

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

DEPOSITION OF: PATRICIA MCCAIG

Thursday, February 25, 2016

Washington, D.C.

The interview in the above matter was held in Room 2247, Rayburn

House Office Building, commencing at 10:01 a.m.

Present: Representatives Meadows, and Grothman.



Mr. [REDACTED] Okay. Here we go. This is a deposition of Patricia McCaig conducted by the House Committee on Oversight and Government Reform. This deposition is occurring under a subpoena issued by Chairman Chaffetz as part of the committee's investigation of Cover Oregon.

Before I get into my preamble, I'll mark the subpoena as exhibit 1 and enter it into the record.

[McCaig Exhibit No. 1  
Was marked for identification.]

Mr. [REDACTED] The date on the subpoena is February 1, 2016. And that date was modified by the agreement of the parties to accommodate the witness' travel schedule.

Could the witness please state your name for the record?

The Witness. Patricia McCaig.

Do I give this back to you?

Mr. [REDACTED] You can just keep that there. And all the marked exhibits will wind up there with you.

My name is [REDACTED]. And I'm counsel for Chairman Chaffetz' staff. I'll have everyone present from the committee please introduce themselves as well.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

Mr. Meadows. Congressman Mark Meadows. Good to see you.

The Witness. Nice to meet you.

Mr. [REDACTED] Because the witness is compelled to be here by a subpoena, we are operating pursuant to the committee rules, specifically rule 15, which covers the guidelines for today's deposition. We have copies of the rules here with us today. They're on the table over there. I'll go over them now briefly for the record as well.

The way the questioning proceeds is the majority will ask questions first for up to an hour. And then the minority will have an opportunity to ask questions for an equal period of time if they choose. We will firmly adhere to the 1-hour time limit for each side. And I will manage the clock so we all know exactly how much time is remaining in any given round. We'll have you finish your answer if the clock expires while you're answering. But there won't be any additional questions.

Questions may only be asked by a member of the committee or a staff attorney designated by the chairman or ranking member. We will rotate back and forth, 1 hour per side, until we were out of questions, and the deposition will be over. As I mentioned, we are operating under compulsion. The offer was made to the witness to proceed with a

voluntary transcribed interview. And that offer was declined. Unlike in the voluntary interview setting, the witness is required to answer all questions posed except to preserve a privilege. The witness or counsel may object to a question to preserve a privilege and not for any other reason, such as if the answer would be uncomfortable or confidential.

If the witness objects to a question, the objection should be stated clearly and in a nonargumentative manner. Members and committee staff are not permitted to raise objections. Only the witness may do so. The chairman will rule on the objection after the deposition has adjourned. And there's a process in the committee rules for adjudicating any objections.

With respect to objections, be apprised that the House of Representatives and the committee do not recognize any purported nondisclosure privileges associated with the common law, including, but not limited to, the deliberative process privilege, the attorney/client privilege, and attorney work product protections. And any purported contractual privileges, such as nondisclosure agreements.

As you can see, there's an official reporter taking down everything we say to make a written record. So we ask that you give verbal responses to all questions. It's also important that we don't talk over one another so the court reporter can take down a clear record. Do you understand?

The Witness. Yes.

Mr. [REDACTED] All witnesses who appear before the committee may be accompanied by counsel. It is my understanding that you're appearing today without counsel. Is that correct?

The Witness. Yes.

Mr. [REDACTED] We want you to answer our questions in the most complete and truthful manner possible. So we'll take our time. If you have any questions or if you do not understand any of our questions, please let us know. If you honestly don't know the answer to a question or do not remember, it's best not to guess. Please give us your best recollection. And it's okay to tell us if you learned information from someone else, just indicate how you came to know the information. If there are things you don't know or can't remember, just say so. And please inform us who, to the best of your knowledge, might be able to provide a more complete answer.

We would like to take a break whenever it's convenient for you. This can be after every hour of questioning, after a couple of rounds, whatever you prefer. During a round of questioning, if you need anything, a glass of water, a quick break, please just let us know. And we'll go off the record and stop the clock. We like to make this process as comfortable as possible.

Committee rule 15(e) requires a member of the committee to be present during the deposition. And Mr. Meadows is present now. And different members of the committee will rotate in and out throughout the day. The House is in session today, and there may be votes on the floor at some point, and there are a number of different committee

activities as well, so there may be times where we have to unexpectedly take a break until a member returns. We are not able to circumscribe our questioning to account for time that we lose because members have busy schedules, but the witness may waive the 15(e) requirement at any time.

In a moment, you will be placed under oath. Title 18, section 1621 of the United States Code requires that you answer questions truthfully when you are under oath. Also, Title 18, section 1001 requires you to answer questions from Congress truthfully. Do you understand?

The Witness. Yes.

Mr. [REDACTED] This also applies to questions posed by congressional staff. Do you understand that?

The Witness. Yes.

Mr. [REDACTED] Witnesses that knowingly provide false testimony could be subject to criminal prosecution. Do you understand that?

The Witness. Yes.

Mr. [REDACTED] Is there any reason that you are unable to provide truthful answers to today's questions?

The Witness. No.

Mr. [REDACTED] Pursuant to committee rules, the witness will be sworn in before providing testimony. And I'll have the court reporter administer the oath.

[Witness sworn.]

Mr. [REDACTED] Let the record reflect that the witness answered

in the affirmative.

I would like to note that the content of what we discuss here today is confidential. We ask that you not speak about what we discuss in this deposition to any outside individuals other than your counsel, if you choose to retain one, about what was asked and about your responses. That's the end of my preamble. I understand my colleagues would like to add something.

Ms. [REDACTED] Yes. Thank you, [REDACTED] The minority also has a brief statement just so the record is complete and clear. Our committee rules explicitly permit Ms. McCaig to be accompanied by counsel to advise her of her rights during today's deposition. But she's appearing here without an attorney. Ms. McCaig is not an attorney herself. It is our understanding that Ms. McCaig has not been given an opportunity to review the documents she will be questioned about in advance of today's deposition.

In light of that fact, we just ask that she be given adequate time to carefully review all documents she is questioned about, in order to familiarize herself with them, before testifying about them. We will try to avoid asking questions that require Ms. McCaig to speculate or guess about what others thought or did, including the Governor or his staff.

So Ms. McCaig, to the extent that one of us might inadvertently ask a question that might call for speculation, please feel free to tell us that and limit your answer to the facts you actually know. Please also let us know if you don't understand a question or would

like a question to be rephrased.

Mr. [REDACTED] Okay. I think that's all for the opening remarks.

Mr. [REDACTED] Just so the record is clear --

Ms. [REDACTED] We're not done with our statement.

Mr. [REDACTED] Okay. Sorry.

Ms. [REDACTED] Also, Ms, McCaig has decided to exercise her right to appear here today for a deposition rather than a transcribed interview. Depositions are clearly provided for by both the rules of the House of Representatives and the Oversight and Government Reform Committee. Our committee rules are voted on and passed by the members of this committee. Our committee rules, as well as the House rules, state that the presence of at least one member of the committee is required at a deposition. These rules allow a witness to waive this member requirement if she chooses. But there is nothing improper at all about a witness choosing to exercise her rights and proceed in that manner articulated by the rules.

There is absolutely nothing wrong with a witness asserting her rights. Ms. McCaig, we appreciate you flying across the country from Oregon to be present here today and to provide your testimony to the committee. We also thank you for the four productions of documents you have provided in advance of today's hearing or deposition.

Mr. [REDACTED] Just so the record is clear, whether a witness appears with an attorney or without an attorney, it's not our practice to share documents in advance of the deposition or transcribed

interview. And that's not the practice of the great many investigative entities. And so just so it's clear, it has nothing to do, you know, the fact that we didn't share documents with you whether you're here with a lawyer or not.

Ms. [REDACTED] And we ask that in light of that, Ms. McCaig be provided an opportunity to fully review the documents.

Mr. [REDACTED] Of course, as all witnesses always are.

Mr. [REDACTED] I think that's the end of the opening remarks and we can go ahead and start the clock and [REDACTED] will start with the questions.

#### EXAMINATION

BY MS. [REDACTED]

Q Hello. What was your role with the Governor's office during Kitzhaber's administration?

A Which administration?

Q During the --

A The most recent?

Q The most recent administration.

A I was not employed or directly related to the Governor's office during his administration. I worked for the Bi-State Columbia River Crossing Project, which I worked for before he was elected. And that was the largest public works project in the State, between Oregon and Washington. So I was actually an employee through the State of Washington.

Q You were an employee of the State of Washington during his

most recent --

A Yes, for the Columbia -- which was a joint State project between Oregon and Washington. And so they only had one contractor. The contractor managed the project. And that was the State of Washington.

Q And what State agency was your --

A The --

Q Where did you receive your paycheck from?

A I was a consultant. And so the contractor that was responsible for all of the consultants was David Evans & Associates who received payment from the State of Oregon and the State of Washington to reimburse for the contracts.

Q And so from what time period were you paid throughout his administration? The entire administration?

A I started work for the Columbia River Crossing in 2008. And the project did not move forward. And it had moved forward in Oregon, but did not move forward in Washington, and came to an end in 2014, at the end of January of 2014. And that's when my work stopped.

Q So you were stopped, you stopped being paid from the State in January 2014. And then were you paid by the State between January 2014 and December 2014 at all?

A No.

Q Did you receive payment from any sources during that time period?

A In September of 2014, I began a contract with the Governor's

re-election campaign.

Q January of 2014 you --

A No. September of --

Q September of --

A -- 2014.

Q And then did you continue to work for the Governor's office from January 2014 until December 2014?

A I didn't work for the Governor's office in September 2014. I worked for his re-election campaign in 2014. And I continued to work for his re-election campaign in 2014, in September, October, November, and December.

Q Did you work for the Governor's office in any capacity in February 2014, March 2014, up until September 2014?

A I advised the Governor in a volunteer role during that time period.

Q Did you work directly with the Governor? Or did you work with others on his staff during that time period?

A Both, yes. I worked with the Governor. And I worked with the Governor's office staff.

Q What staff?

A May I ask a clarification?

Q Sure.

A I think you asked me if I was paid?

Q I did. First, I asked --

A Okay. You started with, right, whether I was paid, just

so that I'm not, because I wasn't trying, right.

The first question was whether I was paid. And the answer is no, I didn't have any paid relationship with the Governor, the Governor's office, during that time period. Now, you're asking a different set of questions, right?

Q Yes.

A Okay.

Q Did you receive payment from any sources from January 2014 until -- just the September 2014 started receiving money from the campaign --

A Right.

Q -- between that period, were you receiving payment from any other sources?

A No.

Q And who on the Governor's staff did you work with?

A Primarily, I worked with the Governor and his chief of staff.

Q Okay. And who was that?

A Mike Bonetto.

Q Did you work with any other individuals on his staff?

A Occasionally I worked with two other, maybe three other, staff people, his healthcare adviser Sean Kolmer, his legislative adviser who also did some work with communications, Dimitri -- I can't remember Dimitri's last name right now.

Q That's okay.

A And his communications director, Nkenge Harmon.

Q Okay. And what were your primary responsibilities for the Governor's office starting, when you started this unpaid position for the Governor's office?

A Ask me that again?

Q So you started working for the Governor and his chief of staff primarily in January 2014, you said in an unpaid advisory role. And what were your primary responsibilities when you started in that role?

A The primary role was in response to the Governor's request for additional communications capacity in the Governor's office. And I think, as you well know, he was facing quite a combustible moment with Cover Oregon. The Web site had failed to go online. There was a lot of media and public interest. It was very intense.

He had undergone in November and December some staff transitions not related to Cover Oregon. But he had a new communications director and he had a chief of staff who was new to that position. And as a result of some encounters through January, he found himself, uniquely for him, unprepared in a public setting, both in anticipating some questions, and responding to them, related to Cover Oregon, and convened a group of people to ask their advice on how and what needed to be done to improve his communications capacity in the office. And that was how I initially got involved.

Q Did you have any prior healthcare experience when the Governor reached out to you to work on Cover Oregon?

A No. None.

Q When you were working for the Governor's office in an unpaid advisory role, did you have a State email account?

A No.

Q Were your personal emails discussing State issues archived by the State?

A I believe so.

Q Did you receive any training from the Governor's office?

A I had been a chief of staff at one time, so I was familiar with some of the -- it had been a while, but I was familiar with some of the protocol. So I don't -- no.

Q Do you still work for Governor Kitzhaber in any capacity?

A No.

Q Or former Governor Kitzhaber.

A Former Governor Kitzhaber.

Q Do you still work for the Governor's office in any capacity under the new Governor?

A No. And I would like to go back, if I might, just to make clear that -- you transitioned from work to volunteer and continue to use the word work. I was an unpaid adviser to the office. And I was a volunteer who was not being paid to the office. And I was asked to participate by the Governor.

Q Okay. Did you have a role with the Governor's 2014 re-election campaign?

A Yes.

Q When did you begin in that role?

A September of 2014.

Q You didn't work on the Governor's -- did you work on the Governor's re-election campaign at all before September 2014?

A Incidentally, as he asked questions about it, but not primarily, no.

Q When you worked on the Governor's campaign incidentally when he asked questions about it, who did you work with in that role?

A Part of the reason that the Governor would have a discussion with me is that there really wasn't a campaign. He didn't have a campaign manager. He didn't have a structure yet established in January, February, or March. He had the formal entity that's required by law. And he had some fundraisers. But he had not activated the campaign yet.

Q So would you term yourself an unofficial adviser to get his campaign started and off the ground? Or is that what your role primarily was?

A Was I an unofficial adviser? I don't know what the difference would be between official and unofficial. He asked my advice and help in getting something up and moving.

Q But you don't consider yourself to having been working on the campaign in that period?

A No.

Q Did you work on other issues other than Cover Oregon when you were a volunteer for the Governor's office?

A No. I traveled. May I modify that just a bit? I would get asked to do volunteer work from other entities related to other things. And occasionally, I would advise somebody on something. But it was not routine. It was not ongoing. It was not repetitive. So if the business association called me and asked me to go to a breakfast, I would go to the breakfast and discuss an issue with them. And it wasn't health care or something. But I only did that occasionally. I just wanted to be totally honest about that.

Q Okay. Thank you. So I was going to move on and start talking about the First Data report.

A I'm sorry -- the what?

Q The First Data report issued by Oregon. Are you familiar with the First Data report on Cover Oregon initially released by Governor Kitzhaber on March 20, 2014?

A I am.

Q Do you know who drafted the questions to be asked by First Data?

A No. I don't.

Q Do you know who decided who was interviewed by First Data?

A No. I don't.

Q Did you have any insight into the assessment by First Data while it was being conducted?

A I was out of the country.

Q I'm going to introduce the second exhibit into the record.

[McCaig Exhibit No. 2

Was marked for identification.]

BY MS. [REDACTED]

Q I'll give you a few minutes to read the exhibit. It's rather short.

A Yes.

Q Did you send this email?

A It's part of a longer email. This is not the entire email.

Q Okay. First off --

Ms. [REDACTED] Can we just make sure that she's had a chance to read the email?

The Witness. It's really short.

BY MS. [REDACTED]

Q So in the email, you say, "campaign hires Tim 4 to 6 weeks almost full time. Coordinates with Nkenge but does all the leaning into the plan and manages to the extent possible the independent review path. I had started shopping this idea last night. Tim is willing. Mark and Kevin think a good idea. You, what do you think? How will it play with Mike and Nk."

Who is Tim when you say the campaign hires Tim?

A Tim Raphael, his former communications director, who he replaced with Nkenge Harmon Johnson.

Q Do you know what role Tim served in February 2014 when you sent this email?

A He was an independent consultant, communications consultant.

Q And then who is Mark?

A Mark Wiener is a political consultant and communications consultant.

Q Who is Kevin?

A Kevin is the same, Kevin Looper.

Q And who is Mike? Is that Mike Bonetto?

A Yes. May I ask a question about --

Q Sure.

A Will you enter the entire email or just this portion? So you're cutting and pasting emails?

Q This is how it was produced. This was the production from -- that we received.

A Oh.

Q I'm not sure -- do you have the whole chain of this email?

A Yeah. You have the whole chain of this email from me. This is the one that ultimately results in the SWAT team. This is the one that results in the whole issue you guys are all interested in.

Q But the exchange was between you and Kitzhaber, the entire chain that you're talking about? Or are you talking about a different chain? This is the chain between you and Governor Kitzhaber with the subject line Tim.

A I thought it was part of the full chain. So maybe I'm mistaken. This is one where I write down the exhibit or where this came from and then I check?

Q We will check on that. But this is an email specifically

between you and John Kitzhaber with the subject line Tim.

A Yes.

Q What is missing on this chain?

A I believe I sent him an email that is the one that everybody has reported on, that suggests after his call that we have a conversation, and I report back what I heard from the conversation about the needs out of the Governor's office. And I reiterate what I believe those needs are. And then I put a discussion draft together.

Q Okay. I'll go back and look and see if that is the chain. But I'll ask you a few questions about this email in particular.

A Sure.

Q And so, what did you mean that Tim coordinate with Nkenge while being paid by the campaign? Is that what you were recommending?

A Yes. In Oregon, and the same with Mark and Kevin, Mark and Kevin had been on the Governor's campaign salary since early 2013, and had been communications advisers to him in that capacity all through 2013 to help him with his agenda in others areas, right, not health care, completely separate areas.

It's not unusual or, it's not unusual that campaign funds can be used to support an official in his official capacity, like a Governor, or a Congressperson, or a Secretary of State. The suggestion here was in order to help improve the capacity of the Governor's office. I was, in some ways, just volunteering. I wasn't asking to be paid, because I didn't think I was going to be spending that much time on it.

The suggestion was that we would bring Tim on board in a way that

would allow him to earn some income by paying him from the campaign to facilitate and add capacity to the Governor's office.

Q Okay. And why were you volunteering in the unpaid capacity?

A Because he's my friend.

Q And then you suggest that Tim manages, to the extent possible, the independent review path. What independent review path were you referring to?

A The communications strategy, which was part of what the Governor had expressed his frustration on, was that the office itself, because of a new communications director and a new, who had no executive experience in an executive office, and the chief of staff were not facile enough to understand that there's a need to have thoughtful, good work.

They understood that. But delivering it and preparing the Governor for it, so that he can be the most effective in communicating it was missing. And that was the concern coming with the First Data report, that this was a major piece of work that was being done. And it was going to be released sometime in, I believe, February or March. And that the Governor was, it was the next step in the Cover Oregon evolving, emerging issues. And the Governor wanted to be confident that we -- and there was a plan for addressing the issues that came out of it and a way to communicate about it.

Q So do you know, did you or Tim help the Governor prepare for his First Data interview?

A I know that I believe I communicated on behalf of the Governor to Tim and requested that he give some thought to what his outline, or an outline for the Governor's interview, should look like. And Tim did that and I believe gave it to the Governor.

Q Do you know, did Tim, you may not know, so that's okay, but does Tim have any background in healthcare policy? Or had he worked on Cover Oregon issues? How was he developing an outline for the Governor's First Data interview?

A As a professional, he's been involved for a long time in communications issues and can understand and appreciate the way the media might approach an issue. You don't always have to have the specific depth that you are asking about in a healthcare issue, or in some other kind of issues, to be a competent and capable adviser to the Governor on managing or communicating about a topic.

And I think Tim had a long and productive history in being a communications person and could easily determine what the interesting issues might be to the press.

Q Are we talking about the Governor's interview with the press or the Governor's interview with the First Data team conducting the assessment for Cover Oregon?

A I think it's the First Data interview.

Q With the employees at First Data before they issued their report when the Governor was interviewed by them?

A Oh, maybe I misunderstood the interview.

Q Okay. So do you know, did Tim help the Governor prepare,

or did you help the Governor prepare for his interview with First Data during their evaluation of the project?

A I don't recall. I don't know when that would have been. I'm sorry. I don't recall.

Q It would have been, so you don't -- okay. In the email you also ask Governor Kitzhaber how your proposal in the email will play with Mike and Nkenge.

A Nkenge.

Q Nkenge?

A Nkenge.

Q What did you mean by that?

A That the Governor and others, some inside and some outside of State government, had been critical of the office and its responses generally to the dealing with the challenges of Cover Oregon. There were two, as I said, they were relatively new staff people who the Governor had confidence in, but I think felt that they needed to grow in their job, and was concerned about them personally not being undermined.

And all of this work that I think comes forth recognizes that sensitivity. And that's what, that's directly what was meant by the question how will they respond to it, will they see it as undermining them, being critical of them. Because they were aware that there was criticism up there.

Q Do you remember how the Governor responded to your question, how he thought it would play with Mike and Nkenge?

A I, again, remember another document. So maybe I should wait until that document --

Q We just want you to recall what you remember. You can share what you remember.

A I'm worried I'm confusing this with another document. So I would prefer to wait and see whether there's another document that deals with this.

Q I mean, do you recall if the Governor had an opinion on how he thought it would play with Mike and Nkenge?

A I recall that he sent an email that said this was great. I think he said nice things about the work, the development, the trying to -- I think he was positive about it all.

Q Okay. I think I know what chain you're talking about. It's a different chain. I think we do have that. I will double check.

A This language is in that email that you're discussing.

Q We'll check.

A All right. It could be in two emails, right?

Q I'm introducing exhibit 3 into the record.

A Uh-huh.

[McCaig Exhibit No. 3

Was marked for identification.]

BY MS. [REDACTED]

Q Is this an email from Tim Raphael to you sent on February 16, 2014?

A Yes. It is.

Q In the email, Raphael says, "a couple of issues, one of the First Data interviewers worked with Carolyn in California."

A I see it now.

Q They have been removed, but could obviously raise questions about level of independence, competence of the review.

A Uh-huh.

Q Do you know if this issue was ever discussed? Or did Tim discuss this issue with you?

A Well, he sent it to me on an email. So he certainly raised it. He must have raised it with me. I think this was a list of things that he was keeping track of at the time, a couple of issues. I don't remember any specific --

Q Did you guys discuss the questions that potentially could be raised about the level of independence or the competence of the First Data review?

A I don't recall a conversation about that.

Q Okay. And then Tim Raphael in the next bullet point says: Having trouble getting visibility on review. We should talk about this.

A Uh-huh.

Q Did you talk to him about whether he was having visibility into the review and --

A No. I don't know. I'm sorry, where is this?

Q The third bullet point down.

A Having trouble getting visibility on review. We should

talk, we should talk about this.

Q Is the review the First Data review?

A I don't know.

Q Okay.

A And I don't know what visibility he's talking about.

Q Okay. Did you ever talk about whether Tim Raphael was getting visibility into the First Data review while --

A What does visibility mean? I'm confused about visibility and communications.

Q Was there a team that was working on preparing the Governor for the First Data review?

A I recall that there were people in the Governor's office who were somehow involved with preparing him for the interview. I know, I recall that there was a scheduled interview by whoever the First Data review people were.

Q Did you or Tim want visibility into that interview?

A That's just not the way we talk. So that's what is throwing me about -- visibility into an interview. So that doesn't --

Q Did you want visibility into the discussions preparing the Governor for that interview?

A I didn't. I know I didn't. But I don't know whether Tim did or not.

Q Okay. Thank you. Do you recall why Bruce Goldberg resigned in March 2014?

A I do.

Q Do you know? Why did he resign?

A He was asked to resign by the Governor.

Q Did you talk to the Governor, before he was asked to resign, about Bruce Goldberg potentially resigning?

A I did.

Q What did you talk to the Governor about?

A Bruce Goldberg was his friend. And it was really a hard discussion.

Q Did you make a recommendation to the Governor?

A No. I didn't.

Q Why did the Governor ask Bruce Goldberg to resign?

A As part of the First Data report, which, again, I believe that it came out sometime in March, mid-March, end of March, it was clear that there had been failures in oversight in many different levels. The Governor, himself, owned quite a bit of it. And Bruce was in the hierarchy, the person who had the next level of oversight and responsibility. He had been a trusted and good State employee for a long time. And it was a very sad and difficult time. And the Governor thought he had to be held accountable.

Q What did the Governor talk to you about when he discussed possibly asking Bruce Goldberg --

A The sadness.

Q Did you talk to anyone else about the potential of having Bruce Goldberg resign?

A No. I was informed that it was going to happen and then

talked about the communication pieces related to that, related to the announcing it.

Q Did you discuss whether Bruce Goldberg should resign with Cylvia Hayes at all?

A Not that I remember.

Q Was the Governor going to fire Bruce Goldberg if he did not resign?

A I don't think that ever would have been a question. I don't think we were, I don't think the relationship that the Governor and Bruce Goldberg had would have ever required that to be on the table.

