolbenschlag from the stand say that that was sent
25 out on an annual basis.

1 That same form was also sent to the SEC. It was sent
2 to the SEC every year. And yet, there was no point prior to
3 2016 where the SEC, based on the receipt of that form, took any
4 action with regard to VisionQuest Wealth Management or
5 VisionQuest Capital.

6 Also, none of the advisors during the period of
7 time -- you heard the advisors take the stand, and they all
8 indicated that they were aware of what -- the relationship
9 between VisionQuest Wealth Management and VisionQuest Capital.
10 They were aware that it was part of their compensation
11 structure. They were aware that it was part of their job.

12 What you didn't hear is anyone describe to you that
13 they raised any concerns at the time. They knew what they were
14 doing. They knew it was part of their job and they continued
15 to do it. They raised no objections.

16 You also heard from a large number of investors. And
17 those investors described different scenarios. Some people
18 indicated that they were aware of the Costa Rican property and
19 knew it was an investment, other people were not aware of the
20 Costa Rican property and said if they had known they wouldn't
21 have invested. Some of the investors said they knew that Mr.
22 Peters was using some of the funds to grow and develop
23 VisionQuest Wealth Management, and they were aware of that.
24 Other investors said they weren't aware of that and if they
25 would have known that they would have changed the way they

1 viewed their investment.

2 Everyone knows that no one would have invested if
3 they thought they were going to lose all their money. That
4 certainly is true. And who can blame them for that? No one
5 can.

6 But the reality is, each one of those investors,
7 prior to 2017, July of 2017, they got what they bargained for.
8 They got the payments consistent with the terms of the
9 promissory note that they entered into with Mr. Peters and
10 VisionQuest Capital. And at that time they had no concerns.
11 Their concerns arose in July of 2017.

12 Turning now to more reasonable doubts.

13 You've seen the one-page promissory note. You've
14 seen it for yourself. It's not secured by any property. It's
15 not secured by any business asset. You've heard Mr. Peters say
16 that while he certainly had experience with PPMs and
17 subscription agreements and accredited investor questionnaires
18 in the past, he believed this was a loan. He did not believe
19 this was a security until 2016.

20 And when he came to that understanding that it was a
21 security, they took steps; a regulation D filing was made, they
22 moved into compliance, a PPM was generated. And they moved
23 forward with that process.

24 Now, you can also look to -- be looking at what was
25 going on in Mr. Peters' mind with regard to these promissory

1 notes, some of the recordings that you heard. There was a
2 recording of Mr. Peters and Steve Laska. It was when Mr. Laska
3 was going to be leaving the company. And he was telling him,
4 I've got to make cuts, I've got to let you go, buddy, because I
5 need to repay investors. Mr. Peters didn't know he was being
6 recorded then either. That also was the real Mr. Peters.

7 You've also heard testimony regarding people not
8 having access to financials and so they didn't have a clear
9 picture of what was going on. But you heard another audio.
10 You heard an audio between Mr. Peters and Matt Gomoll. Again,
11 during the course of that conversation, Mr. Peters had no idea
12 that he was being recorded. Matt Gomoll said he wasn't clear
13 about the finances of VisionQuest entities. And you heard Mr.
14 Peters say to him, do you want to see the financials? Do you
15 want the financials for VisionQuest Capital? Do you want the
16 financials for VisionQuest Wealth Management? He told him
17 that.

18 At that time this is someone who had been an advisor
19 at the firm for three months. He was new to the business. And
20 he told him he can have that. And yet, the bookkeeper who had
21 worked there for years, who had completed the tax returns for
22 all these entities, she didn't have access to the financials?

23 Mr. Laska, the President of the company, the Chief
24 Investment Officer, somehow he couldn't get access to the
25 financials?

1 But Mr. Peters was freely and openly willing to show
2 it to an advisor who had only been there for three months.

3 Members of the jury, that provides you reasonable
4 doubt.

5 There is no evidence in this case that Mr. Peters
6 ever thought he was anything other than fully bound and
7 responsible to repay the VisionQuest Capital investors.

8 Mr. Peters had no duty to put on evidence at the
9 trial. He did. He took the stand. He told you -- and he told
10 you that he absolutely believed that he had to repay those
11 people.

12 And you've heard discussion about the notes, the
13 notes that were created between the companies and the notes
14 that were created between Mr. Peters and VQ Wealth. Members of
15 the jury, those notes memorialize an obligation. They
16 memorialize a duty. They memorialize a requirement that Mr.
17 Peters has to pay this money back; that's what those notes say.
18 They obligate him. He's not moving away from his obligations
19 to the Capital investors. He's moving toward them.

20 You also have heard that many of the VisionQuest
21 Capital investors were VisionQuest Wealth Management clients.
22 You heard testimony that over the course of time Mr. Peters
23 would have events where he would draw these people together;
24 they would come out to the farm or they would have events at
25 the office. He was connecting them. He was networking them

1 with each other.

2 These are the same people who he had investments
3 with -- both with VisionQuest Capital, but also some of these
4 people were invested in Fusion Fund and Angel Automotive and
5 some of the other real estate investments that you've heard
6 about. Mr. Peters is drawing these people together. He's
7 connecting them to one another.

8 If his intent were to defraud all of these people,
9 why would he bring them together? Why would he have them get
10 to know one another? Why would he have them -- these people
11 who had experience, experience in some of these investments
12 that didn't go well, why would he bring them into communication
13 with one another?

14 Why would he -- if he was going to defraud these
15 people on the VisionQuest Capital notes, why would he do that
16 knowing full well that not only would he be buying a lawsuit at
17 best with VisionQuest Capital, he would also be losing that
18 VisionQuest Wealth Management client forever? He would be
19 losing them on both sides.

20 And because he had connected these people, he knew
21 that they would know exactly where to go, exactly who else to
22 talk to about their dissatisfaction and their frustrations with
23 him. Why would he set up that situation for himself? That
24 gives you reasonable doubt.

25 Now, you've also heard that there was an undercover

1 agent that was utilized during the course of this
2 investigation. We didn't hear from her. We only heard a small
3 amount of the recording, one the meetings that she had with Mr.
4 Peters in which he said the word VisionQuest Capital. And I
5 asked Agent Hanish if she recalled Mr. Peters saying that in
6 any of the other recordings. And she didn't have them up there
7 at the time and she couldn't recall, but she did indicate that
8 there was a time where he described something that sounded in
9 principle like VisionQuest Capital, a promissory note, an 8
10 percent of return over a period of time.

11 Well, you heard over the course of this trial that
12 there were other businesses and entities, Franklin Square, for
13 example, that was also offering promissory notes where you can
14 invest for a certain rate of return and interest.

15 There was no mention there of VisionQuest Capital.
16 And you heard Agent Hanish testify that Mr. Peters did not, in
17 fact, enter into or sell a VisionQuest Capital note to the
18 undercover agent. And she said, her bosses wouldn't sign off
19 on \$100,000 for -- to go to Mr. Peters. And that's almost --
20 that is unquestionably true. But I bet they would have signed
21 off on \$1 to buy a pen to sign a note. But that didn't happen.
22 And that is also reasonable doubt.

23 Now turning to the money laundering offense. The
24 money laundering offense, as the Government articulated, is
25 tethered directly to the fraud. And when you find, as we

1 believe you will, that Mr. Peters did not commit any of these
2 frauds, it is a necessary implication of that that he also did
3 not commit money laundering.

4 You may also find him not guilty if you find that he
5 did not cause the specific transactions that were at issue in
6 the counts that are identified in 12 through 15. If he is not
7 the person that caused that money wire to occur or that
8 transaction to occur, then he is not guilty of that crime.

9 I'm going to turn now to the SEC's investigation,
10 their examination and their enforcement proceeding. And the
11 Government has identified a number of pieces of false
12 information that was provided. And they've also identified a
13 number of pieces of information that they believe were omitted.

14 Now, again, as we go into this, there are multiple
15 counts related to this, Count 16 all the way through Count 20.

16 With regard to Counts 17 and 18, again, the good
17 faith defense rests. It is -- the Government must prove to you
18 that Mr. Peters was not acting in good faith during the course
19 of his response to the SEC.

20 The Government has alleged that there was a
21 conspiracy to provide false information to the SEC. And here
22 are the conspirators. You heard them take the stand.

23 You heard Ms. Beane talk about the work that she did
24 to falsify information, investor balance sheets, to take out
25 e-mail correspondence, accredited investor questionnaires,

1 bookkeeping records, litigation information, backdated letters.

2 Travis Laska with investor policy statements.

3 Justin Deckert with outside business activities
4 forms, social media use, code of ethics forms.

5 And Randall Griggs with his letters.

6 These are the people who conspired. They were given
7 a task and they chose instead to take shortcuts. They chose to
8 simply put together the information that should have already
9 been there.

10 You heard a number of people who worked at
11 VisionQuest Wealth Management at various operations,
12 capacities. And I asked them, did you do this work? Yes.
13 Were you responsible for getting all the documents in? Yes.
14 Did you do that? Yes. They all said that they had done their
15 work. And yet, they now say that there were things missing and
16 that they had to piece them together.

17 Now, looking at reasonable doubts, let's look at the
18 letters with Randall Griggs and Nick Kolbenschlag. The
19 substance of those letters identifies potential issues or
20 problems, conflicts of interest, needs to update the compliance
21 programs. And so these letters actually raise issues to the
22 SEC. If they weren't there, there would be nothing to pop that
23 up or identify that. So the Government has alleged that Mr.
24 Peters has created a document to identify a problem at the
25 company and then send it to the SEC. Members of the jury, that

1 is reasonable doubt.

2 You also heard testimony that Mr. Peters was a
3 micromanager, that he was overseeing every aspect of this
4 process; and yet, when you see the critical e-mails where a
5 number of these documents are being transmitted inside of
6 VisionQuest Wealth Management, he's not on them. It's not
7 because he wasn't on e-mails. He was on a ton of e-mails
8 related to the SEC response. But those critical e-mails where
9 the important documents, the documents that are the core of the
10 Government's case, are transmitted, he's not on them.

11 You also heard that Mr. Peters, the micromanager --
12 when the SEC came to do on-site investigations, he was there
13 for about an hour in Raleigh. And then they stayed the rest of
14 the week. And all of the VisionQuest Wealth Management
15 employees were there and the SEC was there with them. The SEC
16 could have asked questions, the employees could have answered
17 them. Mr. Peters was in no position to direct anybody to do
18 anything at that point in time. And yet, no issues were
19 raised.

20 There was a subsequent on-site visit in Richmond.
21 Mr. Peters didn't even attend that. Mr. Griggs went.
22 Mr. Griggs went because he was the Chief Compliance Officer at
23 that time. He was available to meet with the SEC. The
24 employees there were available to meet with the SEC. And Mr.
25 Peters did nothing to stop them from doing that. That is

1 reasonable doubt.

2 There also was incredibly open correspondence within
3 the company about responding to the SEC investigation. You see
4 the e-mails going back and forth. You see the proposed
5 responses going back and forth. You see all of the people who
6 were copied on that correspondence. But you didn't see
7 anything coming back from the president of the company, Steve
8 Laska, saying, hey, I've got some concerns about this or the
9 Chief Compliance Officer, Randall Griggs, who had been in the
10 industry over 40 years saying, hey, I'm not sure that our
11 answer to this is quite right. All of that information was
12 provided to all of them for their review and they said nothing.
13 That is reasonable doubt.

14 The Government has also talked about some of the
15 e-mail correspondence that was screened out. And you heard
16 from Matt Morman regarding that. And it was clear that the
17 goal was to screen out attorney-client privileged information.
18 And you saw, there were a number of lawyers listed there and
19 law firms.

20 But there were also a number of other people who were
21 listed there that weren't lawyers, but they were people who had
22 made threats against Mr. Peters. They were people who had made
23 claims against Mr. Peters and perhaps litigation had not
24 ensued, but they had certainly raised concerns.

25 The Jon Gauthier letter is one of those.

1 Mr. Gautheir was headed out the door and he was raising all
2 sorts of concerns in his letter. This, of course, was all
3 after he had been working at VisionQuest Wealth Management.
4 And, in fact, was he not only aware of VisionQuest Capital, he
5 had developed his own specific formula about how he would get
6 compensated for VisionQuest Capital. He created that; Mr.
7 Peters didn't create that. Yet, on his way out the door he
8 sends this letter. And that letter indicated a number of
9 things, including things that could have led to litigation.

10 You've also heard about the Joe Walls letter. Again,
11 Joe Walls going out the door. He's angry. He's firing off.
12 He's talking about a Ponzi scheme.

13 Look at all the other people who are copied on that
14 e-mail and look when that e-mail was sent. Did you hear
15 anything from Nick Kolbenschlag that he got the Joe Walls
16 letter and was concerned and immediately thought there was a
17 Ponzi scheme and he decided he needed to look into things and
18 move forward and do that? No. You didn't hear any of that.
19 You didn't hear any of that from Nick Kolbenschlag. He didn't
20 take Joe Walls's threats seriously. He was an angry person who
21 was leaving the company and he wrote an e-mail as a disgruntled
22 employee. That is reasonable doubt.

23 Turning to Count 20, the identity theft. What we
24 know is that Mr. Peters on the date that this letter was
25 allegedly created was on a hunting trip in Ahoskie. And where

1 he was he had no access to Wifi. You know that; the
2 contemporaneous e-mails tell you that. He was out of town.
3 And Stacey Beane told you that she forged Nick Kolbenschlag's
4 name on that letter. And she said that she just knew that
5 that's what Steve wanted her to do at that point. That's why
6 she did it, she just knew that that's what Steve wanted.
7 Members of the jury, that is insufficient evidence. That is
8 certainly a reasonable doubt.

9 Beyond that, if you look at the date of the letter,
10 2009, Mr. Peters was certainly aware that Nick Kolbenschlag was
11 not the chief compliance officer at that time. He was. He
12 knows exactly when Nick Kolbenschlag became the Chief
13 Compliance Officer. He's the one who promoted him in 2011.

14 And, again, look to the content of the letter. To
15 the extent that it's identifying, you know, a potential
16 conflict of issues related to VisionQuest Capital, go back and
17 look at the ADV forms. Look at the ADV forms, 2011, 2012, '13,
18 '14, this is being disclosed. The conflict is being disclosed
19 in the ADV letters.

20 Why in 2016 would you create a letter to then
21 backdate to talk about a problem that you had been disclosing
22 for years in the ADV form that you have been submitting to the
23 SEC and providing to your clients? It simply doesn't make
24 sense. That's reasonable doubt.

25 Members of the jury, you're also going to hear about

1 a good character instruction. And you heard from a number of
2 witnesses. Jeff Yocum has known Mr. Peters almost his entire
3 life. He's had business dealings with him and he believes he
4 has a reputation for good character. Kelly Tyre served with
5 Mr. Peters in the United States Marine Corps. He also had
6 business dealings with Mr. Peters and also holds him as a man
7 who has a reputation for good character. Jason McCoy, he knows
8 Mr. Peters through community service, through coaching
9 together, through spending time with children together and he
10 believes in Mr. Peters' reputation for good character. And
11 finally, Ms. Stonebreaker, a VisionQuest Wealth Management
12 client, a VisionQuest Capital investor, she doesn't believe
13 that she was defrauded. She believes in Mr. Peters' reputation
14 for good character.

15 And if you find that his reputation for good
16 character would be inconsistent with the things that are
17 described in the Superseding Indictment, that alone is
18 sufficient for you to find reasonable doubt.

19 So, again, turning back to the fraud, Mr. Peters is
20 not guilty. He's not guilty because he sincerely believed that
21 VQ Capital was not a security until the fall of 2016. He
22 thought he was engaging in a loan relationship. And in a loan
23 relationship, if you look at the promissory note, there is no
24 language in there about how the proceeds will be used, what
25 will be done with the proceeds, how they will be dealt with.

1 This is an arm's length transaction between the company and the
2 investor. And he believed because it was a loan he could
3 manage the money in accordance with those terms.

4 He told you that he believes he made the appropriate
5 disclosures regarding VisionQuest Capital regarding the
6 conflicts of interest and all of the ADV forms. He told you
7 that he believed that VisionQuest Capital was an appropriate
8 investment for each one of the investors that he met with; that
9 their needs had been identified and that they were placed into
10 something that was consistent with that need for cash flow.

11 And he told you that he would repay each and every
12 investor. And he not only told you that here, he talked about
13 repaying investors; he talked about repaying investors on the
14 recordings when he didn't know anyone was listening. He didn't
15 know he was being recorded and he identified that as his
16 primary priority.

17 You can also know he's not guilty because no one, no
18 one who worked at VisionQuest -- all of the people who had all
19 of these strategic plans, who had all of the same information
20 that Mr. Peters had -- voiced their concerns. No one raised a
21 hand and said, we need to run to the SEC, we need to do this
22 differently or we got concerns. Members of the jury, that
23 provides you reasonable doubt.

24 With regard to the obstruction, Mr. Peters is also
25 not guilty. He, in good faith, relied on his staff to collect

1 information and to provide it to the SEC. Those people let him
2 down. He didn't do anything to impede the SEC's on-site
3 investigation. He didn't do anything to stop them from talking
4 to anyone that they wanted to talk to. Mr. Peters simply did
5 not obstruct or impede the SEC's investigation.

6 Members of the jury, at the close of this matter,
7 you, as the judges of the facts, are going to have an
8 opportunity to complete a verdict form. This is the way in
9 which you render your judgment.

10 We're confident that you will take the time to
11 consider each one of these charges one by one and think through
12 each one of them, consider the evidence that the Government has
13 presented, consider the burden of proof beyond a reasonable
14 doubt.

15 Has the Government excluded with respect to each one
16 of these charges the logical possibility that in Mr. Peters'
17 mind at that time what he was doing was perfectly appropriate?
18 Have they excluded that?

19 And we believe that as you go through each one of
20 these you will conclude that the right answer is not guilty,
21 and you can say that as a group by checking the box at the top
22 for each one of these counts. This is how you can meet the
23 weighing and serious obligation that has been placed on you.

24 We are confident at the conclusion, when you complete
25 this verdict form and return it on each one of these counts, it

1 will be checked not guilty.

2 Thank you.

3 THE COURT: Thank you, Mr. Camden.

4 Ladies and gentlemen, we're going to take our break.
5 We'll take a break until five of; not quite 15 minutes. And
6 then Mr. Gilmore will do his rebuttal. And then depending on
7 how long that is, I think I might just go right into the
8 charge. That way -- I'm just trying to be a good steward of
9 you-all's time.

10 The charge will take a while for me to read and so
11 lunch is going to be a little later. So make you're
12 comfortable that we might be here for a while reading that, but
13 I really want to try and get through that so you-all can get
14 into your deliberations and have a working lunch while you're
15 doing that.

16 Don't talk about the case. Don't let anybody talk
17 about the case with you. Follow my instructions.

18 Everyone remain seated while the ladies and gentlemen
19 of the jury leave the room.

20 (The jury exited the courtroom at 10:43 a.m.)

21 THE COURT: We'll be in recess until 10:55.

22 (The proceedings were recessed at 10:43 a.m. and
23 reconvened at 10:55 a.m.)

24 THE COURT: Anything before we bring the jury in?

25 MS. POE: Your Honor, briefly, before the jury comes

1 back in, at the close of the defense's evidence yesterday we
2 neglected to renew our Rule 29 motion, and so for purposes of
3 the record we would renew that at this time.

4 THE COURT: Having considered the motion under *U.S.*
5 *v. Moyer* 453 F.3d 490 (4th Cir. 2006), the motion is denied as
6 to all counts.

7 Mr. Gilmore, do you have an estimate?

8 MR. GILMORE: I think maybe five or 10 minutes.

9 THE COURT: All right. Then I would anticipate going
10 into the charge.

11 And I will say, again, if you are not prepared to sit
12 in here for my entire charge, leave now. It is disrespectful
13 to this process, to this case, to this Court for people to be
14 moving about. So if you don't want to listen to everything I
15 say to this jury, which is probably going to take some time,
16 then leave now because you will not be moving around when I am
17 instructing the jury.

18 Let's bring the jury in.

19 (The jury entered the courtroom at 10:57 a.m.)

20 THE COURT: Welcome back, ladies and gentlemen. I
21 hope you-all enjoyed your break.

22 I need to confirm: You didn't talk about the case,
23 no one talked about the case with you and you followed my
24 instructions?

25 All right. Mr. Gilmore, you may provide the rebuttal

1 argument on behavior of the United States.

2 MR. GILMORE: Thank you, Your Honor.

3 "They got what they bargained for." Did you hear
4 that? These people got what they bargained for.

5 Did any of them bargain to have their money stolen?

6 You know why all those people went into this
7 investment. You know what they were told, to put their money
8 into this investment. That is a disgusting argument. They
9 didn't get what they bargained for.

10 And this isn't a breach of contract case. It's not
11 about whether he paid the interest payments timely. It's not
12 about that. We all know that. It's about whether he tricked
13 them into going into this investment based on lies and
14 omissions. It's not about whether they got their interest
15 payments. That is disgusting. That is an insult to these
16 people.

17 You heard an argument about the ADV form. Well,
18 folks, take that ADV form and you compare it to 2F, the one
19 with all the red circles. You ask yourself, did that ADV form
20 have everything in it that those investors and those clients
21 were entitled to know? Did it give them the level of detail
22 that they deserved to know whether they should not only be with
23 him as an advisor, but be going into this investment? It
24 doesn't contain anything, anything close to what they needed to
25 know to make an informed decision.

1 And as you know, because you've heard about the
2 process that every one of these poor souls went through when
3 they signed that contract with the defendant, by the time they
4 signed that contract where he sends them an ADV as part of a
5 welcome packet, they've already made the commitment that they
6 trust Stephen Condon Peters. They already trust him. And he
7 tricked them. And now he's trying to use the ADV as some kind
8 of a gotcha to get himself off of his fraud. Don't buy it.

9 You were told about how Mr. Peters was freely and
10 willingly open to provide Mr. Gomoll a copy of his financial
11 statement. You remember Mr. Gomoll, when he came up here? He
12 testified about -- he was working for the Government when he
13 was having that conversation. He was trying to get Mr. Peters
14 to talk. And here, at the very end of the case, after all the
15 investors' money is in, he's like, oh, yeah, Matt, okay, fine,
16 you want a statement, I'll give you a statement. Did you ever
17 see the statement? Did he ever give it? Did you hear any
18 evidence about that? No. He didn't give anyone a financial
19 statement. He never gave anyone a financial statement.

20 Not one of those investors got it. And you heard
21 from some of them, they asked. They asked and they didn't get
22 it. The employees asked and they didn't get it. Mr. Laska,
23 when he came to work there in 2014, said I need to be able to
24 do due diligence on this company. You're not going to be able
25 to do due diligence on this company. Okay. Well, all right,

1 but I'm not going to be compensated for selling something I
2 don't do due diligence on. That's the testimony. Mr. Peters
3 never gave anyone the information they needed to know whether
4 they should go into this investment. Never.

5 You were hearing an argument about why would he set
6 up a situation where his clients are going out to the farm and
7 meeting and networking, why would he want to get them all
8 together so they would be talking and if something went wrong
9 they would talk to each other? Nothing went wrong. Nothing
10 went wrong until the very end, when he started -- he was on the
11 verge of default. The only reason it hadn't happened earlier
12 is because he was using one investor to pay another.

13 And you know why he got them together out at the
14 farm. It was all part of the spell, it was all part of the
15 game, so that they felt like it was a family. And they did.
16 They did feel like it was a family. And he used that to reel
17 in Sharon Harris. He used Joe Slayton to reel in Sharon
18 Harris. That's why he did it. That's why he wanted that
19 family atmosphere, because it benefited his bank account.

20 You were told that these employees were just
21 fabricating these documents on their own. They were taking
22 shortcuts. Where would it be a job obligation of somebody to
23 backdate a letter, a compliance letter? Where is that a
24 shortcut? That's Steve Peters trying to cover himself with the
25 SEC. That's all it is.

1 He says -- you heard this argument, why would I --
2 why would he raise issues with the SEC by putting them in
3 letters? Well, it's obvious. He raises them in the letters so
4 that it looks like he cared about those things and that he had
5 an active compliance program and he really didn't have one at
6 all.

7 And specifically, with respect to that Kolbenschlag
8 letter, why would he do that? Why? Well, he did it because
9 the disclosures were inadequate and he knew it, and he had to
10 put it on someone else. It couldn't be on him so he had to lay
11 it on the guy that was just out of college. It was his
12 responsibility to make adequate disclosures. That's why he did
13 it.

14 All these people -- when the conspiracy documents are
15 being created in the midst of the SEC exam, all these people
16 are copied on the e-mails. None of them stand up and say
17 anything about it. You know why they didn't stand up and say
18 anything about it. Because Steve Peters is going to berate
19 them or insult them or yell at them. They're his slaves at
20 VisionQuest. They did what he wanted. They didn't speak up.
21 And they admitted to you that they should have, but they
22 didn't. They did what he wanted. They helped him with the
23 crime. That's a conspiracy.

24 With respect to the Kolbenschlag letter and the
25 forgery, he said Steve Peters never asked her to forge that

1 letter. Come on. Really? You send your assistant two
2 letters, both of which are backdated, okay, they're not signed
3 yet and he says put these to letterhead. What do you think
4 she's going to do? She forged the letters. And you heard the
5 defendant admit on tape that he knew she was forging letters.
6 And guess what? Even if he didn't know she was going to forge
7 it, where's the e-mail that says, whoa, whoa, whoa, Stacey,
8 don't be forging letters, that would be wrong.

9 There was no such e-mail. Steve Peters was going
10 through everything that was being sent to the SEC. He saw
11 those letters. He knew they were forged. He sent the
12 backdated letter. He wanted it to go like that. He wanted
13 that forged letter to go to the SEC.

14 You were hearing a few things about Ms. Stonebreaker,
15 the character witness. Well, she was supposed to be a
16 character witness, right? He told you that she came in here
17 and she said that I didn't feel like I was defrauded. I didn't
18 hear her say that, actually. I did not hear her utter those
19 words. In fact, I submit to you that she was defrauded. Even
20 though she was a little more sophisticated -- she told you, I
21 thought he was investing the money, I thought he was
22 successful, I thought the money was being invested. Little did
23 she know, her money was actually used to help finance the farm.
24 She's a victim, too, even if she doesn't want to be.

25 You heard an argument that Mr. Peters didn't actually

1 obstruct the SEC. There is no proof that Mr. Peters actually
2 obstructed the SEC attorneys. Who cares? That's not the
3 issue. The issue is whether he endeavored to do so. It does
4 not matter whether it actually resulted in it. It does not
5 matter. You'll read the elements, you'll hear from the Court,
6 it doesn't matter.

7 Lastly, you heard about the good faith of Mr. Peters.
8 You heard about how he really intended to repay everyone. Oh,
9 and he was really making those cuts, right? He was going to
10 cut Steve Laska. He was cutting all his staff because he
11 really wanted to pay back those investors. Well, ask
12 yourselves, why was he having to do that? If the money had
13 been invested all along, like it was supposed to be, and
14 generating all that income, like it was supposed to be, he
15 wouldn't be having to make those cuts that he was making. That
16 should not have been happening. It's just further proof of the
17 fraud.

18 And with respect to this idea, though, of good faith,
19 Mr. Camden did not give you all of the instruction. He left
20 out an important part of the instruction and I'm going to show
21 you the rest of it.

22 "Good faith means an honest mistake in judgment."

23 Now, you're going to get the whole instruction from
24 the Court. I'm giving you the parts that were left out.

25 "An honest mistake in judgment." Steve Peters? Is

1 there anything that was honestly a mistake about what he did in
2 this case? He micromanaged everything. He got all the money.
3 He controlled all of it. This is no honest mistake in
4 judgment.

5 Good faith: "An intention to avoid taking unfair
6 advantage of another." That is this case. He absolutely took
7 unfair advantage of everyone. Do you really think he had an
8 intent to avoid taking unfair advantage of these poor people
9 who were coming to him for advice and he's not telling them all
10 the facts? That's not good faith.

11 More instructions on good faith:

12 "A belief that everything would work out so no
13 investor would lose any money and that every investor would be
14 fully paid does not require a finding that the defendant acted
15 in good faith."

16 So even if you believed him, and you shouldn't, but
17 even if you did, even that is not enough by itself to find that
18 he acted in good faith.

19 "A defendant does not act in good faith if, even
20 though he honestly holds an opinion or belief, the defendant
21 knowingly makes material false or fraudulent pretense,
22 representation or promise or omission to others or aids and
23 abets another in doing so or willfully causes another to do so
24 to obtain money and property from another."

25 Basically, if you find he committed the crime, he's

1 guilty. This good faith argument is bogus. It doesn't apply
2 because when you read the whole instruction, you know that is
3 not Steve Peters.

4 This is not a breach of contract case. It's not
5 about whether they got paid their interest.

6 And lastly, I want to talk to you about intent. Now,
7 science has come a long way toward figuring out the way the
8 mind works, figuring out the way the brain works. What goes on
9 in the human mind, though, is still beyond our capacity. We
10 cannot read minds. And you are not required to do that to find
11 the defendant guilty.

12 You can't read his mind. So the Court helps you.
13 The Court tells you what you do. The Court tells you where to
14 look to think about and draw an inference of what was going on
15 in Steve Peters' head.

16 "You may infer, but you are certainly not required to
17 infer, that a person intends the natural and probable
18 consequences of the acts that they do knowingly and that they
19 knowingly omit or fail to do."

20 In other words, look to what he says, look to what he
21 does to figure out what was going on upstairs. And I think
22 when you do that, it only leads you to one conclusion; and that
23 is, that Mr. Peters intended to get that money, to get it in
24 his bank account so he could spend it on the things he wanted.
25 That is an intent to defraud. You don't have to read his mind.

1 You just have to look at the evidence.

2 And I submit to you when you look at all of it --
3 don't look at a piece, don't look at one count only, look at
4 all of it together, when you do that, when you hear the
5 defendant on those tapes, when you reflect on the testimony of
6 these witnesses who came in here, you will find the defendant
7 guilty of every single count.

8 Thank you.

9 THE COURT: Thank you, Mr. Gilmore.

10 Ladies and gentlemen -- and again, for you
11 note-takers, I'm going to send a copy of these back with you so
12 you don't have to worry about trying to take notes. You can
13 tell, there's a lot of pages. But you're going to have a copy
14 with you.

15 Now that you have heard all of the evidence to be
16 received in this trial and each of the arguments of counsel, it
17 becomes my duty to give you the final instructions of the Court
18 as to the law that applies to this case.

19 All of the instructions of law given to you by the
20 Court, those given to you at the beginning of trial, those
21 given to you during the trial, and these final instructions
22 must guide and govern your deliberations.

23 It is your duty as jurors to follow the law as stated
24 in all of the instructions of the Court and to apply these
25 rules of law to the facts as you find them from the evidence

1 received during the trial.

2 Counsel have quite properly referred to some of the
3 applicable rules of law in their closing arguments to you. If,
4 however, any difference appears to you between the law as
5 stated by counsel and that as stated by the Court in these
6 instructions, you, of course, are to be governed by the
7 instructions given to you by the Court.

8 You are not to single out any one instruction alone
9 as stating the law, but must consider the instructions as a
10 whole in reaching your decision.

11 Neither are you to be concerned with the wisdom of
12 any rule of law stated by the Court. Regardless of any opinion
13 you may have as to what the law ought to be, it would violate
14 your sworn duty to base any part of your verdict upon any other
15 view or opinion of the law than that given in these
16 instructions of the Court, just as it would violate your sworn
17 duty as the judges of the facts to base your verdict upon
18 anything but the evidence received in the case.

19 You were chosen as jurors for this trial to evaluate
20 all of the evidence received and to decide each of the factual
21 questions presented by the allegations brought by the
22 Government in the Superseding Indictment and the plea of not
23 guilty entered by the defendant.

24 In resolving the issues presented to you for decision
25 in this trial, you must not be persuaded by bias, prejudice or

1 sympathy for or against any of the parties to this case or by
2 any public opinion.

3 Justice through trial by jury depends on the
4 willingness of each individual juror to seek the truth from the
5 same evidence presented to all of their jurors here in the
6 courtroom and to arrive at a verdict by applying the same rules
7 of law as are now being given to each of you in these
8 instructions.

9 The Government has the burden to prove the defendant
10 Stephen Condon Peters' guilt beyond a reasonable doubt. This
11 burden never shifts to the defendant for the simple reason that
12 the law never imposes upon a defendant in a criminal case the
13 burden or duty of calling any witness or producing any
14 evidence.

15 However, the Government need not prove guilt beyond
16 all possible doubt. Rather, the Government must prove beyond a
17 reasonable doubt that the defendant committed every element of
18 the offenses with which he is charged. If the Government fails
19 to do so, you must find the defendant not guilty of that
20 charge.

21 If, after considering all of the evidence and the
22 credibility of the witnesses, the jury views the evidence in
23 the case as reasonably permitting either of two conclusions,
24 one of innocence, the other of guilt, the jury must, of course,
25 adopt the conclusion of innocence.

1 The law presumes the defendant to be innocent of the
2 charges against him. I, therefore, instruct you that the
3 defendant is to be presumed by you to be innocent throughout
4 your deliberations until such time, if ever, you, as the jury,
5 are satisfied that the Government has proven him guilty beyond
6 a reasonable doubt.

7 The presumption of innocence alone is sufficient to
8 acquit the defendant unless you, as jurors, after a careful and
9 impartial consideration of all of the evidence in this case,
10 are unanimously convinced beyond a reasonable doubt of his
11 guilt.

12 You are to perform the duty of finding the facts
13 without bias or prejudice as to any party. You are to perform
14 your final duty in an attitude of complete fairness and
15 impartiality.

16 This case is important to the Government for the
17 enforcement of criminal laws as a matter of prime concern to
18 the community. Equally, this case is important to the
19 defendant who is charged with serious crimes.

20 The fact that the prosecution has brought in the name
21 of the United States of America entitles the Government to no
22 greater consideration than that according to any other
23 litigant. By the same token, the Government is entitled to no
24 less consideration. All parties, whether the Government or an
25 individual, stand as equals at the bar of justice.

1 The question before you can never be: Will the
2 Government win or lose the case? The Government always wins
3 when justice is done, regardless of whether the verdict is
4 guilty or not guilty.

5 The evidence in this case consists of the sworn
6 testimony of the witnesses regardless of who may have called
7 them, all exhibits received in evidence regardless who may have
8 produced them, and the stipulations.

9 When the attorneys on both side stipulate or agree to
10 the existence of a fact, you may accept the stipulation as
11 evidence and regard the fact as proved. You're not required to
12 do so, however, because you are the sole judges of the facts.

13 Any proposed testimony or proposed exhibit to which
14 an objection was stained by the Court and any testimony or
15 exhibit ordered stricken by the Court must be entirely
16 disregarded.

17 Anything you may have seen or heard outside the
18 courtroom is not evidence and must be entirely disregarded.

19 You are to base your verdict only on the evidence
20 received in the case. In your consideration of the evidence
21 received, however, you are not limited to the bald statements
22 of the witnesses or to the bald assertions in the exhibits.

23 In other words, you are not limited solely to what
24 you see and hear as the witnesses testify or as the exhibits
25 are admitted. You are permitted to draw from the facts that

1 you find have been proven such reasonable inferences as you
2 feel are justified in light of your experience and common
3 sense.

4 The exhibits that have been admitted have not all
5 been numbered sequentially. Just because an exhibit number has
6 not been used does not mean anything and the jury shall draw no
7 inference from the failure to use a given exhibit number.

8 A juror should consider the evidence in a trial like
9 any reasonable and careful person would deal with any very
10 important question that must be resolved by examining facts,
11 opinions and evidence.

12 You are expected to use your common sense in
13 considering and evaluating the evidence in this case. Use the
14 evidence only for those purposes for which it has been received
15 and give the evidence a reasonable and fair construction in the
16 light of your common knowledge of the natural tendencies and
17 inclinations of human beings.

18 If the Government proves the defendant guilty beyond
19 a reasonable doubt, say so. If the Government fails to prove
20 the defendant guilty beyond a reasonable doubt, say so.

21 Keep constant in your mind that it would violate your
22 sworn duty to base a verdict on anything other than the
23 evidence received in the case and the instructions of the
24 Court.

25 Remember, as well, that the law never imposes upon a

1 defendant in a criminal case the burden or duty of calling any
2 witnesses or producing any evidence because the burden of
3 proving guilt beyond a reasonable doubt is always with the
4 Government.

5 There are two general types of evidence that are
6 presented during a trial: Direct evidence and circumstantial
7 or indirect evidence.

8 Direct evidence is the testimony of one who asserts
9 actual knowledge of a fact, such as an eyewitness. Direct
10 evidence without any additional evidence or inference can prove
11 a material fact.

12 For example, a witness' testimony is direct evidence
13 when the witness testifies to what he or she saw or heard. In
14 other words, when a witness testifies about what he or she
15 knows from his or her personal knowledge, by virtue of his or
16 her own senses, that is direct evidence. When a witness'
17 testimony constitutes direct evidence, you need only determine
18 whether you believe the witness.

19 In a few moments, I will give you more instructions
20 to consider in deciding whether to believe a witness.

21 A document or physical object may also be direct
22 evidence when it can prove a material fact by itself without
23 any other evidence or inference.

24 Circumstantial evidence is proof of a chain of facts
25 or circumstances tending to prove or disprove any fact in

1 dispute. The law makes no distinction between the weight or
2 value to be given to either direct or circumstantial evidence,
3 nor is a greater degree of certainty required of circumstantial
4 evidence than of direct evidence.

5 You should weigh all of the evidence in this case.

6 An indictment is a formal method of accusing a
7 defendant of a crime. It is not evidence of any kind of crime
8 against the defendant. The defendant, Stephen Condon Peters,
9 has pleaded not guilty to the 20 charges in the Superseding
10 Indictment and, therefore, denies that he is guilty of these
11 charges.

12 The questions asked in this case are not evidence;
13 thus, if a lawyer asked a question of a witness that contains
14 an insertion of fact, you may not consider the insertion by the
15 lawyer as any evidence of the fact. Only the witness' answers
16 are evidence.

17 Testimony and exhibits can be admitted into evidence
18 during a trial only if they meet certain criteria or standards.
19 It is the sworn duty of the attorney on each side of a case to
20 object when the other side offers testimony or an exhibit which
21 that attorney believes is not properly admissible under the
22 Rules of Evidence. Only by raising an objection can a lawyer
23 request and obtain a ruling from the Court on the admissibility
24 of the evidence being offered by the other side.

25 You should not be influenced against an attorney or

1 the attorney's client because the attorney has made objections.
2 Do not attempt, moreover, to interpret my rulings on objections
3 as somehow indicating how I think you should decide this case.
4 I am simply making a ruling on a legal question.

5 If any reference by the Court or by counsel to
6 matters of testimony or exhibits does not coincide with your
7 own recollection of that evidence, it is your recollection that
8 should control during your deliberations and not the statements
9 of the Court or of counsel. You are the sole judges of the
10 evidence received in this case.

11 You, as jurors, are the sole and exclusive judges of
12 the credibility or believability of each of the witnesses
13 called to testify in this case and only you determine the
14 importance or the weight that their testimony deserves.

15 After making your assessment concerning the
16 credibility of a witness, you may decide to believe all of that
17 witness' testimony, only a portion of it, or none of it.

18 In making your assessment of each witness, you should
19 carefully scrutinize all of the testimony given by each
20 witness, the circumstances under which each witness has
21 testified, and all other evidence that tends to show whether a
22 witness, in your opinion, is worthy of belief.

23 Consider each witness' intelligence, motive to
24 falsify, state of mind and appearance and manner while on the
25 witness stand. Consider each witness' ability to observe the

1 matters as to which he or she has testified and consider
2 whether he or she impresses you of having an accurate memory or
3 recollection of these matters. Consider also any relation each
4 witness may bear to either side of the case, the manner in
5 which each witness might be affected by your verdict and the
6 extent to which, if at all, each witness is either supported or
7 contradicted by other evidence in the case.

