

Jury Trial

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK:CRIMINAL TERM
PART: 59

-----X
THE PEOPLE OF THE STATE OF NEW YORK

Indictment
No. 71543/2023

-against-

DONALD J. TRUMP,

FALSIFYING BUSINESS RECORDS
FIRST DEGREE

Defendant.

-----X

100 Centre Street
New York, NY 10013
April 26, 2024

BEFORE: HONORABLE JUAN M. MERCHAN, JUSTICE

A P P E A R A N C E S:

For the People:

ALVIN L. BRAGG, JR., ESQ.
District Attorney, New York County
BY: JOSHUA STEINGLASS, ESQ.
MATTHEW COLANGELO, ESQ.
SUSAN HOFFINGER, ESQ.
CHRISTOPHER CONROY, ESQ.
REBECCA MANGOLD, ESQ.
KATHERINE ELLIS, ESQ.

For the Defense:

BLANCHE LAW
BY: TODD BLANCHE, ESQ.
EMIL BOVE, ESQ.
NECHELES LAW, LLP
BY: SUSAN NECHELES, ESQ.
GEDALIA M. STERN, ESQ.

SUSAN PEARCE-BATES
Principal Court Reporter
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Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 THE CLERK: Continuing case on trial, People v.
2 Donald J. Trump.

3 Appearances, starting with the People.

4 MR. STEINGLASS: For the People, ADA Joshua
5 Steinglass, Susan Hoffinger, Matthew Colangelo,
6 Christopher Conroy, Becky Mangold, and Katherine Ellis.

7 MR. BOVE: Emil Bove for President Trump, seated
8 to my left. I'm joined by Todd Blanche, Susan Necheles,
9 and Gedalia Stern.

10 THE COURT: Good morning.

11 A couple of things to go over.

12 Regarding next week's hearing, I think you
13 received my email, we're changing the time of that from
14 Wednesday at 2:15 to Thursday at 9:30.

15 I also wanted to go over the issue regarding the
16 text from Dylan Howard you wanted me to look at. We spoke
17 about it yesterday.

18 MR. STEINGLASS: To the extent that it may inform
19 your Honor's opinion, we sent counsel, last night, some
20 proposed redactions to remove what I think were their
21 concerns, and I believe they're -- you'll review those.

22 THE COURT: I read the submissions, including all
23 the legal authority that was handed up.

24 I also read the relevant portions of the
25 transcript, which were Pages 1221 through 1226.

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1 I note on Page 123, Mr. Bove, at Line 20, says,
2 "I think we're basically on the same page."

3 And then, on 1224, you express your concern. And
4 your concern is, "At some point, cumulatively, it becomes
5 cumulatively prejudicial."

6 So, I appreciate your concern, and I agree that
7 there could come a point where it will possibly become
8 prejudicial.

9 The difficulty is, I don't know at this point
10 what that's going to be. So we're just going to have to
11 keep going through it. You'll make your objections. I'll
12 consider the objections. And at some point, we may get
13 there.

14 I am relying, primarily, on People v. Settles,
15 S-E-T-T-L-E-S, 46 N.Y.2d 154, at Page 169. This is a Court
16 of Appeals decision. "Naturally, there can be no precise
17 demarkation or formulation of the proof which will
18 constitute sufficient support of evidence of a declaration
19 against penal interests. By its very nature, the
20 determination involves a delicate balance of diverse
21 factors and is entrusted to the sound judgment of the
22 trial court which is aptly suited to weigh the
23 circumstances surrounding the declaration and the evidence
24 used to bolster its reliability."

25 So, that's really what's going to guide this
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1 Court.

2 But, the fact that you said you're pretty much on
3 the same page, we're in agreement with who is a
4 co-conspirator in this case: Dylan Howard. We're in
5 agreement that at least some, if not most, of the
6 responses are coming in for some purpose. And we're also
7 in agreement that there will be redactions to that.

8 MR. BOVE: Yes, Judge.

9 Thank you. I appreciate and understand all of
10 that.

11 Just for the record, when you said we're in
12 agreement about who's a co-conspirator, we understand the
13 Court's ruling, and we're abiding by it.

14 Our objection has been noted.

15 And I will confer with Mr. Steinglass and the
16 Government over the weekend about the proposed redactions,
17 and we'll get back to the Court on Tuesday.

18 THE COURT: Of course.

19 Once you do that, please let me know what you
20 suggest the instruction should be to the jury, what is it
21 they're considering that other language for.

22 MR. BOVE: Yes, Judge.

23 Thank you.

24 THE COURT: We're going to break today at 12:30
25 to hear the People's motion, motion to compel.

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1 MR. COLANGELO: Thank you.

2 One update on that.

3 After further discussions with the third party's
4 counsel this morning, we think we no longer need the
5 Court's intervention on that today.

6 We will bring it to your attention should it
7 become necessary.

8 THE COURT: Great.

9 We'll go to one o'clock.

10 Is there anything else?

11 MR. STEINGLASS: There's a few things.

12 First, is your Honor going to address the issue
13 with the jury that was raised at the end of the day about
14 the, what we consider to be, improper impeachment by
15 omission by Mr. Bove?

16 THE COURT: Would you like to be heard, Mr. Bove?

17 MR. BOVE: Yes, Judge.

18 Just to clarify, my intentions for this morning
19 on this issue are to begin by basically saying to
20 Mr. Pecker: I apologize for any confusion about that,
21 clarify a little bit about his relationship with
22 Ms. Hicks, and move on.

23 There's grand jury testimony on this issue for
24 where a specific question was asked. I'll draw the
25 witness' attention to that and go through it.

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1 I've reviewed Bornholdt and its authorities, and
2 I'll lay a proper foundation.

3 THE COURT: Thank you.

4 I think that's sufficient to address the issue.

5 MR. STEINGLASS: Next. Whatever Mr. Bove's
6 intentions were with regard to the questions about prior
7 meetings with the DA's Office and reviewing materials, I
8 think that he left a misleading impression that that
9 contact was somehow improper, and I don't think it would
10 be appropriate to wait until the end of the case to give
11 the CJI instruction on pretrial preparation.

12 I'm handing it up to the Court.

13 The Court has been very reasonable about giving
14 mid-trial curative instructions or limiting instructions,
15 and I would ask that you give this instruction to the jury
16 this morning.

17 THE COURT: Any objections?

18 MR. BOVE: May I have just one moment, Judge?

19 THE COURT: Sure.

20 (Whereupon, defense counsel confer.)

21 MR. BOVE: Judge, I think there was an
22 instruction along these lines in your preliminary
23 instructions, so I think the jury is aware of this issue.

24 I'm not sure it's necessary.

25 THE COURT: There was a brief reference to it. It
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1 was very brief, if I remember.

2 It's: I advise you, it's common or permissible
3 for the prosecutor and counsel to meet with witnesses
4 before they testify.

5 I believe that was, pretty much, what I said.

6 So, I can give this instruction just to modify.

7 MR. STEINGLASS: Okay.

8 I also have a proposed instruction. It doesn't
9 have to be given today. But, it's an instruction on
10 redaction, so the jury doesn't draw any improper
11 inferences from the fact that certain material, personal
12 material or otherwise material that the parties have
13 agreed is irrelevant should not be before the jury or is
14 prejudicial, so that the jury doesn't draw any improper
15 inferences from the existence of those redactions.

16 Next. I think, again, whether intentionally or
17 unintentionally, Mr. Bove's questioning yesterday
18 improperly conflated the federal prosecutors and state
19 prosecutors, referring to both as "the Government".

20 Of course, that's, you know -- the state
21 prosecutors are referred to as "the People".

22 I am not telling Mr. Bove how to refer to us, if
23 that's how he chooses to refer to us.

24 But, I do think he needs to be clear when he's
25 questioning the witness about prior interviews, which

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1 prosecutors he is talking about.

2 So, if that's unclear from the question, I will
3 object, and I just wanted to explain.

4 THE COURT: That's fair, because there was more
5 than one prosecutor's office involved here.

6 MR. STEINGLASS: Thank you.

7 Finally, Judge, I just want to bring the Court's
8 attention to that we caught a reference in People's 174A
9 to a lie detector that was gonna be taken live.

10 I don't know if your Honor noticed it when we had
11 the witness on the stand.

12 I don't think your Honor precluded reference to
13 the lie detector. Just the results of the lie detector.

14 We've taken a broad view of that and have
15 redacted references where we've seen them.

16 I notified counsel and swapped out a new version
17 of 174A that contains a redaction just of the word "lie
18 detector".

19 THE COURT: Is that it for the People?

20 MR. STEINGLASS: Yes, your Honor.

21 THE COURT: How about the Defense?

22 MR. BOVE: No, your Honor.

23 THE COURT: Okay.

24 We can get the witness, please.

25 COURT OFFICER: Witness entering.
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1 (Whereupon, the witness, David Pecker, having
2 been previously duly sworn and/or affirmed, resumes the
3 witness stand and testifies as follows:)

4 THE COURT: Good morning, Mr. Pecker.

5 Welcome back.

6 I remind you that you're still under oath.

7 Get the jury, please.

8 COURT OFFICER: All rise.

9 Jury entering.

10 (Whereupon, the jurors and the alternate jurors
11 are present and properly seated.)

12 THE CLERK: Continuing case on trial, People v.
13 Donald J. Trump.

14 All parties and all jurors are present.

15 THE COURT: Good morning, jurors.

16 Jurors, before we continue with the cross of
17 Mr. Pecker, I wanted to give you an instruction regarding
18 yesterday's testimony.

19 You heard testimony yesterday about the
20 prosecution speaking to Mr. Pecker about the case before
21 the witness testified at this trial.

22 The law permits the prosecution or an attorney to
23 speak to a witness about a case before the witness
24 testifies and permits the prosecution or an attorney to

25 review with the witness the questions that will or may be

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1 asked at trial, including questions that may be asked on
2 cross-examination.

3 You have also heard testimony that a witness,
4 Mr. Pecker, read or reviewed certain materials pertaining
5 to this case before he testified at trial.

6 The law permits a witness to do so.

7 Speaking to a witness about his or her testimony
8 and permitting a witness to review materials pertaining
9 the the case before the witness testifies is a normal part
10 of preparing for trial.

11 It is not improper, as long as it is not
12 suggested that the witness depart from the truth.

13 Mr. Bove.

14 MR. BOVE: Thank you, Judge.

15 MR. BOVE: May I inquire, Judge?

16 THE COURT: Yes.

17 CONTINUED CROSS-EXAMINATION

18 BY MR. BOVE:

19 Q Good morning, Mr. Pecker.

20 A Good morning.

21 Q When we were talking at the end of the day yesterday,
22 we were speaking about a meeting with the federal prosecutors
23 in August of 2018.

24 Do you remember that?

25 A Yes, I do.
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1 Q That was my fault. There was some confusion in the
2 questioning about what had been said and whether Hope Hicks
3 came up.

4 Do you remember that?

5 A Yes.

6 Q I want to apologize and move on to another meeting
7 from that.

8 If I ask a bad question today, I think Mr. Steinglass will
9 tell me, but you can as well, and we'll make sure that I'm
10 clear.

11 A Thank you.

12 Q As I said, we were talking about Hope Hicks; right?

13 A Yes.

14 Q And you knew Ms. Hicks long before August of 2015;
15 correct?

16 A I did.

17 Q She had worked at Hilpzik Strategies?

18 A She did.

19 Q That is a communication and strategy firm; correct?

20 A It is.

21 Q They did some work for AMI?

22 A Yes.

23 Q That's one of the ways you met Ms. Hicks; right?

24 A That's correct.

25 Q I think you said she did some work for Star Magazine?
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1 A Yes.

2 Q Which was an AMI publication under your watch?

3 A Yes.

4 Q You testified on Tuesday that she also worked as
5 President Trump's Communications Director at some point?

6 A Yes.

7 Q So, what I was asking you about yesterday was your
8 testimony in response to Mr. Steinglass' questions about
9 whether Ms. Hicks was in that meeting in August of 2015; right?

10 A Yes. That's correct.

11 Q And to be fair, you said that -- on direct, that she
12 was in and out of the meeting; right?

13 A That's what I said.

14 Q It's not as if you suggested to the jury that she
15 participated in the meeting; correct?

16 A That's correct.

17 Q And you did not suggest to the jury that you have a
18 recollection of her speaking during the meeting; correct?

19 A That's absolutely correct.

20 Q Now, you testified in federal grand jury proceedings;
21 right?

22 A Yes.

23 Q And that was also in August of 2018; correct?

24 A Yes.

25 Q And it was about two weeks after the meeting that we
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1 were talking about at the end of the day yesterday; right?

2 A That's correct.

3 Q August 13, 2018; does that sound right?

4 A Yes.

5 Q And there was a court order there; right?

6 A Yes.

7 Q Just like today?

8 A Yes.

9 Q And you were under oath; correct?

10 A Yes.

11 Q Just like today?

12 A Just like today.

13 Q And do you recall being asked the question: "Did you
14 meet with Donald Trump and Michael Cohen, an employee of the
15 Trump Organization, at Trump Tower?"

16 Do you recall that question?

17 MR. STEINGLASS: Objection.

18 THE COURT: Sustained.

19 Mr. Bove, if you are going to advise the witness
20 to a particular portion of the transcript, please advise
21 the prosecution so that they can turn to it.

22 MR. BOVE: Yes.

23 Mr. Bernik, for the Court the parties and Mr.
24 Pecker, can we please bring up the document marked for
25 identification as Exhibit A104. If we can go to Page 5.
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1 Please and zoom in on Lines 17 through 19.

2 (Whereupon, an exhibit is shown on the screen of
3 the witness and the parties, and the witness reviews the
4 exhibit.)

5 Q Sir, this is from your federal grand jury testimony;
6 correct?

7 A Yes.

8 Q Do you recall being asked this question?

9 A Yes.

10 MR. BOVE: If we could zoom out, please,
11 Mr. Bernik, and turn to the next page, Page 6.

12 Q Do you see at Lines 6 and 7, you were asked to tell
13 the grand jury what happened at this meeting?

14 A Yes.

15 Q When you were asked that question, you understood it
16 was in reference to the August 2015 meeting; right?

17 A That's correct.

18 Q And you answered the question, obviously; right?

19 A Could I see the answer?

20 Q Yes. Yes.

21 MR. BOVE: We can zoom out entirely, Mr. Bernik,
22 and give Mr. Pecker an opportunity to review.

23 (Whereupon, the witness reviews the exhibit on
24 his screen.)

25 A You said it was 6 and 7?
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1 Q Yes.

2 MR. BOVE: We can go to Page 7 now, please.

3 (Whereupon, the witness reviews the exhibit on
4 his screen.)

5 Q Let me know when you're done.

6 A Can we turn back to 6?

7 Q Of course.

8 (Whereupon, the witness reviews the exhibit on
9 his screen.)

10 A The next page, please.

11 MR. BOVE: Can you go to Page 7 please,
12 Mr. Bernik?

13 (Whereupon, the exhibit is shown on the witness'
14 screen and the parties' screens, and the witness reviews
15 the exhibit.)

16 A I read Page 7.

17 MR. BOVE: Page 8, please, Mr. Bernik.

18 (Whereupon, the exhibit is shown on the witness'
19 screen and the parties' screens, and the witness reviews
20 the document.)

21 A Okay. Page 8.

22 Q Thank you.

23 So those pages, Pages 5 through 8, constitute your answer
24 about the August 2015 meeting; right?

25 A Yes.
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1 Q During that testimony in August of 2018, you did not
2 describe any specific statements made by Ms. Hicks; correct?

3 MR. STEINGLASS: Objection.

4 THE COURT: Sustained.

5 Q Let's talk a little bit about what was said during the
6 August 2015 meeting.

7 You said on your direct that there was discussion about
8 Bill and Hillary Clinton; correct?

9 A Yes.

10 Q And at the time of this meeting, August 2015, the
11 National Enquirer was already running stories about Bill and
12 Hillary Clinton; correct?

13 A Yes.

14 Q That was going on before the meeting; right?

15 A That's correct.

16 Q And that was because you had made a business decision
17 that it was good for the National Enquirer to run those
18 stories; correct?

19 A I did.

20 Q We talked about, yesterday, how you were going to the
21 research meetings; right?

22 A Yes.

23 Q And looking at the data?

24 A Yes.

25 Q And thinking about what made sense from a business
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1 perspective for AMI?

2 A Correct.

3 Q What was consistent with your fiduciary obligations at
4 AMI?

5 A Yes.

6 Q So, before the August 2015 meeting, you made a
7 decision that it made sense to for AMI to run articles about
8 Bill and Hillary Clinton; right?

9 A Yes.

10 Q And those articles were negative; right?

11 A Yes.

12 Q So, it was easy for you to say during the August 2015
13 meeting that you would continue to do that; right?

14 A Yes.

15 Q That was no issue for you?

16 A No.

17 Q We talked yesterday about things that were mutually
18 beneficial.

19 That was entirely beneficial to AMI?

20 MR. STEINGLASS: Objection.

21 THE COURT: Sustained.

22 Q Running those stories were beneficial to AMI; correct?

23 A Running the stories were beneficial to AMI. Correct.

24 Q And doing what was good for AMI was standard operating
25 procedure?

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1 A Yes.

2 Q Now, you testified on Tuesday that during this
3 August 2015 meeting, there was also a discussion about running
4 negative stories about President Trump's opponents; right?

5 A That's correct.

6 Q And you testified that there was discussion of that
7 topic during the August 2015 meeting; do you remember that?

8 A Yes.

9 Q And three specific opponents, preliminary opponents
10 came up; right?

11 A Yes.

12 Q Ben Carson; correct?

13 A Yes.

14 Q Marco Rubio; right?

15 A Right.

16 Q And Ted Cruz; correct?

17 A Yes.

18 Q And you were shown some exhibits by the Government
19 that related to stories the National Enquirer ran about those
20 three men; correct?

21 A That's correct.

22 Q There wasn't much new content in those stories; was
23 there?

24 A I would have to reread the stories to answer that
25 question.

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1 Q We'll take a look at the stories in a minute.

2 But, let me ask you this: It was standard operating
3 procedure for the National Enquirer to, sort of, recycle
4 content from other publications and frame it slightly
5 differently; correct?

6 A Correct.

7 Q That's cost effective?

8 A Correct.

9 Q Information from the public domain goes into the
10 National Enquirer. It's quick and easy.

11 Correct?

12 A Yes.

13 Q Good for business?

14 A Yes.

15 Q Consistent with your fiduciary obligations; correct?

16 A Yes.

17 Q And for at least some of the articles that you
18 testified about on Tuesday, that's exactly what you did; right?

19 A Yes.

20 Q There was already negative information in the public
21 domain about Ben Carson, and so you ran it in the National
22 Enquirer; right?

23 A Yes.

24 Q And because that was quick, and efficient, and
25 cost effective, you would have done that whether or not you had
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1 discussed it with President Trump; correct?

2 A Yes.

3 MR. BOVE: Mr. Bernik, if we could take a look at
4 Government Exhibit 153A, please. This can be shown to the
5 jury. This is in evidence.

6 (Whereupon, the exhibit is shown on the screens.)

7 Q Mr. Pecker, this is one of the exhibits we looked at
8 on Tuesday; right?

9 A Yes.

10 Q And there are five headlines here relating to Ben
11 Carson; correct?

12 A Yes.

13 Q And there's some dates on the page. Do you see them?

14 A Yes.

15 Q And the date range is, basically, from what I can
16 tell, October 2015 to December of 2015; right?

17 A Yes.

18 Q So, you see that there's an article -- the top article
19 on this page relates to some kind of issue with a surgery
20 performed by Dr. Carson; right?

21 A Yes.

22 Q And in this timeframe, 2015, you were leading AMI;
23 right?

24 A Yes.

25 Q And you were familiar with what was going on with
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1 other publications; correct?

2 A Yes.

3 Q You had to be, right, in order to do your job?

4 A Yes.

5 Q And you had to be on top of what was in the public
6 domain at the time; correct?

7 A Yes.

8 Q You had to keep track of current events; right?

9 A Yes.

10 Q So, you knew, did you not, that in May 2015,
11 The Guardian published an article regarding several malpractice
12 suits against Dr. Carson; correct?

13 A That's correct.

14 Q And so, in May 2015, long before any of the articles
15 on this page, The Guardian had covered this issue; right?

16 A Yes.

17 Q And, in fact, The Guardian article referenced seven
18 malpractice claims against Dr. Carson; right?

19 A Yes.

20 Q And the article referenced on the top of the screen,
21 that's -- the child there, her name is Karly Bailey; right?

22 A I don't remember her name.

23 MR. BOVE: Mr. Bernik, if we could, for Mr.
24 Pecker, the parties and the Court, bring up what's been
25 marked for identification as Defense Exhibit A133.
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1 (Whereupon, the exhibit is shown on the witness'
2 and the parties' screens.)

3 MR. BOVE: If you could turn to Page 3, please.

4 Q And I want to see, Mr. Pecker, if this refreshes your
5 recollection about the name of the child.

6 (Whereupon, the witness reviews the exhibit on
7 his screen.)

8 A Yes, it does.

9 Q What was her name?

10 A Karly Bailey.

11 MR. BOVE: We can take that down.

12 Thank you.

13 If we could bring back up People's 153A. That can
14 be for everyone, please.

15 (Whereupon, an exhibit is shown on the screens.)

16 Q That photograph on the top of a child is actually
17 recycled from The Guardian article; correct?

18 A Yes.

19 Q And so, there are four articles on this page that
20 relate to these medical malpractice claims; correct?

21 A Yes.

22 Q And all of them contain information that was recycled
23 from a publication months earlier in The Guardian; right?

24 A That's correct.

25 Q And do you recall that in 2016, The Guardian website
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1 had about 40 million unique users in the United States?

2 A I don't recall that.

3 MR. BOVE: Mr. Bernik, can we please bring up a
4 document marked for identification. This is just for the
5 Court, the parties and Mr. Pecker. It's been marked for
6 identification as A138.

7 (Whereupon, an exhibit is shown on the witness'
8 screen and the parties' screens, and the witness reviews
9 the exhibit on his screen.)

10 A I don't see where it says 40 million.

11 MR. BOVE: Can we turn to the next page, please?

12 (Whereupon, the witness reviews the exhibit on
13 his screen.)

14 A Yeah. 40 million unique users.

15 MR. STEINGLASS: Objection.

16 Move to strike his answer in terms of the base of
17 his knowledge.

18 THE COURT: Sustained.

19 MR. BOVE: We can take that down, Mr. Bernik.

20 Q Did that document refresh your recollection that, in
21 2016, The Guardian had about 40 million unique users on its
22 website?

23 MR. STEINGLASS: Objection.

24 THE COURT: Sustained.

25 A I --
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1 THE COURT: No. Don't answer the question.

2 THE WITNESS: Okay.

3 MR. BOVE: If we could bring up People's 153A,
4 please. This is for everyone, please.

5 (Whereupon, an exhibit is shown on the screens.)

6 Q You see the fourth headline on this page?

7 A Yes.

8 Q There's a reference to military service?

9 A Yes.

10 Q It's hard for me to see from here, but I think it's
11 dated November 11, 2015?

12 A November 11th.

13 Q And do you recall, this is also a situation where the
14 National Enquirer posted information that was already in the
15 public domain?

16 A I don't recall this exact article. We're -- I don't
17 recall exactly where the information was derived from this
18 article.

19 Q Do you recall, five days earlier, Politico ran a
20 headline: Exclusive: Carson claimed West Point scholarship but
21 never applied?

22 A I don't recall.

23 MR. BOVE: If you could please bring up for the
24 the parties, the witness, and the Court the document
25 marked A134.

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1 (Whereupon, the exhibit is on the witness' screen
2 and the parties' screens.)

3 Q Just take a look at that.

4 MR. BOVE: Can I have one moment, please?

5 THE COURT: Sure.

6 (Whereupon, the attorneys confer.)

7 Q Have you had a chance to look at that?

8 A Yes.

9 MR. BOVE: We can take that down, please.

10 Q Does that refresh your recollection that about five
11 days before the National Enquirer article, Politico ran an
12 article with the title: Exclusive: Carson claimed West Point
13 scholarship but never applied?

14 A Yes.

15 MR. BOVE: Mr. Bernik, if we could take a look
16 for everyone at People's 153C.

17 (Whereupon, an exhibit is shown on the screens.)

18 Q And these are articles that you were shown by the
19 Government, during your direct examination, relating to Marco
20 Rubio; correct?

21 A Yes.

22 Q And these articles are also based on information that
23 was not exclusive to the National Enquirer; correct?

24 A Yes.

25 Q The top article actually refers to a book that had
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1 been published about Mr. Rubio; correct?

2 A I don't recall the book.

3 MR. BOVE: Mr. Bernik, if you could please bring
4 up for the Court, Mr. Pecker, and the parties, a document
5 marked for identification as Defense Exhibit A141.

6 (Whereupon, a document is shown on the parties'
7 screens.)

8 Q Do you have that on your screen?

9 A No.

10 Q I can hand a copy up.

11 A Okay.

12 (Whereupon, a document is given to the witness.)

13 MR. BOVE: If I could hand a copy up to the
14 Court, as well.

15 (Whereupon, a document is given to the Court.)

16 THE COURT: Thank you.

17 (Whereupon, the witness reviews the document.)

18 Q Have you had a chance to look at that?

19 A Yes.

20 Q That was a copy of the National Enquirer article where
21 we saw the headline on the screen; right?

22 A Yes. That's correct.

23 Q Having reviewed that, does that refresh your
24 recollection that what was really going on in the article was
25 you were reviewing a book that had been published; right?

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 A Correct.

2 Q So, it wasn't new information published; correct?

3 A That's correct.

4 Q Substantially, everything in the exhibits you were
5 shown in 153A, 153B and 153C, what was going on was the
6 National Enquirer was recycling information from other
7 publications because it was cost effective and made business
8 sense?

9 MR. STEINGLASS: Objection.

10 THE COURT: Overruled.

11 You can answer.

12 A Yes.

13 Q And you talked about the National Enquirer relying on
14 sources; right?

15 A Yes.

16 Q There was a source network of sorts; right?

17 A That's correct.

18 Q And one of the things that can be valuable to somebody
19 in this industry is cultivating a network of sources; right?

20 A Yes.

21 Q So the people that work for you can draw on those
22 sources to get sensitive details; right?

23 A Yes.

24 Q But, that's not what was happening with respect to the
25 articles we just looked at; right?

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 A That's correct.

2 Q That was a different part of the business; right?

3 A Yes.

4 Q Where you were taking information that was public and
5 posting it on the the website?

6 A Yes.

7 Q And you testified on Tuesday that it was your
8 objective to keep the August 2015 meeting confidential;
9 correct?

10 A Yes.

11 Q And I think you said, "highly, highly confidential;"
12 right?

13 A That's correct.

14 Q And you wanted to keep the meeting as quiet as
15 possible. I think you used those words, too.

16 A I did.

17 Q But, it actually became public prior to the election
18 that you were doing those things for President Trump; correct?

19 A Uh, yes.

20 Q People picked up on it; right?

21 A Yes.

22 Q Nothing was hidden; correct?

23 MR. STEINGLASS: Objection.

24 THE COURT: Sustained.

25 Q But, you testified, I think, yesterday about a Wall
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 Street Journal article relating to Karen McDougal; do you
2 remember that?

3 A Yes.

4 Q That was People's Exhibit 180; right?

5 A That's correct.

6 Q That article came out before the election, you said;
7 right?

8 A Yes.

9 MR. BOVE: This is in evidence.

10 Can we bring that up, People's 180, please?

11 (Whereupon, the exhibit is shown on the screens.)

12 MR. BOVE: Can you zoom in on the top half,
13 please.

14 Q You see it? Above the headline, it says, "Election
15 2016;" right?

16 A Yes.

17 Q So, this is Wall Street Journal coverage prior to the
18 2016 election; correct?

19 A That is correct.

20 MR. BOVE: If we can go to Page 2 of the exhibit,
21 please, and zoom in on the second to last paragraph.

22 (Whereupon, an exhibit is shown on the screens.)

23 Q Do you see where it says "Since last year, the
24 Enquirer has supported Mr. Trump's presidential bid, endorsing
25 him and publishing negative articles about some of his

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 opponents"?

2 A Yes, I see that.

3 Q So, this was out there prior to the election; correct?

4 A Yes.

5 MR. BOVE: You can take that down.

6 Thank you.

7 Q I want to stick with the August 2015 meeting.

8 Okay?

9 A Yes.

10 Q At that meeting, the concept of "catch and kill" was
11 not discussed; correct?

12 A That's correct.

13 Q And there was no discussion of a financial dimension
14 to any agreement at that meeting; correct?

15 A Yes. That's correct.

16 Q And you testified on Tuesday about a Source Agreement
17 with somebody named Dino Sajudin; do you remember that?

18 A Yes, I do.

19 Q You said you learned of Mr. Sajudin's false story in
20 about October of 2015?

21 A That's correct.

22 Q You testified on Tuesday that you never discussed this
23 story directly with President Trump; correct?

24 A That is correct.

25 Q And President Trump never paid you any money in
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 connection with that Sajudin story; right?

