

# **Exhibit B**

**In the Matter Of:**

*People of the State of NY vs*

*NRA*

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*ERICA HARRIS*

*October 27, 2022*

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SUPREME COURT STATE OF NEW YORK

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COUNTY OF NEW YORK

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

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ATTORNEY GENERAL OF THE STATE OF NEW YORK,

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Plaintiff,

8

-against-

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THE NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.,

11

WAYNE LAPIERRE, WILSON PHILLIPS, JOHN FRAZER, and

12

JOSHUA POWELL

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Defendants.

14

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VIDEOTAPED DEPOSITION OF

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ERICA HARRIS

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NEW YORK, NEW YORK

18

October 27, 2022

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REPORTED BY: KIARA MILLER

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FILE NO.: 827766

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SUPREME COURT STATE OF NEW YORK

COUNTY OF NEW YORK

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

Plaintiff,

-against-

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

Defendants.

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Deposition of ERICA HARRIS, taken on behalf of  
Defendants, at 750 Lexington Avenue, 14th  
Floor, New York, New York, commencing at 09:11  
AM, Thursday, October 27, 2022, before Kiara  
Miller.

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

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11 BY: HAYLEY EVANS BOOKER, ESQ.  
12 SAMANTHA BLOCK, ESQ.

12

13 ALSO PRESENT:

14 CHRIS JOHNSON, Videographer

15 HERIBERTO GARCIA, Lexitas Concierge

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09:10:34 1 VIDEOGRAPHER: We are now on  
2 the record. My name is Chris  
3 Johnson, I'm a videographer retained  
4 by Lexitas. This is a video  
09:10:42 5 deposition for the Supreme Court of  
6 the State of New York County of New  
7 York, Commercial division. Index  
8 No. 451625/2020. Today's date is  
9 Thursday, October 27th, 2022 and the  
09:11:00 10 time on the video monitor is  
11 approximately 9:11 a.m. This  
12 deposition is being held at Brewer,  
13 750 Lexington Avenue, 14th floor,  
14 New York, New York 10022. In the  
09:11:15 15 matter of People of the State of New  
16 York verses the NRA et al. The  
17 deponent today is Erica Harris.  
18 Will all counsel present  
19 please voice and identify themselves  
09:11:27 20 and the parties they represent.  
21 MS. EISENBERG: This is  
22 Svetlana Eisenberg Brewer attorneys  
23 and counselors here on behalf of the  
24 National Rifle Association of  
09:11:36 25 America. I'm being joined by two of

6

09:11:39 1 my colleagues David Umansky and  
2 David Vu. Good morning, all.

3 MR. WANG: This is William  
4 Wang on behalf of the office of the  
09:11:49 5 New York State Attorney General, I'm  
6 joined by my colleague Monica  
7 Connell.

8 VIDEOGRAPHER: To the parties  
9 joining remotely wish to make an  
09:12:00 10 appearance? Hearing no one wishing  
11 to make an appearance, let's get  
12 started. Let's swear in the  
13 witness. The court reporter today  
14 is Kiara Miller.

09:12:15 15 E R I C A H A R R I S, after having first been duly  
16 sworn by a Notary Public of the State of New York,  
17 was examined and testified as follows:

18 COURT REPORTER: Please state  
19 your name and address for the  
09:12:15 20 record.

21 THE WITNESS: My name is Erica  
22 Harris. My address 11200 Southwest  
23 Eight Street. In Miami, Florida  
24 33199.

09:13:04 25 EXAMINATION BY

09:13:05 1 MS. EISENBERG:

2 BY MR. WANG:

3 Q Good morning. I represent the  
4 National Rifle Association of America and  
09:13:09 5 I'll be deposing you today. Just a couple  
6 of basic comments about how the deposition  
7 is going to work.

8 I'll be asking you questions and  
9 looking to you to provide answers. It's  
09:13:23 10 important that we don't speak over each  
11 other because it's being transcribed and  
12 when two people speak at the same time, it's  
13 kind of hard to do that.

14 If you would like to take a break  
09:13:36 15 at any point by all means please let me  
16 know, the only thing I ask is that if a  
17 question is pending we please wait for your  
18 answer before we break. Is that okay?

19 A Sound good.

09:13:48 20 Q You understand that you are under  
21 oath, right?

22 A I do.

23 Q And you understand the importance  
24 of testifying truthfully here today,  
09:13:50 25 correct?

8

09:13:50 1 A I do.

2 Q Have you been deposed before?

3 A I have not.

4 Q Have you testified at a trial

09:13:54 5 before?

6 A I have not.

7 Q Have you testified at a hearing

8 before?

9 A I have not.

09:14:00 10 Q How did you become involved in

11 this case?

12 A A couple of years ago Jim Sheehan

13 reached out to me he was interested in a

14 model that might help him predict the

09:14:12 15 bankruptcy or the insolvency of non-profits

16 in the State of New York. I had worked on

17 some projects related to that and he was

18 looking for my aid. We had a couple of

19 conversations and I assumed that's why he

09:14:27 20 thought of me when the NRA bankruptcy case

21 came around.

22 Q When you said a couple of years

23 ago, when specifically did he reach out?

24 A So it was when I was working at

09:14:39 25 Villanova, so approximately 2017.

09:14:46 1 Q It was certainly before 2018; is  
2 that correct?

3 MR. WANG: Objection to form.

4 Q You can answer.

09:14:55 5 A I can't recall exactly. I can  
6 certainly look that up, but it was  
7 definitely before I worked at FIU, before I  
8 moved to Miami because I remember I was  
9 sitting in my office at Villanova when we  
09:15:11 10 had a conversation about the bankruptcy  
11 model.

12 Q When did you leave Villanova?

13 A I was on sabbatical 18/19, so it  
14 had to be -- well, could have been the  
09:15:23 15 spring of '18 because my sabbatical was fall  
16 of 18/19, fall of '18 spring of '19.

17 Q And when Mr. Sheehan told you he  
18 did not mention the NRA, right?

19 A Oh, gosh, no. We were just  
09:15:43 20 talking generally about predicting  
21 bankruptcy any nonprofits in the State of  
22 New York.

23 Q Did he advise you in connection  
24 with what project or for what purpose he was  
09:15:54 25 interested in that issue?

10

09:15:55 1 A No.

2 MR. WANG: Object to be the  
3 form.

4 Q Did you ask him why he was  
09:15:59 5 interested in that topic?

6 A No. I did not. I thought it was  
7 an interesting one.

8 Q You had not spoken to him before  
9 the phone call that you are describing,  
09:16:09 10 correct?

11 A That's correct.

12 Q Had you spoken to anyone from the  
13 New York Attorney general's office before  
14 the phone call with Mr. Sheehan that you  
09:16:20 15 just described?

16 A No.

17 Q How long approximately was that  
18 phone call?

19 MR. WANG: Objection to form.

09:16:30 20 A Maybe 20 or 30 minutes.

21 Q And how were things left at the  
22 end of the call?

23 MR. WANG: Object to the form.

24 A I'm sorry can you ask it again  
09:16:43 25 because I'm not sure what you're asking.

11

09:16:44 1 Q During that call did you agree to  
2 work with Mr. Sheehan on the project that he  
3 proposed?

4 MR. WANG: Object to form.

09:16:53 5 A There was not really a project  
6 that he was proposing. We were just  
7 discussing the model and the potential to  
8 try to -- try to model how that might look  
9 for organizations. I had done some  
09:17:09 10 prediction modeling in the past related to  
11 the nonprofit organizations and we left it  
12 sort of open-ended I would say.

13 Q And did you, at any point, conduct  
14 the modeling that he discussed on the call  
09:17:24 15 with you?

16 A Oh, gosh, no.

17 Q When you say "oh gosh, no" what do  
18 you mean by that?

19 MR. WANG: Object to form.

09:17:32 20 A I didn't spend anymore time  
21 thinking or working on it.

22 Q Did there come a time when you  
23 spoke to Mr. Sheehan again?

24 A Yes. A couple of years later he  
09:17:42 25 reached out with respect to the NRA

12

09:17:46 1 bankruptcy case.

2 Q Had the NRA filed for Chapter 11  
3 by then?

4 A I don't know.

09:17:57 5 Q When approximately did he reach  
6 out to you?

7 A That would have been the spring of  
8 '19 I believe.

9 Q Spring of 2019 was the next time  
09:18:10 10 you spoke to Mr. Sheehan; is that correct?

11 A That's correct, yeah.

12 Q And do you recall how long  
13 approximately that call was?

14 MR. WANG: Object to the form.

09:18:23 15 A It was not very long. Maybe 20 or  
16 30 minutes. Just very introductory.

17 Q Was anyone else other than  
18 yourself and Mr. Sheehan present on the  
19 call?

09:18:40 20 A No.

21 Q Did you take any notes during that  
22 call?

23 A I did not.

24 Q Where were you when you spoke to  
09:18:46 25 Mr. Sheehan the second time?

13

09:18:49 1 A Gosh, I couldn't tell you  
2 specifically. I had already moved to Florida  
3 at that time, so I was in Florida.

4 Q Do you recall any specific things  
09:19:03 5 that Mr. Sheehan said to you on that call?

6 A I really don't. It was just an  
7 introduction and he asked me if I would be  
8 interested in working with him on the case.

9 Q Other than him asking if you would  
09:19:19 10 be interested, you don't recall any  
11 specifics, you don't recall him providing  
12 any specifics, right?

13 MR. WANG: Object to the form.

14 A No. I do not.

09:19:30 15 Q Did he ask you any questions  
16 during that call? I'm sorry. Other than  
17 asking if you would be interested working on  
18 the case, did he ask you any other  
19 questions?

09:19:42 20 A I'm not sure I understand what  
21 kind of questions you mean. He may have  
22 asked me other questions I can't remember  
23 the conversation exactly.

24 Q So you have no specific  
09:19:53 25 recollection of any specific questions he

14

09:19:55 1 might have asked you other than whether  
2 you'd be interested in working on the case;  
3 is that right?

4 MR. WANG: Object to the form.

09:20:04 5 A Yeah.

6 Q So please wait for me to complete  
7 my question, so that Mr. Wang has an  
8 opportunity to object so we're not all  
9 speaking all three at the same time. This  
09:20:16 10 way you don't have to object while I'm still  
11 asking my question.

12 So understanding that you don't  
13 have a specific recollection of any  
14 questions he might have asked you, other  
09:20:30 15 than whether you'd be interested in working  
16 on the case, do you have a recollection of  
17 any other questions he asked you on that  
18 call?

19 MS. CONNELL: Object to the  
09:20:40 20 form.

21 A Apologies for speaking over you  
22 guys before, as you know this is my first  
23 time being deposed, I'm just taking it the  
24 best I can.

09:20:51 25 Q No worries.

15

09:20:52 1 A My general sense from the call was  
2 an introduction --reintroducing himself  
3 since it had been a while since we spoke and  
4 just indicating that they had the need for  
09:21:04 5 an expert to prepare a report that would be  
6 related to understanding how the NRA  
7 compared to other U.S. nonprofit  
8 organizations. Again, I assume he reached  
9 out to me because we had this prior  
09:21:21 10 interaction and he knew that my research  
11 related to U.S. nonprofit organizations.

12 Q Do you know how he came to know  
13 about your research?

14 MS. CONNELL: Object to the  
09:21:37 15 form.

16 A So yeah, the research project that  
17 I had been working on had recently been  
18 published and the journals, you know, tried  
19 to disseminate new projects to the public  
09:21:55 20 and I assume that he became aware of it from  
21 the academic journal publication process.

22 Q You're aware that the NRA emerged  
23 from its Chapter 11 case on or about May 11,  
24 2021, right?

09:22:13 25 MR. WANG: Object to the form.

16

09:22:16 1 A I'm not aware of the specific  
2 date.

3 Q But you're aware that at some  
4 point the bankruptcy case was dismissed,  
09:22:23 5 right?

6 A That's correct, yes.

7 MS. CONNELL: Object to the  
8 form.

9 Q Before the bankruptcy case was  
09:22:32 10 dismissed did you prepare a report?

11 A I did. I did some preliminary  
12 analysis and I had put together a PowerPoint  
13 presentation but it was not in a report  
14 format.

09:22:43 15 Q So I'm sorry, did you or did you  
16 not prepare a report before the bankruptcy  
17 case was dismissed?

18 MR. WANG: Object to the form.

19 A I did not prepare a formal report,  
09:22:58 20 no.

21 Q But you prepared some analyses?

22 MR. WANG: Object to the form.

23 A Yes, that's correct.

24 Q Approximately how long is the  
09:23:06 25 power point presentation?

17

09:23:07 1 MR. WANG: Object to the form.

2 A It was maybe 15 slides.

3 Q Do you still have it?

4 A I do.

09:23:21 5 Q Other than preparing the power  
6 point presentation that you just referenced,  
7 what other documents did you prepare in  
8 connection with your work on that assignment  
9 during the NRA bankruptcy's bankruptcy case?

09:23:36 10 MR. WANG: Object to the form.

11 A That was the only thing that I  
12 prepared.

13 Q You didn't prepare any memoranda;  
14 is that correct?

09:23:44 15 A That's correct.

16 Q You did not prepare any email  
17 messages to Mr. Sheehan; is that correct?

18 MR. WANG: Object to the form.

19 A I'm sure in the course of our  
09:23:54 20 communications we had email correspondence,  
21 but related only to the PowerPoint  
22 presentation.

23 Q Did you email the PowerPoint  
24 presentation to him at any point?

09:24:16 25 MS. WANG: Object to the form.

18

09:24:20 1 A I can't recall exactly when, but  
2 I'm sure at some point I emailed the  
3 PowerPoint presentation to him.

4 Q Do you know sitting here right now  
09:24:31 5 if you emailed it to him only once or  
6 multiple times?

7 A Oh, gosh, I really don't know. I  
8 really couldn't say. I don't want to tell  
9 you it was only once and then it was more  
09:24:56 10 than once, I really don't recall at this  
11 point.

12 Q What was the substance of the  
13 PowerPoint presentation?

14 MR. WANG: Object to the form.

09:25:05 15 A It was describing what a  
16 significant diversion of assets is. What an  
17 excess benefit transaction is and it  
18 compared -- started some analysis of  
19 comparing the NRA to other U.S. non-profit  
09:25:21 20 organizations.

21 Q What is a significant diversion?

22 MR. WANG: Object to the form.

23 A So the IRS has a very specific  
24 definition. I include that definition in my  
09:25:39 25 report. If I had it in front of me I could

19

09:25:43 1 read you the definition that the IRS  
2 provides.

3 Q Understood, but in terms of your  
4 knowledge sitting here right now without  
09:25:53 5 your report in front of you, can you tell me  
6 what a significant diversion is?

7 MR. WANG: Object to the form.

8 A It's when an organization has  
9 diverted assets away from the mission of the  
09:26:08 10 organization.

11 Q What is an excess benefit  
12 transaction?

13 MR. WANG: Object to the form.

14 A So again, the IRS has a very  
09:26:24 15 specific definition of excess benefit  
16 transaction that I have included in my  
17 report. If I had my report in front of me I  
18 would give you the specific definition, but  
19 my interpretation of the definition of an  
09:26:34 20 excess benefit transaction is when an  
21 individual that has significant influence  
22 over the organization receives a benefit in  
23 excess of the services they provided.

24 Q You served on a not for profit  
09:26:54 25 before, correct?

20

09:26:55 1 MR. WANG: Object to the form.

2 A I've served on a couple of  
3 non-profit boards, yes.

4 Q As a director?

09:27:03 5 MR. WANG: Object to the form.

6 A As a board member.

7 Q You were also a treasurer of a not  
8 for profit once, right?

9 MR. WANG: Object the form.

09:27:13 10 A I was the treasurer at my church  
11 preschool.

12 Q That's a not for profit, right?

13 A Yes.

14 MR. WANG: Object to the form.

09:27:23 15 A It is yeah.

16 Q How long were you the treasurer of  
17 that not for profit?

18 A Let's see. When my kids were in  
19 preschool so from about 2010 until 2018.

09:27:41 20 That seems a little long. It might have  
21 started a little bit later than that. I  
22 apologize, I don't remember the dates  
23 exactly.

24 Q What is a disqualified person?

09:27:52 25 MR. WANG: Objection to the

09:27:52 1 form.

2 A So the IRS has a very specific  
3 definition of a disqualified person. Again,  
4 I include that definition in my report, so  
09:28:01 5 if I had it in front of me I'd give you the  
6 exact definition, but it's someone that has  
7 significant influence over the organization.

8 Q What is a related party  
9 transaction?

09:28:16 10 MR. WANG: Objection to the  
11 form.

12 A I take up the definition of a  
13 related party transaction in a couple of my  
14 research projects. If I had those in front  
09:28:23 15 of me I'd give you the specific definition,  
16 but a related party transaction is when you  
17 engage in business transaction with someone  
18 that you're related to. So it could be a  
19 business relation or a familial relation.

09:28:39 20 Q You testified earlier that in  
21 conjunction with the NRA's bankruptcy  
22 proceeding you prepared a preliminary  
23 analysis, do you recall that testimony?

24 MR. WANG: Object to the form.

09:28:50 25 A I do.

22

09:28:51 1 Q It was not the final analysis  
2 though, right?

3 MR. WANG: Object to the form.

4 A That's correct. Because -- that's  
09:28:59 5 correct.

6 Q You don't happen to have that  
7 PowerPoint that you testified about with you  
8 here today, do you?

9 MR. WANG: Object to the form.

09:29:07 10 A I do not.

11 Q Have you provided it to the New  
12 York Attorney's General's office in  
13 connection with your preparation for this  
14 deposition?

09:29:15 15 A I have not.

16 Q When you characterized that  
17 analysis as "preliminary" what did you mean  
18 by that?

19 MR. WANG: Object to the form.

09:30:01 20 A I guess, I guess -- I hadn't spent  
21 a lot of time working on it. I had put  
22 together some general definitions and sort  
23 of started to think about how I would  
24 compare the NRA to other U.S. nonprofits in  
09:30:27 25 organizations.

23

09:30:29 1 Q So you had prepared a list of  
2 general definitions; is that correct?

3 MR. WANG: Object to the form.

4 A Yeah, definitions and I sort of  
09:30:43 5 was treating it as I would be teaching a  
6 class and I would be giving the -- what it  
7 is to have a significant diversion of  
8 assets, excess benefit what that looks like  
9 on a form 990, why that matters. Sort of  
09:31:06 10 informational.

11 Q And you said you started to think  
12 about what the analysis might look like,  
13 right?

14 MR. WANG: Object to the form.

09:31:16 15 A Yeah, I started to think about it  
16 and I put together some comparisons.