Q And after Bruce Goldberg resigned, at any point were you concerned about Bruce Goldberg staying involved in Cover Oregon matters?

A I was concerned, I remember this, I was concerned at a moment in time, because the Governor had said in a very public event, a press conference, where he was reiterating the -- not reiterating, where he was explaining the findings from the First Data report. And as part of that -- and there were many things that were, the findings, that were not pleasant.

This was a really intense review that found a whole series of failings across a wide range of people and companies. And that he -- I'm sorry, I forgot the question. I'm really sorry.

Q That's okay. That was very helpful.

A The door did open.

Q I was asking if at any point, you were nervous about Bruce

Goldberg continuing to stay involved in Cover Oregon?

A And he announced very clearly, he announced at that press conference that he was resigning. He said it as a statement, as a direct and --

Q At what press conference?

A The press conference where he was announcing the results of the First Data report. And there was a whole list of items that he was reporting on. And he concluded in that press statement or in that press conference with the statement that Bruce Goldberg was going to resign. And immediately or soon after, there was a conversation among different people that, perhaps, Bruce would be staying on. And I think I raised a concern immediately about that in terms of communications.

That, at this point, when the Governor goes forward and tells the world that somebody is going to resign, that doesn't mean that maybe they're going to stick around for 6 weeks, or can get a separate contract or do something like that. So I did, I believe I weighed in and said in terms of communications, you need to be aware that it diminishes in many ways the clarity of your message and raises questions about how serious you are about this.

Q And you said others had talked about keeping Bruce Goldberg on. Do you know why they potentially wanted to keep him around?

A Oh, because he was really talented and really good. And we were all drinking from a firehose at the whole -- the Governor's office, the Cover Oregon board, and the Oregon Health Authority. They

had people who were losing their jobs. They were manually trying to enroll people. They were looking for paths to go forward. I mean, it was topsy-turvy.

Q Did those individuals think keeping Bruce Goldberg on at Cover Oregon would have helped the project move along more quickly?

A No. I think it was primarily, not unusual, in State government, oftentimes you have a transitional period. And I think that's what this was about, whether there was an appropriate transition. And, as I recall, they worked one out.

Q Do you know how long Bruce Goldberg stayed on at Cover Oregon?

A I don't.

Q So next I was going to ask you a list of individuals. And just to the best of your knowledge, you could say whether you thought that they were a State employee or worked for the campaign.

A Sure. And by working for the campaign, you mean being paid by the campaign?

Q Or unpaid if you can clarify which --

A Okay.

Q -- capacity they served in.

A Sure.

Q So Michael Bonetto?

A State.

Q Did he work for the campaign at all?

A No.

Q Did he volunteer for the campaign?

A Yes.

Q When did he volunteer for the campaign, do you recall?

A The structure where he would participate as a member of an executive committee didn't actually get up and going until mid-April, I believe. And he served in that capacity.

Q Can you clarify what you mean? So he served in the capacity --

A It was an executive committee that would advise the campaign. It didn't get up and running. There wasn't any other real structure. And so I believe he was a member of that executive committee --

Q Starting in April, he was --

A Yes.

Q And Kevin Looper?

A He had been on a campaign, as a consultant to the campaign maybe starting in 2012.

Q Did he work as an unpaid adviser to the Governor similar to you? Or did he not --

A In this capacity, he was working in an unpaid adviser role, not for the campaign.

Q In what capacity?

A The Cover Oregon capacity. He was part of a team of people that the Governor put together to advise him on communications issues.

Q So in the Cover Oregon world, he was an unpaid adviser to

the Governor?

A Yes.

Q And then on other issues, he was the campaign consultant?

A Yes.

Q And then Sean Kolmer?

A State.

Q Did he work for the campaign at all?

A He may have. I don't know whether he volunteered for the campaign in other capacities.

Q Tina Edlund?

A Tina Edlund, was she State? She wasn't campaign. But I believe she was State.

Q But --

A Cover Oregon was sort of semi-State. I'm not sure she was Cover Oregon or Oregon Health Authority.

Q Okay. Thank you. Mark Wiener?

A Mark was a consultant who had contracts with the campaign for that same time period, 2012, 2013.

Q Did Mark Wiener work for the Governor's office in an unpaid capacity? Or was he only a campaign consultant?

A He was advising as a communications consultant in the SWAT team that we had designed.

Q And Tim Raphael?

A He worked as the Governor's communication director since he was elected in 2010, and resigned in October or November of 2013,

and then came on and was paid out of the campaign to coordinate the efforts of this communications effort.

Q Tim Raphael was paid by the campaign?

A Yes.

Q Did he also work for the Governor's office? After he resigned or retired in December 2013, did he work in the Governor's office starting in January 2014?

A He was an outside adviser, who was being paid for by the campaign, who was coordinating all these volunteers' efforts to advise the Governor's office and the Governor.

Q Bruce Goldberg?

A State.

Q Did he work for the campaign at all?

A No.

Q Steve Bella?

A He didn't work for the campaign, but he was a friend and supporter of the Governor and the Governor's partner. And so he had access to the campaign through them. And I think he, I don't think he was ever paid by the campaign though.

Q And Christian Gaston?

A He was an Oregonian reporter who was really the first hire of the campaign I think in April of 2014, primarily to deal with policy-related issues and writing for endorsements and questionnaires and those kind of things that would come up in a May primary.

Q Did he work for the State at all?

A I don't know.

Q Thank you. And then Jan Murdock?

A Jan Murdock was the scheduler in the Governor's office, left the Governor's office and moved to the campaign, this goes back to when the campaign really began to take some format, in May of 2014.

Q Do you know when she started working for the campaign, did she continue to work for the Governor's office? Or did she move exclusively to the campaign --

A No.

Q -- in May 2014?

A No. She moved exclusively to the campaign. So she stopped working for the State, moved to the campaign. When the campaign was over, she went back to the State.

Q Thank you. I'm going to introduce exhibit 4 into the record.

[McCaig Exhibit No. 4

Was marked for identification.]

The Witness. Are you going to read into the record that he calls me a princess?

Ms. [REDACTED] I wasn't planning on it.

Mr. [REDACTED] I think you just did.

The Witness. It's a little embarrassing. No. This is that. Right. Yep.

BY MS. [REDACTED]

Q Is this the email that you were thinking about earlier when

you asked about the chain?

A There's another one.

Q So this is not the chain you were thinking of?

A No. It starts to deal with it. But, no, it's not the same one.

Q Would you describe this as an email chain from February 8th and 9th, 2014 between you and John Kitzhaber and then one of the emails Cylvia Hayes as well?

A Yes.

Q I wanted to direct your attention to the last email in this chain which starts at the bottom of the first page. You sent this email to John Kitzhaber and Cylvia Hayes. Who is Cylvia Hayes?

A The Governor's partner.

Q Why did you include Cylvia Hayes on the email?

A Because I think in -- I don't recall actually.

Q Did you include Cylvia Hayes on most emails? Were you sending this in your capacity for a campaign? Is that why? Was she working on the campaign? Or was this State email?

A So let me reconstruct in my own head.

Q Was Cylvia Hayes involved in Cover Oregon issues at all?

A No.

Q In the email to John Kitzhaber and Cylvia Hayes, you say Mike chairs a joint campaign and key staff meeting weekly starting ASAP.

A Uh-huh.

Q What did you mean by a joint campaign and key staff meeting?

A So on February 7th, the Governor had a phone call with all of us. And in that phone call he expressed the issues I raised with you all before, concerns about the overall capacity. And there were a number of people on the phone. I believe Mark and Kevin were on the phone, Tim, Nkenge, Mike.

And I believe there's another email that follows up from that from Mike Bonetto, that outlines his take-away from the call. And this is a follow-up to that in terms of the combined take-away from the call. And this is a reaction and a response, and a proposal to the Governor to begin to think about how we could address the issues that he identified on that phone call. And they were all wrapped around his concern and lack of feeling prepared generally about moving forward. And some of that had to do with, most of it had to do with Cover Oregon and his ability to communicate effectively about it, and how he was paralyzed, and his office was unprepared.

Some of it was also about the recognition that he needed to get a campaign up and running and what was the process and the format for doing that. So this was the first draft at a response on how to address that.

Q Okay. And the team that you created, was that referred to as the SWAT team?

A That was the proposal which came, I believe, in an email later.

Q Do you know if it was termed the SWAT team? Was that --

A I made that up.

Q Okay. So it was the SWAT team? That was my question.

A It wasn't like a real SWAT team.

Q So the SWAT team was the joint campaign and key staff meeting that you're referencing?

A Well, that was the proposal. It actually didn't evolve that way.

Q What do you mean it didn't evolve that way?

A Well, Mike ended up not chairing anything. There ended up not being a concerted or concentrated campaign effort until late April. It didn't even have a campaign manager, a poll, any of those things until May. So the focus really was, and really did move to, dealing with the communications issues that were confronting the Governor.

Q So this was the SWAT team, but it didn't evolve in the way that you --

A No.

Q So why are you recommending that the Governor's office coordinate with the campaign? Is that --

A Again, I understand the question because of the word campaign. And people read into that re-election I think. Is that what you're asking? Because I think I've made it clear that what we did was use funds that were available out of the campaign to add capacity, in an appropriate and legal way, to work to support the Governor.

And so that's what campaign is, the distinction there is that it's campaign funds that can be used to support the Governor in his official capacity. And we hired Tim to do that.

Q Okay. You then suggest in the email that you staff him -- is him Mike Bonetto?

A Yes.

Q Quietly and privately with the campaign-related items that help focus/drive Kevin and Mark. What did you mean by quietly and privately?

A Nobody can believe I'm ever quiet or private. It's been a subject of a bit of ridicule.

Q Why would you staff him quietly and privately as opposed to --

A Because the Governor had made it clear, and I felt this way personally as well, that we wanted to support Mike in his job. We wanted him to succeed in his job and have the confidence and the credibility of the people who were the Governor's trusted advisers, as well as his staff.

And I wanted to make it clear to the Governor that I understood that that was his priority, and that helping Mike would be something that I could do in a thoughtful, not abrasive, larger-than-life kind of way. And that's what I meant by that.

Q So how was the structure then in your role as an unpaid adviser? Were you reporting to the Governor? Or were you reporting to Mike? Or were you in between the two, the Governor and Mike?

A I helped -- reporting is an interesting word. So I primarily briefed the Governor and kept him current of events and actions that would allow him to be prepared for the questions that he

was getting in his external daily activities. Mike and the Governor's team were primarily dealing with solving the problems with Cover Oregon.

They actually had the skills, the talents, the background to do that with the Cover Oregon team. I didn't. I was sort of the air traffic controller with information that was beneficial to, and necessary for, the Governor to have in order for him to be Governor and do a good job in this fishbowl of media and public interest about the issue.

Q So would you say the Governor turned to you for advice, and Mike Bonetto both, and that is kind of how it worked?

A Yes. The Governor didn't ask me what I thought about much.

Q He didn't ask you much --

A No.

Q Did you share what you thought about things with the Governor often?

A I was pretty busy trying to keep with the information to get what I thought he needed so he could be informed.

Q Did you feel like when you shared the advice with the Governor did he listen to you?

A I didn't share advice. I didn't have any to give on this topic, seriously.

Q So on the second page, I'll have you turn over the email. You say: Tim comes on almost full time, for a limited time, paid for by the campaign, to manage Cover Oregon Getting it in Perspective Plan.

To do that, he would identify what Mike and Nkenge need to be managing from the gov office, bridging the information gap with the campaign, and, most importantly, identifying and teeing up the critical and emerging Cover Oregon issues for the combined team so we can develop a plan and be more prepared both at the State level and the campaign. We need one person whose entire purpose is getting their head around this from a communications, planning perspective, and providing the rest of us with the right level of information to make informed decisions.

So what concerned you the most about Cover Oregon? Was it the media coverage of Cover Oregon issues?

A Yes. It didn't work.

Q What do you mean by it didn't work?

A The entire effort around the Web site failed. That was kind of a concern.

Q Can you also please describe what you envisioned for Tim's role for the campaign when you say, Tim comes on almost full time, for a limited time, paid for by the campaign, to manage the Cover Oregon Getting it in Perspective Plan?

A I think this explains it and is consistent with what I've said, that the Governor had a need in this evolving and intensely both public and media-related world to have real-time information, understand to the best of his ability what the scope, timing, and decisionmaking process was for all of these entities out there.

Because he was the one who was getting the questions about this.

He was the one who was out every day being asked, not asked always kindly, I mean, constantly being barraged. And he felt, and was not adequately prepared just in terms of communicating the process, the timing, the planning for this. And that's, as a former communications director and somebody who knew State government and who knew the Governor, Tim was helping identify how to do that.

You asked the question about Mike and Nkenge and bridging the information gap, this was advising them on the kinds of things in a communication realm, which is exactly what the Governor pointed out was missing, needed to be focused on out of the communications team in the Governor's office.

Q And so Tim is being paid by the campaign. Are these campaign funds his re-election campaign funds?

A There is only one campaign. It's been in existence for however long it's been in existence.

Q There are the same funds that he would then use for his re-election campaign?

A Yes.

Q Tim was being paid by the funds that he would use for his re-election campaign?

A Yes.

Q So when you say that the SWAT team didn't materialize the way that you envisioned, I'm kind of seeing it as Tim was paid by the re-election campaign, he was a member of the SWAT team?

A Yes.

Q And Mike Bonetto was also a member of the SWAT team. Is that correct?

A Yes. To the extent that you're still calling it the SWAT team, but yes.

Q Well, the joint team, whatever name you want to use.

A Uh-huh.

Q So you have an individual being paid by the campaign, and then the Governor's chief of staff, isn't that sort of what you're talking about in this email, a joint campaign and key staff meeting?

A You know, I disagree with your emphasis. And you keep coming back to it. And I'm going to keep disagreeing with this emphasis. And I appreciate this emphasis, and I understand why you're asking about it. The materials that you have in front of you, though, demonstrate that we were dealing not with a re-election campaign, there's nothing to indicate that this was about electoral politics in the thousands of emails you all have. That what you have in front of you is clearly that the Governor -- and that his funds from his campaign were going to assist him in his formal capacity, which is entirely legitimate to do, and that if there were campaign-related secondary items that -- and they were incidental and not the focus of this group of people's work at all.

Q Okay. So you're saying this has nothing to do with the campaign. But to be clear, then you are saying that Tim was paid by the campaign?

A I think I've said that, yes.

Q Okay. And was --

A I think I volunteered that at the beginning.

Q Do you think that Cover Oregon was not going to have any impact, the media coverage of Cover Oregon was not going to impact the Governor's re-election efforts?

A I would say that there wasn't a person in the room at that point in time who was worried about the Governor's re-election.

Q You didn't think that the media coverage --

A I thought that it was heartbreaking to watch what it was doing to his agenda and to the issues that he cared about. And it was a distraction from a broader agenda that was really important to him for his final term.

Q Okay.

A He won with 89 percent of the vote in the primary.

Q And then on the first page of the email, you say in your email from you to Kitzhaber on Saturday, February 8th, it's in the middle of the exchange, at the bottom of your email, you say phew, we get it started on the correct foot and it will get you what you need. So keeping in mind at this point you were still talking about the joint campaign and key staff meeting, what did you mean it will get you what you need?

A The background, the preparation, the sense of confidence that he had a team who was keeping him moment by moment apprised of developments and narratives and emerging issues and timelines so that he could do the job that he needed to do.

Q So did it have to do with the campaign? If you turn to the bottom email, you are talking about potentially setting up a campaign committee and an Area 51 team.

A Again, this was a draft. It was for discussion purposes. It was a structure. It was about dealing and addressing through a mechanism and a structure, a way in which to provide him with communication capacity. It didn't end up evolving this way. And I was in all of the meetings.

So at the time, it was a reflection of what might have been a possible way to approach it, which might have worked or it might not have. But that's not the way it ended up materializing.

Q Was the Area 51 team ever formed that you reference in your email?

A Yes. I think I said on the record earlier that it, Sylvia Hayes ended up being the convener. And the first meeting I think was sometime in April.

Q I'm introducing exhibit 5 into the record.

[McCaig Exhibit No. 5

Was marked for identification.]

The Witness. So we're not going chronologically?

BY MS. [REDACTED]

Q I'm sorry?

A We're not going chronologically in this? The first one was the 16th. Now we're going to the 9th. And now we're going to March 31st.

Q That's right, March 31st. Since we were just talking about the SWAT team, I wanted to ask you a few questions about the SWAT team.

A Yeah. This isn't the SWAT team.

Q I mean the Area 51 team.

A Uh-huh.

Q So is this a message that was forwarded to you, to Dan Carol, from Cylvia Hayes to the Area 51 team, on March 30th and 31st, 2014?

A Uh-huh.

Q Were you a member of the Area 51 team?

A I was.

Q What was the Area 51 team?

A A group of supporters and some other trusted folks that were personal friends of the Governor and the first lady.

Q This was a campaign group of supporters for the Governor?

A Yes.

Q What were your responsibilities for the Area 51 team?

A To be pithy.

Q Can you elaborate on that? What do you mean to be pithy?

A Like all of the people, we had a personal and long history with John Kitzhaber. And we were there because I think he valued us and wanted our input on the overall agenda items and direction of the campaign.

Q On the second page of the email, Cylvia Hayes writes agenda items for this call -- which I believe is the Area 51 kick-off meeting?

A Uh-huh.

Q If you look at the second to last bullet point, she writes the Cover Oregon 100-day plan. Do you know what the Cover Oregon 100-day plan was?

A You know, I don't directly. Whether that was just clever wordage at that point, but it should have been on the agenda. It would have been on the agenda there for sure.

Q What do you mean it should have been on the agenda?

A There was no one who wasn't talking about the, quote-unquote, "debacle" that was Cover Oregon. And the Governor's supporters, with as much as intensity as anyone, were interested in, concerned about what was happening. So there was, it would have been inevitable that it would have been a topic for the people in this room to just want to know what was going on.

Q So you think the supporters of the Governor's re-election campaign would definitely be interested in knowing what was going on with Cover Oregon?

A Sure. There was nobody who didn't want to know what was going on with Cover Oregon, including national media, foreign media. They were following him around the State.

Q Did you participate in this kick-off meeting?

A I don't remember whether I did. I had been out of the country -- when was the actual meeting?

Q I think it says date of first call Tuesday, April 1st, 5 p.m.

A I don't remember whether I did or not.

Q Do you remember if the Area 51 team had a lot of discussions about Cover Oregon?

A I don't remember.

Q I know earlier you said you weren't entirely sure, but can you remember anything about what the Cover Oregon 100-day plan was?

A Well, I think I called it the Keeping it in Perspective Plan. So I don't know whether it's the same thing or not.

Q Okay. What is the Keeping it in Perspective Plan?

A Oh, it was a way of me just framing the need to keep it in perspective, get a communication piece together around it, understand how to, what was necessary to give the Governor the confidence that he needed that he was well versed. Let's keep this in perspective. We know how to do this. It was yet another bad title I came up with.

Q Did you have any documents or memos that outlined what the 100-day plan was or the Keeping it in Perspective Plan was?

A While I was gone, I believe that Tim Raphael did a communication plan. I think it's in the emails I sent you.

Q Do you remember what --

A I don't.

Q Do you know why it was 100-day plan? Why they would say 100 days?

A Because we always make things like that up, right? I mean, I just imagine it was the first 100 days of 2014. It was just the first 100 days of 2014. It was media, what do we do by now. I just think it was -- no, I don't.

Mr. [REDACTED] That's the end of the first hour. We'll take a few minutes.

[Recess.]

[11:20 a.m.]

Mr. [REDACTED] For the record, we're joined now by Mr. Grothman.

EXAMINATION

BY MS. [REDACTED]

Q Hi, Ms. McCaig. Once again, I'm [REDACTED], minority counsel with Ranking Member Cummings. And I'm going to ask you a couple questions this hour. Okay?

A Yes.

Q So I first want to direct your attention back to exhibit 4.

Okay. And so this is an email chain with a subject line of Temporary Plan. So I want to direct you back to the email at the bottom and to the line that my colleagues asked you about in the last hour. It says, "I staff him quietly, privately with the campaign-related items." So I just wanted to clarify here, have you clarify, what did you exactly mean when you said you wanted to staff him quietly and privately? And who is "him?"

A Him is Mike Bonetto.

Q And what did you mean when you said you wanted to staff him quietly and privately?

A That I wanted to recognize specifically in the email to the Governor, that I understood the Governor's direction, that he wanted to support Mike, and that he wanted Mike to succeed in his job, while I'm sure he was hearing from some others that they didn't. He was making it very clear that he wanted Mike to succeed, and that any help

and advice that we could give him would be beneficial, but that we didn't want to undermine him with his staff in any way or with any of the other Governor's advisers or supporters.

Q Okay. And at that time Mr. Bonetto was new in his role. Correct?

A Yes, he had -- yes. He was new in his role.

Q Okay. And so just to be clear, you're saying when you said staff quietly and privately, it was just in a manner that you would be staffing Mike so as to not undermine him in front of his staff and other members of the staff?

A Absolutely.

Q And you weren't trying to be sneaky or secretive in your staffing?

A No.

Q Okay. All right. Thank you.

So, Ms. McCaig, I'm going to ask you a couple of questions about a letter that you sent to this committee, and I would like to enter into the record as exhibit 6.

[McCaig Exhibit No. 6

Was marked for identification.]

BY MS. [REDACTED]

Q It's a letter that you sent to [REDACTED] dated May 5, 2015 in response to the committee's request for you to produce documents related to the Cover Oregon congressional investigation. Do you recognize this letter?

A I do.

Q And although the letter is dated --

A It is wrong --

Q -- May 5, 2015, I believe the letter was actually sent to the committee on June 5, 2015. Does that sound correct?

A Yes. I'm sorry about that.

Q Okay. So I'm going to give you a couple of minutes to review this. I know it's a pretty long letter. And let me know when you're ready for me to ask you questions.

Okay. Let me put the exhibit sticker up there first.

A Okay.

Q Okay. So are you ready to walk through a few of the statements you made in the letter regarding your role as it relates to Governor Kitzhaber in the State of Oregon?

A Kitzhaber. Kitzhaber.

Q Kitzhaber. Thank you.

So let me direct your attention to page 2 of your letter. And I'm going to direct you to the last paragraph on the page under the section titled "my role." You write, and I quote, "Since 2003 I have been a communications consultant to government, business, labor, and not-for-profit organizations. I have an extensive background in communication strategy, planning, and execution. In addition, I have experience working with and supporting elected officials. My work in the State legislature, the secretary of state's office, as a Governor's chief of staff, and as an elected official has contributed to my ability

to do this work effectively." Did I read that correctly?

A Yes.

Q Is that an accurate statement, Ms. McCaig?

A I think it is.

Q Okay. So you state that you have an extensive background in the area of communication strategy. Correct?

A Yes.

Q So what does communication strategy entail?

A Ensuring, particularly when it relates to public policy and government, to ensuring that the process by which you arrive at a decision is well documented and thoughtful. Because that only enhances your ability to communicate it effectively.

So in order to deal with particularly complicated public policy issues, and it's really important for there always to be someone in the room who is present about, not just solving the problem, but understanding the context and the scope of the discussion, and the way it's going to roll out, the timelines, when decisions have to be made, what the challenge is to it, what the emerging issues will be around it. And keeping that present in order to help develop a communication narrative around it. That's what it is.

Q Does communication strategy mean making the underlying policy decision?

A Never.

Q Okay. Would you consider yourself to be an expert in communication strategy?

A Well, that sounds a bit grandiose. I work hard at being good at it.

Q Would you consider yourself to have an extensive background in --

A I have extensive background in it.

Q Okay. And how did you develop this extensive background in it?

A Trial and error.

Q Okay. Well, you mention in the letter, in the quote that I read from your letter, that you provided communications consulting to government, business, labor, and not-for-profit organizations. Can you tell me about some of the experience, say, for instance with labor?

A I was involved in some time -- I bet it was 12 or 13 years ago in dealing with -- on behalf of government, dealing with a really, a very difficult issue, which was the public employees retirement system. And there was an effort to develop a negotiation and a path forward which would reduce some of the burdens to the State around that. I ended up working with some of the labor folks at the table in order to help them construct a narrative and think through the best way to be effective in that discussion.

Q Okay. And what about some experience in communication strategy with government?

A I think the most recent example of that is since 2006, 2008, I worked for the Columbia River Crossing, and it was a large and

complicated public works project that was crossing State lines and had substantial Federal funds.

It had 18 local jurisdictions, two States, lots of United States Senators, eight local governments, along with tribes. There was both internal and external communications of all sorts of different nature from maritime-related issues to the fact that they were discussing tolling, to ongoing discussion with Congress about funding for light rail. And I was responsible for coordinating all of those efforts and developing strategies around the policies that were enacted.