2 A No, he did not.

3 Q And Cohen didn't pay you any money, either; did he?

4 A No.

5 Q You testified Tuesday there was a Source Agreement
6 between AMI and Mr. Sajudin; right?

7 A Yes.

8 MR. BOVE: That is People's Exhibit 154 in
9 evidence, if we could bring that up.

10 (Whereupon, an exhibit is shown on the screens.)

11 Q This is that Source Agreement; correct?

12 A Yes, it is.

13 Q I think you said on Tuesday that this is a standard
14 AMI document; am I right?

15 A Yes.

16 Q A document that AMI used in connection with standard
17 operating procedures?

18 A Yes.

19 Q Yesterday, you said that AMI had entered into hundreds
20 of thousands of Source Agreements like this; correct?

21 A Over the years, yes.

22 Q Over decades; right?

23 A Yes.

24 Q Even before you were leading AMI; right?

25 A Before. (Nods yes).
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 MR. BOVE: Now, if you can please zoom in on the
2 payment line.

3 Q So, I think you testified on Tuesday that the standard
4 time period for one of these agreements was 90 or 120 days?

5 A Yes.

6 Q And, here, somebody -- there's a blank in a template;
7 right?

8 You see where it says, "Exclusivity period"?

9 A Yes.

10 Q And somebody filled in "three months" or 90 days?

11 A That's correct.

12 Q Do you see the payment line where it says, "Payable
13 upon publication as set forth below"?

14 A Yes.

15 Q And so, there was no money due to Mr. Sajudin when
16 this agreement was signed; correct?

17 A That's correct.

18 Q And you believed that if this story was true, it was
19 worth a lot of money; right?

20 A Yes.

21 Q What I'm asking about now is your -- what was in your
22 mind in 2015 as this was happening.

23 Okay?

24 A I understand.

25 Q So, when it was reported to you that somebody was
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 saying the things that Mr. Sajudin was saying, you believed
2 that if those were true, it could be the biggest National
3 Enquirer article ever?

4 A That is correct.

5 Q And I think you testified about the Enquirer's
6 coverage of Elvis Presley's death; right?

7 A Yes.

8 Q I think, if I'm recollecting correctly, there were
9 about 6.5 million sales associated with the National Enquirer's
10 coverage of that death?

11 A That is correct.

12 Q And you thought that if this story was true,
13 Mr. Sajudin's claim was true, that it could sell 10 million
14 National Enquirers; right?

15 A I did.

16 Q So, if this story was true, you were gonna run it;
17 correct?

18 A Yes.

19 Q Because you had a fiduciary obligation to do that;
20 right?

21 A That is correct.

22 Q It would have made business sense, to put it mildly,
23 to run such an article if it was true; correct?

24 A Yes.

25 Q And as soon as you heard the story about Mr. Sajudin,
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 you knew that to be the case; right?

2 A I did.

3 Q It took AMI a little bit of time to verify or try to
4 verify the story; right?

5 A Yes.

6 Q And I think you testified that it wasn't really
7 completed, you didn't have a firm sense of it until late
8 December 2015?

9 A That's correct.

10 Q So, several weeks, maybe a month, at least, after this
11 agreement was signed; right?

12 A Yes.

13 Q And at some point in the time between when this
14 agreement was signed and when the vetting process was
15 completed, Mr. Sajudin started to make threats; correct?

16 A Yes.

17 Q He was threatening to go someplace else; right?

18 A That is correct.

19 Q And that is why you decided to pay Mr. Sajudin
20 \$30,000; correct?

21 A Yes.

22 Q Because you could not have him taking his story to
23 another publication if it was true; right?

24 A That's correct.

25 Q It would be too great a loss to AMI to lose control of
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 such a story, if true; right?

2 A Yes.

3 MR. BOVE: Mr. Bernik, could you please publish
4 People's 155. This is also in evidence.

5 (Whereupon, an exhibit is shown on the screens.)

6 Q So, this is the Amendment to that Source Agreement;
7 right?

8 A Yes, it is.

9 Q And this one is dated December 17, 2015.

10 Do you see that at the bottom?

11 A Yes.

12 Q And this agreement was entered into after Mr. Sajudin
13 started to make those threats; correct?

14 A Yes.

15 Q And in exchange for \$30,000, Mr. Sajudin agreed to the
16 exclusivity period in perpetuity; right?

17 A Yes.

18 Q This is where you bought the rights of the story
19 forever?

20 A I did.

21 Q And that is because it was still possible, in your
22 mind, when this agreement was signed, that the story was true?

23 A That's correct.

24 Q And you could not walk away from that possibility,
25 however small it might be; right?

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 A Yes.

2 Q Walking away from Mr. Sajudin's story would not make
3 business sense; right?

4 A No.

5 Q It would not have been your standard operating
6 procedure; correct?

7 A No.

8 MR. BOVE: We can take that down.

9 Thank you.

10 Q I want to talk a little about about Ms. McDougal, if
11 that's okay.

12 A Yes.

13 Q Just to be clear, President Trump did not pay you any
14 money related to Karen McDougal; right?

15 A No.

16 Q Nor did Cohen; correct?

17 A Correct.

18 Q I want to focus on 2016, when there were negotiations
19 relating to and involving Ms. McDougal.

20 Okay?

21 A Okay.

22 Q When you first learned about this story, you
23 understood that Ms. McDougal did not want to publish it;
24 correct?

25 A Yes.

Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 Q She did not want to; right?

2 A She did not want to.

3 Q What she wanted to do was restart her career; correct?

4 A Yes.

5 Q And after you learned that, you thought there was an
6 opportunity for AMI to help her do that; right?

7 A Yes.

8 Q And that's because she had worked before on Men's
9 Fitness magazine; right?

10 A Yes.

11 Q I think she was one of the first females that was on
12 the cover of that magazine; right?

13 A Yes.

14 Q In '99?

15 A That's right.

16 Q Was that after you started?

17 A Right after I started.

18 Q So, you and Ms. McDougal went back, in a way; right?

19 A I didn't know her.

20 Q But, you knew that she had done work on that cover for
21 AMI; right?

22 A Not until I was told in that June of 2016.

23 Q So, is it fair to say that when you first started out
24 at AMI, it took some time to get up to speed; right?

25 A Well, first, that -- the Men's Fitness, that title was
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 a weaker magazine, so we purchased it. The purchase was in
2 2002.

3 Q One of those purchases that involved
4 Mr. Schwarzenegger in 2002, 2003?

5 A Yes.

6 Q Thank you for clarifying that.

7 I'm sorry about that.

8 Getting back to 2016, you understood that Ms. McDougal's
9 main interest was not publishing the story; correct?

10 A Yes.

11 Q And you testified about a meeting that you had with
12 one of your investor's offices in New Jersey; right?

13 A Yes.

14 Q You said that President Trump got through to you on
15 the phone during that meeting?

16 A Yes.

17 Q Was that at Chatham Asset Management?

18 A Yes.

19 Q What was the presentation that day?

20 A I was reading the quarterly results, biannual results.

21 Q Somebody interrupts the meeting, that presentation,
22 and says, "President Trump is on the phone;" right?

23 MR. STEINGLASS: Objection.

24 THE COURT: Overruled.

25 A Didn't say "President" Trump.
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 Q You knew you had an important --

2 A Yes.

3 He said, "Donald Trump is on the phone."

4 Q When you got on the phone, you knew that it was
5 President Trump; right?

6 MR. STEINGLASS: Objection.

7 THE COURT: Sustained.

8 Q You talked to President Trump that day in connection
9 with the meeting; right?

10 MR. STEINGLASS: Objection.

11 THE COURT: What's your objection?

12 MR. STEINGLASS: He wasn't "President" Trump in
13 June of 2016.

14 THE COURT: Sustained.

15 MR. BOVE: If I could just have a moment, Judge?

16 Q I just want to make sure we're talking about the same
17 meeting.

18 Okay? Exclusive

19 There was a meeting where you said you gave an investors'
20 presentation to; right?

21 A Yes.

22 Q During that meeting, you received a phone call; right?

23 A Yes.

24 Q Who was on the phone?

25 A Donald Trump.
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 Q When was the meeting?

2 A June of 2016.

3 Q And during that conversation, during that call, you
4 discussed Karen McDougal; right?

5 A Yes.

6 Q And you told President Trump that Ms. McDougal did not
7 want to publish the story; correct?

8 MR. STEINGLASS: Objection.

9 THE COURT: Sustained.

10 Q What do you remember about the phone call?

11 A Mr. Trump called my -- my office in -- either it was
12 in New York or Florida. And since I was in Chatham, New Jersey,
13 my assistant transferred the call to -- to Chatham.

14 And when the call came in, the assistant in the office --
15 small office -- came over and asked me to come out, that Donald
16 Trump was on the phone.

17 And when I spoke to Mr. Trump, he said that he wanted to
18 know what was -- he asked me -- he said, "I spoke to Michael.
19 And I wanted to talk to you about Karen McDougal."

20 So, he said : Is it true that there's a Mexican group
21 that's looking to buy the story for \$8 million?"

22 And I said, "No, I don't believe that's true."

23 Two, he said that -- that -- (pause) -- um -- (pause) -- I
24 want to recollect it completely.

25 Q Thank you.
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 A He said that, um -- (pause) -- he normally -- oh. I
2 said that -- that, "This story about Karen, since she's
3 claiming that she has a relationship with you, should be taken
4 off the market."

5 And Mr. Trump said, "I don't normally -- I don't buy
6 stories because it always gets out."

7 And then I said, "I still think you should buy the story."

8 And Mr. Trump said to me, "I'll speak to Michael, and he'll
9 get back to you."

10 Q And so, as you sit here today, you remember that
11 during that conversation, you said to President Trump: It is my
12 understanding that she doesn't want her story published?

13 A (Pause). Yes. I did. I remember saying that.

14 Q And you testified about that --

15 A Yes.

16 Q -- at this trial; right?

17 A Yes.

18 Q On April 23rd?

19 A Yes.

20 I just wanted to make sure and remember.

21 Q Yeah. I appreciate it. Sometimes it takes another
22 question.

23 A That's correct.

24 Q I want to talk a little bit about Chatham Asset
25 Management; okay?

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Senior Court Reporter

1 A Okay.

2 Q There was later a lawsuit involving Chatham, relating
3 to some of those events in the Summer of 2016; right?

4 MR. STEINGLASS: Objection.

5 THE COURT: Overruled.

6 A Can you clarify about with respect to lawsuits?

7 Q IPayments sued Chatham Asset Management; correct?

8 A The former chairman of iPayment, the company. Not the
9 company itself.

10 Q And you were named as a defendant in that lawsuit;
11 right?

12 A Yes.

13 Q And the allegations that are at issue in the lawsuit
14 were going on in that Summer of 2016; correct?

15 A Yes.

16 Q And you talked about the issues of iPayments with
17 Cohen; right?

18 A I did.

19 Q And you also tried to get Cohen a job at iPayments;
20 right?

21 A No.

22 I can clarify that.

23 Q Please.

24 A Michael Cohen pitched -- he requested for me a
25 position at iPayment. He was looking to become the new
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 president, the new chairman, because the former chairman was
2 terminated.

3 Q Did you talk to the chairman of iPayments about that?

4 A No.

5 I spoke to Chatham about it. And they had no interest in
6 Michael Cohen.

7 Q Do you recall telling the Federal Government that the
8 chairman of iPayments did not want Cohen to take Pecker's
9 place?

10 MR. STEINGLASS: Objection.

11 THE COURT: Sustained.

12 MR. BOVE: Judge, can we have a quick sidebar?

13 THE COURT: Yes.

14 MR. BOVE: Thank you.

15 (Whereupon, the following proceedings were held
16 at sidebar:)

17 MR. BOVE: Thank you, Judge.

18 I don't mean to be dense. I just want to make
19 sure I'm following the objection right now.

20 I asked if he recalled saying that. He said no.

21 My next plan was to refresh his recollection that
22 that was said.

23 THE COURT: What's your objection?

24 MR. STEINGLASS: It's two-fold.

25 One, I think that was an improper impeachment
Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 technique.

2 Second of all, it's more, basically, a relevance
3 objection.

4 What is the relevance of the fact that Michael
5 Cohen tried to get a job, that there was lawsuits
6 involving companies that have nothing to do with this?

7 MR. BOVE: The relevance is that Cohen and
8 Mr. Pecker were working together personally, separate and
9 apart from what President Trump was doing.

10 THE COURT: I'll allow it.

11 MR. BOVE: Thank you, Judge.

12 (Whereupon, the following proceedings were held
13 in open court:)

14 (Whereupon, Senior Court Reporter Lisa Kramsky
15 relieves Senior Court Reporter Laurie Eisenberg, and the
16 transcript continues on the next page.)

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Laurie Eisenberg, CSR, RPR
Senior Court Reporter

1 *****

2 (The following proceedings are continued from
3 previous page.)

4 THE COURT: Thank you.

5 The objection is overruled.

6 *****

7 CROSS-EXAMINATION

8 BY MR. BOVE:

9 Q So before that break, we were talking about iPayments;
10 right?

11 A Yes.

12 Q And my question had been: Did you and Mr. Cohen
13 discuss Cohen getting a job at iPayments; right?

14 A Yes.

15 Q And you did discuss that with Cohen; correct?

16 A I did.

17 Q And I think you said, before the break, that you did
18 not discuss Cohen getting a job with iPayments, directly with
19 iPayments; right?

20 A That's correct.

21 Q And I think you said before that sidebar that you had
22 only discussed that with Chatham Asset Management; right?

23 A Yes.

24 Q But do you recall telling the Federal Government that
25 the Chairman of iPayments did not want Cohen to take Pecker's

1 place; right?

2 MR. STEINGLASS: Objection.

3 THE COURT: Sustained.

4 That's consistent with what he testified to.

5 Q In this same time frame, in the summer of 2016, you
6 were also talking to Mr. Cohen about Mark Cuban; right?

7 A Yes.

8 Q And Mr. Cohen was looking at potentially working with
9 Mr. Cuban; right?

10 A That's what Michael Cohen told me.

11 Q And you actually asked him for a little bit of help
12 around that; right?

13 A Yes, he did.

14 Q He asked you, did he not, to send paparazzi to
15 photograph the meeting between Cohen and Cuban; right?

16 A Yes.

17 Q And he made that request because he said that would
18 put pressure on President Trump to treat Cohen differently;
19 right?

20 A Yes.

21 Q And you agreed to help him do that; right?

22 A Yes.

23 Q To put a little pressure through the National Enquirer
24 on President Trump; correct?

25 A I wasn't -- no, that's not correct.

1 Q You understood that the natural consequence of that
2 publication would be to put a little pressure on him; right?

3 A Michael Cohen never said that to me.

4 Q My question is whether you understood that publishing
5 photographs like that, even if it wasn't going to be harmful,
6 could put a little pressure on President Trump; right?

7 A Yes.

8 MR. BOVE: And, Mr. Bernik, could we take a look
9 at People's 156 in evidence.

10 (Displayed.)

11 *****

12 Q And this is the Agreement between AMI and Ms. McDougal
13 from August of 2016; right?

14 A That's correct.

15 Q And this Agreement looks a little bit different in
16 terms of formatting from the one with Mr. Sajudin; right?

17 A Yes.

18 MR. BOVE: And, Mr. Bernik, can you please zoom in
19 on Paragraph 3.

20 (Displayed.)

21 *****

22 Q And you were asked some questions by Mr. Steinglass
23 about this provision of the Agreement; right?

24 Do you remember that?

25 A Yes.

1 Q And I think that one of the questions was whether this
2 document was set up so that it would disguise the other
3 provisions in the Agreement.

4 Do you remember that question?

5 A Yes, I do.

6 Q And I think you said: "Yes, this paragraph was
7 designed to disguise the other paragraphs;" right?

8 A Yes.

9 Q But there were actually very real paragraphs in this
10 agreement; right?

11 A Yes.

12 MR. BOVE: And you can zoom back out, please,
13 Mr. Bernik.

14 Q Very real obligations for AMI; correct?

15 A Yes.

16 Q And, in fact, you told the Federal Prosecutors that you
17 believed it was critically important to follow the words of the
18 McDougal Agreement because you did not want any illegal or
19 campaign violations that would open the door to legal action by
20 McDougal?

21 MR. STEINGLASS: Objection.

22 THE COURT: Sustained.

23 Q You told the Federal Prosecutors that the other
24 provisions of this agreement mattered; right?

25 A Yes, I did.

1 Q And it created real obligations by AMI; right?

2 A Yes.

3 Q And you didn't tell the Federal Prosecutors that this
4 was a disguise; correct?

5 MR. STEINGLASS: Objection.

6 THE COURT: Sustained.

7 MR. BOVE: Mr. Bernik, could you please zoom in on
8 Paragraph 1.

9 (Displayed.)

10 *****

11 Q And, so, do you see at the start of this paragraph,
12 there is a reference to two years from the effective date?

13 A Yes.

14 Q And, so, that's basically a 24-month period on this
15 part of the Agreement?

16 A That's correct.

17 Q And AMI purchased the rights to use Ms. McDougal's name
18 and likeness in 24 columns in Star Magazine, if I have that
19 right?

20 A Yes.

21 Q And you also purchased the rights for 24 columns using
22 Ms. McDougal's name and likeness in OK! Magazine; right?

23 A Yes.

24 Q Four posts per month in Radar Online?

25 A Yes.

1 Q That's 96 columns over two years; right?

2 A That's correct.

3 MR. BOVE: And if you could zoom in, please, now
4 on Paragraph 2.

5 (Displayed.)

6 *****

7 Q This relates to magazine covers; right?

8 A Yes.

9 Q And so these are other things that AMI purchased from
10 Ms. McDougal in connection with this agreement; right?

11 A Yes.

12 Q And these were real obligations on the part of AMI;
13 correct?

14 A Yes, they were.

15 Q And in exchange for all of these things, the columns,
16 the block posts, the magazine covers, and the story rights, AMI
17 agreed to pay Ms. McDougal \$150,000; right?

18 A That's correct.

19 Q But during the negotiations, Ms. McDougal was not
20 focused on cash; was she?

21 A I'm sorry, could you repeat that again.

22 Q Ms. McDougal was not focused on cash during the
23 negotiations; correct?

24 A Not focused on?

25 Q Cash. Money. Not focused on --

1 A Money? The cash amount wasn't a primary portion of the
2 Agreement.

3 Q What Ms. McDougal was to focus on was the provisions in
4 Paragraphs 1 and 2; right?

5 A Oh, for her, yes.

6 Q Because, as you said earlier this morning, she was
7 looking to restart her career; is that correct?

8 A Yes, that's right.

9 Q And she had started part of her career with then Men's
10 Fitness; right?

11 A Yes.

12 Q And which was part of, at this point, in 2016, an AMI
13 publication; right?

14 A That's right.

15 Q And you, at that point, viewed AMI as making a good
16 relaunching point for Ms. McDougal; correct?

17 A It was all part of this Agreement.

18 Q And there was actually a video conference, a
19 presentation to Ms. McDougal about the types of things that AMI
20 could do for her; correct?

21 A It was a video conference; correct.

22 Q And during that video conference, the presentation
23 touched on the promotion -- the promotional opportunities that
24 Ms. McDougal was looking for; correct?

25 A Yes.

1 Q And that was in the end of June of 2016; right?

2 A That's correct.

3 Q And during that video conference, there was no
4 discussion of a monetary payment; correct?

5 A That's correct.

6 Q And AMI told Ms. McDougal that her promotion in AMI
7 magazines would be worth hundreds of thousands of dollars;
8 correct?

9 A Yes.

10 Q And nobody was lying to her; right?

11 A No.

12 Q And, in fact, AMI's publications ended up running more
13 than 65 stories in Ms. McDougal's name; right?

14 A Yes.

15 Q When AMI signed this agreement, the one that's on the
16 screen, you believed it had a legitimate business purpose;
17 correct?

18 A I did.

19 MR. BOVE: You can take that down.

20 Thank you.

21 Can we now take a look at People's 158, which is in
22 evidence.

23 (Displayed.)

24 *****

25 Q Do you recall talking to Mr. Steinglass about this

1 document yesterday?

2 A Yes.

3 Q And I think you said that this is an invoice from Keith
4 Davidson; right?

5 A I did.

6 Q This is actually AMI's record relating to the invoice;
7 correct?

8 A Yes.

9 Q And so it's not the invoice itself?

10 A It's an AMI record as you said; that's correct.

11 Q Reflecting whatever Mr. Davidson's invoice said;
12 right?

13 A Yes that's correct.

14 Q And AMI had employees who created a record like this
15 when it got an invoice; right?

16 A Yes.

17 Q And as far as you understood it, the standard operating
18 procedure was for the employee to take the information from the
19 invoice and put it in the system?

20 A That is correct.

21 MR. BOVE: And, Mr. Bernik, if we could zoom in on
22 the bottom row, please.

23 (Displayed.)

24 *****

25 Q Do you see that, the headers on these columns:

1 Account, Department, and Operating Unit?

2 A Yes.

3 Q There were people at AMI and the accounting department
4 who completed that information; right?

5 A That's correct.

6 Q And they did that based on whatever invoice
7 Mr. Davidson sent; correct?

8 A Yes.

9 Q You didn't put those codes yourself?

10 A No, I did not.

11 Q You trusted people to do it accurately; right?

12 A I did.

13 Q And that was AMI's standard operating procedure?

14 A Yes.

15 MR. BOVE: Mr. Bernik, can we please take a look
16 at Government Exhibit 159, which is also in evidence.

17 (Displayed.)

18 *****

19 Q You testified about this one yesterday also?

20 A I did.

21 Q And I think you said that it is a general ledger detail
22 for the \$150,000 transaction with Mr. Davidson?

23 A That's correct.

24 Q And, basically, the data from the document that we just
25 looked at, People's 158, feeds into a general ledger entry like

1 this; right?

2 A Yes, that's correct.

3 Q And that's an automated process; right?

4 A Yes.

5 Q Based on information that Mr. Davidson provided;
6 correct?

7 A Yes.

8 Q And that you trusted your accounting people to input;
9 correct?

10 A I did.

11 MR. BOVE: If we could zoom in on the right side
12 of this so that we can catch the date column, please.

13 (Displayed.)

14 *****

15 Q It's a little blurry there. But do you see the column
16 heading that says "Date Due?"

17 A Yes.

18 Q And I think, I think there is an 8/9/20818 after that.
19 Do you see that?

20 A That is correct.

21 Q And you were asked some questions about this yesterday;
22 right?

23 A Yes.

24 Q And it wasn't clear to you from this document whether
25 that -- this was the date of the invoice or the payment; right?

1 A Yes, that's correct.

2 Q Because those are the types of details that are hard to
3 keep track of for someone at your level; right?

4 A Yes.

5 Q And you had a whole department who was focused on
6 keeping track of those details?

7 A That's correct.

8 Q They had standard operating procedures; right?

9 A Yes.

10 Q And you trusted their work?

11 A Yes.

12 MR. BOVE: Can we take a look at People's
13 Exhibit 160, please.

14 (Displayed.)

15 *****

16 MR. BOVE: I'm sorry. I think it's 161.

17 (Displayed.)

18 *****

19 MR. BOVE: Let me correct myself for one minute.

20 It's my fault.

21 People's Exhibit 160, Page 2.

22 Q You remember this from yesterday; right?

23 A Yes.

24 Q And there is some handwriting on this document. Do you
25 see that?

1 A Yes.

2 Q And you testified that one of the people who approved
3 this voucher was Chris Polimeni?

4 A Yes.

5 Q He was AMI's CFO at the time?

6 A That's correct.

7 MR. BOVE: And, Mr. Bernik, can you zoom in on the
8 bottom third of the document.

9 (Displayed.)

10 *****

11 Q There are some other approval signatures here; right?

12 A Yes.

13 Q It looks like there is a signature by a Controller,
14 with the last name "Brady."

15 Do you know who that is?

16 A That's Stephanie Brady, yes.

17 Q And then to the left of that there is a signature, "AP
18 Approver."

19 Do you know who that is?

20 A I think that's LR. That's Liz Ruotolo.

21 Q So there are people at AMI you trusted to process
22 records, right, like this; right?

23 A Yes.

24 Q To review and approve them; right?

25 Correct?

1 A Yes.

2 Q And you were comfortable that they were following
3 procedures in 2016; right?

4 A Yes.

5 Q And there are no false entries in any of these records;
6 are there?

7 A No.

8 MR. BOVE: You can take that down, please.

9 Q And if we go back now to People's 156 in evidence.
10 This is the agreement with Ms. McDougal.

11 (Displayed.)

12 *****

13 Q You testified that you consulted a campaign attorney
14 about this agreement; right?

15 A Yes.

16 Q And you also said that you consulted AMI's general
17 counsel; correct?

18 A Yes.

19 Q And I think you testified on direct that you told
20 Michael Cohen the agreement was, quote, "Bulletproof?"

21 A Yes.

22 Q And that is a term that you used to convey that there
23 is no legal ramifications; right?

24 A That's correct.

25 Q That's what you said when -- that's what you meant when

1 you said "Bulletproof" to Mr. Cohen?

2 A Yes.

3 Q And I would like to take a look at the trial
4 transcript.

5 MR. BOVE: And this is for everybody, please,
6 Mr. Bernik. Page 1128, lines 1 through 18.

7 (Displayed.)

8 *****

9 Q And if you can take a look at that, Mr. Pecker, and let
10 me know when you are done, please.

11 (Pause.)

12 *****

13 A I'm done.

14 Q And, so, do you see the questions beginning at Line 12?
15 And I will read it:

16 "And was that all the campaign attorney reviewed, as far as
17 you know?"

18 Do you see that?

19 A Yes.

20 Q And you said: "As far as I know, yes."

21 And I just want to make sure that I understand the -- what's
22 being said here.

23 Is it your testimony that you withheld information from the
24 attorneys providing advice about the Agreement?

25 A No. I did not withhold information on the Agreement.

1 Q And so you didn't do anything inappropriate when you
2 consulted counsel relating to the Agreement with Karen McDougal;
3 did you?

4 A No. I did not.

5 Q And when you told Mr. Cohen that the Agreement was
6 "Bulletproof," you meant it; right?

7 A Yes, I did.

8 Q Because you had legal advice?

9 A Right.

10 MR. BOVE: We can take that down.

11 Thanks.

12 Q Now, you said that Karen McDougal had an attorney in
13 connection with the negotiations with AMI; right?

14 A Yes.

15 Q Keith Davidson; if I have it right?

16 A Yes.

17 Q And Mr. Davidson was one of the major sources for Dylan
18 Howard also; right?

19 A Yes.

20 Q And so he was an attorney for Ms. McDougal; correct?

21 A Yes.

22 Q But at the same time providing information directly to
23 Mr. Howard; if I have that right?

24 A Yes.

25 Q And was that a normal structure in AMI's source

1 networks to use attorneys as sources of information about their
2 clients?

3 A I would say that this was a unique situation.

4 Q Mr. Davidson was a unique situation; right?

5 A Yes.

6 Q And you are a sophisticated guy; right?

7 A Yes.

8 Q We can agree, you've had lawyers before; right?

9 A Yes.

10 Q We just talked about some of them; right?

11 A Yes.

12 Q And you had lawyers and you had meetings with the
13 Government; correct?

14 A Yes.

15 Q And you also worked with lawyers in situations that
16 were less stressful?

17 A Yes.

18 Q On deals when you were making money; right?

19 A Right.

20 Q And, generally speaking, you expected your lawyers not
21 to provide information to third parties about what you discussed
22 with them; correct?

23 MR. STEINGLASS: Objection.

24 THE COURT: Sustained.

25 Q You expected confidentiality from your attorneys;

1 correct?

2 MR. STEINGLASS: Objection.

3 THE COURT: Sustained.

4 Q So you said that Mr. Davidson was the only situation
5 that AMI had where there was an attorney being used as a source;
6 right?

7 A Not the only one. I don't know of other ones, but I'm
8 sure there have been.

9 Q So you don't know if there were any others, other than
10 Mr. Davidson?

11 A The only one that I know of was -- is Mr. Davidson.

12 Q Mr. Davidson knew Michael Cohen too; right?

13 A I found out that, yes, he did. I subsequently found
14 that out afterwards.

15 Q When you say "afterwards," when did you learn that?

16 A It was probably right, previously before we signed the
17 Karen McDougal Agreement. So probably it was around August 5th
18 or 6th.

19 Q How did --

20 A The Agreement was signed in June.

21 Q I'm sorry?

22 A No, I'm saying the first time I heard -- I heard Keith
23 Davidson's name was June 20th.

24 The time -- to answer your question, the time that I heard
25 about that he knew Michael Cohen, I didn't know that until

1 around the end of July or early August.

2 Q So, in June 2016, you learned that Dylan Howard was
3 using an attorney as a major source of information for National
4 Enquirer articles; correct?

