

SUPREME COURT
CRIMINAL TERM

NEW YORK COUNTY
PART 59

THE PEOPLE OF THE STATE OF NEW YORK

INDICTMENT #
71543/2023

-against

Falsifying Business
Records First Degree

DONALD J. TRUMP,

Defendant.

-----:

100 Centre Street
New York, New York 10013
May 16, 2024

B E F O R E: HONORABLE JUAN M. MERCHAN,
JUSTICE OF THE SUPREME COURT

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

FOR THE PEOPLE:

ALVIN L. BRAGG, JR., ESQ.
New York County District Attorney
BY: JOSHUA STEINGLASS, ESQ.,
MATTHEW COLANGELO, ESQ.,
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FOR THE DEFENDANT:

BLANCHE LAW
BY: TODD BLANCHE, ESQ.
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Principal Court Reporter
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Senior Court Reporters

1 (The following proceedings follow a SEALED sidebar
2 proceeding consisting of Pages 3744 to 3748.)

3 *****

4 (Sidebar discussion continues:)

5 MS. HOFFINGER: We have additional objections at
6 this time, Judge.

7 THE COURT: Do you want it to happen in open court?

8 MS. HOFFINGER: I think I would rather that we
9 remain at sidebar, but unless your prefer to do it in open
10 court.

11 You can decide, once I explain --

12 THE COURT: The press doesn't like it very much.

13 MS. HOFFINGER: They will be able to read it later,
14 I would assume.

15 Your Honor, based on defense counsel's proposed
16 jury charges, we understand that they will likely be asking
17 Mr. Cohen today about Judge Furman's decision -- recent
18 decision in the Southern District of New York.

19 We understand that he may be able to inquire about
20 it, but we would object to the decision going in as being
21 extrinsic and collateral.

22 Also, we do think that if they go into that,
23 meaning Judge Furman's decision, not what he testified to,
24 that we would be, on redirect, seeking to admit Judge
25 Engoron's decision about that testimony.

1 So I just wanted to preview that.

2 A couple of other things, just before the testimony
3 continues, I don't know if we can do this on the fly as we
4 go, so I wanted to preview it for the Court.

5 Defense counsel provided us with a number of
6 exhibits.

7 As you know, there are -- well, you may not know,
8 there were some clips on Tuesday, but now there are -- I may
9 be wrong -- but maybe close to 50 clips relating to
10 Mr. Cohen's either TikTok or other programs, podcast
11 programs.

12 We have only the full clips -- I asked for the full
13 clips for some of the exhibits that Mr. Blanche told me he
14 was going to seek to admit; we don't have the full clips for
15 the others, but I didn't know that he was seeking to admit
16 them.

17 He may be seeking to use them.

18 Of course, the witness may not really be able to
19 determine what else was said on that podcast, but we do have
20 some very specific objections for some of the clips that
21 Mr. Blanche may seek to admit.

22 One is, there has been significant testimony about
23 Mr. Cohen's bias.

24 THE COURT: About what?

25 MS. HOFFINGER: Mr. Cohen's bias, you know, his

1 hostility towards the defendant; his making money off the
2 defendant.

3 And we did not even object to the exhibit relating
4 to some of his merchandise -- we felt that it was going to
5 come in, in any event -- but in that merchandise there are
6 pictures of the defendant behind bars, in an orange
7 jumpsuit.

8 Enough of that has come in at this point.

9 A number of these clips, we think, are precluded by
10 your Honor's decision on the motion, on the People's motion
11 in limine, which is, they reference opinions about whether
12 he should be in jail, whether he should be in handcuffs,
13 whether he should have a mug shot taken.

14 First, our Office did not take mug shots, did not
15 take fingerprints.

16 Mr. Cohen probably is not I aware of that -- it's
17 not something that he may or may not be aware of.

18 But, at this point, we really think that this is
19 intended to elicit something quite improper for the jury.

20 And so, B35 -- just to go over a few of them --
21 B35 -- the other thing is that they are taken out of
22 context.

23 So, for example, B35, had Mr. Cohen talking about,
24 you know, something like mental excitement about seeing him
25 in an orange jumpsuit, which is what they have excerpted.

1 But what they haven't included is just before that
2 clip and just after that clip his saying "that's not
3 appropriate, that's not what we should be wanting, what we
4 want is accountability, we should be seeking only
5 accountability, we should be seeking due process, a fair
6 jury, a fair Judge."

7 So the context has been excerpted out of that.

8 We are left with an excerpt of a clip talking about
9 excitement about seeing him in a jumpsuit, which, again, we
10 think your Honor has precluded evidence of potential
11 punishment or consequences in this proceeding.

12 So if that is admitted -- we object to it, but if
13 it's admitted, we are going to seek on redirect to submit
14 the clip and its context.

15 And there are other clips, the other clips are
16 similar in many ways, perp walk, handcuffs, et cetera.

17 MR. BLANCHE: Your Honor, we have provided all the
18 clips to the Defense (Sic).

19 Most of them --

20 MS. HOFFINGER: To the Prosecution.

21 MR. BLANCHE: Thank you.

22 MS. HOFFINGER: That's okay. That's all right. I
23 feel the same way sometimes.

24 MR. BLANCHE: To the Prosecution. Most of them on
25 Tuesday. More yesterday.

1 We are not seeking to offer virtually any of them.
2 They are just to refresh his recollection.

3 Now, the People are correct, there are a few that
4 we want to offer.

5 We -- look, the law -- I don't need to pass it up
6 to the Court -- but evidence of bias is always admissible
7 and extremely important. And extrinsic evidence of bias is
8 always admissible.

9 And, of course, the Court can limit it
10 appropriately.

11 And we are being judicious, in our view, and we are
12 not offering 50 clips of him saying things.

13 We are -- we have a handful that are targeted to
14 his actual, in our view, his actual bias.

15 We are talking about -- I believe we are seeking
16 to actually admit three or four, maybe five short clips,
17 that is out of hundreds that we could potentially seek to
18 admit.

19 So evidence of bias is admissible. We have a ton
20 of evidence of bias.

21 We are seeking to admit extrinsic evidence of bias,
22 which we are allowed to do. And in a handful of cases --

23 THE COURT: That's fine.

24 But if it appears that you are taking that out of
25 context, I have certainly no problem with the People going

1 back into it on redirect --

2 MR. BLANCHE: Sure.

3 THE COURT: -- and showing that you took it out of
4 context.

5 MR. BLANCHE: Your Honor, I very much appreciate
6 that there is evidence out there from Mr. Cohen that they
7 would want to offer on redirect.

8 And then stating that I am opening the door to his
9 bias, I don't -- I'm not suggesting -- I'm not suggesting is
10 the opening of the door for that evidence.

11 THE COURT: Regarding Judge Furman's decision, are
12 you going to bring that out?

13 MR. BLANCHE: No. But I don't know how he's going
14 to answer questions.

15 What I intend to ask him about is what happened
16 with the AI case, the situation, and it is just that, what
17 happened, and then ultimately ask, like I'm doing for all of
18 his attempts to get out of supervised release early, just
19 ask whether that was denied and not ask -- I'm not asking
20 about anything about his findings or anything --

21 THE COURT: Okay.

22 MR. BLANCHE: -- because I believe that that's not
23 allowed, it's just not -- the Engoron finding is not allowed.

24 THE COURT: All right.

25 MS. HOFFINGER: Just two other things.

1 I apologize.

2 One of the clips that they are offering talks about
3 Mr. Cohen -- from 2020, talks about Mr. Cohen's -- the cases
4 that are -- the investigations that he believes are out
5 there, meaning the Southern District investigation and the
6 OAG investigation and an investigation by our Office.

7 And he talks about speaking with our office about
8 all sorts of financial crimes.

9 So if that does come in, that does open the door,
10 your Honor, because that was ongoing into 2021 and that was
11 on the clip.

12 So we would certainly seek to clarify about that,
13 so it will open the door.

14 And we will argue that it does.

15 MR. BLANCHE: Well, it's a short clip.

16 And he does make reference to the fact that he has
17 gone to the District Attorney's Office about all kinds of
18 financial crimes as well.

19 To the extent that the People believe that opens
20 the door to then redirecting him on evidence of financial
21 crimes, then that certainly opens the door to a whole series
22 of questions that I was not -- that I did not ask about,
23 what this District Attorney thought about his testimony with
24 respect to those financial crimes.

25 I mean --

1 MS. HOFFINGER: It's not admissible.

2 THE COURT: Look, all I'm going to say is, as with
3 everything else, proceed at your own risk.

4 I can't rule right now.

5 I haven't heard the question, and I haven't heard
6 the answer.

7 But proceed at your own risk.

8 If the question and the answer leave the jury with
9 an impression that may not be entirely accurate, the People
10 will say that the door has been opened and I will rule on
11 that then.

12 MR. BLANCHE: I just -- I don't understand about
13 what the People are saying and what the Court's decision
14 is.

15 You would have an objection to even me asking him:
16 You were meeting with the People about more cases than just
17 this one, and having him say yes to that?

18 I'm not trying to hide that from the jury, but if
19 they don't --

20 THE COURT: Then what would be your concern with
21 that?

22 MS. HOFFINGER: Well, I do have a concern about
23 it.

24 Right now we are trying this case, and I think your
25 Honor has precluded all of the rest -- we are talking about

1 a tax case, we are talking about statements of financial
2 conditions, and I think that opens the door.

3 I just think that I wanted to bring it to the
4 Court's attention that this particular clip talks about all
5 other financial crimes that he was involved in, and it's in
6 their clip.

7 If they do it, we might have to make some
8 decisions.

9 And that's including -- the question, I guess, is
10 whether, if that's out there, whether the defendant gets
11 cross-examined on that issue.

12 Now, I know your Honor has made a ruling, I'm
13 just -- I wanted to bring it to the Court's attention.

14 A decision hasn't been made, but I did notice it on
15 the clip and I think it presents some issues here.

16 MR. BLANCHE: It is on the clip. And, you know, we
17 very much believe, and the Court will hear the clip, that
18 it's not confusing to the jury.

19 Especially if they -- if we elicit --

20 THE COURT: Let's see how it comes out.

21 MR. BLANCHE: Pardon me?

22 THE COURT: We will see how it comes out.

23 MR. BLANCHE: Yeah, sure. Understood.

24 THE COURT: We can all make all of the arguments we
25 want, but we don't know what it's going to look like and

1 what it's going to sound like, so let's wait on that.

2 MS. HOFFINGER: One more thing, your Honor, and
3 that's it.

4 I believe the defense is offering B45, which is
5 texts from Jeremy Rosenberg and Michael Cohen.

6 They are excerpted, only certain portions of the
7 texts that, without context, the context that they've
8 excerpted out, are all of the very serious threats that
9 Mr. Cohen was receiving, including some death threats that
10 Mr. Rosenberg had to follow up on and our Office had to
11 investigate.

12 If they are seeking to admit texts of that nature,
13 well, first of all, we object.

14 We don't think that this should come in.

15 Your Honor had a concern about too much evidence
16 coming in about threats to witnesses, especially because we
17 have a jury who may be concerned.

18 But we are going to object to the exhibit.

19 There is one portion on the first page, that's just
20 about the phones, which would be admissible.

21 But the rest of it is all about Mr. Rosenberg's
22 trying to -- trying to make him feel better, given all of
23 these threats that were happening.

24 So we would object. And if it's admissible, we
25 would like to put in all of the threats.

1 THE COURT: Mr. Blanche.

2 MR. BLANCHE: Your Honor, we redacted it for
3 that -- for the reason the People just said, that there is
4 some back and forth around threats.

5 The excerpts that we are offering are 100 percent,
6 in our view, continue to go to Mr. Cohen's bias.

7 They are accounts about Mr. Rosenberg and Mr. Cohen
8 talking about holding President Trump accountable, I
9 believe, and he will hold him accountable, and then a
10 further question about the fact that Mr. Rosenberg knows
11 about Mr. Cohen's father.

12 We are not going to get into any details about
13 that, but it goes to show the relationship that
14 Mr. Rosenberg and Mr. Cohen had.

15 So much so that there is a witness, and the
16 detective knows details -- and we are not getting into
17 details about his father, we're not getting into that, just
18 to point out that they had a very close relationship.

19 As the Court knows, the phones are an issue, and
20 that's what we are trying to bring out.

21 THE COURT: What you are describing --

22 MS. HOFFINGER: I am handing up --

23 THE COURT: Okay.

24 MS. HOFFINGER: I can hand up the exhibits, your
25 Honor, the redacted and unredacted versions for you to

1 review.

2 Clearly, it goes to the witness' state of mind.

3 So they can't bring in texts that are in response
4 to the threats, because they then are not bringing in
5 fulsome understanding of his state of mind at the time.

6 MR. BLANCHE: I agree with that.

7 I would ask them to represent which one that we're
8 offering is in response to a threat?

9 MS. HOFFINGER: Sure.

10 At the bottom, where -- on your redacted version,
11 and I think the Court can see this on Page -- for some
12 reason I stapled it wrong -- there is discussion all about
13 "Staying strong. I get it. I truly understand the
14 incredible turmoil you are experiencing."

15 Mr. Cohen says, "Believe me, it's worse than you
16 can possibly imagine."

17 And you have redacted all of the threats, the
18 telephone calls and the calls to his wife and the threats
19 that he received from someone who was with an online
20 program.

21 So I think the Judge will be able to see exactly
22 what's redacted.

23 THE COURT: So, it sounds like if what you are
24 doing -- you want to establish his state of mind and you
25 want to establish something about the relationship, I

1 suggest that you do something, something appropriate about
2 the relationship, which is fair, which is fine.

3 I think the People may very well be able to elicit
4 why the investigator was trying to comfort him and trying to
5 reassure him.

6 MS. HOFFINGER: And we will be seeking to put in
7 the full version, that's what we will be seeking to do.

8 MR. BLANCHE: We provided these to the People
9 midday yesterday.

10 I think if we would have gotten an objection to a
11 few of the lines, like that one, if it was anticipated, we
12 would have been able to agree to redact.

13 I'm getting into this right away, actually, so if I
14 could have two minutes, I can just go make sure I take that
15 out.

16 MS. HOFFINGER: Just so the record is clear, I
17 would say you sent me the redacted version of this exhibit
18 at 9:38 p.m. last night.

19 The original version I didn't object to, but the
20 redacted version you sent me late last night when I asked
21 for it is what I am objecting to.

22 THE COURT: So you need to take a moment to fix
23 that?

24 MR. BLANCHE: Excuse me?

25 THE COURT: You need two minutes?

1 MR. BLANCHE: Yes.

2 THE COURT: So going forward, please don't wait
3 until I come down to discuss these things.

4 MR. BLANCHE: All right.

5 THE COURT: If you want to come down in advance to
6 discuss issues like these, I can come down earlier.

7 MS. HOFFINGER: Thank you.

8 THE COURT: Just one second, before you slip away.
9 The schedule is a little bit up in the air right now.

10 And, as you know, we have some pretty large breaks
11 coming up because of graduations and travel plans and the
12 holiday, so at this moment you should plan on working next
13 Wednesday.

14 MR. BLANCHE: We should plan on working on
15 Wednesday?

16 THE COURT: It may not happen.

17 It could be that it won't happen, but right now you
18 should plan on that.

19 MR. BLANCHE: So that is very much fine with us.

20 I will tell you that we have a hearing scheduled in
21 the Southern District of Florida on Wednesday.

22 Now, it's -- we are only part of a very small
23 motion and our intention was to seek permission from
24 Judge Cannon that President Trump be excused.

25 In the past, she has agreed.

1 We will, obviously, state that the trial is
2 ongoing.

3 I do not anticipate that she will say no, but just
4 so the Court is aware that there is an oral argument
5 scheduled.

6 Obviously, we will -- if we are sitting here, we
7 won't be there, and I'm okay with that and so is Mr. Bove.
8 We have local counsel who can cover.

9 But I do need -- we will try to work on putting
10 that letter in today.

11 We won't say publicly that it's before that Court,
12 so we will be careful --

13 THE COURT: Now, when I went back and I looked at
14 the motion in limine again, my decision on the motion,
15 nothing has changed.

16 You know, if you want to make further argument, you
17 know, if you want to change something, that's fine, but I
18 haven't heard anything yet at trial that would change my
19 decision on that issue.

20 MR. BLANCHE: Understood.

21 And we may have --

22 MR. BOVE: I think what we were going to address at
23 4:00, Judge, is a proffer from us about what we would seek
24 to elicit, so that we can have a sense of whether it's going
25 to be worthwhile to do this.

1 THE COURT: All right. We will do that after the
2 jury is excused today.

3 MR. BLANCHE: Yes, your Honor.

4 MR. BOVE: Yes, your Honor.

5 MR. STEINGLASS: Are you going to ask the jury
6 about their availability on Wednesday?

7 THE COURT: Yes.

8 So what I would normally do, I just tell the
9 jurors, look, it's possible we may need to work on
10 Wednesday, would that present a hardship for any of you? If
11 it does, raise your hand.

12 I don't -- I'm not crazy about putting them in that
13 position.

14 But I prefer to do that rather than have a court
15 officer or somebody else ask those questions.

16 MR. BLANCHE: Okay.

17 MS. HOFFINGER: Judge, may I raise another issue?
18 It's very short, and I apologize.

19 On Tuesday, someone -- some of the defense guests
20 filed in in the middle of direct examination with their
21 security detail.

22 And I noticed that some of his guests are already
23 here today with their security detail.

24 But we would just ask that they not be allowed to
25 file in, in the middle of Mr. Blanche's cross-examination.

1 It's -- with their security detail for the jury and the
2 witnesses to see.

3 THE COURT: Yes. I would advise that that not
4 happen.

5 MR. BLANCHE: Your Honor, I have less than zero
6 control over what is happening on anything or anyone that's
7 behind me when I am crossing a witness.

8 I don't know what -- I don't have any control over
9 that.

10 I mean, they are members of the public.

11 THE COURT: Are you expecting anybody else today?

12 MR. BLANCHE: Your Honor, I have no idea. No. I'm
13 not expecting anybody else, but I might be wrong.

14 THE COURT: Oh, okay.

15 (Sidebar concluded.)

16 *****

17 THE COURT: I apologize for all of the whispering,
18 I think we may be able to get started.

19 Was there anything else that you wanted to go over
20 with the Court?

21 MR. BLANCHE: No, Judge. Thank you. There was
22 nothing else.

23 I just wanted to remind you that I asked for one
24 minute to deal with something.

25 THE COURT: Sure.

1 (Pause in the proceedings.)

2 *****

3 MR. BLANCHE: Thank you, your Honor.

4 THE COURT: Are you ready?

5 MR. BLANCHE: Yes.

6 THE COURT: All right. Let's get the witness,
7 please.

8 THE COURT OFFICER: Ready for the witness, your
9 Honor?

10 THE COURT: Yes.

11 THE COURT OFFICER: Witness entering.

12 (The witness, Michael D. Cohen, enters the
13 courtroom and resumed the witness stand.)

14 *****

15 THE COURT: Good morning, Mr. Cohen.

16 THE WITNESS: Good morning.

17 THE COURT: I will remind you that you are still
18 under oath.

19 Let's get the jury, please.

20 THE COURT OFFICER: All rise.

21 Jury entering.

22 (Jury enters.)

23 *****

24 THE COURT: You may be seated.

25 THE CLERK: Do both parties stipulate that all

1 jurors are present and properly seated?

2 MR. STEINGLASS: Yes.

3 MR. BLANCHE: Yes.

4 THE COURT: Thank you.

5 Good morning, jurors.

6 Welcome back.

7 Jurors, first, I would like to apologize for
8 keeping you waiting.

9 I know that you were all here early just waiting
10 for us, but we had to take care of some business. I
11 apologize for that.

12 Second, as you know, our scheduling the coming week
13 or weeks is kind of broken up by holidays and various
14 conflicts, so if possible it may be necessary for us to work
15 next Wednesday. However,, what I'm going to ask you to do
16 is let the Sergeant know during the next break if that
17 creates a hardship for any of you.

18 If any of you are unable to work next Wednesday, we
19 just won't be able to work and that's fine, that's okay, but
20 it's important so that we can plan.

21 Okay. Thank you.

22 Mr. Blanche.

23 MR. BLANCHE: May I inquire?

24 THE COURT: Yes.

25 MR. BLANCHE: Thank you, your Honor.

1 *****

2 CONTINUED CROSS EXAMINATION

3 BY MR. BLANCHE:

4 Q Good morning, Mr. Cohen.

5 A Good morning.

6 Q So when we stopped on Tuesday, we had just started
7 talking about an individual named Detective Jeremy Rosenberg.
8 Do you remember that?

9 A Yes.

10 Q Who is he?

11 A He works with the District Attorney's Office.

12 Q Was he -- going back a year or so to the beginning of
13 2023, was he one of the detectives that you interacted with,
14 for -- when you were coming to court to meet with the
15 prosecutors, to get your phones, that sort of thing?

16 A Yes, sir.

17 Q And did you text with him?

18 A I did.

19 Q And you texted with him on his work phone; correct?

20 A I believe so, yes.

21 Q And you also texted with him on a different number, his
22 personal phone; correct?

23 A Correct.

24 Q Now, just to remind the jurors, Mr. Rosenberg came on
25 two separate occasions in January to pick up your phones, which

1 you had consented to the District Attorney doing; correct?

2 A Correct.

3 Q And I'm going to show you, just for you, the parties
4 and the Court, what has been marked for identification as B117.
5 And I'm going to ask that you take a look at that. And it's a
6 couple of pages and it's redacted.

7 I'm sorry. It's a couple of pages.

8 So we will flip through pages while you just take a look at
9 it and let me know if that appears to be the texts, some of the
10 texts you had with Detective Rosenberg?

11 (Witness reading.)

12 MR. BLANCHE: We can flip through as well.

13 (Witness reading.)

14 Q Do those appear to be the texts you -- some of the
15 texts that you appear to have with Detective Rosenberg?

16 A Yes, sir.

17 Q Now, there are -- these aren't all of the texts,
18 though, correct, what you are looking at?

19 A So far, no.

20 MS. HOFFINGER: Judge, may we approach for a
21 moment?

22 THE COURT: Sure.

23 (At Side Bar.)

24 *****

25 MS. HOFFINGER: Judge, there are addresses all over

1 these texts and they are not redacted.

2 MR. BLANCHE: We are not looking for or at the
3 addresses.

4 MS. HOFFINGER: I know, but it shouldn't appear for
5 the defendant and all of those behind him, presumably.

6 MR. BLANCHE: I will take that down.

7 THE COURT: Please take those down.

8 MS. HOFFINGER: Thank you.

9 (Sidebar concluded.)

10 *****

11 MR. BLANCHE: We can take down the exhibit, please.
12 Can we put up the redacted version, B118.

13 THE COURT: B118 in private only, Mr. Blanche,
14 that's in private only?

15 MR. BLANCHE: Yes. And we don't have to put that
16 up there. That's my fault. That's my fault, a
17 miscommunication.

18 Can we put up B45, just for the defendant, the
19 parties and the Court -- I'm sorry, the witness, the parties
20 and the Court.

21 (Displayed to the aforementioned parties only.)

22 Q Take a look at this, Mr. Cohen, again. This is a
23 couple of pages.

24 MR. BLANCHE: We can flip through those.

25 (Witness reading.)

1 Q So do you recognize those as being -- again, there are
2 redactions, but some of the texts that you had with Detective
3 Rosenberg last year?

4 A Yes, sir.

5 Q And did those, assuming -- knowing those redactions, do
6 those texts accurately reflect what you wrote to him and what he
7 wrote to you about a year ago?

8 A Yes, sir.

9 MR. BLANCHE: The defense offers B45.

10 MS. HOFFINGER: May I have a voir dire, your Honor?

11 THE COURT: Sure.

12 *****

13 VOIR DIRE EXAMINATION

14 BY MS. HOFFINGER:

15 Q Mr. Cohen, when you say they accurately reflect your
16 communications with Mr. Rosenberg, are there large spots that
17 are redacted in these texts?

18 A Yes, ma'am.

19 Q And are they, therefore, out of context without those
20 unredacted portions?

21 A I believe so.

22 MS. HOFFINGER: We object, your Honor.

23 THE COURT: Please approach.

24 (AT Side Bar.)

25 *****.

1 THE COURT: So, I, again, sustained an objection --

2 MS. HOFFINGER: Uh-huh.

3 THE COURT: I am going to allow it in and give you
4 an opportunity to then go back and reread it, if either
5 party wants to do.

6 MS. HOFFINGER: I think we should keep it out.

7 MR. BLANCHE: I mean --

8 MR. STEINGLASS: Judge, let's not use the
9 unredacted version.

10 MS. HOFFINGER: Or put in the fully unredacted
11 version; your choice.

12 MR. BLANCHE: I believe it's appropriate, your
13 Honor, on redirect, if they believe that there is something
14 that is taken out of context, that they want to offer it,
15 then they can, but it's just that this is just the People's
16 belief.

17 THE COURT: Except that right now we only have --
18 we have knowledge of it in advance before it even comes in,
19 we know in advance it's going to be taken out of context,
20 and we know that you have an unredacted version that you can
21 offer.

22 I don't think it makes sense for us to just play
23 that game.

24 Why don't you just go ahead and introduce the
25 unredacted portion.

1 I will sustain the objection to this document.

2 MS. HOFFINGER: Thank you.

3 (Side bar concluded.)

4 *****

5 THE COURT: The objection is sustained.

6 CONTINUED CROSS-EXAMINATION

7 BY MR. BLANCHE:

8 Q So the texts that you just read between you and Mr. --
9 Detective Rosenberg, those were around the time you testified in
10 the Grand Jury in this case; correct?

11 A Correct.

12 Q Now, and you saw a text, you saw texts just now where
13 you and Mr. Rosenberg -- Detective Rosenberg were discussing
14 how you were going to hold President Trump accountable;
15 correct?

16 MS. HOFFINGER: Objection.

17 THE COURT: Sustained.

18 Q Now, you recall the leak -- that there was a leak that
19 the indictment had been returned in this case.

20 Do you recall that?

21 MS. HOFFINGER: Objection, your Honor.

22 THE COURT: Overruled.

23 You can answer.

24 A I'm sorry. One more time, please.

25 Q Do you recall that prior to the indictment being

1 unsealed in this case, it was leaked to the media. Do you
2 recall that?

3 MS. HOFFINGER: Objection, your Honor.

4 THE COURT: Can you please rephrase.

5 Q Do you recall whether prior to the indictment being
6 unsealed, the public learned that President Trump had been
7 indicted?

8 A Yes, sir.

9 Q And did you yourself learn that President Trump had
10 been indicted prior to it being unsealed in this courtroom?

11 A Yes.

12 Q And you learned that from reading the New York Times;
13 is that fair?

14 A Yes, sir.

15 Q And Detective Rosenberg confirmed it to you, that the
16 New York Times story was accurate; correct?

17 MS. HOFFINGER: Objection, your Honor.

18 THE COURT: Overruled.

19 You can answer.

20 A I'm sorry, one more time, please.

21 Q Detective Rosenberg confirmed to you that the New York
22 Times article was accurate and that President Trump had been
23 indicted; correct?

24 MS. HOFFINGER: Objection.

25 THE COURT: Sustained.

1 Q Did Detective Rosenberg confirm that "It Was Done" to
2 you?

3 A I'm sorry. I don't understand your question.

4 Q Well, let's put up, just for you, the Court and the
5 People, B45 again.

6 (Displayed to the aforementioned parties only.)

7 MR. BLANCHE: And if we can go towards the end, the
8 second to last page of that exhibit. And the page before
9 for one minute.

10 And, now, if you can turn to the next page.

11 You can take that down.

12 Q Does that refresh your recollection that Detective
13 Rosenberg told you that "It Was Done," meaning President Trump
14 had been indicted?

15 A He identified a newspaper article.

16 Q Your testimony is the text you just read was Detective
17 Rosenberg identifying a newspaper article?

18 A That's what it says, yes.

19 Q Detective Rosenberg didn't tell you that they told the
20 New York Times before they told you? Did he tell you that in a
21 text?

22 A I'm sorry. I don't understand your question. It's
23 confusing.

24 Q Did Detective Rosenberg tell you, before the indictment
25 was unsealed in this case, that they told the New York Times

1 about the indictment before they told you?"

2 MS. HOFFINGER: Objection.

3 THE COURT: Sustained. When you say "they," who
4 are you referring to?

5 MR. BLANCHE: Well, that was going to be my next
6 question to this witness, your Honor.

7 Q Do you have an understanding about whether
8 Detective Rosenberg told you about the indictment before it was
9 unsealed?

10 A No, sir.

11 Q He didn't tell you before there was an unsealing in
12 this courtroom that it was done, meaning that President Trump
13 had been indicted?

14 MS. HOFFINGER: Asked and answered, your Honor.

15 THE COURT: Overruled.

16 You can answer.

17 A No, sir.

18 Q Are you sure about that?

19 A Yes.

20 Q So, when did you learn about President Trump getting
21 indicted?

22 A From the New York Times article.

23 Q And did you have a communication with Detective
24 Rosenberg about the New York Times article?

25 A Yes, sir.

1 Q And what did he tell you?

2 A He stated -- well, I asked him or texted him: "Nice to
3 find out through the New York Times article. Nice for a head's
4 up."

