

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In Re:) **Case No. 21-30085-hdh-11**
) Jointly Administered
NATIONAL RIFLE ASSOCIATION)
OF AMERICA, et al.,) Dallas, Texas
) April 5, 2021
Debtors.) 1:30 p.m. Docket
)
) TRIAL DAY 1 - AFTERNOON DOCKET
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HARLIN DEWAYNE HALE,
UNITED STATES CHIEF BANKRUPTCY JUDGE.

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1 DALLAS, TEXAS - APRIL 5, 2021 - 1:30 P.M.

2 THE COURT: Let's go back on the record in the NRA
3 case. Over the lunch hour, my courtroom deputy received a
4 request from the United States Trustee for two minutes, Mr.
5 Garman, just to -- I think to respond to something that was
6 made by the last speaker. So if we could turn it over to Ms.
7 Lambert or Mr. Salitore.

8 MS. LAMBERT: Thank you, Your Honor. The U.S.
9 Trustee wants to clarify that its papers relate to some legal
10 positions that the U.S. Trustee finds would not be
11 supportable in some of the filings. But the U.S. Trustee has
12 taken no position factually on the motion to dismiss or the
13 motion to appoint a trustee. We may do that based on the
14 evidence at some point, but at this point the parties have
15 adequately represented those positions and the U.S. Trustee's
16 advocacy would add nothing. But our silence does not mean
17 that we are opposed to the relief requested.

18 Thank you.

19 THE COURT: Thank you. All right. Mr. Garman, I
20 think before the lunch hour you had said you were going to go
21 first and let Mr. Strubeck go last.

22 MR. GARMAN: Yes, sir.

23 THE COURT: All right. You may proceed.

24 MR. GARMAN: At the outset, Your Honor, can you hear
25 me clearly?

1 THE COURT: I can hear you clearly. Thank you.

2 OPENING STATEMENT ON BEHALF OF THE DEBTORS

3 MR. GARMAN: Great. Your Honor, let me get started,
4 then. You know, at the outset, this is why I felt it so
5 important that I get an opening statement, because this is a
6 case in which we are going to be two ships passing in the
7 night. And respectfully, I'm going to ask you to hold the
8 Movants to the testimony that they told you you were going to
9 hear. The testimony you're going to hear will mirror very,
10 very little the presentation of counsel.

11 Your Honor, I feel compelled to begin by talking about
12 the estate over which we are seeking to dismiss, appoint a
13 trustee, or the like. As counsel indicated, we were formed
14 in 1871. And in September, the NRA expects to host -- to
15 hold its 150th anniversary. Its members, members of this
16 organization, include a majority of the Presidents over the
17 last 120 years. Supreme Court Justices. Chief Justices.
18 Governors. Ambassadors. And what's been lost in this
19 discussion so far today is who our board members are, the
20 folks who actually are in control of this organization, not
21 Mr. LaPierre.

22 We have senators. We have congressman. We have Harvard-
23 educated lawyers. We have a disproportionate number of
24 lawyers, candidly. We have sitting lieutenant governors. We
25 have mayors, treasurers, secretaries of state.

1 This is an incredibly remarkable group of people who
2 oversee and govern the National Rifle Association. There are
3 76 board members, each of them incredibly distinguished.

4 You will hear Mr. LaPierre testify how important it is to
5 keep the National Rifle Association in the mainstream of our
6 culture, cultural touchpoints. We have actors. We have Dean
7 Cain. We have athletes. Karl Malone. And who could forget
8 our past president, Charlton Heston?

9 Your Honor, nine days ago I went before that board to
10 discuss for hours the legal situation we sit in this
11 bankruptcy case, to answer their questions, and to provide
12 them guidance and legal advice. It's an intimidating group
13 of people. They are not rubber stamps. They are not cronies
14 who do anything that Mr. LaPierre asks them to do. You will
15 hear from many of those board members, and they are
16 incredibly distinguished. They take their duties incredibly
17 seriously. And oh, is there independence on that board.

18 This association, this National Rifle Association, has a
19 mission to promote safety, security, and freedom. But it's
20 more than that. We've talked about the fact that its
21 membership is five million individuals. That's not the
22 people who support the mission at the end of the day. That
23 is the current roster of dues-paying members of this
24 association. And to put that in perspective, it's about one
25 of every sixty-five individuals in the country. Again, not

1 that they support the position, but they actually pay their
2 annual dues for the privilege and honor of being part of this
3 association.

4 Since January 1st, we've signed up 140,000 new members.
5 This board of 76 speaks for those members. One-third of them
6 are elected every single year. There is turnover on this
7 board. There is independence.

8 But what's lost in this discussion is that we're not just
9 a lobbying organization who is locked in battle with the
10 State of New York, its Attorney General, and its political
11 machine. We are so much more. Coast to coast, fifty states,
12 we literally impact, without hyperbole, millions of lives a
13 year. We are the most -- the foremost, we are the gold
14 standard when it comes to firearm training. NRA-certified
15 instructors provide the gold standard, the invaluable
16 resource for gun safety in this country. We have 125,000
17 NRA-certified instructors. We train in excess of one million
18 people a year in firearm safety.

19 We are an organization that is dedicated and devoted to
20 hunting and conservation. We train hunters, both in online
21 and in classrooms, in non-COVID situations. We have youth
22 programs I'll talk about. We are the foremost authority at
23 hunter leadership, addressing cultural, political, and the
24 future of hunting. We provide a program called Hunters for
25 the Hungry in which we match hunters of this country with

1 people in need of meals. We provide, on average, over eight
2 million meals a year that our hunters, our member hunters,
3 provide to those in need.

4 Beginning in 1960, this organization began training law
5 enforcement on the use of firearms and in competition. We've
6 trained 57,000 law enforcement officers in non-shooting
7 schools. This is not target practice. This is law
8 enforcement training, highly training individuals. We then
9 host on an annual basis the national police shooting
10 competition. We are deeply ingrained in these communities,
11 more than just lobbying.

12 The Whittington Center. Something that no one has
13 addressed. Since 1973, we have operated a 30,000-acre
14 facility with 25 dedicated ranges for shooting -- shooting
15 sports (garbled). And sometimes it's lost in this
16 discussion, much of what we do. This is an Olympic sport.
17 Shooting sports are a critical component of what we do. We
18 have guided and unguided hunts. We have training, lodging,
19 cabins, camping, youth programs, museums, all at the
20 Whittington Center. On an annual basis, we have 11,000
21 shooting tournaments. Eleven thousand shooting tournaments
22 on an annual basis. Fifty national championships under our
23 belt. We work with 300 colleges and universities on shooting
24 programs.

25 Political activity. It's certainly part of what we do.

1 Your Honor, you will hear testimony about the ILA, which is
2 the Institute for Legislative Action, which has been
3 established since 1975. It's committed to advancing and
4 preserving the rights under the Second Amendment. That's not
5 lost on anyone. But it is both a national and a state-level
6 program.

7 As an offshoot of that, we have Legal Advocacy Civil
8 Rights Defense Fund that supports individuals who are
9 fighting for rights associated with the Second Amendment.
10 We've supported over 600 cases since it was established in
11 1975.

12 We have a grassroots program that has 1.6 million
13 volunteers in it. You will hear testimony from the NRA about
14 our grassroots affairs that are engaged in all forms of
15 community organization and association that is consistent
16 with our mission.

17 And Your Honor, I want to talk a fair bit -- amount, the
18 Women's Program. Because in the opening statement it was
19 called the glam squad, Susan LaPierre's glam squad. And
20 candidly, I find that comment offensive. The Women's Program
21 and the Women's Leadership Forum is a group of thousands of
22 women who have raised in excess of \$100 million for
23 philanthropic work. It is not a glam squad. Have they had
24 the NRA pay to do their hair and makeup at public events for
25 which they are on stage? The unqualified answer to that is

1 yes, but it is absolutely no different than what we do for
2 men who are speakers at our various events throughout the
3 year.

4 That \$100 million that you will hear about that the
5 Women's Leadership Forum has raised has cost us \$4 million.
6 A remarkable return on investment. Yes, it is led by Susan
7 LaPierre. Does she get paid to do this? No. Are there
8 costs associated with this incredibly valuable resource for
9 the National Rifle Association? Yes. Do we expect her to
10 come out of pocket for the \$100 million which this forum has
11 raised us? The answer to that is no.

12 So you will hear testimony about the costs associated
13 with the Women's Leadership Forum. But to call it a glam
14 squad in an opening statement highlights the distinctions to
15 which people come to this case and the biases, both good and
16 bad.

17 The Women's Programs include the Women's Wildlife
18 Management Conservation Scholarship, where we provide annual
19 scholarships to college juniors and seniors with a minimum
20 grade point average who are majoring in wildlife management
21 and conservation. We have the We'll Refuse to be a Victim
22 Program. It's not a gun glass. No guns involved. But we
23 train -- we have programs and seminars that are designed to
24 provide personal protection, and are catered to women. A
25 hundred and sixty-eight thousand people have gone through

1 this program to learn how to protect themselves in this world
2 that we live in.

3 Youth programs. Most people have heard of the Eddie the
4 Eagle Gun Safety Program. It's been around for nearly four
5 decades. It's a program to teach children firearm safety.
6 Stop. Don't touch. Run away. Tell a grownup. This is a
7 phrase that has been engrained in children for generations.
8 Thirty-two and a half million schoolchildren have gone
9 through our program. It contains videos, workbooks,
10 instruction manuals. We provide materials and mascots to
11 local law enforcement agencies. It's available in a
12 multitude of languages. And it's all designed to protect
13 children and to ensure firearm safety.

14 Youth interests. Not going to cover them in detail. We,
15 in many parts of this country, hunting, shooting sports, are
16 a way of life. We train not only safety, but we train
17 hunting skills, and we work with a variety of organizations
18 around the country in youth programs.

19 Your Honor, we have a graduate program for our young
20 hunters. If they have made their way through the seminar,
21 then they can graduate to our Youth Hunter Education Program.
22 To date, 1.3 million young adults have gone through our
23 hunting -- our graduate program.

24 We have a National School Shield Program. This is a
25 program in 30 states in which the National Rifle Association

1 provides not only grants but provides the resources and the
2 investigation, interviews, to help schools remain safe, to
3 empower our communities and to make our schools more secure.
4 Seven hundred and seventy-five schools have now been trained
5 and gone through our National School Shield Program.

6 Our annual meeting is a really big deal. Our annual
7 meeting has, in 2019, pre-COVID, the last meeting, had 80,000
8 attendees who descend upon one city a year for educational
9 seminars, for workshops, and to associate with one another.
10 We are an organization of individuals who associate with one
11 another through the common bonds that they share.

12 You'll hear testimony that it's estimated to produce more
13 than \$35 million in economic impact for a city that hosts our
14 annual meeting.

15 We have the Great American Outdoor Show. On an annual
16 basis, this family event, which has more than 240 individual
17 seminars and demonstrations, again, designed for families, is
18 attended by 250,000 people on an annual basis.

19 The NRA Museum has 82 permanent exhibits in 15 galleries
20 and is open year-round. Perhaps not during all of COVID.
21 But has been around for 90 years, and it is based in Virginia
22 and has no cost.

23 The Civil Rights Defense Fund. Your Honor, I already
24 talked about how we support and protect those who are
25 asserting their Second Amendment gun rights.

1 Your Honor, we're in contact -- by calls, chat, email,
2 what the case might be -- with our members more than 550,000
3 times a year. And I want to be clear. That's not us sending
4 unsolicited mail. This is inbound communications that we
5 have with our members, to the tune of 550,000 per year.

6 I'm almost done, Your Honor, but this list is
7 exhaustiv... is extensive. We publish *The American Rifleman*.
8 *The American Rifleman* magazine is a magazine devoted to
9 competitive shooters, hunters, gun collectors. We provide
10 reviews of firearm-related equipment. We provide legislative
11 updates. It is a basis by which our members gather locally
12 and associate with one another with their shared interests.
13 Our monthly circulation, monthly circulation for *The American*
14 *Rifleman* is 1.7 million copies.

15 Separate and apart from that, we have *The American*
16 *Hunter*. It is a magazine, the foremost magazine in the world
17 dedicated exclusively to hunting. It has its own circulation
18 of 850,000 copies per month.

19 Finally, but certainly not least, we have the NRA
20 Foundation. The NRA Foundation is our 503(c)(3). This is
21 our organization in which we provide support to our
22 communities, provide grants to those who share our interests,
23 share our vision of the world. It was established in 1990,
24 and since that time we have awarded more than \$426 million in
25 grants and support through the NRA Foundation.

1 Your Honor, the idea that Mr. LaPierre runs this vast
2 organization for his benefit, to the exclusion of the board
3 of directors and the totality of the things that we do,
4 cannot be borne out by the facts. Your Honor, there are
5 hundreds and hundreds of full-time employees that operate the
6 National Rifle Association.

7 I'm going to talk more about the board at some point and
8 I'll introduce you to some of the members. But I think the
9 idea of what we are here to protect, I'm going to talk a lot
10 about the good faith that we have in filing this bankruptcy
11 case, Your Honor. But we are here to protect what is
12 literally an irreplaceable asset and organization in the
13 history of this company [sic]. If the National Rifle
14 Association is to disappear, if those programs are to
15 disappear, they cannot be replicated.

16 Your Honor, I talked to my kids the other night. I've
17 been on the road for a while. This is probably the most
18 intensive five weeks of my career. They're not -- they're
19 used to me working fairly hard, but I have four daughters.
20 And the conversation was, why is this so different? Why is
21 this case so much different than other cases you have worked
22 on for which we don't see you? It's not the biggest case
23 I've worked on. Candidly, it's not even the most contentious
24 case that I've worked on. But there's one fundamental
25 difference that I've figured out that separates it from all

1 other cases I've had in my experience, and it's that this
2 case, the National Rifle Association, it reflects back at you
3 what you bring to it. It's like a glass box. The biases,
4 both good and bad, that you bring to this case come back at
5 you, and it alters the way you look at the case, it alters
6 the language that we use, and it alters the advocacy that you
7 hear on both sides.

8 This is important. Because when I look across the
9 caption, you have those who are seeking to dismiss this case.
10 Primarily today I'm talking about Attorney General James. It
11 is not irrelevant and it is important to how we got here as a
12 story that she called us a terrorist organization. She
13 called us a criminal enterprise. She has said, without
14 hyperbole, her first top issue when becoming Attorney General
15 was to target the NRA. That's what one side of the world
16 sees back when they look into the mirror of this case.

17 The other side of the world sees back that we're the
18 oldest civil rights organization of its kind. We are larger
19 in size and scope than the ACLU, the NAACP, or even Planned
20 Parenthood. But we are not just an advocacy association. We
21 are an association, and I mean that in the sense of the First
22 Amendment. We are a group of millions of members who choose
23 to associate about the issues that we deem to be important.

24 Yes, they are very much in the political realm of the
25 world that we live in, but this is not a Second Amendment-

1 exclusive organization. We are very much a First Amendment
2 organization and association.

3 Now, having told you what I believe to be the relevant
4 facts that you'll hear about who we are that go -- are
5 germane to the decision to file bankruptcy, that go exactly
6 to the good faith that we had in filing this case, I need to
7 tell you about the timeline. And that timeline begins in
8 2017. That's the story that you will hear, the evidence that
9 will actually be presented of how we got to this place and
10 this time in front of Your Honor.

11 Your Honor, in 2017, there were 33 Republican governors
12 and there were 16 Democratic governors. It was two-to-one.
13 The House had a 60-seat majority by the conservatives. The
14 Senate had a 10-seat majority by the Republicans. And the
15 White House was also controlled by the same party. I
16 remember reading headlines of, Do we live in a single-party
17 world?

18 But the evidence you will hear is that, in 2017, the
19 start of this entire dispute begins with a phone call from
20 then-sitting Attorney General Schneiderman, a Democrat. An
21 important fact. He calls board member Tom King and says that
22 decisions have been made in Albany that the power of
23 government, the machinery of government, is going to be
24 turned on the National Rifle Association in an attempt to
25 silence you, and I encourage you to get your house in order.

1 That's where we begin.

2 What do we do as the National Rifle Association? I
3 believe the evidence will bear fruit that we decided to
4 ensure that we were a good corporate citizen. Mr. LaPierre
5 will testify to the 360-degree top-down review. No one was
6 spared review in the entire organization, including Mr.
7 LaPierre. But what did we do? We set out to put our house
8 in order.

9 Are there going to be facts that are moderately cringe-
10 worthy? The answer to that is yes. Not going to run from
11 them. But the important component of what you're going to
12 hear, because it has to do with the standard under 1104, is
13 that we set out to put our own house in order, which we did.
14 We went out to self-report. What we self-reported is now the
15 very evidence that's being used against us by the New York
16 Attorney General. We sought the safe harbor provisions of
17 New York State law. Yet every time we self-report, every
18 time we correct ourselves, it's now a new allegation of
19 misconduct on the part of the NRA for which they seek to
20 destroy us.

21 Your Honor, it was a corporate campaign against the NRA
22 that is more than just the actions that you have before you
23 by the New York Attorney General. Your Honor, it begins with
24 the NRA hiring the law firm of Morgan Lewis to review our
25 not-for-profit compliance procedures. Importantly, this is

1 the final months of the year 2017.

2 There's an important distinction I need to draw for the
3 Court because it -- it was -- it was a fair amount of
4 confusion for me for a couple of weeks of this case. The
5 parlance of New York law is defined in the concept of a
6 charity. Most of the country refers to it as a not-for-
7 profit because that's the parlance of the Internal Revenue
8 Service Code. But for the purpose of this discussion, a
9 charity under New York law is the functional equivalent of a
10 not-for-profit.

11 But that brings us to where we are in 2018. 2018 has a
12 remarkably condensed time period in which the National Rifle
13 Association faces its shortcomings, corrects the direction
14 that we're on, and we call it the course correction. And
15 you're going to hear a great deal about the course
16 correction. And it begins on a particular day. It begins on
17 a particular day in March, March 7th, when the Audit
18 Committee meets to review the 2017 audit.

19 The context of this Audit Committee meeting is that we've
20 heard from Attorney General Schneiderman that,
21 notwithstanding the fact that it's his party who's commenced
22 this process of putting the government, the mechanics of the
23 government in play to impair our ability to exist, he finds
24 it offensive. And so in March of 2017, the Audit Committee,
25 under the direction of Charles Cotton and Mr. Coy -- Charles

1 Cotton will be the very first witness you hear from this
2 afternoon -- that Audit Committee is faced with a clean audit
3 from their auditor. Their auditor -- I'm sorry. The meeting
4 takes place in March of 2018, I want to be clear on my dates,
5 to review the 2017 audit. I want to be clear I get that
6 right.

7 They're faced with a clean audit from our auditor, from
8 our auditor, but they decide to look deeper. They want to
9 ensure, as the leadership has instructed them, as the board
10 has come together to say, we need to be the best organization
11 that we can. So they look deeper than just the clean audit
12 that is provided to them.

13 That same month in 2018, the Association hires Mr. Craig
14 Spray. You heard a lot about Craig Spray in the opening.
15 And Your Honor, I'm not going to rebut it all today, other
16 than to ask you to withhold judgment on nearly everything
17 that you heard. The facts that you heard about Craig Spray
18 will not be borne out by the testimony that you are about to
19 hear.

20 Craig Spray replaces Woody Phillips. Woody Phillips,
21 that was a man not up to the job. Craig Spray comes from a
22 public account -- a public company background, has the
23 skills, the tools, to lead the Association into a new
24 direction.

25 It is that same month, in February, in March, that the

1 Brewer firm is approached about representing the NRA in what
2 is anticipated to be litigation coming forward. The scope of
3 that litigation includes not just what is expected to come
4 from the Attorney General's Office, but it's expected to come
5 from actions against -- against the State of New York. First
6 Amendment cases against Governor Cuomo for the purpose of
7 ensuring the NRA's survival. There's a lot of litigation you
8 never heard about that the Brewer firm is engaged in, and
9 those are some of the 16 cases.

10 In opening argument, it was suggested that we found an
11 accidentally-qualified CFO. Again, Your Honor, we shouldn't
12 be loose with our language. We went out and found a
13 qualified man to help lead us at a time in which we needed
14 leadership in the Trustee and CFR role. CFO role.

15 The next month, in April, still in 2018, the first
16 remarkable thing happens, playing out exactly what Attorney
17 General Schneiderman told us was going to happen. The
18 Department of Financial Service, Services -- this has been
19 referred to as the second most powerful regulatory body in
20 the world, after the Securities and Exchange Commission --
21 they send a letter to financial institutions on April 19,
22 2018, the last sentence of which reads, "The Department
23 encourages regulated institutions to review any relationships
24 they have with the NRA or similar gun-promoting organizations
25 and to take prompt action to manage these risks and promote

1 public health and safety."

2 The State of New York, through its regulators, told
3 financial institutions, banks and insurance company,
4 insurance companies, that doing business with the NRA would
5 be a risk factor and it was bad business to engage in
6 commerce with the National Rifle Association.

7 Your Honor, you don't easily replace a bank that has
8 operations in the State of New York. You don't easily
9 replace an insurance company that doesn't have operations in
10 the State of New York. Litigation ensues, led by the Brewer
11 firm, to challenge the appropriateness of silencing the
12 National Rifle Association through its First Amendment -- its
13 First Amendment speech by the ability to shut it down on a
14 regulatory basis by barring it from financial institutions
15 and insurance companies.

16 This litigation, the work that proceeds with it,
17 commences through -- commences and proceeds through April and
18 May, led by Phillips, led by LaPierre, led by the Audit
19 Committee, led by the leadership of the board, and
20 implemented by the Brewer firm, until the second remarkable
21 thing happens in that spring of 2018.

22 The NRA operates different. Feeling in the building is
23 different. And what happens? Words that I'm stunned didn't
24 come out in the opening statements before I stood here today,
25 which is the whistleblowers. Whistleblowers come forward,

1 Your Honor, and they say, we have concerns about what's been
2 happening within the walls of this building. These
3 whistleblowers work not only with Craig Spray, they work with
4 the Brewer team, they work with the Audit Committee. We
5 listened to them. What they did was brave. What they did
6 was honorable.

7 One of those whistleblowers, you will hear, is now our
8 chief financial officer. Not only did we not reject and run
9 from what the whistleblowers told us were internal concerns,
10 we promoted them and put them in charge of the National Rifle
11 Association to assure the world and our organization that we
12 would fix our own problems.

13 All of this, every bit of this, predates actions by the
14 New York Attorney General. Every bit of this was our own
15 self-correction that has now been used against us.

16 This magic moment, these whistleblowers, work internally
17 for some period of time before they're invited to present
18 before the Audit Committee, a presentation that takes place
19 on July 30, 2018. Still in a condensed time period in all of
20 2018.

21 What do they bring forward? They bring forward concerns
22 about conflicts of interest, internal conflicts of interest.
23 They bring forward concerns about related-party transactions,
24 abuses by our vendors, control overrides, budgets and
25 contracts for which there seems to be no limit and no tie to

1 the invoices and the work that's being done on our behalf.
2 Vague invoices that they're concerned about. Particularly
3 concerned about vague invoices under what is now departed CFO
4 Phillips.

5 They all fall in the category, though, of control
6 overrides. I will not run from the fact, and in fact, I
7 embrace it, that the NRA did a remarkable thing, which is
8 they realized that they had controls that were in place but
9 those controls were being overridden.

10 Was the NRA sloppy at this point in time? The answer to
11 that is yes. But the answer to that is yes in the 2018, the
12 time period that, for the purposes of 1104, cannot meet the
13 basis of the appointment of a trustee.

14 As positive as this moment is, it begins a story that is
15 relevant to one you will hear in the most recent months.
16 This begins a story of leaks. *The New Yorker* magazine is
17 leaked the information of what's happening within the NRA,
18 our enemies begin to use it against us, and it becomes the
19 foundation of the narrative that is crescendoing in front of
20 you today that is unsupportable.

21 The Audit Committee is under the leadership of Charles
22 Cotton and Mr. Coy. You're going to hear from Charles Cotton
23 in a couple of hours. He's a remarkable man. He is a CPA,
24 but he's also a lawyer. He spent the last couple of decades
25 before he retired as a trial lawyer in Houston. He's a

1 Texan. He's an honorable man who took it upon himself in a
2 volunteer position to provide the leadership with his
3 Committee to ensure that the NRA did what is appropriate and
4 what is right.

5 Your Honor, where do they begin looking? The testimony
6 you're going to hear in a couple hours is that they began
7 looking internally at related-party transactions. That
8 Committee, that Committee meets formally -- and I don't mean
9 informal calls. I don't mean calls from the finance office
10 to say, would your Committee approve this type of contract?
11 That Committee meets formally 15 times over the next two
12 years. That's a remarkable amount of meetings. I've never
13 seen a finance committee -- an audit committee, an audit
14 committee, that meets that often.

15 What they find is they find that, yeah, we have systems
16 in place, but those systems were overridden. They were
17 overridden by personnel who are no longer with the National
18 Rifle Association, and they were overridden in large part by
19 our outsourcing to vendors.

20 This -- I agree with Mr. Mason about a couple of things
21 that he said today, and I agree with him that this case is
22 not about the claims going back and forth between Ackerman
23 McQueen and the Debtors. They claim we owe them \$40 or \$50
24 million. We have counterclaims I think that are slightly
25 larger than that. But that's not -- the liquidation of those

1 claims is not before the Court. But certain conduct which
2 was the basis of us terminating them is before this Court
3 today.

4 We outsourced to our vendors and gave them controls,
5 which amounted to control overrides. The Ackerman firm spent
6 in excess of 10 percent of our annual budget. In a good
7 year, by the way, Your Honor, that's a budget of \$300
8 million. They're not just a PR firm. They provided
9 additional services to us. In large part, we outsourced a
10 portion of our accounting function. A mistake, in hindsight.
11 But they definitely took advantage of us. It was a triangle.
12 What they couldn't pay directly, they paid indirectly.

13 I don't know that we need to talk about it today, but the
14 evidence that you will find before you, Your Honor, is there
15 was a blackmail attempt by Ackerman and some of our past
16 folks to attempt to take over the National Rifle Association
17 to continue that lucrative contract. It's one that failed,
18 but it's one that is important to our story.

19 We ended up suing them. The first thing we did, though,
20 wasn't sue them for money damages. What you need to
21 understand is that the first thing we sued them for was a
22 files, books, and records request. We wanted to understand
23 what they have spent our money on. We wanted to understand
24 what Woody Phillips, our former -- not our past, not our
25 current, not our past, the CFO before that -- had empowered

1 them to do.

2 Mr. Phillips took the Fifth. The assertions for which
3 Mr. Phillips took the Fifth infer that the National Rifle
4 Association holds claims against him. And those are claims
5 that we are in the process of not only examining but we are
6 likely to be bringing.

7 As important as this activity of the Audit Committee is
8 in the spring and summer of 2018, there is a parallel path
9 that is taking place, and that parallel path is one of
10 compliance. It begins with compliance seminars that -- for
11 hundreds and hundreds of employees. But it's more than that.
12 Compliance is a way of life. And compliance has become a way
13 of life with the National Rifle Association.

14 You will hear our witnesses use the same words. They use
15 the words frequently, not intentionally, just because it's
16 become the language, the words that they use. It's become
17 the culture of the National Rifle Association. They talk
18 about the principled path. They use those words. And the
19 principled path is the turnaround, the righting of the ship
20 that we began in the spring and summer of 2018.

21 The summer of 2018, Your Honor, that is the demarcation
22 line at which the self-correction, and that's our word and we
23 use it a lot, the summer of 2018 marks the point at which the
24 self-correction begins. And importantly, I need the Court to
25 recognize that that is nearly three years ago.

1 You will hear facts, the overwhelming majority of which
2 are facts that predate 2018, in which there is no pending
3 action from the New York Attorney General. There is no
4 remediation of threats that have been made. There is no
5 advice that has been given to us from a regulatory officer.
6 We simply have a warning from then-Attorney General
7 Schneiderman that says, make sure your house is in order.
8 And candidly, Your Honor, that's always good advice.

9 So, what does self-correction mean? On one end of the
10 spectrum, self-correction means documentation. It means
11 ensuring that our sloppy behavior had been cleaned up. It
12 means that, if you don't have contracts, if you don't have
13 specific invoices, you're not going to get approved for
14 payment. We're not simply going to pay a vendor because an
15 invoice comes in that says due in 30 days.

16 The next level is disclosure. We began, the very first
17 inquiry we made was disclosure inside the building of
18 related-party transactions, inside the building of evaluating
19 conflicts of interest. This is all directly related to the
20 Audit Committee.

21 But do they do it alone? Of course not. They don't do
22 it alone. Compliance is something that runs through Finance.
23 It runs through Treasury. It runs through -- it runs through
24 the CFO's office. We have CPAs in the building. Compliance
25 is something that is systemic-wide.

