

# EXHIBIT 1

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK - CIVIL TERM - PART 3

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PEOPLE OF THE STATE OF NEW YORK, BY LETITIA  
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW YORK,

Plaintiff,

-against-

INDEX NO.  
451625/20

THE NATIONAL RIFLE ASSOCIATION OF AMERICA,  
WAYNE LAPIERRE, WILSON PHILLIPS, JOHN FRAZER,  
and JOSHUA POWELL,

Defendants.

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JURY TRIAL  
60 Centre Street  
New York, New York  
February 5, 2024

BEFORE: HONORABLE JOEL M. COHEN,  
Justice, and a jury

APPEARANCES:

STATE OF NEW YORK  
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SARAH B. ROGERS, ESQ.  
NOAH PETERS, ESQ.

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1 THE COURT: One question I just received. The rule  
2 against witnesses being in the audience typically doesn't  
3 apply to experts. So, my understanding is that there's an  
4 expert witness in the audience and in my view, experts are  
5 permitted to watch the testimony; in fact, often times it is  
6 a good idea.

7 MS. ROGERS: That's correct, your Honor. We have  
8 our expert here.

9 THE COURT: So, I just wanted to make it clear that  
10 that in my view does not violate the normal rule against  
11 witnesses.

12 MS. CONNELL: Your Honor, yes, one question. I'm  
13 going to go back to Mr. Hines's discussion of Michael  
14 Marcellin. I did pull up from the record where it had come  
15 up before.

16 THE COURT: Well, the documents that were cited in  
17 there, are they in evidence?

18 MS. CONNELL: The underlying document, his contract  
19 did not come in; but Mr. LaPierre admitted that he had -- he  
20 had known about the payments to Michael Marcellin and he  
21 knew that they were \$2.5 million or he said he wasn't aware  
22 of that number, but that he knew that there had been  
23 payments and that it had been reported to him and it was  
24 over a million and he knows now it was inappropriate. And  
25 we have the underlying 990s that report it in evidence.

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1 THE COURT: I see. So, that's listed in the 990s  
2 as excess benefits?

3 MS. CONNELL: It is listed in 990s as transactions  
4 with related person.

5 MS. ROGERS: Your Honor, there are facts on  
6 Mr. Hines's slide that are not on the record. So, for  
7 example, the contract review signature sheet, the lack of  
8 written approval, lack of business case analysis.  
9 Mr. LaPierre said he was aware of payments, but there's no  
10 testimony indicating this was inappropriately complex  
11 business arrangement, which the slide also asserts. Nothing  
12 about the payment being indirect is in the record.

13 THE COURT: Yes, that was my recollection, as well.  
14 I think there's still things in his testimony that  
15 are not in evidence, so I'm going to keep it -- unless,  
16 unless any of those exhibits and they haven't been admitted  
17 at the moment, I'm not inclined to have this last witness be  
18 the one who brings that in.

19 MS. CONNELL: Your Honor, just to be clear, though,  
20 Mr. LaPierre did say that he was aware that Mr. Marcellin  
21 received payment indirectly through an NRA vendor, Lockton  
22 Affinity.

23 THE COURT: I understand that, but expert's opinion  
24 is not predicated on the existence of the transaction, but  
25 on the internal controls issues which are not in evidence.

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1 All the other ones you have the relevant records in  
2 evidence.

3 MS. CONNELL: Final ditch effort, your Honor. On  
4 the 990s they acknowledge -- the NRA acknowledges it is  
5 their own 990s that Mr. Marcellin received payments by  
6 unrelated organization and it was inadvertently excluded  
7 from prior years, and they reflected payments from the  
8 organization that the NRA ultimately gave.

9 THE COURT: I'll accept the fact that the existence  
10 of some sort of a transaction with him is in the record  
11 somewhere; but the predicate for the opinion about that  
12 particular transaction not being -- not being in compliance  
13 allegedly with internal controls is not. Look, I think it  
14 is just where we are.

15 MS. CONNELL: I understand.

16 MR. FLEMING: Your Honor, just to be clear, no need  
17 to cross-examine him on that; right?

18 THE COURT: I didn't let him testify about it. I  
19 guess it came in and I struck it.

20 MS. CONNELL: I believe you did, your Honor.

21 THE COURT: So it is out.

22 MS. ROGERS: And so that slide in the demonstrative  
23 won't be shown then?

24 MS. CONNELL: No, your Honor.

25 THE COURT: Well, it may have been shown, but it

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1 can't be shown again.

2 Okay, let's get the witness and the jury. It was a  
3 busy letter writing weekend even for you guys. I don't  
4 really want to discourage it because they are useful, but  
5 it's gone a little bit unstructured where everybody just  
6 feels like they can just -- we're all close, but we're not  
7 pen pals at this point. I do have to have some sort of a  
8 limit on how this stuff comes in, but they were very  
9 helpful. Thank you.

10 (Whereupon, at this time the witness,  
11 ERIC HINES, having been previously duly sworn/affirmed by  
12 the Clerk of the Court, resumed the witness stand and  
13 testified as follows:)

14 THE COURT: Remind me at the break to speak to 4  
15 and ten.

16 Have you all worked out the time allocation issues?  
17 MS. ROGERS: So, your Honor, we've reconciled our  
18 minutes and hour counts, and I think we're almost exactly  
19 synchronized. We had a difference of three minutes, which I  
20 think we can further work out.

21 THE COURT: What do you have?  
22 MS. ROGERS: Our account, the defendants are about  
23 20 hours behind plaintiffs.

24 THE COURT: Give the numbers.  
25 MS. ROGERS: I can bring up the exact numbers.

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2 THE COURT: We can do that at a break. I think

3 once we have that and once the State rests, you'll be able

4 to figure the math out exactly of each minute of defense

5 case, what's the ratio of government case, if they want to

6 try to keep track.

7 Anyway, we'll figure that out, but I would like to

8 hear the numbers once we have a break.

9 COURT OFFICER: All rise, jury entering.

10 (Whereupon, at this time the jury then entered the

11 courtroom.)

12 THE COURT: Good morning, everyone. Please have a

13 seat. Welcome back, everyone.

14 We're going to continue with the State's expert

15 witness. Ms. Connell, are you ready?

16 MS. CONNELL: I am.

17 THE COURT: The is witness ready and you understand

18 you're still under oath?

19 THE WITNESS: I do, your Honor.

20 THE COURT: Please, proceed.

21 MS. CONNELL: Thank you, your Honor.

22 DIRECT-EXAMINATION

23 BY MS. CONNELL: (Continuing)

24 Q Good morning, Mr. Hines.

25 A Good morning.

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1 A Yes.

2 MS. CONNELL: Your Honor, I'd move for admission.

3 THE COURT: Okay, it is admitted.

4 MS. CONNELL: Thank you.

5 (Whereupon, at this time Plaintiff's Exhibit 5120

6 was admitted and received into evidence.)

7 THE COURT: Bonnie, we're not getting the realtime.

8 (Brief pause)

9 Q Mr. Hines, continuing --

10 MS. CONNELL: Jonathan, I'd like to go to slide 78,

11 if that's possible.

12 Q Mr. Hines, as part of your work in this case did you

13 look at the NRA's arrangement with an individual named Gayle

14 Stanford?

15 A Yes.

16 Q And can you give the jury a brief overview of the type

17 of analysis you did with regard to Ms. Stanford?

18 A Sure. I reviewed transactions with Ms. Stanford,

19 documented in invoices sent to the NRA. I reviewed underlying

20 supporting information. With respect to those invoices where it

21 existed, I also reviewed deposition sworn testimony, and I

22 reviewed financial transactions on the NRA's general ledger and

23 the ACH transactions we just spoke about and some other

24 supporting information on the financial transactions.

25 Q And in regard to the transactions with Ms. Stanford,

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1 Q As part of your analysis in this case, did you look at

2 or summarize the NRA's payments through an ACH system?

3 A Yes, I did.

4 Q Can you describe for the jury what an ACH system is?

5 A It is a form of electronic wire transfer, which is a

6 bank-to-bank transfer that goes through a clearinghouse.

7 Q Okay.

8 MS. CONNELL: Your Honor, I would like to --

9 Q In looking at the ACH system, did you look at amounts

10 that were paid out through the ACH system to various NRA

11 vendors?

12 A Yes.

13 Q And, Mr. Hines, if I can direct your attention to Tab

14 13 which is PX 5120 in the binder?

15 A Yes.

16 MS. CONNELL: Your Honor, this is a piece of the

17 summary evidence that we had submitted and given notice of.

18 Q Mr. Hines, can you describe is reflected in this table?

19 A Sure. So, this table reflects by year from 2013

20 through 2020 the total of the ACH transfers or wire transactions

21 from Wells Fargo, the NRA's bank and it's presented by entity.

22 Q Did you prepare this table?

23 A Yes.

24 Q Is it accurate based upon your review of the ACH

25 records?

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1 did you identify a violation of the NRA's internal controls?

2 A Yes.

3 Q And in regard to those transactions, did you identify

4 fraud risk indicators?

5 A I did.

6 Q Mr. Hines, did you -- well, can you describe for the

7 jury briefly what you observed that constituted fraud risk

8 indicators or violations of the NRA's internal controls?

9 A I'd be happy to. So, with respect to the internal

10 control failures, I concluded that there were -- well, based on

11 my understanding of the facts, there were no contracts in place

12 with Ms. Stanford over the better part of over two decades, I

13 believe and that is inconsistent with the NRA's requirement to

14 have contracts and appropriate review and approval procedures.

15 So, I identified that as an internal control breakdown.

16 I, also, identified a number of instances where the

17 payment structure with respect to Ms. Stanford was what in my

18 experience as forensic accountant would be overly complex. She

19 was paid through a number of different arrangements, and some of

20 those were direct by the NRA. Some of those were through

21 indirect payments made via Ackerman McQueen.

22 I observed a number of fraud risk indicators with

23 respect to the billing practices broadly, and those included

24 changing invoice information, in certain circumstances splitting

25 up invoices into smaller pieces, lack of supporting information

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1 and documentation with respect to those particular invoices as  
2 well.  
3 Q As part of your work, did you quantify amounts of money  
4 paid to Ms. Stanford by the NRA directly or indirectly?  
5 A Yes, I did.  
6 Q Mr. Hines, I'd like to direct your attention to Tab 15  
7 of your binder. This is PX 5127.  
8  
9 A Okay.  
10 Q Mr. Hines, can you -- did you prepare this table?  
11 A Yes.  
12 Q Can you describe what it reflects?  
13 A It reflects a summary of the monthly fees paid to  
14 Ms. Stanford over the course of the period from 2015 through  
15 2019.  
16 Q Ms. Stanford had been paid by the NRA for longer  
17 periods than that, is that right?  
18 A Yes.  
19 Q But this just reflects those years?  
20 A It does.  
21 Q What did you find in regard to the total amounts paid?  
22 A I found and quantified a total of monthly management  
23 fees of \$1,159,159.  
24 Q Thank you.  
25 MS. CONNELL: Your Honor, I'd ask PX 5127 be moved

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1 Q And what is it?  
2 A This table represent fees paid to Ms. Stanford via  
3 Ackerman McQueen primarily through the out-of-pocket expense  
4 arrangement.  
5 Q And did you -- is this an accurate reflection of the  
6 records you reviewed?  
7 A Yes.  
8 Q Is this the type of analysis someone in your field  
9 would normally pursue?  
10 A Yes, it is.  
11 MS. CONNELL: Your Honor, I move that this be  
12 admitted into evidence, PX 5129.  
13 THE COURT: It is admitted.  
14 (Whereupon, at this time Plaintiff's Exhibit 5129  
15 was admitted and received into evidence.)  
16 Q And this was paid in addition to the two other -- the  
17 retroactive fee and the monthly fee that we previously saw?  
18 A That's correct.  
19 Q Mr. Hines, going back?  
20 MS. CONNELL: If we can go to Tab 81, please  
21 Jonathan.  
22 Q Did you calculate the amounts that the NRA paid  
23 Ms. Stanford overall from January 2015 through February 2020?  
24 A Yes.  
25 Q And what did you find?

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1 into evidence.  
2 THE COURT: It is admitted.  
3 (Whereupon, at this time Plaintiff's Exhibit 5127  
4 was admitted and received into evidence.)  
5 Q Mr. Hines, I'd like to draw your attention to Tab, 16  
6 which is PX 5128.  
7 Did you prepare this table?  
8 A Yes, I did.  
9 Q And what does this table reflect?  
10 A This table reflects payments to Ms. Stanford for what  
11 were referred to as retroactive fees, so amounts that were paid  
12 typically early in the year following services that they were  
13 reported to be related to.  
14 MS. CONNELL: Your Honor, I would move for the  
15 admission of this table.  
16 THE COURT: It is admitted.  
17 (Whereupon, at this time Plaintiff's Exhibit 5128  
18 was admitted and received into evidence.)  
19 Q So, Mr. Hines, if I understand correctly, Ms. Stanford  
20 was paid in January this retroactive fee in addition to the  
21 monthly fee we just looked at; right?  
22 A That's correct, based on my understanding, yes.  
23 Q And if we can turn to Tab 17, please. This is PX 5129.  
24 Did you prepare this table, Mr. Hines?  
25 A Yes.

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1 A I calculated the total to be \$2,674,320.  
2 Q And that's just for services?  
3 A Yes.  
4 Q That's not just for the underlying travel costs?  
5 A That is correct.  
6 Q Did you -- as part of your analysis, did you take a  
7 look at Ms. Stanford's or the billing practices between the NRA  
8 and Ms. Stanford?  
9 A Yes, I did.  
10 Q And what did you find?  
11 A I found there were a number of billing anomalies that  
12 in my professional education and training would be consistent  
13 with fraud risk indicators.  
14 Q What type of anomalies are you talking about?  
15 A Invoices that were changed from draft to draft,  
16 including removing information with respect to destinations,  
17 passengers, and invoices that lacked supporting information  
18 provided with that when they were actually submitted for  
19 payment.  
20 There were instances where invoices were for a larger  
21 amount related to the same vendor around the same day, were  
22 split into smaller pieces; and that process was contemplated  
23 based on my understanding the fact that a larger amount would  
24 have required second approval, that sort of thing.  
25 Q Could we quickly walk the jury through some of these

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1 billing anomalies I think you mentioned. I think you said you  
 2 saw invoices that were changed to remove information.  
 3 If you look at the screen right now, is this an example  
 4 of one of what you're talking about?  
 5 A Yes.  
 6 Q Can you explain to the jury what's on the screen?  
 7 A I'd be happy to. So, on this left-hand side is a  
 8 version of an invoice for charter air flight services, and that  
 9 is the invoice that would be initially sent to Ms. Stanford  
 10 based on --  
 11 Q Could I stop you there one second. "CAA invoices to  
 12 Ms. Stanford," can you explain what that means?  
 13 A Sure. So, Ms. Stanford is the travel consultant for  
 14 Mr. LaPierre primarily, would arrange for charter flights; and  
 15 my understanding is that the vendor for those charter flights  
 16 was, typically, Corporate America Aviation. They would invoice  
 17 Ms. Stanford. Ms. Stanford would then bill that through for the  
 18 underlying services to the NRA by adding a markup.  
 19 So, the invoice on the left-hand side here is the  
 20 actual invoice from that vendor that provided the air charter  
 21 services to Ms. Stanford.  
 22 Q So, in addition to the monthly fees, she was paid --  
 23 Ms. Stanford got a markup on the travel charges she booked?  
 24 A That's correct.  
 25 Q What's the farthest right, the document on the farthest

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1 right?  
 2 A The farthest right is a version of an invoice sent by  
 3 Ms. Stanford to the NRA after it had been changed working with  
 4 certain individuals at the NRA based on my understanding of the  
 5 facts, and that was the version that was used and provided to  
 6 the finance group at the NRA to actually process the payment.  
 7 Q And did this altered billing have significance to you  
 8 as a forensic accountant?  
 9 A Yes, it did.  
 10 Q Can you explain to the jury what that significance is?  
 11 A Well, the significance, first off, is that the  
 12 information, the underlying itineraries was modified from the  
 13 underlying details on the Corporate America Aviation document.  
 14 As you can see from left to right in this particular  
 15 slide here, the Corporate America Aviation itinerary lists  
 16 Washington DC, Milwaukee, Wisconsin, Nebraska and the Bahamas.  
 17 The middle version of the invoice was sent by  
 18 Ms. Stanford, as I understand it, to the NRA; and the  
 19 destination is changed from Washington to Milwaukee and it lists  
 20 Florida as the destination.  
 21 And the final column with the invoice actually provided  
 22 to the Financial Services Division to process for payment  
 23 removed the destinations altogether, so that it is significant  
 24 in my experience as a forensic accountant because it,  
 25 essentially, makes the audit trail -- the ability to follow the

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1 documentation record, it makes it opaque unless obvious as to  
 2 what the actual flight is for and what the NRA was paying for.  
 3 Q I think you also said larger invoices were sometimes  
 4 broken up; is that accurate?  
 5 A Correct.  
 6 Q Can you explain why that's significant?  
 7 A It is significant because, one, it indicates that based  
 8 on my review of the underlying records and awareness that the  
 9 larger dollar value invoices would have required separate  
 10 approval and signoff; and by those larger dollar amounts being  
 11 slid into smaller components, it essentially bypasses separate  
 12 signoff for checks that were disbursed.  
 13 Q So, just to move things along, can you describe what  
 14 the jury is seeing on the bottom half of the screen right now?  
 15 A Sure. So, I identified based on my review of the  
 16 general ledger that there were invoices paid to Ms. Stanford in  
 17 the amounts that are corresponded on the right where it has  
 18 invoice amount.  
 19 As you can see, there's a total of \$171,000  
 20 approximately of expenses that are just labeled as May 2018  
 21 Dallas expenses. They're all consecutively numbered invoices.  
 22 They're all given the same invoice date, and they're all just  
 23 about below the threshold that I observed which is \$50,000 that  
 24 would have required additional signature.  
 25 So, in my experience this is an example of what would

E. Hines - by Plaintiff - Direct/Ms. Connell Page 3081

1 be an example of a fraud risk indicator with respect to  
 2 splitting those invoices in contemplation of a control step.  
 3 Q Thank you. Mr. Hines, a second ago we referenced CAA  
 4 as providing invoices to Ms. Stanford; correct?  
 5 A Correct.  
 6 Q Did you do any analysis of CAA invoices and  
 7 Ms. Stanford's invoices?  
 8 A Yes, I did.  
 9 Q If you could turn, please, to Tab 19 of your binder.  
 10 It is PX 5116.  
 11 THE COURT: This one needs to come with a  
 12 magnifying glass.  
 13 MS. CONNELL: I know. I'm sorry, your Honor. It  
 14 is a lot of information, so it was more pages or smaller  
 15 type.  
 16 Q Mr. Hines, did you prepare this table?  
 17 A Yes.  
 18 Q And can you describe what it is?  
 19 A It is a summary of invoices related to the Corporate  
 20 America Aviation vendor for charter flights; and it summarizes  
 21 the invoice number, invoice date, the date of the trip or the  
 22 itinerary, the passengers that were described on those invoices,  
 23 the itinerary destinations and the amount indicated as the total  
 24 due for that charter and it does that for, I believe, it is  
 25 approximately 180 invoices.

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1 MS. CONNELL: Your Honor, I'd ask this be moved  
2 into evidence.  
3 MS. ROGERS: The NRA reiterates its previous  
4 objections to this summary, but has no others.  
5 THE COURT: It is admitted.  
6 If it is possible to make one with larger type even  
7 if it doubles the number of pages, it's only three pages.  
8 I think that would be useful, but substantively it is  
9 admitted.  
10 MS. CONNELL: We'll circulate one with larger type,  
11 your Honor, and ask that it be admitted in that fashion; but  
12 for the time being --  
13 THE COURT: Yes, if the only thing that you do is  
14 make it bigger, you can just remark this as PX 5116 and you  
15 don't have to seek to have it readmitted.  
16 MS. CONNELL: Thank you, your Honor.  
17 Q Mr. Hines, while we have the book open, can you please  
18 look at Tab 18.  
19 A Okay.  
20 Q Did you prepare this table?  
21 A Yes.  
22 Q What does this table reflect?  
23 A This table reflects a summary of those Corporate  
24 America Aviation invoices, and it categorizes various attributes  
25 with respect to those invoices, including grouping them by

E. Hines - by Plaintiff - Direct/Ms. Connell Page 3083

1 flights where Mr. LaPierre was included as a passenger as  
2 presented on those invoices.  
3 The column with respect to the middle column are  
4 itineraries where Mr. LaPierre was excluded, and it identifies  
5 the Sterners as being included on those flights.  
6 And the third column shows the account of itineraries  
7 for Mr. LaPierre were excluded for all other itineraries. It  
8 shows the total counts, and then on the furthest left-hand side  
9 it represents the locations or itineraries that included  
10 locations of the Bahamas, Nebraska, both and all other; and it  
11 provides specific counts with respect to itineraries that have  
12 attributes and the percentages of the total.  
13 Q Did you ever summarize the results of this --  
14 MS. CONNELL: Your Honor, I move this into  
15 evidence.  
16 THE COURT: 5117?  
17 MS. CONNELL: I believe this is 5116. I think I  
18 made a mistake. I think I switched the order.  
19 THE COURT: Well, Tab 18 is 5117; isn't it? Is  
20 that the one you were on?  
21 MS. CONNELL: I think it got turned around, your  
22 Honor. I think we just moved 5116 into evidence already.  
23 THE COURT: Okay.  
24 MS. CONNELL: So, let's just move on to 5117.  
25 THE COURT: Wait, 5116 is the small one.

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1 MS. CONNELL: That's right.  
2 THE COURT: 5117 is the one that's Tab 18. That's  
3 admitted.  
4 (Whereupon, at this time Plaintiff's Exhibit 5117  
5 was admitted and received into evidence.)  
6 MS. CONNELL: That's right.  
7 Q So, Mr. Hines, did you prepare this table that's at  
8 5117, PX 5117?  
9 A Yes, this is the one I just described. You may have  
10 been off.  
11 MS. CONNELL: Your Honor, I move for this to be  
12 moved into admission.  
13 THE COURT: I'll move again if you want.  
14 MS. CONNELL: I do want that. Thank you, your  
15 Honor.  
16 Q Mr. Hines, can you describe for the jury again just  
17 briefly what this reflects?  
18 A Sure. So, this is a summary of the previous table that  
19 itemized the invoices with Corporate America Aviation, and it  
20 includes line items that represent whether those invoices  
21 included itineraries that referenced the Bahamas, Nebraska and  
22 all other.  
23 And the columns as you go from left to right tabulate  
24 the amounts with respect to those itineraries and accounts of  
25 those itineraries where Mr. LaPierre was included or where

E. Hines - by Plaintiff - Direct/Ms. Connell Page 3085

1 Mr. LaPierre was excluded; but it identifies the Sterners as  
2 being on those itineraries.  
3 And the third column where Mr. LaPierre was excluded  
4 for all other transactions, and then it provides totals and  
5 itinerary counts on the right-hand side, and then certain  
6 summarizations of those in the sections in green and yellow  
7 below.  
8 Q So, you found flights that the invoices reflected  
9 flights that Mr. LaPierre was not even on and you totalled  
10 those?  
11 A Yes.  
12 Q And you found flights where the Sterners were on  
13 without Mr. LaPierre?  
14 A Yes.  
15 Q And Mr. Sterners are Mr. LaPierre's niece and her  
16 family?  
17 A That is my understanding.  
18 Q And you totalled them up, and that's reflected in this  
19 chart?  
20 A Yes.  
21 Q And flights -- can you tell the jury how much you found  
22 for flights that on which Wayne LaPierre was not even a  
23 passenger?  
24 A It would be the total of the columns to the right -- or  
25 the middle and the second column. It is approximately, I

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1 believe, it is 8. -- or 870,000 so it would be the total of the  
 2 column Wayne LaPierre excluded and Sterners included and then  
 3 Wayne LaPierre excluded. So, it would be the total of those  
 4 dollars.  
 5 (Continued on next page)  
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Hines - by Plaintiff - Direct/Ms. Connell

1 Q And so can you describe for the jury the total amounts  
 2 that you found?  
 3 A Yes, I can. So across a population of 188 invoices  
 4 from May of 2015 through September of 2019, the total was  
 5 approximately 6.6 million.  
 6 I identified 57 invoices for \$2.6 million approximately  
 7 with destinations that included Nebraska or the Bahamas.  
 8 I also identified 41 invoices totalling \$872,000, and  
 9 these amounts don't include Ms. Stanford's markup. I should  
 10 mention that. But that \$872,000 did not include Mr. LaPierre as  
 11 a passenger and also identified 19 invoices for 686,000 where a  
 12 member of the Sterner family was listed as a passenger.  
 13 Q Mr. Hines, I'd like you to take a look at Tab 20 in  
 14 your book. This is PX 5119.  
 15 A Okay.  
 16 Q Actually, let's first look at Tab 21 which is PX 5118.  
 17 Did you prepare this table?  
 18 A Yes.  
 19 Q Can you describe to the jury what's in this table?  
 20 A This table represents the line item invoices that were  
 21 sent to the National Rifle Association for Ms. Stanford which  
 22 covered the period from late 2011 through October of 2019 and  
 23 includes each invoice that I was able to identify from  
 24 remittance information which is essentially a form of support  
 25 that the invoices were paid, and I've categorized those with the

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Hines - by Plaintiff - Direct/Ms. Connell

1 MS. CONNELL: Jonathan, if we can go back to slide  
 2 84 please.  
 3 Q Mr. Hines, did you find any other billing practices  
 4 that you deemed problematic with regard to the NRA's payments to  
 5 Ms. Stanford?  
 6 A Yes, I did.  
 7 Q And what were they?  
 8 A I noted a number of instances where the charges from  
 9 Ms. Stanford didn't include detailed descriptions. This table  
 10 on the slide presented, it showed some examples of that where it  
 11 would just list gratuities or charges with a city destination  
 12 name and lack of detailed description with respect to what  
 13 underlied those particular expenses.  
 14 Q And Mr. Hines, did you also look at black car  
 15 services retained or used by -- booked by Ms. Stanford for the  
 16 NRA executives?  
 17 A Yes.  
 18 Q And did you endeavor to quantify the amount spent on  
 19 that?  
 20 A I believe so.  
 21 MS. CONNELL: Actually, before we move on to black  
 22 car services, if we can go to slide 86, please, Jonathan.  
 23 Q Does this total your analysis of CAA invoices regarding  
 24 the flights that we talked about just before?  
 25 A Yes.

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Hines - by Plaintiff - Direct/Ms. Connell

1 invoice number, the remittance reference number, the invoice  
 2 date and noted where there were air transportation amounts, not  
 3 air transportation amounts, the total invoice amount, and the  
 4 reference to the particular document number.  
 5 MS. CONNELL: Your Honor I'd move PX 5118 into  
 6 evidence.  
 7 THE COURT: It's admitted.  
 8 Q Mr. Hines, did you endeavor to take the information  
 9 reflected on PX 5118 analyze it in a different form?  
 10 A Yes.  
 11 Q I direct your attention to Tab 20 in your book which  
 12 is PX 5119.  
 13 A Okay.  
 14 Q Can you describe to the jury what this reflects.  
 15 A Sure. So on this particular document, it reflects a  
 16 count of -- there is two different pie charts hereby.  
 17 THE COURT: The one -- the document that's on the  
 18 screen is not the document that the witness is describing.  
 19 I see the jury is looking at the one on the screen.  
 20 MS. CONNELL: The jury is looking at the one on the  
 21 screen, but a easier version of this --  
 22 THE COURT: I had a feeling that when you said  
 23 "describe for the jury," they thought he was going to be  
 24 describing the one that's on the screen. I don't want you  
 25 to put it on there, but I just want to make sure they

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Hines - by Plaintiff - Direct/Ms. Connell Page 3090

1 understood he is talking about a different thing.  
 2 MS. CONNELL: I am trying to move rather quickly  
 3 through this.  
 4 Q So Mr. Hines, did you prepare those graphics?  
 5 A Yes. I think they are not on the screen if that --  
 6 Q Right. The ones that we are looking at, PX 5119 --  
 7 A Correct.  
 8 Q -- in preparing them, did you use the type of  
 9 methodology that would normally be used by a forensic  
 10 accountant?  
 11 A Yes.  
 12 MS. CONNELL: I would move PX 5119 into evidence.  
 13 THE COURT: It's admitted. Now you can put it up  
 14 so they can see what you were talking about.  
 15 Q So now Mr. Hines, can you describe to the jury what's  
 16 reflected in these charts?  
 17 A I can. So the first pie chart here shows a breakdown  
 18 of the invoices paid by the NRA to GS2 which is Ms. Stanford --  
 19 one of her business entity names from December '11 to October of  
 20 '19. It showed those invoices that included air transportation  
 21 and those without air transportation, an account of those  
 22 invoices.  
 23 Q And if we move to the second chart. Can you describe  
 24 that breakdown.  
 25 A So this takes the same population of invoices and

Hines - by Plaintiff - Direct/Ms. Connell Page 3091

1 breaks it down between the cost. So the red represents the air  
 2 transportation cost identified from those invoices and the gray  
 3 area represents the non-air transportation cost itemized in  
 4 those invoices.  
 5 Q So --  
 6 A Go ahead.  
 7 Q Would it be fair to say that your analysis of the  
 8 invoices demonstrated that the NRA paid over \$13 million in  
 9 flight-related costs or air-related costs.  
 10 A Yes.  
 11 Q And about \$4.6 million in non-air related costs booked  
 12 through Ms. Stanford?  
 13 A Yes.  
 14 Q What would be included in those non-air related costs  
 15 or what's your understanding of what's included in the non-air  
 16 costs?  
 17 A It would be based on my review of the documents things  
 18 like black car services, some other miscellaneous travel and  
 19 business expenses but categories that were outside of air  
 20 travel.  
 21 Q And Mr. Hines, just to recap, you found fraud risk  
 22 indicators in regard to the NRA's relationship with Ms.  
 23 Stanford?  
 24 A Yes.  
 25 Q And again, can you quickly walk the jury through what

Hines - by Plaintiff - Direct/Ms. Connell Page 3092

1 those were.  
 2 A Sure. So there were a number of fraud risk indicators  
 3 that I identified. Specifically the complexity of the  
 4 transaction.  
 5 As I noted before, Ms. Stanford billed through multiple  
 6 legal entities, names of business that she billed under. There  
 7 were disaggregated fee structures. She was paid in multiple  
 8 different ways including commissions or markups on particular  
 9 travel costs, monthly fees, retroactive fees, indirect payments  
 10 through Ackerman McQueen.  
 11 Documents that were modified or altered including the  
 12 example we walked through before with respect to travel  
 13 itineraries being taken off of invoices sent to the National  
 14 Rifle Association, invoices that were split into smaller  
 15 component parts. Missing documents and unsupported transactions  
 16 is another fraud risk indicator based on my experience and  
 17 education and training.  
 18 Ms. Stanford's invoices typically didn't include  
 19 supporting documents underlying those charges.  
 20 I also noted based on my review and understanding of  
 21 the record that Ms. Stanford was actually instructed on how to  
 22 bill from the NRA which I thought was also a fraud risk  
 23 indicator of.  
 24 MR. CORRELL: Objection, your Honor. Objection,  
 25 your Honor. The testimony is in conflict on this, and this

Hines - by Plaintiff - Direct/Ms. Connell Page 3093

1 witness is purporting to resolve credibility issues between  
 2 different witnesses. I would move to strike.  
 3 THE COURT: Look, I think the witness has been  
 4 pretty clear throughout that he's giving his understanding  
 5 of the facts.  
 6 If the jury disagrees with his understanding of the  
 7 facts and finds a different set of facts is true, then they  
 8 can reject this testimony.  
 9 MS. CONNELL: Thank you, your Honor.  
 10 MR. CORRELL: Thank you, your Honor.  
 11 Q Were you finished walking through the fraud risk  
 12 indicators?  
 13 A No. There's a couple more. I can continue if you'd  
 14 like.  
 15 Q Very quickly, please.  
 16 A Sure. So transactions not recorded in a timely manner  
 17 or improperly recorded where there were circumvention of NRA's  
 18 policies with respect to Ms. Stanford's arrangements. Invoice  
 19 splitting as we discussed previously are consistent with fraud  
 20 risk indicators and the documentation of the award of her paid  
 21 arrangement being undocumented not subject review and approval  
 22 processes and having those be largely verbal agreements is a  
 23 fraud risk indicator as well.  
 24 Q Mr. Hines, would I be correct in understanding that  
 25 based upon the review you performed and in your experience,

