

1 THE COURT: Good morning.
2 Please be seated.
3 THE CLERK: Case on trial continued, People versus
4 Donald J. Trump.
5 Appearances, please.
6 Starting with the People.
7 MR. STEINGLASS: Good morning, your Honor.
8 For the People, ADA Josh Steinglass, Susan
9 Hoffinger, Matthew Colangelo, Christopher Conroy, Becky
10 Mangold and Katherine Ellis.
11 MR. BOVE: Good morning.
12 Emil Bove for President Trump, who is seated to my
13 left.
14 And I have with me Todd Blanche, Susan Necheles and
15 Gedalia Stern.
16 THE COURT: Good morning.
17 Would you like to go over what transpired
18 yesterday?
19 Do we need to do that, Mr. Bove? Just the email
20 exchanges that took place yesterday?
21 MR. BOVE: With respect to the exhibits, your
22 Honor?
23 THE COURT: Yes.
24 MR. BOVE: So we received, your Honor, an email
25 regarding the embedded hearsay issue that we raised during

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1 Tuesday's proceedings.
2 And, as I understood it, basically agreeing in
3 principle with the defense objection to the concept that a
4 record that is authenticated at the first level for — as a
5 business record may still present additional embedded
6 hearsay issues within the record.
7 Following that email, at the Court's direction, we
8 conferred with the Government regarding our pending
9 objections, many of which we had sent on Monday night coming
10 into those proceedings.
11 And we clarified some of them based on your Honor's
12 guidance.
13 We received some feedback from the Government, and
14 I think that the conferral process was helpful.
15 There still are some objections that we have on
16 that secondary level of hearsay, and I'm prepared to walk
17 through those whenever we have the time, given the jury.
18 THE COURT: Are we able to start proceedings today
19 with the jury, and going through, then perhaps we can break
20 at some point and deal with this?
21 MR. STEINGLASS: I think so, Judge.
22 Because I think that in the first hour or two of
23 testimony there is only one document that was flagged by
24 counsel that may arise.
25 And it's a document that we agree, that there is a

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1 line that they think should not be coming in for the truth
2 that we agree; so I don't think that there is any impediment
3 to starting.

4 MR. BOVE: I think that we're talking about
5 People's Exhibit 161, which is an invoice that was offered
6 through Mr. Pecker's testimony on Tuesday.
7 It's an invoice indicating — from Investor
8 Advisory Services, and the issue that we have with that
9 particular exhibit —

10 THE COURT: Could that wait until later?

11 MR. BOVE: I would like to raise it now just
12 because we don't think that it's enough to just have the
13 Judge instruct the jury that the factual assertion we are
14 talking about is not being offered for the truth.
15 Our position is that a redaction is necessary.

16 And if I could just put into the record what the
17 factual assertion is from the invoice.

18 THE COURT: If I could just interrupt you for one
19 second.

20 But this won't come up for another hour or two?

21 MR. STEINGLASS: I think that that's about right.
22 And we can always — I could always let you know if
23 it's going to come up.

24 I do feel that the goal posts are being moved,
25 because what they asked for yesterday was to ask for us to

1 agree that it's not being offered for the truth, and now
2 they are asking for a redaction.

3 THE COURT: All right. You both will have the
4 opportunity to be heard.

5 I don't want to the keep the jury waiting.
6 So if we can deal with this during the break
7 perhaps, I would like to do that.

8 MR. BOVE: Understood.

9 THE COURT: Is there anything that you would like
10 to say regarding the two exhibits that were received on
11 Tuesday?

12 MR. BOVE: No, your Honor. We understand the
13 Court's rulings.

14 THE COURT: All right.
15 Very well.

16 Let's get Mr. Pecker, please.

17 MR. STEINGLASS: Oh, I'm sorry, Judge.

18 THE COURT: Yes?

19 MR. STEINGLASS: May we have one minute to put
20 something on the record?

21 THE COURT: Yes.

22 MR. CONROY: Good morning.

23 MR. STEINGLASS: Mr. Conroy will do that.

24 MR. CONROY: Thank you, Judge.

25 Thank you very much.

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1 I have here, and I am going to hand up to the
2 Court, another proposed Order to Show Cause that we're
3 asking the Court to sign with another affirmation.
4 If I may just have a minute or two to just quickly
5 go through what's contained in there.
6 Judge, I'm sorry, could I just also hand up a thumb
7 drive.
8 This has full copies of some video clips that we
9 have transcribed in the affirmation.
10 (Handed.)
11 *****
12 MR. CONROY: We are asking the Court to sign this
13 Order to Show Cause to hold the defendant in contempt of
14 this Court's April 1st order — the Order that has been at
15 issue previously in this case — for submitting four
16 violations in the last three days:
17 One on April 22nd. That violation was right
18 outside the door to this courtroom in one of the defendant's
19 press — whatever they are — conferences that he holds on
20 his way in and out of court in the area that's set up for
21 that purpose outside of the door.
22 And what he said right after Court on the 22nd
23 was: "But they call the payments to a lawyer a legal
24 expense in the books."
25 "They didn't call it construction. They didn't say

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1 they are building a building."
2 "They called it a payment to a lawyer because, you
3 know, Cohen is a lawyer representing a lot of people over
4 the years."
5 "I'm not the only one."
6 "And wasn't very good in a lot of ways in terms of
7 his representation, but he represented a lot of people."
8 "But he puts in an invoice or whatever, a bill, and
9 they pay and they call it a legal expense."
10 "I got indicted for that."
11 And then later — this was about a nine-minute
12 event outside — a few minutes later the defendant went
13 on: "And when they are going to look at all of the lies
14 that Cohen did in the last trial, he got caught lying in the
15 last trial, so he got caught lying, pure lying, and when are
16 they going to look at that."
17 That same night on a news program the defendant
18 called in and said the following, in the course of about a
19 20-minute interview, and this is the second violation we are
20 asking the Court to consider.
21 And the quote is: "But this Judge said that I
22 can't get away from the trial. You know, he's rushing the
23 trial like crazy. Nobody has ever seen a thing go like
24 this. That jury was picked so fast. Ninety-five percent
25 Democrats. The area is mostly all Democrats. You think of

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1 it as just a purely Democratic area. It's a very unfair
 2 situation, that I can tell you."
 3 That was not more than several hours before the
 4 hearing on Tuesday related to his previous violations.
 5 On Tuesday morning, the 23rd, the day of that
 6 hearing, before the hearing, the defendant gave an interview
 7 to a TV station that actually aired that night.
 8 And that interview included the following statement
 9 by the defendant: "Well, Michael Cohen is a convicted liar
 10 and he has no credibility whatsoever."
 11 "He was a lawyer. And he relied on the lawyers,
 12 but Michael Cohen was a convicted liar."
 13 "He was a lawyer for many people, not just me, and
 14 he got in trouble because of things outside of what he did
 15 for me."
 16 "Largely, it was essentially all because of what he
 17 did in terms of the campaign."
 18 "I don't think there was anything wrong with that,
 19 with the charges that they made, but what he did is, he did
 20 some pretty bad things, I guess, with banking or whatever,
 21 if that was a personal thing to him."
 22 "David Pecker, I don't know exactly what he's going
 23 to be testifying against, but — or about — but he will be
 24 testifying today."
 25 That's the defendant talking about witnesses in the

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1 case, including one on the stand.
2 He's talking about jurors.
3 He's doing what the Order tells him not to do.
4 And there is a decision pending right now on
5 previous violations.
6 This morning, Judge, the defendant had a press
7 event on 49th Street and Park Avenue here in Manhattan.
8 In that event he was asked the following
9 question: "What have you thought of David Pecker's
10 testimony so far?"
11 "When was the last time you spoke to him?"
12 And the defendant said: "He has been very nice. I
13 mean, he has been — I mean, Dave has been very nice, a nice
14 guy. In about five minutes or less, David Pecker's going to
15 walk into this room to continue testifying."
16 "This is a message to Pecker: Be nice."
17 "It's a message to others: I have a platform, and
18 I will talk about you and I can say things like this, or
19 things like what I said about Cohen."
20 "It's a message to everyone involved in this
21 proceeding, including this Court."
22 We are asking your Honor to sign this Order.
23 We are seeking to have the Court find the defendant
24 in criminal contempt and to impose appropriate sanctions.
25 Thank you.

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1 THE COURT: Thank you, Mr. Conroy.
2 Anything else?
3 Just getting back to those two exhibits that were
4 admitted on Tuesday.
5 I found that one was a true business record.
6 The other one — because it was an email that
7 basically summarized the transaction.
8 And so that's my ruling on that one.
9 If you want to be heard on my other ruling, though,
10 we can take that up now.
11 MR. STEINGLASS: We are okay to wait until we take
12 them all up.
13 THE COURT: Okay. Very good. Get the witness,
14 please.
15 THE COURT OFFICER: Witness entering.
16 (The witness, David Pecker, enters the courtroom
17 and resumes the witness stand.)
18 *****
19 THE COURT OFFICER: Step this way, please.
20 THE WITNESS: Okay.
21 Good morning, Judge.
22 THE COURT: Good morning, Mr. Pecker. Welcome
23 back.
24 THE WITNESS: Thank you.
25 THE COURT: I remind you are, sir, that you are

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1 still under oath.

2 THE WITNESS: Yes, thank you.

3 THE COURT: Please get the jury.

4 THE COURT OFFICER: All rise. Jury entering.

5 (Jury enters.)

6 *****

7 THE COURT: Please be seated.

8 THE CLERK: Continuing case on trial, the People

9 versus Donald J. Trump.

10 All parties and all jurors are present.

11 THE COURT: Good morning, jurors.

12 Welcome back.

13 (Chorus of jurors respond, Good morning.)

14 *****

15 THE COURT: Mr. Steinglass.

16 MR. STEINGLASS: Thank you.

17 *****

18 CONTINUED DIRECT EXAMINATION

20 Q Good morning, Mr. Pecker.

21 A Good morning.

22 Q When we left off, we were talking about June 20th, when

23 Mr. Howard was out in California interviewing Ms. McDougal.

24 Do you remember that?

25 A Yes, I do.

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1 Q After Dylan Howard concluded his interview with Karen
2 McDougal, did you and he speak?
3 A Yes, we did.
4 Q And what did he tell you?
5 A He described to me who Karen McDougal was. He repeated
6 again that she was a Playboy model.
7 She claimed that she had a yearlong relationship with Donald
8 Trump, a sexual relationship.
9 She claimed she was — he said that she was 47 years old.
10 And he said that she was a 12 out of 10.
11 And then he said that he believed the story could be true or
12 was true, but she had no corroborating evidence.
13 He said to me that she didn't have anything on her
14 Blackberry.
15 She didn't have any photos.
16 She didn't have any expense reports that — she claimed that
17 she went to Mar-a-Lago and Trump Tower.
18 So, but he believed the story was true.
19 He went on to say that he offered her, and her
20 representative, \$10,000 to buy the story.
21 And it was refused.
22 Q Did you ever have a three-way call that day with
23 Dylan Howard and Michael Cohen?
24 A Yes, I did.
25 Q How did that come about?

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1 A Michael Cohen was constantly calling me while Dylan
2 Howard was in this meeting interviewing Karen McDougal.
3 And I told Michael that as soon as I hear from Dylan, I will
4 set up a three-way call.

5 Q And did that three-way call actually happen?

6 A Yes. Yes, it did.

7 I used — Michael Cohen told me to make sure that I used
8 Signal.

9 So I set up the Signal call between myself, Michael Cohen
10 and Dylan Howard.

11 Q And tell us about that conversation, please?

12 A Dylan described exactly what I just mentioned about who
13 Karen McDougal was, and all of the details that I just stated.
14 And immediately Michael Cohen said it's not true, which is
15 something that he always said.

16 And then he said, let me — let me check it out and I will
17 come back to you.

18 Q Was there any discussion on that three-way call about
19 acquiring the rights to Karen McDougal's story?

20 A Yes. Michael said that — well, I will take — let me
21 just clarify:

22 When Dylan suggested that he offered \$10,000 to buy Karen's
23 story, which is including the entire story, what she was
24 claiming, and she refused, Michael suggested that we should go
25 ahead to try to buy the story.

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1 Q And did he say why he wanted you to try to buy the
2 story?
3 A Well, first he said the story wasn't true.
4 Then he said that he thought that having that story out —
5 and I should add on, Dylan mentioned that ABC was interested in
6 acquiring the story.
7 He also mentioned that a Mexican group made an offer for the
8 story for 8 million dollars.
9 Michael and I both said that although we didn't believe that
10 there was a Mexican group that was going to buy the story, the
11 ABC offer was interesting because they were offering apparently
12 Karen a slot on Dancing with the Stars.
13 But I knew from my experience that ABC doesn't buy stories,
14 so I didn't think they were paying cash for the story.
15 He — Dylan, also mentioned that Karen McDougal said that
16 she didn't want her story to be published.
17 She said she didn't want to be the next Monica Lewinsky.
18 She said that she wanted to restart her career.
19 He said that — this is Dylan — Dylan said that she was
20 a — apparently a — originally a fitness model.
21 And she was the first female model on one of the covers of
22 one of my magazines, for one of American Media's magazines,
23 which was Men's Fitness. This was in — on a cover in 1999.
24 So he felt that she would be more interested in coming — in
25 having American Media buying the story than anyone else.

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1 Q And when you say "he" in that sentence?

2 A I'm sorry. I meant Michael Cohen — excuse me, I meant
3 Dylan Howard.

4 Q Thank you.

5 And to the extent that it's possible, if you could remember,
6 it's better to use names than pronouns, so we don't have to run
7 into that issue.

8 A Okay. I'll do that.

9 Q If you can remember.

10 How did your — withdrawn.

11 What was your initial thought after that three-way call
12 about how to handle the Karen McDougal situation?

13 A I thought we would have to buy that story. I believed
14 exactly what Dylan said.

15 He has a — he knows this marketplace. He's the Chief
16 Content Officer for the company.

17 We should — Karen McDougal's attorney was Keith Davidson,
18 and Keith Davidson was one of the major sources for Dylan
19 Howard.

20 So I felt that this story should be purchased.

21 Q Now, I think you started to allude to, at the end of
22 the day on Tuesday, a conversation that you had with Donald
23 Trump himself about this.

24 Do you remember that?

25 A Yes.

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1 Q So my first question is: Do you remember when that
2 conversation with Donald Trump happened?

3 A It was the third — I think it was the third week of
4 June of 2016.

5 Q So some time — was it after Dylan Howard had gone out
6 to interview Karen McDougal on June 20th?

7 A Yes.

8 Q And after the three-way call that you had had with
9 Michael Cohen and Dylan Howard?

10 A Yes, that's correct.

11 Q Where were you when you got this call from Donald
12 Trump?

13 A I was at an investor's — at one of my largest
14 investor's meeting in New Jersey.

15 Q And how did the call come in?

16 A Oh, I was making a presentation and an update on our
17 business, and the assistant in the office came into the
18 conference room and said: There is a call for you from Donald
19 Trump.

20 And I left and took the call.

21 Q And could you tell us about the conversation you had
22 that day with Donald Trump?

23 A Yes. When I got on the phone, Mr. Trump said to me:

24 "I spoke to Michael. Karen is a nice girl."

25 "Is it true that a Mexican group is looking to buy her story

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1 for 8 million dollars?"

2 I said — I said: "I absolutely don't believe that there is
3 a Mexican group out there to buy a story for \$8 million
4 dollars."

5 And then he said: "What do you think I should do?"

6 I said: "I think you should buy the story and take it off
7 the market."

8 Q So when the subject of Karen McDougal came up, Donald
9 Trump described her as a nice girl?

10 A Yes.

11 Q Based on your conversation with Mr. Trump, did you have
12 an understanding as to whether he was aware of the specifics of
13 Karen McDougal's description of the affair?

14 A Yes, I did.

15 Q What made you come to such an understanding?

16 A I think that Michael Cohen gave him the — spoke to
17 Donald Trump, which he said he was going to — which — excuse
18 me — which Donald Trump said on the phone that, "I spoke to
19 Michael." And I believe that when Mr. Trump said that to me
20 over the phone that she was a nice girl, I believe that he knew
21 who she was —

22 Q Why would you recommend to Donald Trump purchasing the
23 story?

24 A I believed the story was true.

25 I think that it would have been very embarrassing to himself

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1 and also to his campaign.

2 Q After your conversation with Donald Trump, did you have
3 another conversation with Michael Cohen?

4 A Yes. On the conversation with Donald Trump, he said to
5 me, clearly, that he doesn't buy stories because it always gets
6 out.

7 And he said to me that Michael Cohen would be calling me.
8 He was going to speak to Michael and he would be calling me
9 back.

10 Q Now, you used a pronoun there?

11 A I'm sorry.

12 Q That's okay.

13 A I'm sorry about that.

14 Q When you said "he" in that last answer, were you
15 referring to Donald Trump?

16 A Yes, I was. I'm sorry.

17 Q It's okay.

18 So did there come a time when Michael Cohen followed up with
19 you?

20 A Yes. He called me that day or the next day.

21 Q Tell us about that conversation?

22 A He called me — he called me and he said that we — he
23 said we should — he said: "You should go ahead and buy this
24 story."

25 So I said to him, I said: "I'm going to have Dylan Howard

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2 And then I said: "Who's going to pay for it?"

3 So he said to me: "Don't worry. I'm your friend. The Boss
4 will take care of it."

5 Q Who did you understand "The Boss" to be a reference
6 to?

7 A Donald Trump.

8 Q When Michael Cohen said: "The Boss will take care of
9 it," what did you understand that to mean?

10 A That he — that I would be either reimbursed by the
11 Trump Organization or by Donald Trump.

12 Q Now, did Mr. Cohen say anything to you on that
13 follow-up call one way or the other that led you to believe that
14 he was aware of your conversation that you had had with Donald
15 Trump when you were with your investor in New Jersey?

16 A Yes. He told me that he was sitting in Donald Trump's
17 office when he called me.

18 I don't know if he was on speaker phone or not, but he said
19 that he was there and he heard.

20 Q Did he tell you one way or the other whether he was
21 able to overhear your conversation with Donald Trump?

22 A Yes, he did.

23 Q What did he say about that?

24 A He said that: "I heard what you said to The Boss. And

25 I want you to go forward and negotiate the" — excuse me, I'm

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1 sorry — "I want you to go forward and negotiate the purchase of
2 the story."

3 Q And did he give you Donald Trump's view on that
4 question of whether to go forward to buy the story?

5 A He just said to go forward to buy the story.

6 Q Did the topic of the \$30,000 that you had already laid
7 out on the Dino Sajudin story come up during that conversation
8 with Michael Cohen?

9 A At that conversation, we didn't have what the purchase
10 price was going to be for the Karen McDougal story as of yet.

11 Q Okay.

12 A If I can add?

13 Q Sure.

14 A From that conversation, I was authorized basically to
15 go forward and have Dylan Howard negotiate the price and
16 negotiate the terms.

17 Q And did you, in fact, ask Dylan to go forward and
18 negotiate the terms?

19 A I did.

20 Q Now, you told us that Michael Cohen told you that The
21 Boss would take care of it, would pay you back.
22 How did you feel about Michael Cohen's representation that
23 Mr. Trump would reimburse you?

24 A Over the years that I know — that I worked with
25 Michael Cohen, I know he didn't have any authorization to spend

1 or to disburse any funds from the Trump Organization.
2 Every time that we went even out for lunch, I always paid.
3 He never paid.
4 So I didn't think that he had any authorization to buy or
5 acquire or spend any monies.
6 Q Without Mr. Trump's approval?
7 A Without Mr. Trump's approval. I'm sorry.
8 Q During the time — withdrawn.
9 You told us that you gave Dylan Howard the authority to go
10 ahead and negotiate a deal with Karen McDougal.
11 Is that right?
12 A That's correct.
13 Q Was Dylan Howard giving you periodic updates during
14 those negotiations?
15 A Yes, he did.
16 Q And did there come a time when you discussed with Dylan
17 Howard some of the terms of the potential deal?
18 A Yes.
19 Q What were some of the terms?
20 A Dylan Howard gave me the following terms: To purchase
21 the lifetime rights from Karen McDougal was going to cost
22 \$150,000.
23 Plus Karen wanted to restart her career.
24 She wanted to write for the celebrity magazines.
25 She wanted to be on the cover of some of the health and

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1 fitness titles.

2 She had a major problem when her breast implants were
3 removed and she wanted to write some articles about that in
4 Shape and in some of the other magazines.

5 And she also wanted to launch a clothing line, a fitness
6 clothing line, as well as a beauty product company — beauty
7 products.

8 And she wanted to — let me just — oh, she wanted to be an
9 anchor for the red carpet events with Radar Magazine.

10 Q Did you update Michael Cohen on the negotiations?

11 A Yes, I did.

12 Q How often did you speak with Michael Cohen during the
13 period when Dylan Howard was negotiating this deal with Karen
14 McDougal?

15 A We — we spoke very frequently, probably, at least,
16 probably daily.

17 Q How would you describe his tone?

18 A Michael was very agitated. Why is this taking so long?
19 Why didn't we acquire — why didn't we buy the story yet? Why
20 didn't we finish the agreement?

21 So he was pretty agitated.

22 Q Did you discuss with Michael Cohen the manner of who
23 would be paying Karen McDougal?

24 A Yes. Now that we had the price, that it was \$150,000,
25 I said: "Who is going to pay for this?"

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1 So he said: "You should pay."
2 I said: "Michael" — I said — "why would I pay? I just
3 paid \$30,000 for the doorman story."
4 I said: "Now you're asking me to pay \$150,000 for the Karen
5 story, plus all of these other additional items that she wants
6 to do."
7 "I don't have a problem in doing everything else that she
8 requested about writing for the magazines, to be on the cover of
9 the books — of the fitness titles. That's not an issue. That
10 I don't have a problem with."
11 "The \$150,000, who is going to reimburse me for this?"
12 So he said, again: "Don't worry about it. I'm your friend.
13 The Boss will take care of it."
14 Q And, again, not to beat a dead horse, but when you
15 have — when Michael Cohen told you: "Don't worry, The Boss
16 will take care of it," what did you understand that to mean?
17 A "The Boss" would have been Donald Trump.
18 Q And "take care of it" means what?
19 A That either — that I would be reimbursed either from
20 the Trump Organization or from Donald Trump.
21 Q Okay.
22 MR. STEINGLASS: I am now going to display to
23 everyone what's in evidence as People's Exhibit 173A.
24 Q You can start with Page 1.
25 (Displayed.)

1 *****

2 Q Is this a series of texts between you and Dylan Howard

3 from 2016 regarding Karen McDougal?

4 A Yes, it is.

5 Q And I should just clarify.

6 Are portions of phone numbers and email addresses redacted

7 in this exhibit to protect personal information of the parties

8 to this text chain?

9 A (No response.)

10 Q Did you understand my question?

11 A Can you repeat it? I'm sorry.

12 Q Yeah, of course.

13 My question was: Are portions of the phone numbers and

14 email addresses redacted on this exhibit to protect personal

15 information of the parties to this text chain?

16 A Yes, that's correct.

17 Q Okay. So I want to zoom in on the last column of the

18 lines marked DOC 47-240 to 241.

19 Let me first ask you, is this last column basically a

20 summary of the date, the time of the text, who it's from, who

21 it's to, as well as the body of the text itself?

22 A Yes, it is.

23 Q If you look at the — what does the date and time

24 marked say on this top text?

25 A 2016/07/23, 19:21:45 UTC.

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1 Q Now, do you understand that to mean July 23rd, 2016,
2 at 7:21 p.m. UTC time?

3 A Yes.

4 Q Do you know what UTC time is?

5 A UTC time is four to five hours ahead of Eastern
6 Standard Time, depending on what season it is.

7 Q Okay. So UTC time is four or five hours ahead of New
8 York time?

9 A New York.

10 Q Depending on whether it's Daylight Savings or not?

11 A Yes.

12 Q Got it.

13 In July of 2016, was the East Coast, if you know, observing
14 Eastern Standard Time or Eastern Daylight Time in July?

15 A I'm not sure.

16 Q Okay. Let me ask it a different way. Was — is
17 Daylight Savings Time in effect in the summer?

18 A In the summer? Yes, that's correct.

19 Q Okay. So is it your understanding that during Daylight
20 Savings Time, New York time was four hours behind UTC, but then
21 when you fall back in the fall and for the winter, New York time
22 is five hours behind?

23 A That's correct.

24 Q Okay. So does this exhibit contain the exact copy of
25 text messages that you and Dylan Howard sent to each other on

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1 July 23rd, 2016?

2 A Yes, it is.

3 Q And does the substances of these messages appear on
4 your cell phone exactly as they do on this exhibit?

5 A Yes, they do.

6 Q Has the substance of any of these text messages been
7 altered in any way?

8 A No, they have not.

9 Q Okay. So let's start with the first text, that is
10 7:21 p.m. UTC, which I guess is through — no, just a second.
11 I'm sorry, I don't like to do math on the spot — 3:21 p.m.
12 New York time?

13 A New York time.

14 Q Is that right?

15 A That's correct.

16 Q Okay. Can you read us the substance of that text.

17 Oh, I'm sorry, one more thing.

18 Who is the text from?

19 A It's from Dylan Howard.

20 Q Okay. And who is it to?

21 A It's to me.

22 Q Okay. And can you read us the substance of the text,
23 please?

24 A "Spoke to Michael Cohen about that other issue.
25 Obviously concerned that it is proceeding with filming dates,

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1 etc., and wants me to handle. I'm on it."

2 Q What did you understand Dylan Howard to be referring to
3 when he said "that other issue?"

4 A I don't recollect. Can we — can you clarify that?

5 Q Well, I can't testify.

6 A No, no.

7 Q But why don't we move on and see if the context will
8 help you answer this question.

9 A Okay.

10 Q And just while we're here, we have this displayed, what
11 was your response to Dylan Howard on July 23rd?

12 A I said: "Good move and follow up."

13 Q And as you sit here, Mr. Pecker, do you recall whether
14 a contract was signed at some point with Karen McDougal?

15 A Yes. It would have been signed the first week of
16 August of 2016.

17 Q Okay. So did you have any concerns about the legality
18 of AMI paying to kill a story regarding a political candidate?

19 A Yes, I did.

20 Q Why did you have those concerns?

21 A In 20 — between 2002 and 2003, I had an issue when I
22 acquired a story for Arnold Schwarzenegger, when he was running
23 for Governor of California.

24 Q Can you explain a little bit more about that to the
25 jury, please?

1 A Yes. In 2002, the Weider Magazines, which was Shape,
2 Muscle and Fitness, Flex, Health and Fitness titles, were up for
3 sale.
4 Joe Weider was the founder.
5 He developed — he founded all of those magazines.
6 He also found — he also discovered Arnold Schwarzenegger,
7 and those guys.
8 I should say that Joe Weider and Arnold Schwarzenegger had a
9 relationship for 50 years.
10 So when the magazines were being sold, and I went to see
11 Joe Weider right before the sale, he said to me: "Before we
12 finalize this transaction, you have to meet with Arnold
13 Schwarzenegger."
14 So I — he gave me his phone number.
15 I called up Schwarzenegger.
16 I went to see him, and he had the following conversation
17 with me:
18 He said that, you know, "I have been on the covers of Muscle
19 Fitness and Flex, two of the primary magazines you are buying,
20 70 to 80 times."
21 He said: "I want to be an Editor-at-Large for both
22 magazines."
23 And I would like a — "I want an agreement."
24 And he said: "I'm" —
25 And he said: "You bought the tabloids."

Lisa Kramsky,
Senior Court Reporter

1 He's referring to primarily the Globe and the National
2 Enquirer.
3 And he said, and as I mentioned, I think, on Monday, we
4 acquired them in March of 1999.
5 He said that: "I've had a number of litigation and lawsuits
6 against both magazines because you always run negative stories
7 about me."
8 And he said: "I plan on running for Governor, and I would
9 like for you not to publish any negative stories on me now."
10 I should say: "Any negative stories about me now or in the
11 future, and I will continue on being the editor for Muscle
12 Fitness and Flex, as the spokesperson."
13 So I agreed.
14 And shortly after, he announced on the Jay Leno Show that he
15 was running for Governor.
16 And a number — after he made that announcement, a number of
17 women called up the National Enquirer about, about — about
18 stories that they had — that they have, I should say, to sell
19 on different relationships or contacts and sexual harassment
20 that they felt that Arnold Schwarzenegger did.
21 And the deal that I had — the agreement, I should say, that
22 I had with Arnold is that I would call him and advise him of any
23 stories that were out there.
24 And I ended up acquiring — buying them for a period of
25 time.

