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COMMITTEE ON THE JUDICIARY,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: DAVID WEISS

Friday, June 6, 2025

Washington, D.C.

- 1 The interview in the above matter was held in room 2237, Rayburn House Office
- 2 Building, commencing at 10:02 a.m.
- 3 Present: Representatives Jordan and Raskin.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

DEPUTY DIGITAL DIRECTOR

GENERAL COUNSEL

SENIOR COUNSEL

DEPUTY GENERAL COUNSEL

CHIEF COUNSEL FOR OVERSIGHT

COUNSEL

LAW CLERK

PROFESSIONAL STAFF MEMBER

MINORITY OVERSIGHT COUNSEL

MINORITY CHIEF OVERSIGHT COUNSEL

MINORITY SPECIAL COUNSEL

FOR INVESTIGATIONS AND SENIOR ADVISOR

MINORITY GENERAL COUNSEL

MINORITY LEGAL INTERN

MINORITY PROFESSIONAL STAFF MEMBER

AND LEGISLATIVE AIDE

1

2

For DAVID WEISS:

3

4

WILLIAM A. BURCK, PARTNER

5

AVI PERRY, PARTNER

6

QUINN EMANUEL URQUHART & SULLIVAN, LLP

1 [REDACTED] We'll go on the record.

2 Good morning. This is a transcribed interview of former Special Counsel David
3 Weiss.

4 We welcome you back. It's your second opportunity to appear here for a
5 transcribed interview. We appreciate your willingness to cooperate voluntarily.

6 Mr. Weiss. Certainly.

7 [REDACTED] Obviously, a lot has changed since the first visit.

8 Mr. Weiss. True.

9 [REDACTED] And we will hopefully have an opportunity to get into some of that,
10 and we'll try to do our work as expeditiously as possible to allow you to return to your
11 life.

12 Mr. Weiss. That would be great.

13 [REDACTED] Chairman Jordan has requested this interview as part of the
14 committee's investigation into the Hunter Biden investigation.

15 We ask the witness to please identify yourself for the record.

16 Mr. Weiss. David Weiss.

17 [REDACTED] And you are here with counsel. We'll have counsel identify
18 themselves as well.

19 Mr. Burck. William Burck.

20 Mr. Perry. Avi Perry.

21 [REDACTED] My name is [REDACTED] I'm a staffer with Chairman Jordan's
22 Judiciary Committee staff. The other folks in the room are all committee staffers, so we'll
23 have them introduce themselves.

1 [REDACTED] [REDACTED] Chairman Jordan's staff.
2 [REDACTED] [REDACTED] Ranking Member Raskin's staff.
3 [REDACTED] [REDACTED] with Ranking Member Raskin's staff.
4 [REDACTED] [REDACTED] with Ranking Member Raskin's staff.
5 [REDACTED] [REDACTED] Chairman Jordan's staff.
6 [REDACTED] [REDACTED] Chairman Jordan's staff.
7 [REDACTED] [REDACTED] Chairman Jordan's staff.
8 [REDACTED] [REDACTED] Ranking Member Raskin's staff.
9 [REDACTED] [REDACTED] Ranking Member Raskin's staff.
10 [REDACTED] [REDACTED] Chairman Jordan's staff.
11 [REDACTED] [REDACTED] Chairman Jordan's staff.
12 [REDACTED] [REDACTED] Chairman Jordan's staff.
13 [REDACTED] And the good news is we'll keep it to one or two people asking the
14 questions.
15 Oh, [REDACTED] is here.
16 [REDACTED] do you want to identify yourself for the record?
17 [REDACTED] [REDACTED] Mr. Raskin's staff.
18 [REDACTED] All right.
19 As you know, our questioning will proceed in rounds, 1 hour at a time. If we have
20 Members come in, the Members of the Republican side of things will ask questions during
21 the majority round. If Democrat Members come in, they'll ask questions during the
22 Democrat round.

1 We can take breaks whenever you want if you need to confer with counsel or get
2 something to eat. We also usually physically switch around the table at the end of each
3 hour, so that's often a good time to take a break.

4 As you can see, we have a professional videographer and a court reporter here to
5 take down and make a clear record.

6 We ask you to give verbal responses. To the extent you don't do that, we might
7 have to remind you. You, of course, are well-versed with these types of proceedings, so I
8 doubt that will be an issue.

9 We want you to answer our questions in the most complete and truthful manner
10 as possible. If you don't know the answer to a question or don't remember, it's best not
11 to guess. Just give us your best recollection.

12 The Federal Rules of Evidence and hearsay don't apply. So if you learned
13 something from somebody else and it is second- or thirdhand, we would ask you to share
14 that with us and just identify how you came to learn the information.

15 And we say this to all witnesses and certainly mean no disrespect, but you do
16 understand that, by law, you're required to answer questions before Congress truthfully?

17 Mr. Weiss. I do.

18 [REDACTED] And witnesses that knowingly provide false testimony could be
19 subject to criminal penalties under 18 United States Code 1001. Do you understand that?

20 Mr. Weiss. I understand that.

21 [REDACTED] We like to do our best to keep these proceedings confidential to the
22 extent we have other witnesses coming in. So if we mark exhibits, we ask that you just
23 keep them here for that purpose.

1 Mr. Weiss. Yeah. Sure.

2 [REDACTED] We don't have any secrecy rules like 6(e), so the confidentiality
3 request that we make is we just ask for your cooperation on that front.

4 Mr. Burck, do you have any welcoming remarks?

5 Mr. Burck. Yes. Just two.

6 One is that the Department of Justice has provided Mr. Weiss with a letter of
7 authorization to testify today. They have placed restrictions on Mr. Weiss with respect to
8 two categories of information. One relates to rule 6(e), that he's not permitted, pursuant
9 to law, to discuss matters that would fall under 6(e); and, second, 6103, the tax statutes
10 relating to taxpayer information.

11 So those are the two things that they have said that they are restricting.
12 Otherwise, they are not placing any restrictions on this testimony. They are not asserting
13 the usual privileges that would often apply or they usually assert in these circumstances,
14 including deliberative process privilege, attorney-client privilege. And I'll read just very
15 briefly from the letter they sent to us.

16 "The extraordinary events underlying this matter constitute exceptional
17 circumstances warranting an accommodation to Congress in this particular case. Given
18 these extraordinary circumstances, and to ensure the committee can conduct effective
19 oversight, the Department authorizes Mr. Weiss to provide unrestricted testimony to the
20 committee irrespective of potential privilege. This accommodation is unique to the facts
21 and circumstances of this particular matter."

22 Again, the only two exceptions they note are 26 U.S.C. Section 6103 and Federal
23 Rule of Criminal Procedure 6(e).

1 [REDACTED] And, as I understand it, there's an exception for the voluminous
2 materials that the Ways and Means Committee released?

3 Mr. Burck. Yes. Yes.

4 [REDACTED] And the testimony that Messrs. Shapley and Ziegler provided?

5 Mr. Burck. To the extent it does not, that it does not turn into 6(e), that was not
6 disclosed in some way or that would otherwise, he would still -- even if they discuss 6(e),
7 he would still be precluded from 6(e), but anything that is public or has been otherwise
8 provided.

9 [REDACTED] Right. And 6(e) -- I mean, just so we can -- if a document exists and
10 we are aware of it and it happened to be shown to the grand jury, that doesn't mean that
11 document is forever off-limits.

12 Mr. Burck. That's correct. Yes.

13 [REDACTED] It's the fact that the information was presented to the grand jury or
14 information was acquired from a witness in the grand jury exclusively and not some
15 other,

16 Mr. Burck. Correct. Correct.

17 Mr. Weiss. My only caveat on that is, with respect to anything Mr. Shapley or
18 Mr. Ziegler might have offered that trips on 6103, I don't know that I have such protection
19 with respect to that. It's my understanding that each publication of information relative
20 to 6103 is in and of itself a violation of the statute.

21 [REDACTED] I understand that the Department, though, addressed that in their
22 letter, and they green-lighted the disclosure of information that has already been
23 disclosed.

1 Mr. Burck. Well, they do say -- again, I'll read to you the paragraph.

2 "Although you are authorized to provide information responsive to the topics
3 outlined above" -- which are the topics of this TI -- "you are not authorized to reveal
4 information the disclosure of which is prohibited by law or court, including classified
5 information, information subject to Federal Rule of Criminal Procedure 6(e). In particular,
6 Federal law prohibits you from disclosing information covered by 26 U.S.C. Section 6103."

7 So I think we'll just have to navigate those types of questions.

8 [REDACTED] Isn't there a reference to the Ways and Means Committee in --

9 [REDACTED] Can I actually just make a request for a copy of the authorization
10 letter? That might make it easier for us.

11 Mr. Burck. I don't think it's privileged, so we can certainly -- I don't think there is a
12 reference to --

13 [REDACTED] Okay. They did for Daly and Morgan.

14 Mr. Burck. Okay.

15 Mr. Weiss. I didn't see that.

16 Mr. Burck. [REDACTED] I'll send it to you, the letter, since I have your email.

17 [REDACTED] Okay. If you could copy [REDACTED] as well, that would be great.

18 Mr. Burck. Sure.

19 [REDACTED] I left my work device at my desk so it wouldn't be disturbing.

20 Mr. Burck. What's your email address?

21 [REDACTED] [REDACTED] mail.house.gov.

22 Mr. Burck. Okay. You should have it in a second.

1 [REDACTED] When we made arrangements with the Department for the interviews
2 for this case that was the commitment they gave us, is that things that have been publicly
3 addressed and publicly disclosed are not barred by that.

4 Mr. Burck. Well, what we can do is we can reach out to DOJ by email and ask
5 them for it because they have not discussed that with us.

6 [REDACTED] Okay.

7 Mr. Perry. And, as you will see, they refer to the 13 exceptions within 6103, but
8 they say these exceptions do not apply to an interview with the committee.

9 [REDACTED] Okay. It must be some sort of mistake then.

10 Mr. Burck. Okay.

11 [REDACTED] So, hopefully, we don't have to --

12 Mr. Burck. Yeah. We'll try to reach them and then talk to them during a break.

13 [REDACTED] Okay.

14 Mr. Burck. The only other -- the second thing I wanted to mention is just that I
15 think, as the committee is aware, when we first learned of the interest in talking to Mr.
16 Weiss, we reached out to the Department to get access to his -- to the case file for the
17 Hunter Biden matters. And I think that was some months back.

18 The Department told us they would look into it because, obviously, Mr. Weiss had
19 left the Department, so he didn't have access any longer. We repeatedly followed up
20 with them. They finally gave us access after, I think, some assistance from the committee
21 this week.

22 [REDACTED] Okay.

1 Mr. Burck. And they gave us a couple of hours, 1 hour a day on Tuesday and
2 Thursday, and then they gave us the day on Wednesday.

3 [REDACTED] Okay.

4 Mr. Burck. So there were about 36 boxes of documents and then an untold
5 amount of electronic material. Mr. Weiss did try to review what he could in the 3 or 4
6 hours that he had on Wednesday, but, obviously, he was not able to review everything in
7 that file given the limited amount of time. But he will answer all the questions that you
8 have consistent with the authorization pursuant to his best recollection.

9 [REDACTED] Okay. Thank you.

10 [REDACTED] do you want to -- have any opening remarks, or [REDACTED]

11 [REDACTED] Yeah.

12 We want to thank the witness for joining us.

13 I think it was unprecedented when you appeared in November 2023 while your
14 investigation was still ongoing. I think we looked through the records, and I don't think a
15 witness -- a special counsel has ever appeared during the pendency of an investigation.
16 And I think it's also somewhat unprecedented for a witness to appear twice on the same
17 matter.

18 So thank you for coming in today.

19 Mr. Weiss. You're welcome.

20 [REDACTED] And I would just note that, on behalf of the minority staff, that it is
21 unfortunate, to the extent my majority colleagues are exchanging with the Department of
22 Justice over the parameters for the witness' testimony, that the minority was not
23 involved in those conversations.

1 This is an investigation on behalf of the committee, so it's important for the
2 minority to be fully apprised of what position the Department of Justice takes with regard
3 to the permissible scope of the witness' testimony so that the minority can be involved in
4 making sure that the Department of Justice delivers on any promises it makes to the
5 committee.

6 [REDACTED] All right. Thanks, [REDACTED]

7 It's 10:14. We'll go on the record.

EXAMINATION

BY [REDACTED]

Q There's been much discussion last time you visited with us about the fact that you asserted that you had ultimate authority over the matter from the very beginning.

Can you walk us through sort of the evolution of how your authority came to be characterized as "ultimate authority"?

A I think the only significance to "ultimate" is that that word was used in the response to the chairman's letter, I think dated June 7th. So I don't want to attach undue significance, although I understand why it draws attention.

But my view is I had the authority to make the decisions during the course of the investigation and the charging decisions with respect to Hunter Biden. I said so then. I continue to maintain that today.

Q But with tax cases the Tax Division always has to approve tax charges, and with a noteworthy defendant certain levels of senior leadership of the Department have to sign off on indictments and so forth.

A That is accurate. And I remember us discussing that quite a bit the last time. And, yes, as I agreed previously, there are approval requirements as part of the Criminal Justice Manual, and Tax Division approval with respect to Title 26 offenses is very much a part of that.

Q So if the Tax Division didn't approve the filing of charges, you would not have the ultimate authority to proceed with them, correct?

A If the Tax -- that's correct. If the Tax Division chose to say that -- to take the position that a charge I was recommending move forward under my discretion and they

1 disagreed, they could have said no. And as we discussed last time, I could have then
2 taken that to either the Office of the Deputy Attorney General or the AG in order to
3 resolve whatever impasse that was currently before us.

4 Q Okay. Did you ever have a need to resolve an impasse?

5 A I did not.

6 Q Okay. And who in the Deputy Attorney General's office were your
7 communications with?

8 A With Mr. Weinsheimer.

9 Q Okay. And did you have communications with Ms. Monaco?

10 A I never had communications with Ms. Monaco. I did, as I mentioned
11 previously, I had a few communications with Mr. Carlin, who at the time in 2022, in the
12 spring until he left in the summer, was PADAG, I believe.

13 Q Okay. And what was Mr. Weinsheimer's directive to you on this case?

14 A In what respect?

15 Q In terms of charging authority.

16 A That I had the authority to make the decisions during the course of the case.

17 Q And were you required to notify him before the charging decisions were made?

18 A Well, I guess we should discuss at different times. For instance, when I was
19 special counsel, I certainly -- it would have been my practice and I think the regs -- Section
20 600 of the regs would have called upon me to notify the Attorney General of any
21 significant developments.

1 I certainly would have considered a charging decision one of those developments.
2 And I would have, in the first instance, gone through Mr. Weinsheimer, and then that
3 would have been passed on to the Attorney General.

4 As to my status as U.S. Attorney, as I think we discussed previously, I had no
5 contact with DOJ leadership in the Biden administration subsequent to being asked to
6 stay on until the spring of 2022.

7 So there was no real understanding of what authority I had other than that I
8 enjoyed the authority -- and I think that's the way it continued to work -- that a U.S.
9 Attorney from the District of Delaware would typically have in order to pursue cases
10 within his or her jurisdiction.

11 Q Did you ever have any communications with the Attorney General?

12 A When? Which Attorney General?

13 Q Merrick Garland.

14 A I did. As special counsel, subsequent to our last get-together, I did have
15 communications with the Attorney General.

16 Q And can you tell us about those? How many?

17 A Excuse me?

18 Q How many?

19 A I think there were about three or four Section 600 meetings I would have had
20 with the Attorney General.

21 Q Okay. Now, was this before you were appointed special counsel?

1 A No. I had no -- other than my written communication to the Attorney General
2 requesting appointment, I had no communications with the Attorney General of any kind
3 prior to my appointment.

4 Q Okay. And as we discussed last time, the Attorney General had on two
5 separate occasions testified before Congress about your authority. And as of that time
6 period your testimony is you had not had communications with him about your
7 authority?

8 A I had not had any communications with him about my authority.

9 Q So to the extent the Attorney General was testifying about your authority, you
10 were learning about his views from that live testimony?

11 A Well, I was having communications with Mr. Weinsheimer and Mr. Carlin, but
12 that would have been the first time that I would have heard anything in that regard
13 directly from the Attorney General. I think that's fair.

14 Q So as we understand it, the case began in 2018, and then in 2019 the Justice
15 Department -- or the FBI -- became involved. Is that correct?

16 A I first became aware of the case in 2019.

17 Q Okay. And the investigation proceeded for about -- until the fall of October
18 2021, when Mr. Shapley and Mr. Ziegler testified that there was a meeting of a
19 prosecution team that they referred to as a tax summit where charging decisions were
20 addressed and the way forward was discussed. Do you remember that tax summit?

21 A No, I do not. I don't know that I was at that tax summit.

22 Q Okay.

1 A So for anybody to have made charging decisions without my participation
2 would have been odd. And that wasn't my understanding.

3 I understand the meeting because we discussed it the last time, but the real
4 charging decisions would have been made much later.

5 Q Representatives from your office were participants in that meeting, though,
6 weren't they?

7 A I think the question -- as I recall the questions that you posed last time, it was
8 my understanding that that's the case. And if there was a meeting with Mr. Shapley and
9 Mr. Ziegler about the case, I'm confident that persons from my office would have
10 participated in that meeting.

11 Q Right.

12 I'm going to mark the first exhibit.

13 [Weiss Exhibit No. 1

14 was marked for identification.]

15 BY [REDACTED]

16 Q As they testified in -- I'll let you look at the exhibit. This is an internal IRS
17 document that Mr. Shapley sent to his supervisor.

18 The first sentence says, "Please see below for the prosecution recommendation
19 package for SPORTSMAN requesting approval to refer this to DOJ Tax." And in the middle
20 of the page there's a table of charges and tax years identified.

21 Mr. Shapley and Mr. Ziegler testified that the prosecution team met -- including
22 representatives from your office -- in the fall of 2021, and they all agreed with the path
23 forward. The path forward were the charges identified in this table.

1 And Mr. Ziegler was to prepare a Special Agent Report from the IRS side of things,
2 and he did that, and he transmitted the Special Agent Report to DOJ Tax in the early part
3 of 2022.

4 Is that consistent with your recollection?

5 A First, I should say I've never seen this document before. So never shared with
6 me. Which is a bit odd because I would have suspected it -- well, whatever. At least I
7 can't recall it ever coming my way.

8 Q It's been, I think, published as part of the Ways and Means proceedings.

9 A But, I mean, as part of the case. I haven't tracked everything that's come out of
10 the various committees. It's just a lot of documentation. But I don't recall seeing this as
11 part of the case. Yeah.

12 I see that, what the agents recommended. And, as I think we discussed last time, I
13 did read the report back when it was issued, and I see that counsel for the IRS gave a
14 nonconcur, apparently in all respects, and I'm looking for -- there's this sentence that
15 says, "DOJ Tax and the USAO in Delaware agree with this opinion."

16 So I don't -- the fact is no decisions had been made at that time. I mean, we
17 discussed at some length the fact in the spring of 2022 we were starting the process of
18 engaging with D.C. And I hadn't seen a pros memo, so there was no way I was authorizing
19 anything at that point in time.

20 Q At the time, the lead Assistant United States Attorney was Lesley Wolf. Is that
21 correct?

22 A Lesley Wolf was the senior AUSA from my office on the case. That's correct.

1 Q And Mr. Shapley and Mr. Ziegler both testified that she was a part of these
2 meetings and a part of this decision.

3 Was she authorized to have the IRS go back and prepare a Special Agent Report? I
4 mean, they're not going to prepare a report if your office disagreed with it, right?

5 A No. Look, part of the process would be for -- and IRS' process is a bit different
6 from the other agencies. So the preparation of a lengthy agent report isn't what I recall
7 seeing at the FBI or ATF or others, but it's part of the process here.

8 And I'm certain at that time the -- I believe at that time the collective view was,
9 yes, there's a basis on which we want to proceed, and we want to continue this and move
10 toward the next stage.

11 I mean, we had been conducting an investigation out of the District of Delaware.
12 And as I know you guys know, there came to be a time when it was concluded that venue
13 wasn't going to lie for the years we were pursuing.

14 So we had to deal with either Washington, D.C., or the Central District of
15 California. And we were moving on to that stage of the investigation, the latter portion of
16 the investigation, and -- but no -- while I agree that we wanted to move forward -- I would
17 have recommended absolutely the agents prepare their investigative report -- we weren't
18 ready to file charges just yet.

19 Q Okay. And was it your intention to -- some of the charges had venue in D.C.,
20 others in Los Angeles, the Central District of California. Was it your intention at that point
21 to bring cases in both jurisdictions?

22 A No. I very much would have wanted to bring a case only in one jurisdiction. I
23 mean, the gun was in Delaware where I brought the gun charge. But on the tax front, no.

1 I didn't want to litigate this in two jurisdictions unless there was some awfully good
2 reason to do so, and I was unaware of one.

3 So, yes, as you pointed out a moment ago, there was -- given the years that were
4 being considered -- venue in L.A. on some counts, venue in D.C. on others, and arguable
5 venue in the jurisdictions on some counts for both.

6 Q Okay.

7 A That wasn't very clear. But there were certain counts for which we thought we
8 had venue for both L.A. and D.C.

9 Q For the tax years 2014 and 2015, that encompassed Mr. Biden's Burisma
10 income. Is that correct?

11 A Yeah. I am -- I don't want to touch on 2014 and 2015 unless we can resolve
12 this, because it's my understanding that, as I said in the report, for me to discuss 2014
13 and 2015 would necessarily -- even if I acknowledged it, it touches on return information
14 and the fact that the authorities were conducting an investigation of a taxpayer on that
15 return, and my understanding in the case law and the application of 6103 is that's a
16 problem.

17 Q Okay. I mean, one of the big reasons we had you here is to answer questions
18 about why you didn't charge 2014-2015. When you testified the first time, you said
19 you're going to put that in the report. You didn't put that in your report.

20 And so this is -- one of the core interests of Congress is to find out why all this
21 Burisma money -- I mean, Hunter Biden was making a million bucks a year and he's not
22 paying tax on it.

1 And then when the authorities put together a tax case -- and, according to
2 Mr. Shapley and Mr. Ziegler, they had a very strong case -- the case was just poof, it goes
3 nowhere.

4 A I understand. I really do. And particularly on this issue, if I wasn't concerned
5 about 6103, I'd be more than happy to discuss this issue.

6 You know, when I said that I intended to discuss this issue when we met last time,
7 that was absolutely my intention. I am much more versed in 6103 now than I was at that
8 time. In fact, I really wasn't -- unfortunately, I really wasn't focused on that particular
9 issue at the time.

10 I have become more conversed in it now, more than I'd want to be, and I am
11 concerned.

12 Now, if somebody tells me that the Department has authorized me to speak to it,
13 I'd be happy to do it, but it hasn't happened.

14 I'd say generally, with respect to a tax investigation -- not that there's anything
15 special about it -- you're looking at various years.

16 To the extent I can put together -- and this is general -- a case that involves more
17 years than not and allows me to more fully develop allegations about a course of conduct
18 and a scheme, that's better for the prosecution.

19 So it's not like I'm looking to cut out years generally when you're pursuing a tax
20 investigation.

21 Chairman Jordan. That sort of begs the question: Why did you do it?

22 Mr. Weiss. Again --

1 Chairman Jordan. That would be the most obvious thing with the millions of
2 dollars and the political aspects of Burisma, that is the fundamental question. And now
3 you're telling us 6103 prevents you from telling us why you made a prosecution decision
4 or a decision not to prosecute on one of the most glaring examples.

5 Mr. Weiss. I understand. Absolutely. Yes. And I wish that I could address it. But
6 it's my understanding that, for me to trip into 2014 and '15 is a violation of 6103.

7 But, no, I get it.

8 Mr. Burck. Mr. Chairman, I think at the very beginning we discussed the fact we
9 got an authorization letter from DOJ, but it specifically said that 6103 would prevent him
10 from talking about these types of issues. And so we're --

11 Chairman Jordan. You sent the letter -- they sent the letter to --

12 Mr. Burck. I sent it to them. We're actually trying to reach out to DOJ to find out
13 what their position is.

14 [REDACTED] And our understanding was that the authorization letter, like the
15 letter from Mr. Morgan and Mr. Daly, indicated that there was a special exception for
16 information already published by the Ways and Means Committee.

17 Chairman Jordan. Okay.

18 Mr. Weiss. Not that it's my business, but does that mean that Daly and Morgan
19 have gotten a chance to speak to that issue?

20 [REDACTED] Yes.

21 Mr. Weiss. Okay.

22 BY [REDACTED]

1 Q Tell us when you first communicated with the U.S. Attorney's Office for the
2 District of Columbia.

3 A I think I spoke -- I know I spoke to Matt Graves in the spring. I had one
4 conversation with him in the spring of '22.

5 Q And what did you -- what was your ask at that point in time?

6 A That he -- to inquire whether he would partner with us on our investigation.

7 Q And he declined that opportunity, correct?

8 A He ultimately declined that opportunity. But in that conversation I would have
9 described what we were doing, why I was in D.C., what we had in mind.

10 As I mentioned last time, I would have mentioned the 515 authority because I
11 wanted to be up front about the fact that, regardless of what D.C. decided, it was my
12 intention at that time to move forward. And I know we discussed that issue. Yeah.

13 Q What was the reason ultimately the U.S. Attorney's Office in D.C. declined to
14 partner with you?

15 A It's my recollection -- and this was line to line -- my folks had shared certain
16 materials with the career folks in D.C. so as to allow them to get up to speed -- though
17 you can only share a snapshot of what you've developed to that point in time -- but that
18 D.C. had reached the conclusion that they didn't think we would prevail on many of the
19 charges in question.

20 And the ultimate recommendation was for -- those years, they believed, were the
21 stronger charges. They thought they would be better venued in California.

22 Q And that was for years excluding 2014 and 2015?

1 A Yeah, that's -- again, for me to respond to that question would necessarily
2 acknowledge that there was an investigation of tax matters in those years, and I can't do
3 it.

4 Q Did Mr. Graves offer you other support? He declined to partner with you, but
5 did he offer you administrative support? Did he offer you the ability to send your U.S.
6 Attorneys to D.C. to do it on their own?

7 A I didn't have a further conversation with Mr. Graves after that initial one that
8 we've talked about previously and a little bit here today. But it was my impression, based
9 on the feedback I received from my folks, that, yes, they would have -- D.C. was prepared
10 to provide that local counsel support, which is all that I really would have desired.

11 Q Okay. That would allow you to operate a grand jury?

12 A Operate a grand jury, submit our filings, making sure that we were conducting
13 our case and our pleadings in accordance with procedures in the District of D.C., and
14 hopefully working with us on our judges, expectations, things like that.