17 Q What did you do to put together  
18 some comparisons?

19 A I used the data that I had  
09:31:33 20 available to me at that time. That I had  
21 used for other research projects to get a  
22 feel for how many other organizations had  
23 reported excess benefit transactions.

24 Q Other than using the data for the  
09:32:01 25 purpose you just described, what else, if

09:32:04 1 anything, did you do at that time to put  
2 together some comparisons?

3 A I reviewed the NRA's form 990s  
4 that were available at that time.

09:32:17 5 Q Other than reviewing the NRA's  
6 form 990 and doing what you just described  
7 what else, if anything, did you do to put  
8 together some comparisons at the time?

9 A I can't think of anything else  
09:32:34 10 that I did at that time.

11 Q Did you reach any conclusions  
12 based on that preliminary analysis?

13 MR. WANG: Object to the form.

14 A I reached the conclusion that  
09:32:46 15 there were very few organizations that were  
16 reporting excess benefit transactions in the  
17 population of U.S. non-profit organizations  
18 that I was looking at.

19 Q Did you reach any other  
09:33:00 20 conclusions at that time?

21 MR. WANG: Object to the form.

22 A I did not.

23 Q Had you studied the question of  
24 excess benefit reporting on the form 990  
09:33:17 25 before working with Mr. Sheehan?

25

09:33:24 1 MR. WANG: Object to the form.

2 A So as I mentioned in my report, I  
3 have been interested in other types of  
4 diversions. As you know, some of my research  
09:33:35 5 looks at the significant diversion of  
6 assets. I had been interested in other  
7 diversions such as excess benefit  
8 transactions, but given that there are so  
9 few organizations that are reporting these  
09:33:47 10 transactions, I had not undertaken any  
11 studies that would look at that based on the  
12 fact there were so few organizations that  
13 looked at that.

14 Q So it's fair to say that as you  
09:34:01 15 were working with Mr. Sheehan at the time of  
16 the NRA's bankruptcy, it's the first time  
17 you were trying to analyze excess benefit  
18 reporting on not for profits 990s?

19 MR. WANG: Object to the form,  
09:34:09 20 mischaracterizes testimony.

21 A No. I wouldn't say that that was  
22 the first time. I would say that I had  
23 thought about the idea or was interested in  
24 understanding the characteristics and types  
09:34:24 25 of organizations that report excess benefit

09:34:28 1 transactions. But because they are so few  
2 organizations that report them, it doesn't  
3 make for very interesting research project  
4 and there's just not a lot of empirical data  
09:34:44 5 to work with.

6 MR. CORRELL: This is Ken  
7 corral I would just urge Mr. Wang to  
8 refrain from making speaking  
9 objections. Thank you.

09:34:52 10 BY MS. EISENBERG:

11 Q I understand what you just said.  
12 But my question is whether you had analyzed  
13 that question before the NRA's Chapter 11  
14 proceeding?

09:35:06 15 MR. WANG: Object to the form.

16 A Had I analyzed I'm sorry, can you  
17 re-ask the question. I want to make sure I  
18 answer it.

19 Q Yes, of course. You said you  
09:35:14 20 thought about it and you were interested in  
21 the topic. My question is whether you had  
22 actually performed any analyses as of that  
23 time?

24 MR. WANG: Object to the form.

09:35:26 25 A I think at some point during my

27

09:35:28 1 research because we had been looking at  
2 diversions of assets for several years in  
3 several different projects and excess  
4 benefit transactions are another type of  
09:35:40 5 diversion, so I think during the course of  
6 working on those projects I had done some  
7 analysis very rudimentary just how many  
8 organizations are out there that have  
9 reported the excess benefit transactions,  
09:35:57 10 realized there were very few and realized  
11 that would be a bit of a dead end for a  
12 research project.

13 Q So your testimony is you had done  
14 some analysis before, correct?

09:36:10 15 MR. WANG: Object to the form.

16 A So I guess I need to define  
17 analysis. You know, just pulling up how  
18 many there are doesn't necessarily define  
19 analysis to me, but investigating how many  
09:36:21 20 organizations had excess benefit  
21 transactions, I had definitely looked that  
22 up before.

23 Q Had you compared any specific not  
24 for profits to others in terms of excess  
09:36:37 25 benefit reporting prior to your work with

28

09:36:43 1 Mr. Sheehan?

2 MR. WANG: Object to the form.

3 A I had not.

4 Q I'm sorry I couldn't hear your

09:36:48 5 answer could you please repeat it?

6 A I had not.

7 Q You were compensated for your work

8 for the New York Attorney General's office

9 during the NRA chapter 11 proceeding; is

09:37:06 10 that correct?

11 A That's correct.

12 Q And how much did you get paid?

13 A Around-- approximately \$9,000.

14 Q Did you have an hourly rate that

09:37:19 15 you charged the New York Attorney General's

16 office?

17 A I did. It was \$400 an hour.

18 Q Where were you employed at the

19 time?

09:37:29 20 MR. WANG: Object to the form.

21 A I was employed at Villanova

22 University during my sabbatical year and at

23 Florida International University.

24 Q What was your salary at the time?

09:37:47 25 MR. WANG: Object to the form.

29

09:37:51 1 A At Villanova, I made approximately  
2 \$150,000 a year. At FIU, I make  
3 approximately \$190,000 a year.

4 MR. WANG: Note for the  
09:38:04 5 record. The Attorney General's  
6 office deems this portion of the  
7 transcript as confidential.

8 BY MS. EISENBERG:

9 Q When you were working with  
09:38:11 10 Mr. Sheehan in connection with this  
11 comparison during the Chapter 11 proceeding,  
12 were you drawing a salary from both  
13 Villanova and Florida International  
14 University?

09:38:23 15 MR. WANG: Object to the form.

16 A No. I was not. The time span  
17 just span over those two different  
18 employment periods.

19 Q And at the time were you engaged  
09:38:39 20 in any other project where you charged an  
21 hourly rate?

22 MR. WANG: Object to the form.

23 A No. I was not.

24 Q You were issued a 1099 for that  
09:38:52 25 work?

30

09:38:53 1 A For the bankruptcy work? I have  
2 not yet been issued the 1099 because I've  
3 only recently been paid.

4 Q What about during the bankruptcy  
09:39:06 5 proceeding which was in 2021?

6 MR. WANG: Object to the form.

7 A Unfortunately -- I wasn't paid  
8 until this year.

9 Q Were you told why your payment was  
09:39:17 10 delayed?

11 MR. WANG: Object to the form.

12 A Yes. There was some  
13 administrative paperwork that had not been  
14 taken care of.

09:39:26 15 Q What paperwork had not been taken  
16 care of?

17 MR. WANG: Object to the form.

18 A Some purchase order approvals and  
19 paperworks and paperwork in the AG's office.

09:39:41 20 Q Had you given to them everything  
21 they needed to make a payment?

22 MR. WANG: Object to the form.

23 A I had not because I had not  
24 completed the paperwork. I was not aware  
09:39:51 25 that the paperwork needed to be completed,

31

09:39:53 1 but I had not completed it.

2 Q So you did not receive any  
3 payments from the NYAG in 2021; is that  
4 correct?

09:40:07 5 A That's correct.

6 Q Did you reach any conclusions  
7 about the NRA during the NRA's Chapter 11  
8 proceedings?

9 MR. WANG: Object to the form.

09:40:23 10 A I'm sorry conclusions about what.

11 Q Conclusions about its reporting of  
12 excess benefit transactions and/or  
13 significant diversion on it's form 990?

14 MR. WANG: Object to the form.

09:40:38 15 A Yes. During that analysis I  
16 learned that they were very few  
17 organizations, that were reporting those  
18 types of transactions and that the NRA was  
19 an outlier when it came to those two types  
09:41:06 20 of diversions.

21 Q So during the NRA Chapter 11  
22 proceeding, you reached the conclusion that  
23 the NRA was an outlier with regard to  
24 reporting excess benefits, correct?

09:41:21 25 MR. WANG: Object to the form.

32

09:41:21 1 A Correct.

2 Q During the NRA's Chapter 11

3 proceeding you also reached the conclusion

4 that the NRA was at outlier in terms of its

09:41:32 5 reporting of significant diversion of

6 assets; is that correct?

7 MR. WANG: Same objection.

8 A Yes. That's also correct.

9 Q How did the analysis that you

09:41:40 10 conducted during in the NRA Chapter 11

11 proceeding compare to the analysis that you

12 conducted in this action?

13 MR. WANG: Objection to the

14 form.

09:41:48 15 A I reached the same conclusions.

16 Q Did the methodology differ in any

17 way?

18 MR. WANG: Object to the form.

19 A In my current report I expanded

09:42:00 20 the datas. More data was available so I

21 could expand the time. And I also looked at

22 three different comparison groups as opposed

23 to just the overall group of non-profit

24 organizations.

09:42:17 25 Q You expanded the data, how did you

33

09:42:20 1 expand it?

2 A I added additional years that had  
3 become available since I had worked on the  
4 bankruptcy preliminary analysis.

09:42:28 5 Q What years became available since  
6 the preliminary analysis during the  
7 bankruptcy?

8 A I can't remember exactly what  
9 years were included in the preliminary  
09:42:38 10 analysis, but I suspect that '19 and '20  
11 were additional years that had become  
12 available since I worked on that original  
13 analysis.

14 Q During the bankruptcy your  
09:42:52 15 analysis did not include comparison of the  
16 NRA to all not for profits, as well as not  
17 for profits of certain size; is that  
18 correct?

19 MR. WANG: Object to the form.  
09:43:08 20 Mischaracterizes testimony.

21 A I'm sorry ask the question again  
22 please.

23 Q During the bankruptcy --

24 MR. CORRELL: This is Ken  
09:43:15 25 corral. That's the second speaking

34

09:43:18 1 objection Mr. Wang. I would again  
2 urge you to refrain, so we don't  
3 have to call judge Sherwood.

4 BY MS. EISENBERG:

09:43:26 5 Q During the bankruptcy you compared  
6 the NRA to other companies, correct?

7 A Correct.

8 Q And the other companies to whom  
9 you compared the NRA were all 501C3 and  
09:43:40 10 501C4 companies that filed electronically  
11 that filed between 2010 and the date of your  
12 analysis; is that correct?

13 MR. WANG: Object to the form.

14 A That's correct.

09:43:46 15 Q And you didn't conduct any other  
16 comparisons, right?

17 MR. WANG: Object to the form.

18 A Yes. That's correct.

19 Q Other than what you just  
09:43:58 20 described, did the methodology you used  
21 during the bankruptcy case differ at all  
22 from the methodology you used in this case?

23 MR. WANG: Object to the form.

24 A I don't believe so. I would say  
09:44:19 25 that in my current report I looked at the

35

09:44:28 1 details of the excess benefit transactions  
2 in the bankruptcy report. It was very high  
3 level I would say I would characterize it  
4 as.

09:44:45 5 Q When you just said that here you  
6 "looked at details of the excess benefit  
7 transactions", are you referring to reported  
8 transactions in the NRA's 990?

9 MR. WANG: Object to the form.

09:44:57 10 A I am, yes.

11 Q By details are you referring to  
12 the narrative descriptions in the NRA's form  
13 990?

14 MR. WANG: Object to the form.

09:45:05 15 A I am, yes.

16 Q Are you referring to anything  
17 other than the NRA's description on its 990  
18 when you say details of excess benefit  
19 transactions?

09:45:17 20 A I am not.

21 Q Did there come a time when you  
22 were approached to participate in this case?

23 MR. WANG: Objection to the  
24 form.

09:45:40 25 A Yes, I was approached to work on

36

09:45:44 1 their case.

2 Q When were you approached to work  
3 on this case?

4 A I would say in the spring of this  
09:45:56 5 year.

6 Q 2022, correct?

7 A Correct.

8 Q Who approached you?

9 A I can't recall specifically if it  
09:46:10 10 was either Monica or Jim Sheean.

11 Q And when the office of the  
12 Attorney General reached out to you about  
13 working on this case, was this by phone, in  
14 person or something else?

09:46:31 15 A It was by phone.

16 Q And you don't recall if  
17 Ms. Connell or Mr. Sheehan, but you believe  
18 it was one of them, correct?

19 A That's correct.

09:46:41 20 Q And during that phone call did you  
21 agree to work on this case?

22 MR. WANG: Objection to form.

23 A I did.

24 Q Do you remember any specific  
09:46:50 25 things that the person said to you during

37

09:46:53 1 that call?

2 MR. WANG: Object to the form.

3 A I do not. I do not.

4 Q Do you remember asking any

09:47:05 5 questions?

6 MR. WANG: Object to the form.

7 A I remember indicating that I was  
8 going to be a full bright scholar working in  
9 Ireland over the summer and that I wanted to

09:47:23 10 be clear that my availability early in the

11 summer to work on my report would be

12 limited, but that later in the summer I

13 would have more time; so I wanted to get a

14 feel for the timing of when a report would

09:47:36 15 be due.

16 Q And what did they say?

17 A They said that the reports would  
18 likely be due towards the end of the summer

19 and that -- and I remember thinking that

09:47:54 20 that would -- the timing would probably work

21 out but I wanted to be sure that I was --

22 that I had enough bandwidth to work on the  
23 project.

24 Q Other than asking them about the

09:48:06 25 deadline, do you recall asking them any

38

09:48:09 1 other questions?

2 A I do not.

3 Q And is it fair to say that there  
4 came a time when you spoke to Ms. Connel in  
09:48:20 5 connection with this case, right?

6 MR. WANG: Object to the form.

7 A Yes.

8 Q And this was sometime in spring  
9 2022; is that correct?

09:48:30 10 A Yes. That's correct.

11 Q Had you spoken to Ms. Connel  
12 previous to that call?

13 A I believe she had been  
14 incorporated in a communication I had with  
09:48:47 15 Jim related to the bankruptcy case.

16 Q What is that belief based on?

17 A I think I was introduced to Monica  
18 before working on this project.

19 Q Were you introduced to any other  
09:49:09 20 assistant Attorney General or person working  
21 for the office of Attorney General during  
22 the NRA's Chapter 11 proceeding?

23 MR. WANG: Object to the form.

24 A I was not.

09:49:20 25 Q So during the NRA's Chapter 11

39

09:49:22 1 proceeding you only had communications with  
2 Mr. Sheehan and Ms. Connell; is that  
3 correct??

4 A That's correct.

09:49:32 5 Q And during the bankruptcy, is it  
6 fair to say that you had multiple calls with  
7 either Mr. Sheehan or Ms. Connell?

8 A I would say that we had few calls.  
9 I can't remember exactly.

09:49:46 10 Q So more than one, right?

11 A More than one it's been several  
12 years now.

13 Q Were any of them video calls?

14 A Gosh, I'm sure one of them was a  
09:49:59 15 Zoom call I just can't remember exactly. I'm  
16 sorry it's a couple of years.

17 Q Did you take any notes during that  
18 call?

19 A I did not.

09:50:11 20 Q Has there ever been a call with  
21 the New York Attorney General's office in  
22 which you took notes?

23 A I don't believe so.

24 Q What is your current salary?

09:50:37 25 A I just let you know. I make about

40

09:50:40 1 a 190,000, although I was recently promoted,  
2 received tenure at FIU and so I will receive  
3 a raise this year as I -- but I couldn't  
4 tell you off the top of my head exactly what  
09:51:01 5 that will look like.

6 MR. WANG: The Attorney

7 General deems this portion of the  
8 transcript as confidential.

9 Q Congratulations.

09:51:11 10 A Thank you.

11 Q Other than being paid by FIU do  
12 you have any other sources of income?

13 A I do not.

14 Q When you worked for the New York  
09:51:22 15 Attorney General's office during the NRA  
16 Chapter 11 proceeding, did you send to the  
17 office an invoice for your services?

18 MR. WANG: Object to the form.

19 A I did.

09:51:34 20 Q And please describe that invoice?

21 A It indicated the number of hours I  
22 had worked on my report and what my hourly  
23 pay was going to be -- or my hourly pay rate  
24 is, I guess.

09:51:47 25 Q Did it provide a description of

41

09:51:49 1 the specific tasks that you handled on the  
2 specific days on which you worked on that  
3 assignment?

4 A I don't recall at the moment, I'm  
09:51:57 5 sorry it was a couple of years ago now.

6 Q You're currently being compensated  
7 by the New York Attorney General's office,  
8 right?

9 A That's correct.

09:52:10 10 Q They haven't paid you yet, but you  
11 understand they will, correct?

12 MR. WANG: Object to the form.

13 A I do, yes.

14 Q And they haven't paid you yet,  
09:52:19 15 right?

16 A I have received payment for my  
17 work on the bankruptcy case, I have not  
18 received payment for working on this part of  
19 case, no.

09:52:27 20 Q How many invoices did you send to  
21 them for your work on this case?

22 A One.

23 Q For what amount?

24 A I do not recall off the top of my  
09:52:39 25 head. I believe it was about \$10,000.

42

09:52:48 1 Q And do you charge for Ms. May's  
2 time?

3 MR. WANG: Object to the form.

4 A I do not.

09:52:56 5 Q So she is working on this project  
6 for free, correct?

7 MR. WANG: Object to the form.

8 A I -- yeah. Yeah, I guess she is  
9 working on the project for free.

09:53:12 10 Q Who is Ms. May?

11 A She's my research assistant at  
12 Florida International University.

13 Q Approximately how many hours has  
14 she dedicated to working on this case?

09:53:23 15 MR. WANG: Object to the form.

16 A Well, very few because the data  
17 that she pulled, that she got from the  
18 Amazon web services, is also data that we  
19 use for another project. So there was no  
09:53:40 20 incremental time or effort that she needed  
21 to provide the data for this project.

22 Q So what is this other project that  
23 you just referenced?

24 MR. WANG: Object to the form.

09:53:56 25 A It's a project related to auditor

43

09:54:01 1 switching to working paper that's listed on  
2 my CV.

3 Q What is auditor switching?

4 A It's when a client decides to  
09:54:09 5 switch their auditors. Yeah, when a client  
6 decides to switch their auditors.

7 Q So what specifically did she have  
8 to do in conjunction with this case?

9 MR. WANG: Object to the form.

09:54:24 10 A Just provide the AWS IRS form 990  
11 electronic file data.

12 Q You had not gathered that AWS IRS  
13 form 990 electronic file data in connection  
14 with the auditor switching file, right?

09:54:53 15 MR. WANG: Object to the form.

16 A No. We had collected that data  
17 for the IRS -- for the auditor switching  
18 project. I mean it's the same data I use  
19 for all of my research projects. The same  
09:55:07 20 data that all non-profit accounting  
21 researchers use for their research project.  
22 It's the data that we use for all of our  
23 projects.

