IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:20-CR-358
	§	JUDGE MAZZANT
NEERAJ JINDAL (1)	§	
	§	

UNITED STATES' RESPONSE IN OPPOSITION TO DEFENDANT NEERAJ JINDAL'S MOTION FOR JUDGMENT OF ACQUITTAL OR FOR NEW TRIAL

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I. INTRODUCTION

After an eight-day trial, on April 14, 2022, the jury found Defendant Neeraj Jindal guilty of Count Three of the First Superseding Indictment ("Indictment"), which charged Jindal with Obstruction of Proceedings Before the Federal Trade Commission ("FTC") (Dkt. #112). There is no basis to reject the jury's sound verdict. The Court's jury instructions were correct, and a rational trier of fact could find—and did find—that the evidence established Jindal's guilt beyond a reasonable doubt.

II. BACKGROUND

A. Count Three of the Indictment

Mirroring the statutory text, the count of conviction charged Jindal with violating 18 U.S.C. § 1505 by "corruptly endeavor[ing] to influence, obstruct, and impede the due and proper administration of the law under which a pending proceeding was being had before a department or agency of the United States" (Dkt. #21 ¶ 22). The "means" by which he committed this violation included "ma[king] false and misleading statements to the FTC, with[olding] and conceal[ing] information from the FTC, and ma[king] phone calls and sen[ding] text messages as part of his corrupt endeavor to influence, obstruct, and impede the FTC Investigation" (Dkt. #21 ¶ 22(a)).[1] Count Three specified several non-exhaustive "examples" of these means (Dkt. #21 ¶ 23).

B. Jury Instructions on Count Three of the Indictment

At trial, Jindal proposed a "unanimity of theory" jury instruction for Count Three listing several of the examples of Jindal's obstructive means from the Indictment and requiring the jury to "agree that the same one has been proved" (Dkt. #78, at 22–23). The United States opposed Jindal's proposed instruction because it misstated the law (Dkt. #81, at 9). The Court's final jury

[1] The Indictment included aiding and abetting co-defendant John Rodgers as an alternative "means" by which Jindal violated 18 U.S.C. § 1505 (Dkt. #21 ¶ 22(b)).

instructions did not include a "unanimity of theory" instruction for Count Three (Dkt. #111), and Jindal objected to the exclusion of that instruction (Tr. 4/12/22, at 1990).

The Court instructed the jury on the elements of Count Three as follows: "*First*: That there was a proceeding pending before any department or agency of the United States; *Second*: That the defendant knew of the pending proceeding; *Third*: That the defendant endeavored to influence, obstruct, or impede the due and proper administration of the law in that proceeding; and *Fourth*: That the defendant's acts were done 'corruptly,' that is, the defendant acted with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information." (Dkt #111 at 29–30.)

C. Evidence

At trial, the United States introduced evidence that on March 10, 2017, at 1:36 PM, Jindal's co-defendant John Rodgers texted Sheri Yarbray, owner of Your Therapy Source ("YTS") and a competitor of Jindal's staffing company Integrity Home Therapy ("Integrity"), "I think we're going to lower PTA rates to $45." (Gov. Ex. 1.)[2] Yarbray replied, "Yes I agree" and "I'll do it with u." (Gov. Ex. 1.)

The United States introduced evidence that the same afternoon Rodgers texted with Sheri Yarbray, Jindal texted four additional competitors of Jindal's company. Jindal texted Tuan Le, owner of Dwell Therapy, on March 10, 2017, at 3:54 PM, "I am reaching out to my counterparts about lowering PTA rates to $45. What are your thoughts if we all collectively do it together?" I have YTS on board." (Gov. Ex. 9.) Le did not reply to Jindal's text (Tr. 4/5/22, at 358).

[2] Copies of all exhibits referenced in this motion are provided as Exhibit A to this Response.

The United States introduced evidence that Jindal texted Nathan Foreman, owner of Foreman Therapy Services, on March 10, 2017, at 3:55 PM, "I am reaching out to my counterparts about lowering PTA rates to $45. What are your thoughts if we all collectively do it together?" I have YTS on board and asking Dwell." (Gov. Ex. 10–11.) Foreman replied, "Oh nice. We're already there." (Gov. Ex. 11.) Jindal responded, "I think we all collectively should move together. Know others you can reach out to?" (Gov. Ex. 11.) Foreman replied, "Hmm let me think. Give me a call later." (Gov. Ex. 11.)

