

Jury Trial

4455

SUPREME COURT
CRIMINAL TERM

NEW YORK COUNTY
PART 59

THE PEOPLE OF THE STATE OF NEW YORK

INDICTMENT #
71543/2023

-against

Falsifying Business
Records First Degree

DONALD J. TRUMP,

Defendant.

-----:

100 Centre Street
New York, New York 10013
May 28, 2024

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

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

FOR THE PEOPLE:

ALVIN L. BRAGG, JR., ESQ.
New York County District Attorney
BY: JOSHUA STEINGLASS, ESQ.,
MATTHEW COLANGELO, ESQ.,
SUSAN HOFFINGER, ESQ.,
CHRISTOPHER CONROY, ESQ.,
REBECCA MANGOLD, ESQ.,
KATHERINE ELLIS, ESQ.,
Assistant District Attorneys

FOR THE DEFENDANT:

BLANCHE LAW
BY: TODD BLANCHE, ESQ.
EMIL BOVE, ESQ.
KENDRA WHARTON, ESQ.

NECHELES LAW, LLP

BY: SUSAN NECHELES, ESQ.
GEDALIA STERN, ESQ.

SUSAN PEARCE-BATES
Principal Court Reporter
LAURIE EISENBERG, RPR, CSR
LISA KRAMSKY
THERESA MAGNICCARI
Senior Court Reporters

Lisa Kramsky,
Senior Court Reporter

1 THE SERGEANT: All rise.

2 Part 59 is now in session.

3 THE CLERK: Calling People of the State of New York
4 versus Donald J. Trump, Indictment Number 71543 of 2023.

5 Appearances. Starting with the People.

6 MR. STEINGLASS: For the People, Assistant District
7 Attorneys Joshua Steinglass, Susan Hoffinger, Matthew
8 Colangelo, Becky Mangold, Christopher Conroy and Katherine
9 Ellis.

10 Good morning, everyone.

11 THE COURT: Good morning, People.

12 MR. BLANCHE: Good morning, your Honor.

13 Todd Blanche. I'm joined by Emil Bove, Kendra
14 Wharton and Susan Necheles, for President Trump, who is
15 seated to my left.

16 THE COURT: All right. Good morning, counsel.

17 Good morning, Mr. Trump.

18 THE DEFENDANT: Good morning.

19 THE COURT: Is there anything that we need to
20 discuss before we get started?

21 MR. STEINGLASS: I don't think so.

22 THE COURT: All right.

23 So, just for the record, you did receive the
24 Court's proposed charges?

25 I got them to you on Thursday afternoon, early

1 evening.

2 I asked that you please get back to me if there
3 were any errors that you observed in there.

4 I didn't hear from either one of you.

5 I did make clear that you shouldn't get back to me
6 if you disagreed with the charges; you already made all of
7 your arguments and I considered the arguments; and that was
8 my final decision.

9 Before we get started, let's get an update.

10 Mr. Blanche, how long do you expect your summation
11 to be?

12 MR. BLANCHE: Your Honor, I believe around two and
13 a half hours, maybe a little under that.

14 THE COURT: All right.

15 And, People?

16 MR. STEINGLASS: Obviously, it will have to be
17 somewhat responsive to counsel's summation, but I would
18 estimate somewhere in the vicinity of four, four and a half
19 hours, as I had previously suggested.

20 THE COURT: All right. So that means that we may
21 or may not finish yours by 4:30.

22 What I'm going to do is ask the jurors if they are
23 willing to work beyond 4:30 so that we can finish your
24 summation today.

25 I'm going to leave it up to them, and if they say

1 that they are willing to work then we are going to finish it
2 up today.

3 Any reason why we can't bring the jurors out?

4 No?

5 All right.

6 Let's get the jury, please.

7 Actually, before they come in. If we can just
8 close the door one second.

9 Those of you who have appeared before me, who have
10 summed up before me, I just want to remind you, please do
11 not go into the law, okay.

12 Stay away from the law. Stay away from the law.
13 Stay away from the law. That will be my job. I will take
14 care of that.

15 All right.

16 THE SERGEANT: All rise.

17 Jury entering.

18 THE COURT: Please be seated.

19 THE CLERK: Do both parties stipulate that all
20 jurors are present and properly seated?

21 MR. STEINGLASS: Yes.

22 MR. BLANCHE: Yes.

23 THE CLERK: Thank you.

24 THE COURT: Good morning, jurors.

25 Welcome back.

1 Members of the jury, we will now hear the
2 summations of the lawyers.

3 Following their summations, I will instruct you on
4 the law and then you will begin your deliberations.

5 Under our law, Defense Counsel must sum up first
6 and the Prosecutor must follow.

7 The lawyers may not speak to you after that.

8 Summations provide each lawyer an opportunity to
9 review the evidence and submit for your consideration the
10 facts, inferences and conclusions that they contend may
11 properly be drawn from the evidence.

12 If you find that a lawyer has accurately summarized
13 and analyzed the evidence, and if you find that the
14 inferences and conclusions the lawyer asks you to draw from
15 that evidence are reasonable, logical and consistent with
16 the evidence, then you may adopt those inferences and
17 conclusions.

18 Members of the jury, please bear in mind the
19 following points:

20 First, you are the finders of fact.

21 And it is for you and you alone to determine the
22 facts from the evidence that you find to be truthful and
23 accurate.

24 Thus, you should remember that whatever the lawyers
25 say and however they say it, it is simply arguments

1 submitted for your consideration.

2 Second, remember, the lawyers are not witnesses in
3 this case.

4 So if the lawyers assert as fact something that's
5 not based on the evidence, you must disregard it.

6 Remember, nothing the lawyers say at any time is
7 evidence, so nothing the lawyers say in their summations is
8 evidence.

9 You have heard the evidence. And you must decide
10 this case on the evidence as you find it and the law as I
11 explain it.

12 Third, during the summations, one lawyer's
13 recollection of the evidence may in good faith differ from
14 the recollection of the other lawyer or from your own
15 recollection.

16 And the lawyers will undoubtedly differ with each
17 other on the conclusions to be drawn from the evidence.

18 It is your own recollection, understanding, and
19 evaluation of the evidence, however, that controls,
20 regardless of what the lawyers have said or will say about
21 the evidence.

22 Again, you and you alone are the judges of the
23 facts in this case.

24 If, during your deliberations, you need to have
25 your recollection of the testimony refreshed, you may have

1 all or any portion of the testimony read back to you.

2 Fourth, remember, under our law, I am responsible
3 for explaining the law, not the lawyers.

4 If you think there is any difference between what
5 the lawyers may have said and what I say the law is, your
6 sworn duty as jurors is to follow my instructions on the
7 law, as you have promised me that you would.

8 And, fifth, if during the summations I sustain an
9 objection to a comment of a lawyer, that comment will be
10 stricken from the record and you must disregard it as if it
11 were never said. If I overrule an objection, the comment
12 will stand.

13 Whether I sustain or overrule an objection, or on
14 my own indicate that a comment must be disregarded, my
15 ruling indicates only that the comment does or does not
16 violate one of the rules of law set down for lawyers to
17 follow during their summation.

18 It is not an intent to indicate that I have an
19 opinion on what is said or of the facts of the case, or
20 whether the defendant is guilty or not guilty.

21 Remember, under our law, you, the jury, judge the
22 facts, if any, to determine which facts, if any, have been
23 proven and whether the defendant is guilty or not guilty,
24 not I and not the lawyers.

25 Jurors, at this time, it's not clear whether we

1 will be able to complete both sets of summations by 4:30.

2 I leave it to you to decide whether you would like
3 to work beyond 4:30 so that we can finish the second
4 summation.

5 Expect that if we do need to work beyond that time,
6 it won't be very long, perhaps an hour. But I leave it to
7 you.

8 You discuss it.

9 You decide.

10 And you let me know what you would like to do.

11 If you decide that you don't want to work late
12 today, we will just finish it up tomorrow morning.

13 Having said that, we will now commence summations.

14 Counsel.

15 MR. BLANCHE: Thank you, your Honor.

16 I'm sorry, I am just confirming something.

17 All right. Good morning, ladies and gentlemen.

18 I hope that everybody had a nice, long weekend.

19 I want to start with something that I can say, I
20 think with confidence, that everybody inside this well
21 agrees with, which is just to thank you -- to thank you for
22 your jury service.

23 You guys, every one of you, have been here on time
24 and we see you paying close attention to the evidence all
25 day, every day, and we really appreciate that.

1 Our Criminal Justice System, as Judge Merchan just
2 told you, is unique.

3 There is not a lot of justice systems in the world
4 like ours where a group of citizens like you all actually
5 decide the facts. It's not the Prosecution. It's not the
6 Judge. It's not a group of judges. It's you all that
7 decide the facts.

8 And each of you will decide, at the end of this
9 case, whether President Trump is guilty or not guilty.

10 And when I stood here five weeks ago, five weeks
11 ago, on April 22nd, I started out by saying something that
12 I'm going to repeat to you right now because it's as true
13 right now as it was on April 22nd, and that is, that
14 President Trump is innocent.

15 He did not commit any crimes.

16 And the District Attorney has not met their burden
17 of proof. Period.

18 The evidence is all in. It all came in as of last
19 Tuesday.

20 And that evidence, like I said to you on
21 April 22nd, should leave you wanting more.

22 You should want and expect more than the testimony
23 of Michael Cohen.

24 You should want and expect more than Deb Tarasoff
25 telling us how she booked certain invoices and how she

1 vouchered certain evidence on the personal records of
2 President Trump; something beyond the word of a woman who
3 claims that something happened in 2006.

4 You should demand more than the testimony of Keith
5 Davidson, an attorney who really was just trying to extort
6 money from President Trump in the lead up to the 2016
7 election.

8 And there are consequences, the consequences of the
9 utter lack of proof that you all heard over the past five
10 weeks is simple: It's a not guilty verdict. Period.

11 Now, this morning we are going to -- I'm going to
12 spend some time talking to you about the evidence that you
13 all saw over the past five weeks.

14 But it is also not just about what you saw and what
15 you heard in this courtroom, but also what you didn't hear.
16 This case -- this case is about documents. It's a paper
17 case.

18 This case is not about an encounter with Stormy
19 Daniels 18 years ago; an encounter that President Trump has
20 unequivocally and repeatedly denied ever occurred.

21 It's not even about a confidential settlement in
22 2016 and a Non-disclosure Agreement with Stormy Daniels that
23 was signed nearly eight years ago.

24 It goes to the charges, the reason why we're here,
25 the reason why you all are here, is whether and to what

1 extent President Trump, while he was living in the White
2 House, as the leader of the free world, whether he had
3 anything to do with how payments to Michael Cohen, his
4 Personal Attorney at the time, were booked on his personal
5 account and ledger at Trump Tower.

6 Is the booking of legal expenses on the personal
7 ledger of President Trump accurate? Were the -- were those
8 bookings done with an intent to defraud?

9 That's why you are here.

10 And the answer to that, to those questions are
11 absolutely, positively, not.

12 The bookings were accurate, and there was
13 absolutely no intent to defraud.

14 And, beyond that, there was no conspiracy -- no
15 conspiracy to influence the 2016 election by President
16 Trump, the folks at AMI, Michael Cohen. The proof there
17 doesn't add up, and we are going to talk about that this
18 morning.

19 Let's talk about the evidence.

20 I'm going to try to use a pointer, and if I fail,
21 then Mr. Sitko will stand in for us.

22 (Whereupon, a Power Point presentation containing
23 exhibits and transcript excerpts are shown on the screens
24 throughout the entirety of the following summation:)

25 This is what I was just talking about.

1 These are the charges that you ultimately have to
2 find.

3 And as Judge Merchan just told you, I'm not going
4 to talk about the law, that's the Judge's job.

5 But if I do say anything about the law, if Judge
6 Merchan says something different, his word controls, of
7 course.

8 The bottom line is, the charges in this case have
9 to do with invoices, vouchers, and checks.

10 The invoices were all submitted by Michael Cohen.
11 And I'm going to stop -- you are going to hear me talk a
12 lot about Michael Cohen today; that should not surprise
13 you.

14 You cannot convict President Trump -- you cannot
15 convict President Trump of any crime beyond a reasonable
16 doubt on the words of Michael Cohen.

17 There were key conversations, key interactions that
18 he claimed that he had with Dylan Howard, with Keith
19 Schiller, Allen Weisselberg; those are important.

20 But Keith Schiller, Dylan Howard, and Allen
21 Weisselberg were not witnesses in this trial. Michael Cohen
22 is the witness that they called.

23 And the words that Michael Cohen said to you on
24 that stand, they matter. They matter.

25 He took an oath. He swore to tell the truth. And

1 he told you a number of things on that witness stand that
2 were lies. Pure and simple.

3 Now, the records that we are talking about here
4 that are on the screen, those are not, as you all know, they
5 are not 2015 records, they are not 2016 records, these are
6 all records that were generated by folks in 2017 when
7 President Trump was in the White House.

8 You heard that when he was there, he was working
9 from early in the morning until late at night, as you would
10 expect.

11 And the checks that he signed, which we are going
12 to talk about, he signed when he was at the White House.

13 Now, there are two things that I expect that you
14 won't find as it relates to these documents.

15 First, is that the documents contained false
16 entries; and, second, that President Trump acted with an
17 intent to defraud.

18 Those are not the only two elements that are at
19 issue in this case, but those are the elements that are an
20 issue with the documents.

21 And I am going to start with these two because in
22 some ways you don't have to go further.

23 The records are not false, and there was no intent
24 to defraud.

25 So let's talk about the invoices.

1 These invoices, as you all know and remember, were
2 prepared and sent by Michael Cohen and then the accounting
3 staff at Trump Tower just put the stamp, the stamp on them,
4 as you see on the screen there.

5 Then there were vouchers.

6 And the vouchers, as you know, were prepared by
7 Ms. Tarasoff, who testified.

8 She told you that she and Jeff McConney used a
9 system called MDS.

10 Do you remember that Monday when both of them
11 testified and they talked about the accounting software that
12 The Trump Organization used called "MDS."

13 And the vouchers, the information that was put in
14 those vouchers were a result of what the invoices said;
15 right.

16 Do you remember she told you that?

17 That she saw the invoice from Mr. Cohen, and based
18 upon what she saw in that invoice, that's exactly how she
19 knew what to put on the voucher.

20 It also was consistent with what she understood was
21 happening at that time, which is that Michael Cohen was
22 serving as President Trump's Personal Attorney, which was
23 true.

24 There is not even a dispute about that.

25 And then -- and then the checks; right.

1 So the checks are on the far side of the screen
2 that you are looking at in front of you or higher up.

3 The information on these checks was also auto
4 generated from the information put into the vouchers; that's
5 what Ms. Tarasoff told you.

6 And so, again, the language in the check
7 documentation is all driven by the vouchers, which is all
8 driven by the invoices.

9 So, let's talk first about the invoices.

10 Now, some of these invoices were sent in the body
11 of emails; some were sent as attachments to emails; and you
12 can see examples of both of them here.

13 Every single one was addressed to Allen
14 Weisselberg, care of President Trump.

15 There is no dispute that not a single invoice was
16 emailed or sent to President Trump directly.

17 Now, I expect the Government will say, well, you
18 know that President Trump saw these invoices because,
19 generally speaking, Ms. Tarasoff told you that it was her
20 practice to staple them to the back of checks before they
21 were sent to President Trump. And she explained how that
22 process worked.

23 But -- and, again, through no fault of her own,
24 because we're talking about something that happened in 2017,
25 she did not have any specific recollection of whether the

1 invoices that relate to the particular charges in this case
2 were actually stapled to the checks.

3 She told you about her general practice.

4 But general practice, ladies and gentlemen, is not
5 proof beyond a reasonable doubt.

6 Especially when Ms. Tarasoff told you that she
7 never did anything at the direction of President Trump. She
8 never spoke to President Trump about anything to do with the
9 checks or invoices.

10 She just did what she always does. She got an
11 invoice from a lawyer, and entered the invoice as a legal
12 expense.

13 Now, the second point I want to make about these
14 invoices is that Cohen typically wrote "for services
15 rendered;" right.

16 But here is the thing -- and I don't think there is
17 even a dispute about this -- Cohen was rendering services to
18 President Trump in 2017, as his Personal Attorney. He
19 admitted that.

20 He said it on direct examination. He said it on
21 cross-examination.

22 There is really no question that in 2017 Michael
23 Cohen was serving as President Trump's Personal Attorney.
24 As a matter of fact, on direct examination, as you can see
25 on the screen, he said, one of the reasons why he needed to

1 serve as President Trump's Personal Attorney was because
2 there were still outstanding matters that they were dealing
3 with, which was true.

4 There were outstanding matters that Mr. Cohen was
5 dealing with on behalf of President Trump in 2017.

6 Here is just one example, and there are others.
7 This is a May 2017 email from Mr. Cohen to Mr. Weisselberg:
8 "Hope all is well. Please find attached the May invoice.
9 And call me to discuss the last open foundation matter."
10 That's in May of 2017.

11 Now, the Government wants you to believe that
12 Mr. Cohen and Mr. Weisselberg and President Trump had some
13 kind of agreement, some kind of conspiratorial agreement to
14 falsify the records; that Mr. Cohen was really not working
15 for the \$35,000. He was working for free. That's what they
16 have said to you.

17 But, here, as you can see, Mr. Cohen is sharing
18 with Mr. Weisselberg an invoice and saying "call me" or "I
19 need to discuss something I'm doing on behalf of President
20 Trump."

21 Here is another example.

22 There was some litigation related matter, as you
23 may recall, from someone named Summer Zervos.

24 Now -- and, again, this happened a lot. But Cohen
25 lied to you -- Cohen lied to you on direct examination when

1 he said, in response to the question: "How would you
2 characterize the amount of work that you did generally on
3 that matter, if any?"

4 "Very minimal."

5 But then on cross when he was confronted with
6 documents, he indicated that he was lead counsel, co-lead
7 counsel on that matter.

8 And in response to a question about whether that
9 was taking a fair amount of his time to work on that,
10 Mr. Cohen said, "Yes."

11 And that's just two examples of what Mr. Cohen was
12 doing for President Trump in 2017.

13 He tried to call it minimal. It wasn't. But even
14 if it was minimal, even if the amount of work that Mr. Cohen
15 was doing for President Trump in 2017 was minimal, there was
16 a Retainer Agreement. And that's how Retainer Agreements
17 work.

18 You heard that. You heard that from Mr. Cohen when
19 he talked about all of the other consulting Retainer
20 Agreements that he had.

21 Do you remember he told you about one with
22 Novartis?

23 Novartis paid him \$100,000 a month for 12 months,
24 that's \$1.2 million.

25 And he told you he had six interactions with them.

1 Anything criminal about that? No. That's the way Retainer
2 Agreements work. You are on call. Just like Michael Cohen
3 was on call with President Trump.

4 Now, when the Government talks to you about these
5 invoices by Mr. Cohen, as I expect they will later today,
6 and uses the phrase, "For Services Rendered," what you see
7 on the screen, that's a true statement, period.

8 And that's -- that's not evidence of some secret
9 agreement that Mr. Cohen had with President Trump. He
10 broadcast this fact to the world.

11 Remember, he told you that after he had a meeting
12 and it was established that he would be the Personal
13 Attorney to President Trump, he rolled right into Sean
14 Hannity.

15 He talked to every reporter that he could, pushing
16 the fact that he was going to be the Personal Attorney to
17 Mr. Trump.

18 He put that signature block on every single email
19 that he sent in 2017.

20 This was not a secret.

21 Michael Cohen was President Trump's Personal
22 Attorney. Period.

23 Now, I talked a little bit about the Retainer
24 Agreement a minute ago.

25 But many of the invoices also talk about Retainer

1 Agreements.

2 Now, remember what Mr. Cohen said to you about
3 Retainer Agreements and whether there was going to be or
4 ever expected to be a written Retainer Agreement between him
5 and President Trump.

6 The testimony is on the stand -- I mean, excuse me
7 on the screen.

8 "QUESTION: Correct me if I'm wrong, there was
9 never an expectation that there would be a Retainer
10 Agreement; right?"

11 "ANSWER: Correct."

12 That was a lie.

13 And you cannot just minimize the lie and say, well,
14 maybe he made a mistake.

15 A lie is a lie. And this is a significant lie.
16 Remember the email, B206. He was not shown that email on
17 direct examination.

18 This is an email sent by Mr. Weisselberg to
19 Mr. Cohen as soon as he started as President Trump's
20 Personal Attorney.

21 And what does it say? "Thank you. You never
22 stopped in for a Bro hug. Please prepare the Agreement we
23 discussed so that we can pay you monthly."

24 How can it be that Mr. Cohen repeatedly asserted on
25 direct, on direct examination, and even on cross, there was

1 never going to be a Retainer Agreement.

2 Now, it was a big -- it was a big scam to cover up
3 a pay back.

4 Did they forget to tell Mr. Weisselberg about the
5 scam?

6 I mean, is that what Mr. Cohen wants you to
7 believe?

8 Absolutely not.

9 Now, the invoices continue to talk about Retainer
10 Agreements.

11 And, remember, Mr. Weisselberg was clear, he asked
12 for a Retainer Agreement, asked for him to see it.

13 You didn't see a Retainer Agreement. There is no
14 evidence that there ever was one put together.

15 But, as you know, as you heard from multiple
16 witnesses about that, it doesn't matter.

17 MR. STEINGLASS: Objection.

18 THE COURT: Sustained.

19 MR. BLANCHE: As you know, the fact that there was
20 a verbal Retainer Agreement between Mr. Cohen and President
21 Trump is consistent with the practices of another lawyer you
22 heard from.

23 MR. STEINGLASS: Objection.

24 THE COURT: Overruled.

25 MR. BLANCHE: Mr. Davidson. Keith Davidson.

1 And you can see what Mr. Davidson said in response
2 to questions about that.

3 There is nothing wrong with that. Meaning, there
4 is nothing wrong with the Retainer Agreement he had.

5 MR. STEINGLASS: Objection.

6 THE COURT: The objection is overruled.

7 MR. BLANCHE: Beyond Mr. Davidson, remember
8 Mr. McConney, who is not a lawyer. He just works for the
9 Trump Organization.

10 He told you the same thing regarding Retainer
11 Agreements and verbal Retainer Agreements.

12 By the way, ladies and gentlemen, there is no
13 dispute that in 2017 there was an attorney-client
14 relationship between Mr. Cohen and President Trump. Nobody
15 has told you differently.

16 He, meaning Mr. Cohen, was President Trump's
17 personal lawyer. Period.

18 So, before we get to the vouchers, let's just take
19 a step back.

20 Nobody disputes that Mr. Cohen was President
21 Trump's personal lawyer in 2017.

22 So what makes more sense?

23 What makes more sense?

24 That President Trump was paying his Personal
25 Attorney in 2017 \$35,000 a month pursuant to an Agreement

1 that he made, that President Trump made with his Personal
2 Attorney, right before he took Office. It makes perfect
3 sense. Or the version that Mr. Cohen came in here and told
4 you? Which is that, no, no, no, no, no, I was not paid, I
5 was going to work for free. Now, I didn't tell anybody
6 that, but in the back of my head, what I thought is I will
7 just work for free and make a lot of money as a consultant
8 and the \$35,000 a month is not really for my retainer fee,
9 it's actually an overpayment for the hundred and thirty
10 thousand dollars that President Trump was paying me back
11 because of the NDA.

12 For the first time in President Trump's life, he
13 decided to pay me back triple.

14 He doubled up the 130. He gave me 50,000 for some
15 online poll that he had decided he wasn't going to pay for
16 for over a year, which, by the way, I stole from him a
17 little bit on that, and decided I wanted a bigger bonus, so
18 I got an extra 60 grand on the bonus. That's not what
19 really happened, ladies and gentlemen.

20 There is a reason why -- there is a reason why in
21 life, usually the simplest answer is the right one -- and
22 that's certainly the case here -- that the story that
23 Mr. Cohen told you on that witness stand, is not true.
24 That, really, he was paid \$35,000 a month by President Trump
25 to be his attorney in 2017.

1 Now, next, let's talk about the vouchers. There
2 are 12 of them, as you know.

3 There are 12 vouchers that are at issue in this
4 case.

5 In this case, I put one of them up on the screen
6 for you to see, to remind you.

7 And, again, this is from The Trump Organization's
8 MDS system as you heard about from Mr. McConney and
9 Ms. Tarasoff.

10 Remember, Mr. McConney told you that it was an
11 antiquated accounting system back in 2017.

12 But, also, and significantly, there is no evidence
13 that President Trump knew anything about this voucher
14 system. No evidence. Not a single word.

15 Now, I don't know how the Government is going to
16 address that.

17 But let me tell you this, if the Government reads
18 to you quotes from a book a decade earlier, sometimes more
19 than a decade earlier, you should be suspicious. That's a
20 red flag.

21 If the reason the Government is going to ask you to
22 conclude that President Trump knew anything about this
23 voucher system is because of something that he wrote in a
24 book, where he was assisted by ghost writers, decades
25 earlier, there is a problem in the proof.

1 Proof beyond a reasonable doubt does not include a
2 passage in a book from decades earlier, ladies and
3 gentlemen.

4 So, you heard also from Ms. Tarasoff about how she
5 decided how to put information in the vouchers.

6 And she told you, remember, this is an email that
7 was sent on Valentine's Day 2017 where Mr. McConney told
8 Deb: "Pay this from The Trust, post to legal expenses and
9 put retainer on the months of January and February, 2017."
10 Very clear instructions. And it's exactly what Ms. Tarasoff
11 did.

12 But, I just read the whole email, there are three
13 separate sentences.

14 Each of these sentences should give you, without a
15 doubt, reasonable doubt.

16 We already talked about the retainer, the retainer
17 issue.

18 You can see that -- and you saw this in the records
19 on the voucher -- that what Ms. Tarasoff was told to do is
20 exactly what she did; she followed Mr. McConney's
21 instructions.

22 She didn't follow President Trump's instructions.
23 She didn't follow Allen Weisselberg's instructions. She
24 followed Mr. McConney's instructions.

25 Now, she booked it as a legal expense, which, by

1 the way, as both she and Mr. McConney told you, every single
2 invoice that came to The Trump Organization, whether
3 President Trump's personal accounts or elsewhere that came
4 from a lawyer or a law firm, was booked the same way, as a
5 legal expense.

6 So, back to that email.

7 There is no other way to categorize an invoice
8 from a lawyer to President Trump than to call it a legal
9 expense. The Government has criminalized that, has said
10 that that was a crime, what Ms. Tarasoff did. That's
11 absurd. It's not a crime.

12 This is what Mr. McConney said about that, payments
13 to the Trump lawyers by The Trump Organization are legal
14 expenses. That's why you booked them that way on the
15 General Ledger. Yes. That's how they were booked.

16 And you can see that, again, on the voucher that
17 I'm displaying, on the pull out.

18 Same thing from McConney, confirming what I said
19 a moment ago, that there is basically just a drop down
20 menu.

21 This isn't Ms. Tarasoff creating some long
22 explanation for how somebody should be -- how an expense or
23 an invoice should be categorized in the system, it's a drop
24 down menu and it's called "legal expense."

25 Now, you heard from Mr. McConney the reason why

1 this was done.

2 Remember -- and the transcript is on the screen
3 now -- the purpose was basically to make payments to
4 attorneys so that they could be reviewed at the end of the
5 year; right? Correct.

6 And that's exactly what they did.

7 That's not the story. That's not the explanation
8 the Government gave you in opening, when they said this was
9 some elaborate way to cover up a hundred and thirty thousand
10 dollar payment.

11 That's not what the evidence showed.

12 So back to the same email.

13 Now we are at the first sentence: "Please pay from
14 The Trust."

15 Now, let's first stop for a minute on this. This
16 is a couple of weeks after President Trump had been
17 inaugurated; right. It's February 17th, 2017. He moved to
18 Washington, D.C., and at that time, as you heard, all of
19 President Trump's assets were moved into a Trust.

20 The purpose of this was to avoid any conflict of
21 interest.

22 And, remember, that that Trust went into effect
23 January 20th, the day that President Trump was sworn into
24 Office, and as there was testimony about that from more than
25 one witness.

1 This was a very confusing time for the Trump
2 Organization.

3 There were adjustments that were being made. Not a
4 surprise.

5 And, exactly, so, why does that matter?

6 Well, it matters because, as Mr. McConney said,
7 initially they wanted to pay Mr. Cohen out of The Trust.
8 There was some flux and chaos at the time because President
9 Trump had just, for the first time in decades, not been the
10 person running The Trump Organization.

11 So, let's look at that same email, a little bit
12 further down. "OK to pay as per agreement with Don and
13 Eric."

14 Now, who are Don and Eric? You all know who they
15 are, they are President Trump's sons, Eric Trump and Donald
16 Trump Jr.

17 They were two of the three people that were running
18 the company, right, while President Trump was in Office.

19 If their -- this is one of the charged documents
20 that President Trump is charged with a felony, okay.

21 If there was some sort of conspiratorial agreement,
22 as the People have suggested, between President Trump to
23 Mr. Cohen, and Mr. Weisselberg, if there was actually an
24 Agreement between the three of them to pay Michael Cohen as
25 a cover up, this email does not exist. There is no reason

1 to go and get approval from Don and Eric, if it's already
 2 been decided that we are going to pay Mr. Cohen 35,000 a
 3 month; don't tell anybody, because it's not really for legal
 4 expenses, it's actually just a payback from the \$130,000
 5 NDA, then why does this email exist? Then why do Don and
 6 Eric have to approve anything?

7 So, you know, and I don't have an answer to why
 8 this -- why the People, notwithstanding this email, tell you
 9 that there is a conspiracy that exists.

10 But guess who else you did not hear from in this
 11 trial? Don or Eric.

12 Is there some allegation that they are a part of
 13 this scheme, that they are a part of the conspiracy?

14 Now, there is not even a tiny little bit of
 15 evidence that suggests that, ladies and gentlemen.

16 That is reasonable doubt. We have no burden to do
 17 anything.

18 The burden is always on the Government.

19 They make decisions about who to call at this
 20 trial.

21 They called Cohen. They did not call Don and Eric.
 22 So, remember what Mr. McConney told you after the first
 23 couple of payments were made, after the first three payments
 24 were made from The Trust, somebody realized, do you know
 25 what, Mr. Cohen is the Personal Attorney to President Trump,

1 The Trust shouldn't be paying that, President Trump should
2 be paying that out of his own personal account. And that's
3 what they did.

4 They recognized that, as they settled in, that
5 because it was a Personal Attorney to the President, that it
6 didn't make sense for the Trump Organization, for The Trust
7 to pay it.

8 They made a mistake the first three months and they
9 fixed it.

10 And, again, that's not evidence of some scheme or
11 intent to defraud, that's just what happens. And it
12 shouldn't surprise you.

13 And so, we can talk about the checks as well while
14 we are on it.

15 Now, there are 11 checks, right, because the first
16 check was for 70 -- was for two months, was for \$70,000.
17 Exhibit 4, which is what you see on the screen, it's a
18 \$70,000 check relating to the months of January and
19 February, and the second one, People's Exhibit 7, is a
20 \$35,000 check relating to March.

21 You know that both of these checks were approved by
22 Eric and Don Jr.

23 And President Trump had nothing to do with them.
24 There is no evidence he had anything to do with anything
25 involving either of these checks.

1 They are signed by Eric. They are signed by Eric
2 Trump and Mr. Weisselberg. Not by President Trump.

3 But, as you know, President Trump signed the
4 remaining checks at the beginning of April 2017.

5 There is an example on the screen to remind you of
6 what they looked like.

7 Now, these checks don't have any of the language,
8 you will see, from the invoice Mr. Cohen sent. They just
9 say retainer.

10 And as you remember from Mr. McConney and
11 Ms. Tarasoff, that was just a generated word from what was
12 put into the voucher.

13 There is nothing sinister or criminal about that
14 word.

15 It's just generated when the check is printed after
16 that information is put in the voucher, not by President
17 Trump, not by Allen Weisselberg, by Deb Tarasoff.

18 So, you shouldn't think that the word "retainer"
19 specifies or differentiates between any reason for the
20 payment.

21 It's just a single word. It's just a word that,
22 again, was generated by the MDS system.

23 Now, there was a lot of evidence and in openings
24 there was a lot of talk about how President Trump signed all
25 of these checks beginning in April of 2017.

1 Now, as you heard, from two witnesses, President
2 Trump was very busy.

3 He was running the country. It shouldn't be a
4 surprise about that.

5 And, one of the witnesses, Ms. Westerhout,
6 told you that what she remembers is that sometimes President
7 Trump would look at the checks and the invoices; sometimes
8 he would not.

9 And, again, that isn't surprising.

10 She testified that sometimes there were a lot of
11 checks, a half inch of personal checks because, remember,
12 nobody had the signatory authority on President Trump's
13 personal account except for President Trump.

14 So, when there were checks that had to be signed,
15 only he could do it.

16 So you can't -- you can't convict President Trump
17 because sometimes, without any -- without anything specific
18 at all to a particular charge in this case, President Trump
19 looked at invoices, that somehow he had full knowledge of
20 what was happening.

21 There is -- there is no -- that is a stretch. That
22 is a stretch and that is reasonable doubt, ladies and
23 gentlemen.

24 Same thing with respect to the Federal Express --
25 you heard about this Federal Express process that was used.

1 Nothing sinister.

2 It was used because it was a quicker way to get
3 information to President Trump.

4 Again, not surprising when he was in the White
5 House.

6 Now, it wasn't even just President Trump that
7 received information that way.

8 Do you remember?

9 You also heard the First Lady got information from
10 Federal Express, Ivanka Trump, the President's daughter got
11 it the same way.

12 So the fact that the checks and the personal
13 information was FedEx'd from Trump Tower to Keith Schiller
14 and then given to President Trump, there is nothing sinister
15 about that.

16 It's common sense when you hear the explanation of
17 why, which you heard from the witnesses.

18 (Whereupon, at this time, Senior Court Reporter
19 Laurie Eisenberg relieved Senior Court Reporter Lisa Kramsky
20 as the official court reporter.)

21 *****
22
23
24
25

1 (Continued from the previous page.)

2 (Whereupon, a Power Point presentation containing
3 exhibits and transcript excerpts are shown on the screens
4 throughout the entirety of the following summation:)

5 MR. BLANCHE: Now, as I just said, it matters
6 where President Trump was during this time.

7 He was constantly moving. He was very busy. He
8 was frequently multitasking. People were constantly
9 interrupting him. He was President of the United States.

10 So, the idea -- the leap that the Government
11 wants you to take that he looked at the checks, looked at
12 the invoices, and was part of the scheme -- and remember
13 what the scheme is: to book a legal expense as a "legal
14 expense"; that's the scheme.

15 That he somehow was in on that is absurd.

16 And, again, this is where Ms. Westerhout told you
17 that sometimes he would sign checks even when he was
18 meeting with people, while he was on the phone, and even
19 without reviewing them.

20 Again, nothing surprising there, but it's worth
21 remembering.

22 Now, we're going to talk for just a few minutes
23 now about Mr. Cohen.

24 How is the Government going to ask you to convict
25 President Trump based on the words of Michael Cohen?

1 Even without Mr. Cohen, what we just went
2 through, the Government can't get by with that.

3 The invoices were not generated by anybody at The
4 Trump Organization.

5 They were generated by Michael Cohen. They were
6 sent to The Trump Organization so he could get paid.

7 The fact that the invoices refer to a verbal
8 Retainer Agreement, when you know that there was an
9 attorney-client relationship between President Trump and
10 Michael Cohen in 2017, the fact that the invoices talk
11 about services rendered by Michael Cohen, and you know
12 that he was rendering services during that time in 2017,
13 all that ends the case "not guilty".

14 But, there is a lot more.

15 What the People have done, what the Government
16 did for the past five weeks, at the end of the day, is ask
17 you to believe the man who testified two weeks ago,
18 Michael Cohen.

19 Michael Cohen asked you to ignore the documents,
20 ignore what the email says about sending him a Retainer
21 Agreement sent by Mr. Weisselberg, asks you to believe he
22 was just going to work for free.

23 You saw him on the stand for three days, more
24 than three days.

25 Do you believe that for a second? That after

1 getting stiffed on his bonus in 2016, when he thought he
2 had worked so hard and he got stiffed, when he didn't get
3 paid back the 20,000 he was owed, do you think that
4 Mr. Cohen thought: I want to work for free; is that the
5 man who testified, or was that a lie?

6 Now, when we get to Mr. Cohen's testimony, about
7 the issue we're talking about, about the Retainer
8 Agreement, about what he was going to do with it in 2017,
9 just remember something. It's not corroborated by
10 anything. There's not a shred of evidence.

11 What Mr. Cohen told us is that first he talked to
12 Mr. Weisselberg privately, and then they walked down the
13 hall, unscheduled, unannounced, walked into the office of
14 the President-Elect of the United States, who was
15 preparing to be inaugurated just a few days later. And
16 what he wants you to believe, what Mr. Cohen wants you to
17 believe, that he just sat back, Mr. Cohen did, didn't
18 really participate in the conversation.

19 And you can see what he said about it on the
20 screen:

21 "At some point during this conversation,"
22 apparently between the President and Allen Weisselberg,
23 "he turned around and said to me, ummm, while we were
24 talking about this, it was -- and what we're going to do
25 is, we're going to pay you over 12 months."

1 He didn't pretend -- Mr. Cohen didn't pretend to
2 be part of the conversation.

3 He said all President Trump said to him is, "It's
4 going to be one heck of a ride in D.C."

5 That's the evidence. That's the evidence and
6 corroboration the Government gave you about President
7 Trump's knowledge in this scheme.

8 Now, this is the same time period, by the way,
9 that President Trump decided to make Mr. Cohen his
10 Personal Attorney. Mr. Cohen told you that. It was around
11 the exact same time.

12 So, Mr. Cohen has two different meetings with
13 President Trump; one when he's told he is going to be the
14 Personal Attorney, and two, when he and Mr. Weisselberg go
15 in and let the President know about this scheme.

16 He wants to you believe that's what gives the
17 President full knowledge -- that's what gives President
18 Trump knowledge of what happens.

19 That's a ridiculous story, and I want to tell you
20 why. I mentioned it earlier.

21 But, the idea that President Trump would agree to
22 pay Michael Cohen \$420,000, even though he only owed him
23 130 is absurd.

24 Cohen even tells you, he told you that he saw
25 Allen Weisselberg hand that piece of paper, which we're

1 going to talk about in a minute, to President Trump for
2 President Trump to look at. So, he wants to you believe
3 that President Trump saw this piece of paper where there's
4 130,000; 50,000 for Red Finch -- which you know from
5 testimony President Trump said, "I'm not paying that."

6 But, out of the blue, he decides: You know what,
7 not only am I gonna pay it, let's double it. Let's double
8 it. Oh, you didn't like your bonus. You didn't think 50
9 was enough. Let's throw in another 60.

10 That's what Mr. Cohen wants you to believe
11 happened in that meeting when Mr. Weisselberg walked in
12 with that piece of paper and, supposedly, showed it to
13 President Trump.

14 That is absurd.

15 All the other evidence, you heard about how
16 carefully President Trump watches his finances.

17 The first job Michael Cohen got at The Trump
18 Organization, remember, was to make sure every bill that's
19 owed, to not have to pay it, pay as little as possible.

20 Now, by the way, his version of events with the
21 campaign are belied by other evidence.

22 He told you he deserved the extra bonus than the
23 normal bonus he normally gets because of all the work on
24 the campaign.

25 What did Ms. Hicks tell you about Mr. Cohen's

1 role?

2 He did things that frustrated the campaign staff,
3 that were frustrating, and at times he went rogue.

4 That's not things justifying a larger bonus.

5 Now, this is the document that we've seen a lot,
6 People's Exhibit 35.

7 This is the document Mr. Cohen tells you he
8 discussed with Mr. Weisselberg right before they walked
9 into President Trump's office.

10 Well, the point of this document is: It contains
11 lies.

12 Again, you have to accept -- if you accept
13 Mr. Cohen's version of what happened, that they were all
14 in this together, that Mr. Weisselberg, Mr. Cohen,
15 President Trump were all in this together, but the
16 document that the People offer to prove it is full of
17 lies -- the Red Finch, we've already been through a couple
18 of times, is absolutely a lie. The fact they're going to
19 double it up, gross it up is a lie.

20 And let's talk about that for a minute.

21 Now, here's what Mr. Cohen told you about the
22 grossed up concept. He told you that he had no idea and
23 that he didn't even care.

24 He said:

25 "What, if any, understanding do you have about

1 why he grossed up that reimbursement up to 360?"

2 "I don't know. And, to be honest, I didn't really
3 even think about it. I just wanted to get my money back."

4 What evidence do you have, what evidence do you
5 have that this gross up is anything to do with taxes?

6 That's it. That's your proof.

7 Supposedly, Weisselberg said something about
8 grossing it up to Mr. Cohen.

9 Mr. Cohen says, "I don't know."

10 Is there any other proof of that? Any other
11 evidence? No. There's none.

12 Mr. McConney said something very similar.

13 When asked what Mr. Weisselberg maybe meant by
14 "gross it up": "Nobody would know. Nobody would know."

15 So, the witnesses that testified in this
16 courtroom, one says, "I didn't know and I didn't care,"
17 and the other says, "Nobody would know."

18 And based on that, I suggest, the Government is
19 going to suggest to you that there may have been some sort
20 of tax scheme involved here, as well.

21 That's it. That's the proof.

22 You saw no evidence of the tax scheme by anybody
23 for this \$420,000. Not The Trump Organization. Not the
24 personal expenses for President Trump. Not even Mr. Cohen.

25 Now, there is also notes, as you remember, from

1 Mr. McConney, where he also took notes from a separate
2 meeting that he had with Mr. Weisselberg.

3 Now, here's something else that's very important
4 about these notes.

5 Remember when Mr. Cohen told you that he visited
6 the White House in February; remember that?

7 We put a photo up of him.

8 And we saw his calendar entry that he was going
9 to the White House.

10 So, this meeting was early February; okay.

11 He talked about it. It was a big day.

12 Now, what did he tell you about that? He told you
13 that he's going to the Oval Office for the first time in
14 his life, meeting his boss, the man he's worked for for
15 nine-and-a-half years, achieved this amazing thing of
16 becoming President of the United States, but they had a
17 conversation about the checks, about the money. That's
18 what he wants you to believe.

19 Oh, yes, we confirmed it.

20 President Trump said, "Do you need money? Do you
21 want me to write you a check?"

22 And I said, "No."

23 That's what he wants you to believe.

24 But, hold on a second.

25 Just six days later, on February 14, 2017 --

1 Mr. Cohen had visited the White House on February 8th --
2 Mr. Cohen sends an email back to Mr. McConney, asking:
3 "Hey. How much does the monthly retainer run again? What
4 am I supposed to do?"

5 This is after Mr. McConney emailed him and said:
6 "Hey. Send us an invoice if you want to get paid. Jeff."

7 "Please remind me of the monthly amount?"

8 So, Mr. Cohen wants you to believe February 8th
9 he was in the Oval Office for the first time after
10 Mr. Trump became President of the United States, they have
11 a confirmatory Agreement about the scheme and why you're
12 here, but just six days later, Cohen doesn't even know how
13 much it's supposed to be.

14 So, the last thing I want to say about the notes
15 that we were looking at earlier about Mr. Weisselberg is
16 -- the notes that you now see next to the -- next to the
17 notes, which are the notes that Mr. McConney told you he
18 took after a separate conversation with Mr. Weisselberg.

19 First of all, Mr. McConney's notes don't reflect
20 180,000. They don't say what it's for.

21 It just has it written. It says "times two".

22 It also suggests that the money is going to come
23 out of President Trump's personal account, which, as you
24 recall, for the first three months it didn't. There was
25 confusion.

1 So, the point is, if you accept the Government's
2 position that there was this agreed-upon scheme in
3 January, why would Weisselberg say to Mr. McConney things
4 that end up not happening?

5 Why was it the Trump Org -- excuse me -- Trump
6 Trust documents paid the first three months if there was
7 this Agreement reached amongst President Trump, Michael
8 Cohen and Allen Weisselberg?

9 Now, also, you have these. Right? They're in
10 evidence.

11 Why are they in evidence?

12 If this is some document, some evidence of a
13 crime, how come, as you heard from Mr. McConney, he took
14 both of these documents and he put them in the record
15 where he keeps all the records for the Payroll Department
16 in his office?

17 He didn't get rid of them. He didn't try to
18 discard them.

19 This is a case about false filings, about false
20 business records.

21 And, yet, the supposed evidence of the false
22 filing were in the records of President Trump's personal
23 account, in the payroll cabinet of Mr. McConney's office.

24 Does that make sense?

25 So, for all those reasons, you don't have to go

1 further, President Trump is not guilty.

2 But -- but, I expect that you're going to be --
3 that you're going to hear from Judge Merchan that there's
4 something else that has to be proven beyond a reasonable
5 doubt. The Government has to prove to you that President
6 Trump caused these entries -- so, caused these entries,
7 even if false, with an intent to defraud.

8 That means, like, a conscious objective, a
9 purpose to defraud.

10 There is no evidence of that, ladies and
11 gentlemen.

12 First of all, the records aren't false.

13 But, even if they were, where is the part of
14 "intent to defraud" by President Trump?

15 And how do you know there's no intent to defraud?

16 Well, you saw in evidence that The Trump
17 Organization reported this. There's a 1099 that reflects
18 the payments from The Trust and also from President
19 Trump's personal account to Michael Cohen.

20 Now, there's nothing false or misleading about
21 the 1099s. It's like any 1099 you give somebody who is
22 working for you.

23 So, if there was some deep-rooted intent to
24 defraud, why do you think it was reported to the IRS as
25 exactly what it was, to Michael Cohen as President Trump's

1 Personal Attorney?

2 Now, Mr. McConney is the only witness who
3 testified about the 1099s at this trial, and he told you
4 that there is no way on the 1099 Form, as you can see
5 there, to differentiate between whether it's a legal
6 service or a various expense. You just mark it, and you
7 send it to the person who works for you -- in this case,
8 Michael Cohen -- and it's his responsibility to deal with
9 it with the IRS.

10 There's nothing criminal about that at all. It's
11 the way it's supposed to be done.

12 So, that's one reason why there's no intent to
13 defraud.

14 But, also, you can look -- by the way, these
15 Forms are in evidence, so you don't have to take my word
16 for it.

17 But, they're exactly accurate.

18 Mr. Cohen, at the time, was a non-employee at The
19 Trump Organization. He was a Personal Attorney to
20 President Trump, an outside attorney. And the payments
21 were compensation to him. Period.

