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4 SELECT COMMITTEE TO INVESTIGATE THE
5 JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.

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11 DEPOSITION OF: DAVID SHAFER

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Friday, February 25, 2022

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Washington, D.C.

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20 The deposition in the above matter was held in Room 4480, O'Neill House Office
21 Building, commencing at 10:07 a.m.

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Present: Representative Lofgren.

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Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

- [REDACTED] SENIOR ADMINISTRATIVE ASSISTANT
- [REDACTED] SENIOR INVESTIGATIVE COUNSEL
- [REDACTED] SENIOR INVESTIGATIVE COUNSEL
- [REDACTED] INVESTIGATIVE COUNSEL
- [REDACTED] CHIEF CLERK
- [REDACTED] INVESTIGATIVE COUNSEL
- [REDACTED] PROFESSIONAL STAFF MEMBER

For the WITNESS:

ROBERT DRISCOLL, ESQ.
ALFRED CARRY, ESQ.
McGlinchey
1275 Pennsylvania Ave. NW, Suite 420
Washington, D.C. 20004

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[REDACTED] Good morning.

This is the deposition of David Shafer, conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol pursuant to House Resolution 503.

At this time, I'd like to ask the witness to please state your full name and spell your last name for the record.

The Witness. David James Shafer, S-h-a-f-e-r.

[REDACTED] Thank you.

And, Counsel, would you please identify yourself for the record.

Mr. Driscoll. Sure. I'm Bob Driscoll from the McGlinchey law firm, representing Mr. Shaver.

Mr. Carry. And I'm Alfred Carry from McGlinchey law firm, representing Mr. Shafer.

[REDACTED] Good morning. Thank for being here.

So this will be a staff-led deposition, and members of the select committee, of course, may also choose to join us and to ask questions.

As you can see, this is being recorded through our Webex platform. We will announce the appearances of members of the select committee, and you'll be able to see them appear there on the screen.

My name is [REDACTED] I'm an investigative counsel for the select committee. I am joined by my colleague [REDACTED] senior investigative counsel for the committee. And there are a couple other members of our staff who are going to be participating remotely. We have [REDACTED] our chief clerk, and [REDACTED] also an investigative counsel for the select committee.

1 So, under the House deposition rules, neither committee members nor staff may
2 discuss the substance of your testimony that you provide today unless the committee
3 approves release. You and your attorney will have an opportunity to review the
4 transcript.

5 And before we begin, I'd like to just go over a couple grounds rules for the
6 deposition, which will follow the House deposition rules that were provided to you with
7 your subpoena.

8 There is an official reporter here transcribing the record of this deposition. So
9 please wait until each question is completed before beginning your response, and I will
10 also -- and those of us asking questions here will also try to wait until your responses are
11 completed to ask another question.

12 The stenographer also cannot record nonverbal responses such as shaking your
13 head or "um"s and "ah"s. So, please, it's important that you answer each question with
14 a verbal response.

15 Of course, we ask that you provide complete answers based on your best
16 recollection. If the question is not clear -- and I anticipate some of the questions that I
17 ask today may not be -- please do ask for clarification. If you don't know the answer,
18 please just say so.

19 You may only refuse to answer a question to preserve a privilege that is
20 recognized by the select committee. So, if you refuse to answer a question based on a
21 privilege, we may either proceed with the deposition or choose to seek a ruling from the
22 chairman on the objection. If the chairman overrules such an objection, then you will be
23 required to answer the question.

24 I also want to remind you that it's unlawful to deliberately provide false
25 information to Congress. And since this deposition will be under oath, providing false

1 information could result in criminal penalties for perjury and/or for providing false
2 statements.

3 Do you understand that, Mr. Shafer?

4 The Witness. Yes, ma'am.

5 [REDACTED] Okay.

6 Could you please now stand and raise your right hand to be sworn by the official
7 reporter?

8 The Witness. I should look at you?

9 [REDACTED] Right here.

10 The Reporter. Sir, do you solemnly declare and affirm, under penalty of perjury,
11 that the testimony you will give will be the truth, the whole truth, and nothing but the
12 truth?

13 The Witness. Yes, ma'am, I do.

14 The Reporter. Thank you.

15 [REDACTED] Thank you.

16 So, logistically, please let us know if you need any breaks today. If you'd like to
17 consult with your attorney, please just let us know, and we can do that. You can do that
18 here. If you need a brief moment, we can also go off the record and you can go back to
19 the holding room, where you were a few moments ago, to have a longer discussion if you
20 need to do that. Okay?

21 Any questions or other things we should discuss before we get started?

22 Mr. Driscoll. Just for the record, we're preserving a standing objection as to the
23 authority of the committee to issue the subpoena, consistent with the statutory
24 resolution authorizing it, and preserve any specific objections to the extent the deposition
25 today does not conform with the rules laid out by the committee, including the hour-long

1 terms by alternating majority/minority counsel and/or members.

2 But we'll go ahead and go forward and have him answer all the questions, but I'm
3 just preserving those for the record in case there's an issue down the road. I appreciate
4 the opportunity to do that.

5 [REDACTED] Okay.

6 All right. Unless there's anything else to address?

7 Mr. Driscoll. No.

8 [REDACTED] All right. Let's get started.

9 EXAMINATION

10 BY [REDACTED]

11 Q Mr. Shafer, you have in front of you a binder of exhibits. If you could
12 turn -- you already are at the correct page behind tab number 1. This is a copy of the
13 subpoena that you received from the select committee. Is that correct?

14 A It's to Shawn Still. Okay, hold on. The next one's to me. Gotcha.

15 Q There you are. Page 2, that's great.

16 You are the person listed. That's the same David Shafer listed on that subpoena;
17 is that correct?

18 A It is.

19 Q Okay. And do you understand that your appearance here today is pursuant
20 to this subpoena?

21 A Yes, ma'am.

22 Q Okay. Great.

23 Part of the subpoena required you to produce documents and information,
24 including any electronically stored information. Did you understand that obligation?

25 A Yes, ma'am.

1 Q Okay. And we have received some documents that your lawyers provided
2 to us in advance.

3 Did you search for records that are responsive to the subpoena as set forth in the
4 schedule that was attached to the subpoena?

5 A Yes, ma'am. What I recall doing was searching my email accounts for the
6 phrase "Presidential elector" and producing all those documents to my attorney.

7 Q Okay. Was that your work or personal accounts or both?

8 A My personal account and my Georgia Republican Party account.

9 Q Okay. Do you have other email accounts?

10 A Yes.

11 Q Okay. And what was the basis for the selection of the two accounts that
12 you mentioned to us for those that you searched?

13 A Those were the two email accounts I've used in connection with my
14 volunteer service as chairman of the Georgia Republican Party.

15 The chairmanship of the Georgia Republican Party is a volunteer position; it's not
16 my actual compensated job. And so they've given me an email address, so I searched
17 that account.

18 And then I use my personal account for a lot of political stuff too, so I searched
19 that one as well.

20 Q And did you say that you searched for the phrase "Presidential elector"?

21 A That's correct.

22 Q That's how -- did you also conduct any other searches in your email to locate
23 documents that might be responsive to the subpoena?

24 A I think that's -- I think I searched for "Presidential elector." I think that -- as
25 I best recall the subpoena, the term "Presidential elector" would have produced all of the

1 documents that you were interested in receiving.

2 Q Okay. And after conducting that search of your email, were there any
3 documents that you recalled being relevant to this topic area that you did not find in the
4 results of your search?

5 A That I did not find?

6 Q Correct. Any documents that you remember existing but that did not --

7 A No.

8 Q -- appear in the search?

9 A I didn't remember that the documents I found existed.

10 Q Okay. Thank you.

11 What about text messages? Did you search any text messages for documents
12 responsive to the subpoena?

13 A I searched "Presidential elector," too, as a phrase.

14 Q Okay. And do you have one cell phone or more than one?

15 A I have one cell phone.

16 Q Okay. And was that the same phone that you used during the time period
17 after the November 2020 election?

18 A It's the same account. I'm not sure if it was the same device, but, yes.

19 Q Okay. I don't believe we received any text messages. Is that because
20 your search did not result in any --

21 A Correct.

22 Q -- responsive --

23 A Now, I searched the term "Presidential" and the term "elector," and it
24 produced thousands of email messages, and there were hundreds of email messages that
25 were clearly not responsive. And so I narrowed it to "Presidential elector," and that

1 produced the documents that were -- that we turned over.

2 Q Okay. And just so we're clear on the record, are you indicating that you
3 narrowed it to a phrase that included -- that needed to include both the words
4 "Presidential" and "elector" --

5 A Correct.

6 Q -- together? Okay.

7 A I mean, I received, I mean, hundreds of emails, maybe thousands of emails,
8 that had the word "Presidential" in it and that had the word "elector" in it. And most of
9 them were -- I mean, almost all of them were not responsive to the subpoena. And so
10 we narrowed it to "Presidential elector," and that produced documents that were clearly
11 responsive to the subpoena.

12 Q Okay.

13 And back to the topic of text messages, do you recall exchanging text messages
14 with any of the individuals that were involved with the meeting of alternate electors in,
15 you know, the post-election time period?

16 A I do not.

17 Q Okay.

18 What about hard-copy documents? Did you search for hard-copy documents
19 that might be responsive to the subpoena?

20 A I don't -- I don't have any hard-copy files that would include documents
21 responsive to the subpoena.

22 Q Okay.

23 What about documents that might not be attached to an email but electronic
24 documents that would be saved to a computer or a folder on a server anywhere? Did
25 you search for any of those more standalone electronic documents?

1 A I did not, but I would not -- I didn't create any documents on the subject
2 matter covered by the subpoena, so any electronic document I would've received by
3 email.

4 Q Okay.

5

BY [REDACTED]

6 Q Mr. Shafer, can I just clarify one thing? When you -- and sorry to get so
7 granular on this, but when you searched for "Presidential elector," was it "Presidential"
8 and "elector," or did it have to be the term, like, in quotes, "Presidential elector"?

9 A I searched "Presidential elector," and that began producing documents that
10 were responsible -- I'm sorry. Quote mark, "Presidential elector," end quote.

11 Q Okay. So, if just the term "elector" was used in an email, that would not
12 have come up on that search?

13 A No.

14 Q And if "elector" and the word "Presidential" or "President" was used
15 somewhere else in the email, it also wouldn't come up unless the words were together?

16 A That I don't know. I mean, I used the Google search function and entered
17 the phrase, quotation mark, "Presidential election," end quotation mark. And it
18 produced documents that were clearly responsive, and we turned them over.

19 Q Okay. The only question -- I guess the reason we're pushing on this is, it
20 seems that it might not have captured -- for example, if you used the shorthand version
21 of that, it might not have captured an email that just said "elector," for example, even if
22 later in the email it made clear that it was about the Presidential election.

23 A Correct.

24 Q Okay.

25 A But, I mean -- correct.

1 Q Okay. Thank you.

2

BY [REDACTED]

3 Q Okay. I think we can probably, as we go through the documents, we
4 can -- if our conversation today refreshes your recollection about any documents that you
5 think might be missing from the search because of the nuances of how the search was
6 run, we can discuss that separately.

7 Okay.

8 Did you search any personal devices for responsive information, including a
9 personal laptop, phone, or any other devices?

10 A I searched my telephone.

11 Q Okay. What about, other than text messages, did you use any other
12 messaging -- did you search any other messaging applications, like Signal, Telegram,
13 WhatsApp, for potential response material?

14 A I did not.

15 Q Okay. Do you use any of those programs?

16 A I do not use Telegram. I mean, I may have a Telegram account, but I did
17 not -- I don't use Telegram.

18 I may have a WhatsApp account, I'm not sure, but I don't use that.

19 I do have a Signal account. But I -- and I did not search my Signal account, but I
20 don't recall any communications about Presidential electors on Signal.

21 Q Okay. You anticipated my next question.

22 What about any social media applications? Do you use the messaging function
23 of a social media application like Facebook or Instagram?

24 A I do not -- I have an Instagram account in my name, but I don't use it at all.

25 I have multiple Facebook accounts, but I seldom use them anymore and don't

1 recall using them in connection with the December 14th meeting of the Presidential
2 electors.

3 I have a Twitter account, and I did tweet about Presidential electors, and we did
4 not turn those over because they were in the public domain. I don't think I used the
5 direct message function of Twitter to talk about Presidential electors.

6

BY [REDACTED]

7 Q Okay. Thank you. Yes, I've talked with your lawyer about some of the
8 tweets, and we have them here today, the ones that you tweeted publicly.

9 Setting those aside, did you search your direct messages on Twitter for any
10 potentially responsive information?

11 A I did not, but I don't believe there were any.

12 Q Okay.

13 What about any handwritten notes? Did you search or do you know if you had
14 any handwritten records or notes related to the meeting of the alternate electors?

15 A I don't recall creating any handwritten notes. And that is generally no
16 longer my practice, to create handwritten notes --

17 Q Okay.

18 A -- as I've entered the digital age.

19 Q Understood.

20 Did you coordinate with any former members of President Trump's campaign or
21 the President's lawyers or anyone at the RNC in responding to the document requests of
22 our subpoena?

23 A I think the answer to that question is no. When you mean "coordinate,"
24 what do you mean exactly?

25 Q Did you discuss the scope of your response with any of those individuals?

1 A With -- say them again? Any --

2 Q Sure. Any former member of President Trump's campaign, any --

3 A When you say a former member of President Trump's campaign, what do
4 you mean by "member"?

5 Q Sure. I would include that as anyone on staff for the campaign or anyone
6 who acted on behalf of the campaign.

7 A So I was represented in connection with the -- I was a co-plaintiff with
8 President Trump in the election contest he filed in Georgia. And so I was represented in
9 that election contest by some of the same lawyers who represented President Trump and
10 who were paid for by the campaign.

11 Q Okay. Thank you. And did you --

12 Mr. Driscoll. I think she was talking about, in responding to this subpoena, did
13 you coordinate with any of those people.

14 [REDACTED] That's right.

15 Mr. Driscoll. Not back then.

16 The Witness. I did not -- I did not coordinate -- well, I did not coordinate with
17 any member of the -- any former staff member of the Republican National
18 Committee -- any current or former staff member with the Republican National
19 Committee or any former staff member of President Trump's campaign. But I did have
20 some discussion with the lawyers who represented me and President Trump in the
21 election contest.

22 BY [REDACTED]

23 Q Okay. And if those lawyers are currently representing you or if those
24 discussions were attorney-client-privileged communications, I'm not asking you about the
25 substance of those communications. But who were the individuals that you consulted

1 about your response to this subpoena?

2 A I talked to Alex Kaufman.

3 Q Any others?

4 A No, not in the group that you described.

5 Q Okay.

6 So the group that we described, that we were just talking about, which would
7 include anyone who acted on behalf of the campaign, as well as former staff members of
8 the campaign, or lawyers for you or for the President, did any of those people affect or
9 attempt to influence the documents that you produced to the select committee?

10 A No.

11 Q So, summing up the document questions here, have you produced to the
12 select committee all the documents and communications in your possession, custody, or
13 control that are responsive to the requests in our subpoena?

14 A All -- I produced all the documents precisely the way that I described, yes.

15 Q Okay. Okay, thank you.

16 We'd like to just cover some general, sort of, high-level background for a couple of
17 minutes. So can you tell us, Mr. Shafer, where do you live?

18 A In Duluth, Georgia.

19 Q Okay. And how long have you lived in Georgia?

20 A Since I was 6 years old. 1971.

21 Q Okay. And could you tell us generally your educational background?

22 A I graduated from DeKalb County public schools and from the University of
23 Georgia.

24 Q Okay, great.

25 And what about, at a high level, your professional background? And I would say,

1 just the most recent professional background. Like, what do you do for a profession,
2 and how long have you been involved with the -- as the chair of the Republican Party?

3 A So most of my income, if that's what you're asking, comes from real estate
4 investment. And that has been the case for at least 10 years.

5 I was a Republican political operative for a number of years in the early '90s; I was
6 the executive director of the Georgia Republican Party and I managed Republican political
7 campaigns. And then I was elected to the State senate in 2002 and served in the State
8 senate until 2019, until January of 2019.

9 Q Okay. Thank you. And during some portion of your service in the State
10 senate, did you serve in a leadership role within the Georgia State Senate?

11 A I was the chairman of several committees. I was the vice chairman of the
12 senate Republican caucus, and I was the president pro tem of the senate.

13 Q Okay. Thank you.

14 And how long have you been chairman of the Georgia Republican Party?

15 A I was elected in May of 2019 after I left the State senate.

16 Q Okay. And I think you indicated earlier that this is not a -- it's a volunteer,
17 not a compensated position. Is --

18 A Correct.

19 Q -- that correct? Okay. So your outside employment, are you
20 self-employed, or do you have an employer?

21 A I draw a W-2 income from an entity that I own.

22 Q Okay. Okay, thank you.

23 Okay. So we're now going to talk about your selection as an elector for the 2020
24 Presidential election.

25 So you were selected as a Republican elector for the 2020 Presidential election.

1 Is that correct?

2 A That's correct.

3 Q Okay. Have you been a Presidential elector before?

4 A No.

5 Q Okay. What was your understanding, at the time that you were selected
6 for the first time in the 2020 cycle, of what the role was of a Presidential elector?

7 A To cast a ballot for the nominee of the party.

8 Q Okay. And how did you come to understand that that was your
9 responsibility?

10 A I have generally been aware of how the Presidents are elected since college.

11 Q Okay.

12 How -- tell us -- talk us through a little bit of the mechanics. You know, how does
13 one become a Republican elector in the State of Georgia?

14 A So the State executive committee of the two political parties decides on the
15 nominees for Presidential elector for their respective parties. And so, as State chairman
16 of the Georgia Republican Party, I submitted a list of Presidential elector nominees to the
17 State executive committee, and they approved that list. And then those candidates
18 then qualified to be candidates for Presidential elector.

19 Q Okay. Thank you.

20 Do you remember the time period of when the process began, when you
21 submitted the list to the executive committee?

22 A It was shortly before qualifying. It was in March of 2020.

23 Q Okay. Thank you. And how did you -- I believe you said that you were the
24 one that formed the list. How did you select the individuals that were included on that
25 list?

1 A I selected -- I asked the State -- I asked the members of the State executive
2 committee at one our meetings to suggest to me names of potential candidates for
3 Presidential elector, and then I took those suggestions and added my own, and submitted
4 a list to them.

5 Q Okay.

6 And then you indicated that there's a process, after the executive committee has
7 approved the list, that there's a process of qualifying the electors. Can you describe
8 what that means?

9 A So, in order to run for office in Georgia, you must qualify with a political
10 party. It requires completing an affidavit and paying a qualifying fee. The qualifying
11 fee is generally 3 percent of the salary of the office that you're seeking. And so, for
12 Presidential elector, each of the Presidential electors had to pay \$1.50 because they were
13 paid \$50 to serve as Presidential electors.

14 Q Fascinating. I don't know much about this process before this, and that
15 certainly is a fact that I did not yet know.

16 Okay. I think we have a document that's relevant to this discussion, if you could
17 look behind tab 2 please.

18 So this appears to be an email dated March 3rd, 2020, and the email is from
19 Stewart Bragg with an "@gagop.org" email address.

20 Can you identify for us, who is Stewart Bragg?

21 A He was at the time the executive director of the Georgia Republican Party.

22 Q Okay.

23 A And so he was the head staff person, paid staff person, of the Georgia
24 Republican Party.

25 Q Okay. And that reminds me that that was a position that you held at one

1 point in the past. Is that right?