5 Q Isn't it true that he texted you: "I know you heard."
6 And you said: "Nice head's up, huh, tell the Times first?"

7 MS. HOFFINGER: Objection, your Honor.

8 THE COURT: Sustained.

9 MR. BLANCHE: Did you sustain the objection?

10 THE COURT: I did.

11 Q So your testimony, sir, is that you did not hear from
12 Detective Rosenberg before it was unsealed in this case that
13 President Trump had been indicted?

14 A I don't recall hearing from Jeremy Rosenberg that, no,
15 sir.

16 Q Now, that same day, March 30th of last year, okay, you
17 went on CNN; correct?

18 A Yes.

19 Q And that's when you -- you said on TV, that: "This
20 indictment and this case was like David against Goliath."

21 Do you remember saying that?

22 A Yes, sir.

23 Q And when you said that, you were describing yourself as
24 David and President Trump as Goliath; correct?

25 A Correct.

1 Q And you actually said on March 30th, so before the
2 indictment was unsealed, that you had Goliath on his back;
3 didn't you?

4 A Sounds correct.

5 Q And that same day, Detective Rosenberg complimented you
6 and said, you were so sharp and competent, saw the fantastic
7 interview on CNN just now?

8 MS. HOFFINGER: Objection.

9 THE COURT: Sustained again.

10 MR. BLANCHE: Your Honor, may we approach?

11 THE COURT: No.

12 Q Do you have a recollection, Mr. Cohen, of Detective
13 Rosenberg texting you about your appearance on CNN?

14 A Yes, sir.

15 Q What did he tell you in that text?

16 MS. HOFFINGER: Objection.

17 THE COURT: Sustained.

18 Q Do you recall on March 31st going on TV with a reporter
19 named Joy Reid?

20 A Yes, sir.

21 Q And, again, this is Friday, March 31st, so it's when
22 the indictment is still under seal; correct?

23 A Yes, sir.

24 Q And do you recall Detective Rosenberg complimenting you
25 about your interview on Joy Reid?

1 MS. HOFFINGER: Objection, your Honor.

2 THE COURT: Overruled.

3 You can answer.

4 A Yes, sir.

5 Q Now, that was at the same time that the Manhattan
6 District Attorney's Office was telling you not to do TV;
7 correct?

8 A Correct.

9 Q Now, do you recall going on your Mea Culpa podcast
10 right around that time, on March 30th, 2023, and talking about
11 the indictment?

12 A Yes, sir.

13 Q So I want to play for you and the parties and the
14 Court, B46. So if you -- I think you have them.

15 Do you have the headphones there, Mr. Cohen?

16 (Witness putting on headphones.)

17 MR. BLANCHE: This is just for the parties, the
18 Court and the witness.

19 Okay. Can you pull that up?

20 (Audiotape playing for the aforementioned
21 parties only.)

22 *****

23 Q Were you able to hear that, Mr. Cohen?

24 A Yes, sir.

25 Q Please use the microphone.

1 A Yes, sir.

2 Q You were able to hear that.

3 And that was your voice, that was just a portion of that
4 Podcast, right, that was just a snippet; right?

5 A Yes.

6 Q And that was on May 30th, 2023; correct?

7 A Correct.

8 MR. BLANCHE: Your Honor, we offer B46.

9 MS. HOFFINGER: Just for the reasons discussed at
10 the bench, we object.

11 THE COURT: As discussed at the bench, the
12 objection is overruled.

13 And we will accept it into evidence.

14 (Exhibit so marked and received into evidence.)

15 MR. BLANCHE: And if we can play that for the jury
16 now, B46.

17 Thank you.

18 (Audiotape so being played in open court at this
19 time.)

20 *****

21 Q Now, you said on that podcast that you wanted to thank
22 the Manhattan District Attorney's Office and their fearless
23 leader, Alvin Bragg, with whom you spent countless hours.

24 But you never met Alvin Bragg; correct?

25 A That's correct.

1 Q And what you just said about picturing President Trump
2 being led through the booking process and whatnot, that wasn't
3 the first time, meaning May 23rd, 2023, that wasn't the first
4 time that you said you wanted President Trump to get a taste of
5 what you went through; right?

6 A Correct.

7 Q So, do you remember a podcast, October 23rd, 2020,
8 where you discussed similar things.

9 Do you remember that?

10 A Specifically, no, but I'm sure I did.

11 Q Well, let's take a listen.

12 MR. BLANCHE: If you would play that just for the
13 Court, the parties and the witness.

14 If we could play B25.

15 So, sir, if you could put your headphones on
16 again, Mr. Cohen.

17 Thank you.

18 (Audiotape played for the aforementioned parties
19 only.)

20 Q You heard that portion of your podcast? Again, that
21 wasn't your whole podcast; correct?

22 A Correct.

23 Q It was just a small portion?

24 A A small portion of that.

25 Q That was your voice on October 23rd, 2020; correct?

1 A Correct; it is.

2 MR. BLANCHE: The defense offers B25, your Honor.

3 MS. HOFFINGER: Based on the Court's ruling, no
4 objection.

5 THE COURT: Accepted into evidence.

6 (So marked in evidence.)

7 *****

8 MR. BLANCHE: If we could play B25 for the jury.

9 Thank you.

10 (Audiotape so being played in open court at this
11 time.)

12 *****

13 Q And, now, you said that October 23rd, 2020, right, so
14 that wasn't around the time of the indictment in this case;
15 correct?

16 A Correct.

17 Q Now, in that same podcast, would it surprise you to
18 learn that you also said that "you are not going to lie,
19 thinking about Donald Trump and his family sitting in Otisville
20 prison makes you giddy with hope and laughter?"

21 A Sounds correct.

22 Q And so, in that instance, just to remind the jury,
23 Otisville is a Federal prison that you spent about a year at; is
24 that correct?

25 A That's correct.

1 Q And you testified on Tuesday that you did not enjoy
2 being in prison; did you, Mr. Cohen?

3 A No, sir.

4 Q You've also said that you believed that the work that
5 you did doing interviews with the prosecutors through
6 interviews, your hours spent with prosecutors, your media
7 statements and your podcasts, you believed that that played a
8 role in the indictment in this case; didn't you?

9 A I took some credit, yes.

10 Q Well, I'm not -- I'm not trying to put words in your
11 mouth.

12 I'm not asking you whether you took credit.

13 Q You said, did you not, that you believed that the work that
14 you did played a large role in the Prosecutor's indictment of
15 President Trump in this case?

16 A Yes. That's what I believe.

17 Q And we talked about it a little bit on Tuesday, and the
18 Prosecutors asked you about it as well, but we just played two,
19 but there are countless others from your podcasts that are
20 similar to what we just heard; correct?

21 MS. HOFFINGER: I'm just going to object as to
22 form.

23 THE COURT: Overruled.

24 A Correct.

25 Q And there are -- you continued to call President Trump

1 various names on your podcast and when you are even doing CNN
2 interviews; correct?

3 A Correct.

4 Q So that's continued even up to during this trial;
5 correct?

6 A Correct.

7 Q Now, do you remember --

8 MR. BLANCHE: If we can put up exhibit, it's
9 already in evidence, 408A.

10 (Displayed.)

11 Q Do you remember when the Prosecutor showed you this,
12 this is a Truth that President Trump sent on March 15th, 2023.
13 Do you remember when the Prosecutor showed you this?

14 A Yes, sir.

15 Q Now, about five lines down, it says, "And convicted
16 liar and felon, jailbird Michael Cohen may have schemed up."
17 And you testified, I believe, that that was directed at you;
18 correct?

19 A Yes, sir.

20 Q Now, you responded to this Truth; didn't you?

21 A I'm not on Truth Social, sir.

22 Q So if --

23 MR. BLANCHE: We can take that down.

24 So if I can show you, just you and the parties and
25 the Court --

1 Well, we will come back to that.

2 Q Well, you don't have a recollection of responding on X
3 to that Truth?

4 A Yes, sir.

5 Q And you responded in kind, right, you called President
6 Trump a name right back; correct?

7 A Sounds correct.

8 Q You called him "Dumb Ass Donald." Does that sound
9 right?

10 A Sounds correct.

11 Q Now, we talked a little bit about your statements
12 during this trial that you've made on your podcast and on
13 TikTok.

14 Do you recall on April 21st, 2023, saying on your TikTok
15 that you have mental excitement about the fact that this trial
16 was starting?

17 A Yes, sir.

18 Q And that was April 21st, so that was right before
19 opening statements in this case; is that right?

20 A Correct.

21 Q Opening statements were on the 22nd, the next morning;
22 correct?

23 A Correct.

24 Q And you knew at the time that there was a paralegal at
25 the District Attorney's Office that was monitoring your social

1 media; right?

2 A I believe so, yes.

3 Q Well, let me just make sure I understand your answer.
4 You did know at the time or you believed that a paralegal was
5 monitoring your social media?

6 A I believe that there was a paralegal monitoring my
7 social media.

8 Q And you knew that that was happening when you made all
9 of the statements that you made in the past several months,
10 including during this trial; correct?

11 A Yes, sir.

12 Q But that didn't -- it certainly didn't stop you; did
13 it, Mr. Cohen?

14 A No, sir.

15 Q Now, I want to talk about something the prosecutors
16 talked about for awhile on Tuesday, which is your prior -- your
17 prior testimony under oath.

18 Now, you testified under oath on many occasions; right?

19 A That's correct.

20 Q Many over the years. You have testified in
21 depositions; correct?

22 A Correct.

23 Q You testified before Congress seven times; is that
24 right?

25 A That's correct.

1 Q You testified in a trial last fall; correct?

2 A Correct.

3 Q You -- when you -- we talked about your guilty pleas,
4 there were two of them; correct?

5 A Correct.

6 Q And in both of those court hearings you testified, or
7 you answered questions under oath; correct?

8 A Correct.

9 Q Now, was the oath that you took every single time, so
10 going back to all of the depositions, the same oath that you
11 took on Monday morning in this courtroom?

12 A Yes, sir.

13 Q The oath doesn't change depending on the location; does
14 it?

15 A No, it does not.

16 Q And you were asked to do the same thing every single
17 time, right, you put your right hand up; correct?

18 A Correct.

19 Q You swear to tell the truth?

20 A Correct.

21 Q Exactly like what you did in this courtroom?

22 A Correct.

23 Q And when there are times, like now, when your testimony
24 lasts longer than a day, just because you come back the next day
25 or in this case, two days later, you are still under oath;

1 right?

2 A The Judge advised me of such, yes.

3 Q The Judge reminded you that you are still under oath
4 because of your oath that you gave on Monday morning?

5 A Correct.

6 Q And that wasn't just here, that's happened any time
7 that you've testified and there has been a break, whether it's
8 overnight or even a lunch break; right?

9 A Correct.

10 Q So, in addition to the times that you testified under
11 oath where you raise your right hand and swore to tell the
12 truth, you've also met with Federal agents, I believe, somewhere
13 around 17 times?

14 Does that number sound right?

15 A Sounds right.

16 Q And each time you met with the Federal agents, you were
17 told that if you made a false statement, that that was a felony,
18 that was a Federal crime; correct?

19 A Yes, sir.

20 Q So you -- and just so that the jury understands, that
21 happens when the meeting starts.

22 So at some point early on you are in a conference room
23 usually and there are some agents, maybe some FBI Agents, there
24 are some prosecutors, your lawyer is there, and early on in the
25 meeting you are told, Mr. Cohen, you can't lie to these agents,

1 you have to tell the truth or something like that; correct?

2 A Correct.

3 Q Now, I want to talk about, again, your testimony in
4 2017 before the House Permanent Select Committee on
5 Intelligence?

6 A Yes, sir.

7 Q That's one of the times that you have lied under oath;
8 correct?

9 A That's correct.

10 Q And just so -- just so everybody is clear about how
11 that transpired, you submitted a two-page letter in advance of
12 your testimony; correct?

13 A That's correct.

14 Q And then when you testified, you kind of adopt the
15 letter, you even read the letter into the record; right?

16 A Correct.

17 Q And that happens after you are sworn in and you take
18 the oath; correct?

19 A Correct.

20 Q And on that occasion, you lied about this, the Moscow
21 Project; correct?

22 A Yes, sir.

23 Q And your lies -- there were a couple of different lies;
24 correct?

25 A That's correct.

1 Q The number of times when you stopped the Project was a
2 lie; correct?

3 A Correct.

4 Q You said you stopped it in January; it actually lasted
5 a little bit longer; correct?

6 A Correct.

7 Q You -- the number of times you spoke with President
8 Trump, you said, was a lie; correct?

9 A Correct.

10 Q And what was the other lie?

11 A I don't -- I don't recall. I think those --

12 Q You don't recall the other lies?

13 A I think those were the two.

14 Q Well, did you tell -- did you tell the Committee that
15 you never agreed to travel to Russia and -- in connection with
16 that Project, and that you never even considered asking
17 President Trump to travel to Russia, right, you testified to
18 that and that was not true?

19 A True, correct.

20 Q So those were the three lies that you -- that you
21 committed when you testified in 2017; correct?

22 A Yes, sir.

23 Q Now, just to be clear, you knew, at the time that you
24 submitted that letter and that you made those statements, that
25 you were lying under oath; right?

1 A Yes, sir.

2 Q And you have said, and you said on Monday and Tuesday,
3 that the reason you lied was because of your loyalty to
4 President Trump, correct?

5 A I said that, yes.

6 Q But that's a different -- your reason for lying is
7 different from whether you knew you were lying, right, you knew
8 you were lying; correct?

9 A Yes.

10 Q And then, when you -- when you met with the Special
11 Counsel, August 7th of 20 -- of the next year, right, so two
12 weeks before you pled guilty in SDNY on August 7th, you met with
13 the Special Counsel; correct?

14 A Yes, sir.

15 Q And you lied again about those same three topics with
16 respect to the Trump Moscow Project; right?

17 A Yes, sir.

18 Q So just as it relates to that issue, you lied under
19 oath; correct?

20 A Yes, sir.

21 Q And you lied -- you committed another felony in the
22 meeting with --

23 MS. HOFFINGER: Objection.

24 MR. BLANCHE: I'm going to rephrase that.

25 THE COURT: Sustained.

1 Q And you lied again when you met with the Special
2 Counsel on August 7th; correct?

3 A Correct.

4 Q And you, as we talked about, in November -- on
5 November 29th of that year, 2018, you pled guilty to lying to
6 Congress; correct?

7 A I did.

8 Q You did not plead guilty, and you have never pled
9 guilty to the lies in that meeting, though; correct?

10 A Correct.

11 Q And, to be fair, you were truthful at sentencing about
12 the fact that you had lied in the meeting; correct?

13 A Yes.

14 Q So there was no -- you weren't trying to hide that from
15 the Court, you weren't trying to hide that from the Special
16 Counsel.

17 You had actually said you lied; right?

18 A Correct.

19 Q And so, when Judge Pauley sentenced you for that lie,
20 he knew about the lie to Congress and he knew about the fact
21 that you had lied to the agents as well; right?

22 A I don't believe it was Judge Pauley.

23 Q You don't believe it was Judge Pauley who sentenced
24 you?

25 A No, Judge Pauley sentenced me. There was the second

1 case.

2 Q Correct.

3 But when you were sentenced in front of Judge Pauley, you
4 were actually sentenced for both cases; correct?

5 So, I can refresh your recollection?

6 A Yes, sir. Yes, sir.

7 Q So, meaning -- what I mean by that is, you are correct,
8 the guilty plea in November was in front of a different Federal
9 Judge?

10 A Correct.

11 Q But then your August guilty plea and your November
12 guilty plea were combined so you could be sentenced in front of
13 one Judge?

14 A That's correct.

15 Q And that was Judge Pauley?

16 A Yes, sir.

17 Q And you remember Judge Pauley sentencing you to two
18 months and a fine of \$50,000 because of your lies to Congress;
19 right?

20 A Correct.

21 Q And that was to run concurrently, which means at the
22 same time, to the 36 months you got for the other crimes you
23 pled guilty to; right?

24 A Correct.

25 Q So when you were sentenced for that crime, your lawyers

1 put in a sentencing memo; correct?

2 A Correct.

3 Q And you spoke to the Judge?

4 A I did.

5 Q And you said that you were accepting responsibility for
6 those lies, for lying to Congress; right?

7 A Correct.

8 Q But, in fact, you repeatedly said, and you even said
9 this morning and early this week, that the reason why you lied
10 was because of your loyalty to President Trump; correct?

11 A I worked with the Joint Defense Agreement, and we
12 crafted this document, that two-page document, in order to say
13 one message, the message that we all knew Mr. Trump wanted;
14 including with Mr. Trump's attorney at the time.

15 Q So, are you saying you are accepting responsibility or
16 are you blaming the Joint Defense Committee?

17 A Accepting responsibility. I read it and I submitted it
18 to the Committee.

19 Q And so, you talked about what you just described,
20 right, the fact that there was a Joint Defense Agreement and
21 other lawyers participating in drafting that letter and you talk
22 about that a lot; right?

23 A I do.

24 Q You talk about that in your book?

25 A Yes.

1 Q And you talk about that in your podcasts?

2 A Yes, sir.

3 Q And even at the time that you pled guilty, right, so
4 this was in front of the other Judge in November, you said, when
5 you were talking about the lies, that you made those statements
6 up to be consistent with President Trump's political messaging
7 and out of loyalty to President Trump; correct?

8 A Correct.

9 Q Now, you also pled guilty on August 21st, so a few
10 months earlier, in front of Judge Pauley to a bunch of other
11 crimes; correct?

12 A Correct.

13 Q Now, the August 2018 guilty plea had to do with the
14 investigation that you talked a lot about from the search of
15 your hotel room, your office, TD Bank, safe deposit box and your
16 home, your apartment; right?

17 A Correct.

18 Q That was after the FBI raided your home in April of
19 that year; right?

20 A Correct.

21 Q And the FBI took a lot of materials from you, hard copy
22 materials, electronic materials?

23 A Yes.

24 Q Telephones --

25 A Yes, sir.

1 Q Cell phones?

2 A Yes, sir.

3 Q Now, you knew at the time that -- well, maybe not at
4 the time, but before your guilty plea, you learned that one of
5 the reasons why the FBI raided your -- raided your home and your
6 hotel room was because they had a cooperating witness; right?

7 A No, sir.

8 Q You were not aware that your business partner, Gene
9 Freidman, cooperated in that case?

10 A I know Gene Freidman cooperated, but I didn't know it
11 at the time. No, sir.

12 Q Well, when did you learn that Gene Freidman cooperated?

13 A Much later.

14 Q How much later?

15 A Approximately two months or so.

16 Q Okay. Understood. So before you pled guilty in
17 August, you knew that some of the evidence that the Southern
18 District of New York had against you came from your business
19 partner; right?

20 A He's not my business partner, no, sir.

21 Q How would you describe him?

22 A He was a management company, and I leased my medallions
23 to him.

24 I received from him a sum certain every single month, just
25 as every one of the other thousand medallions that he was

1 operating.

2 I had no profit sharing with him.

3 If he had loses, I would not have received any of the loses.
4 It would be no different than if you were leasing an apartment
5 from somebody.

6 I had no interest in his company at all.

7 Q So you used his company or, rather, maybe he used your
8 medallions to try to make money and then you would get some of
9 that as profit; is that correct?

10 A No, sir.

11 Q Go ahead. Explain it to me?

12 A The way the industry works is he is a licensed
13 management company with the New York City Taxi and Limousine
14 Commission.

15 I owned medallions, as there are 13,284 in the City of New
16 York.

17 He would lease my medallion or medallions with an agreement,
18 with a contract, and he would pay me a sum certain every single
19 month whether he made money or he didn't.

20 No different than, again, leasing an apartment, if you use
21 it or you don't, you are still paying the lease --

22 Q And there were times --

23 A Oh, I'm sorry.

24 Q Oh, no. Go ahead.

25 A He was obligated to pay all of the expenses, the tax

1 stamp, the rate card.

2 I had no obligations regarding the vehicle. That was all
3 his.

4 All he did was lease the medallions, because the only way to
5 have a taxi is you have to have a medallion affixed to the
6 front.

7 Q Understood.

8 And he would pay you by check every month; is that right?

9 A Correct.

10 Q And there were times when he didn't pay you and you had
11 to chase him down and get your money; correct?

12 A Correct.

13 Q There were times when checks bounced?

14 A Correct.

15 Q And there were times when you had to go back and forth
16 with him and say, hey, can I cash this check from you right now
17 or does it have to wait until Monday; correct?

18 A Correct.

19 Q Now, he -- just so we understand, when you pled guilty
20 in late August, you knew that he was cooperating against you,
21 that Mr. Freidman was cooperating against you; right?

22 A I was told that, yes.

23 Q Well, that's what "you knew" means; right?

24 A Yes.

25 Q And you -- isn't it a fact, he's actually named in some

1 of the paperwork associated with your guilty plea?

2 He's Taxi Operator Number 2; right?

3 A Yes, sir.

4 Q So you plead guilty on August 21st, 2018, and a few
5 minutes into that hearing, the same thing happened that happened
6 on Monday morning, Judge Pauley has his deputy swear you in;
7 correct?

8 A Correct.

9 Q So it doesn't happen right away, but at some point
10 Judge Pauley says to his deputy, please swear in Mr. Cohen, and
11 the same thing happens, that happened today, right -- I'm sorry,
12 that happened Monday; correct?

13 A Correct.

14 Q And Mr. -- and right after that, Judge Pauley actually
15 told you that you were under oath and that if you didn't -- if
16 you didn't testify truthfully, that you could get in additional
17 trouble; right?

18 A Correct.

19 Q And then a little bit later in that proceeding, when
20 you were talking about your conduct, you said, did you not, in
21 the tax years of 2012 to 2016: "I evaded paying taxes on
22 certain income that I received that I knew was not reflected on
23 the return and that I caused to be filed;" right?

24 A Correct.

25 Q You also said, in that same proceeding, after being

1 placed under oath, that on or about February of 2016, in order
2 to be approved for a HELOC, a Home Equity Line of Credit, you
3 received an application form that did not accurately describe
4 the full extent of your liabilities, but you did not correct the
5 inaccurate information on the form.

6 You testified to that; right?

7 A Correct.

8 Q You then later testified, in the same proceeding, that
9 you signed that form, the HELOC form, knowing it would be
10 submitted to the bank as part of the HELOC application process;
11 correct?

12 A Correct.

13 Q You also said that you understood at the time that you
14 were doing it, that the purpose of those documents were going to
15 help influence the decision the bank made about your HELOC loan;
16 right?

17 A Correct.

18 Q And you -- you said in that proceeding that you
19 understood that because of the statements I just described, you
20 were guilty of Federal Tax Evasion; right?

21 A Correct.

22 Q And you were guilty of Making a False Statement to a
23 Financial Institution; correct?

24 A That's correct.

25 Q Now, nobody induced you to or threatened you to plead

1 guilty; correct?

2 A As I stated previously, I was provided with 48 hours
3 within which to accept the plea or the Southern District of New
4 York was going to file an 80-page indictment that included my
5 wife and I elected to protect my family.

6 Q So you -- and that's what I was -- that's what I was
7 getting to.

8 So you do feel like you were induced to plead guilty?

9 A I never -- (indicating with finger).

10 I never -- I never denied the underlying facts.

11 I just did not believe that I should have been criminally
12 charged for --

13 Q After --

14 A -- for either of those two, or, I should say, six
15 offenses.

16 Q I want you to just focus on my questions, okay.

17 My question was, you felt that you were kind of induced or
18 you were put under pressure to plead guilty because you were
19 given just two days; correct?

20 A Correct.

21 Q You felt that if you were to make a decision
22 immediately, there was a risk that your loved one, your wife
23 would be indicted as well; correct?

24 A That was what I was told.

25 Q Well, who told you that?

1 A My lawyer.

2 Q So did the Government ever tell you -- did the
3 Prosecutors from the Southern District ever say: If you don't
4 plead guilty we are indicting your wife?

5 A No. They spoke with my lawyer.

6 Q Well, based on what your -- so, to be clear, except for
7 what your lawyer told you, the only basis for you believing your
8 wife was going to get indicted was what your lawyer told you;
9 correct?

10 A Correct.

11 Q But you said on countless occasions that that pressure
12 of having your wife indicted and the short timeframe with which
13 you had to make a decision was the reason why you pled guilty?

14 A Yes, sir.

15 Q But on that day, when you were under oath, in front of
16 Judge Pauley, after you raised your right hand, Judge Pauley
17 asked you, didn't you -- didn't he say to you -- or, well, did
18 anybody offer you any inducements or threaten or force you to
19 plead guilty to enter into this plea guilty?

20 He asked you that; right?

21 A He did.

22 Q And you said, "No?"

23 A I accepted responsibility.

24 Q Sir, I didn't ask you if you accepted responsibility.
25 We will get to that.

1 A Okay.

2 Q I asked whether you said, "No," under oath to Judge
3 Pauley, that nobody had threatened or induced you to plead
4 guilty?

5 A Correct.

6 Q That was a lie?

7 A That was not true; correct.

8 Q Can we get through this.

9 What's the difference between a lie and something that's
10 not true?

11 MS. HOFFINGER: Objection, your Honor.

12 THE COURT: Sustained.

13 Q You said "it's not true."

14 What is the difference, in your mind, between something that
15 is not true and a lie?

16 A I said that's correct. I was using just a different
17 terminology.

18 Q Okay. So you -- so it was a lie?

19 A Correct.

20 Q Now, after you pled guilty in August, one of the things
21 that happens is that you meet with a member of the Court staff
22 and they draft what's called a Presentence Investigation Report;
23 right?

24 A Correct.

25 Q And you did that in the Federal case that we're talking

1 about; right?

2 A Yes, sir.

3 Q You met with somebody named Christopher Paragano?

4 A Correct.

5 Q And did you meet with him in person or over Zoom?

6 A In person.

7 Q And Judge Pauley had told you during the guilty plea
8 that it was important to be truthful and honest with your --
9 with that individual because it helped him decide what sentence
10 to give you; right?

11 A Correct.

12 Q And even -- and so you met with him a few weeks later?

13 A Yes, sir.

14 Q And even then, when you met with him and talked about
15 the offense conduct, you blamed others; correct?

16 A Yes, sir.

17 Q Much like what you did today, like you explained your
18 conduct by saying that you really didn't think you committed the
19 tax crime; right?

20 A Yes, sir.

21 Q You said you didn't think you should be -- you didn't
22 think that you should be criminally charged for that; right?

23 A Yes, sir.

24 Q And it was actually something that the pretrial
25 services officer was concerned about when drafting the report,

1 that you had not accepted responsibility; right?

2 A Yes, sir.

3 Q And then you show up for sentencing in December;
4 correct?

5 A Correct.

6 Q So like four months, five months later about; correct?

7 A Correct.

8 Q And you are going to be sentenced for the August guilty
9 plea and for the false statements to Congress at the same time;
10 right?

11 A Correct.

12 Q And at the sentencing, your lawyers and you put in
13 papers and you spoke to the Court; right?

14 A That's correct.

15 Q And at that point, you told Judge Pauley that you were
16 accepting responsibility for your conduct; right?

17 A Correct.

18 Q And you did that and your lawyers were asking for a low
19 sentence; correct?

20 A In the sentencing memo, yes.

21 Q Well, and then your lawyer spoke at sentencing as well;
22 right?

23 A He did.

24 Q And that was Guy Petrillo; is that right?

25 A Correct.

1 Q Mr. Petrillo told the Court about your -- that you had
2 been willing to cooperate with the Special Counsel, with the
3 Mueller Investigation; right?

4 A Yes, sir.

5 Q And talked to the Court about the fact that you were
6 not a cooperating witness; correct?

7 A Correct.

8 Q And the Southern District of New York had not offered
9 you a Cooperation Agreement; right?

10 A Correct.

11 Q But he still wanted you to get credit for cooperating;
12 right?

13 A Correct.

14 Q Ultimately, the Judge took all of that into account and
15 gave you 36 months in prison; correct?

16 A Correct.

17 Q And the fines you talked about on Tuesday?

18 A Yes, sir.

19 Q And that 36 months in prison was lower than the
20 recommended guidelines range; right?

21 A Correct.

22 Q So the Judge, presumably -- not presumably, he said
23 that he took into account your lawyer's arguments when
24 sentencing you to 36 months; correct?

25 A Yes, sir.

1 Q And then -- now, almost right away, right after that
2 sentence, you started saying that you actually had not committed
3 the tax crime you pled guilty to; correct?

4 A No, sir.

5 Q Well, when did you start saying that?

6 A I repeated what I had written as well with my attorney
7 in the sentencing memo, that I take responsibility, but I did
8 not believe that it was a charge that I should have been -- that
9 a -- a crime that I should have been charged with. That's in
10 the sentencing memo as well.