8 Inconsistencies or discrepancies in the testimony of
9 a witness or between the testimony of different witnesses may
10 or may not cause you to disbelieve or discredit such testimony.
11 Two or more persons witnessing an incident or a transaction may
12 simply see or hear it differently. Innocent misrecollection,
13 like failure of recollection, is not an uncommon human
14 experience. In weighing the effect of a discrepancy, however,
15 always consider whether it pertains to a matter of importance
16 or an insignificant detail and consider whether the discrepancy
17 results from innocent error or from intentional falsehood.

18 After making your own judgment and assessment
19 concerning the believability of a witness, you can then attach
20 such importance or weight to that testimony, if any, that you
21 feel it deserves. You will then be in a position to decide
22 whether the Government has proven the charges in the
23 Superseding Indictment beyond a reasonable doubt.

24 You have heard the testimony of law enforcement
25 officials. The fact that a witness is employed as a law

1 enforcement official does not mean that his or her testimony is
2 necessarily deserving of more or less consideration or greater
3 or lesser weight than that of a non-law enforcement witness.
4 At the same time, it is quite legitimate for defense counsel to
5 try to attack the credibility of a law enforcement witness on
6 the ground that his or her testimony may be colored by a
7 personal or professional interest in the outcome of the case.

8 It is your decision, after reviewing all of the
9 evidence, whether to accept the testimony of a law enforcement
10 witness and how much weight, if any, to give that testimony.

11 In evaluating the credibility of a witness, you
12 should take into account any evidence that the witness who
13 testified may benefit in some way from the outcome of this
14 case.

15 Such an interest in the outcome may create a motive
16 to testify falsely and may sway the witness to testify in a way
17 that advances his or her own interest; therefore, if you find
18 that any witness whose testimony you are considering may have
19 an interest in the outcome of this trial, then you should bear
20 that factor in mind when evaluating the credibility of his or
21 her testimony and weigh the testimony with great care.

22 This is not to suggest that every witness who has an
23 interest in the outcome of a case will testify falsely. It is
24 for you to decide to what extent, if any, a witness' interest
25 has affected or colored his or her testimony.

1 In connection with your evaluation of the credibility
2 of a witness called by one party, you should specifically
3 consider evidence of resentment or anger that a witness may
4 have towards the other party, evidence that a witness is
5 biased, prejudiced or hostile towards the other party requires
6 you to bear that factor in mind when evaluating the credibility
7 of his or her testimony and weigh the testimony with great
8 care.

9 The testimony of a witness may be discredited, or as
10 we sometimes say, impeached by showing that the witness
11 previously made statements which are different than or
12 inconsistent with his or her testimony here in court. The
13 earlier inconsistent or contradictory statements are admissible
14 only to discredit or impeach the credibility of the witness and
15 not to establish the truth of these earlier statements made
16 somewhere other than here during this trial.

17 It is the province of the jury to determine the
18 credibility, if any, to be given the testimony of a witness who
19 has made prior inconsistent or contradictory statements. If a
20 person is shown to have knowingly testified falsely concerning
21 any important or material matter, you, obviously, have a right
22 to distrust the testimony of such an individual concerning
23 other matters. You may reject all of the testimony of that
24 witness or give it such weight as you may think it deserves.

25 In this case some of the witnesses are alleged

1 accomplices or co-conspirators of the defendant or someone who
2 has agreed to cooperate or inform against the defendant. An
3 alleged accomplice, co-conspirator, cooperator or informant
4 does not thereby become incompetent as a witness.

5 On the contrary, the testimony of such a witness may
6 alone be of sufficient weight to sustain a verdict of guilty.
7 However, the jurors should keep in mind that such testimony is
8 always to be evaluated with caution and weighed with great
9 care. The jury must determine whether such testimony has been
10 affected by self interest or by a witness' interest in the
11 outcome of the case. You, the jury, should consider whether
12 the testimony may be colored in such a way as to further a
13 witness' own interest.

14 During the course of the trial I may have
15 occasionally asked questions of witnesses. Do not assume that
16 I hold any opinion on the matters to which my questions may
17 have related. The Court may ask a question simply to clarify a
18 matter, not to help one side of the case or hurt the other
19 side. You are the sole judges of the facts of this case.

20 Your decision on the facts of this case should not be
21 determined by the number of witnesses testifying for or against
22 a party. You should consider all of the facts and
23 circumstances in evidence to determine which of the witnesses
24 you choose to believe or not believe.

25 You may find that the testimony of a smaller number

1 of witnesses on one side is more credible than the testimony of
2 a greater number of witnesses on the other side. Indeed, the
3 testimony of a single witness may be sufficient to prove any
4 fact even if a greater number of witnesses may have testified
5 to the contrary if, after considering all of the other
6 evidence, you believe that single witness.

7 You are not required to accept testimony even though
8 the testimony is uncontradicted and the witness is not
9 impeached. You may decide because of the witness' bearing and
10 demeanor or because of the inherent improbability of his or her
11 testimony, or for other reasons sufficient to you that such
12 testimony is not worthy of belief.

13 The law does not require the Government to call as
14 witnesses all persons who may have been present at any time or
15 place involved in the case or who may appear to have some
16 knowledge of the matters in issue at this trial, nor does the
17 law require the Government to produce as exhibits all papers
18 and things mentioned in the evidence.

19 However, in judging the credibility of the witnesses
20 who have testified and in considering the weight and affect of
21 all evidence that has been produced, the jury may consider the
22 Government's failure to call other witnesses or to produce
23 other evidence shown by the evidence in the case to be in
24 existence and available.

25 You have heard testimony as to the manner in which

1 the Government conducted its investigation in this case,
2 including certain investigative methods or techniques that were
3 used and certain investigative methods or techniques that were
4 not used. In attempting to prove its case, the Government is
5 under no obligation to use all of the investigative methods
6 that are available to it or to use any particular method.

7 The question is whether the evidence presented in
8 this trial is sufficient to convince you beyond a reasonable
9 doubt of the defendant's guilt.

10 A stipulation has been received into evidence.
11 Specifically, Government Exhibit 126. In the stipulation the
12 defendant and the Government have agreed to the truth and the
13 facts contained in the stipulation. The Court instructs you
14 that the stipulation is to be received by you as evidence
15 without further proof and that the facts stated in the
16 stipulation are true and correct.

17 Recordings of conversations were received in evidence
18 and were played for you. Typewritten transcripts of these
19 recorded conversations were furnished to you solely for your
20 convenience in assisting you in following the conversation.
21 The recordings themselves are evidence in the case. The
22 typewritten transcripts, however, are not evidence. What you
23 hear on the recording is evidence. What you read on the
24 transcript is not. If you perceive any variation between the
25 two, you will be guided solely by the recordings and not by the

1 transcripts. If you cannot, for example, determine from the
2 recording that particular words were spoken or if you cannot
3 determine from the recording who said a particular word or
4 words, you must disregard the transcripts insofar as those
5 words or that speaker are concerned.

6 I remind you that the defendant, Stephen Condon
7 Peters, has no obligation or duty to come forward with any
8 evidence, cross-examine any witness or to present any witness.
9 The burden of proof remains entirely on the Government and the
10 defendant is to be presumed innocent by you.

11 The law permits a defendant, if he so desires, to
12 testify on his own behalf. In this case the defendant, Stephen
13 Condon Peters, has testified. The defendant's credibility is
14 to be judged in the same way as the credibility of any other
15 witness. Stephen Condon Peters' testimony is before you and
16 you must determine whether you believe all of it, some of it or
17 none of it.

18 If you believe that the defendant made false
19 exculpatory statements or concealed or tried to conceal
20 evidence or fabricate documents, then you may consider this
21 conduct, along with all other evidence, in deciding whether the
22 Government has proved beyond a reasonable doubt that the
23 defendant committed the crimes charged.

24 Such conduct, i.e., obstructing justice, or
25 attempting to obstruct justice, may indicate that the defendant

1 thought he was guilty and was trying to avoid punishment. On
2 the other hand, sometimes an innocent person may engage in such
3 conduct for some non-criminal reason. You are the sole judges
4 of the facts of this case.

5 Another type of evidence that you heard in this case
6 is character evidence. Reputation of the defendant's good
7 character is evidence that you should consider with the other
8 evidence in this case. Evidence of a defendant's reputation
9 inconsistent with those traits of character ordinarily involved
10 in the commission of the crimes charged is a fact that may give
11 rise to a reasonable doubt since the jury may think it
12 improbable or unlikely that a person of good character would
13 commit such crimes. You are the sole judges of the facts and
14 the credibility of the witnesses.

15 The defendant is not on trial for any act or any
16 conduct not specifically charged in the Superseding Indictment.
17 You are here to decide only whether the Government has proven
18 beyond a reasonable doubt that the defendant is guilty of each
19 crime charged against him.

20 A separate crime is charged in Count 1 through
21 Count 20 of the Superseding Indictment. Each charge and the
22 evidence pertaining to it should be considered separately by
23 the jury. The fact that you may find the defendant guilty or
24 not guilty as to one count should not control your verdict as
25 to another count.

1 Moreover, in this criminal case you are not to be
2 concerned of the guilt of any other person not on trial in this
3 case.

4 Likewise, in this criminal case you are not to be
5 concerned with the civil liability of any person or entity,
6 including any liability to the Securities and Exchange
7 Commission.

8 Certain charts and summaries have been received into
9 evidence. A chart or summary is not itself independent
10 evidence. Charts and summaries are valid only to the extent
11 that they reflect the underlying supporting evidence. It is
12 for you to decide how much weight, if any, you will give to the
13 charts and summaries. In making that decision you should
14 consider all of the testimony heard about the way in which the
15 charts or summaries were prepared. You should then give them
16 such weight as you think they deserve.

17 The Superseding Indictment charges that certain
18 offenses were committed, quote, "on or about," end quote or,
19 quote, "in or about," end quote, certain dates or time periods.
20 Although the Government must prove beyond a reasonable doubt
21 that the offenses were committed on a date reasonably near the
22 dates alleged in the Superseding Indictment, it is not
23 necessary for the Government to prove that the offenses were
24 committed precisely on the dates or precisely during the time
25 periods charged.

1 A person acts knowingly if he acts intentionally and
2 voluntarily and not because of ignorance, mistake, accident or
3 carelessness.

4 An act is done willfully if the act was committed
5 voluntarily and purposely, with the intent to do something the
6 law forbids; that is, with the bad purpose to disobey or
7 disregard the law, while a person must have acted with the
8 intent to do something the law forbids.

9 Before you can find that the person acted willfully,
10 the person need not be aware of the specific law or the rule
11 that his conduct may be violating.

12 The intent of a person or the knowledge that a person
13 possesses at any given time may not ordinarily be proved
14 directly because there is no way of directly scrutinizing the
15 workings of the human mind.

16 In determining the issue of what a person knew or
17 what a person intended at a particular time, you may consider
18 any statements made or acts done or omitted by that person and
19 all other facts or circumstances received in evidence which may
20 aid in your determination of that person's knowledge or intent.

21 Inferences are simply deductions or conclusions which
22 reason and common sense lead you to draw from the evidence
23 received in the case. You may infer, but you are certainly not
24 required to infer, that a person intends the natural and
25 probable consequences of acts knowingly done or knowingly

1 omitted. It is entirely up to you, however, to decide what
2 facts to find from the evidence received during this trial.

3 The Government may prove that the defendant acted,
4 quote, "knowingly," end quote, by proving beyond a reasonable
5 doubt that the defendant deliberately closed his eyes to what
6 would otherwise been obvious to him.

7 If you find beyond a reasonable doubt that the
8 defendant intended to avoid knowledge or enlightenment, the
9 jury may find that the defendant acted knowingly. Stated
10 another way, a person's knowledge of a particular fact may be
11 shown from a deliberate or intentional ignorance or a
12 deliberate or intentional blindness to the existence of that
13 fact. It is, of course, entirely up to you as to whether you
14 find any deliberate ignorance or deliberate closing of the eyes
15 or any inferences to be drawn from any such evidence.

16 I caution you that this deliberate ignorance
17 instruction does not authorize you to find that the defendant
18 acted knowingly because he should have known what was occurring
19 or because he was negligent in failing to recognize what was
20 occurring or even because he was reckless, careless or foolish
21 in failing to recognize what was occurring.

22 Furthermore, this instruction does not lessen the
23 Government's burden to show beyond a reasonable doubt that the
24 defendant had the knowledge required to prove the charged
25 crimes.

1 The term, quote, "interstate commerce," end quote,
2 means commerce between any combination of states, territories
3 or possessions of the United States. It is not necessary for
4 the Government to show that the defendant actually intended or
5 anticipated an effect on interstate commerce by his actions or
6 that the defendant's action actually affected interstate
7 commerce.

8 All that is necessary is that the natural and
9 probable consequences of the acts of the defendant would be to
10 affect interstate. If you decide that there would be any
11 effect at all on interstate commerce, then that is enough. The
12 effect can be minimal.

13 An act, statement or omission is, quote, "material,"
14 end quote, if it has a natural tendency to influence or is
15 capable of influencing or misleading a reasonable and prudent
16 individual or entity to whom it was directed.

17 A, quote, "material," end quote, act, statement or
18 omission includes one that would reasonably be expected to be
19 important to a reasonable and prudent individual or entity in
20 making a decision whether to purchase, hold or sell a security.

21 A, quote, "material," end quote, fact includes one
22 that there is a substantial likelihood that a reasonable and
23 prudent individual or entity would consider important in
24 determining whether to purchase, hold or sell a security.

25 Stated differently, something is material if it would

1 be of such importance that it could reasonably be expected to
2 cause or induce a reasonable and prudent individual or entity
3 to purchase, hold or sell a security.

4 The Superseding Indictment contains 20 counts against
5 the defendant, Stephen Condon Peters. You will have a copy of
6 the Superseding Indictment with you during deliberations.

7 And I will now read pages 1 through 21 and then
8 discuss each charge.

9 So I'm going to start with paragraph 1 of the
10 Superseding Indictment.

11 VisionQuest Capital, LLC, hereinafter "Capital, LLC,"
12 end quote, was a North Carolina company that purported to
13 provide growth and expansion capital to companies located
14 primarily in the southeast.

15 Capital, LLC solicited funds from investors under the
16 auspices that the funds would be invested into businesses that
17 generated recurring revenue or had a strong likelihood of being
18 able to generate regular cash flow.

19 Capital, LLC funded its investment activities through
20 debt financing from individual clients.

21 VisionQuest Wealth Management, LLC, hereinafter
22 "Management, LLC," was a North Carolina company that purported
23 to provide financial planning and management services to
24 clients in exchange for a fee.

25 VQ Wealth, LLC, hereafter "Wealth, LLC," was a North

1 Carolina cooperation that operated as a parent or holding
2 company for Management, LLC and Capital, LLC.

3 Stephen Condon Peters was an individual who resided
4 and did business in Wake County within the Eastern District of
5 North Carolina. Peters was a registered investment advisor
6 with the United States Securities and Exchange Commission.
7 Peters owned and operated the Wealth, LLC, Management, LLC and
8 Capital, LLC entities referred to collectively herein as
9 "VisionQuest."

10 Although Wealth, LLC, Management, LLC, and Capital,
11 LLC were separate legal entities, Peters operated the
12 businesses collectively as VisionQuest from his business
13 offices most recently located at 112 East Hargett Street in
14 Raleigh, North Carolina.

15 With respect to Wealth, LLC, Peters owned a
16 69 percent interest and his wife owned a 31 percent interest.

17 Wealth, LLC owned a 100 percent interest in
18 Management, LLC. Wealth, LLC owned a 99 percent interest in
19 Capital, LLC. An investor owned the remaining 1 percent
20 interest in Capital, LLC.

21 As a registered investment advisor by law Peters had
22 a fiduciary duty to the clients of Management, LLC. This means
23 that Peters had a fundamental obligation to act in the best
24 interests of his clients and to provide investment advice in
25 his clients' best interest, owed his client a duty of undivided

1 loyalty and utmost good faith, was prohibited from engaging in
2 any activity which Peters had a conflict of interest, was
3 obligated to employ reasonable care to avoid misleading clients
4 and to provide full and fair disclosure of all material facts
5 to clients and prospective clients and was prohibited from
6 using client assets to his own benefit and the benefit of other
7 clients without their expressed consent.

8 Beginning in 2009 and continuing into 2017, Peters
9 orchestrated the sale of VisionQuest Capital, LLC promissory
10 notes, the Capital, LLC notes. Peters both directly and
11 through subordinate advisors at Management, LLC marketed and
12 sold the Capital, LLC notes primarily through advice and
13 recommendations given to clients of Management, LLC. In total,
14 during this time period Peters sold not less than \$15 million
15 worth of Capital, LLC notes. Most of the individuals who
16 purchased the Capital, LLC notes were clients of Management,
17 LLC. In exchange for an investment of funds, the Capital, LLC
18 notes purported to promise investors an 8 percent annual return
19 on principal. The Capital, LLC notes paid interest to
20 investors on a monthly basis. The Capital, LLC notes generally
21 provided a five-year term of interest after which the investor
22 principal funds were to be repaid. If an investor agreed to
23 re-invest rather than receive a disbursement of interest, the
24 investor was promised a 9 percent rate of return. In
25 connection with the sale of the Capital, LLC notes, Peters

1 represented and caused to be represented to investors that the
2 Capital, LLC note proceeds would be invested into
3 revenue-generating or income-producing businesses. In fact,
4 Peters stole large portions of the investor proceeds and
5 carried out a Ponzi scheme on investors.

6 The term "Ponzi scheme" generally refers to a fraud
7 in which the investor principal and interest payments are
8 funded by new principal investments of others rather than by
9 genuine return on principal investments. In Ponzi schemes
10 investment funds are frequently diverted to the personal use of
11 the scheme manager rendering those funds unavailable for
12 genuine investment and revenue generation.

13 To carry out the scheme, Peters, by and through
14 Wealth, LLC, Management, LLC, and Capital, LLC, made numerous
15 false and fraudulent representations and omissions to the
16 Capital, LLC note investors.

17 The representations and omissions are summarized as
18 follow:

19 The Capital, LLC note proceeds would be invested into
20 income-producing businesses. In fact, the Capital note
21 proceeds were not always placed into income-producing
22 businesses.

23 By way of example, the Capital net proceeds were
24 spent on Peters' own personal interest. In other instances the
25 funds were used to pay the business expenses of Capital, LLC,

1 Wealth, LLC, and Management, LLC; in still other instances
2 Peters used the Capital, LLC note proceeds to pay off prior
3 Capital, LLC note interests and principal payments owed.

4 Peters did not inform investors that their principal
5 would be used to pay interest and principal obligations to
6 other investors.

7 Peters also did not inform investors that their funds
8 would be used to fund Peters' personal interests or to develop
9 Peters' private real estate holdings, including a farm and
10 luxury vacation home in Costa Rica.

11 The Capital, LLC notes were a low-risk investment.
12 Peters individually, and by and through Management, LLC,
13 represented to investors that the Capital, LLC notes presented
14 little or no risk of loss and that the income was guaranteed.
15 In fact, the Capital, LLC notes presented an extremely high
16 risk of loss and the income was not guaranteed.

17 Mr. Peters withheld financial statements of Capital,
18 LLC from investors and did not inform them that Capital, LLC
19 was not generating sufficient genuine revenue to fund future
20 interests and principal obligations associated with the
21 Capital, LLC notes. Likewise, Peters withheld from investors
22 that their interest payments would be paid out of the principal
23 investments of others.

24 No fees or commissions were being drawn or paid in
25 connection with the sale the Capital LLC, notes. Peters

1 individually and by and through Management, LLC represented to
2 investors that neither he nor his advisors received any kind of
3 fee or commission for the sale of the Capital, LLC notes.

4 Peters represented that he profited from the overall
5 success of Capital, LLC and did not extract a portion of the
6 Capital, LLC note principal as a fee. In fact, Peters
7 extracted large sums of investor principal off the top; that
8 is, prior to the investment of the funds into income-producing
9 businesses. Likewise, Peters promised and paid his
10 subordinates at Wealth, LLC a commission for selling the
11 investors the Capital, LLC notes.

12 Between 2009 and 2017, after acquiring Capital, LLC
13 investor funds, by either fraudulent representations and
14 omissions described above, Peters spent the investor funds.
15 Among other things, the personal interests and pursuits of
16 Peters and his family, interest and principal obligations of
17 other Capital, LLC note holders and the operating expenses of
18 the VisionQuest entities.

19 By way of example, and not by way of limitation, the
20 following paragraphs contain particular instances of Peters'
21 improper use of Capital, LLC investor funds:

22 On or about October 5th, 2012, Investor D.D.
23 delivered \$85,000 to Capital, LLC pursuant to a Capital, LLC
24 note. Following a series of account transfers on
25 December 21st, 2012, December 28th, 2012, and January 4th,

1 2013, approximately \$65,000 of these funds were wired to
2 Peters.

3 On or about February 5th, 2014, Investor J.L. wired
4 \$100,000 to Capital, LLC pursuant to a Capital, LLC note. On
5 February 10th, 2014, the funds were transferred to Wealth, LLC,
6 where \$20,000 of said funds were immediately wired to Peters;
7 \$20,000 of said funds were immediately transferred to
8 Management, LLC to pay previously-incurred credit card charges;
9 \$17,000 of said funds were immediately used to pay the expenses
10 of a prior failed investment known as Fusion Fund; on
11 February 8th, 2018, the remaining \$40,000 was wired to Peters.

12 On or about February 5th, 2014, Investor S.H.
13 delivered \$1 million to Capital, LLC pursuant to a Capital LLC,
14 note. On February 25th, 2014, \$900,000 of said funds were
15 transferred to Wealth, LLC. Between February 25th, 2014, and
16 September 30th, 2014, approximately \$441,000 of said funds were
17 wired to Peters. Additionally, on March 3rd, 2014,
18 approximately \$40,000 of said funds were used towards an
19 approximate payment of \$44,000 of interest obligations to other
20 Capital, LLC note holders. On or about April 3rd, 2014,
21 \$35,000 of said funds were transferred to another account to
22 pay obligations to E.K. and R.K. relating to a prior failed
23 investment known as Fusion Fund. On or about May 1st, 2014,
24 approximately \$50,000 of said funds were used to pay interest
25 obligations to other Capital, LLC note holders as well as

1 VisionQuest payroll and credit card expenses. On or about
2 May 29th, 2014, approximately \$55,000 of said funds were used
3 to pay interest obligations to other Capital, LLC note holders
4 as well as VisionQuest business and payroll expenses.

5 On or about March 13th, 2014, Investor A.P. delivered
6 \$50,000 to Capital, LLC pursuant to a Capital, LLC note. On
7 April 1st, 2014, approximately \$39,000 of these funds were used
8 towards a payment of \$44,333 of interest obligations to other
9 Capital, LLC note holders.

10 On August 21st, 2015, Investor M.B. wired \$60,000 to
11 Capital, LLC pursuant to a Capital, LLC note. On
12 September 1st, 2015, approximately \$40,000 of these funds were
13 used towards a \$52,448 payment of interest obligations to other
14 Capital, LLC note holders.

15 On October 21st, 2015, Investor T.M. wired \$150,000
16 to Capital, LLC pursuant to a Capital, LLC note. On
17 November 18th, 2015, Investor J.J. wired \$200,000 to Capital,
18 LLC pursuant to a Capital, LLC note. On or about
19 December 17th, 2015, approximately \$250,000 of said funds were
20 used toward a \$290,120 payment to pay off an existing Capital
21 LLC, note held by Investor J.Z. Approximately \$59,000 of said
22 funds were used to pay interest obligations to other Capital,
23 LLC note holders.

24 On or about September 21, 2016, Investor C.R. wired
25 \$100,000 to Capital, LLC pursuant to a Capital, LLC note. On

1 September 23rd, 2016, \$75,000 of the funds were transferred to
2 Wealth, LLC. On September 29th, 2016, \$20,000 of the funds
3 were wired to Peters. On October 4th, 2016, approximately
4 \$25,000 of the funds were used toward a \$35,837 payment of
5 interest obligations to other Capital, LLC note holders. On
6 October 5th, 2017 -- '16, \$55,000 was spent on VisionQuest
7 business payroll and credit card expenses.

8 On or about September 29th, 2016, Investor A.W.
9 delivered \$150,000 to Capital, LLC pursuant to a Capital, LLC
10 note. On September 3rd, 2016, A.T. wired \$100,000 to Capital,
11 LLC pursuant to a Capital, LLC note. On or about October 3rd,
12 2016, the entire \$250,000 of said funds were transferred to
13 Wealth, LLC, where \$30,000 of said funds were paid to Peters.
14 Thereafter, approximately \$70,000 of said funds were
15 transferred back to Capital, LLC, of which \$60,000 was used to
16 pay interest obligations to other Capital, LLC note holders and
17 approximately \$7,000 of said funds were used toward a \$35,000
18 payment of expenses associated with the construction of a
19 luxury vacation villa in Costa Rica owned by Peters.

20 Between December 9th, 2016 and December 15th, 2016,
21 Investors L.L., B.L., P.D., T.M. and L.T. collectively
22 delivered approximately \$637,000 to Capital, LLC pursuant to
23 Capital, LLC notes. On or about December 14th, 2016,
24 approximately \$225,000 of said funds were used to repay an
25 outstanding principal obligation to Capital, LLC note holder

1 J.S. On December 16th, 2016, approximately \$225,000 of said
2 funds were used to repay an outstanding principal obligation to
3 Capital, LLC note holder M.B. On December 16th, 2016,
4 approximately \$100,000 of said funds were used to pay expenses
5 associated with the construction of a luxury vacation villa in
6 Costa Rica owned by Peters. On January 3rd, 2017,
7 approximately \$55,000 of said funds were used toward a \$60,920
8 payment of interest to other Capital, LLC note holders.

9 On January 11th, 2017, Investor L.B. wired \$101,500
10 to Capital, LLC pursuant to a Capital, LLC note. On or about
11 January 17th, 2017, approximately \$66,400 of these funds were
12 used towards the \$225,000 payoff of an existing Capital, LLC
13 note held by Investor J.S. Shortly thereafter, approximately
14 \$25,700 of the funds were used to pay expenses associated with
15 the construction of a luxury vacation villa in Costa Rica owned
16 by Peters. Approximately \$4,200 of the funds were used to pay
17 interest obligations to other Capital, LLC note holders.

18 On or about February 13th, 2017, Investor N.H.
19 delivered \$250,000 to Capital, LLC pursuant to a Capital, LLC
20 note. On or about March 1st, 2017, approximately \$25,000 of
21 said funds were used toward a \$65,976 payment of interest
22 obligations to other Capital, LLC note holders.

23 On February 15th, 2017, L.B. wired \$100,000 to
24 Capital, LLC pursuant to a Capital, LLC note. On or about
25 February 27th, 2017, \$325,000 of said funds were transferred to

1 Wealth, LLC, of which \$15,000 of said funds were wired to
2 Peters. On March 2nd, 2017, approximately \$300,000 of said
3 funds were transferred back to Capital, LLC and approximately
4 \$119,000 of said funds were paid to Investor D.D. and
5 approximately \$181,000 of said fund were used towards a
6 \$250,000 payment associated with the construction of a luxury
7 vacation villa in Costa Rica owned by Peters.

8 Between September 2016 and March of 2017, the United
9 States Securities and Exchange Commission conducted an
10 examination of Management, LLC to discuss its compliance with
11 the Investment Advisors Act of 1940. This inquiry by the SEC
12 shall hereinafter be referred to as "the SEC examination."

13 The SEC examination included a series of information
14 and document requests as well as on-site visits to VisionQuest
15 offices.

16 Peters coordinated Management, LLC's responses to all
17 document requests and requests for information from the SEC
18 examiners. Specifically, Peters reviewed the SEC document
19 requests, participated in correspondence, conference calls and
20 meetings with SEC examiners, drafted responses to SEC inquiries
21 and coordinated the collection and production of VisionQuest
22 documents in response to examiner requests.

23 As owner and operator of Management, LLC, Peters was
24 required at all times to provide truthful information and
25 genuine documentation to the SEC examiners. In fact, however,

1 Peters provided and caused to be provided materially false
2 information and fabricated documents to the SEC examiners in
3 response to their inquiries. Peters also withheld and directed
4 others to withhold material information and documents from the
5 SEC examiners.

6 In September of 2017 the SEC examiners directed
7 Management, LLC to produce information relating to Management,
8 LLC's compliance with the SEC's rules concerning conflicts of
9 interest. These included documents related to outside business
10 of Management, LLC's employees as well as internal findings
11 concerning compliance.

12 In response to this request, on or about
13 October 13th, 2016, Peters fabricated a letter and backdated
14 the same to February 13th, 2009. This letter purported to
15 place Management, LLC's compliance officer N.K. on notice of a,
16 quote, "pretty big conflict of interest," end quote, between
17 Management, LLC and Capital, LLC that, quote, "requires
18 disclosure," end quote, to investors.

19 The letter further purported to assign to N.K. the
20 obligation to make proper disclosure of conflict of interest.
21 The letter purported to contain the acknowledgment and approval
22 of the conflict of interest by N.K. as operations and
23 compliance manager for Management, LLC.

24 Finally, the letter bore a marking purporting to be a
25 signature of N.K. In fact, however, the letter was fabricated

1 in response to the SEC examination in 2016 and N.K.'s signature
2 on the letter was forged. Nevertheless, Peters caused this
3 fabricated letter to be transmitted to the SEC examiners along
4 with other requested compliance documents.

5 In addition to the foregoing, Peters also fabricated
6 outside business activity disclosures for numerous Management,
7 LLC employees, including himself.

8 Outside business activity disclosures are designed to
9 inform a compliance officer of potential conflicts of interest
10 between investors and advisors, to ensure full and complete
11 disclosure of these conflicts to clients.

12 In response to the SEC's document requests, Peters
13 directed a co-conspirator employee to have Management, LLC
14 employees fill out outside business activity disclosures
15 covering various years.

16 Peters then directed the conspiring employee to
17 backdate the forms to a period preceding the SEC examination.
18 Peters further instructed the conspiring employee on how to
19 cut-and-paste the signature of a former compliance officer,
20 N.K., on to the document and to photocopy the same to make the
21 documents appear genuine.

22 The conspired employee carried out Peters'
23 instructions and the forged and the fabricated outside business
24 activity disclosures were transmitted to SEC examiners along
25 with other compliance records.

1 Peters also fabricated and caused to be transmitted
2 to the SEC's examiner various internal finding letters
3 concerning compliance at Management, LLC. Specifically, on or
4 about September 19th, 2016, four days after the SEC's first
5 written document request, Peters drafted two letters directed
6 to Management, LLC's recently-appointed compliance officer R.G.
7 and backdated the same to July 18th and August 9th, 2016; dates
8 prior to the SEC examination.

9 In the midst of the SEC examination, R.G. then
10 drafted two letters which purported to be responses to Peters'
11 two backdated letters, both of which were also backdated. In
12 sum, these letters purport to show a written correspondence
13 between Peters and R.G. predating the SEC examination when, in
14 fact, the letters were fabricated and backdated in response to
15 the examination. Peters caused each of these letters to be
16 transmitted to the SEC examiners.

17 In or about November of 2016, in response to a
18 request from the SEC examiners, Peters also caused to be
19 fabricated certain investment policy statements and Wealth
20 Management contracts. The investment policy statements
21 purported to document, among other things, Management, LLC's
22 clients' risk tolerance and investment objectives. Peters
23 caused an employee to forge certain of these documents as
24 though they had been previously signed by Management, LLC
25 clients, when, in fact, they were created in response to the

1 SEC examination. Peters caused these documents to be
2 transmitted to the SEC examiners.

3 On or about November 10th, 2016, SEC examiners
4 directed Peters to disclose documents reflecting that
5 Management, LLC clients who had been invested in Capital, LLC
6 notes were, in fact, quote, "accredited investors," end quote.

7 In response to this certain request, Peters caused to
8 be fabricated certain Management, LLC client balance sheets.
9 Specifically, Peters directed a conspiring employee to inflate
10 the balance of certain clients to reflect a net worth in excess
11 of \$1 million. In fact, the client balance sheets referenced
12 in this paragraph were false and the assets used to inflate the
13 clients networks were fabricated. Peter caused these documents
14 to be transmitted to the SEC examiners.

15 On or about October 6th, 2016, SEC examiners also
16 directed Management, LLC to disclose copies of all e-mail
17 correspondence by certain Management, LLC employees within the
18 period of the examination.

19 Instead of producing all responsive e-mails, Peters
20 extracted various e-mails from the disclosures. Among other
21 things, Peters removed e-mails relating to Investor M.B. This
22 was significant because M.B. was a Capital, LLC investor who
23 had previously sued Peters.

24 Peters also removed e-mails directed to Management,
25 LLC employees M.G. and S.K. These e-mails contained

1 attachments reflecting that M.G. and S.K. would be paid
2 incentive compensation for causing investments into Capital,
3 LLC.

4 After removing these e-mails, Peters caused the
5 incomplete set of e-mails to be transmitted to the SEC
6 examiners. Peters also drafted written responses to the SEC
7 document requests. These written responses contained numerous
8 false and fraudulent statements.

9 In a written response in September of 2016, Peters
10 falsely represented to the SEC that, quote, "Neither
11 Management, LLC, Mr. Peters, Capital, LLC, nor any of their
12 affiliates provided any investment advice to any of Management,
13 LLC's clients with respect to Capital, LLC," end quote.

14 In fact, Peters and various employees of Management,
15 LLC recommended and advised Management, LLC clients to invest
16 in Capital, LLC notes.

17 On or about March 6th, 2017, the Securities and
18 Exchange Commission entered an order authorizing an
19 investigation into the investment activity of Peters, Wealth
20 LLC, Capital, LLC and Management, LLC. This investigation is
21 referred to herein as the "enforcement proceeding."

22 Among other things, the purpose of the enforcement
23 proceeding was to investigate possible conflicts of interest
24 relating to Peters' sale of Capital, LLC notes to his
25 investment advisory clients at Management, LLC. Likewise, the

1 enforcement proceeding concerned whether Peters used the
2 Capital, LLC note proceeds in a manner consistent with the
3 representations to investors.

4 Peters corruptly endeavored to influence and obstruct
5 the enforcement proceeding by attempting to withhold and
6 conceal records by fabricating records and by providing false
7 testimony.

8 In or about April of 2017 the SEC issued document
9 subpoenas to Capital, LLC; later, in or about May of 2017, the
10 SEC issued subpoenas to Management, LLC and Wealth, LLC. These
11 subpoenas are referred to collectively herein as the, quote,
12 "VisionQuest subpoenas," end quote.

13 The VisionQuest subpoenas were addressed to the
14 attention of Peters and his counsel.

15 Among other things, the VisionQuest subpoenas
16 directed Peters to produce all documents concerning the sale of
17 the Capital, LLC notes, including records of Wealth, LLC,
18 Management, LLC employee calendars and communications with
19 investors.

20 The subpoenas further directed Peters to produce
21 documents concerning lawsuits and settlements. In response to
22 the VisionQuest subpoenas, Peters both fabricated and omitted
23 relevant documents. Among other things, Peters caused to be
24 created and backdated certain subscription agreements and
25 accredited investor questionnaires related to the sale of the

1 Capital, LLC notes.

2 The subscription agreements were backdated by
3 conspiring employees to appear as though they were generated at
4 the time that certain investors purchased the Capital, LLC
5 notes, when, in fact, the subscription agreements were only
6 created following the SEC enforcement proceeding. These
7 backdated documents were produced to the SEC in response to the
8 VisionQuest subpoenas.

9 Additionally, Peters attempted to have his
10 information technology company delete various e-mails falling
11 within the scope of the subpoenas. In particular, Peters
12 directed an information technology representative to delete
13 e-mails that included the following terms: One, the word
14 capital; two, the names of investors M.B. and A.W. and the name
15 of employees J.V. and J.G. Peters further directed the
16 information technology representative to, quote, "wipe," end
17 quote, the computers that originally held these e-mails and to
18 send the computers, quote, "back to the factory," end quote.

19 The VisionQuest subpoenas also directed Peters to
20 produce documents reflecting each of the assets of Capital,
21 LLC. The SEC was investigating, among other things, how Peters
22 had spent the Capital, LLC note proceeds and why large sums of
23 money flowed from a Capital, LLC bank account to a Wealth, LLC
24 bank account.

25 Peters fabricated and caused to be fabricated a

1 \$10 million revolving promissory note between Wealth, LLC and
2 Capital, LLC and backdated the same to June 10th, 2010. This
3 note is referred to herein as "the revolving note."

4 On or about July 10th, 2017, Peters provided false
5 testimony to the SEC concerning various matters under
6 investigation in the enforcement proceeding, including false
7 testimony concerning the revolving note, the promise or payment
8 of incentives in connection with the sale of the Capital, LLC
9 note and the extent of Peters' involvement in drafting
10 responses during the course of the SEC examination.

11 Specifically, after being asked to identify all the
12 places where the Capital, LLC note funds were invested, Peters
13 stated that one of the largest investments by Capital, LLC was
14 a \$10 million revolving note between Capital, LLC and Wealth,
15 LLC. Peters testified that this note was, quote, "in writing,"
16 end quote, and started somewhere between 2010 and 2012 and that
17 the balance on the note was between \$8 million and \$9 million.
18 In fact, the revolving note did not exist in 2010 and the
19 revolving note was fabricated in or about May of 2017.

20 Peters also gave false testimony concerning whether
21 Management, LLC employees were incentivized to sell the
22 Capital, LLC notes to investors. Peters falsely represented
23 that Management, LLC employees did not recommend that
24 Management, LLC clients purchase the Capital, LLC notes.

25 Likewise, Peters falsely testified that, quote, "none

1 of our staff gets direct compensation for selling VisionQuest
2 Capital, but they do receive incentive compensation at the end
3 of the year and on a quarterly basis by the firm achieving its
4 goals," end quote. In fact, Management, LLC employees were
5 promised and paid directly for the sale of Capital, LLC notes.
6 And Peters engaged in a scheme to make it appear that the
7 employees were compensated only when Management, LLC achieved
8 company goals.

9 Lastly, Peters was questioned under oath regarding
10 whether he had read and approved Management, LLC's
11 September 2016 written response that was transmitted to the SEC
12 during the SEC examination. Peter stated, quote, "I don't know
13 in this particular case. I mean, approval wise I'm sure I
14 looked at this at some point. I don't know how much time I
15 spent on it. I kind of relied on my compliance officer to
16 respond to the SEC," end quote.

17 In truth and in fact, Peters personally drafted
18 Management, LLC's written responses to the SEC examiners and
19 personally coordinated the collection and production of the
20 fabricated documents transmitted to the SEC examiners as
21 detailed in the preceding subsection of this Superseding
22 Indictment.

23 Although the Superseding Indictment may charge the
24 defendant with committing an offense in several ways, using
25 conjunctive language, it is sufficient if the Government proves

1 the offense in only one of the ways charged. In other words,
2 the jury may convict if it finds all elements of the charged
3 offense have been proven beyond a reasonable doubt even if it
4 does not believe that the offense has been committed in some of
5 the specific ways identified in the Superseding Indictment.

6 This case is not a civil case for breach of contract.
7 Thus, the Government need not prove that VisionQuest Wealth
8 Management, LLC or VisionQuest Capital, LLC failed to comply
9 with the terms of any contract, such as a senior subordinated
10 note contract or a value-based Wealth Management contract with
11 an alleged victim. Rather, as I will explain in detail in a
12 few moments, you will focus on the elements of the charged
13 criminal offenses to determine whether the Government has
14 proven the defendant Stephen Condon Peters' guilt beyond a
15 reasonable doubt as to each charged criminal offense.

16 Count 1 of the Superseding Indictment charges that:
17 At all times relevant to the Superseding Indictment Stephen
18 Condon Peters was, quote, "investment advisor," end quote,
19 within the meaning of 15 United States Code, Section
20 80b-2(a)11.