15 Q Okay. So you had the ultimate authority over the charges you were trying to
16 bring into D.C. Is that your --

17 A It was my understanding that I did, yes, based on assurance I ultimately
18 received from Mr. Carlin and Mr. Weinsheimer, yes.

19 Q Okay. And so despite the fact that Mr. Graves didn't want to partner with you
20 on prosecuting the President's son, you believed you had full authority to bring such a
21 case in D.C.?

22 A Yes.

23 Q And why didn't you bring that case?

1 A Because we needed to grapple with what charges we were going to file, where
2 were we going to file those charges, what years were best suited to a successful outcome
3 in this regard, and then address, okay, given the unique challenges of venue in this
4 case -- because each year was sort of a set of facts unto itself, not only with respect to
5 venue but other things -- that we had to really deal with, okay, I started down this path in
6 D.C., we've got to decide if it's in D.C. or it's in Central District of California.

7 Q Okay. And as of your discussions with Mr. Graves, you were pursuing tax
8 prosecutions for 2014 through 2019, correct?

9 A Yeah.

10 Q According to -- well, let me ask you this. Shapley and Ziegler testified that the
11 prosecution team was looking at pursuing charges for 2014 through 2019.

12 A I see the exhibit No. 1 that you provided. I see that those years are on there.
13 And so I acknowledge that that's what exhibit No. 1, if it's been so marked, says. But
14 other than that, I am reluctant to say anything further about it because of 6103.

15 Q Okay. They testified and so have other witnesses that after the
16 communications you had in March and the early part -- the early spring of 2022 with the
17 Office of the U.S. Attorney for the District of Columbia, the prosecution team regrouped
18 and had a series of meetings in June.

19 Do you remember those meetings?

20 A I remember a meeting that we had in mid-June, I do, in D.C.

21 Q And as it was related to us, there was a meeting with you, Mr. Shapley, and
22 Mr. Ziegler on -- I believe it was June 14th, 2022?

23 A That is correct.

1 Q And then there was a meeting the very next day at Main Justice with a larger
2 group of folks?

3 A That's correct. I wanted to make sure that to the extent they were going
4 to -- look, that everybody was heard. And I'm sure I didn't meet with Shapley and Ziegler
5 alone on the 14th, but I wanted to hear them out before the next day of meetings at
6 which the attorneys would take a more prominent role in the discussion.

7 Q Okay. So what do you remember from that first meeting on June 14th with
8 Mr. Shapley and Mr. Ziegler and presumably other members of the team?

9 A You know, it's hard to -- I mean, I remember meeting at their offices. I
10 remember we met for the better part of an afternoon. And I generally remember them
11 pitching me on the strengths of the case. That's pretty much what I remember.

12 Q And at this point in time it was the strengths of bringing the case in D.C.,
13 specifically the 2014-2015 tax years?

14 A Again, I've got a problem with getting into year by year, particularly any
15 suggestion that '14 and '15 were under investigation. But we discussed tax years, and I
16 listened closely to what they had to say.

17 Now, keep in mind I'm not -- I'm U.S. Attorney on other matters, but I am,
18 especially at this time, I'm starting to get more and more involved with this particular case
19 because we're arriving at a juncture where these decisions are coming to the fore.

20 So I'm starting the process in a more significant way of educating myself. So I gave
21 them every opportunity to be heard. And as I said, we were there for several hours.

1 Q Okay. And they testified that the 2014-2015 tax years, while everyone was on
2 the same page up until this set of meetings, everything changed at that point in time, on
3 June 15th, when there was a meeting at DOJ with DOJ Tax.

4 The upshot of the meeting, according to them, was that the 2014-2015 tax years
5 were completely off the table now.

6 Could you help us understand what happened there?

7 A The problem is it's all about '14 and '15. I'd like nothing better than to
8 comment but I can't because for me to comment theoretically -- more than
9 theoretically -- invites a 6103 violation. So I can't comment on that.

10 But I don't want that to be interpreted as me in any way endorsing the
11 characterization of the events that you just described because I can't do that.

12 Q At this point in time, the 2014 and 2015 statutes were -- you know, had already
13 run and they were subject to a tolling agreement, correct?

14 A We had -- there were -- without reference to years -- there were tolling
15 agreements in place at that time. That's absolutely correct.

16 Q I mean, they're 6-year statutes, correct?

17 A Six-year statutes.

18 Q So, for 2014, the statute runs in October of 2020, right?

19 A If -- yeah, I can't -- I can't. All I can say is that there was a tolling agreement in
20 place generally as to tax offenses. And while -- my understanding of the tolling
21 agreement was that it actually would have given credit for travel time overseas that
22 actually would have run through the end of the year. But I can't speak to year.

1 Q Okay. But at some point the statutes for 2014 and 2015 lapsed, and that was a
2 decision made affirmatively by your office, correct?

3 A I made all the decisions with respect to what years to prosecute, what offenses
4 to prosecute in the case. I'm just not going to comment on -- because I can't -- anything
5 specifically with respect to '14 and '15.

6 Q One of the core interests here of the committee is to try to find out why you
7 punted on all the Burisma year money. So I hope you can understand our interest in that.
8 We certainly telegraphed that in the first visit we had.

9 A I do understand the interest.

10 Q Okay. So certainly don't mean to badger you with asking these types of
11 questions, but if we're going to have a back-and-forth with the Department we're going
12 to have to show them the questions we asked and the answers.

13 A Well, yeah. And I have no problem with that. And if the Department provides
14 the authorization, I'll speak to it.

15 But I don't want to put myself at risk because my recollection of the statute is
16 each publication -- each time I say something in violation of 6103 is a separate violation
17 and there's exposure for me each -- in each instance. So don't want to do that.

18 Q In any event, at some point, can you tell us when your team pivoted to bringing
19 charges in California?

20 A I reached out to California in about mid-August of '22. So that certainly would
21 have been -- in response to your question -- that certainly would have signified a pivot.

22 Q Okay. And was that for the tax years 2016 through 2019? You've indicted these
23 things now. So to the extent --

1 A Yeah, yeah. No. I've got no problem -- yes, it was -- '16 and '19 were in it. But,
2 again, I don't -- that's not -- it's not a fulsome response to your question, but '16 and '19
3 were part of what was presented --

4 Q '16 through '19 was my question.

5 A '16 through '19 was part of what was presented to California, correct.

6 Q And just on the 6103 question, I mean, to the extent you have indited -- you
7 know, you've recited in your indictment, or it's part of, like, the public court filing, you
8 know, there is 6103 information in your court filings.

9 A But if it's in my court filing, I'm safe. And so whatever I've got on the
10 record -- and I've looked at the indictment. If it's in my indictment, I can speak to it.

11 Q Right.

12 A If it's in -- my understanding is if it's in motions practice, if it's in pleadings, I can
13 speak to it.

14 Q Okay.

15 A So, yeah. Yeah. Yes.

16 Q So in August of 2022, you made contact with the Central District. Is that
17 correct?

18 A Yes.

19 Q And that was before Miguel Estrada was confirmed as the U.S. Attorney?

20 A That was.

21 Q And who did you speak with in California?

22 A I would have spoken with -- Stephanie Christensen was the acting at that time,
23 so I spoke to Ms. Christensen.

1 Q And at that time did she tell you that they wanted to wait until Mr. Estrada was
2 confirmed?

3 A She did not.

4 Q And so what was the nature of your conversations with Ms. Christensen?

5 A It was along the lines of the conversation I had with Mr. Graves. This is the
6 case. These are the circumstances. This is what we're thinking about. I've got this
7 authority. And we're interested in whether Central District of California would be willing
8 to partner with us in this case.

9 Q And, ultimately, they did not want to partner with you. Is that correct?

10 A Ultimately, that's correct. Once again, they chose not to partner with me in
11 that case.

12 Q And when was that decision communicated? Was that after Mr. Estrada was
13 confirmed?

14 A Yes.

15 Q And could you tell us a little bit about how that went down?

16 A We had a conversation sometime I think in the second week of October of
17 2022. And I think I initiated the conversation and said we're looking for a decision from
18 the Central District on this. And he indicated they did not want to participate in the case.
19 So, yes, I recall that.

20 Q What was his reason?

21 A He mentioned a lack of evidence of willfulness and that the prosecution that
22 we had presented him -- by then we had a pros memo --

23 Q Right.

1 A -- for that district to review -- that it didn't -- it didn't satisfy their prosecution
2 guidelines.

3 Q Your indictment for the tax years 2018 and 2019 is pretty strong. Would you
4 agree?

5 A I thought our indictment was pretty strong. Otherwise, we wouldn't have --

6 Q Right. So how on Earth could he not think it's strong or not as a winnable case?

7 A Again, I didn't really -- he offered what I have told you. I didn't challenge him
8 on it. As I mentioned to you and the chairman last time, I didn't feel compelled to try to
9 persuade anyone. This is what we had. This is what I was prepared to proceed with, at
10 least in my own mind. And if they chose not to participate, so be it.

11 Q Like, the 2014 and 2015 tax years were outrageous from our point of view
12 because this is all his Burisma money. He's making a million dollars sitting on the board
13 for doing almost nothing other than being a Biden. And then he's not paying taxes on it.

14 The issues with especially 2018 and 2019 are outrageous because he is -- and
15 correct me if I'm wrong -- I mean, he's taking ordinary and necessary business expense
16 deductions for some outrageous claims, correct? He had sex clubs and escorts and
17 college tuition, correct?

18 A There were deductions ultimately categorized as business deductions that we
19 thought were certainly more personal in nature.

20 Now, I say that and at the same time recognizing that there are strengths and
21 weaknesses in every case, and there certainly were in the evasion charge for 2018.

22 Q Right. But, I mean, if you're taking -- you know, if you take a deduction for the
23 use of a personal car and it turns out there's no evidence that you used your personal car

1 for business, you can get indicted for that, and you can quarrel about that with the
2 defense counsel.

3 But if you're taking deductions for sex clubs, if you're taking deductions for
4 escorts, I mean, would you agree that that is a little bit more outrageous than my first
5 example of --

6 A Of the car?

7 Q -- use of a car?

8 A I would agree that it's more difficult to explain the sex club expense as a
9 business expense as opposed to the use of an automobile.

10 Q Right. And some of his other deductions were equally outrageous. I mean,
11 he's expensing just ungodly amounts of money for hotels and Lamborghinis and all sorts
12 of things like that.

13 So you would agree that those are outrageous deductions, right?

14 A I would agree that we brought in part a case that was based on the fact that
15 expenses we thought were personal in nature were identified to be business expenses.

16 Q So how on Earth could Miguel Estrada -- I'm sorry. Martin Estrada -- how on
17 Earth could he decide that those weren't worthwhile cases to bring?

18 A Again, we had this one conversation. I have no idea. I wasn't part of any
19 conversations Mr. Estrada would have had with his team. Perhaps they could have -- and
20 I don't know the detail to which Mr. Estrada -- who I guess had been in place for about 3
21 weeks to a month by that point in time -- I have no idea how familiar he was with the
22 circumstances and the particulars of our case, in all fairness. I just don't know.

1 Q And did you ever -- was that ever sorted out? Did Mr. Estrada ever articulate
2 anything further to you? Or was it just, "No, we don't want to partner but, yes, we will
3 assist you if you want to proceed"?

4 A No. It was the one conversation, and we -- I didn't pursue it with him, again,
5 because, as I tried to explain last time around, I didn't need anybody's permission.

6 You know, we wanted the support of the local office because, especially when
7 you're dealing with a court and you want to make sure you abide by all the procedures,
8 it's good to have that local presence, and judges like to see participation of local counsel.

9 But, other than that, I really didn't need anybody else's okay.

10 Q So why did you decide not to proceed in California on your own?

11 A Because at that point in time the team had to sit down. We had been turned
12 down.

13 So I'm not suggesting that that's a meaningless exercise, because you're sharing
14 the merits of charges you're contemplating with other career prosecutors and they are
15 sharing a different view in reaction to what you've presented.

16 Q Right.

17 A So it causes the team to talk about that.

18 Q Okay.

19 A And that's what the team did. Over the next several months they went
20 through the case exhibit by exhibit in a detailed offer-of-proof analysis and evaluated the
21 case. And, yeah, that's what transpired over the next couple months.

22 And I'd also mention, you know -- whatever. We had the situation with the leak at
23 about this time which, again, doesn't directly go to what we're talking about in terms of

1 the evaluation of the merits of the case but I do think has an impact on the team and
2 their approach to the case.

3 Q Right. But some of these outrageous deductions -- I mean, what's there to
4 discuss? I mean, if he's taking deductions for sex clubs, he's taking deductions for escorts,
5 he's taking deductions for tuition for his children --

6 A Again, I'm not going to act as defense counsel on this, but I just --

7 Q I'm not asking you to. I'm sorry. I'm not asking you to. I'm asking you about
8 the back-and-forth you had with Mr. Estrada.

9 A There was no back-and-forth. There was a single conversation. I said, "This is
10 what we want to do." I didn't even say that because I'd been through that with
11 Ms. Christensen. My statement was, "Have you guys made a decision?" and then he
12 shared what he did.

13 You're asking: How could he come to such a conclusion? I do know something
14 about the strengths and weaknesses. I know that 2018, unlike any other year, there was
15 no return for the new accountants from L.A. to look to. There was one in '17.

16 So Mr. Biden's accountant -- who had passed sometime in 2019, unfortunately.
17 They had nothing to work with, the new accountants who were retained in November of
18 '19, so they were going from scratch.

19 So they were working off of a general ledger that they put together based on the
20 Owasco PC business account and bank records that they had off of his Wells Fargo
21 account. And they were taking those records, those bank accounts -- which were
22 somewhat voluminous -- and trying to put together a tax return.

1 And then they presented their information through general ledgers, through
2 accounts, to their client, and sat down with him with an eye toward trying to put together
3 that tax return in what I'm sure they would say was a fairly tight timeframe, because
4 there were certain events that were transpiring in early 2020.

5 The marital separation agreement and the contempt he was facing there, the
6 paternity litigation in Arkansas, and the impeachment inquiry, which he was being
7 potentially drawn into as a witness, all those things were sort of happening --

8 Q Which impeachment?

9 A I think this was Mr. -- President Trump's initial impeachment.

10 Q Okay. 2019?

11 A Yeah. 2019 to '20. And so there was very much an interest now in -- because
12 the judges in both the paternity litigation in Arkansas and the marital dispute were both
13 demanding financial information from Hunter Biden, and that pretty much started with
14 the tax returns that had not yet been filed.

15 So there was this sudden interest in putting that return information together, and
16 with respect to '18, putting it together from scratch.

17 Q Okay. What years did you ultimately indict?

18 A We indicted '16, '17, '18, and '19. So those 4 years for failure to pay, '17 and
19 '18 for failure to file, and evasion for '18, false statement on the individual return and on
20 the corporate return for '18.

21 Q Okay. And if you look at the exhibit 1, is anything different? Obviously, 2014
22 and 2015 were -- you guys punted on that. But was there anything not reflected in that
23 chart in terms of your ultimate indictment?

1 A Well, this -- again, I haven't seen it before, so I'm reacting. This has false return
2 for -- putting aside '14 and '15 that are mentioned in the exhibit -- this has a false return
3 for '19, so that's a felony.

4 Q You didn't charge for that?

5 A No. This has an evasion for '19. Did not charge that. We just charged a failure
6 to pay for '19. This has -- yeah. Let's see. Timely file. We filed failure to timely file for '17
7 and '18.

8 Q And getting back to the decision not to bring the case in California at that time,
9 in October of 2022, what was your thinking?

10 A My thinking was I'm asking a team I want a final recommendation. So it's go
11 through the stuff, do what needs to be done, and then we've got to make a call.

12 Q Okay. And what call did you make?

13 A I didn't make a call at that time.

14 So what happened was a recommendation was made to me by the end of the year
15 and --

16 Q What was the recommendation?

17 A The recommendation was not to charge. And the focus was on the -- I'm
18 sorry -- the focus was on the '18 felony.

19 Q Okay. Who recommended not to charge?

20 A I know that folks met in D.C. for 2 days, 1 day each, separate occasions. That is
21 Tax personnel and representatives of my office.

22 Q Were those Tax -- DOJ Tax, right?

23 A DOJ Tax.

1 Q Not IRS?

2 A No. No. No, this was attorneys. I mean, this was part of the deliberative
3 process. So the attorneys were going through the evidence. And they met on two
4 separate occasions for full days, as I understood it. I wasn't part of that. And, ultimately,
5 the recommendation was shared with me sometime in December of that year.

6 Q Not to prosecute any of this?

7 A Not to prosecute 2018 was the focus --

8 Q Okay.

9 A -- because that was -- there was a felony. That was the felony year.

10 Q Okay.

11 A So that was clearly my focus. And that's -- you know, I'm not saying I didn't
12 invite anything with respect to the misdemeanor charges, but that's what I was waiting
13 on.

14 Q But without the felony charges it makes things a little bit more difficult,
15 correct?

16 A Without a felony charge the analysis is a bit more complicated.

17 Q Okay. So who specifically recommended not to proceed, not to charge?

18 A Well, my first assistant shared that with me, that that's the recommendation
19 from the team. I --

20 Q Who is the team at this point?

21 A The team would have been the two AUSAs from my office and the two
22 assigned lawyers from DOJ Tax.

23 Q So Ms. Wolf?

1 A She was a member of the team, yes.

2 Q Okay. And who was the other?

3 A Carly Hudson.

4 Q Okay. And DOJ Tax, would that be Mr. Morgan and Mr. Daly?

5 A Yes. And --

6 Q Anyone else on the team?

7 A Well, the supervisors. My understanding was that supervisors from my office
8 and I believe supervisors from DOJ Tax participated in these all-day offer-of-proof
9 sessions in D.C.

10 Q And do you remember when this occurred in 2022?

11 A Which? The meetings?

12 Q You know, this discussion.

13 A Among the people I just --

14 Q Yeah.

15 A I think the second one was in December.

16 Q Okay.

17 A I'm not sure if the first one was in November or not.

18 Q Okay. And so where did you go from there?

19 A I wanted to meet opposing counsel. Counsel for Hunter Biden had requested
20 an opportunity to meet.

21 Q Is this Mr. Clark?

1
2 [11:02 a.m.]

3 Mr. Weiss. Yes. And I agreed to meet because I wasn't -- I was considering the
4 recommendation, obviously, of the attorneys, have a lot of respect for the attorneys,
5 and -- but I wanted to hear from opposing counsel, so scheduled a meeting with Mr. Clark
6 for -- for sometime -- January 24th, actually, is my -- yeah. And we met.

7 BY [REDACTED]

8 Q In your office in Delaware?

9 A We met in Delaware.

10 Q Okay. Is that the meeting where Mr. Clark indicated that it would -- you know,
11 it's career suicide to proceed?

12 A I -- you know, I know we talked about that last time. Who knows? He certainly
13 could have said something of that nature, but -- really wasn't of significance to me.

14 Q Is that the meeting where he indicated he was going to call the President as a
15 witness?

16 A I don't know that he -- I don't know that that came up at that meeting.

17 Q Uh-huh. Did that come up at a subsequent meeting?

18 A No. I had no other subsequent meetings with
19 Mr. Clark. I'm just saying I don't -- I heard that. I don't know if it was communicated by
20 Mr. Clark to me at that time or that I heard it from one of the AUSAs at a different point in
21 time.

22 Q Okay. How many meetings did you have with Mr. Clark?

23 A One that I can recall.

1 Q And then your -- what was your decision?

2 A I heard -- well, ultimately, I decided that I was going to proceed on two paths. I
3 was going to consider a plea agreement to certain terms that I was amenable to. And at
4 the same time, I was going to pursue -- ask for additional trial counsel.

5 Q Additional trial counsel from who?

6 A From DOJ.

7 Q Okay. And what point of time, again, is this? Is this early 2023?

8 A This is -- in March of '23, I had a meeting in D.C.

9 Q Okay.

10 A I had had subsequent meetings with my team. I had lost one of the two -- well,
11 Mr. Morgan had left the team by that point in time. So I lose one critical member. And I
12 had been advised from one of my own that I'm going -- that she is preparing to leave.

13 Q That's Ms. Wolf?

14 A Yes. So now I've got two members of the team. And my view was, look, I am
15 prepared to proceed with plea discussions on these terms. And I had a clear
16 understanding in my own mind, except for one point, what those terms were.

17 Q What were those terms?

18 A Those terms were the -- the two misdemeanor charges, the failure to pay
19 charges and diversion on a gun ultimately. It didn't happen in day one, but that's what I
20 had sort of had in my mind by March of '23.

21 The only thing that was hanging was what recommendation I would or would not
22 be willing to commit to at that point in time.

1 So there were, you know -- didn't know that that -- that plea offer was going
2 to -- we were going to reach an agreement on that, I should say. And given what I'd
3 heard to date, there would have been no reason for me to believe there was going to be
4 an agreement between the parties on those terms.

5 So at the same time, I wanted to put together a team that would be prepared to
6 try the case moving forward, whether it was on misdemeanors or felony charges.

7 Q Okay.

8 A And what I had decided was the misdemeanors -- because Ms. Wolf raised this.
9 You know, we had the misdemeanors. Never really had much concern about my proof on
10 the misdemeanors with respect to '17 and '18, particularly failure to pay.

11 So I was willing to proceed. I had thought -- given it a lot of thought. I was willing
12 to proceed on those misdemeanors, but I wanted folks in the case that were prepared to
13 try the case if that offer wasn't accepted. And I wanted to hear from the new trial team
14 as to this trial team's assessment of felony charges for '18.

15 Q Okay.

16 A Because if the new team agreed that they weren't well founded, then it would
17 have been misdemeanors.

18 Q And where did you get the new team from? Who did you request that from?

19 A Requested it from ODAG.

20 Q Via Mr. Weinsheimer?

21 A Yes.

22 Q And how did that -- how did that process work? Did he just give you lawyers or
23 did you have an opportunity to select from a pool of lawyers?

1 A I made the request, and Mr. Weinsheimer was amenable. I don't know exactly
2 what they did in that regard. I do recall at some point talking with Director Wilkinson
3 because I happened to run into him at an event, national security division seminar type
4 event. And I knew that Mr. Wilkinson had spoken to Mr. Weinsheimer either through
5 Mr. Weinsheimer -- probably through Mr. Weinsheimer.

6 So I bumped into Mr. Wilkinson. I remember asking how we were doing in that
7 regard, and didn't have a whole lot of success.

8 Q What do you mean, you didn't have success?

9 A In finding --

10 Q They didn't give you lawyers?

11 A I got one resume.

12 Q Okay. Nobody wanted to come prosecute Hunter Biden?

13 A I don't -- I don't know the -- I truly don't know the details of what transpired. I
14 just don't. I wasn't part of those discussions. But as events are moving, we ultimately
15 had a meeting in D.C. with Mr. Clark and Mr. Weinsheimer's participation, and I
16 remember -- that was in later April, and I remember following up with Mr. Clark -- I
17 mean -- I'm sorry -- with Mr. Weinsheimer at that time and talking further about it. And
18 actually, as I think about the sequencing, I had started to reach out myself directly to
19 offices or people that I knew and make my own inquiries.

20 Q Okay. So ODAG wasn't being especially helpful in this front in identifying
21 individuals for you.

22 A I don't want to say that because I don't know that they weren't trying to find
23 people. All I know was I didn't get a whole lot of resumes.

1 Q If the Deputy Attorney General of the United States, though, asks a prosecutor
2 to join the special counsel -- or at this point you weren't the special counsel, but to join
3 your team, don't you think that's -- most occasions, that DOJ attorney would take that
4 invitation?

5 A It's a fair question. Now, remember, the Deputy Attorney General was recused
6 from my matter. I never had any discussions with her so --

7 Q She recused herself?

8 A I never had any conversations with Ms. Monaco --

9 Q Was she officially recused?

10 A I think -- I think she was.

11 Q I don't think that's ever been identified or reported.

12 A Well, she never had -- I'm sure it wasn't an accident that she never had any
13 conversations with me.

14 Q Okay. Eventually, you get Mr. Wise and Mr. Hines --

15 A That's correct.

16 Q -- as the prosecution lawyers.

17 A That's correct.

18 Q When did you get those two fellows?

19 A I got Mr. Wise in the latter portion of May.

20 Q Okay. And Mr. Hines as well?

21 A I got Mr. Hines through Mr. Wise. Both of them had been AUSAs in Maryland.

22 Q Mm-hmm.

23 A And probably a couple weeks, two, three weeks thereafter, I think --

1 Q Did you find them or did Mr. Weinsheimer or somebody in ODAG find them?

2 A I found Mr. Wise with the assistance of somebody at the public -- at Public
3 Integrity.

4 Q Okay. So after they joined the team, at some point, did you have a discussion
5 again about bringing the case in California?

6 A Well, I would have shared the pros memo on the tax charges, and my first
7 question -- yeah. I would have asked whether this was some- -- first, is this something
8 you'd be interested in. And I'm sure, early on -- and remember -- so I know you're
9 familiar with the sequencing on when I filed the diversion agreement --

10 Q Mm-hmm.

11 A -- and plea agreement in early -- sometime in early June. I'm having these
12 discussions with Mr. Wise and Mr. Hines at the same time. So these events are literally
13 moving --

14 Q Right.

15 A -- on parallel tracks. And yeah. So I'm sorry. What was the question again?

16 Q Well, I was just asking about the decision not to bring the case in California
17 after -- you know, you had a gap where you needed assistance of prosecutors, and that
18 gap was how many months?

19 A A couple months. I started in early March and -- we had had limited success
20 through the end of April.

21 Q So DOJ said you had the authority to bring this case, but when it came time to
22 get prosecutors to actually bring the case, you met a real roadblock there, didn't you?

1 A As I said a moment ago, I did not -- I did not receive a lot of resumes in
2 response to my initial request.

3 Q Okay. Did Mr. Weinsheimer explain to you why there was such a drought
4 there?

5 A No.

6 Q Did he explain to you what efforts he undertook?

7 A No. I don't recall -- I don't recall us ever talking about it.

8 Q You said ultimately somebody from the Public Integrity Section helped you
9 identify Mr. Wise. Is that correct?

10 A That's correct.

11 Q And was that pursuant to your outreach? Or did --

12 A Probably.

13 Q -- the Public Integrity official --

14 A No. Probably -- I mean, this was somebody I would have talked to from time to
15 time as part of my responsibilities and someone I had developed a relationship with. And
16 I think it would have been my outreach. But it's quite possible that this person would
17 have raised it on his own but only if he knew I was looking.

18 Q Okay. So once you have Mr. Wise and Mr. Hines on your team, then you're
19 able to turn your attention back to next steps?

20 A Yes. But remember, I probably -- I believe I've got -- by the time I've got both
21 of them on the team, the filing had -- the file in Delaware had probably been made
22 already.

1 So, in other words, the plea agreement that -- or the -- what had been proposed,
2 we didn't know whether we would reach a resolution, had come to fruition.