2 A That's correct. Yes, ma'am.

3 Q Were you involved in your prior experience with the Georgia Republican
4 Party as the executive director in this process of selecting?

5 A Yes, ma'am. It was during the 1992 Presidential election cycle.

6 Q Okay. Okay. And, generally speaking, based on what you recalled from
7 your experience in the '92 cycle, was your experience as far as the process goes in 2020
8 the same?

9 A It was generally the same. I don't think my boss, the State chairman, asked
10 the State executive committee for suggestions, but we prepared a list that we submitted
11 to them.

12 Q Understood.

13 Okay. This email is to Shawn Still and an email address, david@gagop.org. Is
14 that your email address?

15 A That is mine, yes, ma'am.

16 Q Okay. Okay, great.

17 So this email, it indicates in the second sentence there -- you know, it's sent from
18 Stewart. This one is directed or, sort of, addressed to Shawn Still and says, "Please let
19 me know if you will not be able to submit the form at the Capital during qualifying in
20 person."

21 And, if you turn to the next tab, tab 3 is that form that's referred to here. And
22 based on the email, the name of the document appears to be "Declaration of Candidacy
23 and Affidavit," with "State" in parenthesis, "2020."

24 Is this the affidavit that you were referring to a moment ago?

25 A Yes, ma'am.

1 Q Okay.

2 And can you describe to us what the in-person qualifying process involved?

3 A The Democratic and Republican parties are each given a room at the State
4 capitol to conduct qualifying during a week in early March. I don't know if it's March
5 every year, but in early March of 2020, each of the political parties was given a room at
6 the State capitol. And then the candidates for offices would come to the room and
7 complete the paperwork and pay the fees and be qualified.

8 Q Okay.

9 Anything -- did you participate in that process in March of 2020 of qualifying in
10 person?

11 A Yes.

12 Q Okay. Anything notable about the process that occurred in 2020?

13 A When you say "notable"?

14 Q Unusual?

15 A No.

16 Q Okay.

17 What was your understanding of the, sort of, sworn-statement portion of this
18 affidavit? What were the obligations of those who were attesting in this affidavit?

19 A I'm sorry. Repeat the question.

20 Q It was a poorly worded question, so I'm happy to do so.

21 I note on this declaration and affidavit there's a paragraph at the end, right before
22 the signature of the affiant. And I'm just generally asking, what was your understanding
23 of the obligations that were incurred by those who were signing this affidavit?

24 A I mean, I completed this affidavit every 2 years when I was running for
25 reelection as a State senator. And so it was -- I don't know that I spent that much time

1 thinking about it in March of 2020, but -- in fact, I don't know that I -- but I'm sure I read it
2 and -- are you referring to the -- which paragraph exactly are you referring to?

3 Q So it's the first, kind of --

4 A "I have never been convicted and sentenced"?

5 Q That's right, yeah. And it ends with, "I will not knowingly violate any
6 provisions of the Georgia Election Code or the rules or regulations adopted thereunder.
7 I will not knowingly violate the rules or regulations of the" -- fill in the blank -- "party."

8 A I've reviewed it and was in agreement with those promises and signed the
9 affidavit.

10 Q Okay. Understood. Thank you.

11 If you could turn next to the document behind tab number 4, which I think is also
12 relevant to this discussion, this appears to be an email sent by you at your Georgia GOP
13 email address on Thursday, March 5th, and provides a list of names in the body of the
14 email, which I think corresponds to at least some of the recipients, perhaps.

15 Is this the list of Presidential electors that you mentioned you submitted to the
16 executive committee?

17 A Yes, ma'am. This appears to be a list of the Presidential elector candidates
18 that I submitted, and it appears to be addressed to members of the State executive
19 committee.

20 Q Okay, thank you.

21 Just generally speaking -- I don't think we need to go through the list, you know,
22 by each name, but, generally speaking, were you familiar with the individuals who are on
23 this list?

24 A I knew each one of them, yes.

25 Q You knew each one. Okay.

1 And, just generally speaking, what were the qualifications that -- actually, stop. I
2 shouldn't use the word "qualifications," since that is a term of art that we just discussed
3 there. But what generally were the characteristics of those who were selected here that
4 were the reason why they may have been selected to be Presidential electors?

5 A Some of them were officers of the Georgia Republican Party, and those who
6 were not officers were supporters of the Georgia Republican Party.

7 Q Okay.

8 So, after the process on March 5th that you just described to us that involved the
9 selection and then qualification of the Presidential electors, what happens next in the
10 Presidential elector process?

11 A I don't know that anything happened after that until the election took place.

12 Q Okay. Did you have any communications with the individuals on this list
13 between March 5th and election day?

14 A Well, I mean, I probably had some sort of communication with each one of
15 them. I mean, Joseph Brandon was the treasurer -- or, is the treasurer of the Georgia
16 Republican Party, and so I would've been in frequent contact with him on a wide variety
17 of subjects. And I could go through the list of the other 15, and I would've had multiple
18 contacts with them on multiple subjects.

19 Q Sure. Thank you. Any discussion with these individuals before election
20 day about the Presidential -- their service as Presidential electors?

21 A And when you say election day, you mean the date of the general election in
22 November?

23 Q November 3rd, correct.

24 A Not that I -- not that I recall. I mean, it's possible that we discussed it, but I
25 don't recall any specific conversation with any of them.

1 Q Okay. Thank you.

2 [REDACTED] Anything?

3 [REDACTED] No.

4 [REDACTED] Okay.

5 BY [REDACTED]

6 Q So this concept of alternate electors -- we want to start talking about these
7 issues now.

8 So when did you first hear about the concept of casting electoral votes for Donald
9 Trump even if he had lost the State of Georgia?

10 A The concept of alternate electors was raised with me sometime before, and
11 shortly before, December the 10th. And I know that date because there was an email
12 message to me from one of the lawyers reconfirming a telephone conversation we had
13 had about that subject.

14 Q Okay. I think we'll have an opportunity to talk about that in a moment.
15 Did you ever hear about the concept of alternate electors before election day?

16 A When you say election day, you mean in November?

17 Q November. That's correct.

18 A No.

19 Q Yeah, so, generally speaking, unless there's any relevance for the primary
20 election that you can point out to us as we go, I think generally today we'll just be
21 speaking about election day meaning the November 3rd, 2020, Presidential election.

22 A Okay.

23 Not that I recall. It's possible. I mean, I'm an intellectually curious person and
24 I've had conversations on a wide range of topics, but I don't recall any about the
25 Presidential -- alternate Presidential electors.

1 Q Okay. Is this a concept that had ever come up, in your experience, you
2 know, in the various roles that you've held with the Republican Party in Georgia? Had it
3 ever come up in previous Presidential election cycles?

4 A Not that I recall, although I guess it depends on what you mean by "alternate
5 Presidential elector." I'm aware that, at various times, Presidential electors were not
6 able to attend the meeting of Presidential electors and had to be replaced with
7 alternates. I don't know that that's necessarily what you're referring to, but I am
8 generally aware of that having happened.

9 Q That's a good point, yeah. And I think later we may find ourselves talking
10 about alternate alternate electors.

11 So, generally speaking, what I'm referring to here is the concept that a slate of
12 electors that is not the one that is chosen by the Governor to reflect the result of the
13 popular vote but chosen -- but is meeting for some other purpose. Is that a concept
14 that had ever come up, to your knowledge, before?

15 A Not that I recall. And I don't know that in any other Presidential election
16 you had a pending election contest at the time that the Presidential electors were
17 required to meet, and so I don't know that it ever would have come up.

18 Q Okay.

19 Were you aware at the time or did you become aware later of an article that
20 appeared in The Atlantic before the election -- it was published in September of 2020,
21 and it suggested that the Trump campaign or the Republican Party may test the
22 assumption that electors would be chosen by popular vote. It essentially had a
23 discussion about the possibility of what we're describing here as this meeting of alternate
24 electors.

25 A I don't remember reading that article.

1 Q Okay.

2 Mr. Driscoll. Just for the record, do you subscribe to The Atlantic?

3 The Witness. No.

4 Mr. Driscoll. Is The Atlantic part of your normal --

5 The Witness. I used to read it all the time, but I haven't read it in years.

6 Mr. Driscoll. Okay.

7 The Witness. Now, when I was a State senator, I actually introduced legislation
8 that would have subscribed Georgia to the National Popular Vote Compact and changed
9 the way that Presidential electors are allocated in Georgia. I've switched my position on
10 that issue. But, as I've -- you know, but I've had -- and so, as I think more about the
11 question you asked me a few minutes ago, yes, I've had -- I've thought about and had
12 conversations about the electoral college and how it should function.

13 I don't know that they were responsive to what you were asking, but your
14 question was broad, and so I'm now -- as I sit here, I'm now recalling that I've had
15 conversations about Presidential electors and how they were chosen and made public
16 policy proposals. I wrote an op-ed piece on it.

17

BY 

18 Q Oh. That's great. Yeah, this -- it's really helpful. I mean, obviously,
19 we're here to discuss the facts of what occurred in November and December of 2020, but
20 we're interested in your experience, helping us to put it in historical context and also
21 understanding all of the policy issues that might be around it. So --

22 A Yeah. I think one of your questions went back to, had I ever discussed the
23 electoral college, and --

24 Q Uh-huh. Yes.

25 A -- so, yes.

1 Q And I'm interested -- you noted that you switched your position about the
2 legislation you had introduced in the State senate. When did you switch your position
3 on that?

4 A Several days after I introduced the legislation, I decided that it was not an
5 appropriate time to -- it was too close to the Presidential election to consider any change
6 to how we should be choosing our Presidential electors.

7 Q I see. And what cycle would that have been for the Presidential election?

8 A It was -- maybe it was 2000. Well -- so I left the State senate in -- 2018 was
9 my last legislative session, so it may have been 2017 or 2018.

10 But I introduced the legislation, I began a discussion -- this might've been
11 2018 -- and then I made a public announcement that I didn't think we should take any
12 action until after the next election cycle.

13 Q Understood. But the election cycle that you were contemplating was the
14 2020 Presidential election?

15 A I think -- you know, I was in the State senate for 16 years and did lots of
16 things. I think that's correct, yes.

17 Q Okay. Okay, thank you.

18 And you mentioned that you published an op-ed about the policy issue that we've
19 been discussing. Do you remember what publication that was published in?

20 A It was The Atlanta Journal-Constitution.

21 Q Okay. Okay, thank you.

22 [REDACTED] [REDACTED] did you have something you wanted to ask?

23 [REDACTED] Yeah.

24

BY [REDACTED]

25 Q You testified earlier, Mr. Shafer, that you understood the role of an elector

1 to be to cast a ballot for the nominee of the party. Did you have an understanding as to
2 whether that vote would be cast for the nominee of the party regardless of whether that
3 nominee won the popular vote in Georgia?

4 A Well, the -- so we're using the term "Presidential elector" somewhat loosely.
5 I mean, you were a candidate for Presidential elector until you were elected a Presidential
6 elector. And so the role of a Presidential elector was to cast a ballot for the nominee of
7 his or her political party.

8 Q And is it your understanding that you don't become an elector in the State of
9 Georgia until the candidate wins the popular vote in that State?

10 A That's correct. The winner of the election, in the Presidential election, is
11 the winner of the -- a plurality of the popular vote.

12 Q Thank you.

13 BY [REDACTED]

14 Q So, just to make sure that I understood what you just explained to us there,
15 so your understanding was that, in Georgia, the winner of the Presidential election -- the
16 candidate who's winning the election for the Office of President of the United States, that
17 is -- is the candidate that has the plurality of the popular vote.

18 A That's correct.

19 Q And that the election that resulted in that plurality for a candidate for
20 President of the United States is what selected which of the candidates that had been
21 proposed by the political parties would be the electors --

22 A That's correct.

23 Q -- who elect that candidate for President of the United States.

24 A That's correct.

25 Q Okay. Okay. Thank you.

1 Okay. So, just generally, let's talk a little bit about election day 2020 and your
2 understanding of -- actually, that was a good lead-in -- understanding of the process that
3 unfolded.

4 So the Presidential election was conducted on November 3rd, 2020. Just,
5 generally speaking, what were your impressions of how the election day itself unfolded in
6 Georgia?

7 A It was somewhat chaotic, in that we were having -- there were multiple
8 reports of our poll watchers being denied access to the polls.

9 There was an incident on election night where, at the Philips Arena stadium in
10 downtown Atlanta, where they were counting Fulton County absentee ballots, they
11 announced that they were going to stop counting at 10:30 in the evening and that we
12 should -- that the poll watchers should all go home, which happened. And then, once
13 they had left, they began counting again and continued to count until 1:30 in the
14 morning, in secret, outside the observation of the poll watchers.

15 And so there were a number of problems like that that were giving me concern on
16 election day.

17 Q Okay. The location that you identified as where the Fulton County
18 absentee ballots were being counted, is that also known as State Farm Arena?

19 A It's now known as State Farm Arena.

20 Q Okay.

21 A It's formerly Philips Arena.

22 Q Okay.

23 And the circumstances that you described to us about the, I think you said "chaos"
24 and what chaotic events that happened that day, how did you come to learn of those?

25 A We had poll -- one of the roles of political parties is to recruit poll watchers.

1 And we had poll watchers at a number of polling locations, and they would call in reports
2 to the State headquarters of the -- yeah, obviously, in my case, of the Georgia Republican
3 Party. And then I would review those reports with the staff people that were
4 supervising that operation.

5 Q Okay.

6 Did you have any firsthand knowledge of what occurred at the State Farm Arena
7 in Fulton County, or was your knowledge based on reports that had come in through staff
8 members?

9 A Reports that had come in. I was never at the State Farm Arena.

10 Q Okay.

11 On election day, was there a clear winner of the Presidential election in Georgia?

12 A I don't think it was certified until a week later.

13 Q Right. My general understanding is that the election in Georgia was too
14 close to call --

15 A Correct.

16 Q -- on election day. Is that right?

17 A That's correct.

18 Q Was that consistent with your expectations for going into the
19 November 2020 Presidential election, that it would be quite close?

20 A I expected it to be close. I was surprised by the level of ineptitude in the
21 counting of the ballots.

22 Q Okay. Describe that a little bit more for us.

23 A The fact that it was being done outside the presence of poll watchers and
24 that it was taking so long and that they kept discovering batches of ballots that they
25 didn't realize had not been counted.

1 Q Okay.

2 And going into the November 2020 election, did you have an expectation for how
3 long it would take to count all of the ballots?

4 A I did not.

5 We -- there was a -- there were a number of changes to Georgia election law that
6 were enacted through emergency rules, ostensibly in response to the pandemic. One of
7 them was an emergency rule that allowed the counting of absentee ballots to begin
8 earlier than election day. And that was supposed to prevent the problems that we
9 ended up having anyway.

10 Q Okay.

11 So, after November 3rd, as the process of counting the ballots continued,
12 President Trump tweeted on November 9th that Georgia would be a "big presidential
13 win, as it was the night of the Election!"

14 Do you recall that tweet?

15 A I don't recall the specific tweet. I thought -- I mean, we were ahead by
16 hundreds of thousands of votes on election day. I thought that it would narrow, but I
17 believed that we would ultimately win.

18 Q Okay.

19 And to the extent that you can remember, during that time period where the
20 election result was still being determined in Georgia, did you continue to have the
21 expectation that, ultimately, then-President Trump would be the winner of the
22 Presidential contest?

23 A I did. My belief was based on the number of absentee ballots that we had
24 been told had not been counted. And -- but that number kept increasing as they
25 discovered more batches of uncounted absentee ballots.

1 Q Okay.

2 Just generally, at a high level, we're aware of several audits and recounts that
3 were conducted in the State of Georgia following the Presidential election that were
4 under the auspices of Secretary of State Brad Raffensperger. Do you also recall those?

5 A When you say "several," what are you referring to?

6 Q So, good question. You know, I'm aware -- I can represent to you that
7 Secretary of State Raffensperger announced on November 11th what was described as a
8 hand-counted audit of the Presidential vote --

9 A So that was the risk-limiting audit that was a hand tally of the ballots to
10 compare that number with the machine tally of the ballots.

11 Q Okay. And do you recall, going into that hand-counted audit conducted by
12 the Office of the Secretary of State, what the result was of the Presidential election at
13 that time?

14 A My -- when you -- what I recall was fighting with the Secretary of State over
15 what the observation rules would be. We wanted to have our poll watchers observing
16 the count. And the rules that he promulgated only allowed us to have one observer for
17 every 10 counting tables, which we felt was inadequate. We felt we should be able to
18 have one observer at each counting table.

19 Q Okay. And what was the resolution of that discussion or --

20 A I don't believe we were allowed any more -- we lost. We were only
21 allowed one observer for every 10 counting tables.

22 Now, there was one county that required the observer to constantly remain in
23 motion. He could only stand still for 15 seconds. And so it created this sort of
24 ridiculous situation where the person was really not able to even stop and watch what
25 was happening at one table because he constantly had to remain in motion. We were

1 able to get that changed so that the person could choose one table to watch.

2 But, generally speaking, our complaints were unsuccessful in allowing -- in
3 changing these rules to allow us what we felt was meaningful observation of the counting
4 process.

5 Q All right. Understand. That seems to be a way to get plenty of steps in
6 during the process at least.

7 A Yeah.

8 Q In those discussions, were the rules that you were discussing or objecting to
9 to be applied equally to any partisan observers, meaning that the Democratic observers
10 and the Republican observers would be under the same restrictions? Is that --

11 A That's correct.

12 Q Okay.

13 Okay. And, generally speaking, as the chair of the Republican Party, what were
14 your duties during this time period with respect to the Presidential election?

15 A So, "during this time period," you're talking about the period after the
16 Presidential election up until the risk-limiting audit or what you're calling the hand count?

17 Q Yes. Or, actually, perhaps a little bit broader would be more helpful, to say,
18 you know, separate from your role as a Presidential elector, which obviously we're going
19 to be talking in more depth about, can you give us a general sense of what duties or any,
20 you know, particular official role that you had as the chair of the Republican Party with
21 respect to the counting of the ballots and the determination of who had won the
22 Presidential election in Georgia?

23 A So I was -- in the days immediately after the election, my focus was on
24 the -- well, completing observing the first counting of the ballots, and then on the hand
25 count, and then ultimately on the official recount.

1 And so I was in a room, like, you know, similar in size to this with lawyers from the
2 Republican National Committee and the Trump campaign and the Georgia Republican
3 Party, and we were reviewing the recount rules and preparing our responses to that. So
4 I was involved in helping determine our responses to these rules.

5 Q Understood. Thank you. Fair to say, generally, representing the interests
6 of the Republican Party as, sort of, an outside but important observer to the process of
7 counting the ballots?

8 A Right. Under Georgia law, the two political parties are entitled to have
9 observers watching every part of the process. Now, the entire process is supposed to be
10 open to the public, but the two political parties have the opportunity to credential
11 observers. And we did not believe that those laws were being respected. And so we
12 were objecting and complaining to what we felt were violations of the law that limited
13 our opportunity to observe the process and carry out our responsibilities as credentialers
14 of poll watchers.

15 Q Okay. Thank you.

16 So, just back to the timeline, after the November 3rd election, I can represent to
17 you that Secretary of State Raffensperger on November 17th, 2020, announced the
18 results of an audit that was conducted of a random sample of voting machines.

19 Does that sound familiar to you?

20 A I don't -- I'm sure that he said something like that on November 17th if you
21 say he did, but I don't remember that in particular, no.

