

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

IN RE: . Case No. 21-30085-HDH-11
. .
NATIONAL RIFLE .
ASSOCIATION OF AMERICA . Earle Cabell Federal Building
and SEA GIRT LLC, . 1100 Commerce Street
. Dallas, TX 75242-1496
. .
Debtors. .
. April 6, 2021
. 1:15 p.m.
. P.M. Session

TRANSCRIPT OF MOTION TO DISMISS CASE
BEFORE HONORABLE HARLIN DeWAYNE HALE
UNITED STATES BANKRUPTCY COURT JUDGE

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- - -

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CHARLES COTTON

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1 THE COURT: Mr. Cotton, are you back with us?

2 THE WITNESS: Yes, Your Honor, I'm here.

3 THE COURT: Welcome. I just wanted to remind you for
4 the record that you're still under oath.

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. And I believe counsel for the
7 debtor had a few more questions to finish up with you. Ready?

8 MR. KATHMAN: Your Honor, Jason Kathman, for the
9 record. Before we get back into Mr. Cotton's testimony --

10 THE COURT: Uh-huh.

11 MR. KATHMAN: -- I do want to try to get some
12 clarification on this privilege issue that we obviously brought
13 up last week. It came up this morning. And to the extent
14 necessary, I guess, I just want to get some clarity on this,
15 and I thought what might be helpful for Your Honor is to see
16 where we asked some of these questions.

17 Specifically, there was a question this morning about
18 whether they had hired counsel to do a compliance internal
19 control review. And I think what Your Honor will see from the
20 questions that we asked in the depositions, we asked a number
21 of questions specifically directed at that, who did you talk
22 to, what were the questions asked, who was it that you talked
23 to, and we got privilege on all of it.

24 And so to the extent that there was testimony from
25 Mr. Cotton that even if they hired counsel and relied on that

Cotton - Continued Cross/Ciciliano

5

1 counsel, we'd ask to strike that testimony. I think it just
2 might be helpful if maybe Your Honor saw what those questions
3 were so you kind of know the scope that we tried to investigate
4 it.

5 THE COURT: Well, I --

6 UNIDENTIFIED SPEAKER: Your Honor --

7 THE COURT: I appreciate that, but let me just go
8 ahead and say that I -- I've already ruled on this, and I'll do
9 it one more time because I don't think that the audio is that
10 clear, but as I said last week, you can't hold back information
11 because of privilege and later use it. I permitted Mr. Cotton
12 to testify as to who he talked to, actually, that they talked
13 to counsel, that they relied on counsel's advice, and what they
14 did in reliance on that advice.

15 On the Morgan Lewis report that is in evidence, I
16 said -- and, actually, you said the same thing, Mr. Kathman,
17 they're permitted to ask him questions about that. So I
18 sustained your objection largely.

19 Okay. Let's go back now on the record with questions
20 for Mr. Cotton.

21 MR. CICILIANO: Thank you, Your Honor, and I will
22 endeavor to make true to you my promise for a few more
23 questions.

24 CHARLES COTTON, WITNESS, PREVIOUSLY SWORN

25 CROSS-EXAMINATION, CONTINUED

Cotton - Continued Cross/Ciciliano

6

1 BY MR. CICILIANO:

2 Q Mr. Cotton, are you currently -- or are you working with
3 professionals to create a plan of reorganization for the NRA?

4 A Yes, sir.

5 Q And do you plan on seeking board approval for that plan of
6 reorganization?

7 A Yes, sir. We plan on doing that in the very near future.

8 Q And do you have a time fra -- or are you in the process of
9 planning a meeting at this point?

10 A We're trying to. Trying to get a date certain right now,
11 first part of May.

12 Q And is it your expectation that the NRA's plan of
13 reorganization will pay creditors in full?

14 MR. KATHMAN: Objection, Your Honor; leading.

15 THE COURT: Sustained.

16 MR. CICILIANO: All right. I don't have any further
17 questions.

18 THE COURT: All right. Mr. Kathman, before you start
19 your redirect, do you have that time estimate for me now?

20 MR. KATHMAN: I do, Your Honor. I think maybe --
21 I've got maybe 20 minutes or so.

22 THE COURT: Okay. Then --

23 MR. KATHMAN: I just sat down, so --

24 THE COURT: Okay. Ackerman, do you all have a time
25 estimate you're agreed with?

Cotton - Redirect/Kathman

7

1 MS. CARROLL: Yes, Your Honor. I believe it'll be
2 less than 10 minutes.

3 THE COURT: Okay. All right. Good. Both of those
4 numbers sound good to me. I'm not going to hold anybody to the
5 minute, all right, but I do want to try to get Mr. Cotton
6 finished so we can move on to the next witness.

7 Okay, Mr. Kathman, redirect, please.

8 REDIRECT EXAMINATION

9 BY MR. KATHMAN:

10 Q Mr. Cotton, I want to ask you just a couple things about
11 your testimony with Mr. Ciciliano. You testified that there
12 are separate kinds of audits, correct?

13 A Yes, sir, in broad terms three -- there's three different
14 kinds.

15 Q Okay, and those were a financial audit?

16 A Correct.

17 Q An internal control audit.

18 A Correct.

19 Q And a fraud audit, correct?

20 A Correct.

21 Q Okay. And these are audits done by RSM or Aronson were
22 internal control audits; isn't that correct?

23 A Not -- pardon me. Not exclusively internal control, no,
24 sir.

25 Q Okay. When you said one of the three kinds of audit, one

Cotton - Redirect/Kathman

8

1 of those was an internal control audit, neither RSM's audit or
2 Aronson's was an internal control audit as you described it as
3 one of the three types of audits, correct?

4 A Yes, sir, as a standalone audit, you're correct.

5 Q Okay. Now, you recall that -- you were present for
6 Mr. Garman's opening where he said that the compliance kind of
7 began in March of 2018 with a audit committee meeting where you
8 received a clean audit. Do you recall Mr. Garman saying that?

9 A No, sir, not -- not the way you describe it. I mean, the
10 compliance started in 2017. There was an audit meeting in
11 March of 2018 that -- in which we received a clean audit.
12 Well, actually, March, I don't remember March. The clean
13 audit, yes, but that's not when compliance started.

14 Q Okay. I'll have you turn to what's been marked as NRA
15 Exhibit 65.

16 A Okay, I've got it.

17 Q Okay. And this is a --

18 MR. KATHMAN: Well, I'd move for the admission of NRA
19 Exhibit 65.

20 THE WITNESS: I'm sorry?

21 MR. KATHMAN: I move for the admission of NRA Exhibit
22 65.

23 MR. CICILIANO: No objection.

24 THE COURT: NRA 65 --

25 MR. KATHMAN: And maybe --

Cotton - Redirect/Kathman

9

1 THE COURT: -- is in.

2 (NRA Exhibit 65 admitted into evidence)

3 MR. KATHMAN: Okay. Thank you, Your Honor.

4 BY MR. KATHMAN:

5 Q Mr. Cotton, if we flip to the -- what is, I guess, one,
6 two, three -- fourth page there -- it actually says number 1 at
7 the bottom. Top of the page says required communications. Do
8 you see that?

9 A Hang on a second here. I'm sorry, which -- you said
10 it's --

11 Q It's --

12 A -- marked number 1?

13 Q Yeah, it's the first page. Bates stamp at the bottom is
14 NYAG 217127.

15 A I've got it. Yes, sir.

16 Q Okay. See there under our responsibilities with regard to
17 the financial statement audit; do you see that?

18 A I do.

19 Q Okay. Our responsibilities under auditing standards
20 generally accepted in the United States of America have been
21 described to you in our arrangement letter dated October 23rd,
22 2017; do you see that?

23 A I see that.

24 Q Okay. This is the PowerPoint presentation that was given
25 at that March 2018 audit meeting, correct?

Cotton - Redirect/Kathman

10

1 A No, sir. This would --

2 Q Okay.

3 A This would not have been -- I don't believe this was a
4 PowerPoint at this point by RSM. I may be mistaken.

5 Q Okay, well, flip back to the first page of that exhibit.

6 A Okay.

7 Q Actually, I guess the first page after the page that says
8 NRA 065.

9 A Yes, sir.

10 Q It says, report to the audit committee March 7, 2018.

11 Does this refresh your recollection of whether this was the
12 PowerPoint provided by RSM to the audit committee at the March
13 2018 meeting?

14 A The information was presented to us at that meeting. What
15 I can't tell you is whether or not it was a PowerPoint.

16 Q Fair enough. I'll have you turn to NRA Exhibit 57.

17 A Okay, I'm there.

18 MR. KATHMAN: I'll move for the admission of NRA
19 Exhibit 57.

20 THE COURT: For some reason mine's not opening up.

21 MR. CICILIANO: No objection, Your Honor.

22 THE COURT: 57's in.

23 (NRA 57 admitted into evidence)

24 BY MR. KATHMAN:

25 Q Okay. We'll flip to -- I'll have you flip to the second

Cotton - Redirect/Kathman

11

1 page. This is -- well, I guess the first page. This is the
2 engagement letter that was just being referenced over in the
3 PowerPoint. You see there at the top October 23rd, 2017. This
4 is the engagement letter for RSM for the 2017 audit, correct?

5 A No, that would not be for the -- okay, I'm sorry, yes.
6 2017.

7 Q Okay. Thank you. So now if we flip to the second page --

8 A Okay.

9 Q First paragraph at the top:

10 In making our risk assessments we consider internal
11 control relevant to NRA's preparation and fair presentation of
12 the financial statements in order to design audit procedures
13 that are appropriate under the circumstances, but not for the
14 purpose of expressing an opinion on the effectiveness of the
15 NRA's internal control.

16 Do you see that?

17 A Yes, sir.

18 Q Okay. So -- and we talked about kind of that language in
19 the Aronson engagement letter for 2019 and 2020, correct,
20 yesterday?

21 A Yes, sir, and that particular language was in there, but
22 then the last sentence or words to that effect are also in both
23 of them.

24 Q Understand. Mr. Cotton, I'll have you now flip to NYAG
25 Exhibit 072.

1 A 72?

2 Q Yes. This is already in evidence. This is the top
3 concerns memo that -- or the top concerns list that we've
4 talked about a couple times.

5 A Yes, sir.

6 Q Okay. And if I understand your testimony from
7 Mr. Ciciliano, we looked at this first one, Woody Phillips
8 payments to a significant other, and also 2A, force payments to
9 WBB Investments, was it my understanding of your testimony that
10 Mr. Phillips was essentially doing a number of things, as it
11 says here in the memo 1D, behind the scenes, and that
12 Mr. Phillips was essentially bypassing internal controls?

13 A Well, item number 1A was obviously one specific contract
14 it was talking about. We have since learned that Mr. Phillips
15 apparently was involved in overriding some internal controls,
16 yes, sir.

17 Q Okay. And would you agree with me that that was done,
18 let's say, between -- that there were instance of that --
19 instances of that from 2016 until he left the company in 2018?

20 A Oh. I can't say that occurred all the way to his
21 departure in 2018, no, sir. I --

22 Q Okay, but --

23 A As I sit here today, I don't know. I don't recall.

24 Q Okay, but some events -- some of those events occurred at
25 least between 2016 and 2018, correct?

1 A I don't know if any occurred in 2018. As I sit here now,
2 I just don't know.

3 Q Okay, in 2016 and 2017?

4 A I know 2017. I believe 2016, but I'm not certain. I'm
5 sure about 2017, yes, sir.

6 Q Okay, understand. Now, Mr. Phillips, who was the --
7 Mr. Phillips was the treasurer of the NRA for something like
8 close to 30 years; isn't that right?

9 A That's my understanding. He was on the board -- I'm
10 sorry. He was treasurer when I came on the board in 2001. How
11 long he was treasurer prior to that I really don't know.

12 Q Okay. And he voluntarily left the NRA; isn't that right?

13 A Yeah. At the time he left it was a voluntary separation,
14 yes, sir.

15 Q Okay. And after he voluntarily left, the NRA entered into
16 a consulting agreement with Mr. Phillips; isn't that right?

17 A Not exactly. We tried to negotiate a consulting agreement
18 with him, thinking that, you know, the new treasurer may very
19 well need to ask him questions, but the contract that we had
20 wanted him to agree to was never signed.

21 Q Okay. I'll have you turn to NYAG 123.

22 A Okay, I've got it.

23 MR. KATHMAN: We'd move for the admission of NYAG
24 Exhibit 123.

25 THE WITNESS: I see it, yes, sir.

Cotton - Redirect/Kathman

14

1 MR. CICILIANO: No objection to --

2 THE COURT: NY 123 is in.

3

4 (NYAG Exhibit 123 admitted into evidence)

5 BY MR. KATHMAN:

6 Q Mr. Cotton, this is an independent consulting agreement
7 with Mr. Phillips, correct?

8 A This is not the one I was talking about. This particular
9 contract did not go through the proper approval process.
10 That's the reason we wanted to negotiate one that did.

11 Q But this contract was signed, if we look at page 506, was
12 signed by Pete Brownell on behalf of the National Rifle
13 Association, correct?

14 A It was signed by Pete Brownell, yes, sir, but it didn't
15 comply with our requirements and we disavowed the contract.

16 MR. KATHMAN: Your Honor, I'd move to strike
17 everything after the answer "yes."

18 THE COURT: Sustained.

19 BY MR. KATHMAN:

20 Q And, Mr. Cotton, this contract provides there on page 206
21 \$30,000 per month to Mr. Cotton, correct?

22 A You mean to Mr. Phillips?

23 Q To Mr. Phillips, thank you.

24 A That's what this contract calls for, yes.

25 Q Okay. And isn't it true that Mr. Phillips never performed

1 under this contract?

2 A To my knowledge that's correct.

3 Q Okay. And yet the audit committee retroactively approved
4 this contract; isn't that right?

5 A No, I don't believe so. I think what we approved was
6 the -- when -- this contract I don't recall coming before the
7 committee. When -- I think the one that came before the
8 committee was one that would have provided for a reasonable
9 compensation only for hours rendered or hours worked, and
10 that's the one that to my understanding was never signed by
11 Mr. Phillips.

12 Q Okay. Mr. Cotton, I'll have you turn to what we've marked
13 as NY Exhibit -- NYAG Exhibit 327.

14 A Okay, I've got it.

15 MR. KATHMAN: Move for the admission of NYAG Exhibit
16 327.

17 MR. CICILIANO: I didn't hear you ask for admission,
18 but -- I may have missed it. We don't dispute that.

19 THE COURT: NYAG 327 is in.

20 (NYAG Exhibit 327 admitted into evidence)

21 BY MR. KATHMAN:

22 Q Mr. Cotton, I want to go back now to NYAG Exhibit 72.

23 A Okay, let me go back and get that one. Okay.

24 Q Okay. This is the, as we mentioned a minute ago, the top
25 concerns that was presented at the July 30th audit committee

1 meeting, correct?

2 A Correct.

3 Q Okay. And that's a meeting that you got up and left
4 approximately five to 10 minutes after it started, correct?

5 A Well, no, sir. I had been there all day, and if I recall
6 correctly, I think we got to this portion of the meeting around
7 5 p.m., something like that, so I had been there all day before
8 we got to this point.

9 Q Okay. You weren't there at the meeting when these
10 concerns were discussed, correct?

11 A I was not in that meeting when they were discussed,
12 correct.

13 Q Okay. So let's now look at NRA 270. And we were talking
14 about this exhibit, not this particular one, but I think it was
15 a different one of NRA's exhibits this morning, but this is
16 the -- this was admitted yesterday. But this is the -- if we
17 flip to page 244 of that document? 244 at the bottom.

18 A Oh, okay. Hang on a second. I got to go a few more.

19 Q I think it's like 248 or something in the PDF.

20 A Okay. Yeah, I'm just about there.

21 Q It's where it talks about Mr. North.

22 A Okay, I've got it.

23 Q Okay. Now, as we talked about it this morning, this is
24 the report of the audit committee in September 2018, correct?

25 A Let me go back up to -- get -- catch the date.

Cotton - Redirect/Kathman

17

1 Q At the bottom of page 243.

2 THE COURT: Mr. --

3 THE WITNESS: This was the September 6 meeting, yes,
4 sir.

5 THE COURT: Mr. Kathman --

6 MR. KATHMAN: Okay.

7 THE COURT: -- which --

8 MR. KATHMAN: So --

9 THE COURT: -- exhibit are we looking at,
10 Mr. Kathman? I'm sorry.

11 MR. KATHMAN: It's NRA Exhibit 270, Your Honor.

12 THE COURT: Thank you very much.

13 BY MR. KATHMAN:

14 Q Okay, Mr. Cotton, there on 244, during that September 6,
15 2018 meeting fair to say that the audit committee ratified a
16 number of related-party transactions; isn't that right?

17 A I believe that's correct. Let me scan it pretty quick
18 here. Yes, sir.

19 Q Okay. Now, so the first one there with Mr. North, we
20 talked about that one this morning. That was approximately a
21 two-million-dollar transaction, correct?

22 A Well, it would have been a two million dollar transaction
23 to the NRA. It was a two-million-dollar transaction between
24 Ackerman McQueen and Colonel North.

25 Q Understand. And then number -- I'm just going to point

Cotton - Redirect/Kathman

18

1 out a couple of these. Number 2 there, Marion Hammer, there is
2 a annual consulting fee of 168,000 to \$220,000 that the audit
3 committee is ratifying after the fact, correct?

4 A I don't know if it's after the fact or not. I'm trying to
5 look for a date. We ratified it. I don't know if it was after
6 the fact or not.

7 Q Well, the fact that you're ratifying it means that it
8 happened after the fact, correct?

9 A We -- okay. Now -- okay, I didn't think --

10 MR. CICILIANO: Your Honor --

11 THE WITNESS: -- (indiscernible) ratified. I don't
12 know if we were --

13 MR. CICILIANO: I would object. This is outside the
14 scope.

15 THE COURT: I'm going to --

16 MR. KATHMAN: He was specific -- Mr. --

17 THE COURT: -- overrule --

18 MR. KATHMAN: -- Ciciliano specifically asked
19 questions about this. Sorry.

20 THE COURT: Overruled.

21 THE WITNESS: I don't know if we were ratifying it or
22 if we were approving it going forward.

23 BY MR. KATHMAN:

24 Q Okay. Well, let's look there at number 4, Woody Phillips,
25 July 2018 sailing trip.

1 A Yes, sir.

2 Q You ratified a related-party transaction between
3 Mr. Phillips and Membership Marketing Partners, correct?

4 A That's correct.

5 Q Okay. Membership Marketing Partners, that's David
6 McKenzie, correct?

7 A I'm not sure. I believe it is, but I'm not certain.

8 Q Okay. And then there's a separate transaction with
9 HomeTelos with Mr. Phillips, a related-party transaction, in a
10 situation where he was a chairman that had not been disclosed,
11 correct?

12 A That's correct.

13 Q Okay. And then if we flip the page, on bottom there 247,
14 the NRA is ratifying a prior contract that had not been
15 disclosed by Mr. Powell between McKenna and the NRA because
16 Mr. Powell's wife, Ms. Gallagher, was an employee of McKenna;
17 is that right?

18 A That's -- you're correct, but she became an employer --
19 employee of McKenna something like 10 years after we'd been
20 doing business with them.

21 Q I understand. But, as I said, essentially in this
22 September 2018 meeting the audit committee ratifies a number of
23 related-party transactions that had not previously been
24 disclosed; isn't that right?

25 A A number of these, yes, sir. I can't say all of them.

Cotton - Redirect/Kathman

20

1 Specifically, I can't say -- there's no date on the Marion
2 Hammer issue, so I can't say if that was a prior approval or a
3 post ratification.

4 Q Okay. So, now going forward, none of these related-party
5 transactions, though, that were approved here in September of
6 2018 appeared in the NRA's audited financial statements; isn't
7 that right? Do you know?

8 A I'm not sure what you're asking. The transactions, the
9 dollar amount of the transactions would have appeared in the
10 appropriate financial statements, yes, sir, but I'm not sure
11 what you're asking.

12 Q Sure. So I'll have you turn to what we've marked as NYAG
13 Exhibit 79.

14 A Oh, wait a minute, I'm on the wrong one. Okay, I've got
15 it.

16 Q Okay. Have you flip to what is the essentially second-to-
17 last page there.

18 MR. KATHMAN: I would -- we'd move for the admission
19 of NYAG 79.

20 MR. CICILIANO: No objection.

21 THE COURT: 79's in.

22 (NYAG Exhibit 79 admitted into evidence)

23 MR. KATHMAN: And, actually, I'll just move on.

24 BY MR. KATHMAN:

25 Q Mr. Cotton, if we look at what's been marked as NRA

1 Exhibit 58 --

2 A Can I close this one out? Every --

3 Q Yes.

4 A -- time I open multiples it kind of messes up my screen.

5 Q Yes, you can close out that one.

6 A Okay. And, I'm sorry, you were saying an NRA?

7 Q Yes, NRA Exhibit 58.

8 A Okay, I've got it.

9 MR. KATHMAN: Okay. We'd move for the admission of
10 NRA Exhibit 58.

11 (Pause)

12 MR. KATHMAN: I thought I asked for the admission of
13 NRA. Did I ask for admission of NRA 58?

14 THE COURT: You did. We're waiting for --

15 MR. CICILIANO: Yeah, I'm --

16 THE COURT: -- the debtor.

17 MR. CICILIANO: -- looking at -- and, Your Honor, my
18 only objection is it's unsigned, so with that stipulation I
19 don't have an objection otherwise.

20 THE COURT: All right. With that qualification 58's
21 in.

22 (NRA 58 admitted into evidence)

23 BY MR. KATHMAN:

24 Q Okay. Mr. Cotton, do you recognize this -- well, I'll
25 point you to page 2 of that agreement, and really for the

Cotton - Redirect/Kathman

22

1 purposes -- well, you see there, middle of the page there, same
2 language that appeared in the 2017 language: The auditors are
3 not expressing an opinion on the effectiveness of the NRA's
4 internal controls? Correct?

5 A Well, it says that, but it goes on to say that: However,
6 we will communicate to you in writing concerning any
7 significant deficiencies or material weakness in internal
8 control relevant to the audit of the financial statements that
9 we've identified during the audit.

10 So in one sentence they say they're not -- what they're
11 telling us is they're not going to be doing a fraud audit, but
12 then they're going to tell us if we see anything significant we
13 are going to let you know about it in writing.

14 Q Understand. If they find out about it they're going to
15 tell you, but they're not intentionally going and doing an
16 internal control audit, correct?

17 A They're not doing an internal control audit. They
18 absolutely are testing internal controls, yes, sir.

19 Q Mr. Cotton, I want to ask you, there was a question asked
20 to you whether the NRA has a compliance program. Do you
21 remember Mr. Ciciliano asking you that?

22 A Yes, sir.

23 Q Okay, and you -- I seem to recall that your testimony is
24 that there had been some -- that there were trainings that are
25 done at the NRA; is that correct?