The United States introduced evidence that Jindal texted Kimberly Grimmett, owner of Innovative Therapy Resources, on March 10, 2017, at 3:58 PM, "I am reaching out to my counterparts about lowering PTA pay rates to $45. What are your thoughts if we all collectively do it together?" I have YTS and Foreman on board." (Gov. Ex. 12.) Grimmett did not reply to Jindal's text (Tr. 4/5/22, at 315).

The United States introduced evidence that Jindal texted Shay Smith, owner of Therapy Heroes, on March 10, 2017, at 3:59 PM, "I am reaching out to my counterparts about lowering PTA pay rates to $45. What are your thoughts if we all collectively do it together?" I have YTS and Foreman on board." (Gov. Ex. 13.) Smith later replied, "No thank you, Neeraj, but thanks for considering us." (Gov. Ex. 13.)

The United States introduced evidence that Smith reported Jindal's text to the FTC (Gov. Ex. 14). The Court took judicial notice that the FTC's subsequent investigation was a proceeding pending before an agency of the United States (Tr. 4/11/22, at 1576–77). The United States also introduced evidence that Jindal knew of the pending proceeding (Gov. Ex. 15, 17).

The United States introduced evidence that on April 28, 2017, Jindal responded to a request for voluntary information from the Federal Trade Commission (Gov. Ex. 15), writing in an email

to the FTC, "To my recollection I reached out to these 3 (not sure if all 3) business owners." (Gov. Ex. 18.) In the email, Jindal listed "Tuan at Dwell," "Kim at Innovative," and "Shay at Therapy Heroes." (Gov. Ex. 18.) Jindal did not list Foreman, owner of Foreman Therapy Services. (Gov. Ex. 18.) The United States argued at trial that this evidence showed Jindal's endeavor to obstruct the FTC proceeding—he sought to conceal a significant competitor he had solicited to collectively lower pay rates to physical therapist assistants (Tr. 4/14/22, at 2054–57).

The United States introduced evidence that on April 28, 2017, also in response to the voluntary request from the FTC for a list of Integrity's competitors, (Gov. Ex. 15) Jindal sent the FTC a typewritten list of competitors (Gov. Ex. 19, 32A). This list did not include YTS or Foreman (Gov. Ex. 32A). Almost five months later, on September 12, 2019, after the FTC served Integrity with a Civil Investigative Demand (Gov. Ex. 17), Jindal's counsel produced to the FTC a handwritten list of competitors (Gov. Ex. 82A, 32B). The companies included on both the handwritten and the typewritten lists appeared in the same order on each, indicating that the typewritten list was based on the handwritten list (*see* Tr. 4/6/22, at 1239). The typewritten list, however, did not include YTS nor Foreman, while the handwritten list did (Gov. Ex. 32A). The United States argued at trial that this evidence likewise showed Jindal's endeavor to obstruct the FTC proceeding—he omitted two competitors with whom he had either direct or indirect communications about collectively lowering pay rates for physical therapists and physical therapist assistants (Tr. 4/14/22, at 2054–57).

The United States introduced evidence that on April 28, 2017, Jindal asserted in writing via email to the Federal Trade Commission: "I decided to administrator rate cuts to some of my therapists based on a collective agreement with my office team." (Gov. Ex. 18.) Evidence showed that also on April 28, 2017, Jindal asserted in writing via email to the Federal Trade Commission:

"I will give you any info you need to prove that nothing at all is done collectively with any counterparts." (Gov. Ex. 20.) The words "collectively" and "counterparts" appeared in the messages Jindal sent his competitors (Gov. Ex. 9, 11, 12, 13). The United States argued at trial that this evidence showed Jindal's endeavor to obstruct the FTC proceeding—he concocted an alternative, false and misleading explanation for using the word "collectively" in messages to his competitors about lowering pay rates to physical therapist assistants (Tr. 4/14/22, at 2060).