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Hines - by Plaintiff - Direct/Ms. Connell Page 3094

1 education and training as a forensic accountant, you identified  
 2 internal control failures in every vendor relationship that you  
 3 looked at?  
 4 A Correct.  
 5 MR. CORRELL: Leading, your Honor. I move to  
 6 strike.  
 7 THE COURT: That was leading.  
 8 MS. CONNELL: It was leading, your Honor. I'm  
 9 sorry. Just trying to move things along, but I can ask.  
 10 Q Mr. Hines, how would you describe the results of your  
 11 review of the NRA's relationship with its vendors that you  
 12 reviewed?  
 13 A I identified internal controls and consistency in  
 14 internal controls and all the arrangements that I reviewed.  
 15 Q How would you describe your review of every NRA vendor  
 16 relationship that you -- that you looked at in terms of whether  
 17 or not there were presence of fraud risk indicators?  
 18 A I identified fraud risk indicators with respect to  
 19 each one.  
 20 Q Did you form an opinion about whether for the period of  
 21 time you looked that the NRA had an effective internal control  
 22 environment.  
 23 A I did.  
 24 Q What was that opinion?  
 25 A My opinion that it did not. Was that it did not.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3096

1 Q All right. You testified just a moment ago that in  
 2 every vendor relationship you looked at, you saw fraud risk  
 3 indicators.  
 4 You recall that; right?  
 5 A I do.  
 6 Q What percentage of the NRA's vendor relationships did  
 7 you look at?  
 8 A I don't know the total as a percentage of either vendor  
 9 count. I know in dollar basis it was quite large.  
 10 Q And the Government told you which vendor relationships  
 11 they wanted you to look at.  
 12 A They were the ones that were alleged to have been  
 13 improper in the complaint, so that was the scope of my analysis,  
 14 yes.  
 15 Q If I were to represent to you that you looked at less  
 16 than one percent of vendors by vendor count, would you have any  
 17 knowledge inconsistent with that?  
 18 A No, but I would say that dollars are more relevant than  
 19 vendor count in my experience.  
 20 Q We will talk about dollars later.  
 21 Now, these fraud risk indicators, I'm going to call  
 22 them FRIs for short.  
 23 We heard testimony that an FRI is absolutely not --  
 24 those were your words "absolutely not the same thing as actual  
 25 fraud;" right? It is not a conclusion that there is fraud;

Hines - by Plaintiff - Cross/Ms. Rogers Page 3095

1 MS. CONNELL: Thank you, Mr. Hines. I pass the  
 2 witness.  
 3 THE COURT: Okay.  
 4 CROSS-EXAMINATION  
 5 BY MS. ROGERS:  
 6 Q Good morning, Mr. Hines. Can you hear me?  
 7 A Yes.  
 8 MS. ROGERS: Can the jury hear me? Okay.  
 9 Q My name is Sarah Rogers. I represent the NRA.  
 10 Mr. Hines, before you joined us Friday, did you observe  
 11 any testimony by any other witnesses in this case?  
 12 A No.  
 13 Q Did you review transcript of any testimony by any other  
 14 witnesses in this case?  
 15 A I did not.  
 16 Q You're being paid as you sit here testifying; right?  
 17 A Correct.  
 18 Q When you gave a deposition earlier in this case, I  
 19 think you estimated that the Government would pay between 1.1  
 20 and \$1.2 million to your firm for your testimony.  
 21 Do you recall that?  
 22 A I do.  
 23 Q Have you gotten the million dollars yet?  
 24 A I believe we have been paid about a million or  
 25 somewhere thereabouts.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3097

1 correct?  
 2 Q Right. And it's not -- setting aside fraud finding, an  
 3 FRI or risk indicator doesn't mean that you found actual waste  
 4 of corporate assets either; right?  
 5 A It's an indicator of fraud, waste and abuse  
 6 Q An indicator for?  
 7 A Correct.  
 8 Q But not actual fraud, waste or abuse?  
 9 A It's an indicator, so yes.  
 10 Q In fact, a transaction could have multiple risk  
 11 indicators and not contain any fraud, any waste or any abuse.  
 12 A That is possible  
 13 Q You're certainly not telling the jury that anybody  
 14 broke any law.  
 15 A I'm not reaching a legal conclusion, no.  
 16 Q You're not telling them that anyone at the NRA broke  
 17 any law concerning related-party transactions; right?  
 18 A Again, I'm not reaching any legal conclusions.  
 19 Q Right. And you haven't reached the conclusion that  
 20 anyone broke any law regarding the administration of charitable  
 21 dollars; right?  
 22 MS. CONNELL: Objection, your Honor. The witness  
 23 can not give legal conclusions.  
 24 THE COURT: She can ask.  
 25 Q You are not giving a legal conclusion that anyone at

Hines - by Plaintiff - Cross/Ms. Rogers Page 3098

1 the NRA broke any law governing the administration of charitable  
2 dollars; right?  
3 A That's correct.  
4 Q And in fact, when you looked at those dollars, the  
5 dollars you said were more important than vendor count, you  
6 didn't check whether the dollars you were analyzing came from  
7 the NRA's 501c charitable fund or from its general funds; right?  
8 MS. CONNELL: Objection, your Honor.  
9 A I don't know the answer to that question.  
10 MS. CONNELL: One second. This gets into a legal  
11 issue that we spoke about previously about the 501(c)(3)  
12 versus (c)(4) and the charity and whether the NRA is a  
13 charity which it is under New York.  
14 MS. ROGERS: I am only asking if the witness  
15 considered the distinction.  
16 THE COURT: Overruled.  
17 Q Did you consider whether any of those dollars were  
18 important, the dollars that you were phrasing -- did you look at  
19 whether they came from tax deductible charitable donations or  
20 from the NRA's general funds?  
21 A I did not perform analysis.  
22 Q Okay. And you did not perform an analysis of whether  
23 the NRA broke any law governing whether forms filed with the  
24 Government are true or false; right?  
25 A That was not part of the scope of my analysis, no.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3099

1 Q Now, isn't it true that a transaction bearing a risk  
2 indicator can still be a great deal for the company?  
3 A Hypothetically, that's possibly, yes.  
4 Q Right. Like under internal controls, the contract  
5 should have four signatures. It has three, but it's entirely  
6 possible that that contract could make a ton of money for the  
7 company; right?  
8 A Theoretically possible, yes.  
9 Q And you'd also agree with me that any organization no  
10 matter how good the control environment, there is also some risk  
11 of fraud.  
12 A Correct.  
13 Q In fact, there was a major fraud at your former firm  
14 Arthur Anderson; right?  
15 A I don't know if I -- I don't know what the legal  
16 conclusion is with respect to that, but I did work at a firm  
17 that had a issue.  
18 Q You worked at Arthur Anderson in 2001; right?  
19 A 2001 to 2002.  
20 Q And that was the year that the Enron fraud came out --  
21 A Yes.  
22 Q -- that Arthur Anderson worked on.  
23 A Yes.  
24 Q So even if you can't reach a legal conclusion, as a  
25 layman, do you have a conclusion as to whether that Enron action

Hines - by Plaintiff - Cross/Ms. Rogers Page 3100

1 was a pretty big fraud?  
2 A I would agree it's a pretty big fraud.  
3 MS. CONNELL: Objection.  
4 THE COURT: On what grounds?  
5 MS. CONNELL: She is asking for a legal conclusion  
6 about Enron. It's collateral.  
7 MS. ROGERS: I am asking for a layman's conclusion  
8 because some of the lay people in the courtroom heard of  
9 Enron too.  
10 THE COURT: I'm failing to understand. Did this  
11 witness have anything to do with that engagement?  
12 Q Well, you were at Arthur Anderson at this time.  
13 A I was at Arthur Anderson in a completely different  
14 office. Never touched Enron.  
15 THE COURT: I will sustain the objection. This has  
16 nothing to do with this witness.  
17 Q But you would agree that even a good company, even a  
18 company committed to controls can end up in a transaction that  
19 bears fraud risk indicators.  
20 A That's possible.  
21 Q Okay. Now a risk indicator can be remediated; right.  
22 A It could be, yes.  
23 Q Okay. But you didn't offer the jury an opinion about  
24 whether or when any of the risk indicators you identified were  
25 fixed by the NRA?

Hines - by Plaintiff - Cross/Ms. Rogers Page 3101

1 A I did not observe that, but that is not part of my  
2 opinion.  
3 Q Okay. All right. I want to put up a demonstrative we  
4 made last Friday while you were testifying, and it's just an  
5 image of one of your slides.  
6 And what I have done is I've taken these vendors you  
7 looked at and put them in buckets for ease of description.  
8 The McKenzie companies. Can you list for the jury what  
9 the McKenzie companies are?  
10 A That would be Concord Allegiance MMP and also  
11 Associated Television International.  
12 Q Right. Now, is it your understanding that David  
13 McKenzie controls each of those companies or is he just a  
14 shareholder?  
15 A I understand he's got control of those entities and is  
16 also a shareholder.  
17 Q In the context of corporations, have you ever heard the  
18 term "alterego"?  
19 A I have, yes.  
20 Q Would be fair to say that an alterego is a shell  
21 company different on paper from the person or entity that  
22 controls it but really the money is going to the same place?  
23 MS. CONNELL: Objection, your Honor.  
24 THE COURT: Sustained.  
25 A I don't know.

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Hines - by Plaintiff - Cross/Ms. Rogers Page 3102

1 THE COURT: When there is an objection -- I'm not  
 2 sure exactly where you're going. That's a complicated  
 3 question even for lawyers.  
 4 MS. ROGERS: All right. Well, I'll ask this.  
 5 Q You did not reach a conclusion that any of these  
 6 McKenzie companies were alteregos of David McKenzie; right?  
 7 MS. CONNELL: Objection, your Honor.  
 8 THE COURT: Did you address that question?  
 9 THE WITNESS: No.  
 10 Q Okay. You did not address or conclude whether these  
 11 companies were alteregos of each other; right?  
 12 MS. CONNELL: Objection, your Honor.  
 13 THE COURT: Overruled. You can answer.  
 14 A No.  
 15 Q Okay. Do you think that the NRA's relationship with  
 16 every McKenzie company exhibited FRIs or just MMP?  
 17 A Well, I would believe that -- the fact there were  
 18 internal control failures with respect to all of the entities  
 19 would be consistent with the fraud risk indicator, and  
 20 my observation that the arrangements were less given the  
 21 multiple contracts with those multiple companies I think if too  
 22 would apply to those all of those.  
 23 Q But the NRA stopped paying Associated Television  
 24 International in 2018 six years ago; right?  
 25 A I don't recall the specific date.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3103

1 Q In forming your expert opinion about the transaction,  
 2 did you check whether the transaction was ongoing or had ended?  
 3 A I believe that's in my schedules, yes. I just don't  
 4 recall as I sit here right now.  
 5 Q If I were to represent to you that the NRA stopped  
 6 paying Associated Television six years ago, would you have any  
 7 knowledge inconsistent with that?  
 8 A No.  
 9 Q You didn't observe the other testimony in this case,  
 10 but if one of the Attorney General's own witnesses Chris Cox  
 11 testified that MMP was a life blood of the NRA, would you have  
 12 knowledge inconsistent with that?  
 13 A No. I have no way to opine on that one way or the  
 14 other.  
 15 Q Well, let's look back at your slide 29 which is about  
 16 those companies. All right.  
 17 You pointed out -- I think the point you're making on  
 18 this slide right is that the NRA paid MMP more during the 2010  
 19 under the contract it actually signed than would have been  
 20 allowed under an earlier version that had a ten percent cost  
 21 increase limit; right?  
 22 A That's certainly part of this analysis, yes.  
 23 Q Are you offering the jury any opinion about whether the  
 24 -- whether the NRA paid MMP too much?  
 25 A Could you define "too much?"

Hines - by Plaintiff - Cross/Ms. Rogers Page 3104

1 Q Sure. Too much relative to the value it was receiving.  
 2 A I didn't do a fair market value analysis. This  
 3 calculates the difference between the contract it actually  
 4 signed, the contract that was reviewed and approved and what was  
 5 actually paid.  
 6 Q Right. And you didn't do any analysis on whether  
 7 during these years MMP brought in more money than MMP was paid.  
 8 A No.  
 9 Q And you didn't do any analysis on whether during these  
 10 years the contract helped or hurt the NRA's non-profit mission?  
 11 A No. That's outside of the scope of my analysis.  
 12 Q The earlier version of the contract, the one that was  
 13 reviewed had a ten percent cost increase allowance; right?  
 14 A I believe it was the reviewed version had a ten percent  
 15 cap on annual fee increases.  
 16 Q And you performed no analysis over whether the NRA's  
 17 membership based, the people serviced by MMP grew more than ten  
 18 percent during these years.  
 19 A I did not.  
 20 Q And you performed no analysis on whether the money  
 21 brought in by MMP increased by more than ten percent during  
 22 those years.  
 23 A No.  
 24 Q All right. Now the scarlet segment of this graph is  
 25 what the NRA actually paid under the contract that was actually

Hines - by Plaintiff - Cross/Ms. Rogers Page 3105

1 signed; right?  
 2 A Can you say that one more time?  
 3 Q Sure. The scarlet red segment of this graph is what  
 4 the NRA actually paid under this contract, what it actually  
 5 signed; right.  
 6 A It's what it actually paid. It's not what the contract  
 7 actually called for.  
 8 Q Right. And the version of the contract that you  
 9 compared it to, the one with the ten percent rate increase  
 10 limiter, what the NRA could have paid under this contract is  
 11 represented in pink; right?  
 12 A Correct. Well, the pink is the differential between  
 13 the stated contract rate and the ten percent growth rate.  
 14 Q Right. So you would agree with me that under your  
 15 graph, the NRA's fees to MMP increased during the 2010s and then  
 16 levelled off?  
 17 A That's correct.  
 18 Q And you would also agree with me that by 2021, the  
 19 amount paid under the actual contract had pretty much converged  
 20 with what your version of the contract would have allowed;  
 21 right?  
 22 A In terms of the annual amount?  
 23 Q Yes.  
 24 A They are approximately in the same vicinity.  
 25 Q Okay. Let's look at your -- well, actually, I have one

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Hines - by Plaintiff - Cross/Ms. Rogers Page 3106

1 more question about this graph.  
 2 In forming your expert opinions, did you do any work to  
 3 match these trend lines with trends in the NRA's membership  
 4 count or fundraising volume?  
 5 A No. It wasn't relative to my analysis given I'm  
 6 looking at the contract rates and reviewed rates and what was  
 7 actually paid.  
 8 Q Would it be fair to say when you looked at the MMP  
 9 contract, you had looked at what the NRA was paying but not what  
 10 the NRA was getting?  
 11 A That's correct.  
 12 Q Mr. Okay. All right. Now, let's look at your slide  
 13 35.  
 14 Are you telling the jury that the NRA was wrong to  
 15 renegotiate the MMP contract at a better price in 2022?  
 16 A No.  
 17 Q Okay. And in forming the view that this renegotiation  
 18 reflected a fraud risk indicator, did you do any assessment of  
 19 whether the services provided by MMP actually changed?  
 20 A I didn't come to a specific analysis of each service,  
 21 but based on my review of the record, my recollection and  
 22 understanding was that the NRA employees internally themselves  
 23 described that the contracts were for similar services and that  
 24 there were -- it was more market rate and that they were  
 25 favorable terms for the new contract.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3108

1 the contract, what was required by the contract and whether  
 2 they were breached, and that was the subject of lawsuits  
 3 which were settled as we know.  
 4 THE COURT: He can give his understanding. You can  
 5 answer.  
 6 A Can you ask the question again.  
 7 Q Would you agree with me that Ackerman broke the  
 8 promises it made to the NRA in those contracts?  
 9 A I would say I have not done a legal analysis nor would  
 10 I be -- I'm not a lawyer, so I don't know the answer to that  
 11 question.  
 12 Q So in analyzing whether the contract bore a fraud risk  
 13 indicator, you didn't analyze whether Ackerman breached the  
 14 contract?  
 15 A Again, it calls for a legal conclusion. That is not  
 16 the scope of my analysis.  
 17 Q Well, did you read the provisions of the contract  
 18 dealing with travel and entertainment expenses?  
 19 A I read the contracts, yes.  
 20 Q Even as a non-lawyer, you would understand that that  
 21 contract required for Ackerman to follow NRA policy with respect  
 22 to the expenses it invoiced; right?  
 23 A That is -- I don't recall the specific language, and I  
 24 also understand the contracts specifically stated that they  
 25 couldn't operate or act without Mr. LaPierre's direction. Those

Hines - by Plaintiff - Cross/Ms. Rogers Page 3107

1 Q In forming the view that the NRA striking a better deal  
 2 in 2022 reflected a fraud risk indicator, did you analyze  
 3 whether MMP fundraising volume changed?  
 4 A I did not.  
 5 Q All right. Let's go back to go our demonstrative with  
 6 the four buckets on it.  
 7 In addition to the McKenzie companies, you also looked  
 8 at Ackerman McQueen and two related entities, Mercury Group and  
 9 Under Wild Skies; right?  
 10 A Correct.  
 11 Q The NRA stopped paying Ackerman and sued Ackerman in  
 12 2019; right?  
 13 A That is my understanding.  
 14 Q Same for Mercury Group?  
 15 A I believe that's correct.  
 16 Q And the NRA also stopped paying Under Wild Skies and  
 17 sued Under Wild Skies.  
 18 A I believe that's accurate.  
 19 Q Ackerman broke the promise it made in the contract to  
 20 the NRA?  
 21 MS. CONNELL: Objection, your Honor.  
 22 A I have no opinion on that.  
 23 THE COURT: Hang on when there is an objection.  
 24 What's the objection?  
 25 MS. CONNELL: It calls for a legal conclusion about

Hines - by Plaintiff - Cross/Ms. Rogers Page 3109

1 two things should be considered together.  
 2 Q Do you have a recollection as to whether the contract  
 3 stated that Ackerman was required to follow NRA's written  
 4 expense policies?  
 5 A I don't recall the explicit language in the contract.  
 6 Q Now, let's talk about direction given by Mr. LaPierre  
 7 and what the record shows and what you looked at.  
 8 Have you heard of a firm called Forensic Risk Alliance?  
 9 A Yes.  
 10 Q They are a forensic accounting firm; right?  
 11 A Yes.  
 12 Q Would you say they have a good reputation in the  
 13 forensic accounting field?  
 14 A I think it's a fine one. I don't have a specific  
 15 opinion one way or another.  
 16 Q You testified earlier fraud risk indicators can be  
 17 fixed. Do you remember that?  
 18 A They can be in certain circumstances with the  
 19 appropriate diligence and processes.  
 20 Q And one example of an appropriate policy might be to  
 21 hire a forensic firm like Forensic Risk Alliance to look at the  
 22 subject expense; right?  
 23 A That could be part of the fact finding. I think you  
 24 need to be careful in my experience not to conflate fact finding  
 25 with remediation.

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1 Q You understand the NRA did hire FRA to look at  
2 Ackerman's expenses?  
3 MS. CONNELL: Objection, your Honor.  
4 Q Do you understand that?  
5 MS. CONNELL: Your Honor, may we approach. This  
6 addresses an evidentiary issue.  
7 MS. ROGERS: It's in his report.  
8 THE COURT: Yeah. Overruled.  
9 A Can you repeat the question?  
10 Q Sure. You understand the NRA hired a forensic  
11 accounting firm FRA to look at Ackerman's out-of-pocket  
12 expenses; right?  
13 A I am aware that they hired FRA.  
14 Q In fact, FRA generated a voluminous spreadsheet of its  
15 findings.  
16 Do you remember that?  
17 A I recall they had spreadsheets. I don't recall how  
18 voluminous.  
19 Q You recall that you relied on that spreadsheet when you  
20 did your expert report?  
21 A I reviewed it and considered it, and my recollection is  
22 I recall findings being similar and having observations with  
23 respect to the issues with the out-of-pocket expense arrangement  
24 that were available.  
25 (Continued on the following page.)

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3111

1  
2 MS. ROGERS: I'd like to show the witness for  
3 identification Plaintiff's Exhibit 2333. This is the  
4 spreadsheet.  
5 MS. CONNELL: Your Honor, objection.  
6 THE COURT: So, let me just see what it is first.  
7 Can you just turn the screens off.  
8 MS. ROGERS: I have paper copies, if that's  
9 convenient.  
10 THE COURT: Okay.  
11 MS. ROGERS: Paper copy for plaintiff, for the  
12 Court and I've got one for the witness, if he'd like.  
13 THE COURT: Thank you.  
14 (Handed)  
15 MR. CORRELL: Is there a copy for us?  
16 MS. ROGERS: I only have four, but let's see. It  
17 is PX 2333.  
18 Q Mr. Hines, do you recognize this as the Forensic Risk  
19 Alliance report that you considered when you formed your expert  
20 opinions?  
21 A Looks to be that document.  
22 MS. ROGERS: I move for its admission.  
23 MS. CONNELL: Your Honor, objection, and I would --  
24 I can state the objection on the record, but I prefer to  
25 approach the bench.

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1 THE COURT: Okay, why don't you come forward.  
2 (Whereupon, the following ensued at side bar on the  
3 record with the Court and all counsel as follows:)  
4 MS. CONNELL: Your Honor, this FRA spreadsheet is  
5 something that is at issue in this case. There's no  
6 foundation for Mr. Hines to look at it because it was  
7 produced by the NRA. However, the NRA's appropriate rep can  
8 testify, we propose can he testify. He says that he never  
9 presented a spreadsheet to the NRA as part of his work, that  
10 they screen share the spreadsheet and he couldn't say this  
11 was the final spreadsheet that they actually had prepared.  
12 Furthermore, he didn't know how it got to the NRA  
13 and he, himself, didn't have firsthand knowledge of it which  
14 is not unusual; but he also wasn't able to speak to certain  
15 other people who did have firsthand knowledge. One person  
16 who did have firsthand knowledge was Susan Dillon who left  
17 the Brewer firm to work at FRA for a brief period of time  
18 during this engagement and then returned to the Brewer firm.  
19 But we don't have a corporate rep that can say to my  
20 knowledge that these were the spreadsheets used, they were  
21 the ones drafted and that this witness should not be a  
22 vehicle for their admission because Mr. Hines looked at  
23 these spreadsheets that were provided and produced by the  
24 NRA.  
25 MS. ROGERS: Mr. Hines said his conclusions were

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3113

1 similar to the ones -- I want to ask the expert questions  
2 about how he considered and interpreted this.  
3 There's also been some representations by  
4 Ms. Connell that I'd like to address. So, this idea that an  
5 employee left the Brewer firm to work at FRA and then come  
6 back. As this employee was laid off from COVID -- I just  
7 want to note your Honor, FRA filled out a business record --  
8 THE COURT: Hold on. The question is whether this  
9 document is what you're describing it to be is what was  
10 shown actually used, because there could have been any  
11 number of iterations of this.  
12 MS. ROGERS: Well, FRA filled out an affidavit in  
13 the bankruptcy offering this document, and the expert  
14 testified that he considered it and reached similar  
15 conclusions.  
16 THE COURT: Which expert?  
17 MS. ROGERS: This expert just now.  
18 THE COURT: Again, it still -- if you want to -- if  
19 you want to impeach him or something about what his  
20 testimony, that's okay with this; but putting it in as  
21 substantive evidence without -- you can in your case if you  
22 can lay a foundation for an FRA report that was shown to the  
23 company as part of your defense, that's fine.  
24 The question is whether I have a basis to admit  
25 this in as a trial exhibit through this witness. I don't

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E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3114

1 think so. I think the -- the only thing you can do is if he  
 2 has testified that his assumption is that FRA did something  
 3 based on what he reviewed, you can say, well, this is what  
 4 you reviewed, doesn't say that does it? That's not  
 5 admitting it for substantive evidence yet.  
 6 MS. ROGERS: I'm content to question the witness  
 7 from the document, reserving rights to admit it later.  
 8 THE COURT: Yes, and during your case if you can  
 9 admit something like this, that's fine.  
 10 MS. CONNELL: Thank you, your Honor.  
 11 (Whereupon, at this time the side bar ended and the  
 12 following ensued in open court as follows:)  
 13 THE COURT: Sorry for the side bar part of it, but  
 14 it is important.  
 15 I'm going to let counsel ask some questions about  
 16 this document to this witness but since -- if they want to  
 17 try to move a document like this into evidence, they can try  
 18 it in their case in chief.  
 19 This isn't a witness who can provide a foundation  
 20 for admitting it now, so I'm not going to admit the exhibit  
 21 yet, but you may see it again.  
 22 MS. ROGERS: Thank you, your Honor.  
 23 BY MS. ROGERS: (Continuing)  
 24 Q Mr. Hines, I'd like to direct your attention to the key  
 25 observation section at the top?

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3115

1 A Okay.  
 2 Q I questioned you before about your understanding of the  
 3 provisions of the Ackerman McQueen contract you analyzed. Do  
 4 you recall that?  
 5 A Yes.  
 6 Q And I asked you whether it was your understanding that  
 7 Ackerman adhered to NRA policies; right?  
 8 A That was your representation, yes.  
 9 Q Would you agree that representation was consistent with  
 10 what the other forensic accountants wrote in that first cell of  
 11 that spreadsheet?  
 12 A I'd like to read it.  
 13 Q Of course. You would agree with me what I said about  
 14 the contract that Ackerman had to adhere to written procedures  
 15 established by the NRA vis-à-vis its expenses. That  
 16 representation is consistent with what the other forensic  
 17 accountants observed; right?  
 18 A That language appears to be generally consistent;  
 19 although, I haven't analyzed it against the specific contract  
 20 with this document that I'm seeing here, but...  
 21 Q Okay. Now, when I made that representation to you  
 22 before, you noted that Ackerman was only authorized under the  
 23 contract to take direction from the executive vice president who  
 24 was Wayne LaPierre.  
 25 Do you recall that discussion we had?

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3116

1 A Yes.  
 2 Q I'd like to direct your attention now to cell four of  
 3 the spread from the other accountants that you reviewed. I'm  
 4 going to read a sentence to you and you tell me if you have any  
 5 knowledge inconsistent with it.  
 6 MS. CONNELL: Objection, your Honor.  
 7 THE COURT: Sustained. That's the same thing as  
 8 admitting the document.  
 9 Q Well, I'm going to try to ask this a slightly different  
 10 way.  
 11 Mr. Hines are you aware of any evidence in the record  
 12 to indicate that the out-of-pocket expenses billed by Ackerman  
 13 were in connection with special assignments or were approved by  
 14 the NRA executive vice president or his designee?  
 15 A Specifically, with respect to the special assignments  
 16 or I guess --  
 17 Q Well, did you see any written approvals in the record  
 18 consistent with what we just discussed indicating that Wayne  
 19 LaPierre had approved these expenses you reviewed?  
 20 A I don't recall.  
 21 Q Okay. And when you say you don't recall, do you mean  
 22 you don't recall whether you saw any; or sitting here today, you  
 23 have no current specific recollection of seeing any document in  
 24 the record evidencing a written approval by Mr. LaPierre of  
 25 these expenses, which you've opined were fraud risk indicators?

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3117

1 A I don't recall specifically whether that exists or not.  
 2 I do recall testimony that indicated that the individuals at the  
 3 NRA were aware of the arrangement, the out-of-pocket expense  
 4 arrangement given this is what we're talking about. I don't  
 5 recall specifically if there's a signed document or not.  
 6 MR. CORRELL: Your Honor, objection to the  
 7 characterization of the testimony and move to strike.  
 8 THE COURT: Denied.  
 9 Q I'm going to dig into the characterization. Whose  
 10 testimony?  
 11 A I recall based on my recollection and understanding of  
 12 the facts Mr. Phillips --  
 13 THE COURT: Hang on a second. Are you talking  
 14 about testimony in the trial or at some other point in  
 15 time?  
 16 THE WITNESS: I'm referring to testimony that I  
 17 reviewed in deposition transcripts, your Honor.  
 18 THE COURT: If that's not in evidence, then I'll --  
 19 I change my mind as to striking it.  
 20 MR. CORRELL: Thank you, your Honor.  
 21 MS. ROGERS: Then I'll move on.  
 22 Q But you don't recall seeing any written approvals in  
 23 the record consistent with the contract; right?  
 24 A Not as I sit here right now.  
 25 Q In forming your expert opinions about the Ackerman

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E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3118

1 relationship, one relevant fact you considered was that Tony  
2 Makris was friends with Wayne LaPierre; right?  
3 A I think that is a relevant piece of information.  
4 THE COURT: Is a relevant or irrelevant?  
5 THE WITNESS: One relevant piece of information,  
6 yes.  
7 Q I wasn't clear from your earlier testimony, do you  
8 think that a friendship poses a conflict of interest for  
9 internal controls or not?  
10 A My view would be, one, you'd have to consider the  
11 policy and I think the specific receipt of gifts and  
12 entertainment accompanies a friendship would be certainly  
13 relevant and disclosable as I understand it under the policy;  
14 but if you can ask the question again.  
15 Q Sure. Well, I suppose -- is it your testimony or your  
16 opinion that the Ackerman contracts should have been subject to  
17 a conflict analysis on the basis that Mr. LaPierre and  
18 Mr. Makris were friends?  
19 A I don't necessarily have a specific opinion on that  
20 directly. I don't believe I have a specific observation about  
21 the Ackerman contract with respect to conflicts of interest; but  
22 I think if it is based on my experience as a forensic  
23 accountant, if there is a personal relationship with a  
24 significant vendor and there's goods and services exchanged and  
25 potential -- any sort of remuneration of gifts or entertainment,

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3119

1 I think it would certainly warrant consideration for a  
2 disclosure.  
3 Q If plaintiff's other expert, Jeffrey Tenenbaum, told  
4 the jury that a friendship is not a conflict of interest for  
5 purposes of nonprofit government best practices, would you have  
6 any opinions inconsistent with that?  
7 MS. CONNELL: Objection, mischaracterizes his  
8 testimony.  
9 THE COURT: Hang on. I sitting here can't remember  
10 exactly what the witness said, so why don't you just ask the  
11 question of this witness.  
12 Q Well, I'll move on, because we'll revisit that later.  
13 You would agree with me that if a personal connection  
14 between Mr. LaPierre and Mr. Makris is relevant to your  
15 analysis, it would also be relevant, wouldn't it, to consider  
16 whether Ackerman engaged in the same expense misconduct with  
17 respect to other clients who had nothing to do with Wayne  
18 LaPierre and where there was no personal friendship with the  
19 CEO?  
20 A My analysis was looking at what the NRA paid for, and  
21 so I considered the information that I had in front of me and  
22 I'm not sure what Ackerman did with its other clients would  
23 change any of my opinions whatsoever.  
24 Q So, you have no opinion about whether Ackerman's  
25 conduct has anything to do with any personal relationship that

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3120

1 it had with the NRA. As far as you're concerned, Ackerman might  
2 have expensed every single client the exact same way?  
3 A I have no basis to even take a guess at what Ackerman  
4 did with its other clients.  
5 Q Did you ask the attorney general whether there were any  
6 other Ackerman clients that testified in the cases in which you  
7 reviewed testimony?  
8 A I did not specifically do that, no.  
9 Q And they didn't tell you?  
10 A Not that I recall.  
11 Q All right, let's go back to the four buckets, our  
12 demonstrative.  
13 Third bucket, contracts with board members and with  
14 people who used to work for the NRA.  
15 You left out the largest related-party contract in the  
16 NRA history when you did this analysis. You left out the Oliver  
17 North contract; right?  
18 A That was not in the scope. I didn't -- it was not part  
19 of what I was asked to analyze. As I understand, it was not  
20 part of the complaint.  
21 Q Did the Government tell you that the NRA had a  
22 contract worth about 6.9 million dollars with one of its board  
23 members, Oliver North?  
24 A I was generally aware there was a contract, yes.  
25 Q Did you omit this from your analysis because Colonel

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3121

1 North agreed to testify for the Government?  
2 A No.  
3 Q You omitted it from your analysis because they didn't  
4 ask you to include it?  
5 A Because it was not part of the complaint, as I  
6 understand it.  
7 Q So, if you reviewed the complaint and it didn't talk  
8 about that contract, that would be consistent with your  
9 recollection?  
10 A I don't recall specifically, but it was not one of the  
11 arrangements that I reviewed.  
12 Q Well, setting aside the North contract and looking back  
13 at contracts you did consider, you didn't analyze the value of  
14 the services provided under any of the contracts; right?  
15 A As a fair value issue?  
16 Q Did you analyze the value provided under these  
17 contracts from any perspective?  
18 A That would be from what I understand your question to  
19 be is a fair-market value analysis, and no.  
20 Q So, you didn't analyze whether the NRA was getting its  
21 money's worth for what it paid under any of these?  
22 A That was not part of the scope of my analysis.  
23 Q All right, so as far as you know, each of those  
24 contracts was a fantastic deal for the NRA's members; right?  
25 A Or it could have been a terrible deal. I don't know.

