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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 INTERVIEW OF: JOSH FINDLAY

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Wednesday, May 25, 2022

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Washington, D.C.

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The deposition in the above matter was held via Zoom, commencing at 1:03 p.m.

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Present: Representative Aguilar.

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2 Appearances:

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5 For the SELECT COMMITTEE TO INVESTIGATE

6 THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

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8 [REDACTED] STAFF ASSOCIATE

9 [REDACTED] INVESTIGATIVE COUNSEL

10 [REDACTED] INVESTIGATIVE COUNSEL

11 [REDACTED] PROFESSIONAL STAFF MEMBER

12

13 For JOSH FINDLAY:

14

15 STEFAN PASSANTINO

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Ms. [REDACTED] Let's go on the record now.

All right. Good afternoon, this is a transcribed interview of Joshua Findlay, 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 his full name and spell his last name for our record.

Mr. Findlay. Joshua Jensen Findlay, F-i-n-d-l-a-y.

Ms. [REDACTED] Thank you.

And, Counsel, could you please also identify yourself for the record.

Mr. Passantino. Yes, Stefan Passantino. Last name, P as in Paul, -a-s-s- as in Sam, -a-n-t-i-n-o.

Ms. [REDACTED] Great. Thank you.

So I have some preliminaries to go over before we get started for our conversation today. Before we do so, I want to note that you're appearing here voluntarily, Mr. Findlay, and we really appreciate that cooperation.

So today this will be a staff-led interview. Members of the select committee may, of course, choose to join us during the day -- to join us for the questioning. If they do log in, you'll be able to see them on the participant list on our Zoom screen here, and we will do our best to note their appearance for the record and for your awareness as well.

If they do join, they may, of course, choose to ask questions, and we'll take some breaks to allow them to do so.

Again, as I introduced myself to you before we went on the record, my name is

[REDACTED]. I'm an investigative counsel for the select committee. I'm joined by a

1 couple of my colleagues today.

2 In the room with me here is professional staff member [REDACTED], and
3 joining us remotely on the Webex is my colleague, investigative counsel [REDACTED]
4 [REDACTED]

5 We may have some other members of the select committee staff join us as well,
6 and you'll be able to see them on a participant list also.

7 So just a few ground rules to go over before we begin, which I'm sure will not be a
8 surprise to you. As you heard, there's an official reporter who is transcribing our
9 interview today. We are recording this virtual proceeding, but the reporter's transcript
10 is the official record of our interview today. You will have the opportunity, you and your
11 attorney, to review the transcript and suggest any corrections before it's finalized.

12 And because the official reporter is taking down the official record,
13 Mr. Passantino, we ask that you stay on camera if you are going to speak so that they can
14 see your face and your voice at the same time.

15 And we ask, Mr. Findlay, for a verbal response rather than a head nod or a shake
16 because the stenographer can't take down nonverbal responses.

17 And, although this is a voluntary interview, not under oath, I do want to remind
18 you that it is unlawful to deliberately provide false information to Congress. Do you
19 understand that?

20 Mr. Findlay. Yes.

21 Ms. [REDACTED] Okay. Thank you.

22 So we really do want you to be able to understand our questions today, to be able
23 to answer them fully and truthfully. So, if any of my questions or those my colleagues
24 are unclear, please don't hesitate to ask us, and we're happy to clarify.

25 Similarly, if you don't know the answer to the question, please just say you don't

1 know or you can't recall as appropriate, but do keep in mind that we hope that -- we
2 expect full answers to our questions today and for them to be truthful.

3 Logistically, please let us know if you need to take any breaks at all, both just for a
4 comfort break, especially due to the virtual environment here, or if you need to consult
5 with your counsel at any point during the day, just let us know.

6 I think that's it on my end. Anything else, any questions you have about the
7 proceeding?

8 Mr. Findlay. No.

9 Ms. [REDACTED] Okay.

10 And, Mr. Passantino, anything you would like to address before we go on?

11 Mr. Passantino. No. We're ready to proceed.

12 Ms. [REDACTED] Okay. Thank you.

13 EXAMINATION

14 BY MS. [REDACTED]:

15 Q So, Mr. Findlay, could you please give me a brief description of your
16 background, starting with your educational background.

17 A Sure. I attended undergraduate at Brigham Young University in Utah. I
18 attended law school at the University of Georgia School of Law. After that, I was an
19 attorney in private practice for about 5 years.

20 From there, I kind of transitioned into politics, working for -- as the chief counsel
21 for a Member of Congress, working on various campaigns, mostly here in Georgia.

22 And then, in January of 2019, I moved to Washington, D.C. to work on the Trump
23 campaign.

24 Q Okay. Thank you. So, when you joined the Trump campaign in January of
25 2019, what was your position at that time?

1 A I was a regional director of party organization and delegates.

2 Q And what region were you responsible for?

3 A It was basically the southern third of the United States, West Virginia,
4 Virginia, down to Florida, and then from Florida west to Arizona.

5 Q Okay. And was that part of --

6 A There's 20 States and territories.

7 Q You were responsible for 20 States?

8 A Yes.

9 Q Understood. Okay. Thank you.

10 And was this your role as part of the campaign's political operation or structure?

11 A Yes.

12 Q Okay. And how long did you hold that position of regional director?

13 A Until about June-ish of 2020.

14 Q And, in the summer of 2020, did you take on a new role within the Trump
15 campaign?

16 A Yes.

17 Q And what was that?

18 A Associate general counsel.

19 Q So, before taking on the associate general counsel role when you were in the
20 political operation, did you perform any function as an attorney for the campaign?

21 A Not really. So a lot of what I did dealt with getting delegates elected to the
22 National Convention, Presidential electors elected during that process. It all has a lot to
23 do with State party rules, State laws, things like that. And so I did a lot of -- my legal
24 knowledge came in very practical, but it was also very much a political operation.

25 Q Understood. That's helpful. And so tell us more about the position that

1 you transitioned into in June, I think you said, of 2020 as associate general counsel. How
2 did your responsibilities change at that time?

3 A They changed who I reported to directly. I started reporting to General
4 Counsel Matt Morgan directly, and the work responsibilities changed significantly. I did
5 not do a lot of the litigation-type work at that time, but a lot of the kind of operational
6 work and advising the political operation on legal issues was kind of more what was in my
7 portfolio.

8 Q Okay. Thank you. And, before you became associate general counsel, to
9 whom did you report in your political role?

10 A Nick Trainer.

11 Q And what was Mr. Trainer's position at that time?

12 A The director of party organization and delegates.

13 Q Do you know who Mr. Trainer reported to?

14 A Yes. Bill Stepien and Justin Clark.

15 Q Okay. Thank you. Who were at the time campaign manager and deputy
16 campaign manager?

17 A They weren't at the beginning. I think kind of when the transition
18 happened, Bill was a deputy campaign manager; Justin was the general counsel at that
19 time.

20 Q Okay. Thank you. So you said that you -- in your role as associate general
21 counsel, you were still providing advice to the political operation. The work that you
22 had described related to the delegates and electors.

23 Was that all work that you did prior to -- you know, was that work concluded
24 when you made the transition to the associate general counsel role?

25 A Yes, it was.

1 Q Okay. Had you had any experience with delegates or Presidential electors
2 before?

3 A Not prior to the campaign, no.

4 Q Okay. Did you stay in the associate general counsel role until election day?

5 A Yes.

6 Q Okay. And how long did you stay employed by the Trump campaign after
7 election day?

8 A Until December 15th.

9 Q And until December 15th, did you remain in the role as associate general
10 counsel, or did it change?

11 A No, I was still in that role.

12 Q Okay. So tell us a little bit about what your employment, you know, history
13 has been after December 15th. Where did you go to work after leaving the campaign?

14 A After December 15th?

15 Q Uh-huh.

16 A I went down to Georgia to work on the U.S. Senate race, the runoff.

17 Q And who was your employer at that time?

18 A I didn't have an employer. I was paid contract by the NRSC.

19 Q Okay. And how long did you remain as a contractor for the NRSC?

20 A Until -- until about January 6th-ish, 7th-ish, somewhere in there.

21 Q Just after the runoff for the Senate races?

22 A Correct.

23 Q Okay. And what else? What did you do next? What was your next job
24 after the Senate runoff concluded?

25 A I didn't really have -- well, the next job I got was the -- with the Republican

1 National Committee as the national director of election integrity. So I was off for about
2 3 months until I took that job.

3 Q Okay. Great. And where are you employed now?

4 A At the RNC.

5 Q Okay. Great. All right. And generally, when you were in Georgia during
6 the time period from December 15th through the runoff elections, just generally, what
7 were your responsibilities?

8 A I worked on advising the war room down here, down in Georgia.

9 Q Providing legal advice or political advice?

10 A A little bit of both.

11 Q Okay. Great. Let's see. So I want to focus on the time period -- most of
12 our discussions today are going to be focused on our time period from election day
13 through January 6th for what, I'm sure, are obvious reasons.

14 And so to the extent that my questions aren't clear, you know, my intention is to
15 focus on that time period, and I'll let you know if there's something that's relevant from
16 the earlier time, like, for instance, your experience during the summer with securing
17 Presidential electors might become relevant to some of the things we're talking about.

18 But, generally speaking, we're looking at the post-election time period, and it
19 really falls under, you know, the charge of the select committee to investigate the causes
20 of January 6th.

21 So, during that post-election time period, I'd like to get a little bit, before we go
22 into some of your memories of, you know, facts, to get a little bit better sense of who you
23 were advising or who you were working with in the campaign.

24 So I know that you identified Matt Morgan as your direct supervisor in your
25 position as associate general counsel. Did you have an understanding of who

1 Mr. Morgan was reporting to during that time period?

2 A Yes.

3 Q Who was that?

4 A Bill Stepien and Justin Clark.

5 Q And you say both of them. Did you report, you know, sort of a dual line to
6 each?

7 A Yes.

8 Q Okay. And who -- were there other associate general counsels with whom
9 you were working during that time period?

10 A Yes.

11 Q Who were they?

12 A Elliot Gaiser, Joe Mazara (ph), Stuart McCommas. Those were probably the
13 main three.

14 Q Okay. Great. I'd just like to note for your awareness and for the record
15 that Representative Aguilar has joined us.

16 Good afternoon, Congressman.

17 So, in addition to Mr. Morgan, Mr. Stepien, and Mr. Clark, were there other senior
18 officials of the campaign that you had, you know, direct interaction with during the
19 post-election time period?

20 A Not really direct interaction. I mean, we were in the same office, but those
21 were the three that I mainly worked with.

22 Q Okay. And what about to the candidate or candidates themselves, did you
23 have any direct interaction with President Trump after the election?

24 A Not really.

25 Q Okay. Tell me a little bit more about "not really." Is it a no or a maybe

1 or --

2 A So it was essentially a no, right? Like, we went and took pictures one day.
3 We were at the same Christmas party, but not in any work function.

4 Q Understood. So more of a group environment rather than a one-on-one
5 conversation. Is that fair?

6 A Correct, yes.

7 Q Okay. And is the same true for Vice President Pence?

8 A Yes.

9 Q Okay. And I know you told us that, in your role as associate general
10 counsel, you didn't have direct responsibility for litigation efforts, but did you have any
11 interaction with outside counsel retained to represent the campaign?

12 A No, not that I recall.

13 Q Okay. Did that change at any point? I'm thinking in particular about, I
14 know there was a time period in, you know, in the early days after the election, but
15 mid-November, November 14th I think, where President Trump announced that he would
16 put Rudy Giuliani in charge of litigation efforts.

17 What about Mr. Giuliani's team, which I know might not be considered outside
18 counsel, did you have direct interaction with Mr. Giuliani and his team?

19 A No.

20 Q Okay. How about any other White House officials? So, again, during this
21 post-election time period, did you have any direct interaction with the White House
22 Counsel's Office?

23 A No.

24 Q Okay. And what about with the chief of staff, Mr. Meadows?

25 A No.

1 Q Okay. And how about a lawyer working in the White House named Eric
2 Herschmann, did you have any interaction with him after the election?

3 A No.

4 Q Okay. How about the staff or lawyers working for Vice President Pence,
5 including Greg Jacob or Marc Short, did you have any interaction with them after the
6 election?

7 A No.

8 Q Okay. What about members of the campaign -- well, let me rephrase. I
9 understand there were some folks that were working with the campaign or for the
10 campaign before Mayor Giuliani was put in charge of litigation efforts, but then, you
11 know, sort of became a part of his team. I'm thinking of one in particular, Boris
12 Epshteyn.

13 Did you interact with him after the election?

14 A No.

15 Q Okay. Is he known to you?

16 A Yes.

17 Q Did you work with him at all before election, you know, during your
18 time -- the entirety of your time working for the Trump campaign?

19 A No.

20 Q Okay. Did you have a sense for what role he was hired to play or what his,
21 you know, job function was in the Trump campaign?

22 A My understanding was that generally he did communications, but I did not
23 really have any interactions with him.

24 Q Okay. Did you understand him to be a lawyer representing the campaign?

25 A No, I don't believe so.

1 Q Okay. What about Jenna Ellis, same questions, did you have any
2 interactions with her after the election?

3 A No.

4 Q And what about just generally during, you know, the entirety of your time
5 period working for the Trump campaign, did you interact with Ms. Ellis?

6 A I don't believe so.

7 Q Okay. And did you understand her role to be more of a communications
8 job, or did you consider her to be a lawyer, working, you know, representing the
9 campaign?

10 A More of a communications job.

11 Q Okay. Okay. Thank you.

12 So anything else that I've missed as far as just general background on your jobs or
13 responsibilities during the Trump campaign?

14 A I don't think so.

15 Q Okay. So let's get into the sort of facts here, and I think mostly we'll talk
16 about this chronologically unless there's something that pops up to you that you think is
17 relevant kind of out of order.

18 But, from my concept in thinking about election day and immediately after, the
19 first area that I want to ask you about and that I think you have some knowledge of were
20 efforts to gather information or allegations or even evidence about election fraud
21 allegations.

22 Were you involved in any such efforts related to election fraud allegations after
23 the November 3rd, 2020, election?

24 A Yes.

25 Q Okay. Tell me a little bit about that. Just generally speaking, what was

1 your involvement with that effort?

2 A So, after the election, the legal team kind of divided up into States of
3 responsibility, and the State that I was assigned was Georgia. And, as kind of allegations
4 about different, you know, election issues arose, we were asked to kind of look into them
5 and see if there was any merit, so talk to the people, you know, staff people on the
6 ground, allies on the ground, to kind of find out the facts around whatever allegations
7 arose.

