

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CAUSE NO. 1:13-cr-00190-SEB-TAB-01
	)	Indianapolis, Indiana
JEFFREY WILSON,	)	Wednesday, July 20, 2016
	)	10:33 o'clock a.m.
Defendant.	)	VOLUME 8 of 8

Before the  
HONORABLE SARAH EVANS BARKER

TRANSCRIPT OF JURY TRIAL, DAY 8, CLOSING STATEMENTS

APPEARANCES:

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ALSO PRESENT:                   The Defendant in person.

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PROCEEDINGS TAKEN BY MACHINE SHORTHAND  
COMPUTER-AIDED TRANSCRIPTION

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1 (In open court.)

2 (Jury in, 10:33 a.m.)

3 THE COURT: Good morning, all. We have lots of work  
4 to do, so it is nice to see you all. Sorry we had to keep you  
5 waiting just a little while, but we are ready to go now. You  
6 may be seated, we will get underway. Counsel, good to see  
7 you.

8 MR. DeBROTA: Good to see you, Your Honor.

9 THE COURT: With respect to the closing arguments,  
10 ladies and gentlemen, as I have indicated before, the  
11 Government has the burden of proving this case, the charges in  
12 this indictment beyond a reasonable doubt. And so the  
13 Government has the opportunity, under our rules, to give the  
14 first argument, followed by the Defense argument, and then the  
15 Government gets an opportunity to do rebuttal argument to  
16 address any matters that are raised in the Defense that  
17 warrant that sort of comment as a final argument.

18 So that is the procedure we will follow. You can expect  
19 to unfold them that way. Mr. DeBrotta.

20 MR. DeBROTA: Thank you, Your Honor.

21 **CLOSING STATEMENT**

22 MR. DeBROTA: May it please the Court.

23 THE COURT: Mr. DeBrotta.

24 MR. DeBROTA: Ladies and gentlemen of the jury, our  
25 Constitution and the laws of the United States have certain

1 protections in them, certain fundamental principles of equity  
2 and fair play include the point that the Government has to  
3 prove the Defendant's guilt beyond a reasonable doubt, that  
4 man's guilt. We have done that.

5 Let's start with what we have proved he is and isn't.  
6 What he says he is when he is talking to investors, he is very  
7 clear, because you have a PowerPoint presentation where he  
8 described himself. Exhibit 86 says what he wants investors to  
9 think about him. The king of Imperial Petroleum, the boss,  
10 the chairman and chief executive officer who happens to have a  
11 mechanical engineering background from Rose-Hulman.

12 He began his career in the oil and gas industry in 1975.  
13 By the time we have the events in this case that are relevant,  
14 he runs into the Ducey brothers and starts talking about going  
15 into business with them in 2009. At that period of time he is  
16 highly experienced, he knows the industry, he knows what  
17 biodiesel is, he knows what glycerin is, he knows how it is  
18 produced at that facility.

19 He knows that if you make biodiesel you get glycerin,  
20 just like if you make bacon, you get bacon grease. You heat  
21 up bacon and you look in the pan and there is no grease, you  
22 didn't make bacon. In this particular case he knows very well  
23 that to run the transesterification process in Middletown, you  
24 have to have certain chemicals.

25 The starting point is you have to have feedstock. You

1 have to have something to make it from. You heard evidence in  
2 this case that in the period between January 1, 2010, to when  
3 Ashley Player, the outside expert, got to Imperial Petroleum  
4 and looked around and started asking questions. In that  
5 period of time, it was less than 800,000 gallons of feedstock  
6 actually purchased, real feedstock, less than 800,000 gallons.  
7 You can't make 30 million gallons of biodiesel from that.  
8 That is impossible. It is impossible. He knows that. We all  
9 know that. It makes no logical sense.

10 So from this starting point we have the idea of what does  
11 he say he is? He says to investors with regard to this  
12 company, he is the director, chairman of the board, president,  
13 and chief executive officer since 1993. Well, you heard  
14 testimony that Imperial, before it ran into e-biofuels, was  
15 losing money every year.

16 So by the end of 2009, two things are going on. Imperial  
17 is a terrible investment that loses money, and e-biofuels is a  
18 terrible investment that loses money. But from this man's  
19 perspective, it is a marriage made in heaven because what he  
20 can do is he can say, there is a magical facility in  
21 Middletown, Indiana that can produce biodiesel profitably.

22 Now, if you look at the first projections of  
23 profitability, Craig Ducey gave this man, they show that that  
24 plant had been losing money all through the summer of 2009 and  
25 into the end of the year. It is losing money. He had those

1 documents. He has that information. He buys it anyway.

2 Now, from the time period that the Ducey brothers were  
3 involved in the alchemy scheme to the purchase of e-biofuels,  
4 by Imperial, about 1 million gallons of alchemy fraud  
5 occurred. After that period of time, over 34 million gallons  
6 of alchemy fraud occurs. So don't make the mistake in  
7 thinking about the volume of the crime, the number of actions,  
8 and so forth.

9 Alchemy fraud almost entirely occurs on his watch. He is  
10 the one that is the CEO during the entire time. Now, what  
11 does the indictment charge in this case? What is the right  
12 question on the time period? It is not what happens in 2009.  
13 It is not what happens preacquisition. It is very clear in  
14 the charging document. The first crime we allege he did  
15 starts in 2010 in October. That is October, November. That  
16 is when this starts, because the first crime is the false 2010  
17 annual report filed in November.

18 So the question is, what does he know at that time in  
19 moving forward? That is the question. So what I want to do  
20 in this point in the trial is focus a little bit of what he  
21 knows in that period of time, but I need to set the stage a  
22 little bit for what all the charges are because the indictment  
23 lays out a long-standing and persistent pattern of behavior,  
24 not just one act here or one act there. It is a pattern of  
25 behavior.

1           They show that the CEO of the company had numerous  
2 opportunities to engage with people who knew what was going  
3 on. He will talk with people who are co-conspirators in the  
4 alchemy scheme. He will look at margin analysis that shows  
5 they are not producing anything. He will look at supply  
6 records that shows fuel is just going across town in Houston.  
7 As we know, Middletown, Indiana does not sit between two  
8 places in Houston.

9           He knows the transportation costs are very low because it  
10 is only going a few miles down the road. He knows that the  
11 truckers that are going across town in Houston have to get a  
12 fax machine sent down there so they can pretend, because that  
13 is the scheme, that the fuel is really coming from Middletown.

14           The one thing that is really clear in this case is that a  
15 biodiesel production facility of the type that was registered  
16 with the EPA here requires a lot of equipment,  
17 transesterification, it requires chemicals, and so forth.  
18 They don't have one of those at a hotel parking lot in  
19 Houston. They have a fax machine, but all of the RINs that  
20 were generated in this case, all of them, including RINs on  
21 4 million gallons of fuel in Houston, are on the idea that  
22 that fuel was produced using real feedstock in Middletown,  
23 using a registered process at that location, and that is not  
24 what happened.

25           He knows that because he is involved in the



1 communications about those things, those Texas ghost loads,  
2 and it is his idea to put a fax machine down there. Why is  
3 there needing to be a fax machine at that hotel in Houston?  
4 There doesn't need to be unless you are trying to produce fake  
5 bills of lading, and we know we have fake bills of lading  
6 because there are a couple of boxes of them on the floor here.  
7 The template to make those we got from him in discovery in  
8 the case. He gave it to the SEC.

9       They got it from him. We also got from him an invoice  
10 for B99 biodiesel, soy supreme from October of 2010 showing  
11 someone picked up on behalf of the scheme, basically, B99 at a  
12 Kinder Morgan terminal in Illinois, B99. No one thinks you  
13 can make B100, pure biodiesel, out of stuff that has already  
14 been mixed down to B99. No one thinks that. Of course you  
15 can't do that. You can't make biodiesel from biodiesel.

16       Okay. So what does the indictment allege? The  
17 indictment essentially alleges that in this broad period of  
18 time, a number of documents are created which are false. And  
19 specific false statements are put in there that we alleged and  
20 some general false statements, but a couple of housekeeping  
21 matters.

22       If you read the indictment, it says Company A. Company A  
23 is Platinum Partners. As a matter of law, we don't like to  
24 put the names of victims in charging documents, but you can  
25 see from the text it is talking about Platinum Partners.

1 Company B is Frazier Barnes, the outside expert hired, the one  
2 Ashley Player works for.

3 The PIPE investors include Mr. Warsh you heard from.  
4 Frazier Barnes you heard from Mr. Steinberg, and you heard the  
5 person that set up the deal was Mr. Lipman. Count I of this  
6 document charges fraud in the purchase or sale of securities.  
7 That concerns the investors, all of them except for Platinum  
8 Partners because Platinum Partners wisely walked out of this  
9 deal after what Mr. Steinberg said was a show-stopping fact  
10 that at least 10 million of the RINs were invalid.

11 But interestingly, he didn't know that all 30 million  
12 RINs were invalid, 30 million gallons worth of RINs, because  
13 no biodiesel got made at all in that period. He doesn't know  
14 that fact, because nobody discovers that one. He walks away  
15 from the deal based on a portion of the fraud that they knew  
16 about at the time, just a portion.

17 No one has ever told on the investor side the real story,  
18 which is 34 million gallons of B99 got fraudulently sold to  
19 customers represented as B100, eligible for tax credits with  
20 attached RINs for \$145 million, \$145 million. This plant, if  
21 it had operated to make that fuel, it would lose 28 cents a  
22 gallon. It would lose \$9 million. So the spread between the  
23 reality, we can lose nearly \$10 million running the plant and  
24 what happened is all the materiality in the world on what  
25 investors want to know. That is Counts I and II.

1 Counts III and IV are the false annual reports. Five  
2 through nine are the quarterly reports and the press releases.  
3 All of these documents were produced and filed by him alone,  
4 just him. He wrote them. He talked about them with outside  
5 personnel, no one else. A Ducey brother is not writing those.  
6 It is him.

7 Counts 10 and 11 are the wrongful certification by him of  
8 the information he provided to the outside auditors. Counts  
9 12 and 14 are -- through 14 are talking about the false 10-Qs,  
10 the quarterly reports. We also have two counts for lying to  
11 Mr. Samyn in person and two points for providing the false  
12 certification of Mr. Samyn. Put all that together, the  
13 indictment alleges the Defendant has lied to investors,  
14 outside auditors, investment bankers, experts in the industry,  
15 anyone you would want to lie to to try to sell a lot of stock  
16 in a company that is just not worth what he is representing it  
17 to be and worth.

18 Now, the filings he put together say e-biofuels is a  
19 manufacturer of biodiesel. It is a producer, one of the  
20 nation's leading producers. The term "manufacturer" is not  
21 complicated. You don't have to read regulations to understand  
22 what that word means. Ford Motor Company manufactures cars, a  
23 used car lot doesn't. The most charitable definition of what  
24 happens here is, this company bought someone else's fuel,  
25 pretended it was their own, and resold it. That is not a

1 manufacturer, and he knew all that, whether it is off-spec or  
2 otherwise.

3 He is representing and using words. We all know what  
4 they mean, and the target of those words are ordinary  
5 investors, not experts, and he has missed describing what  
6 those words mean. You shouldn't do that. If you are going to  
7 sell stock to people on an open exchange, you need to do it in  
8 a way that is not deceitful and misleading. What you say has  
9 to be true.

10 What you leave out has to be not significant enough that  
11 that investor would want to know it and to make their  
12 decision. He did all that, but also, he is lying to get them  
13 to buy stock, the offer of stock. So there is both fraud  
14 here, lying to get money, and covering things up they want to  
15 know. That is deceit. That is two different ways of being  
16 guilty of this crime.

17 It is hard to imagine how anybody could read, after we  
18 went through the annual reports and the quarterly reports,  
19 those as being true. They are filled with false statements.  
20 Some of them are dramatic like, "e-bio is a manufacturer."  
21 Some are more straightforward like, "It has a BQ-9000  
22 certification" it doesn't have.

23 There are no allegations of fraud that haven't been  
24 reported. Yes, there are. Craig Ducey has an allegation of  
25 fraud he doesn't tell anyone about. We have his letter about

1 that in evidence and the board minutes. He didn't give that  
2 letter or the board minutes to the outside auditor. Why? Why  
3 would he hide all this activity?

4 Well, that answer is pretty straightforward, too. He is  
5 a major shareholder, he and his family, and he is taking money  
6 out of his company. You have heard he wrote checks to himself  
7 in this time period of over \$100,000 from Imperial. He took  
8 more stock out of the company than his public filings  
9 indicate, and he transferred to Carbon Technologies a  
10 different company, 750,000 shares of Imperial worth over  
11 \$690,000 secretly.