22 Q Okay. Do you remember there being an audit that was done on the voting
23 machines themselves?

24 A So what I understood the audit to be is a -- the hand -- the law
25 provided -- this was the first year we had used this particular vote-counting technology,

1 and the law that authorized it provided for what was called a risk-limiting audit. And the
2 risk-limiting audit was a hand count of a sufficient number of ballots in a race to
3 statistically compare the hand count with the machine count.

4 And I think that the way the risk-limiting audit was contemplated was that not all
5 of the ballots would be counted. But Secretary Raffensperger chose the Presidential
6 race for the risk-limiting audit, and it was so close that it required every ballot to be
7 counted in order to carry out the risk-limiting audit.

8 Is that what you're referring to on November 17th, the risk-limiting audit, or some
9 other kind of audit?

10 Q That's a really helpful explanation of the risk-limiting audit. But this one
11 was, I think, an audit that was conducted by an outside vendor; I believe the name was
12 Pro V&V. It was an audit that was done of a sample of voting machines, essentially on
13 the technology itself, as opposed to the audit of the paper record of ballots that had been
14 tabulated by those voting machines.

15 A I don't remember his statement on November 17th. I do know that there
16 was a concern that, because the technology of the provider -- because the technology
17 providers' technology was proprietary, that only a vendor of the technology provider
18 could conduct an audit. And so I do remember there being complaints about the
19 independence of the audit.

20 Q Okay.

21 A And I think that's the one you're referring to, but I'm not entirely sure.

22 Q Okay. That's great. Yeah, I don't think the details there are particularly
23 irrelevant.

24 So, as far as the time- -- going back to the timeline, I can also represent to you that
25 Secretary Raffensperger released the results of the risk-limiting audit, which I believe is

1 the one that you've described to us today, on November 19th, 2020, and, on that same
2 day, the Associated Press called the Georgia race for now-President Biden.

3 Is that consistent with your recollection of this?

4 A I don't remember when the Associated Press called the race, but I do
5 remember that the -- after the risk-limiting audit, that President -- now-President Biden
6 was ahead in the votes. I do know that there was a thousands-of-votes difference,
7 because they kept discovering USB -- or they kept discovering cards that hadn't been
8 counted in the first vote. But I do recall he was still ahead.

9 Q Okay. That's exactly where I was headed next.

10 So, if you can remember, before the hand tally that was acting as the risk-limiting
11 audit in Georgia, who was ahead in the count before the tally was conducted?

12 A President -- President Biden.

13 Q Okay. And what, if anything, changed after the hand audit of all ballots in
14 Georgia?

15 A I think he was ahead 14,000 in the first one, some number around 14,000,
16 and it was a couple thousand votes less after the risk-limiting audit.

17 Q Okay. Thank you. But fair to say that the result of who won the popular
18 vote in Georgia had not changed before that audit was conducted and after?

19 A He was still ahead.

20 Q Okay. Thank you.

21 A couple of other points in the timeline leading up to the electoral college date.
22 We're aware that there was a hearing convened by a committee of the Georgia State
23 Senate on December 3rd, 2020. There were several speakers, but among them was
24 Rudy Giuliani, a lawyer for the President.

25 Do you remember that hearing?

1 A Can I go back to your last question?

2 Q Sure.

3 A So there was actually -- there was a hand count because of the risk-limiting
4 audit, and then there was a second recount. And the numbers kept changing from
5 recount to recount. And I think that the second recount, the margin had narrowed even
6 more.

7 I didn't know if we were skipping over that or -- but I wanted to give a complete
8 answer to your question.

9 Q I had skipped over it, but I think that's very helpful.

10 A Okay.

11 Q So you're recalling that there was another audit that occurred after the hand
12 recount but that -- and the margin may have changed. But is it true that the result of
13 who was --

14 A He remained ahead in each of the three counts. But the margin kept
15 narrowing in each count, yes.

16 Q Margin had narrowed. Okay. Thank you.

17 So, just returning to the December 3rd hearing, do you recall that --

18 A I was aware of the hearing, yes.

19 Q Did you attend?

20 A I did not attend.

21 Q Okay. And were you involved at all in organizing that hearing?

22 A No.

23 Q Okay.

24 A Well, when you say involved in organizing the hearing -- I did not attend the
25 hearing, I didn't arrange the room for the hearing. I was aware that there was a hearing

1 taking place. I was not involved in organizing the hearing.

2 I'm just trying to think through what you mean by that question. So --

3 Q Sure.

4 A -- no.

5 Q Yeah, yeah. And, just generally, I guess my concept of organizing the
6 hearing was, were you in some way responsible for making it happen?

7 A No.

8 Q Okay. And were you -- did you watch the hearing?

9 A No.

10 Q Okay. Did you later --

11 A Well, I mean, I may have seen clips of the hearing on the news. But, no, I
12 was not -- and, I mean, I -- it was probably broadcast live over the internet, but I did not
13 watch it, no. I was -- I mean, I was extremely busy because I was involved in the recount
14 and the election contest; there were two United States Senate runoffs taking place. And
15 so, no, I was not focused on what was happening in the State capitol.

16 Q Right. Truly unique circumstances in Georgia, that there was still an
17 election --

18 A Right.

19 Q -- to be conducted at that point.

20 And did you later come to be aware of some of the content of the hearing,
21 including allegations that Mr. Giuliani advanced during the hearing about purported or
22 allegations of election fraud occurring in Georgia at that time?

23 A I'm -- yes, I'm generally aware of the allegations that were made.

24 Q Okay. Did you have any firsthand knowledge of the substance of the
25 allegations, meaning that, if you came to understand what Rudy Giuliani had advanced at

1 that hearing, did any of them -- were any of those allegations attributable to events that
2 you personally observed?

3 A I mean, some -- I don't remember exactly what he alleged at the hearing.
4 Some of the allegations that he made were drawn from the lawsuit that I was a -- joined
5 President Trump in filing to contest the election, but some of them were not.

6 Q Okay. And had your lawsuit that you joined with President Trump in
7 filing -- your complaint, had it been filed at that point?

8 A So it was filed on December 4th. So, if you're saying that that hearing was
9 December 3rd, it was filed the next day. But the preparation for it took a week or two,
10 maybe 2 or 3 weeks. And Rudy Giuliani at some point became a lawyer for the
11 President and would've had access to the same information that I had with regard to the
12 lawsuit.

13 Q Okay.

14 And I don't think it's necessary to talk about, you know, each individual allegation
15 that is contained within that complaint, but, generally speaking, how did you become
16 aware of the facts and circumstances that comprised the allegations made in that
17 complaint?

18 A So, under Georgia law, in order to successfully contest an election, you must
19 show by preponderance of the evidence that the number of irregular votes exceeds the
20 margin. You don't have to show that those votes were fraudulent. You don't have to
21 show how those votes were cast. You just have to show that the number of irregular
22 votes exceeds the margin.

23 And so what we attempted to do in the December 14th lawsuit is show that there
24 were more than --

25 Mr. Driscoll. You mean December 4th?

1 The Witness. What did I say?

2 Mr. Driscoll. December 14th.

3 The Witness. In the December 4th lawsuit, we attempted to show that the
4 number of irregular votes exceeded the margin of approximately 11,700.

1

2 [11:06 a.m.]

3

BY [REDACTED]

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Q Okay. And in your attempt to show that the -- that those, you know, irregular votes exceeded the margin, how did you learn of the facts and circumstances that comprised the allegations you made in that complaint?

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A We hired data experts to look at the voter roll. I mean, some of the allegations that we made, there were a number of ballots cast by registered voters who were also on the index of convicted felons published by the Georgia Bureau of Investigation, who we believed were ineligible to cast ballots. There were a number of voters who somehow managed to cast votes twice, who voted both absentee, and then showed back up again to vote in person. That happened in the primary, too. It was almost 1,000 people. In the primary, it was a number less than 1,000, but a significant number in the general election.

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There were -- you know, there's -- under Georgia law, you have to be registered to vote 30 days before an election. There were a number of voters who had registered within 30 days of the election, and who voted in the election. There were thousands of voters who had filed permanent change of address cards with the United States Postal Service indicating that they had moved to another State, but who voted in the November 2020 election. And there were tens of thousands who had filed permanent change of address cards showing that they had moved to another place in Georgia, but had cast ballots at the wrong address.

23

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25

There were -- we had 1,500 pages of exhibits and the complaint was dozens of pages long, but we went through, trying to show irregular votes that exceeded the margin, and I think we more than did that, frankly.

1 Q Okay. Thank you. You mentioned that you hired data experts to conduct
2 some of the analysis that then comprised the allegations in that complaint. Who were
3 those data experts that you hired?

4 A Well, when I say "I hired," I mean, I think they were paid for by the
5 campaign. And if you said a name, I could probably remember, but I don't remember
6 any of the names. One of them, I think -- I don't remember for sure, but their affidavits
7 would have been attached to the lawsuit. We had 1,500 pages of exhibits to the lawsuit
8 that showed all, you know, of these irregular votes, and they would have been attached
9 to the lawsuit.

10 Q Got it. Okay.

11 Anything on that?

12 [REDACTED] No, not on that. Are you coming back to that hearing, or are you
13 moving past that? I want to ask a question about the Senate hearing.

14 [REDACTED] No. Go ahead.

15 BY [REDACTED]

16 Q Mr. Shafer, you mentioned that you weren't tracking the hearing or
17 watching it live, but you might have seen some news accounts. Do you recall that
18 Mr. Giuliani spoke at that hearing about this claim of suitcases of ballots being pulled out
19 from under a table in Fulton County?

20 A I'm generally aware of that, yes.

21 Q And did that track with the allegation you mentioned earlier about poll
22 watchers leaving -- or poll workers and watchers leaving and then poll workers coming
23 back and counting ballots in secret?

24 A Yes. He's describing the same incident differently than the way I've
25 described it.

1 Q And did you continue to track that allegation after Mr. Giuliani raised it at
2 the Senate hearing? If I'm not mistaken, there was some video that came out on the
3 eve of that hearing, and he sort of revealed that video evidence. Are you familiar with
4 that?

5 A Yes.

6 Q And did you continue to track that story as to where it went?

7 A Yes. I followed that story.

8 Q And were you aware of the fact that the Secretary of State's Office or State
9 election officials put forward evidence to sort of address or -- well, address the
10 allegations?

11 A Yes, but the -- I'm aware of the responses from the Secretary of State and
12 the Fulton election superintendent, yes.

13 Q Did you ever watch the videos?

14 A Yes. I didn't watch the entire day's videos. It was from a surveillance
15 camera that no one realized was on, and I saw -- I've seen clips of it. I have not watched
16 the entire day's video. The video actually confirms the original allegation that I made
17 and that Fulton County denied. I accused them on either the night of the election or the
18 next day of having told us to leave because they were shutting down counting for the
19 night, and they denied having said that, but the video actually confirms that they had shut
20 down and that everyone had left. And then as soon as everyone had left, they began
21 pulling the stuff back out and resuming their counting.

22 Q Got it. And did you reach a conclusion in watching that video as to whether
23 there had been suitcases of ballots that had been pulled out while -- after the poll
24 watchers left?

25 A There were clearly suitcases of ballots pulled out after the poll watchers left.

1 Now, I have not watched the video to know how they got put under the tables to begin
2 with.

3 Q And I would ask you to this day, but I think it's sort of more relevant in sort
4 of the timeframe that we're talking about in December. Did you come to any conclusion
5 as to how those ballots got under the table before they were pulled out?

6 A No. I mean, I saw the video as confirming my original allegation which was
7 that they had pretended to stop counting the ballots and pretended to pack up their
8 materials until we left, and then they resumed counting. I think that Mr. Giuliani was
9 suggesting that the ballots had been there all day or had not been packed up when they
10 were pretending to have shut down.

11 Q Yes.

12 A But I don't remember exactly what he said, and certainly don't know what he
13 was thinking. But there was a -- there was some -- Fulton County's story kept changing.
14 Their original story was they had never pretended to pack up, and then their story
15 changed to Oh, yeah. Well, that is when we packed up.

16 Q Right. And so -- and your understanding of the surveillance video showed
17 that, in fact, after poll watchers had left, ballots were taken out from under a table, and
18 counting resumed without the poll watchers being present for some period of time?

19 A That's correct.

20 Q But you don't have a view as to whether those ballots that were taken out
21 from under the table were somehow fake ballots or had been stashed there earlier in the
22 day?

23 A I don't know -- I mean, I suppose you can answer that question by watching
24 the entire surveillance tape which I have not done. I do have some questions about the
25 validity of the ballots and about the process for counting. I mean, if you watch

1 the -- what -- if you watch the tape that Rudy Giuliani was talking about, he talked about
2 the ballots being pulled out from underneath the tables.

3 What disturbed me about the tape was that it appeared to show the election
4 workers scanning the same sets of ballots more than once. So that they would take a
5 batch of ballots, they would put it into the scanner, they would be scanned, and then they
6 appeared to take that same set of ballots and scan them a second time. That's what
7 disturbed me about the ballot -- about the video more so than the suitcases or the
8 ballot-carrying devices --

9 Q Boxes.

10 A -- boxes being removed from under underneath --

11 Q Thank you.

12 A -- the tables.

13 Q Okay. Thank you.

14 BY [REDACTED]

15 Q And just to finish off that point, Mr. Shafer, your concern about ballots being
16 scanned multiple times on that video from the State Farm Arena, did you become aware
17 of responses or, you know, explanations of that conduct that had -- that were made
18 public by the Office of the Secretary of State?

19 A They -- again, the stories kept changing. Gabe Sterling, who was the
20 statewide voting implementation manager for the Secretary of State, originally told me
21 that -- not to be worried about the fact that our poll watchers were not there at State
22 Farm Arena when the ballots were being counted in secret because an observer from his
23 office was there the entire time.

24 The video shows that that was not true, that his -- the observer from the Secretary
25 of State's office didn't show up until an hour after they had started the recounting in

1 secret. So, yes, I'm aware of the responses, and I'm painfully aware that the responses
2 kept changing and were not consistent.

3 I do know that there was litigation on the subject of the Fulton County ballots, and
4 that as part of that litigation, images of the ballots were produced. And that it was clear
5 that, in fact, ballots had been scanned more than once because there was an absentee
6 ballot that had been cast for Kanye West that had clearly been scanned more than one
7 time. You could tell it was the same person writing the name Kanye West.

8 And so the -- I think the Secretary of State and the Fulton County Elections Office
9 have denied any wrongdoing, but you can see them scanning ballots twice, and you can
10 see from the images that at least one ballot, and I think multiple ballots, were scanned
11 more than once.

12 Q Okay. Thank you. So moving forward in the timeline, were you aware of
13 a proposal or an effort among members of the legislature in Georgia to reconvene during
14 the time period before the electoral college meeting?

15 A Yes.

16 Q Okay. And what do you know generally about that?

17 A So there was a -- there were calls for a special session of the General
18 Assembly to reverse some of the emergency rules that the Secretary of State had
19 promulgated and the State Elections Board had promulgated in the general election and
20 was repromulgating for the runoff reelection that we felt stripped away electoral
21 safeguards and made the election more vulnerable to chicanery.

22 Q Okay. Were you aware of any specific effort to reconvene the legislature in
23 Georgia in order to change the outcome or have some effect on the outcome of the
24 election in Georgia?

25 A It was -- they were -- the two ideas were mixed together in what to me was a

1 confusing way.

2 Q Understood. Okay. Were you aware -- well, I can represent to you that
3 there was public reporting that there had been a retreat, or a meeting, of State legislators
4 at a -- or maybe it was a training, described as a training session on December 7th, and
5 Governor Kemp spoke at that training session. Are you aware of that?

6 A You're probably referring to the Biennial Institute of Legislative Education.

7 Q Perhaps I was.

8 A And I used to attend those. I did not attend that one, but I'm aware of
9 them, and I do -- I'm sure this was a topic of discussion there.

10 Q Okay. Understood. Yeah. That's what I was going to say. There's
11 been public reporting that Governor Kemp made a statement responding to some of
12 those attempts, you know, for efforts to reconvene and have the State legislature take
13 some action on the outcome of the presidential election. Are you familiar with
14 Governor Kemp's position on that issue?

15 A Generally. I mean, under the Georgia Constitution, a special session of the
16 General Assembly can be called by the Governor or it can be called by -- or the -- or a
17 certain percentage of the members of the House and Senate can sign a petition that
18 compels the Governor to call a legislative session. And I believe that at that biennial
19 institute, he rejected the idea of having a special session and that there was some
20 discussion of whether or not enough signatures could be gathered to compel him to call a
21 special session.

22 Q Okay. Thank you. There's also public reporting that Governor Kemp
23 made some statements about an alternative method for choosing presidential electors.
24 And then I can quote you what it's reported that he said was that in the 1960s, the
25 General Assembly decided that Georgia's presidential electors will be determined by the

1 winner of the State's popular vote. Any attempt by the legislature to retroactively
2 change that process for the November 3rd election would be unconstitutional and
3 immediately enjoined by the courts, resulting in a long legal dispute and no short-term
4 resolution.

5 Do you recall Governor Kemp making that statement on December 7th?

6 A I don't recall it to that level of detail, but I do remember he did not want a
7 special session.

8 Q Okay. And is that statement about the potential, you know,
9 unconstitutionality of the General Assembly taking some action contrary to the existing
10 Georgia law to determine the outcome of the presidential election. Is that consistent
11 with your understanding, then, of Georgia law?

12 Mr. Driscoll. Objection.

13 You can go ahead and answer.

14 The Witness. Why are you objecting?

15 Mr. Driscoll. I'm objecting just because it's asking for a legal conclusion, and
16 you're not a lawyer. But to the extent you were advised on it or know it, go ahead and
17 answer it.

18 The Witness. All right. So was -- the question again was am I aware or was I
19 aware that --

20

BY [REDACTED]

21 Q Sure. The quotes that I just gave to you that were -- it was a statement
22 that Governor Kemp had made that essentially concluded that efforts to have the
23 legislature choose an alternate outcome for the presidential election would be contrary
24 to Georgia law and unconstitutional. And my question to you is at the time in December
25 of 2020, was that consistent with your understanding of Georgia law?

1 A So my -- what I thought -- I believed that the lawsuit we filed on December
2 4th showed sufficient error to cast the outcome of the election in doubt, and that there
3 should not be a special session of the General Assembly until there had been a
4 determination through the judicial process that the original certification was invalid.
5 That was my approach to this issue.

6 Q Okay. Thank you. So, on the timeline, also on December 7th, there's
7 public reporting that Secretary of State Raffensperger certified the results of the
8 Georgia -- the presidential election in Georgia at that time, and the Governor completed
9 his certification of the electors that would vote for the Office of President of the United
10 States on that time. Do you remember that occurrence?

11 A I remember that their -- that Secretary Raffensperger re-certified the
12 election on December 7th. I was not aware that the governor had taken any action on
13 December 7th.

14 Q Okay. So on December 7th when this took place, what was your
15 understanding of that -- of the impact on the presidential elector process?

16 A The final certification made the election contest ripe. I saw the
17 certification as a step in the process, not the end of the process.

18 Q Okay. Helpful. So the certification by the Secretary of State and
19 Governor of the results you saw, as you said, a step in the process --

20 A Correct.

21 Q -- and not the final result? Okay. And as a person who had been chosen
22 and qualified as a presidential elector, what was your understanding on December 7th
23 about what that would mean for your role?