8 Q Okay. That's very helpful. So you said that the legal team was divided up
9 and sort of assigned States. First question is, do you remember how many States were
10 assigned in this fashion?

11 A I think it was roughly six.

12 Q Okay. And do you remember which States they were?

13 A I am pretty sure -- so I was very focused on Georgia at this time, but I'm
14 pretty sure it would've been Pennsylvania, Michigan, Wisconsin, Georgia obviously,
15 Arizona, and Nevada.

16 Q Okay. And how soon after November 3rd were you assigned to, you know,
17 the responsibility for Georgia?

18 A Well, immediately after November 3rd, I guess I was assigned to Georgia.
19 There are 3 days that you have to cure provisional ballots, and the first project we had
20 was curing the provisional ballots, and so that was the first kind of operation that we did
21 in Georgia.

22 Q Understood. So it's within that -- in enough time to be useful in reaching
23 out to voters during these 3 days, I assume?

24 A Correct.

25 Q Okay. Curious how the six States came to be. Those ultimately

1 were -- they fit the description of the, you know, ultimately the six States that were, I
2 would say, in some manner contested by the Trump campaign but that had been declared
3 for the Biden-Harris campaign.

4 Do you remember when the decision was made for these six States to be assigned
5 in this manner?

6 A I don't know about the other States. So what we were doing in all of the
7 competitive States was, you know, checking the legal process, kind of like we were doing
8 in Georgia, right? Are there provisional ballots that need to be cured? Is there a
9 provision for a runoff if it's under a certain percentage? Things like that.

10 So, in States where there was still -- the margin was within the legal process or
11 there were still ballots to be counted or cured, or whatever it was, we were following the
12 process to take care of those issues.

13 Q Okay. Thank you. And who was supervising the effort? Who gave you
14 the assignment to do Georgia?

15 A Matt Morgan.

16 Q Okay. And were the other lawyers that were assigned a State like you were
17 also associate general counsels working with Matt Morgan?

18 A Yes.

19 Q Okay. So tell us how generally did you -- so, setting aside the provisional
20 ballots or investigating the State laws as far as the, you know, counting process, did you
21 at some point start investigating things that were allegations related to election fraud or
22 improprieties in some manner?

23 A We didn't -- so we did not do, like, hands-on investigations into those things.

24 Q What did you do? You know, generally describe it for us. I assume, were
25 things coming into you?

1 A So, yes. We had -- the campaign had a hotline set up with, you know, all
2 kinds of issues that people were reporting. We had election -- I guess EDO operations
3 on the ground at that time that were taking in issues.

4 And, for the most part, it was the election day operations team that was doing a
5 lot of the kind of on-the-ground digging into issues.

6 Q Okay. And so, if things were coming in either through the hotline or
7 through the EDO operation, how did you receive that information, and what did you do
8 with it?

9 A So I received it primarily through our EDO's State director on the ground and
10 then would report the issues that we were hearing to Matt, Bill, and Justin.

11 Q Okay. And not a memory test for what was, I'm sure, a large volume of
12 information, but if you can give us a sort of general description of what were the types of
13 allegations or complaints that you were receiving at this time?

14 Mr. Passantino. Were you able to hear? You broke up on us. I'm sorry. Can
15 you repeat that question?

16 Ms. [REDACTED] Oh, sure, no problem.

17 BY MS. [REDACTED]

18 Q So, Mr. Findlay, I'm not asking you to identify them in any, you know,
19 specificity, especially after this long time, but if you can give us a general description,
20 what were the type of complaints or allegations that you were receiving during this time?

21 A Sure. So, for example, a lot of individual voters were complaining that they
22 had been told they had already voted when they went to the polling locations. I guess
23 the water main break in Fulton County was something that came across there.

24 So it was a lot of individual complaints, but also some kind of big-picture
25 complaints.

1 Q Okay. And I know you said you didn't have a lot of hands-on investigation,
2 you know, responsibility, but what did you do with the complaints or allegations once
3 they came in?

4 A So mostly talked to the team on the ground and see what kind of facts they
5 were finding about these issues and then report to Matt and Bill and Justin for any
6 decisions, if things needed further action.

7 Q Okay. Earlier you said that there was an EDO State director. Who was
8 that person for Georgia?

9 A Robert Sinerse (ph).

10 Q Okay. So, as an example, I know you highlighted the water main break, an
11 allegation related to the Fulton County absentee ballot processing facility at State Farm
12 Arena. Is that fair, my description?

13 A Yes.

14 Q Okay. Did you hear other things in the early, you know, November time
15 period about State Farm Arena?

16 A I mean, that was the main one and issues related to it. Everyone was
17 wondering what happens during that time. People were sent home and people were
18 wondering, you know, why they were sent home. They were wondering who was
19 monitoring the ballots while people were sent home. A lot of issues kind of related to
20 that.

21 Q Okay. And earlier you said that, you know, one of the things that you did
22 after receiving this was talk to the team on the ground. Did you specifically talk to
23 anyone in Georgia about these allegations related to State Farm Arena?

24 A Yes, I would've talked to Robert about it.

25 Q Okay. And what did you learn from that discussion with Robert?

1 A Mostly that there was a lot of confusion about what really happened. We
2 were getting a lot of secondhand stories without a lot of -- well, a lot of secondhand
3 stories, I would say.

4 Q Okay. Did you speak with anyone else about the State Farm Arena
5 allegations?

6 A I may have, but I don't recall any substantive conversation.

7 Q Okay. Did you speak with any government officials or law enforcement
8 regarding those allegations?

9 A No.

10 Q Okay. So nobody with the Secretary of State's Office in particular?

11 A No.

12 Q Okay. Any other -- so, after learning what you could about the allegations
13 for State Farm Arena and acknowledging that there was a lot of confusion about it, did
14 you report up to Matt, Bill, and Justin about those allegations?

15 A Yes.

16 Q And what generally did you tell them?

17 A I relayed kind of the facts of the story, relayed kind of what the news was
18 saying about it, and then also kind of what our State director on the ground was saying.

19 Q Okay. Did you have any further involvement with the allegations related to
20 State Farm Arena?

21 A No.

22 Q Okay. I don't want to get us too off track, but later there came to be a time
23 where there was a State Senate hearing held in Georgia, and some video, direct from that
24 State Farm Arena, was played by a Trump lawyer, I believe, who represented herself to be
25 affiliated with the Trump campaign and Mr. Giuliani. Did you see that footage?

1 A Yes.

2 Q Okay. Did you have any involvement in investigating or determining the
3 accuracy of that information?

4 A No.

5 Q Okay. Are you aware of any other efforts that the campaign did to
6 determine the, you know, validity of any allegations related to State Farm Arena?

7 A No.

8 Q Okay. So the process that you've described to us of, you know, receiving
9 information from either the EDO operation or the hotline -- I don't want to
10 mischaracterize you at all, so please stop me if I am, but I generally heard you to say that
11 you, you know, did some work to gather and organize the information that was coming in
12 and discuss it with folks on the ground and then provided your assessment or, you know,
13 maybe conclusions to your superiors, to Mr. Morgan, Mr. Stepien, and Mr. Clark. Is that
14 fair?

15 A Yes.

16 Q Were you involved in any other efforts to either receive or investigate
17 allegations of election fraud?

18 A No. I mean, it was just kind of through that -- that process.

19 Q Okay. And approximately, you know, how long after the election did you
20 remain involved in this process of receiving and kind of gathering information about
21 election fraud allegations?

22 A So I was updating on everything that was happening in Georgia kind of
23 through the end of my time on the campaign really. You know, at first, we were taking a
24 lot of incoming complaints and things like that, and so that a lot of my job was kind of
25 sorting through what was hearsay, what there was actual, you know, proof of, evidence

1 of, for lack of a better word, what could really be documented.

2 And then, as, I guess, other lawyers kind of took the lead, it was more monitoring
3 what lawsuits were being filed, what, you know, just essentially reading news articles and,
4 you know, court filings, and trying to find out what other lawyers related to the campaign
5 were doing.

6 Q Understood. And I think in the documents that we provided you through
7 our investigation, we have received what looks like a -- we may have received it in a
8 couple of parts, but kind of a continuous, you know, email thread of you providing
9 updates to the campaign about what was happening in Georgia. Is that -- you know
10 what the documents are that I'm referring to, right?

11 A Yes.

12 Q Okay. And so is that -- it's a very comprehensive report of activities in
13 Georgia. So I think is it fair to say that those emails kind of summarize what you were
14 observing and monitoring for the campaign in Georgia?

15 A Yes.

16 Q Okay. So just to try to pin down the timeframe a little bit, I hear you to be
17 saying that, you know, you were involved, right after the election, in assessing, you know,
18 State laws in Georgia in the post-election time period, such as the requirement to cure
19 provisional ballots in 3 days, and then started to gather and organize this information
20 about election fraud allegations. At some point, did you kind of tie off that work and
21 switch gears?

22 A Tie off which work?

23 Q The, you know, election fraud allegations. You were saying that this hotline
24 was set up and the EDO operation --

25 A Yes.

1 Q -- was sending stuff in. Correct me if I'm wrong, but I kind of get the
2 impression that that was probably quite busy for a time period and then maybe switched
3 gears to something else. Is that fair?

4 A Yes, that's correct.

5 Q And, if you could help me pin it down, you know, about how long was that,
6 that you were focused on receiving and sort of investigating what was going on, on the
7 ground?

8 A I don't remember the exact time period, but it was probably for, like, a
9 couple of weeks after the election.

10 Q Okay.

11 A Really, I would say it marks -- it kind of tracks with the times of the processes
12 in the State, right? So, you know, during the provisional-ballot-counting period, we
13 were getting a lot of questions during those days about provisional ballots and what it
14 looks like.

15 And then the secretary of state, you know, if you're under a half percent in
16 Georgia, then there's an automatic recount. So there were a lot of questions about
17 what that recount would look like, and so we had questions about the recount.

18 And then the secretary of state decided to do an audit. So there were a lot of
19 questions about, you know, what that audit was going to look like.

20 And so we were probably fielding complaints from, maybe, like I said, a couple of
21 weeks after the election, something like that. But really I, during that time, was more
22 focused on kind of these procedural things of, you know, the recount, the audit, that sort
23 of thing.

24 And so it was kind of a gradual transition as those other things took up more
25 intensity.

1 Q Okay. And were you in Arlington during that time period, or did you go
2 down to Georgia at some point?

3 A I was in Arlington in that time period.

4 Q Okay. When did you go to Georgia? Was it when you switched gears to
5 be working on the Senate runoffs?

6 A Correct.

7 Q Okay. So after December 15th?

8 A Yes.

9 Q Okay. So earlier I referred to a tweet that President Trump posted -- I
10 believe it was November 14th -- sort of announcing that he was going to transfer
11 leadership or control of the litigation efforts of the campaign to Mayor Giuliani. And I
12 believe you said you remembered that occurrence, right?

13 A Yes.

14 Q Okay. And you were still working in the Arlington headquarters during that
15 time period?

16 A Yes.

17 Q Okay. Were you involved in any meetings on the topic of who would be in
18 charge of the Trump campaign's litigation efforts?

19 A No.

20 Q Were you generally aware of the fact that this transition was happening?

21 A Yes. Well, so let me rephrase. I -- there were meetings obviously as we
22 were talking about the transition going to somebody else, but I was not in, like, the
23 decisionmaking process. I was not with the President while those decisions were going.

24 Q Understood. Okay. That's really helpful.

25 And I think it's widely reported, but also has been confirmed in our investigation,

1 that Mr. Clark and Mr. Morgan in particular had a difference of strategy -- a different
2 strategy that they were pursuing and had proposed for the campaign, than did
3 Mayor Giuliani and that those individuals, and I think more beyond them, perceived the
4 President putting Mayor Giuliani in charge as a decision not to follow the strategy that
5 Mr. Clark and Mr. Morgan were recommending. Is that fair and consistent with your
6 understanding of events?

7 A Yes, it is.

8 Q Okay. What can you add to that for our understanding? Did you discuss
9 these events with Mr. Morgan or Mr. Clark?

10 A Yes. Yes. From my perspective, you know, the decisions were being
11 made, and they were kind of telling us that this is the direction that Rudy wants to go
12 with things.

13 To that point, like I said, we had been looking at what had been coming through
14 the hotline and everything else. And, at best, there was a lot of confusion; at worst,
15 there may not have been a lot of substance to a lot of what was being said.

16 But we just didn't know. There was a lot of unknowns at that point. And so,
17 you know, Matt and Justin decided that their track was probably the best advice to give
18 the President. Rudy had a difference of opinion.

19 And, you know, they kind of communicated that, based on what we were seeing,
20 that they thought their advice was the best way to go.

21 Q Understood. So what makes up your understanding or your assessment,
22 which is a helpful way of putting it -- so thank you -- you said that, at best, there was a lot
23 of confusing information about the election, and, at worst, maybe a lot of, you know,
24 sound but not a lot of substance. What are you basing that assessment on?

25 A What we were seeing, what I was seeing coming in through Georgia. Like I

1 said, at that point, we were having general meetings to talk about the other States and
2 what they were doing. But I was focused on Georgia. And, at this point, we were
3 going through the legal process, like I said, the ballots and the recount, and all of that sort
4 of thing, and we could see what was happening with the margins as they were going, and
5 kind of comparing that with the complaints that we were getting and the evidence that
6 we could gather based on those complaints.

7 It just kind of seemed like there was too much confusion to pursue a more
8 aggressive legal strategy at that point. You know, everyone is under tight deadlines in
9 the State, and there was just a lot of -- a lot of more evidence-gathering to be done if we
10 were going to pursue a more aggressive strategy.

11 Q Understood. And the more aggressive strategy, is it fair to say that that
12 would have included -- you know, you're not talking about, you know, filing deadlines
13 when it comes to how aggressive you are or something like that. Right?

14 Is it fair to say that the aggressive strategy would have included more aggressive
15 allegations about potential fraud or, you know, wrongdoing connected with the election?
16 Is that fair?

17 A Yes.

18 Q Okay. And you've described to us your assessment and experience with the
19 information that you were receiving and speaking to people on the ground about in
20 Georgia. Was that a consistent experience to your colleagues who were focusing on
21 other States?

22 A I believe so. Like I said, we gave general updates on the States, but I would
23 say generally that was probably the case.

24 Q Okay. And so, just to be clear, in the process of, you know, your gathering
25 information related to Georgia and speaking to your colleagues about their efforts in

1 other contested States, did you ever come to learn of information that was, you know,
2 verifiable and -- a verifiable allegation of election fraud that would've affected the
3 outcome of the election?