Cotton - Redirect/Kathman

23

1 A Yes, sir. We call them seminars. I mean, obviously, it's
2 not the only thing, but there are periodic seminars that are
3 compliant seminars.

4 Q Okay. Mr. Cotton, isn't it true you've never attended one
5 of those seminars?

6 A Me personally, no, sir.

7 Q Okay. And isn't it true that Mr. LaPierre has never
8 attended one of those seminars?

9 A I have no idea if he has or not.

10 Q Okay. Mr. Cotton, you testified under Mr. -- when
11 Mr. Ciciliano was asking you questions about a number of
12 parties that you sent letters to, vendors that you sent letters
13 to. You remember that?

14 A Well, the NRA sent letters. It didn't come from me or the
15 audit committee.

16 Q It came from the NRA, correct?

17 A Yes, sir.

18 Q Okay. And I think you mentioned that a couple of the
19 entities that didn't respond to those letters, one of them was
20 Ackerman, right?

21 A One of them was Ackerman, yes.

22 Q Okay, and another one was Associated Television. Did I
23 write that down correctly?

24 A I -- actually, there's two production-type entities. I
25 think ATI or American Television is the one that didn't, but I

1 can't be sure which name I should tell you.

2 Q And Associated Television is owned by David McKenzie,
3 correct?

4 A I can't remember who owns these various different entities
5 as I sit here now, I'm sorry.

6 Q So as you sit here you don't know whether Associated
7 Television is owned by David McKenzie?

8 A I don't recall as I sit here now, no, sir.

9 Q You testified -- you were talking about Ms. Rowling and
10 you said that you'd hope that she'll be the treasurer. Was
11 that correct?

12 A Yes, sir, I hope she will be.

13 Q Okay. But she hasn't been put up for a vote yet, correct?

14 A Not yet, no, sir.

15 Q Okay, but you could have done that at the March 28th
16 meeting; isn't that right?

17 A It wasn't -- it -- well, technically, no, because it was
18 not on the agenda.

19 Q But Ms. Meadows could have put that on the agenda for the
20 March 28 meeting, correct?

21 A She could have.

22 Q Okay. And we looked at that exhibit yesterday. That was
23 sent out on March 2nd, correct?

24 A I don't recall that.

25 Q Okay. Mr. Spray has -- Mr. Spray was fired from the NRA

Cotton - Recross/Carroll

25

1 in late January, correct?

2 A It's my understanding he was not fired.

3 Q Mr. Spray ceased to be the CFO of NRA in late January,
4 correct?

5 A I thought it was March, but I may be wrong on that.

6 MR. KATHMAN: Okay. I'll pass the witness, Your
7 Honor.

8 THE COURT: Thank you, Mr. Kathman. Ms. Carroll.

9 MS. CARROLL: Yes, Your Honor, thank you.

10 RECCROSS EXAMINATION

11 BY MS. CARROLL:

12 Q Mr. Cotton, isn't it true that the special litigation
13 committee cannot exercise any powers the executive committee
14 cannot exercise?

15 A That's not true.

16 Q If you go to Ackerman Exhibit 10, please?

17 A Okay, I've got it.

18 Q And these are the bylaws that we were reviewing earlier,
19 correct?

20 A Yes, ma'am.

21 Q If you go to page 43 of the bylaws, please?

22 A 43?

23 Q Yes.

24 A Okay.

25 Q And we're looking at article 11, section 5, which reads:

Cotton - Recross/Carroll

26

1 Limitations on powers of committees. No special or standing
2 committee of the board or of the association shall exercise any
3 powers prohibited to the executive committee. Do you see that?

4 A I see that, but it ignores the authority granted in the
5 enabling resolution that was passed by the board.

6 MS. CARROLL: Objection; nonresponsive, Your Honor.

7 I move to strike everything after "I see that."

8 THE COURT: Sustained.

9 BY MS. CARROLL:

10 Q Mr. Cotton, regarding the North contract that you
11 testified about with your counsel isn't it true that you were
12 not involved in any conversation or negotiation about how the
13 contract was going to be set up?

14 A That's correct.

15 Q You also testified with counsel that the NRA couldn't get
16 documents from Ackerman McQueen and had to sue to see the
17 books. My question is, isn't it true the sole basis of your
18 knowledge is from the Brewer firm?

19 A That's not true.

20 MS. CARROLL: Ms. Johnson, if you would please pull
21 up Mr. Cotton's deposition?

22 Q And this is the deposition taken in the underlying case in
23 2020, the question being -- this is page 171.

24 The question: Okay. So then what investigation or what
25 examination of Ackerman McQueen's books are you aware of?

Cotton - Recross/Taylor

27

1 Answer: The only information I've got came from Bill.

2 And you understand Bill you're referring to here is Bill
3 Brewer, correct?

4 A Yes, ma'am, but you're talking about a totally different
5 subject there.

6 MS. CARROLL: Your Honor, I move to strike after
7 "Yes, ma'am."

8 THE COURT: Sustained.

9 THE WITNESS: Judge, she's mixing apple and oranges,
10 sir. She asked me about knowledge of trying to get documents.
11 Now she's talking about something completely different.

12 THE COURT: Your lawyer will get to ask you questions
13 again.

14 THE WITNESS: I'm sorry, Judge.

15 THE COURT: That's okay.

16 MS. CARROLL: I pass the witness at this time.

17 THE COURT: Mr. Taylor, do you have any questions of
18 the witness?

19 MR. TAYLOR: Yes, Your Honor, I do, just very
20 briefly.

21 THE COURT: All right.

22 RECCROSS-EXAMINATION

23 BY MR. TAYLOR:

24 Q Mr. Cotton, can you hear me okay?

25 A Yes, sir, I can hear you fine.

Cotton - Recross/Taylor

28

1 Q Good. I'm glad we worked out whatever was going on this
2 morning. Whistleblowers are empowered to go to the audit
3 committee with any potential complaints that they have,
4 correct?

5 A That's correct.

6 Q And you're the chair of that committee, correct?

7 A Correct.

8 Q And any complaints about compliance or outside vendors
9 would constitute a whistleblower complaint, correct?

10 A Well, I mean, that's kind of broad. Any dealings with
11 outside vendors that violate our internal controls and are
12 being circumvented because of someone inside the NRA, then,
13 yes, sir, that would absolutely be a whistleblower complaint.

14 Q Sure. If somebody expressed at least some concern that
15 that may be happening, that would constitute a whistleblower
16 complaint, correct?

17 A Yes, sir.

18 Q Okay. And I believe what you testified earlier, correct
19 me if I'm wrong, that after you received a whistleblower
20 complaint that you would go over those complaints and the
21 allegations made therein with the Brewer firm, outside counsel;
22 is that correct?

23 A Well, that -- no -- well, we have done that on occasion,
24 but that's not what we always do, because we don't always have
25 the Brewer firm involved. There -- it could be a lot broader.

Cotton - Recross/Taylor

29

1 If it looked like it should be an HR issue, then certainly we
2 would get with them. If it's something that should go to
3 general counsel, would get with them. But there were some
4 whistleblower complaints that were discussed with attorneys
5 with the Brewer firm, yes, sir.

6 Q Okay. And would you discuss complaints with outside
7 vendors' inappropriate actions with the Brewer firm?

8 A I'm sorry, you lost -- are you asking me if we would
9 discuss it with outside vendors?

10 Q If there was a problem with an outside vendor and how the
11 NRA was interacting with them, would you take such complaints
12 and the analysis of those complaints and ask the Brewer firm to
13 conduct an investigation?

14 A I'm trying to think if it went both ways or not. I know
15 they -- the Brewer firm advised us of what they were seeing in
16 investigations, and when the whistleblowers -- had it made it
17 on the 30th and came out with that list, what are the top
18 concerns or whatever, I know that was provided to the Brewer
19 firm to compare with what they had already determined, so they
20 could investigate anything new. So that I know happened.

21 Q Okay. And that was a long way of me getting to this
22 question. Who investigated the problems of the outside vendor
23 of the Brewer firm itself when Ollie North made a whistleblower
24 complaint stating that he thought that the amounts that the
25 Brewer firm was billing the NRA was excessive in many different

1 respects?

2 A Okay, that was all covered in the annual meeting, audit
3 committee meeting, in April of 2019. There were three ways the
4 Brewer bills were being vetted at that time. Two of them were
5 in-house with the NRA. One was a third party.

6 The in-house reviews were conducted by general counsel's
7 office, who went through the bills to determine is the work
8 being done reasonable, are the billing rates correct. Those
9 were done either by or under the direction of our general
10 counsel John Frazer.

11 Also, in the treasurer's office Craig Spray, our
12 treasurer, would review the same bills from both an accounting
13 standpoint, which is, frankly, all I would expect him to do,
14 but he told us that he would also look for, oh, double billing
15 or something like that.

16 There was an outside third party that was reviewing bills
17 as well, but here's where I'm going to need some guidance from
18 His Honor. There's a -- there was a settlement that --
19 confidential settlement, the terms of which cannot be
20 disclosed, that talked about how that independent third-party
21 review would be done.

22 MR. CICILIANO: And, Your Honor, I'll represent to
23 the Court that agreement has been produced to the parties, I
24 think everyone here's hereby being -- meaning counsel's aware
25 of probably what agreement he's talking. I don't know that we

Cotton - Recross/Taylor

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1 go into executive -- or, executive, pardon -- into a
2 confidential session for that, but we do have terms that would
3 prevent that.

4 THE COURT: But everybody has a copy of it; is that
5 what you're saying, Mr. Ciciliano?

6 MR. CICILIANO: Yes, Your Honor.

7 UNIDENTIFIED SPEAKER: Jermain (phonetic), you know
8 what he's talking about? Sorry, I wasn't on mute, Your Honor.

9 THE COURT: Okay.

10 BY MR. TAYLOR:

11 Q So it's your testimony that the treasurer's office vetted
12 some of the Brewer bills; is that correct?

13 A The treasurer's office vetted all of the bills that were
14 coming to it, right up to --

15 Q Okay, and --

16 A I'm sorry.

17 Q I'm sorry, I spoke over you. Please finish.

18 A No, I think I cut you off. I'm sorry, sir.

19 Q When did Mr. Spray take over as the treasurer?

20 A 2018, March, April. In that range, I believe. I may be
21 wrong on the month, but it was 2018.

22 MR. TAYLOR: Okay. Thank you. No further questions,
23 Your Honor.

24 THE COURT: Thank you. Mr. Drake, do you have any
25 questions of the witness?

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

1 MR. DRAKE: Yes, Your Honor, very brief.

2 IN RE: RE CROSS-EXAMINATION-30085-HDH-11

3 ~~NATIONAL~~ ~~DRAKE~~ ~~FILE~~

4 ASSOCIATION OF AMERICA Earle Cabell Federal Building
and Mr. Cotton, Mr. Ciciliano asked Commerce Street about the
Dallas, TX 75242-1496

5 plan process, and I believe that you testified that the NRA
Debtors.

6 intends to file a proposed plan April 6, 2021 organization soon; is that
1:15 p.m.

7 correct? P.M. Session

8 A Yes, sir.

TRANSCRIPT OF MOTION TO DISMISS CASE
BEFORE HONORABLE HARRIS DEWAYNE HALE
UNITED STATES BANKRUPTCY COURT JUDGE

9 Q Has the NRA reached a decision as to whether or not the
10 plan will provide to pay all allowed unsecured claims in full?

11 A We have reached a decision on that, yes, sir.
TELEPHONIC APPEARANCES:

12 Q And what is the decision with respect to whether or not
For the Debtors: Neligan LLP

13 the plan will provide to pay all allowed unsecured claims in
DOUGLAS J. BUNCHE, ESQ.
14 full? JOHN D. GAITHER, ESQ.

325 North St. Paul, Suite 3600

15 A The plan -- the officers have decided or determined that

16 all unsecured -- all the Gordon Turner Gordon LLP about are
By: WILLIAM M. NOALL, ESQ.

17 going to be 100 cents on the dollar. DYLAN CICILIANO, ESQ.
7251 Amigo Street, Suite 210

18 MR. DRAKE: Thank you, Your Honor, no further questions.

19 THE COURT: Mr. Ciciliano, do you have any questions
Audio Operator: Shanette Green

20 of Mr. Cotton?

21 Proceedings recorded and no electronic recording going on, so stay
produced by transcription service.

22 seated here because it'll be brief.

J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue

24 BY MR. CICILIANO: Hamilton, New Jersey 08619
E-mail: jjcourt@jjcourt.com

25 Q Mr. Cotton, do you recall looking at the contract with
(609) 586-2311 Fax No. (609) 587-3599

Cotton - Recross/Ciciliano

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1 Ms. -- or with Mr. Phillips that you said came -- or that it
2 was rescinded? Do you recall that?

3 A Yes, sir.

4 Q And when counsel showed you at the board meeting and then
5 didn't ask any questions, but just introduced it, is that the
6 board meeting where a different agreement that you were
7 referencing was discussed?

8 A Yes, sir. When we -- trying to get my timing straight.
9 In the audit committee meeting a new proposed contract was
10 discussed on markedly different terms than the one that had
11 been signed unbeknownst to us by Pete Brownell.

12 Q And so the contract that had been signed by Pete Brownell,
13 the NRA did not honor; is that correct?

14 A If I remember correctly, when Mr. Spray came on as
15 treasurer I believe Mr. -- well, I know Mr. Phillips invoiced
16 under that contract for some number of months. Mr. Spray,
17 being new, didn't realize that it had not been properly
18 approved. When he did, we -- it was cut off and we tried to
19 negotiate a new contract.

20 Q And you were talking to the fact, I think you were shown a
21 portion of your deposition testimony, as to whether or not the
22 knowledge -- your knowledge of the investigation of Ackerman's
23 files came from Brewer. Do you have personal knowledge of
24 trying to get documents directly from Ackerman that did not
25 come from Mr. Brewer?

Cotton - Recross/Ciciliano

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1 A I have informa -- I have knowledge of our attempts to get
2 documents from Ackerman that did not come from Mr. Brewer or
3 any of his attorneys, yes, sir.

4 MR. CICILIANO: All right. No further questions,
5 Your Honor.

6 THE COURT: All right. Mr. Cotton, I think that
7 we're done with you. You probably heard at the beginning of
8 the hearing that the rule was invoked. So that means from this
9 point forward do not discuss your testimony with any other
10 person until I've ruled. Do you understand that?

11 THE WITNESS: Yes, Your Honor, I understand.

12 THE COURT: Okay. All right. You may be -- from my
13 standpoint you may be excused. You can -- I think you probably
14 should be since we're going into testimony with another
15 witness.

16 MR. CICILIANO: Thank you, Your Honor.

17 THE WITNESS: Thank you, Judge. I appreciate it.

18 THE COURT: Nice to see you.

19 All right. Mr. Kathman, I'm not sure who is the
20 lawyer on your team who's going to do the next examination, but
21 you may call your next witness.

22 MR. KATHMAN: I think you're muted, Emily.

23 MS. STERN: Thank you. We're going to get it right
24 here in New York in a minute. Good afternoon, Your Honor. I
25 wanted to introduce myself. I'm Emily Stern. I'm an assistant

Frazer - Direct/Stern

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1 attorney general in the New York State Office of the Attorney
2 General --

3 THE COURT: Welcome.

4 MS. STERN: -- and I will be questioning the next
5 witness. We call John Frazer.

6 MR. GARMAN: Your Honor, this is Greg Garman.
7 Mechanics of virtual trials. It's going to take me perhaps
8 five minutes to get Mr. Frazer up to the other floor and to get
9 situated.

10 THE COURT: Okay. I'm fine with that, Mr. Garman.
11 Why don't we just take a five-minute break. We'll be --

12 MR. GARMAN: Okay.

13 THE COURT: -- (indiscernible) this afternoon, but
14 let you get Mr. Frazer back. Be in recess for five minutes.

15 MR. GARMAN: Thank you, Your Honor.

16 (Recess from 2:01 p.m. to 2:09 p.m.)

17 THE COURT: Mr. Frazer, can you hear me? You're
18 muted, I think, sir.

19 MR. FRAZER: How about now, Your Honor?

20 THE COURT: Would you raise your right hand?

21 JOHN FRAZER, WITNESS, SWORN

22 THE COURT: All right. Ms. Stern.

23 DIRECT EXAMINATION

24 BY MS. STERN:

25 Q Good afternoon, Mr. Frazer. Would you please begin by

1 stating your name for the record?

2 A Yes. My name is John Christian Frazer.

3 Q Mr. Frazer, you are the general counsel of the NRA, are
4 you not?

5 A Yes, that's correct.

6 Q And you are also secretary of the board of the NRA?

7 A Yes, I am.

8 Q And you are also an ex officio member of the NRA board?

9 A Yes, that's correct.

10 Q You understand that you have fiduciary duties to act in
11 the best interests of the NRA in your roles as a officer and a
12 director?

13 A Yes, I do.

14 Q Now, you have held these positions since approximately
15 2015; is that right?

16 A Yes, that's right.

17 Q Prior to becoming the general counsel of the NRA you had
18 no prior experience as a corporate general counsel; isn't that
19 right?

20 A Yes, that's right.

21 Q And you had only two years of private practice experience
22 before becoming the general counsel?

23 A That's correct.

24 Q So in your short career in private practice you had no
25 experience handling manners -- matters, excuse me -- involving

1 not-for-profits or charitable corporations; isn't that right?

2 A That's not correct.

3 Q And you had no experience, though -- well, let me go back
4 to -- what is the experience that you had handling matters
5 involving not-for-profits or charitable corporations involving
6 regulatory reporting? Anything?

7 A I had a -- well, I had a couple of charitable -- not
8 charitable -- trade association clients when I was in private
9 practice.

10 Q And in connection with those trade association clients did
11 you do any matters, represent them addressing any issues
12 involving the fiduciary duties of any of the officers,
13 directors or key persons of those entities?

14 A No.

15 Q And did you have any experience with any other clients
16 that were not-for-profits or charitable corporations addressing
17 the fiduciary duties of an officer, a director or key person?

18 A No.

19 Q Okay. And did you represent any clients where you were
20 handling matters involving the regulatory reporting
21 requirements of a not-for-profit or charitable corporation?

22 A No.

23 Q And did you have any experience involving matters
24 concerning tax reporting of a not-for-profit or charitable
25 corporation?

1 A No.

2 Q Any matters that you can identify concerning the corporate
3 governance of a not-for-profit or charitable corporation?

4 A Yes, with respect to some antitrust issues and --

5 Q With respect to the substance of an antitrust matter, was
6 that what was at stake in that matter?

7 A No, with respect to the con -- the avoidance of any -- of
8 antitrust issues in a trade association matter.

9 Q And so other than an antitrust-related matter can you
10 identify anything else?

11 A No.

12 Q Okay. And you had no prior experience handling
13 transactions specifically involving not-for-profits or
14 charitable corporations, did you?

15 A No.

16 Q And you had no prior exposure as an attorney to the New
17 York Prudent Management of Institutional Funds Act, did you?

18 A No.

19 Q Okay. And in your private practice career did you handle
20 any -- I'm sorry, you did not handle any internal corporate
21 investigations concerning a not-for-profit or charitable
22 corporation, did you?

23 A No.

24 Q You had no prior experience handling matters involving
25 whistleblowers, did you?

1 A No.

2 Q Okay. And you also had no prior experience handling
3 matters involving business conflicts of interest; isn't that
4 right?

5 A No, not quite.

6 Q And what were the business conflicts of interest matters
7 that you had prior experience handling?

8 A I think the antitrust concern that I dealt with touched on
9 that a little bit.

10 Q Okay, so other than that antitrust matter -- and,
11 actually, let me just ask you, was that one matter, one single
12 matter involving antitrust issue for a trade association?

13 A It was an issue with respect to a particular client.

14 Q Okay. And in the context -- other than that context, you
15 can't identify any other matter where you were called upon as a
16 lawyer to address a matter of handling a business conflict of
17 interest, can you?

18 A No.

19 Q Okay. And before being elected as the secretary to the
20 board of the NRA you had no prior experience serving on a not-
21 for-profit, or did you?

22 A No.

23 Q You had no prior experience serving on a for-profit board,
24 either, did you?

25 A No, I didn't.

Frazer - Direct/Stern

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1 Q Okay. In 2019 your compensation from the NRA was
2 approximately \$490,000; is that right?

3 A I think that's what was report on the 990.

4 Q Okay. Can we take a look -- this has already been
5 admitted. It's New York AG Exhibit 8. And it's the 2019 990.

6 A Okay.

7 MS. STERN: Can you just maybe share that screen,
8 please?

9 BY MS. STERN:

10 Q And I'm going to just turn your attention to part 7, which
11 is the compensation of officers, directors, trustees, key
12 employees, highest-compensated employees, and independent
13 contractors. And it's a grid, and I apologize, I don't have
14 the page number ending, but my colleague Mr. Wang -- provide
15 that in a second through a screen saver.

16 A I think I'm almost there. Okay.

17 Q Okay. And if we can just take a second. Okay. So I'm
18 going to direct your attention to the grid that we're looking
19 at there on the screen share on line 11, John C. Frazer,
20 secretary. That's you, correct?

21 A Correct.

22 Q Okay. And there's a column that is entitled reportable
23 compensation from the organization W-2 1099. And it reports
24 there \$414,585. Can you tell me what that represents of your
25 compensation?

1 A I think that would represent my salary and bonus.

2 Q Okay. And then if we move over to two columns over, the
3 column is entitled estimated amount of other compensation from
4 the organization and related organizations, and it states
5 \$75,884. And what is that compensation?

6 A That consists of a variety of fringe benefits, many of
7 which are available to NRA employees in general.

8 Q And is your compensation in 2020 more than that now?

9 A No, it's less.

10 Q Okay. And your compensation for 2021?

11 A Still less.

12 Q Okay. And that's because the NRA did some cuts during
13 COVID at the executive level; is that right?

14 A That's right.

15 Q And what is your current compensation?

16 A It was a 20-percent cut, so the base salary is 280 -- I
17 think it's 288,000.

18 Q And what is the additional -- the value of the additional
19 benefits that you're getting? Are those cut?

20 A To the extent that some of them may have been keyed to the
21 base salary, I think so, but, of course -- but, I'm sorry, I
22 don't have the number.

23 Q As the general counsel --

24 MS. STERN: We can -- thank you.

25 Q As the general counsel you're responsible for oversight of

1 the legal fare -- legal affairs of the NRA and its operations,
2 aren't you?

3 A With respect to the corporate affairs. Not the Second
4 Amendment litigation.

5 Q Okay. And as the general counsel you're also responsible
6 for identifying and managing legal risks, aren't you?

7 A In part, as a team effort with others.

8 Q But you are retained as a lawyer because of your expertise
9 as a lawyer to identify risks of a legal nature. Isn't that
10 right?