Lisa Kramsky,
Senior Court Reporter

1 And then as he became Governor — and one of the stories
2 that I acquired, I wasn't going to publish, and the person who
3 took that story — and since we didn't — since the company —
4 since we didn't publish it, she brought it to the Los Angeles
5 Times and the LA Times published the story.
6 It was very embarrassing.
7 Most of the press approached Arnold Schwarzenegger when he
8 was Governor about this story.
9 And his comment was: "I didn't know."
10 He said: "Ask my friend David Pecker."
11 So it was very embarrassing to me and the company.
12 And at that time there was an investigation by the State
13 with respect to Arnold being the editor of — being an
14 Editor-at-Large for these two titles.
15 He had to resign.
16 And it was a difficult situation.
17 And it gave me the sensitivity about buying any stories in
18 the future.
19 So that's where — that's how I became sensitive on this
20 topic.
21 Q So let me just ask you one more question about the end
22 of what you were just saying.
23 Did — as a result of your agreement to purchase stories,
24 negative stories about Arnold Schwarzenegger on behalf of Arnold
25 Schwarzenegger when he was running for Governor of California,

Lisa Kramsky,
Senior Court Reporter

1 did you come to appreciate the legalities surrounding such an
2 arrangement with a political candidate?

3 A Yes. That was the first time I ever came across a
4 political violation — a political contribution, what a
5 violation was.

6 Q And what, if any —

7 MR. BOVE: Judge, I object to the word "violation"
8 and move to strike.

9 THE COURT: Sustained.

10 Q What did you, in your mind, take away from that
11 experience that you had as a result of the Arnold Schwarzenegger
12 situation?

13 A Based on what happened 14 years ago, I wanted to be
14 comfortable that the agreement that we were going to prepare for
15 Karen McDougal met all — all the obligations with respect to a
16 campaign contribution.

17 Q Now, you told us that there was — withdrawn.
18 Did there come a time, and I don't want to get into what you
19 discussed with any attorney —

20 A Yep.

21 Q But, did there come a time that someone at AMI
22 consulted with an election law attorney?

23 A Yes.

24 Q And did there come a time that you finalized a deal
25 with Karen McDougal?

1 A Yes.

2 Q Did you tell Michael Cohen that you had finalized a

3 deal with Karen McDougal?

4 A Yes. I called Michael Cohen and I told him that we

5 finalized the agreement with Karen McDougal. That the contract

6 was bullet proof. And we consulted with a campaign attorney.

7 Q And, to your knowledge, what did the campaign attorney

8 review?

9 A The agreement.

10 Q And the contract?

11 A I'm sorry, the contract.

12 Q And was that all the campaign attorney reviewed, as far

13 as you know?

14 A As far as I know, yes.

15 Q And do you recall how much time was billed for that

16 review?

17 A The dollars were — I don't remember the exact dollars,

18 but they were small amounts of money.

19 Q Directing your attention to People's Exhibit 156, which

20 is in evidence.

21 I'm going to ask you if you recognize this document.

22 (Displayed.)

23 *****

24 A Yes.

25 Q What is it?

Lisa Kramsky,
Senior Court Reporter

1 A This is the Karen McDougal contract.

2 MR. STEINGLASS: This is in evidence so we can
3 display it to everyone.

4 Thank you.

5 (Displayed.)

6 *****

7 Q I'm sorry. Go ahead.

8 A I am sorry. I said that this is Karen McDougal's
9 agreement.

10 Q Can you — what was the effective date of the
11 Agreement?

12 A August 5th, 2016.

13 MR. STEINGLASS: And I'm going to ask that
14 paragraphs 1 and 2 be blown up.

15 (Displayed.)

16 *****

17 Q I'm not going to ask you to read this entire thing, but
18 can you just give us some of the highlights of what the deal
19 involved?

20 A Yes. It was a two-year agreement.

21 And McDougal was going to get a monthly column on aging and
22 fitness for Star Magazine; a monthly column on aging and fitness
23 in OK Magazine.

24 She was going to post on aging and fitness on Radar.

25 AMI was going to hire ghost writers.

Lisa Kramsky,
Senior Court Reporter

1 A ghost writer is someone who would write the article for
2 them and then Karen McDougal would approve it, and — which was
3 an important point.

4 And that any time Karen's photo was used in any digital site
5 or in the magazine, she had to have approval of her image.

6 Q Okay. So now I'm going to blow up Paragraph 3.

7 (Displayed.)

8 *****

9 Q I will just ask you to read it to yourself.

10 And I will highlight a little portion of it in the middle.

11 (Displayed.)

12 *****

13 A Yes.

14 Q You don't have to read the whole thing to the jury.

15 It's in evidence.

16 A Okay.

17 Q But I just want to ask you — I'm directing your
18 attention to the highlighted portion.

19 A I see it.

20 Q What did you understand this paragraph to mean, and
21 what did you understand specifically the highlighted portion to
22 be referring to?

23 A This paragraph and the highlights here are
24 specifically — is referencing that we were acquiring her rights
25 for her story on the relationship that she had with a — with

Lisa Kramsky,

Senior Court Reporter

1 any married man.

2 Q And who did you understand the any then-married man to
3 be referring to?

4 A That she was referring to Donald Trump.

5 Q So what does it mean to acquire someone's limited life
6 rights?

7 Can you explain that to the jury?

8 A Yes. It means that you buy the rights for this
9 specific story and it cannot be published by any other
10 publishing company.

11 You cannot discuss it with any other media.

12 And that it was exclusively owned by American Media.

13 Q So would you describe this paragraph as the true
14 purpose of this agreement?

15 A Yes.

16 Q So why include that other stuff about the articles that
17 she was going to have a ghost writer for and the covers that she
18 was going to appear in front of?

19 Why include that stuff?

20 A I wanted to substantiate the \$150,000 payment.

21 Q What do you mean "substantiate?"

22 A With respect to campaign laws, I wanted to have the
23 contract be a record that stipulates that for the services that
24 she was going to perform for American Media, American Media has
25 a basis for it, for the \$150,000.

Lisa Kramsky,

Senior Court Reporter

1 So when you — when we talked about in the previous
2 paragraph all of the articles she was going to run, the photos
3 that she was going to do for the magazines, the posts that she
4 was going to write, I was looking at an amount of money that I
5 would have to acquire or pay for freelancers or other writers or
6 reporters or digital people, and that was to validate, to come
7 up with the \$150,000.

8 Q So was it your primary purpose in entering into this
9 deal to buy the life rights?

10 A Yes, it was.

11 Q Were the other provisions about the columns placed
12 there to disguise the true nature of this contract?

13 A Yes, it was.

14 Q So I want to show you Paragraph 4.

15 (Displayed.)

16 *****

17 Q This one is short. Maybe you could just read it.

18 A Yes.

19 "In connection with all the rights granted herein to AMI by
20 McDougal, AMI shall pay McDougal the sum of \$150,000 payable
21 within two business days following the execution of this
22 agreement."

23 Q So this was the price?

24 A Yes.

25 Q Okay. I want to display Page 2, Paragraph 6.

Lisa Kramsky,
Senior Court Reporter

2 *****

3 Q Can you read this to the jury and tell us what it
4 means, please?

5 A "All decisions whatsoever, whether of a creative or
6 business nature, regarding any of the rights granted by McDougal
7 to AMI herein, or any rights derived or ancillary thereto, shall
8 be made by AMI in its sole discretion."

9 Q Can you explain to us what that means?

10 A That means that AMI would make the decision whether we
11 would publish anything — any story on Karen McDougal.

12 Q So by purchasing her life rights, you were not
13 obligated to actually print them?

14 A No.

15 Q Did you have any intention of printing them?

16 A No, we did not.

17 Q Paragraph 7.

18 (Displayed.)

19 *****

20 Q Can you read that paragraph to yourself and tell us
21 what it means.

22 A All right.

23 (Pause.)

24 *****

25 A This paragraph clearly states that American Media has

Lisa Kramsky,
Senior Court Reporter

1 sole rights for McDougal's story, and she is not allowed under
2 any circumstances to write her own book, post any, any — to
3 post anything on — on any digital site and not to give any
4 interviews.

5 So we wanted, as American Media, we wanted to control
6 anything to do with this — with respect to the \$150,000 that we
7 are paying for a story.

8 And if she breached it, she would have to pay the money
9 back.

10 (Whereupon, Official Senior Court Reporter Susan
11 Pearce-Bates relieved Official Senior Court Reporter Lisa
12 Kramsky.)

13 *****

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 Lisa Kramsky,
 Senior Court Reporter

1 (Continued from the previous page.)

2 Q So, this paragraph, basically, meant that Karen
3 McDougal was not allowed to take her story anywhere else?

4 A That is correct.

5 Q And if she did, she had to return the entire \$150,000?

6 A That's right.

7 Q Even though she was still doing the columns and
8 magazine covers?

9 A Yes.

10 Q Okay. I am going to turn to page three and just ask
11 you — can we blow up the very bottom?

12 Did Karen McDougal sign this agreement?

13 A Yes.

14 Q And who, if anyone, signed the agreement on behalf of
15 AMI?

16 A Dylan Howard.

17 Q Do you recognize his signature?

18 A The signature, and he also put down Chief Content
19 Officer.

20 Q And at the time, August 5th, August 6, 2016, Dylan
21 Howard was the Chief Content Officer of AMI?

22 A Yes. He had authorization to sign this agreement.

23 Q To your knowledge, who was aware of this agreement in
24 AMI?

25 MR. BOVE: Objection.

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 THE COURT: If you know.
2 A It would be, other than myself, it would be,
3 obviously, Dylan Howard and Cameron Stracher, General Counsel.
4 Q And who was aware of this agreement on the Trump side,
5 to your knowledge?
6 MR. BOVE: Objection.
7 THE COURT: Again, if you know.
8 MR. STEINGLASS: You can answer.
9 A Michael Cohen.
10 Q What about Mr. Trump himself?
11 MR. BOVE: Objection to leading.
12 THE COURT: Sustained.
13 Q Do you — well, if you know, do you know whether
14 anyone else besides Michael Cohen had knowledge of this
15 contract?
16 MR. BOVE: Objection. Asked and once answered.
17 THE COURT: Overruled. You can answer.
18 A Okay. Can you repeat that question again?
19 Q Probably not. Can you read it back, maybe, please?
20 (The testimony as requested was read by the
21 reporter.)
22 A Yes. I think Donald Trump did.
23 Q During your time as CEO of AMI, were you familiar with
24 AMI's accounting practices?
25 A Yes, I was.

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 Q Including the general ledger?

2 A Yes.

3 Q Very briefly, can you tell the jury what it is, a
4 general ledger?

5 A All of the financial disbursements, the receivables,
6 all of the monies that are transacted because the company is
7 recording the entries in the general ledger or revenues or
8 expenses.

9 Q As part of the accounting process, did AMI retain
10 copies of invoices sent to AMI for payment?

11 A Yes, they were.

12 Q I am showing you People's 158 in evidence, and I am
13 going to ask you if you recognize this.

14 It's in evidence. So, we can display it to everyone.

15 A Yes.

16 Q What is it?

17 A This is an invoice from Keith Davidson and Associates,
18 which is Karen McDougal's attorney, for the purchase of the
19 lifetime rights for \$150,000.

20 Q So, I am just going to ask to blow it up. Thank you.

21 And I will ask you, who is the payor or the subsidiary
22 on this invoice.

23 A It's AMI, American Media.

24 Q And that means you are the one being billed?

25 A Yes. The invoice is coming to American Media.

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 Q And who is the vendor, and what does vendor mean?

2 A Vendor is the accounts payable for services for the
3 contracts that we purchased, and Keith Davidson is Karen
4 McDougal's attorney.

5 Q So, in laymen's terms, this is a bill from Keith
6 Davidson to AMI?

7 A It's a bill from Keith Davidson to AMI for Karen's
8 lifetime rights, and we sent a wire transfer, \$150,000, to his
9 escrow account.

10 Q We will get to that in one minute.

11 What's the invoice date?

12 A 8/9/2016, which is two days, I guess, four days from
13 the date they signed, that we had the signed agreement.

14 Q With the effective date?

15 A Yes, the effective date.

16 Q What's the invoice amount?

17 A \$150,000.

18 Q Okay. I am going to move down this exhibit a little
19 bit and just ask you, what is the account?

20 A The account is where we — where it would be coded in
21 the general ledger. This would be coded to the general
22 administration, and it says, outside services. And the outside
23 services, we take it one more, this is the President's
24 Department.

25 Q So, is it fair to say that this line that we have

2 information, et cetera? That's AMI's internal recordkeeping of
3 how they are kind of recording this expense in their own books?

4 A That's correct.

5 Q Why was this amount coded to the President's
6 Department?

7 A From a budgetary standpoint, the editor's budget is
8 very limited. As I previously mentioned the other day, they —
9 I should say today, you — they can spend no more than \$10,000
10 on their own.

11 This is a very, very large purchase. And from the
12 budgetary standpoint, I budget in the President's account an
13 overall number budget that during the year if there are great
14 photos to buy, something unusual, unique, the President's
15 budget has the expense for it.

16 Q And, incidentally, is that the same way you accounted
17 for payment to Dino Sajudin?

18 A Yes, it was.

19 Q So getting back to this, did Karen McDougal — did
20 AMI, in fact, pay the \$150,000 for Karen McDougal's lifetime
21 rights?

22 A Yes, we did.

23 Q I believe you said you accomplished that by a wire
24 transfer?

25 A Yes.

1 Q Okay. I am going to show you People's Exhibit 159 in
2 evidence.
3 Briefly, for the jury, what is this?
4 A This is the general ledger detail for the — for this
5 transaction.
6 Q And when you say, the general ledger detail, you are
7 talking about AMI's general ledger detail?
8 A Yes. American Media's general ledger detail of this
9 transaction.
10 Q I will just ask to blow it up a little bit. It's
11 still very small.
12 Does it contain a department that this is being billed
13 to?
14 A Yes. It says, President's Department.
15 Q And does it also contain the vendor's name?
16 A Yes, it does.
17 Q And so, you record Keith Davidson into the general
18 ledger books at AMI?
19 A Yes.
20 Q It includes the amount of the payment?
21 A Yes.
22 Q And the date of the payment?
23 A That's correct.
24 Q And what was the date of the payment?
25 A The date of the payment is —

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 Q Would you need to look at another document to
2 determine that?

3 A Oh, I am sorry. Date of payment was — I was just
4 checking. It was August 9th.

5 Q Do you know if that's the date of the invoice or the
6 date of the payment or are you not sure?

7 A That — I — that I am not sure.

8 Q Okay. Let's just take a look at Exhibit 160, also in
9 evidence.

10 I am going to ask you first, do you recognize this?

11 A Yes. This is a payment voucher.

12 Q Briefly, for the jury, what is a payment voucher?

13 A A payment voucher is when all of the — the documents
14 for a payment are approved. The invoice, the contracts are
15 prepared. The contract was approved. The invoice from Keith
16 Davidson was approved for over \$150,000.

17 The next step would be to create a payment voucher so
18 you can actually wire a check.

19 Q Okay. Who is the payee listed here?

20 A Keith Davidson and Associates.

21 Q And, again, what is the amount billed?

22 A \$150,000.

23 Q Date of the bill?

24 A 8/9, August 9th.

25 Q The date of the payment?

1 A The date of the payment would have been August 10.

2 Q That's 2016?

3 A 2016.

4 Q Turning your attention to page two of the same
5 document, do you know what this is?

6 A Yes.

7 Q What is it?

8 A Yes. It's to actually disburse a check. You create a
9 payment voucher, payment request and the payment request here
10 is \$450,000 to Keith Davidson and Associates, and it was
11 approved by Chris Polimeni who is the Chief Financial Officer
12 of American Media.

13 Q Just to clarify for the record, did you say that it
14 was \$450,000 or for \$150,000?

15 A It was 150, it was for \$150,000.

16 Q You have to —

17 A It's \$150,000.

18 Q Thank you. Now, I am not going to walk you through
19 every entry on this page.

20 Does it contain the statement account code and the
21 same department code as the general ledger?

22 A Yes, it does.

23 Q And, finally, does this appear to be a sticker at the
24 top that says, high priority?

25 A Yes.

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 Q Do you know who placed that sticker up there?

2 A I — normally, it would be Liz Routolo. It's Chris
3 Polimeni's assistant and also the accounts payable clerk.

4 Q Okay. You can take that down. Thank you.

5 Did you ever have any intention of printing Karen
6 McDougal's story about her affair with Mr. Trump?

7 A No, we never did. No, we did not.

8 Q Was your principle purpose in entering into the
9 agreement with Karen McDougal to suppress her story as to
10 prevent it from influencing the election?

11 A Yes, it was.

12 Q As of 2016, were you aware that corporations,
13 including AMI, are subject to Federal campaign finance laws?

14 A Yes, I was.

15 Q Were you aware that expenditures by corporations made
16 for the purpose of influencing an election made in coordination
17 with or at the request of a candidate are unlawful?

18 MR. BOVE: Objection.

19 THE COURT: Grounds.

20 MR. BOVE: May I be heard?

21 THE COURT: Sure.

22 (Discussion is held at side-bar, on the
23 record.)

24 MR. BOVE: My objection is, right now there is a
25 ruling in place and that limits the extent to which we can

1 put on expert testimony to explain these concepts.
2 So I think these questions, if they are
3 permitted, are opening the door to a lot more explanation.
4 I think we are on the precipice of that right now.
5 MR. STEINGLASS: Judge, first of all, the law is
6 the law. That's the basis of our motions in limine.
7 I don't think that we are opening the door to any
8 kind of expert testimony on the law. But, anyway, the more
9 important thing here is that this witness' understanding of
10 whether his own conduct violated the law is highly
11 relevant.
12 I don't think it opens the door.
13 THE COURT: I agree. He's not asked to provide
14 the law. He is asked if he has awareness of the law.
15 MS. NECHELES: I think he was asked, were you
16 aware that there was a law that did the following, and we
17 disagree that the law did the following.
18 Did you think what you were doing was illegal?
19 THE COURT: I am going to allow it.
20 MS. HOFFINGER: We dispute that that's the law,
21 your Honor.
22 (Discussion at side-bar concluded, and the
23 following occurred in open court.)
24 THE COURT: Objection is overruled.
25 Q Do you remember the question?

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 A I would have to ask you to repeat it again.

2 Q Were you aware that expenditures by corporations made
3 for the purpose of influencing an election, made in
4 coordination with or at the request of a candidate or a
5 campaign, are unlawful?

6 A Yes.

7 Q Did either you or AMI ever report to the Federal
8 Election Commission in 2016 that AMI had made a \$150,000
9 payment to Karen McDougal?

10 A No, we did not.

11 Q Why did AMI make this purchase of Karen McDougal's
12 story?

13 A We purchased the story so it wouldn't be published by
14 any other organization.

15 Q And why did you not want it to be published by any
16 other organization?

17 A I didn't want — we didn't want the story to embarrass
18 Mr. Trump or embarrass or hurt the campaign.

19 Q When you say, we, who is we?

20 A Myself and Michael Cohen.

21 Q But for Mr. Cohen's promise to reimburse AMI —
22 withdrawn.

23 But for Mr. Cohen's promise that Mr. Trump would
24 reimburse AMI, would you have entered into this agreement?

25 A No.

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 Q Now, did you have any discussions with any one in the
2 Trump camp about Donald Trump reimbursing AMI for the money
3 paid to Karen McDougal?

4 A I had conversations with Michael Cohen.

5 Q Did those conversations continue after AMI, actually,
6 laid out the money?

7 A Yes.

8 Q How? Tell us about some of those conversations?

9 A When we signed the — after we signed the contract,
10 and after I paid — after the American Media made the
11 disbursement which we just saw on August 10th, I asked Michael
12 Cohen on a number of occasions how the company would be
13 reimbursed.

14 My — the issue that the company has is that September
15 30th is the end of a quarter and I wanted — we always reflect
16 the proper true-ups of all of the various different accounts.
17 And I wanted to make sure that the funds were back and the
18 accounts were properly stated in the quarterly financial
19 statements.

20 Q Can you elaborate a little bit on that?

21 What do you mean, true-up?

22 A The records. True-up the records.

23 Normally, most companies just only speak about our
24 own. And when a payment or a disbursement is made, it is
25 usually put into an expense account. And then, after the

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

1 payment was made and it is put in the President's account.
2 And then at the end of a quarter here, I was — I was
3 — we were planning that the \$150,000 would be recovered, and
4 the actual expense would be reported as editorial expenses or
5 other services depending on this, but here the money was
6 recovered.

7 The expense would not be recorded at all in the books,
8 other than the articles and the other services that Karen was
9 going to be providing that had billed dollars behind them.

10 Q So, I don't want to —

11 A Well, if I could clarify a little bit more?

12 Q Sure.

13 A So, what I am saying is, that is where I kept on
14 discussing this with Michael Cohen. I wanted to explain to him
15 why it was so important to get — to be reimbursed.

16 And we had a number of conversations at the end of
17 August, September.

18 And he, basically, said at the end of each
19 conversation, why are you worried? I am your friend. The boss
20 will take care of it.

21 Q Was there ever any discussion — withdrawn.

22 You said you had a lot of conversations with Michael
23 Cohen in August and September. Was there any conversation
24 about candidate Trump actually acquiring Ms. McDougal's
25 lifetime rights from AMI?

Susan Pearce-Bates, RPR, CCR, RSA

Principal Court Reporter

2 wants to acquire the lifetime rights of the Karen McDougal
3 story, and I should assign the contract over to him.
4 When I say, over, to Michael Cohen, and I would be
5 reimbursed — the company would be reimbursed. And he also
6 added on that Mr. Trump wanted all of the content that the
7 National Enquirer had or developed and retained on Mr. Trump.
8 I told Michael that, you know, these are old files and
9 boxes that are in Florida. The company has been moved to New
10 York City — and there is nothing in those boxes but old news
11 articles, magazine articles, old files.
12 He insisted that he wanted those boxes, and he wanted
13 the content. And Michael Cohen called me constantly in the
14 month of September to — to review and to send those boxes to
15 his office.
16 Q Did Michael Cohen say why Mr. Trump wanted those boxes
17 and why he wanted the rights to Karen McDougal's story?
18 A Yes. He said that The Boss said that if I got hit by
19 a bus, and/or if the company was sold, he did not want for
20 someone else to potentially publish those stories.
21 Q And, now, in terms of selling the rights to Ms.
22 McDougal's story to Mr. Trump, did you have one or several
23 conversations with Michael Cohen about that?
24 A We had several conversations.
25 Q Did there come a time when you communicated to Michael

1 Cohen a willingness to sell Mr. Trump the rights to Karen
2 McDougal's story, the lifetime rights?

3 A Yes.

4 Q Tell us about that?

5 A I told Michael Cohen that I would sign — I would sign
6 the rights over to — I would sign the rights. And he asked
7 me, it's \$150,000?

8 I said, look, I said, you know, Karen is going to be
9 writing for the various magazines and visual sites. She is
10 going to appear on a couple of covers of the magazines. I
11 value that at \$25,000. So, I will retain, \$25,000 as editorial
12 expenses, and I will bill you for the lifetime rights for
13 \$125,000.

14 Q So, did you value the portion of the contract, the
15 \$150,000 you had paid to — that AMI had paid to Karen
16 McDougal, did you value the lifetime rights at \$125,000?

17 A Yes, I did.

18 Q And was that the price that you were willing to sell
19 the lifetime rights to Michael Cohen on behalf of Donald Trump
20 for?

21 A Yes.

22 Q Did you discuss the timing of the assignment of
23 rights?

24 A Michael Cohen wanted the contract done, yesterday, and
25 this is going towards the end of September. So, I facilitated

2 to him.

3 I told him, I told Michael Cohen that we would have it
4 done by the end of September, first week of October of 2016.

5 Q Did you see this as a way to recoup the money, or at
6 least some of the money, that you had laid out on behalf of
7 Mr. Trump to buy the story?

8 A Yes. I, as I said, it was coming towards the end of
9 the quarter. So I wanted to see if I could get the fund
10 re-funded before September 30th.

11 Q Was there an invoice prepared for this reimbursement?

12 A Yes.

13 MR. STEINGLASS: May we approach?

14 THE COURT: Sure.

15 (Discussion is held at side-bar, on the
16 record.)

17 MR. STEINGLASS: So, this is the one that I can
18 probably go another half hour without getting into this.
19 So, this is the one document that was referenced
20 earlier that may come up in the next half hour. If I get
21 through this document, I can get through the initial half
22 without taking a break if you want.

23 Last night, counsel told us that they did not
24 want this line here, agreed upon a flat fee for advisory
25 services to be offered for the truth.

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1 This morning they said they don't want it to come
2 in at all. We don't even think it's true. It is a bogus
3 invoice. But, now, it sounds like this morning they want
4 it redacted, which we think is ridiculous.
5 MR. BOVE: I guess he thinks I am a worse guy
6 than I am.
7 When I said we didn't think it should come in for
8 the truth, it is that we think it shouldn't come in at all.
9 My point is asking for the redactions is that this is, if
10 it is not coming in for the truth, an assertion like that
11 which is prejudicial, shouldn't be in front of the jury. A
12 simple way to mitigate the prejudices is to redact it.
13 That's all I meant.
14 THE COURT: The \$125,000 for —
15 MR. STEINGLASS: He just testified the \$125,000
16 was the payment that was being billed to Michael Cohen to
17 reimburse Mr. Pecker for the money that was laid out for
18 Karen McDougal.
19 THE COURT: It wasn't for this?
20 MR. STEINGLASS: It absolutely was not for this.
21 This is a false business record. It's not only meant to
22 discuss the true nature of the reimbursement —
23 MR. BOVE: If I could. I don't think Mr. Pecker
24 is going to say he prepared this. Maybe he will.
25 I think he is going to say Dan Rotstein, a

2 it. It is not his statement.

3 THE COURT: He didn't have to prepare it.

4 Does he know this document? Has he seen the

5 document?

6 MR. STEINGLASS: Yes. Daniel Rotstein worked

7 part-time for AMI and I think the witness laid the business

8 record foundation.

9 THE COURT: I am going to allow it.

10 Are you asking for a limiting instruction

11 regarding the document?

12 MR. BOVE: Judge, we would ask just to make sure

13 that a foundation is laid that Mr. Pecker saw this

14 contemporaneously.

15 THE COURT: Sure .

16 MR. BOVE: Thank you.

17 (Discussion at side-bar concluded, and the

18 following occurred in open court.)

19 BY MR. STEINGLASS:

20 Q So you told us, I believe, Mr. Pecker, that there was

21 an invoice prepared for this reimbursement, is that right?

22 A Yes, that's correct.

23 Q I would like to show what is in evidence and is being

24 displayed as People's Exhibit 161.

25 Do you recognize this document?

1 A Yes, I do.

2 Q What is it?

3 A That is an invoice from Investment Advisory Services.
4 This is not an American Media company. This company is owned
5 by a man by the name of Daniel Rotstein.
6 Daniel Rotstein was the head of human resources and
7 the head of administration for American Media for probably
8 close to 20 years. And he — he resided with the company and
9 he took a position — and he took a position as an executive of
10 the — in the — he lives in Florida. I think it's in
11 Plantation, and he was working there four-days a week.
12 Daniel Rotstein was a very valuable employee to me and
13 I wanted to keep the relationship. So, I asked him if he would
14 still continue to work for American Media as a consultant.
15 He did performing these services and administration
16 services. And what — what another aspect I asked him to do
17 is, when I had large payments to be made on behalf of American
18 Media or something to be received, I requested that Daniel to
19 handle it through his company.
20 And the reason was, is that if I had anything — if
21 there was a large disbursement within the American Media
22 finance department, they, the finance people, would tell the
23 tabloid editors.
24 For example, if we read that a private plane would fly
25 a celebrity to one place, if we hired certain photographers,

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1 paparazzi photographers, I didn't want that type of
2 communication to go through the company. So, to have them
3 outside was much more beneficial.
4 Part is that we had some pretty difficult experiences
5 within the company whereby, the payroll register for American
6 Media, the company based in Florida, was hidden upon each post,
7 and the top executives' salary and compensation was listed
8 right on the front page of the paper.
9 So, I had a number of incidents over the years.
10 So I asked Daniel, Daniel Rotstein, to handle this for
11 me.
12 So, I called him, and said, look, I don't want to have
13 a check from the Trump Organization going through American
14 Media. I don't know exactly how it's going to be reimbursed.
15 So, I would like for you to speak to Michael Cohen
16 directly and work out with him, whereby, you bill him the
17 invoice for \$125,000 and reimburse American Media.
18 So, I called Michael Cohen to tell him about — that
19 Daniel Rotstein would be handling this reimbursement.
20 And I asked Daniel Rotstein to call Michael Cohen
21 directly. I made the introduction. Michael told me that he
22 created a company called, Resolution Consultants, that would —
23 that we should bill and Daniel Rotstein prepared the agreement,
24 the assignment and the invoice.
25 THE COURT: I am going to instruct the jury, Mr.