4 A So what we learned about was there was a lot of bad election
5 administration, and there was a lot of bad process that was going on. There was not a
6 lot of time to investigate a lot of the major claims of fraud that would've, like, flipped an
7 election, for example.

8 I think there were a lot of justifiable complaints about election administration
9 generally. But, you know, the big complaints that you would hear about, you know,
10 massive vote flips and things like that, we just didn't ever -- at least in Georgia, we did not
11 ever find any evidence of that.

12 Q Okay. And did you ever learn from your colleagues or anyone else on the
13 Trump campaign whether there was, you know, known evidence of, you know, similar
14 types of election fraud in other States beyond Georgia?

15 A No, not that I know of.

16 Q Okay. Okay. Let me pause here just to see before I switch gears a little
17 bit, if anyone has any followup questions.

18 Okay. So, Mr. Findlay, I want to ask you about the role of State legislatures after
19 the election. And, first, before we talk about 2020, just want to ask you, in your
20 experience in politics or otherwise, going into the 2020 election, what was your
21 understanding of the role for a State legislature, if any role, after the election?

22 A Going into 2020?

23 Q Yes.

24 A I was not too familiar with the process.

25 Q Okay. And you did have some experience in the 2020 cycle with -- I know

1 you said convention delegates but also electors for the electoral college. Is that right?

2 A Yes.

3 Q So, generally tell us, what was your understanding of the electoral college
4 process? And if you want to, you know, include in that, you know, what type of work
5 you did for it in the summer, that would be helpful too.

6 A Sure. So Presidential electors and Presidential delegates to the National
7 Convention are generally -- well, they're elected in different ways based on the State.
8 And they're generally elected kind of in parallel tracks.

9 So, you know, if the delegates are elected in a National Convention, a lot of times
10 the electors are as well, things like that. And they're elected kind of on the same
11 timeline.

12 So the main focus during the delegate selection process was more actually on the
13 delegates because, you know, theoretically they have a choice as to how to vote at a
14 convention. Most electors don't really have a choice as to how to vote, right? They're
15 bound by State law.

16 So, while we wanted, you know, strong Trump delegates -- or excuse me -- strong
17 Trump electors, the focus was more on the delegates during this time period. But the
18 process is usually parallel in the States, and so we also did a lot of elector work as well.

19 Q Okay. Great. And, when you're -- when we're talking about electors
20 being elected in the summer, you mean elected through the process of, under State law,
21 of being named sort of to be the nominee that would ultimately serve as an elector in the
22 electoral college. Is that fair?

23 A Yes.

24 Q I think we could possibly get into a place where, you know, the electors are
25 elected several times if we mince words because I understand that, under a lot of State

1 laws, the process of a Presidential election being conducted in the State is, under their
2 State law, is the process of the popular vote electing electors to the electoral college. Is
3 that fair?

4 A Yes, that's right.

5 Q Okay. All right. So, at that time, you were responsible for, I think you said
6 20 States, right, so beyond just Georgia electoral college process?

7 A Correct.

8 Q Okay. Great. Were you aware, before the election, of any discussion
9 about competing slates of electors?

10 A No.

11 Q Okay. Were you aware of any historical precedent at that point for
12 competing slates of electors?

13 A No.

14 Q Okay. There was an article in The Atlantic in September of 2020 that
15 discussed the outcome, you know, a potential outcome of the November Presidential
16 election and did describe the Trump campaign or the Republican Party contemplating
17 testing the assumption that electors would be chosen by the popular vote in the States.
18 Were you aware of that article at the time?

19 A No.

20 Q Okay. Were you aware of any such communications either within the
21 Trump campaign or in the party?

22 A No.

23 Q Okay. So when did you first hear this concept about competing slates of
24 electors?

25 A I first heard about it probably around December 7th or 8th.

1 Q Okay. So more than a month after the election, right?

2 A Correct.

3 Q Okay. How did you hear about it?

4 A Through Matt Morgan, I believe.

5 Q Okay. And what did Mr. Morgan tell you?

6 A So that was around the time that the Texas attorney general filed -- well, so
7 let me back up. Generally, we were going through the process of making sure that the
8 President's duly elected electors were going to show up and vote, right? Almost like a
9 ballot-access type of thing in the States where, you know, the electors were duly elected,
10 like I said.

11 Oh, my phone just turned on Google --

12 Q -- in this interview, yeah.

13 A That's right, that's right.

14 So around -- so we were going through that in the normal, you know, the States
15 that he won. Around that time, Matt came and said: You know, the attorney general
16 of Texas is filing this lawsuit with the Supreme Court. It is -- this was different than
17 other lawsuits because this was attorney general. Other attorneys general had signed
18 onto it. It was going to the Supreme Court.

19 There was precedent from Hawaii of having, you know, other electors. If
20 something happens with the litigation and things, you know, happen to go the President's
21 way, we needed to be prepared for that. So he kind of said, what is -- just kind of asked
22 the question of what can we do at that point to, you know, prepare electors in the
23 litigation States, is what we called them.

24 I think there was a lot of hesitancy about whether this would work or it was a
25 good idea. But, because it was an attorney general that filed the suit, like, there was a

1 legitimate, you know -- and it was before the Supreme Court, there was a legitimate
2 claim. And so I kind of thought it something we should at least look into at that point.

3 Q Okay. Did Mr. Morgan tell you or did you get a sense of whether this was
4 something that he had come up with on his own or whether he was, you know, telling
5 you, reading you into this concept at the direction of someone else?

6 A My understanding is that he did not come up with this on his own.

7 Q How did he learn of it?

8 A So I don't know exactly, but it was my understanding that the President
9 made this decision, like, this was something that came from even higher than Matt.

10 Q Okay. And what gave you that impression?

11 A The way he talked about it. So I don't remember the exact words that he
12 said, right, but it was kind of everything that we just said, like: This is a long shot.
13 There is some precedent. We don't know if it's going to be effective. This is what the
14 client wants to do, the campaign wants to do. And so we need to at least look into it
15 and see if this is an option.

16 Q Okay. Did he mention any other, you know, in the process of looking into
17 it, any other, you know, precedent or avenues for research other than I know you
18 mentioned Hawaii, which I think refers to the 1960 election? Anything else --

19 A No. That was -- no, that was kind of it at the time.

20 Q Okay. Did he mention any other outside counsel or advisers to the
21 President that were promoting or developing this idea?

22 A He didn't mention them to me by name, but during this whole time, it was
23 very clear that there were other, like, there were other advisers. It was very clear during
24 this time that there were always competing legal theories and that, you know, it wasn't
25 Matt by himself making any of these decisions about what we were going to pursue.

1 Q Okay. Understood. And not to jump out of order, but did you come to
2 understand who were some of the people kind of promoting these competing legal
3 theories?

4 A I did eventually, yes.

5 Q Okay. Tell me who those were. And I'm not going to jump -- we won't
6 jump around too much, but I do want to make sure I understand at the outset, you know,
7 to make sure that we cover it as we go.

8 A Sure. So, around December 11th, Ken Chesebro came on my radar as
9 someone who was really kind of promoting these theories and being aggressive, you
10 know, aggressively promoting them. And he was kind of -- well, my understanding was
11 at this time kind of Rudy Giuliani was making a lot of the decisions about litigation
12 strategy. He really bought into Ken's theory on this. And so those were kind of the
13 main ones driving this.

14 Q Okay. Did you come to learn of any role or involvement of John Eastman?

15 A I didn't, no.

16 Q Okay. So I want to go back really quickly in this first conversation that you
17 had with Mr. Morgan. You mentioned that you were -- you described the States that
18 were kind of affected here or that for which you and Mr. Morgan were discussing being
19 prepared as the litigation States. And I wanted you to describe that a little bit more for
20 us. What did you mean by the litigation States?

21 A So I believe those were the States that were still under controversy based on
22 the lawsuit that the attorney general of Texas filed.

23 Q Okay. Just on the Texas v. Pennsylvania suit?

24 A I believe so. But there might've been other lawsuits as well. I remember
25 that the one that we were mostly -- that kind of started this whole thing was the Texas

1 suit.

2 Q Got it. And so the affected State would've been Pennsylvania. Is that
3 right?

4 A Correct.

5 Q Okay. Okay. Did you have this conversation with Mr. Morgan in person
6 or by phone?

7 A I don't remember exactly, but my -- I don't remember exactly.

8 Q Okay. And you said it was around December 7th or 8th. Is that right?

9 A Yes.

10 Q Are you familiar with the electoral college safe harbor deadline?

11 A Yes. I believe so.

12 Q Yeah. What's your understanding of, what is the safe harbor?

13 A I mean, generally -- so, yeah, generally it's around December 9th, right,
14 everything is kind of locked in at that point.

15 Q Okay. I was just wondering whether that was a point in time, if you
16 remember whether at the time you were speaking to Mr. Morgan about this, you knew
17 that the safe harbor deadline had already passed or if that was something that factored
18 into your conversation at all?

19 A No, it definitely did. At this time, like all of these deadlines were huge
20 deadlines, and there was always a question of what action can we, should we, what is
21 politically prudent to take, based on the next upcoming deadline.

22 Q Okay. And so, after the safe harbor deadline, and really the relevance of it
23 is that, by that date, all of the States are expected to -- and in 2020 they all did -- certify
24 the results of the election in their States. Is that fair?

25 A Yes.

1 Q Okay. Were you aware of that at the time when you were evaluating these
2 issues, that all 50 States had certified their election results?

3 A Yes.

4 Q Okay.

5 A Generally. I mean, I didn't go through and check all 50 States, but I'm
6 generally aware that they followed the process.

7 Q Right, yeah. Presumably you would've been aware if at least one of them
8 had not.

9 A That's right.

10 Q Okay. All right. Great. So what happened next? What did you do after
11 having this conversation with Mr. Morgan on December 7th or 8th?

12 A So we had the conversation. We decided that we were going to look into
13 the process and see what it would take for these other litigation States.

14 At the time, I believe this was going to be kind of an operation run by the political
15 team, and so there was an effort to reach out, first of all, to see if the electors even
16 wanted to do this. Right? Kind of the threshold question was, is this something that
17 they're even willing to do?

18 I was not involved in most of the reaching out to the electors, although I did get,
19 you know, correspondence from a few States where I had worked initially to help people
20 get elected.

21 And then, from there, it was kind of walking through the process of what it would
22 even look like if the electors were willing to do that.

23 Q Okay. And you said you weren't directly involved other than maybe some
24 people who knew you and knew your email address, reaching out to you. But who was
25 responsible for that initial outreach to the electors?

1 A So, for the most part, it would've been the regional political directors for the
2 Trump victory team.

3 Q Okay. As an example, for Georgia, who would that have been for Georgia?

4 A Ryan Barretts (ph).

5 Q Okay. And the regional political director sort of organization structure is
6 separate from the EDO operation you mentioned earlier, right?

7 A Correct.

8 Q Okay. Was the EDO operation involved in this effort at this time?

1

2 [2:00 p.m.]

3 Mr. Findlay. Not initially, no.

4 BY MS. [REDACTED]

5 Q Okay. Okay. So you said that the initial process was reaching out to the
6 electors -- these are my words, but it seems like to gauge their interests or I think you said
7 willingness maybe to participate.

8 What was the consensus coming out of that process?

9 A I think most electors were willing to participate. There were some that
10 were not, but I think a lot of them were.

11 Q Okay. And are you aware of how the process was described to the electors
12 at this time?

13 A So I'm not aware of what each individual RPD said, but the general message
14 that went out around this whole process was what I described earlier that, you know, the
15 attorney general of Texas has filed this lawsuit. Because of that, there is like an air of
16 legitimacy to it. It's before the Supreme Court. These States are in controversy.
17 There's some precedent for this. We need to be prepared if something happens with
18 the court ruling.

19 Q Okay. And I understand you weren't on all of these communications, but is
20 it fair to say that your general understanding was that the electors were -- the message
21 was conveyed to them that this was connected to the litigation efforts and potentially
22 connected to the preserving of potential remedy in litigation. Is that fair?

23 A Yes.

24 Q Okay. Did you do any legal research or other, you know, sort of attorney
25 work about this on the concept and the process?

1 A I did. I did some general research on the Electoral Count Act and kind of
2 how the process works.

3 Q Okay. Did you memorialize that in a memo or an email to Mr. Morgan or
4 anyone else?

5 A I believe so, yes. At least I would've sent something with kind of issues or
6 questions that the regional political directors were relaying and from the field.

7 Q Okay. Got it.

8 So during this time period in this initial phase where the political operation was
9 reaching out to electors, did you have any other conversations with Mr. Morgan or
10 anyone else about the big picture strategy, including, you know, as you mentioned earlier
11 above them up to the Oval Office potentially?

12 A Not that I recall. At this time I was really focused on kind of the nuts and
13 bolts of the process, like, if this thing would even work.

14 Q Okay. And at that time when we were thinking about the litigation States, I
15 know you identified Pennsylvania as, you know, the one that was maybe most
16 immediately affected by the lawsuit going up to the Supreme Court, but how many
17 States' electors were contacted at this point?

18 A As far as the litigation States?

19 Q Yes. If those -- when the political operation started reaching out, which
20 States were they reaching out to?

21 A So -- yes, sorry. To back up, so they were already reaching out to the States
22 that the President had won, right? So this operation was already going on, you know, in
23 Indiana and Utah and places like that. So it was already happening in all of those States.

24 Q Got it. Yeah. Thanks for the clarification. So at some point there were
25 States where the President had lost -- the result had been certified by the State for Biden,

1 there were certain States that were added on to discuss what the electors found
2 convening notwithstanding the President losing in the State, right?

3 A Correct.

4 Q And which States were added on to that process?

5 A So I believe it was Georgia, Pennsylvania, Michigan, Wisconsin, Arizona, and
6 Nevada.

7 Q Okay. So the six States. Were you aware of litigation pending in each of
8 them?

9 A I believe so. I believe there was either litigation or at least enough
10 controversy that at the time somebody felt that we needed to be going through this
11 process in those States.

12 Q Okay. Maybe that's the source of my confusion.

13 Was there a difference of opinion about which States were felt to be appropriate
14 to be going through this process?

15 A Yes.

16 Q What was your understanding of what that difference of opinion is? Which
17 States would've fallen on which side of the line?

18 A So I did not have conversations about which States would've fallen on which
19 side of the line, but it was definitely -- you know, like I said, the Pennsylvania case was the
20 main one, right? Like, that was kind of the one that this whole idea was based off of.
21 And then the other States, there were decisions made that there was enough controversy
22 there for us to, at least, look at the process in those States as well. I was not part of
23 those conversations.