1 And when you take up disclosure, you do one of three
2 things. You approve it, you deny it, or you ask for more
3 information. And that's what we did.

4 And then the third category, Your Honor, the hardest one,
5 is disgorgement. This is where corporate waste, this is
6 where badges of fraud can be found, and this is where
7 disgorgement and lawsuits come into the picture for those who
8 have misappropriated National Rifle Association funds and
9 assets.

10 Those disgorgements occurred. Those lawsuits have been
11 commenced. There are more that we are continuing. But this
12 is the tough spot that the National Rifle Association found
13 itself in and the honorable work that was done by the Audit
14 Committee, by Craig Spray, by the leadership under Wayne
15 LaPierre.

16 How do we do this? Well, you'll hear testimony. You'll
17 hear testimony shortly today. We review audit waivers. We
18 review control questionnaires. We review conflict of
19 interest disclosures. We review vendor approvals. And there
20 is night-and-day difference between what occurred pre-2018
21 and what occurred post-2018.

22 I'm not conceding by any stretch of the imagination that
23 what occurred pre-2018 constitutes gross mismanagement,
24 fraud, or waste. In no sense do I want the Court to conclude
25 that. But did we have practices that were both sloppy and in

1 need of -- of ensuring we didn't have overrides? The answer
2 to that is a resounding yes, Your Honor. And this
3 organization is proud of the changes that it has made. Self-
4 correction. Self-reporting. Safe harbor. These are the
5 things that we did.

6 How long did we do this for? We went back six years.
7 What took priority? Size of the contract. The severity of
8 our concerns. The vintage of the agreements. These were the
9 things that we began the process in 2018.

10 Did we fix everything there was to be fixed in the magic
11 summer of 2018? Of course not. We're a massive
12 organization, the scale and scope I've presented to you of
13 all the things that we do. But it was an ongoing effort.
14 But it was the line of demarcation in the summer of 2018.

15 In August of 2018, the NRA sends out more than a hundred
16 letters to vendors who it believes have not complied with its
17 internal protocols or procedures. We ask for disclosure. We
18 ask for information. We ask for details. We ask for amended
19 contracts. Overwhelming majority of those vendors choose to
20 cooperate with us because they're valuable vendors. They're
21 valuable partners. But at the end of the day, we have to
22 begin terminating contracts, terminating vendors. No doubt
23 some of those parties took advantage of the NRA, and there's
24 no doubt that there's money that left the building for which
25 it shouldn't have.

1 One of those vendors who wouldn't cooperate was Ackerman
2 McQueen, and ultimately we terminated the contract with
3 Ackerman McQueen and brought most of those services in-house.

4 In September of 2018, still in this condensed timeline,
5 the Brewer firm presents to the board its initial findings.
6 Those are certainly privileged. Those are certainly not
7 something that I'm going to walk through today. But what is
8 important about the outcome of that process is we understand
9 where the State of New York plans to go, we predict the
10 coming fights which have resulted in us being here today, and
11 we begin to prepare for a battle and a war that did in fact
12 come exactly as we expected it to roll out.

13 In 2019, Your Honor, the course correction continues, but
14 it is implementation of the policies and procedures, taking
15 away the control overrides. In 2018, I'm sorry, 2019, the
16 Audit Committee hires a new auditor. We hire new board
17 counsel. The Audit Committee continues to meet on an ever-
18 more-frequent basis. This is when we sue Ackerman McQueen
19 for the inspection of the books and records, not for a claim.
20 And we begin cleaning house.

21 Your Honor, this morning it was portrayed to you that Mr.
22 LaPierre fires the people who could be his successors, who
23 threaten his power. Nothing could be further from the truth.
24 Our mission is one of advocacy. We've fired amongst the most
25 effective lobbyist in history, Chris Cox, who led us to the

1 world in which we had a run of decades of success for the
2 National Rifle Association. Our lead lobbyist. We had to
3 suspend him. We had to part ways with him. We had to sue
4 him to recover what was inappropriate benefit that was given
5 to him.

6 I have to be careful with my words because this is a
7 confidential arbitration that remains ongoing. But the
8 existence of the NRA's claims against its former chief
9 lobbyist should not and cannot be lost on this Court. And
10 they are not evidence of misconduct. They are evidence of
11 actually engaging in and complying with our fiduciary duties.

12 We replaced our CFO, as I talked about, bringing in
13 someone with the qualifications and the skillset to manage an
14 organization of the size and scope of the National Rifle
15 Association.

16 Oliver North, our president at the time, our president at
17 the time, had misrepresented his relationship with Ackerman
18 McQueen. As NRA president, you cannot be paid. As NRA
19 president, it had been misrepresented, the scope of his
20 dealings with Ackerman McQueen, and he had a \$2 million
21 contract in which he was actually an employee of Ackerman
22 McQueen with contractual duties that were superior in
23 obligation to Ackerman McQueen versus what he owed to the
24 National Rifle Association as our president.

25 The Audit Committee. How hard must it have been for that

1 Audit Committee to rescind their approval of the
2 misrepresented relationship that Oliver North had with the
3 Ackerman team? And he is no longer our president. He is not
4 a successor. He is not worthy to succeed Mr. LaPierre in
5 this organization. He is someone who is no longer with the
6 organization because of his own misconduct, his own
7 misrepresentations.

8 And the system worked. The Audit Committee worked. The
9 internal protocols worked. And we rescinded the infor... we
10 rescinded his ability to work with Ackerman McQueen when the
11 details of his contract finally were revealed.

12 Mr. LaPierre's right hand, Josh Powell. He, too, was
13 terminated. He, too, demand was made for the recovery of
14 funds that were misapplied.

15 These are not successors. These are -- these are folks
16 who were the leadership of the NRA, the management of the
17 NRA, in the parlance of 1104, who are no longer with the
18 Association.

19 Self-disclosure. Safe harbor. The NRA finds that even
20 Mr. LaPierre is subject to review. You will hear him say, no
21 one should escape review, including me. Mr. LaPierre, we
22 file a Form 990. It is, in fact, the tax IRS form that is
23 for the IRS. That form, the National Rifle Association found
24 that Mr. LaPierre had received an excess benefit to the tune
25 of just over \$300,000.

1 Demand was made. He paid it. He didn't negotiate it.
2 He wrote a check. He reimbursed the National Rifle
3 Association to the tune of just over \$300,000. And what else
4 did he do? He paid his taxes. He paid his taxes to the tune
5 of \$70,000-plus, which is what you'll hear. That \$300,000,
6 though, represents the totality of excess benefits from the
7 time period of 2015 forward.

8 We're going to talk about Mr. LaPierre, his travel, what
9 he's accused of doing. But what was found to be an excess
10 benefit was, in fact, repaid. And it was prepaid [sic]
11 prepetition, and it was repaid before Attorney General James
12 commences her action.

13 Now, let's get there. August 6th of 2020. The New York
14 Attorney General seeks dissolution of the National Rifle
15 Association. Your Honor, that's about 150 days before the
16 filing of this bankruptcy. Some would have you believe that
17 this case has been pending for months or years. I don't
18 think it's intentional. It's just that this is an incredibly
19 condensed time period. That case is August of 2020. The
20 very first claim in the prayer, the prayer for relief, the
21 very first remedy that they seek is dissolution. To suggest
22 that it is a red herring, to suggest that it is the bogeyman,
23 is to suggest that we do not have a duty to protect this
24 organization from dissolution or the appointment of a
25 receivership. That claim for relief goes straight to the

1 heart of why we filed this bankruptcy case.

2 What happens in that approximately 150 to 160 days
3 between the filing of Attorney General James' lawsuit seeking
4 dissolution and the filing of the case before you? An
5 immense amount of legal work is done, Your Honor. This
6 organization is a \$300 million-a-year organization. It is
7 irreplaceable. With 150 years of history. To suggest that
8 there shouldn't have been a lot of legal fees spent to defeat
9 a limitless opponent in the form of the State of New York is
10 to say that we should tie one hand behind our back because
11 it's going to be expensive to defend ourselves.

12 The Brewer firm, the Neligan firm, they work on a series
13 of potential legal strategies. Bankruptcy is included. But
14 there are other legal strategies that are explored. No rock
15 is left unturned because we are fighting for our life.
16 Options are being created in real-time. This is when the
17 formation of the Special Litigation Committee takes place.
18 Why does the Special Litigation Committee get formed? It's
19 because the New York Attorney General sues Mr. LaPierre
20 individually and sues John Frazer, our general counsel,
21 individually.

22 They make much of the fact that John Frazer did the
23 appropriate thing, which is: I'm a personal defendant now; I
24 can't be giving the Association advice as to what our legal
25 strategy will be in response to the New York Attorney

1 General's action.

2 They say Mr. Frazer should have been more involved, then
3 under their breath they say Mr. Frazer was not up to the
4 task. But the reality is they put Mr. Frazer in this
5 situation in which they removed him from the decision-making
6 process because they named him as an individual defendant and
7 he had to go hire his own individual lawyer.

8 Again, Brewer and Neligan are not given enough credit for
9 the work that they do in providing the NRA options.

10 We get to January, and we get to January 7th. Let's talk
11 about this case and let's talk about where we are. Your
12 Honor, two singular attacks are put together. First is Wayne
13 LaPierre has engaged in -- it's not quite clear to me exactly
14 what they accuse him of doing, other than excess benefits.
15 It appears as if it's flights and travel, and it appears as
16 if it's gifts.

17 A lot is made of cronies being around. A lot is made of
18 entrenchment.

19 Have you heard an allegation of a secret bank account?
20 Have you heard an allegation that Mr. LaPierre enriched
21 himself? The answer to that is no. There is no allegation
22 before Your Honor that Mr. LaPierre misappropriated cash,
23 that he stole from the NRA. What they accuse him of is
24 taking luxury flights, taking vacations on yachts, which
25 neither he nor the NRA paid for, and giving gifts to donors

1 and the office staff. Suits, flights, and gifts, is what I
2 wrote down.

3 Your Honor, a lot has been made about a quarter-million
4 dollars of suits. The testimony will be the NRA did not pay
5 for them. They were brought up again today. They were
6 brought up in the pleadings. Hear me. There is and will be
7 no evidence that the National Rifle Association paid for a
8 quarter-million dollars of suits.

9 I'm going to talk about Mr. LaPierre's flights in a
10 minute. But the complaint that the New York Attorney General
11 files in New York literally has a paragraph about Mr.
12 LaPierre giving an inappropriate gift to the office staff of
13 ice cream. The gifts we are talking about are measured in
14 the hundreds of dollars, and sometimes in the thousands of
15 dollars when they're giving to donors, donors who I will
16 explain to you have to provide the bulk of the operating
17 budget for the NRA on an annual basis. A business judgment
18 made by Mr. LaPierre as to how best to raise money.

19 But Your Honor, we get to January 7th, the initial board
20 meeting. Your Honor, they try and tell you that a decision
21 had been made to file bankruptcy on January 7th. There is
22 not one shred of evidence to suggest that is the case. No
23 one will come forward and say, on January 7th, we were going
24 to file bankruptcy. They will come forward and say a whole
25 host of litigation -- of legal, not litigation, legal

1 strategies were being considered at that point in time.

2 The irony of this is that, in the New York Attorney
3 General's complaint, they allege a contract that contains a
4 poison pill. Mr. LaPierre said, if the New York Attorney
5 General doesn't like my contract, let's tear it up. Let's
6 give the benefit to the National Rifle Association so, at
7 their option and exclusively their option, they can continue
8 to use my likeness and my signature to raise funds on a going
9 forward basis. But tear it up. I don't want to be the
10 source of concern about the future expenditures of the
11 National Rifle Association.

12 So what do we do? We go to a meeting on the 7th of
13 January for two agenda items. The first is to alter Mr.
14 LaPierre's employment contract and to tear up the poison pill
15 provisions that the New York Attorney General included in
16 their complaint. And the second, the second is to ratify the
17 Special Litigation Committee as being a full committee of the
18 board.

19 Brief side detour here. The president has the ability to
20 create committees. One was created because Mr. LaPierre and
21 Mr. Frazer were both individually named as defendants. They
22 could no longer participate in the decision-making on behalf
23 of the NRA. So the Association did the right thing. They
24 created a Special Litigation Committee of officers of the
25 board.

1 That doesn't have full board authority, doesn't have full
2 authority under our bylaws until they are ratified at a
3 meeting of the full board. Those are the two things that
4 happened that day.

5 Yes, language was included in Mr. LaPierre's contract to
6 restructure and reorganize the Association. Is that code
7 word for bankruptcy? The answer is no. The answer is
8 unequivocally no. There was no intent or desire to file
9 bankruptcy on that day. That is the testimony that you will
10 hear. The testimony you will hear is we need to give Mr.
11 LaPierre new tools to be flexible as litigation comes our
12 way.

13 Now, Your Honor, this is the most important of the --
14 most important component of the presentation I'm going to
15 give you today, which is, over the course of the next week,
16 the Special Litigation Committee meets with counsel. It
17 meets with Mr. Neligan. It meets with the Brewer team. And
18 they come to the conclusion that there are three goals that
19 the NRA must engage in as a legal strategy, three outcomes
20 they must seek.

21 The first of those outcomes is to, at all costs, avoid
22 the death penalty. Avoid dissolution of the Association.
23 That is the single most important factor that we must obey.

24 The second is that we must ensure that we maintain self-
25 control over the Association. And that, candidly, Your

1 Honor, is a receiver.

2 I'm a little surprised that the portion of the testimony
3 of Mr. LaPierre that we saw in a presentation this morning
4 was in fact Mr. LaPierre saying, I was worried about a
5 receiver being appointed in the New York state court action.
6 Attorney General James had made it known that she desired to
7 dissolve the NRA. What's the next step? A receiver.
8 Section 504 of the Bankruptcy Code usually displaces a
9 receiver. But Your Honor, when I started this practice more
10 than two decades ago, you commonly displaced a receiver
11 simply by filing bankruptcy. You invoke the Bankruptcy Code,
12 Section 504, and -- and you took control of your assets.

13 Your Honor, that doesn't happen anymore. Modern,
14 sophisticated receivership orders now include provisions
15 denying the very entity corporate governance rights. And so
16 boards no longer have the ability to file bankruptcy under
17 receivership orders. It's something I've been experiencing
18 for at least a decade now, and it's why you see organizations
19 file bankruptcy prior to receivership hearings instead of
20 after receivership hearings.

21 Your Honor, *Bankruptcy 101*. Why do you file? You file
22 because you've got a foreclosure. You file because a
23 judgment is headed your way. You file because a receiver is
24 in the works.

25 Your Honor, that's why we filed. The exclusive testimony

1 as to good faith will be we had three goals in mind. First,
2 avoid the death penalty. Avoid dissolution. Two, avoid a
3 receiver in a New York state court that would deny us the
4 ability to file. And third, we wholly embrace our third
5 goal. Our third goal is to remove ourselves from Texas --
6 I'm sorry, remove ourselves from New York and relocate
7 ourselves to Texas.

8 Your Honor, it has been prejudged what our plan of
9 reorganization will say. Just today, I've been working with
10 general counsel and the board on setting up a board meeting
11 so that the board can consider and hopefully approve a plan
12 of reorganization. It will be brought before Your Honor
13 during the exclusivity period.

14 We have three dates that we're working on. We're down to
15 issues of logistics like does the hotel have enough space for
16 us? Can we all get together? And I'm going to talk about
17 this hotel issue in a minute.

18 But Your Honor, we will bring before you a plan of
19 reorganization. And that plan will contain a number of
20 provisions that you will have to pass muster on then, but not
21 now.

22 The Attorney General, without support, says that we
23 cannot confirm a plan that does not have approval of the
24 State of New York. Respectfully, we'll fight that out at
25 confirmation. I have many ideas as to how we could confirm a

1 plan over their objection. We could sell the assets to a new
2 entity. We could re-domicile, I believe, under the supremacy
3 clause. We could have a forward merger into a Texas entity,
4 which is what the Sea Girt entity was originally designed to
5 do.

6 We have six ideas as to how we can confirm a plan. And
7 to suggest that we filed in bad faith because we should
8 accept the conclusion of the New York Attorney General that
9 we could never confirm a plan, Your Honor, that's just simply
10 not before the Court.

11 That is a third of our goals. Avoid the death penalty
12 and dissolution, avoid a receiver, and get to Texas. And you
13 will hear exclusively testimony being we didn't know if it
14 was a big risk or a small risk, but we risked, for a variety
15 of reasons, the filing of a receivership action in New York
16 by Attorney General James, and so we did what we thought was
17 right, which was to file a bankruptcy under the authority
18 granted to Mr. LaPierre.

19 Your Honor, it is my belief and it would have been my
20 advice that they had the duty to protect this Association,
21 because reasonable minds can disagree as to whether that was
22 a big risk or a small risk. But when your first prayer for
23 relief is dissolution, what do you do? You find a way to
24 protect the organization and the institution.

25 So, Your Honor, they tell us we stumble and trip into

1 bankruptcy because they believe that we do not have
2 sufficient corporate authority. Now they hold it against us
3 that we hold a meeting to say, you don't speak for the NRA.
4 You don't speak for this incredibly vibrant and vocal and
5 intelligent board. Don't put words in their mouth.

6 So what do Mr. -- what do we do? We go, Mr. Neligan and
7 I, we go and spend hours with the board. We talk to them
8 about the pros and cons. And they pass a resolution. A
9 resolution, yes, I authored. I worked with them that day on
10 what the resolution would be.

11 But Your Honor, there's a couple of facts that are super
12 important about that resolution. The first is, of course, it
13 affirms and ratifies the filing of the bankruptcy. It
14 affirms and ratifies the support of the board for the action
15 of the Special Litigation Committee and Mr. LaPierre. By a
16 vote of 44 to 1. Let there be no doubt that that board spoke
17 with a unified, nearly-unanimous voice. There was one
18 dissenting voice in the room. Not surprising, in a room of
19 45 individuals.

20 But importantly, Your Honor, focus on the last paragraph.
21 The last paragraph says, if you dismiss this case simply
22 because you find that we didn't have corporate authority, we
23 are authorized and instructed to file the case again before
24 Your Honor.

25 Your Honor, this should put to rest the idea that this

1 board does not support and does not affirm the fact that
2 filing of bankruptcy to protect against a receivership was
3 not only the right thing to do, I believe it was their duty.

4 Much is made of the fact that -- well, I find it -- I
5 find it offensive to elementary school arithmetic that we
6 suggest that 48 members is barely half of the 76-member
7 board. But much is made that we didn't have a virtual
8 meeting. Your Honor, what they haven't told you is that
9 until -- we've never had a virtual meeting. But until
10 November of last year, we didn't have bylaws permitting a
11 virtual meeting. And the bylaws we adopted allow us to meet
12 exclusively virtually or exclusively in person. That's
13 Article IV, Section 3(f) that we'll put before you. These
14 were adopted in October, to correct myself. We didn't have
15 the ability of having a hybrid board meeting.

16 Complaints are made that we can't -- that we don't abide
17 by our bylaws, but then, when we do, it's suggested that
18 we've done something wrong.

19 The idea that ratification is an admission of fraud is a
20 silly argument. The idea that the board did not speak with a
21 single voice on behalf of their members is a silly argument.
22 One. One dissenting voice amongst that incredible,
23 intelligent, and responsible group.

24 Judge Journey, he doesn't speak for the board. He was
25 the dissenting voice. This idea that he didn't get his say

1 won't be borne out by the evidence. This idea that he was
2 shut down because of the content of his message is not what
3 happened.

4 Judge Journey, as the -- as the testimony will prevail --
5 I have a lot of respect for Judge Journey. I have no concern
6 about the questions he's asking. I represent the NRA and its
7 board members. But at the end of the day, these questions
8 have been looked at. They're being looked at by the
9 Unsecured Creditors' Committee.

10 There's more that will come before the Court on this
11 point. Judge Journey has had an acrimonious relationship
12 spanning more than three decades with the National Rifle
13 Association. There's more to this story that will come out
14 in the context, Your Honor. But the vote was 44 to 1. We
15 didn't back him into a corner. And if we backed him into a
16 corner, they certainly would have said, if it's dismissed on
17 procedural grounds, go file it again. Your Honor, that
18 question should be put to rest.

19 But Your Honor, let's talk about where we are, where we
20 go from here, and what a plan might look like.

21 Your Honor, I believe -- so, we've been using good faith,
22 but we haven't been using good faith in the concept that I
23 think it needs to be evaluated in. This is a case that will
24 be evaluated at the end of the day in the context of 1129.
25 1129(a)(3). We cannot file and confirm a plan which was

1 otherwise forbidden by law. That's what the New York
2 Attorney General argues. Well, okay, let's go do it. We'll
3 file a plan, Your Honor. We'll file it during exclusivity.
4 Been a little busy handling this, but we'll get to a plan in
5 short order, and we have a board meeting set. We're going to
6 file a -- we're going to file a plan that will be supported
7 by the board.

8 There are questions that have been raised about
9 management, including Mr. LaPierre. They're important
10 questions. I believe the answer is that his conduct has been
11 honorable, that his conduct has been in the best interests of
12 the estate. Most importantly, I believe that his conduct
13 will demonstrate that he's using and exercising his business
14 judgment.

15 You will hear about a life that I wouldn't trade for for
16 \$25 million a year. You will hear of a man who is accosted
17 in the streets, who has coffee thrown at him, who is accused
18 of being a murderer and being responsible for deaths simply
19 because he advocates for the rights that are -- that are
20 protected by the Second Amendment.

21 Mr. LaPierre flies private primarily because of his
22 safety. There is no individual man or woman in this country,
23 outside of an elected official, who bears the scrutiny and
24 the risk of Mr. LaPierre.

25 He flies private for a second reason. The budget of the

1 NRA is about \$300 million in a good year, of which about \$115
2 million, the witnesses will testify, come from dues. We get
3 another \$40, \$50 million from operations. But that leaves an
4 annual shortfall, an annual shortfall that is on Mr.
5 LaPierre's shoulders to raise of nine figures. More than
6 \$100 million a year Mr. LaPierre must raise to pay the
7 employees, to keep the lights on, to provide the services
8 that I've talked about.

9 He cannot afford, setting aside his safety -- he can tell
10 you a story of being swatted. He's going to tell you a story
11 of how his house is not only put on the Internet, but
12 instructions as to how to approach the house through the
13 forest undetected so that you can do him harm are -- he's
14 going to tell you stories that no one would want the life
15 that he has. But he does it. And I'm not saying we should
16 feel sorry for Mr. LaPierre. But at the end of the day, he
17 flies private because it's a requirement of the Association.

18 He is their greatest asset. He is the only person, the
19 only person who can raise \$100 million a year. We've tried
20 with others. We tried with Colonel North. It didn't work
21 out. Your Honor, he is the greatest asset, which the board
22 demands to protect. And secondarily, putting him on a
23 layover in Denver or a layover in St. Paul denies him the
24 ability and the exercise of the business judgment of the
25 organization to raise that \$100 million.

1 Your Honor, this is a good faith filing. Mr. Mason said
2 avoiding a receivership isn't the basis. 543 talks exactly
3 about the filing of a bankruptcy in the context of a
4 receivership action.

5 Your Honor, if you are left after this process with
6 concerns about what management of the reorganized NRA ought
7 to look like, I would encourage you to take that up in the
8 context of plan confirmation. It's rare we talk in the
9 parlance of 1129(a)(5), but 1129(a)(5) is there to answer
10 just the questions that have been raised, about whether --
11 about who and how we should run a reorganized debtor, and I
12 stand before you to say that the evidence will not support
13 the appointment of a trustee, but the evidence might give you
14 pause as to who and what should be proposed in a plan to
15 comply with 1129(a)(5).

16 Your Honor, insolvency has not been a prerequisite to
17 filing in good faith under 1129 -- under 1129(a) since the
18 adoption of the Bankruptcy Code in 1978. It was little
19 unclear, 378, whether it was a necessary component or not.
20 It certainly, in the constitutional language of insolvency
21 and restructuring, when we go back to our profession's
22 history, is not a concept that the founders had included.
23 But some are general properties in this district. Judge
24 Davis has the *Adell* (phonetic) case. Bankruptcy filings are
25 not limited to insolvent debtors.

1 I have confirmed many a plan for an -- for not-an-
2 insolvent debtor. The text-case case in school would be a
3 solvent debtor who simply breached covenants, has a
4 foreclosure, the foreclosure would result in the loss of the
5 debtor's assets, and you file the bankruptcy to protect
6 equity. Protecting equity is a common concern in bankruptcy
7 cases. We didn't file for that reason.

8 And the second thing I will say, Your Honor, is we did
9 not file just to avoid the regulatory power of New York. You
10 have not seen Mr. Neligan, you've not seen Mr. Buncher,
11 you've not seen Mr. Gaither, you've not seen me come before
12 this Court suggesting that the regulatory and enforcement
13 action of the New York Attorney General should be ceased. In
14 fact, we stand here today to say we will go forward in those
15 regulatory actions.

16 But as we do in bankruptcy often, dissolution is off the
17 table. A receivership is off the table. The outcome of that
18 proceeding can and should be brought back to this Court for a
19 determination as to how we should proceed with a plan of
20 reorganization, and we do not take the position that that
21 proceeding has been stopped as they relate to the individual
22 defendants, including Mr. LaPierre and Mr. Frazer.

23 We filed, again, for three reasons that constitute good
24 faith. We needed to take dissolution, the equivalent of
25 foreclosure, off the table. We needed to take receivership

1 off the table and stay in control of our assets. And we did,
2 in fact, file because we believe there are legal ways to get
3 out of New York and find ourselves where our members are,
4 where -- this is not only the state with the most members,
5 this is the state with the most firearms. This is the state
6 in which our work is done most effectively and efficiently.

7 Your Honor, I've been in Dallas for weeks now. This is
8 where the NRA is conducting its business. The burdens under
9 1104 and 1112 are incredibly high. A trustee is, in fact, a
10 death sentence. The evidence that you will hear to suggest
11 that we have -- I wrote this down -- to suggest that if we
12 aren't prepared for a trustee, we have mismanaged the company
13 and it's evidence of mismanagement: candidly, Your Honor,
14 it's an argument that is not supported by logic or law.

15 To argue that dissolution is a red herring, a bogeyman
16 that we shouldn't be worried about, and they follow a
17 bankruptcy process, is an argument that carries very little
18 weight.

19 And the argument that a trustee assures the future of the
20 NRA reviles our purpose and our role. We don't sell widgets.
21 We don't sell services. We do one thing to raise \$300
22 million a year. We provide services to our members, and Mr.
23 LaPierre and others, but primarily Mr. LaPierre, raises
24 money.

25 The greatest asset of this company will one day be its

1 greatest -- this Association will one day be its greatest
2 liability. We do, in fact, have to find a successor to Mr.
3 LaPierre who can raise that \$100 million a year.

4 The five points I want to leave you with are we filed in
5 good faith. I believe it was not only the -- a legally
6 appropriate thing to do; I believe it was the duty of this
7 Debtor to ensure that it wasn't facing dissolution, and in
8 the immediate future, wasn't facing a receiver. Reasonable
9 minds can differ as to how big that risk was, but it was
10 definitely a risk. You haven't heard anyone say they're
11 taking dissolution off the table. You haven't heard anyone
12 say they wouldn't seek the appointment of a receiver.

13 Your Honor, the NRA did not file bankruptcy to escape the
14 claims of the New York Attorney General. We not only have
15 not argued that before the Court, we stand ready to proceed
16 in that action, provided if the Court does not enter an order
17 dissolving us or appointing a receiver.

18 There are no allegations of missing money. There are no
19 allegations of missing bank accounts. Mr. LaPierre lives in
20 the same house, you'll hear, that he's lived in for 25 years.
21 In the parlance of bankruptcy, we have a predatory lender who
22 is seeking to foreclose on our assets.

23 Ackerman is relevant. It's relevant in that it's part of
24 our story of the self-correction. But we are seeking money
25 against them. They are seeking money against us. That's a

1 story you've heard a million times. It's my belief and it's
2 my -- was -- is my advice to this Debtor that they did the
3 right thing.

4 I wasn't their lawyer at the time we filed bankruptcy,
5 but I believe, with all -- all of my legal training, that it
6 was the right thing to do to protect this institution. The
7 NRA is literally irreplaceable based upon the things that we
8 do. And at the conclusion of this trial, I am going to ask
9 you to deny these motions.

10 THE COURT: Thank you, Mr. Garman. Mr. Strubeck?

11 MR. STRUBECK: Yes, Your Honor. Can you hear me?

12 THE COURT: I can. Thank you.

13 MR. STRUBECK: Ah. Well, then that's a step up,
14 Judge, from where I was this morning, so I thank -- thank
15 you. I'm glad you can hear me.