24 A Well, I was hopeful that the -- that we would have a hearing and a decision
25 on the election contest. We had requested an expedited hearing. I recognized that we

1 were running out of time, but I was hopeful that the courts would move swiftly to address
2 the allegations we had made in the election contest --

3 Q Okay.

4 A -- the petition.

5 Q Okay. I think we've been going for close to an hour and a half, and we're
6 about to start talking about the December 14th process. Is it a good time to take a short
7 break?

8 Mr. Driscoll. That would be fine.

9 [REDACTED] Okay. Let's go off the record.

10 [Recess.]

11 BY [REDACTED]:

12 Q So Mr. Shafer, when did you first hear that there would be a meeting of the
13 Republican electors on December 14th?

14 A Some -- within a day or two before December the 10th.

15 Q Okay. And from whom did you first hear about this contest?

16 A The lawyers for the -- on the election contest.

17 Q Okay. And who were those individuals?

18 A Alex Kaufman. I think it was Alex Kaufman who suggested this idea to me.
19 It may have been on a -- in a conference call with more than just Alex Kaufman, but I
20 recall Alex Kaufman being the one who suggested it. He is an attorney.

21 Mr. Driscoll. Yeah.

22 BY [REDACTED]:

23 Q And Alex Kaufman is one of the individuals who was representing you as a
24 plaintiff in that election contest?

25 A Yes.

1 Q Okay. So I'm not asking you to tell me any privileged communications that
2 you had with Mr. Kaufman about the litigation, but generally speaking, what were
3 the -- what were you told by Mr. Kaufman about the meeting of Republican electors on
4 December 14th?

5 A After my conversation with Mr. Kaufman, I became convinced that because
6 the election challenge was still pending and would still be pending on December 14th,
7 that in order to preserve President Trump's remedies, if he ultimately succeeded in the
8 contest, we would need to have a meeting of the electors to go through the motions of
9 casting the votes for him.

10 Q Okay. Fair to say that this is not a decision or concept that you arrived at
11 independently?

12 A No.

13 Q Okay.

14 A Well, it is fair to say, that no, I did not arrive at this decision independently.

15 Q Yes.

16 Mr. Harris. There's a double negative there.

17 [REDACTED] Yes. Thank you.

18 BY [REDACTED]

19 Q Also it's fair to say -- well, no. Let me rephrase.

20 Did Mr. Kaufman tell you that -- who wished for this to happen?

21 A No. He pointed to what had happened in Hawaii in 1960 and said that
22 he -- and suggested that I consider convening the presidential elect -- the Republican
23 nominees for presidential elector on December 14th to do something similar to preserve
24 President Trump's remedy.

25 Q Thank you. Did Mr. Kaufman tell you that the Trump campaign was asking

1 you to do this?

2 A I don't think that that's how it was phrased, no.

3 Q Okay. In addition to that conversation that you're describing to us with
4 Mr. Kaufman that I think you said was a couple of days before December 10th, did you
5 have other conversations in that time period with others about the plan to have
6 Republican electors meet?

7 A I'm sure that I did, but I don't recall the specifics of any conversation. I'm
8 not -- I was refreshed about the conversation with Alex Kaufman from the -- my email
9 search.

10 Q I see. Okay. Yeah. Maybe we can go into those emails, and that will
11 help. Let's -- well, actually, before we do that, in that preliminary conversation you had
12 with Mr. Kaufman, did he go into details about the specifics of sort of who, what, when,
13 where, how the meeting would occur, or was it at more of a general concept level?

14 A I mean, I don't remember exactly what he said. Obviously, it would be
15 privileged anyway, but I was generally aware of the process and became convinced after
16 the conversation with him that in order to preserve President Trump's remedy, we would
17 have to go through the process as it's prescribed by law so that if he prevailed, there
18 would be electoral votes available for him to be cast.

19 Q Okay. Thank you. Let's look at the document behind Tab 12 of your
20 binder, please. This is a document that you produced in response to our subpoena.
21 Does it look familiar to you?

22 A It does.

23 Q Okay. Let's start at the back of the document, or really, it's -- the first in
24 time email begins at the top of page 2. And the bottom of page 1 indicates that it's an
25 email sent by Kenneth Chesebro to your email address on Thursday, December 10th,

1 2020, at 5:55 p.m. Do you recall receiving this email?

2 A I don't, and I'm pretty -- I'm pretty sure that I did not read it.

3 Q Okay.

4 A I know that I didn't open the attachments, but I didn't respond to it. I did
5 not remember receiving it when I found it as part of your discovery request, and I do not
6 believe that I read it.

7 Q Okay. Who is Kenneth Chesebro?

8 A I do not know.

9 Q Okay.

10 A Well, I mean, I do know from his email that he is a lawyer that was helping
11 the Wisconsin Republican Party on this issue.

12 Q Understood. Was Mr. Chesebro known to you at all before he sent you this
13 email and described himself that way?

14 A No. I don't believe I've ever met Mr. Chesebro.

15 Q Okay. Did this email that's dated December 10th at 5:55, is it your
16 recollection that you had had a conversation with Mr. Kaufman about the concept of
17 Republican electors meeting before this date?

18 A Is that email in a tab or --

19 Q It is. That -- there is an email with -- that includes Mr. Kaufman. It's
20 actually the one before that, exhibit 11.

21 A So you said something about 5:00. This is 7:13. Is that the one you're
22 referring to?

23 Q Well, the email that we were just looking at, the first in time one behind
24 Tab 12 from Mr. Chesebro is dated 5 -- December 10th, 5:55 p.m.

25 A So mine says 11:14:44.

1 Mr. Driscoll. Down here.

2 The Witness. Oh, okay. Okay. Gotcha.

3 [REDACTED] We're working from the first in time backwards.

4 [REDACTED] Yes.

5 The Witness. I'm sorry. I don't -- I'm not familiar with that term, but yes, so he
6 was -- yeah. At 11:44, he forwarded me an email from 5:55.

7

BY [REDACTED]

8 Q Yeah. Great. And then if you look behind Tab 11, this is also an email that
9 you produced in response to the subpoena. It's an email from Alex Kaufman to yourself
10 with several other people copied. That's December 10th, 7:13 p.m.

11 A Yes.

12 Q Does this email correspond to the communication that you were recalling a
13 few moments ago about Mr. Kaufman?

14 A It reminded of the communication --

15 Q Okay.

16 A -- with Mr. Kaufman.

17 Q Okay. And is it your recollection that you had a phone call with
18 Mr. Kaufman before this email?

19 A Yes. Well, it became apparent from reading this email that that I had had a
20 phone call with Alex Kaufman, and I now -- and then I began to remember that call.

21 Q Okay. Thank you. I just wanted to ask you kind of on a subpoena
22 response basis. What's the basis for the redaction on this document?

23 Mr. Driscoll. It's an attorney-client communication.

24

BY [REDACTED]

25 Q Attorney-client communication. And that is because you had

1 attorney-client relationship with Mr. Kaufman? Okay. Can you identify the other
2 individuals who are copied on this document by their email addresses, the first one?

3 A It's Cleta Mitchell, Kirk Hilbert, Ray Smith, and Chris Gardner.

4 Q Okay. And is it your understanding that those are also -- each of them are
5 lawyers?

6 A Yes.

7 Q Did you have an attorney-client relationship with each of those individuals?

8 A I had an attorney-client relationship with Kurt Hilbert, and it's my
9 understanding that Alex and Cleta and Chris were legal consultants working for Kurt
10 Hilbert.

11 Q Okay. You said legal consultants. Is that right?

12 A Correct.

13 Q Is it -- was it your understanding that Alex, Cleta, and Chris were also
14 attorneys representing either yourself or President Trump at the time?

15 A Yes. Now, Alex Kaufman is also the acting general counsel of the Georgia
16 Republican Party, so -- and he has represented me individually as well, so he is -- I clearly
17 viewed him as my lawyer. But in these communications, he was a lawyer that had been
18 engaged by Chris Hilbert's law firm who was our -- was on the pleadings of our lawsuit.

19 Q Okay.

20 A I don't think Alex was on the pleadings, but he was clearly working on the
21 case.

22 Q Okay. The other individual on that list that I don't think you just mentioned
23 is Ray Smith.

24 A He --

25 Q What's your understanding of his role?

1 A He was also on the pleadings.

2 Q On the pleadings?

3 A He was -- so the two lawyers on the pleadings were Kurt Hilbert and Ray
4 Smith. And then the other lawyers were all working as lawyers but just not listed on
5 the -- on the pleadings.

6 [REDACTED] Okay. I don't believe we received any other documents that were
7 redacted on this basis for a privilege log. So just for clarity's sake, are there any other
8 documents that were responsive to our subpoena but were withheld on the basis of
9 attorney-client privilege or any other privilege?

10 Mr. Driscoll. There were not.

11 [REDACTED] Okay.

12 Q Other than this email and the conversation with Mr. Kaufman that you
13 recalled after seeing this email, do you know whether any of these lawyers gave any
14 advice to other Republican electors in Georgia?

15 A I don't know. I mean, I'm sure they probably did, but I don't know.

16 Q Okay. How --

17 A Ray Smith was at the meeting of the presidential electors and was -- did
18 most of the background work, as I understood it, in preparation for the meeting.

19 Q Okay. Thank you. And what was his role at the meeting of electors?

20 A He brought the paperwork. It's my understanding he brought the
21 paperwork.

22 Q Okay.

23 A He was the main lawyer for the election contest.

24 Q The main lawyer for the election context meaning litigation?

25 A For the petition that President Trump and I filed on December 4th.

1 Q Got it. Did you also consider him to be the -- a main lawyer or the main
2 person connected to the December 14th meeting of the electors?

3 A Well, I mean, it was -- I viewed the meeting of the electors as part of the
4 lawsuit to preserve the remedy that we were seeking under the lawsuit.

5 Q Okay. Let's go back to the document behind Tab 12 which, as we
6 discussed, is sort of two emails from Kenneth Chesebro to you. I believe you said earlier
7 that you didn't know Mr. Chesebro before receiving these emails from him. Did you
8 ever speak to him?

9 A I don't believe so, no.

10 Q Okay. So if you look on the back of this first page, it's listed as page 2.
11 This is the email addressed to you, Mr. Shafer, and Mr. Chesebro writes in the third
12 paragraph, "Several people with the Trump campaign, including Justin Clark and Nick
13 Trainer, supplied your contact info and asked me to help coordinate with the other five
14 contested States to help with logistics of the electors in other States hopefully joining and
15 casting their votes on Monday."

16 My question for you is did you know Justin Clark and/or Nick Trainer?

17 A I know who Justin Clark is. I don't know that I've ever met him. And the
18 name Nick Trainer is familiar to me, but I don't -- I'm not exactly sure who he is, and I'm
19 not sure if I've ever met him.

20 Q Okay. And who is Justin Clark?

21 A He was a campaign official.

22 Q Okay. Did you ever speak with Justin Clark or Nick Trainer about
23 Mr. Chesebro's email or --

24 A No.

25 Q -- the issues of the alternate electors?

1 A No.

2 Q Okay. In the final paragraph of this email, Mr. Chesebro writes that he has
3 two memos explaining the rationale for the electors voting on Monday, and then I think
4 in a later email, he attaches those. Do you recall receiving those memos?

5 A No. I mean, as I think I said earlier, I didn't remember receiving this -- any
6 emails from him and may not have even opened them until you requested me -- my
7 documents.

8 Q Okay. And then I guess the only other thing on this document I wanted to
9 ask you, in the very first paragraph, he refers to litigation in Wisconsin and says, "As you
10 may have heard, we plan to have the Trump-Pence electors cast their votes on Monday,
11 December 14th."

12 Had you heard anything about a plan to have electors meet in Wisconsin?

13 A No. Well, not that I recall. I mean, I was focused entirely on Georgia, and
14 it was unclear to me what was happening in the other States.

15 Q Okay. If you go forward to the first page in the same document behind
16 Tab 12, this is the later email from Mr. Chesebro. It's dated 11:44 p.m. the same day --

17 A Uh-huh.

18 Q -- and I wanted to ask you in the second paragraph, he writes, "I spoke this
19 evening with Mayor Giuliani who is focused on doing everything possible to ensure that
20 all the Trump-Pence electors vote on December 14. He is hopeful that the Georgia
21 electors will go along with this strategy."

22 Do you have an understanding of what Mayor Giuliani's role was?

23 A I never spoke to Mayor Giuliani. And, again, I never -- if I opened this email
24 at all, I did not read it carefully until, you know, a couple weeks ago when I searched my
25 email account to respond to your subpoena.

1 Q Okay. In that second sentence that I just read to you where Mr. Chesebro
2 says that Rudy Giuliani -- Mayor Giuliani is hopeful that the Georgia electors will go along
3 with the strategy, it sounds like you don't have any recollection of your reaction to that
4 statement at the time.

5 A No.

6 Q What is it -- what's your -- what was your reaction to reading that statement
7 when you more recently found this document?

8 A I mean, I am gathering that there were pending election contests in all of
9 these States, and that they were giving the same advice to the presidential elector
10 nominees in those States that they needed to go through the motions of casting the
11 ballots in order to preserve President Trump's remedy should he ultimately prevail in any
12 of these contests.

13 Q Okay. Outside of the context of this email, do you recall anyone else
14 connected with the Trump campaign asking you or other Republican electors in Georgia
15 to go along with a strategy?

16 A I mean, I think that in some of the other documents that I turned over to
17 Mr. Driscoll that I think were turned over to you, and I had email correspondence -- there
18 was email correspondence that I frankly did not remember receiving or even sending, but
19 it was obvious that during this time period, that I was involved in getting ready to attend
20 the meeting of presidential electors on Monday, December 14th.

21 Q Okay. Let me ask you a few questions about other people in the Trump
22 campaign, or representing President Trump that you -- to see if you had any
23 communications with them during this time period leading up to the meeting of the
24 electors.

25 So I think we identified Justin Clark and Nick Trainer because of the emails from

1 Mr. Chesebro, and you don't recall having any discussions with them about this --

2 A No.

3 Q -- right? Okay. What about a lawyer for the Trump campaign by the
4 name of Matt Morgan?

5 A That name's familiar to me, but I don't think I ever -- I don't think I've met
6 him, and I don't think I -- I don't think I spoke to him about any of this.

7 Q Okay.

8 A I don't think I've spoken to him at all.

9 Q Okay. You addressed Mayor Giuliani already. What about --
10 Mr. Driscoll. Actually, let me make sure I clean something up on that.

11 Did you ever have any conversations with Giuliani in any context about the
12 election separate and apart from the elector issue?

13 The Witness. I've spoken to him probably two or three times but never about
14 the meeting of presidential electors.

15 Mr. Driscoll. Okay. Thank you.

16

BY [REDACTED]

17 Q Did you speak with Mayor Giuliani about the election contest litigation?

18 A I mean, I recall two conversations with him, and one of them generally
19 related to the election contest.

20 Q Okay. What was the subject of the other conversation you recall?

21 A Well, I guess it related to the election contest, too. Both of them did.

22 Q Okay.

23 A In the first conversation, he wanted me to turn over the -- you know, we
24 were -- through our poll watching operation, we were collecting information about what
25 we saw as irregularities, and he wanted me to send all that information to him. That

1 was -- that was the first conversation I ever had with him.

2 Q Did you, in fact, send the information that he requested?

3 A Eventually. I said I needed to run it by someone else, and he assured me
4 that that was not necessary.

5 Q He assured you that you -- it was not necessary for you to run it by --

6 A Yeah. He was the boss of the person that I wanted to run it by.

7 Q I see. Who was the person you wanted to run it by?

8 A I can't pronounce his last name, but it was Stefan Passantino.

9 Mr. Driscoll. Yeah.

10 BY [REDACTED]

11 Q Stefan Passantino?

12 A Stefan, yeah.

13 Q Okay. What was Mr. Passantino's role?

14 A He was a lawyer for President Trump's campaign that was working out of the
15 State headquarters every day.

16 Q The headquarters in Georgia?

17 A Correct.

18 Q Okay. Did you, in fact, run it by Mr. Passantino before sending anything to
19 Mr. Giuliani?

20 A I did.

21 Q Okay. Do you remember anything else notable about your conversations
22 with Mr. Giuliani?

23 A I don't know what "notable" means, but I mean, he was very concerned
24 about the reports of problems in Georgia, and very concerned that I do everything that I
25 possibly could to remedy those problems.

1 Q Earlier we were discussing some of the video evidence and Mr. Giuliani's
2 statements at the hearing. Do you remember whether any of these conversations were
3 before or after that hearing?

4 A So one of them would have been before the hearing, and one of them would
5 have been after. I don't remember discussing his testimony at the hearing with him or
6 helping him prepare for the hearing.

7 Q Okay. What about any of the allegations or evidence that he advanced at
8 the hearing? Did you ever have a conversation with him about the factual basis for
9 those allegations?

10 A No.

11 Q Okay.

12 Anything else? Okay.

13 A No, not that I recall. I mean, I don't recall.

14 Q That's fine. Okay. Other individuals related to the Trump campaign that I
15 wanted to run by you.

16 Did you ever speak with Jenna Ellis about these issues?

17 A No.

18 Q Okay. A lawyer by the name of John Eastman?

19 A No.

20 Q Okay. What about an individual named Christina Bobb?

21 A That name is familiar to me. I'm not sure why, but I don't -- I don't
22 recall -- so when you say -- I don't recall ever -- for some reason, that name is familiar to
23 me. I don't recall ever discussing any of this with her.

24 Q Okay.

25 [REDACTED] She's a reporter as well as an attorney.

1 The Witness. That's why I know her name. I have met her, but I don't think
2 I -- I don't think I realized she was a lawyer, and I don't remember discussing any of this
3 with her.

4

BY [REDACTED]

5 Q Okay. Again, anything -- so I would say especially based on your
6 explanation that you saw the meeting of the Republican electors as connected to your
7 election contest litigation, a couple more names and just generally, any communications
8 with them about those -- any of those topics.

9 Boris Epshteyn?

10 A I've never -- I -- he's famous too, but I'm having trouble placing him. I don't
11 think I have ever spoken to him. I do think I may have tweeted him or retweeted him or
12 vice versa, but I'm not sure about that. For some reason, his name is familiar, but I don't
13 think I've ever spoken to him.

14 Q Okay. And do you recall him playing any role in the process of convening
15 Republican electors?

16 A Not that I'm aware of.

17 Q Okay. What about an individual who's, I believe, a former judge, James
18 Troupis?

19 A I do not recognize that name.

20 Q Okay. What about Bernard, or Bernie Kerik?

21 A I recognize that name. I don't know that I've ever -- I certainly never spoke
22 to him about the meeting of the presidential electors. I'm trying to think. I may have
23 met him at some point, but I don't remember exactly when or under what circumstances.

24 Q Do you remember generally meeting him in the post election time period in
25 Georgia?

1 A I don't actually have a recollection of meeting him at all, but it's possible that
2 I may have met him.

3 Q Okay. What about an individual who I believe was employed by the Trump
4 campaign named Mike Roman?

5 A That name's familiar too. I don't recall ever dealing with him.

6 Q Okay.

7 A But it's possible that I did.

8 Q Okay. And what about an individual named Mike Brown?

9 A I actually know more than one Mike Brown, but I don't recall dealing with
10 anyone named Mike Brown about the meeting of the presidential electors --

11 Q Okay.

12 A -- or the election contest.

13 Q Yes. Fair. This is one who was employed by the Trump campaign --

14 A Okay.

15 Q -- as opposed to any other Mike Browns. Okay. So just finishing off this
16 email that we were looking at behind Tab 12, there's some -- on the first page there,
17 there's some all caps language in the middle. And below that is a sentence that says,
18 this is the envelope that will then be opened only by the President of the Senate on
19 January 6th.