21 Moreover, beginning at a time unknown, but no later
22 than January 2009, and continuing to in or about July 2017, in
23 the Eastern District of North Carolina and elsewhere, the
24 defendant, Steve Condon Peters, doing business as VisionQuest
25 Wealth Management, LLC, and VisionQuest Capital, LLC,

1 unlawfully, willfully and knowingly, by the use of mails and
2 means and instrumentalities of interstate commerce, directly
3 and indirectly employed devices, schemes and artifices to
4 defraud clients and prospective clients or engaged in
5 transactions, practices or courses of business that operated as
6 a fraud or deceit upon clients and prospective clients or
7 engaged in acts, practices or courses of business that were
8 fraudulent, deceptive and manipulative, in violation of Title
9 15 United States Code, Section 80b-6 and 80b-17, in Title 18
10 United States Code, Section 2.

11 Section 80b-6 and 80b-17 of Title 15 of the United
12 States Code in part makes it a crime for any investment
13 advisor, by use of the mails or any means or instrumentalities
14 of interstate commerce, directly or indirectly, to employ any
15 device, scheme or artifice to defraud any client or prospective
16 client or to engage in any transaction, practice or course of
17 business that operates as a fraud or deceit upon any client or
18 prospective client or to engage in any act, practice or course
19 of business that is fraudulent, deceptive or manipulative.

20 18 United States Code, Section 2 provides whoever
21 commits an offense against the United States or aids, abets,
22 counsels or commands, induces or procures its commission is
23 punishable as a principal.

24 Whoever willfully causes an act to be done which, if
25 directly performed by him or another would be an offense

1 against the United States, is punishable as a principal.

2 To sustain its burden of proof for the crime charged
3 in Count 1 of the Superseding Indictment, the Government must
4 prove the following four elements beyond a reasonable doubt:

5 First, the defendant was an investment advisor;
6 second, the defendant either employed a device, scheme or
7 artifice to defraud a client or prospective client or engaged
8 in transactions, practices or courses of business that operated
9 as a fraud or deceit upon a client or prospective client or
10 engaged in any act, practice or course of business that was
11 fraudulent, deceptive or manipulative; third, the defendant
12 devised or participated in such act knowingly and willfully
13 with the intent to defraud; and fourth, the defendant employed
14 such device, scheme or artifice to defraud or engage in such
15 transaction, practice or course of business by use of the mails
16 or any other instrumentality of interstate commerce.

17 An investment advisor is any person who for
18 compensation engages in the business of advising others, either
19 directly or through publications or writings, as to the value
20 of securities or as to the advisability of investing in,
21 purchasing or selling securities.

22 An investment advisor may also be anyone who for
23 compensation and as part of a regular business issues analyses
24 or reports concerning securities.

25 An investment advisor includes any person who

1 receives compensation for investing funds of his or her
2 clients.

3 The phrase, quote, "device, scheme or artifice to
4 defraud," end quote, includes any plan or course of action
5 intended to deceive someone, to trick someone or to cheat
6 someone out of money or property. It is not defined by a
7 technical standard, but by a standard that reflects moral
8 uprightness, fundamental honesty, fair play and right dealing.

9 A, quote, "device, scheme or artifice to defraud,"
10 end quote, can be shown by deceptive acts reasonably calculated
11 to hide information, mislead, avoid suspicion or avert further
12 inquiry into a material matter.

13 If the defendant had a legal duty to disclose
14 material information, his silence as to material information is
15 evidence of a device, scheme or artifice to defraud.

16 Even absent a fiduciary, statutory or other
17 independent legal duty to disclose material information, fraud
18 includes acts taken to conceal, create a false impression,
19 mislead or otherwise deceive to prevent another from acquiring
20 material information.

21 The Government must prove beyond a reasonable doubt
22 that the defendant, Stephen Condon Peters, knowingly devised or
23 intended to devise a device, scheme or artifice to defraud
24 substantially the same as the one alleged in the Superseding
25 Indictment. The Government is not required to prove, however,

1 that the defendant originated the device, scheme or artifice to
2 defraud.

3 The phrase, quote, "false or fraudulent pretenses,
4 representations or promises," end quote, means a statement or
5 an assertion which concerns a material or important fact or a
6 material or important aspect of the matter in question and that
7 was either before or after the defendant sold the security
8 either known to be untrue at the time that the defendant made
9 or used the statement or that the defendant made or used with
10 reckless indifference as to whether it was, in fact, true or
11 false, and that the defendant made or used with the intent to
12 defraud.

13 A statement, representation, claim or document is,
14 quote, "false," end quote, if it relates to a material fact or
15 a matter and is untrue when made or used and was then known to
16 be untrue by the person making it, using it or causing it to be
17 made or used.

18 Fraud is a general term that embraces all various
19 means by which human ingenuity can devise and which an
20 individual resorts to in order to gain an advantage over
21 another by false representation, suggestion or suppression of
22 the truth or deliberate disregard for the truth concerning a
23 material fact or matter.

24 A representation or pretense is, quote, "fraudulent,"
25 end quote, if it relates to a material fact or matter and was

1 falsely made or maintained with the intention to deceive.

2 Deceitful statements are half-truths or the
3 concealment of a material fact and the expression of an opinion
4 not honestly entertained may also constitute false or
5 fraudulent statements or pretenses.

6 To act with, quote, "intent to 'defraud," end quote,
7 means to act knowingly and with the specific intent to deceive
8 or to cheat someone, ordinarily for the purpose of causing some
9 financial loss to another person or bringing about some
10 financial gain to oneself.

11 The use of the mails, a private or commercial
12 interstate carrier, such as UPS or FedEx, or another
13 instrumentality of interstate commerce, such as the internet or
14 sending or receiving an e-mail, is an essential element of
15 Count 1.

16 A, quote, "private or commercial interstate carrier,"
17 end quote, includes any business engaged in the transmission,
18 transportation or delivery of items from one state to another,
19 such as UPS or FedEx. If a document, message or other article
20 is deposited with such a carrier, the Government does not have
21 to prove that the document, message or article thereafter moved
22 in interstate commerce from one state to another.

23 The Government is not required to prove that the
24 defendant actually mailed or e-mailed anything or that the
25 defendant even intended that the mails, a private or commercial

1 interstate carrier, such as UPS and FedEx, or another
2 instrumentality of interstate commerce, such as the internet or
3 sending or receiving e-mail, would be used to further advance
4 or carry out the device, scheme or artifice to defraud.
5 Rather, the Government must prove beyond a reasonable doubt
6 that the mails, a private or commercial interstate carrier,
7 such the UPS and FedEx, or another instrumentality of
8 interstate commerce, such as the internet or sending or
9 receiving an e-mail, were, in fact, used in some manner to
10 further advance or carry out the device, scheme or artifice to
11 defraud.

12 Using the mails, a private or commercial interstate
13 carrier, such as UPS and FedEx or the internet, need not be
14 central to use the device, scheme, artifice to defraud and may
15 be incidental to it.

16 It is also not necessary for the Government to prove
17 that the item mailed, sent by a private or commercial
18 interstate carrier, such as UPS or FedEx, or otherwise sent
19 through interstate commerce, such as via the internet or
20 e-mail, was itself false or fraudulent or contained any false
21 or fraudulent statement, representation or promise or contained
22 any request for money or thing of value.

23 To, quote, "cause," end quote, the mails, a private
24 or commercial interstate carrier, such as UPS and FedEx, or
25 another instrumentality of interstate commerce such as the

1 internet or send or receiving e-mail, to be used is to do an
2 act with knowledge that the use of the mails, a private or
3 commercial interstate carrier, such as UPS and FedEx, or
4 another instrumentality of interstate commerce such as the
5 internet or sending an e-mail will follow in the ordinary
6 course of business or where such use can reasonably be foreseen
7 by the defendant.

8 The defendant does not have to be the person who
9 deposited the item in the mail, used a private or commercial
10 interstate carrier, such as UPS or FedEx, or sent or received
11 the e-mail or otherwise used the internet.

12 The Government can prove the use of the mails, a
13 private or commercial interstate carrier, such as UPS or FedEx,
14 or interstate commerce through circumstantial evidence; for
15 example, proof of a routine personal office. Personal office
16 or business practice of using the mail, a private or commercial
17 interstate carrier, such as UPS or FedEx, or the internet,
18 including sending or receiving e-mails, is sufficient to
19 support a jury finding beyond a reasonable doubt of the
20 interstate commerce element.

21 Likewise, a jury can rely on evidence suggesting a
22 delay in time between the time a letter or check was prepared
23 and when it was received as circumstantial evidence that a
24 mailing occurred by the U.S. Postal Service or private or
25 commercial interstate, such as UPS or FedEx.

1 Finally, the Government does not have to prove that
2 the mailings or wirings occurred on the exact date charged in
3 the Superseding Indictment. It is sufficient if the evidence
4 establishes beyond a reasonable doubt that a mailing or wiring
5 occurred in the time period substantially similar to the time
6 period charged in the Superseding Indictment.

7 The good faith of the defendant is a complete defense
8 to the charge of fraud in Counts 1 through 11 or making false
9 statements in Count 17 or falsifying or concealing records in
10 Count 18 because good faith on the part of the defendant is
11 simply inconsistent with a finding of knowingly devising or
12 participating in a scheme or artifice to defraud and obtain
13 money or property by means of material false or fraudulent
14 pretenses, representations or promises or making false
15 statements or falsifying and concealing records as alleged in
16 Counts 1 through 11 and 17 and 18 of the Superseding
17 Indictment.

18 A person who acts or causes another person to act on
19 a belief or an opinion honestly held is not punishable merely
20 because the belief or opinion turns out to be inaccurate,
21 incorrect or wrong. An honest mistake in judgment or an error
22 in management does not rise to the level of intent to defraud.

23 While the term, quote, "good faith," end quote, has
24 no precise definition, it means, among other things, a belief
25 or opinion honestly held in absence of malice or ill-will and

1 an intention to avoid taking unfair advantage of another.

2 In considering whether the defendant acted in good
3 faith, you are instructed that a belief by the defendant, if
4 such a belief existed, that ultimately everything would work
5 out so that no investor would lose any money and that every
6 investor would be fully paid does not require a finding by you
7 that the defendant acted in good faith.

8 After all, a defendant does not act in, quote, "good
9 faith," end quote, if, even though he honestly holds a certain
10 opinion or belief, the defendant also knowingly makes material
11 false or fraudulent pretenses, representations, promises or
12 omissions to others or aids and abets others in doing so or
13 willfully causes another to do so to obtain money or property
14 from another.

15 The criminal fraud and false statement statutes at
16 issue in this case are written to subject a criminal
17 punishment. Only those people who willfully employ a device,
18 scheme or artifice to defraud a person engage in a transaction
19 or course of business that operates as a fraud or deceit on a
20 person or engage in an act, practice or course of business that
21 is fraudulent, deceptive or manipulative.

22 In determining whether the Government has proven that
23 the defendant acted willfully with the intent to defraud or
24 whether the defendant acted in good faith, you must consider
25 all of the evidence in the case bearing on the defendant's

1 state of mind.

2 The burden of proving good faith does not rest with
3 the defendant because the defendant does not have an obligation
4 to prove anything in this case. It is the Government's burden
5 to prove to you beyond a reasonable doubt that the defendant
6 acted willfully with the intent to defraud.

7 Count 2 of the Superseding Indictment charges that
8 beginning at a time unknown, but no later than 2009, and
9 continuing to in or about July, 2017, in the Eastern District
10 of North Carolina and elsewhere, the defendant, Stephen Condon
11 Peters, willfully and knowingly, directly and indirectly, by
12 use of means or instrumentalities of interstate commerce, in
13 connection with the purchase or sale of securities, used or
14 employed manipulative or deceptive devices or contrivances by
15 employing devices, schemes or artifices to defraud or making
16 untrue statements of material facts or omitting to state
17 material facts necessary to make the statements made in light
18 of the circumstances under which they were made not misleading
19 or engaging in acts, practices or courses of business that
20 operate or would operate as a fraud or deceit upon persons.

21 That is the defendant, Stephen Condon Peters, both
22 directly and through the employees and agents of VisionQuest
23 Capital, LLC and VisionQuest Management, LLC, engaged in a
24 scheme to defraud in connection with the sale of VisionQuest
25 Capital notes in violation of Title 15, United States Code,

1 Section 78j(b) and 78f(f) and Title 17 of Code of Federal
2 Regulations Section 240.10b-5.

3 Section 78j(b) of Title 15 of the United States Code,
4 in part makes it a crime for anyone to use or employ in
5 connection with the sale of any security any manipulative or
6 deceptive device or contrivances as defined by the regulations
7 of the Securities and Exchange Commission.

8 Section 240.10b-5 of Title 17 of the Code of Federal
9 Regulations makes it a crime for any person, directly or
10 indirectly, by use of any means or instrumentalities of
11 interstate commerce or of the mails to employ any device,
12 scheme or artifice to defraud or to make any untrue statement
13 of material fact or to omit to state a material fact necessary
14 to make a statement made not misleading in light of the
15 circumstances under which it was made or to engage in any act,
16 practice or course of business that operates or would operate
17 as a fraud or deceit upon any person in connection with the
18 purchase or sale of any security.

19 To sustain its burden of proof for the crime charged
20 in Count 2 of the Superseding Indictment, the Government must
21 prove the following four elements beyond a reasonable doubt:

22 First, the defendant knowingly did any one or more of
23 the following: One, employed a device, scheme or artifice to
24 defraud; or two, made an untrue statement of material fact or
25 omitted to state a material fact that made what was said under

1 the circumstances misleading; or three, engaged in an act,
2 practice or course of business that operated or would operate
3 as a fraud or deceit upon any person.

4 Second, the defendant did so in connection with the
5 purchase or sale of a security described in the Superseding
6 Indictment.

7 Third, the defendant, in connection with such
8 purchase or sale of the security, made use of or caused the use
9 of any means or instrumentality of interstate commerce or the
10 mails.

11 And fourth, the defendant acted willfully and with
12 the intent to fraud.

13 You will apply the prior relevant definitions in
14 these instructions as you consider whether the Government
15 proved beyond a reasonable doubt the elements in Count 2.

16 The term, quote, "security," end quote, includes any
17 note, stock, bond, evidence of indebtedness such as a note,
18 investment contract or certificate of interest or participation
19 in any profit sharing agreement.

20 A contract, transaction or scheme is, quote,
21 "investment contract," end quote, if a person invests his or
22 her money in a common enterprise and is led to expect profits
23 derived substantially from the entrepreneurial or managerial
24 efforts of others.

25 The term, quote, "sale," end quote, or, quote,

1 "sell," end quote, means every contract of sale or disposition
2 of a security or an interest in the security for value.

3 The terms, quote, "sale," end quote, or, quote,
4 "sell," end quote, are intended to be used in a broad sense and
5 cover the entire selling process.

6 In determining whether a, quote, "sale," end quote,
7 took place, you need not find that title to the security passed
8 to the purchaser. It is sufficient if the purchaser obtained
9 an interest in the security, such as a pledge of a security
10 from a third-party in return for something of value.

11 The Government may meet its burden to show a fraud or
12 deceit upon any person if it proves beyond a reasonable doubt
13 that the defendant employed a fraud or deceit of a kind that
14 would cause a reasonable investor to rely and that some
15 purchasers or sellers did rely in connection with the purchase
16 or sale of a security.

17 The fraud or deceit itself may not concern the
18 quality of an investment or actually result in the purchase or
19 sale of any security. The individuals alleged to be involved
20 in the fraud or deceit need not have sold or purchased
21 securities themselves as long as the fraudulent or deceitful
22 conduct operated against some person.

23 Moreover, the Government is not required to prove
24 that the fraud or deceit was successful. The Government must,
25 however, prove beyond a reasonable doubt that the defendant

1 employed a fraud or deceit upon a person in connection with the
2 purchase or sale of a security.

3 The good faith of the defendant is a complete defense
4 to the charge of fraud in the sale of securities in Count 2.

5 I have previously defined good faith in the
6 instructions. You will apply that instruction as you consider
7 whether the Government proved beyond a reasonable doubt the
8 elements of Count 2.

9 With respect to Counts 3 through 11, the Superseding
10 Indictment charges the defendant, Stephen Condon Peters,
11 devised and intended to devise a scheme to defraud purchasers
12 of VisionQuest Capital, LLC notes and to obtain money and
13 property by means of materially false pretenses,
14 representations or promises.

15 It was part of the scheme that the defendant, Stephen
16 Condon Peters, caused some VisionQuest Capital, LLC note
17 purchasers to convert their individual retirement account
18 investment holdings into VisionQuest Capital, LLC notes.

19 To facilitate the acquisition of these investment
20 funds, the defendant, Stephen Condon Peters, caused the
21 VisionQuest Capital, LLC notes to be held by a custodian
22 currently known as IRA Innovations, LLC, located in the State
23 of Alabama.

24 It was further part of the scheme that defendant,
25 Stephen Condon Peters, caused to be transmitted correspondence,

1 copies of VisionQuest Capital, LLC notes, subscription
2 agreements and other investment account documentation to
3 VisionQuest Capital, LLC note purchasers and to IRA
4 Innovations, LLC.

5 Count 3 of the Superseding Indictment charges on or
6 about August 13th, 2013, in the Eastern District of North
7 Carolina and elsewhere, the defendant, Stephen Condon Peters,
8 for the purpose of executing the scheme to defraud described
9 above, or attempting to do so, caused an e-mail transmission of
10 VisionQuest Capital, LLC note for victim V.N. to be transmitted
11 by means of wire communication to interstate commerce from
12 Capital, LLC in North Carolina to IRA Innovations to Alabama,
13 in violation of Title 18, United States Code, Section 1343 and
14 2.

15 Count 4 of the Superseding Indictment charges that on
16 or about April 7th, 2015, in the Eastern District of North
17 Carolina and elsewhere, the defendant, Stephen Condon Peters,
18 for the purpose of executing the scheme to defraud described
19 above or attempting to do so caused an e-mail transmission of
20 buy direction letter for VisionQuest Capital, LLC note for
21 victim R.E. to be transmitted by means of wire communication
22 and interstate commerce from VisionQuest Capital, LLC, in North
23 Carolina to IRA Innovations in Alabama, in violation of Title
24 18, United States Code, Section 1343 and 2.

25 Count 5 of the Superseding Indictment charges that on

1 or about September 19th, 2016, in the Eastern District of North
2 Carolina and elsewhere, the defendant, Stephen Condon Peters,
3 for the purpose of executing the scheme to defraud described
4 above or attempting to do so, caused an e-mail transmission of
5 buy direction letter and VisionQuest Capital, LLC note for
6 victim A.T. to be transmitted by means of wire communications
7 and interstate commerce for VisionQuest Capital, LLC, in North
8 Carolina to IRA Innovations in Alabama, in violation of Title
9 18, United States Code, Section 1343 and 2.

10 Count 6 of the Superseding Indictment charges on or
11 about November 2nd, 2016, in the Eastern District of North
12 Carolina and elsewhere, the defendant, Stephen Condon Peters,
13 for the purpose of executing the scheme to defraud described
14 above, or attempting to do so, caused an e-mail transmission of
15 buy direction letter and VisionQuest Capital, LLC note for
16 victim B.L. to be transmitted by means of wire communication in
17 interstate commerce from VisionQuest Capital, LLC, in North
18 Carolina to IRA Innovations in Alabama in violation of Title
19 18, United States Code, Section 1343 and two.

20 Count 7 of the Superseding Indictment charges that on
21 or about November 8th, 2016, in the Eastern District of North
22 Carolina and elsewhere, the defendant, Stephen Condon Peters,
23 for the purpose of executing the scheme to defraud described
24 above or attempting to do so caused an e-mail transmission of
25 buy direction letter and VisionQuest Capital, LLC note for

1 victim M.D. to be transmitted by means of wire communication in
2 interstate commerce from VisionQuest Capital, LLC, in North
3 Carolina to IRA Innovations in Alabama, in violation of Title
4 18, United States Code, Section 1343 and 2.

5 Count 8 of the Superseding Indictment charges that on
6 or about December 2nd, 2016, in the Eastern District of North
7 Carolina and elsewhere, the defendant, Stephen Condon Peters,
8 for the purpose of executing a scheme to defraud described
9 above, or attempting to do so, caused an e-mail transmission of
10 VisionQuest Capital, LLC note, an account opening paperwork for
11 victim K.C. to be transmitted by means of wire communications,
12 interstate commerce from VisionQuest Capital, LLC, in North
13 Carolina to IRA Innovations in Alabama, in violation of Title
14 18, United States Code, Sections 1343 and 2.

15 Count 9 of the Superseding Indictment charges that on
16 or about January 4th, 2017, in the Eastern District of North
17 Carolina and elsewhere, the defendant, Stephen Condon Peters,
18 for the purpose of executing the scheme to defraud described
19 above, or attempting to do so, caused an e-mail transmission of
20 a copy of the driver's license for victim L.V. to be
21 transmitted by means of wire communication in interstate
22 commerce from VisionQuest Capital, LLC, in North Carolina to
23 IRA Innovations in Alabama, in violation of Title 18, United
24 States Code, Sections 1343 and 2.

25 Count 10 of the Superseding Indictment charges that

1 on or about March 2nd, 2017, in the Eastern District of North
2 Carolina and elsewhere, the defendant, Stephen Condon Peters,
3 for the purpose of executing the scheme to defraud described
4 above, or attempting to do so, caused an e-mail transmission of
5 buy direction letter and VisionQuest Capital, LLC note for
6 victim M.M. to be transmitted by means of wire communication in
7 interstate commerce of VisionQuest Capital LLC, in North
8 Carolina to IRA Innovations in Alabama, in violation of Title
9 18, United States Code, Section 1343 and 2.

10 Count 11 in the Superseding Indictment charges that
11 on or about May 24th, 2017, in the Eastern District of North
12 Carolina and elsewhere, the defendant, Stephen Condon Peters,
13 for the purpose of executing the scheme to defraud described
14 above, or attempting to do so, caused an e-mail transmission of
15 VisionQuest Capital, LLC note subscription agreements for
16 victims C.N. and L.N. to be transmitted by means of wire
17 communication in interstate commerce from VisionQuest Capital,
18 LLC, in North Carolina to IRA Innovations in Alabama, in
19 violation of Title 18, United States Code, Section 1343 and 2.

20 Section 1343 of Title 18 of the United States Code in
21 part makes it a crime for anyone having devised or intending to
22 devise a scheme or artifice to defraud or for obtaining money
23 or property by means of false or fraudulent pretenses,
24 representations or promises to transmit or cause to be
25 transmitted any writings, signs, signals, pictures or sounds by

1 means of wire, radio or television communication in interstate
2 commerce for the purpose of executing such scheme or artifice.

3 18 U.S. Code, Section 2, provides, whoever commits an
4 offense against the United States or aids, abets, counsels,
5 commands, induces or procures its commission is punishable as a
6 principal.

7 Whoever willfully causes an act to be done which is
8 directly performed by him or another would be an offense
9 against the United States is punishable as a principal.

10 Although I am grouping the instructions on Counts 3
11 through 11, you shall consider each count and the evidence
12 pertaining to it separately.

13 To sustain its burden of proof for the crimes charged
14 in Counts 3 through 11 of the Superseding Indictment, the
15 Government must prove the following four elements beyond a
16 reasonable doubt:

17 First, the defendant knowingly devised or knowingly
18 participated in a scheme or artifice to defraud or to obtain
19 money or property by means of false pretenses, representations
20 or promises substantially the same as the one alleged in the
21 relevant count of the Superseding Indictment.

22 Second, the scheme or artifice to defraud and
23 statements made in furtherance of the scheme or artifice were
24 material.

25 Third, the defendant acted with the intent to

1 defraud.

2 Fourth, the defendant transmitted or caused to be
3 transmitted wire communications to interstate commerce to
4 advance further or carry out the scheme or artifice.

5 The phrase, quote, "scheme or artifice to defraud"
6 includes any plan or course of action intended to deceive
7 someone, to trick someone or to cheat someone out of money or
8 property. It is not defined by a technical standard, but a
9 standard that reflects moral uprightness, fundamental honesty,
10 fair play and right dealing.

11 A, quote, "scheme or artifice to defraud," end quote,
12 can be shown by deceptive acts reasonably calculated to hide
13 information, mislead, avoid suspicion or avert further inquiry
14 into a material matter.

15 If the defendant had a legal duty to disclose
16 material information, his silence as to material information is
17 evidence of a scheme or artifice to defraud.

18 Even absent a fiduciary, statutory or other
19 independent legal duty to disclose material information, fraud
20 includes acts taken to conceal, create a false impression,
21 mislead or otherwise deceive to prevent another from acquiring
22 material information.

23 The Government must prove beyond a reasonable doubt
24 that the defendant, Stephen Condon Peters, knowingly devised or
25 intended to devise a scheme or artifice to defraud

1 substantially the same as the one alleged in the Superseding
2 Indictment.

3 The Government is not required to prove, however,
4 that the defendant originated the scheme or artifice to
5 defraud.

6 The phrase, quote, "false or fraudulent pretenses,
7 representations or promises," end quote, means a statement or
8 an assertion which concerns a material or important fact or a
9 material or important aspect of the matter in question that was
10 either before or after the defendant sold a security, either
11 known to be untrue at the time that the defendant made or used
12 the statement or that the defendant made or used with reckless
13 indifference as to whether it was, in fact, true or false and
14 that the defendant made or used with the intent to defraud.

15 You'll apply the prior relevant definitions in these
16 instructions as you consider whether the Government proved
17 beyond a reasonable doubt the elements in Counts 3 through 11.

18 With respect to Counts 3 through 11, the Government
19 is not required to prove that the defendant himself actually
20 transmitted the wire communication, such as an e-mail, or that
21 the defendant even intended that a wire communication would be
22 used to further, to advance or carry out the scheme or artifice
23 to defraud or to obtain money or property or false pretenses,
24 representations or promises.

25 It is also not necessary for the Government to prove

1 that the information transmitted by wire was itself false or
2 fraudulent or contained any false or fraudulent statement,
3 representation or promise or contained any request for money or
4 thing of value. Likewise, it is not necessary for the
5 Government to prove that the use of the wire communication was
6 intended as the specific or exclusive means of accomplishing
7 the alleged fraud.

8 Rather, the Government must prove beyond a reasonable
9 doubt that a wire communication was, in fact, used in some
10 manner by someone to further, to advance or carry out the
11 scheme or artifice to defraud or to obtain money or property by
12 false or fraudulent pretenses, representations or promises.
13 The Government must also prove that the use of a wire
14 communication would follow in the ordinary course of business
15 or events or that the use of wire communication by someone was
16 reasonably foreseeable.

17 The Government also must prove that the use of a wire
18 communication to further advance or carry out in some way a
19 scheme or artifice to defraud or to obtain money or property by
20 false or fraudulent pretenses, representations or promises.

21 The phrase transmission of, quote, "wire
22 communication interstate commerce," end quote, includes a
23 telephone conversation by a person in one state with a person
24 in another state, an e-mail communication by a person in one
25 state to a person in another state, another communication sent

1 by the internet from one person to another or a facsimile
2 transmission by a person in one state to a person in another
3 state.

4 The good faith of the defendant is a complete defense
5 to the charges of wire fraud in Counts 3 through 11. I have
6 previously defined good faith in the instructions. You will
7 apply that instruction as you consider whether the Government
8 proved beyond a reasonable doubt the elements in Counts 3
9 through 11.

10 Count 12 of the Superseding Indictment charges that
11 on or about December 21st, 2012, in the Eastern District of
12 North Carolina and elsewhere, the defendant, Stephen Condon
13 Peters, knowingly engaged or willfully caused others to engage
14 in a \$35,000 wire transfer from a Wealth, LLC bank account at
15 BB&T ending in 2596 to a Wells Fargo account ending in 1732
16 involving criminally-derived property (\$85,000 VisionQuest
17 Capital, LLC note purchased by D.D.) where the value of the
18 property exceeded \$10,000 and the property was derived from
19 investment advisor fraud in violation of Title 15, United
20 States Code, Section 80b-6 and 80b-17, in violation of Title
21 18, United States Code, Sections 1957 and 2.

22 Count 13 of the Superseding Indictment charges that
23 on or about February 18th, 2014, in the Eastern District of
24 North Carolina and elsewhere, the defendant, Stephen Condon
25 Peters, knowingly engaged or willfully caused others to engage

1 in a \$40,000 wire transfer from a Wealth, LLC bank account at
2 BB&T ending in 2618 to a Wells Fargo Bank account ending in
3 1732 involving criminally-derived property (\$50,000 VisionQuest
4 Capital, LLC note purchased by J.L.) where the value of the
5 property exceeded \$10,000 and the property was derived from
6 investment advisor fraud, in violation of Title 15, United
7 States Code, Sections 80b-6 and 80b-17, in violation of Title
8 18, United States Code Section 1957 and 2.

9 Count 14 of the Superseding Indictment charges that
10 on or about February 28th, 2014, in the Eastern District of
11 North Carolina and elsewhere, the defendant, Stephen Condon
12 Peters, knowingly engaged and willfully caused others to engage
13 in a \$260,000 wire transfer from a Wealth, LLC bank account at
14 BB&T ending in 2618 to a Wells Fargo account ending in 1732
15 involving criminally-derived property (\$1 million VisionQuest
16 Capital, LLC note purchased by C.G., LLC) where the value of
17 the property exceeded \$10,000 and the property was derived from
18 investment advisor fraud, in violation of Title 15, United
19 States Code, Section 80b-6 and 80b-17, in violation of Title 18
20 United States Code, Section 1957 and 2.

21 Count 15 of the Superseding Indictment charges that
22 on or about September 29th, 2016, in the Eastern District of
23 North Carolina and elsewhere, the defendant, Stephen Condon
24 Peters, knowingly engaged or willfully caused others to engage
25 in a \$20,000 wire transfer from a Wealth, LLC bank account at

1 BB&T ending in 2618 to a Wells Fargo account ending in 1732
2 involving criminally-derived property (\$100,000 VisionQuest
3 Capital, LLC note purchased by C.R.) where the value of the
4 property exceeded \$10,000 and the property was derived from
5 investment advisor fraud, in violation of Title 15 United
6 States Code, Section 80b-6 and 80b-17, in violation of Title
7 18, United States Code, Sections 1957 and 2.

8 Section 1957 of Title 18 of the United States Code in
9 part makes it a crime for anyone to knowingly engage or attempt
10 to engage in the United States in a monetary transaction in
11 criminally-derived property of value greater than \$10,000 and
12 the money is derived from specified unlawfully activity.

13 18 U.S.C. Section 2 provides, whoever commits an
14 offense against the United States or aids, abets, counsels,
15 commands, induces or procures its commission is punishable as a
16 principal. Whoever willfully causes an act to be done which if
17 directly performed by him or another would be an offense
18 against the United States is punishable as a principal.

19 Although I am grouping the instructions on Counts 12
20 through 15, you shall consider each count and the evidence
21 pertaining to it separately.

22 To sustain its burden of proof for the crimes charged
23 in Counts 12 through 15 of the Superseding Indictment, the
24 Government must prove the following five elements beyond a
25 reasonable doubt:

1 First, the defendant engaged or attempted to engage
2 in a monetary transaction in or affecting interstate commerce.

3 Second, the monetary transaction involved
4 criminally-derived property of a value greater than \$10,000.

5 Third, the property was derived from the unlawful
6 activity specified in the Superseding Indictment, namely
7 investment advisor fraud.

8 Fourth, the defendant acted knowingly; that is, with
9 knowledge that the transaction involved proceeds as specified
10 unlawful activity.

11 And five, the transaction took place in the United
12 States.

13 You will apply the prior relevant definitions in
14 these instructions as you consider whether the Government
15 proved beyond a reasonable doubt the elements in Counts 12
16 through 15.

17 A, quote, "monetary transaction," end quote, is any
18 deposit, withdrawal, transfer or exchange of funds or a
19 monetary instrument by, through or to a financial institution
20 in a way that affects interstate commerce. The definition
21 includes the movement of such funds or a monetary instrument by
22 wire transfer or involving the transfer of title to any real
23 property, vehicle, vessel or aircraft or a transaction
24 involving the use of a financial institution that has engaged
25 in or the activities of which affect interstate or foreign

1 commerce in any way or degree.

2 The term, quote, "criminally-derived property," end
3 quote, means any property constituting or derived from proceeds
4 that the defendant obtained from a criminal offense under state
5 or federal law. The Government need not prove that all of the
6 property involved in the transaction was criminally-derived
7 property; however, the Government must prove that more than
8 \$10,000 of the property involved was criminally-derived
9 property.

10 The term, quote, "proceeds," end quote, means the
11 profits derived from or obtained or retained directly or
12 indirectly or some form of unlawful activity. Proceeds can be
13 any kind of property, not just money.

14 With respect to whether the defendant acted with
15 knowledge that the transaction involved proceeds of specified
16 unlawful activity, it does not matter whether the defendant
17 knew the precise nature of the crime or that the property came
18 from committing investment advisor fraud; however, the
19 Government must prove that the defendant knew that the property
20 involved in the monetary transaction was obtained or derived
21 from committing some crime under state or federal law.

22 Count 16 of the Superseding Indictment charges that
23 beginning no later than in or around September 2016 and
24 continuing to in or around November 2016, within the Eastern
25 District of North Carolina and elsewhere, that the defendant,

1 Stephen Condon Peters, knowingly and intentionally conspired,
2 confederated and agreed to commit an offense against the United
3 States; namely, A, to knowingly and willfully make or use false
4 writings or documents knowing the writings or documents could
5 contain materially false, fictitious or fraudulent statements
6 and entries in a manner within the jurisdiction of the
7 Executive Branch of the Government of the United States in
8 violation of Title 18, United States Code, Section 1001a-3 or,
9 B, to knowingly falsify or conceal records or documents with
10 the intent to influence the proper administration of a matter
11 within the jurisdiction of an agency of the United States in
12 violation of Title 18, United States Code, Section 1519, all in
13 violation of Title 18, United States Code, Section 371.

14 Section 371 of the Title 18 of the United States Code
15 makes it a crime for two or more persons to conspire either to
16 commit any offense against the United States or to defraud the
17 United States or any agency thereof in any manner or for any
18 purpose and one or more of such persons do an act to affect the
19 object of the conspiracy.

20 The Superseding Indictment alleges that it was part
21 of the conspiracy that the defendant, Stephen Condon Peters, in
22 the midst of a Securities and Exchange Commission examination,
23 directed employees to create and backdate documents that did
24 not exist in the files of VisionQuest Management, LLC before
25 the Securities and Exchange Commission examination.

1 It was further part of the conspiracy that the
2 defendant, Stephen Condon Peters, instructed at least one
3 conspiring employee concerning how to cut-and-paste signatures
4 on to fabricated documents to make them appear genuine.

5 It was further part of the conspiracy that the
6 defendant, Stephen Condon Peters, directed at least one
7 conspiring employee to place backdated letters onto VisionQuest
8 letterhead and to scan the same and to make them appear as
9 though the letters existed before the Securities and Exchange
10 Commission examination.

11 It was further part of the conspiracy that the
12 defendant, Stephen Condon Peters, directed that the foregoing
13 false and fraudulent documents be transmitted to Securities and
14 Exchange Commission examiners in response to prior requests for
15 documents.

16 The Superseding Indictment alleges that during the
17 course of the conspiracy a member of the conspiracy created at
18 least one outside business activity disclosure that contains a
19 forged or fabricated signature of compliance officer N.K.

20 During the course of the conspiracy a member of the
21 conspiracy created at least one backdated internal compliance
22 memorandum as described in the Superseding Indictment.

23 During the course of the conspiracy a member of the
24 conspiracy created at least one inflated client balance sheet
25 as described in the Superseding Indictment.

1 During the course of the conspiracy a member of the
2 conspiracy created at least one backdated investment policy
3 statement, a Wealth Management contract, as described in the
4 Superseding Indictment.

5 During the course of the conspiracy a member of the
6 conspiracy transmitted to Securities and Exchanges Commission
7 examiners at least one fabricated document as described in the
8 Superseding Indictment.

9 To sustain its burden of proof for the crime charged
10 in Count 16 of the Superseding Indictment, the Government must
11 prove the following four elements beyond a reasonable doubt:

12 First, two or more persons formed, reached or entered
13 into a conspiracy, agreement or understanding to make a false
14 writing to obstruct a federal investigation or provide false
15 information to a government agency as described in the
16 Superseding Indictment.

17 Second, at some time during the existence or life of
18 the conspiracy, agreement or understanding, the defendant knew
19 the purpose of the agreement.

20 Third, with knowledge of the purpose of the
21 conspiracy, agreement or understanding, the defendant then
22 deliberately joined the conspiracy, agreement or understanding.

23 And fourth, at some time during the existence or life
24 of the conspiracy, agreement or understanding one of its
25 alleged members knowingly performed an overt act and did so to

1 further or advance the purpose of the conspiracy, agreement or
2 understanding.

3 You will apply the prior relevant definitions in
4 these instructions as you consider whether the Government
5 proved beyond a reasonable doubt the elements in Count 16.

6 A criminal conspiracy is an agreement or mutual
7 understanding knowingly made or knowingly entered into by at
8 least two people to violate the law by some joint or common
9 plan or course of action.

10 A conspiracy is, in a very true sense, a partnership
11 in crime. A conspiracy or agreement to violate the law, like
12 any other kind of agreement or understanding, need not be
13 formal, written or even expressed directly in every detail.

14 The Government must prove beyond a reasonable doubt
15 that the defendant and at least one other person knowingly and
16 deliberately arrived at an agreement or understanding that day,
17 and perhaps others, would violate some law by means of some
18 common plan or course of action as alleged in Count 16 of the
19 Superseding Indictment. It is proof of this conscious
20 understanding and deliberate agreement by the alleged members
21 that should be central to your consideration of the charge of
22 conspiracy in Count 16.

23 To prove the existence of a conspiracy or illegal
24 agreement, the Government is not required to produce a written
25 contract between the parties or even produce evidence of an

1 expressed oral agreement spelling out all of the details of the
2 understanding.

3 To prove that a conspiracy existed, moreover, the
4 Government is not required to show that all the members of the
5 alleged conspiracy were named or charged or all the people whom
6 the evidence shows were actually members of that conspiracy
7 agreed to all of the means or methods described in the
8 Superseding Indictment.

9 Before the jury may find that the defendant or any
10 other person became a member of the conspiracy charged in
11 Count 16 of the Superseding Indictment, the evidence in the
12 case must show beyond a reasonable doubt that the defendant
13 knew the purpose or goal of the agreement or understanding and
14 then deliberately entered into the agreement intending in some
15 way to accomplish the goal or purpose of the agreement.

16 If the evidence establishes beyond a reasonable doubt
17 that the defendant knowingly and deliberately entered into a
18 agreement to make a false writing to obstruct a federal
19 investigation or provide false information to a government
20 agency, the fact that the defendant did not join the agreement
21 at its beginning or did not remain in it until its end or did
22 not know all of the details of the agreement or did not
23 participate in each act of the agreement or did not play a
24 major role in accomplishing the unlawful goal is not important
25 to your decision regarding membership in the conspiracy.

1 However, merely associating with others and
2 discussing common goals, mere similarity of conduct between or
3 among such persons, merely being present at a place where a
4 crime takes place or is discussed or even knowing about
5 criminal conduct does not of itself make someone a member of
6 the conspiracy or a conspirator.

7 Also, a person who has no knowledge of a conspiracy,
8 but who happens to act in a way which advances some purpose of
9 a conspiracy does not thereby become a conspirator.

10 The Government is not required to prove that the
11 parties to or members of the alleged agreement or conspiracy
12 were successful in achieving any or all of the objects of the
13 alleged agreement or conspiracy.

14 Evidence has been received in this case that certain
15 persons who are allegedly co-conspirators of the defendant have
16 done or said things during the existence or life of the alleged
17 conspiracy to further or advance its goal. Such acts and
18 statements of these other individuals may be considered by you
19 in determining whether the Government has proven the charge in
20 Count 16 of the Superseding Indictment against the defendant.