Q And would you say that you've had a long working history with the State of Oregon?

A Yes.

Q Okay. And when did that history begin?

A 1979, when I worked in the State legislature.

Q Okay. So, Ms. McCaig, you just touched on a topic that I want to ask a couple questions about. You mentioned it on page 3, if I can direct your attention to page 3. In the first paragraph of the letter to [REDACTED] you wrote, quote, "In 2008 through 2009, I was recruited by the State of Oregon to work on the Bi-State project to replace the Interstate 5, I-5, bridge across the Columbia River." So that's an accurate statement?

A Uh-huh.

Q Okay. You continue on to say, "For over 5 years in that position, through February 2014, I was responsible for developing leading comprehensive internal and external communication strategies

involving 18 government jurisdictions, the public, and a wide array of stakeholders to deliver the project's goals. As part of that work, I was tasked with keeping elected officials, including two Oregon Governor's office informed of project challenges, critical path issues, timelines, and emerging issues."

So would this be an accurate statement of --

A Yes.

Q -- your responsibilities?

And you laid out some additional responsibilities that you had under this project just recently. And you said what was your role under this bridge project?

A I, at one time, was the communications director and then I moved up and did additional senior staff advisory.

Q Okay. Okay. Let's go to the second paragraph on the same page of the letter. You write, quote, "In August 2010, Governor Kitzhaber asked me to assist him in his November 2010 comeback campaign." Did I read that correctly?

A Yes.

Q So is that an accurate statement?

A Yes.

Q And what was your role, again, with Governor Kitzhaber's 2010 campaign?

A I came back in in August of 2010, at his request, to take on the role of campaign director because he was looking for more leadership in his campaign.

Q And what were your responsibilities as campaign director?

A I was going to say whack-a-mole, but that was not the right answer. To line up all of the different elements of the campaign in a more focused, deliberative way, so that there was a daily focus, with daily results, and a product that would allow him to have the information and the background that he needed to go out and campaign.

So it was really managing the effort. Not doing any of the specifics, but really identifying the necessary things that had to get done every day in order for him to be re-elected. And, again, re-elected was, he was coming back after having not been in office for a while.

Q Okay. So the 2010 campaign, was this the first time that you worked with Governor Kitzhaber?

A No. There was a time earlier. We had a relatively tortuous relationship. He challenged my boss. And ultimately, she chose not to run. So I didn't have much dealings with him for quite a while. And then the State was facing some critical tax issues. We're a big initiative State, and there had been a series of initiatives that had been put on the ballot by some anti-tax advocates. And Governor Kitzhaber called me and asked me to chair his effort to defeat these issues as a volunteer. And I became the director of this effort, which was a joint effort of labor and business, and a huge coalition of people who came together to defeat these draconian measures.

Q Okay. And when did this working relationship begin?

A I think that was 1998 maybe.

Q Okay.

A It was tense. It was a tense working relationship.

Q Okay. So let's return back to your letter that you sent to the committee. If we go to the second paragraph, we're going to read the next line. It says, quote: I returned to the I-5 bridge project --

A I'm sorry. Where are you?

Q I'm sorry. The second paragraph.

A Oh.

Q The second line.

A Yeah.

Q You wrote, quote, "I returned to the I-5 bridge project in January 2011 where I worked until February 2014 when the project ended." Did I read that correctly?

A Yes.

Q Is that an accurate statement?

A Yes.

Q And what role did you assume when you returned back to the I-5 bridge project?

A Really right back into the fold. We were attempting to get funding for the project from both States, and I basically resumed the responsibilities that I had when I left.

Q And what were those responsibilities?

A Coordinating the communication, and directing the communication activities of a staff of nine, or twelve, or --

Q Okay. And how long did you remain in that role once you returned back?

A Until the bridge ceased to exist. The project on the Oregon side folded, with a lack of support from the State of Washington, in 2014. So the project literally mothballed. It went away.

Q Okay. And so, Ms. McCaig, you made a statement earlier when I asked you how long you had this working relationship with the State of Oregon and you said since 1979. Can you tell me what you were doing at that time? Were you doing communications?

A No. I was a legislative aide in the senate, and then went from there to be executive assistant to the secretary of state. And I worked in the legislature for a while, from 1979 until 1984, and then went to work in the secretary of state's office. And from there went on to be the Governor's chief of staff. And then after that I had some work with the Department of Transportation. I don't know if I've had --

Q And as you said, you worked with -- as the Governor's chief of staff. Which Governor --

A Governor Roberts. Governor Robert Roberts.

Q And what were your responsibilities in that role?

A As chief of staff?

Q Yes.

A To oversee and manage the Governor's agenda, using the resources of the office to do it.

Q Were you involved in any way with communication strategy?

A Yes.

Q Okay. Would you say that was the time when you started to develop your expertise in the area of communication strategy?

A No. I think I began learning about it in 1979, when I was working in the legislature, and working for a State senator, and understood the importance of being able to communicate effectively and that it takes organization. That it's not a lot of people getting in the room and chattering, that you need well documented and thoughtful and mindful and specific actions that are well documented and that gives you the foundation to be able to discuss difficult public policy issues.

And that was also true dealing with the complicated tax measures that were on the ballot and all of those kind of things was, a growing hands-on information. After a part of that, I was recruited and went to work for a polling company that did quantitative and qualitative polling, a lot of focus group work and a lot of those kind of things, partly because I understood the value of messaging, and I understood the way in which you do it. I only did that for a couple of years because you have to be objective.

Q So, Ms. McCaig, is it fair to say that you've had since -- if we look at from 1979 to 2014, you've had over 35 years of experience in communication strategy. Is that correct?

A Yes.

Q Okay. So we're going to stay on the letter. Page 3, paragraph 3 of your letter, you wrote, quote, "In late February 2014 I began a long anticipated 6-month sabbatical." Did I read that

correctly?

A Yes.

Q And is that an accurate statement?

A Yes.

Q Okay. Now we're going to move to paragraph 4 of your letter where you wrote, quote, "During this time, February to September 2014, I did not seek or receive payment for any professional services, public or private. I did not have any clients, contracts, or income from any work. Between March and August, if asked and if available, I volunteered advice and other counsel on many different topics to many different people, including business and civic leaders, campaigns, elected officials, government entities and others. I performed all of this work strictly as a volunteer." Did I read that correctly?

A Uh-huh.

Q Is that an accurate statement?

A Uh-huh.

Q I'm sorry, Ms. McCaig, we will need you to say yes for the record?

A Yes.

Q So, Ms. McCaig, did I read that correctly?

A Yes.

Q And is that an accurate statement?

A Yes.

Q Thank you.

So just to be clear, from February 2014 through September 2014,

you were not paid by Governor Kitzhaber's campaign. Correct?

A That's correct.

Q And from February 2014 through September 2014, although you may have volunteered, you were not employed by Governor Kitzhaber's campaign. Is that correct?

A That's correct.

Q And from February 2014 through September 2014, you were not paid by the State of Oregon. Correct?

A That's correct.

Q And from February 2014 through September 2014, you were not employed by the Governor or the State of Oregon. Correct?

A That's correct.

Q And Cover Oregon's board of directors made the decision to switch from the State exchange to the Federal technology in April 2014. Correct?

A April. Yes.

Q Okay. So when the decision by the Cover Oregon board was made, you were not being paid by the State, Governor Kitzhaber, or his campaign. Correct?

A That's correct.

Q So let's turn back to your letter. In the next paragraph you write, quote, "In late March 2014, the Governor asked for my advice and assistance on his Cover Oregon communication strategy and plan." Did I read that correctly?

A Uh-huh. Yes.

Q Okay. Is this an accurate statement?

A Yes.

Q Okay. In the next sentence you write, and I quote, "At his request I helped to develop his timelines relevant to breaking issues with Cover Oregon, reviewed drafts of documents for public dissemination, reviewed his media coverage on the Cover Oregon crisis, worked through the Governor's office to gather current information from the experts about upcoming issues with Cover Oregon, offered advice on the Governor's response, and helped the Governor prepare his response," in parentheses, "(timing, content, venue)" end parentheses, "on those issues." Did I read that correctly?

A Yes.

Q Is this an accurate statement of your responsibilities?

A Yes.

Q Were there any additional responsibilities that you had during this time that you did not include in this letter?

A Related to the Governor?

Q Yes.

A No.

Q To March 2014.

A Related to Governor, no.

Q Yes. Okay. Did you have a formal role or title at this time?

A No.

Q Do you think it's accurate to describe your function at that

time as an unpaid adviser to the Governor?

A I do.

Q Okay. Now, Ms. McCaig, I'm going to hand you -- I'm handing you exhibit 7.

[McCaig Exhibit No. 7

Was marked for identification.]

The Witness. Wow.

Ms. [REDACTED] Which is a transcript of Mr. Michael Bonetto's deposition before this committee. I'm only going to ask you about a few portions of the document, not the entire --

Mr. [REDACTED] We would ask, based on your own request, that she be given adequate time to review the entirety of this.

Ms. [REDACTED] We are going to be asking about very small snippets of this. We will give the witness opportunity to review any portion of this document that she likes. If you would like to spend the rest of the day reviewing this transcript, we are happy to go off the record and discuss that --

Mr. [REDACTED] These are your questions. That was your instructions at the beginning, that she needs adequate time to review things.

Ms. [REDACTED] Would you like the witness to take the time to review this transcript?

Mr. [REDACTED] It's your time. It's your decision.

Mr. [REDACTED] Whatever time she needs, obviously, as we agreed to at the beginning.

Ms. [REDACTED] We will give the witness whatever time she needs to review this document to answer our questions, for sure.

Mr. [REDACTED] And I'm going to start the clock again.

Ms. [REDACTED] Okay.

Ms. [REDACTED] So just for the record, we agreed that we will give the witness whatever time she needs to review this exhibit in order to be able to answer the questions that counsel will propound to her.

BY MS. [REDACTED]

Q Okay. Ms. McCaig, can you please turn to page 39.

Okay. Actually, Ms. McCaig, I will just ask you a couple of questions. And I'll mention a portion of this document. You can actually put it to the side. Okay.

So, Ms. McCaig, in Michael Bonetto's testimony during this deposition he agreed that Governor Kitzhaber's advisers were brought in to help assist the Governor with what was going on with Cover Oregon. And he described the experience and expertise of the Governor's other advisers as, quote, "crisis communications and with government agencies."

Would you say that's a accurate characterization --

A Yes.

Q -- of your expertise?

A Yes.

Q And is his characterization consistent with the reason why Governor Kitzhaber told you he brought you on board in late March 2014?

A Yes.

Q How long were you acting as an unpaid adviser to the Governor Kitzhaber on Cover Oregon issues?

A I became a paid campaign worker paid for out of the campaign in September. And by September, as I recall, I don't think there were any or very few issues related to Cover Oregon left.

Q Okay. And what about the time when you were an unpaid adviser? How long were you acting as an unpaid adviser for Governor Kitzhaber?

A Through the February to September time period.

Q So February 2014 through September 2014?

A With periods of time where I wasn't available, but yes, generally --

Q Okay.

A -- that was the time.

Q Okay. So you were advising the Governor on a volunteer basis in the spring and summer of 2014. Correct?

A Yes.

Q But you were not making yourself consistently available. Correct?

A That's correct.

Q Because this wasn't a normal job, you weren't working for the Governor in a typical capacity. Correct?

A That's correct.

Q Okay. I have a couple of other questions for you in time.

Okay. Ms. McCaig, I'm going to direct you once again back to your

letter, which is exhibit 6. If you can refer to page 3 and paragraph 5 of the letter, according to that letter you began providing Governor Kitzhaber with, quote, "Advice and assistance on his Cover Oregon communication strategy and plan." Is that right?

A Uh-huh. Yes.

Q And you also wrote that you provided your assistance, quote, "Strictly as a volunteer." Correct?

A Yes.

Q So would it be accurate to say that by the time the Governor asked for your advice you already had established a reputation as an expert communication strategist?

A Yes.

Q And we've already established here that you've had over 35 years of experience as a communication strategist by the time the Governor asked you to assist. Correct?

A Yes.

Q And you had developed a personal/professional relationship with the Governor.

A Yes.

Q And you, in your opinion, you consider him a friend. Correct?

A Yes.

Q So did it seem unusual that the Governor would then ask for your expertise in communication strategy to address a high-profile issue like the failure of the Cover Oregon Web site?

A No.

Q Okay. So you provided advice and assistance to Governor Kitzhaber and his staff regarding Cover Oregon press?

A Yes.

Q Were you making State policy decisions regarding Cover Oregon?

A No.

Q Did Governor Kitzhaber and his staff ever lead you to believe that you were making State policy decisions regarding Cover Oregon?

A No.

Q Did you ever require or coerce Governor Kitzhaber or his staff to take your advice regarding Cover Oregon?

A No.

Q Did the Governor and his staff take your advice 100 percent of the time?

A No.

Q And, Ms. McCaig, you mentioned earlier during the last hour that the Governor didn't ask what you thought about much. You didn't have anything to share on a given topic. Can you describe what you meant by that?

A I think it was in relation particularly to health care. So the Governor -- I believe others would characterize him as a leader in healthcare-related issues. I know that his 30-year career in Oregon has been dedicated to working towards providing affordable healthcare

and healthcare cost containment. I also know that it was a centerpiece of his overall agenda because it brought down costs that would allow other elements of the State budget to be reinvigorated. So in this area particularly, my advice was not sought nor did I feel any urge to provide it.

Q Okay. So any statements that you made to the Governor you would consider that as just statements that you made, not mandates or policy decisions. Correct?

A Correct. I compiled information for him and reported to him based on the information that I compiled. I didn't create anything. I wasn't out there developing policy, directing anything.

I was assessing and ensuring that in realtime he was getting the kinds of pieces of information he needed to be informed, and to make the decisions, and take the positions that he needed to take. I was just a conduit with that, but that was in fact the role I was playing. While other people were trying to solve the problem, I was trying to get him the information about how things were developing.

Q Okay. So, Ms. McCaig, you've seen a few emails today about your communications with other outside consulting experts and some of the Governor's employees, as well as the Governor himself. So did you frequently communicate with the Governor's office?

A Yes.

Q And who in the Governor's office did you communicate with?

A Primarily Mike Bonetto.

Q So when asked in his deposition whether there was anything

unusual or improper about you speaking to him or Governor Kitzhaber, Mr. Bonetto said emphatically no. Would you agree?

A I would agree that there was nothing untoward or improper.

Q And why was it necessary to communicate regularly with Governor Kitzhaber's staff on breaking issues like Cover Oregon?

A Again, it was the confidence that the Governor had in me to provide him the information that he needed to stay abreast, plugged in, and present on the issues related to Cover Oregon and the rest of his team, the communications office in the Governor's office, the staff, they were dealing with the real problem. They were actually the people who were trying to figure out what to do.

And to the extent that Mike could communicate with me and provide just sort of the reporting on what was going on, I could package that and get it to the Governor in an effective way that satisfied Mike, the Governor, and everybody else who was involved.

Q Okay. And to your knowledge, did Governor Kitzhaber or his staff consult with other outside advisers about high profile or breaking issues?

A Yes.

Q To your knowledge, did Governor Kitzhaber or his staff consult with other outside advisers about Cover Oregon?

A Yes.

Q And based upon your experiences as a communication strategy expert, is it unusual for an adviser to receive realtime updates on high-profile breaking issues?

A No. And when a Governor requests it and requires it, somebody needs to deliver it.

Q Are you aware of any laws that specifically prohibit communications between expert advisers and State employees or government officials?

A No.

Q And in your opinion, was your communication with Governor Kitzhaber's office unusual or improper?

A No.

Q Ms. McCaig, I'm going to now discuss Oracle's work on Oregon's health insurance exchange. So understanding that you were an unpaid adviser and not an employee of the State, I have a few questions for you.

A Okay.

Q So I'm going to turn you back to the letter that you sent to this committee on June 5, 2015. In this letter you provided a Cover Oregon timeline. Is that correct?

A Yes. My own.

Q Yes.

A Yes.

Q So let's go over this timeline with you, starting on page 1 of the letter. According to your timeline, in March 2013 you wrote, quote, "The Cover Oregon board began to manage the Oracle America, Inc. contract to develop the state's health insurance exchange, which included a Web site for open enrollment under the ACA." Did I read

that correctly?

A Yes.

Q Was it your understanding that Oracle was hired to develop the Web site technology for Oregon's health insurance exchange?

A Yes.

Q Were you aware of the deadline that Oracle had to finish this exchange Web site?

A Not until they didn't meet the deadline, I didn't.

Q And what was the deadline?

A October.

Q October of what year?

A 2013. October, November of 2013 was when the crisis hit.

Q So at October 2013, Oracle did not meet the deadline to deliver a functioning Web site?

A Right.

Q Correct?

A But I think your question was did I know about the date relayed in March 2013. I didn't know about the date until they didn't meet it.

Q Okay. So let's go back to your timeline. Under the next date of October 2013, you write, quote, "The Web site was not operational on its launch date and could not be used to enroll those seeking health insurance." So here you note launch date. What date is that?

A The actual date, I don't know.

Q Okay. Was it October 2013?

A Yes. It's -- you mean, it's within the October 2013 time period it failed to launch. The actual date within October 2013, I don't recall.

Q Okay. So to be clear, the Web site that Oracle developed for the State did not go live to the public in October 2013. Correct?

A When it was expected to, correct.

Q Okay. And how did you learn this information?

A News.

Q Okay.

A Media. I learned about it externally, not internally.

Q Okay. So do you know what happened after the Web site didn't go live in October by the launch date in October 2013?

A I know when I -- through news accounts later, I didn't know at the time, but Cover Oregon began withholding the payments to Oracle at that point.

Q And do you know what happened next with the Cover Oregon Web site?

A As I recall, it was the need to develop a parallel system in order to enroll people. And the Cover Oregon team, I believe, began developing a manual process by which to enroll applicants.

Q And how did you learn this information?

A It was all media. It was front page news. Pictures of people trying to do it. I was working on a different project and was out of the country, actually, in October.

Q Okay.

A And picked it up on Oregon Live.

Q So do you know if the Web site went live to the public in November of 2013?

A I don't believe it ever went live. I believe a portion of it went live that then crashed. And that portion was for a small constituency. So the general population piece I don't think ever went live, and I'm not certain, so I probably shouldn't speculate on that, that there was a piece that they tried.

Q Okay. Ms. McCaig, let's go back to your timeline. We'll get back to some of the comments that you just made.

If you'll turn the page to page 2, under January 2014, you wrote, quote, "Interim Cover Oregon head Bruce Goldberg tells the legislative committee that all or part of the system might need to be scrapped and a decision due in the next month or two whether to being incorporating a system either used by other States, of the one used by the Federal Government." So did I read that correctly?

A Yeah. But I think I have a typo in there.

Q So how did you know what Bruce Goldberg told the legislative committee?

A I literally went and looked at news accounts to put this together for you. And it's a front page story in the Oregonian which shows him in front of the committee and that's the message.

Q The message that you have on your timeline --

A Yes.

Q -- is what was reported in the --

A Right.

Q -- media?

Okay. And is it your understanding that Bruce Goldberg made these statements because the Web site wasn't functioning and live to the public at that time in January 2014?

A Yes.

Q Okay. Under February 2014, you note that legislators wanted answers regarding Cover Oregon. How did you know that the legislators wanted answers?

A And so what I was doing with this, just to confirm this, I was giving you an example of the context that all of this was happening in. So these were publicly known, publicly experienced, media related -- all of these were media related things which created the backdrop that the rest of the activity took place in.

So in January and February a couple of legislators in January called for the close of Cover Oregon. There was a big public moment where a legislator announced that he had gone to the FBI a year earlier. Congressman Walden then followed right on the heels of it and announced a GAO, General Accounting Office, I think, investigation. So this was a very public backdrop as part of what was going on with the very real work that was being done by the Cover Oregon board, and the Governor, and the Oregon Health Authority to figure out what the solution was for the problem.

Q And so this information that you provided is not based on

inside information?

A No. That was the point I was trying to make. No. Yeah.

Q Okay. And so from what you're saying, it was common knowledge that the Oracle Web site was not functioning. Correct?

A It was -- yes. It was common knowledge and intensely being followed.

Q Okay. If you don't mind, I'd like to turn you back to your timeline under March 2014 where you wrote, quote, "Cover Oregon convened an IT technical work group to review the State's options, which included a State exchange with Oracle, a State exchange with another technology vendor, or a switch to the Federal exchange." Did I read that correctly?

A Yes.

Q Okay. And once again, how did you know that the IT work group was convened?

A I had been out of the country and I got back in, and I had a Google alert, and it was all about the convening of the IT committee.

Q Okay. Do you know why this IT group was created?

A Yes. I think it was in -- I'm trying to remember who convened it. It was convened, I believe, by the Oregon Health Authority, an interim director of Cover Oregon, Bruce Goldberg. I believe he convened it. And its purpose was to review the State's options.

And I believe, given the failure of the Web site and the timeline that the State was under in order to produce a working Web site by

November of 2014, there was real pressure to come up with a solution and a path to be able to develop it, test it, and have enrollment ready to go in November of 2014. And these were the certifiably smart people who knew how to talk about bugs and platforms and pathways.

Q Okay. So the individuals on this IT technical work group, that you said, you considered them to be the experts?

A Yeah.

Q Correct?

A Yes.

Q Okay. And are you aware that this work group met frequently to discuss Oregon's exchange technology options?

A I wasn't particularly at the time. In March, I didn't know how long or when they were meeting, or what they were meeting. I do now.

Q Okay. And you can put your letter to the side.

So you are aware that they met frequently, correct?

A Yes.

Q Did you ever attend any of the tech work group meetings?

A No, I didn't know they were meeting frequently while they were meeting frequently.

Q Okay. And are you aware of the date that the tech work group made its final recommendation?

A That date I am aware of.

Q Okay. And date was that?

A April 24 and -- yes. April 24.

Q Of what year?

A Oh, 2014.

Q And what was the work group's recommendation?

A The work group's recommendation was to move away from the Oracle-based platform and transfer, using as much as was useable as humanly possible, to the Federal exchange.

Q And when was the work group's recommendation given to the board, Cover Oregon board?

A The next day.

Q Okay. So what date would that be?

A The 25th.

Q Of what --

A April 2014.

Q Okay. Did you ever instruct the technology work group to disregard the other technology alternatives that were being considered before the work group?

A No.

Q Did you give any instructions at all to the technology options work group?

A I never met with, never was part of, the work group. No.

Q And, to your knowledge, did any of the Governor's other advisers instruct the tech work group to disregard the other technology?

A Not to my knowledge. No.

Q To your knowledge, did the Governor or his staff instruct

the work group to disregard the other technology alternatives?

A No.

Q And did you ever instruct the technology work group to make the recommendation to switch from the State exchange to the Federal technology?

A No.

Q And, to your knowledge, did any of the Governor's other advisers ever instruct the technology work group to make the recommendation to switch from the State exchange to the Federal technology?

A No.

Q To your knowledge, did the Governor or his staff ever instruct the technology work group to make the recommendation to switch from the State exchange to the Federal technology?

A No.

Q And, to your knowledge, was the recommendation to switch to the Federal technology a unanimous decision by the work group?

A Yes.

Q So, Ms. McCaig, I want to discuss some of the assessments of Cover Oregon Health Insurance Exchange project by independent third parties.

Are you aware that the State hired independent third-party contractors to conduct assessments of Oregon's online health insurance exchange Web site?

A Yes.

Q Do you know which third-party contractors conducted the assessment?

A I believe I do. I know one of -- well, again, I don't know which is an assessment and which is which. I know that there were three firms, I think, who were doing different reviews of -- one was Deloitte, one was -- First Data did a review, but not that kind of an assessment. Maximus was doing some sort of quarterly review and reports. And then I think Plan B. And I don't know whether Plan B was the name of the company or -- but I think they were doing some sort of review.

Q Okay. You mentioned Maximus doing quarterly reports. Did they report to Cover Oregon? These were Cover Oregon reports?

A I don't know that. I believe that.

Q Okay. Are you aware of Maximus's findings in these reports as it relates to Oracle's work and work product?

A I am aware of those.

Q And what were some of the findings mentioned by Maximus in its reports?

A That they had consistently and repeatedly failed to meet timelines, that they had underestimated the amount of time and scope of work that was required to do their work. That they had not performed.

Q Is "they" Oracle?

A Yes. I'm sorry, Oracle had not performed.

Q Okay. So it's fair to say that the Maximus reports indicated that Oracle was performing poorly and providing -- and was

not providing a Web site that was fully functioning at the time?