20 I know that you've testified that you don't really remember engaging with this
21 email from Mr. Chesebro. My question generally, though, is what was your
22 understanding around the time of December 10th of the process of counting the electoral
23 votes on January 6th?

24 A I don't think it occurred to me.

25 Q Okay. Did you have any understanding of the role of Congress in the

1 process of counting electoral college votes?

2 A I knew that they were counted in the presence of Congress.

3 Q Okay.

4 A You know, I later became aware that in the last several elections, there had
5 been attempts to -- by Democratic Members of Congress to contest various elector slates,
6 but I wasn't aware of that at the time.

7 Q Okay. Do you remember approximately when you became aware of that?

8 A About the time -- months after all of this happened, at about the time there
9 was some public suggestions that what we had done was somehow improper.

10 Q I see. So --

11 A I began to research the matter to assure myself that I had not done anything
12 improper.

13 Q Understood. Is it -- it sounds like this was after January 6th, 2021?

14 A Yes.

15 Q Okay. So putting yourself back in the mind frame of early December or,
16 you know, right around December 10th, did you have any understanding of the role of
17 the Vice President in counting electoral college votes?

18 A I -- did I have any understanding of the role of the Vice President in counting
19 votes?

20 Q Yep.

21 A On December 14th?

22 Q Let's talk first before December 14th.

23 A I mean, I did not -- my -- I don't remember what I thought in December, but
24 my general view likely would have been that his -- he would have convened, presided
25 over the meeting at which the ballots were open and counted.

1 Q Okay.

2 A At some point, I became aware that in January of 1961, then Vice President
3 Nixon, as President of the Senate, ruled that one set of the electoral certificates from
4 Hawaii would be counted and one would not, but I don't remember when exactly I
5 became aware of that.

6 Q Okay. Do you think it was before the meeting of the electors on December
7 14th?

8 A It's possible. I don't remember. I mean, it's possible that I would have
9 done some Google research on this idea before December 14th and learned that, but it's
10 equally possible that I would have learned it afterwards. I just don't remember the
11 exact moment that I learned that, but I am aware that Vice President Nixon did rule that
12 the Democratic electors should be counted from Hawaii.

13 Q Got it. Okay. Outside of your own googling or researching, do you
14 remember having any conversations with people about the example that you just gave us
15 of Vice President Nixon?

16 A This may be the only conversation I've ever had about it.

17 Q Got it. Okay. So it's fair to say that this is an independent exercise that
18 you did but didn't have -- no one told you what the example was?

19 A Hawaii was mentioned as a precedent for what we did.

20 Q Okay.

21 A But I don't think that -- I think I learned things about that later from my own
22 research. I don't think I presented all that information when Hawaii was suggested as a
23 precedent.

24 [REDACTED] So you're distinguishing you may have had awareness of there being
25 alternate electors in Hawaii after the 1960 election, but you're focused now on the role of

1 the Vice President and what that was, and Nixon -- in particular, Nixon's role after the
2 1960 election. That's what you came to independently after the fact?

3 The Witness. Well, I mean, her specific question was what I thought the role of
4 the President of the Senate was. And I had never actually considered that question the
5 way you asked it, but as I was sitting here trying to give you a full and honest answer, it
6 occurred to me that I had -- was aware that President -- Vice President Nixon, as
7 President of the Senate, had played a -- you know, that role with regard to the Hawaii
8 presidential electors.

9 [REDACTED] Okay.

10 BY [REDACTED]

11 Q Okay. Do you remember how the example of Hawaii came up?

12 A I believe that that was mentioned to me in the -- by the lawyers on the
13 election contest --

14 Q Okay.

15 A -- as why we needed to hold this meeting on December 14th.

16 Q Okay. So I think you testified earlier that you didn't have any other
17 communications with Mr. Chesebro other than receiving these emails. Is that accurate?

18 A That's to the best of my recollection.

19 Q Okay.

20 A Yes.

21 Q Did you ever come to have an understanding of what Mr. Chesebro's role
22 was in this effort?

23 A No.

24 Q Okay. Did you --

25 A I mean, other than what he said in his emails.

1 Q Right.

2 A He's a lawyer admitted in six different States, and he was helping in
3 Wisconsin.

4 Q Understood. Okay. And did you ever come to have an understanding of
5 whether Mr. Chesebro had a connection to other lawyers that you were dealing with on
6 these issues?

7 A I believe that I produced other emails to you that included forwarded
8 versions of this email --

9 Q Uh-huh.

10 A -- from Mr. Chesebro to those individuals, so I know he had some
11 communication with people in Georgia other than me. And if you will look, the email
12 that you've -- under Tab 12, it's -- while it's addressed to me, it's copied to three other
13 people who were presidential electors and officers of the Georgia Republican Party.

14 Q I see. That's very helpful. So these look like somewhat form addresses,
15 you know, with a title instead of a name in a few of those instances, but your recollection
16 is that the people who -- whose email addresses are reflected there were other electors
17 with you?

18 A Yeah. Joseph Brannon is the treasurer of the party. It looks like
19 he used-- well, you know, it looks like he used the wrong email address because we're
20 GAGOP.org, not dot com. But it appears that he attempted to copy Joseph Brannon,
21 who is the treasurer of the party, Carolyn Fisher who was at the time the first vice
22 chairman of the party, and Vikki Consiglio who is the assistant treasurer of the party, all
23 three of whom were Republican nominees for presidential electors.

24 Q Okay. Thank you. That's very helpful. Okay. So other than the
25 communications that we've already discussed here, what other communications did you

1 have before December 14th about the plan to convene the Republican electors?

2 A I don't -- I actually don't remember any communications, but from my -- the
3 production of documents, I mean, my recollection -- you know, obviously I received
4 emails and responded to emails. And it appears that I may have even called and
5 reserved the room in the State Capitol, but I don't remember doing any of that.

6 Q Okay. Did you have communications with any White House officials about
7 the Republican electors in Georgia?

8 A No.

9 Q Okay.

10 A Not that I recall, no.

11 Q Okay. So I'll give you two names just to see if this jogs your memory.

12 Did you ever communicate with Mark Meadows about this?

13 A No. I -- I've -- no. I've never communicated with Mark Meadows about
14 this. I don't think I had ever communicated with Mark Meadows at all on
15 something -- you know, before December 14th.

16 Q Okay. And did you communicate with Stephen Miller?

17 A I don't -- I know who that is too. I don't think I've ever communicated
18 or -- with him or met him.

19 Q Okay. Before December 14th, were you aware of coordination of alternate
20 elector meetings in other States?

21 A I was not aware, although obviously, if I had read the Chesebro email, I
22 would have been made aware, but I don't remember reading the Chesebro email.

23 Q Okay. So there are -- if we go, let's see, to Tab 13, there were a couple of
24 memos that were attached to the -- these emails from Mr. Chesebro. I think you've
25 testified that you don't recall receiving these emails. Do you recall reviewing these

1 memos at all?

2 A I downloaded them because he asked me to --

3 Q Understood. In response to the subpoena.

4 A -- and I did not read them. I just downloaded them and -- or no. Maybe I
5 didn't even download them. I think I just forwarded them from the original email.

6 Mr. Driscoll. You forwarded them.

7

BY [REDACTED]

8 Q Okay. So have you ever read these memos?

9 A Nope. No, ma'am.

10 Q Not even -- not at all to this day?

11 A Not to this day.

12 Q Okay.

13 A Do you want me to read them now?

14 Q Not the whole thing unless you would like to, but maybe it would be helpful
15 to just direct your attention to a couple of issues. Let's see.

16 So, yeah. Why don't I have you read the first two paragraphs on this memo in
17 page -- on page 13. It's the --

18 [REDACTED] I'm sorry, exhibit 13.

19

BY [REDACTED]

20 Q Exhibit 13. Thank you. Under summary. Just let me know once you've
21 had a chance to look that over.

22 A You want me to read the first paragraph?

23 Q Yes, please.

24 A The whole section or just the first paragraph?

25 Q Just the section that goes up to the January 6th hard deadline, so what's

1 under Summary here.

2 And I'd just like to note, Mr. Shafer, while you're reading that, we've been joined
3 by Congresswoman Lofgren.

4 A I'm sorry. By Congressman who?

5 Q Ms. Lofgren --

6 A Oh. Ms. Lofgren.

7 Q -- on the Webex.

8 A Welcome.

9 I've read it.

10 Q You've had a chance to read it? Okay. Great. So at the beginning of
11 that second paragraph under the header Summary, it says, "Assuming the electors
12 pledged to Trump and Pence end up meeting in a State on December 14 to cast their
13 votes, and then send their votes to the President of the Senate in time to be opened on
14 January 6th, a court decision, or perhaps a State legislative determination rendered after
15 December 14 in favor of the Trump-Pence slate of electors should be considered timely."

16 Is that consistent with your understanding of the reason for convening Republican
17 electors?

18 A No. My -- I mean, it -- my understanding -- the reason that I convened that
19 meeting was because the lawsuit was pending, the certification was in dispute, and I had
20 been persuaded that if we did not hold that meeting and cast those votes, that the
21 President's lawsuit would be mooted because there would be no remedy available to
22 him, should he prevail.

23 Q Okay. Other than the conversation with Mr. Kaufman that we've already
24 discussed, did you have conversations with anyone else that led you to that conclusion?

25 A No. I think I reached the same -- I reached that conclusion -- it didn't take

1 me long to reach that conclusion.

2 Q Okay.

3 A It made sense to me that we needed to go through these motions in order to
4 preserve him -- preserve his remedy, because the Constitution required these acts to take
5 place on December the 14th. And so, what exactly would we be asking the judge to do
6 in the election contest if we hadn't met on December the 14th and done what was
7 required.

8 Q Okay. I know that you've told us this is the first time that you're reading
9 this memo today, but do you recall anyone else giving you advice or suggesting to you
10 that the meeting of the electors was relevant to the process that would be undertaken in
11 Congress on January 6th?

12 A No.

13 Q Okay. This also -- in that parenthetical in the middle of that sentence, it
14 also refers to perhaps a State legislative determination. At the time that you were, you
15 know, convening the meeting of Republican electors, did you think that the possibility of
16 State legislative action was relevant to your meeting?

17 A I thought it was possible that the -- a judge could decertify the election,
18 but -- and specify that legislative action would be the remedy. I thought that was
19 possible.

20 Q Okay. Did you also think it was possible that the State legislature would
21 independently do anything that was relevant to the meeting of the electors?

22 A I didn't think that was politically possible or the best way to proceed.

23 Q Okay. Why not?

24 A I felt the best way to proceed was to file an election contest under the
25 election contest statute and show that the number of irregular votes exceeded the

1 margin and that the outcome of the election was in doubt, and then to seek a remedy
2 after that judicial determination had been made.

3 Q Okay. Were you aware of anyone with the Trump campaign, either
4 employed or representing the Trump campaign, encouraging action by the legislature in
5 Georgia?

6 A Yes. I mean, I think the President wanted us to go into special session.

7 Q Tell us what you remember about that. How did you come to be aware of
8 that?

9 A Well, I think that was in -- I could be wrong. I think that was in the news
10 media, but yes, the -- there was a call for -- I mean, I was encouraged to join the call for a
11 special session.

12 Q Encouraged by whom?

13 A I mean, it -- I mean, there was a movement. I mean, there was hundreds of
14 email messages urging a special session of the General Assembly and urging us to join in
15 the call for a special session of the General Assembly.

16 Q Okay. Setting aside any emails or other conversations with constituents, or
17 maybe rank-and-file members of the Republican Party in Georgia, did you have any
18 conversations with White House officials or campaign officials about the effort to
19 convene a special session?

20 A Not that I -- not that I can recall no.

21 Q Okay.

22 A I mean, I was working with the lawyers for the campaign who all believed
23 that the lawsuit was the appropriate way to proceed.

24 Q Okay. So there is another section I'd like you to read on page 2 of this
25 memo. If you just take a look at the three paragraphs -- the first three paragraphs on

1 page 2, let me know when you're ready.

1

2 [12:10 p.m.]

3 The Witness. I've read the first three paragraphs of that section.

4

BY [REDACTED]

5

Q Okay. Thank you.

6

7 I'll direct you to the first sentence in the second paragraph. It says, "Prudence
8 dictates that the electors in each state who are pledged to Trump and Pence meet and
9 cast their votes on December 14th, unless by then the race has been conceded."

9

What, in your mind, was the relevance of whether the race had been conceded?

10

11 A So, again, the first time I have read this paragraph, you know, was a few
12 minutes ago. So I have not given any thought to it until now, having just read it and
13 heard your question.

13

14 But if the President had conceded the race, then presumably his lawsuits would've
15 been abandoned, and there wouldn't be any necessity to preserve the remedies under
16 those lawsuits.

16

Q Okay.

17

18 At the time, before the meeting of electors on December 14th, were you involved
19 in any discussions about whether or not the President would concede the race?

19

20 A No. I mean -- no. My advice was not sought on that question, and I
21 wasn't involved in any conversation.

21

Q Okay.

22

23 Understanding that you don't remember reading this memo when you received it,
24 but, at the time, before the meeting of the electors, help me to understand why the
25 concession of the race would be a determining factor rather than the certification that
had already been done by the State's, sort of, executive branch?

1 A Because the certification was disputed. It was the subject of a pending
2 election contest. And so -- now, if the President had conceded the race, presumably his
3 election contests in Georgia and the other States would have been abandoned,
4 withdrawn, and then there would no longer be a dispute over the certification.

5 Q Okay.

6 Let me --

7 A It's analogous to what happened in 2000 when, you know, Al Gore, shortly
8 before this December 14th deadline, conceded the race, and then all of his legal efforts
9 were abandoned.

10 Q Okay.

11 A Whether he felt that, you know, that was the right outcome or not, I mean,
12 once he conceded the race and the legal efforts were abandoned, the process moved
13 forward.

14 Q Okay. Thank you.

15 Let me direct your attention to the document behind tab 14. This is another
16 memo that was attached to that email from Mr. Chesebro to yourself.

17 And I assume the same answer for this one; have you ever read this memo
18 before?

19 A I have not.

20 Q Okay.

21 Let us just go forward to page 3 then. About halfway down the page, it begins a
22 discussion of Georgia. Could you just review those four or five paragraphs there on this
23 page about Georgia and let me know when you've done so?

24 A I have read those -- every paragraph under section B on page 3.

25 Q Okay.

1 So it starts with citations and quotes from two Georgia statutes. Are you familiar
2 with those Georgia laws?

3 A Generally familiar with both of those provisions.

4 Q Okay.

5 And then in the third paragraph that starts with "However, there's a wrinkle," it
6 says, "Unlike in other States, where that choice is automatically effective" -- and, in
7 context, I believe "that choice" means the choice of a replacement elector -- "in Georgia a
8 choice must be ratified: 'immediately after such choice the name of the person so
9 chosen shall be transmitted by the presiding officer of the college to the Governor, who
10 shall immediately cause notice of his or her election in writing to be given to such
11 person.'"

12 I know we've discussed that you didn't read this memo at the time that you
13 received it, but do you remember discussions before the December 14th meeting about
14 this issue?

15 A No.

16 Q Okay. So no discussions about the provision of Georgia law related to
17 replacement of electors?

18 A Well, I mean -- let me -- no discussion of the Governor ratifying the choice of
19 an alternate elector.

20 I mean, we -- obviously, I think I've already testified, we did discuss the need to
21 meet at noon on December 14th at the State capitol. I wasn't aware of the apparent
22 controversy over what "seat of government" means.

23 We had conversations about the procedure for replacing Presidential electors who
24 were not in attendance. Never discussed the replacement of a Presidential elector
25 requiring ratification of the Governor, but did have discussions about needing to transmit

1 all of the forms to the various officials as required by the code, and that would've
2 included the Governor.

3 Q All right. Thank you.

4 In this last paragraph, which addresses this question about the replacement of
5 electors and the actions required by the Governor, the last sentence says, "Given this
6 statutory provision, it seems imperative that every effort be made to secure the
7 participation of all 16 electors, and to avoid making a substitution if at all possible."

8 What's your understanding of why it's imperative to avoid needing a substitution?

9 Mr. Driscoll. Objection.

10 Go ahead and answer.

11 The Witness. I was not aware that was a concern, because I didn't read this
12 memo at the time. But I'm assuming it's because of this concern over that substitution
13 apparently needing to be ratified.

14

BY 

15 Q Okay. And outside of the context of this memorandum, do you remember
16 having discussions with anyone before the meeting on December 14th about the
17 importance of getting the originally named electors to participate?

18 A No. I mean, the emails that I turned over showed that we were aware
19 because of the last-minute organization of this meeting that not every Presidential
20 elector would be able to attend, or every nominee for Presidential elector would be able
21 to attend, and that we would need to replace one or more.

22 Q Okay. But do you remember any conversations around those issues of the
23 replacement of electors that relate to whether or not your meeting would be valid
24 because of the need for the Governor to ratify any elector replacements?

25 A No. And as I read this email, it wouldn't have borne on the validity of what

1 we were doing, because this would be something he would be required to do after we
2 had done what we needed to do under the statute.

3 Q Okay.

4 [REDACTED] Did you want to ask a question?

5 [REDACTED] Yeah, just a followup on that.

6

BY [REDACTED]

7 Q Asking it slightly differently, did anyone ever impress upon you the urgency
8 or the -- the urgency of getting the original electors, as opposed to going to alternate, in
9 the process of trying to corral folks in this last-minute endeavor?

10 A I never had any -- I never had any conversations, as I recall, about any
11 concern over the replacement of Presidential electors, because I know that had been
12 done before.

13 Q Okay.

14 [REDACTED] Are you done with the memo? I have one other question on the
15 memo.

16 [REDACTED] Oh, go right ahead.

17

BY [REDACTED]

18 Q I know you haven't seen it before, but the last, at the very bottom of the
19 memo -- it's page 5. For some reason, there's a blank page 6. So, just the bottom
20 page 5, do you see that "In conclusion"?

21 A Uh-huh.

22 Q There's reference by the author of the memo that -- or an assessment that
23 voting by an alternate slate of electors is, quote, "somewhat dicey in Georgia."

24 Did anyone ever express to you any concerns about the process of voting
25 for -- voting an alternate slate of electors in Georgia?

1 A No.

2 Q Did anyone ever tell you that they thought it was somewhat dicey?

3 A I've never heard the word "dicey" used in connection with this, no.

4 Q Somewhat problematic?

5 A I mean, I don't remember it. I think I turned over to you an email message
6 from one of the Republican nominees for Presidential elector who contacted me saying,
7 what's going on here?

8 Q Mr. Hennessy?

9 A Mr. Hennessy, yes. And I don't know if he used the word "problematic." I
10 think he was skeptical about why we would need to meet, and I explained to him what we
11 were doing the same way I'm explaining it to you today. It made sense to him, and he
12 showed up and voted.

13 Q Did anyone who was promoting the idea of having this meeting or
14 suggesting it to you express any concerns about whether the process was problematic or
15 dicey?

16 A No. No.

17 Q Thank you.

18 A I mean, other, obviously, than this memo I didn't read.

19 Q Got it.

20 BY [REDACTED]

21 Q Right.

22 So, going back to our discussion about the replacement of electors, it's my
23 understanding that, ultimately, there were four Republican electors who did not
24 participate on December 14th.

25 Generally speaking, do you remember having discussions with any of those

1 electors about their reasons why they didn't participate?