The United States introduced evidence that on September 15, 2017, Jindal made several false and misleading statements to the FTC during his investigational hearing (Gov. Ex. 202, 203). For example, the FTC asked Jindal about why he texted Le "that YTS was on board", and Jindal replied, "you will ask me about YTS, but I don't, you know, no reason why I put that. I have no idea what YTS is doing." (Gov. Ex. 203, at 35). The United States argued at trial that Jindal endeavored to obstruct the FTC proceeding by not informing them about co-defendant Rodgers' messages with the owner of YTS (Tr. 4/14/22, at 2065–66). Jindal also testified under oath to the FTC that when he sent messages to his competitors, he did not "hope" that his competitors would lower their rates, but that his intent was to find out what his competitors were paying their workers (Gov. Ex. 203, at 34). He testified that he did not have Grimmett's rates from when he previously attempted to acquire her company (Gov. Ex. 203, at 56). The United States argued at trial that Jindal's assertions were plainly inconsistent with the content of his text messages, and that Jindal's claim that he did not have Grimmett's pay rates was false and contrary to Grimmett's trial testimony (Tr. 4/14/22, at 2065–67).

III. LEGAL STANDARD

A. Rule 29

"A motion for judgment of acquittal pursuant to Rule 29 of the Federal Rules of Criminal Procedure 'challenges the sufficiency of the evidence to convict.'" *United States v. Blanton*, No. 4:17-CR-2, 2018 WL 3730292, at *2 (E.D. Tex. Aug. 6, 2018) (quoting *United States v. Medina*, 161 F.3d 867, 872 (5th Cir. 1998)). The standard is "whether, viewing the evidence in the light most favorable to the verdict, a rational [finder of fact] could have found the essential elements of the offense charged beyond a reasonable doubt." *Id.* (alteration in original) (quoting *United States v. Boyd*, 773 F.3d 637, 644 (5th Cir. 2014)). "The standard does not require that the evidence exclude every reasonable hypothesis of innocence or be wholly inconsistent with every conclusion except that of guilt, provided a reasonable trier of fact could find that the evidence establishes guilt beyond a reasonable doubt." *Id.* (quoting *United States v. Loe*, 262 F.3d 427, 432 (5th Cir. 2001)). "The factfinder is 'free to choose among reasonable constructions of the evidence,' and 'it retains the sole authority to weigh any conflicting evidence and to evaluate the credibility of the witnesses.'" *Id.* (quoting *Loe*, 262 F.3d at 432).

B. Rule 33

Federal Rule of Criminal Procedure 33(a) provides: "Upon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires." The Fifth Circuit has "held that the trial court should not grant a motion for new trial unless there would be a miscarriage of justice or the weight of evidence preponderates against the verdict," and "only upon demonstration of adverse effects on substantial rights of a defendant." *United States v. Wall*, 389 F.3d 457, 466 (5th Cir. 2004). "The grant of a new trial is necessarily an extreme measure, because it is not the role of the judge to sit as a thirteenth member of the jury." *United States v.*

O'Keefe, 128 F.3d 885, 898 (5th Cir. 1997). Thus, "new trials granted pursuant to Rule 33 are generally disfavored." *Wall*, 389 F.3d at 475.

IV. ARGUMENT

A. The Court Correctly Charged the Jury as to Count Three.

The Court properly rejected Jindal's proposed "unanimity of theory" instruction on Count Three for two reasons. First, the Court instructed the jury that "[t]o reach a verdict, whether it is guilty or not guilty, all you must agree" and the "verdict must be unanimous on each count" (Dkt. #111, at 31). "Simply put, a general unanimity instruction is ordinarily sufficient, and it was in this case." *United States v. Mason*, 736 F.3d 682, 684 (5th Cir. 2013) (per curiam). Jindal "has not presented any evidence 'tending to show that the jury was confused or possessed any difficulty reaching a unanimous verdict.' Absent such evidence, [he] has not shown that there is any reason to believe that the jury verdict was not unanimous." *United States v. Gace*, No. 20-40718, 2021 WL 5579273, at *1 (5th Cir. Nov. 29, 2021) (unpublished per curiam) (quoting *United States v. Tucker*, 345 F.3d 320, 337 (5th Cir. 2003)).

Second, the unanimity requirement only "extends to every *element* of the offense." *United States v. Williams*, 449 F.3d 635, 647 (5th Cir. 2006) (emphasis added) (citing *Richardson v. United States*, 526 U.S. 813, 817 (1999)). "[U]nanimity is *not* required as to the particular *means* used by the defendant to commit a particular element of the offense." *Id.* (first emphasis added) (citing *Richardson*, 526 U.S. at 817); *accord, e.g.*, *United States v. Rice*, 699 F.3d 1043, 1048 (8th Cir. 2012). Here, Count Three expressly alleged that Jindal committed the offense—18 U.S.C. § 1505—by several different "means" (Dkt. #21 ¶ 22). Thus, the First Circuit's observation in *United States v. Hernandez-Albino* is particularly apt: "When the government alleges in a single count that the defendant committed the offense by one or more specified means, the Supreme Court

has 'never suggested that in returning general verdicts in such cases the jurors should be required to agree on a single means of commission, any more than the indictments were required to specify one alone,'" 177 F.3d 33, 40 (1st Cir. 1999) (quoting *Schad v. Arizona*, 501 U.S. 624, 631 (1991)).