11 Q When you wrote a book called "Revenge," you described
12 the tax charges as bogus; correct?

13 A Yes, sir.

14 Q And in that same book, you said the tax evasion charges
15 were 100 percent inaccurate; correct?

16 A I believe I should not have been charged, yes, sir.

17 Q So I didn't ask you whether you said you believed you
18 should not have been charged, what I asked you is whether in
19 your book you said the charges were 100 percent inaccurate?

20 A I was referring to, again, the same thing.

21 Q But you said that, right?

22 A I said that, yes.

23 Q In fact, in that book, you said: "Now allow me to give
24 you the real facts. The DOJ charged the tax evasion. They are
25 all 100 percent inaccurate and, most importantly, SDNY

1 prosecutors knew it." Right?

2 A Yes, sir.

3 Q And you felt and believe -- I believe you still do feel
4 that you did not engage in tax fraud, but you had to plead
5 guilty to protect your wife and family; right?

6 A Correct.

7 Q You've also said on TikTok as recently as April 1st of
8 this year, that the Federal investigation against you was the
9 most corrupt prosecution in at least the last 100 years;
10 correct?

11 A I've said that, yes.

12 Q And then on CNN, very recently, March of last year, so
13 March of 2023, you said that the lies by the Southern District
14 of New York against me for tax evasion, I actually hope that all
15 comes out?

16 MS. HOFFINGER: Objection, your Honor. Can we
17 approach for a moment?

18 THE COURT: Yes.

19 (At Side Bar.)

20 *****

21 MS. HOFFINGER: Judge, he is reading off a lot of
22 documents that are not in evidence.

23 MR. BLANCHE: Okay.

24 THE COURT: Yes, he is reading from documents that
25 are not evidence.

1 (Side bar concluded.)

2 *****

3 Q Do you recall on March 30th of last year, 2023, going
4 on CNN Tonight?

5 A Yes, sir.

6 Q I want to show you what has been marked for
7 identification as B52.

8 MR. BLANCHE: And I would ask that it just be
9 shown to the witness, the parties and the Court.

10 (Displayed for the aforementioned parties only.)

11 Q And if we can go to Page 9 of that exhibit.

12 Take a look at Page 9, and maybe if you can look about -- if
13 we can blow up about a third of the way down.

14 (Displayed for the aforementioned parties.)

15 Q So on that --

16 MR. BLANCHE: We can take that down.

17 Thank you.

18 Q During that CNN interview that you just saw a
19 transcript of, you said that you hoped the tax evasion charges
20 would eventually all come out; right?

21 A Yes, sir.

22 Q That the lies by the Southern District of New York
23 Prosecutors would eventually be exposed; correct?

24 A Correct.

25 Q Now, you testified that you provided a lot of documents

1 to the Manhattan District Attorney's Office; correct?

2 A They were part of the phone, yes.

3 Q Did you also provide any boxes of materials?

4 A Yes, sir.

5 Q Not necessarily in connection with the investigation,
6 but you provided them materials; correct?

7 A Correct.

8 Q And you received a subpoena from the defense in this
9 case; correct?

10 A Correct.

11 Q And in any of the materials that you -- have either
12 provided to the defense or to the District Attorney, did you
13 provide proof that you have been talking about, that there were
14 documents to support the fact that there was no tax evasion?

15 A I'm sorry, I don't understand your question.

16 Q Well, you say you want the truth to come out that the
17 Prosecutors in the Southern District of New York were corrupt
18 and knew it; right?

19 A Correct.

20 Q Have you provided any materials to anybody suggesting
21 that the charges that you pled guilty to were not appropriate?

22 MS. HOFFINGER: Objection, your Honor.

23 THE COURT: Sustained.

24 Q So, in addition to the Prosecutors, you also believe
25 that Judge Pauley is corrupt as well; correct?

1 MS. HOFFINGER: Objection, your Honor.

2 THE COURT: Overruled.

3 A I have said that, yes.

4 Q And he's deceased, by the way?

5 A He is.

6 Q And you believe that Judge Pauley was in on it; right?

7 A I've said that, yes.

8 Q Well, that's a different question. You have said it;
9 correct?

10 A Yes.

11 Q Do you believe that Judge Pauley was in on it?

12 A I do.

13 (Whereupon, at this time Principal Court Reporter
14 Susan Pearce-Bates relieved Lisa Kramsky as the official
15 court reporter.)

16 *****

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1 (Continued from the previous page.)

2 Q You called the Southern District of New York
3 prosecutors and Judge Pauley fucking animals, correct?

4 A Correct.

5 Q But in addition to what we just talked about so, your
6 podcast statements, your statements on TikTok and your
7 statements to the pretrial services officer, you also testified
8 under oath that you did not commit tax crimes that you plead
9 guilty to before Judge Pauley, correct?

10 A I stated, again, that I never -- that I don't dispute
11 the facts of the case, but that I should not have been
12 prosecuted. I have for the last six years, including in the
13 sentencing memo, said the same thing, again, again.

14 First time tax evader, never filing a late tax return,
15 paying the taxes, all the money in Capital One Bank located at
16 the base of the building I lived in, all the documents, all the
17 bank records provided to my CPA and organized in three-ring
18 tabulated books, which the FBI took, I don't believe that I
19 should have been charged.

20 I should have been given the same opportunity as
21 everybody else when you receive a letter from the IRS
22 indicating that there is an issue with your taxes. I never
23 received that. And I never had an opportunity to meet with an
24 agent, with my lawyer or CPA, whomever, in order to keep this
25 civil. It immediately, within that 48 hours, went criminal.

1 Q All right. So, let me ask my question again.

2 All right?

3 A Yes, sir.

4 Q You testified under oath at a different trial that you
5 did not commit the crimes that you had pled guilty to before
6 Judge Pauley, correct?

7 A Correct.

8 Q That was at a trial at 60 Centre Street right across
9 the street from here?

10 A Yes, sir.

11 Q And you testified on October 24th and 25th of last
12 year, 2023, correct?

13 A Correct.

14 Q And not to spend too much time on it, you were placed
15 under oath just like you are here?

16 A Yes, sir.

17 Q The Judge told you, you had to tell the truth,
18 correct?

19 A Correct.

20 Q And do you remember being asked a question about
21 whether you have ever made any public statements concerning the
22 legitimacy of your conviction and you said more than one,
23 correct?

24 A Correct.

25 Q And then you were asked why you did that.

1 Do you remember testifying because there was no tax
2 evasion, at best it could be characterized as a tax omission?

3 MS. HOFFINGER: Objection.

4 THE COURT: Sustained.

5 Q Do you remember testifying about, back in October
6 24th, about the legitimacy of your conviction?

7 A As what I had just stated before.

8 Q Meaning that?

9 A I should not have been charged with a tax crime.

10 Q You also talked in that trial -- you also answered
11 questions under oath about the HELOC violation, correct?

12 A Correct.

13 Q You also said you should not have had to plead guilty
14 to the HELOC violation either, correct?

15 A Correct.

16 Q Tell us why you think that.

17 A Because while the statement on the document was not
18 reflective, the HELOC, which stands for home equity line of
19 credit, it is a nicer way of saying a line of credit based upon
20 your home's equity, which really wouldn't sound right, I had
21 more than ten times coverage.

22 And it's not the first HELOC I have had on that
23 property. I have had a HELOC on that property for over ten
24 years. I just moved it to First Republic Bank for a mortgage.
25 And as the TD HELOC was expiring, I had asked Gary Farro, the

1 banker, whether or not I can get a HELOC there.

2 So, I did not believe that it was material and that's
3 why I said that I did not believe I should have been charged
4 with that crime as well.

5 Q Are you finished?

6 A I am now, yes.

7 Q When you testified under oath and pled guilty that you
8 knew at the time that your false statements on that application
9 would be used as a decision by the bank, were you lying?

10 MS. HOFFINGER: Objection.

11 THE COURT: Overruled.

12 A I took the global plea that was provided.

13 Q Sir, sir, please don't make a speech. It was a simple
14 question.

15 MS. HOFFINGER: Your Honor, objection.

16 THE COURT: Overruled.

17 Please answer the question.

18 Q My question was, I wasn't looking for a global plea
19 explanation. My question was a lot simpler than that.

20 When you testified under oath in front Judge Pauley
21 that you knew at the time that you filled out those forms that
22 the information you provided was going to be used by the bank
23 in making a decision about that HELOC, were you lying at the
24 time you made those statements?

25 A Yes.

1 Q And that's because of the explanation that you gave in
2 this courtroom just a minute ago?

3 A Yes, sir.

4 Q So, do you remember on Tuesday when the prosecutor
5 asked you about your testimony that I am talking about now, and
6 the prosecutor said to you, that you answered questions in
7 response to -- in response from President Trump's lawyer?

8 Do you remember that?

9 A I am sorry. Can you say that again?

10 Q When the prosecutor was asking about your testimony
11 last October on Tuesday, do you remember those questions?

12 A I remember they were asking me questions, yes.

13 Q I am not asking if you remember the questions from
14 October.

15 A That's way the question sounds --

16 Q I am asking if you remember the questions from Tuesday
17 from Ms. Hoffinger?

18 A Yes.

19 Q And she said to you that you answered questions that
20 were put to you by President Trump's lawyers in October, right?

21 A Correct.

22 Q But the questions that you just talked about, those
23 were when you talked about the HELOC, and when you talked about
24 the fact that there was no tax evasion, that was in response to
25 questions from the Assistant Attorney General, correct?

1 A I believe so, yes.

2 Q So it wasn't just President Trump's lawyers that asked
3 you about whether you lied in front of Judge Pauley, the
4 Assistant Attorney General asked you questions as well,
5 correct?

6 A Correct.

7 Q Now, when President Trump's lawyers did start asking
8 you questions, again, I am talking about questions at trial
9 last October 24th and 25th, do you remember being asked whether
10 when you told Judge Pauley that you were pleading guilty
11 because you were guilty, do you remember being asked whether
12 that was a lie, and you said, yes, that was a lie?

13 A Correct.

14 Q And you were asked again under oath last October
15 whether you lied more than once in front of Judge Pauley and
16 you said, yes?

17 A Correct.

18 Q And you believe you did lie more than once before
19 Judge Pauley, correct?

20 A Correct.

21 Q You also answered a question, do you recall that the
22 reason why you lied was because the stakes affected you
23 personally, right?

24 A Yes.

25 Q And you agreed?

1 A Yes.

2 Q And so, when you said that last October, was that
3 true?

4 A Yes.

5 Q Meaning the reason you lied to a Federal Judge is
6 because the stakes affected you personally, correct?

7 A Yes.

8 Q And there is no doubt that you know what perjury
9 means, correct?

10 A I know what perjury means.

11 Q Now, a few months after your guilty plea, I am sorry
12 we are jumping around a little bit, a few months after your
13 guilty pleas and sentencing, you testified in front of Congress
14 on February 27, 2019, correct?

15 A Correct.

16 Q And the very next day you testified in front of the
17 Senate on February 28, is that right?

18 A Yes.

19 Q And; again, you were put under oath like every other
20 time, right?

21 A Yes.

22 Q Same exact oath?

23 As a matter of fact, the cover art for your Mea Culpa
24 Podcast is a picture of you taking the oath, right?

25 A That is correct.

1 Q And it was taking the oath at one of those hearings in
2 February 2019, correct?

3 A Correct.

4 Q Now, when you testified in front of Congress in 2019,
5 you testified that you confessed to your mistakes about taxes
6 and other mistakes and plead guilty to that, correct?

7 A Correct.

8 Q Did you tell Congress, either the House or the Senate,
9 that, actually, you had lied to Judge Pauley?

10 A I did not.

11 Q So, on Tuesday you talked about omissions.

12 Would you agree with me that by not telling Congress
13 or the Senate that you had lied under oath, that you were
14 omitting important information?

15 MS. HOFFINGER: Objection.

16 THE COURT: Overruled.

17 A I don't believe I was asked the question.

18 Q Well, if we can go to, again, just for the witness,
19 the parties and the Court, B-518. And there is a long back and
20 forth when Congressmen ask you questions, they go on and on,
21 correct?

22 A Yes, sir.

23 Q Even more than I do.

24 If we can go to page 36, excuse me. Sorry. Page 32,
25 and then if you can read, Mr. Cohen, the bottom of page 32 and

1 then we will turn the page and read in to page 33.

2 A Mr. Jordan, I thank the gentleman --

3 Q I don't want you to read it aloud. Just read it to
4 yourself. I should have been more clear.

5 (Witness reads the displayed document.)

6 Q In your answer, correct?

7 A Correct.

8 Q You say you said that you took responsibility and that
9 you take responsibility, correct?

10 A That's correct.

11 Q And you said that you take responsibility for your
12 mistake, right?

13 A Yes.

14 Q You said you were remorseful and you are going to
15 prison?

16 A Unfortunately correct.

17 Q Again, I am not prolonging this, but when you say,
18 remorseful, you are away from your family, away from your
19 children, correct?

20 A Yes.

21 Q But what you didn't say in that answer was that as
22 part of accepting responsibility you had actually lied under
23 oath, right?

24 MS. HOFFINGER: Objection, your Honor.

25 THE COURT: Sustained.

1 Q Well, did you say at any point in your testimony
2 before Congress on either February 27th or February 28th, what
3 you testified to last October, that you actually lied to Judge
4 Pauley?

5 MS. HOFFINGER: Objection.

6 THE COURT: Sustained.

7 Q You repeatedly said to Congressmen, Senators under
8 oath over the course of two days that you had accepted
9 responsibility for your conduct, correct?

10 A Correct, and that I was going to prison as a result.

11 Q And that you were going to prison as a result,
12 correct?

13 A Correct.

14 Q But do you agree with me that lying under oath is not
15 accepting responsibility?

16 A Can you clarify your question?

17 Q Do you agree with me that when you plead guilty to a
18 crime and you are lying, that's not accepting responsibility
19 for your conduct, is it?

20 A I accepted responsibility, and I was suffering the
21 consequences as a result.

22 Q So, let me ask the question again, putting aside the
23 fact that you are testifying today that you accepted
24 responsibility, my question is different.

25 When you plead guilty one of the things that you get,

1 one of the benefits you get of pleading guilty is a little bit
2 of time off your sentence because you accepted your
3 responsibility, correct?

4 A That's correct.

5 Q So when you were sentenced in December the Judge took
6 into account that you had accepted responsibility for your
7 crimes, correct?

8 A I don't know what the Judge made his determination on.

9 Q Well, you know that under the guidelines calculation
10 you get time off for accepting responsibility, correct?

11 A You do. You get a reduction.

12 Q And you got that reduction for accepting
13 responsibility, correct?

14 A Correct.

15 Q By pleading guilty, correct?

16 A I plead guilty.

17 Q And for timeliness of your guilty pleas, right?

18 A Correct.

19 Q So, my question is, again, when you got the credit at
20 sentencing for accepting responsibility you got that credit
21 even though you lied, you lied to the Judge when you pled
22 guilty?

23 A Again, I don't know how Judge Pauley made his
24 determination. Judges, as you know, have a wide range of
25 discretion over guidelines.

1 I have seen people with me while I was in Otisville
2 who had far greater, longer tax evasion issues who had a year
3 and a day. So, I don't know Judge Pauley's determination.

4 Q Do you think Judge Pauley would have liked to know
5 that you had lied to him?

6 MS. HOFFINGER: Objection, your Honor.

7 THE COURT: Overruled. He can answer.

8 A I don't know what Judge Pauley would have thought.

9 Q Your testimony is you don't know whether Judge Pauley
10 would want to know that you had lied to him?

11 A I am certain that he would have.

12 Q And if he had known that, that would have been
13 something he would have taken into account at sentencing,
14 correct?

15 MS. HOFFINGER: Objection.

16 THE COURT: Sustained.

17 Q Well, if you had told him in your sentencing
18 submission, which you talked about a lot, by the way, I lied to
19 you. What do you -- what's your understanding from all the
20 folks you met at Otisville, and everything you been through,
21 what's your understanding of what would happen if you put that
22 in your sentencing submission?

23 MS. HOFFINGER: Objection.

24 THE COURT: Sustained.

25 Q The reality is, and the truth is, there was nothing in

1 your sentencing submission about the fact that you had lied
2 under oath, correct?

3 MS. HOFFINGER: Objection.

4 THE COURT: Overruled.

5 A No. It was not in, but the sentencing came,
6 obviously, before. The sentencing memo was put in before the
7 sentence.

8 Q Does that matter?

9 A No.

10 Q You also were asked at sentencing whether you had
11 reviewed the sentencing submission and you said you had,
12 correct?

13 A Correct.

14 Q And you had an opportunity to make a statement, and
15 you made a statement, correct?

16 A I did.

17 Q And your lawyer made arguments, correct?

18 A Correct.

19 Q And your lawyer was asking for a sentence of time
20 served, correct?

21 A Correct.

22 Q But you will agree with me that neither you nor your
23 lawyer told Judge Pauley that you had lied to him, correct?

24 A That's correct.

25 Q So you, by the way, you blamed a lot of people over

1 the years for the conduct that you were convicted of, correct?

2 A I blamed people, yes.

3 Q You blamed your accountant, correct?

4 A Correct.

5 Q And at times you blamed the bank even?

6 A Correct.

7 Q You blamed, as we talked about, the Federal
8 prosecutors, correct?

9 A Yes, sir.

10 Q You blamed the Judge?

11 A Yes, sir.

12 Q You blamed President Trump?

13 A Yes, sir.

14 Q Now, do you have any doubt in your mind that the
15 outcome of this trial will affect you personally?

16 A Can you -- could you clarify your question?

17 Q Does the outcome of this trial affect you personally?

18 A Yes.

19 Q Did you or your lawyers, as part of your sentencing
20 submission, or what you said at sentencing, say anything to
21 Judge Pauley about the fact that you had felt pressured and
22 threatened by the Government to make a quick decision on your
23 guilty plea?

24 A Did not.

25 Q So, by the way, your wife had nothing to do with the

1 leasing arrangement that you talked about with Mr. Freidman,
2 did she?

3 A Some of the medallions, corporations, were in her
4 name.

5 Q And when you -- when you received monthly payments,
6 were the checks made to both you and your wife or just you or
7 who were the checks made to?

8 A The corporation names.

9 Q What was the corporation's name?

10 A Which one. There were 16 corporations.

11 Q So you had 16 corporations to collect the lease fees
12 for your medallions.

13 A That's correct.

14 Q By the way, there is nothing illegal or improper about
15 having 16 LLCs, correct?

16 A Correct.

17 Q It's actually smart business?

18 A It's actually standard in the industry.

19 Q And good business practice, correct, standard in the
20 industry?

21 A In the Taxi and Limousine Commission, when you have
22 what's called a Mini Fleet Corporation, that's two medallions
23 or more, you need to have them in a corporation, as opposed to
24 an individual medallion.

25 So just as an FYI, the A through F medallions that you

1 see, those are individuals. The other ones are generally
2 corporations.

3 Q Understood. Thank you.

4 A You're welcome.

5 Q Now, jumping forward to -- still talking about the
6 HELOC loan, you testified that -- so, in February of 2016, you
7 get this HELOC loan from the bank, correct?

8 A Correct.

9 Q And that's the paperwork that you pled guilty to being
10 false -- providing false information, correct?

11 A Correct.

12 Q But when you opened that HELOC, line of credit, it had
13 nothing to do with Ms. Daniels, correct?

14 A Correct.

15 Q So we are fast forwarding now to October, and I
16 believe your testimony was that one of the reasons why you
17 decide to use the HELOC was because you could hide it from your
18 wife, correct?

19 A That's correct.

20 Q And while her name was on the HELOC loan, your
21 testimony is that it was paperless so, you thought that you
22 could move the money into the HELOC, pay Ms. Daniels and your
23 wife would not know?

24 A Move the money out of the HELOC into the new company,
25 what became Essential Consultants, and, yes, she would not know

1 because it was paperless.

2 Q Well, you are skipping a step, right?

3 You would move the money from the -- let's say you
4 have, basically, a HELOC with no balance, you are allowed to
5 put money on it. So apply 131,000 to your new LLC from the
6 HELOC, and then you would owe on your line of credit \$131,000
7 right?

8 A Correct.

9 Q And you were able to hide that from your wife because
10 you have paperless statements or what have you, correct?

11 A Correct.

12 Q And you didn't tell your wife -- well, when did you
13 tell your wife about the HELOC?

14 MS. HOFFINGER: Objection, your Honor.

15 THE COURT: Overruled.

16 You can answer.

17 A I am sorry. The question again?

18 Q You testified that you didn't tell your wife --

19 MS. HOFFINGER: May we approach?

20 THE COURT: Yes.

21 (Discussion is held at sidebar, on the
22 record.)

23 MS. HOFFINGER: Judge, I believe there is a
24 marital privilege. He is asking what he told the wife and
25 he is asking about underlying transactions. I don't think

1 it's admissible.

2 MR. BLANCHE: On direct examination as evidence
3 of the crime charged, this witness testified that one of
4 the reasons why he did this was to keep it from his wife
5 so, if anything, there is a crime fraud exception that
6 talks about --

7 THE COURT: It wasn't to keep it from his wife.
8 It was to protect his wife.

9 MR. BLANCHE: He testified it was to keep it from
10 his wife. She is --

11 MS. HOFFINGER: I never asked about
12 communications with his wife. I asked why he used the
13 HELOC.

14 THE COURT: There is a privilege here. It is
15 privileged.

16 (Discussion at sidebar concluded, and the
17 following occurred in open court.)

18 THE COURT: Sustained.

19 CONTINUED CROSS-EXAMINATION

20 BY MR. BLANCHE:

21 Q Without talking about any communications that you had
22 with your wife, do you know whether your wife ever found out
23 about what you did with the HELOC and the \$131,000?

24 MS. HOFFINGER: Objection.

25 THE COURT: Sustained.

1 Q You, by the way, you remember on March 9, 2018,
2 Ms. Daniels' lawyer, Michael Avenatti, put out a public
3 statement regarding the fact that you had paid \$130,000 from
4 the HELOC?

5 Do you remember that?

6 A Yes, sir.

7 Q And you issued your own statement at the time and you
8 said, in part, the funds were taken from my home equity line
9 and transferred internally to my LLC account in the same bank,
10 correct?

11 A Correct.

12 Q And you testified on Monday, and just a few minutes
13 ago, that you decided to do it this way, it was quick, you
14 could move the money quickly and because you wanted to conceal
15 it from your wife, correct?

16 A Correct.

17 Q And you separately said on your podcast that your wife
18 had no knowledge of the HELOC prior to March 2018, correct?

19 A Not that she didn't have knowledge of the HELOC, that
20 she didn't have knowledge of the transaction.

21 Q That's a fair correction.

22 So, of course, she knew that you had a HELOC. She
23 didn't have knowledge of what you testified about, that you
24 moved \$131,000, right?

25 A Correct.

1 Q Now, do you know that just two days later so,
2 Mr. Avenatti releases that statement on March 9th, Mr. Cohen?

3 A Yes.

4 Q And you issued a statement the same day, correct?

5 A Yes, sir.

6 Q And then two days later, you know that you deleted all
7 the text messages that you had with your wife on March 11th?

8 MS. HOFFINGER: Objection, your Honor.

9 THE COURT: Overruled.

10 You can answer.

11 A I am not -- I am not aware of that.

12 Q Well, did you have a practice of communication --
13 deleting communications, generally, around that time, so March
14 of 2018?

15 A I didn't have a specific practice of that, no.

16 Q But were there certain folks that you communicated
17 with over either Signal, Dust or WhatsApp that you encouraged
18 them to delete your communications with them?

19 A Yes.

20 Q Which people?

21 A On Signal it actually does it automatically. So,
22 people like David Pecker.

23 Q But did you have a habit of asking, for example, your
24 wife to delete her communications?

25 MS. HOFFINGER: Objection.

1 THE COURT: Sustained.

2 Q Well, do you know someone named Shirlene Sachs?

3 A I do.

4 Q Do you recall asking Ms. Sachs to delete all of her
5 communications with you and that you would do the same?

6 A I don't recall that specifically.

7 MR. BLANCHE: So, if we can show the witness, the
8 Court and the parties, what's been marked for
9 identification as B 216.

10 Q Can you just take a look and see if this refreshes
11 your recollection?

12 MR. BLANCHE: We can go to the next pages, and
13 the next page.

14 The next page. And then if we can skip ahead to
15 page 22 of this exhibit.

16 And if you see the second entry, and the first
17 entry. We can take that down.

18 Q Does that refresh your recollection that you asked
19 Ms. Sachs to delete all of your communications?

20 A Yes.

21 Q So, I want to talk now about your testimony to
22 Congress about whether you ever requested a pardon, okay?

23 A Yes, sir.

24 Q On that February 27, 2019, House Committee Hearing you
25 gave a statement under oath that you never asked for, nor would

1 you ever accept a pardon from President Trump, correct?

2 A Correct.

3 Q And that was false, correct?

4 A No, sir.

5 Q Why was that not false?

6 A I never asked for it. I spoke to my attorney about it
7 because we had seen on television President Trump talking
8 about, potentially, pre-pardoning everybody and putting an end
9 to this, what I deemed to be a nightmare.

10 So, I reached out to my attorney to ask him whether or
11 not this is legitimate.

12 Q So, when you were asked -- when you provided
13 testimony -- and, again, same thing happened on that occasion,
14 you had to prepare remarks that you provided the committee and
15 then you read into the record, right?

16 A Yes, sir.

17 Q And both of those prepared remarks in writing and also
18 when you said it in the record under oath you said, and I have
19 never asked for, nor would I accept a pardon from President
20 Trump, correct?

21 A Correct.

22 Q Now, that was on February 27th.

23 Do you remember about ten days later you were deposed
24 in the House Oversight Committee?

25 A Yes, sir.

1 Q And do you remember being asked the same question
2 about accepting a pardon and you saying that you directed your
3 lawyer to explore the possibility because you were a hundred
4 percent open to accepting it?

5 A Yes, sir.

6 Q And the lawyer -- there were a couple of lawyers that
7 you were talking about, right?

8 One was Mr. Ryan, who worked -- who was your lawyer
9 who worked with a law firm called McDermott, Will and Emery?

10 A Yes.

11 Q And you spoke with her here named, Robert Costello
12 about that same issue, about exploring the possibility of a
13 pardon, correct?

14 A I spoke to Mr. Costello about that as well.

15 Q And in that deposition so, not the sworn testimony on
16 February 27th, but in that deposition, you said that, you
17 directed your lawyers to explore the possibility of a pardon
18 because the possibility was constantly being dangled in your
19 face, right?

20 A Correct.

21 Q So, do you remember that right after you gave that
22 answer, the person who was questioning you asked you to
23 reconcile your testimony ten days earlier saying you never
24 asked for, nor would you ever accept a pardon and your
25 testimony at that deposition?

1 Do you remember a question about how could you
2 reconcile these two statements?

3 A I don't.

4 Q So, if we go to -- well, let me see if I can refresh
5 your recollection.

6 MR. BLANCHE: If we can go to what has been
7 marked for identification as B-80, just for the parties and
8 the witness.

9 If we can go to the first page, that is the House
10 Subcommittee deposition from March 6th, and now, if we can
11 jump ahead to page 116.

12 Q And if you can look at the part where you are
13 answering questions of Mr. Ratcliff about the statement
14 regarding the pardon.

15 So, let me know when you have had a chance to read
16 that?

17 A Yes.

18 Q So today you testified just a few minutes ago that
19 when you said you never asked for, nor would you accept a
20 pardon from President Trump, you said you never did, you just
21 directed your lawyers to do that, correct?

22 A Correct.

23 Q But when you were asked in 2019 to explain the
24 disparity, you said that you were talking about the -- you were
25 talking about the present tense, you weren't talking about the

1 past tense when you were writing and stating that statement,
2 right?

3 A Correct.

4 Q So which one is it?

5 Is it that you were talking in the present sense when
6 you testified that you never asked for, nor would you ever
7 accept a pardon from President Trump, were you talking about
8 the present sense, like you testified under oath ten days
9 later, or were you meaning that you never personally asked for
10 one like you testified here today?

11 A That I personally.

12 Q So when you testified under oath at the deposition on
13 February -- excuse me, on March 6th, that you were talking
14 about the present tense, that was not true?

15 A No. It was the present tense, that I -- I was not
16 asking for it.

17 Q So, you are -- so, is your testimony that when you
18 said, I have never asked for, nor would I accept a pardon from
19 President Trump, when you said that you were talking in the
20 present sense?

21 A Yes, sir.

22 Q But were you also -- did you also mean that you didn't
23 personally ask for it, you had your lawyers ask for it?

24 A Yes, sir, to explore it. Because, again, as I wrote,
25 or as I stated, it was being dangled.

1 Q But maybe I am not being clear with my question. I
2 will try to be clearer.

3 Is it that you, when you made that statement, you were
4 speaking in the present sense, and so, it was a truthful
5 statement, or did you mean I wasn't talking about myself, I was
6 talking about my lawyers?

7 A In the present sense.

8 Q So, it has nothing to do with whether you directed
9 your lawyers. You did direct your lawyers to explore the
10 possibility of a pardon, correct?

11 A I did.

12 Q And when you read a statement that says that you would
13 never accept a pardon, but you directed your lawyers to explore
14 the possibility, that's not a true statement, is it?