16 Are you ready for me now?

17 THE COURT: I am. Yes.

18 OPENING STATEMENT ON BEHALF OF THE OFFICIAL COMMITTEE OF
19 UNSECURED CREDITORS

20 MR. STRUBECK: All right. Your Honor, may it please
21 the Court, Louis Strubeck, and Scott Drake is here with me as
22 well, counsel for the Official Committee of Unsecured
23 Creditors.

24 I appreciate the opportunity to make an opening statement
25 today. My experience has been lately that courts seem to

1 dispense with opening statements, which, especially in
2 matters like this that involve the complexity and kind of
3 variety of issues, I think is a mistake. Maybe that's
4 because opening statements have the tendency to turn into
5 closing arguments. I think the parties today have done a
6 pretty good job limiting what they've had to say in terms of
7 arguments. And I intend to do the same thing, Your Honor, so
8 I don't think I'm going to break ranks with that.

9 Ms. McConnell [sic] remarked that she is new to the
10 bankruptcy courts and that this has been an education for
11 her. Suffice it to say I think, for those of us who have
12 been doing this for a good while, the education part is
13 probably true for us as well. In addition to garnering all
14 kinds of attention in the press, the issues before the Court
15 here are far from commonplace. And the stakes, as you've
16 heard, are exceptionally high in terms of the requested
17 relief and the impact that you've heard Mr. Garman outline
18 that it will have on the National Rifle Association. And
19 that impact is not lost on us, Your Honor, given our specific
20 statutory duty.

21 As you probably expected, given our duties and
22 responsibilities here, the U.C.C., as provided for in our
23 responses to the various motions, is opposed to the dismissal
24 of the cases, the appointment of an examiner, and also
25 opposed to the appointment of a Chapter 11 trustee.

1 The U.C.C. is purely a statutory entity. Section 1103 of
2 the Bankruptcy Code, to be specific. And Section 1103 and
3 related case law provides a clear charge to the Committee in
4 terms of its duties and responsibilities, and this Committee
5 has taken those very seriously here.

6 Simply stated, the Committee's focus primarily is to make
7 sure that its constituents receive the highest distributions
8 that the case will permit. And in cases like this, Judge,
9 where it looks like the Debtor has the ability to make
10 payments to unsecured creditors, has represented that they
11 intended to -- that they intend to pay unsecured creditors in
12 full, there is another charge that is actually consistent
13 with the first charge, and that is to make sure that the
14 National Rifle Association in this case emerges from
15 bankruptcy in the most viable, financially-solid position it
16 can. And the reason for that is because the creditors that
17 we represent, Judge, want to be able to have an entity they
18 can continue to do business with going forward.

19 And so all of these considerations, Your Honor, have
20 really formulated the positions that the Committee has taken
21 here. And unlike other parties in the case -- and the Court
22 cautioned some of those parties from getting up or getting
23 caught up in litigation emotions, I think you said, and
24 political arenas. Mr. Mason used a good term for that,
25 political hyperbole. I think that's a pretty apt

1 description.

2 In this case, nobody can suggest that the Committee has
3 those kind of agendas, because we don't. And while the
4 Committee's voice is always an important one, I think it is
5 an especially important one here because I think we offer a
6 dispassionate and, frankly, very measured view of all the
7 matters that are before the Court today.

8 And, really, Judge, when you think about it, given what
9 our statutory duties and responsibilities are, we get to
10 call, to a certain extent, not at the level that you do, but
11 we get to call, to a certain extent, balls and strikes in
12 this case. And that's really what we're doing, Judge.

13 In the response that we filed to the various motions to
14 dismiss these cases, to appoint an examiner, and to appoint a
15 Chapter 11 trustee, the Committee specifically opposed
16 dismissal of the cases. I'm going to talk about the evidence
17 around that that we expect will be presented in just a
18 second. And from our perspective, Judge, the dismissal of
19 the cases would be devastating, not just to the NRA but to
20 the Committee's constituents as well.

21 We oppose the appointment of an examiner. I'm going to
22 talk about that a little bit later, too. I think with the
23 issue of the appointment of an examiner, it's actually
24 probably a lot more legal argument than it is factually-
25 based. But, again, I'll come back to that.

1 And with the appointment -- with respect to the
2 appointment of a Chapter 11 trustee, that, too, was opposed
3 by the Committee. There was a little bit of a caveat to
4 that, Your Honor, that to the extent that Your Honor had
5 decided -- and we don't think you should -- but to the extent
6 that Your Honor decided that a committee should be appointed,
7 then the committee that should be appointed shouldn't be one
8 that has the garden-variety broad scope that Chapter 11 -- I
9 said committee; I meant trustee -- shouldn't have the garden-
10 variety broad scope that a Chapter 11 trustee typically has.

11 As Mr. Garman alluded to, the burden for getting a
12 Chapter 11 trustee appointed is extraordinarily high. And
13 for good reason. And in this case, I think you have to at
14 some point separate what goes on with the mission and the
15 fundraising and the membership, which Mr. Garman effectively
16 said was the lifeblood of this organization, from what has to
17 happen in the bankruptcy cases or what should happen in the
18 bankruptcy cases.

19 And so to the extent Your Honor is inclined to appoint a
20 trustee, in our response we wanted to provide the flexibility
21 to the Court to do something that, admittedly, is a little
22 unusual, but it is to craft a much more narrow scope for a
23 Chapter 11 trustee here. And for a lot of reasons, we think
24 that makes sense.

25 You probably also noticed, Your Honor, that in the

1 response that we filed we were championing the consideration
2 at least by the NRA for the retention of a chief
3 restructuring officer. We thought that that would
4 effectively address all of the issues you're hearing here
5 today, except -- except, of course, for the notion of
6 dismissing the cases -- and that, really, a chief
7 restructuring officer could manage these specific issues that
8 involve the bankruptcy administration. And with the properly
9 broad scope here, we thought that was the right solution.

10 Of course, we can't, despite my encouraging Mr. Neligan
11 and Mr. Garman and others to consider that option, we can't
12 force that to happen at the end of the day. I still hold out
13 some hope that maybe the NRA will decide to move in that
14 direction. But so far as I know, at least when I started my
15 argument today, there had not been any attempt to do that
16 just yet. And maybe that's something that Mr. Garman can
17 speak to if I leave him a little bit of time from my 15
18 minutes, and I think that I very well might.

19 I know that the Court's custom, not just in this case but
20 in every case, is to carefully review the pleadings that are
21 filed before it. And I know you've mentioned you even had a
22 chance to read the most recent replies that were filed over
23 the weekend. I'll bet you that one of the takeaways that you
24 had, Judge, when you read our responses was that we were
25 trying to reserve the right to pivot, if that was necessary,

1 given the evidence that we had not yet heard that was adduced
2 in connection with all the discovery that's been going on for
3 the last couple of weeks.

4 We did a lot of due diligence before we filed the
5 response. And, you know, based upon the best information we
6 could get, we responded accordingly. But we didn't really
7 have all the facts and we weren't quite sure just yet how
8 they were going to evolve.

9 We took the allegations seriously that the New York
10 Attorney General and some of the other Movants have made.
11 And as a result, Judge, we were a very diligent and active
12 participant in the discovery process that's been taking place
13 for the last couple of weeks.

14 And we haven't changed our position, Judge, on any of the
15 things that we said as a result in our initial response. And
16 so it looks like we got it right, at least in terms of how we
17 viewed what the facts would be, and that we've now, of
18 course, had a pretty good preview of all that because of the
19 extensive discovery process and all the depositions that were
20 taken.

21 So, Judge, the takeaways here from our perspective, and
22 I'm going to be much more general than Mr. Garman was in
23 terms of how he couched the evidence, but we think that there
24 are at least eight or nine things that you will hear that the
25 evidence will support at the end of the day.

1 First and foremost, Judge, this case was not filed in bad
2 faith. It was filed for legitimate purposes, and the
3 evidence is going to more than bear that out. I agree with
4 what Mr. Garman said. This isn't a situation that, just
5 because the NRA happens to be solvent, that somehow that is a
6 prohibition or indicia of bad faith. That's simply not the
7 case. And they had good reasons, as Mr. Garman has alluded
8 to, to file these cases.

9 It would be devastating, as he suggested, to the NRA if
10 Your Honor were to dismiss these cases, which have now been
11 pending before the Court for the better part of three months.
12 It would be equally devastating, in our opinion, Your Honor,
13 for the interests of the unsecured creditors, and we would
14 point, as Mr. Garman did, to, I believe, what was the first
15 request for relief in the New York Attorney General's
16 complaint, which was a dissolution of the NRA. That
17 certainly would not be in the best interests of the creditors
18 of the estate.

19 There were some questions raised, Judge, I guess around
20 the issue of corporate governance in terms of whether the
21 case or cases were properly authorized. We think they were.
22 We think the evidence that you will hear, in the first
23 instance in the case, they were. But as Mr. Garman also
24 alluded to, to the extent there were any disconnects on that
25 front, the fact that the board has now ratified those filings

1 we think eliminates all those issues.

2 Another important fact, Your Honor, that we think the
3 evidence will establish is that the NRA intends to file a
4 plan, as Mr. Garman said, that will pay all allowed unsecured
5 creditor claims in full. And as a matter of fact, Your
6 Honor, Mr. Neligan and I have had some pretty detailed
7 conversations around what the Committee would expect to see
8 in that plan when it finally comes to fruition. And so we
9 have considerations, Judge, as I mentioned at the outset, not
10 just to make sure that the holders of allowed unsecured
11 claims here get paid in full, as the NRA has represented will
12 be the case, but also to make sure that when the NRA comes
13 out the other side, again, it is the most financially solvent
14 and financially secure and best-governed organization it can
15 possibly be. And I have shared with Mr. Neligan some
16 thoughts around that as well.

17 So what I would expect to see here, Judge, in terms of a
18 plan that ultimately goes forward from the NRA, is not only a
19 plan that is deferential to and has considerable input from
20 the Committee, but also, as part and parcel, you know, maybe
21 addresses some of these governance issues that some people
22 have referenced today in their opening statements and as I
23 think will be more fully developed by the evidence you're
24 going to hear over the course of the next couple of days.

25 Another important consideration for us, Judge -- and the

1 evidence, I think, will bear this out as well -- is the NRA
2 recognizes the important role that its vendors, who are
3 unsecured creditors here and whose interests are represented
4 by the Committee, play in the NRA's mission. And the NRA
5 wants and expects to continue those business relationships
6 with vendors going forward and upon emerging from bankruptcy.
7 And that's critically important to us, and, again, we
8 believe, part of our fiduciary duties and responsibilities
9 here.

10 We don't think there's a need for an examiner, Judge --
11 and I'm going to talk about this a whole lot more in closing
12 argument than I am today -- because, really, the examiner
13 issues, I think, are more legal argument than they're
14 factually-specific. But I will say that the comments you
15 heard from Mr. Watson in terms of the scope that he
16 envisioned for an examiner sound a whole lot like what a
17 Committee ought to be doing, and here, Judge, what the
18 Committee has already started down the road to doing.

19 And so the way that we look at the examiner motion, Your
20 Honor, is that one is not appropriate here. It's not
21 necessary here. And everything that an examiner could and
22 would do is effectively being done or will be done by the
23 Committee.

24 As Mr. Garman mentioned, the member revenues and
25 donations are the life's blood of the NRA. I think life's

1 blood might be my reference and not specifically his words.
2 And you're going to hear testimony that those revenues that,
3 again, are critical to the NRA's operations, would be
4 severely jeopardized if a Chapter 11 trustee were to be
5 appointed.

6 And, again, Judge, we are adamantly opposed to appointing
7 a Chapter 11 trustee, except for the caveat that if you're
8 inclined, notwithstanding our position, to appoint one, we
9 think that the scope ought to be appropriately narrowed to be
10 respectful of some other things that a Chapter 11 trustee
11 probably shouldn't be doing here.

12 While the New York Attorney General and others have
13 raised serious allegations regarding financial improprieties
14 and lack of proper oversight and internal controls, we
15 believe the evidence is going to show that the NRA took those
16 allegations seriously. And as Mr. Garman alluded to, took
17 proactive measures to try to address those and control those
18 and to prevent those from reoccurring in the future.

19 I'll note that the evidence, I believe, is also going to
20 show, Judge, that the majority of these alleged improprieties
21 took place several years before the bankruptcy cases were
22 filed. And maybe more importantly, the Committee is not
23 aware of any such improprieties occurring subsequent to the
24 filing of the bankruptcy cases.

25 I think there's a lot of reasons for that, again, which

1 the evidence is going to establish. One is the measures that
2 I mentioned a second ago that were taken, and at least from
3 what we have been able to tell, appear to have been
4 successful.

5 And then, of course, the bankruptcy process itself has
6 considerable checks and balances and oversights that are
7 built into it. And those include at the very top Your Honor,
8 and probably next Ms. Lambert and the U.S. Trustee. And
9 certainly, Judge, the Committee, in terms of the Committee's
10 role as a watchdog and overseer and investigator here.

11 And so while you could potentially say, and I think the
12 evidence will support it, that there haven't been any
13 recurrences of some of the conduct that was complained about
14 that goes back several years postpetition, I think one of the
15 reasons for that, again, is the way that the system is set
16 up. And I think that also is a very important consideration
17 when it comes to why a Chapter 11 trustee should not be
18 appointed here.

19 One of the other points that I wanted to make, Your Honor
20 -- and, again, I don't want the Court to lose sight of the
21 fact, and I know that you won't, that there is an
22 exceptionally high burden here when it comes to having a
23 Chapter 11 trustee appointed. And in my career, which
24 unfortunately spans many more years than Ms. Connell's, I can
25 count on one hand the number of Chapter 11 trustees that I've

1 seen appointed. And that should only happen in the most
2 extraordinary cases, and the evidence here is going to show
3 that those extraordinary situations are just not here.

4 I'm only going to talk about the *SGL Carbon* case for a
5 second in terms of dismissal, and I wouldn't have talked
6 about it at all, because I think it's better reserved for
7 argument than for opening statements, but Mr. Mason mentioned
8 it and suggested that that was going to be an important case
9 when it came to your consideration of dismissal. And I'm
10 going to submit to the Court that we disagree. That is an
11 entirely different case for many, many different reasons.
12 And maybe the most important takeaway in that case is the
13 court specifically found that an adverse adjudication of
14 litigation against the debtor there was not going to put the
15 debtor out of business. And of course, that's not the
16 consideration that's in play here.

17 I want to mention one more thing about the chief
18 restructuring officer, Judge, because, again -- and maybe I'm
19 the only one that's been singing this song throughout this
20 case -- but since the formation of the Committee and our
21 involvement as counsel, we have done everything that we can
22 to encourage the NRA to consider that as an option.

23 And we took that position for a lot of reasons, Judge,
24 not the least of which is you usually see in cases like this
25 a chief restructuring officer that's already involved when

1 the cases get filed, and, you know, I think that there's a
2 good reason that that happens.

3 But in this case especially -- and again, I don't think
4 that there has been any or that there will be any credible
5 evidence at all that's going to indicate that this conduct
6 that is complained of that goes back several years has any
7 meaningful risk of resurrecting itself postpetition. But
8 there are some other concerns and considerations, including,
9 frankly, the negotiation of a plan that I think a chief
10 restructuring officer could be very effective in managing
11 here.

12 And so I would hope and would continue to urge, and the
13 Committee would hope and continue to urge, that the NRA give
14 serious thought to the retention of such an individual, and
15 that in connection with the retention of such an individual,
16 that person have a scope that would be commensurate with what
17 I think is needed here from the perspective of a chief
18 restructuring officer.

19 But, again, I think that that would go a very, very long
20 way to eliminating all the noise around a lot of this, which
21 at some point needs to go away so we can focus on what's
22 really important, and that is the NRA's getting out of
23 bankruptcy and proposing a confirmable plan.

24 So I'll save the rest of this, Judge, for my closing
25 argument, and just, you know, reiterate that in closing this

1 portion of the opening statement, we believe the evidence is
2 going to show that the Movants have not carried their burden,
3 a very heavy burden with respect to dismissing the cases.

4 We also don't think that Judge Journey has carried his
5 burden in establishing that the appointment of an examiner is
6 appropriate and necessary here. And again, the scope that
7 was proposed sounds a whole lot to me like what the Committee
8 ought to be doing and is doing here.

9 And last but certainly not least, the evidence is not
10 going to support the appointment of a Chapter 11 trustee.
11 However, to the extent that you believe that a Chapter 11
12 trustee should be appointed here and we never can get any
13 traction on the chief restructuring officer appointment, then
14 that Chapter 11 trustee should not have the garden-variety
15 broad exercise of authority that is typically granted in
16 Chapter 11 cases, for a lot of reasons here that I'll get
17 into in a little bit more detail in my closing argument.

18 So, thank you for your time, Judge, in allowing me to
19 present the Committee's position.

20 THE COURT: Thank you, Mr. Strubeck.

21 I think, as I said at a hearing shortly after you all
22 filed your response, and the same is true this afternoon, I'm
23 not picking winners based on brief, but I did think that
24 y'all's response that you filed to the motions were
25 constructive, so I appreciate that.

1 MR. STRUBECK: Thank you, Your Honor.

2 THE COURT: All right. I think we're finished now
3 with opening statements. Let's see. Who is going to take
4 the lead on examining the first witness by the New York
5 Attorney General?

6 MR. BUCHANAN: Your Honor? This is Thomas Buchanan,
7 counsel for Christopher Cox. I didn't reserve any time, but
8 there's been some misrepresentations made about Mr. Cox that
9 I would just like to correct for the record. They actually
10 led to the press calling Mr. Cox. And I think that counsel
11 for the NRA would ultimately agree, but I just don't think
12 they're informed. So if I could comment just briefly on
13 those.

14 THE COURT: Ever so briefly, Mr. Buchanan, because
15 we really need to get into evidence now.

16 OPENING STATEMENT ON BEHALF OF CHRISTOPHER COX

17 MR. BUCHANAN: So, yes, sorry. Thank you.

18 So it's been stated by Mr. Garman, and also by Mr.
19 Neligan before him, that Mr. Cox was fired and then sued by
20 the NRA for misappropriation of funds. That never happened.
21 Mr. Cox resigned. He sent his resignation in pursuant to his
22 employment agreement. The NRA then drafted a separation
23 agreement, which they'd agreed to pay him for two years his
24 current pay, which was part of his employment agreement.
25 They paid that for one month. They then canceled payments

1 because they wanted to investigate whether Mr. Cox was
2 involved in assisting Mr. North in creating the request for a
3 crisis committee over Mr. Brewer's bills and the Ackerman
4 bills. While that wasn't true, they suspended the payments
5 to investigate that.

6 We initiated an arbitration. And they took the position
7 that they shouldn't have to pay his separation agreements
8 because he was part of this so-called effort to remove Mr.
9 LaPierre. They ultimately dropped that on the arbitration.
10 I think the NRA has now waived this issue for the
11 confidentiality.

12 I just wanted to put that on the record, Your Honor, I
13 thank you, because he was not fired, and they keep stating he
14 was fired and the press keeps picking this up, and it's
15 really hurting his reputation, his ability to go forward with
16 his life.

17 Thank you.

18 THE COURT: Thank you, Mr. Buchanan.

19 So, back to the question: Who on the New York Attorney
20 General's side is going to take the examination of the first
21 witness?

22 MR. KATHMAN: Good afternoon, Your Honor. Jason
23 Kathman for the New York Attorney General and the State of
24 New York. I'll be handling the first witness, Mr. Cotton.

25 THE COURT: Okay. We've been going for almost --

1 close to an hour and 45 minutes. We're about to switch into
2 evidence. I would suggest that we take a short recess, just
3 for timing purposes. We'll probably take a much shorter
4 recess right -- you know, in several more hours, so we'll
5 take about a 15-minute recess, and then around 5:00 or so
6 another five-minute recess. My intentions are to go to
7 around 6:00, plus or minus, tonight, Central time. So just
8 so you all can do your planning there. All right.

9 MR. KATHMAN: Thank you, Your Honor.

10 THE COURT: I think this is probably an appropriate
11 time, since we're taking a recess. I wanted to remind
12 everybody that on Friday the rule was invoked, so we can only
13 have one client representative participating in the hearing,
14 observing the hearing. And as I said, I leave it up to the
15 lawyers. We have 146 people on this call right now. The
16 lawyers for the various clients are responsible for making
17 sure that their witnesses are not going to be listening in or
18 participating in the hearing. And if they do, there will be
19 repercussions. Repercussions to the witness and for lawyers.
20 So that's why we do it that way.

21 We'll be in recess for 15 minutes.

22 (A recess ensued from 2:52 p.m. until 3:07 p.m.)

23 THE COURT: We'll go back on the record in the NRA
24 case.

25 MR. DRAKE: Mr. Kathman, can you hear me?

1 MR. KATHMAN: Yes, sir. I can.

2 MR. DRAKE: Before you -- this is Scott Drake from
3 Norton Rose for the Committee. Before you start, I would
4 like just to clarify something with the Court, if you don't
5 mind.

6 MR. KATHMAN: Sure.

7 MR. DRAKE: Whenever the judge is ready.

8 THE COURT: All right. Mr. Drake? Mr. Drake? I
9 heard you --

10 MR. DRAKE: Yeah, Your Honor. Just with respect to
11 the rule, I was visiting with Mr. Strubeck. I just want to
12 make sure. The Committee doesn't intend to call any
13 witnesses, and my understanding from review of the other
14 parties' witness and exhibit list is, other than Ackerman, no
15 one from the Committee is expected to testify. And I
16 understand Dorsey is handling the invocation of the rule with
17 respect to Mr. Winkler.

18 But I just wanted to make sure that we were correct in
19 our understanding, because we don't -- we don't intend to
20 exclude any of the Committee members from listening to the
21 other testimony.

22 THE COURT: If they're not going to testify, they
23 don't have be excluded.

24 Mr. Kathman, you may call your first witness.

25 MR. GARMAN: Your Honor, I apologize. This is Greg

1 Garman. Your Honor, a question came to me. We've excluded
2 our witnesses, but a question came to me whether you
3 indicated that counsel for the witnesses were also excluded.
4 I'll admit, I didn't hear that.

5 THE COURT: Oh.

6 MR. GARMAN: But I certainly don't want any
7 ambiguity on the point.

8 THE COURT: I didn't say that.

9 MR. GARMAN: Okay.

10 THE COURT: I deal with honorable lawyers all the
11 time. I would expect them not to then talk to their clients
12 about what is happening in the courtroom. But let's just
13 hope that that remains --

14 MR. GARMAN: No, of course, Your Honor. I just did
15 get the question from one of the witness's counsel and --

16 THE COURT: Yes.

17 MR. GARMAN: -- I certainly didn't want to call that
18 ball or strike, so I figured that -- yes.

19 THE COURT: Thank you.

20 MR. GARMAN: And just for avoidance of doubt, Mr.
21 Ciciliano from our office will be handling for the NRA for
22 this witness.

23 THE COURT: Uh-huh. And thank you for asking the
24 question.

25 All right. Mr. Kathman, you may call your first witness.

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1 MR. KATHMAN: Your Honor, the State of New York and
2 the New York Attorney General calls Charles Cotton.

3 MR. COTTON: I'm here, Your Honor.

4 THE COURT: Welcome. Mr. Cotton, would you raise
5 your -- raise your right hand? Excuse me.

6 (The witness is sworn.)

7 THE COURT: All right. Mr. Kathman?

8 MR. KATHMAN: For the record, Jason Kathman of the
9 law firm Spencer Fane, LLP on behalf of the State of New York
10 and the New York Attorney General.

11 CHARLES COTTON, NEW YORK ATTORNEY GENERAL'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. KATHMAN:

14 Q Good afternoon, Mr. Cotton.

15 A Good afternoon, Mr. Kathman.

16 Q Would you please state your name for the record?

17 A Charles Cotton.

18 Q And Mr. Cotton, you are the first vice president of the
19 National Rifle Association; is that correct?

20 A Yes, sir.

21 Q In August of last year, the New York Attorney General
22 filed a 162-page lawsuit against the National Rifle
23 Association, naming the National Rifle Association, Mr.
24 LaPierre, Mr. Frazer, Josh Powell, and Woody Phillips. Is
25 that correct?

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1 A Yes, sir. Yes, sir.

2 MR. KATHMAN: Your Honor, the State of New York
3 would move for the admission of exhibit -- NYAG Exhibit 107.

4 MR. CICILIANO: That's fine by the Debtors.

5 THE COURT: 107 is admitted.

6 (New York Attorney General's Exhibit 107 is received into
7 evidence.)

8 BY MR. KATHMAN:

9 Q Mr. Cotton, in response to the NYAG enforcement
10 complaint, which we've marked as NYAG Exhibit 107, Carolyn
11 Meadows, the NRA's president, established a Special
12 Litigation Committee. Is that correct?

13 A Yes, sir.

14 Q Okay. And you were actually one of the people that were
15 appointed to that Special Litigation Committee, correct?

16 A That's correct. It was the three officers.

17 Q Okay. And who were those three officers?

18 A It was President Carolyn Meadows, first vice president
19 myself, and Second Vice President Willes Lee.

20 Q Okay. I'll have you turn to what we've marked as NYAG
21 Exhibit 1. Do you have a copy of our exhibits there with
22 you?

23 A Yes, sir. It's -- okay, I've got it up, yes.

24 Q Okay. Do you recognize this document?

25 A Yes, sir.

Cotton - Direct

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1 Q Okay.

2 MR. KATHMAN: The State of New York would move for
3 the admission of NYAG Exhibit 1.

4 THE COURT: 1 is admitted.

5 (New York Attorney General's Exhibit 1 is received into
6 evidence.)

7 MR. CICILIANO: No objection, Your Honor.

8 THE COURT: Thank you.

9 BY MR. KATHMAN:

10 Q Mr. Cotton, this is an email that was sent to the board
11 of directors in the NRA announcing in September of last year
12 that Ms. Meadows had formed the Special Litigation Committee,
13 correct?

14 A That's correct.

15 Q Okay. And you see there where it says, in the second
16 paragraph, "However, we have received advice from both NRA
17 counsel and board counsel that it would be in the best
18 interests of the NRA as well as consistent with corporate
19 governance best practices to create a special litigation
20 committee of the board of directors to oversee the SLC
21 litigation."

22 Did I read that correctly?

23 A You did.

24 Q Okay. And where it says NRA counsel advised the board,
25 that was the Brewer firm. Correct?

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1 A It'd be someone with the Brewer firm. I can't remember
2 if it was Sarah or Bill or perhaps both. But it would have
3 been one or more Brewer attorneys. Yes, sir.

4 Q Okay. And where it says board counsel, that's Wit Davis.
5 Correct?

6 A Yes, sir. That's correct.

7 Q Okay. And next sentence, it said, "I am informed that
8 Wayne and John agree with this course and wish to recuse
9 themselves from oversight of the SLC litigation to avoid the
10 appearance of any conflict."

11 Do you see that?

12 A Yes, sir.

13 Q Okay. So Mr. LaPierre and Mr. Frazer agree to recuse
14 themselves from matters falling within the definition of "SLC
15 Litigation." Is that correct?

16 A Yes, sir. That's correct.

17 Q Okay. And if we look above -- look up above at the
18 paragraph above, "SLC Litigation" is defined therein as the
19 actions commenced against the NRA and four individual
20 defendants by the NYAG and the New York Supreme Court, and it
21 lists three other actions there. Do you see that?

22 A Three other named actions, plus a part four.

23 Q Thank you. Now, the NRA already had a Legal Affairs
24 Committee; is that correct?

25 A Yes, sir.

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1 Q You're actually a member of that Legal Affairs Committee,
2 correct?

3 A I am.

4 Q Okay. But Ms. Meadows chose to form a specific Special
5 Litigation Committee to address legal matters where Mr.
6 LaPierre and Mr. Frazer may have conflicts of interest; isn't
7 that right?

8 A That's correct.

9 Q Okay. Now, let's fast forward now to January 7th of this
10 past -- of this year, 2021. On January 7th of 2021, the NRA
11 holds a board meeting. Is that right?

12 A That's correct. That's correct.

13 Q Okay. And you were the person that presided over that
14 meeting, correct?

15 A I was. Ms. Meadows couldn't travel.

16 Q Okay. And that was my next question. Ms. Meadows, the
17 president, wasn't there, so you presided over it in her
18 stead, correct?

19 A That's correct.

20 Q Okay. I'll have you mark at what we've -- look at what
21 we've now marked as NYAG Exhibit 2.

22 MR. KATHMAN: The State of New York would move for
23 the admission of exhibit NYAG Exhibit 2.

24 THE WITNESS: Okay. I've got it up.

25 MR. CICILIANO: And Your Honor, if we could have a

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1 minute. It's just it takes a second to click through the
2 exhibits, but I'll look in short order.

3 THE COURT: I'm right there with you. I have same
4 problem. So take a chance to look at it.

5 MR. CICILIANO: No objection.

6 THE COURT: 2 is in.

7 (New York Attorney General's Exhibit 2 is received into
8 evidence.)