21 Since these acts may have been performed and these
22 statements may have been made outside the presence of the
23 defendant or even done or said without the defendant's
24 knowledge, these acts or statements should be examined with
25 particular care by you before considering them against the

1 defendant who did not do the particular acts or make the
2 particular statement.

3 Acts done or statements made by an alleged
4 co-conspirator before a defendant joined a conspiracy may also
5 be considered by you in determining whether the Government has
6 sustained its burden of proof in Count 16 of the Superseding
7 Indictment.

8 Acts done or statements made before an alleged
9 conspiracy began or after an alleged conspiracy ended, however,
10 may only be considered by you regarding the person who
11 performed that act or made that statement.

12 As the Court instructed you, one of the elements that
13 the Government must prove beyond a reasonable doubt is that at
14 least one member -- one of the members to the alleged
15 conspiracy or agreement knowingly performed at least one overt
16 act and that this overt act was done to somehow further the
17 goals of the conspiracy or agreement.

18 The term, quote, "overt act," end quote, means some
19 type of outward objective action performed by one of the
20 parties to or one of the members of the alleged conspiracy
21 agreement which evidences that agreement.

22 An overt act includes any act, even one that may be
23 entirely innocent and legal when considered alone, but which a
24 co-conspirator knowingly commits to accomplish some object of a
25 conspiracy.

1 Although you must unanimously agree that the same
2 overt act was committed, the Government is not required to
3 prove more than one overt act. If adequately proven by the
4 evidence, you may rely upon an overt act not charged in the
5 Superseding Indictment.

6 Illegal objects of the conspiracy charged in Count 16
7 of the Superseding Indictment are to make and use false -- a
8 false document to obstruct a federal investigation and to
9 provide false information to a government agency.

10 In determining whether an agreement was reached
11 concerning the objects of the alleged conspiracy, the elements
12 of each illegal object should guide your decision on that
13 illegal object. Making and using a false document to obstruct
14 a federal investigation includes the same offense that is
15 charged in Count 17 of the Superseding Indictment and providing
16 false information to a government agency includes the same
17 offense that is charged in Count 18; therefore, the Court will
18 be instructing you later as to the elements of those two
19 crimes. You should refer to the instructions on those two
20 crimes in determining whether an agreement was reached
21 concerning these objects.

22 Count 17 of the Superseding Indictment charges that
23 on or -- excuse me, that between September 2016 and
24 November 2016, in the Eastern District of North Carolina, the
25 defendant, Stephen Condon Peters, aiding and abetting at least

1 one other, willfully and knowingly falsified, concealed, or
2 covered up by trick, scheme or device, material facts; to wit,
3 the receipt and transmission of VisionQuest Management, LLC
4 employee e-mails as described in the Superseding Indictment or,
5 B, made materially false, fictitious or fraudulent statements
6 or representations; to wit, the VisionQuest Management, LLC's
7 representatives did not provide investment advice to
8 VisionQuest Management, LLC clients with respect to the
9 VisionQuest Capital, LLC notes or, C, made and used false
10 writings or documents; to wit, forged or backdated outside
11 business activity letters or forms, backdated internal
12 compliance findings memoranda, forged investment policy
13 statements or Wealth Management contracts or inflated client
14 balance sheets, knowing the same to contain materially false,
15 fictitious or fraudulent statements or entries in a matter
16 within the jurisdiction of the Executive Branch of the
17 Government of the United States; to wit, the Securities and
18 Exchange Commission, all in violation of Title 18, United
19 States Code, Sections 1001a, 1082 and 1000a-3 and 2.

20 Section 1001 of Title 18 of the United States Code in
21 part makes it a crime for anyone in any manner within the
22 jurisdiction of the Executive Branch of the Government of the
23 United States to knowingly and willfully: One; falsify,
24 conceal or cover up a material fact by any trick, scheme or
25 device; or, two, make any materially false, fictitious or

1 fraudulent statement or representation, or; three, make or use
2 any false writing or document knowing the same to contain any
3 materially false, fictitious or fraudulent statement or entry.

4 18 U.S.C. Section 2 provides whoever commits an
5 offense against the United States or aids, abets, counsels,
6 commands, induces or procures its condition as punishable as a
7 principal.

8 Whoever willfully causes an act to be done which if
9 directly performed by him or another would be an offense
10 against the United States is punishable as a principal.

11 As for the crime charged in Count 17 of the
12 Superseding Indictment concerning 18 U.S.C. Section 1001a-1;
13 i.e. that the defendant, Stephen Condon Peters, willfully and
14 knowingly falsified or concealed or covered up by trick, scheme
15 or device, material facts; to wit, the receipt and transmission
16 of VisionQuest Capital, LLC employee e-mails as described in
17 the Superseding Indictment, the Government must prove the
18 following elements beyond a reasonable doubt:

19 First, the defendant concealed a fact by any trick,
20 scheme or device as detailed in the Superseding Indictment;
21 second, the defendant acted knowingly and willfully in
22 concealing the fact; third, the fact concealed by the defendant
23 was material to the Securities and Exchange Commission; and,
24 fourth, the matter involved was within the jurisdiction of the
25 Executive Branch of the Government of the United States.

1 As for the crime charged in Count 17 of the
2 Superseding Indictment concerning 18 United States Code,
3 Section 1,001a-2, i.e., that the defendant, Stephen Condon
4 Peters, willfully and knowingly made materially false,
5 fictitious and fraudulent statements and representations; to
6 wit, that VisionQuest Wealth Management, LLC, employees did not
7 provide investment advice to VisionQuest Wealth Management, LLC
8 clients with respect to VisionQuest Capital, LLC notes, the
9 Government must prove the following elements beyond a
10 reasonable doubt:

11 First, the defendant made a false, fictitious or
12 fraudulent statement or representation to the Executive Branch
13 to the Government of the United States as detailed in the
14 Superseding Indictment; second, the defendant acted knowingly
15 and willfully in making the false, fictitious or fraudulent
16 statement, i.e., the defendant knew that the statement or
17 representation was false, fictitious or fraudulent; third, the
18 defendant's statement was material to the Securities and
19 Exchange Commission; and, fourth, the defendant made the
20 statement in a matter within the jurisdiction of the Executive
21 Branch of the Government of the United States.

22 As for the crime charged in Count 17 of the
23 Superseding Indictment concerning 18 U.S.C. Section 1001a-3,
24 i.e., the defendant, Stephen Condon Peters, aiding and abetting
25 at least one other, made and used false writings of documents;

1 to wit, forged and backdated outside business activities
2 letters and forms, backdated internal compliance findings,
3 memoranda, forged investment policy statements and Wealth
4 Management contracts and inflated client balance sheets,
5 knowing the same to contain materially false, fictitious or
6 fraudulent statements and entries, the Government must prove
7 the following elements beyond a reasonable doubt:

8 First, the defendant made or used a false writing or
9 document in a matter within the jurisdiction of the Executive
10 Branch of the Government of the United States; second, the
11 defendant knew that the writing or document contained a false,
12 fictitious or fraudulent statement or entry; third, the
13 defendant acted knowingly and willfully; and fourth, the
14 writing or document made or used by the defendant was material
15 to the Securities and Exchange Commission.

16 The Government need not prove that the defendant,
17 Stephen Condon Peters, violated 18 U.S.C. Section 1001a-1,
18 1001a-2, and 1001a-3. Rather, the Government need only prove
19 that the defendant violated 18 U.S.C. Section 1001a-1, 1001a-2,
20 or 1001a-3.

21 You, the jury, must, however, unanimously agree that
22 the defendant, Stephen Condon Peters, violated 18 U.S.C.
23 Section 1001a-1, 1001a-2 or 1001a-3 in the same way.

24 You will apply the prior relevant definitions in
25 these instructions as you consider whether the Government

1 proved beyond a reasonable doubt the elements in Count 17.

2 The phrase falsify, conceal or cover up by any,
3 quote, "trick, scheme or device," end quote, means any
4 deliberate plan or course of action or any affirmative act or
5 any knowing omission designed to deceive others by preventing
6 or delaying discovery of information.

7 To establish that the statement was false, the
8 Government must negate any reasonable interpretation that would
9 make the defendant's statement factually accurate.

10 A statement is material if it has a natural tendency
11 to influence or is capable of influencing the decision-making
12 body to which it is addressed.

13 It is irrelevant whether the false statement actually
14 influenced or affected the decision-making process of the
15 agency or department. A false statement's capacity of
16 influence must be measured when the statement was made. The
17 phrase, quote, "makes or uses any false writing or document,"
18 end quote, means to create, to bring into existence or to
19 submit or to file some type of form, report or letter of any
20 kind that is not true.

21 Quote, "within the jurisdiction," end quote,
22 differentiates the official or authorized function of an agency
23 such as the Securities and Exchange Commission or department
24 for matters that are peripheral to the business of the agency
25 or department.

1 The phrase refers to the agency's or the department's
2 power to exercise authority in a particular situation and that
3 power need not include the power to make final or binding
4 determinations.

5 The good faith of the defendant is a complete defense
6 to the charge of making or using false documents in Count 17.

7 I have previously defined good faith in the
8 instructions. You'll apply that instruction as you consider
9 whether the Government proved beyond a reasonable doubt the
10 elements in Count 17.

11 Count 18 of the Superseding Indictment charges that
12 between September 2016, and November 2016, in the Eastern
13 District of North Carolina, the defendant, Stephen Condon
14 Peters, aiding and abetting at least one other, knowingly
15 falsified outside business activity, letters or forms, internal
16 compliance findings, memoranda, investment policy statements,
17 Wealth Management contracts or client balance sheets, or
18 concealed VisionQuest Management, LLC employee e-mails as
19 described in the Superseding Indictment, all records and
20 documents with the intent to influence the proper
21 administration of the Securities and Exchange Commission
22 examination, a matter that the defendant knew was within the
23 jurisdiction of the United States Securities and Exchange
24 Commission, an agency of the United States, in violation of
25 Title 18, United States Code, Section 1519 and 2.

1 Section 1519 of Title 18 of the United States Code in
2 part makes it a crime for anyone to knowingly alter, destroy,
3 mutilate, conceal, cover up, falsify or make a false entry in
4 any record, document or tangible object with the intent to
5 impede, obstruct or influence the investigation or proper
6 administration of any matter within the jurisdiction of any
7 department or agency of the United States.

8 18 U.S.C. Section 2 provides whoever commits an
9 offense against the United States or aids, abets, counsels,
10 commands, induces or procures its commission is punishable as a
11 principal.

12 Whoever willfully causes an act to be done which if
13 directly performed by him or another would be an offense
14 against the United States is punishable as a principal.

15 To sustain its burden of proof for the crime charged
16 in Count 18 of the Superseding Indictment, the Government must
17 prove the following three elements beyond a reasonable doubt:

18 First, the defendant altered, destroyed, mutilated,
19 concealed, covered up, falsified or made a false entry in any
20 record, document or tangible object; second, the defendant
21 acted with the intent to impede, obstruct or influence the
22 investigation or proper administration of any matter within the
23 jurisdiction of any department or agency of the United States;
24 and, third, the defendant acted knowingly.

25 You will apply the prior relevant definitions in

1 these instructions as you consider whether the Government
2 proved beyond a reasonable doubt the elements in Count 18.

3 There is no requirement that the matter or
4 investigation was pending or imminent at the time of the
5 obstruction, but only that the defendant acted in relation to
6 or in contemplation of any such matter or investigation, such
7 as an examination by the Securities and Exchange Commission.

8 The good faith of the defendant is a complete defense
9 to the charge of falsifying or concealing records in Count 18.

10 I have previously defined good faith in the
11 instructions. You'll apply that instruction as you consider
12 whether the Government proved beyond a reasonable doubt the
13 elements in Count 18.

14 There is an alternative theory of liability that you
15 may evaluate in deciding whether the defendant, Stephen Condon
16 Peters, is guilty of making and using false documents as
17 charged in Count 17 and falsifying and concealing records as
18 charged in Count 18.

19 If you have found beyond a reasonable doubt that the
20 Government has proven that the defendant committed the charged
21 offense at issue in Counts 17 and 18, you need not consider
22 this alternative theory of liability as to the charged offense
23 at issue in Counts 17 and 18.

24 The law permits one co-conspirator to be convicted of
25 a substantive offense that was committed by another

1 co-conspirator if the substantive offense was reasonably
2 foreseeable and in the course and in furtherance of a
3 conspiracy. The reason for this rule is simply that a
4 co-conspirator who commits a subsequent crime pursuant to a
5 conspiracy is deemed to be the agent of other conspirators.

6 If you have found beyond a reasonable doubt that the
7 defendant is guilty of conspiracy as charged in Count 16, you
8 may consider whether the defendant is guilty of making and
9 using false documents as charged in Count 17 and falsifying or
10 concealing records as charged in Count 18 based on a
11 co-conspirator's act of making or using false documents or
12 falsifying or concealing records.

13 For you to find the defendant guilty on this basis on
14 either Count 17 or 18, the Government must prove the following
15 five elements beyond a reasonable doubt:

16 First, some person made or used false documents as
17 charged in Count 17 or falsified or concealed records as
18 charged in Count 18.

19 Second, the person or persons who you find actually
20 made or used false documents as charged in Count 17 or
21 falsified or concealed records as charged in Count 18 was or
22 are members of the conspiracy that you found existed.

23 Third, the person or persons who you find actually
24 made or used false documents or falsified or concealed records
25 did so pursuant to the common plan or understanding you found

1 to exist among the conspirators.

2 Fourth, the defendant, Stephen Condon Peters, was a
3 member of the conspiracy at the time that someone made or used
4 false documents or falsified or concealed records.

5 And fifth, the defendant could have reasonably
6 foreseen that a member of the conspiracy would make or use
7 false documents as charged in Count 17 or falsify or conceal
8 records as charged in Count 18.

9 If you find that the Government has proven these five
10 elements beyond a reasonable doubt as to either Count 17 or 18,
11 then you may find the defendant guilty of the crime as charged
12 in the count you are considering even though the defendant did
13 not personally participate in the acts constituting making or
14 using false documents or falsifying or concealing records or
15 did not have actual knowledge of them.

16 If, however, the Government has not proven these five
17 elements beyond a reasonable doubt, then you may not find the
18 defendant guilty of making or using false documents as charged
19 in Count 17 or falsifying or concealing records as charged in
20 Count 18 under this alternative theory of liability.

21 Rather, to find the defendant guilty, the Government
22 must have proven beyond a reasonable doubt that the defendant
23 personally committed or aided and abetted or willfully caused
24 the commission of the crime as charged in Count 17 and 18.

25 Count 19 of the Superseding Indictment charges that

1 between in or about March 6, 2017, and continuing to in or
2 about July, 2017, in the Eastern District of North Carolina and
3 elsewhere, the defendant, Stephen Condon Peters, corruptly
4 endeavored to influence the due and proper administration of
5 the law under which a pending proceeding to investigate the
6 sale of VisionQuest Capital, LLC notes by VisionQuest Capital,
7 LLC and VisionQuest Management, LLC was being had before the
8 United States Securities and Exchange Commission by concealing
9 records, fabricating records or giving false testimony as
10 described in the Superseding Indictment, all in violation of
11 Title 18, United States Code, Section 1505.

12 Section 1505 of Title 18 of the United States Code in
13 part makes it a crime for anyone to corruptly influence,
14 obstruct or impede or endeavor to influence, obstruct or impede
15 the due and proper administration of the law under which any
16 pending proceeding is being had before any department or agency
17 of the United States.

18 To sustain its burden of proof for the crime charged
19 in Count 19 of the Superseding Indictment, the Government must
20 prove the following three elements beyond a reasonable doubt:

21 First, there was a pending proceeding before an
22 agency or department of the United States Government, i.e. the
23 Securities and Exchange Commission; second, the defendant knew
24 that the proceeding was pending; and, third, the defendant
25 corruptly endeavored to influence, obstruct or impede the due

1 and proper administration of the law under which the proceeding
2 was being conducted.

3 You'll apply the prior relevant definitions in these
4 instructions as you consider whether the Government proved
5 beyond a reasonable doubt the elements in Count 19.

6 The first element that the Government must prove
7 beyond a reasonable doubt is that at or about the date set
8 forth in the Superseding Indictment a proceeding was pending
9 before an agency of the United States.

10 The Securities and Exchange Commission is an agency
11 of the United States.

12 To act, quote, "corruptly," end quote, means to act
13 knowingly and dishonestly with the specific intent to subvert
14 or undermined the integrity of the proceeding. It means
15 nothing more than an intent to obstruct the proceeding. The
16 United States does not have to prove that the defendant knew
17 that his conduct was illegal.

18 Count 20 of the Superseding Indictment charges that:
19 On or about October 13th, 2016, in the Eastern District of
20 North Carolina, the defendant, Stephen Condon Peters, aiding
21 and abetting at least one other, knowingly used, without lawful
22 authority, a means of identification of another person; to wit,
23 the name and signature of N.K. during and in relation to a
24 felony violation enumerated in 18 U.S.C. Sections 1028a(c); to
25 wit, making and using false writings and documents in a matter

1 within the jurisdiction of the Executive Branch of the
2 Government of the United States, in violation of Title 18,
3 United States Code, Section 1001a-3, knowing that the means of
4 identification belonged to another actual person, in violation
5 of Title 18, United States Code, Section 1028a(a)(1) and (2).

6 Section 1028a-1 of Title 18 of the United States Code
7 in part makes it a crime for anyone to knowingly transfer,
8 possess or use without lawful authority a means of
9 identification of another person during and in relation to
10 certain crimes, including making false statements.

11 18 U.S.C. Section 2, provides, whoever commits an
12 offense against the United States or aids, abets, counsels,
13 commands, induces or procures its commission is punishable as a
14 principal. Whoever willfully causes an act to be done which if
15 directly performed by him or another would be an offense by the
16 United States is punishable as a principal.

17 To sustain its burden of proof for the crime charged
18 in Count 20 of the Superseding Indictment, the Government must
19 prove the following five elements beyond a reasonable doubt:

20 First, the defendant committed the felony offense of
21 making and using false writings within the jurisdiction of the
22 Executive Branch of the United States as charged in Count 17;
23 second, during and in relation to that offense, the defendant
24 knowingly used a means of identification; third, the defendant
25 acted without lawful authority; fourth, the means of

1 identification belonged to another person; and, fifth, the
2 defendant acted knowingly, i.e. the defendant knew that the
3 means of identification belonged to another person.

4 A, quote, "means of identification," end quote, is
5 any name or number that may be used alone or in conjunction
6 with any other information to identify a specific individual,
7 including any name, Social Security number, date of birth,
8 official state or government-issued driver's license or
9 identification number, alien registration number, government
10 passport number, employer or tax identification number, unique
11 biometric data including fingerprint, voice print, retina or
12 iris image or other unique physical representation, unique or
13 electronic identification number, address or routing code or
14 telecommunication identifying information or access device.

15 You'll apply the prior relevant definitions in these
16 instructions as you consider whether the Government proved
17 beyond a reasonable doubt the elements in Count 20.

18 Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
19 15, 17, 18 and 20 of the Superseding Indictment charge the
20 defendant with aiding and abetting another or others to commit
21 the offense charged in those counts.

22 Under 18 U.S.C. Section 2A, a person may violate the
23 law even though he did not personally do each and every act
24 constituting the offense if that person, quote, "aided and
25 abetted," end quote, the commission of the offense.

1 Aiding and abetting the commission of a charged
2 offense is an alternative theory of liability. If you have
3 found beyond a reasonable doubt that the Government has proven
4 that the defendant committed the charged offense at issue, you
5 need not consider this alternative theory of liability as to
6 the charged offense at issue.

7 Section 2A of Title 18 of the United States Code
8 provides whoever commits an offense against the United States
9 or aids, abets, counsels, commands, induces or procures its
10 commission is punishable as a principal.

11 Before a defendant may be convicted of aiding and
12 abetting another in the commission of a crime, the Government
13 must prove beyond a reasonable doubt that the defendant
14 knowingly and deliberately associated himself in some way with
15 the crime charged and participated in it with the intent to
16 commit the crime.

17 Although I am grouping the aiding and abetting
18 instructions on Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
19 14, 15, 17, 18 and 20 you shall consider each count pertaining
20 to it separately.

21 To be found guilty of aiding and abetting of the
22 commission of the crimes charged in the crimes charged in
23 Courts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18
24 or 20 of the Superseding Indictment, the Government must prove
25 the following three elements beyond a reasonable doubt:

1 First, the defendant knew that the crime charged in
2 the relevant counts of the Superseding Indictment was to be
3 committed or was being committed; second, the defendant
4 knowingly did some act for the purpose of aiding, abetting,
5 commanding or encouraging the commission of the relevant crime
6 of the Superseding Indictment; and, third, the defendant acted
7 with the intent to cause the relevant crime of the Superseding
8 Indictment to be committed.

9 Before the defendant may be found guilty as an aid or
10 an abettor under 18 U.S.C. Section 2A to Counts 1, 3, 4, 5, 6,
11 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18 or 20 of the
12 Superseding Indictment the Government must also prove beyond a
13 reasonable doubt that someone committed each of the essentially
14 elements of the relevant crime charged in Counts 1, 3, 4, 5, 6,
15 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18 or 20 of the
16 Superseding Indictment as detailed for you in these
17 instructions.

18 Merely being present at the scene of a crime or
19 merely knowing that a crime is being committed or is about to
20 be committed is not sufficient conduct for you to find that the
21 defendant aided and abetted the commission of that crime under
22 18 U.S.C. Section 2A. Rather, the Government must prove that
23 the defendant knowingly and deliberately associated himself
24 with the relevant crime charged in some way as a participant,
25 someone who wanted the crime to be committed and not as a mere

1 spectator.

2 You will apply the prior relevant definitions in
3 these instructions as you consider whether the Government
4 proved beyond a reasonable doubt liability under 18 U.S.C.
5 Section 2A.

6 Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
7 15, 17, 18 and 20 of the Superseding Indictment, alternatively,
8 charged the defendant with willfully causing another to commit
9 the offense charged in those counts.

10 Under 18 U.S.C. Section 2B a person may violate the
11 law even though he did not personally do each and every act
12 constituting the offense if that person, quote, "willfully
13 caused," end quote the commission of the offense.

14 Willfully causing the commission of the charged
15 offense is an alternative theory of liability. If you have
16 found beyond a reasonable doubt that the Government has proven
17 that the defendant has committed the charged offense at issue,
18 you need not consider this alternative theory of liability
19 under 18 U.S.C. Section 2B as to charged offense at issue.

20 Under this alternative theory of liability, the
21 Government may seek to prove beyond a reasonable doubt that the
22 defendant, Stephen Condon Peters, willfully caused an act to be
23 done which if he directly performed would be an offense against
24 the United States. Section 2B of Title 18 of the United States
25 Code provides, quote, "whoever willfully causes an act to be

1 done which if directly performed by him or another would be an
2 offense against the United States is punishable as a
3 principal."

4 Section 2B is intended to impose criminal liability
5 on a defendant who causes an intermediary to commit a criminal
6 act even if the intermediary who performed the act had no
7 criminal intent and, hence, is innocent of the substantive
8 crime charged.

9 Thus, 18 U.S.C. Section 2B permits the United States
10 to prove that a defendant willfully caused a crime to be
11 committed even if the defendant did so through an innocent
12 intermediary.

13 Although I am grouping the willfully cause
14 instructions on Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
15 14, 15, 17, 18 or 20, you should consider each count and the
16 evidence pertaining to it separately.

17 To be found guilty of willfully causing the relevant
18 crime charged in Counts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
19 14, 15, 17, 18 or 20 of the Superseding Indictment, the
20 Government must prove the following three elements beyond a
21 reasonable doubt:

22 First, that another person committed the acts
23 constituting the relevant crime charged; second, the defendant
24 had the mental state required for the relevant crime charged
25 that he willfully caused another person to commit; and, third,

1 the defendant willfully caused another person to commit the
2 acts constituting the relevant crime charged.

3 If the Government proves these three elements beyond
4 a reasonable doubt, then the defendant is guilty of willfully
5 causing the relevant crime charged under 18 U.S.C. Section 2B,
6 just as if the defendant himself actually committed the crime
7 charged.

8 Merely being present at the scene of a crime or
9 knowing that a crime is being committed is not sufficient
10 conduct for you to find that the defendant willfully caused the
11 commission of the relevant crime under 18 U.S.C. Section 2B.
12 Rather, the Government must prove that the defendant knowingly
13 and willfully caused the relevant crime charged to be
14 committed.

15 You'll apply the prior relevant definitions in these
16 instructions as you consider whether the Government proved
17 beyond a reasonable doubt liability under 18 U.S.C. Section 2B.

18 Upon retiring to your jury room to begin your
19 deliberations, you must elect one of your members to act as
20 your foreperson. The foreperson will preside over your
21 deliberations and will be your spokesperson here in court.

22 Your verdict must represent the collective judgment
23 of the jury. To return a verdict it is necessary that each
24 juror agree to it. Your verdict, in other words, must be
25 unanimous. It is your duty as jurors to consult with one

1 another and to deliberate with one another with a view towards
2 reaching an agreement, if you can do so without violence to
3 individual judgment. Each of you must decide the case for
4 yourself, but do so only after an impartial consideration of
5 the evidence in the case with your fellow jurors.

6 In the course of your deliberations, do not hesitate
7 to re-examine your own views and to change your opinion if
8 convinced it is erroneous. Do not surrender your honest
9 conviction, however, solely because of the opinion of your
10 fellow jurors or for the mere purpose of, thereby, being able
11 to return a verdict.

12 Remember at all times that you are not partisans.
13 You are judges, judges of the facts of this case. Your sole
14 interest is to seek the truth from the evidence received during
15 the trial.

16 Your verdict must be based solely on the evidence
17 received during the trial. Your verdict must be based solely
18 on the evidence received in the case. Nothing you have seen or
19 read outside of court may be considered.

20 Nothing that I have said or done during the course of
21 this trial is intended in any way to somehow suggest to you
22 what I think your verdict should be. Nothing said in these
23 instructions and nothing in the form of verdict, which has been
24 prepared for your convenience, is to suggest or convey to you
25 in any way or manner any intimation as to what verdict I think

1 you should return. What the verdict shall be is the exclusive
2 duty and responsibility of the jury. As I've told you many
3 times, you are the sole judges of the facts.

4 The punishment provided by law for the offenses
5 charged in the Superseding Indictment is a matter exclusively
6 within the province of the Court and should never be considered
7 by the jury in any way in arriving at an impartial verdict as
8 to the offenses charged.

9 A form of verdict has been prepared for your
10 convenience. You will take this form to the jury room and when
11 you have reached a unanimous agreement as to your verdict, you
12 will have your foreperson write your verdict, date and sign the
13 form and then return with your verdict to the courtroom.

14 The verdict form references all 20 counts. I'm not
15 going to read all of them to you because I've read enough to
16 you. We'll just go through page 1 and then the other pages
17 will follow.

18 So, for example, on page 1, it says, "Count 1,
19 Investment Advisor Fraud. As to Count 1 of the Superseding
20 Indictment, we, the jury, unanimously find the defendant,
21 Stephen Condon Peters" -- and there are two options; not guilty
22 or guilty.

23 "Count 2, Fraud in the Sale of Securities. As to
24 Count 2 of the Superseding Indictment, we, the jury,
25 unanimously find the defendant, Stephen Condon Peters" -- "

1 again, two options; either not guilty or guilty.

2 As to Count 3, "Wire fraud on or about August 13th,
3 2013. As to Count 3 of the Superseding Indictment, we, the
4 jury, unanimously find the defendant, Stephen Condon Peters" --
5 and again, the same two options; not guilty or guilty.

6 So once your foreperson -- once you have reached a
7 unanimous verdict, your foreperson will fill out this verdict
8 form and will check your decision as to each count, all right?

9 And then at the very back of the verdict form on
10 page 6 there's a place for your foreperson to sign and date the
11 verdict form. So that's what you do once you-all have reached
12 a unanimous verdict.

13 If it becomes necessary during your deliberations to
14 communicate with the Court, you may send a note signed by your
15 foreperson or by one or more members of the jury through the
16 bailiff.

17 No member of the jury should ever attempt to
18 communicate with the Court by any means other than a signed
19 writing. And the Court will never communicate with any member
20 of the jury concerning the evidence, your opinions or the
21 deliberations other than in writing or orally here in open
22 court.

23 Please note that all other persons are forbidden to
24 communicate in any way or manner with any member of the jury
25 concerning the evidence, your opinions or the deliberations.

1 Bear in mind also that you are never to reveal to any
2 person, not even to the Court, how the jury stands numerically
3 or otherwise on the question of whether or not the Government
4 has sustained its burden of proof until after you have reached
5 a unanimous verdict.

6 Finally, if you 12 jurors separate for a night's rest
7 or for any other break at any time during your deliberations,
8 you are during such separation not to talk to anyone about this
9 case or to talk among yourselves about this case.

10 All of your deliberations must be conducted as a
11 group of 12 within the jury room.

12 Please also remember and follow all other
13 instructions I have given you throughout the trial for your
14 conduct during recesses. All such instructions also continue
15 to apply during any separations, including restroom breaks that
16 may occur after you begin your deliberations. It's almost time
17 for you to deliberate.

18 What's going to happen now? Well, we're going to --
19 Ms. -- we're going to have the 12 of you-all go in there.
20 Ms. Robinson, Ms. Campbell, Ms. Kim and Ms. Brotsman are going
21 to stay out here.

22 So the 12 of you-all are going to go into the jury
23 room and then Ms. Jenkins is going to bring you a copy of these
24 instructions that I just read to you. So you'll have those
25 with you. She is going to bring you the exhibits that have

1 been admitted into evidence. She is going to bring you the
2 verdict form.

3 We're going to have one of our members of our
4 technology staff who is going to come back because we have the
5 evidence on the disk, so we're going to make sure that our
6 technology back there works.

7 So once Ms. Jenkins brings that to you and our
8 technology person makes sure that the technology works back
9 there so that you-all can listen to that, if that's what you
10 want to do, and the door closes and it's just the 12 of you in
11 there, the first thing you need to do is elect a foreperson;
12 and then you can begin your deliberations.

13 I'm told that your lunch is there. It's probably
14 been there for awhile.

15 But the first thing you do is elect a foreperson.
16 Then you-all can start your deliberations, have a working
17 lunch.

18 Again, remember, if anybody takes a break to go to
19 the restroom or anything, the deliberations stop. All the
20 deliberations have to take place with the 12 of you in the jury
21 room together.

22 So at this time I would ask the 12, the first 12 --
23 not Ms. Robinson, not Ms. Campbell, not Ms. Kim and not Ms.
24 Brotsman -- at this time go back to the jury room. And Ms.
25 Jenkins is going to bring you the verdict form, the exhibits

1 and make sure the technology works.

2 Everyone remain seated while the ladies and gentlemen
3 of the jury leave the room.

4 (The jury exited the courtroom at 1:26 p.m.)

5 THE COURT: You're probably wondering what's going to
6 happen. You've traveled together for two weeks, so I'm going
7 to ask you to stay on the jury a little longer. We're going to
8 have you-all go to a separate room. There still could be a
9 chance -- as I told you at the beginning, we pick alternates
10 because sometimes even when people are deliberating, sometimes
11 a juror is not able to continue to deliberate. And you-all
12 have been so attentive throughout the whole trial. And so what
13 I'm going to have you do -- Ms. Hayes is standing up in the
14 back and she has a separate conference room for you-all to go
15 to.

16 Now, this next instruction is important. You can't
17 talk about the case or let anybody talk about the case with
18 you. You can't talk among yourselves, even though the 12
19 jurors -- what would happen is -- say, for example, one of the
20 jurors was not able to continue to participate, then you would
21 go in order, and so Ms. Robinson would be the next one in, but
22 then the jury has to start deliberating again as a group of 12.
23 Because the whole system is based in part on the wisdom of 12.

24 And so it's important that -- again, I know we've
25 been together two weeks. It's important, even though the four

1 of you are going to be in a conference room, we're going to
2 have food for you and make sure you have something to eat and
3 drink. And hopefully the temperature will be -- well, I can't
4 make any promises about temperatures in this building, as
5 you-all have known for the last two weeks. Hopefully, you'll
6 be comfortable.

7 But don't talk about the case. Don't let anybody
8 talk about the case with you. Follow my other instructions.
9 And you'll just be in that other room while the jury
10 deliberates.

11 And so watch your step as you step out of the jury
12 box. There's a step down through that gate. And Ms. Hayes
13 will take you to a different conference room at this time.

14 Everyone remain seated while our alternate jurors
15 leave the room.

16 (The alternate jurors exited the courtroom at 1:29 p.m.)

17 (Pause in the proceeding.)

18 MR. GILMORE: Are we able to take a break?

19 THE COURT: I would just ask that Ms. Jenkins has
20 your cell phone and stay in the building just in case the jury
21 has a question.

22 And if anybody needs to take a break to be
23 comfortable, you can do so at this time.

24 (Pause in the proceeding.)

25 THE COURT: Again, just make sure that Ms. Jenkins

1 has your number.

2 If we get to the forfeiture issue, are we going to
3 have any additional evidence?

4 MR. GILMORE: We would have to do a brief direct.

5 THE COURT: Okay. How about from the defense, would
6 you anticipate any evidence?

7 MR. CAMDEN: I don't anticipate any evidence, Your
8 Honor.

9 THE COURT: Okay. So how brief is very brief?

10 MR. GILMORE: Brief would be 15 minutes.

11 THE COURT: Okay.

12 We'll be in recess while the jury deliberates.

13 (The proceedings were recessed at 1:43 p.m. and reconvened
14 at 3:15 p.m.)

15 THE COURT: My understanding is that the jury has
16 reached a verdict.

17 Before we bring them in, I would advise all assembled
18 that decorum will be maintained whatever the verdict might be.
19 If there are outbursts of any kind by anyone, I will consider
20 that to be contumacious behavior and you're subject to being
21 taken into custody.

22 Let's bring the jury in.

23 (The jury entered the courtroom at 3:17 p.m.)

24 THE COURT: Welcome back, ladies and gentlemen.

25 It's my understanding the jury has reached a verdict.

1 Mr. Turner, do you speak as the foreperson for the
2 jury?

3 THE FOREPERSON: I do.

4 THE COURT: If you can, please, hand that envelope to
5 Ms. Jenkins.

6 Ladies and gentlemen, I'm going to publish the
7 verdict, which means I'm going to read it out loud. It's
8 important that you pay attention while I do that for a couple
9 reasons. One, it's a way to check to make sure that your
10 foreperson properly recorded the verdict that you reached and,
11 two, after a jury verdict is published either side can ask that
12 the jury be polled, which if a party asks for me to poll the
13 jury, then I would say to each of you individually -- and I'd
14 start with Mr. Turner and I'd say, "Is this your verdict, sir,"
15 and then I'd go to Ms. Williamson and I'd work my way all the
16 way around to Ms. Earnest and I would say, is this your
17 verdict, sir or ma'am, whatever the case may be, and if it is,
18 you say yes.

19 And then once we confirm the verdict, then I formally
20 accept the verdict. So that might happen. So that's another
21 reason to pay attention.

22 So at this time, the Court is going to publish the
23 verdict in the case: United States of America vs. Stephen
24 Condon Peters.

25 As to Count 1 of the Superseding Indictment: We, the

1 jury, unanimously find the defendant, Stephen Condon Peters,
2 guilty.

3 As to Count 2 of the Superseding Indictment, we, the
4 jury, unanimously find the defendant, Stephen Condon Peters,
5 guilty.

6 As to Count 3 of the Superseding Indictment, we, the
7 jury, unanimously find the defendant, Stephen Condon Peters,
8 guilty.

9 As to Count 4 of the Superseding Indictment, we, the
10 jury, unanimously find the defendant, Stephen Condon Peters,
11 guilty.

12 As to Count 5 of the Superseding Indictment, we, the
13 jury, unanimously find the defendant, Stephen Condon Peters,
14 guilty.

15 As to Count 6 of the Superseding Indictment, we, the
16 jury, unanimously find the defendant, Stephen Condon Peters,
17 guilty.

18 As to Count 7 of the Superseding Indictment, we, the
19 jury, unanimously find the defendant, Stephen Condon Peters,
20 guilty.

21 As to Count 8 of the Superseding Indictment, we, the
22 jury, unanimously find the defendant, Stephen Condon Peters,
23 guilty.

24 As to Count 9 of the Superseding Indictment, we, the
25 jury, unanimously find the defendant, Stephen Condon Peters,

1 guilty.

2 As to Count 10 of the Superseding Indictment, we, the
3 jury, unanimously find the defendant, Stephen Condon Peters,
4 guilty.

5 As to Count 11 of the Superseding Indictment, we, the
6 jury, unanimously find the defendant, Stephen Condon Peters,
7 guilty.

8 As to Count 12 of the Superseding Indictment, we, the
9 jury, unanimously find the defendant, Stephen Condon Peters,
10 guilty.

11 As to Count 13 of the Superseding Indictment, we, the
12 jury, unanimously find the defendant, Stephen Condon Peters,
13 guilty.

14 As to Count 14 of the Superseding Indictment, we, the
15 jury, unanimously find the defendant, Stephen Condon Peters,
16 guilty.

17 As to Count 15 of the Superseding Indictment, we, the
18 jury, unanimously find the defendant, Stephen Condon Peters,
19 guilty.

20 As to Count 16 of the Superseding Indictment, we, the
21 jury, unanimously find the defendant, Stephen Condon Peters,
22 guilty.

23 As to Count 17 of the Superseding Indictment, we, the
24 jury, unanimously find the defendant, Stephen Condon Peters,
25 guilty.

1 As to Count 18 of the Superseding Indictment, we, the
2 jury, unanimously find the defendant, Stephen Condon Peters,
3 guilty.

4 As to Count 19 of the Superseding Indictment, we, the
5 jury, unanimously find the defendant, Stephen Condon Peters,
6 guilty.

7 As to Count 20 of the Superseding Indictment, we, the
8 jury, unanimously find the defendant, Stephen Condon Peters,
9 guilty.

10 "So say we all, this 6th day of June, 2019." Signed
11 by this jury's foreperson.

12 Does either side request a jury poll?

13 MR. CAMDEN: We would request a poll, Your Honor.

14 THE COURT: Mr. Turner, is this your verdict, sir?

15 THE JUROR: Yes.

16 THE COURT: Ms. Williamson, is this your verdict,
17 ma'am?

18 THE JUROR: Yes.

19 THE COURT: Mr. Shive, is this your verdict, sir?

20 THE JUROR: Yes.

21 THE COURT: Mr. Wagner, is this your verdict, sir?

22 THE JUROR: Yes.

23 THE COURT: Mr. Macon, is this your verdict, sir?

24 THE JUROR: Yes.

25 THE COURT: Ms. Ballard, is this your verdict, ma'am?

1 THE JUROR: Yes.

2 THE COURT: Ms. Rooks, is this your verdict, ma'am?

3 THE JUROR: Yes.

4 THE COURT: Ms. High, is this your verdict, ma'am?

5 THE JUROR: Yes.

6 THE COURT: Ms. Norwood, is this your verdict, ma'am?

7 THE JUROR: Yes.

8 THE COURT: Ms. Johnson, is this your verdict, ma'am?

9 THE JUROR: Yes.

10 THE COURT: Mr. Rempel, is this your verdict, sir?

11 THE JUROR: Yes, sir.

12 THE COURT: Ms. Earnest, is this your verdict, ma'am?

13 THE JUROR: Yes.

14 THE COURT: The jury having been polled and confirmed
15 that this is the jury's verdict.

16 We're going to now bring in the alternates because, I
17 have to tell you something, there is actually a little bit more
18 work to do.

19 There's -- we now -- well, I'm going to let the other
20 four come in and then I'm going to tell you what we have -- a
21 little bit of work that we have left to do. And I'm going to
22 say it to all 16 of you and then we'll let you know what's
23 going on.

24 (The alternate jurors entered the courtroom at 3:23
25 p.m.)

1 THE COURT: Welcome back.

2 Ladies and gentlemen, the jury has -- for the
3 alternates to know, the jury has reached a verdict of guilty on
4 all 20 counts.