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2 MR . STE INGLASS : Sure .

3 THE COURT: Jurors, so, this document has been
4 accepted into evidence. I direct you to not consider this
5 document for the truth of its contents. It is being
6 accepted into evidence for the fact that this invoice was
7 created, not for the truth of what it says.

8 MR. STEINGLASS: Thank you, Judge.

9 BY MR. STEINGLASS:

10 Q Let me ask you this, is it fair to say that you asked
11 Daniel Rotstein to be the middle man to disguise the fact that
12 money would be flowing from Michael Cohen to AMI?

13 MR. BOVE: Objection.

14 MR. STEINGLASS: Sustained.

15 Q I am not trying to be offensive.

16 Can you just give us a shorter answer, a short answer
17 about why you used Daniel Rotstein in the first place to create
18 this invoice?

19 A I used Daniel Rotstein to create the invoice because I
20 did not want to have a payment received in the AMI finance
21 department from the Trump Organization or Michael Cohen.

22 Q Why not?

23 A Because I believed that that payment would raise a lot
24 of questions and issues and be communicated to the rest of the
25 editors which is something I didn't want to happen.

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1 Q Okay. So I am going to blow up the top of this
2 invoice, and I am going to ask you a few questions about it.
3 First, of all what is the date of this invoice?
4 A 9/21/16.
5 Q Who is being billed?
6 A Resolution Consultants LLC.
7 Q And I think you alluded to this a few minutes ago, but
8 what was your understanding of the purpose of using Resolution
9 Consultants to reimburse AMI for the Karen McDougal payment?
10 A When I spoke to Michael Cohen, he said he was creating
11 a company to receive the lifetime rights and that would
12 reimburse — it would reimburse and pay the \$125,000.
13 Q So you were using Investor Advisory Services and
14 Michael Cohen was using Resolution Consultants?
15 A That's correct.
16 Q What is the description of services provided in this
17 invoice?
18 A It says, agreed upon flat fee for advisory services.
19 Q Was this invoice actually for advisory services?
20 A No, it wasn't.
21 Q What was it really for?
22 A This was for the lifetime writes of the Karen McDougal
23 story.
24 Q Why did the invoice from Investor Advisory Services
25 say, agreed upon flat fee for advisory services?

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1 A That was — that comment was pulled from Michael

2 Cohen. That's what he wanted the invoice to say.

3 Q Did you discuss with Michael Cohen the matter of where
4 the money to reimburse you, where this \$125,000 was going to be
5 coming from?

6 A I assumed it was coming — I shouldn't say that.

7 I assumed he was being reimbursed. He was always
8 being reimbursed.

9 Q By whom?

10 A By the Trump Organization or Donald Trump.

11 Q Okay. I am showing you People's 162 in evidence.
12 Do you recognize this?

13 A Yes.

14 Q What is it?

15 A This is the — this is an assignment from American
16 Media to the — this is an assignment from American Media to
17 Resolution Consultants assigning the rights to the Karen
18 McDougal story.

19 Q Are you familiar with the terms, assignor and
20 assignee?

21 A Yes.

22 Q Can you explain to the jury what those terms mean, and
23 who was the assignor and the assignee?

24 A Well, the assignor, American Media, owns the rights to
25 the Karen McDougal story. And has the right to decide to

2 the person who is receiving them.

3 So, all of the rights that American Media had, are
4 being passed on to Resolution Consultants.

5 Q Who signed on the behalf of the assignor, AMI?

6 A That's my signature.

7 Q And you were the CEO?

8 A And I am CEO.

9 Q And who signed on behalf of the assignee?

10 Do you recognize that signature?

11 A That is Michael Cohen.

12 Q And what was the date of the assignment of rights?

13 A The 30th day — September 30th.

14 Q And is that the last day of AMI's fiscal quarter?

15 A Yes.

16 Q Did you agree upon a price that Resolution Consultants
17 would pay for the rights?

18 A Yes, \$125,000.

19 Q Now, even though this agreement was signed, was it
20 ever actually executed.

21 A No, it wasn't.

22 Q Now, again, I am going to ask you to be very careful
23 here. Without revealing any privileged conversations with your
24 legal counsels or general counsel, did you come to the
25 decision — did you have a conversation with your general

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1 counsel?

2 A I did.

3 Q And based on that conversation, did you come to the
4 decision that you no longer wanted to be reimbursed for the
5 money that AMI had laid out to acquire Ms. McDougal's lifetime
6 rights?

7 A Yes, that's correct.

8 Q Did you communicate that decision to Michael Cohen?

9 A Yes.

10 Q Do you know about when it was that you communicated
11 that decision?

12 A It was the first week of October.

13 Q Of 2016?

14 A It was the first week of October of 2016.

15 Q Tell us about that conversation.

16 A Yes. I called Michael Cohen, and I said to him that
17 the agreement, the assignment deal is off. I am not going
18 forward. It is a bad idea, and I want you to rip up the
19 agreement.

20 He was very, very, angry. Very upset. Screaming,
21 basically, at me.

22 And I said, I am not going forward with this
23 agreement. Rip it up.

24 And he said, excuse me, Michael Cohen said, The Boss
25 is going to be very angry at you.

1 I said, I am sorry. I am not going forward. The deal
2 is off.

3 And he said, I can't believe it. I am a lawyer. I am
4 your friend. I don't understand why you are so concerned.

5 I said, I am very concerned, and I am not going
6 forward, period.

7 And I said, are you going to rip it up or not?

8 And he said, I will take care of it.

9 Q To be clear, Mr. Pecker, did AMI ever get reimbursed
10 for the money —

11 A No.

12 Q — let me finish the question.

13 Did AMI ever get reimbursed for the money it spent to
14 acquire the exclusive rights to Ms. McDougal's story about her
15 affair with Mr. Trump?

16 A No. No, we never did.

17 MR. STEINGLASS: I am not sure how we are doing,
18 but is this a good time for our morning break?

19 THE COURT: Okay, Jurors. Let's take our morning
20 recess. We will take about 20 minutes or so.

21 (Recess is taken.)

22 COURT OFFICER: All rise.

23 (whereupon, the jury exited the courtroom.)

24 THE COURT: Please be seated.

25 (Witness is excused.)

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1 THE COURT: So, there are a couple of things we
2 would like to go over. Let's just take a short break.
3 Let's come back in five or ten minutes, and then we can get
4 started.
5 MR. STEINGLASS: Okay, thank you.
6 (Short recess is taken.)
7 THE CLERK: Continuing case on trial, People
8 versus Donald J. Trump. All parties are present.
9 THE COURT: All right, counsel. Let's go over
10 what the disputed issues are.
11 MR. STEINGLASS: Judge, would it be convenient
12 for you if I handed you a binder that has all the exhibits?
13 THE COURT: Yes.
14 MR. STEINGLASS: Mr. Bove, you are good? You
15 have one?
16 MR. BOVE: Yes, I have one.
17 THE COURT: Thank you.
18 MR. STEINGLASS: Also, Judge, before we get
19 started, I know you suggested in an email that no further
20 letters were necessary. We were about to hit send on our
21 response letter to counsel's letter.
22 I don't want the state of the record being that
23 there is a written submission from the defense and not from
24 us.
25 I wonder if you would let me pass this up?

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1 I don't care if it is publicly filed or not.
2 THE COURT: You can hand it up.
3 MR. STEINGLASS: While I am doing that, I will
4 hand you a copy of the law cited therein that I am going to
5 refer to during this argument.
6 THE COURT: Thank you.
7 MR. BOVE: Thank you, Judge.
8 The first disputed exhibit is the second one
9 referenced in your email from yesterday, and you also
10 referenced this morning, People's 169.
11 And this is a December 9, 2016, email from
12 Cameron Stracher, the General Counsel of AMI, purportedly
13 to Mr. Sajudin.
14 And the defense's position on this one is that
15 while there is a business records foundation for the
16 header, these are factual assertions in the body of the
17 email where — I don't think — there is no foundation for
18 an argument that the general counsel of AMI is a
19 co-conspirator, and it can't come in on that basis, and it
20 should be excluded.
21 MR. STEINGLASS: First of all, I agree with the
22 last point. I am not seeking to admit this as a
23 co-conspirator's statement. We don't think that Mr.
24 Stracher is a co-conspirator.
25 Just give me one second, please.

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1 This is, in our view, a core business record,
2 insofar, as it is, essentially, the general counsel of AMI
3 releasing a source from an NDA.
4 Acquiring sources, signing NDAs, releasing
5 sources from NDAs, these are core business practices of
6 AMI. And so, we don't think that this is embedded in
7 hearsay.
8 We think that this is a business record in its
9 own right much like the Court said yesterday with Exhibit
10 164 which Your Honor described as, this is exactly what a
11 business record is.
12 So that's our View as to this.
13 THE COURT: Can you establish that this was not a
14 one up?
15 This was a regular practice that these types of
16 documents memorializing this type of transactions were
17 routinely generated?
18 MR. STEINGLASS: I can ask him that.
19 THE COURT: If you can ask him that, then I will
20 be satisfied that it is a business record and it will come
21 in as a businessrecord.
22 MR. STEINGLASS: I understand that.
23 And can I give you an alternate argument so we
24 don't have to do it again if he doesn't say that, which is
25 that this is not really being offered for its truth in any

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1 event. There is no statement in here that we are trying to
2 prove the truth of. It is admissible to show the fact that
3 AMI released Sajudin from the NDA and the date they
4 released him.

5 There is nothing coming in for its truth in a
6 traditional sense anyway.

7 MR. BOVE: The factual assertion that AMI is
8 releasing Sajudin pursuant to this email, is the one that
9 we are challenging on the hearsay grounds.

10 I appreciate the point that your Honor just made
11 Judge, which is that it is possible that the witness, Mr.
12 Pecker, or another could lay a business records foundation
13 for the embedded hearsay issue.

14 Also, the testimony on Tuesday was directed to
15 the header information on these emails and that's why I
16 think the record is clear. We are not disputing that first
17 level of business records foundation, but to the extent
18 that additionally embedded hearsay is going to be offered
19 pursuant to that business records exemption on the second
20 level, Mr. Pecker would have to address, or the custodian,
21 would address the content of the communication that is
22 involved.

23 THE COURT: Turning to the second argument, I
24 don't necessarily agree that this is not being offered for
25 the truth of the matter asserted. It's always such a

2 of caution and find that I am rejecting that argument.
3 Turning back to the first argument from Mr. Bove,
4 Mr. Pecker was not the person that drafted this. He is not
5 one of the parties to it. He really can't testify as to
6 what it says.

7 I am going to agree with Mr. Bove that this
8 can't come in through Mr. Pecker. You might be able to get
9 it in through someone else, not Mr. Pecker.

10 MR. STEINGLASS: Does that mean I should not ask
11 the question that you suggested I ask earlier?

12 THE COURT: Yes .

13 MR. BOVE: The next issue, Judge, is with
14 People's 163.

15 THE COURT: Okay.

16 MR. BOVE: And so, this is an email dated
17 November 14, 2015. The top of the thread is a message from
18 Mr. Dylan Howard, a non-testifying, hearsay declarant at
19 this trial. We have a couple of issues with this message.
20 We touched on these with the letter we submitted.
21 The bottom message here recounting a series of
22 factual assertions related to Mr. Sajudin should not come
23 in for its truth. It is unduly prejudicial and to be sort
24 of put in front of a jury with a limiting instruction, when
25 there is a very reasonable alternative to making a

1 potential prejudice is to just simply redact this piece.
2 And I think that's particularly appropriate given
3 your Honor's in limine ruling limiting the extent to which
4 facts concerning the Sajudin and McDougal incidents or
5 whatever we call them from coming in.
6 So that's the argument, Judge, for the bottom
7 email.
8 From our perspective, there are the same issues
9 as you continue up the thread. And I think here, just
10 as — I don't — just as it's conceded by everybody that
11 Mr. Stracher was not a member of any conspiracy, I don't
12 think there is a foundation now or any argument that Barry
13 Levine of AMI was a member of a conspiracy.
14 So that is an additional impediment to these
15 coming in on any basis.
16 MR. STEINGLASS: So, several things.
17 First of all, we are not, we made this clear both
18 in the letter response and in correspondence to counsel, we
19 are not seeking to admit the bottom portion of the email
20 for its truth. We don't think it is true and we elicited
21 testimony to that point, very clear testimony, from Mr.
22 Pecker that he did not believe Mr. Sajudin story to be
23 true.
24 However, it is necessary context to understand
25 the rest of the email string which is very much about both

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2 So, let me explain why as to both. This is much
3 more akin to Exhibit 164 then it is to Exhibit 169 insofar
4 as it was AMI's business to purchase stories and according
5 to Pecker they used emails to conduct that business and
6 Howard did so as part of his regular course of his job
7 responsibilities. And is, therefore, under a business duty
8 to do so truthfully.

9 This is really just a class in business records.

10 Separately, we believe it's admissible as a
11 co-conspirator statement and has res gestae of the state's
12 election law conspiracy. And let me say first in that
13 regard, and I am going to come back to this with certain
14 other exhibits or portions of exhibits, we have more than
15 established the prima facie case of conspiracy to promote
16 or prevent election law violations by unlawful means.

17 And that is all we have to do to admit evidence
18 under the co-conspirator hearsay exception to establish a
19 prima facie case, and we have done far more than that.

20 Further, we have elicited sufficient testimony to
21 conclude prima facie that Dylan Howard is a member of the
22 conspiracy, and insofar as — should I stop?

23 THE COURT: Yes. I agree with you.

24 I think that established that Dylan Howard would
25 be part, or was part of this conspiracy. Therefore, he

1 would be a co-conspirator and that statement is attributed
2 to him.

3 Going down to the bottom portion, what Mr. Bove
4 is asking is if you can redact it.
5 How difficult would it be to redact some portions
6 of it?

7 MR. STEINGLASS: It is not a question of
8 difficulty of redacting it. It is a question of the fact
9 that the rest of the email chain doesn't make any sense and
10 it is not clear that they are talking about the Dino
11 Sajudin story.

12 So, I think that — I think that — it really is
13 admissible to contextualize the remainder of the email
14 chain and the prejudice argument is not an argument to make
15 when nobody is claiming that there is any truth to these
16 allegations, and I believe the witness testified that it
17 was 1,000 percent untrue.

18 THE COURT: I agree. What would you like me to
19 do, a limiting instruction on this?
20 It's been testified about.

21 MR. BOVE: It has, Judge. There are details in
22 here about the underlying — not just what came from Mr.
23 Sajudin, but the following investigation, the woman who was
24 allegedly involved in this, her name, there is a lot of
25 information in here.

1 And I just — we came into this trial under the
2 understanding from Your Honor's limited ruling that the
3 details regarding Sajudin and McDougal would be limited,
4 and this to goes — is the opposite of that. And I will
5 just leave it at that.

6 THE COURT: I think there are a lot of details
7 that can be redacted. But honestly, I don't see,
8 necessarily, what the prejudice is to defense.
9 But, why don't you go ahead and redact the
10 several details. The point can still be established. As
11 far as the 9:35 a.m. portion of it, I already ruled on
12 that, and also the 2:15 p.m. portion as well.

13 MR. STEINGLASS: Thank you.

14 We will send the proposed redactions to counsel.

15 THE COURT: Thank you.

16 MR. BOVE: Thank you, Judge.

17 The negotiation dispute, Exhibit 172A, this is a
18 thread of text messages between Mr. Howard and —

19 MR. STEINGLASS: Who?

20 I am sorry. I apologize. I didn't mean to —

21 THE COURT: Go ahead.

22 MR. BOVE: So, these messages, Judge, they can't
23 possibly be in furtherance of a conspiracy between
24 Mr. Howard and the relative, particularly in light of their
25 relationship that we are talking about. And they are not

1 business records.
2 I actually, this is more an issue I think for
3 cross at this point, but Mr. Pecker testified that AMI
4 collected business communications from business phones.
5 These are personal communications perhaps on an AMI phone.
6 So there is — I don't think there is a plausible
7 argument that the text of the communications are business
8 records. So they should not come in.
9 THE COURT: Mr. Steinglass, these are texts
10 between Dylan Howard and another person.
11 Does that other person work at AMI or have
12 anything to do with AMI?
13 MR. STEINGLASS: So, no, Judge. I think I can
14 provide some color here without mentioning exactly who it
15 is. It is a first degree relative of Mr. Howard.
16 And to be clear, we are not trying to admit these
17 as business records. They have already been authenticated
18 so far as they came from an AMI device. And they do,
19 undoubtedly, contain a bit of hearsay. I agree with Mr.
20 Bove on that.
21 I think that it is useful to — I think that they
22 are independently admissible. And I think it's useful to
23 break the texts into two groups. One are the texts from
24 June and July of 2016, and the other are the texts from
25 November, 2016, really from election night.

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1 So, let me start with the texts from June and
2 July.

3 THE COURT: If I can just interrupt you for a
4 second. Is it your argument that because these were
5 obtained from an AMI device, that's what makes it a
6 business record?

7 MR. STEINGLASS: I am saying that they are not
8 business records. I am saying that they are
9 authentic because they came from an AMI device and the
10 foundation for authenticity was laid, but I am not seeking
11 to admit them as business records.

12 THE COURT: Neither one of these parties are
13 going to be testifying here, right?

14 MR. STEINGLASS: That's true. But I — I Still
15 think I have an argument.

16 THE COURT: If you can just approach and let me
17 know what the relationship is that we are talking about.

18 (whereupon, the proceedings continued
19 without a side-bar discussion taking place.)

20 (whereupon, Principal Court Reporter, Susan
21 Pearce-Bates, was relieved by Senior Court
22 Reporter, Theresa Magniccari.)

23
24
25

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1 MR. STEINGLASS: Okay.
2 So let me start.
3 You have the exhibit, Judge?
4 THE COURT: I do.
5 MR. STEINGLASS: On Page 2, there is a text on
6 June 18, 2016 — by the way, there may be some texts in
7 here that we can redact, but these specific ones we believe
8 are admissible.
9 Candidate — this is a text from Mr. Howard to his
10 relative.
11 "Candidate denies he had an affair. Nevertheless,
12 I'm going to California on Sunday and Monday to interrogate
13 the claim to understand the veracity of her claims. I
14 suspect it's true."
15 Response: "Why would you go to California if
16 you're not going to print it?
17 Answer from Mr. Howard: "No, she's American. I'm
18 going for other reasons."
19 Response: "For the Awards?"
20 Answer from Mr. Howard: "No, for the campaign."
21 Answer from the relative: "Oh, sorry, I see
22 now."
23 Response from Mr. Howard: "Mind you, in the event
24 that he's elected, it doesn't hurt, the favors I have done,
25 provided it's kept secret. And I'm assured this mission is

1 known only to me and D.P.," which is David Pecker.
 2 And the response: "Information is powerful."
 3 Then flipping to Page 4, this is also on the same
 4 day in June. Mr. Howard tells his relative: "Nothing is
 5 on email," et cetera. "Burner phones."
 6 And another text: "I thought about it.
 7 Information is powerful, and I'm collecting a lot."
 8 So this first group of texts, we believe, are
 9 admissible as to Howard's state of mind, including
 10 declarations of future intent. He is a co-conspirator. As
 11 we've already discussed, his state of mind is relative.
 12 Declarations of future intent are exceptions to the hearsay
 13 rule, and we provided some law, both in our memo and in the
 14 cases that I've handed up.
 15 Primarily, People versus James. That's 93
 16 N.Y. 2nd 620, at Page 628 to 631, which is Court of Appeals
 17 from 1999, which discusses Hillman, which is a U. S.
 18 Supreme Court case at 145 U.S. 285.
 19 So those texts we believe are admissible on
 20 those grounds, a state of mind and declaration of future
 21 intent.
 22 I think that the text — there is another category
 23 of texts, and we're happy to redact the intervening texts
 24 that don't fall into one of these categories.
 25 The next — I skipped one from July 26, 2026, on

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1 Page 6 of the exhibit. There is a text, "I need to meet
2 with Keith tomorrow for Michael Cohen, and we'll return
3 thereafter."
4 That falls into that first category.
5 Okay. So, I am sorry.
6 Moving to the second category, which are the
7 election night texts. There is a text from Dylan Howard
8 to his relative that says, "He's in with a massive
9 chance."
10 And then on the next page, Page 7, another text to
11 his relative: "At least, if he wins, I'll be pardoned for
12 electoral fraud."
13 There is a response from his relative that says:
14 "Trump victory imminent."
15 And on the next page, Page 8, there is a
16 response from Mr. Howard: "I get pardoned, so it's fine,
17 nowhere."
18 Another text from Mr. Howard to his relative:
19 "He's just been named President Elect."
20 Response: "Oh, dear."
21 Another response—
22 THE COURT: I think I can stop you at this point.
23 Anything else you want to say?
24 MR. BOVE: Respectfully, this is the first time,
25 and I am not faulting anybody — this is a developing

2 making.
3 This is the first time that the Government has
4 invoked these exceptions with us.
5 I think these are, in truth, these are very, very
6 substantive factual assertions that are being offered for
7 their truth and are inadmissible hearsay.
8 To the extent that your Honor is entertaining
9 these arguments, we would like an opportunity to consult.
10 THE COURT: All right. So I think I kept the jury
11 waiting long enough for now. I will rule on this at
12 another time.
13 MR. STEINGLASS: I will cite the law. I only read
14 the texts, not the law.
15 Also, the James case, which I handed up, and the
16 Settles case.
17 Another case is People versus Settles, which is a
18 seminal case.
19 We believe the later statements are declarations
20 against penal interest. For that proposition, we cite
21 James, and Settles is a Court of Appeals case. The site is
22 46 NY 2d 154, at 167.
23 THE COURT: So during the lunch recess, I will go
24 back and read those decisions and see if it changes my
25 mind.

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1 But for the time being, I am excluding these
2 texts.
3 The fact that they're there, you're not offering
4 them for business records — the fact that they came off an
5 AMI device to me is of no consequence. The fact that
6 Dylan Howard is one of the individuals texting and we
7 established that he is one of the co-conspirators within
8 this context is also of no consequence to me.
9 Ultimately, what we have here is a private
10 conversation between the co-conspirator and a family member
11 that has nothing to do with the business that is being
12 offered for its truth. And I don't see how the defense
13 gets to cross examine anyone on this.
14 There is a real confrontation clause issue with
15 this. I think that it would be error at this point to
16 allow it.
17 I will go back and read the decisions, see what I
18 am missing, but I think there is a confrontation clause
19 issue.
20 Anything else?
21 MR. BOVE: There's one more exhibit, we don't
22 necessarily need to take it up now.
23 THE COURT: We will get to it in the morning.
24 MR. BOVE: Okay.
25 THE COURT: So let's bring the witness back.

1 By the way, are we going to be done with Mr.
2 Pecker today with direct and cross?
3 MR. STEINGLASS: Give me one second, please.
4 I think I probably have a good two to three hours
5 left.
6 THE COURT: I am not going to rush you. You can
7 have as much time as you want.
8 MR. BOVE: I appreciate it, Judge. There is a lot
9 more to come. Obviously, we're not going to finish today.
10 (Witness entering courtroom.)
11 ***
12 THE COURT: Mr. Pecker, you remain under oath.
13 Let's get the jury, please.
14 THE WITNESS: Thank you Judge.
15 ***
16 (Jury entering courtroom.)
17 ***
18 COURT OFFICER: All rise.
19 THE COURT: Thank you.
20 Please be seated.
21 THE CLERK: Continuing case on trial. People
22 versus Donald J. Trump. All parties are present.
23 THE COURT: Jurors, thank you for your patience.
24 Mr. Steinglass.
25 MR. STEINGLASS: Thank you.

2 BY MR. STEINGLASS: (Cont'd)

3 Q. Hello again, Mr. Pecker.

4 A. Hi .

5 Q. Before we move on, I want to ask you one more
6 question.

7 MR. STEINGLASS: I am going to ask to put up just
8 for the witness and the attorneys and the Judge Exhibit
9 169.

10 (Displayed.)

11 Q. You testified, I believe it was yesterday, that at some
12 point after the election you released Dino Sajudin from the
13 non-disclosure agreement that AMI had previously entered into
14 with him?

15 A. That's right.

16 Q. Do you remember what the date was that you released
17 Dino Sajudin?

18 A. It was December 2016.

19 Q. Do you remember the actual date?

20 A. It was the first week.

21 Q. Take a look at the exhibit in front of you see if it
22 refreshes your recollection as to the date that Mr. Sajudin was
23 released.

24 A. December 9th is the date of the email.

25 Q. 2016?

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1 A. December 9, 2016.

2 Q. Thank you.

3 I want to now direct your attention to October of
4 2016. Did you come to learn about a video and audio recording
5 of then candidate Donald Trump that was released by Access
6 Hollywood?

7 A. Yes.

8 Q. Can you tell the jury what was the gist of that
9 recording?

10 A. The gist of that recording was a conversation between
11 Donald Trump and Billy Bush, who was an anchor for Access
12 Hollywood, going on a bus to a set, and the comments from Mr.
13 Trump was, "You can grab a woman by the genitals," and it was
14 under sexual comments that were made.

15 Q. Was that tape released publically?

16 A. Yes.

17 Q. Do you recall what happened when that tape was released
18 publically?

19 A. Yes, I do; it was very embarrassing, very damaging to
20 the campaign.

21 Q. Do you remember the date on which that tape was
22 released?

23 A. I remember it was the first week of October of 2016.

24 Q. Okay.

25 So you don't remember the actual date. It's okay if

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1 you don't.

2 A. I remember the 6th or 7th.

3 Q. Of October?

4 A. Of October.

5 Q. Okay.

6 Did you recognize the voice doing most of the speaking
7 on the Access Hollywood tape?

8 A. Yes.

9 Q. Whose voice did you recognize it to be?

10 A. Donald Trump.

11 Q. Shortly after the Access Hollywood tape was released,
12 did you speak with Michael Cohen about Mr. Trump?

13 A. Yes, I did.

14 Q. And can you tell the jury what was discussed during
15 that conversation?

16 A. On that conversation Michael Cohen told me that the
17 tape, the feedback on the Access Hollywood tape, it was very,
18 very damaging to the campaign, and everyone was very concerned.
19 The campaign was very concerned about what impact it would have.

20 Q. Did Michael Cohen ask you to do anything to help do
21 damage control?

22 A. Specifically, I don't remember.

23 Q. Are you familiar with an online publication called
24 "Radar Online?"

25 A. Yes, that's our publication.

1 Q. And did you have any conversation with Michael Cohen
2 about a Radar Online article?

3 A. Yes. The Radar Online is a digital website. It was
4 launched in late 2000, and American Media acquired it during
5 that period of time.

6 And unbeknownst to me, Michael Cohen said that on that
7 digital site there is a posting of Donald Trump being a Playboy
8 Man and I should immediately take it down. That Mr. Trump was
9 very upset.

10 I said to Michael, I was unaware of this posting.

11 Q. I'm going to show you what's in evidence as People's
12 167. I will show everyone actually.

13 And I am going to ask you, if you recognize this email?

14 A. Yes, I do.

15 Q. What is it?

16 A. This is the email that after I spoke to Michael Cohen,
17 I called up Dylan Howard and I asked him about this Playboy Man
18 article on Donald Trump, and he discovered that this was posted
19 prior to our position. I was also unaware of it. He would take
20 it down immediately.

21 So I said to him, do that, notify Michael, remove the
22 article and notify Michael Cohen.

23 The email that he sent here is explaining it to Michael
24 about the story.

25 (Displayed.)

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1 Q. Okay.