A That's fair to say.

Q Okay. And let's talk First Data. You mentioned -- actually, I'm sorry. Maximus, would you consider them to be an independent contractor?

A Yes.

Q Would you consider their work to be credible?

A I'm not in a position to judge that. But I have confidence in the people who contracted with them. So yes.

Q Okay. Did you have any reason to believe that their work was not credible or reliable?

A No.

Q Okay. And so let's turn to First Data. You mentioned they also provided a review or report on Cover Oregon. Correct?

A Yes.

Q Do you know what they found?

A Yes. I know -- well, to the extent that I can recall it, they found failure at a lot of different points, actually, in the process, and including a need for better involvement, and oversight, and improvement of some of the scope and work review for the State of IT projects generally. But then they also signalled out that Oracle had again, I think, overstated their ability to do the work, that they had missed repeated deadlines, and that they had provided inaccurate reports on the development of the Web site and its ability to launch.

Q Okay. So they also -- so what does it mean that Oracle had

inaccurate reports?

A And I'm doing this from recollection. So I guess I want to put the qualifier in there that I believe this was in the First Data report, that in their interviews they determined that Oracle had not accurately reported to the people who were overseeing it at the State level, the bugs that they were encountering.

Q The bugs in the Web site?

A Yes. The problems that they were encountering in the development of the Web site, that Oracle had not adequately informed the people who were responsible at the State with a clear picture of the challenges and the delay that they were facing in delivering the Web site.

Q Okay.

A In developing and delivering the Web site.

Q Okay. So it is fair to say that First Data also found that Oracle was performing poorly by missing deadlines and not delivering a fully functional Web site?

A That's a shorter way to say it.

Q Okay. And would you consider First Data to be an independent --

A Yes.

Q -- contractor?

Would you consider First Data to be credible?

A Yes, and I would just reiterate that I think the breadth of their interviews, and I'm familiar with it because when I came back

in March this was part of what the -- what I did review was, I think they interviewed 65 people and 32,000 documents, it sticks in my head, that it was a pretty extensive review in order to give the Governor a picture of what had worked and what hadn't worked.

Q And is it fair to say that it was a credible review?

A Yes.

Q And First Data's a credible contractor?

A Yes.

Q Okay. So let's turn to Deloitte, another contractor that you mentioned. Would you consider Deloitte to be an independent contractor?

A Yes.

Q Okay. And would you consider them to be a credible -- Deloitte to be a credible contractor?

A I -- yes.

Q And would you consider Deloitte to be a reliable contractor?

A I haven't had personal experience with them, but I --

Q Okay. So Deloitte provided an analysis of cost, risks, and schedule for several technology options for Oregon to choose for its residents to enroll in healthcare in the upcoming 2015 open enrollment period. Right?

A Yes.

Q And as you were saying, you're aware of this Deloitte assessment. Correct?

A I became aware of it after the fact, yes.

Q Are you familiar with the findings of the Deloitte assessment?

A Yes.

Q Do you know how many technology options Deloitte started to look at?

A I know that the IT committee started either with nine or twelve. And I assume those were what was transferred to Deloitte for their initial review. But they may have narrowed it down to six or five for the Deloitte review. So no, I guess I don't.

Q Okay. And you said they narrowed down. Are you saying the work group --

A The IT committee.

Q Okay. And how many options did they -- do you know how many options they narrowed it down to?

A Oh, I think they went thorough a process that continued to take them off the table as they got further and further and more information about them. So it was a parallel process of identifying the problem, and then gathering the information they needed, and then moving forward, and as they did, some options fell off the table. So I think they started with nine or twelve, then they got to six, and then ultimately I think three, and then ultimately to one.

Q Okay. And what were these final three technology options?

A Oh, gosh.

Q Do you know?

A Yes.

Q Okay.

A Yes. The brain cells just came back. One was -- I barely know these words. One was the moving to -- one was adopting another State's exchange, that was one option. The other option was to use the existing platform, I think, that was Oracle created but use a different vendor to do the next iteration of it. And then the third option was to move to the Federal exchange.

Q Okay.

A And that's purely out of my memory. So if I'm wrong, I apologize. Or some version of it.

Q Okay. That's correct. Do you know Deloitte's findings on these three technology options?

A I think their findings evolved --

Q Okay.

A -- with more information. I think there was a preliminary report that showed that the Federal exchange was a least costly option, but also gave some additional information about whether moving to another State and using the other vendor, both of those continued to be in the running while they did more work on it.

As they got to more information in a further assessment, I think they concluded that going with another State was too expensive and wouldn't meet schedule. And they did a better job at estimating what the costs were going to be to move to the Federal exchange. And it was a different cost. I can't recall what it was.

And that they had uncovered that the number of bugs and problems

with the existing Oracle platform were substantially more than they had originally assessed, and that the ability for a new vendor to come in and attempt to do it wouldn't meet any of the criteria of the committee, risk, cost, or schedule.

Q Okay. So the current platform would have been too risky?

A Would have been too risky.

Q Okay. And you said cost --

A Cost, risk, and schedule were the issues that after ongoing review and additional information, that that option failed on all three counts.

Q Okay. So the cost to keep the current was too expensive.  
Okay.

A With modifications that would need be in order to make it work.

Q Okay. And so you mentioned the Deloitte's assessment of the Federal exchange with it being the lowest risk. Was this the ultimate decision of the Cover Oregon board, to go with the lowest risk option, which was the Federal exchange?

A It was a unanimous vote out of the Cover Oregon board, but there were three criteria. And it was important that all three criteria related to one another. I mean, it was on schedule, cost, and risk.

Q Okay. So based on your knowledge of the findings of these three reports that we just went through, it's fair to say that the technology Oracle developed for Oregon was not in a state that it could

go live and be used by the public to be enrolled in health care.

Correct?

A That's correct.

Q And as you said, quote -- let me go back.

Was it widely known at that -- in a March and April of 2014 that Oracle still had not produced a fully functioning Web site?

A It was as widely known then and growing. The interest in whether we were going to find a solution or a path was top of mind for everyone. Yes.

Q Okay. So, actually, speaking of widely known, can we go back to your letter, please, Ms. McCaig.

I'd like to turn your attention to page 4 of your letter, if we can. Under number 2, primary advocate.

A Yeah. Just because I'm pithy.

Q You note in this section that -- you note that you only advised the Governor, had no decisionmaking authority, am not a public figure, and made no comments publicly on Cover Oregon. Did I read that correctly?

A Yes.

Q Is this an accurate statement?

A Yes.

Q However, you also note that, quote, "There were many who did," end quote, make public comments regarding Cover Oregon's Web site. Isn't that right?

A Yes.

Q And you provide a list of media reports that include comments from public officials recommending the move to the Federal technology for Oregon's health exchange. Correct?

A Yes.

Q So the first media report you list is titled, quote, "State rep ditch Cover Oregon in favor of Federal exchange." Did I read that correctly?

A January 10, 2014. Yes.

Q Thank you. And this media report you noted, quote, "Republican State Representative and Oregon gubernatorial candidate Dennis Richardson says he's going to introduce legislation in February's legislative session to dismantle the state's troubled health insurance exchange and replace it with the Federal exchange, he said Friday in a news release." Did I read that correctly?

A Yes.

Q And who is Dennis Richardson, Ms. McCaig?

A He was a State Representative from Southern Oregon who had declared as the Republican candidate for Governor.

Q So he was Governor Kitzhaber's opponent in the gubernatorial race. Correct?

A He was.

Q So even the Governor's opponent wanted the State to move from the State exchange to the Federal technology. Isn't that right?

A That's right.

Q The next media report you list is titled, quote, "Conger

urges Governor to kill the epic failure," January 15, 2014. Did I read that correctly?

A Yes.

Q And the media reported, quote, "Cover Oregon is a huge and costly failure and a national embarrassment for Oregon. Conger wrote, 'Members of the legislature, including me, had to decide between a Federal Government exchange or one Oregon controlled. We opted for local control.'" Ms. McCaig, who is Representative Conger?

A He was a candidate for the United States Congress at that time. And he was a State Representative.

Q And was he suggesting the State move from the current Oracle developed Web site --

A Yes.

Q -- which was not fully functional to the Federal exchange?

A To the Federal exchange, yes.

Q Okay. Great. And I'm close to being out of time. So I will thank you for your time.

A Oh, okay.

Q Thank you.

Mr. [REDACTED] Take 5 minutes.

[Recess.]

[12:28 p.m.]

BY MS. [REDACTED]

Q Okay. I just wanted to go back to the first round when I was talking with you earlier. And just to clarify, did you work with

the Governor's office on Cover Oregon issues in February of 2014?

A Not really. I did the couple of memos about the structure. And then I left town February 23rd I think. So my involvement was really limited to structural, mechanical things, kind of --

Q You were working on Cover Oregon in some capacity?

A It was really about the Governor's office and structure. It wasn't anything specific to Cover Oregon.

Q Thank you. Were you working on Cover Oregon in January 2014 or December 2013 or was --

A No. Again, in January, it was a call from the Governor, February 7th or so, where it was a complaint about, or a concern, about, capacity issues which dealt with Cover Oregon. But I didn't, I don't think I did, through February actually have any conversations with anybody about the actual topic. It was about the mechanism for addressing the issues and communications around the topic.

Q Okay. Thank you. And then it sounds like you are somewhat familiar with the technology advisory group -- convened?

A Only after, only after the fact and before the April 24th meeting. I didn't know they were meeting or who they were until then.

Q So you didn't know who the technology advisory group was until April 24 --

A Sometime in April when the State got a new, what was it called, I think it was an interim IT director for Cover Oregon came on board March 31st or April 1st. And in the news accounts of his presentation to the Cover Oregon board, he laid out a timeline.

Q In his presentation when? On what date?

A To the Cover Oregon board I think on March 31st. Because I think that's when he first appeared. And in that news account, I remember, I do remember this, he said that he was brand new, I mean he had started with the State in January, and he been deployed to this, by somebody, I don't know how he got there, and this was his sort of introduction I think to the board, that there was going to be another board meeting on April 10th, which was important to know.

But that was the first time that I had seen that anybody had said that he was going to need, or they were going to need, 90 days to test any result of the process that they were going through in order to ensure that it was fully operational for a November launch date, that they would need 90 days to back up from the November launch date. That's what he said in this news account.

Q Are you familiar with the preliminary recommendation that the technology advisory group made at the end of March? Did he talk about that in the news account that you're recalling?

A No. He did, though, in a phone call, when we invited him to a meeting, it was a phone call. He came in and he called -- to give us an overview of the timing of all of this. And this was the communications advisers, all of us around the room were the people who were concerned about managing communications, and the flow for the Governor and all that. And so he was talking about it then.

Q I'll get back to that call in a second. I just wanted to also ask whether you were aware who the members of the technology

advisory groups were.

A I wasn't.

Q Did you work with Bruce Goldberg at all, have any conversations about Cover Oregon?

A Yes. I did.

Q Did you have any conversations with Sean Kolmer?

A Yes.

Q Did you have any conversations with Alex Pettit about the technology division for Cover Oregon?

A Yes, I did after April 1st, yeah. Were Bruce and Sean on the IT committee? Okay, I thought that was a link there. And I didn't know they were. Okay.

Q I was wondering if you could please describe the role the Governor had in deciding the technology path for Cover Oregon?

A He didn't decide the technology path for Cover Oregon.

Q Was he involved in the evaluation process for evaluating the different technology options?

A No. He was, I think, asked and was kept apprised of what the options were as they were being developed by Bruce, and Alex, and then Clyde Hamstreet, eventually.

Q Do you know when he started to get involved in the conversations about technology decisions?

A You know, I think, I don't know whether he was updated by whoever was leading the IT committee or not.

Q Did you update the Governor on the discussions about the

IT decision?

A I updated him immediately after the phone call with Alex Pettit. Or Alex Pettit. Alex Pettit.

Q I'm introducing exhibit 8 into the record.

A Uh-huh. Okay.

[McCaig Exhibit No. 8  
Was marked for identification.]

BY MS. [REDACTED]

Q Is this a March 21st, 2014 email from Tim Raphael --

A It is.

Q -- to you, copying Mark Wiener and Kevin Looper?

A Uh-huh.

Q In the email, Tim says: Patricia, just got off the phone with Mark, Kevin, and Mike. Made a push on completing the pivot for the Governor, getting him out of the day-to-day decisionmaking at CO. Mike said he agrees, but I'm not convinced he gets what that means, or what it is going to take.

The Governor is meeting with George Brown today about next steps on technology, leadership, etc. Mike thinks day- to-day at CO is okay with Bruce and Aaron. Triz is shocked and could leave. I don't know how to predict what Oracle might do. Priority next steps include, and the first bullet says technology decision, ensuring there is a rock-solid process to bring the Governor a recommendation, within 2 weeks, question mark, to determine the technology route?

A Uh-huh. Bring the Governor a recommendation to determine

the technology route. All tech options take time and fall enrollment is already in jeopardy. Well, the Governor was going to have a position on whatever the technology decision was or recommendation was. He would take a position on it. And he wanted to know what it was going to be.

Q Okay. First, I wanted to ask about George Brown and the conversation, the Governor meeting with George Brown. So who is George Brown?

A I don't know if he was the chair, I don't think he was the chair, he was a Cover Oregon board member.

Q Do you know why the Governor was meeting with George Brown about the technology?

A I think George Brown and the Cover Oregon board was consistently, constantly interested in meeting with the Governor about --

Q Did they meet with him frequently throughout April 2014?

A You'll have to look at the calendar. But I don't know. I assume so.

Q Do you know if there were certain board members that the Governor met with more regularly than others?

A I don't.

Q Do you know what they discussed, the Governor and George Brown, during their meeting?

A I don't. But I think -- the Governor's meeting with George Brown today about next steps on technology leadership -- there were,

as part of the First Data report, there were leadership changes happening at Cover Oregon. There were people who were being let go, people who were quitting, there were all sorts of things happening.

And the Governor was front and center in getting all the questions about these things. He was the person that the press was asking about. My assumption is that he was getting consistently updated on what was happening there.

Q Do you know if the Governor was giving the Cover Oregon board members direction on what leadership should and shouldn't stay in place at Cover Oregon after the First Data report was released?

A They were an independent board. So I would imagine the conversation, if there was one, was more of a discussion between peers, rather than somebody giving direction to somebody else.

Q What did Tim mean when he said that priority next steps include ensuring there is a rock-solid process to bring the Governor a recommendation?

A Well, again, I think a rock-solid process is everything we were attempting to communicate. That he needed to have a process that you could document, that was transparent, that people understood it, that you could defend, and that the timeline was what was a growing recognition about the urgency to be able to have a process in place that would allow the November enrollment to occur -- which must be what the within 2 weeks is.

Q Do you know if he brought a recommendation to the Governor within 2 weeks?

A I don't. Well, we can do the math. No --

Q Did you bring a recommendation to the Governor?

A We didn't bring it. April 25th was when the Cover Oregon board voted on the technology. The technology committee brought the recommendation to the board on the 24th.

Q And were any recommendations made to the Governor before the Cover Oregon board meeting about the potential technology options and what should be done --

A There were briefings to the Governor about the information that was being revealed as it became available, and what the options were that they were exploring, the work that they were doing on them, what they were finding out about them, what was likely, what was not likely, what challenges were existing around them. Those things were being brought to the Governor so that he could stay present and updated.

Q Do you have any IT experience in your background?

A None.

Q So you were working --

A Even producing these emails were a challenge, trust me.

Q So you were working for the Governor primarily, you say, in a communications capacity?

A Huh-huh.

Q Why were you involved in these discussions? Was information at this point in time being publically communicated on what they were evaluating?

A On this one, I don't think there is any discussion

particularly about it, it's just --

Q Well if you look on the 4th bullet point down --

A It's a list of things that might need to be done.

Q On the 4th bullet point down, Tim Raphael, towards the end of the bullet point, says: Also the public Web site going live is still an option and we need to make a decision about spiking it or using it soon.

A Uh-huh.

Q So what does he mean we need to make decision about spiking it or using it?

A I think it's a discussion in March about the information that we're getting from other people about what the strengths and weaknesses of it are. At that point, they don't know all of the costs, they don't know all of the bugs. There's lots of conversation about it in the paper. I think there are articles that are using language like whether we should go with it or not go with it.

And I think he's just reflecting that that's a common perception that somebody is going to need to make a decision about it because it's time consuming and what are we going to do? It's not a unique discussion at that point.

Q Okay. I'm going to introduce exhibit 9 into the record.

[McCaig Exhibit No. 9

Was marked for identification.]

The Witness. Yep.

BY MS. [REDACTED]

Q So is this an email exchange from April 1st, 2nd, and 3rd, over the course of a few days, about an upcoming SWAT team meeting?

A It is.

Q And in these emails, are you discussing the agenda for a 5:30 p.m. SWAT team meeting call on April 2nd? I think it says, the first email says tomorrow, Wednesday evening, 5:30, and that was on April 1st.

A Yes.

Q April 2nd, 5:30 SWAT team meeting. In the middle of the email chain, you ask, Mike, have you been able to confirm with Alex -- and who is Alex?

A I think his late name is Pettit, not Petite, Alex Pettit, who had been the day before announced as the interim director, interim IT director, I believe, of Cover Oregon. So he was responsible for working with the IT committee and all those kind of things.

Q Okay. And why are you requesting that Alex Pettit join the SWAT team call?

A So that all of these people who were dealing with communications issues would have a chance to ask him about timelines, scope of work, what he expects when, the details around providing the Governor with a clear and accurate picture of what they're looking at, and when it's going to be decided, and what tools they're going to use to decide it so he can be informed and thoughtful as he's out there discussing it.

Q Okay. And then you say I'd like to run tonight's meeting.

And I think it should be limited to Cover Oregon issues. Did you typically run the SWAT team meetings?

A There really wasn't anything typical yet about the SWAT meetings. But Mike had sent an email that said he wanted a communication strategy around the upcoming, next week, Cover IT decision, Governor's involvement, timing, core message.

And the second was the clarity on the 3-month calendar and focus. My response to that was, beyond the, have you been able to confirm, I would like to run tonight's meeting and I think it should be limited to the Cover Oregon issues, not the 3-month calendar, but the Cover Oregon issues because -- this was on April 2nd.

Q Uh-huh.

A On April 10th, the Cover Oregon board was meeting. On April 9th or 10th, the Governor was going to be asked questions about the new hire for the Cover Oregon board, Clyde Hamstreet. It was going to be announced by the board, I think, the day before the meeting. And Greg Van Pelt was heading to Congress the next day. So you had a Governor, in a period of 4 or 5 days, who was going to be out in public everywhere, in editorial boards and everywhere else, where all of these issues are the ones they're asking him about. And we needed to have a narrative and a calendar about what was happening when, how it was happening, who was doing it. And it was an important thing to have a conversation about.

My reason for suggesting that I chair it is because the people in the room were all interested in the communications elements of it,

not the mechanics of the platforms and what was it. It was the timing, it was the scope of work, it was all of those kinds of things. And Mike and Alex were the people who had the answers.

So Mike was the Governor's former healthcare guy. He was the guy who was hands on, on it. It was logical that I would chair the meeting and assure that we kept it directed at the communications elements and that Mike and Alex could give us the information that we needed to advise the Governor and put a plan together.

Q Okay. And then do you remember during the call what information Alex Pettit shared with you about the progress of the IT decision?

A I think the most important thing is that he was starting to talk about calendar. And that was the first time that any of us had. And I think even the email that you're talking about with Tim, we were just starting to get some recognition of how quickly these things were going to be coming up. The IT committee, he was proposing, I believe, because new information was coming in, that he would give an update to the Cover Oregon board on April 10th, which turned out to be a big meeting.

And that at that board meeting, he was suggesting that the IT committee would then meet, I think, on April 21st. And that that would give him, as a new person in this, the time that he needed to assess all of the information that was coming in and be able to put some work into it, to present to the IT committee on.

Q When you say the person, so do you know if Alex Pettit was

on the IT work group before March 31st, 2014?

A I think he was.

Q So he had that --

A He started in Oregon in January. I mean he came from another State in January. And he had a different job. So I don't know if he attended all the -- I don't know.

Q Did you have an opinion of the information that Alex Pettit shared with you during the call about the technology advisory group's progress on --

A We didn't talk about the progress, we talked about a calendar.

Q You talked about a calendar. What did you talk about for the calendar?

A The upcoming board meeting on April 10th.

Q And you didn't talk anything about the IT process and the technology --

A No. I think what he was reporting on was what he was going to tell the board then, which was about the calendar, about the timing for making these decisions.

Q Did you receive any briefings from Alex Pettit in early April on the IT --

A Yes. On April, a week later, on Monday, April 6th, April 7th, I think that we were on phone call, this group didn't. Me, maybe Tim, Mike Bonetto, Bruce Goldberg, Sean Kolmer.

Q Why was it a different group?

A Because we were doing the hands-on, more day-to-day. This group was not involved in --

Q So this group was the communications list, and then the other one was a day-to-day, more involved group?

A We were the communications people who were having the interface with the Governor's staff. This group didn't have much interface with Governor's staff.

They had other jobs, they had other lives, they were, this was, we were doing this more full time. What was your question?

Q I was asking what information Alex Pettit briefed you on about the IT recommendation made by the technology advisory group. And you were saying he didn't talk about, even though your agenda for the night includes IT recommendation, context, process, and timing, you said he didn't share that information during the call?

A I think it was about the content of the decisionmaking and when it was going to occur, and when we would know. We didn't know anything other than his schedule for getting briefed on questions that he had, and the committee had, about all of the outlying areas that were still being reviewed at the IT committee. So I, yeah, I don't think there was much --

Q Okay. But the SWAT team was on the call, including Mark Wiener and Tim Raphael and --

A So on this call --

Q On the April 2nd call.

A -- I don't remember if they were on it or not. They were

emailed so I assume they were.

Q Okay. I'm going to introduce exhibit 10 into the record.

A Oh, okay. Yep.

[McCaig Exhibit No. 10

Was marked for identification.]

BY MS. [REDACTED]

Q Okay. So did you send this email to Mark Wiener, Kevin Looper, and Tim Raphael on April 3rd?

A I did.

Q In the email, you say: Had a long, difficult call with Bonetto last night. He has a lot to think about. Do you remember what long, difficult call you had with Bonetto?

A I do.

Q What was that call?

A The lack of support he was getting from some members of his team.

Q Can you elaborate on that?

A He had been in the eye of the storm with the whole issue about some of the lack of responsiveness and communication channels in October, November, and December. I think the Oregonian had called for his resignation sometime in all of that. There were, I don't know if any of you -- the knives were out. That's the way I would describe some of the ways things happen in Governors' offices. And I think he was reevaluating his ability to be successful in this job.

Q So was the long, difficult call focused primarily on the

support he was getting with Cover Oregon issues?

A No. It was personal. It was about his ability to do his job as chief of staff.

Q Who was his team that wasn't supporting him in your opinion?

A It was office-related. It was all office, Governor's-office related.

Q So you didn't think he had enough capacity with his Governor's office staff?

A I wasn't doing this. I wasn't prompting this. He was reporting that he was concerned about his ability to be effective with his office. And as a former chief of staff, it was a managerial issue. He had some personnel issues.

Q So what did he have to think about after the call?

A Whether he was going to resign.

Q Okay.

A Whether he wanted to stay. I'd say it differently --

Q Did you make any recommendations to him during the call?

A I think I urged him to stay.

Q And then in the next line, you ask if a certain conference number is the Kitz only or is it their work, your work conference number. Regardless, is it available next Tuesday for me to use at 4:00. Do you remember what call you were arranging?

A No. I don't.

Q And then on four you say, I'm thinking of dismantling our Tuesday meeting and then reestablishing it. Change the Mike and Nkenge

dynamic which isn't helpful or worth our time. Do you care? Thoughts? What was the Mike and Nkenge dynamic that wasn't helpful?

A This really isn't related to Cover Oregon. It's a personnel issue. They had a personnel issue.

Q Okay. And then for Number five, you ask them to hold Friday a.m. for a meeting with JK on Cover Oregon IT. Bonetto supposed to let me know this a.m.

A Uh-huh.

Q What type of meeting were you having with -- is JK John Kitzhaber?

A Yeah.

Q On Cover Oregon IT.

A Yes. Yes. What day is Friday? So what day is April 3rd? I need to think through what --

Q I think it might have been --

Mr. [REDACTED] According to exhibit 9, April 2nd was a Wednesday.

BY MS. [REDACTED]

Q So it would be Friday, April 4th.

So on April 4th, you were having a meeting with John Kitzhaber?