12 The last thing in the world he wants is an audit of  
13 anything at Imperial because it will show he is looting the  
14 company. That is what it will show. So he has a lot of stock  
15 and a lot of financial motive to keep regulators away from  
16 Imperial. It was very inconvenient to have Ashley Player and  
17 Frazier Barnes notice a problem, and it was critical to cover  
18 it up.

19 Now, after the deal with Platinum Partners falls apart  
20 because Miss Player says the RINs are invalid, he has a  
21 communication with the investment banker, Mr. Lipman. If you  
22 remember Mr. Lipman testified here, and he said that he  
23 originally met the Defendant in New York when the Defendant  
24 came there to tell a story. The original investment story  
25 was, this facility makes feedstock into biodiesel profitably.

1 We need investors to raise \$25 million. Mr. Lipman asked  
2 questions. He works all night. He visits plant. He wants to  
3 know, are there any lawsuits or illegal clouds over anything?  
4 Wilson says no.

5 They spend the day together at the plant. They walk  
6 around Mr. Lipman. Mr. Lipman is no fool, but the plant is  
7 quiet that day. What does the Defendant say? We don't have  
8 to run all the time. The continuous flow designed plant  
9 doesn't have to run all the time. Well, it does if it wants  
10 to produce its name plate capacity, but we will save that for  
11 Mr. Caskey's observation.

12 So that day Mr. Lipman meets him, Mr. Lipman is  
13 impressed, he introduces him to the Platinum Partners people,  
14 and the deal starts moving forward. Platinum signs a  
15 \$25 million term sheet to loan money and to buy stock. This  
16 is in connection with the sale of a security. An outside  
17 auditor comes in, due diligence, and they find the problem.  
18 It blows up the deal. There is no question this Defendant  
19 knows that an outside expert, Ashley Player, has said the RINs  
20 created on off-spec biodiesel are invalid, and that influences  
21 a decision of an investor to not buy stock.

22 You couldn't have a more clear example of material  
23 information coming from the outside than David Steinberg  
24 blowing up the deal because that is show-stopping information.  
25 This Defendant had to tell that to a bunch of people. He had

1 to correct his Form 10-Ks that have been filed, the Form 10-Qs  
2 that had been filed. He had to tell that to the outside  
3 auditor, Mr. Samyn, and he had to tell the truth in that whole  
4 process.

5 Now, Mr. Lipman pointed that out to him. He said, there  
6 are factual inaccuracies in your SEC filings. This man said  
7 yes. Mr Lipman thought he was going to correct them, and he  
8 didn't. Why didn't he? Because he wants to keep all this  
9 secret because he is a shareholder, because it will cost him a  
10 lot of money, because it will drive down the stock price,  
11 because who would invest in a company that makes invalid RINs?  
12 And a simple question could follow.

13 How about we check to see what that stuff actually was?  
14 It is not off-spec anything. It is perfectly good, not very  
15 valuable B99 fraudulently converted to B100. That is really  
16 what it was, and nobody wants anyone looking at that.

17 So Mr. Lipman gives this man direct knowledge that he has  
18 violated securities laws and must correct it, and he never  
19 does that. Instead, he will file the next annual report  
20 failing to correct it and lying some more, and he will start  
21 selling stock to the PIPE investors mentioning none of this.

22 Finally, Miss Pattison will tell you and did in October,  
23 after all that, she watches a presentation where he directly  
24 says to the Schooner Capital people, this plant makes  
25 30 million gallons a year, earns over a 100 million dollars,

1 and he never says off-spec. So even after all that, he didn't  
2 tell the truth to the last set of investors, and  
3 interestingly, Miss Pattison also told him months earlier, you  
4 can't say to investors you are making the stuff out of  
5 off-spec because that is invalid. The RINs are invalid.  
6 There is no pathway.

7 She learned what she knew about RINs through Googling it.  
8 She is not an expert. She even came to that conclusion.  
9 Interestingly enough, New Jersey's alchemists insisted that  
10 wouldn't be the cover story because it is stupid. They wanted  
11 that all hidden. The cover story from New Jersey was, it is  
12 feedstock, but he couldn't say that because there was too much  
13 of it. They had an excess production problem, and Chad Ducey  
14 had already told Mr. Caskey about off-spec. So Indiana was  
15 stuck behind a stupid story he repeated only to Ashley and  
16 Frazier Barnes.

17 But when it didn't work, he never repeated it again and  
18 hadn't said it before that. So where does off-spec biodiesel  
19 exist? In someone's mind. It wasn't on the ground. Where  
20 does the production exist? In the minds of the shareholders.  
21 There is no real production. Were these 10-Ks and 10-Qs true?  
22 If their defense is he believed every word of them, I would  
23 encourage you to consider all of the falsehoods we identified  
24 in there. He knows all those things are not true, but for him  
25 to be innocent of these various crimes, every one of these



1 documents has to be true in all material respects. The  
2 statements have to be true, and what is hidden in those  
3 documents has to not be material.

4 And when he certifies to the best of his knowledge,  
5 having read the documents, they are accurate, complete, and  
6 truthful when he certifies to that as the CEO, he is violating  
7 federal law. Federal law does not let the CEO off lightly.  
8 You don't get to walk in and say, I don't really believe any  
9 of this is important, so I won't tell the shareholders about  
10 it. You don't get to do that. Because if you did, who would  
11 want to buy any stock?

12 He got to raise capital in a market where people will buy  
13 from all over the place. You heard they looked up the  
14 information, they engaged in what we call "interstate  
15 commerce" with investors from Florida, Ohio, New York, and  
16 Illinois. Some of them actually toured the plant, talked to  
17 him, some of them just did stuff online.

18 Raising capital that way is immensely important to the  
19 U.S. economy. To whom much is given, much is expected. It is  
20 simple. If you are the CEO, if you are Jeff Wilson and you  
21 want to raise money, you have to tell the truth. You can't  
22 defraud people, you can't deceitfully hide information. We  
23 proved he did that.

24 Now, how does he know there is no production? Even  
25 before the first crime, his own son engages in e-mail

1 communication with him September, October of '10, and he asks,  
2 is there glycerin to sell? No. Do you mean we are just  
3 basically getting fuel from other people? Yes.

4 Months later, Bridget Deer is asked, how much glycerin  
5 did we sell? Zero. What is going on here? The coproduct of  
6 production isn't being sold, it is valuable, because there  
7 isn't any to sell. He knows that.

8 When he is selling the stock, as you see in the 10-Ks and  
9 Qs, he is saying we make money selling biodiesel and glycerin.  
10 Not true. The materiality of these false statements is clear.  
11 The investors wanted to know the information that you have  
12 them described to you, but the core questions were simple.

13 If this plant is running, does it make money? None of  
14 the investors knew it loses 28 cents a gallon. None of them  
15 knew that. None of them knew that the RINs were invalid.  
16 None of them knew about Texas ghost loads. None of them knew  
17 about ghost loads in Illinois. None of them knew about the  
18 fax machine. None of them knows about the secret deals that  
19 are going on here.

20 None of them knows that he is looting the company by  
21 writing checks to himself. They don't know any of that  
22 information, and they had the right to know those things so  
23 they can make a decision. Those investors that came in and  
24 testified said we are trying to buy a factory, a working  
25 factory, a process that is located in a place where the

1 feedstock is close by, it is flexible, it is not tied to any  
2 one vendor, but there is a constant source of it. Well, you  
3 know from the alchemy conspiracy that the tie here is between  
4 New Jersey criminals and Indiana criminals, and he is one of  
5 them.

6 Everything I just said doesn't turn on the testimony of  
7 the people I imagine they are now going to attack, so let's  
8 talk about the people on the inside. Katirina Tracy came in  
9 here and said that she discovers the alchemy conspiracy in  
10 about February of 2010 in a very logical way. She notices  
11 that the fuel she sold, B99 to Middletown, is being offered by  
12 somebody else for sale.

13 She sees Middletown B99 specifications and realizes that  
14 has got to be the fuel we just sold e-bio. Before that she  
15 thinks it could be contract shorts or something, now she knows  
16 it is alchemy. She tells Joe Furando. Joe Furando, not  
17 surprisingly, decides we are in on this. She goes along with  
18 it. She says she did that.

19 Her extremely abusive and violent person that seduces her  
20 when she is the baby-sitter at age 16 and basically ruins her  
21 life for ten years says, "We are in." She goes along with it.  
22 She gets caught.

23 May 22, 2012, the first part of the interview, she lies.  
24 That is the plan, breaks down, describes all the terrible  
25 things he had done to her and tells the truth. In that second

1 part of the interview, she says, "Jeff Wilson is involved."  
2 Years later, you heard her say it. There is no inconsistency  
3 in the second part of that interview. We had some back and  
4 forth on refreshing recollection. She got asked a huge number  
5 of questions about Part 1 of the interview, not Part 2,  
6 because that is inconvenient. What she says on the stand is  
7 consistent with recordings secretly made at the time she  
8 didn't know existed.

9 How is that possibly false testimony? Same for Craig  
10 Ducey. He is testifying about things that were secretly  
11 recorded. They both have cooperation deals. Craig Ducey is a  
12 Co-Defendant in this case. Miss Pattison is not. She didn't  
13 commit securities fraud. She is not talking to investors.  
14 She is watching him do it.

15 Alex Chepurko is not charged with anything. From  
16 beginning to end, he has told the same story. Alex Chepurko  
17 secretly records meetings and gives the recording we have all  
18 heard now in August of 2011 to his lawyer, and he says at that  
19 time, to his lawyer, not the Government, that is Jeff Wilson.  
20 Years later now, that is Jeff Wilson.

21 What is going on in that recording? They are discussing  
22 alchemy, \$145 million fraud in front of him. They are giving  
23 details like Andy Pollack's name. He met Andy Pollack in New  
24 Jersey. They are talking about Reid Miller, the person inside  
25 Astra selling the fuel in front of him. The last thing in the

1 world you would do in front of a stranger is give out the name  
2 of the source at Astra of the B99. One phone call to Astra,  
3 if Reid is honest would say, hey, they are selling this stuff  
4 to us. They are saying it is off-spec B100. What is it? Oh,  
5 my God, it is 35 million gallons of B99. You guys are  
6 certifying this as B100? Time to call police.

7       You don't say that name in front of strangers. They are  
8 bragging in the phone call they have snowed the outside  
9 expert, Sandra Dunphy. You don't give that information out  
10 ether.

11       The suggestion that that is someone else on the tape  
12 comes entirely from the Defendant's brother. Sadly, he  
13 doesn't know the other people. He sees his brother every  
14 week. He got called into this court, and he had a difficult  
15 thing to do and he did it. He said, "That is not my brother."  
16 But he is not in the room, and he had no explanation for the  
17 mystery voice having all that information.

18       Three people you heard from listened to that tape, and  
19 you listened to it. Victoria Madtson, who even the brother  
20 concedes correctly can identify his brother's voice says,  
21 "That is Jeff Wilson." She has listened to the other part of  
22 the tape.

23       Katirina Tracy, his voice is there. She says it is Jeff  
24 Wilson. Not the first time they have met, not the first time  
25 they have spoken about alchemy. And you heard from Craig

1 Ducey, who is in the room.

2 Now, none of that is surprising, but what is interesting  
3 is the testimony they give in this case is consistent with  
4 existing recordings. They had no knowledge they were being  
5 created, brought here by Alex Chepurko. Why is Alex Chepurko  
6 lying? What incentive does he have? He is the hero in the  
7 story. He is around his first job. He is making about up to  
8 50,000 a year.

9 He runs into Joe Furando. We know Joe Furando is a lot  
10 to run into. At the Super Bowl party he is told there is a  
11 massive fraud going on. He makes the wrong decision. It  
12 would have been great if he just walked out the door and  
13 called the FBI. He takes a little while getting there. In  
14 the meantime, he will call the EPA, and in a quick five- or  
15 six-minute phone call will be told, you can't make RINs like  
16 that. And he makes a decision after the meeting on June 30,  
17 2011, in New Jersey with the Defendant, Mr. Furando, that he  
18 has to do something about this.

19 He, he takes notes. Those notes are very consistent with  
20 the story that he testified to. I was in a room in New Jersey  
21 where Mr. Wilson was talking to Mr. Furando. Mr. Wilson  
22 likes what is going on. Everyone is getting along. We want  
23 more fuel in Texas. We want more fuel in Argo. It is fuel.  
24 The product is indexed to fuel, heating oil, not feedstock.

25 We want to be able to replicate this idea and do it even

1 bigger in Texas. In exchange, Mr. Furando, let's marry the  
2 companies closer together. You get stock. You get a  
3 long-term supply contract.