2 So this middle portion of the email that we have blown
3 up, who sent this email?

4 A. Dylan Howard.

5 Q. And who was it sent to?

6 A. To Michael Cohen.

7 Q. And is anyone cc'd?

8 A. I was cc'd on it.

9 Q. Can you read the body of the email, please.

10 A. It says: "The only story that was posted in October
11 of 2008, before AIM owned it, the old Radar magazine. The tape
12 was not part of the story that existed online. I suggested it
13 was lost during many of the site changes during the years.
14 Nevertheless, I've deleted the story completely. It no longer
15 exists."

16 Q. What did you understand Dylan Howard to mean when
17 he said, "I've deleted the story completely, it no longer
18 exists?"

19 A. He was following my instructions to remove the posting
20 from the Radar digital site.

21 Q. And let me just show you the bottom portion of this
22 email for a moment.

23 Is this, where it says, "Donald Trump Playboy Man," is
24 that the posting that was — that you understood Dylan Howard to
25 be in the process of removing?

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1 A. Yes.

2 Q. What is the date on that Playboy Man article?

3 Sorry, go back to the bottom portion for a moment.

4 A. Yes.

5 Q. What is the date of the original article that was being
6 removed?

7 A. October 27, 2008.

8 Q. Thank you.

9 MR. STEINGLASS: And now I would like to blow up
10 the top portion of this email.

11 (Displayed.)

12 Q. Was this email also sent to anyone else?

13 A. Yes.

14 Q. I should say, this email chain?

15 A. Yes.

16 Q. To whom was it sent?

17 A. It was sent to Hope Hicks.

18 Q. When was that?

19 A. October 8, 2016, at 8 p.m.

20 Q. Thank you.

21 By the way, Mr. Pecker, in all the years you have known
22 Mr. Trump, have you ever known him to use email himself?

23 A. No.

24 Q. Have you ever communicated with him by email?

25 A. Never.

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1 Q. How did you communicate with him?
2 A. By phone. Mostly by office phone.
3 Q. Who did you go through when you communicated by office
4 phone?
5 A. I would go through his administrative assistant Rhona
6 Graff.
7 Q. Okay.
8 Mr. Pecker, do you know of someone named Stephanie
9 Clifford?
10 A. Yes.
11 Q. Do you know her by any other name?
12 A. Stormy Daniels.
13 Q. Who is Stormy Daniels?
14 A. Stormy Daniels is or was a porn star.
15 Q. Have you ever met her in person?
16 A. No. No, I never did.
17 Q. Let me ask you in a different way.
18 A. Sure.
19 Q. Did you communicate directly with Ms. Daniels ever?
20 A. I never did.
21 Q. How did you come to learn of her in connection with
22 this case?
23 A. I was having dinner with my wife and I received an
24 urgent call from Dylan Howard. So I walked out. So I walked
25 out of the restaurant and took the call, and Dylan said that he

1 received a call from his two best sources, Keith Davidson, who
2 we know is the attorney for Karen McDougal, and this other
3 source, Gina Rodriguez, who is an agent for those type of
4 celebrities.

5 He said that she, being Stormy Daniels, is trying to
6 sell a story that she had a sexual relationship with Donald
7 Trump, and Dylan can acquire the story for \$120,000 from Keith
8 Davidson if we make the decision right now.

9 Q. Do you remember what night it was? You said were you
10 having dinner?

11 A. Yes.

12 Q. Do you remember what night it was?

13 A. I thought it was a Saturday night. I know it was the
14 first week of October.

15 Q. You think it was a Saturday night before or after the
16 Access Hollywood tape came out?

17 A. This would have been after the Access Hollywood came
18 out.

19 Q. If I pull up calendar on my phone from October of
20 2016, would that refresh your recollection as to what date it
21 was?

22 A. Yes.

23 Q. Does that refresh your recollection as to the date of
24 the Saturday night that you had your dinner interrupted by Dylan
25 Howard?

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1 A. That would have been Saturday, October 8th.

2 Q. Thank you.

3 I will take it back.

4 MR. BOVE: I object. Technically that answer is
5 nonresponsive. The question is; does that refresh your
6 recollection?

7 THE COURT: I will allow it.

8 Q. Now, after your initial conversation with Dylan
9 Howard, did you have a series of texts back and forth with him?

10 A. Yes, I did.

11 (Displayed.)

12 Q. I am showing you what is in evidence as People's
13 174A, and as we're pulling it up, we can show it to everyone,
14 please.

15 I am going to ask if this is a record of texts between
16 you and Dylan Howard from October and November of 2016?

17 A. That's correct.

18 MR. STEINGLASS: And I am going to ask that we
19 blow up the last column or the lines marked 47.260 through
20 265.

21 (Displayed.)

22 Q. Are you able to read that, Mr. Pecker?

23 A. Yes, I can.

24 Q. My first question is: What is the date and timestamp
25 on the first text?

1 A. It's 2016, October 9. The time is UTC time. So it
2 would be — I remember it was about 10 o'clock at night. I am
3 not sure how you calculate that.

4 Q. Let's see if we can work together.

5 0025, is that 12:25 a.m. in UTC time?

6 A. Yes.

7 Q. Now, I think you testified earlier that during
8 daylight savings UTC time is four hours ahead of New York time?

9 A. Yes.

10 Q. If it's 12:25 a.m. UTC, does that correspond to 8:25
11 New York time?

12 A. Yes.

13 Q. Where was it that you were having dinner with your
14 wife? I don't want the restaurant, just the city.

15 A. In Greenwich, Connecticut.

16 Q. Also New York time?

17 A. Yes.

18 Q. Who is this text from?

19 A. Dylan Howard.

20 Q. And who is the text to?

21 A. It was to me. "Woman wants \$120,000, has offers from
22 The Mail and GMA. Want her to talk and do lie detector live.
23 I know the denials were made in the past, but this story is
24 true. I can lock it on publication now to shut down the media
25 chatter and we can access next steps thereafter. Okay?"

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1 Q. What did understand that text to mean in general?
2 A. That American Media should buy the story for \$120,000.
3 Q. Who did you understand the woman to be referring to?
4 A. Based on the conversation I had over the phone with
5 Dylan Howard, I knew it was Stormy Daniels.
6 Q. And how did you respond to him in the next text?
7 A. I guess I should clarify, I said — I said, we can't
8 pay \$120,000.
9 Q. Is that second entry a response from you to Dylan
10 Howard? I should have clarified that first.
11 A. Yes, when I spoke to him over the phone — I would like
12 to add more to this.
13 Q. Please.
14 A. When he called me, he mentioned about the story other
15 than not paying \$120,000. I said, I don't want the National
16 Enquirer to be associated with a porn star. I said that our
17 largest distributor, our largest retailer, Walmart, this would
18 be very bad for the magazine, very damaging for American Media.
19 I don't want any affiliation with it at all. To call Michael
20 Cohen.
21 Q. Well — withdrawn.
22 So you told Dylan Howard that we can't pay \$120,000; is
23 that right?
24 A. That's correct.
25 Q. Why did you say that?

1 A. I said, we already paid \$30,000 to the doorman, we paid
2 \$150,000 to Karen McDougal, and I am not a bank. I am not
3 paying out any further disbursements among us.

4 Q. How, if, at all, did Dylan Howard respond?

5 A. He said: "Okay, they need to handle it. Perhaps I
6 should call Michael and advise him and he could take it from
7 there and handle it."

8 Q. Who did you understand "they" to be referring to?

9 A. Michael Cohen and Donald Trump.

10 Q. And how did you respond to that?

11 A. I responded, I said, "Yes, a good idea."

12 Q. Why did you think it was a good idea to kick this over
13 to Michael Cohen?

14 A. I thought the story, the way Dylan described it, could
15 be very damaging. I thought it should come off the market. If
16 anyone was going to buy it, I thought Michael Cohen and Donald
17 Trump should buy it.

18 Q. To be clear here, Mr. Pecker, Mr. Howard came to you,
19 Dylan Howard came to you after having been contacted by his
20 sources, Keith Davidson and Gina Rodriguez?

21 A. That's right.

22 MR. BOVE: Objection.

23 THE COURT: Sustained.

24 Q. How did you first learn of Stormy Daniels in this
25 context?

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1 A. From Dylan Howard.

2 Q. And what did he tell you about where this information
3 was coming from?

4 A. He said to me that it came from his two top sources,
5 Keith Davidson and Gina Rodriguez.

6 Q. And that they had reached out to him, to Dylan Howard?

7 MR. BOVE: Objection.

8 Q. Did they reach out?

9 Was it your understanding from speaking to Dylan Howard
10 that they had reached out to Dylan Howard?

11 A. Yes.

12 Q. Okay.

13 What was the next text in the exchange?

14 First of all, who sent it to whom?

15 A. Dylan sent — Dylan Howard sent the text to me and he
16 said the following: "I spoke to M.C." I spoke to Michael
17 Cohen. "All sorted. Now removed. No fingerprints. Will recap
18 with you face-to-face."

19 Q. So did you understand M.C. to be Michael Cohen, I think
20 you told us?

21 A. Yes, that's correct.

22 Q. What did you understand Dylan Howard to be
23 communicating to you when he said "all sorted, no
24 fingerprints?"

25 A. That American Media would have no association with

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1 the story. There would be no conversations, no paperwork. He
2 would not be involved in enabling the story to be purchased
3 other than handing it to Michael Cohen.

4 And the no fingerprints, there was no paper trail.

5 Q. And how did you respond to that?

6 A. I said to him, "Great work."

7 Q. I am sorry to ask you this, what does "thx" mean?

8 A. I am — thanks.

9 Q. Around this time, in October of 2016, did you also have
10 any conversations with Michael Cohen about Stormy Daniels?

11 A. Yes, also a number of conversations.

12 Q. Can you tell the jury about some of those
13 conversations?

14 A. Michael Cohen asked me to pay for the story, to
15 purchase it.

16 I said, I am not purchasing this story. I am not going
17 to be involved with a porn star, and I am not — which I
18 immediately said, a bank. After paying out the doorman and
19 paying out Karen McDougal, we're not paying any more monies.

20 Q. How did Michael Cohen take that?

21 A. He was upset. He said that The Boss would be furious
22 at me and that I should go forward in purchasing it.

23 I said, I am not going forward and purchasing it. I am
24 not doing it. Period.

25 Q. Do you know whether Michael Cohen was also speaking

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1 with Dylan Howard around this time?

2 A. I found out after that he was speaking to Dylan Howard,
3 which I was not pleased about.

4 Q. Why?

5 A. Because it was my understanding, what I instructed
6 Dylan Howard to do, is to stay out of it, out of the story, out
7 of the selling process.

8 Q. How did you come to learn that Dylan Howard did not, in
9 fact, follow those orders?

10 A. Dylan came to my office towards the end of October and
11 said that there was an agreement between Keith Davidson and
12 Michael Cohen. It was for \$120,000.

13 And Michael Cohen was supposed to wire the funds to
14 Keith Davidson twice and he never did.

15 Dylan was upset. He was very agitated and said that
16 Michael Cohen is going to make him look very bad with his two
17 top sources. And he said, you understand, when you renege with
18 a source, what the impact would be.

19 So he asked me if I would get Michael Cohen on the
20 phone.

21 I set up a Signal call to Michael Cohen. So it was
22 Michael Cohen, myself and Dylan Howard.

23 Dylan Howard was very aggressive with Michael Cohen on
24 the phone for not paying. Michael Cohen said that I should
25 pay. He said, "David, you should pay."

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1 I said, "I am not paying for this story. I didn't want
2 to be involved in this in the beginning."
3 I said, "I am not doing it."
4 I said, "Michael, my suggestion to you, you should buy
5 the story, you should take it off the market, because if you
6 don't, and it gets out, I believe The Boss will be very angry
7 with you."
8 Q. Do you remember when that phone call took place?
9 A. I think it was like October 20, towards the end of
10 October.
11 Q. Can we show the witness privately 302A, Page 23.
12 (Displayed.)
13 A. In front of me.
14 Q. Is this a record of an interview between yourself and
15 the FBI?
16 A. Yes, it is.
17 Q. Does it refresh your recollection as to the date that
18 your three-way call with Michael Cohen and Dylan Howard took
19 place?
20 A. No, I don't think it does.
21 Q. Does it —
22 A. There is no date.
23 Q. 302B, Page 5.
24 You said you used the Signal app to make this call?
25 A. That's correct.

1 Q. Why did you use the Signal app?

2 A. Michael Cohen requested that every time we have a
3 conversation, that I should use the Signal app.
4 And the way he explained it to me, the call is deleted
5 after a period of time, and it's encrypted, there are no
6 messages.

7 Q. So I am showing you another document.

8 Do you recognize this document to be another record of
9 an interview with you with the FBI?

10 A. Yes.

11 Q. Do you know, roughly, what month and year that
12 interview was conducted?

13 A. When the interview was conducted?

14 Q. When the interview was conducted.

15 A. August 2018.

16 Q. Does that refresh your recollection as to when the
17 three-way conversation took place between yourself, Michael
18 Cohen and Dylan Howard?

19 A. Yes, it's around the 30th of October, 2016.

20 Q. Okay. And I will ask you to keep reading.

21 Take a look at the second paragraph in particular and
22 see whether it does or does not — does that refresh your
23 recollection with a little bit more precision on that date?

24 A. Yes, I remember. I said October 20, I remember it was
25 the end of October. Yes, that's correct, October 25.

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1 Q. Does that refresh your recollection that the call took
2 place on October 25?

3 A. Yes.

4 Q. I want to fast forward.
5 Did there come a time, around the same time, when you
6 got a call from Keith Schiller regarding a belief that Karen
7 McDougal was going on ABC News?

8 A. Yes.

9 Q. Remind us who Keith Schiller is?

10 A. Keith Schiller is Donald Trump's bodyguard.

11 Q. And what did Keith Schiller tell you?

12 MR. BOVE: Objection.

13 THE COURT: Overruled.

14 Q. Go ahead.

15 A. Keith said that The Boss heard that Karen was speaking
16 to ABC News.

17 Q. How, if, in any way, did you respond?

18 A. And I said, let me get back to you. I have not heard
19 that at all. Let me get back and check it out.

20 And I called up Dylan Howard, and I asked Dylan.

21 And Dylan called up Keith Davidson and Keith Davidson
22 told Dylan that is not true.

23 And I called back Keith and told him that it is not
24 true.

25 Q. What is not true?

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1 A. Dylan called me to tell me that he verified that Karen
2 McDougal is not speaking to ABC.

3 I called back Keith Schiller and I asked him to relay
4 that to The Boss, what he heard is not true.

5 Q. And what, if anything, did Keith Schiller say in
6 response?

7 A. He responded back and said The Boss was very pleased.

8 Q. All right.

9 So directing your attention to November —

10 MR. BOVE: Objection.

11 Move to strike the last answer.

12 THE COURT: Sustained.

13 What is the last question?

14 Q. Directing your attention to November 4, 2016, did you
15 become aware that the Wall Street Journal published an article
16 that day revealing aspects of the Karen McDougal's story?

17 A. Yes.

18 Q. How did you become aware of that?

19 A. Our communications director from American Media
20 received a number of calls from the Wall Street Journal and had
21 a series of questions about Karen McDougal's agreement; that
22 American Media purchased her story on her relationship with
23 Donald Trump, and also they questioned my relationship with
24 Donald Trump.

25 (Displayed.)

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1 Q. I am going to show just the witness and the parties,
2 please, Court Exhibit 180.
3 I will ask you to take a look at this exhibit. Do you
4 recognize it?
5 A. Yes, I do.
6 Q. What is it?
7 A. This is the Wall Street Journal article that was
8 published on November 4.
9 Q. The one you just mentioned that referred to the Karen
10 McDougal story?
11 A. Referring to the Karen McDougal story.
12 MR. STEINGLASS: I offer it into evidence.
13 MR. BOVE: No objection, subject to the limiting
14 instruction.
15 THE COURT: Again, jurors, it's not being admitted
16 for the truth of the matters asserted, simply that it was
17 proof that it was published on that date.
18 (whereupon, exhibit was received in evidence.)
19 MR. STEINGLASS: If I could publish it to everyone
20 now.
21 (Displayed.)
22 Q. I am going to ask you, Mr. Pecker, did the article
23 reveal the fact that AMI had paid McDougal the rights to the
24 story about the affair with Donald Trump?
25 A. Yes.

1 Q. And did this article appear before or after the
2 election?

3 A. This article appeared before the election.

4 Q. Do you know what day Election Day was in 2016?

5 A. November — November 8.

6 Q. Did there come a time after this article came out that
7 you spoke to then candidate Trump?

8 A. Yes.

9 Q. When was that?

10 A. November 5th.

11 Q. November 5th of 2016?

12 A. It was the following day, November 5th, 2016.

13 Q. And that's three days before Election Day?

14 A. Yes.

15 Q. How did this call happen?

16 A. I received first a text from Michael Cohen saying that
17 The Boss wants to speak to me. Then Donald Trump called me. It
18 was a Saturday. I was at home. Donald Trump was very upset,
19 saying; how could this happen, I thought you had this under
20 control. Either you or one of your people have leaked the
21 story.

22 So, I said, Donald, there is no way on earth I would
23 leak the story.

24 And we, "we" being American Media, had the agreement
25 only between a couple of people, so there is no way we would

Theresa Magniccari

Senior Court Reporter

1 have given this information or the information to the Wall

2 Street Journal.

3 I said, the only other individual that had the

4 agreement was Karen McDougal. So Karen McDougal or her people

5 or someone from her staff or herself gave it to the Wall Street

6 Journal. Not us.

7 I don't believe that Donald Trump believed it over the

8 phone. He was very agitated. He couldn't understand how this

9 could happen. Our call ended very abruptly.

10 Q. What do you mean when you say "the call ended

11 abruptly?"

12 A. He didn't say good-bye, which was very unusual.

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17 (Theresa Magniccari relieved as

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1 (The following proceedings are continued from the
2 previous page:)

3 Q Now, around the time of this Wall Street Journal
4 article on November 4th, did a Wall Street Journal reporter
5 contact AMI for comment?

6 A Yes, they did.

7 Q And did AMI put out a statement claiming that, quote:
8 AMI had not paid people to kill damaging stories about
9 Mr. Trump?

10 A Yes. That was the statement that we issued.

11 Q Was that the truth?

12 A No, it was not.

13 Q Did AMI also claim that the payment to McDougal was
14 not for her story, but, rather, for her columns and her
15 exclusive life rights?

16 A That's correct.

17 Q Was that true?

18 A No, it was not.

19 Q Who authorized those statements?

20 A I did.

21 Q Why did you authorize AMI to put out false statements
22 about the true nature of the deal with Karen McDougal?

23 A I wanted to protect my company; I wanted to protect
24 myself; and I wanted, also, to protect Donald Trump.

25 Q I'm going to show you People's Exhibit 174 again.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 MR. STEINGLASS: This can go to everybody.

2 (Whereupon, an exhibit is shown on the screens.)

3 Q Does this exhibit contain texts between you and Dylan
4 Howard?

5 A Yes, it does.

6 MR. STEINGLASS: I'm, specifically, going to ask
7 that you zoom in — yes.

8 For the record, texts 289 through 294.

9 Q What dates were these texts sent?

10 A They were sent November 5, 2016.

11 Q And who — I'm sorry. You already told us who the
12 texts were with.

13 So, that first text, who was it from, and who was it to?

14 A From Dylan Howard to me. To me.

15 Q And what is the body of the text?

16 A The body of the text is: "No change. She's still
17 underground per Keith."

18 Q What is your recollection of why you were having this
19 exchange, if you have one?

20 A The Wall Street Journal article was published on
21 November 4th. It received an enormous amount of press. And I
22 was very concerned that — if Karen was still going to comply
23 with the agreement that we had, and I didn't know if she went
24 off the reservation.

25 So, I asked Dylan to call Keith Davidson. And he came back

2 living in Arizona at that time. So, he was saying she wasn't

3 taking any calls.

4 Q And how did — withdrawn.

5 The next text, who is the next text from?

6 A From Dylan Howard to me.

7 Q Okay.

8 What is the body of the next text?

9 A He's saying — he's explaining to me the conversation

10 that he had with Keith Davidson, saying that he: "Just spoke;"

11 that "She's cool. Moving forward with the deal."

12 Q What "deal" do you understand that to mean?

13 A That was my original question I asked Dylan to

14 determine, whether she's still going to comply with the

15 agreement.

16 Q The Confidentiality Agreement?

17 A The Confidentiality Agreement.

18 Q How did you respond to Dylan Howard when he told you

19 that?

20 A "Excellent news."

21 Q Did you then send another text a little bit later?

22 A Yes.

23 Q What is the text that you sent?

24 A I asked him did they have any updates?

25 Q What were you asking to be updated about?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A I wanted to be updated about Karen McDougal, since
2 there was multiple press reports other than The Wall Street
3 Journal.

4 Q Just to be clear about that text, when you're asking
5 for "any updates", was that — what was the date and time of
6 that?

7 A That was November 6th.

8 Q What was the time?

9 A That would have been — this would have been in
10 Eastern time, New York time, so that would be 9:35.

11 Q Do you happen to know when Daylight Savings Time ended
12 in 2016?

13 A That would be — sometime in the winter.

14 Q Okay.

15 A Yeah.

16 Q So, is it fair to say that the UTC time is either four
17 or five hours —

18 A Yeah. It's four or five hours —

19 Q That's correct?

20 A — ahead of the time of New York.

21 Q That's correct.

22 When you asked for "any updates", how did Dylan Howard
23 respond?

24 A He responded back: "Status quo. Moving forward. No DV
25 mentions. One day of discomfort and back to the campaign

1 issues.

2 Q What did you understand that to mean?

3 A That there was no mention on cable news or broadcasts
4 about the Karen McDougal story. And he was saying, "one day of
5 discomfort," that would be one day of a lot of bad press. And,
6 um — and, um, that the press was just reporting campaign
7 issues, not anything related to Karen McDougal.

8 Q And how did you respond?

9 A "Thank you. Thanks."

10 Q After the Wall Street Journal article, did AMI also
11 amend its agreement with Karen McDougal?

12 A Yes.

13 Q In what way?

14 A We received a call from a different attorney
15 representing Karen McDougal. And the attorney stated that Karen
16 was getting a number of calls from the press to do various
17 interviews, and she has been bombarded and would like to speak
18 to the press.

19 So — and the lawyer who was representing her said he
20 wanted the Confidentiality Agreement amended so she has the
21 right to speak to the press, without suffering any penalties.

22 Q Did you, in fact, amend the agreement at some point?

23 A Yes, I did.

24 Q Prior to doing that, did you speak about the idea of
25 releasing or amending, I guess, the agreement that you had with

1 Ms. McDougal? Did you speak about that with Michael Cohen?

2 A Yes, I did.

3 Q And how did he — what did he say about that?

4 A He said it was a very bad idea. That — that The Boss
5 would be very angry. That, why did you pay her the \$150,000?
6 And he highly recommended that I didn't amend the
7 agreement or allow her to speak to the press.

8 Q Did you take that advice?

9 A No, I didn't.

10 Q I'm now showing you what's in evidence already as
11 People's Exhibit 157.

12 MR. STEINGLASS: We can show this to everyone.

13 (Whereupon, an exhibit is shown on the screens.)

14 Q Do you recognize this document?

15 A Yes, I do.

16 Q What is it?

17 A This is the amendment to the licensing agreement of
18 Karen McDougal to allow her to speak to the press.

19 Q Why did you want to allow Ms. McDougal to speak to the
20 press at this point?

21 A I felt that the — The Wall Street Journal article
22 already set the stage and the tone of what the story is. And I
23 wanted to try and keep some form of control on — around the
24 story, so — so it's not gonna go any further than where it
25 already was out in the public marketplace. That was one.

1 Two, I wanted to have a — a — a representative of the
2 press — representative, I should say — a PR representative
3 for Karen who reported to American Media, so we would have some
4 type of contact. And I felt that Karen having somebody to speak
5 to the press in her behalf, with all the calls she was getting,
6 would make her feel more comfortable.

7 Q And the press — so, did you get a press consultant —

8 A Yes.

9 Q — for Karen McDougal?

10 A Yes.

11 Q And that was a press consultant who reported to you?

12 A Yes.

13 Q I want to turn to Page 2 of this amendment.

14 (whereupon, an exhibit is shown on the screens.)

15 Q Is this the signature page?

16 A Yes, it is.

17 Q Who signed on behalf of Karen McDougal?

18 A On the American Media side?

19 Q On Karen McDougal's side?

20 A Karen McDougal signed it on November 29, 2016.

21 Q And who signed it on behalf of American Media?

22 A (No response).

23 Q Do you recognize that signature?

24 A Signature? I — I don't know if that signature — it
25 could be two people. It's either Dylan Howard or Cam Stracher.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 I believe it's Dylan Howard.

2 Q All right.

3 And what was the date that it was signed on behalf of
4 American Media?

5 A December 7, 2016.

6 Q So, is it fair to say that by the time of this
7 amendment, Mr. Trump had already been elected President?

8 A That's correct.

9 Q Now, around the same time, and I'm talking
10 November/December of 2016, did you meet with Michael Cohen
11 in Trump Tower?

12 A Yes, I did.

13 Q Can you tell the jury a little bit about that meeting?

14 A I had a meeting with Michael Cohen at his office at
15 Trump Tower. He was still asking me about the boxes of the
16 National Enquirer information that was in — that I had brought
17 up from our offices in Florida to New York.

18 And I told him that I had a — an executive go through all
19 the boxes, and the only information that's there are old
20 articles on Donald Trump, news — newspaper clippings; there
21 was nothing damaging that he should be concerned about; and I
22 am not going to allow Michael Cohen to go through those boxes.
23 And — and — and we were arguing back and forth on that.
24 And I told him, "I'm not doing it." I said, "You" — um — and
25 then Michael said to me — this was around November/December,

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1 the exact time — Michael said to me that he wasn't reimbursed
2 for the monies that's owed to him on the Stormy Daniels'
3 payment was number one.

4 Number two, he said that the bonuses for the Trump
5 Organization are normally paid out around Christmastime, and he
6 hasn't received his bonus. He hasn't received his bonus. And he
7 asked me if I would talk to The Boss on his behalf, to tell him
8 everything that he did, to try to help him get his bonus.

9 Q You did use a couple of pronouns at the end of that
10 sentence.

11 A Sorry.

12 Q You said "try to help him get his bonus".

13 Try to help who get whose bonus?

14 A He asked me to speak to Donald Trump to help Michael
15 Cohen get his bonus.

16 Q I'm sorry to be so formal.

17 You understand why.

18 A That's okay.

19 Q I think you said one of the things Michael tells you
20 is he hadn't yet been repaid in connection to the payments to
21 Stormy Daniels?

22 A That's right.

23 Q What did you understand that to mean?

24 A That Michael Cohen paid Stormy Daniels out of his own
25 funds, which was the first time I heard of that.

1 This, I never — I wasn't involved in the transaction, so I
2 didn't know how it was paid.

3 Q And, what did you understand him to be complaining
4 about?

5 A I understood — I understood he was complaining that
6 he has not been repaid.

7 Q And — withdrawn.

8 I believe you told us earlier that you had been under the
9 impression that this was going to be paid for by either Donald
10 Trump or The Trump Organization; is that right?

11 A That's correct.

12 Q So, what happens — withdrawn.

13 Did there come a time when Donald Trump, himself, entered
14 the room?

15 A Yes.

16 While I was having a conversation with Michael Cohen,
17 Donald Trump came into the room; and he — and Michael Cohen
18 said to Donald Trump that, "I'm talking to David about the —
19 the — all the old Enquirer files. I went through them."

20 "I" being Michael Cohen.

21 "I went through the files. We have nothing to be concerned
22 about."

23 And then I asked Mr. Trump, "Can I walk back to your office
24 with you? I want to talk to you about a few things."

25 And he said, "Fine. Come with me."

1 Q What happened then?

2 A When I go back to Mr. Trump's office, I said to him
3 that: "Michael Cohen is very concerned about his bonus for this
4 year. And I want you to know that he's very loyal. I want you
5 to know he's been working very hard, from my perspective, and I
6 believe he would throw himself under a bus for you. And he's
7 saying that his bonus is really very important to him on the
8 monies that he's going to receive."

9 So, Mr. Trump told me that — one, he says, "I don't know
10 what you're talking about." He said, "Michael Cohen has
11 multiple apartments in my buildings. I think he's got about 12
12 apartments in my buildings. He owns 50 taxi medallions, which
13 are worth a million-dollars apiece." He said, "Don't worry
14 about it. I'll take care of it."

