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5 COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,

6 joint with the

7 COMMITTEE ON THE JUDICIARY,

8 U.S. HOUSE OF REPRESENTATIVES,

9 WASHINGTON, D.C.

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14 INTERVIEW OF: CAROL FOX

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Monday, December 18, 2023

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Boca Raton, FL

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The interview in the above matter was held in Suite 300, 5000 T-Rex Avenue, Boca

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Raton, Florida, commencing at 12:43 p.m.

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2 Appearances:

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5 For the COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY:

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7 [REDACTED], COUNSEL

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9 [REDACTED], GENERAL COUNSEL AND CHIEF COUNSEL FOR INVESTIGATIONS

10 [REDACTED], MINORITY CHIEF COUNSEL (VIA TELEPHONE)

11 [REDACTED], MINORITY SENIOR COUNSEL

12 [REDACTED], MINORITY DEPUTY CHIEF OVERSIGHT COUNSEL

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15 For the COMMITTEE ON THE JUDICIARY:

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17 [REDACTED], GENERAL COUNSEL

18 [REDACTED], DIGITAL DIRECTOR

19 [REDACTED], MINORITY OVERSIGHT COUNSEL

20 [REDACTED], MINORITY CHIEF OVERSIGHT COUNSEL (VIA TELEPHONE)

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2 For CAROL FOX:

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Mr. [REDACTED]. This is a transcribed interview of Carol Fox. Chairman Comer and Chairman Jordan have requested this interview as part of the committee's impeachment inquiry investigation into the Biden family's influence-peddling and extensive receipt of money.

Would the witness please state your name for the record?

Ms. Fox. Carol Fox.

Mr. [REDACTED]. On behalf of the Committee on Oversight and Accountability and the Committee on Judiciary, I want to thank Ms. Fox for appearing here today. The committees appreciate your willingness to appear voluntarily.

Although we do not anticipate this interview being a very lengthy interview, pursuant to the request from your attorneys, we have agreed to an accommodation to tape this interview in Florida. And so we want to again thank you for your time here today.

My names is [REDACTED], and I am general counsel with Chairman Comer's staff. I will now ask everyone else in the majority and the minority committee staff to please introduce yourselves as well.

Mr. [REDACTED]: [REDACTED], Chairman Comer's staff.

Mr. [REDACTED]: [REDACTED], Chairman Jordan's staff.

Mr. [REDACTED]: [REDACTED], Oversight staff, majority.

Mr. [REDACTED]: [REDACTED] with the House Judiciary, Mr. Jordan's staff.

Ms. [REDACTED]: [REDACTED] with House Judiciary, minority.

Ms. [REDACTED]: [REDACTED] with House Judiciary, minority.

Mr. [REDACTED]: [REDACTED], House Oversight, Democratic staff.

Mr. [REDACTED]: [REDACTED], House Oversight, Democratic staff.

1 Mr. ██████. I'd like to go over a few ground rules and guidelines that we will
2 follow during the interview that have been previously discussed with your lawyer.

3 First, our questioning today will occur in rounds. The majority will ask questions
4 for up to an hour, and then the minority staff will have an opportunity to ask questions
5 for an equal period of time if they choose.

6 Typically, we take a short break at the end of each hour, but if you would like to
7 take a break apart from that, please just let us know.

8 As you can see, there is an official reporter here taking down everything we say to
9 make a written record. In addition, we are recording this interview as well. So we ask
10 that you give verbal responses to all of our questions.

11 Do you understand everything so far?

12 Ms. Fox. Yes.

13 Mr. ██████. To ensure that the court reporter can make a clear record, we
14 will do our best to limit the number of people directing questions at you during any given
15 hour to just those people on the staff whose turn it is.

16 It is also important that we don't talk over one another or interrupt each other if
17 we can help it, and that goes for everybody present at today's interview.

18 We encourage witnesses who appear before the committee to freely consult with
19 counsel if they so choose. It's my understanding that you are accompanied by counsel.

20 Could your counsel please state your name for the record?

21 Mr. Edgar. Kevin Edgar, BakerHostetler.

22 Mr. Parrish. Jimmy Parrish, BakerHostetler.

23 Mr. ██████. Thank you.

24 We want you to answer our questions in the most complete and truthful manner
25 possible, so we will take our time here today. If you have any questions or if you do not

1 understand one of our questions, please let us know.

2 If you honestly don't know the answer to a question or do not remember, it is best
3 not to guess. Please give us your best recollection. And it's okay to tell us if you
4 learned information from someone else; just indicate how you came to know that
5 information.

6 If there are things you don't know or can't remember, just say so, and please
7 inform us of who, to the best of your knowledge, might be able to provide a more
8 complete answer to the question.

9 You should also understand that, although this interview is not under oath, you
10 are required to answer questions from Congress truthfully. Do you understand that?

11 Ms. Fox. Yes.

12 Mr. [REDACTED]. This also applies to questions posed by congressional staff during
13 a transcribed interview. Do you understand that?

14 Ms. Fox. Yes.

15 Mr. [REDACTED]. Witnesses who knowingly provide false testimony could be
16 subject to criminal prosecution for perjury or making false statements. Do you
17 understand that?

18 Ms. Fox. Yes.

19 Mr. [REDACTED]. Furthermore, you cannot tell half-truths or exclude information
20 necessary to make the statements accurate. You are required to provide all the
21 information that would make your response truthful. A deliberate failure to disclose
22 information can constitute a false statement.

23 Do you understand that?

24 Ms. Fox. Yes.

25 Mr. [REDACTED]. Is there any reason you are unable today to provide truthful

1 answers to our questions?

2 Ms. Fox. No.

3 Mr. [REDACTED]. Additionally, if you choose to confer with your attorney in a
4 sidebar or if there are any interruptions or interjections from your attorney or the
5 minority, the majority's time will be paused for the duration of those interruptions.

6 That is the end of my preamble. Is there anything that the minority would like to
7 add before we begin?

8 Mr. [REDACTED]. Yes. Thank you.

9 I'll just note first that, just before we went on the record, majority counsel handed
10 me a binder containing what appears to be seven documents that I understand they
11 intend to use as exhibits in connection with today's proceeding. We were not given
12 advance notice that several of those exhibits would be used today.

13 I'll also note for the record that we did not receive notice from the majority that
14 the majority planned to use a videographer at today's interview.

15 Given that this is the first time the Oversight Committee has videotaped a
16 transcribed interview, I would request, Mr. [REDACTED], assurance that the majority will
17 commit to making both the transcript and the videotape of today's proceeding available
18 to the minority staff as soon as they are both available.

19 Mr. [REDACTED]. That would be in the committee chairs' discretion, as to how they
20 want to handle that, and I will leave it to them to make that decision.

21 Mr. [REDACTED]. Okay. Can you give us a reason as to why that assurance can't be
22 provided right now?

23 Mr. [REDACTED]. I'll need to consult with the committee chairs.

24 Mr. [REDACTED]. I'll just add that, given the concerns that the ranking member has
25 raised regarding openness and transparency in this investigation, and given the absence

1 of any legitimate basis to withhold a copy of the videotape from the minority staff, we
2 object to this interview being videotaped unless and until the majority staff gives us
3 assurances that the videotape will be made available to the committees' Democratic staff
4 on an equal basis as the Republican staff.

5 Mr. [REDACTED]: All right. Thank you. Is that your conclusion?

6 Mr. [REDACTED]: Yes.

7 Mr. [REDACTED]: The time now reads --

8 Ms. [REDACTED]: Oh, I would also like to add something.

9 I want to thank the witness for being here with us today and also note that
10 [REDACTED], the chief oversight counsel for the House Judiciary Committee Democrats,
11 is on the line to assist with the interview today.

12 Ms. Fox. Thank you.

13 Mr. [REDACTED]: Thank you.

14 It's now 12:49, according to my watch, and we'll begin.

15 EXAMINATION

16 BY MR. [REDACTED]:

17 Q Ms. Fox, could you please tell us about your educational background?

18 A Yes. I have a bachelor's of accounting from the University of Florida.

19 Q And where did you work after the University of Florida?

20 A I worked 2 years in a local public accounting firm called Keefe McCullough &
21 Company.

22 And then I worked for about 7 years at a local hospital, where I prepared the
23 hospital's budget and did reimbursement accounting. The hospital is called the Holy
24 Cross Hospital in Fort Lauderdale, Florida.

25 I took a small break and -- do you want me to go on?

1 Q Yes, please do. Thank you.

2 A Okay. Yeah, you didn't really ask me that, but --

3 Q Yeah. Thank you.

4 A -- it's kind of the natural progression anyways.

5 So, after Holy Cross, I took about a -- maybe a 3-year break and I did just
6 accounting consulting on my own.

7 And starting in February of 2001, I started working for an insolvency and
8 bankruptcy firm that's now called KapilaMukamal, which is in Fort Lauderdale, Florida. I
9 worked there from February 2001 to October 2011.

10 And in October 2011, I joined a firm which was called GlassRatner Advisory &
11 Capital and is now B. Riley. So I've been at B. Riley ever since October of 2011.

12 Q What's your current title at B. Riley?

13 A I'm senior managing director.

14 Q And what do you do as a senior managing director?

15 A So my career has kind of evolved, I think as everyone's does over time. So,
16 currently, my practice is mostly focused on bankruptcy, and I'm primarily -- it's primarily
17 financial advisory to companies that are either in bankruptcy or contemplating
18 bankruptcy. And then, also, I have a trustee practice.

19 Q And, generally speaking, what kind of advice are you giving companies that
20 are undergoing bankruptcy?

21 A It's varied. So, I mean, that's, I guess, a lot.

22 So, generally speaking, it's cash management. There's also -- it could be
23 bankruptcy-related litigation.

24 I also have a small business-bankruptcy practice which is more focused on
25 short-term exit from bankruptcy, so less than 3 months. And so that practice is more

1 focused on feasibility and whether the debtor would actually survive upon exiting
2 bankruptcy.

3 Q And as part of your job and role, are you going through the different
4 financial records? Are you interviewing different employees of the company? Or what
5 would you say your typical job duties entail?

6 A It varies, so -- and it definitely varies based on the representation and my
7 role. So, if I'm doing a lot of debtor work, yes, I'm giving advice as to cash management
8 decisions. I work with the debtor's existing team to make smart decisions for the
9 business and ones that preserve liquidity. That's always a concern in bankruptcy.

10 And, then, if I'm on the other side, on the creditor's side, the role is a little bit
11 different. It's more -- my focus would be more on providing a liaison to the creditor
12 with the debtor's existing financial advisor.

13 Q And you said you also work as a trustee?

14 A Yes.

15 Q What does that mean, to be a trustee?

16 A It means different things in different instances.

17 So, for example, I'm a Subchapter V trustee, which is a small-business trustee.
18 And, in that case, it's not a fiduciary role; it's more of an oversight role. And so, in that
19 case, I'm a liaison between the debtor and its creditors to try and achieve a consensual
20 plan of reorganization.

21 So that's one role. So that's kind of a nonfiduciary trustee, if you will.

22 In the Americore case and then in one other case that I'm serving in right now, I'm
23 a Chapter 11 trustee, which is a fiduciary position. It requires posting of a bond, and I
24 actually control the debtor's assets.

25 So that's the distinction between the two trustee roles that I'm involved in.

1 Q And how does a person become a trustee in an instance like Americore?

2 A In Americore, I interviewed for the position.

3 Q With who? Who'd you interview with?

4 A Yeah, that's a good question. I interviewed with the United States Trustee.

5 Q And when you're acting as a trustee, who do you report to then? When
6 you're working between a debtor and the creditor, who is it that you are providing your
7 findings to?