This principle applies with full force to Jindal's offense of conviction. In *United States v. Bayyouk*, which appears to be the only circuit case specifically addressing 18 U.S.C. § 1505, the Ninth Circuit rejected the same arguments that Jindal makes here. *See* 607 F. App'x 735, 736–37 (9th Cir. 2015) (unpublished). Like Jindal, the defendant in that case sought a specific unanimity instruction based on "the possibility that the jurors could have agreed that [he] committed obstruction while failing to agree on which specific statement or statements constituted such obstruction." *Id.* at 736. The Ninth Circuit affirmed the district court's refusal to give the instruction because "'consensus by the jury on a particular false statement [wa]s not required'" and "[a]ny potential disagreements among the jury members regarding the particular false statement by which [the defendant] obstructed the [agency] investigation [at issue] are merely differences of means, and therefore do not violate his right to a unanimous jury verdict." *Id.* at 736–37 (quoting *United States v. McCormick*, 72 F.3d 1404, 1409 (9th Cir. 1995)).

While the Fifth Circuit has not directly addressed specific unanimity as to 18 U.S.C. § 1505, it has rejected specific unanimity instructions in analogous cases. For example, the Fifth Circuit rejected a defendant's argument in a wire-fraud case "that the district court should have instructed the jury that it had to be unanimous as to the specific false statements in each particular wire." *United States v. Nanda*, 867 F.3d 522, 529 (5th Cir. 2017). The defendant's "argument reflect[ed] a misunderstanding of the law" because "[i]t is not a particular false statement within a wire, but rather each particular wire that contained a false statement, that constitutes an individual

offense for purposes of the wire fraud statute." *Id.*; *see also United States v. Duruisseau*, 796 F. App'x 827, 837 (5th Cir. 2019) (unpublished) (distinguishing perjury charges).

The individual offense here was Jindal's single and continuing *endeavor* to obstruct the FTC investigation: "the defendant endeavored to influence, obstruct, or impede the due and proper administration of the law in that proceeding" (Dkt. #111 at 29; *see also Pattern Jury Instructions (Criminal Cases)*, United States Court of Appeals for the Fifth Circuit, No. 2.63A (2019)). Thus, the jury was required to unanimously determine that Jindal endeavored to obstruct the FTC proceeding; the jury was *not required* to unanimously determine that Jindal committed a specific obstructive act or made a specific false statement.

In support of his argument, Jindal first points to a series of cases regarding convictions for a variety of statutes in which the circuit courts found no error in the district court's general unanimity instruction requiring unanimity on each *element*, without a specific unanimity instruction requiring unanimity on the particular *means*.[3] The remaining cases that Jindal cites are perjury or false statement cases.[4] Jindal asserts that perjury cases are analogous to the obstruction

[3] *See United States v. Villegas*, 494 F.3d 513, 514–16 (5th Cir. 2007) (per curiam) (conviction under 18 U.S.C. § 922(g)(1) for being a felon in possession of a firearm when the defendant possessed multiple firearms); *United States v. Moreno*, 227 F. App'x 361, 362–63 (5th Cir. 2007) (unpublished per curiam) (conviction for conspiring to launder financial instruments under 18 U.S.C. § 1956); *United States v. Lyons*, 472 F.3d 1055, 1068–69 (9th Cir. 2007) (conviction under 18 U.S.C. § 1341 for mail fraud); *United States v. Creech*, 408 F.3d 264, 267, 268–69 (5th Cir. 2005) (convictions under 18 U.S.C. §§ 844(h) (using fire to commit a felony), 1341 (mail fraud), and 2 (aiding and abetting)); *United States v. Meshack*, 225 F.3d 556, 579–80 (5th Cir. 2000) (conviction for conspiracy to launder money in which the substantive offense, 18 U.S.C. § 1956, had alternate mental state requirements); *United States v. Tipton*, 90 F.3d 861, 885–86 (4th Cir. 1996) (conviction under 21 U.S.C. § 848 for engaging in a continuing criminal enterprise in which the defendant supervised five or more other persons when the defendant committed three predicate violations).