24 Q Okay. Did Mr. Morgan ever speak with you about an understanding of
25 whether lawsuits in the State were kind of legitimate election contest suits versus other

1 types of litigation that wouldn't have the affect of, you know, changing the outcome,
2 contesting the certified result of the election?

3 A We talked about it a little bit.

4 Q So what do you remember about that?

5 A Not a lot of detail. It was -- during this time, like I said, I was focused on
6 kind of the nuts and bolts of this, and there was always, like I said earlier, this -- this
7 spoken and unspoken understanding that there were competing legal theories, right, and
8 that those were getting fought out even above Matt's head when it came to this stuff.

9 Q Okay. And when it came to above Matt's head, did you speak with
10 anyone -- like did you speak with Justin Clark or Bill Stepien about the decisionmaking of
11 which States would have been, you know, kind of potential legitimate litigation States
12 where the outcome might be affected by court cases?

13 A No, not at any real way that I recall.

14 Q Okay. And did you get a sense of the direction coming from even above
15 them?

16 A No.

17 Q Okay. Okay. So the -- was there any discussion in this early time period,
18 you know, including your conversation with Mr. Morgan and then your work on the kind
19 of nuts and bolts piece of it early on in December, was there any discussion about what
20 would happen after the 14th once these electors cast their votes, what would become of
21 the votes?

22 A Of the litigation States?

23 Q Yes, of the litigation States. Yep.

24 A No, not really. So it all kind of was just based on what the outcome of the
25 litigation was going to be, and it was more to preserve a right. That was the only

1 conversations we had about it.

2 Q Okay. And just to be clear, when you're talking about the litigation States,
3 you're referring to these six States that you identified. Is that fair?

4 A Correct. Yes.

5 Q Okay. So setting aside the question of whether there was litigation pending
6 that would have affected the State certification, but those were the ones that you were
7 told to look into the process of having Trump electors meet, even though the State had
8 certified for Biden. Is that fair?

9 A Correct.

10 Q Okay. All right. Great. I just didn't want to get lost in the details of
11 litigation States or miss ourselves on our understanding of that in the future. So thank
12 you.

13 Okay. Let me check my notes real quickly. Did you ever come to learn about
14 anything unique in this process at the early part here regarding Wisconsin?

15 A No, I don't believe so.

16 Q Okay. Did Mr. Morgan tell you or did you learn at any other point about
17 discussions that had already taken place in Wisconsin regarding the convening of
18 alternate electors?

19 A No.

20 Q Okay. Okay. So what happened next after this nuts and bolts process
21 where you described to us the political operation was reaching out to the Trump electors
22 in States Trump won and then added on these litigation States? From your perspective,
23 what was your next involvement with this process?

24 A So it was really just that until December 11th. On December 11th that was
25 when Ken Chesebro came on my radar and I guess my understanding was, you know,

1 Matt made the introduction of Ken. I don't even remember -- I'm not sure what point
2 we had our first conversation that day, but kind of how the day played out was at some
3 point we learned that the Supreme Court was not going to hear these litigation -- they
4 just weren't going to hear the Texas case, right?

5 And so at that point, you know, I was talking to Matt a lot and we kind of made
6 plans to wrap up this operation. I'm not sure of the conversations that happened above
7 Matt, but the decision was made to -- basically, that Matt and I were not going to be
8 working on this operation anymore and that we would pass it off to Ken Chesebro.

9 Q Okay. And did that all occur on the same day on December 11th?

10 A I believe so. At least from my perspective I believe it did.

11 Q Okay. So we'll talk about it in a little bit more detail. So when Mr.
12 Morgan introduced -- either made the introduction or introduced -- gave you information
13 to introduce you to Mr. Chesebro, how did that process happen? Did you talk to Matt in
14 person? Was it an email?

15 A No. We spoke over the phone.

16 Q Over the phone, you and Mr. Morgan?

17 A Correct.

18 Q Okay. So what did he tell you about Mr. Chesebro?

19 A That -- so the first conversations were kind of that this Texas thing is
20 wrapping up. That means there's not really anything left for us to do on this project;
21 like, we're kind of done with it. And then we had a conversation -- and I don't
22 remember the exact number. I remember as being kind of on and off the phone a lot
23 that afternoon as developments were happening.

24 Q Okay.

25 A But then there was another conversation where he said, essentially, that Ken

1 is going to be taking this over now; that Rudy wants Ken to -- Rudy Giuliani wants Ken to
2 be doing this; that, you know, the litigation was over so it doesn't seem like a good idea
3 for us to be involved in it, and then he kind of asked me to -- advised me to send an email
4 to everyone that had been working on this before saying, you know, this has been
5 officially passed off to Ken. He will answer any questions or have anything to do with it
6 going forward, and that was -- that was the end of my involvement with the whole thing.

7 Q Okay. And that was an email that you sent on the same day, the 11th of
8 December?

9 A Correct.

10 Q And it's one of the documents that you provided to us in response to our
11 requests. Is that right?

12 A Yes.

13 Q Okay. All right. Great. We'll look at it in a minute just so -- but I'll want
14 to get through the timeline at a higher level and we'll match the documents up if that's
15 okay.

16 So when you had these phone calls with Matt, did he mention his -- did he
17 describe any conversations with Mr. Clark, Justin Clark?

18 A No, not that I recall.

19 Q Did you have a sense for where Mr. Clark was as far as his perspective on
20 what you should be doing or not doing?

21 A My sense was that he was generally very matched up with Matt about these
22 issues.

23 Q Okay. How do you have that sense? Did you later talk to Mr. Clark about
24 it or how did you learn that?

25 A I guess two ways. One, it was pretty clear this whole time that Matt and

1 Justin saw the world the same way and would come to an agreement on a strategy, and
2 then kind of advise us what direction to go on with this strategy, right?

3 So there was kind of a general operation of that's how things worked, but
4 then -- well, I don't recall. That's -- that was the sense I had, and that was generally kind
5 of how things operated during this whole time.

6 Q Okay. That's helpful. And I think it's fair to say certainly from our
7 investigation, but public information, too, that they were -- Mr. Morgan and Mr. Clark
8 were aligned and they were frequently had an opposite recommendation than did Mr.
9 Giuliani. Is that fair?

10 A That's correct.

11 Q Okay. Did you come to learn either at this time in December or at any later
12 time about whether this was an instance where Mr. Clark and/or Mr. Morgan had taken
13 their recommendation up to the President and, you know, had Rudy on the opposite
14 recommendation?

15 A So I do know that Rudy was on the opposite recommendation here. I'm not
16 aware of any conversations that they had with the President. I mean, I just don't know
17 what conversations they had, but I am very aware that Rudy was on the opposite side of
18 this.

19 Q Okay. Got it.

20 So just on this general level, what was your understanding of the difference of
21 opinion between Mr. Clark, Mr. Morgan on one side, Mr. Giuliani on the other? I mean,
22 you've told us the kind of instigating factor it sounds like was the Supreme Court's
23 decision not to hear the Texas versus Pennsylvania case, but if you could tell me a little bit
24 more what was the -- what were the proposed, you know, next steps from each side and
25 how did they differ?

1 A Sure. So I guess I can't -- so from our perspective during this time, there
2 was not a lot of confidence that this litigation would work with the Supreme Court. So,
3 you know, we were kind of going through the exercise, but even that day while the
4 Supreme Court wasn't ruling, like, we were kind of winding this down, right, even early in
5 the day. Not holding out a lot of hope, right?

6 Q Uh-huh.

7 A And I don't remember what time we got word that the Supreme Court
8 wasn't going to hear this thing, but it was almost like as soon as that happened, Matt
9 called and said, you know, they're not going to hear this thing, we're done with this, like,
10 just stop work on this exercise.

11 Q Okay. And what was the rationale or the theory that led Mr. Giuliani to
12 decide to continue with the exercise as you described it?

13 A I can't say what his rationale was.

14 Q Okay. And you didn't learn from your conversations with Mr. Morgan
15 about his, you know, discussions with Mr. Giuliani or otherwise, you know, what was it
16 that Mr. Giuliani was recommending that you continue to do?

17 A Well, no. So I guess, like I said, where I learned that Mr. Giuliani wanted to
18 take another route was through this -- through passing the operation to Ken, right? And
19 it was like a very abrupt thing. It was kind of like, you know, we were winding it up
20 through the day as the Supreme Court kept not saying anything, you know, we were kind
21 of winding this up as the day got later and later, kind of figuring there's not a lot to do at
22 this point.

23 We found out from the Supreme Court -- according to my recollection, we found
24 out from the Supreme Court that this wasn't going to work. So Matt said, you know,
25 we're done. Like, that was kind of it. There's no -- no other recourse here.

1 And then in a follow up, he said, Rudy wants to keep fighting this thing. So we're
2 going to pass -- we're going to have you pass it off, everything off to Ken.

3 Q Okay. Got it. And then had Mr. Morgan spoken to Mr. Chesebro before?

4 A I don't -- I don't know. I don't believe so -- well, I don't know before that
5 day.

6 Q Okay. What about Mr. Clark? Are you aware of conversations between
7 Mr. Clark and Mr. Chesebro?

8 A No.

9 Q Okay. But then did you have a conversation directly with Mr. Chesebro
10 that day?

11 A I believe so. I believe we spoke after -- yeah. I believe so. I think we
12 spoke after the email to kind of talk about things.

13 Q Okay. Tell us what you remember about that. I think you said earlier that
14 you had never spoken -- he was not a person that was known to you before?

15 A No, he was not.

16 Q Okay.

17 A No. It was kind of -- and I don't remember a lot of details, but it would've
18 just been an introductory thing and -- so Matt, at this time, was kind of advising me to
19 just get out of this whole thing and I thought that was the best course of action. This
20 was kind of a long shot to begin with.

21 So Ken calls and actually did not sound like he had a good plan for what he was
22 going to do at this point. And so I just said, look, this is on you, right? Like, the
23 decision has been made that you are taking care of this at this point. Like, I don't even
24 know what the next steps are. This whole thing is on you to kind of sort it out going
25 forward.

1 Q And how did he respond?

2 A I mean, that was just kind of it. There wasn't -- said okay. We're
3 gonna -- there wasn't a lot to say at this point. You know, we -- we never really had a
4 working relationship.

5 Q Got it. Okay. Did he mention having drafted documents or anything at
6 that point?

7 A He might have. He was -- he was kind of walking through what his, like,
8 next plan and next steps were, but like I said, I was just kind of out. I just said, you
9 know, you need to do what you need to do here. This is not our operation anymore.

10 Q Okay. Were you at that time aware of legal memos that Mr. Chesebro had
11 drafted about this issue?

12 A I was vaguely aware. Like, I had not seen them at this point, but in the
13 conversations that I had with Matt, I believe they came up as, like, this was the
14 justification for why Rudy and Ken were going to keep going forward with this stuff.

15 Q Okay. Did you later come to have possession of Mr. Chesebro's two
16 memos?

17 A Yes.

18 Q Is that -- did you know of them and read them back in the 2020, you know,
19 post-election timeframe or I know they've been published recently. Did you know about
20 them at the time before January 6th?

21 A Yes. I mean, I think he sent them to me somewhere around this time
22 period.

23 Q Got it. Okay. Got it.

24 In either your conversations with Mr. Morgan that led to it or your call with Mr.
25 Chesebro, did the concept of the joint session of Congress on January 6th, did that come

1 up?

2 A No, not that I recall.

3 Q Was there any discussion about the difference between having, you know,
4 an alternate slate of electors vote and hold on to the certificates versus voting, casting
5 them, and sending them to the President of the Senate?

6 A No, not really.

7 Q Okay. Okay. All right. So what happened after you had your call with
8 Mr. Chesebro that day on December 11th?

9 A I mean, really, at that point, everything was passed off. Ken copied me on
10 some emails after that. I think a couple of people might have reached out to me to say,
11 you know, is this -- is Ken really doing this work now, that sort of thing, but it was very
12 few because everyone that I had been interacting with, for the most part, was on that
13 email that I sent and that was just kind of it.

14 Q Okay. The people who reached out to you about Mr. Chesebro, were they
15 electors or campaign staff or affiliates?

16 A For the most part, campaign staffers, I believe. Those are the ones that I
17 recall.

18 Q Okay. And were staff from the RNC involved in this operation either before
19 or after Mr. Chesebro took over?

20 A Yes. So the regional political directors I referenced earlier, I believe are
21 technically RNC staff, but they were Trump victories. So they were also, you know, kind
22 of part of the campaign.

23 Q Got it. Okay. And did their involvement continue after you had this
24 conversation with Mr. Chesebro?

25 A I don't know. I really ended kind of everything at that point. I may have

1 been copied on a few emails, but I was not really interacting with anybody on this issue
2 after that.

3 Q Okay. What about on the day of the 14th, the meeting of the electoral
4 college? Were you aware of what happened in these litigation States as you described
5 them?

6 A I mean, vaguely aware. I wasn't talking to anybody on the ground at this
7 point, but I think it was covered in the news and, you know, I was kind of tracking that.

8 Q Okay. And what generally was your -- what did you perceive about what
9 happened in those States?

10 A I think most States ended up -- the electors ended up meeting. I think
11 some people sent me some emails about it, like, you know, either saying this happened or
12 it didn't, right, because I had been working on this stuff before. Yeah. I think that's
13 mostly kind of what happens.

14 Q Okay. And then after the 14th, did you have any further involvement in the
15 alternate slates of the electors from these six States?

16 A No, I don't believe so.

17 Q Okay. What about on the eve of January 6th, did you ever come to learn of
18 efforts to make sure that the original copies of alternate electors certificates were
19 delivered to the President of the Senate?

20 A No.

21 Q Okay. Any further conversations with Mr. Morgan or Mr. Clark or maybe
22 Mr. Stepien after your, you know, interactions with Mr. Chesebro?

23 A I mean, there are a lot of conversations. I don't know that there was much
24 about this issue, in particular.

25 Q Yeah. I certainly didn't mean to ask if you had any conversations with them

1 at all. That was my -- an imprecise question. Thank you for clarifying it.

2 But specific to this issue about alternate slates of electors, did you guys have any
3 other conversations?

4 A No, not really. When I was sending those updates, there may have been
5 things as I was hearing through the grapevine or stuff like that, but no -- no real
6 conversations about it.

7 Q Okay. All right. Let me look at my notes real quick.

8 Okay. I think I would like to show you some documents and we'll go through the
9 story -- not all of it, you know, in detail, but some of the documents that you produced
10 and some of the other ones that we have, but we have been going for about an hour and
11 a half. Do you want to take a brief kind of comfort break and when we come back, we'll
12 look at some documents?