8 A When I'm in the small business role?

9 Q In the Chapter 11.

10 A In the Chapter -- well, they're both Chapter 11, so -- Chapter 11 trustee
11 verses a Subchapter V trustee, they're both Chapter 11s, but the Subchapter V trustee is
12 debts of less than \$7.5 million.

13 But in the Chapter 11 role, I'm basically reporting to the United States Trustee.

14 Q And for how many years have you acted as a trustee?

15 A I think I was -- I think Americore is the first engagement where I was
16 appointed Chapter 11 trustee. But that also came on the heels of when I was appointed
17 Subchapter V trustee. But I'll note that I've been a fiduciary receiver, a State court
18 receiver, and plan administrator prior to that.

19 Q How did you become involved in the Americore matter?

20 A You know, somebody else in my office was actually pursuing this
21 engagement, but because I had the healthcare experience, which actually became very
22 relevant in this case, I interviewed for the Chapter 11 trustee with my colleague. And
23 we both said, you know, if you get the job, I'll give you 50 percent of the origination; if
24 you get the job, I'll give you -- and we kind of tag-teamed the interview.

25 And I think that, ultimately, I was selected because I had the grassroots healthcare

1 experience at Holy Cross.

2 Q What kind of company was Americore -- is Americore?

3 A A healthcare company.

4 Q What kind of healthcare services do they provide?

5 A Hospital.

6 Q Where?

7 A In St. Louis, Missouri; in Ellwood City, Pennsylvania; in Calico Rock, Arkansas.

8 And then there was a fourth hospital in Pineville, Kentucky, which had already converted
9 and what was not operating at the time that I was -- it wasn't even part of the Americore
10 assets at the time I was appointed.

11 Q Do you know who their executive leadership was?

12 A Yes.

13 Q And who was that?

14 A Grant White.

15 Q Were there other executives that you're aware of, too, in addition to Grant
16 White?

17 A Not retained by the company.

18 Q Have you heard Tom Pritchard?

19 A Yes.

20 Q Who is Tom Pritchard?

21 A So Tom I didn't interact with, so I guess that's why -- I didn't mean to say no,
22 but Tom didn't come to top of mind because I didn't interact with him and I've never
23 spoken with him or met him. But I believe Tom was the CEO of St. Alexius Hospital in St.
24 Louis.

25 Q Do you know where Tom Pritchard is now, by chance?

1 BY MR. [REDACTED]:

2 Q What is this?

3 A This is the lawsuit that I filed on July 7, 2022, against James Biden.

4 Q If you could provide some context, as a trustee, why it is that you file
5 lawsuits -- not necessarily this particular lawsuit, but what is the purpose of you filing
6 lawsuits?

7 A I mean, generally, it's to get money back into the estate that was -- so, to get
8 estate property -- property that has left the estate back into the estate.

9 Q How do you know what property it is that you need to try and obtain?

10 A So, in this case, this is a -- this is pursuit of a monetary transfer, so this
11 would've been based on analysis of the debtor's bank records and all the underlying
12 documentation.

13 Q Who does that analysis of the bank records?

14 A My firm did it.

15 Q And when you say underlying records in addition to the bank records, what
16 are you referring to?

17 A So the bank records, and then we would look at any types of contracts or
18 underlying documents that supported the transactions.

19 Q Would that include emails, as well, sometimes?

20 A Yes.

21 Q And were there relevant emails that you reviewed, or contracts, related to
22 this particular lawsuit that was filed, if you can recall?

23 A I think so.

24 Q And would Americore still retain those documents today?

25 A No.

1 So, when I became Chapter 11 trustee of Americore -- I guess the answer is yes
2 and no. And so let me go back and explain why I say that.

3 When I became trustee of Americore, the only, really, existing emails existed at St.
4 Alexius and at Izard County. The server at Ellwood City was down at the time that I was
5 appointed. I did end up harvesting those emails, but I didn't use them. Pineville had
6 already been shut down, as I said before.

7 But, most importantly, the Americore Holdings -- like, the parent-company servers
8 were not available. So Americore Holdings, Americore Health, there were no emails
9 associated with those two companies when I was appointed.

10 So the only -- let's just -- let's recap for a minute, because I think that was, like, a
11 really clunky answer.

12 There was an active email server at St. Alexius, active email server at Izard.
13 Pineville was not operating at the time that I was appointed and had already been shut
14 down at that point --

15 Q Uh-huh.

16 A -- but I did archive the Pineville -- I'm sorry, the Ellwood emails, but never
17 used them. And Pineville was already shut down.

18 Americore Holdings, Americore Health, and Pineville -- I never had access to those
19 emails.

20 Q Why is that?

21 A I really don't know the answer to that question. It wasn't from lack of
22 trying.

23 Q All right.

24 Do you recall how many lawsuits you have filed on behalf of Americore to
25 recovery money, such as this one that you filed with James Biden?

1 A No.

2 Q Do you have an estimate of how many you filed?

3 A I don't -- no. I mean, I would say under 100, but I don't know. I haven't
4 counted. I think under 100 is probably safe.

5 Q And how do you prioritize the lawsuits that you're filing in order to obtain
6 the money from different individuals or companies?

7 A It varies. So there's a materiality limit for sure. And there's, statutorily, a
8 materiality limit; I think it's \$10,000 or \$11,000. And anything under that I can't file a
9 lawsuit for, generally.

10 And then another thing that comes into play is the effort that's gonna go into it.
11 So, generally, we try and pick up what we call the low-hanging fruit first, the ones
12 that -- the transfers that are easier to pick up.

13 The ones that are gonna require, in our estimation -- and that would be my
14 estimation, with my legal counsel -- protracted litigation and longer efforts, we would put
15 those off until later.

16 Q When you say "low-hanging fruit," you mean strength of the case and
17 whether or not you believe the person or company will pay the money that Americore
18 believed was owed?

19 A That's accurate, yes.

20 Q So now I want to turn your attention to paragraph 16, which is on page 4 of
21 the complaint.

22 Would you just read it into the record so we have a record of it?

23 A Okay.

24 "Debtors even provided Defendant with business cards reflecting his position as
25 a "Principal" with Americore Health to assist his financing efforts. A redacted copy of

1 the Defendant's business card is attached as Exhibit B. As a result, Defendant became a
2 fiduciary to Americore Health."

3 Q And, for the record, the defendant that's being referred to there is James
4 Biden, correct?

5 A Yes.

6 Q And now if you can go to Exhibit B, which is on page 16 of 16.

7 What is Exhibit B?

8 A This is actually an exhibit to another complaint that was filed in another
9 case; it's referenced down at the bottom. But we also used this exhibit in this case as
10 well. And what it is is a business card titled "Jim Biden," "AmericoreHealth.com."

11 Q And on that particular business card, does it give Jim Biden's title?

12 A Yes.

13 Q What was the title?

14 A Principal.

15 Q And where was office location? You don't have to give the specific address,
16 but what city?

17 A Oh. Fort Lauderdale, Florida.

18 Q In reading paragraph 16, it writes, "As a result, Defendant became a fiduciary
19 to Americore Health."

20 What is a fiduciary?

21 A A fiduciary is somebody who controls the assets of a company and has an
22 obligation to act in the company's best interest.

23 Q To your knowledge, how many fiduciaries were there at Americore that you
24 identified? You can give an approximate number.

25 A I don't know. That wasn't really an objective of the engagement, so --

1 Q Well, what was James Biden's role at Americore?

2 A Based on what this says? Or --

3 Q No, based upon your investigation and your knowledge as a trustee for the
4 company.

5 Do you want us to step out? We can take a break for one second. Or you guys
6 can step out.

7 Mr. Edgar. Let's take a break. Thank you.

8 [Discussion off the record.]

9 Mr. [REDACTED]. Back on the record.

10 BY MR. [REDACTED]:

11 Q I'll repeat the question.

12 A Thanks.

13 Q What was James Biden's role at Americore?

14 A I don't think we know.

15 Q When you say you don't know, can you expand on that a little bit?

16 A Well, we have what his business card says he does, but in as far as what he
17 actually did while he was in the company, that preceded my involvement with the
18 company. And so I think we have a business card that says what his perceived -- what
19 his stated role was, but what he actually did, I don't know.

20 Q As part of being a trustee and filing this lawsuit, did you investigate or take
21 any steps to try and find out what he did at the company?

22 A Yes.

23 Q What did you do?

24 A So I do know that, through Mr. Biden's consulting company, Lion Hall, he
25 purportedly provided consulting services to the debtor, or to the debtors. But what

1 those services were, yeah, I don't -- I don't -- I can't say specifically.

2 Q Is it fair to say that you weren't able to identify any services that he provided
3 to Americore?

4 A Well, that's why I sued him, so --

5 Q And just for people who don't understand what a healthcare company is or
6 Americore, like, what type of services would you expect a principal of a company to
7 provide to the company? Like, what are some examples of what a principal -- what you
8 would expect to see if someone was providing or rendering services to a client of that
9 nature?

10 A Well, I guess that depends, you know, whether the person is medical versus
11 nonmedical. So I think since we can stipulate that Mr. Biden was nonmedical, we'll go
12 on that track. And so there's a variety of services that he could've provided. He
13 could've provided financial advisory, could've provided some sort of financial services,
14 investment banking.

15 Q But you identified none.

16 A I did not think that he provided services to the debtors, no.

17 Q Are you able to tell, based upon the evidence that you reviewed and your
18 investigation, how long James Biden purportedly worked for Americore?

19 A I think the question is more how long he was actually associated with
20 Americore. I don't think he actually worked for the company. In my mind, "worked for
21 the company" kind of means an employee relationship.

22 But how long was he affiliated with the company? At least since 2018.

23 Q Okay.

24 I'd now like to go to paragraph 15. And for the record, if you could read
25 paragraph 15 into the record, please.

1 A Okay.

2 "By information and belief, Defendant procured the \$600,000.00 in loans from
3 Americore Health (the 'Loans') based upon representations that his last name, 'Biden,'
4 could 'open doors' and that he could obtain a large investment from the Middle East
5 based on his political connections."

6 Q I'm going to start with the latter part of this sentence for questioning, and
7 we'll come back to the loans themselves in a minute.

8 But the latter part explains that -- "based upon representations that his last name,
9 'Biden,' could 'open doors.'"

10 Are you able to tell us -- because it's in quotes. Do you know where that
11 information came from?

12 A No.

13 Q Would you be able to find out the basis for that information? In other
14 words, was somebody interviewed? Was there an email? Was there some sort of
15 document that supported that particular paragraph?

16 A Yes. I mean, I could ask the attorney who drafted this complaint where it
17 came from.

18 Q Did you have the opportunity to interview any individuals who were involved
19 with James Biden while he was associated with Americore?

20 A What do you mean by that?

21 Q Did you interview anyone such as Grant White or Tom Pritchard -- I know
22 you said you didn't talk to Tom Pritchard, but that's just an example of somebody who
23 may have been involved with James Biden while he was affiliated with Americore.

24 A I've interviewed Grant.

25 Q And so, based upon your knowledge, you don't know where this particular

1 statement came from, but you believe there is supporting documents or information that
2 you could provide us at a later date to explain this?

3 A To explain the quote, "open doors"?

4 Q Correct.

5 A Yes.

6 Q Where do you think that information comes from?

7 A I don't know.

8 Q And what about the next part, "... and that he could obtain a large
9 investment from the Middle East based on his political connections"?

10 A Right. Same thing.

11 Q And that would be with which attorneys?

12 A So it would be with Gary Freedman and Frank Terzo from Nelson Mullins. I
13 think their signature block is at the end of the complaint. Yes. It's on page 7 of 16.

14 Q If you could walk us through Count I and explain what a "fraudulent transfer
15 pursuant to section 548(a)(1)(B) of the Bankruptcy Code" means, just generally speaking.

