

EXHIBIT 4

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

-----X

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.

JURY TRIAL
60 Centre Street
New York, New York
February 7, 2024

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

APPEARANCES:

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL LETITIA JAMES
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1 THE COURT: I have a jury note. What's the Court
 2 Exhibit number we're up to?
 3 THE COURT REPORTER: IX.
 4 THE COURT: So, we'll mark this as Court
 5 Exhibit IX. It is from one of the jurors. I'll show it to
 6 counsel.
 7 "Dear, your Honor, I didn't have much time to view
 8 some of the demonstrative slides and would like to know if I
 9 would have access to them in the future during deliberations
 10 if necessary. This would have direct impact on how I take
 11 notes. Thank you."
 12 MR. WERBNER: Which juror was that, your Honor?
 13 THE COURT: Seven. So, my typical practice is
 14 that if any demonstratives that were shown in court so that
 15 they were able to see, it doesn't make a lot of sense to say
 16 they can't see them in deliberations. It is not supposed to
 17 be a memory test. That's my general view.
 18 It is hard to see what's the prejudice around that
 19 since they were allowed to see them. I would need counsel
 20 to be careful about not including slides that are in their
 21 deck, but were not shown.
 22 Any other objections to that if they saw it in
 23 court, whether if they want to have them when they ask for
 24 documents, generally speaking, I have provided those?
 25 MR. CORRELL: Your Honor, Mr. LaPierre objects on

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1 the ground that big numbers were put on these slides that
 2 may have disproportionate impact in the jury room. They may
 3 provide sort of a baseline for discussion in the event that
 4 there's any finding of liability discussion of damages, I
 5 think would be highly prejudicial to have the slides put
 6 before the jury just because of the disproportional effect.
 7 THE COURT: Well, I mean, they have been before the
 8 jury. The question is whether the jury should be told,
 9 well, we're going to flash things on the screen real quick
 10 which are designed and only permitted if I consider them to
 11 be helpful to the jury and then say, but you don't get to
 12 see them again.
 13 MR. CORRELL: Well, your Honor, some judges do
 14 allow jurors to take notes, and there are arguments on
 15 either side. I think that allowing them to take notes and
 16 then take things that have been prepared by counsel into the
 17 jury room is extremely problematic.
 18 MR. FARBER: Judge, I join in that objection. I
 19 think that's the difference between demonstratives and
 20 exhibits that are admitted into evidence. The presentations
 21 are, in essence, sort of mini summations. The same
 22 reason there will be, I assume, if the State's likely going
 23 to use presentations during their summation, they're not
 24 going to take that and view in the jury room.
 25 It is a summary of testimony, becomes a summary of

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1 testimony and I think it's inappropriate, and that's why the
 2 evidentiary rules distinguish between demonstratives and
 3 admitted evidence.
 4 MS. EISENBERG: Your Honor, the NRA similarly
 5 objects to Mr. Hines's demonstratives going back to the
 6 jury.
 7 THE COURT: Just those, but not yours?
 8 MS. EISENBERG: Well, I think what he did was at
 9 least in certain of his slides was provide total amounts
 10 that the NRA spent on this type of expense or that type of
 11 expense, which we submit is not even relevant.
 12 THE COURT: Well, look, I'm taking in considering
 13 these objections before I let them be shown to the jury, but
 14 I understand. So, but just so -- I didn't mean it as a
 15 joke. You just object to those demonstratives going to the
 16 jury?
 17 MS. EISENBERG: In terms of the ones that have been
 18 shown to date, correct.
 19 THE COURT: What does the AG think?
 20 MS. CONNELL: Well, your Honor, we certainly object
 21 to selective exclusion of disclosures for just Mr. Hines;
 22 but this is an unusual circumstance where I think all
 23 parties are in agreement. Demonstratives tend to not go
 24 back with the jury. It is admitted exhibits.
 25 THE COURT: Okay.

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1 MS. CONNELL: And I just want to flag one issue.
 2 We have an expert coming up and we have a problem with at
 3 least one of the sides, so...
 4 THE COURT: So, for what it's worth, that has not
 5 been my practice; but I don't think I'll do it over the
 6 objection of literally everyone. If you don't want any
 7 slides, demonstratives go back, I do think it is a little
 8 peculiar; but if they're allowed to see it, then I guess
 9 what they're asking essentially -- what this juror is asking
 10 is leave them on for a longer time so they can take notes
 11 about it.
 12 The thing about notes -- I saw that objection early
 13 on. I think asking jurors to sit for six weeks without
 14 taking notes is a little unrealistic.
 15 MR. CORRELL: Your Honor, I had objected to the
 16 jurors seeing Mr. Hines's demonstratives. So, the fact that
 17 they saw it doesn't give me any comfort in weighing in on
 18 this issue of whether they should be able to have it in
 19 their lap during deliberations.
 20 THE COURT: Well, I won't make a final decision on
 21 that; but I'll just tell the jury that, you know, for now
 22 they should assume it will just be the admitted exhibits and
 23 I'll make a decision about that at the end.
 24 MR. FARBER: Could I just add one thing?
 25 MS. CONNELL: I don't know who was up first. I

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1 didn't catch who's up first.
 2 THE COURT: I don't have a buzzer system, so...
 3 MR. FARBER: I think the nature of the note, in
 4 other words, that they wanted to take more time for their
 5 note taking to view more slides, they should not be taking
 6 notes of what's in the slide. They should be taking notes
 7 of testimony coming from the witness and that should be the
 8 focus. That's our view.
 9 THE COURT: Look, both sides are using slides for
 10 some reason, right? And the test is that it's helpful to
 11 the factfinder. So, it is helpful, except you don't want
 12 them to see them or remember, right? That doesn't make any
 13 sense to me. I mean, so, presumably -- I'm a little puzzled
 14 by that.
 15 I mean, I recognize there are some that you
 16 don't -- that you objected to and you win some and you lose
 17 some; but if it is helpful to the jury, how is it helpful
 18 to go by at a hundred miles an hour and never to be seen
 19 again?
 20 MR. FARBER: Judge, we haven't offered any slides
 21 and I don't think any of these are appropriate, but your
 22 Honor has ruled on that.
 23 THE COURT: Demonstratives are -- especially as
 24 years go by, more and more part of trials, you know, people
 25 use audiovisual. People use all sorts of things. It seems

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1 a tad unrealistic to say, well, okay for them to see it;
 2 it's just not okay for them to remember it.
 3 MR. FARBER: I accept that in principle, your
 4 Honor; but a lot of the demonstratives that are used here
 5 are summation slides and that's really the problem.
 6 THE COURT: Well, then, look, I mean, if you're
 7 saying that you disagree with decisions about some of the
 8 demonstratives, okay. But, look, everybody seems to be in
 9 agreement.
 10 MS. CONNELL: I was just going to add one thing.
 11 Maybe the difference is sending them back to the
 12 jury room versus if they ask to hear a certain testimony and
 13 there's demonstratives that go along with it, having them
 14 see it in the courtroom is nice way to split the baby;
 15 right?
 16 MR. CORRELL: Your Honor, I'm opposed to any baby
 17 splitting.
 18 THE COURT: All right, as a general matter, I think
 19 that's probably right.
 20 All right, let's bring -- everybody else set?
 21 MS. EISENBERG: Your Honor, just in terms of
 22 timing, would the Court be interested in knowing what our
 23 math is prior to --
 24 THE COURT: Let's review that at the end of the
 25 day, okay?

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1 MS. EISENBERG: Certainly.
 2 THE COURT: All right, let's go get them.
 3 THE COURT: Is the witness back?
 4 Bonnie, can I get this marked as Court Exhibit IX.
 5 (Whereupon, Court Exhibit IX was so marked.)
 6 (Whereupon, at this time the witness,
 7 SONYA ROWLING, having been previously duly sworn by the
 8 Clerk of the Court, resumed the witness stand and testified
 9 as follows:)
 10 COURT OFFICER: All rise, jury entering.
 11 (Whereupon, at this time the jury then entered the
 12 courtroom.)
 13 THE COURT: Good morning, everyone. Please have a
 14 seat.
 15 So, before we begin, I got one of your notes about
 16 the demonstrative slides. The general rule is that only
 17 admitted exhibits go into the jury room for deliberations,
 18 not demonstratives. Demonstratives are designed for
 19 in-court viewing.
 20 I'll think about it as we go, but you should assume
 21 that the only things you can call up into the jury room are
 22 going to be the admitted exhibits. That's typically the way
 23 it works, but I'll let you know.
 24 So, if that affects your note taking, the notes
 25 should be focused, candidly, on the admitted exhibits and

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1 any notes about the testimony. The demonstratives are meant
 2 really as a visual aid, not really a substantive thing. So
 3 you should be taking your facts from the witness's mouth and
 4 from the admitted exhibits. But, again, I'll let you know
 5 as we go if I decide to permit some or all of them to go
 6 back.
 7 All right, so let's continue with Ms. Rowling.
 8 Ms. Rowling, just to confirm, you're still under
 9 oath.
 10 MS. EISENBERG: Thank you, your Honor.
 11 DIRECT-EXAMINATION
 12 BY MS. EISENBERG: (Continuing)
 13 Q Good morning, Ms. Rowling.
 14 MS. EISENBERG: Good morning, members of the jury.
 15 Can you hear me okay? Thank you.
 16 Q Ms. Rowling, yesterday we discussed review of certain
 17 repayments made by Mr. LaPierre.
 18 Do you recall our discussion?
 19 A Yes.
 20 Q What is the amount of total of repayments made by
 21 Mr. LaPierre?
 22 A Over a million dollars.
 23 Q And I would also like to talk to you about a slightly
 24 different topic.
 25 Did there ever come a time when you and David Coy

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1 reviewed certain expense reimbursement requests from
 2 Mr. LaPierre?
 3 A Yes.
 4 Q And when, approximately, was that?
 5 A Early 2021 when I first became treasurer.
 6 Q How did that arise?
 7 A Mr. LaPierre had a number of outstanding expense
 8 reports that had never been processed. They related to previous
 9 years and the expense reports have kind of been passed around;
 10 and they landed in my office, and the Audit Committee requested
 11 that Dave Coy and I review those for processing.
 12 MS. EISENBERG: Can the jury hear the witness?
 13 JUROR: Can be a little louder.
 14 Q Who conducted the review of the reimbursement requests
 15 that you just referenced?
 16 A Mr. Coy and myself.
 17 Q And at the time Mr. Coy was a member of the Audit
 18 Committee?
 19 A Yes, that's correct.
 20 Q And also one of the officers, correct?
 21 A Yes.
 22 Q Please describe what you did.
 23 A The first step was we -- we looked at all the expense
 24 reports. There were a lot, but there were many from years that
 25 were way too old and we immediately made the decision we weren't

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1 even going to look at those. We were going to say they were
 2 submitted late, and we were not going to process them. That was
 3 not part of an accountable plan with according to IRS rules that
 4 we would -- we couldn't process those.
 5 The next step we took was to look at the ones that were
 6 submitted timely even though they hadn't been processed. The
 7 timely submission is the key. It is not about when the payment
 8 is actually made, and Mr. LaPierre had submitted timely certain
 9 number of expense reports and so we reviewed those.
 10 There were items that we decided should not be paid,
 11 and then we ended up processing maybe about \$12,000 worth of
 12 expense reports of over 200,000 that were submitted.
 13 Q So, what was the approximate amount of the ones that
 14 were not paid?
 15 A The over 200,000.
 16 Q Could you please turn to Tab 4 in your binder.
 17 A Yes, I'm there.
 18 Q It is PX 2455 for identification. What is it?
 19 A This is a memo from Mr. Coy and I to the Audit
 20 Committee documenting the process we took in the review of those
 21 expense reports.
 22 Q Who prepared the memo?
 23 A I prepared it originally, and Mr. Coy reviewed it.
 24 Q When the need arises to conduct a review of this kind,
 25 is it your practice to prepare a memo to file like this?

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1 A Yes.
 2 Q And is it the organization's practice as well?
 3 A Yes.
 4 MS. EISENBERG: Your Honor, at this point the NRA
 5 moves to admit PX 2455 in evidence.
 6 MR. THOMPSON: No objection.
 7 THE COURT: It is admitted.
 8 MS. EISENBERG: Thank you, your Honor.
 9 (Whereupon, at this time Exhibit PX 2455 was
 10 admitted and received into evidence.)
 11 Q If we may publish it for the jury, please.
 12 (Displayed)
 13 Ms. Rowling, in the first paragraph there's a reference
 14 to an accountable plan, and you just referred to that as well in
 15 your testimony.
 16 Can you please tell us a little bit about what an
 17 accountable plan is?
 18 A An accountable plan is -- it's kind of an IRS
 19 definition whereby expenses must be submitted timely. There has
 20 to be a business purpose, things of that nature that are
 21 specific to what qualifies as an accountable plan.
 22 Q Let's take a look at Tab 3 in your binder. It has been
 23 marked for identification as DX1-1066.
 24 What is it?
 25 A This is the Purchasing Procedures Manual.

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1 Q Did you have a role in the preparation of this manual?
 2 A Yes.
 3 MS. EISENBERG: Your Honor, at this point the NRA
 4 moves to admit DX1-1066 in evidence.
 5 MR. THOMPSON: Objection, as late produced, but no
 6 other objection.
 7 THE COURT: Is there a date on this as to -- just
 8 curious.
 9 Q Ms. Rowling, when approximately was this manual
 10 adopted?
 11 A This is a procedure, so it wouldn't have been adopted
 12 per se; but it was -- it was prepared in 2023.
 13 THE COURT: It is admitted.
 14 (Whereupon, at this time Exhibit DX1-1066 was
 15 admitted and received into evidence.)
 16 Q Let's publish it for the jury.
 17 (Displayed)
 18 If you would, please, Ms. Rowling, review the various
 19 sections of the manual just to kind of help us understand what
 20 types of issues it addresses.
 21 A Section 1 just goes over the reporting and
 22 authorization levels of various positions, what they're allowed
 23 to approve, depending on their level within the organization.
 24 Q Let's scroll to Section 2 on page 2, please.
 25 (Displayed)

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1 A The next section just relates to basically as it says,
2 budgeting responsibilities. So, it has to be anytime anyone is
3 submitting any requests for a purchase, needs to be a part of
4 the budget. You have to have account numbers, that sort of
5 thing.
6 Q Let's scroll down to page 3, Section 3.
7 A Section 3 defines the competitive bidding process and
8 requests for proposals.
9 Q And what about Section 4 on page 3?
10 A These are other general procedures. So, how to get
11 office supplies and just more simple purchases.
12 Q And, finally, let's take a look at page 6, Roman number
13 V.
14 A That area discusses more specialized procedures.
15 Purchasing paper, for example, is more of a specialized
16 procedure due to most of our paper is purchased for magazines.
17 So that purchase of magazine paper is very different than a
18 normal ream of paper for your printer.
19 Q Thank you. We can set that down. Can you please take
20 a look at Tab 6 in your binder.
21 What is it?
22 A This is a memo -- an example of a memo that was sent to
23 our -- to our vendors explaining the -- the process of
24 submitting support for invoices, having proper -- sorry --
25 having proper description on the invoices as well as any backup

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1 that's needed, and it was a memo sent to kind of reinforce that
2 policy.
3 Q When was the memo sent?
4 A August of 2018.
5 Q Approximately how many members did the memo go out?
6 A Approximately 200.
7 Q Did any of the individuals who you supervised at the
8 time suggest that they were either on vacation of the vendors to
9 whom the memo was sent?
10 A Yes.
11 Q And who was that?
12 A Portia Padilla, she created the accounts payable list
13 to provide to who could do the mail merge with this memo.
14 Q By "mail merge," you're referring to Microsoft Word's
15 application that allows you to quickly generate multiple letters
16 that say the same thing, but are addressed to different
17 individuals; is that fair?
18 A That's fair.
19 MS. EISENBERG: Your Honor, at this point the NRA
20 moves to admit DX1-0176 in evidence.
21 MR. THOMPSON: No objection.
22 THE COURT: It is admitted.
23 (Whereupon, at this time Exhibit DX1-0176 was
24 admitted and received into evidence.)
25 Q Ms. Rowling, I'd like you to please take a look at

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1 Tab 7, which is DX1-0674 and Tab 9, which is DX1-0567. These
2 are exhibits marked for identification that are not in evidence
3 at this point.
4 What do you recognize them to be?
5 A These same letters to different vendors.
6 MS. EISENBERG: Your Honor at this point the NRA
7 moves to admit DX1-0674 and DX1-0567 in evidence.
8 MR. THOMPSON: No objection.
9 THE COURT: They are both admitted.
10 (Whereupon, at this time Exhibit DX1-0674 and
11 DX1-0567 were admitted and received into evidence.)
12 MS. EISENBERG: Thank you, your Honor.
13 THE COURT: Do you want them on the screen or you
14 just want to have them in for later reference?
15 MS. EISENBERG: It is for later reference, your
16 Honor.
17 THE COURT: Okay.
18 MS. EISENBERG: Thank you.
19 Q Ms. Rowling, did there come a time when you
20 participated in the review of certain expenses incurred by
21 Mr. Powell?
22 A Yes.
23 Q When approximately was that?
24 A Late 2019.
25 Q And how did that come about?

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1 A Mr. Spray had noticed there was some unusual charges on
2 his Am Ex and requested that I go back and review all -- get
3 access to and then go back and review all the Am Ex charges that
4 had been made on his card.
5 Q And when you are saying "his card," you're referring to
6 Mr. Powell's card?
7 A That's correct.
8 Q And did you, in fact, do what Mr. Spray suggested?
9 A Yes, I did.
10 Q Describe in general terms what you did to conduct that
11 review.
12 A I got access to all of the detailed Am Ex statements as
13 well as all of his expense reports and detailed out all of his
14 charges and then made note of what seemed inappropriate or
15 considered personal charges.
16 Q What types of inappropriate charges did you identify?
17 A First class and business class travel was the biggest
18 item. There were some black car service.
19 Q Did there come a time when the NRA engaged a forensic
20 company to conduct the same review?
21 A Yes.
22 Q What was the understanding about the purpose of that
23 engagement?
24 A Just a further independent review of the process I had
25 taken so that there would be no kind of argument over whether it

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1 was -- it was a fair assessment.
 2 Q After the forensic -- I'm sorry, what was the name of
 3 the outside forensic company?
 4 A FRA.
 5 Q And after FRA completed their review, what conclusions
 6 did they reach?
 7 A They reached similar conclusions that I had had and
 8 found.
 9 Q And what happened there after?
 10 A Mr. Powell was asked to reimburse the NRA for the
 11 amounts that were considered personal, plus interest.
 12 Q And what happened after that?
 13 A He did not pay and he was subsequently let go from the
 14 organization.
 15 MS. EISENBERG: Thank you very much. I'll pass the
 16 witness.
 17 THE COURT: Okay. Any other direct testimony, or,
 18 I'm sorry, where are we? Any other direct testimony?
 19 MR. CORRELL: Your Honor, if I may, I'm in next
 20 order.
 21 THE COURT: Okay, sure.
 22 DIRECT-EXAMINATION
 23 BY MR. CORRELL:
 24 Q Good morning.
 25 A Good morning.

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1 Q Good morning, Ms. Rowling. I'm Kent Correll, and I
 2 represent Wayne LaPierre.
 3 Did you attend an Audit Committee meeting where Wayne
 4 LaPierre appeared and made a presentation regarding repayment of
 5 expenses?
 6 MR. THOMPSON: Objection, leading.
 7 THE COURT: It is not leading. Overruled.
 8 A Yes, I did.
 9 THE COURT: Partially leading, but it is not
 10 completely leading.
 11 Q Can you tell the Court and jury what you can recall
 12 about Mr. LaPierre's presentation at that meeting?
 13 MR. THOMPSON: Your Honor, hearsay, and we were not
 14 provided any evidence of this meeting in discovery.
 15 MR. CORRELL: Your Honor, it's relevant to show
 16 notice to the NRA of our efforts to address issues raised by
 17 the AG.
 18 THE COURT: Well, it may be. But are you saying
 19 that requests were made and documents about the meeting were
 20 withheld?
 21 MR. THOMPSON: This was included in the continuing
 22 discovery, and we did not receive anything about a November
 23 Audit Committee meeting.
 24 THE COURT: It doesn't necessarily mean -- if there
 25 are no documents about it, then there's nothing to produce.

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1 MR. THOMPSON: I guess we'd like to know whether
 2 there were documents about it.
 3 MR. CORRELL: Your Honor, Mr. LaPierre has not
 4 withheld anything.
 5 THE COURT: That's not --
 6 MS. EISENBERG: In addition, your Honor, the
 7 process is that at the January meeting of the board, the
 8 Audit Committee makes a report to the board which includes
 9 minutes/report of the meeting that they had held previously;
 10 and then the board book comes out after the January meeting.
 11 So, the records that we had committed to produce to
 12 the NYAG are board minutes, board books, board reports.
 13 So, the timing simply was such that the meeting
 14 about which Mr. Correll is asking occurred shortly before
 15 the January meeting for which the board books are still
 16 being finalized.
 17 THE COURT: Well, but there's still documents that
 18 exist independently. They just haven't been put in the
 19 books yet?
 20 MS. EISENBERG: That's right. I mean, what happens
 21 is the NRA pulls together all of the reports of all of the
 22 committees, and then that's what comes out and that's what
 23 we had committed to produce.
 24 THE COURT: Well, there's a -- especially if you're
 25 going to rely on a meeting, the notion that you can sort of

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1 just hold off on producing -- I'm not going to -- I'm going
 2 to sustain the objection, rather than going on to give all
 3 my reasons for it. So, it is sustained.
 4 MR. CORRELL: Your Honor, let me try it another
 5 way.
 6 Q Did you attend a meeting where Wayne LaPierre appeared
 7 and made a presentation?
 8 A Yes.
 9 Q And after that meeting, did you come to any conclusions
 10 as to whether Mr. LaPierre had made a fair representation with
 11 respect to -- a fair representation with respect to his efforts
 12 to identify and repay amounts that might be considered personal
 13 expenses?
 14 MR. THOMPSON: Leading, and same objection.
 15 THE COURT: Well, this is hearsay at this point
 16 now. I think --
 17 MR. CORRELL: I'm asking for her conclusion at the
 18 end of the meeting, your Honor.
 19 THE COURT: You're asking her to vouch for a
 20 hearsay statement that we're not providing?
 21 MR. CORRELL: I'm just asking her if she attended a
 22 meeting and afterwards formed any conclusions.
 23 THE COURT: Sustained.
 24 MR. CORRELL: Thank you, Ms. Rowling.
 25

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1 DIRECT-EXAMINATION
 2 BY MR. FLEMING:
 3 Q So, Ms. Rowling, you were asked a lot of questions
 4 yesterday about what I'll sort of call current events; right?
 5 A Yes.
 6 Q Okay. I'm going to ask you some questions about
 7 related-party transactions, but I want you to go way back in
 8 time as best as you can.
 9 Do you recall in 2016 after the adoption of the new
 10 conflicts of interest and related-party transactions policy?
 11 A Sure, yes.
 12 Q Okay. I want to ask you questions about the Audit
 13 Committee and work it did or didn't do with respect to
 14 related-party transactions.
 15 Do you recall or let me -- were you present for Audit
 16 Committee meetings in 2016?
 17 A Yes.
 18 (Continued on next page)
 19
 20
 21
 22
 23
 24
 25

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1 Q Okay. Can you describe the process that the Audit
 2 Committee went through to evaluate related-party transactions?
 3 A Sure. They were presented usually by Mr. Frazer, kind
 4 of what the potential conflict was in great detail, and then
 5 they would make a decision whether to -- whether it was fair,
 6 reasonable to the NRA, and that would then get documented.
 7 Q Do they also evaluate whether it's in the best
 8 interests of the NRA?
 9 A Yes.
 10 Q Okay. Is there anything intrinsically wrong with
 11 related-party transactions?
 12 MR. THOMPSON: Objection. Leading.
 13 THE COURT: Overruled. You can answer.
 14 A No.
 15 Q Okay. So after Mr. Frazer would present these
 16 related-party transactions, what would happen next? What did
 17 the Audit Committee do when it was presented with these?
 18 A Well, they would make a decision whether they were --
 19 could -- could -- that would -- could incur those expenses --
 20 the NRA could incur those expenses.
 21 Q Now, I would like to ask you about documentation of
 22 that meeting.
 23 Can you take us through the process of how that meeting
 24 was documented?
 25 MR. THOMPSON: Foundation, your Honor.

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1 MR. FLEMING: She is present.
 2 THE COURT: Overruled: Again, based on your
 3 personal observations of it.
 4 A It was documented in the minutes.
 5 Q Who would do the minutes?
 6 A It would depend. I did some at some point and then
 7 later it has changed, but I would prepare some in the beginning.
 8 Q And I know I'm testing your memory because it was
 9 eight years ago, but can you be as granular as possible about
 10 sort of how it went from the evaluation of related-party
 11 transactions to pen on paper and final documentation?
 12 A I would be given -- its been a long time since I've
 13 done minutes.
 14 I was generally given kind of a review sheet from Mr.
 15 Frazer that actually documented the transactions that were
 16 discussed and then include that write-up in the minutes so that
 17 it would -- could be accurately portrayed.
 18 Q Okay. So if I understand correctly, you would take a
 19 document that had been created by Mr. Frazer; is that right?
 20 A Yes.
 21 Q And edit it based on what happened at the meeting?
 22 A I would generally cut and paste it in the minutes
 23 format really because there would not necessarily need to be
 24 edits made to what -- what had been -- he had sent.
 25 Q Okay. Now I'll come back to that in a second.

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1 From that point after you do whatever you do, is there
 2 a process by which it's finalized?
 3 A Yes.
 4 Q Is that the final action done or is there subsequent
 5 action after you've, you know, added this document?
 6 A I would generally give it to the secretary, whoever was
 7 the secretary at the time, and then they would take it to the
 8 Audit Committee Chair who would review potentially, make edits,
 9 and then sign.
 10 Q And the secretary at that time was Mr. Tedrick?
 11 A I believe that's correct.
 12 Q And do you recall that there was also an Audit
 13 Committee report?
 14 A To the -- report to the Board, yes.
 15 Q Right. And in 2016, were those two separate documents,
 16 minutes and report?
 17 A Not to my knowledge.
 18 Q Okay. Can I call up PX 2586 for identification. Not
 19 for the jury. You will see it on the screen in a second,
 20 hopefully.
 21 THE COURT: 2586?
 22 MR. FLEMING: 2586 for identification.
 23 Q Ms. Rowling, take a look is this. Si that your email
 24 address at the top?
 25 A Yes, it is.

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1 Q All right. Can we have the whole document so she can
2 see it.
3 I just want to have you look at this and tell me if you
4 recognize this.
5 A Yes, I do.
6 Q Okay. What is this? Without describing its content,
7 what is this?
8 A It is an email between myself and other various
9 parties.
10 Q And if you can look now at the attachments. Do you
11 see -- what is that right there?
12 A The report of the Audit Committee.
13 Q And if you can scroll down to the next page. Is this a
14 draft of the Audit Committee report. Up one page.
15 A Actually, go back.
16 Q Go back one more page up.
17 A No. One more page down.
18 Q I'm sorry. One more page down.
19 A There we go.
20 Q Okay.
21 A This is the language from -- for the minutes basically
22 that -- so it's draft.
23 Q And this is the document you just described a couple of
24 minutes ago?
25 A That's correct.

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1 Q All right. And if you go one more page down. This is
2 the rest of it.
3 Do you recall whether this is the document after you
4 worked on it or before you worked on it?
5 A This is before.
6 Q Okay. And do you recall making any changes to this
7 -- well, I apologize for the disjointed presentation. But can
8 we go back up to the first page. If you can look at the third
9 email from the top where Mr. Tedrick asks you a question.
10 Do you see that?
11 A Yes.
12 Q And then you get back to him with a response. Is that
13 right?
14 A Yes.
15 Q Okay. Does this refresh your recollection about
16 whether the attachments are after you've looked at the document
17 you were given by Mr. Frazer?
18 A I think -- well, it's a little bit confusing because
19 there was an assumption at this point that there were separate
20 minutes and separate Board documents, and they were kind of one
21 in the same, so it's a little muddy.
22 Q Now, do you recall at some point in the future where
23 the minutes and the report ceased to be separate documents and
24 they were all put together into one document?
25 A To me, they were not two separate documents at this

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1 point.
2 Q Okay. Okay.
3 MR. FLEMING: Your Honor, we have had a long
4 tortured history with this document, but I have exhausted
5 the witnesses who are able to discuss how it was formulated.
6 I would move its admission.
7 THE COURT: What's the independent relevance of
8 draft minutes when there are final minutes?
9 MR. FLEMING: Well, these are the final minutes.
10 It's a draft report. The report is then finalized later.
11 The report does not include the discussion of what actually
12 happened, but the draft report does corroborate what was
13 done in the minutes.
14 THE COURT: The issue I had in an earlier version of
15 this is that -- and maybe I'm wrong. And you can -- when
16 the witness -- some of it seemed like it had been prepared
17 before the meeting even happened as to what was anticipated
18 to happen at the meeting and that was an issue I had with
19 it.
20 I mean, it's not -- there is nothing wrong with
21 doing this, but it doesn't reflect what actually happened.
22 How do I tell the difference?
23 Because the earlier version of this seemed at least
24 pretty clear as if it much more incomplete than this one,
25 and it seemed like somebody was writing for what was

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1 intended to be discussed at the meeting by the staff which
2 is different than what you just said now which is that it's
3 a summary of what was actually done at the meeting.
4 Has -- I don't know that this witness has yet given
5 a foundation for saying that what follows is a
6 contemporaneous recording of what was actually done at the
7 meeting as opposed to what was the prep for it.
8 MR. FLEMING: Well, what the witness just verified
9 that, yes, there was a document prepared before the meeting.
10 She was given it. She observed the meeting. She made
11 whatever changes she would make, and that document was then
12 finalized, and there are other versions of this document
13 that are part of the business records that are forwarded
14 within the objection years later.
15 THE COURT: Well, how about maybe ask just that
16 question more directly about whether the part of this that
17 you really want to use which I guess is the summary, if this
18 witness can say, yeah, this is based on my work reflecting
19 what was actually -- I actually observed at the meeting and
20 I contemporaneously -- this group contemporaneously put it
21 together in the ordinary course of business to reflect what
22 happened. Because it's still a little unclear to me.
23 MR. FLEMING: Okay. I will try to do it in sort of
24 two separate questions.
25 So can we scroll down to this part.

