

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. interview	[Personally Identifiable Information] [partial] (1 page)	01/21/1997	b(6)

COLLECTION:

Clinton Presidential Records
Staff Secretary
Todd Stern
OA/Box Number: 9314

FOLDER TITLE:

Hackney Deposition [1]

2019-0774-S

rs3393

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Judicial Watch
v.

DOC Documents

including

Deposition of

James Hackett

IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA

- - - - - X
JUDICIAL WATCH, INC., :
 :
Plaintiff, :
 :
v. : Civil Action No.
 : 95-0133 (RCL)
UNITED STATES DEPARTMENT OF :
COMMERCE, :
 :
Defendant. :
 :
- - - - - X

Judicial Watch
501 School Street, S.W.
Washington, D.C. 20024

Tuesday, January 21, 1997

Video Deposition of

JAMES HACKNEY

a witness of lawful age, taken on behalf of the
Plaintiff in the above-entitled action, before Daniel
Lopez, Notary Public in and for the District of
Columbia, at the offices of Judicial Watch, 501 School
Street, S.W., Washington, D.C. 20024, commencing at
10:14 a.m.

Diversified Reporting Services, Inc.
1025 VERMONT AVENUE, N.W. SUITE 1250
WASHINGTON, D.C. 20005
(202) 296-2929

APPEARANCES:

On Behalf of the Plaintiff:

LARRY KLAYMAN, ESQ.
ALICE MARY LEACH, ESQ.
Judicial Watch, Inc.

On Behalf of the Defendant:

BRUCE R. HEGYI, ESQ.
Assistant United States Attorney
for the District of Columbia

JUDITH MEANS, ESQ.
BARBARA S. MINTZ, ESQ.
Office of the General Counsel
United States Department of Commerce
Washington, D.C.

On Behalf of the Witness:

JOHN PAYTON, ESQ.

* * * * *

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CERTIFIED QUESTIONS: Page 31, line 2; page 166; line 22; page 174, line 8.

P R O C E E D I N G S

VIDEO OPERATOR: This video deposition is being taken in accordance with Federal Rules of Civil Procedure on January 21, 1997 at 11:08 a.m. at 501 School Street, S.W., Washington, D.C.

My name is Chris Hoffer. I live at 1754 Dryden Way, Crofton, Maryland 21114. My employer is Hunt Reporting Company, 12 Crane Highway, N.W., Glen Burnie, Maryland 21061.

The caption of the case is Judicial Watch v. The United States Department of Commerce, Case No. 95-0133. The party giving notice of deposition is Judicial Watch.

Will our attorneys please identify themselves and who they represent?

MR. KLAYMAN: Larry Klayman on behalf of Judicial Watch, Inc.

MR. PAYTON: John Payton on behalf of Mr. Hackney.

MR. HEGYI: Bruce Hegyi, Assistant U.S. Attorney on behalf of the Department of Commerce.

MS. MINTZ: Barbara Mintz, Office of General

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1 Counsel, Department of Commerce.

2 MS. MEANS: Judith Means, Office of the
3 General Counsel, Department of Commerce.

4 VIDEO OPERATOR: Our witness is James Hackney
5 and will now be sworn in.

6 NOTARY: My name is Daniel Lopez. I am a
7 Notary Public for the District of Columbia. I will now
8 swear in Mr. James Hackney.

9 Whereupon,

10 JAMES HACKNEY

11 was called as the witness and, having been first duly
12 sworn, was examined and testified as follows:

13 EXAMINATION BY COUNSEL FOR PLAINTIFF

14 BY MR. KLAYMAN:

15 Q Would you please state your name?

16 A James V. Hackney.

17 Q Mr. Hackney, when were you born?

18 A (b)(6)

19 Q Run us through quickly your educational
20 background from high school through college and law
21 school.

22 A I graduated from St. John's Military

1 High School here in Washington in May of 1968,
2 then I attended and graduated from the University
3 of Pennsylvania with a degree in history. My
4 undergraduate degree was awarded in 1972. And then
5 I received a law degree from the University of
6 Pennsylvania in 1975.

7 Q What, if anything, did you do upon graduating
8 law school?

9 A I worked as an associate at the law firm of
10 Steptoe & Johnson here in Washington.

11 Q And how long did you work there?

12 A Five years.

13 Q And when did you leave?

14 A In November of 1980.

15 Q And what did you do then?

16 A I went to the United States State Department
17 in the office of a legal advisor.

18 Q And how long did you stay there?

19 A Until December of 1984.

20 Q And what happened then?

21 A I joined the Washington office of White &
22 Case, which is a New York law firm.

1 Q Were you in a particular department at White &
2 Case?

3 A I was in the corporate department.

4 Q And how long did you stay there?

5 A Until November of 1990, I believe it was.

6 Q And what happened then?

7 A I then joined an investment banking firm
8 called London Manhattan Company.

9 Q And where was that located?

10 A In Washington, New York and London.

11 Q And what was your position with that company?

12 A I was a partner.

13 Q Who were the other partners?

14 A John Boles (phonetic), Ron Jeguere (phonetic)
15 and Chris Taylor (phonetic).

16 Q And how long did you stay there?

17 A Until December of 1991.

18 Q And what happened then?

19 A The company split into two different
20 companies.

21 Q And what did you do?

22 A I went with a group called London Manhattan

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1 Partners.

2 Q And how long did you stay with that company?

3 A Until January of 1993.

4 Q And what happened at that time?

5 A Then I went to the Department of Commerce.

6 Q And what post did you take at the Department
7 of Commerce?

8 A Counsellor to the Secretary.

9 Q Secretary Ronald Brown?

10 A Correct.

11 Q And how long did you stay in that job?

12 A Until the end of February 1995, approximately
13 two years.

14 Q Why did you leave in 1995?

15 A I decided to go back into private practice.
16 It had become a financial burden to be in the
17 government.

18 Q And where did you go back into private
19 practice?

20 A I joined a law firm called Cooper, Lebowitz,
21 Royster & Wright (phonetic). I went back to London
22 Manhattan Partners. I did two things. I joined a law

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1 firm and I went back to my investment banking.

2 Q You were working in both places.

3 A Yes, I was.

4 Q And are you still with Cooper Lebowitz?

5 A No, I am not.

6 Q When did you leave that firm?

7 A In the summer of 1996.

8 Q And what did you do at that time?

9 A I started interviewing with other investment
10 baking firms. I decided to leave the practice of law
11 and concentrate on investment banking.

12 Q And where are you now?

13 A Fieldstone Private Capital Group.

14 Q Is that in Washington, D.C.?

15 A No, it's in New York.

16 Q Are you based out of New York now?

17 A I go back and forth. The firm is in New York
18 and I travel back and forth almost weekly.

19 Q It has Washington offices, too?

20 A We have a small office that I'm manning. Yes.

21 Q Are you associated with any law firm
22 currently?

1 A No, I am not.

2 Q Tell me, when you joined the Department of
3 Commerce as counsel to the secretary -- was that the
4 formal title?

5 A Counsellor.

6 Q Counsellor to the Secretary. Was that a title
7 that had previously existed? Was that a position?

8 A I believe so, yes.

9 Q Who was your predecessor?

10 A I'm not sure if he was my immediate
11 predecessor, but I think it was Mike Berman (phonetic),
12 I believe was my immediate predecessor. I'm not sure
13 of that, though.

14 Q Michael Berman?

15 A Mike Berman.

16 Q The Republican consultant?

17 A Yes. Yes.

18 Q He was under Mossbacher?

19 A Yes, I believe that's correct.

20 Q And what are the duties and responsibilities,
21 as you understood them to be, of Counsellor to the
22 Secretary?

1 A Well, it's sort of a -- you play in center
2 field all the time. You have a number of
3 responsibilities. You work directly with the
4 secretary, you assist in policy development, you assist
5 with his schedule. You help run the Office of the
6 Secretary and you interact with a number of the
7 agencies in the Department of Commerce.

8 Under previous administrations, the chief of
9 staff and the counsellor sometimes had been one person
10 and sometimes it had been two people. It depended on
11 the desire of the secretary, I believe.

12 Q As part of your duties and responsibilities,
13 were you permitted to help the secretary with his
14 personal legal matters?

15 A No.

16 Q Did you ever do that?

17 A No.

18 Q How did you get to know Ron Brown? Were you a
19 friend? Is that how you went over there?

20 A We had been friends for about 22 years. We
21 first met about 1974, 1975 through other friends in
22 Washington.

1 Q Did he recruit you to come over to the
2 department to be his counsellor?

3 A Yes.

4 Q And in terms of your duties and
5 responsibilities in the secretary's office, I take it
6 you worked in the inner suite?

7 A Yes. Between the two glass doors, as they
8 refer to them.

9 Q Who worked with you at the time you were with
10 the Department of Commerce?

11 A I worked mainly with Rob Stein, with Jonathan
12 Sallett, with Loretta Dunn, Melissa Moss.

13 Q How is Sallet's name spelled?

14 A S-a-l-l-e-t.

15 Q What was his --

16 A He was the director of policy, Policy Planning
17 I believe was the title.

18 Q And what specifically were his duties and
19 responsibilities?

20 A He was the coordinator for all policy,
21 policies that were decided by the Department of
22 Commerce. Formulated and decided by the Department of

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1 Commerce.

2 Q Did he work in the inner suite of offices?

3 A Yes, he did.

4 Q And you mentioned a name after Jonathan
5 Sallet.

6 A Rob Stein, who was the chief of staff.

7 Q Right. There was another name. Not Melissa
8 Moss, but somebody --

9 A Loretta Dunn.

10 Q Loretta Dunn. What were --

11 A She was the Assistant Secretary for
12 Legislative Affairs.

13 Q And what were those duties and
14 responsibilities, as you understood them to be?

15 A She interacted directly with the Hill.

16 Q Was there anyone else?

17 A Deputy Secretary Barram, David Barram.

18 Q And what were his duties and responsibilities?

19 A He was kind of the chief operating officer for
20 the department, administrative and operating officer.

21 Q And chief operating officer, what is the
22 difference between that and chief of staff?

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1 A The chief of staff -- the chief of staff was
2 responsible for the secretary's staff, the Office of
3 the Secretary. Mr. Barram dealt more directly with the
4 various agencies and with the administrative part of
5 the Department of Commerce. He and Mr. Sallet, from
6 what I recall, had primary responsibility for the
7 budget, for example, for the department's budget and
8 working on budget matters. Mr. Stein operated more on
9 a policy level rather than on an administrative and
10 budget level.