16 A So this is a constructive fraudulent transfer that was made within 2 years of
17 the filing of the bankruptcy petition and seeking recovery, as I said initially, of funds that
18 left the estate -- so, in this case, \$610,000 -- back into the estate.

19 Q And then what about Count II on page 6, "turnover of property of the
20 estate"?

21 A Oh, sorry. I think I read -- I read the wrong -- wait a minute.

22 I just spoke of Count II. Sorry about that.

23 So Count I -- well, it's the same -- it's really the same answer.

24 Mr. [REDACTED]: I guess, in layman's terms, just as someone who doesn't practice
25 this every day, can you generally summarize the statute --

1 Ms. Fox. Yeah.

2 Mr. [REDACTED]: -- as best you could?

3 Ms. Fox. Sure.

4 So the main prong here is that the debtor had assets less than its liabilities at the
5 time that the money was transferred, or that that transfer rendered the debtor with
6 assets less than its liabilities because of the transfer. Okay?

7 And then the next -- so insolvency is one. And then there's reasonably
8 equivalent value -- whether the estate got any value for that transfer.

9 So, for example, if I was, let's just say, like, a W-2 employee working for the
10 company and I got paid in the ordinary course of business for my time with the company,
11 I wouldn't necessarily pursue that person for a fraudulent transfer, even if the company
12 was insolvent at the time, because I'd received reasonably equivalent value. And there's
13 a defense for that.

14 BY MR. [REDACTED]:

15 Q And now I'd like to turn your attention to paragraph 11. And if you could
16 please read paragraph 11 into the record.

17 A Okay.

18 "On January 12, 2018, Americore Health wire transferred the sum of \$400,000.00
19 to Defendant's bank account at PNC Bank, located in Philadelphia, Pennsylvania. The
20 documentation evidencing the foregoing wire transfer prepared by Americore Health
21 references the transfer as a 'LOAN.'"

22 Q How did Americore or you find that there was this \$400,000 purported loan
23 to James Biden on January 12th of 2018?

24 A From its bank records.

25 Q And after you were able to identify that money from the bank records, what

1 were the next steps that you took to try and follow up to see the terms of the loan or
2 whether it was a legitimate loan and to follow the money?

3 A So we would have looked at the documents produced in this case to see if
4 there was any evidence of a promissory note. I mean, that would be one thing that we
5 would look for.

6 Q And were there any documents or promissory notes or anything
7 documenting the loan itself?

8 A No. There was one thing that said "loan," and that's why this was called a
9 loan, is because of the exhibits that were filed with this complaint.

10 So now I'm looking at page 10 of 16. And somewhere --

11 Q Under "reference number" on the left-hand column?

12 A Yes, that's right. So, right, in the top left, last line, in the middle, it says
13 "loan."

14 And I think that was the same for the \$200,000 transfer as well.

15 Q Is there any documentation showing what the interest of this purported loan
16 was?

17 A Right, so, no, because I told you, I couldn't find the promissory note.

18 Q Do you know if there's -- and the answer may be "no" to all these, but I'll just
19 go through them.

20 A That's okay.

21 Q Do you know if there was any documentation showing what the loan was
22 potentially collateralized by?

23 A I didn't find any documentation supporting that.

24 Q Did you find any documentation where James Biden submitted the reason
25 why he was trying to obtain this loan from Americore?

1 A No.

2 Q And just to be clear, there was no documentation that even showed any
3 terms of the loan at all?

4 A That's correct.

5 Q Would you agree with me that, based upon your expertise in looking at
6 loans, that there usually is, if it's a legitimate loan, a promissory note or something
7 memorializing the terms of the loan to some degree?

8 A I would agree with you.

9 Q And, in fact, if someone was going to, for instance, take a loan out from a
10 bank, for instance, oftentimes you'd have to say what the purpose of the loan would be,
11 so, that way, the bank has assurances that you will potentially pay back the loan.

12 A I don't necessarily agree with that.

13 Q Well, would you agree that banks oftentimes want to know what the
14 purpose of the loan is, so, that way, they can have an interest in whatever you are
15 investing in, in case you can't pay back the loan -- for instance, a car or a house or any
16 type of asset?

17 A That's a collateralization issue, not necessarily -- I don't know. People say
18 they're going to use money for different purposes all the time.

19 Q What about the borrower's ability to pay back the loan?

20 A Sure.

21 Q That would be -- a relevant factor in determining whether or not a company,
22 for instance, would provide a loan, would be whether or not the person who's seeking the
23 money can actually pay back the loan. Would you agree with me there?

24 A Yes.

25 Q And the reason a company or someone who's loaning money would want to

1 know whether or not the person borrowing the money can pay it back is because they
2 want to know whether or not -- the risk factor involved, the calculated risk of loaning
3 money to a certain individual, correct?

4 A Yes.

5 Q And, oftentimes, people who are more risky or companies that are more
6 risky or loans that are more risky can sometimes have higher interest rates, correct?

7 A Correct.

8 Q All right.

9 And now I want to show you exhibit 2.

10 A Okay.

11 Q Or, excuse me. Actually, if we could go back, you can read 12. I
12 apologize. I skipped ahead. Read paragraph --

13 A I'll read paragraph 12 --

14 Q Yes.

15 A -- of exhibit 1?

16 Q Yes. I'm sorry.

17 A Okay.

18 Q Page 3 again.

19 A Sorry.

20 Q No, it's my fault.

21 A Okay.

22 Q If you could read paragraph 12 into the record?

23 A Okay.

24 "On March 1, 2018, Americore Health wired the sum of \$200,000.00 to
25 Defendant's bank account at PNC Bank, located in Philadelphia, Pennsylvania. The

1 documentation evidencing the foregoing wire transfer prepared by Americore Health
2 references the transfer as a 'LOAN.'"

3 Q And I'll ask some of the same questions that I asked before. For this
4 particular transaction, how did Americore come to learn that, in addition to the \$400,000
5 loan on January 12, 2018, that there was a \$200,000 purported loan on March 1st of
6 2018?

7 A The same way. A review of the bank records.

8 Q Was there any documentation, promissory note or any of the other
9 documents that I discussed earlier, that supported this particular loan?

10 A No, other than the exhibit that we walked through just a minute ago on
11 page -- this one would be on page 12 of 16 -- that, again, references in the first section on
12 the left side, "reference number: loan."

13 Q And so, again, there was nothing -- there was no interest laid out or nothing
14 that was collateralized that anyone's aware of that was documented or any contract or
15 anything like that related to this particular loan?

16 A Right. So there was no document referencing a stated interest rate or
17 repayment terms or collateralization.

18 BY MR. [REDACTED]:

19 Q How was it categorized on Americore's books?

20 A Americore -- ha. Kind of like the emails, Americore did not have financial
21 statements in books and records that I recovered. So the -- well, let me back up a
22 minute.

23 Q Sure.

24 A St. Alexius had financial statements.

25 Q Sure.

1 A Okay? Because that company was still operating when I was appointed
2 trustee. So did IZARD County.

3 But the other entities -- so Ellwood City, Americore Health, Americore Holdings,
4 Pineville -- did not have financial statements or an accounting system that I ever
5 recovered.

6 So the financial statements and the insolvency analyses that my firm prepared was
7 basically based on a buildup of the bank statements and sporadic financial statements
8 that we recovered in discovery.

9 Q Did you find that odd? I mean, did you find that odd, that Americore didn't
10 have emails -- I'm talking Americore Health, right? I'm not talking about the actual
11 medical facilities. But did you find it odd that Americore Holdings and Health and didn't
12 have emails, they didn't have financials? I mean, did that strike you as odd?

13 A I think they existed at one point. I -- or might've existed at one point.

14 Look, I mean, all of the companies that I deal with, or a lot of them anyways, I
15 mean, that's a commonality. So, no, it didn't strike me as odd, but it does happen in
16 industry that I deal in. And so, you know, it was just a factor in this particular case.

17 BY MR. [REDACTED]:

18 Q And then if we could go on to paragraph 13?

19 A Okay.

20 Q And if you could read that into the record as well?

21 A Okay.

22 "On June 4, 2018, Americore Health wire transferred the sum of \$10,000.00 to
23 Defendant's bank account at JPMorgan Chase bank, located in New York, New York. The
24 documentation evidencing the foregoing wire prepared by Americore Health references
25 the transfer for 'Consulting & Marketing -- 2018.'"

1 Q In paragraph 13, there's a clear delineation of the purported services, which
2 are "Consulting & Marketing -- May 2018." Do you know what the basis was for
3 claiming that was consulting and marketing for this money?

4 A I think it's the way it's referenced in the support, so we would need to go to
5 the back of this complaint.

6 Right. So, if we look at page 14 of 16 and look this time at the right side of the
7 document, the last line on the bottom, it says, "ORIG TO" -- "originator to beneficiary
8 info" is what this stands for -- "Consulting & Marketing - 2018."

9 Q Where did this document come from?

10 A The company's bank records.

11 Q And so, just to be clear, when it came to consulting and marketing, there
12 was bank records that supported that, but when it came to the loan, there was no
13 promissory note or no other records that showed that there was the loan.

14 A There's the same amount of documentation for the consulting and
15 marketing agreement as there is for the loans -- none.

16 Q So there was no -- you couldn't find any documentation to support the
17 consulting and marketing services either?

18 A There wasn't a consulting agreement that I came across in this litigation.

19 Q What about a marketing -- or any type of agreement that reflected payments
20 for marketing?

21 A Let me just frame this by saying that there were none that I came across
22 when I filed this lawsuit. He might've -- Mr. Biden might've produced something in
23 mediation that I'm not remembering.

24 But at the time I filed this lawsuit, I hadn't seen a promissory note or a consulting
25 agreement in the documents that were produced in this litigation as of July 7, 2022.

1 I just -- I want to be clear that that could've happened and I might not be
2 remembering it.

3 Mr. [REDACTED]. So Mr. Biden might've provided something at a later time, but
4 when you reviewed Americore's records at the time that you filed this lawsuit,
5 Americore's records, there was nothing that you reviewed as far as a marketing
6 agreement?

7 Ms. Fox. Right. I just want to be as honest as possible with you --

8 Mr. [REDACTED]. Sure.

9 Ms. Fox. -- and so he might've and I might not remember it. But what you said
10 is correct. At the time I filed this lawsuit, neither a consulting agreement nor promissory
11 notes for the \$400,000 and \$200,000 loans existed.

12 BY MR. [REDACTED]:

13 Q I have a hypothetical question for you. If you were to file a lawsuit, let's
14 say, against me because I had taken a loan out from Americore and you felt that I didn't
15 pay back the loan and it was a fraudulent transfer and so now I have a certain sum of
16 money, but then I take that money and I transfer that money to another person, does the
17 trustee ever seek to go after that other person, when I have transferred the money that
18 the trustee had deemed was fraudulently transferred?

19 A I would first attempt to get the money from you as an initial transferee.
20 And if I reached a settlement with you that I thought was fair and equitable to their
21 estate, then I would not pursue a subsequent transferee.

22 Also, yeah, the subsequent transferee, there's -- with every litigation matter,
23 there's a calculated risk. And so, as a fiduciary, I have to weigh the cost versus the
24 benefit in every lawsuit that I file.

25 Q What if I did not want to pay you back or I didn't pay you back and we

1 couldn't come to an agreement, then what would the trustee do in that situation,
2 potentially?

3 A I think it depends on the dollar value of the transfer -- I really do -- and
4 whether I think that I would be spending more time and money than the value of the
5 recovery to the estate.

6 Q Well, for instance, a \$200,000 transfer would be substantial, correct?

7 A Yes.

8 Q So now I'd like to go to exhibit 2.

9 [Fox Exhibit No. 2
10 was marked for identification.]