22 Nothing false.

23 Now, we offered these documents through
24 Mr. McConney. Not the Government.

25 MR. STEINGLASS: Objection.

1 MR. BLANCHE: But, they're important.

2 THE COURT: Sustained.

3 MR. BLANCHE: They're important.

4 It shows that The Trump Organization disclosed
5 these payments. They disclosed these payments to the IRS,
6 both from The Trust and from President Trump's personal
7 account.

8 How else do you know there's no intent to
9 defraud?

10 Well, you saw President Trump send out a Tweet in
11 2018, saying exactly what he did.

12 If there was an intent to defraud, why would he
13 do that?

14 Now, finally, you saw that there was a document
15 submitted after President Trump was in Office to the
16 Office of Government Ethics where, again, the payment was
17 disclosed to the Federal Government. He signed the Form,
18 and an agency official concluded he was in compliance with
19 the applicable laws and regulations.

20 You can see the language that's described there.
21 It's a little small.

22 "In the interest of transparency," while not
23 required to do so, the payments to Mr. Cohen were
24 disclosed.

25 So, how can it be there's any intent, intent to

1 defraud by President Trump, when he discloses it to the
2 IRS, he Tweets about it, and he submits it on his Office
3 of Government Ethics Forms?

4 So, I'm going to talk a little bit now about what
5 I expect the Government will talk about, which is a
6 conspiracy to influence the 2016 election.

7 I don't even think you have to get to this,
8 because with what we just talked about, with the way the
9 Forms were filed, the way that they were booked on
10 President Trump's personal records, there's no crime.
11 Period.

12 But, even if -- even if you get to ask yourself
13 about any conspiracy to influence the 2016 election, I
14 expect that you will find President Trump is not guilty.

15 Now, the Government's theory is that in 2017 --
16 so, after the election; the election is November 2016 --
17 President Trump caused false filings, which we just talked
18 about, to be made on books of his personal records to
19 promote a candidacy in an election that he had already
20 won.

21 The charges relate to documents in 2017.

22 And the Government wants you to believe that
23 President Trump did these things with his records to
24 conceal efforts to promote his successful candidacy in
25 2016, the year before.

1 By the way, even that, even if you find that's
2 true, that's still not enough.

3 It doesn't matter -- as I said to you in the
4 opening statement, it doesn't matter if there was a
5 conspiracy to try to win an election.

6 Every campaign in this country is a conspiracy
7 from another candidate, a group of people who are working
8 together to help somebody win.

9 In order for you to find that there was an intent
10 to conceal an election-related crime, you have to find
11 that this effort was done by unlawful means.

12 I expect the Government will talk about three
13 separate unlawful means. Okay.

14 One. Federal campaign finance violations.

15 Two. Tax violations.

16 And then, the third is his other books and
17 records violations.

18 But, I'm going to spend a few minutes talking
19 about all three of those.

20 None of them make any sense.

21 Let's talk for a minute about that August 2015
22 meeting that you heard a lot about from Mr. Pecker and you
23 heard about from Mr. Cohen. That's, supposedly, where this
24 conspiracy starts.

25 There's an August 2015 meeting at Trump Tower.

1 David Pecker, President Trump, Michael Cohen is there, and
2 at times, supposedly, Hope Hicks was in and out.

3 Well, what you heard is that Mr. Pecker agreed
4 that he would be the eyes and ears for the campaign, that
5 AMI would do what they could to publish flattering stories
6 about President Trump and that AMI would attack President
7 Trump's opponents.

8 But -- this is from Mr. Pecker's testimony,
9 ladies and gentlemen.

10 This is the same thing AMI had been doing for
11 decades. They had been doing it for President Trump since
12 the Nineties.

13 Mr. Pecker told you that AMI purchases stories
14 all the time. They purchased stories about Tiger Woods,
15 Mark Wahlberg and other people.

16 And this was good business for them.

17 Mr. Pecker told you this allowed him to have a
18 mutually beneficial -- a mutually beneficial relationship
19 with celebrities.

20 He talked about Ron Perlman, Rahm Emanuel.

21 He also told you it wasn't unique to President
22 Trump; that, in fact, many politicians work with the media
23 to try to promote their image.

24 No crime.

25 He said, actually, it was standard operating

1 procedure to do so. It's how you try to win elections.

2 And not just President Trump's campaign. Other
3 presidential candidates did it long before 2016.

4 It wasn't just Mr. Pecker.

5 Hope Hicks told you exactly the same thing. It's
6 not uncommon for campaigns to work with the media to run
7 campaign themes. It's a regular practice.

8 Again, this isn't surprising. Campaigns want to
9 amplify the good things about their candidate and expose
10 the bad things about their opponents.

11 Again, this is a campaign. This is an election.

12 This is not a crime.

13 Even Mr. Cohen told you exactly the same thing.

14 He spent decades working the media to help him or
15 to help President Trump push forward a story or a version
16 of events or to suppress something that's being told.

17 Again, nothing criminal. Nothing criminal about
18 it. It's done all the time.

19 Remember, Mr. Pecker gave you that story,
20 gave you an example of something that happened with
21 him and Arnold Schwarzenegger. Do you remember that?
22 It was a while ago. He told you that he had helped
23 Mr. Schwarzenegger suppress stories from more than 30
24 women, including a book that had been written. Mr. Pecker
25 told you that he had spent hundreds of thousands of

1 dollars on this.

2 Indeed, it even led to an investigation by the
3 California State authorities and changed AMI.

4 But, as to this courtroom, there were no charges
5 brought, no criminal charges brought as a result of that.

6 Now, remember another story that Mr. Pecker told
7 you about another person running for election -- elected
8 office named Rahm Emanuel. It's Ari Emanuel's brother, who
9 is a big power-broker, apparently.

10 What Mr. Pecker told you, that in 2010/2011, he
11 helped suppress a story about an affair that Mr. Emanuel
12 had had to help Mr. Emanuel run for Office in Illinois.

13 There were no issues with the Federal Election
14 Commission. There were no claims that any laws were
15 broken.

16 And, by the way, that's exactly why Mr. Pecker
17 believed that what he was doing when he met with
18 President Trump and Mr. Cohen in 2015 was perfectly legal.

19 MR. STEINGLASS: Objection.

20 THE COURT: Sustained.

21 MR. BLANCHE: Sorry?

22 THE COURT: Sustained.

23 MR. BLANCHE: So, you have decades, decades of
24 AMI doing exactly the same thing with respect to stories,
25 working with celebrities and politicians to promote

1 campaigns and suppress negative stories.

2 There's zero criminal intent in that 2015
3 meeting.

4 Indeed, Mr. Pecker told you that it was really
5 good business to work with President Trump.

6 He explained to you that the positive stories
7 actually started when President Trump started running
8 The Apprentice in the early Two Thousands.

9 As far back as 1988, Mr. Pecker told you that he
10 had helped suppress a story for Mr. Trump. 1988. That's
11 17 years ahead of the August 2015 meeting.

12 And, again, in 2007 -- so, eight years before the
13 August 2015 meeting -- Mr. Pecker told you he started to
14 work with Mr. Cohen to help President Trump.

15 So, this had been going on for decades. It
16 had been going on for eight years with Mr. Cohen and
17 Mr. Pecker.

18 And they were friends. No dispute about that.
19 Mr. Pecker said that a couple of times.

20 But, this was also not just about friendship.
21 This was good business for AMI. They made a lot of money
22 based on relationships. Not surprising.

23 And then, in 2015, when they had that meeting,
24 there is no doubt that one of the reasons why Mr. Pecker
25 agreed to it was that it was good for business.

1 He told you that President Trump was absolutely
2 the top celebrity that helped sell magazines.

3 And of course Pecker wanted to make money. He ran
4 the company.

5 And so, it's not just -- by the way, it's not
6 just Pecker being greedy and wanting money for himself. He
7 had shareholders. It was his fiduciary duty to make money
8 for his shareholders by promoting President Trump.

9 Again, not a conspiracy. No criminal intent.

10 It's AMI doing what they do and what they have
11 done for decades.

12 Now -- so, there's nothing wrong -- and I said
13 this in our opening statement -- with a politician like
14 President Trump trying to get positive stories and avoid
15 negative ones. Nothing criminal about that.

16 But, let's be clear about something else. The
17 idea, even if there was something wrong with it, the idea
18 that sophisticated people like President Trump and David
19 Pecker believed that positive stories in the National
20 Enquirer could influence the 2016 election is
21 preposterous.

22 Mr. Pecker told you that the National Enquirer's
23 circulation at that time period, in 2016, was around
24 350,000.

25 The New York Times' circulation was many, many

1 multiples of that number.

2 Millions and millions of people voted in the 2016
3 election.

4 So, the idea that they really thought this
5 meeting at Trump Tower in 2015 would ultimately influence
6 the election makes no sense.

7 And here -- by the way, here's why that matters.

8 The Government wants you to believe that in
9 August of 2015, Mr. Pecker, President Trump and Michael
10 Cohen all got together in President Trump's office and
11 said: Okay. We're going to commit a crime. Let's enter
12 into a conspiracy, a conspiracy to influence the election
13 in 2016. And that's what they came up with.

14 Now, what were they gonna do?

15 You saw a bunch of the -- a bunch of the articles
16 in this trial that have also been published by the
17 National Enquirer about negative stories about the folks
18 running against President Trump and positive stories about
19 President Trump.

20 But, what did they actually discuss at that
21 meeting? What did Mr. Pecker tell you that they actually
22 discussed?

23 There was no in-depth discussion -- and Mr. Cohen
24 tried to tell you that there was.

25 There was no in-depth discussion about how they

1 would get together and publish really negative stories or
2 really positive stories.

3 It was just a general discussion that Mr. Pecker
4 told you about in 2015 of an effort to try and help
5 President Trump.

6 So, remember, also, that a lot of the stories
7 that the National Enquirer ran were just recycled.
8 Remember, many of the stories had already been published
9 by other organizations. All the stories that you see on
10 the screen.

11 Now, the idea that the National Enquirer could
12 corruptly, criminally influence an election by
13 republishing stories that had already been out there in
14 other forums should, hopefully, make you shake your head.

15 It makes no sense.

16 Now, remember what the Government told you about
17 this August 2015 meeting and what happened thereafter.

18 Now, what they told you -- remember the words
19 "catch and kill".

20 They told you -- I'm going to talk to you about
21 the three "catch and kills" they put in front of you in
22 this trial.

23 Remember, they told you this was the heart of the
24 Agreement, the catch and kill scheme.

25 But, they didn't even discuss catch and kill at

1 the August 2015 meeting.

2 Mr. Pecker told you that.

3 Mr. Cohen didn't dispute that.

4 There were no financial arrangements discussed at
5 that meeting.

6 Think about that.

7 The Government wants to you believe that the
8 three stories we're going to talk about -- Ms. McDougal,
9 Ms. Daniels, and Dino Sajudin -- were the essence of
10 the catch and kill scheme between Mr. Cohen, AMI and
11 Mr. Trump. And it wasn't even discussed at the time the
12 conspiracy was formed. No financial discussion. No
13 discussion about catch and kill.

14 Think about that.

15 So, Mr. Pecker told you about the first time that
16 he heard "catch and kill", and he said it was from the
17 investigation.

18 And then, on redirect, he was asked whether he
19 actually read it in an article.

20 And he said, yes, he read it in an article
21 earlier, but make no mistake about it, there was no catch
22 and kill discussed at this August 2015 meeting when this
23 supposed conspiracy was born.

24 So, let's talk for a few minutes about the catch
25 and kill scheme.

1 Keep in mind, there is nothing unusual --
2 Mr. Pecker told you this -- about catching and killing.

3 What did Mr. Pecker tell you? He said they only
4 published about half the stories that they bought. Half
5 the stories. Half the stories.

6 So -- and, by the way, Mr. Pecker knows a lot;
7 right.

8 He took the stand a month ago.

9 I know that you've seen a lot of testimony since
10 then.

11 But, he's been in this industry for decades; and
12 so, when he talks about the work that he had done over the
13 years and the way that he ran AMI, he was speaking from
14 experience.

15 So, when he tells you that he had never heard
16 "catch and kill" until the investigation or until a news
17 article about it sometime relatively recently, that's
18 meaningful. That's meaningful.

19 When he tells you that half the stories that the
20 National Enquirer buys, they don't publish, that's
21 meaningful. That matters.

22 So, let's talk about the three catch and kills.

23 The first one. Dino Sajudin. A supposed love
24 child.

25 Completely 100 percent false. Everybody told you

1 that. Literally, a made-up story, designed to harm
2 President Trump. Not true. And also harm his employees and
3 folks that work for him.

4 This happened -- this bubbled up a few months
5 after the August 2015 meeting. Right?

6 We're still in 2015.

7 And what did Mr. Pecker tell you about when he
8 learned about this?

9 He said that he was always going to do what was
10 best for AMI, and that if this story was true, he was
11 publishing it. He said it would have been the biggest
12 story AMI had ever had. He estimated he could have sold
13 ten million National Enquirers and that he had a fiduciary
14 obligation to his shareholders to sell the story.

15 That doesn't sound like a catch and kill at all.

16 Now, Pecker told you he never discussed the story
17 directly with President Trump, he just talked to Mr. Cohen
18 about it, and that makes good sense.

19 Remember, he told you that he was trying to
20 figure out what was true.

21 If it was true, he was going to publish it. So,
22 he wasn't talking to President Trump about it.

23 This isn't a catch and kill.

24 This is an opportunity. The biggest story we ever
25 had. Ten million copies. It was worth too much to catch

1 and kill. Full stop.

2 You can see when he talked about that, Mr. Pecker
3 was, in fact, truthful about that.

4 On redirect, he said: Oh, I wouldn't have
5 published it until after the election.

6 But, that doesn't make any sense.

7 He was trying to verify this story in 2015,
8 months and months before the election in 2016.

9 It would have been the biggest story the National
10 Enquirer ever had.

11 Think about that.

12 The Government wants you to believe that in
13 August of 2015, there was this super conspiratorial
14 criminal meeting where Mr. Pecker is going to help --
15 criminally help President Trump win the election, and the
16 first opportunity he gets to really work this conspiracy,
17 really help President Trump, he says: No, no, no. I'm
18 publishing this. I'm publishing this.

19 What kind of conspiracy is that?

20 The first opportunity you have to really do your
21 thing with your co-conspirators and suppress a story and
22 catch and kill a story: No. This is the biggest story
23 ever. I'm going to figure out if it's true. And if it's
24 true, I'm going to publish it.

25 That's the evidence. That's what you heard.

1 The reason they didn't publish this story, by the
2 way, was it catch and kill? No. It's because it was
3 false. The story was not true. That's why it was never
4 published.

5 So, if you look at the original Agreement between
6 AMI and Mr. Sajudin, dated November 15, 2015, totally
7 standard document as you heard, nothing unusual, they were
8 going to pay \$30,000 if they published the story. Nothing
9 unusual. That's the way the National Enquirer normally did
10 it. And a 90-day period of exclusivity.

11 Again, Mr. Pecker told you that was all standard.
12 So, AMI is just doing what it always does.

13 Then what happened?

14 A little bit later, in December of that same
15 year, they amended the Agreement; and under the Amendment,
16 AMI owed \$30,000 to Mr. Sajudin, and they paid it. And
17 it lasted forever. This Agreement never expired.

18 And Mr. Sajudin could never talk about it, or he
19 would owe a lot of money.

20 And what did Mr. Pecker tell you about why -- why
21 they did this, why they switched and actually paid him the
22 money, without actually writing a story? He told you that
23 Mr. Sajudin was threatening to go someplace else, and they
24 had to see if that story was true. So, if they didn't
25 agree to pay him \$30,000, there was a risk he would go

1 somewhere else. And, again, if that was a true story, that
2 was getting published.

3 "That's why he decided to pay Mr. Sajudin;
4 correct?"

5 "Yes."

6 "Mr. Pecker told you the reason why he did that
7 is because it was still possible, in his mind, that that
8 story was true?"

9 "That is correct."

10 That is not a catch and kill. It's just not.

11 Mr. Cohen, when he talked about this, by the way,
12 he lied to you again. He lied to you about the Amendment.

13 He says he told President Trump about the details
14 regarding Mr. Sajudin. He said he did that because he
15 wanted to take credit. He wanted to take credit with
16 President Trump.

17 But, you can see that he really -- when we
18 cross-examine him on this issue, he really didn't even
19 fight.

20 He, admittedly, didn't tell President Trump all
21 the details. He never told President Trump details like
22 this.

23 MR. STEINGLASS: Objection.

24 THE COURT: Overruled.

25 MR. BLANCHE: Again, on direct he says one thing;

1 on cross he says another.

2 He is not telling the truth. He's lying.

3 So, Mr. Cohen, by the way, used "credit"
4 constantly; right.

5 He constantly said to you he wanted credit. He
6 wanted credit from President Trump. He did something
7 because he wanted credit. He kept President Trump updated
8 because he wanted to take credit for himself.

9 He told you that repeatedly on direct and, also,
10 on cross.

11 Why do you think he did that?

12 That's the same phrase that Hope Hicks used in
13 describing Mr. Cohen.

14 She described Mr. Cohen as being "Somebody who
15 always wanted credit".

16 Mr. Cohen admitted to you that he was following
17 this trial before he testified.

18 Just think about that for a minute.

19 He came in here and testified two weeks ago, but
20 admitted, because he had to, that he had been following
21 the trial earlier in the trial.

22 Why do you think, suddenly, "credit" was part of
23 his story?

24 Is that something that can be trusted as the
25 truth? Absolutely not.

1 I want to talk now about Ms. McDougal.

2 That's the second catch and kill; right.

3 Now, Ms. McDougal didn't testify at this trial,
4 but you heard about her affair.

5 Again, just like Mr. Sajudin, there was never any
6 money paid by Michael Cohen or President Trump to AMI for
7 anything involving Ms. McDougal's story.

8 But, what is clear from what you heard about
9 Ms. McDougal, this was not a catch and kill, either.

10 Everybody said the same thing. Karen McDougal did
11 not want her story published.

12 Catch and kill: We're going to catch a story
13 from being published, to keep it from being published, and
14 then we're going to kill it.

15 Ms. McDougal didn't want her story published.

16 She wanted to kick-start her career. She wanted
17 to be on the covers of magazines. She wanted to write
18 articles.

19 She didn't want to publish the story.

20 She wanted to write articles with AMI.

21 And, again, she did that.

22 Again, how is that a catch and kill? It's not.

23 So -- and her attorney said the same thing.

24 It wasn't one side.

25 He told you, Mr. Davidson said she did not want

1 to publish her article.

2 You can see it on the screen:

3 "Ms. McDougal did not want to publish an article
4 about the claims that have been discussed here; right?"

5 "True."

6 You can see, one of her friends forced her hands,
7 the friend that publicized Ms. McDougal's allegations, so
8 she was trying to take advantage of the situation.

9 To be clear, it was not Ms. McDougal's intention
10 to publish her story.

11 And, again, the reason why this matters, the
12 reason why the details of what happened back in 2016
13 matter to you and should matter to you is that there was
14 never any risk that her allegation would influence the
15 election, because she didn't want her allegations
16 published.

17 Remember why you're thinking about these
18 incidents. It's because the Government has alleged a
19 conspiracy to influence the election. And the second of
20 the three didn't want to influence the election at all.
21 She didn't want her story published.

22 So, she was paid \$150,000. No question about
23 that. You saw the documents, and you heard the testimony.

24 But, remember why.

25 Ms. McDougal had an entourage around her.

1 Remember, Davidson took 45 percent of the \$150,000. You
2 also heard about a bodyguard. That was Johnny Crawford,
3 who was a police officer, who was providing security. All
4 of them would be compensated. And you also heard about her
5 manager, Gene Rodriguez, who was also compensated. All
6 these people around Ms. McDougal wanted to make money. Of
7 course.

8 So, whatever she ended up with from 150,000 was
9 not much and, again, did not seem to bother her because
10 that was not her motive.

11 She wanted to be on the cover of magazines. She
12 wanted to write articles.

13 She was not trying to get her story published and
14 then have it caught and killed.

15 So -- let's talk about what happened -- again,
16 the legality of the situation. Okay.

17 So, you have the Government's argument that what
18 happened here was, somehow, important. Okay. There was
19 something wrong about to happen.

20 That's not what Mr. Pecker talked about and not
21 what he told you.

22 Remember, he told you that he consulted with an
23 attorney.

24 MR. STEINGLASS: Objection.

25 THE COURT: Sustained.

1 MR. BLANCHE: Let's go to what he said.

2 He said that he submitted a declaration under --

3 MR. STEINGLASS: Objection.

4 THE COURT: Overruled.

5 MR. BLANCHE: -- under penalty of perjury.

6 "And this is a declaration of legal advise that
7 you had received relating to the Agreement with Karen
8 McDougal; correct?"

9 "Yes."

10 And it said that the Agreement was lawful.

11 So, he told you that he didn't keep anything from
12 his lawyers when he talked about it. He told you that on
13 cross.

14 And you can see that here.

15 And, also, you know that Mr. Pecker has an
16 Agreement with the District Attorney, with the Prosecutors
17 in this case that provided him with immunity.

18 And you can see that. It's in evidence.

19 You see the paragraph that is applicable to what
20 we're talking about now: That if the District Attorney, if
21 the Prosecutor determines Mr. Pecker provided any false,
22 incomplete or misleading testimony, that the Agreement is
23 then breached and that he could be subject to prosecution.

24 But, you know Mr. Pecker is not being prosecuted
25 for anything. You know that.

1 (Whereupon, Senior Court Reporter Theresa
2 Magniccari relieves Senior Court Reporter Laurie
3 Eisenberg, and the transcript continues on the following
4 page.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (Whereupon, the proceedings were continued from
2 previous page.)

3 ***

4 MR. BLANCHE: So nothing that Mr. Pecker told you
5 about the Ms. McDougal transaction, the contract, what
6 happened afterwards, what happened with the decisions that
7 were made by AMI afterwards, none of that, none of that was
8 criminal. He told you that because it's true.

9 So, I want to talk for just a minute about AMI's
10 Non-Prosecution Agreement. And I know we're going back a
11 few weeks, so, remember, Mr. Pecker told you that at the
12 time this Agreement was entered into, the National
13 Enquirer, AMI was in the process of being bought, there was
14 a proposed deal, and that this investigation, the
15 investigation into the McDougal situation had to be cleaned
16 up. He told you, yes, that's correct.

17 So, remember, there was a resolution. AMI entered
18 into a Non-Prosecution Agreement. No dispute about that.

19 But, remember what Judge Merchan told you about
20 that Agreement; that Agreement, AMI's Non-Prosecution
21 Agreement, the Conciliatory Agreement that they entered
22 into at the same time is evidence of nothing as relates to
23 President Trump's guilt.

24 MR. STEINGLASS: Objection.

25 THE COURT: Sustained. Please rephrase.

1 MR. BLANCHE: Neither the Agreement, the
2 Non-Prosecution Agreement or the Conciliatory Agreement is
3 evidence of the defendant's guilt. Indeed, you are not
4 allowed to consider it in determining whether President
5 Trump is guilty of the charged crimes. That's important.
6 That's important.

7 Now, so, with that caveat, with that in mind, what
8 does the McDougal story tell you about why we're here? If
9 it shows you anything, it's just more evidence that Michael
10 Cohen is a liar. He told you time and time again about
11 things that he claimed happened, conversations that he
12 claimed he had around this Agreement that are just not
13 true.

14 So, let's look at a couple of those.

15 He lied to you about a conversation that he claims
16 he overheard between President Trump and David Pecker.

17 Mr. Pecker told you that he was at an investor
18 meeting in New Jersey. Remember that. He was at an
19 investor meeting in New Jersey at Chatham Asset Management,
20 and that President Trump reached out to Mr. Pecker at his
21 office, and that they were able to reach Mr. Pecker on his
22 phone.

23 Now, Mr. Pecker told you that at the end of the
24 call, President Trump said to him, "I don't buy stories.
25 I don't buy stories." Then he said, "Cohen will call

1 you."

2 But what did Mr. Cohen claim happened in that
3 conversation? He didn't think it was good enough to say
4 that President Trump doesn't buy stories.

5 So, this is what he said about that call. He told
6 you President Trump told Mr. Pecker: No problem, I will
7 take care of it. So that is a big difference; Mr. Pecker
8 telling you that President Trump said, "I don't buy
9 stories," and Mr. Cohen coming in and saying, "No problem,
10 I will take care of it."

11 And which one is true?

12 You know that The Trump Organization, President
13 Trump, Michael Cohen, never paid Mr. Pecker a penny for the
14 McDougal story. There is no dispute about that.

15 Now, let's talk about another lie. Remember when
16 Cohen testified about a lunch that he supposedly had with
17 David Pecker, and the Government -- the Government said,
18 "Directing your attention to September of 2016, did you
19 have lunch with Mr. Pecker when he presented to you --
20 pressed you further?"

21 Again, this is when Mr. Cohen was saying that Mr.
22 Pecker was really frustrated that he had not been paid for
23 the McDougal story. They have lunch.

24 Tell us a little bit about the lunch.

25 We went to his favorite Italian restaurant.

1 Again, he expressed his anger, "I got to get this money
2 back."

3 Ladies and gentlemen, that lunch did not happen.
4 Mr. Cohen made it up.

5 Now, even if you want to credit the idea that
6 Mr. Pecker just forgot about the lunch, he didn't testify
7 about it at all, even if you want credit that, there would
8 be other proof that the lunch happened, a credit card
9 receipt, something besides Mr. Cohen's own words, but you
10 saw none of that.

11 I am going to tell you why that matters. When
12 key meetings and key conversations are remembered with
13 clarity from 2016 by Mr. Cohen -- think about that -- 2016,
14 you heard testimony about a clear memory of conversations.
15 You've got to check that. Is there something about those
16 conversations that rings true? Is there something beyond
17 the words of Michael Cohen that suggests to you that those
18 conversations, that those meetings, that those lunches
19 actually happened.

20 Now, we'll come back to the lunch in a moment, but
21 there is something else to talk about now, which is, the
22 phone call -- the recording that Mr. Cohen made of
23 President Trump. Okay. So you have a lawyer recording his
24 client, supposedly on September 6, 2016. And I say
25 "supposedly," because there is a lot of dispute about that

1 recording. A lot. The Government has not shown you that
2 that evidence is reliable, and I am going to talk about
3 why.

4 Let's start with the context.

5 Now, Mr. Cohen told you that the reason why he had
6 to tape this conversation with his client was so that he
7 could play it to David Pecker. He was going to record his
8 client, President Trump, and then play that back to Mr.
9 Pecker, so that Mr. Pecker could be assured that money was
10 coming. He wanted to reassure Mr. Pecker about President
11 Trump's intentions.

12 Now, he never did that. Right? He told you he
13 never actually played the recording for Mr. Pecker.

14 That was just his reason for doing it. You could
15 see that what happened, according to Mr. Cohen, is that
16 there was another conversation that happened the day after,
17 and then there was no reason because of that to play this
18 recording to Mr. Pecker.

19 But, remember, keep in mind the testimony about
20 the lunch. Okay. When Pecker was, supposedly, still very
21 angry, still angry about not getting paid back the money,
22 and Cohen said that that happened in September of 2016 --
23 Labor Day, ladies and gentlemen, was September 5th, so the
24 weekend before Labor Day, obviously, was the 4th and the
25 3rd, which leaves just two days, just two days in September

1 that Mr. Cohen, supposedly, had this very angry lunch with
2 Mr. Pecker.

3 And Mr. Cohen wants you to believe that, somehow,
4 in between this very angry lunch and the time that he
5 recorded his client just a few days later, Mr. Pecker had
6 calmed down.

7 That makes no sense. It's just a lie.

8 Now, talking about the recording itself, Mr. Cohen
9 explained to you that he walked in, put his voice notes on.
10 That's what he said to you.

11 And Rhona Graff, right, you heard from Ms. Graff,
12 President Trump's longtime assistant testified a couple of
13 weeks ago that she was in and out of that meeting pretty
14 regularly and was part of that conversation.

15 We're going to listen to just a part of that
16 conversation now.

17 (Whereupon, an audio recording was played in open
18 court.)

19 MR. BLANCHE: So, that's Rhona Graff.

20 She testified in this trial. Not a single
21 question was asked of her about that recording. No
22 questions about whether she remembered it. No questions
23 about if she remembered the context, the topic.

24 Now, the recording cuts off, as you know, and
25 we've asked numerous witnesses about that. Cohen admitted

1 it. Ms. Graff was there, but, yet, she's not asked a
2 single question about this recording, a key recording that
3 Mr. Cohen supposedly has, where he records President Trump
4 about the McDougal deal. Not a single question.

5 So, eventually -- and we're going to play a little
6 bit more of that recorded conversation now. The
7 conversation touches to AMI, Mr. Pecker.

8 Go ahead.

9 (Whereupon, an audio recording was played in open
10 court.)

11 MR. BLANCHE: So, what did you just hear?
12 "Transfer of all the stuff," and we all know what that was
13 about. We heard a lot of testimony about it. That was
14 because, supposedly, the National Enquirer had a box or a
15 file of President Trump's stories that were never published
16 or information about President Trump and there was an
17 effort to buy that. You heard a lot of testimony about
18 that.

19 Mr. Pecker ultimately said, right, there wasn't
20 anything of value in there.

21 But, at the time, that was extremely important,
22 because you heard that there was some negotiations with Mr.
23 Pecker and Time Magazine. And as President Trump said,
24 "You never know what is going to happen" to Mr. Pecker. It
25 was extremely important at the time to be able to buy that

1 box of stuff.

2 There is no discussion about Karen McDougal.

3 I mean, you could listen to the recording.

4 They're talking about buying the stuff.

5 And, you know, listen, the Government claims on
6 the transcript that there is a word that Mr. Trump -- that
7 President Trump says "One-fifty."

8 Listen to the recording. See if you hear
9 "One-fifty," or see if you have no idea what you are
10 hearing at all.

11 That is what Cohen says -- what Michael Cohen says
12 is on that recording. You don't have to accept his words.

13 You can listen to it on your own. There is a
14 transcript. As Judge Merchan told you, the transcript is
15 just an aid. It's actually the recording that is in
16 evidence. Listen to the recording.

17 Now, let's listen to the rest of that, please.

18 (Whereupon, an audio recording was played in open
19 court.)

20 MR. BLANCHE: So, if there was really "One-fifty"
21 said, like the Government and Mr. Cohen claims, why is the
22 next thing that you hear from Mr. Cohen, "We'll have to pay
23 him something," as if they're just willing to discuss the
24 price. Why is that?

25 I mean, the bottom line is, there is no doubt that

1 this recording discussed AMI and discussed Mr. Pecker.

2 There is a lot of doubt that it discussed Karen McDougal.

3 So -- and you know that because then Mr. Cohen
4 discussed the financing. And President Trump says
5 "Financing? What financing?" He has no idea what
6 Mr. Cohen is talking about.

7 The Government wants you to believe that this is
8 evidence that is furthering the conspiracy that was started
9 in the August meeting in 2015, and Mr. Cohen is talking
10 about financing. President Trump clearly has no idea what
11 he is talking about. And, obviously, this conversation is
12 Mr. Cohen and President Trump literally talking past each
13 other about what is going on.

14 And, you know, Mr. Cohen admitted this. He said
15 that "financing" wasn't the best word to use. What he
16 really meant to say was "funding," not "financing."

17 But, President Trump is, obviously, in the real
18 estate business. He knows what that means. And when the
19 word "financing" came up, he was shocked, he didn't know
20 what was going on. What are you talking about.

21 So, the next thing that happens is significant.
22 When Mr. Cohen was talking on direct about cash --
23 remember. Remember that, when the transfer talks about
24 cash. And Mr. Cohen told you that he thought that
25 President Trump was referring to green. It makes it more

1 sinister, "green," cold hard cash. Because, obviously, it
2 sounds a lot more criminal if there is a big duffle bag
3 filled with \$150,000 in cash.

4 But, as he admitted on cross-examination, cash
5 just means no financing.

6 President Trump is in the real estate business,
7 and you can buy a building, you can buy a property with
8 cash. It doesn't mean -- it doesn't mean that you're going
9 into the closing with a duffle bag filled with "green."

10 That was Mr. Cohen lying to you, painting a
11 picture that fits his narrative, not the truth.

12 There is no scenario under which there has been
13 any testimony in this trial that President Trump was going
14 to walk around with a duffle bag filled of \$150,000 in
15 cash. That was just Mr. Cohen trying to paint the picture
16 that fits his narrative that there is something sinister
17 about what happened here.

18 And then, the way that the conversation ends
19 matters. Right? Supposedly, the call is cut off because a
20 phone call comes in. That is what Mr. Cohen tells you.
21 And the last thing -- few things you hear on the recording
22 and on the transcript is, you hear somebody say "check."
23 But it's not the end of a sentence. It's the beginning of
24 a sentence.

25 You have no idea what was said afterwards. You

1 have no idea whether President Trump was saying; Check with
2 my people, check to verify it.

3 It's not talking about a check, like write me a
4 check to pay me back.

5 It's clearly talking about the beginning of a
6 sentence that we will never know -- we will never know what
7 was said.

8 So, let's talk about how this call ends. Let's
9 listen to the end of the recording.

10 (Whereupon, an audio recording was played in open
11 court.)

12 MS. BLANCHE: So, there is a comment by Mr. Cohen
13 at the end of the recording. It's not on the transcript.
14 He says hi to somebody. Maybe it's Don, maybe it's D-O-N,
15 maybe it's D-A-W-N, it's not clear.

16 It's not what he told you; hello, are you there.
17 He told you that he got a phone call. He told you that he
18 knew who the call was from. It was from somebody that
19 worked at a bank. That's what he told you. He said that
20 it was someone named Cathy Battle. He said that he
21 interrupted -- he interrupted this super secret
22 conversation that he's recording with his client, with
23 President Trump, to answer a phone call from Cathy Battle,
24 who is apparently a bank manager at Capital One. That
25 story alone is ridiculous. But, it gets much worse for

1 Mr. Cohen when it comes to this recording. Because no
2 matter what he said at the end of the recording, no matter
3 what happened in that conversation after the recording
4 ended, you have no idea, you don't know about the integrity
5 of this file and this recording. And we're going to get to
6 that.

7 But, here's the thing that matters about his
8 testimony. Mr. Cohen didn't actually take that call. And
9 there is not really any dispute about that.

10 So, there's a part of the records that are in
11 evidence, Exhibit 400. The Government showed these to Mr.
12 Cohen. And they drew his attention to this during his
13 testimony. The features column says: NIOP:CFNA:VM.

14 You remember there was a witness from AT&T,
15 Mr. Dixon, he told you what that means. This testimony is
16 on the slide right in front of you. He told that you NIOP
17 means incoming cal, and CFNA means call forward, no
18 answer.

19 So, this call went to voicemail. Whatever call
20 that Mr. Cohen received went to voicemail. He didn't
21 answer the phone and talk to Ms. Battle about something
22 going on at the bank. It went right to voicemail.

23 You see the "F," there is an "F" in parenthesis.
24 That "F" is for forwarded. It was forwarded to his
25 voicemail. So, again, he lied to you when he said he

1 answered that call. And, again, would it have been a big
2 deal for him to say, I don't actually remember what
3 happened, it was a really a long time ago; I don't think
4 so. But he didn't do that. He lied to me. He lied to me.

5 And, remember, this recording is being made,
6 supposedly, so that Mr. Cohen can go and play it to David
7 Pecker to calm him down. That's what he told you. But
8 then he just never played it. He never played it.

9 Apparently, it's the first time ever, and the only
10 time ever he records his client to kind of salvage what was
11 happening with him and Mr. Pecker, and then Mr. Pecker is
12 not asked about it, Mr. Cohen said, "I never played it for
13 him."

14 So, if anything, the McDougal story tells you a
15 lot, tells you a lot more about Mr. Cohen.

16 So, the last story we're going to talk about is a
17 story involving Stormy Daniels. This is an event that
18 supposedly happened in 2006, 18 years ago. President Trump
19 and Ms. Daniels have repeatedly denied it took place.

20 However, the story was published in 2011. Again,
21 long before 2016, long before the August 2015 meeting at
22 Trump Tower. So, how could this issue have influenced the
23 election? People already knew about the allegations. It
24 was already a published story. So, what really happened
25 here? And I think you saw this from the testimony. Is

1 that there were a group of people that wanted to take
2 advantage of a situation and, ultimately, extort money from
3 President Trump. That's what happened. People like
4 Ms. Daniels, Ms. Rodriguez, her agents, Mr. Davidson.

5 Remember when we asked Mr. Cohen if he actually
6 believed it was an extortion attempt, he said yes, he did
7 believe it was an extortion attempt.

8 By the way, it was another opportunity for Mr.
9 Cohen to actually take advantage. He made a decision to
10 pay that \$130,000 to Ms. Daniels. He didn't tell President
11 Trump about it. He wanted to do it because he knew that he
12 could get credit for doing something to supposedly help
13 President Trump at some later time. Whether they won the
14 election or lost the election, he would be able to get that
15 credit.

16 So, remember what is happening with him at the
17 time. He was very worried about his future. You saw and
18 heard multiple, multiple examples of that. He was worried
19 about what would happen if President Trump won, he was
20 worried about what would happen if President Trump lost,
21 what he would be doing.

22 People were not happy with him on the campaign.
23 And so, he made this decision.

24 The only person that suggests otherwise, the only
25 person that comes in and tells you, oh, no, President Trump

1 knew everything about this, is Michael Cohen himself.

2 That's it. There is no other proof of that.

3 There is no way that you can find that President
4 Trump knew about this payment at the time it was made
5 without believing the words of Michael Cohen. Period. And
6 you cannot. You cannot believe his words.

7 Again, you heard a lot about what happened in 2011
8 with The Dirty. The fact that the story was published and
9 then both Mr. Davidson and Mr. Cohen got it taken down and
10 worked together to do that.

11 You can see the testimony. Again, this goes back
12 a few weeks, but you could see the testimony about that
13 there on the screen. That there was a post that talked
14 about the allegations, and it was the same allegations that
15 were made in 2016, and they were published.

16 That was the first time Mr. Davidson encountered
17 Mr. Cohen.

18 And you also remember that even in 2011, Ms.
19 Daniels and Mr. Davidson wanted to bring this down, wanted
20 to bring the story down to try to make money. Remember,
21 they were trying to get paid \$15,000 by another magazine
22 and the reason why it was really important to them that it
23 come off The Dirty's website is because they would lose
24 their ability to bargain.

25 And you see that from Mr. Davidson. He told you

1 that. They were really just trying to negotiate a better
2 deal with a different magazine, In Touch.

3 But, it doesn't really matter whether it was The
4 Dirty, the Daily Mail, In Touch magazine, as it relates to
5 the charges in this case. In 2011, Daniels' claims were
6 already public. The public was aware of them. So, again,
7 the idea that when Ms. Daniels surfaced in 2016, that it
8 caused some sort of panic amongst everybody is not true.
9 It's just not true.

10 Now, as you know, in 2011, when everything
11 happened with The Dirty, they were never paid. There was
12 no money to be made.

13 And years and years went by. But, then, again, it
14 came to light in April 2016, Gina Rodriguez reminds Dylan
15 Howard about Ms. Daniels.

16 This is in April of 2016, two months, two months
17 before Mr. Davidson brings up anything involving Ms.
18 McDougal. This is actually ahead of the McDougal story in
19 April of 2016.

20 This is in the middle of the campaign, President
21 Trump's campaign. The election is in November and this is
22 in April.

23 So, think about that for a minute, again, when you
24 think about why we're here.

25 If there was really a catch and kill, if there was

1 really a catch and kill conspiratorial relationship, why
2 did everybody ignore that story in April? Why did it not
3 go anywhere for months and months and months if there was
4 some catch and kill scheme? If these allegations by Ms.
5 Daniels were as damaging as Mr. Cohen would have you
6 believe or the Government would have you believe, why did
7 nobody do anything about it in April of 2016, when it first
8 resurfaced?

9 Mr. Howard didn't do anything. He didn't raise
10 any alarm bells.

11 There is no evidence whatsoever that Ms. Rodriguez
12 outreached to him in April of 2016, which resulted in any
13 communication with Mr. Cohen or with President Trump.

14 So, let's look now to June of 2016. Dylan Howard
15 writes to Gina Rodriguez, "Not much pisses me off these
16 days except Donald Trump."

17 Now, there is no scenario under which Mr. Howard
18 can be said to be part of this conspiracy.

19 It appears he doesn't like President Trump at all.
20 He despises him.

21 So, right now in the middle of the election,
22 middle of 2016, Ms. Daniels and Ms. Rodriguez were kicking
23 off a plot again to try and get some money from President
24 Trump. And by this time the candidacy is in full swing,
25 the election is ongoing, and now they're being a lot more

1 aggressive than they were in 2011.

2 Now Mr. Howard is willing to help them. He wants
3 to help Ms. Daniels and Ms. Rodriguez to get money.

4 That's not a conspiracy involving Mr. Pecker,
5 President Trump and Michael Cohen.

6 It's Mr. Howard working very closely with
7 Ms. Rodriguez and Ms. Daniels to figure out a way to get
8 money.

9 Now, I have said this a lot, but I will say it
10 again now. You didn't hear from Gina Rodriguez, and you
11 did not hear from Dylan Howard in this trial. So, a lot
12 of what we're saying and a lot of what I expect the
13 Government will say is speculation. We don't really know
14 what happened. We don't really know what they meant when
15 they texted what is on the screen there.

16 But, we do know that Mr. Davidson was willing to
17 help. And you know that Mr. Davidson has made a career out
18 of trying to extort people, just like he did with President
19 Trump. You heard about a sex tape involving Hulk Hogan.
20 And you heard -- remember, by the way, that Dylan Howard
21 wrote an article, he was the author of an article in the
22 National Enquirer in 2015 involving the Hulk Hogan
23 incident. Do you think that is a coincidence.

24 Mr. Davidson also told you that he worked with the
25 guy who was a sex tape broker. Literally, the guy's job is

1 to help extort people by threatening to release a private
2 audio, a private video, if the person that they're
3 targeting doesn't give them money. You heard that he did
4 this with multiple people over the years; Lindsay Lohan,
5 Charlie Sheen, and others.

6 And, you know, by the way, that Mr. Cohen admitted
7 that Davidson -- Mr. Davidson and this crew, including
8 Daniels, were trying to extort President Trump. Mr.
9 Davidson made it clear to you that when he was talking to
10 Cohen about the fact that Daniels wanted money, plain and
11 simple, she was trying to use the 2016 election as leverage
12 to get paid.

13 We're going to play just a portion of that
14 recording that you heard.

15 (Whereupon, an audio recording played in open
16 court.)

17 MR. BLANCHE: What you just heard is most
18 certainly not President Trump or Michael Cohen trying to
19 influence an election.

20 What you just heard was Mr. Davidson talking about
21 Stormy Daniels, trying to make sure she got paid.

22 MR. STEINGLASS: Objection.

23 THE COURT: Sustained.

24 Counselor, is this a good time to take a break?

25 MR. BLANCHE: Yes.

1 THE COURT: Jurors, let's take a short break.
2 I will see you in about ten minutes.
3 Step out.

4 COURT OFFICER: All rise.
5 (Jury leaving courtroom.)

6 ***

7 THE COURT: Be seated.
8 See you in a few minutes.
9 (Recess.)

10 ***

11 THE SERGEANT: Part 59 back in session.

12 THE COURT: Mr. Blanche, about how much longer?

13 MR. BLANCHE: About a half hour.

14 THE COURT: I heard from the jurors. They're
15 willing to work late.

16 We might have to make a snack run. They seemed to
17 like that.

18 So, quickly, let's get the jury, please.

19

20

21

22 (Whereupon, Theresa Magniccari, Senior Court Reporter, was
23 relieved by Susan Pearce-Bates, Principal Court Reporter.)

24

25

26

1 (Continued from the previous page.)

2 THE COURT: People, depending on what time Mr.
3 Blanche ends, we may take the lunch recess, not start for a
4 half hour and then interrupt you.

5 MR. STEINGLASS: That will work.

6 SERGEANT: All rise, jury entering.

7 (Whereupon, the jury entered the courtroom
8 and were properly seated.)

9 THE COURT: Thank you.

10 Please be seated.

11 THE CLERK: Case on trial continued.

12 All jurors are present and properly seated.

13 THE COURT: Mr. Blanche.

14 MR. BLANCHE: All right.

15 So, continuing with Ms. Daniels' situation in
16 2016.

17 So, the question for you is: Was what happened
18 with Ms. Daniels in 2016 consistent with the conspiracy,
19 the conspiracy that the People tell you Mr. Cohen,
20 President Trump and David Pecker entered into in 2015?

21 And the reason why we are going through the
22 details, the reasons we are going through the recordings
23 and what was said and not said is because that is what
24 matters, is whether the conduct and what you heard about
25 Ms. Daniels and what led to the NDA by Mr. Cohen in October

1 is a conspiratorial arrangement as charged by the
2 Government or something else. And that's why we are going
3 through all of this evidence right now.

4 And remember, both, repeatedly -- Ms. Daniels has
5 denied, has denied that there was ever any sex with
6 President Trump in 2018, and earlier before that. And we
7 can look at those statements here, but what did you hear
8 about those statements?

9 The Government wants you to believe that those
10 statements were coerced, that Ms. Daniels was either forced
11 to sign them or didn't really have a say in signing them.

12 But think about something. She, Ms. Daniels,
13 decided to go public after these statements, supposedly
14 because she was trying to protect herself from what she
15 said was a threat someone made to her in a gym parking lot
16 in 2011, so five years before.

17 But, there are recordings where you know that
18 that's just not true.

19 Mr. Davidson told Mr. Cohen directly in 2018,
20 that Mr. Avenatti, who you remember ended up being Ms.
21 Daniels lawyer, Gina Rodriguez and Ms. Daniels were lying
22 about these threats.

23 They never happened.

24 But, the recording makes clear that Ms. Daniels
25 lied to you about it.

1 She was just working with Mr. Davidson, with Ms.
2 Rodriguez and with Dylan Howard to try to get money from
3 President Trump in the Fall of 2016.

4 Now -- and, again, keep in mind that just like
5 Ms. McDougal when Ms. Daniels got paid, she didn't even
6 keep all of that money, right?

7 Rodriguez and Davidson kept a big chunk of that
8 money, 25 percent of the \$130,000 that she was paid, so
9 \$24,000.

10 And then what happened in 2018?

11 So, we are fast-forwarding a little bit. What
12 happened that made Ms. Daniels want to go public with her
13 story?

14 Well, what happened was something that was worth
15 a lot more than \$130,000.

16 Mr. Davidson told you during his testimony that
17 another person named Larry Flynt offered to pay Ms.
18 Daniels' legal fees to try to encourage her to make her
19 false accusations public.