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E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3122

1 Q You have no idea?

2 A I have not done that analysis, no.

3 Q And except for Marion Hammer who's a gun lobbyist,

4 every single one of the contracts you looked at ended years ago;

5 right?

6 A I don't know -- well, what do you mean by "years ago?"

7 Q Well, let's talk about them. You looked at a contract

8 with David Keene; right?

9 A Yes.

10 Q If I represent to you that that contract, that ended

11 three years ago in 2021; would you have any knowledge

12 inconsistent with that?

13 A No. I believe that sounds correct.

14 Q And you looked at one with Dave Butz, do you recall

15 that?

16 A Yes.

17 Q If I represent to you that that contract ended in 2019

18 which was five years ago, you'd have no knowledge inconsistent

19 with that; right?

20 A I believe that's correct.

21 Q You looked at a brief contract with Mr. Phillips. If I

22 were to represent to you that that contract had also ended five

23 years ago, you'd have no knowledge inconsistent with that;

24 right?

25 A No.

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3124

1 that the NRA stopped doing business with her; right?

2 A I don't know if it is a good or bad thing -- well, what

3 I would say is the undocumented nature of the arrangement

4 certainly is a bad thing. It is an internal controls issue, a

5 significant one from my perspective.

6 Q And the fact that the invoices were altered, that's a

7 bad thing; right?

8 A In my experience, those are consistent with fraud risk

9 indicators, and I would not call them a good thing for sure.

10 Q The fact there were surcharges added to the invoices

11 which weren't reflected on them, the ten percent, that's a bad

12 thing; right?

13 A There you're referring to the lack of documentation

14 with respect to the commission?

15 Q Right. I'm referring to the fact that a private jet

16 invoice would come in for 10,000 dollars and Ms. Stanford would

17 charge the NRA an extra ten percent on top of it. That's a bad

18 thing; right?

19 A I don't believe I have an opinion that the fact that

20 there's a markup specifically is a bad thing. The undocumented

21 nature of it is something that I would view as a fraud risk

22 indicator certainly.

23 Q Do you think it is suspicious at all that the markup

24 only appeared on charges like the charges for private aviation

25 where the price wasn't publicly verifiable and Ms. Stanford

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3123

1 Q You looked at a contract with Mike Marcellin. Do you

2 recall that?

3 A Yes.

4 Q If I represent to you that contract ended five years

5 ago, you have no inconsistent knowledge; right?

6 A I believe that is approximately correct.

7 Q Okay, and then there was -- if I represent to you that

8 there was any lawsuit with Mr. Marcellin that settled, would

9 that be consistent with your review of the record?

10 A Generally, yes.

11 Q Okay. And you looked at a contract with a board member

12 named Sandra Froman. If I represent to you that that contract

13 ended six years ago, you'd have no inconsistent knowledge;

14 right?

15 A I don't recall the specific timing, but, no.

16 Q Okay. All right, now, let's talk about the travel

17 consultant. One best practice in response -- with respect to

18 a business relationship like this would be to shut it down;

19 right?

20 A Potentially, I think a better practice would be to

21 understand how it happened in the first place.

22 Q Do you think the NRA should have continued doing

23 business with Gayle Stanford?

24 A I did not say that.

25 Q You'd agree with me that it is probably a good thing

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3125

1 didn't apply the markup to things like commercial tickets where

2 the NRA could have easily checked the price? As a forensic

3 accountant, was that suspicious to you?

4 MS. CONNELL: Objection, your Honor.

5 THE COURT: Overruled.

6 A Your question kind of lost me. Was-- was what

7 suspicious?

8 Q Well, you didn't have an opinion on whether it was good

9 or bad for the NRA to end this relationship. So, I guess I want

10 to revisit your opinions about some of the aspects of this

11 relationship.

12 You told me you didn't have an opinion on whether

13 Ms. Stanford adding this ten percent markup was good or bad; and

14 I guess I'm curious about that because I thought it was bad,

15 right? I mean, she adds this ten percent markup only to

16 purchases like private aviation where the price isn't publicly

17 verifiable.

18 Did that stand out to you at all?

19 A No, not specifically. What stood out to me was the

20 fact that the fee arrangement was undocumented that the NRA paid

21 for those amounts without any supporting information, and that

22 the billing was not transparent with respect to the entire

23 arrangement. That there were all the multiple ways that Ms.

24 Stanford was paid. Based on my review of the record, the

25 billing practices involved individuals at the NRA, those are the

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E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3126

1 things that really stood out to me.

2 Q Did it stand out to you that the ten-percent markup was

3 never itemized or disclosed on any of the invoices?

4 A I believe I did mention that point, and I think that it

5 is significant that the markup was not specifically itemized or

6 called out by contract or disclosed.

7 Q Would you say it is generally a good practice to run a

8 bidding process for a new vendor contract?

9 A Yes.

10 Q And you understand that the NRA stopped paying Gayle

11 Stanford and ran a bidding process for travel consultancy about

12 four years ago?

13 A I don't recall the specifics, but my understanding was

14 the NRA had a travel agent even during the period it was using

15 Ms. Stanford, as well.

16 Q If I represent to you that the NRA stopped doing

17 business with Ms. Stanford four years ago and ran a request for

18 a proposal or RFP bidding process to replace her, would you have

19 any knowledge inconsistent with that?

20 A I don't know the answer to that one way or another.

21 Q And you didn't consider whether the NRA fired or placed

22 and ran a bidding process for replacement of Ms. Stanford; you

23 didn't consider that in forming any of your expert opinions,

24 right?

25 A They would not have had any impact on my conclusions

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3128

1 something a company might reasonably do in the presence of fraud

2 risk indicators; right?

3 A I just want to make sure I understand the question. Is

4 it specific fraud risk indicators or is it internal control

5 failures or both?

6 Q Well, let me ask you said you disapproved of the NRA

7 internal control environment. That's a fair summary of your

8 testimony; right?

9 MS. CONNELL: Objection.

10 A I believe I said --

11 THE COURT: Hang on. I think -- overruled on that.

12 You can answer.

13 Q You disapproved of the NRA internal control

14 environment; right?

15 A I believe my conclusion I found it was ineffective due

16 to poor tone at the top.

17 Q A company desiring a more effective control environment

18 might perform a risk assessment within the meaning of COSO;

19 right?

20 A That would certainly be one potential step and one that

21 is typical, yes.

22 Q And special procedures by the auditors, those might

23 help improve the control environment; right?

24 A I would not agree with that. Your auditors are not a

25 function -- outside auditors do not serve as an internal control

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3127

1 related to Ms. Stanford or the other control violations I

2 observed.

3 Q All right. We talked before about how possible to fix

4 control violations or address risk indicators; and I want to run

5 some things by you, and I want you to tell me whether these are

6 things a company might properly do to address risk indicators.

7 MS. CONNELL: Objection, your Honor.

8 MS. ROGERS: I was interrupted by the microphone.

9 Let make the record clear.

10 Q I'm going to run a few things by you, and I want you to

11 tell me whether in your expert opinion these are things a

12 company might reasonably do to address fraud risk indicators.

13 Does that make sense?

14 A Yes.

15 MS. CONNELL: Objection, your Honor. This goes to

16 the post talk remedial discussion we've had. This goes to

17 whether that excuses the violations in the past. This is

18 plaintiff's point. You gave the --

19 MS. ROGERS: Object to speaking objections.

20 THE COURT: Yeah, look, I'll instruct the jury at

21 the appropriate time the relevance or potential relevance of

22 these subsequent efforts, but I'm not going to preclude the

23 defense from asking.

24 So, overruled.

25 Q All right, what about doing a risk assessment, that's

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3129

1 for the organization. So, it would be what the organization

2 does, not what its auditors do as part of their standard

3 procedures.

4 Q If auditors do special procedures specifically focused

5 on internal controls, is that something you'd even consider when

6 you're forming a view of the NRA control environment?

7 A It would be a relevant data point, but not in and of

8 itself evidence that the organization has addressed or

9 remediated internal controls.

10 Q Is it a data point you considered here?

11 A I believe I did consider it with respect to my reports.

12 Q Which special procedures did you consider?

13 A My recollection is the ones that were performed at some

14 point in 2020 or '21. I don't recall the specifics.

15 Q In forming your expert opinions, did you -- did you

16 develop a view of what -- whether the special procedures

17 revealed any control problems?

18 A I believe in my report, my rebuttal report I did

19 address some of those in response to NRA witnesses.

20 Q Sitting here today, can you think of any allegations

21 made by the Government that Aronson does not address in its

22 special procedures?

23 A I don't recall specifically what special procedure

24 document itemized. I do recall that some of the individual

25 transactions they looked at in my view didn't identify or look

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E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3130

1 at some of the same issues with respect to those contracts that  
2 I identified in my analysis, and I don't recall, like, each  
3 itemized issue that they particularly focused on.  
4 Q Well, let's talk about the specific issues you focused  
5 on in your analysis and I want to look at your slide 42.  
6 All right, this -- on the left side of slide 42 is one  
7 of the summary charts you prepared; right?  
8 A Yes.  
9 Q And I'll represent to you this is the same chart  
10 admitted into evidence Friday as PX 05123. You were here to  
11 testify as to the accuracy of the summary; right?  
12 A Correct.  
13 Q And you would agree accuracy is very important in the  
14 profession of forensic accounting?  
15 A Sure.  
16 Q Precision is important; right?  
17 A Sure.  
18 Q All right, then let's start with the expense that you  
19 highlight here on your PowerPoint slide. On the screen we see  
20 you tell the jury that the NRA paid \$42,915 in flight tickets  
21 for Wayne LaPierre, his wife and Tony Makris.  
22 Do you see that?  
23 A Yes.  
24 Q And you got this number from PX 03151, a collection of  
25 Ackerman expense reports; right?

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3131

1 A I believe that's accurate.  
2 Q Let's look at that exhibit, PX 03151, and I'm going to  
3 direct the witness to page 127, which I believe is where he got  
4 the excerpt he put in his slide.  
5 Let's zoom in.  
6 (Displayed)  
7 All right, this is the source for your PowerPoint  
8 slide; right?  
9 A It may be.  
10 Q This is a purchase of three airline tickets for  
11 Mr. LaPierre, Mrs. LaPierre and Tony Makris for \$14,000 a piece  
12 totalling about \$42,000; right?  
13 A Yes.  
14 Q And that's what you show on your slide?  
15 A Yes.  
16 Q But you don't show that the tickets for the LaPierres  
17 were cancelled and credited back to the NRA, not debited from  
18 the NRA?  
19 A I'd have to go back and look at the documents and  
20 see --  
21 Q Well, we've got the document right in front of us, so  
22 let's look at page 284.  
23 A Of this particular schedule?  
24 Q Of this Plaintiff's Exhibit which is the source for  
25 your schedule, I believe.

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3132

1 All right, do you see where it says at the very bottom,  
2 "Credit Air for WLP," and it credits the NRA negative \$14,303?  
3 Do you see where it says, "Credit Air WLP could not make the  
4 trip"; and you would agree with me that that cost of negative  
5 \$14,000, that's a credit back, right?  
6 A It looks like it might be, yes.  
7 Q Did you in developing your summary consider whether any  
8 of the expenses you added up were credited back?  
9 A I believe we did in looking at what was actually paid,  
10 yes.  
11 Q All right, let's look at another summary you prepared  
12 and showed to the jury, and this one is going to be PX 5116, and  
13 I would like to show a version of this exhibit on which I've  
14 highlighted just two flights.  
15 Mr. Hines, you prepared an earlier version of this  
16 schedule, which you amended some time last week. Do you recall  
17 that?  
18 A Yes.  
19 Q And the reason you amended it is because we found  
20 that you had double counted several flights in your analysis;  
21 right?  
22 A I believe there were certain invoices that were unclear  
23 whether they had occurred, and that was -- they were removed  
24 based on some review.  
25 Q Agree or disagree with the following statement:

E. Hines - by Plaintiff - Cross/Ms. Rogers Page 3133

1 When a careful professional sees red flags, he looks  
2 closer?  
3 A I would generally agree.  
4 Q Okay. Would you agree with me that it is a red flag  
5 when opposing counsel alerts you that there are several invoices  
6 in your summary chart, which may or may not ever have occurred  
7 or been paid?  
8 A Yes, we removed those from this particular invoice.  
9 Q And a careful accountant would then look at the other  
10 invoices to make sure those were real and actually paid;  
11 right?  
12 A That's what we did.  
13 (Continued on next page)  
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NYAG v  
NRA

February 5, 2024

Hines - by Plaintiff - Cross/Ms. Rogers Page 3134

1 Q And this is the analysis that you put before the jury  
 2 after you were careful and looked at all the other charges;  
 3 right?  
 4 A Yeah. I don't -- this looks to be that schedule, yes.  
 5 Q Okay. I know that you're here testifying as an expert  
 6 on accounting and not physics, but can you explain to me how  
 7 it's possible to fly from California to Washington DC twice in  
 8 the same day on the same plane as indicated here?  
 9 A I'd actually like to look at the exhibit.  
 10 Q This is Page 2.  
 11 MS. CONNELL: Can you tell me which exhibit?  
 12 MS. ROGERS: Exhibit A to --  
 13 MS. CONNELL: This is the exhibit that was admitted  
 14 earlier today.  
 15 MS. ROGERS: I think it's Exhibit A. It's -- it's  
 16 your amended Exhibit A. It's NYSCEF -- well, you put it in  
 17 as 5116.  
 18 THE COURT: 5116 that's what you're looking for,  
 19 Ms. Connell.  
 20 MS. CONNELL: Right. My 5116 comes up something  
 21 different.  
 22 MS. ROGERS: It says Exhibit A. It's the same  
 23 document.  
 24 A I believe there was an unfiltered version that was  
 25 inadvertently sent by counsel.

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1 THE COURT: Put up 5116 that was actually admitted.  
 2 Is it possible to use this one?  
 3 MS. ROGERS: I was working with the version  
 4 Plaintiff sent us.  
 5 Q Well, let me just ask Mr. Hines. When you say there  
 6 was an unfiltered version that was the inadvertently sent, what  
 7 do you mean?  
 8 A My understanding was last week in preparing this  
 9 schedule, there was a version that all the invoices and the  
 10 final version, and the final version that was sent over didn't  
 11 have the filter that removed the duplicates on it.  
 12 Q Are so you are representing that 5116 has no duplicates  
 13 in it?  
 14 A That's my understanding that based -- our analysis  
 15 looking at those particular invoices and comparing the trip  
 16 dates, itineraries and whether they had actual catering charges  
 17 and a number of other items, yes.  
 18 MS. CONNELL: Your Honor, I will represent that in  
 19 conveying the summary evidence, we did make an error and  
 20 sent the wrong chart and corrected it, so I want to make  
 21 sure that wasn't causing the confusion.  
 22 MS. ROGERS: I admit I was confused. I was using  
 23 the chart you sent me.  
 24 MS. CONNELL: Your Honor, we corrected it with an  
 25 explanation.

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1 Q Mr. Hines, do you have an understanding as to how those  
 2 duplicates got into your chart in the first place?  
 3 A I believe there was certain flights that had certain  
 4 drafts -- drafted those invoices, and some of them had different  
 5 dates and some of them had different itineraries and different  
 6 planes and so they were included with duplicates that appeared  
 7 to have happened.  
 8 Q Right. And so sometimes an invoice would be issued and  
 9 then the flight would be rescheduled or cancelled and that copy  
 10 of the invoice would still be sitting in the travel consultant's  
 11 computer; right?  
 12 A There were some of those; right.  
 13 Q But what if a flight was canceled and never  
 14 rescheduled. Then there would just be one copy, no duplicate,  
 15 and you would have no way of knowing whether the flight was real  
 16 or fake.  
 17 A Based on my analysis, we also looked for whether they  
 18 were credited. It looked for credits for this duplicates,  
 19 looked for other potential indicators that the flight didn't  
 20 happen, but I'm obviously placing it on those invoice.  
 21 Q Sir, did you compare these to the ACH banking records  
 22 that you looked at?  
 23 A These are not paid by ACH banking records because they  
 24 go through a -- it's part of the challenge with these invoices  
 25 as going from -- Ms. Stanford marks them up, takes off

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1 information, and that's what is ultimately paid by the NRA. So  
 2 the ACH and the general ledger transaction would reflect what's  
 3 actually paid based on Ms. Stanford's version of the bills.  
 4 THE COURT: Counsel, when you can find a convenient  
 5 breaking point --  
 6 MS. ROGERS: I have like two more things and then  
 7 you're done.  
 8 Q You've seen numerous cases, right, Mr. Hines, where a  
 9 later reconsideration of the transaction leads to a different  
 10 accounting result.  
 11 A That can happen.  
 12 Q And looking at something in hindsight can lend a better  
 13 perspective due to the passage of time?  
 14 A Potentially.  
 15 Q So the fact that a company restates or changes  
 16 something does not mean their judgment was inadequate in the  
 17 first place; right?  
 18 A Potentially.  
 19 Q Well, potential. That's in fact testimony that you  
 20 gave verbatim in another case last year; right?  
 21 A I don't recall specifically those exact words.  
 22 Q If I tell you that the case is SEC v Rosenberger,  
 23 22cv4736 in the Southern District of New York, would go that  
 24 refresh your recollection?  
 25 MS. CONNELL: Your Honor, if she's going to

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1 impeach, he should be shown the testimony, the  
 2 question/answer content.  
 3 THE COURT: We haven't gotten there yet.  
 4 A What was the question?  
 5 Q I'm just asking if you agree with this statement that  
 6 the fact that a company restates or changes something doesn't  
 7 mean their judgment was wrong in the first place; right?  
 8 A That specific matter relates to a technical financial  
 9 reporting issue with respect to revenue recognition, but I would  
 10 still agree with that.  
 11 Q Would you agree in contrast to a hindsight  
 12 investigation, business decision that occurs in real time during  
 13 the normal course are limited by what information is available  
 14 at the time; right?  
 15 A That can be the case; right.  
 16 Q And those real time business decisions are limited by  
 17 the expertise and experience of the individuals involved; right?  
 18 A Say that one more time.  
 19 Q Those real time business decisions, these real time  
 20 business judgments, they are limited by the expertise and  
 21 experience of the individuals involved; right?  
 22 A It can be.  
 23 Q Okay. In forming your expert opinions, did you even  
 24 ask to speak to any of the people at the NRA making these  
 25 decisions?

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1 A I did not have such access.  
 2 Q And you didn't speak with anyone at the NRA who made  
 3 any of these decisions; right?  
 4 A No, not directly. Reviewing evidence.  
 5 THE COURT: We will take our morning break. We  
 6 will be back shortly.  
 7 THE COURT OFFICER: All rise. Jury exiting.  
 8 (Whereupon, at this time the jury exits  
 9 the courtroom.)  
 10 (Whereupon at this time there was a recess taken.)  
 11 THE COURT: Just a brief update on the jury issues  
 12 we discussed.  
 13 The one juror with the family issue, that juror is  
 14 going to confirm to me by the end of the day. It seems like  
 15 that juror -- it's highly likely will not be able to be here  
 16 either Wednesday or Thursday. And if that is confirmed, I  
 17 have explained to the juror that we will have to exclude the  
 18 juror, and the juror understands. So we'll learn more about  
 19 that at the end of the day.  
 20 The second juror who has an issue beginning  
 21 apparently after -- at end of business on the 20th, so --  
 22 and potentially can push off what is the conflict even into  
 23 the 21st, so the issue with that one is, you know, we are  
 24 all making assumptions as to when the case is going to be  
 25 given to the jurors for deliberations. What we can't know

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1 is how long the jurors will deliberate. And I explained  
 2 briefly that I don't want to be in a situation where if  
 3 we're into deliberations past the 20th, we lose one of our  
 4 six jurors. So we don't have to make a decision on that  
 5 juror right now because we don't know what's going to happen  
 6 between now and then.  
 7 You know, I'd like to think that we would have a  
 8 verdict by the 20th if we proceed as planned where we have  
 9 closing arguments on the 15th and hopefully either finish  
 10 instructions that same day or complete them in the morning  
 11 of the 16th. The jury would have all of the 16th and all of  
 12 the 20th to deliberate.  
 13 I would -- one hopes that's enough, but we can't be  
 14 sure. So I'd like you to at least think about how we deal  
 15 with that risk of at least one juror who is already saying  
 16 in advance that they might not be able to be here past the  
 17 21st or something along those lines. So I don't think we  
 18 have to make any decisions on that. Obviously, we still  
 19 have extra jurors, so we are not losing -- we are not in any  
 20 danger of going below six, but that's an update.  
 21 MS. CONNELL: Your Honor, I don't know if it's  
 22 permissible to the Court, but sometimes to speed jury  
 23 deliberations and avoid delay, we can -- the parties can  
 24 agree to send in lunch to the jurors during deliberations.  
 25 THE COURT: We can do all sorts of things, but none

Hines - by Plaintiff - Cross/Ms. Rogers Page 3141

1 of those are going to guarantee, you know -- this has been a  
 2 long trial, and the verdict sheet which we are -- I'm going  
 3 to have to work on with you all again, I think in my  
 4 experience, that's a lot of time for the jury to deliberate  
 5 and one would hope, but there is a risk, and we have to  
 6 think about the pros and cons of whether to have somebody go  
 7 into the deliberations with the possibility of not being  
 8 able to complete them which, you know, concerns me because  
 9 as much fun as this trial has been, I only want to do it  
 10 once.  
 11 So -- and then -- we were about to get to the time  
 12 calculations. Putting aside today, what was the consensus  
 13 on the allocation of time between the two sides?  
 14 MS. ROGERS: So putting aside today, our  
 15 understanding which we think mirror Plaintiff almost to the  
 16 second is that Defendants have taken 23 hours 11 minutes and  
 17 the Attorney General has taken 41 hours and 43 minutes. So  
 18 they are essentially ahead of us by like 12 hours.  
 19 MS. CONNELL: Ours are slightly different by about  
 20 half an hour I think so.  
 21 THE COURT: I can guess which direction, but all  
 22 right. So they are all going to be rough justice, I'm sure  
 23 so.  
 24 MS. ROGERS: Just to correct something I said, they  
 25 are ahead of us by 18 hours. Not 12.

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Hines - by Plaintiff - Cross/Ms. Rogers Page 3144

1 THE COURT: Yeah. The way this will work is, you  
 2 know, we will get through the Plaintiff's case. If there  
 3 are motions by either side, the party bringing the motion  
 4 will bear the time of arguing the motion. Right.  
 5 So if -- maybe you both will make motions. I don't  
 6 know. It will be a little more unusual for the Plaintiff to  
 7 make a directed verdict motion, but I guess you can. But if  
 8 there are motions by both, then we will split the time for  
 9 who gets charged for the time to argue that motion. But  
 10 once we are done with all that and the Defense has started,  
 11 you should be able to -- I think its been a relatively  
 12 consistent four hours per day and just plan that out.  
 13 And -- but I appreciate you keeping such careful track of  
 14 it. But I do think it's important that we really work hard  
 15 to get the all the evidence in by the end of the day on the  
 16 14th. And so that we are ready for closing arguments on the  
 17 15th because you'll probably want to know everything that's  
 18 in and not in rather than having that happen in the middle  
 19 of a day. Okay. So I won't do all the math for you, but  
 20 you can -- you can figure it out.  
 21 So the Plaintiff obviously has -- and this is not  
 22 unusual, has spent -- has spent more of the time. So you'll  
 23 have to just assess how much time to spend on crossing  
 24 witnesses, and -- but that's the plan, and I do plan on  
 25 enforcing it, being done with the evidence at the end of the

1 as Court Exhibit VIII  
 2 (Whereupon, the aforementioned Jury Note  
 3 was marked as Court's Exhibit VIII as of this date  
 4 by the Reporter.)  
 5 THE COURT: If anyone thinks there is something I  
 6 should do in response to this -- I don't. You can think  
 7 about it.  
 8 All right. Anything else before we get the jury?  
 9 All right. Let's get them. Let's get the witness. Let me  
 10 just -- I want to make sure we have copies of the Court  
 11 exhibits in one place. Ms. Hill can either keep them or the  
 12 court reporters can keep them.  
 13 I think the other Court exhibits were -- I believe  
 14 the Plaintiff marked transcript excerpts as Court exhibits;  
 15 right. So if you want to have us keep a copy of all the  
 16 Court exhibits, then just make sure Ms. Hill has a complete  
 17 set.  
 18 MS. CONNELL: Okay. We will confer with the  
 19 Defendants and make sure there is a complete agreed upon  
 20 set.  
 21 (Witness resumed the witness stand.)  
 22 THE COURT: It will be good if we can get to the  
 23 motions either right before or after the lunch break so we  
 24 don't have to have a stop and a start. So if we can get  
 25 through this witness before the lunch break, I won't object.

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Hines - by Plaintiff - Cross/Ms. Rogers Page 3145

1 14th. So that's another -- after today, it's one, two,  
 2 three, four, five, six days.  
 3 MS. ROGERS: So after today I think there is like  
 4 28 hours left of trial time basically.  
 5 THE COURT: Is it even 28 or six more days because  
 6 Monday is a holiday?  
 7 MS. ROGERS: 24. Oh, because of Monday.  
 8 THE COURT: Okay. Is the jury ready?  
 9 (Whereupon, at this time there was a pause in the  
 10 proceedings.)  
 11 THE COURT: We received a note from one juror which  
 12 we will mark as Court Exhibit VIII. It's not really a  
 13 question. It's sort of a comment on evidence. I think I'm  
 14 just going to give you both a copy of the note. I don't  
 15 think there is anything to do with it, but you know, since I  
 16 have it, you should have it. It just seems to be sort of an  
 17 observation by one juror about evidence, so we will give one  
 18 to each side. I couldn't entirely make all of the words  
 19 out. Again, it seems to be more of a musing. So I don't  
 20 want to spend really too much time scrutinizing it since  
 21 there is really nothing to be done other than for me to just  
 22 give it to you.  
 23 Just for the public record, it just says we haven't  
 24 seen certain evidence of a certain thing or a certain type  
 25 and ends with that. So I will mark this -- can we mark that

1 I'm sure the witness won't object either.  
 2 MR. CORRELL: I'll be quick.  
 3 THE COURT OFFICER: All rise. Jury entering.  
 4 (Whereupon, at this time the jury entered the  
 5 courtroom.)  
 6 THE COURT: Please have a seat.  
 7 MR. CORRELL: May I proceed, your Honor?  
 8 THE COURT: Mr. Correll.  
 9 CROSS-EXAMINATION  
 10 BY MR. CORRELL:  
 11 Q Good morning, Mr. Hines. I'm Kent Correll, and I  
 12 represent Wayne LaPierre.  
 13 A Good morning.  
 14 Q At the beginning of your testimony today, you indicated  
 15 that you had some knowledge of Wayne LaPierre's knowledge  
 16 concerning the Marcellin contract. Do you recall testifying  
 17 about that?  
 18 MS. CONNELL: Objection, your Honor.  
 19 A I don't recall.  
 20 THE COURT: Hang on. Is that the testimony I  
 21 struck?  
 22 MR. CORRELL: I don't believe so, your Honor.  
 23 MS. CONNELL: Your Honor, this is what we discussed  
 24 before the jury came in this morning as to whether we would  
 25 revisit the Marcellin. That's what you struck the other

Hines - by Plaintiff - Cross/Ms. Rogers Page 3146

1 day.

2 THE COURT: Well, there was a slide that came up,

3 and it turned out that it was based on some -- the exhibits

4 that are referenced weren't admitted into evidence, so I

5 struck the portion of that testimony. If there was

6 subsequent testimony and there was a little bit and just in

7 the last round, you can ask about that.

8 MR. CORRELL: Yes, your Honor.

9 Q You indicated that Wayne LaPierre had some knowledge of

10 the Marcellin contract earlier in your testimony; correct?

11 MS. CONNELL: Objection. Misrepresenting the

12 testimony.

13 MR. CORRELL: Well, we can read it back if you'd

14 like.

15 THE COURT: Overruled.

16 Q Do you recall testifying -- using the word "Marcellin"

17 earlier today in your testimony?

18 A I don't recall today or the other day.

19 Q Do you recall saying earlier today that Mr. LaPierre

20 knew about the indirect payments to Marcellin?

21 THE COURT: That it was your understanding of the

22 facts that he knew.

23 Q It was your understanding of the facts that he -- that

24 Mr. LaPierre knew about the indirect payments to Marcellin.

25 A I'm a little confused. I don't specifically recall

Hines - by Plaintiff - Cross/Ms. Rogers Page 3148

1 personal knowledge of anything. The testimony is based on

2 his review of the record and so if you want to ask it that

3 way.

4 MR. CORRELL: Your Honor, if I could just get a yes

5 or no, do you have any personal knowledge. Then I can go to

6 the next question, do you have any secondhand knowledge.

7 THE COURT: Okay. If you want to spend the time

8 asking a witness who has no personal knowledge whether he

9 has no personal knowledge, go ahead.

10 Q Sir, can we agree that you have no personal knowledge

11 of any of the facts of this case; correct?

12 A Correct. If you're speaking of personal knowledge as

13 in my participation, then correct.

14 Q Right. You are not a percipient witness with respect

15 to this case; correct?

16 A No, sir.

17 Q You have looked at some documents; correct?

18 A More than some. Quite a few.

19 Q And you have said things that are based on your looking

20 at documents; correct?

21 Q And based on your looking at documents, you haven't

22 seen anything that indicates that Wayne LaPierre knew that Gayle

23 Stanford was marking up invoices; correct?

24 A What do you mean by marking up? Are you talking about

25 adding a percentage on top of invoices or adjusting the

Hines - by Plaintiff - Cross/Ms. Rogers Page 3147

1 that exact point but --

2 Q So let me make it easier for you. Do you have as you

3 sit here today any knowledge that Wayne LaPierre knew about

4 these indirect payments to Mr. Marcellin that you say you saw

5 evidence of in the documents?

6 A Not that I recall as I sit here right at this moment.

7 Maybe we were referring to specific testimony that I reviewed

8 before.

9 Q I'm getting to just your testimony as you sit here

10 right now.

11 Do you have any knowledge that Mr. LaPierre knew that

12 there were indirect payments to Marcellin?

13 A I don't recall at the moment, no. Not that I recall.

14 Q Do you have any knowledge -- personal knowledge as to

15 whether Mr. LaPierre knew that Gayle Stanford was marking up

16 invoices?

17 A Can you ask the question one more.

18 Q Do you have any personal knowledge as to whether Mr.

19 LaPierre knew that Gayle Stanford was marking up invoices?

20 A Personal knowledge as in my own direct experience with

21 the individuals?

22 Q Yes or by looking at documents.

23 THE COURT: Yeah. I think it would be helpful to

24 be clear about that.

25 Just so the jury is clear, the witness doesn't have

Hines - by Plaintiff - Cross/Ms. Rogers Page 3149

1 descriptions.

2 Q I am talking about adding a cost, a charge to an

3 invoice.

4 A I don't recall specifically anything that indicated Mr.

5 LaPierre's knowledge of that as I sit here today.

6 Q And you didn't see anything that indicated that any of

7 those invoices were sent to Wayne LaPierre; correct?

8 A I don't believe so.

9 Q Okay. So as you sit here today, you can't say that Mr.

10 LaPierre was aware of -- that those -- that Gayle Stanford was

11 doing anything to these invoices; correct?

12 MS. CONNELL: Objection.

13 Q I'll withdraw the question and go to the next one.

14 Q Do you know whether Wayne LaPierre has paid for any of

15 the flights that you included in your summary?

16 A I'm generally aware that there's been some

17 reimbursements, but I don't know specifically.

18 Q But you didn't include those in your summaries?

19 A No. Those are summaries of the invoices that were

20 submitted to Ms. Stanford.

21 Q Okay. And if you had knowledge that Mr. LaPierre had

22 paid for flights, would you have adjusted your charts to reduce

23 the figures?

24 A It would not have changed those summary of invoices

25 that were sent to Ms. Stanford from CAA.