5 A I wouldn't classify him as a major attorney.

6 (Laughter from the audience.)

7 *****

8 Q Exactly.

9 What I am getting at is whether Mr. Davidson was a major
10 source for Dylan Howard?

11 A We had hundreds of sources.

12 He was one of many.

13 Q You recall testifying in the Grand Jury with the
14 District Attorney; correct?

15 A Yes.

16 Q That was in 2023; right?

17 A Yes.

18 Q And just like in the Federal Grand Jury, you were under
19 oath; correct?

20 A Yes.

21 Q There was a court reporter there taking down your
22 questions and your answers; right?

23 A Yes.

24 Q And do you recall describing during your testimony
25 Mr. Davidson as one of your two major sources?

1 A One of two major sources for Dylan Howard.

2 Q So --

3 A Not -- and Dylan Howard is one editor of fifty -- he's
4 the Editor-in-Chief, but there are fifty several other -- let me
5 put it this way, several other editors all have their own
6 sources.

7 I don't know, when you take it down to those levels, that
8 how many of them were attorneys, how many of them -- how many
9 times have they used that, you -- I don't know that, I only
10 heard that from Dylan.

11 Q I understand --

12 A And that's what I was answering to.

13 Q I appreciate the clarification, and I think that's
14 fair. I'm not trying to stretch it.

15 A No, no, no. I'm just trying to explain it.

16 Q I appreciate that.

17 And so Davidson was one of Dylan Howard's major sources,
18 that's my point?

19 A That's correct.

20 Q And he was also friends with Cohen; correct?

21 A Yes.

22 Q And you didn't learn that, that Cohen-Davidson
23 connection until right before the Agreement was signed; right?

24 A That's correct.

25 Q And you don't know what Cohen and Davidson were working

1 on the side; do you?

2 A I don't.

3 MR. BOVE: Can we take a look at People's 161 in
4 evidence, please.

5 (Displayed.)

6 *****

7 Q This is that invoice that we've looked at a couple of
8 times; right?

9 A Yes.

10 Q And this is not an AMI record; is it?

11 A No, it's not.

12 Q And do you recall some questions on Tuesday about a
13 thumb drive?

14 A Yes.

15 Q Mr. Steinglass brought you a thumb drive and he asked
16 you questions about documents on the thumb drive; right?

17 A Yes.

18 Q And you said: "There are documents on this drive that
19 I've reviewed," correct?

20 A Yes.

21 Q And you said that these were all AMI records; correct?

22 MR. STEINGLASS: Objection.

23 THE COURT: Sustained.

24 Q You testified on Tuesday that each document on the
25 thumb drive was -- it was part of the business of AMI to make

1 and keep these records; right?

2 A That's correct.

3 Q And that was a mistake with respect to this one; right?

4 MR. STEINGLASS: Objection.

5 THE COURT: Sustained.

6 Q You just said this is not an AMI record; correct?

7 A That's correct.

8 Q This is one of the documents that Mr. Rotstein
9 prepared; right?

10 A Yes.

11 Q And he was not an employee when he prepared the
12 invoice; right?

13 A No.

14 Q And do you remember testifying yesterday that you saw
15 this document around the time that it was prepared?

16 A Yes.

17 Q And that was a mistake too; right?

18 A Can you clarify that?

19 Q You didn't actually see this document in 2016; did
20 you?

21 A I saw the document when it -- when Rotstein was sending
22 it over for the billing to Cohen.

23 Q In 2016?

24 A I signed the -- I signed the original Agreement and
25 then subsequently the invoice was sent over so I would have seen

1 the invoice.

2 Q Do you remember having a meeting in 2019 with the
3 District Attorney's office?

4 A Yes.

5 Q It was a long meeting; right?

6 A Yes.

7 Q There were many questions; right?

8 A Yes.

9 Q And there were many Prosecutors; correct?

10 A Yes.

11 Q It was a full room that day; right?

12 A Yes.

13 Q You had your lawyers there too; right?

14 A Yes.

15 Q And on the Prosecution side, do you remember that
16 somebody was typing?

17 A Yes.

18 Q Maybe more than one person; right?

19 A I don't remember that. I remember one person.

20 Q One person was typing a lot; correct?

21 A Yes.

22 Q Do you recall that during that meeting, you told the
23 Prosecutors that: "The first time I saw this document was
24 probably in 2017 when we were going through the document
25 production for SDNY."

1 Do you recall that?

2 A Can I trouble you? Could I see that?

3 Q Yes.

4 MR. BOVE: Mr. Bernik, this is for the party's,
5 Mr. Pecker and the Court, please.

6 Defense A108.

7 (Shown to the witness.)

8 *****

9 Q And, so, I want to start just by orienting you to look
10 at the top, just the date and the participants.

11 (Pause.)

12 *****

13 A Yes. I can see the top. I reviewed the top.

14 MR. BOVE: And, now, if we could go to the page
15 with Bates ending 061.

16 A Yes.

17 MR. BOVE: And zoom in on the top half, please.

18 (Displayed.)

19 *****

20 Q And do you see the question says: "Why was it called a
21 flat fee for advisory services by somebody named Walsh?"

22 A Yes.

23 Q And so that's a phrase from the invoice; right?

24 A Yes, it is.

25 Q And so at this part of the meeting you're being asked

1 about the invoice; correct?

2 A Yes.

3 Q And do you see at the top of the page where you said:
4 "No, not in 2016. First time I saw this document was probably
5 in 2017, when we were going through the document production for
6 SDNY?"

7 A Well, now seeing this, I clarified it too. This
8 statement is correct.

9 Q The statement in 2019 is correct?

10 A The statement in 2019 is correct.

11 Q Thank you.

12 A That was the first time.

13 Q And just so the record is clear, the mistake that was
14 made is that you testified yesterday that you saw the invoice in
15 2016; right?

16 A Yes. I made an error. I would have seen it when --
17 what it says here.

18 MR. BOVE: We can take that down, please.

19 And if we could bring up People's 180 in evidence.

20 (Displayed.)

21 *****

22 Q And I'm -- this is the Wall Street Journal article that
23 we looked at earlier; right?

24 A Yes.

25 Q And it relates to Ms. McDougal; correct?

1 A Yes.

2 Q And this is the one that came out before the election;
3 right?

4 A Yes.

5 Q And this article, it contains information about your
6 Agreement with Ms. McDougal; correct?

7 A Yes.

8 Q As well as information about the story that she had
9 told Dylan Howard; right?

10 A Yes.

11 Q It contains details about both of those issues, the
12 Agreement and the story?

13 A That's correct.

14 Q And I think you testified yesterday that there was some
15 concerns about whether Ms. McDougal violated her Agreement with
16 AMI based on this article?

17 A Yes.

18 Q And you asked Dylan Howard to follow up with Keith
19 Davidson; right?

20 A I did.

21 Q And there was some text messages about that; do you
22 remember?

23 A Yes.

24 Q And do you remember that in the text messages Howard
25 reported back that Ms. McDougal was cool and moving forward with

1 the deal?

2 A Yes.

3 Q And, so, as far as you knew, she didn't have any
4 concerns about the content of her Agreement with AMI prior to
5 the election; right?

6 A That's correct.

7 Q And that's what her attorney and Mr. Howard's source,
8 Keith Davidson, were reporting to you; right?

9 A Yes.

10 Q And this information, the Agreement, AMI's Agreement,
11 and the underlying details that Ms. McDougal told to Dylan
12 Howard were made public prior to the election?

13 A Yes.

14 MR. BOVE: We can take this down, please.

15 Q You also were asked some questions by Mr. Steinglass
16 about Stormy Daniels.

17 Do you remember those questions?

18 A Yes. I was asked some questions.

19 Q And you testified that the first time that you heard
20 about a potential article of Stormy Daniels was October 2016;
21 right?

22 A That's correct.

23 Q And you said that there was a phone call from Dylan
24 Howard when he learned that?

25 A Yes.

1 Q And I think you said you had dinner with your wife that
2 night?

3 A That's correct.

4 Q And you told Mr. Howard that you wanted no involvement
5 with the story; correct?

6 A That is correct.

7 Q And what you meant when you said: "No involvement with
8 the story" is I don't want AMI to be a part of this; right?

9 A Yes.

10 Q And you did not consider the Stormy Daniels story to be
11 a part of any Agreement that you had in August 2015; correct?

12 A That's correct.

13 Q You wanted nothing to do with it; right?

14 A That's right.

15 Q And when you said that to Mr. Howard, you were still
16 the chairman of AMI; right?

17 A Yes.

18 Q And the CEO; correct?

19 A Yes.

20 Q And the President; right?

21 A Yes.

22 Q And you were speaking for the company, and for
23 yourself?

24 A Yes.

25 Q And a few weeks later, Mr. Howard told you that

1 Ms. Daniels had not been paid; right?

2 A Yes.

3 Q And it's true, isn't it, that Keith Davidson is in the
4 middle once again?

5 A Yes.

6 Q Mr. Howard was using an attorney as a source, who was
7 providing information from his client to the National
8 Enquirer -- well, to Dylan Howard?

9 A To Dylan Howard; that's correct.

10 Q Not to AMI, because you had not authorized Dylan Howard
11 to be speaking with Davidson; correct?

12 MR. STEINGLASS: Objection.

13 THE COURT: Sustained.

14 Q I will break that up.

15 You did not authorize Dylan Howard to speak to Keith
16 Davidson about Stormy Daniels; correct?

17 A That's correct.

18 Q So anything that Dylan Howard was doing with respect
19 to Stormy Daniels was unauthorized and outside of his
20 employment?

21 MR. STEINGLASS: Objection.

22 THE COURT: Sustained.

23 Q When Mr. Howard came back to you on the Stormy Daniels
24 story, what he said was Michael Cohen has not paid Keith
25 Davidson; right?

1 A Yes.

2 Q And you were surprised to hear that?

3 A I was.

4 Q Surprised because you had told Howard to stay out of
5 it; right?

6 A Yes.

7 Q And, frankly, you were not happy to be hearing that;
8 correct?

9 A Yes.

10 Q And, at that point, when Howard contacted you about
11 this payment, the main concern was Howard's reputation; right?

12 A Yes.

13 Q The concern was that Dylan Howard would look bad if
14 this payment wasn't made; right?

15 A Yes.

16 Q And he said that to you; right?

17 A Yes.

18 Q He said: "It can't be that in this industry somebody
19 promises to pay one of my sources and that doesn't happen, I
20 look bad?"

21 A That is correct.

22 Q And so you and Howard called Mr. Cohen; right?

23 A Yes.

24 Q And you said to Mr. Cohen: "I want you to know, I'm
25 not paying or doing anything on this," right?

1 A Yes.

2 Q And you meant it?

3 A I did.

4 Q AMI was not going to do anything on the Stormy Daniels
5 story; correct?

6 A Yes.

7 Q You testified, I think, yesterday, about a meeting on
8 January 6th, 2017.

9 A Yes.

10 Q And I think you said that that meeting happened at
11 Trump Tower; right?

12 A That's correct.

13 Q And I think you said that the way that the -- the
14 reason that that dates sticks out to you is that there was a
15 very violent incident that day; right?

16 A Yes.

17 Q At the Fort Lauderdale Airport?

18 A Yes.

19 Q I think five people died that day?

20 A Yes.

21 Q And then, obviously, there was a lot of coverage of
22 that; right?

23 A Yes.

24 Q And, so, in your memory, you sort of pegged it, the
25 date of that meeting to that incident; right?

1 A Yes.

2 Q And I think you said that on that day, January 6th,
3 2017, you were let into President Trump's office?

4 A Yes.

5 Q By Ms. Graff, Rhona Graff?

6 A Yes.

7 Q And that when you walked in, President Trump was
8 sitting at his desk; right?

9 A Yes.

10 Q And there was some people gathered around him; right?

11 A Correct.

12 Q And what he said was -- they were discussing the Fort
13 Lauderdale shooting; right?

14 A Yes.

15 Q And you heard some of that conversation; right?

16 A Yes.

17 Q And some of the people who were -- who you said were
18 there that day, Reince Priebus?

19 A Yes.

20 Q He had been named the White House Chief of Staff in
21 about November of 2016; right?

22 A Yes.

23 Q And you testified you saw Mike Pompeo standing around
24 President Trump's desk that day; right?

25 A Yes.

1 Q And he had been named his Secretary of State once
2 President Trump took office; right?

3 A Yes.

4 Q And you testified that you saw Sean Spicer; right?

5 A Yes.

6 Q And he became President Trump's Press Secretary;
7 right?

8 A That's correct.

9 Q And you said that you saw James Comey; right?

10 A Yes.

11 Q Who, at that time, was the FBI director; right?

12 A Yes.

13 Q And so I just want to make sure that I understand the
14 picture that you have of the meeting, everybody that I described
15 as standing around President Trump's desk?

16 A Yes.

17 Q President Trump is seated?

18 A Yes.

19 Q And Ms. Graff led you into an ongoing discussion of a
20 national -- of a domestic national security incident?

21 A I was in the -- when you -- when -- Mr. Trump has a
22 large office, and I was by the door while they were
23 discussing -- they were talking to Mr. Trump.

24 Q But you overheard some of the conversation, you said?

25 A I didn't hear the words, but I heard just that the

1 people were talking.

2 Q And I think you said that there was a sort of a joke
3 made by President Trump about you knowing more about the
4 Fort Lauderdale situation than the other people in the room?

5 A I don't think he was referring to Fort Lauderdale, it
6 was a joke just saying that I knew more about all of -- about
7 information; that's all he was referring to as a joke.

8 Q Okay. And you know that following that meeting,
9 there were some issues between President Trump and Jim Comey;
10 right?

11 MR. STEINGLASS: Objection.

12 THE COURT: Sustained.

13 MR. BOVE: Your Honor, can we have a side bar,
14 please?

15 THE COURT: Sure.

16 (At Side Bar.)

17 *****

18 THE COURT: I want to hear what the objection is.

19 MR. STEINGLASS: I'm finding it hard to see what
20 the relevance is.

21 MR. BOVE: I want to lay a foundation so I can
22 ask -- can we do this out of the presence of the witness,
23 Judge?

24 THE COURT: Is it possible to slide over this way?

25 THE COURT REPORTER: Yes, your Honor.

1 MR. BOVE: I intend to lay a foundation, Judge,
2 that Mr. Pecker was well aware of events surrounding
3 Mr. Comey.

4 He was well aware of the subsequent investigations
5 at issue and that connection with this investigation,
6 Mr. Comey made emphatically clear that on January 26th,
7 2017, was at Trump Tower with a classified briefing in an
8 individual meeting in a conference room and not at his desk
9 and that there was a very intense conversation.

10 And the point of that cross is to illustrate that
11 the witness has misremembered what he saw that day when he
12 talked about Jim Comey, because there was nothing to talk
13 about regarding Fort Lauderdale.

14 THE COURT: That's an awful lot of information to
15 bring out just to get to the point that he misremembered
16 something.

17 MR. BOVE: This witness is a critical witness, and
18 his memory --

19 THE COURT: I think you are doing a good job with
20 his memory.

21 I don't think you need to go there.

22 (Side bar concluded.)

23 *****

24 THE COURT: The objection is sustained.

25 MR. BOVE: Mr. Bernik, can we just take a look at

1 Page 1213 of the transcript.

2 (Displayed.)

3 *****

4 Q And --

5 MR. BOVE: Thank you. Can you please zoom in. I
6 think it's lines 21 through 24.

7 (Displayed.)

8 *****

9 Q And, Mr. Pecker, this is testimony that you gave of --

10 MR. STEINGLASS: Objection, Judge.

11 I think this is being displayed -- this is the
12 transcript being displayed to the jury here.

13 THE COURT: Can you take that down, please.

14 Please approach.

15 (At Side Bar.)

16 *****

17 THE COURT: All right.

18 MR. BOVE: I don't mean to run afoul of your rules;
19 I have done that this morning already.

20 THE COURT: You did do that this morning already.

21 I found it really unusual.

22 There was no objection, so I allowed it, but there
23 is an objection now.

24 MR. BOVE: This is evidence, Judge. This is the
25 transcript. Why can't I receive it in and display it?

1 THE COURT: Why can't you just asked the question.

2 MR. BOVE: But I want to make my point.

3 THE COURT: Just ask the question.

4 If he doesn't remember, then you can put that up,
5 all right.

6 MR. BOVE: All right. I understand.

7 (Side bar concluded.)

8 *****

9 THE COURT: Sustained.

10 *****

11 BY MR. BOVE:

12 Q So you recall being asked some questions about this
13 meeting yesterday by Mr. Steinglass; right?

14 A Yes.

15 Q And when I say "this meeting," I mean the meeting on
16 January 6th of 2017; correct?

17 A Yes.

18 Q And do you recall that you testified that President
19 Trump said to you: "I want to thank you for handling the
20 McDougal situation."

21 Do you recall that?

22 A Yes.

23 Q And you said that yesterday; right?

24 A Yes.

25 Q And do you recall testifying -- and then you said:

1 "This is referring to President Trump;" right?

2 A Yes.

3 Q Quote, "I want to -- he also said, I want to thank you
4 for the doorman story, the doorman situation;" right?

5 A Yes.

6 Q Do you recall saying that yesterday?

7 A I did.

8 Q Was that another mistake?

9 A No.

10 Q And so do you believe that President Trump said that to
11 you, as you sit here right now?

12 A Yes, I do.

13 Q We talked a couple of times about meetings you had with
14 Federal Prosecutors on July 26th, 2018; right?

15 A Yes.

16 Q And we talked about the circumstances, there were
17 Federal Prosecutors and FBI agents; right?

18 A Yes.

19 Q And they told you it was important to tell the truth;
20 correct?

21 A Yes.

22 Q And you understood that not telling the truth could be
23 a crime; right?

24 A Yes.

25 Q It was serious business; right?

1 A Yes.

2 Q And you certainly did your best to tell the truth in
3 2018 about the January 6th, 2017 meeting and everything else;
4 right?

5 A Yes; that's correct?

6 Q And do you recall saying during that meeting: "Trump
7 did not express any gratitude to Pecker or AMI during the
8 conversation on January 6th, 2017?"

9 A I don't recall.

10 MR. BOVE: Mr. Bernik, if we could bring up for
11 Mr. Pecker, the parties, and the Court Defense Exhibit
12 A101.

13 (Displayed.)

14 *****

15 Q And just to get oriented, I would like you to look at
16 the bottom paragraph and under the date, investigation.

17 (Pause.)

18 *****

19 Q Were you able to take a look? I just want to make
20 clear that this is the report of the meeting that we were just
21 talking about?

22 A This is -- I'm sorry, can you clarify what this is
23 again.

24 Q If you look at the bottom, you see the date July 26th,
25 2018.

1 A I see July 31st there, at the bottom.

2 Q That's on the right side.

3 Do you see that's "date drafted."

4 On the left side you see "investigation on?"

5 A Oh. July 26th.

6 Q And that was the date of the interview; right?

7 A This is the interview.

8 Q And this is the interview, you see your name in the top
9 left?

10 A Yes.

11 Q And do you recognize that address as the Federal
12 Prosecutor's address?

13 A Yes.

14 Q And so if you take a look at Page 20 of Defense Exhibit
15 A101, please.

16 MR. BOVE: And zoom in on the top half when you
17 get there.

18 (Displayed.)

19 *****

20 Q And so you were -- this is -- well, take a look and let
21 me know when you've had a chance to read it.

22 (Pause.)

23 *****

24 Q Did you have a chance to look at it?

25 A You wanted to know if this is the meeting? Is that

1 what you were saying?

2 Q Right. If you look at the top paragraph, you see that
3 this is a portion of the interview where you were discussing
4 that January 6th, 2017 meeting; right?

5 A Yes.

6 Q And take a look at the last paragraph on the screen.
7 Do you see that?

8 (Pause.)

9 *****

10 Q And so I want to direct your attention to the paragraph
11 that says "Trump then asked Pecker."

12 Do you see that?

13 A Yes.

14 Q And do you see the last sentence of that paragraph?

15 A Now?

16 Q Yes?

17 A I was just saying, this is the FBI's interview; is that
18 correct?

19 Is that what this is?

20 Q This is the same document that -- the first page I just
21 showed you, the report of the July 26th, 2018 interview by
22 Federal Prosecutors and the FBI; right?

23 A So the FBI -- these are the FBI notes?

24 Q Yes.

25 A Yes. So the FBI notes here -- what somebody is writing

1 down could be wrong.

2 This is not -- I know what I testified to.

3 Q Yesterday?

4 A Yesterday.

5 Q Uh-huh.

6 A And I know what I remember. This is going back to
7 2018. I didn't recall back from -- what I'm saying here is
8 that--

9 (Pause.)

10 -- during the FBI investigation, I know what I said
11 yesterday happened, so I can't reconcile what the FBI interview
12 was -- if someone made a mistake or not.

13 Q So you can't reconcile because what you said yesterday
14 is inconsistent with what's in this report; correct?

15 A Yes, but I wouldn't be responsible for this report.

16 Q I understand.

17 And so are you suggesting that the FBI made a mistake
18 here?

19 A I know what the truth is. I'm not -- I can't state
20 what the -- what's here, why this was written this way. I know
21 exactly what was said to me.

22 Q And so your testimony yesterday is inconsistent with
23 what's written there?

24 MR. STEINGLASS: Objection.

25 THE COURT: Overruled.

1 A Can you repeat what you want -- what you asked me
2 again?

3 I'm sorry.

4 Q I'm just trying to make sure that I understand it. And
5 I'm not trying to put you on the spot.

6 THE COURT: Maybe if you could rephrase the
7 question.

8 MR. BOVE: Yes.

9 Q Your testimony yesterday is inconsistent with what's
10 written in that report; right?

11 A Yes.

12 MR. BOVE: Judge, I have a couple more topics.
13 I don't know if there is a mid morning break
14 planned.

15 THE COURT: Sure. All right.

16 Jurors, let's go ahead and take our mid morning
17 recess.

18 I will see you in about 15 minutes. Can you step
19 out.

20 THE COURT OFFICER: Leave your note pads on the
21 chairs.

22 All rise.

23 (Jury exits.)

24 *****

25 THE COURT: Thank you. Please have a seat.

1 Mr. Pecker, you may step down and take a recess
2 too.

3 (Witness exits.)

4 *****

5 THE COURT: Mr. Bove, I'm not trying to rush you,
6 but I just want to get a sense of where we stand?

7 MR. BOVE: Thank you, Judge. I appreciate that.

8 I think I have less than an hour left, that's my
9 best guess.

10 THE COURT: And I imagine that there would be
11 redirect after that?

12 MR. STEINGLASS: I imagine.

13 THE COURT: All right. I will see you all in a few
14 minutes.

15 MR. STEINGLASS: Thank you.

16 (Recess taken, after which time Official Senior
17 Court Reporter Susan Pearce-Bates relieved Lisa Kramsky as
18 the official court reporter.)

19 *****

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1 (Continued from the previous page.)

2 THE CLERK: Continued case on trial, People
3 versus Donald J. Trump. Parties are present.

4 THE COURT: Let's get the witness, please.

5 COURT OFFICER: Witness entering.

6 (Whereupon, the witness entered the
7 courtroom and was properly seated).

8 SERGEANT: All rise. Jury entering.

9 (Whereupon, the jury entered the courtroom
10 and were properly seated.)

11 THE COURT: Please be seated.

12 THE CLERK: Case on trial continued, People
13 versus Donald J. Trump. All parties and jurors are
14 present.

15 THE COURT: Mr. Bove.

16 MR. BOVE: Thank you, Judge.

17 CONTINUED CROSS-EXAMINATION

18 BY MR. BOVE:

19 Q Mr. Pecker, I think you testified yesterday that in
20 early 2018 FBI agents came to you?

21 A Yes.

22 Q Can you describe what happened?

23 A They came to my home. It was April 9th of 2018, and
24 they gave me a search warrant, and they took my phone.

25 Q What time did they come?

1 A Around, I think was it like 8:00 in the morning.

2 Q How many agents?

3 A There was three.

4 Q And you said they searched your house?

5 A No.

6 Q Just your phone?

7 A Yes, just my phone.

8 Q How many times did you meet with the agents after
9 that?

10 A I don't remember the exact number of times.

11 Q But more than once, right?

12 A Yes.

13 Q And these were stressful meetings, right?

14 A I was with my attorneys. I felt good.

15 Q You wanted it over with though, correct?

16 A Yes.

17 Q And eventually AMI entered into a non-prosecution
18 agreement with the Federal government, correct?

19 A Yes, they did.

20 Q And you testified a little bit about that yesterday,
21 right?

22 A I did.

23 Q Mr. Bernik, if we can please bring up People's 182
24 which is in evidence.

25 This is the non-prosecution agreement, correct?

1 A Yes.

2 Q You see the date at the top? Could you zoom in,
3 please?

4 It is not a vision test. Thank you.

5 A Yes.

6 Q September 20, 2018, right?

7 A That's correct.

8 Q And at the time that AMI entered into this agreement,
9 there were negotiations going on related to some of AMI's
10 assets, correct?

11 A Can you clarify that?

12 Q You know who the Hudson News Group is, right?

13 A Yes.

14 Q And you are part of that group, right?

15 A I am not part of that group, no.

16 Q Can you describe the transaction, please?

17 A You just have to clarify. You asked me if I was part
18 of Hudson News Group. No, I am not.

19 Q I understand your answer.

20 You are familiar that there was a transaction with the
21 Hudson News Group?

22 A There was a proposed transaction with the Hudson News
23 Group to acquire the name -- to acquire the National
24 Enquirer and the other two tabloids.

25 Q There was a proposed deal, right?

1 A Yes.

2 Q At the time of that proposed deal you were still an
3 AMI executive, right?

4 A Yes.

5 Q And just to clarify, when I say, at the time of the
6 proposed deal, I mean in September of 2018. Do I have that
7 date, right?

8 A I don't remember the exact date that we were
9 negotiating or that we had a proposed transaction with Hudson
10 News.

11 Q Do you recall that you told the District Attorney's
12 Office that the funds on that deal were in escrow at the time
13 this agreement was entered into?

14 A That was in the -- that was -- the conversations with
15 the District Attorney was in 2018.

16 Q One of them, correct, the meeting where we looked at
17 the notes before the break, right?

18 A I was saying 2019 we had the meeting, yes.

19 Q And during that meeting, you told the District
20 Attorney's Office that when this agreement was signed the funds
21 were in escrow?

22 A For -- at 2018? I am a little bit confused here about
23 the years.

24 Q Let me ask it this way, were the funds in escrow at
25 the time this agreement was signed?

1 A No.

2 Q Were there negotiations ongoing?

3 A Yes.

4 Q And the deal was worth about a hundred million
5 dollars, right?

6 A That was the proposed deal.

7 Q And you knew that to consummate that deal, to finalize
8 it, you had to clear up the investigation, correct?

9 A Yes. Yes, that's correct.

10 Q And that was ultimately written into the deal papers,
11 that the investigations had to be resolved before the hundred
12 million, approximately, could be taken out of escrow and a
13 transaction finalized, correct?

14 A That's correct.

15 Q So, in addition to the unpleasantness of sitting with
16 the FBI, that put some pressure on the negotiations, right?

17 MR. STEINGLASS: Objection.

18 THE COURT: Overruled. You can answer.

19 A From the timing standpoint, it would have added on to
20 the -- to the stress of the transaction.

21 Q Meaning, if I understood it right, that the Federal
22 investigation had to get resolved before the deal could go
23 through, correct?

24 A The -- the reason why I am thinking is because the
25 transaction could have closed subject to the investigation

1 being completed.

2 Q The transaction could close subject to the
3 investigation being completed, and at that point, the funds
4 removed from escrow, right?

5 A It would have closed.

6 Q You said that it created a timing dimension to AMI's
7 negotiations with the Federal government?

8 A It didn't have to. There was no pressure about
9 finalizing the agreement, this agreement and the transaction,
10 other than the transaction was subject to when that the deal
11 was going to be finalized.

12 There was no drop dead date is what I am saying that
13 it had to be done by a certain time.

14 Q Understood. And it created a little pressure on the
15 negotiations, correct?

16 A Price -- it wasn't a -- there wasn't price pressure on
17 it.

18 Q Well, AMI's assets are worth less to Hudson News Group
19 if AMI is subject to a Federal investigation, correct?

20 A To Hudson News it was -- the Federal investigation is
21 not going to reduce the earnings of the company, the earnings
22 of those magazines.

23 Q If that investigation is resolved in a way that's
24 favorable to AMI, right?

25 A I would say just resolved.

1 Q But if AMI had been indicted, that would have affected
2 the value of its assets, correct?

3 A Yes.

4 Q And Hudson News Group certainly would want to know if
5 AMI was going to be indicted, right?

6 A Yes.

7 Q Indicted means charged, right?

8 A Yes.

9 Q And AMI wasn't charged, correct?

10 A Yes.

11 Q Now, I think that yesterday you described this
12 agreement as a non-prosecution agreement, correct?

13 A Yes.

14 Q And when you used those terms, you meant there was no
15 prosecution, right?

16 A That's correct.

17 Q And there are no charges in this agreement, correct?

18 A No.

19 Q And this is the whole agreement, right, between AMI
20 and the Federal government?

21 MR. STEINGLASS: Objection.

22 THE COURT: Overruled. If you know.

23 You can answer if you know.

24 A Thank you. Yes.

25 Q And do you recall testifying yesterday that, we

1 admitted to a campaign violation? Do you remember saying that?