20 Now, we are going to play some of the audio here.
21 Mr. Davidson told you something similar to Mr. Cohen in
22 March of 2018. We will play that now.

23 (Whereupon, an audio recording is played in
24 open court.)

25 MR. BLANCHE: Mr. Davidson called -- I am sorry.

1 Mr. Davidson called that settler's remorse.

2 So, at the end of the day, what really happened
3 was that somebody offered more money to Ms. Daniels,
4 somebody offered to pay her legal fees if she could get out
5 of the NDA that she had signed with Mr. Cohen.

6 And then she wrote a book and she has a podcast
7 and a documentary.

8 This started out as an extortion. There is no
9 doubt about that. And it ended very well for Ms. Daniels,
10 financially speaking.

11 Now, so, what is clear from the evidence, now
12 going back to 2016, the Agreement that Ms. Daniels entered
13 into, is that there was a separate conspiracy between
14 Ms. Daniels, Gina Rodriguez and Dylan Howard, and that
15 their goal was to make as much money as possible off of
16 President Trump selling Ms. Daniels' story.

17 It had nothing to do with August 2015. It was a
18 completely separate goal that they had regarding
19 Ms. Daniels and selling her story.

20 And, again -- I said this a couple of times, but
21 it's true. There is nothing wrong with a Non-Disclosure
22 Agreement. There is nothing illegal. There is nothing
23 sinister about it. This is standard.

24 There is nothing criminal about the fact that
25 Mr. Cohen and Ms. Daniels and Mr. Davidson entered into an

1 Agreement in October of 2016.

2 There is also no evidence, as I said a few
3 minutes ago, except for Mr. Cohen's words, that President
4 Trump knew about that Agreement in 2016.

5 And you can look, by the way, just for a few
6 minutes, at the texts between Gina Rodriguez and Dylan
7 Howard.

8 Are you working in favor of Trump?

9 Mr. Howard, I am not, no.

10 He references David Pecker's endorsement of Trump
11 and makes it clear that he is not part of this effort from
12 the Summer of 2015 meeting, and this is starting in April.

13 And so, again, you know he wasn't part of the
14 effort because if he was part of the effort to catch and
15 kill stories in April, there would have been an effort to
16 catch and kill the Daniels story, and there wasn't.

17 So, what's clear is that Mr. Howard had nothing
18 to do with this conspiracy. He didn't want President Trump
19 to get elected. He didn't want President Trump to be
20 successful.

21 And, again, the texting into June, 2016, which
22 again, is the exact timeframe, remember, that Pecker and
23 Mr. Howard are dealing with the McDougal situation, and so,
24 if there was really -- if it was really true that the
25 Daniels situation was part of this catch and kill scheme,

1 if they were truly part of the same plan, there is no
2 question that Dylan Howard would have told Mr. Pecker about
3 it in June, and that's -- and also President Trump.

4 It didn't happen.

5 And so, in fact, a week before the June 28th text
6 messages that you are looking at, Mr. Davidson told
7 Mr. Howard that he was drafting a declaration of
8 representation to send.

9 This is the second text message on the screen
10 that you have in front of you.

11 He is talking about Karen McDougal because at
12 that point they weren't planning to buy her story either,
13 in June.

14 Howard had, remember, remember Mr. Howard had
15 gone on a trip to Los Angeles on June 20th to meet with
16 Mr. Davidson and Ms. McDougal. They were going to discuss
17 the allegations and see if there was enough proof.

18 Mr. Howard reported back to Mr. Pecker and Mr.
19 Cohen about the allegations.

20 And they said: You know what, we are not going
21 to move forward. Her story was not corroborated.

22 That's not a catch and kill, Ladies and
23 Gentlemen. That is AMI doing what it always does.

24 But, if there was some agreement to suppress
25 negative stories, do you think that that would have

1 happened, that Mr. Howard would have went to Los Angeles,
2 met with Ms. McDougal, asked her for corroboration, and
3 then said: We are not going to buy this story. We don't
4 think it's true?

5 So, what did happen?

6 What happened was, after that Access Hollywood
7 tape came out, Ms. Daniels and Ms. Rodriguez sees an
8 opportunity. They came back to Mr. Howard again and said:
9 Okay, now; now is the time to strike.

10 And October 8, 2016, the day after the Access
11 Hollywood tape was released, Ms. Rodriguez reminded
12 Mr. Howard about Ms. Daniels. She made claims about Fox
13 News, The Dirty. None of that has been verified because
14 that's what it says on the text.

15 The election was about a month away at this
16 point.

17 And at this point, Dylan Howard, if you are going
18 to believe what you see on the text exchanges, believes
19 that there was enough leverage, based on the election, to
20 get AMI to get Mr. Pecker to pay Ms. Rodriguez and Ms.
21 Daniels.

22 See at the bottom, Mr. Howard says that Pecker
23 will likely pay, likely will pay.

24 And you know, by the way, that he was wrong,
25 right?

1 He was wrong. Pecker told you as much. He
2 didn't want anything to do with the Stormy Daniels
3 allegation. You can see that in the October 9th text that
4 you have on the screen, and he testified about that.

5 So, again, we are here talking about a conspiracy
6 between Mr. Pecker, President Trump and Michael Cohen to
7 catch and kill stories.

8 The Dino story, completely not true, never ran.

9 Ms. McDougal didn't want her story out, just
10 wanted to get back in the magazine business and write some
11 articles, which worked.

12 You heard Mr. Cohen say that she was on the front
13 cover of a magazine, Men's Health, and they sold more
14 copies than they had ever sold in the past.

15 That's not catch and kill here.

16 And you have Ms. Daniels coming forward right off
17 the Access Hollywood interview. This is our chance, now we
18 can really make your conspiracy work, the catch and kill
19 scheme. This is it.

20 And David Pecker is like, nah, I want nothing to
21 do with it.

22 That's our conspiracy?

23 That's the three catch and kills?

24 I want nothing to do with it. I am not buying
25 that story.

1 That's what they are telling you that this is a
2 catch and kill conspiracy.

3 And the first thing when presented right after
4 the day of the -- the Access Hollywood tape comes out,
5 David Pecker is told by Mr. Howard, we have this conspiracy
6 with President Trump and Michael Cohen, we got to catch, we
7 got to kill.

8 And David Pecker says, no way, I am not going to
9 do it.

10 I mean -- and you can see that, ultimately, what
11 happened was Ms. Daniels and Mr. Rodriguez, they actually,
12 raise their price, right?

13 It originally had been \$100,000 for the story.
14 Now, it's 120,000 in October 2016 because the act Hollywood
15 tape came out. So, now it's time to strike.

16 And then just as you all heard a lot of testimony
17 about, the Access Hollywood tape was released October 7,
18 2016, a month before the election. The tape itself was
19 from 2005, eleven years earlier.

20 And as you heard from witnesses, this was an
21 extremely personal event for President Trump.

22 Nobody -- and, again, I am just going to state
23 the obvious. Nobody wants their family to be subjected to
24 that sort of thing. Doesn't matter whether you are running
25 for office. Doesn't matter if you are running The

1 Apprentice. It just doesn't matter if you are just a
2 normal every day person in the city. Nobody wants their
3 family exposed to that type of story.

4 Ms. Hicks testified and gave you a window into
5 that. She told you about what it was like working with
6 him. The night that that was released, the next morning he
7 was concerned about his family. He was concerned about his
8 wife.

9 Ms. Hicks told you that.

10 But, the Government wants you to believe that the
11 release of that tape from 2005 was so catastrophic to the
12 campaign that it provided a motive, a motive for President
13 Trump to do something criminal. But there is no evidence
14 of that.

15 President Trump did not react to the Access
16 Hollywood tape in any way the Government is suggesting.

17 You heard this from Ms. Westerhout, who you
18 remember at the time she worked for the Republican -- she
19 worked for President Trump. She made it clear that
20 President Trump didn't freak out.

21 She was working for the Republican National
22 Committee at that time and, also, then went to work for
23 President Trump directly. So, she had a personal vantage
24 point at that point into the campaign and into the issues.

25 Ms. Hicks testified about this as well. She was,

1 of course, concerned about the tape and, of course, again,
2 there is no surprise there. It wasn't helpful.

3 And I am not suggesting that it was not a big
4 deal for the campaign. Of course not. It was.

5 But on October 8th when a recording was released,
6 Ms. Hicks said that she was concerned about the story being
7 part of the next several days at least. This was a month
8 before the election.

9 Again, the version that says anything different
10 comes from one witness, Michael Cohen.

11 You heard the politicians reacted negatively to
12 the Access Hollywood tape. They didn't testify. You heard
13 that there was even talk about something consequential for
14 President Trump, who was a Republican nominee, But none of
15 that happened. None of that is true.

16 You heard that President Trump and his campaign
17 got ready for the debate, responded to the allegations, and
18 continued campaigning.

19 So, as Ms. Westerhout told you, as I just said,
20 there were a couple days of frustration and consternation,
21 but that happens all the time in campaigns, and we know
22 that.

23 I spent some time talking about that because the
24 Access Hollywood tape is being set up in this trial to be
25 something that it is not. It was one of many stressful

1 stories and issues that came up during the 2016 campaign.
2 It was not a doomsday event.

3 President Trump, as you saw, addressed it in a
4 video that was addressed to the -- released to the American
5 public. He addressed it in a debate a couple days later.
6 He never thought that it was going to cost him to lose the
7 campaign and, indeed, it didn't.

8 So, Michael Cohen, however, had a different view.

9 Michael Cohen told you that he realized it was
10 catastrophic, and he wanted to do something about it, and
11 that's exactly what he did.

12 With respect to Ms. Daniels -- so, by the way,
13 Ms. Daniels told you that she did not testify in the Grand
14 Jury in this case.

15 Why did they call her as a witness at trial?

16 There was no dispute that there was an NDA
17 signed. There was no dispute that the charges have to do
18 with filings, The Trump Organization, the personal records
19 of President Trump in 2017, something that Ms. Daniels knew
20 nothing about.

21 So, why?

22 I will tell you why. They did it to try to
23 inflame your emotions. They did it to try to embarrass
24 President Trump.

25 MR. STEINGLASS: Objection.

1 THE COURT: Overruled.

2 MR. BLANCHE: That's why, Ladies and Gentlemen.

3 Now, AMI told you, and you know from Mr. Pecker
4 and from the records, that they were not a party to the
5 Stormy Daniels NDA. Of course not.

6 They were party to many, many efforts to buy
7 stories over the years, but not this one.

8 Virtually every one of those Agreements that AMI
9 entered into you heard contained similar non-disclosure
10 provisions. It's basic. It's standard.

11 Mr. Davidson told you something similar. He was
12 frequently involved in NDAs and that they always contained
13 similar provisions to the one in this case. There was
14 nothing out of the ordinary about them.

15 So nothing was criminal in entering into this NDA
16 and, indeed, nothing was inappropriate.

17 That doesn't mean that when President Trump is
18 campaigning out in October he knew about it. It just means
19 it wasn't inappropriate.

20 The only person at trial that told you President
21 Trump knew about it in October, September, August, was
22 Michael Cohen.

23 So, let's look at what Mr. Davidson said in 2018
24 describing the negotiations with Mr. Cohen.

25 He said: As far as our conversations with

1 Michael Cohen, it was solely about negotiating the deal, by
2 completing a deal with two consenting adults the way that
3 my client and his entity wanted.

4 In October 2017, this recording, totally
5 consistent with Mr. Cohen not telling President Trump about
6 the Stormy Daniels payment until long after the fact.

7 We can listen to this clip. It's quick.

8 (Whereupon, an audio recording is played in
9 open court.)

10 MR. BLANCHE: Now, Cohen uses the phrase, penny
11 wise, pound foolish. Think about what that means.

12 It's actually pretty telling of Mr. Cohen's state
13 of mind at that time, which was October of 2017.

14 The phrase is, basically, a warning about not
15 making decisions relating to really small amounts of money
16 in the near-term because the long-term could make you look
17 foolish because it could turn out to be very valuable.

18 So, it made perfect sense to Mr. Cohen in October
19 of 2016 to make the payment without telling President Trump
20 about it, in the hope that he could either get a new fancy
21 job if President Trump won, or even a better job,
22 potentially, within The Trump Organization or elsewhere if
23 President Trump lost.

24 Now, Mr. Cohen also told you during that
25 recording that the amount of money was not that

1 significant. It was \$130,000.

2 He told you during testimony something very
3 different. He said it was a lot of money and he wouldn't
4 have made the payment without assurance from President
5 Trump that he would be reimbursed.

6 Of course Mr. Cohen told you that he had multiple
7 multi-million dollar apartments, and he made millions and
8 millions of dollars in the years leading up to 2017 and
9 also in 2017 and after as well.

10 So, the idea that he would have never done, never
11 made this \$130,000 payment without getting approval from
12 President Trump is something you should question and ask
13 yourselves what proof there is, again, beyond his words of
14 that happening.

15 And remember what Mr. Cohen said on the
16 recording?

17 He said, what about me?

18 What about me?

19 That rings true from the testimony you heard from
20 that man over the course of several days.

21 So, also remember the call that Mr. Davidson told
22 you about.

23 So, Mr. Davidson told you about a call after the
24 election in December of 2016. On December 9, 2016,
25 Mr. Cohen called Davidson, apparently on Signal, to

1 complain about not getting a job in the administration.

2 Now, he told you that he didn't want a job in the
3 administration, but that was a lie, another lie.

4 He claimed that he didn't remember this call that
5 Mr. Davidson told you about.

6 But Mr. Davidson was clear about his memory of
7 this call. Mr. Cohen -- he said that Mr. Cohen told him
8 that he was in consideration to be the Attorney General of
9 the United States or possibly the Chief of Staff, and that
10 he was very upset that it didn't happen.

11 So, this -- let's go back to that. Think about
12 what happened in October of 2017 when Mr. Cohen said on
13 that recording what you heard a minute ago, what about me?

14 Mr. Cohen had an axe to grind because he didn't
15 appreciate what President Trump did and did not do for him
16 after President Trump became President of the United
17 States.

18 Let's listen to just a little bit more of that
19 recording if we can.

20 (Whereupon, an audio recording is played in
21 court.)

22 MR. BLANCHE: So, what's going on here?

23 This is October 2017. By this time, there is no
24 doubt, there is no doubt that President Trump knew that
25 Michael Cohen had made this payment.

1 By late 2017, Cohen had been called to testify
2 before Congress, as you recall, regarding, amongst other
3 things, these issues. And at the beginning of the
4 recording, you actually hear Mr. Cohen talk about how he
5 had referred Mr. Davidson to one of President Trump's
6 lawyers, Jay Sekulow.

7 So, of course, they discussed the payment, of
8 course they did, but that doesn't change the lack of
9 evidence about what President Trump knew in 2016. The
10 evidence of that is from one man, Michael Cohen.

11 Remember, Mr. Costello testified last week. He
12 told you exactly the same thing. He told you that when he
13 first met with Mr. Cohen again in 2018, in April, Mr. Cohen
14 told him that President Trump did not know about the
15 payments when they were made in 2016.

16 And remember when this happened in Michael
17 Cohen's life, okay. Federal agents had searched his house,
18 searched his hotel room, searched his safe deposit box. He
19 was under extreme stress.

20 Mr. Costello said he mentioned suicide at the
21 time; and Costello told Mr. Cohen the best way out of the
22 situation, the best way for him not to be under stress was
23 to provide information to the Feds. And Mr. Costello
24 explained to him that that was the way that he could get
25 leniency and not go to jail.

1 In that environment, when Mr. Cohen was under all
2 of that stress, facing the biggest crisis of his life, he
3 said to Mr. Costello, President Trump did not know.

4 So, briefly, on Mr. Costello, it's just another
5 example of Mr. Cohen taking the witness stand and lying to
6 you.

7 He told you that he never engaged Mr. Costello
8 and didn't consider Mr. Costello his attorney.

9 He told you that Mr. Costello seemed sketchy and
10 that he didn't trust him.

11 He told you that Mr. Costello brought a Retainer
12 Agreement to that April 17th meeting.

13 You know that that's not true. There was no
14 Engagement Letter until at least three or four days later.

15 And he told you he spoke to Mr. Costello around
16 10 times.

17 You know it was over 70.

18 Each of those things he said to you about what
19 happened between him and Mr. Costello was a lie.

20 And I don't know how many lies are enough lies to
21 just reject Mr. Cohen's testimony, big or small, meaningful
22 or unmeaningful, but that was a lie.

23 You know that there was an attorney-client
24 relationship between Bob Costello and Michael Cohen, there
25 is no doubt about that, and so does Mr. Cohen.

1 Now, I want to talk for a few minutes about the
2 Agreement itself.

3 There is no dispute that President Trump never
4 signed the Agreement. He never signed the side letter.

5 And the Government wants you to believe that Mr.
6 Cohen and the President discussed this Agreement on
7 multiple occasions because Ms. Daniels, at the time, was
8 this massive threat to the campaign.

9 They want you to believe that President Trump
10 thought that this could cost him the election, but, yet, he
11 never signed the Agreement.

12 So, if that were the case, how would that
13 Agreement be enforced?

14 So, remember the testimony about that?

15 Mr. Cohen tried to tell you that the whole
16 purpose of the Non-Disclosure Agreement was to ensure that
17 the Trump name was not disclosed, so that Donald J. Trump
18 was never part of this Agreement, but that was not true.
19 That's not the reason that President Trump did not sign it,
20 and that's not the reason I believe Mr. Cohen signed it.

21 And the reason why you know that is, is because
22 Mr. Cohen wrote -- wrote -- he actually wrote President
23 Trump's name into the side letter. So, it is Mr. Cohen
24 himself, and only Mr. Cohen, who attached President Trump's
25 name to the transaction, not President Trump.

1 So, the fact of the matter is, as it relates to
2 Ms. Daniels and what President Trump knew in 2016, you only
3 know from one source, and I said that a few times, but it
4 matters, and that's Michael Cohen.

5 So, what do they do?

6 The Government knows that. They know who they
7 are calling and what they are going to say. They prepped
8 the witnesses, and there is nothing wrong with that.

9 So, what did they do to try to prop Michael Cohen
10 up, to try to prop his testimony up?

11 They showed him phone records, and they showed
12 him calls between him and others to help his testimony seem
13 more corroborative and more credible.

14 But, we all know how that happened, how that
15 ended.

16 You remember when we went through the calls from
17 October 24th, 2016?

18 He testified, both on direct and to me, that the
19 purpose of that call was to update President Trump about
20 the Daniels situation. This is two days before the
21 Agreement is signed. This is right at the most key part of
22 the negotiation, when Mr. Cohen is going to go -- he is
23 going to open up an account. He is going to get the LLC,
24 and he is going to fund it with his HELOC. It's all
25 happening.

1 And so, of course, as I told you guys, I updated
2 President Trump every step of the way. And on October 24th
3 at eight o'clock, it looks like it's Mr. Schiller, yes,
4 because he was the bodyguard. I would call Mr. Schiller.
5 That is what he told you. That was his sworn testimony.

6 It was a lie. And this isn't a lie about whether
7 he had an engagement relationship with Mr. Costello. This
8 isn't a little lie about whether he -- what he thought
9 about President Trump back then, or what his motivation
10 was. This was a lie about the charged conduct involving
11 Ms. Daniels.

12 He told you he talked to President Trump on
13 October 24th at 8:02 p.m., updating him about the Daniels'
14 situation. That was a lie, and he got caught red-handed.

15 We all know that he called Keith Schiller to talk
16 about the fact that a 14-year-old had been harassing him
17 for several days, and he forgot to block his number, and
18 Mr. Cohen wanted to fix that.

19 And you know that not only from the call logs and
20 what happened, but the fact that the second they hung up
21 that 90-second call, Mr. Cohen texted Mr. Schiller the
22 number of the 14-year-old. And the very next text to
23 Mr. Schiller the next morning was asking for a follow-up.

24 That is perjury.

25 Now, what did the Government do in response to

1 that?

2 On redirect, they showed you a picture with the
3 unremarkable fact that everybody already knew that
4 President Trump's bodyguard was with him on October 24th.

5 No kidding. Thanks.

6 They are perfectly happy to have a witness come
7 in here and commit perjury, to lie to you.

8 MR. STEINGLASS: Objection.

9 THE COURT: Sustained.

10 MR. BLANCHE: They have a witness who told you
11 that they had a key conversation with President Trump on
12 October 24th at eight o'clock at night and it was not true.

13 Now, we happened to catch him in a lie. The
14 People showed Mr. Cohen a series of text messages with Mr.
15 Schiller. You saw that. It's in evidence.

16 Consequently, it does not include the text
17 messages with Mr. Schiller and Mr. Cohen involving the
18 14-year-old. They didn't show you that.

19 We put that into evidence, and now you know what
20 happened.

21 Is there the same absolute proof of lies for
22 every single thing that man told you?

23 No. He knows there is not.

24 For that, we have what's called an oath. We have
25 an oath that every witness takes when they testify in front

1 of you, the jury, and it matters. The oath matters the
2 most.

3 He lied.

4 Now, there was another time when he lied to you.

5 The Government showed Mr. Cohen a text message
6 from the President's wife.

7 It said: Please call the President.

8 And as the People know, there is no call from Mr.
9 Cohen from his cell phone to President Trump right
10 afterwards.

11 But Mr. Cohen told you that he believed he placed
12 the call from his landline.

13 Okay, fair enough. Fair enough.

14 Mr. Cohen's landline is in evidence. You can
15 look at it.

16 His number at The Trump Organization where he
17 said he was working that day was 212-836-3212.

18 He told you that on direct. The records from
19 that line are in evidence at this time.

20 MR. STEINGLASS: Objection.

21 THE COURT: Sustained.

22 MR. BLANCHE: The records are in evidence.

23 THE COURT: Approach.

24 (Discussion is held at sidebar, on the
25 record.)

1 MR. STEINGLASS: There are no outgoing calls from
2 that number, only incoming calls.

3 There are no outgoing calls.

4 THE COURT: So, it's technically right.

5 You can clean it up on your summation.

6 (Discussion at sidebar concluded, and the
7 following occurred in open court.)

8 (Whereupon, Principal Court Reporter Susan
9 Pearce-Bates was relieved by Senior Court
10 Reporter Lisa Kramsky.)

(Whereupon, the following proceedings are continued from the preceding page.)

MR. BLANCHE: (Continuing.) There are no calls to President Trump on that day from Mr. Cohen's phones. Any of them.

President Trump's phone records are in evidence. You can look at them.

You will see no phone call.

Now, is that the biggest lie in the world? Maybe not; right.

The Government shows Mr. Cohen a text and says -- from President Trump's wife that says: "Please call DJT."

Mr. Cohen swears to tell the truth and he says, oh, yeah, I called him, yeah, probably from my landline.

It was a lie.

There are no records. There are no records.

You can see President Trump's phone number. You can see all of the people that he spoke with.

Heck, you can look at Keith Schiller that day. You can look at Hope Hicks.

You can look at all of the folks that testified in front of you about being around President Trump at that point during the campaign.

No calls from Mr. Cohen.

1 So, there are a lot of ways that you can judge the
2 credibility of a witness.

3 Judge Merchan is going to give you some for sure.

4 But, before you judge a witness, before you accept
5 what they're saying and evaluate it the way that you do in
6 everyday life, the reason why we have the jury system is,
7 the testimony is taken with an oath.

8 (Indicating.)

9 Right. It matters. You swear to tell the truth.
10 You swear that the words you are going to say to the jury
11 are truthful to the best of your recollection.

12 And, if there is anything that we've learned during
13 this trial, it is that Michael Cohen does not take that oath
14 seriously. Period.

15 He has repeatedly, repeatedly lied under oath. He
16 has lied to his family. He lied to his wife about the
17 \$131,000 home equity line of credit. He said that he lied
18 to his kids about that as well. He lied to his banker. He
19 lied -- if you believe what he says about, at least what his
20 story on the stand was, he lied to the FEC. He lied to
21 every single reporter he talked to for about a year about
22 what happened.

23 I mean, he's literally like an MVP of liars. He
24 lies constantly.

25 He has lied to Congress. He lied to Prosecutors.

1 He lied to his family, his business associates. He lied to
2 his bosses. He lies to reporters. He lies to Federal
3 Judges.

4 In fact, he is also a thief.

5 He, literally, stole on his way out the door. He
6 stole tens of thousands of dollars from The Trump
7 Organization; and he admitted that on the stand.

8 He admitted to committing a felony on the stand.

9 Never prosecuted for that.

10 Now, that's all fine, but what should matter to
11 you, in addition to the lies in his past under oath, to his
12 family, to the people that matter, what should matter to you
13 is the lies that he said when he took an oath two weeks ago
14 and gave testimony to you guys. That's what matters here.

15 Sure, a past lie can be explained: Oh, it was
16 loyalty to Donald Trump. Oh, it was to protect my family.
17 Oh, at that point, I was still under the Trump cult.

18 Fine. Fine.

19 He lied under oath.

20 But, when you come in here and you take an oath
21 like he did -- (indicating with a pointed finger to the
22 witness stand) -- that matters. It has to matter.

23 And he lied to you. Make no mistake about it.

24 Now, I said this in the beginning, Mr. Cohen
25 admitted it on the stand, he has been obsessed with

1 President Trump for over two decades.

2 He told you that. He wrote it in his book.

3 And until the Summer of 2018, he was a fan. And
4 now he's not.

5 He went from loving President Trump and defending
6 him to outright hatred.

7 I'm going to play an audio that I played when he
8 was on the stand about what he really thinks.

9 Go ahead.

10 (Audiotape being played.)

11 *****

12 MR. BLANCHE: The next one.

13 (Audiotape being played.)

14 MR. BLANCHE: Now, of course, he never met Alvin
15 Bragg.

16 That was just another lie, by the way.

17 MR. STEINGLASS: Objection.

18 THE COURT: Overruled.

19 MR. BLANCHE: He testified in this trial that he
20 never met Alvin Bragg.

21 When he said that, that was a lie.

22 And Mr. Cohen, by the way, is making millions of
23 dollars off his hatred of Donald Trump. Millions of
24 dollars.

25 You saw this.

1 (Displayed.)

2 MR. BLANCHE: He sells merchandise that shows
3 President Trump in an orange jumpsuit, behind bars.

4 He has followed this investigation the entire
5 time.

6 He followed the case after indictment. He told you
7 that.

8 He talked about the case repeatedly on his podcast
9 and on social media.

10 And he also, as I said a few minutes ago, followed
11 what happened in this trial before he testified.

12 He admitted that he heard about Mr. Pecker's
13 testimony.

14 Think about that for a minute. A witness who
15 outright hates the defendant, admittedly hates the
16 defendant, he wants him in jail, is actively making money
17 off of his hatred.

18 That witness pays attention to what other witnesses
19 are telling you in this courtroom before he testifies.

20 MR. STEINGLASS: Objection.

21 THE COURT: Sustained.

22 MR. BLANCHE: Now, Michael Cohen tells you that he
23 has lied for Donald Trump.

24 He has told you that he has lied to protect his
25 family, and for other reasons.

1 But, you know that he is lying simply to benefit
2 and protect Michael Cohen and nobody else. Period.

3 I'm almost done.

4 Before I sit down -- I know I have been talking
5 awhile -- but I want to talk about ten reasons, ten reasons
6 why you have reasonable doubt.

7 I will be quick.

8 Each one of these reasons is a repeat of what I've
9 already said today, but each one of these reasons makes a
10 not guilty verdict a very easy path and a very quick path.

11 The first one that I'm going to talk about that
12 gives you reasonable doubt -- we talked about this a few
13 hours ago -- are the invoices.

14 The first reason that you should have real
15 reasonable doubt is that Cohen created those invoices.
16 Cohen created those invoices.

17 They are accurate.

18 And President Trump did not have any intent to
19 defraud. There is no evidence of that.

20 There is no evidence that President Trump knew that
21 these invoices were sent.

22 None of them were addressed to him.

23 He was in Washington, D.C. the entire time.

24 There is no proof beyond a reasonable doubt, based
25 upon the fact that sometimes, sometimes President Trump

1 looked at the invoices and what was behind the checks.

2 That's just a guess. And it's reasonable doubt.

3 The second is the Valentine's Day 2017
4 communication that was talked about, the vouchers and the
5 checks.

6 There is no proof that President Trump ever, ever
7 saw anything that Ms. Tarasoff or Mr. McConney did with the
8 vouchers and with the checks.

9 He signed checks as President.

10 Two of the checks he never even saw. He didn't
11 even sign them.

12 And the others he signed when he was at the White
13 House, running the country in 2017.

14 The third, there is absolutely no evidence of any
15 intent to defraud.

16 There was a 1099 issued.

17 President Trump tweeted exactly what happened when
18 it came out.

19 And he submitted what happened to the Office of
20 Government Ethics when he was President of the United
21 States.

22 That's not evidence of any intent to defraud.

23 Similarly, there is absolutely no intent to
24 unlawfully influence the 2016 election.

25 Now, I expect that with this charge, with this part

1 of the case, the Government is going to have to prove that
2 there was a conspiracy. Remember, not just a conspiracy to
3 promote a candidate. That happens in every election. There
4 has to be a conspiracy that involved unlawful means, so
5 something unlawful.

6 And I believe that the Government is going to talk
7 about three potential unlawful means that they will claim
8 makes this conspiracy a crime.

9 The first is the Federal Election Campaign Act,
10 FECA.

11 Now, you have to willfully -- I expect you will
12 learn that you have to willfully violate FECA.

13 There is no evidence, none, no evidence of a
14 willful violation of FECA.

15 Now, you are going to hear about the second
16 view that they have, which is the violation of the tax
17 laws.

18 Now, the evidence of this is from Mr. Cohen, who we
19 talked about a few -- a little bit ago.

20 He said that Mr. Weisselberg said: We are going to
21 gross it up.

22 He had no idea what it meant, and neither did
23 Mr. McConney or Mr. Weisselberg, who supposedly said that to
24 him.

25 That's the tax fraud evidence.

1 There is no evidence that there was anything
2 improper about the way that these taxes were handled by
3 President Trump, by The Trump Organization, or by Michael
4 Cohen. None.

5 And the last one is the falsifying of business
6 records.

7 Now, the bottom line is, as we talked about at
8 length, there is no falsification of business records.
9 Period. And any argument to the contrary by the People is
10 wrong.

11 I expect they are going to talk to you about other
12 documents besides the counts that President Trump is
13 charged with, like the LLCs that Mr. Cohen created along the
14 way; bank records with Mr. Davidson; but there is no
15 evidence at all, not even a little bit of evidence that
16 President Trump knew anything about any of those false
17 filings. None.

18 Remember that invoice from Investor Advisor
19 Services that was sent from AMI to Mr. Cohen for the
20 \$150,000 payment?

21 It's People's Exhibit 103.

22 Even Mr. Pecker said he hadn't seen that until the
23 investigation started.

24 Again, no evidence President Trump had anything to
25 do with that.

1 There is also number five. There is no evidence of
2 any illegal effort to influence the 2016 election.

3 And I just went through all that. I'm not going to
4 go through it again.

5 But, just remember, for you to believe this
6 happened, you have to believe that at this August 2015
7 meeting, there was a conspiracy formed, an illegal
8 conspiracy to criminally influence the election.

9 MR. STEINGLASS: Objection.

10 THE COURT: Sustained.

11 MR. BLANCHE: Now, Mr. Weisselberg was not at that
12 meeting. You know that. Nobody suggested otherwise.

13 There is no evidence that he ever talked to anyone
14 about trying to promote President Trump's campaign.

15 So, again, even if you do believe that
16 Mr. Weisselberg had something to do with the payments that
17 are ultimately at issue in this case, there is no evidence
18 he had anything to do with whatever agreement was reached to
19 try to influence the election.

20 Another reason there is reasonable doubt.

21 AMI would have run -- would have run Mr. Sajudin's
22 story no matter what. That's not catch-and-kill.

23 Another reason.

24 McDougal did not want her story published. She
25 wanted to be on the covers of magazines. And guess what?

1 It worked!

2 She was successful. She did not want her story
3 published.

4 That's not catch-and-kill.

5 And with the Ms. Daniels story, again, the story
6 was already public. The story was already public.

7 Now, the ninth one -- the ninth reason that you
8 should have reasonable doubt, ladies and gentlemen, is the
9 manipulation of evidence.

10 Now, there are a lot of documents and a lot of
11 records that you have seen in this case.

12 And those documents, those records, that testimony,
13 Mr. Steinglass is going to talk to you about this afternoon,
14 about why the Government believes that they proved guilt
15 beyond a reasonable doubt.

16 But, they have made mistakes in this trial in the
17 way that they presented the evidence.

18 MR. STEINGLASS: Objection.

19 THE COURT: Overruled.

20 MR. BLANCHE: And we have caught them.

21 First, there is the text message that I talked
22 about a few minutes ago from President Trump's wife to
23 Michael Cohen, saying "call me" and no evidence of a phone
24 call.

25 Second, the October 24th, 8:02 phone call.

1 Again, those text messages were not shown to you by
2 the Government; they were shown to you by us on
3 cross-examination.

4 And, third, Mr. Cohen's phone.

5 Do you remember a few weeks ago, when a
6 representative from the District Attorney's Office named
7 Douglas Daus testified about how he had searched Mr. Cohen's
8 two phones? CP1 was one of the phones.

9 But, what did they not tell you until cross?

10 He didn't tell you that Mr. Cohen had actually
11 wiped his phone on October 15th of 2016.

12 That's about five or six weeks after this recording
13 was supposedly made.

14 Mr. Daus did not tell you that Mr. Cohen actually
15 synced the phone with his computer, with his laptop, on
16 January 25th, 2017.

17 And you haven't seen any evidence that the laptop
18 was ever searched.

19 Mr. Daus did not tell you that Mr. Cohen synced the
20 phone again in October of 2020.

21 He said that on cross.

22 And, by the way, we don't even know -- we don't
23 have any information about what device was actually used for
24 that sync.

25 But, we do know -- we do know that that September

1 6th recording, that was part of that sync. Mr. Daus told
2 you that when he was asked.

3 So, with this wiping and this syncing of
4 Mr. Cohen's phones and everything else that you know about
5 Mr. Cohen, how can you trust that the September 6th
6 recording is actually reliable?

7 The answer is, you can't.

8 You have to rely on Mr. Cohen again.

9 Now, Mr. Cohen lied about that. I said that
10 already.

11 He testified that he used the same phone, and he
12 said he used the same phone to make the recording and to
13 answer the phone call. He said he was positive about that.

14 He even told you the story about the Capital One
15 woman that he spoke with when he answered the call.

16 But, the phone records tell a different story. The
17 phone records provided very specific evidence relating to
18 the device that received that call.

19 And I know this goes back a few weeks, but the
20 IMEI number, it's almost like the serial number for a phone.
21 Mr. Dixon told you that, from AT&T.

22 And you can see it from the phone records, that the
23 device that received the calls that the Government showed
24 Mr. Cohen had an IMEI ending in 174913.

25 And you heard from another phone witness that the

1 IMEI on Cohen's phone, CP1, ended in 997431.

2 It's a different phone.

3 Cohen made up that call. He made up how it was
4 received.

5 And there is nothing you can trust about anything
6 he said to you about what happened with that recording.

7 And the last thing I'm going to talk about that
8 gives you reasonable doubt is what I have been talking about
9 for the past several hours: Michael Cohen. He's the human
10 embodiment of reasonable doubt. Literally.

11 He lied to you repeatedly. He lied many, many,
12 many times before you even met him.

13 His financial and personal wellbeing depends on
14 this case.

15 He is biased and motivated to tell you a story that
16 is not true.

17 The kind of witness that you want to testify -- to
18 take an oath and testify is somebody that you can trust that
19 they are telling you something to the best of their
20 recollection. Period.

21 That's what we want from all of our witnesses.

22 Most of the witnesses that testified over the past
23 five weeks, I think you got that. Most of them.

24 But, with Michael Cohen, you did not.

25 So, there is something -- do you guys -- have you

1 guys heard of a GOAT; like the GOAT, the Greatest Of All
2 Time?

3 It's like what people talk about with athletes
4 like Michael Jordan as the GOAT; Tiger Woods as the GOAT;
5 Tom Brady as the GOAT. These athletes are the "Greatest of
6 All Time," the best among their peers.

7 Michael Cohen is the GLOAT. He's, literally, the
8 Greatest Liar of All Time!

9 He has lied to every single branch of Congress,
10 both Houses, the House and the Senate.

11 He has lied to the Department of Justice when he
12 met with the Special Counsel's Office.

13 He has lied to Federal Judges on multiple
14 occasions.

15 He has lied to State Judges.

16 He has lied to his family.

17 He has lied to his bankers.

18 He has lied to the people he works with.

19 He stole from President Trump.

20 His words cannot be trusted.

21 And I'm going to end this summation the same way,
22 the same way that I told you a few minutes ago that you know
23 you cannot rely on him, which is that all those lies, lies
24 under oath, lies to his family, lies when it matters, lies
25 when it doesn't matter, all those lies, put them to the side

1 for just a moment.

2 That's, alone, enough to walk away.

3 But then he came in here, he raised his right hand,
4 and he lied to each of you, repeatedly; repeatedly.

5 You cannot -- you cannot send somebody to prison,
6 you cannot convict somebody --

7 MR. STEINGLASS: Objection.

8 THE COURT: Sustained.

9 MR. BLANCHE: You cannot convict somebody based
10 upon the words of Michael Cohen.

11 So, thank you for paying attention.

12 I know it was a long morning, and we went through a
13 lot of evidence. But, it's important.

14 It's important to President Trump. It's important,
15 of course, to his family.

16 And I meant what I said in the beginning, it's
17 clear that you all have been paying very close attention for
18 the past five weeks. And that matters. That's very
19 important.

20 You know, this isn't a referendum on your views of
21 President Trump.

22 This is not a referendum on the ballot box, who
23 you voted for in 2016, 2020, or who you plan on voting for
24 in 2024. That's not what this is about.

25 The verdict that you are going to reach has to do

1 with the evidence you heard here in this courtroom, and
2 nothing else.

3 Nothing else that you knew or thought about
4 President Trump or about any of the other folks that
5 testified, but just the evidence that you heard from the
6 witnesses, the recordings and the documents.

7 If you do that, if you focus just on the evidence
8 you heard in this courtroom, this is a very, very, very
9 quick and easy not guilty verdict.

10 Thank you.

11 THE COURT: Thank you.

12 Jurors, we are going to take our luncheon recess at
13 this time.

14 And I would like to start up again promptly at
15 2:00, all right.

16 Now, you heard only one of the summations, so,
17 please continue to follow all of my instructions.

18 Please do not talk, either among yourselves or with
19 anyone else, about anything related to the case.

20 Please continue to keep an open mind.

21 Don't form or express an opinion about the
22 defendant's guilt or innocence now that all of the evidence
23 is in.

24 You still haven't heard both summations, and I
25 still have to give you my final instructions on the law.

1 So, please continue to follow all of my other
2 admonitions.

3 I will see you at 2:00.

4 Enjoy your lunch.

5 THE COURT OFFICER: All rise.

6 (Jury exits.)

7 THE COURT: You may be seated.

8 Is there anything either side wants to say for the
9 record?

10 MR. STEINGLASS: Well, first of all, we would like
11 a curative instruction for that ridiculous comment that
12 Mr. Blanche made at the end of his summation about sending
13 the defendant to prison.

14 There is no requirement of prison.

15 Punishment is something that's explicitly -- that
16 the jurors are told not to consider.

17 And that was a blatant and wholly inappropriate
18 effort to cull sympathy for their client.

19 So, we would like a curative instruction before the
20 summations start.

21 Second of all, we would like -- the Defense has
22 used your ruling as a sword instead of a shield, in terms
23 of not giving the limiting instruction on Retainer
24 Agreements.

25 They have now doubled down and somehow suggested,

1 once again, as they did with the testimony, that it's
2 perfectly plausible to not have a Retainer Agreement, when
3 that is not the law in New York State.

4 For all of the reasons we argued earlier, but also
5 for the new reason that they have now doubled down on it
6 and, again, misled the jury, I think your Honor should
7 reconsider your decision and give the curative instruction
8 that we provided.

9 Thank you.

10 MR. BLANCHE: Your Honor, the law that was
11 presented to the Court has to do with payment, not with
12 whether a Retainer Agreement can be oral.

13 Indeed, the cases cited, one of the main cases
14 cited was a State that was suing to not have to pay the full
15 amount to a lawyer, and the issue was whether or not there
16 was an attorney-client privilege rather than whether or not
17 the retainer was valid. That was not the issue.

18 More significantly, 100-years-plus of legal
19 experience testified, and there wasn't a single question
20 other than on cross-examination about the -- when they
21 testified about it on cross that: Hey, retainer agreements
22 can be oral, they don't have to be in writing; and then the
23 same for Mr. Costello when he testified on direct.

24 But there wasn't a single question on cross by the
25 People questioning him about that.

1 So, you have -- and that's because it's true.
2 That's because it's true: You do not need a Retainer
3 Agreement in writing. Potentially, to get paid you do. To
4 get paid, you do. And that's certainly the law.

5 But there is another exception to that law, which
6 clearly applies to Mr. Cohen, if you are continuing in the
7 same role and job that you've had prior to entering into a
8 no-Retainer-Agreement-in-writing relationship.

9 Mr. Cohen himself testified on direct, cross, and
10 redirect that his job was exactly the same in 2017 that it
11 was in 2016.

12 THE COURT: Let me hear your comment about prison.

13 MR. BLANCHE: Pardon?

14 THE COURT: Let me hear you about your comment
15 about prison.

16 MR. BLANCHE: I mean, your Honor, there is already
17 an instruction that you are going to give as part of the
18 charge on that.

19 And so, we don't think that there needs to be a
20 curative instruction.

21 THE COURT: I'm going to give a curative
22 instruction.

23 I think that saying that was outrageous,
24 Mr. Blanche --

25 Please have a seat.

1 -- for someone who has been a Prosecutor as long as
2 you have, and a Defense Attorney as long as you have, you
3 know that making a comment like that is highly
4 inappropriate.

5 It's simply not allowed. Period.

6 It's hard for me to imagine how that was accidental
7 in any way.

8 I will give a curative instruction.

9 I will ask the People to draft one up, and I will
10 give it.

11 See you at 2:00.

12 MR. STEINGLASS: Thank you.

13 (Luncheon recess taken.)

14 *****

15 (A F T E R N O O N S E S S I O N)

16 THE SERGEANT: Remain seated. Come to order. The
17 Honorable Juan Merchan is presiding.

18 THE COURT: People, do you have a draft of the
19 proposed instruction?

20 MS. HOFFINGER: Yes, your Honor. We do.

21 Judge, if I may just mention, not only was
22 Mr. Blanche's comment highly improper to a jury to suggest
23 that they not send the defendant to prison, but your Honor
24 specifically precluded any argument by the Defense about
25 potential punishment in your Honor's decision in response to

1 the People's motion in limine. That's your decision on
2 March 18th of 2024.

3 So, Mr. Blanche was certainly on notice that this
4 was an improper argument.

5 And your Honor specifically precluded it.

6 We would also ask that you give a curative
7 instruction on Retainer Agreements again, your Honor.

8 I know that we previously handed this up. We have
9 a copy that we gave to the Court previously.

10 Again, Mr. Blanche misstated the law in New York
11 to the jury. He left a false impression.

12 He relied on, in part, Mr. Davidson's testimony,
13 which, at best, relates to California law, not to New York
14 law, and I'm not even certain that it does.

15 But, we would request that curative instruction
16 again.

17 Mr. Blanche doubled down and was misrepresenting
18 the law, the ethical laws in New York.

19 THE COURT: Thank you.

20 Did you give a copy of the proposed instructions to
21 the Defense?

22 MS. HOFFINGER: Yes, I did.

23 THE COURT: Both instructions?

24 MS. HOFFINGER: Yes, your Honor.

25 THE COURT: Would you like to be heard?

1 MR. BLANCHE: Your Honor, the proposed curative
2 instruction is fine with us, your Honor. We have no
3 objection to that.

4 As to the Retainer Agreement, we very much believe
5 that we have not misstated the law.

6 And we very much believe that if the Court is
7 considering giving this instruction, that we be allowed to
8 brief that this evening because there is -- besides the fact
9 that there were no questions put to the witnesses about
10 their understanding, the cases that the People put forward
11 don't stand for the proposition that they want this Retainer
12 Agreement instruction to state.

13 And we continue to object to it.

14 And if the Court is considering it -- by the way,
15 our arguments were that the witnesses testified, which they
16 did testify, about their understanding.

17 And they are lawyers that were testifying about
18 their understanding.

19 And so, we very much object to the Retainer
20 Agreement instruction.

21 And if the Court is considering it, we would
22 respectfully request permission to put in a more substantive
23 response tonight.

24 THE COURT: All right.

25 I have reviewed both of your proposed instructions.

1 The Defense does not object to the proposed
2 instruction regarding the sentence or punishment; therefore,
3 I will give it exactly as it's written.

4 I'm not going to give the other instruction from
5 the bench.

6 I can understand why you are frustrated at this
7 point with the comments that were made by Mr. Blanche on his
8 summation.

9 However, I think at this point for that instruction
10 to come from the bench to the jury would simply call more
11 attention to it than it's worth, so I'm not going to do it
12 at this time.

13 Let's get the jury, please.

14 THE SERGEANT: All rise.

15 Jury entering.

16 (Jury enters.)

17 *****

18 THE COURT: You may be seated.

19 THE CLERK: Case on trial continued. All jurors
20 are present and properly seated.

21 THE COURT: Jurors, before we hear the People's
22 summation, there is an instruction that I wanted to give
23 you.

24 During the Defense summation, you heard Mr. Blanche
25 asking, in substance, that you not send the defendant to

1 prison.

2 That comment was improper, and you must disregard
3 it.

4 In your deliberations, you may not discuss,
5 consider, or even speculate about matters relating to
6 sentence or punishment.

7 If there is a verdict of guilty, it will be my
8 responsibility to impose an appropriate sentence.

9 A prison sentence is not required for the charges
10 in this case in the event of a guilty verdict.

11 People.

12 MR. STEINGLASS: Thank you.

13 Your Honor, counsel, members of the jury, good
14 afternoon.

15 In his opening, Mr. Colangelo told you that this
16 case, at its core, is about a conspiracy and a coverup; a
17 conspiracy to corrupt the 2016 election, and a coverup, an
18 effort to hide that conspiracy by falsifying business
19 records to disguise the payment to Stormy Daniels to buy her
20 silence.

21 In order to prove the defendant's guilt in this
22 matter, we have to prove three basic things:

23 Number one, that there were, in fact, false
24 business records in this case;

25 Number two, that the false business records were

1 intended to cover up a conspiracy to promote or prevent the
2 election of a candidate by unlawful means;

3 And, three, that the defendant himself was
4 involved, that he made or caused the false business records
5 and that he had the intent to defraud.