15 A At that present moment it was true. I wanted this
16 nightmare to end. And so, with it being dangled, seeing it on
17 television, I asked them, is this really something that they
18 are talking about, can you find out.

19 Q And what I am trying to understand is, given what you
20 just said happened, what you wrote and then later said after
21 being put under oath, that you never did that?

22 A I am sorry. Can you repeat that.

23 Q You just gave a story that you wanted the nightmare to
24 end, right?

25 A Yes, sir.

1 Q And you had been hearing on television that they were
2 dangling pardons. So, you directed your lawyer, hey, find out
3 if I can get a pardon. I want this nightmare to end, right?

4 A Not if I can get a pardon. If the President was going
5 to be doing these pre-pardons.

6 Q But you -- you testified that you were 100 percent
7 open to accepting it, anything to end this, right?

8 A Yes, sir.

9 Q And so -- and you did that with a couple of your
10 lawyers, Mr. Ryan and Mr. Costello, correct?

11 A Mr. Costello was never my lawyer.

12 Q Well, you asked Mr. Costello, putting aside whether he
13 was your lawyer, you asked Mr. Costello to reach out to people
14 in the administration, including Mr. Giuliani, about the
15 possibility of a pardon?

16 A We spoke about it.

17 Q And as part of your conversation with him, you asked
18 him to reach out to Mr. Giuliani and explore it, correct?

19 A Yes, sir.

20 Q And so, when you testified under oath less than one
21 year later, February, on February 27th, 2019, that you never
22 asked for, nor would you ever accept a pardon, that was a lie,
23 wasn't it?

24 A At the time it was accurate.

25 Q Well, the very next day -- so, again, February 27th,

1 you say, I would never ask for a pardon.

2 March 6th, you say, yes, I would. I would direct my
3 lawyer to find out about a pardon. And you --

4 MS. HOFFINGER: Objection, your Honor.

5 THE COURT: Sustained.

6 Q The very next day, after all of that happened, your
7 lawyer issued a statement, a public statement, that admitted
8 that you had actually directed your lawyer, your attorneys at
9 the time to explore the possibilities of a pardon, right?

10 A I just stated that, yes.

11 Q And they did that to correct the record from your
12 testimony in front of Congress, correct?

13 A Correct.

14 Q As a matter of fact, another one of your lawyers,
15 Michael Monico, actually sent a letter to the Committee
16 correcting your comment, correct?

17 A Correct.

18 Q But your testimony today is that your comment was
19 true?

20 A The conversation was confusing for me at the time and
21 so we corrected the record.

22 Q The conversation? What conversation, sir?

23 A The testimony.

24 Q Sir, this wasn't a confusing conversation. This was a
25 pre-written statement by you that you then read into the record

1 when the testimony started, correct?

2 MS. HOFFINGER: Objection.

3 THE COURT: Overruled.

4 A I am sorry. One more time.

5 Q You said that the conversation was confusing, but,
6 correct me if I am wrong, that statement was made in writing as
7 a prepared statement, and then you read it into the record as
8 part of your opening statement after being sworn under oath,
9 correct?

10 A Correct. I was referring to what you just showed me,
11 which was the -- that's why I am saying it was confusing. I
12 thought you were referring to the comments that I just made.
13 And, yes, the statement, we corrected the statement.

14 Q So, your lawyers corrected the statement because it
15 wasn't true when you made it?

16 A Correct.

17 Q So, after the FBI searched your house and your hotel
18 and your office, you met with a bunch of lawyers, right?

19 A I had one lawyer.

20 Q Well, you met with several lawyers, correct?

21 A Correct.

22 Q Ultimately, you hired Guy Petrillo to be your lawyer?

23 A Correct. Correct.

24 Q And you testified on Tuesday that you met with
25 Mr. Costello that time as well?

1 A Yes.

2 Q And you communicated with him multiple times on the
3 phone?

4 A Yes, sir.

5 Q And over text?

6 A Yes.

7 Q The first time you met Mr. Costello was actually in
8 Lowes Regency where your family was staying, correct?

9 A Correct.

10 Q And you met him and Jeff Citron, correct?

11 A Correct.

12 Q And you knew Mr. Citron from something that has
13 nothing to do with this, right?

14 A Sterling National Bank.

15 Q And the reason why you met with Mr. Costello was to
16 talk about whether you might hire him, correct?

17 A Correct. He was referred to me by Jeffery Citron.

18 Q And you understood at the time, I believe you
19 testified on Tuesday, that Mr. Costello had a good relationship
20 with Mr. Giuliani, right?

21 A Correct.

22 Q And he told you that?

23 A Yes, sir.

24 Q And at that time Mr. Giuliani wasn't representing
25 President Trump, but he started representing him very closely

1 thereafter, right?

2 A Correct.

3 Q And you talked to Mr. Costello about your options,
4 right?

5 A Can you clarify, options?

6 Q Sure. You talked to him about what you should do,
7 what your next steps would be given the FBI had just raided
8 your office, home, hotel and safe deposit box?

9 A Yes, sir.

10 Q And one of the things you talked about was
11 cooperation, correct?

12 A I don't recall that, no, sir.

13 Q So, you don't recall Mr. Costello telling you that one
14 of the things that you could do was cooperate against President
15 Trump, correct?

16 A Correct.

17 Q You don't think he said that or you just don't recall?

18 A I don't recall.

19 Q Well, do you remember telling him that you had nothing
20 on President Trump and could not cooperate?

21 A No, sir.

22 Q Do you just not remember or are you sure you did not
23 say it?

24 A I do not recall.

25 THE COURT: Mr. Blanche, why don't we take our

1 morning break.

2 MR. BLANCHE: Yes, Judge.

3 THE COURT: Jurors, lets take our break. I will
4 ask you during this break to please let the Sergeant know
5 if you are unable to work next Wednesday, okay.

6 Thank you. I will see you in about 15 minutes.

7 (The jury exited the courtroom and the
8 following occurred:)

9 THE COURT: You may be seated.

10 (Witness is excused.)

11 (Recess is taken.)

12 SERGEANT: All rise.

13 Part 59 is back in session.

14 MR. COLANGELO: Your Honor, one application from
15 the People regarding the cross conducted.

16 Mr. Blanche asked a series of questions of the
17 witness regarding disclosure of the indictment while the
18 indictment in this case was still under seal on March 31st.

19 We are concerned that that leaves a misleading
20 impression with the jury because, as the Court knows, the
21 fact that the indictment was unsealed by Order of this
22 Court on the evening of March 30th, and there was a series
23 of questions whether the indictment was still under seal on
24 March 31st and later.

25 So, we request that the Court takes judicial

1 notice of the fact that the indictment was unsealed on the
2 evening of March 30th and give a curative instruction to
3 the jury of that fact.

4 THE COURT: Mr. Blanche.

5 MR. BLANCHE: Your Honor, there was sustained
6 objections to the fact that Detective Rosenberg told Mr.
7 Cohen before the matter was unsealed that, it is done, and
8 that was sustained, and the exhibit is not in evidence.
9 And there was a series of interviews that were done by this
10 witness that he testified about before and after that date.

11 And so, to the extent that the Court either on
12 redirect or even on cross, I can elicit the fact that the
13 indictment was unsealed on a particular day is fine. I
14 don't think a formal curative instruction about a couple of
15 questions is necessary.

16 MR. COLANGELO: I am looking at the real-time
17 transcript, your Honor, so this may not be perfectly
18 accurate, but Mr. Blanche asked a series of questions:

19 Do you recall on March 31st going on TV with a
20 reporter named, Joy Reid?

21 Yes, sir.

22 Question: And, again, this is Friday,
23 March 31st, so it's when the indictment is still under
24 seal?

25 Correct.

1 That clearly left the impression with the jury
2 that there was something improper about the status of
3 the -- his understanding of the indictment. And as the
4 Court knows, the fact that the indictment was unsealed the
5 day before, it is perfectly appropriate for the jury to be
6 advised of that.

7 THE COURT: I think the jury should be advised.
8 The question is how.

9 What is the best way to do that?

10 MR. BLANCHE: I can -- well, I guess two options
11 in my mind, better than the Court giving an instruction, I
12 can just lead him and tell him and he will say, yes, or on
13 redirect the People can do that and make it clear.

14 I don't disagree that there shouldn't be
15 confusion on that type of issue.

16 THE COURT: Why don't we see if you are able to
17 address it. If you are unable to address it properly, the
18 People can do it on their redirect.

19 I don't think it requires an instruction from the
20 bench.

21 MR. COLANGELO: Our only concern is this was an
22 Order of the Court. We don't know if the witness was aware
23 of the Court unsealing the indictment because it was the
24 Court's own order.

25 We think it is appropriate for the curative

1 instruction to come from to you. It can be done quickly at
2 the end of this proceeding after this witness. And because
3 the questions were misleading, your Honor, we think it's
4 important that the Court correct it.

5 THE COURT: All right.

6 Why don't you let him to try to clean it up?

7 In the meantime, you can draft a curative
8 instruction to come from the bench. I will review it and
9 see if I should give it.

10 The jurors indicated that they cannot work next
11 Wednesday. So, that's off the table.

12 Let's get the witness, please.

13 LIEUTENANT: Witness entering.

14 (Whereupon, the witness entered the
15 courtroom and was properly seated.)

16 THE COURT: Let's get the jury, please.

17 LIEUTENANT: All rise. The jury is entering the
18 courtroom.

19 (Whereupon, the jurors entered the courtroom
20 and were properly seated.)

21 THE COURT: Please be seated.

22 THE CLERK: Case on trial continued.

23 All jurors are present and properly seated.

24 THE COURT: Jurors, I am informed that you are
25 unable to work next Wednesday.

1 Thank you for considering that.

2 Mr. Blanche.

3 CONTINUED CROSS-EXAMINATION

4 BY MR. BLANCHE:

5 Q So, Mr. Cohen, before the break, well -- so, you
6 testified earlier this morning you were never offered a
7 Cooperation Agreement with the Southern District of New York,
8 correct?

9 A That's correct.

10 Q Same thing with the Special Counsel, with Mueller,
11 right?

12 A Correct.

13 Q The same thing, you are not a cooperating witness in
14 this case either?

15 A No, sir.

16 Q The Attorney General, the trial that you testified
17 about before the break, you were just a witness in that case as
18 well?

19 You were not a cooperating witness, right?

20 A Correct.

21 Q But is it fair to say that one of the reasons that you
22 accepted responsibility and pled guilty in August and then
23 again in November was because you wanted to explore
24 cooperation, correct?

25 A Can you clarify that?

1 Q Well, did you try to cooperate -- not did you try to
2 cooperate. Did you meet with the Special Counsel in between
3 the first meeting on August 7th and your sentencing?

4 A I did.

5 Q And on several occasions?

6 A Yes, sir.

7 Q And at those meetings, at least some of them,
8 prosecutors from the Southern District of New York were there
9 as well?

10 A Yes, sir.

11 Q So, just to help the jury to understand that, there
12 are two separate prosecutors, Special Counsel just from DC,
13 that was Robert Mueller, and then the Southern District of New
14 York prosecutors, which are here in Manhattan, correct?

15 A Correct.

16 Q And you were meeting with them and providing
17 information, correct?

18 A Correct.

19 Q But, ultimately, that effort did not result in a
20 Cooperation Agreement, correct?

21 A That's correct.

22 Q And since your sentencing in December, you continued
23 to meet with the Special Counsel and Southern District of New
24 York prosecutors, occasionally, until you showed up to serve
25 your sentence for at least a little bit of time after your

1 sentence, correct?

2 A Correct.

3 Q And then we talked about yesterday, once you were at
4 Otisville you started meeting with the representatives from the
5 Manhattan District Attorney's Office.

6 So that was in August, correct, of 2018?

7 A (Nodding affirmatively.)

8 Q And then, since you have been released from prison,
9 technically, although a lot of that was spent on home
10 confinement because of COVID, you have made several attempts to
11 be released from your supervised release early, correct?

12 A Correct.

13 Q And is it your understanding that there are all kinds
14 of factors that go into that decision, but, ultimately, the
15 Judge can decide whether to grant that, whether to release you
16 early, correct?

17 MS. HOFFINGER: Objection.

18 THE COURT: Sustained. Please clarify which
19 Judge we are talking about.

20 Q So Judge Pauley passed away?

21 A Yes.

22 Q And your Federal case was assigned to a new Judge?

23 A Yes, sir.

24 Q And so, when you made these motions in Federal Court,
25 that was made in Federal Court to the new Judge, right?

1 A Correct.

2 Q And you tried that on multiple occasions, correct?

3 A Correct.

4 Q You first tried that, to be released from supervised
5 release about six months or so after it started, is that right?

6 A No, sir.

7 Q How long after?

8 A It was some months after, but it was not for
9 supervised release, it was for home confinement.

10 Q Right. You testified about that yesterday.
11 Before you were released from prison, you tried to
12 have your prison sentence reduced as well, correct?

13 A Correct. Pursuant to the Rule 35.

14 Q Pursuant to Rule 35, which is made within one year of
15 your sentencing and a Judge under certain circumstances can
16 reduce your sentence, correct?

17 A Correct.

18 Q And then that didn't result in a lower sentence, did
19 it?

20 A No, sir.

21 Q And then when your sentence ultimately expired, you
22 then went from being sentenced to being on probation or
23 supervised release, right?

24 A Supervised release.

25 Q And you are still on supervised release today?

1 A I am.

2 Q After you started supervised release, you have made
3 several efforts to have your supervised release terminated
4 early, is that right?

5 A Correct.

6 Q How many occasions?

7 A Three.

8 Q Could it be four?

9 A It could be four.

10 Q And none of those have been successful, right?

11 A No, sir.

12 Q Now, in all four of those, one of the reasons stated
13 to ask the Judge to release you on early supervised release was
14 your ongoing cooperation with law enforcement, right?

15 A In conjunction with the first three included the work
16 credits, as well as the program credits received at Otisville.

17 Q So one of the reasons were the overall circumstances
18 of your sentence, right?

19 That you believed you were entitled to credits. You
20 believed the calculation was inaccurate, but also in the
21 Judge's discretion you wanted the Judge to release you early
22 because of your cooperation, right?

23 A For both of those reasons, yes.

24 Q But you never, this whole time, all the meetings, you
25 were never offered a Cooperation Agreement and you were never a

1 cooperating witness, correct?

2 A That's correct.

3 Q So I want to go back to your testimony last October in
4 a different trial, October 24th and 25th, when you were under
5 oath and answering questions, correct?

6 A Correct.

7 Q And you were asked questions about your cooperation
8 and you said that you did cooperate with the Government,
9 correct?

10 A Yes, sir.

11 Q And then you were asked a question about whether you
12 received a 5K1 or substantial assistance letter from the
13 Government, right?

14 A Correct.

15 Q Can you tell the jury what a 5K1 is?

16 A It is a Cooperation Agreement with the Government.

17 Q The Federal Government?

18 A The Federal Government.

19 Q It is a motion, a 5K1 Motion, correct?

20 A Correct.

21 Q And if the motion is made by the Government, the
22 Federal Government, it allows the Judge to give you a lower
23 sentence, right?

24 A Additional benefit, yes.

25 Q And you get that, potentially, if you are a

1 cooperating witness?

2 A You have to be a cooperating witness.

3 Q And you were never offered a Cooperation Agreement,
4 right?

5 A Correct.

6 Q And in response to that question, and on October 24th,
7 the question was whether you received a 5K1 or substantial
8 assistance letter, you said you refused such a letter, correct?

9 Do you remember saying that?

10 A I do.

11 Q That's not true, is it?

12 A It's true.

13 Q So all of your efforts of cooperation, the Rule 35
14 Motion and every time you asked for early termination of
15 supervised release because you are a cooperating witness, your
16 testimony is that you refused a 5K1 letter is truthful?

17 MS. HOFFINGER: Objection.

18 THE COURT: Overruled.

19 A Yes, it's truthful. The 5K1 concept was given to Guy
20 Petrillo, my lawyer, that was after I had pled, after the 48
21 hours that I was given to plead. And so, I turned it around
22 and I said, I am not interested. So let's not even talk about
23 it.

24 Q Who did you say that to?

25 A Guy Petrillo, my lawyer.

1 Q So you are saying that was early on, right after you
2 plead guilty like in August?

3 A If I plead guilty, yes. The concept came up, and I
4 wasn't interested, and I said don't even bring it up.

5 Q And the concept you are talking about is the
6 acceptance of an offer of a Cooperation Agreement?

7 A The 5K1.

8 Q But you get a 5K1 if you sign a Cooperation Agreement?

9 A Which I did not.

10 Q Which was never offered to you, correct?

11 A It was never -- it was never offered to me. As
12 expressed to Mr. Petrillo, I wouldn't accept one.

13 Q So, all right.

14 Let's talk about your desire to work at the White
15 House.

16 You testified on Monday, but also on Tuesday, that you
17 were -- that you had conversations with a lot of people about
18 working with President Trump in the White House, correct?

19 A Correct.

20 Q And I believe you testified that you were never
21 offered the role of Chief of Staff, and while you agreed that
22 that role maybe wasn't right for you, you wish you would have
23 been, at least, considered, is that right?

24 A I would have liked to be considered for ego purposes.

25 Q You also testified that you were offered the role of

1 Assistant General Counsel at some point, correct?

2 A That's correct.

3 Q That could have been -- you would have been a White
4 House employee in the White House General Counsel's Office,
5 right?

6 A That's correct.

7 Q Now, as part of your sentencing in December, the
8 Southern District of New York wrote in their sentencing --

9 MS. HOFFINGER: Objection.

10 THE COURT: Sustained.

11 Q Do you recall -- do you recall arguments being made at
12 sentencing that you had wanted a role in the White House?

13 MS. HOFFINGER: Objection.

14 THE COURT: Please approach.

15 (Discussion is held at sidebar, on the
16 record.)

17 THE COURT: When you say, arguments being made,
18 what are you referring to?

19 MR. BLANCHE: So, the Southern District in their
20 sentencing submission said that there were text messages.
21 The reason why I am laying that foundation is because he
22 then testifies about that in front of Congress.

23 So, Congress says -- at Congress he is asked a
24 question, Southern District said you wanted a job in the
25 White House?

1 And he answers that question and the answer was a
2 lie.

3 MS. HOFFINGER: Your Honor, you already precluded
4 the Southern District's opinions one way or another as
5 being inadmissible in this case.

6 So, I guess I don't know what the relevance is.
7 I guess if he wants to ask if he wanted to work in the
8 White Hous, You can ask him that, but not what the
9 arguments were.

10 THE COURT: Right.

11 Do you feel like that is an inconsistent
12 statement?

13 MR. BLANCHE: I can go right to the testimony and
14 ask him to say, yes or no, about Southern District.

15 THE COURT: Why don't you skip whatever everybody
16 was arguing or saying and just get to the question?

17 All right?

18 MR. BLANCHE: All right.

19 (Discussion at sidebar concluded, and the
20 following occurred in open court.)

21 BY MR. BLANCHE:

22 Q So, I want to direct your attention again to that
23 February 27th, 2019, testimony from the House Sub-committee.

24 We talked a lot about that today, okay?

25 A Yes.

1 Q Do you remember being asked a question about your
2 desire to work in the White House?

3 Do you remember questions about that?

4 A Yes.

5 Q And as part of the questions, the questioner said --
6 asked about certain text messages that they had reviewed that
7 suggested you wanted a job in the White House, correct?

8 A Correct.

9 Q And they had reviewed those from a sentencing
10 submission from December, correct?

11 MS. HOFFINGER: Objection.

12 THE COURT: Sustained.

13 Q So, do you remember -- do you remember telling
14 Congress that it was a lie, that you did not want to go to the
15 White House?

16 Do you remember saying that to Congress?

17 A I remember telling Congress I did not want to work in
18 the White House.

19 Q Well, do you remember saying, what you testified to on
20 Tuesday is that you didn't want to go to the White House?

21 A Yes.

22 Q And that you wanted to continue in the role as
23 President Trump's personal attorney, right?

24 A Yes, sir.

25 Q And you testified that every President had one, right?

1 A Yes, sir.

2 Q And you even testified about certain matters that you
3 handled for President Trump as his personal attorney while he
4 was President, right?

5 A Yes, sir.

6 Q But you definitively stated under oath that you did
7 not want, when asked the question about whether you wanted to
8 work in the White House, you said no, sir, right?

9 A Correct.

10 Q You testified that you did not want to go to the White
11 House, right?

12 A Yes, sir.

13 Q And that you were offered jobs in the White House,
14 right?

15 A I was offered a role, yes.

16 Q You also testified that you were present when
17 President Trump reamed out Mr. Priebus because you hadn't taken
18 a job that you were offered, right?

19 And that job was a job we talked about a minute ago in
20 the White House Counsel's Office?

21 A Correct.

22 Q You weren't working for Don McGahn, right?

23 A Correct.

24 Q But the truth is, Mr. Cohen, you really wanted to work
25 in the White House, correct?

1 A No, sir.

2 Q You didn't simply indulge friends and family about
3 working in the White House like you testified about, you really
4 wanted to work in the White House, correct?

5 A Again, no, sir.

6 Q You hoped that you would be named the White House
7 Chief of Staff, not just be considered, but be named the White
8 House Chief of Staff, correct?

9 A No, sir.

10 Q Are you familiar with somebody named Spencer Zwick?

11 A Yes, sir. I know Spencer Zwick.

12 Q Who is that?

13 A He was the fundraiser for Mitt Romney.

14 Q And was that when Mr. Romney was running for
15 President?

16 A Yes, sir.

17 Q Do you recall having a conversation with Mr. Zwick
18 where he asked you whether you wanted to be Attorney General
19 Cohen or Chief of Staff, and you answered Chief?

20 Do you recall that?

21 A Yes, sir.

22 Q And that was -- that was still during the campaign,
23 correct?

24 A Correct.

25 Q And then after President Trump was elected in

1 November, he congratulated you, and he said, Chief of Staff.

2 And you said, that would be nice, correct?

3 A Correct.

4 Q Are you familiar with somebody named Rita Veygman?

5 A I am.

6 Q Who is that?

7 A It's a friend, family friend.

8 Q She is a fashion executive in New York?

9 A Yes, sir. Actually, Florida, but, yes, she relocated.

10 Q And do you recall on November 9th, so right after the
11 election, you told her that she was going to come to the White
12 House with you to be your Assistant, Assistant to the Chief of
13 Staff?

14 Do you remember saying that?

15 A Yes.

16 Q And then a few days later, November 12, so still
17 November 2016, you had a series of communications with a family
18 member, with your daughter, where you discussed whether you
19 still had a chance at the Chief of Staff position, right?

20 A Amongst other texts, yes.

21 Q Pardon me?

22 A Amongst other text messages, yes.

23 Q And your daughter actually alerted you to the fact
24 that she read that there was a consideration that Mr. Priebus
25 would be Chief of Staff.

1 And you said he is pushing like a mad man, right?

2 A Yes, sir.

3 Q And then there was a continued conversation about
4 whether you still had a chance to be Chief of Staff, and you
5 said there was still many opportunities, right?

6 A Yes. I think I also used the word, hybrid.

7 Q And in that text exchange you used the word, hybrid?

8 A Yes, sir.

9 MR. BLANCHE: Let's take a look at -- just the
10 witness, parties and the Court.

11 MS. HOFFINGER: It's in evidence.

12 THE COURT: We can show it to the people.

13 Q And you talked about --

14 MR. BLANCHE: We will move on. We don't need to
15 show that.

16 You can take the exhibit down.

17 Q You talked about, with your daughter, as you testified
18 on Tuesday, about other opportunities in the White House
19 besides Chief of Staff, correct?

20 A Amongst other things, yes.

21 Q Are you familiar with somebody named Kedar Massenburg?

22 A Yes, I am.

23 Q Who is that?

24 A He is a friend of mine, a former CEO of Motown
25 Records.

1 Q He is like a record producer?

2 A Former CEO of Motown, yes, sir.

3 Q The same day that you spoke to your daughter about
4 Mr. Priebus being named Chief of Staff, you had a communication
5 with Mr. Massenburg where you, again, discussed whether you
6 would be Chief of Staff, correct?

7 A Yes, sir.

8 Q And you told him at that point you just don't know,
9 right?

10 A Correct.

11 Q And then the next day -- so, do you recall on or
12 around November 13th, President Trump picked Mr. Priebus to be
13 the Chief of Staff, right?

14 A Yes, sir.

15 Q You told your daughter you were disappointed?

16 A That I wasn't considered, yes, sir.

17 Q And as you testified on Tuesday, you said that
18 President Trump needed an insider and that's why you weren't
19 selected, correct?

20 A Yes.

21 Q And your daughter was frustrated, at least she
22 appeared frustrated over texts, that President Trump didn't
23 talk to you about it before he picked Mr. Priebus, right?

24 A I don't know if I would characterize it as frustrated,
25 as much as disappointed.

1 Q There were discussions around that same time about who
2 would be President Trump's Attorney General, right?

3 A Yes.

4 Q And you told people you would like to be Attorney
5 General, correct?

6 A I don't recall that.

7 Q You don't recall telling Keith Davidson that you
8 wanted to be Attorney General?

9 A I don't recall if I told him that or he asked me, what
10 about you being Attorney General?

11 Q So you recall him asking that or you just don't recall
12 at all?

13 A I don't recall him asking that, no. And I don't
14 recall me telling him that's what I wanted.

15 Q And then, eventually, there was a discussion about
16 working in the White House Counsel's Office, correct?

17 A That's correct.

18 Q You wanted to be named Special Counsel to President
19 Trump, which was the same title that you had had for nine and a
20 half years, correct?

21 A No, sir. It was Personal Attorney to President Donald
22 J. Trump.

23 (Whereupon, Principal Court Reporter Susan
24 Pearce-Bates was relieved by Senior Court
25 Reporter Theresa Magniccari.)

1 (Whereupon, the following proceedings were
2 continued from the following page:)

3 ***

4 CONTINUED CROSS EXAMINATION

5 BY MR. BLANCHE:

6 Q. That's what you eventually were, but I am talking about
7 in November 2016, did you and your daughter have a conversation
8 where you said that you're going to ask to be Special Counsel to
9 the President?

10 A. Yes, but I was referring to Personal Attorney to the
11 President.

12 Q. Well, you talked about how, if you had that job, the
13 pay would be very low because you would be working in the White
14 House, correct?

15 A. No, I think that was for a different job.

16 Q. What job was that for?

17 A. That was supposed to be Assistant White House General
18 Counsel.

19 Q. So your testimony is, that when you said you want to be
20 Special Counsel to the President, you were talking about the job
21 you ultimately were awarded, to be his Personal Attorney?

22 A. No, sir.

23 Q. When you were talking -- when you had this intense
24 exchange about being Special Counsel to the President, that
25 would be you working in the White House as the Special Counsel,

1 correct?

2 A. If there was a role such as that, yes.

3 Q. You told your daughter that President Trump told his
4 new Chief of Staff that he wanted you to be Special Counsel to
5 the President; correct?

6 A. Yes, sir.

7 Q. And you told your daughter that would be great, right?

8 A. I am sorry. I don't think your are characterizing this
9 correctly at all. My conversations with my daughter was I
10 wanted a hybrid position, one where I would still have access to
11 President Trump, but not be a White House employee.

12 That was what I had been asking for and the
13 conversation with my daughter.

14 Q. In that conversation I believe we were both talking
15 about, didn't you say that President Trump was very
16 complimentary to you but that he couldn't come up with a title.

17 That was what I had been asking for and that was the
18 conversation with my daughter.

19 Q. In the conversation I believe you were both talking
20 about, didn't you say that President Trump was very
21 complimentary to you but that he couldn't come up with a title,
22 right?

23 A. Yes, sir.

24 Q. Well, you actually spoke with President Trump about
25 that; didn't you?

1 A. No, sir. What I had spoken Mr. Trump, President Elect
2 Trump at the time was to be Personal Attorney to the President.
3 In fact, I brought in an attorney who truly a Presidential
4 Historian.

5 Q. We'll get to that.

6 You don't recall having a communication with your
7 daughter, we're still in November, where you said you were with
8 him now, I'm talking about President Trump, and he wants me to
9 go, just not sure the position, needs came up, and he told them
10 it was complimentary, but not happy with the title I wanted.

11 Do you remember saying that to your daughter?

12 A. Yes.

13 Q. And that title is Special Counsel to the President;
14 correct?

15 A. Yes.

16 Q. And at the time -- I know eventually you're Personal
17 Attorney, but at the time when you were having that conversation
18 with the President Elect and with his newly named Chief of
19 Staff, you wanted the title Special Counsel to the President and
20 Mr. Priebus didn't like that title; correct?

21 A. I believe so, yes.

22 Q. And President Trump expressed some frustration that his
23 new team couldn't find a place for you at the White House;
24 right?

25 A. That we had not come up to a role for me in the White

1 House, that's correct.

2 Q. Didn't you -- in the conversation I believe we're both
3 talking about, didn't you say that President Trump was very
4 complimentary to you, but they couldn't come up with a title
5 yet?