2 A Yes.

3 Q And that was just another mistake, right?

4 MR. STEINGLASS: Objection.

5 THE COURT: Sustained.

6 Q That wasn't accurate, correct?

7 THE COURT: You can answer.

8 A Can you repeat the question, again, please?

9 Q I am going to back up on it. So you testified
10 yesterday, did you not, we admitted to a campaign violation?

11 A Yes.

12 Q And when you said that yesterday, you were referring
13 to this agreement, weren't you?

14 A Yes.

15 Q And this agreement is the entire agreement between AMI
16 and the Federal government, correct?

17 A Yes.

18 Q And there is no violation in this agreement, correct?

19 A In this agreement, no.

20 Q That's why it's called a, non-prosecution agreement,
21 right?

22 A Yes.

23 Q Because if everybody does what they are supposed to do
24 under this agreement nobody is getting prosecuted?

25 A Yes.

1 Q And Mr. Bernik, if we can zoom in on the first full
2 paragraph, please, and highlight the phrase, will not
3 criminally prosecute American Media Inc.

4 Do you see that, Mr. Pecker?

5 A Yes, I do.

6 Q And you were the Chairman and CEO and President of AMI
7 at the time this agreement was executed, right?

8 A Yes.

9 Q And this is the main benefit to the AMI agreement,
10 correct?

11 A Yes.

12 Q The Federal government will not prosecute AMI, right?

13 A Yes.

14 Q So there is no admission in this agreement of any kind
15 of campaign violation by AMI, right.

16 MR. STEINGLASS: Objection.

17 THE COURT: Overruled. If you know.

18 You can answer if you know.

19 A Could you we repeat that again?

20 Q Yes. There is no admission by AMI in this agreement
21 of a campaign violation, correct?

22 A No.

23 Q And if we can zoom out, please, Mr. Bernik.

24 Mr. Pecker, just to be clear, you were on the Board of
25 Directors at the time this agreement was signed?

1 A Yes, I was.

2 Q If we can zoom into the bottom part of the first
3 paragraph.

4 Could you just read that for us, Mr. Pecker?

5 A AMI accepts and acknowledges as true the facts set
6 forth in the statement of facts. Counsel for AMI hereby
7 represents and warrants that the Board of Directors has
8 authorized counsel to enter into this agreement.

9 Q So, as the CEO of AMI, you reviewed this agreement,
10 right?

11 A Yes.

12 Q And also in your capacity as a member of the Board of
13 Directors you reviewed this agreement, correct?

14 A Yes.

15 Q And I don't want to get into the substance of
16 communications with attorneys, but you consulted attorneys
17 about this agreement, right?

18 A Yes.

19 Q And you looked at it carefully, correct?

20 A Yes.

21 Q And now, Mr. Bernik, if you can zoom in on the
22 carry-over paragraph on the second page.

23 And so, this language refers to the time period of the
24 agreement, right?

25 A Yes.

1 Q And so, this agreement is still active, correct?

2 A It was signed in September of '18. So, it -- the
3 agreement was for three years.

4 Q Well, do you see the second entry that, the date on
5 which all prosecutions arising out of the conduct described in
6 the opening paragraph of this agreement are final?

7 MR. STEINGLASS: Objection.

8 THE COURT: Sustained.

9 Q What is your understanding of what that means?

10 A I am not sure I understand what I am being asked.

11 Q My question is, what is your understanding of what the
12 language that's highlighted on the screen means?

13 A Don't I have to look at one first?

14 Q That's fine. Yes, I can and hand you a copy.

15 A It says for a period of three years from the start of
16 this agreement.

17 And it says, the date on which all prosecution arising
18 out of the conduct described in the opening paragraph of the
19 agreement are final. I don't understand.

20 Q Do you remember yesterday answering questions about
21 the provisions in the U.S. Code by Mr. Steinglass?

22 A Yes.

23 Q And those were hard questions because you weren't sure
24 what those provisions meant, right?

25 A Yes.

1 Q I am not going to make this a law school exam either.
2 I am sorry. Let's look at -- Mr. Bernik, if you can zoom in on
3 the next paragraph on the page.

4 Can you read to yourself that first sentence?

5 A That the agreement can be resigned?

6 Q Do you see the phrase, false, incomplete or misleading
7 testimony or information?

8 A Yeah.

9 Q So, basically, this paragraph gives the Federal
10 government some options if they determine that AMI, or its
11 representatives, have given false, incomplete or misleading
12 testimony or information, correct?

13 A Yes.

14 Q If we can zoom in on the bottom paragraph of this
15 page. So that first sentence refers to the period from the
16 date of the agreement until November 6, 2018. Do you see that?

17 A Yes, I do.

18 Q There was, basically, a period of time where the
19 parties agreed to keep the agreement to some extent secret?

20 A Yes, that's correct.

21 Q And the purpose of this provision was to give AMI an
22 opportunity to coordinate credit coverage arising -- relating
23 to the announcement of this agreement, right?

24 A When you say, credit coverage.

25 Q To negotiate with financial institutions.

1 A You -- you mean about notifying them?

2 Q Well, do you remember?

3 A Well, that's the thing. When you -- I am a little
4 confused when you say about credit coverage.

5 Q Let's look to the next page, and please zoom in on the
6 text.

7 Do you see the reference to AMI's underwriters,
8 auditors or insurers for the limited purpose of negotiations
9 regarding credit decisions?

10 A Yes, it was -- it was -- it advised them of the
11 agreement.

12 Q To give AMI an opportunity to protect itself
13 financially when this was announced, right?

14 A Yes.

15 Q And as CEO of AMI, did that happen? Did AMI make
16 those communications and notifications?

17 A Yes, we did.

18 Q You notified insurers and underwriters, correct?

19 A Yeah.

20 Q And those notifications provided a copy of this
21 agreement, right?

22 A I wouldn't know if the agreement was shared with them.

23 Q But the substance of the agreement was disclosed,
24 right?

25 A Yes.

1 Q And in connection with those disclosures, it was
2 represented to the financial institutions that the agreement
3 was factually accurate, right?

4 A Yes.

5 Q Because you know from your experience that in order
6 for the financial institutions to make credit decisions they
7 need to have the complete information about the issue, right?

8 A That's correct.

9 Q And so, you testified yesterday about a statement of
10 facts attached to this agreement, right?

11 A Yes.

12 Q And if we can take a look at the next page, please.
13 And this is that statement of facts, right?

14 A Yes.

15 Q And it was incorporated into the agreement, correct?

16 A Yes.

17 Q It was something that you approved as the CEO of AMI,
18 right?

19 A Yes.

20 Q And it was something that as a member of the Board of
21 Directors you reviewed and approved as indicated in the
22 agreement itself, right?

23 A Yes.

24 Q Can we zoom in on paragraph three, please?

25 Now, you testified earlier this morning about the

1 August 2015 meeting. Do you remember that testimony?

2 A Yes.

3 Q Do you remember that you confirmed that during the
4 August 2015 meeting there was no discussion on catch and kill,
5 correct?

6 A Yes.

7 Q And during the August 2015 meeting there was no
8 discussion of a financial component to any agreement with
9 President Trump and Michael Cohen, correct?

10 A There was a discussion about that I was going to be
11 the eyes and ears of the campaign. And there was a discussion
12 that I would be notifying Michael Cohen of any women that were
13 in the process of or going to be selling stories. And I would
14 notify Cohen that they would be available, and they would
15 either have to buy them or take them off the market or kill
16 them in some manner.

17 Q Are you testifying now that there was a discussion of
18 the kill agreement?

19 MR. STEINGLASS: Objection.

20 THE COURT: Sustained.

21 A I said, sell a story.

22 Q I would like to go back for a moment to the October
23 2019 meeting that we discussed a few times today, the meeting
24 you had at the District Attorney's Office.

25 A Yes.

1 Q Do you recall that this provision of the agreement was
2 discussed during that meeting?

3 A The August '15, the August meeting you are saying?

4 Q Let me back up and ask a better question.

5 Do you recall that paragraph three of the agreement
6 that's on the screen was discussed during the October 2019
7 meeting?

8 A Yes.

9 Q And do you recall that your attorneys told the
10 District Attorney's Office in your presence --

11 MR. STEINGLASS: Objection, Judge. Objection.

12 THE COURT: Approach.

13 (Discussion is held at side-bar, on the
14 record.)

15 MR. STEINGLASS: So, he is trying to impeach the
16 witness by what the attorney told the DA's Office. I think
17 that's totally improper.

18 MR. BOVE: Judge, first of all, the attorneys are
19 his agents, speaking in his presence, on his behalf in a
20 meeting. And just the fact that he is aware of what they
21 said on this issue, they said to the District Attorney's
22 Office, this provision is inaccurate.

23 So, it's -- in addition, I will lay a foundation
24 that no one reported this to the Federal government. That
25 they had taken the position with the District Attorney's

1 Office that the Federal non-prosecution agreement was
2 inaccurate.

3 He has already said that he verified that it was
4 accurate. So, their decision not to inform the Federal
5 authorities converted a significant benefit to Mr. Pecker.

6 So, on both those grounds these are entirely
7 appropriate. It happened in front of the witness. He is
8 aware of --

9 THE COURT: And it is completely admissible.

10 MR. STEINGLASS: I will say two things to that:

11 Number one, it's unbelievably confusing. I am
12 not sure what sense the jury will make of that.

13 Number two, I am not sure what the relevance of
14 this is other than, you know, we have confirmed that the
15 attorney was mistaken in this recollection.

16 THE COURT: The issue as I am hearing you
17 describe it is that I am confused. And if I am confused, I
18 imagine that the jury is going to be confused.

19 So, if you can get to this in some other way, I
20 will allow you to; but the way to go about it, I don't
21 think this helps us to get to it.

22 MR. BOVE: What I would ask permission to do,
23 Judge, is finish the question that I was asking which is
24 whether at the October 2019 meeting his attorneys told the
25 prosecutors that the agreement was inaccurate.

1 THE COURT: And leave it at that.

2 MR. BOVE: No. Then I would confirm that to his
3 knowledge that it was never conveyed to the Federal
4 government.

5 THE COURT: You can finish your argument. Go
6 ahead.

7 MR. BOVE: It is a very significant benefit
8 conferred on him by the District Attorney's Office and
9 it's -- and, please, I think you know, this is the first
10 cross-examination as a defense lawyer I have ever done.

11 Please do not hold my shortcomings in the way I
12 am forming questions against President Trump. This is
13 right at the core of what we are doing to impeach Mr.
14 Pecker.

15 THE COURT: Two things: One, you are doing a
16 very good job.

17 Two, that you may be doing a bad job in your
18 opinion is of no consequence.

19 Whoever the defendant is, whatever the position
20 the defendant is running for and whoever represents him,
21 you are all being well-compensated to come here and do a
22 great job. To tell me not to hold it against your youth
23 suggests that I shouldn't enforce the rules of evidence and
24 I am not going to do that.

25 I will allow you to ask those two questions and

1 that's it. Beyond that, it will just get confusing.

2 MR. BOVE: So I don't overstep, I can ask if he
3 is aware that his attorneys argued in this meeting that the
4 agreement was inaccurate?

5 THE COURT: Now, are you saying that he was
6 there?

7 MR. BOVE: Yes, and I would ask permission, if he
8 doesn't remember, to refresh him.

9 THE COURT: Just ask him, and then follow up with
10 the second question.

11 MR. BOVE: That to his knowledge this was never
12 conveyed to SDNY?

13 THE COURT: Yes, and leave it at that.

14 MR. BOVE: Thank you, Judge.

15 (Discussion at side-bar concluded, and the
16 following occurred in open court.)

17 BY MR. BOVE:

18 Q Thank you. Mr. Pecker, so before the side-bar we were
19 talking about the October 2019 meeting, right?

20 A Yes.

21 Q And I think we can put the non-prosecution agreement
22 back on the screen, please.

23 And I think before the side-bar you said that this
24 provision, paragraph three, was discussed during that meeting,
25 right?

1 A Yes.

2 Q And your lawyers were there, right?

3 A Yes.

4 Q Some of the same lawyers here in the courtroom today,
5 correct?

6 A Yes.

7 Q During that conversation about paragraph three, do you
8 recall that your attorneys said to the District Attorney's
9 Office that part of paragraph three is, quote, wrong and
10 inaccurate? Do you remember that?

11 A No.

12 Q Mr. Bernik, if we can show just the parties and Mr.
13 Pecker and the Court Defendant's A108. Let's start with the
14 first page just to get oriented.

15 Do you see that these are the notes from the October
16 25th?

17 A Yes.

18 Q And you testified earlier about somebody in the
19 meeting typing everything down, right?

20 A Yes.

21 Q And if we can now look at the page ending 047.

22 A Yes.

23 Q And if we zoom in on the first half, please. And I
24 want you to read this and then let me know when you are done
25 and I have a question or two.

1 And does that refresh your recollection that paragraph
2 three of the non-prosecution agreement was discussed in this
3 meeting?

4 A Yes.

5 Q You can see that at the top, right?

6 A Yes.

7 Q And the next entry is a statement by one of your
8 attorneys, correct?

9 A Yes.

10 Q And does that refresh your recollection that the
11 attorney said in response to a question about paragraph three,
12 I think that may be inaccurate. I think that came up with the
13 Feds. I have never heard Pecker say that?

14 Does that refresh your recollection that that was said
15 during the meeting?

16 A No. And I would like to clarify it, if I can.

17 Q Okay.

18 A The only wording here is the word, purchasing, selling
19 stories.

20 Q Meaning?

21 A Meaning my -- the testimony that I gave, and what I
22 said was, I offered at that meeting that being the eyes and
23 ears and hearing any stories that are there, I would offer --
24 that women would be selling them and I would be offering them
25 to Michael Cohen. That's what I said.

1 So, the selling here and purchasing, basically, are
2 synonymous. Somebody has to buy them.

3 Q Does that -- my question is a little more
4 straightforward. I appreciate the clarification.

5 My question is, in response to a question from a
6 prosecutor about the provision in the non-prosecution
7 agreement, did your attorney say, I think that may be
8 inaccurate, I think that came up with the Feds, I have never
9 heard Pecker say that?

10 MR. STEINGLASS: Objection.

11 THE COURT: Sustained.

12 A Yes.

13 THE COURT: The objection is sustained.

14 A I am sorry.

15 Q There was a dispute in that meeting about some of the
16 language in the agreement, right?

17 MR. STEINGLASS: Objection.

18 THE COURT: Overruled. He can answer.

19 A Yes, it was just the one word.

20 Q We can agree that words are important, right?

21 A Yes, that selling and purchasing is the same.
22 Somebody is selling, somebody has to buy them.

23 Q That's not what your lawyers said to the prosecutors,
24 is it?

25 MR. STEINGLASS: Objection.

1 THE COURT: Sustained.

2 Q And as far as you know, after that October 2019
3 meeting, the District Attorney's Office did not tell the
4 Federal government that their agreement was inaccurate,
5 correct?

6 MR. STEINGLASS: Objection.

7 THE COURT: Sustained.

8 Q And you testified on Thursday that you received a
9 letter from the Federal Election Commission in 2018?

10 A That's correct.

11 Q And you said that you spoke to Michael Cohen about the
12 letter?

13 A I did.

14 Q And you said that during that conversation Michael
15 Cohen told you that President Trump had Jeff Sessions, quote,
16 in his pocket, do you remember that?

17 A Yes.

18 Q Are you positive that Michael Cohen said that?

19 A Yes.

20 Q And in thinking back in time to early 2018, you knew
21 that wasn't right?

22 A That's why I said to Michael Cohen, I was very
23 concerned and worried.

24 Q You were concerned because Michael Cohen had said
25 something to you that wasn't true?

1 A That's correct.

2 Q Because President Trump did not have Jeff Sessions in
3 his pocket, correct?

4 MR. STEINGLASS: Objection.

5 THE COURT: Sustained.

6 Q And, in fact, this was an example of one time that
7 came to form your view that Michael Cohen is prone to
8 exaggeration?

9 MR. STEINGLASS: Objection.

10 THE COURT: Overruled. You can answer?

11 A I am sorry. Could you say that again?

12 Q Based on your experience, Michael Cohen is prone to
13 exaggeration?

14 A Yes.

15 Q You could not trust everything he said?

16 MR. STEINGLASS: Objection.

17 THE COURT: Overruled.

18 MR. STEINGLASS: Could we be heard at side-bar.

19 THE COURT: Sure.

20 (Discussion is held at side-bar, on the
21 record.)

22 MR. STEINGLASS: Sorry, Judge. I am not trying
23 to be difficult.

24 This is opinion testimony of a witness of the
25 credibility of another witness who hasn't testified yet.

1 That is not proper. To attack a witness' credibility -- a
2 witness' credibility is being attacked for bad acts or
3 reputation for peacefulness, truthfulness in the community
4 by another witness. The witness is not permitted to offer
5 the opinion of another witness.

6 MR. BOVE: The witness has been able to testify
7 and give his opinion here today about President Trump's
8 statements or admissions. The statements of Michael
9 Cohen --

10 THE COURT: To the extent that you are asking him
11 his opinion, I am not going to -- you need to move on. If
12 you want to impeach Michael Cohen, that is not the right
13 way to do it. All right.

14 MR. BOVE: Yes, Judge.

15 (Discussion at side-bar concluded, and the
16 following occurred in open court.)

17 BY MR. BOVE:

18 Q You testified yesterday that the FEC investigation
19 actually ended in sort of an agreement with AMI, right?

20 A Yes.

21 Q And I think you referred to that as a conciliation
22 agreement, correct?

23 A Yes.

24 Q And that was entered into in May of 2021, if I am
25 remembering that right?

1 A It was 2021, May or June.

2 Q And you read that conciliation agreement at the time
3 it was entered into, correct?

4 A At that time I was not part of the company anymore.

5 Q I understand. You left in 2020, correct?

6 A That's correct.

7 Q You were still interested in this investigation,
8 weren't you?

9 A Yes.

10 Q Part of that was because you still had equity in AMI,
11 right?

12 A Yes.

13 Q And you also provided consulting services to AMI?

14 A Yes.

15 Q What type of consulting services were you providing to
16 AMI in 2021?

17 A Just any questions from the President on the tabloid,
18 on the celebrity magazines and the magazine issues.

19 Q And for those reasons, among others, you reviewed the
20 conciliation agreement, right?

21 A Yes.

22 Q And you testified yesterday, did you not, that the
23 conciliation agreement involved an admission by AMI to a
24 campaign violation?

25 A Yes.

1 Q That wasn't accurate, was it?

2 A Yes.

3 MR. STEINGLASS: Withdrawn.

4 A Yes, it was.

5 Q Sir, it's -- you reviewed the agreement in 2021. Have
6 you reviewed it more recently?

7 A I re -- I reviewed it in 2021, yes.

8 Q Have you reviewed it more recently?

9 A More recently, yes? I reviewed it.

10 Q In connection with preparing for your testimony,
11 right?

12 A Yes.

13 Q Mr. Bernik, if we can take a look at Defense marked
14 for identification A131, please, and turn to page two.

15 This is a conciliation agreement, right?

16 A Yes.

17 Q And if we can look at page seven, please, Mr. Bernik.

18 And I would like to zoom in, if we could, to the
19 paragraph with the Roman numeral entry five, sub one and two.

20 A I have page six of eight.

21 Q We will work on that.

22 I think -- is this A131.

23 A Yes.

24 Q There we go.

25 Sir, take a look at the language that is zoomed in on

1 the screen. And I want to see if that refreshes your
2 recollection that AMI entered into this agreement with no
3 admission as to the merit of the commission's -- no admission
4 as to the merit of the commission's legal conclusions?

5 A Yes.

6 Q That's different from an admission, right?

7 A Yes.

8 Q One of the other reasons that you were following this
9 FEC investigation was that you were actually a party at one
10 point, right?

11 A Yes.

12 Q And you and AMI had counsel, correct?

13 A Yes.

14 Q And the FEC was also accusing of you of a campaign
15 finance violation, correct?

16 A Yes.

17 Q And you certainly did not admit to a campaign finance
18 violation in connection with anything that you described during
19 your testimony, right?

20 A No.

21 Q And that conciliation agreement that we just talked
22 about with AMI, you were not part of that, right?

23 A That was the company.

24 Q Right. You didn't work at the company anymore,
25 correct?

1 A Yes.

2 Q And in connection with defending against the FEC
3 allegations, you submitted a declaration to the FEC, correct?

4 A I did.

5 Q That was on May 6th of 2021, do you recall that?

6 A Yes.

7 Q And you submitted that declaration under the penalty
8 of perjury, right?

9 A Yes.

10 Q And in that declaration you described the legal advise
11 that you had received relating to the agreement with Karen
12 McDougal, correct?

13 A Yes.

14 Q And the position that you and your lawyers took was
15 that the agreement was lawful, right?

16 A Yes.

17 Q And there were certainly no suggestions in your sworn
18 declaration that you withheld anything from your attorneys in
19 connection with the negotiation of the August 2016 agreement?

20 MR. STEINGLASS: Objection.

21 THE COURT: Sustained.

22 Q Your position with the FEC was that you were
23 completely truthful with your lawyers, right?

24 A Yeah. Yes.

25 Q And the attorneys argued to the FEC that that was part

1 of the reason that you had not committed a campaign finance
2 violation, correct?

3 A Can you repeat that again, please?

4 Q You were represented by counsel in the FEC
5 investigation, right?

6 A Yes.

7 Q And so was AMI, right?

8 A Yes.

9 Q And it was the same lawyers, correct?

10 A Yes.

11 Q And they were making arguments on your behalf, right?

12 A Yes.

13 Q And also on behalf of AMI, correct?

14 A That's correct.

15 Q And they were arguing to the FEC that you had not
16 committed a campaign finance violation, correct?

17 A Yes.

18 Q And you believed in 2021 that that was true, correct?

19 A Yeah.

20 Q And that's why you authorized your lawyers to make
21 those arguments to the Federal regulatory agency, right?

22 A Yes.

23 Q And you submitted a sworn declaration under penalty of
24 perjury describing the facts, correct?

25 A Yes.

1 Q And in that declaration you asserted to the FEC, under
2 penalty of perjury, that you sought legal advise relating to
3 the August 2016 agreement with Karen McDougal, correct?

4 A Yes.

5 Q And your lawyers relied on that sworn declaration to
6 argue to the FEC that there was no violation, right?

7 A Yes.

8 Q And you were familiar with the argument that they were
9 making, correct?

10 A Yes.

11 Q This was important to you, right?

12 A Yes.

13 Q Similar to the situation with the FBI?

14 A Correct.

15 Q And we have talked a lot about that the October 2019
16 meeting with the District Attorney's Office, right?

17 A Yes.

18 Q And after that meeting, your hope was that at least
19 the criminal proceedings were over, correct?

20 A Yes, I thought it was over.

21 Q And you wanted this civil regulatory investigation to
22 get resolved also, right?

23 A Yes.

24 Q You were focused on it, correct?

25 And you believed that what your lawyers were saying to

1 the FEC was true, correct?

2 A Yes.

3 Q And you are aware that one of the things that your
4 lawyers argued to the FEC was that the Washington Post had
5 suppressed information relating to Paula Jones in connection
6 with the 1996 election, correct?

7 MR. STEINGLASS: Objection.

8 THE COURT: Sustained.

9 Q You were answering questions yesterday about some
10 boxes relating to President Trump. Do you remember those
11 questions, sir?

12 A Yes.

13 Q And I think what you said was that there was a request
14 from Michael Cohen to get access to these boxes so that he
15 could look at what was inside of them, correct?

16 A That's correct.

17 Q There was some suggestion by Michael Cohen that he was
18 concerned about what would happen if you left AMI, right?

19 A Yes.

20 Q And he wasn't -- I am just trying to make sure what I
21 thought you were saying, what your understanding was, okay?

22 He was not suggesting to you that this was a near term
23 media problem, right? He was just concerned about your Time
24 Magazine job applications?

25 A If you can clarify that. What you are asking?

1 Q You were exploring some opportunities in 2016 and
2 2017, right?

3 A Yes.

4 Q And there was at least a possibility that you could
5 take on a role at Time Magazine, correct?

6 A In 2016, I was looking -- we were looking to acquire
7 all of Time. I wasn't looking to just take a job and leave to
8 become President of Time. I was acquiring it. It was a matter
9 of acquiring the company.

10 Q And there would be a change of roles for you, correct?

11 A Yes.

12 Q And in connection with these conversations with
13 Michael Cohen, you did actually have somebody review these
14 boxes that we have been talking about, right?

15 A Yes.

16 Q And based on your review you saw, you knew that
17 everything in there was worthless, right?

18 A That's correct.

19 Q You are not suggesting that there is a trove of
20 sensitive information about President Trump at the National
21 Enquirer, correct?

22 A Yes.

23 Q There was nothing -- there was nothing, it was
24 worthless, correct?

25 A There was nothing in those boxes?

1 Q And you believe they were worthless?

2 A They were worthless.

3 Q You have an agreement with the District Attorney's
4 Office, right?

5 A Yes.

6 Q That's an agreement that you entered into in October
7 of 2019, correct?

8 A Yes.

9 Q And what's your understanding of your obligations
10 under that agreement?

11 A To be truthful on everything that I testify to on the
12 questions that are given to me by any agency.

13 Q And at this trial all sides asked you a lot of
14 questions, right?

15 A Yes.

16 Q Some harder than others?

17 A Yes.

18 Q And you understand that, ultimately, they will decide
19 whether or not they think you were truthful, right?

20 A I have been truthful to the best of my recollection.

21 Q And, ultimately, they will decide whether you complied
22 with the agreement, right?

23 A Yes.

24 MR. BOVE: Nothing further, judge.

25 THE COURT: Thank you.

1 People, any redirect?

2 MR. STEINGLASS: Yes, Judge.

3 REDIRECT EXAMINATION

4 BY MR. STEINGLASS:

5 Q Good afternoon, Mr. Pecker.

6 A Good afternoon.

7 Q I want to show you People's 161 in evidence.

8 We can show it to everybody. It's in evidence.

9 Do you remember being asked about this by Mr. Bove on
10 cross-examination?

11 A Yes.

12 Q This is an invoice that you testified was prepared by
13 Daniel Rotstein?

14 A Yes, that's correct.

15 Q And he asked you whether you were mistaken when you
16 testified yesterday that this document was made and kept by
17 AMI, correct?

18 A Yes.

19 Q When AMI gets an invoice, even from a third-party, do
20 they keep it as part of their business records?

21 A Yes, they do.

22 Q And is it kept by AMI to justify expenditures?

23 A Yes.

24 Q So were you mistaken about anything when you testified
25 earlier in this trial that this document was made and kept or

1 made or kept by AMI?

2 A I --

3 Q My question was a bad one. Do you want me to rephrase
4 it?

5 A Please.

6 Q Was this document kept by AMI in the regular course of
7 business?

8 A Yes, it was.

9 Q Now, you testified that prior to signing the contract
10 with Ms. McDougal, that the general counsel of AMI consulted
11 election, outside of election counsel, is that right?

12 A Yes.

13 Q You didn't personally speak to the outside counsel,
14 did you?

15 A No, I did not.

16 Q And did you -- I believe you told us, but who was
17 AMI's general counsel at the time?

18 A Cameron Stracher.

19 Q Now, prior to -- withdrawn.

20 Is Cameron Stracher the one that reached out to
21 outside election counsel?

22 A Yes, he did.

23 Q Prior to his doing that, did you ever personally tell
24 Cameron Stracher about the agreement you made with Donald Trump
25 in August of 2015 when you agreed to help Mr. Trump's campaign?

1 A No, I never did.

2 Q What was your understanding of what outside counsel
3 was asked to review?

4 A The Karen McDougal agreement.

5 Q The contract?

6 A The contract.

7 Q Did that contract contain provisions that we discussed
8 at length where Ms. McDougal would appear on magazine covers
9 and author articles as a ghost writer?

10 A Yes.

11 Q And you testified on direct examination that the true
12 purpose of the contract with Ms. McDougal was to acquire her
13 life rights to her story about her romantic and sexual
14 relationship with Mr. Trump, is that right?

15 A That's correct.

16 Q And that you had included the provisions about the
17 articles, the covers, the ghost written articles to give AMI
18 some plausible deniability?

19 A Yes, that's correct.

20 Q Can we put up People's Exhibit 182, please, paragraph
21 five, and this can go out to everybody. Thank you.

22 It is a little hard for me to read it from back here.

23 This is part of the statement of admitted facts that
24 AMI entered into with the Southern District of New York that is
25 the defendant's non-prosecution agreement, is that right?