11 A Yes.

12 Q Okay. And one of your responsibilities is also retaining
13 and overseeing outside counsel, isn't it?

14 A Yes.

15 Q Okay. The board expects you to keep it apprised of the
16 legal affairs of the NRA, doesn't it?

17 A Yes.

18 Q And you, indeed, report to the legal affairs committee of
19 the board, don't you?

20 A Among others, yes.

21 Q Okay. You mean among other people also report to legal
22 affairs committee? Is that right?

23 A That's right, and, of course, I also report directly
24 to -- you know, to other officers and directors as well.

25 Q And you're -- is it fair to say that you're expected to

1 notify the board of any significant legal issues that the NRA
2 is facing?

3 A Yes.

4 Q And wouldn't you agree with me that to fulfill your
5 responsibilities, responsibilities that we have just discussed,
6 that you rely on the leadership in the NRA to keep you informed
7 about important matters so that you can properly assess them
8 and address them?

9 A Yes.

10 Q And isn't it your expectation that NRA leadership will
11 seek your counsel on important matters that have legal
12 consequence for the association?

13 A Yes, with the caveat that there are some matters on which
14 I'm conflicted and I would not expect that.

15 Q Okay, we'll get to that. Okay. And you would agree with
16 me that the decision to put the NRA into bankruptcy was a major
17 decision for the association, wasn't it?

18 A Yes.

19 Q You would agree with me that declaring bankruptcy is one
20 of the biggest decisions that the association could face.

21 A It's a very big decision, yes.

22 Q Okay. But you did not have any input on making that
23 decision, did you?

24 A I was aware that it was an option that was being
25 considered, but I was not asked my advice on it, no.

1 Q Okay. And you, in fact, first learned that the NRA was
2 filing for bankruptcy on January 15, the very day the petition
3 was filed, didn't you?

4 A Yes.

5 Q So the decision was made to file for bankruptcy without
6 asking the general counsel of the association. Isn't that
7 right?

8 A Yes.

9 Q Before January 15th you didn't know that the NRA had
10 retained the Neligan firm to file the bankruptcy petition, did
11 you?

12 A No.

13 Q And before January 15th you also did not know that the NRA
14 had \$1.3 million in a retainer to Mr. Neligan's firm, did you?

15 A No.

16 Q Okay. Isn't it true that the officers of the NRA, Carolyn
17 Meadows, Howard, Cotton, and Willes Lee, they knew about the
18 decision to file bankruptcy before you?

19 A Yes.

20 Q And isn't it true that they were also aware before you
21 that \$1.3 had been paid to bankruptcy counsel?

22 A I don't know that.

23 Q Doesn't the NRA's procurement policy require legal review,
24 the preparation of a business case analysis, sign-off by the
25 treasurer, approval by the EVP -- executive vice president,

1 excuse me -- for the retention of legal counsel where the cost
2 is going to exceed \$100,000?

3 A \$100,000 in a 12-month period, yes.

4 Q Okay. So if the first vice president of the association,
5 Mr. Cotton, said that that policy which we described, and it's
6 often called the 100,000-dollar policy -- 100,000-dollar
7 procurement policy, right?

8 A I don't know that I've heard it referred to by that name,
9 but --

10 Q Well, if I call it that will we -- can we agree that
11 we're -- both understand what we're talking about?

12 A Yes.

13 Q Okay. So if Mr. Cotton, the first vice president, said
14 that that policy does not apply to the retention of counsel for
15 legal services, he'd be wrong; isn't that right?

16 A I don't -- yeah, I don't think I would agree with that.

17 Q Okay. Because you yourself have followed that policy,
18 haven't you?

19 A Yes.

20 Q In connection -- sorry, let me --

21 A Sure.

22 Q -- restate my question because it wasn't a very articulate
23 question. You yourself have followed what I'm calling the
24 100,000-dollar procurement policy in connection with the
25 retention of counsel.

Frazer - Direct/Stern

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1 A Yes. Generally speaking, yes.

2 Q Okay. Can we turn to New York AG Exhibit 300? And once
3 counsel have had an opportunity to look at it I'd like to offer
4 this in evidence, exhibit -- NYAG Exhibit 300.

5 A I have it.

6 Q Thank you.

7 MR. CICILIANO: No objection.

8 THE COURT: NYAG 300 is in.

9 (NYAG Exhibit 300 admitted into evidence)

10 MS. STERN: Thank you, Your Honor.

11 BY MS. STERN:

12 Q Mr. Frazer, can you identify this document for me?

13 A It's the contract review sheet -- actually, sheets,
14 because it's signed in counterparts -- and business case
15 analysis for the retention of the Garman firm.

16 Q Okay, and I -- here it states -- as you said, it's
17 multiple pages with different signatures on it -- the business
18 case analysis prepared by John Frazer. That's you, correct?

19 A Yes.

20 Q And you prepared this business case analysis in connection
21 with the retention of the Garman firm that is representing --
22 one of the bankruptcy counsel that's representing the NRA in
23 this matter; isn't that right?

24 A Yes, I did.

25 Q Okay. And on that very first page we're looking at, legal

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1 review, is that your signature there?

2 A Yes, it is.

3 Q Okay. And if you'll take -- turn to what I believe is the
4 third page of the document, the Bates number is NRABK00113943,
5 you see that page?

6 A Yes, I do.

7 Q Toward the bottom of the page there's signatures lines for
8 the president, first vice president, and second vice president.
9 Do you see that section?

10 A Yes, I do.

11 Q And do you recognize that signature of the first vice
12 president as Mr. Cotton's signature?

13 A Yes, I do.

14 Q Okay. Thank you. Now, you never conducted any kind of
15 review of a business case analysis of the Neligan firm, did
16 you?

17 A I don't believe I did, no.

18 Q And you didn't know that Mr. Neligan had been retained
19 until the day that the bankruptcy was filed; isn't that right?

20 A I believe that's right.

21 Q And sitting here today you cannot tell the Court that in
22 fact the business case analysis was prepared by anyone at the
23 NRA in connection with the retention and payment of over
24 1.3 -- of \$1.3 million to the Neligan firm. Isn't that right?

25 A I don't know if one was or not.

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1 Q Okay. So Mr. LaPierre and the officers of the NRA, didn't
2 they violate the contract procurement policy when they retained
3 and authorized payment of \$1.3 million in retainer to the
4 Neligan firm without the legal review of the office of general
5 counsel?

6 A I don't know that they -- I don't know that -- as I said
7 in my previous answer, I don't know that there wasn't a
8 business case.

9 Q No, my question, Mr. Frazer, was didn't they violate the
10 policy by retaining the Garman firm and paying the firm,
11 Neligan -- I'm sorry. Let me state it again.

12 My question to you, Mr. Frazer, is didn't they violate the
13 procurement policy by retaining the Neligan firm and making
14 payment to the Neligan firm without it being reviewed by the
15 office of general counsel?

16 A The retention should have been reviewed at some point.

17 Q So didn't they violate the policy, Mr. Frazer?

18 A Well, I don't know -- again, I don't know that no analysis
19 was done.

20 Q Are you aware of anyone in the office of general counsel
21 that reviewed the retention of the Neligan firm and reviewed a
22 business case analysis?

23 A Maybe I should clarify, and I apologize. I am -- I'm not
24 sure that review necessarily requires review by the OGC. You
25 know, review by -- you know, by an outside firm might be

1 acceptable as well.

2 Q A review by an outside firm? Is that in the policy
3 statement, in the written policy statement of the NRA, that an
4 outside vendor can conduct a review under the contract --
5 excuse me -- contract procurement policy?

6 A I'd have to look at the policy to be sure on that.

7 Q Okay. Isn't it true that before January 15th, 2021
8 Mr. LaPierre had not informed Craig Spray, who was then the CFO
9 and the treasurer of the NRA, that a bankruptcy was going to
10 be -- that a bankruptcy petition was going to be filed?

11 A I believe that's correct.

12 Q And since then Mr. Spray's employment with the NRA has
13 been terminated, hasn't it?

14 A Well, he's no longer CFO, but he remains an employee.

15 Q And he currently has a dispute with the NRA over his
16 entitlement to post-employment compensation, doesn't he?

17 A I don't know if I would call it a dispute. I know there's
18 an unresolved issue.

19 Q And the unresolved issue is about what compensation he's
20 going to get now that he's left the NRA; isn't that right?

21 A Or when he actually does leave the NRA.

22 Q Is he providing any services to the NRA right now?

23 A He is -- I can only speak to my own knowledge, and he
24 hasn't provided services to me. I am aware that he's provided
25 some transitional assistance in terms of signing over bank

1 accounts and things like that.

2 Q And other than signing over bank accounts so that others
3 have authority, sitting here today you can't identify any other
4 services that he's performing as the treasurer, can you?

5 A Not that I can recall.

6 Q Okay. And you can't provide -- you can't identify any
7 other services that he's providing, can you?

8 A No, I don't think so.

9 Q And are you aware that Mr. LaPierre told Mr. Spray that he
10 had decided that the NRA wanted to go into a different
11 direction?

12 A Yes.

13 Q Okay. So just to be clear, when Mr. LaPierre decided to
14 put the NRA into bankruptcy, two of the three salaried officers
15 of the association, you as the secretary and general counsel,
16 Mr. Spray as the treasurer and the CFO, you were not involved
17 in that decision. Isn't that right?

18 A Well, I was aware that it was one of -- that it was an
19 option that was being considered, but I was not involved in
20 making the decision.

21 Q So, Mr. Frazer, while you did not know that the NRA was
22 going to file bankruptcy, the Brewer firm did know, didn't
23 they?

24 A I know that it was something that they had worked on.

25 Q And you knew the Brewer firm had been working on

1 bankruptcy-related work since the fall of 2020; isn't that
2 right?

3 A Yes, that's correct.

4 Q But you learned that from Sarah Rogers, a partner at the
5 Brewer firm, not from Mr. LaPierre, right?

6 A That's right.

7 Q And the work that the Brewer firm was doing in connection
8 with bankruptcy-related matters, that was not at your
9 direction, right?

10 A No, it wasn't.

11 Q So during -- at that time you were responsible for
12 overseeing the Brewer firm's work and its billings, weren't
13 you?

14 A Yes, but only with respect to issues that I wasn't
15 conflicted on.

16 Q Okay, and the issues that you are conflicted on are within
17 the umbrella of what was being managed by the special
18 litigation committee; isn't that right?

19 A Yes.

20 Q And that conflict issue that you refer to, that arose out
21 of the New York attorney general's lawsuit which names you as
22 an individual defendant, as well as Mr. LaPierre as an
23 individual defendant; isn't that right?

24 A Yes.

25 Q Okay. So other than the matters that were within the

1 scope of the special litigation committee that Brewer was
2 handling, you otherwise were responsible for reviewing the
3 Brewer firm's bills, weren't you?

4 A Yes.

5 Q And, in fact, you had since the Brewer firm had been
6 engaged in March 2018 been responsible for oversight of the
7 Brewer firm's bills. Isn't that right?

8 A Yes.

9 Q And responsible for oversight of the Brewer firm's work?

10 A Yes, although, of course, other people worked with the
11 firm as well.

12 Q So you would not dispute that you were aware in the fall
13 of 2020 that the Brewer firm was billing the NRA for
14 bankruptcy-related work, right?

15 A Yes, I was aware of that.

16 Q But, again, you were not overseeing that work.

17 A No.

18 Q And the Brewer firm was not reporting to you on what work
19 it was doing.

20 A Only to -- they reported to me to the extent of explaining
21 the billings, so I had some awareness of what was going on, and
22 they provide very detailed invoices, so I was aware of the
23 nature of research that was being conducted.

24 Q But you were not keeping yourself informed about the
25 substance of the work. Isn't that right?

1 A Not on a daily basis, no.

2 Q On a weekly basis were you keeping yourself informed of
3 the substance of the work?

4 A No.

5 Q Okay. So between fall 2020 when you learned from the
6 Brewer firm that it was working on bankruptcy matters and
7 January 15th, 2021 when you were informed that the NRA was
8 actually filing bankruptcy you did not actually know the status
9 of the bankruptcy matter; isn't that right?

10 A As I said, I knew that it was an option being considered,
11 but not whether a decision had been made.

12 Q And you did not inquire into the substance of or the
13 status of the bankruptcy-related work; isn't that right?

14 A Periodically with respect to billing issues.

15 Q Just with respect to the billing, as opposed to what the
16 substance of the work was; is that right?

17 A Well, the billing provides an opportunity for discussion,
18 too.

19 Q So are you testifying here today that you were aware of
20 the substance of the bankruptcy work that the Brewer firm was
21 doing at that time?

22 A I was aware of the nature of the research that was being
23 conducted, yes.

24 Q And were you involved in that representation?

25 A No.

1 Q So when Mr. LaPierre filed for bankruptcy without
2 informing you first, that wasn't the first time that he had
3 kept you in the dark about a decision to take legal action on
4 an important matter, was it?

5 A No.

6 Q Okay. Didn't Mr. LaPierre authorize the NRA to sue
7 Ackerman McQueen in April 2019 without first informing you?

8

9 A Yes.

10 Q In fact, you were surprised to learn that the NRA had
11 filed that lawsuit, weren't you?

12 A Yes.

13 Q And the litigation with Ackerman McQueen, it's been a
14 major litigation for the NRA, involving multiple lawsuits in a
15 number of different courts, right?

16 A Yes, although I want to clarify my previous answer. I was
17 not -- I was surprised that we sued Ackerman when we sued them.
18 I wasn't surprised that it happened eventually.

19 Q But you did not know that they were actually going to file
20 the lawsuit. Isn't that right?

21 A Yes.

22 Q And you're the general counsel of the NRA, but you did not
23 know that. Isn't that right?

24 A Yes.

25 Q Okay. So in both of those instances, the Ackerman

1 litigation, the bankruptcy filing, the law firm that was
2 advising Mr. LaPierre was the Brewer firm, wasn't it?

3 A I'm sorry, I'm not sure I heard you right.

4 Q I said in both of those instances, with respect to the
5 Ackerman litigation, the filing of the bankruptcy, the law firm
6 that was advising Mr. LaPierre on those legal decisions was the
7 Brewer firm. Isn't that right?

8 A Yes.

9 Q Are you aware that Mr. LaPierre has testified under oath
10 at his deposition in this action that he told Joshua Powell
11 that he wouldn't use you to handle his parking tickets?

12 A I am not -- I haven't read Mr. LaPierre's deposition.

13 Q But if Mr. LaPierre had said something like that to the
14 chief of staff of the NRA, wouldn't you think that was an
15 inappropriate way to treat the general counsel --

16 A Well, just --

17 Q -- of the NRA?

18 A -- and just to be clear, I was aware of -- that that
19 comment had been attributed to him by Mr. Powell, and I was
20 aware -- I haven't -- although I haven't read Mr. LaPierre's
21 deposition transcript or viewed the footage, I'm aware that the
22 subject was discussed. So just wanted to make sure my answer
23 was correct.

24 Q But, Mr. Frazer, my question to you was if he had said
25 that, wouldn't that be an inappropriate way for the executive

1 vice president of the NRA to discuss the skills of the general
2 counsel of the association with his chief of staff?

3 A I don't want --

4 MR. CORRELL: Objection; hypothetical.

5 THE COURT: I'm going to --

6 MS. STERN: We can move on.

7 THE COURT: I'm going to sustain the relevancy.

8 BY MS. STERN:

9 Q So is it fair to say that Mr. LaPierre relies on the
10 Brewer firm as a key legal advisor to the NRA?

11 A Yes.

12 MS. STERN: Okay. Your Honor, can I just pause for a
13 second? I just wanted to clarify, I believe that Mr. Correll
14 asserted that objection, and I'm sort of unclear as to what
15 role he has during this examination.

16 THE COURT: Mr. Correll.

17 UNIDENTIFIED SPEAKER: He's muted.

18 MS. STERN: Yeah, he's muted and I can't hear him.

19 THE COURT: I think you're muted, Mr. --

20 MR. CORRELL: I'm sorry. This is Mr. Correll. I'm
21 representing the witness Mr. LaPierre there. It was all for an
22 interested party.

23 THE COURT: Yeah, I don't think you have standing to
24 make an evidentiary objection, Mr. Correll. I thought it was a
25 lawyer for the NRA that made that objection. I sustained my

1 own objection on relevance on what he thought about the
2 comment.

3 MS. STERN: Okay. Thank you, Your Honor, but just to
4 be clear, the lawyers that are representing the interested
5 parties here are the only lawyers that are -- have standing to
6 make objections; is that right?

7 THE COURT: That was my ruling, yes.

8 MS. STERN: Okay, thanks. Thank you.

9 MR. CORRELL: Your Honor, if I may just address that
10 a little more fully, to the extent that questions seek to
11 invade privilege of a witness that is going to appear before
12 the Court I think it would be appropriate for the Court to
13 entertain objections to protect privilege.

14 THE COURT: That's the only one you can raise. Don't
15 make any other evidentiary objections. I'll hear you on that.
16 I'm sensitive about privilege in this case.

17 MR. CORRELL: Thank you, Your Honor.

18 BY MS. STERN:

19 Q Mr. Frazer, the Brewer firm has been handling a number of
20 significant legal disputes for the NRA over the -- since March
21 2018 to the present. Is that right?

22 A Yes.

23 Q So the Brewer firm is representing the NRA in the New York
24 attorney general's enforcement action; isn't that right?

25 A Yes.

1 Q The Brewer firm is also representing the NRA in the
2 District of Columbia attorney general action; is that right?

3 A Yes.

4 Q The Brewer firm is -- I think we've discussed, is
5 representing the NRA in litigation with Ackerman McQuinn, also;
6 isn't that right?

7 A Yes.

8 Q And in the Under Wild Skies litigation as well?

9 A Yes, with local counsel, as in some of the other cases.

10 Q Okay. But they're primary counsel in those cases; isn't
11 that right?

12 A Yes.

13 Q Okay. And the Brewer firm is representing the NRA in
14 defense of a punitive class action by Mr. David Dell'Aquila, a
15 member of the NRA; isn't that right?

16 A Yes.

17 Q The NRA has also engaged the Brewer firm to represent the
18 organization in arbitration with Christopher Cox, the former
19 executive director of the Institute for Legal Affairs [sic]?
20 Legislative Affairs. Excuse me, I misstated.

21 A Yeah. Yes.

22 Q Okay. ILA. And the Brewer firm has advised the NRA in
23 connection with disputes with Joshua Powell, who we were just
24 talking about, the former chief of staff; isn't that right?

25 A Yes.

1 Q And the NRA has also gone to the Brewer firm in connection
2 with litigation involving the former president of the NRA, Lt.
3 Colonel Oliver North, as well; isn't that right?

4 A Yes.

5 Q And most recently, the dispute we were talking about with
6 Mr. Spray concerning his post-employment compensation, the
7 Brewer firm is also advising in connection with that matter as
8 well.

9 A Again, I wouldn't characterize it as a dispute, but
10 certainly the Brewer firm is aware.

11 Q But the Brewer firm is assisting you in addressing that
12 matter, isn't it?

13 A Yes.

14 Q Okay. And the NRA has also engaged the Brewer firm for
15 legal complaints matters as well, hasn't it?

16 A Yes.

17 Q So the NRA has looked to the Brewer firm to assist on what
18 we hear is the so-called self-correction compliance review.
19 Isn't that right?

20 A Yes.

21 Q And the Brewer firm handled investigation of whistleblower
22 complaints made by finance staff at the NRA in or about summer
23 2018; isn't that right?

24 A Along with others they did, yes.

25 Q Along with other outside counsel? Is that -- you're

1 referring to?

2 A Yes. At that -- yes, that's right.

3 Q Who were those outside counsel?

4 A For some of those issues we also sought advice from Morgan
5 Lewis, and some issues we handled in house as well.

6 Q When you say "some of those issues," are you talking about
7 the whistleblower complaints?

8 A That's right.

9 Q And the NRA has also sought advice and representation from
10 the Brewer firm in connection with disclosure of excess benefit
11 transactions in the most recent NRA's -- sorry, in the NRA's
12 most recent 1990 filings; isn't that right?

13 A They provided some background assistance, but the primary
14 work on that was done by another firm.

15 Q But the Brewer firm was involved in that process, were
16 they not?

17 A Yes.

18 Q In 2019 the Brewer firm was actually the NRA's highest
19 paid vendor, wasn't it?

20 A I don't recall the rankings.

21 Q Okay. Could you take a look at New York Attorney General
22 Exhibit 8, the 2019 IRS form 990? And if we can prop that up
23 as well again. And we're going to turn to part 7, section B.
24 And, again, my colleague Mr. Wang will tell me what page of the
25 PDF that is. Oh, it's up here, so if --

1 A I have it.

2 Q -- that'll make it easier.

3 A I think I have it, yes.

4 Q Okay.

5 A Page 8.

6 Q So let me turn your attention to the section at the bottom
7 of the page.

8 MS. STERN: Maybe we can scan up to the top so we can
9 see the title of the section, if you wouldn't mind, Mr. Wang.

10 Q Okay, so this follows the chart that we were looking at
11 earlier on your compensation, and then below section B, looking
12 at section B(1), it says:

13 Complete this table for your highest-compensated
14 independent contractors that receive more than \$100,000 of
15 compensation from the organization for compensation for the
16 calendar year ending within the organization's tax year.

17 You see where I'm reading from, Mr. Frazer?

18 A I do, although just to make sure we're not having any
19 technical problems, I'm not seeing any content shared on the
20 screen, so I'm looking at my copy of the exhibit. I'm not sure
21 if that's how --

22 Q Oh.

23 A -- it's supposed to work. But --

24 Q Okay, as long as you have the document in front of you,
25 the technical stuff is above my pay grade, so -- just as long

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1 as you the witness have the document and the judge has the
2 document, I think we can proceed with the question. So can you
3 just look at the first line, the first vendor. You can --

4 A Yes.

5 Q -- see that they're listed in -- from highest to lowest in
6 that grid, correct?

7 A Yes.

8 Q And so the NRA reported on the 990 for 2019 that the
9 Brewer attorneys and counselors was paid \$24,789,326. Isn't
10 that right?

11 A Yes.

12 Q Okay, so if -- we agree it was the highest-paid vendor as
13 reported on the 990.

14 A Yes.

15 MS. STERN: Okay. Thank you, Mr. Wang.

16 Q And then can we -- would you mind, please, turning to New
17 York Attorney General Exhibit 285, which has been admitted.

18 A One moment. I'm sorry.

19 Q Mr. Frazer, you're looking at the documents
20 electronically; is that right?

21 A Yes, I am.

22 Q Okay. Because I'm going to ask you to look at another
23 exhibit as well and I don't know if you can toggle between the
24 two, but let me identify that exhibit for you. That's New York
25 Attorney General Exhibit 354.

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1 THE COURT: Counsel, Mr. Frazer can see one exhibit
2 at a time.