24 Q So you just took the data that you  
09:55:19 25 had gathered for that the other project and

09:55:22 1 reused it for this?

2 MR. WANG: Object to the form.

3 A Well, the data for this project is  
4 just a subset of the data that I would use  
09:55:30 5 for the audit opinion shopping paper  
6 project.

7 Q When did Ms. May gather the data  
8 that you used for this case?

9 A I believe that I make mention of  
09:55:42 10 the exact date that we gathered the data in  
11 my report. If I had it in front of me, I  
12 would tell you the exact date, but I believe  
13 it was in late July.

14 Q Of this year?

09:55:56 15 A Correct.

16 Q And that data was gathered for the  
17 auditor or the switching project, correct?

18 MR. WANG: Object to the form.

19 A So we had already been working on  
09:56:05 20 the auditor switching project and we update  
21 the data periodically when new data becomes  
22 available and I wanted to have the most  
23 updated data available when I put together  
24 my report.

09:56:14 25 Q She gathered the data under your

45

09:56:16 1 direction, right?

2 A That's correct, yeah.

3 Q But not under your supervision,  
4 right?

09:56:21 5 MR. WANG: Object to the form.

6 A I'm not sure what you mean by  
7 supervision was I directly with her when she  
8 downloaded the data, I was not.

9 Q And you didn't do anything to QC  
09:56:34 10 her work did you?

11 MR. WANG: Object to the form.

12 A Does QC stand for quality control?

13 Q Correct.

14 A No. I did not.

09:56:49 15 MS. EISENBERG: Let's take a  
16 five minute break.

17 VIDEOGRAPHER: It is 9:56 a.m.

18 We're going off the record.

19 (Whereupon, a recess was taken  
09:56:58 20 from 9:57 AM to 10:04 AM.)

21 VIDEOGRAPHER: Please standby.

22 It is 10:04 a.m. We are back on the  
23 record.

24 BY MS. EISENBERG:

25

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10:04:40 1 Q I would like to hand you what we  
2 marked as Exhibit 1.

3 MS. EISENBERG: Counsel, I  
4 have copies for you if you'd like.

10:05:04 5 Q What is Exhibit 1?

6 A Exhibit 1 is my expert report.

7 Q That you prepared in connection  
8 with this case, correct?

9 A That's correct.

10:05:13 10 Q And it reflects the opinions that  
11 you will express at the trial in this case  
12 if you are called to testify, correct?

13 MR. WANG: Object to the form.

14 A That's correct.

10:05:43 15 Q I'd like to the turn your  
16 attention to Appendix A to Exhibit A. If  
17 you'd like you can place this post-it there  
18 to the make it easier to navigate. So is it  
19 fair to say the document that's your report  
10:06:05 20 is about 25 pages long and that what appears  
21 after those 25 pages is a slip sheet that  
22 said appendix A?

23 A That's correct.

24 Q What appears behind appendix A  
10:06:20 25 slip sheet?

47

10:06:21 1 A A research project that I was  
2 coauthored on.

3 Q And you were the most senior  
4 co-author on that project?

10:06:34 5 A I was not. Shelly Utman is the  
6 most senior person on this project.

7 Q And between Ms. Patrovrich and  
8 yourself who is more senior?

9 A I think we are about the same but  
10:06:52 10 she might be ahead of me a year or two.

11 Q What is the title of the article.  
12 The affect of the non-profit governments on  
13 donations evidence from revise form 990.

14 Q Did you review every word in this  
10:07:10 15 article before it was published?

16 MR. WANG: Object to the form.

17 A Yes. I read this the paper many  
18 times in the preparing it for submission and  
19 is ultimately publication.

10:07:24 20 Q Do you agree with everything that  
21 this paper says?

22 A Object to the form.

23 A I do.

24 Q Do you stand behind every  
10:07:31 25 assertion that it makes?

48

10:07:33 1 MR. WANG: Object to the form.

2 A I do.

3 Q What is window dressing?

4 MR. WANG: Object to the form.

10:07:40 5 A I believe we describe window

6 dressing in the paper as --

7 Q You don't have to the look at the  
8 Exhibit I'm just asking generally.

9 MR. WANG: I object that

10:07:51 10 Counsel if you're asking questions

11 about an article that was published

12 by Professor Harris, she has the

13 right to look through the article

14 that she has been handed to refresh

10:08:02 15 her memory about this article and

16 she has the right to look at it and

17 is answer your questions in the

18 context of the article that you've

19 put before her.

10:08:12 20 MR. CORRELL: This is

21 Mr. Correl for Wayne LaPierre here.

22 That's your third speaking

23 objection. I'd like to call the

24 judge now. Can we take a break--

10:08:20 25 MR. WANG: You can take your

49

10:08:21 1 time to call the Special Master for  
2 Counsel asking the witness to review  
3 an article before being asked  
4 questions related to that the  
10:08:28 5 article. Let's call the special  
6 master. On Kent Correll's  
7 suggestion. Let's call the special  
8 Master.

9 MS. EISENBERG: Let's go off  
10:08:40 10 the record and excuse the witness.  
11 Please set aside the exhibit--  
12 (Unreportable Cross-talk)

13 MS. EISENBERG: Ken, you said  
14 we can go forward.

10:08:59 15 MR. CORRELL: Would you please  
16 mark the three objections that were  
17 speaking objections. The ones that  
18 went beyond the Objection to the  
19 form. So we can read them to the  
10:09:07 20 judge.

21 COURT REPORTER: I cannot  
22 hear.

23 MR. WANG: I object to that. I  
24 object to that. The transcript  
10:09:14 25 speaks for itself. No, I don't

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10:09:18 1 object to calling the judge. Call  
2 the judge.

3 MR. CORRELL: I'm having trouble  
4 hearing you, Mr. Wang.

10:09:21 5 MR. WANG: I said, "No. I  
6 don't object to calling the judge."  
7 Go ahead and call the judge.

8 MR. CORRELL: Do you intend to  
9 refrain from making speaking  
10:09:27 10 objections?

11 MR. WANG: Counsel is going to  
12 make objections when they are  
13 appropriate how counsel sees fit,  
14 Mr. Correll.

10:09:38 15 MR. CORRELL: Ms. Eisenberg,  
16 how would you like to proceed here?  
17 Would you like me to get the judge  
18 on the line to address this or would  
19 you like to move forward with the  
10:09:49 20 examination. In hopes that the  
21 counsel will not make any the  
22 further speaking objections?

23 MS. EISENBERG: We can try to  
24 proceed.

10:10:00 25 MR. CORRELL: All right.

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10:10:00 1 Let's do that.

2 BY MS. EISENBERG:

3 Q What does window dressing mean?

4 A In the context of our paper we  
10:10:07 5 used the term window dressing and I was  
6 going to look at paper to get the context of  
7 what you meant.

8 Q Without look looking at the paper  
9 you don't recall?

10:10:16 10 MR. WANG: Object to the form.

11 A We're using in a specific way when  
12 we talk about it in the paper, I assume  
13 that's what you're referring to. If you can  
14 tell me what page that was on I'll look at  
10:10:27 15 the context of how we use that term in this  
16 research project.

17 Q I will most definitely do that in  
18 just a second -- but the specific question  
19 is, can you tell me how you use the term in  
10:10:39 20 this article without looking at it?

21 MR. WANG: Object to the form.

22 A Yeah. I just want to make sure I  
23 have a working understanding of the term  
24 window dressing in the context of this  
10:10:51 25 paper. I want to make sure that we use the

52

10:10:54 1 term window dressing in the same context  
2 that I would use it in every normal day  
3 life.

4 Q Understood. So the answer is no,  
10:11:05 5 you can't tell how the term window dressing  
6 was used in the article without looking at  
7 it?

8 MR. WANG: Object to the form.

9 A We use the term window dressing  
10:11:16 10 just to mean that an organization would  
11 check the box on the form 990 to tell the  
12 public that they had a government's  
13 mechanism in place when the efficacy of the  
14 government's mechanism or what they were  
10:11:32 15 actually doing wasn't maybe as good as it  
16 could have been or should have been.

17 Q Did you use it to mean anything  
18 else?

19 MR. WANG: Object to the form.

10:11:46 20 A So again I would look at the  
21 context of how we used it in the paper to  
22 understand and remind and recall how we were  
23 using it in the paper specifically.

24 Q It fair to say that in doing the  
10:12:00 25 work on this paper, you did not assess

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10:12:04 1 whether government's policies reported are  
2 actually used in practice?

3 MR. WANG: Object to the form.

4 A That's correct we did not test the  
10:12:14 5 efficacy of the government's mechanisms  
6 reported by the organizations in this  
7 project. We have thousands of organizations  
8 that we look at in the project and we look  
9 only at if they disclose having those  
10:12:35 10 mechanisms in place on their form 990.

11 Q I appreciate the explanation but  
12 just to be clear the answer is yes, right?

13 MR. WANG: Object to the form.

14 Q You did not assess whether the  
10:12:46 15 government's policies reported were used in  
16 the process?

17 MR. WANG: Object to the form.

18 A That's correct we only look at the  
19 disclosure of that government's process.

10:12:55 20 Q In fact your article which is  
21 appendix A to your report, you specifically  
22 tell your reader that you did not assess  
23 whether government's policies reported are  
24 used in practice, right?

10:13:09 25 MR. WANG: Object to the form.

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10:13:10 1 A That's correct, are used the  
2 practice, if they actually have the  
3 mechanisms working effectively verses just  
4 disclosing that they have those mechanisms  
10:13:22 5 that's correct.

6 Q So you agree that just because a  
7 box is checked it doesn't mean that the  
8 program is working effectively, right?

9 MR. WANG: Object to the form.

10:14:22 10 A There's no way for me to know  
11 empirically if an organization has an  
12 effective government's mechanism. All I  
13 know is if they have disclosed on their form  
14 990 that they have that government's  
10:14:41 15 mechanism. Does that make sense?

16 Q When you use the word window  
17 dressing in this article you didn't mean  
18 sometimes an organization might not check a  
19 box even though it has to check it?

10:14:53 20 MS. WANG: Object to the form.

21 A Let me think about that. Could  
22 you repeat it again.

23 Q Right is it possible that certain  
24 boxes are not checked even though they  
10:15:09 25 should be based on the fact?

55

10:15:11 1 MR. WANG: Object to the form.

2 A No. I don't think there's any  
3 reason an organization would not check the  
4 box if they actually had that mechanism in  
10:15:20 5 place.

6 Q Um-hmm. Okay. So you don't think  
7 it's possible that an organization that does  
8 not reduce it's meetings to written form  
9 would actually check yes on the form?

10:15:46 10 MR. WANG: Object to the form.

11 A I'm sorry I want to make sure I  
12 get your question properly so can you ask it  
13 again, so--

14 Q Right one of the questions that's  
10:15:53 15 asked is whether the corporation prepares  
16 board minutes, right?

17 A Correct, yes.

18 Q And you believe that it's not  
19 possible for an organization to have checked  
10:16:05 20 yes in response to that question even though  
21 in reality they don't do it?

22 MR. WANG: Object to the form.

23 A There's no way for me to know  
24 that.

10:16:13 25 Q So do you agree that it's possible

10:16:15 1 for a corporation to check yes in response  
2 to that question even though in fact that's  
3 not true?

4 MR. WANG: Objection to form?

10:16:22 5 A It is possible, yes.

6 Q Would you agree that form 990 data  
7 has drawbacks?

8 MR. WANG: Object to the form.

9 A What do you mean by drawbacks.

10:16:50 10 Q Organizations may misreport  
11 information on forms 990, right?

12 MR. WANG: Object to the form?

13 A If an organization misreports  
14 information on their form 990, then they're  
10:17:06 15 falsifying their form 990. The 990 is  
16 prepared under penalties and perjury so it  
17 should reflect all of the accurate  
18 information of the organization.

19 Q Let me ask the question again?

10:17:20 20 A Okay.

21 Q Organizations may misreport  
22 information, right?

23 MR. WANG: Object to the form.

24 A Organizations could misreport  
10:17:30 25 information, but they would be falsifying

57

10:17:34 1 their tax filing if they did that.

2 Q But it's possible that  
3 organizations misreport information in their  
4 990, right?

10:17:45 5 MR. WANG: Objection to the  
6 form. Asked and answered.

7 MR. CORRELL: That's your  
8 fourth speaking objection, one more  
9 and I'm calling the judge.

10:17:54 10 MR. WANG: I wasn't  
11 interrupting and I'm entitled to  
12 provide the base of my objection.

13 MR. CORRELL: Not unless  
14 you're asked.

10:18:07 15 A I'm sorry, can you ask the  
16 question again?

17 Q It's possible that organizations  
18 may misreport information on their forms  
19 990, right?

10:18:22 20 MR. WANG: Object to the form.

21 A It is possible that an  
22 organization could misreport on their form  
23 990. They would be falsifying their form  
24 990.

10:18:35 25 Q I'm not asking you whether that

58

10:18:39 1 would mean that they are falsifying their  
2 form 990. I'm simply asking, is it possible  
3 that organizations misreport information on  
4 their forms 990, yes or no?

10:18:53 5 MR. WANG: Object to the form  
6 the form. Asked and answered.

7 A Yes. It's possible.

8 MR. CORRELL: That's number  
9 five. Can we take a pause now. I'm  
10:19:01 10 trying to get Judge Ju on the line,  
11 just to get some guidance on what he  
12 would use as proper application of  
13 the speaking objection rule. Do we  
14 want to do that at the next break? I  
10:19:10 15 don't want to interfere with your  
16 examinations, Svetlana. Can we just  
17 schedule that for the next break?

18 MS. EISENBERG: That's fine.

19 Let's excuse the witness--that  
10:19:18 20 sounds good thank you very much.

21 BY MS. EISENBERG:

22 Q Some charities reporting is  
23 inaccurate on form 990s, right?

24 MR. WANG: Objection to form.

10:19:28 25 A There's no way for me to know

59

10:19:30 1 that.

2 Q But it's possible that some  
3 charities reporting in their forms 990 is  
4 inaccurate, right?

10:19:40 5 MR. WANG: Object to the form.

6 A That's possible.

7 Q I'd like to hand you what we'll  
8 mark as NRA Exhibit two.

9 (Whereupon, Expert Rebuttal  
10:19:46 10 Report was marked as Exhibit 2  
11 for identification as of this  
12 date.)

13 Q What is NRA Exhibit two?

14 A It's my rebuttal report.

10:20:12 15 Q And how does it relate to Exhibit  
16 one?

17 MR. WANG: Object to the form.

18 A In my rebuttal report I include a  
19 fourth comparison group for comparing the  
10:20:28 20 NRA with respect to the diversions of assets  
21 and excess benefit transactions.

22 Q Did you prepare any reports for  
23 this case other than Exhibit one and Exhibit  
24 two?

10:20:41 25 A I did not.

60

10:21:09 1 Q You were asked by the New York  
2 attorney general's office to provide  
3 assessments in this case, correct?

4 MR. WANG: Object to the form.

10:21:18 5 A What do you mean by assessments.

6 Q You were asked by counsel for the  
7 New York attorney general to provide an  
8 assessment of how the NRA compares to other  
9 U.S. nonprofit chartable organizations in  
10:21:34 10 reporting of excess benefit transactions  
11 with disqualified persons, right?

12 A That's correct.

13 Q Is it true that you also were  
14 asked by the New York attorney general's  
10:21:47 15 office, to provide an assessment of how the  
16 NRA compares to other U.S. nonprofits  
17 chartable organizations in the reporting of  
18 significant diversions of assets?

19 A That's correct.

10:22:01 20 Q Let's take a look at page four of  
21 Exhibit one.

22 Q If I can direct your attention to  
23 section two, 2A and B do you see that?

24 A I do.

10:22:18 25 Q Were you asked to perform any

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10:22:21 1 other assessments in this case other than  
2 the one -- let me just ask again.

3 Does section 22 on page four accurately  
4 reflect the scope of your assignment in this case

10:22:38 5 A It does.

6 Q You weren't asked to provide any  
7 other assessments, right?

8 A That's correct.

9 Q You were not asked to provide any  
10:22:45 10 other opinions, correct?

11 A That's correct.

12 Q You were not asked to provide any  
13 other observations, correct?

14 A That's correct.

10:22:52 15 MR. WANG: Objection to form.

16 Q Let's focus on the first  
17 assessment. Assessment of how the NRA  
18 compares to other U.S. nonprofits charitable  
19 organizations in the report of excess  
10:23:07 20 benefit transactions with disqualified  
21 persons, do you see that?

22 A I do.

23 Q What make use qualified to perform  
24 this assessment?

10:23:17 25 MR. WANG: Object to the form.

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10:23:19 1 A I have been using the data set of  
2 U.S. non-profit organizations for all of my  
3 research career and I believe I'm qualified  
4 to assess if the NRA appears to be an  
10:23:39 5 outlier in that data.

6 Q Other than having used the data  
7 for all of your research career, what you  
8 makes you qualified to provide the  
9 assessment listed in 22A on page four of  
10:23:53 10 Exhibit one?

11 MR. WANG: Objection to form.

12 A So my background in the non-profit  
13 research, my background as a non-profit  
14 accountant and my use of the non-profit data  
10:24:11 15 as what is assessed -- what is being  
16 assessed here is how the NRA compares to  
17 other U.S. nonprofit organizations therefore  
18 using the data set of U.S. nonprofit  
19 organizations.

10:24:26 20 Q Anything else?

21 A I don't believe so.

22 Q You don't have a degree in  
23 economics, right?

24 A I do not.

10:24:46 25 Q You don't have a degree in

63

10:24:47 1 statistics, right?

2 A I do not.

3 Q You are not an actuary, correct?

4 A That's correct.

10:24:54 5 Q You're not a demographer, right?

6 A I am not.

7 Q You don't hold any degrees in  
8 applied math, right?

9 A I do not.

10:25:05 10 Q Let's look at the second  
11 assessment, which is listed in 22B on page  
12 four of Exhibit 1.

13 What makes you qualified to  
14 provide that assessment?

10:25:12 15 MR. WANG: Object to the form.

16 A So I have a couple of research  
17 projects that look specifically at  
18 significant diversion of assets in U.S.  
19 nonprofit organizations. And, once again,  
10:25:22 20 I've been using the data set of U.S.

21 non-profit organizations in my research  
22 career over the past 11 years.

23 Q Anything else?

24 A Not that I can think of.

10:25:46 25 Q Who specifically asked you to

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10:25:49 1 provide these two assessments?