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1 THE COURT: Apologies to the jury. I know this is
 2 kind of like a mystery novel because we are talking about
 3 something that you haven't seen, but I want to do it out of
 4 your presence, and I want to make sure what it is before you
 5 see it.
 6 MR. FLEMING: I have taken up way too much of your
 7 time, and I apologize.
 8 Q Can you tell me without mentioning names that you
 9 recall that these transactions were looked at by the Audit
 10 Committee, identified, evaluated and voted on?
 11 A Yes, they were.
 12 MR. FLEMING: Okay. I would also then like to
 13 change documents.
 14 THE COURT: Wait. The question I was -- maybe you
 15 are going to get to it -- is whether this summary is after
 16 the meeting based on her and her colleague's recollections
 17 of what actually happened as opposed to meeting in advance.
 18 MR. FLEMING: Okay. Well, first of all, I will ask
 19 that, but you're right, that's what I was getting to.
 20 Q But do you recall whether this document that you're
 21 looking at reflects the final version of the minutes of the
 22 Audit Committee related-party transaction review in
 23 September 2016?
 24 MR. THOMPSON: Asked and answered, your Honor. I
 25 believe she testified to this prior.

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1 THE COURT: You can go ahead and answer because it
 2 was so long ago, I can't remember.
 3 A Yes, it does accurately reflect.
 4 MR. FLEMING: Are we able to do a side by side
 5 document?
 6 Can I side by side do PX 1631? Is this doable or
 7 no? Okay.
 8 Q So Ms. Rowling, on the left is PX 1631 which I'll
 9 represent is an email dated April of 2018. That's about a year
 10 and a half after the one we just looked at; is that right?
 11 A Yes.
 12 Q Can we scroll to the second page of PX 1631 and to the
 13 similar page on PX 2586.
 14 Keep going. Keep going. Thank you.
 15 A tough question, but are you able to see whether these
 16 are the same document?
 17 A I mean, a quick review it, they appear to be the same
 18 document.
 19 Q Can we scroll to the next page of both of those and
 20 again --
 21 A Yes.
 22 MR. FLEMING: Okay. And if I could now get rid of
 23 PX 1631 and call up PX 1674. And if we could on PX 1674.
 24 Again, scroll to the attachment. Hold on a second. I'm
 25 sorry.

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1 Q PX 1674, Ms. Rowling, is an email from February 2019;
 2 is that right? Can you go back?
 3 A That's correct.
 4 Q And if we can scroll to the minutes, please.
 5 Once again, I would ask you to do a comparison and tell
 6 me whether these are the same document.
 7 A They appear to be the same document.
 8 Q And second page of both.
 9 A The spacing is a little different, but they appear to
 10 be the same document.
 11 Q Now, do you recall in 2016 --
 12 A Something seems to be missing on these two documents.
 13 Q I'm going to ask you a question about it.
 14 Now do you recall in 2016 after the Audit Committee
 15 meeting where a transaction involving Mr. Skelton was left off
 16 and the members voted electronically subsequent to the meeting
 17 to approve it?
 18 MR. THOMPSON: Leading, your Honor.
 19 THE COURT: Sustained.
 20 Q Do you recall any issue with respect to a transaction
 21 involving Mr. Skelton?
 22 A I really don't. Not off the top of my head.
 23 MR. FLEMING: Well, your Honor --
 24 THE COURT: My question, are any of these the final
 25 minutes.

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1 MR. FLEMING: The one -- the ones that I showed Ms.
 2 Rowling, PX 2586, is the final minutes.
 3 THE COURT: Well, there is no -- this final minutes
 4 that I have seen have a signature on them.
 5 MR. FLEMING: They do not have the signature on
 6 them. That was the unfortunate practice back then, and it
 7 evolved.
 8 THE COURT: We know they are the final minutes how?
 9 MR. FLEMING: From speaking to different people who
 10 are involved in the process.
 11 THE COURT: And who sat next to me with a
 12 microphone?
 13 MR. FLEMING: Yes. Mr. Cotton testified.
 14 THE COURT: No. I mean testified --
 15 MR. FLEMING: Mr. Frazer testified to it.
 16 THE COURT -- that this Document 2586 is the final
 17 minutes.
 18 MR. FLEMING: That these transactions were all
 19 voted on in 2016.
 20 THE COURT: Different questions.
 21 MR. FLEMING: I understand, and that minutes were
 22 taken and Ms. Rowling -- and Mr. Frazer testified that he
 23 created the document, was pretty sure that this was the
 24 final one but understood that Ms. Rowling had been given the
 25 pre-prepared document to edit after the meeting for any

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1 changes. And Ms. Rowling is here today to testify that
2 that's what she did.
3 You can take these down.
4 THE COURT: But has she? I'm not -- I'm asking
5 that.
6 MR. FLEMING: Well, she just answered yes, that
7 these were the final. I could read back the answer, but I
8 could ask you again.
9 THE COURT: Is that right? With all these
10 different documents floating around, you have an independent
11 recollection that this last one was the final? Because I
12 thought what you first started asking about it, she said it
13 was a draft.
14 MR. FLEMING: Right. PX 2586 -- can you please call
15 it back up -- was what I presented to her, and I took her
16 through that. She received from Mr. Frazer a draft, that
17 she edited it. She wasn't, you know, sure this was the
18 final, but when I took her through the transactions, she
19 said yes, this is the final.
20 THE COURT: She said that those were discussed at
21 the meeting. She didn't say that this document -- why don't
22 instead of asking me, you can ask her again because I --
23 maybe I misheard it. I didn't -- I think -- and the
24 testimony that these were discussed at the meeting, that's
25 fine. That's her personal recollection, but we are still at

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1 the question of whether this particular version of a
2 document that you've already sort of shown her a few
3 different of is the final despite it not being signed.
4 Again, you can have -- I guess you can have a final
5 minutes if somebody can testify, and maybe your client is
6 the best one to testify at the end of the day, the secretary
7 of what the final minutes were. But if you want to ask this
8 witness again, it may be that a few questions have gone by,
9 and I have forgotten it.
10 MR. FLEMING: I will ask, and then I'll leave it
11 alone.
12 THE COURT: Okay.
13 Q Can we go -- scroll to the minutes, please, at the end.
14 So Ms. Rowling, I apologize for putting you through
15 this, but I'll again ask you.
16 Were these transactions voted on that's reflected in
17 this document by the Audit Committee in September 2016?
18 A To the best of my recollection, they were.
19 Q Okay. Was the treatment by the Audit Committee as
20 reflected in this document and as expressed in this document?
21 A Yes.
22 Q Okay. And if you can scroll to the second page.
23 I know it's a tough question, but I would ask you to
24 the best of your ability, was this the final version -- final
25 documentation of the Audit Committee's consideration of these

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1 transactions, the final minutes for this meeting in
2 September 2016?
3 A To the best of my recollection, they are.
4 MR. FLEMING: So I would move its admission on this
5 basis, your Honor.
6 MR. THOMPSON: Quite a few objections. I don't
7 know if it would be better to approach but --
8 THE COURT: I have an idea. Again, just going back
9 one more page.
10 Q Go back one more page, please.
11 THE COURT: The document on the top says "language
12 for minutes."
13 Does -- just -- is your recollection that this
14 is -- I mean, that could sound like a draft for this is what
15 we're thinking about for the minutes.
16 Is that not what this is?
17 THE WITNESS: Yeah. I tried to say before that the
18 minutes were -- at the time there weren't two separate sets
19 of records necessarily. And so I think there was a
20 misunderstanding with the secretary's offices that they were
21 completely separate minutes with respect to -- and then the
22 Board -- the Board report. And so generally, the way -- the
23 way we had done them was they were one document, but in this
24 case, specifically we kind of had this second document that
25 kind of acted as the minutes.

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1 THE COURT: Let me ask the question that I actually
2 had and then we can maybe be done with this part and the
3 jury can find out what we are actually talking about.
4 Is this prepared before or after the meeting?
5 THE WITNESS: This was prepared before the meeting
6 to lead the discussion and then used as kind of the
7 discussion document for the minutes. It was kind of both.
8 THE COURT: So is it edited afterwards to reflect
9 what happened at the actual meeting?
10 THE WITNESS: If any changes would have needed to
11 be made, it would have been edited.
12 THE COURT: I will admit it on that ground.
13 Now, it is hearsay, so it's on out-of-court
14 statement. Somebody recorded various things about it. You
15 can take it as at least one version of this witness
16 describing contemporaneous notes of the process, but the
17 underlying facts have to be shown by actual evidence, but
18 this can be evidence that these were discussed based on this
19 witness' eyewitness testimony and that this is a summary
20 prepared contemporaneously. So I got the objections. You
21 don't have to say them again. I understand it, but I think
22 its been adequately explained that this is a post-meeting
23 summary; whereas earlier, I was a little concerned that some
24 of the other versions of it and in fact sound like some
25 things are prepared in advance of the meeting which is not

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1 an accurate summary of what happened, but this witness has
 2 given her testimony.
 3 MR. FLEMING: Okay.
 4 MR. THOMPSON: Just one brief thing for the record
 5 that Ms. Rowling was just shown two different versions of
 6 the quote unquote "final minutes," and so there is no -- our
 7 objection is that there is no evidence that these are the
 8 final minutes.
 9 THE COURT: Well, the jury can make their own
 10 decision about that, I think.
 11 Q If we can publish for the jury, I have a couple of
 12 questions about the document for you.
 13 So Ms. Rowling in September 2016, do you recall that an
 14 annual contract the NRA had with Dave Butz was evaluated by the
 15 Audit Committee?
 16 A Yes.
 17 Q And was it approved as fair, reasonable and in the best
 18 interests of the NRA?
 19 MR. THOMPSON: Hearsay, your Honor.
 20 THE COURT: No. You're asking whether that actually
 21 happened?
 22 MR. FLEMING: I am asking whether in her experience
 23 it actually happened.
 24 THE COURT: From her observation.
 25 MR. FLEMING: From her observations.

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1 THE COURT: Overruled.
 2 Q What's the answer?
 3 A Yes.
 4 Q Okay. Now, in September 2016, did the Audit Committee
 5 address an arrangement with Sandra Froman by which she was paid
 6 by the organization?
 7 A Yes.
 8 Q And did the Audit Committee determine that that
 9 arrangement was fair, reasonable and in the best interests of
 10 the NRA?
 11 A Yes.
 12 THE COURT: This is from your recollection. This
 13 is not in the document.
 14 Q Not from the document. From your own recollection;
 15 right?
 16 And one last question.
 17 Do you recall -- if we can scroll down a little bit --
 18 whether the Audit Committee considered an arrangement with
 19 Marion Hammer that the NRA had with Marion Hammer?
 20 A Yes.
 21 Q And did the Audit Committee determine that that
 22 arrangement was fair, reasonable and in the best interests of
 23 the NRA?
 24 A Yes.
 25 Q Okay. I just have a few more questions for you. You

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1 can take the document down.
 2 You were asked questions about "tone at the top."
 3 Do you recall those?
 4 A Yes.
 5 Q Do you consider Mr. Frazer to be one of the top people
 6 at the NRA?
 7 A Yes.
 8 Q And have you been able to observe his performance in
 9 the years that you've known him?
 10 A Yes.
 11 Q Now, based on those observations, do you believe that
 12 he sets a good tone at the top?
 13 A Absolutely.
 14 (Continued on the following page.)
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 23
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 25

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S. Rowling - by Defendant - Cross/Mr. Thompson

1 Q Now, I think you testified that he gives the compliance
 2 training seminars; is that right?
 3 A Yes.
 4 Q Have you received any feedback about whether those
 5 compliance training seminars are effective?
 6 A Um, yes, actually, yes.
 7 Q Is there any sort of specifics you can tell us about
 8 what that feedback has been?
 9 A I've gotten -- I actually get questions a lot more
 10 questions now from people based on those seminars of what's
 11 appropriate or what's not, including from board members.
 12 They'll call me directly.
 13 Q Do you feel like people are emboldened by what they
 14 hear in the seminars to raise questions that maybe before they
 15 wouldn't have?
 16 A Yes.
 17 MR. FLEMING: I have nothing further, thank you.
 18 THE COURT: Any other questions on the defense
 19 side?
 20 MS. COUTU: No direct, your Honor.
 21 THE COURT: Okay. The State can cross.
 22 CROSS-EXAMINATION
 23 BY MR. THOMPSON:
 24 Q Good morning, Ms. Rowling.
 25 MR. THOMPSON: Can you hear me all right?

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S. Rowling - by Defendant - Cross/Mr. Thompson Page 3551

1 THE COURT: Yes.

2 Q Ms. Rowling, you were asked some questions yesterday

3 about COSO. Do you recall that?

4 A Yes.

5 Q As of your deposition in July of 2022, COSO was not

6 memorialized in any of the NRA's policies or written documents;

7 correct?

8 A Um, not memorialized, no.

9 Q And prior to July of 2022, you had taken one continuing

10 education class on COSO; is that correct?

11 A As far as I can recall. I've been a CPA since 1994, so

12 it is a long time.

13 Q Right, so you can only recall the one class?

14 A One recently, very recently.

15 Q And, Ms. Rowling, you have no experience conducting

16 internal controls audits; is that correct?

17 A That's correct.

18 Q And you testified about tone at the top yesterday and a

19 little bit this morning.

20 Do you recall that?

21 A Yes.

22 Q And you testified that the tone at the top changed when

23 Mr. Spray became the treasurer and CFO or that was one example

24 of when the tone changed; is that right?

25 A I testified that he was -- I didn't say he was -- the

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3553

1 Q And during your testimony yesterday you mentioned an

2 amendment to the NRA's travel policy.

3 Do you remember that?

4 A Yes.

5 Q And that amendment occurred in 2021, correct?

6 A That's correct.

7 Q So, that was a year after the complaint when this

8 action was filed?

9 A Yes.

10 Q And you mentioned changes to the NRA's credit card

11 program.

12 Do you recall that?

13 A Yes.

14 Q The NRA had Am Ex cards for a number of employees until

15 the bankruptcy in 2021 cut them off, correct?

16 A Yes.

17 Q And Mr. Mensinger was hired by the NRA in September of

18 2023, right?

19 A Correct.

20 MR. THOMPSON: If we could please, if you could

21 turn to Tab 12 of your binder. Please bring up DX1-0837,

22 which is already admitted.

23 (Displayed)

24 Q Ms. Rowling, this is the memorandum that you prepared

25 in November and December of last year; right?

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3552

1 tone changed at that point, no. I said that he was part of a

2 change in the tone at the top.

3 Q Right. And Mr. Spray was fired in 2021, right?

4 A No.

5 Q Mr. Spray was told that the NRA was going in a

6 different direction in 2021; correct?

7 MS. EISENBERG: Your Honor, objection.

8 THE COURT: Overruled.

9 A To my understanding, Mr. Spray left for medical

10 reasons.

11 Q Your understanding is that Mr. Spray left for medical

12 reasons?

13 A Yes.

14 Q Mr. Arulanandam has been at the NRA for over

15 twenty years; is that correct?

16 A Yes.

17 Q And you've been at that time NRA for over twenty years;

18 is that correct?

19 A Yes.

20 Q And Mr. Coy and Mr. Cotton each have been at the NRA

21 for over twenty years; is that correct?

22 A Yes.

23 Q And Mr. Frazer has been at the NRA for almost

24 twenty years; is that right?

25 A I guess, approximately.

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3554

1 A Yes.

2 Q That was about a month before the trial started;

3 right?

4 A Correct.

5 Q And I believe you testified -- oh, first, you are the

6 first NRA employee other than Mr. LaPierre to review the excess

7 benefits disclosed in the 2019 990; is that correct?

8 A Yes.

9 Q And that's the 990 that Mr. Spray did not sign,

10 correct?

11 A Yes.

12 Q And that Mr. LaPierre did sign?

13 A Yes.

14 Q And are you testified yesterday that you prepared this

15 memorandum DX1-0837 in the ordinary course of the NRA's

16 business; correct?

17 A Yes.

18 Q And so it is the NRA's ordinary course of business to

19 review disclosures in 990 filings three years after the fact?

20 MS. EISENBERG: Mischaracterizes the testimony.

21 THE COURT: Overruled.

22 A Sorry, can you repeat that question?

23 Q Sure. It is the ordinary course of the NRA's business

24 to review disclosures in its Form 990s three years after the

25 fact?

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S. Rowling - by Defendant - Cross/Mr. Thompson Page 3555

1 A No.

2 Q Now, this says that it was dated November 28th and then

3 updated December 4th, right?

4 A Yes.

5 Q Did the update occur after you reviewed this with

6 litigation counsel, Ms. Eisenberg, for clarity?

7 A No, that wasn't what the substance of the update was.

8 Q When did the review with Ms. Eisenberg for clarity

9 occur?

10 A It occurred around the same time period, but I can't

11 recall what I changed subsequently to that. There was

12 something -- I can't recall what, what I subsequently changed

13 about it; but I had made a substantive change, and then I

14 reviewed it with counsel.

15 Q Okay. And it is the ordinary course of the NRA's

16 business to review memoranda for clarity with litigation

17 counsel?

18 A It is not unheard of.

19 Q Did you do that with the memorandum regarding

20 Mr. LaPierre's expense reports?

21 A I don't recall.

22 Q And then if -- and so just to situate this in time, so

23 this memorandum is dated November 28, 2023, and then updated

24 December 4, 2023. That's three years after the complaint was

25 filed in this action, right?

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3556

1 A Correct.

2 Q And three years after Mr. LaPierre's excess benefits

3 were first disclosed on Form 990; right?

4 A Yes.

5 Q And one month before this trial started, right?

6 A Yes.

7 Q Okay. And if we could please go to Tab 13 of your

8 binder, which is DX1-0835, which is already admitted.

9 So, I just want to clarify or make sure that I

10 understand, Ms. Rowling, the sort of normal checkmark means that

11 you tied it, a flight to a CAA invoice; is that correct?

12 A Yes.

13 Q And then the check with the slash through it means that

14 you tied it to an expense report submitted by Mr. LaPierre, is

15 that correct?

16 A Not the -- you've got to be clear that it was the trip

17 itself was tied. Not the flight, but the trip was tied to an

18 expense report.

19 Q So, ancillary expenses to the trip?

20 A Correct.

21 Q Okay. If we could please go to page 4 of the document.

22 MR. THOMPSON: And, Jesse, if you could please bow

23 up rows 2 and 3.

24 (Displayed)

25 Thank you.

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3557

1 Q So, looking at row 2, so the checkmark there means that

2 you tied this to a CAA invoice; correct?

3 A Yes.

4 Q And I believe you testified that you did not determine

5 whether or not this trip was for an appropriate business

6 purpose, correct?

7 A That's correct.

8 Q Okay. So, if we look in the column with the locations

9 or the destinations where it says "Washington DC, Colorado

10 Springs, Colorado, Grand Island, Nebraska, Washington DC;" do

11 you see that?

12 A Yes.

13 Q So, this trip included a leg to Grand Island, Nebraska;

14 right?

15 A Yes.

16 Q And you do not know what the business purpose of

17 Mr. LaPierre, Ms. Sterner and Ms. LaPierre flying to Grand

18 Island, Nebraska, was; correct?

19 A I do not.

20 Q Okay. And so you don't know whether or not this was an

21 appropriate business expense for the NRA, correct?

22 A I have to take Mr. LaPierre's word for that.

23 Q You have to take Mr. LaPierre's word for it, right?

24 A That's correct.

25 Q And this is the same Mr. LaPierre who has to date to

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3558

1 reimburse the NRA for about a million dollars for inappropriate

2 expenses?

3 MR. CORRELL: Objection to the characterization,

4 your Honor.

5 THE COURT: Sustained.

6 Q This is the same Mr. LaPierre who has to date

7 reimbursed the NRA about a million dollars?

8 A That's correct.

9 Q And are there still ongoing reviews of Mr. LaPierre's

10 excess benefits?

11 A Not at the moment.

12 Q Not at the moment. So, as of the date of the trial, no

13 more excess benefits being reviewed; is that right?

14 MR. CORRELL: Objection, mischaracterizes the

15 testimony.

16 THE COURT: Overruled. You can answer.

17 A If any documentation is discovered or found that has

18 any sort of inappropriate expense by Mr. LaPierre, we would

19 absolutely be following up on it. Documents have been -- have

20 been researched and searched for. I mean, a lot of this stuff

21 is really old. It is hard to find.

22 But, if we find them, we will absolutely be seeking

23 reimbursement, plus interest.

24 Q So, for example, trips to Grand Island, Nebraska, where

25 there's no clear business purpose, for example?

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3559

1 MR. CORRELL: Objection, your Honor. This assumes
2 facts not in evidence as to whether or not there was a
3 business purpose.
4 THE COURT: Overruled.
5 A Again, we would have to -- you can't make a
6 determination off the fly without having any sort of support or
7 backup associated with a trip.
8 Q Which you don't for this trip, right?
9 A I don't personally sitting here today have any backup
10 to that.
11 Q Did you have access to the backup for it?
12 A I had discussions. We've had conversations. We have
13 expense reports potentially. This is not one that I went back
14 and looked at.
15 But, but testing of transactions proved that expense
16 reports were there as backup so --
17 Q Except for this one?
18 A I didn't look at 2015.
19 Q You didn't look at 2015?
20 A Not expense reports. When I tested -- audit or a test
21 does not look at every single document. I tested a process.
22 The process showed consistent and accurate reporting.
23 Q But your testing here was just that this flight was
24 paid for, right, effectively?
25 A Correct.

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1 Q Okay. And with respect to the flights where you did
2 look at ancillary business or expense reimbursement requests,
3 you're taking Mr. LaPierre's word for it; right?
4 MS. EISENBERG: Objection, unclear.
5 THE COURT: Overruled.
6 A There has to be some level of that, yes.
7 Q Okay. And the flights -- well, first of all, you
8 testified that Mr. LaPierre provided you with this chart; is
9 that correct?
10 A Yes.
11 Q And do you know who created the chart?
12 A I'm not a hundred percent sure who created the chart.
13 Q Do you know what the source of the information in this
14 chart is?
15 A The CAA documents.
16 Q And the chart -- this chart, the flights in it only
17 went back to 2015; correct?
18 A On this one.
19 Q And so you have not reviewed the flights that
20 Mr. LaPierre took in 2014; have you?
21 A I believe some of those were reviewed in subsequent
22 testing.
23 Q In subsequent testing?
24 A After this -- in the testing done -- not in this
25 document. There were four or five attachments.

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1 Q And let's look at one of the other attachments. Well,
2 first of all, did Mr. LaPierre provide you with all of the
3 attachments to your memorandum?
4 A Well, no there are pieces to these attachments that are
5 the 990s, so, no.
6 Q With respect to the charts, themselves, and excluding
7 the cover page and the 990s?
8 A He did not provide us with the leased vehicle
9 calculations.
10 Q Any of the other attachments that Mr. LaPierre did not
11 provide you with?
12 A Not that I'm aware of.
13 Q And so if you could please go to Tab 17 of your binder.
14 MR. THOMPSON: So, this is DX1-0836. Specifically,
15 the second page and if we can rotate it please, Jesse.
16 Thank you. You're ahead of me.
17 Q So, this is another one of the charts that Mr. LaPierre
18 provided to you, is that correct?
19 A Yes.
20 Q And then at the very top where it says "BNN," that
21 reads "BNN recreation of chart prepared by Lisa Correll."
22 Do you see that?
23 A Yes.
24 Q Do you know what BNN means?
25 A No.

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1 Q So, Lisa Correll, that's Mr. Correll's paralegal; is
2 that correct?
3 A Yes.
4 Q So, this chart was to the best of your knowledge
5 created by Mr. LaPierre's counsel?
6 MR. CORRELL: Objection, your Honor. Paralegal is
7 not counsel.
8 MR. THOMPSON: I'll rephrase, your Honor.
9 Q This chart was created by somebody in Mr. Correll's
10 office?
11 A It appears to be the case.
12 Q Okay. All right, so if we could please bring up this
13 Tab 18 of your binder, Ms. Rowling. DX1-0855.
14 This is the memorandum that you prepared concerning
15 Mr. Schropp's out-of-pocket expenses; correct?
16 A Yes.
17 Q And you learned that Mr. Schropp was -- had expensed
18 things through Ackerman McQueen during your deposition in 2022,
19 is that correct?
20 A No, I thought I had said I heard about it during --
21 during this case at some point when I read about it in the
22 paper.
23 Q Now, you had testified a little bit about what an
24 accountable plan is; right?
25 A Yes.

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1 Q And so if I'm remembering correctly -- and please
 2 correct me if I'm wrong -- the process here was that you looked
 3 at the Am Ex statements with Mr. Schropp's expenses, is that
 4 right?
 5 A Yes.
 6 Q And then Mr. Schropp recreated the expense reports for
 7 those expenses, is that right?
 8 A Yes.
 9 Q So, he didn't timely submit expense reports for
 10 anything on his Am Ex, is that correct?
 11 A He submitted this information to Ackerman at the
 12 time -- these all were run through Ackerman McQueen. I would
 13 never have had them.
 14 So, the expenses were incurred and already paid. I was
 15 doing this to seek reimbursement. He was just providing me
 16 backup for my calculations on reimbursement back to the NRA for
 17 things that might have been inappropriate.
 18 Q The total amount that Mr. Schropp spent on the Am Ex
 19 card just between 2016 and 2018 was about \$241,000; right?
 20 A Correct.
 21 Q Is Mr. Schropp being asked to repay the full \$241,000
 22 to the NRA?
 23 A No.
 24 Q And that's even though his expenses did not follow the
 25 NRA's accountable plan?