3 MS. STERN: Okay.

4 BY MS. STERN:

5 Q So let me first ask you to look at Exhibit 354, New York
6 Attorney General Exhibit 354.

7 A I have it, yes.

8 Q Okay. And I offer this exhibit --

9 A Well, I'm sorry, I may be confused. Am I still looking at
10 285 or am I to be closing that and looking at 354?

11 Q I just -- want to just offer 354 into evidence. The other
12 has already been --

13 A Okay.

14 Q -- entered. And then I could just ask you my question.
15 So if we could just go to 354 first if you don't mind.

16 A Okay.

17 MS. STERN: And I'd like to offer that exhibit, NYAG
18 Exhibit 354 into evidence.

19 MR. CICILIANO: No objection, Your Honor.

20 THE COURT: New York AG --

21 MS. STERN: Mr. Frazer --

22 THE COURT: -- 354 is admitted.

23 (NYAG Exhibit 354 admitted to evidence)

24 MS. STERN: Oh, sorry.

25 THE COURT: That's okay. Go ahead.

1 BY MS. STERN:

2 Q Okay. Mr. Frazer, looking at NYAG Exhibit 354, this is an
3 invoice from the Brewer firm directed to you for services
4 rendered during the month of December 2020; isn't that right?

5 A Yes.

6 Q Okay, and just noting that the invoice itself is dated
7 January 4th, 2020, but fair to say that that's a typographical
8 error since the services were for the prior month? Would you
9 agree with me?

10 A I wouldn't agree that it's an error. I mean, invoices of
11 the prior month are usually dated in -- on the date the invoice
12 is issued.

13 Q So the -- but there -- you could not issue an invoice in
14 January 2020 for services rendered --

15 A Oh, I'm --

16 Q -- (indiscernible).

17 A I'm sorry, the year. I apologize. Yes, I understand.

18 Q Okay. Just a little technical issue. Now, if we -- this
19 particular invoice was not with the Exhibit 285, which is the
20 compilation of invoices, I think because of that date issue.
21 So together exhibit -- NYAG Exhibit 285 and NYAG Exhibit 354
22 are invoices from the Brewer firm for the period December --
23 sorry, issued December 5th, 2018 through January 14, 2021.

24 A I'm sorry, I don't want to have too many exhibits open, if
25 I'm -- you know, based on counsel's instruction here. Should I

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1 be opening to 285 now?

2 Q Yeah, if you want to look at 285. Now that you're --

3 A Okay.

4 Q -- ready, there was one additional invoice. Okay.

5 A Okay, I have it.

6 Q Okay. So since March 2018 the Brewer firm has been paid
7 approximately \$50 million by the NRA, hasn't it?

8 A I don't know if all of this was to the Brewer firm. I
9 think some of it may have been to subcontracted experts,
10 consultants, and so forth.

11 Q Okay. So do you recall testifying on -- in this matter on
12 March 15th, 2021?

13 A Yes.

14 MS. STERN: And, Will, can you bring up that
15 testimony?

16 Q Okay. Turning to line 4 --

17 A And, I'm sorry, I'm not seeing the -- an actual document
18 here. All I see is a notice that William Wang is starting to
19 share content.

20 Q And you're not seeing the actual share?

21 A I'm afraid not.

22 MR. CICILIANO: And, Ms. Stern, if -- this is Dylan
23 Ciciliano. Just for technical changes, Mr. Frazer, if you
24 change the view from the focused to like the panorama, it may
25 make that change. And if that doesn't work, with the judge's

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1 leave I could go up there and try to assist you.

2 THE WITNESS: Is that the --

3 MS. STERN: I would appreciate that.

4 THE WITNESS: So I'm going from the layout -- I'm
5 sorry, I --

6 MS. STERN: Your Honor, would you like just to step
7 off the record for a moment while we correct the --

8 THE WITNESS: Yeah.

9 MS. STERN: -- audiovisual issue?

10 THE WITNESS: And I apologize. I'm just not seeing a
11 panorama option on the menus here.

12 MR. NOALL: Your Honor, Mr. Ciciliano is running up
13 to the witness room upstairs.

14 THE COURT: He's --

15 MR. NOALL: -- to try and change the view so that the
16 display will show the exhibit.

17 THE COURT: He's running with the Court's thanks.
18 Thank you for doing that.

19 MR. NOALL: He's arrived.

20 (Witness and counsel discussing)

21 MR. CICILIANO: William, could you stop sharing the
22 screen for one second? Okay, now try it again.

23 THE WITNESS: What about that? Was that a right
24 click?

25 MR. CICILIANO: Yeah, for some reason it's just not

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1 appearing. It's showing that he's sharing content, but for
2 some reason it's not appearing. Oh, let's see.

3 MS. STERN: Mr. Ciciliano, does he have it on the
4 layout view?

5 MR. CICILIANO: Yeah, and that's what I changed it
6 to.

7 MS. STERN: Apologies, Your Honor.

8 THE COURT: That's okay. These things happen.

9 MR. CICILIANO: It literally looks like it's loading,
10 like it's almost a software problem, but the way that I
11 understand that Webex runs this, that should not be occurring.

12 MS. STERN: Mr. Ciciliano, does he have a copy of his
13 testimony there?

14 MR. CICILIANO: He does. I believe Ackerman has it
15 as an exhibit. If you refer to me the exhibit, I have all the
16 binders here.

17 MS. STERN: Okay.

18 MR. CICILIANO: I believe it's Ackerman Exhibit 98.

19 MS. STERN: Okay.

20 MR. CICILIANO: The parties may not always get along,
21 but it looks like we may have solved one issue.

22 THE COURT: Thank you for helping.

23 THE WITNESS: Okay.

24 MR. CICILIANO: No problem.

25 MS. STERN: Trying to keep it going, Your Honor, I'm

1 trying to keep it going.

2 THE WITNESS: Okay.

3 BY MS. STERN:

4 Q Okay. So you now -- do you have in front of you the
5 transcript of your deposition on March 15th, 2021?

6 A Yes, I do.

7 Q Okay. If you'd turn to page 323, were you asked these
8 questions and did you give these answers:

9 Since March of 2018 to the present approximately how much
10 money had the Brewer law firm received as a result of the work
11 it has done for the National Rifle Association?

12 Answer: Exclusive of subcontractor billing and amounts
13 that were, you know, repaid, indemnified by other parties back
14 to the NRA, it's under \$50 million.

15 Do you see that?

16 A Yes.

17 Q Okay. Now, do you know in 2020 how much the Brewer firm
18 was paid?

19 A I'm sorry, I didn't hear the beginning of your question.

20 I think you --

21 Q I said do you know how much the Brewer firm was paid in
22 2020 for legal services.

23 A And I apologize. Not off the top of my head.

24 Q But it is your responsibility to oversee the billings from
25 the Brewer firm, with the exception, as we've talked about,

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1 with the matters that as of October 2020 were being reviewed by
2 the special litigation committee; isn't that right?

3 A It's -- that's right.

4 Q Okay. And does \$31 million sound like it's in the right
5 range to you?

6 A Without looking at invoices or some kind of report and
7 calculating I couldn't tell you.

8 Q So sitting here today you can't tell the judge even the
9 range of the amount that the NRA has paid the Brewer firm; is
10 that right?

11 A Without knowing -- you know, without -- again, the
12 question is, you know, would that include amounts that were
13 indemnified by others, would it include subcontractors and so
14 on. I would need more detail to give a credible calculation,
15 I'm afraid.

16 Q Is there any other legal counsel that the NRA retains that
17 bills the NRA -- in that one single firm, that bills the NRA in
18 that range?

19 A No.

20 Q Okay. In the 90-day period before the bankruptcy petition
21 was filed \$17 million was paid to the Brewer firm; isn't that
22 right?

23 A I believe that's what's stated in our schedules.

24 Q Okay. One of the matters that the Brewer firm has been
25 handling we talked about is an arbitration between the NRA and

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1 Mr. Cox concerning dispute over his post-employment
2 compensation. Isn't that right?

3 A Yes.

4 Q And isn't it true that the NRA has paid the Brewer firm
5 approximately \$7 million in legal fees in the Cox arbitration
6 matter?

7 A Sitting here and without looking at the invoices, again, I
8 couldn't tell you a total.

9 Q So you can't -- you -- but you also cannot say that that
10 is not correct; isn't that right?

11 A That's right. I couldn't tell you one way or the other --

12 Q You -- you're --

13 A -- (indiscernible).

14 Q -- not keeping -- okay, so you're not keeping track of the
15 amount that the Brewer firm is billing the NRA in legal fees
16 for that arbitration matter?

17 A Not keeping --

18 MR. CICILIANO: Misstates testimony.

19 THE COURT: Want to restate your question?

20 MS. STERN: Okay.

21 BY MS. STERN:

22 Q Mr. Frazer, can you give the Court an estimate of the
23 amount that the NRA has paid in legal fees in connection with
24 the Cox arbitration?

25 A Not with -- not without reference to documents, I'm

1 afraid.

2 Q Okay. I'm not going to take the Court's time to go
3 through all of the invoices that are in Exhibit 285 and 354.
4 They speak for themselves, so we can move on. But isn't the
5 amount that Mr. Cox is seeking under his employment agreement
6 approximately \$2 million?

7 A That's the amount under the employment agreement, yes.

8 Q Okay. So now I'd like to turn your attention to the
9 January 7th board meeting that we've heard a lot about. And
10 you attended that meeting, didn't you?

11 A Yes.

12 Q And it was at that meeting that the NRA contends that the
13 board delegated authority to Mr. LaPierre to file for
14 protection under Chapter 11. Isn't that right?

15 A I'm not sure I would agree with the characterization about
16 delegation, but that's -- it's an important board meeting with
17 respect to the decision, yes.

18 Q So at that board meeting which we've already heard a lot
19 about the board was asked to approve an employment agreement
20 that gave Mr. LaPierre certain authorities; isn't that right?

21 A Yes.

22 Q Okay. At that meeting you did not know that the NRA would
23 be filing for bankruptcy approximately one week later; isn't
24 that right?

25 A No, I didn't.

1 Q Okay. But you did know at that time that bankruptcy had
2 been under consideration for a number of months, didn't you?

3 A Yes.

4 Q You didn't tell the board at that meeting that the NRA was
5 exploring the possibility of bankruptcy, did you?

6 A No, I --

7 MR. CICILIANO: Objection to the extent it calls for
8 communications protected by the attorney-client privilege.

9 THE COURT: You may answer that question, sir.

10 THE WITNESS: I'm sorry, no, I did not say that to
11 the board.

12 BY MS. STERN:

13 Q And during the board meeting that day you never heard
14 yourself any discussion about filing for bankruptcy, did you?

15 A No.

16 Q You never heard any discussion about seeking protection
17 under Chapter 11 of the Bankruptcy Code, did you?

18 A No.

19 Q And the board meeting, there was a general open session,
20 right?

21 A Yes.

22 Q Okay, and bankruptcy, Chapter 11, no discussion during the
23 open session; isn't that right?

24 A Yes.

25 Q Okay. And then there was an executive session of the

1 board where the employment agreement was discussed, correct?

2 A Yes.

3 Q And you attended the executive session, right?

4 A Yes, I did.

5 Q Okay. And during the executive session, which is the
6 session where the NRA discusses things that we've heard are
7 sensitive, that they're concerned about disclosure, during the
8 executive session there was no discussion about bankruptcy
9 explicitly, correct?

10 A Not to my recollection.

11 Q And there was no discussion about seeking protection under
12 Chapter 11 to reorganize the NRA, was there?

13 A Not that I recall.

14 Q And then there was a third portion of the board meeting
15 that day that concerned a resolution to give appropriate
16 authority to the special litigation committee, but you didn't
17 attend that session, right?

18 A Yes, that's right.

19 Q And you didn't attend that session because of what you
20 refer to, the conflict issue; is that right?

21 A Yes.

22 Q Okay. Can I ask you to turn to NYAG Exhibit 54, please?

23 MS. STERN: And I would offer this exhibit, NYAG
24 Exhibit 54, into evidence.

25 THE WITNESS: Excuse me one moment.

1 MR. CICILIANO: Debtors have no objection, Your
2 Honor.

3 THE COURT: Thank you. 54 is in.

4 (NYAG Exhibit 54 admitted into evidence)

5 MS. STERN: Thank you.

6 THE WITNESS: And I apologize, it's opening on the
7 wrong screen and I'm trying to figure out how to fix that,
8 but --

9 BY MS. STERN:

10 Q Can you slide it over? And, again --

11 A That worked, yeah, okay.

12 Q -- I'm the wrong person to give you technical advice.

13 A I'm sorry, I had to exit and reopen. So I have it.

14 Q Okay. So, Mr. Frazer, are -- is this document, NYAG
15 Exhibit 54, your notes on -- notes with the agenda and reports
16 from that January 7th meeting?

17 A Yes, it is.

18 Q Okay. Can you turn now to New York Attorney General
19 Exhibit 50, Mr. LaPierre's employment agreement, which has been
20 entered into evidence?

21 A Okay, I have it.

22 MS. STERN: Okay. Can you bring it up on the screen,
23 please?

24 Q Okay, we're going to try again, see if we solved the share
25 screen issue here, and put it up so that we can all see it at

1 the same time.

2 Okay. For this employment agreement, you had not reviewed
3 it before it was presented to the board for approval; isn't
4 that right?

5 A That's correct. I want to note again for anyone else's
6 benefit, I -- I'm not seeing the shared content there. Of
7 course, I have the exhibit on the other monitor.

8 Q Okay. I want to just try to keep moving for the benefit
9 of Judge Hale and everyone else attending here, so we'll try to
10 push through.

11 So can I turn your attention to paragraph 2 of the
12 employment agreement?

13 A Yes.

14 Q Okay. And this -- the paragraph entitled duties and
15 compensation, and it provides:

16 Employee shall serve as the executive vice president of
17 the association -- that's Mr. LaPierre -- and shall direct all
18 the affairs of the association in accordance with the programs
19 and policies established by the board of directors.

20 And that's in keeping with the authority that's given to
21 Mr. LaPierre under the bylaws, isn't it?

22 A It's similar language.

23 Q Okay. And among his authorities, employee, Mr. LaPierre,
24 shall be empowered to exercise corporate authority in
25 furtherance of the mission and interests of the NRA, including,

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1 without limitation, to reorganize or restructure the affairs of
2 the association for purposes of cost minimization, regulatory
3 compliance, or otherwise.

4 Did I read that correctly?

5 A Yes, you did.

6 Q Okay. And you can't testify here today that the board was
7 informed that this language in the employment agreement which
8 we just focused on gave Mr. LaPierre the authority to file
9 bankruptcy; isn't that correct?

10 MR. CICILIANO: Objection; calls for speculation.

11 THE COURT: Overruled. Witness may answer the
12 question.

13 THE WITNESS: I don't recall any discussion of that.

14 BY MS. STERN:

15 Q So this -- so it's fair to say, then, that this -- that
16 particular sentence which I highlighted to you and has been the
17 subject of much discussion, without limitation, to reorganize
18 or restructure the affairs of the association for purposes of
19 cost minimization, regulatory compliance, or otherwise, that
20 wasn't discussed with the board that day, was it?

21 A Not that I recall.

22 Q You agree that the terms reorganize or restructure the
23 affairs of the association do not necessarily mean bankruptcy.

24 A They could have a variety of meanings.

25 Q And you are aware that to the -- you are aware -- you're

1 familiar with Judge Journey who has filed a motion to appoint
2 an examiner in the bankruptcy matter; is that right?

3 A Yes, I am.

4 Q And you're familiar with Judge Journey because he's a
5 director of the NRA and you communicate with the directors on
6 the board, right?

7 A Yes.

8 Q Okay. And are you aware that Judge Journey has
9 testified -- well, actually, let me just restate that.

10 Judge Journey has testified as follows: When I read
11 that -- referring to that language that we were just focusing
12 on -- when I read that, we reorganize the NRA all the time. We
13 create committees. We do all kinds of things that are not what
14 would have been contemplated as what occurred. So, you know, I
15 did not -- I'm a little mad at myself because I didn't make
16 that link. Referring to the link to bankruptcy.

17 If Judge Journey testified in that -- that's his
18 testimony, with his years of legal experience reviewing legal
19 documents, if he didn't understand that the employment
20 agreement authorized Mr. LaPierre to file bankruptcy, would you
21 agree that the agreement was not clear?

22 MR. CICILIANO: Objection, Your Honor. The question
23 contained hearsay. It assumes facts not in evidence.

24 THE COURT: Sustained.

25 MS. STERN: Okay. We can move on.

1 BY MS. STERN:

2 Q Duane Liptak is another board member who was present at
3 the January 7th meeting, wasn't he?

4 A Yes. He was a board member.

5 Q He didn't know that the employment agreement authorized
6 Mr. LaPierre to file bankruptcy, did he?

7 A I don't know if he knew that or not.

8 Q Didn't Mr. Liptak contact you after he learned of the
9 bankruptcy filing to ask you why bankruptcy had not been
10 discussed at the board meeting?

11 A Yes, he did.

12 Q And Mr. Liptak then resigned from the board, didn't he?

13 A Yes, he did.

14 Q Can I ask you to turn to -- sorry. No, actually, we're
15 going to just move on to NYAG Exhibit 201.

16 MS. STERN: And I offer NYAG Exhibit 201 into
17 evidence.

18 MR. NOALL: Debtors will not object, Your Honor.

19 THE COURT: 201's in evidence.

20 (NYAG Exhibit 201 admitted into evidence)

21 BY MS. STERN:

22 Q So, Mr. Frazer, this is Mr. Liptak's notice of -- a letter
23 of resignation on January 19th, 2021 from the board of the NRA.
24 Isn't it?

25 A Yes, it is.

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1 Q And in this letter, Mr. Liptak states that -- if you look
2 in toward the middle of the paragraph: "However, in the current
3 organizational environment, I am no longer able to effectively
4 perform the duties of a director with what I feel is the
5 appropriate level of oversight required." Do you see that?

6 A Yes.

7 Q And you understand that Mr. Liptak resigned after raising
8 his concerns about the fact that bankruptcy was not mentioned
9 at the meeting that occurred on January 7th. Is that right?

10 A Yes.

11 Q Okay. And I would just ask you to turn to the Ackerman
12 exhibits, Ackerman Exhibit 68.

13 A Okay. I have it.

14 Q Okay.

15 MS. STERN: And I'd offer Ackerman Exhibit 68 into
16 evidence.

17 MR. NOALL: Debtors have no objection.

18 THE COURT: Ackerman 6 --

19 MS. STERN: Thank you. And --

20 THE COURT: -- pardon me just a second. Ackerman
21 68's in evidence.

22 (Ackerman's Exhibit 68 admitted into evidence)

23 MS. STERN: I apologize, Your Honor. I keep jumping
24 right in.

25 BY MS. STERN:

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1 Q And, Mr. Frazer, is Ackerman Exhibit 68 an email -- this
2 is the email that Mr. Liptak sent you on January 15th, 2021
3 when he learned -- when you announced to the board that the NRA
4 had filed for bankruptcy and he writes: "Am I to assume that no
5 one thought this worthy of discussion when the board was
6 assembled eight days ago?" And below is a copy -- is the email
7 that you sent reporting on the fact of the bankruptcy filing?

8 A Yes.

9 Q So given Judge Journey's and Mr. Liptak's complaints and
10 your own acknowledgment that the terms "restructure" and
11 "reorganize" could have different meanings, would you agree
12 with me that the employment agreement did not put the board on
13 notice that they were authorizing Mr. LaPierre to unilaterally
14 file a petition in bankruptcy?

15 MR. NOALL: I would object to the question, Your
16 Honor, because it calls for a legal conclusion and,
17 additionally, it calls for the speculation of what was in the
18 mind of the directors.

19 THE COURT: Response?

20 MS. STERN: No. I'm asking him his view in his role
21 as the secretary of the board as to whether or not the document
22 gave the board of directors sufficient notice of the action
23 that they were asking the board to authorize.

24 Sorry, let me restate that. That the power that they
25 were asking the board to approve of.

1 THE COURT: Overruled.

2 THE WITNESS: I -- I don't know that I would agree
3 with that now.

4 BY MS. STERN:

5 Q All right. The board could have held a meeting -- I'm
6 sorry, let me restate that. The NRA could have held a meeting
7 with the board and told the board that they wanted to give Mr.
8 LaPierre authority to file for bankruptcy if necessary.
9 Couldn't they?

10 A Yes.

11 Q But they didn't do that. Right?

12 A No.

13 Q But they didn't do that expressly?

14 A Right.

15 Q Okay. And they didn't do that on January 7th. Correct?

16 A That's correct.

17 Q And they didn't do that in any other time between January
18 7th and January 15th. Isn't that right?

19 A Yes.

20 Q Okay. So just a couple of questions for you about the
21 special litigation committee. When the special litigation
22 committee was established in September 2020, it was a special
23 committee created by the president of the board, Carolyn
24 Meadows. Wasn't it?

25 A Yes.

1 Q And at that time, it did not have appropriate authority.

2 Isn't that right?

3 A Yes.

4 Q Okay. So the board's resolution on January 7th was
5 necessary to give the special litigation committee appropriate
6 authority. Wasn't it?

7 A Yes.

8 Q Okay. Can I ask you to look at NYAG Exhibit -- sorry,
9 hold on one second. Sorry, I'm going to skip this and come
10 back because this is not the right exhibit and I don't want to
11 waste the Court's time. So we talked about before that the
12 special litigation committee was created to give authority to
13 the SLC over matters where you and Mr. LaPierre had a conflict
14 or potential conflict. Is that fair?

15 A Yes.

16 Q And that arose out of the lawsuit that the New York
17 Attorney General brought in August 2020 where you and Mr.
18 LaPierre were each named as individual defendants. Correct?

19 A Yes.

20 Q Okay. And the special litigation committee was given
21 authority to oversee the -- that matter along with the DCAG's
22 action. Isn't that right?

23 A Yes.

24 Q And -- okay. Can we turn to -- I see, sorry -- New York
25 Attorney General Exhibit 2 if you don't have that yet in front

1 of you? And it's already admitted into evidence my colleague
2 Mr. Wang informed me. Do you have that?

3 A Yes, I do.

4 Q Okay. So looking at the last paragraph identifies the
5 corporate authority that's being delegated to the special
6 litigation committee. Doesn't it?

7 A Yes.

8 Q Okay. And it lists the prosecution defense of the lawsuit
9 that we just discussed, The People of the State of New York
10 versus the National Rifle Association, pending in New York
11 State Supreme Court. Correct?

12 A Yes.

13 Q And the litigation caption, The National Rifle Association
14 versus Letitia James, and that's pending in the Northern
15 District of New York. That's a lawsuit that the NRA brought I
16 believe on the same day that the -- following the filing of the
17 New York AG action. Isn't that right?

18 A Yes.

19 Q Okay. And then the third item is the litigation caption,
20 District of Columbia versus The NRA Foundation, and the NRA is
21 also a defendant in that lawsuit. Correct?

22 A Yes.

23 Q So those are all the matters that were identified as
24 within the purview of the special litigation committee that
25 were specifically identified. Isn't that right?