2 MR. WANG: Object to the form.

3 A The AG's office.

4 Q Who at the AG's office?

10:25:58 5 MR. WANG: Objection to the  
6 form.

7 A I don't recall exactly if it was  
8 Jim Sheehan or Monica, but one or both of  
9 them.

10:26:20 10 Q You believe that your assessment  
11 as to excess benefit transactions will  
12 assist a trier fact in this case?

13 MR. WANG: Object to the form.

14 A I'm sorry. Can you repeat the  
10:26:32 15 last part of the question.

16 Q Do you know the term trier fact?

17 A I do not.

18 Q I apologize. Let me rephrase.

19 You know that when this case goes  
10:26:44 20 to trial, there will be a jury, right?

21 MR. WANG: Object to the form.

22 A I have been told that, yes.

23 Q And you understand that the jury  
24 will be asked to determine facts in the case  
10:26:59 25 that are in dispute, right?

65

10:27:01 1 MR. WANG: Object to the form.

2 A Will they be asked to determine or  
3 consider?

4 Q Well, I'm asking whether you  
10:27:08 5 understand that they will be asked to  
6 determine facts?

7 MR. WANG: Object to the form.

8 A I hadn't thought about that, but I  
9 would assume that they wouldn't determine  
10:27:22 10 facts. They would consider facts to help  
11 them make a decision.

12 Q Thank you. And what do you  
13 understand they will be deciding?

14 MR. WANG: Object to the form.

10:27:33 15 A They will be deciding if the NRA  
16 is run properly.

17 Q In addition to deciding if the NRA  
18 is run properly, will they be deciding  
19 anything else, as far as you understand?

10:27:48 20 MR. WANG: Object to the form.

21 A I'm not sure what else they will  
22 be deciding specifically.

23 Q But you believe that they will be  
24 asked to decide whether the NRA is run  
10:28:03 25 properly, correct?

66

10:28:04 1 MR. WANG: Object to the form.

2 A That's correct.

3 Q Do you believe that your

4 assessment as to how the NRA compares to

10:28:12 5 other organizations in reporting excess

6 benefit transactions is going to help the

7 jury decide whether the NRA is run properly?

8 MR. WANG: Object to the form.

9 A I do.

10:28:25 10 Q How do you think your assessment

11 will help the jury decide whether the NRA is

12 run properly?

13 MR. WANG: Object to the form.

14 A I think it will let them know that

10:28:40 15 the NRA is an outlier when they're compared

16 to other U.S. nonprofit organizations. And

17 then even more narrowly when they're

18 compared to organizations in their same

19 size.

10:28:59 20 Q An outlier in reporting excess

21 benefits, right?

22 A That's correct.

23 Q Do you believe that your

24 assessment as to excess benefits will be

10:29:20 25 helpful to the jury as deciding whether the

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10:29:24 1 NRA is run properly in any other way?

2 MR. WANG: Object to the form.

3 A I'm sorry. Can you rephrase. If  
4 my report will help them decide; is that  
10:29:33 5 what you're asking?

6 Q You testified that you believe  
7 that your assessment as to excess benefits  
8 will help the jury, right?

9 A Yes. I agree.

10:29:40 10 Q And you believe that it will help  
11 the jury decide whether the NRA is run  
12 properly, right?

13 A I agree, yes.

14 Q And you testified that one way in  
10:29:48 15 which it will be helpful is that it will let  
16 them know that the NRA is an outlier in  
17 terms of its reporting, right?

18 A In terms of diversion, sure,  
19 significant diversions as well as excess  
10:30:02 20 benefit transactions, yes.

21 Q Outlier in terms of reporting  
22 excess benefit transactions and diversions,  
23 right?

24 MR. WANG: Object to the form.

10:30:12 25 A Correct.

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10:30:13 1 Q You did not study how the NRA  
2 compares to other organizations in terms of  
3 actual excess benefit transactions, right?

4 MR. WANG: Object to the form.

10:30:23 5 A Correct. That's outside of the  
6 scope of my report.

7 Q Only reported excess transactions?

8 A That's correct.

9 Q And you did not study how the NRA  
10:30:33 10 compares to other organizations in terms of  
11 actual significant diversions of assets,  
12 right?

13 MR. WANG: Object to the form.

14 A Correct. I don't have any way to  
10:30:42 15 know other than what has been disclosed.

16 Q You don't have to-- any way to  
17 know what?

18 MR. WANG: Object to the form.

19 A I don't have any way to know --  
10:30:59 20 the only data that I have is related to IRS  
21 Form 990 disclosures. That's the way I can  
22 compare the NRA to other nonprofit  
23 organizations, is through their Form 990  
24 disclosures.

10:31:20 25 Q So what you're comparing is what

69

10:31:22 1 companies are reporting, right?

2 A That's correct.

3 Q You're not reporting actual  
4 conduct at the various companies, right?

10:31:30 5 MR. WANG: Object to the form.

6 A That's correct.

7 Q Let's take a look at page 24 of  
8 Exhibit 1. Do you have that in front of  
9 you?

10:32:25 10 A I do.

11 Q And this page lists the  
12 conclusions that you reached in this case,  
13 correct?

14 A Correct.

10:32:33 15 Q Other than what's in your rebuttal  
16 report, Exhibit 2, and on page 24 of Exhibit  
17 1, did you reach any other conclusions in  
18 the case?

19 A I did not.

10:32:47 20 Q Let's take a look at paragraph  
21 one. You concluded that less than 2 percent  
22 of charitable organizations that filed  
23 electronically reported excess benefit  
24 transactions or significant diversions of  
10:33:04 25 assets between 2010 and 2020, correct?

70

10:33:09 1 A That's correct.

2 Q And the NRA is one of them, right?

3 A That's correct.

4 Q The NRA filed electronically? The

10:33:19 5 NRA files electronically its Forms 990,

6 correct?

7 A Gosh. I don't know that I checked

8 that. I have the Form 990s -- I have the

9 Form 990s in paper form. I would have to

10:33:39 10 check that.

11 Q But you don't know if the NRA

12 files electronically, correct?

13 MR. WANG: Object to the form.

14 Please let the witness complete her

10:33:48 15 answer before asking your next

16 question.

17 Q You don't know if the NRA files

18 electronically, correct?

19 A I don't know. I didn't look at

10:33:57 20 that.

21 Q Whether or not the NRA files

22 electronically, you believe that the NRA is

23 one of the 2 percent of charitable

24 organizations that reported excess benefit

10:34:10 25 transactions on its 990, right?

71

10:34:14 1 A I do.

2 Q So the NRA disclosed its excess  
3 benefits, right?

4 A Correct.

10:34:19 5 Q And it disclosed significant  
6 diversions of assets, right?

7 A Correct.

8 Q Did you conclude that more than  
9 98 percent of those who filed electronically  
10:34:34 10 disclosed no excess benefits in 2010?

11 MR. WANG: Object to the form.

12 A Between 2010 and 2020.

13 Q So you concluded that more than  
14 98 percent of those who filed  
10:34:44 15 electronically, disclosed no excess benefits  
16 between 2010 and 2020, correct?

17 MR. WANG: Object to the form.

18 A Correct.

19 Q Who is Jeffrey Tannenbaum?

10:35:13 20 MR. WANG: Object to the form.

21 A I believe he's another expert in  
22 this case.

23 Q Do you know if he provided a  
24 report?

10:35:20 25 A I do know he provided a report.

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10:35:23 1 Q How do you know that?

2 A I was supplied the report.

3 Q Did you read it?

4 A I read parts of the report. It's

10:35:31 5 very lengthy.

6 Q Do you recall that the report by

7 Mr. Tennenbaum states that numerous boards

8 faced with leaders who have been accused of

9 failing to act in the best interest of the

10:35:51 10 non-profit have terminated officers and

11 executives for much less, according to him?

12 MR. WANG: Object to the form.

13 A If you can direct me to his

14 report, I can confirm that that's what it

10:36:00 15 says.

16 Q But sitting here right now, you

17 don't recall whether or not he says those

18 words, correct?

19 A I don't recall that specifically,

10:36:09 20 no.

21 Q Do you recall if he makes a

22 reference to Wounded Warrior Project in his

23 report?

24 MR. WANG: Object to the form.

10:36:15 25 A I do recall that the Wounded

73

10:36:17 1 Warrior Project was referenced in one of the  
2 reports because I looked up the Wounded  
3 Warrior Project.

4 Q And he states that in 2016 the  
10:36:31 5 board of the Wounded Warrior Project fired  
6 its top two executives after accusations of  
7 lavish spending and financial  
8 irregularities, right?

9 MR. WANG: Object to the form.

10:36:45 10 A Again, if you show me in the  
11 report where he said that, I could confirm  
12 that, but I don't recall that specifically.

13 Q Do you generally recall him  
14 referencing the fact that executives at the  
10:36:58 15 Wounded Warrior Project were fired?

16 MR. WANG: Object to the form.

17 A In general, I recall him  
18 referencing the Wounded Warrior Projects. I  
19 don't recall that the executives were  
10:37:08 20 terminated.

21 Q What do you know about the  
22 termination of executives at the Wounded  
23 Warrior Project?

24 MR. WANG: Object to the form.

10:37:20 25 A I don't know anything. That's

74

10:37:22 1 outside of the scope of my project.

2 Q Was the Wounded Warrior Project a  
3 company included in your analysis?

4 A I do not know. I did not check

10:38:14 5 all of the EIN specifically to know if they  
6 were included in the data.

7 A So it might have been included, it  
8 might not have been included, correct?

9 A Correct.

10:38:33 10 Q Mr. Tennenbaum talks about being  
11 involved in situations in which boards fired  
12 officers. Have you been involved in  
13 situations in which boards fired officers at  
14 not for profits?

10:38:49 15 MR. WANG: Object to the form.

16 A I have not.

17 Q Have you spoken to Mr. Tennenbaum?

18 A I have not.

19 Q Have you spoken to any other

10:39:05 20 individuals proffered as purported expert  
21 witnesses by the NYAG in this case?

22 MR. WANG: Object to the form.

23 A I have not.

24 Q Let's take a look at section two

10:39:40 25 of the conclusion portion of your report.

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10:39:44 1 Please review it and let me know when you're  
2 done.

3 A I'm done.

4 Q You refer to the NRA as an  
10:40:12 5 outlier, right?

6 A Correct.

7 Q You conclude that the NRA is an  
8 outlier in terms of its reporting of excess  
9 benefit transactions when compared to other  
10:40:21 10 companies, right?

11 MR. WANG: Object to the form.

12 A That's correct.

13 Q It is not your opinion that the  
14 NRA is an outlier in terms of the occurrence  
10:40:31 15 of excess benefit transactions at the  
16 corporation when compared to the other  
17 corporations, right?

18 MR. WANG: Object to the form.

19 A I don't have any way to know of  
10:40:41 20 the actual occurrence I just have the form  
21 990 data which provides disclosures of  
22 excess benefit transactions.

23 Q Let's take a look at section three  
24 which starts with the words in addition to,  
10:41:07 25 do you see that?

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10:41:09 1 A I do.

2 Q Please review it and let us know  
3 once you've done that?

4 A (reading). I have.

10:41:25 5 Q Is it fair to say that you  
6 conclude that only .007 percent of  
7 electronic filers reported both excess  
8 benefits and significant diversions of  
9 assets?

10:41:37 10 A That's correct.

11 Q And the NRA reported that, right?

12 A That's correct.

13 Q And 99.003 percent of the  
14 corporations did not, right?

10:41:46 15 MR. WANG: Object to the form.

16 A Correct.

17 Q Fair to say that the conclusion in  
18 section three is limited to the reporting of  
19 such events and does not encompass the  
10:42:04 20 actual occurrence of such events, right?

21 MR. WANG: Objection to the  
22 form.

23 A That's correct.

24 Q Let's take a look at section four  
10:42:12 25 of your conclusions. Starts with the words

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10:42:15 1 "All told", do you see that?

2 A I've done so.

3 Q So first I have some grammatical  
4 questions about this paragraph. It starts

10:42:40 5 with the words, "I believe", do you see  
6 that?

7 A I do.

8 MR. WANG: Object to the form.

9 Q Just to make sure I understand you  
10:42:47 10 believe that this analysis has demonstrated  
11 what you say and you also believe the fact  
12 that the NRA has reported numerous  
13 transactions. Let me start over again.

14 Is it fair to say that you believe  
10:43:04 15 that your analysis has demonstrated that  
16 very few U.S. charitable organizations have  
17 reported private inurement in their  
18 organizations over the past 11 years?

19 A That's correct.

10:43:22 20 Q In your mind the fact that the NRA  
21 has reported numerous private inurement  
22 transactions, indicates that the NRA's  
23 operations violated IRS requirements  
24 prohibiting private inurement?

10:43:41 25 MR. WANG: Object to the form.

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10:43:42 1 A That's correct.

2 Q You believe that fact?

3 A I do.

4 Q Is it also your opinion that the

10:43:51 5 NRA can be considered abnormal when compared

6 to other 501C3 and four organizations?

7 A I do.

8 Q And you believe that the NRA is

9 abnormal in terms of it's reporting of such

10:44:11 10 transactions, right?

11 MR. WANG: Object to the form.

12 A That's correct.

13 Q You don't know whether the NRA is

14 abnormal in terms of the actual occurrence

10:44:21 15 of such transactions, do you?

16 MR. WANG: Object to the form.

17 A That's outside of the scope of my

18 study. I looked at the disclosures from the

19 form 990.

10:44:29 20 Q You did not look at whether the

21 NRA is an outlier in terms of the actual

22 occurrences, right?

23 MR. WANG: Object to the form.

24 A That's correct.

10:44:38 25 Q And you have no opinions to offer

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10:44:42 1 in how the NRA compares to other  
2 organizations in terms of actual occurrence  
3 of excess benefit transactions, right?  
4 MR. WANG: Objection to form?

10:44:53 5 A That would be outside the scope of  
6 my report.

7 Q And you have no opinion to offer  
8 in this case as to how the NRA compares to  
9 other organizations in terms of the actual  
10:45:02 10 occurrence of significant diversions of  
11 assets, right?

12 A That would be outside the scope of  
13 my report as well.

14 Q Paragraph four you state, "The  
10:45:23 15 fact the NRA reported the numerous  
16 transactions indicates that their operations  
17 violated IRS requirements." Do you see  
18 that?

19 A I do.

10:45:32 20 Q And then you say that the -- that  
21 something can be considered abnormal. What  
22 is the something? Are you saying the NRA  
23 can be considered abnormal or are you saying  
24 that the NRA's operations can be considered  
10:45:50 25 abnormal?

80

10:45:50 1 MR. WANG: Object to the form.

2 A I believe that the NRA can be  
3 considered abnormal when compared to other  
4 501C3 and C4 organizations with respect to  
10:46:03 5 excess benefit transactions and significant  
6 diversion of assets.

7 Q Actual occurrence or reporting?

8 MR. WANG: Object to the form.

9 A Reporting on the form 990.

10:46:12 10 Q On the reporting, right?

11 MR. WANG: Object to the form.

12 A That's correct that's the scope of  
13 my report.

14 Q Not occurrence, right?

10:46:18 15 MR. WANG: Object to the form.

16 A Correct.

17 Q What did you do to prepare for  
18 today's deposition?

19 A I read over my report. I reviewed  
10:46:29 20 the data. I read over my rebuttal report  
21 and I skimmed many of the other expert  
22 reports and rebuttals. There were a lot of  
23 them.

24 Q Did you do anything else to  
10:46:53 25 prepare for today's deposition?

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10:46:55 1 A Oh, yes. I met with the AG's  
2 office yesterday.

3 Q Was yesterday's meeting with the  
4 AG's office you're only meeting with them in  
10:47:06 5 preparation for today's testimony?

6 A We had one other Zoom call that  
7 was mostly about scheduling and logistics  
8 and then a couple of other communications  
9 about travel plans that kind of thing.

10:47:23 10 Q How long did you meet yesterday  
11 with the NYAG's office?

12 A I think I arrived in their office  
13 around 11:00 a.m. and I left around  
14 6:00 p.m.

10:47:35 15 Q So you met for about seven hour,  
16 correct?

17 A Correct.

18 Q And who from the NYAG's office did  
19 you meet with?

10:47:43 20 A I met with Monica and Will.

21 Q No one else?

22 A At the very end of our meeting  
23 Emily came by just to say hello.

24 Q You're referring to Emily Stern,  
10:47:56 25 correct?

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10:47:58 1 A I am. Is that her last name  
2 Monica.

3 MR. WANG: I'm going to say  
4 for the record, yes.

10:48:04 5 Q You did not take notes during the  
6 yesterday's meeting?

7 A I did not.

8 Q Did anyone else participate  
9 telephonically during yesterday's meeting?

10:48:18 10 A They did not.

11 Q Did you call Ms. May at any point?

12 A I did not.

13 Q When you were preparing your  
14 report, which is Exhibit 1, did you provide

10:48:31 15 drafts of your report to Attorney General's  
16 office?

17 A I did.

18 Q How many drafts did you provide?

19 MR. WANG: Object to the form.

10:48:43 20 A I can't recall precisely. Maybe  
21 two or three, a couple I would say.

22 Q How did you transmit those drafts  
23 to the New York Attorney General's office,  
24 and if it differed by occasion please tell  
10:48:57 25 us?

83

10:48:57 1 A We used a share point.

2 Q Do you have copies of the draft  
3 that you shared with them?

4 A I'm not sure if I overwrote those  
10:49:09 5 with my final report or if I kept a draft  
6 copy I'm not positive.

7 Q After you shared the first draft  
8 that you shared with the Attorney General's  
9 office, did they provide suggestions on your  
10:49:26 10 report?

11 MR. WANG: Object to the form.

12 A They provided editorial comments.

13 Q But not suggestions, right --

14 MR. WANG: Object -- sorry.

10:49:34 15 My apologies.

16 Q They did not provide any  
17 suggestions, correct?

18 MR. WANG: Object to the form.

19 A They did not provide any  
10:49:41 20 suggestion.

21 Q Only editorial comments, right?

22 A I would say to help me clarify the  
23 language, yeah, editorial so that everyone  
24 would understand what I was talking about.

10:49:52 25 Q Did they help you clarify any

10:49:55 1 language in the conclusion section on page  
2 24 of Exhibit 1?

3 A No. Only editorial.

4 Q Did they provide any editorial  
10:50:07 5 with regard to the conclusion section on  
6 page 24 of Exhibit 1?

7 MR. WANG: Object to the form.

8 A Yes. I'm sure they did.

9 Q I couldn't hear you?

10:50:17 10 A Yes. I'm sure they did. They  
11 provided editorial comments pretty much  
12 throughout.