4 They discuss in the same meeting fuel, which is used for  
5 alchemy, and real feedstock in the same meeting. And then  
6 they will later put together a contract proposal that  
7 differentiates those two things. They are talking about what  
8 is supposed to be the same thing. It is all supposed to be  
9 feedstock, but instead, it is fuel and it is feedstock. And  
10 why is it talking about feedstock? So Mr. Wilson can say to  
11 the public, we have a long-term supply of feedstock, real  
12 feedstock, and he can drive up the stock price, which is  
13 convenient when you hold things like warrants and stock.

14 That is how you make money, except when you are writing  
15 checks to yourself. That is another way to make money, but in  
16 that meeting, everyone is getting along. In a follow-on  
17 meeting, New Jersey says, "Hey, don't say off-spec is a  
18 feedstock to make biodiesel." Mr. Wilson says, "I  
19 understand."

20 Then in the meeting in Indiana, which you have the  
21 recording of, everyone is getting along famously, everybody  
22 loves each other. They are marrying each other. What is  
23 happening? The conspiracy is formed, operating successfully,  
24 and he becomes more and more significant with each day that  
25 passes. By October of 2011, when there are problems of

1 production at the plant, you saw the e-mail where the point of  
2 contact for New Jersey is now him.

3 Also in that communication in New Jersey was, frankly,  
4 reporting that the plant wasn't operating successfully. They  
5 couldn't get it tuned up. They can't really take feedstock.  
6 There is no way they can produce 15 million gallons, and you  
7 know why. Troy McKee explained that. If we use the tanks for  
8 alchemy, we are filling up the tanks, we would get feedstock  
9 in. It is one or the other.

10 This plant cannot do what they told Mr. Caskey it does.  
11 Mr. Caskey didn't check that, he took it at face value. You  
12 can't actually do all that alchemy and still do the  
13 15 million gallons in production because the same tank can't  
14 hold both feedstock and fuel at the same time.

15 So that conspiracy you have seen the inside of. You have  
16 heard the people participated in it, and you have heard with  
17 regard to the communications in Indiana that involve Craig  
18 Ducey, he discussed all about the ghost loads in Texas with  
19 this Defendant. Craig Ducey objects to the ghost loads in  
20 Texas. It is too risky. It has got the problem of truckers  
21 suspiciously getting too many faxes in that hotel office. The  
22 Defendant is the one with the solution to that problem.

23 Interestingly, in Alex Chepurko's notes in New Jersey,  
24 there is a discussion of truck driver problems, and if you  
25 look at Alex Chepurko's notes, and he testified about this,



1 say there was a discussion in front of Mr. Wilson about the  
2 need to give AmEx cards to truck drivers so they wouldn't  
3 report the fact they were driving just across town. Why would  
4 you have that conversation in front of Mr. Wilson unless you  
5 were very confident he knew about that already.

6 Let's pretend for a moment, but not long, that Mr. Wilson  
7 is innocent. Exactly at what point was he supposed to stop  
8 telling the shareholders what he told them, which is, that  
9 nothing was going wrong at any point. Exactly when was he  
10 supposed to tell that to the outside auditors? Because we  
11 know that the communication with the outside auditors, the  
12 later ones, are in September 5 of 2011, and the last  
13 management certification letter is November 15th or so, I  
14 think, 2011. The date is on it, around that time period.

15 At that time there is still no disclosure of anything  
16 wrong anywhere, and because of that, Mr. Samyn certifies  
17 everything. Because of that, the shareholders don't know what  
18 is going on. Because of that, stock continues to be sold.

19 A few days later it all crumbles. The shareholders lost  
20 \$18 million, \$18 million. He didn't lose \$18 million, they  
21 lost \$18 million.

22 Now, at the end of the day, the question is simple. What  
23 was his motivation for doing what he did? So he could get  
24 money from people to buy stock, so he could hide what is  
25 really going on. When this storyline starts for him it is in

1 late 2009. He has got Imperial. It is not making any money,  
2 it is losing money. Its hope for improvement lies with  
3 Mr. Wernli, apparently. It lies with something magical  
4 happening with tar sands, some other part of the company  
5 Arrakis. Those aren't good investments, and they certainly  
6 aren't the investments these people bought into making the  
7 decision.

8       You didn't hear Mr. Warburg saying I want a piece of  
9 that. You didn't hear Mr. Walther saying I want a piece of  
10 that. Platinum Partners doesn't want a piece of that. Its  
11 proven history is failure. They all want to buy a  
12 manufacturing plant and some pieces of that.

13       So at the end of the day what we have is we have a  
14 long-standing and persistent pattern of behavior. You have  
15 direct and circumstantial evidence of his involvement in it.  
16 When you take a look at the records of e-biofuels, records he  
17 has access to because he has a log-in to the computer system,  
18 records he has access to because he has a direct line of  
19 communication with Bridget Deer and Tim Jones, records he has  
20 access to because he gets sent margin analysis, profitability  
21 of each deal, records he has access to because he discusses  
22 them in e-mails with Craig Ducey, records you have and that  
23 exist and are frozen in time.

24       Those records showed him he bought a company that loses  
25 28 cents a gallon, and he turns around and says it makes

1 money. The only way it can make money is coldly designed  
2 criminal activity of tricking customers into believing that  
3 B99 with RINS is what they bought at an inflated price and  
4 with a tax credit, when in reality, it wasn't that -- excuse  
5 me. He sold his B100 with tax credits and RINs, when in  
6 reality, it was cheap B99.

7       That is what the investors needed to know. We have  
8 proved that beyond a reasonable doubt, and that takes us to  
9 the final step in the analysis. If you diagram the  
10 Defendant's cover stories, the first one was, we made the  
11 fuel. He said that to investors. The second one was, we made  
12 half the fuel, and we cleaned up off-spec biodiesel. The  
13 third one was the one he told Mr. Lipman. We got other  
14 people's fuel we didn't have to do much to. The fourth story  
15 is what he told the federal agents months and months later  
16 now, May 29, 2012.

17       Now, when you read that count you will notice something.  
18 We have incorporated Paragraphs 1 through 88 of the indictment  
19 as the part first of that count. That is the background of  
20 his knowledge that day, but what he says, and both agents  
21 testified to this, and there is not any controversy as to what  
22 he said, was that that day he didn't compare the cost of  
23 off-spec biodiesel -- part of the cover story -- with the cost  
24 of real feedstock, traditional feedstock, didn't compare the  
25 cost. He didn't say, well, I didn't physically compare it,

1 someone else did.

2 He is suggesting he doesn't know which is cheaper. That  
3 is nonsense from what you have heard in this case. There is a  
4 direct spreadsheet saying that. There is also hundreds and  
5 hundreds of examples and conversations directed at the  
6 question. Should we turn this plant on? The answer keeps  
7 being no. Every time you buy 5,700-some loads of B99 from  
8 Astra, you are deciding to not buy feedstock from someone  
9 else. He knows that.

10 The second thing he said was, "I didn't know what it was  
11 going to cost to process this." He is suggesting that the CEO  
12 of a company where over 97 percent of the revenue comes from  
13 one product doesn't know what it costs to process that  
14 product. Now, he is lying about the product. The product  
15 isn't off-spec biodiesel, it isn't traditional feedstock. It  
16 is really something not being processed at all. He is telling  
17 that fourth cover story.

18 Finally he says, "I don't know if it is profitable." He  
19 says, "I don't know. I don't have the knowledge on whether it  
20 is more profitable, essentially, to get what he says is  
21 off-spec biodiesel or processed real feedstock. He doesn't  
22 have the knowledge.

23 Now, in opening statement Defense counsel suggested -- he  
24 was asked if he compared something, and he didn't compare it,  
25 someone else compared it. If Mr. Wilson's defense is he knew

1 about, didn't do the physical comparison, that means he knows  
2 about it. If his defense is he knows that information in June  
3 of 2010, he knows it. That means he should have told that to  
4 the investors on the very first 10-K.

5 That can't really be a good explanation of that. The  
6 indictment doesn't say he physically compared it. We asked,  
7 does he have this comparison? He had the comparison, he  
8 showed it to you. So you put it all together, he also lied  
9 the end of the day, May 29, 2012. That was the opportunity to  
10 say, wait a minute, I got tricked by the Duceys. Wait a  
11 minute, here is what really happened. Wait a minute, there is  
12 more to the story.

13 Instead, it is Cover Story No. 4, and unfortunately for  
14 him, it is a federal crime to lie to federal agents who are  
15 trying to do their job. The information he gives is a lie to  
16 the FBI agent there, the EPA agent participating on the phone,  
17 and the IRS agent.

18 You don't have to say anything. It is a choice, but if  
19 you do, it has to be true. The thing about this case at the  
20 end of the day is choices. He chose to say what he said to  
21 investors. He chose to say what he said to investment bankers  
22 and outsiders. These are choices. He didn't have to say  
23 anything. He didn't have to certify things were true, but if  
24 you do, you have a responsibility that you can't get away with  
25 from indirection, crazy definitions of words, your personal

1 reality, or whatever that might be. You can't do that and  
2 raise money the way he did, using interstate commerce,  
3 national exchanges, and through the offices of the SEC and  
4 putting that information out to the public.

5 He had to tell people how they made the \$145 million. He  
6 had to tell people he knew about the RINs being invalid. He  
7 had to tell people the true business model. He had to tell  
8 people that he didn't have their BQ-9000 certification. He  
9 had to tell the truth, he didn't, and he couldn't hide  
10 material information. That is why we proved he is guilty  
11 beyond a reasonable doubt. Thank you.

12 THE COURT: Thank you, Mr. DeBrotta. Mr. Farlow?

13 MR. FARLOW: Thank you, Your Honor.

14 **CLOSING STATEMENT**

15 MR. FARLOW: Ladies and gentlemen of the jury, we  
16 have been here for a little over a week, and nobody is more  
17 appreciative of your time and effort than those of us at the  
18 Defense table. It is because we live in this country that we  
19 have a right to have a jury, have a right to have citizens  
20 come in and listen to the evidence, examine these witnesses,  
21 and to make a decision.

22 I grew up in Northern Indiana. My grandmother, Mary D.  
23 Farlow, was one of the first female realtors in Lake County.  
24 And she enjoyed developing her own business, and I was proud  
25 of the fact that I would walk around Hobart, Indiana, and I

1 would see Mary D. Farlow, real estate. And she was a  
2 wonderful woman. She was married to a chemist from U.S.  
3 Steel. Mary D., in selling real estate, I don't know if it is  
4 a fault, I thought it was an attribute. She trusted  
5 everybody. That is a dangerous attribute to have in the real  
6 estate business in Lake County, but she persisted that she  
7 trusted everybody.

8 She was active in her church. My brothers, my dad and I,  
9 my grandfather would caution her about trusting people, about  
10 being taken in by people. But she persisted because her view  
11 of the world was that people are good, people are basically  
12 good, and when someone tells you something, her first  
13 inclination is to trust it. There are those people in the  
14 world.

15 Then there are other people whose view of the world is  
16 cynical, where they believe that everybody -- their first  
17 impression is people are telling a lie, people are trying to  
18 deceive them, trying to get into their pocket. That wasn't  
19 Mary D. Farlow. That is not Jeff Wilson.

20 If there is cynicism in this courtroom, there is a belief  
21 that everything ought to be viewed with suspicion, but  
22 everything ought to be viewed as if someone is trying to cheat  
23 you, it comes from the Government. The very Government that  
24 embraces cheaters, liars, brings them to the courtroom and  
25 builds a case upon them, builds a case against Jeff Wilson on

1 liars and the cheaters of the world.

2 I would ask you as I review the evidence here, to view  
3 this case differently than cynics view it, but to view it the  
4 way my grandmother would view it. View it through the eyes of  
5 someone who believes in people, who believes in the American  
6 dream, who believes in taking risk, who believes in starting a  
7 company, because those are Hoosier values.

8 Jeff Wilson, you can tell by the evidence, had a dream to  
9 build an energy company. He took risks. That energy company  
10 was Imperial Petroleum. Jeff Wilson, Rose-Hulman grad from  
11 Evansville, Indiana, was the CEO of Imperial until November 7,  
12 19-- 2011.

13 For most of the years, for the majority of the time that  
14 Jeff Wilson poured his heart and soul into Imperial, for most  
15 of those years it was doing okay. He wasn't earning money,  
16 but it was a dream, and it could. You can either do it  
17 through Arrakis, which was the tar sands effort, you do it  
18 through Hoosier Bio. Hoosier Bio is just a research company,  
19 Aaron Wilson researching. They didn't apply for RINs, they  
20 didn't engage in production. They were looking to power jet  
21 engines with biodiesel. That is what Jeff Wilson is doing.  
22 Build a mining company, wasn't active, but again, it was part  
23 of the dream.