Hines - by Plaintiff - Cross/Ms. Rogers Page 3150

1 Q And so the numbers that you put in your demonstratives,  
2 in your power point wouldn't have changed if some of those  
3 flights had been paid for by Mr. LaPierre?  
4 A Well, I would view the initial invoicing and billing as  
5 separate and apart from any potential reimbursement. So my  
6 analysis was to summarize the amount of the private charter  
7 invoices and the GS2 invoices billed to the NRA.  
8 Q But you didn't give Mr. LaPierre credit for any  
9 payments he might have made for any of those flights; correct?  
10 A Again, it was summary evidence. There is nothing to  
11 credit for. I was actually just summarizing, but those  
12 schedules summarized those CAA invoices and GS2 invoice.  
13 Q Sir, did you see any evidence of a change in work flow  
14 with respect to the MMP company during the time period you  
15 looked at?  
16 A Can you define change in work flow?  
17 Q More services provided.  
18 A I don't have any details with respect to that, no.  
19 Q Did you look to see whether any additional revenue was  
20 coming in?  
21 A I observed additional management fees over the course  
22 of a number of years, certainly.  
23 Q Did you see additional revenue coming to the NRA from  
24 MMP?  
25 MS. CONNELL: Objection.

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1 A What do you mean revenue? Sorry.  
2 Q Money coming in to the NRA through MMP's efforts.  
3 A My analysis was on the contract and the expenditure  
4 portion of that, not the revenue related to the NRA or donations  
5 and inflow.  
6 Q Would it surprise you if the number coming in over that  
7 period was \$1.7 billion?  
8 MS. CONNELL: Objection, your Honor. No foundation  
9 in evidence.  
10 THE COURT: Sustained.  
11 MS. CONNELL: Your Honor, we can connect that up in  
12 our case in chief.  
13 Q So fair to say that you really didn't care about how  
14 much money MMP was bringing in. You only cared about how much  
15 money the NRA was paying MMP when you did your analysis.  
16 A I would say my analysis was focused on the specific  
17 expenditures and the controls related to those expenditures  
18 which is separate and apart from the receipt of donations and  
19 funds. So as in a financial matter, as a controls matter, they  
20 are separate.  
21 Q And you are an accountant; right?  
22 A I am.  
23 Q You know what materiality means?  
24 A Yes.  
25 Q Did you make any attempt to make a materiality

Hines - by Plaintiff - Cross/Ms. Rogers Page 3152

1 determination by comparing the cost versus the benefit that the  
2 NRA was getting from this relationship with MMP?  
3 MS. CONNELL: Objection, your Honor.  
4 THE COURT: Overruled.  
5 A Again, I did not look at the revenue reflected from  
6 that particular arrangement which would be separate and distinct  
7 from the expenditures. Nor do I think you would do a  
8 materiality analysis purely based on the ratio of that number.  
9 In my experience, it's not how materiality is done, and  
10 it would consider both the quantitative and qualitative factors  
11 with respect to the arrangement.  
12 Q Let's talk about quantitative.  
13 What would be a typical range of materiality in terms  
14 of percentage in your view?  
15 A Materiality of what?  
16 Q Of forensic risk analysis looking for fraud risk  
17 indicators.  
18 A Well, typically, materiality is in reference to either  
19 financial statements or internal controls.  
20 With respect to internal controls, materiality is  
21 typically looking at the likelihood of a risk occurring and the  
22 potential for that to have an impact on the financial  
23 statements.  
24 Where I do analyses in the forensic world, materiality  
25 can be focused on specific subparts of a financial statement.

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1 It can be on specific transactions. It can be on specific  
2 contracts. So I think the question is generally too broad for  
3 me to answer that specifically.  
4 It's purely facts and circumstances based, but you  
5 would consider the magnitude of the dollars. You would consider  
6 other factors qualitative.  
7 Q So as you sit here right now, you can't give us a range  
8 of one percent to ten percent or anything in between that might  
9 be -- kind of bracket your analysis in terms of materiality with  
10 respect to the -- this assignment? This particular assignment.  
11 A Well, again, there is different benchmarks for  
12 materiality, some based on a percentage of revenue or a  
13 percentage of change in assets. So obviously, it's highly  
14 dependent on the particular facts and each particular  
15 materiality assessment.  
16 Q What is your hourly rate?  
17 A In this matter \$520 an hour.  
18 Q How much hours did you spend working on this case?  
19 A Hundreds. I don't know exact number.  
20 Q Did you enter into a contract with respect to this  
21 work?  
22 A Yes. We have a contract with the State -- the Attorney  
23 General's Office.  
24 Q Did you sign the contract?  
25 A I believe I did with our financial group that handles

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1 all the contracting processes.  
 2 Q Did anyone else sign the contract for your firm?  
 3 A I honestly don't recall.  
 4 Q How many people signed the contract for the AG?  
 5 A I don't recall.  
 6 MS. CONNELL: Objection, your Honor.  
 7 Q Who signed the contract for the AG?  
 8 A I don't recall.  
 9 Q Did you see any fraud risk indicators for that  
 10 contract?  
 11 A No.  
 12 (Continued on the following page.)  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3155

1 Q How much have you been paid so far?  
 2 A My firm?  
 3 Q Yes.  
 4 A I believe it is just under or above \$1 million.  
 5 Q How much more do you expect to be paid for your work in  
 6 this case?  
 7 A I don't know the exact figures, but I believe our  
 8 estimate and we're somewhere around 1.2.  
 9 Q And you think you'll come in under 1.2 or do you think  
 10 you could go over 1.2?  
 11 A I don't know. I haven't looked at it over the last  
 12 month.  
 13 Q And that's taxpayer money that you're being paid?  
 14 MS. CONNELL: Objection, your Honor.  
 15 THE COURT: Sustained.  
 16 Q Who writes you the check?  
 17 MS. CONNELL: Objection, your Honor.  
 18 THE COURT: He can ask.  
 19 A I'm not sure if it comes from the State controller's  
 20 office. I don't recall. I don't process our incoming checks  
 21 because we have segregation of duties for that.  
 22 Q Have you ever developed a friendship through a working  
 23 relationship?  
 24 A Yes.  
 25 Q And when that happened, did you view that as a fraud

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3156

1 risk indicator?  
 2 A Not that I can recall.  
 3 Q Did you ever disclose to your firm that you had develop  
 4 a friendship through someone that you developed a relationship  
 5 through your work for the firm?  
 6 A I may have. I don't recall.  
 7 Q But you would agree that developing a friendship  
 8 through a business relationship doesn't necessarily turn into a  
 9 fraud risk indicator; correct?  
 10 A I would agree with that, not necessarily. It could.  
 11 Q Do you know who Pete Ricketts is?  
 12 A No.  
 13 Q Governor of Nebraska?  
 14 A No.  
 15 Q You tabulated a bunch of flights to Nebraska. Why did  
 16 you pick Nebraska?  
 17 A I was asked by the Attorney General's office to include  
 18 that as one of the categories.  
 19 Q And did they tell you why they asked you to include  
 20 that?  
 21 A I -- my understanding is that it was a destination that  
 22 they found was related to Mr. LaPierre's flights.  
 23 Q Did they tell you why they found it of interest?  
 24 A I understand it is where certain family members live.  
 25 Q And it is also where Governor Pete Ricketts lives,

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3157

1 correct?  
 2 A It may be.  
 3 Q Did you see any indication that Mr. LaPierre traveled  
 4 there to meet with Governor Ricketts?  
 5 A That's not information that's available on the  
 6 itineraries.  
 7 Q Did you see any indication in the documentation that  
 8 there were gun shows in Nebraska?  
 9 A Again, that's not on the --  
 10 Q So, Mr. LaPierre could have been traveling there for  
 11 gun shows; correct?  
 12 A It is possible.  
 13 Q Did you see any indication that there were friends  
 14 dinners, friends of the NRA dinners that were held in Nebraska?  
 15 A Again, that's not on the itineraries or the Stanford  
 16 invoices.  
 17 Q And the attorney general didn't tell you that any  
 18 friends dinners were held in Nebraska; correct?  
 19 MS. CONNELL: Objection, your Honor.  
 20 MR. CORRELL: Your Honor, it is fair enough. They  
 21 picked Nebraska.  
 22 THE COURT: There's nothing unfair about the  
 23 question. There's just whether there's an evidentiary -- do  
 24 you have an evidentiary basis for that question?  
 25 MR. CORRELL: Mr. LaPierre will testify to it when

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E. Hines - by Plaintiff - Cross/Mr. Correll Page 3158

1 he comes on in the case in direct.  
 2 THE COURT: Overruled.  
 3 Q Do you know whether pheasant hunts are held in Nebraska  
 4 for NRA members and supporters?  
 5 A No.  
 6 Q So, when you did what the AG told you and just added up  
 7 trips to Nebraska, were you trying to get the jury to believe  
 8 that these were all trips to see his family in Nebraska?  
 9 A I was not trying to get the jury to believe anything.  
 10 I was preparing summary evidence and summarizing information in  
 11 the format I was asked to summarize it, yes.  
 12 Q Based on the AG's request; correct?  
 13 A Based on my discussions with counsel about the  
 14 schedules, yes.  
 15 Q And were you asked to segregate out the flights that  
 16 landed in Kearney, Nebraska, versus the flights that landed in  
 17 Kearney, Nebraska, versus the flights that landed in Omaha  
 18 versus the flights that landed in Rapid City?  
 19 A No, but that detail was all included in the summary  
 20 evidence prepared.  
 21 Q Assuming the itinerary is properly or do include the  
 22 destination cities you just mentioned, did the AG also ask you  
 23 just to hone in on flights to the Bahamas?  
 24 A No. It was one of the categories; but, obviously,  
 25 there's a schedule that had every single invoice included in

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3159

1 that particular supporting information.  
 2 Q Well, did you come up with the idea of focussing on the  
 3 Bahamas on your own or was that something the AG gave to you?  
 4 A No, it was in discussion with the AG and, also, in  
 5 understanding certain allegations in the case.  
 6 Q Did they tell that you Mr. LaPierre went to the Bahamas  
 7 every year for a celebrity retreat to try and develop  
 8 relationships with celebrities to benefit the NRA?  
 9 A I understand that's one of the concepts. I don't have  
 10 specific -- it's not certainly something that was told to me. I  
 11 recall reading that certain information.  
 12 Q But you didn't separate out the data for those trips  
 13 from any other trips Mr. LaPierre took to the Bahamas; correct?  
 14 A I'm not sure how I would do that, but --  
 15 Q Well, how about by date? Do you know the celebrity  
 16 retreat was held each year in December?  
 17 A That's possible. I don't know that.  
 18 Q And do you know that the allegations that Mr. LaPierre  
 19 traveled to the Bahamas during off season in the summer where he  
 20 stayed on David McKenzie's yacht?  
 21 MS. CONNELL: Objection, your Honor.  
 22 THE COURT: Well, the objection is overruled. You  
 23 said, Yes, I am aware of that?  
 24 THE WITNESS: I'm generally aware based on looking  
 25 at flight information at what points Mr. LaPierre and others

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3160

1 were in the Bahamas.  
 2 Q So, you could have segregated out the flights in  
 3 December from the flights in the summer; correct?  
 4 A Again, they're all included in the same detailed  
 5 schedules, but that same information in it so it's in there.  
 6 Q But the AG didn't ask you to filter the data in that  
 7 fashion; correct?  
 8 A No. Again, it is summary evidence, summarizing the  
 9 information across the population of invoices, which is what I  
 10 do.  
 11 Q Do you know who Larry the Cable Guy is?  
 12 A I heard of him, yeah.  
 13 Q Do you know where he lives?  
 14 A I don't.  
 15 Q Nebraska. I'll represent to you he lives in Nebraska.  
 16 Do you know that he's an NRA supporter?  
 17 A No.  
 18 Q Do you know whether Wayne flew to Nebraska to meet with  
 19 Larry the Cable Guy?  
 20 A I do not.  
 21 Q Do you of any basis for suggesting that Wayne LaPierre  
 22 knew about any flights taken by Tony Makris when he wasn't  
 23 present?  
 24 A Can you ask the question again?  
 25 Q Yes. Do you have any basis for suggesting to the jury

E. Hines - by Plaintiff - Cross/Mr. Correll Page 3161

1 or anyone else that Wayne LaPierre knew about flights Tony  
 2 Makris took when Wayne wasn't present?  
 3 A I'm not sure if -- are you referring to the summary  
 4 schedules for the CAA invoices.  
 5 Q Let me ask it another way. Did you include flights or  
 6 invoices for flights listing Makris as a passenger when Wayne  
 7 LaPierre was not listed as a passenger?  
 8 A I believe so.  
 9 Q And do you have any idea whether Wayne LaPierre was  
 10 aware that Tony Makris had taken those flights?  
 11 A I don't have any direct personal knowledge about that.  
 12 Q So, to the extent that your data might have suggested  
 13 that Wayne knew, that is pure supposition; that would be pure  
 14 supposition on your part, correct?  
 15 MS. CONNELL: Objection, your Honor.  
 16 THE COURT: Overruled.  
 17 A I'm not sure it suggests one way or another.  
 18 Obviously, the information summarizes those CAA invoices given  
 19 the attributes and facts included on them.  
 20 Q In the course of your work, your millions of dollars of  
 21 work, did you see any documents showing payments from the NRA to  
 22 vendors for security purposes?  
 23 MS. CONNELL: Objection, your Honor.  
 24 THE COURT: The millions of dollars?  
 25 MR. CORRELL: I'll put it another way.

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E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3162

1 Q In the course of your work, did you see any documents  
 2 showing payments for security for Wayne LaPierre?  
 3 A Not that I recall. There may have been. I just don't  
 4 recall as I sit here.  
 5 Q Did you make an attempt to sort invoices according to  
 6 whether they were -- whether they were for air travel expenses  
 7 incurred for security purposes?  
 8 A No, not specifically to that particular point.  
 9 MR. CORRELL: Pass witness, your Honor.  
 10 CROSS-EXAMINATION  
 11 BY MR. WERBNER:  
 12 Q You can't say what damages, if any, Woody caused the  
 13 NRA to lose; can you?  
 14 A My analysis --  
 15 Q Sir, can you tell us what damages, if any, were caused  
 16 by Woody Phillips; yes or no?  
 17 A I have not calculated damages.  
 18 Q And, therefore, you can't say what damages, if any,  
 19 Woody Phillips caused the NRA; correct?  
 20 A Again, I haven't calculated.  
 21 Q And that's why you can't say, right?  
 22 A I can't say because I haven't performed that analysis.  
 23 Q All right. And you're not offering any specific  
 24 opinion about what intent Woody Phillips had; are you?  
 25 A No.

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3163

1 Q Okay --  
 2 A My experience intent is a legal conclusion, and I'm not  
 3 rendering a legal conclusion.  
 4 Q So, you're not saying that Woody had any bad intent or  
 5 did anything wrong; are you?  
 6 MS. CONNELL: Objection, your Honor.  
 7 THE COURT: Overruled.  
 8 A Again, no, my understanding --  
 9 Q Okay, I don't want your understanding.  
 10 Are you able -- have you formed an opinion, have you  
 11 formed an opinion about Mr. Phillips' intent?  
 12 A No.  
 13 Q And, therefore, you can't say whether he's done  
 14 anything wrong with intent; isn't that true?  
 15 MS. CONNELL: Objection, your Honor, whether he's  
 16 done anything wrong --  
 17 THE COURT: Overruled. You can answer.  
 18 These are yes or no questions. You can answer them  
 19 yes or no; or if you don't think you can, you can explain  
 20 why.  
 21 A What was the -- what was the last question?  
 22 Q That you're not saying that Woody Phillips acted with  
 23 intent knowing something he did was wrong; are you?  
 24 A No.  
 25 Q Okay. You haven't specifically calculated any damages

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3164

1 caused by Woody Phillips; have you?  
 2 A No.  
 3 MS. CONNELL: Objection.  
 4 Q You said earlier that you didn't interview any  
 5 witnesses; is that correct?  
 6 A Correct.  
 7 Q Did you ask, yes or no?  
 8 A No.  
 9 Q I assume you've read all the trial transcripts in the  
 10 last four, five weeks that we've been here; is that right?  
 11 A Not a single one.  
 12 Q With your 1.1 to 1.2 million dollars you didn't think  
 13 it was necessary to review the people who have testified based  
 14 on the available transcripts here?  
 15 A No, I didn't want to potentially have any impact on my  
 16 opinions that I've already reached given in my analysis.  
 17 Q So, you don't know that LaPierre testified in this  
 18 case that Woody did work under his post-retirement agreement?  
 19 MS. CONNELL: Objection, your Honor. There's  
 20 contradictory testimony on that point.  
 21 THE COURT: Yeah, rather than summarizing the  
 22 testimony which is kind of difficult, you can ask it without  
 23 asking the witness to accept your characterization.  
 24 Q So, you don't know one way or the other what Mr. Wayne  
 25 LaPierre said to this jury when he testified; do you?

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3165

1 A No.  
 2 Q And you don't know what Mr. Erstling or Ms. Rowling  
 3 testified about the MMP contract; do you?  
 4 A No.  
 5 Q You don't know if Woody was even asked to do something  
 6 under his agreement that he failed or refused to do; do you?  
 7 A Well, based on my review of the record evidence, I'm  
 8 aware of just based on my understanding of testimony outside of  
 9 the trial from deposition transcripts that individuals were not  
 10 aware of his services. But if you're asking specifically about  
 11 trial testimony, then I'm not aware of that.  
 12 Q Doesn't that leave a pretty big hole in your  
 13 understanding if you haven't read any of the testimony from over  
 14 four or five weeks?  
 15 A No. My understanding is that I shouldn't be reading  
 16 trips.  
 17 Q Who told you that you should not read transcripts that  
 18 the jury has heard for the last four, five weeks?  
 19 A Based on my understanding.  
 20 Q Who told you?  
 21 MS. CONNELL: Objection, your Honor.  
 22 THE COURT: Let him answer.  
 23 A My understanding in discussion with counsel.  
 24 Q What counsel?  
 25 A The attorney generals.

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3166

1 Q They told you it wasn't necessary to read what's been  
 2 going on in the trial so you would know what people have  
 3 testified to?  
 4 A No, not that it wasn't necessary; but that given I'm a  
 5 witness in the trial, I should be cautious about reviewing  
 6 information, about things what happened.  
 7 Q You think it's careful to give opinions without  
 8 considering what people have said about the facts in the case?  
 9 A I prepared my opinion based on extensive review of the  
 10 facts in the case.  
 11 Q You think that's careful work to leave out all of the  
 12 testimony that the jury has heard; is that a yes or no?  
 13 A I do think it is careful work, and I do think it  
 14 considers the guidance and my extensive review of the documents  
 15 that I analyzed.  
 16 Q How much money from your understanding of the facts did  
 17 the NRA pay to Woody Phillips?  
 18 A Can you be specific about a period of time or --  
 19 Q You know for the ten years -- let's just take ten years  
 20 from 2011 to 2024. That's even more than ten years. Everything  
 21 that you reviewed, some of that went back to 2010 or 2011;  
 22 correct?  
 23 A Correct.  
 24 Q From all that ten-plus years, can you tell the jury how  
 25 much Woody Phillips received from the NRA?

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3167

1 A Again, are you talking about his salary, his  
 2 compensation?  
 3 Q Is there some reason you're dancing around with this  
 4 question?  
 5 A It is not a specific question.  
 6 Q It is a specific question. The question is based on  
 7 all the work that you've done for which you've charged over a  
 8 million dollars, can you tell the jury -- yes or no --- how much  
 9 money Woody Phillips received from the NRA? Can you do that or  
 10 can you not do that?  
 11 MS. CONNELL: Objection, your Honor.  
 12 THE COURT: Well, it's a fair question, whether the  
 13 witness has that number.  
 14 A I do not have payroll information, so I don't know the  
 15 answer to his specific paycheck and payroll; but what my  
 16 analysis did calculate was the amount received post his  
 17 employment.  
 18 Q And that was \$170,000; right?  
 19 A Correct.  
 20 Q So, Woody Phillips received \$170,000 and you've gotten  
 21 over a million pursuant to your contract; correct?  
 22 A That would be factually accurate.  
 23 Q All right. Now, you know Woody Phillips retired five  
 24 years ago; don't you?  
 25 A Yes.

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3168

1 Q And I think in your chart that dealt with Woody  
 2 Phillips, you said that he hadn't gotten any written approval  
 3 from the appropriate parties; correct?  
 4 A I'm not sure that's the exact words, but -- but that  
 5 the agreement with the Mr. Phillips was not subject to proper  
 6 review and approval.  
 7 Q Well, it was signed by the president of the NRA; wasn't  
 8 it?  
 9 A I believe that's true.  
 10 Q And it was signed by the first vice president of the  
 11 NRA; right?  
 12 A I believe there's a signature at the bottom.  
 13 Q So, isn't -- aren't those two signatures appropriate?  
 14 A They're part of the population of individuals that  
 15 would have to sign that contract, but not all of those.  
 16 Q Are you just nitpicking there?  
 17 MS. CONNELL: Objection, your Honor.  
 18 THE COURT: Overruled.  
 19 A Certainly not nitpicking. Those policies and  
 20 procedures are, one, they were set by the board a number of  
 21 years ago; and they're in place for a particular reason and  
 22 that's to ensure that the NRA complies with its own spending  
 23 procedures and it's an internal control feature so I don't  
 24 classify it --  
 25 THE COURT: Hang on. You can finish your answer.

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3169

1 A I do not view that as nitpicking. I view those as  
 2 crucial controls with respect to the expenditures of the  
 3 organization.  
 4 Q Do you make room for the possibility that it was an  
 5 honest mistake to get the president of the association and the  
 6 first vice president to sign it; that that wouldn't be  
 7 sufficient, do you make room for that possibility that that was  
 8 a good-faith error? Do you make room for that possibility?  
 9 A Is it possible that it was --  
 10 Q In your mind --  
 11 A I'm not sure what the question is.  
 12 Q You're not sure of the question?  
 13 A No.  
 14 Q What don't you understand about the question? Let me  
 15 repeat it.  
 16 Do you make room for the possibility that when Woody  
 17 Phillips got the president and the first vice president to sign  
 18 his post-retirement consulting agreement, that he did that in  
 19 good faith?  
 20 A That's a possibility. I'm not offering any opinions on  
 21 good faith or intent.  
 22 Q So, you don't know if he acted in good faith or not?  
 23 MS. CONNELL: Objection, your Honor.  
 24 THE COURT: Sustained.  
 25 Q You had a chart that showed the out-of-pocket expenses

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3170

1 from Ackerman McQueen.  
 2 Do you remember that?  
 3 A Yes.  
 4 Q Let's put that up. I think that's slide 42. You see  
 5 this slide that has the \$2.7 million broken out that came from  
 6 the out-of-pocket expenses.  
 7 Do you remember that?  
 8 A Yes.  
 9 Q Out of that \$2,758,189, that 2.7 million, how much of  
 10 that money from the out-of-pocket expenses went into Woody  
 11 Phillips' pocket?  
 12 A I believe it was a small amount related to parking.  
 13 Q Tell the jury out of the 2.7 million from the Ackerman  
 14 McQueen out-of-pocket expenses, out of that 2.7 million, how  
 15 much went into the pocket of Woody Phillips?  
 16 A I don't recall the precise number. I believe it was a  
 17 few thousand dollars that I could identify.  
 18 Q Was it about \$2,000 for parking?  
 19 A I don't recall the exact number, but --  
 20 Q Well, I'm not asking you for an exact number. You said  
 21 it was a small number, and I want the jury having the benefit of  
 22 your million dollar work. How much went in the out-of-pocket to  
 23 Woody Phillips?  
 24 A Through this particular arrangement, I believe from  
 25 what I could identify it was 2 or 3,000 dollars is my

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3171

1 recollection.  
 2 Q For parking at Ackerman McQueen? Do you find anything  
 3 wrong with Woody Phillip getting parking when he went to  
 4 Ackerman McQueen offices?  
 5 A Other than the fact that --  
 6 Q Do you find anything wrong with that; yes or no?  
 7 MS. CONNELL: Objection, your Honor. The witness  
 8 was answering. He should be permitted to answer.  
 9 THE COURT: Agreed.  
 10 Q Do you find anything wrong with him getting parking at  
 11 Ackerman McQueen?  
 12 A I find given its part of the out-of-pocket expense  
 13 billing scheme which I do find, I do have a problem with and I  
 14 do think is an internal control example of internal control  
 15 failure.  
 16 Q Right --  
 17 THE COURT: Let him finish, please. Hang on. Are  
 18 you done with your answer?  
 19 THE WITNESS: I kind of lost my train of thought.  
 20 Q Let me repeat the question for you.  
 21 We know that you don't like the out-of-pocket  
 22 arrangement at Ackerman McQueen. We know that.  
 23 But the fact is is that all you can say that Woody  
 24 Phillips benefitted from that was 2 to 3,000 dollars in parking,  
 25 and I'm asking you do you think it is wrong that he had his

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3172

1 parking paid for when he went to Ackerman McQueen; yes or no?  
 2 A Yes, I think it is wrong given it was not through the  
 3 proper overview and approval processes.  
 4 Q So, you fault him for the parking at Ackerman McQueen  
 5 in the way that it was paid; yes?  
 6 A Well, I fault the entire arrangement for being not  
 7 consistent with its own internal controls.  
 8 Q Right, but not to repeat the point you itemize that  
 9 based on your work at \$2.7 million; correct?  
 10 A Yes.  
 11 Q And there's this tiny, tiny fraction of the benefit  
 12 that Woody Phillips got; isn't that true?  
 13 A It is.  
 14 Q You said that you've been paid at the time of your  
 15 deposition between 1.1 million and 1.2 million; correct?  
 16 A I don't believe I said that.  
 17 Q What did you say?  
 18 A At my deposition?  
 19 Q As of the time of your deposition, how much had you  
 20 been paid?  
 21 A I believe it was much less than that, and the question  
 22 I was asked about my estimate for this case.  
 23 Q Oh, so have you put that much more work into it since  
 24 your deposition?  
 25 MS. CONNELL: Objection.

E. Hines - by Plaintiff - Cross/Mr. Werbner Page 3173

1 THE COURT: Overruled.  
 2 A Certainly worked in prepping for trial over the last  
 3 month and a half.  
 4 Q Hundreds of thousands of dollars?  
 5 A I don't know the precise amount.  
 6 Q Meeting with the attorney general staff?  
 7 A Yes, we've met.  
 8 Q How much have you met?  
 9 A If I had to guess, several days, maybe 24, 28. I don't  
 10 know the exact number.  
 11 Q Did they help you do your slides?  
 12 A We prepared slides --  
 13 Q Did they help you do your slides?  
 14 THE COURT: Let him answer.  
 15 Q Did they help you do your slides?  
 16 A We did have assistance with the slides through trial  
 17 graphics folks that they engaged.  
 18 Q So, the slides aren't all your work; are they?  
 19 A It's certainly --  
 20 Q Excuse me, your Honor --  
 21 THE COURT: No, I think I know what he's -- I'd  
 22 like to let him answer.  
 23 A It is my work, summary of my work and my findings and  
 24 my opinions based on my professional education, experience and  
 25 training.

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E. Hines - by Plaintiff - Cross/Mr. Fleming Page 3174

1 Q But you had a little help?

2 A With assistance in terms of the preparation in the

3 visual presentation.

4 Q And that was given to you by the AG's lawyers?

5 A Trial graphics individuals and the attorney general's

6 office had insight as how to make it accurate and

7 understandable.

8 Q You needed help from them on how to make it accurate?

9 A Help ensure that it was easily digestible by the fine

10 folks of the jury here.

11 Q Presented in a certain way?

12 A Just --

13 Q Presented in a certain way?

14 A Sure.

15 MR. WERBNER: Pass the witness.

16 CROSS-EXAMINATION

17 BY MR. FLEMING:

18 Q Hello, Mr. Hines.

19 A Hi.

20 Q You testified last week that you were engaged by the

21 attorney general to analyze whether the defendants adhered to

22 policies, procedures and internal controls; is that correct?

23 A Yes, as part of my engagement.

24 Q Part of your work you familiarized yourself with the

25 policies of the National Rifle Association?

E. Hines - by Plaintiff - Cross/Mr. Fleming Page 3176

1 THE COURT: You can reference things in the

2 complaint. It is a statement by the plaintiff.

3 MR. FLEMING: It is a judicial admission.

4 THE COURT: I just don't have it all in front of me

5 to know --

6 MR. FLEMING: I can connect it later. I can assure

7 you it is in there. I have two questions, your Honor.

8 THE COURT: Go ahead.

9 Q Are you aware that your client has characterized that

10 policy as comprehensive?

11 A I believe I was aware of this from my deposition.

12 Q Are you also aware that they have characterized that

13 the policy defines conflict of interest more broadly than

14 required by New York law?

15 A I don't recall that specifically.

16 Q Now, did you learn in part of your work that Mr. Frazer

17 expanded the NRA's financial disclosure questionnaire?

18 A I don't -- I believe I have a recollection that that is

19 the case, but I don't recall the specific document as I sit

20 here.

21 Q Okay, and you would view expanding a questionnaire to

22 obtain more potential conflicts a good thing; right?

23 A Yes.

24 Q It is not a negative internal control; correct?

25 A I would agree.

E. Hines - by Plaintiff - Cross/Mr. Fleming Page 3175

1 A Yes.

2 Q The NRA's conflicts of interest and related-parties

3 transaction policy is, of course, a policy of the NRA; is that

4 right?

5 A Yes.

6 Q Were you aware that it was adopted by the board in

7 January 2016?

8 A The current version of the policy you're referring to?

9 Q Yes.

10 A I don't have the exact date, but that sounds consistent

11 with my memory.

12 Q Okay. And you know that Mr. Frazer led the effort to

13 have the organization adopt that policy in January 2016; right?

14 A I don't know that detail.

15 Q Okay. Well, do you know that your client, the attorney

16 general, has characterized that policy as comprehensive?

17 MS. CONNELL: Objection, your Honor.

18 THE COURT: I think you have to be more specific,

19 if you're referring to --

20 MR. FLEMING: Your Honor, it is in the three-time

21 verified complaints.

22 MS. CONNELL: Your Honor, this is not admissible

23 evidence to put in front of the jury. He can ask about his

24 view of the policy I guess. He's not a government expert,

25 but --

E. Hines - by Plaintiff - Cross/Mr. Fleming Page 3177

1 Q Now, you reviewed a lot of e-mails as part of your

2 work?

3 A Yes.

4 Q Now, did you know that Mr. Frazer from these e-mails

5 worked with the NRA's Financial Services Division accountants to

6 crosscheck to determine whether any payments were made to board

7 members?

8 A I don't recall that specifically from e-mails.

9 Q Okay. Well, if that happened as a way of detecting

10 whether a payment was made to a board member who had not

11 disclosed a conflict of interest or related-party transaction,

12 that would be an additional measure that you would consider

13 good; is that right?

14 A I would agree so as long as the crosscheck was thorough

15 and looked in the various ways and places that payments might be

16 made.

17 Q Well, if they look at the accounts payable function to

18 see if payments were made to known directors, that would be what

19 you're talking about?

20 A That would be one step. I just also observed in my

21 analyses that some payments to directors were not always in the

22 general ledger or identifiable as such.

23 Q But that step, if it was taken, would not be a

24 negative; is that right?