13 Q Let's take a look at the Appendix  
14 A, to your report, which is the article you  
10:51:07 15 and two other individuals published, right?

16 A Correct.

17 MS. EISENBERG: Let's go off  
18 the record for a second I'm looking  
19 for a document.

10:51:51 20 VIDEOGRAPHER: The time is  
21 10:51 a.m.

22 (Whereupon, a recess was taken  
23 from 10:51 AM to 10:55 AM.)

24 VIDEOGRAPHER: It is  
10:55:48 25 10:55 a.m. We are back on the

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10:55:51 1 report.

2 BY MS. EISENBERG:

3 Q When you prepared this article  
4 that's Appendix A, to your report in Exhibit  
10:56:02 5 1, did you note any caveats regarding the  
6 results of your study?

7 MR. WANG: Object to the form.

8 A Every study has caveats has  
9 limitations, limitations of the data,  
10:56:23 10 limitations of the conclusions we can draw,  
11 are you referring to a specific limitation  
12 and I could review that.

13 Q I'm asking you whether in your  
14 article you noted that the study had the  
10:56:37 15 limitations that you just listed?

16 MS. WANG: Object to the form.

17 A I wasn't talking specifically  
18 about this project. The limitations applied  
19 to every project. I will review the  
10:56:51 20 limitations that we discussed in this  
21 project as soon as I find that part of the  
22 paper.

23 Q Maybe I can help . If you look at  
24 page 607 under conclusions the second  
10:57:03 25 paragraph that starts with the words to the

86

10:57:05 1 best of our knowledge?

2 A Perfect, thank you. Okay, I've  
3 read over this paragraph.

4 Q Is it fair to say in that  
10:58:26 5 paragraph you and your co-authors note two  
6 important caveats regarding your results,  
7 right?

8 A Right.

9 Q And what are the caveats?

10:58:36 10 A That we could not completely rule  
11 out endogeneity in our study.

12 Q What is endogeneity?

13 A Endogeneity is the chicken or the  
14 egg. What came first. Did good governance  
10:58:48 15 come first or did more donations come first.

16 Q What is the second caveat that you  
17 mention?

18 A That every organization is  
19 different and that they should -- that we  
10:59:00 20 don't have definitive evidence that all  
21 organizations should adopt all of the  
22 government's practices we analyze.

23 Q Is it typical for you note caveats  
24 in article?

10:59:14 25 A It is, yes.

87

10:59:16 1 Q Have you ever published an article  
2 in which you did not note caveats?

3 A I couldn't recall all of my  
4 projects right now it's pretty common  
10:59:29 5 practice that include limitation of our  
6 study.

7 Q You agree that every study has  
8 some limitations, right?

9 MR. WANG: Object to the form.

10:59:39 10 A Yes, I agree that every study has  
11 some limitations.

12 Q And your assessment in this case  
13 had limitations as well, right?

14 MR. WANG: Object to the form.

10:59:53 15 A Yes, that's right.

16 Q What limitations did your  
17 assessment in this case have?

18 A Oh, I'm sorry. You mean my  
19 assessment -- my report or in this paper  
10:59:57 20 that I thought we were talking about.

21 Q Your report in this litigation.  
22 Let me ask again. You agree that every  
23 study has limitations, right?

24 MS. WANG: Object to the form.

11:00:09 25 A Yes, I agree there every study has

11:00:11 1 limitations.

2 Q You're study in this case, in this  
3 litigation, has limitations too, right?

4 MR. WANG: Object to the form.

11:00:17 5 A Yes. I agree every study has  
6 limitation.

7 Q It has multiple limitations,  
8 right?

9 MR. WANG: Object to the form.

11:00:23 10 A I don't know what you mean by  
11 multiple limitations, but yes, I agree it  
12 has limitation.

13 Q By multiple I mean more than one.  
14 Does it have more than one limitation, your  
11:00:35 15 study in this case?

16 MR. WANG: Object to the form.

17 A I would have to think about that  
18 more. I haven't given any thought to -- I  
19 haven't given any thought to the limitations  
11:00:48 20 of my report.

21 Q You have not thought about what  
22 limitations the assessment in this case that  
23 you performed has?

24 MR. WANG: Object the form.

11:01:01 25 A No. I have not.

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11:01:04 1 Q And in fact in your report you do  
2 not disclose any such limitation, right?

3 MR. WANG: Object to the form.

4 A That's correct.

11:01:11 5 Q I'd like to give you what we'll  
6 mark as Exhibit 3.

7 (Whereupon, Data Sheet was  
8 marked as Exhibit 3 for  
9 identification as of this date.)

11:01:17 10 Q I'll represent to you for the  
11 record that this is a screen shot of the  
12 data that was produced to us by the New York  
13 Attorney's General's office yesterday. Upon  
14 us requesting the data set that you reviewed  
11:01:53 15 in connection with your report?

16 A Can I ask you a question about  
17 what you provided?

18 Q Yes.

19 A Is it the same on both sides?

11:02:05 20 Q By both sides, what do you mean  
21 both sides of what?

22 A Of the paper. Mine has something  
23 written on both sides. I assume it is the  
24 same.

11:02:14 25 MR. WANG: Mine only has one

11:02:15 1 side.

2 Q Yes, it's intended to be a  
3 one-sided document.

4 MR. CORRELL: Svetlana, is  
11:02:26 5 this Exhibit available for those of  
6 us participating remotely?

7 MS. EISENBERG: It will be in  
8 a little bit, yes. But it looks  
9 like Excel spreadsheet and it has a  
11:02:36 10 bunch of digits and a few columns.  
11 If you would like me to move onto  
12 something else until it becomes  
13 available I'm happy to if you don't  
14 object I can just move on.

11:02:48 15 MR. CORRELL: Whatever you  
16 like.

17 Q (By Ms. Eisenberg) Thank you very much I  
18 appreciate it.

19 You analyzed a data set in  
11:02:54 20 connection with your work on this case,  
21 correct.

22 A That's correct.

23 Q What did the data set consist of?

24 A It consisted of 501C3 and C4  
11:03:06 25 nonprofit organizations that electronically

91

11:03:08 1 filed their form 990 between 2010 and 2020.

2 Q Did you provide that data set to  
3 the New York Attorney General's office?

4 A I did.

11:03:20 5 Q When did you do so?

6 A Yesterday.

7 Q What is an EIN?

8 A It's an employee identification  
9 number.

11:03:33 10 Q And that refers to various  
11 corporations that file information returns  
12 with the IRS, right?

13 A Nonprofits organizations, yes.

14 Q How many data points are there for  
11:03:53 15 each item in your data set?

16 MR. WANG: Object to the form.

17 A Can you clarify what you mean by  
18 item?

19 Q Certainly. So if you look at  
11:04:02 20 Exhibit 3, there are columns entitled year,  
21 EIN --

22 A Yep.

23 Q And so on and so forth you see  
24 that?

11:04:12 25 A I do.

92

11:04:13 1 Q Are you familiar with the  
2 designations that is appear in row one?  
3 A I do, yes.  
4 Q Please tell us what they mean.  
11:04:21 5 A Sure. The years, the fiscal year  
6 end, the EIN is the employer identification  
7 number, the subsection SUBSECCD is an  
8 abbreviation for the IRS subsection,  
9 significant diversion of assets is zero one  
11:04:36 10 indicator variable for if the organization  
11 reported having a significant diversion of  
12 assets, current excess benefit is a zero one  
13 indicator variable for if the organization  
14 reported having a current year excess  
11:04:54 15 benefit transaction, prior year excess  
16 benefit transactions is the next column also  
17 a zero one. And total assets represent the  
18 total assets of the organization for  
19 determining if they were a comparable larger  
11:05:12 20 organization for the NRA. And then it looks  
21 you've added in the column H the name of one  
22 particular organization I did not provide  
23 the names I just provided the EIN's.  
24 Q Do you have a list of the  
11:05:39 25 organizations that are included in the data

11:05:41 1 set?

2 MS. WANG: Object to the form.

3 A Do I have list of them?

4 Q Correct.

11:05:47 5 A No. I do not.

6 Q Are you familiar with the concept  
7 of statistical power?

8 A I am, yes.

9 MR. WANG: Object the form.

11:05:58 10 Q What is that?

11 A Statistical power just means if  
12 you have a lot of data points there's more  
13 variation in the data and it allows for more  
14 significant results.

11:06:16 15 Q And does the size of the  
16 population that you are looking at affect  
17 the statistical power of your study?

18 MS. WANG: Object to the form.

19 A My study did not provide any  
11:06:29 20 regression analysis that would be impacted  
21 by statistical power. My analysis, my  
22 report simply provided frequencies, meaning  
23 the number of the transactions that occurred.

24 Q So the concept of power is  
11:06:48 25 irrelevant for purposes of f your study in

94

11:06:54 1 this case; is that right?

2 MR. WANG: Object to the form.

3 A So the concept of statistical

4 power is irrelevant because that would

11:07:03 5 relate to regression analysis. In my study,

6 I look at the number of organizations that

7 are reporting diversions on their form 990.

8 In so far as the size of the population

9 factors into understanding how having a

11:07:30 10 relation to or comparing how many

11 organizations file these kind of diversions

12 verses those that do not the size of the

13 population matters, yes.

14 Q Let's take a look at table five in

11:08:56 15 your report of Exhibit 1, it appears on page

16 18. (No sound. Audio yes but can't hear any

17 talking)

18 A Okay, I'm there.

19 Q Directing your attention to the

11:09:07 20 two rows at the bottom. Those refer to the

21 NRA, correct?

22 A That's correct.

23 Q And in the third column it says

24 nine plus with a penultimate row and four

11:09:22 25 plus for the last row in table five. Do you

11:09:27 1 see that?

2 A I do.

3 Q What does nine plus refer to?

4 A It refers to the number of excess

11:09:32 5 benefit transactions that were reported in

6 each of those years. Well, you asked me

7 about the nine plus so reported in 2019.

8 Q Do you enumerate them anywhere in

9 your report?

11:09:43 10 A Do I enumerate what the nine plus

11 refers to?

12 MR. WANG: Object to the form.

13 A I believe I do. That would be in

14 table two of my report.

11:10:04 15 Q In table two of your report is a

16 table that you prepared, right?

17 A That's correct.

18 Q And you prepared it based on your

19 review of NRA as form 990?

11:10:21 20 MR. WANG: Object to the form.

21 A That's correct.

22 Q There's a reference to Joshua

23 Powell, do you see that?

24 A I do.

11:10:28 25 Q You're aware that he no longer

11:10:30 1 works with the NRA, right?

2 MR. WANG: Object to the form.

3 A I was not aware.

4 Q You were not aware that Mr. Powell

11:10:34 5 no longer works at the NRA?

6 A I was not.

7 Q You realize he is one of the

8 defendants in this case, right?

9 MR. WANG: Object to the form.

11:10:41 10 A I do.

11 Q There's a reference to Christopher

12 Cox in table two, do you see that?

13 A I do.

14 Q You realize that he no longer work

11:10:50 15 at the NRA, right?

16 A I am aware of that.

17 Q There's a reference to David

18 Laymen in table two. Do you see that?

19 A I do.

11:11:00 20 MR. WANG: Object to the form.

21 Q You are aware that he no longer

22 work at the NRA, right?

23 MR. WANG: Object to the form.

24 A I did not.

11:11:07 25 Q There's a reference to Wilson

11:11:08 1 Phillips in table two. Do you see that?

2 A I do.

3 Q You're aware that he no longer  
4 works at the NRA, right?

11:11:16 5 MR. WANG: Object to the form.

6 A I did not.

7 Q There's a reference to Oliver  
8 North, right?

9 A There is.

11:11:22 10 Q You're aware that he is no longer  
11 a board member of the NRA?

12 A I am aware of that.

13 MR. WANG: Object to the form.

14 Q There's a reference to travel  
11:11:29 15 expense for Wayne Lapierre, do you see that?

16 A I do.

17 Q And you acknowledge that excess  
18 benefit has been corrected, right?

19 A That's what is disclosed on the  
11:11:36 20 form 990, yes.

21 Q And there is a reference to  
22 unreasonable compensation for two  
23 individuals, right?

24 A Yes.

11:11:51 25 Q Wilson Phillips is John Frazier,

98

11:11:54 1 right?

2 A Correct.

3 Q The NRA is not saying in its 990

4 that it believes that their compensation was

11:12:01 5 unreasonable is it?

6 MR. WANG: Object to the form.

7 A I'm just summarizing what is

8 disclosed in the form 990 here. It's

9 outside the scope of my study whether or not

11:12:12 10 the NRA is indicating that their pay is

11 unreasonable or not.

12 Q If I could direct your attention

13 to the column in table two that's titled

14 status reported?

11:12:24 15 A Yeah.

16 Q Next to Wilson Phillips and John

17 Frazier, in that column it states alleged by

18 NYOAG, do you see that?

19 A I do.

11:12:37 20 Q You made that notation, right?

21 A I did.

22 Q What does that notation mean?

23 A That means it was alleged.

24 Q By whom?

11:12:44 25 A By the New York OAG.

99

11:12:47 1 Q So you understand that the NRA  
2 disclosed it as something that the NYAG  
3 alleged, right?

4 A I do.

11:12:54 5 MR. WANG: Object to the form.

6 Q But you counted it in the nine  
7 plus, right?

8 MR. WANG: Object to the form.

9 A Correct. Because my report is  
11:13:00 10 indicating what was disclosed on the Form  
11 990.

12 MS. EISENBERG: Let's take a  
13 five-minute break.

14 MS. CONNELL: Before we go off  
11:13:10 15 the record, Counsel, can everyone  
16 hear me?

17 MS. EISENBERG: I can hear  
18 you.

19 MS. CONNELL: I told Svetlana,  
11:13:17 20 I don't think it was on the record,  
21 Dr. Harris has a drop dead leave  
22 time of 6:00 p.m. So to the extent  
23 we can keep breaks short or keep  
24 lunch reasonable, I would suggest  
11:13:35 25 that we do that. I don't know if

100

11:13:36 1 any other counsel currently has a  
2 plan to question her, but I just  
3 wanted to give you that heads up.

4 MS. EISENBERG: Thank you, no  
11:13:45 5 problem. Five-minute break now.  
6 Happy to do a 15-minute lunch.

7 VIDEOGRAPHER: The time is  
8 11:13 a.m. We're going off the  
9 record.

11:13:58 10 (Whereupon, a recess was taken  
11 from 11:13 a.m. to 11:23 a.m.)

12 VIDEOGRAPHER: It is  
13 11:23 a.m. We are back on the  
14 record.

11:23:44 15 Q Do you recall me asking whether or  
16 not the Wounded Warrior Project was included  
17 in your study in this case?

18 A Correct.

19 Q You recall testifying that you did  
11:24:05 20 not know the answer to that question, right?

21 A Right.

22 Q I've handed you what's been marked  
23 as Exhibit 4. Do you have that in front of  
24 you?

11:24:21 25 A Yes.

101

11:24:21 1 (Whereupon, Wounded Warrior's  
2 2014 Form 990 was marked as  
3 Exhibit 4 for identification as  
4 of this date.)

11:24:30 5 Q What is Exhibit 4?

6 A It appears to be the Wounded  
7 Warriors 990 from 2014.

8 Q And does the Wounded Warrior's 990  
9 for 2014 reveal its EIN?

11:24:44 10 A It does.

11 Q Take a look at Exhibit 9, if you  
12 don't mind.

13 A I am.

14 (Whereupon, Data Sheet was  
11:24:51 15 marked as Exhibit 9 for  
16 identification as of this date.)

17 Q Having looked at Exhibit 9, do you  
18 have a view as to whether or not your study  
19 included the Wounded Warrior Project?

11:25:04 20 MR. WANG: Object to the form.

21 A I can see -- assuming that what  
22 you're showing me here is the data that I  
23 provided, I can see that, yes, the Wounded  
24 Warrior Project is included.

11:25:15 25 Q Let's take a look again on Exhibit

102

11:25:17 1

4.

2

A Okay. Four, yes.

3

Q Page four.

4

A Yes.

11:25:28 5

Q Was one of the questions that the  
organization answered, "Did the organization  
engage in an excess benefit transaction with  
a disqualified person during the year," in  
25A.

11:25:47 10

A Yes. I see that.

11

Q What did they answer?

12

MS. WANG: Object to the form.

13

Note that the document that

14

has been handed to the witness

11:25:55 15

contains highlighting.

16

A It says no.

17

Q What about 25B, what is the

18

question asked in 25B?

19

A It's asking about prior period

11:26:09 20

excess benefit transactions.

21

Q What did Wounded Warrior answer

22

there?

23

A They answered no.

24

Q Let's take a look at Exhibit 5.

11:26:38 25

Let's take a look at page four.

103

11:26:40 1 A I'm going to put four on the  
2 ground. Okay.

3 Q Did Wounded Warrior disclose any  
4 excess benefit transactions during 2015 in  
11:26:55 5 its Form 990 before 2015?

6 MR. WANG: Object to the form.

7 Note the witness has been provided a  
8 document that contains highlighting.

9 A They did not.

11:27:12 10 Q What about any excess benefit  
11 transactions in the prior year, did the  
12 Wounded Warrior Project disclose any such  
13 transactions in its Form 990 for 2015?

14 (Whereupon, Wounded Warrior's  
11:27:28 15 2015 Form 990 was marked as  
16 Exhibit 5 for identification as  
17 of this date.)

18 MR. WANG: Object to the form.

19 A They did not.

11:27:32 20 Q Please take a look at the Form 990  
21 for 2016, which is marked as Exhibit 6.

22 (Whereupon, Wounded Warrior's  
23 2016 Form 990 was marked as  
24 Exhibit 6 for identification as  
11:27:37 25 of this date.)

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11:27:38 1 A Okay.

2 Q Do you have that in front of you?

3 A I do, yes.

4 Q If you can take a look at page

11:27:55 5 four, please.

6 MR. WANG: Object to the form.

7 Noting that the witness has been

8 provided a document that contains

9 highlighting.

11:28:05 10 Q Fair to say that in its Form 990

11 for 2016, Wounded Warrior Project, Inc. did

12 not report any excess benefit transactions?

13 MR. WANG: Object to the form.

14 A That's correct.

11:28:17 15 Q Not in the year for which the

16 return was filed, right?

17 MR. WANG: Object to the form.

18 A Correct.

19 Q And not in any of the prior years,

11:28:25 20 right?