11 Q Tell me who inside the inner suite of offices
12 had the responsibility for filing documents such as
13 correspondence, notes, whatever.

14 A My recollection is that that was the
15 responsibility of the Executive Secretariat. I think
16 that was their function. That's what I remember.

17 Q You did keep notes during your period with the
18 department, did you not?

19 A Very few.

20 Q Where were the ones that you kept filed?

21 A I my office.

22 Q Where are those notes today?

1 A If they still exist, they're in my office.

2 Q Office at the Department of Commerce?

3 A Yes.

4 Q In other words, you didn't move them when you
5 left?

6 A No. I took nothing with me when I left.

7 Q Who filed your correspondence?

8 A My secretary, Eve Borgos.

9 Q Eve Borgos?

10 A Borgos, B-o-r-g-o-s.

11 Q Is she still with the department?

12 A I believe so. I'm not sure, but I believe so.

13 Q Who would have sent faxed for you?

14 A Eve. Eve Borgos.

15 Q Did she store those faxes somewhere?

16 A As far as I know, she did.

17 Q Where were they stored?

18 A Outside my office in the suite -- as you
19 walked into my suite of offices, Eve sat out in the
20 front and there were file cabinets out there.

21 Q What was the specific date that you left the
22 Department of Commerce? Do you remember?

1 A No. It was the end of February, though. I
2 don't remember.

3 Q February of '96?

4 A I think it was the last Friday in February of
5 1995.

6 Q In the course of your duties and
7 responsibilities, did you meet frequently with people
8 in that office suite?

9 A Yes.

10 Q Formal meetings?

11 A Yes.

12 Q And was the secretary present at those
13 meetings? Some of those meetings?

14 A A few.

15 Q And from time to time, he would take notes at
16 those meetings?

17 A I don't recall him taking notes. No, I do
18 not.

19 Q Does that mean he did or he didn't? You just
20 don't know?

21 A I don't remember. I don't remember.

22 Q Okay. Did there come any point in time when

1 you discussed foreign trade missions with Secretary
2 Brown?

3 A Yes.

4 Q When was the first time that was ever
5 mentioned?

6 A In February of 1993, either February or March
7 of 1993, I don't remember the exact date. The first
8 foreign trip he took was to Mexico and we had
9 discussions as to what that trip would be like, who he
10 would meet with, how long the trip would be, who would
11 go on the trip. So I believe that would be the first
12 time I had talked about any foreign trips.

13 Q Did you discuss ever the reason for foreign
14 trips?

15 A Yes. Yes.

16 Q When was the first time that you participated
17 in such a discussion?

18 A It would have been early 1993.

19 Q And who participated in that discussion?

20 A I don't specifically recall who was there, but
21 it would have been members of his staff.

22 Q Such as?

1 A Myself, Rob Stein, Jonathan Sallet, Jill
2 Schuker (phonetic), Loretta Dunn. I don't specifically
3 recall who actually was on board at that time. I mean,
4 people were coming on board throughout the first part
5 of 1993.

6 Q What was discussed at that meeting?

7 A That the secretary's desire was to promote
8 American business, promote American business, promote
9 American exports abroad and the way that he could do
10 that would be by traveling, being an active secretary,
11 taking trips to countries where there were market
12 opportunities and growth and business opportunities for
13 American business.

14 Q Did anyone take notes at that meeting?

15 A I don't recall.

16 Q Did you ever participate in a discussion with
17 Secretary Brown or anyone else at the department where
18 a discussion of taking Democratic Party campaign donors
19 came up?

20 A Yes.

21 Q When was that?

22 A Throughout our time at the Department of

1 Commerce we took businessmen on trade missions. Some
2 of those businessmen were Democratic contributors and
3 some weren't.

4 Q Tell me what was discussed and who
5 participated in any such discussion.

6 A The discussion focused on the country which we
7 were traveling to, the amount of business that
8 Americans had in that country, the types of deals and
9 transactions that were pending, what companies had
10 deals pending in that country, whether the secretary
11 could help, assist American companies in achieving
12 their goals, in getting the business. And throughout
13 the discussion every once in a while as we were trying
14 to identify who was interested in participating in the
15 mission, someone might have said, oh, this is a
16 Democrat.

17 Q So being a Democrat was one of the criteria
18 for selection on the trade missions?

19 A It was part of the identification. It was not
20 a criteria for selection. Democrats and Republicans
21 participated on these missions. In terms of trying to
22 identify who someone was, whether we knew them or

1 didn't know them or whether a senator had recommended
2 this person or not or a congressman or another
3 businessman. It was part of identifying who someone
4 was.

5 Q In fact, that's a normal course of any
6 administration, is to identify who your supporters are
7 so you can obviously give them some kind of preference,
8 correct?

9 MR. PAYTON: You've kind of contorted his
10 statement there. That's not what he said.

11 MR. KLAYMAN: I'm asking him. I'm asking him
12 a different question.

13 THE WITNESS: I don't think we gave Democratic
14 contributors any preference at all. But in identifying
15 who had business in a particular country and trying to
16 figure out these people were, who their companies were,
17 it was a part of identifying someone. He's from New
18 York, he's from Chicago, he's worked for this company,
19 oh, and by the way, he's a Democrat.

20 BY MR. KLAYMAN:

21 Q What's the relevance of being a Democrat, as
22 you understood it?

1 A He's a friend of somebody that we may have met
2 or someone knows.

3 Q So getting back to the question, you try to
4 help friends, correct?

5 A Trying to help American business and in the
6 process we help friends, yes. But we were trying to
7 help American businesses and it's inconceivable to me
8 that the secretary could have closed \$20 billion worth
9 of deals just helping friends.

10 Q Depends how many friends he has, correct?

11 A I don't care how many friends you have --

12 MR. HEGYI: Come on. Come on.

13 BY MR. KLAYMAN:

14 Q People were present at these meetings, were
15 they not, when these things were discussed?

16 A Yes.

17 Q And they took notes from time to time, did
18 they not?

19 A If you looked around the room, yes, people
20 were writing, taking notes.

21 Q Who was present at these meetings, generally
22 speaking?

1 A Members from the International Trade
2 Administration. Members from the Office of Legislative
3 Affairs. Members from the Office of Public Affairs.
4 Members from the Minority Business Development Agency.
5 Members from the Office of the Secretary, from the
6 Office of the Executive Secretariat, from the Office of
7 the General Counsel.

8 Q Give me some names. Let me have the core
9 people who were present at most of these meetings.

10 A It depended on the trip. It depended on the
11 trip. Now, if you want to be specific about a trip,
12 then maybe I can -- but it depended on the trip.

13 Q Was there any type of mechanism set up to
14 decide the criteria for who would go on the trips?

15 A Yes, there was.

16 Q What mechanism was that?

17 A The International Trade Administration, ITA,
18 would review business activities in the particular
19 country, see which firms were most active, which firms
20 had deals pending, which firms were negotiating deals
21 at that time, which firms were interested in going on
22 the mission, where we thought we could have some

1 impact, some positive impact, on helping American
2 business in that particular country.

3 The focus was on telecommunications. It was
4 on infrastructure, technology, promoting American
5 exports. They did an analysis of where the department
6 could have some impact in helping American firms.

7 Q Did you participate in drafting any criteria
8 for how participants would be chosen for trade
9 missions?

10 A No.

11 Q Do you know of anyone who did?

12 A Not specifically. It was done at the ITA
13 level, International Trade Administration level.

14 Q How do you know it was done there?

15 A Because I do recall whenever we discussed in a
16 meeting what the criteria was the presentation was done
17 by ITA.

18 Q Who made the presentation?

19 A It depended on the meeting. It could have
20 been David Rothcoff (phonetic). It could have been
21 Jeff Garden (phonetic). It could have been any number
22 of people. It could have been Chuck Meisner. It just

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1 depended on the meeting and the trip.

2 Q Well, let's take a trip, for example. China.
3 Do you remember participating in such meetings with
4 regard to China?

5 A Very few. I did not go on the China trip.

6 Q Did you go on any trips?

7 A Yes.

8 Q Which trips did you go on?

9 A I went to Mexico. I went to Saudi Arabia.
10 I went to Latin America. I went to Venezuela.

11 Q Was Venezuela apart from Latin America?

12 A Yes.

13 Q Okay. Any others?

14 A That was a telecommunications conference.

15 Q Any others?

16 A I went to -- are you talking about trade
17 missions specifically?

18 Q Yes.

19 A Those were the trade missions.

20 Q All right. Let's take Latin America, just
21 for example. Who participated in the meetings where
22 criteria for selection of participants were discussed?

1 A Jonathan Sallet, David Rothcoff, myself,
2 Rob Stein, Melissa Moss, Sally Painter (phonetic),
3 Carol Hamilton (phonetic), Katherine Hoffman
4 (phonetic), Jill Schuker, Loretta Dunn. Those are
5 the names that come up. Jeff Garden.

6 Q Tell me what, if any, criteria were discussed
7 at these meetings or in any other way concerning how to
8 choose participants for the trade missions with regard
9 to Latin America.

10 A What firms were active in the market. What
11 firms had deals that were ready for signing, for
12 closing. Which firms had potential opportunities,
13 potential growth and business transactions in
14 particular countries. It was all about which firms
15 were most active in that market and stood to benefit
16 most from attending these missions.

17 Q How was that information obtained or to be
18 obtained?

19 A The International Trade Administration would
20 do the research.

21 Q Was it detailed how the research would be
22 conducted?

1 A No, not to me.

2 Q Was it expressed how companies would
3 ultimately be selected or rejected?

4 A The companies that we thought would benefit
5 most from traveling on the mission, from being part of
6 the mission, were the companies that we focused on
7 most. Some companies thought that their deals were
8 ready for signing and as we looked into it more and did
9 more research we found out they weren't. They may have
10 been three, four, five months off. They weren't ready
11 right there. The deals that were signed by the
12 secretary were ready for signing, for closing the
13 moment that we were in the country and that was the
14 most important criteria.