5 And now there's going to be a much more streamlined
6 process that we're going to go through, where the jury has to
7 decide whether the defendant must forfeit certain property that
8 the Government claims is subject to forfeiture, such as the
9 place in Costa Rica as an example.

10 All right. So what we're going to do -- and I can
11 tell you the jury instructions are much shorter than the ones
12 you just had.

13 But what's going to happen is, I've got to make a
14 couple of changes to these and you get to consider all the
15 evidence that's already been presented. And then the lawyers
16 get to argue to you. And again, I anticipate the arguments to
17 be fairly short. And then you'll get a special verdict form
18 where the jury is then going to decide whether certain property
19 that's identified on that verdict form has -- that Mr. Peters
20 has to forfeit it to the United States.

21 That's a jury question. You're the jury. So it's
22 sort of part two of this process.

23 Again, I think that we will get this to you for
24 decision today, in the timeframe that we've outlined.

25 And I didn't talk to you about this forfeiture

1 component because we don't take it up -- it depends on what the
2 verdict is. And now you-all have spoken. And so that's what
3 we're going to do.

4 And in order to finalize the jury instructions on
5 that, that's going to take me about -- probably about five
6 minutes. And so what we'll do is we'll take a recess until --
7 well, it might take me a little more than five minutes. Just
8 to be safe, we'll say until 3:35.

9 Now, we're going to get back into this mode. Don't
10 talk about the case, don't let anybody talk about the case with
11 you because we're moving into this next phase.

12 And again, to the wonderful alternates who have --
13 they have been in a separate conference room; but, again, as
14 part of the process you-all have listened to all of the
15 evidence and, again, obviously, we hope it doesn't happen, but
16 sometimes things happen and somebody couldn't continue to
17 deliberate and so -- you've traveled with us this far, we're
18 going to ask you to stay on the journey.

19 So I'm going to let the jury go back to the jury
20 room. Don't talk about the case. Nobody talk about the case
21 with you. Follow my other instructions.

22 Everyone remain seated while the ladies and gentlemen
23 leave the room for a 10-minute recess.

24 (The jury exited the courtroom at 3:25 p.m.)

25 THE COURT: All right. So I think with respect to

1 the special jury instructions we just have to remove -- well,
2 I'll take out the word "crime" singular in the first paragraph,
3 but otherwise we just need to not -- to take the bold out of
4 the draft that we talked about in the charge and -- does the
5 Government want to be heard on that?

6 MR. GILMORE: No, Your Honor.

7 THE COURT: Does the defense want to be heard on
8 that?

9 MR. CAMDEN: No, Your Honor.

10 THE COURT: And how long do you -- you said you think
11 you have about 15 minutes of evidence?

12 MR. GILMORE: Your Honor, we have a summary chart
13 that we'd like to use. It basically links up the existing
14 exhibits with the item in the forfeiture section of the
15 Superseding Indictment.

16 THE COURT: Okay.

17 MR. GILMORE: And we also have -- in addition to what
18 was admitted at the trial, we have four underlying flow charts.

19 THE COURT: Okay.

20 MR. GILMORE: But our intent would be to flow through
21 those very quickly, just to have the agent identify what those
22 assets are and that there's an exhibit that relates to it.

23 THE COURT: Okay.

24 And then the -- Mr. Camden, is it still the case you
25 don't anticipate any evidence from the defense?

1 MR. CAMDEN: No evidence from the defense.

2 THE COURT: And then about how long are you going to
3 want to argue?

4 MR. GILMORE: About 30 seconds, Your Honor.

5 THE COURT: Okay. How about you?

6 MR. CAMDEN: I don't think mine will be much longer
7 than that.

8 THE COURT: Okay. All right. What I'm going to do,
9 then, is, I'm going to get these fixed, which will take about
10 five minutes, and then we'll bring them back at 3:35.

11 The defendant, having been convicted of all 20
12 counts, he'll be taken into custody during this recess.

13 (The proceedings were recessed at 3:29 p.m. and reconvened
14 at 3:40 p.m.)

15 THE COURT: Mr. Gilmore, I just have one question to
16 make sure I understood.

17 The one overlap issue was -- on page 2 of the verdict
18 form where we have -- the third item down, the bank account
19 ending in 1732, is that the one that is potentially
20 duplicative? I mean, I know I have the instruction, but was
21 that the only one?

22 MR. GILMORE: Yes, Your Honor.

23 THE COURT: Okay. So I'm just telling them that if
24 they find it to be applicable to both, they just check it.
25 Okay. I just wanted to make sure. That's what I thought.

1 MR. GILMORE: Yes, Your Honor.

2 THE COURT: All right. Let's bring the jury in.

3 (The jury entered the courtroom at 3:41 p.m.)

4 THE COURT: Again, ladies and gentlemen, you're going
5 to have these with you.

6 And what's going to happen is, I'm going to read
7 these to you now and then I anticipate Mr. Gilmore, on behalf
8 of the United States, introducing some -- a little bit of
9 additional evidence, but all the evidence that's already been
10 in is already in. So all of that is for your consideration.

11 And then the lawyers will have an opportunity to
12 argue. I anticipate that to be very short. And then I think
13 you-all will go back into the jury room.

14 But I'm going to start by reading these to you.

15 Ladies and gentlemen of the jury, in view of your
16 verdict that the defendant, Stephen Condon Peters, is guilty of
17 the crimes charged in the Superseding Indictment, you have one
18 more task to perform before you are discharged.

19 You must now decide whether the defendant must
20 forfeit certain property that the Government claims is subject
21 to forfeiture to the United States because of its connection to
22 the crimes of which you have found the defendant guilty.

23 The term "forfeit" simply means for someone to be
24 divested or deprived of the ownership of something as part of a
25 punishment allowed by the law for the commission of certain

1 criminal offenses.

2 First, under federal law, any person who is convicted
3 of executing a scheme or artifice to commit a fraud offense,
4 such as the offenses for which you found the defendant guilty
5 in Counts 1 through 11, must forfeit to the United States any
6 property constituting or derived from proceeds that the
7 defendant obtained directly or indirectly as a result of the
8 violation.

9 Second, under federal law, any person who is
10 convicted of a money laundering offense, such as the offenses
11 for which you have found the defendant guilty in Counts 12
12 through 15, shall forfeit to the United States any property
13 involved in the offense or any property traceable to such
14 property.

15 In this case, the Government seeks to forfeit the
16 following property:

17 One, all funds, money and other things of value
18 located in the Business Account No. 5200822538 in the name of
19 VisionQuest Capital, LLC at Branch Banking & Trust, BB&T,
20 Raleigh, North Carolina.

21 Two, all funds, monies and other things of value
22 located in the Business Account No. 5200802618 in the name of
23 VQ Wealth, LLC at Branch Banking & Trust, Raleigh, North
24 Carolina.

25 Three, all funds, monies and other things of value

1 located in the business Account No. 5200802596 in the name of
2 VQ Wealth, LLC at Branch Banking and Trust, BB&T, Raleigh,
3 North Carolina.

4 Four, all funds, money and other things of value
5 located in Business Account 5200822511 in the name of
6 VisionQuest Wealth Management, LLC at Branch Banking & Trust,
7 BB&T, in Raleigh, North Carolina.

8 All funds, monies and other things of value located
9 in Personal Account No. 1010131401732 in the name of Stephen
10 Peters and Amy Peters at Wells Fargo Bank, N.A., Raleigh, North
11 Carolina.

12 Six, real property together with buildings and
13 fixtures of Stephen Peters and Amy Peters located at 5237 Theys
14 Road, Raleigh, North Carolina 27606 and deeded in the name of
15 Harris-Peters, LLC, 112 East Hargett Street, Suite B, Raleigh,
16 North Carolina 27601; Stephen Peters, Manager, as more
17 specifically described in the Deed of Trust recorded in Wake
18 County, North Carolina on June 25, 2014, book 015700,
19 page 01203-01213.

20 Seven, vacation home and rental property, including
21 contents, owned by and deeded in the names of Stephen Condon
22 Peters and Amy Marie Peters, also identified as Amy Marie
23 Paters. The property also identified as "Casa de la Amada
24 Princesa" or the House of the Beloved Princess located in Coco
25 Bay, Costa Rica within the gated community of Coco Bay Estates,

1 Lot 61, and further identified as Costa Rica Entity No.
2 3-102-657027 and Costa Rica Entity No. 3-102-493198.

3 Eight, all funds, monies and other things of value
4 located in Account No. 237025965236 in the name of Whispering
5 Hope Farm, LLC, at Bank of America, Raleigh, North Carolina.

6 Nine, all funds, monies and other things of value
7 located in Account No. 237025688254 in the name of
8 Harris-Peters LLC, at Bank of America, Raleigh, North Carolina.

9 Ten, farm equipment purchased new by Whispering Hope
10 Farm, LLC, Stephen C. Peters, 112 East Hargett Street, Suite B,
11 Raleigh, North Carolina 27061 from Quality Equipment, LLC,
12 Dealer No. 016964, 2214 North Main Street, Fuquay-Varina, North
13 Carolina 27526, Account No. 510000679370, including:

14 A, 2012 John Deere 4520 compact utility tractor,
15 Serial No. 1LV4520HCDH810564; B, 2012 John Deere 550 Gator,
16 Serial No. 1M0550FBJCM010995; C, John Deere 400X Loader, Serial
17 No. 1P0400XXABX029447; D, John Deere MX6 Rotary Flail Cutter,
18 Serial No. 1P00MX6XHBP051724; E, Frontier D400 Post Hole
19 Digger, Serial No. XFPHDOXPC0296538; F, Frontier 109 Auger,
20 Serial No. 1XFPHAOXJCC2097125.

21 Eleven, a horse named Cartagena, also known as Carti,
22 described as a Welsh X Mare, white in color, boarded at
23 Whispering Hope Stables.

24 Twelve, a horse named Princess, brown in color.

25 Thirteen, a horse name Hugo Boss, a 2008 Dutch

1 Harness chocolate-colored, liver chestnut with four high socks
2 and a stripe boarded at Whispering Hope stables.

3 Fourteen, a 2014 Cadillac Escalade VIN No.
4 1GYS4DEFAER244302 titled to Stephen Condon Peters.

5 Fifteen, a 2012 Toyota Tundra Crew Max, VIN No.
6 5TFHW5F15CX2344757 titled to Whispering Hope Farms, LLC.

7 Sixteen, a 2014 Adam Horse Trailer, VIN No.
8 5CLHB1428ER025-274 titled to Amy Marie Peters.

9 Seventeen, a 2016 Polaris ATV Sportsman 450 HO, VIN
10 No. 4XASEA457GA603142, Motor No. 0120527215531, "azul," blue in
11 color.

12 Eighteen, a 2016 Polaris ATV Sportsman 450 HO, VIN
13 No. 4XASEA450GA597751, Motor No. 0120527213600, "verde," green
14 in color.

15 Nineteen, real property of Stephen Peters and Amy
16 Peters located at Lot No. 1320 Ironwood Way, Ferguson, Wilkes
17 County, North Carolina 28623 and deeded in the name of Above
18 The Quest, LLC, 112 East Hargett, Street B, Raleigh, North
19 Carolina, 27601, Stephen Peters, Manager as more specifically
20 described in a Deed of Trust recorded in Wilkes County, North
21 Carolina on June 6, 2016, at book 1227, page 450 of the Wilkes
22 County Register.

23 Twenty, real property of Steve Peters and Amy Peters
24 located at 730 Court Street, Jacksonville, Onslow County, North
25 Carolina, 28540 and deeded in the name of VQ Jacksonville, LLC,

1 112 East Hargett Street, Suite B, Raleigh, North Carolina,
2 27601, Stephen Peters as Manager as more specifically described
3 in a Deed of Trust recorded in Onslow County, North Carolina,
4 March 29, 2017, book 4595, page 354-59, partial Identification
5 No. 063267.

6 Twenty-one, personal firearms owned in the name of
7 Stephen C. Peters, 5237 Theys Road, Raleigh, North Carolina
8 27606, including Colt LE6920 with two magazines; B, Benelli
9 Super Vinci 12-gauge 28-inch barrel.

10 Jewelry owned in the name of Stephen Peters, 5237
11 Theys Road, Raleigh, North Carolina, 27606, including Breitling
12 Bentley 6.75 Serial No. A4436412/Q569-CROCD; B, Breitling
13 Bentley B05 Unitime Serial No. AB0521U0A755-990A.

14 Twenty-three, additional farm personal property owned
15 by Stephen C. Peters, 5237 Theys Road, Raleigh, North Carolina,
16 27606, including A, TR3 arena drag rake; B, John Deere lawn
17 tractor.

18 Twenty-four, art paintings owned in the name of
19 Stephen Peters, 5237 Theys Road, Raleigh, North Carolina 27606,
20 including painting of Amy Peters and her horse by Linda
21 Reynolds, including painting, quote, "Heavenly," end quote, by
22 Linda Reynolds.

23 Twenty-five, 2014 all-terrain vehicles, A, 2014
24 Polaris Serial No. A14MH46AH; B, a 2014 Polaris Serial No.
25 A14KA090F.

1 Twenty-six, all funds monies and other things located
2 in the Business Account No. 7908756245 in the name of Stephen
3 C. Peters at VisionQuest Capital, LLC, at Fifth Third Bank,
4 formerly First Charter Bank, Raleigh, North Carolina.

5 Twenty-seven, all funds, monies and other things
6 located in account ending in 2421 in the name of VisionQuest
7 Capital, LLC, House of Beloved Princess, at North State Bank,
8 Raleigh, North Carolina.

9 Twenty-eight, ownership interest of 65 percent in
10 Harris-Peters, LLC, held by M-E-A-C-O-R-E-T Sparrow Trust with
11 Amy Peters as the grantor.

12 Twenty-nine, \$35,000, an amount representing the
13 amount involved in the money laundering transaction charged in
14 Count 12.

15 Thirty, \$40,000, an amount representing the amount
16 involved in the money laundering transaction charged in Count
17 13.

18 Thirty-one, \$260,000, an amount representing the
19 amount involved in the money laundering transaction charged in
20 Count 14.

21 \$20,000, an amount representing the amount involved
22 in the money laundering transaction charged in Count 15.

23 You must now consider what verdict to render on the
24 question of whether there is a nexus, that is, a connection,
25 between the properties that the Superseding Indictment alleges

1 shall be forfeited to the United States and each violation of
2 which you have already found the defendant guilty.

3 I instruct you, however, that your previous finding
4 that the defendant is guilty of the offenses is final,
5 conclusive and binding. Because you are bound by your previous
6 finding that the defendant is guilty, I direct you not to
7 discuss in your forfeiture deliberations whether the defendant
8 is guilty or not guilty of the offenses for which you have
9 already found him guilty.

10 With one important exception, all my previous
11 instructions concerning direct and circumstantial evidence,
12 credibility of witnesses, your duty to deliberate and necessity
13 of a unanimous verdict will continue to apply to your
14 deliberations concerning forfeiture.

15 That exception is that during this phase the
16 Government's burden is not proof beyond a reasonable doubt, but
17 instead is only proof by a preponderance of the evidence.

18 Proof by a preponderance of the evidence is a lesser
19 standard than beyond a reasonable doubt. To prove something by
20 a preponderance of the evidence is to prove that it is more
21 likely true than not true.

22 In other words, a preponderance of the evidence means
23 such evidence as, when considered and compared with that
24 opposed to it, has more convincing force and produces in your
25 minds the belief that what is sought to be proved is more

1 likely true than not true.

2 While deliberating you may consider any evidence,
3 including testimony offered by the parties at any time during
4 this trial.

5 While deliberating you may consider any admitted
6 evidence, including testimony and exhibits offered by the
7 parties at any time during the trial, including any additional
8 evidence that you hear on this issue after I finish reading
9 these instructions.

10 I further instruct you that what happens to any
11 property that is declared forfeited is exclusively a matter for
12 the Court to decide. You should not consider what might happen
13 to the property in determining whether the property is subject
14 to forfeiture. In this connection, you should disregard any
15 claims that other persons may have to the property, the
16 interest that other persons may have to the property. The
17 interest that other persons may have in the property will be
18 taken into account by the Court at a later time.

19 Similarly, any claims that the forfeiture of the
20 property would constitute excessive punishment, if any, will be
21 taken into account by the Court at a later time.

22 You are also not to consider whether the property is
23 presently available. That matter also will be considered
24 solely by the Court.

25 Your sole concern now is to determine whether any

1 property was: One, property constituting or derived from
2 proceeds obtained directly or indirectly as a result of a
3 scheme or artifice to commit a fraud offense described in
4 Counts 1 through 11; or, two, property involved in a money
5 laundering offense described in Counts 12 through 15 or
6 property traceable to such property.

7 You must reach a unanimous verdict as to each
8 question on the special verdict form.

9 Before you can make such a finding, each juror must
10 agree that the preponderance of the evidence proves that any
11 property was: One, property constituting or derived from
12 proceeds obtained directly or indirectly as a result of a
13 scheme or artifice to commit a fraud offense described in
14 Counts 1 through 11; or two, property involved in a money
15 laundering offense described in Counts 12 through 15 or
16 property traceable to such property.

17 The term, quote, "proceeds," end quote, means
18 property of any kind obtained directly or indirectly as a
19 result of the commission of the offenses and any property
20 traceable thereto.

21 In other words, quote, "proceeds," end quote, means
22 money or other property that would not have been obtained or
23 retained but for the commission of the crimes.

24 Quote, "proceeds," end quote, means gross proceeds,
25 meaning that they are not limited to the net gain or profit

1 realized from the offenses and the defendant is not entitled to
2 have expenses deducted from this figure.

3 Property, quote, "traceable to," end quote, the
4 proceeds of an offense includes property that was acquired or
5 maintained with the proceeds. Property remains forfeitable as,
6 quote, "proceeds," end quote, even if it changes form from one
7 thing to another. For example, if cash proceeds are used to
8 purchase some other form of property, such as a car or a watch
9 or if it has changed or appreciated in value since the time it
10 was initially acquired.

11 Counts 1 through 11 of the Superseding Indictment
12 charge a common scheme to employ devices, schemes or artifices
13 to defraud investors and potential investors in the sale of
14 securities by the -- or by the use of the wires.

15 I instruct you that when a scheme to defraud is
16 proven, the proceeds of the entire scheme are forfeitable.
17 This principle includes not only the proceeds obtained from the
18 discrete substantive counts for which you have found the
19 defendant guilty, but may also include any additional proceeds
20 generated by the same fraudulent scheme.

21 Property, quote, "involved in," end quote, a money
22 laundering violation includes: One, the money or other
23 property that was the subject of the financial or monetary
24 transaction that constituted the money laundering violation;
25 and two, any fees or commissions paid in furtherance of the

1 illegal acts; and three, any property used to facilitate or
2 make easier the money laundering violation.

3 Property may be subject -- may be the subject of a
4 money laundering, financial or monetary transaction in numerous
5 ways. For example, the property may be the proceeds of the
6 underlying specified unlawful activity being laundered, it can
7 be property that was commingled with those proceeds at the time
8 that the financial or monetary transaction took place or it can
9 be property that was obtained as part of an exchange or
10 purchase that constitutes the money laundering violation for
11 which the defendant has been found guilty.

12 Property that was used to facilitate the money
13 laundering transaction may include property that was not part
14 of the transaction itself, but was used to make the money
15 laundering offense easier to commit or harder to detect.

16 Facilitating property need not be used exclusively
17 for illegal activity to be forfeitable as long as there is a
18 substantial connection between the property and the violation.

19 Property that is used for some legitimate purpose
20 may, nevertheless, be forfeited if it facilitates a money
21 laundering violation.

22 As in the case of property subject to forfeiture as
23 the proceeds of a crime, property involved in a money
24 laundering offense includes any property traceable to the
25 property that was involved in the offense.

1 A special verdict form has been prepared for you.

2 The special verdict form lists the property that the
3 Government asserts is forfeitable as either the proceeds
4 obtained directly or indirectly as a result of the fraud or
5 property involved in a money laundering transaction.

6 Specifically, you must determine: One, the dollar
7 amount of the gross proceeds that the defendant personally
8 obtained directly or indirectly as a result of the offenses for
9 which the defendant was convicted; two, what specific items of
10 real or personal property constitute or are derived from
11 proceeds obtained directly or indirectly as a result of the
12 fraud for which the defendant was convicted; and three, the
13 amount or specific items of property involved in the money
14 laundering offenses for which the defendant was convicted.

15 The same property can be forfeitable for more than
16 one reason. You must indicate on the special verdict form
17 every reason for which you find it.

18 Given property forfeitable, the Court will consider
19 any issue relating to double counting during sentencing.

20 You may answer as to whether something is forfeitable
21 by simply putting an X or checkmark on the space provided to
22 the specific item of real or personal property that you find
23 are forfeitable.

24 After completing this verdict form, the foreperson
25 must sign and date the special verdict form.

1 And I'm not going to go through the verdict form
2 because it just lists all that property.

3 The bottom line is, if you find the property ought to
4 be forfeitable in connection with the instructions I have, then
5 you're going to put a check by all of those things.

6 And in connection with one, the first question you
7 have to answer is: "Did the defendant, Stephen Condon Peters,
8 personally obtain proceeds from the fraud offenses charged in
9 Count 1 through 11 of the Superseding Indictment?" Two
10 options, no or yes.

11 If you answer question number one yes, then you're
12 going to have a space to fill in, "Then what amount, if any,
13 did the defendant, Stephen Condon Peters, personally obtain in
14 proceeds from the fraud offenses charged in Counts 1 through 11
15 of the Superseding Indictment?" You'll write that figure in.

16 And then -- then you also then have the items where
17 if you think under these instructions they ought to be
18 forfeited, you'll just put a checkmark by those.

19 And then the third -- excuse me, number two on the
20 very last page on 5, it says place an X or checkmark next to
21 any amounts or specific property described below that was
22 involved in the money laundering offenses charged in Counts 12
23 through 15 of the Superseding Indictment or is traceable to
24 such property.

25 Again, if you find in accordance with my instructions

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1 that these items ought to be forfeited, you'll just put a check
2 by each one of them.

3 And then there's a place for your foreperson to sign
4 and date the verdict form.

5 So with that, I'm now going to recognize Mr. Gilmore
6 to present any additional evidence. The defense will have an
7 opportunity to do the same. After the evidence presentation, I
8 anticipate there will be brief arguments. And then we'll send
9 the 12 of you-all back to deliberate.

10 Mr. Gilmore.

11 MR. GILMORE: Thank you, Your Honor.

12 The United States calls Julia Hanish.

13 THE COURT: And the agent remains under oath. You
14 may proceed.

15 MR. GILMORE: Thank you, Your Honor.

16 JULIA HANISH,

17 having been previously sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. GILMORE:

20 Q. Special Agent Hanish, I direct your attention to the
21 underlying fraud in this case; the investor advisor fraud,
22 securities fraud and wire fraud. Did you calculate the total
23 amount of VisionQuest Capital notes sold to the investors?

24 A. Yes.

25 Q. I'm going to show you Exhibit 1.

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1 Where on Exhibit 1 can the jurors find the total proceeds
2 taken in from the VisionQuest Capital investors?

3 A. Right here; 15.3 million.

4 Q. \$15,317,501.15; is that correct?

5 A. That's correct.

6 Q. Okay. Now, directing your attention to the analysis of
7 where all that money went. In the time leading up to the
8 search warrants being executed and after, did you and others
9 conduct an investigation to attempt to identify all the
10 accounts and assets that received the funds that flowed from
11 that fraud?

12 A. Yes, we did.

13 Q. And did you have an opportunity to prepare a summary
14 laying out each of the different items that were listed in the
15 forfeiture section of the Indictment as well as the exhibits
16 from the trial that relate to each of those items and how they
17 are traced?

18 A. Yes, to the Superseding Indictment.

19 Q. Okay. And do you have up there Exhibit F5 with you?

20 A. I do.

21 Q. Is that the summary of the way that the different assets
22 in the Superseding Indictment link to the trial exhibits?

23 A. Yes.

24 Q. And is it a true and accurate summary of that information?

25 A. Yes.

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1 MR. GILMORE: The Government would move to admit F5
2 into evidence.

3 THE COURT: It'll be received. It may be published.
4 (Government's Exhibit No. F5 was admitted into evidence.)

5 BY MR. GILMORE:

6 Q. In addition to Exhibit F5, Special Agent Hanish, did you
7 also supplement a few additional exhibits with respect to
8 certain items of property that were not addressed during the
9 trial?

10 A. Yes, that's correct.

11 Q. And do you have with you up there Exhibits F1, F2, F3, F4
12 and F4A?

13 A. I do.

14 Q. If you could just identify each of those.

15 A. These are a tracing of the income from the rental property
16 House of the Beloved Princess into Fifth Third Bank account.
17 That's F1.

18 F2 is the flow of income from the rental of the Whispering
19 Hope Stables apartment through WoodForest National Bank into
20 North State Bank.

21 And then F3 is the 65 percent interest in Harris-Peters,
22 LLC transferred into Amy Peters' name and into "Mea Cor et"
23 Sparrow Trust.

24 And then chart four is a chart showing -- a summary
25 showing the mortgage payments on the residence coming from

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1 Harris-Peters, LLC.

2 And then F4A is all of those payments in spreadsheet form.

3 MR. GILMORE: The Government would move to admit
4 those into evidence.

5 THE COURT: They'll be received. They may be
6 published.

7 (Government's Exhibit Nos. F1, F2, F3 and F4A were
8 admitted into evidence.)

9 BY MR. GILMORE:

10 Q. What I'm going to do at this point, Special Agent Hanish,
11 is I'm going to start at the top of your summary, F5, and I'm
12 just going to place an exhibit on the screen relating to each
13 item that you've identified.

14 So starting with the VisionQuest Capital BB&T Account
15 2538. I'll show you 2B.50.

16 Is this the evidence from trial tracing that investor
17 money into this bank account?

18 A. Yes, it is.

19 Q. Showing you -- with respect to BB&T account ending in 2618
20 and 2596, I'll show you Exhibit 2B.52.

21 Is this showing the flow of funds from investors into
22 those two BB&T accounts?

23 A. Yes, it is.

24 Q. Moving on to summary for item 3, VQ Wealth Management BB&T
25 account ending in 2511. I'll show you Exhibit 2B.54.

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1 Is this showing the flow of funds from investors into this
2 bank account?

3 A. Yes, it is.

4 Q. Moving to item 4, flow of fund -- Stephen and Amy Peters
5 Wells Fargo account ending in 1732, I'll place on the screen
6 Exhibit 2B.56.

7 Does this show the flow of funds into that account?

8 A. Yes, it does.

9 Q. Going to the primary residence down payment, I will show
10 you Exhibit 2A.5.

11 Does this show a flow of funds from VisionQuest Capital
12 investor into the farm down payment?

13 A. Yes, it does.

14 Q. Moving to item 5, primary residence improvements, I'm
15 going to show you Exhibit 2A.6.

16 Does this show a flow of funds from VisionQuest Capital
17 investors into improvements on the Theys Road property?

18 A. Yes.

19 Q. Moving to Exhibit 2A.6B.

20 Is this the detailed information showing the home
21 improvement expenses relating to that property that are flowing
22 from investors?

23 A. Yes.

24 Q. Now I'm going to show you Exhibit F4.

25 Is F4 showing the flow of funds from investors to the

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1 primary residence mortgage payments on the Theys Road property?

2 A. Yes.

3 Q. Moving now to F4A.

4 What is F4A showing the jury?

5 A. The detail of the mortgage payments paid on the farm
6 from -- through Harris-Peters, LLC.

7 Q. And the Harris-Peters, LLC account is also traceable to
8 the investor funds?

9 A. That's correct.

10 Q. Showing you Exhibit -- with respect to the Costa Rica
11 house I'm showing you Exhibit 1A.1.

12 What does 1A.1 show the jury?

13 A. It shows the flow of funds through Capital and also
14 through Wealth that went to the Costa Rica property.

15 Q. All right. Moving to 2B.58.

16 What is the jury seeing in 2B.58?

17 A. The flow of funds from investors to the bank account of
18 Whispering Hope Farm.

19 Q. And is that the account ending in 5236?

20 A. Yes.

21 Q. Moving now to Exhibit 2B.60.

22 What is the jury seeing in 2B.60?

23 A. The flow of VisionQuest Capital investor funds through VQ
24 Capital, VQ Wealth, Steve and Amy Peters' account into
25 Harris-Peters' account ending in 8254.

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1 Q. Showing you Exhibit 2A.23.

2 What is the jury seeing in 2A.23?

3 A. The flow of funds from investors through multiple accounts
4 to the purchase -- or to pay off a note with John Deere
5 Financial, which was for various items, like farm equipment.

6 Q. And is the various detail items for each of those farm
7 equipment also contained in the summary Exhibit F5? I guess
8 the additional support detail contained in F5?

9 A. Actually, it's -- yes, saying where to go. It's 2A.23C,
10 page 1 that says that it's those assets that were paid off with
11 this loan.

12 Q. So all of that information is there for the jurors?

13 A. Yes.

14 Q. All right. Moving on to Exhibit 2A.30.

15 What is the jury seeing in 2A.30?

16 A. The flow of funds from investor Sharon Harris down to the
17 purchase of Cartagena, CRF Equestrian, which the support on the
18 check -- the Wells Fargo check said, "Purchase of Cartagena."

19 Q. Okay. Showing you Exhibit 2A.29.

20 With respect to the horse Princess, what does this show?

21 A. The flow of funds from investors down through accounts to
22 Krista Jones and the memo on the check said, "Purchase of
23 Princess."

24 Q. Showing you now Exhibit 2A.26.

25 A. This is from VisionQuest Capital, which is item one, that

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1 bank account, flowing down through many accounts into Wysiwyg,
2 LLC. When we looked into Wysiwyg, we were able to determine
3 that that was a purchase related to Hugo Boss.

4 Q. And there is also more detailed information regarding
5 those --

6 A. Yes. There is summary. There is different charts that
7 kind of support what's happening here right behind them in F5.

8 Q. Going to 2A.36.

9 With the 2014 Cadillac Escalade, what does that show?

10 A. This is a flow of funds for the payment and purchase --
11 payments on the BB&T loan for the 2014 Cadillac Escalade as
12 well as the payment payoff information.

13 Q. Going to 2A.37.

14 What does this show with respect to the 2012 Toyota
15 Tundra?

16 A. This is a flow of funds from Steve and Amy Peters' Wells
17 Fargo account, which is item 4 that we've already flowed victim
18 funds into that account, through Whispering Hope to Southeast
19 Toyota Finance which was the loan for the 2012 Tundra. This
20 shows the payments and the payoff amount.

21 Q. To be clear, as you move farther down the chain you
22 stopped covering the top part of the chain where it comes in
23 from the investors and you start with a different tainted
24 account; is that right?

25 A. Yes. Once we went down and tainted the bank accounts and

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1 made sure that they never went to zero before these payments
2 were made on these assets, then we started from the tainted
3 account.

4 Q. And then down to the asset?

5 A. That's correct.

6 Q. All right. Let's go to Exhibit 2A.24.

7 With respect to the Adam horse trailer, 2015 Adam horse
8 trailer?

9 A. This is the flow of funds from investors through multiple
10 accounts down through Sheffield Financial. And you'll see
11 these boxes on the bottom of the -- I'm sorry, not that one.
12 Those two are the backup for that information, that traces it
13 to the 2014 Adam's horse trailer.

14 Q. All right. Showing you 1A.4.

15 What is this showing the jury?

16 A. This is a flow of funds from investor Lisa Baker to
17 VisionQuest Capital and to David Garcia. And that was to
18 purchase two Polaris ATVs. And the backup for that is at 1A.6
19 and 1A.7 that shows that.

20 Q. All right. I'm going to show you Exhibit 2A.42.

21 A. This is the flow of funds from the investors, the
22 Deckerts, through VisionQuest Capital into -- to an attorney.
23 And the backup to determine that that payment went to purchase
24 a property called Above The Quest is in 2A.42B and 2A.42C.

25 Q. Showing you Exhibit 2A.32.

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1 What is the jury seeing?

2 A. This is a summary flow of funds from VisionQuest Wealth, a
3 tainted account, through multiple accounts to a credit card
4 purchase from Village Pawn & Gun Shop. And that was tied
5 through 2A.34 and also 2A.4, page 4, is the insurance documents
6 listed, the actual gun name and the amount which tied directly
7 to this credit card purchase.

8 Q. Directing your attention to 2A.33.

9 What is 2A.33?

10 A. Again, another summary of funds going from tainted account
11 VQ Wealth 2591 down to multiple accounts for a credit card
12 purchase as Kendale pawn shop which, again, tied to the
13 insurance documents for that, the amount and the name of the
14 gun.

15 Q. Showing you 2A.39.

16 A. This is a flow of funds from VisionQuest Capital investors
17 through multiple accounts for a credit card purchase for a
18 watch. And we actually found the receipt for the watch that
19 tied directly to that purchase in the insurance documents.

20 Q. Showing you Exhibit 2A.40.

21 What's the jury seeing there?

22 A. Again, a flow of funds from the VQ Wealth tainted account
23 2618 through multiple accounts for a credit card purchase.
24 Again, that was tied to the insurance documents and the
25 receipt.

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1 Q. Showing you Exhibit 2A.20.

2 A. This is a flow of funds from investors through multiple
3 accounts to John Deere Financial. And the support shows that
4 that John Deere Financial was for the purchase of a John Deere
5 X500 lawn tractor. And again, the backup documents are on the
6 summary and in F5.

7 Q. All right. Showing you 2A.21.

8 A. This is a flow of funds from investors through multiple
9 accounts to Sheffield Financial. And the backup documents
10 showed that this was for the purchase of a TR3 Arena Drag Rake.

11 Q. Going to 2A.27.

12 A. This is a flow of funds from investors into VisionQuest
13 Capital Wealth and Wealth Management which show the purchase of
14 two paintings, Amy and her horse and Heavenly, the painting of
15 the house. And the support for that is in F5 and here in the
16 chart.

17 Q. All right. Going to 2A.22.

18 A. This is the flow of funds from investors down through
19 multiple accounts to Sheffield Financial. And the backup for
20 that showed it was for the purchase of two 2014 all-terrain
21 vehicles. The detail -- yeah, the detail is in F5.

22 Q. Showing you now F1.

23 A. So this shows a flow of funds. This is the rental income
24 that was obtained from HomeAway.com, showing income from the
25 House of the Beloved Princess being deposited into Amy Peters'

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1 Fifth Third Bank. And the House of Beloved Princess was
2 already traced previously to tainted accounts.

3 Q. Well -- and is the House of the Beloved Princess itself
4 property constituting or derived from the proceeds of the
5 fraud?

6 A. Yes.

7 Q. And then the house is being rented; is that true?

8 A. That's correct.

9 Q. Resulting in funds into a bank account?

10 A. Yes.

11 Q. Okay. Let me show you Exhibit F2.

12 A. This is the flow of funds from the apartment over the barn
13 on the farm. The income from that came through a WoodForest
14 National Bank account and then into a North State Bank account
15 ending in 2421.

16 Q. Going to F3.

17 A. This is a chart showing the transfer of the 65 percent
18 ownership in Harris-Peters, LLC. This ownership was
19 purchased -- you can refer to 2A.5, the flow of funds to the
20 farm down payment. If you look at 2A.3 here, page 20, it shows
21 how the percentage was broken up in the Operating Agreement,
22 the dollar amounts. And that tied directly to the funds from
23 Ms. Stonebreaker, victim Stonebreaker. And then that was
24 transferred, 65 percent interest, into Harris-Peters, from
25 Stephen and Amy Peters to Amy Peters, and then into this "Mea

1 Cor et" Sparrow Trust.

2 Q. My heart and sole trust; is that right? The Latin?

3 A. I don't speak Latin.

4 Q. All right. And then -- and that was on August 20, 2013?

5 A. Yes.

6 Q. Okay. So have you now summarized the main points for each
7 of the items listed in the Superseding Indictment forfeiture
8 section?

9 A. Yes.

10 The summaries actually say item one, two, three, and that
11 matches with the Superseding Indictment.

12 Q. And there's additional support, as you've said, for each
13 of these items contained within the chart and the jurors will
14 be able to look at that in the existing evidence; is that
15 right?

16 A. That's correct.

17 MR. GILMORE: That's all I have, Your Honor.

18 THE COURT: Thank you.

19 Cross-examination.

20 MR. CAMDEN: No questions for this witness, Your
21 Honor.

22 THE COURT: All right. Thank you, agent. Please
23 watch your step stepping down.

24 Any other evidence from the United States?

25 MR. GILMORE: No, Your Honor.

1 THE COURT: All right. Any evidence from the
2 defense?

3 MR. CAMDEN: Not at this time, Your Honor.

4 THE COURT: Okay. At this time, the Court will
5 recognize Mr. Gilmore to argue on behalf of the United States
6 and then Mr. Camden can argue and then Mr. Gilmore will get the
7 last word.

8 Mr. Gilmore.

9 MR. GILMORE: Ladies and gentlemen, you've heard
10 enough from me and I'm not going to take up anymore of your
11 time other than to say, I think through these charts which you
12 already had access to many of them, and with this additional
13 evidence, you will agree that it's more likely than not that
14 the properties that are listed in that Superseding Indictment
15 forfeiture section are indeed property constituting or derived
16 from the proceeds that the defendant obtained directly or
17 indirectly as a result of the fraud, so we would ask you to so
18 find as to each item.

19 Thank you.

20 THE COURT: Thank you.

21 Mr. Camden.

22 MR. CAMDEN: Members of the jury, you remain judges
23 of the facts even now in this proceeding as well. So we would
24 urge you to go through each of the items listed on this special
25 verdict form and confirm to your own satisfaction, looking

1 carefully at each of these charts, to determine whether you
2 believe it has been shown by a preponderance of the evidence
3 that these items should, in fact, be forfeitable.

4 Thank you.

5 THE COURT: Thank you.

6 All right. Again, ladies and gentlemen, the process
7 is going to be the same. Ms. Jenkins is going to bring you the
8 verdict form and then the additional instructions and then the
9 additional exhibits that have been admitted as well as an
10 envelope.

11 And when it's the 12 of you-all that are in there,
12 Ms. Jenkins has left, then you can deliberate on this.

13 Once you reach a verdict, and it has got to be
14 unanimous, have your foreperson complete the answers. Again,
15 I've sort of already gone over what they are. And all my other
16 instructions other than this is proof by a preponderance of the
17 evidence, not proof beyond a reasonable doubt.

18 If you did have a question, you just need to send it
19 through the court security officer.

20 But otherwise, we're going to have the 12 members of
21 the jury go back to the jury room and await receiving the
22 verdict form and the jury instructions and the additional
23 exhibits from Ms. Jenkins.

24 Everyone remain seated while the 12 members of the
25 jury leave the room.

1 (The jury exited the courtroom at 4:21 p.m.)

2 THE COURT: Again, ladies and gentlemen -- I mean,
3 ladies, I apologize, if you-all could go with Ms. Hayes again.
4 Don't talk about the case. Don't let anybody talk about the
5 case with you.

6 Thank you again for your patience and your vital
7 participation as alternate jurors in this case.

8 Watch your step stepping out of the jury box and
9 watch your step stepping through the gate.

10 MR. GILMORE: I have a copy for the Court and for the
11 clerk.

12 THE COURT: Okay. All right. Just...

13 (Pause in the proceeding.)

14 THE COURT: We'll be in recess while the jury
15 deliberates. The defendant will be remanded.

16 (The proceedings were recessed at 4:23 p.m. and reconvened
17 at 4:49 p.m.)

18 THE COURT: The jury has a question.

19 "Please explain part two to number one: How much
20 taken as a result of VQC? Or how much did Peters take out for
21 personal use? We need clarification. Thanks."

22 Mr. Gilmore, the -- so the figure I understood the
23 agent to say was \$15,315,501.15, was how much was taken in as a
24 result of VisionQuest Capital and that was in Government
25 Exhibit 1.