15 Q Mr. Trump said, Don't worry about it. I'll take care
16 of it"?

17 A Yes. That's correct.

18 Q So, directing your attention to January 6th of 2017,
19 did you attend another meeting that day at Trump Tower?

20 A Yes, I did.

21 Q How did you come to be there?

22 A I received a call from Rhona Graff, saying to me that,
23 "The President-Elect would like to see you for a meeting" —

24 Q And what did you say?

25 A — "at Trump Tower."

1 And I said yes.

2 And she gave me the date and time.

3 Q Did you go?

4 A Yes. I went to Trump Tower.

5 Q What happened when you got there?

6 A When I arrived at the building, I never saw any type
7 of security like that in my — in my lifetime. And I couldn't
8 get close to the building.

9 So, as I was walking outside, Jared Kushner, who is Donald
10 Trump's son-in-law, and at that time he was going to be an
11 adviser at the — to the Administration, tapped me on the
12 shoulder; and he said, "I'll get you upstairs."

13 And we walked — we went through the resident area of Trump
14 Tower. We took the elevator to the resident — to the 24th
15 floor, if I recall correctly, and then we walked over to
16 Mr. Trump's office.

17 Q Just to be clear, this is — at this time, Mr. Trump
18 was the President-Elect?

19 A That's correct. President-Elect.

20 Q This was early January 2016 — 2017?

21 A 2017.

22 Q So, you said you went to Mr. Trump's office?

23 A Yes.

24 Q Tell us about it. What happened when you got to
25 Mr. Trump's office?

1 A When I — in — when I — there's a waiting room. So,
2 when I got to the waiting room, Keith Schiller was there. And
3 Keith asked me — he said, "How's our girl?" Which, he was
4 referring to Karen McDougal.

5 So, I said, "She's cool. She's, um, very quiet. No issues."
6 And then he was commenting that he was — "he" being Keith,
7 was — Schiller — was excited about going to —

8 MR. BOVE: Objection, Judge.

9 THE COURT: Overruled.

10 Q You can answer.

11 A He was excited about going to Washington.

12 And then I was waiting in the waiting room — I was waiting
13 in the waiting room.

14 And, shortly after, Rhona said that, "The President would
15 like to see you now."

16 And I walked into Mr. Trump's office.

17 Q What was that like?

18 A On that day when I went there, when I walked into his
19 office, around his desk he had James Comey, Sean Spicer, Reince
20 Priebus and Michael Pompeo; and they were updating Mr. Trump on
21 the Fort Lauderdale shooting.

22 Q Are you referring to a shooting that had taken place
23 in the Fort Lauderdale Airport that day?

24 A Yes. In the airport. That's correct.

25 Q What were they saying?

2 I just walked in. And they were giving him an update. They were
3 finishing up their meeting.

4 And then Mr. Trump introduced me to each of them. And then
5 he said, "Here is David Pecker. He's the owner, the publisher
6 of the National Enquirer, and he probably knows more than
7 anybody else in this room," as a joke.

8 Unfortunately, they didn't laugh.

9 (whereupon, the jurors laugh.)

10 A And then, they left before him. They left.

11 And Mr. Trump asked me to sit down to chat.

12 Q And can you tell us about that chat, please?

13 A Yes.

14 He asked me how I was doing.

15 I said, "I'm doing okay."

16 He asked me how Karen was doing.

17 And I told — he asked, "How's Karen doing — How's our
18 girl — How's my girl doing — How's our girl doing?", he said.

19 I said, "She's — she's writing her articles. She's quiet,
20 easy. Things are going fine."

21 So, he said, "I want to thank you for handling the McDougal
22 situation."

23 And then he said, "I want to" — he also said, "I want to
24 thank you for the doorman story, the doorman situation."

25 Q And what did you understand Mr. Trump to be thanking

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 you for regarding the Karen McDougal story and the doorman

2 story?

3 A I felt that he was thanking me for buying them and for
4 not publishing any of the stories and helping the way I did.

5 Q And did he say why he was so appreciative?

6 A He said that the stories could be very embarrassing.

7 Q What do you understand that to mean?

8 A I felt that it was going to be very embarrassing to
9 him, his family, and the campaign.

10 Q Now, did he ever say anything to you that made you
11 think that his concern about these stories getting out was for
12 his family, rather than for his campaign?

13 A I thought it was for the campaign.

14 Q What makes you say that?

15 A Every time we — the conversations that I had with
16 Michael Cohen with respect to both of these stories, the family
17 was — his family was never mentioned; and the conversations
18 that I had directly with Mr. Trump, his family wasn't
19 mentioned.

20 So, I made the assumption it was the — the concern was the
21 campaign.

22 Q And was — withdrawn.

23 Did there come a time when you perceived that Donald
24 Trump's concern shifted in some way?

25 A (No response).

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1 Q You don't know what I'm talking about?

2 A I don't know.

3 Q Let me show you 302B, Pages 6 and 7.

4 MR. STEINGLASS: Privately, please.

5 (whereupon, an exhibit is shown to the witness on
6 his screen.)

7 Q I'm going to ask you, was this one of the interviews
8 you did with the FBI?

9 A Yes.

10 Q Take a look at Page 6, the bottom of Page 6. Read it
11 to yourself. Don't read it out loud. Read it to yourself.
12 We'll show you the bottom of Page 7.

13 And then I'll ask you that question again.

14 (whereupon, the witness reviews the exhibit on
15 his screen.)

16 Q Tell me when you're ready for the next page.

17 A Yes, I am.

18 Q Ready for the next page. Okay.

19 Showing to you Page 7.

20 (Whereupon, another exhibit is shown to the
21 witness on his screen, and the witness reviews the
22 exhibit.)

23 A (Nods).

24 Q Does that refresh your recollection as to whether you
25 believed that Donald Trump's focus shifted at some point?

1 MR. BOVE: Judge, I am going to object.
2 THE COURT: Please approach.
3 (whereupon, the following proceedings were held
4 at sidebarz)
5 THE COURT: I'm just trying to limit the speaking
6 objections.
7 MR. BOVE: I understand. That's okay.
8 The objection here, the proper way to refresh the
9 recollection:
10 Does that refresh your recollection?
11 He looks at it.
12 Does it?
13 Yes, no.
14 What is your recollection?
15 That was not done.
16 MR. STEINGLASS: I think it, pretty much, was
17 done.
18 THE COURT: Do it the right way.
19 (whereupon, the following proceedings were held
20 in open court:)
21 THE COURT: The objection is noted.
22 Q Okay, Mr. Pecker.
23 Did you read that document I asked you to look at?
24 A Yes, I did.
25 Q Did that refresh your recollection to the question I

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1 was asking you?

2 A Yes.

3 Q Can you please share with us that recollection?

4 A Prior to the election, if a negative story was coming
5 out with respect to Donald Trump and we spoke about it, he was
6 always concerned about — he was concerned about Melania —
7 Melania Trump, he was concerned about Ivanka, he was concerned
8 about what the family might hear or say about it. Not saying
9 whether it was true or not.

10 After the campaign, and when I was in his office and we
11 were discussing this, he was concerned on the doorman story
12 with respect to if the — if the story came out, which wasn't
13 true, about him having an illegitimate child — and I didn't
14 hear or discuss that it was — he was concerned that what would
15 Melania say, or what would Ivanka say, what his family would
16 say.

17 It was, basically, what would be — the impact be to the
18 campaign or election.

19 Q Was that true for your conversations with Donald Trump
20 about the Karen McDougal story, as well?

21 A Yes.

22 Q After Mr. Trump announced his candidacy for President,
23 did he ever say anything to you that indicated that he was
24 concerned about what Melania Trump or Ivanka Trump would think
25 about these affairs?

1 A No.

2 Q How did you leave when you left Trump Tower that day;
3 how did you leave it with Mr. Trump?

4 A At the end of the meeting, Mr. Trump invited me —
5 he — he — he called Rhona and — and asked her to call me and
6 send me an invitation to the Inauguration event.

7 And then he also — I asked him — I said, "Look, how do we
8 communicate between each other?"

9 So, he said that he was going to get a cell phone and a
10 cell number that he would give his friends, that we could use
11 that cell phone number, which never transpired.

12 And that's pretty much how we left that.

13 Q And did you — you said that he invited you to the
14 Inauguration?

15 A Yes.

16 Q Did you go?

17 A No. I didn't go.

18 Q Why not?

19 A I didn't — I asked my wife, and she didn't want to
20 go. She just didn't want to attend.

21 And I decided that I didn't want — I decided not to
22 attend.

23 THE COURT: Is this a good time to break?

24 MR. STEINGLASS: Sure, Judge

25 THE COURT: Jurors, I'll remind you about the

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1 admonitions
2 Please do not talk, either among yourselves or
3 with anyone else, about anything 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 the evidence is
7 in, I have given you my final instructions on the law, and
8 I have directed you to begin your deliberations.
9 Please do not request, accept, agree to accept,
10 or discuss with any person any receipt or benefit in
11 return for any information concerning the trial.
12 Report directly to me any incident within your
13 knowledge involving an attempt by any person to improperly
14 influence you or any member of the jury.
15 Do not visit or view any of the locations
16 discussed in the testimony.
17 Do not use any program or electronic devices to
18 view any place discussed in the testimony.
19 Do not view or read or listen to any account of
20 the case. That would include the reading or listening to
21 the reading of any transcripts of the trial or the reading
22 of any posts on the court's site.
23 Do not attempt to research any fact, issue or law
24 related to the case.
25 Do not communicate about the case by any means,

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1 including by telephone, text message, or internet.
2 Do not look for any information about the law
3 involved in the case or the people involved in the case.
4 I would like to start at 2:15.
5 Enjoy your lunch.
6 COURT OFFICER: All rise.
7 (whereupon, the jurors and the the alternate
8 jurors are excused.)
9 THE COURT: Please be seated.
10 Thank you, sir.
11 You can step down.
12 (Whereupon, the witness is excused.)
13 THE COURT: As we break for your lunch recess, I
14 ask you to please give yourselves enough time so we can
15 actually start up at 2:15.
16 Thank you.
17 (whereupon, a luncheon recess is taken.)
18 *****
19 (whereupon, the case is recalled in the afternoon
20 session.)
21 THE CLERK: Continuing case on trial. People v.
22 Donald J. Trump.
23 All parties are present.
24 THE COURT: Good afternoon.
25 MR. STEINGLASS: Good afternoon.

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1 THE COURT: I signed the Order to Show Cause.
2 I am handing out two copies to each party.
3 (whereupon, documents are given to the parties by
4 the court officer.)
5 MR. CONROY: Thank you, Judge.
6 I am also going to hand Counsel a copy of the
7 Affirmation and a copy of the thumb drive with the Fuller
8 video clips.
9 THE COURT: Thank you.
10 I also had a an opportunity to look, over the
11 lunch break, at the case authority handed up and some of
12 the articles handed up.
13 My decision remains the same.
14 MR. STEINGLASS: May I confirm, all of the
15 exhibits that we introduced from 154 to 179 are in
16 evidence, except for 169 and 172A?
17 MR. BOVE: You might remember, Judge, that before
18 the break, I said I had one more.
19 MR . STE INGLASS : Right .
20 171A we still have to talk about.
21 THE COURT: You want to do it now?
22 MR. BOVE: Yes.
23 171A is another thread of text messages. This
24 thread is between Mr. Howard and Gina Rodriguez, who, as
25 you've heard this morning, was one of the sources that

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1 Mr. Howard used as an intermediary for at least one of his
2 stories.

3 So, our position here is that there are
4 substantive factual assertions by Rodriguez in this text
5 chain.

6 There's not a foundation that she is
7 participating in a conspiracy. She's just reporting
8 information to Mr. Howard.

9 Howard then, specifically in these messages,
10 because of the substantive factual assertions being made
11 to him, he's not making statements in furtherance of a
12 conspiracy by speaking to her.

13 THE COURT: Do you have a copy that I could look
14 at?

15 MR. STEINGLASS: I think it was in the binder
16 that I handed up this morning.
17 I can give you another copy.

18 THE COURT: Yes. I'll take that.

19 MR. STEINGLASS: No problem.

20 (Whereupon, a document is shown to the Court.)

21 MR. STEINGLASS: Whenever the Court is ready, I
22 would like to be heard on that.

23 THE COURT: Okay.

24 MR. STEINGLASS: First of all, in response to
25 Counsels' objections, we removed a portion of the exchange

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1 that post-dated the conspiracy; and so, we're only seeking
 2 to admit the texts that go up through October of 2016.
 3 These are, first off, admissible as a business
 4 record, insofar as it was the regular course of AMI's
 5 business to purchase stories such as Ms. Daniels' story;
 6 and Howard conducted that business as part of the regular
 7 job responsibilities and was under the business duty to do
 8 so truthfully.
 9 Again, even if the underlying content isn't
 10 admissible as a business record, the Court has determined
 11 Mr. Howard is a co-conspirator; and these are core
 12 statements in furtherance of the conspiracy, insofar as
 13 they involve discussions with Ms. Rodriguez involving the
 14 acquisition of the Stormy Daniels story.
 15 I do agree with Mr. Bove, the factual statements
 16 contained in Ms. Rodriguez's texts should not be
 17 considered for the truth, and her portion of the
 18 conversation should only be admitted to contextualize
 19 Mr. Howard's conversations with her.
 20 MR. BOVE: I think we're basically on the same
 21 page.
 22 Our point here is, admittedly, somewhat new on
 23 this one.
 24 Judge, in exercising your discretion about what's
 25 going to come in and how at this trial there is a tipping

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1 point where there are factual assertions in these
 2 documents that are being put in front of the jury, we
 3 appreciate the limiting instructions.
 4 At some point, cumulatively, it becomes
 5 cumulatively prejudicial.
 6 It becomes extremely hard during deliberations
 7 where the juror sorts through what is the truth, what is
 8 not. They can sort through the exhibits.
 9 These texts messages, when you look at the
 10 assertions Ms. Rodriguez is making, these are very, very
 11 substantive and go directly to what's going on.
 12 And we're not going to have an opportunity to
 13 cross-examine her.
 14 That's why we think for these messages, in light
 15 of that, they should not come in.
 16 They are, admittedly, her statements; are not in
 17 furtherance of the conspiracy; and, therefore, to offer
 18 them not for their truth is unduly prejudicial to us.
 19 MR. STEINGLASS: If you want me to say anything
 20 more?
 21 THE COURT: It's up to you.
 22 MR. STEINGLASS: We don't think they're too
 23 prejudicial in any way, shape or form.
 24 This is core, the conspiracy being enacted in
 25 real time in terms of this is the effort to buy up the

1 Stormy Daniels story, discussions about the Stormy Daniels
 2 story. It is really a core part of the conspiracy.
 3 So, I think any possibility of prejudice can be
 4 cured, as it has with several other documents, by
 5 instructing the jury that any factual assertions in the
 6 Rodriguez portions of those texts should not be considered
 7 for the truth, but only to contextualize Mr. Howard's
 8 responses.

9 If there's one or two lines that are not
 10 necessary to contextualize Ms. Rodriguez's — Mr. Howard's
 11 communications, and Defense Counsel wants to bring those
 12 one or two lines to our attention, we can consider whether
 13 it's appropriate to redact them.

14 We are not looking to prove the truth of what
 15 Ms. Rodriguez is saying.

16 However, what she's saying is semi-important in
 17 terms of what AMI's motivation was in terms of buying up
 18 that story and preventing it from being released.

19 THE COURT: I'm looking at 15 pages of texts?

20 MR. STEINGLASS: Yes. It is 15 pages of texts.

21 I don't think it has to be resolved today,
 22 insofar as I don't think we're going to walk through these
 23 texts with Mr. Pecker.

24 So, if Your Honor wants to take a look and see if
 25 there's specific offending texts that Your Honor feels are

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1 necessary to redact and/or other parties can do that, we
2 can take it from there and have a summary witness look at
3 these.

4 THE COURT: Yes. I appreciate that.

5 I would like to have some time to look at these
6 more closely.

7 MR. STEINGLASS: Thank you.

8 Any chance I can have that binder back, and I'll
9 give you that one?

10 THE COURT: All right.

11 We can get the witness, please.

12 COURT OFFICER: Witness entering.

13 (whereupon, the witness, David Pecker, having
14 been previously duly sworn and/or affirmed resumes the
15 witness stand and testifies as follows:)

16 THE COURT: Good afternoon, Mr. Pecker. You're
17 still under oath, sir.

18 COURT OFFICER: All rise. Jury entering.

19 (whereupon, the jurors and the alternate jurors
20 are present and properly seated.)

21 THE CLERK: Continuing case on trial, People v.
22 Donald J. Trump.

23 All parties and all jurors are present.

24 CONTINUED DIRECT EXAMINATION

25 BY BY MR . STE INGLASS :

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1 Q Good afternoon, Mr. Pecker.

2 A Good afternoon.

3 Q When we broke before lunch, we just finished talking
4 about a meeting you had in Trump Tower on January 6, 2017; do
5 you remember that?

6 A Yes, I do.

7 Q Directing your attention to July of that same year,
8 2017, did there come a time when you visited the White House?

9 A Yes, I did.

10 Q How did that come about?

11 A I received a call from President — President Trump's
12 office from his assistant, Madeleine — I think it was
13 Whiteout (phonetic) [sic]. I can't remember her last name.
14 And she said, "The President is on the phone."
15 Mr. Trump called and invited me to the White House for
16 dinner.

17 Q Did he say why?

18 A He said it was a thank you dinner, and he invited
19 myself and my wife.

20 Q And what did you say?

21 A I said that, "I'll speak to my wife and I'll get right
22 back to you."

23 Q And did you do that?

24 A I did.

25 And my wife didn't want to go to Washington.

1 And I called back Mr. Trump and explained to him.
2 And he said, "Look. Business friends, business associates.
3 It's your dinner."
4 Q "Your dinner" meaning?
5 A My thank you dinner.
6 Q So, who did you bring — did you go?
7 A Yes. Yes.
8 Q Who did you bring?
9 A I brought all business associates.
10 Q You don't have to tell us everybody you brought.
11 But, among the people you brought, did it include Dylan
12 Howard?
13 A Yes.
14 Q Did it include David Brodsky?
15 A Yes, it did.
16 Q Do you remember who you coordinated the logistics of
17 your visit with?
18 A I coordinated — we coordinate everything through
19 Madeleine at the White House.
20 Q So, what happened when you went?
21 A When we arrived at the White House, I was taken — we
22 were all taken to the Oval Office.
23 And in the Oval Office, Jared Kushner was there, Sean
24 Spicer was there.
25 And each of the people that I brought to the White House

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1 was able to take a photo with Mr. Trump in the Oval Office.

2 Q Did the subject of Karen McDougal come up at all?

3 A At the time to have dinner, Mr. Trump asked me to join
4 him in a walk from the Oval Office to the — to the dining
5 area. We passed the Rose Garden.

6 And as we walked out, President Trump asked me, "How is" —
7 "How is Karen doing?" He said, "How's Karen doing?"
8 So, I said, "She's doing well. She's quiet. Everything is
9 going good."

10 Q And who do you understand "Karen" to be a reference
11 to?

12 A "Karen" was Karen McDougal.

13 Q Now, you mentioned that you and Dylan Howard posed for
14 photos in the White House that day?

15 A Yes, we did.

16 Q I'm showing you and the jury what's in evidence as
17 People's 179.

18 And I just want to ask you if you recognize this series of
19 documents. You can scroll through a little bit, if you want.
20 (Whereupon, exhibits are shown on the screens.)

21 A Yes.

22 Q And are these a series of texts between Dylan Howard
23 and Keith Davidson, produced in response to a subpoena served
24 on AMI?

25 A Yes, it was.

1 Q And does the exhibit include separate photos of
2 yourself and Dylan Howard in the White House?

3 A (No response).

4 Q Do you need to see?

5 A I haven't seen these.

6 Q Let me show you Page 4 of this exhibit.

7 (Whereupon, an exhibit is shown on the screens.)

8 A Yes. I see a photo of Dylan Howard.

9 Q So, the person — you recognize the person depicted in
10 that photo?

11 A Yes. That's Dylan Howard.

12 Q Okay.

13 Do you know where that photo was taken?

14 A It was in the White House. I don't know which room
15 that was.

16 Q All right.

17 Let me show you Page 3 of this exhibit —

18 (Whereupon, an exhibit is shown on the screens.)

19 Q — and ask you if you recognize the people depicted in
20 this photo?

21 A Yes.

22 That's myself and President Trump. We were walking to the
23 dinner.

24 Q And is this when you had the conversation about Karen?

25 A Yes.

1 Q And I want to, finally, direct you to Page 2 of this
2 exhibit.

3 (Whereupon, an exhibit is shown on the screens.)

4 Q And I'm going to ask you, is this a text between Dylan
5 Howard and Keith Davidson?

6 A Yes, it is.

7 Q What is the body of the text?

8 A Dylan telling Keith how — I guess, how the dinner
9 went last night.

10 Q What day was that text sent?

11 A Um, July 12th.

12 Q So, does that mean that the dinner was on July 11th of
13 2017?

14 A Yes.

15 Q Thank you.

16 MR. STEINGLASS: Thank you.

17 You can take that down.

18 Q Directing your attention to August 11th of 2017, did
19 you meet with Karen McDougal, personally?

20 A Yes, I did.

21 Q Where was that?

22 A It was at a restaurant in New York called Il Postino.

23 Q Who else was present at this lunch at Il Postino?

24 A Keith Davidson and Dylan Howard. And Karen McDougal.

25 Q How did this meeting come about?

1 A Dylan came to my office and said that he spoke to
2 Keith Davidson, and Keith thought that it would be a good idea
3 that if I had a lunch with Karen McDougal, they would like to
4 come to New York for a meeting, see the offices of American
5 Media.

6 Q What was the purpose of the lunch?

7 Let me ask you this. What was discussed at the lunch?

8 A When we had lunch — when I had lunch with Karen, she
9 talked about the articles that she was preparing with the ghost
10 writers. She was a little bit upset because Dylan Howard had to
11 change some of the ghost writers because they weren't working
12 well with Karen.

13 And, she talked about her idea and concept of going forward
14 and launching a — a — some beauty products that we talked
15 about, originally, that she brought up in the original
16 agreement.

17 Then she, subsequently, said that she wasn't pleased
18 because everything was taking — everything — the articles
19 were taking a while, she hasn't been, um — trained for media
20 training, because she wanted to be that anchor on the red
21 carpet for Radar — for the Radar digital site.

22 So, she was stating what she would like to get done.

23 From my standpoint, the purpose of the meeting was to make
24 sure that we were complying to her agreement and that she was
25 comfortable with what we committed to her on what we were going

1 to provide.

2 Q Why did you want her to believe that?

3 A I wanted her to remain within our — family; I should
4 say, whereby she was comfortable that we were complying with
5 what we promised her in the original agreement and that she
6 was — she would not go out and speak to the press. After what
7 happened after The Washington — after The Wall Street Journal
8 article and all the press that came out of that. So, I wanted
9 to see how comfortable she was.

10 Q So, now, I want to direct your attention to January of
11 2008.

12 You just reminded us about the article that came out about
13 Karen McDougal in The Wall Street Journal in — on November 4th
14 of 2016.

15 Did another article come out in The Wall Street Journal in
16 January of 2018, in which the press publicly reported that
17 Michael Cohen paid Stormy Daniels not to discuss her sexual
18 relationship with Mr. Trump?

19 A Yes.

20 Q Do you remember when that was?

21 A (No response).

22 Q What date it was?

23 A I thought it was either early January...

24 Q All right.

25 Let me show you, privately, People's Exhibit 181.

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1 (whereupon, an exhibit is shown to the witness on

2 his screen.)

3 Q Do you see it?

4 A Yes, I do.

5 Q Is this the article that revealed that Michael Cohen

6 had paid Stormy Daniels to keep quiet about her affair with

7 Donald Trump?

8 A Yes, it is.

9 MR. STEINGLASS: I offer it into evidence.

10 MR. BOVE: No objection, subject to a limiting

11 instruction.

12 THE COURT: It's accepted into evidence. Again,

13 subject to the same instructions I've given you before.

14 It's being offered not for the truth of the

15 matter asserted, but just to demonstrate that it was, in

16 fact, printed on that date.

17 MR. STEINGLASS: Now we can display it to

18 everybody, please.

19 (whereupon, an exhibit is shown on the screens.)

20 Q Let me just ask you, Mr. Pecker, what was the date of

21 this article?

22 A January 12, 2018.

23 Q What outfit published it?

24 A This was — this was published by the — The Wall

25 Street Journal.

1 Q Now, once again, did AMI issue a press release —

2 withdrawn.

3 Directing your attention now to March of 2018, did you come

4 to learn that Karen McDougal was interviewed by Anderson

5 Cooper?

6 A Yes.

7 Q Do you recall when that interview took place?

8 A I thought it — it was in March of 2018. I remember

9 the middle of March. March 18th?

10 Q Somewhere around there?

11 A Somewhere around that area.

12 Q Did you watch it when it aired?

13 A Yes, I did.

14 Q Did Mr. Trump contact you in connection with

15 Ms. McDougal's appearance on Anderson Cooper?

16 A The following day, I received a call from Mr. Trump.

17 Q Can you tell the jury about that call?

18 A Yes.

19 Donald called, and he said to me, he says — he said, "Did

20 you see the interview last night with Anderson Cooper and

21 Stormy Daniels?"

22 I said, "Yes."

23 He said —

24 Q Before you go on, right now I'm just asking you about

25 the airing of the Anderson Cooper interview with Karen

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Senior Court Reporter

1 McDougal.

2 We'll get to the Stormy Daniels' interview later.

3 A Oh.

4 Q So, my question is, did Mr. Trump call you in

5 connection with Karen McDougal's appearance?

6 A Yes, he did.

7 Q Now, please, tell us what he told you about that.

8 A So, Mr. Trump said when he called me that, he said,

9 "Did you see the Anderson Cooper interview with Karen

10 McDougal?"

11 I said, "Yes."

12 He said, "I thought you had and we had an agreement with

13 Karen McDougal that she can't give any interviews or — or be

14 on any television shows."

15 So, I said, "Yes." I said, "We have an agreement, but I

16 amended it to allow her to speak to the press."

17 So, Mr. Trump got very aggravated when he heard that I

18 amended it, and he couldn't understand why.

19 I said, "Karen has a two-year agreement. She was flooded

20 with requests from the press for interviews. And I amended her

21 agreement at that time."

22 He said, "Well, then you paid her?"

23 I said, "Yes, I paid her, and I amended the agreement."

24 So, he with was very upset. He couldn't understand why I

25 did it.

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Senior Court Reporter

1 And that was, basically, the conversation.

2 Q When you said "he was very upset", "he couldn't"
3 believe that you "did it", who is the "he" you're referring to?

4 A "He", referring to Donald Trump.

5 Q Did there come a time after that when you spoke with
6 Mr. Trump and other members of his White House staff?

7 A Yes.

8 Q When in relation to the call that you had with
9 Mr. Trump alone?

10 A I — it was right after the call that I had with
11 Mr. Trump.

12 Q And who else was part of that call, besides yourself
13 and Mr. Trump?

14 A Hope Hicks. And Sanders.

15 Q Okay.

16 Can you tell the jury about that call a bit?

17 A Well — on that call, what I was planning to do — and
18 I mentioned it on the previous call to Mr. Trump, that I was
19 going to extend Karen McDougal's contract. It was for six
20 months. The contract was up. And I felt that from that last
21 lunch that I had with her, that we had fulfilled some of the
22 obligations that she was looking for, specifically her beauty
23 products and media training. So, I was gonna send a contract.
24 He thought that was — on our original conversation, he
25 thought that that was also a bad idea.

1 So, when I received the second call, when I got the call
2 back, and Hope Hicks and Huckabee — Sanders Huckabee, when she
3 was on the call, I explained to them, to the two of them,
4 that — why I was going to extend her agreement.
5 And both of them said that they thought that it was a good
6 idea.

7 Q What was the reason that you gave for why you wanted
8 to extend Karen McDougal's contract?

9 A I wanted to extend her contract so she would not go
10 out and give any further interviews or talk to the press or say
11 negative comments about American Media or about Mr. Trump.

12 Q Now, you said when you had your individual
13 conversation with Mr. Trump, he was skeptical of that?

14 A Yes.

15 Q How about when you explained the reason that you
16 wanted to extend her contract to Mr. Trump, Ms. Hicks and
17 Ms. Sanders; how did Mr. Trump react to the new plan, or how
18 did he react to that plan during that second conversation?