15 Q What I'm searching for right now, plain and
16 simple, is what criteria, specific criteria, were
17 expressed for choosing companies, whether it was
18 recorded in writing, to the best of your knowledge.

19 A To the best of my knowledge, I don't know.
20 I don't know whether it was recorded in writing.

21 Q No one ever said we have these criteria,
22 they're in writing?

1 A No one ever said to me we have these criteria
2 in writing. No.

3 Q For instance, you seem to be suggesting that
4 one of the criteria was a company was ready to close on
5 a deal.

6 A Yes.

7 Q Where did that come from? Who came up with
8 that criteria?

9 A The embassy, the International Trade
10 Administration, the ministry in the particular country
11 which we happened to be traveling to. And the company
12 itself.

13 Q What difference would it make in terms of
14 selecting a company that a company was ready to close
15 or six months away from a closing?

16 MR. HEGYI: I'm going to object. It's
17 irrelevant. Not reasonably calculated to lead to the
18 discovery of admissible evidence.

19 THE WITNESS: The idea was for American firms
20 to benefit from these trade missions and the secretary
21 to go into Brazil and help a company close a deal, win
22 a contract, create jobs for American workers, that was

1 the purpose of the mission.

2 BY MR. KLAYMAN:

3 Q Did any of the people you've just mentioned
4 with regard to Latin America ever discuss taking
5 companies or business executives who had given money to
6 the Democratic Party?

7 MR. HEGYI: Are you saying was that a
8 criteria?

9 MR. KLAYMAN: Was it ever discussed?

10 THE WITNESS: As I've previously stated, it
11 was mentioned in numerous meetings whether someone was
12 a Democrat or a Republican or a minority, woman-owned
13 business. I mean, it was all a part of the
14 identification process.

15 BY MR. KLAYMAN:

16 Q Specifically, was it ever discussed as to
17 whether these people had actually given money to the
18 Democratic Party?

19 A Not in my presence, no.

20 Q But you know that it was discussed?

21 A I have no idea. I never heard anybody discuss
22 that.

1 Q Did you ever hear anyone say he or she gave X
2 amount to the Democratic Party or the Clinton-Gore
3 campaign, therefore we should give them some
4 consideration?

5 A No.

6 Q Something to that effect?

7 A No. No.

8 Q Was any listing kept of donors at the Commerce
9 Department of Democratic donors?

10 A Not to my knowledge.

11 Q Do you have any knowledge as to whether or not
12 Melissa Moss kept a listing of Democratic donors?

13 A I don't know.

14 Q Did Secretary Brown?

15 A Not to my knowledge.

16 Q Did the secretary keep files?

17 A Yes.

18 MR. HEGYI: You mean personal?

19 MR. KLAYMAN: Any kind of files while he was
20 secretary.

21 THE WITNESS: I'm sure he had his personal
22 files.

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1 BY MR. KLAYMAN:

2 Q Who kept the files for him?

3 MR. HEGYI: Based on the witness' last answer,
4 I'm going to object unless the witness knows of
5 something of his personal knowledge. It sounded as
6 though the witness was speculating and I don't
7 represent this witness, but I would ask the witness not
8 to speculate. If he knows something, he's obligated to
9 tell it.

10 MR. KLAYMAN: This is another example --
11 certify this part of the deposition -- of suggesting to
12 a witness that perhaps he doesn't remember.

13 MR. HEGYI: No, sir. I'm not suggesting --

14 MR. KLAYMAN: You've done this repeatedly
15 throughout depositions. This isn't necessary. This is
16 a trained lawyer who understands this very, very well.

17 MR. PAYTON: I'm going to end this. Can you
18 just ask a question and let's just keep going?

19 MR. KLAYMAN: Well, then, I suggest you have
20 your colleague not interrupt my deposition.

21 MR. HEGYI: Excuse me. I'm not a colleague of
22 his, of Mr. Payton's nor Mr. Payton of mine, and I

1 object to you trying to blur a line of distinction.

2 MR. KLAYMAN: A colleague can be in a general
3 sense. I don't want to quibble with you, but please
4 don't interrupt, Mr. Hegyi.

5 MR. HEGYI: Excuse me, counsel --

6 MR. KLAYMAN: This is a very experienced
7 lawyer here on the other side of the table. He
8 understands the rules of a deposition, don't you?

9 Mr. Hackney?

10 THE WITNESS: Yes, I do.

11 MR. KLAYMAN: Okay. You understand that if
12 you don't remember, obviously you'll say you don't
13 remember.

14 THE WITNESS: Absolutely.

15 MR. KLAYMAN: So it's not necessary for
16 Mr. Hegyi to object to that, correct?

17 MR. HEGYI: Don't answer that. It's
18 argumentative. I object to the line of questioning.

19 MR. KLAYMAN: I'll give you a running
20 instruction, just so Mr. Hegyi doesn't have to
21 interrupt again, that if you don't remember, just say
22 you don't remember.

1 MR. HEGYI: Excuse me, counsel. I'll object
2 any time I feel it's appropriate, but go ahead and ask
3 your next question.

4 BY MR. KLAYMAN:

5 Q Was any data while you were at the department
6 or that you may know of otherwise ever provided to the
7 White House about who was taken on trade missions who
8 had given money to the Democratic Party?

9 A I don't know.

10 Q Have you ever heard of a listing called Big
11 Brother at the White House?

12 A No.

13 Q Are you aware that the White House does keep a
14 compilation of donors to the Democratic Party?

15 A I have no personal knowledge of it. No.

16 Q Do you know of Secretary Brown ever having
17 supplied information on individuals that were taken on
18 trade missions who had also supported the Democratic
19 Party to the White House?

20 A No, I don't know that.

21 Q Getting back to who kept the files for
22 Secretary Brown, I'm talking about official records,

1 who in the office did, if anyone?

2 A I don't know. I have no idea.

3 Q Who was his assistant?

4 A Well, his secretary was Barbara Schmitz and
5 she had an assistant, Melanie Long.

6 Q Did you ever work with the secretary and
7 perhaps his assistants concerning a grand jury
8 investigation?

9 A No.

10 Q Did you ever assist him in the First
11 International and Nolanda Hill matter? Give him any
12 advice or help him in any way?

13 A No.

14 Q Did you assist him in responding to a grand
15 jury subpoena issued by an independent counsel, Daniel
16 Pearson (phonetic)?

17 A No.

18 Q Did you give him any advice in that regard?

19 A No.

20 MR. HEGYI: I'm going to object to this entire
21 as being irrelevant and not reasonably calculated to
22 lead to the discovery of admissible evidence, but go

1 forward.

2 BY MR. KLAYMAN:

3 Q Who of the individuals you mentioned, and I'm
4 referring back to the Latin American mission, do you
5 remember taking notes at meetings where participants on
6 trade missions were discussed?

7 A I have no specific recollection of anyone
8 taking notes.

9 Q Just that people took notes.

10 A Yes.

11 Q Was there any policy in the Office of the
12 Secretary as to whether or not notes should be kept?

13 A No.

14 Q Was there any policy --

15 A Not that I know of. No.

16 Q Do you know of any policy for the retention of
17 documents at the Department of Commerce?

18 A No, I don't.

19 Q Did you ever review any such policies?

20 A No, I did not.

21 Q You were the counsellor to the secretary,
22 correct?

1 A Correct.

2 Q So in fact you were the secretary's lawyer.

3 A No. The secretary's lawyer, the department
4 has a general counsel. I was an advisor to the
5 secretary, just as the chief of staff or the director
6 of policy was an advisor. I happen to have a law
7 degree, but I was not --

8 Q Did you have a specific defined area --

9 MR. HEGYI: Excuse me. You've just cut this
10 man --

11 MR. KLAYMAN: Well, I didn't do it
12 intentionally.

13 Feel free to respond, Mr. Hackney. Is there
14 anything further you want to say?

15 THE WITNESS: No.

16 MR. KLAYMAN: Okay.

17 BY MR. KLAYMAN:

18 Q Were there specific defined areas where you
19 provided advice or just general?

20 A General.

21 Q Based on your experience at the department,
22 can you tell me by general subject matter the areas

1 that you did provide advice? I'm not asking for the
2 actual advice, just general subject matter here.

3 A I provided advice on assisting U.S. firms
4 abroad on our export policy, on our policies regarding
5 minority businesses, on our policies in the technology
6 field, on our policies regarding our efforts to assist
7 the revitalization of the California economy.

8 Q Did you ever provide advice on the legality of
9 fundraising at the Department of Commerce?

10 A No.

11 Q Do you know of anyone who did?

12 A No.

13 Q Did you ever provide advice on the legality of
14 offering government services for campaign
15 contributions?

16 A No.

17 Q Was that anything that ever came up when you
18 were working at the department?

19 A No.

20 Q You were a political appointee, correct?

21 A Correct.

22 Q What schedule? Do you remember?

1 A No, I don't remember.

2 Q With regard to the Latin American trip, do you
3 know of the particular individuals who chose the
4 mission participants?

5 A The mission participants would have been
6 chosen by a committee and that committee would have
7 been myself, Rob Stein, Jonathan Sallet, Melissa Moss,
8 Loretta Dunn, Dave Barram, David Rothcoff, Jeff Garden.

9 Q How did that committee deliberate
10 specifically?

11 A We would meet and ITA and OBL, which is Office
12 of Business Liaison, would give us a list of firms or
13 talk about firms that were interested in participating.
14 And we would go through what they were doing, what
15 their business activities happened to be, where their
16 deals stood at that point in time, and what we could do
17 if we were in Brazil or Argentina or Chile at that time
18 for that firm.

19 Q So you're saying you had formal lists of the
20 potential participants?

21 A Oh, yes.

22 Q How were these documents prepared?

1 A By the Office of Business Liaison.

2 Q And what did they say on the top? I mean, how
3 were they identified?

4 A It would say -- oh, I don't remember
5 specifically, but it referred to firms that desired to
6 go to Latin America.

7 Q Was there a list?

8 A Mmm-hmm.

9 Q Was there any kind of evaluation on that
10 documentation of the pros and cons of taking them on
11 the trip?

12 A Absolutely. Yes.

13 Q Was there anything written on those documents
14 as to whether or not that company had supported -- that
15 company or a corporate executive had supported a
16 Democratic Party interest?