6 A. Right. Yes, sir.

7 Q. And then your daughter said, why not Special Counsel,
8 who else would they give that to, Trump is President, he has
9 the power to appoint anyone he wants; that's what she said to
10 you?

11 A. Yes, sir.

12 Q. And you told your daughter that you were disappointed
13 that the Chief of Staff, Mr. Priebus, was the one who got to
14 pick what your role was; right?

15 A. Yes, sir.

16 Q. And you felt that way in part because you took some
17 credit for Mr. Priebus getting the job as Chief of Staff; right?

18 A. Yes, sir.

19 Q. So part of your frustration, as you expressed to your
20 daughter, was that now that the Chief of Staff that you had
21 helped President Trump pick was put in charge of finding you a
22 job; right?

23 A. Again, my daughter may have called it Special Counsel
24 to the President. The role that I had been asking President
25 Elect Trump for was Personal Attorney to the President, which is

1 why, as I said to my daughter it's a hybrid role. I had already
2 had other ideas in terms of what I wanted to do and what I
3 needed to do financially for my family.

4 Q. Well, what you really said to your daughter, and I am
5 talking about on November 14th, is that you were very
6 disappointed that Preibus was being given the power to determine
7 my position, without me, he wouldn't even be in this spot;
8 right?

9 A. I said that.

10 Q. That wasn't about hybrid, that wasn't about being his
11 Personal Attorney, that was frustration that President Trump's
12 new Chief of Staff was given the power to select where you were
13 going to go; right?

14 A. Correct.

15 Q. You still even after November were still looking for a
16 position in the White House, correct?

17 A. Yes, sir.

18 No, sir, I was looking for that same title, as Personal
19 Attorney to the President.

20 Q. Well, at what point did you switch from wanting to work
21 in the White House as Special Counsel or General Counsel's
22 Office to wanting to be Personal Attorney?

23 A. I didn't want the General Counsel office. I made that
24 crystal clear. I always wanted the title Personal Attorney to
25 the President. I always said that there was no shame in being

1 Personal Attorney to the President of the United States.

2 Q. Well, early in November Mr. Cohen, there were no
3 communications about Personal Attorney, all the communications
4 were about whether you would be Chief of Staff and then Special
5 Counsel to the President in the White House; correct?

6 A. That was for my ego, yes.

7 Q. Well, two questions ago you said you always just wanted
8 to be the Personal Attorney. But I'm looking at text messages
9 in November where you're not talking about being Personal
10 Attorney, Mr. Cohen, you're talking about wanting a job in the
11 White House as Special Counsel to the President Trump; correct?

12 A. No, sir.

13 If you look at the texts my daughter, I turn around and
14 I state to her that I'm not the right person for Chief of Staff.
15 Also, I also would not expect that I would be Attorney General
16 because it wasn't within my qualifications.

17 Q. But, you did think you were the right person to be
18 Special Counsel to President Trump, you told that to your
19 daughter; correct?

20 A. Personal Attorney to with Donald J. Trump is what I
21 wanted. Later on in the text messages you see the clarification
22 in that title name.

23 Q. So, later on, meaning in December and maybe in January,
24 you clarified to your daughter about what you meant in November;
25 is that what you said?

1 A. My daughter used the title that I had at The Trump
2 Organization, it was always supposed to be Personal Attorney to
3 President Donald J. Trump.

4 Q. Are you familiar with someone named Gary Cohen?

5 A. Yes.

6 Q. Who is that?

7 A. Gary Cohen was the former President of Goldman Sachs.

8 Q. And when you say former, did President Trump appoint
9 him to be the Director of the National Economic Counsel?

10 A. Yes.

11 Q. That was in that same period, in between the
12 transition?

13 A. The transition, yes.

14 Q. You were frustrated that Mr. Cohen was named to that
15 position; weren't you?

16 A. I had asked for Mr. Cohen.

17 Q. Were you frustrated that he was named in that
18 position?

19 A. No, sir.

20 Q. You were not despondent that he was being given a White
21 House role and you were not?

22 A. No, sir.

23 Q. You testified -- well, your testimony is that you never
24 had a conversation with Mr. Davidson where you expressed
25 frustration about Mr. Cohen?

1 A. I stated I don't recall having a conversation with Mr.
2 Davidson about that.

3 Q. Do you recall -- now we're talking we're in December
4 now of 2016, your daughter expressed that it was ridiculous that
5 Mr. Cohen was appointed and not you; correct?

6 A. Correct.

7 Q. And she also complained that you were having a hard
8 time getting tickets to the Inauguration Ball; correct?

9 A. I believe so.

10 Q. Your daughter said that President Trump and his new
11 people were walking all over you; correct?

12 A. Yes, sir.

13 Q. And you agreed with that, didn't you, at the time?

14 A. At the time.

15 Q. You also agreed with your daughter that President
16 Trump, and this is in December, isn't doing right by you in any
17 way; correct?

18 A. I was still waiting for the title Personal Attorney to
19 the President.

20 Q. And, ultimately, you got that title in January; right?

21 A. Correct.

22 Q. But you were disappointed that after all the work you
23 had done for President Trump for nine and a half years, nobody,
24 including President Trump, offered you a position in the White
25 House?

1 A. That's not accurate.

2 Q. You were not embarrassed that after all the work you
3 had done for him you were left being his Personal Attorney and
4 nothing more?

5 A. That's the role that I wanted. In fact, I asked Gary
6 Cohen who provided me with the attorney Orin Snyder. And Orin
7 Snyder and I, for about an hour, sat with President Elect Trump
8 in his office expressing the reason why Personal Attorney to the
9 President was the exact role that I should play. That's the
10 role that they gave to me because this was a way that I could
11 monetize that which I did.

12 Q. Now, do you know somebody named Darrell Scott?

13 A. Yes.

14 Q. Who is that?

15 A. Darrell Scott was my co-founder of the National
16 Diversity Coalition for Trump. He is a pastor in Cleveland,
17 Ohio.

18 Q. The event that you -- the only event that you attended
19 during the campaign was at Pastor Scott's church; is that right?

20 A. Yes.

21 Q. That is the one you spoke at?

22 A. The New Spirit Revival Church.

23 Q. You were friends with Pastor Scott?

24 A. We become friends, yes, sir.

25 Q. You knew Pastor Scott for years and years; right?

1 A. I knew him for more than a year.

2 Q. Well, did you know him in 2011 when there was some talk
3 about whether President Trump would run for the presidency in
4 2012?

5 A. I don't recall if he was part of that.

6 Q. So you recall only knowing him during the 2015/16
7 campaign?

8 A. I apologize. I don't recall if he was part of the
9 2011, but I have known him for years.

10 Q. Did you all communicate on the phone?

11 A. Yes, sir.

12 Q. Over texts?

13 A. Yes, sir.

14 Q. And in person?

15 A. Yes, sir.

16 Q. Do you recall expressing disappointment to Pastor Scott
17 repeatedly that President Trump didn't bring you into his
18 administration?

19 A. Not into the administration. I knew the role that I
20 wanted to have and I may have expressed frustration, but I don't
21 recall.

22 Q. Well, do you not recall -- or let me ask it a different
23 way. Did you have communications with Pastor Scott --

24 A. Yes, sir.

25 Q. Let me finish.

1 -- about your frustration that President Trump did not
2 bring you to the White House?

3 A. I don't recall that.

4 Q. Did you have communications with Pastor Scott even
5 after President Trump was in the office of the Presidency about
6 the fact that you weren't working in the White House and you
7 weren't part of the administration?

8 A. I don't recall that.

9 Q. Do you recall on National Prayer Day expressing
10 frustration that you were sitting in your office and not in the
11 White House with everyone else, all the people that you had
12 worked with on the campaign; do you recall that?

13 A. That I wasn't invited, yes, sir.

14 Q. Do you recall talking to Pastor Scott about that?

15 A. I believe so, yes.

16 Q. What do you recall saying to him?

17 A. It would have nice had I been invited, considering
18 everybody that was part of the Diversity Coalition, people that
19 I helped put together, were all there and I wasn't.

20 Q. But your testimony is: You didn't say to him at that
21 time, "I should be working in the White House with President
22 Trump?"

23 A. Not that I recall.

24 Q. Do you recall communicating with Pastor Scott regularly
25 on the phone and over texts asking him to put in a good word

1 with President Trump on your behalf?

2 A. Yes, I recall that.

3 Q. I am talking about 2015 and 2016, but even after the
4 President was in the White House; do you recall that?

5 A. I do.

6 Q. And your communications with him, this is while you
7 were working at The Trump Organization and while you were
8 Personal Attorney to President Trump; correct?

9 A. Yes.

10 Q. Your communications were to him, in sum and substance,
11 were about putting in a good word with President Trump so the
12 President Trump would bring you to the White House?

13 A. I don't recall. To the White House? I knew the role,
14 again, that I wanted. I had already had the idea in advance,
15 which is what I expressed to my daughter.

16 Q. Why did you need Pastor Scott to put a good word in for
17 you with President Trump?

18 A. I knew he was going to be seeing him. While you are
19 there, say something.

20 Q. What about during the campaign when you testified that
21 you talked to President Trump almost every day?

22 A. I did.

23 Q. Why did you need Pastor Scott to put in a good word for
24 you along that time?

25 A. It's always good to have somebody else advocate.

1 Q. What were you asking him to say to President Trump
2 about you?

3 A. How important it was for the Diversity Coalition as a
4 basis for the campaign and its success.

5 Q. Do you recall in November of 2023, just a few months
6 ago, your lawyer, not your lawyer that is here today, one of
7 your lawyers, applied for early termination of supervised
8 release on your behalf?

9 A. Yes, sir.

10 Q. As part of that application, do you recall that there
11 were fake cases, meaning fake legal cases, included in the
12 letter around that application?

13 MS. HOFFINGER: Objection.

14 THE COURT: Overruled.

15 A. Yes, sir.

16 Q. What was your role in that situation, if you could
17 explain that to the jury?

18 A. So, as I was helping my friend, who had just moved his
19 law office, for another attempt to submit papers for early
20 termination of supervised release, I went on Google Bard, which
21 is an A.I. tool, and I typed in a series of queries regarding
22 the Second Circuit here in New York decisions on early
23 determination of supervised release.

24 And the reasons -- because in our papers, for whatever
25 reason, I believe we had the Eighth Circuit, and it created a

1 whole bunch of what they call, I think, phantom results, because
2 A.I. wants to please the user.

3 And I then provided to my counsel these three cases
4 that were directly on point for why supervised release for me
5 under the circumstances was just improper.

6 And I provided it to him and he included it in the
7 document.

8 And those citations were inaccurate. Not the sum and
9 substance, but the citations themselves.

10 Q. When you say inaccurate, the cases just didn't exist;
11 correct?

12 A. Under that specific citation, correct.

13 Q. But that wasn't my question, about the specific
14 citation.

15 My question was: The three cases that you gave to your
16 attorney were not real cases; correct?

17 A. That's correct.

18 Q. And you knew that your lawyer was going to use those
19 cases in support of your application; correct?

20 A. I gave them to him to use in support of the
21 application, yes.

22 Q. You were an attorney -- well, by that you were
23 disbarred?

24 A. Yes, sir.

25 Q. You were an attorney for over 30 years?

1 A. Yes, sir.

2 Q. And when you were a practicing attorney, you did
3 corporate and litigation?

4 A. Yes.

5 Q. Part of litigation is drafting briefs; correct?

6 A. Yes.

7 Q. You did that?

8 A. I did that.

9 Q. All right.

10 I want to talk about something you testified about on
11 October -- excuse me -- on Tuesday. You testified about a phone
12 call on October 24, okay, 2016, so that's two days right before
13 you make a payment to the HELOC. And then you move money over
14 from your HELOC to your LLC. Then you wire the money to Mr.
15 Davidson on the 26th?

16 A. Yes.

17 Q. Correct?

18 A. Yes.

19 Q. Do you recall testifying in response to conversations
20 from the prosecutor about the phone call you had with Mr.
21 Schiller at it 8:02 p.m. on the 24th, two days earlier; do you
22 recall testifying about that?

23 A. Yes, sir.

24 Q. You recall saying that you called Mr. Schiller on that
25 evening because you wanted to speak to then Mr. Trump; right?

1 A. Correct.

2 Q. You wanted to speak to President Trump to discuss the
3 Stormy Daniels matter and the resolution of it; that was your
4 testimony, right?

5 A. That was.

6 Q. Then you testified just a couple of days ago that you
7 were successful, you called Mr. Schiller and you had a
8 conversation, and in that conversation you resolved you were
9 moving forward to fund the deal; correct?

10 A. Correct.

11 Q. Can you explain to us how that works, you know that Mr.
12 Schiller is with President Trump, and so you know that you can
13 call his phone and that Mr. Schiller just hands President Trump
14 the phone?

15 A. Yes, sir.

16 Q. Was he on speaker? Do you usually just have privacy
17 with President Trump when that happens?

18 Meaning, does Mr. Schiller put his cell phone on
19 speaker and you talk to President Trump or does he actually give
20 him the phone and you have a private conversation?

21 A. I've seen both.

22 Q. On October 24, 2016, which one was it?

23 A. I don't know the answer. I wasn't with them.

24 Q. Can you tell from your conversation with President
25 Trump whether he was on speaker or whether you were just talking

1 to him?

2 A. I didn't take notes.

3 Q. So you don't recall either way?

4 A. No, sir.

5 Q. But you recall that on that call -- I don't want to put
6 words in your mouth, you discussed the Stormy Daniels matter and
7 the resolution, and you also discussed the conversation would be
8 that it was resolved, that you were going to move forward and
9 fund the deal; right?

10 A. Yes, sir.

11 Q. That was your testimony?

12 A. Yes, sir.

13 Q. So I appreciate it was a long time ago, but what would
14 you have said to President Trump on that phone call, what would
15 he have said to you?

16 MS. HOFFINGER: Objection.

17 THE COURT: Sustained.

18 Q. Do you have any recollection of what you said to him on
19 that day?

20 A. We talked about the matter. That it was resolved.

21 Q. I am not going to hold you to an exact language, when
22 you talked about the matter, that it was resolved, is that the
23 sort of thing that you would have said to him?

24 A. Yes.

25 Q. I am sorry. How would you have said it to him?

1 MS. HOFFINGER: Objection.

2 THE COURT: Sustained.

3 Q. The point is, you have a distinct and specific
4 recollection, do you not, that on October 24th at 8 o'clock you
5 talked to President Trump about the Stormy Daniels situation;
6 correct?

7 A. Yes, sir.

8 Q. Now, you testified in the Grand Jury last March; right?

9 A. Yes, sir.

10 Q. You didn't talk about this phone call in the Grand
11 Jury; did you?

12 A. Not that I recall, no.

13 Q. Do you want me to show you the Grand Jury transcript
14 and you can check?

15 MS. HOFFINGER: Objection.

16 THE COURT: Sustained.

17 Q. When you say you don't recall, do you recall talking
18 about this phone call when you met with the prosecutors before
19 your Grand Jury testimony?

20 MS. HOFFINGER: Objection.

21 THE COURT: Sustained.

22 Q. Do you recall ever talking to the prosecutors prior to
23 your testimony earlier this week about this phone call?

24 MS. HOFFINGER: Objection.

25 THE COURT: Overruled.

1 A. I don't recall.

2 Q. So the first time that you recall having a conversation
3 with President Trump on October 24th at 8:02 p.m. is when you
4 testified two days ago?

5 A. No, sir. I just said I don't recall when I spoke to
6 the DA about that specific matter.

7 Q. On Tuesday you recall you were shown a particular call
8 log between you and Mr. Schiller, and the prosecutor went right
9 up to October 24th and said you had two phone calls that day, a
10 voicemail and then a 1 minute and 36 minute phone call; do you
11 remember that?

12 A. I do.

13 Q. You said that was with President Trump, Mr. Trump; you
14 said that?

15 A. Yes, sir.

16 Q. And do you remember being interviewed on March 7th of
17 last year in the District Attorney's Office, which was about a
18 week before you testified, and not saying anything about this
19 phone call?

20 HOFFINGER: Objection.

21 THE COURT: Overruled.

22 A. I said I don't recall. They refreshed my memory.

23 Q. Let me show you what has been marked for identification
24 as B255.

25 MR. BLANCHE: This is just for the parties, the

1 witness and the Court.

2 Q. These are some notes from the meeting.

3 You didn't take these notes, did you, Mr. Cohen?

4 A. No, I did not.

5 Q. Do you see at the top the date March 7th?

6 A. Yes.

7 Q. It started at 9 a.m.?

8 A. Yes, sir.

9 MR. BLANCHE: If we can go to Page 9, please.

10 Actually, the page before. If we can blow up the bottom

11 line that says October 23rd to 25th.

12 (Displayed.)

13 Q. Can you take a look at that to see if it refreshes your
14 recollection that you didn't return the phone call?

15 MS. HOFFINGER: Can we approach?

16 (Whereupon, there was a sidebar discussion held:)

17 MS. HOFFINGER: Judge, this is classic Bornholdt.

18 He is not directing -- it is classic People v. Bornholdt.

19 He is not directing his attention to where he was asked the
20 question about it.

21 MR. BLANCHE: I don't understand what the
22 objection is.

23 THE COURT: The objection is, that you tried to
24 impeach him with an admission, but you haven't established
25 that he was asked the question about it.

1 MS. HOFFINGER: People versus Bornholdt.

2 MR. BLANCHE: Your Honor, that's not what this is
3 showing. They walked through every day and he talks about
4 what he remembers for each day.

5 As a matter of fact, on the 26th, which I am about
6 to show him, he has a specific recollection of telephone
7 calls with Trump.

8 On the 23rd to 25th there is a dash -- verbatim
9 writing of everything that he is saying. There is no
10 question and answer. It's just giving an explanation of
11 what he remembers.

12 MS. HOFFINGER: Which is exactly why he may have
13 not been asked the question.

14 THE COURT: That's why we have Bornholdt, to
15 ensure that people are not impeached simply because they
16 forgot to say something.

17 You have to establish that he was asked the
18 question. That he was directed to a particular area and
19 they failed to -- given the opportunity, they failed to
20 reveal it.

21 (Whereupon, the following occurred in open court.)

22 MR. BLANCHE: If we can put back up to 255, just
23 for the witness, the parties, and the Court. Go to Page 8.

24 CONTINUED CROSS EXAMINATION

25 BY MR. BLANCHE:

1 Q. Can you take a look at that, Mr. Cohen, and see if it
2 refreshes your recollection about whether you were asked any
3 questions about the phone call on the 25th?

4 A. Yes, sir.

5 Q. Does that refresh your recollection about whether you
6 were asked any questions about phone calls on the 24th?

7 A. No, sir.

8 Q. And you have no independent recollection of that
9 meeting that would answer that question?

10 A. I do not.

11 MR. BLANCHE: Now, if we can look at the next page
12 of those notes and blow up that top.

13 (Displayed.)

14 Q. If you look at the third line. It talks about calls
15 between you and President Trump on the 26th, correct, two days
16 later?

17 MS. HOFFINGER: Objection.

18 THE COURT: Why don't you direct his attention and
19 have him read it.

20 Q. Take a look at the third line. If you can read the
21 third and fourth line.

22 MS. HOFFINGER: Is there a question?

23 Q. Does that refresh your recollection that you did talk
24 on that date about phone calls with President Trump on the 26th?

25 MS. HOFFINGER: Objection.

1 THE COURT: Sustained.

2 Q. Do you have a recollection of talking on that day with
3 the prosecutors about phone calls with President Trump on the
4 26th?

5 MS. HOFFINGER: Objection.

6 THE COURT: Overruled.

7 A. Yes, sir.

8 Q. And you did; right?

9 A. Yes.

10 Q. Do you remember -- I appreciate this goes back a while,
11 do you remember at that time, October 22nd, 23rd, 24th, 2016,
12 you were receiving a bunch of ongoing and continuing harassment
13 phone calls, so somebody was calling you constantly; do you
14 remember that?

15 A. Yes, sir.

16 Q. And do you remember that on the 24th, at around
17 7 o'clock at night, the person who was harassing you forgot to
18 block the number and you got the number; do you remember that?

19 A. No, sir.

20 Q. Let me show you what has been marked for
21 identification, just for you, the Court, and the parties as
22 B165.

23 We're going to highlight some of this for you.

24 MR. BLANCHE: If we can highlight just the first
25 couple of texts.

1 Q. So, if you see, this is just for you.

2 But, do you see the number, and that's you, then a
3 number that ends in 0594; do you see that?

4 A. Yes, sir.

5 Q. Do you see your text to this number that says, "This
6 number has been sent to Secret Service for your ongoing and
7 continuous harassment to both myself as well as to the
8 organizations named on it?"

9 A. I do.

10 Q. That is at 7:10 p.m.; right?

11 A. Yes.

12 Q. And then the text back says, "It wasn't me, my friend
13 told me to call, I am sorry for this, I won't do it again;"
14 right?

15 A. Yes, sir.

16 Q. Then you respond and said, "They're going to have to
17 explain that to the Secret Service," because you have been
18 receiving dozens of these harassing calls over the past three
19 days; right?

20 A. Correct.

21 Q. "If you are a minor, I suggest you notify your parent
22 or guardian;" that's what you said to them, right?

23 A. I did.

24 Q. The person texted you back and said, "I didn't do it, I
25 am 14, please don't do this."

1 And you asked them to have their parent or guardian
2 contact --

3 MS. HOFFINGER: Objection. He is reading from the
4 document.

5 THE COURT: Sustained.

6 Q. You eventually said to have their parent or guardian
7 contact you?

8 A. When they expressed they were 14, I felt it was proper.

9 Q. That was at 7:24 p.m. on that same date, October 24;
10 right?

11 A. I am sorry. What time?

12 Q. The last text was at 7:24 p.m.?

13 A. Correct.

14 Q. So that whole exchange was between around 7:10 and 7:24
15 p.m.?

16 A. Correct.

17 Q. That was an exchange, because you had been receiving a
18 bunch of harassing phone calls the prior three days?

19 A. Correct.

20 Q. Do you recall at 7:48 texting Keith Schiller about this
21 14 year old; do you recall that? Do you recall that?

22 A. I don't recall.

23 Q. Do you recall texting Keith Schiller at 7:48 p.m., "Who
24 can I speak to regarding harassing calls to myself and office,
25 the dope forgot to block his call on one of them;" you don't

1 recall that?

2 A. It sounds right. Yes, sir.

3 MR. BLANCHE: Let's take a look. If we can show
4 the witness B266. Just the witness, the Court and parties.

5 Q. This is a series of texts between you and Mr. Schiller
6 on that same date. You said: "Who can I speak to regarding
7 harassing calls to my cell and office, the dope forgot to block
8 his call on one of them?"

9 Do you see that?

10 A. I see it.

11 Q. Mr. Schiller says --

12 MS. HOFFINGER: Objection, reading a document not
13 in evidence.

14 THE COURT: Sustained.

15 Q. Do you recall at 8:02, your initial text to Mr.
16 Schiller is at 7:48, and then at 8:02 he says, "Call me," to
17 you; right?

18 A. Yes, sir.

19 MR. BLANCHE: So if we can put up what is already
20 in evidence as Exhibit 341 on the screen, please.

21 (Displayed.)

22 Q. These are the phone calls between you and Mr. Schiller;
23 right?

24 MR. BLANCHE: And if we can go to the second page
25 and highlight the 10/24, the 8:01 and 8:02 calls, please.

1 (Displayed.)

2 Q. Do you see --

3 MR. BLANCHE: If you can highlight the 10/24, the
4 8:01 and 8:02 calls. I see them.

5 Q. That's fine.

6 That shows a voicemail at 8:01 from Keith Schiller to
7 you?

8 A. Yes, sir.

9 Q. And then at 8:02, he says, "Call me," and then it looks
10 like you then call him at 8:02 for 1 minute and 36 seconds;
11 right?

12 A. Correct.

13 MR. BLANCHE: If you look at the "call me" text.
14 If we can take that down for a second and put back up B166,
15 which is your text message from that day.

16 (Displayed.)

17 Q. You will agree with me that Mr. Schiller told you to
18 call him at 8:02 and 21 seconds; right?

19 A. Yes, sir.

20 Q. And so you called him back.

21 MR. BLANCHE: And if we can go back to that phone
22 record chart on 341 and highlight the bottom.

23 (Displayed.)

24 Q. You called him back at 8:02, it was likely after 8:02
25 and 21 seconds; right?

1 A. That's correct.

2 Q. This is the call that you testified about on Tuesday,
3 that you had a conversation with President Trump, that you
4 called Keith Schiller, it wasn't to talk to Keith Schiller, it
5 was to talk to President Trump about the Stormy deal and the
6 moving forward; that was your testimony?

7 A. Yes, sir.

8 Q. Let's look at what happens next. Let's go back to
9 B166, at 8:04.

10 You text Mr. Schiller the number --

11 MS. HOFFINGER: I am going to object to reading a
12 document that is not in evidence.

13 THE COURT: It's not in evidence.

14 MR. BLANCHE: Your Honor, I will offer B166 in
15 evidence.

16 THE COURT: Any objection?

17 MS. HOFFINGER: I think he just needs to lay a
18 foundation.

19 Q. You see the texts that you are looking at, B166,
20 between you and Mr. Schiller. You can look at the first page
21 too.

22 MR. BLANCHE: Please highlight the top third of
23 the page.

24 Q. See, it says Cellebrite, it has your number, Mr.
25 Schiller's number?

1 A. Yes.

2 MR. BLANCHE: We offer B166.

3 MS. HOFFINGER: With redactions?

4 THE COURT: If you can make the necessary
5 redactions.

6 MR. BLANCHE: We'll redact it, of course,
7 absolutely.

8 For now can it be shown to the jury and not in the
9 courtroom?

10 THE COURT: I don't know if you can do that.

11 We were told that we can.

12 It is being shown to the jury but not anybody else
13 in the Court.

14 Q. Let's look at it with the jury.

15 Just to go back now to the conversation between you and
16 Keith. "Who can I speak to regarding phone calls to my cell and
17 office, the dope forgot to block one of them." That was at
18 7:48.

19 At 8:02 he said: Call me.

20 I can put it back up again.

21 At 8:01 is when he leaves that voicemail?

22 A. Yes.

23 Q. You call him back at 8:02 for 1 minute and 36 seconds.

24 At 8:04, you text him the number of the 14 year old who was
25 prank calling you; correct?

1 A. I did, yes.

2 Q. Immediately he texts you back within a few seconds, he
3 said, "Okay?"

4 A. Yes, sir.

5 Q. The very next morning, at 7:58 a.m., you say, "Did you
6 reach the family;" right?

7 A. Yes, sir.

8 MR. BLANCHE: Let's take that down.

9 Q. When you testified on Tuesday that that you had a
10 specific recollection that that 1 minute and 36 minute phone
11 call on October 24th was not with Keith Schiller, that you
12 called Keith Schiller and he passed the phone to President
13 Trump, you finalized the deal with Stormy Daniels and you
14 said, "We're going to move forward," and he said, "yes,"
15 because you kept him informed all the time; that was your
16 testimony, right?

17 A. That's correct.

18 Q. That was a lie, you were actually talking to Mr.
19 Schiller about the fact that you were getting harassing phone
20 calls from a 14 year old; correct?

21 A. Part of it was the 14 year old, but I know that Keith
22 was with Mr. Trump at the time and there was more than
23 potentially just this. That's what I recall based upon the
24 documents that I reviewed.

25 Q. Five minutes ago I asked you if you remember harassing

1 phone calls, and you said no.

2 And then I refreshed your recollection.

3 It's totally fair if you don't remember.

4 But now your testimony is that you were testifying
5 truthfully on Tuesday, to a 1 minute and 36 second phone call,
6 and you had enough time in that 1 minute and 36 seconds to
7 update Mr. Schiller about all the problems you were having with
8 these harassing phone calls and also update President Trump on
9 the status of the Stormy Daniels situation because you had to
10 keep him informed because every time you made any decision, you
11 ran it by The Boss; that's your testimony?

12 A. I always ran everything by The Boss immediately. And
13 in this case, it could have just been saying everything is being
14 taken care of, it's going to get resolved.

15 Q. That's not what you testified to on Tuesday. You said
16 you had a recollection of a phone call on October 24th at 8:02
17 p.m. where you called Mr. Schiller and he gave the phone to
18 President Trump and you told President Trump about the updates,
19 that you were moving forward with the funding, and he said,
20 okay, go.

21 That was a lie, you did not talk to President Trump on
22 that night, you talked to Keith Schiller about what we just went
23 through; you can admit it?

24 A. No, sir, I can't. I am not certain that is accurate.

25 Q. You were certain it was accurate on Tuesday when you

1 were under oath and testifying, you were certain it was accurate
2 you had a phone call to President Trump, but now you are saying
3 you are not certain it was accurate?

4 A. Based upon the records that I was able to review, in
5 light of everything that was going on, I believe I also spoke to
6 Mr. President Trump and told him everything regarding the Stormy
7 Daniels matter was being worked on and it's going to be
8 resolved.