19 A He said, "It's your business. You do whatever you plan
20 on doing."

21 Q Directing your attention to March of 2018, did there
22 come a time when Ms. McDougal filed a lawsuit against AMI?

23 A Yes, she did.

24 Q Briefly, what was the nature of that lawsuit?

25 A The lawsuit was — was, basically, for one reason. She

2 lifetime rights.

3 Q So, she wanted out of the Non-Disclosure Agreement?

4 A That's correct.

5 Q How was that lawsuit, ultimately, resolved?

6 A We settled, and I returned her lifetime rights back to
7 Karen.

8 Q Did you ever communicate with Michael Cohen about the
9 lawsuit while it was pending?

10 A Yes, I did.

11 Q And did you tell him what you were planning to do?

12 A I did.

13 And he thought that was a very bad idea. He couldn't
14 understand why I would agree to anything like that.

15 And I told him that she's very upset, I'm not going to
16 continue on with the potential litigation, and I'm just gonna
17 give her back her rights.

18 Q Is that what you did?

19 A Yes.

20 Q Now, a few days after Ms. McDougal's appearance on
21 Anderson Cooper, did you also come to learn that Stormy Daniels
22 was interviewed by Anderson Cooper?

23 A Yes.

24 Q And did you watch that broadcast when it aired?

25 A I did.

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Senior Court Reporter

1 Q Did Mr. Trump contact you in connection with

2 Ms. Daniels' appearance on Anderson Cooper?

3 A Yes, he did.

4 Q Can you describe for the jury how that conversation

5 went?

6 A When Mr. Trump called me, he said to me the same. He

7 asked me if I saw the Stormy Daniels interview with Anderson

8 Cooper.

9 I said, "Yes, I did."

10 He said that, "We have an agreement with Stormy Daniels

11 that she cannot mention my name or do anything like this. And

12 each time she breaches the agreement, it's \$1 million penalty.

13 And based on the interview with Anderson Cooper, Stormy Daniels

14 owes Donald Trump \$24 million."

15 Q That's what Donald Trump told you?

16 A That's what he told me.

17 Q Directing your attention to early 2018, do you

18 remember receiving a letter from the Federal Election

19 Commission around that time?

20 A Yes, I do.

21 Q Did you speak with Michael Cohen after receiving the

22 letter?

23 A Yes.

24 Q Can you describe that conversation for us?

25 A When I received the letter from the Federal Election

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1 Commission, the FEC, I called up Michael Cohen immediately.
2 And he — and I asked him, I said, "Michael," I said, "I
3 just received this letter."
4 So, he — so, Michael Cohen said, "So did I."
5 I said, "What are you gonna do about that?"
6 He said, "I'm gonna respond and I'm gonna send them a
7 letter."
8 I said, "I'm very worried."
9 And Michael Cohen says to me, "Why are you worried?"
10 I said, "What do you mean?"
11 He says, "Jeff Sessions is the Attorney General, and Donald
12 Trump has him in his pocket."
13 I said, "I'm very worried."
14 Q Directing your attention to September 21, 2018, were
15 you aware that AMI entered into a Non-Prosecution Agreement and
16 a Statement of Facts with the Southern District of New York?
17 A Yes.
18 Q And is the Southern District of New York, is it your
19 understanding that those are federal prosecutors?
20 A Yes. I understand that.
21 Q Were you still CEO of AMI at the time that agreement
22 was executed?
23 A Yes, I was.
24 Q What is your understanding of that Non-Prosecution
25 Agreement?

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2 Q And —
3 MR. BOVE: Objection.
4 Move to strike.
5 THE COURT: Overruled.
6 Please approach.
7 (Whereupon, the following proceedings were held
8 at sidebar:)
9 THE COURT: What's the objection?
10 MR. BOVE: I may have misheard.
11 I thought I may have heard he admitted to a
12 election violation.
13 THE COURT: Can you read that back?
14 (Whereupon, the requested portion was read back
15 by the court reporter.)
16 MR. BOVE: I think that's a mischaracterization
17 of the agreement.
18 We understand the agreement is coming in with a
19 limited instruction.
20 We don't think there should be testimony about
21 what he did there.
22 THE COURT: The agreement is coming in?
23 MR. BOVE: Yes. We're not going to object.
24 It's coming in subject to the limiting
25 instructions.

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Senior Court Reporter

1 THE COURT: When would you like the limiting

2 instructions?

3 MR. BOVE: When it's admitted, please.

4 MR. STEINGLASS: I actually do think that's a

5 fair characterization of it.

6 In any event, to the extent that the operation of

7 the witness' mind differs from the agreement, the

8 agreement will be in, and everything will be cleared up.

9 That's how I read the agreement, is that they

10 admitted to a campaign finance violation.

11 (whereupon, the following proceedings were held

12 in open court:)

13 (whereupon, the following proceedings were held

14 in open court:)

15 THE COURT: The objection is overruled.

16 Q In addition to that, did this agreement impose a

17 requirement on AMI and its representatives to cooperate and

18 give truthful testimony and information?

19 A Yes.

20 Q And as a result of that, would AMI not be criminally

21 prosecuted for campaign finance violations?

22 A That is correct.

23 Q As part of that agreement, did AMI make several

24 admissions, including in Statements of Facts?

25 A Yes, they did.

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Senior Court Reporter

1 Q As CEO at the time, did you review that Statement of
2 Facts before anyone from AMI signed the Non-Prosecution
3 Agreement?

4 A Yes, I did.

5 MR. STEINGLASS: I would like to show the
6 witness, privately, what's been marked for identification
7 as People's Exhibit 182.

8 (Whereupon, an exhibit is shown on the witness'
9 screen.)

10 Q Do you have that in front of you?

11 A Yes, I do.

12 Q I'm going to ask you, do you recognize that exhibit?

13 A Yes.

14 Q Is that an exact copy of the Non-Prosecution Agreement
15 that AMI entered into with the Southern District of New York,
16 along with the Statement of Admitted Facts that's attached to
17 the Agreement?

18 A Yes, it is.

19 MR. STEINGLASS: I offer it into evidence.

20 MR. BOVE: No objection.

21 THE COURT: Would you like the instruction at
22 this time?

23 MR. BOVE: Yes, Your Honor.

24 Thank you.

25 THE COURT: Jurors, we have just heard testimony

1 that while David Pecker was an executive at AMI, AMI
2 entered into a Non-Prosecution Agreement with federal
3 prosecutors, as well as a Conciliation Agreement with the
4 Federal Election Commission.

5 That evidence was permitted to assist you, the
6 jury, in assessing David Pecker's credibility and to help
7 provide context for some of those surrounding events.
8 You may consider that testimony for those
9 purposes only.

10 Neither the Non-Prosecution Agreement, nor the
11 Conciliation Agreement is evidence of the Defendant's
12 guilt, and you may not consider them in determining
13 whether the Defendant is guilty or not guilty of the
14 charged crimes.

15 MR. BOVE: Thank you, Judge.

16 (Whereupon, the exhibit is received in evidence.)

17 MR. STEINGLASS: Now we can display that to
18 everyone, please.

19 (whereupon, the exhibit is shown on the screens.)

20 Q I'm going to ask you, Mr. Pecker, what is the date of
21 this Non-Prosecution Agreement?

22 A September 20, 2018.

23 Q Okay.

24 I am going to ask you to walk us through portions of it.

25 I apologize in advance.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 MR. STEINGLASS: Can we please blow up Page 1,
2 Paragraph 1?

3 Q Can you read that, or would you rather have me read it
4 and tell me if I get it right? That's up to you.

5 A You want me to read the entire paragraph?

6 Q Whichever you prefer.

7 A Sure.

8 "Based on the cooperation and implementation of remedial
9 measures described below, and strictly subject to the terms,
10 conditions and understandings set forth herein, the Office of
11 the United States Attorney for the Southern District of New
12 York will not criminally prosecute American Media for any
13 crimes, except for criminal tax violations, if any, as to which
14 this Office cannot and does not make any agreement," closed
15 paren, "related to its participation, between in or about
16 August 2015 up to and including in or about October 2016, in
17 making a contribution and expenditure, aggregating \$25,000 and
18 more during the 2016 calendar year, to the campaign of a
19 candidate for President of the United States. This conduct is
20 described more fully in the Statement of Facts, which is" —

21 THE COURT: You may have missed a line. After
22 "President of the United States" comma.

23 THE WITNESS: Oh.

24 "President of the United States," comma, "to the
25 extent AMI has disclosed such participation to this Office

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Senior Court Reporter

1 as of the date of this agreement." Period. "This conduct
2 is described more fully in the Statement of Facts, which
3 is attached hereto as Exhibit A, and incorporated by
4 reference herein. AMI accepts and acknowledges as true the
5 facts set forth in the Statement of Facts. Counsel for AMI
6 hereby represents and warrants that the Board of Directors
7 has authorized counsel to enter into this agreement."
8 Q I'm sorry to ask you such a silly question, but who
9 did you understand the candidate for President of the United
10 States in this paragraph to be referring to?
11 A Donald Trump.
12 (Whereupon, Senior Court Reporter Laurie
13 Eisenberg is relieved by Senior Court Reporter Lisa
14 Kramsky, and the transcript continues on the following
15 page.)
16
17
18
19
20
21
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23
24
25

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Senior Court Reporter

1 (The following proceedings are continued from the
2 previous page.)

3 *****

4 CONTINUED DIRECT EXAMINATION

5 BY MR. STEINGLASS:

6 Q Okay. I'm now going to skip to the statement of
7 admitted facts, which is on Page 4.

8 It starts on Page 4, and I'm going to ask you to walk us
9 through some of these paragraphs, please, most of these
10 paragraphs, actually, starting with Paragraph 2.

11 Go ahead.

12 A To read the —

13 Q Just read it.

14 A Just read it.

15 "As set forth in more detail below, on or about August 10,
16 2016, AMI made a payment in the amount of \$150,000 in
17 cooperation, consultation and concert with and at the request
18 and suggestion of one or more members or agents of a candidate's
19 2016 presidential campaign to ensure that a woman did not
20 publicize damaging allegations about that candidate before the
21 2016 presidential election and thereby influence that election."

22 Q And, once again, is that candidate Donald Trump?

23 A Yes.

24 Q Okay. Paragraph 3, please.

25 (Displayed.)

Lisa Kramsky,
Senior Court Reporter

1 *****

2 A "In or about August 2015, David Pecker, the Chairman
3 and Chief Executive Officer of AMI, met with Michael Cohen, an
4 attorney for a presidential candidate, and at least one other
5 member of the campaign."

6 "At the meeting, Pecker offered to help deal with negative
7 stories about that presidential candidate's relationships with
8 women by, among other things, assisting the campaign by
9 identifying such stories so they could be purchased and their
10 publication avoided."

11 "Pecker agreed to keep Cohen apprised of any such negative
12 stories."

13 Q Paragraph 4.

14 (Displayed.)

15 *****

16 Q I'm sorry. Before you read Paragraph 4, did you
17 understand Paragraph 3 to be a reference to that August 2015
18 meeting that you described several times at Trump Tower
19 involving yourself, Mr. Cohen and Mr. Trump?

20 A That's correct.

21 Q Okay. I'm sorry.

22 Paragraph 4.

23 A "In or about June 2016, an attorney representing a
24 model and actress attempting to sell her story of her alleged
25 extramarital affair with the aforementioned presidential

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1 candidate, contacted an editor of the National Enquirer."

2 "Pecker and the editor called Cohen and informed him of the
3 story."

4 "At Cohen's urging and subject to Cohen's promise that AMI
5 would be reimbursed, the editor began negotiating for the
6 purchase of the story."

7 "On June 20th, 2016, the editor interviewed the model about
8 her story."

9 "Following the interview, AMI communicated to Cohen that it
10 would acquire the story to prevent its publication."

11 Q And who did you understand that model, when that
12 paragraph refers to a model, who did you understand that to be a
13 reference to?

14 A Karen McDougal.

15 Q Thank you.

16 Paragraph 5, please.

17 (Displayed.)

18 *****

19 A "On or about August 5th, 2016, AMI entered into an
20 agreement with the model to acquire her limited life rights to
21 the story of her relationship with any then-married man, in
22 exchange for \$150,000."

23 "It was also agreed that AMI would feature her on two
24 magazine covers and could publish over 100 magazine articles
25 authorized by her."

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1 "AMI agreed to pay the model \$150,000 — substantially more
2 money than AMI otherwise would have paid to acquire the story —
3 because of Cohen's assurances to Pecker that AMI would
4 ultimately be reimbursed for the payment."

5 "Despite the cover and article features to the agreement,
6 AMI's principle purpose in entering into the agreement was to
7 suppress the model's story so as to prevent it from influencing
8 the election."

9 "At no time during the negotiation for or acquisition of the
10 model's story did AMI intend to publish the story or disseminate
11 information about it publicly."

12 On or about August 10th, 2016, AMI sent \$150,000 to an
13 attorney representing the model."

14 Q Okay. Paragraph 6, please.

15 (Displayed.)

16 *****

17 A "Between in or about late August 2016 and
18 September 2016, Cohen called Pecker and stated that he wanted to
19 be assigned to the limited life rights portion of AMI's
20 agreement with the model, which included the requirement that
21 the model not otherwise disclose her story."

22 "Pecker agreed to assign the rights to Cohen for \$125,000."

23 "Pecker instructed a consultant who works for AMI to
24 complete the assignment through a company unaffiliated with
25 AMI. "

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Senior Court Reporter

1 "On September 30th, 2016, Pecker signed" —

2 Q Let me just stop you for one second. That consultant,
3 who is that?

4 A That is Daniel Rotstein.

5 Q Okay. Keep going.

6 A "On September 30th, 2016, Pecker signed an Assignment
7 Agreement, which contemplated the transfer of the limited life
8 rights portion of AMI's agreement to an entity that had been set
9 up by Cohen for \$125,000."

10 "The consultant delivered the signed Assignment Agreement to
11 Cohen, along with an invoice from a shell corporation
12 incorporated by the consultant for the payment of \$125,000,
13 which falsely stated the payment was for an 'agreed upon' 'flat
14 fee' for advisory services."

15 "However, in or about early October 2016, after the
16 Assignment Agreement was signed, but before Cohen had paid the
17 \$125,000, Pecker contacted Cohen and told him that the deal was
18 off and that Cohen should tear up the Assignment Agreement."

19 Q And Paragraph 7.

20 (Displayed.)

21 A "Following the 2016 presidential election, AMI
22 published articles written by the model in OK! Magazine and
23 Star Magazine, featured on the cover of Muscle and Fitness,
24 Hers, and published articles in Radar Online featuring the
25 model."

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Senior Court Reporter

1 "The publication of these articles was intended, at least in
2 part, to keep the model from commenting publicly about her story
3 and her agreement with AMI."

4 Q Paragraph 8, please.

5 (Displayed.)

6 *****

7 A At all relevant times, AMI knew that corporations such
8 as AMI are subject to Federal Campaign Finance Laws, and that
9 expenditures by corporations, made for purposes of influencing
10 an election and in coordination with or at the request of a
11 candidate or campaign are unlawful."

12 "At no time did AMI report to the Federal Election
13 Commission that it had made the \$150,000 payment to the model."

14 Q And, lastly, Paragraph 9, please.

15 (Displayed.)

16 *****

17 A "AMI has cooperated with the United States Attorney's
18 Office for the Southern District of New York and the Federal
19 Bureau of Investigation during its investigation and provided
20 substantial and important assistance to the investigating agents
21 and prosecutors during the course of the Grand Jury
22 investigation in the Southern District of New York."

23 "Among other things, AMI has made various personnel from AMI
24 available for numerous interviews, engaged outside counsel to
25 ensure the integrity of its compliance with and responses to

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1 subpoenas, and responded to numerous requests from Prosecutors
2 for various specific items of information."
3 AMI has also agreed in connection with the Non-Prosecution
4 Agreement to implement specific improvements to its internal
5 compliance to prevent future violations of the Federal Campaign
6 Finance Laws."

7 Q Thank you. Now —

8 MR. STEINGLASS: You can take that down. Thank
9 you.

10 Oh, actually, I'm sorry, I jumped the gun.

11 Q I was just going to ask you —

12 MR. STEINGLASS: If we can go back to Page 3.

13 (Displayed.)

14 *****

15 Q Can you tell us who signed the Non-Prosecution
16 Agreement that had the statement of admitted facts appended to
17 it?

18 Who signed the Non-Prosecution Agreement on behalf of AMI?

19 A Eric Klee, who was the general counsel of American
20 Media.

21 Q At the time?

22 A At the time.

23 Q And what was the date that the Non-Prosecution
24 Agreement was signed?

25 A September 21st, 2018.

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1 Q Was it also signed by AMI's attorneys?

2 A Yes.

3 Q Outside attorneys?

4 A Yes, outside attorneys.

5 Q Thank you for correcting me.

6 A Okay.

7 Q Thank you.

8 MR. STEINGLASS: Now we can take it down. Sorry.

9 Q Did there also come a time when you agreed to cooperate
10 with an investigation being conducted by the New York County
11 District Attorney's Office?

12 A Yes.

13 Q As part of that agreement, did you, your lawyer, AMI's
14 lawyer and a representative from the District Attorney's Office
15 sign a Cooperation Letter?

16 A Yes.

17 Q I am now showing you privately what has been marked for
18 identification as People's Exhibit 183.

19 (Displayed only for the witness.)

20 *****

21 Q Do you recognize that?

22 A Yes, I do.

23 Q And is that an exact copy of the Agreement you entered
24 into with the New York County District Attorney's Office prior
25 to assisting with their investigation?

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1 A Yes, it is.

2 MR. STEINGLASS: I offer it into evidence.

3 MR. BOVE: No objection.

4 THE COURT: I accept it into evidence.

5 MR. STEINGLASS: Thank you, your Honor.

6 (So marked in evidence.)

7 *****

8 MR. STEINGLASS: We can now display it to

9 everybody.

10 (Displayed.)

11 *****

12 Q And I'm just going to ask you: What was the date of

13 this agreement?

14 A October 25th, 2019.

15 Q Do you know what, rather — let me just ask you about

16 some portions of the agreement rather than have you read the

17 whole thing.

18 MR. STEINGLASS: Can we look at the bottom of

19 Page 1 and the top of Page 2, maybe.

20 (Displayed.)

21 *****

22 MR. STEINGLASS: Perfect. Thank you.

23 Q Can you read that portion of the agreement.

24 A Yes.

25 "David Pecker has agreed to speak with DANY on October 25th,

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1 2019, regarding his knowledge of:"
2 "One. Meetings with Donald J. Trump, Michael Cohen, and
3 other employees of the Trump Organization concerning Donald J.
4 Trump;"
5 "Two. Transactions between American Media and Karen
6 McDougal;"
7 "Three. Transactions between American Media and Michael
8 Cohen;"
9 "Four. Transactions between Michael Cohen and Stephanie
10 Clifford."
11 "And, five, any information relevant to the background and
12 context of the above subjects."
13 Q Okay. Thank you.
14 I'm going to skip to the bottom of Page 2 and the top of
15 Page 3.
16 (Displayed.)
17 *****
18 MR. STEINGLASS: Thank you.
19 Q Can you read that part, please?
20 A "Examples of materially false or incompetent
21 information or testimony include, but are not limited to the
22 following:"
23 Q Can I just stop you for a second before you answer
24 that.
25 Was it your understanding that you were obligated to tell

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Senior Court Reporter

1 the truth or you could face perjury charges?

2 A Yes, I do.

3 Q And does this portion that you are about to read give
4 you examples of what would be considered not being truthful?

5 A Yes.

6 Q I'm sorry. Now you can go back and read them.

7 A "One. Withholding the name of a person involved in
8 criminal activity;"

9 "Two. Identifying as a participant a person who is not
10 involved in criminal activity."

11 "Three. Transposing the roles of participants in criminal
12 activity."

13 "Four. Knowingly giving incorrect or misleading information
14 about his participation or the participation of others in
15 criminal activity."

16 "Five. Misrepresenting the source of his knowledge."

17 Q And, Mr. Pecker, was it your understanding that if you
18 did any of these five things, you would be breaching your
19 agreement with the New York County District Attorney's office?

20 A Yes, I understand that.

21 Q And as part of your agreement, were you also required
22 to attend meetings as requested?

23 A Yes.

24 Q And was AMI obligated to furnish non-privileged
25 documents and records?

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1 A Yes, they were.

2 Q And, do you remember, as you sit here today, what the
3 obligations of the New York County District Attorney's Office
4 were in connection with this agreement?

5 A I'm not —

6 Q Well, let me ask you —

7 A Yeah.

8 Q You just told us what you have to do.

9 A Yes.

10 Q Okay. What did we have to do? What did the District
11 Attorney's office have to do?

12 A Well, the District Attorney's Office had to do the
13 entire investigation and interview me as well as others, I'm
14 assuming.

15 Q And maybe you could read these couple of paragraphs
16 from Page 2, just to be perfectly clear for the jury.

17 A Okay. "DANY agrees to recognize and treat David Pecker
18 and the American Media as immunized on the subjects of David
19 Pecker's statements made to the Office during the
20 above-referenced October 25th, 2019 meeting and any subsequent
21 meeting as to which the parties agree in writing, email
22 sufficing, that the terms of this agreement apply."
23 "David Pecker has also agreed that, if asked, he will
24 testify in the Grand Jury regarding his knowledge of the above
25 subjects."

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1 "If David Pecker testifies in the Grand Jury concerning the
2 above subjects, DANY will not request that he waive immunity
3 pursuant to Section 190.45 of the Criminal Procedure Law, and he
4 will thus be immunized from prosecution on the subjects of his
5 testimony."

6 Q Now, did you understand — withdrawn.

7 You testified, I think on Monday, that you are represented
8 by counsel in connection with this case?

9 A Yes.

10 Q Did you understand that any witness who testifies in
11 the Grand Jury is given automatic immunity unless they waive
12 immunity?

13 A Yes.

14 Q Did you understand this paragraph to mean that DANY or
15 the District Attorney of New York would not require you to
16 waive, and would not require you to waive immunity when you
17 testified before the Grand Jury?

18 A Yes, I understand that.

19 Q And did you, in fact, testify before the Grand Jury?

20 A I did.

21 Q And were you given immunity as a result of that
22 testimony?

23 A I was.

24 Q And directing your attention to the paragraph above
25 that, did you understand that paragraph to mean that even though

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Senior Court Reporter

1 you hadn't yet testified, what you were saying would be
2 treated — you would basically be getting immunity for what you
3 were saying in terms of the pre-Grand Jury interviews?

4 A Yes, I understood that.

5 Q Did you sign similar Letters in connection with
6 subsequent meetings with members of the DA's Office?

7 A I did.

8 Q Directing your attention now to May —

9 MR. STEINGLASS: We can take that down. Thank
10 you.

11 Q Directing your attention to May of 2021. Did AMI enter
12 in a Conciliation Agreement with the Federal Election
13 Commission?

14 A Yes, they did.

15 Q And did someone sign that agreement on behalf of AMI?

16 A Yes.

17 Q Do you remember who?

18 A Jeff Pascoe, who is the current general counsel.

19 Q And as part of that Agreement, did AMI agree, quote,
20 "not to the contest that AMI's payment to Karen McDougal to
21 purchase a limited life story, right, combined with its decision
22 not to publish the story in consultation with an agent of Donald
23 J. Trump and for the purpose of influencing the election,
24 constituted a prohibited corporate in-kind contribution in
25 violation of 552 USC Section 30118 (a)?"

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1 A Yes.

2 Q Did you read that Conciliation Agreement at the time?

3 A I did.

4 Q And what did you understand 52 USC Section 30118 (a) to
5 prohibit?

6 A (Pause.)

7 Q Do you want me to re-ask that question again?

8 A Yes, please.

9 Q I think that you just testified that you — let me ask
10 you the question.

11 What did you understand 52 USC Section 30118 (a) to
12 prohibit?

13 A It's my understanding that we — that I left the
14 company in August of — in August of '20, so this happened post
15 my leaving.

16 And the Board of Directors of the company agreed to this
17 agreement.

18 And it was my understanding that they paid a fine, I think
19 it was \$180,000.

20 And that was my understanding of — what I remember.

21 Q So my question to you is: Did you have an
22 understanding at the time that AMI was entering into this
23 Conciliation Agreement?

24 A Yes, I did.

25 Q And did you understand what AMI was agreeing not to —

1 what law AMI was agreeing not to contest having violated?

2 A Oh. It agreed that — they agreed that they violated
3 the campaign violation.

4 Q And — withdrawn.

5 Directing your attention to April of 2018.

6 Did you come to learn that the FBI had conducted search
7 warrants at the home and office of Michael Cohen?

8 A Yes.

9 Q How did you learn that?

10 A The FBI came to my home on that same day and had a
11 search warrant for my phone.

12 And I subsequently received a call from Dylan Howard that he
13 received — that he had his phone also taken by search warrant
14 from the FBI.

15 And he mentioned to me that he also heard that Michael Cohen
16 had the same — had a — had his office or apartment at that
17 time, if I recollect, received a search warrant and took his
18 office equipment and telephone.

19 MR. STEINGLASS: Just one moment, please.

20 (Pause.)

21 *****

22 Q The phone that the FBI seized on that day, your phone,
23 is that the phone that you had been using to communicate via
24 text with Dylan Howard and Michael Cohen and other people
25 relevant to this case?

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1 A Yes.

2 Q When was the last time that you saw or spoke to the
3 defendant, roughly?

4 A It would — the last time we spoke was, I think,
5 January or February of 2019.

6 Q And has he tried to reach out to you since then?

7 A Not directly.

8 I have friends who belong to Mar-a-Lago, and they run into
9 Mr. Trump and he sends his regards.

10 Q Did you ever respond?

11 A No, I did not.

12 Q Why not?

13 A I felt that with the investigation that was going on at
14 the same time, I thought that it would be inappropriate to
15 respond or have any conversations at all with Mr. Trump.

16 Q Mr. Pecker, as you sit here today, do you have any bad
17 feelings or ill will towards the defendant?

18 A Not at all. To the contrary.

19 As I talked about, I think it was on Monday, I felt that
20 Donald Trump was my mentor.

21 He helped me throughout my career.

22 And if I could just give one additional example: In 2001,
23 after the 9/11 attack, my offices in Boca Raton, the American
24 Media building, I had just renovated it, it took about a year to
25 renovate it, and I just consolidated all of the tabloids in this

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1 building.

2 And in the first week or the second week of October of 2001,

3 we received multiple Anthrax letters in white envelopes to the

4 various magazines.

5 One of the editors opened up the envelope, inhaled

6 weaponized Anthrax and then — and ended up dying not too long

7 after that.

8 And at the same time, within a matter of hours or within a

9 day, the FBI took quarantine of the building because the

10 building was filled with Anthrax.

11 I then — at that time, all of the content that I — that

12 the tabloids had, photos, stories, was all quarantined and we

13 had to vacate the building, as I said.

14 And I, basically, was in a very, very, difficult place from

15 a business standpoint, a personal standpoint.

16 And the first person who called me, asked if I needed help,

17 was Donald Trump.

18 And he was very helpful.

19 He gave me — he recommended an attorney.

20 He helped introduce me to — at that time Sandy Weill was

21 the Chairman of the Travelers Insurance Company, who had the

22 insurance on the building, and helped tremendously in continuing

23 on with my business.

24 So I have no ill will at all.

25 And I still consider him a close — I still, even though we

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Senior Court Reporter

1 haven't spoken, I still consider him a friend.
2 Q I didn't hear that last part?
3 A I said: Even though we haven't spoken and I haven't
4 seen him, I still consider him a friend.
5 Q Thank you very much, Mr. Pecker.
6 MR. STEINGLASS: No further questions.
7 THE COURT: Your witness.
8 MR. BOVE: Thank you, Judge.
9 MR. STEINGLASS: Can we approach for one minute,
10 Judge?
11 THE COURT: Yes.
12 (AT Side Bar.)
13 *****
14 THE COURT: Yes?
15 MR. STEINGLASS: We don't have any exhibits
16 for this witness, if they are planning on using any on
17 cross.
18 And we would ask that we be provided them so that
19 we don't have to delay every time they try to show an
20 exhibit that we haven't seen yet.
21 THE COURT: Is there anything that you need to turn
22 over?
23 MR. BOVE: I don't have anything that I intend on
24 offering.
25 I have exhibits — I have documents and exhibits

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1 that I'm going to use to refresh his recollection, and if I
2 need to lay a foundation on a document that may impeach him
3 with an inconsistent statement, but right now I don't intend
4 on offering anything.