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1 A These -- that is correct.
 2 Q And if you could turn to the attachment to this
 3 memorandum, which is the next tab, Tab 19, and this is DX1-0856.
 4 So, can you describe again, please, Ms. Rowling, what
 5 the difference is between Attachment A and Attachment B to this
 6 memorandum?
 7 A Attachment A is the -- each line item in the Am Ex
 8 directly off the Am Ex statement.
 9 Q Okay, and then what is Attachment B?
 10 A Each line or expense report off of -- from the expense
 11 reports.
 12 Q Okay. Does Attachment B contain the business purpose
 13 for the charge?
 14 A No.
 15 Q Where would I find the business purpose for each of
 16 these expenses in Attachment A and Attachment B?
 17 A On the expense reports that he created.
 18 Q And those expense reports haven't been produced in
 19 discovery; have they?
 20 A I wouldn't know the answer to that.
 21 Q Okay. So, looking at just the front page of Attachment
 22 A, the first four charges there are for several stays at the
 23 Beverly Hills Hotel for more than \$4,000; right?
 24 A Yes.
 25 Q What was the business purpose for those trips to the

S. Rowling - by Defendant - Cross/Mr. Thompson Page 3565

1 Beverly Hills Hotel?
 2 A I can't recall off the top of my head what all of these
 3 would be, so...
 4 Q I'm sorry?
 5 A It is impossible to do that at this point.
 6 Q And it is impossible to do that without looking at the
 7 expense reports that Mr. Schropp created that have not been
 8 produced in discovery, right?
 9 A Again, I don't know if they have been produced in
 10 discovery.
 11 Q Okay, and I'll represent to you, Ms. Rowling, that in
 12 Attachment A, there are approximately 55 references to Landini
 13 Brothers.
 14 Do you know what the business purpose for each of those
 15 meals at Landini Brothers was?
 16 A No.
 17 Q All right, and has Mr. Schropp repaid the NRA yet for
 18 anything?
 19 A No.
 20 Q If you could please turn to Tab 26 in your binder,
 21 which is DX1-0243, which is in evidence.
 22 This is the sign-in sheet for the two 2018 compliance
 23 seminars; correct?
 24 A Did you say two?
 25 Q I believe there's a 7/26 and then an 8/28 compliance

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1 training on the second page; is that correct?
 2 A Oh, yes.
 3 Q Mr. LaPierre did not attend this training; did he?
 4 A I don't recall if he did.
 5 Q He doesn't appear on the sign-in sheet; right?
 6 A That's correct.
 7 Q Neither does Mr. Arulanandam; right?
 8 A I have to quickly look through, but doesn't appear to
 9 be.
 10 Q Okay, and if you could go to Tab 28 of your binder,
 11 please, which is DX1-0242, also already in evidence.
 12 So, this is the sign-in sheet for the February 2019
 13 training; correct?
 14 A Yes.
 15 Q And, again, Mr. LaPierre's signature or sign-in does
 16 not appear anywhere on this, correct?
 17 A No.
 18 Q Neither does Mr. Arulanandam?
 19 A No.
 20 Q And, Tab 32 also admitted, this is the sign-in sheet
 21 for December 16, 2021; correct?
 22 A Yes.
 23 Q Mr. LaPierre did attend this one, right?
 24 A This one is really hard to read.
 25 Q Oh, yes, I'm sorry. So, we'll -- I think we can

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1 highlight it on the screen.
 2 MR. THOMPSON: It is 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
 3 11, 12 -- 13 from the bottom, Jesse.
 4 (Displayed)
 5 A Yes, I see it.
 6 Q And so this was the first training that Mr. LaPierre
 7 attended; right?
 8 A This just says it is the first one that he's signed in.
 9 Q All right, so three years after the compliance
 10 trainings began; right?
 11 A That is the date of this seminar.
 12 Q Okay. And the same thing for Mr. Arulanandam, right,
 13 this is the first one he attended?
 14 A Did we establish his name was on this?
 15 Q Okay, we can move on. That's fine.
 16 So quickly, if you could please go back to Tab 27,
 17 which is Plaintiff's Exhibit 2567 already in evidence.
 18 When did the trainings become mandatory, Ms. Rowling?
 19 A I don't recall the exact timeframe.
 20 Q Was it approximately 2022 to the best of your
 21 knowledge?
 22 A That probably sounds right.
 23 Q Okay. And then if you could please go to page 15 of
 24 the deck, the slide deck and directing your attention to the
 25 little sub-bullet that reads, includes "free" use of boats,

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1 planes, vacation houses, sporting events or other items or part
 2 of a social activity."
 3 Do you see that?
 4 A Yes.
 5 Q And that's a type of gift that needs to be reported, is
 6 that correct?
 7 A Yes.
 8 Q Do you think it would have been useful for Mr. LaPierre
 9 to attend this training in 2018?
 10 A Yes.
 11 Q And then you spoke a little bit yesterday about the
 12 compliance week training that happened, right?
 13 A Yes.
 14 Q That was in November of last year, right?
 15 A Yes.
 16 MR. THOMPSON: Pass the witness, your Honor.
 17 THE COURT: Okay. Anything further? Let me just
 18 see if there's anymore cross first.
 19 MS. COUTU: No cross either, your Honor.
 20 THE COURT: Redirect.
 21 REDIRECT-EXAMINATION
 22 BY MS. EISENBERG:
 23 Q Ms. Rowling, you've been asked about the timing of some
 24 of the work that you've done.
 25 Please tell us what types of responsibilities you have

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1 as the chief financial officer and treasurer?
 2 A Well, obviously, I'm in charge of all of the financial
 3 aspects of the organization and as well as the entire I.S.
 4 Department.
 5 So, I have a lot of job responsibilities that require
 6 my day-to-day work.
 7 Q And remind us the breadth of the operations of the NRA?
 8 A The NRA is a 200 to 300 million dollar organization
 9 with a hundred different divisions that have activities going
 10 on, ongoing at all times.
 11 Q Mr. Thompson questions suggested that he is questioning
 12 the general commitment of the NRA to getting compliance right.
 13 What is your reaction to that accusation?
 14 A Well, I find it kind of appalling, actually.
 15 This -- this effort has been consistent and ongoing
 16 since 2018 really, and there's been a concerted effort to get,
 17 you know, what you might call the titanic turned around and that
 18 takes time; but it has been a consistent effort for years to do
 19 that.
 20 Q Let's talk a little bit about COSO. He asked whether
 21 it was memorialized. Is COSO something that you actually have
 22 to memorialize?
 23 A No.
 24 Q Why not?
 25 A Well, it is a -- I mean, it's kind of a framework of --

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1 of compliance and internal controls. So, while we have internal
 2 controls memorialized, procedures memorialized, it wasn't
 3 memorialized in a -- in that specific COSO framework.
 4 Q Let's talk a little bit about the internal audit piece.
 5 You testified that you don't have any experience conducting
 6 internal audits.
 7 Tell us what you do have experience doing?
 8 A Oh, I was an auditor for seven years, five of which
 9 audited non-profits. So, while I don't have internal specific
 10 audit experience, I do have audit experience, auditing
 11 non-profits.
 12 Q Does the NRA now have an internal auditor as well?
 13 A Yes.
 14 Q To the extent Mr. Thompson's questions suggested that
 15 policies were amended only because of this litigation, what is
 16 your reaction to that accusation?
 17 MR. THOMPSON: Objection, leading.
 18 THE COURT: Overruled.
 19 A Policies and procedures have been amended for various
 20 reasons throughout the history of the organization. The travel
 21 policy, specifically, was amended because it lacked clarity in
 22 several areas.
 23 We took that as an opportunity to add clarity, and this
 24 happens all the time in an organization.
 25 Q Mr. Thompson asked you a few questions about the review

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1 of Mr. LaPierre's repayment and he pointed out that the first
 2 repayment had occurred all the way back in 2020. Do you recall
 3 that?
 4 A Yes.
 5 Q And was there anything wrong with Mr. LaPierre making
 6 the repayment before you had an opportunity to review it?
 7 MR. THOMPSON: Objection, leading.
 8 THE COURT: Overruled.
 9 A No.
 10 Q You mentioned that other attachments to the memo which
 11 is in Tab 12 refer to flights that occurred before 2015.
 12 Can you please take a look at Tabs 13 through 17 and
 13 identify the exhibit number that discusses earlier flights.
 14 A There were earlier flights in Attachment B.
 15 MR. EISENBERG: Okay, let's take a look at that.
 16 Mr. Stein, can you please display for the jury
 17 DX1-0834.
 18 (Displayed)
 19 Q And, Ms. Rowling, where in the exhibit are you looking?
 20 A Page 5.
 21 MS. EISENBERG: Mr. Stein, let's go to page 5.
 22 (Continued on next page)
 23
 24
 25

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1 Q We now have it on the screen. What are the dates of
 2 some of the reimbursed flights?
 3 A 2013 and 2014.
 4 Q Isn't it fair -- let me ask more generally.
 5 Some of the repayments relate to expenses that had been
 6 incurred a while ago. Would that be fair?
 7 A Yes.
 8 Q What is the earliest date for which repayments
 9 occurred?
 10 A 2020. I'm sorry. 2000.
 11 Q And that relates to purchases of certain wardrobe items
 12 for television appearances. Is that your understanding?
 13 A Yes.
 14 Q Mr. Thompson discussed with you that Mr. Schropp hasn't
 15 yet repaid the amount that you identified as requiring
 16 repayment.
 17 And what is your understanding as to whether or not he
 18 will be required to pay interest once he makes the repayment?
 19 A Mr. Schropp is very aware that every day he doesn't
 20 make payment, that interest is being accrued.
 21 I am actually meeting with him tomorrow when I get
 22 back.
 23 Q And will it be compounded just like it was for Mr.
 24 LaPierre?
 25 A Yes.

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1 Q Today does the NRA follow the accountable plan?
 2 A Yes.
 3 Q To the extent there were certain expenses incurred by
 4 Mr. Schropp using the Ackerman Amex, is it fair to say that the
 5 ones that the NRA is not demanding that he reimburse, he in fact
 6 represented that they were for business purpose?
 7 MR. THOMPSON: Objection. It's leading and
 8 hearsay.
 9 THE COURT: Sustained on leading.
 10 Q You testified that there were certain expenses that he
 11 incurred using the Amex that he doesn't have to reimburse.
 12 Why is that?
 13 A He -- Mr. Schropp had submitted expense reports to us
 14 that indicated a business purpose.
 15 Q What is his position at the NRA?
 16 A He is the Director of Advancement.
 17 Q So what does he do?
 18 A He fundraises.
 19 Q And in fundraising for the NRA, is he frequently
 20 required to travel for work?
 21 A Yes.
 22 Q Did you present your findings concerning repayments by
 23 Mr. LaPierre to the Audit Committee?
 24 MR. THOMPSON: Objection on the same Audit
 25 Committee issue. No discovery into the Audit Committee

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1 meeting.
 2 THE COURT: I think you can ask whether she
 3 presented. It's fine.
 4 MS. EISENBERG: Thank you, your Honor.
 5 THE COURT: Nothing about -- at this point nothing
 6 about the meeting.
 7 A Yes, I did.
 8 Q What were your findings?
 9 A Is this on or about Mr. Schropp or Mr. LaPierre?
 10 Q Mr. LaPierre. And in answering the question before I
 11 was talking about Mr. LaPierre. Did you present your findings
 12 regarding Mr. LaPierre's repayments to the Audit Committee?
 13 When you said yes, were you answering that question?
 14 A Yes.
 15 Q What were your findings with regard to Mr. LaPierre's
 16 repayments?
 17 MR. THOMPSON: Objection. No discovery into this
 18 Audit Committee meeting.
 19 THE COURT: You're asking about her conclusions;
 20 right?
 21 MS. EISENBERG: Yes, your Honor.
 22 THE COURT: Overruled.
 23 A My findings were I believe we actually talked about
 24 them yesterday as well that, you know, Mr. LaPierre had put
 25 forth a -- a valiant effort in trying to find all of his

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1 expenses and document any that were -- were considered personal
 2 in nature, and he made payments back to the NRA plus interest.
 3 MS. EISENBERG: No further questions.
 4 THE COURT: Anything further from the defense?
 5 MR. CORRELL: Just a little bit, your Honor.
 6 RECROSS EXAMINATION
 7 BY MR. CORRELL:
 8 Q Just quickly, Ms. Rowling. You were asked about an
 9 entry on a chart that showed travel to Colorado Springs.
 10 Do you remember that?
 11 A Yes.
 12 Q Does the NRA conduct any activities in or around
 13 Colorado Springs with respect to Olympic shooting?
 14 A Yes. They have events kind of all over the place, but
 15 Colorado Springs is one.
 16 Q Does the NRA provide any support to the Olympic
 17 shooting team?
 18 A Yes, we do.
 19 Q Is Mr. LaPierre to your knowledge involved in any of
 20 the communications with the U.S. Olympic committee about
 21 supporting the team?
 22 A I am unaware of that.
 23 Q Do you know what "WLF" means?
 24 A Yes.
 25 Q What does that mean?

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1 MR. CORRELL: Thank you, Ms. Rowling.
 2 THE WITNESS: Sure.
 3 THE COURT: Anything further?
 4 MR. FLEMING: Nothing from me.
 5 THE COURT: Anything from the State?
 6 MR. THOMPSON: No, your Honor.
 7 THE COURT: All right. Thank you. You're free to
 8 step down. We are going to take our morning break before
 9 the next witness.
 10 THE COURT OFFICER: All rise. Jury exiting.
 11 (Whereupon, at this time the jury exits
 12 the courtroom.)
 13 THE COURT: Just two small things before we break.
 14 Well, three small things, I guess.
 15 One, on the demonstratives, look, I do agree the
 16 law is generally that you don't give demonstratives to the
 17 deliberation room.
 18 I think in my prior trial experience that I was
 19 referencing, it was typically by consent that both sides
 20 thought it made sense for them to have it. I think nudged
 21 along by my staff doing some research in the background and
 22 sending them to me, in the absence of consent, I think I am
 23 unlikely to put anything back there or typically I would
 24 wait for them to ask for exhibits rather than just sending
 25 all however many hundreds of exhibits there are.

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1 A Women's Leadership Forum.
 2 Q Did Mrs. LaPierre -- Susan LaPierre have any
 3 involvement to your knowledge with the Women's Leadership Forum?
 4 A Yes.
 5 Q Did Colleen Sterner have any involvement with the
 6 Women's Leadership Forum?
 7 A Yes.
 8 Q Do you have any view whether the Women's Leadership
 9 Forum was an important part of the work that the NRA was doing
 10 with women in this country?
 11 A Yes.
 12 Q And what's your view?
 13 A Well, my view is that, you know, women are generally
 14 unrepresented in this -- within the NRA, so it was a prime
 15 opportunity to bring more women into the organization, and
 16 that's what this group was doing as well as bringing in
 17 fundraising dollars associated with that.
 18 Q And do you have any view as to whether it was in the
 19 interest of the NRA for Mr. LaPierre -- Susan LaPierre and
 20 Colleen Sterner to be working with the Women's Leadership Forum
 21 to try to pursue that mission?
 22 MR. THOMPSON: Objection. Leading.
 23 THE COURT: Overruled.
 24 A It definitely has -- it's a good effort for our
 25 organization.

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1 I think I described to them the general principles
 2 that they are not entitled to them, so I'll just leave it
 3 where it is.
 4 The second thing, and this -- I wasn't going to ask
 5 this in front of the jury, but it's just for my instructions
 6 purposes, the document that Mr. Fleming and I tussled over
 7 for a little bit, is it the position of the defense that
 8 those 2016 or the 2016 meeting constituted approvals of
 9 those related-party transactions prior to the transactions
 10 taking place or were they just an earlier ratification?
 11 MR. FLEMING: Your Honor, as we talked about in
 12 2016, the conflict-of-interest policy was adopted by the
 13 NRA. Before that, it did not have a procedure to do that,
 14 and the revitalization law imposed that new obligation. And
 15 so in 2016 was the first time that in compliance with the
 16 revitalization law, the NRA had an opportunity to deal with
 17 these legacy arrangements, so they were both a ratification
 18 in the first instance. But since a lot of these were
 19 continuing, they were approvals going forward.
 20 THE COURT: And what's the effective date of the
 21 N-PCL?
 22 MR. FLEMING: I believe --
 23 MS. STERN: July 1, 2014.
 24 THE COURT: Regardless of what the internal
 25 policies, the law required pre-approval, so these would in

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1 any event be ratifications.
 2 In my proposed instructions, I -- and again, I'll
 3 hear from you on Friday that at least as far as I'm aware,
 4 there is no dispute that as to the specific related-party
 5 transactions that I assume are going to be listed in the
 6 verdict form. None of them had compliant prior approval,
 7 but they are all going to be defended on the ground that
 8 they were ratified. Correct?
 9 MR. FLEMING: That's correct, but there is one
 10 little wrinkle with that.
 11 Your Honor, you may recall at one of the pretrial
 12 meetings, you had talked about if there are legacy
 13 transactions or contracts or agreements that were entered
 14 into before the law changed, that you would entertain a
 15 directed verdict on those. And so these three that I talked
 16 about today fall into that category.
 17 THE COURT: I think I have told you my general view
 18 is there is probably a three-year Statute of Limitations on
 19 related-party transaction claims because they are a creature
 20 of statute, but you know, we will see if you have any that
 21 you think are prior to the statute changing.
 22 But anyway -- but the point remains, to the extent
 23 that it is covered by the statute and it is part of the
 24 case, none -- none of these anyway were approved in advance.
 25 I'm not suggesting that means they are unlawful. I'm

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1 just -- I try to in the draft instructions and the ones that
 2 will ultimately come out try to make it clear to the jury
 3 what's disputed and what's not.
 4 MR. FLEMING: I understand totally.
 5 So Mr. Hines addressed four related-party
 6 transactions. Three of them were what we addressed today,
 7 and there is one other that was entered into in 2017 which
 8 was also ratified.
 9 THE COURT: Right. The only point of that whole
 10 2016 thing is it provides a somewhat earlier date for the
 11 ratification. It doesn't provide a preapproval.
 12 MR. FLEMING: Right.
 13 THE COURT: Okay. And it doesn't have the other
 14 things that the statute requires in a ratification. There
 15 is a list of things that have to be in a ratification for it
 16 to be effective. We will talk about that all later.
 17 The other -- you mentioned about the time. You
 18 know, I do -- I am thinking about it. And so what is the
 19 current state?
 20 MS. EISENBERG: As of the beginning of today by our
 21 calculation, the NYAG had only three and a half hours left
 22 which would be including their closing argument. So to the
 23 extent Mr. Thompson has used 20 to 30 minutes at this point,
 24 we think they are at about three hours to include their
 25 closing arguments. So if they use an hour and a half for

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1 the rest of the day, they would only be left with an hour
 2 and a half for their closing.
 3 THE COURT: Yeah. I did have a sense of sand going
 4 out of an hourglass a little bit. But you know, they can do
 5 the math too. So I was -- it's going to have to get awful
 6 efficient to be able to reserve time for closing arguments.
 7 MR. WERBNER: Yesterday you asked the individual
 8 defendants if we were kind of getting squeezed out of time
 9 or something to be sure we had adequate time and do it
 10 before it's too late.
 11 On behalf of Mr. Phillips, we need an hour for
 12 closing argument. I don't think we are going to be using
 13 any minutes -- very few minutes prior to that, but we would
 14 like to be sure that we have that hour for closing.
 15 THE COURT: Well, I mean, if you're really going to
 16 be very short in terms of other time, you certainly -- you
 17 are certainly entitled to at least that. But if you want to
 18 put any evidence in, I think that would be fine. I'm
 19 hopeful, you know, this time we will have, to get all the
 20 closings in in one day. That should be still doable even
 21 with you taking -- I think taking an hour because we --
 22 well, especially if you use far less of the other time.
 23 MR. WERBNER: That's right. While we are on the
 24 subject of the closing, Mr. Farber and I wanted to split our
 25 hour closing, one of us handling liability and one on

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1 damages.
 2 Is that okay with the Court?
 3 THE COURT: That's fine.
 4 MR. WERBNER: Thank you.
 5 MS. CONNELL: I'm so sorry, but there is an
 6 objection to the upcoming expert. I don't want to do this
 7 in front of the jury. It's very brief.
 8 THE COURT: Okay.
 9 MS. CONNELL: If I can share with your Honor the
 10 demonstratives. This is for Mr. Lerner.
 11 Your Honor, Mr. Lerner is an expert -- an NRA
 12 expert. He proffered expert -- he offered expert opinions
 13 in September and October of 2022. His primary opinions were
 14 as of -- about the control environment and the effectiveness
 15 of the internal controls in the NRA as of a snapshot of
 16 December 31, 2020. That's the primary focus of his
 17 opinions. But if you turn to Page 12 or slide 12, he is
 18 offering evidence of 2023 and continued compliance
 19 improvements.
 20 Your Honor, this is inappropriate discovery. This
 21 is not in his report. This should not be permitted.
 22 THE COURT: Was any supplemental expert report
 23 filed to give notice of new opinions?
 24 MS. EISENBERG: Your Honor, no, but I believe that
 25 Mr. Hines and Mr. Tenenbaum have also given testimony

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1 through the present.

2 MS. CONNELL: No, your Honor. They did not testify

3 to a single thing that was not in the reports. In fact, we

4 were careful about that, and had they, it should have been

5 objected to. This is clearly outside the scope of his

6 reports and shouldn't be permitted.

7 THE COURT: Look, I mean, I think, you know, this

8 is the kind of thing that should have been in a supplemental

9 report if you were going to try to bring this up to date.

10 I mean, you have already put in mountains of

11 evidence about new things, so I don't think in the absence

12 of a supplemental report, you can go beyond his -- what he's

13 disclosed as his opinions.

14 MS. EISENBERG: Thank you, your Honor.

15 MR. FARBER: I have an additional objection. So

16 Page 14.

17 THE COURT: Was that the end of yours?

18 MS. CONNELL: We also object to some of his

19 exhibits if they are going to seek admission, but I think we

20 will see if they are going to seek admission.

21 MR. FARBER: Page 14 references "evidence." It's

22 not before the jury, and I don't think that's --

23 THE COURT: What specifically?

24 MR. FARBER: Well, if you look at the box on the

25 right, you know, "Deposition and Bankruptcy Court

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1 Testimony."

2 THE COURT: That's referencing -- well, at the

3 moment, it's just saying these are things he looked at.

4 That's partly of the thoroughness of his preparation.

5 You're objecting to --

6 MR. FARBER: Okay, Judge.

7 THE COURT: -- the fact that these exist?

8 It would be inaccurate for him to say he didn't

9 look at it; right?

10 MR. FARBER: Well, I just don't think that there

11 ought to be opinions offered on the basis of things that are

12 not in evidence. And to the extent that's what this and the

13 next slide are --

14 THE COURT: Well, if what you're saying is he is

15 going to in his -- is the plan in his opinion in his

16 testimony to specifically rely on this kind of stuff that's

17 not been admitted?

18 MS. EISENBERG: Your Honor, it's merely to like you

19 said impress upon the jury that his review was thorough.

20 THE COURT: Right. So we are not going to hear a

21 question that says, well, the basis for this opinion is

22 something in the bankruptcy court testimony.

23 MS. EISENBERG: Correct.

24 THE COURT: I think just listing it is not a problem

25 to me. I think -- and it is also true just parenthetically

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1 that experts are permitted to rely in some circumstances on

2 evidence that would otherwise be inadmissible for other

3 reasons, but you have to be careful that's going on that

4 those inadmissible -- that inadmissible evidence doesn't

5 sort of dribble in and become sort of confusing to the jury.

6 So I'll be alert if he starts getting into -- I don't see

7 how we will get to that point, and I would certainly caution

8 counsel to avoid it, that he can not be the vehicle to

9 introduce inadmissible evidence just freestanding, but I

10 don't think that him listing what he actually looked at is

11 inappropriate, even if some of the stuff was inadmissible.

12 MR. FARBER: Thank you, your Honor.

13 MS. EISENBERG: Your Honor, I had additional things

14 about related-party transactions, but it sounds like I will

15 have an opportunity to do that later.

16 THE COURT: You mean on the instructions?

17 MS. EISENBERG: Right; what you discussed with Mr.

18 Fleming.

19 THE COURT: I'm just trying to keep -- I wasn't

20 sure whether the vigor with which we were fighting about

21 2016 had a chronological significance that I didn't

22 understand.

23 MS. EISENBERG: Well, I think the EPTL claim, they

24 probably will argue that failure to follow laws in effect in

25 2016 constituted improper administration. And in that

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1 regard, the fact that there was approval ratifications back

2 then is very important.

3 THE COURT: But it's still -- my only question was

4 the approval still is supposed to be at least in the prima

5 facie case for related-party transactions, the statute

6 requires the approval be in advance. It gives an

7 affirmative defense if you can show that it was ratified

8 after. I was just probing to make sure that under any

9 reading, 2016 is still ratification, not preapproval.

10 MS. EISENBERG: Well, I think it was both. They

11 were ratifying what had occurred previously and approving

12 things going forward.

13 MR. FLEMING: Right.

14 THE COURT: Meaning that there were new

15 transactions going forward that were being preapproved.

16 MS. EISENBERG: Correct. And in addition, Ms.

17 Connell represented to the Court that to the extent some

18 post-July 14 payments were made pursuant to preexisting

19 contracts that had not yet been extended or reviewed, that

20 the NYAG was not going after payments in that regard.

21 MR. FLEMING: And further, your Honor, the

22 significance was also to show Mr. Frazer's diligence in

23 addressing these issues.

24 THE COURT: I think that's a fair point. I'll have

25 to think about how to maybe tweak some of the language. If

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1 basically the argument is that each year a new decision is
 2 made as to whether to pay Board Member X for something going
 3 on in Florida or wherever, that some of these approvals will
 4 be ratification of past payments but preapproval of forward
 5 looking payments, I can -- assuming they are deemed to be
 6 separate transactions which, you know, I guess is an
 7 argument you can make.
 8 MS. CONNELL: Your Honor, I think there is a lot of
 9 argument to be made from that document that was admitted
 10 today such as it is, but I don't believe it would satisfy
 11 either approval or ratification, but I think --
 12 THE COURT: Well, maybe. I may have to -- I think
 13 I have a sense, and they are saying it's undisputed that all
 14 the transactions were not approved in advance, and I may
 15 have to sharpen that a little in that if you look at each
 16 payment made annually to Ms. Hammer, for example, it may
 17 have -- I don't know whether you are currently arguing it
 18 that it's one -- it's one related-party transaction that
 19 lasted ten years or maybe they are going to say it's --
 20 well, it's ten related-party transactions, one happening
 21 each year for ten years or something like that.
 22 MS. CONNELL: Well, I don't know what they are
 23 going to say. I'm going to say that Ms. Hammer was paid by
 24 three different streams over the years. Sometimes with a
 25 contract. Often without and for many years.

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1 THE COURT: No, but the point is about when -- at
 2 some point in time they either did a ratification or an
 3 approval. There was a thing that happened. That is going
 4 to be a dispute about whether it's sufficient under the
 5 statute is fine, but the difference between whether it's a
 6 preapproval or ratification depends on how you view its
 7 forward impact.
 8 You know, in other words, when they were -- even if
 9 they were doing a ratification of something, depending on
 10 how it reads, and I'll have to go back and look at the
 11 approval, if it is designed to be an approval for
 12 going-forward transactions, that might have some legal
 13 significance.
 14 My recollection of the reading is that it looked to
 15 be backward facing, but that's going to be a specific
 16 decision. It's kind of technical, but it's important.
 17 All right. See you in a second. We have used most
 18 of our break, so be quick about it.
 19 (Whereupon, at this time there was a recess taken.)
 20 THE COURT: Ready for the jury?
 21 THE COURT OFFICER: All rise. Jury entering.
 22 (Whereupon, at this time the jury entered the
 23 courtroom.)
 24 THE COURT: Okay. Let's please have a seat. Okay.
 25 Ready for the next witness for the Defense?

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1 MS. EISENBERG: Yes, your Honor. We call Matt
 2 Lerner.
 3 M A T T H E W L E R N E R, a witness called on
 4 behalf of the Defendant, after having been first duly sworn,
 5 took the witness stand and testified as follows:
 6 THE CLERK: State your name.
 7 THE WITNESS: Matthew Lerner, L-E-R-N-E-R.
 8 THE CLERK: Thank you. You may be seated.
 9 THE COURT: Just try to stay as close as you can to
 10 the mike without swallowing it.
 11 THE WITNESS: Thank you.
 12 MS EISENBERG: May I proceed, your Honor?
 13 THE COURT: Yes, please.
 14 MS. EISENBERG: Thank you very much. Can the
 15 members of the jury hear me? Thank you.
 16 DIRECT EXAMINATION
 17 BY MS. EISENBERG:
 18 Q Mr. Lerner, please tell us what you do.
 19 A So I am an internal auditor. I perform internal
 20 control assessments for not-for-profit organizations.
 21 Q Where do you work?
 22 A I work for Grant Thornton, large national accounting
 23 firm.
 24 Q And how long have you been doing this?
 25 A I have worked with Grant Thornton for 13 years. Prior

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1 to that I also worked in the not-for-profit industry in a
 2 compliance role.
 3 Q Please tell us a little bit about your education.
 4 A So I have an undergraduate degree from Rutgers
 5 University Business School in Management and also have an MBA
 6 from New York University, Stern School of Business specializing
 7 in Finance and Accounting.
 8 Q Did there come a time where you reached certain
 9 conclusions with regard to this case?
 10 A Yes, I did have opinions related to the internal
 11 control environment at the NRA in 2020.
 12 MS. EISENBERG: Your Honor, at this point the NRA
 13 offers Mr. Lerner as an expert in internal audits.
 14 MS. CONNELL: No objection to his qualifications,
 15 your Honor.
 16 THE COURT: Okay. He is admitted to provide
 17 opinion testimony.
 18 Q We have heard testimony about different kind of audits;
 19 internal audits, external audits.
 20 Can you please help us understand the relevant
 21 distinctions?
 22 A Sure. We have heard about financial statement audits,
 23 for example. Those are really -- the point of that, of course,
 24 is to insure that the financial statements of an organization
 25 -- so a financial statement audit, the primary objective is

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1 really to evaluate that there are no material misstatements
 2 within the financial statements of an organization.
 3 An internal audit is different in that it evaluates the
 4 internal controls associated with -- it could be a variety of
 5 business processes or functional areas within an organization.
 6 So you could perform an internal audit of accounts payable or a
 7 human resources function, expenditures of an organization.
 8 And similarly, an internal control assessment is
 9 similar to an internal audit. It can be, you know, performed in
 10 a variety of different areas.
 11 Q Have you ever testified as an expert witness before?
 12 A No.
 13 Q And are you being compensated for your work on this
 14 case?
 15 A My firm is being compensated.
 16 Q To your knowledge, does your compensation depend in any
 17 way on the outcome of this case?
 18 A No.
 19 Q To your knowledge, does your firm's compensation depend
 20 in any way or what opinions you offer to the jury today?
 21 A No.
 22 Q What are internal controls?
 23 A So at the highest level, internal controls, the
 24 objective is to really insure that the business processes,
 25 practices, policies of an organization support their business

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1 starts with the words "The Framework Establishes Five
 2 Components," please tell us about what the five components are
 3 and how that relates to the overall COSO Framework.
 4 A So the framework does outline these five components
 5 that are really interrelated and are hallmarks of an effective
 6 control environment holistically.
 7 So that first element, control environment has to do
 8 with things like tone at the top and the culture of the
 9 organization, making sure that, you know, that there is good
 10 governance and good tone at the top to make sure that we have an
 11 effective control environment.
 12 Risk assessment is also a key element or key component
 13 of the COSO Framework making sure that we understand the
 14 organization's various risks and how we respond to them.
 15 Control activities has to do with really what are we
 16 doing, what policies, procedures, internal controls do we have
 17 in place in the support of our objectives, making sure that we
 18 have a sound set of controls.
 19 Information and communication has to do with how those
 20 policies, procedures and controls are communicated throughout
 21 the organization to make sure that there is awareness which is
 22 obviously critical to the success of the overall control
 23 environment.
 24 And then monitoring is also the fifth component really
 25 has to do with really evaluating periodically in various

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1 objectives. So those objectives can be a number of things. It
 2 could be operational objectives, so making sure that the
 3 operations of an organization are efficient and effective. They
 4 can be related to reporting; financial reporting, non-financial
 5 reporting, the accuracy of those to make sure that business
 6 decisions can be made based upon sound information, and there
 7 could be compliance objectives as well. So making sure that we
 8 are complaint not only with the organization's policies and
 9 procedures but also related to regulatory requirements and
 10 things like that.
 11 MS. EISENBERG: Can the members of the jury hear the
 12 witness okay? Perfect.
 13 Q Let's go to the next slide. Please tell us a little
 14 bit -- well, we have already heard about COSO somewhat. But
 15 just tell us from your perspective what role it plays in
 16 compliance.
 17 A COSO is really a critical component of -- to evaluate
 18 an effective framework of internal controls for an organization.
 19 So it can really help promote compliance within an organization,
 20 and those objectives that I spoke to earlier, the operational
 21 objectives, the financial objectives, the compliance objectives,
 22 those are all part of COSO. So that framework really helps an
 23 organization evaluate the effectiveness of their control
 24 environment in support of those areas.
 25 Q Directing your attention to the third main bullet that

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1 different ways to make sure that the control environment that we
 2 do have in place is actually functioning as we expect it to.
 3 Q Thank you. Let's go to the next slide.
 4 Before we turn to the slide, can I ask you please to
 5 repeat what it is that you were asked to do in this case.
 6 A Sure. So I was asked to evaluate the control
 7 environment at the NRA really in consideration of some of the
 8 changes that were made as part of NRA's course correction which
 9 began in approximately early 2018.
 10 Q And what, if any, timeframe did you specifically focus
 11 on?
 12 A My evaluation focused on the timeframe of 2020. So my
 13 opinions are really as of the control environment as of
 14 December 31, 2020.
 15 (Continued on the following page.)
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 17
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 25

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1 Q Did the NRA's counsel direct you to focus on that
2 particular timeframe?
3 A No.
4 Q Your slide says that you assess both the design of the
5 NRA's internal controls and their effectiveness. Let's focus on
6 that distinction for a second.
7 What is the difference?
8 A So, when you're evaluating internal controls at an
9 organization, the first thing that you want to do is understand
10 how those internal controls are designed. It is important to do
11 so because later on you're going to test whether those controls
12 are effective. If they aren't really effective, effectively
13 designed in the first place, it doesn't matter if they're
14 operating effectively.
15 You need to have appropriate design. You need to make
16 sure that they are comprehensive and adequate to ensure the
17 achievement of the organization objectives.
18 Now, I spoke to the operating effectiveness a little
19 bit. That is a process by which the someone can look at the
20 actual effectiveness of those internal controls and that can be
21 done various ways; for example, through testing of transactions
22 often through either sample testing. It can be done through
23 data analytics and a number of different ways, but testing of
24 those controls is one way of evaluating the operating
25 effectiveness of control environment.