A Well, I imagine it is all about the updating on the timeline for the decisionmaking, about the IT decision on the Cover Oregon board, and the changes that are going to happen there. The first 2 weeks of April, the first 2, 3, actually all of April, there was a lot of incoming on a lot of different fronts related to Cover Oregon, and a lot of scheduling for the Cover Oregon activities that had a direct

relationship for the Governor's calendar, and where he was going to be, and what he was going to be asked about. So I think it was all prep on that.

Q Did you ask anyone to prepare any documents --

A I didn't, not that I recall.

Q -- for the April 4th meeting?

A I don't remember that meeting. I don't even know if I was at that meeting.

Q Do you remember if there were any documents produced for John Kitzhaber on the Cover Oregon IT decision --

A Yes.

Q -- in early April?

A I gave him some briefing memos.

Q After the April 2nd call? Or when did you give Kitzhaber briefing memos?

A Well, if you have them, you should give them to me because I don't recall doing one on the 2nd and the 3rd. I know that I had emails back and forth with him on the 7th, back and forth with the Governor. And I was on the phone the night of the 7th.

And then, I believe, I had a phone call on the 8th and provided him a memo on the 9th, which then was predictive of what we assumed the calendar was going to be, and what Alex was going to be discussing on April 10th in a public way to the Cover Oregon board. So I know that I was in that mix.

Q Okay. We actually have one of the emails you were talking

about.

A I can't quite get the calendar in my brain.

Q I'm introducing exhibit 11 into the record.

[McCaig Exhibit No. 11

Was marked for identification.]

The Witness. Is April 7th a Monday? Does anybody know? Okay.

Mr. [REDACTED] What was the question?

The Witness. Is April 7th a Monday? Thank you. The Cover Oregon board was on Thursday and that was the 10th. That makes sense. Okay.

BY MS. [REDACTED]

Q Is this an email chain between you and John Kitzhaber --

A It was.

Q -- on April 7th, 2014? I want to direct your attention to the last page of the email exchange. And Kitzhaber starts with saying, so I'll send Cover Oregon information, we need to make a decision. Why is Kitzhaber emailing you with the list of information that you need to make a decision about the technology?

A Because I think he knows that I am gathering information for him from his staff. From his staff, and from the people who they work with to present and think through a communications strategy around it. And he's going to be making a decision about what his position is on whatever the recommendation is.

And these are the kinds of things in a narrative, or in explaining it to an editorial board, or talking to anybody, the public, these are

the kinds of things he's outlining that will be the things he's going to be judging against when he makes a decision.

Q So you think that the way that a particular recommendation can be communicated was important in terms of what he would feel was the right technology path for Cover Oregon?

A No. I understand the way you're asking that question. And I think the emphasis is on the wrong thing. That our job is to understand what the policy criteria are that really matter and to identify them early on, so that they can be accommodated. And then that helps us be able to put a narrative together that's effective.

It's not that you do it the other way around, that you try to make a choice for something that's communication easy. You actually don't want to do it that way. You want to take the time to have a thoughtful, in-depth, and mindful process so that you can explain to people why you made the decision you did.

And as he says, these are thoughts. And he's starting to think through, what the elements for him, are going to be important, on whether he takes a position, and how he evaluates a position he's going to take. And he's being asked constantly about this.

Q Okay. And so why was he emailing you about this information rather than his Chief of Staff Mike Bonetto?

A I'm not sure that we weren't all one in the same when it came to this.

Q I'm sorry, can you elaborate?

A That we were all closely attuned. That Mike may have

already known this. I don't know that he didn't. In fact, Mike probably would have been able to outline these things to me exactly the same way.

Q Okay. At the end of the email, Kitzhaber says on the Cover Oregon board, I think we should have a hearing this week and be very transparent about the complexity and the options we are addressing, even if we are not ready to make a final decision at this point.

And by hearing, does he mean a Cover Oregon board meeting? Or are you not sure?

A I don't know whether he's referring to a legislative oversight hearing there. He doesn't usually call a board meeting a hearing.

Q Do you know, that aside, not looking at the email language, if the Governor had any influence on whether Cover Oregon board meetings were held and when they were held?

A No.

Q Did he have any insight or influence into whether legislative oversight hearings were held?

A A little more actually. I mean, if they wanted him or an executive from the executive branch to be there, the executive branch had the ability to negotiate with the legislature about the hearings. But not the Cover Oregon board, they had way too many schedules and other things that they dealt with all as independent --

Q Did you ever discuss with John Kitzhaber or Mike Bonetto how to handle Cover Oregon meetings?

A Not the Cover Oregon board meetings, but the press had picked up that the IT committee meetings were not public. And the Governor's office was getting questions about it. The Governor was getting questions about it. And the Governor asked both Mike and me why weren't they public, why were the IT meetings not public. And --

Q The press asked you?

A No. The Governor asked me, I mean, did I know and asked Mike, do you know. Again, they weren't our meetings. And I think Bruce Goldberg was asked whether they needed to be public or not. He said they could be private.

And they took it to the Cover Oregon board on April 10th because of the concern that was being raised by the press. And the Cover Oregon board decided to make the next meeting public. So that's the only place I know where there was a conversation about what they were doing.

Q Thank you. Now I want to direct your attention to the page that has 66 at the bottom, second page of the email. And you start, you're responding to Governor Kitzhaber's email to you, and you say: Governor, we're tracking. What did you mean by we're tracking? What were you tracking?

A I understand him.

Q You understood him? What did you understand him to be asking?

A I understood what kinds of issues he was interested in ensuring were important to him. And I'm tracking, I understand.

Q And at the bottom of the email, you say this is important.

At this point, we do not think you should even raise the possibility of a need for Federal funds with folks in D.C. We need so much more information before that decision. And if that does become the decision, it will require substantial political set-up.

A Uh-huh.

Q And what do you mean, we do not think that you should raise the possibility of a need for Federal funds with folks in D.C.? Who is we?

A So this entire document is based on me restating from a phone call that we had on the 7th, I think it was the 7th, and there was another one on the 8th with Mike Bonetto and Bruce Goldberg about where they were with the process. I was not directing any of this. I was writing it down and putting it in a memo for him to understand where we were going.

So when we say, when I say we need so much more information before that decision, is that your question.

Q Yes.

A That was a recognition that I'm saying to him from the people who are on the phone, who are the people that you've entrusted with working through and dealing with this, that they all agree that, and that's what the -- we need more information before that decision, I'm communicating to him that this isn't me, this isn't them, this is his team arriving at this conclusion. And I'm relaying and reporting it to him.

Q Was Mike Bonetto one of those --

A Yes.

Q -- then he was entrusted to work with, was he working with Bruce Goldberg on --

A Yeah.

Q -- the IT piece?

A Bruce was an agency head.

Q Okay. Did he --

A Bruce was on the whole Cover Oregon board and IT piece.

Q Okay. Was Michael Bonetto working with Bruce Goldberg on evaluating the IT options?

A I'm sure that Mike Bonetto was being informed of the progress and the information that was coming in from the different assessments related to the IT work.

Q In the same way that you were on these phone calls or in a different --

A In a way more, probably a more detailed way than I was. Because he would ask questions. And I didn't have any questions.

Q Okay. Thank you. Also at the bottom of the email, what did you mean it would require substantial political set-up?

A Well, we had, it was a recognition that Senators Wyden and Murkley had been critical of Cover Oregon and lost confidence in them. It was a recognition that there was potentially an FBI investigation of it. And there was a recognition that the Republican Governors' Association had sent out a press release that criticized and called the entire operation and everybody in it into question. That Dennis

Richardson had, using an email newsletter, where he was consistently raising questions about it. And that the likelihood that we were going to find a receptive audience for putting more funding into a project that was described as a debacle, and where there was a concern that we were wasting money, and that we had managed it poorly, would require a bit of work.

Q Do you know if they ever asked for additional funding from CMS?

A No. In fact -- I don't know. I don't know. I know that as the, this went on, that one of the cost elements that were the criteria was that they had to do it with existing funds.

Q I'm introducing exhibit 12 into the record.

A Uh-huh.

[McCaig Exhibit No. 12

Was marked for identification.]

BY MS. [REDACTED]

Q Is this an email from you, is it to the SWAT team on April 8th? Or is that a different group of people?

A It's the people who were, yes, I guess you could call it the SWAT team. As I said, that morphs into a smaller group with, yes, Mark Wiener, Kevin Looper, and Tim.

Q Okay. Are you setting up a call for 6 p.m. on April 8th? Given that the email was sent on April 8th and you say here is the information I think we are expecting tonight.

A Yes. It must be 6 p.m. tonight and 2 in the afternoon. 2

a.m. it says. Oh, it's 7, okay. I'm tracking. All right. All right. Okay.

Q And Alex Pettit and Bruce Goldberg are also planning on joining the call according to your email? Here's what I think we are expecting information on tonight from Alex and Bruce -- we all on the same page?

A Right. So it's a follow-up from all of this, yes.

Q In the earlier emails --

A Yes.

Q -- to Kitzhaber?

A Yes. A deadline for the IT decision, pros and cons.

Q In the email, you say a financial estimate for moving to the Federal Exchange, a \$30 million scope of work for staying with the current and/or going to Connecticut, the pros and cons financial staying with the hybrid process through November, but ready with something in 2015, and a deadline for the IT decision and the logic for the deadline. Do you know who created this list of information for the phone call?

A I think this was my evolution out of the earlier -- both what the Governor was interested in, the phone call I had on the 7th where these things were coming up. And I think each of these topics had been the subject of much speculation in the press about what was going to happen at the April 10th meeting. So these were all the sort of present issues that people were wondering about.

Q Were you getting up-to-date information from Alex Pettit

and Bruce Goldberg about these items that you list on the call?

A I think we were going to ask them whether they had some of the -- when could we expect a financial estimate for moving to the Federal Exchange? That was a legitimate question that the Governor certainly would like to know.

Q Do you know was the technology advisory group being updated as well? Were they on this call?

A No. The IT committee wasn't on this call.

Q Do you know if they were being updated with the same information?

A I had no communication with the IT committee.

Q But do you know if they were being updated with information?

A I don't.

Q At the bottom of the email, you say --

A The IT committee had not met, this is April 8th, the IT committee, I think their last meeting had been March 31st, and the next one was, the board meeting was going to be on the 10th, and then, I think they were going to meet on the 21st.

Q At the bottom of the email, you say we will do further cost, time, reliability refinements of staying with the current technology and the Connecticut option after we review the information above. Why were you going, who decided that you would do the refinement to the current technology and Connecticut after you review the information?

A I'm just so sorry that I said we. This is, this was the direction and the decision that Alex and Bruce were presenting about

where they were going. And they were the Governor's team. They were part of, the Governor hired Bruce, they were part of his team.

I was reporting back the things they had identified that were going to be on their plate, that they were going to be addressing moving forward.

Q But do you know who decided the order of this information, of gathering this information, and then doing the cost, time, and reliability refinements?

A Bruce and Alex.

Q Do you know if these refinements were ever conducted?

A The cost, time, and reliability, or schedule were what the IT committee ultimately and had been using as their criterion in making a recommendation.

Q But was it necessary to have refinements to the information after their March 31st meeting?

A You'll have to ask Alex Pettit about that. You'll have to ask him about it. But my understanding was that they were doing two things at a parallel time, that the March meetings.

I don't know when they first began to meet, but that there was a lot of work that was being done parallel in identifying what the problems were, which is what the IT committee could do immediately and as part of that, identifying the issues that they needed a contractor or somebody like Deloitte to go out and do further refinement, further assessment.

So that they were kind of doing this with getting information back

and readjusting and reassessing based on the information they got.

I think they got to a point that there was a new set of information they were waiting for. And that was somewhere in early April or mid April, that was after that March 31st meeting that they were still waiting for additional information. That's why all of the likely's and the maybe and based on further information. They never had all of the information at the same time, you know. I was --

Q And then during these calls, when you heard these updates from Alex Pettit and Bruce Goldberg, did you have an opinion on the appropriate pathway technology options?

A I was barely keeping up in trying to articulate what I thought was for the Governor, based on the calls, the primary issues that they were actually discussing that were important and relevant because they were -- so no, I didn't.

Q I'm introducing exhibit 13 for the record.

A Uh-huh.

[McCaig Exhibit No. 13

Was marked for identification.]

BY MS. [REDACTED]

Q I'll direct your attention to the email starting from you to Governor Kitzhaber on April 9th, 2014. Are these your notes from the call that you had the night before with Alex Pettit and Bruce Goldberg?

A These are my notes from the last 2 or 3 days consolidated.

Q Okay. And at the bottom of the email, under managing,

staging the decision, on Number 8, you write: Regardless, the Cover Oregon board would hear and accept the Federal Exchange recommendation April 22nd, 23rd, or 24th. How do you know that this would be the recommendation that the board will hear and accept?

A I don't.

Q Why did you write it?

A I think it's likely. But let's go back to the in a nutshell, from last night and go to Number four. So I'm trying to prepare the Governor for a timeline and potential activities that are going to be very public and discussed the next day in a board meeting that he's going to get questions about, and wants to have some background, and some ability to know how to answer them, and where to point people about what is going to happen when.

The important part in here, one of them, this is a big deal, that we've learned that a final decision must be announced or made, and we learned this, we didn't set this, we learned there's nothing that indicates we set this, that a final decision must be made, announced no later than the end of April and, if possible, sooner in order to provide adequate time for developing, implementing, and testing the technology.

The Cover Oregon board has to make a decision. The Governor needs to know this, everybody needs to know this, that if they want to have a working Web site by November, they've got to make this decision by then. Then I go and, you know, managing, staging the decision, it's just staff work about a meeting, what's going to happen in a meeting.

It's predictive.

It's my trying to explain what we think is likely about what is going to happen in the meeting. I can't make it so. I'm not trying to make it so. It's what people have reported as the basis for their work --

Q When you say people have reported, what do you mean?

A Mike and Bruce who staffs the Cover Oregon committee, he's reporting in on what he thinks the, that's what these calls were about.

Q Report from Mike Bonetto and Bruce --

A Bruce Goldberg and Alex. Bruce and Alex will present an update at the Cover Oregon board.

Q When they say under one, the consensus is to let it go -- the investing further in the Oregon option. With more current information from Deloitte and tech folks on the costs and complexity of the Oregon option, the consensus is to let it go. Do you know what they mean by, what you mean by the consensus is to let it go?

A I'm reporting to the people on the phone generally think that it's not there, you're not going to be able to go the distance with it and you should let it go.

Q Who are the people on the phone who think it should be let go?

A And you should ask them if they were on the phone, I think it's Mike Bonetto, Bruce Goldberg, and Alex Pettit. But I don't know whether Alex was on all of the phone call, the phone call the day before.

Q So would you say that on April 8th, that's when a decision

was made that the consensus was to, let it go?

A There wasn't a decision made. Nobody is making a decision. As you move through it, I'm evaluating and writing what I heard from people on the phone, what they're going to likely talk about at the board meeting the next day.

And so if Bruce is in front of the board the next day and there are questions or discussions about these and/or from the press, the Governor should not be surprised that this is the kind of thing he's going to hear. Because it's going to be in the press tomorrow. And I --

Q I guess I was asking you say the consensus was to let it go, was the April 8th call the first time you had heard that the consensus was to let it go --

A Well, if it's not anywhere else, I would assume so.

Q But you don't remember?

A I don't. I wasn't tracking that particularly.

Q That's okay. We don't have to focus on the email anymore. Thank you.

A But I want to. Because the regardless piece I don't think we finished with.

Q The regardless, okay -- if you want to add something about the regardless, you're welcome to. Did you have something you wanted to add about the Cover Oregon --

A I was trying to link it back --

Mr. [REDACTED] Try to wait until she finishes with her question

and alternate back and forth so the court reporter can --

The Witness. I'm genetically bad at this.

BY MS. [REDACTED]

Q Did you have something you wanted to add about your statement that regardless, the Cover Oregon board would hear and accept a Federal Exchange recommendation April 22, 23, or 24?

A Yes. I did. The regardless was the driven by the need for a decision. And the content was that it was likely to be the Federal Exchange recommendation based on what people were talking about. But it clearly was indicated that it wasn't a done deal, that they were still reviewing, and that they were still looking for additional information, and that there was the possibility that something else could come up.

But based on what we knew at this point in time, and what Bruce was going to say the next day, this was the direction. The regardless had way much more to do with the need for a decision to be made on the 24th, the 25th, or the 26th.

Q Okay. Thank you. I'm going to introduce exhibit 14 into the record.

[McCaig Exhibit No. 14

Was marked for identification.]

BY MS. [REDACTED]

Q Tell me when you're ready for me to ask you about the email you sent to Mr. Bonetto.

A When was this?

Q April 8th, 2014.

A Yes.

Q So did you send this email to Michael Bonetto on April 8th, 2014?

A Yes.

Q Did you send this after your call on April 8th with Bruce Goldberg and Alex Pettit, the email was sent at 9:48 p.m. your call was at 6 p.m.

A Yes.

Q And in the email, you say did you see this? Am I the only one who did not know or understand that Bruce had presented this as a recommendation to legislators last week while we were all still discussing it? We need to go through it and make sure that we don't trip ourselves up in the pros and cons.

Unfortunately, it doesn't start with cost or risk, but does include them in the pros, cons, and does end with the, requires more cost information. Do you know what Bruce presented as a recommendation?

A So this was actually presented earlier in the week, the week before, correct? This document was presented to a legislative committee.

Q Okay. That's what you say in your email, submitted to legislators last week.

A Right. And so a great example of everything. So this was covered in the press. That's how I learned about it. And the way in

which he's talking about it here is not the way that I've represented it based on his conversations the night before in the memo that happened on the 7th and the 8th.

So the concern was that it was inconsistent and there was a gap between the way he was talking about it publicly and the way he was going to talk about it publicly the next day. And I think the truth of it is, that there was more information that came in in that window of time.

I mean, I think, that's the answer to why it was presented one way 10 days earlier and then a slightly different way on the April 10th when he presented it.

Q When you say we need to go through it and make sure that we don't trip ourselves up in the pros and cons. What do you mean trip ourselves up?

A I imagine it has to do with clarity of language and consistency on the way we're talking about pros and cons.

Q Did you revise or edit any of the PowerPoint presentations for the technology advisory group or meetings?

A I did. I reviewed it for clarity at, I think, Clyde Hamstreet's request or Bruce's request.

Ms. [REDACTED] Do you need time to look through the document in order to answer the question completely?

The Witness. Let me go back to -- what was the question about the pros and cons here?

BY MS. [REDACTED]

Q I was asking if you knew what you meant don't trip yourselves up on the pros and cons, not necessarily --

A Let me see if I can find them so I know what I was worried about.

Q That's okay. You don't have to worry about the question.

A Well, I can tell you just by looking at it that it wasn't very clear.

Q Sorry, what do you mean it wasn't very clear?

A It didn't communicate very effectively what the pros and cons were. I mean, you can see how hard it was to find them. I don't know.

Q And then you were just talking about whether you edited the technology advisory group PowerPoint presentation.

A I did, along with, I think, literally, 27 other people, and I'm not exaggerating that, reviewed the IT committee --

Q This was the PowerPoint presentation given --

A That was made to the Cover Oregon board.

Q Did you edit the PowerPoint presentation that was given to the technology advisory group team on April 24th, 2014?

A I might have. It may have been the same presentation.

Q Why were you involved in editing the PowerPoint presentation for the technology advisory group?

A Stunningly, some people think I'm pretty good at helping focus and clarify materials. And I have a lot of experience with doing PowerPoint presentations and being effective in a room.

And given the nature of this topic and that there was going to be national media and everybody else there, I think they asked me to take a look at it. And I made some clarifying recommendations. But I don't recall anything substantive.

Q And what were the slides trying to be focused and clear on?

A I think they were trying to update their progress to date and find a way to visually communicate what their process had been to document what their decisions were.

Q And who were you working with when you were editing --

A It was, it was a large group.

Q Was it the SWAT team or --

A No. No, they weren't, they weren't involved. This was, I think Sean Kolmer was on the phone, I think Mike Bonetto was on the phone. I think Clyde Hamstreet was on the phone by that point.

Q Thank you. And then I had a question, so you talked some about the April 10th, 2014 Cover Oregon board meeting. Do you know if Cover Oregon canceled a contract with Deloitte in April 2014?

A I don't.

Q You're not familiar with any news stories or media coverage of Cover Oregon canceling a contract with Deloitte?

A If they did, it just didn't get on my, I mean, it just didn't, I don't recall that significant moment in time.

Q Did you work with the Governor's office at all in helping decide whether Clyde Hamstreet should serve as the director at Cover Oregon?

A No. I was involved with how the announcement was going to be communicated.

Q But you weren't at all involved in the decision-making process of whether to bring Clyde on board?

A Not, no. I don't recall being involved in it.

Q Okay. And then were you involved in any of the conversations about whether the Governor should ask for the resignation of Triz dela Rosa and Aaron Karjala --

A No.

Q -- when the First Data report was released?

A No.

Mr. [REDACTED] That's the end of our hour.

[1:35 p.m.]

BY MS. [REDACTED]

Q Okay. Ms. McCaig, we're going to talk about the role and authority of the Cover Oregon board of directors we referred to here. Are you familiar with the role of the Cover Oregon board of directors?

A Some, yes.

Q Okay. To your knowledge, were there criteria for being a part of the board?

A There were criteria established by the legislature when they established it, yes.

Q Are you aware of what the criteria was?

A I'm not.

Q Okay. Are you familiar with what type of decisions the board makes?

A Limited. I mean, I'm limited in my familiarity with the breadth of the board and what they do.

Q Okay. So the board would -- do you know if the board would make decisions like appointing an executive director for Cover Oregon and --

A Yes.

Q What other decisions do you know that the board would make?

A I think they're responsible for the oversight of the management of the contracts and all of the enrollment activities of Cover Oregon. It was created by the legislature, I think, in 2011. The Governor makes appointments to the board. I think they have to

have some background in health care. And a couple of State agency people serve on the board.

But honestly, I have never been to a Cover Oregon board meeting. I really don't know what they don't do when it's not related to this.

Q Okay. And were you ever a member of the Cover Oregon board of directors?

A No.

Q Okay. And as you already know, Oracle has alleged that you were involved in the decision to switch from the State exchange to the Federal technology. Are you aware of that allegation?

A Yes.

Q Okay. Now, Ms. McCaig, I'm handing you an exhibit marked 15.

[McCaig Exhibit No. 15

Was marked for identification.]

BY MS. [REDACTED]

Q Which appears to be the meeting minutes from the Cover Oregon board of directors meeting held on April 25, 2014. Are you familiar with this document?

A No.

Q Okay. What do they appear to you to be to you?

A It's the minutes -- I'm sorry. What's your question?

Q What do they appear to be? This document appear to be to you?

A It's the minutes from the Cover Oregon board meeting on

April 25.

Q What year?

A 2014. And it includes the IT work group recommendation.

Q Okay. And what's the significance of April 25, 2014?

A It was the date that the IT and Cover Oregon folks had identified as sort of the go/no go for making a recommendation on moving forward with developing a path to have a working Web site in 2014. There's a shorter way of saying that.

Q Okay. And, Ms. McCaig, what decision was made by the board at this April 25, 2014 meeting?

A After the IT recommendation, the board voted to move to the Federal exchange as the mechanism to supply enrollment in 2014, in November of 2014.

Q Okay. Ms. McCaig, I would like for you to look at the first page again where it says, "board members present." It says, quote, "Ken Allen by phone, Liz Baxter by phone, Laura Cali, Dr. George Brown, Tina Edlund, Jose Gonzales, Gretchen Peterson. Cover Oregon staff present: Clyde Hamstreet, Mark Schmidt, Alex Pettit, Amy Fauver, Kelly Harms, Alyssa McClure." I don't see your name listed. Were you present at this April 25, 2014 board meeting?

A No.

Q Do you have any reason to believe that the board was coerced into voting to switch from the State exchange to the Federal technology?

A No.

Q Did you hold any decisionmaking authority in regards to the

technology decision?

A No.

Q And to your knowledge, who had the decisionmaking authority to switch from the State exchange to the Federal technology?

A The Cover Oregon board.

Q Okay. Thank you, Ms. McCaig.

So, Ms. McCaig, you mentioned that you have a personal relationship, and a professional relationship, with Dr. John Kitzhaber. So I wanted to ask you, John Kitzhaber, he's a former emergency room physician. Correct?

A Yes.

Q And Dr. Kitzhaber has always been focused on health care and healthcare reform. As you said earlier, he's really focused on affordable healthcare for Oregonians. Is that correct?

A Yes.

Q Are you familiar with Modern Healthcare? They're a leading source of healthcare business and policy news?