1 A That's correct.

2 Q And did you say, or did AMI say, in this document that
3 AMI's principle purpose in entering into the agreement was to
4 suppress the model's story so as to prevent it from influencing
5 the election?

6 A That is correct.

7 Q Is that true, Mr. Pecker? Was that your purpose in
8 locking up the Karen McDougal story to influence the election?

9 A Yes.

10 Q The provisions about her being on the cover, covers
11 and writing articles that she wasn't even writing, why was that
12 included in the contract?

13 A It was included in the contract, basically, as a
14 disguise of what the actual purpose of it was.

15 Q What was the actual purpose of it?

16 A The actual purpose was to acquire lifetime rights to a
17 story so it doesn't -- so it's not published. It wouldn't be
18 published by American Media. It would not be published by any
19 other media source.

20 Q Now, did you ever tell Cameron Stracher, before he
21 consulted outside counsel, that the true purpose of the
22 contract that he was asking outside counsel to review was to
23 influence the election?

24 A No.

25 Q Now, prior to Mr. Stracher's discussion with outside

1 counsel, did you ever inform Mr. Stracher that you intended to
2 transfer Karen McDougal's life rights to Michael Cohen?

3 A No.

4 Q Did you ever tell him that Michael Cohen promised to
5 reimburse you for most or all of the money that you had paid to
6 Karen McDougal?

7 A No, I never did.

8 Q Was there a retainer agreement signed by AMI and the
9 outside counsel?

10 A In --

11 Q Do I need to clarify that a little bit?

12 A Yes, please.

13 Q You testified that prior to the signing of the
14 contract with Karen McDougal, that it was your understanding
15 that AMI's general counsel reached out to election counsel to
16 have them review, the outside counsel, to have them review the
17 Karen McDougal contract?

18 A That's correct.

19 Q Was there a retainer agreement completed in connection
20 with retaining such outside counsel?

21 A Yes.

22 Q Privately, can we please show the witness Bates
23 stamped AM/NYDA 74.23 and 4. Do you see that?

24 A Yes, I do.

25 Q What day was the retainer agreement signed between AMI

1 and outside counsel?

2 A August 5, 2016.

3 Q What is the name of the attorney, the outside
4 attorney, who worked on this matter?

5 A Chris Murray.

6 Q Did Mr. Murray bill AMI for the work that he did
7 reviewing the contract between AMI and Karen McDougal?

8 A Yes, he did.

9 Q As you sit here, I think I asked you this on Tuesday,
10 do you know how much time was billed for his reviewing of the
11 contract?

12 A Less than an hour.

13 Q Okay. Let me show you privately, and just for the
14 attorneys, Judge, AM/NYDA 74.25 through 34.

15 Do you recognize this document?

16 A Yes.

17 Q Is this a series of bills from Mr. Murray to AMI for
18 work done in 2016?

19 A Yes, it was.

20 Q And I am just going to scroll through all the pages in
21 this exhibit and ask you to keep your eyes out to see if there
22 are any bills for services rendered in the months June, July,
23 August?

24 A Yes, there were.

25 Q So I want to direct your attention to page eight. Do

1 you see a bill for services rendered on August 3rd of 2016?

2 A Yes.

3 Q And does that refresh your recollection which -- well,
4 does that refresh your recollection as to how many hours AMI
5 was billed in connection with outside counsel's review of the
6 Karen McDougal contract?

7 A It was a half an hour.

8 Q Half an hour. I am showing you what's in evidence as
9 People's Exhibit 156, and this can be shown to everyone.

10 There is the contract that AMI signed with Karen
11 McDougal, is that right?

12 A That's correct.

13 Q And you were asked extensively about this on
14 cross-examination, is that right?

15 A Yes.

16 Q Just to remind us, what is the effective date of this
17 contract?

18 A August 5th.

19 Q Does this contract mention anything about Mr. Trump
20 reimbursing you, this contract that was reviewed by outside
21 counsel?

22 A No.

23 Q Does it mention Michael Cohen's name at all?

24 A No, it does not.

25 Q Does the contract mention anything about the plan to

1 reassign Karen McDougal's life rights to either Mr. Trump or
2 Mr. Cohen?

3 A No, it does not.

4 Q Does the contract mention anything about your
5 agreement to help Mr. Trump's campaign that you reached at the
6 August 2015 meeting at Trump Tower?

7 A No, it does not.

8 Q Does it mention anything about your agreement to
9 undertake certain actions at the request of the campaign?

10 A No, it does not.

11 Q Do the contract even mention the word, campaign?

12 A No.

13 Q Very recently Mr. Bove asked you a series of questions
14 about the FEC investigation into the conduct by AMI. Do you
15 remember those questions?

16 A Yes.

17 Q And your original position in that case when the -- he
18 asked you a lot of questions I should say, about your original
19 position after the FEC filed a complaint, is that right?

20 A Yes.

21 Q And your initial response was to deny culpability, is
22 that correct?

23 A That's correct.

24 Q Subsequently, you entered into a conciliation
25 agreement you testified about, correct?

1 A Yes.

2 Q And you were shown a page of that conciliation
3 agreement by Mr. Bove as, I believe it was, Defendant's AB131?

4 MR. BOVE: Can I have one minute to consult with
5 Mr. Steinglass, please?

6 (Counsel confer.)

7 Q Thank you.

8 On direct examination you testified about a
9 conciliation agreement that AMI entered into, correct?

10 A Yes.

11 Q Can we show privately, please, that agreement,
12 specifically page seven?

13 This is the same page that Mr. Bove showed you --

14 A Yes.

15 Q -- on cross-examination, right?

16 A That's correct.

17 Q And he asked you whether your understanding was that
18 AMI had admitted to a campaign finance violation, correct?

19 A Correct.

20 Q And that's what the FEC was investigating, right,
21 whether or not AMI had engaged in a campaign finance violation?

22 A Yes, they were.

23 Q Notwithstanding the fact that initially you and your
24 lawyer denied having done so, you did enter into this
25 conciliation agreement, is that right?

1 A Yes.

2 Q And this page that Mr. Bove showed you, contains the
3 following language, solely for the purpose of settling this
4 matter and avoiding litigation, with no admission as to the
5 merit of the Commission's legal conclusions, Respondent agrees
6 not to contest that AMI's payment to Karen McDougal to purchase
7 a limited life story right, combined with its decision not to
8 publish the story in consultation with an agent of Donald J.
9 Trump, and for the purpose of influencing the election,
10 constituted a prohibitive corporate in-kind contribution in
11 violation of 52 USC Section 30118(a).

12 Does the page that Mr. Bove showed you contain that
13 language?

14 A Yes.

15 Q Was it your understanding when AMI entered into this
16 agreement that AMI was acknowledging that the conduct that it
17 had committed in connection with the Karen McDougal payment
18 violated Federal election law?

19 MR. BOVE: Judge, I object and ask to be heard at
20 side-bar.

21 THE COURT: Overruled.

22 You want to approach?

23 MR. BOVE: Yes, please.

24 (Discussion is held at side-bar, on the
25 record.)

1 MR. BOVE: Judge, I can clean some of this up on
2 re-cross, but Mr. Pecker did not sign this agreement. And
3 it's been repeatedly embedded that this is his agreement.

4 This is AMI's agreement entered into at a time
5 after he left AMI. And the cover page is a cover letter
6 from the FEC with the agreement, and says that the matter
7 being investigated, as to when Mr. Pecker was dismissed --

8 MR. STEINGLASS: I think I clarified this was an
9 agreement that AMI entered into. In any event, Mr. Bove,
10 is permitted to clarify anything he wants to.

11 THE COURT: I think Mr. Steinglass has a right to
12 go back and clear it up. I think you left the jury with a
13 certain impression.

14 (Discussion at side-bar concluded, and the
15 following occurred in open court.)

16 BY MR. STEINGLASS:

17 Q I apologize, Mr. Pecker. I don't remember the
18 question, so I am going to ask the court reporter to read it
19 back.

20 (The question as requested was read by the
21 reporter.)

22 A Yes.

23 Q You testified on direct examination that after you
24 entered into the agreement with Karen McDougal, you formulated
25 a plan to sell the life rights to Mr. Cohen, sell her life

1 rights to Mr. Cohen for a sum of money, correct?

2 A That's correct.

3 Q What was the sum of money that you were selling her
4 life rights for?

5 A \$125,000.

6 Q And, in fact, I believe you testified that you only
7 entered into the agreement with Karen McDougal in the first
8 place because Mr. Cohen had promised to reimburse you?

9 A Yes, that's correct.

10 Q So, prior to -- withdrawn.

11 You testified on direct, I can show it to you if you
12 like, there was an agreement, a transfer agreement where you
13 were -- had signed and Michael Cohen had signed, and this was
14 the process of transferring the life rights. Do you remember
15 that document?

16 A Yes, I do.

17 Q And you went so far as to sign the document?

18 A I did.

19 Q After that, but before money actually exchanged hands,
20 did you communicate with your general counsel, Cameron
21 Stracher, again?

22 A I did.

23 Q And I do not want to ask you about any privileged
24 questions about what you discussed with Cameron Stracher, but
25 based on that conversation with Cameron Stracher, what became

1 of your plan to transfer Karen McDougal's life rights to Donald
2 Trump?

3 A I after -- after that conversation, I called up
4 Michael Cohen and told him that the deal was off and to rip up
5 the agreement.

6 Q Can we please show the witness 154, People's 154.
7 And, actually, you can show it to everyone. It's in evidence,
8 I am sorry.

9 Do you remember Mr. Bove asking you a series of
10 questions about this document on cross-examination?

11 A Yes.

12 Q And he asked you whether this was a standard AMI
13 document?

14 A Yes.

15 Q And you said that it was, correct?

16 A That's correct.

17 Q It's a fairly standard source agreement intended to
18 kind of lock up a source?

19 A That's correct.

20 Q That's something AMI does a lot?

21 A All the time.

22 Q This agreement was amended by People's 155, is that
23 right? Can you show People's 155?

24 A Yes.

25 Q And it is one of the amendments that this -- that

1 People's 155 changed People's 154 was by extending the
2 exclusivity period from 90 days to in perpetuity?

3 A That is correct.

4 Q Whose idea was it to do that?

5 A That was my conversation with Michael Cohen.

6 Q Is it standard operating procedure for AMI to be
7 consulting with the presidential - with a presidential
8 candidate's fixer about amendments to a source agreement?

9 A No.

10 Q Who -- withdrawn.

11 Another amendment that was made to the original source
12 agreement with Dino Sajudin was to add a 1 million-dollar
13 liquidated damages clause?

14 A That's correct.

15 Q Is a \$1 million liquidated damages clause on a
16 30,000-dollar source agreement standard operating procedure?

17 A No.

18 Q Why did you amend the agreement to add a 1
19 million-dollar liquidated damages clause?

20 A That was at Michael Cohen's request.

21 Q Is it standard operating procedure to have a
22 presidential candidate's campaign person weighing in on what
23 terms of a contract ought to be amended?

24 A No.

25 Q Speaking of Michael Cohen, you testified on both

1 direct examination and again on cross-examination that Michael
2 Cohen told you that he did not work for the campaign, is that
3 correct?

4 A Yes.

5 Q He was paid by the Trump Organization, not by the
6 campaign, is that correct?

7 A Yes.

8 Q Now, despite the fact that he did not officially work
9 for the campaign, were you aware of the activities that he
10 engaged in on behalf of the campaign?

11 A Yes, I was.

12 Q Who invited you to Mr. Trump's announcement that he
13 was running for President in the first place?

14 A Michael Cohen.

15 Q Did you ever see Michael Cohen go on television to
16 talk about Mr. Trump's campaign talking points?

17 A Yes. I have.

18 Q I am sorry.

19 A Yes, I did.

20 Q Did you ever know Michael Cohen to work his press
21 contacts on behalf of the campaign?

22 A Yes.

23 Q Did you ever receive an invite to a campaign fund
24 raiser that Michael Cohen participated in on behalf of
25 Mr. Trump?

1 A Yes, I did.

2 Q After the Access Hollywood tape was released, who
3 contacted you to ask you to remove the Playboy man's story from
4 the Radar Online archives?

5 A Michael Cohen.

6 Q And during the meeting in which -- during the Trump
7 Tower meeting between yourself, Michael Cohen and Mr. Trump,
8 when you formulated the agreement to help the campaign, was
9 Michael Cohen part of that conversation?

10 A Yes, he was.

11 Q Mr. Bove asked you whether NDAs or non-disclosure
12 agreements were standard operating procedure for AMI. Do you
13 remember being asked that?

14 A Yes.

15 Q And you testified on cross-examination that during
16 your tenure at AMI there were hundreds of thousands of NDAs,
17 right?

18 A Yes.

19 Q On how many of those other NDAs had the CEO, meaning
20 you, the CEO of AMI coordinated with a presidential candidate
21 for the benefit of the campaign?

22 A It's the only one.

23 Q Were there any other instances where a candidate's
24 fixer insisted on amendments to these NDAs?

25 A No.

1 Q You testified on cross-examination that sometimes you
2 suppressed stories to help a friend?

3 A Yes.

4 Q And sometimes you suppressed stories to gain leverage
5 against the target of a story?

6 A That's correct.

7 Q I think you talked about Tiger Woods, is that right?

8 A Yes.

9 Q And you wanted him to appear on some magazine covers
10 or do something with AMI?

11 A Yes.

12 Q And so, you acquired a story and depicted him in a bad
13 light and used it to leverage him into giving you what you
14 wanted?

15 A Yes.

16 Q In this case, did you suppress the stories to help a
17 presidential candidate?

18 A Yes.

19 Q And you testified on cross-examination that Arnold
20 Schwarzenegger announced his candidacy for governor, and after
21 he announced his candidacy for governor, 30 or 40 women came
22 forward with allegations of sexual harassment, is that right?

23 A Yes.

24 Q And that you told Mr. Bove that you paid hundreds of
25 thousands of dollars to kill those stories?

1 A That's correct.

2 Q I don't want to make you do the math on the spot here,
3 but what was the approximate average of those payments?

4 A The largest one was \$20,000. Then the other ones
5 would be anywhere from 500 to \$2,000.

6 Q Did you spend anything like the \$150,000 to suppress
7 any story in connection with the Arnold Schwarzenegger
8 campaign?

9 A No.

10 Q I believe you also testified that Arnold
11 Schwarzenegger was the front man for some of your fitness line
12 magazines, is that right?

13 A That's correct.

14 Q Why did you spend money, and when I say you, I mean
15 AMI, why did AMI spend money to silence Mr. Schwarzenegger's
16 accusers?

17 A Mr. Schwarzenegger was critical to the body building
18 industry, as well as the supplement industry, as wells the two
19 leading publications Us Muscle Fitness and Flex that we just
20 acquired in the Weider acquisition.

21 Q So, do I understand that to mean that you were, at
22 least in part, motivated by your desire to protect your own
23 brand value?

24 A It was mutually beneficial.

25 Q Your arrangement with Mr. Schwarzenegger?

1 A Yes.

2 Q When you say, mutually beneficial, it also benefited
3 Mr. Schwarzenegger?

4 A Yes, it did.

5 Q To the extent it benefited Mr. Schwarzenegger's
6 campaign, that sparked an investigation into potential campaign
7 finance violations by AMI, is that correct?

8 A Yes.

9 Q And as a result of that, I believe you testified when
10 Mr. Bove asked you questions, you made some new rules to
11 address these concerns, correct?

12 A Yes.

13 Q Now, when you -- when you -- withdrawn.

14 Prior to your arrangements with Mr. Trump, and I am
15 speaking of the arrangement that was formed in the August 2015
16 meeting at Trump Tower, prior to that, did you ever preview
17 with a candidate positive stories about that candidate or
18 negative stories about that candidate's opponents?

19 A No.

20 Q Prior to that August of 2015 meeting, did you ever
21 give a candidate the opportunity to accept, reject or make
22 changes to your stories before they ran?

23 A No.

24 Q Prior to that arrangement with Mr. Trump from August
25 of 2015, did you ever run attack adds against any candidate's

1 adversaries that corresponded to those adversaries polling
2 numbers?

3 A No.

4 Q Mr. Bove elicited from you that a lot of the articles,
5 the negative attack articles, against Marco Rubio and Ted Cruz
6 were recycled I believe was the term that he used?

7 A Yes.

8 Q Notwithstanding the fact that they were recycled at
9 the time that AMI reprinted them, was AMI doing that because
10 those candidates were surging in the polls against Mr. Trump?

11 A Yes.

12 Q And was that done in coordination with Mr. Trump's
13 campaign?

14 A Yes.

15 Q You testified on cross-examination that even before
16 your arrangement in August of 2015, that you were friends with
17 Mr. Trump?

18 A Yes.

19 Q And because you were friends, you didn't run negative
20 stories about him even before this arrangement, is that
21 correct?

22 A That's correct.

23 Q And I believe you told Mr. Bove that you did that for
24 several of your friends?

25 A Yes.

1 Q Prior to the August of 2015 meeting in Trump Tower,
2 did AMI ever agree to publish stories attacking Mr. Trump's
3 political opponents?

4 A No.

5 Q Prior to the August 2015 meeting in Trump Tower, did
6 AMI ever agree to be the eyes and ears of Mr. Trump's campaign?

7 A No.

8 Q Prior to that meeting, did you ever agree to use your
9 network of sources to actively seek out potentially damaging
10 stories, to report them to Mr. Trump so that he could prevent
11 their publication?

12 A No.

13 Q You were asked a lot about this by Mr. Bove on
14 cross-examination. Let's be very clear here.

15 At that meeting, what is your understanding of what
16 you agreed to with respect to -- withdrawn.

17 Let me come at this a different way.

18 Did you ever, specifically, use the term, catch and
19 kill, in that meeting?

20 A No, I did not.

21 Q What was your understanding about the part of the
22 agreement that involved money?

23 A It was my understanding that I would use the company's
24 sources, geared toward any information that would be coming out
25 on Mr. Trump, or the campaign relating to, specifically, women

1 who would be selling their stories similar to what I
2 experienced with Schwarzenegger 13 years ago.

3 So I notified -- it is my understanding I would for
4 those stories that come up, I would speak to Michael Cohen, and
5 tell him that these are the stories that are going to be for
6 sale. That if we don't buy them, somebody else will.

7 And that Michael Cohen would handle, buy them or try
8 to make sure to get -- that they don't ever get published.
9 That was my understanding from that meeting.

10 Q You testified on both direct and cross-examination
11 that certain parts of your arrangement with Mr. Trump's
12 campaign were mutually beneficial, is that right?

13 A Yes.

14 Q For example, I believe you told us on direct
15 examination, and told Mr. Bove again on cross-examination, that
16 stories praising Mr. Trump sold magazines, is that right?

17 A Yes.

18 Q And how would you describe the overlap between your
19 readership and Mr. Trump's political base?

20 A Basically, the research that the company did over the
21 years -- based on research that the company did over the years,
22 there was no question that the celebrity audience, the tabloid
23 audience or the other celebrity magazines, Stars, Weekly, all
24 loved reading positive stories about Donald Trump.

25 And when he announced his presidency or going from The

1 Apprentice to running for President of the United States, he --
2 our sales increased, news stand sales increased, as well as any
3 comments that were made by Mr. Trump about negative comments
4 about his opponents were not -- when we published them, the
5 sales also increased.

6 So, it was a -- that's clear enough.

7 Q So, if I understand you correctly, running stories
8 that praised Mr. Trump appealed to your readership?

9 A Yes, they did.

10 Q And so, that aspect of the agreement that you reached
11 at Trump Tower was mutually beneficial, is that correct?

12 A Yes, yes.

13 Q Now, you testified a moment ago that the primary
14 purpose for entering into the non-disclosure agreement with
15 Karen McDougal was to acquire her life rights to help the
16 campaign, is that right?

17 A Yes.

18 Q And I believe you told us, and it was in the document
19 that we showed you, you never had any intention of publishing
20 her story?

21 A No, we weren't going to publish her story.

22 Q Mr. Bove asked you, wouldn't that story have sold
23 magazines?

24 Well, let me ask you the question.

25 Had you published a story about a Playboy model having

1 a year-long sexual affair, while he was married, with a
2 presidential candidate, would that have sold magazines do you
3 think?

4 A Yes.

5 Q That would be like National Enquirer gold?

6 A Yes.

7 Q But at the time that you entered into that agreement,
8 you had zero intention of publishing that story?

9 A That's correct.

10 Q And despite the fact that publishing that story would
11 have helped your bottom line, you killed the story because it
12 helped the candidate, Donald Trump?

13 A Yes.

14 THE COURT: Is this a good time to break?

15 MR. STEINGLASS: Sure.

16 THE COURT: Jurors, we will stop now for our
17 lunch break.

18 I remind you of all the admonitions, including do
19 not discuss this case either amongst yourselves or with
20 anyone else.

21 Please continue to keep an open mind.

22 Do not form or express an opinion about the
23 defendant's guilt or innocence until all the evidence is in
24 and I have given you my final instructions on the law.

25 Enjoy your lunch.

1 COURT OFFICER: All rise.

2 (Jurors are excused.)

3 THE COURT: You can step down.

4 (Witness is excused.)

5 THE COURT: Please be seated.

6 So, I am not going to rush you. Give me a sense
7 of how much longer you are going to be.

8 MR. STEINGLASS: I have Post Its, on Post Its
9 here. I am going to consolidate over lunch. I think,
10 maybe, a half hour or less.

11 THE COURT: At this point, do you expect to have
12 any re-cross?

13 MR. BOVE: Yes, Judge.

14 THE COURT: All right. Enjoy your lunch. See
15 you at 2:15.

16 MR. BLANCHE: Your Honor, we ask that you would
17 ask the People, direct the People to tell us who their next
18 witness is.

19 MS. HOFFINGER: I informed Ms. Necheles who the
20 next witness is.

21 MR. BLANCHE: We will converse at lunch.

22 (A luncheon recess was taken.)

23 (The trial continued on the following page.)

24

25

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 THE CLERK: Continued case on trial, Donald J.
3 Trump. All parties are present.

4 THE COURT: Good afternoon.

5 Is there anything we need to cover before we bring
6 out Mr. Pecker?

7 MR. STEINGLASS: I don't believe so.

8 THE COURT: Let's get the witness.

9 (Witness entering courtroom.)

10 ***

11 THE COURT: I remind you that you are still under
12 oath.

13 (Jury entering.)

14 ***

15 THE COURT: Please be seated.

16 THE CLERK: Continuing case on trial, People
17 versus Donald J. Trump. All parties and all jurors are
18 present.

19 THE COURT: Good afternoon.

20 Mr. Steinglass.

21 MR. STEINGLASS: Thank you, Judge.

22 CONTINUED REDIRECT EXAMINATION

23 BY MR. STEINGLASS:

24 Q. Good afternoon, Mr. Pecker.

25 A. Good afternoon.

1 Q. I am not going to try to keep you here too much
2 longer.

3 You testified on cross-examination that the National
4 Enquirer's circulation was around 350,000 in 2016; is that
5 right?

6 A. That's correct.

7 Q. Does that count all the people who see the headlines
8 while on line at the supermarket or at Walmart or at other
9 places where its sold?

10 A. That is only the paid circulation for the newsstand and
11 the subscribers.

12 Q. You testified earlier that catch and kill was not a
13 phrase that you would use to describe your deal with Mr. Trump
14 during that meeting; is that right?

15 A. That's correct.

16 Q. And Mr. Bove -- I apologize for the pronunciation --
17 earlier Mr. Bove got you to say on cross-examination that you
18 first heard that name from the Federal Prosecutors; is that
19 right?

20 A. Yes.

21 (Displayed.)

22 Q. I want to show you People's 180 again. We can show
23 everybody, it's in evidence.

24 This is the Wall Street Journal that both myself and
25 Mr. Bove showed you during questioning several times; is that

1 right?

2 A. Yes, it is.

3 Q. Can you remind us when this article came out?

4 A. This came out on November 4, 2016.

5 Q. And you testified that you were certainly aware of this
6 article when it was released; is that right?

7 A. Yes.

8 Q. Basically it had everything to do with AMI and its deal
9 with Karen McDougal on behalf of then-candidate Trump?

10 A. Correct.

11 Q. And as CEO, you were certainly familiar with this
12 article?

13 A. Yes.

14 Q. You certainly read it?

15 A. I did.

16 Q. I want to turn to Page 2 for a minute and direct your
17 attention to a phrase on page 2.

18 Can you read that line out loud, please?

19 A. "Squashing stories, that was is known in the tabloid
20 world as catch and kill."

21 Q. So is it more likely, Mr. Pecker, that you did not
22 first hear this term because prosecutors somehow fed it to
23 you?

24 A. I first heard it from the press -- read to the press.

25 Q. As Mr. Bove noted during cross-examination, you did not

1 use the phrase "catch and kill" during your direct testimony in
2 this case, did you?

3 A. No, I never did.

4 Q. In response to Mr. Bove's question this morning, you
5 testified that you wanted nothing to do this Stormy Daniels'
6 deal; is that right?

7 A. Yes. Yes.

8 Q. What did you tell Dylan Howard about your willingness
9 to pay for another story involving Mr. Trump?

10 A. I said to Michael Cohen: After paying for the doorman
11 story and the Karen McDougal story, I wasn't going to buy
12 anything further and I wasn't a bank.

13 Q. And what did you tell Dylan Howard about it when he
14 first reached out to you, I think you said you were having
15 dinner with your wife on Saturday night?

16 A. Yes.

17 Q. When he first reached out to you about the story, what
18 did you tell him? What did you tell Dylan Howard?

19 A. I told Dylan Howard that there is no possible way I
20 would buy the story for \$120,000, and I didn't want to have
21 anything to do with a porn star.

22 Q. And I want to -- withdrawn.

23 Now, you told us a moment ago that you also spoke to
24 Michael Cohen about it?

25 A. Yes.

1 Q. Why did you reach out to Michael Cohen when you learned
2 that Stormy Daniels had a story involving sexual infidelity with
3 Mr. Trump?

4 A. Based on our mutual agreement back in August 2015, any
5 stories concerning Mr. Trump that would be very embarrassing, I
6 would want to communicate that with Michael Cohen right away.

7 If he heard it from somebody else, he would go
8 ballistic.

9 Q. Who is "he?"

10 A. If Michael Cohen heard the story, that he heard it from
11 someone else. I was referring to Michael Cohen.

12 Q. And so when you -- withdrawn.

13 When you reached out to Michael Cohen, it was, as you
14 just said, to notify him, as you had promised to do in that
15 August 2015 meeting?

16 A. That's correct.

17 Q. When you told Mr. Bove that you wanted nothing to do
18 with it, you weren't going to print it; is that correct?

19 A. Print it or buy it or be associated with it.

20 Q. You weren't going to print it, you weren't going to pay
21 for it, you weren't going to be associated?

22 A. Correct.

23 Q. You were still going to fulfill your obligation to tell
24 Michael Cohen about it so that the campaign would squash it?

25 A. Yes.

1 Q. I believe you testified on direct examination that
2 sometime later Dylan Howard came back to you because Michael
3 Cohen hadn't delivered on his promise to pay Stormy Daniels off;
4 is that right?

5 A. That's correct. That's correct.

6 Q. And he asked you to reach out to Michael Cohen?

7 A. Yes, he did.

8 Q. I believe you testified on direct examination that
9 you, Michael Cohen and Dylan Howard had a three-way call on
10 October 25, 2016, regarding Stormy Daniels; is that right?

11 A. That's correct.

12 Q. Can you remind the jury, please, what you discussed on
13 that call?

14 A. We called Michael Cohen on the Signal. We being
15 Dylan Howard and myself. And Dylan made a presentation to
16 Michael Cohen. He was very aggressive over the phone and
17 told Michael: "These two sources are very important to me.
18 If you don't pay them, you're ruining my reputation. You
19 promised to wire the money two times and you never did."

20 Then Michael Cohen said to me I should buy it.

21 I said to Michael Cohen: "Absolutely not. I am not
22 paying for the story. I told you a number of times, I don't
23 want to be involved with it. My suggestion to you is, you
24 should buy the story," you being Michael Cohen, "should buy the
25 story, because if you don't, and as Dylan just said to us over

1 the phone, it's going to be sold to another media outlet. The
2 Boss is going to be very, very angry with you."

3 Q. So when you are referring to "The Boss," telling
4 Michael Cohen that The Boss would be very angry with him if he
5 let the story go, who did you mean when you referred to "The
6 Boss?"

7 A. Donald Trump.

8 Q. Mr. Bove asked you several times about two interviews
9 that you gave to the FBI on July 26 and one on August 2, 2016;
10 do you remember him asking you repeatedly about those, the
11 interviews?

12 A. Yes, I did.

13 Q. Is it fair to say some topics were discussed on one day
14 and some topics were discussed on the other day and some topics
15 were discussed on both days?