24 And then that fateful day Jeff Wilson returns to his alma  
25 mater for a biodiesel conference to meet with his professors,



1 to see other alum to talk about it, that fateful day  
2 encountered Chad Ducey and the Duceys. By that time the  
3 Duceys were already building their fraud scheme. Mr. Ducey,  
4 Chad Ducey, sells the idea that he has a legitimate biodiesel  
5 plant, and he and Jeff Wilson engage in negotiations. And in  
6 2010 -- early 2010 they close the deal where Imperial buys  
7 e-bio.

8 Now, if you believe Mr. Ducey, Jeff Wilson had access to  
9 all the records of e-bio. Looking at those records before he  
10 bought it, he can see we were engaged in fraud. He could see  
11 it. He should have seen that. That is what Mr. Ducey tells  
12 you. Craig Ducey told you that from the stand. Should have  
13 been able to see that.

14 What is the contradiction? Is Mr. Ducey lying to you  
15 when he says -- absolutely he is. How do we know that?  
16 Because he said, "I had those records. I am the president of  
17 e-bio. I gave the records to Jeff Wilson. That is how I knew  
18 he had them. That is how I knew Jeff Wilson would know we  
19 were engaged in fraud and he still bought us. They are my  
20 records. I am the president of e-bio, but I didn't know my  
21 brother was engaged in fraud." Wait a minute. Wait a minute.

22 You think Jeff Wilson, president of Imperial, should know  
23 you are engaged in fraud because you showed him certain  
24 records that you are the president whose brother is running  
25 this business, and you didn't learn about it until

1 mid-June 2010 and I learned it from Jeff Wilson.

2 If you believe Craig Ducey, you have to believe that Jeff  
3 Wilson saw this fraud and said, "I want to pollute my dream  
4 with that fraud. I want to kill my dream with that fraud. I  
5 want a piece of your fraud action. I want a piece of your tax  
6 fraud," because he admitted they were involved in tax fraud,  
7 but according to Mr. Ducey, he didn't realize that. No, he  
8 thought it was okay to commit tax fraud.

9 This case, as you heard from the Government, this case  
10 hinges entirely on the Duceys, what the Duceys say. Their  
11 case did not rest on the Duceys, on liars and thieves, they  
12 wouldn't have brought him in here, but they brought him in  
13 here and had them testify about their version of events, which  
14 is a ridiculous version of events.

15 If you view this case the way my grandma would view it  
16 from this point of view, you meet Jeff Wilson, you meet the  
17 Duceys, and the Duceys tell you they have an operational  
18 biodiesel plant that is capable of making money. And here is  
19 how we will prove it to you. You can come look at it, you can  
20 see our operation, and we will explain it to you. Mr. Wilson  
21 was supposed to know about RINs. According to Mr. Ducey, he  
22 should know about that.

23 You saw RFS, RFS1, the book that has all the rules in it,  
24 the stack of documents, RFS2. You heard from the Government  
25 witness who developed those programs. Oh, it is pretty easy.

1 Everybody kind of understands it. It is very clear. It is  
2 not clear to me. It is not clear to me what a RIN is. To  
3 this day I am not sure exactly how you apply for one. I am  
4 not sure, not because I haven't tried, it is because it is so  
5 complicated that it is difficult to understand.

6 That is not unusual for Government programs. The  
7 Government means well when they have these programs, whether  
8 it is a farm subsidiary program, whether it is a healthcare  
9 program, whether it is a program to subsidize this or that,  
10 they have the best intentions. But our Federal Government  
11 begins, embarks upon developing these rules, and we end up  
12 with stacks of rules, whether it is the IRS, you are filling  
13 out your tax forms, whatever it is. It becomes virtually  
14 impossible to understand all the details and to figure it out.

15 But the Duceys, Chad Ducey in particular, understood it,  
16 because he dealt with it on a daily basis. He took advantage  
17 of the fact that other people did not understand it. He took  
18 advantage of the fact that he understood this and they didn't.

19 We have often heard the old adage, "What is an expert?"  
20 The definition of an expert is anybody who knows this much  
21 more about a subject than you do. So on some subjects, you  
22 are an expert to me. Some subjects, I am an expert to you,  
23 but on the subject of RINs around e-bio, around Imperial, Chad  
24 Ducey was the expert, because he knew just that much more than  
25 anybody else about RINs, and the Duceys took advantage of

1 that.

2 They took advantage of that and developed a cover story,  
3 a cover story which they fed to a number of people who  
4 believed them, a cover story that my grandmother would have  
5 immediately bought or immediately accepted because she trusts  
6 people, and she doesn't believe that people are lying to her.  
7 She doesn't accept the fact that there are those people in the  
8 world who will lie, who will cheat, and steal. She sees it,  
9 but she just doesn't comprehend it.

10 What was that cover story? Remember the testimony? We  
11 have advantage of the cover story because after Craig Ducey  
12 was arrested he went to see his lawyers, who were Barnes &  
13 Thornburg. He sells them on the cover story. This is the  
14 same Craig Ducey says, "Jeff Wilson should never have bought  
15 that cover story." And yet, Craig Ducey tells that cover  
16 story to some of the most sophisticated lawyers in this legal  
17 community. What was that cover story?

18 Let's review it, because he said that cover story to a  
19 lot of people, including Jeff Wilson. The testimony was,  
20 within the start of operations, Craig Ducey was making  
21 biodiesel with a lot of waste. This waste was taken by a  
22 gentleman named Junior Scott. Junior would take the waste to  
23 clean it up, bring back a stream of product he called off-spec  
24 or practically processed methyl ester.

25 You hear from the Government, nobody believes that. Only

1 people that believe that are thieves. Nobody can believe  
2 that. No, they can't believe that.

3 Well, a lot of people did believe this cover story. How  
4 could they believe the cover story from Ashley Player's point  
5 of view was so clearly erroneous. How could they do that?  
6 Did you see RFS2 and RFS1? Who reads that and can digest that  
7 and understand it?

8 Because I am a lawyer, my wife wants me to do the taxes  
9 at home. You have been a lawyer for 30 years. You can help  
10 me do the taxes. I can't do the taxes. I don't understand  
11 that stuff. I can't do that. Well, read the book you are a  
12 lawyer. You read laws all the time. Read it. Figure it out.  
13 Help me answer this. Really, I can't do that. I don't  
14 understand it even though I read it, and I'm used to reading  
15 technical documents. I don't understand it. So some people  
16 do, but I can't. I can't understand RFS2, RFS1. The  
17 Government witness, maybe Ashley Player does, and she can, but  
18 I can't do that.

19 Craig Ducey would take that off-spec product and process  
20 it the balance of the way until it passed ASTM biodiesel  
21 testing requirements. Craig Ducey said he asked his EPA  
22 consultants at Weaver Martin if this qualified as a feedstock,  
23 and they told him yes. Craig Ducey said it was cheaper for  
24 him to process it because it did not start from scratch in the  
25 process. Who would have known without the assistance of the

1 Government witness who developed the RFS2 program and Ashley  
2 Player? Who would have known that you can't do that?

3 Be mindful. The Government wants you to say, well, Jeff  
4 Wilson at Imperial, they own Hoosier Bio. They were in  
5 biodiesel -- it was development research trying to develop  
6 biodiesel product a jet engine can burn. They never produced  
7 any biodiesel. They never applied for RINs. They never had  
8 to read the RFS2 program or the RFS1. They just want to  
9 confuse you with that. Hoosier Bio, they must have done that.  
10 They must have done RFS2.

11 Mr. Ducey continued his cover story. As e-bio learned  
12 how to process this product, he told his lawyers, he had  
13 less -- Junior had less and less in the waste stream because  
14 his conversion was getting more complete. However, Junior  
15 told him he had plants all over the country he picked up from,  
16 and he could get this product from other locations. So what  
17 is Mr. Ducey saying?

18 We had a stream of off-spec product. We had a stream of  
19 that. That is legitimate. You can attach RINs to it. We  
20 sold that at e-bio, and guess what? Guess what, Mr. Lawyers?  
21 I found a different source from it. I found a whole other  
22 source because that, that -- because that is a better way of  
23 building a mousetrap. Let's talk about off-spec.

24 The Government wants to say, it is very clear. If it is  
25 off-spec, it can't be methyl ester. It can't be fatty acids.

1 It can't be soy. It can't be these fats that you do this  
2 transesterification, but if you buy the Ducey cover story, all  
3 off-spec starts with fatty acids. All of the off-spec starts  
4 with soy. So when you represent to somebody that I am  
5 building, I am making at my plant biodiesel from fatty acids  
6 and from soy, you are telling the Ducey story. There is no  
7 distinction as long as it is certified. As long as this stuff  
8 starts as fatty acids or soy and it follows a pathway, people  
9 ask you, how do you make this stuff? I make it from soy. It  
10 comes from soy. It comes from fatty acids.

11 Be mindful, Jeff Wilson, that this elaborate scheme sold  
12 by the Duceys to Mr. Wilson occurred over an 18-month period.  
13 Craig Ducey had it approved. He told his lawyers he had it  
14 approved as a legal feedstock. He is telling his lawyers  
15 this. Well, according to the Government, you are lawyers, got  
16 books, got library, got associates. Be easy for the lawyers  
17 to figure out he is not telling you the truth. It is not that  
18 easy. Once again, Chad Ducey and Craig Ducey are the experts  
19 because they know that much more than anybody else.

20 MR. DeBROTA: Your Honor, I have -- I am going to  
21 object to having imagination on what Craig Ducey said to Mr.  
22 Wilson or would have testified to, had he testified, because  
23 he didn't.

24 THE COURT: Chad?

25 MR. DeBROTA: Chad Ducey. Lots of references to

1 Chad. There is no evidence in the record what Chad Ducey said  
2 out loud to Mr. Wilson.

3 THE COURT: That is true. Don't put those  
4 statements before the jury in your closing argument. There is  
5 no evidence to that effect.

6 MR. FARLOW: Craig Ducey told his lawyers he had it  
7 approved as legal feedstock and had been through attestation  
8 testing and allowed him to use it as a feedstock, so he began  
9 to buy it and process it. As he grew, he realized he did not  
10 have access to enough of it and quickly realized he could not  
11 handle the volume introduced to him -- excuse me.

12 So he was introduced to Brian Carmichael, introduced to  
13 Joe at Caravan Trading, that is Joe Furando, which was a  
14 feedstock sourcing company. He led his lawyers to believe he  
15 starts off using off-spec, can't find enough of it, he goes to  
16 Caravan, and they have more of it and they have a steady  
17 supply.

18 Craig Ducey began to purchase this off-spec product from  
19 Joe Furando. In Craig Ducey's mind he told the lawyers Joe  
20 realized he could not keep up with the demand as he grew and  
21 other plants --

22 MR. DeBROTA: Your Honor, we are now going way  
23 beyond what Mr. Craig Ducey testified to about that letter,  
24 into reading the rest of the letter, which I think was offered  
25 as -- was it a prior consistent statement or inconsistent



1 statement? Mr. Ducey said, "I wrote that, I lied to that  
2 lawyer, here is the truth on the stand." How are they using  
3 this piece of evidence to suggest Mr. Craig Ducey said any of  
4 that on the stand? Now they are just reading a document that  
5 is not in evidence.

6 THE COURT: You can't read a document that is not in  
7 evidence, Counsel.

8 MR. FARLOW: These are my notes. These are my notes  
9 of what --

10 THE COURT: If they are your notes, you can read  
11 them, but if they are notes that incorporate an unadmitted  
12 exhibit, then you can't incorporate it, even if it is your  
13 notes.

14 MR. FARLOW: Okay.

15 THE COURT: So stick with the evidence.

16 MR. FARLOW: All right.

17 THE COURT: You can elaborate within the framework  
18 of the evidence that came into the trial.

19 MR. FARLOW: And so, what Mr. Ducey told his lawyers  
20 and the evidence here that he told you, he told his lawyers,  
21 is that this group started to look for other feedstock and  
22 biodiesel plants that they could take in and attach RINs to  
23 it. Joe guaranteed a supply, and Joe was very concerned that  
24 he not be cut out of the deal, out of the deal process,  
25 supplying that feedstock.

1 That was a cover story that the Duceys, that Craig Ducey  
2 told a number of people, and a number of people accepted it  
3 for a long, long time. I would like to look at the evidence,  
4 and we will talk a little bit about some of the evidence and  
5 then I will get back to my argument.

6 THE COURT: Kelly, switch the --

7 MR. FARLOW: Next one. It is important. It is  
8 extremely important not to lose sight of the fact that this  
9 was 18 months. Imperial purchased e-biofuels May 24, 2010,  
10 and Jeff Wilson resigned November 7th. This is a relatively  
11 short period of time for Mr. Wilson to hear the Ducey cover  
12 story, view the documents, understand what is going on, and  
13 then really digest what is happening here with the Duceys.