25 A No.

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1 Q Okay. Now, after the adoption of the conflicts of  
 2 interest and related-party transaction policy you were aware,  
 3 were you not, that the Audit Committee soon thereafter met to  
 4 consider related-party transactions?  
 5 MS. CONNELL: Objection, your Honor.  
 6 THE COURT: Scope or what?  
 7 MS. CONNELL: It's outside the scope, your Honor,  
 8 and it's also not based on evidence.  
 9 THE COURT: Sustained, because none of his  
 10 testimony went to that issue.  
 11 Q Well, Mr. Hines, you testified that as part of your  
 12 work you reviewed Audit Committee minutes; isn't that right?  
 13 A Some, yes.  
 14 (Continued on next page)  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

Hines - by Plaintiff - Cross/Mr. Fleming Page 3179

1 Q And in fact, in your report, you specified that you  
 2 looked at March 16 Audit Committee minutes; right?  
 3 THE COURT: That's not in evidence.  
 4 MR. FLEMING: But he reviewed it. I'm asking him if  
 5 he reviewed it?  
 6 THE COURT: The cross is about what his testimony  
 7 was.  
 8 MR. FLEMING: Well, your Honor, I mean, the cross  
 9 is about his analysis.  
 10 His testimony is about his analysis, and his  
 11 analysis is based upon a review of the minutes. I don't  
 12 know how I could be foreclosed from asking about that.  
 13 THE COURT: Well, your crossing his testimony at  
 14 trial. Not his -- and if you think some of his prior work  
 15 is inconsistent with that, you can get into that.  
 16 MR. FLEMING: It's not a inconsistency, but he  
 17 looked at minutes, so he knows what the minutes reflect.  
 18 MS. CONNELL: Your Honor, we haven't seen the  
 19 minutes. The minutes that Mr. Fleming's referred to, they  
 20 haven't been admitted in this case.  
 21 Mr. Hines in his thorough review looked at a number  
 22 of documents. It doesn't render the document admissible.  
 23 THE COURT: Well, look. If what you're talking  
 24 about in your view undermines the facts that he testified he  
 25 is basing his opinion, then I'm happy to have you -- you can

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Hines - by Plaintiff - Cross/Mr. Fleming

1 do that. But if it's separate things that he hasn't talked  
 2 about the fact related to, then that's beyond the scope. If  
 3 you think it goes to the facts that he testified to -- many  
 4 times he was assuming or based on his understanding, and if  
 5 these are facts that go to his things that he told the jury  
 6 he was basing his opinion on, that's fine.  
 7 Q Mr. Hines, you testified, did you not -- correct me if  
 8 I'm wrong, that related-party transactions were not approved by  
 9 the NRA until late 2018, 2019. Isn't that what your testimony  
 10 was?  
 11 MS. CONNELL: Objection.  
 12 THE COURT: Overruled.  
 13 A I think it sort of mischaracterizes.  
 14 Q How? Tell me how it does.  
 15 A I believe my testimony reflected that the transactions  
 16 with related parties included board members typically were  
 17 not -- prior -- did not receive prior approval from the Board or  
 18 Audit Committee and lacked written contracts or properly  
 19 authorized contracts.  
 20 I don't recall specifically addressing the timing or  
 21 minutes that you just referred to.  
 22 Q But you reviewed minutes, right, by the Audit  
 23 Committee?  
 24 A I have reviewed certain minutes, yes.  
 25 Q And you saw that those minutes at least reflected that

Hines - by Plaintiff - Cross/Mr. Fleming Page 3181

1 the Audit Committee had addressed related-party transactions;  
 2 isn't that true?  
 3 A My recollection is that the minutes in some instances  
 4 reflected a discussion about related parties.  
 5 In some instances, it was unclear exactly what was  
 6 discussed or whether the minutes were signed or formalized or  
 7 not. And in some instances, there were related-party  
 8 transactions with board members that were specifically included  
 9 in minutes, and I don't recall all the specifics in terms of  
 10 timing.  
 11 My recollection is the documentation around that was  
 12 very inconsistent and unclear.  
 13 Q Okay. If it was unclear, that's fine, but I'm asking  
 14 you a separate question. I'm asking you whether the minutes  
 15 showed correctly or incorrectly that the Audit Committee  
 16 addressed related-party transactions in 2016.  
 17 MS. CONNELL: Objection, your Honor.  
 18 THE COURT: Overruled.  
 19 A I don't -- my recollection is that there is a reference  
 20 to a discussion of related-party transactions. I don't know  
 21 what you mean by the Board addressed in this particular  
 22 instance, but there is a reference to that term. But again, I'm  
 23 going to minutes. I don't have the minutes committed to memory  
 24 as I sit here.  
 25 Q You talked about four board members; right?

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Hines - by Plaintiff - Cross/Mr. Fleming Page 3182

1 A Yes.

2 Q David Butz, Sandra Froman, Marion Hammer, David Keene;

3 correct?

4 A Correct.

5 Q And in September of 2016, you saw minutes that showed

6 that Mr. Butz's arrangement, Ms. Froman's arrangement and Ms.

7 Hammer's arrangement were discussed in minutes by the Audit

8 Committee; right?

9 MS. CONNELL: Objection, your Honor. Move to

10 strike.

11 THE COURT: That's overruled.

12 A I don't recall specifically what the minutes

13 referenced, but I do recall those minutes that discussed those

14 individuals, and I can't recall if it's specific to discussion

15 about the existence of some of those arrangements or approvals

16 or not. It's --

17 Q Well, you asked me what I meant by "addressed."

18 You saw those minutes that the Audit Committee voted

19 that those transactions were fair, reasonable and in the best

20 interest of the NRA; did you not?

21 MS. CONNELL: Objection, your Honor.

22 THE COURT: Are we referring to the document that I

23 didn't admit?

24 MS. CONNELL: Yes, your Honor. I think that's --

25 THE COURT: Well, no. The problem with this is

Hines - by Plaintiff - Cross/Mr. Fleming Page 3183

1 that there is a lot of different documents -- there is one

2 set of notes that you went through that I didn't admit, but

3 there is also Audit Committee minutes where there are

4 indications of committee review. I just don't know --

5 MS. CONNELL: We don't know the time. It's very

6 unclear what timing we are specifically speaking about with

7 some of those questions, and we are I think getting into --

8 THE COURT: No. It's hard for us to keep in our

9 heads all of the -- are you referring to admitted exhibits?

10 MR. FLEMING: There is an exhibit that has not been

11 admitted that we have tried to several times off of their

12 exhibit list to try to get admitted.

13 THE COURT: Well, I can explain to you during a

14 break why I haven't admitted it.

15 There are actual minutes that do address board

16 member compensation, I believe, so you can ask that.

17 MR. FLEMING: I'm not sure I'm following. You're

18 talking about from admitted exhibits?

19 THE COURT: I'm distinguishing from formal board

20 members that have been admitted into evidence where there is

21 discussion of related-party transactions, and there is one

22 that, you know, I'm not going to discuss in front of the

23 jury, but that I haven't admitted because it was a different

24 kind of document.

25 MR. FLEMING: And your Honor, I won't say it on

Hines - by Plaintiff - Cross/Mr. Fleming Page 3184

1 there, but the only reason this becomes important is because

2 the Attorney General is creating a -- presenting a position

3 that these -- those approvals didn't occur until much later.

4 THE COURT: Well, the jury has heard all of the

5 evidence about it so -- and you can argue to the jury based

6 on the evidence that's coming in what was reviewed at

7 various times. So I'm not sure -- it's difficult to -- the

8 way you're questioning the witness without a specific

9 document is a little vague.

10 MR. FLEMING: I agree. It's part of the difficulty

11 I wrote your Honor about but --

12 THE COURT: Well, some documents are exhibits and

13 some are not.

14 Q Now, Mr. Butz's arrangement started in 2002; correct?

15 A I believe that's correct, yes.

16 Q Okay; and Ms. Froman's started in 2013; is that right?

17 A That sounds correct; yes.

18 Q And Ms. Hammer's started in or about 2004; right?

19 A As far as I'm aware.

20 Q And Mr. Frazer started in his position in 2015; is that

21 correct?

22 A I don't recall the exact date, but that sounds correct.

23 Q Do you recall that he started in those positions after

24 those arrangement were entered into by -- with those board

25 members?

Hines - by Plaintiff - Cross/Mr. Fleming Page 3185

1 A That sounds correct; yes.

2 Q Now, do you have any dispute with the fact the Audit

3 Committee putting aside the time period ratified each of those

4 transactions?

5 A I believe there is -- my recollection is there is some

6 ratification at some point.

7 Q And you understand when the Audit Committee ratifies a

8 transaction they are saying that that transaction is fair,

9 reasonable and in the best interest of the NRA; right?

10 MS. CONNELL: Objection, your Honor. This speaks

11 to the legal conclusion under 715J.

12 MR. FLEMING: It's fact.

13 THE COURT: You mean, the actual document in which

14 they approve that says those words.

15 MR. FLEMING: That is what ratification and

16 approval of the Audit Committee means.

17 MS. CONNELL: Your Honor --

18 THE COURT: Well, in this specific exhibit, I think

19 the jury has seen those words are used.

20 MR. FLEMING: They are, and they are used for a

21 reason.

22 THE COURT: That's what you're referring to.

23 MR. FLEMING: That's right.

24 Q Did you answer?

25 A I lost the question.

Hines - by Plaintiff - Cross/Mr. Fleming Page 3186

1 Q Well, the question is what you understand when  
2 transactions are ratified by the Audit Committee.  
3 The Audit Committee is determining that those  
4 transactions are fair, reasonable and in the best interest of  
5 the NRA; right?  
6 THE COURT: You can't ask that question in  
7 abstract. These are specific- they have seen specific  
8 documents where that has happened.  
9 Q But he's just testified he knows that the Audit  
10 Committee at some point ratified these particular transactions.  
11 And when they ratified those particular transactions, you  
12 understand that they determined that those transactions were  
13 fair, reasonable and in the best interest of the NRA; is that  
14 right?  
15 MS. CONNELL: Your Honor, I'm going to object to  
16 this, which transactions were ratified when. It makes a  
17 difference.  
18 THE COURT: Well, right now the question is fair  
19 because he said "ever ratified."  
20 Go ahead.  
21 A My understanding is that those words were used at some  
22 point. I don't recall the precise timing of each one of those.  
23 With respect to the transactions that I discussed, in  
24 some cases without specific details about the arrangements is my  
25 recollection.

Hines - by Plaintiff - Cross/Mr. Fleming Page 3187

1 Again, I don't recall the specific timing for those  
2 after-the-fact Audit Committee ratifications. Obviously, I'm  
3 not rendering any opinion on the legal appropriateness of that,  
4 but that's my general recollection is those words were used for  
5 certain individuals.  
6 Q Fair enough. Now, you heard -- you testified that you  
7 went through the NRA's general ledgers.  
8 Do you recall the testimony?  
9 A Yes.  
10 Q And do you recall Ms. Connell saying those were  
11 voluminous documents requiring a wheel barrow if they were  
12 brought into the court.  
13 Do you remember that?  
14 A Vaguely, yes.  
15 Q And that must have taken a lot of time I imagine to do.  
16 A Yes.  
17 Q Okay. Are you familiar with the form 990s?  
18 A Yes.  
19 Q And you reviewed those as part of your work?  
20 A I certainly looked at some of those, yes.  
21 Q So when you looked in those 990s, you saw, did you not,  
22 that each one of those related-party transactions and the  
23 contract amounts and the amounts paid to those Board of  
24 Directors -- these directors were disclosed in the Form 990  
25 isn't; is that right?

Hines - by Plaintiff - Cross/Mr. Fleming Page 3188

1 MS. CONNELL: Objection, your Honor. Your Honor,  
2 when was it disclosed? How was it disclosed? It's a  
3 compound question.  
4 THE COURT: That's for -- you can ask-- I assume  
5 you're asking if they were enclosed in any Form 990 at this  
6 point.  
7 MR. FLEMING: It's hard to -- I can bring in all  
8 the documents and show him, but right now, that's the  
9 question.  
10 Q Do you recall seeing those amounts paid to those  
11 directors Mr. Butz, Ms. Froman, Ms. Hammer disclosed in the  
12 990s?  
13 MS. CONNELL: I'm going to note my objection.  
14 THE COURT: When you say "the 990s", you mean all  
15 of them?  
16 Q Well, let's start with 2015. Do you remember it in the  
17 2015 990?  
18 A I recall seeing some of those disclosed at some point  
19 in time in some 990. I have not committed to memory which  
20 amount for which directors at which point in time.  
21 THE COURT: Counsel, we are going to have to --  
22 MR. FLEMING: One question, your Honor. Seriously,  
23 this time. One question.  
24 THE COURT: I hope it's a good one.  
25 Q Do you dispute that those amounts paid to Mr. Butz,

Hines - by Plaintiff - Cross/Mr. Fleming Page 3189

1 paid to Ms. Froman, paid to Ms. Hammer and then ultimately  
2 starting in 2017 paid to Mr. Keene were disclosed in each 990,  
3 2015, 2016, 2017, 2018 forward?  
4 MS. CONNELL: Objection, your Honor.  
5 Q Do you dispute it?  
6 THE COURT: Overruled.  
7 A Again, I have not committed to memory each one of those  
8 disclosures, so I don't know the answer to that question as I  
9 sit here right now.  
10 Q Well, that wasn't the question. The question was do  
11 you dispute it. It's a yes or no.  
12 MS. CONNELL: Objection, your Honor.  
13 THE COURT: I think that's asked and answered.  
14 MR. FLEMING: Well, unfortunately, I'm not  
15 finished.  
16 THE COURT: We will pick this back up at 2:15.  
17 Again, the same instructions. You are going to be  
18 still on the stand during the break.  
19 I'll see you all the 2:15.  
20 THE COURT OFFICER: All rise. Jury exiting.  
21 (Whereupon, at this time the jury exits  
22 the courtroom.)  
23 (Whereupon, at this time there was a luncheon  
24 recess taken.)  
25 \* \* \*

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Hines - by Plaintiff - Cross/Mr. Fleming Page 3190

1           **AFTERNOON SESSION**

2           \* \* \* \* \*

3           (Witness resumed the witness stand.)

4           **THE COURT:** Just so we don't have to take a break

5 after the last witness, the State is planning to rest after

6 this last witness?

7           **MS. CONNELL:** That's correct.

8           **THE COURT:** You want to do that on the record.

9           Am I correct that there is going to be some motion

10 made by somebody? All right. So I'll excuse the jurors

11 after I do that so they don't have to hear that there is a

12 motion. If so, by who.

13           **THE COURT OFFICER:** All rise. Jury entering.

14           (Whereupon, at this time the jury entered the

15 courtroom.)

16           **THE COURT:** Welcome back, everyone. Please have a

17 seat.

18 **CONTINUED CROSS-EXAMINATION**

19 **BY MR. FLEMING:**

20           **THE COURT:** Okay. Mr. Fleming, you may continue.

21           **MR. FLEMING:** Thank you, your Honor.

22           **Q** I'm going to mercifully get you off this witness stand

23 soon, but I do have to show a couple of documents. So I would

24 like to go call up JFX39 for identification. It is a 990. It

25 is in evidence I don't know which document is in evidence, so

Hines - by Plaintiff - Cross/Mr. Fleming Page 3192

1           **Q** Okay. What is Part VII?

2           **A** I believe it's disclosure related to compensation.

3           **Q** Okay. And I'm going to ask you to draw your attention

4 to the highlighted portions and tell me if this refreshes any

5 recollection that payments made to Ms. Froman and Ms. Hammer

6 were disclosed in the 2016 990?

7           **A** It would appear so.

8           **Q** If I can just do one more to Mr. Butz.

9           **THE COURT:** In the same document?

10           **MR. FLEMING:** It's Page 18 I believe of the same

11 document.

12           **Q** Mr. Hines, do you see this as well?

13           **A** Yes.

14           **Q** Okay. And you recall that this was disclosed in the

15 2016 990?

16           **A** It would appear so based on this. I don't recall

17 specifically just based on my memory, but yes.

18           **Q** Okay. And these amounts that you just seen roughly

19 accord to the amounts that you determined from the general

20 ledger; isn't that right?

21           **A** I they seem like they are directionally correct.

22           **Q** I'm certainly not testing your memory. I'm just trying

23 to avoid having to go into documents.

24           So are you familiar with the NRA's secretary's reports?

25           **A** Generally speaking. But are you talking about with

Hines - by Plaintiff - Cross/Mr. Fleming Page 3191

1 that's why I'm putting up this version.

2           **THE COURT:** So this document you know is in

3 evidence, but you're not sure if this version is.

4           **MR. FLEMING:** Right. The 990 is in evidence. I

5 just don't know what the document exhibit number is.

6           **THE COURT:** I imagine that someone in this grand

7 room knows. If you say the year of the 990, they will know

8 what number it is.

9           **MR. FLEMING:** 2016.

10           **MS. CONNELL:** I don't know if it's in under this

11 number.

12           **THE COURT:** I would much prefer to not have the

13 multiple exhibits which cover the same thing.

14           **MS. CONNELL:** It's in under PX 3565, your Honor.

15           **THE COURT:** I knew it.

16           **MR. FLEMING:** Thank you.

17           **THE COURT:** Does that sound right?

18           **Q** So Mr. Hines, as part of your work, did you review this

19 2016 NRA 990?

20           **A** I believe so.

21           **Q** Okay. If I could turn to Part VII. Thank you. And in

22 particular, the lines we talked about.

23           So Mr. Hines, are you familiar with Part VII of the

24 990?

25           **A** Generally, yes.

Hines - by Plaintiff - Cross/Mr. Fleming Page 3193

1 respect to the Board?

2           **Q** Well, the report of the secretary of the NRA to the

3 Board of Directors.

4           **A** As part of the overall Board minutes.

5           **Q** That's right.

6           **A** Generally speaking, yes.

7           **Q** Okay. And did you review secretary's reports as part

8 of your work?

9           **A** I don't recall specifically. I may have.

10           **Q** Okay. Well, I'll ask the question anyway. Do you

11 recall that these amounts paid to these directors were disclosed

12 in the secretary's reports as well?

13           **A** I do recall some instances where there were disclosures

14 about some of these items.

15           **Q** Okay. I will spare showing you those.

16           Now you testified last week about something called the

17 "COSO framework."

18           Do you recall that?

19           **A** Yes.

20           **Q** And I believe you said it was the standard for internal

21 controls principles; is that right?

22           **A** It's a framework and provides internal control

23 guidelines and principles, yes.

24           **Q** Now, the COSO framework though is not law; isn't that

25 right?

Hines - by Plaintiff - Cross/Mr. Fleming Page 3194

1 A As far as I know, yes, you're correct.

2 Q And to your understanding, the COSO framework is not

3 mentioned in the New York not-for-profit corporation law; is

4 that right?

5 A I don't know the answer to that.

6 Q Okay. Do you know whether it's mentioned in New York's

7 Estate Powers and Trusts Law?

8 A I don't.

9 Q Last question. Do you know whether it's mentioned in

10 New York's Executive Law?

11 A I don't.

12 Q Now you were also asked questions last week about the

13 NRA's vendors.

14 Do you recall the questions?

15 A Yes.

16 Q All right. Can I call up the demonstrative. Page 31,

17 I think it is. I'm going to copy Ms. Rogers if you will allow

18 me. I've learned something.

19 So you recall this demonstrative?

20 A Yes.

21 Q All right. Now, this shows -- well, before I get to

22 this, Ackerman McQueen, that was one of the vendors you were

23 asked about; right?

24 A Yes.

25 Q You're aware -- are you aware of the events of

Hines - by Plaintiff - Cross/Mr. Fleming Page 3196

1 A They do in 2019.

2 Q Well, in 2018 which is the first 5.9 percent; right?

3 A Correct.

4 Q That's a reduction obviously from the 14 and a half

5 percent change that had occurred the prior year.

6 A That was a reduction in the increase.

7 Q Reduction in the increase?

8 A It's not a reduction in the fee. That is the amount

9 grew but by a smaller amount.

10 Q I didn't mean to imply otherwise, but it's a reduction

11 in the increase?

12 A Correct.

13 Q After that you see a change upwards. An increase,

14 nevertheless, of 0.2 percent; right?

15 A Yes.

16 Q And then this flat lines after that, so there is no

17 increases.

18 A Yes.

19 Q And your chart ends in 2021; right?

20 A It does.

21 Q And in 2022, you testified there was a renegotiation of

22 the MMP contract; right?

23 A Yes.

24 Q And a substantial reduction in the overall cost; is

25 that fair?

Hines - by Plaintiff - Cross/Mr. Fleming Page 3195

1 whistleblowers from the NRA's Financial Services Division coming

2 forward in July of 2018?

3 A Yes.

4 Q And do you recall that soon thereafter began a sequence

5 of events which resulted in the termination of Ackerman McQueen

6 as a vendor relationship?

7 A Generally speaking, yes. I don't know the exact

8 characterization, but I'm aware that Ackerman was no longer a

9 vendor.

10 Q Okay. And you understand or maybe you don't that that

11 sort of flowed from the whistleblowers' expression of Top

12 Concerns; right?

13 A My understanding is there is some relation there. I

14 don't know if that's the only driver.

15 Q And this chart talks about MMP; is that right?

16 A Correct.

17 Q Okay. Now in 2018, I'll just direct your attention to

18 the last column here where you talk about total change in

19 percentage; right?

20 A Yes.

21 Q And there is some numbers here that, you know, however

22 you want to characterize them, but in 2018, the numbers go

23 downward; isn't that right?

24 A Are you talking about the percentage change amounts?

25 Q Right.

Hines - by Plaintiff - Cross/Mr. Fleming Page 3197

1 A Yes.

2 Q And so in 2022, would you expect this percentage change

3 would go into negative territory?

4 A Across all three, yes.

5 Q All right. And so starting in 2018, there is a

6 definite trajectory of getting MMP under control. Isn't that

7 fair?

8 MS. CONNELL: Objection.

9 THE COURT: Overruled.

10 A I don't know about your characterization of getting it

11 under control.

12 My understanding is during that entire time period,

13 there was still contracts that had not -- contracts that had not

14 been properly authorized and no documentation for the fee

15 increases. Maybe you could clarify what you mean by "under

16 control."

17 Q Well, certainly the total change goes from -- reduces;

18 correct?

19 A The change in fee from year to year reduces.

20 Q Right. And then it goes down to zero, so there is no

21 increase; right?

22 A Correct.

23 Q And then in 2022 even though you don't have the

24 numbers, it probably goes into negative territory so that there

25 is a change for the positive in the sense of less payments to

Hines - by Plaintiff - Redirect/Ms. Connell Page 3198

1 MMP; right?

2 A I believe that would be the case assuming the 2022

3 contract was adhered to, yes.

4 MR. FLEMING: I have nothing further. Thank you.

5 THE COURT: Okay. Anything further from the State?

6 MS. CONNELL: Famous last words, but very, very

7 brief, your Honor.

8 REDIRECT EXAMINATION

9 BY MS. CONNELL:

10 Q Could we please bring up PX 3565. Could we please go

11 to Page 5 of 55.

12 Mr. Hines, did you see this -- I'm showing you the

13 document that Mr. Fleming just showed you.

14 Would you like to see the first page to make sure?

15 A No. I can see it here.

16 Q Okay. Could I please direct your attention to question

17 28.

18 Do you see that?

19 A Yes.

20 Q And that question asks whether the organization that's

21 filing this was a party to a business transaction with one of

22 the following parties, and it says a current or former officer,

23 director, trustee or key employee.

24 Do you see that?

25 A Yes.

Hines - by Plaintiff - Redirect/Ms. Connell Page 3199

1 Q What did the NRA check off?

2 A "No."

3 Q Thank you. You can take that down.

4 Mr. Hines, to your knowledge, is disclosing amounts

5 made in someplace else within this 990 the same as having the

6 NRA's Audit Committee approve a related-party transaction in

7 advance?

8 MS. ROGERS: Objection.

9 MR. FLEMING: Objection.

10 THE COURT: Overruled.

11 A Based on my understanding, no.

12 Q Okay. Mr. Hines, you were asked about the NRA's

13 relationship with MMP; right?

14 A Yes, I was.

15 Q And you were asked whether the MMP had given any value

16 to the NRA, and you said that you hadn't specifically looked at

17 that; correct?

18 A Correct.

19 THE COURT: Leading being.

20 MS. CONNELL: I'm setting it up for a question.

21 THE COURT: Still leading.

22 MS. CONNELL: I apologize, your Honor.

23 Q Why -- would the answer to that question affect your

24 opinions in this case?

25 A Whether I looked at the fair market value.

Hines - by Plaintiff - Redirect/Ms. Connell Page 3200

1 Q Yes.

2 A No.

3 Q Why not?

4 A Because my analysis was whether the NRA followed its

5 own policies and procedures and internal control structure, and

6 that doesn't depend on the market value of the service.

7 Q What finding, if any, did you make about that?

8 A That they were -- there were internal control

9 violations.

10 Q You were asked about the relationship -- the NRA's

11 relationship to Ackerman McQueen; correct?

12 A Yes.

13 Q How long was the NRA's relationship with Ackerman

14 McQueen ongoing that you know of?

15 A I believe it was 30 or 40 years sticks out in my head

16 for some reason.

17 Q Do you know who, if anyone, signed the 1990 services

18 agreement between the NRA and Ackerman McQueen?

19 A I believe it was Mr. LaPierre.

20 Q Okay. And do you know how long the out-of-pocket

21 expense reimbursement process was ongoing within the NRA?

22 A Based on the record I read and I've seen it and my

23 understanding of that evidence, I believe it was at least early

24 2000.

25 Q To your knowledge, did the NRA pay invoices during

Hines - by Plaintiff - Recross/Ms. Rogers Page 3201

1 those years that just said "out-of-pocket expenses?"

2 A Yes.

3 Q You testified that in 2022, the NRA tried to

4 renegotiate a deal and you were just asked about that.

5 Do you recall that?

6 A Yes.

7 Q Did you form any opinions about that renegotiation?

8 A Yes.

9 Q And what were those opinions?

10 A That the renegotiated contracts reduced the three

11 contracts to one eliminating some of that complexity, and that

12 in my view, it called into question the reasonableness of the

13 fees and in periods prior to that under the fee arrangements

14 given what I saw and based on my understanding of the facts

15 there was fee increases were not documented and authorized and

16 concurrent with what I understand to be conflict of interest

17 issues.

18 MS. CONNELL: Thank you, Mr. Hines.

19 THE COURT: Anything further, Ms. Rogers?

20 MS. ROGERS: Very -- just very briefly.

21 RECROSS-EXAMINATION

22 BY MS. ROGERS:

23 Q Mr. Hines, I questioned you earlier about a version of

24 your flight invoice summary, and there was a little confusion

25 because the Government's lawyers gave me a different version

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Hines - by Plaintiff - Recross/Ms. Rogers Page 3202

1 than they gave you as an exhibit.  
 2 MS. CONNELL: Objection, your Honor. That's an  
 3 unfair characterization.  
 4 Q The point of the question is not the characterization.  
 5 So withdrawn.  
 6 I want to ask you some questions about the other  
 7 version, and they are not going to be substantive questions.  
 8 It's sort of a process question.  
 9 MS. CONNELL: This is also beyond the scope, your  
 10 Honor, and this is -- this characterization is still just  
 11 very prejudicial and unfair.  
 12 THE COURT: Yeah. I am going to let her do this  
 13 because I assume she was looking at the wrong one, but you  
 14 are not going to take a long time.  
 15 MS. ROGERS: It's not going to take a long time,  
 16 and I am just going to hand the witness my version for  
 17 identification.  
 18 THE COURT: The incorrect version?  
 19 MS. ROGERS: Correct, the version that he said was  
 20 filtered to create today's version.  
 21 MS. CONNELL: May we approach? This is a version  
 22 that he indicated was sent in error by counsel that's not  
 23 the final version that he prepared. It's not the version  
 24 admitted, and it's wrong to have it put in front of this  
 25 jury earlier.

E. Hines - by Plaintiff - Recross/Ms. Rogers Page 3204

1 Q Now, the corrected version that you filtered is three  
 2 pages long; right?  
 3 A I believe that's correct.  
 4 Q Do you recall how long the version of the spreadsheet  
 5 was that was provided by your counsel before you corrected it?  
 6 MS. CONNELL: Objection, your Honor.  
 7 THE COURT: Overruled.  
 8 A No.  
 9 Q If I represent to you that the spreadsheet was six  
 10 pages before you took out the entries that were wrong, would  
 11 that sound right to you?  
 12 MS. CONNELL: Objection, your Honor.  
 13 THE COURT: Overruled.  
 14 A That would sound right except for the characterization  
 15 of the invoices that were wrong that include duplicates that I  
 16 identified and removed, cancelled flights. So, the  
 17 characterization I did not agree with.  
 18 Q What about characterized the spread sheet shrunk in  
 19 half from six to three pages when you took out the entries that  
 20 were duplicates or were cancelled?  
 21 A I would say those individual items that were duplicates  
 22 were -- shouldn't have been in that spreadsheet in the first  
 23 place. So, shrinking by half, I don't necessarily  
 24 mathematically between those two pages that's correct; but the  
 25 final version reflects the invoices that are included on the

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1 THE COURT: I agree.  
 2 MS. ROGERS: I don't want to put it in front of the  
 3 jury. I want to put it in front of the witness.  
 4 THE COURT: Sustained.  
 5 MS. CONNELL: Thank you.  
 6 Q Mr. Hines, you recall you testified that the wrong  
 7 version of this spreadsheet was provided by counsel and the  
 8 corrected version was filtered by you? Do you recall that  
 9 testimony?  
 10 A Yes.  
 11 (Continued on the following page.)  
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E. Hines - by Plaintiff - Recross/Ms. Rogers Page 3205

1 summary evidence sheet prepared.  
 2 Q Understood, and I agree they shouldn't have been in  
 3 there.  
 4 One more thing. In the course of the documents and  
 5 testimony that you've reviewed, from an internal control  
 6 perspective, do you think the NRA did anything right?  
 7 A Well, I have certainly seen some instances of contracts  
 8 that did have signatures and review sheets and certainly things  
 9 along the way.  
 10 Q Do you have any view -- you opined earlier that it was  
 11 wrong for Woody to have a parking space. Do you think it was  
 12 right or wrong to get rid of Ackerman McQueen?  
 13 A I don't have an opinion.  
 14 MS. CONNELL: Objection, your Honor.  
 15 Q The Government didn't ask you if it was right or wrong  
 16 to get rid of Ackerman McQueen; right?  
 17 MS. CONNELL: Objection, your Honor.  
 18 THE COURT: Overruled.  
 19 Q You can answer.  
 20 A I was not asked to give an opinion on that.  
 21 Q And the Government didn't ask you to tell the jury  
 22 whether it was right or wrong to get rid of the Mercury Group;  
 23 right?  
 24 A No.  
 25 Q And the Government didn't ask you to tell the jury

<p>E. Hines - by Plaintiff - Recross/Ms. Rogers Page 3206</p> <p>1 whether it was right or wrong to use a bidding process for 2 flights instead of using Gayle Stanford; right? 3 A No. 4 Q And the Government didn't ask you to tell the jury 5 whether it was right or wrong to appoint a new CFO who had been 6 a whistleblower who in a Federal Court described as a champion 7 of compliance? 8 MS. CONNELL: Your Honor, outside the scope. It's 9 incorporating hearsay statements that are not before the 10 jury, and the question of whether we were supposed to have 11 an expert opine on right and wrong is -- 12 THE COURT: Overruled. 13 MS. ROGERS: Your Honor, they can't use speaking 14 objections to get more time. 15 THE COURT: Overruled. 16 A What was the question? 17 Q The Government didn't ask you to tell the jury whether 18 it was right or wrong to appoint a whistleblower, Sonya Rowling, 19 as CFO; right? 20 A That was not in the scope of my analysis. 21 Q The Government didn't tell you that a Federal Court 22 described her as a champion of compliance; right? 23 MS. CONNELL: Objection, your Honor. 24 THE COURT: Sustained. 25 Q So, as far as you're concerned, none of those</p>	<p>E. Hines - by Plaintiff - Recross/Mr. Fleming Page 3208</p> <p>1 a couple seconds, but it is possible. 2 Q Okay, and the first sentence it says: "The Audit 3 Committee met on March 8, 2016." 4 Do you see that? 5 A Yes. 6 Q And I would like to draw your attention to the 7 "Disclosure of Financial Interests" paragraph and have you read 8 that to yourself. 9 A Okay. 10 Q Do you recall reading either this document or any other 11 document which indicated that the Audit Committee considered 12 related-party transactions at its March 8, 2016, meeting and 13 deferred consideration or further evaluation of the more 14 substantial related-party transactions until its meeting in 15 September? 16 MS. CONNELL: Objection, your Honor. 17 THE COURT: You asked him about a box check in 990, 18 so I think this is in the scope. 19 A I do recall reading. I'm not sure if it was this 20 document exactly or one like it, but I would like to see if 21 these are signed minutes or not because I just for my own 22 clarification. 23 MR. FLEMING: Could you show the witness? 24 (Displayed) 25 MR. FLEMING: Can I call up for identification only</p>
<p>E. Hines - by Plaintiff - Recross/Mr. Fleming Page 3207</p> <p>1 constitute the NRA doing anything right; right? 2 A I didn't say that one way or another. I just said -- 3 your question was was I asked specifically to opine on that as 4 your question was right and wrong, no. 5 MS. ROGERS: All right, pass the witness. 6 MR. CORRELL: Pass the witness. 7 RECROSS-EXAMINATION 8 BY MR. FLEMING: 9 MR. FLEMING: Can I call up JX 52 in evidence. 10 Can we turn to the report of the meeting and it's 11 dated May of 2016. 12 THE COURT: Does this relate to anything that just 13 came up in the last two questions? 14 MR. FLEMING: It is -- well, with respect to the 15 redirect. 16 THE COURT: That's what I meant. 17 MS. CONNELL: Objection on scope, your Honor. 18 THE COURT: Well, that's what I was asking, but 19 I'll let -- 20 MS. CONNELL: I know, I'm just -- 21 (Displayed) 22 Q Mr. Hines, I direct your attention to a report of the 23 Audit Committee dated May 23rd through 24 of 2016. 24 Have you ever seen this document before? 25 A I may have. I don't recall just by reading it here for</p>	<p>E. Hines - by Plaintiff - Recross/Mr. Fleming Page 3209</p> <p>1 not for the jury, PX 1674. If we could scroll to the second 2 page, please. 3 Q Mr. Hines, have you ever seen the document that's in 4 front of you right now? 5 MS. CONNELL: Objection, your Honor. 6 THE COURT: Well, he hasn't done anything with it 7 yet except ask the witness if he's seen it. 8 MS. CONNELL: I understand, your Honor. I'm 9 lodging an objection from earlier, preserving the objection. 10 THE COURT: Just getting warmed up? 11 MS. CONNELL: I'm getting warmed up, your Honor, 12 just getting warmed up. 13 A I may have seen this document. I've seen versions of 14 documents like this, draft versions. I can't recall if it is 15 this exact version that I'm looking at right here. 16 Q And Ms. Connell asked you a question just a moment ago 17 about how it's different -- I'm paraphrasing, so if I get it 18 wrong you correct me -- how it's different to list the amounts 19 that directors get on a 990, how that's different from an Audit 20 Committee voting to approve related-party transactions. Do you 21 recall the question? 22 A Yes. 23 Q Did I get it correctly? 24 A Generally speaking, yes. 25 Q Do you recall from any of the work that you did for the</p>

E. Hines - by Plaintiff - Recross/Mr. Fleming Page 3210

1 attorney general in this case whether you saw any evidence that  
 2 the Audit Committee approved related-party transactions in  
 3 September 2016?  
 4 A I don't recall specifically. There may have been, and  
 5 I can't recall if that's a ratification after the fact which to  
 6 me is much different than approval in advance.  
 7 I just don't recall the specific difference for that  
 8 particular meeting.  
 9 Q Well, regardless of what your view is of the difference  
 10 between approvals in advance and ratifications, you would agree,  
 11 would you not, that a ratification or approval in advance is  
 12 approval?  
 13 A It is an approval, but for my perspective as a forensic  
 14 accountant, it has a drastically different impact on the  
 15 internal controls which requires advanced approval.  
 16 MR. FLEMING: Nothing further.  
 17 THE COURT: Anything else?  
 18 All right, hearing nothing, sir, you're free to  
 19 step down.  
 20 THE WITNESS: Thank you, your Honor.  
 21 THE COURT: Thank you.  
 22 (Whereupon, at this time the witness was then  
 23 excused.)  
 24 THE COURT: Anything further from the plaintiff?  
 25 MS. CONNELL: No, your Honor. The State rests.