9 BY MR. KATHMAN:

10 Q This is a copy of the resolution proposed at the January
11 7th meeting delegating authority to the SLC, correct?

12 A Yes, sir. That's it.

13 Q And if I say SLC during this proceeding today, you
14 understand that means Special Litigation Committee?

15 A I do.

16 Q Okay. I'll have you look next at what we've marked as
17 NYAG Exhibit 3.

18 A Okay. I've got it up now.

19 MR. KATHMAN: Okay. And we'd move for the admission
20 of NYAG Exhibit 3.

21 MR. CICILIANO: And Your Honor, if I may have a
22 moment just to make sure it's complete.

23 THE COURT: Sure.

24 (Pause.)

25 MR. CICILIANO: I don't have an objection.

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1 THE COURT: 3 is in.

2 (New York Attorney General's Exhibit 3 is received into
3 evidence.)

4 BY MR. KATHMAN:

5 Q Mr. Cotton, I'll have you turn to Page 5. This is the
6 board minutes from that January 7th board meeting, correct?

7 A Did you say Page 5? This is a one-page exhibit. Did you
8 say Page 5 or Exhibit 5?

9 Q NYAG Exhibit 3. Let's start here. NYAG Exhibit 3 is the
10 board minutes of the January 7th board meeting, correct?

11 A Well, hang on a second. Oh, okay. I'm sorry. It has #3
12 at the top and 2 at the bottom. Let me -- let me bring up 3.
13 Well. (Pause.) Okay. Now I've got it up.

14 Q Okay. This is the board minutes from the January 7th
15 board meeting, correct?

16 A It appears to be. The cover sheet is.

17 Q Okay. Thank you. I'll have you turn to Page 5 of that
18 exhibit.

19 A Let me get the keyboard real quick. Okay. I've got it.

20 MR. CICILIANO: Counsel, is that Page 5 as in the
21 numbers on the bottom or Page 5 of the 157 of the exhibit?

22 MR. KATHMAN: It's Page 5 at the bottom.

23 THE WITNESS: Oh. Okay. Well, hang on a second.

24 Okay. Page 5 as I see it here starts off with a first
25 line that says, "The motion passed". Is that -- is that the

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1 same one?

2 MR. KATHMAN: That's correct.

3 THE WITNESS: Okay.

4 MR. KATHMAN: That's where I'm at.

5 THE WITNESS: I've got it. Thank you.

6 BY MR. KATHMAN:

7 Q Okay. And if we see down there at the bottom, there is a
8 number of "Whereas" paragraphs. The Chair called for new
9 business. Mr. Frazer stated that he'd received one
10 resolution. And this here, if we flip it now to the Page 6,
11 is a resolution adopting and giving authority to the Special
12 Litigation Committee. Is that correct?

13 A Yes, sir.

14 Q Okay. And that resolution was passed, allegedly, in the
15 executive session held. Is that correct?

16 A Well, I'm trying to remember. Yes, it passed in the
17 executive session, but then it has to be reported out when we
18 rise from executive session. So the discussion, the vote was
19 in executive session, but then we have to report it out, so
20 it gets in the minutes.

21 Q Fair enough. On Page 6 of the board minutes there, it
22 says, "The chair announced that during the executive session
23 the board of directors passed the resolution formalizing the
24 Special Litigation Committee." Correct?

25 A Yes. Yes, sir.

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1 Q Okay. So, at the January 7th board meeting, is it fair
2 to say the board is vesting authority with the SLC to
3 exercise corporate authority on behalf of the NRA with regard
4 to actions within the scope of the SLC? Is that correct?

5 A Yes, sir. Within the scope of the cases enumerated
6 there, plus the -- I hate to call it a catchall, but the
7 additional language in, pardon me, in Subpart 4.

8 Q Okay. And bankruptcy is not specifically listed within
9 one of those four state -- four provisions, correct?

10 A Correct.

11 Q Okay. But it's your belief and the NRA's belief that
12 bankruptcy falls within what you just referred to as the
13 catchall, the fourth provision. Is that correct?

14 A Well, it -- it's my belief, yes, sir, that it does now,
15 because the cases listed there are now in bankruptcy. Those
16 cases were moved into the bankruptcy court, and that's the
17 reason it's my -- my belief that they come within the scope
18 of the SLC authority.

19 Q Bankruptcy falls within that fourth provision, correct?

20 A No, sir. That's not what I'm saying. I'm saying that
21 these cases listed here are now under the bankruptcy
22 umbrella, so for that reason it's my opinion that the SLC has
23 authority over those matters.

24 Q Okay. Mr. Cotton, do you remember when I took your
25 deposition about a week ago?

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1 A Yes.

2 Q Okay.

3 MR. KATHMAN: Mr. Thompson, if I'll -- I'll have you
4 turn to Page 59, Line 15.

5 MR. CICILIANO: Counsel, his deposition was taken
6 twice. Which day is this?

7 MR. KATHMAN: This is the first day. I think it's
8 all one transcript.

9 BY MR. KATHMAN:

10 Q There on Line 15, do you see my question, "Okay. And
11 bankruptcy is not listed here in Page 5 of the resolution
12 attached to the bankruptcy either, is it?" Answer, "Well, it
13 is in Subpart 4. Any additional legal proceedings arising
14 from or relating to the same facts, circumstances, or
15 allegations as the foregoing, wherein the potential for an
16 actual or apparent conflict of interest favors recusal by one
17 or more NRA executives who would customarily oversee such
18 proceedings."

19 Do you see that?

20 A Yes, sir.

21 Q Okay. Next question, "So it is your position the
22 bankruptcy discusses in Part 4 any additional legal matters
23 arising or relating to those other three matters?" Answer,
24 "Yes, sir."

25 Do you see that?

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1 A Yes, sir.

2 Q Thank you.

3 A But in the rest of my answer there, though, I say,
4 because, as I said earlier, it's our understanding that
5 bankruptcy -- the bankruptcy court is going to be this big
6 umbrella to get all of the litigation in it. So that's the
7 same thing I was saying today, at least I think it is.

8 Q Bankruptcy is within the scope of the fourth what you
9 call catchall, correct?

10 A Certainly, it would be broad enough to include it. But
11 even if we had not had that fourth provision, it's my
12 understanding -- and I'm not a bankruptcy attorney, but it's
13 my understanding, once it moves into bankruptcy, the SLC
14 would have its authority over the bankruptcy matter because
15 the case -- the case in which John Frazer and Wayne LaPierre
16 are now under that bankruptcy umbrella. So that's -- so that
17 was the reason for my answer.

18 Q Okay. And even though bankruptcy is within the scope of
19 the SLC, Mr. LaPierre still was the one to exercise corporate
20 authority to file the bankruptcy. Isn't that correct?

21 A Well, it's kind of a chicken-or-the-egg situation. It's
22 -- he -- he's the one with the authority to file the
23 bankruptcy, but once -- once all these things were moved into
24 the bankruptcy umbrella, at that point the SLC has authority
25 over those matters.

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1 Q Mr. Cotton, Mr. LaPierre is the one that exercised
2 corporate authority to file the bankruptcy, didn't he?

3 A To file the bankruptcy. Yes, sir.

4 Q Okay. I'll have you turn to what we've marked as NYAG
5 Exhibit 4.

6 A Okay. I have it up.

7 Q Okay. I'll have you turn to --

8 MR. KATHMAN: Oh, we'd move for the admission of
9 NYAG Exhibit 4.

10 MR. CICILIANO: No objection.

11 THE COURT: 4 is in.

12 (New York Attorney General's Exhibit 4 is received into
13 evidence.)

14 BY MR. KATHMAN:

15 Q Okay. I'll have you turn to Page 5 of that exhibit. It
16 says 5 of 16 at the top. Let me know when you're there.

17 A Okay. I'm there.

18 Q Okay. Thank you.

19 A I'm there.

20 Q This is the resolution that was attached to the Debtors'
21 bankruptcy petition authorizing the filing of the bankruptcy,
22 correct?

23 A Yes, sir.

24 Q Okay. If we look at the last "Whereas" paragraph there,
25 "Whereas, in consultation with the Special Litigation

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1 Committee, Wayne LaPierre determined that a Chapter 11
2 reorganization of the NRA, along with its wholly-owned
3 single-member-managed Texas subsidiary, Sea Girt, would
4 advance the best interests of the NRA, its members and its
5 missions, as well as the interests of Sea Girt."

6 Correct?

7 A That is correct.

8 Q Okay. So Mr. LaPierre is the one that determined to put
9 the Chapter 11 -- to put this 150-year-old organization into
10 bankruptcy. Correct?

11 A Well, he -- he was the one that had the corporate
12 authority to do it. But as it says there, he did it in
13 consultation with the SLC.

14 Q But ultimately, he's the one that made the decision.
15 Correct?

16 A He did the decision with our support. We -- we couldn't
17 have done it on our own. Wayne had to sign it. But he had
18 the support of the SLC. We all agreed that it was -- it was
19 the way to -- the way that we should go.

20 Q Even though this was an item that was within the scope of
21 the SLC, correct?

22 A I'm sorry. Say again?

23 Q Even though it was something that was within the scope of
24 the SLC. Correct?

25 A As I said earlier, it was not in the scope of the SLC

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1 until the bankruptcy filed. Then all the cases, including
2 the one in which John Frazer and Mr. LaPierre were named
3 individually, once they were under that bankruptcy umbrella,
4 then it comes within the scope of the SLC.

5 Q The SLC didn't do an independent analysis of its own
6 about whether bankruptcy was a good decision for the NRA, did
7 it?

8 A The SLC met with counsel extensively on this issue to
9 determine -- to develop an opinion, I guess I should say --
10 as to whether or not it was the appropriate thing to do. So
11 no, sir, I'm sorry, I can't go along with that.

12 Q It was counsel that was hired by Mr. LaPierre, correct?

13 A It was -- it was -- it was the Brewer firm, the Neligan
14 firm, Greg's firm, Greg -- firm. We talked to all those
15 fellows about it.

16 Q Mr. Cotton, is it your testimony that you met with Mr.
17 Garman's firm to get advice on whether to file bankruptcy
18 before the bankruptcy case was filed on January 15th?

19 A Mr. Kathman, I may have to -- I may have to back off of
20 that. I don't remember the exact time that we met with Mr.
21 Garman. We certainly met with Pat Neligan. I don't remember
22 the first date we met with -- with Mr. Garman, so I guess I'd
23 better not say that. I think we did, but I -- I can't -- I
24 can't swear to that.

25 Q Okay. Mr. Cotton, you're a lawyer. Correct?

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1 A Yes, sir.

2 Q You understand you're testifying today under oath.

3 Correct?

4 A Yes, sir.

5 Q Okay. Mr. Cotton, the Brewer firm was hired by Mr.

6 LaPierre. Correct?

7 A Yes, sir.

8 Q Okay. And the Neligan firm was hired by Mr. LaPierre.

9 Correct?

10 A Yes, sir.

11 Q So the lawyers that the SLC met with to determine whether

12 the NRA should be put into bankruptcy were lawyers hired by

13 Mr. LaPierre. Correct?

14 A Well, hired by Mr. LaPierre for the NRA, yes.

15 Q Mr. Cotton, as you sat there presiding over the January

16 7th meeting, you knew bankruptcy was at least being

17 considered as a potential strategy; isn't that right?

18 A I knew that it was -- it was a contingency. We'd been

19 looking into that since, like I say, the fourth quarter of

20 the prior year. You know, is there -- what's the best ways

21 to protect this association? So, yes, it'd been considered,

22 but no decision had been made to file it on the 7th.

23 Q But you knew it was at least being considered as a

24 "lifeboat." Isn't that right?

25 A I knew it was one possibility. I -- when you say

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1 considered, I get the feeling you're -- you're implying that,
2 you know, we're -- we're getting ready to sign the paperwork,
3 and that wasn't the case.

4 Q You knew that it had been being discussed since at least
5 the fourth quarter of 2020. Isn't that right?

6 A Yes, sir.

7 Q Okay. Mr. LaPierre, I'll have you turn to what we've
8 marked as NYAG Exhibit 298.

9 THE COURT: It's Mr. Cotton. I think you called him
10 LaPierre, Mr. Kathman.

11 MR. KATHMAN: I'm sorry, Mr. Cotton.

12 THE WITNESS: 298?

13 MR. KATHMAN: Yes.

14 We'd move for the admission of NYAG 298.

15 THE WITNESS: Okay. I have it.

16 THE COURT: Let's wait for Debtors' counsel.

17 THE WITNESS: Mr. Kathman, I have it up.

18 MR. CICILIANO: I don't have an objection.

19 THE COURT: 298 --

20 MR. KATHMAN: Thank you, Counsel.

21 THE COURT: New York 298 is in.

22 (New York Attorney General's Exhibit 298 is received into
23 evidence.)

24 BY MR. KATHMAN:

25 Q Okay. Mr. Cotton, --

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1 A Yes?

2 Q -- do you recognize this document?

3 A It looks like the engagement letter for Pat Neligan's
4 firm. Yes, sir.

5 Q Okay. I'll have you turn to Page 4 of that agreement.

6 A Yes, sir.

7 Q Okay. And that's your initials down there at the bottom:
8 CC, First VP. Correct?

9 A Yes, sir. It is.

10 Q Okay. That first paragraph there in Mr. Neligan's
11 engagement letter says Neligan LLP is being engaged "in
12 connection with investigating, analyzing, and evaluating
13 alternative legal strategies available to the NRA under Title
14 11 of the United States Code and otherwise."

15 Do you see that?

16 Q Okay. Mr. Cotton, can you show me anywhere on this
17 document where Mr. Spray signed and approved this agreement?

18 A Well, I can scan the document quickly, but -- well, let
19 me do that. (Pause.) No, sir. The treasurer's signature is
20 not on there, nor would it be.

21 Q And that's a fair point. Mr. Cotton, can you tell the
22 Court who Mr. Spray is?

23 A At this relevant time -- that is, the time of the
24 document -- he was our treasurer.

25 Q Okay. In fact, Mr. Cotton, you don't know whether Mr.

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1 Spray signed off or approved this Neligan engagement letter;
2 isn't that right?

3 A I don't know, but there's no reason for him to because
4 that's not -- that was not his -- not within his wheelhouse,
5 so to speak.

6 Q Okay. Is it your testimony that Mr. Spray had no reason
7 to sign off or approve the Neligan engagement?

8 A The hiring -- yes, sir. The hiring of lawyers for the
9 NRA doesn't come within the scope of the treasurer.

10 Q Okay. Mr. Cotton, can you show me anywhere on this
11 document where Mr. Frazer signed off on approving this
12 agreement?

13 A I do not see Mr. Frazer's signature on there. No, sir.

14 Q Okay. And for the record, can you tell the Court who Mr.
15 Frazer is?

16 A He's the general counsel of the National Rifle
17 Association.

18 Q Okay. Mr. Cotton, the NRA has a policy governing
19 contracts over \$100,000. Isn't that right?

20 A That's correct.

21 Q Okay. I'll have you turn to what we've marked as NYAG
22 Exhibit 24.

23 Before I get there, Mr. Cotton, the \$100,000 policy
24 requires a business case analysis. Is that right?

25 A It does.

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1 Q Okay. It also requires the signature of the executive
2 vice president?

3 A It does.

4 Q And that's Wayne LaPierre, correct?

5 A That's correct.

6 Q Okay. The \$100,000 policy requires the signature of the
7 appropriate division director. Isn't that correct?

8 A In normal circumstances, yes, it would, but not -- not
9 for hiring -- not for hiring lawyers. That's the reason --
10 in addition to requiring that, it requires the signature of
11 the president and at least one vice president. It's not
12 going to apply when you're hiring counsel, but that is why
13 Carolyn Meadows and myself signed -- I'm sorry, initialed, to
14 show that the officers were aware of it.

15 Q But the \$100,000 policy does require the signature of the
16 treasurer, correct?

17 A Except -- except for lawyers, yes, sir.

18 Q Okay.

19 MR. KATHMAN: The State of New York would move for
20 the admission of NYAG Exhibit 24.

21 MR. CICILIANO: Your Honor, this one may take me a
22 second. It's 294 pages, but I'll --

23 THE COURT: Read fast.

24 MR. CICILIANO: -- delve through it.

25 THE COURT: Read very fast, okay?

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1 MR. KATHMAN: I'll represent at the bottom it has
2 their Bates stamp on it, Your Honor.

3 (Pause.)

4 MR. CICILIANO: Sorry. I don't have an objection.

5 MR. KATHMAN: Thank you, Counsel.

6 THE COURT: 24 is in.

7 (New York Attorney General's Exhibit 24 is received into
8 evidence.)

9 BY MR. :

10 Q Mr. Cotton, I'll have you flip to Page 95 of the
11 document. It's Page 102 of the PDF.

12 A Page 102 of the PDF?

13 Q Yes. It's -- and we're just going to start at the bottom
14 of Page 95. It says Contracts and Approval Authority.

15 A Okay. I've got it.

16 Q Okay. It says, "Contracts shall be used in conjunction
17 with or in lieu of purchase orders in accordance with the
18 following guidelines." And what we're really going to look
19 at is then on the next page, Page 96.

20 A Okay.

21 Q Do you see that? Okay. Number one, "All contracts
22 requiring payments equal to or greater than \$100,000 in a 12-
23 month period must have the written approval of the
24 appropriate division director and the executive vice
25 president and the treasurer."

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1 Do you see that?

2 A Yes, sir.

3 Q Okay. And the signature of the president and one of the
4 vice presidents is also required as written acknowledgement.
5 Is that right?

6 A That's correct.

7 Q Okay. I'll have you now flip to what we've marked as
8 NYAG Exhibit 317.

9 MR. KATHMAN: We'd move for the admission of NYAG
10 317.

11 THE WITNESS: Okay. Now I have it up.

12 THE COURT: Let Debtors' counsel have a chance to
13 find it and look at it.

14 (Pause.)

15 MR. CICILIANO: I don't have an objection.

16 THE COURT: 317 is in.

17 (New York Attorney General's Exhibit 317 is received into
18 evidence.)

19 BY MR. KATHMAN:

20 Q Mr. Cotton, it says there that this is a policy statement
21 whose purpose there in the middle of the page is to "clearly
22 define the signature procedure and distribution for purchase
23 agreements and contracts in excess of \$100,000."

24 Do you see that?

25 A Yes, sir, I see it.

Cotton - Direct

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1 Q Okay. And if we go down to the next page there, under
2 Actions, number one, when approving a contract in excess of
3 \$100,000, a packet --

4 A Oh. Oh, okay. Now -- I'm sorry, now I've got it. Go
5 ahead.

6 Q No problem. This is Page 2, Action. Number one, "When
7 approving a contract in excess of \$100,000, a packet
8 consisting of a copy of the contract, a completed business
9 case analysis, and a contract review signature sheet will be
10 prepared. This packet will be sent to the individuals and
11 NRA divisions listed on the contrast review signature receipt
12 for signature," in big bold there, "in the order they
13 appear."

14 Do you see that?

15 A I see that.

16 Q Okay. And then if we -- and then it says that, "A copy
17 of the business case analysis sheet and contract review sheet
18 are attached for your information."

19 Do you see that?

20 A I see that.

21 Q Okay. So if we now flip to Page 4 and Page 5 of Exhibit
22 317, these are what I think you've referred to previously as
23 the "cover sheets," correct, that would accompany contracts
24 over \$100,000. Is that right?

25 A Correct. Correct. That's what I call it.

Cotton - Direct

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1 Q Okay. And --

2 A Oh, wait a minute. I'm sorry, sir. I misspoke. The
3 cover sheet would be what we typically see -- it's on that
4 document as Attachment 2.

5 Q Page 5.

6 A I'm sorry?

7 Q Page 5, correct?

8 A Yes, sir. Yes, sir, Page 5. That's the -- that's the
9 sheet that comes to the officers with -- with all the
10 appropriate signatures on it.

11 Q And you didn't get this sheet with regard to the Neligan
12 contract; isn't that correct?

13 A That's correct. Not that I recall as I sit here today.
14 I don't recall seeing that.

15 Q Okay. And it's your testimony that there was not a
16 business case analysis done for the engagement of Mr.
17 Neligan's firm. Isn't that correct?

18 A I can't say that there was no business case analysis
19 done, by any means. I mean, you know, we had been talking
20 about this, like I say, since the fourth quarter of the prior
21 year. There was no document, you know, written document
22 titled Business Case Analysis for that. That's correct.

23 Q Okay. I'll have you turn to what we've marked as NYAG
24 Exhibit 361.

25 MR. KATHMAN: The State of New York would move for

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1 the admission of NYAG Exhibit 361.

2 THE WITNESS: Okay. I've got it.

3 MR. CICILIANO: Your Honor, technology has failed me
4 and I have an old version of the exhibits that didn't have
5 this, so I've got to grab the paper version.

6 THE COURT: Okay.

7 MR. KATHMAN: Mr. Ciciliano, I'll tell you, it's the
8 unredacted Morgan Lewis memo.

9 MR. CICILIANO: I appreciate the representation.
10 Let me pull it up real quick. We're grabbing it here.

11 MR. KATHMAN: Fair enough.

12 (Pause.)

13 MR. CICILIANO: Fortunately, Polly had it, so I --
14 I've confirmed. We have no objection.

15 THE COURT: 361 is in.

16 (New York Attorney General's Exhibit 361 is received into
17 evidence.)

18 BY MR. KATHMAN:

19 Q Mr. Cotton, this is a memorandum from the NRA's outside
20 counsel, Morgan Lewis, related to the ability of the
21 executive vice president and salaried officer to hire outside
22 counsel. Is that correct?

23 A That's what it appears to be. Yes, sir.

24 Q Okay.

25 A I've read it, but it's been quite some time.

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1 Q Fair enough. And if we look at the first paragraph, more
2 particularly as it relates to the engagement of the Brewer
3 firm. Isn't that right?

4 A That's correct.

5 Q Okay. I'll point your attention to the last sentence of
6 the second paragraph. After concluding that management has
7 the authority to engage counsel, Morgan Lewis advises,
8 "Management must comply with the Association's procurement
9 policy, which requires the signature of the president and
10 either the first or second vice president, as written
11 acknowledgement of contracts in excess of \$100,000."

12 Do you see that?

13 A I see that.

14 Q So this is a memorandum from the NRA's own counsel saying
15 that, even with regard to lawyers, the NRA has to comply with
16 its \$100,000 procurement policy. Isn't that right?

17 THE WITNESS: That's --

18 MR. CICILIANO: Your Honor, I would just object to
19 the extent the document speaks for itself.

20 THE COURT: Overruled. You may answer the question,
21 Mr. Cotton.

22 THE WITNESS: That's -- that's what -- that's what
23 the document stated here. It was later determined to be that
24 it was based on erroneous information.

25 BY MR. KATHMAN:

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1 Q Mr. Cotton, I'll have you look at the next paragraph.

2 "With regard to the existing Brewer engagement, management
3 had the authority to enter the contract, but it failed to
4 obtain the written acknowledgement of a board -- the board of
5 officers. This failure to comply with the purchasing policy
6 could have resulted in an *ultra vires* or unauthorized act of
7 the management."

8 Do you see that?

9 A I see that.

10 Q Okay. Now going down to the second page, middle of the
11 page, the paragraph starts, "For contracts of \$100,000 or
12 more in a given 12-month period, the Association's
13 procurement policy requires approval of the appropriate
14 division director, executive vice president, and the
15 treasurer."

16 Do you see that?

17 A I see that.

18 Q Okay. So as recently as March of 2019, which is the date
19 of this memorandum, the NRA is receiving advice from its
20 outside counsel that failure to follow the \$100,000 policy
21 may result in an *ultra vires* act. Isn't that right?

22 A That's what it -- that's what it says here.

23 Q Okay. On January 6th of this year, the Officers
24 Compensation Committee, of which you are a member, met in
25 Dallas. Isn't that right?

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1 A That's correct.

2 Q Okay. I'll have you flip to now what we've marked as
3 NYAG Exhibit 16.

4 MR. KATHMAN: We'd move for the admission of NYAG
5 Exhibit 16.

6 THE WITNESS: Okay, I've got it.

7 BY MR. KATHMAN:

8 Q Okay. This is a report of the Officers Compensation
9 Committee -- oh, maybe I should wait to see if Mr. Ciciliano
10 has any objections.

11 MR. CICILIANO: I don't object.

12 THE COURT: 6 is in.

13 MR. KATHMAN: It's -- I believe it's 16, Your Honor.

14 THE COURT: Oh, I'm sorry. I missed the stamp on
15 the top. 16 is in.

16 (New York Attorney General's Exhibit 16 is received into
17 evidence.)

18 BY MR. KATHMAN:

19 Q Mr. Cotton, this is a report of the Officers Compensation
20 Committee meeting that was held on January 6 of 2020,
21 correct?

22 A Yes, sir, it is.

23 Q Okay. And before you went into that meeting, again, you
24 knew bankruptcy was at least being discussed, right?

25 A I knew that it was one of the contingencies. Yes, sir.

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1 Q Okay. And at that meeting, the OCC -- and when I say
2 OCC, you understand that means Officers Compensation
3 Committee?

4 A OCC. Yes, sir.

5 Q Okay. At that meeting, the OCC discussed an employment
6 agreement for Mr. LaPierre; isn't that right?

7 A That's correct.

8 Q Okay. And in that agreement, for the very first time
9 appeared the words "restructure and reorganize the affairs of
10 the Association for purposes of cost minimization, regulatory
11 compliance, or otherwise." Isn't that right?

12 A I have no idea. That was -- the members of the Officers
13 Compensation Committee are the officers. That's the
14 president, first vice president, second vice president. I
15 didn't come onto the -- I'm sorry, I was elected first vice
16 president in April of 2019, so I had been on two such
17 committees. I have no idea what might have or might not have
18 been in Mr. LaPierre's contracts before I came onto the
19 officer corps, so to speak.

20 Q You're not aware of any agreements that previously gave
21 Mr. LaPierre the authority to restructure and reorganize the
22 affairs of the Association for purposes of cost minimization,
23 regulatory compliance, or otherwise, are you?

24 A I'm not aware of any of the terms of prior contracts.
25 This is the only contract I've ever seen for Wayne LaPierre.

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1 Q Okay. And if you're not aware of any of the terms of
2 them, then you're not aware of any contract that would have
3 had that language, correct?

4 A Yes, sir. Correct.

5 Q Okay. Thank you. I'll have you look at what we've
6 marked now as NYAG Exhibit 5.

7 A Okay. I've got it.

8 MR. KATHMAN: We'd move for the admission of NYAG
9 Exhibit 5.

10 MR. CICILIANO: And Counsel, you may know the answer
11 to this. On the bottom, it says Exhibit A. Was that -- that
12 looks like it's imposed for the purpose of filing in a case.
13 Do you know if that's the case, or if this is Exhibit A to
14 something else?

15 MR. KATHMAN: My understanding is it was, I think,
16 Exhibit A and Exhibit B that were produced at the 341
17 meeting, I think, is why Exhibit A versus Exhibit B.

18 MR. CICILIANO: With that reservation, Your Honor,
19 or with that representation, which I don't dispute, I have no
20 objection.

21 THE COURT: New York 5 is in.

22 (New York Attorney General's Exhibit 5 is received into
23 evidence.)

24 BY MR. KATHMAN:

25 Q Mr. Cotton, this NYAG Exhibit 5 is a draft of the

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1 employment agreement of Mr. LaPierre that was approved by the
2 Officers Compensation Committee. Isn't that right?

3 A I don't know. I mean, a lot of the terms -- a lot of the
4 terms seem to be what was in the final -- the final document,
5 but I didn't see any interim drafts so I have no idea if this
6 is accurate or not.

7 Q Fair enough. Maybe we'll go about it this way. Mr.
8 Cotton, at the Officers Compensation Committee meeting, the
9 Officers Compensation Committee approved an employment
10 agreement that was different than the agreement that was
11 ultimately signed by Mr. LaPierre. Isn't that correct?

12 A Well, first of all, the Officers Compensation Committee,
13 we don't have the authority to approve anything. We -- we --
14 all we can do is bring the matter to the board, who has to
15 approve it or not.

16 The contract that was ultimately signed by Mr. LaPierre,
17 it was identical to what the board saw with the exception of
18 the addition of a choice of law provision and a venue
19 provision, and that issue had been raised by one of our board
20 members during the meeting. He said, Pick one. I don't care
21 where, just pick one.

22 Q But the version that was provided -- well, let me ask
23 this question. Was a version of the employment agreement
24 provided to the board that did not have the venue provision
25 and choice of law provision?

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1 A Yes, sir. That's what I just said.

2 Q Okay. I'll have you flip to what we've marked as NYAG
3 Exhibit 50.

4 A I'm sorry, which exhibit?

5 Q Exhibit 50.

6 A Okay. I've got it.

7 Q And before we get there, if we look here back over at
8 NYAG Exhibit 5. Sorry to have you flip back to NYAG Exhibit
9 5.