2 A Not before the meeting, other than -- Pat Gartland's wife died on the
3 Thursday before the Presidential electors met, and so I probably they had some
4 communication with him about the passing of his wife. So I knew he would -- I knew he
5 wasn't going to come, or he may have told me he wasn't going to come.

6 Q Sure. That seems --

7 A But he's the only one that I recall having any conversation with before.

8 Someone else contacted the Presidential electors. Obviously, Mr. Hennessy
9 contacted me when he was contacted by someone else, but I didn't -- I didn't make the
10 contacts.

11 Q Okay.

12 [REDACTED] Do you remember Susan Holmes expressing concerns?

13 The Witness. I never spoke to her about it.

14 BY [REDACTED]

15 Q I was going to give you the names, just to see if it jogged your memory about
16 any other conversations before December 14th.

17 So what about with John Isakson?

18 A I never spoke to him about it before December 14th. I have spoken to him
19 subsequently.

20 Q Okay.

21 And you said, same with Susan Holmes, no discussions before the 14th?

22 A Correct.

23 Q Okay.

24 And what about CJ Pearson?

25 A He was actually at the meeting. But he had -- he was going to college in

1 Alabama and had reregistered to vote in Alabama and so, in our opinion, was no longer
2 eligible to be a Presidential elector in Georgia. And so we -- he very much wanted to be
3 one, but we replaced him anyway.

4 Q Okay.

5 Do you have any understanding of what the reason was that Ms. Holmes didn't
6 participate?

7 A No.

8 Q Okay. What about Mr. Isakson?

9 A He had a work conflict and he had gotten late notice.

10 Q Okay.

11 I think you seemed to indicate that you may have had conversations with Mr.
12 Isakson or others after December 14th about their replacements. Tell us about those
13 conversations.

14 A So, I mean, John Isakson is one of my closest friends, and he gave an
15 interview about this, and it was obvious from his interview that he did not understand
16 what we were doing on December the 14th. And so he and I had a conversation, and I
17 explained it to him. This was several weeks ago.

18 Q Right. Okay.

19 I think we are having a little technical issue, so we are going to go off the record
20 for just a minute.

21 [Discussion off the record.]

22 [REDACTED] Okay. We'll go back on the record, please.

23 Okay. Thanks for that.

24 There we are.

25

BY [REDACTED]

1 Q Okay. If you could flip, Mr. Shafer, to the document behind tab 16. This is
2 another attachment to that earlier email from Mr. Chesebro. Do you recognize this
3 document? It says "Memorandum" at the top.

4 A So you're saying, is this a document -- I mean, it has my name on it, from me.
5 Is this the -- this was a draft document that Mr. Chesebro prepared for me.

6 Q Correct. That is certainly my understanding. It was attached to that
7 email.

8 A I'm looking at it for the first time. Although something --

9 Q Okay.

10 A Although this looks like something similar that was actually prepared.

11 Q Yeah. We can look at the actual one in a moment, but I'll represent to you
12 it looks quite similar to this, maybe identical.

13 A Okay.

14 Q So did you have any understanding -- I know you've told us you didn't look at
15 these documents when you received them, but do you have any understanding of how
16 this memo came to be drafted, your name on it?

17 A No.

18 Q Okay.

19 A Well, I mean, other -- no, I -- no.

20 Q Okay.

21 And let's see. If you look at tab 17, this is a further email from Mr. Chesebro,
22 roughly the same evening as the earlier one. This one is marked as 1:02 a.m. on Friday,
23 December 11th. And he writes that it's an update with some revisions, it seems, to the
24 certificate. And it seems to relate to the issue we just discussed about giving notice to
25 the Governor of a substitution of electors.

1 Do you recall receiving this email or engaging with this at all?

2 A No, I didn't respond to it. I don't think I even read it. I didn't realize I had
3 had it until I searched for the documents in response to your subpoena.

4 Q Okay.

5 If you look behind tab 18, this is the document that was attached to that email we
6 just looked at from Mr. Chesebro.

7 A Uh-huh.

8 Q It's titled "Certificate of the Votes of the 2020 Electors from Georgia."

9 Again, even if you don't recall receiving email from Mr. Chesebro, does this
10 document look familiar to you?

11 A It looks similar to the one that we executed on December 14th.

12 Q Okay.

13 If you could read that first paragraph, it says, "We, the undersigned, being the duly
14 elected and qualified Electors for President and Vice President of the United States of
15 America from the State of Georgia, do hereby certify the following."

16 What was your understanding before and up to, you know, December 14th, 2020,
17 of what that language, "duly elected and qualified," meant?

18 A So, at this moment in time, the certification was disputed. It was the
19 subject of a pending election contest that had not been decided or even heard. And so
20 we were -- you know, I became persuaded, after consultations with the lawyers, that we
21 needed to go through the motions of casting our votes exactly as prescribed by the code
22 in order to preserve this remedy for President Trump if he ultimately prevailed in the
23 election contest that was pending.

24 Q Okay.

25 Did you have or do you remember anyone else raising concerns about whether

1 the Republican electors under these circumstances were, in fact, the duly elected and
2 qualified electors from Georgia?

3 A No. And I made clear -- you know, I convened -- when this group of
4 individuals met at the State capitol, I called the meeting to order and said at the
5 beginning that there was an election contest pending and that we were taking these
6 actions today to preserve President Trump's remedies under that election contest.

7 So it was very clear to everyone who participated in the meeting and signed these
8 certificates exactly what we were doing, and that is, following the law exactly as
9 prescribed to preserve the remedy.

10 Q Okay.

11 Did you ever consider having -- making revisions to this language that would
12 reflect what you've just told us you understood the purpose to be?

13 A I did not. But it was said to me that if we didn't follow the procedure
14 exactly as prescribed that that could be used as a technicality to say we had not
15 preserved the -- properly preserved the remedy.

16 Q Okay.

17 A Which made sense to me because so many of the lawsuits that had been
18 filed by President Trump had been rejected on technical grounds unrelated to the merits.
19 And so following the form exactly, that line of reasoning made sense to me.

20 Q Okay. Following up with that, you said that that was said to you, about the
21 issues of technicalities. Who said that to you?

22 A The lawyers on the election contest.

23 Q Okay.

24 And so do you remember any discussions either with the lawyers or with other
25 electors about considering other language instead of what is on this certificate?

1 A There was no discussion of alternative language. An argument was made
2 that it needed to be -- we needed to follow the code precisely to preserve the remedy,
3 and that made sense to me.

4 Q Okay.

5 So, other than the conversations that we're talking about here -- and maybe I
6 should clarify. So when you're talking about lawyers on the election contest giving you
7 this advice about preserving the validity of your actions from any contest about technical
8 grounds, was that in the same early December conversation that we talked about that
9 you were refreshed by finding that email from Mr. Kaufman?

10 A Yes, ma'am.

11 Q Okay. Did you have further consultation with them leading up to and, you
12 know, through the December 14th meeting?

13 A No. I mean, but this -- you've got to remember, December 10th was
14 Thursday, and --

15 Q Sure.

16 A -- the meeting was Monday, so there wasn't a lot of time for --

17 Q It was a quite compressed time period.

18 A -- yeah -- consultations.

19 Q Okay.

20 Other than these emails from Mr. Chesebro with the memos and the phone
21 conversation that you've referred to that was reflected in that email that you produced,
22 did anyone else give you any documentation about the legality of the meeting of
23 Republican electors?

24 A When you say -- so, when you say "documentation about the legality of the
25 meeting," you're asking?

1 Q Did you receive any other legal memos or other documents that reflected --

2 A No. I mean, any other documents I would've turned over to him, and we
3 would've redacted them probably.

4 Q Okay.

5 A So, no.

6 Q Okay.

7 Okay. Did you ever talk to any Republican electors from other States?

8 A I mean, I have probably talked to people who were Republican electors in
9 other States, but not about -- not in the period leading up to December 14th, no.

10 Q Got it. That's a good point. I know that there were several other State
11 party chairs like yourself who were involved as electors in other States. Did you talk to
12 any of them about the meeting of Republican electors on December 14th, 2020?

13 A No.

14 Q Okay.

15 Any other -- were there any efforts to convene conference calls or any other
16 attempt to coordinate among electors in different States?

17 A Not that I was invited to or participated in.

18 Q Okay.

19 [REDACTED] Let me pause for a moment and see -- nope, Ms. Lofgren is no longer
20 with us, right?

21 Okay, great.

22 BY [REDACTED]

23 Q Let's look at exhibit 25, please. I believe this is an email that you just
24 referred to in response to your earlier questions with Mr. Hennessy. Feel free to take a
25 minute to refresh your recollection about it if you need to.

1 A I remember it.

2 Q So, if you scroll to the back, the first email in time there, this is an email that
3 it looks like Mr. Hennessy forwarded to you but that he had received from somebody
4 named Robert Sinners.

5 A Yes.

6 Q Who is Mr. Sinners?

7 A He was -- he signed the email. He was the Georgia State EDO director for
8 the President's reelection campaign. "EDO" means election day operations.

9 Q Did you --

10 A He was the election integrity director.

11 Q Election integrity director?

12 A That's what "election day operations" referred to.

13 Q Oh, okay.

14 A He was responsible for helping recruit poll watchers and monitoring the
15 election day operations.

16 Q Okay. Yeah, could just explain to us -- maybe you did with what you just
17 said, but -- what is the concept of -- what does "election integrity" mean in this context?

18 A Making sure that all the valid votes are counted and the invalid votes are
19 rejected and that the counting is done in the open and in accordance with law.

20 Q Okay. And was Mr. Sinners known to you in that capacity?

21 A Yes. He had been -- he was an employee of the President's campaign, but
22 he had been working in Georgia since the late summer or early fall, and so I had had
23 interactions with him.

24 Q Okay. Is he working at the direction of the Trump campaign or the
25 direction of the Georgia Republican Party?

1 A So he was an employee of the Trump campaign, so he was under their
2 direction. I believe that he worked out of the State party headquarters, and so he
3 would've been working with us.

4 Q Okay. Was his outreach as reflected here in the email that he sent to Mr.
5 Hennessy done at your direction?

6 A No.

7 Q Okay.

8 A Well -- no. I think I -- I think there's another group of emails that I turned
9 over where he and I emailed back and forth and I asked him who exactly would be
10 notifying all the electors. And so I guess it emerged that he did it. I don't know if, by
11 asking that question, I was suggesting or directing that he do it, but he was not in my
12 employ or under my authority.

13 Q Okay. Thank you. Yeah, we'll look at that email next.

14 Let me just direct your attention to what Mr. Hennessy wrote. So, if you turn
15 back to the first page here, it's at the bottom of the page. His email is December 12th at
16 7:46 p.m., and he says, you know, "does the guy below have any standing to be asking me
17 to 'fulfill my duties as an elector'? What's he [talking] about?" He said "taking" but he
18 means "talking" about.

19 Do you remember receiving this email?

20 A I did not remember this email exchange until I discovered it, but, I mean, it
21 refreshed my memory when I found it a couple weeks ago.

22 Q Right. What's your reaction to his, sort of, questions to you there?

23 A Well, I mean, so it was late on Saturday night that he was asking me why on
24 Earth they were asking him to show up and cast his vote.

25 And so I -- you know, if I had known my email message was going to be produced

1 to Congress, I might have worded it slightly differently. But I basically told him the same
2 thing I've told you, which is that we were meeting to preserve President Trump's
3 remedies under his lawsuit.

4 Q Right. You sort of characterize it as, like, why on Earth am I getting this
5 email? Is that because you understand that he perceived this to be an unusual request?

6 A Yeah, I mean, look, maybe I should've called each one of these people myself
7 and explained it to them. I just didn't have the time to do this. And so he obviously
8 got an email message from Robert Sinners that didn't make much sense to him, because
9 it didn't really explain why he was being asked to go to the State capitol and cast his vote.

10 But once I explained it to him, he wrote back and said, "I don't want to weigh into
11 this matter, but this seems pretty straightforward. I guess I will be there."

12 Q Okay. Yeah, thank you.

13 Let's talk about your response, which is the middle email on this page.

14 A Uh-huh.

15 Q So you write, as you have explained to us today, you know, "Because the
16 election contest that President Trump filed in Georgia has not been decided, the Trump
17 campaign is asking us to preserve his rights by meeting Monday at noon and casting our
18 votes." And then you say, "I am going to go."

19 So, when you were relaying to Mr. Hennessy that the Trump campaign was asking
20 the Republican electors to go do this, were you referring to your communications with
21 counsel on the election contest suit?

22 A Yes, ma'am.

23 Q Okay.

24 And then you continue on and write, "Crazy times. But in the unlikely event he
25 he" -- probably you mean to say, "in the unlikely event that he" -- "wins the contest, we

1 will be screwed if we did not meet and vote."

2 A So what I was saying, somewhat clumsily, was that if we didn't meet and cast
3 these ballots, that he would not have a remedy even he prevailed under the lawsuit.

4 Q Okay.

5 And can you explain to us why you felt it was unlikely that Mr. Trump would win
6 the election contest?

7 A Because we were having trouble getting the -- we were having trouble
8 getting a hearing on the election contest, and I was afraid that they were going to run the
9 clock out on us. I mean, I think at this point in time the lawsuit had not yet been
10 assigned to a judge that was authorized to hear it.

11 Q Okay. And not to go too far into detail about the lawsuits, but it's my
12 understanding that there was a lawsuit filed in State court in Fulton County, as well as a
13 suit that was, I'm not sure at this time, but was pending in Federal court at some point
14 about the election.

15 A So the State court lawsuit was one that I was a co-plaintiff in. It was an
16 election contest under the Georgia Election Code. It was filed on December the 4th. It
17 was required to be heard within 20 days of being filed. And we obviously had requested
18 an expedited hearing.

19 And at this point in time, it had not yet been assigned to a judge that was
20 authorized to hear it. It actually had been assigned to judge who was not authorized to
21 hear it and who had issued a ruling that it would be considered in due course, or in
22 normal course, which meant, in Fulton County Superior Court, months from now. And
23 so we were trying to get it reassigned to a judge who could hear it so that, you know, that
24 judge could rule on it.

25 And then, however that judge ruled, if he or she ruled in favor of us, it would be

1 appealed by President Biden to the Supreme Court, or if that judge had ruled against us, it
2 would be appealed by us to the Supreme Court.

3 And so I was concerned on December the 12th that, because it had not yet been
4 assigned to a judge, that the clock would run out on us. That's what I meant by that.

5 Q Okay. Thank you.

6 And it's my understanding that the ruling, or -- yeah, the ruling by the judge that
7 you just referred to, you know, "it will be considered in normal course" was a matter,
8 itself, that was appealed to the Georgia Supreme Court. Is that right?

9 A Well, so that judge -- Judge Russell was not -- who issued that ruling, she was
10 not authorized to make any rulings at all, because we had named the Fulton County
11 Elections Board as a defendant in the contest, so it had to be assigned to a judge who was
12 not an elected judge in Fulton County, and she was. And so it shouldn't have been given
13 to her at all, setting aside the normal court's ruling.

14 And so we had -- it's my -- you know, I didn't do these things myself, because I'm
15 not a lawyer, and I was represented by lawyers. It's my understanding that the lawyers
16 had desperately been trying to get the case reassigned to an eligible judge.

17 And when they were not initially successful, they then filed an emergency appeal
18 with the supreme court for them to just take original jurisdiction of that, because it would
19 end up being there anyway.

20 Q Okay. Thank you for that explanation.

21 And it's my understanding that the Georgia Supreme Court issued a ruling actually
22 on the same day that you sent this email, on December 12th. Do you recall that?

23 A Yes, basically saying that you can only appeal a final order, and no final order
24 had been issued.

25 Q Understood.

1 Did the ruling by the Georgia Supreme Court factor into your characterization of
2 the outcome of Mr. Trump prevailing in the election contest being unlikely?

3 A It certainly, in my mind, reduced the likelihood that this thing was going to
4 be heard in time.

5 Q Okay.

6 A And I will add that it was not actually assigned to a judge and put down for a
7 hearing until Friday, January the 8th, 2022 [sic], which was weeks beyond the 20-day
8 statutory deadline and 2 days after Congress had met to count and certify the votes, at
9 which point the lawsuit was completely moot.

10 Q Okay. Thank you for that.

11 [REDACTED] Anything else on this?

12 [REDACTED] No.

13 [REDACTED] Okay.

14 BY [REDACTED]

15 Q Let's go to another email; it's behind tab 19, please. So this kind of gets us
16 into the more logistical, you know, matters related to the meeting on December 14th.

17 So this email that I wanted to draw your attention to -- so it's, on the bottom half
18 of the first page, another email from Mr. Chesebro. This one is Friday, December 11th,
19 at 5:35 p.m. It's to a number of individuals, and then ultimately it's forwarded to you.
20 But I wanted to know if you know who these individuals are.

21 The first one that's listed in the "To" line is Joshua Findlay.

22 A Yes, I know him.

23 Q And what was his role? It appears he's employed by the Donald
24 Trump -- from the Trump campaign.

25 A He was an employee of the President's reelection campaign. I don't know

1 what role he was playing on Friday, December the 11th. I got to know him because he
2 was in the section of the campaign dealing with the selection of delegates to the national
3 convention. I think he is also a lawyer, or at least he went to law school.

4 Q Okay.

5 What about the next individual listed in the "CC" line, Jon Black?

6 A I do not recognize that name.

7 Q Okay. His email address ends "@gop.com."

8 A That would be an RNC, a Republican National Committee, domain. That's
9 not a Georgia Republican Party domain.


10 Q Okay.

11 Also on this email there's an individual we talked about a little bit earlier named
12 Mike Roman, or here it's reflected as "mroman," who also was a donaldtrump.com email
13 domain. Any understanding of what Mike Roman's role was?

14 A I've heard his name before, but I do not think I've ever met him, and I'm not
15 sure what role he played.

16 Q Okay.

17 And same question. The last email on the "CC" line is

18  Any understanding of what the role -- what would be the
19 role of Mr. Kerik?

20 A I mean, I know who he is, and I know he was playing a role, but I don't know
21 exactly the role.

22 Q Okay.

23 The top email is then forwarded -- reflects the fact that it was forwarded to you by
24 Mr. Sinners, to yourself and to Stewart Bragg.

25 It says, you know, in the second sentence, "Chairman, I understand you've

1 reached out to a few Electors already and I have been doing so as well. A room at the
2 capitol complex would certainly be advised. Stewart, lets chat about the logistics and I
3 will fill the gaps over the weekend."

4 So what do you remember about your efforts to reach out to electors or to secure
5 a room at the capitol complex as of December 11th?

6 A I don't remember -- I don't remember reaching out to any electors.
7 Although, many of these electors were officials in the party with whom I was dealing at
8 that time on almost a daily basis, and so it may be that I had conversations with electors.
9 But I don't recall ever getting out a list and calling through the electors.

10 Q Okay.

11 A And I think at this point we would almost certainly have already secured a
12 room, because this is Friday at 6 o'clock and the meeting was Monday at noon.

13 Q Okay. What was your understanding of the significance of securing a room
14 at the capitol?

15 A We needed a place to have the meeting. We weren't doing it outside or in
16 the lobby.

17 Q Well, why select a room at the capitol as opposed to a room in your office,
18 for instance?

19 A Because I think it had -- I think the Presidential electors had to meet at the
20 State capitol. You drew to my attention the "seat of government" is the actual phrase in
21 the code.

22 Q Okay. Understood. So your understanding of the importance was that it
23 was required by statute; is that fair?

24 A Correct. We were following the steps as prescribed by the statute.

25 Q Okay.

1 So do you have any memory of how you came to secure a room at the capitol?

2 A I don't really. I thought there was another document that suggested I had
3 arranged a room. But I probably would've called the speaker's office and asked if we
4 could have a room.