11 BY MR. [REDACTED]:

12 Q Let me know when you're there.

13 A I am.

14 Q This is a check that the Oversight Committee was able to obtain pursuant to
15 a subpoena, and it shows a check in the amount of \$200,000 paid to Joseph R. Biden, Jr.,
16 from Sarah and James Biden, Sr. And in the "For" column, it says, "loan repayment."
17 And it appears to be signed by an individual.

18 What is the date of that check?

19 A March 1, 2018.

20 Q And now if you could flip back to exhibit 1, paragraph 12.

21 A Okay.

22 Q What was the date of the purported loan from Americore Health to James
23 Biden?

24 A March 1, 2018.

25 Q And for how much?

1 A \$200,000.

2 Q And then if you'd flip back to exhibit 2, and I just read it, but what was the
3 amount for for the check that went to Joe Biden?

4 A \$200,000.

5 Q In your review of the materials related to James Biden and Americore, did
6 you see anything where James Biden informed Americore that he was going to take the
7 \$200,000 that was purportedly a loan and give it to Joe Biden?

8 A I did not.

9 Q Have you seen this check before?

10 A I saw it today for the very first time.

11 Q So, looking at the check -- and, as we just said, it's for \$200,000, and it's on
12 the same day that James Biden received the same exact loan amount from
13 Americore -- this would be the same amount, date, and -- that you allege in the lawsuit as
14 a fraudulent transfer, correct?

15 A Yes.

16 Q Do you think that a principal of a company who's a fiduciary of the company
17 has any duties to the company if they were to take out a loan from said company?

18 A I think they have a duty to repay it, but I think that about any borrower.

19 Q And if a person is significantly, allegedly, in debt, do you think that they
20 should inform -- do they have a duty to inform the company that, "Hey, I'm going to take
21 this loan out from you for hundreds of thousands of dollars, but I've got this other
22 hundreds of thousands of dollars of debt over here"? Do you think a fiduciary has a
23 duty to inform the company, given that risk that's involved with taking out that loan?

24 A I think it would be nice, but it usually doesn't happen.

25 BY MR. [REDACTED]:

1 Q You said earlier that someone who has a fiduciary duty is someone who's in
2 control of the assets, right? So you compared someone who had a fiduciary duty to just
3 a regular debtor. I mean --

4 A Right.

5 Q -- there's a difference between just a generic debtor and someone who has a
6 fiduciary duty, right? I mean, can you talk about that difference?

7 A Do you mean --

8 Q You were talking about that extra difference that would be required of
9 someone who owes a fiduciary duty rather than just a regular debtor.

10 A Okay. So you keep using "debtor," but that's not what I really think you
11 mean.

12 Q Okay.

13 A So I think you mean, like, a consultant or an officer of the company, if you
14 will.

15 Q Okay.

16 A Is that what you mean?

17 Q Sure. Yeah.

18 A Okay. So do I think that an officer of a company has a duty to the
19 company, and do I think a fiduciary has a duty to the company? Yes, I do.

1

2 [1:45 p.m.]

3 BY MR. [REDACTED]:

4 Q Different than a regular consultant or a regular marketer?

5 A Or a W-2 employee, yes.

6 Q Okay. So I think that went to his question. If someone who had a
7 fiduciary duty, who you said earlier, defined what's a fiduciary duty as somebody who's in
8 control of the assets, I think the question that was asked is, would it be nice to know for
9 that entity, if the fiduciary duty who is in control of the assets is taking \$200,000 in this
10 case, that they had maybe another debt to pay off?

11 A Yeah. Yes. I mean, I don't disagree with you that it would be
12 a good -- something to disclose. Does it happen all the time? Probably not.

13 And I don't necessarily think that the fiduciary necessarily has an obligation to the
14 company to disclose what they're doing with the money in as much as the credit risk
15 associated with paying the money back.

16 Q Well, if a company is going to extend \$200,000 in credit to one of their
17 fiduciaries, wouldn't the entity want to know how that \$200,000 is going to make the
18 entity better? I mean, wouldn't they want to know where that money is going to
19 enhance or make better the entity? I mean, wouldn't they want to know where that
20 money is going?

21 A But that's not the purpose of the -- it's an asset. It's a loan. It's not -- I
22 mean, if the person -- if the fiduciary is taking the money out for their personal purposes,
23 it's not doing anything to enhance the enterprise value of the company.

24 Q Okay.

25 A It's simply a credit to that person.

1 Q Okay.

2 Mr. [REDACTED]. Is it a red flag to you that Americore was undergoing financial
3 hardships and was giving \$600,000 in loans to someone who's acting in a fiduciary role?

4 This isn't a company where they are making tons of money and they're trying to
5 recruit the best talent, and so they're bringing him in and giving him this big loan to go
6 buy a home or something to recruit them in. This is a company, at the time, that's
7 undergoing some significant financial hardship and then giving \$600,000 in loans.

8 I mean, is that a red flag to you?

9 Ms. Fox. Hundred percent agree with you. That's why I filed the lawsuit.

10 Mr. [REDACTED]. And there's, just to be clear, there's no documentation, there's
11 no emails or anything that you're aware of -- that you can recall, of course -- that -- where
12 James Biden said that he was repaying a loan with this loan?

13 Mr. Fox. Right. That's correct.

14 Mr. [REDACTED]. This is probably a good time to take a break.

15 Mr. Edgar. Before we break, Ms. Fox would like to expand upon an earlier
16 answer about to whom she -- your question about to whom does she report.

17 Mr. [REDACTED]. Oh, great. Yeah.

18 Ms. Fox. Yeah. So I need to clean that up a little bit.

19 So in the interview for -- the interview process for a Chapter 11 trustee position,
20 I'm initially interviewed by the United States Trustee, who files a motion usually to
21 appoint a trustee. But after the court -- after I'm appointed and I file a notice of
22 acceptance, then, at that point, I'm actually reporting to the court and not to the United
23 States Trustee.

24 And I don't think that I actually made that clear for everybody in the room.

25 Because a lot of times in my trustee cases, my interaction really is with the Office of the

1 United States Trustee and not as much with the court.

2 So I just wanted to make that clear, that if I were to be removed, then the United
3 States Trustee would have to unwind that -- unwind what they did, file a motion with the
4 court, and the court would then have to enter an order for my removal.

5 Mr. [REDACTED]: Okay.

6 Ms. Fox. Okay? So is that clear for all?

7 Okay. All right.

8 Mr. [REDACTED]: Let's take a 5- or 10-minute break, or how long do you want to
9 break?

10 Ms. [REDACTED]: Ten.

11 Mr. [REDACTED]: Ten would be great.

12 Mr. [REDACTED]: Okay. Good. So maybe we'll pick back up at 2?

13 Mr. [REDACTED]: 2 sounds good.

14 Mr. [REDACTED]: We can go off the record.

15 [Recess.]

16 Ms. [REDACTED]: We'll go back on the record.

17 EXAMINATION

18 BY MS. [REDACTED]:

19 Q So, Ms. Fox, I want to thank you again for being here today. I apologize if
20 some of my questions ask you to repeat anything you've already stated for the record. I
21 would just like to get a series of questions and answers in kind of a clean way. So I
22 appreciate your patience.

23 You said you were a CPA, correct?

24 A I'm a CPA.

25 Q And how long have you served as a CPA?

1 A I have been a CPA since -- that's a good question. I think it's 1987. It's
2 either '87 or '89.

3 Q Okay. And you do not have a law degree. Is that correct?

4 A That's correct.

5 Q So in any of your work in the bankruptcy space or any other space that
6 would require litigation, you would be consulting with attorneys, either on your team or
7 that you hired from a firm, to draft court documents or engage in that kind of court
8 representation.

9 A Yes.

10 Q Is that correct?

11 And in filing the case against James Biden, the motion against James Biden, you
12 did not draft that yourself, you said. Is that correct?

13 A That's correct. I reviewed it, but I did not draft it.

14 Q And you indicated in the earlier hour that you're not intimately familiar with
15 the sourcing for that complaint. Is that correct?

16 A Well, no, that's not true. I said -- what I said was I'm not familiar with the
17 source of the quote --

18 Q The quote that was cited in paragraph --

19 A Yeah.

20 Q -- 15 and 16, I believe.

21 A The one that said -- the one that -- yes. So specifically at paragraph 15 on
22 document 1 that says, beginning quote, "open doors," end of quote.

23 Q Okay. So you would need to go back and look at additional documentation
24 or consult with the attorneys who drafted the complaint to know exactly where that
25 came from. Is that correct?

1 A Yes.

2 Q And it was your attorneys that actually signed the complaint. Is that
3 correct?

4 A Yes.

5 Q And I understand from the prior hour that you specialize in bankruptcy
6 proceedings, correct?

7 A Yes.

8 Q Do you specialize in other types of matters as well?

9 A Yes. I do a lot of healthcare consulting, just based on my background. So
10 I've always had some healthcare cases on the go.

11 For example, I had a litigation matter with a publicly traded company that sold
12 ping pumps that I worked on within the last 2 or 3 years.

13 But, generally speaking, I would say that probably 75 percent of my current
14 practice is focused on bankruptcy or bankruptcy-related litigation.

15 Q Would you be willing to describe some of the other bankruptcy proceedings
16 that you've been involved with, just give us a few examples of the types of work that you
17 do in this space?

18 A Sure.

19 So at the beginning of the month, I testified in a week-long trial for a Chapter 9
20 bankruptcy that was filed in northern California. It's the bankruptcy of San Benito
21 Health Care District.

22 Unlike Chapter 11, Chapter 9 has some different eligibility requirements for being
23 a debtor in bankruptcy, so that trial was basically centered around that.

24 But also, in connection with that engagement, I also have advised that debtor on
25 some of the things that I talked about earlier, which is just cash management and cash

1 forecasting.

2 So that's one bankruptcy case that I'm involved with.

3 And your question was about the bankruptcy cases that I'm --

4 Q Yes.

5 A That I consult?

6 Q Yes, ma'am.

7 A So just another case that I'm involved with right now is 61 Wendy's
8 franchises, totally unrelated to healthcare, but bankruptcy nonetheless, that filed for
9 bankruptcy in November. And I'm advising same thing, debtor work on that.

10 On the creditor side, I've done a lot of work for committees. For example, I did
11 some financial advisory. I'm still -- our firm is still retained as financial adviser in a case
12 called Imerys, which is Imerys was the largest supplier of talc to J&J, which is associated
13 with ovarian cancer and mesothelioma.

14 So there is kind of like a little --

15 Q Yeah.

16 A -- a review of my career.

17 Q That's helpful. Thank you.

18 A Okay.

19 Q So in this variety of different bankruptcy proceedings and issues that you've
20 worked in, have you practiced before the SEC before?

21 A So yes. I, in my prior firm with KapilaMukamal, I was involved in a case that
22 lingered for years, which was styled SEC v. Michael Lauer and hedge funds, which I cannot
23 remember the names of as I sit here right now, but may be able to remember in a second.

24 Lancer Partners. It just came back to my head.

25 So I was involved in that litigation for about 5 years. That was kind of Ponzi-like,

1 but not 100 percent Ponzi.

2 But there have been other SEC -- like smaller SEC investigations that I've been
3 with. KapilaMukamal was primarily a Ponzi practice, so I did a lot of investment fraud
4 and Ponzi-like cases with that firm.

5 Q Okay. Is it fair to say that when you're brought on in a fiduciary capacity to
6 work in these bankruptcy cases, usually you're not involved with the company before
7 they start considering or filing that bankruptcy? Or, in other words, you don't typically
8 come into the picture until after an entity is considering or has filed bankruptcy?