6 We asked you in the opening to focus on the facts,
7 and the logical inferences that flow from those facts, to
8 examine not just the testimony, but also the hard evidence
9 in this case: The invoices, recordings, the emails, the
10 texts, the handwritten notes, the bank records.

11 We asked you to remember to tune out the noise and
12 to ignore the sideshows.

13 And if you had done that, when you discuss this
14 case with your fellow jurors, you will see that the
15 People have presented powerful evidence of the defendant's
16 guilt.

17 Before we get to what this case is not about, let's
18 just talk briefly -- before we get to what this case is
19 about, let's talk briefly about what this case is not
20 about: Some of those sideshows that I just mentioned.

21 Now, the Defense seems to be questioning our
22 integrity in making certain exhibits in this case, such as
23 the call summary charts or exhibits that contain certain
24 texts, but not others.

25 And don't fall for the suggestion that these call

1 summaries were trimmed down to somehow mislead you.

2 The call summaries are intended as a guide for you
3 to look at some of the relevant calls in the New York time
4 zone.

5 But the calls themselves, the phone records
6 themselves are all in evidence, and so you can look through
7 them at your leisure if you so choose.

8 The Defense also can point you to any call that
9 they want you to look at; and, in fact, they did so.

10 So, there is nothing sinister here, no
11 manipulation.

12 And that's an interesting accusation coming from
13 the Defense, who created a phone summary of calls between
14 Mr. Costello and Mr. Cohen and double counted half the
15 calls.

16 I mean, you have to go back and look at that. Look
17 at how many calls were actually made to the two of them.
18 They count the landline calls that may have been with
19 Cohen's friend, Mr. Citron. So that's -- you should keep
20 that in mind when you are analyzing that evidence.

21 And, nor should you accept the Defense's argument
22 that we somehow hid evidence by selecting texts to create
23 exhibits.

24 The Defense was provided with the entire forensic
25 image of both of Mr. Cohen's phones.

1 They were free to and did create their own exhibits
2 to make whatever points they felt like making.

3 And keep something else in mind -- and this is
4 quite important when you are looking at the phone records
5 and summary charts -- not every call is reflected in those
6 exhibits, not by a long shot.

7 I will give you an example:

8 There are eleven unique phone numbers, phone
9 contacts in Cohen's -- just one of Cohen's phones for the
10 Defendant. Eleven different phone numbers.

11 We only have phone records for two of those
12 numbers.

13 We don't have his landline -- we don't have his
14 landline at work.

15 We don't have his landline at home.

16 And we certainly don't have his office line from
17 the White House.

18 We also don't have the outgoing calls from
19 Mr. Cohen's landlines, despite what Mr. Blanche told you
20 just now, a few minutes ago. There are no outgoing calls
21 from that number.

22 One of the phone company representatives told you
23 that they only keep those types of records for three years,
24 and we are fortunate to have what we have.

25 So, a phone record proves that a particular call

1 happened, but the absence of a phone record doesn't prove
2 that a particular call did not happen.

3 Also, keep in mind that aside from a few
4 screenshots from Cohen's phone from the Signal app, there
5 are no records at all about encrypted phone calls between
6 the conspirators in this case.

7 That's the whole point of using an encrypted app,
8 is so that there isn't a record.

9 Finally, some of the conversations in this case
10 took place in person, so there wouldn't be a phone call
11 record of that.

12 The point here is that the fact that there isn't a
13 record of a particular phone call does not mean that a
14 particular conversation did not take place.

15 Fortunately, there are plenty of phone records that
16 actually are in evidence.

17 And that's in evidence as People's 400.

18 You can examine them, and you will see that there
19 are -- many of the calls that we talk about in this case
20 are, in fact, proven in the phone records.

21 So, another reoccurring Defense narrative is this
22 notion that Stormy Daniels was trying to extort the
23 Defendant, threatened to go public unless she was paid off;
24 but, that's just not reality.

25 You've got to go beneath the surface here. Look at

1 the evidence. Look at the texts. Look at the timing. And
2 we are going to do all that.

3 But, for now, suffice it to say that, for example,
4 the tape that Mr. Blanche played on -- in the middle of his
5 summation of a recording where Keith Davidson is talking
6 about somebody coming forward and saying that this was all
7 about the election, at the time of the election we're going
8 to lose our leverage, that wasn't Stormy Daniels. That was
9 her boyfriend, her ex-boyfriend, Anthony Kotsev, who
10 Davidson was speculating might come out and say those
11 things.

12 It's all in Davidson's testimony.

13 That's just what Mr. Blanche suggested that Stormy
14 Daniels was threatening to do that -- it's just not the
15 evidence, and it's not the testimony.

16 Daniels' first goal was to get the story on record
17 because she believed that that was the best way to protect
18 herself and her family.

19 Do you remember, she told you that she had a
20 conversation with a friend of hers who is a lawyer, and he
21 said to her: "You got to get out, get out in front of this.
22 Hide in plain view."

23 Now, I'm not suggesting that choosing between
24 telling the story and getting paid versus telling the story
25 and not getting paid, she would rather tell the story and

1 get paid, but that's a different thing.

2 From this extortion narrative that the Defense is
3 selling, keep in mind something; Rodriguez reached out to
4 Howard first; right.

5 Howard is the Chief Content Officer at AMI.

6 She didn't reach out to Cohen.

7 There is no evidence that she ever spoke to Cohen.

8 Here, Howard tells Davidson, who doesn't even
9 appear to know that Keith Davidson is trying to hawk the
10 Stormy Daniels story to the media, and Rodriguez is reaching
11 out to Dylan Howard to get the National Enquirer to sell the
12 story to the press, not the candidate.

13 Similarly, after the Daniels story resurfaced,
14 Cohen reached out to Davidson first. Not the other way
15 around.

16 They got wind of the fact that this story was
17 around, and they wanted to buy it before Stormy Daniels
18 could go public with it.

19 Now, think what you want about Mr. Davidson and
20 this whole practice of trading on stories of sexual
21 relationships with celebrities or politicians. Maybe you
22 think it's a sordid practice. Maybe you think that it's a
23 way for women who have been taking advantage of to get
24 something out of it.

25 In the end, it doesn't really matter, because you

1 don't get to commit election fraud or falsify your business
2 records because you believe you have been victimized.

3 In other words, extortion is not a defense to
4 falsifying business records.

5 And, if you have any questions about this, you can
6 ask the Judge.

7 Now, the Defense has also attempted to discredit
8 the witnesses in this case, not just Mr. Cohen.

9 And no judgments. That's their job.

10 But, you've got to use your common sense here.

11 Consider the utterly damning testimony of David
12 Pecker, the defendant's friend for four decades.

13 Mr. Blanche said in his summation that Mr. Pecker
14 was speaking from experience and that that matters.

15 That's important.

16 That's an odd thing to say, because -- for them,
17 because if you accept Mr. Pecker's testimony, it alone
18 establishes one of the three things that we have to prove
19 here, that the conspiracy to unlawfully influence the 2016
20 election, you don't need Michael Cohen to prove that one
21 bit.

22 Pecker also eliminates the whole notion that this
23 was just politics as usual.

24 And so, when you consider his testimony, don't just
25 focus on -- the Defense did this a lot. They took one

1 question kind of out of context and put that up on the
2 screen. But it's in the middle of a whole series of
3 questions. And you will see that.

4 We will try to put some of those things in their
5 context -- in their proper context.

6 So, when you are considering Mr. Pecker's
7 testimony, consider it as a whole. Don't consider the two
8 questions that they displayed during their summation.

9 Keep in mind that Mr. Pecker has absolutely no
10 reason to lie here.

11 He has no bias against the Defendant. He still
12 considers Mr. Trump a friend and mentor; and, yet, his
13 testimony is utterly devastating.

14 The same thing he said of several of the witnesses
15 here.

16 They offered testimony that is damaging, but they
17 have no motive to fabricate: Hope Hicks, Rhona Graff,
18 Madeleine Westerhout, Jeff McConney, Deb Tarasoff.

19 These people like the Defendant. If anything, they
20 have an incentive to skew their testimony in a way that
21 would help the Defendant.

22 Yet, each of them provides critical pieces of the
23 puzzle, building blocks that help establish the Defendant's
24 guilt.

25 Now, to be sure, other witnesses want to see the

1 Defendant held accountable. They are angry with the
2 Defendant and, frankly, want to see him convicted.

3 They have been attacked by the Defendant on social
4 media and, as a result, they have incurred the wrath of his
5 most fiery supporters.

6 The Defense has gone to great lengths to discredit
7 Stormy Daniels and her account of her sexual involvement
8 with Mr. Trump. They shamed her.

9 They have tried to suggest that her story has
10 changed over the years.

11 It has not. At least not in any way that's
12 significant.

13 Her false denials have been thoroughly discussed
14 and explained.

15 And when she didn't actually -- she lived in 2017
16 in pure silence.

17 She was perfectly happy going along, but when Cohen
18 came out and he started saying that the sex never happened,
19 she felt compelled to go forward. She wanted to get her
20 story out.

21 They demonized her as someone who makes a living
22 off of the Defendant.

23 To be sure, there were parts of her testimony that
24 were cringe-worthy, because that whole episode in the suite
25 at Harrah's, that was uncomfortable.

1 Some of the details about what the suite looked
2 like and the contents of his toiletry bag and the topics of
3 conversation in the dining area, those are the kind of
4 details, though, that I submit to you, that kind of ring
5 true. They are the kind of details that you would expect
6 someone to remember.

7 And if she didn't testify about those details, it
8 would, undoubtedly, give the Defense more ammunition in
9 their efforts to call her a liar, to argue that she was
10 never in that hotel room.

11 Fortunately, she was not asked, nor did she
12 volunteer, many details about the sexual act itself.

13 Now, in his opening that kind of sounded, again,
14 like in his closing, Mr. Blanche told that you that
15 Ms. Daniels' testimony doesn't matter.

16 That's a bridge too far.

17 Because it's certainly true that we don't have to
18 prove that sex actually took place. That's not an element
19 of the crimes charged.

20 But, the Defendant knew what happened in that hotel
21 room.

22 And to the extent that you credit her testimony,
23 that only reinforces his incentive to buy her silence.

24 And the Defense knows that; because if her
25 testimony were so irrelevant, why did they work so hard to

1 try to discredit her?

2 What I'm saying is that her story is messy. It
3 makes people uncomfortable to hear. It probably made some
4 of you uncomfortable to hear. But, that's kind of the
5 point. That's the display the Defendant didn't want the
6 American voter to see.

7 In the simplest terms, Stormy Daniels is the
8 motive.

9 And you can bet Mr. Trump would not pay \$130,000,
10 twice that after it was grossed up for taxes, just because
11 he took a photograph with someone on a golf course.

12 And that brings us to Michael Cohen.

13 And we have been very clear about him from the
14 moment jury selection began. I know it seems like a while
15 ago.

16 You remember, I was standing in the same spot.

17 And I told you then that Cohen has baggage. He's a
18 convicted felon. He has lied under oath. He has written
19 books. He has done podcasts about the Defendant.

20 And while he was still in the Trump camp, he openly
21 denied and misled the press, the FEC and the SEC about some
22 of the same things we heard here.

23 And Mr. Colangelo told you the same thing. He told
24 you about some of the mistakes that he made.

25 And we all agree and still agree that those are

1 factors that you should take into account when you are
2 assessing his credibility.

3 How could you not?

4 Now, the Defense has argued that Cohen is biased,
5 he's an interested witness because he wants to see the
6 Defendant convicted. Badly.

7 Guess what? We agree with that.

8 Cohen is an interested witness, and that's a factor
9 that you should consider in assessing his credibility.

10 But, listen to his Honor's instructions very
11 carefully about this.

12 You are not required to reject the testimony of an
13 interested witness any more than you are required to accept
14 the testimony of a witness with no interest.

15 Michael Cohen is, understandably, angry that, to
16 date, he's the only one who has paid the price for his role
17 in this conspiracy.

18 Pecker got a Non-Prosecution Agreement.

19 Howard is in Australia.

20 And the Defendant has, up until now, escaped
21 justice.

22 Cohen did the Defendant's bidding for years. He
23 was the Defendant's right-hand man, his "Consigliere," as
24 one person put it in the texts.

25 And when it went bad, the Defendant cut him loose,

1 he dropped him like a hot potato and tweeted out to the
2 world that Mr. Cohen was a scumbag -- a "SleazeBag", I
3 think, is the word that he used.

4 And, all the while, the Election Law Violations to
5 which Cohen pled guilty were committed at the Defendant's
6 direction and for his benefit.

7 MR. BLANCHE: Objection. Objection, your Honor.

8 THE COURT: Overruled.

9 MR. STEINGLASS: Anyone in Cohen's shoes would want
10 the Defendant to be held accountable.

11 So, the Defense urges you to reject Cohen's
12 testimony because he was seeking a benefit when he spoke to
13 members of our Office way back when.

14 And, by the way, what Cohen testified to was that
15 he spent hours in the Office, speaking to people in the
16 Office, he told you however many times he met with the
17 people in the Office, he testified that he did not and he
18 has not met with District Attorney Bragg.

19 What he said was -- what the Defense is saying is
20 that, well, he asked us about giving him a letter in support
21 of his many motions to try to get his sentence reduced or
22 his supervised release reduced.

23 And it's true, he did ask about that. But guess
24 what? He never got one. And he never got his sentence
25 reduced either.

1 And he is still here, providing information about
2 what went down.

3 And, also, if you remember that recorded
4 conversation between Mr. Cohen and Mr. Davidson that was
5 admitted into evidence through Davidson, that's People's
6 Exhibit 265 -- this is just the transcript of that call --
7 Cohen reveals that the Defendant tells him that he hates the
8 fact that he did it, referring to the Daniels story.

9 In other words, Mr. Cohen is saying that Mr. Trump
10 hates the fact that we did it.

11 And this is before his cooperation, before he had
12 any conceivable motive to lie, before his guilty plea.

13 I mean, he was still getting monthly checks at this
14 point.

15 And something else about this phone call that was
16 very interesting.

17 Mr. Blanche -- it sounded like he admitted it --
18 that at least as early as 2017, the Defendant knew of the
19 Stormy Daniels payments.

20 And, remember, 2017 is when the checks were still
21 rolling in every month.

22 Of course, the Defendant knew much earlier than
23 2017.

24 And we will get to why in a moment, but I just
25 wanted to point that out to you.

1 So, the next reason they tell you to reject
2 Mr. Cohen's testimony is that he stole from The Trump
3 Organization.

4 So, I will call it "The TO" sometimes.

5 And when he and Allen Weisselberg were working out
6 the reimbursement for the Stormy Daniels payoff, you
7 remember, there was an outstanding bill for \$50,000 to
8 Red Finch, and that bill was because Mr. Trump had asked
9 Cohen to help rig some online poll, some CNBC poll to make
10 the Defendant seem more popular than he really was as a
11 businessman; but, eventually, CNBC kind of pulled that poll,
12 and so Mr. Trump decided, like he often does: I'm not going
13 to pay this bill.

14 And Mr. Cohen laid out \$20,000 cash from his own
15 funds.

16 And it's true that Allen Weisselberg knew, of
17 course, that this \$50,000 was out there; Mr. Trump knew.

18 And when Weisselberg said, okay, write down
19 everything that we owe you, Trump -- Cohen did not correct
20 him and say, well, you know, it's only \$20,000 that I laid
21 out.

22 And he should have. And that's stealing. And we
23 agree.

24 And he was raw about the fact that the Defendant
25 had cut his bonus in 2016 by two-thirds after he had gone to

1 some great lengths for the Defendant that year.

2 And Mr. Cohen -- that didn't come out on
3 cross-examination.

4 Mr. Cohen admitted that readily during direct
5 examination.

6 And it's true that he was the one -- that he was
7 never charged with that theft.

8 He's also the one who brought it to everyone's
9 attention. He raised it.

10 He said, by the way, I didn't really get \$50,000.
11 He volunteered it.

12 And what he did say was that after doing three
13 years or at least getting sentenced to three years, plus
14 three years of post release supervision, that he paid his
15 price for his role in this scheme.

16 But, in any event, none of this matters because
17 it's not a defense to the false business records charge that
18 one of the conspirators is also guilty of stealing from
19 another.

20 And, I will tell you something else that was kind
21 of funny. I don't know if somebody caught this during
22 summation. Mr. Blanche said, well, he stole \$60,000, right,
23 because it was grossed up.

24 But -- so, that he means that the Defense is trying
25 to have it both ways, right.

1 They are denying that the 420,000 was a
2 reimbursement at all. They are claiming it was payment for
3 legal services rendered in 2017.

4 We will get to why that's ridiculous later.

5 But, if that's true, then there was no theft;
6 right? He's not getting paid back for Red Finch, he's
7 getting paid for legal services in 2017.

8 So, they can call him a thief or claim this wasn't
9 really a reimbursement, but not both.

10 And, of course, you know from the documents, which
11 we will look at later, that these payments were, indeed, a
12 reimbursement.

13 Now, the Defense has urged you to reject
14 Mr. Cohen's testimony because he has made and is still
15 making money from talking about many of the things that this
16 case involves, his books and his podcasts.

17 And that's also true. We agree with that.

18 And he even sells merchandise relating to his
19 desire to see the Defendant convicted.

20 I think Mr. Blanche put up a slide about that.

21 None of that is a crime.

22 And I suspect that he will continue to do that,
23 regardless of the outcome of this trial.

24 He has been convicted of multiple felonies. He has
25 had to sell his real estate. He can't get a new bank loan

1 or a mortgage. He's not allowed to own taxi medallions
2 anymore. He has been disbarred. Plus, he has huge fines
3 and legal bills to pay. Not to mention the steady stream of
4 online attacks from the Defendant and threats from his
5 supporters.

6 I'm not asking you to feel bad for Michael Cohen.
7 He made his bed.

8 But, you can hardly blame him for making money from
9 the one thing that he has left, which is his knowledge of
10 the inner workings of the Trump phenomenon.

11 The Defense tells that you Cohen has an axe to
12 grind.

13 He is mad at the Defendant at the end of 2016 for
14 three reasons:

15 One, because the Defendant cut his bonus.

16 Two, because the Defendant hadn't paid him back
17 yet, the \$130,000.

18 Although, that also doesn't seem to work; that that
19 would mean that the Defendant knew about the 130,000.

20 So, again, their arguments are not necessarily
21 consistent, but they are passionate.

22 And, three, because the Defendant didn't give him a
23 top Government position.

24 Again, they are right about the first two.

25 Cohen complained to Pecker, Davidson, Weisselberg,

1 and that's why Weisselberg and Trump made it right. They
2 upped his bonus, although not fully. They arranged to pay
3 him back the \$130,000.

4 And Trump gave him the position that he really
5 wanted, a title he could monetize into a \$4 million payday.

6 That all happened in the days before the
7 inauguration in 2017.

8 And Cohen was perfectly happy with that
9 arrangement.

10 Happy enough to demonstrate his loyalty by keeping
11 the parties to these NDAs in line for another 15 months.

12 The Defense also tells you that you should reject
13 his -- Cohen's testimony because he said that he lied when
14 he took his pleas in Federal Court.

15 And, I think the truth is that he has had some
16 difficulty accepting responsibility about some of that
17 conduct.

18 Not -- not the Federal Campaign Finance Violations.
19 He has been very consistent about that.

20 But, you know, for his Bank Fraud conviction, and
21 his -- his Tax Law Violation, he said, he -- he admitted to
22 you that he did the things that they said that he did;
23 right.

24 He pled guilty.

25 He acknowledged that there was information missing

1 from his Tax Form and his HELOC application.

2 But he feels like he was treated unfairly. That's
3 what he told you.

4 He feels like as a first offender, he should have
5 been given a chance to pay the fines and his back taxes.

6 And he thinks that other people in his shoes would
7 have been given the chance to do so.

8 He believes that the Trump Justice Department did
9 him dirty.

10 Whether that's true or not, he was very forthright
11 about the conduct that he committed, and he accepted
12 responsibility for it.

13 And he went to prison for it, along with the
14 Campaign Finance Violations.

15 So, you should consider all of these things in
16 assessing his credibility.

17 But, just ask yourselves whether they cause you to
18 outright shut your ears to anything else that he has to
19 say?

20 One of the things that Defense accuses him of doing
21 is lying to Congress.

22 And that's kind of rich. Because the lies that he
23 told to Congress in 2017 had to do with the Mueller
24 Investigation, and it had to do with the investigation into
25 the Russia probe.

1 And what Michael Cohen lied about was the number of
2 dealings that the Defendant had with Russia.

3 And he got no benefit for that, other than staying
4 in the Defendant's good graces as part of a Joint Defense
5 Agreement.

6 And so, now those lies that he told are being used
7 by that same Defendant to undermine his credibility.

8 That's what some people might call chutzpah.

9 And that brings us to the phone call on October
10 24th at 8:02 p.m. in which Cohen testified that he called to
11 speak with Mr. Trump.

12 And it turns out that, at first, he was speaking to
13 Mr. Schiller about getting harassing calls.

14 And, of course, the Defense says: Aha, that's
15 perjury. That's -- the only interpretation of that is that
16 he's lying.

17 That's the only interpretation that they want you
18 to consider.

19 To them, that is the big lie.

20 But that's not the only interpretation.

21 Cohen clearly did not remember the initial reason
22 for the call.

23 And when he saw the text with Mr. Schiller, he
24 acknowledged that he had also spoken with Schiller on that
25 call.

1 And we know from People's Exhibit 417B and the
2 stipulations of the parties -- this is People's 417B -- that
3 the Defendant and Mr. Schiller were together, getting off
4 the stage at a rally in Tampa at 7:57 p.m., five minutes
5 before the phone call.

6 (Displayed.)

7 MR. STEINGLASS: So, they were together at the
8 exact date and time that Mr. Cohen said they were together.

9 We also know that prior to the call, Cohen texted
10 Schiller about harassing calls he was getting -- he had been
11 getting to his home and office, and he told Schiller that
12 the caller forgot to the block his phone number.

13 So, forgive me for a minute.

14 Let's try a little experiment.

15 I will be Cohen.

16 Hey, Keith. How's it going? It seems like this
17 prankster might be a 14-year-old kid. If I text you the
18 number, can you call and talk to his family? See if you can
19 let them know how serious this is, it's not a joke.

20 Uh-huh. Yeah. All right.

21 Thanks, pal.

22 Hey, is The Boss near you?

23 Can you pass him the phone for a minute?

24 I will just wait a couple of seconds.

25 (Pause.)

1 MR. STEINGLASS: Hey, Boss. I know you're busy,
2 but I just wanted to let you know that that other thing is
3 moving forward with my friend Keith and the other party that
4 we discussed. It's back on track. I'm going to try one
5 last time to get our friend David to pay, but if it's not,
6 it's going to be on us to take care of.

7 Aha. Yeah. All right.

8 Good luck in Tampa.

9 Bye.

10 Forty-nine seconds.

11 (Indicating.)

12 MR. STEINGLASS: Immediately after they hang up,
13 Cohen texted the kid's number to Mr. Schiller.

14 And the next morning, he followed up to see if
15 Schiller had reached the family.

16 Compare that conversation that I just kind of
17 simulated -- I'm sorry if I didn't do a good job. Compare
18 that to the length of the call -- the length of the recorded
19 conversation between the Defendant and Mr. Cohen that took
20 place on September 6th.

21 This is the transcript of it.

22 And we are not going to play the whole thing right
23 now.

24 We will play it a little bit later.

25 But, what I wanted to say is that this part of the

1 call, the part that this transcript pertains to, that took
2 46 seconds.

3 In that conversation, they talked about their
4 friend David; how Cohen had talked to Weisselberg about how
5 to set it all up; about their concern that Pecker might get
6 hit by a truck; about different ways to reimburse Pecker;
7 the amount of the reimbursement.

8 These guys know each other well. They speak in
9 coded language.

10 And they speak fast.

11 (Whereupon, at this time, Laurie Eisenberg relieved
12 Lisa Kramsky as the official court reporter.)

13 *****
14
15
16
17
18
19
20
21
22
23
24
25

1 (Continued from the previous page.)

2 (Whereupon, a Power Point presentation containing
3 exhibits and transcript excerpts plays on the screens
4 throughout the following summation:)

5 MR. STEINGLASS: But even if you're not convinced
6 that both conversations happened in that call, a far less
7 sinister explanation is that Cohen could have just gotten
8 the date and the time of that particular conversation
9 wrong.

10 Despite what Mr. Blanche said, this was not any
11 critical moment in time. This was one update of many.

12 I believe, Mr. Cohen testified that he spoke to
13 the Defendant maybe 20 times, giving him updates on this
14 case, in the month of October.

15 This was not the final go-ahead. This will come
16 two days later, on October 26th.

17 And we'll get back to that. Because that was
18 right before Cohen walked over to the bank.

19 Think about this logically. You know you had a
20 conversation around a particular time. You see a call
21 record in that window. And it's a natural assumption that
22 the conversation happened during that call. But, you still
23 remember that you updated the Defendant regularly.

24 Let me give you an example. Let's say that you
25 had dinner at a restaurant a few years ago with an old

1 friend, and at that dinner, your friend told you that he
2 was getting married. And you find the receipt a couple of
3 years later from that restaurant, and you're like: Oh,
4 yeah, that must have been the date such and such told me
5 he was getting married.

6 But, as it turns out, your friend was in
7 California that weekend, so it turns out you must be
8 wrong, and it must have been some other night you had
9 dinner with your friend and he told you he's getting
10 married.

11 That doesn't mean you're lying that you had
12 dinner with your friend or that he told you he was getting
13 married.

14 Cohen may be able to place a particular call by
15 looking at the phone records, the texts, the time, for
16 context about what was going on around that time; but the
17 story is, as he told you, the same story that he's been
18 telling for six years.

19 And here, too, the Defense is trying to have it
20 both ways.

21 They're telling you that Cohen will say anything
22 to get the Defendant convicted.

23 And then they're pointing out that his testimony,
24 if you accept it, isn't enough.

25 So, which is it?

1 It's actually neither. Because they're wrong on
2 both accounts.

3 If it is his purpose -- if Cohen's purpose were
4 to come in here to lie, how easy would it have been for
5 him to go further, to say that the Defendant admitted to
6 sleeping with Karen McDougal or Stormy Daniels?

7 In fact -- I don't know if you remember this. It
8 was a small point. But, Cohen testified that he flat-out
9 asked Mr. Trump whether he slept with Ms. Daniels, and
10 Mr. Trump didn't answer. He just said she was a beautiful
11 woman.

12 So, if Mr. Cohen wanted to lie for the Defendant,
13 he could have easily said: The Defendant said, yeah, he
14 slept with her, it was the greatest night of his life,
15 whatever.

16 But, that's not what he was doing.

17 Cohen could have easily said he went over every
18 line with every contract with these NDAs with Mr. Trump.

19 But, instead, he said that he updated Mr. Trump
20 when he locked these things down or when some major
21 development happened. He didn't get into the nitty-gritty
22 of what every contract said.

23 Or, he could have said that he and the Defendant
24 overtly discussed the facts that the NDAs in this case
25 violated Federal Election Law.

1 He could have said that the conversation with
2 Allen Weisselberg and the Defendant, that in that
3 conversation the Defendant said something like, "Let's
4 cook the books," or took a more active role in plotting
5 out exactly how they were going to do this.

6 Cohen didn't do any of that.

7 Why? Because he's limited by what actually
8 happened. That's what he's going to tell you, and he's not
9 going to tell you anything beyond that.

10 And the interesting thing is, is that the Defense
11 wants to have it both ways here, too.

12 Because whenever Cohen says anything that helps
13 them, like he thought Stormy Daniels [sic] was being
14 extorted -- or, Stormy Daniels was extorting the
15 Defendant, they want you to believe that.

16 They don't want you to believe anything that
17 helps prove the case against their client.

18 Michael Cohen was really more of the Defendant's
19 fixer than his lawyer. He had a legal title, but he wasn't
20 in The Trump Organization's Legal Department. He didn't
21 answer to the General Counsel. He answered to the
22 Defendant directly. He got the jobs no one else wanted,
23 the jobs that the Defendant wanted to keep quiet. He was
24 the buffer, the guy with the boots on the ground that
25 could bully people and threaten them with lawsuits, all at

1 the Defendant's direction.

2 He was a way for the Defendant to maintain
3 plausible deniability or, in this case, given the rest of
4 the evidence, implausible deniability.

5 Keep something else in mind when the Defense goes
6 on and on about how Michael Cohen is immoral or he's a
7 liar, he's a thief. Mr. Blanche actually said, "This is
8 not the type of witness you want."

9 We didn't choose Michael Cohen to be our witness.
10 We didn't pick him up at the witness store.

11 The Defendant chose Michael Cohen to be his
12 fixer, because he was willing to lie and cheat on
13 Mr. Trump's behalf.

14 Mr. Trump chose Mr. Cohen for the same qualities
15 that his attorneys now urge you to reject his testimony
16 because of.

17 This is a passage from Think Big, one of
18 Mr. Trump's books:

19 "As a matter of fact, I value loyalty above
20 everything else -- more than brains, more than drive, and
21 more than energy."

22 He says things like this again and again in his
23 books.

24 And at the time, Cohen had enough blind loyalty
25 and enough moral flexibility to be a perfect choice for

1 this role.

2 Cohen was drawn to the Defendant like a moth to
3 the flame.

4 And he wasn't the only one.

5 Think about David Pecker for a minute. Look what
6 the Defendant did to David Pecker.

7 Pecker saw Donald Trump as a mentor.

8 Donald Trump saw David Pecker as a useful tool, a
9 means to an end.

10 That's why, if you remember, Mr. Pecker
11 testified, suddenly, after Mr. Trump announced his
12 candidacy, contact between them increased dramatically.

13 Mr. Trump not only corrupted those around him,
14 but he got them to lie to cover it up: Stay on message or
15 you're out.

16 Remember, like Cohen, Pecker also issued a false
17 denial after The Wall Street Journal broke the Karen
18 McDougal story on November 4th. He falsely claimed that
19 the deal was all about the context.

20 And he admitted to you that he issued that denial
21 for the same reason that he purchased Karen McDougal's
22 story in the first place, to protect the campaign.

23 The judge will tell you that Mr. Cohen is an
24 accomplice because he participated in crimes based on
25 conduct alleged in this case.

1 And, under our law, the judge will explain to you
2 that you cannot convict Mr. Cohen -- you cannot convict
3 the Defendant on Mr. Cohen's word alone, unless it's
4 corroborated by other evidence in this case, evidence that
5 tends to connect the Defendant with the commission of this
6 crime.

7 That's not much of a hurdle because in this case
8 there is, literally, a mountain of evidence of
9 corroborating testimony that tends to connect the
10 Defendant to this crime: from Pecker, to Hicks, to the
11 Defendant's own employees, to the documents, to the
12 Defendant's own Tweets, and rallies, and his own words on
13 that recorded conversation. The list goes on and on.

14 It's difficult to conceive of a case with more
15 corroboration than this one.

16 You don't need to waste any time thinking about
17 this one.

18 So, eventually, Cohen came to the realization
19 that with Mr. Trump, loyalty was not a two-way street. And
20 it became clear that attorney Robert Costello, the
21 ostensible back channel to Mr. Trump, was actually a
22 double agent, there to discourage Cohen from cooperating
23 and to keep the Defendant informed.

24 And it became clear to Cohen that they were
25 setting him up to be the fall guy.

1 And Michael Cohen came to his day of reckoning.
2 He decided to put loyalty to his family above that blind
3 loyalty that he had given the Defendant for the previous
4 ten years.

5 And he came clean.

6 And when it comes to the facts of this case, he
7 has been consistently describing the events that took
8 place in this case for six years.

9 In fact, he explained that when he testified in
10 Congress in 2019. He apologized to the American people for
11 lying and for suppressing information that the citizenry
12 had a right to know before choosing their President.

13 And as we discussed in jury selection, the
14 question is not whether you like Cohen or whether you want
15 to go into business with Michael Cohen. It's whether he
16 has useful, reliable information to give you about what
17 went down in this case.

18 And the truth is, that he was in the best
19 position to know. He was in the best position to know
20 because he was the Defendant's right hand. He was in the
21 best position to know about the conspiracy to influence
22 the election, and he was in the best position to know
23 about the false business records that the Defendant
24 created to hide that conspiracy.

25 Listening to the Defense summation and to their

1 opening, for that matter, it's patently obvious that they
2 want to make this case about Michael Cohen.

3 It isn't. That's a deflection. Like many of the
4 Defendant's own Tweets.

5 The Defense had Michael Cohen on
6 cross-examination for three days and asked him maybe
7 an hour's worth of questions that had anything to do with
8 the allegations in this case, with the charges in this
9 case.

10 This case is not about Michael Cohen.

11 This case is about Donald Trump and whether he
12 should be held accountable for making or causing false
13 entries in his own business records, whether he and his
14 staff did that to cover up the Election Law violation.

15 Michael Cohen's significance in this case is that
16 he provides context and color to the documents, the phone
17 records, the texts, the recordings.

18 He's like a tour guide through the physical
19 evidence.

20 But, those documents don't lie. And they don't
21 forget.

22 And as much as the Defense wants to draw your
23 attention away from these documents or to pick and choose
24 the ones they want to show you and kind of cobble it
25 together, although it appears in a narrative, those

1 documents tell you everything you need to know.

2 You don't need Michael Cohen to connect these
3 dots. But, as the ultimate insider, he can help you to do
4 just that.

5 In order to really understand what was going on
6 here, you do have to kind of roll up your sleeves a little
7 and get into those documents.

8 We've done this throughout the trial piece by
9 piece, but it's easier when you put all of the evidence
10 together into a timeline.

11 You don't have to study this right now. This is
12 just a foreshadowing of the August 2015 meeting at Trump
13 Tower, which is really the prism through which you should
14 analyze the evidence in this case. Three rich and powerful
15 men, high up in Trump Tower, trying to become even more
16 powerful by controlling the flow of information that might
17 reach the voters.

18 Mr. Blanche made some allusions to this.

19 Hope Hicks tells you she remembers seeing
20 Mr. Pecker in Trump Tower and was not part of this
21 conversation, even though she was in and out of meetings
22 at all times. She said it's certainly possible she was in
23 and out of a meeting with Mr. Pecker at some point.

24 This makes perfect sense. This is not the kind
25 of thing you want to discuss in front of your press

1 secretary, especially your female press secretary.

2 MR. BLANCHE: Objection.

3 THE COURT: Overruled.

4 MR. STEINGLASS: As Hicks told you in her own
5 words, there were some things she just didn't want to
6 know.

7 As Mr. Pecker explained, the meeting began with
8 Donald Trump and Michael Cohen asking what Pecker could do
9 to help the campaign.

10 And you can have his testimony read back, any
11 part of it, all of it, his description of this meeting.

12 He gave you a lot more detail about this meeting
13 than Michael Cohen did, actually.

14 During this Trump Tower meeting, they settled on
15 three key components of the meeting:

16 Number one. To accentuate the positive. To
17 promote the campaign, but not by endorsing Mr. Trump or
18 by printing puff pieces. By colluding directly with the
19 campaign to manufacture favorable content.

20 Far outside any of the normal, legitimate press
21 function.

22 Pecker and Howard actually sent articles to the
23 campaign in advance so that Cohen could show them to
24 Mr. Trump, and he could exercise veto power over certain
25 topics or make certain changes in advance.

1 The second component, as you know, was an
2 agreement to publish stories attacking the Defendant's
3 political opponents. Especially during the primaries. And
4 these stories were timed for maximum impact, to drop just
5 as those opponents were surging in the polls.

6 The Defense asked Mr. Pecker on cross whether
7 some of his stories were old or recycled from other
8 publications.

9 I think he made the same argument in his
10 summation.

11 Either way, Pecker told you the stories were
12 reprinted at exactly the right time for the purpose of
13 helping the Defendant's campaign.

14 Now, that is also not a normal, legitimate press
15 function.

16 And despite what Mr. Blanche suggested to you in
17 his summation, these stories were not just consumed by
18 National Enquirer's 350,000 subscribers. The National
19 Enquirer is seen by everyone who ever waited on a
20 supermarket checkout line or who shopped at Walmart.

21 Remember, Mr. Pecker said the only thing that
22 matters is the cover.

23 But, the real game changer of this meeting was
24 the catch and kill component. And that's the illegal part,
25 because once money starts changing hands on behalf of the

1 campaign, that's Election Law -- that's Federal Election
2 Campaign Finance violations.

3 We'll get back to that.

4 Now, Mr. Blanche said in his summation that they
5 didn't discuss catch and kill.

6 Now, that's not true.

7 They discussed catch and contain. They didn't use
8 the term "catch and kill", but that's exactly what it was.

9 Pecker explained he would be the eyes and ears of
10 the campaign.

11 AMI was a publishing powerhouse with dozens of
12 publications and a vast network of sources.

13 All three men knew and explicitly discussed the
14 fact that women would be coming forward with accounts of
15 sexual liaisons they had with Mr. Trump.

16 Trump, himself, told Pecker and Cohen to work
17 together: If something comes up, Pecker, you call Cohen.
18 Cohen, you take care of it. I want this to be handled.

19 So, as Mr. Pecker testified, Pecker would notify
20 Cohen, the Defendant's fixer, whenever AMI learned of such
21 a story, so that the story could be purchased and
22 suppressed. That is the definition of "catch and kill",
23 whether you use the phrase or not.

24 This is not, as Mr. Blanche suggested, like
25 buying a story that you may or may not decide to print as

1 you investigate it.

2 This is buying the story that you do not intend
3 to print so that no one else can print it. That's "catch
4 and kill".

5 In his opening, Mr. Blanche said, and I quote:
6 "There is nothing wrong with trying to influence an
7 election. It's called democracy."

8 In reality, this agreement at Trump Tower was the
9 exact opposite. It was the subversion of democracy.

10 Democracy gives the people the right to elect
11 their leaders, but that rests on the fundamental premise
12 that the voters have access to accurate information about
13 the candidates.

14 The entire purpose of this meeting at Trump Tower
15 was to deny that access, to manipulate and defraud the
16 voters, to pull the wool over their eyes in a coordinated
17 fashion.

18 Pecker and AMI stopped engaging in legitimate
19 press activities the moment they agreed to become a covert
20 arm of the Defendant's campaign.

21 Now, similarly, the Defense has pointed out again
22 and again that NDAs aren't illegal in and of themselves.

23 That's true.

24 That's totally besides the point.

25 Contracts aren't -- in and of themselves, aren't

1 illegal, either; but a contract to kill your wife is
2 illegal.

3 It depends what the contract was for. It depends
4 what the NDAs are for.

5 Contracts and NDAs are, indeed, illegal when they
6 serve an unlawful purpose, including when they constitute
7 unlawful campaign contributions.

8 And this is nothing like what had happened in the
9 past between Mr. Pecker and Mr. Trump.

10 Yes, in the past, Mr. Pecker had declined to
11 print negative stories about Mr. Trump for decades.

12 But, that is fundamentally different from seeking
13 out such stories, to purchase them with the advanced
14 intent of preventing those stories from ever being told.

15 Prior to the August 2015 meeting -- and
16 Mr. Pecker was very clear about this -- he never agreed to
17 publish hit pieces on Mr. Trump's political opponents, he
18 never agreed to be the eyes and ears of Mr. Trump's
19 political campaign, and he never ever paid for a Trump
20 story for the purpose of killing it.

21 No matter how many times the Defense says
22 otherwise, this was not business as usual.

23 And it's true that Mr. Pecker may have crossed
24 the line once or twice before with Rahm Emanuel or with
25 Arnold Schwarzenegger.

1 That doesn't mean the line wasn't also crossed
2 here.

3 The Arnold Schwarzenegger conduct kicked off an
4 investigation into Federal Election Finance Laws --
5 finance issues.

6 You know what? You may say -- a lot of people
7 say this: Who cares? Who cares if Mr. Trump slept with a
8 porn star ten years before the 2016 election?

9 Plenty of people feel that way, as I said.

10 But, it's harder to say that the American people
11 don't have the right to decide for themselves whether they
12 care or not, that a handful of people sitting in a room
13 can decide what information gets into those voters' hands.

14 Even if the first two aspects of the Trump Tower
15 deal, the positive stories about Trump and the negative
16 stories about his opponents, even if those were a much
17 seedier version of politics as usual, the catch and kill
18 piece was not. Because, as I said, once AMI purchased
19 stories on a candidate's behalf and in coordination with
20 that campaign, those purchases became unlawful campaign
21 contributions.

22 I suggest to you that the value of this corrupt
23 bargain forged at this Trump Tower meeting cannot be
24 overstated. It turned out to be one of the most valuable
25 contributions anyone ever made to the Trump campaign.

1 When you put all three of these components
2 together, this scheme cooked up by these men at this time
3 could very well be what got President Trump elected.

4 In the months and years that followed, three
5 separate catch and kills that we know of took place.

6 Mr. Blanche has an excuse for each of them, but
7 the excuse doesn't actually make any sense if you go
8 through the evidence.

9 Just a couple of months after that Trump Tower
10 meeting, this theory was put into practice with the case
11 of Dino Sajudin.

12 Dylan Howard got wind of a Trump Tower doorman,
13 Dino Sajudin, who was trying to sell a story of how
14 Mr. Trump fathered a child with one of his housekeepers.

15 You will recall, Howard was one of the Chief
16 Financial Officers and Editor-in-Chief with Mr. Pecker,
17 who told him: Let me know whenever you see a negative
18 Trump story.

19 Pecker suggested he wasn't a co-conspirator,
20 Dylan Howard didn't like Trump.

21 He had a boss, and his orders were: Tell me so we
22 can tell Cohen, so whenever there's a Trump story, we can
23 kill it.

24 That makes him a co-conspirator, whether he
25 wanted to be or not.

1 As Pecker instructed -- had instructed after the
2 meeting, when Howard got wind of the Sajudin story, he
3 came right to Pecker.

4 And because of the agreement struck at that Trump
5 Tower meeting back in August, Pecker immediately reached
6 out to Cohen, to relay what Howard told him.

7 Cohen told him he would check things out from
8 their side, and later called back and confirmed that both
9 the doorman and the housekeeper were on the payroll.

10 Pecker believed that Cohen had spoken to the
11 Defendant about the Sajudin story because the Defendant
12 had offered to take a paternity test.

13 Moreover, when Pecker told Cohen that AMI would
14 pay for the story, Cohen told Pecker that, "The Boss would
15 be very pleased."

16 This is coming from Pecker.

17 Meanwhile, the National Enquirer reporters were
18 trying to follow up on the story. They didn't know that it
19 was a story that would never be told.

20 On November 14th, Barry Levine emailed Howard,
21 asking for instructions on how to proceed.

22 Remember, Howard is under strict orders.

23 Here -- talk about not wanting to be part of the
24 conspiracy.

25 Here, he said, "I'd rather have him locked up

1 before we go to Trump's people."

2 The very next day, AMI enters into a Source
3 Agreement with Dino Sajudin.

4 The original Agreement, as you know, contained a
5 three-month exclusivity period and a \$30,000 payment that
6 was not due until the story was published.

7 And Pecker testified that he was willing to pay
8 far more for this story than the National Enquirer
9 typically would because of the potential embarrassment the
10 story would have to the campaign. National Enquirer
11 doesn't pay \$30,000 for a story like that.

12 And, this is rumor and innuendo. And, as you
13 know, it turned out to be not true.

14 But, Pecker told you -- and this is kind of
15 interesting because some of the things said on summation
16 are just not accurate.

17 Pecker told you that if the story were true, it
18 would have been the biggest story since the death of
19 Elvis; there would be no way to justify outright killing a
20 story like that. So, Pecker told you that he would have
21 published it, but, even then, he would have waited until
22 after the election because that's what he discussed with
23 Cohen and that's what he, Cohen, and the Defendant had
24 agreed to back in August.

25 This testimony, despite what Mr. Blanche told

1 you, was not on redirect. This was on direct. This came
2 out right at the first time around.

3 This is what I mean when I say you've got to look
4 at the contents; right. You can't take an isolated
5 question that is put up on the screen and assume that
6 that's the whole story, because there's more to it; right.

7 So, yes, it's true, Mr. Blanche, that Pecker said
8 that he would print the story anyway, but he would wait
9 until after the election because that's what they agreed
10 to do. Because even though it would be better off for AMI,
11 they would sell more magazines in the short-term, they
12 risked getting scooped if they waited until after the
13 election, they were willing to wait because that would
14 help the Defendant's campaign. And that's the only reason.

15 That is catch and kill.

16 So, as you know, AMI reporters conducted their
17 investigation. And, as I said, it turned out the story was
18 not true.

19 But, guess what's interesting. Even though the
20 story was not true, AMI shelled out \$30,000 for no
21 legitimate purpose.

22 They had already done their investigation by
23 then.

24 If you remember, the original Agreement said,
25 "Payment due upon publication."

1 The Amendment said, "Payment due five days after
2 the signing of this contract."

3 They knew the story wasn't true.

4 And when asked, "Why are you paying \$30,000 for
5 an untrue story," Pecker said -- this is from his
6 testimony on direct: "Because if the story got out to
7 another publication, it would have been very embarrassing
8 to the campaign."

9 This is not a normal, legitimate press function;
10 and it also did not make its way to Mr. Blanche's
11 summation when he was telling you, "This is not really
12 catch and kill."

13 This was really catch and kill.

14 This whole nonsense about the fiduciary duty is
15 out the window here.

16 The only reason to kill a bogus story, the only
17 reason, that's not in service of AMI's investigators,
18 that's in service of the Defendant's campaign.

19 On December 15th, someone at The Trump
20 Organization, we don't know who -- we could make some
21 reasonable inferences here -- called Cohen on his cell,
22 and they spoke for nearly six minutes.

23 The following day, Cohen called Howard.

24 And the day after that, on December 17, 2015, AMI
25 and Dino Sajudin signed the Amendment to the Source

1 Agreement.

2 And, so, as I mentioned, this Amendment called
3 for immediate payment five days after the Agreement was
4 signed.

5 In other words: We all know that the story is
6 not true, it's not getting published by AMI, so we'll just
7 pay you now so you can't take the story somewhere else.

8 That's what that means.

9 Instead of a three-month exclusivity period, the
10 exclusivity period was extended in perpetuity.

11 And they added this ridiculously disproportionate
12 one-million-dollar liquidated damages clause just to put
13 the fear of God into Sajudin, that: In case you decide to
14 go somewhere else, we're coming after you for a million
15 dollars, to lock him up as tight as possible.

16 Pecker told you, it was Cohen that suggested that
17 clause, and it was not typical for AMI to do something
18 like that.