13 Mr. Findlay. Sure. That works.

14 Ms. [REDACTED] Okay. How much time would you like?

15 Mr. Findlay. Just 5 minutes. Enough to go get some water really quick.

16 Ms. [REDACTED] Perfect. Okay. Let's go off the record 2:28. We'll come back at
17 2:35. Is that good?

18 Mr. Passantino. Sounds good. Thank you.

19 [Recess.]

20 Ms. [REDACTED] You ready to proceed, Mr. Findlay?

21 Mr. Findlay. Yes.

22 Ms. [REDACTED] Okay. Great. All right.

23 Let's go back on the record. Transcribed interview of Joshua Findlay. It's 2:36
24 p.m. here in Washington.

25 BY MS. [REDACTED]

1 Q Okay. Mr. Findlay, thank you for the general overview of the time period.
2 Before we go into the documents, any other key events focused on this concept of
3 meeting, the convening, and casting votes for alternate electors? Are there any other
4 kind of key conversations or events in the time line that you remember that we haven't
5 talked about yet?

6 A I don't believe so.

7 Q Okay. And I think earlier -- before we get into the documents, I did just
8 want to clarify. I think earlier you said you did come to learn about John Eastman. I
9 don't know if that was generally or specific to this concept of alternate slates of electors.

10 A No. So I actually did not learn about him at this time.

11 Q Okay. Okay. I assume you did hear about him in the context around
12 January 6th eventually. Is that right?

13 A Yes.

14 Q Okay. Did you ever take note of Mr. Eastman's or Dr. Eastman's, his advice
15 or, you know, the public -- let me rephrase.

16 Did you ever take note of the fact that Dr. Eastman was referring to the fact that
17 there had been alternate slates of electors submitted in the context of his public
18 statements or other information that came out publicly about his advice to the President
19 regarding January 6th?

20 A I mean, I guess I don't understand what you mean take note. You know,
21 afterwards I read the articles that were published about it and that's kind of when it got
22 on my radar, I guess.

23 Q Yeah. That's fair. That's kind of what I was referring to. I think -- you
24 know, there's this time period that you were involved in and had these conversations, you
25 know, in early December before the electors actually met and then you've told us that,

1 you know, you didn't really have any more involvement in the process after that, other
2 than kind of taking note on the news that the electors in several States had met and cast
3 votes for Trump.

4 And I just wondered later in the context around January 6th, even if it was just in
5 publicly reported information, if you, you know, understood that there was a role that
6 was, you know, ascribed to these alternate slates at that time?

7 A Yes. I mean, I guess it was just on my radar generally from following the
8 news.

9 Q Yeah. And did you have any reaction to it, based on your understanding of
10 this process that had gone on? Was it surprising to you to see that John Eastman and
11 Rudy Giuliani and others associated with them were, you know, sort of pointing to these
12 alternate slates in the context of the joint session?

13 A Once again, it depends on what you mean by "surprising," right? So on the
14 one hand it seems -- like, it was even a long shot when we were talking about it on
15 December 7th or 8th, right? It was a long shot even then. At some point in the
16 campaign, though, nothing really became surprising, like, what people were trying to do
17 post-election day.

18 Q Okay.

19 A So I -- to answer your question, maybe everything was surprising at that
20 point, right? It kind of felt like nothing was off the table to some people.

21 Q I guess that's fair. Either everything's surprising or nothing is surprising, I
22 guess, if you're in that -- if you're in that place.

23 A Right.

24 Q And did you -- yeah. Did you have any conversations with your -- I guess
25 then former colleagues, but Mr. Morgan, Mr. Clark, people who you had been talking

1 with about the strategy back in the time period before the elector college met, did you
2 talk with them about what you learned through public reporting about, you know, the
3 emphasis on alternate slates of electors around January 6th?

4 A Yes. Yeah.

5 Q And what did you all share? What was the general tenor of those
6 discussions?

7 A I mean, everybody was kind of back to your surprise point. Everybody was
8 shocked, but also -- it felt like nothing was off the table to some people. And so, you
9 know, everyone was shocked by the tactics and -- but at the same time, you know, it
10 seemed like some people were going to do whatever they wanted to do.

11 Q Okay. That's fair. Okay. So let's look at some documents that will, I
12 think, fit with the description that you gave to us earlier about the relevant events.

13 So the first one's exhibit 1. And while my colleague, [REDACTED] brings it
14 up -- there you go. Very fast. So this is an email -- a memo that appears to be drafted
15 by Ken Chesebro. It's dated November 18th, but then has a note next to the date that
16 says that it was streamlined version dated December 10th.

17 Are you familiar with this memo?

18 A Yes.

19 Q How did you become familiar with it?

20 A I believe it was emailed to me on or about December 11th.

21 Q Emailed to you by Mr. Chesebro?

22 A Yes.

23 Q Okay. And the recipient of the memo in the header here is an individual
24 named Judge James R. Troupis. Are you familiar with Judge Troupis?

25 A Yes.

1 Q How so?

2 A So just generally -- well, so let me say, I'm generally familiar with him. I did
3 not do a ton of work in Wisconsin, but he was always a name that came up that was
4 advocating for different, you know, theories for the President.

5 Q Okay. Within the campaign other than Mr. Chesebro who seems to be
6 associated with him at least insofar as he prepared this memo for him, who in the
7 campaign was affiliated with Mr. Troupis?

8 A I don't know. To my knowledge, he was someone that -- you know, we
9 would find out about what he was doing more than working with in any way.

10 Q Okay. Understood.

11 So the subject line of this memo is then repeated in the summary section here,
12 says: The real deadline for settling a State's electoral votes, and then in the first
13 paragraph of the summary, it really identifies the real deadline as being January 6th, the
14 date that the Senate and House meet for the counting of electoral votes.

15 Was this the subject of any discussion among you and your colleagues on the
16 campaign at the time that you saw this?

17 A So this memo wasn't really at the time that we saw this. So generally, like I
18 said earlier, all of these dates were important, right? You always had to do an analysis
19 as these dates come up of is the next step, you know, something even reasonable to do,
20 but kind of, like I said, by the time December 11th rolled around, to my knowledge, like,
21 we were not actively pursuing anything to go on beyond past that date. I mean, even
22 December 14th for us was kind of an end to deadline if you want to put that.

23 So we didn't have a lot of conversations around it. It was, like, once that
24 potential pending litigation wrapped up on the 11th, there just was not much left to do at
25 that point, to my knowledge.

1 Q Okay. And is it accurate based on what you told us earlier to say that, even
2 though this memo was drafted in November -- mid-November and lays out an argument,
3 essentially, for why the focus should be on December 6th and why -- thank
4 you -- January 6th and why, you know, alternate slates of electors might still have a role
5 to play before -- you know, looking at January 6th as the deadline, that your own process
6 had already started and your conversations internally with Mr. Morgan were independent
7 of your having any knowledge of this memo?

8 A Correct.

9 Q Okay. Okay. And this memo describes -- I think it's on page 3, if you want
10 to just click through to it real quickly. It does go into some detail -- a little bit of detail,
11 at least, about the Hawaii scenario following the 1960 election.

12 Do you remember reading this?

13 A Yes.

14 Q And what was your assessment for using the example of the Hawaii
15 circumstances following 1960's presidential election as a precedent for convening
16 alternate slates of electors after the 2020 election?

17 A Well, so, generally, I don't remember what kind of the analysis we went
18 through, but like, essentially, in this case, there were alternate electors; that there was a
19 controversy in election, there were alternate electors prepared to cast their votes that
20 day and that was kind of a case where, you know, we can point to and say this has been,
21 at least, done in the past. There is a precedent for prepping electors when there is
22 controversy as to the election.

23 Q Okay. Did this come up at all when you spoke to Mr. Chesebro?

24 A Not really. So when I talked to Matt earlier in the day, I believe he was
25 aware of these memos. We kind of talked through a little bit about what Ken's

1 justification was going to be for him and Rudy taking over and pursuing at this point, but I
2 don't believe that Ken and I really talked about this other than maybe he would've
3 mentioned like a cursory, you know, this is to justify what we're doing from here, but we
4 did not go into detail, no.

5 Q Okay. I should've asked earlier, too. You described to us your phone call
6 with Mr. Chesebro on the 11th and then also noted that he continued to send you some
7 emails or copy you on emails for a few days. Did you ever speak with him again after
8 the call on the 11th?

9 A I don't believe so.

10 Q Okay. And he's not someone whose path has crossed yours since this time
11 period, like, in -- after January 6th?

12 A No. No.

13 Q Okay. All right. Let's look at exhibit 2, please.

14 So going chronologically by date, but now that we know you didn't see the memo
15 when it was drafted, not chronologically in your experience, but these are some text
16 messages that you produced to us. Is that right?

17 A Yes.

18 Q Okay. They look like messages between yourself and David Shafer, who I
19 understand to be the chair of the Republican party in Georgia. Is that right?

20 A Correct.

21 Q Okay. So tell us what the circumstances were for your first exchange here
22 that looks like it happened on December 7th, 2020?

23 A Yes. So Chairman Shafer was a chairman who was very involved in the
24 delegate and elector selection process. Georgia's laws are such that he can basically,
25 you know, choose the delegates and the electors.

1 So we worked with him to kind of get a list that was agreeable to both, you know,
2 to him and the campaign, but he was a very hands on chairman. So when we were kind
3 of -- when it came across the radar that we were starting to look at this process of even
4 would electors want to -- would electors in these litigation States want to get-together
5 and vote? I believe I tried calling him. He texted, you know, just to, like, find out what
6 the process is even to get the electors elected, right, like, what the plans were.

7 I believe I called him and he texted back, and that kind of led to this exchange.

8 Q Okay. So that's you in the blue text message mark saying: Need to
9 discuss how presidential electors vote. What is the process?

10 A Correct.

11 Q Okay. Then Mr. Shafer refers to your law degree deferring to you, it seems,
12 but then also says that he is aware that they meet Monday at noon at the State Capitol,
13 right?

14 A Correct.

15 Q Okay. At that point you asked for more practical information, just sort of
16 looks like logistical nuts and bolts as you said. Did you have a phone call with Mr. Shafer
17 after these text messages were exchanged?

18 A I don't believe so.

19 Q Did you ever -- I know that you've described during this time period the
20 campaign reaching out to electors to gauge their willingness to participate in a meeting
21 and a vote notwithstanding the fact that their State had been certified for Biden. Did
22 you ever gain an understanding from Mr. Shafer about whether he would participate in
23 such an exercise?

24 A I don't believe I got it from him himself, although I may have, but like,
25 generally, I knew that it was going to happen.

1 Q Okay. And did you have an understanding of whether Mr. Shafer did
2 participate when the electors met?

3 A I believe he did.

4 Q Did you ever have any conversations with Mr. Shafer about the internal
5 campaign, you know, the change of control, shall we say, about the process?

6 A We did have communications, yes.

7 Q When was that?

8 A It would have been around kind of the 11th, 12th, something like that. I
9 think I sent that email around. He was a little bit confused about why, you know, the
10 campaign -- we weren't -- like, why I wasn't directly involved with it anymore, and I think
11 there was a little bit of back and forth about who was going to pursue it at this point.

12 Q Okay. Was the back and forth just the process of communicating to him,
13 you know, figuring out who the person was who he should be communicating with it
14 about this or was it more -- did you share with him any of the details about the difference
15 of opinion on the strategy front?

16 A No. It was just about who was going to be the point person at this point.

17 Q Okay. Okay. I think we have a couple of other emails that we'll show you
18 about that.

19 All right. Let's move forward to exhibit 4, please.

20 So this is another email. This is one we provided to you in advance, Mr. Findlay.
21 Came from another production, but it looks like you're a recipient on the email.

22 Did you have a chance to look at it and does it look familiar to you now?

23 A Yes, it does.

24 Q Okay. So if we could scroll down -- [REDACTED], if you don't mind, to show the
25 part that Mr. Findlay writes. Yeah. There we go.

1 So on December 10th, this is an email that you were writing to Matt and Nick who
2 I assume would be Mr. Morgan and Mr. Trainer. Is that right?

3 A Yes.

4 Q Okay. And you -- you describe in that first paragraph -- tell us if you have
5 any trouble seeing it and we're happy to, you know, zoom or scroll for you?

6 A Sure.

7 Q And now I know you're not looking out the window, too. It's easier to see
8 on the bigger screen.

9 Mr. Passantino. Well, and the one issue that we have -- and it's not your fault,
10 but the way when you're projecting it, we have a side bar on the right. So we're from
11 like -- we can see in the word "wrote," we can see to the E, barely the E, and then it's cut
12 off to the right because it's our facing your visual image.

13 Is there any way to, like, slide, you know, so that you're only showing us like in the
14 left two-thirds of the screen? I don't know if that's possible.

15 Ms. [REDACTED] Yeah. I think you can actually move that little bar.

16 Mr. Passantino. You can move it too, but -- yeah. But -- and if I do that, I don't
17 know what we're cutting off -- I guess --

18 Ms. [REDACTED] I think -- we're moving it on our end.

19 Mr. Passantino. Yeah. Okay. You did well. You fixed it for us. Thanks.

20 Ms. [REDACTED] Oh, that works for you, too? Okay. All right. That's good. I
21 didn't know it would transfer.

22 BY MS. [REDACTED]

23 Q So Mr. Findlay, I wanted to ask you about your opening paragraph first here
24 in the email where you say the States have had a day to process what we're asking of the
25 presidential electors in the litigation States and it seems like a lot of questions are arising.

1 So, generally, what do you remember about the questions that you were getting
2 back after initial outreach to these electors in the litigation States?

3 A So a lot of this was, like I said, going through the regional political directors
4 and the feedback that we were getting from them that I recall was just there was a lot of
5 confusion about the whole -- the whole process, right, because -- yeah, just a lot of
6 confusion about the process.

7 Q Okay. And if we could scroll down a little bit, [REDACTED], to the paragraph that
8 starts "replacement electors." So this paragraph starts off with a reference to an
9 individual with the initials JB. Who is that that you're referring to there?

10 A John Black.

11 Q And who is Mr. Black?

12 A He was one of the regional political directors for either the northeast or
13 mid-Atlantic States.

14 Q Okay. So he was one of the Trump Victory workers who were, you know,
15 employed by the RNC, but assisting with the Trump campaign. Is that fair?