3 Q Okay.

4 A Defense counsel had agreed to the terms.

5 Q Okay.

6 A And so we had -- I had made the filing on the diversion agreement and the
7 two -- the failure to pay misdemeanors for '17 and '18.

8 Q And what was your thinking for ultimately not bringing a more robust case in
9 California? I mean, like, we have discussed some of these -- some of the facts of the
10 California tax returns are pretty outrageous. And so to pivot to just a plea bargain,
11 especially in light of what's happened, seems unusual.

12 A Look. It's a precharge agreement, so I haven't filed anything. So the notion
13 that there would be some charges that wouldn't be filed, that's not unheard of.

14 And thinking of all the circumstances, strengths and weaknesses of cases -- you
15 know, the considerations you make as part of the principles of federal prosecution, the
16 strength of the case, is there a crime? And is it a crime that with -- you know, given the
17 admissible evidence, you're more likely to prevail on? And is it a case in which you have a
18 substantial federal interest? And that analysis is something I'm going to -- both with
19 respect to the firearms charge, you know, it's very much different as to each versus the
20 tax offenses. And part of it is, am I going to prevail?

21 Q Right.

1 A And I'm considering, you know, the circumstances of my situation at each step
2 along the way, whether it's January of '23, June of '23, and July of '23. That's part of the
3 calculus.

4 Q But -- fair enough. But ultimately, you did indict this case in California, and it
5 was a strong indictment, and --

6 A Ultimately, I did indict the case. And I wouldn't have indicted the case, as I said
7 a moment ago, unless I thought we were likely to prevail. My view is that was a triable
8 case.

9 Q Right. So, I guess, what changed?

10 A As a prosecutor, I'm saying that's a triable case. That means that there are
11 strengths and weaknesses to the case. But I was comfortable that, you know, the way the
12 admissible evidence would play -- and there are -- I'm comfortable saying this because I
13 think it was part of the motions practice. There are risks. He suffered from addiction in
14 '18. We emphasized the fact by the time it was filed in '20, he had been free from the
15 addiction since May of '19.

16 How much evidence of the addiction was going to come in? How much -- whether
17 there would be an expert to testify to the ramifications of a severe crack addiction that
18 might linger into the months and years that follow? I certainly considered that. How
19 much trauma evidence would come in that is familial circumstances, how far back that
20 would go. Whether the fact that the taxes had been paid by a third party, whether that
21 evidence would come in.

22 All these are considerations that we're considering -- that were publicly filed as
23 part of the motions practice as part of the calculus.

So I hear what you're saying, especially when you focus on the egregious nature of some of the deductions that you've -- you know, that you've asked about here today. I'm just trying to make the point there are other things that we're going through and we're thinking through and that I'm thinking through.

██████████ Okay. My hour is up here, so we'll pause. Go off the record.

[Recess.]

[Weiss Exhibit No. 2
was marked for identification.]

It is 11:30. We can go back on the record.

BY

EXAMINATION

Q Mr. Weiss, thank you again for joining us today.

A You're welcome.

Q I want to start out by recounting some of the conversation that was just had over the break. And before I do that, I'd like to introduce as exhibit 2 a June 4th, 2025, letter from the Department of Justice to you. Are you familiar with this letter?

A As of yesterday, yes.

Q Okay. And on the second page of this letter, there's a line here reading -- I'm just going to read the second to last paragraph into the record. It says, "Although you are authorized to provide information responsive to the topics outlined above, you are not authorized to reveal information, the disclosure of which is prohibited by law or court, including classified information and information subject to Federal Rule of Criminal

1 Procedure 6(e). In particular, federal law prohibits you from disclosing information
2 covered by 26 U.S.C. 6103." And you're familiar with that provision in the letter?

3 A Yes. I am.

4 Q Okay. And over the break, you expressed concerns about the risk of discussing
5 6103 information. Do you recall that?

6 A I have.

7 Q Why is that of concern to you?

8 A Well, because there are criminal penalties attached, for one thing, and, I
9 believe, civil penalties that are attached to the disclosure of 6103 information.

10 Now, whether I am on the hook personally versus the Department and the
11 government, I don't know. But in any event, I know it's serious to wrongfully disclose
12 6103.

13 Q And you have not been offered a grant of immunity in this matter, correct, with
14 respect to 6103?

15 A I have not.

16 Q Okay. So even though, for example, this -- Department of Justice might say in
17 the letter that they will not prosecute you, that's not -- even if you were to get such a
18 letter, that's not necessarily a grant of immunity, correct?

19 A I'll leave it to --

20 Mr. Perry. Can you clarify the question?

21 [REDACTED] Yeah.

22 BY [REDACTED]

1 Q So I think there's a discussion about a new authorization letter and what a new
2 authorization letter would say. And if a new authorization letter were to say, you know,
3 you're allowed to discuss 6103 information, that's not the same thing as a grant of
4 immunity, correct?

5 A Authorization is not the same thing as a grant of immunity. And with respect
6 to how to proceed, that's something I would discuss with counsel.

7 Q Okay. I just wanted to make that clear on the record why you're not discussing
8 this information. It's not that you're trying to obfuscate this committee or hide
9 information. It's that you have a concern, based in the law.

10 A That's accurate.

11 Q Okay.

12 BY [REDACTED]

13 Q And while the minority takes no position to the merits of, you know, the 6103
14 analysis that you just discussed, I do believe that your counsel has been talking with DOJ
15 about this authorization throughout the morning. Is that correct?

16 A That's my understanding.

17 Q Okay. Thank you.

18 [REDACTED] All right. Moving on.

19 BY [REDACTED]

20 Q Mr. Weiss, you've previously appeared before this committee in November of
21 2023, correct?

22 A That's correct.

1 Q Okay. And I believe you spoke with this committee for pretty much a full day of
2 testimony. Is that right?

3 A It was a full day. Yes.

4 Q Have you had an opportunity to review your transcript?

5 A My transcript of my prior --

6 Q Of your -- yeah.

7 A I have.

8 Q Okay. So when you appeared before this committee in November 2023, you
9 said, by our count, more than 50 times that you had ultimate authority over the Hunter
10 Biden investigation subject to federal law, the principles of federal prosecution, and DOJ
11 guidelines. Was that an accurate statement when you made it in November 2023?

12 A It was.

13 Q And does it remain true today?

14 A Yes.

15 Q Okay. When you testified in November of 2023, you said, again, by our count,
16 at least 25 times that nobody at DOJ ever blocked you from taking any action you deemed
17 appropriate in the Hunter Biden investigation. Was that an accurate statement when you
18 made it?

19 A It was.

20 Q And does it remain accurate today?

21 A Yes.

1 Q And just to walk through some of the individuals and entities with whom you
2 engaged, is it accurate that nobody in the Tax Division of DOJ ever blocked you from
3 taking any action that you deemed appropriate?

4 A They did not.

5 Q Is it accurate that nobody in the Office of the Deputy Attorney General ever
6 blocked you from taking any action you deemed appropriate?

7 A That's correct.

8 Q Is it accurate that Bradley Weinsheimer never blocked you from taking any
9 action that you deemed appropriate?

10 A Never.

11 Q Is it accurate that John Carlin never blocked you from taking any action you
12 deemed appropriate?

13 A He did not.

14 Q Is it accurate that Lisa Monaco never blocked you from taking any action you
15 deemed appropriate?

16 A No. I never had any conversation with Ms. Monaco.

17 Q And I believe you said that it's your understanding that she was recused from
18 this case.

19 A That was my understanding.

20 Q Okay. Is it accurate that Merrick -- that the Attorney General, Merrick Garland,
21 never blocked you from taking any action that you deemed appropriate in this case?

22 A He did not.

1 Q Is it accurate that the U.S. Attorney's Office in the District of Columbia never
2 blocked you from taking any action in this case?

3 A They did not.

4 Q And is it accurate that the U.S. Attorney's Office in the Central District of
5 California never blocked you from taking any action in this case?

6 A That's accurate.

7 Q Okay. When you testified in November 2023, you said that you understood
8 that even before you requested and obtained special counsel status in August of 2023,
9 you believed that you had authority to bring charges in any appropriate jurisdiction. Is it
10 still accurate that you believed you had -- that you would be able to bring charges in any
11 appropriate jurisdiction?

12 A I believe, as Attorney General -- I'm sorry. As special counsel, I clearly had
13 authority to bring charges in any jurisdiction. And as U.S. Attorney, before I was
14 appointed special counsel, I was not concerned with whether I would have the authority
15 to bring an action, whether it be in California, Washington D.C., or Delaware.

16 Q And you say you weren't concerned because if you had requested, for example,
17 Section 515 authority, you were confident it would be granted to you.

18 A That is correct.

19 Q Okay. When you testified in November of 2023, you were asked about
20 allegations that you and/or the prosecutors working on this matter at your direction may
21 have been influenced by political considerations when they were making -- or you were
22 making investigative and prosecutorial decisions in this matter. And you said -- and this is
23 a quote from your transcript at page 71. We have it if you'd like to see it.

1 You responded, quote, "Our responsibility as prosecutors is to follow the evidence
2 and the law regardless of the defendant, and that's what we're responsible for doing.
3 And that's the only way the public is going to have confidence in the process if we
4 proceed in accordance with that principle?"

5 Do you remember saying that?

6 A I remember saying something very much like that. Yes.

7 Q Is it still your testimony today that throughout this investigation, you and all
8 prosecutors working on your team followed the evidence and the law when making
9 decisions?

10 A Yeah. I absolutely believe that.

11 Q And is it still your testimony today that political considerations played no role
12 in your decision-making?

13 A I do not believe political matters played any role in mine or in the
14 decision-making or recommendations of other members of either my office or the
15 Department of Justice Tax Division.

16 Q Thank you.

17 Moving on. There was some discussion in the prior hour about certain statements
18 the Attorney General had made to Congress that -- in which the Attorney General said
19 you had authority over the matter. Do you recall that discussion?

20 A I do.

21 Q And you said that the first time that you heard the Attorney General say that
22 was when he -- publicly -- was when he said it to Congress. But that wasn't the first time
23 you understood you had authority over the matter, correct?

1 A No.

2 Q Okay. And when -- to the best of your recollection, or the best you can
3 pinpoint it, when did you understand that you had authority over this matter?

4 A I believe it was a conversation with Mr. Carlin and Mr. Weinsheimer in
5 May -- early May of 2022.

6 Q Okay. So -- and then when -- okay. Withdrawn.

7 So when the Attorney General told Congress that you had ultimate authority over
8 this matter, even though he had not had that conversation with you directly, it was still
9 your understanding at that time that you did have authority.

10 A I don't remember -- I'm sure I heard of, if I didn't hear the Attorney General's
11 testimony. But my reaction was or would have been that's consistent with my
12 understanding.

13 Q Okay. Thank you.

14 Moving on. I want to turn to what was marked as exhibit 1. This is the Gary
15 Shapley email dated February 15th, 2022. Do you have that in front of you?

16 A I do.

17 Q And when we reviewed this in the prior hour, you noted that you're not on this
18 email, correct?

19 A I am not.

20 Q And your first time seeing this email was when it was put in front of you today.
21 Is that right?

22 A That's my recollection, yes.

1 Q Okay. On the second page of this, you noted, as you were reviewing it, that
2 there was a nonconcur from CT counsel. Do you see where that is?

3 A I do.

4 Q What's your understanding of what that means?

5 A That our CT counsel had a different viewpoint with respect to the
6 recommendation of charges in this matter.

7 Q And why was that significant enough for you to note it in the prior hour?

8 A Well, look. I'm just trying to make sure that the record is accurate with respect
9 to, you know, what we're discussing here. So that -- certainly something I was aware of
10 during the events in question, I think for accuracy, was something incumbent upon me to
11 at least point out as part of the factual backdrop here.

12 Q Right. Because it shows that whatever Mr. Shapley detailed in the earlier part
13 of this memo, at least CT counsel disagreed with his assessment, right?

14 A CT counsel disagreed. Yes.

15 Q Okay. And so this is -- the charges listed in that box on the first page. We went
16 through this in the earlier hour, and I think you were asked if this was -- if all the -- all the
17 years and charges were listed in here you ultimately charged except for 2014 and 2015.
18 You remember that?

19 A Yes.

20 Q And you said, in fact, this is not an accurate statement of the charges that were
21 actually pursued, correct?

22 A That's correct.

1 Q So this is a snapshot in time, is it fair to say, of the charges that were
2 contemplated as of February 15th, 2022, at least from Mr. Shapley's perspective?

3 A That's correct.

4 Q Okay. And you referred to a special agent report at that time. Do you recall
5 that?

6 A Yes.

7 Q What is a special agent report?

8 A In many tax cases -- I don't know if it's part and parcel of each tax case. But in
9 this one, a special agent report was prepared which -- I recall it generally -- and I would
10 have only read it once -- would have set out what the agents concluded were the material
11 facts that they developed during the course of the investigation. I believe it would have
12 referenced witnesses to the facts that were discussed therein and exhibits that were
13 material to the investigation.

14 And I assume -- it would have made recommendations as to which tax violations
15 the agents believed were supported by the evidence they had developed during the
16 course of the investigation.

17 Q And you just specified the agents believed they had developed that, meaning
18 that the agents' perception might differ from prosecutors' perception?

19 A Absolutely. Certainly.

20 Q Okay. Are you familiar with the prosecution memo, sometimes called a "pros
21 memo"?

22 A Yes, I am.

23 Q Okay. What is a pros memo?

1 A Pros memo is the prosecutor's assessment of the evidence, the applicable
2 statutes, how the evidence -- whether it does or does not satisfy each and every element
3 of those statutes, how you're going to go about your proof, what witnesses you're going
4 to call, what documents you're going to use.

5 It basically sets out in detail the strengths and the weaknesses, if it's done
6 appropriately, that you're going to face if you move forward in the prosecution.

7 Q Who prepares a prosecution memo?

8 A The assigned lawyers.

9 Q And the assigned lawyers have -- typically have experience understanding
10 particular considerations that need to be taken into account before bringing a case before
11 a jury, correct?

12 A Sure. They have a -- they have an understanding of the statutes. They have an
13 understanding of the likely motions practice, what evidence you will actually get in, what
14 a court may admit, what evidence is at risk and might not ultimately be admitted.

15 So there is -- they have a better understanding of those issues, and that's to be
16 expected. That's no slight toward the agents. These -- you know, these are trained
17 lawyers and, with respect to experienced ones, people who have previously prosecuted
18 those kinds of cases.

19 Q And lawyers might also have a view or better understanding of the defenses
20 that might be brought forward at trial, correct?

21 A Yes.

22 Q So is it fair to say when comparing a special agent report to a prosecution
23 memo, the prosecution memo is prepared at a later stage and tends to include robust

1 consideration of potential defenses and also the strength of an evidence and other
2 considerations along those lines?

3 A Yes. It was certainly -- that was the circumstance in this situation for sure.

4 Q And in this situation, when was the prosecution memo prepared?

5 A August of 2022.

6 Q So at least 5 months later than the special agent report? Is that fair to say?

7 A At least 5 months.

8 Q Potentially longer.

9 A Yeah.

10 Q Prosecutors -- there was some discussion in the prior hour of the 2014/2015
11 tax charges, and I understand that right now, under the guidance you have, you're limited
12 in what you can discuss about those years. But at large, to the extent Mr. Shapley
13 indicates that there was a basis for moving forward on the 2014 and 2015 charges, it's
14 often the case that investigators and prosecutors might view evidence differently,
15 correct?

16 A I'm not going to -- even if I responded yea or nay to a question that involves
17 Mr. Shapley saying something about investigating '14 and '15, that's a problem, as I
18 understand 6103.

19 What I'd say is there's -- it's certainly possible, generally, that an agent's
20 evaluation of the case is going to differ from the prosecution's.

21 Q Prosecutors generally are concerned with obtaining a conviction at trial,
22 correct?

1 A Hopefully everybody's concerned about obtaining a conviction, the prosecutors
2 and the agents. Yes.

3 Q Understood. But prosecutors have an understanding that to obtain a
4 conviction at trial, they need to prove a case beyond a reasonable doubt, correct?

5 A Yes.

6 Q And that's the highest standard in law, correct?

7 A Yes.

8 Q Means that if one person on a jury has a doubt that they consider reasonable,
9 that juror has to vote to acquit, correct?

10 A That's likely to be the outcome, yes.

11 Q This was alluded to in the prior hour, and I'm just going to note it for the
12 record.

13 You're aware that Mark Daly and Jack Morgan testified before this committee.

14 A I am now. I wasn't before today, but now I know that.

15 Q And who was Mr. Daly?

16 A Mark Daly was a prosecutor who worked on the investigation when I was U.S.
17 Attorney and was the only one who continued to be part of special counsel's team
18 moving forward.

19 Q And who was Mr. Morgan?

20 A Mr. Morgan was the second assigned attorney from Tax Division who worked
21 in my investigation when I was
22 U.S. Attorney.

1 Q Mr. Daly testified before this committee on May 7th, 2025, and I want to note
2 for the record that at page 59 of this transcript -- of Mr. Daly's transcript, he indicates that
3 the concern with moving forward as to 2014 and 2015 revolved around questions about
4 their ability -- prosecutors' ability to prove willfulness in that case.

5 And that concern was repeated by Mr. Morgan. He testified on May 22nd, 2025.
6 And the relevant section in which he expressed concerns or described concerns involving
7 willfulness is on page 53 of that transcript. Again, I'm not asking you to -- for your -- to
8 weigh in on that. I just want to make the note for the record that as to both of those tax
9 years, I believe there was a reference in the earlier hour testimony from Mr. Shapley. I
10 want to note that we received testimony from Morgan and Daly that explains the reason
11 that prosecutors did not move forward with the 2014 and 2015 tax years.

12 A Understood.

13 Q In the prior hour, you noted several times that there were concerns about
14 venue in this matter and where charges might be brought. First in layman's terms, what
15 is venue?

16 A Venue is the location where you have reason to believe the crime has occurred.
17 And in a tax case, it can be where the return was filed or where the taxpayer resides,
18 most typically, although there are variations depending upon the particular charge.

19 Q And you did have concerns about venue in this matter, correct?

20 A Yeah. You always have concerns about venue. You want to make sure you're
21 in the right location. Yes.

22 Q And in this particular case, there were at least three different jurisdictions
23 where you could bring charges, correct?

1 A At least three. I think that's correct because I think even where a return was
2 processed is a viable location for prosecution. As well as in a tax evasion case, I believe
3 you can bring a case in a jurisdiction in which an affirmative act of evasion can be proven.

4 Q And did that pose a particular challenge with moving forward in this case?

5 A It was a challenge insofar as -- yes, it was a challenge. It's something we had to
6 work through.

7 Q And can you explain why it was a challenge?

8 A Well, because you only want to go through the process one time. You want to
9 make sure that, to the extent you have X number of charges to pursue, you're, you know,
10 you're bringing them in the most appropriate venue where you can bring your strongest
11 and your -- you know, the crux of your case, if at all possible.

12 Q When you say you only want to go through the process one time, is that
13 referring to trial?

14 A Yeah. You only want to -- you only want to prosecute in one jurisdiction. You
15 want -- you know, you want to get as much of your case in one location. I'm sure there
16 could be circumstances where somebody chooses to pursue a defendant in multiple
17 jurisdictions. But I'm not aware of many of those or any of those.

18 Q And why do you only want to pursue -- I think you said -- in the prior hour, you
19 said, "We didn't want to litigate in two jurisdictions." Why did you not want to litigate in
20 two jurisdictions?

21 A Well, at a minimum, for reasons of efficiency. I mean, you don't -- you want to
22 get your -- you know, spend money wisely, use your resources wisely, and bring the
23 strongest case you have in one location.

1 You can also set yourself -- if you have multiple cases in different locations for
2 different conflicting results, the cases are likely to overlap some. So there could be other
3 practical challenges or difficulties.

4 Q So it's fair to say that bringing a case in two jurisdictions could make it harder
5 to be successful in one or both of those jurisdictions.

6 A Yes.

7 Q In this case in particular, is it fair to say that the facts surrounding the
8 allegations made venue particularly challenging?

9 A Yeah. It was a little bit more complicated this -- I think in this case because of
10 Mr. Biden's situation and the fact that a certain point in time, his lifestyle was a bit
11 itinerant. So, year to year, he might have been in several locations, depending upon what
12 was going on in his life.

13 Q There was some discussion in the earlier hour about the U.S. Attorney's Office
14 in the District of Columbia decision not to partner with you. You recall that conversation?

15 A I do.

16 Q And I believe this also came up in the 2023 interview that you did.

17 The U.S. Attorney's Office in the District of Columbia decided not to partner with
18 you, but they did offer to provide you with any necessary administrative support, correct?

19 A That's correct.

20 Q And that would have included, for example, making sure that your prosecutors
21 had time before their grand jury, if necessary.

22 A Yes.

23 Q And when I say "their grand jury," the grand jury in --

1 A The D.C. grand jury, yes.

2 Q So the decision not to partner with you, did that prevent you from moving
3 forward in the District of Columbia?

4 A No. It had no impact on where we ultimately -- yes -- on where we might or
5 might not proceed.

6 Q So if you had wanted to bring charges in the District of Columbia, are you
7 confident that you would have had the authority to do so?

8 A Yes.

9 Q What about the Central District of California? The decision -- they also decided
10 not to partner with you, correct?

11 A Correct.

12 Q Did that prevent you from moving forward in this case?

13 A It did not.

14 Q In fact, I think -- you alluded, in the prior hour, to the fact that the conversation
15 that your team had with the Central District of California was actually helpful because it
16 pointed out some of the challenges you might face, correct?

17 A I had a conversation -- I remember talking to counsel about my conversations
18 with Mr. Estrada. I don't recall saying much about the conversations that the team would
19 have had.

20 So I don't know if that's correct. I would say -- I have specific recollection that the
21 conversations with the team in D.C., I thought, were helpful to our consideration of the
22 case.

23 Q And why was that?

1 A Just because -- look. It's -- you're getting somebody who's new to the case, a
2 different perspective, different input from people who might have something to offer.
3 And I thought some of the input, with respect to their views, were very helpful in putting
4 together the case and better focusing on some strengths and weaknesses of the case.

5 Q So, for example, was it the case that the prosecutors in the District of Columbia
6 pointed out weaknesses in your case so that prosecutors -- your prosecutors on your
7 team could then go and try to locate evidence to make a stronger case?

8 A I mean, I'm not saying that that happened.

9 Q Yeah.

10 A But that would have been the type of thing that would have -- that would have
11 been a way in which we might have benefitted from that exercise. That's why, whether it
12 was prosecutors in D.C. hearing from or prosecutors in another jurisdiction or the agents
13 themselves, that input can only be beneficial because you're making -- whether you agree
14 or not, ultimately, you're making your decisions in an informed basis with the benefit of
15 various perspectives. Always a plus.

16 Q And turning back to the conversations with the U.S. Attorney's Office in the
17 Central District of California, the decision not to partner with you did not prevent you
18 from moving forward in that jurisdiction, correct?

19 A It did not.

20 Q Okay. And ultimately, you did move forward in California, correct?

21 A We did.

22 Q You filed a rather lengthy indictment in California, correct?

23 A We filed an indictment in that case -- in California, yup.

1 Q And in the prior hour, majority counsel listed some of the allegations of
2 deductions that were taken. Those were listed in the indictment, correct?

3 A They were spelled out in the indictment, yes.

4 Q So the fact that the Central District of California didn't partner with you didn't
5 prevent you from making that information public, correct?

6 A No.

7 Q It didn't prevent you from filing an indictment.

8 A It did not.

9 Q And what was the outcome of the indictment that you filed in California?

10 A Mr. Biden ultimately pled open to the indictment in -- the charges set forth in
11 the indictment in Central District of California.

12 Q And I just want to enter into the record as -- exhibit 3? The DOJ press release
13 noting that Mr. Biden pleaded guilty in federal court in Los Angeles to a nine-count -- to
14 all counts in a nine-count indictment, including three felony tax offenses and six
15 misdemeanor tax offenses. This is dated September 5th, 2024.

16 [Weiss Exhibit No. 3

17 was marked for identification.]

18 BY [REDACTED]

19
20 Q Have you seen this press release before?

21 A I was just saying I'm not sure I have.

22 Q Do you want to take a minute to review it?

23 A No, no. I remember the outcome.

1 Q Okay. Is this an accurate -- is this an accurate statement of the outcome of that
2 case?

3 A I am sure it is.

4 Q So again, the fact that Martin Estrada chose not to partner with you didn't
5 prevent you from obtaining a conviction in this case.

6 A It did not, nor did I ever think that it would.

7 Q And why do you say that?

8 A Because I always understood that whether he chose to participate or join in
9 our effort, I was permitted to proceed in any event.

10 Q You were asked in the earlier hour some questions about a meeting with
11 Christopher Clark. Do you recall that conversation?

12 A I do.

13 Q Christopher Clark was Mr. Biden's defense attorney, correct?

14 A Correct.

15 Q There was a question raised about whether he had made some, I think what I
16 would term "threats," such as threatening to bring in the President to testify, threatening
17 your prosecutors that their careers would be over if they move forward. Do you
18 remember majority counsel raising that in the prior hour?

19 A I do.

20 Q And I think you said some of them maybe happened. Some of them you don't
21 recall those statements being made. But you said, in any event, it was, quote/unquote,
22 not of any consequence to you.

23 A It was not.

1 Q And why did you say that?

2 A Because from my perspective, I was going to proceed or not based on Mr.
3 Clark's opinion of the fallout to my career but based on whether I thought I could prove
4 my case.

5 Q Have you met with defense attorneys in other situations?

6 A Sure, I have.

7 Q Is it sometimes the case that defense attorneys say -- use language that could
8 be deemed aggressive or threatening?

9 A I guess I've experienced that before, language that could be deemed aggressive
10 for sure. Yes.

11 Q And is that typically effective in persuading prosecutors not to move forward
12 with a case?

13 A I don't think so.

14 Q And why do you say that?

15 A Because a prosecutor -- you know, as I know I spoke about last time, defense
16 counsel, in my mind, should be focusing on the weaknesses in my case and telling me why
17 I shouldn't move forward. Whether he says that I'm a jerk or if I proceed, my legacy is in
18 the toilet, that shouldn't be particularly compelling. In fact, it might suggest that you
19 don't have much on the merits to discuss. So no, I don't find it compelling. And I think
20 few prosecutors do.

21 Q With respect to this case in particular and the meeting that you had with Mr.
22 Clark, did Mr. Clark point out information that suggested there were weaknesses in your
23 case?

1 A Sure.

2 Q Can you explain the nature of that information?

3 A Yeah. I don't want to get too much into anything that trips into plea
4 negotiations. But that's what defense counsel do. I mean -- and capable defense counsel,
5 as I think this team was, they certainly familiarized themselves as best they could with the
6 case and where there were deficiencies.