19 The very next day, Barry Levine sends an invoice
20 to the Accounts Payable folks to provide documentation to
21 the \$30,000 payoff to Sajudin. And in the invoice he
22 describes exactly what AMI is paying Sajudin for: a Trump
23 non-published story.

24 The day after that, Howard sends Cohen an email,
25 confirming that the doorman story has officially been

1 caught and killed.

2 This is what it says: "It was remiss of me not
3 to contact you yesterday. Nevertheless, I wanted to
4 confirm that the source executed an Addendum to the
5 Agreement with a liquidated damages clause. He has been
6 compensated accordingly."

7 This is overt election fraud, an act in
8 furtherance of the conspiracy to promote Mr. Trump's
9 election by unlawful means, one of the many ways in which
10 this unlawful conspiracy was acted upon. It was an illegal
11 corporate campaign contribution made by AMI to Mr. Trump's
12 campaign, and it was done in collusion with the candidate.

13 As you know, Election Day was more than ten
14 months away, but during this entire period, Mr. Sajudin
15 had been completely neutralized as a threat to that
16 campaign.

17 At Cohen's insistence, Cohen held onto that NDA
18 until the election was over.

19 AMI did not release Mr. Sajudin until
20 December 9th of 2016, after the Presidential election.

21 That brings us to the catch and kill volume two,
22 which is the Karen McDougal signing. That began June of
23 2016, just as Mr. Trump was clinching the nomination.

24 On June 6th, Keith Davidson, Karen McDougal's
25 lawyer, reached out to Dylan Howard; and Davidson texted

1 Howard that he has a blockbuster Trump story.

2 And within seconds, Howard, this non-conspirator
3 to hear the Defense tell it, says he can get more than
4 anyone for it and that Davidson knows why.

5 They agreed to talk the next morning.

6 They did talk first thing the next morning, and
7 they continued to text back and forth about it, as well.

8 I'm going to try not to bore you by showing you
9 every single text that goes back and forth.

10 Davidson tells Howard about McDougal, a former
11 Playboy Playmate that had a year-long sexual, romantic
12 relationship with Mr. Trump.

13 Once again, as soon as he learned this
14 information from Howard, Pecker, true to that Trump Tower
15 agreement, contacted Cohen, just as Mr. Trump had asked
16 him to.

17 In the meantime, Davidson sent a Retainer
18 Agreement to Karen McDougal because Retainer Agreements
19 are, in fact, required, written Retainer Agreements.

20 And discussions continued among Davidson, Howard,
21 Pecker and Cohen.

22 And, you know, they sometimes try to speak in
23 code, but you don't really need to be a code-breaker to
24 decipher some of these.

25 On June 16th, Pecker asks Howard if there's: Any

1 news on our other project?

2 And Howard responds that his: Source, Davidson,
3 is in Cali.

4 At the same time, Howard is talking to Davidson,
5 and keeping Pecker in the loop, and also keeping Cohen in
6 the loop.

7 Pecker told you, during this time he spoke to
8 Cohen frequently, often multiple times a day, often using
9 encrypted apps.

10 Remember, Pecker is talking to Mr. Cohen at
11 Mr. Trump's direction.

12 Pecker let Cohen know he was dispatching Howard
13 to California to investigate the story. Pecker told Cohen
14 he would report back when he found out details.

15 As Cohen told you, he was under strict orders to
16 keep the Defendant informed of these developments.

17 On June 16th, at 6:07 PM, Howard tells Cohen his
18 meeting with McDougal and Davidson would take place
19 Monday, June 20th.

20 Half an hour later, Cohen reaches out to Keith
21 Schiller, the Defendant's bodyguard. Cohen asks, "Where's
22 The Boss?"

23 Schiller replies: "Next to me."

24 Cohen asks at 6:51 PM if Mr. Trump were free to
25 speak.

1 It's not surprising Cohen would be reaching out
2 as soon as he learned about this Karen McDougal story,
3 because he would be -- as he told you, he would be risking
4 his job by not keeping The Boss informed about
5 developments like this.

6 So, within a minimum of this, "Where's The
7 Boss?", "Next to me", the Defendant called Cohen for an
8 update.

9 Then, on June 20th, Howard is texting Cohen from
10 the plane. He calls Cohen when he lands. Even before he
11 lets Davidson know he's landed, because Howard knows
12 exactly who Cohen is representing, and he wants to keep
13 Cohen in the loop.

14 So, this meeting on June 20th with Karen McDougal
15 is attended by McDougal, Davidson, Howard and Jay Grdina.

16 According to Pecker, during this meeting, Cohen
17 kept on calling Pecker. He seemed agitated and anxious.

18 You could see all those calls in the Pecker-Cohen
19 Summary Phone Chart.

20 I won't show them all to you.

21 You have them if you want to check them out.

22 Cohen was also texting Howard directly.

23 Howard was giving real-time texts, but Cohen
24 wanted to speak on the phone. "Could he be reached out
25 to?"

1 He got Pecker to reach out to Howard, even though
2 the meeting was still ongoing.

3 Why? Because he needed to provide updates to The
4 Boss.

5 Pecker's assistant, Trish McAndrews, also texts
6 Howard. She tells him, "Pecker spoke to Cohen, and Cohen
7 needs you."

8 Howard calls Pecker just as the meeting ends; and
9 Pecker testified -- told you that Howard summarized the
10 interview with McDougal and told Pecker that even though
11 she did not have any physical documentation, that he,
12 meaning Howard, believed her description of her year-long
13 sexual relationship with Mr. Trump.

14 And Howard also reported back to Cohen that he
15 spoke to Pecker, and that they could all hop on a
16 three-way call.

17 During this three-way call -- this is testimony
18 from Pecker -- Howard says explicitly: "Understand."
19 Howard says explicitly: "Understand. I've got this locked
20 down for you. I won't let it out of my grasp."

21 There's not a lot of room for debate here.

22 Howard is not shopping for a story to print.
23 Howard is acting in cahoots with the candidate to kill the
24 story.

25 Howard texts Pecker's assistant to set up that

1 three-way call.

2 She tells Howard and Pecker -- I'm sorry.

3 She tells Howard that Pecker was in a meeting,
4 but he would step out when he was ready.

5 Pecker told you all about the three-way call.

6 Howard repeated the summary of his McDougal talk
7 with Cohen; and Pecker also testified he told both Howard
8 and Cohen that he thought that Trump needed to buy the
9 story.

10 Then we see a flurry of calls and texts among
11 Pecker, Howard and Cohen, and a nearly 25-minute call from
12 Pecker to Howard, a nearly 50-minute call from Pecker to
13 Cohen.

14 This is all on the day of the McDougal interview
15 out in California.

16 A couple of more calls from Howard to Pecker,
17 Pecker to Howard. A 14-minute call from Howard to Cohen.

18 These negotiations continued over the next month.

19 In late June of 2016, Mr. Pecker was making a
20 presentation in New Jersey to his largest investors, when
21 the office assistant, literally, interrupted that meeting
22 to tell Mr. Pecker Trump was on the phone for him.

23 That's the kind of call you remember.

24 Think about it. Pecker is over in New Jersey,
25 talking to his investors. His secretary comes over and

1 says, "Mr. Trump is on the phone for you," a candidate for
2 President. That's something he is going to remember.

3 He steps out to take the call.

4 And the Defendant explained to him during this
5 call that Cohen had told him about McDougal.

6 Think about what that means for a second.

7 That is testimony from Pecker that during the
8 call from the Defendant, the Defendant told him that he
9 found out about the Karen McDougal story from Cohen. Just
10 as Cohen said that he did. "Keep The Boss updated."

11 The Defendant said to Pecker during this call
12 that, "Karen was a nice girl," which suggested to Pecker
13 that the Defendant knew her.

14 Pecker testified elsewhere that he believed this
15 story of the affair to be true.

16 During the call, they discussed competing offers
17 for the Karen McDougal story. Pecker told Mr. Trump that
18 he thought Mr. Trump should buy the story, but the
19 Defendant was reluctant because he thought that these
20 types of stories always get out.

21 And I guess he was right about that.

22 But, Pecker advised the Defendant to buy the
23 story anyway. He said it was just too risky to leave it
24 out there so soon before the election. He thought --
25 Pecker thought they should take the story "off the

1 market". That's the phrase that he used.

2 Now, they're not talking about helping jump-start
3 Karen McDougal's career here. They're talking about how to
4 protect the campaign from the story that she was prepared
5 to tell.

6 And the way that all ended was that the Defendant
7 told Pecker, "Let me think about it, and I will have
8 Michael Cohen call you back in a few days."

9 Now, with all of the evidence and documents in
10 this case, it's easy to lose sight of the significance of
11 this phone call. Because, unless you believe that Pecker
12 is lying, this call means, first of all, that the
13 Defendant knew Karen McDougal well enough to describe her
14 as "a nice girl"; two, that Mr. Trump was overtly
15 discussing purchasing her story to keep it from being
16 published; and third, that Mr. Trump explicitly told
17 Pecker that Cohen was the intermediary, that Cohen would
18 get back to Pecker in a few days with Mr. Trump's
19 decision.

20 So, Trump is deputizing Cohen right in front of
21 Pecker so that Pecker knows that any go-ahead from Cohen
22 is a go-ahead from Trump.

23 This call makes it impossible for the Defense to
24 claim that Cohen was acting on his own, that he was taking
25 it upon himself to work with AMI to purchase the McDougal

1 story.

2 And, as we'll discuss later on, this transaction
3 amounted to an unlawful corporate campaign contribution by
4 AMI to the Trump campaign.

5 And this call proves that not only did the
6 Defendant know about it, but he actively participated.

7 This is powerful evidence of the Defendant's
8 involvement, wholly apart from Cohen.

9 Pecker told you that Cohen called him shortly
10 thereafter and told him that he had been listening in to
11 this conversation, to Trump's conversation with Pecker,
12 possibly on speakerphone; and Pecker testified that Cohen
13 said he'd get back to him with the Defendant's answer.

14 He said, "You should go ahead and buy the story."

15 And Pecker said, "Yeah, I was gonna pay for it."

16 And Cohen said, "Don't worry. The Boss will take
17 care of it."

18 Pecker understood, particularly after his
19 conversation with Mr. Trump, that this meant either The
20 Trump Organization or Donald Trump, himself, would
21 reimburse Pecker for any money he spent buying up the
22 story.

23 That's Pecker's testimony.

24 Pecker took it, this call from Cohen, as
25 authorization to have Howard go forward and negotiate the

1 terms of this purchase.

2 And he knew, and he testified that he knew that
3 the authorization was coming from Mr. Trump himself
4 because, as he told you, Cohen was not authorized to buy
5 lunch without Mr. Trump's approval.

6 So, these discussions continued between Howard
7 and Davidson.

8 Cohen and Pecker continued to speak, just as they
9 both told you, by phone and by text.

10 Here's a 20-minute call on July 7th.

11 But, as Davidson told you -- and this part just
12 kind of got left out of the Defense summation because it
13 doesn't really jive with their whole claim that this Karen
14 McDougal thing wasn't a real catch and kill because she
15 didn't want her story to go public.

16 The problem is, that's not what was happening,
17 because, as Davidson told you, he was also simultaneously
18 shopping the story to ABC News.

19 Remember, they were considering a deal where she
20 would get a shot on Dancing With the Stars. That deal
21 would have required her to go public.

22 Now, it's true that Karen McDougal preferred the
23 AMI deal because she thought it would revive her career,
24 and she wouldn't have to be the next Monica Lewinsky.

25 But, her motivations were totally irrelevant.

1 The question is: What was the Defendant's
2 motivation? What were the rest of the co-conspirators'
3 motivation?

4 Their motivation was to serve the campaign.

5 That's what makes this a catch and kill.

6 On July 20th, Howard texted Davidson: "Let's
7 talk. Trump, slash, Brian Ross. I think this is the
8 entree for me to go back to him."

9 Davidson explained Brian Ross worked for ABC
10 News, and Howard should go back to Pecker if AMI wanted to
11 buy the story instead.

12 So, now, AMI had to get involved. If they wanted
13 to catch and kill the story, this was their chance. If she
14 went with ABC, this would get out and hurt the campaign.

15 That kind of lit a fire under AMI, and they began
16 acting more aggressively to acquire the story.

17 On July 23rd, Howard texted Davidson: "Get me a
18 price on McDougal. All in."

19 Davidson answered: "Yes. A million dollars."

20 Howard tells Davidson to leave it to him.

21 Several days later, Howard texts Cohen for an
22 update.

23 This kicks off a set of negotiations that,
24 ultimately, lead to the NDA between AMI and McDougal.

25 And all the while, Howard is keeping Cohen in the

1 loop.

2 Howard tells Cohen that McDougal rejected their
3 offer; that Davidson is worried that she's been convinced,
4 if you remember, by the estrogen mafia to go with ABC.

5 So, Howard tells Cohen he implored Davidson to
6 get it done and ensures Cohen that Davidson would get back
7 to him.

8 And they agree on the broad strokes of the deal.

9 They just have to agree to get Karen McDougal to
10 play ball.

11 So, Cohen tells Davidson they will: "Lay it on
12 thick for her."

13 Davidson says: "Good. Throw in an ambassadorship
14 for me. I'm thinking of the Isle of Mann. LOL. I'm going
15 to Make Australia Great Again."

16 The joke is funny because it's a palpable
17 explanation of what they're doing. They're helping
18 Mr. Trump get elected. They're doing that by squashing the
19 Karen McDougal story.

20 Everyone understood what this was about.

21 Trump is looming behind everything they're doing.

22 Later that same evening, Howard tries to convince
23 Davidson that AMI is a better option for McDougal than
24 ABC, and he tells McDougal flat-out that he needs the deal
25 to happen. Howard doesn't want to let Mr. Trump down.

1 Cohen tried reaching out to Pecker the next
2 morning.

3 Pecker calls him back, and they speak for
4 13 minutes or so.

5 You may recall from Pecker's testimony that
6 before he gave Howard the go-ahead, he discussed the
7 question of who would be paying with Cohen.

8 Initially, Cohen told Pecker that Pecker should
9 pay, but Pecker balked.

10 He explained to you he already laid out -- spent
11 \$30,000 for the Sajudin story and wasn't about to spend
12 another six figures on another Trump story.

13 Cohen reassured him. "Don't worry. The Boss will
14 take care of it."

15 Also, on July 29th, Howard tells Cohen AMI is
16 going to pitch McDougal the following week.

17 Davidson sets up a Ring video conference with
18 Howard McDougal and Jay Grdina for August 2nd.

19 The day of the conference, McDougal pitches
20 another \$25,000, to make the price \$150,000.

21 At 6:05 PM, Howard responds and says: "Fuck it.
22 That's not my money. I'll ask."

23 He immediately calls not his boss, who is going
24 to be writing the check, he calls the Defendant's fixer,
25 Michael Cohen, because it's the candidate that needs to

1 sign off, not David Pecker, because everyone believes that
2 Pecker is going to be reimbursed by Donald Trump.

3 Howard then calls Davidson back.

4 Cohen calls Howard back, as well.

5 And the next day, Davidson again uses ABC's
6 competing offer to push the deal through.

7 And Howard assures him that the mechanics of the
8 deal are being figured out at that very moment.

9 Someone from The Trump Organization calls Cohen
10 the next day, on August 4th.

11 And then AMI sends over a draft contract on
12 August 5th. Only, it's not what Davidson was expecting.

13 He tells Howard that the deal Cameron --
14 remember, "Cameron" is Cameron Stracher, AMI's General
15 Counsel.

16 The deal they sent over wasn't what they were
17 expecting in terms of the content. That's no surprise,
18 because AMI didn't give a hoot about the content. They
19 didn't give a hoot about the magazine covers.

20 For Pecker, as he told you flat-out, these
21 provisions were window dressing. They were there to
22 disguise the true nature of this contract, because, as he
23 also told you, the primary purpose of entering into this
24 contract with Karen McDougal was to acquire her life
25 rights so that she couldn't take them somewhere else, so

1 they could -- it was so they could try to claim some kind
2 of plausible deniability if the authorities started
3 looking into campaign finance violations, just like they
4 had when Pecker did something earlier for Arnold
5 Schwarzenegger, so many years earlier.

6 Pecker wanted these columns and magazine covers
7 to be part of the contract.

8 So, when AMI hired an outside Election Law
9 lawyer, Mr. Blanche said: Well, Pecker didn't hold
10 anything back from this lawyer that they hired.

11 Are you kidding?

12 Pecker testified that he didn't tell the election
13 lawyer about the deal from Trump Tower, about the plan to
14 have the Defendant reimburse AMI for all this.

15 They gave this guy the contract, with nothing
16 else. He spent 30 minutes reviewing it.

17 That was the sign-off that Pecker, supposedly,
18 got.

19 Back to the exchange between Davidson and Howard
20 on August 5th.

21 Howard asks Cam to call Davidson.

22 And Davidson explained he spoke to Cam, and they
23 were both frustrated with the process.

24 Cam told Davidson to call Cohen. After all, it
25 wasn't really AMI's deal. It was the Defendant's deal.

1 They were buying the story for Donald Trump.

2 Davidson is reluctant to call Cohen. Not only
3 because his last brush with Cohen in 2011 wasn't pleasant.
4 Also, I submit, because Davidson didn't want to be so
5 overt about the fact that Mr. Trump was pulling the
6 strings here.

7 He texted Howard: "Cam wants me to call Cohen.
8 Do you think that's okay?"

9 Cohen -- Howard then calls Davidson, and Davidson
10 also sends an email to Cohen, asking Cohen to call him.

11 And Davidson testified that he was reaching out
12 to Cohen as a professional courtesy because he had just
13 closed a deal involving Cohen's client, Mr. Trump.

14 And Cohen told Davidson that he was pleased.

15 And then Howard texts Davidson that AMI will buy
16 the story.

17 Davidson tells Howard that he told Cohen that
18 Howard was instrumental in getting the deal done.

19 And Howard says -- Howard says, "Cohen is
20 hopeless," but he adds something interesting, "Another one
21 done." Presumably, a reference that they have now
22 successfully caught and killed another story on Trump's
23 behalf.

24 So, now the deal is done.

25 The NDA had an effective date of August 5th. It

1 was signed by both McDougal and by Howard, the Chief
2 Content Officer for AMI; and a few days later, AMI paid
3 McDougal \$150,000.

4 And this voucher shows the payments.

5 Now, Pecker offered critical testimony about this
6 exchange.

7 I'll just read it to you.

8 "Question: Were you aware that expenditures by
9 corporations made for the purpose of influencing an
10 election, made in coordination with or at the request of a
11 candidate or a campaign, are unlawful?"

12 "Answer: Yes."

13 "Question: Did either you or AMI ever report to
14 the Federal Election Commission in 2016 that AMI had made
15 a \$150,000 payment to Karen McDougal?"

16 "Answer: No, we did not."

17 "Question: Why did AMI make this purchase of
18 Karen McDougal's story?"

19 "Answer: We purchased the story so it wouldn't be
20 published by any other organization."

21 "Question: And why did you not want it to be
22 published by any other organization?"

23 "Answer: I didn't want -- we didn't want the
24 story to embarrass Mr. Trump or embarrass or hurt the
25 campaign."

1 "Question: When you say 'we', who is 'we'?"

2 "Answer: Myself and Michael Cohen."

3 "Question: But for Mr. Cohen's promise that
4 Mr. Trump would reimburse AMI, would you have entered into
5 this Agreement?"

6 "Answer: No."

7 And you know from the discussion at the Trump
8 Tower meeting that everyone understood Cohen was acting as
9 the liaison with Pecker, Mr. Trump's liaison with Pecker,
10 conveying Mr. Trump's instructions every step of the way.

11 Many of the facts in those questions and answers
12 that I just read to you are also contained in the
13 Statement of Admitted Facts that was part of the
14 Non-Prosecution Agreement that AMI executed with the
15 Southern District of New York.

16 That's in evidence, and you can examine it
17 whenever you like.

18 It was admitted to assist you in assessing
19 Mr. Pecker's credibility and, also, to provide context for
20 the surrounding events.

21 It sounded to me like maybe Mr. Blanche was
22 trying to suggest in his summation that maybe AMI admitted
23 to these campaign finance violations because they were in
24 a rush to get some other deal done.

25 MR. BLANCHE: Objection, your Honor.

1 THE COURT: Overruled.

2 MR. STEINGLASS: Ask yourselves: Does that make
3 any sense?

4 Are you kidding? Because they're trying to close
5 some other deal, they're going to admit to campaign
6 finance violations? Come on.

7 Critical here is Pecker's acknowledgment that he
8 never intended to publish the story under any
9 circumstances.

10 Remember that whole exchange we had with him. He
11 said that this would be like "National Enquirer gold".
12 Right? Somebody -- a Playboy Playmate of the Year claiming
13 to have a year-long sexual affair with a Presidential
14 candidate, but he never would have published it at any
15 time before or after the election.

16 Pecker was willing to sacrifice AMI's bottom line
17 in service of Mr. Trump's campaign.

18 There's just no way he can get around this
19 devastating fact.

20 (Whereupon, Senior Court Reporter Theresa
21 Magniccari relieves Senior Court Reporter Laurie
22 Eisenberg, and the transcript continues on the following
23 page.)

24

25

1 (Whereupon, the following was continued from the
2 previous page:)

3 ***

4 MR. STEINGLASS: This deal was the very antithesis
5 of the normal legitimate press function.

6 AMI paid \$150,000, or at least \$125,000, for this
7 story, in coordination with the campaign. That is the very
8 definition of an unlawful corporate campaign contribution.

9 Remember, Pecker testified that at the time he
10 valued the content portion of the deal at \$25,000, and the
11 life rights at \$125,000, which is why that invoice from
12 IAS -- later on, we will get to that in a minute -- only
13 paid for \$125,000. Not the whole \$150,000.

14 AMI purchased the life rights for, and at the
15 request of the defendant, to help his candidacy.

16 Now, as the weeks go by, Pecker becomes
17 increasingly restless that the defendant hasn't paid him
18 back. And he testified that he spoke -- this is Pecker's
19 testimony, not just Cohen -- that he spoke with Cohen
20 several times about the fact that he was upset and that he
21 wanted to get his money back from the defendant.

22 And Cohen keeps telling him, "Don't worry, The
23 Boss will take care of it."

24 At the end of AMI's fiscal quarter, September 30th
25 is fast approaching, and Pecker wants to have the money

1 back before the date so he could, like, change his records
2 and make this all look legit.

3 So, in order to convince Pecker that Mr. Trump
4 would make good, Cohen taped the conversation with him.

5 And the defense has gone to laughable lengths in a
6 feeble attempt to cast doubt on the reliability of this
7 recording.

8 They suggested that the evidence wasn't handled
9 properly by the investigator who gathered it from Cohen, or
10 because it wasn't immediately put into a Faraday bag.

11 Do you remember that ridiculous cross-examination?
12 Someone who is, like, going to beam these air radio waves
13 onto the phone and plant this conversation on the
14 investigator's way down the FDR.

15 Or, it's not reliable because Cohen continues to
16 use the phone after making the recording.

17 Here's a news flash: People use their phones;
18 right? If subsequent use of a phone made any evidence on
19 that phone invalid, then the only useful thing on the phone
20 would be the last thing that that phone did.

21 People use their phones all the time. They do
22 delete things from their phone all the time.

23 They suggested that migrating this data on the
24 phone from one phone to another using iTunes, that somehow
25 made the information unreliable. How many times have you

1 all done that? How many times have you traded in an old
2 phone for a new phone and you do a factory reset on your
3 old phone before you send it in?

4 After that factory reset, there was a full restore
5 to a new device, and that was testified about.

6 After he got out of prison, Cohen got his phone
7 back from the FBI. There was no hold. No one had to ask
8 Mr. Cohen to preserve everything on the phone. The FBI
9 had already downloaded the relevant evidence, including the
10 recording that the defendant had made -- that Cohen made of
11 the defendant on September 6, 2016.

12 MR. BLANCHE: Objection.

13 THE COURT: Overruled.

14 MR. STEINGLASS: That's in the evidence.

15 Cohen had no idea that we would ask for the phones
16 again in January of last year, and that there would be no
17 conceivable reason for him to destroy evidence of a crime
18 that he already been convicted of and served time for.

19 So, don't accept this invitation to muddy the
20 waters.

21 Or the fact that no one asked Rhona Graff about
22 the fact that her voice is heard on the tape at some point.

23 But, they didn't ask her either because she wasn't
24 even there for the important part of the conversation. You
25 could hear she leaves the room, and that part of the

1 conversation is recorded. That's on the transcript that
2 takes place. They're not going to talk about this in front
3 of Rhona.

4 And the fact is, that no number of misleading
5 questions, wild speculation, or unsupported accusations,
6 allegations, can distract you from one simple fact; the
7 metadata for this file proves that it was not tampered with
8 in any way.

9 Remember the testimony from Doug Daus, the
10 supervisor from the Forensic Unit in the Office, in this
11 Office, who conducted this investigation on these phones,
12 who performed the forensic extraction like he had done on
13 thousands of other devices.

14 He explained on cross-examination. No less, that
15 if this recording had been edited or modified at some
16 point, you would see a timestamp that reflects the time it
17 was edited. But the metadata here shows it was not.

18 It's also kind of funny that the defense wants you
19 to rely on certain information that is taken from this
20 phone, certain texts that they want you to consider, but
21 not the parts of the phone that implicate the defendant.
22 That's unreliable. The phone is unreliable.

23 So, the last ditch effort to get you to ignore
24 this recorded conversation is to say -- is to try to tell
25 you that Cohen was lying about the recording because he

1 said it was interrupted by a live call, and the phone
2 records show the call was interrupted, the recording went
3 to voicemail. Seriously.

4 You could hear on the end of that recording, I
5 think it was played for you on the defense summation, that
6 Cohen was clearly was trying to answer the phone and talked
7 to someone. So, maybe he tried to answer the call, but it
8 went to voicemail. Or, maybe he is just misremembering
9 that unbelievably, insignificant detail.

10 Which is funny, because it actually shows that
11 Mr. Cohen did not conform his testimony to the record
12 because it clearly says in the records that the call went
13 to voicemail. It was eventually routed to voicemail.

14 The larger point here, is that the phone records
15 corroborate his testimony that the recording stopped around
16 the same time as he got an incoming call.

17 Now, it should be perfectly obvious to you all
18 why they're so desperate to figure out a way to get you to
19 reject this piece of evidence, because this recording is
20 nothing short of jaw dropping.

21 (Whereupon, an audio recording was played in open
22 court.)

23 MR. STEINGLASS: This recording shows the
24 defendant's cavalier willingness to hide this payoff. It
25 shows he knew how much AMI paid for the McDougal deal.

1 If you want to, you should take this recording in
2 the back. You can request all the evidence you want. Any
3 or all of it. You could play this as many times and as
4 loudly as you want to hear Mr. Trump say "One-fifty" on
5 this tape.

6 It's your decision what the tape says. But, my
7 guess is, if you play it enough times and loud enough and
8 isolate it, you will hear it.

9 This shows the defendant suggesting paying him
10 cash. And it doesn't even matter whether that means a bag
11 of cash, or whether it means no financing; no, you know, a
12 lump sum. It doesn't matter, because the point is, he is
13 trying to do it in a way that is not going to leave a paper
14 trail. That's the whole point.

15 Cohen is basically telling him on this recording
16 that he's going to set up a shell corporation. That he's
17 spoken with Allen Weisselberg, Trump's loyal CFO, about how
18 to do it.

19 This tape unequivocally shows a presidential
20 candidate actively engaging in a scheme to influence the
21 election by reimbursing AMI for killing the McDougal story.

22 And that's why they're so desperate to discredit
23 it.

24 So, now Cohen has gotten his approval from The
25 Boss.

1 And the very next day he starts working with
2 Daniel Rotstein. And the plan is to transfer McDougal's
3 life rights to Mr. Trump by using a shell company.

4 And you will remember, from Mr. Pecker's
5 testimony, that Daniel Rotstein was a former AMI employee,
6 who still consulted, but now had his own business, Investor
7 Advisory Services.

8 And when Pecker didn't want anyone to know what he
9 was doing, he acted through Rotstein's company, to avoid
10 screening.

11 Just as Cohen was using a shell company to
12 disguise the identity of the parties involved in this
13 transaction, so was Pecker.

14 Now, on September 21st, Rotstein created a phony
15 invoice through IAS to bill Cohen's shell company,
16 Resolution Consultants, for \$125,000. The invoice reads
17 "Agreed upon flat fee for advisory services."

18 Here is another false business record being
19 created in furtherance of this conspiracy to promote or
20 prevent an election.

21 Because, as Pecker testified, there were no
22 advisory services provided. This was an excuse to sell
23 Mr. Trump Karen McDougal's life rights.

24 Cohen was also in direct contact with Rotstein,
25 mostly through the Signal app. On September 27th, Rotstein

1 asked Cohen if the blank rights assignment template he sent
2 over was okay, and to confirm the name of Cohen's shell
3 company.

4 Pecker and Cohen are also in contact via the
5 Signal app.

6 And on September 29th, the day before Pecker's
7 fiscal quarter ends, Mr. Trump calls Cohen and the call
8 lasted more than seven minutes.

9 Later that same day, Cohen calls Pecker,
10 presumably to say that Mr. Trump signed off on the transfer
11 of McDougal's life rights.

12 Two minutes later, Pecker calls Cohen for more
13 than nine minutes.

14 And by the next day, the transfer documents have
15 been signed, both by Pecker and by Cohen.

16 But, as you know, the transfer never goes through
17 because Pecker runs the idea of selling the life rights to
18 the candidate himself. He runs that by his General Counsel
19 and his General Counsel says; no, don't do that. So he
20 abruptly changes.

21 MR. BLANCHE: Objection.

22 THE COURT: Sustained.

23 MR. STEINGLASS: After speaking to his General
24 Counsel, Pecker abruptly changes his mind and decides that
25 selling the McDougal life rights to the defendant was just

1 too darn obvious.

2 So, he calls Cohen the first week of October and
3 tells him to rip up the Agreement.

4 AMI ends up eating the whole \$150,000.

5 But, they will be more careful next time.

6 Just as a little post script, after the Wall
7 Street Journal article was released on November 4, 2016,
8 AMI eventually agreed to modify the NDA, to let McDougal
9 respond to legitimate press inquiries.

10 But, as with Sajudin, they waited until after the
11 election to do that.

12 You remember it was signed by one party on
13 November 29th and the other on December 7th.

14 THE COURT: This is a good time to take a break.

15 MR. STEINGLASS: This is a good time.

16 THE COURT: We will take our afternoon break
17 jurors.

18 (Jury leaving courtroom.)

19 ***

20 THE COURT: How much more time do you think you
21 have?

22 MR. STEINGLASS: I'm about a third of the way.

23 THE COURT: A third?

24 MR. STEINGLASS: Pretty much.

25 THE COURT: Thank you.

1 (Recess.)

2 ***

3 THE SERGEANT: Remain seated.

4 Come to order.

5 Part 59 now in session.

6 THE COURT: We'll take our next break around 5:30.

7 You will let us know what time is convenient.

8 MR. STEINGLASS: Can we approach?

9 THE COURT: Sure.

10 (Whereupon, there was an off-the-record discussion
11 held at the bench between the Court and counsel.)

12 THE COURT: Sorry, we were just discussing
13 scheduling for the rest of the day. Trying to figure out
14 what is best for the jury. It looks like we're going to
15 take a break today around 5.

16 Mr. Steinglass, you let me know if that is
17 convenient. Then we will pick back up around 5:30 or so.
18 We will see how everyone is at that point.

19 THE SERGEANT: All rise.

20 Jury entering.

21 (Jury entering courtroom.)

22 ***

23 THE COURT: Please be seated.

24 THE CLERK: Case on trial continues. All jurors
25 are present and properly seated.

1 THE COURT: Mr. Steinglass.

2 MR. STEINGLASS: Thank you.

3 So four weeks before the election, the campaign
4 was brought to its core by the release of the Access
5 Hollywood tape. And all of a sudden there was a video of a
6 presidential nominee literally discussing grabbing women by
7 the genitals.

8 And Mr. Blanche told you that the only evidence
9 that the Access Hollywood tape was a significant event came
10 from Michael Cohen.

11 But, that's just wrong. It's another example of
12 them trying to make the case about Michael Cohen, when it
13 isn't.

14 Hope Hicks told you that the news was so explosive
15 that it eclipsed the coverage of a Category Four hurricane
16 that was bearing down on the East Coast. I guess this was
17 like a Category Five hurricane.

18 Prominent Republican leaders rushed to condemn
19 Mr. Trump's words. Some even withdrew their endorsements.

20 Madeleine Westerhout testified that the RNC began
21 discussing the possibility of replacing Mr. Trump as the
22 Republican nominee four weeks before the election.

23 Preparations for the second presidential debate
24 only two weeks away were halted as key campaign officials
25 entered damage control mode.

1 It all began with the email from the Washington
2 Post reporter named David Farenholdt to Hope Hicks,
3 Mr. Trump's campaign Press Secretary.

4 The email contained transcripts of the now famous
5 Access Hollywood videotape.

6 The video was vulgar, to say the least.

7 And this email asked for the campaign's comments,
8 including whether they acknowledged that the video and the
9 transcript were accurate.

10 And Ms. Hicks testified that her initial instinct
11 was to deny the video's legitimacy. But, once the campaign
12 officials got a copy of the actual video, that strategy
13 quickly shifted from deny, deny, deny, to spin.

14 And Ms. Hicks testified that the consensus among
15 the campaign leadership was that this was a crisis.

16 In particular, Mr. Trump felt that this was not a
17 good development for the campaign, but thought that it
18 could be spun as locker room talk.

19 The video was released publicly by the Washington
20 Post on October 7, 2016, at 4:01 p.m.

21 And you will recall that there is a stipulation,
22 both sides have agreed to that timing.

23 Michael Cohen, who was in London at the time,
24 heard about the video, and exchanged emails with Stephen
25 Bannon, who was, according to Hope Hicks, sort of a

1 co-manager of the campaign.

2 Cohen wrote, "The tape is all over the place. Who
3 is doing damage control?"

4 And Hope Hicks told that you the media response
5 was intense.

6 That same evening, Mr. Trump posted a response on
7 his campaign website. And the initial response referred to
8 his comments as locker room banter. It accused Bill
9 Clinton of having said far worse and apologizing if anyone
10 was offended.

11 This is somewhat of a mealy-mouth apology, did not
12 come close to ending the news cycle.

13 At 12:19 the following morning, the defendant
14 tweeted out a video in another attempt to stop the
15 bleeding.

16 As he testified, the key component of the
17 defendant's strategy was to try to distinguish between
18 words and actions.

19 Here's a portion of that video.

20 (Whereupon, a video recording was played in open
21 court.)

22 MR. STEINGLASS: You may notice that this is kind
23 of consistent with the strategy that Pecker and Trump
24 discussed in that August 2015 meeting at Trump Tower, to
25 portray Hillary as an enabler of her husband's womanizing.

1 Chris Cuomo, then a CNN anchor, reached out to
2 Cohen to try to get him on the show to comment on the
3 Access Hollywood tape. Cohen replied that he was in London
4 and he was scheduled to start news shows on Tuesday.

5 Remember, this is Saturday. Cuomo tells Cohen,
6 "That is too late, Trump is dying right now."

7 And for what it is worth, Davidson and Howard also
8 seemed to recognize the import of the Access Hollywood
9 tape.

10 I am not going to read the words out loud, but
11 they kind of speak for themselves. This was kind of the
12 perception after that Access Hollywood tape came out.

13 And on the evening of October 8th, there is a
14 flurry of activity among Hicks, Cohen, Pecker, Howard and
15 Mr. Trump. So, you got the campaign staff and you have the
16 conspirators.

17 And, you don't have to remember all of these. It
18 doesn't really matter.

19 The point is, the flurry of activity. You have
20 Hicks calling Cohen, and Trump calling Cohen, and Hicks
21 calling Cohen, and Cohen calling Pecker, and Pecker calling
22 Howard, Howard calling Cohen.

23 And during these calls, Cohen tells Pecker about
24 an article on Radar Online about Mr. Trump being a Playboy
25 Man.

1 And he tells Pecker to take it down immediately.

2 So, Pecker testifies that he called up Howard and
3 that Howard promised to remove it. And Pecker asked Howard
4 to notify Cohen when it was taken care of.

5 This is exactly what Howard did. He emailed
6 Cohen, "I have deleted the text story completely. It no
7 longer exists."

8 At the same time, Hope Hicks testified that she
9 asked Cohen to use his media contacts to figure out whether
10 there were any other damaging videotapes out there.

11 So, they were privately scrubbing the internet and
12 chasing down rumors to ensure that their public efforts to
13 spin the Access Hollywood tape didn't backfire.

14 More back and forth calls. Howard to Pecker,
15 Cohen to Hicks, Pecker to Hicks, and then Howard forwards
16 to Hicks the confirmation that that Playboy Man article no
17 longer exists.

18 So, this is not a catch and kill exactly, but they
19 are purging the internet at the direction of, and for the
20 benefit of the campaign.

21 And, again, this is not a normal legitimate press
22 function either.

23 Immediately after that, Cohen calls the defendant
24 and they speak for eight minutes about several different
25 matters.

1 Among other things, Mr. Trump told Cohen to use
2 his media relationships to help spin the Access Hollywood
3 tape as locker room talk.

4 A spin that Melania Trump had recommended.

5 Now, that second presidential debate took place
6 the next day, on October 9th, and as Ms. Hicks testified,
7 one of the first questions put to Mr. Trump was about that
8 Access Hollywood tape.

9 And, according to Hope Hicks, the defendant again
10 described his remark as locker room talk. Just words. Not
11 actions.

12 Hicks explained that after the debate additional
13 reports regarding Mr. Trump's behavior with women surfaced.
14 And Trump grew increasingly concerned about the impact that
15 these allegations were having on voters. Particularly,
16 women voters.

17 He repeatedly addressed these concerns at rallies
18 and campaign events and on social media, eclipsing some of
19 the other campaign messaging and priorities.

20 You have to remember, this race could not have
21 been closer. The Access Hollywood tape and the reports
22 that followed it were capable of costing him the whole
23 election, and he knew it.

24 Here's the defendant at a campaign rally in
25 Greensboro, North Carolina, on October 14th.

1 (Whereupon, an audio recording was played in open
2 court.)

3 MR. STEINGLASS: The defendant posted similar
4 comments on his Twitter account.

5 Here's a tweet from October 15th.

6 "Nothing ever happened with any of these women.
7 Totally made up nonsense to steal the election. Nobody has
8 more respect for women than me."

9 And the next day, October 16th, "Polls close. Can
10 you believe that I lost large numbers of women voters based
11 on made-up events that never happened? Media rigging
12 election."

13 And the day after that, "Can't believe these
14 totally phony stories. One hundred percent made up by
15 women. Many already proven false and pushed big time by
16 press. Have impact."

17 Now, the defense wants you to think that the
18 Access Hollywood tape wasn't a big deal to the defendant.
19 It was just another blip.

20 And Ms. Necheles got Madeleine Westerhout to say
21 on cross-examination, "That everyone was freaking out
22 except for the defendant." Please.

23 Ms. Westerhout admitted on redirect, she had zero,
24 zero firsthand knowledge about the defendant's reaction
25 because she didn't work for him at the time. She was down

1 in D.C.

2 Hope Hicks, on the other hand, was in the room
3 where it happened. And she said that the defendant knew it
4 was a crisis.

5 And you have got the defendant's own tweets,
6 videos and speeches which demonstrate just how worried he
7 was that this could affect the outcome of the election.

8 Now, the reason I say all of this, you really
9 can't understand this case without appreciating the
10 climate that was taking place in the wake of the Access
11 Hollywood tape.

12 And you can't examine it with the benefit of
13 hindsight. Right. Mr. Blanche said: Well, he won and the
14 Access Hollywood tape came out. Therefore, it wasn't a big
15 deal. That is not really true. It caused pandemonium in
16 the Donald Trump campaign.

17 And at the time, many people, including campaign
18 officials and the defendant himself, believed that the
19 fallout from this Access Hollywood tape could tip the
20 election.

21 And it's critical to appreciate this because
22 during the exact same month that the defendant was
23 desperately trying to sell the distinction between words
24 and actions, he was negotiating to muzzle a porn star who
25 was prepared to go public with allegations of an

extramarital sexual encounter with Mr. Trump.

Stormy Daniels was a walking, talking reminder that the defendant was not only words. She would have totally undermined his strategy for spinning away the Access Hollywood tape.

So let's back up for a minute.

In April, and then again on June 28th, Gina Rodriguez, Stormy Daniels' manager, reached out to Howard about the Daniels story.

And she made it clear that Ms. Daniels was willing to share the story of her sexual encounter with the defendant, with the press.

And this is the story that was already out there. It was already out there in a gossip column in 2011, with no firsthand account, and it was taken down after Keith Davidson and Michael Cohen got involved to have the story removed.

This is nothing like one of the two parties to a sexual encounter going public with the details of that sexual encounter.

Ms. Rodriguez refers to the fact that Mr. Trump promised Ms. Daniels a spot on The Apprentice, but never delivered.

She tells Howard that Daniels met the defendant at a celebrity golf tournament when she was there with Wicked

1 Pictures.

2 Howard tells Rodriguez he will get back to her.

3 Rodriguez is a little overzealous here and she
4 wrongly says that the sex happened on multiple occasions,
5 which is something Ms. Daniels has never said.

6 The following day, Howard lets Davidson know that
7 Rodriguez is shopping the story again.

8 And you have texts between Rodriguez and Howard
9 that are in evidence, and you ever seen them as People's
10 171A.

11 You basically see over the next few months
12 Rodriguez tries a few times to follow up, but Howard
13 doesn't seem particularly interested. No one is
14 particularly interested at this point. So there is nothing
15 to kill.

16 But, that changed on October 7th when the Access
17 Hollywood tape was released because that changed the whole
18 landscape.

19 Rodriguez didn't waste much time reaching back out
20 to Howard.

21 Remember, she is reaching out to Howard, not to
22 Cohen. Not to the defendant.

23 And Howard suddenly seems a lot more interested.
24 He tells her he needs to bring it to his CEO, which is
25 Pecker, and Pecker would likely pay.

1 That she agrees to send him the pitch and there
2 are a flurry of calls over the next hour or so.

3 Cohen to Pecker, Pecker to Howard, Howard to
4 Cohen. Cohen says he and Howard spoke about the Access
5 Hollywood tape, the Playboy Man article, and the fact that
6 Daniels had resurfaced.

7 Howard to Pecker; and if you remember, this was a
8 while ago, you remember Mr. Pecker said he was having
9 dinner on a Saturday night with his wife and he was
10 interrupted by a call. This is likely the call that
11 interrupted Howard's dinner on October 8th.

12 You have got Cohen to Pecker. You have got Cohen
13 to Trump. And Cohen tells him, among other things, that
14 Stormy Daniels is back. And this is on October 8th.

15 You see Howard to Davidson.

16 Howard then goes back to the table negotiating
17 literally over texts with Rodriguez. And Rodriguez tells
18 him that there are other news outlets that are interested.
19 Literally over texts.

20 They finally settle on a price of \$120,000.

21 And Howard went so far as to say, "I will send you
22 the contract tomorrow."

23 And, if you remember, that Davidson testified that
24 by the time he was brought in to paper the deal, the
25 \$120,000 price had already been negotiated by Howard and

1 Rodriguez. He added the extra \$10,000 as his own fee for
2 papering the deal.

3 This is part of the reason that that extortion
4 narrative is so clearly bogus. Because neither Daniels nor
5 Rodriguez ever reached out to Trump, nor to Cohen, to try
6 to sell them the story so it won't be published. They
7 were brokering the deal of the story to AMI, where, at
8 least Rodriguez and Daniels thought it would be
9 published.

10 But, as both Pecker and Davidson told you, AMI
11 decided they didn't want to buy another story. Not after
12 spending \$30,000 on Sajudin and \$130,000 on McDougal.

13 By then Pecker knew there was not any legitimate
14 way to structure a deal so that he could get reimbursed by
15 Trump. So he says, "I will take a pass."

16 And Howard learns that Pecker won't pay a few
17 minutes later.

18 He tells Pecker, "The woman wants \$120,000. This
19 story is true. I can buy it."

20 But, Pecker walks.

21 As he told you, he wasn't a bank.

22 Howard acknowledges that, and he says, "Okay, if
23 you don't want to buy it, we should call Cohen, so Cohen
24 could handle it directly on Trump's behalf, rather than
25 going through AMI."

1 And at 8:38 p.m. Pecker says, "Yes, it's a good
2 idea."

3 One minute later, Howard calls Cohen, and Howard
4 calls Pecker back, then calls Cohen again. And he then
5 confirms with Pecker that he spoke to Cohen "All sorted.
6 Now removed. No fingerprints. I'll recap with you
7 face-to-face."

8 Pecker explained that he understood that this
9 meant that AMI was kicking the story over to Cohen to
10 purchase it directly on Mr. Trump's behalf.

11 Howard then speaks with Davidson, enlisting his
12 help, and he gets back to Cohen and he says, "Keith will do
13 it. Let reconvene tomorrow."

14 Pecker thanks Howard for extricating AMI, and
15 Cohen thanks Howard for bringing Keith on, and seems to
16 tell Howard that he will use Resolution Consultants to make
17 the transaction.

18 And then Howard officially passes the torch over
19 to Cohen, by connecting Cohen and Davidson regarding that
20 "business opportunity."

21 And, once again, AMI, make no mistake, AMI is
22 involved here. AMI is acting as the campaign's eyes and
23 ears. Just as Pecker told Mr. Trump he would do.

24 Now, I'm certainly not going to go through every
25 call among the key players in this case. They're all in

1 evidence if you want to go deeper here.

2 But, you see after the calls from Rodriguez to
3 Davidson, and Davidson to Howard, and between Cohen and
4 Davidson, and all the back and forth has begun, and the
5 very next day, on October 11th, Davidson sends over the
6 draft Settlement Agreement.

7 He emails Cohen with drafts of not only the
8 Confidential Settlement Agreement, but the Side Letter
9 Agreement, and the wiring instructions to his attorney
10 IOLA account, which is like a Trust account.

11 And he puts in the email that neither Daniels nor
12 Davidson himself gets to keep a copy of the Side Letter
13 Agreement.

14 And he sends a funding deadline of October 14th.

15 And that is the same day the defendant is making
16 that speech about five percent, ten percent believingness
17 (sic). This is all happening at the same time.

18 That same day, Cohen tries to -- and, I'm going
19 back to same day of this email, which is 10/11.

20 That same day, Cohen tries to reach his banker
21 Gary Farro, to try to set up a bank account for Resolution
22 Consultants to effectuate the payment if his delay strategy
23 fails.