14 Next. It is important to know who profited by this. We  
15 are looking now at evidence, whether Mr. Wilson knew about the  
16 Ducey fraud, knew about the Ducey cover story was a lot of  
17 lies or not. In any fraud case, follow the money. Where did  
18 the money go?

19 Because generally, if you are a fraudster, somebody is  
20 committing fraud, you are going to get the money. You are  
21 going to get it early, and you are going to keep it. Because  
22 people who commit fraud are greedy people. It just goes hand  
23 in hand. If you are not greedy, generally you will not commit  
24 fraud generally, you will not steal money.

25 If you are real greedy, you want that money, and you cut

1 corners to get it. That is why all fraud investigators, FBI  
2 agents, local police are taught follow the money. Where did  
3 the money go? Where did the money go here?

4 Mr. Wilson, during 2010 -- or excuse me, 2008 and 2009  
5 and 2010 let his salary accrue. That means he told Imperial,  
6 while I am entitled to take money out, while there is some  
7 money I can take out, his salary, I am not going to take it.  
8 I am going to let it stay there with the company where it can  
9 benefit the company. We are cash short. The company needs  
10 cash to buy feedstock. The company needs cash to operate.  
11 Leave my money there. As long as he is surviving down in  
12 Evansville, don't take out the money. At the same time he  
13 sold a little bit of shares here and there, but they didn't  
14 take the money. Far from it.

15 Next slide, please.

16 Who is taking the money? Well, the Duceys, of course,  
17 Furando, of course. The Duceys own Werks Management, which  
18 manages e-bio. They are taking leased cars, lease a Mercedes  
19 S550, \$100,000 automobile, expenses, and over \$300,000 each.  
20 But the greatest benefit to them, from Imperial, the greatest  
21 benefit is they now have a publicly-traded company to protect  
22 them against that \$14,000 a month -- a week, \$14,000 a week in  
23 interest they have to pay on the debt.

24 E-bio has debt of millions of dollars, and they have to  
25 service that debt, and the cost of that debt is \$14,000 a

1 week. And if e-bio can't pay it, the Duceys have to pay it  
2 individually. And e-bio is on the brink of going bankrupt.  
3 In steps Imperial and says, "We will guarantee that debt as  
4 well. We will pay that debt for you," and that is among the  
5 greatest benefits the Duceys got, but they also continued to  
6 take a \$300,000 salary and the car. They did that at the very  
7 time Jeff Wilson is saying, "I can't take money out of this  
8 company."

9 MR. DeBROTA: Objection.

10 THE COURT: Sustained.

11 MR. FARLOW: I am sorry.

12 Mr. Wilson is not, in fact, taking money out of this  
13 company.

14 Miss Pattison and Mr. Furando took money. I think we  
15 heard testimony of the \$250,000 Ferrari he bought, jewelry,  
16 vacations, transfers of millions of dollars. A prudent fraud  
17 investigator who looks in on this follows the money, follows  
18 the money trail. It leads straight to the Duceys. It leads  
19 straight to Brian Carmichael. It leads straight to Joe  
20 Furando, Kat Pattison.

21 Pattison says, "I didn't get any money. I got a half a  
22 million dollar salary that I split with somebody, but I didn't  
23 really get any money." She lived with Joe Furando in his  
24 multimillion-dollar mansion. She took vacations with him.  
25 She benefited by the proceeds of fraud by her association with

1 Joe Furando. That was a choice she made, and she lived the  
2 lifestyle of a companion of Joseph Furando.

3 We look at this exhibit, which was in evidence. It tells  
4 us that Jeff Wilson, who is chief executive of the company,  
5 made an unsecured loan of \$451,000 to the company July 31,  
6 2010, and has accrued salary of 160,000. This is in the 2010,  
7 July 2010. This is as the Duceys are ramping up their fraud  
8 and taking out money. Jeff Wilson is putting money back in.

9 Does that suggest to you that Jeff Wilson is part of the  
10 fraud? Let's look at it the way -- does Jeff Wilson see the  
11 world the way my grandmother does, or does he see it the way  
12 cynics see it? I suggest to you he sees the world, and he  
13 sees the Duceys the same way my grandmother would have seen  
14 them, as honest people with legitimate explanations about what  
15 is going on. You have questions, they got answers.

16 Another earmark of a con man for all of us; that is,  
17 someone has all the answers to every little thing. Things  
18 seem out of sorts, got the answers, got the answers. That is  
19 the Duceys. When Jeff Wilson would pose questions to the  
20 Duceys, he had the answer. Here is the answer, here is the  
21 answer, here is the answer. We will cover some of those here  
22 and what he says. As we will cover some of those, let's think  
23 about why Craig Ducey is telling Jeff Wilson about this.

24 Next slide.

25 I bring this to your attention because it is dated 2009,

1 but it was presented to Mr. Wilson by Mr. Ducey. It is a  
2 Houlihan report. It is just part of the Ducey fraud. If what  
3 you are doing is selling Jeff Wilson a fraud, if what you are  
4 doing is telling him, hey, we are guilty of fraud, and you  
5 want to buy us because we are making a lot of money to commit  
6 fraud, no need to give them the Houlihan report which says you  
7 are a legitimate operation.

8 Next slide. The Energetix report. Once again, they come  
9 in, they look at the Ducey operation. They say it is  
10 legitimate. They identify the feedstocks, white grease,  
11 poultry grease, yellow grease, miscellaneous feedstock. If  
12 you buy the Ducey cover story, all of the off-spec material  
13 comes from those things. That is what it is, that it is  
14 halfway processed grease. It is halfway processed chicken  
15 fat. It is halfway processed.

16 So when you tell somebody what are you doing down there?  
17 Well, down at e-bio we are taking biodiesel from grease, from  
18 chicken grease and soy oil. Oh, no, you are not, you are  
19 making it from off-spec. No, no, it comes from chicken  
20 grease. That is where it starts. That is the important part  
21 of this, that it is green because it doesn't come from  
22 petroleum. That is an accurate statement. It comes from  
23 grease.

24 Let's go to the next slide. The Government made a lot  
25 about this, but it is telling. Jeff Wilson got the make

1 versus buy cost sheet. The Government's interpretation of  
2 this, the cynic's interpretation of this document is that it  
3 is make versus buy, you see? Make biodiesel versus buy the  
4 biodiesel. Look how Mr. Ducey artfully explains what he means  
5 by "make versus buy."

6 Now, once again, if Mr. Ducey had already explained to  
7 Jeff Wilson that "make versus buy" means make versus buy it  
8 and just resell it and that is the fraud, he wouldn't have  
9 said what he says in the next statement. "Attached is a  
10 review of manufacturing white grease versus cleaning  
11 off-spec."

12 So Mr. Ducey explains to Jeff Wilson that make versus buy  
13 is manufacturing from white grease or cleaning off-spec, see?  
14 Make from white grease versus buy off-spec and clean it up.  
15 He has his explanation.

16 If Jeff Wilson knew about the fraud, he would say make  
17 versus buy. Here is how it would have read: Attached is a  
18 review of manufacturing white grease versus buying somebody  
19 else's biodiesel and committing fraud. Now, he doesn't say  
20 that.

21 Remember, Jeff Wilson has only gone to the e-bio plant  
22 ten times. He is not the CEO or an officer at e-bio. He is  
23 the CEO of Imperial. Imperial has a lot going on. It has  
24 different divisions. I would suggest to you that Jeff Wilson  
25 is spending more time looking at tar sands, more time in Texas

1 working on a new plant, working with Proven, trying to find  
2 property to put another biodiesel production facility in, why  
3 would he do that than spending time where all the money is?  
4 Why would he do that? Because he has got Werks Management.  
5 He is paying them \$700,000 a year to manage that, and when you  
6 are paying somebody \$700,000 a year, the Duceys, to manage a  
7 biodiesel plant, you let them manage it and that is what he  
8 did. They don't need him there. He was off to the next  
9 project, tar sands, and you heard that from Mr. Wernli.

10 Next slide. Again, if you view this slide objectively,  
11 the Government says, question for Mr. Wilson, to Aaron. If  
12 they are making biodiesel, how is this possible? Are all they  
13 are doing is handling someone else's stuff? That is a  
14 response to a question about glycerin. From Chad Ducey to  
15 Aaron Wilson, we are currently not producing any glycerin, but  
16 I have a few inquiries from people looking to buy it recently.

17 The Government should have you understand that Jeff  
18 Wilson should know, no glycerin? Fraud. No glycerin? Fraud.  
19 That is it. It is that simple. It is not that simple. It is  
20 not that simple, because the Duceys have an answer for that,  
21 off-spec. Polishing up off-spec doesn't produce glycerin.  
22 You heard from Dr. Caskey. It is a mechanical process. They  
23 filter out, they do some other things to it, but it is all  
24 mechanical. Doesn't produce glycerin.

25 The fact that they are not producing glycerin is



1 confirmation that we are buying off-spec, and we are producing  
2 biodiesel from off-spec. Where does off-spec come from? It  
3 comes from grease. Is off-spec grease? Yes, that is the  
4 pathway. That is the important part of it.

5 Of course, the legitimate question from the CEO of  
6 Imperial down to e-bio, if they are making biodiesel, how is  
7 this possible? All they are doing is rehandling someone  
8 else's stuff. In other words, is all they are doing off-spec,  
9 because Ducey led him to believe they were doing some  
10 transesterification from scratch as well.

11 Next slide, please.

12 Another exhibit. This is to Craig from Jeff Wilson, an  
13 e-mail, March 29, 2011, this is later on. He says, "Craig, it  
14 looks like a large portion of the feedstocks are coming from  
15 Houston. I assume these are all methyl esters requiring  
16 limited upgrading. How much more volume is available if we  
17 were able to buy a plant in the Houston area as well?" If you  
18 are able to buy it.

19 If Mr. Wilson knew about the fraud March 29, 2011, if he  
20 knew -- as Craig Ducey wants you to believe, why is he asking  
21 that question? He knows. Well, why waste your time punching  
22 up this e-mail? He already knows.

23 He doesn't know, that is why. Because like the Duceys  
24 lawyers, like Dr. Caskey, like Weaver Martin, like the  
25 auditors, he bought the Ducey cover story. How could you buy

1 the Ducey cover story, Ashley Player would say, or the fellow  
2 that wrote the RFS2. How do you buy that? Because Chad Ducey  
3 is the expert. He knows that much more about RINs. Excuse  
4 me --

5 MR. DeBROTA: There is just no testimony from Chad  
6 Ducey, yet alone he is an expert, yet alone he spoke to Mr.  
7 Wilson. This is improper.

8 MR. FARLOW: I misspoke when I said Chad Ducey. I  
9 am trying to refer --

10 THE COURT: Who are you referring to?

11 MR. FARLOW: I am sorry?

12 THE COURT: Who are you referring to?

13 MR. FARLOW: Craig Ducey.

14 THE COURT: No references to Chad.

15 MR. FARLOW: I am trying.

16 THE COURT: All right.

17 MR. FARLOW: Craig Ducey is the expert.

18 MR. DeBROTA: Objection. There is no -- there is no  
19 evidence in the record he was qualified as an expert. That is  
20 a misstatement of what the testimony is.

21 THE COURT: That is argumentative with respect to  
22 his characterization of his role. It is not as an expert  
23 witness. The objection is overruled. Go on.

24 MR. FARLOW: Thank you. Craig Ducey is the expert  
25 because he knows that much more about RINs and RFS2 than

1 anybody else that he is dealing with except these folks.

2 Next slide, please.

3 The e-mail starts Craig, from Jeff, "Can you give me a  
4 brief description as to how and from whom you buy feedstocks?  
5 This is for a Rodman question." Response from Craig Ducey,  
6 "We purchase feedstock and lock the price for each contract.  
7 For instance, we buy soy from Bunge at X price today, and it  
8 turns up or down the market, our difference." Response by  
9 Jeff Wilson, "Need more detail. Who are your major feedstock  
10 suppliers for the last month, for instance?" June 28, 2011.

11 If Jeff Wilson is part of the fraud, why is he asking  
12 this question? Jeff, have you forgotten? We are buying  
13 off-spec from Joe at Caravan. Just bought someone else's B99  
14 and recertified it. That is all. Why is he asking the  
15 question? Because he bought the Craig Ducey cover story, that  
16 is why.

17 Next slide, please.

18 Government makes a lot of increased production so we can  
19 defraud more people, so we claim the plant can produce so much  
20 more than it can. And Mr. Wilson, boy, evidence that he is  
21 committing fraud is he is pushing them to push more through  
22 there. That is evidence of fraud, isn't it, that he is  
23 pushing more? No, it is not. It is the responsibility of  
24 every CEO of a company to maximize share -- maximize the value  
25 of the share for the shareholders.