17 A No. Not that I recall.

18 Q Were there any backup documents that went
19 along with the list in evaluating these companies?

20 A Not that I ever saw. I mean, I'm sure there
21 were. You have to remember that we didn't go out
22 soliciting companies to go with us. We were inundated

1 by companies that wanted to go and it was almost an
2 application process -- I want to go with you to Brazil
3 and in support of my application here's a letter from
4 Senator Helms, for example. Or here's a letter from
5 the Chamber of Commerce in Brazil. And this is
6 where -- these are our business activities, this is
7 where we stand and this is why we think it would be a
8 benefit for us to go on the trip.

9 Q How did the companies find out that Commerce
10 was going to make a trade mission? How did they know
11 to contact Commerce? You say you didn't solicit, for
12 instance.

13 A It was announced that we were going.

14 Q How was that done?

15 A It could have been announced in the press or
16 through ITA or through the various business advisory
17 committees that are a part of the Department of
18 Commerce.

19 Q Was there a formal mechanism for advising
20 companies that the department was going on a trade
21 mission.

22 A I don't know. I don't know if it was formal.

1 I mean, there were a number of ways that it could have
2 been announced.

3 Q There was no particular procedure.

4 A No. Not that I remember.

5 Q Kind of word of mouth?

6 A Yes. Or in an article it would say that
7 Secretary Brown plans to go to the Soviet Union and
8 then give the dates when he was going.

9 Q Did Secretary Brown participate in these
10 meetings, these committee meetings?

11 A He would have participated in one or two.
12 I mean, the process was for us to do a lot of the leg
13 work the advance work, getting the trip together,
14 getting his schedule together, discussing who was going
15 and then make a presentation to him.

16 Q My question is did he participate in the
17 selection process.

18 A No. No.

19 Q Did he let you know from time to time who he
20 would like to see on the trips?

21 A No. No. His concern was to support American
22 businesses and close deals.

1 Q Well, who ultimately made the decision on who
2 went on these trips? Were there particular
3 individuals? What was the mechanism inside the
4 committee for arriving at a consensus to take a company
5 or a business executive on a trip?

6 MR. HEGYI: Objection. Asked and answered.
7 The witness can answer again.

8 THE WITNESS: The company's active in Brazil,
9 has a contract that needs a little push to get over the
10 top, it's a great company to take on the trip. We'd go
11 around the table and everyone would say, yeah, okay,
12 fine.

13 BY MR. KLAYMAN:

14 Q Was there someone who had more authority to
15 make the decision than someone else?

16 A No. I don't think so.

17 Q Did you vote?

18 A No.

19 Q Was there any --

20 MR. HEGYI: You mean vote in a formal sense,
21 other than what he's just said, which could be
22 construed as voting.

1 BY MR. KLAYMAN:

2 Q Well, did you make a formal counting of who
3 was pro and con for each company?

4 A No.

5 Q Anything in writing to that effect?

6 A Not that I recall.

7 Q Was anything recorded in writing as to who was
8 chosen and who was not chosen?

9 A Well, the final list.

10 Q Well, how about interim lists? Who made a
11 note at the meetings? Who recorded it?

12 A It would have been the Office of Business
13 Liaison and maybe ITA, but the Office of Business
14 Liaison.

15 Q Who would have recorded that at the various
16 meetings?

17 A Whoever the representative from OBL or ITA.

18 Q Who were they generally?

19 A Oh, boy. I mean, there were --

20 Q Well, as many as you can remember.

21 A OBL was Sally Painter and Melissa Moss. But
22 there were other representatives. I mean, I'm drawing

1 a blank on names. These meetings, quite often there
2 were 40, 50 people at these meetings and each part of
3 the department had a representative there and we had an
4 advocacy center which was the place that monitored
5 company deals.

6 Q How do you make a decision with 40 to 50
7 people sitting there? There has to be some mechanism,
8 does there not?

9 A Well, the mechanism, then you get to a point
10 where there are 10 people in the meeting. And, as I
11 said to you earlier, it would have been, depending on
12 the trip, Jeff Garden, David Rothcoff, myself, Rob
13 Stein, Jonathan Sallet, Melissa Moss, Loretta Dunn,
14 Jill Schuker, Gil Cologne (phonetic), Michael Rodgers,
15 the top people at the agency, the particular agency
16 within the department.

17 Q Was there anything put in writing with regard
18 to companies that were not selected, the reasons why
19 they were not selected?

20 A Not that -- I don't know. I mean, I would
21 just be guessing and you don't want me to do that.

22 Q Did you ever see that?

1 A Why they weren't selected?

2 Q Yes.

3 A No.

4 Q No recordation as to the reasons why a company
5 wasn't selected.

6 A I never saw it.

7 Q Was there ever any mechanism to formally
8 notify companies that weren't selected?

9 A It would be an assumption on my part to answer
10 that.

11 Q You know or you don't know?

12 A I don't know. I know they were notified. I
13 don't know who notified them.

14 Q Do you know how they were notified?

15 A No.

16 Q How many of these meetings did you sit in on,
17 roughly speaking?

18 A I have no idea.

19 Q Many?

20 A Many.

21 Q Even if you didn't go on the trip, you sat in
22 on these meetings, correct?

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1 A Sometimes. Sometimes.

2 Q As the representative of the secretary.
3 Counsellor.

4 A As a member of his staff, yes.

5 Q Right. And these meetings were considered to
6 be high level meetings, correct?

7 A Correct.

8 Q Okay. And in fact, when a company was
9 selected, the department would mobilize its forces to
10 try to assist that company in doing business overseas,
11 correct?.

12 A Correct.

13 Q And that entailed the expenditure of taxpayer
14 resources, did it not?

15 A I assume anything that we did entailed the
16 expenditure of taxpayer resources.

17 Q And that's why it was high level, because
18 being able to put taxpayer resources into something,
19 that's a high level decision, is it not?

20 MR. HEGYI: Objection. Irrelevant. Not
21 reasonably calculated to lead to the discovery of
22 admissible evidence.

1 MR. KLAYMAN: Based on your knowledge of your
2 duties and responsibilities.

3 MR. HEGYI: How could that possibly be
4 relevant to a question as to the adequacy of the search
5 for documents in this 1994 FOIA case, counsel?

6 MR. KLAYMAN: He can respond.

7 MR. HEGYI: Would you mind --

8 MR. KLAYMAN: No.

9 MR. HEGYI: -- favoring this record and the
10 court --

11 MR. KLAYMAN: No.

12 MR. HEGYI: -- with the reason why --

13 MR. KLAYMAN: No.

14 MR. HEGYI: -- you are asking this witness
15 things that don't appear --

16 MR. KLAYMAN: You can respond.

17 MR. HEGYI: -- to lead to the discovery of
18 admissible evidence --

19 MR. KLAYMAN: He knows -- he knows the basis
20 for my question. You can respond.

21 MR. HEGYI: No, sir. I don't. And I would
22 ask if you would favor me with putting it --

1 MR. KLAYMAN: No, I'm not going to favor you
2 with that.

3 Can you please respond?

4 THE WITNESS: Would you repeat the question,
5 please?

6 BY MR. KLAYMAN:

7 Q Obviously -- my question was is that when the
8 department made a decision to assist a company in doing
9 business, which you've testified entailed using
10 taxpayer resources, obviously this was an important
11 decision, was it not?

12 MR. HEGYI: Same objection, but I cannot and
13 am not instructing the witness not to answer.

14 THE WITNESS: It was an important decision.

15 BY MR. KLAYMAN:

16 Q One that neither you nor anyone else who
17 participated in those meetings took lightly, correct?

18 MR. HEGYI: Same objection.

19 BY MR. KLAYMAN:

20 Q Correct?

21 A Correct.

22 Q Do you know of one occasion when a company was

1 turned down to go on a mission? Can you name one
2 company?

3 A No. Not right off the top of my head. No.

4 Q Was there any mechanism to deal with companies
5 who were selected to explain to them the reasons?

6 MR. HEGYI: Objection. Asked and answered.

7 MR. KLAYMAN: It's a slightly different
8 question.

9 THE WITNESS: To my knowledge, that was the
10 responsibility of ITA and OBL.

11 BY MR. KLAYMAN:

12 Q Do you know of any procedural mechanism for
13 doing that?

14 A No.

15 MR. HEGYI: You mean he personally.

16 BY MR. KLAYMAN:

17 Q Do you know of anyone having prepared
18 correspondence to companies that weren't selected
19 explaining why they weren't selected?

20 A To my knowledge, that was the responsibility
21 of OBL.

22 Q Do you remember seeing any of that

1 correspondence?

2 A No.

3 Q Was it ever discussed what should be in any
4 such correspondence?

5 A Not in my presence, no.

6 Q So you don't know?

7 A No.

8 Q Do you know of any companies who ever called
9 in to the department objecting that they weren't
10 selected?

11 A You mean do I have personal knowledge of a
12 company, a particular company, calling in?

13 Q Or a business executive.

14 A No.

15 Q When I asked you your duties and
16 responsibilities you listed a number of general subject
17 matter areas. I take it another area would be to
18 participate in selecting participants on trade
19 missions.

20 A Depending on the trip, yes.

21 Q And providing advice on matters related to the
22 trade missions to the secretary, correct?

1 A Correct.

2 Q If the secretary needed legal advice, he would
3 turn to you, correct?

4 A No.

5 Q Were you in a capacity of attorney-client with
6 the secretary?

7 A No.

8 Q Did the role of counsellor, is it implicit
9 that it's legal counsellor to the secretary?

10 A No, it is not. And, in fact, there have been
11 people who have served in that position that have not
12 been lawyers.

13 Q Do you know of the secretary ever consulting
14 with the General Counsel about the legal criteria of
15 selecting participants on trade missions?

16 A The secretary himself?

17 Q Yes.

18 A No, I don't.

19 Q Did you?

20 A No.

21 Q Do you know of anyone else having done it?

22 A No.

1 Q Do you know of any effort having been made to
2 determine whether or not by selecting one participant
3 for a trade mission you were helping a particular
4 interest to the detriment of another company that might
5 have been competing for the same project?