9 A Most times, yes.

10 Q Okay.

11 A But that's not the empirical rule.

12 Q Okay.

13 A Sometimes we --

14 Q But, just generally speaking, that is generally what --

15 A Generally occurs.

16 Q Generally the case. Okay.

17 And is it fair to say that your knowledge of a company that you're working with
18 typically comes from what you learned in your role as the fiduciary during the bankruptcy
19 proceedings or the consideration of bankruptcy proceedings?

20 A Yeah. Yes. It also depends whether the company is operating versus not
21 operating.

22 Q Sure. But generally speaking?

23 A Uh-huh.

24 Q Okay.

1

2

BY MR. ████████:

3

4

5

6

Q Okay. Again, Ms. Fox, again, I'm ████████. I'm with the Democratic staff of the Oversight Committee. And I have some questions for you that will touch upon some of the same areas that Mr. ████████ covered, but I'd just like to clarify a few points.

7

8

Just preliminarily, in terms of your appointment, am I correct in understanding that you were appointed as trustee by the acting U.S. Trustee, Paul Randolph?

9

A That's correct.

10

11

Q Okay. And am I also correct in understanding that he was appointed by former Attorney General Jeff Sessions?

12

A I have no idea.

13

Q Okay. I'll note that Mr. Sessions served in the Trump administration.

14

15

16

Circling back to the investigation that was undertaken with respect to Americore, I just want to make sure we have a clear sense of the allocation of responsibility and what your role was in particular.

17

18

I understood from your prior answers that you had a team working with you at your firm. Is that right?

19

A Yes.

20

21

Q Okay. And the team undertook the task of reviewing the underlying documentation and bank records that you were referring to earlier?

22

23

24

A The team and I. I think, because I'm a CPA and a certified fraud examiner and a certified insolvency restructure analyst, I can't help myself. I was in the trenches with them.

25

Q Understood.

1 In the course of your investigation, did you ever speak with James Biden?

2 A Yes.

3 Q How many times?

4 A Once. On one occasion.

5 Q Was that in connection with the mediation or at a different time?

6 A It was in connection with the mediation.

7 Q Okay. And there were other people present for that conversation?

8 A Yes.

9 Q And who was that?

10 A The mediator; my counsel, Mr. Terzo and Mr. Freedman; and Mr. Biden's
11 counsel.

12 Q So that conversation took place during the mediation proceeding?

13 A Yes.

14 Q Okay. And outside of that conversation, have you ever spoken with James
15 Biden?

16 A No.

17 Q And in terms of the Americore investigation, what did you understand the
18 scope of that investigation to be?

19 A Well, that's a pretty big question. So -- go ahead.

20 Q If it helps, I can reframe it.

21 A Okay.

22 Q So what were the issues that you were looking at that you considered to be
23 within your responsibility?

24 A Well, initially, I was running a 140-bed hospital in St. Louis, Missouri, during
25 COVID. So just to set the table for all in the room, I was appointed as Chapter 11 trustee

1 in February of 2020, and COVID became a pandemic or a recognized pandemic in America
2 around March 8th, 2020.

3 Q I'll try and narrow it a bit.

4 A Yeah.

5 Q Leaving aside sort of the operational components of your role.

6 A Okay.

7 Q Which I have no doubt were vast and complex.

8 The fact-finding that you did as part of the investigation that we spoke about
9 earlier -- or that you spoke about with Mr. [REDACTED] -- what was within the frame as far
10 as that investigation was concerned, from your perspective?

11 A So it's what I said earlier. It's analyzing, at least initially, the estate
12 property that left the estate while the debtor was insolvent, or left the debtor with
13 unreasonably small capital or the inability to pay its debts as they became due, for which
14 the debtor did not get reasonably equivalent value, which is basically constructive
15 fraudulent transfer.

16 Q And so I take it then that it's correct for me to understand that activities that
17 were not related to Americore were outside the scope of your role.

18 A What do you mean by that?

19 Q Facts that were unrelated to the entity, Americore, which is the debtor who
20 filed for Chapter 11, if they were unrelated to the company itself, they were not within
21 your remit as trustee; or, to say it differently, were not part of your investigation.

22 A I don't -- I still -- I'm a little fuzzy on that question, so I think I'm not going to
23 answer it --

24 Q Okay. I --

25 A -- until I understand it better.

1 Q Sure. I can be more specific.

2 So let's say, for example, we've talked about James Biden. We've talked about
3 his relationship to Americore.

4 Business activities of James Biden that were not related to Americore, again, I take
5 it from your previous responses, were not part of your role as trustee.

6 A Yeah. It's still kind of a difficult question for me to answer, because I don't
7 think I'm with you 100 percent.

8 Q Did you consider it your responsibility as trustee to investigate business
9 activities of James Biden that were not related to Americore?

10 A If they were unrelated, no, I wouldn't have done that. I wouldn't have
11 done that.

12 Q Okay. And did you, in fact, investigate any of James Biden's business
13 activities that weren't related to Americore?

14 A You know, I mean, I think that "investigate" is probably -- no, I didn't
15 investigate them. But I think that I would be remiss to sit here and say -- I read the
16 paper like everybody else. So I'm going to hear things, the same thing that, let's say, the
17 guy who mows my lawn hears.

18 Q And that's an excellent distinction. So let me ask the question this way.
19 And I'm talking about firsthand knowledge, knowledge that you received directly from a
20 source, as opposed to through a newspaper or other secondary source.

21 And based on the conversation we've just had, it's my understanding that you
22 don't have firsthand knowledge about any business activities of James Biden that don't
23 relate to Americore. Is that fair?

24 A Right. But let's take it a step further. For example, Mr. Biden received
25 funds through his company, Lion Hall, from the debtor. So while Lion Hall's activities

1 may not be a hundred percent related to the debtor, it would be important to me to
2 understand the services that they did provide when I was trying to recover the fraudulent
3 transfer.

4 So while it's not like a hundred percent linked to the debtor, they're a company
5 that got money from the debtor that I would want to try and understand, "Hey, what
6 does this company do? Do they provide healthcare services or do they provide tires?"
7 for example.

8 Q But that's, again, where there is a nexus between the company --

9 A There is --

10 Q -- and Americore. So --

11 A There is a nexus.

12 Q So where there is no such nexus that wasn't part of your focus?

13 A That's correct.

14 Q Okay. Thanks.

15 How about personal relationships of James Biden that were unrelated to
16 Americore? Were those within the scope of your investigation?

17 A No.

18 Q Okay. I'll take it then that you as trustee were never investigating
19 President Joseph Biden. Is that right?

20 A Correct.

21 Q And to be clear, you have no evidence that President Biden had any
22 involvement at all in Americore?

23 A No, I don't.

24 Q Or had any involvement in the Americore bankruptcy, right?

25 A No, I don't.

1 Q Have any such evidence?

2 A Correct.

3 Q Okay. And speaking even more generally, is it fair to say that you have no
4 firsthand knowledge at all concerning President Biden?

5 A That would be correct.

6 Q You spoke at some length with Mr. [REDACTED] about the adversary
7 proceeding that you brought.

8 A Uh-huh.

9 Q And I'd like to go back to the factual allegations that you were discussing.
10 And these refer back to the complaint, which I believe you have in front of you.

11 To begin with, President Biden was not in office at the time the transfers at issue
12 were made, correct?

13 A That's correct.

14 Q Okay. And what was the total amount of Americore's outstanding debt at
15 the time you filed this complaint?

16 A I don't know. We -- because the way the bankruptcy estates are
17 administered, they're not administered as a consolidated group. They're administered
18 individually.

19 So in this case I would have prepared or I would have had my firm prepare what
20 we call in our industry an insolvency analysis. And so they would have done an
21 insolvency analysis for Americore Health for the \$610,000, and I don't know what the
22 debts were in total.

23 Q And what about in the aggregate for all of the entities that you were
24 overseeing? Even a ballpark would do.

25 A Yeah, it's tens of millions.

1 Q Tens of millions?

2 A Uh-huh.

3 Q So 610,000, in comparison, is a relatively small number. Is that fair?

4 A To tens of millions? That's fair.

5 Q Okay. So, with that, if we could just turn back to paragraph 15 in the
6 complaint.

7 A Okay.

8 Q It's already been read into the record, so I won't ask you to do that again.

9 But with respect to the representations that this paragraph refers to, how did you
10 come to understand that those representations had been made?

11 A I think it's through other documentation that was provided in this, in the
12 case and in this litigation.

13 Q Documentation provided to you?

14 A Right.

15 Q By?

16 A Other --

17 Q Sorry.

18 A So other discovery in this litigation and in this bankruptcy.

19 Q Provided to you by whom?

20 A Yeah, I'm -- that's -- when you asked -- when I was asked before about
21 paragraph 15, I told you I couldn't tell you specifically what document.

22 Q Okay.

23 A But, I mean, we subpoenaed, or my attorneys and I subpoenaed a number of
24 parties. So I couldn't tell you specifically what party provided the underlying
25 documentation for this statement.

1 Q Okay. But I'm correct in understanding that you came to understand these
2 facts through the documents that were provided to you.

3 A Correct.

4 Q And not directly from an individual or another source.

5 A Well, it could have been emails.

6 Q Could have been emails. But no one, no individual told you that James
7 Biden had made these statements to that individual.

8 A You know, there are exhibits, I think more than just one exhibit, that was
9 filed with this complaint. So if I had them, I might be able to expand on that a little bit
10 more. But since they're not here, I'm kind of limited to what is here.

11 Q Right. But it's fair to say that paragraph 15 is not based on a conversation
12 that you had with a person to whom James Biden made these statements?

13 A Could have been. It could have been Grant White.

14 Q But you have no specific recollection on that point?

15 A I don't.

16 Q Okay.

17 A But, then again, I told you and I said initially and I'll say again now that in
18 order to get clarification on this statement I would need to go back to the attorneys who
19 filed this complaint.

20 Q All right. Again, you covered this earlier this afternoon, but Americore
21 became involved with James Biden or brought in James Biden at a time when it was in, as
22 you had mentioned, dire financial condition. Is that a correct statement?

23 A Yes.

24 Q And it did that because it wanted his help in securing financing that it badly
25 needed at the time, right?

1 A I agree with that statement, yes.

2 Q And then paragraph 16 -- and this is the one that refers to a business card
3 that is, based on the attachment to the complaint, purports to bear Mr. James Biden's
4 name.

5 You mentioned earlier that that exhibit was taken from a complaint in another
6 legal action. Is that right?

7 A Yes.

8 Q Have you ever seen that business card yourself?

9 A No.

10 Q Can you tell us what facts you found to indicate that James Biden became a
11 fiduciary to Americore? What was the basis for that conclusion?

12 A I think that that's inferred in the title "principal." When somebody holds
13 them out as a principal of a business, like an officer of a business, they have an implied
14 fiduciary obligation to that business.

15 Q So it's based on the title alone that appears on the business card that's
16 attached to the complaint.

17 A In my opinion, yes.

18 Q So you, in the course of your investigation, didn't find a contract of
19 employment between Americore and James Biden. Is that right?

20 A Yes.

21 Q You did not find any such contract. I'm sorry. Just so the record is clear.

22 A Right. You said, is that correct?

23 Q Yes.

24 A And I said yes.

25 Q Just --

1 A Yes.

2 Q Just confirming.

3 For that matter, you didn't find any other legal documents establishing or
4 identifying him as an owner or a member of Americore. Is that correct?

5 A Yes, that's correct.

6 Q Okay. And then turning to paragraph 17. So the same question as with
7 respect to 15. Who made these allegations, to your understanding?

8 A Well, this one, I, in paragraph 17, which hasn't been read into the record, I
9 know this to be true.

10 Q So would you please read it into the record for us?

11 A Sure. Subparagraph 17, exhibit 1:

12 "Instead of complying with his fiduciary responsibilities, Defendant helped
13 Debtors procure an ill-advised bridge loan from a hedge fund that had a deleterious
14 impact on the financial affairs of the Debtor and ultimately forced the Debtors into
15 bankruptcy, as he never delivered the promise" -- "the promised the large investment
16 from the Middle East."