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1 Q Let's go to the next slide. You didn't actually go to
2 the NRA, right, to interview individuals and conduct an internal
3 audit on your own; is that fair?
4 A Yes. I did have a conversation with members of
5 management at the NRA, but that's correct.
6 Q And, nonetheless, you were able to formulate certain
7 opinions in this case; right?
8 A Correct.
9 Q What enabled to you do that?
10 A It was really the wealth of information that was
11 available to me in the record.
12 So, for example, in evaluating the design effectiveness
13 of internal controls, I looked at policies, procedures, meeting
14 minutes and things like that. And then when I was evaluating
15 the operating effectiveness, one of the things that I had
16 leveraged were special procedures that were performed by the
17 NRA's audit firm, Aronson. They had conducted these -- I'll try
18 and stay close to this, I apologize. The special procedures
19 were performed by --
20 THE COURT: If they don't hear it, it doesn't
21 count.
22 THE WITNESS: Okay, understood.
23 A The special procedures were conducted by Aronson in
24 2020 as part of their taking on the NRA as a new client.
25 Q And what are we looking at on this slide?

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1 A So, these are the descriptions of some of the tests
2 that they had performed; and so, broadly, I'll discuss a little
3 bit about what I understand the process that they undertook.
4 It involved discussions with various members of
5 management and the Audit Committee to understand their
6 perspectives on the control environment, governance, the
7 compliance of the NRA at the time that they conducted this
8 review. They also -- Aronson that is -- conducted these
9 additional procedures in connection with their financial
10 statement audit that was conducted in 2020.
11 Now, while these were done in connection with the
12 financial statement audit, they were -- I would say in addition
13 to what is typically performed in a financial statement audit in
14 that they looked at specific internal controls that were part of
15 the AG's complaint to evaluate whether or not the control
16 environment in those areas was strong as of the time that they
17 looked, which was December 2020.
18 MS. CONNELL: Your Honor, I'm just going to object
19 to the slides to the extent they contain language that's
20 hearsay that's not been admitted.
21 THE COURT: Yeah, this witness is to give his
22 opinions, not just to vouch for another party's work, right?
23 So, I mean, it is fine that if he looked at various
24 things people did; but I would ask that we focus on this
25 witness's independent views as to the adequacy and not

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1 simply repeating what -- I don't know whether you have
2 somebody coming from Aronson or not, but their views are
3 their views. His views should be independent.
4 MS. EISENBERG: Understood, your Honor.
5 MR. FARBBER: Judge, there's a lot of it in these
6 slides. I said that's what a lot of these slides consist of
7 so perhaps the witness should just testify.
8 THE COURT: As I said, it can be background for
9 some of the research he did, but this is the live witness
10 here and Aronson's work would be hearsay.
11 MS. EISENBERG: Okay.
12 Q Now, Mr. Lerner, you're not simply adopting whatever
13 conclusions Aronson may have reached; is that fair?
14 A That's correct.
15 Q Explain to us how, nonetheless, reviewing their papers
16 enabled you to reach your independent opinions in this case.
17 A Sure. So, that was a part of the information that I
18 did review; and, basically, what I had done in the professional
19 standards that apply to my profession, internal auditing, you
20 can rely upon testing that is performed by external parties as
21 long as it meets certain criteria.
22 I did apply that criteria when evaluating the testing
23 of internal controls that was performed by Aronson. That
24 criteria includes things like making sure that the scope is
25 aligned and appropriate to the assessment that you would

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1 perform, that I would perform, the credentials of the
 2 individuals who are performing that review and the like.
 3 So, in applying that criteria, I determined it was
 4 appropriate to include the results of their internal control
 5 testing as part of my assessment, but I also at that -- in
 6 forming my conclusions, reviewed documentation, policies,
 7 procedures, meeting minutes, testimony, these types of things.
 8 THE COURT: All right, with that as the background,
 9 any references here to what Aronson may have concluded or
 10 did is simply background. This evidence is -- this is not
 11 substantive evidence for you to consider. It is just part
 12 of his background. But statements made about what Aronson
 13 concluded or said are hearsay, and they're not at the moment
 14 anyway testifying.
 15 So, you can consider it to that limit of extent as
 16 part of the background that he did and looked at, but their
 17 conclusions are not evidence yet.
 18 MS. EISENBERG: And, your Honor, the jury will be
 19 hearing from Aronson later today who now goes by Aprio.
 20 They changed their corporate name.
 21 Q Now, let's go back to the list that you just provided,
 22 the materials that you reviewed.
 23 In addition to reviewing those materials, you also
 24 spoke to certain individuals at the organization; is that fair?
 25 A That's correct.

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1 Q To whom did you speak?
 2 A I spoke with Sonya Rowling, John Frazer, and Arif
 3 Rahman.
 4 Q Arif Rahman?
 5 A Yes.
 6 Q What types of things did you discuss with them?
 7 A My discussion with them was primarily focused on
 8 their -- the process by which they compile they're statutory
 9 reports, the IRS Form 990 and the New York CHAR500.
 10 Q Understood. Let's go to the next slide.
 11 In conducting your work on this case, was one of the
 12 areas on which you focused conflicts of interest generally and
 13 related-party transactions specifically?
 14 A Yes.
 15 Q And what did you do with regard to that specific
 16 subject matter?
 17 A In evaluating the controls and some of the underlying
 18 documentation that was available noted certain aspects of a
 19 control environment that I thought was effective.
 20 So, things like considering the financial disclosure
 21 form process that the NRA has instituted, which requires
 22 officers and members of the board to disclose related-party
 23 transactions and conflicts of interest. Some of the controls
 24 that were put in place by management to review known conflicts
 25 and related-party transactions against expenditures, payment

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1 transactions, those types of things.
 2 Just noted the enhancements that were made to the
 3 financial disclosure questionnaire form. There were -- there
 4 was an additional question was added to help gather additional
 5 information where a -- one of the individuals who filed the form
 6 might know of any third-party relationships that could be
 7 involved with the NRA, for example.
 8 Q Did you reach a conclusion with regard to the
 9 effectiveness of the design of the NRA's internal controls for
 10 addressing related-party transactions and conflicts-of-interest
 11 matters?
 12 A Yes. So, as of the time period that I considered as of
 13 December 31, 2020, I felt that the design of the control
 14 environment related to -- for related-party transactions and
 15 conflicts of interest was effective.
 16 Q What about the operating effectiveness of the same
 17 controls, did you reach any opinions with regard to that?
 18 A Yes, in my opinion that the controls were operating
 19 effectively, as well.
 20 Q Let's go to the next slide.
 21 MS. CONNELL: Your Honor, objection for one second
 22 on foundation of these questions.
 23 The expert is being asked his summary, and I think
 24 he needs to state the foundation because I think it is going
 25 to implicate an issue that your Honor put his finger on.

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1 THE COURT: Overruled.
 2 MS. EISENBERG: Thank you, your Honor.
 3 Q Mr. Lerner, what is this slide about?
 4 A This really reflects some of the underlying
 5 considerations related to the analysis of -- my analysis of the
 6 internal control environment as it relates to the approval of
 7 third-party contracts.
 8 Q What were some of the observations that you made in
 9 connection with the review of this subject?
 10 A So, I had noted the policy that is in place at the NRA
 11 where we refer to as an authority matrix, which really outlines
 12 the contract approvals that are necessary for different types of
 13 contracts and different amounts; I did note additional controls
 14 what we call detected controls that are put in place and those
 15 are meant to identify things that may have occurred after, after
 16 the fact they may have been non-compliant.
 17 One example of that is control that was implemented to
 18 evaluate all vendors paid over \$100,000 in the -- during the
 19 course of the year to make sure that there was a contract in
 20 place.
 21 So, it is a good detected control from my perspective.
 22 Had noted that a number of historically non-compliant
 23 contracts had been terminated by the NRA. Those that had
 24 remained were either renegotiated or were being monitored such
 25 in the way I just described, including an evaluation of the

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1 payments that exceed \$100,000, for example.

2 Q You referenced an authority matrix in answering my

3 question. Can you please talk a little bit more about what that

4 is?

5 A Sure. So, that's something that is typically found in

6 a policy that relates to contracts or purchasing approvals and

7 things like that. What that describes are the approvals that

8 are necessary from management or the board for, in this case,

9 contracts of specific amounts. So, and it is something you

10 typically like to see in an effective control environment.

11 Q And did you conclude that the NRA has an authority

12 matrix?

13 A Yes.

14 Q Let's look at the right side of the slide. Please tell

15 us what the box at the top refers to and what image we're

16 looking at?

17 A Sure. That's actually an image from the compliance

18 training that the NRA has held since 2018. Just demonstrating

19 in this case the information communication element of COSO which

20 is really about making sure there's awareness of policies and

21 procedures.

22 This outlines some of the requirements as they relate

23 to procurement of new vendors on the top. And then what I was

24 referring to earlier the authority matrix, that's summarized

25 below for contracts greater than or equal to \$100,000.

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1 Q Did you reach an opinion with regard to whether the

2 NRA's internal controls are designed effectively when it comes

3 to management of third-party contracts?

4 A Yes. And, in my opinion, as of the period that I

5 evaluated, December 31, 2020, the design of the controls related

6 to third-party contracts were effective.

7 Q What about the operating effectiveness of those

8 controls?

9 A Yes. In my opinion, those -- the operating

10 effectiveness of those controls were effective, as well.

11 Q Let's move to the next slide.

12 Please tell us what this slide is about?

13 A Similar to the prior slides, really just highlighting

14 some of the key controls that were the basis for my opinions and

15 conclusions in this case relating to the NRA's expense approval

16 and reimbursement process.

17 Q Thank you. There is a graphic at the bottom on the

18 left side. Let's focus on that. If you can walk us through

19 that and explain how that relates to any conclusions that you

20 reached.

21 A Sure. So, this is really just a high-level visual

22 representation of an effective of the expense report approval

23 process in place at the NRA.

24 So, when an individual submits an expense report,

25 there's a review of that report, make sure that there's

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1 appropriate business purpose that is supported by receipts and

2 evidence that those expenses actually occurred. And should

3 those exist, it can be approved. If not, it should be denied.

4 Q And did you conclude based on the review of the

5 information you described that at the NRA, reimbursement

6 requests are denied if they don't come with appropriate backup?

7 MS. CONNELL: Your Honor, I'm going to object at

8 this point. And to the extent that Mr. Lerner's opining on

9 the design effectiveness, that's one thing. When he's

10 opining on the operating effectiveness, you'll hear and

11 he'll admit he relied upon and vouching upon client

12 retention procedures performed by Aronson. And so that's

13 the vouchering that your Honor was speaking about.

14 We can do voir dire separately, but I think that

15 just having him state his conclusion without revealing that

16 he relied upon and is just spitting back out Aronson

17 procedures is not correct.

18 THE COURT: I'll sustain that. At least the way

19 the question was asked, it is a little unclear. It seems to

20 be more of a fact question. I think the question was to ask

21 whether reimbursements are denied if they don't come with

22 appropriate backup. That's a different question than what

23 the procedures are and what's supposed to happen.

24 I thought the way you asked it sounded like you

25 were asking him whether that's actually the way it works in

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1 real practice.

2 MS. EISENBERG: Understood, your Honor.

3 THE COURT: So, maybe we can put a little more

4 behind that question.

5 Q Based on the work that you've done and the review that

6 you've conducted, what is your understanding as to the NRA's

7 policy for any expense reimbursement requests that are not

8 accompanied by appropriate backup?

9 A Through my understanding, the policy would require that

10 those expense reimbursements be denied or returned to the

11 individual who submitted it for it to be corrected.

12 Q Let's look at the left side of the slide. Is it fair

13 to say that it summarized some of the observations that you

14 reached in connection with your work on this case?

15 A Yes.

16 Q Please walk us through them.

17 MS. CONNELL: Objection, your Honor. These are

18 factual conclusions, rather than support for an opinion on

19 operating or design effectiveness.

20 MS. EISENBERG: Your Honor, this goes to weight.

21 It is clearly admissible.

22 THE COURT: And these are intended to describe the

23 policies, not facts on the ground of what actually happened

24 during the years?

25 MS. EISENBERG: I think it is a little bit of both,

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1 but he based these opinions on things that experts in his
 2 field typically review.
 3 MS. CONNELL: Your Honor, Mr. Lerner offered an
 4 opinion as to the control environment in the NRA as of
 5 December 31, 2021.
 6 THE COURT: 2020.
 7 MS. CONNELL: I'm sorry, 2020. If he's going to
 8 state what the design was, so what he based that opinion on
 9 that's the actual procedures and policies that were in place
 10 that he thought were fine, that's fine.
 11 If he's going to talk about what actually happened
 12 as of December 31, 2020, and that it was okay and it was
 13 operating effectively, he needs to state his basis; and when
 14 he states his basis, I think you'll see that there's a basis
 15 for objection.
 16 THE COURT: I think those are fair observations.
 17 So, if we're switching now away from design to efficacy, is
 18 that what we're doing?
 19 MS. EISENBERG: Your Honor, I simply asked the
 20 witness about the left side of the slide, but I'm happy to
 21 rephrase and take effectiveness of design versus operating
 22 effectiveness one at a time.
 23 THE COURT: Okay.
 24 MS. CONNELL: Well, it says controls implemented
 25 which is operating effectiveness.

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1 THE COURT: Right, that's what makes it a little
 2 confusing as to where we are; but I do agree if you're going
 3 to switch to the effectiveness, you have to -- I would
 4 suggest that you have to ask the witness what it is based on
 5 and what his views are and as opposed to putting --
 6 sometimes these may sound to the jury like factual
 7 statements. I don't think that's what you intend.
 8 So, with that caveat, you can continue.
 9 MS. EISENBERG: Certainly, your Honor.
 10 Q Let's focus on the right side of the slide. Please
 11 walk us through the three graphics that we see there and tell us
 12 how they relate to your analysis.
 13 A Sure. So, those are visuals, excerpts of the NRA
 14 travel and business expense policy. They outline just
 15 requirements related to various types of expenses. In this
 16 case, lodging, meals and business entertainment expenses,
 17 commercial airfare as well as charter air travel.
 18 Q At some point did you reach an opinion as to the design
 19 and the effectiveness of the design of the NRA's internal
 20 controls when it comes to expense approvals and reimbursement?
 21 A Yes. In my opinion they were effective as of
 22 December 31, 2020.
 23 Q And what was your opinion about the effective design
 24 based on?
 25 A Based on my review of the policies, procedures that

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1 type of documentation.
 2 Q Okay, and this is a yes or no: Did you at any point
 3 reach an opinion as to whether the controls in this regard were
 4 operating effectively as of the timeframe that you specified?
 5 A Yes.
 6 Q When you reached that opinion, what was that opinion
 7 based on?
 8 A It was based on my review of testing that was performed
 9 by Aronson.
 10 Q And when you say you reviewed the testing that they
 11 performed, please tell us specifically or please describe
 12 generically what you reviewed and perhaps give us a few
 13 examples.
 14 A Sure. So, I had reviewed their what we call audit work
 15 papers test sheets that really describe the testing that they
 16 had performed in these areas, the samples that they selected,
 17 the results of that testing noting any exceptions.
 18 Q And do professionals in your field typically rely on
 19 papers or documents of that type?
 20 MS. CONNELL: Objection, your Honor. This --
 21 THE COURT: She can ask that question. We'll take
 22 it one step at a time.
 23 A Yes, at times you can rely on the testing of others.
 24 I think I described a little bit about what that process and the
 25 criteria that I applied earlier.

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1 Q And based on all of that, what opinion did you reach
 2 about the effectiveness of the NRA's internal control in terms
 3 of their operating effectiveness with regard to this topic?
 4 MS. CONNELL: Objection, your Honor. This is --
 5 THE COURT: Sustained. Based on his testimony, the
 6 only thing that he said it is based on is somebody else's
 7 work.
 8 MS. EISENBERG: Thank you, your Honor.
 9 Q Let's go to the next slide, which is slide 9.
 10 (Displayed)
 11 Mr. Lerner, what is this slide about?
 12 A Similar to the prior slides, just my evaluation of
 13 internal controls as they relate to executive compensation.
 14 MS. CONNELL: Your Honor, I would ask that the
 15 slide be taken down. This relates to operating
 16 effectiveness and implementation which he did not, himself,
 17 look at.
 18 THE COURT: Well, we're going to have to do this
 19 foundation thing for each part of this, so let's see how it
 20 goes. Again, the slides aren't evidence anyway. So, let's
 21 just proceed through it.
 22 MS. EISENBERG: Thank you, your Honor.
 23 Q Mr. Lerner, let's take a look at the right side of the
 24 slide. Please tell us what we're looking at?
 25 A So, this is an excerpt from the meeting minutes for the

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1 officers -- I'm sorry -- the report of the officers compensation
 2 committee, which is really charged with approving the
 3 compensation provided to NRA executives and officers.
 4 Q What are we looking at the bottom?
 5 A This really speaks to -- it is another excerpt from
 6 that. It is really speaking to some of the criteria that the
 7 officers' compensation committee considered in approving the
 8 compensation that was provided to the NRA executives in this
 9 case in 2020, which included just different reports from
 10 compensation experts.
 11 Q Based on your review of the materials that you
 12 described, what do you understand the internal controls to be at
 13 the NRA for ensuring that compensation is determined
 14 appropriately?
 15 A So, the NRA hires a third-party consultant to evaluate
 16 the compensation that is provided to its officers and
 17 executives, which is common in my experience. Making sure that
 18 it is compared against similar organizations, to make sure that
 19 the payments -- that the compensation that's provided is
 20 appropriate.
 21 Q Did you reach an opinion as to whether the NRA's
 22 internal controls with regard to executive compensation are
 23 designed effectively?
 24 A Yes. In my opinion, the controls are designed
 25 appropriately.

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1 Q And that was, again, in relation to the timeframe of --
 2 A Yes, as of 2020, correct.
 3 Q Let's go to the next slide, which is slide 10.
 4 (Displayed)
 5 Please tell us what this slide is about?
 6 A Similar, this is the basis upon which I formed my
 7 opinions, just some highlights as -- of the control environment
 8 as it relates to the NRA's whistleblower program.
 9 Q When you're evaluating the -- I'm sorry -- the
 10 effectiveness of the design of internal controls when it
 11 comes to whistleblower programs, what types of things do you
 12 look for?
 13 A Well, I look for some of the policies and procedures
 14 that are in place. So, in this case it was the NRA's statement
 15 of corporate ethics and whistleblower policies.
 16 I look at really the things like the reporting
 17 structures that are in place. So, things like the Audit
 18 Committee review of any whistleblower reports to make sure that
 19 those are appropriately reviewed by governance.
 20 I look at the structure for investigating whistleblower
 21 reports, resolving them, and also look for some of the vehicles
 22 through which whistleblower reports can be submitted.
 23 Q Let's look at the at the top of the right side. It
 24 says: "Non-retaliation Clause."
 25 Do you see that?

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1 A Yes.
 2 MS. CONNELL: Your Honor, I'm sorry, I don't mean
 3 to interrupt; but the slide is a factual narration of not
 4 what the design and his opinion about the design, but
 5 findings that he made. It is the type of narration that
 6 your Honor has spoken about before.
 7 Focussing on the policies is one thing for design
 8 effectiveness, the rest is --
 9 THE COURT: At this point I'm not flyspecking the
 10 slides and focussing on the testimony.
 11 The jury has heard me say enough times that factual
 12 statements by expert witnesses are not evidence. They may
 13 or may not be relevant to the opinions we're getting into.
 14 So, I'd rather not --
 15 MS. CONNELL: I'm sorry, your Honor, I'm just
 16 trying to preserve the record.
 17 THE COURT: Well, the record right now is the
 18 testimony. That slide is not in the record.
 19 So, go ahead.
 20 Q Mr. Lerner, the top right part of the slide, there's a
 21 quote. What is this a quote from?
 22 A This is a quote from the NRA's whistleblower policy,
 23 which is a part of the statement of corporate ethics.
 24 Q And what does that quote say?
 25 A Well, I can --

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1 Q In sum and substance.
 2 A In summary it says that anyone who submits a
 3 whistleblower report in good faith should not be retaliated
 4 against.
 5 Q When you evaluate the effectiveness of the design of
 6 internal controls related to whistleblowing, do you typically
 7 look for an anti-retaliation provision?
 8 A Yes.
 9 Q And when a company does have an anti-retaliation
 10 provision, how does that affect your analysis with regard to
 11 this issue?
 12 A Well, it's one aspect of a good control environment in
 13 that place. You want to make sure that individuals feel
 14 comfortable submitting whistleblower reports and understanding
 15 that they won't be retaliated against for submitting them.
 16 Q Let's look at the second box, which is entitled "Audit
 17 Committee Discusses Reports Received."
 18 Why did you include it on the slide?
 19 A I think it is important and it is part of the NRA's
 20 policy that whistleblower reports be submitted for consideration
 21 to the Audit Committee. So, as part of my analysis, I reviewed
 22 Audit Committee meeting minutes to evaluate whether
 23 whistleblower reports were included in those minutes.
 24 Q And when you see references to whistleblowing in Audit
 25 Committee reports, how does that affect your over all evaluation

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1 of the effectiveness of design of internal controls with regard
 2 to whistleblowing?
 3 A It is an important aspect of an effective control
 4 environment.
 5 Q Let's look at the third rectangle entitled "Anonymous
 6 Reporting Capabilities."
 7 Please tell us why you included that?
 8 A That is an aspect of the NRA's whistleblower policy as
 9 well. Similar to my comments about non-retaliation, you want
 10 potential whistleblowers to feel comfortable with submitting
 11 anonymous reports as well should they not be comfortable
 12 submitting it with their name attached. So, we want to make
 13 sure there's a way that whistleblowers can do that.
 14 Q Is this a quote?
 15 A Yes, this is an excerpt from the NRA's whistleblower
 16 policy.
 17 (Continued on next page)
 18
 19
 20
 21
 22
 23
 24
 25

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1 Q When an organization has an arrangement for enabling
 2 anonymous reporting, how does that affect your overall
 3 evaluation of the internal control?
 4 A It's an element of an effective control environment.
 5 Q So that's a good thing; right?
 6 A That's a good thing.
 7 Q Let's take a look at the next piece which is entitled
 8 email communication of whistleblower policy updates.
 9 What is that?
 10 A So this was a email that was sent by the NRA in this
 11 case with I believe it was John Frazer, and you want to make
 12 sure that when policies are updated that they are not only
 13 updated and available but actually communicated to individuals.
 14 So this was an excerpt from an email that went to NRA staff just
 15 highlighting updates and changes to the whistleblower policy to
 16 help with awareness.
 17 Q And what about the last one?
 18 A Similar email communication. In this case, the
 19 Statement of Corporate Ethics was updated. So a similar email
 20 that was sent demonstrating that it was communicated to staff.
 21 Q And this slide, just to be clear, doesn't represent all
 22 the information that you reviewed in connection with the
 23 subject; is that fair?
 24 A Correct. Like the others, these are just some
 25 highlights or excerpts of things that I considered in my

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1 evaluation of control environment in this area.
 2 Q And you have also considered sworn testimony by fact
 3 witnesses; is that fair?
 4 A Correct.
 5 Q And based on all the various things that you considered
 6 and your experience, what, if any, conclusion did you reach with
 7 regard to whether the internal controls of the NRA are designed
 8 effectively as of 2020 when it comes to the NRA's whistleblower
 9 program?
 10 A I felt that the control environment was designed
 11 effectively as of December 31, 2020.
 12 Q And this is a yes or no.
 13 Did you reach a conclusion as to the operating
 14 effectiveness of the same controls?
 15 A Yes.
 16 Q What was that conclusion based on?
 17 A It was based upon in part on some of the testing that
 18 was performed by Aronson, but I also reviewed Audit Committee
 19 meeting minutes and things like that to evaluate whether
 20 whistleblower reports were submitted and reported to the Audit
 21 Committee.
 22 Q If you set aside the Aronson piece, is the material
 23 that you reviewed in addition to that sufficient for you to be
 24 able to form a view as to the operating effectiveness?
 25 A I don't -- I don't think so. I think it's important to

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1 consider, you know, holistically. That's an important element
 2 of the operating effectiveness of the controls.
 3 MS. EISENBERG: Your Honor, while preserving our
 4 rights, I will just move on because I know that you will
 5 rule the same way as you did previously.
 6 THE COURT: Okay.
 7 Q Let's look at the 11th slide.
 8 Why did you include it in your presentation?
 9 A So this highlights some of the compliance trainings
 10 that have been held at the NRA since 2018.
 11 I mentioned earlier, you know, the information and
 12 communications component, for example, of COSO. This is really,
 13 you know, evidence of that and showing in various areas that I
 14 evaluated. So conflicts of interest and related-party
 15 transactions, expenditures, contract approvals, whistleblowers,
 16 those types of things. Those have been included in the
 17 compliance training that are provided to NRA staff, senior
 18 leadership and the Board over the last number of years.
 19 So you know, it's important as I mentioned earlier that
 20 there is not only policies but awareness of those policies and
 21 how individuals are expected to behave and enforce and make sure
 22 that those policies are enforced, and compliance trainings are I
 23 think -- are critical elements of that.
 24 Q Let's take down the slides, and I just want to talk to
 25 you without the slides.

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1 Did you evaluate the internal controls at the NRA for
 2 making sure that form 990, CHAR 500 reporting is complete and
 3 accurate?
 4 A I evaluated the design effectiveness of those controls.
 5 Q In evaluating the design effectiveness of those
 6 controls, what materials did you consider?
 7 A I mean, the reports themselves. I did have a
 8 conversation, I referred to earlier, with Sonya Rowling, John
 9 Frazer and Arif Rahman.
 10 Q What did you come to understand with regard to the
 11 internal controls of the NRA based on your interview of those
 12 employees?
 13 A They walked me through, and this is a typical way of
 14 understanding control environment. They walked me through the
 15 process that they undertake to compile the information for the
 16 form 990.
 17 So you know, they talked about how -- who was
 18 responsible. In this case Arif Rahman. He is primarily
 19 responsible for compiling a lot of the information.
 20 We talked about the approvals and reviews that are
 21 performed to make sure that they are accurate, you know, the
 22 information that is compiled.
 23 We talked about the sources of information, you know,
 24 taken from HR records, vendor records, 1099's, the accounts
 25 payable records of the organization, how that's all compiled.