5 Q Okay. Who would that individual be?

6 A It probably would have been Spiro Amburn, who's the speaker's chief of
7 staff. I say that because the room we met in was a room that was assigned to the house
8 of representatives, so we would've had to have gotten that room from the speaker's
9 office.

10 Q Okay.

11 Okay. So, if you turn to the next tab, number 20, this is an attachment to this
12 email that originated with Mr. Chesebro and was forward to you by Mr. Sinners. And it's
13 titled and starts out, "How to Cast Electoral Votes in Georgia."

14 Do you remember receiving or reviewing this document before December 14th?

15 A No, I don't.

16 Q Okay.

17 This actually continues on with the Pennsylvania provisions on the next page, but
18 there's no need to address those. So why don't you take a moment and just review the
19 first page that relates to Georgia, and let me know when you've had chance to look at it.

20 A So we're on exhibit 20, page 1?

21 Q That's correct.

22 A I have read page 1.

23 Q Okay. Is this generally consistent with the logistical pieces of how you
24 came to meet with the electors on December 14th? And then, if your answer's "no," my
25 next question is going to be, how so?

1 A So we met in a room a little bit bigger than this, with a table that was
2 U-shaped. And I presided the meeting -- over the meeting. I didn't prepare any of the
3 documents. They brought a computer, and they generated these certificates and these
4 documents, and we signed them.

5 I was not -- I was only involved in the explaining what we were doing and in
6 conducting the meeting. I was not involved, really, in the preparation of the documents.
7 And so I never saw this. And I did, obviously, look over the documents that I signed, but
8 wasn't prepared -- wasn't involved in their preparation.

9 Q Okay. You just said that they brought documents. Who is the "they" that
10 you're referring to?

11 A So I thought -- I think Ray Smith was -- I think I said earlier that I believed Ray
12 Smith was the one who was to have thought through everything that we needed to do in
13 order to preserve President Trump's remedy. He was the main lawyer on the election
14 contest.

15 And Robert Sinners brought a printer and a computer and was involved in the
16 physical preparation of the documents, but I assumed that he was acting under the
17 instructions or supervision of a lawyer.

18 Q Okay. And you assumed that that lawyer was Ray Smith?

19 A Yeah. So -- that's in my mind, so at some point someone had said Ray is in
20 charge of preparing, you know, for this meeting.

21 Q Okay.

22 The first thing that is, you know, recommended here on this "How to Cast
23 Electoral Votes in Georgia" document is, before the meeting of electors, to consider
24 issuing a press release.

25 Do you remember whether you issued a press release before or in connection

1 with the meeting?

2 A We didn't issue a press release before the meeting.

3 Q Did you issue one after?

4 A I don't know that we issued a press release, or else we would've produced it.
5 But I did make -- I mean, we invited the press into the meeting, and I made statements at
6 the meeting which were reported. And then I held a press conference immediately after
7 the meeting. And then I made a statement on Twitter after that.

8 Q Okay.

9 BY [REDACTED]

10 Q Who made the decision to invite the press into the meeting, if you
11 remember?

12 A I mean -- I mean, I don't know that there was a -- I mean, I assumed that -- I
13 mean, everything that takes place at the capitol is open to the public. And so I don't
14 know that there was ever a discussion or an actual decision, but I think my assumption
15 was always that it would be, you know, open to the public.

16 Q Did anyone ever tell you that it shouldn't be, that the press should not be
17 included?

18 A No.

19 Q Or that care should be taken so that the press wasn't there?

20 A No, no.

21 There was some concern that we speak with one voice. People did not want
22 each of the 16 electors explaining what we were doing because of the possibility that they
23 could confuse things. And so there was -- you know, there was some concern about us
24 getting into the room and organized and then, sort of, explaining with one voice exactly
25 what we were doing.

1 Q So there might have been some effort to caucus privately before the press
2 was admitted, but it was always -- it was never your goal to keep the meeting secret.

3 A No. It was never -- that was not our goal, no.

4 Q And no one told you that should be one of the goals.

5 A No. I mean, obviously, here, they were telling me I should've done a press
6 release before the meeting, which we didn't do.

7

BY [REDACTED]

8 Q We'll come back to this. But, on this point, could you look at the document
9 behind tab 27, please?

10 A Okay.

11 Q This is a document that was produced to us by Mr. Still. I don't see you
12 reflected as a recipient of this document.

13 But there is this email that Mr. Sinners sends on December 13th, 5:32 p.m., just
14 with a CC line to Stewart Bragg. The context of this email makes me think that this
15 could've been a form email or an email that went out to all of the electors, possibly on
16 the BCC line or something.

17 Do you remember receiving an email similar to this one from Mr. Sinners?

18 A I do not.

19 Q Okay.

20 So he says, "Thank you for agreeing to serve as a Republican Elector or Alternate
21 on Monday, December 14th at the State Capitol in Atlanta."

22 And he goes on to say, "First, I must ask for your complete discretion in this
23 process. Your duties are imperative to ensure the end result - a win in Georgia for
24 President Trump - but will be hampered unless we have complete secrecy and
25 discretion."

1 Do you know why he was asking the electors to preserve complete secrecy and
2 discretion?

3 A You would have to ask him, but I think what he was getting at was the point
4 that I was just making, that we didn't want 16 separate press conferences at the State
5 capitol explaining what we were doing, and that he wanted everyone to proceed to the
6 State capitol and allow ourselves to get organized and then explain with one voice exactly
7 what we were doing.

8 Q Okay.

9 In the next paragraph there, he goes on to give some logistical details, like, this is
10 the room number that we'll be meeting in, at what time.

11 And then he says, "When you arrive, please state to the guards that you are
12 attending a meeting with either Senator Brandon Beach or Senator Burt Jones and
13 proceed directly to the room." In bold, then it says, "Please, at no point should you
14 mention anything to do with Presidential Electors or speak to media."

15 Do you know why folks were -- the electors, rather, were told not to mention
16 anything about Presidential electors when they arrived at the capitol?

17 A I think that that was because they did not -- they didn't want each of these
18 15 other Presidential electors speaking to the media because they didn't not want 15
19 different messages being delivered to the media. They wanted us to speak with one
20 voice.

21 And they may have -- so Senator Burt Jones and Senator Brandon Beach were
22 both at the meeting. And they may have -- he may have been suggesting not to use the
23 term "Presidential electors" because he was afraid they'd be sent to the wrong room,
24 because the Democratic Presidential electors were meeting in another room in the
25 building.

1

BY [REDACTED]

2

Q Are you speculating on that, or do you have --

3

A I'm speculating. I probably shouldn't do that.

4

Q No, that's okay. I just want to make it clear for the record as to whether

5

someone said that to you or you're just speculating on the -- I assume the entirety of your

6

last answer was, to some degree, speculation?

7

A Right. I mean, you would have to ask Robert Sinners why he -- what he was

8

thinking and why he chose the words he chose for this email message. But it is

9

consistent with my general understanding that we wanted to explain what we were doing

10

with one voice and not have 15 separate Presidential electors, who had all been

11

contacted, as you saw from email correspondence with Mark Hennessy, you know, over

12

the weekend, trying to explain what they were doing.

13

BY [REDACTED]

14

Q Okay. Was there any concern that security at the capitol, the Georgia State

15

Capitol Police, would not admit Republican electors to the capitol?

16

A Oh, no. No. The building's open to the public, and we had reserved the

17

room.

18

Q Okay.

19

And are you aware of any communications with Governor Kemp or his staff about

20

the meeting of Republican electors?

21

A I did not have any communications with Governor Kemp or his staff about

22

the meeting, other than I know that we -- that I sent someone to deliver some documents

23

to him after the meeting.

24

Q Okay. What about before the meeting? Do you know whether Governor

25

Kemp or his staff were made aware that the Republican electors would also be meeting at

1 the capitol on December 14th?

2 A I didn't make them aware of that, but I don't know if -- it's possible someone
3 else did. I just don't know.

4 Q Okay. Any reason that you would know who would have done that?

5 A I mean, I don't know that anyone -- I don't know that anyone did. I mean,
6 but it's possible. I mean, you have, obviously, these -- Mr. Chesebro is emailing
7 everybody in the State, and it's possible that someone communicated with him, but it
8 wasn't me.

9 Q Okay. Okay.

10 Mr. Driscoll. Can I just ask, were there TV cameras at the meeting?

11 The Witness. Yes. There were definitely reporters in meeting. And I think
12 that cameras came -- yes, there were cameras, because there were pictures and video
13 from it. Yes, there were cameras there.

14 BY 

15 Q Actually inside the meeting when you were recording your votes?

16 A Yes.

17 Q Okay. Were they just press recordings, or did the Georgia Republican Party
18 also make, you know, photo or video?

19 A They were news cameras, TV news cameras. We didn't make a video
20 record of that.

21 Q Okay. So do you have in your possession or do you know if the Georgia
22 Republican Party has copies of the footage or photos of the meeting itself?

23 A So someone, about a week ago, forwarded me the FOX 5 coverage of the
24 meeting, which I did forward to my attorney. But I don't -- we didn't -- I don't think -- I
25 mean, it wasn't --

1 Mr. Driscoll. If you're questioning that, we can probably track it down.

2 [REDACTED] Yeah, that might be helpful.

3 The Witness. It wasn't in my possession at the time I received the subpoena.

4

BY [REDACTED]

5 Q Sure. Okay, yeah, no, I'm not concerned about that. It's more -- what
6 was forwarded to you, is my assumption accurate that it was a news report about it,
7 rather than --

8 A Yes.

9 Q -- a full video?

10 A And it was very helpful, because it confirms everything I've been saying.

11 Q Understood. Okay.

12 Let me just look at my notes for a moment.

13 So, real quickly, let's go back to the document behind tab 21 that we were
14 discussing before. Or, actually, we were looking at the cover email of one of the other
15 attachments. This is another attachment that was, you know, sent by Mr. Sinners on
16 December 11th. It's headed, titled, "Draft language for GA Republican Party re Dec. 14
17 casting of Electoral votes."

18 And I just want to draw your attention to the final paragraph that starts, "Given
19 that the results in Georgia are still in doubt, with legal arguments that have yet to be
20 decided," and then ends, you know, "so too the Republican Electors should meet this year
21 on December 14 as we await a final resolution of Georgia's sixteen Electoral votes."

22 I think you've made clear to us your understanding of the status at the time, but
23 was this consistent with your understanding that the results of the election in Georgia
24 were still in doubt?

25 A They were being contested, yes. There was a pending election contest.

1 Q Okay. That they were -- okay.

2 And then, very quickly, you don't need to dwell on these, but they're -- behind the
3 subsequent three tabs, number 22, 23, and 24, are additional documents that were
4 attached to Mr. Sinners' emails. Do these look like the documents that you were
5 presented with and presumably signed?

6 A I don't remember them having borders, but, yes, they look like -- they look
7 like the documents we signed.

8 Q Okay.

9 And I think we discussed this earlier. You know, looking at them now, they
10 appear to be consistent with the drafts that were received -- or that you received in an
11 email for Mr. Chesebro, even though you didn't really note them at the time. Is that
12 fair?

13 A I haven't compared them, but they look similar.

14 Q Yeah. Okay.

15 Okay. So let's go to the document behind tab 26, please. So this appears to be
16 an email exchange with some of the same individuals that we were talking about. I
17 think it follows on one of the other threads --

18 A Right.

19 Q -- that you produced.

20 Just very quickly, there are a couple of names on these emails that we haven't
21 seen on the other ones.

22 On the very top-line email, there is an email address, bbarrett@gop.com. Do
23 you know who that email corresponds to?

24 A That would be Brian Barrett.

25 Q And who is Mr. Barrett?

1 A He was a regional political director for the Republican National Committee.

2 Q And do you know what, if any, role he played in your meeting of Republican
3 electors on December 14th?

4 A I don't think any. But he's referred to on page 2 when I wrote to Robert
5 Sinners saying Josh Findlay told me that Brian Barrett is reaching out to the electors and
6 Brian Barrett told me that Josh is doing it.

7 Q Okay. Do you remember if you had any direct communications with Mr.
8 Barrett about contacting electors or otherwise related to the December 14th meeting?

9 A I don't remember talking to Brian Barrett, but obviously I did, because I'm
10 saying to Robert Sinners that he told me that Josh Findlay was doing it. And I obviously
11 had a conversation with Josh Findlay because I'm saying to Robert Sinners that Josh
12 Findlay told me that Brian Barrett is doing it.

13 Q Okay. Got it.

14 A I alluded to this earlier when you asked me if I had directed Sinners to do
15 anything, and I was -- I didn't direct him to do anything, but I was concerned that maybe
16 this could be interpreted as a direction.

17 Q Understood. Yeah, this seems to be the email that you were referring to
18 about somebody needs to do something and it was a matter of coordinating who that
19 would --

20 A And this also says that I got the room at the capitol.

21 Q Right. Okay. Thank you.

22 Just generally, I think there were a couple of names we presented you with earlier
23 and then Mr. Barrett whose email addresses reflect they were employees of the
24 Republican National Committee.

25 What, generally, was your understanding of the role of the RNC in the process of

1 convening Republican electors on December 14th?

2 A I guess -- I mean, I don't have any, I mean, recollection of the role of the
3 RNC, if there was an RNC role. I mean, looking at this email, it appears to me that Brian
4 Barrett told me that the Trump campaign would be organizing it.

5 Q Okay. Okay.

6 So I wanted to ask you a few questions about, you know, sort of, what actually
7 happened on the 14th, and I think you've really addressed several of them already.

8 So, you know, generally speaking, I assume that you arrived at the capitol and
9 went to the room that had been reserved for you. About how long did the whole
10 process take, from when you got to the room and then in the end I know you've told us
11 that you spoke to the press afterwards? What's the timeframe?

12 A I mean, an hour, an hour and a half. I mean, it would -- I know I tweeted
13 something on that date, and so whatever the time of that tweet would probably be after
14 the meeting ended. But it was probably an hour, an hour and a half long.

15 Q Okay. This isn't a memory test, so if it's helpful, your tweet is in your
16 binder behind tab 34. With my apologies, it's a little hard to read on the black
17 background, but I think it says 12:51 p.m., December 14th.

18 A So less than an hour. Although maybe -- it seems to me that it was longer
19 than an hour. So maybe I tweeted it from the --

20 Q From the meeting. Okay.

21 A It's possible. I don't remember exactly.

22 Q Okay.

23 You've answered our questions already about the presence of members of the
24 press. Was there any restriction on entry by anyone else? Was there anyone who
25 attempted or requested entry to the meeting who was denied?

1 A So we didn't let anyone in until we were -- until all of the Presidential
2 electors were seated and we had had an opportunity to explain to them what was going
3 on and gotten the printer set up. And then, once we were organized and the meeting
4 room was set up, then we opened it to the public and to the news media.

5 Q Okay. And was there anyone who was not admitted after that point?

6 A No. It was open to whoever wanted to walk in after we had gotten the
7 room set up.

8 Q Okay. Any restriction on the ability of electors or anyone else to bring cell
9 phones, cameras inside the room?

10 A No.

11 Q Okay.

12 I know you've previously referred to the fact that the Democratic electors were
13 meeting in the capitol at the same time. Did you have any interaction with them?

14 A Not that I recall, no.

15 Q Okay. Do you know where physically in the capitol the Democratic electors
16 met?

17 A I'm not sure. I think it was either the house chamber or the senate
18 chamber, but I'm not sure.

1

2 [1:08 p.m.]

3

BY [REDACTED]

4

Q Okay. To the extent you remember about your, you know, interactions
5 reserving a room at the Capitol, did you attempt to reserve or get permission to meet in
6 either the House or the Senate Chamber?

7

A No.

8

Q Okay. Why not?

9

A That -- well, I was asked to get a room at the State Capitol, and I knew that
10 the -- and I got a House committee room, so that means I must have called the House, the
11 Speaker's Office. And if I'm right that the presidential electors for the Democratic Party
12 were meeting in the House Chamber, that room would not have been available, because
13 at that point, Joe Biden, even though it was disputed, had been the certified winner, and
14 so they gave me the next biggest room.

15

Q Okay. Thank you. Let's look at Tab 33, please. So this is not a document
16 that you produced. This is the packet of documents that were submitted to the National
17 Archives by the Republican electors in Georgia. So I'll give you a minute to look through
18 it.

19

A I did not retain copies of these documents which is why I didn't produce
20 them.

21

Q Sure. No problem. My question to you is going to be do you recognize
22 this documents as the documents that were submitted?

23

A They -- I do.

24

Q Okay. And is that your signature on the bottom of the first page?

25

A It certainly appears to be.

1 Q Okay. Let's see. So just explain to us after the electors met in the room
2 at the State Capitol, it appears that each elector signed their name to the document that
3 is titled "certificate of the votes," and that you, as the chairman of this meeting, signed on
4 a couple of other pages as well. What happened to these documents? How did they
5 come to be submitted to the archives?

6 A I don't know. I didn't mail them myself. I mean, obviously, I can see
7 that -- from signing the memorandum that they were going to be sent to the President of
8 the Senate, the Archivist, the Secretary of State, and the Chief Judge of the U.S. District
9 Court. I -- I gave them back to Robert Sinners, and so I imagine that he mechanically
10 mailed them, or, perhaps, Ray Smith did. Excuse me while I cough. Excuse me.

11 [REDACTED] Do you need another water, or are you okay on water?

12

BY [REDACTED]

13 Q Our water bottles have shrunk, but there are extras if you need them.

14 A I'm good.

15 Q Okay. So you said that you gave the documents back and then didn't have
16 any knowledge of how or when they were submitted. Is that fair?

17 A Yes.

18 Q Okay. Was it your understanding that they would be submitted to the
19 archives immediately following the electoral -- the electors meeting?

20 A I don't know that I considered it at all. I knew that we were going through
21 the steps of -- prescribed by the code to preserve the remedy. And if those steps would
22 have included immediately mailing the documents to the archivist, I would not have been
23 surprised if the documents had been immediately mailed to the archivist.

24 Q Okay. Did you have any understanding -- I mean, you've explained to us
25 on -- several times today, and it's obviously consistent with your tweet and other, you

1 know, public statements at the time of the meeting of the electors that you understood
2 this to be an effort to preserve a remedy that was, in some ways, contingent on the
3 outcome of election contest litigation. Did you have any discussions about whether
4 these documents should be held as a contingency rather than submitted to the archives
5 immediately?

6 A I never had any discussion about that, but it -- but the concern -- but I do
7 know there was a concern that if we did not do everything as prescribed by the code, you
8 know, by the deadlines set in the code, that we would somehow ruin this remedy if he
9 ultimately prevailed. And so it would not surprise me that they did everything that the
10 code prescribed because the code -- well --

11 Q Okay.

12 A And so if the code prescribed mailing it to all these people, then it does not
13 surprise me that that happened.

14 [REDACTED] Did you have a sense -- I'm going to use a term you've probably used
15 in your real estate investment background. Did you have a sense that the documents
16 would be escrowed, or somehow held pending some contingency?

17 The Witness. I didn't have that -- I did not -- I have thought about that analogy.
18 I did not have that -- I didn't give it any thought. I mean, I signed the documents that
19 were prepared by my lawyer like you do in every real estate closing, and I trusted them
20 to, you know, handle the documents accordingly.