1 A Yes.

2 Q Okay. And then the fourth item is a catch-all of any
3 additional legal proceedings arising from the same facts,
4 circumstances, or allegations as the foregoing, the foregoing
5 because those specific litigations that we discussed. Right?

6 A Yes.

7 Q Okay. There's nothing in this resolution that gives the
8 special litigation committee authority to take action to file
9 for bankruptcy. Does it?

10 A I'm not sure I agree with that, no.

11 Q Where in the resolution do you see it identifying
12 authority to file for bankruptcy?

13 A It doesn't specifically refer to bankruptcy.

14 Q Okay. And there's nothing in the resolution that
15 specifically authorizes the special litigation committee to
16 take any actions to reorganize the NRA. Is there?

17 A There's no reference to that expressly.

18 Q And there's also no reference to giving the special
19 litigation committee the authority to restructure the NRA. Is
20 there?

21 A Nothing express.

22 Q Okay. And there's also no authority being granted
23 pursuant to this resolution expressly to seek protection under
24 Chapter 11 of the Bankruptcy Code. Isn't that right?

25 A Nothing express, no.

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1 Q Okay. Mr. Frazer, you're not conflicted on issues related
2 to the bankruptcy. Isn't that right?

3 A I have not considered myself conflicted, no.

4 Q Okay. And not at any time?

5 A No.

6 Q Okay. And if bankruptcy was within the purview of the
7 special litigation committee, that will be because you and Mr.
8 LaPierre would have to be recused from overseeing it because of
9 the conflicts that gave rise to the creation of a special
10 litigation committee. Isn't that right?

11 A I'm -- I'm sorry. I'm not sure I followed the question
12 100 percent.

13 Q Okay. It was probably a little too convoluted. Mr.
14 LaPierre has testified that he did not seek your input on
15 filing bankruptcy because it presented a conflict of interest
16 for you. Is he wrong? Sorry, let me say that again. Isn't he
17 wrong?

18 A I'm not familiar with his testimony and so I'm not sure
19 what the context of -- of the statement would be.

20 Q Okay. But you do not perceive yourself to having any
21 conflict of interest such that you would not be able to oversee
22 the bankruptcy matter. Isn't that right?

23 A That's right.

24 Q Okay. You notified the board on January 15th that the NRA
25 was filing for bankruptcy. Isn't that right?

1 A Yes.

2 Q Okay. And could you turn to NYAG Exhibit 55, please?

3 MS. STERN: And I'd offer that NYAG Exhibit 55 into
4 evidence.

5 MR. NOALL: Debtors have no objection, Your Honor.

6 THE COURT: Thank you. 55's in.

7 (NYAG Exhibit 55 admitted into evidence)

8 BY MS. STERN:

9 Q And this NYAG Exhibit 55 is an email that you sent to the
10 board and the executive counsel, members conveying a message
11 from the executive vice-president of the NRA, Wayne, LaPierre.
12 Isn't that right?

13 A Yes, it is.

14 Q Okay. And this is the first notice to the board of the
15 NRA's decision to file bankruptcy. Isn't it?

16 A Yes, it is.

17 Q You didn't tell the board that you too learned that same
18 day that the NRA filed for bankruptcy. Did you?

19 A No, I did not.

20 Q And you've never informed the board that you had not
21 learned of the bankruptcy filing until the very same day that
22 they learned?

23 A No, I haven't.

24 Q Mr. Frazer, you were aware about the formation of Sea
25 Girt, the Texas LLC. Weren't you?

1 A Yes.

2 Q You were aware of that back in the fall of 2020. Isn't
3 that right?

4 A Yes.

5 Q Okay. Sea Girt, LLC is a for-profit LLC. Isn't it?

6 A Yes.

7 Q You were personally involved in the formation of the
8 entity?

9 A To a degree, yes.

10 Q And Sea Girt has no employees. Correct?

11 A Yes.

12 Q And it has no operations other than as it relates to the
13 bankruptcy. Isn't that right?

14 A Yes.

15 Q And the purpose of creating Sea Girt was to assist in
16 potential restructuring and relocation of the NRA to Texas.
17 Isn't that right?

18 A Yes.

19 Q And there was no other purpose?

20 A I don't know that there was no other purpose.

21 Q You sitting here today cannot identify any other purpose
22 for the creation of -- formation of Sea Girt. Isn't that
23 right?

24 A Sitting here today, no.

25 Q Sea Girt is the only entity affiliated with the NRA in

1 Texas. Isn't that right?

2 A Yes. Well, just -- I'm sorry. It's the only subsidiary
3 of -- of the NRA in Texas. We have many affiliated
4 organizations in Texas.

5 Q But it's the only corporate entity that is part of the NRA
6 sort of network of C4-C3s LLCs, correct, that's in Texas?

7 Isn't that right?

8 A Well --

9 MR. NOALL: Objection; vague and ambiguous.

10 THE COURT: Sustained. Do you want to restate your
11 question?

12 MS. STERN: We can move on, Your Honor. It's fine.

13 BY MS. STERN:

14 Q Is it your understanding that the basis on which the NRA
15 obtained venue in Texas was through the Sea Girt entity?

16 A Yes.

17 Q Now following the bankruptcy, after the bankruptcy was
18 filed, you discussed before Judge Journey filed a motion to
19 appoint an examiner. Do you recall that?

20 A Yes.

21 Q And do you recall that the president of the board, Ms.
22 Meadows, asked you to send a notice to the board members
23 concerning Judge Journey's legal filing? Do you recall that?

24 A I don't recall if she asked me personally.

25 Q But you did send a message to the board on behalf of Ms.

1 Meadows. Didn't you?

2 A Yes, I did.

3 Q Okay. Can you turn to NYAG Exhibit 162, please?

4 MS. STERN: And I offer -- sorry, NYAG Exhibit 162
5 into evidence.

6 MR. NOALL: Debtors have no objection, Your Honor.

7 THE COURT: New York AG 163 is in.

8 MS. STERN: 162, Your Honor.

9 THE COURT: I'm sorry, 162. Let me get that one on
10 the screen then.

11 MS. STERN: Okay.

12 THE COURT: My fault. Hold on. NYAG 162 is in.

13 MS. STERN: Okay, thank you.

14 (NYAG Exhibit 162 admitted into evidence)

15 BY MS. STERN:

16 Q In this email that you forwarded to the board, which is
17 signed "Thanks, Carolyn" from -- that's Carolyn Meadows,
18 correct, president of the board of the NRA? Isn't that right?

19 A Yes.

20 Q Okay. And she writes in the second paragraph:

21 "Unfortunately, Board Member Phil Journey" -- that's Judge
22 Journey, correct --

23 A Yes.

24 Q -- "filed a motion today for entry of an order appointing
25 an independent examiner in the NRA's Chapter 11 proceedings.

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1 My understanding is that such a filing often occurs in
2 proceedings as complex as our reorganization but typically by
3 those who are trying to interfere otherwise with the plan." Do
4 you see that?

5 A I do.

6 Q And then Ms. Meadows goes on to -- let me just direct you
7 to a specific passage. Okay, if you'd turn to the second page
8 of the email. She also further writes, "Beyond other glaring
9 errors and omissions, I'm saddened to say the legal filing
10 includes many outright untruths." And she further calls Mr.
11 Journey's actions disgraceful in the next paragraph.

12 Would you agree with me that Judge Journey is claiming
13 that -- has claimed that the NRA violated its bylaws in
14 connection with filing for bankruptcy? Didn't he?

15 MR. NOALL: Your Honor, I think that misstates what's
16 in the correspondence, and also the question is vague and
17 ambiguous because it's so long. I can't even understand it.

18 THE COURT: Why don't you just -- why don't you
19 restate your question, Ms. Stern.

20 BY MS. STERN:

21 Q Okay. So let's go back. Mr. Frazer, you admit that --
22 you acknowledge that Ms. Meadows wrote to the board and accused
23 Mr. Journey of trying to interfere with the bankruptcy plan.
24 Did she not?

25 A She -- I'm not -- I'm not sure -- that's -- if that's what

1 she's saying in the -- in her use of the word "interfere."

2 Q She refers to his motion as trying to interfere with the
3 plan. Do you see that in paragraph 2? That's what she says.
4 Isn't that right?

5 A Well, I don't think that's quite what she says.

6 Q Okay. She states there: "My understanding is that such a
7 filing, Mr. Journey's filing, often occurs in proceedings as
8 complex as our reorganization but typically by those who are
9 trying to interfere with the plan." And are you suggesting
10 that she does not -- is not referring to his motion as in some
11 way interfering?

12 A Well, he's -- he's --

13 Q I'm asking you what Ms. Meadows is articulating in the
14 email that you sent to the board on her behalf.

15 MR. NOALL: Your Honor, I think the question calls
16 for speculation. The document speaks for itself. I think that
17 --

18 MS. STERN: Okay. Let's go with the document speaks
19 for itself and we'll move on.

20 THE COURT: I sustain the objection.

21 BY MS. STERN:

22 Q Mr. Frazer, do you agree with me that Judge Journey has
23 claimed that the NRA has violated the bylaws by filing -- in
24 connection with its filing for bankruptcy?

25 A I -- I don't recall exactly what he says, if anything,

1 about the bylaws in his filing.

2 Q Okay. You're the general counsel of the NRA. Are you
3 monitoring the bankruptcy proceedings?

4 A I am. I just don't recall a specific reference to that --

5 Q Okay. And have you --

6 A -- his specific statement about that issue.

7 Q Okay. Have you reviewed Judge Journey's motion papers?

8 A Yes, I have.

9 Q Okay. And if Judge Journey did claim that the NRA had
10 violated its bylaws, wouldn't Judge Journey be a whistleblower?

11 A I'd -- I'd have to -- I'd have to analyze that under our
12 whistleblower policy. Sitting here today, I don't know that I
13 can answer that.

14 Q But you haven't actually considered that question. Is
15 that right?

16 A I think that's right.

17 Q Do you have any reason --

18 MR. NOALL: Your Honor, I think the question is vague
19 and ambiguous with respect to whether the question involves
20 Judge Journey's legal documents that he's filed with the Court
21 or is she asking the witness for a legal conclusion.

22 THE COURT: Ms. Stern, I inferred you were talking
23 about the motion to appoint an examiner. Was my inference
24 correct?

25 MS. STERN: That's correct.

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1 THE COURT: All right. Answer it with that
2 understanding, Mr. Frazer, if you can.

3 THE WITNESS: And I apologize, Your Honor, but -- but
4 could I ask Counsel to -- to restate the question with that
5 understanding?

6 THE COURT: Absolutely.

7 BY MS. STERN:

8 Q I'm asking you, Mr. Frazer, is Judge Journey a
9 whistleblower in light of the issues that he's raised in his
10 motion to appoint an examiner?

11 A Without having the whistleblower policy in front of me to
12 draw that conclusion, I don't know that I can answer that.

13 Q Do you have any reason to question whether Judge Journey
14 is acting in good faith?

15 A I think I might.

16 Q Okay. On what basis?

17 A I don't know that I can point to -- I don't know that I
18 could point to a specific reason, I'm afraid. But given the
19 history of his -- of his past board service, I -- it's
20 something that I would kind of wonder about.

21 Q Sitting here today, you have done no assessment of Judge
22 Journey's complaint as to whether or not it's a whistleblower
23 complaint. Isn't that right?

24 A As to whether it's a whistleblower complaint, no, I
25 haven't analyzed that.

1 Q Okay. Would you consider it retaliation against a board
2 member if the president of board impugned that board member for
3 raising an issue -- sorry, raising a claim of a violation of
4 the bylaws?

5 A I -- I don't know that I would.

6 Q Other directors have alleged retaliation by Mr LaPierre
7 when they disagreed with them. Isn't that right?

8 A Yes.

9 Q And Lieutenant Colonel Oliver North is one of those
10 directors who alleged that he was retaliated against in 2019
11 after he sought an audit of the board's firm's billings. Isn't
12 that right?

13 A Yes, he has.

14 Q And didn't three board members, Esther Schneider, Sean
15 Maloney, Timothy Knight, didn't they all resign from the board
16 in the summer of 2019 after they were stripped of committee
17 assignments after they raised questions concerning allegations
18 of Mr. LaPierre's spending and other financial excesses?

19 A Yes.

20 Q And the NRA has actually also received complaints of
21 retaliation by Mr. Brewer from one of the whistleblowers who
22 was on the finance staff of the NRA. Didn't it?

23 A I don't know that I can answer that without reference to a
24 -- to a document or to the specific allegations.

25 Q Okay. Can we try this one more time? Let's see if we can

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1 get your testimony. Share screen on the 30(b)(6), please.

2 And, Mr. Frazer, if you can turn to your transcript, page 185.

3 MR. NOALL: Could you restate the page number,
4 please, Counsel?

5 MS. STERN: Yes, 185 of the 30(b)(6) that's on March
6 15th.

7 THE WITNESS: Okay.

8 MS. STERN: Could I have just one moment, please?

9 THE COURT: Sure.

10 (Pause)

11 MS. STERN: Okay. Your Honor, I apologize for taking
12 a break. My colleagues have just alerted me to the fact that
13 in this excerpt of the testimony that I would like to draw the
14 witness's attention to, it refers to, although with very
15 incorrect and garbled spelling, the name of a whistleblower
16 that we are keeping confidential. And --

17 THE COURT: How can we handle that? Let me ask out
18 to debtor's counsel, too. I'd like to handle that in the least
19 disruptive way as we can.

20 MS. STERN: What we're trying to do, Your Honor, is
21 to just bring up the testimony with the name redacted, but we
22 do need a moment to do that.

23 THE COURT: Okay.

24 MS. STERN: And so if I could indulge in the Court
25 for this -- for just a brief pause --

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1 THE COURT: You can indulge.

2 MR. NOALL: Your Honor?

3 MS. STERN: -- while I do that?

4 THE COURT: Yes.

5 MS. STERN: Thank you.

6 MR. NOALL: If I may? Thank you. One issue I think
7 we may have here is that this testimony is predicated upon a
8 document underscoring it, which also would have to be
9 maintained confidential. And we have objections to the
10 admissibility of that document predicated primarily on
11 foundation.

12 THE COURT: Can you respond to that, Ms. Stern?

13 MS. STERN: I think -- okay, I'm sorry, Your Honor.

14 THE COURT: It's okay.

15 MS. STERN: I apologize for jumping in.

16 THE COURT: Can you respond to that?

17 MS. STERN: Yeah. I was going to respond that I
18 think Counsel is anticipating an issue that we don't yet have
19 before the Court. And so I'm asking him about his testimony
20 right now.

21 THE COURT: Okay.

22 MS. STERN: And I understand the point, and I will,
23 you know, proceed accordingly.

24 MR. NOALL: My point simply is, Your Honor, that the
25 evidence can't come in when it's predicated upon a writing

1 which is inadmissible.

2 THE COURT: All right. I'm going to have to see
3 something before I can give you some guidance.

4 MS. STERN: Okay. We're dancing as fast as we can
5 over here, Your Honor. Our redaction issue is not working, so
6 let me try to see if there's another way to do it, which is --
7 right now I'm just using the testimony and if we can all follow
8 it, I will just not state the name of the individual.

9 THE COURT: All right.

10 MR. NOALL: So, Your Honor, I will proffer that the
11 underlying document is an unsigned document that was allegedly
12 slipped under a door. And I don't think that there's any way
13 that the document itself can come into evidence.

14 THE COURT: All right. I'm going to just have to
15 carry your objection. Obviously, I'm sort of in the dark right
16 here, too. So I understand. All right.

17 BY MS. STERN:

18 Q Okay. If we can just proceed with the question with
19 respect to I believe that my -- the context was I raised the
20 question as to whether or not the NRA received complaints of
21 retaliation by Mr. Brewer. And my understanding is that the
22 witness has denied that to be the case, and I'm calling your
23 attention to testimony on page 185, line 21:

24 "Q Did anyone ever address concern to you about Bill Brewer
25 being -- Bill Brewer or his firm retaliating or threatening

1 witnesses?

2 "A Yes. Ms. [Blank] made some allegations along these
3 lines."

4 Does that refresh your recollection that you did receive
5 complaints along those lines?

6 MR. NOALL: Your Honor, I object to the extent that
7 the testimony's coming from the 30(b)(6) deposition which is
8 from the debtor NRA, and she's asking him personally about his
9 understanding.

10 THE COURT: I overrule that objection.

11 Can you answer the question, Mr. Frazer?

12 THE WITNESS: I'd be happy to if -- if -- I'm sorry,
13 Counsel can restate the question.

14 BY MS. STERN:

15 Q Okay. I think my question was does the testimony that I
16 just read, and I'm happy to re-read it, refresh your
17 recollection that the NRA did, in fact, receive complaints of
18 retaliation by Mr. Brewer or his firm? I'd turn your attention
19 again to page 185, line 21. Do you see the testimony there?

20 A Yes, it does refresh my recollection.

21 THE COURT: All right. If you could just hold on so
22 that I can visit my law clerk about the pending objection.

23 (Pause)

24 THE COURT: The pending objection is also overruled.

25 MS. STERN: Thank you, Your Honor.

1 BY MS. STERN:

2 Q And one other question on this topic, Mr. Frazer, and was
3 the complaint that was made to you that Mr. Brewer was or his
4 firm were creating burn books on employees at the NRA?

5 MR. NOALL: Objection, Your Honor. Foundation.

6 THE COURT: You want to go a little bit backwards and
7 lay some foundation on this so the record's clear?

8 MS. STERN: Yes, Your Honor.

9 BY MS. STERN:

10 Q We agree that there was a complaint made that Mr. Brewer
11 or the Brewer firm were retaliating against witnesses. Isn't
12 that right?

13 A (No audible response).

14 Q And that complaint -- I'm asking you is that complaint
15 concerned Mr. Brewer or his firm creating burn books concerning
16 employees at the NRA?

17 A As I -- as I testified in my 30(b)(6) deposition, we did
18 receive a communication from an individual who alleged that the
19 firm had created burn books.

20 Q And you yourself never confronted Mr. Brewer about that
21 allegation. Did you?

22 A Not to my recollection.

23 Q Okay.

24 THE COURT: Ms. Stern, my courtroom deputy has sent a
25 message in her that someone has requested that we take a short

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1 break which I think probably it would be enough time to do
2 that. Mr. Frazer's been testifying for a couple of hours, I
3 think.

4 Let me just ask -- I'm holding anybody to minutes and
5 things like that, but how much longer do you think that you
6 have with Mr. Frazer?

7 MS. STERN: It's always the hardest question to ask
8 an attorney how many more questions they have. Well, one, I
9 can say that this is a perfect moment to stop so that's one
10 answer that I hope is satisfactory to the Court. I would say
11 that I have a couple of more -- well, several more topics that
12 I'm going to need to cover with this witness, Your Honor.

13 THE COURT: All right.

14 MS. STERN: I would say probably just to gauge
15 expectations here, at least an hour or so.

16 THE COURT: Okay. And then Ackerman, who's going to
17 do the questioning of Mr. Frazer?

18 MR. GRUBER: Your Honor, this is Mike Gruber. I'm
19 going to be doing the questioning, and I probably have total of
20 an hour and a half to two hours.

21 THE COURT: Okay. We're going to go to about the
22 same time that we did yesterday, so that will be about eight
23 hours of court time. So I don't think we're going to finish
24 with you today, Mr. Frazer, but I will give you a 15-minute
25 rest before we start back with you.

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1 I think you probably know that the rule's been
2 invoked, so don't speak with anyone about your testimony while
3 we're in the break, all right?

4 (Recess at 3:53 p.m./Reconvened at 4:09 p.m.)

5 THE COURT: Ms. Stern, are you ready?

6 MS. STERN: Yes, Your Honor.

7 THE COURT: Mr. Frazer's back.

8 MS. STERN: Okay.

9 BY MS. STERN:

10 Q Mr. Frazer, just one question just on the topic that we
11 were talking about before the break, we were talking about a
12 complaint from a whistleblower. And just to confirm, the
13 whistleblower that made that complaint whose identity is --
14 we're not going to divulge, but that whistleblower was one of
15 the whistleblowers from the finance group that brought
16 complaints to the attention of the audit committee in the
17 summer of 2018. Isn't that right?

18 A If you're talking about the same individual that I
19 referred to in my 30(b)(6) testimony, then yes.

20 Q And that is the whistleblower that brought the complaints
21 about the Brewer -- Mr. Brewer and the Brewer firm. Isn't that
22 right?

23 MR. NOALL: Your Honor, I object to the
24 characterization of the particular witness in this instance as
25 a whistleblower.

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1 THE COURT: Could you just elaborate on that
2 objection? I just want to make sure I understand it.

3 MR. NOALL: I think that there's a lack of foundation
4 that the -- as I mentioned before, based upon a writing. I'll
5 try and clean it up in my -- when I question the witness, but
6 I'd at least like the Court to reserve its determination with
7 respect to this matter. I don't believe that the particular
8 individual who made the statement, if it was made by that
9 person at all, is necessarily a whistleblower under the NRA's
10 whistleblower policy.

11 THE COURT: I'm not sure exactly how to rule on that.
12 Ms. Stern, do you have a response for that?

13 MS. STERN: Yes, Your Honor. I'm just trying to
14 confirm that we're not going to identify the individual that
15 made the complaint. But there has been testimony that there
16 were a group of individuals within the finance function at the
17 NRA that brought complaints to the attention of the audit
18 committee which have been acknowledged to be whistleblower
19 complaints. And I'm simply seeking to just confirm that the
20 complaint that we've been discussing was from one of the
21 individuals in that group. That's simply --

22 THE COURT: All right.

23 MS. STERN: -- the purpose of the question.

24 THE COURT: With that understanding, without
25 designating that person as a whistleblower as to Brewer, I'm

1 going to overrule the objection.

2 BY MS. STERN:

3 Q Mr. Frazer, can you answer the question, please?

4 A And I'm -- and I'm sorry, with all -- after all the
5 discussion, I'm not sure I recall the question, if you could --

6 THE COURT: In fact- -

7 THE WITNESS: -- restate it.

8 THE COURT: Yeah, could you just restate the question
9 so that maybe you can just get an answer out of Mr. Frazer?

10 MS. STERN: Certainly. Certainly, Your Honor.

11 BY MS. STERN:

12 Q Mr. Frazer, my question to you is the individual that made
13 a complaint to the NRA alleging that there was -- alleging
14 retaliation by Mr. Brewer or the Brewer firm, is that
15 individual one of the finance department employees that brought
16 complaints to the attention of the audit committee in the
17 summer of 2018?

18 A I'm not sure I would agree with the characterization of
19 retaliation, but I -- but I believe we're referring to the same
20 individual.

21 Q Just to make sure the record's clear, we're referring to
22 one of the individuals who brought other complaints to the
23 attention of the audit committee. Isn't that right?

24 A Yes.

25 Q Okay, thank you. Okay. Mr. Frazer, you attended a

1 special meeting of the board of directors of the NRA on March
2 28th, 2021. Didn't you?