[4] *See United States v. Bonds*, 730 F.3d 890, 898–99 (9th Cir. 2013) (conviction under 18 U.S.C. § 1503 for obstructing a grand jury through specific false statements; specific unanimity was not a legal issue raised in the appeal and was briefly mentioned only in dicta in a subsequently vacated panel opinion), *vacated on rehearing en banc*, 757 F.3d 994 (9th Cir. 2014), *and* 784 F.3d 582 (9th Cir. 2015) (per curiam) (en banc); *United States v. Sarihifard*, 155 F.3d 301, 309–310 (4th Cir. 1998) (convictions for perjury and false statements under 18 U.S.C. § 1623(a) and 18 U.S.C. § 1001); *United States v. Fawley*, 137 F.3d 458, 470–72 (7th Cir. 1998) (conviction for perjury under 18 U.S.C. § 1623); *United States v. Holley*, 942 F.2d 916, 925–29 (5th Cir. 1991) (convictions for perjury under 18 U.S.C. § 1623); *United States v. Acosta*, No. C 11-00182 CRB, 2012 WL 273709, at *11 (N.D. Cal. Jan. 30, 2012) (conviction for false statement under 18 U.S.C. § 1001).

count here because "the gravamen of the obstruction count against Mr. Jindal is his allegedly false testimony provided under oath to the FTC, and such testimony could just as easily form the basis of a perjury rather than obstruction charge" (Dkt. #137 at 13 n.2). But whether or not Jindal's testimony *might* also have formed the basis of a perjury charge, Jindal was indicted and convicted for a *different* crime: endeavoring to obstruct a federal proceeding.

Unlike perjury, where a defendant is charged for a specific false statement under oath, the obstruction offense at issue here, 18 U.S.C. § 1505, prohibits ongoing endeavors to impede an investigation pending before an agency of the United States. The nature of this obstruction charge is reflected in Count Three of the Indictment, which did not charge separate false-statement and obstruction offenses but rather a single and continuing scheme to obstruct a single proceeding over a specified time period (Dkt. #21 ¶ 22). The "acts" listed were merely "example[s], among other things," of Jindal's obstructive endeavor (Dkt #21 ¶ 23). The Indictment did not charge, nor was the jury required to reach unanimity on, a *specific* instance of a false statement or perjured testimony. *See Nanda*, 867 F.3d at 529; *Bayyouk*, 607 F. App'x 736–37.

Indeed, it would have been error to give the instruction Jindal requested. The district court in *United States v. Sorensen*, 801 F.3d 1217, 1235 (10th Cir. 2015), instructed the jury—over the defendant's objection—that "the indictment allege[d] the defendant endeavored to obstruct or impede the due administration of the Internal Revenue laws through a variety of different means" and "all twelve of you must agree upon one or more listed means." *See also id.* at 1236 (noting defense counsel had argued it was "very clear . . . that unanimity is not an appropriate concept when you are talking about the means of committing the crime"). On appeal, the Tenth Circuit held the specific unanimity instruction was error—though harmless. *See id.* at 1237. The Tenth Circuit criticized the district court's "novel course of requiring the jury's unanimity on at least one

means listed in the indictment," finding "no cited support for its legal rule." *Id.* "By requiring unanimity on a 'listed' means, the instruction also ignored the indictment's language charging that [the defendant] violated [the tax obstruction statute] 'by the following means, *among others* . . . .'" *Id.* So too here. Jindal's proposed instruction lacks legal support and ignores the Indictment's language charging that he violated 18 U.S.C. § 1505 "by the following means" and providing "example[s], among other things" of those means (Dkt. #21 ¶¶ 22, 23).

Furthermore, contrary to Jindal's assertion in his motion (Dkt. #137 at 19–20), the Indictment was not constructively amended at trial. "The accepted test is that a constructive amendment of the indictment occurs when the jury is permitted to convict the defendant upon a factual basis that effectively modifies an essential element of the offense charged." *United States v. Adams*, 778 F.2d 1117, 1123 (5th Cir. 1985). Any evidence presented at trial included Jindal's statements in the investigational hearing and Jindal's emails to the FTC. None of that evidence could have "effectively modifie[d] an essential element of the offense charged," especially when the Count Three expressly stated that the specific acts listed were merely "example[s]" of the means by which he violated 18 U.S.C. § 1505.