A No.

Q Okay. I'm handing you an exhibit marked 16.

[McCaig Exhibit No. 16

Was marked for identification.]

Ms. [REDACTED] Which is a page from a Modern Healthcare 2013 issue. It's a list of the 100 most influential people in healthcare?

Mr. [REDACTED] I think we've lost our Member.

Mr. [REDACTED] Stop the clock, and we'll stop the questioning.

[Recess.]

[2:23 p.m.]

Ms. [REDACTED] Go back on the record.

At the beginning of this deposition, my colleagues in the majority made a brief statement outlining the rules for this process. In the course of that statement, my colleague Mr. [REDACTED] stated that our rules do not permit members or committee staff from making an objection during a deposition. It is minority staff's position that our committee rules do not in fact prohibit members or staff from making objections during depositions. Thank you.

Mr. [REDACTED] I'll just clarify for the record, we're proceeding under the rules of the committee today, and rule 15(h), as I stated at the outset, requires that any objection made during a deposition must be stated concisely in a nonargumentative and nonsuggestive manner. And the witness may refuse to answer a question only to preserve a privilege.

The rule goes on to spell out what happens if you ultimately do refuse to answer a question and how the chairman would handle that. And so I think we're good to proceed unless you have anything else to add. Thanks.

Ms. [REDACTED] No, thank you.

BY MS. [REDACTED]

Q Great. Okay, Ms. McCaig, back on the record to ask you a couple of questions. So, and I'm not going to ask you questions about this. So you can put that to the side.

In his deposition before the committee, Mr. Bonetto was asked a

series of questions about personal email and appropriateness of his use of personal email and the appropriateness of State employees use of email. So we have already established here today that during your time with Governor Kitzhaber you were an unpaid adviser from February 2014 to September 2014. How'd you communicate with State employees?

A Primarily by private email.

Q Okay. And how did you communicate with Governor Kitzhaber?

A Primarily by private email.

Q When communicating through email, did you receive emails from State employees' personal email accounts?

A Would you ask that again.

Q When you received emails from State employees, was it through their personal email accounts?

A Both. Both private and public, but primarily private.

Q Okay. And did you communicate with the Governor and others, concerning Cover Oregon, using your personal email account in an attempt to keep your communications a secret?

A I only had one account.

Q Okay.

A I only had a personal account.

Q So is that a no?

A That's a no.

Q Okay.

A That's a no.

Q Okay. In fact, you maintained your emails from your

personal account that are relevant to Cover Oregon. Correct?

A I did.

Q Are you aware of any law that prohibited Oregon State employees from using personal email for work purposes?

A No. I'm not aware of any law which prohibited them from using personal emails for State purposes.

Q Okay. In fact, many state officials, specifically Governors, have used personal emails to conduct official business. Isn't that right?

A Yes, for years.

Q Okay. I would like to introduce an article into the record as exhibit 17. Give you a couple minutes.

[McCaig Exhibit No. 17

Was marked for identification.]

BY MS. [REDACTED]

Q Okay. This is an article from the Wichita Eagle titled, "Governor Sam Brownback also used private email address to communicate with staff," dated May 16, 2015.

I would like to read some lines from this article. So I'd like to direct your attention to page 1 of the article, paragraph one, and you can follow along with me as I read. The article starts, quote "Governor Sam Brownback uses a private email address to communicate with his staff and others, meaning that many of his communications will fall outside the bounds of the state's open records law." Did I read that correctly?

A Yes.

Q So it appears that Governor Brownback used his personal email to conduct official business. Is that right?

A It does.

Q And if you turn to page 2, paragraph two, which says, quote, "The Governor prefers to communicate in person or on the phone whenever possible, Holly said in the email. However, when he does use email, he uses a personal email account." And who is the Governor this article is referencing again?

A Brownback.

Q What's his full name?

A Governor Sam Brownback.

Q Okay. Back to page 2, paragraph four, the article says, quote, "The Eagle reported in January that Brownback's budget director, Sean Sullivan, had used a private email address to send a draft of the State budget several weeks before it was released to law makers." So according to this article, Republican Governor Sam Brownback was using his private email to discuss official business with his staff, and the staff was using personal email to discuss official business. Correct?

A Yes.

Q Okay. I would like to introduce exhibit 18 for the record.

[McCaig Exhibit No. 18

was marked for identification.]

BY MS. [REDACTED]

Q Which is an International Business Times article titled,

Chris Christie had two private email accounts. New Jersey Governor blocks release of any messages he may have sent to government officials, dated October 4, 2015.

Can you please direct your attention to page 2, paragraph two, and you can follow along with me as I read. Quote, "When I'm President of the United States, you'll have a right to know what your President is doing, and we have the obligation to be held accountable for what we're doing, he declared. Yet back in New Jersey, the Republican Governor's administration is asserting executive privilege to block the release of any emails he may have sent to state officials from two private email accounts." And who is this article about again?

A Republican candidate for President Chris Christie.

Q And that's Chris Christie who's a Republican Governor of New Jersey. Correct?

A Governor of New Jersey, yes.

Q Okay. And can you turn to page 4 of this article, paragraph 1. Says, "Christie said in March that, quote, 'There is no law in New Jersey that requires you to do State business on a State email account,'" end quote. So according to Governor Chris Christie, New Jersey law does not require official business to be conducted via State or official email. Right?

A According to that article, yes.

Q Okay. I would like to introduce exhibit 19 for the record.

[McCaig Exhibit No. 19

Was marked for identification.]

BY MS. [REDACTED]

Q Which is an article from the Texas Tribune titled Et tu, Rick? Perry has own private email trail, dated March 4, 2015. If you could please direct your attention to page 2, paragraph two, and follow along with me as I read. Quote, "In reviewing non-confidential documents related to the UT Board of Regents' investigation, and reviewing public testimony by Regent Brenda Pejovich of the UT Board of Regents, it's clear to me based on that review that then-Governor Perry was using a private email account to communicate with members of the board of regents." And who is Rick Perry?

A Is he currently Governor when this is done? No. He's former Texas Governor Rick Perry.

Q Okay. And if you can now move to paragraph six on the same page, page 2. The middle of the paragraph, it says, "The emails in which Perry is identified as only RP show him corresponding with a number of UT regents, as well as Jeff Sandefer, a prominent Republican donor and informal advisor to Perry." So this article also references then-Republican Governor Rick Perry's use of private email to communicate with his personal advisor, correct?

A Correct.

Q I would like to introduce exhibit 20 into the record.

[McCaig Exhibit No. 20

Was marked for identification.

Ms. [REDACTED] Which is an AP news article which is titled, Bobby Jindal aids use personal emails to strategize on Medicaid cuts.

[Discussion off the record.]

BY MS. [REDACTED]

Q Okay. I would like to introduce exhibit 20. Once again, it's, Bobby Jindal aids use personal email to strategize on Medicaid cuts. It's dated -- excuse me. It's dated December 10, 2012. I want to read a few direct quotes from the article. So can you direct your attention to page 1, paragraph one, and follow along with me as I read.

Quote, "Top officials in Louisiana Governor Bobby Jindal's administration used personal email accounts to craft a media strategy for imposing hundreds of millions of dollars in Medicaid cuts." And who was this article referring to?

A Bobby Jindal, who was Governor at the time. Yes.  
Louisiana Governor Bobby Jindal.

Q Okay. The beginning of the next paragraph says, quote: Emails reviewed by the Associated Press reveal that non-State government email addresses were used dozen of times by state officials to communicate last summer about a public relations offensive for making \$523 million in -- million dollars in healthcare cuts.

So this article references state officials using personal email to develop a communication strategy relating to a controversial healthcare decision, correct?

A Yes.

Q Thank you.

Please go to the third paragraph. The second sentence says, quote, "Though Jindal wasn't included in the email discussions reviewed

by the AP, his spokeswoman said the Governor uses a private email account to communicate with immediate staff." So this article is saying Governor Jindal uses his personal email to discuss state official business with his staff, correct?

A Yes.

Q And still on page 1, please go to paragraph seven which says, quote, "While Governor in Massachusetts, Romney used two private email addresses to communicate with aides, develop policy and political strategy and edit op ed articles and press releases." And which Governor is this quote referring to?

A Governor Romney of Massachusetts.

Q So Republican Governor Mitt Romney used personal email accounts to conduct official business, correct?

A Yes.

Q And the article also says on the second page, the first paragraph, quote: If government official -- if government business is conducted or information about it is sent or received on personal computers or through personal email accounts, that does not keep it from being the public's business. Do you agree with that statement?

A I have to read it again. Sorry.

Q It's okay. The second page, first paragraph.

Ms. [REDACTED] You have a different copy. It's actually the third.

The Witness. I got lost on the last one.

If government business is conducted or information that sent or

received.

BY MS. [REDACTED]

Q Okay. It says if government business is conducted --

A I agree with that, that it does not keep it from being the public's business. I agree with that.

Q Okay. Thank you.

I would like to introduce exhibit 21.

[McCaig Exhibit No. 21

Was marked for identification.]

BY MS. [REDACTED]

Q Which is an article from the Washington Post, which is titled, As Governor, Jeb Bush Used Email to Discuss Security, Troop Deployment, dated March 14, 2015. I'm just going to read a couple of quotes from the article, if you can follow along with me.

So I'd like to direct your attention to page 1, paragraph 18. It says, "Jeb Bush used his private email account as Florida Governor to discuss security and military issues such as troop deployment to the Middle East and the protection of nuclear plants." And who is this article referring to?

A Governor Jeb Bush of Florida.

Q Okay. And the last paragraph on page 1 says, quote, "As Governor, Bush used his account jeb@job.org to conduct official political and personal business, including plans to woo new businesses to the State, judicial appointments, and military matters, the email records show."

So this article is saying then-Governor Jeb Bush used his personal email to conduct high-level official business. Correct?

A Yes.

Q So, Ms. McCaig, I'll ask you again. Did you use personal email to communicate with Governor Kitzhaber and State employees in an attempt to hide anything?

A No.

Q And you produced emails relating to Cover Oregon to this committee. Correct?

A Yes.

Q And those were personal emails. Correct?

A Yes.

Q And are you aware that the Governor's other advisers and State employees, like Mike Bonetto and Governor Kitzhaber, all maintained and produced documents to this committee which included their personal email correspondence?

A Yes.

Q So is it fair to say that many Governors, including Republicans, view the use of personal email to conduct business, as appropriate, in the absence of a law or policy prohibiting the practice?

A Yes.

Q Okay. And, Ms. McCaig, were you a State employee in 2013?

A I was a contractor in 2013.

Q So that would be a no?

A I think that would be a no.

Q Were you a State employee in 2014?

A No.

Q Okay. So technically Oregon's public records law did not apply to you as a non-State employee. Right?

A That's correct.

Q Okay. But as we already established here, you saved your emails related to Cover Oregon. Correct?

A I did save my emails as related to Cover Oregon, and I also recognize that if a State official or a State employee was deliberating, or doing some activity, related to State business, that they had an obligation to keep their emails.

Q Okay. And this committee sent you a request for documents regarding any communication with Governor Kitzhaber. Correct?

A And everybody else in the world. Yeah, I mean, it was extensive.

Q And what do you mean by "extensive?"

A As I recall the letter, it was not related to Governor Kitzhaber. It was anybody I had any conversation with, personal or professional, related to Cover Oregon.

Q Okay. And Governor Kitzhaber would be one of those individuals?

A Yes. Yeah.

Q Okay. And this committee asked for documents regarding communications about the ACA, Cover Oregon, and healthcare.gov, correct?

A That's correct.

Q And you readily produced those documents to this committee, correct?

A To the limited -- readily was difficult with the technology. But yes, I did. I did.

Q Okay. In fact, you made four document productions which consisted of over 1,500 pages. Isn't that correct?

A That's correct.

Q And the committee never had to issue subpoenas for those documents, correct?

A That's correct.

Q And you never raised the prospect of asserting any executive privilege --

A No.

Q -- over those documents?

A No.

Q And you never withheld any documents or portions of the documents during your production to this committee, correct?

A The thing that was recorded in one of the transmittals to Sean, I believe, had to do with a pending lawsuit disclosure motion that was happening concurrently. And asked for graciousness out of the committee to do one first and then the other, and they allowed it.

Q Okay. And but you produced those documents --

A Oh, I did.

Q -- to the committee?

A Yes.

Q Okay.

A But there was a timing issue.

Q Okay. And you're here today testifying in the matter that's in full compliance with the committee rules, correct?

A Yes.

Q Okay. So, Ms. McCaig, I want to direct you back to some emails that you discussed in the last hour with my colleagues from the majority. Exhibit 13 in particular.

Okay. So this is a letter that you produced to -- or that you sent to John Kitzhaber with the subject line: Update. Can you tell me what this letter entails?

A This --

Q Or email. I'm sorry.

A This was an email that was summarizing a series of conversations that had occurred in the preceding days and was designed to provide him the most recent, up-to-date, information prior to a public meeting the next day where all of this was going to occur, both some of the content issues, as well as, a discussion of the potential calendar.

Q And who is "him" that you're referring to?

A Governor Kitzhaber.

Q Okay. And conversations with who?

A Mike Bonetto, Bruce Goldberg, and I assume Sean Kolmer. I don't remember who else was on those calls.

Q And so you received this information from those three individuals?

A Yes.

Q Okay. And there was a question about the last -- number 8, the regardless statement. I'll read it. Quote, "Regardless, the Cover Oregon board would hear and accept the Federal exchange recommendation April 22, 23, or 24," end quote. When you wrote this line, did you know that the Cover Oregon board would accept the exchange and vote on it on one of these dates?

A I knew that the presentation that was going to be made the next day, about the calendar, would include that the board should be meeting on the 22, 23, or 24. And given the topic that -- and the process that had been outlined, that it was likely that moving to the Federal exchange would be the recommendation.

But the important part about it was that a decision, whether it was to go or not go with the Federal exchange, needed to be made on one of those days in order to keep moving forward to meet the November 14 deadline for enrollment.

Q And you say likely, is that just predicting based on your conversations with other individuals like Mike Bonetto and Sean Kolmer?

A This was a recap, a summary, of their work to date, not my judgment.

If it's helpful, I don't know whether to interject this or not, but there were media accounts, I believe on April 1, on, potentially April 3, which were predicting that it was likely that Oregon was going

to go -- I mean it was not a secret that this was a topic that was being reviewed, revealed, dissected, and put back together. I mean, this was clearly a topic of discussion for the community of interest on this.

Q Okay. But when you wrote "regardless the Cover Oregon board would hear and accept the Federal exchange recommendation April 22, 23, or 24, you did not know that they would accept the recommendation?"

A I didn't know. And I can tell you that they ended up not meeting on April 22, 23, or 24. I didn't know that either. Right. This was to the best of my ability at that time, given the information that had provided predictive about what the discussion was going to be the next day, and the likelihood of possible outcomes and the calendar.

And they ended up meeting on a slightly different day, and they did end up going ahead and unanimously supporting the move to the Federal exchange. But something could have gone -- they could have gotten additional information from their IT folks and concluded that wasn't the way to go.

Q Okay. Ms. McCaig, now, you said earlier that you regretted using the particular pronoun "we." You used "we" in this email in the first line saying, "We don't see a path to save it." And also in exhibit 12 saying, "We will do further cost time reliability refinement." Who were you referring to when you said "we?"

A I think it was predominantly Mike Bonetto and me. And to some extent it included, depending upon who was on the call at that

time, Bruce Goldberg or Alex. And it was meant to convey to the Governor that it was his team who was proposing these things, not anybody else.

Q And who was providing the substantive information during those conversations and calls?

A Primarily if Alex was on, he was providing a level of detail. But Bruce Goldberg, and then Mike Bonetto, sort of in that order.

Q And what were you providing?

A Thoughtful and anticipatory kinds of questions that they might get as they were talking about these kinds of things. And as they discussed it, then recapturing it, in a way that would allow me to provide, and they knew this, the Governor the most updated, concise, boiled-down version of where we were and what the information was.

Q Okay. But you didn't provide substantive information?

A No.

Q Okay.

A I think I'm clear about these, that I'm not sophisticated in it, that I'm describing a general path, and that these are general updates and conclusions. They're not mine.

Q Okay. And you do make a point in this email in the first line of the April 9 email from exhibit 13, I'm not -- quote, "I'm not sophisticated in healthcare/IT talk, but I think I can describe the general path." So can you once again explain what you meant by that?

A That I was trying to give him a briefing of what I took from the calls and -- that I'd been part of that was what he could expect

was going to happen in the external world based, on the best information I was getting from Mike Bonetto and Bruce Goldberg, in anticipating that they were making a public presentation the next day.

Q Thank you. Okay. Now I'm going to go back to the questions that I was leading up to in the last hour before we ended.

The Modern Healthcare page which is exhibit 16. Ms. McCaig, are you familiar with Modern Healthcare?

A No.

Q Okay. So I handed you a page from Modern Healthcare's emagazine which is a list of the 100 most influential people in health care in 2013. And in 2013 Modern Healthcare named Dr. John Kitzhaber the second most influential person in American health care, just under HHS, or Department of Health and Human Services, Secretary Kathleen Sebelius and above Barack Obama, President of the United States. Is that right?

A Yes.

Q Okay. And you testified here earlier that Governor Kitzhaber had a 30-year career in Oregon dedicated to leading to affordable health care for Oregonians. It was the centerpiece of his agenda. Is that correct?

A Yes.

Q And you would consider health care and healthcare reform to be a significant issue for Kitzhaber's re-election campaign in 2010?

A Yes. In 2010?

Q 2010, yes.

A Yes.

Q What about his campaign in 2014? Were those significant issues, health care and healthcare reform?

A At that point there was only the Governor's office discussion of his agenda. And, frankly, when this occurred in October and November and then on through February, March, April, the size and the scale of Cover Oregon and its attention dwarfed the ability to have a thoughtful conversation about pretty much anything else related to health care or anything else. It was very difficult to push through and have a conversation in 2014 beyond Cover Oregon.

Q All right. Are you aware of the Kitzhaber administration's plan to build a no-wrong-door approach to addressing healthcare enrollment?

A A wrong door --

Q No wrong door.

A No wrong door?

Q Yes.

A No, I'm not.

Q You're not familiar with that. Okay.

Would you say that Governor Kitzhaber was excited about the plan to have the State exchange that he was creating with the help of Oracle?

A It was his life's dream to have this work.

Q Okay. So as you may be aware, Oracle claims that the State exchange, the Web site, was fully functional in February, but the Governor and Cover Oregon declined to go live with this Web site. Are

you aware of this allegation?

A I'm aware of the allegation, yes. I'm aware of the allegation.

Q And during Michael Bonetto's deposition, when he was asked, quote, "If the Web site was in fact fully functioning as Oracle claimed, wouldn't it have been politically favorable to go live with the Web site?" Mr. Bonetto responded, quote, "Absolutely." So you're saying that the Governor -- sorry. Do you agree with that statement?

A I do agree with that statement.

Q And so you said that this was the Governor's life's dream. What do you believe exactly by that?

A That he had assembled a great team, and when he ran for re-election in 2010, and part of the reason he decided to come back, because he was always a bit of an uncomfortable Governor, it was not always a natural fit for him, and he decided to come back because he really believed that the time was right for him to be able to work with the legislature and others to begin to make real progress on providing affordable health care in Oregon.

And it also was the nexus with his other great passion, which was the State budget and figuring out how to fundamentally redirect and minimize some of the costs that were dragging down the ability of the State to have funds to invest in other things that were equally important. So it was a packaged deal for him, in governing, that these two things would move forward, and he was looking forward to that in 2014.

Q And along those lines, Mr. Bonetto in his deposition also said, quote: To have a fully functioning Web site would be, quote: That would have been one of the best things for Oregonians, to enroll in health insurance, and, you know, it would have been a very big political win to have a functioning Web site, end quote. Do you agree with those statements by Mr. Bonetto?

A I agree with those statements. And I just have to heap on. It is just so unfathomable to me that anybody would believe that it would be in our best interest to not have a working Web site. It just begs the question of logic: How could that possibly be? This was important to the Governor. It was important to the taxpayers. It was important to the Federal Government. It was in everyone's best interest universally, except for one entity, that we move forward with a working Web site for Oregonians.

Q Okay. So it's clear -- what entity would not -- you said there -- except for one. There was one entity. Who would that --

A Oracle.

Q -- be?

Okay. And why would you say that?

A Because I never had heard that there was ever the possibility in February in a working Web site. The first I heard of that was in their lawsuit in August or September. Now, maybe others had, but that -- in none of my emails, in no conversation that I was ever part of was there any discussion that there was a working Web site in February. It's not in the IT materials. It's nowhere.

So if anybody thought that was credible, I have to imagine the IT community and others would have picked up on it in a heartbeat. When the committee decided -- the Cover Oregon board decided to go to the Federal exchange, there was then, I think, a recognition that there were other actions that might be necessary to move forward in terms of reconciling the contract dispute that existed between Oracle and the State of Oregon. So I think that was still outstanding when the -- after the Cover Oregon board decided to go forward.

Q Right. And so for Oracle to say that the Governor would not go live with a functioning Web site, it makes no sense to you, correct?

A It never has made any sense to me.

Q So is it fair to say that it would have been politically favorable for Governor Kitzhaber to keep the current technology and fix it?

A The Governor wanted a working Web site.

Q Right. But this Web site was not working.

A And this Web site wasn't working.

Q But would it have been politically favorable to stick with the current Web site and fix it?

A And if politics means would it have met the criteria of schedule, cost, risk, been an effective way to move forward, absolutely it would have been politically the right thing to do. But it didn't matter. It wasn't there. There was no functioning Web site in October, November, December, January, or February.

Q Okay. And, Ms. McCaig, in your opinion, was the decision to switch from the State exchange to the Federal technology politically motivated?

A No.

Q Okay. And what was it based on?

A Facts and information and technical evaluation about the cost and the schedule and the risk. All of those things were the criteria which the decision was made on, and ensuring that we had a working Web site, we -- ensuring that there was a working Web site by November of 2014.

Q And if I understand your testimony here today, you did not participate in that decision. Correct?

A I did not participate in that decision. The Cover Oregon board independently makes those decisions.

Q And what would you say to anyone who would believe that Governor Kitzhaber believed that the decision that Governor Kitzhaber politicized the decision related to Cover Oregon?

A I think they would have a motive for wanting to say that.

Q Okay. And do you think that he did?

A No. No. Whoever would say that would have a motive for wanting to say that about Governor Kitzhaber. Is your question whether he had a --

Q But do you believe that he politicized the decision?

A No. He was totally driven by the agenda of providing his lifelong commitment to affordable health care, reducing healthcare

costs, and reshifting the dynamics of the State budget. It was his passion and his reason for running for re-election. It was what he cared about.

Q Okay. Ms. McCaig, again, who is Kevin Looper?

A He was an independent consultant who had a contract with -- he had one of many contracts. He had many contracts, and the Kitzhaber campaign was one of his contracts.

Q And who is Scott Nelson?

A Scott Nelson was a former employee of the Governor's office who left the Governor's office in the same time period I referenced earlier, sometime in October, November, December, and did some short-term consulting for the Governor through the campaign, on the payroll of the campaign.

Q And who is Tim Raphael again?

A The communications director for the Governor through November of 2013. And then left the Governor's office and became a communications consultant.

Q Okay. And who is Mark Weiner again?

A Mark Wiener is an independent communications and political consultant who also had a contract with the Kitzhaber campaign, one of many. He had many other contracts.

Q Ms. McCaig, I'm going to hand you exhibit marked 22.

[McCaig Exhibit No. 22

Was marked for identification.]

BY MS. [REDACTED]

Q It's the complaint for a case designated Oracle America, Inc. versus Kevin Looper, Patricia McCaig, Scott Nelson, Tim Raphael, and Mark Weiner. Are you familiar with this document?

A I am familiar with this document.

Q Oracle defined you, Kevin Looper, Scott Nelson, Tim Raphael, and Mark Weiner as the defendants in this case. Correct?

A Correct.

Q And in this case, Oracle alleged that you and four of the defendants played a major role in Oregon's decision to abandon Cover Oregon, which is the State's health insurance exchange, and instead go with the Federal exchange. That case was later dismissed. Correct?

A It was.

Q So let's discuss some of the specific allegations in this complaint.

A Which they have appealed.

Q Right. Okay. So if you can turn to page 4, line 10. Oracle claimed -- sorry. Are you there?

A Yes.

Q Okay. Oracle claims that you and the other defendants in this case, quote, and this the line 10, "Orchestrated an effort to induce Cover Oregon, an independent public corporation, to transition Oregon to the Federal exchange and foreclose any possibility that Oregon would operate its own exchange in the future in order to help Governor Kitzhaber in public opinion polls and bring an end to public

discussion regarding Cover Oregon's failure." Did I read that correctly?