3 A Yes, I did.

4 Q Okay. And that meeting was an in-person meeting.

5 Correct?

6 A Yes.

7 Q And are you aware of any reason why they did not use
8 electronic attendance -- the electronic attendance process
9 under the bylaws for that special meeting?

10 A Yes.

11 Q What was that reason?

12 A I think there were a couple of reasons. One is that I'm
13 not sure it would have been authorized under the bylaws. And
14 the other reason is that there's a strong preference for in-
15 person meetings to enable better -- better interaction between
16 board members and staff.

17 Q And would you agree with me that under the current
18 circumstances where travel is restricted or certainly difficult
19 during the COVID pandemic that a meeting electronically would
20 facilitate greater attendance of more board members? Would you
21 agree with me?

22 A I'm not sure I would.

23 Q Okay. And at that meeting, there was a vote on a
24 resolution to ratify the bankruptcy filing. Wasn't there?

25 A Yes.

1 Q And that vote was taken by a roll call. Is that right?

2 A Yes.

3 Q The roll-call vote is governed by a particular procedure
4 under the bylaws. Isn't that right?

5 A Yes.

6 Q Okay. And the procedure just generally requires a
7 specific request to go by roll call. Doesn't it?

8 A Yes.

9 Q Okay. And it requires agreement approval among a certain
10 number of directors that are in attendance at the meeting.
11 Isn't that right?

12 A Yes.

13 Q So it's not the standard practice by which the NRA takes a
14 vote at a meeting. Isn't that right?

15 A It's one of several options. It's not the most common.

16 Q Okay. And the roll-call procedure also requires that you
17 as the secretary cause the vote to be published in the NRA's
18 official journal. Isn't that right?

19 A We have a couple of different provisions about -- about
20 roll calls. One of them requires that; the other one doesn't.
21 But --

22 Q The provision that was put in place at the March 28th
23 meeting, that required publication. Didn't it?

24 A Yes.

25 Q Okay. And that publication would entail identifying each

1 director that voted and how they voted. Isn't that right?

2 A Yes.

3 Q Okay. And there were no roll-call votes taken on the
4 resolutions adopted at the January 7th meeting. Were there?

5 A No.

6 Q Okay. Mr. Frazer, you're aware that the NRA has made
7 statements to the public -- sorry, let me restate that. When
8 the NRA filed for bankruptcy, you are aware that the NRA made
9 various public statements about its bankruptcy filing.

10 Correct?

11 A Yes.

12 Q And you would agree with me that when the NRA is
13 making a public statement concerning a legal matter, that's
14 something that you personally as the general counsel would want
15 to assure is accurate. Correct?

16 A Not at all in senses. No.

17 Q You wouldn't want to make sure that if representations
18 were being made to the public about a legal matter that the NRA
19 was in, you wouldn't want to make sure that that was actually
20 accurate?

21 A I -- I apologize. Maybe I misunderstood your question as
22 you originally phrased it. But I would want our public
23 statements about legal matters to be accurate, yes.

24 Q So if a statement was made, wasn't run by you before, but
25 it was wrong, you would seek to correct that. Wouldn't you?

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1 A If there was something -- if there was a significant
2 error, I'd have to take it case-by-case.

3 Q Okay. Can you turn please to NYAG Exhibit 100?

4 THE COURT: And I'd like to offer Exhibit 100 into
5 evidence.

6 MR. NOALL: Objection, Your Honor. No objection.

7 THE COURT: NRA --

8 MS. STERN: This is the --

9 THE COURT: Hold on just a second.

10 MS. STERN: I'm sorry, Your Honor, for doing that.

11 THE COURT: NYAG 100 is admitted.

12 (NYAG Exhibit 100 admitted into evidence)

13 MS. STERN: Thank you. Okay. If you could actually
14 give me one second. I'm sorry for the delay.

15 (Pause)

16 MS. STERN: I apologize. Okay.

17 BY MS. STERN:

18 Q Okay. Sorry, just to make sure we're all on the same
19 page, this is the press release that the NRA issued on January
20 15th when it filed for bankruptcy. Isn't it?

21 A Yes, it is.

22 Q Okay. And the release states, let me turn your attention
23 to it -- in paragraph 2: "The NRA plan which involves utilizing
24 the protection of the bankruptcy court has the association
25 dumping New York and organizing its legal and regulatory

1 matters in an efficient forum."

2 Do you see that statement?

3 A Yes, I do.

4 Q And that's an accurate statement, is it not, of the NRA's
5 purpose in filing for bankruptcy?

6 A Yes.

7 Q Okay. And then the release goes on to state in the next
8 sentence: "The move comes at a time when the NRA is in its
9 strongest financial condition in years." That's also an
10 accurate statement. Is it not?

11 A Yes, it is.

12 Q Okay. And furthermore, the release states in -- let's
13 see, what paragraph was this -- I think it's the third
14 paragraph on the second page (indiscernible) Mr. LaPierre:
15 "Obviously, an important part of this plan is dumping New York.
16 The NRA is pursuing reincorporating in a state that values the
17 contributions of the NRA, celebrates our law-abiding members,
18 and will join us as a partner in upholding constitutional
19 freedoms."

20 That's also an accurate statement of the purpose for
21 filing for bankruptcy. Isn't it?

22 A Yes, it is.

23 Q At the time that the NRA filed for bankruptcy on January
24 15th, you weren't aware of the NRA having any issues meeting
25 its financial obligations. Are you?

1 A No, I wasn't.

2 Q Okay. And turning back to the press release, in the
3 following paragraph, it states that: "The restructuring plan
4 aims to streamline costs and expenses, proceed with pending
5 litigation, and coordinate in a structured manner and realize
6 many financial and strategic advantages."

7 Do you see that?

8 A Yes, I do.

9 Q So one of the reasons that the NRA is seeking bankruptcy
10 is to streamline the NRA's litigation. Isn't that right?

11 A Yes.

12 Q The litigation that the NRA is seeking to streamline, that
13 doesn't include the Second Amendment advocacy litigation. Does
14 it?

15 A No, it doesn't.

16 Q So the litigation matters that the NRA is envisioning
17 would be streamlined, using the NRA's terminology, in the
18 bankruptcy, those are the litigation matters that are under
19 your oversight, the Office of General Counsel. Isn't that
20 right?

21 A Yes.

22 Q Okay. But as we discussed before, you were not involved
23 in the decision to file for bankruptcy. Correct?

24 A Yes.

25 Q And your input wasn't sought on the issue of whether it's

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1 in the best interest of the NRA to resort to bankruptcy to
2 manage those litigations. Isn't that right?

3 A Yes.

4 Q So a litigation that would be in the NRA's mind
5 streamlined in the bankruptcy process is litigation that will
6 be subject to the automatic-stay process. Isn't that right?

7 A Yes. I believe so.

8 Q Okay. The New York Attorney General's action is not
9 currently stayed under the automatic stay. Isn't that right?

10 A I believe so.

11 Q Just to be clear, you believe that it is not stayed?

12 A That's correct.

13 Q Okay. And that action has been proceeding since the
14 bankruptcy filed -- bankruptcy was filed. Right?

15 A Yes.

16 Q Okay. And as of today, the NRA has not taken any action
17 to stay that matter. Correct?

18 A I'm not sure -- I'm not sure I can answer that given that
19 due to my conflicted position I'm not involved in -- in those
20 decisions.

21 Q Mr. Frazer, you're a defendant in that lawsuit. Aren't
22 you?

23 A Right.

24 Q And as a defendant in that lawsuit, are you not monitoring
25 the lawsuit?

1 A I -- I am, but what I'm not aware of is anything -- you
2 said any action, and I don't know what actions the NRA may --
3 may have taken that I wouldn't necessarily be aware of.

4 Q Has the NRA sought any relief from the Court in New York
5 to stay that action in light of the bankruptcy?

6 A Not to my knowledge.

7 Q Okay. And the NRA hasn't sought any such relief from this
8 Court. Has it?

9 A Not to my knowledge.

10 Q And you would know that, right, because you're the general
11 counsel so any request that would be made to this Court you
12 would have to sign off on that. Wouldn't you?

13 A I'd certainly -- I'd certainly be aware of them, yes.

14 Q Okay. You would agree with me, wouldn't you, that any
15 lawsuits that the NRA has brought as a plaintiff would not be
16 part of this streamlining process that's envisioned in the
17 bankruptcy. Isn't that right?

18 A Except to the extent that there may be counterclaim
19 affected by the bankruptcy.

20 Q Okay. So then that would leave, would it not, litigation
21 involving Ackerman McQueen, litigating involving Under Wild
22 Skies, and litigating involving David Dell'Aquila. Those would
23 be the cases that would be streamlined by the bankruptcy. Is
24 that right?

25 A Among others, yes.

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1 Q What other cases?

2 A A variety of other matters around the country. We have --
3 I think we have an insurance case going on. There's a
4 wrongful-death action that's in a somewhat confusing posture
5 right now. But several other minor matters being handled in-
6 house.

7 Q So those are minor matters. Right?

8 A Minor, I mean -- maybe minor isn't the right word, but
9 lower profile based on where they stand today.

10 Q Mr. Frazer, how many matters would you say are these other
11 matters other than the Ackerman McQueen litigation, Under Wild
12 Skies, and the Dell'Aquila putative class action? How many
13 other matters have you identified that would be part of this
14 streamlining process that would ensue in light of -- under the
15 bankruptcy?

16 A I'm -- I'm trying to remember if there are any, but at
17 least -- at least two, maybe more. I'm sorry, I just don't
18 recall. I may not be recalling every possible case.

19 Q Okay. Have you done any kind of analysis of the costs of
20 proceeding with the litigation as is pre-January 15th versus
21 the cost of the bankruptcy and proceeding with the litigation
22 under the bankruptcy umbrella?

23 A No, I have not.

24 Q Are you aware of any such analyses being done by the NRA
25 before it filed for bankruptcy protection?

1 A No.

2 Q Okay. Mr. Frazer, you submitted declarations to this
3 Court in support of applications to retain the bankruptcy
4 counsel representing the NRA in this action, Neligan and Garman
5 firms. Do you remember that?

6 A Yes, I do.

7 Q Okay. And in those declarations, you recall representing
8 to this Court that the debtors chose each firm after
9 considering a number of bankruptcy firms to determine the firms
10 that would be best-suited for this case?

11 Yes, I do.

12 Q Okay. Could you please turn to -- I'm going to give you
13 two different exhibits that I'd like you to take a look at and
14 I'm going to offer, NYAG Exhibit 181 and NYAG Exhibit 182.

15 A Just to clarify some previous instructions, am I okay to
16 open both of them, or are we going to do them in order?

17 Q I don't know what your technology is there. I'm just
18 trying to move it along in handling these documents. So if you
19 want to take a look at each of them, you can see they're
20 pleadings in this lawsuit.

21 A Right. I just thought -- I thought there was a discussion
22 earlier that I should only handle one exhibit at a time and I
23 don't want to err on that.

24 Q Okay. I think that was from your counsel.

25 A But I'm able to -- I'm able to have them in front of me.

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1 Q Okay. Then let's do it that way if we can just to, you
2 know, move things along.

3 MS. STERN: So I offer NYAG Exhibits 181 and 182 into
4 evidence.

5 MR. NOALL: Your Honor, I don't know what the
6 relevance of these documents are to this proceeding. I object
7 on that ground.

8 THE COURT: Do you want to address relevance,
9 Ms. Stern?

10 MS. STERN: Certainly, Your Honor. I'd like to probe
11 into Mr. Frazer's role in the retention of the law firms that
12 are representing the NRA in this proceeding. As the general
13 counsel, he testified previously that retention of counsel and
14 oversight of counsel is within the scope of his authority.

15 THE COURT: 181 and 182 are admitted.

16 (NYAG Exhibits 181 and 182 admitted to evidence)

17 BY MS. STERN:

18 Q Okay. And Mr. Frazer, NYAG Exhibit 181 is an application
19 for an order authorizing retention and employment of Neligan
20 LLP as counsel to the debtor.

21 You see that on title to the pleading, correct?

22 A Yes, I do.

23 Q If you look to the end of it, you signed this pleading,
24 did you not?

25 A Yes.

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1 Q Okay. And then NYAG Exhibit 182 is your declaration that
2 was submitted in support of the application to retain the
3 Neligan firm. Isn't that correct?

4 A Yes, it is.

5 Q Okay. And as I think you just testified that you do
6 recall your representation to the Court of the debtor's process
7 of choosing among different law firms -- sorry -- reviewing
8 different law firms to determine the most appropriate firms to
9 represent the NRA in this matter, correct?

10 A I'm not sure I followed the question and I apologize,
11 but --

12 Q Okay. Let me just move on.

13 You personally did not interview any bankruptcy firms
14 before the Neligan and Garman firms were selected. Isn't that
15 true?

16 A No. I don't think that's correct.

17 Q Did you interview any other firms before the Neligan firm
18 was selected?

19 A Oh, no.

20 Q Okay. Did you personally interview any other firms before
21 the Garman firm was selected?

22 A No. And I apologize. I think I misunderstood your
23 previous question.

24 Q Okay. And I appreciate if you don't understand the
25 question letting me know so I can clarify it.

1 The NRA relied on the Brewer firm to handle that process
2 of interviewing different firms, didn't it?

3 A I don't know that that's correct.

4 Q Okay. Did you not rely on information that was collected
5 by the Brewer firm to consider which firm to -- sorry. Strike
6 that.

7 With respect to the Neligan firm, you actually did not
8 know the firm had been retained until after it had been
9 retained. Isn't that right?

10 A That's correct.

11 Q Okay. With respect to the Garman firm, we previously
12 looked at a business case analysis that you prepared where you
13 reviewed the Garman firm before they were retained, correct?

14 A Yes, I did.

15 Q But you did not personally consider any other firms in
16 connection with the selection of the Garman firm as additional
17 counsel in this matter. Isn't that right?

18 A No, I did not.

19 Q Okay. And that process, with respect to the Garman firm,
20 was handled by the Brewer firm wasn't it?

21 A So with respect to the Garman firm, I'd make a couple of
22 points. One is that they were recommended by the Brewer firm.
23 However, they had also represented us in previous litigation.

24 Q Was that bankruptcy litigation?

25 A No, it wasn't.

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1 Q Okay. And in that litigation, had you selected the Garman
2 firm?

3 A They were recommended -- no.

4 Q Okay. The recommendation in -- was that a lawsuit
5 involving the City of San Francisco?

6 A Yes, it was.

7 Q Okay. In that, the Garman firm was recommended by the
8 Brewer firm to represent the NRA in that lawsuit. Isn't that
9 right?

10 A Yes.

11 Q Okay. When the NRA announced its bankruptcy filing, at
12 that time, it also announced its intention to hire a chief
13 restructuring officer, Mr. Marschall Smith. Isn't that right?

14 A Yes.

15 Q Okay. And you had no role in the selection of Mr. Smith
16 as a proposed chief restructuring officer, did you?

17 A No, I didn't.

18 Q Okay. But Mr. Brewer was involved in that process, wasn't
19 he?

20 A That's my understanding.

21 Q Okay. We talked before about the NRA's procurement policy
22 concerning the process of getting approval to enter into
23 contracts that would require payment of \$100,000 in a given
24 year. Do you recall that?

25 A Yes.

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1 Q Okay. That policy requires, I'm sorry, applies to
2 renewals of contracts, doesn't it?

3 A It depends.

4 Q What does it depend on, Mr. Frazer?

5 A It depends on whether it's a straight-up renewal for the
6 same duties, same, you know, same scope of work, same or
7 substantially the same cost, you know, aside from an inflation
8 increase, for example, or whether there's an increased scope of
9 work, significant increase in the fees, something like that.

10 Q Would it also depend on whether or not there was a
11 business case analysis in the first instance?

12 A I'm not sure I'm following.

13 Q Okay. So if you have a contract that's being renewed and
14 you, as I understand it, the terms of the contract are not
15 changing materially -- if there had not been a business case
16 analysis in the first instance for that contract, wouldn't you
17 need to do a business case analysis at that point to honor the
18 spirit of the procurement policy?

19 A I'm thinking about it because I'm not sure I've ever
20 analyzed the issue or if it's ever come up.

21 Q But the procurement policy is one of the NRA's internal
22 controls, isn't it?

23 A Yes.

24 Q I mean, the purpose of it is to make sure that before any
25 division at the NRA goes out and enters into a contract of a

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1 particular magnitude that the NRA has determined is \$100,000,
2 it's going to have to get multiple layers of review, legal
3 review, review at the treasurer level, review by the executive
4 VP, and review by the officers of the board, right?

5 A Yes, that's the purpose.

6 Q So the NRA's, you know, effort to be -- to have controls
7 over those kinds of expenditures would favor compliance with
8 that policy even in the event of amendments. Isn't that right?

9 A You know, I -- honestly, I think I would have to analyze
10 that case by case, but -- so, I'm not sure I can make a blanket
11 statement on that.

12 Q Okay. The NRA had a contractual relationship -- well, let
13 me step back.

14 You're familiar with the vendors, Membership Marketing
15 Partners, Allegiance Creative Group, and Concord (phonetic) and
16 Social Public Relations?

17 A Yes, I am.

18 Q Okay. And you're aware that the NRA has had contractual
19 relationships with those entities since about 2011?

20 A I believe that's right.

21 Q Are you aware that Membership Marketing Partners is a
22 creditor that moved to reconstitute the Unsecured Creditors
23 Committee in this matter? Are you aware of that?

24 A Yes.

25 Q Okay. David McKenzie, who also goes by David Stanton, he

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1 is the owner in whole or in part of all three of those
2 entities, isn't he?

3 A That's my understanding.

4 Q Okay. Just for sake of simplicity, can we just agree
5 we'll call him David McKenzie? Is that okay with you?

6 A Sure. Sure.

7 Q Okay. And all three of those entities have the same chief
8 executive officer, Gurney Sloan. Isn't that right?

9 A Yeah, I believe so.

10 Q Okay. And you agree with me that all three entities rent
11 out the same office space that is in the NRA's headquarters in
12 Virginia. Isn't that right?

13 A Yes.

14 Q And you're not aware of any other office space that the
15 three entities have. Isn't that right?

16 A I don't know. I think they had other office space at one
17 time, but I don't recall if they still do.

18 Q Okay. If you can go to Exhibit -- sorry, NYAG Exhibit 74,
19 please, which I would like to offer into evidence.

20 A I'm sorry. Did you say 74?

21 Q 74. Yes, please.

22 A Okay. I have it.

23 THE COURT: Does the --

24 MS. STERN: I'm just giving your counsel an
25 opportunity.

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1 THE COURT: Does the debtor have an objection?

2 MR. NOALL: No objection, Your Honor.

3 THE COURT: NYAG 74 is admitted.

4 (NYAG Exhibit 74 admitted to evidence)

5 MS. STERN: Thank you, Your Honor.

6 BY MS. STERN:

7 Q Mr. Frazer, is this the initial agreement between
8 Membership Marketing Partners and the NRA?

9 A I can't -- sitting here, I can't say with certainty that
10 there was never any previous agreement. This is a 2011
11 agreement. It predates my time as general counsel.

12 Q But you're familiar with this agreement, aren't you?

13 A Yes.

14 Q Okay.

15 Now, can we turn to NYAG Exhibit 75, please?

16 MS. STERN: And I offer NYAG Exhibit 75 into
17 evidence.

18 MR. NOALL: Your Honor, I don't object to this second
19 amendment but note for the record that if there's a second
20 amended, it would appear there would be a first amendment so
21 the document appears incomplete.

22 THE COURT: Thank you. With that caveat, 75 is in
23 too.

24 (NYAG Exhibit 75 conditionally admitted to evidence)

25 MS. STERN: Okay.

1 BY MS. STERN:

2 Q And my question, Mr. Frazer, is this the second amendment
3 to the Membership Marketing Partners agreement with the NRA?

4 A That's what the document says.

5 Q And is it your understanding that this is the second
6 amendment to that contract?

7 A Yes.

8 Q Okay. And just turning your attention to the signature
9 lines, that's Mr. Wayne LaPierre's signature on the first
10 signature line, isn't it?

11 A Yes, it is.

12 Q Okay. And is the second signature below it, which is
13 dated -- both of them are dated January 30, 2017. Is that
14 Woody Phillips' signature? Do you recognize that?

15 A Yes, it is.

16 Q Okay. And to your knowledge, this is the most recent, the
17 second amendment, NYAG Exhibit 75, this is the most recent
18 written amendment to the contract between the NRA and
19 Membership Marketing Partners, isn't it?

20 A I believe it is.

21 Q Okay. Sitting here today, you're not aware of any other
22 written amendments, are you?

23 A No.

24 Q Okay. Can we turn NYAG Exhibit 52, please?

25 MS. STERN: And I offer NYAG Exhibit 52 into

1 evidence.

2 MR. NOALL: No objection, Your Honor.

3 THE COURT: 52 is in.

4 (NYAG Exhibit 52 admitted to evidence)

5 BY MS. STERN:

6 Q And this is a 2011 contract between Allegiance Creative
7 Group and the NRA is it not?

8 A Yes, it is.

9 Q Okay. And then, turning to the signature page, the
10 signature block signed on behalf of National Rifle Association,
11 a not for profit corporation, is that Mr. Phillips' signed as
12 the authorized signatory?

13 A I think it is, yes.

14 Q Okay. Thank you.

15 Can we turn to NYAG Exhibit 53, please?

16 MS. STERN: I offer NYAG Exhibit 53 into evidence.

17 MR. NOALL: Your Honor, with the same caveat as I
18 raised with respect to NYAG 75, this appears to be the --
19 the same type of objection. This appears to be the fourth
20 amendment and the document would seem to be not complete
21 without the first, second, or third amendment. But with that
22 caveat, I have no objection.

23 THE COURT: 53 is in with that caveat.

24 (NYAG Exhibit 53 is conditionally admitted to evidence)

25 MS. STERN: Okay.

1 BY MS. STERN:

2 Q And, Mr. Frazer, it's your understanding that this is the
3 fourth amendment to the contract between Allegiance Creative
4 Group and the NRA. Is that correct?

5 A Yes.

6 Q And to your knowledge, this is the most recent written
7 amendment to that contract. Isn't that right?

8 A Yes.

9 Q And turning to the signature page of NYAG Exhibit 53, is
10 that Mr. LaPierre's signature on the signature block for the
11 National Rifle Association, a New York not for profit
12 corporation?

13 A Yes, it is.

14 Q Okay. And that was signed on January 3, 2019, according
15 to this document, correct?

16 A Yes.

17 Q Okay.

18 Mr. LaPierre was involved in negotiations of this fourth
19 amendment. Isn't that true?

20 A I don't recall.

21 Q Okay.

22 One moment please.

23 Okay. So can I turn your attention -- I'm sorry.

24 You have the transcript of your testimony from March 15,
25 2021, turning your attention to Page 201, Line 9, and the

1 question begins:

2 Q What about with respect to the most recent amendment
3 to the agreement between the NRA and the Allegiance
4 Creative Group?