9 Q. We are not asking for your belief. This jury doesn't
10 want to hear what you think happened?

11 MS. HOFFINGER: Objection.

12 THE COURT: Sustained.

13 MR. BLANCHE: I want to put up People's Exhibit
14 262. It's in evidence.

15 (Displayed.)

16 Q. Sir, you may recall that the People showed you this
17 exhibit and you testified that these were certain text messages
18 between you and Mr. Schiller. It spans March 4, 2016 to
19 November 4, 2016.

20 Do you see the exhibit?

21 A. I am sorry, one more time the dates.

22 Q. The dates, I believe --

23 MR. BLANCHE: If we can blow up the last one.

24 (Displayed.)

25 Q. It's from March 4, 2016 to November 4, 2016?

1 A. Yes, sir.

2 Q. You were shown all those texts by the prosecution?

3 A. Correct.

4 Q. If we can focus in on the October timeframe on this
5 exhibit.

6 Did the People include the text messages that I just
7 showed you between you and Keith will Schiller on October 24th
8 on this exhibit?

9 A. Yes, sir.

10 Q. You see those text messages on that exhibit?

11 A. I don't.

12 Q. The People did not bother to include those on this
13 chart; did they?

14 A. Not on this chart, no, sir.

15 Q. When they prepped you and they showed you this chart,
16 right -- they prepped you and they showed you this chart, you
17 didn't see this chart for the first time on Tuesday; did you?

18 MS. HOFFINGER: Objection.

19 THE COURT: Sustained.

20 Q. When they prepped you, did they show you a chart?

21 MS. HOFFINGER: Objection.

22 THE COURT: Sustained.

23 Q. Were you ever shown in prep the texts that I just
24 showed you between you and Mr. Schiller about the harassing
25 phone calls?

1 MS. HOFFINGER: Objection.

2 THE COURT: Overruled.

3 A. No, sir.

4 Q. The first time that you seen those texts in seven or
5 eight years was just a few minutes ago?

6 A. Yes.

7 Q. Given that your testimony to this jury is still,
8 when you testified on Tuesday, that you had a specific
9 recollection of a phone call with President Trump on October
10 24th, at 8:02, for 1 minute and 36 seconds, that you were
11 telling the truth?

12 A. Based upon what was going on and based upon the other
13 message text messages and so on, regarding the Stormy Daniels
14 matter, yes, I believe I was telling the truth.

15 Q. So you were not basing your testimony on Tuesday based
16 upon your memory, you were basing it on documents that the
17 People showed you in prep; is that your testimony?

18 A. That refreshed my memory, yes, sir.

19 Q. Was that true for just phone calls or was it true for
20 other phone calls too?

21 A. I don't recall telephone calls on a specific date going
22 back to 2016. Based upon the records and based upon the
23 documents that you were reviewing.

24 Q. Mr. Cohen you just said that you don't recall phone
25 calls back in 2016. That is not what you testified to on

1 Tuesday. On Tuesday you testified that you remembered the phone
2 call?

3 MS. HOFFINGER: Objection.

4 THE COURT: Sustained.

5 MR. BLANCHE: Is now a good time for break?

6 THE COURT: Jurors, let's go ahead and take our
7 luncheon recess.

8 Please remember all of the admonitions.

9 Please do not discuss the case either among
10 yourselves or with anyone else.

11 Please continue to keep an open mind as to the
12 defendant's guilt or innocence.

13 Please do not form or express an opinion as to the
14 defendant's guilt or innocence.

15 Enjoy your lunch.

16 (Jury leaving courtroom.)

17 ***

18 THE COURT: You can step down.

19 (Witness leaving courtroom.)

20 ***

21 THE COURT: Be seated.

22 I will see you at 2:15.

23 (Whereupon, the Court took a luncheon recess.)

24 ****

25 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N.

1 MR. BLANCHE: Just briefly, we have a curative
2 instruction drafted by the People regarding the unsealing
3 of the existence of the indictment.

4 My intention was to rehabilitate the questions
5 right out of the box after lunch.

6 If you want to take a look at that.

7 THE COURT: Let me take a look at it.

8 So let's see how it goes with you.

9 If it looks like it needs to be cleaned up some
10 more, I will read the instructions.

11 MR. STEINGLASS: Very respectfully, the only
12 relevance of this entire line of questioning was to suggest
13 there was an improper leak of evidence. They use the word
14 "leak." You sustained it. They used it once without being
15 sustained and once with being sustained; some kind of
16 improper leak.

17 Two, that Michael Cohen or Jeremy Rosenberg or
18 both engaged in this conduct. There is no other reason to
19 ask those questions.

20 And, respectfully, this is not something that
21 should be cleaned up by the person who asks the questions
22 or on redirect. This should be cured by the Court.

23 The Court has given numerous limiting instructions
24 in realtime at the defendant's request. You made this
25 application at the morning break. It still hasn't been

1 cleaned up.

2 To be honest with you, I don't think cleaning it
3 up by the parties is the right way to go. I think your
4 Honor ought to clarify the record and eliminate any
5 suggestion there was some kind of impropriety.

6 I think those questions were entirely improper.
7 I think it should be up to the Court to cure it, not Mr.
8 Blanche.

9 MR. BLANCHE: Judge, there are texts between
10 Mr. Cohen and the detective where it's clearly --

11 THE COURT: What?

12 MR. BLANCHE: Where it's clear the news of the
13 indictment had leaked.

14 Your Honor had sustained objections around that.
15 The questions were not asked out of the blue. There was a
16 very good faith basis for the questions. Indeed, the
17 detective said they told the New York Times before they
18 told you. Nevertheless, it's done.

19 I wasn't trying to do anything other than elicit
20 the fact, which is entirely appropriate, that a detective
21 assigned to this case thought it appropriate to tell a
22 witness it was done.

23 You sustained the objection.

24 Your Honor, I am happy to clean it up. It
25 shouldn't be an instruction from the Court to assume there

1 was something improper about the question. There is
2 evidence that it happened.

3 THE COURT: There is nothing improper about the
4 question except that we now know that you left the jury
5 with the mistaken impression.

6 I appreciate the record you are making, Mr.
7 Steinglass. I take instructions from the bench to the jury
8 very seriously. So I weigh that heavily before I decide to
9 do it.

10 I am going to give Mr. Blanche the opportunity to
11 do it himself.

12 If I am not satisfied what he has done fairly and
13 completely cleans up the issue, I will take care of it.

14 MR. STEINGLASS: The last point I will make --
15 that's fine. I don't know if the witness knows that the
16 Order was issued by the Court unsealing the fact of the
17 indictment on March 30th.

18 THE COURT: I realize that. That's why I am
19 keeping my options open. I might have to give the limiting
20 instruction.

21 MR. STEINGLASS: Thank you.

22 THE COURT: Separately, I have been informed one
23 of the jurors apparently has a 1:30 appointment next
24 Thursday. I have not yet spoken to that juror. I would
25 like to take it up with that juror in the robing room

1 during the break. I would like to invite one attorney from
2 each side to join me in the robing room with the Court
3 Reporter so we can discuss it further.

4 All right.

5 Let's get the witness.

6 (Witness entering courtroom.)

7 ***

8 THE COURT: Good afternoon, Mr. Cohen.

9 (Jury entering courtroom.)

10 ***

11 THE COURT: Please be seated.

12 THE CLERK: Case on trial continued. All jurors
13 are present and properly seated.

14 THE COURT: Mr. Blanche.

15 MR. BLANCHE: May I continue?

16 THE COURT: Yes.

17 CONTINUED CROSS EXAMINATION

18 BY MR. BLANCHE:

19 Q. Good afternoon, Mr. Cohen.

20 In the beginning of the day today, do you remember I
21 showed you some text messages between you and Detective
22 Rosenberg?

23 A. I do.

24 Q. Now, I want to make sure there is no confusion.

25 You don't have any evidence that anybody at the

1 District Attorney's Office improperly leaked or even leaked at
2 all the indictment before it was unsealed; do you?

3 A. No.

4 Q. We were talking about dates, and just to go back to
5 that time a little over a year ago, you know that around
6 March 30th or actually on March 30th, the Court unsealed the
7 indictment, so it was then part of the public record; correct?

8 A. Correct.

9 Q. So to the extent that I asked you questions about what
10 you learned or heard from Detective Rosenberg about the
11 indictment by March 30th, it was public and unsealed; correct?

12 A. Correct.

13 THE COURT: Please approach.

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

16 THE COURT: That was good, but you have to take it
17 a step further. At the time he appeared on CNN and spoke
18 about it, it was already unsealed.

19 MR. BLANCHE: All right.

20 (Whereupon, the following proceedings were held in
21 open court:)

22 CONTINUED DIRECT EXAMINATION

23 BY MR. BLANCHE:

24 Q. Just a couple of more questions about that, Mr. Cohen.
25 I also asked you questions about appearing on television on that

1 day; right?

2 A. You did.

3 Q. And just to be clear, when you did those interviews,
4 the indictment was unsealed by the Court; correct?

5 A. I had read it through the New York Times article.

6 Q. But beyond that, if I suggested to you that you were
7 not supposed to talk about it on CNN, I want to make sure you
8 understand by the time you went on CNN it was public?

9 A. Correct.

10 MR. BLANCHE: Your Honor, before lunch we had
11 offered B166 without redactions. We now have redactions.

12 THE COURT: Thank you.

13 MR. BLANCHE: If we can put up B165, just for the
14 witness, the Court and the parties.

15 Q. Mr. Cohen, you are looking at what we talked about
16 before lunch, which is a series of messages between you and an
17 unknown who says they're 14?

18 A. Yes.

19 Q. The difference now is we applied redactions; correct?

20 A. Correct.

21 Q. Now, the number that you are communicating with is
22 0594, the rest is redacted?

23 A. That is correct.

24 MR. BLANCHE: We offer B165.

25 MS. HOFFINGER: No objection.

1 THE COURT: Accepted.

2 (Whereupon, Defense Exhibit B165 was received and
3 marked into evidence.)

4 MR BLANCHE: Just very quickly, if we can blow up
5 the first four or five texts back and forth.

6 (Displayed.)

7 Q. So these are the texts that we talked about before
8 lunch where this 0594 probably mistakenly forgot to block their
9 number at some point. Can you read what they said to you and
10 what you said back?

11 A. This number has just been sent to Secret Service for
12 your ongoing and continuous harassment to both my cell as well
13 as to the organization's main line.

14 Q. That was at 7:10. At 7:11 we answer back. He says:
15 It wasn't me?

16 A. That's correct.

17 Q. At 7:11 he says, "My friend told me to call;" correct?

18 A. Correct.

19 Q. Three minutes later an apology, "I'm sorry for this?"

20 A. Yes, sir.

21 Q. A further apology, "I won't do it again."

22 What do you say at 7:15? If we can focus on that part
23 of the tech exchange?

24 A. "You will need to explain this to Secret Service as we
25 have been receiving dozens of these harassing calls over the

1 past three days. If you are a minor, I suggest you notify your
2 parent or guardian."

3 Q. Then the response back a few minutes later, one minute
4 later, "I didn't do it," in all caps.

5 Then another one: "I'm 14."

6 Another one: "Please don't do this."

7 Then, you as you testified earlier, if we can go down
8 to the 7:17 text, what do you say back?

9 A. "Please have your parent or guardian contact me before
10 Secret Service reaches out to them."

11 Q. Just so when you testified earlier that that last
12 message back to this 0594 number, that was at 7:24 and 50
13 seconds; correct?

14 A. Correct.

15 Q. You testified on Monday -- what I would like to do, Mr.
16 Cohen, is going through in a timely fashion what you testified
17 about on Monday. I want to start in 2011. You said you came
18 across a poll that suggested that President Trump might be a
19 good candidate for President; correct?

20 A. That's correct.

21 Q. I just want to make sure we're on the same page. That
22 poll was actually in 2010, late 2000s?

23 A. Yes, sir.

24 Q. And there was some press coverage about it at the time;
25 correct?

1 A. Yes, sir.

2 Q. You testified you caused a website to be created
3 "Should Trump run;" right?

4 A. Dot com.

5 Q. Dot com.

6 And that was put up in November of 2010; does that
7 sound right?

8 A. Correct.

9 Q. At the time, is it fair to say that the press regarded
10 this as a little bit of a stunt by President Trump?

11 A. Yes, sir.

12 Q. And a little bit later on, in March of 2011, isn't it
13 true the National Enquirer actually ran an article about this
14 issue and about how strong President Trump looked in the polls?

15 A. Yes, sir.

16 Q. You actually worked with the National Enquirer to help
17 get that story out; correct?

18 A. Yes, sir.

19 Q. This was in 2011?

20 A. Correct.

21 Q. And they actually -- the National Enquirer actually
22 wrote a positive story about you personally at that time as
23 being the person who started "Should Trump Run Dot Com;" right?

24 A. That's correct.

25 Q. You were the source or one of the sources for that

1 story; right?

2 A. Yes, sir.

3 Q. And the reason for the question is, you worked very
4 hard -- putting aside what happened in 2015 and 2016, you worked
5 very hard during your time working for The Trump Organization to
6 get positive stories into the press about President Trump and
7 all the things he was doing; right?

8 A. That's correct.

9 Q. You also worked very hard to make sure that there were
10 positive stories about you at times as well; right?

11 A. Yes, sir.

12 Q. Now, can you explain to the jury how you go about doing
13 that? So how do you go about getting a reporter or a newspaper
14 or interviewer to say positive things about you or about The
15 Trump Organization?

16 A. So I know many of the journalists/reporters in the
17 various different newspapers, and have a longstanding
18 relationship with, again, many of them, what I would do,
19 depending upon what the issue is, whether it's a construction,
20 an acquisition, whether it had something to do with one of the
21 various businesses that fell within the umbrella of the Trump
22 Organization, I would reach out to them and I would ask them if
23 they would be interested in doing an article about this specific
24 topic. That I would give them the exclusive on it.

25 Q. That was one example. If you learned -- now, let's

1 take the opposite. If you learned that a reporter or a
2 newspaper or magazine was going to write something negative
3 about The Trump Organization or of the The Apprentice or
4 President Trump himself, what kind of steps would you take, if
5 any, to either get rid of that story or to minimize the negative
6 press?

7 A. So that's a little bit different. One of the things is
8 instead of me calling the journalist, the journalist was calling
9 me to send an email to somebody at The Trump Organization saying
10 we're writing a story about whatever the topic may be. We have
11 a deadline of say 5 p.m., so we would like for you to comment on
12 the topic.

13 What I would do then is, I would immediately go to Mr.
14 Trump's office and I would discuss that specific topic with him
15 and we would come up with a response, a way to craft a response
16 that I would then take back to the journalist.

17 Q. You did that a lot; is that fair?

18 A. That's fair.

19 Q. You had a Rolodex full of reporters, contact
20 information; is that right?

21 A. That's correct.

22 Q. So you wouldn't always have to go into President
23 Trump's office to ask him how to handle the story, you often
24 just handled it on your own, depending on the story; correct?

25 A. No, sir.

1 Q. You never reached back out to a reporter, ever, without
2 first checking with President Trump?

3 A. It was my routine to always advise Mr. Trump, because
4 if the story that I was going to put out is not the way he would
5 want it; one, it would cause him to blow up at me. And, two, it
6 would probably mean the end of my job.

7 Q. Over the course of nine and a half years, every time
8 that you worked to change the narrative of a story, you did that
9 never on your own, only in consultation with President Trump?

10 A. For the story, yes. Always in consultation, but
11 remember, one magazine, one newspaper would pick up the same
12 story. So I would use the same statement over and over and over
13 again. So with those, I would not go to Mr. Trump and tell him.
14 I would just send it out to my list of reporters. Or if they
15 contacted me, hey, we're looking for a comment on so and so.
16 Generally what would happen, after one newspaper puts out a
17 story, somebody else tends to follow and so we just mimic the
18 same response to the next magazine or the next newspaper and so
19 on.

20 Q. There were plenty of times, Mr. Cohen in 2015 and 2016,
21 for example, that you would comment about stories without
22 speaking to President Trump at all; isn't that true?

23 A. No, sir. I would always get a comment or something in
24 line with a conversation that we had on that specific topic.
25 Again, if I did that, and he didn't like the response, it would

1 probably cost me my job.

2 Q. But you knew when President Trump was running in 2015
3 and 2016, you knew the campaign at times was very frustrated
4 with you because you were going off message from what President
5 Trump and the campaign wanted; correct?

6 A. I knew they were upset about it. However, Mr. Trump
7 had turned around and advised me, I don't answer to them. And
8 so, he's free to speak on his own as I was not part of the
9 campaign. I was a surrogate.

10 Q. So your testimony is that the frustration towards you
11 didn't come from President Trump but it came from the campaign
12 staffers?

13 A. Correct.

14 Q. Going back to 2011, eventually President Trump says,
15 "I'm not going to run?"

16 A. That's correct.

17 Q. Several months later you worked with Mr. Davidson to
18 cause The Dirty to remove the article about Ms. Daniels;
19 correct?

20 A. Correct.

21 Q. That was in May or so, President Trump said he wasn't
22 going to run; correct?

23 A. It was around the sweeps at the time.

24 Q. Much later, in 2011, is when The Dirty article came
25 down and you talked to Mr. Davidson; correct?

1 A. Yes, sir.

2 Q. So fair to say that the first time that you heard about
3 that incident and the story by Ms. Daniels is when you talked to
4 President Trump about it, he said that he was worried about what
5 his family would think; correct?

6 A. Yes, as well as, of course, for the brand.

7 Q. Well, do you recall meeting with law enforcement on
8 February 18, 2021, and saying that the first thing that
9 President Trump said to you was that his family won't like that
10 very much; that's true, right?

11 A. That is true.

12 Q. And often, including on that occasion, you handled that
13 type of story by threatening legal action; right?

14 A. Yes.

15 Q. Whether it's a cease and desist by you or by another
16 party, that's a frequently common way that you handled negative
17 stories or stories that you want to be taken off of websites or
18 not be published?

19 A. Along with -- The Dirty was actually effectuated by
20 Keith Davidson, not by myself.

21 Q. Understood.

22 But my question was: Who did it?

23 The question was: The plan was for you and Mr.
24 Davidson to threaten legal action. A letter was written by Mr.
25 Davidson and it worked?

1 A. Yes, sir.

2 Q. The way you handled it, the way you handled that wasn't
3 unusual, you handled it many times for President Trump that way,
4 threatening legal action, writing a letter or having somebody
5 else do that working with you; correct?

6 A. Not necessarily a letter. Many times it was just via
7 phone.

8 Q. And that's not unique to you, that happens all the time
9 in litigation when a party is trying to get a story taken down,
10 for example?

11 MS. HOFFINGER: Objection.

12 THE COURT: Sustained.

13 Q. You've used that tool many times over the years;
14 correct?

15 A. Yes, sir.

16 Q. And some of the reporters that you had a very strong
17 relationship with include folks like Chris Cuomo?

18 A. Yes.

19 Q. Katy Tur?

20 A. Yes?

21 Q. And we talked a little bit on Tuesday about a reporter
22 named Maggie Haberman?

23 A. Yes, sir.

24 Q. So, talking for a few minutes about Ms. Haberman, who
25 does she work for?

1 A. She is with the New York Times.

2 Q. And over the years -- well, let me ask you this: When
3 did you first meet Ms. Haberman?

4 A. Over 20 years ago.

5 Q. So you met before so early 2000?

6 A. Yes.

7 Q. Over the years, you have a very strong -- would you
8 describe your relationship with her very strong?

9 A. I would.

10 Q. You asked her to write positive stories about you;
11 correct?

12 A. Correct.

13 Q. As a matter of fact, when you started in your official
14 role in 2017 as President Trump's Personal Attorney, you asked
15 her to write a story and say what a great idea it was?

16 A. I asked her if she would write a story.

17 Q. That was my question. You asked her to write a story
18 saying how good it was that you had that role for President
19 Trump; right?

20 A. Yes, sir.

21 Q. And, in exchange for that, you would give tips to Ms.
22 Haberman; correct?

23 A. Not in exchange, I would use Ms. Haberman if the story
24 was something that I believed the New York Times would run, and
25 if it wasn't the New York Times style story, I would go to a

1 different newspaper.

2 Q. But there were a number of times when you gave Ms.
3 Haberman a scoop, as you testified about, on Tuesday?

4 A. Yes, sir.

5 Q. Even at times -- by the way, you recorded a lot of
6 conversations that you had with reporters; right?

7 A. No, sir, I won't characterize it as a lot.

8 Q. How many would you characterize it as?

9 A. Forty.

10 Q. So 40, with 40 separate reporters, or just a handful of
11 reporters that you recorded?

12 A. Over the ten years, it was probably a little more than
13 a handful.

14 Q. Why did you record conversations you were having with
15 reporters?

16 A. I used to use the recordings as well -- as sort of to
17 memorialize it for note taking, so I could go back and listen to
18 it, instead of not paying attention when I was talking to them.

19 Especially if it revolved around being a surrogate for
20 the campaign. That way, I could use the conversation to figure
21 out what was the best response when I was on television, so that
22 it made sense and that it was what I believed Mr. Trump would
23 want.

24 Q. Well, have you stopped -- did there come a time when
25 you stopped recording conversations with reporters?

1 A. Yes, sir.

2 Q. When was that?

3 A. After the election.

4 Q. After which election?

5 A. 2016.

6 Q. You didn't record conversations with reporters in 2017
7 and 2018?

8 A. I would have to check.

9 Q. We'll check together in a minute.

10 A. Okay.

11 Q. Did you at one point record -- well, do you recall
12 sharing a recording that you had made of another person with Ms.
13 Haberman to help her write a story?

14 A. I am sorry, one more time.

15 Q. Do you recall in 2018, in February, sharing with Ms.
16 Haberman a recording you had made where you recorded a different
17 person to help her write a story; do you recall that?

18 A. I recall sharing a recording. I don't remember the
19 exact nature of it.

20 Q. Well, do you remember --

21 MR. BLANCHE: Well, let's show you, if I may B174,
22 just for the Court, the witness and the parties.

23 And if we can go to Page 295.

24 Q. So you see a back and forth text there between you and
25 Ms. Haberman and then you see the title of article.

1 We can go to the next page.

2 And then you see that you received an article from Ms.
3 Haberman.

4 Then you answer her back at the bottom in green.

5 Can you take a look at that.

6 A. Yes, sir.

7 Q. And you say -- do you not --

8 MR. BLANCHE: Can you take that down.

9 Q. To help her write another story, you're going to share
10 with her a recording that you made of another individual; right?

11 A. That's correct.

12 Q. By the way, did you tell people you were recording
13 them?

14 A. No, sir.

15 Q. Do you remember on several occasions people asked you
16 if you were recording them and you said no on the recording?

17 A. No, sir.

18 Q. You don't remember that?

19 A. I don't remember that specifically. It's not illegal
20 in New York for one party.

21 Q. Mr. Cohen, I did not ask you whether you were breaking
22 the law. I just asked you if you told the people you were
23 recording them.

24 And you didn't; right?

25 A. That's correct.

1 Q. Ms. Haberman over the years has written a lot of
2 articles about you?

3 A. I don't know how to characterize a lot.

4 Q. Is 38 a lot?

5 A. Sounds like it, yes.

6 MR. BLANCHE: Well, let's take a look at B242,
7 just for the witness, the parties and the Court.

8 Q. Take a look at what's just a screen shot of a number of
9 articles that Ms. Haberman has written about you, including as
10 recently as two weeks ago; right?

11 A. Yes, sir.

12 Q. Does 38 articles sound about right?

13 A. I didn't participate in all 38 of these.

14 Q. My question is, the reason why -- one of the reasons
15 why you want relationships with reporters is to give you an
16 opportunity to respond before an article is written; right?

17 A. Correct.

18 Q. To give you an opportunity to push information to the
19 reporter if you think an article should be written; correct?

20 A. Correct.

21 Q. Also to shape an article -- so, maybe that's not the
22 word you would use, you can pick the word, but to make the
23 article come out in a way as favorable to you or at the time
24 President Trump as possible; right?

25 A. That is correct.

1 Q. So the example I just went through with Ms. Haberman,
2 you had several reporters where you had the same relationship?

3 A. Yes, sir.

4 Q. Now, with reporters, you communicated over text?

5 A. Yes, sir.

6 Q. Signal?

7 A. Yes, sir.

8 Q. Dust?

9 A. Yes, sir.

10 Q. WhatsApp sometimes?

11 A. Sometimes.

12 Q. Obviously, on the phone.

13 A. Yes, sir.

14 Q. Did you distinguish among those types of
15 communications, depending on the story or the reporter, or it
16 depended on what you were using with the reporter?

17 A. Depends on what I was using with the reporter. If it
18 was a private or an unusual type of situation, I would go to one
19 of the encrypted apps.

20 Q. Now, you said that you recorded approximately 40
21 separate times with reporters. But there were 95 secret
22 recordings on your iPhone?

23 A. Correct.

24 Q. Who were you recording besides reporters?

25 A. This gentleman that you showed me.

1 Q. Which gentleman?

2 A. Fromer.

3 Q. Which gentleman?

4 A. Fromer. He is not a reporter.

5 Q. When you say "the person I just showed you," you mean
6 the recordings you were sharing with Ms. Haberman was a
7 recording between you and that individual; right?

8 A. Yes, sir.

9 Q. That's one. I am not looking for you to name, you
10 know, 55.

11 A. The reason I am bringing him up -- the reason I am
12 brining him up --

13 Q. Sure.

14 A. Because there were multiple recordings of him. That's
15 why I said there were about 40.

16 Q. So, besides him, you recorded -- who else did you
17 record surreptitiously, it was reporters, that individual, who
18 else?

19 A. I recorded -- off the top of my head, I can't tell you.
20 Jeff Zucker on one event. Mr. Trump on another event. And
21 there are other reporters.

22 Q. Let's talk about the recording that you made of your
23 then client, correct, President Trump?

24 A. Correct.

25 Q. You understand that it's not ethical for a lawyer to

1 record a conversations with their client; correct?

2 A. That's correct.

3 Q. And you were a member of the New York Bar at the
4 time?

5 A. I was.

6 Q. You know that there are a lot of New York Bar opinions
7 on this, but unless there is very specific circumstance, you're
8 not supposed to record your client; correct?

9 A. You're not except, of course, Crime-Fraud Exception
10 Rule 12.

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14 (Whereupon, Theresa Magniccari, Senior Court Reporter was
15 relieved by Susan Pearce-Bates, Principal Court Reporter.)

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1 (Continued from the previous page.)

2 Q The crime fraud exception, didn't you testify that you
3 were recording -- that you recorded your client because you
4 wanted to convince Mr. Pecker that money was coming?

5 A That's correct.

6 Q So, are you saying that you did the recording under a
7 client fraud exception?

8 A No. You asked if there are exceptions, and I said
9 yes, the crime fraud exception rule.

10 Q So, you --

11 A I was just giving the example.

12 Q Just so I understand it, you surreptitiously recorded
13 your client so that you could play a privileged, recorded
14 communication between you and your client with a third-party,
15 that's what you did, right?

16 A That's correct.

17 Q And, again, you never -- you certainly didn't tell
18 President Trump you were recording him, did you?

19 A I did not.

20 Q Now, you talked about 2015 when President Trump
21 announced he was going to run, and he comes down to Trump
22 Tower, he comes down the escalator, correct?

23 A Yes, sir.

24 Q Prior to that President Trump had launched an
25 Exploratory Committee in March of 2015, right?

1 A Yes, sir.

2 Q And an Exploratory Committee is a step in the right
3 direction for someone who may seek to run for the Office of the
4 Presidency of the United States, correct?

5 A Correct.

6 Q And in June of that year is when he announced,
7 correct?

8 A Correct.

9 Q Now, you testified that you have very specific
10 recollection of a meeting that you then had at Trump Tower with
11 yourself, President Trump and David Pecker, correct?

12 A Yes, sir.

13 Q And this is a meeting where you all discussed what
14 National Enquirer, Mr. Pecker, would do to help President
15 Trump, correct?

16 A Correct.

17 Q You testified earlier this week that the so-called
18 power of the National Enquirer is its placement in
19 supermarkets, right?

20 A Correct.

21 Q But you never said that to the Grand Jury, did you?

22 MS. HOFFINGER: Objection.

23 THE COURT: Sustained.

24 Q That's not something -- did you ever discuss the power
25 of the National Enquirer's placement in the supermarket with

1 anybody prior to your testimony on Monday?

2 MS. HOFFINGER: Objection.

3 THE COURT: Overruled.

4 A I am so sorry. One more time, please.

5 Q Prior to your testimony earlier this week when you
6 testified that the power of the National Enquirer is one of
7 the -- is its placement in the supermarket, my question is, had
8 you ever told anybody that before your testimony this week?

9 A Not that I recall.

10 Q Now, and when we talked about this on Tuesday
11 afternoon, but you learned about what David Pecker testified
12 about in this trial, didn't you?

13 A No, sir.

14 Q You didn't say on TikTok, from everything I heard from
15 people today, David Pecker is basically corroborating what I
16 have been saying for years?