6 MR. HEGYI: You mean in a zero sum game, if
7 you select one, do you not select another one?

8 MR. KLAYMAN: Well, what I'm asking for, I'm
9 not asking to pollute the response, Mr. Hegyi. It's
10 unnecessary. This is a very intelligent man.

11 BY MR. KLAYMAN:

12 Q What I'm saying is was there ever any analysis
13 done as to what effect, if any, it would have if
14 Commerce selected company A to go on a trade mission
15 and there was an American company B that was vying for
16 the project.

17 A Yes.

18 Q Was there such an analysis?

19 A Yes.

20 Q Who prepared such an analysis?

21 A Office of General Counsel.

22 Q Was it put in writing?

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1 A Yes.

2 Q Who put it in writing?

3 A I don't know the specific lawyer, but it would
4 have come from the Office of General Counsel.

5 Q And this was a request which was made by the
6 secretary?

7 A No, it was part of the process, of the
8 selection process. It was a policy, and I don't know
9 if it was a written policy as such, but it was a policy
10 not to give one American firm an advantage over
11 another.

12 Q What you're saying is that there was a written
13 analysis done of the legal aspect of that.

14 A Sometimes. Sometimes. If --

15 MR. HEGYI: I'm going to object also. That
16 isn't what he said and you just misstated his prior
17 testimony.

18 MR. KLAYMAN: Well, let him say what he said.

19 BY MR. KLAYMAN:

20 Q Did you say there was a written analysis of
21 that which was prepared by the General Counsel?

22 A If needed, yes.

1 Q And you saw that cross your desk from time to
2 time.

3 A I don't know if I particularly saw it cross my
4 desk, but I was aware of it.

5 Q And who did it go to?

6 A It depends on the trip again. It could have
7 been a memo to the file.

8 Q Were there lawyers in the Office of General
9 Counsel that you dealt with when you were there?

10 A My primary dealings were with Ginger Lew, who
11 was the General Counsel. At some point, Kathleen
12 Ambrose was there.

13 Q Was she deputy?

14 A I believe so. I don't remember. Yes, I think
15 so.

16 Q So would these analyses, these written
17 analyses, have come from Ginger Lew?

18 A They would have been done under her direction.

19 Q And who requisitioned them?

20 A I don't know. I mean, it would have to
21 have -- the only way I can answer that question is to
22 know of a specific request or a specific analysis.

1 Q Would it help if I went through all the
2 various trade missions?

3 A No. Because I don't know -- I mean, I would
4 have to know the company and the project and the deal.

5 Q Did you ever talk to potential company
6 participants on these trade missions directly?

7 A I don't remember. I mean, perhaps, but I
8 don't remember. I don't have any specific
9 recollection. That wasn't --

10 Q Do you have a general recollection? It must
11 have happened at least once.

12 A Yes, I'm sure it did, but I don't remember the
13 specific instance.

14 Q And you kept notes of your conversation?

15 A No.

16 Q Did you ever meet with them?

17 A Before the mission? No.

18 Q After the mission or during the mission?

19 A Well, during the mission, we had meetings all
20 the time.

21 Q Did people like Mark Middleton ever go on
22 these trade missions?

1 A No.

2 Q Did he ever go on any of them?

3 A No, not that I am aware of.

4 Q Was there any kind of effort to invite people
5 on the trade missions from the White House or the DNC?

6 A The White House staff from the NSC would go on
7 the mission or from the Office of Technology. We had
8 White House staffers from time to time on the missions,
9 yes.

10 Q Anybody from the DNC ever go on a trade
11 mission?

12 A No.

13 Q Democratic National Committee.

14 A No.

15 Q Did you participate in a trip to the Middle
16 East at all?

17 A No. I didn't go on that trip.

18 Q Are you aware of a brochure that was published
19 by the DNC which offered participation on trade
20 missions for \$100,000 to become a managing trustee?

21 A When was this?

22 Q Are you aware of anything like that?

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1 A Only through news accounts.

2 Q Did you ever see such a brochure?

3 A No.

4 Q Was it ever discussed?

5 A No.

6 Q During the time that you were at the
7 Department of Commerce, did you ever meet with Don
8 Fowler?

9 A No.

10 Q Did you ever talk to him by phone?

11 A No.

12 Q Christopher Dodd?

13 A No. Not with the senator directly, no.

14 Q Bruce Linsey?

15 A No. You mean by telephone?

16 Q In any way.

17 A Oh, I mean, I'd see him from time to time, you
18 know, coming out of the White House or my going into
19 the White House. I mean, I know who Bruce Linsey is,
20 he knows who I am.

21 Q How does he know who you are?

22 A He knew I was counsellor to the secretary, to

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1 Ron Brown.

2 Q Did Secretary Brown take you to meetings in
3 the White House from time to time?

4 A Yes.

5 Q As counsellor to the secretary, you were his
6 closest confidant, correct?

7 A I was one of them.

8 Q Who else would be his closest confidants when
9 you were there?

10 A Rob Stein.

11 Q Anyone else?

12 A Jonathan Sallet, Loretta Dunn, Melissa Moss,
13 Carol Hamilton, Jill Schuker.

14 Q But you were closer than any of them, weren't
15 you?

16 A I had known him longer.

17 Q During the time that you were with the
18 Commerce Department or thereafter, did you ever meet a
19 John Huang?

20 A Yes.

21 Q When did you first meet him?

22 A I have no recollection. None at all.

1 Q Generally speaking.

2 A Some time in 1993.

3 Q And what was the occasion?

4 A I don't remember. It may have been just
5 passing him in the hall and someone introduced him to
6 me.

7 Q Did you speak with him at the time?

8 A I said hello, he said hello.

9 Q Did you ever meet with him thereafter?

10 A You mean one on one personally?

11 Q In any way.

12 A Again, I don't have any specific recollection
13 but, I mean, we had these meetings and he could have
14 well been a participant. John Huang is a very quiet
15 individual. He's not someone that you notice.

16 Q Do you remember him saying anything at any of
17 these meetings?

18 A No, not at all.

19 Q Did you ever receive written correspondence or
20 any other type of writing from him?

21 A Not that I recall.

22 Q Did you ever send him anything in writing?

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1 A Not that I recall.

2 Q Do you know what he did at the Department of
3 Commerce?

4 A He worked in the International Trade
5 Administration.

6 Q And what were his duties and responsibilities,
7 to the best of your knowledge?

8 A I don't know. He was a deputy assistant
9 secretary.

10 Q And what did that entail?

11 MR. HEGYI: Objection. Irrelevant. Not
12 reasonably calculated to lead to the discovery of
13 admissible evidence.

14 THE WITNESS: His responsibilities were those
15 that were assigned to him by the under secretary, Jeff
16 Garden. And that's not something I have any knowledge
17 of.

18 BY MR. KLAYMAN:

19 Q Did you ever discuss Democratic Party
20 fundraising with Mr. Huang?

21 A No. No.

22 Q You were aware that he was involved in

1 fundraising, correct?

2 MR. HEGYI: At what point in time?

3 MR. KLAYMAN: At any point.

4 MR. HEGYI: That Mr. Huang was at some time i
5 Mr. Huang's career --

6 BY MR. KLAYMAN:

7 Q During the time that Mr. Huang was at the
8 Department of Commerce, you were advised that he also,
9 in whatever capacity, personal or otherwise,
10 participated in Democratic Party fundraising.

11 A No. No.

12 Q Did you ever see him in Secretary Brown's
13 office?

14 A No.

15 Q Did you know a Melinda Yee when you were with
16 the department?

17 A Yes.

18 Q How did you come to know her?

19 A I guess I first met Melinda on a trip to
20 California where she was one of the advance people for
21 the secretary's trip to California.

22 Q Were you aware that she participated in

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1 Democratic Party fundraising?

2 A No.

3 Q And what was her duties and responsibilities
4 as you remember them as one of the advance people?
5 What was she doing?

6 A To work with the secretary's schedule, to
7 arrange meetings for him to have while he was in the
8 state, to set a schedule basically, to make sure that
9 the schedule went smoothly.

10 Q I believe you also testified that you were
11 involved in matters involving California, correct?

12 A Mmm-hmm.

13 Q Specifically, what matters involving
14 California?

15 A We were given the task of working with elected
16 officials in California, with business people in
17 California to help the California economy come out of
18 its doldrums. It was in pretty bad shape back then.

19 Q Did you ever work with Mayor Willie Brown?

20 MR. HEGYI: Objection. Irrelevant. Not
21 reasonably calculated to lead to the discovery of
22 admissible evidence.

1 Tell me how that could possibly lead to the
2 discovery of admissible evidence, counsel.

3 MR. KLAYMAN: You can respond.

4 MR. HEGYI: Mr. Klayman, tell me how --

5 MR. KLAYMAN: You can respond.

6 MR. HEGYI: Mr. Klayman, tell me how it could
7 possibly lead to the discovery of admissible evidence.

8 MR. KLAYMAN: I don't have to respond. I
9 really don't have to tell you.

10 MR. HEGYI: You are harassing this witness.

11 MR. KLAYMAN: I am not --

12 Am I harassing you?

13 I think I've been rather nice to the witness.

14 MR. HEGYI: Counsel, dragging somebody down
15 here, if you have questions about what he knows about
16 the adequacy of the search, why don't you ask him and
17 we'll be out of here in 10 minutes, 15 minutes, tops.

18 MR. KLAYMAN: Every deposition is 10 minutes,
19 Mr. Hegyi. It's beyond the point of comedy.

20 Please respond.

21 THE WITNESS: No, I've never worked with the
22 mayor.

1 MR. HEGYI: Would you please ask this witness
2 what he knows about the adequacy of the search, if
3 anything?

4 BY MR. KLAYMAN:

5 Q Did you engage in fundraising activities with
6 regard to your activities in California?

7 MR. HEGYI: Objection. Irrelevant. Not
8 reasonably calculated to lead to the discovery of
9 admissible evidence.

10 MR. KLAYMAN: You can respond.

11 THE WITNESS: No.

12 MR. HEGYI: Would you please ask this witness
13 what he knows about the adequacy of the search for
14 documents, if anything, in this case?