5 MR. STEINGLASS: Which is fine, but if he's going
6 to show this witness documents — do you have copies of the
7 documents that you are going to show him for us?

8 MR. BOVE: Yes.

9 MR. STEINGLASS: Great. Perfect. That's all I
10 would ask for.

11 MR. BOVE: Yes.

12 MR. STEINGLASS: Thank you.

13 (Side bar concluded.)

14 *****

15 THE COURT: You may inquire.

16 MR. BOVE: Thank you, Judge.

17 *****

18 CROSS-EXAMINATION

19 BY MR. BOVE:

20 Q Mr. Pecker, my name is Emil Bove. And I represent
21 President Trump.

22 Now, you testified that you were an executive at AMI from
23 about '99 to 2020; right?

24 A That's correct.

25 Q And, though, your title in that period were

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1 President —

2 A It was Chairman, President and CEO.

3 Q Chairman of the Board of Directors; correct?

4 A Yes.

5 Q And as part of your work as a Chairman of the Board of
6 Directors, you met with the other directors?

7 A Yes.

8 Q You got to know them well; correct?

9 A Yes.

10 Q And AMI also had investors; right?

11 A Yes.

12 Q And I think you said you owned 10 percent of AMI during
13 this period?

14 A That's correct.

15 Q Do you still have equity in AMI's successor?

16 A Yes. But a lesser of an amount.

17 Q And in this same time frame, while you were an
18 executive at AMI, the investors were sophisticated people;
19 right?

20 A Correct.

21 Q Experienced in business?

22 A Yes.

23 Q And you had fiduciary obligation to those investors;
24 correct?

25 A I do.

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Senior Court Reporter

1 Q And you know what that means; right?

2 A Yes.

3 Q You basically had to look out for the investors'
4 interests?

5 A Yes.

6 Q And that included making money for your investors?

7 A That is correct.

8 Q And making money for yourself, right, as one of those
9 investors?

10 A Yes.

11 Q AMI wasn't a charity?

12 A No, it was not.

13 Q Not a nonprofit?

14 A No.

15 Q And based on that fiduciary obligation, the whole time
16 that you were an executive there, you managed the company to
17 make money; correct?

18 A That's correct.

19 Q And you have said before, I think, this was a business;
20 right?

21 A Yes.

22 Q Part of AMI's business model was to purchase stories;
23 correct?

24 A Yes, it was.

25 Q And I think you've distinguished between AMI's model

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2 A Yes, I did.

3 Q And, on Tuesday, you referred to AMI's model as
4 checkbook journalism; correct?

5 A That's correct.

6 Q And in connection with AMI's checkbook journalism,
7 under your watch, you only published about half of the stories
8 that you purchased; correct?

9 A I would say that's about right.

10 Q And all of those — in all of those instances where AMI
11 examined stories, it included Source Agreements; right?

12 A That's correct.

13 Q And in connection with those Agreements, you would
14 purchase the rights to a story?

15 A Yes.

16 Q And the Agreements typically required the source of the
17 information not to disclose it to others?

18 A That is correct.

19 Q And that's a basic non-disclosure tradition; right?

20 A Yes, that's correct.

21 Q And the thinking there is that the story is less
22 valuable to AMI if the source discloses it to someone else;
23 correct?

24 A Correct.

25 Q And these Source Agreements gave you a measure of

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Senior Court Reporter

1 control over the information that was going to be a part of the
2 story?

3 A Yes, that's correct.

4 Q Standard operating procedure; correct?

5 A Yes.

6 Q They gave you control over how the information would be
7 released; right?

8 A Yes.

9 Q When it would be released, if at all; correct?

10 A Yes.

11 Q And sometimes you would decide not to run the story?

12 A That is correct.

13 Q And there were a lot of reasons that you made those
14 decisions between '99 and 2020; correct?

15 A Yes.

16 Q Can you give us some examples?

17 A Well, when we purchased a story, before we would
18 publish it, is:

19 One. We would want to make sure that a story is true or
20 not.

21 So we would have to vet the story and have the editors go
22 and check what the source is saying.

23 Two. We would take the story, I'm using general terms, and
24 see if — and review it and make sure that if this is
25 something — if we're going to publish it, that the readers want

1 to read about.

2 And then, three, we might have the story and we don't think
3 it's enough to publish and we would try to trade the story for a
4 better one.

5 Q And there were also some instances where the story got
6 overtaken by current events; right?

7 A Yes. That's correct.

8 Q There was something else hotter, so it didn't make
9 sense to publish what you had the Source Agreement for; is that
10 right?

11 A That's correct.

12 Q And there were also instances where AMI purchased a
13 story in order to use it as leverage against a celebrity;
14 correct?

15 A Yes.

16 Q To use it as leverage, to use something like to get the
17 celebrity to participate in an interview?

18 A That's correct.

19 Q Or sometimes to get the celebrity to allow AMI to use
20 the celebrity's likeness?

21 A Yes.

22 Q And in those situations, where you purchased the story
23 to use as leverage, you had no intention of running the story
24 itself, right, that wasn't the point?

25 A That's correct.

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1 Q The point was to use it against the celebrity?

2 A Yes.

3 Q And in all of the scenarios that we just talked about,
4 your ability as an executive and leader at AMI was to control
5 the release of the story was standard —

6 A Yes.

7 Q Standard operating procedure at AMI between 1999 and
8 2020?

9 A Yes.

10 Q And, in fact, AMI had predecessors, right, it has been
11 around for a long, long, time?

12 A 85 years plus.

13 Q And AMI has used hundreds of thousands of Source
14 Agreements in the ways that we just talked about; correct?

15 A Yes.

16 Q Now, you've talked both on Tuesday and today about
17 employees at AMI who help you do those things; right?

18 A Yes.

19 Q One of them is Dylan Howard?

20 A That's correct.

21 Q And let's focus on 2015 to 2017?

22 A Okay.

23 Q Mr. Howard was the Chief Content Officer at AMI?

24 A Correct.

25 Q And he had some other titles in the subsidiary

2 A He —

3 Q I think it was Editor-in-Chief of the National
4 Enquirer?

5 A Yes.

6 Q And you also mentioned a man today named Daniel
7 Rotstein; right?

8 A Yes.

9 Q And he worked at AMI prior to 2015; right?

10 A Correct.

11 Q And in this period that I'm focused on, 2015 to 2017,
12 he was a consultant; correct?

13 A Yes.

14 Q And he had a consulting company named Investor Advisory
15 Services?

16 A Yes.

17 MR. BOVE: Can we take a look at People's 161 in
18 evidence.

19 (Displayed.)

20 *****

21 Q And this is an invoice that we talked about this
22 morning that Mr. Rotstein prepared; correct?

23 A That is correct.

24 Q And you used Mr. Rotstein to take care of large or
25 sensitive payments on behalf of AMI; right?

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1 A Yes.

2 Q And your purpose in doing that —

3 MR. BOVE: We can show this publicly, I'm sorry,

4 thank you.

5 (Displayed.)

6 *****

7 Q Let me just step back a minute.

8 A Sure.

9 Q Now that everybody can see this, this is one of the

10 invoices that Mr. Rotstein prepared; right?

11 A That's correct.

12 Q And you saw it around the time that he prepared it;

13 correct?

14 A Yes.

15 Q And so this is his company; right?

16 A This is his company.

17 Q And when you were at AMI during this period, 2015 to

18 2017, you were using Mr. Rotstein to take care of large or

19 sensitive payments on behalf of AMI; right?

20 A I did.

21 Q And you did that because you were concerned about

22 leaks; right?

23 A Yes.

24 Q That's the purpose of using Mr. Rotstein?

25 A Yes.

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Senior Court Reporter

1 Q You had had situations at AMI prior to 2015 where
2 information got to the employees and then those employees leaked
3 it to the public and that was commercially damaging to AMI;
4 correct?

5 A Correct.

6 Q And so that's now why you were using Mr. Rotstein in
7 this period, 2015 to 2017?

8 A Yes.

9 MR. BOVE: We can take that down.

10 Thank you.

11 Q In late 2016, did you have a sense of what the average
12 paid circulation of the National Enquirer was?

13 A Around 350,000.

14 Q And in that same timeframe, late 2016, as the election
15 was approaching, you know that the circulation and
16 subscribership of the New York Times was many, many multiples of
17 that; correct?

18 A Yes.

19 Q And you had been indicating during this period, in the
20 lead up to the election, that 70 percent of AMI's revenue came
21 from newsstand sales; correct?

22 A Yes.

23 Q And you believed that basically the rest of AMI's
24 revenue came from ad sales and subscriptions?

25 A That's correct.

1 Q And there was a bit of a science to the way that you
2 were running AMI and the National Enquirer in this timeframe;
3 right?

4 A Yes.

5 Q This timeframe being 2016 and a lead up to the
6 election; correct?

7 A That's correct.

8 Q You had researchers who calculated and assigned a score
9 or a rating for potential stories; right?

10 A Yes.

11 Q And the purpose of having them do the research was to
12 figure out how to maximize profit for AMI; right?

13 A Yes.

14 Q Getting back to the fiduciary duty that we talked
15 about.

16 A Yes.

17 Q You actually participated in those meetings; correct?

18 A Yes.

19 Q In quantitative assessment of how AMI was going to make
20 money based on stories was something that you were personally
21 involved in?

22 A Yes, I was.

23 Q And focused on?

24 A Yes.

25 Q And I think you said on Tuesday that by that time, the

Lisa Kramsky,

Senior Court Reporter

1 Celebrity Apprentice — the research showed that President Trump
2 was the top celebrity in terms of helping sell the National
3 Enquirer?

4 A Absolutely.

5 Q And, so, that's the Celebrity Apprentice that we are
6 talking about in the early 2000s; correct?

7 A Yes.

8 Q And that was already established in your mind that
9 President Trump was one of the people who could drive the most
10 sales and maximize the most profit for the National Enquirer;
11 right?

12 A Yes.

13 Q And so you ran articles about President Trump because
14 it was good for business; correct?

15 A It was good for business.

16 Q Let's talk a little bit about how you met President
17 Trump.

18 A Yes.

19 Q You have known him for about 40 years; right?

20 A That's right.

21 Q And so that takes us back to around the late 1980s?

22 A Yes.

23 Q And I think you said on Tuesday that you met him
24 through Ron Perelman and Nick Ribis?

25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q You had a launch party for George Magazine at

2 Mar-a-Lago.

3 Do you remember that?

4 A Yes.

5 Q That was in '95?

6 A Yes, I did.

7 Q And Mar-a-Lago is President's Trump's residence in Palm

8 Beach; right?

9 A Yes.

10 Q And that night you introduced President Trump to John

11 F. Kennedy, Jr.?

12 A Yes, I did.

13 Q And George Pataki — Mr. Pataki was the Governor of New

14 York at the time; right?

15 A Yes, he was.

16 Q And you testified on Tuesday that you also worked with

17 President Trump on a magazine called Trump Style.

18 Do you remember that?

19 A Yes, I do.

20 Q And Trump Style came after George; correct?

21 A It came before George.

22 Q Do you remember that the first issue of Trump Style was

23 published around 1997?

24 A Oh. I didn't realize. I forgot about that.

25 Q Well, do you remember that?

Lisa Kramsky,

Senior Court Reporter

1 A I thought it came earlier.

2 Q What was the Trump Style?

3 A It was a magazine that — it's a custom — I would say
4 it's a custom magazine, and the editorial point of view was
5 everything about Mr. Trump: His brand, the concept of the
6 magazine, his hotels, the apartments, the casinos, and then we
7 wrote the editorials surrounding that.

8 Q And so we can agree that Trump Style is in the early or
9 mid '90s; is that more consistent with your recollection?

10 A Yes.

11 Q So even by that period you were looking to President
12 Trump as somebody who can help the National Enquirer make money;
13 correct?

14 A Yes.

15 Q And it was always your intention, dating back to the
16 early parts of this friendship, to not publish negative stories
17 about President Trump; correct?

18 A Yes.

19 Q It was not good for business; correct?

20 A Yes.

21 Q And it was not good for your relationship with
22 President Trump; right?

23 A Yes.

24 Q And that was not unique to President Trump; was it?

25 A Can you rephrase that, please.

Lisa Kramsky,
Senior Court Reporter

1 Q Nobody likes bad publicity?

2 A Oh, no. (Laughter.)

3 Q Now, 1998 was one of the first times that you gave
4 President Trump a head's up about a potentially negative story;
5 correct?

6 A Yes.

7 Q Just before you took over at the National Enquirer?

8 A Yes.

9 Q And this was a story relating to Marla Maples; right?

10 A Yes.

11 Q And you tried to stop the story from running; correct?

12 A Yes.

13 Q And you tried, but failed?

14 A Yes.

15 Q It ran?

16 A Yes.

17 Q But this was the first time that you made that effort
18 to reach out to President Trump about a story and to prevent
19 it?

20 A Yes.

21 Q And that's almost 17 years prior to the meeting that
22 you described in August of 2015; right?

23 A That's correct.

24 Q So, 17 years of providing President Trump with a head's
25 up about potentially negative publicity; correct?

Lisa Kramsky,
Senior Court Reporter

1 A That's correct.

2 Q Fair to say that predated that meeting at Trump Tower
3 in August 2015 by a long time?

4 A Yes.

5 Q It was a lot of interactions; correct?

6 A Yes.

7 Q And several stories; right?

8 A Yes.

9 Q In addition to Trump Style, you also used the National
10 Enquirer to run positive stories about President Trump; right?

11 A Yes, I did.

12 Q Again, long before 2015; correct?

13 A Yes.

14 Q And because that was good for business; right?

15 A Yes.

16 Q And this sort of took off, this idea of using the
17 National Enquirer to promote President Trump because it was good
18 for you around the time of The Apprentice, the first show?

19 A That's correct.

20 Q And this is in the early 2000s; correct?

21 A Yes.

22 Q And I think you said on Tuesday, by that time, early
23 2000s, you and President Trump had a mutually-beneficial
24 relationship; correct?

25 A That is correct.

Lisa Kramsky,
Senior Court Reporter

1 Q In addition to a friendship?

2 A Yes.

3 Q And on the mutually-beneficial relationship side of
4 things, President Trump was giving you content to run in the
5 National Enquirer; correct?

6 A Yes.

7 Q And that included information about ratings relating to
8 The Apprentice?

9 A That's correct.

10 Q And what was going on with the show?

11 A Yes.

12 Q Access to participants on The Apprentice; right?

13 A Yes.

14 Q And that helped you; correct?

15 A Yes, it did.

16 Q And in exchange for that, as part of this friendship,
17 you also continued to provide President Trump with information
18 about potentially negative stories?

19 A Yes.

20 Q And you also promoted some of President Trump's
21 positive stories; correct?

22 A I did.

23 Q Before this investigation started, you had not heard
24 the phrase "catch-and-kill," correct?

25 A That's correct.

Lisa Kramsky,
Senior Court Reporter

1 Q Never heard of it?

2 A That's right.

3 Q The first time you heard that phrase was from a
4 Prosecutor; right?

5 A That's correct.

6 Q This relationship that you had with President Trump,
7 this mutually-beneficial relationship, you had similar
8 relationships with other people; right?

9 A I did.

10 Q Meaning that there were other people for which you
11 would provide a head's up if there was a potentially negative
12 story; correct?

13 A Yes.

14 Q And other people that you would promote in the National
15 Enquirer because it was good for you and it was good for them;
16 right?

17 A Yes.

18 Q And that included celebrities; right?

19 A Yes.

20 Q And most celebrities want positive treatment in all
21 publications; right?

22 A They do.

23 Q And you also had a relationships like this with other
24 politicians; correct?

25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q And you are aware that many politicians worked with the
2 media to try and promote their image; right?

3 A Yes.

4 Q And to promote their brand; correct?

5 A Yes.

6 Q To facilitate their campaigns; correct?

7 A Yes.

8 Q Standard operating procedure as you understand it;
9 correct?

10 A Yes.

11 Q And then sometimes when the politicians are doing that,
12 that is to try and win elections; right?

13 A Yes.

14 Q Nothing surprising about that; is there?

15 A No.

16 Q And that's your personal experience; correct?

17 A Yes.

18 Q And you are also aware from your decades of experience
19 in this industry; right?

20 A Yes.

21 Q That includes even presidential candidates; correct?

22 A Yes.

23 Q Long before 2016; right?

24 A That's correct.

25 Q We talked a little bit, you and I, about Mr. Ron

1 Perelman; right?

2 A Yes.

3 Q And he's one of these people that you have a
4 mutually-beneficial relationship with; correct?

5 A Yes.

6 Q There are instances where you have provided him a
7 head's up about potentially negative stories?

8 A I did.

9 Q And instances where you've promoted him in your
10 publications; correct?

11 A Yes.

12 Q And that relationship dates back to Mr. Perelman being
13 one of your biggest advertisers through Revlon; correct?

14 A Yes.

15 Q You were making a lot of money through Revlon; right?

16 A Yes.

17 Q And in connection with that, you developed a
18 friendship?

19 A I did.

20 Q And also this mutually-beneficial business
21 relationship?

22 A Yes.

23 Q And, so, as one example, in 1996, there was a story
24 that was going to run in Premiere Magazine. Do you remember
25 this?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And it was a story that was sort of calling into
3 question the Planet Hollywood restaurant chain; is that right?

4 A Yes.

5 Q And Mr. Perelman was a part owner of the Planet
6 Hollywood restaurant; is that right?

7 A Yes.

8 Q And you happened to be President and Chief Executive
9 Officer of Premiere at that time, and you prevented this story
10 from running; correct?

11 A I did.

12 Q And that was because you understood that Mr. Perelman
13 would have wanted that; right?

14 A Yes.

15 Q And you were protecting his interests; correct?

16 A I was.

17 Q And there is nothing wrong with that; is there?

18 A No.

19 Q And you testified today about having done something
20 similar for Arnold Schwarzenegger; correct?

21 A I did.

22 Q Around the time that he was running for the Governor of
23 California; right?

24 A Yes.

25 Q That was in 2003?

Lisa Kramsky,
Senior Court Reporter

2 Q And in that period, were you trying to acquire AMI's
3 holding into the fitness phase; right?

4 A I did.

5 Q And I think you mentioned some of the publications,
6 Shape, Muscle and Fitness, Men's Fitness, Flex; correct?

7 A That's correct.

8 Q And as you tried to make those acquisitions, it was a
9 huge deal; right?

10 A Yes.

11 Q Worth about \$365 million?

12 A That's correct.

13 Q And so you wanted this to go through very much;
14 correct?

15 A I did.

16 Q And I think you said it this morning, that you talked
17 about it with Joe Weider?

18 A Yes, I did.

19 Q Who was sort of a celebrity in the fitness phase and
20 owned some of these publications?

21 A Yes.

22 Q And Mr. Weider said: "I'm interested, but we need
23 Arnold's blessing," correct?

24 A Yes.

25 Q And in order to move forward with this — would you

Lisa Kramsky,
Senior Court Reporter

1 call it a giant acquisition, \$365 million?

2 A Yes.

3 Q To move forward with this giant acquisition, you needed
4 Arnold's blessing; correct?

5 A Yes.

6 Q And so you went and met Arnold personally?

7 A I did.

8 Q And you reached an agreement?

9 A Yes, we did.

10 Q And there were a few aspects to this agreement, is that
11 correct, at the time; right?

12 A Yes.

13 Q And at the time of this agreement, he had not yet
14 announced his candidacy to become the Governor of California;
15 right?

16 A That's correct.

17 Q And so one aspect of the agreement was that
18 Mr. Schwarzenegger did not want any more negative stories
19 written about him in your magazines; right?

20 A Yes.

21 Q And I think you said this morning that he had expressed
22 some concerns with you that in the past the National Enquirer
23 had run some pieces that he didn't like?

24 A Yes.

25 Q And you agreed, did you not, to make that happen, to

Lisa Kramsky,
Senior Court Reporter

1 stop running negative stories about Arnold Schwarzenegger?

2 A I did.

3 Q And Mr. Schwarzenegger also asked for help because he
4 thought that there were a number of women that were going to
5 come out and make accusations once he announced his campaign; is
6 that correct?

7 A Yes.

8 Q And you agreed to help him with that; correct?

9 A I did.

10 Q And in addition to that, Mr. Schwarzenegger we given
11 equity in AMI; correct?

12 A Yes.

13 Q How much equity was he given in AMI in 2003?

14 A I — I remember it was less than ten percent.

15 Q How much was that worth at the time?

16 A It was probably worth at the time around \$50 million.

17 Q So, \$50 million in equity on a \$365 million
18 acquisition; right?

19 A Well, it was equity of the whole company.

20 Q It's a significant amount, relative to the size of the
21 deal?

22 A Yes.

23 Q And Mr. Schwarzenegger was also given executive
24 positions, executive titles, at least, in AMI's affiliates;
25 right?

Lisa Kramsky,

Senior Court Reporter

1 A Yes.

2 Q And then he announced his candidacy; correct?

3 A Yes.

4 Q And I think you've said before that at that time women

5 started coming out of the woodwork; right?

6 A That's correct.

7 Q And so this morning you mentioned one story that you

8 purchased for Arnold Schwarzenegger; correct?

9 A Yes.

10 Q Purchased in 2003; right?

11 A Yes.

12 Q But, in fact, 30 or 40 women came to you and AMI was

13 following that, the announcement of his candidacy; correct?

14 A Yes.

15 Q And you spent almost a million dollars purchasing the

16 rights to those stories; correct?

17 A I didn't think it was that high.

18 Q Several hundred thousand?

19 A It was hundreds of thousands of dollars.

20 Q And Mr. Schwarzenegger never paid you back for that;

21 correct?

22 A No, he did not.

23 Q Now, I think that the one story that you described

24 purchasing this morning, was it — the source of that was

25 Gigi Goyette?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And you bought the rights to a book that she wanted
3 to publish about her relationship with Mr. Schwarzenegger;
4 correct?

5 A That's correct.

6 Q And you actually, during the candidacy, sent
7 reporters to Ms. Goyette to bring her to Hawaii to get her away
8 from California so that Mr. Schwarzenegger could campaign;
9 correct?

10 A I did.

11 Q And at some point there was some backlash over this;
12 correct?

13 A Yes.

14 Q And that happened when you were investigated about an
15 FEC's disclosure relating to the equity interest granted to
16 Mr. Schwarzenegger; right?

17 A That's correct.

18 Q And I think you testified this morning that there was
19 an investigation in California?

20 A Yes.

21 Q There were no findings against AMI in connection with
22 that investigation; correct?

23 A No.

24 Q And as a result — there was also an internal
25 investigation at AMI; correct?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And I don't want to get into what you said to your
3 attorneys or not, but as a result of that investigation, you and
4 AMI decided to implement new policies and procedures around this
5 type of issue with assisting a campaign like Mr.
6 Schwarzenegger's; right?

7 A Yes.

8 Q And you did that, right, you implemented policies and
9 procedures?

10 A We did.

11 Q And you followed them; correct?

12 A I did.

13 Q Followed them, including in connection with the events
14 you described in 2015, 2016 and 2017; correct?

15 A I thought I did.

16 Q You thought you did?

17 A Yes.

18 Q You have also purchased a story relating to Tiger
19 Woods; right?

20 A I didn't — we didn't purchase — I should say, yes, it
21 was a Source Agreement, so we did purchase it, yes.

22 Q And you purchased some photographs; right?

23 A We purchased a story about Tiger Woods from a source,
24 but all the investigating photographs, all the investigative
25 works was done internally.

Lisa Kramsky,

Senior Court Reporter

1 Q And the photographs that we're talking about are
2 photographs of a woman meeting with Tiger Woods at a parking lot
3 in Florida; right?

4 A That's correct.

5 Q And this is one of those instances where you bought the
6 rights to a story in order to leverage it against a celebrity;
7 correct?

8 A Yes.

9 Q To use the access that you had to this information and
10 the exclusive rights that you had to get Tiger Woods to do
11 something that you wanted?

12 A Yes.

13 Q And in this instance — and this is around 2007;
14 correct?

15 A That's correct.

16 Q And in that instance, what you wanted was for Mr. Woods
17 to appear on the cover of Men's Health; right?

18 A It was Men's Fitness.

19 Q Thank you. Men's Fitness.

20 And you also wanted him to do an interview; correct?

21 A Yes.

22 Q And at the time, Mr. Woods, if not locked up
23 exclusively, he had a relationship with Conde Nast; right?

24 A The answer is yes.

25 And he also had an exclusive with, I think it was Golf

Lisa Kramsky,

Senior Court Reporter

2 Q So he needed some convincing to sit down with AMI;
3 right?

4 A Yes.

5 Q And so you bought the rights to these photographs;
6 correct?

7 A Yes.

8 Q And at the time that you bought the photographs, you
9 had no intention of running the story; correct?

10 A No. I wasn't going to run it.

11 Q The purpose of buying the story —

12 A Oh, I'm sorry. Excuse me.

13 Q The purpose of buying the photographs was to leverage
14 them against Tiger Woods to get him in the magazine; right?

15 A Yes.

16 Q Now, we talked about these mutually-beneficial
17 relationships?

18 A Yes.

19 Q Another one you had was with a man named Ari Emanuel?

20 A Yes.

21 Q Who is he?

22 A He's the chairman and CEO — excuse me. He's the CEO
23 of Endeavor.

24 Q And you've known him since the 90s; right?

25 A Yes. Since the early 90s.

Lisa Kramsky,
Senior Court Reporter

1 Q And since that time, if you hear a negative story about
2 Mr. Emanuel, you will let him know; correct?

3 A Yes, I do.

4 Q And where you have an opportunity and a way that you
5 think would be beneficial to him, you run stories to promote
6 him; correct?

7 A Yes.

8 Q And there have been instances, have there not, where
9 you helped him suppress potentially negative stories relating to
10 Ari Emanuel; right?

11 A There are.

12 I just want to clarify. Maybe it might not be Ari Emanuel
13 personally, but one of his celebrities.

14 Q Tell us which celebrities that work with Mr. Emanuel
15 that you have helped suppress negative stories for?

16 A A story on Mark Wahlberg.

17 Q What was the story about Mr. Wahlberg?

18 A He had a — this is going back awhile ago. He had an
19 argument or — with his wife and that — and this story was
20 bubbling and going to come out.

21 Q And so at the request of Mr. Emanuel, AMI acquired the
22 rights to that story; correct?

23 A We didn't publish the story.

24 Q You did not publish the story?

25 A That's correct.

Lisa Kramsky,

Senior Court Reporter

1 Q But you acquired the rights to it; right?

2 A We didn't acquire the rights.

3 Q Tell us how you prevented the story from being
4 published?

5 A I advised Mr. Wahlberg's group on where they should
6 purchase the rights for the story from. And I didn't publish —
7 and we didn't publish it.

8 Q Going back to Mr. Emanuel?

9 A Yes.

10 Q You also helped his brother Rahm; correct?

11 A Yes.

12 Q And that was in about 2009; correct?

13 A Yes.

14 Q And Ari Emanuel reached out to you because Rahm had a
15 problem?

16 A Yes.

17 Q And in this timeframe, Rahm Emanuel had just left his
18 position with President Obama; right?

19 A Yes.

20 Q And he left that position to go campaign to be the
21 Mayor of Chicago; correct?

22 A Yes.

23 Q And it was while his campaign was active at the time
24 that Ari Emanuel reached out to you; right?

25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q And you have — you donated to that campaign, correct,
2 in 2009 and 2010?

3 A I did.

4 Q And what Mr. Ari Emanuel wanted help with was a story
5 about an affair that Rahm Emanuel had had; correct?

6 A Yes.

7 Q An affair that happened in 2009 after Rahm Emanuel left
8 the White House; right?

9 A Yes.

10 Q And you did help suppress that story; correct?

11 A I did.

12 Q You acquired the rights to it?

13 A I did.

14 Q And with the intention of not making it public; right?

15 A Yes.

16 Q And you did that for Ari Emanuel and for Rahm; correct?

17 A Yes.

18 Q And during that timeframe, you were negotiating a
19 business deal with Chicago; correct?

20 A That I don't recollect.

21 Q You weren't working to negotiate with the advisory firm
22 that Rahm Emanuel was associated with in Chicago in 2009 and
23 2010?