5 A Again, can you refresh my memory about the date of
6 that?

7 Q Yes, one moment.

8 So I'll represent to you that this was entered into
9 in December of 2018.

10 A 2018?

11 Q Yes.

12 A Yeah.

13 This is you answering:

14 A Yeah, so that was after Mr. -- that was after
15 Mr. Phillips' retirement. So I believe that -- I think it
16 could have been Wayne LaPierre, possibly Craig Spray, and
17 possibly Skip (indiscernible) an assistant general counsel in
18 my office.

19 That was your testimony, wasn't it?

20 A Yes, it was.

21 Q Okay.

22 You're not aware of any other, other than this fourth
23 amendment to the contract, you're not aware of any other
24 written amendments (indiscernible) --

25 A I'm sorry.

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1 Q -- contract.

2 MR. NOALL: Your Honor, I can't hear counsel.

3 MS. STERN: Sorry.

4 MR. NOALL: She's moving away from the microphone.

5 MS. STERN: I apologize, Your Honor. Let me restate
6 my question.

7 BY MS. STERN:

8 Q We are looking at NYAG Exhibit 53, the fourth amendment to
9 the Allegiance Creative Group contract with the NRA and my
10 question to Mr. Frazer is that you're not aware of any other
11 subsequent written amendments to this contract, correct?

12 A So nothing after the fourth amendment?

13 Q Correct.

14 A No, I'm not aware of anything since.

15 Q Okay. Could you please turn to NYAG Exhibit 180, please?

16 MS. STERN: And I offer that document into evidence.

17 MR. NOALL: Your Honor, if I'm looking at the correct
18 document, NYAG 180, it appears to be an unsigned document and
19 so I would ask counsel to have her identify the document and
20 lay a foundation before I have to respond. Otherwise, I would
21 object.

22 THE COURT: All right.

23 BY MS. STERN:

24 Q Okay. Mr. Frazer, have you seen this document before
25 today?

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1 A I can't say so with certainty, but I think so.

2 Q Okay. Are you aware that the NRA had entered into an
3 agreement with Concord Social and Public Relations LLC in or
4 around late 2011?

5 A That's my understanding. I just don't know that that -- I
6 can't say with certainty that this is it.

7 Q Okay.

8 If you'll give me a second.

9 Just one moment. I'm sorry.

10 Okay. I'll just represent to you, Mr. Frazer, that to the
11 best of our knowledge, we have never seen a signed copy of this
12 agreement. So my question to you, is it your understanding
13 that this is the copy of the original agreement between the NRA
14 and Concord Social and Public Relations LLC?

15 MR. NOALL: Your Honor, I object. Lack of
16 foundation.

17 THE COURT: I'm going to have to sustain that.

18 MS. STERN: That's fine, Your Honor. We'll move on,
19 I think.

20 Let's see. Hold on.

21 Thank you for your patience.

22 BY MS. STERN:

23 Q Okay. Can I ask you to look at NYAG Exhibit 255, please?

24 MS. STERN: And I offer NYAG Exhibit 255 into
25 evidence.

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1 MR. NOALL: No objection, Your Honor.

2 MS. STERN: Okay. Mr. Frazer.

3 THE COURT: 255 is in. Excuse me, Ms. Stern.

4 (NYAG Exhibit 255 is admitted to evidence)

5 MS. STERN: I apologize, Your Honor.

6 THE COURT: It's okay.

7 MS. STERN: The delay in the virtual setting.

8 BY MS. STERN:

9 Q Mr. Frazer, looking at NYAG Exhibit 255, this is a letter
10 that the National Rifle Association sent to Concord Social and
11 Public Relations LLC, in August 2018, is it not?

12 A It appears to be.

13 Q Okay. And in the first paragraph, the letter refers to
14 provisions of the agreement between the NRA and Concord Social
15 and Public Relations effective December 1, 2011. And again,
16 turning back to the document that we were looking at, NYAG
17 Exhibit 180, is your understanding that this is the agreement
18 that's being referenced in NYAG Exhibit 255?

19 A I'm sorry. I don't have 180 open. One moment.

20 Q Okay. Take your time.

21 A Okay. I have it now.

22 Q Okay. My question to you is, the letter in August 2018
23 references an underlying agreement between the NRA and Concord
24 Social and Public Relations that was entered into like some of
25 the other contracts we looked at in December 2011. And you

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1 would agree with me that there was a contract that was entered
2 into at that time, correct?

3 A That's my understanding, but --

4 Q Okay. And we looked at NYAG Exhibit 180, which is an
5 unsigned version of a contract that's dated December 1, 2011,
6 between the NRA and Concord Social and Public Relations. My
7 question to you is, are you aware of whether there is a signed
8 copy of this contract?

9 A Sitting here today, I don't know that.

10 Q Okay. But in light of the NRA's correspondence, NYAG
11 Exhibit 255, you don't refute that there was a contract entered
12 into between the NRA and Concord Social and Public Relations in
13 or around December 2011, do you?

14 A No. As I said earlier, I think there was.

15 Q Okay.

16 MS. STERN: So I'll give it one more go, Your Honor,
17 and offer NYAG Exhibit 180 into evidence.

18 MR. NOALL: Same objection, Your Honor. There is no
19 foundation that NYAG 180 is the agreement that is tied into
20 this letter that we're looking at now at NYAG 52 [sic].

21 THE COURT: Same ruling. The witness was not able to
22 identify.

23 MS. STERN: Okay, Your Honor. We'll move on.

24 BY MS. STERN:

25 Q So let's see, can I ask you to look at NYAG Exhibit 257,

1 please?

2 MS. STERN: And I offer NYAG 257 into evidence.

3 MR. NOALL: No objection from the debtors, Your
4 Honor.

5 THE COURT: 257 is in.

6 (NYAG Exhibit 257 admitted to evidence)

7 BY MS. STERN:

8 Q Okay. And NYAG Exhibit 257 is also a letter that the NRA
9 sent to, this one is to Gurney Sloan at Membership Marketing
10 Partners LLC, in August 2018, is it not?

11 A I believe so.

12 Q Okay.

13 MS. STERN: And the third in this group is, if you
14 would please look at NYAG Exhibit 258 please, which I offer
15 into evidence.

16 MR. NOALL: The Court's indulgence for just one
17 minute.

18 THE COURT: No problem.

19 MR. NOALL: We have no objection to this Exhibit,
20 Your Honor.

21 THE COURT: 258 is in.

22 (NYAG Exhibit 258 admitted to evidence)

23 MS. STERN: Thank you.

24 BY MS. STERN:

25 Q Mr. Frazer, you would agree with me that the documents

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1 that we just looked at, NYAG Exhibits 255, 257, and 258, are
2 all letters that the NRA sent to each of Membership Marketing
3 Partners, Allegiance Creative Group, and Concord Social and
4 Public Relations concerning invoices above what each of the
5 underlying contracts required.

6 A One moment, please.

7 Yes.

8 Q Okay. So if we could look at NYAG Exhibit 257, in the
9 second paragraph, management fee, it states, as you know, the
10 MMP agreement, that's Membership Marketing Partners agreement,
11 specifies that the monthly management fee payable by the NRA
12 shall be \$400,000, which fee, under no circumstances shall
13 increase by more than 10 percent annually. Nonetheless, MMP
14 has invoiced the NRA the management fees in the amount of
15 \$961,850 per month since the start of 2018.

16 Do you see that?

17 A Yes.

18 Q And so at that time, the NRA had been paying Membership
19 Marketing Partners fees, by its own admission, far in excess of
20 what the contract called for. Is that right?

21 A I believe so.

22 Q Okay. And isn't it true that the NRA was paying
23 Membership Marketing Partners at that rate of \$961,850 per
24 month up to the date of the filing of this bankruptcy petition?

25 A I don't know that amount.

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1 Q Okay.

2 Would you agree with me that the NRA was paying Membership
3 Marketing Partners in excess of the amount that was called for
4 by the written contract?

5 A May I look at the contract again?

6 Q Certainly, let's see if we can --

7 A Sorry. I don't recall the exhibit number. I'm trying to
8 keep the desktop tidy.

9 Q Yeah. I understand. Sorry, I understand. I realize when
10 I step away from the microphone, you can't hear me.

11 Can you turn to NYAG Exhibit 74?

12 And I direct your attention to Schedule A of the
13 agreement.

14 A I see that -- yes, I see that.

15 Q Okay. And that provides for a management fee of \$400,000
16 per month, doesn't it?

17 A Yes.

18 Q Okay. And the schedules that the NRA submitted in
19 connection with the bankruptcy will reflect the payments that
20 the NRA has been making to Membership Marketing Partners,
21 correct?

22 A Yes.

23 Q Okay.

24 If we can turn to NYAG Exhibit 255, the letter to Gurney
25 Sloan in his capacity at the Concord Social and Public

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1 Relations LLC. And would you agree with me, Mr. Frazer, that
2 this letter is addressing in the paragraph entitled, Management
3 Fee, that the agreement with Concord Social Public Relations
4 specifies that the monthly management fee payable by the NRA
5 shall be \$135,000, which fee shall not be adjusted other than
6 by agreement based on CSPR's, Concord Social Public Relations,
7 performance and cost consideration. Unfortunately, CSPR has
8 invoiced the NRA for management fees in the amount of \$373,000
9 per month since the start of 2018.

10 So this letter, too, is addressing payments to this vendor
11 in excess of the amounts provided under the contract that is
12 referenced in the first paragraph of this letter. Isn't that
13 right?

14 A Yes.

15 Q Okay. And the NRA was continuing to pay the Concord
16 entity at the rate of \$373,000 per month up to the date of the
17 filing of this bankruptcy petition, wasn't it?

18 A I don't recall if that's the exact dollar amount.

19 Q Would you agree with me that they were continuing to pay
20 the Concord entity in excess of the amount \$135,000 that's
21 called for in the contract as stated in NYAG Exhibit 255?

22 A It was in excess of \$135,000, I know that.

23 Q Okay. And one more, let's see.

24 NYAG Exhibit 258, if you could take a look at that letter,
25 please.

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1 A One moment. Sorry. I think I may have closed that one
2 accidentally.

3 Q I know this is cumbersome. I'm sorry if there --

4 THE COURT: Counsel, could you repeat the exhibit
5 number if possible?

6 MS. STERN: Sure. It's Exhibit 258.

7 Thank you.

8 BY MS. STERN:

9 Q Mr. Frazer, do you have that document in front of you?

10 A 258, yes.

11 Q Okay. And this letter, too, refers to, in Paragraph A,
12 entitled Management Fee, that the ACG agreement, which is
13 defined in the first paragraph, specifies that the monthly
14 management fee payable by the NRA shall be \$40,000, which fee
15 shall not be adjusted other than by agreement based on ACG's
16 performance and cost consideration. Unfortunately, ACG has
17 invoiced the NRA for management fees in the amount of \$90,000
18 per month since the start of 2018. And I just want to correct
19 myself. I believe that I misread the letter that the
20 management fee under the agreement should be 40,000, and the
21 payments according to this letter were \$90,000 a month.

22 Do you see that?

23 A I do see that.

24 Q And that was an accurate statement, wasn't it?

25 A I can't -- sitting here, I can't say with certainty that

1 it was -- that the 90,000 is correct.

2 Q Do you believe that this letter that was calling to the
3 attention -- this is a letter that was sent to the NRA as part
4 of the compliance efforts that we've been hearing about, isn't
5 it?

6 A Yes.

7 Q Okay. And this is --

8 MR. NOALL: Objection, Your Honor. The letter was
9 not sent to the NRA.

10 MS. STERN: Oh, I'm sorry. I misspoke.

11 BY MS. STERN:

12 Q This is the letter that the NRA sent to the Allegiance
13 Creative Group as part of its compliance efforts. Isn't that
14 right, Mr. Frazer?

15 A Yes.

16 MS. STERN: Thank you for that correction, Mr. Noall.

17 BY MS. STERN:

18 Q And you don't have any reason to doubt that the letter
19 stating that the payments were \$90,000 per month rather than
20 \$40,000 per month was wrong, do you?

21 A I don't have any reason to think it's wrong. I just don't
22 have personal knowledge that it's right.

23 Q Okay. Can I just turn your attention to NYAG Exhibit 193?

24 MS. STERN: I'm going to ask my colleague, Mr. Wang,
25 to hold that up on the screen if he can. And I'm going to turn

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1 your attention to Page 30 of 55.

2 And actually, Mr. Wang, can you just go back to the
3 very beginning of the section? I believe that this is the list
4 of the last 90-day payments in the statement of financial
5 affairs.

6 And I offer NYAG Exhibit 193 into evidence.

7 THE COURT: And counsel, the page reference that
8 you're referring to, is that the filing header on the document?

9 MS. STERN: I'm just trying to show Mr. Frazer the
10 section of the SOFA that I'm referring to, but I'm offering the
11 entirety of the exhibit, NYAG Exhibit 193, into evidence.

12 THE WITNESS: Yes, I'm on Page 30.

13 MS. STERN: I'm just giving your counsel an
14 opportunity.

15 MR. NOALL: Debtors have no objection, Your Honor.
16 If we could refer to the document by the filing header number,
17 I would appreciate it.

18 THE COURT: Okay. 193 is in.

19 (NYAG Exhibit 193 admitted to evidence)

20 MS. STERN: Okay. And the docket number for this
21 appears to be Docket -- my eyes -- 288.

22 Mr. Wang, could you turn Page 30 of 55? And turn it,
23 and for those of us who are over 40, could you please blow it
24 up?

25 BY MS. STERN:

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1 Q Mr. Frazer, do you see at the top of that page a series of
2 payments to entities which are here identified as Membership
3 Marketing (indiscernible), Membership Advisors Fundraising LLC,
4 Membership Advisors Public Relations LLC, Membership Marketing
5 Partners LLC. Do you see a series of, for each one, three
6 payments in a row?

7 A Yes, I do.

8 Q Okay. And if your eyes are better than mine, you might be
9 able to trace across and see the amounts that each one is paid.
10 So for the first entity's first group, Membership Advisors
11 Fundraising LLC, payments are \$90,000 each month. Do you see
12 that?

13 A Yes.

14 Q And then, below them, the next entity, Membership Advisors
15 Public Relations LLC, those are \$373,000 a month. And do you
16 see below that, three payments each for \$961,850 for the
17 entity, Membership Marketing Partners LLC? Do you see that?

18 A Yes, I do.

19 Q And you understand that those payments are payments to the
20 entities that are now known as Membership Marketing Partners,
21 Allegiance Creative Group, and Concord Social and Public Media?

22 A I believe they are.

23 Q Okay. Is it your understanding that Mr. LaPierre and
24 Mr. Phillips who eventually entered into the agreements that we
25 were looking at that they orally agreed to modify the contract

1 with each of Allegiance Creative Group, Membership Marketing
2 Partners, and Concord Social and Public Media? Isn't that
3 correct?

4 A I don't know that I know what they orally agreed to.

5 Q But the NRA did make those payments as we have discussed
6 that were in excess of the amount of the written contracts that
7 we've looked at. Isn't that true?

8 A I believe so.

9 Q Okay. And that payments that were made in excess of the
10 amount that was provided under the written contracts would be
11 in violation of the NRA's contract procurement policy if they
12 were not approved pursuant to that policy. Isn't that right?

13 A I'm pausing to make sure I understand your question and
14 answer it accurately.

15 I think that the amounts that are paid should be the
16 amounts that are provided for in the contract or in some, you
17 know, in some subsequent amendment that we have on file.

18 Q Okay. Can I ask you to turn your attention to NYAG
19 Exhibit 24, please?

20 A I'm sorry, did you say 24?

21 Q Yes.

22 A Okay.

23 Q And this document has already been admitted into evidence,
24 so I would just ask you to turn your attention to Page 90 of
25 the actual document.

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1 A I'm sorry. Do you mean Page 90 by the page numbers on the
2 bottom of the pages?

3 Q Yeah. Of the actual document as opposed to the PDF
4 version.

5 A Okay.

6 Q And do you see the section entitled Contracts and Purchase
7 Orders?

8 A Yes, I do.

9 Q Okay. And -- sorry, Mr. Frazer. I just want to make sure
10 that I'm orienting you. You agree this is the procurement
11 policy in the NRA's policy manual. Isn't that right?

12 A Yes, although this is a -- you're referring to a
13 superceded policy, the specific paragraphs you're pointing to.

14 Q Okay. Under this version of the policy, which was in
15 place June 8, 1998, isn't that right, if you look under -- I'm
16 sorry, Page 88, the beginning of this section?

17 A Yes.

18 Q Okay. And Section 5 on Page 90 that we started looking at
19 addresses contracts and purchase orders, doesn't it?

20 A Yes, it does.

21 Q Okay. And just turning to Section A, it provides that all
22 purchase agreements or contracts requiring payments greater
23 than \$100,000 in any 12-month period must have prior written
24 approval of the president and the first or second vice
25 president before execution or renewal.

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1 Do you see that?

2 A I do see that.

3 Q Okay. So as we were discussing before, you agree with me
4 that the NRA requires review and this particular internal
5 control with respect to renewals of contracts in excess of
6 \$100,000? Would you agree with me?

7 A No, I don't.

8 Q Okay. Let's move on.

9 Mr. Frazer, are you aware of any business case analysis
10 done for the amendment to the contract with Membership
11 Marketing Partners which we previously looked at? And I can
12 tell you what the exhibit is if you'd like me to, NYAG
13 Exhibit 75.

14 A One moment while I pull that up again.

15 75 is the 2017, the second amendment?

16 Q Correct.

17 A Right.

18 Sitting here, I don't recall whether there was one or not.

19 Q Okay. Mr. Frazer, can you turn your attention to NYAG
20 Exhibit 142?

21 MS. STERN: And counsel, I'm going to check. I
22 believe this was entered into evidence yesterday, but I'm going
23 to double-check because I don't want to misrepresent.

24 Okay. My colleagues are telling me that it has not
25 yet been admitted into evidence and so I'm offering NYAG

1 Exhibit 142.

2 MR. NOALL: No objection from the debtors, Your
3 Honor.

4 THE COURT: Thank you. NYAG 142 is in.
5 (NYAG Exhibit 142 admitted to evidence)

6 MS. STERN: Okay.

7 BY MS. STERN:

8 Q And Mr. Frazer, can I draw your attention to --

9 MS. STERN: I'm sorry. I'm being told that I'm
10 stepping out from the light.

11 BY MS. STERN:

12 Q Can I turn your attention to Page 2 of Exhibit 142?

13 A Okay. I'm there.

14 Q And this memo addresses the policy that is currently in
15 effect with respect to the procurement of contracts in excess
16 of \$100,000, isn't it? Isn't it true?

17 A No, it isn't. That's not correct.

18 Q You're saying Mr. LaPierre's 2012 memo isn't accurately
19 reflect the approval procedures that are currently in effect?

20 A Yes, that's what I'm saying.

21 Q Mr. Frazer, where is the current policy on procurement of
22 \$100,000 contracts found?

23 A It's in the Board Policy Manual and I don't recall the
24 exhibit number that we looked at a moment ago.

25 Q Exhibit 24, the policy manual?

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1 A Yes, and I believe I closed that, but --

2 Q And that document is -- the way that document is
3 organized, it includes any sort of change to the policy is
4 found in -- it sort of continues the history of the policies.
5 You'll see it laid out in that policy manual, isn't that right?

6 A Yes, that's right.

7 Q I'm going to just come back to this because I'd like to
8 just move on, but we'll come back to this shortly. I just
9 don't want to --

10 THE COURT: Could you watch your time, too,
11 Ms. Stern? I think you've gone over your estimate on how long
12 you were going to take and we have Mr. Gruber behind you.

13 MS. STERN: Yes, I understand, Your Honor. And I
14 apologize for that. I do have to say, Your Honor, that in
15 light of the scope of, you know, what was presented by
16 Mr. Garman in his opening and the scope of what we've heard in
17 testimony so far, we do have a number of topics that we're
18 going to have to cover with these witnesses. So I'm trying to
19 do my best.

20 THE COURT: Well, I'm going to hold the movants to
21 their -- you all requested that the trial be conducted like
22 this and I'm going to expect more efficiency after this
23 afternoon, all right?

24 MS. STERN: Okay. I understand, Your Honor.

25 Your Honor, would you mind if I just take a second so

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1 that I can just look at my notes and see how I might be able to
2 make it flow a little bit more efficient? I understand the
3 Court's direction here.

4 THE COURT: I don't mind at all. I don't mind all.

5 MS. STERN: Thank you.

6 (Pause)

7 MS. STERN: Okay. Thank you, Your Honor. I very
8 much appreciate it.

9 THE COURT: My pleasure.

10 BY MS. STERN:

11 Q Okay. Mr. Frazer, the NRA has repeatedly stated in this
12 proceeding that in 2017, it began what it called a self-
13 correction and it claims to have taken various measures to
14 ensure that it's in compliance with its responsibilities under
15 New York law governing not for profits and you had a role in
16 that so-called self-correction, isn't that right?

17 A Yes.

18 Q And Mr. LaPierre's claim that the NRA is in 100 percent
19 compliance with New York State not for profit law and he said
20 in any other state where the NRA would seek to incorporate, but
21 you don't agree that that's an accurate statement, isn't that
22 right?

23 A I'm not -- life isn't perfect. People are imperfect.
24 Organizations are imperfect. So I'm never willing to say 100
25 percent I'm afraid.

1 Q Okay. So the NRA claims that since 2017 it has been
2 engaged in an effort to make sure that the organization is a
3 good corporate citizen and fully compliant. But it has not
4 established any kind of a dedicated compliance office, isn't
5 that right?

6 A That's right.

7 Q And it doesn't have a chief compliance officer or the
8 equivalent under maybe a different title but the same one
9 individual responsible for compliance, isn't that right?

10 A Yes.

11 Q And it doesn't have any kind of an internal audit program,
12 does it?

13 A Not by that name. I mean obviously everyone pays, tries
14 to pay close attention but we don't have a designated internal
15 audit function.

16 Q Okay. And the NRA has relied on the Brewer firm to advise
17 it on its compliance with the laws governing charities and not
18 for profits, isn't that true?

19 A Brewer, among other counsel, yes.

20 Q But you have paid Brewer over the past three years for
21 services in connection with compliance with the laws governing
22 charities and not for profits, isn't that right?

23 A Yes.

24 Q Okay. And the NRA's approach to compliance is a team
25 effort, isn't that right?

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1 A Absolutely.

2 Q But the buck stops with Mr. LaPierre at the executive
3 level, isn't that right?

4 A In terms of the executive level, yes. Obviously, he
5 reports to the Board.

6 Q And Mr. LaPierre does report up to the Board, doesn't he,
7 under your structure?

8 A Yes.

9 Q Okay. The Board is responsible for overseeing Mr.
10 LaPierre and in turn Mr. LaPierre is responsible for reporting
11 up to the Board, isn't that right?