16 A Yes.

17 Q Okay. What do you remember about your communications with Mr. Black
18 on this topic?

19 A So not a lot. I think -- like, I believe there was a lot of concern in
20 Pennsylvania about this whole process even to begin with. Chairman Tabas, like it says
21 there, had already left. He was a very strong State party chairman. I believe that most
22 of the regional political directors were counting on the chairs to do a lot of the wrangling
23 for this process, because like Georgia, they have a big say, generally, in who the electors
24 are.

25 And so I think there were just some controversy generally about getting people in

1 Pennsylvania to even do this.

2 Q Okay. Were there -- I think there's an email that might shed a little more
3 light on this, but were -- was the -- were there any concerns raised that you felt like would
4 have jeopardized, you know, gone to the sort of merits of the question, like, were the
5 Pennsylvania electors not just sort of objecting, like, I'm sorry. I had plans already on
6 Monday, but rather that they didn't feel it was appropriate to be doing it?

7 A Yes, absolutely. I think there were electors -- there were a lot of electors
8 that kind of fell into that category. I think Chairman Tabas was one of those electors,
9 and in Pennsylvania I know they even, you know, where it requested language for the
10 forms that they were filling out to indicate that this was -- you know, they were casting
11 these votes in the case of controversy or I forget the language exactly, but -- yeah.

12 Q Okay. That's helpful. Any other -- I think we have a couple of examples
13 we can talk about, but just in general your memory of feedback from the initial outreach
14 to electors. Other than Chairman Tabas and potentially other electors in Pennsylvania,
15 any electors from other States that gave similar kind of feedback about the
16 appropriateness or potential legality of the process?

17 A Yes. There were -- I don't have a lot of specific names. I wasn't the one,
18 like, kind of reaching out to the electors directly, but yes, there were definitely electors in
19 probably most of the States that had concerns about this process.

20 Q And how did the campaign respond to those concerns?

21 A To my recollection, there was, like, no pressure on anybody to be there and
22 to do this, but we made it -- we kind of articulated the argument that we said before of
23 there is pending litigation, you know, at the Supreme Court filed by the Texas attorney
24 general; like, this is at least a real litigation we want to preserve our rights here. So, you
25 know, please show up and participate in this.

1 Q Okay. And did that generally assuage the concerns for the individuals that
2 had raised them?

3 A I'm not sure how persuasive it was or not, you know, with any individual
4 electors.

5 Q Okay. And were you learning about these conversations regarding
6 concerns from the regional political directors or did you yourself have communications
7 with any electors who raised concerns?

8 A For the most part, I believe from the regional political directors.

9 Q Okay. Yeah. On the bottom paragraph here on the screen, I think this is
10 on the similar topic under comms, the third sentence says: In Pennsylvania, it seems
11 that many electors are against this and we may not want anyone talking to the press.

12 How did those concerns being raised by electors factor into the campaign's
13 decision making about communications and press relations?

14 A I don't know how it would've affected press or communications, generally.
15 That wasn't what I -- that wasn't like my -- that wasn't something that I worked on.

16 Q Okay. And in the initial phase of outreach to the litigation States, did the
17 campaign tell the electors not to speak about this to the press or publicly?

18 A Not that I recall. I think we were just generally, at this point, like, reaching
19 out to see if they were even interested and kind of what the process would be if we
20 decided to go forward with this.

21 Q Okay. Okay. Let's look at exhibit 5, please, or actually exhibit 6 is better.
22 Here we go.

23 So Mr. Findlay, this is a document we provided to you in advance. I will
24 represent to you that it was produced to us in a different production from our
25 investigation and it originated in an email from Nick Trainer with the subject line

1 "electors," and then it says: Here are the six with contact. The cover email is dated
2 December 20th.

3 And then attached to it is this spreadsheet of names, contact information
4 organized by State.

5 Does this list look familiar to you?

6 A Yes, generally.

7 Q And what is it?

8 A So I did not do a ton of work in Michigan and Pennsylvania, but it looks like a
9 list that we would've put together of presidential electors.

10 Q If we can scroll down to the Georgia part, which is at the bottom of the page
11 that might help with your -- level of familiarity.

12 A Yes, that looks right.

13 Q Okay. Did you have any personal, you know, contact or interactions with
14 any of the Georgia electors that are on this spreadsheet?

15 A So definitely not about this and no one outside of David Shafer. No one
16 outside of David Shafer.

17 Q Okay. Are you familiar with an individual named John Isakson?

18 A Generally.

19 Q Did you talk to him at all about his role as an elector after November 3rd,
20 2020?

21 A No.

22 Q Okay. What about a State representative -- that's how she's described on
23 the list here -- named Susan Holmes. Are you familiar with her?

24 A Yes.

25 Q Did you have any interaction with Ms. Holmes after November 3rd, 2020?

1 A No.

2 Q Okay. Okay. Let me get the timing right. So we've got a lot of
3 communications on the 11th, Mr. Findlay -- oh, can you hear us okay?

4 Mr. Passantino. Yes.

5 Ms. [REDACTED] Oh, okay. You appeared twice on our screens. I wanted to make
6 sure that at least one of them was still working.

7 BY MS. [REDACTED]

8 Q Okay. So I might do this out of order just because I think some of the time
9 stamps on the emails might not be exactly right. But let's go back to the text messages
10 with Mr. Shafer, please. It's exhibit 2.

11 As I think you described to us, it seems like there's a little flurry of activity for
12 December 11th, so we'll be here for a few minutes, at least.

13 So following on the exchange that we looked at before with Mr. Shafer and the
14 chairman of the party in Georgia, you did have some additional text messages with him
15 on the 11th. I think it starts on the next page. There we go.

16 So we don't see any text messages, at least, between you and Mr. Shafer in
17 between the 7th and the 11th, but then it looks like he reached out to you in the evening
18 of December 11th.

19 Do you see that?

20 A Yes.

21 Q Okay. Tell us what you remember about this exchange.

22 A Pretty much just what the texts says right there. He reached out to see
23 who was in charge of whipping the electors at this point. At this point, the email had
24 already been sent that I was not doing anything with the electors anymore. So my
25 response is that Mike Roman is in charge of whipping and executing the event -- I mean,

1 pretty much everything that it says right there.

2 Q Okay. But you had already had your conversations with Mr. Morgan and
3 Mr. Chesebro at this point?

4 A Correct, yes.

5 Q Okay. Tell us more about Mike Roman. I understand that he was apart of
6 the election day operations team. Is that right?

7 A Yes.

8 Q Okay. How well do you know Mr. Roman?

9 A I would say very well.

10 Q You worked together on the campaign?

11 A Yes.

12 Q And how -- what was the significance to you of Mr. Roman coming in to
13 replace the political team after, you know, you had -- were no longer participating in the
14 alternate electors plan?

15 A I'm not sure I understand the question. The significance?

16 Q Was Mr. Roman still an employee of the Trump campaign at that point?

17 A Yes, I believe so.

18 Q Okay. And so is it fair to assume that it was -- he was brought in, but it
19 wasn't just Mike Roman, but also the other people who worked with him on EDO. Is
20 that right?

21 A Yes.

22 Q Okay. And is it fair to assume as I think you explained earlier that then
23 Mike Roman and his team took over the logistical piece of actually making the electors
24 meetings and votes happen?

25 A Yes.

1 Q Okay. Help me to understand what the difference was, you know, why you
2 were kind of instructed not to be involved in this process anymore, but why the campaign
3 through Mike Roman still was?

4 A So I guess from the very beginning when the well-documented meeting with
5 Justin Clark and Rudy happened and kind of the legal team became divided, it really kind
6 of divided the campaign.

7 So I think Rudy and his team were working in the campaign office for a couple of
8 days after that maybe, but then they moved to a completely different location. And to
9 my knowledge, we had no interaction with what they were doing, right? We were kind
10 of more try to figure out what strategies they were employing and like we've talked
11 about, Matt and Justin were taking competing legal theories higher up than themselves
12 and kind of talking about things.

13 That divide on the campaign, I guess, it led to a divide in campaign. And I can't
14 speculate as to why Mike Roman was chosen, but I think Rudy or his team -- I guess I will
15 speculate -- I think Rudy or his team saw them as loyal to executing this plan whereas,
16 you know, Justin and Matt and our part of the legal team were not going to pursue this
17 further.

1

2 [3:09 p.m.]

3

BY MS. [REDACTED]

4

Q Okay. That's helpful and fair. So, certainly, as you said, it is well

5

documented, and we talked about it a little bit before, two different perspectives, two

6

different strategies recommended to the President, two different teams on the legal side.

7

And then, apparently, it's helpful to learn that that also translated into more

8

nonlegal staff members picking a side in this time period. Is that a fair summary? I

9

don't mean to put words in your mouth.

10

A Yes.

11

Q Okay. Did you have any conversations with Mr. Roman about this process

12

as he -- either as he took over or at any later point?

13

A I believe we spoke, like, on the night of December 11th, kind of around that

14

time we were transitioning things. I believe he called me to just kind of ask what was

15

going on here, because if I remember correctly, he was kind of caught off guard with it as

16

well. And that was it, like, that was the last -- you know, the only conversation we had.

17

Q Okay. Did you share with him any of the context about how you ceased to

18

be involved in the process, including, you know, your discussions with Mr. Morgan?

19

A Yes. We kind of talked through it because he was asking why are

20

y'all -- why are you, as the legal team, not doing this anymore. And I kind of explained

21

to him that, you know, we were backing out. Rudy had said that -- you know, we were

22

in the process of backing out anyway -- that Rudy had said that this was going to Ken.

23

I didn't know, you know, a lot of the context, the decisionmaking behind it, but

24

that's what we're being told. And Matt is advising us to just completely back out of this

25

whole thing, so that's what we're doing.

1 Q Okay. And what was Mr. Roman's response?

2 A Like I said, at this point, he was a little bit caught off guard by it as well.
3 This had been a political operation before, and his team was not set up to -- he was
4 communicating that his team was, like, not really set up to do this, but they did have
5 people in every State so that they could do it.

6 But, for the most part, like I said, it sounded like he was kind of caught off guard
7 by it as well.

8 Q Okay. Did you have any conversations with him about the substantive,
9 legal issues implicated by the plan?

10 A No. I just relayed to him that Ken had his ideas about how things should be
11 done, and that he should defer to Ken on it from this point on.

12 Q Okay. Understood. Okay. Let's look at exhibit 7, please. So this is an
13 email. I recognize you're not on the very top line of this email, Mr. Findlay, but if we can
14 scroll down -- yeah, that's great -- the part that I want to focus on is this email from Ken
15 Chesebro, dated Friday, December 11th at 10:03 a.m. There's a number of people
16 copied on the "to" line, and then you're the one on the cc with your DonaldTrump.com
17 email address. Do you remember this email?

18 A I don't. I saw it when you sent it over, but I don't really remember this
19 email.

20 Q Okay. It seems to reflect Mr. Chesebro handing off point, as he says, to you
21 for the Pennsylvania electoral votes. And I recognize, you know, it looks like it's in the
22 morning. Do you think it's reasonable that this email happened before your
23 conversations with Mr. Morgan and Mr. Chesebro?

24 A It might be. I really -- I really just don't remember this.

25 Q Okay. But I guess it's -- if he was handing point off to you, meaning that

1 you were to handle something with respect to the Pennsylvania electors, it's inconsistent
2 with it happening after you told him you were no longer being involved. Is that right?

3 A That's correct.

4 Q Okay. Let's go back and look at the second Chesebro memo -- it's at tab 3,
5 exhibit 3 -- before we go on through the 11th.

6 I did just want to put this other memo up in front of you, Mr. Findlay. It's dated
7 December 9th, 2020, and it's the second memo from Mr. Chesebro. I think you said that
8 you received both of them at some point in emails. Is that right?

9 A Yes.

10 Q Okay. If you had a chance -- did you have a chance to look at this before
11 we spoke today?

12 A Yes. I reviewed it generally.

13 Q Okay. All right. Not a quiz, but generally it walks through the Federal and
14 State -- the Federal and State provisions that are potentially relevant to the convening of
15 electoral -- alternate electors rather, in each of the six States. Is that fair?

16 A Yes.

17 Q Okay. And on this first page -- if you could scroll down just a little bit,
18 [REDACTED] -- yeah, that middle paragraph here, it starts with "it appears."

19 So this is written on December 9th, or at least that's what is stated on the
20 document. Again, it looks like it's a memo from Ken Chesebro to Judge Troupis, and
21 then it says: It appears that even though none of the Trump-Pence electors are
22 currently -- underlined -- certified as having been elected by the voters of their State,
23 most of the electors, with the possible exception of the Nevada electors, will be able to
24 take the essential steps needed to validly cast and transmit their votes so that the votes
25 might be eligible to be counted if later recognized by a court, a State legislature, or

1 Congress as the valid ones that actually count in the Presidential election.

2 So the first question is just, is this consistent with your understanding of the
3 circumstances before the Supreme Court declined to take up the Texas v. Pennsylvania
4 case?

5 A Yes, I believe so.

6 Q But, after that point, tell me -- again, I don't want to put words in your
7 mouth, but I understand from what you've told us today that after the point that the
8 Supreme Court made a -- you know, took action or decided not to on the Texas v.
9 Pennsylvania case, that you would no longer have seen this to be, you know, an accurate
10 description of the process.

11 A That's correct.

12 Q Okay. And what generally did you understand about this point at the end
13 of the sentence? He says: So that the votes might be eligible to be counted if later
14 recognized by a court, the State legislature, or Congress.

15 Based on your understanding of the electoral college process and having been
16 involved in at least part of this process with the alternate electors question, what were
17 the ways that a State legislature or Congress might have recognized the electoral votes?

18 Mr. Passantino. So are you asking him, like, what his understanding at the time
19 or are you asking to sort of give a legal analysis now?

20 BY MS. [REDACTED]

21 Q Yeah, I'm asking -- thanks, Mr. Passantino.

22 I'm asking for your understanding at the time. Did you see a role for a State
23 legislature, for instance, regarding these alternate slates of electors?

24 A No. This was not something we were even considering at the time. We
25 were looking just strictly at the court case.

1 Q Okay.

2 A Like I said, to us, December 14th, like, yeah. We were just looking at the
3 court case.

4 Q Understood. Did you come to learn at any point that there were others,
5 and perhaps Mr. Giuliani and Mr. Chesebro were part of that category, that were urging
6 State legislatures to take some action with respect to these alternate slates of electors?

7 A Yes. We learned that later. I kind of watched it unfold in the news with
8 everybody else as this process was going on.