1           When he looks generally at the books, he is looking at  
2 the bottom lines. Why does the CEO look at the bottom lines?  
3 Because he has management in place, Werks, the Duceys. They  
4 are the ones who are managing it. They are the ones buying  
5 and selling the feedstock, managing it. I want to see the  
6 bottom lines, because that is what interested me. I see the  
7 bottom lines, I see it is profitable.

8           When a CEO sees that doing the activity that is  
9 profitable, he is going to encourage and push more of that  
10 activity. There is nothing fraudulent about that. That is a  
11 CEO's duty, and so, can we increase it? Is there a way to  
12 increase this profitable activity you guys have developed?  
13 You guys are doing great down there at e-bio. We are making  
14 money, it is looking good. You know, you have found the  
15 off-spec, the proprietary off-spec source.

16           MR. DeBROTA: Objection. Nothing like this is in  
17 the record. "Proprietary off-spec source," nowhere in the  
18 record.

19           THE COURT: Sustained. Stay with the evidence,  
20 Counsel.

21           MR. FARLOW: I submit that it is in the record. I  
22 asked those questions from the witnesses and got those  
23 responses.

24           THE COURT: Who did you ask those of?

25           MR. FARLOW: Craig Ducey. I have an e-mail coming

1 up where he says that.

2 THE COURT: Okay.

3 MR. FARLOW: So Dr. Caskey comes in and looks at the  
4 plant in 2011. Now, surely I am not going to tell him about  
5 the off-spec stuff because it is so clear you can't do that.  
6 He is a professor and understands that kind of thing. We are  
7 not going to tell him.

8 Next slide, please.

9 Jeff e-mail to Craig. Craig -- this is August 23, 2011.  
10 "One more thing I noticed on the Caravan proposal, Item 1.  
11 Shouldn't we change the language from 820,000 gallons of  
12 biodiesel to biodiesel feedstock or off-spec methyl esters  
13 feedstock?" Shouldn't we say we are doing off-spec? He is  
14 asking Craig that. He is asking Craig that on August 23,  
15 2011.

16 He knows they are committing fraud. He knows they are  
17 just buying it recertified. Why is he asking the question of  
18 Craig? Craig's response ought to be, hey, fool, we are back  
19 to the alchemy scheme. Don't send me e-mails like that, you  
20 know exactly. Craig's response? "Yes, I would actually like  
21 not to mention that we are getting feedstock, if possible."  
22 His response, he doesn't want to tell them on the Caravan  
23 proposal they are getting feedstock, if possible. I will  
24 address that later, as well.

25 Let's go to the next exhibit.

1           If Jeff Wilson knew that off-spec methyls was a fraud, if  
2 he knew what was so clear to the Government today, with their  
3 20/20 hindsight, if he knew that, why would he make this  
4 statement in the 10-Ks and 10-Qs? The most recent one  
5 produced into evidence has this language. "We produce our  
6 biodiesel from a wide variety of feedstocks, including soy  
7 oil, animal fat, used cooking oil. We also have the  
8 capabilities to reprocess off-spec methyl esters."

9           He is now telling the world we have the capability to  
10 commit fraud, if you believe the Government's version. If you  
11 believe the Ducey cover story, they think it is legal. It is  
12 okay. Put it in the 10K. Let the investors know.

13           Is that inconsistent with what the evidence shows? No.  
14 Because all off-spec emanates or starts with white grease or  
15 soy oil.

16           Next slide, please.

17           One of the 17 examples that we offered into evidence of  
18 feedstock certifications, why is this important? Because  
19 these are the documents that Jeff Wilson saw.

20           Certifications --

21           MR. DeBROTA: Objection.

22           THE COURT: There is no evidence that he saw them.

23           MR. FARLOW: There is evidence that he had all these  
24 documents with him.

25           THE COURT: But you are representing it with respect

1 to these specific documents.

2 MR. FARLOW: Okay -- all right. I will take a look.

3 As CEO of Imperial, Jeff Wilson produced -- we will take  
4 a little detour here -- produced documents pursuant to a  
5 subpoena to the SEC. It is an important point that by CEO in  
6 producing those documents doesn't mean he saw those documents.  
7 It doesn't mean he reviewed those documents. It doesn't mean  
8 he digested those documents. It doesn't mean he understood  
9 those documents.

10 He received a subpoena. He did what a CEO is supposed  
11 to. He produced those documents. There is no evidence how he  
12 produced those documents, but he produced them and he produced  
13 all of them. He did what a CEO is supposed to do.

14 Now, it is a far cry different than what Kat Pattison did  
15 when she received the box of bill of ladings, took them and  
16 hid them. Took them to her lawyer's office and hid them. Oh,  
17 my gosh. That is evidence of fraud, taking them and hiding  
18 the records. Producing all of the records to the SEC, the  
19 template, all that, that is not evidence that Jeff Wilson knew  
20 about the fraud.

21 That is evidence he didn't know about the fraud. It is  
22 evidence he didn't understand what that meant. It is evidence  
23 that these were documents he gathered from e-bio and delivered  
24 to the SEC. So the idea that delivering -- a CEO of a  
25 corporation delivering documents pursuant to a subpoena,

1 hundreds of thousands of documents, the idea that he  
2 understands and knows and digests the contents of all the  
3 documents he produces is ludicrous.

4 Next slide, please.

5 This is part of Dr. Caskey's report, which is in  
6 evidence, and I thought it was interesting because the finding  
7 of this, the last line here where I have highlighted. "The  
8 finding of this investigation is e-bio's fuel plant in  
9 Middletown, Indiana is if fully operational, capable of  
10 producing a biodiesel product meeting the appropriate ASTM  
11 specifications with a current capacity of 15 million gallons."

12 Another document that confirms for the CEO of Imperial  
13 that all is well down at e-bio, I believe the next slide. I  
14 think it is interesting because here I have highlighted the  
15 portion of the second Dr. Caskey report. "The visit on July  
16 26, 2011, was made because e-bios has expanded their biodiesel  
17 process to include feedstocks, requiring transesterification  
18 and the processing of recycled methyl ester feedstocks."

19 When Mr. Wilson looks at that from Dr. Caskey, one -- the  
20 Government would have you believe -- excuse me, that they  
21 should not, they should not accept that. They should  
22 recognize that somehow -- again, what does this demonstrate?  
23 This demonstrates that a lot of people don't understand that  
24 off-spec, processing off-spec is inappropriate or illegal, not  
25 even Dr. Caskey.



1 He goes on to say that the plant is fully operational,  
2 fully operational, yet at the same time the Government would  
3 have you know that Jeff Wilson knew it wasn't operating. That  
4 is static. That is not what this report says. Capable of  
5 doing 30 million gallons.

6 Next slide. I brought this in because, brought your  
7 attention to this, because Katirina Pattison, Mr. Chepurko  
8 seem to have a little disagreement in their testimony.  
9 Katirina Pattison testified that when Mr. Wilson, Mr. Williky  
10 made a call on Caravan, Mr. Wilson went downstairs to a  
11 meeting on hedging while others stayed upstairs, and he was  
12 down there learning about hedging.

13 Mr. Chepurko says no, Wilson was there, and we were  
14 talking about alchemy. We have an e-mail here that is in  
15 evidence. It is from Jeff Wilson back to Katirina Pattison.  
16 It just reads, "We enjoyed the meeting as well. We look  
17 forward to receiving the draft of the proposed feedstock  
18 hedging agreement as soon as it is available. I believe Joe  
19 and Craig discussed this. We believe it is important to  
20 expedite it."

21 Simply shows, in fact, there was a discussion of hedging  
22 and confirms for, I believe it supports our contention that  
23 this supports Katirina's contention that, in fact, Jeff Wilson  
24 went downstairs to another meeting contradicts Mr. Chepurko.

25 Let's go to the next one. I will talk about the

1 recording in a meeting July 27th at Caravan, because it is --  
2 I think it is very important.

3 Mr. Chepurko learned about the fraud, his first  
4 inclination was -- not first inclination, but how can I  
5 profit? How can I get some money out of this? Rather than  
6 recording it immediately what he believes will be a fraud, he  
7 embarks upon his own investigation, so he, he can find a way  
8 to make some money, and he begins to tape record people.

9 Among those tape recordings, snippet, what you heard,  
10 Mr. Chepurko says it was Jeff Wilson's voice there that  
11 demonstrates he was present when they were talking about  
12 alchemy. You heard Craig Ducey tell you, listen to that  
13 snippet alone, what you don't hear is that people are coming  
14 and going. What you don't hear is it is a discussion as they  
15 are walking through the plant as people are coming and going,  
16 and what you don't hear is the introduction of Chad Ducey.

17 If you listen to the entire segment, he told you that he  
18 listened to it. You would hear that people were coming and  
19 going, that they were walking through the plant and so forth.  
20 Mr. Chepurko says, I am confident, but Jeff Wilson went with  
21 us to the golf at the Hawthorns the next day and went to the  
22 steak house, St. Elmo's Steak House. I am confident of that.  
23 Craig Ducey says just the opposite. Jeff Wilson didn't go to  
24 the steak house and didn't go golfing.

25 It is interesting the people we have had identify Jeff

1 Wilson's voice on that tape. I will play it here for us in a  
2 minute, just those two little snippets side by side. It is  
3 interesting that the people who step up to the plate -- say,  
4 hey, I can identify it for you. I will do it, I will do it, I  
5 will do it -- are the people who have cooperation agreements  
6 with the Government.

7 If they cooperate, if they tell us the truth, the  
8 Government's version of the truth, not the Defense version of  
9 the truth but the Government's version of the truth, if they  
10 tell that, they get a break in their penalty, and that is why  
11 they are here. Remember the testimony of Craig Ducey.  
12 Talking to the FBI. I can help you get Jeff Wilson. I can  
13 assist in that trial. How about that?

14 How about John Lewis? I think he knew. I think he knew.  
15 John Lewis? Okay, he didn't know. About Wilson? I will  
16 testify about that.

17 And so the Government has that tape because Mr. Chepurko  
18 gave it to them back in 2012. Chepurko then testified, well,  
19 I identified that voice to my lawyer in 2014. Who here  
20 doesn't believe that if the Government had a tape, a smoking  
21 gun tape where Jeff Wilson is present when they are discussing  
22 the alchemy scheme, they wouldn't have, they wouldn't have  
23 discovered that earlier in their investigation. They listened  
24 to all of the tapes.

25 But no, you heard the testimony on the eve of trial, and

1 things happen on the eve of trial, and you begin to build your  
2 case up when you are feeling a little insecure. How do  
3 you -- how do you build your case up with that little  
4 insecurity? You go see Kat Pattison, Kat Pattison. Got a  
5 deal with you, got to help us. You understand that? You get  
6 a break from your sentence. I have a tape to show you, have  
7 you identify it. It doesn't matter that you only talked to  
8 Jeff Wilson twice and that is years ago. That doesn't matter.  
9 Listen to the tape. Who is it? That is Jeff Wilson.

10 Mr. Chepurko, yes, that is Jeff Wilson. That is Jeff  
11 Wilson. That is Jeff Wilson, why didn't you tell them a long  
12 time ago? Why did you wait until July 10, 2016? Trial  
13 started July 11th. This trial started July 11th. Shows you  
14 how dynamic things are as you prepare for trial. The  
15 investigation has been around this many years, and yet on the  
16 day before the trial, we have Jeff Wilson now, and in comes  
17 Craig.

18 Craig's testimony was Sunday before trial, Sunday before  
19 the Monday trial, first time I heard that tape. You know what  
20 is also interesting? It is not a matter of the tape. If you,  
21 Craig, were present at e-bio when this alchemy discussion  
22 occurred in Jeff Wilson's presence, why didn't you tell the  
23 FBI a long time ago? Why didn't you say, hey, guys, the  
24 tapes. I was present at e-bio. I was there. They talked  
25 about alchemy, and Jeff Wilson is there. The case goes no

1 further. You have got him. Why didn't he do that?

2 So no. Craig Ducey listens to this tape, listens to it  
3 on Sunday. You heard the testimony. They sent him home or he  
4 went someplace. It wasn't until Tuesday he comes back and  
5 identifies it as Jeff Wilson. That is the testimony I heard.

6 Oh, by the way, when you listen to the tape, here is your  
7 little handy dandy transcript of the names of who we think  
8 those voices are. Why do that while trial is going on? Why  
9 at the last minute do that?