1 MR. GILMORE: Yes, sir.

2 THE COURT: Did you even provide a figure for how
3 much he took out for his personal use?

4 MR. GILMORE: We had evidence of it in the trial.

5 THE COURT: Right.

6 MR. GILMORE: But this is with gross proceeds so we
7 didn't --

8 THE COURT: Okay. So what would you propose that I
9 answer, then? The gross proceeds of how much was taken in from
10 VisionQuest Capital?

11 MR. GILMORE: The gross proceeds of how much was
12 taken in from VisionQuest Capital -- well, from investors
13 through VQ Capital promissory notes.

14 THE COURT: And Government Exhibit 1 is where you
15 think that is?

16 MR. GILMORE: Yes, sir.

17 THE COURT: All right. Mr. Camden?

18 MR. CAMDEN: I believe under the forfeiture law that
19 is the correct analysis.

20 I do understand, looking at it now, the source of the
21 jury's confusion with that, Your Honor, but I do believe that's
22 the correct articulation of the law.

23 THE COURT: Okay.

24 (Pause in the proceeding.)

25 THE COURT: So, Mr. Gilmore, you think the answer to

1 the figure is the gross proceeds that VisionQuest Capital, LLC
2 took in from investors from the notes?

3 MR. GILMORE: Yes. Or received rather than took in.
4 I think just received from the VisionQuest Capital promissory
5 notes.

6 (Pause in the proceeding.)

7 THE COURT: Hand me a copy of Government Exhibit 1.

8 (Pause in the proceeding.)

9 THE COURT: So really the figure is the total
10 principal invested into VisionQuest Capital?

11 MR. GILMORE: Yes, Your Honor.

12 THE COURT: All right.

13 "Dear Jury, you've asked, 'Please explain part two to
14 number one: How much taken as a result of VQC? Or how much
15 did Peters take out for personal use? We need clarification.'

16 "The figure is the total principal invested into
17 VisionQuest Capital, LLC. See Government Exhibit 1."

18 Any objection to that?

19 MR. GILMORE: No objection, Your Honor.

20 THE COURT: Any objection to that?

21 MR. CAMDEN: None, Your Honor.

22 THE COURT: Ms. Jenkins, if you can take this note to
23 the jury.

24 We'll be in recess while the jury deliberates.

25 (The proceedings were recessed at 5:01 p.m. and reconvened

1 at 5:07 p.m.)

2 THE COURT: I understand that the jury has reached a
3 verdict. Let's bring the jury in.

4 (The jury entered the courtroom at 5:08 p.m.)

5 THE COURT: Welcome back, ladies and gentlemen.

6 It's my understanding you've reached a verdict.

7 Mr. Turner, if you can, please, hand that envelope to
8 Ms. Jenkins.

9 Again, ladies and gentlemen, I'm going to now publish
10 the verdict. Again, either side can request a poll so please
11 pay attention.

12 "We, the jury, unanimously return the following
13 special verdict by a preponderance of the evidence as to the
14 following property:

15 "One, did the defendant, Stephen Condon Peters,
16 personally obtain proceeds from the fraud offenses charged in
17 Counts 1 through 11 of the Superseding Indictment? Answer,
18 yes.

19 "If you answered question one yes, then what amount,
20 if any, did the defendant personally obtain in proceeds from
21 the fraud offenses charged in Counts 1 through 11 of the
22 Superseding Indictment? Answer: \$15,317,501.15.

23 "If you answered question one yes, also place an X or
24 checkmark in the space next to any specific property described
25 below that constitutes or is derived from the proceeds

1 traceable to the fraud offenses charged in Counts 1 through 11
2 of the Indictment."

3 The jury has placed a checkmark on every item listed
4 on page 1.

5 The jury has placed a checkmark on every item listed
6 on page 2.

7 The jury has placed a checkmark on every item listed
8 on page 3.

9 On page 4 everything is checked except, "Art
10 paintings owned in the name of Stephen C. Peters, 5237 Theys
11 Road, Raleigh, North Carolina, 27606, including painting of Amy
12 Peters and her horse by Linda Reynolds and painting 'Heavenly'
13 by Linda Reynolds.

14 The other items on page 4 are checked.

15 As to the items in paragraph 2 on page 4, all of
16 those items are checked.

17 "So say we all, this 6th day of June, 2019."

18 Mr. Gilmore or Mr. Camden, does either side request a
19 poll?

20 MR. GILMORE: No, Your Honor.

21 MR. CAMDEN: No, Your Honor.

22 THE COURT: All right.

23 Let's bring the alternates back, please.

24 (The alternate jurors entered the courtroom at 5:11 p.m.)

25 THE COURT: Welcome back.

1 The jury has reached a verdict on the forfeiture
2 matter.

3 That will conclude your service as a jury in
4 connection with this case. Again, I want to thank you for
5 being such good stewards of one another's time and the serious
6 way in which you took your duties as jurors in this case.

7 We've been together for two weeks. If our systems
8 work properly, you should be exempt from federal jury service
9 for two years. So hopefully you won't get a notice from us
10 about serving as a juror in the Eastern District of North
11 Carolina. If you do, just let our jury coordinator know that
12 you served on a trial with Judge Dever in June of 2019 and
13 you'll be exempt for two years. We'll definitely be able to
14 check the records and know that you-all were here, but
15 hopefully our system will work properly.

16 Now, if you get a notice from your home county, you
17 won't be exempt from state jury service by virtue of serving on
18 a federal jury. So you'll need to respond to that summons, if
19 you happen to get one.

20 Again, as I told you, we're one of the few countries
21 in the world that has a jury system. And it doesn't work
22 unless people adjust their schedules and are willing to serve,
23 as each one of you has. So, again, on behalf of all the judges
24 of our court, I thank you for your jury service.

25 In addition, you probably got tired of hearing me

1 tell you not to talk about the case or let anybody talk about
2 the case with you and to follow my other instructions. So you
3 may be wondering, well, what now? What if I want to talk about
4 the case? What about all the curious people in my house who
5 have been pestering me and want to talk, can I talk to them
6 now? And the answer is yes, you can, if you want to. You can
7 talk to whoever you want about it. You might also be
8 wondering, do I have to talk to them? And the answer to that
9 is no, you don't have to talk to anybody you don't want to talk
10 to.

11 I don't anticipate any of the parties in the case
12 contacting you about your jury service, but if anybody were to
13 contact any of you about your jury service and you didn't want
14 to talk to them or you didn't know them, it wasn't anybody you
15 knew or whatever, you can just say, "I don't want to talk to
16 you."

17 And if the person doesn't then respectfully end the
18 conversation, contact the Court and I can assure you that we
19 will have U.S. marshals that will come protect you from being
20 harassed or bothered or put upon in any way as a result of
21 serving on a jury in the Eastern District of North Carolina. I
22 say that to every jury with whom I'm privileged to serve.

23 Having done this for now more than 15 years, I've
24 served with a lot and never had to do that, but I tell every
25 jury that we will do that because I would never want someone

1 who served as a juror in our Federal Court to feel harassed or
2 bothered or put upon in any way as a result of your jury
3 service.

4 If you do have any personal items, please be sure and
5 collect them.

6 If you are a note-taker, just leave your notebook in
7 the jury room. Your notes will be destroyed.

8 We will make a court security officer available to
9 you to get you a ride down the back elevator. As you know,
10 it's a little closer to where your cars are. Don't get on the
11 back elevator without a court security officer because of the
12 code; I don't want you to get stuck on the elevator to end your
13 jury service here.

14 Again, it's been a privilege to work with you in our
15 system. The judge instructs the jury on the law, but under our
16 Constitution the jury is the judges of the facts. And, again,
17 I thank you for taking so seriously your responsibilities of
18 citizenship and for adjusting your schedules over the past two
19 weeks to serve as a member of the jury in this case.

20 With that, and with the gratitude of all the judges
21 of our court.

22 Everyone remain seated while the ladies and gentlemen
23 of the jury leave the room.

24 (The jury exited the courtroom at 5:15 p.m.)

25 THE COURT: Mr. Peters, you've been found guilty of

1 all 20 counts. Sentencing is set for September 9th, 2019 term
2 of court.

3 Between now and then a presentence report will be
4 prepared. You'll have an opportunity to provide information
5 for that report. You'll have an opportunity to object to
6 information in that report. You need to timely object to
7 anything in the report that you think is objectionable.

8 The Government also will get a copy of that report
9 and have an opportunity to object.

10 At the sentencing hearing I'll rule on any objections
11 that there might be to the presentence report. I'll calculate
12 an advisory guideline range. I'll consider any motion that
13 might be made that might move that range either up or down.
14 I'll consider all arguments that your lawyers make on your
15 behalf, any statement you'd like to make, victim allocution and
16 the arguments of the United States.

17 I'll then determine your sentence and I'll announce
18 it in court on the day of the sentencing hearing.

19 Under 18 United States Code, Section 3143, you'll be
20 remanded to the custody of the U.S. Marshal.

21 Between now and the sentencing date you will continue
22 to have access to consult with your lawyers as you prepare for
23 sentencing.

24 In light of the trial evidence, I do not think that
25 you have demonstrated by clear and convincing evidence that you

1 are not a serious risk of flight, in light of -- I also think
2 that under 18 United States Code, Section 3143, there is very
3 serious issues associated with obstruction of justice in this
4 case, in the SEC examination, in the SEC enforcement
5 proceeding, in your testimony during the trial and
6 particularly, as well, given what I anticipate the advisory
7 guideline range to be and the amount of money that was stolen,
8 you'll be in custody until sentencing.

9 Anything else from the defense?

10 MR. CAMDEN: No, Your Honor.

11 THE COURT: Anything else from the Government?

12 MR. GILMORE: No, Your Honor.

13 THE COURT: We'll be in recess.

14 * * *

15 (The proceedings concluded at 5:18 p.m.)

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1 UNITED STATE DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3

4
5 CERTIFICATE OF OFFICIAL REPORTER
6

7 I, Amy M. Condon, CRR, RPR, CSR, Federal Official
8 Court Reporter, in and for the United States District Court for
9 the Eastern District of North Carolina, do hereby certify that
10 pursuant to Section 753, Title 28, United States Code, that the
11 foregoing is a true and correct transcript of the
12 stenographically reported proceedings held in the
13 above-entitled matter and that the transcript page format is in
14 conformance with the regulations of the Judicial Conference of
15 the United States.
16
17

18 Dated this 20th day of January, 2020.
19
20

21 /s/ Amy M. Condon
22 Amy M. Condon, CRR, CSR, RPR
23 U.S. Official Court Reporter
24
25

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
)	
)	5:17-CR-411-1D
vs.)	
)	
STEPHEN CONDON PETERS,)	
Defendant.)	
)	

SEPTEMBER 13, 2019
SENTENCING HEARING
BEFORE THE HONORABLE JAMES C. DEVER III
UNITED STATES DISTRICT JUDGE

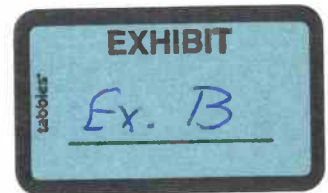
APPEARANCES:

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On Behalf of the Defendant:

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AMY M. CONDON, CRR, RPR, CSR
Official Court Reporter
United States District Court
Raleigh, North Carolina
Stenotype with computer-aided transcription

I N D E X

GOVERNMENT'S WITNESSES

JULIA HANISH

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1 (Friday, September 13, 2019, commencing at 10:42 a.m.)

2 P R O C E E D I N G S

3 THE COURT: We'll next take up the sentencing of
4 Stephen Peters.

5 (Pause in the proceeding.)

6 THE COURT: Good morning, Mr. Camden and Ms. Poe.
7 Is the defense ready?

8 MR. CAMDEN: We are, Your Honor.

9 THE COURT: Good morning, Mr. Gilmore.
10 Is the United States ready?

11 MR. GILMORE: Yes, Your Honor.

12 THE COURT: At this time I'd ask that the defendant
13 be sworn or affirmed.

14 (The defendant, Stephen Condon Peters, was duly sworn.)

15 THE COURT: Mr. Peters, do you understand that
16 having been sworn, that your answers to my questions are
17 subject to the penalty of perjury; and if you were to lie to
18 me, you could be prosecuted for perjury or for making a false
19 statement, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you taken any kind of medicine or
22 any other substance in the last 48 hours that would affect your
23 ability to hear and understand this proceeding?

24 THE DEFENDANT: No.

25 THE COURT: Do you know why you're here today?

1 THE DEFENDANT: Yes.

2 THE COURT: Mr. Camden, do you have any reason to
3 doubt Mr. Peters' competence to go forward today?

4 MR. CAMDEN: None, Your Honor.

5 THE COURT: Does the Government have any reason to
6 doubt Mr. Peters' competence to go forward today?

7 MR. GILMORE: No, Your Honor.

8 THE COURT: Based on the defendant's answers to my
9 questions, my observations of him and the answers from counsel,
10 I find that he is competent to go forward here today.

11 Mr. Peters, you're here today having been convicted
12 by a jury of 20 charges: Count 1 was investment advisor fraud
13 and aiding and abetting; Count 2 was fraud in the sale of
14 unregistered securities; Counts 3 through 11 were wire fraud
15 and aiding and abetting; Counts 12 through 15 were money
16 laundering and aiding and abetting; Count 16 was conspiracy to
17 make and use false documents and to falsifying and conceal
18 records; Count 17 was making and using false documents and
19 aiding and abetting; Count 18 was falsifying and concealing
20 records and aiding and abetting; Count 19 was corrupt and
21 endeavoring to influence a federal agency; Count 20 was
22 aggravated identity theft and aiding and abetting.

23 In light of some cases of the Supreme Court of the
24 United States, including the *Booker*, *Rita*, *Gall*, *Kimbrough*,
25 *Spears* and *Nelson* cases, the sentencing guidelines are no

1 longer mandatory. They're advisory.

2 Nevertheless, in accordance with those cases and
3 numerous cases from the Fourth Circuit interpreting them,
4 including the *Carter, Pauley, and Evans* cases, a sentencing
5 Court still must take into account the now-advisory guidelines.

6 The Court does this by initially making findings of
7 fact and calculating an advisory guideline range. I'll then
8 consider any motion that might be made that might move that
9 range either up or down. I'll then consider all arguments your
10 lawyers makes, the ones they've already made in the sentencing
11 memo they submitted and any arguments they make here today, any
12 statement you'd like to make, any victim allocution, any
13 arguments of the Assistant United States Attorney on behalf of
14 the United States.

15 I'll then determine your sentence and I'll announce
16 it here in court today.

17 That'll be the process we'll follow.

18 Mr. Camden, did you receive a copy of the presentence
19 report?

20 MR. CAMDEN: I did, Your Honor.

21 THE COURT: Mr. Peters, did you speak with your
22 lawyers about the presentence report?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: At this time the Court directs that the
25 presentence report be placed in the record under seal.

1 In accordance with Rule 32 of the Federal Rules of
2 Criminal Procedure, the Court accepts as accurate the
3 presentence report, except as to matters in dispute as set
4 forth in the Addendum.

5 The Addendum does contain numerous objections.

6 Mr. Camden, do you want to be heard on those?

7 MR. CAMDEN: Your Honor, none of the objections that
8 have been raised in the presentence report impacts the
9 guideline calculation.

10 There are some objections that relate to the
11 application of the forfeiture laws here. I don't know -- I'm
12 happy to address those now or if the Court wants to address the
13 forfeiture issues at a later point in time, that would be fine.

14 In essence, we have one objection that relates to a
15 \$550,000 loss that is connected to the purchase of a mortgage
16 by one of the investors in the VisionQuest entities. The
17 gravamen of the objection, Your Honor, is that that -- that was
18 sort of a subsequent business transaction, it wasn't inherent
19 to any fraud, it wasn't inherent to the fraud associated with
20 the VisionQuest entities. And it was sort of a subsequent
21 downstream transaction that was done for good reason and done
22 for good reason to protect that asset, but isn't necessarily a
23 direct byproduct of any action of Mr. Peters.

24 The second objection, as we've laid out, is basically
25 an objection under *Steele*. It does not apply -- to be clear,

1 it does not apply to any of the losses associated with the
2 VisionQuest entities as articulated in paragraph 25. Rather,
3 it applies to losses associated with collateral investments
4 that were not -- that were basically not included in the
5 Indictment; and that there has been an insufficient evidentiary
6 showing with regard to those under the *Steele* standard.

7 And then separate from that, related to that same
8 body of potential forfeitable assets, our position is pursuant
9 to *Freeman* and *Henoud* is that there is a -- there is not the
10 required connection or nexus between people who were victims of
11 losses associated with those investments and the convictions
12 that form the offense conduct that the jury found convictions
13 for at the trial.

14 And so while they may be considered relevant conduct,
15 that the bar under *Freeman* and under *Henoud* is actually a
16 higher bar to establish what would be compensable under the
17 restitution statute.

18 Our position is, because those were factually
19 distinct and oftentimes those collateral investments were not
20 owned by Mr. Peters, they were owned by others -- we believe
21 the trial evidence showed in some instances there actually were
22 disclosers made and disclosures made by those third-party
23 owners related to those other investments and were actually
24 contrasted with the VisionQuest investments, as a distinction
25 between the two.

1 So our position is, respectfully, that there is an
2 inadequate nexus between those investments and the offense of
3 conviction to justify the imposition of restitution pursuant to
4 the restitution laws.

5 THE COURT: Mr. Gilmore, do you want to put on any
6 evidence? I'll let you respond and then I want to know if you
7 want to put on any evidence associated with the victims in
8 paragraph 26.

9 MR. GILMORE: Yes, Your Honor.

10 What I'd propose to do is just speak in response to
11 that argument just a little bit and then, should we need to
12 supplement with testimony, I can certainly do that.

13 Your Honor, I'm going to address the issues as framed
14 in the PSR because they are written out in pretty crystal
15 length detail there.

16 The first issue is whether losses should include
17 other investment losses. They are in paragraph 88. These are
18 non-VisionQuest Capital losses, whether they should be treated
19 as relevant conduct for loss purposes.

20 Your Honor, we agree with Probation in this case --

21 THE COURT: Mr. Camden, do you dispute the relevant
22 conduct, that determination?

23 MR. CAMDEN: Your Honor, we've lodged that objection
24 for purposes of preserving that for the record, but the
25 gravamen of our argument is about the restitution issues.

1 THE COURT: Thank you.

2 Mr. Gilmore, you can continue.

3 MR. GILMORE: Your Honor, I still think I need to
4 address it.

5 THE COURT: Yeah, you do. And I'll be ready to rule
6 once you talk.

7 MR. GILMORE: Okay. So I'll try to talk fast.

8 THE COURT: Talk as fast or slow as you want.

9 MR. GILMORE: I will slow it down then.

10 We do agree with Probation that all of the losses,
11 the non-VisionQuest Capital losses should be included in this
12 case. Probation has cited the guidelines that apply here,
13 1B1.3-A, "Relevant conduct includes all acts and omissions that
14 were part of the same course of conduct or common scheme or
15 plan as the offense of conviction with respect to offenses of a
16 character that would be grouped under the guidelines."

17 These are both fraud allegations, both investments.
18 Application note 5BI, "Common scheme requires that they are
19 substantially connected to each other by at least one common
20 factor, such as common victims, common purpose, similar modus
21 operandi."

22 And then there's another way to get there. The
23 application notes that, "Separate offense may still qualify for
24 a part of a single episode or ongoing series of offenses in
25 looking at the degree of similarity, the regularity and time

1 interval."

2 All of those things are of particular relevance here.
3 And then I want to make sure the Court knows under what part of
4 the Indictment we're traveling. We're talking about Count 1.

5 THE COURT: Right.

6 MR. GILMORE: Investment advisor fraud.

7 THE COURT: Right.

8 A registered investment advisor has a fiduciary duty
9 to do a lot of things and there were a multiplicity of breaches
10 of those duties by Mr. Peters as demonstrated by the trial
11 evidence.

12 MR. GILMORE: Yes, Your Honor.

13 And so what I would point the Court to with respect
14 to Count 1 is specifically all of those items. They are listed
15 in the Indictment, all of those different ways in which he
16 breached his duty as an investment advisor.

17 And if you look at the charging language, obviously
18 there's an introductory section in the charges, but if you look
19 at the charging language, there is no specific reference to
20 VisionQuest Capital as being the only way he violated his
21 obligations as an investment advisor.

22 If you look at Counts 2 and the remaining counts, the
23 wire fraud counts, you will see they specifically talk about
24 VisionQuest Capital.

25 Now, this isn't just a technicality in terms of the

1 way that the Indictment is written. Your Honor has heard the
2 evidence throughout the course of a two-week trial. Your Honor
3 has seen the way in which these recommendations, not only for
4 VisionQuest Capital but for also these other investments, were
5 intertwined with one another; how on one day he'd be
6 recommending one, on another day he'd be recommending another.
7 And there's been a lot of testimony about that.

8 There was testimony before this Court from Stacey
9 bean about Mr. Peters' oversight of these companies, his
10 control of these companies, his failure to disclose the true
11 financial condition of the companies to his clients.

12 So all of those things, Your Honor -- they hit all of
13 the bullet points that I already articulated that are set out
14 in the guideline and the application notes.

15 So for all those reasons -- and I could, obviously,
16 put on evidence about it, but I don't think we need to because
17 it's in the record already about how this is, in fact, relevant
18 conduct and should be considered for loss purposes.

19 THE COURT: How about the restitution issue for the
20 paragraph 26 victims?

21 MR. GILMORE: Okay. Your Honor, let me address -- if
22 I could, first, the argument with respect to the Harris' loss
23 with respect to \$550,000 they ended up having to shell out.

24 Your Honor will recall in the trial Exhibit 2A5. 2A5
25 is a flow chart. And there was testimony about how the

1 defendant, while still her financial advisor, duped her into
2 buying land with her [sic]. He did.

3 Remember the testimony, Your Honor, about the
4 agreement where the money was supposed to be coming from for
5 that land purchase. It was supposed to be coming, the down
6 payment in part, from Mr. Peters.

7 The testimony showed that through one of these side
8 investments, in particular Blue Horseshoe, which is of record,
9 the money, in fact, flowed not into that investment, but,
10 rather, into VisionQuest Wealth, in which he owned, and then
11 into his personal bank account, and then into the Harris-Peters
12 transaction.

13 So, in other words, the Harrises would not be in this
14 situation but for his deception, but for the sale of the Blue
15 Horseshoe investment we wouldn't be here.

16 On top of that, there was further testimony in the
17 trial about how -- the negotiation process for all that, how
18 Mr. Peters spearheaded all of that. They were just there to
19 basically sign the paperwork.

20 We didn't go there in the trial on direct
21 examination, but on the cross-examination counsel opened the
22 door to what happened after the arrest of Mr. Peters. Well,
23 that's when they find out for the first time Mr. Peters has
24 stopped paying on the mortgage that he promised to pay them.
25 He promised that he would be solely responsible for that

1 mortgage. And so then, when he stops paying, they have to
2 shell out another \$550,000 to keep from losing their own farm.

3 That's what the trial was about.

4 So in all respects, those losses are directly
5 intertwined with this offense and they should be included both
6 within the loss calculation for Government purposes as well as
7 restitution.

8 So with respect to restitution, Your Honor, again, we
9 agree with Probation that the losses should be included as
10 compensable restitution. The victim, as Probations correctly
11 pointed out, means, "A person directly and proximately harmed
12 as a result of the commission of the offense for which
13 restitution may be ordered."

14 I think I've already made a record now in the way in
15 which Count 1 captures that specific conduct.

16 This is a case involving -- where an element of a
17 scheme, a conspiracy, a pattern of criminal activity directly
18 harming the victims that are identified here.

19 The same time period, the same scope of conduct, all
20 within the context of the violation of the fiduciary duties.

21 So, Your Honor, we do believe that on these facts
22 there is sufficient evidence to support restitution both to the
23 VisionQuest Capital investor losses as well as the
24 non-VisionQuest Capital investment losses.

25 Now, I do want to make clear that in this case the

1 Government took care to ensure that the losses that went into
2 the PSR were, in fact, only relating to individuals who were
3 investment advisory clients because that's the framework under
4 which we're operating.

5 THE COURT: That's the Count 1 fraud?

6 MR. GILMORE: Correct, Your Honor.

7 THE COURT: Right.

8 MR. GILMORE: And so in an abundance of a caution --
9 and then the figures that made it into the PSR -- we canvassed
10 all the victims, Your Honor. We reached out to them, we sent
11 questionnaires, we called them. Anyone who claimed a loss on
12 any of these investments, we sent that information to Probation
13 and then they calculated it. They summed it up and calculated
14 it.

15 Since that time, we have done a little more due -- we
16 haven't left it at that. And again, this is where I can put on
17 a record if I need to, I can put on evidence. But what we did
18 is, we went in and made sure that, in fact, those people were
19 investment advisor clients and that there was some basis, in
20 fact, to believe that they had, in fact, invested the money in
21 this specific investment.

22 Wherever we found a circumstance where it appeared
23 that the victim loss was higher than what our record showed was
24 an actual loss, we actually took off for that. So the numbers
25 that we're going to be presenting to the Court take into

1 account monies paid back which might otherwise be claimed as a
2 loss because we recognize the way that the loss rules work and
3 the restitution rules work.

4 So for all those reasons, Your Honor, we do believe
5 that restitution is appropriate for the individuals and in the
6 amounts that we're going to be presenting to the Court.

7 What I've done -- I'm going to be offering this up to
8 the Court in a moment. I have Government Exhibit 1, which is a
9 Modified Restitution Table which takes into account those
10 things which I've just stated, the VisionQuest Capital losses
11 and then adding in non-VisionQuest Capital investment losses
12 into one consolidated table.

13 I also have in Government Exhibit 2 a summary of just
14 the VisionQuest Wealth Management clients who invested in
15 non-VisionQuest Capital investments, a sum of those
16 investments, and then those -- and we've only included those
17 for the companies where there's a factual record to support the
18 investment into those companies.

19 So that's what those two exhibits are going to show
20 the Court.

21 Now, before I offer those up to the Court, I want to
22 make one caveat. We have a difficult issue in this case with
23 respect to restitution as to some of the line items that we
24 have in our own table.

25 Your Honor may recall that the defendant sold these

1 notes to his own parents. His parents have not claimed victims
2 in this case, nor are they advisory clients. And so we
3 already -- we will be modifying our own table. It's in the
4 discretion of the Court. Certainly, they made the investment,
5 but it's going to be in the discretion of the Court whether
6 that would be a compensable loss in this case.

7 A second issue is to -- there was trial testimony in
8 this case, Your Honor, in terms of character testimony, but it
9 crossed over into substantive testimony with respect to Ms.
10 Stonebraker. She appeared and claimed she wasn't a victim.
11 Although she paid the money, she still claimed she wasn't a
12 victim.

13 I learned today, Your Honor, just a few moments ago
14 that Mr. Stonebraker is here and would like to allocute to the
15 Court as a victim. And yet, when asked were you defrauded by
16 Mr. Peters, he said, no, I don't believe I was defrauded. So
17 we are in a thorny position with respect to the Stonebrakers
18 losses in this case.

19 So we have Government's Exhibits 1 and 2 as written.
20 They include each of those losses and I'm going to leave it to
21 the Court's discretion.

22 THE COURT: Why don't you bring your agent up, get
23 her sworn and put her on and you can have the agent explain --
24 basically, explain what you just proffered just so we have it
25 in the record because I have -- I know what the law is and I

J. Hanish - Direct Examination

1 knew you were traveling under Count 1 of the Indictment, and
2 particularly with the limitation that these are the investment
3 advisory clients supplemented with the evidence presented at
4 trial I, think that would be helpful for the record.

5 So the agent can come up and be sworn.

6 And bring up the exhibits and just have her explain
7 how you-all compiled it.

8 MR. GILMORE: Your Honor, what I propose to do is
9 just show them from the document camera and then we'll hand
10 them up.

11 THE COURT: That's fine.

12 JULIA HANISH,

13 having been duly sworn, testified as follows:

14 THE COURT: You may examine the agent.

15 DIRECT EXAMINATION

16 BY MR. GILMORE:

17 Q. Good morning, ma'am.

18 A. Good morning.

19 Q. Would you state your name and spell your last name.

20 A. Julia Hanish, H-A-N-I-S-H.

21 Q. And are you the case agent with the FBI who's been
22 involved in the investigation and prosecution of this matter?

23 A. Yes.

24 Q. And in the course of your following the trial, did you
25 assist the Government to examine issues of loss and restitution

J. Hanish - Direct Examination

1 that are implicated by the charges in this case?

2 A. Yes, I did.

3 Q. I'm going to first show you -- well, let me first ask you:
4 Was there any dispute with respect to the losses relating to
5 just the VisionQuest Capital investments?

6 A. No.

7 Q. Okay. Did you engage in an effort to determine and verify
8 losses for individuals who invested -- who were clients who
9 also invested in non-VisionQuest Capital investments?

10 A. Yes, I did.

11 Q. I'm going to place on the screen Government's Exhibit 2.

12 MR. GILMORE: Bear with me one moment, Your Honor.

13 (Pause in the proceeding.)

14 MR. GILMORE: I'm having trouble with the document
15 camera, Your Honor, so I'll just make a record and I can --
16 obviously, the witness is familiar with the exhibits.

17 MR. CAMDEN: Your Honor, I haven't had an
18 opportunity -- I don't have this exhibit. If the Government
19 has a spare copy, that would be helpful.

20 MR. GILMORE: Of course. Of course.

21 Your Honor, I'm going to go ahead and offer up to the
22 Court a set of these, recognizing that there may be
23 modifications to the table.

24 THE COURT: Thank you.

25 Does the witness have a set?

J. Hanish - Direct Examination

1 MR. GILMORE: She does not, but I can get one.

2 BY MR. GILMORE:

3 Q. What did you do to determine whether individuals in this
4 case suffered losses, not just with respect to VisionQuest
5 capital but also non-VisionQuest Capital investments?

6 A. Okay. The first thing we did was, create questionnaires
7 with all the different outside entities and sent them to each
8 of the victims in VisionQuest Capital and then also any that we
9 could find outside of VisionQuest Capital. And they sent back
10 their questionnaires which we put in a spreadsheet.

11 Q. Okay. And those figures that were presented by these
12 various investors and clients, were they supposed to be net
13 figures, like a loss, or just the total amount they invested?

14 A. I'd have to look exactly at the questionnaire to see what
15 we asked, but I think we asked for their actual loss.

16 Q. Their actual loss?

17 A. Yes.

18 Q. Okay. And that information was provided to the Probation
19 office?

20 A. Yes.

21 Q. Now, in addition to simply receiving questionnaires back,
22 did you do anything to determine whether these folks who
23 responded were also, in fact, VisionQuest Wealth Management
24 clients of the defendant as kind of captured in Count 1 of the
25 case?

J. Hanish - Direct Examination

1 A. Yes.

2 First, for the VisionQuest Capital investors, we already
3 knew that they were Wealth Management clients from the trial,
4 investment advisory clients, so that was determined.

5 For the people that did not have a Capital investment,
6 that were outside of -- had investments outside of VisionQuest
7 Capital, I went and found -- tried to prove that they were
8 actually Wealth Management clients.

9 Q. Did you talk to some of them, if you could?

10 A. I did.

11 Q. Did you review e-mails and documents that were collected
12 during the search warrants in the case?

13 A. Yes.

14 Q. And from that analysis, were there, in fact, some
15 individuals who were not actually provable to be investment
16 clients?

17 A. Yes.

18 There were two who were not investment advisory clients
19 which we removed and then also a couple of the clients became
20 clients after a certain investment was made, so I removed that
21 investment because they didn't receive advice for that
22 investment.

23 Q. Okay. So you took care to make sure that they were
24 clients at the time they made the investments?

25 A. That's correct.

J. Hanish - Direct Examination

1 Q. And in addition to determining and ensuring that the
2 people on the modified restitution list in paragraph 88 were
3 advisory clients, did you do anything to verify that they had
4 actually made the investments in the non-Capital investments
5 that they claimed?

6 A. Yes, I did.

7 Q. What did you do?

8 A. I went through documents to try to find evidence that they
9 made the investment, like a note or some way to show that they
10 actually had the investment.

11 Q. Okay. And for those people that are listed here -- and
12 did you simply rely on the fact that you found some reference
13 of it, of an investment?

14 Did you just simply rely on that as to the amount that was
15 claimed or did you give any credit in some instances?

16 A. No.

17 I tried to find how much they invested, plus how much they
18 received back in interest payments or other payments and I was
19 able to find that for quite a few, so I took out the amounts
20 that they had received in interest payments out of their loss
21 figures.

22 Q. Okay. And the result of that -- do you have Government
23 Exhibit No. 2 with you?

24 A. I do.

25 Q. And from the result of that analysis, does -- does

J. Hanish - Direct Examination

1 Government Exhibit 2 kind of contain the result of that
2 analysis that you just talked about?

3 A. Yes, it does.

4 Q. And to be clear, did these relate to -- these losses that
5 are listed here as non-Capital investment losses, are all of
6 these dollars related to all of the separate private
7 investments that Mr. Peters had or was it just some of them?

8 A. It is just some that were listed on the questionnaire.

9 Q. Why did you only list some of them?

10 A. We only listed ones where Mr. Peters had a financial
11 interest in the entity.

12 Q. Okay. And what did you do to determine whether he, in
13 fact, had a financial interest of some kind in the entity?

14 A. We looked at documents to show what the interest was,
15 including charts of the investors in each entity, Mr. Peters'
16 outside business activities forms that were presented at trial
17 and -- well, those two ways mostly.

18 Q. Okay. So directing your attention to trial
19 Exhibit 16C5-F, remind the Court, if you could, what 16C5-F
20 was.

21 A. This was an outside business -- multiple outside business
22 activity forms created by Mr. Peters to provide to the SEC in
23 either the exam or the enforcement action.

24 Q. And did the evidence show that these were backdated and
25 fabricated to include the theft of Mr. Kolbenschlag's

J. Hanish - Direct Examination

1 signature?

2 A. Yes, it did.

3 Q. And these backdated outside business activity disclosures,
4 do they in fact list, among others, Rosewood Partners, Forest
5 City Partners, Greenleaf Inn or Greenleaf Pinehurst, Hill Top
6 Homes, Clear Lake Partners, Tall Oaks, Facebook, Angel
7 Acceptance, Reiles Acres, Blue Horseshoe Capital and Fusion
8 Fund Group?

9 A. Yes, they did.

10 Q. Referring your attention to trial Exhibit 19A8. Was this
11 a Balance Sheet for Mr. Peters and his wife that was put into
12 evidence during the case?

13 A. Yes, it was.

14 Q. What does that show with respect to Mr. Peters' ownership
15 of VQ Wealth?

16 A. That he and his wife owned 97 percent of VQ Wealth.

17 Q. Okay. And does this also identify Greenleaf Inn which is
18 related to the Greenleaf Pinehurst investment as an asset of
19 the defendant and his wife?

20 A. Yes.

21 Q. Does it also list the Harris-Peters investment as an asset
22 of he and his wife?

23 A. Yes.

24 Q. Directing your attention to trial Exhibit Bennett M5,
25 remind the Court what Bennett M5 was, if you could.

J. Hanish - Direct Examination

1 A. It is an e-mail from Nick Kolbensschlag to Michelle Bennett
2 attaching -- forwarding a chain e-mail from Steve Peters to
3 Nick Kolbensschlag with the VisionQuest Wealth Balance Sheet.

4 Q. And did that VisionQuest Wealth Balance Sheet reflect an
5 ownership interest in Blue Horseshoe, Forest City Partners,
6 Fusion Fund investment, Greenleaf Pinehurst, Hill Top Homes,
7 land in Costa Rica, Palm Beach office, Reiles Acres, Tall Oak
8 Partners, VisionQuest Capital and VisionQuest Wealth
9 Management?

10 A. Yes, it does.

11 Q. Directing your attention to what is marked as Government
12 Exhibit 3. Do you have that there with you?

13 A. I do.

14 Q. Where did you obtain Government Exhibit 3 from?

15 A. This was provided by Ms. Beane.

16 Q. I'm sorry, by Ms. Beane?

17 A. By Ms. Beane.

18 Q. And she had involvement in preparing the books; is that
19 right, or the accounting records?

20 A. That's correct, yes.

21 Q. So what does this document show with respect to
22 Mr. Peters' direct or indirect ownership in various of these
23 entities?

24 A. That he was invested in each entity, either through
25 VisionQuest Wealth or Ms. Peters was also invested in one of

J. Hanish - Direct Examination

1 the entities.

2 Q. And this schedule lists investments in Rosewood, Spindale,
3 Four City Partners, Hill Top, Clear Lake, Greenleaf and Tall
4 Oaks; is that right?

5 A. That's correct.

6 Q. It also shows how his clients are invested alongside; is
7 that right?

8 A. That's right.

9 Q. Now, directing your attention to Government Exhibit 4.
10 Is this another copy of the Balance Sheet for Mr. Peters
11 and his wife?

12 A. Yes.

13 Q. And you've already testified about the contents of that,
14 have you not?

15 A. Yes.

16 Q. Going to Government Exhibit 5.

17 What is Government Exhibit 5 and where did you find that?

18 A. This was an e-mail from Stacey Beane to Matt Gomoll and
19 Steve Peters. And I found it in the e-mail discovery from the
20 search warrants.

21 Q. Okay. And what does this document show with respect to
22 these various outside investments and Mr. Peters' direct or
23 indirect ownership of those and the clients' ownership of
24 those?

25 A. It shows that Mr. Peters was an owner through VisionQuest

J. Hanish - Direct Examination

1 Wealth or another related entity, VisionQuest Capital, or R.
2 Condon Capital and then it shows the clients -- his VisionQuest
3 Wealth Management clients that were invested also in that
4 entity.

5 Q. Okay. And so from across all of these documents, is there
6 a record now of all of the entities identified in Government
7 Sentencing Exhibit 2, all of these various entities that are
8 listed on the restitution table that we're offering to the
9 Court today?

10 A. Yes.

11 Q. Now I want to speak specifically to the issue of the
12 losses to the Harrises, with respect to that mortgage they had
13 to buy.

14 What did trial Exhibit 2A5 show? That's the flow chart.

15 A. It is the flow of funds for the down payment on the Theys
16 Road Farm.

17 Q. Okay. And does this, in fact, show Ms. Harris' \$150,000
18 investment into Blue Horseshoe, in fact funding Mr. Peters and
19 his wife's portion of the down payment on the farm?

20 A. Yes, it does.

21 Q. What is Government Exhibit 6?

22 A. Exhibit 6 is a payment indemnity agreement between Mr.
23 Peters, Ms. Amy Peters, Mr. Harris and Mrs. Harris.

24 Q. Okay. And what, if anything -- where did you get this
25 document?

J. Hanish - Direct Examination

1 A. It was received from Mr. Harris.

2 Q. Okay. And what, if anything, does this document with
3 respect to who was responsible -- out of that land transaction,
4 who was going to be responsible for paying all of the money on
5 the mortgage?

6 A. In the fifth paragraph it states, "The parties agree that
7 Stephen and Amy will be solely responsible for the payment of
8 the loan indebtedness in the event of a default of the
9 company."

10 Q. Okay. And does it also state that this agreement is
11 entered into, whereas Stephen and Amy stand to gain more
12 benefit from the loan than Eric and Sharon?

13 A. Yes.

14 Q. So they entered into this land transaction under these
15 auspices?

16 A. This was later when they did the loan, but yes.

17 Q. Okay. And -- but did Mr. Peters live up to these
18 obligations?

19 A. No, he did not.

20 Q. And at the time of this agreement, was Mr. Peters, in
21 fact, the investment advisor for Eric and Sharon Harris?

22 A. Yes, he was.

23 MR. GILMORE: Your Honor, that's all I have on the
24 issue of loss and restitution.

25 THE COURT: Cross-examination.

J. Hanish - Cross-Examination

1 MR. CAMDEN: Very briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. CAMDEN:

4 Q. Agent Hanish, with regard to the amounts that are
5 identified in Government's Exhibit 2, the table there --

6 A. Yes.

7 Q. -- how did you determine what was -- you mentioned during
8 your direct examination what was invested into the asset.