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1 It is reviewed by multiple individuals including
 2 Michael Erstling, Sonya Rowling, John Frazer. Talked about the
 3 process for presenting the report for approval and review by the
 4 Audit Committee.
 5 So they really walked me through the entire process of
 6 compiling the 990.
 7 MS. EISENBERG: Can the members of the jury hear the
 8 witness? I want to make sure the members of the jury can
 9 hear you.
 10 Q Okay. So in -- after having done the work that you
 11 just described, analyzed the information, and based on your
 12 experience, what, if any, conclusion did you reach about whether
 13 or not the internal controls of the NRA when it comes to Forms
 14 990 and their accuracy are designed effectively?
 15 A So my -- in my opinion, the design of the internal
 16 controls as they relate to the compilation of the Form 990 and
 17 CHAR 500 are effective as of December 31, 2020.
 18 MS. EISENBERG: Mr. Stein, if we can please go to
 19 slide 14.
 20 Q Please tell us what we are looking at on this one.
 21 A So this is a -- what I would say is a very high-level
 22 representation of the documents that I had considered as a part
 23 of my analysis. There are many of them. So I put them into I
 24 would say some buckets or categories here.
 25 Q Okay. Let's go to the next slide.

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1 Did you evaluate the opinions offered by Mr. Tenenbaum
 2 and Mr. Hines?
 3 A I did.
 4 Q What observations, if any, did you form?
 5 A In my opinion, you know, they had stated opinions, and
 6 we had heard some of them I think recently about the
 7 effectiveness of the control environment at the NRA, fraud risk
 8 indicators and the like.
 9 In my opinion, they did not take into consideration
 10 some of the control enhancements that were implemented during
 11 the course correction at the NRA so beginning in 2018 and
 12 continuing into present day.
 13 Q Anything else?
 14 A No. That's high-level summary.
 15 MS. EISENBERG: Thank you very much, Mr. Lerner.
 16 I'll pass the witness, your Honor.
 17 THE COURT: Any other direct testimony? No?
 18 MR. FARBER: No, your Honor.
 19 MR. FLEMING: No, your Honor.
 20 THE COURT: Okay. Begin cross. We have maybe 15,
 21 20 minutes.
 22 MS. CONNELL: I'd like to see if I can get it done
 23 in this time. I think I can, and we can make the most use
 24 of time.
 25 THE COURT: Good.

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1 CROSS-EXAMINATION
 2 BY MS. CONNELL:
 3 Q Good afternoon, Mr. Lerner. I'm Monica Connell from
 4 the Attorney General's Office.
 5 We have met before; correct?
 6 A Yes.
 7 Q You just gave a lot of opinions about the design
 8 effectiveness of various NRA internal controls; right?
 9 A Right.
 10 Q You would agree with me that the design effectiveness
 11 of an internal control assumes that it operates as designed;
 12 correct?
 13 A Correct.
 14 Q And that the effectiveness of even the best designed
 15 internal control can be negated when management overrides or
 16 evades that internal control; correct?
 17 A It can be, yes.
 18 Q As part of your work in this case, you did not look at
 19 whether any of the NRA's internal controls had been evaded or
 20 overridden before 2020; right?
 21 A My opinions did not specifically relate to those, but I
 22 am aware of some of the elements within the complaint and did
 23 take those into consideration when conducting my analysis and
 24 scoping my analysis and some of the areas that I considered.
 25 Q But you didn't investigate whether those allegations

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1 were true; correct?

2 MS. EISENBERG: Outside the scope, your Honor.

3 THE COURT: Overruled.

4 A No, I didn't specifically investigate them.

5 Q You are an internal auditor; right?

6 A Right.

7 Q You weren't hired to do an internal audit for the NRA

8 in this case.

9 A No.

10 Q And you weren't hired to do an internal control audit

11 for the NRA in this case.

12 A I performed an internal control assessment.

13 Q You performed an assessment. Not an internal control

14 audit; correct?

15 A I mean, I think those terms are similar.

16 Q Well, Mr. Lerner, didn't you testify that, for example,

17 the IIA standards that usually apply to your work didn't apply

18 to this engagement?

19 A Yes. So those apply --

20 Q That's a yes or no question.

21 MS. EISENBERG: Your Honor, I ask that counsel not

22 interrupt the witness.

23 THE COURT: It was a yes or no. She can insist on

24 a yes or no answer.

25 You can -- just so you know, on cross-examination,

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1 Q That focused on regulatory filings; right?

2 A Correct. Primarily.

3 Q And you talked about reviewing sworn testimony in this

4 case; correct?

5 A Yes.

6 Q And the sworn testimony that you were given in this

7 case was given to you by the Brewer Firm; correct?

8 A Yes.

9 Q They determined what testimony you would review;

10 correct?

11 A They did provide it. You know, I had asked for --

12 Q Mr. Lerner, you previously testified --

13 THE COURT: Well, he can finish that answer.

14 A Yes. They provided the testimony that I reviewed on

15 specific topics that I had outlined as the scope of my review.

16 Q And they determined what testimony you should review;

17 correct?

18 A I mean, yes. I wasn't aware of all of the testimony

19 that existed.

20 Q And Mr. Lerner you were talking about the travel --

21 enforcement of the travel policy earlier on the slide that you

22 brought up. I think it was slide -- if we can have it brought

23 up. Slide number eight. On the bottom, Square D.

24 A Yes.

25 Q Do you know what year that travel policy went into

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1 they can ask narrow questions like that. You can either

2 answer yes or no or say why you can't.

3 If you want to elaborate beyond the yes or no, you

4 can be redirected on that.

5 THE WITNESS: Thank you.

6 Q Mr. Lerner, you said you were -- you were retained by

7 the Brewer Firm for the NRA in this case; right?

8 A My firm was.

9 Q Your firm was; correct.

10 How much has your firm been paid for your work to date?

11 A To my knowledge, it's approximately \$700,000.

12 Q Up to date?

13 A Yes.

14 Q And how much are you getting paid on an hourly basis?

15 A My rate is \$775 an hour, I believe.

16 Q So as part of your engagement, you could go to the

17 NRA's headquarter and poke around; right?

18 A I could.

19 Q And you could have spoken to any NRA employees that you

20 wanted to; right?

21 A I think so.

22 Q And yet, you testified at your deposition that the only

23 NRA employees you spoke with were Sonya Rowling, John Frazer and

24 Arif Rahman by a 90-minute Microsoft Teams call; right?

25 A Correct.

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1 effect?

2 A I believe it was 2021 or it might have been 2022.

3 Q So it went into effect after the date you're opining

4 about the design effectiveness of the NRA's internal controls;

5 correct?

6 A Correct.

7 MS. CONNELL: Thank you very much, Mr. Lerner.

8 THE COURT: Okay. Any other defendants want to

9 cross?

10 MR. FARBER: No, your Honor. No thank you.

11 THE COURT: Okay.

12 Anything further, Ms. Eisenberg?

13 MS. EISENBERG: Yes, your Honor. Just briefly.

14 REDIRECT EXAMINATION

15 BY MS. EISENBERG:

16 Q In connection with your work on this case, did you have

17 an opportunity to review reports of Mr. Tenenbaum and Mr. Hines?

18 A Yes.

19 Q And based on your review of those reports, do you have

20 any information about whether or not they are being compensated

21 for their work on this case as well?

22 MS. CONNELL: Objection, your Honor.

23 THE COURT: I think they have already testified

24 about their compensation.

25 MS. CONNELL: It's fine, your Honor. We withdraw

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1 the objection.
 2 A Yes.
 3 Q And the rate that you charged for your work on this
 4 case, is it the typical rate that you charge to all clients?
 5 A Yes.
 6 Q When you were provided with information that you
 7 evaluated in connection with your work on this case, do you have
 8 any reason to believe that any testimony was held back or
 9 withheld?
 10 A Not to my knowledge.
 11 Q And was there anything that you wanted to see that was
 12 not provided to you?
 13 A No.
 14 Q Ms. Connell mentioned a few things you could have done
 15 but didn't do. Nonetheless, even though you didn't travel to
 16 Virginia, how were you able to form the opinions that you shared
 17 with the members of the jury earlier today?
 18 A You know, this is customary in my profession. Right.
 19 I conduct a lot of internal audits, internal control
 20 assessments.
 21 We don't always visit on site. There are different
 22 means and methods for gathering information, and you know, in
 23 connection with that analysis.
 24 In this case, there was a lot of documentation related
 25 to policies, procedures, testimony and things like that that I

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1 did consider. Where I felt like I didn't have enough
 2 information to form my conclusions, I asked for more
 3 information. In this case, it related to the conversation that
 4 I had with Sonya Rowling, John Frazer and Arif Rahman.
 5 MS. EISENBERG: Thank you very much, Mr. Lerner.
 6 No further questions, your Honor.
 7 THE COURT: Thank you. Anything further?
 8 MS. CONNELL: No, your Honor.
 9 THE COURT: Thank you very much. You can step
 10 down.
 11 We have about -- we would have about five minutes.
 12 So should we just take our break now or is there any benefit
 13 of starting something? All right. Let's take our lunch
 14 break. We will reconvene at 2:15.
 15 THE COURT OFFICER: All rise. Jury exiting.
 16 (Whereupon, at this time the jury exits
 17 the courtroom.)
 18 THE COURT: Is there anything that we can
 19 profitably do to address things for the afternoon that are
 20 going to come up without wasting the jury's time?
 21 MS. CONNELL: I'm not aware of any right now, but
 22 Mr. Shiffman is handling the next witness. Mr. Wang.
 23 Ms. Cullen is the next witness?
 24 MS. EISENBERG: Correct.
 25 MS. CONNELL: Mr. Wang is. I don't think so.

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1 THE COURT: All right. See you then.
 2 MR. FARBER: One logistical thing.
 3 THE COURT: Off the record.
 4 (Whereupon, an off-the-record discussion
 5 was held.)
 6 THE COURT: All right. Thanks.
 7 (Whereupon, at this time there was a luncheon
 8 recess taken.)
 9 * * *
 10 A F T E R N O O N S E S S I O N
 11 * * * * *
 12 THE COURT: I think we are ready for the jury.
 13 Yes.
 14 MS. EISENBERG: Yes, your Honor.
 15 THE COURT: Okay. Let's go get them. .
 16 THE COURT OFFICER: All rise. Jury entering.
 17 (Whereupon, at this time the jury entered the
 18 courtroom.)
 19 THE COURT: Have a seat please. All right.
 20 Welcome back, everyone. Next witness for the Defense.
 21 MS. EISENBERG: Stacey Cullen, your Honor.
 22 THE COURT: Okay. Let's bring the witness in.
 23 THE COURT: Good afternoon. How are you?
 24 (Witness resumed the witness stand.)
 25 S T A C E Y C U L L E N, a witness called on

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1 behalf of the Defendant, after having been first duly sworn,
 2 took the witness stand and testified as follows:
 3 THE CLERK: State your name.
 4 THE WITNESS: Stacey Cullen, C-U-L-L-E-N.
 5 THE CLERK: Thank you. You may be seated.
 6 D I R E C T E X A M I N A T I O N
 7 B Y M S. E I S E N B E R G:
 8 Q Good afternoon. Please tell us where you work.
 9 A At Aprio.
 10 Q What kind of company is Aprio?
 11 A It's an accounting firm.
 12 Q Did it recently merge with another company called
 13 Aronson?
 14 A Yes, that's correct. As of January 1, 2023.
 15 Q What is your position at Aprio?
 16 A I am the director of non-profit tax services.
 17 Q How long have you been with Aprio? I'm sorry. With
 18 Aronson/Aprio.
 19 A I have been with them roughly three years.
 20 Q What, if any, services does Aprio perform for the NRA?
 21 A They perform audit services as well as a review and
 22 consulting work on the 990.
 23 Q Have you been involved in the review and consulting
 24 work on the Form 990 for the NRA?
 25 A Yes, I have.

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1 Q And since when was that?
 2 A Since I started in April of 2021.
 3 Q We have heard in the trial references to Form 990
 4 preparation and separately Form 990 review.
 5 Would you please tell the members of the jury from your
 6 perspective what the distinction is.
 7 A Sure. So the Form 990 is a tax form that non-profit
 8 organizations have to file, and the preparer is the one who is
 9 actually taking the form and using software to put the
 10 information on to the return.
 11 A reviewer looks at that information for accuracy and
 12 completeness.
 13 Q And when a company like yours reviews but don't prepare
 14 Form 990, does it typically sign the Form 990?
 15 A No, we would never sign a return that we are not the
 16 preparer for.
 17 There is a line for the organization to sign the return
 18 and a line for the paid preparer and for the organizations that
 19 we are just providing review work for, we don't sign those
 20 returns.
 21 Q Is it fair to say that the NRA prepares its own Form
 22 990?
 23 A Yes, that is correct. They have their own software
 24 that they are using, and they are preparing their 990.
 25 Q And that your company reviews the form and provides

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1 consulting services in connection with the form?
 2 A Yes. That's correct.
 3 Q Do you have any clients other than the NRA who prepare
 4 their own Forms 990?
 5 A Yes. Typically our larger clients are preparing their
 6 own 990s. They have a more sophisticated staff and are able to
 7 do that and hire us to do the review and any consulting work
 8 regarding the 990.
 9 Q Understood. Now, let's step back a little bit and tell
 10 the members of the jury a little bit about your professional
 11 background.
 12 A Sure. So I have a J.D. and an LLM in taxation.
 13 I started my career at Deloitte doing various types of
 14 tax there.
 15 When the Form 990, the non-profit tax form was
 16 revitalized in 2008, I jumped over to start doing non-profit
 17 only work and have done non-profit tax solely for the past
 18 15 years.
 19 Q And did you say that you head up a particular
 20 department at your company?
 21 A So I head up the non-profit tax group. We are a group
 22 of eight individuals that are dedicated to our non-profit
 23 clients.
 24 We have got about 850 990s that we do. So everybody on
 25 the team is a non-profit specialist. We don't have people doing

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1 like partnership returns, individual returns. Everybody is a
 2 non-profit specialist.
 3 Q Did you say 850?
 4 A Yes.
 5 Q And what does that refer to?
 6 A The number of 990s that our firm either prepares or
 7 reviews.
 8 Q What do you do to stay on top of the latest tips and
 9 best practices in your field?
 10 A Sure. So I get a daily email that is non-profit tax
 11 specific that highlights any changes that have recently happened
 12 or any court cases. And then I also go to different training.
 13 Most recently, I was in the State of New York for their New York
 14 State Non-Profit conference.
 15 Q Welcome back.
 16 A Thank you.
 17 Q Could you please tell us what you do to review the
 18 NRA's Form 990.
 19 A Sure. So I start -- I look at the financial
 20 statements, familiarize myself with what was going on during
 21 that year that way. And then I start on Page 1 of the return
 22 and I really flip every single page looking for accuracy and to
 23 make sure that the narrative is telling the same information
 24 throughout the return.
 25 Q And in connection with with this process, with whom at

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1 the NRA do you typically interface?
 2 A Rick Tedrick, Sonya Rowling, John Frazer, and there was
 3 a gentleman with the organization named Arif who is no longer
 4 there who was also part of it.
 5 Q And when you have occasion to speak to them about it,
 6 is it typically in person, on the phone over Zoom or something
 7 else?
 8 A We use Teams meetings a lot or Zoom meetings.
 9 Q Okay. And when you use Zoom meetings, does that
 10 provide for an opportunity to pull up the form on the screen and
 11 discuss it in context?
 12 A Yes. Zoom and Teams meetings both allow you to share
 13 your screen so that everybody is on the same page and able to
 14 look at the draft of the 990 and make sure we are talking about
 15 the same questions.
 16 Q Understood. And in the course of your work on this
 17 engagement for the NRA and interactions with the three
 18 individuals that you mentioned, have you come to form a view as
 19 to their commitment to making sure that the NRA's Form 990 is as
 20 complete and as accurate as possible?
 21 A Yes. I believe they are all very involved in the
 22 process. The depth of the questions that they typically reach
 23 out to me for while they are preparing those shows they are
 24 really taking a vested interest in what information they are
 25 putting on the return. And additionally, they ask me to present

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1 the return to the Audit Committee.

2 Q Let's talk about the Audit Committee. Have you made

3 presentations to the NRA's Board's Audit Committee?

4 A Yes. The past two years I have done a virtual

5 presentation to the Board of the 990 where we walk through all

6 -- every page of the 990 and point out the important parts that

7 they really need to be focusing on as well as the general

8 information that's contained in the return.

9 Q When was the latest set presentation that you delivered

10 to the Audit Committee?

11 A I don't remember the exact date, but it was before

12 their 2022 return was due November 15 of 2023. I believe it was

13 in October, but I might be a little off when that happened.

14 Q Of course. And ballpark, how long was your

15 presentation?

16 A The meeting itself went for about an hour, but it

17 wasn't just a presentation. I encouraged them to ask questions

18 throughout the process which they -- everybody was very

19 interactive, asking questions and was really involved in the

20 process.

21 Q And how does that compare to some of your other

22 clients?

23 A So I do have some other clients that are -- have audit

24 committees that are very good and interactive as well and then I

25 do have some clients who unfortunately their audit committees

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1 don't ask any questions. I have a ten-minute presentation

2 instead of an hour, and at the end when I'm done, I don't know

3 if anybody's listened to anything I have actually said. So they

4 are much more involved.

5 Q And going back to your interactions with Mr. Frazer,

6 Ms. Rowling and Mr. Tedrick, are there ever times when after

7 your review you identify questions for them?

8 A Yes. So quite often, I'll ask questions to get more

9 information from them to figure out if what is on the form is

10 the way it should be reported.

11 Additionally, as we are going through things, if there

12 is things that I think are not being reported correctly, they

13 will make those changes and then send out another draft for

14 review.

15 Q What is the C-Track validation process?

16 A Sure. So C-Track is the tax software system that the

17 NRA uses to prepare their return. And part of that process is

18 once they think their return is ready to be submitted to the

19 IRS, there is a button that they have to press that says

20 "validate," and I'm not an IT person, but it somehow runs the

21 data to make sure all of the numbers are tied in correctly and

22 that every part that is required to be completed is complete.

23 Q And in your professional opinion, how does that help,

24 if at all, insure that disclosures are as accurate and complete

25 as possible?

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1 A So it insures that required disclosures are in the

2 return because it won't pass validation without that. And then

3 if it doesn't pass validation, they can't hit the "submit"

4 button to e-file the return with the IRS, and e-filing is

5 required, so they can't file the return until it passes

6 validation.

7 Q Do all of your clients use C-Track?

8 A They do not. So when Aprio was Aronson, Aronson was

9 using C-Track for all of our clients. It's an excellent

10 software, and I believe the only software that was designed just

11 for 990s, so it's specific for non-profit organizations and is

12 very user-friendly and interactive.

13 We do have -- after we merged we switched over to CCH

14 software that we use for the bulk of our clients, but most of

15 our clients that are preparing their own returns have decided to

16 stay with C-Track.

17 THE COURT: Counsel, I don't like to interrupt, but

18 just because I am trying to keep track, do we know the

19 years -- the witness has talked a lot about the company's

20 process, but I don't know that you've asked yet which years

21 of 990s she's worked on.

22 MS. EISENBERG: I don't think --

23 THE COURT: If I am confused, it's certainly

24 possible that the jury might not know either.

25 MS. EISENBERG: I'm sorry. Thank you very much.

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1 Q Ms. Cullen, tell us which of the NRA's Form 990s you

2 have reviewed?

3 A I have reviewed their 2020, 2021 and 2022 tax returns.

4 Q And those were filed in which years?

5 A So that they -- those would have been filed a year

6 later. So close to November 15 of 2021, November 15 of 2022 and

7 November 15 of 2023.

8 THE COURT: Thank you.

9 Q Thank you. You shared with us your recollection of the

10 meeting with the Audit Committee in the Fall of 2023.

11 I believe you testified there was a similar

12 presentation that you delivered in the year prior. Please tell

13 us about that presentation.

14 A That was very similar. It was also a virtual meeting.

15 And again, the Audit Committee was very involved in the process

16 asking questions and really making sure to the best of their

17 knowledge that the information that was being reported was

18 accurate.

19 Q If you would be so kind to turn to Tab 5 in the binder

20 that's to your left, and that is PX 2347.

21 A Okay.

22 Q And that document is already in evidence, so we can

23 display it for the jury.

24 What is PX 2347?

25 A This is the NRA's Form 990 for their 2020 tax year. So

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1 this is the one that would have been filed around November 15 of
2 2021.
3 Q And not specifically or exactly, but about how many
4 pages does this Form 990 contain?
5 A So I haven't flipped to the back page of this one, but
6 the NRA's 990 is usually about 101 to 103 pages. This one is
7 108.
8 Q Does the form consists of certain sections or parts?
9 And if so, what are they?
10 A Sure. So the form -- the core form of the 990 has 12
11 parts, and each of those are asking for various information
12 that's different in each part.
13 So what you're seeing on the screen right now is Part 1
14 of the return and this is just an overview, and it gives the
15 reader an overall sense of what they are going to see further
16 into the return, and almost all of the information on Page 1 of
17 the return is being pulled from other sections of the return.
18 Q And then on -- if you direct us to a particular page,
19 we can scroll to that on the screen.
20 A Okay. And then the next page, Page 2 of the return is
21 Part 3. This is program service accomplishments are listed
22 here. This is a really important part of the return. This
23 tells the reader exactly what the organization was spending
24 their money on and what their program services were for that
25 year, and this changes a lot each year because everything that

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1 they are doing is slightly different year to year.
2 I mean, it all falls under their general mission, but
3 the extent of their reach changes each year, so it's important
4 that this is updated. So that's Part 3.
5 And then Part 4 which is the next page is a checklist
6 of required schedules, and this is one of those sections that
7 C-Track is particularly good with. Depending on the answers on
8 this schedule, it let's you know what other schedules you need
9 to complete.
10 So the core form of the 990 has 12 parts, but then
11 there is all these lettered schedules that organizations may
12 have to complete depending on how they answer these yes and no
13 questions.
14 (Continued on the following page.)
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25

S. Cullen - by Defendant - Direct/Ms. Eisenberg Page 3641

1 Q Thank you, Ms. Cullen. Is there a form -- I'm sorry.
2 Is there a section of the form that deals with governance
3 issues?
4 A Yes. That's section -- part 6.
5 Q And is there a schedule that goes with that?
6 A There's not a schedule, per se, for the governance.
7 Q Okay.
8 A It's all on part 6; and a lot of part 6 depending on
9 how the questions are answered do have Schedule O disclosures.
10 Q Understood. What is Schedule J?
11 A Schedule J -- so I think it might make sense to go back
12 to part 7 first, part 7 which is actually page 7 of the 990.
13 This lists out the officers, directors and board
14 members, the highest compensated individuals and key employees
15 of the organization. Anybody that's listed on this part who has
16 compensation over \$150,000, it's called the Schedule J.
17 So the Schedule J then provides additional breakout of
18 compensation information for individuals listed in part 7.
19 Q Understood. When you made the presentation to the
20 Audit Committee of the NRA's board in the fall of 2023, do you
21 remember where they used specifically discussed the governance
22 section of the Form 990?
23 A Yes, we did.
24 Q And what about during the fall of 2022?
25 A Yes.

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1 Q Does the Internal Revenue Service issue instructions
2 for the Form 990?
3 A Yes, there's a long set of instructions for the core
4 form of the 990, as well as instructions for each schedule.
5 Q Based on your professional experience in this area,
6 what if any view have you formed about whether or not despite
7 best efforts sometimes inadvertent errors are caught?
8 A Yes. Many organizations --
9 MR. WANG: Objection. Your Honor. It calls for
10 opinion testimony.
11 THE COURT: Overruled.
12 A Many organizations have an error or two or something
13 that can be stated more clearly on their 990s. It is such a
14 large document.
15 Q Thank you very much, Ms. Cullen.
16 MS. EISENBERG: No further questions at this time.
17 THE COURT: Any other direct testimony?
18 MR. CORRELL: No cross, your Honor.
19 MR. WERBNER: No, your Honor.
20 MR. FLEMING: No questions, your Honor.
21 THE COURT: Okay. Mr. Wang?
22 MR. WANG: No questions, your Honor.
23 THE COURT: Okay. Thank you very much.
24 THE WITNESS: Thank you.
25 (Whereupon, at this time the witness was then

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1 excused.)
 2 MS. ROGERS: The NRA's next witness will be Craig
 3 Plotts.
 4 THE COURT: Okay, if we can get that witness,
 5 Mr. Plotts.
 6 How do you spell the witness's last name?
 7 MS. ROGERS: P-L-O-T-T-S.
 8 Your Honor, while we wait for Mr. Plotts, it is my
 9 understanding that there were a few slides that Mr. Lerner
 10 had that were objected to because the Aronson testimony
 11 wasn't yet on the record.
 12 I wasn't here so I apologize if I'm misconstruing,
 13 but would the Court after the Aronson testimony is in be
 14 amenable to us briefly calling Mr. Lerner to discuss those
 15 matters?
 16 THE COURT: No.
 17 MS. ROGERS: Okay.
 18 THE COURT: I didn't mean that as harshly as it may
 19 have come across. I didn't think it was an unreasonable
 20 request.
 21 MS. ROGERS: Okay.
 22 THE COURT: Being succinct.
 23 (Continued on next page)
 24
 25

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1 about 2016.
 2 Q Can you describe for the jury the extent to which your
 3 work as an accountant focuses on not-for-profit versus for
 4 profit organizations?
 5 A Yes. Currently now with Aronson/Aprio is one hundred
 6 percent not-for-profit audits.
 7 Q Are you a Certified Public Accountant?
 8 A I am.
 9 Q The jury's heard from some paid accounting experts
 10 brought in to give about opinions about issues in litigation.
 11 I want you to clarify you're not testifying as a hired
 12 expert witness; right?
 13 A That's correct.
 14 Q Can you describe the standard of independence that
 15 applies to you as an accountant, as an auditor?
 16 A Yeah, independence is a keystone to being an
 17 independent auditor. It is making sure that we are objective,
 18 that we're free from any influence from management, from the
 19 board, from the Audit Committee. And we're not ones to make
 20 management decisions. We have to make sure that that's
 21 management and we're independent from management.
 22 And we -- we do professional skepticism. It is very
 23 important with all the independence that go along with that.
 24 Q What do you mean by "professional skepticism?"
 25 A The bottom line, just not taking everything at face

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1
 2 G R E G O R Y P L O T T S
 3 called as a witness in behalf of the Defendant,
 4 and after having been first duly sworn by the Clerk of the
 5 Court, took the witness stand and testified as follows:
 6 THE CLERK: State your name.
 7 THE WITNESS: Gregory Michael Plotts.
 8 THE CLERK: Spell your last name.
 9 THE WITNESS: P-L-O-T-T-S.
 10 THE COURT: Have a seat. Stay as close to the mike
 11 as you can because the mike is not that great. Okay.
 12 DIRECT-EXAMINATION
 13 BY MS. ROGERS:
 14 Q Good afternoon, Mr. Plotts. Can you introduce yourself
 15 to the jury and describe your professional background?
 16 A Yes, I'm Greg Plotts.
 17 THE COURT: That's not going to work. You have to
 18 come closer.
 19 A I'm Greg Plotts. I'm a CPA. I've been a public
 20 accountant for twenty-five years. Currently, I work at Aprio.
 21 Aronson just recently just merged in with Aprio January 1st,
 22 2023.
 23 Started out my career at PricewaterhouseCoopers working
 24 the not-for-profit audit division, and went to a regional firm
 25 after that and became partner and then joined up with Aronson

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1 value when you're having conversations with management and Audit
 2 Committee. We trust what they're saying, but we verify what
 3 they're saying.
 4 Q The jury just heard testimony from Stacey Cullen.
 5 Can you describe how your position differs from her
 6 position at Aprio?
 7 A Yes, I am an audit partner so I'm in charge of the
 8 audits for not-for-profit division in our firm, and she is a tax
 9 accountant, so she does all of our 990 work for our
 10 not-for-profits.
 11 Q And you work on the NRA account, too; right?
 12 A I do work on NRA account.
 13 Q When did you start your work with the NRA at
 14 Aronson/Aprio?
 15 A I'm sorry, repeat that question?
 16 Q Sure, so you were at Aronson and now Aprio, which is
 17 the same firm; right?
 18 A Yes, it is.
 19 Q And you work with the NRA, right?
 20 A That's correct.
 21 Q When did that start?
 22 A That started in 2019.
 23 Q Okay. Let's turn to Tab 4 of your binder. This is --
 24 MS. ROGERS: I'm going to show this to the witness,
 25 but it is not in evidence yet.

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1 This is DX1-0007.

2 Q And let me know when you've got that in front of you.

3 A I have that in front of me.

4 Q Mr. Plotts, do you recognize this document?

5 A I do.

6 Q What is the document?

7 A This is our Acceptance and Continuance form.

8 Q Is it in the ordinary course of your work as an

9 auditor, do you prepare these forms often?

10 A We do on every job.

11 Q And you rely on them in the ordinary course of your

12 work?

13 A We do.

14 MS. ROGERS: I move to admit it into evidence.

15 MR. SHIFFMAN: Your Honor, we object to the extent

16 it contains hearsay within the document itself.

17 THE COURT: Look, this is -- it's admissible as a

18 business record which means that you can accept it for the

19 fact that it faithfully records certain things that they did

20 and thought.

21 To the extent that within it are statements made by

22 other people that they have recorded, you can take it as

23 evidence that this is what they heard and reported on their

24 form; but it doesn't go to the truth of what those other

25 people told them.