10 You heard from Jeff Wilson's brother, that is not him.  
11 You make your own decision, but even at that, in this case and  
12 as to all these elements, the Government has the burden to  
13 prove beyond a reasonable doubt. If at the end of this case,  
14 I don't understand, it is 50/50. I can't tell whether that is  
15 Jeff Wilson's voice or not, 50/50. That is not proof beyond a  
16 reasonable doubt. Proof beyond a reasonable doubt is a very  
17 high standard.

18 If at the end of this case, if when you go back and  
19 deliberate, say, I can't figure this out. I don't know for  
20 sure. Jeff Wilson bought the cover story. I don't really  
21 believe Mr. Ducey. I am sort of -- maybe he does, but maybe  
22 he doesn't. I can't figure it out, that is not proof beyond a  
23 reasonable doubt. Your decision is then pretty easy because  
24 it is the Government's burden to prove beyond a reasonable  
25 doubt, and they have attempted here to prove a case founded

1 upon the testimony of liars and thieves. People come in here  
2 and continue to lie to you and continue to follow the script  
3 and they build their case on that kind of testimony. Why do  
4 they do that? Why do they do that?

5 This should be an easy case. The Government, when the  
6 Federal Government brings criminal charges against one of its  
7 citizens and attempts to convict them of felonies, it should  
8 be an easy decision. It should be very clear, and the reason  
9 it is not clear here is they are viewing this case. They are  
10 viewing these facts through their cynical prism, and I suggest  
11 to you, view it from the point of view of Jeff Wilson. View  
12 it from the point of view of my grandmother, from the  
13 standpoint that people generally don't lie to the standpoint  
14 that people generally don't steal.

15 THE COURT: You have three minutes left.

16 MR. FARLOW: Okay. Play the excerpts from the tape,  
17 real quickly, and you listen to one. One is a low, gravelly  
18 voice, the other is nasal. Please.

19 THE COURT: What is this?

20 MR. FARLOW: This is exhibit -- which numbers are  
21 they?

22 THE COURT: Is this 147?

23 MR. FARLOW: Yes, 147.

24 THE COURT: Which part are you playing it from?

25 MR. FARLOW: Just the part that 147, the part where

1 they claim Mr. Wilson is speaking. And in the part from the  
2 exemplar -- I don't know what exhibit number that is, 558.

3 558? Okay, please.

4 (Audio is played for the Court and jury.)

5 THE COURT: That is not 147.

6 MR. FARLOW: Let's play 558 again. This is 558,  
7 Your Honor, then 147.

8 (Audio played for the Court and jury.)

9 MR. FARLOW: That is Jeff Wilson. Next one.

10 (Audio played for the Court and jury.)

11 MR. FARLOW: We are not going to talk about this.  
12 These guys, that is the difference. It is not the same  
13 person. It is clear to his brother.

14 Let's go to Exhibit 683. Next. Next. Next.

15 Ashley Player's article -- what is so clear to me,  
16 people? Look at her article that is in evidence. Although  
17 many areas of RFS2 are clear, the regulations are ever  
18 evolving and subject to interpretation. One potential gray  
19 area is the treatment of off-spec biodiesel. Many facilities  
20 simply sell the material without RINs to be reprocessed.  
21 Gray area. Ashley Player, remarkable witness in understanding  
22 this.

23 When the Government brings charges against one of its  
24 citizens and it brings those charges and tries to prove those  
25 charges with the likes of Mr. Ducey, I want to bring -- go to

1 the last slide, please. You may recall I asked Craig Ducey  
2 here a question, and what I asked him is, do you remember why  
3 you sent the e-mail to Mr. Wilson? This is the e-mail from  
4 John Lewis, the lawyer. The lawyer is saying, well, it is  
5 okay. Do you know why you sent it? When, I asked that  
6 question, his response, "I don't recall if I was asked to send  
7 him the e-mail. I don't know." When asked the same question  
8 by Mr. Ballantine, he went on for 10, 15 minutes explaining  
9 exactly why.

10 What do we see going on here? Wind up here. What do we  
11 see going on here? Has the Government proven beyond a  
12 reasonable doubt that Jeff Wilson is guilty of fraud? With  
13 respect to lying to the FBI, did you do -- did you compare  
14 these two? Jeff Wilson's response, no. I didn't do the  
15 comparison. Somebody else did the comparison. I may have  
16 reviewed it. Is one more profitable than the other?

17 Ask a businessman whether it is more profitable to do  
18 this or that, he is going to say, I don't know, I don't know.  
19 It depends on when, it depends on the cost of goods, depends  
20 on production cost, depends on electricity cost. It is a  
21 snapshot. I don't know. That is -- they are lying to the  
22 FBI? That is their lie to the FBI charge?

23 The Government brings somebody into the courtroom and  
24 attempts to convict them of a crime, they have a high burden.  
25 If you believe that that high burden is met on the testimony



1 of Craig Ducey, on the testimony of Katirina Pattison, on the  
2 testimony of Mr. Chepurko, if you believe it is met with  
3 last-minute evidence, voice identification by these guys that  
4 rarely talked to him, why does the Government bring it here?  
5 Mr. Wilson faces the IRS, the DEA, the EPA, the USDA, FBI --

6 THE COURT: The DEA? Did you run an extra one?

7 MR. FARLOW: I may have.

8 THE COURT: All those initials.

9 MR. FARLOW: All of the initials, the alphabet soup  
10 of Government investigators joining forces to target one of  
11 our citizens, and this is the best they can do?

12 The Government has not and cannot prove beyond a  
13 reasonable doubt that Jeffrey Wilson committed any fraud, and  
14 if you disbelieve those witnesses, if you believe they lied to  
15 you, you have but one obligation, and that is to find that  
16 Jeffrey Wilson is not guilty, because the only way to find  
17 that he is guilty beyond a reasonable doubt is to believe the  
18 Government's case in total. Ask yourself why.

19 THE COURT: You are out of time, Counsel.

20 MR. FARLOW: I will say good-bye. On behalf of Mr.  
21 Wilson, Mr. Wilson's family, our Defense team, we couldn't  
22 appreciate your attention here any more. You have given great  
23 attention to this case, and that is what we need. Thank you  
24 very much.

25 THE COURT: You may deliver your rebuttal argument,

1 Mr. DeBrota.

2 MR. DeBROTA: Thank you, Your Honor.

3 **FINAL CLOSING STATEMENT**

4 MR. DeBROTA: May it please the Court.

5 THE COURT: Mr. DeBrota.

6 MR. DeBROTA: Ladies and gentlemen of the jury, one  
7 of the powers of the jury system is that there are a large  
8 number of you, and I am going to suggest that you have the  
9 capability of remembering what witnesses said, how they said  
10 it, their demeanor, whether it was consistent or inconsistent  
11 with what they had said before at other times and places,  
12 whether they were biased or not.

13 You have the ability to analyze that, and we put the  
14 responsibility on you to reach conclusions about that. But I  
15 am going to suggest that much of what Mr. Farlow just said was  
16 not in evidence, you shouldn't think about it very much, or  
17 was just downright wrong. I do not think I am mistaken in  
18 stating that Chad Ducey never stood in that box. You didn't  
19 hear a single word from Chad Ducey, and I finally started  
20 objecting. But every single time Mr. Farlow said Chad Ducey  
21 said something or didn't say something to Mr. Wilson, you  
22 don't have any evidence from Chad Ducey about that at all, for  
23 even a second. So you should put that aside.

24 To the extent that the testimony was from Craig Ducey,  
25 you had probably 15 minutes of closing argument talking about

1 what Craig Ducey told his former lawyer at Barnes & Thornburg  
2 at a time he was lying and hoping to not get convicted. There  
3 is zero evidence that letter ever made it to Mr. Wilson.  
4 There is zero evidence that Mr. Craig Ducey said any of that  
5 to Mr. Wilson. He didn't say he said that to Mr. Wilson, he  
6 said the opposite of that. That is not before you either.  
7 That is basically put out there to distract you.

8 Now, here is what is really interesting. I suppose Mr.  
9 Farlow is suggesting that the Defendant here explains all of  
10 his statements to investors at all times, with the idea that  
11 all of the production was off-spec, off-spec. That explains  
12 why what he said is true and consistent and so forth. You can  
13 look at the first 10-K, you can look at the first 10-Qs, there  
14 are three of them. You will not find the word "off-spec" in  
15 there. You will not find it. You will find references to  
16 producing biodiesel from raw materials, not off-spec, not  
17 there.

18 You will find descriptions of choice white grease, not  
19 biodiesel. You will see descriptions of soy, not biodiesel.  
20 It talks about a number of different sources, not one from  
21 Caravan. This defense, if it is based on the idea as  
22 suggested, that at all times the Defendant, this Defendant  
23 believed that what was going on in good faith, heartfelt  
24 personal belief, his personal knowledge was off-spec, he just  
25 convicted himself of securities fraud on every single count

1 until the last one, because the document they said where he  
2 talked about off-spec, the last annual report, has the only  
3 reference to off-spec in it and it says, "The plant is capable  
4 of producing off-spec."

5 We know about the word "capable." Mr. Caskey explained  
6 what he meant by that. It means that it is possible, not that  
7 it happened. And if you look carefully, you will see that  
8 there is not one reference in any of those public filings that  
9 says what actually happened in the past. The actual truth was  
10 off-spec.

11 And, most critically, Count I of this case is lying over  
12 a period of time. He sold directly, directly to the PIPE  
13 investors, an investment based on no disclosure whatsoever of  
14 off-spec. That is after he has talked to Mr. Lipman, after he  
15 has talked to Mr. Steinberg, after he has heard from Ashley  
16 Player, after Pattison has said you can't make things  
17 off-spec. He is not telling the investors what they want to  
18 know, because we know what happens, and he knows what happens  
19 if they tell the truth. They walk.

20 And then, a year later in March 29th of 2012, what does  
21 he tell representatives of federal law enforcement agencies?  
22 We made half the material from traditional stuff. We made  
23 half, then the rest of it, off-spec like half-baked cookies.  
24 That is the other half. That is a lie. The context of those  
25 false statements we have alleged is stating we made half, we

1 cleaned up half. They didn't make the first half, and he  
2 knows that. There is no confusion about that at all, and I  
3 think they just said his defense is, I think there is no  
4 glycerin because they cleaned up all of it. If that is true,  
5 he is guilty of securities fraud flat out, no question.

6 You have an obligation to tell that to the investors at  
7 every opportunity. You couldn't go into a meeting with  
8 Schooner Capital, you couldn't go into a meeting with  
9 Mr. Harster in a plant tour, you couldn't put a video on the  
10 Internet, you couldn't do any of those things if that is the  
11 situation. That is a material omission of fact. That is all  
12 we have to prove over here. That is deceit.

13 Now, if he is saying he is not trying to defraud  
14 somebody, I guess he is saying, I don't think they need to  
15 know that. Those investors wouldn't care about the difference  
16 between real manufacturing facility versus getting somebody  
17 else's biodiesel and cleaning it up.

18 Well, you heard from a number of investors who don't  
19 share that opinion, and some of them walked away from a deal  
20 with him, calling just some of that information a  
21 show-stopper. Nice try. The problem with their defense is,  
22 there is no logical consistency that makes him innocent of all  
23 the charges except lying at every opportunity and telling four  
24 different stories.

25 The existence of two stories proves one of them is being

1 hidden. Story No. 1, we made everything from choice white  
2 grease. Our plant can do that, 15 million gallons. Mr.  
3 Harster, when he is walking through the plant gets that story  
4 in a presentation from him, him.

5 Story No. 2, same story to Mr. Lipman. We make that  
6 stuff -- problem. Platinum Partners noticed there is not  
7 enough feedstock. Solution -- off-spec. The other reason to  
8 say that, because Chad Ducey has already told Caskey about  
9 that, because otherwise how do you explain the capability of  
10 producing the 30 million gallons you produce? How do you  
11 explain that? Mr. Caskey is there to check capability. He  
12 will notice that. How did you get 30 million through these  
13 pipes?

14 They had to say something, so they say the stupid story.  
15 We clean up other people's diesel, and they get the bluff  
16 snapped off by Ashley Player, says you can't do that. So what  
17 do they do? Never say it again, never say it again to  
18 Mr. Warsh, never say it again to an investor. Only when  
19 Lipman catches, you say, oh, we just started doing that. It  
20 is temporary. Don't worry. I will tell the investors, and  
21 then they are suggesting, I think, that that one sentence in  
22 the last 10-K, "We have the capability of producing off-spec"  
23 gives a person reading that a fair opportunity to understand  
24 what really happened? No, it doesn't.

25 If that is their defense, that is inherently misleading.

1 The statement they made doesn't tell you the story behind it.  
2 That is exactly what he certified he didn't do in the  
3 certifications. The statement made is made false by the  
4 omission. That is exactly that theory of this prosecution.  
5 He has no defense at all to that.