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1 officer. No proof has been adduced that Mr. LaPierre is  
 2 still a director or officer, so that cause of action or that  
 3 part of the cause of action is moot.  
 4 With regard to the rest of that cause of action, I  
 5 raise an issue that's been raised before which is the  
 6 question of whether the attorney general lacks authority to  
 7 seek relief beyond the relief provided in Section 720.  
 8 Particularly with respect to 720(a)(1), it is Mr. LaPierre's  
 9 position that the attorney general lacks authority to seek  
 10 monetary relief. That if the attorney general had wanted to  
 11 seek monetary relief, she should have sought it under 720  
 12 (a)(2) which requires a showing of an unlawful transfer with  
 13 knowledge of its unlawfulness.  
 14 In addition, Mr. LaPierre seeks judgment as a  
 15 matter of law on the sixth cause of action, which is  
 16 asserted under the EPTL. The attorney general has presented  
 17 no proof that Mr. LaPierre ever held and administered  
 18 property for charitable purposes pursuant to a will, trust,  
 19 other agreement or instrument, court appointment or  
 20 otherwise pursuant to law.  
 21 His having been an officer of the NRA was not a  
 22 sufficient basis on which to find that he was holding  
 23 property under the N-CPL. Only the corporation has the  
 24 power to hold property.  
 25 So, as a matter of fact and as a matter of law,

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1 THE COURT: Okay, folks, we're going to take a  
 2 short break because when one side rests, there's a couple of  
 3 procedural things we have to take care of before we start  
 4 the other side so we're going to take our break a little  
 5 early today.  
 6 COURT OFFICER: All rise, jury exiting.  
 7 THE COURT: And the break may be a little longer  
 8 than usual, so.  
 9 (Whereupon, at this time the jury then left the  
 10 courtroom.)  
 11 Okay, have a seat. In an orderly way, can I ask if  
 12 there are any motions to be made at the conclusion of the  
 13 State's case, starting with the defense?  
 14 MS. ROGERS: Your Honor, the NRA moves for a  
 15 directed verdict on the whistleblower claim as to a number  
 16 of the whistleblowers specified in the contention  
 17 interrogatory responses, and we move for a directed verdict  
 18 on EPTL count one.  
 19 THE COURT: Anybody else?  
 20 MR. CORRELL: Your Honor, Mr. LaPierre moves  
 21 pursuant to CPLR 4401 for judgment as matter of law on the  
 22 second cause of action asserted against him to the extent  
 23 that it seeks removal pursuant to N-PCL 706(d) and 714(c),  
 24 the fundamental element of a cause of action for removal of  
 25 director or officer if the person is in fact a director or

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1 there's no claim against him. Even if there were, it is  
 2 duplicative of the second cause of action and should be  
 3 dismissed on that basis, as well.  
 4 The tenth cause of action should also be dismissed  
 5 as a matter of law because there's no proof that A) that it  
 6 was a related-party transaction since it related to  
 7 compensation of an employee; B) that any -- there was any  
 8 acquisition by him transferred to others, loss or waste of  
 9 corporate assets due to his signature of that agreement;  
 10 C) that he signed the agreement in an individual capacity as  
 11 opposed to in his capacity as an officer; and, lastly, the  
 12 evidence -- the AG has presented no evidence that the  
 13 agreement is still in force and, in fact, the evidence shows  
 14 conclusively that it was superseded by subsequent agreement  
 15 that provides for no payment whatsoever to Mr. LaPierre  
 16 except that the option of the NRA.  
 17 THE COURT: Thank you.  
 18 Anything from Mr. Phillips?  
 19 MR. CORRELL: Excuse me. One more, your Honor.  
 20 Mr. LaPierre takes the position that the three-year  
 21 statute of limitations in CPLR 214 (2) applies; and he is  
 22 entitled to judgment as a matter of law in dismissing all  
 23 claims based on any act or omission that occurred before  
 24 August 6, 2017.  
 25 MR. FARBER: The arguments that Mr. Correll made

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1 with respect to the EPTL claim against Mr. LaPierre and the  
 2 related-party claim against Mr. LaPierre, we'd adopt those  
 3 for the claims against Mr. Phillips, but I won't repeat  
 4 them.  
 5 In addition, with respect to the EPTL claim, an  
 6 additional ground that we move on is that essentially  
 7 adopting an argument that the NRA made in its letter brief  
 8 that I -- or their memorandum of law that I think they filed  
 9 sometime this morning while we were in court essentially  
 10 arguing that all the State has proved has been violations of  
 11 internal policies or procedures, which we submit cannot form  
 12 the basis for a claim of improper administration.  
 13 In addition, as to the breach of duty under the  
 14 N-CPL claim against Mr. Phillips, there's been no proof  
 15 whatsoever that any of the conduct alleged caused any injury  
 16 or damage to the NRA; and on that basis, we think that claim  
 17 fails.  
 18 And I should add we adopt the position that  
 19 Mr. Correll articulated with regard to the statute of  
 20 limitations and any conduct preceding that date being  
 21 barred.  
 22 MR. FLEMING: Your Honor, Mr. Frazer moves for a  
 23 directed verdict on the entirety of the case against him.  
 24 We adopt, of course, many of the arguments of the  
 25 other defendants which apply equally. I'll just add on the

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1 EPTL claim, to the extent Mr. Correll didn't address it, it  
 2 has been litigated for a long time that the definition of  
 3 trustee under the EPTL 8-1.4(a) is for an individual. They  
 4 have to act pursuant to a will, trust, instrument and so  
 5 forth, whatever the statutory language is.  
 6 There's been absolutely no proof of that. We all  
 7 raised that issue before the trial. The attorney general  
 8 was on notice that this was a definitional requirement and  
 9 there's been no proof on that.  
 10 And just before I forget, I also adopt the statute  
 11 of limitations arguments.  
 12 But, to address further the N-PCL argument against  
 13 Mr. Frazer, you know there really has been no evidence of  
 14 fault about against him which is a requirement. Grasso says  
 15 it. They define 720 as having a fault requirement, and, of  
 16 course, there's 717 where the proof has to be that  
 17 Mr. Frazer -- and this is an element of the claim as I've  
 18 argued in prior briefing. Mr. Frazer has to be proven --  
 19 and they have the burden -- of failing to discharge his  
 20 duties in good faith and with the reasonable care and due  
 21 care of a person in like position.  
 22 They have not done that and the statute makes clear  
 23 that where they have not done that, an officer of a  
 24 not-for-profit organization shall have no liability.  
 25 In fact, I would argue that the evidence has been

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1 entirely to the contrary about how about Mr. Frazer from the  
 2 moment he started devoted the entirety of his good faith and  
 3 good efforts to try to improve the organization. The  
 4 testimony has been uncontradicted in that respect.  
 5 The only testimony against Mr. Frazer has come from  
 6 Ms. Schneider who said conclusorily that he failed to live  
 7 up to his duties. That's all she said. On this the  
 8 particulars of his failures, I believe we disproved them.  
 9 He met with her. He discussed with her the investigations  
 10 that were being done, and she didn't want to hear it.  
 11 Lieutenant Colonel North said that Mr. Frazer was  
 12 unreasonable. I think to the contrary. The evidence has  
 13 been clear that Mr. Frazer addressed Lieutenant Colonel  
 14 North's claim to the extent it was a whistleblower claim,  
 15 obtained outside counsel's view on it, resolved the issue;  
 16 and then after that the claim changed to a dispute about the  
 17 level of the Brewer invoices which he was reviewing, which  
 18 Craig Spray, the treasurer, was reviewing, which an outside  
 19 law firm on behalf of the insurance company which had a  
 20 financial incentive not to repay these expenses reviewed and  
 21 each time, each review resulted in an approval of these  
 22 expenses.  
 23 And, so, I view that to be reasonable as well the  
 24 uncontradicted testimony is that Mr. Frazer made the  
 25 invoices as to which Lieutenant Colonel North did not have a

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1 conflict available to him and nothing was done of that.  
 2 So, I view that testimony to be not -- does not --  
 3 is not proof of liability in this case.  
 4 And the final piece of testimony and this is it --  
 5 just three -- is Mr. Cox's testimony that Mr. Frazer was  
 6 unqualified. Well, lack of qualifications is not a basis  
 7 for liability. Performance of the job is what matters.  
 8 And, so, I would submit that there's no basis  
 9 whatsoever for a 720 claim against Mr. Frazer.  
 10 And, lastly, to the Executive Law. The Executive  
 11 Law requires and we put this in briefing as well; and, by  
 12 the way, we have a directed verdict brief which we can file  
 13 when your Honor would like it.  
 14 You have to prove falsity is an element. You have  
 15 to prove responsibility for the falsity, and you have to  
 16 prove materiality. Our argument has been all along there's  
 17 been no falsity proven by the attorney general. We've  
 18 talked about travel expenses. We've been through that sort  
 19 of at length. There was a box check. The box check had  
 20 been checked yes as following a written policy of the NRA  
 21 for charter and first-class travel since Schedule J, which  
 22 is where that box is located since it was first inaugurated  
 23 in 2008.  
 24 We had testimony that the people advising on that  
 25 issue were -- one word was legends. The other word was

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1 supreme reputation is the best in the world at this.  
2 And, further, we showed the travel policy, itself,  
3 which said in the language that this policy cannot cover all  
4 situations. You have to use business judgment and common  
5 sense in determining whether it is permitted; and our  
6 argument has been all along throughout the entirety of this  
7 case that it is commonsensical and good business judgment to  
8 make sure that the executive vice president of the  
9 organization arrived at his destination alive. And I don't  
10 mean to be flip, but there's been lots of testimony about  
11 severe security issues.  
12 And so Mr. Frazer stepped into this role in 2015  
13 with a seven or eight-year history of this box being checked  
14 yes, had when he looked at the travel policy no reason on  
15 its language to say, Hey, wait a second. We got to change  
16 this. And it wasn't until 2019 -- actually in late 2020 for  
17 the 2019 990 that Craig Spray, three months after the  
18 attorney general had filed their complaint, spooking  
19 everyone, Craig Spray decided to change the box. Craig  
20 Spray had a cow about "Wayne said" approvals. Craig Spray  
21 refused to sign the 990.  
22 I think that's ample evidence of a reaction to the  
23 attorney general having created the very climate that caused  
24 this change they are now seeking to explore.  
25 So, I think in these circumstances and those are

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1 the falsities that I'm aware of; they said that Mr. Frazer  
2 had no personal knowledge of the excess benefits Schedule L  
3 disclosures in 2019.  
4 I have a tough time trying to figure out what is  
5 keeping him in this case, and I know I've been a broken  
6 record and maybe I'm myopic and I don't see it, but I don't  
7 see it.  
8 So, for those reasons and others, we move for a  
9 directed verdict of the entirety of the case.  
10 Thank you.  
11 MR. CORRELL: Your Honor, what he said I'll adopt  
12 and also what Seth said.  
13 THE COURT: Okay. So, before I ask the attorney  
14 general about any responses, does the attorney general have  
15 any motions it wishes to make?  
16 MS. CONNELL: Your Honor, we wanted to move  
17 particularly given the admissions that have been made in  
18 this case, particularly by Mr. LaPierre as drawn out  
19 particularly in a nice clean fashion by the NRA; but given  
20 the way the Court is counting the time, we're just going to  
21 reserve it and save for the end.  
22 THE COURT: Okay.  
23 So, traditionally, I have exercised my discretion  
24 most of the time, and I think some of the Appellate courts  
25 agree with this to defer ruling on directed verdict motions,

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1 to let the trial play out to avoid -- if you make a mistake  
2 on a directed verdict motion, you don't let the trial play  
3 out, if it is reversed you have to do the trial again. So  
4 there's all sorts of reasons not to.  
5 However, while that is still going to be my view  
6 with respect to a lot of what I've heard from the  
7 defendants, I will say that as the evidence has un-whirled,  
8 I have been watching with some increasing wariness -- that's  
9 wary, not weary -- the claims against the individual  
10 defendants under the EPTL, and so I do want the Government  
11 to, in particular, focus on a couple of things with me.  
12 I do at a high level see a fair amount of  
13 duplication between those claims of the individual  
14 defendants under the EPTL and the claims against those same  
15 defendants under the N-PCL.  
16 I have difficulty identifying any damages that  
17 would be different between the two, for example.  
18 I, also, note that given the overarching structure  
19 of the statutory framework governing not-for-profits, the  
20 EPTL and the N-CPL refer to each other a fair amount.  
21 The N-CPL has various specific provisions aimed  
22 right at people like the individual defendants, officers,  
23 directors, key persons and goes into great detail about a  
24 bunch of specific kinds of claims that one can bring against  
25 those people. They're on all sorts of notice that that is a

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1 statutory scheme that they are governed by.  
2 The EPTL by contrast or a little interestingly has  
3 a number of similar provisions. It has a related-party  
4 transaction provision. It has a whistleblower provision,  
5 but the focus of the EPTL is on a person called a trustee.  
6 It doesn't talk about officers and directors of  
7 not-for-profit corporations.  
8 The NRA is very clearly a trustee under the  
9 specific language of the statute, the EPTL statute; but it  
10 doesn't say anything about officers and directors. So, it  
11 does seem to me at a high level that the distribution of  
12 responsibility between the statutes is largely that the  
13 individual responsibility for not-for-profit corporations is  
14 governed by the N-CPL and the focus of the EPTL is really on  
15 the not-for-profit corporation, itself.  
16 Now, again, the EPTL, a lot of it focuses on things  
17 other than not-for-profit corporations; but so my first  
18 overarching point is that it seems that these claims are  
19 largely if not entirely duplicative.  
20 But then the other point that the defendants make  
21 is where is the evidence that they are trustees under the  
22 statute? They point out that the -- the definition of  
23 trustee in addition to one subparagraph that is right  
24 between the eyes the NRA, specifically says a trustee is any  
25 nonprofit corporation organized under the laws of this state

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1 for charitable purposes. I think we've talked about the  
 2 fact that charitable purposes is described fairly broadly  
 3 including educational and other beneficial purposes in terms  
 4 of charitable property and trusts.  
 5 But when it talks about an individual, the  
 6 definition is "Any individual, group of individuals,  
 7 executor, trustee, corporation or other legal entity holding  
 8 and administering property for charitable purposes whether  
 9 pursuant to any will, trust, other instrument or agreement,  
 10 court appointment or otherwise pursuant to law over which  
 11 the attorney general has enforcement or supervisory  
 12 powers."  
 13 Now, out of that list certainly wills, trusts, and  
 14 other instruments don't seem to apply. Agreement, only I  
 15 suppose if you say that an employment agreement could apply;  
 16 but, again, when officers and directors, the employment  
 17 agreements I've seen in this case don't make any reference  
 18 to control any charitable assets.  
 19 And I, also, want to refer to one more thing and  
 20 I'm sorry for the long buildup here. I also noticed that  
 21 EPTL 8-1.4, which is the portion of the statute under which  
 22 this claim is brought has a couple of other things to say  
 23 about trustees and in particular Section C says "The  
 24 attorney general shall establish and maintain a register of  
 25 all trustees containing such information as the attorney

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1 general deems appropriate."  
 2 I have not seen any evidence admitted in this case  
 3 that the attorney general included in its list or if it  
 4 created a register as was required, I have not seen any  
 5 evidence that any notice was provided to the many officers  
 6 and directors of not-for-profit corporations throughout this  
 7 state that the attorney general considers them to be on this  
 8 register of trustees.  
 9 So, I have real concerns as to whether people in  
 10 the position of these individual defendants -- well, let me  
 11 be more narrow. I only mean for this purpose care about  
 12 these three individuals. What notice would they have had  
 13 that they are subject to being treated as trustees under  
 14 this statute?  
 15 (Continued on next page)  
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1 THE COURT: Again, if one is to assume there are  
 2 any different obligations under this statute as compared to  
 3 the not-for-profit corporation law. And the final thing  
 4 I'll add is that as a practical matter as I work myself --  
 5 my way through the instructions and to some extent keeping  
 6 an eye on the verdict form, one of the strangely complicated  
 7 things that I have been running into is trying to explain to  
 8 the jury how the -- how they should deal with the EPTL and  
 9 N-PCL claims and how that flows into the damages, and it  
 10 does seem to me candidly that it will be a lot simpler for  
 11 the jury if they have a single set of claims against the  
 12 individual defendants under the statute that clearly applies  
 13 to them rather than having to try to wrestle with what  
 14 conceptual differences there might be between holding them  
 15 accountable for essentially the same conduct under two  
 16 different statutes that use some similar words. So when you  
 17 pull all that together, I see a lot of advantages -- well,  
 18 most importantly is the merits as to whether a reasonable  
 19 jury could find that these individuals were trustees and  
 20 that they had improperly administered charitable  
 21 assets and -- but also, that there is a significant benefit  
 22 in terms of making this case easier for the jury to  
 23 understand by putting all of the focus on whether they  
 24 violated the duties that they clearly undertook as officers,  
 25 directors and key persons.

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1 So, all of that is a long lead-in to say that  
 2 although I usually don't want to dip my toe in the water of  
 3 dismissing a claim on directed verdict, I am -- I see a  
 4 number of reasons to consider doing so with respect to those  
 5 three claims.  
 6 I do want to add one other that I've been thinking  
 7 about. I have not go through the full list that the NRA  
 8 pointed to about the whistleblowers, so we may need to do  
 9 that in some greater details.  
 10 One that came up during the discussion, and I think  
 11 it's incorporated in what Mr. Phillips' counsel said  
 12 although they didn't get into it specifically, I have looked  
 13 at the definition of "relative" in the statute governing  
 14 related-party transactions, and I don't understand what the  
 15 rationale would be to saying that the HomeTelos transaction  
 16 is a related-party transaction. So that's a narrow one  
 17 because to be a relative, the closest -- the closest thing I  
 18 think is a domestic partner, but that as a very technical  
 19 definition, detailed definition that -- so anyway, they  
 20 didn't bring that up.  
 21 As I was going through all the instructions, I  
 22 couldn't figure out what the argument would be that that  
 23 person with whom that transaction was undertaken, how that  
 24 person is a relative, you know. Maybe they are a relative  
 25 under the internal guidelines. Maybe. I don't know, but I

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1 don't see how they're relative under the statute.  
 2 MR. FARBER: Your Honor, I think I can answer that.  
 3 Their cause of action for related-party transaction  
 4 alleges only one related-party transaction as to Phillips,  
 5 and that's his post-employment consulting agreement.  
 6 That's actually the reason why when we were talking  
 7 about the verdict form, if there is going to be -- if that  
 8 related-party transaction claim goes to the verdict, I think  
 9 it needs to spell out precisely what the transaction is at  
 10 issue; otherwise, the jury is going to have similar  
 11 confusion.  
 12 THE COURT: So I don't have to dismiss it because  
 13 it doesn't exist is what you're saying.  
 14 MR. FARBER: You don't have to dismiss it as to the  
 15 HomeTelos contract because they haven't -- that's not their  
 16 claim.  
 17 THE COURT: Okay.  
 18 MR. CORRELL: Your Honor, to answer your question,  
 19 it's my understanding that the definition of "relative" is  
 20 the same in the statute and in the financial disclosure  
 21 questionnaire.  
 22 I would add that although there has not been a  
 23 formal application that there was any related party  
 24 transaction with Colleen Sterner, she is actually the  
 25 daughter of the sister of LaPierre's wife which puts her

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1 outside the scope of that definition. So I would urge the  
 2 Court to apply that definition to her as well as to the  
 3 extent that the AG is planning to argue to the jury that any  
 4 contract with her was a related-party transaction.  
 5 THE COURT: Okay. So putting aside the  
 6 whistleblowers and seeing whether there's any specific ones  
 7 that I would take action on here, but the remaining issues,  
 8 I'm inclined not to get too deeply into. You know, I -- I  
 9 don't think they are ripe for directed verdict.  
 10 The one exception is the Statute of Limitations. I  
 11 am working my way through. I have received lots of  
 12 interesting letters. I need to resolve those for purposes  
 13 of various parts of the instructions. I don't think it's --  
 14 that's not a directed verdict kind of a motion because  
 15 that's just -- well, it determines what will go to the jury,  
 16 to what extent it will.  
 17 I should -- I'll make a couple of comments, and  
 18 just to be helpful, maybe, but we are still actively  
 19 considering it. The arguments that have been made -- this  
 20 is a tougher question than I had envisioned. I -- so far I  
 21 am persuaded that the statutory causes of action related to  
 22 related-party transactions and whistleblowers are I think  
 23 creatures of statute, not at common-law, and they would be  
 24 by the plain language of CPLR 214 the subject to a  
 25 three-year Statute of Limitation.

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1 I'm less sure about that with respect to the N-PCL  
 2 717 and 720 claims because I think there is a much more  
 3 robust argument that those are claims that were codified but  
 4 which existed at common-law. And unlike the Credit Suisse  
 5 case in which the Court found that the legislature's  
 6 adoption of a statutory claim under the Martin Act would  
 7 punish behavior that would not be punishable at common-law,  
 8 here, I don't see that same argument. And so I think it is  
 9 much more similar to the common-law breach of fiduciary  
 10 duty. And if anything, maybe even a bit friendlier to the  
 11 defense than the common-law might be.  
 12 That then leaves the question of whether the claim  
 13 is predominantly for money damages as one ground for why it  
 14 might be a three-year Statute of Limitations anyway even if  
 15 it's considered a fiduciary duty claim. Fiduciary duty  
 16 claim, and I'm still considering the impact of CPLR 213  
 17 Paragraph 7 as to whether that claim is analogous or  
 18 essentially a claim by or on behalf of a corporation  
 19 alleging waste and similar kinds of claims and an  
 20 accounting.  
 21 There was a peculiar use of the word "account" in  
 22 the N-PCL. It's not as clear to me whether that impacted,  
 23 certainly not being tried that way as an accounting because  
 24 an accounting is an entirely different kind of a process  
 25 where the defendants have to come forward with an accounting

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1 and then you -- you evaluate it. This is a claim for  
 2 damages which is much more similar to a traditional  
 3 fiduciary duty kind of a claim.  
 4 Anyway, talking more about that going further into  
 5 it than I probably want to, but I think the State should be  
 6 at least prepared that there is a reasonable argument that  
 7 I'm seriously considering that even if the 720 claim under  
 8 the N-PCL is not a statutory claim for purposes of CPLR 214,  
 9 that it is the kind of fiduciary duty claim that  
 10 traditionally has been subject to a three-year Statute of  
 11 Limitations in so far as it is asserted against the  
 12 individual defendants. And so I do see it as a statutory  
 13 oddity to all of this in that, you know, if the claims were  
 14 brought by the NRA, they would arguably be able to have an  
 15 argument for a six year statute under CPLR 213, so there is  
 16 a bit of a tension in my mind as to, well, what sense does  
 17 it make to have the Attorney General who while this is not a  
 18 derivative case in form, effectively, the Attorney General  
 19 is not seeking to recover for the State of New York, is  
 20 seeking to recover for funds that should go to the NRA, and  
 21 it is a bit of a tension to suggest that on the same facts,  
 22 the Attorney General can only recover to the NRA three years  
 23 where the NRA bringing the same claim or the, you know,  
 24 arguably the Attorney General suing in the name of the  
 25 members could arguably claim a six-year Statute of

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1 Limitations.  
2 I don't really want to argue this. I'm just  
3 telling you the various things I am mulling in trying to  
4 figure this out.  
5 So with all that, and I'm sorry for this long  
6 soliloquy, but I very much want to talk to the State about  
7 the EPTL.  
8 MS. CONNELL: Thank you, your Honor.  
9 First, I want to say, your Honor, that I have no  
10 doubt that you had trouble finding sort of jury charges or  
11 model jury charges for the EPTL because it's an equitable  
12 statute. And pursuant to EPTL 8-1.4(n), it's supposed to be  
13 broadly interpreted to effectuate remedial purpose.  
14 I'll note that you said --  
15 THE COURT: Have they ever been listed as trustees  
16 in any register that the Attorney General's put together.  
17 MS. CONNELL: No, and I'll tell you why, your  
18 Honor.  
19 I would point you to 8-1.4(b)(9), and we believe  
20 they fall under that exception. But as you know, the NRA,  
21 it has filed under the EPTL every year for --  
22 THE COURT: The NRA has. The NRA is trustee. I  
23 have no doubt.  
24 MS. CONNELL: But your Honor, what I just pointed  
25 you to is an exception to the reporting and registration

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1 requirement that we think is applicable here.  
2 THE COURT: Okay.  
3 MS. CONNELL: And that's why there is no  
4 registration that would apply to them, your Honor.  
5 THE COURT: What's the cite?  
6 MS. CONNELL: 8-1.4(b)(9).  
7 THE COURT: Okay.  
8 MS. CONNELL: It says, your Honor, "Any person who  
9 in his or her capacity as an officer, director or trustee of  
10 any corporation or organization mentioned in this paragraph  
11 hold property for the religious educational or charitable  
12 purposes of such corporation or organization so long as such  
13 corporation or organization is registered with the Attorney  
14 General pursuant to the section."  
15 In that case, if they qualify under that, they need  
16 not register. And I would say, your Honor, or that the EPTL  
17 plays a special role in regard to supervising and the  
18 Attorney General's oversight of charitable entities.  
19 As you know the N-PCL applies to charitable and  
20 non-charitable entities. The EPTL broader relief applies to  
21 charitable entities, and it effectuates that purpose  
22 accordingly. And your Honor, other Courts have applied the  
23 definition of "trustee." You are not the first Court -- to;  
24 individuals who oversee a charitable entity. You are not  
25 the first Court --

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1 THE COURT: I am seeing the Trump case and others,  
2 you know, where the -- it's a charitable foundation where he  
3 said lead director and essentially it's an opimus  
4 organization. But are there cases against people like these  
5 individuals? I haven't found them.  
6 MS. CONNELL: Well, your Honor, I would say  
7 something like Lower Esopus River Watch, LERW case, it was a  
8 not for profit -- person who managed the not for profit  
9 corporation affairs was deemed a trustee and liable under  
10 the EPTL, and that case although that's a Supreme Court  
11 opinion, it analyzes the statute in detail.  
12 THE COURT: Under your reading -- your reading  
13 thousands of people in the State are trustees under the  
14 EPTL; right? Every director and officers of not-for-profit  
15 corporation in the State is a trustee.  
16 MS. CONNELL: A charitable not-for-profit  
17 corporation in the State could be a trustee, your Honor.  
18 Yes, they could. And that's to protect the charitable  
19 assets and the charitable corporation themselves and to  
20 subject them to regulation to prevent waste and loss of the  
21 type that we've seen here.  
22 THE COURT: Then those same people are by  
23 definition subject to direct and clear scrutiny under the  
24 N-PCL; right. So why do you need both?  
25 MS. CONNELL: Yes, they are, but the remedies are

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1 different. The remedies are different.  
2 The EPTL allows broad, equitable, remedial relief,  
3 and we think it kind of fills in the gap.  
4 THE COURT: What broad remedial relief are you  
5 seeking against these three individuals that you can't get  
6 under the N-PCL?  
7 MS. CONNELL: For example, Mr. LaPierre's counsel  
8 just stood up and said he can't be removed under 706 or 714  
9 of the N-PCL.  
10 While we disagree with that, we would say, for  
11 example, we can seek a bar on working as a fiduciary in a  
12 New York not-for-profit or a not-for-profit that does  
13 business in New York.  
14 THE COURT: You can seek that only under the EPTL?  
15 MS. CONNELL: Well, we think it's clear under the  
16 EPTL.  
17 Under the N-PCL, there are specific provisions  
18 under 706 and 714.  
19 We would refer you to Abrams versus Arcadipane, but  
20 it's in our prior briefing.  
21 MR. SHIFFMAN: It's actually a case that Mr.  
22 Phillips submitted this morning. It's a case that they  
23 submitted for the 213-7 argument, but in that, it also  
24 asserted EPTL claims that were sustained. And in that case,  
25 Judge Mazarelli for the appellate term found that there was

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1 actually a six-year applicable Statute of Limitations, but  
 2 it dealt with the issue of 8-1.4 and claims against the  
 3 individuals there.  
 4 MR. CORRELL: Your Honor, that was pre-Grasso.  
 5 THE COURT: I'm still with you.  
 6 So again 8-1.4(b)(9), it talks about officers and  
 7 directors. It's true of a corporation if they hold  
 8 property; right. So it's -- so that determines whether the  
 9 registration and reporting provisions apply to those people.  
 10 So you're just saying that's why they are not in a register.  
 11 MS. CONNELL: That's right, your Honor. That's why  
 12 they are not in the registry. And frankly, this is meant to  
 13 reach -- the statute is meant to reach individuals or groups  
 14 of individuals who control charitable organizations and  
 15 entities.  
 16 THE COURT: So why don't we see lots of cases under  
 17 the statute against?  
 18 MS. CONNELL: We have seen a number of cases. The  
 19 fact is as we have told you before in general, we  
 20 investigate cases and either the leadership when they  
 21 identify someone who is breaching or has breached their  
 22 fiduciary duty to the organization, you know, will oust  
 23 them. They will try and take care of them and we resolve  
 24 them. Those -- we don't see a lot of cases under the N-PCL  
 25 either. But when you have a case like this where you have

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1 such extraordinary ongoing long-running violations and you  
 2 know mission conduct, the EPTL is completely appropriate to  
 3 protect the charity and the charitable assets. Not just  
 4 against the organization.  
 5 If it didn't have the word "individual" or groups  
 6 of individuals there, I think it would be a stronger point,  
 7 but it's meant to get at the people who control that  
 8 organization and control those charitable assets. And your  
 9 Honor, we think while the EPTL may be hard to explain to a  
 10 jury, again, it's meant entirely for -- primarily for a  
 11 Court and for bench trials, but it's a valid statute that  
 12 applies to the defendants' conduct here.  
 13 And unfortunately, even though it may lead to a,  
 14 you know, complex verdict sheet, it's appropriate here, and  
 15 we think it would be wrong to not allow that claim to go  
 16 forward against the individual defendants.  
 17 THE COURT: So on the duplication front, so is the  
 18 only relief that is different, the barring prospectively  
 19 future service as a director or an officer of a charity?  
 20 MS. CONNELL: You know, your Honor, the language of  
 21 the EPTL, and I can't think of it off the top of my head  
 22 right now is quite a bit broader just in terms of the equity  
 23 and equitable relief it allows.  
 24 We've heard arguments from the defendants that  
 25 because of the statutory relief laid out in the N-PCL

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1 sections or the only thing this Court can award while we  
 2 disagree and believe that the Court always has equitable  
 3 relief, that's an argument we are facing. So this is a tool  
 4 we should still have in our tool belt because equity should  
 5 be done here.  
 6 I mean, we heard Mr. LaPierre list down just a list  
 7 of things that he did last week that he now knows are wrong  
 8 but nothing happened to him as a result of it. You know,  
 9 nothing happened to him as a result. That's the type of  
 10 conduct that should not be permitted under either the N-PCL  
 11 or the EPTL.  
 12 THE COURT: Well, the N-PCL has a fairly aggressive  
 13 array of tools to address claims against officers and  
 14 directors.  
 15 MS. CONNELL: All right, your Honor, but if Mr.  
 16 LaPierre's argument -- let's just take one of the arguments.  
 17 If Mr. LaPierre's argument prevails that the Court  
 18 can not under N-PCL 706 or 714 have the jury determine  
 19 removal. Again, we disagree with that. Then removal -- and  
 20 under that statute, if you recall, the jury determines  
 21 whether there is cause for removal only. Then the Court  
 22 determines the length and scope of such removal.  
 23 If the Court finds or were to hold that that remedy  
 24 is no longer available, that remedy is moot, Mr. LaPierre  
 25 who until five days or six days ago was the EVP of the NRA

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1 could return as EVP of the NRA in three weeks from now.  
 2 There's nothing preventing him to. He wasn't  
 3 disciplined. He wasn't suspended. He wasn't -- there's no  
 4 Board resolution that we don't know. We don't have  
 5 discovery, but no Board resolution that we know that would  
 6 prevent him from turning right back around and signing  
 7 another poison pill contract and getting him right back in  
 8 leadership. That is allowed under the EPTL. And your  
 9 Honor, again, if the statute applies, it applies, and it  
 10 should apply here.  
 11 THE COURT: Okay.  
 12 MS. ROGERS: Can I just be heard very briefly?  
 13 THE COURT: On this issue?  
 14 MS. ROGERS: Yes. So there are broad equitable  
 15 remedies that the Attorney General could seek using  
 16 corporate law if they went through the derivative standing  
 17 gauntlet.  
 18 There are procedural constraints built into the  
 19 NRA's corporate structure and that of any corporation, and a  
 20 shareholder or a NRA member or a NRA director does have the  
 21 power to, for example, precluding from being reappointed, to  
 22 propose the corporation try to claw back his salary. So  
 23 there's other latitudes or other kind of relief that does  
 24 exist, and this also reconciles the Statute of Limitation  
 25 issue when you think about.