7 Q And when Mr. Morgan and Mr. Daly testified, they told us that at that meeting,
8 Mr. Clark presented information about Mr. Biden's accountant double counting income or
9 miscalculating income for one year. Do you recall that?

10 A I don't know that -- I'm not sure if you're talking about that coming up at this
11 meeting in January of 2023, the one I participated in, or that that was raised in a taxpayer
12 conference meeting the year before.

13 Q But either way, that information did come -- Mr. Clark did raise that
14 information.

15 A That information came to my attention, yes.

16 Q And when you say defense attorney can point out weaknesses in your case,
17 that's a pretty big challenge to the case, correct?

18 A That particular weakness?

19 Q Yes.

20 A That particular weakness was a concern of mine, yes.

21 Q Why was that a concern of yours?

22 A Well, I described this to majority counsel. Part of the process of preparing that
23 return -- so returns had not been prepared for '16, '17, and '18 for several years, by that

1 point in time, and what we're talking about in February of 2020 when two of those three
2 returns were ultimately prepared. The third was prepared in June of 2020.

3 So they were putting together these returns in a month or two time frame. And
4 certainly I would have expected -- and I think this was raised in motions practice -- that
5 part of the defense would have been that Mr. Biden didn't willfully make incorrect
6 decisions with respect to his expenses, whether they were personal or business, but that
7 they -- he didn't act willfully, he acted negligently, because of the circumstances, the
8 pressures, the chaos at that particular time, and that the notion that someone else
9 had -- or the suggestion that someone else had made a mistake.

10 And in fairness to the accountants, they were relying on information that had
11 been imparted by Mr. Biden. And I don't recall the particulars, whether the accountants
12 were told that the information in a certain bank account represented -- clearly
13 represented Mr. Biden's income or not. But the notion that anyone else made a mistake
14 fed the idea that Mr. Biden may have made a mistake as opposed to acting willfully.

15 Q And I want to talk about negligence versus willfulness. You just said this type
16 of mistake could have raised a defense that Mr. Biden was acting negligently, not willfully.
17 What does it mean to act negligently?

18 A And so I'm clear, I'm not saying it would have raised the defense. I suspect and
19 I think the motions indicate they would have pursued that in any event.

20 Q Okay. Understood.

21 A I understood that. But the idea is that if you can suggest that the accountants
22 are professionals and they made an error, certainly it's possible that anyone would have
23 made an error under such circumstances.

1 Q And the standard in a tax case is that a defendant has to have acted willfully,
2 correct?

3 A Yes.

4 Q What does "willfully" mean?

5 A Willful means that you took an action that you knew, intentionally, that you
6 knew was in violation of the law. Knowing what the law is, you willfully undertook an
7 action that you knew violated that law.

8 Q And willfulness is a standard that's not applicable in all criminal charges,
9 correct?

10 A It is not.

11 Q It is particularly applicable in tax matters, correct?

12 A It is applicable in tax matters.

13 Q So it's fair to say that this particular standard was front of mind for your team.

14 A Sure.

15 Q You knew you had to prove willfulness.

16 A Yes. It's slightly higher than many of the Title 18 offenses.

17 Q And you had to prove willfulness as to every count that was charged in the tax
18 matter.

19 A That's correct.

20 Q So if Mr. Biden's defense team had been able to convince a jury that he had
21 only acted negligently and not willfully, that would have resulted in an acquittal, correct?

22 A That's correct.

1 Q And so for all the tax years, you had concerns that Mr. Biden might be
2 acquitted if you couldn't meet this high standard.

3 A I knew what the standard was. Certainly. That was part of our calculus and
4 evaluating whether we could satisfy our burden of proof in the case. Yeah.

5 Q Okay. I'm going to move on from this.

6 In the prior hour, I think near the end of the prior hour, you were asked some
7 questions about your efforts to build your team by bringing additional prosecutors
8 onboard. Do you recall that conversation?

9 A I do.

10 Q Are you familiar generally with the process for obtaining what are sometimes
11 called "detailees" at the Department of Justice?

12 A Yeah. I mean, generally familiar with it.

13 Q Have you had -- have you obtained detailees for the District of Delaware
14 outside of this matter?

15 A Trying to remember. Not with any degree of frequency. If it happened, it's just
16 not coming to mind at this particular time. So I don't think we've been a frequent
17 beneficiary of detailees.

18 Q Are you aware of whether DOJ policies require detail opportunities to be
19 publicly posted?

20 A Yes. I've certainly seen detailees going, you know, to various locations. Yes.

21 Q Is it your understanding that when you spoke with Mr. Weinsheimer and you
22 requested additional prosecutors, that he publicly posted a detailee position?

1 A I don't -- I don't know. In all candor, I don't know what process was
2 undertaken. And look. I don't mean to suggest -- I'm sure that Mr. Weinsheimer
3 undertook a process and tried to get this done. I just testified to what -- what happened.

4 If a detailee opportunity with respect to my prosecution was published, I never
5 saw it.

6 Q Do you have any reason to believe that Mr. Weinsheimer did not follow the
7 ordinary process here?

8 A I don't know. I don't know exactly what the ordinary process is for posting
9 detailees -- for detailee opportunities. I don't -- I've seen them as a member of the
10 Department over the years. I've seen them come across my screen. I wasn't interested in
11 pursuing any. So, you know, I didn't pay a whole lot of attention, but I've seen them
12 before. And I didn't recall seeing a published one with respect to my case and this
13 opportunity.

14 Q Ultimately, did you obtain additional prosecutors to work on this matter?

15 A I was fortunate enough to obtain a couple very excellent prosecutors.

16 Q And who -- go ahead.

17 A Mr. Wise and Mr. Hines. Yes.

18 Q Can you briefly describe for the record the background for Mr. Wise?

19 A Mr. Wise was a prosecutor who ultimately worked in Maryland for years, did
20 public corruption cases, other high-profile cases. I think Mr. Wise's initial case was the
21 Enron case, pretty high-profile prosecution. And I think he also then participated in the
22 tobacco case. So he had a lengthy career in some high-pressure situations, which was
23 beneficial, given the nature of our case and our investigation.

1 Q And what was Mr. Hines's background?

2 A Mr. Hines, I think, started as a prosecutor in Maryland, and actually worked
3 with Mr. Hines extensively on a police corruption case that they had -- lasted, I think, the
4 better part of two years in the District of Maryland where they secured a number of
5 convictions of police officers.

6 Q Is it your opinion that Mr. Wise was well qualified to prosecute this matter?

7 A He was extremely well qualified to prosecute this matter. And as I said, I was
8 fortunate to get Mr. Wise and Mr. Hines and others who ultimately joined the team. Yes.

9 Q And is it your opinion that Mr. Hines was well qualified to prosecute this
10 matter?

11 A Yes.

12 Q So ultimately, you obtained two highly qualified attorneys to prosecute this
13 case. Is that correct?

14 A Yes, and others.

15 Q And as we discussed a couple minutes ago, these prosecutors obtained a
16 conviction, a plea agreement that was -- had the effect of a conviction in California,
17 correct?

18 A They secured the plea agreement in California, and we prevailed at trial in
19 Delaware on the firearms offense.

20 Q And I'm going to introduce --

21 [Discussion off the record.]

22 Mr. Weiss. That's right. There was -- there was no plea agreement. There was a
23 plea to an open -- to the open -- to the indictment?

1 BY [REDACTED]

2 Q Thank you for that clarification.

3 And just to complete the record, I'm going to introduce as exhibit -- 5? Four. I
4 apologize. Exhibit 4 -- the June 11th, 2024, Department of Justice press release entitled
5 "Robert Hunter Biden found guilty of three felonies related to the illegal purchase of a
6 firearm."

7 [Weiss Exhibit No. 4

8 was marked for identification.]

9 Q And there is highlighting at the top of this document. I believe that our team
10 added that. I do not think that's on the original, so I apologize for that.

11 You're familiar with this?

12 A Yes.

13 Q This indicates that after a week-long trial, a federal jury in the District of
14 Delaware found Robert Hunter Biden guilty of three felonies connected with his illegal
15 purchase of a firearm in October 2018, including making a false statement in the purchase
16 of a firearm, making a false statement related to information required to be kept by a
17 federally licensed firearms dealer, and possession of a firearm by a person who was an
18 unlawful user of or addicted to a controlled substance, correct?

19 A Correct.

20 Q Mr. Wise and Mr. Hines were the prosecutors who prosecuted this case.

21 A They were.

22 Q And they obtained this conviction.

23 A Yes.

1 BY [REDACTED]

2 Q Mr. Weiss, you might have answered this in prior interviews. How long were
3 you a prosecutor?

4 A How long was I a prosecutor? I think I have a total of 20 years, some starts and
5 stops in between, but total of 20 years of experience.

6 Q And you tried cases before a jury, I'm assuming?

7 A I have.

8 Q About how many have you -- approximately how many have you tried before a
9 jury?

10 A I'm not one -- I'm a little --

11 Q Approximately.

12 A -- embarrassed that I happen to remember, but I remember -- complete my
13 background check for the U.S. Attorneys, but I think I listed 17.

14 Q And over that time that you were an AUSA prosecutor, how many
15 investigations did you lead, approximately?

16 A I couldn't put a number. A number of them.

17 Q Order of magnitude would be hundreds?

18 A Oh. I don't know about that, but a number of different kinds of investigations.

19 Q And I want to touch on, you know, the differences between offices and their
20 views of a case. I want to go back to the D.C. AUSAs and discussions that we had about
21 that. Do you recall those questions?

22 A Yup.

1 Q The D.C. AUSAs, under Mr. Graves, were they previously involved in the
2 investigation prior to 2022?

3 A They were not.

4 Q So when you approached their office, and your line attorneys were meeting
5 with them in 2022, was this the first time that those AUSAs were reviewing the evidence?

6 A It was all new, yes.

7 Q And I think you even said earlier, talking to my colleague, that you found it
8 helpful to get outside perspective on the strength of your case and the evidence. Is that
9 correct?

10 A Yes. Yes.

11 Q Why was it helpful?

12 A Because I'm -- you know, you're getting the benefit of somebody who's coming
13 to it cold. And, you know, our group is knee-deep in it. At times, they may be exchanging
14 some of the same views and opinions. This is somebody with relevant experience who
15 sees something for the first time. I can't help but benefit from that kind of input.

16 Q Is it fair to say they were approaching this evidence with fresh eyes?

17 A Yes.

18 Q Considering their own district, they're considering the D.C. courts, the D.C.
19 judges, and the strength of the case through that lens as well?

20 A I think that -- I think that's true.

21 Q And is it also fair to say that these D.C. AUSAs have tried cases of their own?

1 A I am -- at least one of them, I -- yeah. I'm sure that the group had tried many
2 cases of their own. I knew one had substantial experience in tax cases. So, yes, that's
3 true.

4 Q And despite the majority's characterization of a case being a slam dunk, per se,
5 which -- I would say before a jury there is no slam dunk case. But in your career, have you
6 ever observed trial attorneys disagree over the strength of a case?

7 A Absolutely. I don't believe in slam dunks, not -- especially in this day in age.
8 There is no such thing.

9 Q But going back, you have -- you do recall trial attorneys disagreeing, in the
10 ordinary course of business, over the strength of a case?

11 A Sure. Now, I should say I also knew that D.C. -- they were cold to the case, and
12 they were only getting a snapshot. They hadn't interviewed witnesses. They didn't have
13 the benefit of observation. And my folks did. So I appreciated this. But if there was a
14 difference of opinion, I was looking to my own prosecutors first and foremost.

15 Q So what you're saying is that the D.C. AUSAs' perspectives wouldn't have been
16 dispositive, and your --

17 A No, no. It wouldn't have been dispositive, but I would have given it thought.

18 Q Right. It was persuasive, right?

19 A It could be.

20 Q It could be persuasive.

21 A Depending upon the circumstances, the issue, it might be something that was
22 previously raised, and this was further accentuating something.

1 Q So putting the D.C. AUSAs' review of this case to the side for a second, let's go
2 back to when you said that trial attorneys, in your experience, disagree over the strength
3 of a case all the time. Is that fair to say?

4 A That happens. I mean, the truth is most of DOJ cases -- some are closer than
5 others. And so many cases, especially in my district where 75 percent are guns, drugs,
6 and immigration, there's not a whole lot of -- you know, a lot of your gun cases and drug
7 cases are pretty compelling. This is why most of our cases plea.

8 Q Sure.

9 A But there are cases, more complicated cases, where there are very much
10 difference of opinions.

11 Q And these more complicated cases typically are white-collar type cases,
12 correct?

13 A Could be. Certainly.

14 Q Because in those type of cases, you're having to prove things like willfulness. Is
15 that right?

16 A You got to prove willfulness. You got more documents. More persuasion is
17 afoot than it might be in a case where, you know, your prosecution involves a substantial
18 amount of drugs and you can put the drugs on the table, and that can be pretty
19 compelling.

20 Q And so when you're talking about possible disagreements in a white-collar
21 case, this can center around the strength of the evidence itself. Is that fair to say?

22 A Yes.

1 Q It can center around issues of law, the charges that are brought forth. Is that
2 fair to say?

3 A It could involve issues of law.

4 Q And so would you agree that reasonable minds can disagree overall about the
5 strength of a case on a white-collar matter?

6 A Absolutely.

7 Q And, in fact, I mean, Mr. Shapley himself even said, when he talked to us, that
8 particularly, when it comes to the 2015 year -- and I'm going to say in quotes -- that
9 particular year in that particular charge, I could see some issues that would preclude it
10 from being charged, that -- even Mr. Shapley in his own words admits that for certain
11 cases, certain charges, certain years, he could see issues with bringing that case.

12 A Yeah. I see nothing about 2015.

13 [REDACTED] That's all I have.

1 [12:17 p.m.]

2 Mr. Weiss. Yeah. I see nothing about 2015.

3 [REDACTED] Thank you. We can go off the record.

4 [Recess.]

5 BY [REDACTED]

6 Q I hope you had an enjoyable lunch. The pretrial diversion agreement had an
7 unusual provision that introduced the U.S. District Court as a bit of a player. Could you
8 help us understand the thinking behind introducing that provision?

9 A I didn't draft it, but I know the provision was -- I don't know. One of the --

10 Q Someone on your team?

11 A Someone on my team, yes.

12 Q Okay.

13 A And it was a provision as I -- a provision that called for the judge to make a
14 determination of whether it had -- there had been a breach of the diversion agreement,
15 and my recollection was that it was geared -- there is a provision in the diversion
16 agreement that said, if Mr. Biden made a statement that was in conflict with anything in
17 the statement of facts attached to the tax play or the diversion agreement with respect to
18 the gun, that that would be a breach of that agreement, and it was with respect to that in
19 particular where I think folks were thinking that could get messy. Someone could argue it
20 wasn't in conflict or it wasn't at odds for whatever reason, and that provision would have
21 a judge weighing in on the breach in the first instance. I do remember the court
22 expressing concern about that provision.

23 Q Okay. Had you ever used a provision like that before?

1 A I don't recall. I do remember counsel for the other side raising, during the
2 course of the discussion with the judge on this issue, that it wasn't very far from what
3 might happen on a violation of supervised release so that, you know, the parties
4 would -- defense counsel and prosecutor would go to the court, you know, if there was a
5 claim that, you know, a defendant had violated conditions of his supervised release order
6 and would have to make a determination. Not exactly the same, but there's some
7 parallel there between the two. Judge Noreika took exception to it and had concerns.

8 Q Other than the Hunter Biden case, have there been times when your office
9 included a pretrial diversion agreement that had, you know, information
10 related -- unrelated to the crimes that you were diverting?

11 A You mean so a diversion agreement focused on a gun case and it included
12 something about the tax case? Is that what you're talking about?

13 Q Yeah.

14 A I don't -- I don't recall. You know, the truth is, diversion agreements, my
15 recollection, back in '23 and the years prior, you could set up all kinds of different
16 diversion agreements. You didn't have to involve the court. Sometimes it was just the
17 parties and probation, and the court had nothing to do with it. The public wasn't involved
18 at all. There were different ways in which a diversion agreement --

19 Q You need the court to get involved with probation, don't you?

20 A You didn't need the court to sign off is my recollection. Diversion agreements
21 could be structured any number of ways, which is why I believe the Department put in
22 place some book parameters. My recollection is, sometime during this time frame, it just
23 so happens they solicited from districts throughout the country: How are you guys doing

1 diversion agreements? And you submitted your formats or whatever to the court. We
2 didn't have a specific format to the court, to DOJ, and I think they established some
3 parameters thereafter. That's my recollection of it. So they were sort of all over the
4 place, and I think we used different approaches in all -- in the context of diversion.

5 Q Why did you decide to pursue the diversion agreement in the plea as opposed
6 to seek trial and to seek larger penalties?

7 A Because we concluded that the diversion agreement was at that time
8 precharge and that contact was a fair resolution of that offense.

9 Q And did you recommend -- was there any jail time associated with that
10 diversion agreement?

11 A No, there was no jail time associated with the diversion agreement. As I think
12 you know, if you complete the conditions of the agreement, yeah, you don't go to jail. If
13 you violate, then the whole thing changes. Then the charge is back in place, and there
14 could be a sentencing, and some time could be imposed.

15 Q And comparing that to what ultimately happened in the Central District of
16 California when he --

17 A In Delaware or just the -- because Delaware, we prosecuted that case.

18 Q Delaware, yeah. How much jail time was he looking at?

19 A I don't -- I mean, we never got that far, but the circumstances, I mean, then
20 we're not -- only are we not precharged, we're not pre-conviction because, okay, they
21 took us to trial. We had extensive motion practice where there was claims that we had
22 been selective and vindictive in our prosecution, so -- and we tried a case, had a 6-day

1 trial. So yeah, I suspect the guidelines would have been different, and I don't know what
2 the outcome would have been.

3 Q You indicated that the Deputy Attorney General was -- you had zero
4 communications with the Deputy Attorney General, that she was recused?

5 A I had zero communications with Deputy Attorney General. I assumed that -- I
6 believe she was recused, but I can't say with any certainty.

7 Q How about her -- how about the PADAG?

8 A As I said, John Carlin and I had conversations with, he was not recused.
9 Marshall Miller was recused, and I had never had any conversations with him.

10 Q Do you have any idea of the basis for these recusals?

11 A I believe Marshall Miller or his firm had some involvement in the
12 representation of some member of the Biden family. That's my best recollection.

13 Q Okay. And so all the decisions were delegated to Mr. Weinsheimer?

14 A I don't know. All I can say is Mr. Weinsheimer was my point of contact. I just
15 don't -- beyond that, I don't know anything about the decision making process.

16 Q When you were last here, we had some discussion about whether you would
17 be afforded special attorney status under 28 United States Code, section 515, or full
18 blown special counsel status.

19 A Yes.

20 Q Did you -- like, what are the differences between those two authorities?

21 A So, as I understand it, special attorney status under 515 is typically at least
22 as -- for a U.S. attorney involves a particular case, a particular set of circumstances. It
23 certainly did in my situation where I was asking for permission to prosecute a specific

1 case in a certain jurisdiction. As special counsel jurisdictionally, as long as it's consistent
2 with your order, you're permitted as a matter of occupying that position to prosecute
3 cases wherever the facts and the evidence will take you.

4 Q And did you ever ask for special attorney status?

5 A I never -- I asked for special attorney status, yes, in the spring of 2022, but I
6 never asked for the paperwork to execute on what had verbally been communicated to
7 me with respect to that status.

8 Q And so that was with respect to the D.C. case?

9 A Yes.

10 Q Before they decided not to partner?

11 A Yes.

12 Q Before you decided not to bring that case?

13 A Before they decided not to partner with us, and we did not file in D.C., that's
14 correct.

15 Q And, subsequent to that, you did not seek special Attorney status under section
16 515 of 28 United States Code with respect to the California case?

17 A I did not -- I had the status. I wasn't worried about my authority anymore. To
18 me, the issue had been resolved, was taken off the table. I was focused on okay, are we
19 going to prosecute the case, and, you know, is California going to be the venue in which
20 we prosecute it.

21 Q Would that be the same as sending your prosecutors in under a SAUSA --

1 A Ultimately, if I was appointed under 515, they would have been SAUSAed in
2 order to -- yeah, to practice and to appear in courts in that jurisdiction. There has to be
3 some order giving them the authority to do so from outside the district.

4 Q Okay. And, after the plea deal fell apart in Delaware, you did seek special
5 counsel status. Is that correct?

6 A I did in terms of the sequence, yes. The hearing was on July 26th of '23, and
7 I -- subsequent to that date, I did seek special counsel status.

8 Q And how did you do that?

9 A I sent an email I think followed by a hard copy, but I sent an email to the
10 Attorney General.

11 Q Okay. And how did the Attorney General respond?

12 A I think ultimately -- I got some -- an order. I got two documents. One was an
13 order, and I forget some -- the second was a notice of some kind that authorized me
14 consistent with what was in that order which sets forth my authority, what I'm permitted
15 to do as special counsel.

16 Q Okay. And, at that point, why did you decide you needed special counsel status
17 as opposed to the special attorney status?

18 A That was related to what ultimately became the Smirnov investigation, not a
19 question of me having the necessary authority or not having the authority to pursue
20 Hunter Biden.

21 Q Okay. So it was your idea to request special counsel status?

22 A Yes, it was my idea, yep.

1 Q Okay. And your communications, were they exclusively with Mr.
2 Weinsheimer?

3 A No. My communication -- I can't recall if Mr. -- bless you, Mr. Weinsheimer
4 was copied on it, but I had no prior communication with Mr. Weinsheimer or anyone else
5 at the Department.

6 Q Just you and the Attorney General?

7 A It was my -- I wasn't quite sure how one got an email through to the Attorney
8 General. So I wanted to make sure that I sent it to an address that I thought would have
9 accomplished that, but I also sent it to a known address that I knew, if I had done it
10 improperly, it would have gotten there.

11 Q Okay. But presumably you also had a call with Mr. Weinsheimer to let him
12 know that you were doing it.

13 A I did not.

14 Q How come?

15 A Because I didn't -- I wasn't -- I made this determination. I wasn't consulting
16 with anyone. I had decided this is what I needed to do. I didn't want to hear from
17 anyone else. I wanted to communicate: This is my request. The Department can say yes
18 or no. But I wasn't running it by anybody.

19 Q Okay. And, at this point in time, did you feel like you didn't have a supervisor?
20 I mean, ordinarily United States attorneys report in to the Deputy Attorney General's
21 Office, correct?

22 A You mean as when I was appointed special counsel?

23 Q No. Prior to being appointed special counsel.

1 A No. I mean, I had a supervisor. I'm in a structure. Until I became special
2 counsel, the structure -- I was under the same structure as every other U.S. attorney.

3 Q Okay. Did you have a telephone conversation with the Attorney General, or is
4 it just exchange of paper?

5 A No. I had no conversation. As I think I testified in November of '23, I -- as, of
6 that time, I had not had any communication with him other than through the special
7 counsel request that I described a moment ago.

8 Q Okay. And how did you learn that he granted your request?

9 A I got -- I think I either got the order and the notice or I got an email from Mr.
10 Weinsheimer saying it was coming, one or the other.

11 Q Okay. But you subsequently never had any one-on-one communications with
12 the Attorney General?

13 A Not until I believe months after we spoke in November of '23.

14 Q Okay. And what was that communication relating to?

15 A I think it was November or December of '23. It would have been the first of the
16 section 600 meetings as special counsel.

17 Q Okay.

18 A Where from time to time you'll meet with the Attorney General and apprise
19 him of where things stand, where the investigation -- you know, outstanding investigation
20 stand, anything of significance, and he'll inquire, "Do you need resources," conversations
21 like that.

22 Q And, at that point in time, you already had secured the services of Mr. Hines
23 and Mr. Wise, correct?

1 A That is correct.

2 Q So, as, at one point during that calendar year, you needed help from the Justice
3 Department to staff the matter. Once you became special counsel, that was no longer
4 the case?

5 A I do not recall asking him for resources during that meeting. I had secured Mr.
6 Hines and Mr. Wise and at least two other attorneys and maybe three other attorneys
7 had joined the team.

8 Q And were they dedicated to the special counsel team?

9 A Yes. All new, all dedicated exclusively to the special counsel team, and Mr.
10 Daly, as I mentioned earlier, stayed on, and actually one attorney was split between the
11 special counsel team and part of his time was for National Security Division, and Mr. Daly
12 had a piece of his time. I had most of it, but there was a piece of his time that was still
13 available for ongoing tax litigation that he had on behalf of the Tax Division.

14 Q But you did not have Mr. Shapley or Mr. Ziegler on that team?

15 A They were not part of the special counsel team.

16 Q And you asked for the removal of Mr. Shapley and Mr. Ziegler. Is that correct?

17 A No, I did not ask for the removal. I asked for a new team. I asked for a new
18 team, I believe, in late April or sometime in April or May of '23.

19 Q So you asked for a new team, but you're saying you didn't ask for the removal?

20 A No.

21 Q Aren't we parsing words here?

22 A I understand why you asked the question, but I specifically asked for a new
23 team. I've done that in the past and not only in this circumstance, but I've communicated

1 that request to agencies as U.S. attorney under various circumstances. It's not a given. I
2 mean, I've been refused that request more than once in the past, but I made the request.

3 Q When you asked for a new team, who did you ask?

4 A I asked the special agent in charge at that time of that tax group.

5 Q Okay. And what was the feedback you received from the special agent in
6 charge? Was that Mr. Walden?

7 A No. Mr. Walden had left. It was, I believe, Kareem Carter.

8 Q Okay.

9 A And I think I -- we had -- I communicated the request verbally, and I think I got
10 something back saying that they would talk about it, and they were working on it.

11 Q Okay.

12 A And ultimately they agreed to it.

13 Q And they replaced Mr. Shapley and Mr. Ziegler?

14 A They assigned a new team, yes, and Mr. Shapley and Mr. Ziegler assisted with
15 the transition but were no longer participating in the case moving forward.

16 Q Why were you interested in having them removed?

17 A Again, I understand the characterization. I'm saying I asked for a new team.
18 I -- at that time, and we discussed some of the circumstances that occurred in spring of
19 2023, I was contemplating, as I communicated, moving forward with the case. And,
20 because I was contemplating moving forward with the case, I had asked for a new
21 attorney team. I wanted a new team from the Internal Revenue Service, and yeah, there
22 were circumstances that prompted that, yes.

1 Q It sounds unusual, because nobody knew the case from a fact-specific
2 standpoint than Mr. Ziegler, correct?

3 A Factually, that's an accurate statement, yes.

4 Q So replacing the investigative team at that point in time seems like a pretty
5 drastic request.

6 A I don't know about whether it was drastic or not. I'm looking to preserve the
7 integrity of the case. I thought that was what was best for the case. That's why I made
8 the request.