16 A. That's correct.

17 Q. You did not take notes during those interviews
18 personally, did you?

19 A. No, I did not.

20 Q. The notes Mr. Bove shown you were taken by FBI agents?

21 A. That's correct.

22 Q. At one point Mr. Bove showed you a single line in the
23 July 26, 2016 -- 2018 interview, in which an FBI agent wrote
24 in reference to the January 6, 2017 meeting at Trump Tower,
25 "that Mr. Trump did not express any gratitude towards you?"

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. Do you remember him showing you that?

5 A. Yes, I do.

6 Q. You said, "I didn't say that, he got it wrong?"

7 A. That's correct.

8 Q. You told Mr. Bove that you have always consistently
9 said that Mr. Trump thanked you at that meeting; is that
10 correct?

11 A. Yes.

12 Q. Do you know how many pages long those interview notes
13 are?

14 A. Not off the top of my head. I am sorry.

15 Q. I guess that is not a fair question. I am sorry.

16 Let me show you the FBI notes from the August 2nd of
17 2018 interview that Mr. Bove also showed you.

18 Okay.

19 Specifically, I want to show you Page 6.

20 A. Okay.

21 Q. So this was literally a week after the interview in
22 which your testimony is that the FBI erroneously recorded the
23 fact that you said that Mr. Trump did not thank you?

24 A. Yes.

25 Q. And one week later, did you not tell the FBI, "In

1 January 2017, Pecker visited Trump in Trump's office at Trump
2 Tower. At that time Trump told Pecker, in sum and substance,
3 that he, Trump, wanted to thank him, Pecker, for handling the
4 Karen and doorman stories because it would have been very
5 damaging to him."

6 Correct?

7 A. That's correct.

8 Q. So did you, in fact, tell the FBI that the defendant
9 thanked you for both the Karen McDougal story and the Dino
10 Sajudin story?

11 A. Yes, I did.

12 Q. Was that the truth then?

13 A. Yes.

14 Q. Is it the truth now?

15 A. Yes.

16 Q. Do you believe that you have ever been inconsistent
17 about this point?

18 A. No.

19 Q. I want to show you testimony from the Grand Jury, the
20 Federal Grand Jury in this case that Mr. Bove also referred to.

21 Do you remember him asking you about that?

22 A. Yes.

23 Q. There was testimony given on August 13, 2018; do you
24 remember giving that testimony on that date?

25 A. Yes.

1 Q. Do you remember Mr. Bove asking you questions about
2 it?

3 A. Yes.

4 Q. And this was less than two weeks after the second day
5 of that two-day FBI interview; is that right?

6 A. Yes.

7 Q. Were you asked these questions and did you give these
8 answers in that Grand Jury:

9 Page 26, line 22:

10 "QUESTION: Now, I would like to draw your attention to
11 approximately January 6, 2017, did you meet with now President
12 Elect Trump at his request at Trump Tower?"

13 "ANSWER: Yes, I did.

14 "QUESTION: Did you discuss Ms. McDougal?

15 "ANSWER: Yes, I did.

16 "QUESTION: Please tell the Grand Jury about that
17 conversation?

18 "ANSWER: Trump said to me: How is Karen doing?
19 Referring to Karen McDougal.

20 So I said: Everything is quiet. Karen is writing her
21 articles for the fitness magazines.

22 Trump said that Karen was a good girl.

23 Then he said that he -- it says as -- I guess it's
24 was -- was very appreciative of the way I handled the McDougal
25 story. He thanked me. He also thanked me for handling the

1 doorman story. He said he was very grateful and both these
2 stories could have been very, very damaging."

3 Were you asked those questions and did you give those
4 answers?

5 A. Yes.

6 Q. That was in 2018 in the Federal Grand Jury?

7 A. In the Federal Grand Jury.

8 Q. The questioning goes on -- excuse me one second.

9 Skipping to line 19.

10 Were you asked the following questions and did you give
11 the following answers:

12 "QUESTION: And I believe you testified that Former
13 President Trump said that the McDougal story and the doorman
14 story could have been damaging; is that correct?

15 "ANSWER: That's correct.

16 "QUESTION: What did you understand Mr. Trump to mean
17 by damaging?

18 "ANSWER: I believe he was referring to that it would
19 be very damaging to his campaign and his election."

20 Did you give those answers -- were you asked those
21 questions and did you give those answers?

22 A. Yes.

23 Q. Was that the truth then?

24 A. Yes.

25 Q. Is that truth now?

1 A. Yes, it is.

2 Q. Is there any confusion on your part about that?

3 A. None.

4 Q. Mr. Bove asked you about your agreement with the
5 Federal Prosecutors, also known as the Southern District of New
6 York; do you remember questions about that?

7 A. Yes.

8 Q. And you have obligations, I believe he asked you about,
9 under that agreement; is that right?

10 A. Yes.

11 Q. Excuse me. I am referring to your non-prosecution
12 agreement.

13 A. Yes.

14 Q. Among other things, you have to provide truthful
15 information; is that correct?

16 A. Yes.

17 Q. You have to cooperate fully with the Southern District
18 of New York, the Federal Prosecutors, and any other law
19 enforcement agencies designated by that office?

20 A. That's correct.

21 Q. Did anyone from the -- when you were dealing with the
22 Feds?

23 A. Yes.

24 Q. Did anyone from the Southern District of New York or
25 the FBI, did either of them ever suggest to you that they wanted

1 you to say anything other than the truth?

2 A. Absolutely not.

3 Q. Now, you testified on cross-examination that you spoke
4 several times with members of the New York County District
5 Attorney's office over the last few months; is that right?

6 A. That's correct.

7 Q. And, in fact, Mr. Bove asked you in particular if
8 you met with some of the Assistant District Attorneys sitting
9 here?

10 A. Yes.

11 Q. Including myself?

12 A. That's correct.

13 Q. Mr. Bove asked you whether we decide when you fulfilled
14 your obligation to testify truthfully; is that right?

15 A. Yes.

16 Q. Mr. Pecker, did anyone from the New York County
17 District Attorney's office ever suggest to you that they wanted
18 you to do anything other than tell the truth?

19 A. Absolutely not.

20 Q. What did we tell you?

21 A. I was told to be truthful on any questions that were
22 asked of me, only be truthful.

23 MR. STEINGLASS: Thank you very much, Mr. Pecker.

24 THE COURT: Mr. Bove.

25 MR. BOVE: Thank you, Judge.

1 RECCROSS EXAMINATION

2 BY MR. BOVE:

3 Q. Mr. Pecker, before lunch you were asked some questions
4 by Mr. Steinglass about "attack ads;" do you recall those
5 questions?

6 A. Yes, I do.

7 Q. The National Enquirer didn't run any attack ads
8 relating to President Trump's opponents, correct?

9 A. Can you define for me that, what the headlines were?

10 Q. There were headlines, but not attack ads?

11 A. That's correct.

12 Q. We talked about some of those headlines this morning,
13 right?

14 A. We did.

15 Q. Do you remember that before lunch Mr. Steinglass
16 referred to Michael Cohen as a "fixer?"

17 A. Yes.

18 Q. And you said repeatedly during your testimony that Mr.
19 Cohen told you he was President Trump's personal attorney?

20 A. Yes, he did.

21 Q. You know from your experience that private attorneys
22 can hold fund raisers for campaigns without being a part of the
23 campaign, right?

24 A. Yes.

25 Q. That type of fund raiser doesn't make a private

1 attorney some part of the campaign, correct?

2 A. Yes.

3 Q. And you were asked some questions by Mr. Steinglass
4 just now and before lunch about Karen McDougal, right?

5 A. Yes.

6 Q. And I think before lunch Mr. Steinglass referred to Ms.
7 McDougal's story as National Enquirer gold, right?

8 A. Yes.

9 Q. Do you remember that phrase?

10 A. I do.

11 Q. And you were very clear on cross-examination that Ms.
12 McDougal did not want to publish that story, right?

13 A. That is correct.

14 Q. She wanted to promote her name and her brand, correct?

15 A. Yes.

16 Q. She was a legitimate celebrity at the time, right?

17 A. Let me say this; did she meet the celebrity category at
18 that time? No.

19 Q. She was a leading fitness model, correct?

20 A. She was a leading fitness model.

21 Q. I think you testified on cross-examination this morning
22 that she was one of the first women ever on the cover of Men's
23 Fitness magazine?

24 A. That's correct. That was in 1999. I also mentioned
25 that was prior to my ownership, prior to the ownership.

1 Q. Right.

2 But my question is: She was on that magazine in 1999?

3 A. She was on that magazine, that's correct.

4 Q. She was also the Playmate of the Year, right?

5 A. Yes, she was.

6 Q. And she had also been on the covers of other magazines
7 between 1999 and 2016, correct?

8 A. That's correct.

9 Q. So there was real value to her brand, correct?

10 A. I wouldn't say there was value to her brand to a media
11 company. To myself it would be.

12 Q. There was enough value that ABC was offering her a spot
13 on Dancing with the Stars; right?

14 A. Yes, because she was -- she offered them her romantic
15 story to sell.

16 Q. And there was real value in an opportunity beyond
17 Dancing with the Stars, correct?

18 A. For Karen McDougal it was.

19 Q. Right.

20 You were asked some questions about the Conciliation
21 Agreement with the agency; do you remember those questions?

22 A. Yes.

23 Q. The Conciliation Agreement was entered into between the
24 FEC and AMI, correct?

25 A. Yes.

1 Q. And the FEC actually decided to take no further action
2 against you personally, correct?

3 A. Yes, that's correct.

4 Q. And I just want to make sure I understand. In 2016,
5 you didn't think you were doing anything wrong, did you?

6 A. No, I didn't.

7 Q. And in 2021, you submitted a Declaration to the FEC
8 that said that, more or less, correct?

9 A. Yes.

10 Q. And I would like you to take a look at that
11 Declaration. It's not in evidence. It's Defense Exhibit A132.

12 MR. BOVE: I can hand one up.

13 THE COURT: Thank you.

14 A. Yes.

15 Q. Have you had a chance to take a look?

16 A. Yes, I did.

17 Q. That is your signature on the bottom left?

18 A. Yes.

19 Q. It's dated May 6, correct?

20 A. May 6, that's correct.

21 Q. This is a copy of the Declaration that you submitted to
22 the FEC?

23 A. Yes, it is.

24 MR. BOVE: Your Honor, defense offers Defense
25 A132.

1 MR. STEINGLASS: Objection.

2 THE COURT: Please approach.

3 (Whereupon, proceedings were held at sidebar:)

4 MR. STEINGLASS: First of all, if he is putting in
5 this as a prior inconsistent statement, the witness has
6 already acknowledged the inconsistency.

7 You don't get to prove up an a prior inconsistent
8 statement with extrinsic evidence once the witness has
9 acknowledged the inconsistency.

10 Also, we haven't gotten notice of this exhibit.

11 MR. BOVE: This is being offered in response to
12 the redirect.

13 THE COURT: Assuming it's an inconsistency, if
14 it's conceded, that is the end of it. That is the end of
15 it.

16 (Whereupon, the following occurred in open court:)

17 THE COURT: Objection sustained.

18 CONTINUED RECROSS EXAMINATION

19 BY MR. BOVE:

20 Q. Mr. Pecker, at the end of your testimony yesterday, you
21 told a story about an Anthrax incident at AMI?

22 A. That's correct.

23 Q. You said that President Trump was one of the first
24 people to reach out to you to see if you were doing okay?

25 A. Yes.

1 Q. That is one of the reasons that you had and still have
2 a long friendship with him?

3 A. That's correct.

4 Q. You know that he cares about people?

5 A. I do.

6 Q. And he cares about his family, right?

7 A. Yes, I do.

8 Q. And you believe that, right?

9 A. Of course I do.

10 Q. And so you understand that the types of stories that we
11 were talking about during your testimony today in 2016, those
12 were actually things that were stressful to him and his family,
13 correct?

14 MR. STEINGLASS: Objection.

15 THE COURT: Sustained.

16 MR. BOVE: Nothing further.

17 THE COURT: Anything else?

18 MR. STEINGLASS: No.

19 THE COURT: Thank you, sir.

20 You can step down.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 ***

24 THE COURT: People, your next witness, please.

25 MS. HOFFINGER: The People call Rhona Graff.

1 (Witness entering courtroom.)

2 ***

3 COURT OFFICER: Step this way. Remain standing.
4 Raise your right hand and face the clerk.

5 THE CLERK: Do you solemnly swear or affirm that
6 the testimony that you are going to give before this Court
7 and jury shall be the truth, the whole truth, and nothing
8 but the truth; do you so swear or affirm?

9 THE WITNESS: I do.

10 R-H-O-N-A G-R-A-F-F, called as a witness on behalf of the
11 People, was duly sworn by the Clerk of the Court, upon being
12 examined, testified as follows:

13 THE CLERK: Have a seat.

14 COURT OFFICER: State your name, spelling your
15 last name.

16 THE WITNESS: Rhona Graff. Last name, G-R-A-F-F.

17 COURT OFFICER: County of residence?

18 THE WITNESS: New York County.

19 THE COURT: Good afternoon.

20 You may inquire.

21 MS. HOFFINGER: Thank you.

22 DIRECT EXAMINATION

23 BY MS. HOFFINGER:

24 Q. Good afternoon.

25 Ms. Graff, are you currently employed?

1 A. No, I'm not.

2 Q. Were you previously employed?

3 A. Yes, I was.

4 Q. For what company were you previously employed?

5 A. The Trump Organization.

6 Q. And how many years did you work for the Trump

7 Organization?

8 A. Thirty-four years.

9 Q. And approximately when did you start working for the

10 Trump Organization?

11 A. I believe it was October of 1987.

12 Q. When, approximately, did you stop working for the Trump

13 Organization?

14 A. In April of 2021.

15 Q. What were your titles at the Trump Organization?

16 A. When I initially started, I was an executive assistant.

17 And then over the years it evolved into senior

18 executive.

19 Then I eventually became assistant to the president and

20 senior vice-president.

21 Q. Who was the president of the Trump Organization at that

22 time during the 34 years that you worked there?

23 A. Donald J. Trump.

24 Q. What was your understanding about who owned the Trump

25 Organization companies during those 34 years that you worked

1 there?

2 A. Donald J. Trump.

3 Q. And who did you work directly for at the Trump
4 Organization?

5 A. Mr. Trump.

6 Q. Now, did you work out of the offices of the Trump
7 Organization at Trump Tower here in New York?

8 A. That's correct.

9 Q. And where was your office located in Trump Tower?

10 A. Well, the address was 725 Fifth Avenue, and my office
11 was on the 26th floor.

12 Q. Where was your office or your desk in relation to Mr.
13 Trump's office?

14 A. Well, over time it changed. You know, initially when I
15 started, I sat outside his office. There are a few desks out
16 there.

17 When I was promoted to a senior position, I had my own
18 office, which was right next door to his office.

19 Q. During approximately the years of 2015 to 2017, was
20 there an executive team of assistants who worked to support Mr.
21 Trump's work at the Trump Organization?

22 A. Yes, there was.

23 Q. When you were senior vice-president, were you the most
24 senior person in that group of executive assistants who
25 supported his work?

1 A. Yes, I was.

2 Q. Are you testifying here today pursuant to a subpoena?

3 A. Correct, yes, I am.

4 Q. Do you have attorneys here with you today?

5 A. Yes, I do.

6 Q. Their names are? Who are they?

7 A. Pat Paoletti and Brittany -- I am sorry, her last name
8 escapes me.

9 I am sorry, Brittany.

10 Q. You have two attorneys here?

11 A. Yes, I do.

12 Q. Who is paying for the attorneys?

13 A. The Trump Organization.

14 Q. And who do you understand to be currently the owner of
15 the Trump Organization?

16 A. Mr. Donald Trump.

17 Q. Now, as Mr. Trump's executive assistant at the Trump
18 Organization, was one of your duties and responsibilities
19 entering Mr. Trump's calendar appointments into the Trump
20 Organization's computer system?

21 A. That's correct.

22 Q. Did you input Mr. Trump's calendar appointments into
23 the computer program called Outlook?

24 A. Yes, I did.

25 Q. Were you the main person in charge of maintaining Mr.

1 Trump's calendar for the most part?

2 A. For the most part it was me.

3 Q. Now, as Mr. Trump's executive assistant at the Trump
4 Organization, was one of your duties and responsibilities also
5 entering and maintaining Mr. Trump's contacts in the Trump
6 Organization's computer system?

7 A. That is correct.

8 Q. Did you input Mr. Trump's contacts into a computer
9 program at the Trump Organization also called Outlook?

10 A. Yes, I did.

11 Q. Now, did Mr. Trump's contacts include information such
12 as phone numbers and addresses for people in his life that he
13 wanted to be able to contact?

14 A. That is correct.

15 Q. And did you enter Mr. Trump's contacts into that
16 computer system at the Trump Organization from about as early as
17 2004?

18 A. I believe that is correct.

19 Q. As Mr. Trump's executive assistant at the Trump
20 Organization, was one of your duties and responsibilities also
21 to send and receive emails related to Mr. Trump's work and his
22 business?

23 A. Yes, I did.

24 Q. And did you do that using a Trump Organization email
25 address?

1 A. Yes.

2 Q. Do you recall what your Trump Organization email
3 address was?

4 A. Yes, it was RGraff@Trump.org.com.

5 Q. Did you use that email address at the Trump
6 Organization to conduct business for Mr. Trump and the Trump
7 Organization?

8 A. Yes, I did.

9 Q. Did Mr. Trump use or communicate by email during the
10 years that you worked for him as an executive assistant?

11 A. Not that I can recall.

12 Q. Ms. Graff, I am going to hand you a thumb drive or ask
13 the officer to hand you a Trump drive.

14 Now, the officer is handing you a thumb drive
15 containing the following People's exhibits marked for
16 identification; People's Exhibits 68, 69, 69B, 70, 71, 73, 75
17 and 76 for identification.

18 As well as People's Exhibits 82 and 83 for
19 identification, and People's Exhibit 85 for identification.

20 Now, before testifying here today, did you have an
21 opportunity to review the exhibits that I just mentioned
22 contained on that thumb drive?

23 A. Yes, I did.

24 Q. How do you know that you reviewed those exhibits on the
25 thumb drive?

1 A. I dated and initialled it.

2 Q. Are do those exhibits, at least some of them, contain
3 redactions of some personal information?

4 A. Yes, they did.

5 Q. Did you also review and compare the same exhibits
6 without the redactions?

7 A. Yes.

8 Q. Were those two sets of exhibits the same except for the
9 redactions?

10 A. Yes.

11 Q. Do those exhibits that I just mentioned include emails
12 to and from you and an individual named Madeleine Westerhout in
13 the year 2017 using your Trump.org email address?

14 A. Yes.

15 Q. Does it also contain Mr. Trump's contacts -- some of
16 Mr. Trump's contacts from the Trump Organization Outlook
17 computer system for Karen McDougal and Stormy Daniels?

18 A. Yes.

19 Q. And do those exhibits also include some calendar
20 entries from the Trump Organization Outlook computer system from
21 January of 2017?

22 A. That is correct.

23 Q. And I am going to direct your attention now to the
24 emails, which are People's Exhibits 68, 69, 69B, 70, 71, 73, 75
25 and 76 for identification.

1 Do you recognize those emails as emails that you sent
2 or received from Madeleine Westerhout during the dates and times
3 reflected on those emails?

4 A. Are they supposed to show up on the screen?

5 Q. Not yet.

6 They're the ones that you reviewed?

7 A. Yes, correct.

8 Q. Who was Madeleine Westerhout?

9 A. She was Mr. Trump's assistant, executive assistant when
10 he went to the White House.

11 Q. That was her job at the time of these emails in 2017?

12 A. That is my understanding.

13 Q. And did you send to and receive from Ms. Westerhout
14 these emails as part of the regular course of your work at the
15 Trump Organization for Mr. Trump?

16 A. Yes, I did.

17 Q. And did you send and receive those using your Trump
18 Organization email address?

19 A. Correct.

20 Q. And was it part of the regular course of your work at
21 the Trump Organization for you to send and receive those
22 emails?

23 A. Yes, it was.

24 Q. And were you under a business duty to do so accurately?

25 A. I was.

1 Q. Now, during the year 2017, were you aware that the
2 Trump Organization maintained a server that hosted its emails?

3 A. Yes.

4 Q. Do those servers capture information associated with
5 emails, including the "to," the "from," "the date," and the
6 "time sent?"

7 A. Yes, they did.

8 Q. Was that information generally accurately contained in
9 the header of each of the emails?

10 A. Yes, they were.

11 Q. Did you expect that information to be accurately
12 recorded in the email system in the Trump Organization?

13 A. Yes.

14 Q. Were those emails and their headers captured and
15 maintained on the Trump Organization server in the ordinary
16 course of business of the Trump Organization?

17 A. Yes, correct.

18 Q. And do the emails that you reviewed contained in these
19 exhibits to be the standard Trump Organization email format,
20 including the headers "to," "from," "date," and "time sent?"

21 A. Yes.

22 Q. Now, with respect to the exhibits, People's Exhibits
23 82 and 83 for identification, which of those contacts did you
24 recognize those to be Mr. Trump's contact for Karen McDougal and
25 Stormy Daniels that were entered into and maintained in the

1 Trump Organization Outlook computer system?

2 A. Yes, I did.

3 Q. And, now, I just want to direct your attention to
4 the last exhibit, which is People's Exhibit 85 for
5 identification.

6 Did you recognize those to be calendar entries for Mr.
7 Trump for various dates between January 16th and January 19th
8 of 2017, that were entered into and maintained in the Trump
9 Organization Outlook computer system?

10 A. Yes, I did.

11 Q. And for each of these various types of records that we
12 just discussed that you reviewed, emails, contacts and calendar
13 entries, were each of those generated in the regular and
14 ordinary course of business of the Trump Organization?

15 A. Yes, that is correct. Yes.

16 Q. Was it part of the business of the Trump Organization
17 to make and keep each of those records?

18 A. Yes, it was.

19 Q. Were those entries in those records made at or close to
20 the time of the transactions or events to which they relate?

21 A. Yes, they were.

22 Q. Were the person or persons who made those records under
23 a business duty to do so accurately?

24 A. Yes.

25 MS. HOFFINGER: At this time, your Honor, I offer

1 into evidence People's Exhibits 68, 69, 69B, 70, 71, 73,
2 75, 76, 82 and 83 and 85.

3 THE COURT: Any objection?

4 MS. NECHELES: No objection.

5 THE COURT: Those exhibits are accepted into
6 evidence.

7 (Whereupon, Exhibits 68, 69, 69B, 70, 71, 73, 75,
8 76, 82, 83 and 85 were received into evidence.)

9 MS. HOFFINGER: Thank you, your Honor.
10 I can take the thumb drive back.

11 MS. HOFFINGER: Can we now put up, which is in
12 evidence, I would like to see People's Exhibit 82. That
13 will come up on your screen.

14 (Displayed.)

15 Q. So showing you People's Exhibit 82. Can you please
16 explain to the jury what this is?

17 A. It's an entry in contacts for Karen McDougal and it
18 lists her -- it's redacted, but it lists her business phone
19 number, business address, and email address, and then there is a
20 notation for an old address.

21 Q. So is there a total of two physical addresses listed?

22 A. Yes.

23 Q. And a cell phone number and an email address?

24 A. Correct.

25 Q. Did you create this contact for Karen McDougal in the

1 Trump Organization's computer system for Mr. Trump?

2 A. I believe I did.

3 MS. HOFFINGER: You can take that down now.

4 Can we please show for everyone People's Exhibit
5 83, also in evidence.

6 (Displayed.)

7 Q. Can you please tell the jury what that is on your
8 screen?

9 A. It's an entry in our contact system for Stormy, Stormy
10 Daniels. I believe it contains her mobile phone number.

11 Q. And did you -- you said you understand this to be a
12 contact for Stormy Daniels; is that right?

13 A. Correct.

14 Q. Did you create this contact for Stormy Daniels in the
15 Trump Organization's computer system for Mr. Trump?

16 A. I believe I did.

17 MS. HOFFINGER: You can take that down now.

18 Thank you.

19 Q. Now, did you on one occasion see Stormy Daniels
20 physically waiting in the reception area of the offices of Trump
21 Tower?

22 A. I have a vague recollection of seeing her in the
23 reception area on the 26th floor.

24 Q. And did you see her at that time, prior to Mr. Trump
25 running for president, beginning in 2015?

1 A. To the best of my recollection, yes.

2 Q. And when you saw her at Trump Tower, did you know at
3 that time that she was an adult film actress?

4 A. Yes, I did.

5 Q. Now, I am going to ask you to take a look at --

6 MS. HOFFINGER: Please put up for everyone
7 People's Exhibit 85 in evidence.

8 (Displayed.)

9 Q. Can you tell us what this is?

10 A. It's an entry in the electronic appointment calendar,
11 dated January 17, 2017, at 1 p.m.

12 Q. I apologize.

13 Is this Page 1?

14 Without blowing it up, let me ask you a general
15 question about this exhibit, there are a number of calendar
16 entries in this exhibit?

17 A. Correct.

18 Q. Are these documents contained in this exhibit calendar
19 entries for Mr. Trump from approximately the dates of January
20 16th to January 19th of 2017?

21 A. Correct.

22 MS. HOFFINGER: If we could please put up Page 6.

23 (Displayed.)

24 Q. Can you tell us what this document reflects?

25 A. It's a notation in the Trump Organization appointment

1 calendar, the executive folder, for a Teleprompter practice
2 session on the 25th floor of Trump Tower, on January 16, 2017,
3 at 10 a.m.

4 Q. And does this show that Mr. Trump was working at Trump
5 Tower on January 16, 2017?

6 A. I believe it reflects that.

7 MS. HOFFINGER: Can we just put up Page 10 of the
8 same exhibit, please.

9 Blow it up.

10 (Displayed.)

11 Q. Can you tell us what this reflects?

12 A. It reflects an appointment that was scheduled with
13 Ainsley Earhardt from Fox & Friends, taking place on the 25th
14 floor at Trump Tower, on January 17 2017, at 9 a.m.

15 Q. Do you believe you entered this calendar entry in the
16 Trump calendar?

17 A. Yes.

18 Q. Does this show that Donald Trump was working at Trump
19 Tower on January 17, 2017?

20 A. It should reflect that.

21 MS. HOFFINGER: Can we show Page 1.

22 (Displayed.)

23 Q. What does this document show?

24 A. It's another entry in the appointment calendar for a
25 Teleprompter practice session on the 25th floor in Trump Tower,

1 on January 17, 2017, at 1 p.m.

2 Q. This also shows Mr. Trump was working at Trump Tower on
3 January 17, 2017?

4 A. Correct.

5 MS. HOFFINGER: Can we show Page 5, please.

6 (Displayed.)

7 Q. What does this calendar entry show?

8 A. This reflects an appointment made for a Michael Allen
9 per Hope Hicks for a photo shoot for the Washington Post. That
10 was to take place on the 25th floor lobby area of Trump Tower.
11 And the date was January 17, 2017, at 12:30.

12 Q. Do you know who Hope Hicks is?

13 A. Yes, I do.

14 Q. Who was she?

15 A. She was the communications person for the campaign.

16 Q. Does this calendar entry also show that Mr. Trump was
17 working at Trump Tower on January 17, 2017?

18 A. Yes, it does.

19 MS. HOFFINGER: Can we show Page 2, please.

20 (Displayed.)

21 Q. What does this calendar entry show?

22 A. It refers to another Teleprompter practice session on
23 the 25th floor conference room, at Trump Tower, on January 18,
24 2017, at 1 p.m.

25 Q. Does this show that Mr. Trump was still working at

1 Trump Tower during the day on January 17, 2017?

2 A. Yes, it does.

3 Q. What does this calendar entry show?

4 A. This denotes the time that Mr. Trump was departing
5 Trump Tower in route to LaGuardia Airport on January 19, 2017,
6 at 12:30.

7 MS. HOFFINGER: Can we show Page 4, please.

8 (Displayed.)

9 Q. Okay.

10 A. That denotes the anticipated wheels up time from
11 LaGuardia to D.C. Airport in Washington. That is for
12 January 19, 2017, at 1 p.m.

13 Q. Was January 19, 2017, the day before Mr. Trump's
14 inauguration in Washington D.C. on January 20 of 2017?

15 A. I believe it was.

16 MS. HOFFINGER: Nothing further.

17 CROSS EXAMINATION

18 BY MS. NECHELES:

19 Q. Good afternoon.

20 How are you today?

21 A. Good afternoon.

22 Q. You were asked on direct examination about working for
23 President Trump, right?

24 A. Correct.

25 Q. You worked for President Trump for 34 years; is that

1 correct?

2 A. That is correct.

3 Q. What was it like working for President Trump?

4 A. I never had to do the same day twice in all that time.

5 It was a very stimulating, exciting, just a fascinating place to
6 be.

7 Q. And was he a good boss?

8 A. I think that he was fair. And, you know, he was fair
9 and --- what is the word I was looking for -- a respectful boss
10 to me in all that time.