10 A Let me see if I can open two of them at once here without
11 -- apparently, I can't. Hang on a second. Go back to 5, you
12 say?

13 Q Yes.

14 A Okay. Okay.

15 Q Okay. We see there the first paragraph under 2(a) this
16 language I just mentioned. "Among his authorities, Employee
17 shall be empowered to exercise corporate authority in
18 furtherance of the mission and interests of the NRA,
19 including, without limitation, to reorganize and restructure
20 the affairs of the Association for purposes of cost
21 minimization, regulatory compliance, or otherwise." Correct?

22 A Yes, sir.

23 Q Okay. And I believe your prior testimony was that
24 approximately 25 to 30 copies of this agreement were provided
25 to the board the next day to review. Is that correct?

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1 A That's correct. They were set up on two different tables
2 on either side of the hall so the board members could read
3 them.

4 Q Okay. And if Judge Journey said there were only two
5 copies for everyone to review, would he have been lying?

6 A Well, he's incorrect. He's grossly incorrect. If he
7 knows how many copies there were, then yeah, it would -- it
8 would be intentionally not telling the truth. Perhaps he
9 didn't know that there were others out there.

10 Q Okay. And it's your belief that the language
11 "restructure or reorganize the affairs of the Association for
12 purposes of cost minimization, regulatory compliance, or
13 otherwise" clearly means bankruptcy, correct?

14 A To me, it does. Yes, sir.

15 Q Okay. I'll have you flip back to Exhibit 298.

16 A Okay. I've got it.

17 Q Okay. This is the engagement letter for the Neligan law
18 firm, correct, --

19 A Yes.

20 Q -- that we looked at a minute ago?

21 A Yes, sir.

22 Q This is the NRA's bankruptcy counsel, correct?

23 A One of them. Yes, sir.

24 Q Okay. The bankruptcy lawyers who filed the petition for
25 the NRA, correct?

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1 A Yes, sir.

2 Q Okay. Do you see the words restructure or reorganize
3 anywhere in Mr. Neligan's engagement letter?

4 A I have -- I haven't read it in a while. Do you want me
5 to go back and read it all?

6 Q I'll represent to you that it's not in there.

7 A Okay.

8 Q In your opinion, it's impossible for "restructure or
9 reorganize the affairs of the Association for purposes of
10 cost minimization, regulatory compliance, or otherwise" to
11 mean anything other than bankruptcy; is that right?

12 A You asked me if those words, to me, meant -- to me, meant
13 bankruptcy. They did. Obviously, I heard -- I heard our
14 opening statements this morning, so people who practice in
15 that area -- as I told you earlier, I'm essentially a medical
16 malpractice defense lawyer. I don't practice in this arena.
17 To me, that's what it meant. Apparently, from the opening
18 statement with Mr. Garman, there can be other ways to do it.
19 I don't know. It's not within my area of expertise.

20 Q But if board members couldn't read that language and know
21 it meant bankruptcy, that was their fault, right?

22 A Okay. You're trying to get me to point fingers. I can't
23 do that. As Mr. Garman noted, our board members are very
24 sophisticated men and women. They include lawyers. They
25 include Judge Journey. No -- I don't know if I can -- I

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1 don't if I can tell you what was said or not said in the
2 executive session, so I guess I'd better not say any more
3 than that.

4 Q It was their fault though, right? They should have
5 known?

6 A I'm not going to say it's their fault. No, sir.

7 Q Okay.

8 MR. KATHMAN: Ms. Johnston, will you play Clip 101,
9 Line 23?

10 (Audio recording played, 3:53 p.m.)

11 Q Did the board have any understanding -- have any
12 reason to believe that that statement meant bankruptcy?

13 A Well, again, you're going -- you want to know what
14 those people thought, you're going to have to ask them,
15 but that language is so clear. They had 30, 45 minutes
16 to read everything. We were there to answer any
17 questions they would have about the scope. So there was
18 every opportunity if someone was unsure what it meant,
19 which personally I don't see how, but if anybody was
20 unsure what it meant, all they had to do was ask. And a
21 number -- a number of the board members are lawyers.

22 (End audio clip, 3:54 p.m.)

23 BY MR. KATHMAN:

24 Q Mr. Cotton, we already -- we already talked about that
25 the version that was provided to the board was different than

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1 the version that was actually signed. Isn't that right?

2 A To the extent of venue and choice of law provisions, yes,
3 sir.

4 Q Okay. Now I'll have you flip to NYAG Exhibit 50.

5 MR. KATHMAN: And the New York AG would move for the
6 admission of NYAG Exhibit 50.

7 THE WITNESS: Okay, I've got it up now.

8 MR. CICILIANO: No objection.

9 THE COURT: NY 50 is in.

10 (New York Attorney General's Exhibit 50 is received into
11 evidence.)

12 BY MR. KATHMAN:

13 Q Okay. Mr. Cotton, I'll have you flip to the last page,
14 Page 7 of that agreement.

15 A Yes, sir.

16 Q That's your signature right there on behalf of the
17 Association, correct?

18 A That is.

19 Q Okay. And the board -- if we flip to Page 5 of this
20 agreement, this is that choice of law provision that we were
21 talking about, correct?

22 A Let me -- let me get there. Yes, sir.

23 Q Okay. And essentially, this --

24 A Venue and choice of law both, yes.

25 Q And the venue and choice of law was Texas in this

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1 agreement, correct?

2 A Correct.

3 Q Okay. But the board did not approve, did not
4 specifically approve a Texas choice of law provision, did it?

5 A That's correct.

6 Q Mr. Cotton, we already -- I already asked you a minute
7 ago whether you were an attorney. Are you aware of your
8 fiduciary duties to the board as an officer of the
9 Association?

10 A I'm aware of my fiduciary duty to the Association. We
11 all -- all of my fellow board members have the same -- same
12 duty.

13 Q Okay. And you testified that on January 7th, you knew
14 that bankruptcy was at least being considered and
15 investigated, right?

16 A I knew that -- I testified that it was -- it was a
17 contingency plan that had been investigated and considered
18 since the fourth quarter of the preceding year.

19 Q They had hired bankruptcy counsel, correct?

20 A Yes, sir. People with expertise to advise whether or not
21 it was a viable option.

22 Q Had paid bankruptcy counsel at least a retainer of
23 \$350,000, right?

24 A I believe that's correct. I'm not certain of the amount,
25 but I believe that's -- I believe you're correct.

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1 Q Okay. And yet sitting there on January 7th, with that
2 information, you did not advise anybody on the board at the
3 January 7th meeting that the NRA was considering bankruptcy,
4 did you?

5 A I didn't -- I didn't tell them we were considering
6 bankruptcy because, to -- the way your question is worded,
7 the same thing we discussed before, Mr. Kathman, it seems to
8 imply that we had decided to do it and I need to tell them
9 that. That -- that was not the case.

10 Q Mr. Cotton, you didn't tell them that NRA -- that the NRA
11 was investigating bankruptcy, did you?

12 A No, sir.

13 Q You didn't --

14 A On the 7th? No.

15 Q You didn't tell them that they'd hired bankruptcy
16 counsel?

17 A No.

18 Q You didn't even say the word bankruptcy during that
19 meeting, did you?

20 A That's correct.

21 Q In addition to knowing about the engagement letter and
22 the \$350,000 in fees, you knew that the day before, on
23 January 6th, that \$5 million had been transferred to the
24 Brewer law firm for bankruptcy fees. Isn't that right?

25 A Well, it was -- it was my understanding it was being

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1 transferred to the Brewer trust account for contingency for
2 -- for whatever.

3 Q And one of those contingencies was bankruptcy, correct?

4 A I presume it was.

5 Q Now, after that January 7th meeting, you went back to Mr.
6 Brewer's office, right?

7 A I don't remember. I know we met in the -- in our NRA
8 office -- I'm sorry, the NRA office in the hotel. Whenever
9 we have a meeting, there's a room set aside for the NRA
10 office. We were there. I think we came back to the Brewer
11 office, but I'm not -- I just -- I can't recall for sure.

12 Q Okay. Whether that meeting occurred -- let me say it
13 this way. After the January 7th board meeting, you had a
14 meeting with the lawyers at Brewer, correct?

15 A I'm trying to picture -- I'm trying to picture the hotel.
16 I think -- I don't think we came back here, because I seem to
17 recall leaving the hotel. I may be wrong. I was thinking I
18 left the hotel, trying to catch a flight, but I may be wrong.
19 We could have gone to the Brewer law firm after that. I
20 don't remember when I got away.

21 Q But you do remember that, after the board meeting, you
22 had a meeting in person with the Brewer lawyers on January
23 7th, correct? You just don't remember whether it was at the
24 hotel or whether it was at the Brewer firm, correct?

25 A I think we had a meeting. I --

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1 Q Okay.

2 A I can't swear to it. I'm not sure.

3 Q I'll have you flip to what we've marked as NYAG Exhibit
4 7.

5 MR. KATHMAN: The State of New York would move for
6 the admission of NYAG Exhibit 7.

7 THE WITNESS: Okay. I've got it.

8 MR. KATHMAN: I'm waiting for Mr. Ciciliano.

9 THE WITNESS: Oh, I'm sorry.

10 MR. CICILIANO: Your Honor, we do have concern with
11 this exhibit as listed. It does identify the personal email
12 addresses of several of our board members, which we have
13 requested and the parties have agreed to keep confidential.
14 So, with redaction, I wouldn't object, but I would have that
15 objection otherwise.

16 THE COURT: Mr. Kathman, --

17 MR. KATHMAN: Your Honor, I don't have a problem
18 redacting the personal information of their email addresses.

19 THE COURT: I think that's fine.

20 MR. CICILIANO: And also I believe there's a phone
21 number of one of the individuals as well.

22 MR. KATHMAN: And I don't have a problem with that
23 as well, Your Honor.

24 THE COURT: With the redaction of that personal
25 information -- this is Exhibit 7, is that right?

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1 MR. KATHMAN: It is, Your Honor.

2 THE COURT: NY 7 is in.

3 (New York Attorney General's Exhibit 7, as redacted, is
4 received into evidence.)

5 MR. KATHMAN: Okay. Mr. --

6 THE COURT: We're going to need -- Mr. Kathman,
7 excuse me just a second.

8 MR. KATHMAN: Okay.

9 THE COURT: We're going to need you somehow to
10 substitute in the redacted one, if you would?

11 MR. KATHMAN: I can do that, Your Honor.

12 THE COURT: Okay. Thank you.

13 BY MR. KATHMAN:

14 Q Mr. Cotton, I'll have you flip to -- or, we'll start here
15 on the first page. This is an invoice from the Neligan firm,
16 correct?

17 A Yes, sir.

18 Q Okay. And it says there, Invoice for Pre-Bankruptcy Fees
19 and Expenses. Do you see that?

20 A Yes, sir.

21 Q Okay. And that's your signature there under Mr.
22 LaPierre's signature; is that right?

23 A It is.

24 Q Okay. And if we go to the third page of this exhibit,
25 bottom of the page, there's an email from Mr. Davis to

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1 Carolyn. That's Ms. Meadows, correct?

2 A Well, on the third page, I see Mr. Davis to Ms.
3 Eisenberg. The third page on my exhibit is an email --

4 Q Fair enough.

5 A -- is an email from Mr. Davis to Ms. Eisenberg.

6 Q Right. If we go down to the -- towards the end of that
7 page, it's a -- it's an email from Mr. Davis to Ms.

8 Eisenberg, where you can see down in the email stream there's
9 an email to Ms. -- to Carolyn. Do you see that?

10 A Yes, sir. Now I see it, yeah.

11 Q Okay. Carolyn is Ms. Meadows, correct?

12 A That's correct.

13 Q And it says, "This invoice is for the bankruptcy attorney
14 the Brewer firm has engaged." Correct?

15 A Correct.

16 Q Okay. And then it says, "Wayne, Charles, and Willes have
17 all signed off on the hard copy while they are here in
18 Dallas."

19 Does that refresh your memory about whether there was a
20 meeting after January 7th where you signed this invoice?

21 A No, sir. It doesn't. I mean, obviously, I did sign it.
22 I'm not -- I'm not saying I didn't. I don't know if we
23 signed it over at the hotel in the NRA office. We could have
24 come back to the Brewer office where I signed it there. I
25 just don't know. I mean, I signed -- obviously, I signed it.

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1 I just can't tell you if it was in this building or if it was
2 in a hotel.

3 Q Fair enough. And Mr. Cotton, I'm not as concerned about
4 where you did it. I'm just asking, there was a meeting after
5 the January 7th board meeting where you signed this invoice,
6 correct?

7 A I signed the invoice. Was there a meeting? I don't
8 know. I signed the invoice.

9 Q After the January 7th meeting?

10 A I'm sorry?

11 Q After the January 7th board meeting?

12 A That's what I'm saying. I don't -- all I can say is I
13 signed it. It looks like it was on the 7th. I don't know if
14 it was before the meeting, in a break, after the meeting. I
15 don't -- I don't know. Like I say, I signed it. I just -- I
16 can't tell you when in the sequence of events.

17 Q Well, let me ask this, Mr. Cotton. Could you have
18 potentially signed it before the January 7th board meeting?

19 A On January the 7th?

20 Q Yes.

21 A If it were given to us, if it was given to us prior to
22 the meeting on the 7th, is it possible I could have signed
23 it? Yes, sir.

24 Q Okay. Now, I want to again focus on that language right
25 there. It says, "Wayne, Charles, and Willes have all signed

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1 off on the hard copy while they are here in Dallas."

2 Wayne is Mr. LaPierre, correct?

3 A Yes, sir. Let me get back to where you are. But yes,
4 sir, the reference to Wayne would be Wayne LaPierre. Yes,
5 sir.

6 Q Okay.

7 A And I've got it.

8 Q And that's the same Mr. LaPierre that agreed to accuse --
9 recuse himself on items within the purview of the SLC.
10 Right?

11 A Yes, sir.

12 Q Okay. So at the January 7th board meeting, or at least
13 -- at least let's say this. At least as of the time that you
14 signed this invoice, you knew that bankruptcy was no longer
15 being just considered, you knew that this was a real
16 possibility, correct?

17 A You're making a distinction there that I can't agree
18 with. As far -- as far as we were concerned, at least me, we
19 knew that Pat's firm -- I'm sorry, Mr. Neligan's firm -- was
20 researching this issue. We knew he was doing work on it to
21 advise us, to advise our counsel, whatever.

22 Whether this was to draft a petition, if that's what you
23 folks call it, in bankruptcy or not, I don't know. My
24 knowledge of whether or not we'd be filing bankruptcy was no
25 different on this date than I have already testified both in

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1 my deposition and today. We had not made the decision yet.

2 Q Okay. But what you did know was that you had signed an
3 engagement letter for a bankruptcy lawyer, right?

4 A Correct.

5 Q Okay. We knew that you had paid that bankruptcy lawyer
6 \$350,000, correct?

7 A Oh, it's -- if I remember correctly, it was a retainer.

8 Q Correct. And if we look at Exhibit 7 here, it says that
9 "less retainer on account," so that's being paid there, the
10 first page of NYAG 7.

11 A Okay. Yeah, okay, that's consistent with what I just
12 said. It -- the \$350,000 was a retainer.

13 Q So we've hired a bankruptcy lawyer. We've paid him, with
14 the \$350,000 and the \$98,000 here, almost \$450,000. Correct?

15 A Correct.

16 Q Okay. And the NRA had paid Brewer money to investigate
17 the bankruptcy at this point, correct?

18 A I don't know to what extent Brewer would have been
19 investigating bankruptcy, at least not without input from
20 bankruptcy experts.

21 Q Okay. So if Brewer was investigating bankruptcy, that
22 would have been outside the knowledge of the SLC, correct?

23 MR. CICILIANO: Objection to the extent it's
24 testimony.

25 THE WITNESS: Yeah, I --

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1 THE COURT: Yes.

2 THE WITNESS: I can't go that broad, Mr. Kathman. I
3 mean, as I said earlier, it had been something being
4 considered as a contingency from the fourth quarter of 2020.
5 I have no doubt that Mr. Brewer or Ms. Rogers, perhaps both,
6 maybe other lawyers in there, were talking to Pat Neligan. I
7 have no doubt of that.

8 All I'm saying is you seem to be asking me if we hired
9 Bill Brewer to be our bankruptcy expert, if you will, on
10 advice, and that's -- that's not the case.

11 BY MR. KATHMAN:

12 Q Actually, Mr. Cotton, my question was really, had the NRA
13 paid Mr. Brewer's firm money related to a potential
14 bankruptcy?

15 A We had paid Mr. Brewer's firm to handle the case as he's
16 handled it now. That's all -- that's all I can tell you.
17 What he did in terms of investigating contingencies,
18 including bankruptcy, is attorney-client privileged
19 information to the extent he told us what he was doing.

20 Q You personally didn't review any bills of Mr. Brewer
21 related to Mr. Brewer's investigation of bankruptcy; is that
22 right?

23 A I have not reviewed any of Mr. -- personally reviewed any
24 of Mr. Brewer's invoices.

25 Q Okay. So, let's get back to where we were on January

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1 7th. We had an engagement letter that you signed, right?

2 Correct?

3 A Yes, sir.

4 Q We have \$450,000 being paid to Neligan, correct?

5 A Yes, sir.

6 Q And we have an additional \$5 million being paid to the
7 Brewer trust fund for contingencies that included bankruptcy.
8 Correct?

9 A Well, for contingencies. I can't say -- I can't say it
10 was dedicated for bankruptcy purposes. No, sir.

11 Q Okay. But you testified that one of those contingencies
12 was bankruptcy, right?

13 A Well, one of the -- one of the contingencies that were
14 being investigated as a possibility to save the organization
15 was bankruptcy. Yes, sir.

16 Q Okay. So, when did you definitively know that the NRA
17 was going to file bankruptcy?

18 A Oh. It was within -- within a couple of days of when it
19 was actually filed. And I think it was filed on the 15th.
20 So, this -- this is an estimate. I'm saying 12th, 13th,
21 14th, something like that.

22 Q Fair enough. Sometime between January the 12th and
23 January the 15th, correct?

24 A Yes, sir. Yes, sir.

25 Q Okay. And despite learning that from Mr. LaPierre, Ms.

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1 Meadows didn't call an additional board member [sic] to
2 approve that bankruptcy, correct?

3 A I'm sorry, what do you mean, despite learning that from
4 Mr. LaPierre?

5 Q Okay. I'll ask it this way. Did Ms. Meadows call a
6 board meeting sometime between January 12th and January 15th?

7 A No, sir.

8 Q Did anybody -- did you or Ms. Meadows tell any -- scratch
9 that. Did you tell anybody on the board other than Ms.
10 Meadows and Mr. Davis that the NRA was going to be filing
11 bankruptcy?

12 A No, sir.

13 Q The board was not made aware any time between January
14 12th and January 15th that the decision had been made to file
15 bankruptcy, correct?

16 A That's correct.

17 Q Okay. You didn't -- you didn't tell Mr. Frazer, the
18 general counsel, did you?

19 A I didn't tell him. No, sir.

20 Q Okay. The NRA didn't tell Mr. Frazer about it either,
21 did they?

22 A To my knowledge, no one did, but I can only speak for
23 myself.

24 Q You're aware Mr. Frazer didn't know about the bankruptcy
25 until after it was filed, correct?

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1 MR. CICILIANO: Object, objection, calls for
2 speculation. Foundation.

3 THE WITNESS: I haven't -- I haven't talked to John
4 for -- I'm sorry, I haven't to Mr. Frazer about that.

5 THE COURT: Excuse me, Mr. Cotton.

6 THE WITNESS: I don't know.

7 THE COURT: Hold on, Mr. Cotton. Let me rule on the
8 evidence.

9 I think that can come in. I think he can say whether he
10 knows or not.

11 Go ahead.

12 THE WITNESS: I'm sorry, Judge. I didn't mean to
13 jump in there.

14 THE COURT: It's okay.

15 THE WITNESS: I should -- I'm a lawyer. I should
16 know better, sir. I'm sorry.

17 THE COURT: A lot of other people do that, too, Mr.
18 Cotton. You can go ahead and answer that question.

19 THE WITNESS: I don't -- I don't know if he knew or
20 not. I haven't talked to John about that issue. To my
21 knowledge, he didn't, but I can't say beyond that.

22 BY MR. KATHMAN:

23 Q And to your knowledge, Mr. Spray, the chief financial
24 officer and treasurer, didn't know about the bankruptcy
25 filing until after it had been filed, correct?

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1 A Correct. To my knowledge, you're correct.

2 Q Okay. Now, after the case was filed and the New York
3 Attorney General starts asking questions about the authority
4 and the manner in which Mr. LaPierre plunged this 150-year-
5 old organization into bankruptcy, Ms. Meadows called a
6 special meeting, didn't she?

7 MR. CICILIANO: Objection. Lacks foundation.
8 Argumentative as well.

9 THE COURT: Sustained on argumentative.

10 BY MR. KATHMAN:

11 Q Mr. Cotton, are you aware of Ms. Meadows calling a
12 special meeting?

13 A Yes, sir.

14 Q Okay. And this was the special meeting that was held on
15 March the 28th of this year, correct?

16 A I'm embarrassed about the date, but I believe it was.
17 Can I look at my calendar real quick?

18 Q I'll represent to you that the meeting was held on March
19 the 28th.

20 A And my calendar agrees with it.

21 Q And Mr. Cotton, my understanding is that 48 members of
22 the board attended that meeting, correct?

23 A Yes, sir. I believe it's 48.

24 Q Okay. And 47 ultimately voted, correct?

25 A Yes, sir. Forty-seven. I had to do a quick vote count

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1 in my head.

2 No, I'm sorry. I think 48 voted. Forty-eight voted.

3 After I left the meeting to go to deposition with you folks,

4 I found out that they had miscounted and there were 44 votes

5 in favor, one opposed, and three abstentions. So that'd be a

6 total of 48.

7 Q Okay. So does that mean that 49 people actually

8 attended?

9 A Forty-nine -- well, 49 people would have answered the

10 roll call, but then Mr. West had to leave. Had to leave the

11 meeting. He left very shortly after it started.

12 Q Okay. I'll have you turn to what we've marked as NYAG

13 Exhibit 199.

14 A Okay. It starts off, just says Exhibit 1?

15 Q That's correct.

16 A Okay. I've got it.

17 Q I think we put it in as NYAG 199.

18 A Yes, sir.

19 A VOICE: Charles, you've got to give me a second.

20 MR. CICILIANO: I have no objection, Your Honor.

21 THE COURT: He's ruling on some of the evidence

22 there, sir.

23 199 is in.

24 (New York Attorney General's Exhibit 199 is received into

25 evidence.)

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1 BY MR. KATHMAN:

2 Q It's the copy of the resolution or roll call that was
3 taken at that March 28th meeting, correct?

4 A It's the first time I've seen it, but that's what it
5 appears to be, yes, sir.

6 Q So it's your testimony that this is the first time that
7 you've seen this resolution?

8 A Oh, no, sir. The roll call vote. I thought that's what
9 you were asking me about. I've seen the resolution, but the
10 -- I guess it's Page 3. That's the roll call. I thought you
11 were asking about the roll call. I'm sorry.

12 Q Okay. A copy of this resolution was handed out by the
13 secretary to every board member that was in attendance,
14 correct?

15 A That's correct.

16 Q Okay. And this resolution was allegedly passed in an
17 executive session, correct?

18 A Allegedly? It was passed during executive session. Yes,
19 sir.

20 Q Okay. And before the NRA went into that executive
21 session, you personally asked anybody that was adverse or
22 potentially adverse to the NRA to leave. Isn't that right?

23 A That's correct. Board counsel had just spoken to the
24 entire board, explaining the confidentiality and all of that.
25 So I just asked that if anybody considers theirself adverse,

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1 please leave.

2 MR. KATHMAN: Your Honor, I'd move to strike
3 everything after yes.

4 THE COURT: Sustained.

5 BY MR. KATHMAN:

6 Q That language as anybody being adverse or potentially
7 adverse to leave, that was directed at Judge Journey, wasn't
8 it?

9 A No, sir. That was directed at the whole board.

10 Q Did you consider Mr. Journey adverse or potentially
11 adverse to the NRA?

12 A Again, I don't -- I'm not a bankruptcy attorney, but his
13 filing requesting the appointment of an examiner, as I
14 understand an examiner, with extraordinary powers or whatever
15 the -- whatever the proper terminology is, to me that meant
16 he was adverse. But I was not an authority on that. I
17 didn't instruct him to leave. I was leaving it up to him.

18 Q So anyone that didn't want to go along with what the NRA
19 was about to propose was asked to leave?

20 A That's not the case at all.

21 Q Okay.

22 A You asked me if I considered him adverse. I was talking
23 about the filing that he actually made in the bankruptcy
24 court.

25 Q Mr. Cotton, Mr. LaPierre was present for the entire board

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1 meeting, correct?

2 A I can't say that. I mean, when I'm at the podium, Mr.
3 LaPierre sits to my right. He could have gotten up and gone
4 to the restroom or walked out or something and I not see
5 that. But to my knowledge, he was there, he was there for
6 the whole meeting. But remember, I had to leave to come back
7 so you folks could depose me. So I left roughly quarter to
8 2:00, something like that. 1:30, quarter to 2:00. So I
9 can't comment was he there for the whole meeting after that.
10 I just don't know.

11 Q And you recall that you were the person designated by the
12 NRA to give testimony about what happened in that meeting; is
13 that right?

14 A Yes, sir.

15 Q Okay. And yet you got up and left before that meeting
16 was concluded, correct?

17 A You folks had noticed me for 2:00 o'clock. I didn't have
18 any choice. I either left the meeting to comply with your
19 deposition notice or I ignored your deposition notice.

20 Q So the answer is yes, you got up and left before the
21 meeting was over?

22 A Yes, sir. To comply with -- comply with the deposition
23 notice. Yes, sir.

24 Q Okay. Mr. LaPierre was present even for the part of the
25 executive session?

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1 A I believe he was, but I can't swear to that.

2 Q Okay. And Mr. Frazer attended the entire meeting,
3 including the executive session, correct?

4 A Oh, yes, sir.

5 Q Okay. And during that executive session, the discussion
6 resolved around Mr. LaPierre's authority to put the National
7 Rifle Association into bankruptcy; isn't that right?

8 A The whole -- the whole --

9 MR. CICILIANO: Hold on, Mr. Cotton. And consistent
10 with -- Judge, I recognize your previous order. I would just
11 object on the grounds that it asks for attorney-client
12 communications. Not subject matter, though.

13 THE COURT: Response to that, Mr. Kathman?

14 MR. KATHMAN: Your Honor, I'm not asking as to what
15 the actual substance of the advice was. I'm asking merely
16 the subject of what was discussed.

17 THE COURT: I'm going to overrule that, but don't go
18 further.

19 You may answer the question.

20 MR. KATHMAN: And it's a simple question, Your
21 Honor. The subject -- or, I can rephrase my question.

22 BY MR. KATHMAN:

23 Q Was the subject -- was one of the subjects covered in the
24 executive session Mr. LaPierre's authority to put the
25 National Rifle Association into bankruptcy?

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1 A If I can answer it in a way that (echoing). The subject
2 of the filing of the bankruptcy and the New York Attorney
3 General's contention that there was no authority to do so was
4 the subject of discussion. Yes, sir.

5 Q Okay. I want to now turn to, actually, Ackerman's
6 Exhibit #50.

7 A Okay. Hang on. That's going to take me a little bit.

8 Q Yeah, I apologize. For the most part, I stay within my
9 own exhibits, but I do have two in other people's.

10 A That's okay. Okay. I've got the big one out. Now, what
11 -- what number was it?

12 Q It's Ackerman #50.

13 A Okay. It looks like an email from Stephanie Daniels
14 dated March 2nd?

15 Q That's correct.

16 A Okay. I've got it.

17 Q Okay.

18 MR. KATHMAN: We'd move for the admission of
19 Ackerman's Exhibit 50.

20 MR. CICILIANO: No objection.

21 THE COURT: Ackerman 50 is in.

22 MR. KATHMAN: Okay.

23 (Ackerman McQueen's Exhibit 50 is received into
24 evidence.)

25 BY MR. KATHMAN:

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1 Q This is a copy of the notice of special meeting of board
2 of directors sent by Ms. Meadows, correct?

3 A To be honest with you, sir, I haven't read it. I don't
4 know. And I don't mean I haven't read it today. I didn't
5 read the notice that went out.

6 Q Okay. If we look at the first paragraph -- well, if we
7 say -- well, let me ask this: You recall that the meeting
8 that was held on March 28th was originally scheduled for
9 March the 14th; is that right?

10 A It was scheduled for an earlier time. I don't remember
11 the exact date. But yes, it was scheduled for an earlier
12 time.