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1 We've talked about this so many times you probably

2 would all get a very good grade in an evidence class in law

3 school, but that's the issue here. It is called hearsay

4 within hearsay. So, the business record gets sort of a

5 first level, which is that since this is prepared in the

6 ordinary course it has some general business reliability

7 that it's not just made up, but the underlying statements

8 from others is -- this is not for the truth of the matter

9 asserted by those people.

10 Okay, otherwise, it is admitted into evidence with

11 that caveat.

12 MS. ROGERS: Thank you, your Honor.

13 (Whereupon, at this time Exhibit DX1-0478 was

14 admitted and received into evidence.)

15 Q Mr. Plotts, when your audit firm takes on a new client,

16 is there a vetting process for the client?

17 A There is. There's a form that we always fill out, an

18 acceptance form.

19 Q Can you describe that vetting process?

20 A Yeah, we go through and make sure that we are

21 comfortable with internal controls or tone at the top with the

22 not-for-profit organization when we bring on new clients and

23 that we'll be able to complete an audit of their financial

24 statements.

25 Q Is the vetting process always the same or does some

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1 potential new audit clients receive more scrutiny than others?

2 A It is not the same. Every audit is unique, and so we

3 tailor audit procedures around each client that we have.

4 Q Tell the jury when and why you prepared this form

5 regarding the NRA?

6 A Sure. We were contacted in October of 2019 that the

7 NRA was looking for a new auditor, a new audit firm and so we

8 were understanding we did some investigation as far as news

9 articles that were out there and so we came through a couple of

10 ones that concerned us.

11 So, we wanted to talk within our organization if this

12 is the kind of client that we wanted to be associated with and

13 to -- to work with. It was approved. To go out and meet with

14 the management of the NRA to find out more information of what's

15 in those news articles.

16 Q And would you describe this as a due diligence process?

17 A Oh, absolutely, yes.

18 Q In the course of your diligence, whom at the NRA did

19 you meet with?

20 A We met with Craig Spray, the CFO and treasurer at the

21 time. We met with Sonya Rowling and we met with Rick Tedrick.

22 Q And can you describe for the jury aspects of those

23 meetings that informed your view of whether this was the kind of

24 clients you wanted to be associated with?

25 A Yeah, we definitely had some concerns with what was

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1 going on in the environment. So, we came in pretty, pretty hard

2 asking questions to management of some things that came out were

3 the allegations of the Russia investigation. These were top of

4 my list to talk to them about. I wanted to get their story on

5 this. Oliver North and Ackerman McQueen and that relationship,

6 we also heard about the New York State Attorney General was

7 having an investigation into the NRA.

8 So, those were the main topics that I wanted to get

9 information from them and get an understanding to make sure we

10 can move on with a proposal process.

11 Q We want to orient the timeline here. So this is 2019.

12 There's an investigation by the New York State AG, but not a

13 lawsuit, right?

14 A That's correct.

15 Q When you met with management, what kind of criteria and

16 qualities were you assessing to figure out if you wanted to work

17 with these people?

18 A Integrity is one of the first things that we look at.

19 We want to make sure that they want to have internal controls

20 and that they're transparent with us about what's going on with

21 our questions, too.

22 Q If we turn to the top of page 2 of -- well, wait, let's

23 stay on page 1 for a second. You said you had a list of things

24 you were concerned about, and you heard you name Russia, Oliver

25 North, Ackerman and the New York State AG.

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1 Are those the three things listed on the first page?
 2 A They are.
 3 Q And let's turn to the top of page 2, where you have a
 4 sentence beginning "The NRA's management team has taken major
 5 steps discussing Craig Spray, revamping oversight and strict
 6 controls."
 7 Do you see that?
 8 A I do see that.
 9 Q Can you explain what information you gathered about
 10 management and controls that informed your decision to take this
 11 client on?
 12 A Yes. So, we had -- again, we had a conversation with
 13 Craig, Rick and Sonya; and in there, we found that they were
 14 very transparent on answering all of our questions and admitting
 15 that there was some not best in practice contracts that were
 16 signed in the past; but they are implementing internal controls
 17 and that Craig was a new CFO that came in and he was adamant
 18 that he was going to have tight internal controls. He was -- he
 19 was seems a little emotional about it, too, and very, very
 20 genuine.
 21 In fact, I brought on do you know of any other fraud or
 22 fraud allegations made within the organization other than the
 23 things we've been talking about today; and he said, yes, we
 24 actually have a chief of staff --
 25 MR. SHIFFMAN: Objection, your Honor, to hearsay,

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1 would be relating conversations with Mr. Spray.
 2 THE COURT: Again, I think it's admissible for what
 3 was said, that these are things he heard. It is not
 4 admitted for the truth of what this person might have said.
 5 Q Mr. Plotts, what was said to you that helped you form
 6 the view that management were being transparent?
 7 A Well, when we were asking the questions, he was saying
 8 they are doing an investigation into the chief of staff over
 9 expense reporting. That they thought there was some fraudulent
 10 expense reporting on that behalf.
 11 Just his overall we're going to take care of the
 12 internal controls, we're looking to beef them up; and so that
 13 was really to me, that was very transparent, passionate of where
 14 he was with these internal controls and how he wanted to take
 15 them for the future.
 16 Q Let's look at the second paragraph on this page, where
 17 it says "Aronson found the NRA."
 18 Do you see that?
 19 A Yes.
 20 Q Did you find just that Mr. Spray was transparent, or
 21 was that your view of other NRA leadership, too?
 22 A I had a past history with Sonya Rowling and Rick
 23 Tedrick. When I used to work at PricewaterhouseCoopers, I was
 24 part of that audit that PricewaterhouseCoopers did with the NRA
 25 in the early 200s we're talking --

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1 Q 2000s? You're not that old.
 2 A Not that old, you're right. Twenty years ago. I added
 3 a couple thousand on that. Yeah, early 2000s.
 4 THE COURT: You're using a stone tablet at that
 5 point. Wrong continent I think, but, go ahead.
 6 A So early 2000, my key contacts -- they were my key
 7 contacts when I was out there doing the audit as a lower level
 8 staff, and I had a good relationship with them when I was out
 9 there doing -- I think it was probably three or four years if I
 10 remember correctly I was on that audit.
 11 So, I was excited that they were still in that position
 12 of a finance role. And I felt like -- I've met them at another
 13 not-for-profit event, we started talking and that's why actually
 14 Sonya reached out to me in October 2019 because we kept that
 15 relationship up.
 16 Q You said as a "lower level staff." Did you mean that
 17 when you worked on the NRA twenty years ago, you were a lower
 18 level accountant?
 19 A Yeah, I was a senior accountant.
 20 Q I see references in your red text here in a couple of
 21 places to the AC. So you say "Craig has the report of the AC
 22 CEO board." Do you see that?
 23 A Yes.
 24 Q What is the AC?
 25 A It's the Audit Committee.

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1 Q Did you find the Audit Committee to be transparent?
 2 A We met with the Audit Committee during our proposal
 3 process; so after we met internally at Aronson at the time with
 4 partners in the board and said let's go forward and put a
 5 proposal together and give that proposal and have a meeting with
 6 the Audit Committee, I thought that meeting with the Audit
 7 Committee was very, very transparent, very straightforward as
 8 far as what they're looking for in an auditor.
 9 They wanted to have someone to come in, give them a
 10 thorough audit.
 11 So, again, that was reassuring to us that we weren't
 12 going to have, you know, in our minds we're not going to have
 13 any blockades to performing this audit.
 14 Q Have you ever heard of something called SKE in the
 15 terms of an audit?
 16 A Yeah, so we call SKE, Skills, Knowledge and Experience;
 17 and that's how we really evaluate finance staff. So we -- we
 18 document that in our audit file the SKE that the finance staff
 19 would have.
 20 Q And without divulging confidential details about any of
 21 your other clients, can you tell the jury generally how in your
 22 assessment the SKE of the NRA finance staff compares to other
 23 not-for-profits you've seen?
 24 A We were very -- I was -- let's see. SKE was very high
 25 for me when we evaluated the finance staff. The skills,

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1 knowledge and experience, we knew Sonya Rowling and Rick Tedrick
 2 have been there a long time, right. I met them twenty years
 3 ago. So, that was important to us.
 4 They were very knowledgeable back then and very
 5 knowledgeable about their accounting and generally accepted
 6 accounting principles.
 7 Q What about the level of transparency at the top without
 8 divulging confidences about other clients, how does the NRA
 9 transparency in your view compare to other not-for-profit you've
 10 seen?
 11 MR. SHIFFMAN: Objection, lack of foundation.
 12 THE COURT: Overruled.
 13 A We have a great two-way communication with the Audit
 14 Committee. That's one of our staples. It is very important to
 15 us to have that, so I find them to be as transparent, but more
 16 communication than I have with the Audit Committee at the NRA.
 17 And it could be because they have a lot of things going on also,
 18 too, compared to some of my other not-for-profits.
 19 Q I want to flip back to page 1 quickly and focus on your
 20 paragraph concerning the New York State AG.
 21 At the very bottom of the first paragraph, you document
 22 a concern that the NYAG will prolong the investigation to keep
 23 legal fees --"
 24 MR. SHIFFMAN: Objection, your Honor.
 25 THE COURT: If you can wait till maybe the question

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1 is finished before --
 2 MR. SHIFFMAN: She was reading in the hearsay
 3 portion.
 4 MS. ROGERS: I'm directing him to a paragraph.
 5 THE COURT: Look, I've admitted this document with
 6 a caveat about what can be done about it.
 7 Q Do you see that sentence in the document you prepared?
 8 A Yes, I do.
 9 Q Do you recall --
 10 MR. SHIFFMAN: Same objection.
 11 THE COURT: Again -- just let me. Nothing in this
 12 document that comes from the NRA is viewed as evidence of
 13 its truth.
 14 So, maybe the slight concern is that you referenced
 15 it as a concern without indicating whether it was his
 16 concern or concern that the NRA had expressed, and maybe
 17 that was causing Mr. Shiffman some indigestion.
 18 MS. ROGERS: I understand, your Honor.
 19 MR. SHIFFMAN: It is speculative and prejudicial.
 20 THE COURT: Well, whatever it is, it is what he
 21 heard, which is all that I'm admitting it for.
 22 So, maybe you can just fine tune the question to
 23 focus on that.
 24 Q Mr. Plotts, do you recall documenting a concern
 25 expressed to you by the NRA that the Attorney General would

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1 prolong the investigation to keep legal fees high?
 2 MR. SHIFFMAN: Same objection.
 3 THE COURT: Overruled.
 4 A Yes. So, we had a concern about the New York State
 5 AG's Office investigating the NRA. So, this is their response
 6 to it that they were concerned that the New York AG would
 7 prolong investigations and keep this going to increase legal
 8 fees and expenses for the NRA.
 9 Q Did you generally find that the management you
 10 interviewed were attentive to the potential costs imposed by
 11 legal fees?
 12 A Yeah, of course. There were three staff in finance and
 13 they were concerned about their finances.
 14 Q So, after completing this assessment, did you accept
 15 the NRA as a compliant?
 16 A We did.
 17 Q Let's turn to Tab 1 in your binder.
 18 MS. ROGERS: And this is going to be DX1-0810, and
 19 I want to show it to the witness for identification because
 20 it is not in evidence yet.
 21 THE COURT: This has been admitted --
 22 MS. ROGERS: I thought it wasn't. Just in case,
 23 we'll do the ritual.
 24 Q Mr. Plotts do you recognize the document?
 25 A DX1-0810?

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1 Q That's correct.
 2 A I do recognize.
 3 Q This is your engagement letter when you took on the NRA
 4 as a client; right?
 5 A That is correct.
 6 Q Is it the ordinary course of your business to prepare
 7 engagement letters like this one for new client?
 8 A We have engagement letters for all of our clients, yes.
 9 Q And you prepared --
 10 A For all have our audit clients.
 11 Q And you prepared this one; right?
 12 A I did.
 13 MS. ROGERS: I move to admit it in case it is not
 14 admitted.
 15 MR. SHIFFMAN: No objection.
 16 THE COURT: It's is admitted now.
 17 MS. ROGERS: Thank you very much.
 18 (Whereupon, at this time Exhibit DX1-0810 was
 19 admitted and received into evidence.)
 20 Q The document is now on screen. So, you took on the NRA
 21 as a client for Audit Services and Related; right?
 22 A We took on the client for Audit Services -- actually,
 23 what was your question again?
 24 Q Well it, says, "Audit services and Related Report." So
 25 what is the related report?

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1 A Oh, audit services and related financial statement
2 opinion report.
3 Q I want to turn to page 3 of the document where it says
4 Roman number IV, "Other Services."
5 And do you see where it says that Aronson will assist
6 in preparing the NRA federal and state tax returns?
7 A I do see that.
8 Q But, we just -- well, I won't say that. Did Aronson
9 prepare the NRA's tax return that year?
10 A Aronson did not prepare it.
11 Q Why?
12 A The NRA went out and got their own tax software and got
13 training on that software and prepared their own 990 tax return
14 on that software.
15 Q And how did the NRA software, if you know, compare to
16 the software Aronson would have used if Aronson had prepared
17 it?
18 A I think I understand your question. At this time we're
19 all using C-Track as a tax return. So we would use the C-Track
20 within Aronson, and NRA would use that same system, that tax
21 system.
22 Q Now, instead of preparing the tax return, Aronson
23 reviewed it; right?
24 A That's correct.
25 Q And do you recall whether subsequent years engagement

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1 respects, the financial statements are free of material
2 misstatements in accordance with generally accepted accounting
3 principles. A lot of people call GAAP, and that's where that
4 GAAP comes from.
5 Q Is a clean opinion the same as a clean internal
6 controls audit?
7 A It is not.
8 Q Can you describe for the jury the extent to which a
9 clean audit opinion takes into account internal controls?
10 A Sure. When we plan and perform audit procedures, we
11 want to get an understanding of the organization, the
12 environment, the internal control processes in order to
13 specifically identify audit procedures that we're going to use
14 to come up with this opinion that we -- that we're going to
15 have.
16 Q All right, let's look at Tab 5 of your binder for
17 identification, because this is not in yet.
18 MS. ROGERS: It is DX1-0030.
19 MR. SHIFFMAN: With the same objection as the
20 previous form, PX 150, the hearsay within the hearsay.
21 THE COURT: Right, well, are you going to move to
22 admit it?
23 MS. ROGERS: Yes, on the same basis.
24 THE COURT: This is a similar form, so the similar
25 instruction that it's admitted as a business record to show

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1 letters correctly specified that Aronson would have reviewed
2 rather than prepared the return?
3 A To the best of my knowledge, I believe it does say that
4 we're going to review the tax return and not prepare it.
5 Q Let's turn to Tab 6 of your binder, which is DX1-0478
6 for identification.
7 THE COURT: Any objection to this one being
8 admitted?
9 MR. SHIFFMAN: No, your Honor.
10 THE COURT: You can skip the foundation.
11 MS. ROGERS: Move it admitted.
12 THE COURT: It's admitted.
13 (Whereupon, at this time Exhibit DX1-0478 was
14 admitted and received into evidence.)
15 MS. ROGERS: Thank you very much. We can show it
16 to the jury.
17 (Displayed)
18 Q Mr. Plotts, this is the audit report you prepared when
19 your company audited the NRA financial for 2019; right?
20 A That's correct.
21 Q This is an unqualified opinion, right?
22 A Unqualified clean opinion, yes.
23 Q Can you explain to the jury what a clean opinion means
24 and doesn't mean?
25 A Sure. A clean opinion means that in all material

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1 what they heard and observed and wrote down; but it's not
2 admissible for the truth of the underlying statements made
3 by others that are reflected in it.
4 So, with that caveat, it is admitted.
5 (Whereupon, at this time Exhibit DX1-0030 was
6 admitted and received into evidence.)
7 (Continued on next page)
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1 Q Mr. Plotts, do you recognize this document?
 2 A I do.
 3 Q You prepared this document?
 4 A Yes.
 5 Q So you had to vet the NRA before you took them on as a
 6 client. That's the previous form we saw.
 7 A Correct.
 8 Q This looks like a similar form. So can you explain the
 9 extent to which or why you were vetting the NRA again the
 10 following year?
 11 A Yeah. So every year as a new engagement with a
 12 not-for-profit organization, so we would do an acceptance and
 13 continuance form for all of our clients to make sure that we can
 14 continue working with them in the following year.
 15 Q And this form is dated August 2020, and it references
 16 an Attorney General and NY Attorney General and DC Attorney
 17 General lawsuits filed in August of 2020.
 18 Do you see that?
 19 A I do.
 20 Q So given that the Attorney General had just sued your
 21 client the NRA, did that affect the level of investigating, the
 22 level of diligence that Aronson performed?
 23 A Yes, it did.
 24 Q Describe to the jury how it affected it.
 25 A Yeah. When serious allegations came out with an

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1 before continuing the engagement?
 2 A Yes. We decided to meet with those within management
 3 and the Audit Committee, those charged with governance.
 4 Q Now, in addition to talking to people at the NRA, did
 5 you continue doing your own outside independent research?
 6 A Yeah, of course. We are keeping an eye on, you know,
 7 outside environment. I have a Google alert that comes to my
 8 emails every day about clients in the news and headlines. So we
 9 are watching those. And then we wanted to talk with management
 10 and the Audit Committee about what's going on and what we are
 11 hearing out there in the environment.
 12 Q Let's turn to Page 2 of this document, and I want to
 13 direct your attention to the list of bullet points on the top
 14 half of the page, and I'm looking at the second one from the
 15 bottom where it says, "He welcomed the comment that we made
 16 about having to perform additional procedures around the
 17 lawsuits from NY and DC AG, and he encouraged us to review all
 18 material contracts and vendors."
 19 Do you see that?
 20 A Yes.
 21 Q You are not testifying about the truthfulness of what
 22 this person said to you. But who was it that told you he
 23 welcomed the additional scrutiny and wanted you to perform a
 24 review?
 25 A Yes. When we were having a conversation with Craig

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1 official lawsuit, we got together internally and we met with the
 2 managing partner, with the the GC partner and decided our next
 3 steps to take in order to see if we should continue working with
 4 the NRA. There was phone calls. We were part of a praxity
 5 alliance firm. That's like 55 connected accounting firms
 6 together, and they have global offices. So that's where we go
 7 to bounce off some ideas to the praxity firms that maybe have
 8 dealt with something in like this situation in the past just to
 9 get some best practices.
 10 We also met with our external counsel to make sure that
 11 we were, you know, doing all the right things with our
 12 continuance work paper that -- making sure we have dotted all
 13 our Is, crossing all our Ts, meeting with the right people and
 14 understanding if we should move forward with the NRA.
 15 Q When you say "external counsels," you mean your
 16 accounting firm lawyers?
 17 A That's Aronson lawyers, yes; correct. And through
 18 those discussions, we decided to come up with an ad hoc
 19 committee made up of partners to evaluate the continuance form
 20 so that's out of normal scope of what we would do with other
 21 not-for-profit organizations. It's directly related to the New
 22 York State Attorney General lawsuit.
 23 Q So after talking with your quality control partner,
 24 your lawyers, a network of other accounting firms, was there
 25 additional diligence that Aronson decided to perform on the NRA

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1 Spray, we wanted to get his take on the New York AG lawsuit, so
 2 we walked through that. And then I told him that we were going
 3 to -- we already reviewed the lawsuit, and we were going to take
 4 their point in their lawsuit and make special procedures in our
 5 2020 audit to make sure because there is a risk of a material
 6 misstatement due to a significant fraud risk and a significant
 7 material misstatement risk. So we are going to do special
 8 procedures to mitigate those risks directly related to the
 9 allegations in the New York Attorney General lawsuit, and he was
 10 open to it, he was welcoming to it, and he was happy that we
 11 were doing those things.
 12 Q And you also spoke with others at the NRA; right?
 13 A I did talk to others within the NRA. I wanted to make
 14 sure everyone was clear that we were going to do special
 15 procedures that directly related to the lawsuit that was filed
 16 by the New York Attorney General's Office.
 17 Q Sir, were other -- other NRA leadership team consistent
 18 with Mr. Spray in welcoming the additional scrutiny?
 19 A They all were welcoming. They said you have full
 20 access. We want you to go in and make sure that these things
 21 are not happening, you know, in your audit. So please -- they
 22 just wanted me -- they had no complaints about it. They wanted
 23 to have open access for our audits.
 24 Q All right. You mentioned special procedures. Can you
 25 explain to the jury when auditors use the word "procedures" what

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1 do they mean?

2 A Those are audit tests that we would do, so we call them

3 procedures, work papers, audit tests. So what we want to do,

4 they are specifically designed to mitigate some risk especially

5 the special procedures were.

6 Q Let's turn to Page 8 of this document, and I'm going to

7 direct your attention to a long numbered bulleted list prefaced

8 by the sentence, "Through the review of the lawsuit brought on

9 by the NYAG Office, Aronson will perform the following

10 additional procedures in the 2020 audit."

11 Do you see that?

12 A I do.

13 Q Is this a list of the special testing you performed due

14 to the concern of a fraud risk raised by their lawsuit?

15 A Yes, these are special procedures that when I was

16 reviewing the lawsuit that I wanted to address and put into my

17 file for the 2020 audit.

18 Q There is a lot here. I want to focus first on number

19 seven.

20 Does it describe testing you did concerning contracts

21 with David McKenzie's companies?

22 A Yes. That's correct.

23 Q When you did that testing, did you find any material

24 risks?

25 A Yeah. When we reviewed the contracts, we did find some

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1 that there was something in the Women's Leadership Forum expense

2 accounts that we should look at and test for compliance with the

3 internal controls at the NRA.

4 Q Looking at number 17 which is on the top of the next

5 page. You also tested conflict of interest and related-party

6 transaction issues; right?

7 A That's correct.

8 Q And if we look a couple down, number 19, you also

9 tested how the NRA handled whistleblower complaints; right?

10 A That's correct.

11 Q All right. Did you meet with the Audit Committee

12 regarding this testing?

13 A Yes. We met with Charles and David of the Audit

14 Committee Chair and Vice-Chair and had these conversations that

15 we were going to perform these procedures.

16 Q And can you describe how the Audit Committee reacted to

17 the news that you would be testing and inspecting these

18 documents pertaining to these transactions?

19 A Again, they welcomed the news. They were -- they

20 thought that was a great idea and they were encouraged that we

21 came up with these and are going to do the special procedures.

22 Q All right. Let's turn now to Tab 8 in your binder

23 which is DX 1-0477.

24 MS. ROGERS: Do we have any objection to this

25 document?

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1 noncompliance with the internal controls at the NRA.

2 Q In the past or in the present?

3 A In 2020 when we looked at like the MMP contract, we saw

4 it was old, and they were -- they were working on renegotiating

5 it but did not follow the internal controls at the NRA and we

6 have a comment about that.

7 Q And what about in the same bullet you talk about

8 testing on Ackerman McQueen, Mercury Group and Under Wild Skies.

9 Do you see that?

10 A Yes.

11 Q And what did that testing show?

12 A They have a lawsuit out -- they started a lawsuit

13 starting out in 2019, so there was no expenditures, but we

14 wanted to make sure. We had them run to make sure there was no

15 expenditures against those contracts that they weren't still

16 paying Ackerman McQueen for invoices and things like that.

17 Q You also list a consulting agreement with former

18 employees and current Board members.

19 A That's right.

20 Q Your special procedures also covered legal fees; right?

21 A That's correct, yes.

22 Q Why did your special procedures in number 11, why did

23 you look at the Women's Leadership Forum?

24 A That was specifically identified in the Attorney

25 General's lawsuit that there was -- so that made us concerned

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1 MR. SHIFFMAN: No.

2 MS. ROGERS: We move to admit it.

3 THE COURT: It's admitted.

4 Q Did you prepare these audited financial statements

5 after doing those procedures to test the New York Attorney

6 General's allegations?

7 A Yes, we did. These were filed in September 2021, and

8 this was another clean opinion that we had over the financial

9 statements.

10 Q Now, you mentioned there was an old MMP contract. So

11 how did you issue a clean opinion even though the MMP contract

12 was old?

13 A Yeah. So we look at underlying invoices with the MMP

14 and make sure that they are reviewed and approved and entered

15 into the financial accounting records appropriately and recorded

16 in accordance with NYAG accounting principles.

17 Q I want to look back now at the document which is when

18 you vetted the NRA again following the lawsuit, and I want to

19 look deeper into that document, and I want to look at Page 10 of

20 DX 1-0030 which was Tab 5 of your binder. Let me know when

21 you're there, and let's get to Page 10.

22 A I'm at Page 10.

23 Q I want the screen to be at Page 10 too. All right.

24 In the middle of the page, there is some gray text that

25 says, Update to the continuance documentation in May 2021 after

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1 the dismissal of the bankruptcy case."
 2 Do you see that?
 3 A I do.
 4 Q So you had to vet the NRA again after its bankruptcy;
 5 right?
 6 A That's correct.
 7 Q And you discuss here issues that you -- diligence, when
 8 the NRA emerged from bankruptcy.
 9 A Yeah, that's correct. We started the audit, and it was
 10 paused because they filed for bankruptcy in January of 2021. So
 11 the audit was put on hold and when the bankruptcy was dismissed,
 12 there were things that came out of bankruptcy that was
 13 concerning to us. So we decided as a continuance committee,
 14 let's go back and meet with management and the Audit Committee
 15 again to get an understanding of some of these things that came
 16 out of the bankruptcy.
 17 Q Now, Craig Spray was no longer treasurer by that time;
 18 right?
 19 A That's correct.
 20 Q So did you do anything to gain comfort with the new
 21 treasurer Ms. Rowling?
 22 A Yes. We interviewed Ms. Rowling, and we had a long
 23 relationship. Well, we did the audit in 2019. I have known her
 24 for 20 years as I discussed before. And again, we evaluated her
 25 SKE, the skills, knowledge and experience and if she was fit for

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1 that role that she was put in.
 2 Q Did Aronson form a opinion whether she was fit to
 3 replace Mr. Spray?
 4 A I want to be careful here.
 5 Q I'll ask it a different way.
 6 Did you form a view on whether she was fit for the
 7 role?
 8 A We evaluate the SKE to make sure that there are
 9 financial statements that we are comfortable with the people in
 10 their positions in the finance role, yes, and that's what we
 11 document.
 12 Q Did you form a view as to whether you were comfortable
 13 with Ms. Rowling in that role.
 14 A Yes, we were.
 15 Q Okay.
 16 A We documented that.
 17 Q When you look at your list of special procedures, I saw
 18 a lot of familiar allegations, but I didn't see anything about
 19 Gayle Stanford, the travel consultant.
 20 Why is that?
 21 A I believe it is in there.
 22 Q Well, if we look at the bottom of Page 11 or the middle
 23 of Page 11 -- I'm sorry -- right there where it says, "Aronson
 24 asked specific questions."
 25 A Yes.

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1 Q Do you recall performing any due diligence regarding
 2 Gayle Stanford the travel consultant?
 3 A Yes. In number four -- I'm sorry. In special
 4 procedures number six, we obtain travel consultants contracts
 5 invoices and payments. We inquired about Gayle Stanford after
 6 the bankruptcy filing, and Charles said that they have cut ties
 7 with her because -- so maybe bad practices in accounting and how
 8 she was billing the NRA.
 9 Q Have you discovered any information inconsistent what
 10 with what Charles told you?
 11 A I have not discovered anything that would conflict or
 12 approve what he was saying.
 13 Q Okay. Now you described the special procedures, and I
 14 see a list of 21 of them keyed to the New York Attorney
 15 General's lawsuit which you perform in the 2020 audit.
 16 Has Aronson continued to scrutinize and test those same
 17 issues in subsequent audits?
 18 A Yeah, we continue to do that in 2021, 2022, and we are
 19 starting the 2023 audit, and we are going to do the special
 20 procedures.
 21 Q Let's turn to Tab 11 of your binder. This is going to
 22 be DX 1-0526. These are the audited financials for the year
 23 ending December 31, '22 and '21.
 24 Do you have any objections to those?
 25 MR. SHIFFMAN: Which Tab?

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1 MS. ROGERS: It's Tab 11.
 2 MR. SHIFFMAN: No.
 3 THE COURT: It's admitted.
 4 Q Mr. Plotts, is this the clean audit been that you
 5 rendered for the indicated years?
 6 A It is.
 7 Q And do these reflect the special procedures we
 8 discussed testing the New York Attorney General's allegations?
 9 A We did perform those special procedures during this
 10 year's audit.
 11 MS. ROGERS: All right. Let's turn now to Tab 14.
 12 Oh, and this is admitted.
 13 Let's turn now to Tab 14 of your binder, and this
 14 is Plaintiff's Exhibit 40, and we are going to show it to
 15 the witness for identification only.
 16 THE COURT: This is actually now on the screen. I
 17 thought you said it had been admitted.
 18 MS. ROGERS: The last one was. The financials
 19 were. This is a new document.
 20 THE COURT: Okay.
 21 MS. ROGERS: So we should put it only on the
 22 witness' screen. PX 40.
 23 THE COURT: The witness has the hard copy, so let's
 24 just do it this way.
 25 Q Okay. Mr. Plotts, do you recognize PX 40?