11 Q. He promoted you a number of times?

12 A. He did.

13 Q. Gave you a lot of responsibility?

14 A. My responsibilities definitely evolved over the years
15 when I was there.

16

17

18

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20 (T. Magniccari relieved by
21 L. Eisenberg as Court Reporter

22

23

24

25

1 Q And he respected you; right?

2 MS. HOFFINGER: Objection.

3 A I'd like to think so.

4 THE COURT: Overruled.

5 Q Respected your intelligence?

6 A I don't think I would have been there 34 years if he
7 didn't.

8 Q What were your days like?

9 A Again, every single day was different. That was part
10 of why it was a very unusual place to be. There was no typical
11 day, but I usually get there early in the morning before he
12 came in. You know, kind of get his office ready for the day.
13 You know, look at the calendar, see what was happening that
14 day. You know, kind of anticipated what needed to be done.
15 Those kinds of things.

16 Q And he was working on a whole variety of things;
17 correct?

18 A Always.

19 Q He was in the real estate business; right?

20 A Right.

21 It evolved from when I started. It was primarily real
22 estate when I started, and through the years it evolved into
23 many businesses.

24 Q He wrote books?

25 A Right. Many books.

1 Obviously, he entered into the television realm when The
2 Apprentice started. Sports. You know. In many areas.

3 Q A lot of licensing deals?

4 A Licensing deals, right, once The Apprentice came
5 along. The Licensing Division became a big part of the company.

6 Q Lots of speaking engagements?

7 A Correct.

8 Q Political fundraisers?

9 A Correct.

10 Q And you helped with all those things; right?

11 A I did.

12 Q Your discussions with President Trump, were they
13 solely about business?

14 A Ninety-nine point nine percent of the time.

15 Q Did you discuss things other than business? Your
16 family?

17 A On occasion.

18 On occasion, he would ask me, "How is your family doing?"

19 Sometimes, if it was a long day in the office, I
20 appreciated it, he poked his head in and would say, "Go home to
21 your family." It was very thoughtful of him.

22 I didn't always go because I wouldn't get up and leave, but
23 I thought it was a nice extra touch that he would think to do
24 that.

25 Q Did President Trump invite you and your husband to his

1 inauguration?

2 A Yes, he did.

3 Q Did he arrange for you to sit up close?

4 A I was on the platform.

5 I don't think I was that close. I don't think I deserved to
6 be that close, frankly; but it was an honor to be on the
7 platform.

8 Q That was a special place to be sitting?

9 A I'd say it was a pretty unique, memorable experience.

10 Q Now, you were asked on direct examination right now
11 about Stormy Daniels; correct?

12 A Right.

13 Q Am I correct that part of your job duties was to work
14 with the producers of the TV show The Apprentice?

15 A That was one of the things that I did, yes.

16 Q And President Trump was actively involved in producing
17 The Apprentice; correct?

18 A I'd say he was fairly hands-on, yes.

19 Q It was a very popular television show; right?

20 A At the time, it was probably "the" most popular
21 television show.

22 Q Am I correct that it brought many people to Trump
23 Tower?

24 A There was a lot of interest, you know, globally,
25 nationally, internationally, about The Apprentice.

1 Q And it made President Trump into a big star; correct?

2 A I think it elevated him to a whole other platform,
3 from being primarily known as a businessman to being an
4 entertainer. Almost at that point, you know, rock star status.

5 Q And he was constantly on the cover of magazines in
6 that time period?

7 A I think that's fair to say, yes.

8 Q And The Apprentice was a very profitable show for
9 President Trump?

10 MS. HOFFINGER: Your Honor, I'm going to object
11 at this point.

12 THE COURT: Sustained.

13 Q During that time period, with respect to Stormy
14 Daniels, President Trump was very involved in and interested in
15 finding contestants for The Apprentice; correct?

16 A I think so.

17 More when it involved Celebrity Apprentice than he was in
18 the initial few years of it.

19 Q What was Celebrity Apprentice?

20 A When the show officially began, they put out a kind of
21 general casting call for people to be on the show. So it was
22 just regular people that wanted to apply and be on television.

23 And then I think they were looking for a new format as the
24 years went on, kind of bring new juice to the show, and they
25 decided now to make it The Celebrity Apprentice. So, instead of

1 other casts members, they would bring in well-known people,
2 really well-known people to join the cast.

3 Q Celebrity Apprentice began in 2007; is that correct?

4 A I believe so.

5 Q And during that time period, President Trump would
6 talk constantly about what celebrities would be good to cast on
7 that show; right?

8 A I think he took a good interest in it.

9 Q He would talk about that with you; right?

10 A With me and many of the other people in the office.

11 Q And you understood that he wanted celebrities who were
12 colorful or interesting people to be on that show; right?

13 A I think that's a smart casting choice, yes.

14 Q That's what he would talk about; right?

15 A He would when we were talking about casting, yes.

16 Q He wanted people who were controversial sometimes;
17 right?

18 A Some maybe more than others.

19 Q That was because President Trump believed about having
20 controversial people --

21 MS. HOFFINGER: I'm going to object at this time.

22 THE COURT: Sustained.

23 MS. HOFFINGER: Can we approach?

24 THE COURT: Yes.

25 (Whereupon, the following proceedings were held

1 at sidebar:)

2 MS. HOFFINGER: This is going way beyond the
3 scope of the direct. I let it go for a little while, but
4 this is the basis of my objection.

5 THE COURT: I agree.

6 MS. NECHELES: She asked about Stormy Daniels
7 coming up.

8 Stormy Daniels came up there because she was
9 being cast.

10 MS. HOFFINGER: So, ask him the question.

11 THE COURT: One second.

12 MS. NECHELES: To get to that, I have to explain
13 President Trump was very involved in that.

14 Our whole defense or a lot of our defense in
15 this case is he was involved with Stormy Daniels over
16 The Apprentice.

17 She knows directly about that.

18 They asked on direct about Stormy Daniels coming
19 up to the office and being in the cast. That's why they
20 called her.

21 THE COURT: They asked a couple of questions
22 about that.

23 You're going really far afield.

24 Why don't you ask --

25 MS. NECHELES: I have to talk about The

1 Apprentice so they understand.

2 THE COURT: Get to it.

3 MS. NECHELES: Can I have a little latitude?

4 THE COURT: I think you already had a little
5 latitude.

6 (Whereupon, the following proceedings were held
7 in open court:)

8 Q Am I correct, you would often hear President Trump
9 talking on the phone with people who were interested in being
10 on The Apprentice?

11 MS. HOFFINGER: Objection.

12 THE COURT: Sustained.

13 Q Well, his office was right next to yours; right?

14 A Well, I could not hear. There was a big wall behind
15 us, and I couldn't hear him on the phone unless it was very
16 loud.

17 Q Okay.

18 But, you heard discussions about, him discussing about
19 people being on The Apprentice; right?

20 A He would vocalize sometimes people that he was
21 interested in to members of the staff, you know, and I would
22 overhear it.

23 I don't recall him saying directly to me, but it was
24 discussed.

25 Q Am I correct that prior to Stormy Daniels coming up to

1 the office at Trump Tower, you recall hearing President Trump
2 discuss whether Stormy Daniels would be a good contestant?

3 A I vaguely recall hearing him say that she was one of
4 the people that may be an interesting contestant on the show.

5 Q Okay.

6 And the prosecutor just referred to her, I think, as an
7 "adult film actress"; correct?

8 A Uh, yes.

9 Q And you understood that to mean that she was,
10 colloquially speaking, a porn star; right?

11 A I'd say that's a good synonym for it.

12 Q And you knew she was a porn star because you had heard
13 discussions about her; right?

14 A Yes.

15 Q And you had heard President Trump say that he thought
16 she would be an interesting addition to The Apprentice;
17 correct?

18 A I can't recall a specific instance when I heard it.
19 It was part of the office chatter.

20 Q And when Stormy Daniels showed up to Trump Tower to
21 meet President Trump, you understood that she was there to
22 discuss being cast for The Apprentice; correct?

23 A I assumed that.

24 Q And I understand your assumption was based on the
25 discussions you had heard, the office chatter; right?

1 A Correct.

2 Q Now, some of the exhibits -- one of the exhibits that
3 you were shown is People's Exhibit -- People's Exhibit 73.

4 MS. NECHELES: Can we pull that up?

5 It's in evidence.

6 (Whereupon, an exhibit is shown on the screens.)

7 Q You saw this before; correct?

8 A FedEx label. Yes. Federal Express.

9 Q That was a FedEx label that you had requested?

10 A No. I -- oh. Yes. Yes.

11 I guess it was requested by Madeleine Westerhout.

12 Q That was because you were sending checks down to the
13 White House?

14 A No.

15 I don't know why she requested it.

16 Q Okay.

17 Were you involved at all in sending checks down to the
18 White House once President Trump --

19 A No, I was not.

20 Q Okay.

21 But, when you were President Trump's assistant, one of the
22 things that he would do was sign checks; right?

23 A Yes. Of course. Yes.

24 Q And am I correct that when he would sign checks, he
25 was often multitasking?

1 MS. HOFFINGER: Objection, your Honor.

2 THE COURT: Overruled. Overruled.

3 A It happened on occasion. It would depend what was
4 going on at the moment and how important the checks were that
5 needed to be signed.

6 Q Okay.

7 But, you would often see him on the phone when he was
8 signing checks?

9 A I believe it happened. It wasn't unusual.

10 Q And he would also sign checks when he was meeting with
11 other people; right?

12 MS. HOFFINGER: Objection.

13 THE COURT: Sustained.

14 Q One of the exhibits is People's Exhibit 70; am I
15 correct?

16 MS. NECHELES: If you could pull that up.

17 (Whereupon, an exhibit is shown on the screens.)

18 Q Page 1 is a memo.
19 You see that in front of you?

20 A Yes, I do.

21 MS. NECHELES: Can we look at Page 2 also?

22 (Whereupon, an exhibit is shown on the screens.)

23 Q It's a newspaper article; right?

24 A Correct.

25 Q Madeleine Westerhout -- who is Madeleine Westerhout?

1 A She was the -- Mr. Trump's, President Trump's
2 Executive Assistant in the White House.

3 Q And she sent you this and asked you to send this
4 newspaper article to Allen Weisselberg; right?

5 A Correct.

6 Q It was a common practice of President Trump to clip
7 articles like this; correct?

8 A I don't know when he was at the White House how common
9 it was. But, certainly, when he was at The Trump Organization,
10 it was very common.

11 Q He would send them to various people; right?

12 A Yes.

13 Q He would often write a little note on the article;
14 right?

15 A Often.

16 Q So, President Trump sending an article to Allen
17 Weisselberg was not at all unusual; right?

18 A No.

19 Q During the time you were working for him, you saw him
20 send thousands of articles to people; correct?

21 A Over the time period I was there, I would say that's
22 reasonable.

23 Q And you were asked on direct examination, also, about
24 whether The Trump Organization was paying your legal fees;
25 correct?

1 A I believe so.

2 Q And you met with the prosecutor a number of times
3 before testifying here today?

4 A Yes, I did.

5 Q And the only reason you're here, testifying today, is
6 because you worked at The Trump Organization; right?

7 A I believe so.

8 Q You have nothing personal to add to this; right?

9 A I can't believe I do, no.

10 Q You don't want to be here; do you?

11 A Correct.

12 Q And lawyers are expensive; aren't they?

13 A I haven't seen the bills, but I assume they are.

14 Q And you understand The Trump Organization is paying
15 for the lawyers for all of the employees; right?

16 A That is my understanding.

17 Q And that's because they're all only here because --

18 MS. HOFFINGER: Objection, your Honor.

19 THE COURT: Sustained. Sustained.

20 Q No one -- is the payment of your legal fees
21 conditioned at all on how you testify?

22 A No. That's not my understanding.

23 Q No one from The Trump Organization has told you how to
24 testify; right?

25 A Absolutely not.

1 Q You're just here testifying to the truth; right?

2 A That's correct.

3 Q And the only reason your legal fees are being paid is
4 because --

5 MS. HOFFINGER: Objection, your Honor.

6 THE COURT: Sustained.

7 MS. NECHELES: Thank you.

8 I have no further questions.

9 THE COURT: Anything else?

10 MS. HOFFINGER: Nothing, your Honor.

11 THE COURT: You may step down.

12 Please approach.

13 MR. BLANCHE: Your Honor, may we approach?

14 Oh.

15 (Whereupon, the witness is excused from the
16 stand.)

17 MR. TRUMP: (To the witness as she leaves the
18 well area) Are you okay?

19 (Whereupon, the witness exits the courtroom.)

20 THE COURT: Please approach.

21 (Whereupon, the following proceedings were held
22 at sidebar:)

23 THE COURT: Yes, Mr. Blanche?

24 MR. BLANCHE: My request is, after the next
25 witness, before cross, if we could have a brief break.

1 We didn't know this witness was testifying, and
2 our printer in the back broke. My understanding is they're
3 trying to fix it. If it's not fixed, I'll just need to
4 pull stuff up on my iPad.

5 THE COURT: This is actually -- this is the best
6 time to take a break, right now. We'll take about a
7 ten-minute break right now.

8 Who is your next witness?

9 MS. HOFFINGER: Mr. Farro.

10 THE COURT: Thank you.

11 (Whereupon, the following proceedings were held
12 in open court:)

13 THE COURT: Jurors, we're going to take our
14 recess.

15 You can step out.

16 (Whereupon, the jurors and the alternate jurors
17 are excused.)

18 THE COURT: Let's take 15 minutes.

19 MS. HOFFINGER: Thank you.

20 (Whereupon, a recess is taken.)

21 *****

22 THE CLERK: Continuing case on trial, People v.
23 Donald J. Trump.

24 All parties are present.

25 THE COURT: Call your next witness.

1 MS. MANGOLD: The People call Gary Farro.

2 MR. STEINGLASS: The jury is not here, though.

3 THE COURT: Actually, hold on.

4 Let's let the jury come.

5 Thank you.

6 COURT OFFICER: All rise.

7 Jury entering.

8 (Whereupon, the jurors and the alternate jurors
9 are present and properly seated.)

10 THE CLERK: Continuing case on trial, People v.
11 Donald J. Trump.

12 All parties and all jurors are present.

13 THE COURT: People, call your next witness.

14 MS. MANGOLD: The People call Gary Farro.

15 COURT OFFICER: Witness entering.

16 (Whereupon, the witness takes the witness stand.)

17 G A R Y F A R R O, having first been duly sworn and/or
18 affirmed by the court clerk, was examined and testified as
19 follows:

20 COURT OFFICER: State your full name, spelling
21 your last name.

22 THE WITNESS: Gary Farro. F-A-R-R-O.

23 COURT OFFICER: Your county of residence.

24 THE WITNESS: I live in Monmouth County, New
25 Jersey.

1 THE COURT: Good afternoon, Mr. Farro.

2 MS. MANGOLD: May I inquire?

3 THE COURT: You may inquire.

4 DIRECT EXAMINATION

5 BY MS. MANGOLD:

6 Q Good afternoon, Mr. Farro.

7 A Good afternoon.

8 Q I'm going to ask you to speak into the microphone and
9 slowly so the court reporter can take down what you're saying.

10 Where do you work?

11 A I work at Flagstar Bank.

12 Q What do you do there?

13 A I am a Client Adviser, also a Managing Group Director,
14 Managing Director, Executive Manager.

15 Q Are you here to testify voluntarily or complying with
16 a subpoena?

17 A Voluntarily.

18 Q Are you sure?

19 A Well, I did receive a subpoena after.

20 Q Are you represented by counsel?

21 A I am.

22 Q Are they here today?

23 A Yes, they are.

24 Q Can you tell everybody about your educational
25 background?

1 A Sure.

2 I attended Monmouth University, received a Bachelor's in
3 finance. And I've also attended Executive Education Programs at
4 The Wharton School.

5 Q And what did you do after you graduated?

6 A After I graduated, I worked at a wire house, which is
7 an investment firm, doing brokerage, and then went into banking
8 shortly thereafter.

9 Q Where did you work in banking?

10 A I started off working for a bank which was called
11 First Union Bank. They later became Wachovia Bank. Then, when
12 they were purchased by Wells Fargo Bank, I left and went to
13 First Republic. I spent 15 years at First Republic, until last
14 year's demise. And then, last year, went to Flagstar Bank.

15 Q One step at a time.

16 When did you join First Republic?

17 A In March of 2008.

18 Q Did you say you worked there for 15 years?

19 A That's right.

20 Q What titles did you hold at First Republic?

21 A I started as a Relationship Manager. Moved on to a
22 Senior Relationship Manager. Then I moved on to an Executive
23 Managing Director -- excuse me -- Senior Managing Director, and
24 then an Executive Managing Director.

25 Q What was your title in 2016?

1 A It was Senior Managing Director.

2 Q I think you said there came a time when you left First
3 Republic Bank?

4 A Yes.

5 Q Can you describe the circumstances around that for the
6 jury?

7 A Sure.

8 In March of last year, First Republic Bank was one of the
9 banks that went under, with Signature Bank, as well as Silicon
10 Valley Bank. And a decision needed to be made. They were
11 purchased by Chase Bank. And I decided to move on to another
12 location, which is now Flagstar.

13 Q Is that where you are today?

14 A Yes, it is.

15 Q Turning back to your work at First Republic Bank, as
16 part of your work at the bank, did you receive training on the
17 bank's policies and practices?

18 A Yes, I did.

19 Q Did you receive training on banking laws and
20 procedures that the bank was required to follow?

21 A Yes.

22 Q Did you receive any training on the statutory and
23 regulatory requirements that the bank is required to follow?

24 A Yes.

25 Q Are there laws and regulations that govern what a bank

1 must do when opening a new bank account for a client?

2 A Yes, there is.

3 Q Does the bank also have policies and practices around
4 opening a new bank account?

5 A Yes, we do.

6 Q Maybe it sounds like a silly question, but when folks
7 open a bank account and they put information on the bank forms,
8 does the bank actually look at that information?

9 A Yes, we do.

10 Q And why do they look at that information?

11 A Well, depending on what the information is, it will
12 help us determine if it's a bank account we want to open or not
13 open.

14 Q Is that information also reviewed to ensure compliance
15 with various laws and regulations?

16 A Yes, it is.

17 Q And does the bank take any steps to actually verify
18 the information that their clients put on bank account
19 paperwork?

20 A I was not sure what was done in the back office.

21 I'm front.

22 Certainly, if somebody stands out immediately -- for
23 instance, sending currency to another sanctioned country as a
24 regular practice, it would be shot down.

25 But, we have a BSA Compliance Team that does further

1 information on that.

2 Q For people who may not be more familiar with the
3 alphabet soup of bank compliance, can you describe what BSA
4 means?

5 A Sure.

6 Bank Secrecy Act. It's the method of protecting the bank
7 and making sure we're not doing transactions or opening any
8 types of account that could present not only reputational risk
9 to the institution, but also be against the law.

10 Q So, it's a law that sets forth a number of
11 requirements that the bank has to follow?

12 A That's correct.

13 Q How about AML?

14 A AML is anti-money-laundering.

15 It's another form of oversight to ensure that clients
16 aren't using an account to filter money through.

17 Q I think you referenced something that you referred to
18 as "the back office".

19 What is the back office?

20 A So, a bank has three lines of defense.

21 The first would be your client-facing employees, which
22 would be, you know, people like myself, as well as individuals
23 who work in the offices on the ground level, where you would do
24 your typical transaction.

25 The next would be your BSA/AML Compliance Team.

1 Above that would be Audit.

2 Q So, there were multiple different departments within
3 the bank, in other words, checking to make sure that every
4 account and transaction complied with the law?

5 A That's correct.

6 Q And turning now, specifically, to banking
7 transactions -- take a minute if you need water.

8 A I'm good.

9 Q Were there certain types of transactions that required
10 more review by the bank?

11 A Yes.

12 Q Can you give us some examples?

13 A A wire is something that is -- requires multiple
14 layers of review.

15 Account opening requires multiple layers of review.

16 Q And how about types of transactions with particular
17 types of people?

18 A Yes.

19 Q Was one of the types of transactions that requires
20 more review a transaction with a political candidate?

21 A Yes.

22 Q And did First Republic Bank also require more review
23 for transactions involving the media industry?

24 A Um, not necessarily the media industry.

25 But, if it was something that could pose reputational risk,

1 then that would be determined -- that's above my pay grade.

2 That would be determined by our second level of support.

3 Q Were there any transactions that the bank did not
4 process at all?

5 A Yes.

6 Q Can you give us some examples?

7 A Any transaction that would be going to a sanctioned
8 country. Any transaction that would be going to someone who
9 would be considered on a person of interest list, potential
10 terrorist, something along those lines. We would not process
11 that transaction.

12 Then there's also lines of business that we just decide as
13 an institution that we will not do business with.

14 Q Can you give some examples of those?

15 A We didn't do gambling. We wouldn't do anything in the
16 adult entertainment. We wouldn't do anything that involved
17 check cashing.

18 Those are a couple of examples.

19 Q Can you describe what you mean when you say "adult
20 entertainment"?

21 A Porno. Um, I guess you would consider them strip
22 clubs, or anything along those lines.

23 Q So, the bank wouldn't do business in the adult film
24 industry, in other words?

25 A No.

1 Q What would happen if there were -- there was a
2 transaction with paperwork that raised certain red flags? Could
3 that delay a transaction?

4 A It would delay an account opening or delay a wire,
5 yes.

6 Q Could the bank refuse to process a transaction
7 altogether?

8 A Yes.

9 We have the right to not do any transaction we don't feel
10 comfortable with.

11 Q And could a bank shut down the client's entire account
12 if they found something that -- in the paperwork that ran afoul
13 of one of the regulations?

14 A To receive a bank account, yes.

15 An existing account that's open already on the lending
16 side, no.

17 Q Can you explain what you mean by that?

18 A Well, if someone has a mortgage already, we can't just
19 close out a mortgage once it's agreed to.

20 Q Have you heard the term "shell corporation"?

21 A I have.

22 Q What is a shell corporation?

23 A My understanding of a shell corporation is an entity
24 that's opened up to do -- to receive monies and send out wires.
25 It doesn't have an actual business behind it.

1 Q So, it's a corporation without any business
2 operations?

3 A Uh-huh.

4 Q All right.

5 Now, focusing on the 2016 time period, I think you said you
6 were a Senior Managing Director at that time?

7 A Yes.

8 Q What were some of your responsibilities as a Senior
9 Managing Director?

10 A As a Senior Managing Director, I led a team of people
11 who did the same job as me, Relationship Managers, as well as
12 manage my own book of business, of clients. I would be working
13 with clients on their day-to-day money management needs, which
14 would include checking, savings, money market, CDs, as well as
15 their lending needs, mortgages, lines of credit, etcetera. As
16 well as doing their investment management.

17 Q Was that part of First Republic Bank's private bank?

18 A Well, First Republic Bank is a unique entity in that
19 it only is a private bank. There is no real retail.

20 Although there is branches on the ground level, it was
21 focused more on working with affluent and high-net-worth
22 individuals.

23 Q Can you just explain at a very high level the
24 difference between private banking and retail banking?

25 A A retail banking relationship would be someone who,

1 essentially, walks into the branch, does most of the
2 transactions themselves, and does not really look for too much
3 advice except outside a mortgage.

4 A private banking relationship is when you're assigned to
5 someone who is a Relationship Manager who would, essentially,
6 help you and be your point of contact for all things that you
7 need.

8 Q Were most of your clients, were all of your clients
9 high-net-worth individuals?

10 A No.

11 Actually, the good thing about working for First Republic
12 is we never set a barrier to entry.

13 Most private banks have a minimum barrier to entry, which
14 would be you have to have a certain amount in liquid assets at
15 the firm.

16 We never set any barrier of entry. So I had a very wide
17 range of clients of various different levels of wealth.

18 Q About how many clients would you say you worked with
19 while you were at First Republic Bank?

20 A Before I left, I had about eighteen hundred.

21 Q You got to experience the full range of clients in
22 terms of wealth and industries?

23 A That's correct.

24 Q In general, in your experience, would you say that
25 high-net-worth clients have more interaction with the banking

1 industry than retail clients?

2 A Well, private banking clients tend to do more with the
3 individual. They see us as a center of influence and utilize us
4 for more of our services, whether it be on the banking --
5 day-to-day banking side, lenders side, investment managing
6 side. So, by way of having that singular point of contact, it
7 makes their lives a little easier for typically-very-busy
8 people, so they want that one point of contact.

9 Q Despite being busy people, would you say that wealthy
10 people are generally more familiar with the banking system?

11 A Depends on -- if I could speak on that for many of my
12 clients, I would say yes.

13 I would not say "all".

14 Q I think you said you had clients in a number of
15 different industries. Would that include the real estate
16 industry?

17 A Yes.

18 Q About how many clients did you have that worked in the
19 real estate industry?

20 A It's hard to say, but those who are fully focused in
21 the real estate industry would probably be in the 20 or 30
22 range.

23 Q In general, were real estate clients more familiar
24 with the banking system than an average client?

25 A I would say so, because they did a fair amount of

1 borrowing on the buildings or whatever they were purchasing, so
2 they learned the banking system a little bit more.

3 Q Did you have any clients that were lawyers?

4 A Yes.

5 Q And based on your work at the bank, are you able to
6 tell the difference between the different type of bank accounts
7 maintained by lawyers?

8 A Yes.

9 Q Now, I think you said earlier that you oversaw client
10 relationships.

11 Can you describe a little bit more what that means?

12 Are you filling out paperwork day to day for the clients?

13 A No.

14 I have a team that works behind me.

15 I would make suggestions on what types of accounts to open
16 or in many cases, you know, it would be lending that I would
17 get more involved with, lending and wealth management.

18 But, I had a team of people that worked under me that would
19 handle the day-to-day paperwork, and I handled the
20 transactions.

21 Q So, you handled the relationships?

22 A Yes.

23 Q So, clients would work with you, and you reached out
24 to other folks in the bank in order to get their needs met?

25 A Yes.

1 Q Do you know someone named Michael Cohen?

2 A Yes, I do.

3 Q How do you know him?

4 A Michael Cohen was assigned to me after a colleague
5 left as a client in 2015.

6 Q Do you know how long Michael Cohen had been a client
7 of the bank when he was assigned to you in 2015?

8 A I do not know exactly.

9 Q Had he been a client of the bank for some time by the
10 time you took over the client relationship?

11 A Definitely a couple of years or so. I'm not sure
12 exactly how much time, though.

13 Q Do you know why you were selected to take over the
14 Michael Cohen relationship?

15 A I can only tell you what I was told, um, that I was
16 selected because of my knowledge and my ability to handle, um,
17 individuals that may be a little challenging.

18 Q How long did you work with Michael Cohen?

19 A Um, from 2015 until I believe it was 2018 or '19. I'm
20 not exactly sure of the end date.

21 Q And in those several years where you worked with him,
22 did you have frequent interactions with him?

23 A Not frequent. No.

24 Michael did a lot of his own business. And, frankly, I
25 didn't find him that difficult. He did a lot of his own

1 business by walking across the street. We had an office that
2 opened right across the street from his office. So, he would do
3 his day-to-day stuff there.

4 But, anything he did need, he called me, and it was always
5 something that was urgent.

6 Q Where was Mr. Cohen's office?

7 A It was in the Trump Tower.

8 Q Do you know where that is?

9 A I think it's Fifth Avenue and -- in Midtown.

10 Q You said that there's a First Republic Bank branch
11 close to that office?

12 A Yeah. 56th and Madison.

13 Q And Mr. Cohen would frequently go to that branch in
14 person?

15 A Yes.

16 Q What was Mr. Cohen's profession?

17 A He was a lawyer or is a lawyer. I'm not sure.

18 Q And what company did he work for?

19 A The Trump Organization.

20 Q Do you know if he worked for anybody in particular at
21 The Trump Organization?

22 A Um, only what he had told me, that he worked for, um,
23 former-President Donald Trump.

24 Q Did he talk about that frequently?

25 A Yes.

1 He was very excited to be working for him.

2 Q Based on your several years of working with Mr. Cohen,
3 can you identify his home address versus his business address?

4 A I could.

5 Q And are you able to identify his signature?

6 A I believe I can.

7 Q Did Mr. Cohen have more than one account at First
8 Republic Bank?

9 A Yes.

10 Q Did he already have several accounts at the bank when
11 you took over the client relationship?

12 A He did.

13 Q And did his accounts at the bank relate to his work at
14 The Trump Organization, or were they his personal accounts and
15 his personal business?

16 A They were his personal accounts and personal entities.
17 I didn't open any accounts for The Trump Organization.

18 Q Do you know how many accounts Mr. Cohen had opened by
19 the time you took over the client relationship in 2015?

20 A Not exactly, but I believe it was anywhere between
21 four and five. If you're including lending relationships as
22 well as an account.