9 Q Okay. And why did you think it was best for the case?

10 A For a couple reasons. I was worried about -- look, we were always being
11 accused of bringing a political prosecution. Part of my discussions or what I heard
12 regarding the discussions between defense counsel and the prosecution team from the
13 get-go: "This was nothing more than a political exercise."

14 Mr. Perry. I apologize for interrupting. This is ODAG. Can we just take two
15 minutes? Is it all right if we go off the record for 2 minutes?

16 [Recess.]

17 Mr. Perry. I apologize for interrupting. I appreciate the indulgence.

18 [REDACTED] We were discussing the authority provided by DOJ to the witness, and
19 specifically the committee has interest in asking questions about why the 2014 and 2015
20 tax years were punted in effect by the Department of Justice. I mean, Hunter Biden
21 earned well over a million dollars in those years, certainly a million dollars -- millions of
22 dollars from Burisma, and that -- he didn't pay tax on it, and that has gone completely

1 uncaptured, and it's fair for a congressional oversight committee to ask questions about
2 the circumstances of that.

3 And you have been provided a letter from the Justice Department authorizing
4 testimony on this topic, and counsel has said that you're concerned about potential
5 prosecution, and certainly prosecution by this Justice Department would be fruitless
6 because there's a letter from them authorizing it.

7 Now, if you're concerned about prosecution by a subsequent Justice Department,
8 if a Democrat administration comes in, I mean, that would be really something if a
9 Democratic administration comes in and wants to prosecute you for talking about the
10 Burisma years -- so that actually is at the crux of -- you know, that's just a pretty
11 outstanding statement.

12 Mr. Perry. May I respond then since you're putting this on the record?

13 [REDACTED] Of course.

14 Mr. Perry. I appreciate it. This is Avi Perry. So we certainly don't begrudge the
15 committee its oversight of something. We're here voluntarily. Mr. Weiss I think would
16 like nothing more than to answer your questions. We have received, over the past 48
17 hours, multiple iterations of an authorization letter, which they candidly contradict three
18 things. Those have been supplemented by phone calls, in which the Department has
19 reversed its position; by a text message, which has been reversed; and by an email that I
20 received at 11:40 today saying that the Department's original authorization letter was a
21 correct position framework; and by a phone call that I just took with someone from the
22 Office of the Deputy Attorney General a few moments ago, which precipitated our break,
23 in which he told me to adhere to the original letter as it had originally been written.

1 We've now, as I just tried to lay out, received internally contradictory guidance
2 from the Department of Justice, both in writing and orally. It does not give us -- and, by
3 the way, none of that correspondence has cited any authority for the apparent position
4 that Mr. Weiss is at liberty to disclose information -- 2020 -- I'm sorry, I keep doing this
5 backwards, 6103 information that has previously been disclosed perhaps unlawfully by
6 another person. I do not see that carveout within 6103 nor has the Department cited
7 authority for it to me.

8 You indicated that I'm concerned about potential criminal prosecution on behalf
9 of my client. That is true. As I've laid out, administrations change. The statute of
10 limitations for prosecution for this type of violation is 5 years. That's longer than any
11 administration stands. While I agree with you about the perhaps unlikelihood, we don't
12 deal in likelihood or unlikelihood. We deal in competent legal representation.

13 The other thing we're concerned about is potential civil liability. If Mr. Weiss were
14 to disclose without proper authorization taxpayer information, an aggrieved taxpayer
15 could bring -- could seek to bring some type of civil suit against him. For those reasons,
16 we've requested but not been granted immunization and indemnification from the
17 Department of Justice. As I said, that has not been forthcoming. And, for that reason, we
18 do not feel that -- one of the many views articulated by the Department of Justice,
19 namely that he is free to provide -- to disclose 6103 information that has already publicly
20 disclosed has adequate statutory basis and, as I said, nor has any been cited to us. And,
21 for that reason, as well as the shifting positions, we don't feel comfortable doing this.

22 So my advice to my client, and without waiving anything, has been communicated
23 privately. You know, he's acting in accordance with the advice, and if there comes a time

1 that we get sufficient clarity from the Department together with legal authority and/or
2 immunization indemnification, we'll be happy to provide the information.

3 [REDACTED] Okay. And, just so I'm clear, the committee is interested in
4 understanding why the Department of Justice did not charge Hunter Biden for the 2014
5 and 2015 tax years. Those were the tax years when he was on the board of Burisma,
6 which has been a topic of concern by the Congress. You know, he worked for Burisma.
7 He received a million bucks, and it's not clear that he was, A, qualified to be on the board,
8 other than the fact that his last name was Biden, and it's not clear that he did anything
9 while on the board, other than just being a Biden. So I asked the witness; you understand
10 what we're seeking here, correct?

11 Mr. Weiss. I do.

12 [REDACTED] And you are unable to provide us any information at this time?

13 Mr. Perry. Let me just interrupt. We totally understand why you're asking.
14 Genuinely understand. Baked into your question are certain factual predicates about
15 2014 and 2015. As Mr. Weiss has now said 20 or 25 times, he is not going to confirm or
16 deny anything about 2014 or 2015. So we understand the questions that you're asking,
17 but please do not understand my answer or his to indicate anything about 2014 or 2015
18 tax years. And, with that, I will be quiet.

19 [REDACTED] Well, we certainly can agree they weren't prosecuted, correct?

20 Mr. Perry. Yes.

21 Mr. Weiss. They weren't prosecuted.

22 BY [REDACTED]

23 Q And the statute of limitations subsequently has expired.

1 A Yes.

2 Q And so the income that was -- the income tax that was not paid for those years
3 is not going to be recouped by the United States.

4 A If there is income tax owed for those years, if that's the case, it will not be
5 recovered now to the best of my understanding.

6 Q Okay. I want to return briefly to the diversion agreement just to make sure I
7 understood your testimony. In your experience, have you ever used a diversionary
8 agreement like the one you did with the Hunter Biden case in other matters?

9 A I don't recall. I don't recall having previously used an agreement analogous to
10 or, you know, comparable in all respects to the agreement we used on the Hunter Biden
11 case. No, I don't.

12 Q Now, if I understand it, he was being prosecuted for the gun charge, correct?

13 A The diversion agreement primarily addresses the gun charge, but we were
14 dealing with -- in that the hearing that took place on the 26th -- we were dealing with tax
15 charges and the gun charge.

16 Q Okay. And so I asked you moments ago, and I'm just going to ask you again,
17 because this is a little bit confusing, and I think the judge agreed, was it unusual to include
18 the activity -- the tax activity in a gun charge diversion agreement? The tax -- the
19 potential tax violations here have nothing to do with the gun charge, correct?

20 A The tax activity clearly was different from the gun activity.

21 Q So is it unusual to just take a whole set of different activities and funnel it into a
22 diversion agreement on a gun charge?

1 A As I said, I don't recall having previously utilized such a diversion agreement in
2 my district. I don't recall previously seeing that. Whether such a thing has occurred
3 elsewhere, I don't know.

4 Q And then whose idea was that? Was that Chris Clark's idea? Was that coming
5 from Third Avenue?

6 A I don't know.

7 Q It wasn't your idea, right?

8 A No, it wasn't my idea. The overlap you're talking about arises in the context of
9 the immunity provision, and that's the only --

10 Q Correct.

11 A Area where these two things occurred. And I don't know the genesis of how
12 that came to include the reference to the statement of facts in the plea agreement.

13 Q And there's actually a third set of conduct, sort of all other conduct that Mr.
14 Clark, Mr. Biden's defense counsel, believed was included, correct? Like potential FARA
15 violations, potential Mann Act violations. Is that correct?

16 A I don't know what Mr. Clark believed.

17 Q Well, what did Mr. Clark address the court with?

18 A Mr. Clark -- there was a question that was posed that was asked by the court,
19 that's my recollection, about FARA, and whether the immunity as described in the
20 diversion agreement would include FARA. He said, yes, it's my understanding that it
21 would. The prosecutors immediately disagreed.

22 Q Okay.

1 A The court recessed, and there was a discussion, and upon going back on the
2 record, Mr. Clark, for the second time that day, completely capitulated and said, no, that
3 language does not cover FARA or anything other than tax, gun, and any drug activity
4 described as part of either the tax or the gun charges.

5 Q Okay.

6 A Period. And he -- he makes -- that's crystal clear in the transcript.

7 Q Okay. So he wasn't seeking a global settlement of all potential criminal activity
8 that Hunter Biden had been involved with?

9 A I'm not going to say that. He said what he -- he said what you mentioned a
10 moment ago, and I heard it, and it's in the transcript.

11 Q Okay.

12 A So it sounded like he was seeking more than I thought had been discussed or
13 agreed upon.

14 Q What happened to the FARA charge? Why did you decide not to bring that?

15 A Because we couldn't prove it.

16 Q Okay. Why couldn't you prove it?

17 A Because we didn't have enough evidence to prove that Hunter Biden had acted
18 as a -- as an agent of a foreign principal and had engaged in political activity in that
19 regard. We just couldn't put together a sufficient case.

20 Q He was on the board of Burisma and that was a -- you know, there was a
21 state-owned element of Burisma, correct?

1 A I don't know that there was a state-owned element. The Burisma was -- the
2 CEO of Burisma, my understanding, was Zlochevsky. If there was a state-owned element,
3 I wasn't aware of that.

4 Q Okay. But, if there was a state-owned element, then is FARA a more -- would
5 that have been a more logical charge to bring?

6 A If -- in response to your question, what I'd say is personally I viewed
7 consideration of a FARA charge -- I did give some credence to whether the agent was
8 acting on behalf of a foreign government as opposed to a foreign principal -- a foreign
9 individual or a foreign private corporation. I do view them differently.

10 However, the statute encompasses -- the way it's written, it would encompass
11 both activity. But I do agree, as your question suggested, there is -- in my mind, there is a
12 difference in the seriousness or the -- of the conduct that you're talking about, acting on
13 behalf of a foreign government versus a foreign corporation.

14 Q How about the Mann Act violations?

15 A I'm not sure I'm familiar with the Mann Act violations.

16 Q Can you grab tab 32?

17 Chairman Jordan. Can I ask a question? I just want to read from -- I'm trying to
18 understand why you agreed to it when it had never been done before, and you weren't
19 aware of it being done before. The court asked, quote, "Is there any precedence for
20 agreeing not to prosecute crimes that have nothing to do with the charges being
21 diverted?" You responded -- or I mean, Mr. Wise I think was --

22 Mr. Weiss. Mr. Wise, yes.

1 Chairman Jordan. Mr. Weiss was in front of you -- Excuse me, Mr. Wise was in
2 front of the case from the court, and he said, "I am not aware of any, Your Honor." The
3 court then asked again, "Have you ever seen the diversion agreement where the
4 agreement not to prosecute was so broad that it encompasses crimes in a different
5 case?" And, again, Mr. Wise responded, "No, Your Honor, we haven't," and yet you
6 agreed to this plea deal where it was something never done before. We're trying to
7 figure out why.

8 Mr. Weiss. Yeah. Like I said, Mr. Wise was appearing in the court in Delaware for
9 the first time. So, whether it had previously done -- been done here, he wouldn't have
10 had a breadth of experience in that regard, although I'm telling you I hadn't done it that
11 way before. So --

12 Chairman Jordan. Two questions from the court. You've never seen any kind of
13 plea agreement like this, and the guy who's in front of the court at the time is going to
14 settle this case -- is going to, you know, work this plea agreement out in front of the court
15 had never seen anything like this either. That's your testimony?

16 Mr. Weiss. Yes.

17 Chairman Jordan. Okay.

18 BY [REDACTED]

19 Q I think I'd asked a follow up, and I apologize if I'm asking this duplicate times,
20 but why did you -- why did you use that? Where did that come from? What was the
21 genesis of it?

22 A Again, why did I use what?

23 Q That type of diversion agreement.

1 A Again, there was nothing -- I didn't view anything particularly unique about the
2 diversion agreement. We're talking about this particular provision, which I'm -- I guess
3 I'm by definition saying it's unique because I'm admitting I don't remember having done it
4 this way before, but we don't regularly do diversion agreements. And, as I tried to
5 explain previously, there were no set ground rules in precisely how a diversion agreement
6 may be structured.

7 Q Okay.

8 A This one had an immunity provision that made reference to the other case that
9 was being resolved at the time. I'm saying that that -- I wasn't aware that had been done.

10 Chairman Jordan. You understand our --

11 Mr. Weiss. I do.

12 Chairman Jordan. Our issue is you'd never seen it. The guy in front of the court
13 had never seen it, and the court had never seen it. Nobody had seen it. We're just
14 asking, well, if no one has ever done it, hasn't been done before, how in the heck did it
15 happen?

16 Mr. Weiss. I understand, and I understand the question. All I can say in that
17 regard is it wasn't like there was any sinister motive in trying to sneak it by anybody
18 or -- we were trying to deal with the two matters. They were -- they were two different
19 matters, and we were doing it in the context where I knew we had stuff ongoing. That
20 was really the unique component. I don't recall having previously resolved matters where
21 there was still investigatory work going on. So I was trying to avoid anything that would
22 have tripped into or undermined what was going to continue after July 26th, after the day
23 of that resolution. That was the unique component.

This, whether it was the smartest way to try to accomplish that scenario, that is very much open to debate, but I'm just suggesting it wasn't like there was any sinister or, you know, nefarious motive in doing it -- structuring it that way. It just so happens that in the diversion agreement would have been subject to a 2 year life as opposed to if such a clause had been included in the tax agreement.

Okay. I'm going to mark I believe we're at exhibit 2?

5.

We're at exhibit 5.

[Weiss Exhibit No. 5]

was marked for identification.]

BY

Q I'm going to draw your attention to the second -- the below email. There's two emails here. This is from Jack Morgan to Lesley Wolf submitting nine exhibits relating to potential Mann Act violations. And we know from your indictment that Mr. Biden was using the Owasco Corporation to pay for women to fly different places.

A To fly different places?

Q Correct. He was using -- you know, he was --

A He deducted a flight as a business expense. Women, that was a girlfriend at the time. She was a witness on our behalf, but I wouldn't have considered that flight a Mann Act violation. At least it's not something I was ever going to consider prosecuting. And I haven't seen this. I don't think I'm on this, and no, I never seriously considered nor do I recall anybody ever presenting for not only not prosecution but for consideration for prosecution the idea of a Mann Act violation.

1 Q So, when Mr. Morgan sent these nine exhibits through, they just -- this was the
2 end of it, that Ms. Wolf --

3 A I don't remember the beginning of it, so I don't -- I'm just not -- I wasn't on this,
4 I don't think. There are some redactions. I assume I'm not somebody who would have
5 been redacted, but I don't recall us ever investing significant time at all into potential
6 Mann Act violations. I do remember that Mr. Biden had relationships with a number of
7 different women at different times and that that may have entailed certain travel, but we
8 were focused on tax particularly early going. It was primarily a tax investigation.

9 Q Okay. But those expenses that he paid he ultimately took as deductions
10 as -- from the Owasco corporation, correct?

11 A I remember the one you mentioned. I remember one of the many expenses
12 that we took issue with and claimed were truly personal as opposed to business and,
13 therefore, not deductible, at least one, if not more, involved flying someone from the east
14 coast to L.A.

15 Q Right. But, you know, just reading from your indictment, you know, page 44,
16 that, in July of 2018, the defendant sent an \$18,000 wire identified as a golf member
17 deposit. In fact, according to your indictment, the \$10,000 was used to purchase a
18 membership at a sex club.

19 A Yeah, I remember that allegation, yep.

20 Q And he was -- you know, there's \$773 via Venmo to an exotic dancer. And so
21 you would agree that these are certainly, you know, the abuse of the Owasco
22 Corporation. He's essentially using this corporation as his personal bank account, right?

1 A And I think we spelled out in the indictment that one of the problems that we
2 perceived in crafting this was that he, in 2017 and then continuing in 2018, yes, he started
3 withdrawing funds directly from his corporate account, which had been set up specifically
4 to prevent those types of things and to ensure that he properly withheld taxes when
5 disbursements were made, but this mechanism that you've referenced,
6 pulling -- withdrawing funds directly out of Owasco and either using it to spend on things
7 or make purchases himself or to buy things, that ultimately developed into a significant
8 tax problem, yes.

9 Q And those outrageous expenses, did you relate them to the U.S. Attorney's
10 Office in the central district of California when you were trying to get them to partner
11 with you?

12 A We would have shared the pros memo, especially in California, they would
13 have been presented with the prosecution memo that had been prepared by Tax Division
14 in August of 2022.

15 Q Okay.

16 A The indictment was crafted by the special counsel team. So I'm sure some of
17 the facts would have overlapped, but the indictment called to attention in some detail
18 some of the deductions that you're referencing. I don't know -- I don't know if they're
19 communicated quite the same way in the pros memo. I just don't recall.

20 Q Okay. But Mr. Estrada, he declined to participate or he declined to partner
21 with you. Did he ever articulate any reasons?

22 A No. Just what I previously said.

1 Q Okay. There was also, as we understand it, a campaign finance allegation
2 investigated. Presumably this relates to Kevin Morris.

3 A There was a campaign finance violation investigated; that's correct. And Mr.
4 Morris, who we described as a friend in the report, was someone who had helped Mr.
5 Biden satisfy through loans ultimately significant obligations during 2020. And, yes, that
6 was something that we took a look at.

7 Q Reported loans. I mean, it remains unknown whether there was an actual
8 ability to repay or willingness to repay or requirement to repay.

9 A I did mention in my report that substantial loans had been made. There are
10 agreements. So, ultimately, there was documentation, and I think I mentioned that, as I
11 knew it at the time I submitted that report, I was unaware that any repayment had been
12 made.

13 Q Sure. And the essence of the campaign finance violation, if there was one, was
14 the fact that Kevin Morris had given this money to the son of the President and
15 potentially to help the President politically, right?

16 A Well, it was a coordinated expenditure theory. So the idea -- I mean, it has
17 to -- it goes to the idea at its essence that you're -- that these contributions, primarily for
18 the benefit of Hunter Biden, but that there was a derivative benefit at least to the
19 campaign, and the question ultimately is whether there was solicitation, encouragement,
20 facilitation by the campaign, whether they were involved in encouraging those
21 expenditures, and we were unable to prove that.

22 Q Okay. So you couldn't bring a campaign finance charge unless you could prove
23 that?

1 A We had to prove that, yes, that there was that kind of coordination.

2 Q Did it surprise you or anyone on the prosecution team that, once Mr. Biden
3 decided not to run for reelection, that the money dried up for Hunter Biden?

4 A I don't really have a reaction to that, but I understand the question.

5 Q Did it surprise you?

6 A I didn't really -- I didn't have a reaction either way, was surprised or not. It just
7 wasn't really of a concern to me. I was focused on, as you've just alluded to, what was
8 going on in the years we were looking at.

9 Q Right. But Kevin Morris represented that he was giving this money to Hunter
10 Biden as a friend, right?

11 A Kevin Morris, as I recall, and I haven't looked at his transcribed interview in a
12 long time, certainly spoke to the depth of their relationship and his commitment to
13 helping a friend that he thought was being unfairly treated.

14 Q And this commitment to helping a friend went away once the friend's father
15 was no longer running for President. Is that your understanding?

16 A I hear what you're saying, but I don't know the nature of their current
17 relationship, whether it involves any financial support. I just don't know.

18 Q Okay. When Mr. Shapley and Ziegler first came to the committees, they
19 provided testimony on what they viewed as favorable treatment that Hunter Biden
20 received from the investigative team during the course of the investigative phase of the
21 matter. So we have a few questions about some of these incidents that Mr. Shapley and
22 subsequently Mr. Ziegler raised with the committees.

23 The first is -- and I'll show you an email.

1 [REDACTED] This will be exhibit No. 6.

2 [Weiss Exhibit No. 6
3 was marked for identification.]

4 BY [REDACTED]

5 Q So the -- there's two emails here on page 1 of exhibit 6. The first is from an FBI
6 official to Lesley Wolf, Carley Hudson, that reads, "Hello, all. Please see attached draft for
7 BS SW," and we understand that to be blue star search warrant, and the email up top,
8 Lesley Wolf replies, and she asks for some amount of redraft of attachment B. She wants
9 them to focus on FARA evidence only, and she mentions there's -- there should be
10 nothing about political figure 1 in here. Political figure 1, as we now know is, of course,
11 the vice -- you know, Vice President Biden or the former Vice President. At that time, he
12 was the nominee for the 2020 election. Do you have a recollection of this?

13 A I don't know that I have a recollection of this as it was occurring. I do have a
14 recollection of this coming up, this issue.

15 Q So what's the basis for taking out Biden's name in this instance?

16 A My understanding was it wasn't necessary for PC. You put in what's required in
17 an affidavit to establish probable cause. This clearly wasn't necessary because, as I
18 understand it, the affidavit went forward, the -- we were successful in securing a search
19 warrant. So it wasn't material in any way, I don't believe, as I recall to the affidavit. It just
20 wasn't -- superfluous. That's why I think Lesley -- that's why I believe she suggested that
21 it didn't belong, and it wasn't necessary.

1 Q There was a prosecution team meeting on September 3rd of that year -- so I
2 guess about a month later -- where the IRS investigators recounted, and they have some
3 notes we could make an exhibit.

4 A You don't have to, I don't think. October 3rd of 2020?

5 Q September 3rd.

6 A Yeah. This is -- okay.

7 Q We can hold off making it an exhibit.

8 A We'll see. If I can answer it to your satisfaction, so be it.

9 Q Are you aware at this meeting Ms. Wolf said there was enough probable cause
10 for search warrants, but optics were a driving factor in the decision on whether to
11 execute them.

12 A Okay.

13 Q Are you aware of that allegation?

14 A This is one I think I also learned of after the events, but I'm not sure, but is this
15 the one involving a search of the former President's residence?

16 Q Correct. There's a few of these. There's the former President's residence,
17 which, as we understand, Hunter Biden was living in at some point, and there was a
18 storage unit.

19 A Yeah. I didn't even realize that we had -- I didn't -- I didn't recall this during the
20 time. I didn't recall, and I don't know that we had PC to get into the Vice
21 President's -- former President's residence. The truth is, in September of 2020, there is
22 no way I would have authorized, nor would I have been permitted to authorize the search

1 of the Democratic candidate for President's residence. Never would have happened. Not
2 60 days before an election.

3 Q Okay. And why is that?

4 A Because we're under election year policies then, and I had been having
5 conversations with the Attorney General's Office. This is during the prior -- the Trump
6 administration, the Attorney General's Office, the Office of the Deputy Attorney General,
7 and regular communications with public integrity about these such things. I was very
8 mindful of it and making sure we stayed within the lines. And we had I think, my
9 recollection is we had had recent discussions with perhaps the PADAG and PIN about
10 subpoenas and whether subpoenas, document subpoenas, were appropriate or necessary
11 as of I think the end of August or early September, and the response as I recall was, "No,
12 let's wait until after the election." Unless there was urgency or the risk of evidence being
13 lost, there's no way a search warrant for one of the candidates residences would have
14 been authorized because it introduces politics into what we're doing.

15 Q Okay. Are you familiar with the storage unit incident?

16 A I am familiar with that one, yes.

17 Q And, apparently, Hunter Biden had an office in D.C., and he closed it up and he
18 moves the contents of that office to a storage unit.

19 A A trailer. I don't know if it was a trailer or a storage unit, something of that --

20 Q As we understand, it was a storage unit, but I think, for all intents and
21 purposes, you know what we're talking about here.

22 A Yes, I do. I do. That happened post the day of action. Is that correct?

23 Q Correct. In December of 2020.

1 A Yes. I have a -- I don't know that I recall all the particulars, but I remember the
2 situation. I do think I was aware of that during the time in question, and I remember
3 there being a dispute about that.

4 Q Okay. And Joseph Ziegler testified about, "What if we approached Wolf with a
5 new plan? What if we didn't tell Hunter Biden's counsel about the storage unit? He's
6 been given a request for records. What if at the time that he's given for those requests
7 he doesn't access the unit? And, if he doesn't access the unit, we know he's not
8 complying with the request. So, if, at the end of that time, he doesn't access it, let's do a
9 search warrant." Wolf said she would think about it, and ultimately the decision was not
10 to proceed with the search warrant for the storage unit.

11 A I don't recall that particular -- those specifics and the waiting approach. I do
12 recall the dispute and the discussion about whether to proceed with a search warrant
13 versus a subpoena, but I know there was discussion about that. I believe we sought input
14 from Office of Investigative Enforcement, OEO, because this was -- Hunter Biden's a
15 lawyer. So his documents at the storage facility were likely to include attorney/client
16 communications or communications to and from someone we knew to be an attorney. It
17 implicated special circumstances and a protocol that had been put in place in the fourth
18 circuit because there had been recent fourth circuit legal developments. And, therefore,
19 we had input from OEO, from Policy and Statutory Enforcement, PSEU, and from the
20 Eastern District of Virginia, because they were involved in the issue. And ultimately the
21 decision was made, because of the privilege complications and the fact that, even under a
22 search warrant process, you were going to have to involve a magistrate to review the

1 privilege material before production or defense counsel himself in an overt investigation,
2 and we were overt then, was going to have the opportunity to look at privileged material.

3 So the decision was made, "Let's just do it by subpoena. It's not worth it." Put the
4 onus on defense to go through and deal with the privilege issues and produce to us as
5 opposed to proceeding by way of the search warrant and all the complications that would
6 entail. That's my best recollection for that back and forth and the issue, and I recall the
7 agents being displeased with that conclusion.

8 Q Was there an effort to articulate to the agents that you know of?

9 A I believe so. Look, I'm not saying -- clearly, it wasn't satisfactory because we're
10 still talking about it years after, but I'm sure there was communication. It wasn't like,
11 even if the agents were upset that, they weren't -- the lawyers and the agents weren't
12 talking about it.

13 Q When you ultimately had a new team in place from the IRS, did they continue
14 any investigative activity, or had at that point in time all investigative activity from the IRS
15 point of view concluded?

16 A No. They -- well, certainly they worked with the old team in transitioning items
17 and make sure we had a complete set of files, and those kinds of things. But, as the new
18 team and the lawyers geared up for preparing for indictment, I know there were some
19 additional tasks undertaken in order to, you know, run down loose ends. Additional
20 witnesses were brought in, as best I can recall, things of that nature.

21 Q Are you able to shed any more light on why you wanted Mr. Shapley and Mr.
22 Ziegler off the case?

1 A Yeah. I start -- that's when we got the call. I apologize. So I didn't want them
2 off the case. I felt it was best for the case to have a new team. As we discussed last time
3 around, we had a meeting with -- I had a meeting with FBI leadership and IRS leadership
4 on October 7th of 2022. Mr. Shapley and SAC Walden were at that meeting.