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1 A I do.
 2 Q Did you prepare this document?
 3 A The audit team and I was included in that preparing of
 4 this document, yes.
 5 Q In connection with special procedures, is it your
 6 ordinary course of business practice to prepare documents like
 7 this one?
 8 A A memo that discusses special procedures, yes.
 9 MS. ROGERS: I move to admit it.
 10 MR. SHIFFMAN: No objection.
 11 THE COURT: It's admitted.
 12 Q Would it be correct now -- strike that. I see P X 150
 13 in red text there.
 14 What does that refer to?
 15 A That's referring back to our continuance and acceptance
 16 document, and those special procedures that were in that
 17 document.
 18 Q That list of 21 sets of tests performed on items the
 19 Attorney General sued about; right?
 20 A That's correct.
 21 Q Now as part of those special procedures, would I be
 22 correct to understand this memorandum to indicate that you spoke
 23 with Audit Committee members about whether the Audit Committee
 24 was fulfilling its duties under its charter?
 25 A That's correct.

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1 Q And did you make a determination about whether the
 2 Audit Committee was fulfilling its duties under its charter?
 3 A Yeah, we felt like they were performing their duties.
 4 MS. ROGERS: All right. Let's turn to Tab 15 of
 5 your binder. This is a similar memorandum. It's not
 6 admitted yet.
 7 Does Plaintiff have any objection.
 8 MR. SHIFFMAN: I'm sorry. I missed it.
 9 MS. ROGERS: Tab 15, PX 28.
 10 MR. SHIFFMAN: No objection.
 11 THE COURT: It's admitted.
 12 MS. ROGERS: Let's show that to the jury.
 13 Q Mr. Plotts, this is a similar memorandum you prepared
 14 with your audit team to memorialize the kinds of special
 15 procedures you were doing; right?
 16 A That's correct.
 17 Q And in addition to assessing whether the Audit
 18 Committee was doing its job, did you look at how the NRA was
 19 handling late expense reports?
 20 A Yes. We inquired about how they are handling late
 21 expense reports that were in or held for certain reason.
 22 Q And why were you interested in late expense reports?
 23 A It was mentioned in the New York Attorney General's
 24 lawsuit.
 25 Q I want to turn to the second paragraph where you

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1 mention meeting with Sonya Rowling, and you say that were no
 2 late expense reports that were approved.
 3 Do you see that?
 4 A I do.
 5 Q Do you recall reaching the determination that the NRA
 6 was not approving late expense reports even though there were
 7 some submitted for Wayne LaPierre?
 8 A Yeah. That was our conclusion on this.
 9 Q This paragraph also says that expense reports for Mr.
 10 LaPierre were reviewed by Ms. Rowling and David Coy of the Audit
 11 Committee.
 12 Do you see that?
 13 A I do.
 14 Q Did you form an understanding as to whether this
 15 represented a changed practice vis a vis a practice alleged
 16 years ago whereby his expense reports were reviewed by someone
 17 at ILA?
 18 MR. SHIFFMAN: Objection. Lack of foundation and
 19 leading.
 20 THE COURT: Overruled.
 21 A Yeah. I was talking with Sonya Rowling, and she said
 22 they had a new process in process that she was going to review
 23 Wayne LaPierre's expense report and have David Coy review those
 24 with her.
 25 MS. ROGERS: Okay. Let's turn to Page 16 of your

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1 binder. Oh, wait. Hold on. Let's -- no, I think this is
 2 it. Let's turn to Tab 16, and this is not in yet. So let's
 3 just it show it to the witness. For identification. It is
 4 PX 1324.
 5 Are there any objections to this?
 6 MR. SHIFFMAN: We object on hearsay grounds.
 7 Q Okay. Mr. Plotts, do you see this email?
 8 A I do see the email.
 9 Q I don't want you to focus on the very top of the email
 10 chain which doesn't involve you, but I want you to look at the
 11 email dated Tuesday, September 15 which you wrote.
 12 Do you recall writing this email?
 13 A I recall writing this email to Craig and Rick.
 14 Q In the ordinary course of your work as an auditor, do
 15 you send communications like this to these individuals?
 16 A I would.
 17 Q And do you rely on these communications in the ordinary
 18 course of your work?
 19 A Yes.
 20 MS. ROGERS: I move to admit it.
 21 MR. SHIFFMAN: Same objection. This is produced by
 22 the NRA. It's an email -- part of an email chain that
 23 contains hearsay.
 24 MS. ROGERS: The document is being admitted for the
 25 proposition that there are regular communication on certain

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1 topics between the auditors and Audit Committee. So the
 2 fact it was said is pretty important.
 3 THE COURT: I agree. I think once -- there is not
 4 much to it, frankly. But once you see it, it's really more
 5 transactional to say that these meetings were set up, and I
 6 think that has independent evidentiary significance. So
 7 I'll admit it. I actually don't see a lot of factual
 8 statements other than it just documented that certain topics
 9 wanted to be discussed. So I'll admit it.
 10 Q Mr. Plotts, do you have regular communications with the
 11 Audit Committee about the topics listed in this email?
 12 A Yes, we do have.
 13 MR. SHIFFMAN: Can we just get a timeframe.
 14 MS. ROGERS: Well, this email -- so I'll ask over
 15 several timeframes.
 16 Q Mr. Plotts, you first took on the NRA as a client at
 17 Aronson in 2019; right?
 18 A That's correct.
 19 Q And over the course of 2019, did you have regular
 20 communications with the NRA about financial operations?
 21 A Yes.
 22 Q Did you have regular communications with the NRA
 23 getting updates on lawsuits or investigations like theirs?
 24 A Of course.
 25 Q Did you have regular communications with the NRA

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1 getting updates on fraud inquiries?
 2 A Yes.
 3 Q Did you have regular communications with the NRA on
 4 whistleblower matters?
 5 A Yes.
 6 Q Did you have regular communications with the NRA on
 7 current events?
 8 A Yes.
 9 MR. SHIFFMAN: Objection. Leading.
 10 THE COURT: Overruled.
 11 Q Did you have regular communications with the NRA on any
 12 internal control concerns?
 13 A Yes.
 14 Q Did your communications with the NRA happen with senior
 15 leadership, junior staff or both?
 16 A We have communications throughout the organization with
 17 senior staff, Audit Committee, and then we do fraud interviews
 18 with those at lower level positions.
 19 Q What's a fraud interview?
 20 A Fraud interview is asking questions -- I'll give an
 21 example -- to like the AP clerk. Has -- have you witnessed any
 22 fraud? Do you know of any fraud allegations? Were you asked to
 23 do anything out of your ordinary course of your job that made
 24 you feel uncomfortable? Those kind of conversation which is --
 25 are, you know, one on one with the audit team and that person.

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1 Q And the Attorney General wanted us to be specific on
 2 time. So we talked about your communications during 2019.
 3 Would it be fair to say that you continued to have
 4 regular communications with the NRA over the course of
 5 subsequent years on topics like this?
 6 A Yes.
 7 Q Did the communication frequency increase or decrease
 8 after they filed their lawsuit?
 9 A The communication with the Audit Committee increased
 10 when the lawsuit was filed.
 11 Q All right. Let's turn to Tab 17 of your binder, and
 12 this is a large document. It is an annual filing, and I'm going
 13 to direct your attention to Page 0205 of this document which I
 14 believe should be the financial statements.
 15 Do you have any objection to admitting any portion of
 16 this?
 17 MS. CONNELL: That's the PX?
 18 MS. ROGERS: It's a DX, but it's 1-1729.
 19 THE COURT: I will hazard to guess it's in evidence
 20 somewhere else.
 21 MR. SHIFFMAN: I believe it's already in in a
 22 different form.
 23 No objection.
 24 THE COURT: All right. So DX 1-0729 is admitted;
 25 although, this is probably a duplicate of at least one other

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1 exhibit.
 2 MS. ROGERS: Sorry for increasing the exhibits, your
 3 Honor?
 4 THE COURT: It doesn't cost me anything.
 5 Q Let's turn to Page 0205 of this large exhibit.
 6 Mr. Plotts, do you recognize this as the clean audit
 7 opinion you delivered for the years indicated?
 8 A On 0207 starts our opinion, yes.
 9 Q Okay. Yes and that's -- there is the cover page and
 10 then your opinion; right?
 11 A That's correct.
 12 Q Okay. Mr. Plotts, what is a management letter?
 13 A A management letter is when an auditor goes through
 14 their audit. They look at controls. They do walk-throughs of
 15 controls and sometimes they test controls. And if anything is
 16 found during this process or if any audit adjustments come out
 17 during the audit, there could be a control breakdown within the
 18 organization. So a management letter is a way for us to
 19 communicate with management those control deficiencies.
 20 Q And can you --
 21 THE COURT: You know, Counsel, I realize we have
 22 been going for a while, and the jury hasn't -- although, I
 23 know this is --
 24 MR. ROGERS: I have very little additional.
 25 Probably one more minute with Mr. Plotts.

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1 THE COURT: Let's finish.
 2 Q What are the different type of deficiencies you can
 3 communicate with a management letter?
 4 A You can communicate the best practices control
 5 deficiencies. You can communicate significant deficiencies, and
 6 you can communicate material weaknesses.
 7 Q We have heard the word "material" a lot.
 8 As an accountant, what do you mean when you call
 9 something material?
 10 A I look at it as two ways. You have a quantitative
 11 factor that can be material, a large amount, and it can also be
 12 qualitative, what's meaningful to the user of the financial
 13 statements, and that might not have a quantitative figure to it.
 14 It could be a low figure if it's meaningful to the users of the
 15 financial statements.
 16 Give a brief example. Maybe like if you are going to
 17 fail a debt covenant by like \$5,000 because you are not meeting
 18 a ratio. That's a bigger deal. So that's a qualitative
 19 materiality because that's a big deal that they are failing debt
 20 covenants compared to maybe an adjustment of a couple of hundred
 21 thousand dollars that really on a hundred million dollar
 22 account, that really doesn't really mean much to the user of the
 23 financial statement.
 24 Q Would it be fair to say that a financial statement
 25 which is materially inaccurate has many some kind of inaccuracy

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1 want to make sure it's materially correct for the users of the
 2 financial statement.
 3 Q I also heard you use the term "significant deficiency."
 4 When you say "significant," what do you mean?
 5 A Significant, it's a judgment by the auditor. And when
 6 I talk about "significant deficiency," it's a control deficiency
 7 that we found during the audit, and we feel like it's
 8 significant enough to communicate that to those charged with
 9 governance, and in this case it could be the Audit Committee.
 10 Q Have you found any material weaknesses in the NRA's
 11 finances?
 12 A We did not identify any material weaknesses in the
 13 internal controls that were communicated or that we found during
 14 our audit.
 15 Q You did find a few items that were significant enough
 16 to talk with management about; right?
 17 A We did find significant deficiencies that we wanted to
 18 discuss with the Audit Committee, yes.
 19 Q And over the course of your work since what you've been
 20 performing since they brought their lawsuit, have you formed a
 21 view on whether management has diligently addressed those
 22 deficiencies?
 23 A That's very important to us at auditors, that they take
 24 our management letter seriously, that they look into that, that
 25 they respond to our significant deficiency or even best

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1 in it, that the kind of person who relies on that financial
 2 statement might act differently if they knew the truth?
 3 MR. SHIFFMAN: Objection. Leading.
 4 THE COURT: That's a free one.
 5 MS ROGERS: I'll withdraw it.
 6 Q So Mr. Plotts --
 7 MS. ROGERS: I want the jury to get the break, so
 8 I'm leading a little bit.
 9 Q Mr. Plotts, would it be fair to say that when a
 10 document is materially misleading --
 11 A Yes.
 12 Q -- it means that the kind of person who cares about
 13 that document and relies on it might make a different decision
 14 by reason of that inaccuracy than he would if the document were
 15 true?
 16 MR. SHIFFMAN: Objection. Leading for the second
 17 time.
 18 A I understand where you're going.
 19 MR. SHIFFMAN: In a hypo.
 20 THE COURT: Overruled.
 21 A Yes. So that's where we look at for materiality.
 22 What's going to a a user of the financial statement? What would
 23 make -- maybe change the way that they would view the
 24 organization. It could be a lender, a banker, and they can see
 25 something different and that could be material to them. So we

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1 practices, and they put things in place to fix those control
 2 deficiencies, and we have seen that get better over the time
 3 that we have been auditing the NRA.
 4 Q I have only one tiny more topic to ask you about;
 5 You are also the auditor for the NRA's charitable
 6 affiliate the NRA Foundation; right?
 7 A That's correct.
 8 Q From an audit perspective, can you describe for the
 9 jury the difference between the NRA and the Foundation?
 10 MR. SHIFFMAN: Objection. Legal conclusion.
 11 THE COURT: Overruled.
 12 A So the NRA Foundation is a charitable organization, and
 13 it's there to set up for charitable reasons and maybe some
 14 education reasons where the 501(c)(4) of the part of the NRA is
 15 not a charitable organization and is really set up to do --
 16 MR. SHIFFMAN: Objection, your Honor. It's a legal
 17 conclusion.
 18 THE COURT: He's giving an auditor's perspective on
 19 it.
 20 MR. SHIFFMAN: It's confusing. It's -- we are
 21 talking about --
 22 MS. ROGERS: I'm asking from an audit perspective,
 23 and the speaking objection is stealing trial time.
 24 (Continued on the following page.)
 25

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1 THE COURT: Look, you can ask on cross what he
 2 means by it, but this witness is not giving you a legal
 3 definition of whether something is covered by the New York
 4 law governing charitable organizations. That's not his
 5 field, so his view as an auditor, just take that for what
 6 it's worth.
 7 Q You can complete your answer, Mr. Plotts.
 8 A So, 501(c)(4) is not a charitable organization. That's
 9 set up to do more lobbying activities, getting education for
 10 those that are in political field and doing more of those that
 11 are running for office, and getting more information out to the
 12 public about those type of things. And they're really unlimited
 13 with those lobbying activities where a (c)(3) would be confined
 14 on very particular things on what they could do.
 15 Q Is there money within the NRA, pools of money that
 16 would have to be spent for charitable purposes?
 17 MR. SHIFFMAN: Same objection, your Honor.
 18 Q From an accounting perspective.
 19 THE COURT: I mean, charitable purposes has
 20 different definitions within the statutes than it might for
 21 an accountant.
 22 MS. ROGERS: Well, I'll ask it this way.
 23 Q Is there money within the (c)(3) that -- strike that.
 24 Is there money within the NRA that has to be spent for
 25 501(c)(3) charitable purposes?

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1 A There are net assets that are held for donor
 2 restriction in the 501(c)(4). Those are monies that were given
 3 for specific areas that they have to spend the money for, and
 4 that's what they call the endowment that's set up there at the
 5 501(c)(4).
 6 Q In all your years auditing the NRA, have you ever seen
 7 any misuse, abuse, diversion, waste, weakness or deficiencies
 8 that you know affected any of those restricted donor --
 9 MR. SHIFFMAN: Objection, leading and same thing --
 10 THE COURT: Overruled.
 11 A We have not seen any of that taken place with the
 12 endowment there at the (c)(4).
 13 MS. ROGERS: Pass the witness.
 14 THE COURT: All right, we're going to take a short
 15 break. We'll see you shortly.
 16 COURT OFFICER: All rise, jury exiting.
 17 (Whereupon, at this time the jury then left the
 18 courtroom.)
 19 (Whereupon, at this time a short recess was then
 20 taken.)
 21 THE COURT: Let's bring them down. We have a
 22 witness. Let's bring him in, too.
 23 (Whereupon at this time the witness,
 24 GREG PLOTTS, having been previously duly sworn/affirmed by

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1 the Clerk of the Court, resumed the witness stand and
 2 testified as follows:)
 3 COURT OFFICER: All rise, jury entering.
 4 (Whereupon, at this time the jury then entered the
 5 courtroom.)
 6 THE COURT: Have a seat. We have some more water,
 7 if anybody needs bottles of water.
 8 MR. CORRELL: May I proceed, your Honor?
 9 THE COURT: Yes. We're going to continue with
 10 direct.
 11 MR. CORRELL: Yes.
 12 THE COURT: Okay.
 13 DIRECT-EXAMINATION
 14 BY MR. CORRELL:
 15 Q Mr. Plotts, I'm Kent Correll. I represent Wayne
 16 LaPierre. Good afternoon.
 17 A Good afternoon.
 18 Q I have one question for you. For all the work you did
 19 for the NRA, everything that you have done, have you ever
 20 encountered any resistance from Mr. LaPierre?
 21 A We have not.
 22 MR. CORRELL: Thank you.
 23 DIRECT-EXAMINATION
 24 BY MR. WERBNER:
 25 Q Mr. Plotts, you remember when you said 200 when you

G. Plotts - by Defendant - Direct/Mr. Werbner Page 3690

1 meant 2000?
 2 A Oh, yes.
 3 Q I think what you were describing then was that you had
 4 worked with Rick Tedrick and Sonya Rowling when you were a young
 5 auditor at PricewaterhouseCoopers; is that right?
 6 A That's correct.
 7 Q How many years did you work as a young auditor at
 8 PricewaterhouseCoopers?
 9 A My tenure there is about seven years.
 10 Q And how many of those seven years were you doing audit
 11 work for the NRA?
 12 A I believe it -- to the best of my knowledge it was
 13 three, could have been four.
 14 Q And that would be in the early 2000s?
 15 A That's correct.
 16 Q And you got to know, did you not, Sonya Rowling and
 17 Rick Tedrick pretty well from those audits?
 18 A Yes.
 19 Q What was your opinion of them as you worked with them
 20 in the early 2000s?
 21 A Again, I evaluate people on SKE, the Skills, Knowledge
 22 and Experience and I thought they were high, very good
 23 accountants.
 24 Q And they were part of the Financial Service Division of
 25 the NRA?

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1 A That's correct.
 2 Q And you were impressed them?
 3 A Yes, I was impressed and I -- yes, I was.
 4 Q Did PwC, Pricewaterhouse, give clean audits to the NRA
 5 back in the early 2000s when your were working with Sonya
 6 Rowling and Rick Tedrick?
 7 A To the best of my knowledge, they were clean audit
 8 opinions.
 9 Q You never had a problem with the Financial Services
 10 Division back then?
 11 A Again, I know, they did a clean audit opinion; and I
 12 was a low-level accountant at that time so it's hard for me to
 13 answer that whether others on my team had any other issues.
 14 Q But you didn't not have any issues, and they were clean
 15 audits?
 16 A I did not have any issues.
 17 MR. WERBNER: All right, thank you.
 18
 19 DIRECT-EXAMINATION
 20 BY MR. FLEMING:
 21 Q Mr. Plotts, sorry to burden you with more questions,
 22 but I'll be brief.
 23 So, I believe you testified earlier that a clean audit
 24 opinion is -- the financial statements are free of misstatement;
 25 is that right?

G. Plotts - by Defendant - Direct/Mr. Fleming Page 3692

1 A Free of material misstatement, yes.
 2 Q So, how long does it take to reach that conclusion
 3 annually?
 4 A The audit at the NRA we start October, November, start
 5 doing preliminary field work; and then we go on depending if we
 6 don't have a bankruptcy lawsuit in between there, it usually
 7 ends around March.
 8 So, we're talking a couple months.
 9 Q Okay, so that's five, six months?
 10 A Yeah, we're not out there completely for those five or
 11 six months, but we probably are focused on it for about twelve
 12 to fourteen weeks. That's twelve to fourteen weeks, yeah.
 13 Q And when you talk about twelve to fourteen weeks, what
 14 part of the audit are you talking about?
 15 A Well, we start with the preliminary, so we do some
 16 control testing and get some inquiries with management. So
 17 that's maybe a couple of weeks to plan. And then performing the
 18 fieldwork part of the audit, that's the core of the audit and
 19 that takes -- I want to say about eight to ten weeks to wrap it
 20 up.
 21 Q So, let me stop you there. With fieldwork, does that
 22 involve your staff going to the NRA?
 23 A Yes, it does. Typically, now when COVID hit, there was
 24 a lot of virtual going on; but we are going out to the client,
 25 to the NRA.

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1 Q Now, how many staff go to the NRA during the fieldwork
 2 process?
 3 A We could have as many as four staff that are going to
 4 the NRA at a time.
 5 Q And do you know what they do there with some level of
 6 granularity? I don't want excruciating detail, but just so you
 7 can educate the jury about what they did?
 8 A So we set up audit programs. So, they're following the
 9 programs that are laid out and identified exactly what the steps
 10 that we want to take during the audit for the NRA. So, they're
 11 fulfilling those steps.
 12 Q And how do they fulfill them? What are they doing
 13 actually?
 14 A They're looking at -- they're doing a lot, right.
 15 There making inquiries with management. They're looking at
 16 source documents and vouching different transactions to make
 17 sure that there's right transactions are recorded in the
 18 financial statements, themselves.
 19 They're looking at estimates that management is making
 20 about the financial statements, and we're testing those
 21 underlying numbers.
 22 Q And I've always heard the expression "ticking and
 23 tying." Is that still used in auditing?
 24 A Yes, it's changed over the years of the ticking and
 25 tying; but, yes, we still tick and tie the work papers to make

G. Plotts - by Defendant - Direct/Mr. Fleming Page 3694

1 sure they're agreeing with -- I don't want to get too technical
 2 here -- like the trial balance, the general ledger they give us,
 3 we want to make sure everything is being properly recorded in
 4 the financial statements that they gave us and then we opine on
 5 those financial statements whether or not they're materially
 6 correct and in accordance with generally accepted accounting
 7 principles.
 8 Q So, that fieldwork process where staff is on site, it's
 9 about you said eight weeks?
 10 A Yeah, eight to ten, yeah.
 11 Q All right. And then when you get to the opinion
 12 process, how long does that take? Is there reporting back? How
 13 does it work?
 14 A Yeah, the wrap-up stage is when we're done with all of
 15 our testing, the financial statements are prepared by NRA
 16 management. They give us though to us. We make sure we have
 17 all the support in our file for the audit, and then the wrapping
 18 up of doing the opinion probably takes about two weeks after
 19 fieldwork.
 20 Q And just going back to fieldwork for a second. Does
 21 your staff work with NRA internal Financial Services Division
 22 staff?
 23 A Yes, they work very closely with them.
 24 Q Are you familiar with those people, the Financial
 25 Services Division staff at the NRA?

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1 A Yes.

2 Q Are they accountants?

3 A Yes.

4 Q Are they CPAs?

5 A Some are.

6 Q How many are would you say?

7 A It is -- I don't know if they're active CPA licenses or

8 they just hold the CPA license, but there's a couple.

9 Q But a CPA -- does a CPA in your mind have some level of

10 sort of professional cache?

11 A I would like to think so, yes.

12 Q And do you -- to what extent does your staff rely on

13 those accountants, if at all, rely on Financial Services

14 Division accountants?

15 A There's reliance on the information they gave us.

16 There's trust, but we've got to verify of all those transactions

17 they give us. It is the professional skepticisms that we say

18 you have to keep high during the audit. Again, when I talked

19 about independence, professional skepticism, we make sure that

20 the entire team knows to do that. We just don't take things at

21 face value that we're actually diving into the details and

22 making sure things are correct in the financial statements.

23 Q And do you have a view or have you formed a view of the

24 quality of the NRA's internal accountants?

25 A No, we think very highly of the internal people that

G. Plotts - by Defendant - Cross/Mr. Shiffman Page 3697

1 THE COURT: He's asking whether he has a

2 foundation. He said "Do you know."

3 A They wait until after the audit is settled, make sure

4 the numbers. That's their focus right now, and then they start.

5 In my knowledge, that's when they start looking at the 990 and

6 putting that together; and to the best of my knowledge that

7 happens May, June timeframe that they start working on that.

8 Q And do you know when it ends?

9 A Well, there's a November 15th deadline that it needs to

10 be filed by. That's the extended deadline.

11 Q And by November when the deadline comes for the tax

12 return, your auditors are back in process, is that right, on the

13 next year?

14 A Yeah, we are talking with management, getting ready for

15 the preliminary fieldwork. That's correct.

16 Q One last question for you. At the beginning of the tax

17 services, do you have any understanding of whether the beginning

18 step is to populate the 990 with any of the figures from the

19 audited financial statements.

20 MR. SHIFFMAN: Foundation, leading.

21 THE COURT: Asking if he knows, which is --

22 A I don't know that for sure, but that would be my

23 assumption that you would start there for the audited financial

24 statements to populate the 990, yes.

25 MR. FLEMING: Thank you.

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1 they have there inside the FSD.

2 Q Okay. Now, I think you said in your role on this

3 engagement you also oversee -- did I get it correctly -- the tax

4 portion of this engagement?

5 A Stacey Cullen now oversees that.

6 Q Do you have any sort of visibility into that process?

7 A I -- I worked with Stacey a little bit, but she is a

8 990 guru, so I just -- we bounce questions maybe back and forth

9 with each other, but I let her do the review of the 990.

10 Q Do you have any idea how long that tax process lasts?

11 A At the NRA or at?

12 Q The process by which Aprio performs tax services for

13 the NRA on their 990?

14 MR. SHIFFMAN: Objection, lacks foundation. I

15 think this is a different witness.

16 THE COURT: He asked if he knew that's the

17 foundation.

18 THE WITNESS: I think it is over a certain amount

19 of months because this is a big process of putting the 990

20 together. So, when the staff at the NRA are putting it

21 together, they might be asking questions to Stacey Cullen as

22 for some help or some review of what they're doing.

23 Q Do you know when the tax services portion of engagement

24 begins, you know, on a calendar basis?

25 MR. SHIFFMAN: Objection, lack of foundation.

G. Plotts - by Defendant - Cross/Mr. Shiffman Page 3698

1 THE COURT: Counsel, you may do your cross.

2 MR. SHIFFMAN: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY MR. SHIFFMAN:

5 Q Good afternoon, Mr. Plotts. My name is Steve Shiffman

6 and I'm an Assistant Attorney General with the Charities Bureau.

7 I have just a few questions for you.

8 In 2019 the NRA was the Aronson's largest 501(c)(4)

9 client; wasn't it?

10 A That's correct.

11 Q And you received -- Aronson received over a quarter

12 million dollars in fees that year; right?

13 A That's correct.

14 Q And the NRA was your largest client; wasn't it?

15 A In revenue?

16 Q Yes.

17 A Yes, it was.

18 Q And wasn't it also twice as large as any other client?

19 A Close, yes, I would say that.

20 Q Okay. How much in fees has Aronson and Aprio received

21 from the NRA since you started the engagement?

22 A Well, for the audit, it is around that 250,000 to

23 300,000 dollars a year for all of our audit services, including

24 employee benefit plans and tax review services.

25 So, we did '19, '20, '21, '22, so, you know, so that's

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1 roughly 1.2 million.
 2 So, we did have some extra procedures that we did with
 3 the special procedures and with the New York Attorney General
 4 lawsuit they --
 5 Q I'm just asking for the amount.
 6 A Oh, there's more, right, when they subpoena us, too.
 7 And when the New York AG --
 8 Q Sir, I just asked you for a number.
 9 A Okay, all right. I would say approximately 1.2.
 10 Q Okay, thank you.
 11 You talked recent with Ms. Rogers about some of the
 12 work that Aronson did with respect to Gayle Stanford. Do you
 13 recall that?
 14 A Yes.
 15 Q So, you did some special procedures with Gayle Stanford
 16 who's a travel agent; right?
 17 A Well, the special --
 18 Q That's a yes or no question, sir.
 19 A Yes, we pulled those invoices.
 20 Q Right. And when you did that for 2020, you pulled only
 21 two invoices; isn't that correct?
 22 A That's correct.
 23 Q And 2019 you looked at one, right?
 24 A That's correct.
 25 Q You, also, talked about the type of audit you did.

G. Plotts - by Defendant - Cross/Mr. Shiffman Page 3700

1 Aronson did a financial statement audit; right?
 2 A Correct.
 3 Q Okay, and when Aronson provides a clean opinion, it's
 4 not opining that the NRA had effective controls; correct?
 5 A That's correct.
 6 Q If the NRA had wanted to do a -- wanted to get Aronson
 7 to give an opinion on the effectiveness of its internal
 8 controls, it could have done or asked for an internal controls
 9 audit; right?
 10 A That's correct.
 11 Q But the NRA never asked Aronson for internal controls
 12 audit; correct?
 13 A Correct.
 14 Q And there's another type of audit called the forensic
 15 audit; right?
 16 A Correct.
 17 Q And the NRA never asked Aronson to conduct a forensic
 18 audit; right?
 19 A That's correct.
 20 Q Sir, are you aware that there are excess benefit
 21 transactions that were listed on the 990 for 2019?
 22 A I am aware.
 23 Q Okay, and you as the auditor wanted to know, didn't
 24 you, what breakdowns in internal controls led to those excess
 25 benefit transactions being listed on the 990 for 2019?

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1 A We would, yes.
 2 Q And some of those excess benefit transactions were
 3 excess benefit transactions involving Mr. LaPierre; correct?
 4 A Correct.
 5 Q But you never found out what breakdown in internal
 6 controls led to the excess benefit transactions with
 7 Mr. LaPierre that were identified in the NRA's 2019 990; right?
 8 A We would not have audited those years, that's correct.
 9 So, we would not have known the breakdown of controls
 10 necessarily for those past years.
 11 Q And you didn't ask any questions to find out what those
 12 breakdowns were, right?
 13 A We test transactions in the current year to make sure
 14 controls are in place over those transactions.
 15 Q So, Aronson, though, did not play any role in examining
 16 whether the NRA's disclosures of Wayne LaPierre's excess benefit
 17 transactions in the 2019 990 were accurate; right?
 18 A That's correct.
 19 Q But Aronson was the auditor on the 2019 990; right?
 20 A We didn't audit the 990.
 21 Q Were you the auditor for 2019, the fiscal year 2019?
 22 A Well, we audited the financial statements, yes.
 23 Q Right, I understand that, sir.
 24 Were you the auditor of the financial statements in
 25 2019?