13 Q Okay. And then it was moved to March 28th, correct?

14 A Yes, sir.

15 Q Okay. If we look at the first paragraph there. Well,
16 let me ask this. Are you aware of a separate special notice
17 that went out to the board other than the one for the March
18 14th meeting?

19 A It -- it had to go out. Yes, sir.

20 Q Okay.

21 A It would have gone out.

22 Q You used the same notice for the March 28th meeting that
23 you did for the March 14th meeting, correct?

24 A Well, again, I didn't -- I know when our meetings is --
25 and also I know when our meetings are, so I'd say I, to be

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1 honest with you, I don't read it. But it would have been the
2 same. It would -- they would have just changed the --
3 changed the date, I'm sure.

4 Q Okay. Fair enough. So if we look at the first paragraph
5 there, second sentence, "The sole purpose of the meeting is
6 to provide a briefing to the board regarding the NRA's
7 reorganization plan and the legal matters overseen by the
8 Special Litigation Committee and to take any necessary action
9 related to those matters."

10 Did I read that correctly?

11 A You read it correctly.

12 Q Okay. Still no use of the word bankruptcy, right?

13 A Not in that. Well, hang on a second. Okay. The word
14 bankruptcy? No, sir.

15 Q Okay. It doesn't say anywhere in this notice, and
16 specifically it doesn't say in that paragraph, that the board
17 was going to be asked to ratify the bankruptcy, does it?

18 A No, sir.

19 Q Okay. And yet a former president, Mr. Keene, who is
20 currently being paid by the NRA, came to that meeting with a
21 resolution in hand. Isn't that right?

22 MR. CICILIANO: Object, objection, compound. And
23 calls -- and it also assume facts.

24 THE COURT: Do you want to --

25 THE WITNESS: Well, I don't think you're correct

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1 about --

2 THE COURT: Hold on, Mr. Cotton.

3 THE WITNESS: -- him currently being paid by --

4 THE COURT: Hold on, Mr. Cotton.

5 THE WITNESS: Oh, I'm sorry, Judge.

6 THE COURT: It's okay. I sustain the objection, Mr.

7 Kathman. Why don't you break it into two questions for him.

8 MR. KATHMAN: Sure.

9 BY MR. KATHMAN:

10 Q Mr. Cotton, Mr. Keene is a former president of the NRA;

11 isn't that right?

12 A Yes, sir. He is.

13 Q Okay. And he came to that meeting with a draft of a

14 resolution to ratify the bankruptcy; isn't that right?

15 A I don't believe that's the case.

16 MR. KATHMAN: Mr. Thompson, if you'll go to Page

17 328, Line 4.

18 THE WITNESS: I'm sorry, are you -- is that directed

19 to me?

20 MR. KATHMAN: No, Mr. Thompson.

21 THE WITNESS: Okay.

22 MR. KATHMAN: One of my colleagues.

23 BY MR. KATHMAN:

24 Q Do you see there, Question, "What board member presented

25 the resolution?" "David Keene." Question, "Uh-huh. And so

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1 Mr. Keene already had the resolution in written form?"

2 Answer, "He did."

3 Do you see that?

4 A Yes, sir. You -- you were asking me if he came to the
5 meeting with the resolution drafted. That's -- he -- he came
6 to the mic with the resolution drafted. He didn't come, to
7 my knowledge, didn't come to the meeting with it already
8 drafted.

9 Q Okay. And Mr. Keene, Mr. Keene is currently being paid
10 by the NRA, correct?

11 A I don't believe that's correct.

12 Q Okay. Mr. Cotton, I'll have you turn to what we've
13 marked as Exhibit 191.

14 A Is that -- oh, are you back on yours, or is this still --

15 Q Yes, I'm back on mine. Thank you.

16 A Okay. I'm sorry, 191?

17 Q 191. It's a fairly large document.

18 MR. KATHMAN: So we'd move for the admission of NRA
19 [sic] Exhibit 191.

20 MR. CICILIANO: No objection.

21 MR. KATHMAN: The amended schedules filed in this
22 case.

23 THE COURT: 191 --

24 MR. CICILIANO: Yeah, I have no objection.

25 THE COURT: New York --

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1 THE WITNESS: I've got it up.

2 THE COURT: New York 191 is in.

3 (New York Attorney General's Exhibit 191 is received into
4 evidence.)

5 BY MR. KATHMAN:

6 Q Okay. Mr. Cotton, if you see the page numbers there at
7 the top, we're going to go to Page 233 of 236.

8 A Oh. Okay. Let me see if I can blow this up. This is
9 tiny.

10 Q Yeah, it is. I -- and actually, before we get to 233,
11 we'll stop at 231 real quick.

12 A Okay.

13 Q It says Schedule G, Executory Contracts and Unexpired
14 Leases. I'll represent to you that these are the Debtors'
15 amended bankruptcy schedules they filed in this case, and
16 Schedule G is a list of contracts and leases and which the
17 NRA currently has contracts for.

18 A Okay.

19 Q Okay. If we scroll down. Now if we go to Page 233 of
20 236, about halfway down the page, do you see David Keene?

21 A I see it. Yes, sir. I see it.

22 Q Does this refresh your memory about whether Mr. Keene
23 currently has a contract in which he is being paid by the
24 NRA?

25 A Well, I see this on here, but it really doesn't refresh

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1 my recollection. No, sir. I was thinking -- I was thinking
2 that we were not paying him now. But I may -- I may be
3 wrong.

4 Q Okay. Now, that resolution that was drafted that we
5 looked at under Exhibit 199, that was drafted with the
6 assistance of bankruptcy counsel, correct?

7 A Well, that's what Mr. Garman said in his opening. Said
8 it -- the resolution was drafted by him. So that was new to
9 me, but apparently so.

10 Q Okay. So, before this meeting, bankruptcy counsel
11 drafted a resolution. Correct?

12 A I know no more than what I heard this morning.

13 Q Okay. And Mr. Frazer came to that meeting with at least
14 48 copies of the resolution, because he passed one out to all
15 the members, correct?

16 A Well, he had 48 copies to pass out. Yes, sir. When they
17 were copied, I had no idea.

18 Q Okay. And yet the notice that we are looking at there on
19 Exhibit 50 says nothing about board members being called upon
20 to ratify the bankruptcy, correct?

21 A The notice says nothing about a resolution.

22 Q Okay. Now, Mr. Cotton, in addition to being the first
23 vice president of the National Rifle Association, you're also
24 the chairman of the Audit Committee, correct?

25 A Yes, sir.

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1 Q Okay. And you would agree with me that one of the
2 primary functions of the NRA's Audit Committee is to assist
3 the board of directors in oversight of the integrity of the
4 NRA's financial information, correct?

5 A Yes. Yes, sir.

6 Q Okay. And you would agree with me that one of the
7 primary functions of the Audit Committee is to review the
8 adequacy of the system of internal controls established by
9 the NRA, correct?

10 A Responsible for making sure such an investigation or
11 evaluation is done. Yes, sir.

12 Q Well, let's be more specific. Not just that it was
13 investigated. The Audit Committee is charged with actually
14 reviewing the adequacy of the system of internal controls
15 established by the NRA, correct?

16 A It depends on -- I don't know what you mean by that. In
17 my deposition, you were asking me if we did any hands-on
18 investigation ourselves. We don't do that. But we -- we
19 take other steps to ensure the integrity.

20 Q One of the Audit Committee's jobs is to ensure the
21 integrity -- is to ensure the adequacy of the system of
22 internal controls. Isn't that the job of the Audit
23 Committee?

24 A Yes. And we -- and we use people to accomplish -- to
25 meet that burden.

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1 Q Okay.

2 MR. KATHMAN: Move to strike everything after yes.

3 THE COURT: Sustained.

4 BY MR. KATHMAN:

5 Q And finally, one of the tasks of the Audit Committee is
6 to ensure that the Association is in compliance with
7 regulatory laws, right?

8 A No, that's not -- the expertise on the Audit Committee
9 does not extend to regulatory matters like that. No, sir.

10 Q Okay. So it's not the Audit Committee's -- it's your
11 testimony it's not the Audit Committee's job to make sure
12 that the NRA is in compliance with regulatory laws?

13 A It is our responsibility to ensure that other people who
14 have that kind of expertise are doing that.

15 Q Mr. Cotton, I'll have you turn to what we've marked as
16 NYAG Exhibit 178.

17 A Okay. I've got it.

18 MR. KATHMAN: Move for the admission of NYAG Exhibit
19 178.

20 THE WITNESS: I've got it up.

21 MR. CICILIANO: I don't object, Your Honor.

22 THE COURT: New York 178 is in.

23 (New York Attorney General's Exhibit 178 is received into
24 evidence.)

25 BY MR. KATHMAN:

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1 Q This is the charter for the Audit Committee of the
2 National Rifle Association of America, correct?

3 A Correct.

4 Q Okay. And we see, if we look there, first sentence of
5 the mission statement, "The primary function of the Audit
6 Committee is to assist the board of directors in its
7 oversight of the integrity of the financial information, its
8 review of the adequacy of the system of internal controls
9 established by the Association, and its monitoring of the
10 audit process."

11 Did I read that correctly?

12 A You read that correctly.

13 Q Okay. And in addition to the Audit Committee being
14 responsible for these statements here in the mission
15 statement, it's also responsible for hearing and
16 investigating whistleblower complaints. Isn't that right?

17 A It's -- that's part of our responsibility. We're -- we
18 are not the sole entity to do that, but, yes, sir, that comes
19 within our wheelhouse as well. Yes, sir.

20 Q Okay. Do you recall a meeting in July of 2018, a meeting
21 of the Audit Committee where a number of whistleblowers came
22 forward and presented a list of top concerns?

23 A That's correct.

24 Q Okay.

25 A If I remember correctly, it was July 30th.

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1 Q Okay. I'll have you flip to -- well, first let me go to
2 what is NRA Exhibit 270.

3 A Okay. I don't have that. I've got -- oh, wait a minute.
4 I'm sorry. 270?

5 Q Yeah. The NRA Exhibit 270, --

6 A Yeah.

7 Q -- not NYAG 270.

8 A Yeah. Okay.

9 Q And I'll have you flip to Page 243 at the bottom.

10 A Is it 243 of 303?

11 Q I don't know the PDF page.

12 A The reason I'm asking, if I -- if that's it, I can use
13 the, you know, the fast way to get there. Is it -- if it's
14 the one talking about NRA museums?

15 Q No. I think you're probably -- it's probably about two
16 or three pages off from there.

17 A Okay.

18 Q It says 243 at the bottom. Yeah, it looks like you're
19 about two --

20 A I'm almost there. Okay, I've got it.

21 Q Okay. This is the report of the Audit Committee. Do you
22 see at the top, Report of the Audit Committee, September 8th
23 through the 9th, 2018? Do you see that?

24 A Yes, sir.

25 Q Okay. And there, the first line, Audit Committee met at

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1 NRA headquarters July 30th, 2018. Right?

2 A Correct.

3 Q Okay. If we look here at the minutes here, middle of the
4 page, there's no mentioning of these whistleblowers in the
5 minutes, is there?

6 MR. CICILIANO: And, Your Honor, I'm going to object
7 here, not to -- not to the question, but just to remind the
8 witness not to reveal the names of whistleblowers. And the
9 parties have a stipulation on that as well.

10 THE COURT: And thank you for making that caution.
11 Remember that, Mr. Cotton.

12 THE WITNESS: Yes, sir. Yes, Your Honor. I will.
13 You're correct. It doesn't say anything about that.

14 BY MR. KATHMAN:

15 Q Okay. If we look now at Exhibit 72.

16 A Still NRA?

17 Q Sorry. This is NYAG Exhibit 72.

18 A Okay. Okay.

19 MR. KATHMAN: Move for the admission of NYAG 072.

20 Your Honor, I will note for the record we have an
21 agreement on this memo that we're not going to use the one
22 that has the whistleblowers' names. I don't believe this one
23 does. And I will tell the Court I don't intend to get into
24 the names of any of the whistleblowers.

25 THE COURT: Okay.

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1 MR. KATHMAN: But Mr. Ciciliano can look at NYAG
2 072, but I don't think it mentions any names of any
3 whistleblowers.

4 MR. CICILIANO: I concur. It doesn't. I don't have
5 an objection.

6 THE COURT: With that understanding, 72 is in.

7 (New York Attorney General's Exhibit 72 is received into
8 evidence.)

9 MR. KATHMAN: Okay.

10 MR. CICILIANO: Well, and Your Honor, I think the
11 stipulation is a little bit narrower than that in the fact
12 that there are some whistleblowers on our side --

13 THE COURT: All right.

14 MR. CICILIANO: -- who they can use their names of.
15 I know counsel's skirting that line, but I just want the
16 record to be clear.

17 THE COURT: Thank you.

18 BY MR. KATHMAN:

19 Q Mr. Cotton, this is the list of top concerns that were
20 provided to the Audit Committee at that July 2018 meeting,
21 correct?

22 A I think it was July 30th, if I remember correctly.

23 Q I'm sorry if I got the -- July 30th of 2018. Correct?

24 A Yes, sir. That's it.

25 Q Okay. If we look at the first one there, Financial

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1 Conflict of Interest at the Senior Management and Board of
2 Directors Level. Correct?

3 A Yes, sir.

4 Q Senior -- #2, Senior Management Override of Internal
5 Controls, right?

6 A Correct.

7 Q Number 3, Management Has Subordinated Its Judgment To
8 Vendors?

9 A Correct.

10 Q Number 4, Vague and Deceptive Billing by Preferred
11 Vendors, Contractors, Some of Whom Have No Current Contracts
12 or Contracts, correct?

13 A You read it correct, yes, sir.

14 Q Okay. You would agree with me each of these are serious
15 concerns, right, to the Audit Committee, right?

16 A They are serious concerns that needed to be investigated.
17 Yes, sir.

18 Q Okay. And you stayed for about five or ten minutes after
19 this was presented to the Audit Committee and then you left.
20 Isn't that right?

21 A Actually, I'm not sure how long I was there. The meeting
22 -- the meeting went very long, and I had to leave to catch a
23 flight because I had to be back in Houston the next day. So
24 I turned it over to a vice chairman. So I can't tell you how
25 long I was there.

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1 Q Okay. And Ms. Meadows, she's on the Audit Committee as
2 well, correct?

3 A She is.

4 Q Okay. And she left after about five or ten minutes also,
5 right?

6 A She left. I don't -- I can't tell you when she left.

7 Q Okay. Mr. Cotton, I'll have you now turn to what's
8 marked as NYAG Exhibit 8.

9 A Exhibit 8?

10 Q Yes.

11 A Yes, sir. I've got it. The 990?

12 Q It is.

13 MR. KATHMAN: And we'll move for the admission of
14 NYAG Exhibit 8.

15 MR. CICILIANO: While I'm tempted to make them lay
16 the foundation, I have no objection that it could be
17 admitted.

18 THE COURT: Thank you. 8 is in.

19 (New York Attorney General's Exhibit 8 is received into
20 evidence.)

21 BY MR. KATHMAN:

22 Q Mr. Cotton, this particular version of NYAG that was
23 filed with the IRS was not presented to the board of
24 directors; isn't that right?

25 A Well, I don't -- I don't know which version this is. I

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1 mean, there was one that the board reviewed and then it was
2 determined later that another disclosure had to be done in
3 order for it to be accurate. So that was added that the
4 board didn't see. I don't know which one this is.

5 Q Well, I'll represent to you the signature here, this is
6 the version that was signed and filed with the NRA [sic], and
7 the version that was signed and filed with the NRA [sic] was
8 not reviewed by the board, correct?

9 A Ninety-nine percent of it was reviewed, but there were
10 some additional disclosures added to the form after the board
11 had a -- had the opportunity to review it. Yes, sir.

12 Q So the answer to my question is this version that was
13 filed with the IRS was not reviewed by the board, correct?

14 MR. CICILIANO: I would just object on foundation.
15 Counsel tried to identify what it was, not the witness.

16 THE COURT: Overruled. Mr. Cotton, --

17 THE WITNESS: I mean, Counsel, the only thing I can
18 --

19 THE COURT: -- answer the question if you can.

20 THE WITNESS: The only thing I can tell you, sir, is
21 that 99 percent of it was reviewed by the board and then
22 there was a -- I think you told me in the depo that there was
23 one additional disclosure that had to be added. So I can't
24 -- if I say no, it sounds like they didn't see any of it, and
25 that's just not the case.

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1 MR. KATHMAN: I'll move to strike.

2 THE COURT: Overruled. Overruled. The witness is,
3 I think, trying to answer the question.

4 BY MR. KATHMAN:

5 Q Mr. Cotton, if you'll turn to Page 6 of the 990, Part 6.

6 A Yes, sir.

7 Q Page 6, Part 6.

8 A Yes, sir. I've got it.

9 Q Question #11(a), "Has the organization provided a
10 complete copy of this Form 990 to all members of its
11 governing body before filing the form?" Answer, "No."

12 Do you see that?

13 A Yes, sir.

14 Q Okay. And Mr. Cotton, isn't it true that you can't tell
15 the Court that the Audit Committee actually reviewed this
16 final version of the 990? Isn't that right?

17 A We go over -- I'm trying to remember now. We go over the
18 990 in detail with our consultants, the CPA firm, and I -- I
19 think that the -- the determination that there was an
20 additional disclosure that had to be added to the form to
21 make it complete and accurate, I think that occurred after
22 our review and we -- I don't know if they sent us an email of
23 that or not. I don't recall it, but it's possible.

24 MR. KATHMAN: Objection. Nonresponsive. Mr. --

25 THE COURT: Sustained on that. Just listen to the

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1 question and answer it, Mr. Cotton.

2 BY MR. KATHMAN:

3 Q Mr. Cotton, you can't tell the Court that the Audit
4 Committee reviewed this final version of the 990. Isn't that
5 right?

6 A I can't tell the Court one way or the other, sir.

7 Q Okay.

8 A I don't know.

9 Q And, likewise, you can't tell the Court that the entire
10 board was able to review the items listed in Schedule L of
11 this 990; isn't that right?

12 A Is -- what page is that? Is Schedule L the --

13 MR. CICILIANO: I'll just object as to vague as to
14 time.

15 THE COURT: Do you want to restate your question,
16 Mr. Kathman?

17 MR. KATHMAN: Sure.

18 BY MR. KATHMAN:

19 Q Let's flip to Page 86 of the 990.

20 A 86?

21 Q 86 at the bottom.

22 A Okay. Oh, wait a minute. This thing's going crazy on
23 me. Hang on a second. Oh, wait a minute. Something's
24 wrong. Oh, you mean 86 of the document? I'm sorry. Okay.

25 Q Correct.

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1 A I've got it.

2 Q It should say Part 5 at the top, Supplemental
3 Information.

4 A Yes, sir.

5 Q Okay. And Schedule L there it says, "The National Rifle
6 Association has identified what it believes are excess
7 benefit transactions in which it engaged in 2019 and in prior
8 calendar years of which it became aware but were not reported
9 on its prior Forms 990."

10 Do you see that?

11 A Yes, sir.

12 Q Okay. And you can't tell the Court as you sit here today
13 that the information in this Schedule L was provided to the
14 entire board. Isn't that right?

15 MR. CICILIANO: Same objection, Your Honor.

16 THE COURT: I'm going to overrule it this time. I
17 think he can figure out the timing, then.

18 You may answer the question, sir.

19 THE WITNESS: I can -- I can tell His Honor that the
20 board did review most of these. There may be one or two that
21 they didn't. I just don't know which ones.

22 BY MR. KATHMAN:

23 Q So, my question, Mr. Cotton, is: You can't tell the
24 Court that all of the information here in this Schedule L was
25 reviewed by the board prior to it being filed?

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1 A All of -- excuse me. As you word that, all of the
2 information, yes, sir, you are correct.

3 Q Okay. Thank you. And you would agree with me that what
4 was told to the board about the 990 was the information
5 included in the report of the Audit Committee, correct?

6 A Uh, I'm not sure I'm understanding your question.

7 Q It wasn't a very good question. That's probably why you
8 had a hard time. I'll try again.

9 You would agree with me that the full extent of what was
10 told to the board with regard to the result of the audit are
11 what was included in the report of the Audit Committee dated
12 October 24th of 2020. Is that right?

13 A Well, to -- to the extent it was provided outside of
14 executive session. But Audit Committee Reports almost always
15 have an executive session where additional information is
16 provided, questions can be answered. So I can say you are
17 correct as to everything outside of executive session. Yes,
18 sir.

19 Q Okay. I'll have you turn to what we've marked as NYAG
20 Exhibit 11.

21 A Okay. I've got it.

22 (Pause.)

23 MR. KATHMAN: We'd move for the admission of NYAG
24 Exhibit 11. I'm sorry if I wasn't clear with that.

25 MR. CICILIANO: I don't have any objection. I was

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1 waiting for it.

2 THE COURT: NYAG 11 is in.

3 (New York Attorney General's Exhibit 11 is received into
4 evidence.)

5 BY MR. KATHMAN:

6 Q Mr. Cotton, this is the report of the Audit Committee
7 that was presented at the October 2020 board meeting; is that
8 correct?

9 A That appears to be correct. Yes, sir.

10 Q Okay. And if we flip here to the second page, the bottom
11 of the page there, it says, "The Audit Committee met via
12 teleconference and WebEx session at 10:00 a.m. Eastern
13 October 9, 2020." Do you see that?

14 A Wait a minute. I'm on the wrong page. Give me a moment,
15 if you would. I believe this report is cumulative of several
16 meetings. That's the reason I want to be sure about that.
17 Okay. I -- and I'm on the second page. Yes, sir.

18 Q Bottom of the page. Audit Committee met. It's just
19 saying that the Audit Committee met on October 9th, correct?

20 A Yes, sir. I've got it. Excuse me. I've got it.

21 Q Okay. And then going over to Page 3 now, it lists five
22 things that were discussed there in that Audit Committee.
23 Isn't that right?

24 A Page 3?

25 Q Yes. Page 3 of what is NYAG Exhibit 11.

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1 A Okay. I've got it.

2 Q You see the five things listed there?

3 A Yes, sir. Yes, sir.

4 Q Okay. You would agree with me that the contents of this
5 "Report of Audit Committee," this is the fullest extent of
6 what was told to the entire board about the results of the
7 audit? Isn't that right?

8 A To the extent it was discussed in open session, yes. But
9 the same -- further down on the same page, it notes that we
10 went into executive session from 10:36 to 11:41. So it could
11 very well have been additional discussions there. Yes, sir.

12 Q Okay. But Mr. Cotton, I want you to listen to my
13 question, because I'm talking about a separate meeting now.
14 I'm talking -- well, let me ask this first. There was a
15 entire board meeting, not Audit Committee meeting, but an
16 entire board meeting in October of 2020, correct?

17 A Yes, sir.

18 Q Okay. And at that entire board meeting, not just the
19 Audit Committee, at the entire board meeting that occurred in
20 October of 2020, you didn't tell the entire board about the
21 results of the audit other than what is included here in
22 Exhibit 11; isn't that right?

23 A I can't say that's right, because as I said, every single
24 Audit Committee Report that's given to the board has an
25 executive session component as well. I don't -- I don't

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1 recall now what was discussed in that executive session
2 meeting in October of last year.

3 Q Mr. Cotton, what did you tell -- at the broader board
4 meeting that occurred on October 2020 -- actually, let me do
5 it this way. (Pause.) At the October 20th -- or, at the
6 October 2020 board meeting, not the Audit Committee meeting,
7 but the meeting of the entire board, --

8 A Yes, sir.

9 Q Okay. At the meeting of the entire board, when it came
10 to reporting the results of the audit, you gave them this
11 Audit Committee Report, correct?

12 A Yes, sir. They would have had the Audit Committee
13 Report.

14 Q Okay. And you provided them a draft of the 990s,
15 correct?

16 A Yes, sir.

17 Q Okay. And you didn't tell them anything else other than
18 what's in this report and what was in the 990s?

19 A I cannot say that. There was an executive session in the
20 board meeting, not the committee meeting. There was
21 executive session in the board meeting tied to every single
22 audit report. I don't know -- I don't know what was said
23 during that meeting. We do that so people can ask any
24 questions they want in a more confidential setting. Because
25 outside -- I'm sorry.

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1 Q Do you recall there being a PowerPoint presentation being
2 used at the Audit Committee meeting on October 9th of 2020?

3 A I didn't use one. It could have been -- it could have
4 been used by Aronson, our CPA firm. They often use one for
5 audit planning. I just can't recall now if they used one at
6 that time. But I would not have used one.

7 Q Okay. I'll have you flip to what we've marked as NYAG
8 Exhibit 13.

9 A Okay. I've got it.

10 MR. KATHMAN: I move for the admission of NYAG 13.

11 MR. CICILIANO: No objection.

12 THE COURT: Thank you, Mr. Ciciliano. 13 is in.

13 (New York Attorney General's Exhibit 13 is received into
14 evidence.)

15 BY MR. KATHMAN:

16 Q Do you recognize this PowerPoint presentation as a copy
17 of the PowerPoint that was used by Aronson, the outside
18 auditors?

19 A This is exactly the type they use. It's got their name
20 on it. I have no doubt that it is the one that they use with
21 us. As I sit here now, I can't recall every slide, but I'm
22 confident that's it. Yes, sir.

23 Q Okay. But you don't know whether this PowerPoint
24 presentation was provided to the broader board?

25 A Oh, it wouldn't.

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1 Q I'm sorry. Say that again.

2 A I'm sorry. I thought I heard someone else. This
3 PowerPoint presentation would not be presented to the board.
4 No, sir.

5 Q Okay. In fact, you don't really know what was told to
6 the board about the results of the audit at the October 2020
7 meeting; isn't that right?

8 A Well, I know we would tell them things like we had a
9 clean audit. What else -- and we'd talk about the 990s. We
10 tell them every time what a 990 is. We tell them that it's
11 available for their review. I mean, I can't recall doing
12 that, but that's what we do every time. And then, like I
13 say, we go into executive session. And no, sir, I don't
14 remember that.

15 Q Okay. And you don't remember whether the excess benefit
16 transactions that were listed in Schedule L of the 990 were
17 discussed or disclosed to the board; isn't that right?

18 A That would -- that's the kind of thing that would be
19 discussed in executive session. Because outside of executive
20 session, we have members there, we have spectators, we have
21 the press. And we don't -- we don't do those kind of
22 discussions in the public forum.

23 MR. KATHMAN: Mr. Thompson, I'll have you go to Page
24 208, line 3.

25 THE WITNESS: Two oh -- I'm sorry, 208?

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1 MR. KATHMAN: That's to Mr. Thompson, my colleague.

2 THE WITNESS: Oh, I'm sorry.

3 BY MR. KATHMAN:

4 Q (reading) Question, "Do you know what was said, if
5 anything, about the results of the 2019 audit at the October
6 2020 meeting?" "As I sit here now" -- Answer, "As I sit here
7 now, no, I can't remember that." Question, "Okay. Do you
8 recall whether at the October 2020 board meeting there was
9 any discussion of excess benefit transaction?" Ms. Rogers
10 objected to privilege, and then you answered, "I just can't
11 recall."

12 Do you see that?

13 A Yes, sir. That's what I just said.

14 Q Okay. So you don't know whether that was discussed with
15 the board, correct?

16 A Correct. I don't -- as I sit here now, I can't recall
17 what we discussed in the executive session.

18 Q Okay. And because you can't recall, you can't
19 definitively tell the court that those excess benefit
20 transactions were discussed, right?

21 A Correct.

22 Q Okay.

23 A They were available for discussion, but I don't know if
24 it happened.

25 Q Okay. I'll have you turn to what we've now marked as --

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1 well, the auditors provided you a management letter
2 communicating the results of their audit. Isn't that right?

3 A Yes, sir. That's -- yes, sir. Hang on a second. I'm
4 having a problem with my exhibit list here. Okay. I think
5 I've got it working now.

6 Q Okay. I'll have you flip to what's been marked as New
7 York -- NYAG Exhibit 22.

8 A Okay. I've got it.

9 Q And I'll -- because you can't remember what was discussed
10 in that executive session, you can't tell the Court whether
11 the New York Attorney General's lawsuit was discussed during
12 that Audit Committee meeting; isn't that right?

13 A I don't recall it, so I can't tell the Court anything
14 about that. Yes, sir.

15 Q Okay.

16 THE COURT: Mr. Kathman, Mr. Cotton's been
17 testifying for about two hours now. Maybe this would be an
18 appropriate time to take about a five-minute break.

19 MR. KATHMAN: I can do that, Your Honor. I will
20 tell you, I'm fairly close to being done. I would say maybe
21 ten minutes. But if the witness wants to take a break or if
22 Your Honor wants to take a break, I'm perfectly fine doing
23 that now.