6 Now, the people identifying his client in that recording  
7 are not all people with deals with the Government. One of  
8 them is a special agent of the FBI. She is not under federal  
9 prosecution. She identified the Defendant. She interviewed  
10 him for some hours. She listened to all of the recordings,  
11 and she says that is Jeff Wilson. So it is not just somebody  
12 with a cooperation deal.

13 Alex Chepurko identified Jeff Wilson well before the  
14 Government knew this case existed. They tried to suggest his  
15 testimony had recently been coached, and they ran into a train  
16 wreck in court. He said, "No, I have heard this tape a long  
17 time." So he called his lawyer who said months before the  
18 Government knew the case existed, he sat in an office in  
19 Washington, DC and said, "That is Jeff Wilson." That is a  
20 train wreck.

21 So then what do they try to do? They try to suggest, oh,  
22 let's ask lots of confusing questions of the witness on the  
23 recording, this recording, that recording, what portion, that  
24 portion. I will suggest to you you heard the testimony.  
25 Those questions were designed to mislead people and be

1 confusing, but here is the point. The first time Alex  
2 Chepurko said it was Jeff Wilson is before the Government  
3 knows there is fraud.

4 The second time is in April of 2014. The very exact name  
5 of the audio file that we used to take that portion was played  
6 in December -- excuse me, in April of 2014 to a witness who  
7 identified in that portion, Jeff Wilson. That has been true  
8 since April of 2014, not last week, but when you ask the  
9 witness when you first saw a segment that is a subset or  
10 a -- they identify voices in there, those documents, that  
11 segment doesn't physically exist until later. They know that.  
12 That is designed to have you think we tamper with witnesses.

13 Now, who is the witness who testified that he reviewed a  
14 piece of paper before he listened to something? The  
15 Defendant's brother. That is who did that. I am not  
16 surprised the Defendant's brother got up here and said, "I  
17 don't know. I can't identify. That is not my brother. I  
18 don't know who that is." I am not surprised. You shouldn't  
19 be either, but that guy can't explain why the things being  
20 said are being said in front of the mystery person.

21 What is being said is extremely damaging alchemy  
22 admissions in front of somebody. Logically, that is Mr.  
23 Wilson. The FBI agent says it is Mr. Wilson. Mr. Chepurko  
24 has no criminal exposure here. He is a whistle blower. He is  
25 not testifying to get out of trouble. Those are two witnesses



1 right there who have no cooperation deal with the Government,  
2 so it is not nonsense to suggest otherwise.

3 The other two do have cooperation deals, and what they  
4 testified to, they have been saying for years, for years, that  
5 Jeff Wilson has been involved in this case. So that is how  
6 that puts together.

7 Now, I have tremendous respect for Mr. Farlow's legal  
8 skills, but his opinion on how complicated the tax code is  
9 doesn't make any difference at all. The federal tax code is  
10 not what we are talking about.

11 The RIN program isn't complicated. When you are saying I  
12 made a RIN because we made fuel at a place in Middletown a  
13 certain way, that is not complicated. The sole evidence of  
14 complication is some general statement. They pointed out in  
15 their testimony -- they tried. Well, isn't this program, it  
16 has got a lot of pages. The number of pages in the phone book  
17 does not describe how difficult it is to look up my phone  
18 number.

19 It is not difficult to look up off-spec biodiesel because  
20 it is not in there. If you have the Web thing you can do a  
21 control and say "off-spec," and you will get nothing.

22 MR. FARLOW: Objection, Your Honor. Arguing facts  
23 not in evidence.

24 MR. DeBROTA: They asked about this. It is fair  
25 comment.

1 THE COURT: They asked about what?

2 MR. DeBROTA: They asked the EPA expert all about  
3 this. Isn't this complicated and so forth?

4 THE COURT: Okay. The part that was objected to is  
5 the looking it up on the computer.

6 MR. FARLOW: That's correct.

7 THE COURT: So I will sustain.

8 MR. FARLOW: Thank you.

9 MR. DeBROTA: He mentioned this program is available  
10 online. There is a help line. There is lectures he did and  
11 so forth. There is zero information in the record to conclude  
12 that you couldn't do a very simple thing. You could look up  
13 as he said there were, five pathways. There are just five,  
14 and none of them are off-spec. We know what some of them are.  
15 You have heard soy and biogenic fats, oils, waste, and grease.  
16 There is only three more. How tough is that?

17 And if you are trying to do taxes like his relative does  
18 and you have a question, you might hire H&R Block. You could,  
19 for example, hire Ashley Player. You could, for example,  
20 phone the EPA. There is a help line. They point this out, or  
21 you could look at industry publications like they put in  
22 evidence. Later on down that, she says you can't do this, a  
23 year later. This is not a secret.

24 The only people you have to hide off-spec from is anyone  
25 asking the question, which is why they never say that to

1 investors unless they get caught, because it is illegal.  
2 There is no question in the record it is illegal to make a RIN  
3 from off-spec biodiesel. That is a fact. It is not  
4 contested. So hiding the existence of that lies to the  
5 investors, and that is the materiality we have to prove.

6 Now, the letter that Craig Ducey writes to his lawyer was  
7 offered because they got it in discovery. That is how they  
8 have that letter. If Craig Ducey just didn't turn that over,  
9 you wouldn't have heard any of that. What he was saying, full  
10 stop was, I lied before I decided to plead guilty, and then I  
11 came in here and told the truth. At no point in his testimony  
12 did he say anything that was consistent with that because he  
13 explained, and then they still crossed him for two hours.  
14 What I said to my lawyer wasn't true.

15 Now, John Lewis, the second lawyer. He didn't lie to  
16 John Lewis -- excuse me. He didn't lie to the Defendant about  
17 lying to John Lewis. He lied to John Lewis. John Lewis is  
18 the cover story. John Lewis doesn't know what is going on.  
19 You can't take John Lewis' opinion and use it as a shield like  
20 they are trying when the Defendant knows directly from Craig  
21 Ducey they have lied to John Lewis. If you lie to a lawyer,  
22 and you get him to write a document, that piece of paper means  
23 nothing. You can burn it. It is not a shield to anything.

24 They suggest somehow that the Defendant has a good motive  
25 of what he is doing. They apparently have just ignored the

1 evidence that he looted this company. He took \$100,000 from  
2 this company secretly. He took shares of stock that are not  
3 disclosed to the shareholders secretly. He transferred  
4 750,000 shares of stock to Carbon Technologies worth \$690,000  
5 secretly. That is not somebody who has this company's  
6 shareholders' best interest at heart.

7       Who does he put as the traffic cop for this? He puts a  
8 board of directors that has been represented to you as  
9 Mr. Wernli. Mr. Wernli is not a very good board of directors'  
10 member. The most telling thing he said, apart from his  
11 apparent confusion about how to subtract some number of months  
12 from February of '12, was the idea that when he heard of the  
13 allegations in this case, he put them in a drawer. That is  
14 the kind of board of directors he has for his company.

15       What this case is about is a very simple proposition. He  
16 uses Imperial Petroleum as a toy to line his pocket. He saw  
17 an opportunity to have the Ducey brothers thrown a lifeline.  
18 They get stock. They still have their debt. They are held  
19 hostage by this man. What did he say to Craig Ducey to get  
20 this investment pushed forward? I can bring new technologies,  
21 me and Aaron. We have got new technologies. We will make the  
22 plant run cheaper because it loses money. We will bring in  
23 financing, money. That fell through immediately, and we will  
24 raise the production capacity to 10 million gallons.

25       He delivered none of that and gets the make versus buy

1 spreadsheet. By the way, it is called that. If you look on  
2 the document it says it right on there, "make versus buy." It  
3 is not the Government's term, it is what is on it, and from  
4 that moment forward we suggest the evidence shows not for one  
5 second did this man want to turn on a plant, like he said to  
6 investors he did, losing 28 cents a gallon making biodiesel in  
7 a way that would guarantee the bankruptcy of everybody.  
8 Instead, he wants to do more of what they have done up to that  
9 time, the million gallons of B99, the million gallons of we  
10 don't do anything to it.

11 Now, if that is the situation, and 34 more million  
12 gallons follow, and the revenue from that process is  
13 \$145 million, it defies logic to suggest that there could be  
14 any confusion about what you need to focus on. It is your  
15 job. It is not your job to go down there and think about tar  
16 sands with Mr. Wernli. It is to focus on what is really going  
17 on, because at the end of the day, the investors aren't in on  
18 the joke.

19 If what he chooses to do, as they have just suggested, is  
20 let the Duceys run everything and not be a part of it, he has  
21 committed securities fraud. You can't do that. You can't  
22 shift your responsibility. You certified that you have  
23 checked. The outside auditor asked you the question. Do you  
24 know of any allegations of fraud? Crickets.

25 Do you know if anybody -- are you telling me something

1 here that is not true? He tells the outside auditor they are  
2 make things from choice white grease. You just can't do that.  
3 Unfortunately, that is the law. Unfortunately for the  
4 Defendant, after a long-standing and persistent pattern of  
5 behavior, he chose to make a series of decisions that hid the  
6 truth, even now as he is explaining the truth, but the reality  
7 is much clearer.

8       This was all fuel made by someone else, and you don't  
9 have to know anything about the RFS program to know if it is  
10 somebody else's fuel that is B99, that means the tax credit  
11 has been taken. It becomes B99 when you put petroleum in it.  
12 No more tax credit. You can't put a RIN on a fuel somebody  
13 else made and got a credit for. There is no complexity about  
14 that. That is the false statement made to the EPA, and the  
15 people who bought that fuel got left holding the bag.

16       You heard that the EPA invalidated over 30 million RINs  
17 on this. If you were an investor in e-biofuels and you knew  
18 what was, at Imperial, and you knew what was really going on  
19 at the only subsidiary that is even worth considering, you  
20 would really want to know if your money was going to be  
21 invested in a company that is going to be turned around and  
22 sued by every person it ever sold fraudulently packaged fuel  
23 to.

24       There is no way you want to invest in that, and the thing  
25 is, the way the law works, you have to put that on the table

1 so the investors can make a decision. And the person that is  
2 the traffic cop for that, the outside auditor, Mr. Samyn, you  
3 can't lie to. You can't do that, and he did.

4 And at the end of the day, when he gets there months  
5 later, he knows five days after search warrants, he is sitting  
6 in front of federal agents. What does he say at that time? I  
7 made half, like half -- from traditional methods, the rest is  
8 half-baked cookies. You know from the evidence neither is  
9 true. He lied that day, and remarkably, he didn't just lie  
10 about that, he lied about knowing, which was more profitable.

11 Finally, they suggested in their closing argument that  
12 his answer to the question was, I don't know. That is not in  
13 evidence. Nobody said that. He said those words. That is  
14 why your memory matters more than the memory of lawyers. If  
15 the answer was "I don't know," why would there ever be a  
16 charge? The answer was, he said these words, and they are  
17 false. It wasn't an I don't know. He said those words.

18 So for all of those reasons, we have proved beyond a  
19 reasonable doubt that he is guilty of these offenses. Thank  
20 you.

21 THE COURT: Thank you, Mr. DeBrotta.

22 Ladies and gentlemen, we have pushed into the lunch hour,  
23 so before we complete the trial, which will include my  
24 instructions and the final submission to you, we are going to  
25 take a lunch break. Usually I have given you about an hour

1 and 15 minutes to an hour 20 minutes so you get a good break.  
2 Today, because we are pushing against clock, it will just be  
3 an hour. So please try to stay within the hour recess. Even  
4 at this point in our trial, we have moved along quite nicely,  
5 and we are rounding the bend here but we are not there yet.

6 Remember to follow all of my admonitions. Don't talk  
7 about the case among yourselves. Don't let anyone talk to you  
8 about it. Don't form any opinions or conclusions with respect  
9 to any of these matters until the case is finally submitted.  
10 It will be submitted after the instructions, so the time is  
11 coming, but it is not yet. So continue to follow my  
12 instructions, please.

13 We will see you in an hour. That will be -- I have 12:35  
14 on my clock, so we will see you at 1:35. You may rise and  
15 depart.

16 THE CLERK: All rise.

17 (Jury out, 12:34 p.m.)

18 THE CLERK: Court is in recess.

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CERTIFICATE OF COURT REPORTER

I, Jean A. Knepley, hereby certify that the foregoing is a true and correct transcript from reported proceedings in the above-entitled matter.

<u>/S/ Jean A. Knepley</u>	<u>February 18, 2017</u>
JEAN A. KNEPLEY, RDR/CRR/CRC/FCRR	Date
Official Court Reporter	
Southern District of Indiana	
Indianapolis Division	