12 A Yes.

13 Q Not just on compliance, final in all respects, isn't that
14 right?

15 A Yes.

16 Q Okay. Would you agree that leadership is important to
17 creating a controlled conscience environment?

18 A Yes.

19 Q And you're familiar with the NRA's IRS Form 990 for 2019,
20 aren't you? We were looking at it earlier.

21 A Yes.

22 Q And when you make regulatory filings with the New York
23 City Attorney General's Office, you personally attest, you
24 personally submit the Form 990 and you attest to its accuracy,
25 isn't that true?

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1 A I'm not sure I agree with that characterization. I attest
2 that, you know certainly it's an accurate copy of the 990. I
3 don't know that I necessarily attesting to the accuracy of
4 every specific line item or dollar amount.

5 Q Okay. But as the general counsel of the NRA, if you were
6 aware that there was something wrong in the 990 that came to
7 your attention, it would be your responsibility, would it not,
8 to bring that at least to the other's executives and board
9 members' attention? Isn't that right?

10 A It would be my responsibility to address it in an
11 appropriate way depending on whether that, and that may vary
12 depending on the item.

13 Q Okay. And are you, you're aware, aren't you that in the
14 NRA's 2019 IRS Form 990, the NRA disclosed a number of improper
15 excess benefit transactions with NRA executives and long time
16 employees, isn't that true?

17 A Yes.

18 Q And those transactions that are disclosed in the IRS Form
19 990, those transactions occurred over a number of years, isn't
20 that right?

21 A In some instances, yes.

22 Q Okay. And among the excess benefit transaction, there is
23 disclosed in that Form 990 are improper excess benefit
24 transactions involving Mr. LaPierre, the executive vice
25 president of the NRA, isn't that true?

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1 MR. NOALL: Your Honor, I'm going to object to the
2 characterization of these amounts as improper --

3 THE COURT: You want to restate your question?

4 MS. STERN: Certainly.

5 Q Mr. Frazer, you would agree with me that the 2019 990
6 discloses excess benefit transactions as that is defined in the
7 Form 990 under the applicable tax laws, involving Mr. LaPierre,
8 the executive vice president of the NRA, wouldn't you?

9 A Yes.

10 Q And you would agree that the NRA also disclosed excess
11 benefit transactions with Joshua Powell who was Mr. LaPierre's
12 choice for chief of staff, isn't that right?

13 A Yes.

14 Q Okay. And the 2019 990 also discloses excess benefit
15 transactions involving Christopher Cox who was the executive
16 director of NRA's ILA for many years, isn't that true?

17 A Yes.

18 Q And Woody Phillips, who was Mr. LaPierre's chosen CFO and
19 was elected to the Board as treasurer board executive?

20 MR. NOALL: Your Honor, I would object to the
21 characterization of chosen member to the Board as
22 argumentative.

23 THE COURT: Sustained. Just restate the question.

24 MS. STERN: Certainly.

25 Q Mr. Frazer, we heard yesterday from the NRA's counsel that

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1 Woody Phillips who was the treasurer and the CFO of the NRA for
2 decades was not up to the task. Did you hear that?

3 A Yes, I did.

4 Q And in fact, Mr. Garman represented that the NRA is
5 considering litigation of Mr. Phillips, isn't that true?

6 A I don't recall Mr. Garman's statement.

7 Q Okay. So in light of that, in light of the disclosures of
8 these various excess benefit transactions involving a number of
9 different members of the executive team at the NRA, over many
10 years, would you consider that a message of leadership in a
11 cost controlled environment?

12 A I would say that the message is that the NRA has owned up
13 to its errors by properly accounting for those past issues.

14 Q But you would, you agree with me that those transactions
15 that we talked about that are disclosed in the 990 those
16 happened over the course of many years, isn't that right?

17 A Yes.

18 Q And the 990 also discloses a number of potential excess
19 benefit transactions that are under investigation including
20 still others, NRA board members and members of management,
21 isn't that true?

22 A Yes.

23 Q So that includes potential excess benefit transactions
24 involving yourself.

25 A Yes.

1 Q And transactions involving Joseph DeBergalis, the
2 executive director of general operations at the NRA.

3 A Yes.

4 Q And transactions involving board members, isn't that
5 right?

6 A Yes.

7 Q And in the 2019 990 do you recall that it also discloses
8 discovery of a significant diversion of assets of more than
9 \$40,000 by a staff employee at the NRA?

10 A Yes.

11 Q Okay. That employee is Mildred Hallow, isn't it?

12 A Yes.

13 Q And Ms. Hallow has been a long time adviser and assistance
14 to Mr. LaPierre, isn't that true?

15 A Yes.

16 Q And the money that, that \$40,000 that the NRA
17 acknowledges, admits was taken from the NRA by Ms. Hallow, that
18 was used for her son's wedding, isn't that true?

19 A In part. It was used all for personal reasons though,
20 isn't that true?

21 A Yes.

22 Q Okay. And she wasn't disciplined, was she, for diverting
23 \$40,000 from the NRA?

24 A Well, she paid it, you know a demand for repayment was
25 made and it was repaid with interest.

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1 Q Okay. And was she disciplined?

2 A I don't know what discussion may have occurred between her
3 and her, from her management.

4 Q And her manager is Mr. LaPierre, isn't that true?

5 A Yes.

6 Q Okay. And she still works at the NRA today, doesn't she?

7 A Yes, she does.

8 Q That doesn't really send a message that leadership places
9 a premium on controlled conscience environment, does it?

10 MR. NOALL: Objection, argumentative.

11 THE COURT: Sustained.

12 Q Okay. The audit committee of the NRA is principally
13 responsible for enforcing the NRA's conflict of interest in
14 related parties' transactions policy, is that true?

15 A Yes, in conjunction with others.

16 Q Okay. And you're one of those others, isn't that right?

17 A Yes.

18 Q Okay. And Mr. Cotton, how long has he been on the audit
19 committee?

20 A Several years but I'm sorry, I don't recall the exact
21 dates.

22 Q Has Mr. Cotton been on the audit committee as long as
23 you've been the general counsel at the NRA?

24 A I'm sorry, I don't recall the makeup of the committee, all
25 the way back.

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1 Q Mr. Frazer, you attend the audit committee meetings, don't
2 you?

3 A I do.

4 Q And you're involved as you just, I think you just
5 acknowledged in enforcement of the conflicts of interest and
6 related parties transaction policies, isn't that right?

7 A Yes.

8 Q And you are in particular responsible for insuring that
9 board members and executives who were subject to policies
10 complete their annual conflict of interest disclosure forms,
11 isn't that true?

12 A Yes.

13 Q And if you had, if there was reason to believe there was a
14 violation of the conflict of interest and related party
15 transaction policy, wouldn't the office of general counsel
16 typically be involved in looking into that?

17 A Yes.

18 Q And that would be typically the purview of the office of
19 general counsel to conduct any kind of investigation.

20 A Yes, although we may enlist others to assist.

21 Q Okay. And in the past several years, you agree with me
22 that the NRA has acknowledged compliance problems at the
23 executive and Board level with its conflict of interest and
24 related party transaction policy, hasn't it?

25 A I'm sorry, I'm not sure I followed the beginning of that

1 question.

2 Q My question is, you would agree with me that the NRA has
3 had compliance problems at the executive and Board level, let
4 me state my question again if I'm not stating it well. You
5 would agree with me that, Mr. Frazer, that at the executive and
6 Board level, there have been problems at the NRA with
7 compliance with the conflicts of interest and related party
8 transaction policy, isn't that true?

9 A If you go back a few years, yes but --

10 Q Okay. And if we could look at NRA Exhibit 270 which has
11 been admitted into evidence.

12 A I'm sorry, did you say NRA exhibit?

13 Q I believe yes, NRA Exhibit 270 and it should be the
14 minutes of the September 6th, 2018 Board meeting.

15 A Okay. So you said 270, okay.

16 Q That's right.

17 A Okay, I have it.

18 Q Okay. And I believe that the relevant section is on page
19 250 of the PDF, page 245 of the document.

20 A Yes.

21 Q Okay. And this is the audit committee report for that
22 Board meeting, isn't it?

23 A Yes, it is.

24 Q Okay. Let me just take a second to get me on the same
25 page with you if you don't mind.

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1 MS. STERN: Sorry, one second, Your Honor.

2 Q Okay. And turning your attention to, let's see, it is,
3 here we go, sorry I'm just trying to determine what page number
4 this is, okay, 250 of the PDF, 245 of the document. There's a
5 section where Roman IV, Woody Phillips. Do you see that?

6 A Yes, I do.

7 Q And the audit committee peer is considering, is it not,
8 two transactions involving Mr. Phillips, isn't that right?

9 A Yes.

10 Q July 2018 sailing trip and then below it a contract with
11 HomeTelos, isn't that right?

12 A Yes.

13 Q Okay. And the first item a) of the July 2018 sailing
14 trip, which is a sailing trip on a vessel owned by an NRA
15 contractor, Membership Marketing Partners who we spent some
16 time talking about, that's an entity that is owned by David
17 McKenzie, isn't it?

18 A I don't know --

19 MR. NOALL: Your Honor, I object. The question
20 misstates the wording of the audit report.

21 THE COURT: How so?

22 MS. STERN: It's a, I'm sorry.

23 THE COURT: How does it misstate it?

24 MR. NOALL: It talks about it's owned by a
25 shareholder of an NRA contractor and that was omitted,

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1 shareholder.

2 THE COURT: Restate your question.

3 MS. STERN: Certainly.

4 Q This audit committee here is looking at a transaction, I'm
5 sorry, looking at a July 28th sailing trip that Mr. Phillips
6 took on a vessel owned by a shareholder of an NRA contractor,
7 Membership Marketing Partners and it's your understanding that
8 is referring to David McKenzie?

9 A Yes.

10 MS. STERN: Okay. And then if we can turn to, sorry,
11 the end of this section and that will be on page 254 of the
12 PDF.

13 Q The audit committee here states that it is noted several
14 instances in which transactions that pose potential conflicts
15 of interest and thus should have been disclosed and approved in
16 advance or disclosed after the fact, specifically disclosures
17 should have occurred prospectively rather than retrospectively
18 with respect to the matters involving, and it goes on to
19 describe matters with Lt. Col. Oliver North and Ackerman
20 between Ms. Hammer's consulting agreement, Mr. Phillips'
21 sailing trip and his relationship with an executive at an
22 information technology vendor and Josh Powell's relationships
23 with respect to McKenna & Associates and Jim Powell Advertising
24 Photography, you see that, right?

25 A Yes, I do.

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1 Q Okay. And so the audit committee is noting specifically
2 among others disclosures that should have been made in advance
3 Mr. Phillips' sailing trip, isn't that right?

4 A Yes.

5 Q Okay. And after this, I think it says below here in the
6 later part of this paragraph, that the audit committee directs
7 the NRA officers to continue these sessions and to strengthen
8 other internal communications and processes as necessary to
9 insure the disclosures of potential conflicts of interests are
10 timely submitted. Do you see that?

11 A Yes, I do.

12 Q And it's your understanding that the audit committee then
13 had a number of additional meetings where they reviewed and
14 considered numerous other transactions that involved related
15 parties, isn't that right?

16 A I know that there were a number of additional transactions
17 considered later.

18 Q And those transactions were reviewed and the NRA purports
19 to have ratified them, is that right?

20 A I think that's right. I can't remember if there were any,
21 there were, -- Actually, I don't think that's quite right
22 because I think there were some that were determined there was
23 no conflict of interest in the first place or they fell outside
24 the policy.

25 Q My question to you, Mr. Frazer, is did the audit committee

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1 have subsequent meetings at which they reviewed transactions
2 that raised concerns under the related party transaction
3 conflicts of interest policy and ratified them?

4 A We did have some and then actually there was one that was
5 rejected as well.

6 Q Okay. And in, I'm going to ask you to look at NRA
7 Exhibits 271, 272 and 273, all exhibits on the NRA's exhibit
8 list, which are minutes of various board member audit committee
9 meetings and I'm going to offer them into evidence.

10 MR. NOALL: Your Honor, we were just checking the
11 exhibits. We have no objection to those three exhibits.

12 THE COURT: 270 --

13 MS. STERN: Thank you.

14 THE COURT: Are you offering 270, 271 and 272, is
15 that right?

16 MS. STERN: Your Honor, 270, NRA Exhibits 271, 272
17 and 273.

18 THE COURT: Those are admitted.

19 (NRA Exhibits 270, 271, 272, 273 admitted to evidence)

20 MS. STERN: Okay, thank you.

21 Q Mr. Frazer, you were involved in the process of ratifying
22 some of these related party transactions and conflicts of
23 interest transactions, were you not?

24 A Yes, I was.

25 Q And the process by which the Board, the audit committee

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1 would review those transactions was conducted entirely through
2 an oral presentation process, isn't that right?

3 A Usually. I know that I can recall one, I can recall at
4 least one exception which documents were shared.

5 Q Okay. And so other than that one exception, your typical
6 process would be to, there would be a presentation, oral
7 presentation to the audit committee, that would occur in
8 executive session, wouldn't it?

9 A Yes, and I also want to add, I think often I would bring
10 documents, copies of contracts and so on.

11 Q But you didn't provide the contracts themselves typically
12 to the members of the audit committee when you were doing these
13 reviews and ratifications of transactions involving conflicts
14 of interests and related party transactions, isn't that right?

15 A No, it would be primarily an oral discussion.

16 Q And you're familiar, aren't you, with a requirement under
17 New York law with respect to ratification of transactions
18 subject to the provisions of 715 of the NPCL, New York NPCL
19 concerning related party transactions, are you not?

20 A Yes.

21 Q And you're aware that those requirements include
22 contemporaneous documentation of the basis for the approval of
23 the transaction, isn't that right?

24 A Yes.

25 Q Okay. And you're familiar that that also requires

1 documentation of consideration of alternative transactions,
2 isn't it true?

3 A It requires consideration of alternative transactions if
4 available or some words to that effect. I don't recall the
5 exact language.

6 Q But it requires documentation that that process was
7 undertaken, isn't that right?

8 A Yes.

9 Q Okay. And these ratifications were done in executive
10 sessions, the NRA policy not to keep minutes of the executive
11 session, isn't that right?

12 A I don't know if I would say policy but it has been our
13 practice in recent years.

14 Q Okay. So other than what you described as in one instance
15 we're calling it there was a contract shared with the committee
16 and documents that you might have brought yourself. There
17 would be no other documents that it would reflect the audit
18 committee's consideration in connection with the ratification,
19 is that correct?

20 A There would be documentation, you know there may be
21 documentation of, in the form of discussions with counsel for
22 example exchanges in advance of a meeting. Not all the
23 discussion about what is going to be considered at the meeting
24 happens at the meeting.

25 Q But in order if I wanted to know what the audit committee

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1 considered in determining whether to ratify a transaction say a
2 \$2 million, you know contract, I would not, there would be no
3 documents other than privileged documents, is that what I'm
4 understanding?

5 A No, because in terms of the approval, we would try to
6 document it within the resolution itself and try to explain
7 what was considered.

8 Q Okay. So other than the resolution, there wouldn't be any
9 other documents, is that right?

10 A I don't know that I can say that there would be no other
11 documents. As I said there were often discussions in advance
12 of the meeting.

13 Q Okay. Mr. Frazer, you are aware of allegations that Mr.
14 LaPierre received various benefits from Mr. McKenzie who is an
15 owner or part owner of various vendors that do business with
16 the NRA including in the form of vacations on Mr. McKenzie's
17 yacht. Are you familiar with those allegations?

18 A Yes.

19 Q Okay. And you cannot identify today any investigation
20 that has been undertaken to determine whether or not those,
21 receipt of those benefits is a violation of the NRA's conflict
22 of interest and related party transaction policy, isn't that
23 true?

24 A I think it has been investigated by counsel in connection
25 with, you know with litigation.

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1 Q In connection with the Attorney General's litigation.

2 A Yes.

3 Q Okay. And other than internally, at the NRA, you can't
4 sitting here today, no investigation has been undertaken,
5 right?

6 A No, I'm not saying that no investigation has been
7 undertaken. I think that it has been investigated, actually I
8 think it has been investigated by counsel in anticipation of
9 litigation prior to it being filed.

10 Q Mr. Frazer, are you aware of a bankruptcy plan that's
11 being developed by the NRA?

12 A I'm aware that one is being developed and that we're
13 having a lot of discussions about specific provisions that may
14 be included.

15 Q Is it your understanding that -- sorry. What's the
16 approximate amount of the claims, the undisputed, unsecured
17 claims? Is that greater than \$25 million?

18 A Sitting here I don't recall. I would have to look for the
19 documents.

20 Q And the NRA has sufficient cash on hand to pay the claims
21 of the undisputed, unsecured creditors, doesn't it?

22 A I'm sorry, I don't recall any figures on that that would
23 allow me to answer.

24 Q The NRA is, that prior to the NRA filing for bankruptcy,
25 we talked about that it's in the greatest financial condition

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1 it has been in, in years, right? You agreed with that before.

2 A Yes.

3 Q And that before filing for bankruptcy, it had enough
4 liquidity to pay the undisputed claims, isn't that right?

5 A I just don't recall that.

6 Q Are you aware that the NRA has approximately \$20 million
7 in equity in its corporate headquarters building?

8 A I don't know the number, I'm sorry.

9 Q Are you involved in the development of this plan?

10 A Yes, although it's at an early stage in terms of my
11 involvement.

12 Q The plan is at an early stage?

13 A I know that counsel is working on the plan. I haven't
14 seen a draft plan.

15 Q Okay. So does the plan provide for a substantial
16 restructure of the bank debt on the NRA headquarters building?

17 A I don't know that I could answer specific questions about
18 a draft plan without revealing work product.

19 Q If someone asked you a series of questions, Mr. Frazer,
20 and you know we understand from the presentations that have
21 been made in the last day the Court that the NRA is developing
22 a plan, anticipates revealing this plan to the Board, as early
23 as May. And are you unable to provide any information about
24 that plan?

25 MR. NOALL: Objection, argumentative. Objection,

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1 argumentative.

2 THE COURT: Overruled. You can answer the question,
3 sir.

4 A And I'm sorry, the question is extremely broad. You're
5 asking me if I can answer any questions. I may be able to
6 answer questions that don't require disclosing work product.

7 Q Okay. Well, Mr. Frazer, I just wanted to make sure in the
8 interest of saving the Court some time rather than going
9 through a series of questions if were you going to take a
10 position that your knowledge with respect to the plan is
11 covered by work product that I address that before going
12 through the questions but I'm happy to go through more detailed
13 questions. So --

14 THE COURT: You're going to have to come to a
15 stopping point tonight.

16 MS. STERN: Your Honor, I'm prepared to stop here and
17 to pick it up in the morning when I think it will be very
18 brief.

19 THE COURT: All right. And so how much time do you
20 think you're going to need for this witness?

21 MS. STERN: I would say 10, 15 minutes.

22 THE COURT: All right. Mr. Gruber, do you still need
23 an hour and a half?

24 MR. GRUBER: Your Honor, I probably do need an hour
25 and a half.

1 THE COURT: All right. I hate to be repetitive. My
2 wife says I sometimes am. The Ackerman and the New York
3 Attorney General need to get together on making the case as
4 efficient as possible. You're not quite aligned with Journey
5 but to the extent Journey can join in on that, I would
6 appreciate it. As I've said, I agreed with your way of doing
7 the trial but we're now concluding the second day and we're
8 still in the middle of the second witness.

9 MS. STERN: Understood, Your Honor.

10 THE COURT: Two matters that have been filed while
11 we've started the trial, one involving Dr. Harris and the other
12 to some objections to deposition testimony. I don't want a lot
13 of arguing about this, this afternoon, I'm not asking for that,
14 but when is the anticipated time that Dr. Harris would testify?

15 MS. STERN: Your Honor, I'm going to let my
16 colleague, Ms. Connell address that.

17 THE COURT: Okay.

18 MS. CONNELL: Good afternoon, Your Honor. We're
19 trying to make the presentation as efficient as possible. So
20 we're looking at how long we can, or how we can make the
21 witness questioning shorten and trying to decide if we can fit
22 Dr. Harris in. So I would ask to have until tomorrow and let
23 you know if that's okay?

24 THE COURT: And that's fine. We're going to need to
25 set the motion before testimony. Second, on the anticipated

1 use, I think this is for Ackerman, the use of the depositions
2 which day are you planning on using those so that I can know
3 who we need to set those?

4 MR. NOALL: Brian, you've got the schedule, I think
5 on --

6 MR. MASON: I think one of the issues, Your Honor,
7 and was something that was brought up I believe before the
8 trial began was how maybe some of these deposition designations
9 would be used. I know Mr. Garman had indicated that he wanted
10 or he believed that the parties needed to read the testimony
11 out loud. I believe on the record. I know one of the things
12 that we would propose and being in favor if the Court is
13 inclined to do it, would be to try and figure out any issues
14 with objections and obviously there's objection to all of it.
15 But to the extent we can get that figured out, or the Court
16 rules on it, we would ask the Court consider allowing that to
17 come in without having to go through the process of reading the
18 page and lines because of the time constraints. To the extent
19 that there's maybe a very, very brief portion that we think
20 Your Honor needs to see, we would try and present that in an
21 extremely short and efficient time frame or possibly even on
22 close.

23 THE COURT: All right. So do we need to worry about
24 getting that set by tomorrow, the objection to the depositions
25 was just a question?

1 MR. MASON: I do not believe that we need to set that
2 tomorrow. I think that's something that we can set on Thursday
3 would be my suggestion.

4 THE COURT: Okay.

5 MR. MASON: And we can go ahead, we're already
6 working on a response to the objection.

7 THE COURT: All right. It would help me if responses
8 were filed to both the objections to the depositions as well as
9 the motion to exclude the testimony of Dr. Harris so that we
10 can get our bearings on that so if that can be filed sometime
11 tomorrow I think, Steven is that okay, we'll take it up on
12 Thursday, sometime on Thursday, we'll take it up. We'll let
13 you know tomorrow what time those would be taken up.

14 MR. MASON: Thank you, Your Honor.

15 THE COURT: My pleasure.

16 MS. STERN: Thank you, Your Honor.

17 THE COURT: My pleasure. We're going to start at
18 10:30 of the trial dates we have set, this is the last date
19 that I'll be teaching other days are nonteaching days so we can
20 start earlier so sorry about the late start tomorrow morning
21 but I'll see you at 10;30 tomorrow morning.

22 ATTORNEYS: Thank you.

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C E R T I F I C A T I O N

We, DANA KELLY, DIPTI PATEL, KAREN WATSON, and TRACY GRIBBEN, court approved transcribers, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of our ability.

/s/ Dana Kelly

DANA KELLY

/s/ Dipti Patel

DIPTI PATEL

/s/ Karen Watson

KAREN WATSON

/s/ Tracy Gribben

TRACY GRIBBEN

J&J COURT TRANSCRIBERS, INC. DATE: April 7, 2021