17 A Yes. That's a general statement.

18 Q Because people told you about Mr. Pecker's statements,
19 you testified about that on Tuesday, correct?

20 A What David Pecker was testifying to, people just
21 corroborated that it corroborates my story. That I am -- that
22 I have been talking about for the last six years, not the
23 specifics.

24 Q So -- and you testified thereafter about a story that
25 the National Enquirer folks alerted to you involving Dino

1 Sajudin, correct?

2 A Correct.

3 Q Now, you testified a lot about that on Monday, but
4 that story, by the way, is completely false, correct?

5 A Yes, sir.

6 Q And by, completely false, I mean, money was paid to
7 keep the story from getting out, but the story was false,
8 correct?

9 A I believe so, yes.

10 Q Well, do you have any doubt in your mind that it was
11 false?

12 A No, sir.

13 Q And isn't it true that at the time when you talked to
14 President Trump about this false story, he was worried about
15 the story getting out because of his employees, right?

16 A He mentioned that I should speak to them as well, yes.

17 Q Well, he told you, did he not or -- you previously
18 told law enforcement that he told you that he was concerned
19 about the story because it involved people that still worked
20 with him and worked for him, correct?

21 A Yes, sir.

22 Q And so, it was important to him to keep it from
23 getting out, correct?

24 MS. HOFFINGER: Objection.

25 A Yes, sir.

1 Q Now, you testified on Monday when you were talking
2 about this story that you kept President Trump updated all
3 along the way, right?

4 A That's correct.

5 Q And there was a liquidation clause in that contract,
6 correct?

7 A That's correct.

8 Q You never told President Trump details like that, did
9 you?

10 A No, sir.

11 Q So things like that, within the contract, you were the
12 lawyer, you were his lawyer, you handled it, right?

13 A Yes, sir.

14 Q Now, as it relates to the Ms. McDougal story, which
15 you testified about earlier this week, you testified that you
16 were worried at the time that this story would have a
17 significant impact on the campaign, that's what you testified
18 to, right?

19 A Correct.

20 Q But President Trump didn't share your view, did he?

21 A I am not sure I would agree with that.

22 Q Didn't you previously tell the Government that
23 President Trump said he didn't think this story would hurt him?

24 A I would need to see that document, please.

25 Q Sure.

1 MR. BLANCHE: If we can show the witness what's
2 marked for identification as B-127. Just for the witness,
3 the Court and the parties.

4 (Displayed.)

5 Q Take a look at that, notes from a March 7, 2023,
6 interview.

7 A Which bullet point, please?

8 Q If you get to the third bullet, Mr. Cohen, you can
9 stop there.

10 A Yes, sir.

11 MR. BLANCHE: You can take that down.

12 Thank you.

13 Q So, let me just re-ask my question.

14 When you testified that you believed that the story
15 would have a significant impact on the campaign, and my simple
16 question to you is that President Trump, at least initially,
17 didn't think it would hurt him, correct?

18 A Initially, yes.

19 Q Now, you also have testified, I am sorry, told the
20 Government that one of the things that President Trump was
21 worried about as it relates to this story was his family,
22 right?

23 A Yes, sir.

24 Q And his family meaning his wife but also his children,
25 correct?

1 A Correct.

2 Q Now, you testified that you spoke -- you testified on
3 Monday that you have a recollection of a telephone call with
4 President Trump on June 16, 2016.

5 Do you remember testifying about that?

6 A Yes, sir.

7 Q Now, they showed you some text messages with Mr.
8 Schiller, and that was another time that you testified that you
9 called Mr. Schiller, and he gave the phone to President Trump.
10 And that you have a specific recollection you testified and you
11 recall providing him with updates.

12 Do you remember that testimony?

13 A I do.

14 Q You don't have a specific recollection to a telephone
15 call, a telephone call that you had in June of 2016, do you?

16 A No, sir.

17 Q And just to put some context around that. It was
18 not -- I am not quibbling with your answer.

19 It was a long time ago, correct?

20 A That's correct.

21 Q At that time, how many phone calls do you think you
22 were getting in a day?

23 A Many.

24 Q Many like 20?

25 A Hundreds.

1 Q A day?

2 A Sure.

3 Q Well, that's -- let's just say 50 a day.

4 A Okay.

5 Q So, that means that you are getting around 350 a week,
6 is that right?

7 I know you are estimating.

8 A Yes, sir.

9 Q That's around 1400 a month, right?

10 A Yes, sir.

11 Q So, we are talking about, conservatively, 14,000 calls
12 a year in 2017 -- 2016 to 2017?

13 A Yes, sir.

14 Q And the same would be true, basically, 2018, and then
15 until you went to prison for 13 months, that number is about
16 right?

17 A Yes, sir.

18 Q So -- and I know we are just estimating, we are
19 talking about more than 50,000 phone calls between 2016 and
20 today, would you agree with that?

21 A Yes, sir.

22 Q And so, when you testified on Monday and Tuesday,
23 about specific conversations that you had with different folks,
24 Mr. Pecker, Mr. Howard and President Trump, you were not
25 testifying from a specific recollection of that phone call,

1 were you?

2 A I was.

3 Q You were?

4 A I was.

5 Q So 50, 60,000 telephone calls later, you have still
6 specific recollections about phone calls?

7 A Because these phone calls are things that I have been
8 talking about for the last six years. They are -- and they
9 were extremely important, and they were all consuming.

10 So, while I did not know that it took place at 8:02
11 p.m., what I did recall is the conversation that I had had, not
12 the specific time of the conversation, but rather the specific
13 sum and substance because it was such a significant event and
14 because I had been telling the same story about it for six
15 years.

16 Q So, you now -- so, your testimony is that you have
17 been talking about these phone calls for six years?

18 A That I have mentioned of these phone calls or a
19 specific phone call where I had advised Mr. Trump that I was
20 going across the street to First Republic Bank, where I had
21 just done the transaction, everything is done because it was
22 that significant.

23 Q I am talking right now about this June 16, 2016, phone
24 call that you testified about on Monday and Tuesday, okay?

25 You testified that -- the prosecutor asked you whether

1 you had a specific recollection and you said, yes, that you had
2 a specific recollection.

3 MS. HOFFINGER: Objection, your Honor.

4 THE COURT: Overruled.

5 Q And so, what I am trying to do is reconcile what you
6 said a few minutes ago, that you don't have a specific
7 recollection, with what you just said, which is that you do.

8 For this phone call, do you have a specific
9 recollection of this phone call in June of 2016?

10 A Can you show me which phone call we are referring to?

11 Q Sure.

12 MR. BLANCHE: If we can put up, it's already in
13 evidence, People's Exhibit 349. And if we can go to
14 June 16, 2016, that phone call at 6:51 p.m., and just blow
15 that up, please.

16 (Displayed.)

17 A I am sorry.

18 Which date are we looking at?

19 Q We should be able to blow it up for you, Mr. Cohen.

20 We are looking at a June 16, 2016, phone call at
21 6:51 p.m.

22 Do you see that?

23 A I do.

24 Q And how long was this phone call?

25 A Two minutes and 31 seconds.

1 Q Just so I understand your testimony, as you sit here
2 today, you have a specific recollection of that phone call on
3 June 16, 2016?

4 A Based upon the other documents that I was able to look
5 at, what it did was jogged into my memory, again, the story
6 that I have been telling in regard to this conversation.

7 Q I am still looking for an answer.

8 Do you have a specific recollection, or do you not
9 have a specific recollection?

10 MS. HOFFINGER: Objection.

11 A I recalled, as I had stated before, I recalled the
12 conversation based upon the other documents.

13 Q Well, I understand that, but my question isn't whether
14 you recall a conversation. I am asking you whether you recall
15 that conversation on that phone call, at that time, on that day
16 in June of 2016?

17 A Again, based off of the documents that I had looked at
18 and reviewed, I did.

19 Q Do you remember, for example, speaking for a very long
20 time with Chris Cuomo just mere seconds before this call?

21 A Yes, sir.

22 Q What were you talking to Mr. Cuomo about?

23 A We were talking about my appearance and we were
24 talking about different topics.

25 Q Were you talking about your feelings?

1 I didn't hear what you said.

2 A I was talking about my appearance.

3 Q Your appearance. Got it.

4 Your appearance to be on his show?

5 A Yes, sir.

6 Q So, you now also have a specific recollection of a
7 conversation you had with Chris Cuomo eight years ago?

8 A It was over an hour. It was a very long conversation,
9 and, again, I recorded it as contemporaneous note-taking so
10 that I could pay attention to the conversation, and I could
11 ensure that the things that I brought up on his show were the
12 things that I wanted to say.

13 So I crafted my responses.

14 Q And you remember that conversation today?

15 A I remember having the conversation, yes.

16 Q Do you -- I want to talk a minute about the recording
17 that you did surreptitiously with President Trump.

18 Now, that recording was about two minutes, 51 seconds,
19 right?

20 A Correct.

21 Q And you didn't actually start talking until about a
22 minute into that recording, is that correct?

23 A That's correct.

24 Q And you were talking to President Trump at the time
25 about transferring information regarding our friend David,

1 which was Mr. Pecker, right?

2 A Correct.

3 Q And the information you were talking about
4 transferring was, supposedly, all kinds of -- a secret box
5 about bad information on President Trump, right?

6 A That's correct.

7 Q And at the time there was a concern because AMI was
8 looking to potentially acquire Time Magazine or the other way
9 around, right?

10 A No, sir.

11 Q What was happening?

12 A David Pecker was being considered to be the CEO of
13 Time Incorporated, Time Magazine, and the concern was being
14 that these documents were the property of AMI, that he would
15 not be able to, of course, take them. That whoever the new CEO
16 might be, may end up not being as supportive of Mr. Trump as
17 David was.

18 And so, we were concerned that potentially one of
19 those stories could be leaked.

20 Q And you -- and President Trump said, he could get hit
21 by a bus, meaning something could happen to Mr. Pecker, and the
22 rest would be the same, correct?

23 A Correct.

24 Q Now, the concern here was even beyond the election,
25 right?

1 Meaning, this conversation wasn't tied to the
2 election, it was a real concern that Mr. Pecker could get hit
3 by a bus at any time or something could happen to him and you
4 guys wouldn't have those files, right?

5 A Yes, sir.

6 Q Now -- and you said, I am all over it?

7 You said, I'm all over it, right?

8 A Yes, sir.

9 Q So, eventually, you learned that there was nothing in
10 those files, correct?

11 A I was told by Mr. Pecker that, not to worry. There is
12 nothing in the files.

13 Q That was later though, right?

14 A After he was not accepted as the CEO of Time.

15 Q And then you testified about a comment that was made
16 in response to a question about financing.

17 And you say -- and President Trump says, what
18 financing?

19 And then there is a comment made about cash, right?

20 A Yes, sir. Mr. Trump turned around and used the word
21 cash.

22 Q And when he says, cash, he is not talking about
23 Benjamins and green dollar bills, right?

24 He is talking about paying for something with cash,
25 not financing, correct?

1 A No, sir.

2 Q Well, isn't it true that over the time you worked for
3 President Trump he very often would purchase things with cash,
4 correct?

5 A Correct.

6 Q As a matter of fact, you testified you talked to the
7 prosecutors on multiple occasions about the fact that President
8 Trump would purchase buildings with cash, right, at times?

9 A I don't know what you are referring to, sir.

10 Q Well, were there times when President Trump acquired
11 property, whether it's a golf course, whether it's a building
12 and paid cash, meaning no financing, right?

13 A Yes, sir.

14 Q That happened, right?

15 A I may have said that using that term, yes.

16 Q No. No. Put aside the term. I am just asking you
17 separate from that.

18 There were times when President Trump bought property
19 as part of his business and didn't finance it, right?

20 A I am not aware of that.

21 Q Well, you are aware that you said that there were
22 certain properties that President Trump paid for, just paid
23 cash, right?

24 A Yes. That was -- that was the message that I was to
25 use, that there is no financing. He is very rich and that he

1 paid all cash.

2 Q Yes.

3 But my point is, Mr. Cohen, when you say he is very
4 rich, and he pays all cash, you are not saying that you or
5 Mr. Trump or his sons go down to the bank with a bunch of bags
6 full of cash and buy something, you are saying that it's not
7 financed. We are just going to pay with cash.

8 We are not going to finance, right?

9 A That's correct.

10 Q When you testified on Tuesday that President Trump
11 when he said, cash, was talking about green, that's not what he
12 is talking about, is it?

13 A It was, which is why, sir, I used the word, no, no,
14 no, check. We needed to do it by check.

15 Q Hang on for a second.

16 When you say, we need to do it by check, that's when
17 this audio gets cut off, right?

18 A It was not exactly after that. It was after I
19 received a phone call.

20 Q Right. As you say, check, or the word check is said,
21 it cuts off right then, correct?

22 A No. I believe there is a few seconds more where I say
23 hello to somebody on the phone.

24 Q Now, which phone did you make that recording on?

25 A On one of the two phones.

1 Q When you say, one of the two phones, you mean one of
2 the two phones that the FBI took from you in April 2018?

3 A Yes, sir.

4 Q And that's one of the two phones that they eventually
5 returned to you, right?

6 A Yes, sir.

7 Q And then that's one of the phones that you -- one of
8 those phones that you eventually gave to, with consent, to the
9 People, right?

10 A Correct.

11 Q Good.

12 MR. BLANCHE: If we can put up what's already
13 admitted into evidence as 248.

14 (Displayed.)

15 MR. BLANCHE: If we can --

16 Q This is a transcript that we talked about on Tuesday,
17 Mr. Cohen, right?

18 A Yes, sir.

19 Q Or Monday.

20 If we can go to the second page, and you will see the
21 last thing that's said is Donald J. Trump, check, right?

22 A Correct.

23 MR. BLANCHE: Now, we can take that down.

24 Q The conversation continued, correct?

25 A The conversation continued, yes.

1 Q And you received a phone call from a bank, right?

2 A Capital One Bank.

3 Q And your testimony is that you answered that call?

4 A I did.

5 Q So, just so I understand, you are in a meeting with
6 President Trump talking to him about the financing or cash for
7 the McDougal story, and you are recording him, but the phone
8 rings, and you just answer that call?

9 A I did.

10 Q And what was the bank calling you about?

11 A I don't specifically remember. I just remember it was
12 a big issue.

13 Q If you don't have a recollection --

14 A If my recollection is correct, it was -- I was the
15 subject of identity theft the second time. People were going
16 into the account and taking money out.

17 Q Wait.

18 You do remember, or you don't remember?

19 A I believe that's what it was. I am not a hundred
20 percent certain.

21 Q Well, you started out by saying, you don't remember.

22 Then gave a long explanation, and then you said you do
23 remember, but you are not a hundred percent certain.

24 MS. HOFFINGER: Objection your Honor.

25 THE COURT: Sustained.

1 Q Now, when you hung up with that phone call that you
2 had with the bank, you were still talking to President Trump?

3 A For a few moments more, yes.

4 Q You didn't restart the recording?

5 A No, sir.

6 Q And the transcript, or the recording, you could hear
7 what you say is your are answering a phone, right?

8 A That's correct.

9 Q So did you have two phones at the time?

10 A I had two phones at the time, yes.

11 Q Did the call come in on the phone that you were
12 recording President Trump on?

13 A Yes.

14 Q Are you sure about that?

15 A Positive.

16 Q You testified -- I just want to talk for a few minutes
17 about your testimony about the use of encrypted apps as it
18 relates to communications you were having with Mr. Pecker,
19 Mr. Howard and others associated with the Non-Disclosure
20 Agreement, correct?

21 A Correct.

22 Q You testified that you would use those apps at times
23 because you wanted to keep conversations confidential, right?

24 A Correct.

25 Q But you will agree with me that a lot of the most key

1 communications regarding that deal, the deal with Ms. McDougal,
2 and also the NDA with Ms. Daniels, were just on texts, right?

3 A Yes, sir.

4 Q And the documents, the NDA, it was just emailed back
5 and forth, right?

6 A Between myself and Mr. Davidson, yes.

7 Q Right. But you weren't using Signal to send the NDA,
8 were you?

9 A No, sir.

10 Q You just emailed it?

11 A Correct.

12 THE COURT: Mr. Blanche, can we take our break
13 now?

14 MR. BLANCHE: Sure.

15 THE COURT: All right.

16 Jurors let's take our afternoon recess.

17 We will see you in about 15 minutes.

18 (Whereupon, the jurors exited the
19 courtroom.)

20 (Witness is excused.)

21 THE COURT: You may be seated.

22 Can I have one attorney from each side and the
23 court reporter join me in the robing room?

24 (Whereupon, proceedings were held in Judge
25 Merchan's robing room.)

1 LIEUTENANT: Please be seated.

2 Come to order. Part 59 is back in session.

3 THE COURT: All right.

4 So we had a conference in the robing room with
5 one of the alternates who has indicated a conflict.
6 Counsel was there.

7 Have you had a chance to fill in your colleagues
8 on what was discussed?

9 MR. STEINGLASS: Yes. I think our suggestion is
10 let's just not promise the jury that they are going to be
11 able to go home at one o'clock Thursday. Let's wait and
12 see where we are at in terms of what part of the case we
13 are up to, and then decide if it is feasible.

14 It's an alternate juror. We can decide whether
15 to keep the alternate juror or release them, depending on
16 where we are at.

17 MR. BLANCHE: That makes sense. I think that our
18 view would be, if it comes to it, and we need the
19 afternoon, which we probably will, we can address it then.

20 THE COURT: Okay. I agree.

21 Let's get the witness, please.

22 LIEUTENANT: Witness entering.

23 (Whereupon, the witness entered the
24 courtroom and was properly seated.)

25 THE COURT: Let's get the jury, please.

1 SERGEANT: Yes, judge.

2 All rise.

3 Jury entering the courtroom.

4 (Whereupon, the jury entered the courtroom
5 and was properly seated.)

6 THE COURT: You may be seated.

7 THE CLERK: Case on trial continued.

8 All jurors are present and properly seated.

9 THE COURT: Mr. Blanche.

10 CONTINUED CROSS-EXAMINATION

11 BY MR. BLANCHE:

12 Q I want to talk for a few minutes about the \$130,000
13 payment you made to Mr. Davidson, okay?

14 A Yes, sir.

15 Q So, by the way, you learned from Mr. Davidson along
16 the way that another news organization was interested in buying
17 Ms. Daniels' story, correct?

18 A Correct.

19 Q At what time during the process did you hear that from
20 Mr. Davidson?

21 A After we had failed to transfer \$130,000 as per Mr.
22 Davidson's cut-off date.

23 Q The news organization or the organization that was
24 interested Mr. Davidson told you was ABC, correct?

25 A ABC, and I believe it was also Daily Beast.

1 Q Well, was that later?

2 A Yes. It was ABC.

3 Q So, and in particular, you were told that ABC had
4 offered, in essence, the same amount of money Mr. Davidson was
5 trying to get from you, correct?

6 A Correct.

7 Q \$130,000?

8 A Yes, sir.

9 Q Who is the reporter that you, put aside whether it is
10 true, that Mr. Davidson told you about that was trying to
11 negotiate that with Ms. Daniels?

12 A I am actually blanking on his name.

13 Q Was it an individual named John Santucci?

14 A John Santucci, yes, sir, ABC News.

15 Q And you never confirmed one way or the other whether
16 that was true?

17 A I spoke to Mr. Santucci about it.

18 Q When did you speak to him?

19 A He contacted me and asked me whether or not I was
20 responsible, or I knew that we were responsible for them not
21 getting the story. John Santucci used to come to the office
22 quite a bit.

23 Q So, and you talked about that interaction you just
24 talked about in a recording that you made with Mr. Davidson
25 March 27, 2018, correct?

1 A Correct.

2 Q So, do you remember when that phone call -- that
3 meeting with Mr. Santucci was in relation to 2016, October, and
4 when you told Mr. Davidson about it in March of 2018?

5 A I said October.

6 Q So, what did you say to Mr. Santucci, and what did he
7 say to you?

8 A First, I was a little shocked that John Santucci
9 actually, did it. Meaning, he had to spend quite a bit of time
10 following the Trump campaign, and then, of course, he denied
11 that they were involved.

12 Q Now, did he -- do you recall Mr. Santucci asking you
13 whether you, meaning Mr. Cohen, was able to kill that story
14 because he said Ms. Daniels had gone dark?

15 A Yes, sir. That's what I was saying before.

16 Q Okay, understood.

17 Now, when you met with the District Attorney, with Mr.
18 Pomerantz, so a while ago, do you remember saying that you
19 believed that Mr. Davidson on behalf of Ms. Daniels was
20 engaging in extortion?

21 MS. HOFFINGER: Objection.

22 THE COURT: Overruled.

23 You can answer.

24 A Yes. I recall making a statement like that.

25 Q What statement did you make?

1 A That they were extorting Mr. Trump.

2 Q And the reason you said that is because of all the
3 factors you talked about on Monday or Tuesday, right, you said
4 that there was urgency because of the Access Hollywood tape,
5 correct?

6 A Correct.

7 Q And there was an election and in your mind, in your
8 mind, there was either two choices, pay it, or don't pay it,
9 and the story comes out, correct?

10 A Yes, sir.

11 Q But you went a long time without paying, correct?

12 A Yes. We went several weeks without paying.

13 Q And, ultimately, though, you did?

14 A Yes, sir.

15 Q And we will talk more about that in a little bit.

16 But you referred in direct to this payment as a hush
17 money payment.

18 Do you recall that?

19 A Yes. It's been called, the hush money payment.

20 Q I am not asking whether it's been called that. I am
21 asking whether on direct you referred to it as a hush money
22 payment?

23 A Yes, sir.

24 Q And do you recall the prosecutor saying it was a
25 payoff. And you said, yes.

1 Do you remember that?

2 A Yes.

3 Q Make no mistake, this was a completely legal, binding
4 contract?

5 A Yes, sir.

6 MR. BLANCHE: Let's pull it up, Exhibit 276.
7 It's in evidence.

8 Q You testified about this on Tuesday.

9 This is a very long contract, correct?

10 A Correct.

11 Q And it's signed by you, right?

12 A It is.

13 Q And Mr. Davidson?

14 A Yes, sir.

15 Q And Ms. Daniels?

16 A Yes, sir.

17 Q But Donald J. Trump never signed anything associated
18 with this agreement. He didn't sign this agreement.

19 He didn't sign the side letter either, correct?

20 A That's correct.

21 Q But in your mind then, and now, this is a perfectly
22 legal contract, correct?

23 A Yes, sir.

24 Q What I mean by that is, a Non-Disclosure Agreement, an
25 NDA, a settlement between two parties happens all the time,

1 right?

2 A Yes, they do.

3 Q Now, you testified that there were two names used
4 Peggy Peterson and David Dennison, right, pseudonyms?

5 Those are not the real names, pseudonyms?

6 A Yes, sir.

7 Q Who came up with those names?

8 A Keith Davidson did.

9 Q Do you know why?

10 A I believe he knew a David Dennison, and Peggy
11 Peterson, I don't know the answer.

12 Q Now, you testified that you have, again, still
13 focusing on the legality of this contract, you testified that
14 you lied on the account opening documents with your bank and
15 called it -- said that it was going to be for consulting
16 because you were worried that if you told the truth they would
17 have further questions, correct?

18 A Or they wouldn't open up the account.

19 Q Or they would say, no way, we are not doing it, right?

20 A Correct.

21 Q But you agree with me that there is nothing illegal
22 about a settlement contract between two parties both of whom
23 had lawyers, right?

24 A Correct.

25 Q And you weren't interacting directly with Ms. Daniels,

1 you were going through Mr. Davidson, correct?

2 A Yes.

3 Q And you testified you never met Ms. Daniels until the
4 podcast, right?

5 A That's correct.

6 Q And, similarly, you were a lawyer for -- you were a
7 lawyer at that time working on behalf of The Trump
8 Organization, right?

9 A Yes, sir.

10 Q Working on behalf of --

11 MS. HOFFINGER: Judge, may we approach?

12 THE COURT: Yes.

13 (Discussion is held at sidebar, on the
14 record.)

15 MS. HOFFINGER: I think there have been more than
16 a few questions now about the lawyers involved in this
17 contract. When we were at a similar place with Keith
18 Davidson, your Honor sustained an objection.

19 Defense counsel has persisted with the presence
20 of counsel issue; and so, I just want to alert the Court, I
21 think at this point two or three questions have been asked
22 about a lawyer. I didn't object.

23 Now, I am going to start objecting.

24 MR. BLANCHE: What is wrong with asking what the
25 lawyers --

1 THE COURT: Well, what's wrong with it, it is a
2 very slippery slope.

3 As you know, we dealt with the whole presence of
4 counsel, appearance of counsel, advise of counsel, and we
5 don't want to go there.

6 In fact, on this, unless I am mistaken in
7 reviewing the proposed jury charge, there was an
8 instruction there regarding the presence of counsel.

9 So I would stay away from that. I think you
10 asked enough questions on that.

11 MR. BLANCHE: Thank you.

12 (Discussion at sidebar concluded, and the
13 following occurred in open court.)

14 BY MR. BLANCHE:

15 Q Now, you testified about your work for the Trump
16 Organization.

17 You reported directly to President Trump, right?

18 A Correct.

19 Q And over the nine and a half years you worked for the
20 Trump Organization, you did work for the Organization, legal
21 work, correct?

22 A No. Not much legal work.

23 Q Well, were you assigned, for example, to help with new
24 projects, potential new projects?

25 A Yes, sir.

1 Q That's for The Trump Organization, correct?

2 A That's correct.

3 Q And you worked on The Apprentice, right?

4 A I assisted in The Apprentice, yes.

5 Q That was for The Trump Organization, right?

6 A That was certainly for Mr. Trump.

7 Q No. No.

8 You are telling me that you worked with The
9 Apprentice, and it wasn't for The Trump Organization, it was
10 for Mr. Trump?

11 A I am not sure if The Apprentice was for The Trump
12 Organization, as opposed to Mr. Trump personally.

13 Q Well, was The Apprentice -- was the money made from
14 The Apprentice part of The Trump Organization revenues?

15 A That I wouldn't know.

16 Q Did you -- and then you did personal work for
17 President Trump, correct?

18 A Correct.

19 Q And you did personal legal work for some of the kids,
20 right?

21 A Yes, sir.

22 Q You said you didn't recall doing any work for Eric
23 Trump, but for Donald Trump, Jr.?

24 A Yes, sir.

25 Q And for Ivanka Trump, yes?

1 A Ivanka I said I couldn't recall, but it seems
2 possible.

3 Q And for Melania, President Trump's wife as well,
4 right?

5 A Yes, sir.

6 Q And you never had a retainer agreement with any of
7 those individuals, did you?

8 A No, sir.

9 Q And the reason why you didn't have a retainer
10 agreement is because you didn't need one, right?

11 A Correct.

12 Q And you didn't need one because you were employed by
13 the Trump Organization, correct?

14 A That's correct.

15 Q And so, you knew you were going to get paid, right?

16 A Yes.

17 Q And there were some parts of your salary you didn't
18 know, that would be bonus?

19 You knew your salary?

20 A Yes, sir.

21 Q So, you didn't have to worry when you get -- when you
22 did personal work for Donald Trump, Jr. about a retainer
23 agreement because you were getting paid by The Trump
24 Organization, correct?

25 A Correct.

1 Q Now, you testified multiple times on Tuesday that when
2 you were President Trump's personal attorney in 2017, you had
3 no retainer agreement, right?

4 A Correct.

5 Q But the truthful testimony is that in the whole time
6 you worked for The Trump Organization, you never had a retainer
7 agreement, correct?

8 A I had -- I never had a retainer agreement.

9 Q So, it's not just January 2017, that you did not have
10 a retainer agreement. It is from the day you never went back
11 to your law firm, and The Trump Organization sent some guys
12 over and packed up your bags and you started a working for
13 Donald J. Trump, and you never had a retainer agreement, right?

14 A No, sir.

15 Q And, by the way, nothing wrong with that, correct?

16 MS. HOFFINGER: Objection.

17 THE COURT: I am sorry.

18 Can you repeat that, please?

19 Q Is there anything wrong in your view, you were a
20 lawyer, right?

21 A Yes, sir.

22 Q And you were acting as a lawyer for --

23 THE COURT: Overruled.

24 I am sorry.

25 The objection is overruled.

1 Q You were acting as a lawyer the whole time you worked
2 for The Trump Organization?

3 A Well, I did legal matters and non-legal matters.

4 (Whereupon, Principal Court Reporter Susan
5 Pearce-Bates was relieved by Senior Court
6 Reporter Lisa Kramsky.)

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

3 *****

4 CONTINUED CROSS-EXAMINATION

5 BY MR. BLANCHE:

6 Q Understood.

7 But you did legal matters?

8 A Yes.

9 Q And, ethically, there was nothing wrong; correct?

10 A I was an employee of the Trump Organization, nothing
11 unethical.

12 Q Right.

13 So when you were an employee, you had a job with The Trump
14 Organization; right?

15 A Yes, sir.

16 Q And your job was to report directly to President Trump;
17 right?

18 A To whatever Mr. Trump wanted me to do.

19 Q You were an Executive Vice President; right?

20 A Right. Yes, sir.

21 Q And if that direction included doing legal work for
22 Melania Trump, for example, you did it; right?

23 A Yes, sir.

24 Q And, ethically, nothing wrong with that; correct?

25 A Correct.

1 Q Because you know under New York Ethics Rules, you don't
2 need a Retainer Agreement to do work for a client; do you?

3 A No, sir.

4 Q Now, I want to talk for a minute about --

5 MR. BLANCHE: If we can put up what's already
6 admitted in evidence as 201, please.

7 (Displayed.)