15 BY MR. KLAYMAN:

16 Q Was Melinda Yee present at any of these
17 meetings with regard to trade missions?

18 A Yes.

19 Q And what type of meetings did she attend?

20 A The big general conclaves that we had.

21 Q Where companies were selected?

22 A She was never, to my knowledge, at a meeting

1 where a company was selected. She was at meetings
2 where companies were discussed as possible
3 participants, where the schedule was discussed, the
4 timing of the trip. But, no, she was not a part of
5 meetings where we said, okay, we're going to take
6 company A or we're going to take company B.

7 Q So what were the specific purposes of the
8 meetings that she attended? Was there a name for those
9 meetings?

10 A They were working group meetings.

11 Q And what were her duties and responsibilities?

12 A I don't know. She was not part of the Office
13 of the Secretary. She was part of ITA.

14 Q Did she ever speak at these meetings?

15 A I don't remember.

16 Q She took notes, though, didn't she?

17 A I don't remember that either.

18 Q She was a fairly prolific notetaker.

19 A I have no idea. It was not something that I
20 paid attention to.

21 Q Was Ms. Lew at some of these meetings?

22 A Yes.

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1 Q Ginger Lew?

2 A Yes.

3 Q She was at all the meetings, wasn't she?

4 A No, I don't think anybody was at all the
5 meetings.

6 Q And she participated in discussing
7 participants on missions, did she not?

8 A Sure. She was the general counsel.

9 Q Other than what you testified to, what role,
10 if any, did the general counsel have to do with
11 choosing participants in trade missions?

12 A The primary role of the general counsel was to
13 vet companies. We would say let's take Bell Atlantic
14 and the Office of the General Counsel had the
15 responsibility of doing the vetting process.

16 Q Did anyone assign that responsibility to the
17 General Counsel?

18 A I don't know how to answer that question. I
19 mean, that was the logical place for the vetting
20 process to be.

21 Q What I want to know, whether there was any
22 kind of directive from the secretary to the General

1 Counsel to do that. How did they come upon that duty,
2 the General Counsel?

3 A I don't know. Probably historical.

4 Q Was there anything in writing assigning them
5 that duty?

6 A I have no idea.

7 Q Are there duties in vetting -- was there
8 anything in writing as to what their specific duties
9 were in vetting?

10 A I don't know.

11 Q Specifically, what is vetting as they did it?
12 What did they do?

13 A Did a Lexis search on the company. Any legal
14 problems, any ethical problems, any issues involving
15 the company that might be embarrassing or that we
16 should know about or any reason to not take them on the
17 trip. It's quite a background search on the company.
18 I mean, for example, we might want to know -- we're
19 going into Brazil and company X has a big litigation
20 down there or 10 years ago they were accused of bribing
21 a Brazilian official. I mean, you've got to know these
22 things.

1 Q Do you know of any company that was excluded
2 -from a trip because of difficulties in that regard?

3 A In what regard?

4 Q Being an embarrassment, being involved in
5 litigation, being involved in a bribery scandal?

6 A Not specifically. I can't give you a name.
7 No. That's not say that it didn't happen, I just can't
8 give you a specific.

9 Q Was anything ever put in writing about any
10 particular company that you know of, the reasons for
11 exclusion?

12 A No particular company I know of. No.

13 Q Was anyone ever excluded?

14 A Again, I don't have any specific recollection.

15 Q Did you ever have any one-on-one meetings with
16 Ginger Lew?

17 MR. PAYTON: About anything?

18 MR. KLAYMAN: Well, while you were at the
19 department.

20 THE WITNESS: Yes.

21 MR. PAYTON: About anything?

22 MR. KLAYMAN: Yes.

1 THE WITNESS: Yes.

2 BY MR. KLAYMAN:

3 Q What were those meetings about?

4 MR. PAYTON: Wait. Hold on. Hold on.

5 MR. KLAYMAN: Just general subject matter.

6 I'm not asking for deep specifics.

7 MR. PAYTON: You want to know about any
8 meetings he ever had with Ginger Lew?

9 MR. KLAYMAN: The subject matter.

10 MR. PAYTON: The subject matter of any meeting
11 he ever had with Ginger Lew?

12 MR. KLAYMAN: Yes. Yes. Well, it may not be
13 that many.

14 BY MR. KLAYMAN:

15 Q How many did you have?

16 A I have no idea. Our offices were right across
17 from each other.

18 MR. HEGYI: And I would also state for the
19 record that what a high level employee of the
20 Department of Commerce chooses to discuss or not to
21 discuss with the general counsel would, I believe, also
22 itself be privileged.

1 MR. KLAYMAN: Well, I just asked for the
2 general identification of the general subject matter,
3 Mr. Hegyi.

4 MR. HEGYI: Yes, sir. And by identifying what
5 either a high level official felt ought to be discussed
6 with the general counsel or the general counsel may
7 decide ought to be discussed with a high level official
8 I believe is itself subject to the privilege.

9 MR. KLAYMAN: No, he understands what I'm
10 saying and you've used this as a pretext throughout to
11 try to impede deposition testimony. I'm asking if --

12 MR. HEGYI: Counsel, do not project onto me
13 your own tactics. I have asked you this before, I am
14 telling you again, do not project onto me the tactics
15 that you use when you are either taking or defending a
16 deposition. I don't appreciate it. You are absolutely
17 incorrect. Now, stop it.

18 MR. KLAYMAN: I will do my job and you can do
19 yours. I'm asking that you not interrupt.

20 Mr. Hackney --

21 MR. HEGYI: Counsel, if you ask a question --

22 MR. KLAYMAN: -- did you ever have a

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1 meeting --

2 MR. HEGYI: -- that is subject to an
3 objection, I will place an objection on the record.

4 MR. KLAYMAN: Well, and your objection is not
5 well placed. It is frivolous, like many of your other
6 actions in this case.

7 MR. HEGYI: Counsel, I would be very careful
8 what you say on the public record. I would be very
9 careful.

10 MR. KLAYMAN: I am very careful.

11 BY MR. KLAYMAN:

12 Q Mr. Hackney?

13 A Yes?

14 Q Did you ever have any meetings with Ginger Lew
15 where trade missions were discussed? That's the type
16 of edification I'm looking for.

17 MR. HEGYI: And you can ask him that question,
18 can't you? You are capable of doing so.

19 THE WITNESS: Yes.

20 BY MR. KLAYMAN:

21 Q What was discussed about trade missions?

22 MR. HEGYI: Objection. This is going to be

1 getting into an area clearly that's going to be
2 covered --

3 MR. KLAYMAN: We don't know that yet.

4 MR. HEGYI: -- by the attorney-client
5 privilege.

6 MR. KLAYMAN: We don't know that yet. He is
7 an attorney and he understands what's possibly
8 covered --

9 MR. HEGYI: Excuse me, counsel. Someone can
10 be an attorney for lots and lots of years and may
11 either (a) not be a litigation attorney ever in their
12 career or (b) not have been a litigation attorney in
13 the recent past, in which case that person just because
14 they're an attorney is not somehow cloaked and bathed
15 with imminent knowledge of what is and isn't covered by
16 a privilege.

17 This witness used to be a high level employee
18 of the Department of Commerce, that is the defendant in
19 this case. And, as a result, I would caution the
20 witness to ponder and, if need be, inquire of his own
21 counsel whether or not to answer a question that would
22 waive a privilege.

1 I believe that if you ask this witness
2 specifics about what was discussed between a high level
3 government employee and a person at the Office of
4 General Counsel with regard to legal advice that you
5 have crossed that line.

6 MR. KLAYMAN: I haven't crossed any line.

7 BY MR. KLAYMAN:

8 Q Was there anything discussed with regard to
9 companies who had been Democratic Party supporters?

10 A No. No.

11 Q Individual contributors to the Democratic
12 Party?

13 A No.

14 Q Have you ever done litigation in your legal
15 career?

16 A Yes.

17 Q Substantial amount?

18 A A little bit, years ago.

19 Q I'm not asking you for attorney-client
20 information. Do you understand what the
21 attorney-client privilege is?

22 A Yes.

1 Q So tell me what you discussed that would not
2 be covered in your view by the attorney-client
3 privilege.

4 MR. PAYTON: If there is an issue about
5 whether or not something is covered by the privilege --

6 MR. KLAYMAN: You can step out of the room
7 with your counsel. That's fine.

8 THE WITNESS: I have no specific recollection
9 of a specific meeting with Ginger that I could say we
10 sat down and discussed company X, but there were times
11 when she would come into my office and say I don't
12 think this company perhaps should go on the trip
13 because of X, Y and Z and I would either say you're
14 right, you're wrong, let's look at it a little further
15 and make a decision.

16 BY MR. KLAYMAN:

17 Q Did she advocate why a company should go on a
18 trip?

19 A No.

20 Q Did she come in with a document detailing why
21 in her view or her office's view a company should not
22 go on a trip?

1 A I don't know she at any given meeting had a
2 document. It was probably based on something that had
3 been analyzed, but I don't remember specifically any
4 documents. No.

5 Q But she might have had some documents?

6 A I don't know. It wasn't something I was
7 focused on. I was more focused on what she had to say.

8 Q Give me an example of an occasion, you don't
9 have to give me the company's name, but where she came
10 in and discussed why a company shouldn't go.

11 A I can remember a couple of occasions where a
12 company was involved in litigation or a dispute with
13 the country, with the government of the country that we
14 were going to. Or the company had some legal problem
15 here in the United States.

16 Q Did you ever hear of a company called Diamond
17 Shamrock?

18 A Yes.

19 Q A representative of that company went on the
20 Latin American trip, did he not?

21 A I don't remember.

22 Q Glen Biggs (phonetic), does that raise a --

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1 A It sounds familiar.

2 Q And during that trip, the secretary invited
3 Mr. Biggs to go along to a meeting with President
4 Mainen (phonetic), did he not?

5 A No. I don't think so.

6 Q Did you participate in any discussions over
7 what type of assistance could be provided to Diamond
8 Shamrock on the Latin American trip?