24 A Oh. Rahm Emanuel worked for, I think, Wasserstein and
25 Perella.

1 I'm sorry. Yes, yes.

2 Q And so you were —

3 A We were thinking about — right, we were thinking about
4 trying to acquire Playboy.

5 Q And in connection with those negotiations, those
6 negotiations were going on at the time you suppressed this
7 story; right?

8 A Yes.

9 Q And you did that in a manner that you believed was
10 consistent with the policies and the procedures that you
11 implemented after the incident with Mr. Schwarzenegger; correct?

12 A Yes.

13 Q And there were no issues with the FEC following that;
14 correct?

15 A No.

16 Q And no issues with any other regulators; correct?

17 A No.

18 Q And the story was, in fact, suppressed at that time
19 because AMI purchased the rights; correct?

20 A Yes.

21 Q How much did that cost?

22 A \$20,000.

23 Q Now, you testified on Tuesday about a meeting at Trump
24 Tower that you said happened in August of 2015.

25 Do you remember that?

Lisa Kramsky,
Senior Court Reporter

1 A Yes.

2 Q And on Tuesday you said that the meeting took place in
3 the middle of August.

4 Do you remember that?

5 A Yes.

6 Q In previous discussions about prosecutors, you've
7 said that that meeting occurred in the first week of August;
8 right?

9 A Yes.

10 Q And that was a mistake; correct?

11 A Yes.

12 Q And the Prosecutors corrected you by letting you know
13 that President Trump was actually at a debate in the first week
14 of August 2015.

15 Right?

16 MR. STEINGLASS: Objection.

17 THE COURT: Overruled.

18 Q You can answer.

19 A I didn't know he was out — he was at a debate. I
20 wasn't informed of that.

21 Q And in fairness —

22 A Yes.

23 Q — these are things that happened a long time ago;
24 right?

25 A Yes.

Lisa Kramsky,
Senior Court Reporter

1 Q And so in preparation for your testimony, the People
2 have brought to your attention certain events that helps place
3 your memory within dates; right?

4 A Well, any time I have spoken to a Prosecutor, they
5 asked me — when they asked me any of these questions, they
6 always said: Do you remember, to the best of your knowledge,
7 and to be as truthful as you can.

8 Q So you testified — you said that you've testified in
9 Grand Jury proceedings with the District Attorney; correct?

10 A Yes.

11 Q And that was in 2023; right? Last year.

12 A Yes.

13 Q And during those Grand Jury proceedings, you stated,
14 did you not, that the meeting took place in the first week of
15 August 2015; right?

16 A Yes.

17 Q And you changed your testimony here; right?

18 A Yes, when I discovered that it was in the middle —
19 that it was the middle of August.

20 Q And when you say that you "discovered," what you mean
21 is that somebody told you that, notwithstanding what you
22 testified about in the Grand Jury, President Trump was
23 actually not in New York City during the first week of August;
24 correct?

25 MR. STEINGLASS: Objection.

Lisa Kramsky,
Senior Court Reporter

1 THE COURT: Overruled.

2 A I — I don't recall anyone telling me about that, that
3 Mr. Trump was away in the first week of August.

4 Q So in the Grand Jury you were under oath; right?

5 A Yes.

6 Q And there was a court reporter, like the one who is
7 sitting in front of you now; right?

8 A Yes.

9 Q And you understood that it was what you said was being
10 taken down; right?

11 A Yes.

12 Q Important to tell the truth, obviously?

13 A Yes.

14 Q And you wanted to; right?

15 A Yes.

16 Q And, in 2023, you said that your best memory was that
17 this meeting took place in the first week of August; right?
18 Correct?

19 A Yes.

20 Q And then you changed your testimony, this week, on that
21 issue; right?

22 A Yes, that's correct.

23 Q And you are saying that you are not aware that
24 President Trump was not in New York City during the first week
25 of August 2015?

Lisa Kramsky,
Senior Court Reporter

1 MR. STEINGLASS: Objection.

2 THE COURT: Sustained.

3 Q Why did you change your testimony?

4 A I thought that — I didn't know the exact date. I
5 thought — I know it was in the first half of August, so I
6 thought it was the middle of August, that's what I
7 recollected.

8 That's why I corrected my — the dates, yes.

9 Q Well, you —

10 A I didn't believe that the exact date was —

11 Q I understand. And I don't mean to put you on the
12 spot.

13 What I'm getting at, though, is that these things happened a
14 long time ago; right?

15 A Yes.

16 Q And even when you're doing your best, and I'm sure you
17 are right now, it's hard to remember exactly what happened when;
18 right?

19 A Yes.

20 Q And when you are remembering about conversations that
21 you had, it's hard to remember what people said almost ten years
22 ago; correct?

23 A You — Ahhhh, yes.

24 Q And so there are some instances where your mind sort of
25 fills in gaps; right?

Lisa Kramsky,
Senior Court Reporter

1 A To the best of my knowledge.

2 Q And you do your best to explain what happened in a way
3 that makes sense; correct?

4 A To what I remember.

5 Q Yeah, to what you remember.

6 And you fill in some details to keep things in sequence;
7 right, and to make them sound logical?

8 A I try to make them — to what I remember. And to be
9 truthful.

10 Q I understand.

11 But there are some gaps; correct?

12 A Yes.

13 Q Because it was a long time ago; right?

14 A Yes.

15 Q And when you are describing one of these meetings that
16 happened almost ten years ago, there are times when there are
17 gaps in your memory and you have to fill in with what you assume
18 happened based on other events; correct?

19 A I didn't feel that I added in language or things that I
20 remembered for whatever the event would be, it's what I best
21 remembered from the meeting that I had —

22 Q Did —

23 MR. STEINGLASS: Objection. He didn't finish his
24 answer.

25 THE COURT: Sustained. Please allow him to finish.

Lisa Kramsky,
Senior Court Reporter

1 Q I apologize. You can finish your answer.

2 A Oh. No. What I'm saying is that in any of these
3 meetings, it was my best recollection at the time that I
4 remembered today or at the time that I gave the testimony to the
5 Grand Jury and when I gave my testimony today.

6 Q And you have had a lot of meetings with Prosecutors and
7 law enforcement to discuss these things; right?

8 A Yes.

9 Q You met with the Prosecutors who are here?

10 A Yes.

11 Q To prepare your testimony; right?

12 A I met with Prosecutors here; that's correct.

13 Q When was the most recent meetings that you had with the
14 Prosecutors?

15 A 2 or 3 weeks ago.

16 Q And how many — how many meetings would you say that
17 you had this year with the Prosecutors?

18 A Over the year, maybe three or four meetings, maybe five
19 in total.

20 Q It sounds like a lot.

21 Do you remember when they were?

22 MR. STEINGLASS: Objection.

23 THE COURT: Sustained.

24 Q Do you remember when the meetings were?

25 A Well, I remember the last — there was meetings in

1 March.

2 And I think December or January, February, around those
3 months.

4 Q So December of 2023; correct?

5 A Yes.

6 Q And February of 2024?

7 A February of 2024, I — you know, I don't have my
8 calendar in front of me so I don't remember all of the dates.

9 Q Because, in fairness, it's hard to remember the dates
10 of these things even when they happen a few months ago; right?

11 A Yes.

12 Q You've also met with Federal Prosecutors; correct?

13 A I did.

14 Q And you testified about that a little bit today;
15 correct?

16 A Yes.

17 Q How many meetings did you have with Federal
18 Prosecutors?

19 A I remember five to six meetings.

20 Q And do you remember, roughly, when those were?

21 A They would have been in June and July and August of
22 2018.

23 (whereupon, Official Senior Court Reporter

24 Laurie Eisenberg relieved Official Senior Court Reporter

25 Lisa Kramsky.)

Lisa Kramsky,
Senior Court Reporter

1 Q I think you said that you mentioned that agreement in
2 September of 2018; correct?

3 A Yes.

4 Q And then you started to meet with the District
5 Attorney's Office; right?

6 A Not until 2019.

7 Q The following year?

8 A The following year.

9 Q And the first — one of the first meetings was in
10 October of 2019; correct?

11 A Yes.

12 Q That was a meeting where you were asked a lot of
13 questions; right?

14 A Yes.

15 Q And it helped to refresh your recollection; right?

16 A Pardon me?

17 Q You were shown documents; correct?

18 A Yes. Yes.

19 Q And those documents gave you a sense of when you
20 thought things might have happened?

21 A Yes.

22 Q And then you were asked to testify in the grand jury;
23 we talked about that; right?

24 A Yes.

25 Q And that was in 2023?

1 A That was in 2023.

2 Q And then you had a series of meetings before the trial
3 with the prosecutors; correct?

4 A Yes.

5 Q And they tried to give you a sense of what this would
6 be like?

7 A Yes.

8 Q They asked you questions that sounded a lot like the
9 questions that Mr. Steinglass asked over the last couple of
10 days; right?

11 A Like the questions, yes.

12 Q I'm sorry. I didn't hear that.

13 A The answer is yes.

14 Q Very similar; right?

15 A Yes.

16 Q Maybe not a script, but you knew what was coming;
17 right?

18 A Yes.

19 Q You understood the topics that you would be asked
20 about; right?

21 A Yes.

22 And I also went through the — my — the — I also — as
23 you mentioned earlier, I did appear in front of the grand jury
24 twice.

25 Q Right.

1 And so — so, to help you remember things today that you
2 did not remember very well at the time —
3 MR. STEINGLASS: Objection.
4 THE COURT: Overruled.
5 Q Let me start that over.
6 To help you remember things from your testimony today that
7 you didn't remember at the time of your preparation, you went
8 back and read things that you said in 2018 and 2019; correct?
9 MR. STEINGLASS: Objection.
10 THE COURT: Sustained as to form.
11 Please rephrase.
12 Q There are things that you did not remember very well
13 that you testified about today that you used other documents to
14 refresh yourself on; correct?
15 A Yes.
16 Q Things that you, independently, don't have a strong
17 recollection of, so you're going based on what you said
18 previously?
19 A (Pause). Um — any documents that I reviewed, I was
20 consistent to what I said when I — when I'm going back to the
21 original grand jury testimonies that I had.
22 Q And that was important, right, to be consistent with
23 what you had said previously?
24 A No.
25 Just refresh my memory.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q But, you also understood that you couldn't say
2 anything different than what you said under oath previously;
3 right?

4 A What I said under oath was the truth.
5 That's all I planned on doing today.

6 Q And so, when you met with Mr. Steinglass and the other
7 prosecutors, they gave you a sense of what you'd be asked
8 today; correct?

9 A Uh, yes.

10 Q Maybe not a script, but there were no questions that
11 were a surprise to you; correct?

12 A It was not a script. And — I wouldn't say about being
13 surprised.

14 Q You were not surprised; correct?

15 A No.

16 Q Now, let's get back to that August 2015 meeting.
17 You testified that Michael Cohen invited you to this
18 meeting; right?

19 A Yes.

20 Q And you had actually known Cohen since the Two
21 Thousands; correct?

22 A Yes.

23 Q And in your relationship with Michael Cohen, he was
24 somebody that always wanted something for himself; correct?

25 A Yes.

1 Q He asked you to promote businesses that were separate
2 from President Trump's work; right?

3 A Yes.

4 Q One of them was a mixed martial arts company; right?

5 A Yes.

6 Q There were times when he asked you to arrange for
7 paparazzi shoots of himself; right?

8 A Yes.

9 Q To promote himself; right?

10 A Yes.

11 Q He also asked you to promote his daughter's rock
12 climbing; correct?

13 A Yes.

14 Q So, you had an independent relationship with Michael
15 Cohen; right?

16 A Yes.

17 Q President Trump introduced you to Michael Cohen around
18 2007, I think you said?

19 A Yes.

20 Q And at that time, President Trump told you that Cohen
21 was his personal lawyer; right?

22 A That's correct.

23 Q And that's the only job that you knew Cohen was doing
24 for President Trump; right? Personal lawyer?

25 A Yes.

1 Q And so, once you met Mr. Cohen, you started to work
2 with him on a mutually-beneficial relationship for President
3 Trump; right?

4 A Can you repeat that again, please?

5 Q He became sort of an intermediary to help you provide
6 information to President Trump about potentially negative
7 stories; right?

8 A Yes.

9 Q And also when there were situations where President
10 Trump could be promoted in the National Enquirer; right?

11 A Yes.

12 Q You started to work with President Trump's personal
13 attorney, Michael Cohen, on those issues; correct?

14 A Yes.

15 Q For at least eight years prior to the August 2015
16 meeting; right?

17 A Yes.

18 Q And in 2015 and 2016, Cohen was always clear with you
19 that he was not working for the campaign; correct?

20 A Yes.

21 Q He was his personal attorney; right?

22 A Yes.

23 Q And you testified on Tuesday about this August 2015
24 meeting in Trump Tower?

25 A Yes.

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 Q That Hope Hicks was in on the meeting; do you remember
2 saying that?

3 A Yes.

4 Q You've had to describe this meeting to law enforcement
5 several times; right?

6 A Yes.

7 Q Getting back to all these meetings that we talked
8 about a moment ago; correct?

9 A Yes.

10 Q And one of the first times you were asked about this
11 meeting was in July of 2018; right?

12 A (Pause). Yes.

13 Q And that was a meeting with federal prosecutors;
14 correct?

15 A Yes.

16 Q Here in Manhattan; right?

17 A Yes.

18 Q And there were FBI agents present; right?

19 A Yes.

20 Q And you understood that that was serious business;
21 correct?

22 A Yes.

23 Q You had to be honest with them; right?

24 A Of course.

25 Q And forthcoming; correct?

Laurie Eisenberg, CSR, RPR

Senior Court Reporter

1 A Yes.

2 Q It was a crime to withhold information in that

3 meeting; correct?

4 A Yes.

5 Q And they actually said that to you; you were warned

6 about that; right?

7 A I was.

8 Q And your lawyers were present, also; right?

9 A Yes.

10 Q And so, you understood how serious this was; right?

11 A Yes.

12 Q Some of the things had been in the news at that point;

13 right?

14 A Yes.

15 Q You testified earlier about a discussion with Dylan

16 Howard about FBI agents coming to see you and Mr. Howard;

17 right?

18 A Yes.

19 Q And by that point, Mr. Cohen as well; right?

20 A Yes.

21 Q You also testified by that point you received a

22 federal inquiry from the Federal Election Commission; right?

23 A I received from the Federal Election Commission, it

24 was in — in March of 2018. February, March of 2018.

25 Q And so, you understood that in this July 2018 meeting,

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Senior Court Reporter

1 it was really important to get all the details out; correct?

2 A Yes.

3 Q That's what the prosecutors demanded; right?

4 A Yes.

5 Q And that's what the agents demanded; right?

6 A Yes.

7 Q And in this meeting, the July 26, 2018 meeting, you
8 did not tell anyone that Hope Hicks participated in the
9 August 2015 meeting; correct?

10 MR. STEINGLASS: Objection.

11 THE COURT: Please approach.

12 (Whereupon, the following proceedings were held
13 at sidebarz)

14 THE COURT: What's the objection?

15 MR. STEINGLASS: My objection is Bornholdt.

16 THE COURT: It's what?

17 MR. STEINGLASS: Bornholdt.

18 He hasn't laid the foundation that Mr. Pecker was
19 asked that question; so he's trying to impeach by
20 omission, without laying the foundation.
21 Either he was specifically asked about that, or
22 the omission would be unnatural. It's certainly not that
23 level of fact that qualifies as an admission being
24 unnatural.
25 It's, clearly, a Bornholdt violation.

1 MR. BOVE: I can do a little more work on this,
2 Judge. I can lay the foundation.

3 THE COURT: Thank you.

4 (Whereupon, the following proceedings were held
5 in open court:)

6 THE COURT: Sustained.

7 Q Before that break, we were talking about a meeting
8 with prosecutors and agents in July of 2018; right?

9 A Yes.

10 Q And the prosecutor and agents asked you to tell them
11 everything that you knew about the events that were later
12 listed in the Non-Prosecution Agreement; correct?

13 A Yes.

14 Q And you — one of the topics that you covered for them
15 was the August 2015 meeting; correct?

16 A Yes.

17 Q And they wanted to know what happened at the meeting;
18 right?

19 A Yes.

20 Q In order to tell them what happened at the meeting,
21 you had to tell them who was there; correct?

22 A Yes.

23 Q And when you were asked that question about who was
24 there, you did not mention Hope Hicks; correct?

25 A Could I see the — what you're referring to?

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1 Q Give me one second.

2 MR. BOVE: This is just for Mr. Pecker, the
3 parties, and the Court, please. The document marked for
4 identification as Defense Exhibit 1.

5 (whereupon, an exhibit is shown on the witness'
6 screen and on the parties' screens.)

7 Q To make this easier, I'm going to hand you a copy of
8 the report, as well.

9 Okay?

10 (whereupon, documents are shown to the People and
11 are shown to the witness.)

12 Q Mr. Pecker, that is a copy of what's been marked for
13 identification as Defense Exhibit A101.

14 Do you see that?

15 A Yes.

16 Q A101

17 Q This is a report of the meeting that we're talking
18 about; right?

19 A Yes.

20 Q And Mr. Steinglass showed you a copy of this report
21 during your testimony earlier; right?

22 A Yes.

23 Q And no place in this report does it indicate that you
24 told the government during the July 26, 2018 meeting that Hope
25 Hicks was present in August 2015 at Trump Tower; correct?

1 A I don't know which page you're referring to.
2 That talks about —
3 Q That's why I wanted to give it to you.
4 My question is, at no point in that document does it
5 indicate that you told the government that Hope Hicks was at
6 your August 2015 meeting?
7 (whereupon, the witness reviews the exhibit.)
8 THE COURT: Can we pull up for ourselves just the
9 other pages in the document?
10 MR. BOVE: Yes.
11 And we can flip through, Judge?
12 THE COURT: Please.
13 (whereupon, documents are shown on the witness'
14 screen and on the parties' screens.)
15 MR. BOVE: If we could go directly to Page 11,
16 please.
17 Zoom in on the paragraph beginning: "Later in
18 2015."
19 Q Do you see that, Mr. Pecker?
20 A I do.
21 Q That's a point in the meeting where you were
22 specifically asked about what happened during a August 2015
23 meeting at Trump Tower; right?
24 (Whereupon, the witness reviews the exhibit.)
25 A Yes.

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1 Q And you did not mention Hope Hicks being there;
2 correct?

3 A No.

4 But, I — I don't know —

5 Q Just yes or no.

6 A Um, no.

7 Q And you had another meeting with the prosecutors in
8 August of 2018, you said; right?

9 A Yes.

10 Q I think that was on August 2, 2018; correct?

11 A I don't remember the exact date.

12 Q You remember it was in August; right?

13 A In August.

14 Q And you remember being asked about the August 2015
15 meeting again; correct?

16 A I don't remember.

17 Q You don't remember if it came up?

18 A Well, I have to see it. I —

19 Q You need to see the report to remember what you're
20 asked about?

21 A Yes.

22 MR. BOVE: Will you bring up, please, for the
23 Court, the witness, and the parties, the document marked
24 for identification as Defense A102.

25 (whereupon, the exhibit is shown on the witness'

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1 screen and on the parties' screens.)
2 (whereupon, documents are shown to the witness.)
3 Q Do you have that, Mr. Pecker?
4 A I have that.
5 Can you point me to which paragraph that we're talking
6 about?
7 Q Well, the first question is, at no point during this
8 meeting —
9 (whereupon, Mr. Steinglass stands.)
10 THE COURT: Please let him finish the question.
11 Q At no point during this meeting did you tell the
12 government that Hope Hicks was present in August of 2015 at
13 Trump Tower; correct?
14 MR. STEINGLASS: Objection.
15 THE COURT: Overruled.
16 You can answer if you remember. If you can,
17 answer the question.
18 A I — I don't remember.
19 Q And you also testified in the federal grand jury
20 following this meeting; correct?
21 MR. STEINGLASS: Objection.
22 Can we approach, please, Judge?
23 THE COURT: Sure.
24 (Whereupon, the following proceedings were held
25 at sidebarz)

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1 THE COURT: Yes?

2 MR. STEINGLASS: Now I'm looking at Defendant's

3 A102, and I don't see a single paragraph where he's asked

4 anything about that meeting.

5 The witness asked to be shown the paragraph where

6 he's asked about the meeting.

7 It's, clearly, not in here.

8 I objected. You overruled the objection.

9 He was allowed to ask: At any point, did you

10 mention that Hope Hicks was at that meeting?

11 And, yet, he was never asked — I don't see any

12 paragraph in which he was asked.

13 The witness asked to be directed to the

14 paragraph, and Mr. Bove went on to another topic.

15 THE COURT: Is it anywhere that he was asked

16 there?

17 MR. BOVE: This is a report. It isn't

18 memorializing the questions.

19 THE COURT: Well, then how can he answer the

20 question?

21 The question is: Were you asked?

22 MR. BOVE: I am entitled to put questions to this

23 witness that he went into the meeting, that he would have

24 had the ability to correct if he remembered —

25 THE COURT: The question is, you're asking him:

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1 At no time did you say — at no time did you say that Hope
2 Hicks was there; and you handed him the document.

3 Right?

4 MR . BOVE: Uh-huh .

5 THE COURT: Presumably, to refresh his
6 recollection.

7 So, I just asked you, is there anything in that
8 document that says you were asked that question.
9 Your answer is, well, they don't write down the
10 questions.

11 So, it's a bit disingenuous to hand the witness a
12 document to refresh his recollection.

13 I take it we're not going to finish today?

14 MR . BOVE: NO .

15 I have a little more on this topic.

16 THE COURT: And then redirect?

17 MR. STEINGLASS: Yes. There's redirect.

18 Do you know how much more this is going to be?

19 I am trying to plan for tomorrow.

20 MR. BOVE: At least a couple of hours.

21 (whereupon, the following proceedings were held
22 in open court:)

23 THE COURT: Jurors, we're going to stop at this
24 time.

25 Before I excuse you, I ask you not to discuss the

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1 case, either among yourselves or with anyone else. Do not
2 discuss anything about the case.
3 You may tell the people with who you live and
4 your employer you are a juror and give them information
5 about when you are required to be in court, but you may
6 not talk to them or anyone else about anything related to
7 the case.
8 Do not any any time during the trial request,
9 accept, agree to accept, or discuss with any person the
10 receipt or acceptance of any payment or benefit in return
11 for supplying any information concerning the trial.
12 You must promptly report directly to me any
13 incident within your knowledge involving an attempt by any
14 person to improperly influence you or any member of the
15 jury.
16 Do not visit or view any locations discussed in
17 the testimony.
18 Do not read, view or listen to any accounts or
19 discussions of the case reported by newspapers,
20 television, radio, the internet, or any other news media.
21 This would include the reading or the listening to the
22 reading of the transcripts.
23 Do not attempt to research any fact, issue or law
24 related to the case, whether by discussion with others, by
25 research in a library, or on the internet, or by any other

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1 source. This includes visiting any court sites.
2 I want to emphasize that in addition to not
3 speaking face-to-face with anyone about the case, you must
4 not communicate about the case with anyone by any other
5 means, including by telephone, text messages, emails, chat
6 rooms, blogs, or social websites.
7 You must not provide any information about the
8 case to anyone by any means whatsoever. That includes
9 posting of information on the case or what you're doing on
10 the case on any device or internet sites, including blogs,
11 chat rooms, social websites, or any other means.
12 Finally, you must not Google or search for any
13 information about the case or the law which applies to the
14 case or the people involved in the case, including the
15 defendant, the witnesses, the lawyers or myself.
16 See you tomorrow morning at 9:30.
17 Have a good evening.
18 COURT OFFICER: All rise.
19 (whereupon, the jurors and the alternate jurors
20 are excused.)
21 THE COURT: Thank you, sir.
22 You can step down.
23 (whereupon, the witness is excused.)
24 THE COURT: Please be seated.
25 Mr. Steinglass, can you elaborate on your

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1 objection, please?
2 MR. STEINGLASS: Yes.
3 My objection is an objection under People v.
4 Bornholdt.
5 I think Mr. Bove, arguably, laid a foundation to
6 ask about People's A101, which at least contains some
7 reference, a paragraph that references the August 2015
8 Trump Tower meeting.
9 However, he then showed the witness People's
10 Exhibit A102, which, insofar as I can tell, doesn't have
11 anything at all about the August 2015 meeting.
12 He asked a question: Did you ever say anything
13 about the presence of Hope Hicks at this meeting?
14 The witness says: I don't know. I need to see
15 the document. I need to look through it.
16 He wasn't given that opportunity.
17 I objected because I thought that question was
18 improper, because I thought it violated Bornholdt.
19 There was no indication the witness was asked
20 about the August 15th meeting during the interview, and
21 there was no indication that admitting it would be an
22 unnatural omission under People v. Bornholdt.
23 The witness asked to be shown the document so he
24 could look at it and be shown if there was a discussion
25 in the August 2015 meeting at Trump Tower.

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1 I don't see any.
2 Perhaps Counsel sees one.
3 But, I think that was a totally improper line of
4 questioning. I think it left the jury with the
5 misimpression that the witness was asked about it and
6 omitted it. That's a prior inconsistent statement; and I
7 think it's a prior omission by Bornholdt.
8 THE COURT: Is there anything in that that says
9 he was asked if Hope Hicks was there and his response to
10 that?
11 MR. BOVE: I don't have a specific response to
12 that.
13 The question to the witness was, does he recall
14 discussing that.
15 This document was marked Defense A102.
16 It contains a substantial set of redactions, so I
17 don't know what's underneath those, and I don't know what
18 came up.
19 It's appropriate for me to ask if he remembers.
20 He then asked me to show a document.
21 THE COURT: He didn't ask for A102.
22 MR. BOVE: He understood. He asked for a
23 document to refresh his recollection about the meeting he
24 was talking about.
25 So I gave it to him.

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1 THE COURT: Well, you gave him A102, which gives
2 the impression that there's something in this document
3 that will refresh his recollection.
4 MR. BOVE: What I perceive refreshed his
5 recollection was he did not recollect this meeting with
6 Hope Hicks.
7 THE COURT: Hear me out.
8 If a witness says, "I don't remember. Do you have
9 anything you can give me that might refresh my
10 recollection?", and then you hand him the document, the
11 message that sends to the jury and to everyone else in
12 this room is there's something in that document that's
13 going to refresh your recollection.
14 But, there wasn't anything in that document; and,
15 therefore, it's misleading.
16 So, we're going to correct this tomorrow morning
17 in the presence of the jury.
18 I'm going to ask you to please be very careful
19 with that.
20 I'm not accusing you of having done it
21 deliberately.
22 But, it still left the jury with the
23 misimpression that he had omitted something.
24 If you want to hand him something to refresh his
25 recollection, you should actually hand him something that

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1 will actually do it.

2 MR. BOVE: What I was seeking to refresh his
3 recollection on is that her name was not in the document.
4 I understand your ruling, that amounts to there
5 was something improper or needs a correction instruction.
6 The point of my question was, she was not in
7 there.

8 THE COURT: Mr. Bove, are you missing my point?
9 I don't think you're responding to what I'm
10 saying.

11 I'm saying you asked him the question. You gave
12 him a document in response to that question, which gave
13 everybody the impression that what he was looking for was
14 contained in that document.

15 And that was not the case; right?

16 MR. BOVE: Yes.

17 THE COURT: So, please be careful.
18 Anything else?

19 MR. STEINGLASS: Yes, Judge.

20 Mr. Colangelo has an application.

21 MR. COLANGELO: Thank you, Your Honor.

22 If the Court permits the People to make an
23 application tomorrow to compel compliance with a
24 third party subpoena, this is a witness from The Trump
25 Organization for a custodial witness.

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1 I am only asking now if the Court will permit us
2 to make the application tomorrow.
3 I don't want to discuss the member of The Trump
4 Organization we have been working with.
5 We gave notice to the Counsel of the Trump
6 Organization.
7 We will be asking the Court — my understanding
8 is, Counsel of the Trump Organization will be present
9 tomorrow on the Court's application, except for the very
10 end of the day because of Sabbath observance.
11 THE COURT: The best time to do it is at the end
12 of the morning. The best time to do it will be before we
13 break for lunch. You can do it then.
14 See you tomorrow at 9:30.
15 Just for the record, the Order to Show Cause,
16 certain dates I believe — I don't have a copy in front of
17 me right now.
18 I believe the Defense has been given until Monday
19 at 5:00 PM to respond, and we're going to have a hearing
20 on that on Wednesday at 2:15.
21 Thank you.
22 (Whereupon, the case is adjourned to April 26,
23 2024.)
24
25

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