9 Q What was your understanding for the -- well, let me rephrase.
10 Did you think that was appropriate?

11 A I mean, that's kind of -- so as far as -- like I said, nothing was surprising at this
12 point. Well, I guess your question is, was it appropriate? At some point, the votes are
13 what they are. Right? And, unless you've got proof that the votes are not what they
14 are, it's tough to keep fighting that fight.

15 Q Okay. And what about the Congress part of this parenthetical -- court,
16 State legislature, or Congress, -- at the time, did you understand that there was a role for
17 Congress to recognize these alternate slates of electors?

18 A No.

19 Q And did you learn that there were efforts by others to urge Congress to take
20 some action with respect to these alternate slates of electors?

21 A Yes. I learned about it later on.

22 Q Did you have conversations internal on the campaign about it, or did you just
23 learn about it through the news in connection with January 6th?

24 A Just through the news.

25 Q Okay. So, if we could go to the very last page, I think it's page 5 of this

1 exhibit, on the very bottom, the concluding paragraph.

2 So, after walking through the States and the statutes or other rules related to the
3 appointment and convening of electors -- excuse me -- Mr. Chesebro concludes the
4 memo with this paragraph that provides some assessment for varying degrees of how
5 problematic convening voting by an alternate slate of electors would be.

6 He concludes: It's unproblematic for Arizona and Wisconsin, slightly problematic
7 in Michigan, somewhat dicey in Georgia and Pennsylvania, and very problematic in
8 Nevada. And then, in parentheses, he gives his explanation for those assessments.

9 What's your understanding of his analysis here, and what -- well, let me be more
10 precise -- what was it at the time, and did you have any concerns about the campaign
11 going forward with convening electors in any of these States?

12 A So I'd have to review for each individual State what his analysis was, but,
13 generally, like I said, we backed out of this thing. I mean, if I thought there was a path
14 forward, I might've asked to be part of this. Right? But, like, in my analysis, there was
15 not a lot left to do once the court case got dismissed. So I didn't even really go into a
16 State-by-State analysis of what Ken's memo meant for every State.

17 Q Okay. Did the fact that alternate electors would not be able to comply with
18 State law because, for instance, they have to meet inside the Senate Chamber, or they
19 have to have a Governor, you know, ratify alternate electors, did that factor into your
20 analysis or your discussions internally at the campaign?

21 A No, not really that I recall. Like I said, kind of the threshold question is, is
22 there even any reason for them to be meeting in the first place? And, once the Supreme
23 Court decided -- declined to hear that case, like I said, we backed off of everything. So
24 there wasn't even, in my mind, and from what I was a part of, there was not much
25 analysis to do after that.

1 Q Okay. That's helpful. I wanted to go -- before we move on from this
2 document, I wanted to ask you one more question. After our conversation about your
3 discussions with Mike Roman, was Mr. Roman at all concerned about the legal team
4 backing out or declining to participate further in this process?

5 A I don't know. We didn't really discuss it other than just his kind of surprise,
6 like I said, surprise at being given this job in the first place. I don't know that he had any
7 other concerns, but we also didn't discuss it.

8 Q Okay. All right. Who did Mr. Roman report to within the campaign?

9 A Well, for a while, he reported to Justin Clark. Definitely prior to election
10 day, he reported to Justin Clark. And then, after that, kind of his reporting, I guess I
11 don't know who he reported to all the time.

12 Q After he ceased reporting to Mr. Clark?

13 A Yes.

14 Q Okay. Okay. So I think I've got a couple more emails that we can go
15 through really quickly that you produced to us that probably predated your conversation
16 with Mr. Chesebro. The first is exhibit 8, please.

17 So, while my colleague is pulling this up, this is an email that you produced. It's
18 from Ken Chesebro to an email address that appears to be affiliated with Bernie Kerik,
19 and then Mr. Rudy Giuliani is copied, as well as yourself.

20 And this is an email where Mr. Chesebro attaches his two memos about the -- in
21 the subject line he says: Explaining the reason for casting electoral votes and logistics.

22 And it looks like Mr. Chesebro is referring to Michigan in this email to Mr. Kerik.
23 Do you have any understanding of what Mr. Kerik's role was in this process?

24 A I didn't, no.

25 Q Did you ever talk to Mr. Kerik about it?

1 A No.

2 Q Did you talk to Mr. Giuliani about it?

3 A No.

4 Q Okay. And Mr. Chesebro is inviting Mr. Kerik, Mr. Giuliani, or yourself to
5 weigh in on the press release that he's drafted. Did you provide any comments on the
6 press release?

7 A No.

8 Q Okay. Another one, the next tab, number 9, please, this is another email
9 that you produced to us from Ken Chesebro in the afternoon of December 11th, this one
10 directed to Mike Roman with you copied. And it says it's attached a packet of
11 documents -- it indicates that a packet of documents related to Pennsylvania, as well as
12 his two legal memos.

13 And, in his third sentence, he writes: Pennsylvania, Georgia, and Michigan are
14 the main concerns at this point.

15 What do you -- what did you understand at the time him to mean by that?

16 A I don't know. Like I said, we were kind of winding down on our side, and I
17 was not proactively talking to Ken.

18 Q Okay. Do you think this happened after your conversation with him?

19 A I think it could have.

20 Q Okay. So, as reflected in the earlier email, he writes that Bernie Kerik is
21 heavily involved with Michigan. And then he seems to refer to you as the best source of
22 information for Georgia, and then also kind of refers to you in the context of
23 Pennsylvania.

24 Based on what you've told us, I assume that was not, you know, telling you to take
25 the ball and run with it with those States, but rather to convey what you knew to

1 Mr. Roman. Is that fair?

2 A Yes.

3 Q Okay. And do you remember what you told Mr. Roman about Georgia?

4 A I don't believe we had a conversation about Georgia.

5 Q Okay. Did you talk with him specifically about Pennsylvania?

6 A I don't know. I know Roman was very involved in Pennsylvania. I don't
7 recall any specific conversations about it, but there may have been.

8 Q Okay. Let's look at tab 10, please, exhibit 10.

9 Okay. So I expect this is the email that you described to us, you know, sort of
10 taking yourself out of the process. Is that fair?

11 A Yes.

12 Q Okay. So it's dated December 11th at 5:52 p.m., and there are several
13 people in the "to" line all with @gop.com email addresses. So I assume these are the
14 regional political directors that you referred to?

15 A Correct.

16 Q Okay. Okay. After you and Mr. Morgan and Mr. Clark took yourselves out
17 of this process, did the regional political directors, the RNC employees on this email, also
18 cease to be involved?

19 A I don't know. I don't know. Because I was not involved. I was not
20 actively reaching out to them. I know some of them, I think, copied me on emails going
21 into the next day about things, but I don't know what role each of them kind of played
22 after this.

23 Q Okay. Did you have any conversations with them about the circumstances
24 for your withdrawal?

25 A I don't remember anything specifically, but they may have reached out and

1 kind of asked why am I not involved anymore or what the change is.

2 Q Okay. Do you remember in particular having that conversation with any
3 one of these?

4 A No, I don't, necessarily. But like I said, it may have happened.

5 Q Got it. Did you ever come to learn who, outside of the campaign, you
6 know, your reporting structure through Mr. Morgan and Mr. Clark, was aware of the
7 distinction between the sort of handoff in the participation here from your team to
8 Mr. Roman's?

9 And I'm thinking in particular about folks at the White House. Do you know if the
10 chief of staff, Mr. Meadows, was aware of or involved in that decision at all?

11 A I don't know.

12 Q Okay. All right. So let's look at tab 12, please.

13 So, Mr. Findlay, this is another document we provided to you in advance. We
14 received it from another source. And, at the bottom, it reflects an email -- you're not on
15 this very top one, but if we could scroll down a little bit -- perfect.

16 So this is an email from Ken Chesebro to yourself, copying several individuals:
17 Mr. Black, who you identified for us before; Mike Roman; and then this email address for
18 Mr. Kerik as well.

19 And Mr. Chesebro is attaching a packet of documents for Georgia electors. This
20 is, again, that evening of Friday, December 11th -- and, [REDACTED], if you don't mind just
21 scrolling down a little bit just so we can see the file names.

22 There are six attachments. I will not make you look at each of them, but the
23 names of the files are very descriptive. So it really looks like all of the component pieces
24 that were provided to the Georgia electors so that they could complete this process, a
25 how-to document, followed by draft press release and the ballots, the certificates

1 themselves.

2 Did you discuss with Mr. Chesebro his preparation of these documents at all?

3 A No, I don't believe so.

4 Q Okay. So did you ask him to prepare these documents, or were you at all
5 involved in directing him to do so?

6 A No.

7 Q Okay. So, again, I won't make you look at each of the attachments, but in
8 those documents, one of the steps that is outlined for the electors is mailing the ballots
9 after the meeting directly to the relevant authorities, including the Vice President in his
10 capacity as President of the Senate.

11 So my question for you is just whether, before you got out of the process, were
12 you involved at all in determining what those sort of next steps would be after the
13 electors met and voted?

14 A So, no, I wasn't involved in the process. I mean, way back, kind of around
15 when we were doing this before, I did research into, like, who they have to be -- excuse
16 me. When we were doing this just for the States that Trump won, right, I had done the
17 research to find out where it had to be mailed to because no one on the legal team just
18 kind of knew the ins and outs of the electoral count. Right?

19 So I became familiar with it and kind of conveyed that to the other lawyers at that
20 time, but I was not really involved with this process at all.

21 Q Okay. And did you have any understanding of the legal significance of
22 whether those ballots should be held in abeyance in some way or whether they should be
23 submitted, you know, to the archives and to the president of the Senate?

24 A No, not at this time.

25 Q Okay. At a later time, was that relevant?

1 A I mean, so it wasn't really relevant to me in my opinion because, like I said,
2 when we backed out, like, I wasn't sure -- when we backed out, there was a question
3 about -- I just kind of stopped the legal analysis at that point. Right? It was kind of like
4 the threshold question has not been met here, so I stopped doing the analysis.

5 Q Okay. So let's look at tab 14, please, exhibit 14. This is another one of the
6 documents that you produced to us, Mr. Findlay. It is the following day, from Saturday,
7 December 12th, and it's an email from Ken Chesebro again. And it relays the contents
8 or some portion of a conference call that took place that day; it says with Mayor Giuliani.

9 From other information we've developed in our investigation, we understand that
10 this was a conference call to which a large number of the alternate electors were invited
11 and some participated in. Were you aware of that call?

12 A Not at the time. I became aware when this email came across.

13 Q Okay. So you didn't participate in the call yourself?

14 A No.

15 Q Okay. Did you discuss it at all with Mr. Morgan after you became aware of
16 it?

17 A No, I don't believe so.

18 Q Okay. Let's look at exhibit 15, please. So this is another one of the
19 documents you produced. It's an email that same day, Saturday, December 12th, in the
20 evening, to yourself -- or really it's from Ken Chesebro to Mike Roman with you copied on
21 it.

22 And it relates to -- well, the subject line says "tweaked language for certificate"
23 and provides some suggestive language for dealing with the concern raised in the
24 Pennsylvania conference call about electors possibly facing legal exposure.

25 Were you aware of a concern raised by any electors about possible legal

1 exposure?

2 A Not really until this email came across.

3 Q Okay. So, in your earlier, you know, involvement in the process, had you
4 ever become aware of a request by Pennsylvania electors that the campaign indemnify
5 them for this conduct?

6 A No, that is something I had been aware of.

7 Q Okay. This concern seems to be specific to the language of the certificate
8 itself.

9 [REDACTED] if you don't mind scrolling down, so we can see the bottom half.

10 Inside the email here, it copies the language that appears on the certificates of the
11 vote, starting "we, the undersigned," and then there's this bold language that's inserted
12 that says: On the understanding that it might later -- I think there should be a word "be"
13 there -- determined that we are the duly elected and qualified electors for President and
14 Vice President.

15 Were you aware of concerns raised by the electors in Pennsylvania or any other
16 State about this duly elected language?

17 A Yes. I think this goes back to when we were talking about Chairman Tabas,
18 like, there was kind of a general awareness that -- about the legality of all of this once the
19 court case didn't -- like, the validity, I guess, more than the legality -- about the validity of
20 this once it happened.

21 And I think, like I said, several electors had that concern, and I think it goes to that.

22 Q Okay. Just explain to me a little bit more, what's the distinction that, in
23 your mind, between a concern about validity versus a concern about legality?

24 A Well, I mean, just because someone puts together a document, that doesn't
25 mean that it has followed, like, the legal process to be recognized as binding in any way.

1 Q Okay. And did you have that concern about this language that
2 Mr. Chesebro had put together?

3 A I'm not sure that I understand. So it seems to me that this language was
4 inserted at the time. So, look, I think, at this time, the court case had been dismissed,
5 right? So we backed out. But I think people were still hoping to find some legal way to
6 cast these votes.

7 I guess I'm just speculating at this point, but the Pennsylvania electors were
8 probably, knowing what I know about Chairman Tabas, looking for something to -- to
9 preserve their rights in case something came up.

10 Q Okay. And what about -- I mean, that's all totally fair, and in reality, this
11 language was altered for the Pennsylvania certificate and the certificate of one
12 other -- one other State as well. But ultimately there were seven slates that were, you
13 know, convened and submitted, and five of them did not have this altered language, that
14 just said: We, the undersigned, being the duly elected and qualified electors for that
15 particular State.

16 And I guess my question is, your point about validity versus legality. Without this
17 caveat and for those other five States, the language that was used, which do you see
18 applying? Is there a concern about possible validity or a concern about possible legality
19 there?

20 A I mean, I guess I'm not sure that I understand the question, but it seems like I
21 would kind of being speculating at this point as to what they were trying to accomplish
22 here.

23 Q Okay. Did you have any -- well, one thing that's clear here, I mean,
24 Mr. Chesebro has described it as easily fixed. And then, at the bottom, he says: It
25 strikes me that if inserting these few words is a good idea for Pennsylvania, it might be

1 worth suggesting to electors in other States.

2 Did you have any conversations about suggesting this change prompted by
3 Pennsylvania to other States?

4 A No.

5 Q Okay. And did you -- I know that at some -- you know, this is -- looks like
6 it's something that was discussed, or Mr. Chesebro was revising it after you were no
7 longer involved in the process. But did you come to learn why that change wasn't made
8 for the other States?

9 A No.

10 Q Okay. Just a couple of questions, I won't pull up the documents unless it's
11 helpful to refer to them, but there's a document that we provided to you that relates to
12 the electors in Nevada. Did you have any communications with electors in Nevada
13 about this process?