24 THE COURT: All right. We're going to go until
25 about 6:00 tonight.

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1 Let me ask Mr. Cotton. Do you want to finish -- let Mr.
2 Kathman finish with you, or do you want a five-minute break,
3 Mr. Cotton?

4 THE WITNESS: If he's got ten minutes, Judge, I'm
5 good with that. But I also don't want to make you mad. So
6 if you want a break, --

7 THE COURT: You're not making me mad at all.

8 THE WITNESS: Gotcha.

9 THE COURT: All right. Mr. Kathman, why don't you
10 go ahead and finish up your questioning. We'll still let
11 everybody take a five-minute recess after that.

12 MR. KATHMAN: You know what, Your Honor, I'm looking
13 at my outline, and some of these questions are maybe a little
14 bit longer than what I -- so maybe I was a little bit
15 ambitious with my ten-minute estimate.

16 THE COURT: Okay.

17 MR. KATHMAN: So I'm happy to keep going, but I'm
18 looking now at some of these questions, and they're a little
19 bit longer than some of the ones thus far. So I may have
20 been a little ambitious with my 10 or 15 minutes. So maybe
21 it might be best to go ahead and take a five-minute break and
22 then I can finish the witness, and then I think we'd move to
23 Ackerman next, if it's okay with Your Honor.

24 THE COURT: Okay. Mr. Cotton, during the recess,
25 don't speak with anyone, including the attorneys for the NRA,

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1 about your testimony. Do you understand that?

2 THE WITNESS: Yes, Your Honor. I understand.

3 THE COURT: Okay. We're going to take just a short
4 recess, about five minutes or so, to let everyone stretch.
5 We'll be in recess.

6 (A recess ensued from 5:00 p.m. until 5:07 p.m.)

7 THE COURT: Ready?

8 THE WITNESS: I think I got my mic unmuted. I'm
9 ready, Your Honor.

10 THE COURT: Okay. Thank you.

11 MR. KATHMAN: Okay. Your Honor, we'd move -- I
12 don't think I moved for the admission of NYAG 22.

13 MR. CICILIANO: I have no objection.

14 THE COURT: NYAG 22 is in.

15 (New York Attorney General's Exhibit 22 is received.)

16 MR. KATHMAN: And also, as a matter of clean-up, I
17 don't think I -- I think I referred to it, but I don't know
18 if I moved for the admission of NRA 270. At least I didn't
19 --

20 THE COURT: I think --

21 MR. KATHMAN: I know I was asking questions about
22 it, but I'm not sure I actually got it admitted.

23 THE COURT: Yes. I don't show the word "In" by it,
24 which I normally would write down, so I don't know. So we'll
25 see if there's an objection by the NRA.

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1 MR. CICILIANO: While it's not above me to object to
2 my own exhibits, I won't object to this one.

3 THE COURT: Well, you're sitting by the feet of the
4 master, as I understand, he's a good lawyer, so that's
5 probably a good thing to keep in reserve.

6 270 is in also.

7 (Debtors' Exhibit 270 is received into evidence.)

8 THE COURT: And by the way, that's NRA 270.

9 MR. KATHMAN: Thank you, Your Honor.

10 BY MR. KATHMAN:

11 Q Mr. Cotton, I want to focus now on -- well, let me start
12 with here, NYAG 22, the management letter. You can't tell
13 the Court whether this management letter was actually
14 provided to the broader board; isn't that right?

15 A No, sir, I can't.

16 Q Okay. So what you can't tell the Court is whether the
17 NYAG's lawsuit was discussed at the October 20th -- October
18 2020 meeting, right?

19 A I -- I can tell you that the New York AG's lawsuit was --
20 was discussed -- no, wait a minute. I'm getting my days --
21 I'm getting my days wrong. October 20th meeting, no, sir, I
22 can't say one way or the other.

23 Q Okay. And you can't tell the Court whether the excess
24 benefits transactions in Schedule L were discussed at that
25 meeting, right?

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1 A As I said earlier, no, sir, I don't know.

2 Q And you don't even know whether the Audit Committee
3 actually reviewed the final form of 990 or whether they were
4 just told about the excess benefits at a later date. Isn't
5 that right?

6 A You're correct. I can't say one way or the other.

7 Q Okay. But what you can say and what we do know is that
8 the version of the 990 that was filed, that version was not
9 provided to the broader board, correct?

10 A As we discussed, yes, sir.

11 Q Okay. And the Audit Committee certainly knew of the
12 allegations that were raised in the NYAG enforcement action,
13 right?

14 A Yeah.

15 Q Okay. And the Audit Committee had discussions about
16 those allegations with the auditors, right?

17 A Yes.

18 Q Okay. And as the chairman of the Audit Committee, you
19 understand that under New York law the Audit Committee is
20 required to oversee the accounting and financial reporting
21 process of the corporation and the audit of the corporation's
22 financial statements, right?

23 A As I understand New York law, yes.

24 Q Okay. And you additionally understand that under New
25 York law the Audit Committee is required to annually retain

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1 or renew the retention of an independent auditor to conduct
2 the audit, and upon completion, to review the results of that
3 audit and any related management letter with the independent
4 auditor, correct?

5 A We have that duty and we did such.

6 Q Okay. And you understand under New York law the Audit
7 Committee is required, upon completion of the audit, to
8 review and discuss with the auditors any material risk and
9 weaknesses in internal controls identified by the auditors,
10 correct?

11 A That's our duty and we exercised that duty.

12 Q Okay. And under New York law, the Audit Committee is
13 required to report on the Committee's activities to the
14 board. Right?

15 A That's our duty and we -- and we exercised that duty.

16 Q Okay. Mr. Cotton, isn't it true that the Audit Committee
17 relies solely on the external auditors to determine whether
18 there are weaknesses in internal controls?

19 A No, that's not true. That's -- that's one way we do it.
20 That's a major way that we do it. We don't conduct our own
21 investigation. But we talk with the accounting personnel, we
22 talk to the Treasurer.

23 MR. KATHMAN: Ms. Johnston, will you play Clip 136,
24 Line 3?

25 (Audio recording played, 5:12 p.m.)

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1 Q Does the Audit Committee do an analysis separate
2 from the auditors, the external auditors? Does the Audit
3 Committee do analysis of whether the Association is
4 following its internal controls?

5 A Separate and apart from -- do not.

6 Q Does the Audit Committee rely solely on the external
7 auditors to determine whether the corporation is
8 following internal controls?

9 A No. That's the reason we have independent external
10 auditors with the expertise to do that.

11 (End audio clip, 5:13 p.m.)

12 BY MR. KATHMAN:

13 Q Mr. Cotton, I want you to turn to NYAG Exhibit 148.

14 MR. KATHMAN: We'd move for the admission of NYAG
15 Exhibit 148.

16 THE WITNESS: I've got it.

17 MR. CICILIANO: No objection.

18 THE COURT: NYAG 148 is in.

19 (New York Attorney General's Exhibit 148 is received into
20 evidence.)

21 BY MR. KATHMAN:

22 Q Mr. Cotton, you recognize this document, right?

23 A I do.

24 Q And this is the engagement letter with the NRA's external
25 auditors, Aronson, correct?

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1 A Correct.

2 Q Okay. And as the chairman of the Audit Committee, you
3 reviewed this letter and the scope of the engagement,
4 correct?

5 A Correct.

6 Q Okay. And if we turn to Page 16, at the top, --

7 A Okay.

8 Q -- that's your signature there, Charles L. Cotton, Audit
9 Committee Chair, correct?

10 A It is.

11 Q Okay. Now I want to turn your attention back to Page 3.

12 A Okay.

13 Q Okay. The second paragraph there on the page. It
14 starts, "Our audit." That paragraph. Do you see that?

15 A I see it.

16 Q Okay. Second sentence there. "An audit is not designed
17 to provide assurance on internal control."

18 A Hang on a second. I'm sorry. I must be on the wrong
19 page. You're starting out, "Our audit will include"?

20 Q Yeah. The second sentence of that paragraph.

21 A Okay. Got it.

22 Q "An audit is not designed to provide assurance on
23 internal control or to identify deficiencies in internal
24 control. Accordingly, we will express no such opinion.

25 However, during the audit, we will communicate to you and

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1 those charged with governance internal control related
2 matters that are related [sic] to be communicated under
3 professional standards." Do you see that?

4 A I see that.

5 Q Okay. And then if we go to the last page of the
6 engagement letter, Page 18, --

7 A Okay.

8 Q -- and it's kind of middle of the page there. It's the
9 paragraph that starts, "An audit." Do you see that?

10 A I've got it, yes.

11 Q "An audit is not designed to provide assurance on
12 internal control or to identify significant deficiencies or
13 material weaknesses. Our review and understanding of the
14 organization's internal control was not undertaken for the
15 purpose of expressing an opinion on the effectiveness of
16 internal control. Management is responsible for designing
17 and maintaining an effective internal control environment."

18 Did I read that correctly?

19 A You read it correctly.

20 Q Okay. And if we go back to what we had marked as Exhibit
21 140 -- sorry, Exhibit Number -- Exhibit -- NYAG Exhibit 22.
22 This is the management letter, correct?

23 A Correct.

24 Q This is the report of the audit. They're telling you --
25 this is what you refer to as the "clean audit," correct?

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1 A Yes, sir.

2 Q Okay. And let's focus on the first paragraph there, kind
3 of middle of the paragraph. Do you see where it starts, "We
4 consider the organization's." Do you see that?

5 A Okay. Which page? Okay, yeah, I've got it.

6 Q First page. "We consider the organization's internal
7 control over financial reporting as a basis for designing
8 audit procedures that are appropriate in the circumstances
9 for the purpose of expressing our opinion on the consolidated
10 financial statements but not for the purpose of expressing an
11 opinion on the effectiveness of the organization's internal
12 control. Accordingly, we do not express an opinion on the
13 effectiveness of the organization's internal control."

14 Did I read that correctly?

15 A You read it correctly.

16 Q Okay. So, here we have an engagement letter with Aronson
17 saying, we're not being engaged to audit your internal
18 controls, and then we have their management letter saying,
19 we're not offering an opinion on your internal controls.
20 Isn't that right?

21 A Correct.

22 Q Okay. And still the Audit Committee did not do an
23 independent analysis of whether the Association is following
24 its internal controls; isn't that right?

25 A An independent analysis, correct. I've -- it's not

Cotton - Direct

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1 saying we didn't do anything at all. And there's a lot --
2 well, --

3 MR. KATHMAN: Your Honor, move to strike "We didn't
4 do any" -- everything after "We didn't do any independent
5 analysis."

6 THE COURT: Overruled.

7 BY MR. KATHMAN:

8 Q Mr. Cotton, we talked about the Audit Committee and the
9 requirements of New York law just a minute ago. And you
10 would agree with me that it's important for the Audit
11 Committee in its role to review the 990. Is that right?

12 A It is our duty to review the 990. And we do so in
13 conjunction with a tax expert.

14 Q Okay. And you agree with me that it's important to
15 ensure that the information in the 990 is true and correct,
16 correct?

17 A (no immediate response)

18 Q That double-correct probably threw you. I apologize.
19 It's important to make sure that the information in the 990
20 is true and correct. Right?

21 A Correct. And that's why we rely upon experts in that
22 field.

23 Q Okay. Mr. Cotton, I'll have you turn to NYAG Exhibit 9.

24 MR. KATHMAN: We'd move to admit Exhibit NYAG 9.

25 THE WITNESS: I've got it.

Cotton - Direct

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1 MR. CICILIANO: No objection. Uh, uh, --

2 THE COURT: 9 is in.

3 MR. CICILIANO: Yeah, no objection.

4 THE COURT: Thank you.

5 (New York Attorney General's Exhibit 9 is received into
6 evidence.)

7 BY MR. KATHMAN:

8 Q Mr. Cotton, this is a certification that Mr. Spray, the
9 chief financial officer, asked you to sign as an officer of
10 the NRA, correct?

11 A Well, it -- I never talked to him. He emailed it around
12 to a lot of people. But he never talked to me about it.

13 Q You received this document from Mr. Spray?

14 A I received it. I don't know if it was sent directly from
15 him or someone, you know, in his department. I don't know.

16 Q You were requested --

17 A But I did get it.

18 Q You were requested to sign this document regarding the
19 2019 Form 990, correct?

20 A No one talked -- no one requested it. I just got it in
21 an email. That's it. No one ever talked to me about it at
22 all.

23 Q There's a signature line there for you, Charles L.
24 Cotton, First Vice President. Correct?

25 A That's correct.

Cotton - Direct

164

1 Q Okay. And it says at the top, "I have examined the 2019
2 Form 990 return for the National Rifle Association, including
3 the accompanying schedules and statements. To the best of my
4 knowledge and belief, it is true, correct, and complete."

5 Did I read that correctly?

6 A You read it correctly.

7 Q And you didn't sign this document, did you?

8 A Correct.

9 Q All right.

10 MR. KATHMAN: Your Honor, we'd pass the witness.

11 THE COURT: All right. I think the order -- and
12 we'll try to do this for the trial, really -- I think we'll
13 go to Mr. Mason next or someone in his firm for Ackerman.
14 Then we'll go to Mr. Watson or someone in his firm.

15 MS. CARROLL: Yes, Your Honor. Christina Carroll on
16 behalf of Ackerman McQueen.

17 THE COURT: Welcome.

18 MS. CARROLL: Thank you. I'm going to adjust my
19 desk. One moment.

20 THE COURT: Okay.

21 CROSS-EXAMINATION

22 BY MS. CARROLL:

23 Q Mr. Cotton, thank you again for being here. It's good to
24 see you today.

25 A Good to see you, Ms. Carroll.

Cotton - Cross

165

1 Q So, would you agree that it's your position that Mr.
2 LaPierre had authority to file bankruptcy under the NRA
3 bylaws?

4 A That's my belief. Yes, ma'am.

5 Q Would you agree, though, that there is at least a
6 question about whether, in fact, Mr. LaPierre had the
7 authority to file bankruptcy under the bylaws?

8 MR. CICILIANO: I would just object to foundation.

9 THE COURT: Okay. Overruled.

10 THE WITNESS: That issue --

11 THE COURT: You may answer the question, sir.

12 THE WITNESS: That issue has obviously been raised.

13 In my opinion, he did. Other people obviously think
14 otherwise.

15 BY MS. CARROLL:

16 Q If we can turn to Ackerman Exhibit 10, please.

17 A Okay. I've got it.

18 Q And this is the most recent bylaws of the NRA; is that
19 correct?

20 A Yes, ma'am. That's it.

21 MS. CARROLL: I move to enter Exhibit 10, Ackerman
22 Exhibit 10.

23 (Pause.)

24 MR. CICILIANO: I was looking at the New York
25 Attorney General tab. I said, I don't think that's it. But

Cotton - Cross

166

1 I have no objection to Ackerman 10.

2 THE COURT: Ackerman 10 is in.

3 (Ackerman McQueen's Exhibit 10 is received into
4 evidence.)

5 THE COURT: For some reason, I'm having trouble
6 getting it on my screen, so I'll have to use a hard copy.
7 Thank you.

8 MS. CARROLL: We can also share screen, if that
9 would assist, Your Honor.

10 THE COURT: A hard copy, I think, would be fine.

11 MS. CARROLL: Thank you.

12 BY MS. CARROLL:

13 Q Okay. So if we can please turn to -- we're going to go
14 to Article V, Section 2, which is Page 17 of the bylaws.

15 A Yes, ma'am. I've got it. Well, you -- Article IV,
16 Section 2?

17 Q Is it Article -- no, I believe that's Article V. Article
18 V, Section 2.

19 A Okay. Let me -- let me go down to that.

20 Q On Page 17.

21 A Oh, I see. 17 of the document, not 17 of the --

22 Q Correct.

23 A Okay. I've got it.

24 Q And this section is describing the duties of the various
25 officers of the NRA; is that correct?

Cotton - Cross

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1 A Yes, ma'am.

2 Q And if we go to Page 18, it discusses the duties of the
3 executive vice president. Is that correct?

4 A Yes, ma'am.

5 Q Now, there is not any language in this section about the
6 executive vice president having the authority to file
7 bankruptcy, is there?

8 A No direct mention of bankruptcy. You're correct.

9 Q And there's nothing in this section mentioning
10 reorganization or restructure language, correct?

11 A Correct. Yes, ma'am.

12 Q Now, are you aware that Mr. LaPierre has testified he
13 would not have filed bankruptcy without the language in the
14 employment agreement?

15 A I am aware of that now. Yes, ma'am.

16 Q Is it your position that Mr. LaPierre is wrong about his
17 own authority under the bylaws?

18 A I mean, Wayne said -- I'm sorry. Mr. LaPierre told you
19 what his opinion was. I mean, he and I have different
20 opinions.

21 Q Are you saying that Mr. LaPierre is incorrect about his
22 own authority under the bylaws?

23 A No, ma'am, I'm not saying that. I'm saying we had
24 different opinions. That's all I can say.

25 Q Okay. Let's turn to New York AG Exhibit 50, which I

Cotton - Cross

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1 believe was entered.

2 A I'm sorry. You said New York AG 50?

3 Q Yes.

4 THE COURT: 50 is in evidence.

5 BY MS. CARROLL:

6 Q And if we look at that first page, Paragraph 2, Duties
7 and Compensation, Subsection A. Are you with me?

8 A Yes, ma'am.

9 Q And this is where we find the language, "Among his
10 authorities, Employee shall be empowered to exercise
11 corporate authority" and it continues "to reorganize or
12 restructure the affairs of the Association," and it
13 continues.

14 Do you see where I am?

15 A Yes, ma'am.

16 Q Is there anything in this employment agreement that
17 specifically authorizes Mr. LaPierre to file bankruptcy?

18 A Well, I think the language that you just read, to
19 reorganize -- I lost my spot here. "To exercise corporate
20 authority in furtherance of the mission and interests of the
21 NRA, including, without limitation, to reorganize or
22 restructure the affairs of the Association." That, to me, is
23 what -- what I rely on when I say, to me, that contract
24 provision gives him the authority to do so.

25 Q Now, there's nothing in this provision that mentions

Cotton - Cross

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1 bankruptcy. Is that correct?

2 A The word bankruptcy was not used, correct.

3 Q And the NRA could have included that language if it
4 wanted to, correct?

5 A I guess it could have been.

6 Q Was this "reorganize or restructure the affairs of the
7 Association for purposes of cost minimization, regulatory
8 compliance, or otherwise" specifically included in Mr.
9 LaPierre's employment agreement with the intent that -- to
10 give him authority to file bankruptcy?

11 MR. CICILIANO: I would just object. Foundation.

12 THE COURT: Overruled.

13 THE WITNESS: I -- I was -- I wasn't involved in
14 negotiating this employment contract. In fact, I didn't see
15 it until it was placed in front of me to sign it. I know
16 that the reason we wanted a new contract was to give the NRA
17 a way to use Mr. LaPierre, his likeness and signature and
18 stuff, for fundraising after he retires, instead of the
19 earlier contract that the New York AG's counsel had referred
20 to, I think, as the poison pill provision or something like
21 that. That's all I can tell you about the purpose of the
22 contract.

23 BY MS. CARROLL:

24 Q So it's your testimony that you were not aware whether
25 the language "reorganize or restructure the affairs of the

Cotton - Cross

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1 Association for purposes of cost minimization, regulatory
2 compliance, or otherwise" was specifically included to give
3 Mr. LaPierre allegedly authority to file bankruptcy? Is that
4 right?

5 A I'm saying I don't know -- I don't know why that was put
6 in there. I wasn't involved in it, so I can't -- I can't
7 comment.

8 Q Is it your testimony that Mr. LaPierre's employment
9 agreement amends the bylaws?

10 A No. No.

11 Q Let's turn to New York Exhibit 5. And this was
12 previously admitted.

13 A Okay.

14 Q And if you remember discussing with Mr. Kathman about
15 there being no choice of law provision. Do you remember that
16 --

17 A Yes, ma'am.

18 Q -- question in your testimony? In addition to there
19 being no choice of law provision, it's correct that there is
20 also no venue in this draft employment agreement for Mr.
21 LaPierre; is that correct?

22 A Yes, ma'am.

23 Q And during the January 7th board meeting where Mr.
24 LaPierre's employment agreement was presented, you agree that
25 there was no discussion that Texas would be selected as the

Cotton - Cross

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1 venue for this employment agreement, correct?

2 A You mean Texas specifically?

3 Q Correct.

4 A Yes, ma'am. You're correct.

5 Q And the same applies to choice of law. There was no
6 specific discussion about Texas being selected as the choice
7 of law provision, correct?

8 A Correct. Yes, ma'am.

9 Q The NRA is incorporated in New York, correct?

10 A That's correct.

11 Q And headquartered in Virginia; is that right?

12 A That's correct.

13 Q And the board, as of January 7, 2021, was not aware that
14 there were any discussions about bankruptcy. Is that right?

15 A I can only tell you that I didn't discuss it. What they
16 were aware of -- what, you know, 76 -- I mean, I'm sorry, 75
17 other folks knew, I don't know. I didn't discuss it with
18 them.

19 Q Would you agree that if, when presenting Mr. LaPierre's
20 employment agreement to the board, if it were disclosed that
21 Texas would be selected as the choice of law or a venue, that
22 board members might start asking questions about why Texas?

23 A I have no idea. I guess it's possible.

24 Q And if board members started asking questions about why
25 Texas, would you agree that the Special Litigation Committee,

Cotton - Cross

172

1 Mr. LaPierre, and counsel might need to discuss the
2 bankruptcy investigation that's going on?

3 A I have no idea. It'd depend on the questions they were
4 asked.

5 Q Mr. Cotton, you'd agree that a reorganization can occur
6 outside of bankruptcy, correct?

7 A As you and I talked about before, Ms. Carroll, to me
8 reorganization meant bankruptcy. Like I said, I heard Mr.
9 Garman's opening where there are other ways to do it. So
10 I've got to -- I've got to concede to those who practice in
11 the area. To me, it meant bankruptcy.

12 MS. CARROLL: I object as nonresponsive and move to
13 strike, Your Honor.

14 THE COURT: Sustained.

15 BY MS. CARROLL:

16 Q Mr. Cotton, do you agree that reorganization can occur
17 outside of bankruptcy?

18 A Based on what I learned this morning, yes, ma'am.

19 Q And you would agree that the NRA can also restructure
20 outside of bankruptcy, correct?

21 A I guess I have to say yes, based on what I learned today.

22 Q If we can turn to Ackerman Exhibit 169. One six nine.

23 A I'm sorry, I don't have a 169. The highest number I've
24 got is 152 for Ackerman.

25 Q Okay. Well, then maybe we can share screen.

Cotton - Cross

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1 MS. CARROLL: Ms. Johnston, I don't know if you're
2 there.

3 THE WITNESS: Your Honor? Your Honor?

4 THE COURT: Yes?

5 THE WITNESS: There -- it's my understanding there
6 are some hard-copy documents of the exhibits behind me.

7 Would it be okay if I looked and see if 169 is in there?

8 THE COURT: That'd be fine with me, Mr. Cotton.

9 THE WITNESS: You did say 169, ma'am?

10 MS. CARROLL: One six nine. Yes, I did. Thank you.

11 (Pause.)

12 THE WITNESS: No, sir. No, ma'am. Even the hard
13 copies we've got doesn't go above 153.

14 BY MS. CARROLL:

15 Q Okay. Ms. Johnston has shared screen to show you Exhibit
16 169. Are you able to see that on your screen?

17 A Not very well. Can you blow -- I can't read it at all.
18 Can you blow it up?

19 Q Can you see the heading right now?

20 A Okay. I see it.

21 Q And do you see that this is an article titled "Wayne
22 LaPierre Promised Job Security, Then Ousted an NRA Top Gun.
23 As turmoil rocked the gun group, its chief attempted to calm
24 worried staff, then he blindsided them and shocked Republican
25 insiders by ousting a longtime insider"? Do you see that?

Cotton - Cross

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1 A I see the statement, yes, ma'am.

2 Q And right beneath it, do you see that it's from *The Daily*
3 *Beast*?

4 A Yes, ma'am, I do.

5 Q And are you familiar --

6 MR. CICILIANO: Your Honor, I would just object. If
7 Counsel is going to read the document into the record, I
8 think it has to be admitted.

9 THE COURT: I --

10 MR. CICILIANO: She hasn't laid a foundation, so I'd
11 object to its admission.

12 THE COURT: I agree.

13 MS. CARROLL: I was laying the foundation by asking
14 some initial questions about his familiarity with this
15 journal or this periodical. This article. Excuse me.

16 THE COURT: Okay. We'll carry that objection for --

17 MS. CARROLL: But I will move --

18 THE COURT: Go ahead.

19 MS. CARROLL: Excuse me? I apologize, Your Honor.

20 THE COURT: That's okay. You're doing fine, by the
21 way, us not stepping on each other. I appreciate that.

22 I'll carry the objection, but you're going to have to lay
23 a foundation in order to offer it into evidence, I think.

24 MS. CARROLL: Yes, sir.

25 BY MS. CARROLL:

Cotton - Cross

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1 Q Mr. Cotton, are you familiar with *The Daily Beast*? I
2 believe you said yes.

3 A Know it by reputation.

4 Q And *The Daily Beast* is -- is, um, like a news reporting
5 company or more a periodical. Is that right?

6 A Well, I wouldn't describe it that way. No, ma'am.

7 Q Is it a -- is it an organization that produces news
8 articles?

9 A The best I can do for you is it publishes articles,
10 stories. I don't know what you'd call it. I would not
11 consider it a legitimate journal.

12 MS. CARROLL: Your Honor, I would move to admit this
13 exhibit as a self-authenticated newspaper, periodical, under
14 Federal Rule of Evidence 9026 that also contains a statement
15 from a party opponent.

16 MR. CICILIANO: Well, Your Honor, I would certainly
17 object to that. I don't think she's laid the foundation. I
18 don't think she's established that as well. And, I mean, the
19 whole thing is hearsay.

20 THE COURT: Sustained on hearsay.

21 MS. CARROLL: Your Honor, if I may, there is a
22 statement in here that -- the only statement that I want to
23 refer Mr. Cotton to is a statement by a party opponent, that
24 being the NRA.

25 MR. CICILIANO: I would object, Your Honor. It's

Cotton - Cross

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1 still hearsay.

2 THE COURT: I think he has you on hearsay. I
3 sustained the objection and will stick by it.

4 MS. CARROLL: Thank you, Your Honor.

5 THE COURT: My pleasure.

6 BY MS. CARROLL:

7 Q Okay. Let's move to Exhibit 168, please. This is
8 Ackerman 168.

9 A Ma'am, I don't have anything above 152.

10 Q Yes.

11 MS. CARROLL: Ms. Johnston, if you would please pull
12 up Ackerman 168, please. And then if you'd blow up that
13 first half as well.

14 BY MS. CARROLL:

15 Q Mr. Cotton, do you see the title, "The Future for NRA"?

16 A I see it.

17 Q Are you familiar with *American Hunter* magazine?

18 A I -- yes. I know what it is. Yes, ma'am.

19 Q And if you look at the byline, it shows Marion P. Hammer.
20 Do you see that?

21 A Yes, ma'am.

22 Q And Marion P. Hammer, she's a former president of the
23 NRA; is that correct?

24 A Yes, ma'am.

25 Q So it appears that this is some kind of article written

Cotton - Cross

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1 by Marion P. Hammer?

2 A Well, I can't -- all I see is the top part that you have
3 blown up. I can't -- I can't see what's below it.

4 MS. CARROLL: Your Honor, I would move to admit
5 Exhibit 168.

6 MR. CICILIANO: Sorry. I would object still under
7 it's hearsay.

8 THE COURT: Uh-huh. I --

9 MR. CICILIANO: It may be authenticating, self-
10 authenticating. It's still hearsay, though.

11 MS. CARROLL: And --

12 THE COURT: Well, I think the representation this
13 morning was that *American Hunter* is published by the NRA. I
14 overrule that objection. 168 is in.

15 (Ackerman McQueen's Exhibit 168 is received into
16 evidence.)

17 MS. CARROLL: I apologize, I need to open it on my
18 screen. Excuse me.

19 (Pause.)

20 MS. CARROLL: Okay. So if we look at that first
21 paragraph, underneath where it says body, if you'd pull it
22 up, Ms. Johnston, please.

23 BY MS. CARROLL:

24 Q And Ms. Hammer starts with, "As I approach the end of my
25 first year as your president and look forward to my second

Cotton - Cross

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1 term, I cannot help but be proud of our mutual
2 accomplishments," and then she goes on. Do you see that
3 language?

4 A Yes, ma'am.

5 Q So it at least appears, based on what Ms. Hammer has said
6 in this article, that she's writing this article during her
7 presidency. Is that right?

8 A I'm sorry. Ask that again, Ms. --

9 Q Would you agree that, based on this language in the first
10 paragraph, that it appears Ms. Hammer has written this
11 article during her presidency?