24 And we then enter a two week stretch where Cohen
25 gives the barrage of excuses why he hasn't wired the

1 \$130,000.

2 Again, we don't need to show all these calls and
3 emails back and forth. They're in evidence, if you want to
4 see them.

5 Cohen's excuses include the office being closed
6 for Yom Kippur; never receiving the contracts; never
7 receiving the wiring instructions, et cetera, et cetera.

8 Meanwhile, Pecker continues to speak to both Hicks
9 and Trump, and Pecker and Cohen are also in communication
10 with each other via the Signal app, which shows that -- if
11 you take a screen shot, we only have a few screen shots
12 from Cohen's phone. The screen shots don't show the
13 duration of the particular call. They just show that a
14 call happened.

15 So, Pecker and Cohen are in communication on the
16 Signal app. You see several on October 13th, including the
17 last one at 9:12 a.m.

18 And that same day, Cohen funds or he opens but
19 never funds the bank account for Resolution Consultants at
20 First Republic Bank.

21 Just a few minutes after that Signal call with
22 Pecker, which was at 9:12, at 9:23 a.m., Cohen emails Gary
23 Farro, his banker at First Republic.

24 First Republic sends him the account opening
25 paperwork to fill out. You probably remember that. Maybe

1 not. It was a while ago. First Republic Bank is the top
2 email, it's in Pacific Time, and all the rest is New York
3 time.

4 Cohen does so, he signs the paperwork and he sends
5 it back.

6 In doing this, Cohen falsifies another business
7 record. The business information overview, because he
8 gives a description of the services provided. "Resolution
9 Consultants is a consulting firm. Michael Cohen provides
10 individuals and businesses financial services, law firms,
11 technology firms, et cetera. Advice on strategy, PR,
12 marketing, best practices and procedures, et cetera."

13 That is one about big lie.

14 But, Cohen couldn't very well say, I'm opening
15 this account so a presidential nominee can pay off a porn
16 star.

17 Farro told you that First Republic did not get
18 involved with the pornography industry. So, reporting the
19 truth may have prevented the account from being opened in
20 the first place.

21 Cohen also reported that the entity that he was
22 opening was not involved in political fundraising or
23 Political Action Committee.

24 Had he answered this question truthfully,
25 Mr. Farro explained this would have been additional

1 scrutiny.

2 Now, whatever else you could say about this
3 defendant, he's a savvy businessman. He opened his share
4 of bank accounts. He knows you have to give a reason when
5 you open a bank account. He knew that any reason his fixer
6 would be giving would have to be false to get past the
7 bank's compliance process.

8 Now, meanwhile, Davidson is getting tired of being
9 strung along. He reminded Cohen he had a client and the
10 client's manager who felt the same way.

11 But, Davidson knew who was pulling the strings
12 here. And this is from his testimony:

13 "QUESTION: And what was the relevance based on
14 your conversations with Michael Cohen about? What was the
15 relevance of the fact that Mr. Trump was in three or four
16 or five different states?

17 "ANSWER: What did that mean to me?

18 "QUESTION: What did it mean to you?

19 "ANSWER: To me, it was similar. It's a situation
20 I run into all the time. It was similar to, like,
21 someone who doesn't have the purse strings. It's like an
22 attorney who has to go call an insurance adjuster. Like
23 that. Michael Cohen didn't have the authority to actually
24 spend money, despite the fact there had been so many
25 excuses and the funding deadlines that had already been

1 missed.

2 "QUESTION: You believe that Michael Cohen did not
3 have the authority to spend the money?

4 "ANSWER: Yes."

5 And Davidson was very clear about how he
6 interpreted Cohen's statement; I will just do it myself.

7 "QUESTION: Even after he said 'I'll just do it
8 myself,' where did you understand the money would be coming
9 from?

10 "ANSWER: From Donald Trump or some corporate
11 affiliation thereof."

12 Now, on October 17th, Cohen realizes that he has
13 to be ready to consummate this deal quickly if push comes
14 to shove because the election is only three weeks away.

15 And, coincidentally, he remembers that the name
16 Resolution Consultants is already taken by somebody that he
17 knows and so he creates a new shell company called
18 Essential Consultants LLC.

19

20

21

22 (Whereupon, Theresa Magniccari, Senior Court Reporter, is
23 relieved by Susan Pearce-Bates, Principal Court Reporter.)

24

25

1 (Continued from the previous page.)

2 MR. STEINGLASS: And that same day, Davidson
3 voids the contract for nonpayment and steps away from the
4 deal. But Gina Rodriguez tries to pull Howard back into
5 the mix to try to jump start this deal.

6 She texts him again on October 17th, that we are
7 not doing the Trump deal.

8 Howard said he heard as much from Davidson.

9 And Rodriguez tells Howard about the delay
10 tactics and tells Howard that the Daily Mail wants it bad,
11 so we are doing it.

12 And Howard wastes very little time in relaying
13 that information to Cohen. They also have a phone call and
14 it works. Cohen immediately reaches back out to Davidson
15 to try to get him back on board.

16 Ten minutes later, Cohen calls Trump to update
17 him. But it looks like the call -- it looks like he
18 doesn't reach him because the call only lasts eight
19 seconds, and Cohen testified that he left a voicemail.

20 The next morning, Melania Trump reaches out to
21 Cohen and asks him to call Mr. Trump on his cell. And
22 Cohen was at work, and he believes that he called the
23 Defendant from his landline at work.

24 This is a reminder, that is one of the numbers
25 because you don't have records of outgoing calls. The

1 absence of a phone record does not mean that a conversation
2 did not take place.

3 At the same time, Davidson texts Howard, I can't
4 believe Cohen let this go. It's going to be a shit show.

5 And Davidson is pretty much out of the deal at
6 this point, but he tells Howard that he hears that
7 Rodriguez and Daniels had struck an alternate deal, and
8 Howard is in disbelief.

9 He said: All because Trump is tight.

10 And there is a lot of phone activity over the
11 next few days. We won't show it all.

12 Howard and Rodriguez. Howard and Davidson.
13 Howard and Rodriguez. Howard and Cohen.

14 And then on October 23rd, a rare call from Allen
15 Weisselberg, and on a Sunday no less.

16 Cohen explained that Weisselberg left a voicemail
17 regarding funding for the Daniels NDA.

18 And when I say, rare, I am talking that these
19 guys have like six phone calls in like three years.

20 The next day, on October 24th, there is an
21 encrypted call between Cohen and Pecker at 4:32 p.m.

22 And then you have this Keith Schiller call that
23 we have already discussed. It's actually a call from
24 Schiller in the middle of that text exchange. The call
25 goes to voicemail, but Cohen calls back a minute later.

1 And you can see what else is going on around that
2 time with the other players. Over the next two days there
3 is a renewed push to get the deal done.

4 Another flurry of calls ensues and now we are at
5 two weeks before Election Day.

6 Davidson tries to reach out to Cohen. Cohen
7 speaks to Pecker. Rodriguez and Howard. Howard and
8 Davidson.

9 And on October 25th, Howard tells Davidson he is
10 going to see Pecker shortly, and he asks Davidson for an
11 update.

12 And Howard does go and see Pecker, and Pecker
13 tells you about it. He tells us about the agreement
14 between David and Cohen that's about to fall through.

15 And do you remember what Pecker said?

16 Pecker was not happy because Pecker thought that
17 Howard was a low fingerprints, all removed, all spread out
18 from Michael Cohen, but Howard was clearly still involved
19 in getting this done.

20 As Pecker testified, Dylan came to my office
21 towards the end of October and said there was an agreement
22 between Keith Davidson and Michael Cohen. It was for
23 \$120,000 and Michael Cohen was supposed to wire the funds
24 to Keith Davidson twice. He never did.

25 Dylan was upset. He was very agitated. And he

1 said that Michael Cohen is going to make him look very bad
2 with his two top sources.

3 And he said, you understand when you renege with
4 a source what the impact would be.

5 So, he asked if I would get Michael Cohen on the
6 phone.

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

9 Howard was very aggressive on the phone with
10 Michael Cohen for not paying.

11 Michael Cohen said, that I should pay.

12 He said, David, you should pay.

13 I said, I am not paying for this story. I don't
14 want to be involved. I didn't want to be involved in this
15 from the beginning.

16 I said, I am not doing it.

17 I said, Michael, my suggestion to you, you should
18 buy the story. You should take it off the market because
19 if you don't, and it gets out, I believe The Boss will be
20 very angry with you.

21 And so, then Davidson -- Davidson then speaks to
22 Howard. And Howard reaches out to Cohen and tells him that
23 Davidson is calling you urgently.

24 He says, we have to coordinate something on the
25 matter he is calling you about or it could look awfully bad

1 for everyone.

2 Howard is texting Davidson and relayed the
3 message he just sent to Cohen, and he is clearly trying to
4 get both sides back to the table.

5 And you have another ensuing flurry of calls,
6 some of them on encrypted apps, all in the next half hour.

7 Cohen to Davidson. You don't have to remember
8 all of these. The point is that there is a flurry of phone
9 activity among the co-conspirators here.

10 Pecker calls Cohen on the encrypted app.

11 Cohen calls Pecker also on Signal.

12 Davidson to Cohen. Pecker to Cohen. Cohen to
13 Pecker. Pecker to Cohen. Davidson to Cohen. Pecker to
14 Cohen.

15 This is all in a half hour.

16 Cohen to Pecker. A long call from Cohen to
17 Davidson. And Howard gets back to Davidson after the
18 three-way call with Cohen and Pecker and tells Davidson,
19 push for the cash.

20 He specifically tells Davidson that he and Pecker
21 just wrote Cohen he has to pay the 150,000.

22 And during the same time, while Cohen and Pecker
23 are calling each other repeatedly on Signal -- like I said,
24 I am not going to bore you with every Signal record here --
25 there is another call between Howard and Davidson.

1 Attempts by Cohen to reach Davidson. Davidson
2 calls back and speaks with Cohen.

3 And then another rare call between Cohen and
4 Allen Weisselberg on October 25th.

5 Remember, there are six calls in three years
6 between these guys. Well, two of them happened in the
7 three days leading up to the Stormy Daniels payoff.

8 The next morning, on October 26th, Cohen calls
9 Mr. Trump, and they speak for three minutes.

10 Cohen explained that he was seeking and got final
11 approval to fund the deal.

12 Another SureCall from Cohen to the Defendant at
13 8:34 a.m.

14 And the defense has tried to suggest -- I mean,
15 this is damning. This is a half an hour before Cohen goes
16 across the street and initiates the paperwork that leads to
17 the wire transfer. Half an hour before that, he is getting
18 the final go ahead from Donald Trump.

19 So, the defense has tried to suggest -- they
20 didn't say it on summation -- when they were
21 cross-examining Michael Cohen, they tried to say: Well,
22 there were other things going on the day before, or a
23 couple days before, Tiffany Trump -- somebody was, you
24 know, trying to -- was looking into something on behalf of
25 Tiffany Trump, and you were so busy. It was two weeks

1 before the election.

2 Obviously, they were talking about other things.
3 They didn't need the whole four-and-a-half minutes on this
4 phone call to talk exclusively about the Stormy Daniels'
5 NDA, and Cohen acknowledged that.

6 He said, we talked about other things.

7 And just after nine a.m., presumably as soon as
8 they opened, Cohen starts emailing with Patti at Delaney
9 Corp. to get the necessary documentation to open a bank
10 account. And he obtains the evidence of filing for
11 Essential Consultants.

12 He then calls DeWitt Hutchins, the banker at the
13 First Public Branch closest to Trump Tower.

14 Cohen calls Davidson. Davidson sends the wiring
15 instructions, again, for his Attorney Trust Account, and
16 Hutchins opens the bank account for Essential Consultants
17 with Michael Cohen sitting there.

18 As part of this process, yet another false
19 business record is created, the Know Your Customer or KYC
20 Form. This form contained the following narratives
21 supplied by Cohen:

22 Michael Cohen is opening Essential Consultants
23 LLC as a real estate consulting company to collect fees for
24 investment consulting work he does for real estate deals.

25 Again, had he filled out the form accurately, it

1 would have resulted in additional scrutiny by the bank
2 compliance people, causing delay and possibly leading to
3 the bank's refusal to open the account or to send the wire
4 transfer to Davidson.

5 Then you have the Wire Transfer Form, which
6 describes the purpose of the wire as a retainer. Yet
7 another false business record to effectuate this
8 transaction.

9 This wasn't a retainer. This was a payoff.

10 And at this point, of course the deal is ready to
11 close.

12 Lisa Rappaport, Gary Farro's Assistant, sends the
13 Client Services Group a request to transfer 131,000 from
14 Cohen's HELOC into the Essential Consultants brand new bank
15 account. And she notes that it is a time sensitive
16 request.

17 Rappaport let's Cohen know that the funds have
18 been transferred, and Cohen forwards the email to Davidson,
19 and at 8:23 p.m. on October 26th, Howard sends the email to
20 Davidson and Cohen memorializing everyone's understanding.

21 And Howard and Davidson have a text exchange
22 confirming that the funds have been wired.

23 Finally, the deal is signed on October 28th, 11
24 days before Election Day.

25 And you know that the deal uses pseudonyms to

1 mask the true identities of the parties. Like Stephanie
2 Clifford, aka Stormy Daniels, signs as Peggy Peterson. And
3 Michael Cohen signs on behalf of Essential Consultants.

4 And as you know, Cohen insisted that the Daniels'
5 NDA include a 1 million-dollar liquidated damages clause
6 for every breach. Davidson didn't think it was enforceable
7 because it was so out of whack, so disproportionate to the
8 payment that she was getting.

9 Now, it's true that Mr. Trump didn't sign these
10 documents himself.

11 But that's kind of the whole point, right, to
12 keep him out of it, to keep him away from the
13 documentation.

14 Cohen testified that there would be no reason to
15 have the Defendant sign it because there was no benefit to
16 the Defendant for him to sign it. It wasn't necessary in
17 order to have a binding NDA against Daniels, and Davidson
18 certainly had no reason to insist once the money was wired.
19 What did he care?

20 The objective of the NDA was to keep Stormy
21 Daniels quiet, period, and they had enough to do that.

22 The same day the deal was closed, the 28th, or at
23 least signed, Cohen calls the Defendant. The day that he
24 received -- that Cohen received the paperwork and signed
25 it, that's the day he calls Donald Trump to let him know

1 the deal is done and to get credit for side-stepping this
2 landmine.

3 It's no coincidence that the sex happened in
4 2006, but the payoff didn't take place until October 27,
5 2016, less than two weeks before the election. And that's
6 because the Defendant's primary concern was not his family,
7 but the election.

8 Pecker testified that in early November, Schiller
9 called Pecker; and Schiller is the conduit. Schiller
10 called Pecker on behalf of the Defendant. Hope Hicks said
11 Schiller was the conduit.

12 And Pecker said that when the Defendant called --
13 I am sorry.

14 When Schiller called, he said, The Boss heard
15 that McDougal was speaking to ABC News after all and Pecker
16 asked Howard to check that out with Davidson, who told
17 Howard that it wasn't true. And so, Pecker called Schiller
18 back and asked Schiller to relay that to The Boss.

19 But as it turns out, four days before Election
20 Day, The Wall Street Journal wrote the story that AMI had
21 caught and killed, the McDougal story, at Mr. Trump's
22 behest.

23 And the campaign, once again, entered into damage
24 control mode. And this is four days before the election.

25 The Defendant's Fixer, Michael Cohen, began

1 working the phones. He screamed at Davidson, accusing him
2 of lying and accusing him of violating the NDA.

3 He rallied the troops to issue denials, including
4 the denial about the Pecker issue.

5 There was another flurry, and I mean a real
6 flurry of phone and text activities among the key players
7 in both the conspiracy and in the campaign.

8 And I am going to just rush through this because
9 the point is really more about how they were circling the
10 wagons starting at the hours before the article was
11 released and the reporters began contacting Hicks.

12 4:30 p.m., Hicks gets an email from The Wall
13 Street Journal reporter, Michael Rothfeld, asking for
14 comments on the story that AMI bought McDougal's story and
15 killed it.

16 It's clear that AMI has also reached out to the
17 parties to the NDA itself. Davidson tries to reach Howard.
18 And then Davidson texts Howard: Call me.

19 Davidson calls Howard. And Howard calls back.
20 And Davidson calls again. Cohen calls Davidson. Hicks
21 calls Pecker.

22 She testified that she wanted to find out more
23 about it because she had been clearly kept in the dark.

24 Howard calls Cohen. Davidson calls Cohen. Pecker
25 calls Hicks. Hicks calls Cohen twice.

1 And together, if you remember, Cohen and Hicks,
2 concoct this denial, blaming the liberal media and the
3 Clinton machine for the McDougal story.

4 Now, Hicks was playing it straight. She
5 testified, I submit, credibly that she had never heard the
6 name Karen McDougal.

7 Cohen was very familiar with the name, but he
8 slid seamlessly in to lie-on-behalf-of-Mr. Trump mode.

9 And Hicks also testified that she ran the
10 potential statement, this potential statement by the
11 Defendant, but Mr. Trump insisted on drafting his own
12 statement, complete with a denial of both the affair and
13 that he knew anything about the AMI deal.

14 But now you know that that was a total
15 fabrication, that is the statement that this Defendant put
16 out on October 4th after The Wall Street Journal article
17 was a lie. It was a lie because he said he didn't know
18 anything about the Karen McDougal deal, but he did because
19 he is on tape from two months earlier talking about it.

20 And if you remember that Pecker testified that
21 the Defendant called him when he was in New Jersey with his
22 investors back in June to talk about it.

23 Why? Why did Mr. Trump lie about that? Why?

24 Back to this crazy flurry of events.

25 Davidson called Howard. Hicks calls Cohen. This

1 is all on the Fourth and Fifth.

2 Cohen calls David. Howard calls Cohen, twice.

3 Hicks calls the Defendant again. Cohen texts Hicks to call
4 him. She does, and they speak for more than seven minutes.

5 Pecker then calls Cohen. Davidson calls Howard.
6 Keith Schiller reaches out to Cohen to see if he can take a
7 call.

8 Hicks calls Cohen. Davidson calls Cohen. Cohen
9 calls him back. Pecker calls Howard.

10 I hope you are getting all of this.

11 Davidson calls Howard. Cohen texts Hicks twice
12 to see if there is any news, and she then calls him.

13 And then Keith Schiller tries to reach Cohen.

14 And Cohen calls back and speaks quite clearly to
15 Mr. Trump for nearly six minutes. And Cohen explained that
16 he told Mr. Trump about all the efforts he had made to
17 secure denials from Pecker, from Davidson, but the
18 Defendant was still angry. He was angry because, once
19 again, the story came out that threatened his standing with
20 female voters.

21 The flurry continues.

22 Hicks calls Pecker. Cohen calls Howard. Hicks
23 calls Cohen. Howard calls Davidson.

24 And then -- by the way, this is all right before
25 the article comes out. Because at some point that evening,

1 late that evening is when The Wall Street Journal publishes
2 the article, and Hicks texts Cohen a copy of the article.
3 And they agree at that point that the best strategy is to
4 ignore it and hope it blows over.

5 Pecker calls Howard. And Pecker testifies that
6 he asked Howard to call Davidson and make sure that
7 McDougal hadn't gone, in Pecker words, off the reservation.
8 He wanted to make sure she was still on board.

9 Meanwhile, Hicks tells Cohen to pray.

10 The first thing the next morning Cohen calls
11 Trump again via Schiller, and they talk for more than 15
12 minutes.

13 Later that morning, Hicks tries to get Pecker's
14 cell from Cohen, and she testifies that Mr. Trump wanted to
15 speak with Pecker. And later, Hicks let's Cohen know that
16 they spoke because it's clear that the, they, means Trump
17 and Pecker.

18 And Pecker also told you that the day,
19 remember -- I don't know if it is -- it has been awhile.
20 The day after The Wall Street Journal article revealed the
21 inner workings of the McDougal deal, Pecker got a text from
22 Cohen alerting him to the fact that Mr. Trump wanted to
23 speak to him.

24 And then, as Pecker explained, Donald Trump
25 called him at home on a Saturday.

1 Trump was very upset, saying, how could this
2 happen? I thought you had this under control. Either you
3 or one of your people have leaked the story.

4 This is the story that he is simultaneously
5 telling the press he knows nothing about.

6 Pecker denied being responsible for the leak, but
7 he told you Trump was furious, and he hung up without
8 saying goodbye.

9 Again, Pecker establishes unequivocally that
10 Mr. Trump was in on the McDougal deal, and that he was
11 upset that it wasn't locked down as well as he wanted.

12 Davidson and Howard text back and forth about the
13 efforts to make sure that McDougal stays on board.

14 Around that time Pecker puts out his bogus
15 statement denying the validity of The Wall Street Journal
16 article.

17 He explained -- he told you -- he testified the
18 reason that he did that was to protect himself, his company
19 and Donald Trump.

20 And it kind of worked because the story pretty
21 much fizzled after that.

22 Around this time, Cohen and Hicks discussed how
23 the strategy seems to be working, and Howard relays to
24 Pecker -- Howard relays to Pecker that Davidson confirmed
25 McDougal will move forward with the deal. And Howard tells

1 Pecker the next day that the story only caused one day of
2 discomfort and back to the campaign issues.

3 And that was a good thing for the Defendant
4 because the election was only three days away.

5 Now, Hicks explained, frankly, that Mr. Trump was
6 concerned about the effects of the article both on his wife
7 and on the campaign.

8 This is from her testimony:

9 Question: And after it was published on
10 November 5th, did you discuss the article with Mr. Trump?

11 Answer: I did.

12 Question: What, if anything, did you discuss?

13 Answer: Um, he was concerned about the story.
14 Um, he was concerned how it would be viewed by his wife,
15 um, and he wanted to make sure that the newspapers weren't
16 delivered to their residence that morning.

17 Question: Did he also ask you whether it was --
18 whether you thought it was likely to affect the campaign?

19 Answer: Um, everything we talked about in the
20 context of, you know, this time period, in this time
21 period, was about whether or not there was an impact on the
22 campaign.

23 So, certainly, I don't recall specifically him
24 saying that, but everything was -- something that Mr. Trump
25 said a lot is, how -- how is it playing?

1 He wanted to know how things were playing,
2 whether they were playing well or playing poorly. And that
3 could have been in a speech, an article, a tweet.

4 I don't want to speculate, but I am almost
5 certain that he would have asked me, how is it playing?

6 And he wanted to know how I felt the next few
7 days were going to go, and if this was going to be a big
8 piece of the next few days.

9 And then, on November 8th, the Defendant was
10 elected President.

11 And as the results began to trickle in, some of
12 the players in this conspiracy were very conscious of the
13 role that they had played in influencing the election
14 results.

15 Just before 10:00 p.m., New York time, Davidson
16 texts Howard: What have we done?

17 And Howard seems to recognize the significance as
18 well. It says: Oh my God.

19 Now, Davidson testified that this was sort of a
20 gallows humor, but the humor like they were joking about
21 ambassadorships was based on their mutual understanding,
22 and I quote, this is from Davidson's testimony:

23 That our activities may have in some way assisted
24 the presidential campaign of Donald Trump.

25 Of course we will never know if this effort to

1 hoodwink the American voter made the difference in the 2016
2 election, but that's not something we have to prove.

3 The point is that the reimbursement to Cohen was
4 cloaked in false business records to hide the conspiracy;
5 the conspiracy to promote or prevent the election, whether
6 or not that conspiracy actually succeeded in tipping the
7 scale.

8 Is this a good time, right about now?

9 THE COURT: Yes.

10 All right.

11 Jurors, we are going to take a short break.

12 Before we do, I want to thank all of you for the
13 efforts you made to be flexible today, as you made
14 childcare arrangements and other arrangements to be certain
15 you could be with us as late as necessary. We will try to
16 figure this out as we go.

17 I didn't want you to go into your break without
18 knowing that I really do appreciate it.

19 Thank you.

20 COURT OFFICER: All rise.

21 (Whereupon, the jurors exit the courtroom.)

22 THE COURT: Please be seated.

23 I was watching the jurors. They look pretty
24 alert to me. I don't think we are losing anyone.

25 I think right now, we will try to finish it out

1 if we can. They are pretty insistent they would like to
2 try to finish it out tonight. They made arrangements,
3 seven, eight o'clock tonight.

4 So, let's see what we can do.

5 MR. STEINGLASS: What time do you want us back?

6 THE COURT: Once we get to seven o'clock --

7 MR. STEINGLASS: What time do you want us back?

8 THE COURT: Fifteen minutes.

9 Let's make it 20 minutes.

10 (Recess is taken.)

11 SERGEANT: Remain seated. Come to order.

12 Part 59 is back in session.

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

14 SERGEANT: All rise.

15 Jury entering.

16 (Whereupon, the jury entered the courtroom
17 and was properly seated.)

18 THE COURT: You may be seated.

19 THE CLERK: Case on trial continued.

20 All jurors are present and properly seated.

21 THE COURT: Mr. Steinglass.

22 MR. STEINGLASS: Thank you.

23 Good afternoon, everyone.

24 So, we have talked about the conspiracy to
25 influence the election.

1 And even after Mr. Trump got elected, he still
2 had to make sure that no one found out about the
3 conspiracy.

4 But here is the problem, Michael Cohen was out
5 \$130,000, and the Defendant knew that he couldn't just
6 write Mr. Cohen a check for the exact amount of the
7 Daniels' payoff, so enter the false business records.

8 But make no mistake, Cohen wanted the credit for
9 helping carry out the payment to Daniels, but he also
10 wanted his money back. And he was telling anyone and
11 everyone who would listen.

12 In November or December, Pecker went to Cohen's
13 office, and Pecker testified that Michael said to me he
14 wasn't reimbursed for monies owed to him on the Stormy
15 Daniels payment, and Pecker understood Cohen to be
16 complaining that he hadn't been repaid yet.

17 And Pecker also believed that the plan was that
18 Cohen would be reimbursed either by Trump himself or by The
19 Trump Organization. And Cohen actually asked Pecker to
20 intervene on his behalf to Mr. Trump and speed up the
21 reimbursement.

22 And Mr. Davidson also testified about a call on
23 December 9th that he got from Cohen while shopping at some
24 oddly-decorated box store, if you remember that testimony.
25 And Cohen called, and he was upset about a few things, and

1 he said, and I quote, that fucking guy is not even paying
2 me the 130,000 back.

3 And Mr. Trump was also aware of how upset Cohen
4 was.

5 If you remember, Cohen testified that when he was
6 on a Christmas vacation, Mr. Trump called him, and he told
7 him not to worry, that he would take care of everything
8 when they got from back from their vacation.

9 And when Cohen got back, he spoke with Allen
10 Weisselberg, and Allen Weisselberg asked Cohen to bring in
11 a copy of his bank statement showing a \$130,000 payment so
12 that they could work it all out.

13 And on January 16th or 17th, Cohen met with
14 Weisselberg, and then, together, they went into Mr. Trump's
15 office and met with him.

16 And, as requested, Cohen brought in that bank
17 statement. And right on the bank statement, Weisselberg
18 and Cohen calculated all the money that was owed to Cohen.
19 And Weisselberg explained how they were going to pay him
20 back. They would treat it as income, but gross it up so
21 that after taxes Cohen would be whole.

22 And when they were done speaking, they went in to
23 see Mr. Trump. And Weisselberg discussed the repayment
24 plan with Trump and Cohen. And he showed Trump the bank
25 statement with their handwritten calculations. And he

1 explained to Cohen how we, meaning he, and Allen
2 Weisselberg and Trump, preferred to break the payments up
3 over 12 months, even though Cohen preferred a lump sum.
4 And Mr. Trump approved the payment plan.

5 This is from the testimony.

6 Question: Now, what happened when you went into
7 Mr. Trump's office to have this discussion?

8 Answer: During the discussion, Allen turned
9 around and said to me, um, while we were talking about
10 this, it was -- and what we were going to do is this, we
11 are going to pay you over 12 months. It was probably
12 better if I get it in one lump sum.

13 No, no, no. Why don't you just do it over 12
14 months, and it will be paid out to you monthly.

15 Question: Did he say anything about how it would
16 be paid out to you?

17 Answer: Yeah. He said like -- as like for legal
18 services rendered since I was then being given a title of
19 Personal Attorney to the President.

20 Question: And we will get to that in a second.

21 So this conversation that you had with
22 Mr. Weisselberg in Mr. Trump's office, with Mr. Trump?

23 Answer: Yes.

24 Next page.

25 Question: And did Mr. Weisselberg reflect these

1 payments over 12 months on that bank statement, People's
2 35?

3 Answer: Yes.

4 Question: And can you just read there what it
5 says there in the middle of the bottom?

6 Answer: It says, 420,000, divided by 12, that's
7 an equal sign, and that's 35,000. And that's per month.

8 Question: So, it was -- and so, it was stated
9 did Mr. Weisselberg state in front of Mr. Trump that you
10 were going to receive \$420,000 over the course of 12
11 months?

12 Answer: Yes.

13 Question: And what, if anything, did Mr. Trump
14 say at the time?

15 Answer: He approved it. And he also said this
16 is going to be one heck of a ride in DC.

17 Question: And did Mr. Weisselberg say in front
18 of Mr. Trump that those monthly payments would be, you
19 know, like a retainer for legal services?

20 Answer: Yes.

21 And this is why when Mr. Blanche shows you single
22 questions taken out of context you need to be skeptical.
23 The robust and full conversation is very different from
24 what one question and one answer reveals.

25 Now, we don't have to prove that the Defendant

1 made, he created the false entries himself. The Defendant
2 is guilty of false business records when he makes or causes
3 a false entry in his business records; but approving this
4 reimbursement scheme, that is causing such false entries,
5 period.

6 Directing Cohen to submit phony invoices to a
7 company the Defendant owned and controlled is what kicked
8 off this entire series of false records.

9 As McConney told you in connection with these
10 payments he was told to do something and he did it. That's
11 how The Trump Organization worked because that's how the
12 Defendant wanted it to work.

13 So, the Defendant gave his orders to Allen
14 Weisselberg and to Michael Cohen. And Allen Weisselberg
15 and Michael Cohen gave orders to Jeff McConney. And
16 McConney gave these orders to Deborah Tarasoff. And the
17 false business records are created.

18 And you've got to keep in mind that Allen
19 Weisselberg is the defendant's top lieutenant for 40 years.

20 In one of the book excerpts in evidence, the
21 Defendant describes Weisselberg as a loyal employee and one
22 of the toughest people in business when it comes to money.

23 Now, sometime between that meeting and the
24 inauguration on January 20th, Weisselberg went to see Jeff
25 McConney, Controller, to put the plan into action.

1 In fact, McConney testified that they spoke
2 twice. He said during their first meeting, if you
3 remember, Weisselberg tossed him a pad, and he started
4 taking notes about what Weisselberg was saying.

5 And McConney testified that some time afterwards,
6 Weisselberg gave him that bank statement with the
7 handwriting on it and that's the same bank statement that
8 Cohen and Weisselberg wrote on and brought in to the
9 Defendant.

10 So this was from McConney's testimony:

11 Question: Directing your attention to the time
12 period around January 2017, did you became aware that
13 Mr. Cohen needed to be reimbursed for money he was owed.

14 Answer: Yes.

15 Question: How did you first became aware?

16 Answer: I had a conversation with Allen
17 Weisselberg.

18 Next page.

19 Question: Please describe the conversation that
20 you had.

21 Answer: Allen said to me he had to get some
22 money to Michael, reimburse Michael. He tossed a pad
23 towards me, and I started taking notes on what Allen said.

24 Now, just pause for a moment to consider what
25 this testimony means.

1 Think about who McConney is. He was the
2 Controller and a loyal Trump Organization employee for 34
3 years. He has no axe to grind. He has every incentive to
4 help his former boss.

5 But he told you that he knew that this was a
6 reimbursement because that's what Weisselberg told him it
7 was.

8 Mr. Blanche pretended that this was all coming
9 from Michael Cohen.

10 But this document, these two documents, People's
11 35 and 36, these are Trump Organization documents. It came
12 from them, and it was admitted into evidence through Jeff
13 McConney.

14 These two Exhibits, People's 35 and 36, are the
15 over-manifestation of the agreement of falsified business
16 records.

17 In other words, they are the smoking guns.

18 They completely blow out of the water the Defense
19 claim that the monies paid to Cohen were payments for legal
20 services rendered in 2017.

21 I am almost speechless that they are still trying
22 to make this argument that the payments in 2017 were for
23 legal services rendered.

24 These documents just completely blow that out of
25 the water.

1 But, I guess that if they admit that this wasn't
2 really that, that this was really a reimbursement, then
3 they have to admit that the business records were false in
4 the first place.

5 So, they have to stare at these pieces of paper
6 and tell you with a straight face that this is not that,
7 this does not prove that the payments to Cohen were
8 reimbursement.

9 On the left of the screen is a bank statement
10 that Weisselberg gave McConney. It's the bank statement
11 for Essential Consultants, and it shows a \$130,000 debit
12 for a transfer to Keith Davidson Associates for 130,000.
13 And Cohen has written, plus 50,000 paid to Red Finch for
14 tech services, 180,000.

15 And of course we know that Cohen didn't really
16 spend \$50,000 on Red Finch; and that may matter for his
17 character, but it does not matter for the crimes that the
18 Defendant is charged with.

19 The handwriting on the left side of the page
20 belonged to Weisselberg.

21 McConney, who had worked with Weisselberg for
22 some 30 years at this point, not only recognizes the
23 handwriting, but can decipher it.

24 It starts with \$180,000, which McConney
25 understood to come from the request for reimbursement for

1 the \$130,000 to Davidson and the \$50,000 to Red Finch.

2 It says: Gross up to \$360,000.

3 Now, this is not Michael Cohen telling you that
4 this was grossed up. This is in the document itself, gross
5 up.

6 Mr. McConney testified that he understood this to
7 mean, doubling to offset taxes.

8 And the Defense showed you another line from that
9 out of context that seemed to suggest that Michael Cohen
10 didn't know why this was being grossed up.

11 We didn't have time to make a slide over lunch,
12 but here is what Michael Cohen actually said.

13 This is an answer.

14 Then he told me that he was going to do -- it's
15 called gross it up, because I was taking -- because I was
16 taking it as income. And in order to get back the 180, you
17 need to actually double it because of tax purposes.

18 Because I was in the 50 percent tax bracket City, State and
19 Federal. So, in order to get back the 180, what he did was
20 then he wrote down 360.

21 Question: Did he tell you that he wanted to
22 gross up that number of 180 to 360?

23 Answer: Yes.

24 Question: And what was your understanding about
25 why he said he needed to gross up 360,000?

1 Answer: Because otherwise you wouldn't get back
2 your 180. It would be, obviously, less. If they gave me
3 the 180, and I didn't gross it up, after taxes onto it, it
4 would be 90. That is -- and then that's, again, assuming
5 that you take it as income as opposed to just a wash.

6 So, not the one line that Mr. Blanche showed you,
7 but the rest of his testimony makes it very clear that
8 Michael Cohen was very clear about what they were doing
9 here in grossing up this reimbursement.

10 And that's also what McConney told you that he
11 understood this doubling to be, to offset taxes.

12 Add another \$60,000, for a total of \$420,000,
13 divided by 12 equals 35,000 per month, effective February
14 1st, 2017.

15 And on the right of the screen you have the notes
16 that McConney is scribbling on that pad while Weisselberg
17 details just how he, the Defendant and Cohen are going to
18 commit this crime.

19 They are acting in concert, and the Judge will
20 explain this concept to you.

21 So, these are his notes. Cohen will get a bonus
22 of 50,000. He will be repaid the 180,000 we owe him.

23 And unlike what Mr. Blanche told you, McConney
24 specifically testified that he understood the 180,000 on
25 his handwritten note to be the same 180,000 from the notes

1 on the bank statement.

2 He wrote, in his own hand, McConney, times two
3 for taxes, because Weisselberg told him to double the
4 180,000 for taxes.

5 And, you know, when somebody incurs a
6 work-related expense, you spend \$200 on a hotel room, you
7 put in for that. You don't pay taxes on that. That's a
8 reimbursement.

9 McConney testified that in 50 years of doing tax
10 returns and 50 years at The Trump Organization, he was
11 never aware of another expense reimbursement where a
12 payment was doubled for taxes.

13 But, here, Weisselberg, Cohen and Trump have
14 disguised this reimbursement as income, and that means that
15 Cohen will have to pay income tax.

16 And, as you know, he pays about 50 percent income
17 tax.

18 So, I was going to explain all of this, but I
19 didn't even realize how clear Cohen explained it in his
20 testimony. If they gave him back 180,000 or they treated
21 it as income, he only gets 90.

22 So, they have to times two for taxes, which is
23 exactly what McConney writes to make sure he netted the
24 full 180,000. That's what grossing up means.

25 And here is a question for you: Is there

1 anything you have learned about Donald Trump during this
2 trial that makes you think that he would pay twice what he
3 owes someone?

4 But it was worth it. It was worth it to hide the
5 truth about what this money was really for, a reimbursement
6 for the Daniels payoff.

7 Back at People's 36, McConney wrote down -- if
8 you remember, he wrote down the wrong bonus amount. When
9 he added it all up, he got \$410,000.

10 Weisselberg looked at the pad and said, no, use
11 420,000 divided by 12.

12 And the Defendant and Weisselberg agreed to pay
13 Cohen out in monthly installments so they could pretend it
14 was a monthly retainer. That's 35,000 a month, effective
15 2/1/17.

16 And it also says: Wire monthly from DJT.
17 Meaning the DJT Entity accounts.

18 McConney told you that that was the account that
19 they used to wire money from the Defendant.

20 And Donald Trump, DJT, was the MDS software code
21 that was used for that particular account.

22 And then below the line, again, this is
23 McConney's note pad that he is writing down as Weisselberg
24 is talking: Start 35,000 a month in January 2017. Mike to
25 invoice us.

(Whereupon, Principal Court Reporter Susan
Pearce-Bates was relieved by Senior Court
Reporter Lisa Kramsky.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(The following proceedings are continued from the preceding page.)

MR. STEINGLASS: (Continuing.)

(ADA Steinglass laughs.) This is -- these documents are so damning that you almost have to laugh by the way Mr. Blanche tried to explain them to you, that this wasn't fraud -- these weren't false business records, because if they were, they would have destroyed it, okay.

So, let me see if I follow that logic. So, they would have destroyed evidence, committed another crime, to hide this crime, but because they didn't do that, and these documents actually exist, that's evidence that a crime wasn't committed?

If that's true, you could never prosecute a false business records claim because the existence of the false business records in the first place would prove that there was no intent to defraud.

Doesn't that seem a little circular to you?

So, McConney staples these two documents together and puts them in his payroll book, which he kept in a locked drawer in his office.

And so, now The Trump Organization has two sets of books, one that McConney keeps locked up in his office and the other that goes into the General Ledgers for the outside

1 accountants.

2 Later, based on these same false records and this
3 repayment scheme, The Trump Organization generated false
4 1099s.

5 These are the 1099s.

6 And they are false because they describe what is a
7 reimbursement as non-employee compensation. Income.

8 And Mr. Blanche told you that they put these into
9 evidence. That's incorrect. We put them into evidence.
10 Does that mean that Mr. Blanche is lying or does it mean
11 that he's mistaken?

12 I submit that it means that he's mistaken, as
13 people sometimes are.

14 And these documents, which were put into evidence
15 by us, demonstrate that The Trump Organization filled out
16 phony forms reporting income that didn't exist; because it
17 wasn't income, it was a reimbursement.

18 And these didn't just go -- these 1099s didn't just
19 go to Michael Cohen, they went to the IRS.

20 Now, it's true that the result of this improper
21 accounting is that the taxes would have to be paid that
22 weren't owed; right?

23 You don't have to pay taxes on a reimbursement, so
24 then, you know, you don't have to report them as income.

25 So, the result of reporting them as income is the

1 more taxes are getting paid than are owed.

2 But, as the Judge will tell you, it's a crime to
3 prepare false tax documents, regardless, even when doing so
4 does not result in underpayment of taxes.

5 And preparing these false tax documents is yet
6 another unlawful means that the defendant and his cohorts
7 were willing to engage in to conceal their election
8 conspiracy.

9 On February 6th, 2017, McConney sends an email with
10 the subject line: "Dollar sign. Dollar sign." Reminding
11 Cohen to send over the invoices that Cohen spoke to Allen
12 about.

13 Two days later, Cohen met with President Trump at
14 the White House in the Oval Office.

15 And the President asked if he was okay, if he
16 needed money?

17 And Cohen said, he was all good.

18 And then President Trump told Cohen to make sure to
19 deal with Allen, and that the January and February checks
20 would be forthcoming.

21 Not a detailed conversation, but enough to reassure
22 Cohen that the plan to reimburse him was moving forward.

23 This is his testimony:

24 "QUESTION: Did you discuss in the Oval Office the
25 reimbursement payments that were going to be made to you?"

1 "ANSWER: Yes, ma'am."

2 "QUESTION: Can you tell the jury a little bit
3 about that conversation?"

4 "ANSWER: So, I was sitting with President Trump
5 and he asked me if I was okay.

6 He asked me if I needed money. And I said no. All
7 good.

8 He said, because I can get a check. And I said,
9 no. I said I'm okay.

10 He said, all right, just make sure you deal with
11 Allen."

12 "QUESTION: Did he say anything about anything that
13 would be forthcoming?

14 "ANSWER: Excuse me?

15 "QUESTION: Did he say anything about what would be
16 forthcoming to you?

17 "ANSWER: Yes. It would be a check for January and
18 February."

19 So much for the Defense claim that there was no
20 evidence that they knew that Mr. Trump knew or had anything
21 to do with those first two checks.

22 Do you remember the January, February checks, they
23 came from The Trust.

24 There is evidence that Mr. Trump knew. And it's
25 right here.

1 And the -- and the phone extraction that Doug Daus
2 did from Cohen's phone showed a 4:33 meeting with POTUS --
3 President of the United States -- on February 8th of 2017.

4 And there is also an email from Madeleine
5 Westerhout in evidence confirming this meeting time and the
6 accuracy of the data on Cohen's phone.

7 So, there is another reason that you can rely on
8 the data from his phone.

9 And, shortly thereafter, a series of invoices,
10 vouchers and checks followed.

11 February 14th, Cohen emails McConney.

12 He apologizes for the delay, and he asks that the
13 checks be mailed to his home address.

14 And McConney reminds Cohen that he has to send
15 invoices first.

16 He doesn't say retainer. There is no retainer.
17 Not an oral retainer. Not a written retainer. There is no
18 retainer.

19 And Cohen -- and McConney doesn't ask for the
20 retainer -- for a retainer, a nonexistent retainer, he asks
21 for invoices.

22 And the response to this has to be one of my
23 favorite emails in the whole case, because Cohen doesn't
24 even remember the reimbursement amount.

25 McConney is the one with the documentation. They

1 didn't give Cohen a copy.

2 (ADA Steinglass laughs.)

3 MR. STEINGLASS: So there is no Retainer Agreement
4 for him to consult.

5 So, McConney reminds him, it's \$35,000 a month.

6 And about an hour later, Cohen sends an email to
7 McConney, with an invoice billing \$35,000 each for the
8 months of January and February.

9 And the invoice says, "Pursuant to the Retainer
10 Agreement. Kindly remit payment for services rendered."

11 But there was no Retainer Agreement. And it was
12 not for services rendered.

13 Now, the Defense has tried to suggest, still,
14 remarkably, that these payments really were compensation for
15 legal work that Mr. Cohen was doing in 2017.

16 And in his opening Mr. Blanche told you, quote,
17 "You are going to learn that this was not a pay back. The
18 35,000 a month was not a pay back to Mr. Cohen for the money
19 he gave to Ms. Daniels."

20 By now, having seen Exhibits 35 and 36, you have to
21 know that that argument is nonsense.

22 The Defense argues that there is an email from
23 Weisselberg to Cohen at the end of January 2017 asking him
24 to prepare the Agreement that we discussed.

25 They say, AHA, that's proof that there really was a

1 Retainer Agreement contemplated. No one ever said
2 otherwise.

3 Cohen testified that there was some talk of a
4 retainer.

5 But the plan was always to disguise the
6 reimbursement as income pursuant to a retainer.

7 Maybe if they had actually created a phony
8 Retainer Agreement that would have given more cover to their
9 story, but it would have been just another false business
10 record, and you would have been considering 35 counts
11 instead of 34, because these payments had nothing to do with
12 the Retainer Agreement and nothing to do with services
13 rendered in 2017.

14 And, by the way, did you happen to notice that
15 Weisselberg approved the invoices without ever getting a
16 Retainer Agreement from Cohen?

17 They decided that the false invoices alone provided
18 sufficient cover, and they cut the checks every month
19 regardless.

20 Now, we've already seen those smoking gun
21 documents.

22 I'm not going to put that back up to show that they
23 add up to \$420,000, paid out over 12 months in \$35,000
24 installments.

25 And this document here, People's 45, is a query of

1 the General Ledger system for all monies paid to Cohen from
2 January 1st of 2017 to January 5th of 2018, from any Trump
3 Organization entity.

4 The total amount paid to him in 2017 was \$420,000;
5 \$105,000 from the DJT Revocable Trust and \$315 from the DJT
6 entity.

7 Those numbers, those are the exact same numbers
8 that show up on the 1099s because one is issued from The
9 Trust and one is issued from the DJT entity.

10 So, in 2018, Cohen continued to do legal work for
11 Mr. Trump. That was the testimony.

12 Remember, February of 2018 was when Cohen began to
13 enforce the NDA against Daniels.

14 And he did that because he was told to do that both
15 by the Defendant and by Eric Trump.

16 And Cohen probably did more legal work in the first
17 three months of 2018 than he did in all of 2017, but he
18 wasn't paid a nickel in 2018, both McConney and Cohen told
19 you that.

20 But you can check the General Ledgers, which are in
21 evidence, the 2018 General Ledgers for legal expenses.

22 And you can confirm that he wasn't paid a dime.

23 So, why, if he was still doing legal work, why
24 wasn't he paid a dime in 2018? Because he wasn't being paid
25 for legal work in either year. He was being reimbursed in

1 2017, and when the reimbursements were done, the payments
2 stopped.

3 But didn't Mr. Blanche say, well, Cohen did do
4 legal work in 2017.

5 He did a little bit of work for Donald Trump and
6 Melania Trump, something about Madame Tussauds' Wax Museum.
7 Yeah, he did.

8 The testimony was that he did less than ten hours
9 of legal work that year.

10 Cohen spent more time being cross-examined at
11 this trial than he did doing legal work for Donald Trump in
12 2017.

13 And, based on everything that Mr. Trump has said
14 and done, do you think that there is any chance, any chance
15 that Trump would have paid \$42,000 an hour for legal work by
16 Mr. Cohen?