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1 It's perfectly appropriate that the NRA or a  
 2 plaintiff whose actually satisfied derivative standing has  
 3 more remedies available to it and has a different statute  
 4 available to it than the Government acting in a very limited  
 5 enforcement context which Grasso discusses.  
 6 MR. CORRELL: Your Honor, another point is the  
 7 Government gets reports every year which the corporation  
 8 wouldn't necessarily get, and they have the resources,  
 9 virtually unlimited resources of the taxpayers to pursue  
 10 anyone. They've got strong subpoena power. They've got all  
 11 these other agencies, so it makes perfect sense to ask the  
 12 Government to act promptly, to provide guidance for  
 13 not-for-profit corporations to not to sit back for 12 years  
 14 and play gotcha for organizations they don't like.  
 15 THE COURT: Ms. Connell, let me just ask you  
 16 another question just to respond. This 8-1.4 (b)(9), it  
 17 does -- if I'm reading the words right, it -- it's not part  
 18 of the definition of trustee. It's sort of a separate  
 19 provision about who is not covered by the registration  
 20 requirements, but the -- if I'm reading the syntax  
 21 correctly, it says, Any person who -- and then has comma and  
 22 a bunch of clauses talking about in their capacity as an  
 23 officer, blah, blah, blah, but it has to be any person who  
 24 holds property for the religious, educational or charitable  
 25 purposes of such corporation or organization.

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1 How is that a fit for these three? In what way did  
 2 they hold property?  
 3 MS. CONNELL: Your Honor, "hold" clearly in this  
 4 context must mean control property, and a charitable  
 5 organization is not an empty -- it's not a physical being  
 6 that can itself take, hold, expend money. It has to act  
 7 through the actions of its officers, directors and key  
 8 persons. And so that clearly means control. And all three  
 9 of these defendants clearly controlled both the organization  
 10 which the EPTL applies to and the charitable assets of that  
 11 organization, and we've heard a lot of evidence about that,  
 12 your Honor, and I would just -- I would say that the  
 13 application of the EPTL was also -- it's a very important  
 14 tool in the regulation of charities. It's extremely  
 15 important to our office. And concerns that it may be  
 16 duplicative of N-PCL claims are not a reason to get rid of  
 17 it. At a minimum, it should be done on full briefing, I  
 18 would suggest to you.  
 19 The other thing --  
 20 THE COURT: Duplicativeness is a very common reason  
 21 for getting rid of claims.  
 22 MS. CONNELL: But to say that an EPTL claim can not  
 23 be asserted against these officers is I think, your Honor,  
 24 would be an extraordinary holding given the case law that  
 25 applies here.

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1 THE COURT: Tell me about the case law. I mean,  
 2 maybe this is one. I mean, the ones that I've seen are  
 3 typically much more typical charitable foundation. You know  
 4 the Trump Foundation. Mr. Trump was found to be a trustee.  
 5 Basically it was -- you know, it's a one-person show kind of  
 6 situation, but with the number of not-for-profit  
 7 corporations that there are, it's just interesting to me  
 8 that there aren't a lot of examples of what I would say is a  
 9 vast expansion of the definition of "trustees" to say that  
 10 if you are a senior member -- you know, the general counsel  
 11 for gosh sake, you know, probably pretty far away from the  
 12 finance side of the house, you're by definition -- anyone  
 13 who gets hired as an officer of a not-for-profit  
 14 corporation, you are now a trustee under this statute which  
 15 is -- I mean, let's be clear -- is largely about -- you  
 16 know, it does include not-for-profit corporations for  
 17 charitable purposes, but it's people covered by wills,  
 18 trusts, estates, that kind of normal ordinary course of  
 19 things that goes back a thousand years.  
 20 I just -- I really do wonder whether somebody who  
 21 signs up for a job as a general counsel at a not-for-profit  
 22 is realizing that they are covered by normal fiduciary duty  
 23 law but they're a trustee.  
 24 MS. CONNELL: Your Honor, I mean, I would say that  
 25 a general counsel who year after year checks off the box

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1 saying this is a dual filing under the EPTL and doesn't  
 2 familiarize themselves with the EPTL to know what that could  
 3 mean, that that itself is an indication --  
 4 THE COURT: Well, you would have to read the EPTL  
 5 long and hard before you could conclude that "you" means  
 6 every officer and every director is not only covered by  
 7 fiduciary duty law but is by also a trustee. It talks about  
 8 the individuals who are covered. It's holding and  
 9 administering property pursuant to a will. No. Trust? No.  
 10 An instrument or agreement? No. Or otherwise pursuant to  
 11 law. Which of them is it?  
 12 MS. CONNELL: Your Honor, I think it's an  
 13 instrument or agreement. It's the People who are -- yes. I  
 14 think it's people like pursuant to the NRA Bylaws and  
 15 pursuant to the operations of the NRA who can -- for  
 16 example, bind the NRA in a contract, who can spend large  
 17 non-nominal sums of the NRA's funds.  
 18 You're talking about people who control the  
 19 corporation. We are not talking about a low level manager  
 20 here. We don't have the assistant director of HR here. We  
 21 have the top three officers who are appointed by the Board,  
 22 and we have the top three salaried officers here in terms of  
 23 having overall oversight over the NRA.  
 24 (Continued on the following page.)  
 25

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1 MS. CONNELL: And at some point they have to be  
 2 responsible if for years and years and years the charitable  
 3 assets of that corporation are being misused and the Bylaws  
 4 and policies set by the board are being ignored, violated  
 5 evaded or overridden with the help of a small group of  
 6 entrenched board members and like leadership; and that's  
 7 exactly the type of reason the statute was enacted. It was  
 8 enacted to give broad protections to charitable  
 9 organizations.

10 THE COURT: All right --

11 MR. CORRELL: Your Honor, if I may just very  
 12 briefly. The core holding of Grasso was the attorney  
 13 general does not have the authority to rewrite a statute.

14 I think the quote was the right to enforce a  
 15 statute does not entail the right to amend the statute.

16 And what is happening here is the AG is trying to  
 17 amend the EPTL to drop the word hold and administer property  
 18 out and include control. And it is the same kind of  
 19 expansion of the exposure of people who serve often as  
 20 volunteers for these organizations to give the attorney  
 21 general more power to intrude more deeply into the private  
 22 affairs of private citizens, and the Court has to hold the  
 23 line.

24 THE COURT: All right, here's -- hang on. Here's  
 25 my plan for this one.

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1 precluded from seeking to add them to whatever goes to the  
 2 jury. I haven't kept track of the two lists, whatever one  
 3 they provided you and what they have been doing.

4 Ms. Connell, I don't know if you've had a chance to  
 5 look at their motion. Are there any that you would just  
 6 withdraw on the ground that you didn't get to them?

7 MS. CONNELL: Yes, your Honor. I haven't looked at  
 8 whatever was filed over lunch, I don't think. I don't know  
 9 what time this came in; but I agree, we had to as I  
 10 disclosed to defendants and the Court just in the interest  
 11 of time, we couldn't introduce evidence of every related  
 12 party, every conflict of interest, every whistleblower  
 13 transaction.

14 Just going through, Emily Cummins who's number two,  
 15 we have not introduced any evidence to her. As to her, so  
 16 we will not be raising that.

17 I think I would want to -- we're just going to --  
 18 actually, your Honor, if I could just reread them and get  
 19 back to them later this afternoon. I don't want to make a  
 20 snap call.

21 THE COURT: I think that's right, I'd like to see a  
 22 response maybe to that motion. I saw part of it was about  
 23 vagueness.

24 Again, the proper approach is not to just deny  
 25 things; but just to defer rulings until after trial so you

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1 Look, I am skeptical. I do understand that making  
 2 a -- I wouldn't consider a wrath decision, but a decision  
 3 based on an hour oral argument and no papers is on an area  
 4 that, you know, may have broader implications. It's maybe  
 5 something that I should think through.

6 So, I'll let the parties brief it and defer ruling  
 7 on it until I see that briefing. It is going to have to be  
 8 fairly quick, but I do want you to touch each of the points  
 9 that we've talked about.

10 I am now deferring until after trial all the  
 11 remaining arguments, unless there's something on the  
 12 whistleblower list that's very, very specific.

13 MS. ROGERS: Your Honor, so the NRA filed during  
 14 lunch a directed verdict motion, and we appended a chart of  
 15 all the whistleblowers they identify and explained  
 16 discretely why there's no evidence on each. For a lot of  
 17 them, there's literally no evidence in the record. For a  
 18 couple of others there are brief references; but we don't  
 19 think they satisfy the whistleblower elements.

20 This is a lurid and offensive claim that we  
 21 retaliated against whistleblowers; and so we have short time  
 22 to present our defense case, it would be nice to know which  
 23 ones are totally out of the case.

24 THE COURT: Well, if they have not mentioned some  
 25 of the people on that list, I would think that they are

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1 don't have to address in your briefing the vagueness point.  
 2 That's going to be a posttrial thing anyway.

3 And the other arguments that the defendants raise  
 4 and I'm not wiping them away as being insignificant; but  
 5 they're not the ones that I'm thinking of taking the more  
 6 unusual step of just terminating.

7 So, I would focus the briefing on the EPTL claims  
 8 and any whistleblower claims as to which there may be a  
 9 continuing dispute between you and the NRA.

10 And I'll have to think about when how quickly that  
 11 gets briefed because it is getting late early, and I'd be  
 12 inclined to have whatever opposition by the end of the week,  
 13 especially since it is very narrowly tailored pretty much to  
 14 the EPTL point that we've already been talking about and  
 15 whatever institutional concerns you have about a broad  
 16 ruling with respect to who's a trustee or not.

17 Again, I wouldn't necessarily have to make a ruling  
 18 that no officers or directors are trustees. I was listening  
 19 very carefully to the actual evidence that came in in this  
 20 actual case to see if I heard anything that sounded like it  
 21 came within the definition of trustee.

22 So, I wouldn't be making a broad ruling that under  
 23 no circumstance can an officer or director of a  
 24 not-for-profit corporation be a trustee, just I didn't -- I  
 25 did not hear evidence as to these three that led me to think

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1 that a reasonable jury could conclude that they held  
 2 charitable assets in the way that the statute requires. So,  
 3 I would focus it very narrowly on that. You can make  
 4 whatever broad points you want, but I'm not suggesting a  
 5 broad ruling.  
 6 MS. CONNELL: I just wanted to ask for one  
 7 clarification. So, you want us to focus on the EPTL claims  
 8 as to the individual defendants or as to the NRA as well?  
 9 THE COURT: Just the individual defendants. I  
 10 think -- obviously, the NRA is a trustee by definition under  
 11 the statute; and I think it has admitted by making these  
 12 filings every year that it is covered by the statute. And  
 13 the fact questions about liability are the kinds of things  
 14 that I would not grant a directed verdict motion on at this  
 15 point.  
 16 So, all right, it took a little longer than I  
 17 thought, but I did want to make sure you knew I was  
 18 seriously thinking about those three claims.  
 19 MR. FARBER: Could I raise one sort of procedural  
 20 question, your Honor?  
 21 THE COURT: Yes.  
 22 MR. FARBER: So, this morning you indicated that  
 23 any time spent on these directed verdict motions should be  
 24 chargeable to the party who made them. I submit I don't  
 25 think that's appropriate in the context where we've made a

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1  
 2 THE COURT: Let's reconvene here. Two quick  
 3 things. The juror we talked about this morning is going to  
 4 have to be excused because she cannot be here Wednesday, and  
 5 then there were ten.  
 6 Second, on this briefing, I do want the defendants  
 7 to address one point. Since part of what their argument is  
 8 on duplicativeness, I would like to know whether they  
 9 believe that any of the relief that is sought against them  
 10 under the EPTL claim is beyond my equitable power in  
 11 fashioning relief if there is liability under the N-PCL.  
 12 So, if you're going to make the argument later that  
 13 some relief that is specifically called for or by case law  
 14 permissible under the EPTL cannot be also granted under the  
 15 N-PCL that undermines the duplicativeness portion of your  
 16 argument, which is not the whole thing, but I would like to  
 17 know your position on that so it is not just up in the air.  
 18 Finally, you have a demonstratives objection?  
 19 MS. CONNELL: Yes, your Honor. Last night we --  
 20 within the 24-hour rule I think -- we got demonstratives for  
 21 the proposed expert witness and you've gotten our letter  
 22 regarding Mr. Sullivan.  
 23 But, also, we got demonstratives for a fact  
 24 witness, and I gather there will be more for fact witnesses  
 25 coming up and we're -- we object to demonstratives. First,

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1 motion that is -- you may not ultimately rule in our favor;  
 2 but, plainly, there's a strong basis for it. And in,  
 3 addition, with respect to the NRA's motion, the State has  
 4 already admitted that they failed to adduce evidence on at  
 5 least some of it which necessitated the NRA raising it.  
 6 So, I think the fair way of doing this would be to  
 7 allocate the time to neither party.  
 8 THE COURT: Good try, but no.  
 9 Each side makes arguments the way I would normally  
 10 do it. It is just an hour, but I think it is part of the  
 11 defense case and a good part of the defense case; so the  
 12 fact that it was well spent doesn't mean it is not spent.  
 13 So, we're going hear from the jury for the second  
 14 stage. Let's go get them.  
 15 Wait, I haven't asked if any of you need a short  
 16 break before we do that?  
 17 MR. FARBER: Can we have two minutes, your Honor?  
 18 THE COURT: All right, why don't we get them in two  
 19 minutes.  
 20 (Whereupon, at this time a short recess was then  
 21 taken.)  
 22 (Continued on next page)  
 23  
 24  
 25

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1 we object to getting the documents and demonstratives late.  
 2 But, moreover, these demonstratives we don't think are the  
 3 type of traditional type of demonstratives that allow the  
 4 fact witnesses. We think they're sort of intended to do  
 5 what defendants objected, and we had to modify Mr. Hines  
 6 who's an expert slides to do which is kind of put down  
 7 facts, just offload facts this witness may not be able to  
 8 testify to with the foundation in front of the jury.  
 9 THE COURT: Yeah, my -- well, I don't want to  
 10 assume since I haven't seen them all, but demonstratives of  
 11 a fact witness are a different kettle of fish and much more  
 12 concern about prompting as to substantive testimony than I  
 13 would worry about with an expert who was writing their own  
 14 chart.  
 15 So, anything in particular -- who's the first  
 16 witness?  
 17 MS. ROGERS: Our first witness will be Congressman  
 18 Bob Barr.  
 19 THE COURT: Is there any demonstratives that relate  
 20 to that witness? Because we're probably not going to get  
 21 past one witness.  
 22 MS. ROGERS: I don't believe so, no.  
 23 MR. THOMPSON: These are the second witness,  
 24 Mr. King, your Honor.  
 25 THE COURT: Why don't we get the first witness out

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1 of the way, and then we'll talk.  
 2 COURT OFFICER: All rise, jury entering.  
 3 (Whereupon, at this time the jury then entered the  
 4 courtroom.)  
 5 THE COURT: Okay, please have a seat.  
 6 We're now shifting to the defense portion of the  
 7 case.  
 8 And so I'll ask the defendants, who is your first  
 9 witness?  
 10 MS. ROGERS: Thank you, your Honor. The NRA calls  
 11 Congressman Bob Barr.  
 12 THE COURT: Former Congressman.  
 13 MS. ROGERS: Yes.  
 14 THE COURT: Good afternoon.  
 15 B O B B A R R  
 16 called as a witness in behalf of the Defense, and after  
 17 having been first duly sworn by the Clerk of the Court,  
 18 took the witness stand and testified as follows:  
 19 THE CLERK: State your name.  
 20 THE WITNESS: Bob Barr.  
 21 THE CLERK: Spell your last name.  
 22 THE WITNESS: B-A-R-R.  
 23 THE CLERK: Thank you. You may be seated.  
 24 THE COURT: Ms. Eisenberg, I didn't even see you  
 25 come in.

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1 MS. EISENBERG: Good afternoon, your Honor.  
 2 MS. EISENBERG: Good afternoon, ladies and  
 3 gentlemen of the jury. Can you hear me?  
 4 DIRECT-EXAMINATION  
 5 BY MS. EISENBERG:  
 6 Q Good afternoon, Congressman Barr.  
 7 A Good afternoon, ma'am.  
 8 Q Can you please tell us a little bit about your  
 9 background?  
 10 A I live in Atlanta, Georgia. I have lived in Atlanta,  
 11 Georgia, since the late 1970s. I moved to Atlanta after working  
 12 up here in Virginia, the District of Columbia for a number of  
 13 years. Worked for the CIA, went to law school and grad school  
 14 here in Washington DC, and then moved down to Georgia in the  
 15 late 1970s to practice law. I've practiced law off and on ever  
 16 since then, including currently.  
 17 I was appointed by former President Reagan to serve as  
 18 the United States Attorney for the Northern District of Georgia  
 19 which is headquartered in Atlanta. In 1986, I was honored to  
 20 serve in that capacity for approximately four years. Went back  
 21 to the practice of law. Was elected to the United States  
 22 Congress, the House of Representatives from the 7th District of  
 23 Georgia in 1994, served there until early 2003 after which time  
 24 I went back to the private practice of law and have engaged in  
 25 other activities such as writing articles for various electronic

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1 newspapers and others.  
 2 THE COURT: Well, we'd like to consider ourselves  
 3 the first capital of the United States. We're not the  
 4 current capital, so we're not quite here in DC right now,  
 5 but with that, you can go ahead.  
 6 MS. EISENBERG: Thank you, your Honor. Thank you,  
 7 Congressman.  
 8 Q Did there come a time when you ran for president of the  
 9 United States?  
 10 A I did. I was the libertarian part of nominee for  
 11 president in 2008, obviously, unsuccessful, counsel.  
 12 Q Did there come a time when you worked with the ACLU?  
 13 A I did. After leaving the Congress in early 2003, I did  
 14 work on privacy issues and surveillance issues for both the ACLU  
 15 and the American Conservative Union or ACU at the same time. I  
 16 was not employee of the ACLU, but I was a consultant for them on  
 17 privacy issues.  
 18 Q Did there come a time when you became involved with the  
 19 NRA?  
 20 A Yes.  
 21 Q Please tell us about that?  
 22 A I was elected to the board of the National Rifle  
 23 Association of America in 1997. I served on the board ever  
 24 since then, being elected every three years -- being reelected  
 25 every three years since then.

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1 Q What position do you currently hold on the board?  
 2 A In addition to being a board member, I currently serve  
 3 as the first vice president of the NRA.  
 4 Q How did you become the first vice president of the NRA?  
 5 A I was nominated for that position and elected to that  
 6 position by the NRA board of directors in I think it was May of  
 7 last year, 2023.  
 8 Q Who serves as the NRA's president and second vice  
 9 president currently?  
 10 A The current president of the NRA is Charles Cotton.  
 11 The current second vice president is David Coy.  
 12 Q I apologize, I just want to make sure we have water for  
 13 you.  
 14 A I have some right here.  
 15 Q You're all set, okay. Good, thank you.  
 16 Coming back to your board service, in your capacity as  
 17 a board member or first vice president, are you compensated for  
 18 your time?  
 19 A No. I've never been compensated by the NRA either as a  
 20 board member or as the first vice president.  
 21 Q And is it fair to say that the NRA's board has a number  
 22 of standing committees?  
 23 A It does.  
 24 Q Have you served on a committee?  
 25 A I have served on various committees. I'm a long-time

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1 member of the legislative affairs committee given my background  
 2 in legislation, and on the international affairs subcommittee;  
 3 and currently as the first vice president, I'm a member of all  
 4 standing committees.

5 Q Let's talk a little bit about the international affairs  
 6 subcommittee of the legislative affairs committee. Can you he  
 7 please tell us a little bit about its purpose?

8 A Certainly. Although, the primary focus and main  
 9 activities of the National Rifle Association are domestic  
 10 oriented; that is, with our 2nd Amendment rights here in the  
 11 United States, since the year 2001 the United Nations has become  
 12 involved in a number of ways on firearms issues. And insofar as  
 13 those policies can impact our rights here in this country, our  
 14 National Rifle Association international affairs subcommittee  
 15 follows those issues very importantly so that we're aware of any  
 16 problems that might crop up.

17 Q Since becoming first vice president, have you had  
 18 occasion to attend meetings of the NRA's Audit Committee?

19 A I have.

20 Q And while doing that, have you formed any impressions  
 21 about the committee's work?

22 A I have.

23 Q What are they?

24 A As a regular board member for many years, I was not  
 25 intimately aware of or familiar with the work of the Audit

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1 MR. THOMPSON: Objection, your Honor.  
 2 THE COURT: Sustained.

3 Q Did there come a time when the Audit Committee had a  
 4 meeting with Wayne LaPierre pertaining to certain repayments  
 5 that he had made to the NRA?

6 A Yes.

7 Q Did you attend that meeting?

8 A I did.

9 Q Please tell us about it?

10 A I don't remember the exact date of the committee.

11 THE COURT: Hold on.

12 MR. THOMPSON: Hearsay and no discovery into this  
 13 issue, your Honor. Need a foundational question as to  
 14 whether this meeting occurred, your Honor.

15 THE COURT: Are you saying that this was barred  
 16 from discovery on privilege grounds?

17 MR. THOMPSON: This occurred in the last -- since  
 18 November we think or something along those lines.

19 THE COURT: Overruled.

20 Q Please tell us about that meeting between the Audit  
 21 Committee and Wayne LaPierre?

22 A Okay. Again, as first vice president, I am a member of  
 23 the Audit Committee and have attended all of the meetings since  
 24 assuming that position. And there was a meeting just a few  
 25 months ago at which Mr. LaPierre attended and presented to the

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1 Committee; but, certainly, as first vice president now and  
 2 having attended the various Audit Committee meetings since  
 3 becoming first vice president, I've been very impressed with the  
 4 thoroughness, the professionalism, and ethics that are displayed  
 5 by the Audit Committee in carrying out its very important  
 6 responsibilities.

7 Q Who is Robert Mensinger?

8 A Robert or Bob Mensinger currently is the managing  
 9 director for compliance for the National Rifle Association.

10 Q And were you involved in any way in bringing him on  
 11 board?

12 A I was.

13 MR. THOMPSON: Objection, your Honor, relevance.  
 14 THE COURT: Overruled.

15 Q You may answer.

16 A Yes, I am and I was.

17 Q What was the nature of your involvement?

18 A I had the opportunity when we were looking at  
 19 Mr. Mensinger to come on as our managing director of compliance  
 20 to interview him in person, to review thoroughly his background  
 21 and CV and was very impressed with the talents that he brought  
 22 to the possible position as compliance with the NRA.

23 Q Is the NRA in the process of potentially amending its  
 24 Bylaws to create a new officer position?

25 A Yes, they are.

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1 Audit Committee or discussed with the Audit Committee repayment  
 2 of number of expenses that had been paid to him, not intended to  
 3 be paid to him by the NRA.

4 Q Did the NRA or anyone at the NRA conduct any type of  
 5 quality control with regard to his repayments?

6 MR. THOMPSON: Objection, same objection. No  
 7 discovery into this issue, your Honor, and hearsay.

8 THE COURT: Overruled.

9 A Yes.

10 Q What is your understanding of that?

11 A At that meeting which Mr. LaPierre made his  
 12 presentation, our treasurer, CFO Ms. Sonya Rowling was present  
 13 and stated that she had reviewed the materials presented by  
 14 Mr. LaPierre and agreed that they -- that they appeared to be  
 15 what he presented them as comprehensive.

16 MR. THOMPSON: Your Honor, just move to strike on  
 17 hearsay.

18 THE COURT: Let me -- have you requested -- you  
 19 know about this meeting. Have you requested information and  
 20 not been provided it?

21 MR. THOMPSON: This was the subject of our motions  
 22 in limine, your Honor, in lack of discovery in 2023.

23 THE COURT: My question was did you ask for  
 24 information and not received it?

25 MR. THOMPSON: In our motions in limine we asked to

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1 preclude discussion of this or else discovery --

2 MS. ROGERS: Your Honor, the answer to your

3 question is they did ask for the information and the motion

4 filed in October 2022 before the Special Master, the Special

5 Master granted the motion and we produced the information as

6 it was created, including this information.

7 MS. CONNELL: Your Honor, that's not accurate.

8 THE COURT: This meeting happened in 2023?

9 MS. ROGERS: So, they asked in 22 for ongoing

10 productions after close of discovery, so newly created

11 documents.

12 THE COURT: Let me cut to the chase.

13 Before you get further into this, were there

14 minutes or documents or whatever created around this whole

15 process that you're getting into now?

16 MS. EISENBERG: I believe so. I'm not one hundred

17 percent sure, your Honor.

18 THE COURT: Were they produced to the other side in

19 the ordinary course given what I just heard was a continuing

20 obligation?

21 MS. EISENBERG: I'm not one hundred percent sure,

22 your Honor, that that has happened; but that was my last

23 question about the topic.

24 MS. ROGERS: And there were documents produced

25 regarding Ms. Rowling's review of these expenses. Plaintiff

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1 position?

2 MR. THOMPSON: Objection, your Honor.

3 THE COURT: Sustained. You can talk about things

4 that have been done maybe, but not things that might be

5 done.

6 Q Is it fair to say that there is a specific Bylaws

7 amendment that's up for consideration by the members at the

8 moment?

9 A Yes, there is.

10 Q And according to that proposed amendment, to whom would

11 the chief compliance officer report?

12 A Chief compliance officer if approved by the membership

13 at our next meeting would report to the board of directors.

14 Q And would the executive vice president have the power

15 to hire, fire or suspend the chief compliance officer?

16 A No.

17 Q Is that important?

18 A It is important to maintain the objectivity of the

19 chief compliance officer.

20 Q Let's talk about the Special Litigation Committee. Is

21 that a committee on which you have served, as well?

22 A It is.

23 Q When did you join that committee?

24 A I joined the Special Litigation Committee last year

25 shortly after being elected to the post of first vice president.

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1 moved to exclude them.

2 THE COURT: Well, I saw that, but this is something

3 else. So, if there are documents about these meetings that

4 were not produced, then I'm afraid I have to exclude any

5 testimony about the meeting, itself, because that's not the

6 way this process works.

7 So, you can disregard anything about the meeting,

8 itself, because the other side hasn't had a chance to do --

9 get any evidence about the meeting, but the other documents

10 that I heard about before, those had been produced and you

11 can get into those with the other witnesses.

12 MS. CONNELL: Your Honor, we'd note our exception

13 to that ruling.

14 THE COURT: Which one?

15 MS. CONNELL: The ruling about the other documents

16 that we received in December 2023.

17 THE COURT: I'm going to make those decisions when

18 they come up. So, I'm not ruling in advance on any

19 admissibility of documents before I have a witness in front

20 of me. But as to this one, I don't think you had fair

21 notice of questions about that meeting, so.

22 MS. EISENBERG: Thank you, your Honor.

23 Q Congressman Barr, if the NRA's Bylaws are amended to

24 create the chief compliance officer position, what is your

25 understanding about the reporting structure with regard to that

B. Barr - by Defendants - Direct/Ms. Eisenberg Page 3261

1 Q What is the purpose of the Special Litigation

2 Committee?

3 A The Special Litigation Committee was formed in 2020 for

4 the expressed purpose of handling and being the go-between

5 so-to-speak to handle litigation, including the litigation

6 currently before this Court and related litigation.

7 The primary reason for that was so that individuals

8 involved in the litigation, Mr. LaPierre and Mr. Frazer, who

9 would normally be involved in the NRA's handling corporate

10 handling of that litigation would not be involved.

11 Q What does the Special Litigation Committee do in order

12 to carry out its mission?

13 A The Special Litigation Committee has regular, that is,

14 weekly telephone conferences with outside counsel to be made

15 aware of the progress and status of the litigation, any matters

16 that might need to be decided by the NRA which would be made in

17 this litigation, by the Special Litigation Committee would be

18 handled and the Special Litigation Committee also reports as

19 necessary and as appropriate to the board of directors.

20 Q How many members does the SLC have?

21 A Currently, there are three members, two in addition to

22 myself that serve on the SLC.

23 Q Does the SLC have any responsibility with regard to the

24 review of outside counsel's invoices?

25 A Yes.

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1 Q What is that responsibility?

2 A The members of the SLC which currently are myself,

3 Mr. Cotton and Mr. Coy -- the other member is on medical leave

4 of absence from the Special Litigation Committee -- we are

5 tasked with reviewing and approving monthly invoices from

6 outside counsel involved in these litigation matters.

7 Q Let's talk a little bit about the Legal Affairs

8 Committee.

9 Have you served on that committee, as well?

10 A Yes.

11 Q Since when?

12 A I think probably since 2022, but I don't recall

13 exactly.

14 Q And does it from time to time receive updates from

15 outside litigation counsel with regard to various litigation in

16 which the NRA is involved?

17 A Yes.

18 Q Does that include the matters within the purview of the

19 Special Litigation Committee, as well?

20 A It does. Not in the same way that those matters are

21 brought to the Special Litigation Committee, but for

22 informational purposes, yes.

23 Q What is the frequency with which the Legal Affairs

24 committee meets?

25 A As necessary and as appropriate.

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1 Q Let's talk a little bit about the NRA's defense in the

2 various litigations in which it's involved. Is it fair to say

3 that in your capacity as a member of the SLC you have been

4 involved in overseeing outside counsel's work in connection with

5 important litigation matters?