9 A. Uhm-uhm.

10 Q. How, with respect to each one of these assets, did you
11 determine what the ultimate loss was to the investor?

12 A. Like I said before, I took what was on the questionnaire
13 initially, attempted to verify that, verified that there was an
14 investment. If I could find payments back or that the amount
15 was a lower amount than on the questionnaire, then I used that
16 lower amount.

17 Q. Did you receive any bank statements from any of the
18 investors reflecting any sort of losses that would sort of
19 account for the losses?

20 A. No.

21 What I used was the information that we had obtained
22 during the search warrants of the office, VisionQuest Wealth
23 Management office, Mr. Peters' home, the computers and the
24 e-mails.

25 Q. So would it have been possible, perhaps, on some of these

J. Hanish - Cross-Examination

1 investments -- if there had been a subsequent payout pursuant
2 to a bankruptcy proceeding or some other collateral proceeding,
3 would that have been captured by the investigation that you
4 did?

5 A. For Fusion Fund, it was captured. I was able to find the
6 exact numbers for Fusion Fund.

7 For the rest, I would have to go look at each investment
8 to tell you exactly how I calculated that.

9 Q. Okay. But you did not conduct, for example, a review of
10 the individual bank accounts to see if, perhaps, there had been
11 a payment back in to one of these investors from a settlement
12 or some other negotiated resolution with regard to one of these
13 non-VisionQuest entities?

14 A. If it was after when we had bank records then I'm able to
15 see that, but if it was before we had bank records that's
16 difficult, which is why I went to the actual documents of
17 VisionQuest Wealth Management and their client records to find
18 what the payments were and the ending balances.

19 So like I said, I used the lower of what was provided to
20 me plus what I could find as evidence in the search warrant
21 material.

22 Q. And turning your attention back to Government's Exhibit
23 No. 6. This is -- this payment and indemnity agreement, this
24 relates to a loan that was being taken out in connection with
25 the purchase of the property owned by Harris-Peters, LLC?

J. Hanish - Redirect Examination

1 A. So this was the -- the purchase -- the loan was not with
2 BB&T Bank. So this was done later to fund a payoff of the
3 initial loan. So this was not right at the purchase, but
4 later.

5 Q. But it discusses the BB&T mortgage that was going to be
6 brought in, correct?

7 A. That's correct, yes.

8 Q. And that was signed by both the Peters and the Harrises,
9 correct?

10 A. Yes.

11 MR. CAMDEN: Okay. I don't have any further
12 questions at this time, Your Honor.

13 THE COURT: Mr. Gilmore.

14 MR. GILMORE: Your Honor, thank you.

15 REDIRECT EXAMINATION

16 BY MR. GILMORE:

17 Q. I should have addressed on our direct here some
18 modifications that you believe were appropriate as to
19 Government Exhibit 1.

20 You previously indicated that investor S.G., about midway
21 through the page on Exhibit 1 --

22 A. Uhm-uhm.

23 Q. -- was removed from your calculation?

24 A. Yes.

25 Q. Could -- could you just make a record of why?

J. Hanish - Redirect Examination

1 A. It was determined that S.G. was not an investment advisory
2 client of VisionQuest Wealth Management.

3 Q. Okay. So on the final exhibit that we'll be offering to
4 the Court, we'd be striking S.G., correct?

5 A. That's correct.

6 Q. And then on page 2 of Government Exhibit 1, you've
7 indicated striking H.L.S. in the amount of \$550,000. Can you
8 explain to the Court why?

9 A. Again, that was --

10 THE COURT: I couldn't hear the question. Someone
11 was coughing. If you could ask it again.

12 MR. GILMORE: Certainly, Your Honor.

13 BY MR. GILMORE:

14 Q. On page 2 of Government Exhibit 1 there is a line item for
15 \$550,000, individual victim with initials H.L.S. Have you
16 indicated that that should be stricken based on your subsequent
17 investigation?

18 A. Yes. It was determined that H.L.S. was also not a
19 VisionQuest Wealth Management client.

20 Q. Okay. And so totaling up -- removing those and adding a
21 new total, would the total amount deducting those two be
22 \$14,922,314?

23 A. Yes.

24 But do we also need to take out S.P. as not a Wealth
25 Management client?

J. Hanish - Redirect Examination

1 Q. Okay. Well, just making a record of what the total would
2 be up to that point --

3 A. Yes, that's correct.

4 Q. -- it would be \$14,922,314; is that right?

5 A. That's correct.

6 Q. Now, did you also take into account on a Post-it note
7 here, so that the Court can kind of consider this issue, the
8 inclusion or reduction of losses to -- if you take out losses
9 to the Peters' --

10 A. Yes.

11 Q. -- father and mother of \$17,200?

12 A. Yes.

13 Q. As well as losses to the Stonebraker family in the amount
14 of \$29,905?

15 Is that taken into account as well on this modification
16 here?

17 A. Yes.

18 Q. And --

19 THE COURT: So Mrs. Stonebraker says she's not a
20 victim, as I understand it, but he says he is a victim or he
21 says I'm a victim, I want to allocute, but I don't want any
22 money.

23 MR. GILMORE: Your Honor, at trial Ms. Stonebraker
24 appeared -- my recollection, she appeared as a character
25 witness --

J. Hanish - Redirect Examination

1 THE COURT: Right.

2 MR. GILMORE: -- and did not confirm that she was
3 defrauded.

4 THE COURT: Right.

5 MR. GILMORE: Although, she claimed at trial she was
6 not. And then outside of court or before court this morning,
7 we heard that Mr. Stonebraker desired to appear as a -- and
8 allocute. And when asked if he believed he was defrauded by
9 Mr. Peters, he said no. And so I wanted to just make a --

10 THE COURT: What does he want to allocute about? I
11 mean, you can allocute if you're a victim. If he doesn't think
12 he's a victim, what does he want to say, do you know?

13 MR. GILMORE: I don't.

14 But I think, Your Honor, I can forecast from the fact
15 that both Mr. Stonebraker and his wife wrote character letters,
16 that he desires to prevent mitigating testimony in the form of
17 character evidence.

18 THE COURT: Okay.

19 MR. GILMORE: So unless he's claiming victim status,
20 that he was defrauded like all of these other poor people, I
21 don't think that he fits within the victim -- I'll leave
22 that --

23 THE COURT: I'll deal with that when it's time to
24 deal with that.

25 MR. GILMORE: Thank you, Your Honor.

1 BY MR. GILMORE

2 Q. So Special Agent Hanish, if those two figures are removed
3 from this table that are set forth in Exhibit 1, is the new
4 total restitution figure \$14,875,209?

5 A. That's correct.

6 MR. GILMORE: That's all I have, Your Honor.

7 THE COURT: Any followup on that?

8 MR. CAMDEN: Nothing, Your Honor.

9 THE COURT: Agent, as part of what you did with
10 respect to the Exhibit 2 victims, you said you also got
11 questionnaires from them?

12 THE WITNESS: That's correct.

13 THE COURT: Okay. So you looked at the records of
14 the company -- companies of Mr. Peters that were obtained in
15 the search warrant as well as getting the info from the victims
16 themselves?

17 THE WITNESS: That's correct.

18 THE COURT: Okay. Thank you. Thank you, Agent.
19 Please watch your step stepping down.

20 THE WITNESS: Yes, sir.

21 THE COURT: Any further argument before I rule?

22 MR. CAMDEN: If I may be heard just very briefly,
23 Judge.

24 THE COURT: Okay.

25 MR. CAMDEN: Turning back to the issue of the

1 Harrises and the purchase of the note, I think in some ways
2 this agreement that is Government's Exhibit 6 speaks to the
3 argument that we at least attempted to articulate in the -- in
4 the objection that there was an awareness that there was a BB&T
5 loan. That was known and it was known that it connected to the
6 property.

7 There's no question that the Peters defaulted.
8 That's absolutely true. But the -- to my mind, the question
9 is, is it a fraud, was there a misrepresentation, were you not
10 aware, for example, that there was a BB&T loan?

11 THE COURT: How about if we step back a little,
12 though.

13 I mean, the 2A.5 exhibit, which I remember, and the
14 2A.6 exhibit -- I mean, Mr. Peters defrauded the Harrises into
15 getting the farm. That evidence was overwhelming. And so then
16 what do we do to fix this if you're the Harrises?

17 They get defrauded by their Registered Investment
18 Advisor to go into this deal about this farm. And then you're
19 down the road and you face two options if you're them because
20 he defaulted; lose the farm to the bank or pay over half a
21 million dollars to clean up the fraud that you've been
22 victimized by this defendant.

23 That's the issue I have to decide, right?

24 MR. CAMDEN: I agree, Your Honor.

25 And I would suggest that there may be a distinction

1 between the decision to go into the purchase of the home, which
2 in my mind is different from the form and the chart that you're
3 talking about, which is how assets were used in order to
4 effectuate that purchase, and how they were --

5 THE COURT: Right. He's their Registered Investment
6 Advisor and he basically steals a large portion of the money to
7 buy the farm and doesn't tell them he's doing that.

8 But I understand, I understand the legal issue.

9 And I think I'm ready to rule on the factual issues
10 as they play out with respect to the objections in the PSR.

11 Did you want to say anything else on the restitution
12 issue?

13 MR. CAMDEN: The only other issue, with regard to the
14 Freeman issue, I believe that it is a charging concern. We
15 were put in a position where we would be issuing a restitution
16 order related to conduct that -- certainly Count 1 is broad,
17 but if we were thinking about, for example, a double jeopardy
18 analysis of Count 1, would it be obvious to the defendant
19 reading Count 1 that the exposure extended to the
20 non-VisionQuest entities?

21 And so I think -- I agree with Mr. Gilmore that the
22 charging structure matters with regard to that analysis. And
23 would simply state under *Freeman* and *Henoud*, even looking
24 narrowly at Count 1, the way that it is alleged does not
25 encompass these collateral entities in the offense of

1 conviction such that, you know, they're -- I think that you can
2 make an argument that Mr. Peters even today has an exposure
3 with regard to those collateral entities.

4 THE COURT: Thank you.

5 All right. Anything else, Mr. Gilmore, on the
6 objections?

7 MR. GILMORE: Freeman is inapplicable because the
8 facts of that case are totally different than what we have
9 here. I think the Court understands the issue.

10 THE COURT: Thank you.

11 MR. GILMORE: Thank you.

12 THE COURT: All right. I'm just going to go through
13 the objections, those that have been mentioned -- and all of
14 them actually just for completeness.

15 The first objection is an objection to the
16 description of the offense conduct in order to avoid any
17 subsequent finding that the failure to object renders a
18 statement an adoptive admission. Probation officer responds,
19 but the offense conduct section of the presentence report was
20 based on review of the available evidence and is consistent
21 with the information presented at trial.

22 The Court does agree with Probation's response with
23 one caveat. I do think there was just -- if we look at
24 paragraph 31, the -- my recollection of the evidence with
25 respect to paragraph 31, it was -- the PSR attributes Randall

1 Griggs to have VQ Management employees fill out outside
2 business activity disclosures covering various years and then
3 directed, conspired with various employees to backdate the
4 forms to a period preceding the SEC examination. The PSR says,
5 "Peters further directed Griggs on how to cut-and-paste a
6 signature of a former compliance officer." My recollection of
7 the evidence is that it involved Justin Deckert.

8 MR. GILMORE: That's correct, Your Honor.

9 THE COURT: So we'll make a note to just -- they
10 don't have to do a supplemental PSR, but for purposes of my
11 Rule 32 findings in adopting the description in the PSR, the
12 paragraph 31 person who the defendant, Mr. Peters, directed
13 generally to obstruct justice was Justin Deckert and not
14 Randall Griggs in that paragraph. But otherwise, that
15 objection in paragraph 1 is overruled.

16 The second objection is an objection by Mr. Peters to
17 the statement in paragraphs 14 and 44 that he committed perjury
18 at trial.

19 The PSR responds -- or the Probation responds in the
20 PSR and highlights three instances: First, as the Probation
21 officer noted, Mr. Peters testified that the investors had lied
22 when they testified that Peters had recommended the Capital,
23 LLC note investments; that he also testified that all of his
24 employees were lying that he directed them to create false
25 documents and lie to the SEC; and that he falsely testified

1 that he did not send the e-mail with the false document
2 purportedly drafted by Nicolas Kolbenschlag, which is the focus
3 of the conviction in Count 20. Probation recommends no
4 changes.

5 With respect to the topic of perjury, perjury has
6 three elements: "False testimony concerning a material matter
7 given with the willful intent to deceive rather than as a
8 result of said confusion, mistake or faulty memory. See *U.S.*
9 *v. Smith*, 62 F.3d 641, 646 to 47 (4th Cir. 2005). See also
10 *U.S. v. Dunnigan*, 507 U.S. 87, 94.

11 "Perjury at the sentencing stage is proven by a
12 preponderance of the evidence. A District Court should address
13 each element of the alleged perjury in a separate finding."

14 The Fourth Circuit described what a District Court is
15 supposed to do in analyzing the issue of perjury in connection
16 with making a finding about it at sentencing in *United States*
17 *v. Murray*, 65 F.3d 1161, 1165 (4th Cir. 1995). "The
18 enhancement is warranted when the District Court finds the
19 defendant gave false testimony concerning a material matter
20 with the willful intent to provide false testimony rather than
21 as a result of confusion, mistake or faulty memory."

22 The Supreme Court in *Dunnigan* noted where "numerous
23 witnesses contradict the respondent regarding so many facts at
24 which he could not have been mistaken, there's ample support
25 for a finding."

1 The Court does find that the perjury enhancement was
2 properly scored by Probation.

3 I do specifically find that Mr. Peters repeatedly
4 committed perjury during his testimony at trial. He gave false
5 testimony concerning numerous material matters with the willful
6 intent to deceive rather than as a result of, say, confusion,
7 mistake or faulty memory.

8 Probation highlighted some of those.

9 In refining the issue associated with what he claimed
10 about investors. He claimed that he had always disclosed to
11 all investors how risky VisionQuest Capital notes were. That
12 was a complete lie. And the evidence demonstrated that
13 overwhelmingly.

14 He also testified that his employees were lying; that
15 he directed them to create false documents and lied to the
16 Securities & Exchange Commission. Stacey Beane, Travis Laska
17 and Justin Deckert gave compelling testimony which this Court
18 credits. And the documentary evidence is overwhelming and
19 shows that Mr. Peters committed perjury when he made -- when he
20 gave that testimony under oath in this court.

21 He also falsely testified that he did not send an
22 e-mail with the false document that was the focal point of
23 Count 20.

24 Each of these alone would be sufficient for the
25 perjury enhancement, but there were other, multiple instances

1 of it.

2 He, in direct contradiction of some witnesses -- for
3 example, a witness Malitas; he claimed that he never said that
4 8 or 9 percent was guaranteed to any investor. The Court finds
5 that to be a perjurious statement.

6 He claimed that he told the investors that this was a
7 high risk and risky investment. That was false. He did not
8 tell them that.

9 He claimed that there really was a line of credit
10 dating back to approximately 2010 or '12. That was complete
11 fiction and perjury.

12 He claimed his accountant said to create a backdated
13 line of credit document and that's why he did that in
14 connection with what he produced to the SEC. Complete perjury.

15 He also claimed that he disclosed to his investors
16 all the details of he and his wife's ownership of the Costa
17 Rican property. Complete and utter perjury.

18 He denied deleting files responsive to the SEC
19 examination and enforcement action in 2016 and 2017. There
20 were multiple witnesses who testified at trial to the contrary.
21 The Court credits that testimony and finds that Mr. Peters gave
22 false testimony concerning material matter with the willful
23 intent to deceive.

24 Again, I've already made the finding about the
25 centerpiece of Count 20, that he gave completely false

1 testimony about that. It was perjurious. It was not a
2 function of mistake.

3 He also, again, said that he never said to anyone to
4 backdate documents. Complete lie and perjury.

5 So I do find that Probation properly scored the
6 perjury enhancement.

7 The next objection is the defendant objects to being
8 held accountable for the loss that now has been clarified in
9 Government Exhibit 1. He objects to the inclusion of the
10 investment loss as identified as relevant conduct to the
11 offenses of conviction.

12 As we've talked about here in connection with the
13 third objection, he asserts he did not own or control the
14 investments listed on the table in paragraph 26 and that these
15 investments should not be considered relevant conduct under
16 Section 1B1.3 for the conviction.

17 In paragraph 1, in support, he claims that the
18 evidence demonstrated with respect to a number of these
19 investments the investors were provided with disclosure
20 statements, including private placement memoranda. And the
21 defense, thus, asserts that these are fundamentally
22 distinguishable.

23 Probation responds initially that this doesn't affect
24 the guideline range because under Section 2B1.1(b)(1)K there's
25 a 20-level increase if the loss is at least \$9-and-a-half

1 million but not greater than \$25 million. Here, obviously, the
2 loss is greater than \$9-and-a-half million. So at least for
3 purposes of guideline scoring it doesn't affect the guideline
4 range.

5 But alternatively, Probation notes that under
6 Section 1B1.3(a)2 the guidelines include, "All acts and
7 omissions described in 1B1.3(a)1 that were part of the same
8 course of conduct or common scheme or plan as the offense of
9 conviction." And again here, the offense of conviction for
10 purposes of this relevant conduct determination is the
11 conviction in Count 1.

12 As Probation properly notes and as the trial evidence
13 demonstrated, Peters is a Registered Investment Advisor. He
14 made numerous false statements concerning the Capital, LLC note
15 programs. And he also committed fraud in connection with the
16 other investments.

17 I credit the testimony and the evidence presented by
18 the FBI agent who just testified, Agent Hanish. There also was
19 testimony at the trial by Nicolas Kolbenschlag, by Stacey Beane
20 about these entities, by Sharon Harris about these entities,
21 and by Joe Slayton about these entities. And Michelle Bennett
22 also gave some testimony about these entities.

23 With respect to all of these, in determining the
24 issue of relevant conduct, the Court notes that the enhancement
25 applies to all acts and omissions described in subdivisions 1A

1 and 1B that were part of the same course of conduct or common
2 scheme or plan as the offense of conviction.

3 "For two or more offenses to constitute part of the
4 common plan or scheme, they must be substantially connected to
5 each other by at least one common factor, such as common
6 victims, common accomplices, common purpose or similar modus
7 operandi." Application Note 5BI in Section 1B1.3.

8 Here, I think Probation does properly note that these
9 are properly scored, particularly in light of the evidence
10 presented by Agent Hanish here today, the additional
11 documentary evidence.

12 There is a common plan or scheme or modus operandi;
13 to wit, Stephen Peters as a Registered Investment Advisor
14 breaching his fiduciary duties to his advisory clients with a
15 glaring conflict of interest in connection with investments
16 they made alongside of him. For example, Mr. Slayton did
17 testify at the trial that there was no discussion of that with
18 him by Peters. Likewise, Ms. Bennett talked about that.

19 The Court does find by a preponderance of the
20 evidence that this, in fact, is relevant conduct; that in doing
21 so I note that the charge in Count 1 involves being at a time
22 unknown but no later than January of 2009 and continuing to in
23 or about July of 2017, in the Eastern District of North
24 Carolina and elsewhere, the defendant, Stephen Condon Peters,
25 doing business as VisionQuest Wealth Management, LLC and

1 VisionQuest Capital, LLC, unlawfully, willfully and knowingly
2 by use of the mails and means of instrumentalities of
3 interstate commerce, directly and indirectly did employ
4 devices, schemes and artifices to defraud clients and
5 perspective clients, engage in transactions, practices and
6 courses of business which operated as a fraud and deceit upon
7 clients and prospective clients and engaged in acts, practices
8 and courses of business that were fraudulent, deceptive and
9 manipulative, all in violation of Title 15 United States Code,
10 Section 80B-6 and 80B-7 and Title 18 United States Code
11 Section 2.

12 The Court overrules the objection in light of the
13 evidence presented at the hearing and at trial. He was a
14 Registered Investment Advisor throughout the entire time. As
15 further support for this, I would also cite *U.S. v. Deacon*
16 *Robinson* 679 Fed.App'x 291, 296 (4th Cir. 2017).

17 The next objection is an objection to include the
18 \$550,000 loss concerning the Sharon Harris and the
19 Harris-Peters, LLC. The \$550,000 is the amount that the
20 Harrises had to pay to purchase the 5237 Theys Road mortgage
21 from BB&T Bank.

22 Peters argues that he "should not be held responsible
23 for this amount because S.H., as a member of Harris-Peters, LLC
24 was on notice that BB&T could foreclose on the property because
25 Harris-Peters, LLC had refinanced the mortgage on the property

1 after the initial purchase; thus, investor S.H. was not misled
2 about BB&T's right to foreclose on Harris-Peters, LLC owned
3 property." That's what the objection says.

4 Probation responds that Peters should be held
5 accountable for the \$550,000 as relevant conduct under
6 Section 1B1.3 because Peters violated his duties to disclose
7 and report conflicts of interest in investment as a Registered
8 Investment Advisor and that he made materially false
9 representations to the victims regarding this investment.

10 The Government presented overwhelming evidence of
11 this fact at trial. Mr. Peters defrauded the Harrises, in
12 fact, into buying the farm, into how it was financed. The
13 Harrises were left in a very difficult situation, facing an
14 option of either losing the farm to the bank or writing a check
15 and being able to save it. If Mr. Peters had not defrauded
16 them, none of this would have happened to them. This is
17 relevant conduct as described under the relevant conduct
18 standards that I have mentioned earlier. The objection is
19 overruled.

20 Peters finally objects to the total restitution
21 amount that has been clarified in the Government submissions
22 here as reflected in Government Exhibit 1 and Government
23 Exhibit 2. He argues that the amount should be reduced.
24 Essentially -- that at least as the PSR is drafted, he contends
25 that essentially -- what I'll talk about for purposes of this

1 objection -- that the victims in paragraph 26 of the PSR should
2 not be considered to be victims in this case; that the
3 investments listed in paragraph 26 were not part of the
4 defraud, scheme for which he was convicted of in paragraph 1.

5 Again, the Court -- in *Freeman, U.S. v. Freeman* 741
6 F.3d 426, 435, Fourth Circuit, did note that regardless of what
7 restitution or mechanism, the alleged victims must be the
8 victim of the offense of conviction. The Fourth Circuit also
9 discussed this principal in *U.S. v. Henoud*, 81 F.3d 484, 489
10 (4th Cir. 1996).

11 Here I do think *Henoud* carries the day in light of
12 the evidence. I credit Agent Hanish's testimony today in terms
13 of how the Government has gone about in Exhibit 2 compiling the
14 victims with respect to the offense of conviction; to wit,
15 Count 1, which was the investment advisor fraud and aiding and
16 abetting of Stephen Peters.

17 I think the evidence presented at the hearing today,
18 as supplemented by the trial evidence and the governing law
19 shows that these people are, in fact, victims. Again, they're
20 victims of the Registered Investment Advisor who, among other
21 things, in violating his fiduciary duties, in letting them
22 invest alongside him, after making statements to the effect
23 that he was getting 30, 40 percent returns on his investments;
24 that they wanted to get involved with him, lies associated with
25 his academic credentials, including allegedly having an MBA

1 from MIT.

2 The definition of victim in 18 United States Code,
3 Section 3663A(a)1 states that, "The Court shall order in
4 addition to or in the case of a misdemeanor, in addition to or
5 in lieu of any other penalty authorized by law that the
6 defendant make restitution to the victim of the offense or if
7 the victim is deceased to the victim's estate."

8 The victim under 3663A means, quote, "A person
9 directly and proximately harmed as a result of the commission
10 of an offense for which restitution may be ordered, including
11 in the case of an offense that involves as an element a scheme,
12 conspiracy, or pattern of criminal activity."

13 "Any person directly harmed by the defendant's
14 criminal conduct in the course of the scheme, conspiracy or
15 pattern," 18 United States Code, Section 3663A(a)2.

16 The victims identified in Government Exhibit 2, as
17 clarified by the testimony presented at the sentencing hearing
18 meet this definition.

19 Obviously, I'm aware of the *Freeman* case, but as I
20 mentioned, I think the *Henoud* case is much more on point here
21 when you go back and look at the charging language in
22 paragraph 1 of the Superseding Indictment. This is, in this
23 case, a defendant who committed investment advisor fraud and
24 aiding and abetting. The charge in Count 1, I think, is clear
25 that it can encompass more than just those who were victimized

1 by Stephen Peters in connection with the VQ Capital notes
2 program.

3 And the objection of the defense to providing
4 restitution to the victims in Government Exhibit 2 is
5 overruled.

6 I think I've addressed all of the objections.

7 Are there any objections from the United States to
8 the PSR?

9 MR. GILMORE: No objections, Your Honor.

10 I only note -- I'm going to offer up to the Court the
11 modified Exhibit 1 that makes reference to those other victim
12 issues that there was testimony about. I'm going to leave that
13 in the discretion of the Court, but if I can offer them up to
14 the Court.

15 THE COURT: That's fine. They'll be received.

16 And I would add as one additional out-of-circuit cite
17 that, I think, is appropriate to cite *U.S. v. Manzer*, 69 F.3d
18 222, 230 (8th Cir. 1995) as further reasons for overruling the
19 objection as to Government's Exhibit 2 and the victims in that
20 paragraph.

21 So for purposes of the advisory guideline
22 calculation, the probation officer did properly score the
23 guidelines in my view.

24 The base offense level is seven because of the
25 specific offense characteristics associated with loss.

1 He's gets a 20-level increase in paragraph 133.

2 He gets a six-level increase because the offense
3 resulted in financial hardship to 25 or more victims.

4 He gets a two-level increase because the offense
5 involved sophisticated means and the defendant intentionally
6 engaged in or caused the conduct constituting the sophisticated
7 means.

8 He gets a four-level increase because the events
9 involved a violation of securities laws and at the time of the
10 instant offense the defendant was an investment advisor.

11 He gets a four-level increase because he was an
12 organizer or leader of criminal activity that involved five or
13 more participants or was otherwise extensive.

14 He gets a two-level enhancement for obstruction of
15 justice in connection with the investigation, prosecution or
16 sentencing of the offense of conviction. The obstructive
17 conduct relates to the defendant's offense of conviction in any
18 relevant conduct.

19 The adjusted offense level is 45.

20 He does not get acceptance of responsibility.

21 Under the sentencing guidelines, the highest offense
22 level a person can get on the sentencing table is 43; thus, you
23 go back to a 43.

24 His criminal history category is I.

25 A combination of an offense level of 43 and a

1 criminal history category of 1 yields an advisory sentence in
2 this case of life imprisonment.

3 Because no term carries life imprisonment, no term
4 for the offenses of conviction in Counts 1 through 20, the
5 Court would be able to fashion a sentence to effectively give a
6 life sentence if the Court determined that a life sentence were
7 appropriate in this case.

8 So that's the advisory guideline range.

9 Any objection to the advisory guideline range from
10 the Government?

11 MR. GILMORE: No, Your Honor.

12 THE COURT: Any objection to the advisory guideline
13 range from the defense?

14 MR. CAMDEN: None, Your Honor.

15 THE COURT: All right. I'll hear -- what we'll do is
16 I'll hear first from Mr. Camden in connection with the 3553(a)
17 factors and then the defendant will have an opportunity to
18 allocute. I'll then hear victims allocute. I'll then hear
19 from Mr. Gilmore on behalf of the United States.

20 Mr. Camden.

21 MR. CAMDEN: Thank you, Your Honor.

22 The Court, obviously, is aware of its obligations to
23 form a sen -- fashion a sentence that is sufficient but not
24 greater than necessary to serve the interests of punishment and
25 sentencing that are articulated in Section 3553.

1 This is a waiting endeavor, obviously, today with an
2 advisory guideline range of life and the amount of time that
3 we're looking at here. So working through the various factors
4 that are set out in Section 3553, I'll begin with sort of a
5 combination of looking at incapacitation and deterrence.

6 Obviously, Mr. Peters will never be in a position
7 where he's ever going to be handling anyone else's money again.
8 And for that matter, this case has received some level of press
9 coverage and notoriety. And so even if he were to ever try to
10 do something like that, it would take someone only a few
11 moments on the internet doing a very basic Google search to
12 know his history and his past.

13 So respectfully, we would submit to the Court that at
14 least with regard to the type of offense that's brought us all
15 here today, the likelihood of that type of offense occurring
16 again is low for those reasons.

17 Looking then to the question of deterrence. Beyond
18 Mr. Peters being out in the public generally, you know, there
19 are -- there's no question that deterrence has value. To my
20 knowledge, most of the work and research in social science
21 that's been done with regard to deterrence places a very high
22 value on someone being caught and someone being convicted.
23 Where the correlation starts to break down a little bit is in
24 the length of the sentence that's issued to the person. And
25 I'm not aware of any substantial study, including studies done

1 by the Sentencing Commission, that have drawn that correlation.

2 And so, you know, in thinking of a sentence, would
3 someone similarly-situated to Mr. Peters say, well, you know, I
4 might do this if I only got 15 years, but if I got 30 there's
5 no way I would do it. The social science at least suggests to
6 us that is not how people think about these offenses before
7 they commit them out in the world.

8 So while deterrence is important and certainly the
9 Court's sentence today, as we noted in our Sentencing
10 Memorandum, is going to leave Mr. Peters as a cautionary tale
11 for all people in this industry moving forward, there is no
12 doubt about that.

13 A sentence that is called for in the advisory
14 guideline range, respectfully, we believe is excessive in
15 accomplishing that.

16 Turning now to the question of restitution. You
17 know, there are assets in this case. We have been working with
18 the Government to facilitate and streamline, gaining access to
19 those assets such that they can be used to repay the investors
20 in this case.

21 You know, obviously, while Mr. Peters is
22 incarcerated, his ability to earn an income and to move forward
23 is incredibly limited. Once he is released, hopefully if he's
24 able to receive the type of training that we talked about in
25 our Sentencing Memorandum, it will transition and put him in a

1 position where he can earn money. And as we noted he has -- he
2 has consistently said that he wants to pay these victims back.
3 And he remains in that place today, he wants to repay these
4 people.

5 Pivoting now to the history and characteristics of
6 the defendant. Mr. Peters is, obviously, someone who has
7 tremendous potential. He has tremendous potential to
8 positively impact people's lives.

9 He grew up in Pennsylvania. He managed to put
10 himself through college on football scholarships. He was a
11 Marine. He served honorably in that capacity. He worked for a
12 very well-recognized financial services institution before
13 entering into his leadership of the VisionQuest entities. And
14 so he has the capacity to work hard and do well.

15 He also has the capacity to positively influence the
16 lives of other people. The Court, obviously, had an
17 opportunity to review the character reference letters that were
18 submitted. Many of them provide really direct and touching
19 anecdotal experiences about how Steve has touched their lives.
20 And that ranges all the way from people who he went to high
21 school with and played football with to people who he was in
22 the Wake County Public Safety Center with.

23 So I think we have some reason to hope that he can
24 continue to live life in that way, both during the period of
25 custody and beyond that. And so his history and

1 characteristics suggest that there are -- there are values
2 there that can make him successful once he transitions beyond
3 this period.

4 This is a serious offense. There is no way to say it
5 otherwise. The Court has heard the testimony, it's aware of
6 the crimes alleged, what the jury's conviction was on these
7 issues. We take no issue with that.

8 Having said that, as noted in our sentencing papers,
9 it is interesting that we find ourselves with someone who has
10 never committed anything other than a few minor traffic
11 violations looking at a sentence that would be comparable to a
12 few different types of people, either people who have engaged
13 in just radically heinous activities, you know, murderers,
14 kidnappers who are engaging in all sorts of inappropriate
15 conduct or people who have done nothing but live an entire life
16 of criminal activity which puts them over into category six and
17 so that's where they're ending up.

18 And while I -- I don't say that to discount the
19 importance or the significance of what's occurred here because
20 it is significant. We would respectfully submit that there is
21 a distinction between this type of case and those other types
22 of cases, where you see a more egregious and heinous conduct
23 and how that's captured under the guidelines.

24 Turning now to the question of unwarranted sentencing
25 disparities. In some ways, this question is also tied into how

1 the guidelines analyze these cases.

2 We submitted a few cases that were -- while not
3 directly on point, they involved investment advisors or people
4 sitting in fiduciary capacities who were convicted of frauds
5 and Ponzi-type schemes. And for most of those cases, you see
6 departures downward from the advisory guideline range.

7 Interestingly, in the case of *Keys* you see that even
8 post trial and even in post trial where there was also some
9 obstruction allegations.

10 And I would say, while I didn't submit all of these
11 to the Court because there is no point in burying the Court,
12 the Court is aware of these issues, I was able to find a very
13 helpful table from a sentencing memorandum prepared for a court
14 in the Middle District of Tennessee; where it walks through
15 similar financial fraud cases, not limited to investment
16 advisors but people who are coming in for securities law
17 violations, who are coming in for obstruction of SEC crimes.

18 And what you see over and over and over again is in
19 instances where the guidelines call for life imprisonment or
20 360 months to life imprisonment, judges across the country are
21 routinely varying it downward. And they're varying downward
22 fairly substantially, which I would submit to the Court really
23 speaks to this idea of avoiding sentencing disparities because
24 that seems to be a trend. Not only a trend locally, but a
25 trend that spans all the way from California to New York, to

1 Iowa, to Texas, to Massachusetts and even here in North
2 Carolina. It speaks to, perhaps, some flaws on how the
3 guideline captures some of this and a need to deal with that.

4 But what it really does is, it also speaks to the
5 final question, which as I was preparing for today I think was
6 the most complex to deal with, which is issuing a just
7 punishment.

8 And I think that when I looked at these cases, not
9 only do I think of them from sentencing disparities, but it's a
10 moment where there's a number of people who have been sitting
11 in a position not unlike where you sit today, they have to make
12 a very difficult decision about a human being's life, weighing
13 out all of these variables.

14 And the fact there have been typically substantial
15 downward variances is suggestive of, for lack of a better way
16 to put it, an aggregated wisdom, a collective wisdom that
17 people have been drawn to in thinking through these type of
18 cases.

19 And I think, perhaps, that's guided in no small part
20 by the fact that, as we stand here today, we are -- we are a
21 couple years removed from the underlying facts. We are a few
22 months removed from the trial of this matter. The wounds are
23 fresh. People have been hurt. And it's very real and it's
24 very visceral. And that has to be accounted for.

25 By the same token, we're looking at a guideline range

1 in a sentence that puts us out 10 years, 20 years, 30 years.
2 And as the Court is well-aware, we have no parole and the Court
3 no longer has a vehicle, like Rule 35, because the amendments
4 have now positioned that rule in the hands of the government.
5 And so the Court is in the unenviable task of now only thinking
6 through this with the lens of where we sit today, but what does
7 this look like 10 years down the road, 20 years down the road
8 or 30 years down the road.

9 In my own life, 10 years down the road I was handling
10 my first CJA case as a defense attorney, 20 years ago I was
11 starting law school for the first time, 30 years ago I was 12.
12 It's a long time.

13 And I suspect that everyone involved will be very
14 different as we work our way forward.

15 So, Your Honor, we present all of this to you to
16 suggest that in this case, unfortunately and respectfully, I
17 think the guidelines are not a terribly helpful tool to help
18 this Court wrestle through it.

19 I do believe Section 3553 is. And I think weighing
20 through all these factors a substantial downward variance would
21 be the appropriate outcome in this case.

22 THE COURT: Thank you, Mr. Camden.

23 At this time I'll hear from Mr. Peters, if you'd like
24 to make a statement, sir.

25 THE DEFENDANT: Your Honor, I am very sorry for the

1 investment losses that my former clients realized and the
2 impacts that they've had on their lives. They certainly didn't
3 sign up for this when they became clients of my firm. They
4 certainly didn't sign up for the investment losses that they
5 suffered and all that's transpired over the last two-and-a-half
6 years.

7 It's really hard for me to imagine them sitting here
8 right now before you, but my hope is that I'll -- I'll be given
9 the opportunity to repay back all these investors since that
10 was always my intention.

11 Outside of my hopes for my former clients, I have
12 hopes for my family. I have two children; Sarah, 13, Robert,
13 10. I have a great desire to play an active role in their
14 lives so that they're given the best environment to thrive to
15 their truest potential.

16 Lastly, my beloved wife, Amy, who last month, on
17 August 15th, we celebrated 21 years of marriage. Amy is my
18 greatest love.

19 And I hope the punishment that you're going to hand
20 down to me doesn't prevent me from playing an active role as a
21 husband and a father.

22 THE COURT: Thank you, Mr. Peters.

23 At this time I'll hear any victim allocution and then
24 I'll hear from Mr. Gilmore.

25 MR. GILMORE: Thank you, Your Honor.

1 Your Honor, late last evening I received -- we
2 continued to receive statements from victims as we approached
3 the sentencing.

4 I received one last night that I would like to read
5 to the Court in lieu of their appearance because they could not
6 be here and also because this victim died. And so I would like
7 to begin by reading the statement of Martha Jane Vincent.

8 "I'm writing this statement for my mother, Martha
9 Jane Vincent, because she's unable to write it for herself.
10 She died last year, still waiting to see if she could recover
11 any of the money she had invested with Stephen Peters. My
12 mother was born in 1931, who lived through The Great
13 Depression. She learned to save every sheet of paper, every
14 piece of bread, every penny because you may not get another for
15 a while. World War II followed. She continued to carefully
16 manage all of her limited resources. She weighed each decision
17 thoughtfully and checked every receipt she received three times
18 to be sure it was correct. My mother married and started a
19 family and her husband, my father, made a decent living for the
20 time. There was enough money for necessities but little more.
21 My father died in 2003 and my mother began to work with a
22 financial manager. Kevin Deckert guided her in her decision
23 making. Mr. Deckert was honest and had a great respect for my
24 mother's keen mind and attention to detail. She chose to go
25 with Mr. Deckert when he went to work for VisionQuest. About a

1 year after being with VisionQuest, one of the employees
2 contacted my mother to offer her a financial investment deal.
3 He did not go through Mr. Deckert but approached her directly.
4 In her usual manner, she asked many questions and had many
5 conversations with the employee. She also asked to speak to
6 Mr. Peters about the investment; and he assured her that her
7 money would be safe and that she would earn a yearly return.
8 My mother spoke with me several times about the assurances she
9 had received from the employee and Mr. Peters. The \$100,000
10 she invested with Mr. Peters was the money to pay for her
11 grandson's college years, hopefully medical school. When my
12 mother learned of the allegations against Mr. Peters she went
13 into a depression fueled by shame. She was ashamed that she
14 had been taken advantage of in such a deceitful manner. She,
15 who had checked so carefully and been assured so often that her
16 money would be safe so that she could help her grandson with
17 his education. Mr. Peters lied to my mother repeatedly and
18 took her hard-earned money. He took advantage of a person who
19 expected him to be the trustworthy person he purported to be.
20 His deceitful actions caused my mother to experience a deep
21 sense of shame and sadness at the end of her life. My hope is
22 that he will come to feel some of this shame as he sits in jail
23 and considers the ways in which his greed brought pain and
24 financial hardship to people who trusted him to help them."

25 Your Honor, before I ask other victims to come up,

1 what I'll do -- because I know not all of them are going to
2 speak, I would ask any victims who are here in this case to
3 please rise at this time.

4 (People in audience rising.)

5 MR. GILMORE: Thank you.

6 Your Honor is aware there are many victims that are
7 involved in this case. Some are here; some are not. We
8 advocate for all of them.

9 Your Honor, at this time I would invite Mr. Anthony
10 or Ms. Marie DiPietro to allocute, if they are here.

11 I've received a letter from them, Your Honor.

12 And as I've stated, many folks often choose not to do
13 that at the last minute. We advocate on their behalf today.

14 Your Honor, I would also -- I would invite to
15 allocute Mr. Eric Harris.

16 MR. HARRIS: Excuse me, Your Honor. This has been a
17 very difficult two years. Sorry. Thank you.

18 So I'm Eric Harris. My wife is Sharon Harris, whom
19 you've heard testify during the trial. And I appreciate the
20 opportunity to speak and provide some information to this
21 Court.