9 A Probably. I don't recall it specifically, but
10 probably. If it were a company that went on the trip.

11 Q And what assistance did the department provide
12 to Diamond Shamrock?

13 A I don't remember.

14 Q In fact, the department advocated eliminating
15 an Argentine tax penalty against Diamond Shamrock, did
16 it not?

17 A I don't remember. I'd have to -- I just don't
18 remember.

19 Q The duties and responsibilities of the
20 department on trade missions was not to be an advocate
21 for tax penalties, was it?

22 A The responsibility of the department and other

1 agencies of the U.S. Government were to assist U.S.
2 companies in their business activities in the country
3 we were traveling to. I don't have any specific
4 recollection of the tax penalties. Someone may have
5 thought it was unfair or unjustly imposed. I don't
6 know what the issue was specifically sitting here. But
7 it was the role of the department and other departments
8 of the government to assist U.S. companies with their
9 problems in the markets in which they had business
10 activities.

11 Q Was there anything put in writing about the
12 assistance to Diamond Shamrock, the nature of the
13 assistance?

14 A I don't know.

15 Q Who would have put it in writing, if it was in
16 writing?

17 A ITA.

18 Q And who in the ITA?

19 A I don't know.

20 Q So is it your recollection that the department
21 could provide any type of service with regard to a
22 company that may be selected, it didn't matter whether

1 it was trade related, it could be any particular type
2 of service, that would be okay?

3 A Related to their business activities.

4 Q Was there anything that you know of, any
5 policy --

6 A PARTICIPANT: Please wait one minute.

7 (Pause.)

8 A PARTICIPANT: Okay. I'm sorry.

9 BY MR. KLAYMAN:

10 Q Were there any policy papers written at the
11 department about the nature of services that could be
12 provided to companies selected for assistance?

13 A I don't know.

14 Q Now, the department did not function as a
15 private law firm to American companies, did it? That
16 wasn't its function?

17 A No.

18 Q So there were some limitations as to what the
19 department could and couldn't do, correct?

20 MR. HEGYI: Objection. Irrelevant. Not
21 reasonably calculated to lead to the discovery of
22 admissible evidence. This is argument, counsel.

1 BY MR. KLAYMAN:

2 Q Yes?

3 A I'm sure there were limitations.

4 Q Where were those limitations written down?

5 A I have no idea.

6 MR. HEGYI: Would you please ask this witness
7 about the witness' knowledge, if any, about the
8 adequacy of the search for documents?

9 MR. KLAYMAN: Let me just go off the record at
10 this point just for about a minute.

11 MR. HEGYI: Stay on the record.

12 MR. KLAYMAN: I'll go off the record if I want
13 to go off the record.

14 MR. HEGYI: No, sir. Stay on the record.

15 MR. KLAYMAN: I am not discussing any legal
16 matter. I'm just discussing scheduling, that's all.

17 MR. HEGYI: Then why can't we do it on the
18 record?

19 MR. KLAYMAN: Because I don't want to -- I
20 don't want to gum up the video tape.

21 MR. HEGYI: Why? I mean, what --

22 MR. KLAYMAN: I'm going off the record.

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1 MR. HEGYI: No, stay on the record. Whatever
2 you want to say in terms of scheduling, let's say it.

3 MR. KLAYMAN: Does anybody want to take lunch
4 here?

5 MR. PAYTON: I'm actually interested in what
6 you think your timing is on all this.

7 MR. KLAYMAN: Well, I think we're going to go,
8 obviously, the remainder of the day. I can't predict
9 what he's going to say, but I'd be willing to take a
10 15-minute, half an hour lunch, whatever, if that's what
11 people wanted to do.

12 MR. HEGYI: This deposition was noticed for
13 10 a.m. We were here. We were prepared to be here --

14 MR. KLAYMAN: I'm not fighting with you,
15 Mr. Hegyi.

16 MR. HEGYI: Excuse me, counsel. I want to
17 make sure we say this on the record. You noticed this
18 deposition for 10 a.m. You then without contacting me
19 or anybody else to my knowledge ended up unilaterally
20 changing it to 11 a.m. and I got notice of it after the
21 fact. So we were here. If this is going to take time,
22 I suggest it ought to come out of -- you ought to focus

1 your questions so that we can get this thing done
2 relatively expeditiously.

3 MR. KLAYMAN: Mr. Hegyi, really. I mean, this
4 approach, to fight over this is so absurd because the
5 deposition continues from day to day until completed.
6 We sent a fax to counsel for Mr. Hackney, we sent one
7 to you. If you had a problem, we assumed you'd raise
8 it with us. I had a scheduling problem this morning.
9 We started at 11. All I'm doing is saying would you
10 like to take a 15-minute, half an hour lunch. That's
11 all I'm asking.

12 MR. HEGYI: We'll allow the witness and his
13 counsel to take the first crack at it, whether they
14 would or would not.

15 MR. PAYTON: Look, I haven't been through any
16 of the depositions. Obviously, I think this is
17 proceeding quite slowly. I'm surprised that we haven't
18 gotten to what I thought you were going to ask
19 questions about. If this is the pace and we don't have
20 a chance of ending early, then, yes, we'd like to have
21 lunch.

22 MR. KLAYMAN: Yes. Well, it is the pace.

1 Would you like us to get you lunch or there's a Subway
2 downstairs? I mean, that's fine. I'm just trying to
3 be agreeable.

4 MR. PAYTON: It doesn't matter.

5 MR. KLAYMAN: Do you want a half an hour?

6 MR. PAYTON: It doesn't matter to me. Do you
7 want to get lunch? That's fine.

8 MR. KLAYMAN: Do you want to take a half an
9 hour?

10 MR. PAYTON: Sure.

11 MR. KLAYMAN: Okay. Why don't we break now?

12 VIDEO OPERATOR: Off the record at 12:20.

13 (Whereupon, at 12:20 p.m., a luncheon recess
14 was taken.)

A F T E R N O O N S E S S I O N

(1:06 p.m.)

VIDEO OPERATOR: Back on the record. The time
is 1:06.

Whereupon,

JAMES HACKNEY

was recalled as the witness and, having been previously
duly sworn, was examined and testified further as
follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF (RESUMED)

MR. KLAYMAN: Mr. Hackney, I'm going to
show you what I'll ask the court reporter to mark as
Exhibit 1 to your deposition.

(Hackney Deposition Exhibit No. 1
was marked for identification.)

BY MR. KLAYMAN:

Q Have you ever seen this document?

A Yes, I have.

Q When did you receive it?

A Approximately two weeks ago. Two and a half
weeks ago.

Q This is a subpoena requiring your presence in

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1 this case, is it not?

2 A Yes.

3 Q And did you have an opportunity to review
4 Exhibit A which requires the production of certain
5 documents?

6 A Yes, I did.

7 Q Did you do a search for any responsive
8 documents to Exhibit A?

9 A Yes, I did.

10 Q Did you locate any?

11 A No, I did not.

12 Q Did you leave the Department of Commerce with
13 any documents?

14 A No, I did not.

15 Q Where did you leave your documents when you
16 left?

17 A In my office, in the files in my office, file
18 cabinets outside my office.

19 Q Can you describe those file cabinets for us,
20 where they were located and who had control over the
21 filing in those file cabinets?

22 A They're located behind the secretary's desk.

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1 It's in the suite -- as you walk into the suite of the
2 office of the counsellor, there are two secretarial
3 desks and behind those two desks are file cabinets.
4 I think they're about two cabinets high.

5 Q And generically what type of documents were
6 stored in there?

7 A Anything that I received or sent out or kept.
8 I think at one point we did it by subject matter, but
9 I'm not sure. But, I mean, it would have been
10 documents that either I had sent out, someone had sent
11 to me or I had been copied on.

12 Q You had filed your notes in that cabinet?

13 A Yes, if they existed, yes.

14 Q Correspondence?

15 A Yes.

16 Q Any memoranda that you wrote?

17 A Yes.

18 Q And who was your secretary again?

19 A Eve Borgos, B-o-r-g-o-s.

20 Q She did the filing?

21 A Yes.

22 Q Did you do the filing yourself or did you put

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1 it in an out box and then --

2 A I put it in an out box. And either she or --
3 I had two special assistants in the time that I was
4 there, Katherine Hoffman and Charlotte Kea.

5 Q How were documents designated for filing? Did
6 you put any kind of Post-it note on a document as to
7 where it should be filed?

8 A Yes.

9 Q Is that the way you did it?

10 A Yes.

11 Q And what were your general categories that you
12 used?

13 A Personal correspondence, by country, by trade
14 mission, California may have been one, minority
15 business may have been another, technology programs may
16 have been another.

17 Q Did you have a file for Democratic Party
18 matters?

19 A No.

20 Q Donors?

21 A No.

22 Q What is personal correspondence? That means

1 just correspondence that you wrote, not that you owned
2 personally.

3 A That I wrote or someone wrote to me that
4 really didn't fit into --

5 Q Still an official document.

6 A Yes.

7 Q Did you have a computer in your office?

8 A Yes, I did.

9 Q Did you work on the computer from time to
10 time?

11 A No, I did not.

12 Q Did anyone ever use the computer in your
13 office?

14 A No.

15 Q While you were there?

16 A No.

17 Q Never wrote one document on the computer.

18 A Not one document.

19 Q Did you write letters out in longhand? I
20 mean, how did you record them?

21 A Yes. I would write letters out in longhand
22 and have Eve type them.

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1 Q How did Rob Stein keep his records?

2 A I have no idea.

3 Q Did there come a point in time when you became
4 aware of Freedom of Information Act requests by
5 Judicial Watch?

6 A Yes.

7 Q When was that?

8 A I don't remember.

9 Q Were you ever asked to do a search for records
10 responsive to Judicial Watch's FOIA requests?

11 A Yes.

12 Q Who asked you to do that?

13 A It was done by memo, I believe.

14 Q Who sent the memo?

15 A I don't remember.

16 Q And what did the memo ask you to do?

17 A To make a search of my files that might be
18 responsive to the FOIA requests.

19 Q Was the scope of Judicial Watch's FOIA
20 requests discussed in the memo?

21 A Without having the memo in front of me, I
22 don't remember.

1 Q You don't remember what was in the memo?

2 A Just that there was a FOIA request out and
3 there were certain documents that -- it sort of
4 described what the request was, I believe, search my
5 files to see if I had any documents that were
6 responsive.