5 And the day before, an article was published by The Washington Post that
6 described the fact that agents involved in the case said that, as of the summer of 2022,
7 there was enough to charge gun offense and tax offenses and that the U.S. Attorney in
8 Delaware was sitting on it. So that was published by The Washington Post, I believe, on
9 the 6th. And it directly assigned -- it said that it came from an investigating agent on the
10 case.

11 Q So it was Shapley or Ziegler?

12 A That was a concern. Well, we had a limited population, right? So I was
13 concerned. I don't take it as a given that, just because a reporter says something, that it's
14 a fact, but it was a concern. I raised it with the group on the previously scheduled
15 meeting for October 7th.

16 Following after that -- and I was concerned, therefore, about, as I said, I was
17 talking about the politicization of the case and the notion that defense counsel had been
18 driving that -- banging that drum for years now. This fit right within that, the notion that I
19 had agents who were saying the case was ready to go in the summer; the U.S. Attorney is
20 sitting on it. That right away introduces a new flavor to what I'm hoping to present as a
21 legitimate nonpoliticized prosecution. So -- and I was concerned about the leak. I didn't
22 know who it was, and I still don't know who it was. I say that from the outset.

23 Q Okay.

1 A However, as part of that exercise, I asked for all the materials from Mr. Shapley
2 and all the other agents. I wanted to make sure -- this issue had now cropped up. I made
3 a referral to -- I should have said to OIG and FIGDA, as you know immediately thereafter,
4 and then I wanted to make sure that we had a handle on whether there had been any
5 discussions internally or otherwise among any of -- agents, lawyers, whatever, and I asked
6 for all the reports. I believe I got them in fairly short order from everyone except for Mr.
7 Shapley.

8 And, from mid-October, I didn't get his stuff until the end of November, despite I
9 don't know how many conversations, and it's not something the U.S. Attorney -- not that
10 I'm so important, but typically gets involved in trying to secure discovery from agents.
11 Initially, the position was I've never had to do this before, not part of the team. He was
12 part of the prosecution team. We're responsible in producing discovery from all
13 members of the prosecution team. He took many steps that an agent would take, went
14 out on interviews. He was part of the prosecution team. His counsel, district counsel at
15 the IRS, advised him so. So we went back and forth, but it took me the better part of a
16 month and a half to get the stuff. Didn't quite understand why that was the case. I had
17 to go to the second in command at IRS CID to get it done.

18 Finally got it, and the materials that I saw, some of it concerned me. There were
19 internal memoranda as early as the summer of 2020, for instance, talking about us slow
20 walking and not -- claims that have been made to you guys, not pursuing the case, when,
21 again, there was a lot going on in 2020. Election year, COVID. There were legitimate
22 reasons why certain things weren't happening.

1 There was also -- there was a whistleblower, an email about whistleblower
2 protections dated the day before the article came out, October 5th, from either Mr.
3 Shapley's personal account to his business account or vice versa. I can't recall which.
4 That was of concern to me. There was also an email from May of '22 in which Mr.
5 Shapley said he had some concerns. He thought the prosecutors, including me and Stuart
6 Goldberg, were doing the right thing and operating in good faith, but he was prepared to
7 do -- he was prepared to do the right thing and to hold us accountable if we failed to do
8 whatever. I don't know what that meant. But I saw those things in conjunction with what
9 I described about being unable to get his documentation, and I was concerned.

1 [2:11 p.m.]

2 Mr. Weiss. And as I explained to the IRS leadership, ultimately, I was concerned
3 about the impact that would have on the case in terms of who was responsible for the
4 leak, what would come of that, and the way that would feed defense counsel's theories
5 about this case being nothing more than a political exercise.

6 And, look, to me, it didn't really matter whether Shapley's allegations were correct
7 or my concerns were correct. It was -- politics was all over this now, on behalf of the
8 prosecutors or the agents. That was not good for my prosecution.

9 So I took the position that I didn't have to make a decision yet because I didn't
10 know if I was going to proceed with the case. So I did nothing, and that's what I told IRS
11 leadership. I didn't have to do anything.

12 When I decided I wanted to go forward in the spring of the next year, I decided
13 that, in order to best position us and to preserve the integrity of the case, it was best that
14 we have a new team. And we got a new team.

15 And then prior search warrants, affidavits that had been prepared, we had redone
16 by the new team so we could preserve the integrity of the investigation, the steps that
17 had been taken, and we would have more likelihood of success at the end of the road.

18 BY [REDACTED]

19 Q You're aware both Shapley and Ziegler have vociferously denied any role in the
20 leak, correct?

21 A Again, I don't know. I don't pretend to know who was responsible for the leak.
22 I'm explaining to you why I had concerns.

23 Q I understand.

1 A That's all. I'm not -- I don't know --

2 Q They also both --

3 A But I understand -- actually, I don't know the details of what they've said in that
4 regard, but I understand that they have denied that, correct.

5 Q But they've also waive -- they told the Washington Post reporter that if there
6 was any -- if they were a source for anything, that they waive any confidences, allowing
7 the reporter to disclose if in fact Shapley or Ziegler was the source for the leak.

8 A Yeah, I'm not going to contest anything you said. I just -- I don't know, but I
9 accept that. I get it. I'm explaining not who the leaker was. I'm explaining what -- I
10 mean, your question was: Why did you do this? And I'm trying to explain why I had the
11 concerns I did.

12 [REDACTED] Okay. I think the hour is up, so we'll stop there.

13 [Recess.]

14 [REDACTED] All right. It is 2:23. We can go back on the record.

15 I'm going to turn it over to my co-counsel.

16 [REDACTED] Thank you.

17 BY [REDACTED]

18 Q So there was some discussion during the majority hour about the diversion
19 agreement in the case in Delaware. Do you recall those questions?

20 A I do.

21 Q I guess, in general, what are some of the factors that you as a prosecutor
22 consider when deciding to enter into a pretrial resolution?

23 A It's really the factors mapped out in the Principles of Federal Prosecution.

1 Q I hate to be laborious. Do you mind trying to describe some of those that you
2 consider?

3 A We're thinking about our proof and the strength of the case. And I won't go
4 into detail because I think that's pretty self-explanatory.

5 And the second part of the equation is whether it's a -- there's a substantial
6 Federal interest in the case.

7 Those are, in rough measure, the two components. The first is: Could we? To
8 me, the second one is: Should we?

9 And you're going through that analysis also mindful of resource investment and
10 importance to the prosecution.

11 So, as we deal with the gun and the tax charges, those are the matters that I'm
12 wrestling with.

13 Q You took the words right out of my mouth when you said "resource."

14 What do you mean by "resources" when you're considering a pretrial resolution?

15 A Well, it's obviously significant savings. So if you can resolve something -- again,
16 under appropriate terms -- before you charge, there's a huge advantage in that, because
17 you avoid all that goes into preparation of the charges and what follows and then
18 discovery and preparation of your trial and all that entails.

19 Q And what about issues on appeal, does that factor into a pretrial resolution?

20 A Sure.

21 Q How does that, how does an appellate analysis factor into a pretrial resolution?

1 A Well, it's good you asked that because, particularly in the gun case, Bruen had
2 come out. Bruen had consequences all over the country for future gun prosecutions.
3 And it was very much unsettled -- still somewhat unsettled in the Third Circuit.

4 So we had a decision in *Range* dealing with a 922(g) prosecution. There was one
5 pending in Pittsburgh that had to do with, I think, a user of marijuana and involved a gun
6 marijuana prosecution.

7 So there were risks in terms of, okay, how was the -- how were the post-Bruen
8 cases going to develop in the Third Circuit and elsewhere? And that was very much open.
9 It was a factor -- clearly not a determinative factor -- in assessing how I was going to
10 proceed, but it was part of the mix.

11 Q And although not determinative, appellate risks can prolong bringing a case to
12 finality. Is that correct?

13 A Yeah. Yeah. It's good to get when -- whether it's a plea or a pre-charge
14 resolution, yeah, it's the end of the case if you can reach agreement on terms.

15 Q And, in general, this is part of the overall risk analysis that you as a leading
16 prosecutor would consider when thinking about entering into a pretrial resolution. Is that
17 accurate to say?

18 A It's accurate.

19 Q So in making this decision about the diversion agreement and other, I mean,
20 just pretrial agreements you have made in your career, is this an example where you're
21 exercising prosecutorial discretion?

22 A All this is prosecutorial discretion, which --

23 Q In what -- I'm sorry. Keep going.

1 A No. And that's something, if I was paying attention, I would have emphasized
2 earlier. This is not science. This is -- these are judgment calls. That's the essence of what
3 prosecutorial discretion entails.

4 And so it's not like this linear process. It's not art. But these are judgments
5 someone is making each step along the way, and certainly people can view those things
6 differently.

7 Q In making these judgments, like I talked about earlier, you're using your years
8 of experience as a prosecutor. Is that correct?

9 A I'm trying to, yeah.

10 Q Trying to.

11 A Yeah.

12 Q And this is -- you touched on this, but I do want to put a bow on it. Why is it so
13 important that you exercise prosecutorial discretion in any type of case?

14 A Well, it really is the key component of what we do. You're trying to -- because
15 a prosecutor sort of occupies a unique role in the criminal justice system.

16 It's not just about getting convictions, it's about the administration of justice -- if
17 you're doing your job correctly. Not always just the most egregious charge and get the
18 largest sentence. It's about assessing the case and what you think the correct disposition
19 is.

20 And so that's what you're trying to accomplish.

21 Q And taking your words from earlier, the decision to think about a diversion
22 agreement in this case was not made with a nefarious motive. Is that correct?

1 A No, it was not. I mean, our analysis was pretty thorough. We looked at literally
2 every gun case we had prosecuted in trying to consider how we had handled prior gun
3 cases, at least in the preceding X number of years. We looked at our straw purchase
4 cases, we looked at our 922(g) cases to try to see what the contours were on how we had
5 reached resolutions to start with.

6 Q And this is actually partly annotated in your special counsel report, the
7 considerations of what gun charges to bring. Is that correct as well?

8 A I think so.

9 Q Was your decision to pursue a diversion agreement in this case made under
10 political influence or made pursuant to political influence?

11 A No.

12 Q And you made this decision because you had the authority to make decisions
13 about how to resolve the cases related to Hunter Biden. Is that correct?

14 A Yes.

15 Q And this is the obvious, but, ultimately, you did prosecute and obtain a guilty
16 finding with the gun charges in Delaware. Is that correct as well?

17 A We did. We did.

18 [REDACTED] Thanks.

19 [REDACTED]

20 BY [REDACTED]

21 Q In the prior hour there was some conversation of the decision about whether
22 to execute a search warrant on the Biden residence. Do you remember that
23 conversation?

1 A Yes.

2 Q And you said something that I just want to make sure to clarify for the record.

3 You said that there was no way you would authorize the search of the residence of
4 the Democratic candidate for President. Do you remember saying that?

5 A Yes. Not at that time.

6 Q In September of 2020?

7 A Yes.

8 Q Correct.

9 You said the Democratic candidate for President, but in fact any candidate you
10 would not have been able to authorize. Is that correct?

11 A Yeah. I was just referring to the circumstances under -- in our situation. That
12 is -- that's what I think would have -- the search would have entailed.

13 But, no, from my perspective, I don't think it would have been authorized for any
14 candidate.

15 Q Okay. And so if there had been a hypothetical search warrant sought for a
16 Republican candidate, you wouldn't have been able to authorize that either?

17 A No.

18 Q Okay. You said that you had concerns that this would inject politics into the
19 case. Do you recall saying that?

20 A Yes.

21 Q What did you mean by that?

1 A I mean, it's to -- conducting a search that close to the election, people would
2 perceive that. That means that you have probable cause to believe that evidence of a
3 crime is going to be located at that residence.

4 Even if well-founded -- and, as I explained to majority counsel, I can't recall what
5 the PC was on that particular situation -- but even if it was well-founded, it's introducing
6 politics to what we're doing. And certainly one could make the argument that it could
7 have an impact on the election, and DOJ certainly wants to steer clear of that if at all
8 possible.

9 Q Thank you.

10 You've mentioned a couple times today the name Alexander Smirnov. Who is
11 Alexander Smirnov?

12 A Alexander Smirnov was somebody that we prosecuted for lying to the FBI and
13 for facilitating the FBI's creation of a false report in violation of Section 1519. And then
14 we also prosecuted him for tax offenses.

15 Q You said in the earlier hour that your decision to request special counsel status
16 in August of 2023 was prompted by your intention to prosecute Mr. Smirnov.

17 A That's correct.

18 Q Can you explain that, please?

19 A The 1023 -- the issue about the 1023 had started to rear its head, my
20 recollection is, in the late spring of 2023. There were FOIA requests, congressional
21 inquiries with respect to the 1023.

As I recall, there was a back-and-forth between -- I can't -- I think it was Oversight, but I'm not sure -- and the FBI about the contents of the 1023, whether it would be produced, and then, if so, under what terms.

And, ultimately, it was produced after, like I said, much back-and-forth, and was ultimately released to the public, I think unredacted, in July of 2023.

So it had -- I mean, given the salacious nature of the allegations, it had garnered quite a bit of attention. And I remember reports suggesting that it had been presented to the Delaware U.S. Attorney way back when, and he did nothing, and it was -- we were asked to pursue that, and, ultimately, I chose to do that.

Q Who asked you to pursue that?

A And, again, I pursued the allegations. I didn't know where it was going to go. But these were allegations that then -- this is President Biden -- that President Biden and his son had each received \$5 million payments from Burisma, Burisma executives.

Q Okay. I'm going to go ahead and introduce the 1023 as exhibit 6.

Voice. 7.

7. Sorry.

[Weiss Exhibit No. 7]

was marked for identification.]

BY

Q Mr. Weiss, is this the 1023 to which you were referring?

A Yes.

Q For the record, what is a 1023 form?

1 A It's a form that is prepared in the FBI's collection of information provided by a
2 confidential human source.

3 Q And what is a confidential human source?

4 A Mr. Smirnov was a confidential human source, somebody acting in a
5 confidential capacity on behalf of the FBI.

6 Q And the source ID on this document is redacted. The source ID here was
7 Alexander Smirnov, correct?

8 A This was the June 26th 1023 related to Alexander Smirnov. I know that.

9 Q Okay. And the confidential human source who provided this information was
10 Alexander Smirnov, correct?

11 A Yes, that's correct.

12 Q You alluded to this a couple seconds ago, but can you briefly summarize what
13 this 1023 claims?

14 A In general, it claims that there were two meetings in late '15, '16 between
15 Mr. Smirnov and, I believe, Burisma representatives, and, subsequently, there were two
16 phone calls.

17 And, basically, during the course of these discussions the Burisma representatives
18 indicated to Smirnov and two of his associates, Associate 1 and 2, who attended these
19 meetings with him -- not both of them necessarily at each meeting -- that it was intimated
20 that the Burisma CEO had paid President Biden and his son \$5 million in order to have
21 certain allegations disappear.

22 Q So the implication of the 1023 is that the confidential human source, Alexander
23 Smirnov, had knowledge of Mykola Zlochevsky bribing the Bidens, correct?

A That's what he claimed had been shared with him over the course of the two meetings and the telephone calls and that he had tape recordings of these calls and that Zlochevsky had claimed he had recordings of these calls, numerous ones -- I think 15 with Hunter Biden, two with the President -- in which discussions along these lines took place, and things of that sort.

Q Were those allegations true?

A No, they were not true.

Q Is it fair to say they were fully fabricated?

A They were fabricated.

Q When you appeared before us in November 2023, majority counsel asked you to confirm their belief that the FBI had reviewed the confidential human source and found him to be highly credible. That's at pages 90 to 91 of that November 2023 transcript. We now know that the confidential human source in this case was Alexander Smirnov.

In your opinion, was Mr. Smirnov highly credible?

A I'm not going to offer my opinion. I will say that we prosecuted Mr. Smirnov for fabricating this information. So I'm comfortable saying that would call into question his credibility.

Q I want to introduce as exhibit 8 the grand jury indictment in this case. It's dated February 14th, 2024.

[Weiss Exhibit No. 8]

was marked for identification.]

BY

1 Q Are you familiar with this indictment?

2 A Yeah.

3 Q And you signed this indictment, correct? It's on page 37.

4 A I did not sign it. It was signed under my special counsel title and name, but Leo
5 Wise would have signed it.

6 Q Understood. He physically signed it. But your name is on the indictment,
7 correct?

8 A Yes. My name is on there, yes.

9 Q This indictment charges Mr. Smirnov with one count of making a false
10 statement to a government agent and one count of falsification of records in a Federal
11 investigation, correct?

12 A Correct.

13 Q What was the basis for the false statements charge?

14 A What I described a moment ago. The fact that Mr. Smirnov had described a
15 situation and made a point of the timeline, saying that these events took place in 2015 at
16 a time when President Biden was still in office as Vice President to President Obama and
17 therefore could have exercised influence over some of the matters that were discussed
18 herein.

19 Q Can you turn to page 17 of the indictment?

20 On page 17, roughly between lines 21 and 22, it reads, "E. The Defendant's 2020
21 story was a fabrication."

22 This is the section that discusses those false statements, correct?

23 A You said page?

1 Q Page 17 of the indictment.

2 A 17. Yeah.

3 Q So section E discusses those -- the false statements, correct?

4 A Yes.

5 Q And the allegation here is that Smirnov claimed to have meetings in 2015 and
6 2016 during the Obama-Biden administration, correct?

7 A Correct.

8 Q And then on the next page, paragraph 29 says your team concluded that, "No
9 such statements were made to the Defendant because, in truth and fact, Defendant met
10 with officials from Burisma for the first time in 2017, after Public Official 1 left office in
11 January 2017, and after the then-Ukrainian Prosecutor General had been fired in February
12 2016," correct?

13 A That's correct.

14 Q And this is what you were just saying, that's a material fact, because by 2017
15 Joe Biden was no longer President, correct?

16 A Right. And we had pretty solid evidence that demonstrated -- for instance,
17 there was an email introducing Mr. Smirnov to Burisma reps. That email was in 2017.

18 There were travel records for Associate 2 that demonstrated that Associate 2 had
19 never even traveled to Ukraine until sometime in 2017 for the first time.

20 So there were certain uncontrovertible facts -- or incontrovertible facts -- that
21 demonstrated that the timing was wrong and it wasn't just a misrecollection, because we
22 pointedly returned to that when we interviewed him, that he was misleading us because
23 he knew that the ability to influence had to be in '15 and '16.

1 Q When did you reinterview Mr. Smirnov?

2 A In September of 2023.

3 Q And why did you reinterview Mr. Smirnov?

4 A That was a natural step in our investigation if he was willing to be interviewed,
5 and because he was a confidential human source of the FBI, he was. So we spoke to him.

6 Q And you just indicated that when you spoke to him in 2023, you gave him the
7 opportunity to make a correction to his earlier statements. Is that right?

8 A Yeah. In fact, we had -- we obtained much of the documentation by that point
9 in time regarding travel records, communications between Mr. Smirnov and his handler,
10 and other things, and we shared that with him. We didn't hide it, but we shared it all with
11 him. So he -- I suspect he would have seen that the timing was off.

12 Q And when you shared that information with him, did you put the documents in
13 front of him?

14 A Yes.

15 Q And what was his reaction when you did that?

16 A No particular reaction that I recall.

17 Q He didn't say, "Oh, this shows that I was wrong."

18 A No. Some things -- some aspects of his -- of what he had previously said and
19 what he was saying now evolved. And then other things -- I mean, I don't know if we
20 showed him -- I don't recall that we showed him those documents right at the outset of
21 the interview.

We talked to him for a while, then introduced documents, spoke to him about the documents, and spoke to him some more afterwards. And in some aspects the story evolved. In others he was pretty firm on when certain things would have occurred.

Q Your office reached a plea agreement with Mr. Smirnov, correct?

A We did.

Q And that plea agreement was reached in December 2024, correct?

A Yes.

Q And I'm going to introduce that plea agreement as exhibit 9.

[Weiss Exhibit No. 9]

was marked for identification.]

BY

Q You have this agreement in front of you. Is this the plea agreement that your office reached with Mr. Smirnov?

A It is.

Q And your name is on this, correct?

A I'm sure it is.

Q Page 13.

A Yes.

Q When somebody agrees to plead guilty, they typically admit that they engaged in wrongdoing, correct?

A That's typically what happens, yes.

1 Q And in this case Smirnov pleaded guilty to causing the creation of a false and
2 fictitious record in a Federal investigation in violation of 18 U.S.C. Section 1519, which
3 essentially is obstruction of justice, correct?

4 A Yes.

5 Q And he also pleaded guilty to tax evasion, correct?

6 A Yes, he did.

7 Q Could you please turn to page 13 to 14?

8 At the bottom of page 13 it says "certification of defendant." Do you see where it
9 says that?

10 A Uh-huh.

11 Q And Mr. Smirnov signed that certification on page 14, correct?

12 A It appears, yes.

13 Q He certifies here that he understands the terms of the agreement and
14 voluntarily agrees to enter into it, correct?

15 A Yes.

16 Q And he certifies that, quote, "I am pleading guilty because I am guilty of the
17 charges," correct?

18 A Yep.

19 Q Meaning that he was guilty of falsifying this 1023 that we just talked through,
20 correct?

21 A That's the way I read it, yes.

1 Q Exhibit B to the plea agreement, which is attached here, is the statement of
2 facts accompanying the plea agreement. I'm going to go through the parts of this
3 statement of facts, but before I do, can you turn to the last page?

4 Smirnov here certifies that he has read the statement of facts and agrees that it is
5 accurate and correct, right?

6 A Yes, he does.

7 Q Okay. So the statement of facts that we're about to read through, he's
8 confirmed that he did in fact commit these acts?

9 A He does.

10 Q Okay. Can you please turn to page 17?

11 The first two paragraphs of page 17 summarize the allegations and claims
12 memorialized in the 1023, correct?

13 A Yes.

14 Q The last full paragraph, beginning on line 18, reads, "The events Defendant first
15 reported to the Handler in June 2020 were fabrications."

16 Do you see where it says that? Page 17, line 18.

17 A Yes.

18 Q So in other words Smirnov admitted that all of the information memorialized in
19 the 1023 was made up?

20 A That's what it says there, yes.

21 Q That's what fabrication means?

22 A Yes.

1 Q And the paragraph continues, "In truth and fact, Defendant had contact with
2 executives from Burisma in 2017, after the end of the Obama-Biden Administration and
3 after the then Ukrainian Prosecutor General" -- which I believe is referring to Viktor
4 Shokin -- "had been fired in February 2016 -- in other words, when Public Official
5 1" -- referring to Vice President Biden -- "could not engage in any official act to influence
6 U.S. policy and when the Prosecutor General was no longer in office."

7 That's what it says, right?

8 A That's what it says.

9 Q So Smirnov is essentially admitting that the key thrust of his allegations -- that
10 Burisma officials told him they were bribing the Bidens in order to protect Burisma's
11 business interests -- was logically impossible because all of Smirnov's contacts with
12 Burisma took place after Joe Biden was Vice President, correct?

13 A He admits that the timing is off and it couldn't have happened in the way he
14 had previously described it.

15 Q The paragraph continues, "Defendant transformed his routine and
16 unextraordinary business contacts with Burisma in 2017 and later into bribery allegations
17 against Public Official 1, the presumptive nominee of one of the two major political
18 parties for President, after expressing bias against Political Official 1 and his candidacy."

19 That's what it says, correct?

20 A Yes, it does.

21 Q So Smirnov here is admitting that, while he had contacts with Burisma, they
22 had nothing to do with the Bidens, right?

23 A Yes. That's, in essence, what that says.

1 Q It says that they were routine business contacts.

2 A Yes.

3 Q The reference to expressing bias against Public Official 1, that suggests that the
4 motive for Smirnov's false statements was his personal opposition to Biden, right?

5 A There were -- there was information we developed -- and some of them are
6 contained in the indictment, text messages between himself and the handler -- that
7 evidence bias. I think there was other information we secured along the way.

8 But I don't know that I could say that -- what his motive was. We're not required
9 to prove motive, but it was something we noted in the charges and the resolution of the
10 charges.

11 Q But it is the case that he had expressed a negative view of the Bidens in those
12 text messages?

13 A You know, I can't recall specifically.

14 I remember references to people going to jail and statements about both
15 President Biden and former President Trump.

16 One is like something drawing a corollary between the two, and I remember a
17 reference to somebody going to jail.

18 But I'm having trouble off the top of my head recalling specific texts about the
19 Bidens in that regard.

20 Q The paragraph here does, however, say that Mr. Smirnov expressed bias
21 against Public Official 1 and his candidacy, right?

22 A Yeah.

23 Q And Public Official 1 was Joe Biden, correct?

1 A Yes, it was.

2 Q So while you weren't required to prove motive -- I understand what you're
3 saying -- the fact of the matter is that Smirnov did -- you had evidence that Smirnov had a
4 negative opinion of Mr. Biden?

5 A He had certain biases, yes.

6 Q And that those biases were expressed around the same time as the
7 information in the 1023 was provided?

8 A Those biases were expressed, my recollection is, in the month or two preceding
9 the creation of the 1023 in late June.

10 Q I want to introduce as exhibit 9 -- 10 -- the government's memorandum in
11 support of detention for Mr. Smirnov.

12 [Weiss Exhibit No. 10
13 was marked for identification.]

14 BY [REDACTED]

15 Q Mr. Weiss, have you seen this before?

16 A I'm sure that I have at some point in time, although it's probably been a while.

17 Q Do you want to take a minute to review it?

18 A Why don't you ask and direct, and I'll consume as needed.

19 Q This is the memorandum asking the court to order Smirnov to be detained
20 without bail pending trial, correct?

21 A Yes.

22 Q What does that mean in layman's terms?

1 A That means that we either thought there was a danger of community -- to the
2 community -- or risk of flight if Mr. Smirnov were to be released, and we set out the
3 reasons for thinking that way in this document. My recollection is our position was based
4 primarily on the risk of flight.

5 Q And why were you concerned about him fleeing?

6 A Well, he had passports in other countries -- I think Israel, Ukraine -- and was
7 one who frequently traveled overseas. And we were concerned that, if we did not secure
8 his presence through trial, that he might not appear for trial.

9 Q And, in fact, on the bottom of the first page, it says, "As discussed in more
10 detail below, the nature and circumstance of the offense, weight of the evidence, and the
11 fact that Smirnov's ties to the community" -- excuse me -- "and the fact that Smirnov's
12 ties to the community are weak establish that Smirnov should be detained."

13 And then it continues and it says -- it describes his contacts with foreign
14 intelligence agencies, his access to \$6 million in liquid funds, the fact that he withheld
15 information about those funds from Pretrial Services, and his access to an Israeli passport,
16 correct?