17 That would be a pretty sweet hourly rate, if you
18 multiple that out, there are 52 weeks a year, 35 hours a
19 week, that would be over \$1,250,000, that would be a pretty
20 good hourly rate.

21 The fact is that Cohen did pretty well here. He
22 got a cool title: Personal Attorney to the President.

23 And he used that title to get some very lucrative
24 consulting clients.

25 Nobody ever said he kept that a secret.

1 Mr. Blanche said, well, he signed -- well, he
2 signed every email, it wasn't a secret.

3 We are not saying it was a secret. He used that
4 title to get himself his consulting clients for which he was
5 paid \$4 million.

6 He was making way more money than any Government
7 job would ever pay.

8 And don't I know that.

9 He could afford to throw in a couple of extra hours
10 of work over the course of the next year without sending a
11 bill. He's not working for free. It's called good will.
12 And don't buy the Defense argument that the hourly -- he
13 wanted to keep -- when I say "good will," he wanted to keep
14 Mr. Trump happy; right, so that he could keep the title
15 Personal Attorney to the President and keep monetizing it to
16 the tune of \$4 million.

17 That's not working for free. And don't buy -- the
18 Defense tried to argue that the hourly rate Cohen was
19 getting from his consulting clients was equally inflated.

20 He wasn't being paid an hourly rate to be a
21 consultant, he was being paid to provide access to
22 Mr. Trump. That's how it works.

23 At the time, President Trump was a Washington
24 outsider.

25 And Cohen was in a perfect position to monetize

1 the close relationship he had with Mr. Trump for so many
2 years. That's why he was being paid so much.

3 He was not being paid per phone call by those -- by
4 his consulting clients.

5 Notice that none of Cohen's invoices went through
6 The Trump Organization's Legal Department, because according
7 to McConney, that would have been the typical practice for a
8 genuine legal invoice.

9 Then it didn't go through the Legal Department
10 because it wasn't for legal services rendered.

11 And if you have any lingering doubt, the defendant
12 has, himself, repeatedly admitted that the payments to Cohen
13 were a reimbursement.

14 He did so in legal filings when Daniels sued Trump
15 to get out of the NDA.

16 This is from Daniels testimony:

17 "QUESTION: Do you recall -- you recall the lawsuit
18 that you filed, your lawyers filed against Mr. Trump to get
19 out of the NDA; do you remember that?"

20 "ANSWER: Yes."

21 "QUESTION: And do you remember that Mr. Trump was
22 represented by counsel in that case?"

23 "ANSWER: Yes."

24 "QUESTION: And do you recall that his attorneys,
25 Mr. Trump's attorney, in court papers, filed in June of

1 2018, confirmed that Donald Trump in 2017 had reimbursed
2 Michael Cohen's company Essential Consultants for the
3 \$130,000 that was paid to you?"

4 "ANSWER: Yes, I saw that."

5 "QUESTION: So that was confirmed in Mr. Trump's
6 lawyer's submitted court papers; correct?"

7 "ANSWER: Correct."

8 Now, the defendant also admitted that in a filing
9 with the US Office of Government Ethics, a document that the
10 defendant signed and certified its accuracy.

11 The funny thing about this is that Mr. Blanche put
12 this up to say that, see, everything was above board, but
13 he's completely missing the point of the significance of
14 this document.

15 He wasn't charged with some ethical violation. He
16 made an admission in this document.

17 It's an unmistakable admission.

18 It says, quote, in the interest of transparency,
19 while not required to be disclosed as reportable liabilities
20 on Part 8, in 2016, expenses were incurred by one of Donald
21 J. Trump attorneys, Michael Cohen.

22 Mr. Cohen sought reimbursement of those expenses,
23 and Mr. Trump fully reimbursed Mr. Cohen in 2017.

24 The category of value would be \$100,001 up to
25 \$250,000 and the interest rate would be zero.

1 Notice how 180,000 falls into that range, but not
2 360 or 420,000.

3 Because the amount being reimbursed, as this says,
4 was \$180,000 or was within that range.

5 And, the defendant has admitted that this was a
6 reimbursement in his own Tweets.

7 Then President Trump denied that this payment had
8 anything to do with the campaign.

9 Now, that's just plain false. We have been through
10 about two hours of testimony and exhibits and evidence that
11 shows that it had everything to do with the campaign.

12 He may not have used campaign funds to pay off
13 Daniels, and he has never been accused of that, but as
14 we've seen, the payment had everything to do with the
15 campaign.

16 It was an unlawful campaign contribution to the
17 campaign.

18 It was not a payment by the campaign.

19 But, more importantly, the defendant has admitted
20 that the payments to Cohen were a reimbursement for a NDA.

21 And, yet, they still try to argue that the payments
22 to Cohen in 2017 were for legal services rendered, because
23 to say anything else is to admit that the business records
24 were false.

25 And they can't do that.

1 I don't know, I don't want to belabor this, but
2 think about for a minute about what you have to accept in
3 order to buy this Defense argument.

4 You have to think that both Pecker and Davidson
5 were lying when they testified under oath that Cohen told
6 them in 2016 that he expected to get paid back.

7 You have to think that McConney was lying when he
8 testified under oath that Weisselberg overtly said they were
9 reimbursing Cohen.

10 You would have to disregard the handwritten notes
11 on the Essential Consultants bank statement itself showing
12 exactly how the Stormy Daniels payment was converted into a
13 \$420,000 repayment amount.

14 You would have to disregard the fact that all of
15 the checks and accounting records showing that \$420,000 just
16 so happened to be the exact amount that Cohen was paid in
17 2017.

18 You would have to disregard the fact that Cohen
19 wasn't paid a dime in 2018, even though everyone agrees he
20 was doing legal work that year as well.

21 And you would have to disregard the defendant's
22 repeated admissions that he knew the payments were a
23 reimbursement.

24 You would have to think that despite this mountain
25 of evidence, none of that actually happened, and Cohen was

1 instead getting paid pursuant to a Retainer Agreement that
2 does not exist and that the amount he was paid just happens
3 to magically match down to the penny the reimbursement
4 amount that was shown in the evidence.

5 Does anyone believe that?

6 And because the defendant repeatedly admitted that
7 he knew that the payments were a reimbursement, that means
8 by definition he knew that the payment records which
9 disguised the reimbursement as income were false.

10 So, the Defense has tried to advance this claim
11 that the defendant only discovered later -- and Mr. Blanche
12 said something like that in his summation -- the payments
13 were actually reimbursement. That's not what the evidence
14 shows.

15 These are his books.

16 And the uncontested testimony is that Mr. Trump
17 helped work out the repayment details before the first check
18 was ever cut.

19 Six days after the White House meeting, McConney
20 asks Weisselberg to approve Cohen's invoice.

21 Weisselberg says, "Okay to pay. Per Agreement with
22 Don and Eric."

23 And you remember, it was not Don and Eric's deal.
24 It wasn't their agreement.

25 Don and Eric were the Trustees of The Trust.

1 They've got to sign the checks, that's what this means.
2 Don't buy the suggestion that this somehow means that Cohen
3 and Weisselberg cooked this up on their own or that Don and
4 Eric cooked this up on their own. Trump had already
5 approved the payment plan before he ever left for D.C.

6 You know from McConney's testimony that this plan
7 had been hatched in January, before the inauguration.

8 And there was just no way that Weisselberg or the
9 Trump kids could or would approve a \$420,000 payment of the
10 defendant's money without discussing it with The Boss.

11 And, of course, you know that the defendant signed
12 the last nine \$35,000 checks personally.

13 So, then McConney emails Tarasoff in accounts
14 payable to pay the invoice from The Trust and to post it to
15 legal expenses, to put "retainer" for the months of January
16 and February of 2017 in the description.

17 And the first two checks may have come from The
18 Trust, but the defendant, Weisselberg, and Cohen still
19 orchestrated these payments.

20 And Tarasoff, of course, does what she's told.
21 She's not in on it.

22 She enters the information into the General Ledger
23 by creating these vouchers.

24 And the invoices include the month, and they
25 include falsely the word "retainer." Because the payments

1 were falsely described as payments for services rendered in
2 a particular month of 2017 and pursuant to a Retainer
3 Agreement that didn't exist.

4 These weren't really legal expenses at all because
5 the defendant didn't actually pay a lawyer.

6 He paid a porn star by funneling money through a
7 lawyer.

8 Each of these records is a false business record.

9 Tarasoff then uses the same system to create the
10 checks and the check stubs and the stubs and the attached
11 checks.

12 Those are also false business records because they
13 also contain a false reference to a non-existent retainer
14 for a particular month.

15 And for each check, there are two checks stubs and
16 the check itself, all on a single sheet of paper.

17 If you see the check, you see the check stub,
18 necessarily.

19 Tarasoff also placed an accounts payable stamp on
20 the email chain that includes the phony invoice.

21 And those invoices are stamped and kept and
22 maintained by The Trump Organization to justify the checks,
23 that's how the Accounting Department works.

24 And they were stapled to the checks so that the
25 person signing the checks would have the necessary backup

1 information to determine what the check was for and decide
2 whether or not to sign it.

3 And I know what you're thinking, is this guy going
4 to go through every single months's worth of checks? The
5 answer is no.

6 We are just going to do one more, because this is
7 from The Trust, and we are going to do one from the time
8 that Mr. Trump was paying it on his own.

9 So, we will go through, if you look here, we will
10 use December.

11 On December 1st, at 9:11 a.m., Cohen sends the
12 December invoice to Weisselberg. Care of Donald Trump. He
13 can't email Mr. Trump himself because Mr. Trump refuses to
14 use email.

15 As Cohen testified, during certain conversations,
16 Mr. Trump would comment that, quote, he knows too many
17 people who have gone down as a direct result of having
18 emails that prosecutors can use in a case.

19 MR. BLANCHE: Judge, objection.

20 THE COURT: Overruled.

21 MR. STEINGLASS: That was the testimony directly on
22 Page 3276.

23 And it fits; right? You haven't seen a single
24 email.

25 Mr. Trump does not use email, famously. Why?

1 Because he does not want to leave a paper trail. Why?

2 Because he can have his lackeys do it for him.

3 Weisselberg forwards the email to McConney and
4 McConney forwards it to Tarasoff, with instructions to pay
5 it.

6 And as she does every month, she stamps the invoice
7 with her accounts payable stamp and files it as the backup
8 to the December check and check stub.

9 And this invoice, which is kept and maintained by
10 The Trump Organization, is another false business record,
11 insofar as it erroneously describes the reimbursement for
12 payment for services rendered that month pursuant to a
13 nonexistent Retainer Agreement.

14 And she then creates another false entry in the
15 General Ledger system describing the reimbursement as a
16 retainer for the month of December.

17 And you know Tarasoff may be doing the typing, but
18 the defendant is causing the false business records.

19 She creates another false business record, which is
20 the check and the check stub, falsely describing the
21 reimbursement as a retainer for the month of December.

22 And this check, like all the checks between April
23 and December, is signed by Mr. Trump himself, by hand, using
24 his distinctive signature.

25 And, of course, each check and check stub was

1 stapled to the stamped invoice, falsely characterizing the
2 amount owed as payment for services rendered, pursuant to a
3 nonexistent Retainer Agreement.

4 And that was not just her general practice, as
5 Mr. Blanche told you, it was the practice that she followed
6 even after the defendant went down to Washington.

7 She specifically said that she did that with these
8 checks and invoices.

9 You can -- on some of these you can -- I know these
10 things have been Xeroxed a bunch of times, but you can
11 actually still kind of see the staple marks on some of
12 these.

13 Now, it's easy to just throw a bunch of mud on the
14 wall and see what sticks, but what is the Defense actually
15 saying here?

16 Let's just consider it logically.

17 Trump didn't know about the reimbursement? It was
18 all cooked up by Weisselberg and Cohen? That's crazy.
19 Neither one of them had anywhere near that kind of
20 authority.

21 Even Weisselberg, the CFO, could only approve
22 invoices up to \$10,000 and no one could sign the Donald
23 Trump checks besides Donald Trump.

24 But let's just assume for one -- let's play this
25 out.

1 This is the Defense argument. Let's play it out.
2 Weisselberg and Cohen approve this reimbursement scheme all
3 on their own.

4 So, now it's April, whatever, and Mr. Trump gets
5 his small stack of checks and invoices and he's flipping
6 through and he's paying his 80 dollar Verizon bill and he
7 comes to a \$35,000 check to Michael Cohen, the Personal
8 Attorney to the President, the guy who is basically doing no
9 work at all for Mr. Trump.

10 And there is no one else he works for, right, he's
11 the Personal Attorney to the President.

12 So whatever work he's doing, he's doing for the
13 President.

14 So then what? This guy is doing no work. What
15 does Mr. Trump do at that moment, when he suddenly realizes
16 we're paying this guy \$35,000?

17 Does he pick up the phone and call Allen
18 Weisselberg?

19 Does he call Cohen and say why am I paying you
20 \$35,000 for nothing? No. He just signs it. Every month.
21 And he never once picks up that phone. He never once make
22 further inquiry.

23 I mean, the December invoice that I just showed you
24 is for services rendered in the month of December and it
25 says on December 1st, at 9:11 a.m.

1 How do you wrack up \$35,000 of legal services in
2 eleven minutes?

3 Despite his frugality and his attention to detail,
4 the defendant didn't ask any questions, because he already
5 knew the answers.

6 In total, there were eleven false check stubs and
7 accompanying checks.

8 The first two, as you know, were signed by the
9 Trustees, including Weisselberg, Don Junior and Eric Trump.
10 And the remaining ones were all signed by the defendant.

11 And, please, don't buy this bogus narrative that
12 the Defense is selling that the defendant was too busy to
13 pay attention to what he was signing or that he had no idea
14 how his own business records were.

15 He's in charge of his company for 40 years. The
16 defendant's entire business philosophy was and is to be
17 involved in everything, down to the negotiating the price of
18 the light bulbs.

19 And it's so hard to get away from this basic truth
20 that the Defense has tried to invent some type of a line,
21 like to say, well, maybe when he was a businessman, he could
22 afford the time to read every check, but when he was
23 President, he didn't have that kind of time.

24 And they even got Madeleine Westerhout, his loyal
25 White House Assistant, to imply that there were times when

1 he was so busy that he would just willy-nilly sign
2 Presidential Proclamations and Executive Orders without
3 reading them.

4 (Whereupon, at this time, Laurie Eisenberg relieved
5 Lisa Kramsky as the official court reporter.)

6 *****
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (Continued from the previous page.)

2 (Whereupon, a Power Point presentation containing
3 exhibits and transcript excerpts are played on the screens
4 throughout the following summation:)

5 MR. STEINGLASS: But that's just another false
6 narrative sprung by the defense to get you to ignore the
7 evidence.

8 The Defendant remained involved, even with minor
9 decisions about where his money was going.

10 Ms. Westerhout testified on direct examination
11 that she had dozens of communications with The Trump
12 Organization in 2017, that they were in constant contact
13 about scheduling the Defendant's contacts and his personal
14 expenses.

15 She noted that both Weisselberg and Cohen were on
16 the Defendant's short list of preferred contacts so they
17 could reach him whenever they needed to.

18 Westerhout recalled that maybe a couple of times
19 she knew that the Defendant would actually call
20 Weisselberg or someone else in The Trump Organization with
21 a question about a check that he was considering signing.

22 And Ms. Necheles desperately tried to walk that
23 back on cross-examination.

24 But, you can read the testimony as a whole for
25 yourself.

1 Her testimony was corroborated by Rebecca
2 Manochio at The Trump Organization, who said that after
3 the Defendant went to the White House, he would hold on to
4 individual checks if he had questions about them. That was
5 her testimony.

6 On February 21, 2017, the Defendant was
7 consulting on whether to suspend a golf membership at a
8 particular golf club that will cost him less than \$7,000
9 for the whole year. He asks Ms. Graff to pay it ASAP. He
10 okays it with his initials.

11 Now, if after Mr. Trump became President, he
12 didn't have time to review his own invoices and checks, he
13 could have changed the procedures so that he's not the
14 only signatory, the way he did with the entities he put
15 into The Trust. He could have allowed Weisselberg or Eric
16 or Don Junior to sign the checks from the DJT entity, or
17 he could have let his wife sign the checks, or used
18 AutoPay to pay some of the utilities.

19 Why set up these systems to bypass the White
20 House security protocols? Why, literally, send checks to
21 his employees' homes so he could sneak them into the White
22 House undetected? Why have the invoices go from Cohen, to
23 Weisselberg, to McConney, to Tarasoff, to have her stamp
24 them, and have her attach the invoices to the check stubs,
25 and then have them go to Tarasoff, to Manochio, to

1 McConney, to Weisselberg, to Trump, and go through all of
2 that again.

3 The answer is, because Mr. Trump wanted to
4 maintain control over his \$80 cable bill, because that's
5 who he is, and that has been his philosophy from the
6 beginning. He's frugal. He's immersed in the details.
7 And he insists on signing his own checks.

8 The Defendant has written several books extolling
9 these exact characteristics as virtues.

10 During cross-examination, the Defense tried to
11 put daylight between the Defendant and his own books,
12 implying some of the words in the books had been written
13 by ghost writers.

14 It reminds me of the book by Yogi Berra. "I
15 really didn't say anything I said."

16 The publishers were very clear whose books they
17 were and how much control the Defendant had over the
18 manuscripts.

19 First and foremost, the Defendant is frugal. He
20 doesn't like spending money, and he's proud of it. It's
21 worked for him.

22 This passage is from Trump: Think Like a
23 Billionaire: "Pay attention to the small numbers in your
24 finances, such as percentages and cents. Numbers that seem
25 trivial add up and have enormous implications. My parents

1 hammered frugality into me at an early age, and it's the
2 most important money management skill a person can use.
3 Call it penny-pinching if you want to. I call it
4 financial smarts."

5 The book is entered into evidence.

6 I have a number of similar quotes, how the
7 Defendant takes pride in his frugality.

8 And he said every dollar spent by any one of his
9 companies is a dollar that comes out of his own pocket.

10 That's how his good friend, David Pecker,
11 described him, "very cautious" and "very frugal", in his
12 testimony before you.

13 The Defendant is also a micro-manager, someone
14 who insists on being involved in the details whenever his
15 finances are concerned.

16 The cardinal sin for Mr. Trump is overpaying for
17 anything.

18 Here is another excerpt from that same book. Page
19 68. "Always look at the numbers yourself. If things turn
20 grim, you're the one left holding the checkbook."

21 Another. Page 69: "The point I was making to Jeff
22 was that even though various payments always need to be
23 made, always question invoices and never accept a
24 contractor's first bid. Negotiate. Negotiate or get out.
25 Jeff got the message and has been with me for 17 years and

1 is doing a terrific job. He looks out for my bottom line
2 as if the money were his own."

3 McConney told you the exact same story about this
4 anecdote.

5 This one People's 114B, an excerpt from How to
6 Get Rich: "If you don't know every aspect of what you're
7 doing, down to the paper clips, you're setting yourself up
8 for some unwanted vices."

9 Another excerpt from Think Like a Billionaire:
10 When you're working with a decorator, make sure you ask to
11 see all of the invoices. Decorators are by nature honest
12 people, but you should be double-checking regardless."

13 This next excerpt from Think Big: Make it Happen
14 in Business and Life, under the title Do Not Trust Anyone,
15 it says: "I used to say, go out and get the best people
16 and trust them. Over the years I have seen too many
17 shenanigans, and now I say get the best people and don't
18 trust them. Do not trust them because if you don't know
19 what you are doing, they are going to rob you blind. I
20 know dozens of sophisticated business people who hired
21 accountants and lawyers and others and they trusted them.
22 They got killed. They lost their businesses. So I say, get
23 the best people and don't trust them."

24 So, if Donald Trump is checking the invoices from
25 his decorator, you can bet he's checking the invoices from

1 Michael Cohen.

2 This is also Mr. Pecker's understanding from
3 dealing with Mr. Trump. He testified that the Defendant
4 was very detailed oriented, a micro-manager and that he
5 looked into all aspects of whatever he was doing, whatever
6 the issue was.

7 And Ms. Westerhout also describes him as the type
8 of person who also pays attention to details.

9 Now, it's this combination of frugality and
10 attention to detail that led Mr. Trump to keep tight reign
11 on his checks, in particular, whether they were from the
12 DJT entity or other Trump Organization entities.

13 From Think Like a Billionaire: "As I said
14 before, I always sign my checks, so I know where my
15 money's going. In the same spirit, I also always try to
16 read my bills to make sure I'm not being overcharged."

17 These passages are much longer.

18 You can read them if you like.

19 They're conveying the Defendant's philosophy.
20 It's a philosophy backed up by the witnesses who
21 testified, the people who worked with him, and the people
22 who knew him: Pecker, McConney, et cetera, Westerhout,
23 Manochio.

24 This is from the introduction to Think Like a
25 Billionaire: "Here's something else about God that any

1 billionaire knows: He's in the details, and you need to be
2 there too. I couldn't run a business any other way. When
3 I'm talking to a contractor or examining a site or
4 planning a new development, no detail is too small to
5 consider. I even try to sign as many checks as possible.
6 For me, there's nothing worse than a computer signing
7 checks. When you sign a check yourself, you're seeing
8 what's really going on inside your business, and if people
9 see your signature at the bottom of the check, they know
10 you're watching them, and they screw you less because they
11 have proof that you care about the details."

12 That's his philosophy.

13 Along those lines, David Pecker described an
14 occasion where he saw Ms. Graff bring a stapled packet of
15 stamped checks and invoices, and he watched the Defendant
16 review the invoices along with the checks and sign.

17 Now, the Defendant created the protocols at The
18 Trump Organization with these characteristics in mind.
19 This was his company, and his philosophy was to check and
20 double-check everything.

21 And for the DJT entity checks, remember, the
22 Defendant was the only one who ever could sign them.

23 For all the other checks, it depended on the
24 dollar amount.

25 I don't know if you remember this testimony from

1 Ms. Tarasoff.

2 Before 2015, Weisselberg could sign checks up to
3 \$2,500. After 2015, when the Defendant was on the campaign
4 trail, the number was increased to \$10,000.

5 Ms. Tarasoff also testified that Mr. Trump
6 sometimes sent checks back unsigned and handwrote the word
7 "void" on it.

8 And, of course, that certainly suggests that he
9 was reviewing these checks before signing them.

10 So, this chart is in evidence as People's 350.

11 You can have it if you ask for it.

12 It shows kind of the sum total of false business
13 records in this case, a total of 11 false invoices, 12
14 false vouchers, and 11 false checks and check stubs. Each
15 of these false business records correspond to a count in
16 the indictment. That's also indicated on this chart, which
17 false business record pertains to which count.

18 Now, the false records were designed to cover up
19 the Defendant's and his cohorts' efforts to corrupt the
20 election.

21 But, there was also a coverup of the coverup.

22 Because on January 12, 2018, The Wall Street
23 Journal broke the story that Cohen, Trump's lawyer, had
24 brokered a \$130,000 payment to Stormy Daniels to ensure
25 her silence in the weeks before the 2016 election.

1 And after the story broke, the Defendant had a
2 fascinating conversation with Hope Hicks about it.

3 This is from her testimony:

4 "Question: Did he," speaking about President
5 Trump, "say anything about the timing of the news
6 reporting regarding --"

7 "Answer: Oh, he -- yes. He wanted to know how it
8 was playing, and just my thoughts and opinion about this
9 story versus having the story -- a different kind of story
10 before the campaign had Michael not made that payment. And
11 I think Mr. Trump's opinion was it was better to be
12 dealing with it now, and that it would have been bad to
13 have that story come out before the election."

14 That is devastating.

15 And that's from the Defendant's own
16 Communications Director, who still respects and admires
17 the Defendant so much. That was the last thing she said on
18 direct.

19 And she basically burst into tears a few
20 minutes -- a few seconds after that. Because she realized
21 how much this testimony puts the nail in Mr. Trump's
22 coffin.

23 MR. BLANCHE: Objection.

24 THE COURT: Overruled.

25 MR. STEINGLASS: This means that any desire to

1 protect his wife from finding out about Stormy Daniels was
2 far less significant for him than his desire for winning
3 the 2016 election.

4 It's better to deal with it now in 2018,
5 regardless of Melania's feelings, than it would have been
6 to deal with it before the election.

7 Cohen testified that Mr. Trump told him to push
8 the Daniels deal out as long as possible, because if he
9 wins, it will have no relevance because he'll already be
10 President, and if he loses, he doesn't even care.

11 This is the Defendant, caring about the election,
12 not his family.

13 Mr. Pecker told you the same thing.

14 Once Mr. Trump announced his candidacy, it was
15 all about the election and not about Melania or the rest
16 of his family.

17 And Ms. Daniels told you back in 2006 and 2007,
18 the Defendant never asked her to keep their encounter a
19 secret. He invited her to Trump Vodka, showed her around,
20 and kissed her hello.

21 Mr. Trump didn't express any concern at all about
22 his family finding out.

23 He wasn't anxious to silence Stormy Daniels until
24 he became Candidate Trump.

25 Surely, after that Wall Street Journal article

1 came out, Pecker and Cohen received letters from the
2 Federal Election Commission, the FEC, informing them an
3 investigation had been opened into the McDougal and
4 Daniels payoffs.

5 Pecker said Cohen was cool as a cucumber. He
6 told Pecker he had nothing to worry about, that President
7 Trump had Attorney General Jeff Sessions in his pocket.

8 Nevertheless, Cohen was in damage control.

9 On February 6th, he sent the following to Maggie
10 Haberman of The New York Times: "Big boss just approved me
11 responding to complaint and statement. Please start
12 writing and I will call you soon."

13 Trump had authorized Cohen to disseminate a
14 highly misleading, if not flatly false, statement.

15 MR. BLANCHE: Objection.

16 THE COURT: Overruled.

17 It's argument.

18 MR. STEINGLASS: Just like Cohen pushed Davidson
19 to have Daniels sign.

20 So, here's the denial. It's beyond misleading.

21 It says Cohen used his own personal funds, which
22 is technically true, I guess, because the money came from
23 his HELOC.

24 It says neither the TO or Trump campaign
25 reimbursed him.

1 Cohen is clearly trying to distinguish between
2 the man and his company. Although, there is no separate
3 Trump bank account, and both the DJT and The Trust are
4 under the Trump Organization umbrella.

5 What's clear is that Trump, himself, reimbursed
6 Cohen.

7 The Defendant admitted as much in legal filings.

8 Finally, it says that the payment to Daniels was
9 not a campaign contribution.

10 That's just plain false. It was a campaign
11 contribution, and Cohen knows that better than anybody
12 else because he went to prison for it.

13 Jay Sekulow is an attorney who he, at the time,
14 represented the Defendant, and shortly before Cohen put
15 out the statement, "We discussed sexual" -- he put out a
16 statement to Cohen using an encrypted app: "Client says
17 thanks for what you do."

18 What Cohen does and what he had just done is to
19 lie for the Defendant, to fall on the sword to protect the
20 President.

21 This text shows the Defendant giving Cohen what
22 he craved most: recognition for his efforts on the
23 Defendant's behalf.

24 Now, the Defense, if you've noticed, throughout
25 the trial they like to refer to the DJT entity as

1 Mr. Trump's personal account. They use the word
2 "personal".

3 And his personal expenses were, indeed, paid from
4 that account, like his \$80 Verizon bill.

5 This is nothing like yours and mine's checkbook.

6 The company name is DJT. That's what's in the
7 vouchers.

8 McConney explained each company has its own code,
9 and the code for the Trump account was DJT. DJT was an
10 entity of the Trump Organization, like all the
11 500-some-odd entities. Its books were kept by the
12 ten-something accounting staff, and it had its own General
13 Ledger, invoices were entered into the MDS system.

14 As McConney told you, that MDS system can issue
15 reports for balances and other reports that the accountant
16 would need to prepare tax returns or financial statements.

17 Every time Ms. Tarasoff cut a check from the
18 personal account, she had to enter it into a voucher form
19 from the MDS system. Then she printed the checks, stapled
20 them to the invoice, and sent them to Mr. Trump.

21 The Defendant insisted the invoices were attached
22 to the checks, so he would know exactly where his money
23 was going.

24 This practice continued after the inauguration.

25 The Trump Organization employees handled getting

1 checks to Washington for the President to sign.

2 And when the checks came back from Washington,
3 Deb Tarasoff would pull them apart, mail the signed check
4 to whoever, Mr. Cohen or whoever else, and file the backup
5 documentation along with the other Trump Organization
6 records.

7 More importantly, the DJT entity account was a
8 clearinghouse for all other entities, entities like golf
9 courses, hotels and office buildings.

10 McConney testified that each week the accounting
11 staff would run reports on the various entities to
12 determine their respective cash balances. If one of the
13 entities had a surplus of cash, that cash was swept into
14 the DJT account. And if one of those entities had a
15 deficit of cash, then that money would be taken out of the
16 DJT entity to make up for the shortfall.

17 So, the DJT account was really the hub of the
18 wheel with 500 spokes.

19 In short, the DJT account was an enterprise.

20 Listen carefully when the judge defines
21 "enterprise". It can be any entity of one or more persons,
22 public or private, engaged in business, commercial or
23 professional activity.

24 And it's barely worth mentioning it because it's
25 so obvious, because the Donald J. Trump Revocable Trust is

1 also an organization entity under that Organization.

2 You saw all the charts of all the entities and
3 how they went into the Trust.

4 When Mr. Trump became President, all the other
5 entities were dumped into the Trust.

6 The Trust had its own General Ledger, like the
7 other 498 entities.

8 And whatever theoretical separation the Defense
9 Counsel tried to claim that the lawyers put in place when
10 the Mr. Trump became President, he was still the
11 beneficial owner of everything in The Trust.

12 New York is the business capital of the world.

13 Whether you're a private enterprise or a public
14 enterprise, you have an obligation to keep proper books
15 and business records. This isn't an obligation to your
16 owners or investors or shareholders. It's an obligation to
17 the State of New York.

18 Among other reasons, the information contained in
19 these false records are reviewed.

20 In this case, they're reviewed by tax
21 professionals when it came time to do tax returns.

22 But, your business' books are also important for
23 Government Regulators and Election Regulators, and they're
24 important for other companies or vendors with whom you do
25 business.

1 And in New York State, bottom line, you cannot
2 lie in your business records. And this is what this case
3 is really about at its core: cheating in the Defendant's
4 books, just like hundreds of other cases that have come
5 before.

6 MR. BLANCHE: Objection.

7 THE COURT: Overruled.

8 MR. STEINGLASS: The conspiracy to promote or
9 prevent an election may be the "why", but the lies in the
10 Defendant's business records, those are the "what".

11 Do we want me to keep going, power through?

12 THE COURT: Approach.

13 (Whereupon, the following proceedings were held
14 at sidebar:)

15 MR. STEINGLASS: So, here's my update. I probably
16 have about an hour and 20 minutes left. So, I could either
17 do like another 25, 30 minutes now, or maybe just break.

18 THE COURT: Let's go about another 20 minutes or
19 so, and then we'll take a break, and then we've got to
20 wrap it up.

21 You've been going -- I lost track. You've been
22 going for a while.

23 MR. STEINGLASS: I'm allotted a lot of time.

24 THE COURT: About another 20 minutes.

25 (Whereupon, the following proceedings were held

1 in open court:)

2 MR. STEINGLASS: A little longer?

3 Good.

4 Let's get back to the coverup.

5 The Defendant wasn't trying to just engage in
6 damage control in the media and with the FEC. He was also
7 trying to keep a lid on the witnesses who were in a
8 position to reveal the truth.

9 On April 9, 2018, the FBI executed search
10 warrants at Cohen's home, office, and hotel room.

11 Among other things, they were seeking evidence
12 related to campaign finance violations stemming from
13 McDougal's and Daniels' payoffs.

14 That same day, if you remember, the FBI came and
15 took Pecker's phone and Howard's phone.

16 Whatever else you think about Michael Cohen, it's
17 clear he was the Defendant's fixer.

18 Like all fixers, Cohen knew where the bodies were
19 buried, and it was essential to keep him loyal.

20 Within days of the FBI raid, then-President Trump
21 spoke on the phone with Cohen and told him: "Don't worry.
22 I'm the President of the United States. There is nothing
23 here. Everything is going to be okay. Stay tough. You are
24 going to be okay."

25 And, as time went on, Cohen received messages

1 from others who reached out to say, in substance, The Boss
2 loves you and has your back.

3 And Mr. Trump publicly supported Cohen,
4 telegraphing to him the importance of staying on message.

5 On April 21, 2018, less than two weeks after the
6 raid, the Defendant posted the following Tweet. He talks
7 about how the media -- it's a three-part Tweet. I won't
8 read the whole thing.

9 He talks about how "the media are going out of
10 their way to destroy Michael Cohen and his relationship
11 with me in the hope that he will flip."

12 He refers to Michael Cohen as "Michael", and he
13 says he's "a fine person, with a wonderful family who I
14 have always liked and respected."

15 And he adds in a very targeted way, "Most people
16 will flip if the Government lets them out of trouble.
17 Sorry. I don't see Michael doing that."

18 Cohen told you he interpreted this Tweet the way
19 anyone would, as a way that Mr. Trump was communicating
20 with him, without picking up the phone directly at this
21 point, to send him the message: Stay in the fold. Don't
22 flip.

23 And it reinforced Cohen's loyalty, at least for a
24 while.

25 You've got to remember, the Defendant was also

1 paying Cohen's legal bills at the time, which was another
2 inducement to remain in the Trump camp.

3 And around the same time, Cohen met with attorney
4 Robert Costello to discuss the possibility of retaining
5 him.

6 And Costello billed himself as having close ties
7 to Trump's lawyer, Rudy Giuliani, and that Costello had
8 opened up a back channel of communication with President
9 Trump, which was critical to maintain.

10 And, initially, Cohen saw Costello as a conduit
11 to the President, a way he could get the lay of the land,
12 so he could weigh his options.

13 But, Cohen never really trusted Costello.

14 Can you really blame him?

15 You saw Costello testify.

16 Cohen was concerned that anything he said would
17 get back to the Defendant, and he wasn't about to tell
18 Costello the truth about what he knew about the
19 Defendant's involvement.

20 Here's an email from Costello to Cohen sent the
21 exact same day of the Defendant's Tweet we just saw, the
22 three-part Tweet about how he doesn't see Michael Cohen
23 flipping.

24 I won't read the entire email. Parts of it.

25 "I spoke with Rudy. Very, very positive. You are

1 loved. They are in our corner. Rudy said this
2 communication channel must be maintained. He called it
3 crucial and noted how reassured they were that they had
4 someone like me whom Rudy has known for so many years in
5 this role. Sleep well tonight, you have friends in high
6 places. P.S. Some very positive comments about you from
7 the White House. Rudy noted how that followed my chat with
8 him last night."

9 That meaning, the "followed" the "chat with him",
10 was a Tweet President Trump sent the night before; and
11 that's clear that's what Costello was telling him.

12 Costello was able to use his back channels to get
13 Trump to get back to him.

14 When Costello testified here at trial, he told
15 you, under oath, that he was acting exclusively in
16 Mr. Cohen's best interests, that he didn't care at all
17 about the Defendant's interests, the only interests he was
18 serving was Michael Cohen's.

19 That was just a bold-faced lie.

20 In a shocking departure from his ethical
21 obligations as a lawyer, Costello wrote an email to his
22 partner, which actually says in black and white: "Our
23 issue is to get Cohen on the right page, without giving
24 him the appearance that we are following instructions from
25 Giuliani or the President. In my opinion, this is the

1 clear correct strategy."

2 Cohen wasn't playing Costello. Costello was
3 playing Cohen.

4 And Costello's testimony before you was a
5 transparent effort to come up with something, anything, to
6 help this Defendant.

7 But, he didn't.

8 He displayed nothing but disdain for this Court
9 and proper decorum.

10 And his demeanor on the stand is something that
11 you can take into account, that's a fact, when you are
12 assessing his credibility.

13 The judge will tell you, you can consider the
14 manner in which a witness testifies.

15 In mid-June of 2018, sensing that Costello's
16 loyalties were, to say the least, divided, Cohen began
17 distancing himself from Costello.

18 On June 14, 2018, Costello emailed Cohen with a
19 link to a YouTube video, and the subject line: Giuliani on
20 the possibility of Cohen cooperating Mueller probe.

21 Here's an email from Costello to Cohen sent
22 June 14th.

23 I won't read the whole email. It's in evidence
24 as People's 208.

25 "You are believing the narrative promoted by the

1 left-wing media. Many of them are already writing that you
2 are cooperating. This strategy has been consistent from
3 the start to put pressure on you into believing that you
4 are alone, that everyone you knew before is distancing
5 themselves from you and you are being thrown under the
6 bus. The whole objective of this exercise by the Southern
7 District of New York is to drain you, emotionally and
8 financially, until you reach a point that you see them as
9 your only means to salvation. I told you that the very
10 first day I met you."

11 "I told you that the very first day I met you."

12 That's not what he testified to.

13 They want you to cave. They want you to fail.
14 They do not want you to persevere and succeed.

15 The subtext here could not be clearer: Do not
16 flip. Do not talk. Do not cooperate. Stay loyal.

17 And the following week, Costello realized by now
18 that he's losing control of Cohen, but he was desperate to
19 serve his true master, the Defendant.

20 And he sent this email to his partner: "Cohen has
21 to know this, yet he continues to slow play us and the
22 President. Is he totally nuts? What should I say to this
23 asshole? He is playing with the most powerful man on the
24 planet."

25 So much for acting solely in Cohen's best

1 interests.

2 Yet, that's what Mr. Costello told you.

3 But, for a while, President Trump's strategy
4 worked because even after he had fully reimbursed Cohen
5 for the unlawful campaign contribution, Cohen continued to
6 deny wrongdoing. For several months he continued to lie
7 for the Defendant.

8 It's a little disingenuous for the Defense to
9 argue that you shouldn't believe anything Cohen says about
10 the Defendant because he previously denied paying Daniels
11 at all or because he issued a misleading statement, claim
12 that he paid her with his own personal funds.

13 Those lies were told at the Defendant's direction
14 and at his behest and for his benefit.

15 So, using them now to undermine Cohen, to
16 undermine his credibility takes, again,chutzpah.

17 It's blaming the messenger for the Defendant's
18 own message.

19 Interestingly, though, Cohen decided he couldn't
20 tow the party line anymore. The costs were just too great.
21 And he decided, as I said earlier, his loyalty to his
22 family was more important. And he did exactly what the
23 Defendant had been so desperate to get him not to do; he
24 flipped.

25 On August 21, 2018, Cohen pled guilty to, among

1 other things, making an excessive campaign contribution in
2 violation of FECA in connection with the Daniels matter.

3 And this is from Cohen's testimony:

4 "Question: And on August 21, 2018, did you plead
5 guilty to one count of making an excessive campaign
6 contribution in violation of the Federal Election Campaign
7 Act?"

8 MR. BLANCHE: Objection.

9 THE COURT: Approach.

10 (Whereupon, the following proceedings were held
11 at sidebar:)

12 THE COURT: What's your objection?

13 MR. BLANCHE: This is the fourth or fifth time
14 that the fact that Mr. Cohen pled guilty to a campaign
15 finance charge is coming up.

16 And we've briefed this before.

17 We didn't even bring up his guilty pleas on our
18 summation for this very reason. Didn't bring up one time
19 any of his guilty pleas.

20 For the People to now read out his allocution on
21 this charge is completely inappropriate given the fact
22 that it's only limited; the only reason why it came into
23 evidence was for his credibility and to explain why, you
24 know, some other amorphous idea -- this is extremely
25 prejudicial and inappropriate.

1 MR. STEINGLASS: First of all, this is not his
2 allocution. It's his testimony. I am reading from his
3 testimony, which is in evidence.

4 Number two, the whole point I'm trying to make --
5 and we'll get to after I finish reading these quotes -- is
6 that this is when he pled guilty; and the next day, the
7 Defendant started changing his tune, the way he was
8 tweeting.

9 That's why it was admitted, to put it in context.

10 THE COURT: Okay.

11 I appreciate it's his testimony. That's fair.

12 You've commented on it. That's fair.

13 I think that's enough.

14 You can make your point without having to repeat
15 it.

16 MR. STEINGLASS: Okay.

17 (Whereupon, the following proceedings were held
18 in open court:)

19 MR. STEINGLASS: We'll go to the page on the
20 right.

21 "Question: Why, in fact, did you pay that money
22 to Stormy Daniels?"

23 "Answer: To ensure that the story would not come
24 out, would not effect Mr. Trump's chances of becoming
25 President of the United States."

1 MR. BLANCHE: Objection.

2 THE COURT: Overruled.

3 MR. STEINGLASS: "If not for the campaign,
4 Mr. Cohen, would you have paid that money to Stormy
5 Daniels?"

6 "Answer: No, ma'am."

7 "Question: At whose direction and in whose behalf
8 did you commit that crime?"

9 "Answer: On behalf of Mr. Trump."

10 "Without going into the details, you also pled
11 guilty to an unlawful campaign contribution in connection
12 with the McDougal matter."

13 "Question: What was the purpose of you working
14 with AMI to pay off Karen McDougal?"

15 "Answer: To ensure that Mr. Trump was protected
16 and that the story would never be released."

17 "Question: For what purpose?"

18 "Answer: For the purpose of ensuring that it also
19 didn't affect the Presidential campaign."

20 "Question: Why did you work with AMI to pay off
21 Karen McDougal?"

22 "Answer: To ensure the possibility of Mr. Trump
23 succeeding in the election, that this would not be a
24 hindrance."

25 "Question: Not be a hindrance did you say?"

1 "Answer: Correct."

2 "Question: On whose direction -- on whose behalf
3 did you work with AMI to do that?"

4 "Answer: I worked with Dylan Howard, I worked
5 with David Pecker, and also Dan Rotstein."

6 "Question: At whose direction and whose behalf
7 did you do that?"

8 "Answer: At the direction of Donald J. Trump."

9 "Question: And for whose benefit?"

10 "Answer: For the benefit of Donald J. Trump."

11 These guilty pleas on August 21, 2018, those are
12 the turning point. That was the moment Mr. Cohen finally
13 came clean about what he had done with Donald Trump and
14 why.

15 The Defendant was furious. His fixer had done the
16 unthinkable.

17 And Trump immediately went on the attack, an
18 attack that continues to this day.

19 The very next morning after Cohen pled guilty --
20 and the plea was widely reported -- the Defendant took to
21 Twitter again.

22 "If anyone is looking for a good lawyer, I would
23 strongly suggest that you don't retain the services of
24 Michael Cohen."

25 This is the day after he pled guilty.

1 Less than an hour later, another Tweet that's
2 favorable about Paul Manafort.

3 "Unlike Michael Cohen, he refused to break, make
4 up stories in order to get a deal. Such respect for a
5 brave man."

6 These tweets were not only designed to punish
7 Cohen. They were designed to send a clear message to other
8 potential witnesses: Cooperate, and you will face the
9 wrath of Donald Trump.

10 MR. BLANCHE: Objection.

11 THE COURT: Overruled.

12 MR. STEINGLASS: That's another part of the
13 Defendant's philosophy that he describes in his thoughts.

14 These excerpts are from Trump: How to Get Rich.
15 The chapter title is Sometimes You Still Have to Screw
16 Them. "One. For many years I've said that if someone
17 screws you, screw them back. Two. When somebody hurts you,
18 just go after them as viciously and as violently as you
19 can. Like it says in the bible, an eye for an eye."

20 These next few excerpts are from Think Big: Make
21 It Happen in Life:

22 "My motto is: Always get even. When somebody
23 screws you, screw them back in spades. When you are
24 wronged, go after those people because it is a good
25 feeling and because other people will see you doing it.

1 Getting even is not always a personal thing. It's just a
2 part of doing business."

3 "I can't stomach the disloyalty. This woman was
4 very disloyal, and now I go out of my way to make her life
5 miserable."

6 Taking these excerpts together, it is clear that
7 part of the Defendant's strategy in disparaging witnesses
8 against him is to discourage other witnesses from coming
9 forward.

10 During the month of March of 2023, this case was
11 being presented to the Grand Jury.

12 Stormy Daniels testified on March 15, 2023. She
13 participated in a Zoom interview with members of the DA's
14 Office.

15 That same day, Mr. Trump publicly attacked Stormy
16 Daniels in connection with what he perceived to be her
17 cooperation in this case.

18 In this post on Truth Social, he called her,
19 first of all, "Horseface". He denied having seen her since
20 he took a photo with her on a golf course. He calls her a
21 "SleazeBag". And he refers to Cohen as "a convicted liar"
22 and "jailbird".

23 And like Stormy Daniels, Cohen, he testified in
24 the Grand Jury March 13th, two days before these remarks.

25 The Defendant is clearly trying to pressure

1 Daniels and Cohen to back off.

2 There's something else about this post that you
3 should see.

4 We know it's a lie.

5 Even Rhona Graff, Mr. Trump's loyal assistant for
6 decades, testified Daniels was at Trump Tower to meet the
7 Defendant on one occasion and that she kept Daniels' phone
8 number among Trump's contacts; as Ms. Daniels testified.

9 And we actually put into evidence contacts from
10 her phone for both Ms. Graff and Mr. Schiller.

11 Ask yourselves: Why did the Defendant lie about
12 this, and why did he do it while the Grand Jury was
13 considering charges in this case?

14 People lie for a reason.

15 And if the relationship between the Defendant and
16 Stormy Daniels were purely a business relationship, as the
17 Defense has claimed, what would be the need for the
18 Defendant having to deny having any contact with her other
19 than on that golf course?

20 Shortly after the indictment was unsealed in this
21 case, on March 13, 2018, the Defendant sued Stormy Daniels
22 for half a million dollars. And the lawsuit included
23 claims related to Cohen's testimony in the Grand Jury.

24 Now, yes, the Defendant ultimately abandoned that
25 lawsuit.

1 But the fact that he would file such a vexatious
2 and punitive lawsuit in the first place show the lengths
3 he would go to punish those who would dare to deny him.

4 He filed a lawsuit against Stormy Daniels in
5 Florida, seeking to receive defamation fees, legal fees.
6 This lawsuit threatens to bankrupt her.

7 True to the promises in his book, the Defendant
8 wanted everyone to see the cost of taking him on.

9 In August of 2023, the Defendant made another
10 post along the same lines to anyone who would collude,
11 considering colluding, or might consider in the future, in
12 all caps: "If you go after me, I'm coming after you."

13 It's not too hard to understand what that means.

14 And it's not just Mr. Trump himself. It's the
15 throngs of his followers who interpret such Tweets as a
16 call to arms.