21 MR. WANG: Object to the form.

22 A Correct.

23 Q Let's take a look at Exhibit 7.

24 What is Exhibit 7?

11:28:39 25 A It appears to be the Wounded

105

11:28:41 1 Warrior Project Form 990 for 2017.  
2 (Whereupon, Wounded Warrior's  
3 2017 Form 990 was marked as  
4 Exhibit 7 for identification as  
11:28:44 5 of this date.)

6 Q Turning your attention to page  
7 four of Exhibit 7. Specifically, the  
8 organization's answers to questions 25A and  
9 B. Do you see those?

11:28:58 10 MR. WANG: Same objection.

11 The witness has been handed a  
12 document that has been highlighted.

13 A Yes. I see them.

14 Q Fair to say that in its Form 990  
11:29:07 15 for 2017, Wounded Warrior Project did not  
16 report any excess benefit transactions for  
17 the current year, right?

18 MR. WANG: Object to the form.

19 A That's correct.

11:29:14 20 Q Fair to say that the Wounded  
21 Warrior Project did not report any excess  
22 benefit transactions for any prior years in  
23 its Form 990 for 2017, right?

24 MR. WANG: Object to the form.

11:29:27 25 A That's correct.

106

11:29:27 1 Q Let's take a look at Exhibit 8.

2 What is Exhibit 8?

3 A Exhibit 8 appears to be the  
4 Wounded Warrior Project's Form 990 for 2018.

11:29:40 5 (Whereupon, Wounded Warrior's  
6 2018 Form 990 was marked as  
7 Exhibit 8 for identification as  
8 of this date.)

9 Q And same set of questions  
11:29:43 10 regarding page four of Exhibit 8, please  
11 take a look at the answers to questions 25A  
12 and B.

13 MR. WANG: Same notation and  
14 objection. The witness has been  
11:29:55 15 provided a document that contains  
16 prior highlighting.

17 Q Fair to say that -- I'm sorry. Do  
18 you have page four of Exhibit 8 in front of  
19 you?

11:30:06 20 A I do.

21 Q Did you have a chance to review  
22 answers provided by Wounded Warrior Project  
23 in response to questions 25A and 25B?

24 A I have.

11:30:17 25 Q Fair to say that in its Form 990

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11:30:20 1 for 2018, Wounded Warrior Project did not  
2 report any excess benefit transactions?

3 MR. WANG: Object to the form.

4 A That's correct.

11:30:26 5 Q Not for the current year, right?

6 MR. WANG: Object to the form.

7 A Correct.

8 Q And not for any prior year either,  
9 right?

11:30:33 10 MR. WANG: Object to the form.

11 A Correct.

12 Q So we'll do them at once as well.

13 So these are Tabs 94 through 97, and we'll  
14 mark them as whatever is the next available,

11:31:51 15 10, 11, 12 and 13.

16 (Whereupon, Faizan-E-Aisna 2019

17 Form 990 was marked as Exhibit

18 10 for identification as of this

19 date.)

11:33:04 20 Q Do you have Exhibit 10 in front of  
21 you?

22 A Ten, I do.

23 Q What does it appear to be?

24 A It appears to be the 2019 Form 990

11:33:17 25 for Faizan-E-Aisha, Inc. doing business as

108

11:33:28 1 Masjid -- do you want me to continue trying  
2 to --  
3 Q No. That's sufficient. Thank you  
4 very much.

11:33:34 5 Fair to say this is a return by a  
6 501C3 organization?

7 A Let me check. Yes. That's  
8 indicated in the header.

9 Q That's for year 2019, right?

11:33:47 10 A Correct.

11 Q And 2019 is within the scope of  
12 your study, right?

13 A Correct.

14 Q And turning to page four of  
11:34:00 15 Exhibit 10, what did this organization  
16 report in reference to a section -- to  
17 question 25A?

18 MR. WANG: Same objection.

19 The exhibit is highlighted.

11:34:14 20 A 25A has been marked yes.

21 Q Okay. And let's take a look at  
22 Schedule L of Exhibit 10. Let me know when  
23 you have Schedule L in front of you.

24 A I do.

11:34:46 25 Q What is Schedule L?

109

11:34:46 1 MR. WANG: Object to the form.

2 A Schedule L details the  
3 transactions with interested persons.

4 Q And with regard to Exhibit 10,  
11:34:54 5 what did the filer detail with regard to its  
6 transactions with an interested person?

7 A That Masjid was the president, and  
8 the description of the transaction says  
9 collector, and that it has not been  
11:35:16 10 corrected.

11 Q Fair to say that this organization  
12 referenced on the first page of Exhibit C  
13 disclosed that it had an excess benefit  
14 transaction, right?

11:35:32 15 MS. WANG: Object to the form.

16 Exhibit C?

17 MS. CONNELL: I'm sorry. I  
18 meant to say Exhibit 10. Thank you.

19 Q Fair to say this appears to be a  
11:35:50 20 form that discloses on behalf of the filer,  
21 that it had engaged in an excess benefit  
22 transaction during the year for which this  
23 report is made, right?

24 A Correct.

11:36:02 25 Q This organization was not included

110

11:36:06 1 in your study, was it?

2 MR. WANG: Object to the form.

3 A I don't know. I don't know every  
4 EIN that was included in the study.

11:36:16 5 Q Let's take a look at Exhibit 11.

6 (Whereupon, Juniper Hills School  
7 2019 Form 990 was marked as  
8 Exhibit 11 for identification as  
9 of this date.)

11:36:20 10 Q If you can please take a look at  
11 Exhibit 11. Let me know what it appears to  
12 be.

13 A It appears to be the 2019 Form 990  
14 for Juniper Hills School for Place Based  
11:36:39 15 Education.

16 Q And fair to say that based on the  
17 form, Juniper Hills School for Place Based  
18 Education appears to be a 501C3  
19 organization?

11:36:51 20 A That's correct. That's what they  
21 indicated on their form.

22 Q Please refer to page four of  
23 Exhibit 11.

24 A Okay.

11:36:58 25 Q Did Juniper Hills School for Place

111

11:37:02 1 Based Education in its Form 990 for 2019  
2 report any excess benefit transactions.

3 MR. WANG: Same objection.

4 The highlighting in the document.

11:37:11 5 A Yes. They did.

6 Q And turning your attention to  
7 Schedule L. Did Juniper Hills School for  
8 Place Based Education in its Form 990 for  
9 2019 provide an explanation of any kind

11:37:35 10 related to the reported excess benefit  
11 transaction?

12 MR. WANG: Object to the form.

13 A Yes. It indicates that Ann Stirs,  
14 a staff member and BOA, and the description  
11:37:49 15 of the transaction says, Ann accidentally  
16 deposited, and then it says corrected and  
17 they clicked yes.

18 Q If I can ask you to please take a  
19 look at the next page of this exhibit.

11:38:04 20 Specifically part five of Schedule L.

21 Please take a look at the text that appears  
22 in the middle of the page and let me know  
23 once you've done that.

24 A Okay.

11:38:29 25 Q What information is provided on

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11:38:30 1 this page?

2 A Details about the excess benefit  
3 transaction that was reported on Schedule L.

4 Q Exhibit 11 is a form for 2019,  
11:38:43 5 right?

6 A Correct.

7 Q 2019 is within the scope of your  
8 study, right?

9 MR. WANG: Objection.

11:38:51 10 A Correct.

11 Q You studied reports by various  
12 organizations between 2010 and 2020, right?

13 A Correct.

14 Q And this is another form where  
11:39:05 15 another 501C3 did report having an excess  
16 benefit, right?

17 A Yes.

18 Q Juniper Hills School for Place  
19 Based Education, however, is not included in  
11:39:17 20 your analysis, is it?

21 MR. WANG: Object to the form.

22 A I don't know. I don't know every  
23 EIN that was included in my analysis.

24 Q Let's take a look at Exhibit 12.

11:39:25 25 (Whereupon, Light Horse Legacy

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11:39:25 1 2018 Form 990 was marked as  
2 Exhibit 12 for identification as  
3 of this date.)

4 Q Please tell us what it is.

11:39:37 5 A It appears to be 2018 Form 990 for  
6 an organization called Light Horse Legacy.

7 Q And does it appear, based on your  
8 review of the first page of Exhibit 12, that  
9 Light Horse Legacy, Inc. appears to be

11:39:53 10 another 501C3 organization?

11 A That's correct.

12 Q If I could ask you to please take  
13 a look at page four, and review the answers  
14 to questions 25A and B, and let me know once  
11:40:05 15 you've done that.

16 MR. WANG: Noting the same  
17 objection to the highlighting  
18 document provided to the witness.

19 A I've reviewed it.

11:40:15 20 Q Is it fair to say that this is  
21 another 501C3 that disclosed excess benefit  
22 transactions, right?

23 A That's correct.

24 MR. WANG: Object to the form.

11:40:25 25 Q It answered yes to question 25A?

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11:40:29 1 A Correct.

2 Q And it answered yes to question

3 25B, right?

4 A Correct.

11:40:34 5 Q So it admitted and disclosed that  
6 it had engaged in excess benefit transaction  
7 with a disqualified person during 2018,  
8 right?

9 A Correct.

11:40:47 10 Q And it also disclosed that it had  
11 engaged in such a transaction in prior  
12 years, right?

13 A Correct.

14 Q Let's take a look at Schedule L,  
11:40:57 15 which appears at the back of Exhibit 12.

16 A Okay.

17 Q Please review part one of Schedule  
18 L and let us know once you've done that.

19 A I have.

11:41:16 20 Q What, if anything, does Schedule L  
21 reveal about the nature of the reported  
22 excess benefit transaction --

23 MR. WANG: Object to the form.

24 Q -- on the 2018 Form 990 by Light  
11:41:27 25 Horse Legacy, Inc.?

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11:41:29 1 MR. WANG: Object to the form.

2 A It's difficult to read, but it  
3 appears that three disqualified people are  
4 named, Steve Maloney, DBA, and Art by  
11:41:43 5 Maloney, maybe. Oh, Steve Maloney doing  
6 business as Art by Maloney. My mistake.  
7 And it appears the relationship between the  
8 disqualified person and the organization is  
9 that he's a project partner, take me home  
11:42:02 10 Huey maybe.

11 And then for the description of  
12 the transaction, it says, "Use nonprofit  
13 funds to promote his artist status and avoid  
14 business expenses. Sued nonprofit for  
11:42:17 15 assets."

16 Q Thank you very much.

17 Is it fair to say that this  
18 appears to be yet another Form 990 in which  
19 a non-profit organization reported excess  
11:42:33 20 benefits?

21 MR. WANG: Object to the form.

22 A Yes.

23 Q And Exhibit 12 is a Form 990 for  
24 2018, right?

11:42:38 25 A Correct.

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11:42:39 1 Q 2018, like 2019, is within the  
2 scope of your study in this case, right?

3 A The year is within the scope of my  
4 study, yes.

11:42:52 5 Q But you did not include Light  
6 Horse, Legacy Inc.'s Form 990 for 2018 in  
7 your comparison, did you?

8 MS. WANG: Object to the form.

9 A Again, I don't know every EIN that  
11:43:02 10 was included.

11 Q So you don't know the answer to my  
12 question, right?

13 A I do not.

14 MR. WANG: Object to the form.

11:43:09 15 Q Let's take a look at Exhibit 13,  
16 please.

17 A Okay.

18 Q What is Exhibit 13?

19 A The 2018 Form 990 for an  
11:43:19 20 organization called Providence  
21 Self-sufficient Ministries.

22 (Whereupon, Providence of  
23 Self-Sufficient Ministries 2018  
24 Form 990 was marked as Exhibit  
11:43:24 25 13 for identification as of this

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11:43:24 1 date.)

2 Q Fair to say, based on your review  
3 of the first page of Exhibit 13, that the  
4 Providence Self-sufficient Ministries, Inc.  
11:43:30 5 reports itself to be a 501C3 organization?

6 A Correct.

7 Q If you could please take a look at  
8 page four of Exhibit 13. Please review the  
9 answers to questions 25A and B and let us  
11:43:48 10 know once you've done that.

11 A Okay.

12 MR. WANG: Same objection to  
13 the highlighted document.

14 A Okay.

11:43:54 15 Q Fair to say in its Form 990 for  
16 2018, this 501C3 reported excess benefits  
17 for both the current and the prior years,  
18 right?

19 A That's correct.

11:44:08 20 Q Please take a look at the back,  
21 specifically Schedule L that's part of  
22 Exhibit 13. Directing your attention to  
23 part one of Schedule L. Please review the  
24 information provided by the filer and let us  
11:44:23 25 know once you've done that.

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11:44:25 1 A I have.

2 Q What, if anything, does part one  
3 of Schedule L disclose with regard to the  
4 excess benefits?

11:44:36 5 MR. WANG: Object to the form.

6 A It says that the name of  
7 disqualified person is Amy Lewis. The  
8 relationship between the disqualified person  
9 and the organization is the former CFO. The  
11:44:47 10 description of the transaction says,  
11 "Unauthorized wages and benefits." And it  
12 indicates it was not corrected.

13 Q Fair to say that Providence  
14 Self-sufficiency Ministries, Inc. is yet  
11:45:06 15 another 501C3 that reported excess  
16 benefits --

17 MR. WANG: Object to the form.

18 I'm sorry.

19 Q -- in one of years that falls  
11:45:15 20 within the scope of your study?

21 MR. WANG: Object to the form.

22 A Correct.

23 Q 2018 is within the scope of your  
24 study, right?

11:45:21 25 A The year is, yes.

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11:45:24 1 Q Yet Providence Self-sufficiency  
2 Ministries' Form 990 for 2018 is not part of  
3 your study, right?

4 A Again, I don't know every  
11:45:33 5 organization that's part of the study.

6 Q So you don't know whether it is  
7 part of your study, right?

8 A That's correct.

9 MS. EISENBERG: Well, this is  
11:45:41 10 a good place to break for lunch.

11 Let's go off the record.

12 VIDEOGRAPHER: It is  
13 11:45 a.m. We're going off the  
14 record.

11:46:01 15 (Whereupon, a recess was taken  
16 from 11:45 AM to 12:30 PM.)

17 VIDEOGRAPHER: The time is  
18 12:30 p.m. we are back on the  
19 record.

12:30:40 20 BY MS. EISENBERG:

21 Q During lunch did you discuss your  
22 testimony with counsel for the NYAG?

23 A I did not.

24 Q Please take a look at Exhibit 2,  
12:30:49 25 it is your rebuttal report, correct?

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12:30:53 1 A Correct.

2 Q In your rebuttal report in the  
3 second paragraph, "In my expert opinion I  
4 compare the NRA to the following three  
12:31:01 5 groups." Then it goes forward. Do you see  
6 that?

7 A I do.

8 Q Fair to say that in your expert  
9 opinion report you compare the NRA's  
12:31:12 10 reporting to the reporting of the following  
11 three groups of excess benefit transactions  
12 and significant diversions of assets. Not  
13 the actual occurrence of such events, right?

14 A That's correct.

12:31:28 15 Q In the first paragraph of Exhibit  
16 2, at the end you state, "I also reserve the  
17 right to use demonstrative exhibits, charts,  
18 graphics et cetera." Do you see that  
19 sentence?

12:31:35 20 A I do.

21 Q Sitting here right now do you have  
22 any current intention of using a  
23 demonstrative exhibit in connection with  
24 your potential testimony in this case?

12:31:48 25 MR. WANG: Objection to form.

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12:31:49 1 A I don't know if I will need  
2 something like that at trial I think is your  
3 question.

4 Q So currently you don't know if you  
12:31:57 5 will need anything like that, correct?

6 A That's correct.

7 Q And currently you don't know if  
8 you will need any charts, right, other than  
9 those that are already in your report?

12:32:03 10 A That's correct.

11 Q And the same for graphics,  
12 animations and other exhibits?

13 A That's correct.

14 Q You once published an article  
12:32:19 15 called, "Why bad things happen to good  
16 organizations." Right?

17 A That's correct.

18 Q You believe that all organizations  
19 are vulnerable to the threat of fraud,  
12:32:29 20 right?

21 MR. WANG: Object to the form.

22 A Restate that in the paper, yes, I  
23 believe that.

24 Q And you believe that fraud losses  
12:32:37 25 affect not only small local charities, but

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12:32:41 1 also large well-known charities with  
2 thousands of employees, right?

3 MR. WANG: Object to the form.

4 A That's correct.

12:32:52 5 Q In fact, in your paper you've even  
6 given examples, right?

7 MR. WANG: Object to the form.

8 A If you could again this paper was  
9 published in 2015 I believe, and you  
12:33:05 10 probably know we work on them for many years  
11 before so it's been quite a while since I've  
12 worked with the data or remember exactly any  
13 examples that we made so if you can refer me  
14 to where you're looking at I'd be happy to  
12:33:21 15 refresh my memory.

16 Q Certainly. Let's mark what we've  
17 previously internally marked as tab 5A as  
18 the next available exhibit.

19 (Whereupon, "Why bad things  
12:33:29 20 happen to good organizations"  
21 was marked as Exhibit 14 for  
22 identification as of this date.)

23 Q It's going to be Exhibit 14. For  
24 the record, it is a multi-page print out of  
12:33:54 25 an article, the pagination starts with 149

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12:33:59 1 and ends 166.

2 What is Exhibit 14?

3 A Exhibit 14 is a copy of the paper,  
4 the research project "Why bad things happen

12:34:14 5 to good organizations solely between

6 governments and asset diversion of public  
7 charities", of which I was a co-author.

8 Q You believed everything you said  
9 in that the article, right?

12:34:27 10 MR. WANG: Object to the form.

11 A I do.

12 Q You believed it back in 2015 when  
13 it was published?

14 A I do.

12:34:34 15 Q And you believe it to date, right?

16 A I do.

17 Q If I could please direct your  
18 attention to the first page of Exhibit 14  
19 under the word, introductions, do you see a  
12:34:45 20 paragraph that starts with, all  
21 organizations are vulnerable?

22 A I do.

23 Q Could you please review the last  
24 sentence of that paragraph and let us know  
12:34:55 25 once you've done that?

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12:35:02 1 A I have.

2 Q Having reviewed that sentence has  
3 that refreshed your recollection as to  
4 whether or not you in fact provided examples  
12:35:12 5 of situations where fraud effected large  
6 well-known charities with thousands of  
7 employees?

8 MR. WANG: Object to the form.

9 A I do, yeah.

12:35:23 10 Q Did you in that article provide  
11 examples of large well-known charities  
12 effected by fraud?

13 A Yes. In this last sentence we  
14 include three examples.

12:35:40 15 Q What are they?