17 Sorry. That last sentence is a little clunky. I think it has an extra "the" in it.

18 Q I think you're right about that.

19 So let's break that apart. So there is an allegation in here that James Biden
20 helped Americore procure what the paragraph describes as an ill-advised bridge loan
21 from a hedge fund.

22 A Uh-huh.

23 Q Do you have an understanding as to the source of that allegation?

24 A Yes.

25 Q Could you tell us?

1 A Yeah. It's the -- it's review of the debtor's bank records and bank activity.

2 Q Okay. So, again, based on documents?

3 A And then also -- yeah. It's based on documents.

4 Q And there is a reference to a, quote/unquote, "promised large investment
5 from the Middle East."

6 What is the source of that allegation?

7 A I think that goes back to paragraph 15, which also references a large
8 investment from the Middle East. And, again, I stated that I don't know the source of
9 that, although I kind of think, sitting here, it's probably exhibit 3, which we haven't gotten
10 to yet.

11 Q Okay. But you're speculating as to that.

12 A I am speculating.

13 Q Okay.

14 A But I'm pretty sure we're going to find it when we get there.

15 Q Okay. But when you say you don't know the source of the allegation with
16 respect to the large investment from the Middle East, or a purported large investment
17 from the Middle East, it's fair for me to say that you don't have firsthand knowledge
18 concerning that allegation. Is that correct?

19 A That's correct.

20 Q Okay. And do you have any firsthand evidence that James Biden actually
21 made a promise to secure financing from the Middle East?

22 A Firsthand knowledge?

23 Q Firsthand evidence.

24 A No.

25 Q Okay.

1 A Well, I don't -- you know -- now, I'm going to back up and -- meaning do I
2 know it from him as opposed to -- no. Not firsthand, no.

3 Q Just stepping back for a second. Based on your experience with
4 bankruptcies generally and distressed companies, would you agree that it can be very
5 challenging for a company already facing difficult financial circumstances, as I think you
6 said Americore was when you were retained or appointed, to secure additional financing?

7 A Yes.

8 Q And it's correct, right, that Americore never actually secured any large
9 investment from the Middle East?

10 A That is correct.

11 Q Okay. You just said that you have no firsthand knowledge that -- or
12 evidence that James Biden promised to secure such an investment.

13 Do you have any firsthand evidence that James Biden used any political
14 connections to help Americore secure funding from the Middle East?

15 A Well, they didn't secure funding from the Middle East.

16 Q Right. So the answer --

17 A And so the answer is no.

18 I mean, just to be clear, like my tranches of information in this case are really
19 related to the debtor's records; interview with Grant White, who actually -- and it's not
20 just a single interview. Mr. White was actually very helpful and was in touch with my
21 attorneys throughout this litigation. And then other documents produced in this
22 litigation.

23 Q And that is helpful, right?

24 A And that kind of like sets the table for the tranches of information.

25 Q Yes. I appreciate that clarification. I'm just posing these questions to you

1 just so the record is clear as to what you had firsthand knowledge of and what you didn't
2 have firsthand knowledge of.

3 A Okay.

4 Q So that's very much relevant to today's interview.

5 A Okay.

6 Q So firsthand evidence, again, did you have any that James Biden ever used
7 political influence to open doors for Americore?

8 A Firsthand like meaning coming from him specifically?

9 Q Or anyone else. Information that came directly to you.

10 A Well, I mean, so backing up, I mean, this information that you've been asking
11 me about could have been obtained in an interview from Grant White. I don't know
12 specifically. But kind of all of these things --

13 Q Right.

14 A -- I don't recall.

15 Q Right. So that's the point. You, yourself, don't know --

16 A I --

17 Q -- have no knowledge of that ever happening.

18 A As we sit here today, I don't recall what Mr. Biden did or didn't tell
19 Mr. White or somebody else that operated -- that worked at Americore.

20 Q You can't testify to that as you sit here today?

21 A No.

22 Q Okay. Along the same lines, do you have any knowledge that James Biden
23 ever discussed Americore with his brother Joe?

24 A No.

25 Q Or, for that matter, any of his other business affairs with his brother Joe?

1 A No.

2 Q And, again, to your knowledge, did Joe Biden ever take any official action at
3 the request of his brother James?

4 A With respect to the Americore debtors or --

5 Q At all.

6 A At all? I don't know.

7 Q So you don't have any such knowledge?

8 A No.

9 Q And, to be clear, with respect to these allegations, James Biden disputed
10 them, right?

11 A Which allegations?

12 Q So paragraph -- well, the -- the legal claims that you asserted against him,
13 but also paragraphs 15 through 17 specifically.

14 A I don't know if he disputed every single one of these.

15 Q Okay.

16 A copy of the settlement.

17 A Thank you.

18 [Fox Exhibit No. 8

19 was marked for identification.]

20 BY MR. [REDACTED]:

21 Q So you've just been handed what we've marked as exhibit 8. It is a filing
22 from the action captioned "In Re: Americore Holdings" in the United States Bankruptcy
23 Court for the Eastern District of Kentucky, and the filing is captioned "Chapter 11
24 Trustee's Motion to Approve Compromise and Settlement of Adversary Against James
25 Biden and to Permit Payment of Contingency Fee to Nelson Mullins."

1 Do you have that document in front of you?

2 A Yes.

3 Q Have you seen it before?

4 A Yes.

5 Q Okay. Can you tell us what it is?

6 A It's a motion -- kind of what it says -- it's the motion to approve the
7 settlement that I reached between James and Sara Biden and then to pay the contingency
8 fee of my legal counsel.

9 Q And then there is an exhibit A appended to this document. Do you see
10 that?

11 A Yes.

12 Q Okay. And what is exhibit A?

13 A Exhibit A is the settlement agreement that I entered into with Mr. Biden.

14 Q If I could point you to page 3 of the agreement, there are a series of
15 "whereas" clauses.

16 A Right.

17 Q And I'm looking at the third one.

18 Would you mind reading that into the record?

19 A "Whereas, Biden has contested the Trustee's allegations in the Proceeding
20 and Biden and Lion Hall denied that they have any liability to the Trustee with respect to
21 the transfers and expressly deny any liability on the grounds, inter alia, that at all times
22 they Biden, hyphen" -- or, "slash, Lion Hall provided" -- or, sorry, that they -- "that at all
23 times they Biden, slash, Lion Hall provided financial and consulting services to Americore
24 and that Americore received reasonably equivalent value for the work and services
25 provided by Biden, slash, Lion Hall."

1 Q Thank you.

2 Does that refresh your recollection at all?

3 A Of what?

4 Q As to whether or not Mr. Biden disputed the allegations in paragraphs 15
5 through 17.

6 A I still disagree with you that he disputed all of these. As a bucket? I
7 mean, we can run through them individually. But I don't think that he disputed all of
8 these -- the allegations in paragraphs 14 through 19.

9 Q But he did dispute the allegation that the transfers were not paid in
10 consideration for legitimate consulting and financial services work?

11 A I think it speaks for itself. What he said was that -- going back to the
12 paragraph that I just read into the record -- that the debtors -- one second. Let me just
13 go back. Here we go.

14 What they said was they "provided financial and consulting services to Americore
15 and that Americore received reasonably equivalent value for work and services provided
16 by Biden, slash, Lion Hall."

17 Q I think we're in agreement that the language of the agreement speaks for
18 itself, so I'll move on.

19 A Okay.

20 Q I'm also correct, right, that there was never a finding by a judge or an
21 independent fact finder in this case?

22 A Of what?

23 Q With respect to the truth of the allegations in the complaint.

24 A Right. That's correct.

25 Q In other words, you and James Biden disagreed about the truth of these

1 allegations, and no judge came in to say which of you was correct.

2 A That's correct.

3 Q Okay. Turning back to the complaint, you were asked earlier about the
4 legal claims, and I'd like to return to those for a couple of minutes, if I could.

5 A Okay.

6 Q And, to be clear, my questions are about your understanding of these claims.
7 I'm not asking what any of your lawyers told you --

8 A Uh-huh.

9 Q -- at any point.

10 A Okay.

11 Q Okay. So you spoke earlier about count 1 of the complaint. That's the
12 one captioned "Fraudulent Transfers pursuant to Section 548(a)(1)(B) of the Bankruptcy
13 Code."

14 Do you see that?

15 A Yes.

16 Q Okay. My understanding is that section 548(a)(1)(B) applies in the specific
17 circumstances, including where the debtor received less than a reasonably equivalent
18 value. And that appears to be what you alleged here, correct?

19 A Well, it's an "and" statement.

20 Q Right. So, yeah, there are certain circumstances in which that subsection
21 applies, and that is one of those circumstances.

22 A Well, no. It's the first prong, and then there is received less than
23 reasonably equivalent value, and was insolvent, or was unable to pay its debts as they
24 became due, or the transaction rendered them insolvent or left the debtor with
25 reasonably small capital -- unreasonably small capital.

1 Q That's helpful.

2 It's also my understanding that that provision does not require that the person
3 against whom the claim is brought have actually intended to defraud.

4 Is that your understanding as well?

5 A Right. So this is a constructive fraudulent transfer count, as opposed to an
6 actual fraudulent transfer count.

7 Q And I also understand that there is a separate provision in the Bankruptcy
8 Code under which a trustee can pursue a fraudulent conveyance claim, section
9 548(a)(1)(A), which does contain a requirement of actual fraudulent intent or other
10 improper intent.

11 Is that your understanding as well?

12 A Yes.

13 Q And you did not allege a violation of that subsection in this case, correct?

14 A No, it's not alleged in this complaint.

15 Q And am I also correct that that's also true of count 2 in the complaint, the
16 claim for turnover, which, to my understanding, also does not require fraudulent or other
17 improper intent?

18 A When you say fraudulent, are you asking does it include a count for actual
19 fraud?

20 Q Does a claim for turnover under section 542, which is count 2 in this
21 complaint, require that the defendant have acted with such intent?

22 A With what such intent?

23 Q Fraudulent intent.

24 A Well, it's recovery of a constructive fraudulent transfer.

25 Q Right. But does it require a showing of actual fraud?

1 A No.

2 Q Okay. If we could refer back to the settlement agreement that we were
3 looking at just a second ago, exhibit 8.

4 A Okay.

5 Q And, again, I'm looking at the exhibit A to that document, the settlement
6 agreement itself.

7 A Okay.

8 Q And now I'm on page 4.

9 A Okay.

10 Q Second "whereas" clause from the top. Do you see that?

11 A Yes.

12 Q Could you read that for the record, please?

13 A "Whereas, the Trustee has not alleged or been provided with any evidence
14 that Biden engaged in fraud with respect to Americore Health."

15 Q Okay. Thank you.

16 Okay. And, as we discussed earlier, this action was settled. And I think you
17 had, if I'm recalling correctly, acknowledged it earlier as a fair and equitable settlement?
18 Is that correct?

19 A I think it is, yes.

20 Q And, just for the record, could you tell us why you believe that?

21 A Well, it's pretty well documented in the motion and in the settlement
22 agreement. But, as a fiduciary, I have to weigh a lot of factors when I'm pursuing a
23 recovery. Some are the length of litigation and the -- even the likelihood that, you
24 know, I might lose if I pursue litigation.

25 The collectability of the defendant is another one.

1 And so, if I can reach a settlement quickly and not have to risk protracted litigation
2 and I feel that the amount that came into the estate is, yeah, is fair, then I'll settle it out.

3 For example, I wouldn't settle this adversary out for \$10, okay? That wouldn't be
4 fair. But I think, in my mind as a fiduciary, any time I get close to about 50 percent,
5 that's a good day, especially if it happens early as opposed to, if I settled with him a year
6 from now, maybe not such a great outcome. But early on, it's a good outcome.