22 Forgive me.

23 Since Steve Peters' deceptions came to light, our
24 monthly interest payments, which were promised by Peters,
25 stopped and we've had to find another source of income. We had

1 to give up several dreams, plans and deal with the pain and the
2 humiliation of being so thoroughly deceived.

3 And what angers me the most about Peters swindling us
4 is this: He stole three generations of my wife's family's
5 work. Sharon was given money earned by her grandfather and
6 father who taught her financial responsibility. She has been
7 incredibly respectful and responsible for that money, although
8 only 21 years old when she got her first trust. She has never,
9 not once, splurged or done anything risky financially. She
10 thought only about wisely using it and protecting her good
11 fortune and passing it on to future generations. That's why,
12 after we started a family in Raleigh, she wanted a local
13 financial expert and decided to ask for help from Steve Peters,
14 unfortunately. He, in turn, deceived us and took our money, a
15 large part of three generations of her family's work gone
16 forever.

17 My wife did nothing wrong. All she did was trust
18 someone which isn't a problem unless that person is a crook.
19 She has blamed herself, but it's Steve Peters who betrayed us.

20 Judge Dever, because our relationship with Steve
21 Peters went beyond just having him as a financial advisor, we,
22 more than other victims, have seen his callous disregard for
23 others. So I want to tell you how even after his arrest Steve
24 Peters has continued to exploit and victimize us.

25 You heard about the loan. I just want to add that --

1 note that conveniently for Steve Peters, our purchasing the
2 loan on which he defaulted also saved his farm. This was
3 intensely galling because Steve and Amy promised to take care
4 of this and there would not be any problem for us; that they
5 would -- guaranteed that they would take financial
6 responsibility.

7 So for almost two years we've had to live next door
8 to them, within sight of us, watching them happily go about
9 their lives, living debt-free on our dime. And there has been
10 no acknowledgment, no apology, no thank you from Steve or Amy
11 Peters.

12 Next, without any notification from Steve, the
13 manager of our LLC, they let their existing insurance policy
14 lapse. We needed to ensure that the Peters were somehow
15 maintaining appropriate liability insurance because, otherwise,
16 we could be at risk for a lawsuit brought about by any activity
17 on their stable business because it was Harris-Peters property.

18 But, again, Steve, our supposedly responsible
19 manager, refused to give us any information about their
20 insurance coverage. We had to spend hundreds of dollars in
21 legal fees just to get from him a copy of the policy.
22 Strangely, that new policy had an exclusion for, and I quote,
23 "any and all equine activities," even though they continued to
24 operate their stable right in front of us.

25 But because Steve refused to act properly as manager

1 or resign, there was little we could do unless we were going to
2 spend thousands more in legal fees or somehow purchase a
3 separate insurance policy. This has caused us enormous stress
4 this past year.

5 I'm sorry.

6 Even after being convicted and being in jail and
7 having demonstratively failed to do his job as manager, Steve
8 again refused to resign; saying he would do so only if, and I
9 quote, "The HARRISES covenant not to sue Stephen Amy and
10 Whispering Hope Stables, VisionQuest Wealth Management, LLC,
11 VisionQuest Capital, LLC or any entity affiliated in any
12 respect with Steve or Amy Peters."

13 Unbelievably, at the time of this preposterous offer,
14 he, our supposedly competent manager, failed to inform us that
15 nine days before they had stopped payment on their insurance
16 once again and was in the process of letting it lapse; putting
17 us at risk.

18 We declined their offer and so, at more expense, had
19 to go to business court to get him removed and a receiver
20 appointed.

21 Finally, Your Honor, I have to tell you, Steve and
22 his wife Amy have violated this Court's order to maintain in
23 good condition the farm property and other assets to be sold
24 for restitution. Vehicles and the property have been damaged
25 and neglected, greatly reducing their value to all victims.

1 In sum, Peters has never acknowledged that he's done
2 anything unethical or illegal and his actions towards us showed
3 continued callous disregard, no remorse, no concern about
4 restitution.

5 I don't believe that our suffering is relieved by
6 someone else's suffering, but I do believe in protecting
7 society, in restitution and reducing further victim suffering.
8 So I hope for three things: Given Peters continued pattern of
9 predatory exploitation of others, I ask that he be kept away
10 from society for as long as possible; two, that he's -- so that
11 he is more likely to feel the impact of what he has done to us
12 and others, I ask that he not be placed in a minimum security,
13 country-club-type prison; and finally, to minimize the chance
14 that we will ever have to see his family again, even
15 accidentally, I would ask that Peters be incarcerated outside
16 of North Carolina.

17 Thank you.

18 THE COURT: Thank you, Mr. Harris.

19 MR. GILMORE: Your Honor, I want to make sure I
20 extend an invitation to any other victims who are present who
21 may wish to allocute at this time.

22 If anyone else wishes to allocute, this is the time.

23 Okay.

24 Your Honor, I know that you've received the various
25 letters -- in addition to what you've heard, various letters

1 that we've sent to the Court illustrating the suffering that
2 these victims have endured.

3 I think that's all we have for allocution, Your
4 Honor.

5 THE COURT: All right. I want to make sure -- is it
6 Stonebraker? The individual who -- I'll hear him, if he wants
7 to come up and explain to me and identify himself as a victim,
8 but if he's not a victim, then he doesn't get to allocute as a
9 victim.

10 Is he here?

11 Do you want to come up and speak, sir?

12 MR. STONEBRAKER: Your Honor --

13 THE COURT: Please state your name.

14 MR. STONEBRAKER: Jeff Stonebraker.

15 I had prepared a statement. And as I've been, I
16 guess, talking with Attorney Gilmore and also Camden, Attorney
17 Camden, I -- and listening to you in terms of what a victim is,
18 I guess my definition is different. And I'll -- I see mine as
19 I have lost money and that, to me, is what I have been
20 victimized of.

21 THE COURT: Do you want a restitution order? Do you
22 want the money back to the extent -- I'm going to enter a
23 restitution order and assets will be sold. But if someone
24 says, I'm not a victim of Stephen Peters' fraud, then they
25 don't get to partake in that.

1 So I guess, my first question for you is: Do you
2 consider yourself a victim of Stephen Peters' fraud?

3 MR. STONEBRAKER: I do not.

4 THE COURT: Okay.

5 MR. STONEBRAKER: Thank you.

6 THE COURT: Thank you.

7 I'll now hear from Mr. Gilmore on behalf of the
8 United States.

9 MR. GILMORE: Thank you, Your Honor.

10 Your Honor, I know you've read the PSR. It's a
11 horrible novel of one event after another happening to so many
12 of Mr. Peters' clients who trusted him with their life savings,
13 with their hard-earned money.

14 I'm not going to be able to adequately capture all of
15 what's already in the PSR and I know the Court's read that.

16 I will not be able to capture the pain, agony, the
17 anxiety that these people have been through; that they've
18 written in their letters to you in the questionnaire responses,
19 so I'm not even going to try to do that.

20 What I am going to do, though, is tell you that if
21 ever there has been a case where the guidelines get it right,
22 this is it. And when I say they "get it right," I say that
23 insofar as they recommend that this man should go away for the
24 rest of his life.

25 Now, we recognize that there's no life statutory

1 maximum on any of these offenses, and so that's expressed in
2 the form of years. And we know that the Court is going to be
3 able to fashion a sentence that's appropriate for Mr. Peters.

4 So when I say I think the guidelines get it right,
5 they get it right insofar as making sure that he will never do
6 this to anyone else.

7 They get it right insofar as making sure that no one
8 else will have to suffer at his hands. They get it right
9 insofar as making sure that other people, not just in this
10 district but around the country, know that there is a real,
11 permanent solution when you defraud people the way he's done
12 and in the way that the guidelines capture.

13 He's been treated fairly by the guidelines, Your
14 Honor. The guidelines take into account the nature and
15 circumstances of his offense.

16 As you've heard, there are lots of Ponzi schemes that
17 are perpetrated out there in the world, but they're not all the
18 same. They are not all the same. I have had some before this
19 Court myself; the guidelines are substantially lower, and they
20 are lower for a reason. They're lower because those people did
21 not commit such grotesque, grotesque conduct because those
22 people did not defy the evidence at trial by perjuring
23 themselves.

24 Each of these cases should be treated individually.
25 The guidelines do that.

1 So in terms of the nature and circumstances of this
2 offense, they capture it. The crime lasted for almost 10
3 years; 2008 to 2017. It captures the loss to these folks.
4 \$15 million gone.

5 In some respects, it doesn't capture what these
6 people really thought they were getting. It takes account of
7 the money that they gave over -- and then they got some back,
8 but this is a problem we have in every single fraud case where
9 we talk to victims and we tell them, no, you're not going to
10 get a restitution order for all of the money that you're out.
11 You're only going to get the amount that you gave less the
12 amount you got back. These people didn't go into these
13 investments expecting to get nothing back. They expected to
14 get their safe principal back. They're not going to get
15 everything that they were entitled to.

16 So the guidelines capture it in some ways and in some
17 ways they don't.

18 The guidelines capture their substantial financial
19 hardship. And I've stated some of those things. I know the
20 Court has read them. Everyone has a horrible, sad story about
21 what they lost because of Mr. Peters' deception.

22 They capture the fact that he was sophisticated in
23 the way he did this; the way he ran the money through the
24 VisionQuest Wealth parent company to which he only had access.
25 It captures the way in which he continually deceived people

1 about what was happening with the money. He even got people to
2 do it for him, through his employees. The guidelines take
3 account of that deception, using other people to do it;
4 incentivizing them to do it.

5 The guidelines take account of the fact that he knew
6 better. He was a registered financial advisor. Evidence at
7 this trial showed that he literally wrote the book on what his
8 obligations were. And day in and day out, he violated those
9 obligations as their fiduciary by deceiving them, by stealing
10 their money, by tricking them.

11 He obstructed justice. The guidelines take account
12 of that. And it was not one false document, Your Honor.
13 You've seen evidence that this was a concerted, ongoing effort
14 to deceive the SEC in writing, verbally, in-person visits,
15 hiding documents, deleting files. You name it, he did it. And
16 he wasn't just a participant in it, he was at the helm
17 micromanaging the fraud on the SEC. The guidelines give him an
18 appropriate enhancement for that.

19 The guidelines lastly, Your Honor, they take into
20 account of the fact that he has never accepted responsibility
21 for what he did to these people. He didn't accept it when he
22 was first charged. He didn't accept it throughout the trial
23 and, as you've just heard, he doesn't even accept
24 responsibility for it today.

25 He said, "I'm sorry for their investment losses."

1 His words just now. He's not sorry for hurting them, for
2 deceiving them, tricking them. He's sorry the investment
3 didn't pan out the way we thought it would. That's what you
4 just heard.

5 And that's striking in this case, Your Honor. It's
6 striking when you move beyond the guidelines to look at 3553(a)
7 because one of the things you heard about in the Sentencing
8 Memorandum is the Madoff case, and how he got a big
9 downward departure in his case --

10 THE COURT: He actually got maxed out. Believe me,
11 it's not the first time I've read in the memo. He pled guilty
12 to nine counts. Judge Chin maxed him out on every count at age
13 71. That's actually the facts of Madoff. He pled guilty. It
14 wasn't massive obstruction of justice. And Judge Chin, with a
15 guideline of life and a request to downward very extensively
16 because he was 71, instead imposed a sentence that gave Mr.
17 Madoff the maximum on each count and ran them consecutively.
18 And he did it in 2009, just as Mr. Peters was revving up the
19 fraud scheme that brings us here. And even talked about it and
20 assured Mr. Cahoon, a witness in this trial, that this is not a
21 Bernie Madoff situation.

22 MR. GILMORE: That's right, Your Honor.

23 I was going to address that with the Court, but I
24 think you've got it.

25 And I read the transcript of the Madoff case and the

1 thing that struck me the most was however deceptive, however
2 evil he may have been, at the end of the day, when he's sitting
3 in judgment, he turned to his victims and he said, I'm sorry
4 for what I did; I'm sorry for deceiving you; I'm sorry to my
5 employees for deceiving them, I'm sorry to the regulators. He
6 said all of those things in his sentencing.

7 And you've heard none of that here because he doesn't
8 believe to this day he did anything wrong.

9 And that gets to the issue of deterrence under
10 3553(a). An adequate punishment. People must know that when
11 you commit a crime like this and you obstruct and you never
12 accept responsibility for it, even in the face of overwhelming
13 evidence, there is going to be a day of reckoning. And today
14 should be that day of reckoning, Your Honor.

15 We're asking the Court to fashion a sentence that
16 ensures that Mr. Peters will never again leave the prison
17 system.

18 Your Honor has great flexibility within this
19 guideline to do that. Whatever that number is, we ask the
20 Court to remember to add an additional two years, an additional
21 two years for a real-life victim who was out, had left the
22 business, and who had used -- his name and identity are used as
23 a way to try to cover up and give Mr. Peters a
24 get-out-of-jail-free card.

25 So whatever the sentence the Court fashions, I want

1 to make sure that we also advocate for the additional two years
2 on top of it for that obstructionist identity stealing conduct.

3 Your Honor, we also, as I've stated, advocate on
4 behalf of the victims here today. We are seeking restitution.
5 I know the Court has already addressed the issue of forfeiture,
6 but we do ask the Court to incorporate that into the Court's
7 order.

8 THE COURT: Do you want to be heard now?

9 I know that we've got supplemental filings from third
10 parties, again not appearing here at this time. Is the United
11 States in the process of working with them to, perhaps, achieve
12 something on a consent basis with respect to the interests that
13 the innocent third parties have asserted in connection with
14 property that otherwise would be forfeited?

15 MR. GILMORE: Yes, Your Honor. We are addressing
16 those issues. We're not prepared to wrap them all up today.

17 But a particularly thorny issue is the land
18 ownership, insofar as there's a conservation on the property.
19 It's a thorny issue. So that's a matter we're still working
20 through and I imagine we'll be taking up by motion at a later
21 time.

22 THE COURT: Again, if you-all haven't talked about it
23 with counsel, do you have a sense about how long before I'll
24 get some filings on that? I mean, are we talking 30 days, 60
25 days?

1 Mr. Harris.

2 SPEAKER: Yes, Your Honor.

3 So we're not really sure exactly. We're still
4 waiting on a couple of the final notice deadlines to run. And
5 at that point then we can definitively say all claims are in.
6 But we are going to file that since it's an ongoing process, as
7 you can imagine.

8 The Peters were removed from the property in August.
9 We got appraisals done just in the last few weeks. And so
10 we're now in the process of trying to work on the numbers now
11 that we have the numbers in front of us.

12 And we have ongoing communications with the Harris'
13 counsel, who I believe is represented here today, as well as
14 the Triangle Land Conservative Counsel to try to resolve the
15 issues. So we hope as soon as possible, but I'm not able to
16 give you --

17 THE COURT: Okay. That's fine. Just keep me
18 advised. Thank you.

19 MR. GILMORE: I do want to note one of the arguments
20 made by the defense is with respect to his cooperation with the
21 forfeiture issues. It's almost laughable, Your Honor, when you
22 have a case where we had to go all the way to trial and we
23 actually had a forfeiture trial. And then there's an argument
24 that he participated and cooperated in the forfeiture process
25 when that's going to happen anyway. Same issue came up in the

1 Madoff case. He shouldn't get credit for that.

2 And if I add to that what you heard from Mr. Harris
3 just now and what is of record in filings before this Court, he
4 wouldn't concede control of Harris-Peters to the Harrises even
5 after being convicted of the fraud. That is not cooperation.
6 That's obstruction.

7 So, Your Honor, we ask that you take that into
8 account as well in fashioning a sentence in this case.

9 THE COURT: Thank you.

10 Mr. Camden, anything else?

11 MR. CAMDEN: Nothing further, Your Honor.

12 THE COURT: All right. We'll be in recess until 1:05
13 and then I'll announce the sentence.

14 (The proceedings were recessed at 12:34 p.m. and
15 reconvened at 1:05.)

16 THE COURT: Mr. Gilmore, did you need something?

17 MR. GILMORE: Yes, Your Honor.

18 I wanted to bring to the Court's attention that
19 during the course of the sentencing hearing or just following
20 it, we heard from a victim who is actually here today and would
21 otherwise fall within the framework of Government Exhibit 2.
22 We just learned about this. And this is the problem with the
23 VNS system, is that if someone moves and we don't have the
24 right contact information, we just don't know. But they are
25 here and so I would ask the Court to include these losses.

1 And I can either make a brief record of those or I
2 can ask the Court under 3664(d)5 to consider, in a case like
3 this, holding open restitution for a period of time so that --
4 people learn about these things when they go into the press.
5 And I think it would be, as a precaution, worthwhile to make
6 sure that other victims have a chance --

7 THE COURT: What do you want? How much time?

8 MR. GILMORE: Forty-five days.

9 THE COURT: I'll let you make a record as to this
10 other victim now. And then if you get anymore that fall into
11 this category, I would ask that you make a record of those as
12 well in terms of the basis that agent -- the agent testified
13 about.

14 MR. GILMORE: We will do that, Your Honor.

15 With respect to this victim, the initials are M.U.
16 and C.U. This family was contained on Government Exhibit 3,
17 which there is already a record of that investment -- these
18 investments I'm going to be talking about as well as that
19 investors' investment into those. The investments are
20 Rosewood, Spindale, Clear Lake, and Tall Oaks. And the amount
21 that the Government is asking on behalf of M.U. and C.U. takes
22 into account monies paid back. So it's not just the principal
23 amount but also takes into account monies paid back. The total
24 amount across all of those entities is \$188,415.32. They were,
25 in fact, clients of VisionQuest Wealth Management. And, in

1 fact, left that advisory relationship as a result of the
2 failure of these entities.

3 So that would -- if those losses are considered in
4 the restitution figure, Your Honor, the total restitution
5 amount would be \$15,063,624.30.

6 And that figure assumes that amounts for the
7 defendant's parents and the Stonebrakers are not included in
8 that restitution figure.

9 THE COURT: Thank you.

10 Mr. Camden, any objection to holding restitution open
11 for 45 days?

12 MR. CAMDEN: No objection, Your Honor.

13 We would also persist in our objections with regard
14 to that amount.

15 THE COURT: Right. Propriety of -- for those
16 category of victims, I understand; that's all preserved.

17 (Pause in the proceeding.)

18 THE COURT: All right. Mr. Peters, the Court
19 recognizes its obligation to impose a sentence sufficient but
20 not greater than necessary to comply with the purposes set
21 forth in the statute.

22 I have considered all arguments that your lawyers
23 have made, both here in court and in the Sentencing Memorandum.
24 I have considered your statement. I have considered the
25 position of the United States. I have considered the advisory

1 guideline range.

2 Among other things, I'm to consider the nature and
3 circumstances of the offense and the history and
4 characteristics of the defendant, the need for the sentence
5 imposed to reflect the seriousness of the offense, to promote
6 respect for the law and to provide just punishment, the need
7 for the sentence imposed to deter others who might choose to
8 engage in the criminal behavior that brings you here, the need
9 for the sentence imposed to protect the public from further
10 crime by you, the need for the sentence imposed to provide you
11 with needed educational, vocational training, medical care or
12 other correctional treatment in the most effective manner. The
13 statute lists numerous other factors. I've considered all
14 those factors, although I won't mention each one of them
15 individually.

16 As for the nature and circumstances of the offense,
17 we obviously had 20 offenses at issue in this case. The jury
18 convicted you of all 20; investment advisor fraud and aiding
19 and abetting that took place from on or about January 2009 to
20 on or about July 2017; fraud in the sale of unregistered
21 securities from January 2009 to July 2017; wire fraud and
22 aiding and abetting with the specific counts in 3 through 11,
23 offense dates between August of 2013 and May of 2017; money
24 laundering in Counts 12 through 15, the offenses of conviction
25 being between December 2012 and September 2016; Count 16,

1 conspiracy to make and use false documents and to falsifying
2 concealed records from in or about September 2016 to
3 November 2016; make and using false documents and aiding and
4 abetting in so doing from September 2016 to on or about
5 November 2016; falsifying and concealing records and aiding and
6 abetting from September 2016 to November 2016; corruptly
7 endeavoring to influence a federal agency from on or about
8 March 6th 2017 to July 2017; and aggravated identity theft and
9 aiding and abetting on or about October 13th, 2016.

10 All extraordinarily serious offenses.

11 Moreover, they're compounded when you take into
12 account the issues associated with relevant conduct.

13 Obviously, the jury convicted you of 20 counts, but the
14 evidence at trial demonstrated that you perpetrated an
15 extraordinary fraud, scheme from 2009 until the fraud, scheme
16 ended in 2017.

17 You also, as part of the fraud, scheme, obstructed
18 justice repeatedly in connection with the SEC examination and
19 enforcement action and continued the obstruction of justice
20 while testifying in the trial in this case.

21 There was a veritable tsunami of evidence in this
22 case that demonstrated conclusively the extraordinary fraud
23 that you perpetrated on all the victims in this case and each
24 of these victims is a real human victim.

25 A number of them testified and I think they testified

1 in open court and so their names are known. And I'll mention
2 them because every one of them is a real person, a real person
3 who, in my view, constitutes the backbone of this country.
4 People who quietly get up every day and go to work and earn and
5 save and dream. And all these witnesses said, "but the one
6 thing I'm really not too good at is investing and I need
7 somebody I trust to help me."

8 Molly Bot, Sharon Harris, David Fellenstein, Keith
9 Gunter, John Jennings, Joe Leery, Beverly Murray, Ricky Evans,
10 Patricia Easley, Michael DeSarno, Joe Slayton, Michael Torres,
11 David Boose, John Robins, James Whitehead, Terry Moore, Linda
12 Terry, Karl Cahoon, Lynn Burton, David Dunklee, Jeffrey
13 Nottingham, Benjamin Lybrand, Michelle Bennett, Paul Fairfax,
14 Roberta Ross, Ann Toler, Andrew Putterman, Ashley Wilson, Harry
15 Malitas. All of these people came to court and testified about
16 the reality of the fraud that you perpetrated as a Registered
17 Investment Advisor.

18 Again, as the evidence at trial showed and as we've
19 talked about here and as reflected in Government's Exhibit 1.2,
20 as an investment advisor you are a fiduciary to your advisory
21 clients. This means that you have a fundamental obligation to
22 act in the best interests of your clients and to provide
23 investment advice in your client's best interests. You owe
24 your clients a duty of undivided loyalty and utmost good faith.
25 You should not engage in any activity in conflict with the

1 interest of any client and you should take steps reasonably
2 necessary to fulfill your obligations.

3 You must employ reasonable care to avoid misleading
4 clients and you must provide full and fair disclosure of all
5 material facts to your clients and prospective clients.

6 Generally, facts are "material" if a reasonable investor would
7 consider them to be important.

8 You must eliminate or at least disclose all conflicts
9 of interest that might incline you, consciously or
10 unconsciously, to render advice that is not disinterested. If
11 you do not avoid a conflict of interest that could impact the
12 impartiality of your advice, you must make full and frank
13 disclosure of the conflict.

14 You cannot use your client's assets for your own
15 benefit or the benefit of other clients, at least without
16 client's consent. Departure from this fiduciary standard may
17 constitute fraud upon your clients.

18 You committed egregious acts of fraud against these
19 clients of yours who came to you thinking that you, in fact,
20 were what you purported to be, a trusted advisor, someone who
21 had their interests at heart, ahead of your own. The evidence
22 at trial demonstrated how untrue this was, how untrue you were
23 to your obligation as a Registered Investment Advisor.

24 I cannot state how seriously I consider these crimes
25 to be that you perpetrated against these victims.

1 As for your history and characteristics, "you're 45
2 years old; you came from a stable, two-parent home; you're a
3 college graduate; you've been married for 21 years; have two
4 children; you're in good health, no issues of substance abuse;
5 you served honorably in the Marine Corps.

6 You started the company -- the VisionQuest companies
7 in 2005. The fraud took place essentially from about 2009
8 through 2017 and then, of course, continued with your perjury
9 here at trial.

10 I've read the letters from all those who have written
11 in in support of you. Letters in many cases are very moving.
12 There are still people who like and support you and care about
13 you. But the evidence in this case demonstrates how you lost
14 your way. There is no other thing to conclude, that for
15 whatever reason greed consumed you for the better part of a
16 decade.

17 We saw at trial Exhibit 2A, a list of items that you
18 wanted to have, possessions; and then a checkmark on whether
19 you had gotten them yet or not. And, of course, desiring to
20 have possessions and buying possessions, no crime in that. But
21 there is a crime in stealing from your clients to try and
22 fulfill the greed that consumed you. And steal you did. And
23 the deceit and the fraud followed day after day, week after
24 week, year after year. And you harmed real people in doing it.
25 You then compounded it by laundering the money, by obstructing

1 the SEC examination and enforcement action, and capped it off
2 with perjury in this court.

3 In connection with this case -- and I've seen this in
4 other cases. Typically, it's in Title III wiretap cases, where
5 you have recordings of people who were captured, they don't
6 know they're being recorded and it gives you a window into who
7 that person really is. And in this trial there were such
8 recordings because some people in your organization were brave
9 enough to come forward because they knew at the end the fraud
10 that you had been perpetrating.

11 And you admitted to Stacey Beane on the tape that you
12 had from 2008 to 2017 taken out roughly \$4.8 million total over
13 that period. And you explained how you were going to replace,
14 quote, "misplaced loan documents." As the trial evidence
15 showed, that was a complete lie.

16 And then you needed Stacey Beane to help you backdate
17 information so that the money that you stole somehow could
18 correspond with a completely fictitious loan. And you
19 instructed her to make sure that the money matched the line of
20 credit that I'm going to put up, you know, establish, didn't
21 add after the fact. But that's what was going on in the tapes.

22 Steve Laska, who also went to the FBI. And you
23 admitted, quote, "You know I'm not going to sit here and say
24 that there isn't a conflict of interest," end quote. You knew
25 it. You knew it all eight years you were engaged in this fraud

1 and you did it anyway.

2 Then you had to get around it because you saw it all
3 crumbling. And so you needed to come up with a plan to deceive
4 your clients yet again. I'm going to, you know, get them to
5 sign the disclosure statements.

6 You also talked with Mr. Laska about claiming that
7 you're going to hang your hat that we don't recommend or sell
8 anything to the clients. But, of course, that list of victims
9 that I read, when they came in here and testified in this court
10 and they were asked about the information in the Private
11 Placement Memo that you secretly essentially attached to the
12 e-mail of May 31st, 2017 -- and they were all essentially
13 repeatedly asked, "Were you told by Mr. Peters that purchase of
14 these notes involves a high degree of risk? No; I was told the
15 opposite."

16 When a credited investor was asked were you told that
17 the proceeds would be used to, quote, "repay existing notes as
18 they come due"? As one of the witnesses said, "No. Mr. Peters
19 didn't tell me this was a Ponzi scheme."

20 Were you told that, quote, "This company is a
21 high-risk business and investors who cannot afford a high-risk
22 investment which may be lost in its entirety are advised
23 against an investment in the company," end quote? "No" they
24 said, time and time again.

25 Were you told about the conflict of interest between

1 Mr. Peters and the advice you're getting from VisionQuest
2 Wealth Management? "No," they all said.

3 Were you told, quote, "The company will not act as a
4 fiduciary to you; all investors must conduct their own due
5 diligence and decide whether to invest in the company on their
6 own, without any advice or recommendation from the company or
7 VisionQuest Wealth Management," end quote? "No," they each
8 said; just the opposite; he was my personal CFO; he was my most
9 trusted advisor; he recommended that I invest in these notes.

10 The tapes also show that you were ready to act out if
11 someone, quote, "Dimed you out in some form or fashion." You
12 conceded that you knew that Stacey Beane had been herself
13 creating fraudulent documents.

14 All those folks were doing it at your direction.

15 You explained how you were going to essentially hide
16 what you needed to hide from the SEC.

17 You talked with Matt Gomoll about how you were going
18 to deceive your clients as this all was unraveling, try and get
19 them to explain to these good, honest people that there had
20 been a paperwork glitch and they just needed to sign these and
21 all would be okay.

22 Those do show, in my view, a lot about you and who
23 you are at your core.

24 "The sentence needs to be imposed and reflect the
25 seriousness of the offenses."

1 You're a Registered Investment Advisor and this is
2 not a one-off mistake. Every case, as Mr. Camden and Mr.
3 Gilmore acknowledged, is different. Every case is. The facts
4 in each of the cases are never the same. But this case
5 involved systematic, prolonged fraud and deceit for 8 years.
6 This was no is-it-close issue. This is getting the money --
7 and again, the witnesses, as they were shown the flow of money
8 exhibits, would you have invested if you knew that X number of
9 thousands of dollars would go to pay Stephen Peters' credit
10 card bill; to help pay for farm, farm equipment? Shocking.
11 "No," of course, they all said. We were told this was safe.
12 We were told this would be invested in revenue-generating
13 businesses.

14 And then with the fraud, as I mentioned, in
15 connection with imposing a sentence that reflects the
16 seriousness of the offense, it's not just the fraud, it's the
17 money laundering, it's the doubling down on the obstruction of
18 justice in the SEC examination, it's the tripling down in the
19 obstruction of justice in the SEC enforcement action and it's
20 the quadrupling down of the repeated perjury in this courtroom.
21 This Court needs to impose a sentence that promotes respect for
22 the law.

23 The securities industry is appropriately regulated.
24 The laws were enacted by Congress to essentially reject a
25 system of complete caveat emptor, "Let the Buyer Beware;" your

1 trusted advisor may be out to actually steal everything you
2 have.

3 So we have these regulations. And they're important.
4 And they're particularly important for someone who holds
5 himself out as a Registered Investment Advisor; someone who
6 knew better and did it anyway day after day, week after week,
7 year after year; and then doubled down in the obstruction in
8 the examination of by the SEC; tripled down in the enforcement
9 action; quadrupled down perjury of this trial.

10 The level of obstruction of justice in this case by
11 you throughout the proceedings is unprecedented in my
12 15-and-a-half years as a federal judge. And it's not even
13 close. And I've had a lot of cases in 15-and-a-half years.

14 Extraordinary, breathtaking obstruction of justice.

15 I will impose a sentence that provides just
16 punishment.

17 I recognize that the guideline is life and I could
18 stack the sentence out, as the PSR notes, to be what is
19 effectively a life sentence under the Guidelines. But I've
20 taken into account the good things that you've done in your
21 life. I've taken into account your service in the Marine
22 Corps.

23 Some of the letters that were written on your behalf
24 talked about your charity. Charity is a wonderful thing, but
25 in my view charity with stolen money is not charity at all.

1 One does not get credit for being charitable with money that
2 you've stolen.

3 I've taken into account in fashioning just punishment
4 the arguments about Bernie Madoff. I'm very familiar with that
5 case; talked about it a little already. Mr. Madoff pleaded
6 guilty to 11 counts. It was a massive fraud scheme. He was
7 71. The judge gave him a maximum sentence on each count, a
8 150-year sentence. That sentence was imposed in June of 2009,
9 just as you were cranking up what would be your own 8 years of
10 fraud against your clients who believed you were their most
11 trusted advisor.

12 Another factor I'm to consider is the need for the
13 sentence imposed to deter others from engaging in the criminal
14 behavior that brings you here. Billions, if not trillions of
15 dollars are under management by Registered Investment Advisors
16 in this country. People entrusted with that money might be
17 tempted to defraud their clients, to lie to the SEC, to
18 obstruct an SEC enforcement action, to obstruct an SEC
19 examination. Those registered investment advisors might be
20 tempted to steal that money so they can buy possessions that
21 they want. This sentence will take into account the need for
22 general deterrence. The message should go out from this Court
23 as a matter of general deterrence, do your cost-benefit
24 analysis as follows: Is a watch collection with stolen money,
25 a gun collection with stolen money, a house in Costa Rica with

1 stolen money, a farm with stolen money, cars and all the rest
2 of it, is having those possessions for 3 years, 5 years, 8
3 years, until it all comes crashing down -- because it always
4 does. You eventually run out of money to steal. You have to
5 be paying off people.

6 As a matter of general deterrence -- and I'm aware of
7 the studies that Mr. Camden mentioned. Congress put it in
8 3553(a). And I think it's an important factor. And I actually
9 do think particularly in the world -- again, this is unique in
10 my view in this case with a Registered Investment Advisor and
11 the facts of this case.

12 People need to understand, if you're a Registered
13 Investment Advisor and you decide over an 8-year period to
14 defraud your clients day after day, week after week, month
15 after month, year after year, if you get caught and you get
16 convicted and you come here, the time you will spend in a
17 federal penitentiary will not be measured in days or weeks or
18 months or years. It will be measured in decades in a
19 penitentiary. So people should do their cost-benefit analysis
20 accordingly: Are those items, possessions worth it?

21 This sentence will take into account the critical
22 need for general deterrence. The factors also suggest that I'm
23 to take into account the need for the sentence imposed to
24 protect the public from further crime by this defendant.

25 Again, I recognize the arguments that Mr. Camden

1 made. He, in fact, is a criminal history category I, but this
2 was criminal behavior that took place, in my view, over a
3 10-year period. The Indictment talked about beginning in 2009,
4 but the criminal behavior continues through the trial of this
5 case with the perjury. But certainly from 2009 until 2017 the
6 fraud repeatedly, the money laundering, the obstruction of
7 justice in the SEC examination, and the aggravated identity
8 theft and the perjury.

9 I think there is a need to incapacitate you. I don't
10 think you're sorry at all. I think you would defraud other
11 people if you could.

12 Section 3553(a) also says I'm to impose a sentence
13 that provides the defendant with needed educational,
14 vocational training, medical care or other correctional
15 treatment in the most effective manner. The sentence that I
16 impose today will do that.

17 I'm also to avoid unwarranted sentencing disparities.
18 And I recognize the arguments that Mr. Camden has made. He did
19 cite cases in his memo and I'm familiar with all of them. And
20 there certainly are cases and I've had cases where I've varied
21 down -- and I actually am going to vary down. I'm not going to
22 impose a life sentence today. But I don't think there is any
23 unwarranted sentencing disparities.

24 There is an argument in the papers about some
25 warranted because the evidence at trial shows that Stacey

1 Beane, Travis Laska and Justin Deckert and Randall Griggs
2 themselves engaged in falsifying documents. Certainly with
3 respect to Stacey Beane and Travis Laska and Justin Deckert the
4 evidence was compelling that it was all at your behest and
5 direction. It was your firm and you were very proud of it.
6 You were the singular micromanager in charge.

7 And the notion that they did all this to get you is
8 ludicrous. Follow the money. Who got all the money? Who got
9 all the stuff? Stephen Peters; not Stacey Beane, not Travis
10 Laska, not Justin Deckert.

11 As for the others, other cases -- every case is
12 unique. And as I said, the scope of the fraud and the level of
13 the obstruction of justice is breathtaking.

14 Having fully considered all of the 3553(a) factors,
15 it's the judgment of the Court that the defendant, Stephen
16 Condon Peters, is hereby committed to the custody of the Bureau
17 of Prisons to be imprisoned for 60 months on Count 1.

18 He will then be imprisoned for 60 months
19 consecutively on Counts 2, 16, 17 and 19. Counts 2, 16, 17 and
20 19 will run concurrently with each other, but they will run
21 consecutively to Count 1.

22 He'll then be imprisoned for 216 months on Counts 3,
23 4, 5, 6, 7, 8, 9, 10, 11 and 18. That 216-month sentence will
24 run consecutively to the sentences on Counts 2, 16, 17 and 19,
25 but Counts 3, 4, 5, 6, 7, 8, 9, 10, 11 and 18 will run

1 concurrently with each other.

2 He will then serve a consecutive sentence of 120
3 months on Counts 12, 13, 14, and 15. Counts 12, 13, 14 and 15
4 will run concurrently with each other but will run
5 consecutively to the sentences on Counts 3, 4, 5, 6, 7, 8, 9,
6 10, 11 and 18.

7 And finally, he'll serve 24 months consecutively on
8 Count 20, producing a total term of imprisonment of 480 months.

9 Upon release from imprisonment, you'll be placed on
10 supervised release for three years. This consists of three
11 years on Counts 1 through 19 and one year on Count 20 to run
12 concurrently.

13 You'll comply with the mandatory and standard
14 conditions and the following additional conditions:

15 You'll consent to a warrantless search, you'll
16 cooperate in the collection of DNA, you'll support your
17 children, you'll make restitution.

18 I'm holding the restitution issue open for 45 days.
19 Mr. Gilmore, I expect a submission no later than 45 days from
20 today's date.

21 I've signed the forfeiture order. I also expect an
22 update from the United States Attorney's Office on the issues
23 associated with innocent third parties and the issue of
24 forfeiture.

25 I impose a special assessment of \$2,000, which is due

1 immediately.

2 With respect to restitution, any payment that's not
3 paid in full will be divided proportionately to multiple
4 victims.

5 The Court finds the defendant's without the ability
6 to pay interest, therefore the interest is waived.

7 I'm not imposing a fine so whatever money there is
8 will go to the victims.

9 Payment of restitution is due and payable in full
10 immediately. If there is not money to pay in full immediately,
11 he'll pay through the Inmate Financial Responsibility Program
12 in the amount of \$25 a quarter; when he's released from
13 imprisonment he'll start paying \$500 a month.

14 I think I've properly calculated the advisory
15 guideline range, but I announce pursuant to *U.S. v.*
16 *Gomez-Jimenez*, 750 F.3d 370 (4th Cir. 2014) and *U.S. v.*
17 *Hargrove*, 701 F.3d 156 (4th Cir. 2012), that I would impose the
18 same sentence as an alternative variant sentence.

19 This is the sentence sufficient but not greater than
20 necessary for Stephen Condon Peters for all the reasons that
21 I've talked about.

22 But if I did miscalculate the advisory guideline
23 range in any way, I would impose the same sentence as an
24 alternative variant sentence.

25 Mr. Peters, you can appeal your conviction if you

1 believe your conviction was somehow unlawful or if there's some
2 other fundamental defect in the proceeding.

3 You also have a statutory right to appeal your
4 sentence under certain circumstances, particularly if you think
5 your sentence is contrary to law.

6 Any Notice of Appeal must be filed within 14 days of
7 the Judgment being entered on the docket in your case.

8 If you're unable to pay the cost of an appeal, you
9 may apply for leave to appeal *in forma pauperis*.

10 If you so request, the Clerk of Court will prepare
11 and file a Notice of Appeal on your behalf.

12 Did you want me to make any recommendations, Mr.
13 Camden?

14 MR. CAMDEN: Two come to mind, Your Honor.

15 The Court mentioned that it would impose the
16 recommendations regarding the work programs that Mr. Peters had
17 identified in our sentencing memorandum.

18 THE COURT: I'll recommend vocational, educational
19 opportunities for Mr. Peters.

20 MR. CAMDEN: And then we would also ask for a
21 recommendation that he be housed at Butner as soon as possible.

22 THE COURT: I'll recommend FCI Butner.

23 Anything else, Mr. Gilmore?

24 MR. GILMORE: No, Your Honor.

25 THE COURT: I do thank counsel for their work here

1 today.

2 That'll conclude the matter of Mr. Peters.

3 Good luck to you, sir.

4 * * *

5 (The proceedings concluded at 1:45 p.m.)

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1 UNITED STATE DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3
4

5 CERTIFICATE OF OFFICIAL REPORTER
6

7 I, Amy M. Condon, CRR, RPR, CSR, Federal Official
8 Court Reporter, in and for the United States District Court for
9 the Eastern District of North Carolina, do hereby certify that
10 pursuant to Section 753, Title 28, United States Code, that the
11 foregoing is a true and correct transcript of the
12 stenographically reported proceedings held in the
13 above-entitled matter and that the transcript page format is in
14 conformance with the regulations of the Judicial Conference of
15 the United States.
16
17

18 Dated this 20th day of January, 2020.
19
20

21 /s/ Amy M. Condon
22 Amy M. Condon, CRR, CSR, RPR
23 U.S. Official Court Reporter
24
25