17 MR. BLANCHE: Objection.

18 THE COURT: Please approach.

19 (Whereupon, the following proceedings were held
20 at sidebar:)

21 THE COURT: Yes.

22 MR. BLANCHE: I object to the statement that the
23 throngs of his followers are part of this, as well.

24 I mean, there's not -- first of all, it's
25 extraordinarily prejudicial.

1 Secondly, there's not evidence to support that
2 throngs of his followers --

3 THE COURT: What is the evidence that you intend
4 to --

5 MR. STEINGLASS: Well, the next piece of
6 evidence -- by the way, you interrupted me.

7 The next thing I was going to say was: Even if
8 that wasn't his intention.

9 The next piece of evidence was the tweet that got
10 sent to Stormy Daniels, which is: "Good luck walking down
11 the street."

12 THE COURT: The Tweet sent to?

13 MR. STEINGLASS: Stormy Daniels.

14 THE COURT: By whom?

15 MR. STEINGLASS: By some rando.

16 THE COURT: Let's not go into it.

17 MR. STEINGLASS: It's already in evidence.

18 THE COURT: You don't need to go into it. It's
19 not necessary.

20 MR. STEINGLASS: Okay.

21 (Whereupon, the following proceedings were held
22 in open court:)

23 (Whereupon, Senior Court Reporter Theresa
24 Magniccari relieves Senior Court Reporter Laurie
25 Eisenberg, and the transcript continues on the next page.)

1 (Whereupon, the proceedings were continued from
2 previous page:)

3 ***

4 THE COURT: Sustained.

5 MR. STEINGLASS: I'm not saying that it was Mr.
6 Trump's intention necessarily to have his throngs, you
7 know, get involved.

8 But, you will recall that Ms. Daniels testified
9 about some of the security precautions she had to take
10 after receiving threatening tweets, not from the defendant.

11 MR. BLANCHE: Objection, your Honor.

12 THE COURT: Sustained.

13 This might be a good time for us to take our last
14 recess of the day. Let take a few minutes.

15 COURT OFFICER: All rise.

16 (Jury leaving courtroom.)

17 ***

18 THE COURT: You may be seated.

19 Something you want to say?

20 MR. BLANCHE: Your Honor, we object to this line
21 of argument that links -- that links directly President
22 Trump to precautions about things that Ms. Daniels has had
23 to do, including her security, and that sort of thing.

24 Putting aside that, this is unduly prejudicial.
25 There is not a link between President Trump and the fact

1 she had to put up security. She has testified about her
2 public life since coming forward, and so it cannot be that
3 the measures that she had to take are because of President
4 Trump.

5 And it's an extraordinarily prejudicial,
6 inappropriate argument.

7 MR. STEINGLASS: We discussed this at great length
8 in the Motions in Limine on April 22nd. And what your
9 Honor said then was that the evidence of threats that Ms.
10 Daniels has received, that Mr. Cohen has received, are
11 admissible as to their state of mind if the defense opens
12 the door.

13 They did open the door, wide enough to drive a
14 truck through, by arguing not only that they're generally
15 incredible, but by also arguing that they're somehow
16 profiting from their cooperation in the case. That they're
17 just rolling in doe.

18 What they're really rolling in is fear.

19 I think that is a fair comment why your Honor let
20 it in, and I think you were right the first time.

21 I think you should let me finish this part of the
22 summation.

23 I am not trying to suggest that it was Mr. Trump
24 that was orchestrating these threats. The point is, that
25 by saying things like he does, that has the effect of

1 having people come out of the woodwork and make these
2 witnesses' lives miserable.

3 This is the People versus Edwards case that we
4 talked about.

5 And I believe that your ruling was very clear on
6 this.

7 THE COURT: Well, I agree, my ruling was right. I
8 think it is still right.

9 I think, when viewed as a whole, taken in context,
10 and considering the last four hours that you have been
11 going, I think that you have gone as far as you need to go
12 with that. You don't need to go any further.

13 Thank you.

14 MR. STEINGLASS: Can we talk?

15 THE COURT: Yes.

16 (Whereupon, there was an off the record discussion
17 held at the bench between the Court and counsel.)

18 (Recess.)

19 ***

20 THE CLERK: Case on trial continued. All parties
21 present.

22 THE COURT: Before we bring the jury back in, so
23 the jury has said all along today they could work until
24 about 8 o'clock. You have been going for about four hours
25 now. So maybe you could have one of your colleagues hand

1 you a note, it's 8 o'clock.

2 At that point, we really need to wrap it up at
3 that point.

4 Anything else?

5 Let's get the jury.

6 (Jury entering courtroom.)

7 ****

8 THE CLERK: Please be seated.

9 THE COURT: Jurors, thank you again for your
10 flexibility. We're taking full advantage of it tonight.

11 Mr. Steinglass.

12 MR. STEINGLASS: Thank you.

13 Thanks for sticking with me.

14 So, yesterday -- earlier today, it feels like
15 yesterday, I mentioned that one of the three things that we
16 have to prove in this case is that the defendant made or
17 caused false business records, and that he did so with the
18 intent to defraud.

19 We have gone through a ton of evidence showing his
20 involvement at every step.

21 But, it is easy to lose sight of the details of
22 the transactions and all the back and forth among all the
23 players who are involved.

24 So, I just want to quickly highlight some of the
25 evidence of the defendant's direct involvement throughout

1 both the election conspiracy and the creation of the false
2 business records.

3 And you know it all began in that Trump Tower
4 meeting. I am not going to go back through it all.

5 But, keep in mind this was not Pecker dealing with
6 Cohen as a conduit. This was Cohen as Mr. Trump's fixer
7 being present for a meeting between Pecker and Mr. Trump.

8 Cohen was the one that Pecker would notify if AMI
9 came across a story to purchase and kill, but Trump was the
10 one doing the yes'ing. And Mr. Trump was the one
11 appointing Cohen as the middle man.

12 And the evidence was that Mr. Trump was personally
13 very happy with the results, the articles were previewed
14 from Mr. Pecker. As you know, both puff pieces and the hit
15 pieces.

16 Cohen explained how he immediately showed the
17 material to Mr. Trump who thought the articles were
18 fantastic and unbelievable.

19 And Hope Hicks testified that she overheard Mr.
20 Trump praising Pecker for a story involving a photo of Ted
21 Cruz's father, Lee Harvey Oswald.

22 She heard Mr. Trump telling Mr. Pecker that
23 stories about the one about Dr. Carson's medical
24 malpractice were Pulitzer worthy.

25 So, there was overwhelming evidence that Mr. Trump

1 also directed the catch and kill component of the Trump
2 Tower agreements.

3 On June 16th, Howard texts Cohen about the date
4 for the upcoming meeting between Howard and McDougal.

5 And within 40 minutes of that, Cohen is texting
6 Keith Schiller to get in touch with Mr. Trump.

7 And within seconds of that exchange, Cohen speaks
8 with Mr. Trump directly. Not even through Schiller.

9 Cohen testified that he informed Mr. Trump about
10 the situation. He always reported developments like this
11 to Mr. Trump, or it could cost him his job.

12 Like nearly all of what Cohen testified to, his
13 testimony is corroborated by other evidence.

14 You will recall that Pecker testified that after
15 that meeting took place, Mr. Trump personally called Pecker
16 to discuss the McDougal matter. And he explained that the
17 defendant told him that he had spoken to Michael, and that
18 Michael had told him about Karen.

19 So that's corroboration that Michael Cohen is
20 keeping Mr. Trump informed at every step.

21 They went on to discuss, that is, Pecker and Trump
22 when on to discuss whether the defendant should buy the
23 story.

24 And Mr. Trump says, he'll think about it, and
25 he'll have Michael Cohen call you back in a few days with

1 my decision.

2 Michael Cohen is not some rouge actor here. He's
3 acting at the direction of the defendant. And you don't
4 have to take Cohen's word for that. Unless you think that
5 Pecker was lying about this, this conclusively demonstrates
6 that several weeks before the McDougal NDA is signed, the
7 defendant is overtly discussing with Pecker, whether he,
8 the defendant, should purchase her story to make sure it
9 didn't get published.

10 There is no middleman in this conversation. No
11 buffer.

12 And after the deal is signed on August 5th,
13 Pecker is understandably anxious to get his money back
14 because he only purchased the story with the understanding
15 that the defendant would reimburse him. Not Cohen, the
16 defendant.

17 Pecker is so persistent that Cohen actually tapes
18 the defendant discussing the reimbursement. I am certainly
19 not going to play the tape for you again. But, you clearly
20 have Mr. Trump discussing reimbursing AMI for the money
21 they had spent acquiring Ms. McDougal's life rights.

22 The defense just can't get away from this, no
23 matter how hard they try. This is proof outside of Cohen
24 of Mr. Trump's direct involvement in one of the many
25 aspects of this criminal conspiracy.

1 Cohen explained that he'd already spoken to
2 Weisselberg at Trump's direction in order to figure out a
3 way to pay AMI back. And in late September, Cohen formed
4 Resolution Consultants to purchase the McDougal life
5 rights.

6 And what you see reflected here at the top of the
7 screen is a series of encrypted messages and calls among
8 Cohen and Rotstein and Pecker, followed by a seven plus
9 minute call between Cohen and the defendant on September
10 29th.

11 Followed by the nine minute plus call between
12 Cohen and Pecker.

13 And the very next day Resolution Consultants is
14 formed and both Pecker and Cohen signed the transfer.

15 As for the Stormy Daniels NDA, Cohen explained
16 that he discussed the matter roughly 20 times with Mr.
17 Trump after he learned she had resurfaced.

18 Remember, on October 7th, the Access Hollywood
19 tape was released.

20 On October 8th at 7:39 p.m., Howard asks Rodriguez
21 for the Stormy pitch.

22 At 7:54, Howard and Pecker speak on the phone.

23 At 7:57, Pecker and Cohen speak on the phone.

24 At 8:03, Cohen and Trump speak on the phone.

25 Now, there is just no way, no way, that Cohen

1 wouldn't have told Mr. Donald Trump about Daniels during
2 that phone call. Why won't he have?

3 Cohen said that Mr. Trump was upset to hear that
4 Daniels was back after Cohen and Davidson had successfully
5 gotten that 2011 story removed.

6 And Mr. Trump said, "Women will hate me. Guys
7 will think it's cool. But this will be a disaster for the
8 campaign."

9 During one of their earlier conversations, the
10 defendant told Cohen to delay the deal. Remember that.
11 Try to push it past the election. And that is exactly what
12 Cohen tried to do. Do you think Cohen would have the
13 audacity to take had a chance without the defendant's say
14 so. That he would risk delaying this and maybe the story
15 would come out. And it could make the whole thing come
16 tumbling down. No.

17 Cohen about did that. That strategy of delay.
18 Because that's what the defendant told him to do.

19 At 8:57, Howard and Cohen speak.

20 And at 9:05 p.m., Howard lets Pecker know that
21 he's spoken to Cohen, "All sorted."

22 Both Cohen and Farro testified that on October
23 13th Cohen completed the paperwork to open a bank account
24 for Resolution Consultants.

25 The night before that, on October 12th, Trump and

1 Pecker had that relatively long conversations.

2 And then at 9:12 a.m. on October 13th, Pecker and
3 Cohen speak via the encrypted app.

4 And 11 minutes later, Cohen emails First Republic
5 from the 26th copyright pantry, right outside Rhona's
6 office, the one that she uses, and she sits right outside
7 Mr. Trump's office.

8 Is this timing all coincidence, every single one
9 of these things?

10 Mr. Donald Trump is being kept abreast of every
11 development.

12 On October 17th, at 4:31 p.m., Davidson pulls out
13 of the Daniels NDA.

14 Around 20 minutes later, Cohen talks to Davidson
15 to try to get the deal back on track.

16 Eight minutes after that, Cohen tries to call the
17 defendant to give him the update. That Daniels has now
18 declared the NDA void.

19 And Cohen explained that he left a voicemail.

20 And the following morning, Melania Trump texts
21 Cohen to call Mr. Trump on his cell, and Cohen responds,
22 "Of course."

23 And Cohen believes that they spoke that day, on
24 October 18th.

25 Look, of course, is it possible to know exactly

1 when every single conversation took place? But what is
2 clear is that Cohen is trying to reach Mr. Trump
3 immediately after he learns that the Stormy Daniels deal is
4 off.

5 On October 26th, Cohen initiated the wire transfer
6 from the Essential Consultants account to Davidson's
7 account. That's on October 26th. And he explained that
8 Mr. Trump -- that he called Mr. Trump before doing so.

9 Again, the phone records corroborate this. The
10 morning of October 26th at 8:26 a.m., and again at 8:34,
11 Cohen spoke to Mr. Trump.

12 Just stop for a minute to think of the timing of
13 these phone calls. They're absolutely critical.

14 Unlike the call on the 24th, this was the final go
15 ahead.

16 Cohen explained that he was seeking, and he got,
17 final authorization to make the payment. And that
18 explanation makes sense because Cohen wasn't going to
19 layout \$130,000 without getting a signoff from Mr. Trump.

20 Here's from the transcript:

21 "QUESTION: Did you call Mr. Trump before you went
22 and set up the account to make a transfer?

23 "ANSWER: Yes.

24 "QUESTION: What, in substance, did you discuss
25 with him on these two calls?

1 "ANSWER: I wanted to insure that once again he
2 approved what I was doing because I required approval from
3 him on all of this."

4 That's what the sum and substance of the
5 conversation was, laying out exactly what was going to
6 happen and what is being done in order to insure that the
7 story didn't get sold to the Daily Mail or somebody else.

8 "QUESTION: Did you let him know that you were
9 going across the street and that you were going to get the
10 account set up and make the payment?

11 "ANSWER: Yes, ma'am.

12 "QUESTION: Would you have made the payment to
13 Stormy Daniels without getting a signoff from Mr. Trump?

14 "ANSWER: No.

15 "QUESTION: Why not.

16 "ANSWER: Because everything required Mr. Trump's
17 signoff. On top of that, I wanted the money back."

18 Cohen had 130,000 reasons to get the defendant's
19 blessing.

20 Pecker told you that Cohen wasn't authorized to
21 buy lunch without the defendant's approval.

22 Davidson also understood that Cohen lacked the
23 authority to approve the deal without Mr. Trump's signoff.

24 That's what Hope Hicks told you as well.

25 Remember, when Mr. Trump tried to play it off like

1 he didn't know, after the Wall Street Journal article came
2 out in January of 2018, he said, "Isn't it nice that Cohen
3 did this out of the kindness of his heart?" She didn't buy
4 it for one minute. She said, that would be out of
5 character for Michael. He wasn't an especially charitable
6 or selfless person.

7 Half an hour after that second call with Trump,
8 Cohen initials the process. He gets the incorporation
9 paperwork from Patty at Delaney at 9:04 a.m.

10 And the timing of these phone calls is just simply
11 too coincidental for Cohen's description of the call to be
12 anything other than accurate.

13 And Cohen's explanation makes sense because it's
14 consistent with both Trump's management style and with
15 Cohen's own persona.

16 On October 28th, Cohen receives the signed NDA and
17 SLA, and those documents establish that David Dennison is
18 Mr. Trump. Cohen let Trump know immediately. He had every
19 incentive to.

20 Again, you see a five minute plus call with him
21 that morning. Cohen testified that he told Donald Trump
22 the matter was completely under control and locked down
23 pursuant to the NDA. And that also rings true; right.
24 Because if Cohen accomplished something for Mr. Trump, he
25 wanted Mr. Trump to know immediately.

1 What possible incentive would Cohen have to not
2 tell Trump what he did for him?

3 On November 4, 2016, as you know, the Wall Street
4 Journal broke the McDougal story, and once again Schiller
5 reaches out to Cohen to see if he could take a call.

6 And Cohen also speak with Davidson.

7 He explained that he was trying to insure that
8 McDougal wasn't going rouge.

9 And, then, once again, at 9:06 p.m., Cohen speaks
10 with Mr. Trump for nearly six minutes on Mr. Schiller's
11 phone. Trump was upset that this would negatively impact
12 his standing with female voters.

13 I know what you are thinking, how do we know that
14 this was really Cohen speaking to Trump and not to
15 Schiller.

16 Well, you need to look at the context, what was
17 going on at the time. Remember that insane flurry of
18 activity that I went through before, I'm not going to go
19 through it again, on November 4th, everyone calling
20 everyone and their mother.

21 It's crazy to think that in the middle of that
22 flurry about this article, that Cohen would have a casual
23 conversations with Schiller in the middle of that media
24 monsoon.

25 And Cohen explained that he detailed for Mr. Trump

1 the efforts that he made to get statements from Howard and
2 Pecker and Davidson. All of the damage control that he had
3 done for his boss.

4 And the following day, Mr. Trump reached out to
5 Pecker. Pecker testified that Trump called him at home.
6 He was livid. He demanded to know how the McDougal story
7 could have gotten out. He accused Pecker of having leaked
8 it.

9 Still more proof if you need it. More proof that
10 the defendant knew about the NDA and was upset because he
11 thought it had been breached four days before the
12 election.

13 Here is something we haven't discussed before.

14 On January 6, 2017, Pecker met with the defendant
15 in Trump Tower. Mr. Trump personally thanked Pecker for
16 handling both the McDougal situation and the doorman story.

17 And, again, if you credit Pecker's testimony, you
18 know, independently of Cohen, that Mr. Trump is both aware
19 of and an appreciative of Pecker's efforts in catching and
20 killing these two stories.

21 So why would the defendant be kept in the dark
22 about the Daniels' NDA?

23 It defies common sense.

24 Trump also invited Pecker to the White House that
25 July for a thank you dinner. Again, to express all of his

1 gratitude for everything that AMI had done to get him
2 elected.

3 In January of 2017, Mr. Cohen was upset about the
4 fact that his bonus had been cut, despite his efforts on
5 his boss's behalf, and about the fact that he still hadn't
6 been paid back.

7 So on January 16th or 17th, Cohen and Weisselberg
8 discussed how Mr. Trump could repay Cohen without being too
9 obvious about it. We have already reviewed the infamous
10 bank statement. The smoking gun with both Cohen and
11 Weisselberg's notes.

12 And after Cohen and Weisselberg from worked out
13 the amount of the payment, but not the repayment schedule,
14 they went into Mr. Trump's office to speak to him.

15 Weisselberg certainly didn't have the authority to
16 approve that kind of money, and he couldn't approve a bonus
17 at all. And he certainly couldn't approve one nickle from
18 the DJT account.

19 And Cohen explained that in this meeting with
20 Trump, Weisselberg said, "We're going to pay you over 12
21 months."

22 And saying it that way, that made Cohen believe
23 that Weisselberg and Donald Trump had already discussed the
24 repayment schedule. They were running like a frick and
25 frack routine.

1 Rebecca Manochio you will remember testified that
2 Weisselberg and Trump interacted every day.

3 Tarsoff also said they spoke frequently, including
4 during the campaign and the transition period. She told
5 you that Weisselberg ran financial decisions by Mr. Trump
6 before carrying them out.

7 Weisselberg said during the meeting this would be
8 paid out like legal services rendered since Cohen was being
9 given the title of Personal Attorney to the President.

10 It was really a perfect solution. Cohen gets the
11 title he wants and Trump gets the way to disguise the
12 payment as income.

13 If you remember, Cohen said Weisselberg showed
14 this document, People's 35 to Trump.

15 And Weisselberg said in front of Mr. Trump, that
16 they would pay \$35,0000 a month, and the actual payments
17 would start in February, not January, because there was too
18 much going on with the transition.

19 Mr. Cohen approved the arrangement and said, "This
20 is going to be a heck of a ride in D.C."

21 And make no mistake, in approving that
22 arrangement, the defendant caused a falsification of
23 business records in his own company.

24 On February 8th, 2017, you will recall Cohen went
25 to the White House to meet with President Trump.

1 You have seen it in his calendar and Westerhout's
2 email and the photo that he took in the briefing room.

3 That is when he Trump asked him if he needed
4 money, and reminded him to deal with Allen Weisselberg and
5 the January and February checks would be forthcoming.

6 And, of course, there is the fact that the
7 defendant personally signed nine of the checks himself. At
8 the time they were attached not only to the check stubs
9 that falsely said retainer, but were stapled to the false
10 invoices.

11 Busy or not, Mr. Trump was not paying these prices
12 for basically no work.

13 As you know, the Wall Street Journal broke the
14 story, the Stormy Daniels payoff, on January 12, 2018, and
15 shortly before that, the journalists reached out to Cohen
16 and Davidson for comment. Cohen tried to circle the wagon.
17 He pressured Davidson to get Daniels to sign the denial.
18 And, of course, he reported his successes back to Trump
19 both as a show of loyalty and because he wanted credit for
20 helping put out the fire.

21 Notwithstanding his efforts, though, shortly
22 thereafter the FEC began an investigation into campaign
23 finance violations.

24 And on February 6, 2018, Cohen texted Maggie
25 Haberman, "The Big Boss just approved," in responding to

1 the FEC complaint and making a statement to the press.

2 And two days later, Cohen released his very
3 misleading statement to the FEC and another to the press,
4 and that statement was approved by President Trump.

5 After Cohen did so, Mr. Trump's attorney, Jay
6 Sekulow, sent that text to Cohen on an encrypted app to
7 say, "Client/President Trump, says thank you."

8 And the next month McDougal was interviewed by
9 Anderson Cooper. And, again, the defendant called Pecker
10 to express his frustration that once again the NDA that he
11 pushed Pecker to enter into with McDougal was being
12 violated.

13 Pecker testified that Trump said, "I thought you
14 and he had an Agreement with Karen McDougal that she can't
15 give interviews or be on TV."

16 When Pecker explained that he modified the NDA to
17 permit her to speak to the press, Mr. Trump got very
18 agitated and couldn't understand why.

19 As if there was any lingering doubt, this
20 testimony makes plain that Trump was behind the McDougal
21 NDA. Again, totally apart from Michael Cohen.

22 Similarly, Pecker called Trump a few days after
23 Stormy Daniels went on Anderson Cooper, which was just a
24 couple of days after Ms. McDougal went on. And he told
25 Pecker, "We have an Agreement with Stormy Daniels that she

1 cannot mention my name or do anything like this. And each
2 time she breaches the Agreement, it's a one million dollar
3 penalty."

4 That sounds like Mr. Trump was quite familiar with
5 the NDA and the liquidated damages clause, whether or not
6 he actually signed it.

7 And, again, this is exactly what Cohen told you
8 about sharing the successes with the defendant.

9 On April 9th, 2018, as you know, the FBI raided
10 Cohen's home, business and hotel.

11 Cohen testified that he got the call from Trump
12 shortly afterwards telling him not to worry, I'm the
13 President, everything is going to be okay. I'm not going
14 to walk you through all this again.

15 But the message from Mr. Trump is consistent with
16 his public tweets and with Mr. Costello's efforts to
17 dissuade Mr. Cohen from cooperating.

18 On May 3, 2018, Mr. Trump personally tweeted out
19 that the payment to Cohen was a reimbursement for the NDA.

20 Two weeks later, he signed that OGE, Office of
21 Government Ethics form, and again admitted that the
22 payments to Cohen were reimbursements.

23 And as we discussed, because he knew that the
24 payments were really reimbursement, and he knew that
25 disguising the reimbursement as income required him to make

1 or cause false entries in the business records.

2
3
4
5 (Whereupon, Theresa Magniccari, Senior Court Reporter, was
6 relieved by Laurie Eisenberg as Senior Court Reporter.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Theresa Magniccari
Senior Court Reporter

1 (Continued from the previous page.)

2 So, the Defendant convened the Trump Tower
3 meeting that hatched the Election Law conspiracy; talked
4 to Cohen on the phone less than one hour after Howard told
5 Cohen about the meeting among McDougal, Davidson and
6 Howard; called Pecker in late June to discuss whether the
7 Defendant should buy the McDougal story; was recorded on
8 December 6th, discussing how Cohen should reimburse Pecker
9 for purchasing McDougal's life rights; called Cohen the
10 day before the McDougal life rights Agreement was signed
11 to approve it; spoke to Cohen six minutes after Pecker
12 told Cohen that Rodriguez was shopping the Stormy Daniels
13 story again; spoke to Pecker late at night before Pecker
14 told Cohen to shut down the Resolution Consultants
15 account; spoke to Cohen shortly before Davidson backed the
16 Daniels Agreement on May 17th; reached out to Cohen
17 through Melania the following morning; spoke with Cohen
18 twice on October 26th, 30 minutes before initiating the
19 wire transfer process; spoke with Cohen the same day that
20 the Daniels NDA was signed, sealed and delivered.

21 The Defendant spoke with Cohen the day The Wall
22 Street Journal broke the McDougal story and expressed
23 anger at the timing.

24 The Defendant complained to Pecker the next day
25 because he thought the story had been locked down.

1 He met with Pecker two weeks before the
2 inauguration to thank him for catching and killing the
3 Sajudin and McDougal stories.

4 He approved the reimbursements drawn up by Cohen
5 and Weisselberg.

6 He met with Cohen in the Oval Office to finalize
7 the reimbursements.

8 The Defendant personally signed nine of the
9 eleven reimbursement checks by hand; approved the bogus
10 denial Cohen sent to the FEC; and he thanked Cohen through
11 his attorney, Jay Sekulow, for lying on the Defendant's
12 behalf.

13 He complained again to Pecker that both Stormy
14 Daniels and Karen McDougal had breached their NDAs by
15 going on Anderson Cooper, and he called Pecker separately
16 after each broadcast.

17 He sent a Tweet admitting that the 2017 payments
18 to Cohen were reimbursements, and he signed the Government
19 Ethics Form saying the same thing.

20 Now, that's all overt evidence of Mr. Trump's
21 involvement.

22 But, in addition to that, there's your common
23 sense.

24 And we've already gone through -- I'm not going
25 to go through all the evidence of the Defendant's

1 frugality, his attention to detail, and his insistence on
2 signing his own checks.

3 And you know why he did that.

4 It was important enough to conceal the Daniels
5 payoff, but the Defendant was willing to pay double,
6 despite the fact that goes against everything he believes
7 in.

8 But, another common sense argument surrounds
9 Michael Cohen and his testimony about keeping the
10 Defendant in the loop.

11 The Defense wants you to believe that Cohen went
12 rogue, I guess, that he did all these things to help
13 Mr. Trump without Mr. Trump knowing.

14 But, there are at least three reasons why you
15 shouldn't believe that argument:

16 Number one. As you know, Trump is a
17 micro-manager who was deeply involved in the details of
18 his business and in the details of his campaign, and it's
19 just not in his nature to remain in the dark about the
20 matters that threaten to undermine his campaign.

21 Particularly when you see from all his tweets and
22 rally appearances, he's almost obsessed by these
23 allegations on women and their impact on female voters.

24 And you see how involved the Defendant was in
25 this conspiracy. He was the one asking Pecker for help

1 with the campaign. He was personally viewing the articles.
2 He was actively pushing the cash aspect of the Agreement.

3 You see how involved the Defendant was in the
4 payoff to the women, from Pecker's testimony, to Cohen's
5 testimony, to the recorded conversation about different
6 ways to reimburse Pecker.

7 Even all of this evidence about the Defendant's
8 participation in the conspiracy to influence the election
9 and his general approach to business and life. It's just
10 inconceivable that he would be so involved in buying these
11 women's silence and then suddenly stick his head in the
12 sand when it came to Cohen's reimbursement.

13 Second. Cohen was and is a self-promoter. It
14 simply defies all common sense to think that he would
15 undertake these Herculean efforts on behalf of Mr. Trump
16 and then keep them to himself.

17 Fixers like him may try not to leave a paper
18 trail to lead to their principal, but they sure as heck
19 want the principal to know.

20 You know from Pecker that Cohen had told
21 Mr. Trump about the Sajudin and McDougal deals, and Trump
22 thanked Pecker for his roles in those deals.

23 So, why would Cohen tell Mr. Trump about the
24 deals that AMI funded, but not the deals that he, himself,
25 laid out his own money for?

1 Does that make any sense to you?

2 See, Boss, look how much I love you. I took money
3 out of my own home equity line of credit.

4 That's exactly what Hope Hicks tells you that
5 Cohen would have done.

6 And the third reason is because the Defendant was
7 the beneficiary of this entire scheme. He was the one
8 trying to get elected. He was the one who stood to gain
9 the most by silencing these women and by making sure to
10 repay Cohen in a way that didn't make it obvious.

11 He is the only one who would care about creating
12 the false business records to conceal the Daniels payoff.

13 Cohen would have said: Just give me my \$130,000
14 back so I can stick it back into the home equity line
15 before my wife notices it's gone.

16 Why did he need to go through all this rigamarole
17 to get paid back?

18 The falsifying business records benefited one
19 person and one person only, and that's the Defendant.

20 As we've discussed, after the summation -- if it
21 ever ends -- the judge will give you the law that pertains
22 to this case.

23 One concept the judge will explain is "beyond a
24 reasonable doubt", what it is and what it is not.

25 We don't have to prove guilt to a mathematical

1 certainty or beyond any conceivable doubt. That's not
2 possible in human affairs. Nothing is 100 percent certain.

3 Again, you should be guided by your common sense
4 and a full and fair evaluation of the evidence.

5 Don't accept the Defendant's invitation to accept
6 each piece of evidence in a vacuum.

7 Look at the evidence in a whole.

8 When you do, you will see that the People have
9 proven this case beyond all reasonable doubt.

10 Please listen carefully to when the judge defines
11 "reasonable doubt" for you.

12 I know it seems like ages ago. During jury
13 selection, we discussed the concept of accessorial
14 liability or acting in concert and how the law provides
15 when two or more people act to commit a crime, each may be
16 criminally liable for the acts of the others.

17 The judge will explain the law about this.

18 I won't get into any details.

19 In order for Mr. Trump to be responsible for
20 others' actions, he has to have the intent to defraud, and
21 he has to have solicited, requested, or intentionally
22 aided others in the commission of the offense.

23 Like the example that we all discussed in jury
24 selection of the hitman, the husband who hires the hitman.
25 The husband doesn't actually pull the trigger.

1 MR. BLANCHE: Objection.

2 THE COURT: Sustained.

3 MR. STEINGLASS: The point is, Mr. Trump doesn't
4 have to do each of these acts himself. He can act in
5 concert with others.

6 That's what the allegation is.

7 All 34 counts of the indictment charge falsifying
8 business records in the first degree, and each count
9 requires us to prove that the Defendant, either personally
10 or acting in concert with others, made or caused a false
11 entry in the business records of an enterprise; and, two,
12 that he did so with the intent to defraud, that included
13 the intent to commit another crime or to aid or conceal
14 the commission of another crime.

15 So, the first element is obvious.

16 We've already established that the Defendant --

17 MR. BLANCHE: Objection.

18 THE COURT: Sustained.

19 I'll instruct them on the law and the evidence.

20 MR. STEINGLASS: We have established that the
21 Defendant made or caused false entries in the business
22 records.

23 No one is saying the Defendant actually got
24 behind a computer and typed in the false vouchers or
25 stamped the false invoices or printed the false checks.

1 But, he set in motion a chain of events that led
2 to the creation of the false business records. The
3 Defendant caused the creation of the false business
4 records when he approved the reimbursement scheme for the
5 Stormy Daniels payoff, and he knew that the reimbursements
6 would be processed in exactly the same way that The Trump
7 Organization had long processed such payments, because he
8 had always been immersed in those details by choice.

9 So, he acted in concert to create the false
10 entries in the vouchers and the invoices.

11 And he acted in concert to create the false
12 checks and check stubs from The Trust.

13 And he, personally, signed the false DJT checks
14 himself.

15 So, this is kind of a no-brainer in this case.

16 We've also discussed the meaning of "enterprise"
17 and how the DJT entity, The Trust, and The Trump
18 Organization itself all satisfy that very broad
19 definition.

20 And, as I said before, this chart is kind of a
21 handy summary of each of the false business records and
22 which count of the indictment they correspond to.

23 As to the "intent to defraud", the judge will
24 explain to you what "intent" means: conscious objective or
25 purpose.

1 Remember in jury selection, we spoke about
2 "intent" and how we can't actually get into someone's
3 heads and read their minds.

4 But, juries determine intent all the time.

5 Did the suspect shoot at someone with the intent
6 to kill, or did he shoot at someone with the intent to
7 scare?

8 Well, in other words, to answer that, you have to
9 look at the surrounding facts or circumstances.

10 So, we have to prove, first, that the Defendant
11 had an intent to commit fraud.

12 The judge will explain that intent to defraud
13 does not require --

14 MR. BLANCHE: Objection.

15 THE COURT: Sustained.

16 I'll explain the law, Mr. Steinglass.

17 MR. STEINGLASS: Okay.

18 May we approach?

19 THE COURT: No.

20 MR. STEINGLASS: So, the Defendant had the
21 intent -- the Defendant had the intent to defraud and did
22 not -- general intent to defraud is what is required, and
23 you should listen to the judge's instructions on this.

24 There is ample evidence of the Defendant's intent
25 to defraud, whether that's defrauding regulators or the

1 voting public.

2 These weren't an accident or oversight. They were
3 designed to obscure the Election Law, including the
4 repayment to Cohen for the Daniels NDA.

5 I'm not going to bore you by going through all
6 that evidence again.

7 The intent that we need to prove included the
8 intent to commit, aid or conceal another crime, as I said.

9 And that doesn't mean that he actually committed,
10 aided or concealed; just that he had that intent.

11 So, what crime do we suggest that he intended to
12 commit, aid or conceal?

13 The answers is: New York City Election Law.

14 Again, the judge will define that crime for you.
15 I'm not going to do that.

16 You need two or more people conspiring to promote
17 or prevent the election, as we've talked about, of any
18 public officer by unlawful means, and at least one
19 conspirator has to act on that conspiracy.

20 So, as to the conspiracy to promote or prevent
21 the election, we're basically beating a dead horse here.

22 You've seen a mountain of evidence that proves
23 that the Defendant, Pecker, Cohen, and Howard conspired to
24 influence the 2016 Presidential election.

25 That was the whole purpose of the Trump Tower

1 meeting, to get AMI to help the Defendant win the
2 election.

3 As to the "unlawful means", you don't have to
4 agree on what those unlawful means are, so long as you
5 agree that there was an intent to conspire to promote the
6 Defendant's election by any unlawful means.

7 The Defendant's intent to defraud included an
8 intent to aid, conceal or commit election fraud by any
9 means necessary, lawful and unlawful.

10 The first may be most obvious.

11 Unlawful intention includes potential Federal
12 finance violations known as FECA violations.

13 The co-conspirators in this case committed
14 several FECA violations along the way --

15 MR. BLANCHE: Objection.

16 THE COURT: Overruled.

17 MR. STEINGLASS: -- including the payoffs to
18 Sajudin, McDougal and Daniels.

19 For McDougal and Sajudin, the FECA violations
20 occurred when Pecker made, and the campaign gladly
21 accepted, a corporate campaign contribution.

22 Corporations are not allowed to donate to
23 candidates. Period.

24 So, when AMI spent \$150,000 or \$125,000 to
25 purchase the McDougal life rights, it made a campaign

1 contribution. And Pecker told you exactly that.

2 And, as he told you, his principal purpose in
3 entering into that NDA with McDougal was to suppress her
4 story, so as to prevent it from influencing the election.

5 He also told you he was aware at the time that
6 expenditures by corporations made for the purpose of
7 influencing an election at the request of a candidate are
8 unlawful.

9 He told you he only entered into the NDA with the
10 assurance that Trump would reimburse him.

11 (Whereupon, Senior Court Reporter Lisa Kramsky
12 relieves Senior Court Reporter Laurie Eisenberg, and the
13 transcript continues on the following page.)

14
15
16
17
18
19
20
21
22
23
24
25

(The following proceedings are continued from the previous page.)

MR. STEINGLASS: (Continued.) We've discussed ad nauseum, I'm sorry, how AMI was acting way outside the scope of a normal, legitimate press function -- even for tabloid journalism.

Pecker put the campaign first -- to the point where he was willing to sacrifice magazine sales to serve the Defendant.

That was not business as usual by any stretch, and the press exemption does not apply here.

Now, of course, in the case of Stormy Daniels -- there is no press exception any way -- but, it has zero applicability whatsoever here because Stormy Daniels is not a press entity.

Game over.

For the Daniels payoff, the FECA violation comes from Cohen making and the Defendant accepting excessive campaign contribution.

The Judge will tell you that in 2016, individuals were only permitted to contribute \$2,700 to a particular campaign.

And, as the Judge will explain, paying a candidate's expenses for them counts as a contribution to

1 that candidate.

2 Cohen's payments to Daniels, in coordination with
3 the Defendant, to keep her quiet for the purpose of
4 influencing the election was a campaign contribution that
5 massively exceeded the \$2,700 limit.

6 Defense counsel wants you to think that Cohen's
7 real motivation was protecting Trump's marriage or
8 protecting Trump's family from embarrassment.

9 They spent so much time on that argument because,
10 under the law, paying a candidate's expenses is not a
11 campaign contribution if Cohen would have made the payment
12 "irrespective of the candidacy."

13 But, you don't have to spend any time on that one
14 either, because no one told you he made the Daniels payoff
15 because of the election.

16 And, you have seen a ton of evidence that this
17 payoff was driven by the Defendant's concerns about the
18 potential impact of the Daniels story on the election.

19 The Defendant wanted to squash the story for the
20 same reason he wanted to squash the McDougal story, and the
21 Sajudin story, to avoid the harm these stories might cause
22 to his election prospects.

23 Even more so, because the Daniels story surfaced in
24 the wake of the release of the Access Hollywood tape and the
25 crisis it caused.

1 Her story would have, as we said earlier,
2 undermined the strategy completely of playing off this tape
3 as only words.

4 Remember, Daniels had been out there for a decade,
5 and nobody once thought it was important to buy her life
6 rights to keep her from talking -- to protect the
7 Defendant's family. That didn't happen until two weeks
8 before the election.

9 And when the story finally broke, in 2018, the
10 Defendant explicitly told Ms. Hicks that it's better that
11 the story came out now than before the election.

12 There is just no rational argument that Cohen's
13 payment to Daniels was made if not for the election, would
14 have been made if not for the election.

15 Other options you can consider as unlawful means
16 include any other one of the unlawful business records that
17 contribute to the effort to promote or prevent the
18 Defendant's election.

19 They include Cohen's bank opening records at First
20 Republic Bank for both Resolution Consultants and Essential
21 Consultants; the bank paperwork for the wire transfer to
22 Keith Davidson; the phony invoice from Daniel Rotstein at
23 IAS to Essential Consultants, billing \$125,000 as a flat fee
24 for services rendered, and it was really for McDougal's life
25 rights; and the 1099s issued to Cohen by both the DJT entity

1 and The Trust, which are falsely -- which falsely described
2 the \$420,000 payments as compensation, rather than
3 reimbursement for expenses.

4 And those 1099s also violated City and State and
5 Federal Tax Law, yet another unlawful means.

6 Listen carefully to the Judge's instructions.

7 It's a crime to willfully create false tax forms
8 even if they don't result in any underpayment of taxes.

9 Mr. Blanche has suggested that if the events that
10 took place after the election can't be part of the
11 conspiracy to promote that election, it doesn't make any
12 sense at all.

13 The Defendant -- the Defendant still had an
14 incentive to keep the conspiracy quiet.

15 The Defendant's post-election steps to conceal his
16 pre-election activity is part of the same conspiracy.

17 The Defendant was still actively trying to prevent
18 his catch-and-kill scheme from going public. That's why he
19 had Cohen issue the false denials in 2018.

20 He still cared.

21 That's why he called Pecker to complain, after both
22 McDougal and Daniels appeared on Anderson Cooper.

23 He considered those appearances breaches of the
24 NDA.

25 He had every reason to continue to conceal his

1 election fraud.

2 And, second, Miss Cohen told you at the end of --
3 as of 2017, rather, the Defendant had already announced an
4 intention to run for President again.

5 Any single one of the unlawful means I just
6 mentioned, any one of the three FECA violations, any one of
7 the other false business records I just described, or the
8 City, State or Federal Tax Law violations, any single one of
9 those unlawful means is enough for you to conclude that the
10 Trump Tower conspiracy violated New York State Election Law.

11 The evidence powerfully supports the conclusion
12 that all these steps are unlawful.

13 But, just one is enough.

14 And, as the Judge will tell you, you don't have to
15 agree on which unlawful means were involved.

16 The Defendant's intent to defraud in this case
17 cannot be any clearer.

18 How easy would it have been for the Defendant to
19 just pay Stormy Daniels directly? Why not just do that? One
20 single transaction.

21 Instead, the Defendant, Weisselberg and Cohen
22 devised this elaborate scheme, requiring the involvement of
23 at least ten other people, a series of monthly transactions,
24 secret FedEx packages back and forth. That's a whole lot of
25 time, thought and energy to conceal the truth.

1 The Defendant used his own business records as the
2 vehicle to disguise the reimbursement because he didn't want
3 anyone finding out about the conspiracy to corrupt the
4 election.

5 Everything Mr. Trump and his cohorts did in this
6 case was cloaked in lies. Lies in the DJT and Trust
7 business records themselves. Lies in the phony invoice from
8 IAS about a flat fee. Lies in the bank account opening
9 documents about the true nature of those accounts. Lies in
10 the bank paperwork for the wire transfer. Lies in the
11 1099s. Pseudonyms, shell companies, encrypted apps, a paper
12 lease HELOC to fund the deal.

13 The Defendant refused to use email to avoid leaving
14 a paper trail; misleading and an outright false denial about
15 Pecker, Davidson, Daniels, Cohen and his lawyer, all in a
16 last ditch effort to prevent the truth from coming out.

17 The name of the game was concealment, and all roads
18 lead inescapably to the man who benefitted most, the
19 Defendant, former-President Donald Trump.

20 And I, too, want to take a moment to thank you.

21 And I realize that this could be a frustrating
22 case. It has gone on a while.

23 And you have really been a remarkable group in
24 terms of, I have never seen a jury here exactly on time
25 every day.

1 And I think this has been a really long summation,
2 and so I apologize for trading brevity for thoroughness, but
3 we only get one shot at this.

4 And, without jurors like you, willing to give up
5 their time, the system doesn't work.

6 So, the Defendant has the Constitutional right to a
7 fair trial.

8 He has the right to put the People, us, to our
9 burden and make them prove the case beyond a reasonable
10 doubt.

11 That right doesn't depend on the strength of the
12 case.

13 We don't say, well, you have the right to a trial,
14 but not if the case against you is so powerful.

15 MR. BLANCHE: Objection, your Honor.

16 THE COURT: Overruled.

17 MR. STEINGLASS: There are contracts and emails and
18 texts and audio recordings that corroborate every bit of
19 testimony, so we are just going to skip the trial.

20 He has a right to a trial, regardless.

21 But, in this particular case, the evidence is,
22 literally, overwhelming.

23 So, now he has gotten that trial. He's had his day
24 in court.

25 And, remember, as the Judge will tell you, and as

1 Mr. Blanche told you, the law is the law, and it applies to
2 everyone equally.

3 There is no special standard for this Defendant.

4 Donald Trump can't shoot someone during rush hour
5 on 5th Avenue and get away with it.

6 MR. BLANCHE: Objection, your Honor.

7 THE COURT: Sustained.

8 MR. STEINGLASS: You, the jury, have the ability to
9 hold the Defendant accountable.

10 And, like in any other case, he can be judged by a
11 jury of his peers, based on the evidence and nothing else.

12 Remember, you are the ones who have the opportunity
13 to observe every witness and see each document.

14 You have to put aside the distractions, the press,
15 the politics, the noise, and focus on the evidence and the
16 logical inferences that can be drawn from that evidence.

17 Use your common sense, and follow the Judge's
18 legal instructions, which he is going to give you tomorrow,
19 I hope.

20 Very soon there will be time to go deliberate and
21 to review any testimony or exhibits that you need to and to
22 come back in here and say "guilty", "guilty" of 34 counts of
23 Falsifying Business Records in the First Degree to cover up
24 a conspiracy to corrupt the 2016 election.

25 In the interest of justice, and in the name of the

1 People of the State of New York, I ask you to find the
2 Defendant guilty.

3 Thank you.

4 THE COURT: Thank you, Mr. Steinglass.

5 Jurors, thank you again for your patience.

6 What normally happens next is that you would hear
7 my instructions on the law.

8 That will not happen tonight. That will happen
9 tomorrow morning.

10 I expect those instructions will take about an
11 hour. Give or take.

12 And then you will receive the case to begin your
13 deliberations.

14 It has been a long day. We worked pretty late, so
15 we will get started tomorrow at 10:00.

16 Before I excuse you, though, even though you've --
17 both sides have rested, you have heard both side's
18 summations, my admonitions continue to apply, even with more
19 force and effect now than before, because you have not yet
20 heard my instructions and you have not yet begun your
21 deliberations.

22 I remind you, please, to not talk either among
23 yourselves or with anyone else about anything related to the
24 case.

25 Please continue to keep an open mind.

1 Do not form or express an opinion about the
2 Defendant's guilt or innocence until I have given you my
3 instructions on the law, and I have directed you to begin
4 your deliberations.

5 Do not request, accept, agree to accept, or discuss
6 with any person the receipt or acceptance of any payment or
7 benefit in return for supplying any information concerning
8 the trial.

9 Report directly to me any incident within your
10 knowledge involving an attempt by any person improperly to
11 influence you or any members of the jury.

12 Do not visit or view any of the locations discussed
13 in the testimony.

14 And do not use any program or electronic device
15 to search for and view any location discussed in the
16 testimony.

17 Do not read, view or listen to any accounts or
18 discussions of the case, that includes the reading or the
19 listening of the reading of any transcripts of the trial, or
20 the reading of any posts on any court sites.

21 Do not attempt to research any fact, issue or law
22 related to the case.

23 Do not communicate with anyone about the case, by
24 any means, including by telephone, text messages, email,
25 chat rooms, blogs or the internet.

1 And do not Google or otherwise search for any
2 information about the case, or the law which applies to the
3 case, or the people involved in the case.

4 So, tomorrow we will start at 10.

5 Tomorrow we are going to work until 4:30.

6 Beyond that, as necessary, Thursday and Friday, we
7 will revisit how late we will work on those days.

8 Okay. Have a good night.

9 I will see you all tomorrow.

10 THE COURT OFFICER: All rise.

11 (Jury exits.)

12 THE COURT: Thank you.

13 Please be seated.

14 Is there anything that we need to discuss at this
15 time?

16 MR. STEINGLASS: No.

17 Thank you.

18 THE COURT: I will see you tomorrow at 10.

19 By the way, counsel, please advise your guests
20 tomorrow that once I start to read the jury charges at
21 10 o'clock, no one will be allowed in or out of the
22 courtroom.

23 Thank you.

24 (Matter adjourned to Wednesday, May 29th, 2024 at
25 10:00 a.m.)