8 Q You -- we went through this letter on direct. Do you
9 recognize this letter?

10 A I do.

11 Q This is February 8th, 2018. It's a letter to the
12 Federal Election Commission; correct?

13 A That's correct.

14 Q Now, this letter was put in in response to a complaint
15 that was filed earlier by Common Cause; right?

16 A That's correct.

17 Q Now, I want to first highlight the first paragraph.
18 And your lawyers -- by the way, you read this letter before it
19 went out; correct?

20 A Yes, sir.

21 Q Your lawyers write that they are writing on behalf of
22 you, in response to the Common Cause Complaint and they are
23 responding to it; right?

24 A Yes, sir.

25 MR. BLANCHE: If we can go to the second paragraph.

1 (Displayed.)

2 Q So, this second paragraph says: "In a private
3 transaction in 2016, before the US Presidential Election,
4 Mr. Cohen used his own personal funds to facilitate a payment of
5 \$130,000 to Ms. Stephanie Clifford."

6 "Neither The Trump Organization nor the Trump Campaign was a
7 party to the transaction with Ms. Clifford and neither
8 reimbursed Mr. Cohen for the payment directly or indirectly."
9 Right?

10 A Correct.

11 Q So, by the way, I believe you testified to this, that's
12 true, right, I know you said that it's --

13 A It's an omission.

14 Q But that it is a true statement; right?

15 A That is a true statement.

16 Q Meaning, you used your own funds to make the payments
17 to Ms. Daniels?

18 A Correct.

19 Q And neither The Trump Organization nor The Campaign
20 paid you back; right?

21 A Was a party to the transaction, they were not.

22 Q Well, they weren't a party to the transaction, and
23 because they had -- they didn't give you any money; right?

24 A No reimbursement; correct.

25 Q Because President Trump reimbursed you from his own

1 personal funds?

2 A Either from President Trump's -- from his own funds or
3 from The Trust.

4 MR. BLANCHE: So if we can bring the third
5 paragraph down, now, please.

6 (Displayed.)

7 Q This is responding directly to the allegations that
8 were in the Common Cause Complaint; right?

9 It says they are speculative, and that neither your LLC made
10 any in-kind contributions to Donald J. Trump for President or
11 any other Presidential Campaign Committee.

12 It also said, I think, accurately, that you were not a
13 Government employee.

14 And that's right; right?

15 That's correct?

16 A That's correct.

17 Q And that it doesn't constitute a campaign contribution
18 or expenditure and, therefore, the FEC lacks jurisdiction over
19 this matter; right?

20 A Correct.

21 Q Now --

22 MR. BLANCHE: We can take that down.

23 Q -- that same day, well, that was February 13th.

24 The complaint was filed before that, right, the Common Cause
25 Complaint?

1 A Yes.

2 Q And the complaint, is that a public or a sealed
3 document?

4 A Sealed document, I believe.

5 Q So, but you're -- I'm right that you actually shared or
6 showed the complaint to a bunch of reporters before it was
7 public; right?

8 A I believe so.

9 Q And that's a sealed document; right?

10 And you were not necessarily giving it to the reporters, but
11 you're showing it to them; correct?

12 A Yes, I may have showed it.

13 Q Well, do you have any doubt that you showed it?

14 A No, sir.

15 Q And you were very angry that the complaint had been
16 filed; right?

17 A I was.

18 Q And you told some reporters that you were going to seek
19 sanctions, potentially Rule 11 sanctions; right?

20 A Correct.

21 Q And, at that point, you were sick of having to defend
22 yourself from these frivolous allegations; right?

23 A Yes.

24 MR. BLANCHE: Now, if we can put up 202, which is
25 already in evidence.

1 (Displayed.)

2 Q This is the statement that you issued the same day;
3 right?

4 A Correct.

5 Q And you wrote that?

6 A Yes, sir.

7 Q We won't read the whole thing, but you said on Tuesday,
8 that you didn't plan to provide any further comment because you
9 were worried that by issuing the statement you would start
10 getting a lot of calls; right?

11 A I wrote that, yes.

12 Q And that's why you wrote that on the second to last
13 paragraph; right?

14 A No, sir.

15 Q No, that's not why?

16 A That's not why.

17 Q I must have misunderstood your testimony from Tuesday.
18 You didn't want to provide any further comment; right?

19 A That's correct.

20 Q And the reason why you put that in the statement is
21 because you were worried that if you just sent out a statement
22 without that, reporters would want you to comment; right?

23 A They would be asking me the question, in the paragraph
24 above it, "Neither The Trump Organization nor The Trump Campaign
25 was a party to the transaction."

1 My concern was that they would expand upon it and they would
2 ask me about Mr. Trump personally or some other account.

3 MR. BLANCHE: Now, if we could highlight the very
4 last paragraph.

5 (Displayed.)

6 Q It says: "Just because something isn't true doesn't
7 mean that it can't cause you harm or damage. I will always
8 protect Mr. Trump."

9 You wrote that; right?

10 A I did.

11 Q Now, when you wrote that, do you recall sending that
12 statement out to a ton of reporters?

13 A I sure did.

14 Q And you followed up that statement by sending it to
15 them, you followed up with some communications with them making
16 it clear that you believed and that you felt strongly that that
17 statement was completely true; right?

18 A I was validating the statement that I had sent out with
19 that paragraph.

20 Q When you say that you were validating it, you mean you
21 were telling the reporters that what you wrote was true?

22 A I wanted them to believe it was true, yes.

23 Q So did you call them and say; I want you to believe
24 this is true?

25 A No, sir.

1 Q Or did you call them and say; it is true?

2 A I called and told them, this is true.

3 Q And you -- you also, and this is, again, is in February
4 of 2018, you recorded yourself talking to reporters, telling
5 them that your statement was true; right?

6 Among other things?

7 A Amongst other things, yes.

8 Q And you did that -- you even said, and correct me if
9 I'm wrong, to one reporter, they had to believe you, that you
10 are a really bad liar.

11 You said that; right?

12 A I believe so, yes.

13 Q But the testimony in this trial is that you were lying
14 to them when you told them that; right?

15 A Yes, sir.

16 Q And you recorded them, at that time in 2018, for what
17 reason?

18 A I don't recall. I don't recall why I recorded it.

19 Maybe it was a different part of the conversation.

20 Q So it may have been for some other reason other than
21 what we're talking about on the screen and what you were talking
22 about as far as trying to validate your statement?

23 A Yes, sir.

24 Q And that statement, by the way, was approved by your
25 lawyers at the time, at McDermott Will & Emery; is that right?

1 A That's correct.

2 Q And they were the ones that wrote the letter, which is
3 201; correct?

4 A Yes.

5 Q So -- and you worked with them to make sure that the
6 statement was truthful; correct?

7 A I did.

8 Q And you worked with them to make sure that the letter
9 was truthful; correct?

10 A I worked with them to put this letter out, which,
11 again, I have characterized as deceptive.

12 Q I understand your characterization of it, but the
13 reality is, we just read it. Nothing on that letter is not the
14 truth; correct?

15 A Correct.

16 Q So -- but is it your testimony that you were lying to
17 your lawyers, to the McDermott lawyer?

18 A No, sir.

19 MS. HOFFINGER: I'm going to object here, Judge.

20 THE COURT: Sustained.

21 MR. BLANCHE: I'm going to move to another area.

22 THE COURT: Why don't we stop at this point. All
23 right.

24 Jurors, I know that we were going to stop today by
25 4:00, so we are going to stop now.

1 Before I excuse you, I ask you to please not talk
2 either among yourselves or with anyone else about anything
3 related to the case.

4 Please continue to keep an open mind.

5 Do not form or express an opinion about the
6 defendant's guilt or innocence until all of the evidence is
7 in, and I have given you my final instructions on the law,
8 and I have directed you to begin your deliberations.

9 Do not request, accept, agree to accept or discuss
10 with any person the receipt or acceptance of any payment or
11 benefit in return for supplying any information concerning
12 the trial.

13 Report directly to me any incident within your
14 knowledge involving an attempt by any person improperly to
15 influence you or any members of the jury.

16 Do not visit or view any of the locations discussed
17 in the testimony.

18 And do not use any program or electronic device
19 to search for and view any location discussed in the
20 testimony.

21 Do not read, view or listen to any accounts or
22 discussions of case, and that includes the reading or the
23 listening to the reading of any transcripts of the trial, or
24 the reading of posts on any court site.

25 Do not attempt to research any fact, issue or law

1 related to the case.

2 Do not communicate with anyone about the case by
3 any means, including by telephone, text messages, email or
4 the internet.

5 And do not Google or otherwise search for any
6 information about the case, or the law which applies to the
7 case or the people involved in the case.

8 I hope you have a good weekend.

9 I will see you Monday at 9:30:

10 THE COURT OFFICER: All rise.

11 (Jury exits.)

12 *****

13 THE COURT: You may be seated.

14 Mr. Cohen, thank you.

15 You may step down.

16 (Witness excused.)

17 *****

18 THE COURT: Mr. Blanche, we had spoken about
19 using this time to address some issues that you wanted to
20 take up.

21 MR. BLANCHE: Yes, your Honor.

22 THE COURT: Yes. Please proceed.

23 MR. BLANCHE: I will turn it over to my colleague.

24 THE COURT: Okay.

25 MR. BOVE: Thank you, Judge.

1 What we are hoping to address is the potential
2 testimony of the expert that has been discussed in the
3 motions in limine, Brad Smith, regarding Campaign Finance
4 Law.

5 And your Honor set forth in your ruling on that
6 motion a series of categories that you would accept or allow
7 testimony from Mr. Smith on.

8 And the one that we wanted to discuss -- the
9 category that we wanted to discuss is general definitions
10 and terms that relate directly to this case, such as
11 campaign contributions.

12 And I think, just to frame the conversation, what
13 has changed since the time of the ruling is that both
14 parties had put in requested jury instructions and both
15 parties are seeking instructions regarding FECA and some of
16 the definitions at issue.

17 So one of the reasons that we wanted to bring this
18 up before bringing the expert in is to give your Honor a
19 sense of what we would be seeking to do and to make sure
20 that we are not encroaching on your Honor's potential legal
21 instructions.

22 You have at once both parties who are asking the
23 Court, I think, for instructions on a similar area.

24 And we just want to make sure that the Court is
25 still contemplating what I think is set up as sort of a

1 battle of the experts on some of these issues.

2 THE COURT: That's fine.

3 You understand that at this point those are just
4 requests. I haven't ruled on any/either request.

5 MR. BOVE: Of course, Judge. And that's why we
6 just wanted to flag this.

7 And, if I could, I would proffer the scope of what
8 we would be seeking to do through Mr. Smith.

9 THE COURT: Sure.

10 MR. BOVE: So what we would like to do is touch
11 upon basic statutory definitions, and I will discuss those
12 more specifically; and then there are phrases within those
13 definitions that we think it's important, that one way or
14 another the jury gets some guidance on, whether that is
15 through the competing experts that have been noticed or your
16 Honor.

17 I can talk about the ones that we are focused on;
18 and one of them is the meaning of the phrase "For the
19 Purpose of Influencing An Election For Federal Office."

20 The meaning of that --

21 THE COURT: Just give me one second.

22 MR. BOVE: Yes.

23 (Pause.)

24 THE COURT: Can you repeat that again?

25 MR. BOVE: The phrase "For the Purpose of

1 Influencing An Election For Federal Office."

2 And that's a statutory phrase.

3 And then both parties have requested instructions
4 regarding what I will describe as "The Irrespective Rule."
5 And that's from the FEC's regulations.

6 And then the third issue is "The Press Exemptions"
7 where we've requested an instruction.

8 I don't think that there is a competing request,
9 and we would be seeking to elicit testimony regarding that
10 exemption from Mr. Smith.

11 So, for basic statutory definitions, I think your
12 Honor has seen those in the parties' proposals,
13 "contribution," "relative individual contribution limits,"
14 the term "expenditure," and the term "coordinated
15 expenditure" are, I think, what would be the focus.

16 And within a couple of those definitions the
17 statute lays out that phrase "For The Purpose of Influencing
18 an Election."

19 And so that's why we think -- we would seek to
20 elicit from Mr. Smith an interpretation of what that phrase
21 means.

22 And, really, what we would be seeking to do through
23 him, Judge, is sort of track what is in the request that
24 we've submitted to your Honor.

25 So by tracking that phrase is giving content by the

1 Supreme Court's decision in Buckley, that the test is an
2 objective one -- excuse me, an objective one under the D.C.
3 Circuit's ruling in Orloski.

4 We would seek to have Mr. Smith describe the facts
5 of Orloski a little bit so that the jury can understand what
6 it means to have an objective test for the concept of "For
7 The Purpose of Influencing an Election."

8 And then describe the -- then you are relating to
9 the Congressman Jim Moran 5141 that's cited in our papers,
10 again, describing some facts, to give the jury a sense of a
11 situation where the FEC has applied that term and how they
12 have done it.

13 Then "The Irrespective Rule" --

14 THE COURT: You are referring to past decisions
15 and/or hypotheticals?

16 MR. BOVE: Not hypotheticals, Judge.

17 Just the past decisions that are cited in our
18 request to charge.

19 So that's "For The Purpose of Influencing The
20 Election."

21 Next, I mentioned "The Irrespective Rule," which is
22 set out in the FEC's regulations and cited, I think, by both
23 parties in their request to charge.

24 It's at 11 CFR 113 -- I'm sorry. .1(g).

25 And so, we seek to have Mr. Smith discuss that

1 rule, and discuss the focus on whether an expense would
2 exist irrespective of the candidate's campaign, which we
3 think is an important issue for the jury to consider with
4 respect to whether the payments at issue could be considered
5 expenditures and/or contributions.

6 And then talk about a little bit how that
7 regulation was developed beginning in 1995.

8 We've cited for your Honor our request for the
9 Federal Register Provisions that discuss the FEC's thinking
10 about that.

11 And, again, through Mr. Smith, what we're doing is
12 trying to give the jury a sense of what the requirements are
13 for this term and how the FEC has applied them.

14 And so, we would walk through a couple more of the
15 MURs that are cited in our request, 7025, 4944.

16 And there is an advisory opinion we cite from 203.
17 Not hypotheticals, but just seeking, again, to give the jury
18 a sense of applications and how the agency then administers
19 the regulation that it created and applies it in practice.

20 And then the last issue that I mentioned that we
21 would be seeking to cover with Mr. Smith is the "Press
22 Exemptions."

23 And that sort of has a basis in both the statute as
24 well as the FEC's regulations.

25 And we have also cited an advisory opinion in our

1 request to charge that, alternatively, we would have
2 Mr. Smith describe, again, just to give the jury a little
3 bit of content around these terms.

4 And I say that, and make this whole proffer with a
5 little bit of concern that we don't want to be treading on
6 your Honor's legal instructions.

7 These are things that, coming into the trial,
8 based on the in limine ruling, we had hoped to do through
9 Mr. Smith.

10 Now, you have these two competing jury instructions
11 and so there is a little bit of tension here, and so we
12 wanted to --

13 THE COURT: So you believe that the biggest impetus
14 to this is to ask this Court about -- to argue that we now
15 have two competing instructions, not the facts of the case
16 or that the testimony has changed, just the request for the
17 instructions?

18 MR. BOVE: The reason that I'm making the proffer,
19 your Honor, if the instructions had not come in, in the way
20 that they had, meaning that if the parties were not in
21 agreement at least with respect to the question of should
22 the Court give instructions about FECA and these terms, we
23 understand -- we think we understand what your Honor's in
24 limine ruling says and we were going to abide by that
25 through Mr. Smith.

1 We are now making this proffer to your Honor so
2 that everybody sort of has eyes wide open coming into
3 Monday, when I think it's very possible this testimony could
4 come in, that there is a little bit of tension right now
5 between the pending request and what we would cover from --
6 through Mr. Smith.

7 We are sensitive to that, and we don't want to have
8 him up on the stand and give the impression that we are
9 encroaching on your Honor's province.

10 THE COURT: Thank you.

11 MR. COLANGELO: Your Honor, I think 95 percent of
12 the proffered testimony that was just described flies
13 directly in the face of your extremely clear March 18th
14 Order, which expressly said that Mr. Smith may not testify
15 regarding the interpretation and application of Federal
16 Campaign Finance Laws.

17 You specifically held that he could identify
18 general definitions, but not interpretation or application.

19 So as to each of the three terms of art in the
20 Federal Campaign Finance Law that Mr. Bove just described,
21 "For The Purpose of Influencing," "Irrespective of the
22 Candidacy," and "Press Exemption," I think he just walked
23 your Honor through a very long list of Federal Case Law,
24 Supreme Court and D.C. Circuit Case Law, as well as Agency
25 Advisory Opinions and Agency Adjudications interpreting

1 those terms.

2 That is -- that kind of testimony from an expert is
3 precisely the reason that there is a general and broadly
4 followed prohibition on testimony by an expert witness on
5 legal matters.

6 And, your Honor, I think there are two compounding
7 problems here.

8 One is that, as Mr. Bove noted, we have also
9 retained an expert witness who, if necessary, would be
10 prepared to testify as to the same issues.

11 But then -- and we anticipate that he would say,
12 based on what we've seen in the defendant's briefing, that
13 the way the defense is interpreting the application of those
14 statutes is inconsistent with how the Agency and how Federal
15 Courts have done the same.

16 But then we've got three people telling the jury
17 what the law is, when there should be only one.

18 It should be your Honor exclusively instructing the
19 jury on how the law applies.

20 I mean, by analogy this would be like calling an
21 expert witness to opine on whether the intent to defraud in
22 the Penal Law definition does or does not -- is or is not
23 limited to a pecuniary financial motive only.

24 That's a brief -- we have briefed it. It's
25 identified in the charge. Your Honor has ruled on it. And

1 that should be the end of it.

2 The -- in fact, the very fact that this is a
3 contested legal issue in the parties proposed instructions
4 to the jury is even more reason why this should be resolved
5 through argument before your Honor at pre-charge conference,
6 not something that we should be putting in expert
7 testimony -- expert testimony to discuss.

8 I think there are two other problems.

9 First, and unless I'm missing it somewhere, the
10 possibility of any testimony on the "Press Exemption" has
11 never been included in any of the defense's disclosures
12 regarding this witness, either before or after your Honor's
13 motion in limine.

14 So there is a serious notice problem with the
15 "Press Exemption" proposal from the outset.

16 And then there is a broader notice problem, your
17 Honor, which is that it's, as you know, dating back to last
18 November, we tried for months to compel the defendant to
19 disclose reciprocal discovery, including this expert
20 testimony.

21 We had to move the Court to compel reciprocal
22 discovery in November.

23 Your Honor granted that motion.

24 We didn't get the defense expert disclosure until
25 January, and then the entire point of pretrial notice of

1 proffered expert testimony is so the parties can prepare.

2 We filed a motion in limine to exclude their
3 expert testimony.

4 Your Honor largely granted it.

5 And we have prepared a potential rebuttal witness
6 based on the language in your Honor's -- the Court's
7 March 18th Order.

8 So to expand Mr. Smith's testimony at this point,
9 just a few days before he may take the stand, presents a
10 significant notice problem as well because our witness, in
11 reliance on the Court's Order, we have not prepared him to
12 talk about the facts about a D.C. Circuit case or the
13 Orloski case or the Buckley versus the Valeo Supreme Court
14 decision or how it applies.

15 So, your Honor, what Mr. Bove just described is
16 totally outside and way beyond both what your Honor already
17 ruled and any recognized exception to the general
18 prohibition on legal testimony from an expert.

19 MR. BOVE: We are not seeking to have three people
20 at this trial instruct the jury about these issues, Judge,
21 and that's exactly why I'm raising this -- why we're raising
22 this right now, which is that the changed circumstance, from
23 our perspective, is: I don't think there was a -- to our
24 understanding, there was not an agreement prior to the start
25 of this trial that your Honor would provide instructions to

1 the jury regarding these issues.

2 And, as you noted, there is still -- it's still not
3 clear that the Court will.

4 Judge, as a matter of just basic fairness, given
5 the way that the People have now structured their theory of
6 the case, the jury has to be provided instructions one way
7 or another -- or I will say information, one way or another,
8 about how to apply these principles.

9 And so, what I have proffered is from our
10 standpoint what I think are the very basics and the bare
11 minimum that would be required for the jury to make an
12 analysis of whether or not any of these things were unlawful
13 contributions, which is a necessary showing here, at least
14 that there was a conspiracy with that intent.

15 I think we've been clear in pretrial motion
16 practice and from the start that we don't think this jury
17 here should be evaluating a FECA violation.

18 We understand that before your Honor we've lost
19 that fight.

20 What we're saying now is that just basic fairness
21 requires that they understand what the principles are in a
22 fair way.

23 And I think on the "Press Exemption" question in
24 particular, I don't think there could be any reasonable
25 dispute that that was absolutely central to both AMI's

1 defense and the FEC's analysis of whether or not there was a
2 campaign contribution both in the Non-Prosecution Agreement
3 and in the Conciliation Agreement.

4 And so --

5 THE COURT: People, anything else?

6 MR. COLANGELO: Yes, your Honor.

7 Just two quick points and one to correct the
8 record.

9 My recollection is that Ms. Necheles said to your
10 Honor at a bench conference last week, before any of the
11 proposed jury instructions were in, that they intended to
12 raise with your Honor, to question what their expert would
13 be permitted to testify to.

14 So I'm not sure that we can credit the
15 characterization that this proffer and these instructions
16 are necessitated by differences of opinion regarding the law
17 in the proposed jury instructions.

18 And then, second, on the press exemption, as you
19 know, your Honor, we haven't yet responded to the submission
20 that the defense put in the other day.

21 I'm not sure, as I stand here right now, that we
22 will oppose the exclusion of the language in the charge to
23 define the "Press Exemption," but the "Press Exemption" is
24 why this entire undertaking is way beyond what any witness
25 should testify to.

1 The statutes and the regulations combined contain
2 about 20 words of texts on the "Press Exemption."

3 That entire concept is developed almost entirely
4 through additional case law in courts and through agency
5 application.

6 So, it's exactly the kind of thing that has been
7 developed through the adjudicative and agency determination
8 process and that the parties can discuss with you and that
9 you should decide, your Honor, not an expert, certainly not
10 competing experts instructing the jury.

11 THE COURT: All right.

12 Thank you.

13 Mr. Blanche, just give me a second, all right.

14 MR. BLANCHE: Yes, your Honor.

15 (Pause.)

16 THE COURT: I don't think that the fact that each
17 of you has submitted proposed jury charges necessarily
18 changes my ruling or my decision to the motions in limine.

19 To direct your attention specifically to the area
20 that dealt with this, I direct your attention to Pages 1, 2
21 and 3 of the Court's decision.

22 And I will read from the very last, next to last
23 paragraph of the Court's decision:

24 "The People's motion is granted to the extent that
25 Smith may not testify as a lay fact witness, offer opinion

1 testimony regarding the interpretation and application of
2 Federal Campaign Finance Laws and how they relate to the
3 facts in the instant matter, nor may Smith testify or offer
4 an opinion as to whether the alleged conduct in this case
5 does or does not constitute a violation of the Federal
6 Election Campaign Act (FECA).

7 However, Smith will be permitted to testify
8 generally as to the following:

9 General background as to what the Federal Election
10 Campaign Commission is; background as to who makes up the
11 FEC; what the FEC's function is; what laws, if any, the FEC
12 is responsible for enforcing; and general definitions and
13 terms that relate directly to this case; such as, for
14 example, campaign contribution.

15 As I listen to your presentation, Mr. Bove, it
16 sounds to me like what you are asking is that I enlarge this
17 decision quite a bit.

18 When I hear you use words like "interpretation,"
19 "past decisions," "advisory opinions," that does sound an
20 awful lot like what would normally be called opinions on the
21 law.

22 And, in fact, you used the term, "a battle of the
23 experts."

24 The only reason we would get into "a battle of the
25 experts" is if your expert got on the stand and testified as

1 to some sort of expert opinion not only about FECA, but
2 possibly the law and then the People would put on their
3 expert to rebut that; and then I would have to instruct the
4 jury.

5 We are definitely not going to go there.

6 What I'm going to do, in fairness to you, because I
7 would like to digest both submissions further, I will take
8 some time this weekend to do that, to read and study both
9 sets of submissions.

10 I would also like to read the minutes from what has
11 just happened here.

12 But until you hear differently from me, my ruling
13 has not changed.

14 It's going to be limited to the very, very general
15 definitions and very general background information.

16 I also do agree with the People that they had asked
17 for a very long period of time for disclosure and notice
18 regarding the expert witness, and despite the repeated
19 efforts to get that, it didn't come until, finally, very
20 late in the game. It was offered, but in a manner to
21 suggest that the witness would actually testify as a fact
22 witness, and you know what my ruling was on that, an expert
23 can't testify as a fact witness because they don't know the
24 facts of the case.

25 So, at that point, the purpose of your expert was

1 greatly diminished.

2 Again, in fairness to you, I will consider your
3 arguments.

4 I will go back and reread the submissions, but
5 until and unless you hear differently from me, my ruling has
6 not changed.

7 If there is any question as to what the ruling is,
8 again, go back to Pages 1, 2 and 3.

9 MR. BOVE: Thank you, Judge.

10 That's understood.

11 THE COURT: Sure.

12 What else?

13 Nothing else from either side?

14 MR. BLANCHE: No.

15 THE COURT: Let's talk schedule.

16 As we discussed a little bit, I'm doing everything
17 possible to avoid big breaks between summations, jury
18 charge, jury instructions and deliberations.

19 I will try not to break up summations, if at all
20 possible.

21 And as we discussed in the robing room, the
22 deliberations should follow immediately after the jury
23 charge.

24 It's not ideal for there to be a big lapse in time
25 between summations and the jury charge.

1 So I'm trying to avoid that to the extent that I'm
2 able.

3 You asked me if we could possibly start early. I'm
4 going to look into that and see if we could start early.

5 I think that we can work a little bit late on some
6 days, but unfortunately we can't work on Wednesday.

7 As of right now, we know that one of the alternates
8 can only work until 1:00 on Thursday.

9 I don't think that that's going to be a problem one
10 way or the other.

11 We will play it by ear and see how that plays out.
12 How much more do you think you have of Mr. Cohen?

13 MR. BLANCHE: I think not a lot. I think -- I
14 would say, I think I will be finished with cross Monday
15 before the morning break.

16 THE COURT: All right. Any sense of how long the
17 redirect might be?

18 MS. HOFFINGER: No. But I would say under an hour,
19 your Honor.

20 THE COURT: Okay. At this point, do you expect to
21 call any other witnesses on the direct case?

22 MR. STEINGLASS: No, Judge.

23 THE COURT: Other than the expert witness, that we
24 just discussed at this point, do you expect to present a
25 defense case?

1 MR. BLANCHE: We anticipate reaching a decision at
2 least with respect to any potential rebuttal witness very
3 soon, like today.

4 And we will communicate that to the folks -- to the
5 People and including the Court.

6 If we do have any rebuttal witnesses, we do not
7 anticipate that they would be long, at least on direct.

8 I don't think it's necessarily -- well, I don't
9 want to make commitments about the day on Monday, but it's
10 certainly reasonable to believe that if, aside from
11 Mr. Smith, that the witnesses will be able to get on and off
12 on Monday.

13 THE COURT: And when you say "rebuttal witnesses,"
14 are you referring to the witnesses that we spoke about
15 earlier today or something else?

16 MR. BLANCHE: The witnesses that we spoke about
17 earlier.

18 THE COURT: All right. So it sounds like we might
19 possibly be done with the presentation of evidence on
20 Monday.

21 MR. BLANCHE: I was not speaking about President
22 Trump, obviously.

23 THE COURT: Right.

24 MR. BLANCHE: So that's another decision that we
25 need to think through.

1 THE COURT: Right.

2 There is a possibility that we will be done with
3 the presentation of evidence on Monday.

4 And if that happens, we will have our pre-charge
5 conference on Monday.

6 Please be prepared to begin summations on Tuesday,
7 if we do wrap it up on Monday.

8 Of course, you will see my instructions before you
9 deliver your summations.

10 I will get them to you with as much notice as I can
11 probably get them to you.

12 I will make every effort to get both summations in
13 in one day.

14 That means working early/ working late.

15 If push comes to shove, I might have to break one
16 of the summations over to the next day, which I hate to do.

17 Anything else, as far as scheduling? I am open to
18 your suggestions.

19 All right. Thank you.

20 MR. STEINGLASS: Thank you.

21 MR. BLANCHE: Thank you, your Honor.

22 (Whereupon, at this time, the matter was adjourned
23 to Monday, May 20, 2024 at 9:30 a.m.)

24 *****

25