17 A Correct.

18 Q Can you please turn to page 16 of this memorandum?

19 Actually, I'm sorry. Before we go there, can you please turn to page 15?

20 Letter C, line 9 says that, "The history and characteristics of Smirnov make clear
21 that no conditions can reasonably assure his appearance." That's what you were just
22 saying, right --

23 A Yes.

1 Q -- that there were no conditions that could be placed on him to ensure that he
2 would not flee?

3 A Correct.

4 Q Now, turning to page 16, this memorandum recounts many, many contacts
5 between Smirnov and Russian intelligence officials. Is that fair to say?

6 A Let me look for a moment. I know it recounts contact, whether it's many or
7 not. But I know we were concerned about what he had told us and what we had seen at
8 that point about contacts with Russian officials.

9 It says these contacts are extensive and extremely recent, yes.

10 Q And in this memorandum, page 17, lines 11 to 18, that recounts three contacts
11 with Russian officials, correct?

12 A Yes.

13 Q And then turning the page, pages 18 through 23, there's another 12 contacts
14 reported -- or recorded -- in this.

15 A Yeah. In some of these he's reporting learning information from sources. So
16 I'm hesitating because I don't know exactly what that means in terms of his contact with
17 particular officials, how he came to the information. But it certainly references
18 information he's getting about certain Russian officials.

19 Q And there was enough contact between Mr. Smirnov and Russian
20 officials -- Russian intelligence officials as well -- that your team determined that Smirnov
21 needed to be detained pending trial based on this?

22 A We offered this information and these facts as justification as to why he should
23 be detained pending trial, yes.

1 Q Can you explain for the record why you believed that Mr. Smirnov's extensive
2 contacts with Russian intelligence made him a flight risk?

3 A Well, it wasn't so much his contacts with Russian intelligence as much as now
4 we were charging.

5 Mr. Smirnov had, up to this point in time, enjoyed a certain status, traveling freely
6 throughout the United States and elsewhere and returning as a CHS on behalf of the FBI.

7 What had changed was that now he had been charged. He had been charged with
8 serious offenses: Lying to the FBI. Lying to the FBI about matters concerning the
9 President of the United States.

10 So we thought his international travel, these contacts, and the charges changed
11 the equation and made him a flight risk.

12 Q Can you turn to page 5 of this document?

13 At the bottom of page 5 on to the top of page 6 it says, "During his custodial
14 interview on February 14 --" that refers to when Mr. Smirnov was taken into custody by
15 Federal officers, correct?

16 A Yep.

17 Q "-- Smirnov admitted that officials associated with Russian intelligence were
18 involved in passing a story about Businessperson 1."

19 That's at the top of page 6. Do you see where it says that?

20 A Yes.

21 Q Who was Businessperson 1?

22 A I don't know for sure. I think I know, but I don't know for certain.

23 Q Was Businessperson 1 Hunter Biden?

1 A I think so, but I'm not certain.

2 Q Do you recall what Mr. Smirnov said in that custodial interview with more
3 detail?

4 A No, I don't.

5 Q So assuming that Businessperson 1 is Hunter Biden -- which seems the most
6 likely conclusion, but I take it you don't remember sitting here -- assuming it was Hunter
7 Biden, Smirnov admitted in that custodial interview that Russian intelligence was behind
8 at least some of the misinformation concerning Hunter Biden, correct?

9 A Yeah. I wasn't part of this interview, and, I mean, the question assumes that he
10 is. So I can't say for certain, and I don't want to speculate.

11 We had previously during the interview discussed Hunter Biden with Mr. Smirnov,
12 and he had shared with us intelligence he had received about Hunter Biden previously.

13 Q What was the nature of that intelligence that he had received?

14 A Just information that he had been seen entering or video had been captured or
15 was available that showed Hunter Biden being president -- present -- at a certain hotel in
16 Ukraine.

17 Q Did Mr. Smirnov indicate that he obtained that information from Russian
18 intelligence?

19 A I can't remember for sure that it was Russian as opposed to Ukrainian, but it
20 was from intelligence services. I believe it was Russian.

21 Q And were you able to establish whether Hunter Biden had in fact entered that
22 hotel?

23 A It was -- our information was that Hunter Biden had never been in Ukraine.

1 Q So, in other words, Mr. Smirnov had passed along false information from an
2 intelligence service, either Russian or Ukrainian, which falsely implicated Hunter Biden in
3 particular activities?

4 A That's what he claimed, right? Mr. Smirnov claimed that he received this
5 information from -- I believe you're correct -- a Russian intelligence service that -- false
6 information about Hunter Biden.

7 Now, again, Mr. Smirnov also admitted to fabricating the entire story we spoke
8 about earlier.

9 Q At the bottom of page 7 of this memorandum to the top of page 8 the
10 memorandum reads, "The false information he" -- meaning Smirnov -- "provided was not
11 trivial. It targeted the presumptive nominee of one of the two major political parties of
12 the United States. The effects of Smirnov's false statements and fabricated information
13 continue to be felt to this day."

14 Do you see where it says that?

15 A Yes.

16 Q The line, "The effects of Smirnov's false statements and fabricated information
17 continue to be felt to this day," what did that mean? What does that mean?

18 A Well, it means that it found its way into a 1023. That 1023 was the subject
19 of -- appropriately -- an investigative inquiry and concern and back in 2020 and then again
20 in 2023.

21 So, yeah, it occupied a lot of time on behalf of the FBI, our office, and Congress.

22 Q And the investigative inquiry you referred to in 2020 and 2023, that was the
23 congressional inquiry, correct?

A There was a congressional inquiry in 2023. I don't think -- I am unaware of any congressional inquiry in 2020. There was a vetting inquiry in 2020 and, ultimately, our investigative inquiry in 2023.

Q Are you aware that in April of this year, April of 2025, Mr. Smirnov's attorneys and the new prosecutors assigned to this case filed a joint stipulation seeking Mr. Smirnov's release pending appeal?

A I am generally aware of that. I haven't tracked it closely, but I did see that.

Q I want to introduce that joint stipulation as exhibit 11.

[Weiss Exhibit No. 11]

was marked for identification.]

BY

Q Have you had a chance to read this?

A Yeah.

Q Mr. Weiss, you are not on this filing, correct?

A I am not.

Q You had left your position as special counsel by the time this was filed, correct?

A Correct.

Q This was dated April 10th, 2025?

A Yes.

Q Paragraph 9 of the stipulated facts says, "Clear and convincing evidence for Defendant's non-violent offenses of conviction (involving taxes and false statements) shows that Defendant is not likely to flee or pose a danger to the safety of any other person or the community if released."

1 Do you see where it says that?

2 A Yes.

3 Q That is exactly the opposite of what your team found, correct?

4 A You know, you've read from the prior pleading our motion for detention. You
5 have accurately read here. I'm not going to offer an opinion. Mr. Smirnov has now pled
6 guilty and was sentenced to 6 years. So circumstances are much different than they were
7 back when we filed a motion for detention.

8 But I am not involved in this litigation, and I'm not inclined to comment on it.

9 Q Are you confident in the strength of the case against Smirnov, the strength of
10 the evidence on which you obtained your conviction?

11 A Well, what I can say is Mr. Smirnov himself pled guilty. So more importantly
12 than my level of confidence is the fact that Mr. Smirnov, in consultation with very capable
13 defense counsel, reached the conclusion that circumstances warranted entry of a plea of
14 guilty to both the 1519 charge and tax evasion charges.

15 And, ultimately, as I said a moment ago, Mr. Smirnov was sentenced to 6 years by
16 Judge Wright.

17 Q In your report, the report that you filed in January of this year, you say, "Calling
18 those rulings into question and injecting partisanship into the independent administration
19 of the law undermines the very foundation of what makes America's justice system fair
20 and equitable."

21 Do you have concerns that the government's suggestion that it's going to review
22 the conviction in this case -- that's stipulated fact number 6 in this document -- combined

1 with the reversal of the position on the flight risk question, might, in fact, suggest that
2 partisanship has been injected into this case?

3 A I'm not -- I don't have concerns. It's not my case any longer. I did what I
4 thought was appropriate when I was responsible for the prosecution of Mr. Smirnov.

5 I am not going to -- well, I'm not going to second-guess what's going on now or
6 offer opinions. The comments that I made in the report, as you know, were in response
7 to a slightly different scenario, although I understand why you're quoting that language.

8 But this is before Judge Wright and, I guess, the Ninth Circuit, and the folks out
9 there will resolve it.

10 Q And are you aware that Judge Wright rejected the request for release pending
11 appeal?

12 A I am aware of that.

13 Q I'm going to introduce that into the record to complete the record. That'll be
14 exhibit 12.

15 [Weiss Exhibit No. 12

16 was marked for identification.]

17 BY [REDACTED]

18 Q Have you seen this before, Mr. Weiss?

19 A No, I haven't.

20 Q I'm going to ask you about page 10, but feel free to take as long as you want to
21 review it.

22 So the first full paragraph on page 10 -- this is the judge ruling on the joint
23 stipulation -- and that first full paragraph suggests -- says that Smirnov offers only one fact

1 that has changed between the time of -- between when he was -- when he pled guilty and
2 the time of the joint stipulation.

3 "The parties now agree that 'clear and convincing evidence for Defendant's
4 non-violent offenses of conviction (involving taxes and false statements) shows that
5 Defendant is not likely to flee or pose a danger to the safety of any other person or the
6 community if released.'"

7 I'm going to skip down.

8 The judge rejects that. And then at line 10, about halfway through that line, it
9 says, "The only identified new facts since then are that Smirnov was convicted of an
10 offense related to his false statements and that he was charged and later convicted of tax
11 offenses. These facts are worse for Smirnov -- he went from being charged for one type
12 of offense to convicted of two types of offenses."

13 Do you see where it says that?

14 A I see that.

15 Q So the judge more or less summarily rejects the statements made in the joint
16 stipulation. Is that fair to say?

17 A It certainly suggests -- the judge points to the change in circumstances, and his
18 conclusion is that change only works to the detriment of Mr. Smirnov's cause.

19 Q In other words, he thought this joint stipulation was not particularly
20 persuasive?

21 A He rejected it.

22 Q Thank you.

23 BY [REDACTED]

1 Q Mr. Weiss, I appreciate you not providing an opinion on Mr. Smirnov's
2 credibility or his character. But, ultimately, you were able to obtain a conviction for false
3 statements under 1001 with the plea agreement with Mr. Smirnov. Is that correct?

4 A Yeah. I mean, I -- we prosecuted him for lying to the FBI. So I'm not going to
5 speak on behalf of Mr. Smirnov's credibility.

6 Q Understood. Understood.

7 And for that conviction of lying part of the element is that he knowingly made a
8 false statement. Is that correct?

9 A Yeah. Yep. Absolutely.

10 Q And that false statement was Mr. Smirnov told his Federal handler that the
11 Burisma official said that Mr. Smirnov -- that the Burisma official was forced to pay a
12 Public Official 1 and a Businessperson 1. Is that the underlying facts of the allegation?

13 A Yep.

14 Q And he said that the amount was \$5 million each for Public Official 1 and
15 Businessperson 1. Is that correct?

16 A That's what I recall, yes.

17 Q And Public Official 1 was, at the time, candidate for President Mr. Biden?

18 A Yes.

19 Q And Businessperson No. 1 was his son, Mr. Hunter Biden. Is that correct?

20 A Yes. Yep.

21 Q And Mr. Smirnov made these allegations to his handler in June of 2020,
22 approximately -- or a month before that -- but it was captured in the 1023 around June of
23 2020?

1 A Yeah. Late June 2020, yep.

2 Q And this was in the middle of a Presidential election where Mr. Biden was
3 running for President at that time. Is that correct?

4 A Mr. Biden was running for President at the time.

5 Q And these statements, again, were lies, in your words, correct?

6 A They were false.

7 Q And so if a litigant -- let's say in the future, hypothetically, Mr. Smirnov was
8 involved in litigation and he were to take the stand, an attorney would be able to actually
9 admit this 1001 conviction under the Rules of Evidence to impeach Mr. Smirnov's
10 credibility, wouldn't they? You could impeach his credibility for --

11 A I'm opining on, look, my recollection of the Rules of Evidence. And if I were the
12 litigant I would certainly seek to impeach Mr. Smirnov using his 1001 conviction and
13 probably his 1519 conviction.

14 Q Thank you.

15 And then going back to your -- this is exhibit 10, I believe. Let me make sure that
16 the number is right. Exhibit 10, which was the motion -- the government's memorandum
17 in support of detention for Mr. Smirnov from February of 2024.

18 On page 7 of that -- and you don't have to reference it -- you said, "Pretrial
19 supervision is, at its core, based on trust."

20 Does that sound like something that might have been in that memo that you
21 might recall?

22 A Yes.

1 Q Why is pretrial supervision or any type of release from confinement under
2 supervision based on trust?

3 A Well, you're relying on the defendant's assurance that he will appear absent
4 other conditions. So unless somebody's financial well-being, real property, or there's
5 other, something else, to satisfactorily secure someone's presence, your -- the
6 word -- and someone's words in and of themselves, you'd be relying on the trust of what
7 they said.

8 Q And also in this memo you mention that Mr. Smirnov had no ties to the Las
9 Vegas community. Is that correct?

10 A We were in -- I believe we were litigating -- well, that motion -- the original
11 motion was filed in Las Vegas, correct?

12 Q Correct.

13 A He had some ties but he had limited ties.

14 Q Limited ties.

15 A Not long-term connections to the community. I think he had been there for a
16 couple years, if I recall.

17 Q Yes. That's what I recall as well.

18 And, in fact, in your motion, you note that Mr. Smirnov did have extensive -- and
19 this is a quote -- "extensive foreign ties, including, most troublingly and by his own
20 account, contact with foreign intelligence services, including Russian intelligence
21 agencies, and has had such contacts recently."

22 Does that sound -- or do you recall that from the motion?

23 A Yes. And that's part of what your co-counsel went through.

1 Q That's exactly what my co-counsel had gone through. Exactly.

2 And why was this important when making the argument that Mr. Smirnov should
3 not be released from confinement?

4 A Well, my recollection of the circumstances was Mr. Smirnov had just recently, I
5 think, traveled to Colombia, came back, and was scheduled to depart once again. And,
6 yeah, we were concerned about overseas travel and whether Mr. Smirnov would return
7 for his upcoming appearance.

8 Q And this motion against Mr. Smirnov for his pretrial confinement was filed in
9 February of 2024. Is that approximately correct?

10 A That sounds right.

11 Q Who was President at the time?

12 A President Biden was in office at the time.

13 Q And my co-counsel introduced what was exhibit 11, which is now the joint
14 stipulation for release pending an appeal that's been filed by the current Department of
15 Justice. And in this motion there is a -- it's a release, it's asking for a release, Mr. Smirnov
16 be released from confinement. Is that correct?

17 A That's my understanding.

18 Q And this was filed in April -- this was filed on April 10th of 2025. Is that also
19 correct?

20 A I believe that was the date.

21 Q You can please refer to exhibit 11 to confirm that's the date.

22 A Yeah.

23 Q Who was President of the United States at the time that this was filed in court?

1 A President Trump is currently the President.

2 Q So President Trump was the President at the time that this was filed in court.
3 And although -- look, I know you're not going to provide an opinion on that, which I also
4 appreciate, on this next point.

5 Look, in your motion just 14 months ago, you note that there was a lack of trust.
6 You note Mr. Smirnov's extensive ties to foreign intelligence agencies or foreign ties,
7 including Russian intelligence agencies, and that he had had contacts recently, as of
8 February of 2024.

9 But, yet, in April of 2025, under the current President, President Trump, they are
10 now requesting that he be released from confinement.

11 So I just wanted to note that for the record.

12 [REDACTED] Thank you. We can go off the record.

13 [Recess.]

1 [3:27 p.m.]

2 [REDACTED] We're back on the record.

3 BY [REDACTED]

4 Q On page 2 of the Smirnov indictment, talks about all the dates and times he
5 was admonished by the FBI to tell the truth.

6 A Yes.

7 Q It's, like, a long list.

8 A Yes.

9 Q So he was working with the FBI for, like, over 10 years, correct?

10 A Yes. Yes.

11 Q What was going on with him? Like, what -- who is Alexander Smirnov? Like,
12 what was his -- why was the FBI so willing to rely on him?

13 A That's -- that's for them. I really can't speak to that, but he was -- he was
14 utilized, clearly, as you're reading, by the Bureau for an extended period. And he was
15 used to make other cases. My recollection is they were different kinds of cases; health
16 care fraud, things of that nature. But --

17 Q And he seems like he's either a Russian agent or had close contacts with
18 Russian agents.

19 A He spoke openly about contacts with Russian intelligence and Ukrainian
20 intelligence.

21 Q So after all this information is revealed, there's a real dichotomy between the
22 Alexander Smirnov depicted here and the Alexander Smirnov that Chris Wray was telling
23 us about. I mean, Chris Wray told us that this -- you know, when he was -- when the

1 chairman -- and not just Mr. Jordan but me and Mr. Comer, Senator Grassley, you know,
2 had calls with Chris Wray, talking about disclosing the 1023. And the director of the FBI
3 said, "This is a very reliable person. This is someone who, if his identity is disclosed, it will
4 be bad for the United States."

5 Did you have any -- can you help us bridge that gulf?

6 A I really can't. I do recall what you're talking about. I don't recall the
7 particulars, but I remember commentary -- whether it came from Director Wray or
8 others, I don't know precisely. But I remember comments about his long-term utility and
9 credibility and reliability. I do remember that because it was part of the -- part of the
10 backdrop that prompted me to do what I did.

11 Q You know, to the extent anyone on the Republican side said that Mr. Smirnov
12 was reliable, we were essentially repeating information that was fed to us by the FBI. I
13 mean, you know, we're in -- you know, we didn't do any independent, you know,
14 independent research into who this person -- we didn't even know who this person was
15 until the indictment -- you know, until he was arrested and indicted.

16 Did you ever have communications with the FBI about the -- maybe the risks to
17 indicting him because he was so reliable on other matters?

18 A I had -- well, obviously, I had -- I had FBI agents working on my case, so there
19 were communications with FBI personnel. I didn't really -- I don't recall having
20 communications with the agency, seeking their guidance on whether he should or should
21 not be pursued. We -- we went about an investigation to try to figure out were these
22 allegations true. And we determined that they were not.

23 Q And, you know, he had testified in criminal trials before, correct?

1 A I don't know if he actually testified in trials, but he had -- historically, he had
2 provided information that I believe -- yeah, he had historically provided information. I
3 know that.

4 Q For years. So does this call into question any of the cases that he worked on
5 before?

6 A I don't believe so. That's my best recollection. I don't believe -- for whatever
7 reason, I don't believe so.

8 Q Okay. So the cases that he worked on for the ten prior years, you know,
9 starting as early as 2010, everything's good? Like, everything he supplied is --

10 A I don't recall. But I don't -- I'm not going to say anything about everything's
11 good. I know that that was something that was tracked by, I believe, the agency. And I
12 think my team was certainly much more well versed in that than I was.

13 Q But to your knowledge, nobody at the FBI alerted your team -- or maybe "alert"
14 is the wrong word, but advised your team that this is an important asset that we utilize
15 and we need?

16 A I don't recall anyone trying to discourage us from pursuing our investigation.

17 Q Okay. And what was his source of business? Like, what did he do for a living?
18 Why was he living in Las Vegas? There's two questions, obviously.

19 A Well, he was a source for the Bureau, and we discussed. He did earn -- he did
20 earn money by virtue of that. And he -- I think he described himself as a consultant
21 otherwise.

22 Q Okay.

1 A So precisely -- it's not like I can pin it down in terms of a 9-to-5 job or long-term
2 employment, but he was -- my sense of it was he was a consultant slash entrepreneur.

3 Q Okay. Do you know how much money the FBI had paid to him over his career
4 with the FBI?

5 A I don't recall specifically.

6 Q Can you give us a ballpark?

7 A I believe it was more than 100,000.

8 Q Okay.

9 A But I don't recall the specifics other than that.

10 I do remember, just in terms of finances, Judge Wright imposed -- or I think
11 restitution in the amount of 650-some-thousand was imposed and paid in full.

12 Q Immediately.

13 A So, you know, at or about the time of sentencing. So he had the wherewithal
14 to accomplish that.

15 Q But you weren't clear what his consultant duties were or who he was working
16 for?

17 A Not -- not crystal clear on precisely what the nature of that was.

18 Q And why was he living in Las Vegas?

19 A He -- he had a condo there. And I don't -- I don't even recall off the top of my
20 head whether it was rented or owned. But he had had a residence there for, as I said a
21 moment ago, a couple years, I believe.

22 Q Okay. Was he also living in Israel?

23 A He traveled to Israel, but I don't know if he was also living in Israel.

1 Q Did you ask anyone else to leave the prosecution team? We talked about Mr.
2 Shapley and Mr. Ziegler. Were there any other people during the course of the
3 investigation that you had leave the team? Or that you --

4 A I'm not going to say I had anyone leave the team, but there were people who
5 were on the investigative team, whether they were part of FBI or IRS, who left during the
6 course of the investigation. Absolutely.

7 Q Right. But leaving on their own volition is different than leaving because you
8 requested a new team.

9 A I don't recall a circumstance similar to the one I described to you --

10 Q Okay.

11 A -- regarding Mr. Shapley --

12 Q Okay.

13 A -- where I asked that somebody be replaced. I may have asked -- or asked for a
14 new team. I did ask for additional resources --

15 Q Right.

16 A -- from time to time. But I am not going to suggest a situation was analogous.

17 Q Okay. So Mr. Wise and Mr. Hines joined your team in -- when did they join
18 your team?

19 A Late May and June.

20 Q Of 20--

21 A Of 2023.

22 Q And you needed to backfill? Is that because Lesley Wolf left, or she was
23 leaving?

1 A She ultimately left, but she was leaving.

2 Q Okay. And that was not by virtue of you asking her to leave.

3 A No.

4 Q That was entirely a independent decision of her own?

5 A I think she had served in the Department for 16 years by that point in time, so
6 she had apparently made the determination it was time.

7 Q Okay. Can you help us understand, you know, why your report was so short?

8 A My report -- my -- look. I looked at the regs closely. I understand what prior
9 special counsel had done in terms of reporting. We had secured convictions for the tax,
10 the gun case, had an extensive record based on all the pretrial litigation that had been
11 undertaken in those cases as well as the prosecutions of Mr. Smirnov and -- so I was
12 mindful of that, that there was an extensive record created by virtue of our prosecutions
13 that were part of the public record.

14 And I also had closely looked at the regs and what my charge was in terms of
15 fulfilling my responsibilities, which was to explain my charging decisions. And that's what
16 I tried to do.

17 When the -- when the pardon was announced in December, it certainly was part
18 of that calculus in deciding, okay, what's appropriate under these circumstances?

19 Q Okay. When you were with us in November of 2023, a lot of our questions you
20 indicated to us that you would be addressing in your report.

21 A I did. I did. I recall that.

22 Q And so --

1 A And I intended to at that time. I would not have in any way misled the
2 committee. I intended to fulfill that -- what I said that day.

3 Q But circumstances changed. Is that because of the pardon?

4 A Well, that certainly -- that was part of it. That certainly was part of it because,
5 from my perspective, the pardon that covered 11 years of Hunter Biden's conduct, those
6 matters had been disposed of. I thought it was inappropriate for me to comment further
7 on that because they were taken off the table.

8 Then the question was even if I investigate -- even if those matters had been
9 investigated, third parties were involved. And I was uncomfortable with the
10 notion -- consistent, I think, with Department policy -- of -- with Hunter Biden being off
11 the table and his conduct, discussing what any of those investigations may have meant
12 for third parties that I wasn't going to charge.

13 Q One of the interests Congress has is when whistleblowers like Mr. Shapley and
14 Mr. Ziegler come forward and provide an extensive record -- I mean, they both sat for
15 long depositions and they provided documents. And there was a lot of -- there was
16 disparity between what you had -- you know, now what you've testified today, what you
17 testified to and what their positions were, such as the storage unit, the search warrant for
18 the President's guesthouse. President Biden, that is.

19 So did you ever think that it was important to address some of the information
20 that the whistleblowers disclosed?

21 A I thought about it a lot. And I -- you know, ultimately, when I thought about it
22 in the context of what my responsibilities were as special counsel and what the Section

1 600 series said about fulfilling those responsibilities in terms of the report, it was to
2 explain my charging decisions.

3 So I didn't think it was appropriate to get into all of that because it really
4 ultimately wasn't critical to my charging decisions.

5 And I get it. There were -- clearly, there were disputes. It was frustrating for me.
6 I'm sure it was frustrating for them. And yeah. I've had a chance to address some of that
7 today. But I think we all knew that there was another side to that -- to that version of
8 events. They had their position. I respect that. I had a different perspective.

9 Q The short nature of the report, was it impacted by the tight turnaround
10 when -- the pardon comes down in December? And, you know, the election had
11 occurred. So the new administration was coming in, and you were -- you were going to
12 be leaving the Department?

13 A No.

14 Q Did that factor into the short nature of the report --

15 A No. I don't think so. No.

16 [REDACTED] All right. I think I'm done.

17 [Recess.]

18 [REDACTED] All right. It is 3:41. We are back on the record.

19 BY [REDACTED]

20 Q Mr. Weiss, are you familiar with an individual named Scott Brady?

21 A Yes.

22 Q Who is he?

23 A Scott served as the U.S. Attorney for the Western District of Pennsylvania.

1 Q Was he given any assignments in 2020?

2 A He was giving -- given the vetting assignment in 2020 to intake and vet
3 information about Ukraine that, I believe, was primarily coming from Mr. Giuliani.

4 Q And taking a step back, you said that Scott Brady was the U.S. Attorney in
5 Pittsburgh. He was appointed by Donald Trump, correct?

6 A Yes.

7 Q In the first Trump administration.

8 A Yes.

9 Q Who assigned him the vetting responsibility?

10 A I don't know precisely who. I think -- I think it may have come from Deputy
11 Attorney General or perhaps Attorney General Barr. I'm not quite sure.

12 Q Did you or members of your team engage with Mr. Brady in 2020?

13 A We did.

14 Q What was the nature of those interactions?

15 A It had to do with the vetting process, and they were receiving certain
16 information and looking to evaluate that information as to its accuracy and whether it
17 would be -- it should be shared with other ongoing investigations relative to Ukraine. And
18 I believe there were three or four districts that had such investigations ongoing at the
19 time.

20 Q Did individuals from Mr. Brady's office ever present information to your office
21 or to others working on the Hunter Biden matter in your office?

22 A I believe they did at some point in time.

23 Q What was the nature of that information?

1 A I don't recall the particulars, but it was -- it was information, I believe, for the
2 most part, although I can't -- I can't say for certain -- that they had received from Mr.
3 Giuliani or information they had otherwise developed.