G. Plotts - by Defendant - Cross/Mr. Shiffman Page 3702

1 A Yes.
 2 Q But even though you audited the financial statements in
 3 2019, you did not look into what led to the -- what control
 4 breakdowns led to the financial disclosures of excess benefit
 5 transactions in 2019; right?
 6 A Are you talking about 2020 audit or 2019?
 7 Q I'm talking about the fiscal year 2019 that would have
 8 been done in 2020.
 9 A Yeah, our audit was complete by March of 2020 for the
 10 2019 audit.
 11 Q Okay.
 12 A And the 990 was filed in November, but, yes.
 13 Q My question, though, was Aronson did not play any role
 14 in examining whether the NRA's disclosures of Mr. LaPierre's
 15 excess benefit transactions in its 2019 990 were accurate; is
 16 that right?
 17 A That is correct, yes.
 18 Q Thank you. And you, personally, are not familiar with
 19 what New York law requires for the approval of related-party
 20 transactions; are you?
 21 A I'm familiar with New York not-for-profit law, but I'm
 22 not an expert in it, and we do not audit in accordance with
 23 not-for-profit law.
 24 Q And you did not test whether when the Audit Committee
 25 ratified related-party transactions whether it complied with New

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1 York law; isn't that correct?

2 A That is correct.

3 Q And Aronson did not interview Mr. LaPierre in

4 connection with its 2019 audit to inquire about his expenses,

5 right, even though there was press about those expenses; isn't

6 that correct?

7 A We did not interview Wayne LaPierre in 2019 audit.

8 Q And it is true, isn't it, that when you conducted your

9 audit of the 2020 financial statements, Aronson did not ask

10 Mr. LaPierre about any of the specific allegations in the

11 complaint?

12 A We asked broad questions about the complaint, that

13 there were -- that their lawsuit was out there and --

14 THE COURT: Let him answer.

15 A Restate the question, and I'll do a better answer.

16 Q You asked, generally, about the attorney general's

17 complaint; isn't that correct?

18 A That is correct.

19 Q But did you not ask Mr. LaPierre about any of the

20 specific allegations of the complaint; right?

21 A We asked, generally, about the lawsuit complaint, yes.

22 We did not get into specifics. We wanted him to discuss that

23 with us.

24 Q Okay. So, the answer to the question did you discuss

25 specific allegations is no; right?

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1 A Not in detail, no.

2 Q Okay. And you never asked Mr. LaPierre about the

3 flights that the complaint alleges that took place in the period

4 prior to 2021; isn't that right?

5 A Not directly with Wayne LaPierre did we ask him.

6 Q Now, you learned in January or so of 2021 that

7 Mr. Spray was no longer the CFO of the NRA; right?

8 A That is correct.

9 Q And when you asked why he left, you were told by

10 Mr. Cotton and Mr. LaPierre that he left for health reasons;

11 right?

12 A As to the best of my knowledge and that's my testimony

13 in the past, yes.

14 Q But you later learned that Mr. Spray said he was let

15 go two days after he pushed back with Mr. LaPierre about the

16 bankruptcy filing; isn't that correct?

17 MR. CORRELL: Objection, assumes facts not evidence

18 and misstates prior testimony.

19 THE COURT: Overruled.

20 A There's a conversation I had with Craig Spray after he

21 was let go, and I documented that in the continuance form that

22 we went through.

23 MR. SHIFFMAN: Well, let's pull up that continuance

24 form, which I have it as PX 47.

25 THE COURT: That's the one that's already in

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1 evidence from --

2 MR. SHIFFMAN: From Ms. Rogers.

3 MS. ROGERS: I believe it's DX1-0030, Tab 5, in his

4 binder.

5 MR. SHIFFMAN: Thank you, Ms. Rogers.

6 Q If we can go to page 13 there.

7 A I missed the tab.

8 Q I'm sorry, Tab -- it will be in the binder that

9 Ms. Rogers gave you, Tab 5, the Brewer book which is right

10 behind you.

11 We're going to show it on the screen.

12 (Displayed)

13 If you look there, this is from that report that you

14 prepared, right, and you wrote:

15 "He pushed back on bankruptcy to Wayne and then two

16 days later he was let go."

17 Right?

18 A Let me get to the hardcopy here.

19 Q Sure.

20 A It is page 13. I'm just verifying this is all what I'm

21 writing here with Craig's conversation. Yes, I had a phone

22 interview with him on June 9th and these are my notes

23 documenting that phone conversation.

24 MR. SHIFFMAN: All right, you can take it down

25 Jesse.

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1 Q When the NRA completed -- I'm sorry.

2 When Aronson completed this 2019 audit, it sent a

3 management letter to the NRA; right?

4 A That is correct.

5 MR. SHIFFMAN: Can we mark PX 327, which is Tab 4.

6 Q Can you turn to Tab 4 in the binder that we gave you.

7 MR. SHIFFMAN: I don't know if there's any

8 objection to this? This is the management letter.

9 THE COURT: Any objection?

10 MS. ROGERS: It is not Tab 4 in my binder.

11 MR. SHIFFMAN: I'm sorry, we didn't give you a

12 binder. It is PX 327, but it is the management letter.

13 MS. ROGERS: No objection.

14 THE COURT: It's admitted.

15 (Whereupon, at this time Exhibit PX 327 was

16 admitted and received into evidence.)

17 Q I just want to mark it; and if we turn to page 3, the

18 last sentence of the second paragraph. It's true, Mr. Plotts,

19 isn't it, that Aronson found a number of significant

20 deficiencies in its audit and that those significant

21 deficiencies were found even though it wasn't the focus of the

22 audit; right?

23 A It is true that we did find three significant

24 deficiencies during our audit, yes.

25 Q Thank you. Let's go to Tab 5, which is the management

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1 letter for the next year.
 2 MS. ROGERS: No objection.
 3 MR. SHIFFMAN: Which is PX 48.
 4 THE COURT: It is admitted.
 5 MR. SHIFFMAN: Thank you.
 6 (Whereupon, at this time Exhibit PX 48 was admitted
 7 and received into evidence.)
 8 Q And in this in 2020, it's true, isn't it, that Aronson
 9 found additional significant deficiencies; right?
 10 A We identified four significant deficiencies.
 11 Q Right. Can you go to page -- I think 10 of that
 12 letter, please, sir.
 13 Under the best practices, in its management letter
 14 Aronson recommended a number of practices for the NRA to
 15 undertake, right?
 16 A The best practice recommendations, yes, we did.
 17 Q And one of those was to install a compliance manager or
 18 officer; right?
 19 A That's correct.
 20 Q And the NRA actually agreed with that recommendation;
 21 right?
 22 A They did.
 23 MR. SHIFFMAN: Let's go to Tab 6, PX 2385, which is
 24 the 2021 management letter.
 25 MS. ROGERS: No objection.

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1 A They were not.
 2 Q And the special procedures were actually only designed
 3 to test if the allegations and the violations were still ongoing
 4 in 2020; right?
 5 A That's correct.
 6 Q They were not looking at anything that was going on
 7 prior to 2020; right?
 8 A Our focus was 2020, yes.
 9 MR. SHIFFMAN: Pass the witness, your Honor.
 10 THE COURT: Okay. Anything further on redirect?
 11 MS. ROGERS: Just a bit.
 12 (Continued on next page)

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1 THE COURT: That's admitted, as well.
 2 MR. SHIFFMAN: Thank you.
 3 (Whereupon, at this time Exhibit PX 2385 was
 4 admitted and received into evidence.)
 5 Q So, in this letter which is for 2021 that you sent in
 6 2022; right?
 7 A That's correct.
 8 Q So, in this letter Aronson, again, identified a number
 9 of significant deficiencies; correct?
 10 A Yes, that is correct. I believe two.
 11 Q Okay. And, again, in this management letter, Aronson
 12 again recommended that the NRA get a compliance manager or
 13 officer; right?
 14 A As a best practice, I believe, right?
 15 Q It was Aronson's recommendation, right?
 16 A Yes, I see it in here.
 17 Q And the NRA, again, agreed with it; right?
 18 A Yes, they did.
 19 Q And we talked a little bit about the special procedures
 20 and those were conducted after the attorney general commenced
 21 this lawsuit; right?
 22 A That's correct.
 23 Q But the special procedures were not designed to test
 24 whether the allegations in the attorney general's lawsuit were
 25 right or wrong; right?

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1 Q You testified with the Attorney General that the NRA
 2 was one of your larger clients; right?
 3 A That's correct.
 4 Q What percentage of Aronson's revenue, if you know, did
 5 the NRA account for in 2020?
 6 A Less than one percent.
 7 Q It if I told you at your deposition you testified it
 8 was less than one half of one percent, would that sound right to
 9 you?
 10 A It would.
 11 MR. SHIFFMAN: Leading.
 12 Q Does what your compensation from the NRA depend on
 13 whether you issue a clean audit or you find deficiencies?
 14 A No.
 15 Q You said you were paid to be independent. Did that
 16 extend to your compensation?
 17 A There's a lot involved in my compensation.
 18 Q But would it be fair to say that your compensation
 19 doesn't depend on the outcome of this matter?
 20 A No.
 21 Q And you're certainly not an expert witness being paid
 22 for this testimony.
 23 MR. SHIFFMAN: Objection.
 24 A I'm not expert witness on this testimony. Yes, that's
 25 correct.

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1 Q Why didn't you look at more of Gayle Stanford's
2 invoices?
3 A In 2019, it was a sample size that we took, and we did
4 one of GS2, I believe. She had a couple of -- a couple of
5 different companies. We did hit one. And then in 2020, we
6 selected two. There wasn't -- the travel is starting to come
7 down quite a bit because Covid hit in March of 2020, so I
8 believe that's why our sample size was only two.
9 Q Do you have an understanding as to whether after Covid
10 Gayle continued to be employed by the NRA?
11 A We were told she was not, and we found in the next
12 audit, there was no transactions.
13 Q Mr. Shiffman asked you about another audit called a
14 forensic audit. Do you remember that?
15 A Yes.
16 Q To your knowledge, did the NRA hire a forensic firm to
17 do a forensic audit of any expenses?
18 MR. SHIFFMAN: Objection. Foundation. Hearsay.
19 MS. ROGERS: If you know.
20 THE COURT: Overruled.
21 A I have heard that they have.
22 Q Okay. But don't testify about what you've heard. If
23 you don't know, that's fine. But yeah, I am not 100 percent
24 positive of that report or that they hired them.
25 Q You testified that you don't audit related-party

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1 transactions in accordance with New York Law.
2 Do you remember that?
3 A I do.
4 Q What does that mean?
5 A Well, our audit isn't geared to New York Not-For-Profit
6 law. It's geared to generally accepted accounting principles
7 and certain audit standards that we have to do, and one of them
8 is looking at related-party transactions, and that is the
9 guidance that we go by. It's not that we look at New York
10 Not-For-Profit Law and audit towards that.
11 Q You testified that when you interviewed Wayne LaPierre,
12 you asked him about their lawsuit generally. But you didn't sit
13 down with him and go through their lawsuit paragraph by
14 paragraph and ask him if the allegations were true or false;
15 right?
16 MR. SHIFFMAN: Leading.
17 A That's correct. We had long conversations with Wayne
18 LaPierre, but I did not specifically detail out all of the
19 allegations in the lawsuit to walk him through.
20 Q When you were testing whether each of those allegations
21 seemed to be true or false, why didn't you just ask Wayne
22 LaPierre?
23 MR. SHIFFMAN: Objection. Misstates the testimony.
24 MS. ROGERS: I can rephrase.
25 Q When you were testing each of those allegations, why

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1 didn't you just ask Wayne LaPierre if they were true or false?
2 A Well, at this point --
3 MR. SHIFFMAN: Timeframe.
4 THE COURT: Overruled.
5 A Professional skepticism comes in so we have already had
6 our conversations with Wayne LaPierre's Audit Management
7 Committee, and so no offense to the management at the NRA here,
8 but we are professional skepticism. We don't take everything at
9 face value. We want to actually test documents to verify what
10 they are saying is true.
11 Q Let's go back to Tab 5 of your binder. That is the
12 continuance document the Attorney General just asked you to look
13 at.
14 I am going to direct you to Page 13 where you discuss a
15 conversation with Craig Spray. In the same bullet point, we
16 read from earlier, it says, "An Agreed Memo. An agreed memo
17 went out that it was health reasons."
18 Do you see that?
19 A Yes. I think I'm in the wrong binder.
20 Q Sorry.
21 A I apologize. Wait. This is -- all right, but I'm
22 familiar with the document that you are looking for. It's right
23 here.
24 Q What did you mean by agreed memo?
25 A I'm sorry.

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1 Q When you say an agreement memo went out that Craig was
2 gone for health reasons, what did you mean by "agreed?"
3 A Well, what was told to me is that Craig wanted it to go
4 out that it was about health reasons that he was let go, and
5 that's what he told me, and I verified that with Wayne LaPierre
6 that that's the conversation that they had in this meeting when
7 he was let go, that they wanted to go -- that it was due to
8 health reasons.
9 Q Did Craig also tell you that because it was a
10 termination, he was able to get severance?
11 A Yes.
12 Q It's fair to say from your prior testimony, right, that
13 Craig Spray made comments to you which were pretty supportive of
14 the NRA's correction efforts; right?
15 MR. SHIFFMAN: Objection. Leading.
16 THE COURT: Sustained.
17 Q I'll ask it this way. Mr. Plotts, when you spoke to
18 Mr. Spray after he left the NRA, did his tone or his comments
19 about the NRA's control environment change at all?
20 A No. It was very important for to us get a hold of him.
21 We tried.
22 MR. SHIFFMAN: Objection.
23 Q This, you can answer.
24 A We tried numerous times to get a hold of him until we
25 probably got him on the phone because it was important to us to

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1 get his take of someone that just left the organization in these
2 terms. So I was -- I was happy to hear his transparency that he
3 was confident in the integrity of management, but there were
4 some concerns that he had, and I could add that to my testing in
5 the audit file that he had some concerns over contracts and
6 certain related-party transactions so we could add that to our
7 audit evidence in our file.

8 Q When you went out to perform the additional testing in
9 response to your conversation with Mr. Spray, did you encounter
10 any resistance from the NRA?

11 A No. They encouraged it. I told the NRA management
12 team that I wanted to have that conversation with Craig Spray.
13 I thought that was important for our continuance. And in fact,
14 our ad hoc committee really made sure that that was a pivotal
15 conversation that we wanted to have before we moved on with the
16 audit.

17 Q When you say "the ad hoc committee," are you talking
18 about the lawyers and the other accountants and the people you
19 talked to?

20 A The ad hoc committee is internally at Aronson.
21 We had an ad hoc committee made up of partners that was
22 going to decide if we are going to continue with the audit of
23 the NRA.

24 MS. ROGERS: Thank you. Nothing further.
25 THE COURT: Anything further on defense side?

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1 MR. CORRELL: No.
2 MR. FLEMING: No.
3 MR. WERBNER: No.
4 THE COURT: Anything further from the Attorney
5 General?
6 MR. SHIFFMAN: No, your Honor.
7 THE COURT: Thank you very much. You are free to
8 step down.
9 I don't think we have enough time to get too deep
10 into the next witness, so that means an early exit. So I
11 will see you 9:30 tomorrow morning.
12 Thank you very much for your attention.
13 THE COURT OFFICER: All rise. Jury exiting.
14 (Whereupon, at this time the jury exits
15 the courtroom.)
16 THE COURT: Okay. So what can we clear off the
17 agenda for tomorrow for this next witness?
18 MS. CONNELL: Thank you, your Honor. This pertains
19 top Mr. Mehta who is the next witness. I think he is in the
20 courtroom and should probably step out for this discussion.
21 MS. ROGERS: He is an expert. He's been here, so he
22 can remain or leave.
23 MS. CONNELL: I'm not objecting to him being here
24 during the testimony.
25 THE COURT: Well, sometimes it's actually helpful

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1 because the other witness heard some of the limiting
2 instructions and I saw, took them to heart.
3 Look, if you --
4 MS. CONNELL: It's fine. It's fine, your Honor.
5 THE COURT: We are not talking about anything that
6 he doesn't know so.
7 MS. CONNELL: If I can hand this up, your Honor.
8 THE COURT: Sure.
9 MS. CONNELL: These are the demonstratives
10 regarding Mr. Mehta that the NRA circulated. Mr. Mehta
11 rendering his opinions relies very heavily on the special
12 procedures that Aronson performed. And in fact, really just
13 re-discusses them and re-channels them and restates them to
14 the extent they have been stated, and I would direct your
15 attention particularly, your Honor, to Pages 8 and which if
16 you see the two slides described on eight, there is the
17 heading, "Procedures performed by Aronson, NRA's independent
18 auditor," and he just walks through the procedures performed
19 again but without --
20 THE COURT: I'm sorry. The pages aren't numbered
21 to me. Okay.
22 MS. CONNELL: I'm sorry. Pages 8 -- and I was
23 actually looking at 11 and 12. So maybe shooting you to 11
24 and 12 would be the best.
25 On 11 and 12, it says, and they are on the screen

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1 now. "Procedures performed by Aronson, NRA's independent
2 auditor." Again, he is just walking through what Aronson
3 did.
4 Your Honor, this is -- it's not for an expert
5 witness just to bolster, restate whatever the independent
6 auditor did. And the same kind of thing is done on the next
7 page on Slides 13 and 14.
8 You know, Mr. Mehta discusses a review of the
9 record and conclusions by the outside auditor Aronson. You
10 know, your Honor, it goes on and on 18 -- Slide 18, he is
11 also talking about procedures performed by Aronson. We just
12 heard from Aronson. We don't need a witness to tell us what
13 Aronson said and found.
14 THE COURT: Sounds right to me.
15 MS. ROGERS: Your Honor, so --
16 THE COURT: Certainly not in this detail.
17 I mean, I think he, you know, maybe can sort of
18 note in passing that he is aware that there was -- there
19 were audits, but this does seem like vouching to me.
20 MS. ROGERS: So your Honor, two points. This is a
21 lengthy slide deck and a few of the slides discuss Aronson.
22 Mr. Mehta is an expert on non-profit external auditing.
23 So we were told, for example, that Mr. Sullivan
24 couldn't talk about, you know, what auditors would do, but
25 he can talk about that.

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1 The auditors talk about, and the auditing expert
2 can talk about it.

3 THE COURT: Look, it's been a long time. I can't
4 remember the motion in limine on this witness. But did his
5 expert disclosures indicate that he would give opinions
6 about the nature and quality of the audit?

7 MS. ROGERS: Everything in these slides comes from
8 my understanding is the -- I didn't prepare them, so I am
9 being careful, but I think this comes from his report.

10 THE COURT: Well, there is a difference between --
11 as I mentioned, lots of expert reports which are not
12 admissible generally contain all sorts of factual summaries
13 and background and all of which I kind of ignore because all
14 I care about is what is the testimony going to be, and the
15 testimony should be his opinions and the facts that support
16 them. So the fact that he may have referenced the audit in
17 his opinion, but -- in his expert report didn't by itself
18 move the needle for me. The question is did he indicate
19 that these statements about the audit are part of the basis
20 for his opinion about the NRA's establishing protocols to
21 handle whistle blowing.

22 MS. ROGERS: I believe the fact that the outside
23 auditor did a special procedure, it was a fact he considered
24 in forming his assessment.

25 THE COURT: That's just like one expert leveraging

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1 off another.

2 I mean, there are times when there may be a
3 precursor finding from one expert that the other one can
4 sort of launch off of, say, well, look assume the driver was
5 negligent, you know, which is another expert -- here's my
6 opinion on damages.

7 This though seems to say that his opinion about the
8 NRA's establishing protocols, you know, I think it's at best
9 you are saying it's consistent within what Aronson did, but
10 that's really, alright, for the jury to determine. So what
11 does this add for him to basically, you know -- the fact of
12 the audit is what it is. Right.

13 But how does it -- I'm just a little -- I don't
14 really understand how this does anything other than echo
15 what we have already heard.

16 MS. ROGERS: Well, obviously, there have been a lot
17 of attacks on these particular controls and activities, so
18 we probably have had multiple witnesses discuss them.

19 There are a number of bases for his opinions in
20 this slide that have nothing to do with Aronson. Like, he
21 reviewed the NRA's compliance seminars. He reviewed their
22 questionnaires. He is giving an opinion on, you know, as a
23 career non-profit auditor.

24 THE COURT: Did he disclose an opinion that I have
25 as an auditor I have reviewed Aronson's work and I conclude

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1 in my expert opinion that they did a good job? I mean, is
2 that a disclosed opinion.

3 MS. ROGERS: It's -- I believe that's in his
4 report, and I would also note that part of his expertise is
5 he performs what are called peer-review of auditors. So he
6 examines whether other auditors have done a good job.

7 THE COURT: There might be some case in which he
8 could be qualified as an expert to opine about another
9 accountant's work which happens in malpractice cases all the
10 time. That's not how I read it, that that's what he was
11 doing here, and there is -- you know, there are -- it's
12 frowned upon to have an expert basically just vouching for
13 somebody else.

14 MS. ROGERS: If it would resolve the issue, I think
15 there are three or four slides that refer to Aronson.

16 THE COURT: All I'm saying is it's a question of
17 emphasis; right. I mean, I don't -- it is a fact that he
18 saw that Aronson did an audit, and -- but I think that the
19 way these slides are written, it does look like he is sort
20 of offering a qualitative opinion which has not been
21 disclosed.

22 MS. ROGERS: Your Honor, if it would help, we can
23 condense the Aronson references to one slide and can make
24 sure that whatever is on them is in his report.

25 THE COURT: It's the content, not so much the

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1 repetition. Extensive procedures performed by Aronson. You
2 know, various things like that are qualitative.

3 To me, you know, if this goes beyond background --
4 background fact that, you know, maybe it gives -- he can
5 say, look, the fact that they had a recognized auditor doing
6 an audit is, you know, helpful but all of this sounds like
7 the jury is hearing another distinguished person saying and
8 that guy you just had testify today did a great job which
9 is, you know, in another case, he might be able to give that
10 opinion, but that's not the opinion that was disclosed. So
11 that part, all of that, I think you -- I think all of this
12 sort of detail needs to come out.

13 MS. ROGERS: We'd be happy to do that, your Honor.

14 As a point of clarification, if instead of "great
15 job," he is saying something like as an expert in this
16 field, I think this looks pretty wide ranging, the fact that
17 they acquiesced to something like that is notable and it
18 impacts how I view the financials. What if he said
19 something like that? Not that the other auditors are great
20 auditors, but that the auditor turned over a lot of rocks
21 that a financial audit might not normally.

22 THE COURT: And tell me how this plays into his
23 opinion exactly.

24 MS. ROGERS: Well, we have just heard, you know,
25 the Attorney General cross-examine, you know, try to poke

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1 holes in what the jury can take from Mr. Plotts. What did
 2 they really look at? Were they not exercising a lot of
 3 scrutiny because the NRA is a large client? And we have
 4 here a leading New York not-for-profit auditor that
 5 specializes in this, and he as part of his profession is to
 6 form a view of whether I can rely on these controls, and he
 7 does this all the time. And he's saying, I looked at the
 8 NRA, and I formed the view that the controls are good.
 9 THE COURT: In terms of Aronson to say that as part
 10 of the basis for his opinion, just as an example, he would
 11 say, you know, they did -- they had an auditor which of
 12 course they have to, but also there were -- his
 13 understanding is there were special procedures.
 14 MS. ROGERS: Right. His understanding is among the
 15 many things they looked at. They had questionnaires. They
 16 had seminars, and an audit, and that audit was extensive or
 17 wider ranging or had special procedures, and we heard
 18 testimony from Mr. Hines that in considering a control
 19 environment, it's not relevant whether there was special
 20 procedures done by the auditor.
 21 We will hear from this professional that he does
 22 consider that a relevant data point, not because he is
 23 vouching for the acuity of Ackerman of Mr. Plotts but
 24 because we are considering as a default, the NRA's
 25 administration and control environment. And we have heard

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1 that this is more of a qualitative assessment of how they
 2 did the job. So I think if it's limited to his
 3 understanding of the kind of procedures that they have
 4 described and that the jury has seen in some of these
 5 documents, you know, if those took place, that's helpful.
 6 MS. ROGERS: Understood, your Honor.
 7 MS. CONNELL: May I just address this for one
 8 second?
 9 THE COURT: Sure.
 10 MS. CONNELL: Mr. Mehta, just to be clear, is
 11 really just vouching in most instances for Aronson's special
 12 procedures.
 13 THE COURT: Well, we are taking that out.
 14 MS. CONNELL: But I don't know --
 15 THE COURT: Look, the fact that the special
 16 procedures happened is a fact; right. I mean, now whether
 17 they were a bust or not or whatever, that's what you can
 18 argue about to the jury based on your cross-examination, but
 19 I think it's not unfair for an expert to say because, you
 20 know, not all audits have special procedures and all -- and
 21 I think he can opine on that being something that is
 22 supportive.
 23 My concern is that they are not -- that he not
 24 provide some not previously disclosed qualitative vouching
 25 for the work that was done. So --

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1 one witness say the jury shouldn't care about the special
 2 procedures and here's a witness saying I care about them.
 3 THE COURT: Well, look, I think he can -- he can --
 4 I think he can address that as a -- just an understood. His
 5 understanding is that the audit included special procedures
 6 and other things, and I think a -- it's not unfair assuming
 7 it's in the expert report as well that without opining on
 8 whether they did a good job at it or not because that's not
 9 what he is here to do, but just that fact is supportive of
 10 the opinion, generally. I think that's okay.
 11 MS. ROGERS: Thank you, your Honor.
 12 THE COURT: But the part where I start to lose you
 13 is a qualitative assessment of how they did at it which he
 14 may have a view on, but that's not the expertise he is being
 15 asked to give an opinion on here.
 16 MS. ROGERS: I will double check tonight and make
 17 sure that anything he says is literally in his report.
 18 THE COURT: In other words, it's another version of
 19 assumed facts.
 20 In other words, the assumed fact is that they had
 21 an audit. There were special procedures and whatever the
 22 objective things one can say is, look, if I'm correct that
 23 this all happened which I'm assuming as part of my
 24 background, that's helpful, and the difference from that and
 25 what at least I'm gleaning maybe between the lines here is

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1 MS. CONNELL: But my concern is all he did is
 2 vouching. So for example, he was asked if you look at slide
 3 12, it asks him about related-party transaction.
 4 He was asked if he did any audit work with respect
 5 to the NRA's related-party transactions or conflict of
 6 interest policies. He said, I did not. And then he went on
 7 and said -- we said, Did you test them. He said, I did not.
 8 I reviewed the work of Aronson, and I -- you know, that's
 9 what he did.
 10 So he is coming back in and saying Aronson did
 11 this. You know, yeah, for Aronson and we are just having--
 12 THE COURT: No. Look, I think this is not really
 13 that inconsistent. He can give the basis for his opinions
 14 and if, for example, he comes in and says, well, the only
 15 basis for my opinion is I thought it was good that some
 16 special procedures were formed by somebody else, I think
 17 that's cross-examination material.
 18 MS. CONNELL: Your Honor, but there is a
 19 gatekeeping function here because we have duplicativeness.
 20 We have the special procedures being brought in by
 21 another parade of expert witnesses, and we have him saying,
 22 for example, he approves the whistleblower policy's
 23 application. He admitted he is not an expert on the
 24 application or efficacy of whistleblower policies. He just
 25 relied on Aronson. And to a certain point that puts too

1 much emphasis --
2 THE COURT: Well, look, I have to sort of evaluate
3 what I heard as well.

4 I mean, I am hearing you describe what he is going
5 to say. I haven't heard it yet. I will evaluate as it
6 comes in. I'm reacting to the specific thing you're
7 pointing to and you know -- I -- he is somebody whose
8 qualifications meet the test for expertise, you know, and
9 I'll have to just sort of evaluate when it comes in, if
10 there is some reason, and I have been not shy about doing it
11 with other experts if there is something that I view as
12 going -- running afoul of what normal and proper expert
13 testimony is, I'll address it then. So I understand the
14 point. I don't -- I did not preclude him in its entirety
15 based on the motions in limine. I think this is one of the
16 ones where I wanted to see what the testimony is.

17 MS. CONNELL: Could we have just an offer of proof
18 or something in the morning as to what's left and what he is
19 going to say? Because I think there is a real question mark
20 there, and we should have some clarity on that, your Honor,
21 before we have to object and delay things in front of the
22 jury which you know irritates the jury.

23 MS. ROGERS: We are happy to provide as plaintiff
24 did Mr. Hines' revised set of demonstratives indicating
25 where we intend to go.

1 THE COURT: I think that might be helpful and send
2 a copy to me as well.

3 MS. ROGERS: Of course, your Honor.

4 THE COURT: And hopefully, we don't need a lot of
5 time because my inclination is to see how it goes. And what
6 I'm hearing largely goes to weight, not admissibility. But
7 at some point, if weight is overwhelming, then it goes to
8 admissibility.

9 MS. CONNELL: Thank you, your Honor. I do think
10 there is duplicativeness.

11 THE COURT: It's their time.

12 MS. CONNELL: I know.

13 THE COURT: We will see you tomorrow at 9:30.

14 MS. ROGERS: Thank you, your Honor.

15 MS. CONNELL: Thank you, your Honor.

16 (Whereupon, at this time the trial was continued
17 until February 8, 2024.)

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