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

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

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

APPEARANCES:  
FOR THE PLAINTIFF: MARK T. ROOMBERG, ESQ.  
ASSISTANT UNITED STATES ATTORNEY  
  
FOR THE DEFENDANT: ALAN BROWN, ESQ.  
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REPORTED BY: GIGI SIMCOX, RMR, CRR  
OFFICIAL COURT REPORTER  
UNITED STATES DISTRICT COURT  
SAN ANTONIO, TEXAS

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

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

4           THE COURT: Good morning, ladies and gentlemen.

5           THE JUROR: Good morning.

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

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

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

14           with that, the government goes first.

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

17           THE COURT: Mr. Reid.

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

19           THE COURT: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 creates a reasonable doubt right there.

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

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

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

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

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

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

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

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

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

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

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

1 product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 what proof have you had of that? None.

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

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

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

1 that Olga was somehow involved in a conspiracy.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

7 why? why? why?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

4 where did she ever pledge her vote? Nowhere.

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

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

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

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

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

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

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

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

1 leave?

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

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

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

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

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

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

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

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

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

11 Thank you for your time and attention.

12 (Concludes excerpt.)

13 -o0o-

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

19

20 Date: 12/22/2017

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22

23

24

25

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