B. The Jury Rationally Found the Essential Elements of the Offense Charged Beyond a Reasonable Doubt, and the Evidence Supports the Verdict.

The jury was not required to agree unanimously on a single means by which Jindal obstructed the FTC investigation. Thus, to prevail on a motion for acquittal, Jindal must prove that, "viewing the evidence in the light most favorable to the verdict," no rational jury "could have found the essential elements of the offense charged beyond a reasonable doubt." *Blanton*, 2018 WL 3730292, at *2 (quoting *Boyd*, 773 F.3d at 644). The jury was presented with a mountain of evidence that Jindal engaged in an endeavor to obstruct the FTC investigation. And—if it were even required—there was sufficient evidence as to each example of the means by which he did so.

The factual background of this motion lays out some of the ample evidence proving that Jindal endeavored to obstruct the FTC proceeding. For example:

One, in an email to the FTC, Jindal listed three owners that he reached out to (Gov. Ex. 18). The list did not include Foreman, the only owner who positively responded to Jindal's text message (Gov. Ex. 18, 9–13). It was rational to conclude that, as part of a corrupt endeavor to obstruct the FTC's investigation, Jindal sought to mislead and conceal the truth regarding his communications with Foreman.

Two, Jindal created and sent the FTC a typewritten list of competitors that did not include YTS or Foreman (Gov. Ex. 15, 19, 32A). Later, under compulsory process and after additional investigation by the FTC, Jindal finally produced a handwritten list of competitors listing the companies in the same order as the typewritten list, showing that the typewritten list was based on the handwritten list (Gov. Ex. 19, 32A; Tr. 4/6/22, at 1239). The handwritten list included both YTS and Foreman (Gov. Ex. 32A). It was rational to conclude that, as part of a corrupt endeavor to obstruct the FTC's investigation, Jindal created and sent a false and misleading document seeking to conceal the involvement of YTS and Foreman.

Three, Jindal emailed the FTC and made statements including "I decided to administrator rate cuts to some of my therapists based on a collective agreement with my office team" (Gov. Ex. 18.) and "I will give you any info you need to prove that nothing at all is done collectively with any counterparts" (Gov. Ex. 20). The words "collectively" and "counterparts" appeared in the messages Jindal sent to his competitors (Gov. Ex. 9, 11, 12, 13) seeking their agreement to lower pay rates. It was rational to conclude that, as part of a corrupt endeavor to obstruct the FTC's investigation, Jindal made false and misleading statements seeking to twist and obscure the collusive language in his messages to his competitors.

Four, when he testified before the FTC, Jindal stated that he had "no idea what YTS was doing" (Gov. Ex. 203-035), that when he texted his competitors he did not "hope" that they would lower their rates (Gov. Ex. 203, at 34), and that he did not have Grimmett's pay rates from when he made her an offer to acquire her company (Gov. Ex. 203, at 56). It was rational to conclude that Jindal made those statements—among many others summarized in Government Exhibit 203—as part of a corrupt endeavor to obstruct the FTC's investigation. And it was also rational to conclude that those and the other summarized statements were false and misleading based on the evidence presented at trial, including documents and testimony showing that Jindal sent messages to his competitors after his co-defendant communicated with YTS about lowering pay rates, Jindal asked his competitors if they would "collectively" lower pay rates, and Jindal already knew Grimmett's pay rates from his prior attempt to acquire her company.

"[V]iewing the evidence in the light most favorable to the verdict," a rational juror could have relied on any—and all—of the above examples to find "the essential elements of the offense charged beyond a reasonable doubt." *Blanton*, 2018 WL 3730292, at *2 (quoting *Boyd*, 773 F.3d at 644). These examples also make it clear that there has been no miscarriage of justice. Far from it, the evidence amply supports Jindal's conviction. *See Wall*, 389 F.3d at 466. Moreover, Jindal's motion fails to demonstrate any "adverse effect[] on [his] substantial rights." *Id.*

V. CONCLUSION

Because the Court's jury instructions were legally sound, the jury rationally found Jindal guilty beyond a reasonable doubt, and the evidence supports the jury's finding, the United States asks the Court to deny Jindal's motion for a judgment of acquittal or for new trial.

Respectfully submitted,

/s/ Rachel Kroll

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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2022, I electronically served a true and correct copy of this document on Defendants' counsel of record by means of the Court's CM-ECF system.

/s/ Rachel Kroll
Rachel Kroll