7 Q Do you remember when you received the memo?

8 A No.

9 Q Could it have been towards the end of your
10 tenure?

11 A I believe so.

12 Q Do you recollect ever having seen Judicial
13 Watch's actual FOIA request?

14 A No.

15 Q Do you recollect ever having discussed
16 Judicial Watch's FOIA request with Secretary Brown?

17 A No.

18 Q Did he ever raise it with you?

19 A No.

20 Q You never raised it with him?

21 A No.

22 Q Do you know whether you discussed Judicial

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1 Watch's FOIA request with Rob Stein?

2 A Repeat the question?

3 Q Rob Stein.

4 A Did I or did the secretary?

5 Q Did you. Did you ever discuss Judicial

6 Watch's FOIA request with Rob Stein?

7 A Only in very general terms.

8 Q When was the first time you discussed it?

9 A I don't remember.

10 Q What was the context of discussing it?

11 A That there was a FOIA request and we needed to
12 start searching our files to see what was responsive to
13 the request.

14 Q Who initiated the conversation? Was it a
15 conversation or was it in writing?

16 A It was a conversation. I can't imagine
17 anything that went back and forth between Rob and
18 myself in writing. I don't remember who initiated the
19 conversation.

20 Q Did anyone come up with a procedure on how to
21 do the FOIA search?

22 A I believe so.

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1 A It's my special assistant, Charlotte Kea.

2 Q How's that spelled, last name?

3 A K-e-a.

4 Q Is she still at the department?

5 A I think so. I'm not sure.

6 Q And what instructions, if any, did you give
7 Eve and Charlotte?

8 A To search my files to see if there was
9 anything responsive to the request.

10 Q Did you give them anything to be able to
11 determine whether files were responsive?

12 A Probably.

13 Q You don't remember?

14 A No. It would have been oral, this is what's
15 responsive, let's look for it.

16 Q Before your deposition today, did you have a
17 chance to meet with Mr. Hegyi?

18 A Yes.

19 Q Did you discuss your testimony with Mr. Hegyi?

20 A Yes.

21 Q How long did you meet with him?

22 A Twenty minutes, 15 minutes.

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1 Q Did you have a chance to review the deposition
2 testimony of any other witness in this case?

3 A No.

4 Q Did you discuss the deposition testimony of
5 other witnesses in this case?

6 A No.

7 Q Do you know of any efforts by anyone other
8 than Eve and Charlotte to search records in other parts
9 of the secretary's office suite?

10 A No.

11 Q Do you know whether or not Secretary Brown
12 himself searched for responsive documents?

13 A I have no idea.

14 Q You were aware that the secretary corresponded
15 with the White House weekly, were you not? In writing?

16 A Yes.

17 Q Weekly reports?

18 A Yes.

19 Q What did those weekly reports generally
20 entail? Were there any criteria for what should be
21 reported to the White House?

22 A It was a summary of what the department was

1 involved in on that week, previous week.

2 Q Did you participate in drafting those reports?

3 A No. It was drafted by, I believe, the Office
4 of Policy Planning, which was the office headed by
5 Mr. Sallet.

6 Q Mr. who?

7 A Sallet.

8 Q Are you aware that Judicial Watch's FOIA
9 requests and a subsequent lawsuit by Judicial Watch
10 against the department were discussed in those weekly
11 reports?

12 A No.

13 MR. KLAYMAN: Let the record reflect that
14 Alice Mary Leach, one of our attorney volunteers, has
15 come into the room. If you want to pan to Ms. Leach.

16 MR. PAYTON: I have a question about your last
17 question. You were referring to a different lawsuit
18 than the one we're --

19 MR. KLAYMAN: No, the one we're here on today.

20 BY MR. KLAYMAN:

21 Q Do you know whether or not anyone at the
22 department ever discussed Judicial Watch's Freedom of

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1 Information Act requests or the lawsuit that we're
2 today with the White House?

3 A I have no specific knowledge. No. No
4 knowledge of it.

5 Q Same question with regard to the Democratic
6 National Committee.

7 A No.

8 MR. KLAYMAN: I'm going to show you what I'll
9 ask the court reporter to mark as Exhibit 2. This is a
10 Freedom of Information Act request dated September 12,
11 1994.

12 (Hackney Deposition Exhibit No. 2
13 was marked for identification.)

14 BY MR. KLAYMAN:

15 Q I ask you whether you've ever seen this
16 Freedom of Information Act request before, other than
17 in preparation for this deposition.

18 A I can't answer for sure whether I saw it other
19 than in preparation. I have seen it, but I don't
20 remember prior to this.

21 MR. KLAYMAN: Let me show you what I'll ask
22 the court reporter to mark as Exhibit 3. This is a

1 FOIA request of Judicial Watch of September 13th.

2 (Hackney Deposition Exhibit No. 3
3 was marked for identification.)

4 BY MR. KLAYMAN:

5 Q And I'll ask you the same question. Have you
6 ever seen this FOIA request other than in preparation
7 for this deposition?

8 A No, I don't recall seeing this one. No.

9 Q Do you know whether anyone ever discussed
10 Judicial Watch's FOIA requests with Secretary Brown,
11 excluding yourself?

12 A No.

13 Q Were there any procedures inside the
14 secretary's office for searching for records requested
15 by FOIA requestors? Anything in writing?

16 A I never saw anything in writing.

17 Q Was there anyone inside the inner suite of the
18 secretary's office who was responsible for searching
19 for documents in response to FOIA requests while you
20 were at Commerce?

21 A Not that I recall.

22 Q Did you ever discuss with Secretary Brown

1 responding to any FOIA requests, not necessarily
2 Judicial Watch's, but anybody's?

3 A No.

4 MR. KLAYMAN: I'll show you what I'll ask the
5 court reporter to mark as Exhibit 4. This is a Freedom
6 of Information Act request of October 19, 1994 of
7 Judicial Watch.

8 (Hackney Deposition Exhibit No. 4
9 was marked for identification.)

10 BY MR. KLAYMAN:

11 Q And I ask the same question that I asked
12 earlier, do you have any recollection of seeing this
13 FOIA request other than in preparation for this
14 deposition?

15 A No, no specific recollection.

16 Q When you worked with the secretary at the
17 Commerce Department, did you work with Barbara Schmitz,
18 his assistant?

19 A The term "working with" --

20 Q Did you have any dealings with her?

21 A No. No direct dealings, no. Other than to
22 call her and say is the secretary around or is he

1 available, no direct dealings.

2 Q You were aware that she was his primary
3 assistant.

4 A Yes.

5 Q And what were her duties and responsibilities?

6 A She was his primary secretary. She sat
7 outside his office and answered his telephone, handled
8 his correspondence. Told people when they could go in
9 and see him, when they couldn't.

10 Q Did she keep telephone messages for the
11 secretary?

12 A Yes.

13 Q You've seen telephone message books, have you
14 not?

15 A Not books. I've seen sheets of paper.

16 Q How did she keep his telephone messages?

17 A She had a sheet of paper that -- I don't know
18 how she generated it, it could have been from her
19 computer, but it was a sheet of paper that she left his
20 messages on.

21 Q Where did she store them?

22 A She kept them on her desk.

1 Q Do you know how they were filed?

2 A I don't know. I don't know they were filed.
3 They could have been thrown away. I'm not sure.

4 Q How were your telephone messages taken?

5 A On a sheet of paper.

6 Q The same way?

7 A Yes.

8 Q How were yours kept, if at all? Your
9 telephone messages. How were they filed?

10 A They weren't filed.

11 Q Was there a backup carbon?

12 A No.

13 MR. KLAYMAN: Hold on one second.

14 Off the record.

15 VIDEO OPERATOR: We're going off the record.

16 The time is 1:24.

17 (A brief recess was taken.)

18 VIDEO OPERATOR: The time is 1:26.

19 BY MR. KLAYMAN:

20 Q Have you ever seen the telephone message books
21 where you write a message and then there's a sheet
22 below it which is pressure sensitive?

1 A Mmm-hmm.

2 Q Which is like a carbon?

3 A Yes.

4 Q Did you keep telephone messages that way?

5 A No, I did not.

6 Q Did anyone in the inner office of the
7 secretary?

8 A Not to my knowledge.

9 Q During the time that you were at the
10 department, did you ever communicate with the secretary
11 when he was at home?

12 A Yes.

13 Q He had an office in his home, a little office?

14 A Yes.

15 Q And from time to time, did people send him
16 faxes to that office?

17 A Not to my knowledge. I don't know.

18 Q But he did have a fax machine there.

19 A I don't recall a fax machine. I don't know
20 the answer to that.

21 Q Did he sometimes work at home?

22 A Yes.

1 Q How frequently, roughly speaking, did he work
2 at home?

3 A Every day.

4 Q Did he come in at a particular time generally
5 each day?

6 A Yes.

7 Q What time was that?

8 A About 8:00, 8:30.

9 Q And did he go home and work at home for part
10 of the day?

11 A During the day?

12 Q Yes.

13 A No. At night, yes.

14 Q What time did he generally leave?

15 A Ten. Nine, ten o'clock at night.

16 Q And he'd work at home after that sometimes?

17 A Yes.

18 Q And sometimes you'd be in communication with
19 him between the office and his home at that time?

20 A Yes.

21 Q Did the office keep fax logs? If a fax was
22 sent out, you could record where it was sent, how many

1 pages, et cetera?

2 A I don't know the answer to that. I've never
3 seen them. That's not to say -- I don't know.

4 Q So it's entirely possible that faxes were sent
5 to him at his house.

6 MR. HEGYI: Objection.

7 THE WITNESS: I don't know.

8 MR. HEGYI: Asked and answered.

9 BY MR. KLAYMAN:

10 Q Did you ever see John Huang in the inner suite
11 of offices?

12 MR. HEGYI: Inner suite of what offices?

13 MR. KLAYMAN: The secretary's offices.

14 THE WITNESS: In the secretary's office?

15 BY MR. KLAYMAN:

16 Q The suite that his inner staff was located
17 in, that you were in. Did you ever see John Huang
18 there?

19 A I don't have any specific recollection, but
20 that's not something that I would remember. A lot of
21 people came through there.

22 Q Were there any meetings of the inner suite of