23 Q Did he open additional accounts while you were
24 managing the client relationship?

25 A He did.

1 Q Based on your experience, was Mr. Cohen familiar with
2 the requirements to open a bank account?

3 A Yes.

4 Q And was he familiar with the account paperwork he had
5 to fill out in order to do that?

6 A Yes.

7 Q Did Mr. Cohen understand that there was a review
8 process that had to take place by the bank before he opened an
9 account?

10 A Um, I assume he would be, yes, because he's done it
11 before.

12 Q All right.

13 Switching gears a little bit.

14 During your time at First Republic Bank, did you become
15 familiar with their recordkeeping practices?

16 A With the recordkeeping of First Republic?

17 Q Yes.

18 A Yes, I did.

19 Q Do you understand that you are testifying here today,
20 in addition to other things, as a custodian of records for
21 First Republic Bank?

22 A Yes.

23 Q All right.

24 Bear with me because I'm going to have a lot of questions
25 on this.

1 Before testifying today, did you have an opportunity to
2 review files marked for identification as People's Exhibits 361
3 through 364 and 366 through 379?

4 A Yes.

5 Q Do those files contain First Republic Bank emails,
6 banking documents, and client account records?

7 A Yes.

8 Q Were all of those records kept and maintained by First
9 Republic Bank for the purpose of evidencing or reflecting the
10 activity of the bank?

11 A Yes.

12 Q Did you look at two sets of documents with those file
13 names, one with redactions and one without redactions?

14 A Yes.

15 Q And aside from the redactions, are those two versions
16 identical?

17 A Yes.

18 Q And was the information that was redacted personal
19 identifying information?

20 A Can you explain the question, please?

21 Q Sure.

22 Was the people's personal phone numbers, email addresses
23 and the like --

24 A Yes. Because it's documentation. Yes.

25 Q -- redacted.

1 A Yes.

2 Q All right.

3 Turning to the emails in the files marked for
4 identification as People's Exhibits 361 through 364 and 366
5 through 379, did First Republic Bank use emails in the regular
6 course of its business?

7 A Yes.

8 Q Did that include the use of emails related to bank
9 clients and bank transactions?

10 A Yes.

11 Q Was it the regular course of business for First
12 Republic Bank to use emails for those purposes?

13 A Yes.

14 Q Were the emails sent and received at or around the
15 time of the bank transactions and client communications?

16 A Yes.

17 Q Were First Republic Bank employees under a business
18 duty to convey information accurately in emails?

19 A Always.

20 Q Did First Republic Bank have email servers?

21 A Yes.

22 Q Do you know where those email servers were located?

23 A San Francisco, at our home base.

24 Q Were emails that were sent and received by First
25 Republic Bank employees stored on those email servers as part

1 of the ordinary course of business?

2 A Yes.

3 Q Did the servers record the content of the messages,
4 the senders, recipients, dates and times for each email sent or
5 received using that server?

6 A For everything I reviewed, yes.

7 (Whereupon, Senior Court Reporter Lisa Kramsky
8 relieves Senior Court Reporter Laurie Eisenberg, and the
9 transcript continues on the following page.)

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1 *****

2 (The following proceedings are continued from the
3 previous page.)

4 *****

5 CONTINUED DIRECT EXAMINATION

6 BY MS. MANGOLD:

7 Q And, to your knowledge, did the email server record and
8 store that information accurately?

9 A Yes.

10 Q Did First Republic Bank rely on that information being
11 accurately recorded and maintained?

12 A Absolutely.

13 Q So for the emails contained in the People's Exhibits
14 marked for identification, were all of the emails and any
15 related attachments sent or received through the First Republic
16 Bank email server?

17 A I'm sorry, can you repeat the question.

18 Q Sure. Specifically looking at the email files that
19 you reviewed, were those emails and any related attachments sent
20 or received through the First Republic Bank email servers in
21 San Francisco?

22 A Yes.

23 Q Do all of the emails that you looked at reflect bank
24 transactions or client communications?

25 A Yes, they do.

1 Q Are the types of emails included the same types of
2 emails that were routinely generated as part of the first order
3 of business at First Republic Bank?

4 A Yes.

5 Q Do any of the emails contained reflect personal or
6 non-business related activity?

7 A No.

8 Q Now, and I think you said you also saw First Republic
9 Bank banking records in those files; is that right?

10 A That's right.

11 Q Did that include account forms, bank account statements
12 and wire transfer forms?

13 A Yes, in addition to KYC forms as well.

14 Q And can you just explain what you mean by KYC forms?

15 A KYC is "Know Your Customer." It's a way in which --
16 that we can help identify that the customer is, in fact, who
17 they say they are.

18 Q And is KYC something that's in place as a result of a
19 law that banks are required to follow?

20 A Yes.

21 Q Were the types of bank account records that you looked
22 at, the type of records that are routinely generated and relied
23 upon by the bank?

24 A Yes.

25 Q Did First Republic create and maintain the bank records

1 in the regular course of its business?

2 A Yes.

3 Q Was it the regular course of the business of First
4 Republic to create and maintain these bank account records?

5 A Yes.

6 Q Were the entries in the records made at or around the
7 time of the recorded events or transactions?

8 A Yes.

9 Q Were the people who made the entries in the records
10 under a business duty to do so accurately?

11 A Yes.

12 Q And the last category, would you say that there were
13 also client account records within the files marked for
14 identification?

15 A There are.

16 Q Were the types of client account records included, the
17 types of business records that were routinely provided by
18 clients to the bank as part of the bank's business?

19 A Yes.

20 Q Were they the types of business records that the bank
21 routinely collected, reviewed and maintained in the regular
22 course of its business?

23 A Yes, they are.

24 Q Was it the regular course of business to collect,
25 review and maintain these types of records?

1 A Yes.

2 Q Do the client account records in these files include
3 the types of records that the bank routinely relied upon in
4 making determinations about its clients?

5 A Yes.

6 Q And did these documents conform with the statutory and
7 regulatory requirements that you were familiar with?

8 A Yes.

9 MS. MANGOLD: I would now offer People's
10 Exhibit 361 through 364, and 366 through 379 into evidence.

11 THE COURT: Any objections?

12 MR. BLANCHE: Just one moment.

13 (Counsel confer.)

14 *****

15 MR. BLANCHE: Thank you, your Honor. No objection.

16 THE COURT: People's 361 through 364 and 366
17 through 379 are accepted into evidence.

18 (So marked in evidence.)

19 *****

20 MS. MANGOLD: Can we pull up People's Exhibit 361,
21 which is now into evidence.

22 (Displayed.)

23 *****

24 Q Mr. Farro, can you see that on your screen?

25 A I can.

1 Q Is this a First Republic Bank email?

2 A Yes, it is.

3 MS. MANGOLD: And can we blow up the top portion
4 with the words, "there you can."

5 Q Is that easier to read?

6 A It is.

7 Q All right. What date was this email sent?

8 A This email was sent on 10/11/2016.

9 Q And who was it sent to?

10 A It's sent to me.

11 Q And who was it sent from?

12 A It was sent from Liz Rappaport, who is my assistant.

13 Q And did she go by any other names?

14 A Lizzie.

15 Q What's the subject of the email?

16 A "Missed call from Michael Cohen."

17 Q And can you read the text of the email without the
18 phone number information, please.

19 A Sure. "Michael Cohen just called for you. I let him
20 know that you were out of the office and were unavailable."

21 "He asked that you please return his call as soon as you are
22 available at 3212 or on his cell 0114."

23 MS. MANGOLD: And can we pull up People's Exhibit
24 362 in evidence.

25 (Displayed.)

1

2

MS. MANGOLD: And pull up the top portion of that

3

email.

4

Q Is this a First Republic Bank email?

5

A Yes, it is.

6

Q What date was this sent?

7

A On 10/13/2016.

8

Q And who was it sent from?

9

A It was sent from Elizabeth Rappaport to me.

10

Q And what is the subject of this email?

11

A "Missed call, Michael Cohen, Regarding: Important."

12

Q And can you read the content of the email to the jury?

13

A "Please return Michael Cohen's call when you are

14

available today regarding an important matter."

15

Q Do you recall what these two emails related to?

16

A Yes, I do.

17

Q And did you ultimately connect with Mr. Cohen in

18

response to these messages?

19

A I spoke to him briefly after that, yes.

20

Q Can you describe that call for the jury?

21

A Sure. I gave him a call, and he had mentioned that he

22

wanted to open a new LLC account, so I referred him to my team.

23

Q When you say "LLC account," what does that mean?

24

A That's a Limited Liability Company.

25

Q And does that mean that Michael Cohen had a Limited

1 Liability Company for which he wanted to open an account?

2 A That's correct.

3 Q Did he say anything else about the account or the LLC
4 at that time?

5 A Oh, he said it was an account for real estate.

6 MS. MANGOLD: Can we take those down and pull up
7 People's Exhibit 363 now in evidence.

8 (Displayed.)

9 *****

10 Q Is this another First Republic Bank email?

11 A Yes, it is.

12 Q All right.

13 MS. MANGOLD: Now, I would like to pull up the
14 date and time on the bottom email in the chain on the first
15 page.

16 (Displayed.)

17 *****

18 Q What date and time was this sent?

19 A Thursday, October 13, 2016, at 9:23 Eastern Standard
20 Time.

21 MS. MANGOLD: Can we also pull up the date and time
22 of the top email.

23 (Displayed.)

24 *****

25 Q Now, traditionally the top email is a later email in

1 the chain; right?

2 A It is the later email in the chain, yes.

3 Q And what is the date and time stamp on the top email in
4 this chain?

5 A 10/13/2016, 7:48 a.m. What they failed to notice there
6 is that's Pacific time.

7 Q Yeah, can you explain how you sent an email before the
8 email that you received?

9 A Well, I am not in the business of being in Back to the
10 Future, so this was definitely the way that it's pulled through
11 our server in San Francisco so that would be the time in
12 Pacific.

13 Q So the bottom email on the chain is in Eastern Standard
14 Time and the top email on the chain is in Pacific time?

15 A That's correct.

16 Q And is it going to be the case for the rest of the
17 files in -- and emails in the exhibits that we just talked
18 about, that the top email chain only is going to be in Pacific
19 time?

20 A That's correct. The most recent email or the last
21 email would be the Pacific time; everything below it would be in
22 Eastern Time.

23 Q All right. Turning now to the top email in the chain.
24 You said this is an email from you?

25 (Displayed.)

1 A This is an email from me to one of my team members,
2 Olivia Cassin.

3 And this was after the phone call with Michael Cohen, and he
4 mentioned that he needs an account opened for Michael Cohen
5 immediately and he wants no address on checks.

6 Q Was it unusual for Mr. Cohen to request something get
7 done immediately?

8 A It was not.

9 Q And it said in the email he wants no address on the
10 checks.

11 Is that unusual?

12 A Not really for an LLC account, because most people who
13 are employed by someone else do not use that business address
14 for an LLC account, and they don't want to share their home
15 addresses for reasons of being anonymous.

16 Q Turning now to the bottom email.

17 Is this an email from Mr. Cohen to you?

18 (Displayed.)

19 *****

20 A Yes, it is.

21 Q And are there attachments to the email?

22 A I can't tell by looking at this.

23 Q If you look at the top most --

24 A Oh, yes, yes, there is, based upon the -- there is an
25 attachment, a PDF attached to it.

1 MS. MANGOLD: Can we flip to the second and third
2 page of the PDF.

3 (Displayed.)

4 *****

5 Q Can you see those?

6 A Yes.

7 Q What type of document is this?

8 A This is a document that is provided by the IRS that
9 gives an Employee Identification Number for a new account, a new
10 business that's being opened.

11 MS. MANGOLD: Can we zoom in on the top left where
12 it shows the address line.

13 (Displayed.)

14 *****

15 Q What does it say there?

16 A "Resolution Consultants LLC. Michael Cohen, sole
17 member."

18 Q Do you have an understanding of what Resolution
19 Consultants LLC was?

20 A It was -- my understanding was it was a real estate
21 consulting company.

22 Q And was that the LLC that Mr. Cohen referred to in the
23 phone call to you earlier in that day?

24 A That's correct.

25 Q And was he calling to set up an account for this

1 entity, Resolution Consultants LLC?

2 A Yes.

3 Q Turning now two pages forward.

4 (Displayed.)

5 *****

6 Q Can you see that document?

7 A I can.

8 MS. MANGOLD: Can we blow up the top portion of
9 the document.

10 (Displayed.)

11 *****

12 Q Can you describe what this is?

13 A Yes. This is issued where the LLC was established in
14 Delaware.

15 So this would be the date of the establishment, which was on
16 the 13th of September, 2016.

17 Q I'm sorry, what did you say the date was?

18 A It was September 13th, 2016.

19 Q Is that 13th or 30th?

20 A Oh, I'm sorry. 30th.

21 Q Do you know what this form is called?

22 A If you go back to the thing, it will go to full size,
23 you know, I don't know exactly what it's called.

24 I know it's -- this is the formal document that establishes
25 the -- it in Delaware.

1 Q Would you refer to this as an Entity Formation
2 Document?

3 A Yeah, that's what it is, it's an Entity Formation DOC.

4 Q Okay. Let's go one page forward. And how about this,
5 what is this particular document?

6 (Displayed.)

7 *****

8 A So this is the Certificate of Formation, so this goes
9 with the prior document.

10 And this is the establishment of Resolution Consultants
11 LLC.

12 Q And who signed the Resolution Consultants Certificate
13 of Formation document?

14 A Michael Cohen.

15 Q All right.

16 MS. MANGOLD: Let's take that down.

17 And can we pull up People's Exhibit 364 in evidence?

18 (Displayed.)

19 *****

20 Q Is this another First Republic Bank email?

21 A Yes, it is.

22 Q And what's the date of this email?

23 A The date on this email is 10/13/2016.

24 Q And what's the time stamp here?

25 A 8:43 a.m.

1 Q And does that mean in New York it was 11:43 a.m.?

2 A That's correct.

3 Q Who is the email to and from?

4 A It is to Michael Cohen and from Olivia Cassin.

5 Q And are you also copied on the email?

6 A I am cc'd on it, yes.

7 Q And can you read the substance of the email to the
8 jury?

9 A The entirety of it?

10 Q Just the first paragraph, I'm sorry.

11 A "Please find the attached paperwork to establish the
12 account for Resolution Consultants LLC."

13 "Please complete all of the highlighted areas and sign where
14 indicated."

15 "Please review the information in the business information
16 to ensure that it is accurate."

17 Q Can you explain what was going on in this email?

18 A Yes. The -- obviously, Olivia and Michael had spoken
19 and she was sending him the paperwork to establish the LLC
20 account for Resolution Consultants.

21 Q And this is in response to his request in the phone
22 call to you earlier that same day?

23 A That's correct.

24 Q All right. Turning now to People's Exhibit 366 in
25 evidence.

1 (Displayed.)

2 *****

3 Q And pulling up the top portion of this email. Who is
4 this email to and from?

5 A To Olivia Cassin from Michael Cohen.

6 Q What's the date of the email?

7 A 10/13/2016, at 6:19 p.m.

8 Q And that's Pacific?

9 A That's Pacific.

10 Q What's the subject of the email?

11 A Subject is "Regarding: Account Paperwork."

12 Q Okay. And are there attachments to this?

13 A There are.

14 Q All right.

15 MS. MANGOLD: Can we flip to the first page of the
16 attachment.

17 (Displayed.)

18 *****

19 Q And look at the top left portion of the page. Can you
20 tell what type of document this is?

21 A This is what we call the "master signature card."

22 This will determine who is able to sign on behalf of the
23 account.

24 Q Is this a standard record that First Republic Bank
25 required its clients to fill out to open an account?

1 A Any business account would require this document.

2 MS. MANGOLD: And can we look now at the top third
3 of the page, at the box that says "account name and
4 address."

5 (Displayed.)

6 *****

7 Q What entity is this an account opening document for?

8 A Resolution Consultants LLC.

9 Q And directing you now to the bottom row of that same
10 box where it says, "Type of Business."

11 What does it say in type of business?

12 A "Management consulting including HR and marketing."

13 Q For people who may not know, what is management
14 consulting?

15 A Management consulting is pretty encompassing.

16 It would be work that you are consulting on for a number of
17 different types of businesses.

18 In this case, through my understanding through conversations
19 with Michael, it was for real estate.

20 Q And it says "including HR."

21 Do you know -- do you have an understanding of what "HR"
22 means there?

23 A Human resources.

24 I could expand on that, if you would like.

25 It's each account that you open has a NAICS code.

1 Q I'm sorry, are you referring to the numbers to the left
2 of the word "management consulting?"

3 A Yeah, the 541611.

4 Q And you said that it's called a NAICS code?

5 A It's called a NAICS, N-A-I-C-S, code.

6 Q And what is a NAICS code?

7 A It identifies the type of business, so you have to
8 choose one of those codes.

9 So that's why it says: "Including HR and marketing."

10 It's not as though we thought that he would be in HR and
11 marketing, it's just a general category.

12 Q When you say you have to choose one of those codes, who
13 is the person that filled in this information?

14 A Well, it wouldn't be me.

15 It would be -- we would ask the client what their line of
16 business is, and then we would identify what would be the most
17 appropriate code.

18 Q So is the information in these forms provided by
19 Mr. Cohen?

20 A Yes.

21 Q Turning now to the middle portion of that same page.

22 (Displayed.)

23 *****

24 Q To the sentence labeled "Number 4."

25 Does it provide you who the authorized signers on the

1 account will be?

2 A Yes, the only one is Michael Cohen.

3 Q Okay. Turning now to the next page. Is there a
4 signature on this page?

5 A Yes.

6 Q Do you recognize that signature?

7 A Yes, Michael Cohen's.

8 Q And what's the date?

9 A 10/13/2016.

10 Q Going one page forward.

11 What type of document is this?

12 A So this is the Addendum. It's an Agreement to open an
13 accounts and services.

14 And this is the information that we would gather on each of
15 the signers.

16 In this case there is only one signer, so this is completed
17 by Michael.

18 Q This is another required account opening document?

19 A Correct.

20 Q And what does it list as the account name?

21 A Resolution Consultants LLC.

22 Q And is this document also signed?

23 A Yes, it is.

24 Q And whose signature is that?

25 A Michael Cohen's.

1 Q And what date was it signed?

2 A 10/13/2016.

3 Q All right. Turning now to the following page, is this
4 another Bank opening document?

5 A It is.

6 Q What is the purpose of this Bank opening document?

7 A This gives us an overview on -- of what type of
8 business transaction activity will look like and what type of
9 business it is.

10 Q And taking a look at the top third of the page. In the
11 top box that says "Business Name."

12 What's listed there?

13 A Resolution Consultants LLC.

14 Q And in the box below that, can you describe -- I'm
15 sorry, we will take that down.

16 (Displayed.)

17 *****

18 Q Where it says: "Describe the type of business being
19 conducted."

20 What description is provided for Resolution Consultants LLC?

21 A "Resolution Consultants LLC is a consulting firm.
22 Michael Cohen provides individuals and businesses, including
23 financial services, law firms, technology firms, et cetera,
24 advice on strategy, PR, marketing, best practices and
25 procedures, et cetera."

1 "All of his clients are in the USA."

2 Q And is this consistent with the description that
3 Mr. Cohen gave you on the phone call earlier that day about the
4 type of account he wanted to open?

5 A It's consistent with it, yes.

6 Q All right.

7 MS. MANGOLD: Turning two pages ahead. I'm
8 sorry, three pages ahead.

9 (Displayed.)

10 *****

11 Q Do you see a series of questions and check boxes?

12 A Uh-huh.

13 Q Looking now at the question in -- labeled number 12.
14 What does that say?

15 A "Is the entity associated with political
16 fundraising/political action committee PAC."

17 Q And what answer is checked?

18 A No.

19 Q And do you know why the form includes a question about
20 political fundraising?

21 A Because it would be something the bank would want to
22 know.

23 Q And if somebody checked "yes," is that something that
24 would require additional review by the bank?

25 A Yes, it would.

1 Q All right.

2 MS. MANGOLD: I think we can take this down.

3 Q Now, do you recall what happened with the bank account
4 that Mr. Cohen tried to open for Resolution Consultants LLC?

5 A Yes. It was -- we did all of our work to establish it,
6 but it was never funded.

7 Q And what does that mean that "it was never funded?"

8 A A deposit was never made in the account so the account
9 never went live.

10 Q So the account was never actually opened?

11 A Technically, no.

12 Q Did Mr. Cohen explain why he didn't fund the account?

13 A Not until asked, and not until he reached out and
14 stated he wanted to open a different entity instead.

15 Q But just to be clear, the Resolution Consultants
16 account was never opened?

17 A It was never opened.

18 MS. MANGOLD: Let's pull up People's Exhibit 367
19 in evidence.

20 (Displayed.)

21 *****

22 Q Is this another First Republic Bank email?

23 A Yes, it is.

24 Q What date was it sent?

25 A 10/26/2016.

1 Q And how long after the Resolution Consultants account
2 opening day was this?

3 A 13 days, I believe.

4 Q And, again, it's sent at 6:34 a.m. in the time stamp.
5 Does that mean that it was 9:34 a.m. in New York time?

6 A Yes, it does.

7 Q Who is the email to and from?

8 A It's from my assistant, Elizabeth Rappaport to myself.

9 Q And what does the email say?

10 A "Please return Michael Cohen's call at 3212."

11 Q Did you return Mr. Cohen's call in response to this
12 email?

13 A I did.

14 Q And can you tell the jury what happened on that call?

15 A He had stated that he was changing course and no longer
16 wanted to open Resolution Consultants and wanted to open a new
17 account.

18 Q Did he tell you what the new account would be for?

19 A The same. For real estate.

20 Q And did he express any type of urgency in opening the
21 account?

22 A Every time Michael Cohen spoke to me, he gave a sense
23 of urgency.

24 Q And this is one of those times?

25 A This is one of those times.

1 Q All right.

2 MS. MANGOLD: Can we take this down and show
3 People's Exhibit 368.

4 (Displayed.)

5 *****

6 Q So what type of document is this?

7 A This is our internal Know Your Customer form.

8 Q And this is the KYC form that you were referring to
9 earlier?

10 A That's correct.

11 Q And is the bank required to fill this out for every
12 client and customer?

13 A Yes, they are.

14 Q And looking now at the portion below the title of the
15 document where it says, "Created By."

16 A This was created by DeWitt Hutchins.

17 Q Who is DeWitt Hutchins?

18 A DeWitt Hutchins at the time was a preferred banker. He
19 worked in one of the offices, and the particular office was the
20 one on 56th and Madison.

21 Q Was that the one across the street from Mr. Cohen's
22 office?

23 A Yes.

24 Q What date was the KYC form created?

25 A On 10/26/2016.

1 Q And it says: "Last updated by DeWitt Hutchins,"
2 correct?

3 A Yep.

4 Q Shortly after that, 11:04 a.m.
5 Pacific?

6 A That's correct.

7 Q What types of information are included in the KYC
8 form?

9 A It's due diligence, so it would be the documentation
10 that has been provided, who the signer is going to be, the
11 length of the relationship, who referred it, if we know the
12 client, do we have an existing relationship.

13 Q And what was the legal entity name here for --
14 associated with the KYC form? I think that's partway down the
15 form.

16 A Essential Consultants LLC.

17 Q Is Essential Consultants LLC the new LLC that Michael
18 Cohen wanted to create an account for?

19 A Yes, it is.

20 Q And the KYC form said it was created by DeWitt
21 Hutchins.

22 Was Mr. Hutchins the person who had provided the information
23 to fill out the form?

24 A Yes.

25 Q So, but Mr. Hutchins input the information into the

1 system at the bank; right?

2 A He input the information at the bank as he spoke with
3 Mr. Cohen.

4 He doesn't -- he didn't just --

5 Q He didn't just make up the information?

6 A He didn't just make up the information. We don't do
7 that.

8 It was information that was given to him.

9 Q And that information was given to him by Mr. Cohen?

10 A Yes.

11 Q Looking now towards the bottom of the first page where
12 it says document type provided.

13 (Displayed.)

14 *****

15 A Uh-huh.

16 Q Can you explain what this is to the jury?

17 A This is the articles or Certificate of
18 Incorporation/Formation. Very similar to the ones that we
19 looked at earlier.

20 Q What was the date of formation for Essential
21 Consultants LLC?

22 A 10/17/2016.

23 Q Turning now to the next page.

24 (Displayed.)

25 *****

1 Q And looking at the questions towards the top third of
2 the page.

3 In the form does it say -- does this have the same question
4 that we saw in the Resolution Consultants form?

5 It says: "Is the entity associated with political
6 fundraising or political action committee."

7 A Yes. This is just the digital form of what was
8 provided earlier, which would be the hard copy.

9 Q What's the answer to the political fundraising question
10 on the form?

11 A Is "No."

12 Q Now, turning to the business narrative portion in the
13 middle of the page.

14 What business narrative is provided for Essential
15 Consultants LLC?

16 A It's Michael Cohen is opening Essential Consultants LLC
17 as a real estate consulting company to collect fees for
18 investment consulting work he does for real estate deals.

19 Q And is that consistent with the description of the LLC
20 that he provided to you on the call earlier that day?

21 A Yes, it is.

22 Q Do you have an understanding of how it came to be that
23 DeWitt Hutchins was the one filling out this information when
24 Mr. Cohen called you?

25 A Yes, I do.

1 Q How did that come about?

2 A Well, when Mr. Cohen called me, I was on a golf course,
3 that's very cliché for a banker, I know, but I was on golf
4 course on a day off and essentially it was easier for him to
5 walk across the street to open an account as then it would be
6 for me to make a series of phone calls to get someone to reach
7 out to him.

8 MS. MANGOLD: Your Honor, I'm at a natural stopping
9 point now.

10 THE COURT: Sure.

11 Can you approach for a minute.

12 MS. MANGOLD: Sure.

13 (At Sidebar.)

14 *****

15 THE COURT: I was just wondering how much more you
16 have with this witness?

17 MS. MANGOLD: Probably an hour or so.

18 THE COURT: Okay. Do you have that much cross?

19 MR. BLANCHE: It won't be as long as the direct.

20 THE COURT: All right. So we will call it a day.

21 MS. MANGOLD: Thank you.

22 MR. STEINGLASS: Thank you.

23 (Sidebar concluded.)

24 *****

25 THE COURT: All right. Jurors, we are going to go

1 ahead and stop at this time and call it a week.

2 Jurors, please remember what I asked of you, to
3 remember my admonitions:

4 Do not discuss this case either among yourselves or
5 anyone else.

6 You may tell the people with whom you live and your
7 employer that you are a juror, and give them information
8 about when you will be required to be in court, but you may
9 not talk with them or anyone else about anything related to
10 the case.

11 Do not, at any time during the trial, request,
12 accept, agree to accept or discuss with any person, the
13 receipt or acceptance of any payment or benefit in return
14 for supplying any information concerning the trial.

15 You must promptly report directly to me any
16 incident within your knowledge involving an attempt by any
17 person improperly to influence you or any members of the
18 jury.

19 Do not visit or view any of the locations discussed
20 in the testimony.

21 And you must not use internet maps, Google Earth or
22 any other program or device to search for or view any
23 locations discussed in the testimony.

24 Do not read, view or listen to any accounts or
25 discussions of the case reported by newspapers, television,

1 radio, the internet or any other news media.

2 This includes the reading or the listening to the
3 reading of any transcripts.

4 Do not attempt to research any fact, issue or law
5 related to the case, whether by discussion with others, by
6 research in a library or the internet or by any other means
7 or source. This includes visiting any court sites.

8 I emphasize that in addition to not talking face to
9 face with anyone about the case, you must not communicate
10 with anyone about the case by any other means, including by
11 telephone, text messages, email, chat rooms, blogs or social
12 websites.

13 You must not provide any information about the case
14 to anyone by any means whatsoever, and that includes the
15 posting of information about the case or what you are doing
16 on the case on any device or internet site, including blogs,
17 chat rooms, social websites or any other means.

18 Finally, you must also not Google or otherwise
19 search for any information about the case or the law which
20 applies to the case or the people involved in the case,
21 including the defendant, the witnesses, the lawyers or
22 myself.

23 I remind you that we are not meeting on Monday, but
24 we will meet Tuesday at 9:30.

25 I hope you have a good weekend.

1 Take care.

2 THE COURT OFFICER: All rise.

3 (Jury exits.)

4 *****

5 THE COURT: Thank you. You may be seated.

6 Mr. Farro, you are excused. Have a good rest of
7 your day.

8 THE WITNESS: Thank you, your Honor.

9 (Witness excused.)

10 *****

11 THE COURT: Is there anything more that we need to
12 discuss?

13 MR. STEINGLASS: I don't think so, Judge.

14 THE COURT: From the defense?

15 MR. BLANCHE: No.

16 THE COURT: Thank you.

17 Have a good weekend.

18 MR. STEINGLASS: Thank you.

19 MS. HOFFINGER: Thank you. You too.

20 (Whereupon, the matter is adjourned to Tuesday,
21 April 30th, 2024, at 9:30 a.m.)

22 *****

23

24

25