6 A Yes.

7 (Continued on next page)

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Barr - by Defendant - Direct/Ms. Eisenberg Page 3264

1 Q And in connection with such oversight, have you formed

2 an opinion as to the value of their services?

3 MR. THOMPSON: Objection.

4 THE COURT: Overruled.

5 Q What is your opinion?

6 A My opinion as an attorney myself, certainly that those

7 services are extensive, appropriate, professional and absolutely

8 essential to meet the challenges, the existential challenges

9 that the NRA faces as a result of litigation within the

10 responsibility of the SLC.

11 Q Congressman Barr, are you aware of the NYAG allegation

12 that the NRA has spent too much on legal fees?

13 A I'm aware of such allegations, yes.

14 Q What is your reaction to such allegations?

15 A Those allegations are wrong.

16 Q Why is that?

17 A Because facing the threats that the NRA is facing in

18 the litigation, it would be an irresponsible abrogation of our

19 duty to our responsibility to our members not to have the most

20 competent and highly-respected lawyers handling our cases.

21 Q How would you describe the threat that the NRA has

22 faced since 2018?

23 A Those threats are substantial existential, if you will,

24 both by the way of pronouncements by the NYAG as well as through

25 the litigation itself.

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1 Q You said existential. What did you mean by that?

2 A What I mean by that is threat to dissolve and dismantle

3 the association itself.

4 Q Whose threats?

5 A The NYAG.

6 Q Is it your understanding that the NYAG tried to

7 dissolve the NRA?

8 MR. THOMPSON: Objection. Leading.

9 THE COURT: Sustained.

10 Q Could you tell -- it's suggested that the NRA's Board

11 is too big.

12 What is your opinion on that issue? Do you think it is

13 too big?

14 A No, I do not.

15 Q Why is that?

16 A The NRA represents millions of citizens including more

17 than 4 million dues-paying members on Second Amendment issues

18 ranging from law enforcement to women's shooting to youth

19 shooting to law enforcement to black powder. And having a large

20 board as we do have with 76 members, it provides an opportunity

21 for all of those different interests to be heard and handled by

22 the Board of Directors.

23 MS. EISENBERG: I'll pass the witness. Thank you,

24 Congressman.

25 THE COURT: I'm not sure which order we are doing

Barr - by Defendant - Cross/Mr. Thompson Page 3266

1 this in.  
 2 MR. FLEMING: I was going to ask that.  
 3 THE COURT: I think I will start with the  
 4 Plaintiff, and then if the other Defendants want to ask  
 5 questions, we can do that.  
 6 CROSS-EXAMINATION  
 7 BY MR. THOMPSON:  
 8 Q Good afternoon, Congressman Barr.  
 9 A Good afternoon, Counsel.  
 10 Q My name is Stephen Thompson, and I represent the  
 11 Plaintiff, the People of the State of New York. Just -- I  
 12 promise. I mean this. A few questions.  
 13 So I believe you testified that in your capacity as the  
 14 First Vice-President, you're a member of all standing committees  
 15 by default; is that correct?  
 16 A That is correct.  
 17 Q Prior to becoming the First Vice-President, you were  
 18 never a member of the Audit Committee; correct?  
 19 A That is correct.  
 20 Q And you were never a member of the Finance Committee;  
 21 is that correct?  
 22 A That is correct also.  
 23 Q And I believe you testified that you have attended some  
 24 Audit Committee meetings; is that correct?  
 25 A It is.

Barr - by Defendant - Cross/Mr. Thompson Page 3267

1 Q And have you attended any Audit Committee meetings  
 2 prior to becoming the First Vice-President in 2023?  
 3 A Yes. I occasionally sit in on them, but not formally.  
 4 Q Okay. And you never sat in on the meetings of the  
 5 Audit Committee while they sat in executive session; is that  
 6 correct?  
 7 A No, not until serving as a member as the First  
 8 Vice-President.  
 9 Q Okay; and then you testified about Mr. Mensinger being  
 10 hired by the NRA; is that right?  
 11 A Yes, sir.  
 12 Q That occurred in 2023; is that correct?  
 13 A Yes.  
 14 Q And prior to Mr. Mensinger hiring, the NRA did not have  
 15 a dedicated compliance officer; is that correct?  
 16 A That is correct.  
 17 Q And so that occurred -- that hiring occurred three  
 18 years after this litigation was commenced; is that correct?  
 19 A It took place last year.  
 20 Q Okay. And Congressman, you voted to ratify the NRA's  
 21 filing of bankruptcy in 2021; is that correct?  
 22 MS. EISENBERG: Your Honor objection. Outside the  
 23 scope.  
 24 THE COURT: Sustained.  
 25 MR. THOMPSON: No further questions.

Barr - by Defendant - Direct/Mr. Fleming Page 3268

1 MR. CORRELL: No cross.  
 2 MR. WERBNER: No questions, your Honor.  
 3 DIRECT EXAMINATION  
 4 BY MR. FLEMING:  
 5 Q Good afternoon.  
 6 A Good afternoon, sir.  
 7 Q My name is William Fleming, and I represent Mr. Frazer,  
 8 so I just have a couple of questions for you.  
 9 Do you know Mr. Frazer?  
 10 A Yes.  
 11 Q How long have you known him for?  
 12 A Many years. I couldn't tell you exactly, but many  
 13 years.  
 14 Q Do you have -- are you able to tell us what your  
 15 general experience has been with Mr. Frazer?  
 16 A I am --  
 17 MR. THOMPSON: Scope, your Honor.  
 18 THE COURT: I'm trying to figure this out.  
 19 When you all call witnesses, are you all calling  
 20 the witness?  
 21 MR. FLEMING: Your Honor, at the beginning of the  
 22 case you may not remember I had talked about --  
 23 THE COURT: I'm not that old.  
 24 MR. FLEMING: Well, I too was trying to figure out  
 25 how it would work. So rather than calling witnesses for a

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1 second or third or even fourth time, I thought would be best  
 2 to start with --  
 3 THE COURT: Well, in this case I'm going to change  
 4 the order I do things in because I limited the Attorney  
 5 General to what was raised by the NRA.  
 6 If each you are going to want to ask direct  
 7 testimony of this witness, then you all should go first and  
 8 then the Attorney General should go. So in other words,  
 9 this is not cross-examination. This is direct examination.  
 10 MR. FLEMING: Yes.  
 11 MR. FARBER: To answer your question, I don't agree  
 12 that the notion that the Defendants -- if the NRA calls a  
 13 witness, we are calling him as a group.  
 14 THE COURT: You don't have to, but you need to tell  
 15 me if you are intend to offer this witness affirmatively so  
 16 that you don't have to be bound by the scope of the first  
 17 direct.  
 18 MR. FARBER: Understood.  
 19 MR. CORRELL: I would like to take that  
 20 opportunity. Just a couple of questions on direct that  
 21 aren't limited to the scope.  
 22 THE COURT: Careful what you suggest for me; right.  
 23 Okay. Well, look, more than one of you I guess can  
 24 call a witness. So go ahead. But that just means the AG is  
 25 going to have another shot at it.

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Barr - by Defendant - Direct/Mr. Correll Page 3270

1 Q I think I asked you about your general experience with  
2 Mr. Frazer.  
3 Were you able to describe what that is or what that has  
4 been?  
5 A Yes. Over the many years that I have known Mr. Frazer  
6 both before he assumed his current position with the NRA and  
7 currently, I have very high regard for him. He has always  
8 behaved professionally, responsive and ethically in my dealings  
9 with him.

10 Q Well, you sort of beat me to the punch with the  
11 questioning because I recall your testimony where you talked  
12 about I believe it's the ethical nature of the Audit Committee.

13 Based on your observations of Mr. Frazer, have you  
14 formed any view about the ethical nature of his conduct?  
15 A Yes.

16 Q And what is that?  
17 A That in all of my dealings with him, my observations,  
18 he is a highly ethical character.

19 MR. FLEMING: Thank you very much.  
20 DIRECT EXAMINATION  
21 BY MR. CORRELL:

22 Q Good afternoon, Congressman Barr. I'm Kent Correll. I  
23 represent Wayne LaPierre.  
24 A Yes, sir.  
25 Q I want to ask basically the same questions about Mr.

Barr - by Defendant - Direct/Mr. Correll Page 3271

1 LaPierre.  
2 Have you had an opportunity to observe him over your  
3 time on the Board?  
4 A Yes, I have.  
5 Q And have you formed any opinion as to his competence?  
6 A Yes, I have.  
7 Q What is that opinion?  
8 A This is a man in my view who has given a lifetime to  
9 the National Rifle Association, its members and the United  
10 States of America in a highly competent and energetic, selfless  
11 way.  
12 Q Have you had an opportunity to assess whether he's  
13 discharged the duties of his position in good faith?  
14 A I believe he has.  
15 Q And have you been in a position to observe whether he's  
16 discharged the duties of his position with care?  
17 MR. THOMPSON: Leading, your Honor.  
18 THE COURT: Overruled.  
19 A Yes; but as all of us, he's made mistakes.  
20 Q And has he owned up to those mistakes and squared  
21 things up?  
22 A Yes, he has.  
23 MR. CORRELL: No further questions, your Honor.  
24 THE COURT: Okay. Anything -- I don't know which  
25 way to turn now.

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1 Anything further? I think I have to go back and  
2 see if there's any further cross before I go back to the  
3 redirect.  
4 MR. THOMPSON: No further cross, your Honor.  
5 THE COURT: Okay.  
6 MS. EISENBERG: May I briefly, your Honor.  
7 THE COURT: Yes.  
8 REDIRECT EXAMINATION  
9 BY MS. EISENBERG:

10 Q Congressman Barr, who at the NRA performed the role  
11 that Mr. Mensinger will be performing going forward?  
12 A I'm sorry.  
13 Q Historically, who at the NRA was in charge of some of  
14 the things that Mr. Mensinger was recently hired to do?  
15 A I would say primarily the Audit Committee.  
16 Q And in what way?  
17 A Well, the job of the Audit Committee is to basically  
18 oversee any of the outside audits, certainly internal controls,  
19 conflicts of interest and so forth. It's an extremely important  
20 function.  
21 Q And what, if any, responsibilities does the treasurer  
22 have under internal policies to conduct periodic compliance  
23 reviews?  
24 A A very important one. The treasurer Ms. Rowling works  
25 closely with both the Audit Committee and the Finance Committee

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1 to insure that they have all the information they need and that  
2 her input is made and accounted for and considered.  
3 MS. EISENBERG: Thank you. I have no further  
4 questions.  
5 MR. THOMPSON: Nothing further, your Honor.  
6 THE COURT: All right. That was one of the more  
7 complicated set of questioning for a very short witness.  
8 Thank you, sir. You are I think free to step down.  
9 THE WITNESS: Thank you, your Honor.  
10 THE COURT: Thank you.  
11 Do we have time to begin our next witness.  
12 MS. ROGERS: The NRA's next witness is an expert  
13 Ryan Sullivan, and Plaintiff filed a motion today regarding  
14 his testimony that if your Honor would like to hear argument  
15 on, it should probably be done outside the presence of the  
16 jury before he testifies.  
17 THE COURT: I am -- I think we should proceed with  
18 the testimony, and I'll deal with objections as they come.  
19 MS. ROGERS: Understood. The NRA calls Ryan --  
20 THE COURT: Hang on.  
21 MS. CONNELL: We had been told Tom King was going  
22 to go second and had prepared for that, and that's why we  
23 raised the issue.  
24 MS. ROGERS: Mr. Sullivan has a travel conflict, so  
25 we would like to call him next and we provided his

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1 demonstratives yesterday.

2 MS. CONNELL: Yesterday evening.

3 THE COURT: So you had Tom King coming second.

4 MS. CONNELL: We had Tom King coming second.

5 Last night we got Mr. King's documents and then

6 later yesterday evening we got his --

7 THE COURT: Let me ask you this way.

8 Is the person who is going to be handling the

9 questioning of this next witness here?

10 MS. ROGERS: Yes. Well, I am here.

11 THE COURT: I mean, for -- I figured you were

12 ready.

13 MR. THOMPSON: Yes, your Honor, we do have the

14 attorney handling Mr. Sullivan.

15 MS. CONNELL: We do, but we had asked for some voir

16 dire on the opinions he was going to offer.

17 If you recall, you had ruled some of them not fair

18 game here.

19 MS. ROGERS: The NRA does not intend to elicit

20 opinions that would be inappropriate for this phase of the

21 trial.

22 THE COURT: Yeah, I read the letter. I viewed the

23 letter you sent as kind of assuming certain things were

24 going to happen, and I think I am -- rather than taking a

25 break and talking through all the things that could happen,

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1 meaning resources are limited. Economics has the tools that are

2 used to evaluate and make decisions.

3 Q Thank you, Dr. Sullivan.

4 Have you prepared some demonstratives for the jury

5 today?

6 A Yes, I have. I prepared these demonstratives, and the

7 title slide is up on the screen right now.

8 Q All right. Let's proceed.

9 THE COURT: As I have said for other expert

10 witnesses, these demonstratives are not themselves evidence

11 but are just designed to organize and display for your

12 benefit, but the testimony is what the witness says.

13 Q Dr. Sullivan, can you tell the jury a bit about your

14 professional credentials and background.

15 A Sure. I -- academically, I earned a bachelors degree,

16 a master degree and I Ph.D. They are all in economics and all

17 from the University of California in San Diego.

18 Subsequently, I worked with the University of

19 California as a member of what is known as the economics

20 leadership counsel. And in that role, I have advised the

21 faculty at the Department of Economics on the practice of

22 economics and in private industry.

23 I also -- well, I have been working as an economist for

24 over 30 years now. I have had the good fortune of publishing my

25 work in what is considered top-tier peer review journals. This

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1 I will just handle objections as they come up. I did -- you

2 know, I have a -- I certainly didn't exclude this testimony,

3 and my assumption is that we would deal with objections on a

4 one-by-one basis so I'd say we get started.

5 MS. ROGERS: The NRA calls Dr. Ryan Sullivan.

6 THE COURT: We are probably not going to get too

7 far into the substance anyway.

8 Good afternoon.

9 THE WITNESS: Thank you.

10 R Y A N S U L L I V A N, a witness called on behalf of the

11 Defendant, after having been first duly sworn, took the witness

12 stand and testified as follows:

13 THE CLERK: State your name.

14 THE WITNESS: Ryan Michael Sullivan,

15 S-U-L-L-I-V-A-N.

16 THE CLERK: Thank you. You may be seated.

17 DIRECT EXAMINATION

18 BY MS. ROGERS:

19 Q Good afternoon, Dr. Sullivan.

20 Please introduce yourself to the jury.

21 A My name is Ryan Sullivan. I serve as a managing

22 director of an advisory firm known as Secretariat, and I work as

23 an economist. This means that I use data and information to

24 evaluate business performance. And in particular, economics is

25 the science of decision making when there are scare resources,

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1 means that the work that I have performed has been evaluated by

2 other economists in the field to determine whether or not the

3 work is credible and appropriate but also a sufficient advance

4 in the science of economics such that it should be published in

5 journals such as the Journal of Finance.

6 Q You testified I think that economics is the science of

7 making decisions under scarcity and constraints; right?

8 A Yes.

9 Q What kind of constraints have you considered in your

10 professional work?

11 A Oh, goodness. So many different kinds. I mean, at its

12 most basic level, we are all facing constraints all the time.

13 Often times, those are in terms of time and money terms

14 of constraints, in terms of ability of what can be done. So so

15 many different constraints that are evaluated.

16 Q Doctor, and can you describe the extent to which you

17 have expertise and experience relating to decision-making under

18 regulatory constraints?

19 A Yes. I have, and this starts to get into some more

20 slides that I have put together, but I have worked with a number

21 of different organizations over the years, and some of those

22 have been in private industry and corporations and businesses.

23 Some have been non-profits. Some have been regulated entities

24 such as in telecommunications and energy and certain other

25 non-profit type laws as well.

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1 Q Can you tell the jury a little bit about the  
2 similarities and differences that distinguish for profit from  
3 non-profit clients you have worked for and advised.  
4 A Sure. There are many, many similarities.  
5 THE COURT: I'm sorry. Do you want to have the  
6 witness qualified before you start?  
7 MS. ROGERS: I was doing this as part of that.  
8 THE COURT: I thought you were moving out of  
9 background into the substance.  
10 MS. ROGERS: I offer Dr. Sullivan as an expert in  
11 economics, finance and accounting.  
12 MR. CONLEY: Your Honor, we object to Dr.  
13 Sullivan's admission as an expert for the reasons set forth  
14 in our motion papers, and we do not believe that he is  
15 qualified to testify on not-profit governance and  
16 accounting.  
17 THE COURT: Overruled subject to specific  
18 objections as to specific questions.  
19 Q Thank you, your Honor.  
20 Dr. Sullivan, can you explain to the jury some  
21 similarities and differences that would apply to for profit and  
22 non-profits clients?  
23 A Sure. There are far more similarities than there are  
24 differences, and you can see that because -- well, on the screen  
25 are entities that I've work for. So let me try to make this a

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1 little bit more tangible.  
2 On the left-hand side towards the top left you will see  
3 some of the life sciences and biologics companies that I've  
4 worked for. And Memorial Sloan Kettering, for example, is a  
5 non-profit organization, and thus, their objectives is mission  
6 driven versus profit driven, so that's a unique objective. But  
7 the way to get there is based upon similar types of paths.  
8 Meaning, there are still finance roles. There are still revenue  
9 objectives. There is still an acknowledgment of cost and  
10 evaluating what those costs are. There's an issue of controls.  
11 So albeit, that the objectives are different, the means of  
12 trying to attain an objective such as a mission versus profit  
13 which may also have mission components to it, there is  
14 similarity in that.  
15 I have found that there are so many similarities which  
16 has allowed me to do a lot of work that I do across various  
17 types of industries. That's why I have had the opportunity to  
18 work for consumer products companies such as Skechers, many  
19 high-technology companies such as Microsoft and Apple.  
20 I have worked with universities such as Columbia, MIT  
21 and Harvard among many others. Actually, a lot of my work is --  
22 the fact of it and the actual work is maintained confidential,  
23 but these are some of the clients that I am able to disclose  
24 publically.  
25 Q Let's go to the next slide.

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1 Dr. Sullivan, can you tell the jury about the kinds of  
2 business analytic advice you give and talk about some samples of  
3 projects you've worked on.  
4 A Sure. So I here too have had good fortune of working  
5 on some really interesting projects. This is just a small  
6 sampling of ones that I've thoroughly enjoyed.  
7 I served as the lead economist negotiating the  
8 collective bargaining agreement between the NBA, the National  
9 Basketball Association and the players' association. This was  
10 at a time when there was a large influx of revenue to the NBA  
11 because in large part people who were starting to time shift the  
12 TV that they were watching as DVR and Tivos became very popular.  
13 So around 2016, 2017 there was this big shift which caused a lot  
14 of the sports-related TV to become more valuable, and that  
15 created more opportunity, but then also a lot of constraints  
16 associated with it.  
17 A couple of others I can mention briefly. Perhaps this  
18 is not the best forum to talk about the Boston Red Sox;  
19 however --  
20 THE COURT: I was going to say will you want a  
21 curative instruction on that.  
22 MS. ROGERS: We hope the testimony would be more  
23 probative than prejudicial.  
24 THE COURT: Your choice.  
25 A I got to work with the Red Sox to help them on pricing

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1 of their tickets to be able to advance those, the pricing  
2 algorithms they use so that they could get more people into the  
3 seats, they could increase fan engagement. So there again,  
4 there may have been a profit objective underlying it, but there  
5 was much more of a mission based objective of trying to get  
6 greater fan engagement and the constraints associated with it in  
7 terms of the number of seats that they have and which games are  
8 being played at various times.  
9 And then a little bit different was working with the  
10 real life Joy Mangano who sold the Miracle Mop on Home Shopping  
11 Network, and some of you may have seen the movie Joy that came  
12 out in 2015, and we were using that movie of her which was  
13 effectively a biography to be able to explain to them how to  
14 launch into brick and mortar. So into Target and Bed, Bath and  
15 Beyond and into Macy's and making that transition from purely  
16 Home Shopping Network on-line to brick and mortar, and we  
17 handled the logistics launch strategy with it.  
18 MS. ROGERS: I think we are coming up to a  
19 transition from background to merits, so this might be a  
20 good time to break.  
21 THE COURT: Let's reconvene at 9:30.  
22 THE COURT OFFICER: All rise. Jury exiting.  
23 (Whereupon, at this time the jury exits  
24 the courtroom.)  
25 THE COURT: Just for the witness, during the --

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1 while we are on break, you are effectively still on the  
2 stand, so you shouldn't discuss the substance of your  
3 testimony with anyone including counsel.  
4 THE WITNESS: Understood.  
5 THE COURT: See you all at 9:30.  
6 MS. CONNELL: Can we just know who is testifying  
7 tomorrow and what order?  
8 THE COURT: We have a few minutes. You can step  
9 down and I'd also -- if there are going to be any issues on  
10 demonstratives, I'd like to get a copy and understand before  
11 they come at me without notice.  
12 MS. ROGERS: Of course, your Honor.  
13 THE COURT: So what's the run of play tomorrow?  
14 MS. ROGERS: So tomorrow we are going to finish  
15 with Mr. Sullivan and then call Tom King and then Sonya  
16 Rowling if we have time.  
17 THE COURT: In that order?  
18 MS. ROGERS: Yes.  
19 THE COURT: Anything else?  
20 MS. CONNELL: No, your Honor. I just want to raise  
21 one more time -- I'm sorry.  
22 We just had reference when Congressman Barr was  
23 speak about Ms. Rowling kind of blessing the calculation and  
24 Mr. LaPierre coming even.  
25 This is stuff that we do not have discovery on.

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1 maybe the defendants aren't planning this, but to the extent  
2 that someone is planning to do that, it's not just one lump  
3 sum number because you can't give a credit if the jury were  
4 to find -- you know, let's say \$1,000 is what the damages  
5 are. You can't just say, well, we paid \$700 back because  
6 there is no way unless you provide the proof to know whether  
7 the 700 applies to the thousand that the jury found as  
8 opposed to the other 2,000 the jury didn't find. And so you  
9 know, I don't know exactly how the defendants are going to  
10 bring this all in, but at the moment, just general  
11 statements about repayment is meaningless.  
12 (Continued on the following page.)

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1 It's prejudicial to the Plaintiff. It's unfair. We have  
2 moved again and again about it. It's stuff that was blocked  
3 by privilege earlier on. We will keep making this  
4 objection.  
5 THE COURT: Well, one thing while I'm thinking  
6 about and the instructions are clear in my mind, my view is  
7 that on the repayment front, as one of I think three areas  
8 of identifiable burden of proof shifts to the defense. So  
9 to both prove -- whether it's setoff -- if the defense is  
10 going to raise repayment as a setoff, the burden is on  
11 whoever that is to put that evidence in in admissible form.  
12 And you know, if we get to that point and they are -- they  
13 either object to questions on the ground of privilege or it  
14 becomes apparent to me that they are affirmatively raising  
15 things that, you know, would require them not to adhere to  
16 prior decisions on privilege, we will have a discussion, and  
17 you know, they -- they may either lose that argument or use  
18 that defense.  
19 MS. CONNELL: But your Honor, respectfully, this  
20 has already been done. We have been trying to calculate  
21 and --  
22 THE COURT: They have been generally talking about  
23 repayments, and that is not going to be sufficient to  
24 satisfy any burden. It has to be concrete, specific, and it  
25 has to be done in a way that the jury can -- you know, and

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1 MS. CONNELL: Your Honor, Mr. LaPierre's counsel  
2 asked and got a positive answer from Congressman Barr as to  
3 whether he become even or broke even.  
4 THE COURT: All square, I heard that.  
5 MS. CONNELL: All square, and then we had reference  
6 to Ms. Rowling's memos from, like, December 4th where she  
7 blessed things that we still haven't seen.  
8 THE COURT: I heard both of those things, and I  
9 think the defense elicited those, and I am -- look, I don't  
10 know the details of the questions that were asked and not  
11 answered; but the defense has now put squarely in front of  
12 the jury whether -- at least in Mr. LaPierre's case he was  
13 quote, all square; and if, if -- well, let me just ask the  
14 defendants.  
15 Is it your position that positions taken with  
16 respect to privilege are irrelevant to that question?  
17 MS. ROGERS: Yes, your Honor. We've produced -- in  
18 connection with one or six or seven motions they filed on  
19 this topic, we produced a detailed chart of every  
20 spreadsheet, every payment blessed -- in their terms -- by  
21 Ms. Rowling and showed where it was produced to them during  
22 discovery.  
23 THE COURT: So, that gets to the -- so that tells  
24 you which payments were made and as to which, for example,  
25 expenses they relate?

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1 MS. ROGERS: Correct, your Honor. So, for example,  
 2 there will be spreadsheets listing every flight that was  
 3 repaid and the destinations and so on. The defense is not  
 4 asserting -- the NRA is not making the argument that a  
 5 lawyer told us which ones had to be repaid and we demanded  
 6 repayment of those, and that's why we met our obligations.  
 7 But they're making what has been until awaiting your Honor's  
 8 charge has been an amorphous argument about failure to  
 9 discipline or improper administration. You hear them say  
 10 today and Mr. LaPierre faced no consequences, nothing  
 11 happened.

12 And so we think even though the NRA is not claiming  
 13 a damages setoff, that it's relevant to have directors  
 14 testify that there is a squaring off in our review.

15 THE COURT: The question was what was -- what was  
 16 blocked on privileged grounds?

17 MS. ROGERS: So, what was -- there were exchanges  
 18 in depositions, and they actually got a supplemental  
 19 deposition to give them more; but during early depositions  
 20 there were things like, you know, what -- and I can't recite  
 21 the Q and A from memory; but it was things basically like  
 22 don't testify about legal advice you got about taxes or  
 23 payments. And it was difficult for some fact witnesses to  
 24 negotiate that line between did I repay the flight that  
 25 happened on April 1st and did I talk to a lawyer about it.

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1 So, we actually gave them a supplemental corporate  
 2 representative deposition answering what documents were  
 3 looked at, what sources were used, which items were repaid  
 4 and the general rationale for it.

5 I actually don't know. They claimed that all of  
 6 this has been blocked on privileged and when we briefed  
 7 this, the NRA has put in excerpts of deposition pages where  
 8 these questions are answered and privilege is not asserted;  
 9 but the general line that we tried to draw in discovery is  
 10 they're entitled to know what the NRA did. They're entitled  
 11 to know what the NRA's fiduciaries and considered; but just  
 12 because the NRA received a legal advice about repayments  
 13 doesn't make the repayments privileged. It just means the  
 14 legal advice stays privileged and the cost of that for us is  
 15 that we can't say we repaid the ones the lawyer told us had  
 16 to be repaid. We're going to say we repaid the ones that  
 17 were to personal destinations. For example, where we  
 18 demanded repayment of those.

19 THE COURT: Look, it seems to me my view and this  
 20 is why this has not -- I've not viewed this as a large -- a  
 21 large issue, frankly, that the "Y" of it is not that  
 22 important.

23 The jury is going to decide whether a trip -- I  
 24 mean hypothetically -- trips A, B and C were some statutory  
 25 violation that somebody should pay the NRA back for; and

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1 they may decide that A and B, yes; C, no. So, in this  
 2 setting knowing whether A and B were paid back and C not or  
 3 some combination, those are the facts that you're saying at  
 4 least at this point that have not been blocked.

5 So, I don't know that the plaintiff is harmed by  
 6 not knowing the rationale behind all of the decisions. I  
 7 don't know that that's relevant.

8 MS. CONNELL: Your Honor, I'm sorry --

9 MR. THOMPSON: Just to try and make this a little  
 10 more concrete briefly, your Honor. So, one of the charts in  
 11 question that we're talking about is a chart of flights that  
 12 is Mr. LaPierre and members of his family took to various  
 13 places. That chart was produced to us we think by accident  
 14 because it was work products during the bankruptcy, and that  
 15 chart, we questioned the corporate representative about it  
 16 several times over the course of discovery. He could not  
 17 identify whether that was -- what the chart was, where it  
 18 came from and the metadata shows it was created by an  
 19 employee of the Brewer firm.

20 And then that chart is now attached to a memorandum  
 21 that Ms. Rowling prepared in late November, early December  
 22 of last year and then produced to us in mid December where  
 23 she says, I looked at this and everything is square.

24 THE COURT: Well, what does "everything is square"  
 25 mean?

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1 MR. THOMPSON: It means as far as she's aware,  
 2 there are no other flights that are improper, that  
 3 everything is A-okay.

4 THE COURT: Her decision or the NRA's decision  
 5 about what flights should have been paid back is really not  
 6 something that the -- the jury is going to make that  
 7 decision.

8 Now, to the extent that Ms. Rowling's own  
 9 determination of what square means, have you -- is it your  
 10 view that you can't question her about the process that led  
 11 to just her determining that it was, quote, square?

12 MR. THOMPSON: That's right, your Honor.

13 THE COURT: Did you try?

14 MR. THOMPSON: We didn't have the memoranda until  
 15 mid December of last year.

16 MS. CONNELL: 2023, your Honor.

17 MR. THOMPSON: 2023. She was deposed in I think  
 18 July of 2022.

19 THE COURT: So you haven't re-deposed her since all  
 20 this came out?

21 MR. THOMPSON: That's correct. It was part of our  
 22 motion that we either wanted this testimony precluded or the  
 23 opportunity for additional discovery.

24 MS. ROGERS: We offered an opportunity for  
 25 additional discovery, including a deposition of Ms. Rowling

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1 which the New York Attorney General rejected.  
2 MR. THOMPSON: We decided that it was not an  
3 economic use of time with the two weeks prior to trial to  
4 take another fact deposition raised on recently created  
5 evidence.  
6 THE COURT: Just so it is clear, repayment or  
7 something like repayment which would be relevant to setoff  
8 under any circumstances is not something that would be  
9 blocked because it happened just before trial. If it's been  
10 repaid, that's a relevant fact regardless of when it  
11 happened, okay.  
12 Her testimony that it is everything that needs to  
13 happen; again, I don't recall preventing a deposition of  
14 her, but I think can you cross-examine that.  
15 I would be, I guess, surprised if the chief  
16 financial officer says that she can't answer a question  
17 about why she concluded something because it was based on  
18 what the lawyers told her.  
19 MS. CONNELL: Your Honor, I'm just going to say  
20 that to conduct, essentially, discovery deposition on the  
21 stand here in tight times is simply unfair. We asked  
22 multiple, multiple NRA witnesses how this was calculated and  
23 it's not the amount. Mr. LaPierre is free to say or anyone  
24 is free to say I paid this amount to the NRA.  
25 It's the characterization of a complete repayment.

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1 subsequent deposition, and I know you were all busy; but  
2 that ship has sailed. We need to close for the night.  
3 I continue to view this whole sword and shield  
4 thing and opening the door to privilege thing, something  
5 that I have to evaluate based on what the defendants argue  
6 and what they block and I will continue to be alert to that  
7 issue.  
8 Thus far, I haven't seen any examples of situations  
9 where they argue something and then block or have blocked  
10 you from finding out how to counter it. If I find that, I  
11 will act accordingly.  
12 All right, see you tomorrow.  
13 (Whereupon, at this time the trial was adjourned  
14 and continued on February 6, 2024.)  
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1 When you make a representation that you investigated this  
2 and these are all amounts owed, we should be able to  
3 challenge it.  
4 THE COURT: The completeness of it is an objective  
5 -- at some level an objective fact. You know all the things  
6 that you're challenging, right, as violations of something.  
7 And you also have a list of everything that's been paid  
8 back. So, your version of whether it is complete or not is  
9 up to you.  
10 MS. CONNELL: Well, not really, your Honor, because  
11 they're standing up saying, yes, we looked at this. We  
12 blessed it. We think this is good, but we don't know  
13 everything they looked at to consider that.  
14 THE COURT: So, when you have Ms. Rowling, you say,  
15 well, your list doesn't include this transaction; why not?  
16 MS. CONNELL: Your Honor, we're going to have to  
17 then do, essentially, a long deposition of her on the stand  
18 at trial and that's not fair.  
19 And, remember, there were the documents withheld  
20 from us is related to the course correction is privileged.  
21 These are things that we've been raising for some time. So  
22 offering appointed deposition of her when they produced  
23 memos that she created late November, early December 2023 is  
24 really not curing that for us.  
25 THE COURT: Well, I think there was time to take a





































