4 How much of that information was shared with those assigned on my team, I'm
5 not quite sure because we had an ongoing investigation that was properly predicated.
6 And we are very sensitive to not, in any way, tainting that investigation. And the
7 information we were talking about, some of it coming from overseas sources, we hadn't
8 evaluated those sources. So the FBI, in particular, in the first instance, was looking to
9 ensure that our team was not in any way tainted by virtue of information that was
10 subsequent -- turned out to be disinformation or foreign malign sourced information,
11 stuff like that.

12 Q Let's take that -- break that down a little bit. You said the information, you
13 understood, was coming from overseas sources.

14 A Some of it. Some of it. I don't -- I don't know -- percentage-wise, I have no
15 idea. But it was -- I think that was part of the concern, as I understood it, from the FBI.

16 Q And your understand --

17 [REDACTED] Can we go off the record?

18 [Recess.]

19 [REDACTED] Back on the record.

20 BY [REDACTED]

21 Q Mr. Weiss, you said that you had concerns about the information potentially
22 tainting your investigation.

1 A Yeah. I was concerned, but the FBI was particularly sensitive to ensuring that
2 the information was first reviewed by them, and I think it was a good process they
3 established. But my recollection is our local leadership -- and I don't know if they were -- I
4 assume they were in coordination with -- with leadership in D.C. -- setting up a process by
5 which I believe they looked at information we received from Pittsburgh in the first
6 instance and then decided which of that information was safe to share with the rest of
7 the team.

8 Q Are you aware that Mr. Brady testified before this committee?

9 A I am.

10 Q Mr. Brady testified in October 2023. And when he appeared, he said that he
11 directed investigators from the Pittsburgh FBI field office to conduct the interview with
12 Alexander Smirnov that ultimately led to the June 2020 1023. Is that consistent with your
13 understanding?

14 A That's my understanding.

15 Q At some point, did Mr. Brady or members of his team provide the 1023 to your
16 office?

17 A At some point, the -- I don't remember the specific circumstances. The vetting
18 process and what we went through with Mr. Brady's office, I believe it started in February
19 and lasted through April, maybe early May, and then we were done. And then, as we
20 discussed previously, Mr. Smirnov's statement comes in in late June. And at some -- so I
21 thought the exercise was over. But at some later point, and I don't know when --

22 Mr. Mora. They have not instructed us to leave the building yet, so we're okay
23 to proceed.

1 Mr. Weiss. Great.

2 At some point during that summer, I heard -- I don't know -- I can't recall what
3 others heard. I heard something. Either somebody gave me a version of the 1023 -- I
4 don't know if it was redacted -- or somebody read me something about the 1023, but it
5 was a snapshot. It wasn't a major issue for me, nor -- that was my exposure. I was -- this
6 was shared with me. I understood what was said, that it was this confidential source who
7 had received information from Mr. Zlochevsky. I had a sense from my own investigation
8 up to that point of his situation. And that was it.

9 BY [REDACTED]

10 Q So it sounds like there were two instances in which you -- or two phases
11 through which you received information. There's the vetting phase. Information was
12 provided to you in March, April of 2020?

13 A From February through April, May.

14 The other -- the Smirnov piece wasn't a phase. I'm trying to explain it was a point
15 in time, literally. So it was not significant to me until 3 years later when it became
16 significant because the description was all this information was provided to the U.S.
17 Attorney in Delaware. So if there was anything to it, it's on him to address it.

18 Q So Mr. Brady, when he testified before our committee, he indicated that he
19 briefed your team on the evidence he had gathered, including the 1023 in October 2020.
20 Does that --

21 A Yeah. I don't know that Mr. Brady briefed the team, but there was a debriefing
22 in the fall of that year that would have included -- now, this is in hindsight. I don't

1 know -- I didn't hear much about it then. I know I met with the team and heard
2 something about the debriefing after it happened.

3 But subsequently, when we reviewed the files and the special counsel team
4 commenced this investigation, there was a file on this, and my recollection is the 1023 --

5 [REDACTED] Off the record.

6 [Whereupon, at 3:51 p.m., the interview was concluded.]

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

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5 COMMITTEE ON THE JUDICIARY,

6 U.S. HOUSE OF REPRESENTATIVES,

7 WASHINGTON, D.C.

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13 CONTINUED INTERVIEW OF: DAVID WEISS

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18 Monday, June 9, 2025

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20 Washington, D.C.

21

22

23 The interview in the above matter was held via Zoom, commencing at 9:33 a.m.

24

1 Appearances:

2

3

4

5 For the COMMITTEE ON THE JUDICIARY:

6

7 [REDACTED] CHIEF CLERK

8 [REDACTED] DEPUTY DIGITAL DIRECTOR

9 [REDACTED] GENERAL COUNSEL

10 [REDACTED] CHIEF COUNSEL FOR OVERSIGHT

11 [REDACTED] MINORITY CHIEF OVERSIGHT COUNSEL

12 [REDACTED] MINORITY SPECIAL COUNSEL

13 FOR INVESTIGATIONS AND SENIOR ADVISOR

14 [REDACTED] MINORITY LEGAL INTERN

15 [REDACTED] MINORITY PROFESSIONAL STAFF MEMBER

16 AND LEGISLATIVE AIDE

17

18

19 For DAVID WEISS:

20

21 AVI PERRY, PARTNER

22 QUINN EMANUEL URQUHART & SULLIVAN, LLP

1 [REDACTED] All right. It is 9:33. We are on the record. It is Monday morning.

2 EXAMINATION

3 BY

4 Q Mr. Weiss, thank you again for making yourself available today. I'm not
5 entirely sure where we cut off on Tuesday -- or on Friday -- because it was a little
6 disruptive with the alarm going off.

7 So I'm going to start at the beginning, and some of these questions I think I've
8 asked you already, so bear with me.

9 A I'm happy to help you. I do think I recall when we -- where we
10 started -- where we were when we stopped. Perhaps it will save some time. You were
11 running through the 2020 vetting exercise with Mr. Brady, and I think you had progressed
12 to the final debrief section of that sequence of events.

13 Q So in October of 2020, you received a briefing from Mr. Brady, correct? Or

14 not you, but members of your team received a briefing from Mr. Brady's team.

15 A Correct. Neither I, nor Mr. Brady, participated in that. But, yes, there was a
16 final debriefing that several members of the U.S. Attorney's Office, AUSAs, and I think FBI
17 participated in.

18 Q Do you recall there being some challenges in getting that meeting set up,
19 organized?

20 A I don't recall there being challenges so much. I remember before the
21 meeting hearing from, I believe, the PADAG, asking me if I could get this scheduled so
22 that Mr. Brady and his staff could wrap up their vetting exercise.

23 Q Do you recall being reluctant to receive this briefing from Mr. Brady?

1 A You know, we -- I think it was our preference that we do it after the election,
2 if I recall. But it was -- I don't remember being significantly concerned about it either
3 way.

4 Q Okay. You're aware that Mr. Brady testified before our committee in
5 October 2023, correct?

6 A I am.

7 Q When Mr. Brady appeared before our committee, he told us that it was
8 actually a big deal getting this meeting set up, that your team was very reluctant, and he
9 had to involve the PADAG, and that he had never had to do that before. Does that sound
10 familiar to you?

11 A All I can say is what I said a moment ago, which is I did hear from the PADAG,
12 and he asked me if we could get this set up before the election, and I had no problem
13 doing so.

14 Q Why it was your preference to do it after the election?

15 A I can't recall the particulars, to tell you the truth, but -- I don't recall all the
16 circumstances, to tell you the truth. I know that my recollection was the assessment was
17 closed in August and I hadn't heard very much about where things stood.

18 I don't know whether Mr. Brady's team was having communications with
19 members of my team or not. But when I hear from the PADAG and they wanted to get it
20 done, I had no problem in getting it done.

21 Q I think you said on Friday that your understanding was that most of the
22 information Mr. Perry -- Mr. Brady, excuse me -- was receiving was coming from Rudy
23 Giuliani, was the source of a lot of that information. Do you recall saying that?

24 A I do recall saying that. That was my understanding. I don't fully understand
25 the scope of their vetting exercise, nor do I recall all the details. But sitting here today,

1 my recollection, my best recollection, is that the information generated by Mr. Giuliani
2 represented a significant portion of the information that was shared with us.

3 Q And what was your understanding of the information that Mr. Giuliani -- the
4 type of information that Mr. Giuliani was presenting?

5 A In all candor, I don't recall the particulars. As I tried to explain on Friday, FBI
6 leadership was being very careful in screening that information. But I believe -- I recollect
7 that Mr. Giuliani and his attorney had prepared sort of a slide presentation recounting
8 some of Mr. Giuliani's outreach to certain individuals and that that was shared with Mr.
9 Brady.

10 I suspect that that prompted further inquiry by Mr. Brady's team, but I don't know
11 all the particulars.

12 Q And the slide or whatever the product was that Mr. Giuliani was presenting,
13 the topic of that was Hunter Biden. Is that correct?

14 A The topic of it certainly included Hunter Biden and, I believe, payments to
15 Hunter Biden. And I can't recall particularly, but I know that there were questions about
16 whether Hunter Biden's father, whether the President had been part of this also.

17 Q And in October of 2020, Mr. Biden -- excuse me -- Hunter Biden was the son
18 of the candidate -- the Democratic candidate for President, correct?

19 A That's correct.

20 Q Is it possible that your reluctance to receive information that you believe
21 may have been sourced from Rudy Giuliani in October of 2020 was because that
22 information may include politically -- information that could impact the upcoming
23 election?

24 A I don't -- as I said, I wish I could recall. It's been a while. But I don't recall the
25 particulars.

1 The truth was, especially with the assessment that Mr. Brady was performing
2 having been closed in August, we weren't about to, in October, we weren't going to do
3 anything with this information.

4 I didn't expect there to be anything new in this debrief. I think it was just a final
5 handoff, as it were. But it certainly wasn't something in my mind that was going to be
6 acted upon before that election -- before the election.

7 And as I recall, the approval requirements at that time, there had been a memo by
8 Attorney General Barr earlier in the year, and then there was another memo dealing with
9 election year sensitivities that I think came out from Public Integrity in May of that year.

10 So you would've -- to initiate anything that involved a candidate for President or
11 the President, that would've required Attorney General approval.

12 Q And did you have concerns that even accepting this type of information
13 might politicize the investigation that you, yourself, were running?

14 A Tried to explain that last time. Yes, we were concerned that anything that
15 could be after the fact characterized as tainted by foreign, malign, or unsubstantiated
16 information, if introduced into our ongoing, properly predicated investigation, could be
17 problematic.

18 Q And when Mr. Brady testified before this committee in October of 2023, he
19 told us that one of the big pieces of information he provided to your team, or that his
20 team provided to your team in 2020, was the 1023, referring to the Alexander Smirnov
21 1023.

22 Does that sound familiar, that your team received the 1023 in October of 2020?

23 A No. Well, I don't know that there was any formal presentation of the 1023
24 that I recall. I tried to explain the circumstances under which I saw it last time we talked.
25 There was no real formality about it.

1 I think I was, as I said, shown it or somebody read it to me on an occasion, a single
2 occasion, at best I can recall.

3 As to how that fit into the final debriefing during the events themselves as they
4 transpired, I don't recall hearing very much about it at all.

5 However, in 2023, when it had taken on greater significance, I do recall our team
6 looking at the circumstances, and my recollection is that the 1023 occupied one line in
7 the final debriefing. And I think it was by reference to the serial number of that 1023 in
8 the reporting.

9 So my understanding now is, it wasn't a significant part of that final debriefing.

10 Q Okay. Because Mr. Brady told us that that was, frankly, the major -- the
11 major -- the key piece of the briefing, and that's not your recollection. Is that fair to say?

12 A It's not my recollection.

13 Q Okay. Mr. Brady also told us that he, in that October 2020 briefing, his team
14 described in some detail the steps that they had taken to corroborate the information in
15 the 1023, including discussing travel records that they had obtained.

16 Does that sound familiar to you?

17 A No, I don't recall that. I mean, I know my team talked to me after that
18 debriefing, but I don't recall that being a prominent part of any discussion -- although, in
19 all candor, it's been several years.

20 However, I can say that as part of our own investigation years later, we took a
21 close look at those travel records. I suspect we had access to more records than perhaps
22 Mr. Brady did. But those travel records, as is recounted in the indictment that was
23 ultimately returned, did not line up with Mr. Smirnov's travel or his 1023.

24 Q Okay. Can you tell me, sitting here today, do you recall what the travel
25 records said?

1 A Well, the travel records did not show travel either, as I recall, by
2 Mr. Smirnov, or certainly by Associate Number 1 and Associate Number 2, as referenced
3 in our indictment that would've corresponded with the timing as recounted in their
4 Smirnov's 1023.

5 Particularly with respect to Associate 1 and Associate 2, I think I mentioned last
6 time, Associate 2 never traveled to Ukraine before 2017. So it didn't work.

7 And there were other pieces of the travel that were at odds with Mr. Smirnov's
8 statements as recounted in the 1023.

9 Q Okay. Do you have the 1023 in front of you? And if not, I don't think we just
10 emailed it, but we can email a copy.

11 A I don't have it in front of me.

12 [REDACTED] Can we send a copy of that?

13 BY [REDACTED]

14 Q And I'll ask if you recall the 1023 -- and if you want me to wait until you have
15 it in front of you, we can do that, but you might recall this information.

16 The 1023 references two in-person meetings, one in 2015 or 2016, and then
17 another one shortly thereafter in 2016. I think the first one was supposed to be in Kyiv
18 and the second one would've taken place in Vienna, Austria.

19 Do you recall that?

20 A I do recall that.

21 Q Okay. And so what you're saying is the travel records that you obtained
22 indicated that those two meetings could not have taken place.

23 A Those two meetings could not have taken place at those times, given
24 Mr. Smirnov's description of the participants in those meetings and the circumstances
25 surrounding those meetings. That's correct.

1 Q So it's fair to say that Mr. Brady could not have identified travel records
2 which would've corroborated the 2015 and 2016 meetings because those records didn't
3 exist, right?

4 A I'm just saying -- I don't know. I can't recall sitting here today precisely what
5 travel records Mr. Brady did or did not have access to.

6 I can say that when we completed our investigation a couple years later and had
7 access to the travel records that I know we reviewed, I can say that those travel records in
8 their entirety demonstrated that the meetings that Mr. Smirnov described occurring in
9 2015 and 2016 could not have occurred as described.

10 Q Okay.

11 A I can't recall precisely what Mr. Brady did have. There may have been some
12 things that his group found consistent. I can say that in its entirety what I saw was not
13 consistent.

14 [Weiss Exhibit No. 13.
15 was marked for identification.]

16 [REDACTED] I want to introduce as exhibit 13 a July 24th 2023, article from The
17 Federalist. It's entitled, "FBI Told Delaware U.S. Attorney It Had Already Partially
18 Corroborated Biden Bribery Claim, Source Says."

19 Do you have that in front of you?

20 And if you'll give us a minute, we have to pass it out in the room as well.

21 Mr. Perry. David, did that come through?

22 Mr. Weiss. Yeah, I'm trying to pull it up now.

23 Mr. Perry. Okay.

24 Mr. Weiss. Okay. Yeah.

25 BY [REDACTED]

1 Q Have you seen this article before?

2 A I have not. No, I don't recall seeing it before.

3 Q Okay. And I understand that. I'm introducing it because it was introduced at
4 the Scott Brady interview with the suggestion that the representations in it were
5 accurate.

6 So I'm going to ask you just about a couple of the representations that are made in
7 this article.

8 On the third page, as you have this in front of you, the fourth full paragraph
9 states, quote, "Following the late June 2020 interview with the CHS" -- which refers to
10 Alexander Smirnov -- "the Pittsburgh FBI office obtained travel records for the CHS, and
11 those records confirmed the CHS had traveled to the locales detailed in the FD-1023
12 during the relevant time period. The trips included a late 2015 or early 2016 visit to Kiev,
13 Ukraine; a trip a couple months later to Vienna, Austria; and travel to London in 2019."

14 Do you see where it says that?

15 A I see where it says that, yes.

16 Q Based on what you just told me, at least the first part of that last sentence
17 that I read, the trips -- referring to the trips in late 2015 or early 2016 -- those trips, they
18 could not have obtained travel records for those years, correct, because those travel
19 records didn't exist?

20 A Look, I can't say whether Mr. Smirnov had travel records that he shared that
21 indicated that he had gone to Kyiv in late 2015. I just don't recall.

22 My recollection is that the Vienna meeting, I don't recall seeing much of anything
23 that established that that Vienna meeting occurred in Vienna at that time.

24 And I don't know -- the 2019 meeting, I think there was -- I think there were travel
25 records showing travel in 2019.

1 However, my recollection is really when we saw all the records, including records
2 relevant to Associate 1 and Associate 2, people that Smirnov had identified as
3 participating in these early meetings, those travel records did not -- were not consistent
4 with meetings occurring at that -- on those occasions at that time.

5 Q Okay. Moving on from that article.

6 When he testified before the committee, Mr. Brady said that he had significant
7 issues developing a channel of communication with your office and that -- this is a direct
8 quote -- "it became problematic at different points." That's from page 29 of the Brady
9 transcript.

10 Was your office hesitant to engage with Mr. Brady?

11 A I think my office was wary of engaging with Mr. Brady's group. I mean, I
12 didn't -- there certainly were -- there was sensitivity about how the exchange was going
13 to work. I think that's a fair assessment.

14 However, this exercise was going to move forward, and it was going to get -- there
15 was going to be an exchange of information consistent with the vetting exercise and the
16 protocol that we ultimately agreed upon.

17 Q Mr. Brady told the committee that his team provided written interrogatories
18 to your team at one point because there was some challenge in setting up a meeting. Do
19 you recall that?

20 A There was a challenge in establishing a protocol that was satisfactory to both
21 sides. Originally they proposed something that, given we had been investigating, we had
22 been conducting an investigation for the better part of a year, we weren't willing to
23 proceed in accordance with the protocol that was proposed by Mr. Brady's office.

24 We presented our own suggested protocol. And after some back-and-forth, that
25 was ultimately agreed to.

1 Q What was the protocol they had proposed?

2 A The protocol that they proposed would've called for us to provide
3 information concerning details of our investigation to Pittsburgh. We were conducting an
4 ongoing, properly predicated investigation, involving the use of a grand jury, and we
5 weren't going to share details of that information.

6 Q So they wanted you to provide information about the investigation
7 into -- your investigation into Hunter Biden to them, including grand jury information?

8 A That's my recollection.

9 Q And you were not willing to do that because you had an ongoing
10 investigation and there were political sensitivities and just general sensitivities around
11 keeping the investigation close hold, correct?

12 A That's correct. And in fairness, we were doing a grand jury investigation, Mr.
13 Brady and his office was conducting a vetting exercise, which was very different.

14 I understood what Mr. Brady and his office was trying to accomplish, and
15 ultimately we were to be beneficiaries of that vetting exercise. But we weren't about to
16 share our information with other offices. It's just not a -- for some of the reasons you
17 alluded to in your question -- it's not -- from my vantage point, wasn't appropriate way to
18 proceed.

19 Q And you said for some of the reasons. Are there other reasons that you
20 didn't think it was an appropriate reason to proceed?

21 A No. It had to do with the fact that this was an ongoing investigation
22 involving grand jury, and, yes, it was -- we were talking about very sensitive matters.

23 Q And did you have concerns that sharing that information more broadly might
24 increase the risk of, for example, information being leaked?

1 A Look, I'm not going to suggest that anyone who might've received such
2 information would've leaked it. But we're responsible for that information. We're
3 responsible for the integrity of what we're doing. And ultimately, if we're going to move
4 forward, we're going to be held accountable for that.

5 So I was very sensitive to that, as were our FBI counterparts. We were all trying to
6 protect the integrity of what we were doing.

7 Q And you had concerns that sharing the information then at least created a
8 risk of compromising that integrity?

9 A Always. And, again, that's not directed at any office or individual. It's just
10 that prosecutors don't do that.

11 Q Okay. Hold on 1 second.

12 Okay. Thank you for all of that.

13 Are you aware that Gary Shapley communicated with Congress about the
14 interactions between your prosecution team and the Pittsburgh U.S. Attorney's Office?

15 A I don't know that I am, and I don't recall Mr. Shapley being part of that
16 dynamic.

17 [Weiss Exhibit No. 14.

18 was marked for identification.]

19

BY

20 Q I'm going to introduce as exhibit 14 a September 20th, 2023, statement from
21 Gary Shapley, and we're going to look at paragraph 4.

22 I know this is a long statement, so you can shorten your review -- or take as long
23 as you want to review it. But if you want to shorten your review, paragraph 4 is what
24 we're going to look at.

25 Have you had a chance to review?

1 A I've reviewed paragraph 4.

2 Q Okay. The paragraph -- in paragraph 4, Shapley notes that Assistant U.S.
3 Attorney Lesley Wolf and the Delaware U.S. Attorney's Office rejected Scott Brady's
4 request to brief them, and the line is about halfway down the page.

5 It says, "AUSA Wolf's comments made clear that she did not want to cooperate
6 with the Pittsburgh USAO and that she had already concluded no information from that
7 office could be credible, stating her belief that it all came from Rudy Giuliani."

8 Do you see where it says that?

9 A Yes.

10 Q Is it consistent with your recollection that Assistant U.S. Attorney Wolf did
11 not want to cooperate with the Pittsburgh U.S. Attorney's Office?

12 A No. I mean, I explained a moment ago the reluctance and the concern in
13 sharing investigative information with anyone. However, AUSA Wolf and the others
14 involved in this exercise did as requested.

15 As you mentioned in a question moments ago, questions were posed in written
16 form, and we answered those questions, as I recall, to the best of our ability and
17 completed that exercise.

18 I know nothing about what Gary Shapley may or may not have discussed with
19 Ms. Wolf or the accuracy of what Mr. Shapley otherwise reports in here.

20 Q He continues on and expresses some dismay about not being included in
21 those engagements with the Pittsburgh -- Mr. Shapley expresses concern about himself
22 not being included in the engagements with the Pittsburgh U.S. Attorney's Office.

23 Is there some reason that Mr. Shapley was not included in those engagements?

24 A Look, I don't know whether -- I will accept that he wasn't included, although,
25 in all candor, I don't know the particulars of whether he was or was not. Apparently, he

1 knew this was going on. But this was FBI to FBI and the respective U.S. Attorney's Offices
2 communicating in trying to hash out this matter.

3 I don't know that it required IRS participation in this particular exercise, and I don't
4 know how much he did or did not know.

5 Q Would Mr. Shapley have had any reason to know the information contained
6 in, for example, the 1022?

7 A The 1023?

8 Q 1023, I'm sorry. Yes, the 1023.

9 A No, I get it.

10 Look, Mr. Shapley, anything that touched on, in any way, shape, or form the
11 investigation of Title 26 offenses matter within their purview, certainly he would've -- he
12 should have known about.

13 Whether this particular back-and-forth was necessary in terms of what
14 Mr. Shapley and the Internal Revenue Service was investigating, I don't know. Off the top
15 of my head, it doesn't seem obvious to me.

16 Q You said on Friday that you took steps to actually meet with Mr. Shapley
17 when he expressed concerns with you. Is that right?

18 A Yes. I met with Mr. Shapley, yes.

19 Q Why did you meet with Mr. Shapley?

20 A I wanted to make sure that agents on this case, whether it was IRS or FBI or
21 anyone else, they were fully heard, especially when we were going through the
22 decisionmaking process. I wanted to make sure that folks who had contributed to the
23 investigation had a chance to weigh in.

24 Q Do you typically meet with investigators in a case? Or in your role as U.S.
25 Attorney, would you typically meet with investigators in that way?

1 A Depends. I mean, there are certainly circumstances in which I would,
2 depending upon the importance of the investigation, or if there's any disputes or
3 differences of opinion, I might participate in a meeting. But I can't say it's the routine.
4 Otherwise I would probably be doing little else.

5 Q And is it fair to say that in this particular case you actually kind of went out
6 of your way to meet with the investigators to make sure everybody felt heard?

7 A I certainly thought it was important that I heard their perspective. I mean, as
8 we discussed on Friday, you only benefit from hearing additional information.

9 Now, you don't -- there's got to be a limit. But I made it a point to hear from,
10 especially as I knew there were differences of opinion on certain aspects of the
11 investigation, I wanted to make sure that folks were heard from, and I gave them several
12 opportunities to weigh in on their views.

13 [REDACTED] Thank you.

14 All right. That's all we have. Thank you.

15 [REDACTED] do you have anything?

16 [REDACTED] No.

17 [REDACTED] We can go off the record.

18 [Whereupon, at 10:01 a.m., the interview was concluded.]

1 Certificate of Deponent/Interviewee

2

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

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Witness Name

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Date

15

16

WRITER'S DIRECT DIAL NO.
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June 12, 2025

Via email to [REDACTED] mail.house.gov

[REDACTED]
House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, District of Columbia 20515-6216

Dear [REDACTED]

Mr. Weiss has reviewed the transcripts prepared from the transcribed interviews conducted by the Committee on June 6, 2025, and June 9, 2025. We write to submit the attached errata on his behalf. We are at your disposal to address any questions concerning the same.

Very truly yours,



Avi Perry

Attachment

ERRATA

Interview of David Weiss (June 6, 2025)

Page	Original	Revised
14	So never shared	So Shapley never shared
16	I mean, the gun was	I mean, the gun case was
17	more conversed in it now	more conversant in it now
23	You've indicted these things	You've indicted these things
23	extent you have indicted	extent you have indicted
28	asking a team I want a final recommendation.	asking the team for a final recommendation.
37	analysis is something I'm going to	analysis is something I'm going through
37	evidence would come in that is familial circumstances	evidence would come in that is related to his familial circumstances
46	differ from the prosecution's.	differ from the prosecutor's.
51	whether it was prosecutors in D.C. hearing from or prosecutors in another jurisdiction or the agents	whether it was hearing from prosecutors in D.C., or prosecutors in another jurisdiction, or the agents
63	release order and would have to make a determination.	release order and a judge would have to make a determination.
64	place some book parameters.	place some parameters.
65	only are we not precharged, we're not	only are we not pre-charge, we're not
65	where there was claims	where there were claims
76	encompass both activity.	encompass both activities.
82	It just wasn't – superfluous.	It just was – superfluous.
84	Office of Investigative Enforcement, OEO	Office of Enforcement Operations, OEO
84	back and forth and the issue	back and forth on the issue
85	transitioning items and make sure	transitioning items and making sure
86	OIG and FIGDA	OIG and TIGTA
86	Initially, the position was	Initially, Shapley's position was
90	It's not art.	It's not science.

Continued Interview of David Weiss (June 9, 2025)

Page	Line	Original	Revised
4	19	when I hear from the PADAG	when I heard from the PADAG
15	11	Title 26 offenses matter	Title 26 offenses or a matter
16	2	if there's any disputes	if there are any disputes