21 Q In the time following the meeting of the electors on the 14th, without going
22 into too much detail about subsequent, you know, litigation posture and everything, is it
23 fair to say that the election contest litigation did not result in a change to the outcome of
24 the certified victory of President Biden in Georgia?

25 A It was never even put down for a hearing.

1 Q Okay. So in the time between December 14th and the joint session of
2 Congress on January 6th, did you have any discussions, or did you consider the possibility
3 of, you know, recalling these documents or otherwise, you know, removing them from
4 consideration?

5 A No. In fact, there was a -- you alluded to this earlier. I was not a party to
6 it. There was a Federal lawsuit that President Trump filed, I think at the end of
7 December, maybe December -- maybe New Year's Eve.

8 Q The 31st, I believe, yes, uh-huh.

9 A And because the State had failed to timely act on his State election contest,
10 he filed a Federal action to try to get a Federal judge to give him a remedy. And at the
11 hearing on that case, the Federal judge was Mark Cohen who's a Democrat appointee
12 said that your only remedy at this point is the Congress, which he was meaning on
13 January the 6th.

14 Q Okay. And we talked a little bit about this before the meeting of the
15 electors, but towards the end of December, maybe in the context of that hearing which I
16 understand took place really on the eve of the joint session?

17 A Correct.

18 Q Did you come to have an understanding of what the role might be of your
19 electors' votes in the Congress' determination of the outcome of the election?

20 A Did I have an understanding as to the role that the votes we cast would
21 have?

22 Q Right.

23 A To me, it was a very confusing situation, because the election contest was
24 still pending, and had not yet been decided. In fact, it hadn't even been heard. And so
25 my -- you know, politically, I did not expect the Congress to reject the Democratic votes

1 from Georgia or any other State and accept the Republican votes from Georgia or any
2 other State. But the fact that the State lawsuit was still pending and the judge in the
3 Federal lawsuit had said it's up to Congress to resolve, you know, I assumed that Congress
4 would address it, and it would likely fail there.

5 Q Okay. So you said your -- it was your political judgment that you didn't
6 expect Congress to reject the Democratic electoral college votes?

7 A Right. I assumed it would be a party-line vote, and I was aware that there
8 were more Democrats than Republicans that would be eligible to vote on that question.

9 Q Oh, I see. So you are -- are you referring to the makeup of the Congress --

10 A Correct.

11 Q -- at the time?

12 A Right.

13 Q But did you have an understanding that a choice between electors' votes
14 would be put to Congress?

15 A It never occurred to me until the Federal judge in the case suggested that
16 Congress would have to figure this out. I mean, nobody wanted to make this decision.
17 I mean, we had raised what I believed to be valid concerns about how the election was
18 conducted, and no one wanted to decide them.

19 Q Okay. You've given us your understanding of the issues even through the
20 very eve of the joint session on January 6th?

21 A Uh-huh.

22 Q And you've given us your political assessment of it. Can you tell us, did you
23 have communications with anyone, either connected to the Georgia Republican party or
24 the Trump campaign or his lawyers, about the joint session and the implications of your
25 having submitted an alternate, you know, slate of electoral college votes?

1 A I mean, I -- see, you have to remember at this time, I mean, there was a
2 runoff election for the two U.S. Senate seats, and another statewide race was on Tuesday,
3 December the 5th.

4 [REDACTED] January 5th.

5 The Witness. I'm sorry, Tuesday, January the 5th. And the Congress was
6 meeting on January the 6th, so I was -- I was being torn between focusing on the election,
7 which was incredibly important and the -- you know, my responsibilities to see the
8 election contest through. I remember being exasperated that we couldn't even get a
9 ruling on the contest that we had filed and being exasperated at the unwillingness of
10 anyone with any -- all the people in authority were sort of pointing to someone else to
11 make the decision, you know, including the Federal judge saying that the Congress ought
12 to make it decision. But, certainly, I never thought that's where we would end up on
13 December the 14th.

14

BY [REDACTED]

15 Q Okay. That's helpful. Setting aside your mindset of what was the possible
16 and likely outcomes on the 14th and really fast forwarding to the time period
17 immediately before the joint session of Congress, you did just refer to -- I think you said
18 people in authority were pointing in different directions.

19 A The judges -- I mean, the Supreme Court said the Fulton Superior Court
20 should decide it, and the Fulton Superior Court waited 3 weeks to send it over to the
21 Cobb Superior Court. Then there was a delay in assigning it to a judge there, and then
22 she didn't set it up until after the Congress was going to meet. And, you know, the
23 Federal judge said, Well, he couldn't do anything about it. The Congress needed -- I
24 mean, it was just -- no one -- you know, no one wanted -- it was a hot potato that kept
25 being tossed from --

1 Q Got it.

2 A -- person in authority to person in authority.

3 [REDACTED] And when you say people in authority, you mean judges?

4 The Witness. Mostly judges. And then, of course, no one else wanted -- I
5 mean, the Governor didn't want to deal with it in a special session. The judges didn't
6 want to rule on it. I mean, nobody wanted to deal with this.

7 BY [REDACTED]

8 Q And were any of those -- did you have any communications in that time
9 period with members of -- you know, employees or consultants or lawyers of President
10 Trump's campaign that indicated that the matter should be determined by Congress or
11 the Vice President at the joint session of Congress?

12 A I don't think so, no. I mean, other than, maybe, I was updated by the
13 lawyers on the election contest about the Federal lawsuit and what the judge had said at
14 the hearing there. So, I mean, I was generally aware that the -- you know, that Judge
15 Cohen had said that the Congress should decide it.

16 But -- and so I -- I don't know if that's a yes or no to your question, but I
17 wasn't -- was not -- I don't know when I became aware of the theory that President -- that
18 Vice President Pence could decide this, but I wasn't -- I think it was after the fact.

19 Q Got it. And do you remember whether you came to have an understanding
20 that there was a theory about Vice President Pence determining the outcome, whether
21 that came from news reporting and other publicly available information or whether it
22 came from a communication with a lawyer or other individual associated with Trump or
23 his campaign?

24 A I think that it would have come from news reporting.

25 Q Okay. And just one further follow-up. You indicated that you had a

1 conversation with lawyers that, you know, gave you the understanding of what the
2 Federal judge had said on the hearing. Do -- are you referring to the lawyers who
3 represented you in your State court case or the lawyers that represented President
4 Trump in the Federal case?

5 A They were the same lawyers.

6 Q The same lawyers. I'm also aware that Mr. Eastman, who we mentioned
7 briefly before, appeared, and I think may have been present at the hearing at the Federal
8 case. Do you recall whether you spoke with him about that?

9 A I've never spoken to him.

10 Q Okay.

11 A And I didn't attend the Federal hearing, and if -- and so, I didn't hear the
12 judge say these things himself, but that's what was reported to me.

13 Q Okay.

14 [REDACTED] Would it have been consistent with your understanding heading into
15 the December 14th meeting that Vice President Pence might be able to choose your slate
16 of electors notwithstanding -- you know, even if there had not been success in a court
17 challenge?

18 The Witness. No. It would not have occurred to me that the Vice President
19 could make that decision on his own.

20 BY [REDACTED]

21 Q Okay. Just a few more questions, Mr. Shafer. We appreciate your
22 patience, and we're nearing the end.

23 But did you communicate with any members of the Georgia State legislature,
24 either the State House or the State Senate, outside of the ones that you've described to
25 us already today related to the actual meeting place and those who were present? Did

1 you talk with any of the rest of them about the meeting of Republican electors and the
2 implications for the outcome of the election?

3 A Well, I did talk to Republican members of the legislature during this time
4 period. I do not believe that I talked with any of them about the meeting of the electors
5 except for Senator Jones and Senator Beach.

6 Q Okay.

7 A It's possible that I did. I had conversations with Senator Lincoln, who
8 presided over the meeting that you asked me about earlier --

9 Q Right.

10 A -- but I don't think I had conversations with him about the December 14th
11 meeting of presidential electors.

12 Q Okay. Great. Thank you. Did -- there were some efforts that have been
13 publicly reported in Georgia as well as several other States to have members of the
14 legislature send letters or otherwise communicate with Congress or the Vice President in
15 advance of the joint session. Were you involved in any of those efforts?

16 A I think the answer to that question is no. I mean, I'm generally aware that
17 there were efforts to get -- I'm aware of a dozen different efforts. But, no, I was not
18 involved in -- I mean, no one was asking -- I was aware of it, you know, because legislators
19 will sometimes -- that I served with, will sometimes ask my advice on things, and so I was
20 aware of it, but I was not asked to organize that, and was not driving any of that.

21 Q Thank you. And separating out your prior service as a member of the
22 legislature and separating out your role as chairman of the party, but really, in the
23 electors' context as the chairperson of the Republican electors; in that context, were you
24 asked to do anything? Or in the reverse --

25 A No.

1 Q -- did you ask them to do anything to, you know, effect some sort of
2 recognition or other action about the electors' votes?

3 A Who is the them in that last question; ask them?

4 Q It was a long one. Sorry about that. Members of the state legislature.

5 A No. I didn't ask them to do anything --

6 Q Okay.

7 A -- with regard to the -- I mean, other than asking somebody for the room --

8 Q Right.

9 A -- I didn't ask the members of the legislature or their staff to do anything
10 with regard to the presidential electors.

11 Q Okay. What about Members of Congress or Senators, the Federal
12 representatives of Georgia? Did you have any communications with them about the
13 votes of the Republican electors?

14 A So there was a -- no substantive communications. There was a rally for the
15 Senate runoff election either on Sunday or Monday before Tuesday, January the --
16 [REDACTED] 5th.

17 The Witness. -- 5th. A presidential -- a Trump rally, and there were Members
18 of Congress who were there. And I did interact with them, but we didn't -- I mean, it
19 was at a rally.

20 BY [REDACTED]

21 Q Understood. Any communications at those rallies about the fact that there
22 had been an alternate, you know, electors' vote submitted, and whether it would be
23 considered at the joint session of Congress or anything like that?

24 A So there was -- so I had a -- I was pulled into a conversation with Senator
25 Lindsay Graham on the question of dead people voting in the November 2020 election,

1 and what -- and he may not even remember this conversation. It was in a rally-type
2 setting. But one of the allegations that we made in our election contest was that there
3 was a -- I can't remember the exact number, but it was thousands of individuals who
4 voted in the November 2020 election for whom a death certificate was on file with a
5 matching name and year of birth.

6 Now, that does not necessarily mean that thousands of dead people voted, which
7 is what Rudy Giuliani kept saying, but it did raise some suspicions. So if it's -- if it was
8 John Smith, 1979, who voted, that's -- and for whom there was a death certificate, that is,
9 in all likelihood, not the same John Smith. If it was [REDACTED] spelled the way your
10 last name is spelled, 1979, or whatever your year of birth was, that -- you know, that
11 might have been the same person.

12 We could not get the Secretary of State to give us the full birth dates which we
13 were trying to get in the litigation so that we could quantify the exact number. We
14 knew the number was more than zero because we had affidavits, I think, from at least
15 two people who said that ballots had been cast in the name of dead parents.

16 But -- so we knew it was somewhere between two and thousands, and we were
17 trying to quantify that. And so I had -- I remember I had a very brief conversation where
18 Senator Graham was asking about the number of dead people who voted.

19 Q And -- sorry.

20 [REDACTED] Was Marjorie Taylor Greene part of that discussion?

21 The Witness. She was nearby. I don't remember if she was part of that
22 discussion or not.

23 [REDACTED] Do you remember, did Senator Graham say if you brought him a
24 certain number of dead voters that that would change his view of how to vote on the 6th,
25 and whether to object to a certain State on the 6th?

1 The Witness. He -- I remember him saying Rudy Giuliani said it -- says it's
2 thousands. The Secretary of State says it's two. You know, what's the actual number?

3 BY [REDACTED]

4 Q What was your response?

5 A That they wouldn't give us the dates of birth, so it was really impossible to
6 quantify. They actually wrote us a letter saying that they would give us the dates of
7 birth for the -- if we would agree to drop the lawsuit first --

8 Q Okay.

9 A -- which did not make any sense to us.

10 [REDACTED] Do you have more?

11 [REDACTED] No.

12 BY [REDACTED]

13 Q Where did this conversation take place?

14 A It was at the rally.

15 Q At the rally.

16 A I was in the VIP section with the important people.

17 Q And who else was part of the conversation in addition to Senator Graham,
18 and you recall maybe Representative Taylor Greene was nearby?

19 A I don't -- and I don't even remember who facilitated the conversation, but
20 someone was talking to Senator Greene -- I'm sorry -- to Senator Graham, and then pulled
21 me into the conversation. And then Senator Graham asked the question about the
22 exact number of dead people who voted, and I gave him the answer I just gave you, that
23 it was difficult for us to quantify because we didn't have all the information.

24 Q Understood.

25 A I don't think it was Congresswoman Greene. I don't think it was a woman

1 that -- as I'm trying to remember --

2 Q Uh-huh.

3 A -- but I don't remember who it was. It might have been her, but I don't
4 think it was.

5 Q Okay. Did you have any interactions with -- well, let me rephrase.

6 The rally that you're remembering, was it a rally where Vice President Pence
7 spoke or one where President Trump spoke?

8 A President Trump spoke.

9 Q Did you also attend the rally that occurred on the same day in Georgia where
10 Vice President Pence spoke?

11 A Did they speak on the same day? Was there rallies on the same day?

12 Q My understanding is that there were two rallies. One was in the early in
13 the day, but then Vice President Pence traveled to Georgia earlier in the day, and then
14 Mr. Trump's rally was in the evening is my understanding. One of them was. I don't
15 remember which.

16 A I attended several rallies at which President -- Vice President Pence spoke.
17 And maybe I attended -- I mean, I don't remember attending two rallies in one day. So if
18 he's -- so maybe not, but I think I attended every rally that the Vice President Pence spoke
19 at.

20 Q Okay. Yeah. I believe there were earlier rallies in the runoff period where
21 one or both the Vice President or the President had attended.

22 A I spoke -- it was three or four times.

23 Q Okay.

24 A Maybe even four or five times.

25 Q On the rallies that you're recalling, which I believe took place on January 4th,

1 did you have any direct interactions with either Vice President Pence or President Trump?

2 A No. I mean, it was during the pandemic, so they didn't even have a
3 greeting line.

4 Q Okay. Any other communications about the joint session of Congress that
5 would take place on January 6th during those rallies?

6 A No. Direct conversations with who?

7 Q Anyone. I know you've described to us your conversation with Senator
8 Graham. My -- it's just more of a broader catch-all. Do you remember any other
9 interactions on that day of January 4th where you attended at least one, you know, rally
10 with anyone else that related to the joint session of Congress on the 6th?

11 A I mean, there may have -- I may have been part of the conversations. I
12 remember at that rally, Senator Loeffler indicated that she was going to object to the
13 certification of the votes in Georgia. And so, I'm sure that I had other conversations
14 with other people about that development.

15 Q Okay.

16 [REDACTED] How about Mark Meadows? Did you talk to Mark Meadows at the
17 rally?

18 The Witness. I didn't see him at the rally, and I -- I've never met him, and I don't
19 think I ever talked to him until after January the 6th.

20 BY [REDACTED]

21 Q Okay. So moving from the rallies related to the Georgia runoff and then
22 thinking about what occurred here in Washington, D.C. on January 6th itself, this is not a
23 question specific to you, but, rather, one that we want to ask everyone that, you know,
24 we speak to for the select committee.

25 Do you have any information relevant to the attack on the Capitol on the 6th that

1 we should know about?

2 A I think the answer to that question is no. I mean, what are you actually
3 asking me?

4 Q Just do you know --

5 A I was not in Washington, D.C. --

6 Q Yes.

7 A -- on January the 6th.

8 Q Right. Did you have any interactions with anyone who organized or
9 convened rallies or were otherwise involved in the events that took place in Washington
10 on January 6th?

11 A Did I have any contact with anyone who did what, organized?

12 Q Uh-huh.

13 A So on -- you know, so the election -- so Tuesday -- I'm not the best with
14 dates. January the 5th was the Election Day, and so at that point, I was laser focused on
15 the runoff election. And then early Wednesday of January the 6th, I drove from Atlanta
16 to Amelia Island where the Republican National Committee was beginning a meeting.
17 And so I learned about the events that were taking place on January 6th from listening to
18 the car radio.

19 Q Okay.

20 A But I am aware that there were people from Georgia who were there. I
21 don't know that they were organizers, but I mean, I was aware that there was a rally
22 there, and I am obviously aware of the trespassing and the vandalism.

23 Q Okay. Are you familiar with the Kremers, Amy or Kylie Kremer?

24 A I know who they both are. I'm not sure if I've ever met either one of them.

25 Q Okay. So did you have any discussions with them about any rallies planned

1 in Washington, D.C. around the joint session of Congress?

2 A I don't think so. I may have exchanged -- I may have -- you know, I'll see if I
3 had a conversation with them about -- I mean --

4 Mr. Driscoll. Well, you don't have --

5 The Witness. I don't have any documents. I have tweeted and retreated -- I've
6 retweeted things that Amy Kremer has tweeted, and I have asked her to retweet things
7 that I have tweeted, and -- but I don't think I've ever met her, but I've had some
8 conversations and communications with her, I don't think about the rally.

9 I do recall having a conversation with Jenny Beth Martin, asking her if she was
10 going, because someone asked me about the rally, and I didn't know anything about it.
11 And I reached out to Jenny Beth and asked her if she was going, and I think she said yes.
12 And I think I connected that person with her, but I don't remember who it was.

13

BY [REDACTED]

14 Q Okay. And, just generally, what is Ms. Martin's role, or in what context did
15 you understand her to be connected to the rallies?

16 A She is -- I don't know her exact title, but she is a leader of one of the Tea
17 Party organizations.

18 Q Okay.

19 A And she was very actively involved in the -- you know, the recount and the
20 election contest, helping us recruit volunteers to be poll watchers. And so I knew that
21 she was -- you know, when I was trying to think of who to connect somebody with, I
22 thought she might be somebody that would go, and it turned out that she was, and I think
23 I referred one person to her.

24 Q Okay. What about any members of Mr. Trump's family? Did you have
25 any contact with them about -- around the events of January 6th?

1 A No.

2 Q Okay. Are you familiar with Kimberly Guilfoyle?

3 A Yes.

4 Q Did you have any interactions with her about January 6th?

5 A No.

6 Q Okay.

7 A Not that I -- no. I have -- I'm trying to remember. I have tweeted things.

8 I have asked her to retweet things that I have said. I normally texted her those things,

9 and she's retweeted me. So I've had some contact with her, but I don't know why I

10 would have talked to her about the January 6th rally, and don't remember ever having

11 talking to her about the January 6th rally. And I've not had any conversations with the

12 actual -- with Don Jr., Eric, or Ivanka --

13 Q Okay.

14 A -- but I have had some contact with Kimberly.

15 [REDACTED] How do you know Ms. Guilfoyle's cell phone number?

16 The Witness. She called -- somebody connected us, and I don't remember who.

17 I think it -- I don't remember for sure.

18 [REDACTED] Do you remember the timeframe that you first got to know her?

19 The Witness. It was during the campaign.

20 [REDACTED] Do you have anything else you want to address?

21 Okay. That is all that I have for you today, Mr. Shafer. Thank you very much for

22 your testimony, unless there's anything else you'd like to address, Mr. Driscoll?

23 Mr. Driscoll. I'm fine.

24 [REDACTED] We can conclude the deposition and go off the record.

25 [Whereupon, at 1:40 p.m., the deposition was concluded.]

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Certificate of Deponent/Interviewee

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

Witness Name

Date