14 A No, I don't believe so.

15 Q Okay. And there's an individual copied on the email from Mr. Chesebro
16 related to Nevada. Mike Roman is also copied, but there's an individual named Mike
17 Brown on the email. Are you familiar with him?

18 A Yes.

19 Q Who is Mike Brown?

20 A That was Roman's deputy, Mike Roman's deputy.

21 Q Okay. And do you have any understanding of what his role was with
22 respect to the alternate electors?

23 A No.

24 Q Okay. There is an email in here from Ken Chesebro -- again that weekend,
25 this one's on Sunday December 13th -- that you produced to us, to Mike Roman and

1 yourself, and it relates -- from Mr. Chesebro, providing documents related to New
2 Mexico.

3 Do you know how New Mexico came to be one of the States where alternate
4 electors met and voted?

5 A I don't.

6 Q Okay. I ask just because it wasn't on your list that you identified earlier as
7 the litigation States, and didn't seem to be one of the ones that was on the radar of your
8 team when you were working on this. So I'm just wondering if you have any thoughts
9 for how they came to be included?

10 A I don't know.

11 Q Okay. Okay. Let's look at one more document, exhibit 19, please.

12 So this one we sent to you in advance even though it's not from your production,
13 so hopefully you had a chance to look over it. Is that fair?

14 A Yes.

15 Q Okay. It's an email exchange that it actually starts with an email that you
16 wrote on December 10th, kind of before, you know, being extracted from the process.
17 We looked at this email in another thread earlier.

18 And then, if you don't mind scrolling up to the bottom half of the first page,
19 please, [REDACTED]

20 I just wanted to direct your attention to the email from Justin Clark -- if you could
21 scroll up, yeah, there we go.

22 That's Sunday, December 13th. Mr. Clark writes to Mr. Trainer, yourself,
23 Mr. Morgan, and Tim Murtaugh, who I understand to have been a communications
24 person with the campaign. Is that right?

25 A Yes.

1 Q Okay. So Mr. Clark writes: We have alternate slates that will vote on
2 Monday. This has morphed into something bigger than originally planned so I wouldn't
3 build press into it.

4 What do you think -- or what did you understand Mr. Clark to refer to when he
5 said, "This has morphed into something bigger than originally planned"?

6 A So my understanding of this was, like I said, this was just supposed to be a
7 contingency plan if litigation went our way. It was not supposed to last past that,
8 because that was kind of the main justification that everyone was relying on for this to
9 happen.

10 My understanding is that he never anticipated it going past, you know, that
11 December 11th date. But, at this point, you know, it's Sunday; it had gone past this date
12 for 2 days. Rudy and his team were making preparations to go forward with this thing.

13 I think -- I don't -- I don't remember, like, when press was talking about this, but
14 press started talking about this either now or in the future. I mean, people were making
15 plans to meet at capitals.

16 And it was really kind of beyond the control or scope of Justin and Matt and this
17 side of the team, and so it got bigger and more out of control. So it didn't seem like a
18 good idea to advise Tim to do press on it when we didn't know what was going to happen,
19 we didn't know really a whole lot about it at that point.

20 Q Okay. And, if we could scroll back up, Mr. Murtaugh responds, and then
21 Mr. Clark writes in the final email at the top here: You know, I think from Rudy or Jenna
22 is better, and then, the reality is, there won't be much rationale for these folks voting
23 tomorrow.

24 So the Rudy or Jenna piece seems consistent with everything you've told us, that
25 this was now a Rudy operation and, therefore, that any public statements about it should

1 be coming from him. Is that fair?

2 A Yes.

3 Q Okay. So the reality that there won't be much rationale for these folks
4 voting tomorrow, is that consistent with your understanding of the circumstances?

5 A Yes.

6 Q And it's consistent with your conversations with the folks on this email, in
7 particular, Mr. Morgan and Mr. Clark. Is that fair?

8 A Yes.

9 Q Okay. So I want to just step back a little bit here. Do you think that that
10 was communicated to the electors themselves?

11 A I don't know.

12 Q Because it seems like there were -- your original -- the original outreach that
13 was done through you and the political -- you know, "you" meaning you, Mr. Morgan,
14 Mr. Clark, you're a team at the campaign -- and the political operation was very much in
15 the context of elite litigation remedy that you've explained to us. Is that fair?

16 A Yes.

17 Q The switch in control of the process from your team over to Rudy's team and
18 Mr. Chesebro, in particular, was any of that communicated to the electors?

19 A So I don't know. It was communicated to the regional political directors
20 who were communicating with the electors.

21 Q Okay. If the electors maintained an understanding that they were meeting
22 and casting votes on the 14th based on what had originally been described to them as
23 part of a litigation contingency, in your mind at least, that was no longer the case on the
24 14th when they met. Is that fair?

25 A I think so.

1 Q Okay. Based on what's been publicly reported, and I can say based on our
2 investigation, we have not yet seen any indication that the change in circumstances
3 around the justification for -- or the reason why the electors met was communicated to
4 the electors themselves. Do you have any information that would contradict that?

5 A So I'm not sure that I understand the question. Can you repeat the
6 question?

7 Q Yeah. It was kind of long. Let me see if I can say it a little more clearly
8 too. So, you know, you've explained to us that your team and the campaign, when
9 originally reaching out to the electors, explained to them that the process was a part of a
10 potential litigation contingency and then, in particular, you know, related to the Supreme
11 Court litigation. Is that fair?

12 A Yes.

13 Q Okay. And then you've also explained to us how that changed internally
14 within the campaign after the discussions on -- related to the Texas v. Pennsylvania case,
15 and why you and your team within the campaign no longer felt that it was appropriate to
16 continue and, in fact, according to Mr. Clark in his email, that there was no longer any
17 rationale for the electors to meet. Is that fair?

18 A Yes.

19 Q Okay. But, nonetheless, the electors -- the process did continue whereby
20 people, at the direction of Mr. Giuliani, who was then leading litigation on behalf of the
21 Trump campaign, did continue to go through the process, convene the electors, have
22 them vote, and then have their certificates submitted. Is that right?

23 A Yes.

24 Q Okay. Through publicly reported information and through our
25 investigation, we have not seen any indication that the electors themselves were aware

1 of the change in strategy or the change in circumstance related to the reasoning or the
2 rationale for why they should meet and vote on the December 14th. So that's me just
3 stating a fact and asking whether you know of any information that would contradict that,
4 any information that would indicate that the electors were informed about this change in
5 strategy and change [inaudible] -- get back to your regularly scheduled --

6 Mr. Passantino. Okay. Thank you.

7 Ms. [REDACTED] Does that work? All right. Let's take about 5 minutes.

8 Mr. Passantino. Okay. Sounds good.

9 Ms. [REDACTED] Okay. Thank you.

10 [Recess.]

11 Ms. [REDACTED] So let's go back on the record with the transcribed interview of
12 Mr. Joshua Findlay. It's 3:54 p.m. in Washington. Mr. Findlay, just a couple of wrap-up
13 questions for you.

14 BY MS. [REDACTED]

15 Q So, in the process of your communications with Mr. Morgan and sort of the
16 process of change in your perspective and thus your role in the alternate electors process,
17 did you see -- was there any specific memo or document that Mr. Chesebro wrote, or was
18 associated with, that prompted the understanding on your team, you and Mr. Morgan, of
19 the change in strategy going forward after the Supreme Court, you know, declined to take
20 up the case?

21 A I don't believe so. Not -- you know, no new document that we haven't
22 already discussed.

23 Q Okay. That's helpful. So there's no other key document, even if it's not in
24 your possession, custody, or control any longer, that you remember, from Mr. Chesebro
25 regarding this whole subject area that you weren't able to find or remember existing but

1 no longer have?

2 A No, not that I recall.

3 Q Okay. And I provided to you a long email thread, or it's in a couple of
4 pieces that we referred to earlier, that described, you know, your observations about the
5 post-election time period in Georgia.

6 I'm not going to make you sit there and relive those, you know, 9 weeks or so, but
7 there were a couple of key events that are described in there and that were publicly
8 reported either at the time or shortly after.

9 One was the visit by Mark Meadows to Georgia to appear at the site of a signature
10 match audit that was being conducted in Cobb County. Do you remember that?

11 A Yes.

12 Q Were you involved at all in setting that up, or did you have any knowledge of
13 Mr. Meadows, you know, the facts around Mr. Meadows' appearance other than what
14 you learned from publicly reported sources?

15 A No, I don't believe so.

16 Q Okay.

17 A I -- so I was definitely not involved in any of the setup or anything like that.
18 I don't think I have any knowledge of it at this point.

19 Q Okay. And did you interact with Mr. Meadows while you were in Georgia?

20 A No.

21 Q Okay. There were also at the time, and then again since then, reports of
22 calls by the President to elected officials in Georgia. In your emails, you relayed the fact
23 of a phone call from President Trump to the attorney general of Georgia, Mr. Carr, and I
24 think it was in the context of the case that we've been discussing, Texas v. Pennsylvania.
25 Do you remember that?

1 A Yes.

2 Q Did you have any involvement in those facts, or did you have any knowledge
3 about it, about President Trump's call to Mr. Carr that was not from publicly reported
4 sources?

5 A No.

6 Q Okay. And what about, same question regarding calls that were placed by
7 Mr. Meadows and by President Trump to Secretary of State Brad Raffensperger and other
8 members of his staff, were you involved in that at all, or did you have any knowledge of
9 those circumstances other than from publicly reported sources?

10 A No.

11 Q Okay. So I wanted to just go back and clarify one thing about what you told
12 us about your conversation with Mr. Morgan regarding the decision that you and he
13 would no longer participate in the alternate electors process.

14 And you recounted to us that some of what Mr. Morgan told you, and I just
15 wanted to get a little bit more detail if possible. Is that okay?

16 A Sure.

17 Q Okay. So do you remember what Mr. Morgan told you about why the
18 process would continue even though you were no longer going to be involved in it?

19 A I don't have a lot of recollection about why that happened.

20 Can we go off the record --

21 Ms. [REDACTED] If you guys would like to confer --

22 Mr. Passantino. You want to have an attorney-client conversation, or you want
23 to just go off the record?

24 Mr. Findlay. Either way.

25 Mr. Passantino. Let's go off the record --

1 Mr. Findlay. If you don't mind.

2 Mr. Passantino. -- for right now.

3 Ms. [REDACTED] Yeah, we can do that. We're off the record now.

4 [Discussion off the record.]

5 BY MS. [REDACTED]

6 Q Let's go back on the record. Okay. Great. So this is the transcribed
7 interview of Mr. Findlay. We're back on at 4:02.

8 So, Mr. Findlay, I just wanted to go over in a little bit more detail the
9 conversations that you had with Mr. Morgan earlier in December around the alternate
10 electors idea or plan.

11 So was there -- I think you described to us earlier that there were earlier
12 conversations where Mr. Morgan first asked you to look into this. I think you said it was
13 around the idea of -- around the dates of December 7th or 8th. Is that right?

14 A Yes, I believe so.

15 Q Okay. And, in those discussions, do you remember what Mr. Morgan told
16 you about how he was being directed to pursue this, like, from -- what was the
17 motivation for looking into it?

18 A Sure. So, at that time, he said that this lawsuit was going to be filed in
19 Texas, right? Like I said, it was an attorney general lawsuit. It was going to the
20 Supreme Court. It was, like, a pretty legitimate lawsuit.

21 Conversations happened above his head that said that we need to -- we should
22 look into electors in these potential litigation States, essentially, kind of look into the
23 process of how they would even, you know, be elected if we were to win a court case or
24 something like that.

25 Q Okay. Understood. And I think earlier you told us that what Mr. Morgan

1 had conveyed to you was that this is what the client wanted. Is that right?

2 A Yes, that's correct.

3 Q Do you remember that as, like, a direct quote? Do you remember
4 Mr. Morgan using those words or other ones to say that to you?

5 A I don't remember the exact words.

6 Q Okay. But you certainly got the impression that this was coming from the
7 client, the President himself. Is that fair?

8 A Yes.

9 Q Okay. What else did Mr. Morgan share with you in that earlier
10 conversation in December that gave you the impression that this, you know, request to
11 look into this was coming from the client himself, from the President?

12 A Just kind of the general sense that this was a long shot, that it wasn't
13 necessarily something that he believed in wholeheartedly, that, like I said, there were
14 conversations that were happening above our heads about this, about whether we should
15 even look into it or not. But it was a -- it was, like, at least a legitimate claim to do it
16 because of who was filing the lawsuit, and where it was, and the client requested it, and
17 so we would at least look into it and see what the process is.

18 Q Okay. Did you ever hear Mr. Morgan refer to Rudy Giuliani as the client?

19 A No, I don't believe so.

20 Q Okay. And so the later conversations that you had with Mr. Morgan after
21 the initial outreach to the electors and after the Supreme Court, you know, determination
22 regarding Texas v. Pennsylvania, I realize that you've told us earlier that this happened
23 over several conversations during the day of December 11th. Is that right?

24 A Yes.

25 Q Okay. And what do you remember about what Mr. Morgan told you as to

1 why the process would continue even though you and he would no longer be involved in
2 it?

3 A So we didn't have a lot of discussions about why at that point. It was
4 essentially that Rudy had been put in charge of this process, and Rudy wanted Ken to take
5 over.

6 Q Okay. And did you have a similar sense from Mr. Morgan in that
7 conversation or several conversations that took place on December 11th as to whether
8 the desire for this process to continue, notwithstanding you and the legal team no longer
9 participating in it, whether that was coming from your client, the President?

10 A Yes, I believe so. I mean, he had made it clear that Rudy was in charge of
11 this and that Rudy was executing what he wanted.

12 Q Okay. Do you remember anything specifically that Mr. Morgan said during
13 those conversations that gave you that impression?

14 A No. The conversation was really about Rudy at that point. It was more
15 that Rudy had been given power and that this is what he wanted to do. And so it really
16 revolved more around Rudy.

17 Q Okay. That's great. Anything else, Mr. Findlay, that we neglected to ask
18 you that is relevant to our work and our inquiry here?

19 A No, I don't believe so.

20 Ms. [REDACTED] Okay. Mr. Passantino, anything that you'd like to address before
21 we go off the record?

22 Mr. Passantino. Nope. I think we're good. Thank you.

23 Ms. [REDACTED] Okay. Mr. Findlay, thank you very much for your time today.

24 Thank you for appearing here voluntarily and for your cooperation. We really
25 appreciate it.

1 Mr. Findlay. Thank you.

2 Mr. Passantino. Thank you.

3 Ms. [REDACTED] Okay. We'll go off the record, conclude the interview.

4 [Whereupon, at 4:08 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

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

Witness Name

Date