16 A The Memorial Sloan Kettering  
17 Cancer Center, the Global Fund, and New York  
18 University.

19 Q How much was stolen from the  
12:35:51 20 Memorial Sloan Kettering Cancer Center?

21 MR. WANG: Object to the form.

22 A We indicated in the paper in that  
23 sentence, examples include 1.5 million of  
24 employee theft at Memorial Sloan Kettering  
12:36:02 25 Center.

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12:36:04 1 Q What was the amount of alleged  
2 improper payments to grantees at the Global  
3 Fund?

4 A Again we indicate in the paper as  
12:36:13 5 an example 43 million of improper payments.

6 Q What was the amount of alleged  
7 improper financial transactions at New York  
8 University?

9 A Again, in the example we indicate  
12:36:30 10 26 million endowment write-off at New York  
11 University.

12 Q What is the mission of the Global  
13 Fund?

14 MR. WANG: Object to the form.

12:36:41 15 A I do not know.

16 Q Let's take a look at page 163 of  
17 Exhibit 14?

18 A Okay.

19 Q Directing your attention to the  
12:37:01 20 last paragraph on that page that starts with  
21 the words, there are two, do you see that  
22 paragraph?

23 A I do.

24 Q You included caveats in this  
12:37:13 25 article, right?

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12:37:16 1 A Yes. We do.

2 Q There's are caveats regarding the  
3 analysis you published?

4 A That's correct.

12:37:23 5 Q In fact you stated that there are  
6 two such caveats, right?

7 A Yes. That's correct.

8 Q You characterize them as  
9 important, right?

12:37:34 10 MR. WANG: Object to the form.

11 A That's correct.

12 Q Because that's important for the  
13 audience to know, right?

14 MR. WANG: Object to the form.

12:37:42 15 A The reader of this research, yes.

16 Q It's important for the reader of  
17 this research to know the caveats, right?

18 A Correct.

19 Q It is not the case that all

12:37:57 20 charities should be required to adopt all  
21 government's mechanisms, right?

22 MR. WANG: Object to the form.

23 A Is that a question?

24 Q Yes.

12:38:12 25 A I'm sorry then can you repeat the

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12:38:14 1 question.

2 Q It is not the case that all  
3 charities should be required to adopt all  
4 government's mechanisms, right?

12:38:27 5 MR. WANG: Object to the form.

6 A Let me think about that. Well,  
7 no, an organization should analyze the cost  
8 benefits of adopting a particular governance  
9 mechanism for their organization.

12:38:41 10 Q Therefore it is not the case that  
11 all charities should be required to adopt  
12 charities mechanism, right?

13 MR. WANG: Object to the form.

14 A Yeah, I would agree with that.

12:39:27 15 Q Could you please take a look at  
16 Exhibit 1?

17 A Do you have a particular page in  
18 mind.

19 Q Yes, thank you. 607 of Appendix  
12:39:41 20 A, to your report, please?

21 A Is that the paper the effect of  
22 non-profit governance?

23 Q That's right. Directing your  
24 attention to the second paragraph under  
12:40:17 25 conclusions which starts with the words, " to

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12:40:20 1 the best of our knowledge", do you see that?

2 A I do.

3 Q Now directing your attention to a

4 sentence within that paragraph that starts

12:40:26 5 with the words, "decisions regarding", do

6 you see that?

7 A Yes, I do.

8 Q Would you be so kind as to please

9 read that sentence into the record?

12:40:42 10 A Sure. "Decisions regarding

11 governance require a careful cost benefit

12 analysis."

13 Q You wrote that, right?

14 A My co-authors and I did, yes.

12:40:54 15 Q You agree with the statement?

16 A I do.

17 Q You agreed with it when you wrote

18 this article?

19 A I do.

12:41:00 20 Q You agreed with it today?

21 A I do.

22 Q You believe that decisions

23 regarding governance require cost benefit

24 analysis, right?

12:41:09 25 MR. WANG: Object to the form.

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12:41:11 1 A That's correct.

2 Q And you believe that such analysis  
3 has to be careful, right?

4 MR. WANG: Object to the form.

12:41:18 5 A Careful cost benefit analysis, yes  
6 I agree with that.

7 MS. EISENBERG: Just take a  
8 moment to locate the next Exhibit.

9 Q Before we look at the newly marked  
12:43:35 10 -- before we look at the newly marked  
11 Exhibit I'd like to direct your attention to  
12 your report which Exhibit 1, specifically if  
13 I may page 13.

14 A Okay.

12:44:56 15 Q There is a reference in the  
16 penultimate row of that table to  
17 Mr. Deburglas; do you see that?

18 A I do.

19 Q And fair to say that you included  
12:45:12 20 that row in the nine plus that's reported in  
21 your table five on page 18 of your report,  
22 right?

23 A Correct.

24 Q Please take a look at Exhibit 15.  
12:45:27 25 What is it?

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12:45:31 1 A It is the 2020 form 990 for the  
2 National Rifle Association.

3 Q If I may ask you to please take a  
4 look at page 88?

12:45:49 5 A Okay.

6 Q There's a reference to  
7 Mr. Deburglas in the penultimate row of the  
8 table on page 88 of Exhibit 15, do you see  
9 that?

12:46:03 10 A I do.

11 Q Please read that passage to  
12 yourself and let us know once you've done  
13 that?

14 A (reading) I have.

12:46:48 15 Q Thank you. What does the passage  
16 state regarding Mr. Deburglas^ and again for  
17 the record we are in Exhibit 15, page 18 the  
18 second row.

19 A You mean page 88.

12:47:05 20 Q 88, thank you.

21 A It indicates that some of the  
22 excess benefit transactions after further  
23 review appeared that Mr. Deburglas^ had in  
24 fact received the appropriate approvals for  
12:47:20 25 the travel in the business class and medical

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12:47:23 1 reasons.

2 Q Yet it's included in the nine plus  
3 referenced in table five on page 18 of your  
4 report, correct?

12:47:33 5 A That's correct.

6 Q Let's take a look at page 13 of  
7 your report.

8 A Okay.

9 Q The last row of the table that is  
12:47:45 10 numbered schedule L part one line 19.

11 A Okay.

12 Q And fair to say that here you're  
13 presenting an image of the NRA's form 990  
14 where the NRA reported that it was reviewing  
12:48:04 15 whether in 2019 and prior years various  
16 board members may have used first class or  
17 business class travel without authorization,  
18 right?

19 A That's correct.

12:48:16 20 Q And this item again is part of the  
21 nine plus that's reported on page 18 in  
22 table five, right?

23 A That's correct.

24 Q If we can please switch back to  
12:48:25 25 Exhibit 15, page 88 and Exhibit 15 is the

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12:48:34 1 NRA's form 990 for 2020, right?

2 A Correct.

3 Q Please take a look at the last  
4 item on page 88. Let us know once you've  
12:48:48 5 done that.

6 A I have.

7 Q And fair to say the NRA stated  
8 that it believes based on the review done,  
9 that such travel was for legitimate business  
12:49:07 10 purposes?

11 MR. WANG: Object to the form.

12 A Yes. That's what they've  
13 reported.

14 Q And by such travel, do you  
12:49:15 15 understand the NRA to be referring to the  
16 item that's listed at the bottom of the  
17 table that appears on page 13 of your  
18 report?

19 A Yes. I believe so.

12:49:32 20 Q And the NRA stated in it's form  
21 990 for 2020 that the NRA believes that  
22 those previously flagged items "Did not  
23 constitute excess benefit transactions."  
24 Right?

12:49:46 25 MR. WANG: Object to the form.

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12:49:48 1 A That's correct.

2 Q Nonetheless, that item is part of  
3 the nine plus reference in table five of  
4 your report on page 18, right?

12:49:58 5 MR. WANG: Object to the form.

6 A That's correct.

7 Q We can set aside the exhibits for  
8 the moment. So as Mr. Wang pointed out we  
9 inadvertently had provided you with marked  
12:50:20 10 or highlighted versions of several exhibits.  
11 We have versions that don't have any  
12 highlighting and we'll mark those as  
13 exhibits now.

14 MS. CONNELL: Svetlana, we  
12:50:38 15 would stipulate to just swapping  
16 those out just to save time.

17 MS. EISENBERG: In other words  
18 to the extent your objection was  
19 based on the highlighting, you're  
12:50:51 20 withdrawing that objection to the  
21 extent.

22 MS. CONNELL: Exactly, right.

23 MR. WANG: Yes.

24 BY MS. EISENBERG:

12:50:59 25 Q You previously testified that you

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12:51:00 1 did not know if your analysis included  
2 Wounded Warrior Project, recall that  
3 testimony?

4 A I do.

12:51:07 5 Q Is there a way for you to find  
6 out?

7 MR. WANG: Object to the form.

8 A Is there a way for me to find out  
9 if the Wounded Warrior was included in the  
12:51:21 10 data that I used to analyze for my report,  
11 sure.

12 Q How would you do that?

13 A I would search for the Wounded  
14 Warrior project EIN number in my data set.

12:51:33 15 Q Okay. And let's take a look at  
16 Exhibit 8. Going to place in front of you a  
17 laptop with the data set in Excel format  
18 opened on it.

19 A Okay. So Exhibit 8 you mean the  
12:52:01 20 Wounded Warrior project's form 990 for 2018?

21 Q Exactly, right.

22 A Okay.

23 Q Does Exhibit 8 identify the EIN  
24 for Wounded Warrior project?

12:52:13 25 A It does in the upper right-hand

135

12:52:16 1 corner.

2 Q May I ask you to please read that  
3 into the record?

4 A Sure it's 20-23-70934.

12:52:26 5 Q If I may ask my colleague to place  
6 in front of you a laptop that has your data  
7 set open in Excel? Thank you very much.

8 MR. WANG: Object to the use  
9 of a laptop. Is this an exhibit?

12:52:40 10 MS. EISENBERG: It is an  
11 exhibit. It's a -- well, I'm happy  
12 to establish the foundation.

13 Q About how many rows are in your  
14 data set?

12:52:49 15 A Can I scroll down on it? I mean--

16 Q Well, is it fair to say that there  
17 are many, many rows?

18 A I know from my report there's over  
19 a million observations in the data set so  
12:53:05 20 there's more than a million rows in this  
21 data.

22 Q Fair to say it would take a lot of  
23 paper to print that?

24 A Yes. It would take a lot of paper  
12:53:13 25 to print that.

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12:53:16 1 Q Again, to the extent you want us  
2 to do so we're happy to do it, but if you're  
3 going to object, we can.

4 MR. WANG: I think we're going  
12:53:29 5 to stand on our objection to  
6 foundation but you can proceed with  
7 inquiring with the witness.

8 MS. EISENBERG: Okay. So --

9 MR. CORRELL: What is it  
12:53:41 10 that's displayed on the laptop?

11 MS. EISENBERG: Tab 100.

12 MR. CORRELL: Is that a native  
13 version of something you marked as  
14 an exhibit?

12:54:01 15 (Whereupon,  
16 description was  
17 marked as Exhibit #  
18 for identification as of this  
19 date.)

12:54:02 20 Q (By Ms. Eisenberg) For the record tab 100  
21 and Exhibit 17 is an Excel document with two sheets  
22 that contains the output of the CSV file that was  
23 produced the NRA by the NYAG yesterday. If I can  
24 direct your attention to the screen in front of you.

12:54:29 25 MR. WANG: Note that the

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12:54:30 1 document was produced to the NRA on  
2 October 26th as a result of the  
3 NRA's request on October 25th.

4 MR. CORRELL: Will, are you  
12:54:42 5 producing that to all parties?

6 MR. WANG: Yes, if you would  
7 like a copy of that I can send it to  
8 you.

9 MR. CORRELL: Well, I think as  
12:54:50 10 matter of course, we had agreed a  
11 while ago that everything would be  
12 produced to all parties, so, yes I'd  
13 like that and anything else that you  
14 produce in the future please copy us  
12:55:01 15 on.

16 MR. FARBER: I echo that  
17 request.

18 MR. WANG: It's an incredibly  
19 large document the NRA provided us  
12:55:13 20 with an FTP site to which we can  
21 upload it. It is not a document  
22 that we can email to you because of  
23 the size of the document. If you  
24 can provide our office with  
12:55:27 25 somewhere we can upload it to you.

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12:55:30 1 Unfortunately, because of the size  
2 of the document, I cannot email it  
3 to you.

4 MR. CORRELL: I understand and  
12:55:36 5 that's fine. I just ask in the  
6 future if there are situations like  
7 that, just inform us about it.

8 MS. DAVIS: Seth, absolutely.  
9 We apologize. The NRA requested late  
12:55:49 10 in the afternoon the day before. We  
11 were rushing with professor Harris,  
12 traveling to try and get it ready  
13 and produce it. Absolutely. An FTP  
14 link will be the best thing for it.

12:56:02 15 MR. CORRELL: No, I  
16 understand. Thanks.

17 MR. LEVINE: I echo that. Me  
18 too please.

19 MS. DAVIS: All parties of  
12:56:12 20 course.

21 BY MS. EISENBERG:

22 Q Let's get back to where we were.  
23 In front of you we have a laptop and there's  
24 a file that's open, correct?

12:56:21 25 A Correct.

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12:56:21 1 Q Please describe the file?

2 A It's an Excel file with one, two,  
3 three, four, five, six, seven columns that  
4 appear to be populated and where it's  
12:56:36 5 positioned right now I cannot see the header  
6 rows. It's positioned at the 236,000  
7 whatever, row.

8 Q Do you feel comfortable navigating  
9 to the top of the document?

12:56:50 10 A Sure. Well, I don't see -- oh,  
11 yes, I do. Okay. Now I'm at the top.

12 Q What does it say at the top?

13 A The first column is the year, the  
14 second column is the EIN, the next column is  
12:57:14 15 the subsection code, the next column is  
16 significant diversion of assets indicator  
17 variable. Current excess benefit  
18 transactions, indicator variable, prior  
19 excess benefit transaction indicator  
12:57:28 20 variable and then total assets.

21 Q And one of the columns EIN,  
22 correct?

23 A Correct.

24 Q Does this data look familiar in  
12:57:39 25 terms of its format in which it's presented?

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12:57:43 1 A Yes.

2 Q What does it appear to be?

3 A It appears to be the data that I  
4 provided to the AG's office.

12:57:51 5 Q For the record, the Excel would  
6 not handle all of the data in one sheet so  
7 we had to place it in two sheets, and that's  
8 what you have in front of you, right, there  
9 are two sheets?

12:58:05 10 A Okay.

11 Q If you click on the second sheet  
12 is the format of the data in the second  
13 sheet the same as it is in the first sheet?

14 A Yes. It appears to be the same.

12:58:16 15 Q Okay. And is the EIN for Wounded  
16 Warrior project part of the data set?

17 A Would it be okay if I did a  
18 control find function.

19 Q Yes. Absolutely.

12:58:31 20 A Okay. So I'm going to do that.  
21 It appears that someone has already entered  
22 the EIN for the Wounded Warrior Project in  
23 the find function, I'm just going to verify  
24 it's the right number 202370934. It is.

12:58:59 25 MR. WANG: Just noting an

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12:59:00 1 objection on the record. We don't  
2 know if this data has been  
3 manipulated since we've given it to  
4 the NRA and also objecting to having  
12:59:11 5 the witness search through the  
6 document live during the testimony.  
7 Just noting our objection to that  
8 and reserving all of our rights with  
9 respect to this line of questioning.

12:59:21 10 Q Do you have any reason to believe  
11 that the data was manipulated?

12 A There's no way for me to know if  
13 the data's been manipulated as you already  
14 pointed out, more than a million rows of  
12:59:35 15 data so there would be no way for me unless  
16 I compare it to my source data.

17 Q Do you suspect it was manipulated?

18 A I don't suspect it was  
19 manipulated.

12:59:49 20 Q I'd like to ask you to please take  
21 a look at Exhibit 12 and just to give you  
22 heads up, actually 10 through 13, please so  
23 let's start with 10.

24 MR. WANG: You're asking the  
01:00:28 25 witness to look at all four at that

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01:00:31 1 time the same time?

2 MS. EISENBERG: No. I would

3 like to start with tab 10 I just

4 identify the package at once to

01:00:39 5 facilitate the examination.

6 Q You have Exhibit 10 in front of

7 you, right?

8 A Correct.

9 Q And that is one of the form 990

01:00:53 10 that we looked at previously, right?

11 A Correct.

12 Q This is one for the fieson V^ Inc.

13 which is a 501C3 based on the form, right?

14 A Correct.

01:01:04 15 Q Do you recall me asking whether

16 this particular organization was part of

17 your analysis? Do you recall me asking you

18 that?

19 A I do, yes.

01:01:13 20 Q And if I recall correctly, you

21 stated that you did not know whether or not

22 it was part of your analysis, right?

23 A That's correct.

24 Q Even though this is a 990 where

01:01:23 25 the organization, in fact, did report an

143

01:01:28 1 excess benefit, right?

2 MR. WANG: Object to the form.

3 A Correct. I do not know if it's  
4 included in the data set.

01:01:36 5 Q Is there a way for you to find  
6 out?

7 A Yes. I can do the search on the  
8 data that's in the data set.

9 Q And by the data set, you're  
01:01:43 10 referring to what's in front of you, right?

11 A I'm referring to my data set, but  
12 assuming that what's in front of me is the  
13 same, then, yes.

14 Q Do you have your data set with you  
01:01:56 15 here today?

16 A I do not.

17 MR. WANG: Object to the form.

18 Q Please proceed with the search.

19 A Okay. You'd like me to search for  
01:02:03 20 the EIN number?

21 MR. WANG: Just reserving the  
22 same objection that I stated  
23 earlier.

24 A Yeah. Can you just clarify what  
01:02:13 25 you'd like me to search for.

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01:02:16 1 Q How would you go about searching  
2 for any reference to this particular  
3 organization that is the filer of Exhibit  
4 10?

01:02:27 5 A I would search for its EIN number.

6 Q Please search for the EIN number  
7 then.

8 A Okay.

9 MR. WANG: Same objection.

01:03:07 10 A It does not come up in the search.

11 Q Did you search through both  
12 sheets?

13 A I did not.

14 Q Could you please search through  
01:03:13 15 the second sheet.

16 MR. WANG: Same objection.

17 A I will. It is also unfound.

18 Q So is it fair to say that assuming  
19 the data was not manipulated after it was  
01:03:35 20 provided by the New York Attorney General's  
21 office to counsel for the NRA, this  
22 particular organization was not included in  
23 your analysis?

24 A That's correct.

01:03:44 25 MR. WANG: Just preserving our

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01:03:45 1 same objection. The witness is  
2 being asked to perform an evaluation  
3 and analysis on the record in  
4 realtime, and our office objects to  
01:03:57 5 that line of questioning.