7 Q Thank you.

8 I'm really done with my questions, but I did want to circle back to exhibit 2, which
9 you were asked about earlier.

10 A Okay.

11 Q That was the check.

12 A Uh-huh. Okay.

13 Q Do you have any knowledge that the proceeds of the check reflected in
14 exhibit 2 are in any way related to the transfers that are the subject of your adversary
15 complaint?

16 A Only hearsay.

17 Q Only hearsay.

18 And as you said earlier, you had not seen this check prior to arriving here this
19 morning, correct?

20 A That's correct.

21 Mr. ██████: Okay.

22 BY MS. ██████:

23 Q Ms. Fox, you were asked in the previous hour about the number of lawsuits
24 you've filed similar to the one against James Biden. And you at first said you weren't
25 sure, but then estimated it was less than 100.

1 Do you recall --

2 A Yes.

3 Q -- the question and answer?

4 A Yes.

5 Q Could you estimate a slightly more specific number than less than a
6 hundred? Do you have a range in mind? Would you say more than 50?

7 A I think it's more than 50, less than a hundred.

8 Q Do you think more than 75?

9 A You know, I don't know. I filed a lawsuit against a couple dozen nurses who
10 worked for St. Alexius Hospital who got sign-on bonuses for -- during COVID and then
11 quit, contrary to their contractual relationship with me. So they're included in the -- in
12 these lawsuits.

13 I mean, so, if you're asking me how many lawsuits, it's probably -- yeah. I mean,
14 just using them as a base and then building up from there, it's probably 50 or so. But I
15 don't know. I haven't counted -- I haven't counted them.

16 Q But estimating between 50 and a hundred?

17 A And there's a lot of difference between this lawsuit and what I was
18 describing previously. I would say, yeah, between 50 and a hundred.

19 Ms. [REDACTED]. Okay. Thank you.

20 Ms. [REDACTED]. When you say "a lot of difference," do you mean that this
21 case was unusual from other cases that you filed, or was this case in the norm for your
22 normal cases?

23 Ms. Fox. You know, in my opinion, this case is a garden variety constructive
24 fraudulent transfer, okay?

25 What I'm saying, the difference between this lawsuit -- or this type of

1 lawsuit -- and then the one that I was referencing just a moment ago for nurses that got a
2 \$20,000 sign-on bonus, there is a lot of difference monetarily between those two cases.
3 And just building on that, the sophistication of the defendant would also factor into that
4 statement as well.

5 Ms. [REDACTED]. Okay. Thanks for clarifying.

6 Mr. [REDACTED]. Off the record.

7 [Recess.]

1

2 [3:03 p.m.]

3 Mr. Parrish. Oh. So there was a line of questioning where you asked
4 something to the effect of, was there any other documents or anything else to indicate
5 that Mr. Jim Biden was a principal of Americore.

6 And so we just wanted to clarify, I don't think Ms. Fox is aware of anything, but
7 that doesn't mean to say, you know, there's -- you know, there's documents, there's
8 interviews. There could be. She just doesn't recall today whether or not there is or
9 there isn't.

10 Mr. [REDACTED]. So, in other words, she doesn't -- Ms. Fox, you don't have firsthand
11 knowledge of any such facts.

12 Ms. Fox. I don't recall any documents other than the business part, but that
13 doesn't mean that there aren't other documents out there.

14 Mr. [REDACTED]. Okay. Thank you for the clarification.

15 Mr. [REDACTED]. We'll go off the record.

16 [Recess.]

17 Mr. [REDACTED]. Are you guys ready? You good? Okay.

18 BY MR. [REDACTED]:

19 Q I want to turn your attention to exhibit 1, the complaint. And I know
20 you've read this in the prior hour, but if we could go back to paragraph 17 --

21 A Okay.

22 Q -- and if you could just reread it, just so we're all on the same page as to
23 what we're looking at.

24 A Reread paragraph 17?

25 Q Yes, please.

1 A Okay.

2 "Instead of complying with his fiduciary responsibilities, Defendant helped
3 Debtors procure an ill-advised bridge loan from a hedge fund that had a deleterious
4 impact on the financial affairs of the Debtor and ultimately forced Debtors into
5 bankruptcy, as he never delivered the promised large investment from the Middle East."

6 Q All right. I'd like to talk about this ill-advised bridge loan from a hedge
7 fund.

8 And I'm now going to put in exhibits No. 5 and No. 6.

9 [Fox Exhibit No. 5
10 was marked for identification.]

11 [Fox Exhibit No. 6
12 was marked for identification.]

13 BY MR. ██████████:

14 Q Exhibit 5 is a press release from the SEC related to Third Friday Management,
15 LLC, and Michael Lewitt.

16 And exhibit 6 is the SEC's complaint against Third Friday Management, LLC, and
17 Michael Lewitt.

18 Do you know, based upon reviewing the records as part of your duties as a
19 trustee, what the ill-advised bridge loan was that's referenced here in paragraph 17?

20 A Yes.

21 Q Can you please tell us?

22 A The Third Friday Management -- but it's not the Third Friday Management,
23 LLC. It's Third Friday Total Return Fund, which -- Third Friday Management, LLC, is the
24 investment manager of the Third Friday Total Return Fund, which is referenced in the first
25 paragraph of exhibit 6.

1 Q And I'm just going to refer to them as "Third Friday" just for --

2 A Well, I think it's better -- if we're going to refer to them as "Third Friday," the
3 way I'm going to think of it as is the Total Return Fund, not the management group.

4 Q And so, then, could you repeat what the hedge fund is that's referenced in
5 paragraph 17?

6 A It's this one. It's the last sentence of paragraph 1 of exhibit 6, the "Third
7 Friday Total Return Fund, L.P."

8 Q Okay.

9 What was the ill-advised bridge loan?

10 A It's the loans that were extended from Third Friday -- and we're referring to
11 that as the LP as opposed to the LLC -- the money that Third Friday loaned to the debtors.

12 Q Do you know when that loan began?

13 A I believe the loans from Third Friday started in 2018.

14 Q And if you look to paragraph 2, the second sentence, it says: "However,
15 beginning in or around January 2018 through March 2020, Third Friday and Lewitt
16 suddenly changed course without disclosing the new investment strategy to Fund
17 investors, many of whom are senior citizens."

18 Next sentence: "In direct contravention of the Fund's prohibition against illiquid
19 investments, Defendants made 45 separate loan advances totaling more than \$19 million
20 to a distressed company that acquired and operated struggling rural hospitals and filed
21 for Chapter 11 bankruptcy in December 2019 (the 'Bankrupt Entity')."

22 To your knowledge, is the bankrupt entity Americore?

23 A Yes.

24 Q And just to establish a timeline, in January of 2018, according to the SEC
25 complaint, that's when some of the loans start to be made, correct?

1 A I think that's according to my complaint.

2 Q And the SEC complaint, what I just read.

3 A I thought you -- oh, yeah. Yep.

4 Q Correct?

5 A Yep.

6 Q So not the loans to James Biden, but the loans from Third Friday to
7 Americore.

8 A Right.

9 So, just to be clear, paragraph 2 refers to the loans that Third Friday, also referred
10 to as "the Fund" in this complaint, made to Americore.

11 Q And in January of 2018 -- so now if we go to paragraph 11 of your complaint,
12 so exhibit 1 --

13 A Yes.

14 Q -- the first payment to James Biden was in what month and year?

15 A It was in January of 2018.

16 Q So that is approximately around the same time that Third Friday is beginning
17 to make loans to Americore, correct?

18 A Yes.

19 Q And now if we go to the SEC complaint, exhibit 6, and paragraph 26.

20 A Okay.

21 Q Excuse me, 29. I apologize.

22 A No problem. Okay.

23 Q And I'll read it to you.

24 "In January 2018, Lewitt used the Fund's assets to make an initial \$2 million loan
25 to the Bankrupt Entity."

1 So that would be Americore, correct?

2 A Yes.

3 Q So this same month that Lewitt is making the \$2 million loan through the
4 Fund to Americore, that's the same month that James Biden is getting paid the \$400,000
5 purported loan, correct?

6 A Yes.

7 Q And then if we can go to paragraph 3 -- 30.

8 A Thirty.

9 Q Excuse me. I'm sorry.

10 A Yeah. Okay.

11 Q The first sentence: "As part of the agreement for receiving the loans, the
12 Bankrupt Entity" -- which would be Americore -- "was required to pay Platinum 'brokers
13 fees' of 3% on the Fund's loans, which totaled more than \$450,000."

14 Do you know what Platinum Global is?

15 A Yes.

16 Q What is Platinum Global?

17 A In my view, Platinum Global is, kind of like James Biden, another entity that
18 received funds from the debtor for which the debtor received less than reasonably
19 equivalent value.

20 Q Was there a lawsuit filed against Platinum Global?

21 A Yes.

22 Q And when was that?

23 A I don't know.

24 Q Do you recall any of the facts related to that lawsuit?

25 A No. And, you know, as we sit here, I'm not sure -- I might back up and say

1 I'm not 100 percent sure I've sued Platinum yet. I have had settlement discussions with
2 them.

3 Q Okay.

4 And I'd now like to turn your attention to exhibit 7.

5 [Fox Exhibit No. 7
6 was marked for identification.]

7 BY MR. [REDACTED]:

8 Q This is an "Electronic Articles of Organization for Florida Limited Liability
9 Company." And you have the different articles.

10 And if you turn to the second page of this, can you please state the second and
11 fourth persons who are named as authorized to manage this company?

12 A So the first -- or, the second on this Article IV, James Biden is the second, and
13 then Sara Biden is the fourth.

14 Q And then what about the fifth?

15 A Michael Lewitt is the fifth.

16 Q So I just want to make sure I understand how the money is being loaned to
17 Americore, these loans that were made from Michael Lewitt. And you correct me if my
18 understanding is wrong.

19 A Okay.

20 Q So Michael Lewitt has a fund. He has a fund who were investors or people
21 who were investing that he is supposed to be taking that money and using it for certain
22 types of investments. He then takes that money and places it with Platinum Global.
23 And Platinum Global then provided loans to Americore.

24 A No.

25 Q How did the money flow?

1 A The money flowed directly from Third Friday Total Return Fund into the
2 debtors.

3 Q Into Americore?

4 A Correct.

5 Q So it went straight from Third Friday into the -- to Americore?

6 A To the Americore debtors as a group. Okay.

7 Q And in January of 2018, it's fair to say that Americore was financially
8 struggling. Is that correct?

9 A Well, the Americore entities that were in existence in 2018. For
10 example -- and Americore hadn't acquired St. Alexius until 2019. So, when we're talking
11 about Americore, really, the fraudulent transfer against Jim Biden was Americore Health.

12 So, if we're talking about Americore Health, yes, I'll agree with you that Americore
13 Health was struggling during that time period.

14 Q And why do you say that it was an ill-advised bridge loan? Why was it
15 ill-advised?

16 A Ultimately, the way these bridge loans ended up unraveling for the debtor is
17 that Michael Lewitt ended up assuming control over the debtors, which was not
18 positive -- did not have a positive impact on the debtors' financial landscape.

19 Q Can you explain that for someone who's not in finance, what that means?

20 A Well, so, ultimately -- I mean, I don't know that -- I don't know that any of
21 this could've been foretold at the time, and it's certainly easy to review events after they
22 occur instead of while they're occurring.

23 But, ultimately, what happened to the debtors in 2019 by virtue of the Third
24 Friday loans was that Mr. Lewitt kind of became, like, a de facto, let's just say, officer or a
25 representative of the debtor, which resulted in him kind of self-dealing and paying

1 himself first rather than acting in the debtors' best interests, so much so that, by the time
2 this bankruptcy was filed, there was a bank account titled in the name of the debtors that
3 was in the name of St. Alexius Hospital Corporation but it said the title of the account was
4 Third Friday Total Return Fund.