A You did.

Q Ms. McCaig, are you aware of this allegation?

A I am aware of this allegation.

Q And if you would turn -- go the line 15, Oracle also says, quote, "Defendants undertook a concerted effort to use the access and influence that Governor Kitzhaber enjoyed to insert themselves surreptitiously and improperly into the nonpublic internal decisionmaking of the independent public corporation Cover Oregon." Is that true?

A Is the statement true?

Q Is the allegation true?

A No.

Q Were you involved in the decisionmaking --

A No.

Q -- of Cover Oregon?

A No.

Q Were you involved in the decisionmaking that the -- of the Cover Oregon board?

A No.

Q If you turn to line 18 on the same page 4 --

A I'm sorry.

Q -- Oracle further says, quote, "Defendants failed to disclose to Cover Oregon officials that they were paid campaign

operatives acting for political purposes on behalf of the Governor's re-election campaign rather than policy advisors who act in a manner consistent with Cover Oregon's objectives." Did I read that correctly?

A You did.

Q So, Ms. McCaig, just to confirm again, you were an unpaid volunteer advisor to the Governor and his office between --

A Correct.

Q -- February and September 2014, correct?

A Correct.

Q And when were you paid by the campaign?

A Starting, I believe, in September of 2014.

Q And when was the decision made by the Cover Oregon board to switch from the state exchange to the Federal technology?

A The end of April 2014.

Q Okay. So that decision was made prior to your -- 4 months before you began receiving payment from the campaign, correct?

A Yes. Yes.

Q So let's go to page 5, line 14. Oracle alleges that the defendants -- actually, did you, Ms. McCaig, as Oracle claimed on line 14, quote "attempt to" or did you induce Cover Oregon to serve the Kitzhaber campaign's political and self-interested goal of winning reelection rather than carrying out Cover Oregon's statutory duties and obligation to take actions for the benefit of the citizens of Oregon?

A I don't even know what that means. Let me -- attempt to induce Cover Oregon to serve the Kitzhaber campaign's -- no. And self-interested goal of winning reelection. No. Rather than carrying out Cover Oregon's statutory duties and obligations. So one was traded out for the other? No. No.

Q And what was the decision based on, the decision to switch from the State exchange to the Federal Government technology by the Cover Oregon board? What was that based on again?

A An independent review of cost and risk and schedule by people who were recruited by the Cover Oregon board and the Cover Oregon director who had IT background and experience.

Q Okay. And the decision to the Federal exchange was the least costly, correct?

A The least costly and provided the least risk and the greatest opportunity to meet schedule for the November 2014 enrollment.

Q Okay. And also on page 5, line 1, Oracle alleges, quote: Defendants used personal pressure and their influence which derived from their relationship with the Governor, and the Governor's position of trust, as chief executive of the State, and a public servant to the people of Oregon, to direct and manipulate the decisionmaking at Cover Oregon as part of an effort to publicly and falsely deflect blame onto Oracle and ensure that Cover Oregon would decide to discard the Oracle technology, break ties with Oracle, and abandon its efforts to build or operate a health insurance exchange, HIX. Is that true?

A No. That's not true.

Q Did you personally pressure or exert influence over Cover Oregon board members to make or manipulate a decision to switch?

A No.

Q Okay. And did you interfere in any way with the technology work group's review --

A No.

Q -- of the State technology alternatives?

A No.

Q And did you coerce any members of the technology work group to make them come to a conclusion to switch?

A No.

Q And as we said it before, and I just want to clarify it, Judge Kantor dismissed these claims brought against you and the four defendants by Oracle. Correct?

A That's correct.

Q He actually made a few statements. In his opinion, that I would like to enter into the record as exhibit 23.

[McCaig Exhibit No. 23

Was marked for identification.]

BY MS. [REDACTED]

Q It is the Opinion and Order Granting Special Motion to Strike for Case No. 15CV04705, Oracle America, Incorporated versus Kevin Looper, Patricia McCaig, Scott Nelson, Tim Raphael, and Mark Wiener. Are you familiar with this document?

A I am.

Q Okay. I'm going to read a couple of statements in the opinion. So you can just follow along with me. You can turn now to page 10 of the opinion order, to the last paragraph. Judge Kantor writes, quote, or wrote, quote: Each defendant is a campaign consultant whose focus was on the public image of former Governor Kitzhaber in the context of a fight for reelection. It is not at all surprising that they would be part of a team that met regularly to discuss Cover Oregon. Do you agree with Judge Kantor's statement?

A No, actually, I don't.

Q Okay. Why don't you agree?

A I think he wasn't diving very deep into the difference between advisers and campaign consultants. And sort of the -- the easiest way to describe this all was a campaign consultant and somebody who was concerned about the fight for reelection. I don't think that was central to what the issue was that he was addressing.

Q Okay. So what would be the difference between -- you said the campaign consultant and other individuals who were involved? You said the judge did not get that, correct?

A Well, I think the judge was focusing on -- the name given to that team is insignificant. I think that was the point, that whether it was narrowly defined as a campaign team or more broadly defined as unpaid advisers. It was insignificant because the work they were doing -- the work we were doing was appropriate regardless. That was the point he was making.

Q Okay.

A That people, whether they were campaign consultants or others, had every right to be meeting and discussing these topics.

Q Okay. So let me ask a question here about the use of the term "campaign consultant." I just want to be clear on that.

A Sure.

Q So you believe the judge got that wrong, that label wrong, to label all of the defendants as campaign consultants. Correct?

A It's a personal thing with me. Yeah. I do.

Q Okay. So what would have been the most accurate term to use?

A And I think in my response to this I used an unpaid adviser to the Governor.

Q So instead of campaign consultant, it should have been unpaid adviser?

A Yes.

Q Okay. Also so now if you can turn to page 18 of the opinion, the end of the first paragraph, Judge Kantor says, quote, "The court finds plaintiff's excellent argument totally unsupported by the evidence provided." By "plaintiff's," did Judge Kantor mean Oracle?

A Yes.

Q Okay. And on this page, in the second paragraph, Judge Kantor also says, quote, "There is simply not sufficient evidence linking the decision by Cover Oregon to choose the much less expensive Federal exchange over continuing a business relationship with plaintiff and any efforts of interference by defendants to support a

probability that plaintiff can establish causation." Do you agree with that statement?

A Yes.

Q Okay. He further continues on page 18, the last paragraph. A sentence says, quote, "Additional, the cost of continuing with plaintiff was several times higher than the cost of transitioning to the Federal exchange. None of these facts were the manufacture of defendants or occurred as a result of action by defendants." Do you also agree with that statement?

A I do.

Q And, Ms. McCaig, if you can turn to page 20 of the opinion and order where Judge Kantor summarizes his findings. The last paragraph says, quote, "There is no evidence of any interfering actions taken by defendants Weiner, Looper, or Nelson. Defendant Raphael allegedly, but merely, lead meetings. Defendant McCaig has the most specific evidence presented against her of all the defendants, but it is not sufficient to support plaintiff's allocations. Plaintiff has not shown the abrupt change of the Cover Oregon leadership from a commitment to continuing a relationship with plaintiff to a termination of that relationship in favor of using the Federal exchange." Do you agree with that statement?

A I do.

Q And do you believe that Judge Kantor's opinion should be given significant weight and consideration?

A I do.

Q Do you agree with the decision of the court to dismiss Oracle's case against you and the other four defendants?

A I don't have \$33 million. Yes. I do.

Q And, Ms. McCaig, I just want to ask you again, did you interfere in the decisionmaking process regarding the State selection of the Federal technology?

A No, I did not.

Q And to your knowledge, did Kevin Looper, Tim Raphael, Scott Nelson, or Mark Weiner interfere in the State's decision to choose the Federal exchange technology?

A No.

Q Okay. All right. Thank you. I'll go off the record.

[Recess.]

[3:27 p.m.]

Mr. [REDACTED] Rule 15(e) requires that a member of the committee is present for all questioning during a deposition. It's my understanding that the witness is willing to waive that requirement and proceed with questioning. So I just want to confirm for the record that that's the case.

The Witness. That's correct.

Mr. [REDACTED] Okay. Thanks. [REDACTED] go ahead.

Ms. [REDACTED] Sure.

BY MS. [REDACTED]

Q I'm going to introduce exhibit 24 into the record.

A Okay.

[McCaig Exhibit No. 24

Was marked for identification.]

BY MS. [REDACTED]

Q Is this an email exchange from Sean Kolmer to you, Mike Bonetto, Tim Raphael, and Dmitri Palmateer from April 16th, 2014?

A It's to Mike Bonetto. And we're copied, yes.

Q And in the email, Sean Kolmer says "budget, talked with BG yesterday." Is BG Bruce Goldberg?

A I would assume so, yeah.

Q And here is where I think we are. And then if you skip down to number 3, he says "Bottom line, we should not have AP only present the IT budget as a reason for the decision. He should get those 20 percent estimates to also use. And then it can be part of the whole

package for CO board." Who is AP?

A I imagine it's Alex --

Q Pettit?

A -- Pettit.

Q And so do you know what Sean Kolmer meant by we should not have AP only present the IT budget as a reason for the decision?

A No. I don't.

Q Did you talk with this group about the Cover Oregon budget?

A And he should get those 20 percent estimates to also use. And then it can be part of the package to, for the Cover Oregon. No, I don't know what this is about.

Q You don't recall this email or a conversation about the status of the Cover Oregon budget?

A No. It feels like it was probably a conversation other people were having and they cc'd us.

Q Do you recall having any conversations about the Cover Oregon budget in late April?

A Yes. In April, I don't know where it was that, it may have been part of the PowerPoint presentations. Somewhere there was a conversation about what the Cover Oregon budget was.

Q Do you know why this group, or Sean Kolmer is deciding what Alex Pettit presents as the reason for the IT decision?

A Well, he's the healthcare adviser. And I think --

Q Healthcare adviser to --

A -- to the Governor. And I think -- was he on the board?

I don't recall. No, I think this is all within the context of people working through options and solutions and trying to figure out what was relevant and what wasn't.

[McCaig Exhibit No. 25

Was marked for identification.]

BY MS. [REDACTED]

Q Okay. Thank you. I'll introduce exhibit 25 in the record.

A Uh-huh. I remember this email.

Q Did you send this email on April 24th, 2014 to John Kitzhaber and copying Jan Murdock, Tim Raphael, Mike Bonetto, and Sean Kolmer?

A I did.

Q And did you send this email at 8:44 a.m. according to the time stamp --

A Yes.

Q -- on the email? On April 24th, 2014, do you recall what time the technology advisory group met?

A Probably later in the day.

Q Okay. And so do you know if the IT committee had already met when you sent this email?

A I doubt it. I think this was anticipating their actions and being prepared.

Q Okay. And then, so, in the email, you only, you discuss you might be asked today about the recommendation from the IT committee to move forward with using the Federal Web site technology. And so how did you know that was going to be the IT committee's recommendation

on April 24th?

A I didn't know they were going to make that decision, but all of the indications were that that was likely.

Q Okay. And you didn't feel the need to address the possibility what the Governor should say if he was asked something, if there was a different decision made?

A No. I didn't. I thought it was very likely that that was going to be the outcome based on all of the press coverage on it, on advice of Mike Bonetto and Bruce Goldberg, that that was the likely outcome.

Q Okay. And then under, you say, "miscellaneous, number one, if asked about the possibility of retaining some elements of control in the State exchange, be optimistic working with our Federal partners, but details still being worked out. FYI, this is and will be a win for us. But it is premature to try to make it a win today or tomorrow. We don't know enough about costs, et cetera. We want a big clear win on it within the next few weeks." What do you mean it is a win for us?

A That if the State is successful in navigating this with the Federal Government, that it is a win-win for everything the Governor was trying to achieve with health care, that it allowed some autonomy for Oregon, that it provided still some branding that was Oregon-centric, that it was good for his agenda.

Q So you considered the potential recommendation by the IT committee on April 24th to be a win?

A You were asking me about the possibility of retaining some of the elements of control, the State exchange --

Q Okay.

A -- and why would that be a win. That was the part about the Federal part. I didn't, I didn't, I didn't know enough to know whether going to the Federal exchange was a win or not. I think making a decision was a really great thing. But this piece you asked me about was what was it related to about keeping some elements of the State control. And that would be a positive thing for the money that had been invested in Cover Oregon at the time, and continuing to keep the brand of Cover Oregon alive if it were possible.

Q What did you mean we don't know enough about the costs?

A Nobody knew enough about what it would cost to -- number 2?

Q Number 1, still.

A Yeah, I think just that, that people didn't know enough about the costs. And all of that was part of the information that had to be gathered before we talked about it any further.

Q They didn't know about the costs for what?

A I don't know. What were the elements of control? Something about portals and --

Q If you don't recall, that's okay.

A Yeah, I really --

[McCaig Exhibit No. 26

Was marked for identification.]

BY MS. [REDACTED]

Q Thank you. I'm introducing exhibit 26 into the record.

A What was the date of this one? Oh.

Q Is this email an email from John Kitzhaber to you and Michael Bonetto on April 27th, 2014?

A Yes. I'm copied on it.

Q So it's an email from John Kitzhaber to Michael Bonetto copying you --

A Yes.

Q -- on the email. Kitzhaber says in the beginning of the email, "First, let me be clear that I am totally in support of our decision to go to the Federal Exchange and the way we rolled it out."

A Uh-huh.

Q What did he mean by our decision to go to the Federal exchange?

A I think he met the State.

Q Do you know what he meant by that he is totally in support of the way we rolled it out?

A I think he felt that it was described and communicated effectively.

Q If you look at the fourth paragraph down, Kitzhaber says I do not want to be naive going into the general election. But I also do not want us to make short-term political decisions at the expense of our policy agenda.

A Uh-huh.

Q Was -- did Kitzhaber have conversations with you about connecting the election to the IT decision? Why is he concerned that you may be naive going into the general election?

A He didn't want to be naive going into the general election. But I also do not want us to make short-term political decisions at the expense of our policy agenda. The policy agenda is the only reason I'm doing this again. And I'm willing to burn some political capital on this. And I don't want the culture in Cover Oregon to let go of our vision either. I would argue that talking about a pathway to shop would be good politics because of the need and popularity of small business.

My recollection of what this is about is that the media around the decision, that there was a portion of the media that was moving a message when we decided to go to the Federal exchange, that Cover Oregon was done, that it was, in fact, there were headlines that said Cover Oregon was abandoned. I think it was that kind of thing. And this is what I think this was relating to. And there were different elements within Cover Oregon, shop was one of them. I don't know what shop stands for, but I remember it was part of the discussion out there.

And I think the Governor took it to heart and was committed to keeping the hope he had alive about what Cover Oregon could do. And he did express in other ways more than once that he didn't want the decision to go to the Federal exchange to be perceived that he was giving up on Cover Oregon. And --

Q Did he have conversations about moving to the Federal

exchange potentially being a short-term political decision?

A No. I don't think that's the part he's referring to is that going to the Cover -- the Federal exchange as a short-term political decision, that we're completely giving up on Cover Oregon. It goes back to this, this piece about whether there was a way to keep some unique imprint that was Oregon was really important to him. And he didn't want to sacrifice that because all of the political darkness out there about Cover Oregon.

Q Did you have an opinion of what happened to Cover Oregon after it was switched to the Federal exchange?

A It was, it wasn't even part of the conversation that I was involved in until July, maybe, where people started discussing the different elements and what could happen next.

Q Did you have an opinion at that point about what happened to Cover Oregon?

A Eventually, the Governor arrived at a conclusion, a position that he thought that the elements of Cover Oregon would be best served -- this might have been in August -- by looking at -- identifying the specific pieces and those that would fit well could be moved to existing State agencies, and that it would be a more effective way of bringing more oversight from the legislature and others into what was left of Cover Oregon.

Q Did you make any recommendations to the Governor regarding the future of Cover Oregon at that point?

A I don't recall. I know I prepared a talking point document

for him that he wanted -- he asked me to do. Because he was going to call Cover Oregon board members individually and share with them his position on -- and how he arrived at it, about the future of Cover Oregon. And, by the way, they disagreed and didn't do it.

Q Did the Governor meet with Cover Oregon board members regularly, or have conversations with them --

A You know, I really didn't keep track of when he was meeting with them. So I don't know that. I know he did meet with them, but I don't know when. And I think they were reaching out to him as well.

Q For exhibit 26, so earlier you testified to, when [REDACTED] was asking you questions, that politics did not impact Cover Oregon decisions, correct?

A Yes, I did.

Q And this email references general election and good politics. How do you reconcile your statement with this email?

A Oh, I think that one indication or two or five out of thousands of documents during one of the most heated political and media-related events in Oregon's history, that there are a few times that there's a recognition doesn't, in any way, indicate that any of the decision-making around it was political.

[McCaig Exhibit No. 27

Was marked for identification.]

BY MS. [REDACTED]

Q I'm introducing exhibit 27 into the record. Just for when you're reading, I'm only going to cover the first page of the email

exchange, not the attachment.

A Okay. So I should start at the bottom. Okay. Uh-huh. Okay. The creep thing. Right. Right. Oh. Okay. Yeah. Okay.

Q Okay. Is this an email exchange between you, Sean Kolmer, and Michael Bonetto from the end of April 2014?

A It is.

Q I want to direct your attention to the bottom of the first page where, on April 28th, 2014, Sean Kolmer writes, "Apologies for the call tonight. Not as tight as needed to be and understand the frustration of what you all heard. Will put something for us to review the next time we get together versus the free form format that does not lend itself to clarity of what we have already agreed we were doing and what we are doing moving forward." Do you recall what happened during this call that he's apologizing for?

A It was unfocused, unproductive. I don't remember what the topic was, but it wasn't moving through an agenda. I was late. I want to say it was an 8:00 o'clock call. People were tired. It had been a really, really, really busy week. And it was just kind of a revolving, not very productive call.

Q Was the telephone conversation about Cover Oregon?

A Yes. It was something about --

Q The topic was Cover Oregon?

A Yes. Yes.

Q Do you recall who was on the call or some of the people on the call?

A At a minimum, it had me and Mike Bonetto on the call. I don't recall if there were other people on it at 8:00 o'clock at night.

Q Then you respond on April 29th, yes, I am very worried about the creep. Mike --

A I think you need to talk to the Governor again. Is that where you are?

Q I'm sorry. "Mike, I think you need to talk to the Governor again if possible before he talks to George Brown. May be too late. I do not think we are/were clear enough on the future of Cover Oregon. I regret that I wasn't more direct with him on the call." Do you know who you weren't direct with on the call?

A Oh, the Governor I think.

Q So the Governor was also on the call?

A I don't think it was this call. It wasn't this call.

Q It was a different call you had?

A I think it must have been a different call. He wasn't on the call at 8:00 o'clock at night.

Q Okay. But you regret that you weren't more direct with the Governor?

A Uh-huh.

Q What were you not direct with about to the Governor?

A Probably on the process and timing of the discussion related to future of Cover Oregon.

Q So what is the creep that George Brown might discuss with the Governor? What do you mean by "the creep"?

A That, whether there was some ability or hope or opportunity to create a different kind, some different kind of entity, I really don't know, out of Cover Oregon that could address one of their, one of their stakeholder groups, that there was some -- I don't remember what constituency it was within Cover Oregon because I don't know all of the different people who were users of Cover Oregon, but there was one constituency that I think some of the board members were interested in trying to keep a portion of it alive and different.

Q A portion of the technology alive?

A No. I don't think, I don't know whether it was about the technology. It was about the way it was served. It wasn't about Oracle, I don't think it was about that. I'm sorry, I don't --

Q So you don't know what George Brown wanted to keep the door open regarding?

A I do recall that there was some urge, some interest out of George and a couple of them on trying to find a way to keep a part of Cover Oregon alive in a different way. I really do remember that.

Q When you say "George has heard our collective message about that, but even at board expressed his view that we should keep door open." So when you say at board, do you mean at the --

A I didn't say that.

Q On April 29th, you say --

A No. I thought, so I thought that was Sean Kolmer saying --

Q Oh, that's Sean Kolmer. So Sean Kolmer, you're correct, sorry. Sean Kolmer says --

A Sean was the Governor's healthcare adviser. He was at the board meetings. He was the guy who dealt with the board. So he would know this.

Q On April 29th, when he says "George was heard our collective message about this, but even at board, expressed his view that we should keep the door open," Sean Kolmer was referring to the April 25th Cover Oregon board meeting?

A I bet, yes. Uh-huh. So it's on the record whatever that discussion was on the 25th. So whatever that discussion was, then it occurred in that board meeting. And he's reporting on it. And he's saying George is going to go talk to the Governor about it, which is not inappropriate.

Q And then on April 29th, you also emailed the group saying "OBP just announced that Liz Baxter on think out loud. I thought we put a stake in that in Friday and Clyde was going to call her."

A I was part of a call on Friday with everyone about the -- so it was Clyde Hamstreet was on the call. Mike Bonetto was on the call. I think Sean was. And this was all related to the communications after the Cover Oregon board had made their decision on the Federal exchange. And it was, you know, I can't think of many things there was more media around than there was this going to the Federal exchange. New York Times was there; Wall Street Journal was there; NBC was there. It was incredible. And as part of that, I didn't suggest this, but as part of it, there was a collective agreement out of the group that Clyde was going to be the only spokesperson about the board's decision.

Clyde and his team had decided that, that they didn't want Cover Oregon board members going off randomly talking to the media, that they were trying to manage that activity. And I heard on the radio that she was going to be appearing on a radio station. And that's what resulted in the, I thought this was done, I thought this wasn't going to happen.

Q Do you know why they wanted it to be structured in that way and not having the board members going to talk to the media?

A I don't. I think Clyde really embraced being the spokesperson for Cover Oregon, and wanted -- wanted to -- wanted that role. And I think the Cover Oregon board members probably were tired of the scrutiny they had been getting from the media. So I don't think it was a hostile thing at all.

Q Were you familiar with the structure of how the Cover Oregon board was -- whether the executive, Clyde Hamstreet, served as the interim director of Cover Oregon, did he serve at the pleasure of the board?

A He was hired by the board, yes.

Q Okay.

A And then I asked whether Clyde tried or not.

Q I think we've already covered this a little earlier, but I just want to ask, do you have any insight into how Alex Pettit was chosen to serve as the interim chief information officer of Cover Oregon?

A None.

Q You said that the Governor's office was involved in the

decision to hire Clyde Hamstreet at Cover Oregon?

A Yes, to some extent they were. They -- the decision to hire Clyde was the board's. But the Governor had reached out to Clyde. So Bruce Goldberg had been asked to leave. So there was a leadership vacuum at Cover Oregon. They were facing a whole series of structural, lots of staff changeover and some financial difficulties. And the Governor called Clyde, who he had met in other circumstances, about possible names for the board to consider. And I think out of that, he thought that Clyde might be the right candidate and went to the executive, chief executive officer of the State and to the board chair and handed him over, Clyde over to them to have a discussion about whether there was anything mutually interesting to the people involved. And then they took it from there.

Q Okay. Thank you. Did you work with Clyde Hamstreet while he was worked at Cover Oregon at all?

A Some.

Q And when you say some, when did you work with Clyde Hamstreet?

A Primarily when he requested it.

Q So what did you work with Clyde Hamstreet on regarding Cover Oregon?

A He -- he called and asked to meet with me about his presentations to -- he was going to do some sort of introductory walk-through with a bunch of legislators, and maybe the press. I'm not sure whether the press was there at the same time. And he called

and said he was going to do it. I was concerned that he wasn't prepared for the intensity of the questions he was getting. He was a businessman who led a relatively important but quiet life. And I think the attention around this and the intensity of the questions could have been surprising to him.

So I -- he had asked for, he had asked for some advice. And so after talking to him, I thought he needed some advice. And I gave it to him.

Q Where did you get the information that you gave to him as advice? Who did you get that information from?

A Oh, about the -- how he communicated about himself? That was all about me. That came from me. It wasn't about Cover Oregon. It was about how to present himself on what he had done in the past and answer those kind of questions. It was basic communication, executive director stuff.

Q And when you were advising Clyde Hamstreet, were you working in your capacity as an unpaid adviser to the Governor or --

A He called me probably in that capacity, yeah.

Q And are you familiar with the report put together by Clyde Hamstreet during his time at Cover Oregon?

A I am.

Q Did you have any conversation with Clyde Hamstreet about that report?

A No, I didn't.

Q Did you have any conversations with Michael Bonetto about

the Hamstreet report?