6 Q Please take a look at Exhibit 11.

7 Exhibit 11 is a Form 990, correct?

8 A Correct.

9 Q For 2019, right?

01:04:16 10 A Correct.

11 Q For Juniper Hills School for Place  
12 Based Education, right?

13 A Correct.

14 Q And fair to say that using the EIN  
01:04:29 15 of the organization that's listed on page 1,  
16 is the easiest way to see if this  
17 organization appears in the data set that's  
18 in front of you, right?

19 MR. WANG: Object to the form.

01:04:39 20 A That's correct.

21 Q And assuming it wasn't manipulated  
22 after it was produced by the New York  
23 Attorney General, this should be the data  
24 set that you used for your analysis, right?

01:04:51 25 MR. WANG: Same objection.

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01:04:54 1 A That's correct.

2 Q Fair to say that if there are any  
3 discrepancies, you would expect the New York  
4 Attorney General's office to advise all  
01:05:02 5 parties in this case?

6 MR. WANG: Object to the form.

7 A I'm not sure what you're asking.

8 Q Well, surely, Ms. Connell and  
9 Mr. Wang will double check that the data  
01:05:12 10 wasn't manipulated, right, after they get  
11 back to their office?

12 MS. CONNELL: We have no way  
13 of knowing what you all did with the  
14 data. We know it already was  
01:05:20 15 divided into two excel spreadsheets.  
16 And we've been allowing you to  
17 question Ms. Harris or Professor  
18 Harris, excuse me, on the record and  
19 have her do actual work that's not  
01:05:30 20 in her report.

21 How long we allow that is a  
22 question mark. But to the extent  
23 you're asking us a question that we  
24 are not going to do that's not  
01:05:40 25 appropriate. If you have questions

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01:05:42 1 for Ms. Harris, Professor Harris,  
2 please go ahead.

3 MS. EISENBERG: Ms. Connell, I  
4 wasn't asking you a question. I was  
01:05:52 5 speaking to the witness.

6 MS. CONNELL: Oh, I'm sorry.  
7 I thought you said Ms. Connell and  
8 Mr. Wang will double check that the  
9 data wasn't manipulated after you  
01:06:06 10 get back to your office. So I  
11 thought that was directed at us. My  
12 apologies.

13 MS. EISENBERG: No problem.

14 Q Now, you don't know whether or not  
01:06:12 15 is there a plan, right? To check that the  
16 data was not manipulated, fair?

17 MR. WANG: Object to the form.

18 A I do not know what their plans  
19 are.

01:06:21 20 Q Right. If they do check and they  
21 find a discrepancy, would it be your  
22 expectation that they would certainly let  
23 all the parties know that?

24 MR. WANG: Object to the form.

01:06:32 25 A Yes. It would be my expectation.

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01:06:35 1 Q So please tell us if the Juniper  
2 Hills School for Place Based Education  
3 appears in the data set that's in front of  
4 you?

01:06:45 5 A How would you like me to do that?  
6 By searching once again?

7 Q Yes, please.

8 A It's not on sheet two. I'm now  
9 going to check sheet one. It's not on  
01:07:24 10 either sheet.

11 Q And I have the same question for  
12 Exhibit 12 and 13.

13 MR. WANG: Same objection.

14 A So for Exhibits 12 and 13, you  
01:07:38 15 would also like me to search the spreadsheet  
16 both tabs to determine if the EIN number is  
17 represented in this data; is that correct?

18 Q That is correct. Thank you very  
19 much.

01:08:19 20 A The EIN for Light Horse Legacy is  
21 not included in either sheet of the data  
22 that's in front of me. The EIN number for  
23 Providence Self-sufficiency Ministries is  
24 also not included in either sheet of the  
01:09:19 25 data that's in front of me.

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01:09:23 1 Q Thank you very much. I appreciate  
2 it. We can set that aside and we can remove  
3 the laptop from the witness's desk.

4 MS. CONNELL: Thank you,  
01:09:35 5 Professor Harris.

6 Q Transparency is a good thing,  
7 right?

8 MR. WANG: Object to the form.

9 A I agree, transparency is a good  
01:09:46 10 thing.

11 Q It's good for not for profit  
12 corporations to be transparent, right?

13 MR. WANG: Object to the form.

14 A I agree, and my research shows  
01:09:55 15 that.

16 Q What are some of the ways in which  
17 a cooperation can be transparent?

18 MR. WANG: Object to the form.

19 A You asked about a corporation. Do  
01:10:07 20 you mean a non-profit?

21 Q Sure.

22 A So can you repeat your question.

23 Q I'd be happy to.

24 What are some of the ways which a  
01:10:18 25 not for profit organization can be

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01:10:21 1 transparent?

2 A They can provide -- so I have some  
3 research that looks at transparency. And  
4 one of the projects specifically looks at  
01:10:29 5 Guide Star transparency seals. And Guide  
6 Star is a leading non-profit watch dog or  
7 information intermediary. So provides  
8 information to donors and the public about  
9 nonprofits.

01:10:39 10 And they provide and review  
11 information that non-profits provide to the  
12 public on their website. And they  
13 categorize the organization's transparency,  
14 in terms of how much information they  
01:10:55 15 provided to the public. And we find that  
16 organizations that are more transparent,  
17 that provide more information on their Guide  
18 Star profile page, are well received by the  
19 public, that donors support those  
01:11:11 20 organizations more.

21 Q And what are some of the ways in  
22 which a not for profit corporation can make  
23 such disclosures?

24 A So specific to that study, they  
01:11:24 25 provide disclosures which include things on

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01:11:26 1 their Guide Star profile page, such as the  
2 mission of the organization, the names of  
3 the board members, information about their  
4 programs, general information so that a  
01:11:37 5 donor can gather more insight into the  
6 organization to figure out whether they want  
7 to contribute to the organization or not.

8 Q Setting aside that study, in  
9 general terms, what are some of the ways in  
01:11:55 10 which a not for profit organization can be  
11 transparent?

12 MR. WANG: Object to the form.

13 A So there's some other literature  
14 that finds that organizations can provide  
01:12:07 15 information on their individual websites.  
16 They could provide -- another study that I'm  
17 working on looks at what we call mission  
18 metric information, which is performance  
19 information that would relate to the  
01:12:19 20 organization's underlying mission, what they  
21 are doing, like housing people, providing  
22 meals through a soup kitchen, et cetera. So  
23 giving the public additional information  
24 about what they are doing.

01:12:33 25 Q Is disclosure a 990 a way to be

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01:12:38 1 transparent?

2 MR. WANG: Object to the form.

3 A Yes. That could be a way to be  
4 transparent.

01:12:45 5 Q When is it not a way to be  
6 transparent?

7 MR. WANG: Object to the form.

8 A Why would it not be a way to be  
9 transparent? I'm misunderstanding your

01:12:54 10 question.

11 Q I asked you if disclosure on a  
12 Form 990 is a way to be transparent?

13 A It is. Among lots of different  
14 ways to be transparent. But, yes, that  
01:13:05 15 would be a way to be transparent.

16 Q If I could please ask you to take  
17 a look at Exhibits 4 through 8.

18 A Do you mean 4 and 8 or through?

19 Q Thank you very much.

01:13:48 20 Do you have Exhibit 4 at top of  
21 the stack?

22 A I do.

23 Q And that is the 4990 for Wounded  
24 Warrior Project, Inc. for 2014, correct?

01:13:58 25 A That's correct.

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01:13:59 1 Q If I could please ask you to turn  
2 to page six of Exhibit 4.

3 A Okay.

4 Q If you could please review  
01:14:15 5 question five and let us know once you have  
6 done that.

7 A I have done that.

8 MR. LEVINE: Wounded Warrior.

9 Q What was the question in item five  
01:14:24 10 that Wounded Warrior answered in Exhibit 4?

11 MR. WANG: Object to the form.

12 A Line five reads, "Did the  
13 organization become aware during the year of  
14 a significant diversion of the  
01:14:38 15 organization's assets."

16 Q What did Wounded Warrior Project  
17 answer?

18 A They answered no.

19 Q Please take a look at Exhibit 5.

01:14:56 20 A Okay.

21 Q Fair to say that Exhibit 5 is  
22 Wounded Warrior Project's Form 990 for 2015,  
23 right?

24 A Yes.

01:15:05 25 Q And fair to say that on page six

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01:15:08 1 of Exhibit 5, Wounded Warrior again answered  
2 that it did not become aware during the year  
3 of a significant diversion of the  
4 organization's assets?

01:15:26 5 MR. WANG: Object to the form.

6 A That's correct.

7 Q Let's take a look at Exhibit 6.

8 A Okay.

9 Q Exhibit 6 is Wounded Warrior

01:15:49 10 Project's Form 990 for 2016; is that right?

11 A That's correct.

12 Q Turning your attention to page  
13 six, if I may.

14 A Okay.

01:15:57 15 Q Specifically question five.

16 Please review it and let us know once you've  
17 done that.

18 A I've done that.

19 Q Based on your review, in its Form

01:16:09 20 990 for 2016, did Wounded Warrior Project  
21 report that it became aware during the year  
22 of a significant diversion of the  
23 organization's assets?

24 MR. WANG: Object to the form.

01:16:24 25 A It did not.

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01:16:25 1 Q Let's take a look at Exhibit 7.

2 Fair to say that's the Form 990 for Wounded

3 Warrior Project for 2017?

4 A It is.

01:16:42 5 Q And same question about this year,

6 if I can direct your attention to page six,

7 question five. Fair to say that in its 990

8 for 2017, Wounded Warrior Project answered

9 that it did not become aware during the year

01:17:03 10 of a significant diversion of the

11 organization's assets?

12 MR. WANG: Object to the form.

13 A That's correct.

14 Q And lastly, and thank you very

01:17:10 15 much for your patience, if we can take a

16 look at Exhibit 8. Fair to say that Exhibit

17 8 is the same organization's Form 990 for

18 2018?

19 A That's correct.

01:17:26 20 Q And if we look at page six of

21 Exhibit 8. Do you see question five on that

22 page?

23 A I do.

24 Q And does that question, like all

01:17:39 25 others we've looked at, say, "Did the

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01:17:42 1 organization become aware during the year of  
2 a significant diversion of the  
3 organization's assets"?

4 MR. WANG: Object to the form.

01:17:50 5 A Yes. That's what the question  
6 states.

7 Q What did Wounded Warrior Project  
8 answer?

9 A They answered no.

01:17:57 10 Q Thank you.

11 A May I put those aside?

12 Q Yes. Thank you very much.

13 MS. EISENBERG: I'll reserve  
14 my time, but I have no further  
01:18:13 15 questions at this time.

16 MR. CORRELL: This is Kent  
17 Correll for Wayne LaPierre. I'd  
18 like to take a five-minute break and  
19 then I'm going to have a few  
01:18:25 20 questions.

21 MS. CONNELL: Can we get an  
22 idea of whether any other defendants  
23 have questions? Again, not holding  
24 you to it, just wanted an idea for  
01:18:34 25 planning purposes.

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01:18:34 1 MR. FLEMING: This is Will  
2 Fleming. Probably not. Maybe, if  
3 any, very few.  
4 MS. EISENBERG: What about you  
01:18:43 5 guys? Tom?  
6 MS. CONNELL: I don't know off  
7 the top. I doubt it.  
8 VIDEOGRAPHER: Do you want to  
9 go off the record.  
01:18:53 10 MS. BOOKER: We won't have any  
11 questions.  
12 VIDEOGRAPHER: The time is  
13 1:19 p.m. We are going off the  
14 record.  
10:33:26 15 (Whereupon, a recess was taken  
16 from 1:19 PM to 1:29 PM.)  
17 VIDEOGRAPHER: It is 1:29 p.m.  
18 We're back on the record.  
19 EXAMINATION BY  
01:29:08 20 MR. CORRELL:  
21 Q Good afternoon. William Correll.  
22 I represent Wayne LaPierre. How are you  
23 today?  
24 A Excellent. Thank you.  
01:29:17 25 Q I just have a few questions for

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01:29:20 1 you. My first question, what are you an  
2 expert in?

3 MR. WANG: Object to the form.

4 A I'm an expert in nonprofit  
01:29:27 5 accounting. All of my research is related  
6 to nonprofits accounting, my training, my  
7 backgrounds, my professional background has  
8 all been in nonprofit accounting. I used  
9 the form 990, which is obviously the  
01:29:42 10 informational tax form required to be filed  
11 by nonprofit organizations to conduct my  
12 research, and that's what I've used as a  
13 basis for my report.

14 Q Are you an expert in anything  
01:29:57 15 else?

16 MS. WANG: Object to the form.

17 A Not that I can think of off the  
18 top of my head, no.

19 Q Are you an expert on executive  
01:30:06 20 compensation?

21 MR. WANG: Object to the form.

22 A I'm not expert. I've had a couple  
23 of research projects that look at nonprofit  
24 executive compensation. But I would not say  
01:30:17 25 that I'm a compensation expert.

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01:30:20 1 Q Have you ever served on a  
2 compensation committee for a nonprofit?

3 A I have not.

4 Q Have you ever been involved in  
01:30:29 5 determining compensation for any nonprofit  
6 executive?

7 MR. WANG: Object to the form.

8 A Let me think about that. When I  
9 was the chairman of my church's preschool  
01:30:46 10 board, I was involved in setting the  
11 compensation of our preschool director.

12 Q And what was that the process by  
13 which that compensation was established?

14 A We actually, in the process of  
01:31:01 15 evaluating all of our operations, visited  
16 other preschools, gathered information from  
17 other organizations in our area and looked  
18 at her years of service to our organization.

19 Q Did you engage a compensation  
01:31:17 20 expert to advise you in that process?

21 A We did not.

22 Q Did you look to any comparable  
23 information in formal reports from  
24 compensation experts?

01:31:30 25 MR. WANG: Object to the form.

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01:31:31 1 A It have been several years since I  
2 was a part of that organization and  
3 specifically setting her compensation. I  
4 couldn't recall a, specifically if we used  
01:31:41 5 any reports to aid us. We gathered as much  
6 information as we could to make sure that it  
7 was reasonable.

8 Q Did you have a benchmark for  
9 setting her compensation?

01:31:56 10 MR. WANG: Object to the form.

11 A I guess I would say the benchmark  
12 was her prior compensation. We were just  
13 approving her compensation going forward.

14 Q Did you look for data on the  
01:32:10 15 market rate for people in similar positions?

16 A Yes, we did. That what was part  
17 of the process. We went to visit other  
18 schools and collected information about --  
19 well, we didn't really ask their directors  
01:32:30 20 their pay. So yeah, I just don't recall.  
21 But we -- but I was involved in determining  
22 her compensation. And let me actually  
23 amend, I would say approving her  
24 compensation.

01:32:46 25 Q Do you plan to offer this jury an

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01:32:49 1 opinion as to the reasonableness of  
2 Mr. LaPierre's compensation?

3 A I do not.

4 MR. WANG: Object to the form.

01:32:56 5 Q Let me turn to your expert  
6 reports. You've provided two expert  
7 reports, correct?

8 A That's correct.

9 Q And your first report is labeled  
01:33:10 10 expert report of Erica E. Harris dated  
11 September 16, 2011, correct?

12 A Yes. That's correct.

13 Q And your second report is labeled  
14 expert report of Erica E. Harris  
01:33:26 15 October 7, 2022, correct?

16 A Correct. I don't have that in  
17 front of me. One second while I --

18 MR. WANG: Should be this.

19 A Oh, yes. Now I do.

01:33:38 20 Q You alluded earlier to your second  
21 report as a rebuttal expert report; do you  
22 remember that?

23 MS. WANG: Object to the form.

24 A I do. Yes, I remember that.

01:33:49 25 Q Why is it your October 7, 2022

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01:33:53 1 expert report labeled a rebuttal expert  
2 report?

3 MR. WANG: Object to the form.

4 A Perhaps that was my novice legal  
01:34:01 5 language earlier when I referred to this as  
6 a rebuttal report. I guess I'm not  
7 rebutting anybody's reports. I was using  
8 the information that was in one of the other  
9 reports to add to my report.

01:34:21 10 Q So you're supplementing your prior  
11 report, correct?

12 MR. WANG: Object to the form.

13 A I think that's a better  
14 characterization, yes.

01:34:30 15 MR. CORRELL: Thank you. I  
16 have no further questions. Thank  
17 you, Dr. Harris.

18 MR. FLEMING: This is Will  
19 Fleming. I have nothing. Thank  
01:34:41 20 you.

21 MS. CONNELL: Can we take a  
22 five-minute break just to see if we  
23 have anything we want to ask about  
24 it.

01:34:50 25 VIDEOGRAPHER: It is

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01:34:50 1 1:34 p.m.. We're going off the  
2 record.

3 (Whereupon, a recess was taken  
4 from 1:34 PM to 1:39 PM.)

01:39:04 5 VIDEOGRAPHER: It is 1:39 p.m.  
6 We are back on the record.

7 MR. WANG: At this time the  
8 attorney general's office does not  
9 have any questions for Professor

01:39:15 10 Harris. Thank you very much.

11 VIDEOGRAPHER: It is 1:39 p.m.  
12 We're going off the record.

13 (Whereupon, this examination was  
14 concluded at 1:39 PM)

01:39:25 15

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ERICA E. HARRIS

Subscribed and sworn to

before me on this \_\_\_\_ day

of \_\_\_\_\_, \_\_\_\_\_.

Notary Public

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11:43:39

1

## I N D E X

2

WITNESS: ERICA HARRIS

3

EXAMINATION BY

PAGE

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MS. EISENBERG

6

5

MR. CORRELL

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## E X H I B I T S

8

HARRIS

DESCRIPTION

PAGE

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Exhibit 2

Expert Rebuttal Report

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Exhibit 5

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## C E R T I F I C A T E

I, KIARA MILLER,

a Shorthand Reporter and Notary Public of the  
State of New York, do hereby certify:That the witness whose examination is  
hereinbefore set forth, was duly sworn or  
affirmed by me, and the foregoing transcript is  
a true record of the testimony given by such  
witness.I further certify that I am not related to any  
of the parties to this action by blood or  
marriage, and that I am in no way interested in  
the outcome of this matter.

---

KIARA MILLER

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1 E R R A T A S H E E T

2 NAME OF CASE: People of New York V. NRA

3 DATE OF DEPOSITION: October 27, 2022

4 NAME OF WITNESS: ERICA E. HARRIS

5 Reason codes:

6 1. To clarify the record.

7 2. To conform to the facts.

8 3. To correct transcription errors.

9 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

10 From \_\_\_\_ to \_\_\_\_

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12 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_

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ERICA E. HARRIS

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