5 Q Are you aware if James Biden disclosed to anyone at Americore his
6 corporate association with Michael Lewitt?

7 A I believe I'm aware from Mr. Lewitt's testimony that Mr. Biden and
8 Mr. Lewitt were friends.

9 Q If you look at exhibit 7, they're more than just friends; they are both persons
10 authorized to manage an LLC together, Platinum Global Partners, LLC, in Delray Beach.

11 Did that come up in the testimony at all when Mr. Lewitt spoke with you or
12 whoever deposed him?

13 We can go off the record if you want.

14 A I think we have to.

15 [Discussion off the record.]

16 Mr. [REDACTED]. We can go back on the record.

17 Ms. Fox. Can you ask the question again?

18 Mr. [REDACTED] Is it okay if I just -- I'm actually going to move on to another topic
19 first. Is that okay?

20 Ms. Fox. Totally fine.

21 BY MR. [REDACTED]:

22 Q Can you describe in more detail the Third Friday Total Return Fund that you
23 just said there was a bank account at Americore? Can you just describe that in more
24 detail?

25 A So, in the fourth quarter of 2019, Michael Lewitt opened up -- well, or

1 caused to be opened a bank account at St. Alexius Hospital Corporation that was in the
2 name of the debtors but titled the Third Friday Total Return Fund.

3 Q Are you aware of any payments from Third Friday Total Return Fund to
4 James Biden?

5 A No.

6 Q Are you aware of any payments from the account that you just described at
7 Americore to James Biden?

8 A No. There weren't any.

9 Q Would you be surprised if Third Friday Total Return Fund made payments to
10 James Biden?

11 A I mean, I guess it's all in the realm of possibility, right?

12 Q I just want to go back to the payments that went -- the bridge loan, the
13 ill-advised bridge loan, that went from -- and I want to make sure I have this correctly.

14 A Okay.

15 Q It goes from Third Friday Total Return Fund directly to Americore.

16 A To the Americore debtors. So some money went to Americore Health, and
17 some money went to maybe Pineville -- but to the Americore debtors. And some went
18 to St. Alexius.

19 Q And James Biden's loan was payment out of which Americore entity?

20 A Americore Health.

21 Q So, if we were to trace the money from where James Biden's loans came
22 from, it's fair to say that it could come from the Third Friday Total Return Fund. So there
23 could be a money trail where money comes from Third Friday Total Return Fund, which
24 comes from, according to the SEC's complaint, senior-citizen investors, to Americore
25 Health, to James Biden.

1 A That's one possibility.

2 Q And, then, if that money -- if \$200,000 of that money is then transferred on
3 to a third party, such as Joe Biden, that could be the source of the money that goes to Joe
4 Biden.

5 A That's one possibility, yes.

6 Q So the money that goes to Joe Biden very well could be sourced from
7 senior-citizen investors who were investing into Third Friday Total Return Fund.

8 A It came -- the money was sourced from one of two places. It was either
9 sourced from Total -- sorry -- Third Friday Total Return Fund or merchant cash advances.

10 Q What is merchant cash advances?

11 A They're high-interest, ill-advised bridge loans whereby the lender basically
12 lends against usually the company's receivables at extremely high, if not usurious, interest
13 rates. And then the documents, the loan documents, are very, very slim; it is usually,
14 like, maybe a 1-page agreement.

15 Then the borrower, upon execution of the agreement, basically agrees to allowing
16 the lender to ACH its accounts for a set amount every day until the loan is paid off.

17 Q Regarding Third Friday Total Return Fund and the other Third Friday entities,
18 have you been contacted by the SEC?

19 A I have not, but I am not sure whether Mr. Lewitt and Mr. Terzo have. So I
20 guess, I mean, through them, I might've been contacted by the SEC. But I don't -- I don't
21 recall.

22 Mr. [REDACTED]. Can you explain that?

23 Ms. Fox. Well, because I'm represented by legal counsel. So, like, when you
24 reached out, you initially reached out to Mr. Terzo and Mr. Lewitt -- I mean -- sorry, sorry,
25 sorry -- Mr. Terzo and Mr. Freedman. Sorry. So sorry.

1 So that would be, you know, the protocol there. You wouldn't reach out to me
2 without them.

3 Mr. ██████. Understood. I just was confused on the "Lewitt" part, but --

4 Ms. Fox. Yeah.

5 Mr. Edgar. I think she misspoke in the prior --

6 Ms. Fox. No, I think I might've -- yeah, I might've --

7 Mr. ██████. No. Understood. That's why I --

8 Ms. Fox. Sorry, sorry, sorry.

9 Mr. ██████. Yeah.

10 Ms. Fox. So, just to clear the record, you would've reached out -- the SEC
11 would've reached out to Mr. Terzo or Mr. Freedman, just like your committee reached
12 out to Mr. Terzo and Mr. Freedman.

13 Sorry if I mucked that up. I'm so sorry.

14 Mr. ██████ Understood. Thanks for the clarification.

15 BY MR. ██████ :

16 Q I now want to turn your attention to paragraph 54 of exhibit 6, which is the
17 SEC complaint.

18 A Okay.

19 Q And paragraph 54, I'm going to read it to you.

20 "In April 2019, Lewitt directed the Fund to make a purported \$960,000 loan to the
21 Bankrupt Entity." And that, again, is Americore.

22 "Almost immediately after the funds were wired, Lewitt directed the Bankrupt
23 Entity's CEO" -- which was whom, may I ask?

24 A So let's just continue, because then I'll --

25 Q Okay.

1 A -- clarify everything at the end, if you don't mind. Okay?

2 Q Continuing on: "... to wire \$950,000 to Lewitt's own personal bank
3 account, explaining that he needed the funds to satisfy a personal IRS tax lien. The
4 Bankrupt Entity's CEO complied and Lewitt promptly transferred the funds to satisfy a
5 long-pending personal IRS tax lien totaling roughly the same amount."

6 A Right. So, in this case, and just in contrast to Mr. Biden's transfers, which
7 came from Americore Health, these transfers actually came from Americore Holdings.

8 So this transaction talks about a transaction that I'm very familiar with because I
9 sued Mr. Lewitt for it. And this is a transaction where \$960,000 was transferred into an
10 Americore account -- Americore Holdings account in April 2019, and then about 4 days
11 later Mr. Lewitt directed the bankrupt entity, which is Americore Holdings', CEO, which
12 was Grant White, to wire the funds to Lewitt's personal bank account.

13 Q Now I'll continue on with paragraph 55.

14 A Okay.

15 Q "In another example, in or around 2019, Lewitt caused the Fund to make a
16 \$1.3 million purported loan to one of his affiliates, Platinum Group USA, Inc. Thereafter,
17 on December 31, 2018, Platinum Group wired \$580,000 to Lewitt's own personal bank
18 account, for unexplained reasons."

19 Do you have any information about this particular transaction?

20 A No.

21 Q And until today, did you know that James Biden was affiliated with one of
22 the Platinum entities, with Michael Lewitt?

23 A I might've, but I -- not that I recall.

24 Q And now if we could go to paragraph 39?

25 A Okay.

1 Okay.

2 Q I'll read it into the record.

3 "Further, in the June 16, 2018 update, Lewitt told investors that Defendants had
4 raised 'significant new capital' from Middle Eastern 'institutional investors,' more than the
5 existing amount managed by the Fund that would be contributed to the Fund 'in the
6 coming months and years.' This statement was false. No purported Middle Eastern
7 institutional investors invested in the Fund."

8 Is it fair to say that this is similar -- I'm not saying it's identical, but it's similar -- to
9 the same allegations that were made in your complaint that were filed that we previously
10 discussed talking about how there were going to be Middle Eastern investors and then
11 Middle Eastern investors never came?

12 A Yes, I would say the fact pattern is similar with respect to this fact.

13 Q Where was Americore's headquarters?

14 A It was in Kentucky.

15 Q And is that why your complaint was filed in the Eastern District of Kentucky?

16 A That's -- my complaint was filed in the Eastern District of Kentucky because
17 that's where the bankruptcy case was filed.

18 Q Do you know if your attorneys -- and we can speak offline about the specific
19 information, but are you aware if they have Grant White's information?

20 A His contact information?

21 Q Yes.

22 A I have it.

23 Mr. ██████. Could we just have 1 minute?

24 Ms. Fox. Sure.

25 Mr. ██████. Off the record?

1 Mr. ██████. Yeah, off the record.

2 [Discussion off the record.]

3 Mr. ██████. We can go back on the record.

4 We have no further questions, but we just want to make note of something.

5 We allowed the minority to have somebody on the phone -- two people on the
6 phone. And we've already been told that there's been a leak to the press about this
7 interview we're having today, and it's already been posted online, about some of the
8 information --

9 Mr. ██████. Yeah. A statement given to the press by Democratic staff states,
10 "Fox said there is no evidence Joe Biden was involved in any of James Biden's business
11 dealings. Fox said that the settlement with James Biden was fair and equitable."

12 Mr. ██████. So I think there's clearly been somebody here who's been
13 involved who's been leaking to the press.

14 And so I think, from here on out, we will not be able to do the phone calls
15 remotely, from here on.

16 We tried to do this in good faith, and you have -- this is, according to the report,
17 coming from Democratic staff.

18 So we'll end it here for us. If they have further questions, of course they can ask
19 them. It's just unfortunate.

20 Thank you.

21 Mr. Edgar. Are we off the record?

22 Mr. ██████. Yes.

23 [Recess.]

24 Mr. ██████. All right. We'll go on the record.

25 Ms. Fox, thank you again for your time again and being here, willing to speak to

1 us.

2 I'd like to note one thing for the record.

3 In exhibit 6, majority exhibit 6, which is the SEC complaint filed against Michael
4 Lewitt, James Biden is not mentioned one time throughout this complaint.

5 Now, my Republican colleagues attempted to connect James Biden to this
6 complaint by implying that he was affiliated to Platinum Global Health Partners, LLC, as
7 noted in paragraph 11 on page 3 of majority exhibit 6.

8 Now, in addition, I'd like to point out that paragraph 11 also notes that, quote,
9 "Lewitt was the sole manager of Platinum Global during the relevant period."

10 Ms. Fox. What paragraph?

11 Mr. [REDACTED]. It's paragraph 11 of the SEC complaint.

12 Mr. Edgar. Page 4.

13 Ms. Fox. Okay.

14 Mr. [REDACTED]. Moreover, Platinum Global Health Partners, LLC, as described in
15 paragraph 11, is, in fact, a completely different entity from majority exhibit 7, which is
16 Platinum Global Partners, LLC.

17 And, like I mentioned, I'd just like to add that to the record.

18 Now, finally, it is the minority staff's understanding that Ms. Fox's counsel offered
19 to make her available for this transcribed interview virtually by Zoom but that the
20 majority staff refused that offer and instead insisted that the interview take place here in
21 Florida.

22 This has required nine congressional staffers from two congressional committees,
23 as well as two court reporters, Ms. Fox's counsel, all to travel here to Washington, D.C., at
24 substantial expense to the American public.

25 Mr. Edgar. Do you mean from Washington, D.C.?

1 Mr. [REDACTED]. From Washington. Did I say "to"?

2 Mr. Edgar. You did.

3 Mr. [REDACTED]. I thank you. Excuse me. From Washington, D.C. That's right.

4 And, with that, again, Ms. Fox, I'd like to thank you.

5 We'll go off the record.

6 Mr. [REDACTED]. We're done. Thank you.

7 Ms. Fox. Okay. Great. Thank you.

8 [Whereupon, at 4:07 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date