12 A It appears so, and the date on the article, April 1st,
13 1997, is -- would be consistent with that, too. Yes, ma'am.

14 MS. CARROLL: Ms. Johnston, if you'd please go to
15 the second page. And we're going to go to the third
16 paragraph.

17 BY MS. CARROLL:

18 Q And Mr. Cotton, do you see where it says, "For the third
19 straight year, operating on a balanced budget, after
20 revitalizing NRA operations for the next century; purchasing
21 a new building, reorganizing our management structure for
22 efficient service delivery"? Do you see that language?

23 A Yes, ma'am.

24 Q So would you agree that, at least based on Ms. Hammer's
25 article here, that the NRA has at one point at least

Cotton - Cross

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1 reorganized its management structure?

2 A Well, she used that terminology. Obviously, there were
3 some changes made, but that's all I could say.

4 Q And again, whatever reorganization she's describing, at
5 least in this context, occurred outside of bankruptcy, right?

6 A That's my presumption. I don't know that the NRA ever
7 had been in bankruptcy before.

8 Q At the time you were --

9 MS. CARROLL: Oh, Ms. Johnston, you can pull that
10 down. Thank you.

11 BY MS. CARROLL:

12 Q And at the time you were discussing the employment
13 agreement on January 6, 2001 [sic] with the Officers
14 Compensation Committee, did anyone discuss the need to
15 include authority to file bankruptcy in Mr. LaPierre's
16 employment agreement?

17 A The only thing the Officers Compensation Committee deals
18 with is the salary itself. And Wayne's -- I'm sorry -- Mr.
19 LaPierre's salary wasn't changing, so we didn't discuss --
20 the Officer Compensation Committee did not discuss what was
21 ultimately negotiated between, I presume, his lawyer and
22 somebody else.

23 Q So that's a no to my question?

24 A Yes, ma'am. No.

25 Q You're aware that -- well, let me back up. First, John

Cotton - Cross

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1 Frazer, he's the NRA's secretary and general counsel; is that
2 right?

3 A Yes, ma'am.

4 Q And he was in the executive session on January 7, 2021
5 where Mr. LaPierre's employment agreement was being
6 discussed; is that right?

7 A Yes, ma'am, he would have been there.

8 Q And you're aware that Mr. Frazer knew that bankruptcy was
9 being investigated in fall of 2020; is that right?

10 A Actually, I'm not sure what John knew at that -- I'm
11 sorry, Mr. Frazer knew at that time.

12 MS. CARROLL: Ms. Johnston, if you would please show
13 Frazer Volume I at 258.

14 MS. JOHNSTON: (faintly) Do you know which exhibit?

15 MS. CARROLL: I'm sorry, I didn't -- I am barely
16 hearing. This is Frazer Volume I at 258. And so this would
17 be Exhibit 98.

18 THE WITNESS: Okay. I've got 98 up.

19 MS. CARROLL: Oh, okay, perfect.

20 Your Honor, do you have 98 up as well? I thought I was
21 going to be able to share screen, but we might not be able to
22 do that right now.

23 THE COURT: I'm about to.

24 MS. CARROLL: Thank you. I appreciate it.

25 THE COURT: Okay.

Cotton - Cross

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1 MS. CARROLL: Oh, perfect. Here we go. We have a
2 clip, actually.

3 (Audio recording played, 5:44 p.m.)

4 Q Did you know, Mr. Frazer, I understand you did not
5 know that the NRA was filing for bankruptcy --

6 THE WITNESS: Your Honor, I can't -- I can't hear
7 that at all, Your Honor.

8 THE COURT: Could you stop and raise the volume?
9 Could you start over? Would you mind starting over and
10 raising the volume so the witness can hear it? Or read it?

11 MS. CARROLL: Ms. Johnston, if we're not able to
12 increase the volume, I'm happy to read it.

13 THE WITNESS: Well, just, Ms. Collin, Ms. Carroll,
14 if you don't mind, just give me the pages so I can pull it up
15 on the exhibits.

16 MS. CARROLL: Sure. No problem. So we're going to
17 look at Page 258 of the deposition, starting at Line 6.

18 Thank you, Ms. Johnston.

19 And it'll continue on to 259, Page 4.

20 BY MS. CARROLL:

21 Q (reading)

22 "Q Did you know, Mr. Frazer, I understand you did
23 not know that the NRA was filing for bankruptcy as of
24 January 15, correct?

25 "A On January 15, I became aware that it was

Cotton - Cross

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1 actually being done. As I testified on the 341
2 meetings, I had been aware that the -- that the
3 possibility was being considered.

4 "Q When did you first become aware that the
5 possibility was being considered?

6 "A Sometime in the fall.

7 "Q And who made you aware of that possibility?

8 "A Discussions with outside counsel.

9 "Q And who was that outside counsel?

10 "A Ms. Rogers.

11 "Q Were you aware -- were you made aware that there
12 was considerations for bankruptcy filing in Texas, or
13 were you just made aware that we were -- the NRA was
14 potentially considering bankruptcy?

15 "A I knew that we were actually looking at a few
16 different states."

17 Do you see that testimony?

18 A Yes, ma'am.

19 Q So do you understand now that Mr. Frazer --

20 MR. CICILIANO: I would object. I would object.

21 That -- she's reading in testimony and didn't -- skipped over
22 the objection. I think just for the record it needs to be
23 complete. There was an objection in there.

24 THE COURT: Thank you.

25 You may go ahead and proceed.

Cotton - Cross

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1 MS. CARROLL: Oh, thank you.

2 BY MS. CARROLL:

3 Q So, Mr. Cotton, do you understand now that Mr. Frazer
4 knew that there were discussions and investigations about
5 potential bankruptcy occurring in the fall of 2020?

6 A I see his testimony, so obviously he was.

7 Q Are you aware that even though Mr. Frazer knew about the
8 possibility of bankruptcy in fall 2020, and even though he
9 knew -- even though he was involved in the discussions about
10 Mr. LaPierre's employment agreement, that even he did not
11 know reorganize or restructure meant bankruptcy?

12 A Ma'am, I don't know what he knew. Well, I'm sorry. I
13 don't know what his interpretation of those -- of those words
14 would be. We never -- we never discussed it.

15 Q Mr. Cotton, if you could turn to, in that same -- that
16 same transcript, Exhibit 98, if you'd turn to Page 303,
17 starting at Line 21, and it'll extend on to 304, Line 3. And
18 the question is, "Sure. Let me see if I can ask it again."

19 A Well, hang on. Hang on for a minute.

20 Q Oh, yes.

21 A I'm not --

22 Q Absolutely.

23 A I'm not quite there yet. (Pause.) Okay, I've got it.

24 Q So, Question, "Sure. Let me see if I can ask it again.

25 As of January 7th, when Mr. LaPierre's employment agreement

Cotton - Cross

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1 was approved by the board, did you personally understand as
2 of that date that the reorganize and restructure language in
3 his employment agreement would be used as an alleged basis to
4 file Chapter 11 bankruptcy?" Answer, "No, I didn't."

5 So do you understand today that the NRA's general counsel
6 and secretary knew about the possibility of bankruptcy, was
7 involved in the discussions about Mr. LaPierre's employment
8 agreement, and even he did not know reorganize and
9 restructure means bankruptcy?

10 MR. CICILIANO: I would -- yeah. I would object to
11 it misstates testimony. The document speaks for itself.

12 THE COURT: You may --

13 THE WITNESS: And ma'am, I'd have to agree. Mr.
14 Frazer did not testify to that.

15 THE COURT: Hold on, Mr. Cotton. I was about to say
16 you may answer the question. But I guess you've gone ahead
17 and answered it anyway.

18 THE WITNESS: Oh, I'm sorry, Judge. I did it again.
19 I guess I'm getting tired.

20 THE COURT: It's okay. It's okay.

21 BY MS. CARROLL:

22 Q So, Mr. Cotton, you're saying that Mr. Frazer does not
23 say that he did -- okay. Let me strike that and start over.
24 In Mr. Frazer's testimony, you'd agree he's saying that he
25 was not aware reorganize and restructure language in the

Cotton - Cross

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1 employment agreement would be used as a basis for filing
2 Chapter 11 bankruptcy, correct?

3 A That's what he said. Yes, ma'am.

4 Q And this -- his knowledge -- he makes the statement even
5 though he was involved in Mr. LaPierre's employment agreement
6 discussions and even though he knew that bankruptcy was being
7 investigated as a contingency in fall 2020, correct?

8 A His testimony was that he didn't know that it was going
9 to -- on the 7th that it would -- that that contract would be
10 used to file bankruptcy. There's nothing about the
11 interpretation of the words. That's my problem.

12 MS. CARROLL: Your Honor, I'd move -- I'd object as
13 nonresponsive and move to strike.

14 THE COURT: Yes. And I think your question needs to
15 be re-asked a little bit simpler for the witness, too. I
16 sustain the objection.

17 MS. CARROLL: Thank you, Your Honor.

18 BY MS. CARROLL:

19 Q So, Mr. Cotton, we already saw that Mr. Frazer understood
20 bankruptcy was being considered in fall 2020, right?

21 A Yes, ma'am.

22 Q And we also saw that Mr. Frazer was involved in the
23 discussions about Mr. LaPierre's employment agreement on
24 January 7th, correct?

25 A I don't remember that. Is that what we just went over?

Cotton - Cross

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1 That he was directly involved?

2 Q If you would turn to Page 301 of that same Exhibit 98.

3 A Okay.

4 Q Starting at Line 21. (reading)

5 "Q You testified that there was three attorneys in
6 the room during the first executive session:
7 yourself, Ms. Rogers, and Wit Davis. Is that correct?

8 "A Remind me. I think that was my testimony on the
9 341.

10 "Q Correct.

11 "A Those are the people who would be there as
12 counsel to the NRA or its board. We have board
13 members who are -- who happen to be lawyers. But the
14 only people who are there as counsel were those.

15 "Q Okay. Without getting into any specifics as to
16 what was said, did yourself, Ms. Rogers, or Mr. Davis
17 answer any questions with respect to Mr. LaPierre's
18 employment agreement?

19 "A Yes.

20 "Q Which one? Which attorneys did?

21 "A I don't recall if Ms. Rogers answered any
22 questions. I know that Mr. Davis did and I did."

23 Do you see that testimony?

24 A Yes, ma'am.

25 Q Okay. So we have heard that Mr. Frazer knew in the fall

Cotton - Cross

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1 of 2020 that bankruptcy was being considered as an option for
2 the NRA, correct?

3 A Yes, ma'am.

4 Q And we have now read that Mr. Frazer was involved in the
5 discussions about Mr. LaPierre's employment agreement at the
6 January 7, 2021 board meeting; is that right?

7 A He was involved in discussions about it, yes, ma'am.

8 Q And even though Mr. Frazer, the general counsel and
9 secretary of the NRA, was involved in those discussions about
10 Mr. LaPierre's employment agreement and knew that bankruptcy
11 was an option being considered in the fall of 2020, he still
12 did not know that the reorganize and restructure language in
13 Mr. LaPierre's employment agreement would be used as a basis
14 to file a Chapter 11 bankruptcy?

15 A That's his testimony.

16 Q And you personally did not explain to the board what the
17 language reorganize or restructure meant in Mr. LaPierre's
18 employment agreement; is that correct?

19 A That's -- that's -- as you ask it, that's correct.

20 Q You ran the January 7, 2021 board meeting. Is that
21 right?

22 A Well, I had the gavel because our president couldn't be
23 there. Yes, ma'am.

24 Q Okay. So you did run the board meeting?

25 A Using the term ran in a broad term, yes, ma'am.

Cotton - Cross

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1 Q And you, you brought up Mr. LaPierre's employment
2 agreement as an agenda item for that January 7, 2021 board
3 meeting; is that right?

4 A Yes, ma'am.

5 Q If you were the one overseeing the January 7th board
6 meeting in Ms. Meadows' absence, and you brought up Mr.
7 LaPierre's employment agreement, was it your responsibility
8 to make sure that the board knew on January 7th that
9 reorganize and restructure would include Chapter 11
10 bankruptcy?

11 A That -- I have to quibble a little bit with your term
12 overseeing. I ran the meeting. All I did was bring it --
13 bring it up. My responsibility was to answer any questions
14 that any board members had to the extent I could and let
15 counsel do so to the extent I could not.

16 Q Was it your responsibility to make sure the board
17 understood the meaning of the language reorganize and
18 restructure in Mr. LaPierre's employment agreement?

19 A That would be an impossibility, ma'am. Each board member
20 could ask and should ask any questions they had. There's no
21 way for me to ensure what's in someone else's mind. All I
22 can do is answer questions.

23 Q And you could have also explained to the board that the
24 language reorganize and restructure in Mr. LaPierre's
25 employment agreement could be included -- or could be used

Cotton - Cross

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1 for a Chapter 11 bankruptcy; is that right?

2 A I'm sorry, ask it -- ask it again. I didn't understand.

3 Q You could have explained to the board that reorganize and
4 restructure in Mr. LaPierre's employment agreement means
5 Chapter 11 bankruptcy, correct?

6 A Could I have?

7 Q Yes.

8 A I could have gratuitously made that statement, yes,
9 ma'am.

10 Q Before -- oh, actually, Mr. Cotton, do you remember in
11 opening statement, I believe it was Mr. Garman who said that
12 you took on leadership to make sure the NRA does what's
13 right?

14 A Yes, ma'am.

15 Q Did you do what's right by not explaining to the board
16 what reorganize and restructure means in Mr. LaPierre's
17 employment agreement?

18 A Ask -- ask that again?

19 Q Did you do what's right on behalf of the NRA by not
20 explaining what reorganize and restructure means in Mr.
21 LaPierre's employment agreement?

22 A I think I did what was right for my colleagues on the
23 board by running the meeting, by answering questions, by
24 allowing, I don't remember what it was, 30, 45 minutes for
25 all of them to read it and then ask any questions, referring

Cotton - Cross

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1 comments to -- any questions to counsel. That's all I can
2 say as to whether or not I did, quote/unquote, right.

3 Q Before January 15, 2021, did the board specifically
4 authorize the filing of the bankruptcy?

5 A Prior to what?

6 Q January 15, 2021.

7 A They -- the board approved Mr. LaPierre's contract which
8 included that language. Yes, that authorized Mr. LaPierre to
9 file bankruptcy.

10 Q It's your testimony that the board delegated authority to
11 Mr. LaPierre to file bankruptcy; correct?

12 A Via his employment contract, yes, ma'am.

13 Q If -- if the board has delegated authority, wouldn't you
14 agree that the board itself is not authorizing the filing of
15 the bankruptcy?

16 A No, I can't agree to that.

17 Q You would agree that Mr. LaPierre authorized the filing
18 of the bankruptcy, right?

19 A Well, he -- he signed the document. And the board
20 authorized -- the board approved his contract, which included
21 that authority, and then he's the one who actually signed the
22 required documentation to file it.

23 Q Mr. Cotton, there is no evidence anywhere where the board
24 specifically authorized the filing of a bankruptcy before
25 January 15th; is that right?

Cotton - Cross

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1 A I disagree with you for the reasons I just stated.

2 Q Other than what you're describing as delegating
3 authority, is there any authorization that the board gave for
4 filing bankruptcy?

5 A Well, the resolution that was passed at our last meeting,
6 it ratified it. Gave authorization to refile again if
7 necessary.

8 Q And before January 15, 2021, is there any evidence of the
9 board authorizing the bankruptcy as opposed to delegating
10 authority?

11 A As you word it, no.

12 Q Mr. Cotton, so if you were aware in -- you were aware
13 starting in fall 2020 that bankruptcy was being considered as
14 an option for the NRA, right?

15 A It was being investigated to see if it would be a viable
16 option, yes, ma'am.

17 Q And sometime between January 12th and January 15th you
18 became aware that the reorganize and restructure language
19 within Mr. LaPierre's employment agreement was in fact going
20 to be used as a basis for filing Chapter 11 bankruptcy; is
21 that right?

22 A Somewhere in that -- in that 12th to 15th range. Yes,
23 ma'am.

24 Q And you did not at any time before January 15th disclose
25 to the board that the reorganize and restructure language in

Cotton - Cross

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1 Mr. LaPierre's employment agreement was going to be used as a
2 basis for filing bankruptcy, did you?

3 A No, ma'am. I wouldn't notify the board that Mr. LaPierre
4 was going to do what they had authorized him to do.

5 MS. CARROLL: Objection. Nonresponsive to
6 everything after "No." And I move to strike, Your Honor.

7 THE COURT: Sustained.

8 BY MS. CARROLL:

9 Q Did you intentionally mislead the board by not disclosing
10 that reorganize or restructure would mean filing bankruptcy?

11 A I did not mislead the board, intentionally or otherwise.

12 Q Was there any discussion with anyone about not disclosing
13 to the board that reorganize or restructure would mean --
14 well, would include filing bankruptcy?

15 A Ma'am, I recall no such discussion.

16 Q Let's turn to Ackerman Exhibit 1. Oh, actually, this is
17 -- New York AG Exhibit 4 has already been entered and it's
18 sustained, so we can stick with AG 4.

19 A Okay, I've got it.

20 Q Okay. Let me get it up as well. Thank you. And this is
21 the petition that the NRA filed, correct?

22 A I assume so.

23 Q Let's go to Page 5 of the PDF, please.

24 A Okay. The resolution? Is that it?

25 Q Yes. And would you agree that this is a resolution

Cotton - Cross

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1 that's purportedly authorizing the filing of a bankruptcy?

2 A Let me -- okay. This is the resolution that was passed
3 in our most recent board meeting.

4 Q Please scroll to Page 6. No, let's go to Page 7,
5 actually. And do you see where it says, "Executed this 15th
6 day of January 2021"?

7 A I see that above Mr. LaPierre's signature. Yes, ma'am.

8 Q So it is incorrect that this was a resolution that was
9 passed at your most recent board meeting, correct?

10 A You're right. I'm sorry. I thought that was the latest
11 resolution.

12 Q So the resolution we're looking at here in Exhibit 1 --
13 or, excuse me, New York Exhibit 4 is the resolution that was
14 in part presented to the Court as a basis for having
15 authority to file bankruptcy; is that right?

16 A I -- I presume so. I don't know.

17 Q When was this January 15, 2021 resolution signed?

18 A I'm sorry? Where or when?

19 Q When.

20 A Well, I have to go by the date that you read earlier,
21 executed the 15th day of January 2021. That's the only thing
22 I can go by.

23 Q Was it signed before or after filing bankruptcy?

24 A All I can say there is, if it's required to file, I'm
25 certain it was signed before. If not, I -- I really don't

Cotton - Cross

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1 know.

2 Q And you'd agree that this resolution was not provided to
3 the full NRA board before the NRA decided to file bankruptcy;
4 is that right?

5 A Yes, ma'am. That's correct.

6 Q And again, this resolution was passed without there being
7 any additional board meeting between January 7th and January
8 15th; is that correct?

9 A I'm going to be wrong on these dates. I'm trying to
10 remember this.

11 Q Well, let me help you out. So, Mr. Cotton, January 7th
12 was the board meeting; is that right?

13 A Yes, ma'am. Let me read this. I'm not sure I recognize
14 it. (Pause.) Okay. Go ahead.

15 Q So, January 7th was the board meeting; is that right?

16 A Yes, ma'am.

17 Q And January 15th is when the NRA filed bankruptcy?

18 A Yes, ma'am.

19 Q And January 15th is when this resolution was passed.

20 A (no immediate response)

21 Q Correct?

22 A I -- according to the sig... according to the language in
23 there, executed the 15th day of January, it sounds correct.

24 Q And if you go to Page 9 of the PDF, please. Are you
25 there?

Cotton - Cross

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1 A No.

2 Q Okay.

3 A Okay. Now I am.

4 Q And this is your signature on this page, correct?

5 A That is my -- that is my signature.

6 Q So, in short, Mr. LaPierre, Carolyn Meadows, Charles
7 Cotton, you, and Willes Lee, the four of you passed this
8 resolution, correct?

9 A Well, it's -- it -- the caption reads, Acknowledged and
10 agreed by the Special Litigation Committee." Again, I'd like
11 to read this whole thing -- I'm sorry -- read the whole
12 resolution, because I'm not sure what it is.

13 Q The Special Litigation Committee is comprised of you,
14 Carolyn Meadows, and Willes Lee; is that right?

15 A Yes, ma'am.

16 Q So, again, this resolution was passed by you, Carolyn
17 Meadows, Willes Lee, and Mr. LaPierre. Is that right?

18 A Yes, ma'am. It's not a board -- it does not appear to be
19 a board resolution.

20 MS. CARROLL: Objection. Nonresponsive. I move to
21 strike the last part of that answer after "Yes."

22 THE COURT: Overruled.

23 BY MS. COLLINS:

24 Q Okay. So, again, before January -- well, actually,
25 before the filing of the bankruptcy, this resolution was not

Cotton - Cross

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1 provided to the board; I believe you already testified that
2 it was not?

3 MR. CICILIANO: Your Honor, I'm going to object.
4 The witness has asked probably four times to read the
5 resolution, and then they're asking questions of whether or
6 not it was, when he said he doesn't know. I think courtesy
7 allows him to read it before he answers the question.

8 THE COURT: Okay. Look at the -- look at the
9 resolution.

10 MS. CARROLL: Oh, sure, if he wants to read it.

11 THE COURT: Look at the resolution, Mr. Cotton.

12 THE WITNESS: Thank you, sir.

13 (Pause.)

14 THE WITNESS: Okay. I've -- I read it.

15 BY MS. CARROLL:

16 Q So, again, this resolution was not provided to the board
17 before filing bankruptcy, right?

18 A Correct. That's not a board resolution.

19 Q Is it your testimony that only board resolutions need to
20 be provided to the board?

21 A This -- this -- no, ma'am. This appears to me to be
22 something that's required for filing in bankruptcy court.
23 That's not my area of practice.

24 MS. CARROLL: Objection. Nonresponsive after "No."
25 And I move to strike.

Cotton - Cross

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1 THE COURT: I'm going to overrule that.

2 BY MS. CARROLL:

3 Q Mr. Cotton, you're a member of the Bylaws Committee,
4 correct?

5 A Yes, ma'am.

6 Q And if there is amendment to the bylaws, you're involved,
7 you're -- excuse me. If there is an amendment to the bylaws,
8 you participate in that amendment process, right?

9 A Yes, ma'am.

10 Q So if we can turn to Ackerman 10. And we're going to go
11 to Page 14.

12 A 14 of the document or 14 of the bylaws?

13 Q Of the bylaws.

14 A Okay. Okay, I've got it.

15 Q And do you see where it says Section 3, Meetings?

16 A Yes, ma'am.

17 Q And then if we go to 15, so the following page -- well,
18 and just briefly, this section discusses how meetings are to
19 be held and how special meetings can be called and that sort
20 of thing. Is that right?

21 A Yes, ma'am.

22 Q Okay. So if we turn to Page 15 and go to Subsection F.

23 A F as in foxtrot?

24 Q Yes.

25 A Yes, okay, I've got it.

Cotton - Cross

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1 Q And it says, "Members of the board of directors and
2 executive council may participate in a meeting of such board
3 by means of a conference telephone or similar communications
4 equipment or by electronic video screen communication,
5 electronic means, and participation by electronic means shall
6 constitute presence in person at the meeting so long as all
7 persons participating in the meeting can hear one another,"
8 and then it continues. Do you see that?

9 A I see it.

10 Q So you agree that, according to these bylaws, the NRA
11 could have held a virtual meeting to discuss the filing of
12 the bankruptcy before it actually filed on January 15th,
13 correct?

14 A You didn't read the rest of that.

15 Q Is there something in this paragraph that limits the fact
16 that the NRA could actually hold a virtual meeting to discuss
17 the filing of the bankruptcy before January 15th?

18 A Yes, ma'am. It goes on to say, but only if (1) all board
19 and executive council members intending to participate in the
20 meeting do so by electronic means and exigent circumstances
21 for conducting the meeting exclusively by electronic means
22 are determined to exist.

23 Those -- those two requirements to do it by virtual means
24 were not met.

25 Q Is it your testimony that the ongoing pandemic is not an

Cotton - Cross

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1 exigent circumstance by which to require a virtual meeting?

2 A Not in Texas. Texas has opened up. There are some
3 states where COVID restrictions would prevent that, but not
4 here.

5 Q And the NRA board members live in states other than
6 Texas; is that right?

7 A Oh, yes, ma'am. They live all over the country. I mean,
8 all over the country, yeah.

9 Q So at least for those board members, it could be an -- it
10 could be a significant circumstance -- I'm tripping over my
11 words here, excuse me -- for them to travel during an ongoing
12 pandemic. Is that right?

13 A I guess it's possible. None of them expressed that when
14 they gave their reasons for not attending.

15 Q At the end of the day, the NRA did not hold a virtual
16 meeting to discuss the filing of the bankruptcy before
17 January 15, 2021; is that right?

18 A That's correct.

19 THE COURT: Ms. Carroll, come to a logical stopping
20 point for this examination for tonight, okay? I'm not
21 cutting you off from examining the witness, but I am for
22 tonight.

23 MS. CARROLL: Yes, Your Honor. I think I have one
24 question here and then one related topic and then we can
25 recess.

Cotton - Cross

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1 THE COURT: Okay.

2 BY MS. CARROLL:

3 Q So, Mr. Cotton, you'd agree that even after filing the
4 bankruptcy, when the board held a meeting to ratify --
5 purportedly ratify the bankruptcy filing, the NRA still did
6 not hold a virtual meeting, correct?

7 A You're -- you're correct. We did not hold a virtual
8 meeting.

9 Q Before the bankruptcy petition was filed on January 15th,
10 did you have a conversation with anyone about the board later
11 ratifying the bankruptcy filing?

12 A Any time after the 7th? Is that what you're asking?

13 Q Before the filing on January 15th.

14 A Oh. No, ma'am. No, ma'am.

15 MS. CARROLL: Ms. Johnston, if you would please play
16 Clip CC07?

17 (Audio recording played, 6:12 p.m.)

18 Q Before the bankruptcy was filed on January 15, 2021,
19 did you individually have a conversation with anyone
20 about the board later ratifying the filing of bankruptcy?

21 A Only discussions with counsel.

22 (End audio clip, 6:12 p.m.)

23 MS. CARROLL: Thank you, Ms. Johnston.

24 BY MS. CARROLL:

25 Q Mr. Cotton, are you familiar with the competing concepts

Cotton - Cross

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1 of asking for permission versus asking for forgiveness?

2 A I've heard that old adage since I had all my hair and it
3 was brown, ma'am.

4 Q Do you agree that by discussing board ratification before
5 filing, that the SLC, Mr. LaPierre, or counsel planned to ask
6 for forgiveness?

7 A That was not the plan.

8 MS. CARROLL: Your Honor, I think this would be a
9 good time to break.

10 THE COURT: All right. And do you have some more
11 questions of Mr. Cotton tomorrow, Ms. Carroll?

12 MS. CARROLL: I do, Your Honor.

13 THE COURT: Okay. So the record reflects you're not
14 passing the witness right now. All right.

15 MS. CARROLL: Correct.

16 THE COURT: Okay. My plans would be after you're
17 finished with Mr. Cotton, as I said a few minutes ago, we'll
18 switch to Mr. Watson or someone from his firm.

19 Mr. Cotton, the same rule applies to the break that we're
20 about to take overnight. If you would not speak with anyone
21 on the NRA side about your testimony. Do you understand
22 that?

23 THE WITNESS: Very good, Your Honor.

24 THE COURT: Okay.

25 THE WITNESS: Yes, sir.

Cotton - Cross

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1 THE COURT: All right.

2 MR. GRUBER: And Your Honor, this is Mike Gruber.

3 Can I ask a question real quick?

4 THE COURT: Sure.

5 MR. GRUBER: There was some talk about Mr. LaPierre
6 not being available tomorrow again. It would help us as far
7 as preparation, because I don't think Ms. Carroll has long to
8 go tomorrow, but -- and everybody else may know this, but is
9 Mr. LaPierre available tomorrow?

10 MR. GARMAN: Yeah, Mr. Gruber. This is Greg Garman.
11 Sorry if you weren't included in that conversation. Mr.
12 LaPierre is ready to go when you call him.

13 MR. GRUBER: Okay. Thank you. Since it's my
14 witness, I appreciate that. Thank you.

15 MR. GARMAN: Sure. Sorry about that.

16 THE COURT: Okay. We'll be in recess. We're going
17 to start at 9:00 tomorrow. I anticipate we'll go a long day
18 tomorrow. We'll be in recess.

19 (Proceedings concluded at 6:14 p.m.)

20 --oOo--

21 CERTIFICATE

22 I certify that the foregoing is a correct transcript from the
23 electronic sound recording of the proceedings in the above-entitled matter.

24 **/s/ Kathy Rehling**

04/06/2021

25 _____
Kathy Rehling, CETD-444
Certified Electronic Court Transcriber

Date

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