A I did. There was some back and forth from others about when it was going to be released and how it was going to be released. I don't think I participated in weighing in on that.

Q When did you learn about the Hamstreet report?

A I have no idea.

Q Do you remember vaguely a month or --

A I know he left in July of, July, middle of July of 2014. I'm not sure when the report, whether the report was as he was leaving or before or after, but it was a final report so it was somewhere around there.

Q Did you have any conversations with John Kitzhaber about the Hamstreet report?

A I don't think so.

Q So you don't recall any conversations with --

A I don't recall having a conversation about it.

Q What were your thoughts on the Hamstreet report?

A I don't think I reviewed the Hamstreet report until there was a conclusion drawn by a press person about a comment that Clyde made that it applied to me. And that was the first time I knew about the comment. And I don't think it applied to me. And the comment in the press was taken out of context.

Q So were you involved in any discussions about whether Clyde Hamstreet would issue a written report or give an oral report?

A I know that there was a discussion about whether he would

or not. I don't recall having any, any interest in that topic.

Q Do you know of anyone who attended the oral report given to Clyde Hamstreet?

A Did he give an oral report? I thought he gave a written report.

Q His written report was a draft report. So he had an oral report.

A Oh, yeah, no, I don't know who, I don't recall knowing who met with him. I didn't.

Q Okay.

A If you interview Clyde, I hope you will ask him whether that applied to me. Because I don't think it did. I really don't. He kind of liked me.

Q If what applied to you, I'm sorry?

A If that quote applied to me --

Q What quote?

A I think there was a quote about politics --

Q Do you remember what that --

A -- in Federal -- well, you guys used it in it your letter, the letter that you sent me.

[McCaig Exhibit No. 28

Was marked for identification.]

BY MS. [REDACTED]

Q I'm introducing exhibit 28 into the record. It's an email with a memo on the back.

A October 14th?

Q October 14th, 2014.

A Oh, I didn't write this.

Q Do you know who wrote this memo?

A So how did I get this? And who am I sending it to?

Attachment, forward, I didn't write this. This is not, I wouldn't have referred to him as Mr. Hamstreet's finding. So somebody drafted language out of the Governor's office to respond to the report and sent it to me. Begin forwarded message.

Q I was wondering if you remembered anything about this memo --

A No.

Q -- or where you got it from?

A No. I don't.

Q You did not draft this report about the --

A No. I didn't draft this. This is not me. That's not my language. I didn't draft this. I think it was drafted in response to some inquiry or something in the Governor's office, and they sent me a copy of it. But, no, I didn't, not me.

[McCaig Exhibit No. 29

Was marked for identification.]

BY MS. [REDACTED]

Q Thank you. I'm introducing exhibit 29 into the record.

A What is this? Oh, yeah. Yes.

Q So is this an email exchange between you and Clyde Hamstreet

on July 8th, 2014?

A It is.

Q At the bottom of the email exchange, Clyde Hamstreet emails, I'm guessing, Mike Bonetto and you?

A Right.

Q And he says he's attached a draft of questions he proposes that be asked in a survey. Why was Clyde Hamstreet sending you draft questions that he proposed were asked in a survey for Cover Oregon in July?

A I have no idea. And this was, I have no idea, other than I think he knew that I had a background in doing polling generally, and how to do this. I thought the whole idea of Cover Oregon doing a poll was just the stupidest idea on Earth.

Q Why did you think that?

A I don't think -- and they hadn't thought about what they were going to do with the information, how they were going to use it, who was going to pay for it, and all of the stuff that's going on, that they're spending money on a poll, I never looked at the document. I have no idea what it was asking. And the elevated interest around Cover Oregon in July, when there had just been this debacle and series of decisions, it's unlikely they could get any valuable information at that point. I don't know who got to him or why he wanted to do it. But it made no sense to me. And without ever knowing what it was for, it made no sense to me.

Q So you responded that Clyde, you got my text last Monday --

A It's a bad idea.

Q So you said it was a bad idea without looking at the document --

A I didn't even look at the document.

Court Reporter. One at a time.

Mr. [REDACTED] Please try to let each other finish.

BY MS. [REDACTED]

Q So you said this was a bad idea, but you don't, you didn't look at the document?

A It was hard to understand from my perspective. Again, I wasn't a decision maker. He reached out to me and wanted my opinion on it because I think he valued my ability and communications and all sorts of other things. And there was no way I could understand where the money was going to come from for it, who was going to pay for it, why it would be justified in front of the taxpayers right now about Cover Oregon doing a poll. It was the last kind of public scrutiny questioning and doubt about what they were spending their time and energy doing. What it was testing was irrelevant to me. It didn't matter because it was not a good idea.

Q So do you know if the poll was ever conducted?

A I don't think it was. If it was, and none of those bad things happened, then I was wrong.

Q And say "Clyde, you got my text last Monday." And so when he sent this email, did you initially reply to him in a text message?

A I must have.

Q Did you often text message Clyde --

A No. I didn't often text then actually. I text more now. Who did the "Do you have time to meet?" Because I think that's from Clyde.

Q I'm not sure. This is how it was produced I think from you. I'm not sure.

A Yeah. It is. Yeah. And I think I was traveling which is why I texted, on July 8th, I think I was out of the Portland and was in Bend. So I think I texted him.

Q Did you ever text any other individuals that worked on Cover Oregon?

A Yes.

Q Who did you text?

A Who worked on Cover Oregon? I texted Tim occasionally. And primarily, with Mike Bonetto, we texted to establish times for meetings, times for calls.

Q Did you ever text Governor Kitzhaber about Cover Oregon?

A I smile only that he -- he couldn't even print off documents. So texting was not his chosen way of communicating. If we did, I don't recall it.

Q Okay. Thank you. Each of -- a lot of the things you said today is you were really focused on the communications as an unpaid adviser for the Governor.

A Yes.

Q So I was just wondering in that role, what was your

communication strategy for Cover Oregon when you became involved in the project?

A To identify what decisions needed to be made in order for it to move forward with a successful Web site and enrollment in 2014.

Q Did you think it was important to try and pivot or change the dialogue in the media for Cover Oregon?

A Yes, I did.

Q Did you have a proposal how you thought that would be best possible to achieve?

A By being clear about what the decisions were, and by showing forward-leaning actions that moved us away from the swirl of it not working, and constructively show a direction by which it could work and begin to enroll people.

Q And did you have any major concerns with the way that the media was covering Cover Oregon?

A Yeah.

Q What were those?

A That it was an endless, relentless drumbeat of failure.

Q Thanks. So you just said that you wanted to make forward actions. What were the forward actions that you were referring to?

A I didn't know what they should be. I thought there needed to be constructive forward actions. I didn't know what they should be. And that was part of understanding what the decision and timeline needed to be in order for there to be a working Web site in 2014.

Q And so through that process that you participated in

throughout April was to figure out those forward actions?

A Well, I think the IT committee and the Cover Oregon board, through the work they were doing, were laying out what was necessary for it to work. I was -- once it was laid out, I was able to help identify it as a sequence of activities, and be able to describe it in a way with the Governor so that he understood and could use it as a way to explain to the world what was happening, what they could look forward to.

When he went into an editorial board, to be able to say, this was huge, to be able to say the IT committee is going to meet on such and such a date, whether he said it's likely or it may not, or they're looking at the Federal exchange, and that the Cover Oregon board, we hope, will have -- those were really important things for a Governor to be able to say to the world at large when all of the swirl was going on out there.

Q Okay. So one of the most important things was just for him to have definitive things to say about Cover Oregon?

A That's a great way of putting it.

Q Okay. So thank you. I appreciate that. Next, I want to a little bit talk about -- are you familiar with the Committee on Oversight and Government Reform holding a hearing in April 2014 titled "Examining Obamacare's Problem-filled State Exchanges"?

A When?

Q It was April 2014 --

A Yeah. It's the one where I edited the testimony, that one,

yes.

Q So Bruce Goldberg was invited to testify for Cover Oregon. And Gregory Van Pelt was chosen to testify instead. Is that correct?

A I'm sorry, ask me that again.

Q Did Gregory Van Pelt testify on behalf of Cover Oregon?

A He did.

Q Do you know how Gregory Van Pelt was decided to be the one to testify?

A No. What do I know about that besides my other piece? Bruce Goldberg broke his leg. So Bruce Goldberg broke his leg. I don't know, I don't think it was to avoid the hearing. I think it was, like, the day before or 2 -- it was literally right then. And the first I think I knew about it was an email from Mike Bonetto where he was, again, informing all of us that this was going to be a media event. It was coming up, that the committee had asked, that Bruce was unable to go, and that there needed to be a conversation about who would appear on the State's behalf.

Q And then you said that you edited the testimony for the hearing?

A Well, other people claim that, as an extension of my broad power and reach, that I took congressional testimony and altered it. I would describe it slightly differently.

Q How would you describe it?

A That the Governor's office sent to a handful of people, not just me, but others, the proposed testimony for Greg Van Pelt, who I

have never met, and on a very short turn-around, maybe 12 hours, or 24-hour notice, and asked if we would review the testimony, other people review the testimony. And I think many people reviewed the testimony. I did it in about a nanosecond, and made proposed edits that were so meaningless, they were, they had to do with where a paragraph was, and moving a paragraph around, and submitted those edits back to the Governor's office, and had no idea whether they were going to be accepted or not.

Q Do you know why the Governor's office was arranging the appearance of Gregory Van Pelt rather than Cover Oregon?

A Well, I assume it was in coordination with Bruce Goldberg. And he probably felt that he -- I mean, I would assume Bruce and the Governor would talk to the Governor's office about this, because you're Congress. It's kind of a big deal. It's going to be a media thing. And I think the Governor would be expected to be informed about that. And there was a cooperative working relationship. I mean, it wasn't -- so I'm not surprised by that, that the Governor's office would be involved in that conversation.

Q And other than your comments about the testimony, did you do anything else to help prepare for the hearing?

A I know that on -- well, just talking about one of those items you showed me earlier, we had a conversation in one of those meetings about what was the -- these are my words now -- what was going to be the media spillover on all of it? And who was going to respond to what the questions were going to be coming out of the congressional hearing

on it? What was the Governor's office and others hoping to achieve out of all of that? I did participate in a conversation about that.

[McCaig Exhibit No. 30

Was marked for identification.]

BY MS. [REDACTED]

Q Thank you. I'm introducing exhibit 30 into the record. Just so you know, I'm going to ask you questions about your email to John Kitzhaber in the middle of the first page.

A Okay.

Q And so would you describe the middle email --

A Don't be disheartened. George Mitchell had 843 consecutive days of failure before he had a productive meeting brokering peace in Ireland? I love that.

Q So on May 19th, 2014, did you send an email to John Kitzhaber with the subject line "Cover Oregon messaging"?

A I responded to his email.

Q So you responded to one of his emails?

A I didn't initiate this. It was in response.

Q John Kitzhaber initiated the conversation?

A Yes.

Q And you responded to his email?

A Yes.

Q In the middle of the first paragraph, in your response to John Kitzhaber, you say "This is going to be a long, slow turn, incremental, Fed Web site, next Oracle, the working Web site. We need

to show the taxpayers that we are going after the money. It doesn't really matter if it is \$200 million or \$40, or how many people enrolled until we make it clear that we're going after the money.

A Yes.

Q And so was this what you saw as a Cover Oregon messaging strategy?

A It was for the Governor talking about how he talked about it, absolutely. And this was May 20th. It was after the Federal exchange. We had already gone to the Federal Web site. And he's, he's talking in here about holding Oracle accountable. That's part of what he wants to do.

Q So you thought it was good strategy for the media was a long, slow turn, incremental, Fed Web site --

A Well, I would rather it would have been a faster turn. I didn't want a long, slow turn. It was going to take a really long time in order to build back confidence in the leadership and the direction of Cover Oregon. It wasn't going to be quick. It wasn't going to be quick. And since, I don't know when, since January, the Governor had made it clear that he was interested in, first, holding the State accountable, but then, figuring out what the cost had been to taxpayers, and going after Oracle to recover some of those costs.

Q So it had been a discussion you guys had been having?

A The State had stopped paying them. So other people had that conversation long before I was involved.

Q So did you talk to Governor Kitzhaber about this plan to

make a long, slow, incremental turn? When did you first have this conversation with Kitzhaber not when other people were discussing it?

A I think I'm responding to his email where he's expressing wanting to be on offense rather than defense. And I'm suggesting that's right, yes, but recognizing that he would like it to happen much more quickly, that it would be -- that the media and everyone would begin to have the confidence again in Cover Oregon and healthcare reform. And it wasn't going to be quick. The damage had been real.

Mr. [REDACTED] We're going to have a few more questions. So we'll take a break here.

[4:28 p.m.]

BY MS. [REDACTED]

Q Okay. Ms. McCaig, I want to ask you a couple follow-up questions from some of the questions you were asked in the last hour. In the last round you said that the Governor asked you and some other people to review testimony being submitted to this committee, Mr. Van Pelt's testimony?

A The Governor's communications director.

Q Okay. Did you think there was anything improper about that?

A None.

Q Okay. And I want to call your attention back to exhibit 30. Yeah, it's actually the last one.

A Oh.

Q You also said in the last hour that since January, the Governor made clear that he wanted to hold someone accountable for the failing Web site. Is that correct?

A Yes.

Q And in this email, the Governor suggested going after Oracle for the failing Web site, correct?

A Correct. He has it in the back.

Q Right. I'll direct your attention to page 2 of this document. I think you're referring to the last sentence where it says, quote, "We will go after Oracle for the difference and perhaps damages." So the Governor did suggest -- he was the first one to suggest going

after Oracle, correct?

A Well, he actually -- I hadn't seen that. Up above he says, I have held people inside State government and Cover Oregon, accountable for the failed Web site, and now we're going to hold Oracle accountable. But our work to transfer Oregon's healthcare system has not missed a step. That was clearly his direction for a long time.

Q And so this wasn't your idea or your suggestion?

A No.

Q Okay. In this email response back to the Governor, you were just advising the Governor of communications strategies on the issues that he brought up in the email?

A Yes.

Q Okay. Great. I'm done. We can go off the record.

[Recess.]

BY MR. [REDACTED]

Q Hi, Ms. McCaig, just one quick thing that we wanted to bring up. Do you know who Liani Reeves is?

A I do.

Q And can you describe who Liani Reeves is.

A She was Governor Kitzhaber's legal counsel.

Q How often would you speak with Liani in your role either as an unpaid adviser or communications strategist for the Governor?

A I don't believe I ever had a phone conversation or meeting with her.

Q Do you have her email?

A I don't believe I ever emailed her directly, no.

Q Was information, that Liani was working on it, ever shared with you?

A Yes.

Q Okay. What was that information?

A It would depend on the topic and whether the chief of staff and the Governor thought I should see it.

Q And can you elaborate on generally what you were seeing. I presume it was related to Cover Oregon.

A Some of it was related to Cover Oregon. What was it about Cover Oregon? I don't recall it being significant enough that I can recall it right now.

Q All right. How did you become aware that the committee wanted to interview you?

A I have no -- I recall the letter, but I don't recall any other contact.

Q Okay. After learning that we wanted to interview you, who did you talk to concerning our interview?

A I'm sorry. So you're talking about the initial request that came with the letter to provide the material or the actual testimony?

Q Testimony itself.

A Ah, the testimony.

Ms. [REDACTED] Are you asking like who in the world she talked to? I'm sure you mean something more specific.

BY MR. [REDACTED]

Q I'm just curious, like, who did you solicit advice from?

A Got it. Is another way of asking that how did I prepare?

Q Yeah.

A Okay. Now I'm tracking. I did a couple of things, as you know. I have nobody covering any of my costs for any of my attorney fees on anything, because I wasn't a State employee so I have no -- and Oracle has -- well, so in order to prepare, I reviewed the letter from the committee where you outlined the issues. I reviewed my responsive documents. I hadn't talked to anybody yet. I reviewed my responsive documents.

And then I reviewed Oracle's lawsuit against me and the responsive documents that were provided in that. Oracle has also subpoenaed me for information in their lawsuit that the State brought against Oracle -- all the same claims. Nothing different, all the same.

And in the context of that, I spoke with the attorney who's representing me in the Oracle lawsuit about the discovery materials and the similarities between those materials and what had been provided.

Q Is the attorney representing you in the Oracle lawsuit Ms. Hoffman?

A No, that's the Governor's criminal defense attorney.

Q Oh, I'm sorry.

A That's okay. That's like really --

Q Who was the attorney advising you on that?

A Maureen Leonard.

Q Okay. And did you consult with Per Ramfjord about your testimony today?

A I had a conversation. Maureen had him in the room on the format and the process of going through a deposition.

Q Okay. And can you describe what information he shared with you?

Ms. [REDACTED] [REDACTED] could we go off the record for a second.

Mr. [REDACTED] Sure.

[Discussion off the record.]

Mr. [REDACTED] So can you share with us the advice that Per gave you about how to prepare for today.

Ms. [REDACTED] I think that misstates facts in evidence. I don't think the witness has testified that Per told her how to prepare for today.

BY MR. [REDACTED]

Q Let me broaden that. What did Per tell you specifically about today's testimony?

A Be concise, talk slowly, that the room was cold, what the table looked like, that I wouldn't be in front of a testimony, like in a committee hearing. It was the process and nature of a debate -- of a deposition.

Q Okay. And did Per share with you any information or specifics of what was asked or discussed during Mr. Bonetto's deposition?

A No.

Q Why did you not choose to come voluntarily to this?

A Intentionally, I thought I would be better served to be on the record and to have a focused questioning and answer. My experience thus far hasn't been very pleasant with how I've been represented in the media and in a lawsuit, and it has been personally costly and grueling. And I felt my best protection was to be here and to be deposed and to have it on the record.

Q Okay. Originally, we had subpoenaed you for February 1, but you asked to reschedule. Why was that?

A Because I had a personal trip that I had planned for. It had already been on the books when I got the subpoena in January.

Q Okay. And where did you go?

A Texas. Big Bend, Texas, National Park.

Q Really. For what purpose, Big Bend?

A It was a personal trip.

Q And how long were you there for?

A Eight days.

Q And did you have any conversations with anybody that advised you to push for a later date for this deposition?

A No.

Q Did you discuss Mr. Bonetto's deposition with anyone?

A No.

Ms. [REDACTED] Object to the extent that it refers to her knowing anything about Mr. Bonetto's deposition.

Mr. [REDACTED] I think we've already disclosed that she did, but that's in the record.

The [REDACTED] I did.

Ms. [REDACTED] It seems like the questioning implies before today.

BY MR. [REDACTED]

Q Just to be clear, you had a conversation with Per Ramfjord, who is Mr. Bonetto's attorney?

A Uh-huh.

Q And he let you know he was at a deposition featuring Mr. Bonetto?

A Uh-huh.

Q So you understand that Mr. Bonetto had a deposition?

A Yes, I do.

Q All right. We're just going to try to clean up here, so apologies if we jump around a little bit. But it's 744. This is exhibit 31.

A This is August?

[McCaig Exhibit No. 31

Was marked for identification.]

BY MR. [REDACTED]

Q August 31, 2014, correct.

A Okay.

Q Let me know when you're ready.

A Yes.

Q Okay. And you'll see that the subject line of this

information is a long -- or subject of this email is a long conversation with JK. JK, I presume, is Governor Kitzhaber?

A Yes.

Q Okay. In the email you say, he may reach out to you. It comes down to the importance of George and the bigger agenda. JK is weighing the options of the plan we laid out versus delaying until after November. I did point out, if we do the leadership now plan successfully that it may be possible that it is a George and board issue, not JK. Whether that would make George less upset, I don't know. Personally, I'd like to clarity of a position to close Cover Oregon down. It just seems to let the steam out of so much of the attacks?

What do you mean by until after November?

A The Oregon legislature, there is sort of a ramp up to this. This is August 31, and I have to get my -- so besides the issue of going to the Federal exchange, in June, July, and August, Cover Oregon was confronted with other embarrassing issues that did not have to do with the Federal exchange.

One was Clyde Hamstreet offered \$650,000 in buyouts to employees that was unknown to anybody and it was a shock in the legislature and everyone became upset about it.

In another, there were inappropriate expense accounts, which included roundtrip tickets to Hawaii, and alcohol. Financially, they won a lot of money but it wasn't helpful to the Cover Oregon's.

And there was another one that had to do with -- and I'm not sure that that was before August or not, but I think it was -- the

inappropriate tax credits which meant that there was some issue that was not good.

And in August, I believe the first drum beat started to occur from the legislature -- well, it happened in January. There were people who won it. But there was a discussion at the board level and at the legislative level whether to bring up the topic of closing down Cover Oregon at the September board meeting or waiting until their next scheduled board meeting, which was in November.

If you're asking me whether it was election related, it wasn't. It had to do with a legislative calendar or a Cover Oregon board meeting calendar.

Q And what were you discussing regarding George Brown?

A I had not talked to George. I think this has been told to me that -- and this was difficult for the Governor. George did not want to close down Cover Oregon, and it was personal to him, and he was -- "disappointed" may be too strong of a word, but he was engaging the Governor in that conversation about the Governor's position to close down Cover Oregon. And the Governor was struggling back and forth with the options that were possible.

Q And why did you think at this time that closing Cover Oregon down let so much steam out of the attacks?

A It was an embarrassment to everybody involved. It was beyond just the failed Web site. That was enough of an embarrassment. The attorney general had, I believe, by then released her decision that she was going after Oracle, not just for false claims, which is what

we in the Governor's letter had requested her to look at, but she had announced that she was going after them for fraud and racketeering in addition to false claims.

So all of this was the culture that was the Cover Oregon dark cloud that was out there in August and September. So in my view -- and the Governor was struggling with this -- it was a discussion about was there -- what was the appropriate next steps with Cover Oregon. And that was my reaction that it would let the steam out of so much of it.

Q And did you speak with Michael Bonetto after this email? What did he think of your opinion?

A I doubt if I arrived at this opinion without -- he's on the email. So I don't think there was any distance between Mike, or Tim, or I in this conversation at all.

Q Okay. And you mentioned that -- or this email took place on August 31, and before you had mentioned that you were waiting until after November, because that was the next time the board for Cover Oregon met?

A I believe that's right.

Q It's your testimony then that you do not believe the board met between August 31 and after November?

A I don't recall. But I think the August 31 is not the board meeting. I think there's an upcoming board meeting in September versus November.

Q So why was it important to wait until -- you just said that waiting until after November was related to a board meeting after there.

Why not do it at the board meeting in September?

A I think that's what the conversation was about. I think that it was a September versus November issue, and that's why George was in, talking that there was an upcoming board meeting. I believe that was the nature of it.

Q [REDACTED] has asked you several times today about the nature of using public versus private email accounts. And I'd just like to use this as an example. This is your private email account, correct?

A I only had one.

Q And you sent it to the private email account to Mr. Bonetto, Sean Kolmer, and Tim Raphael.

A Uh-huh.

Q Do you know if these emails are archived by the State?

A I believe Tim's weren't because he didn't work for the State, but I believe that Bonetto's emails were archived.

Q And why do you believe that?

A Because I know he's had public records requests and delivered them. I don't know about Sean.

Q I'm curious, if you only had one private email request, have you been the subject of public records requests?

A I haven't had any public records requests except for Oracle and you guys.

Q Okay. So I'm just curious, like if a private citizen in Oregon wanted to see these emails, you're advising a couple of Oregon

issues, would they be able to have access to your emails?

A No. Only if I were in communication with an elected official. As a private person, another private person doesn't have access to my emails. As a private person who is in any deliberations on State business -- and it, by the way, needs to be a deliberation, right. It needs to be something tangible -- the law requires the State employee, regardless of the server, to keep their emails. And that's how it would become public.

So if you wanted to know whether I had contact on an issue that was important, the way you would know that is through my involvement with my State employee --

Q Okay. And then when was it -- I'm sorry.

A -- besides asking me.

Q When was it publicly disclosed that you were working for the Governor in an unpaid capacity?

A I think there was a news report speculating that I was going to be advising him in early February.

Q Okay. And then you received our first inquiry about this on April 17, 2015, correct?

A Yeah, April 2015.

Q And have you spoken with Michael Bonetto about Cover Oregon since receiving that letter?

A Yes.

Q Okay.

A Have I spoken to him about Cover Oregon or spoken to him?

Q Spoken to him about Cover Oregon or this investigation.

A No, but I have spoken to Mike since then.

Q This investigation or Cover Oregon has not come up since?

A Only to the extent that I received a letter.

Q Okay. And have you spoken with Tim Raphael about --

A Yes.

Q And did you speak about Cover Oregon in this investigation?

A Yes, I did with Tim.

Q Okay. And what did you talk about with him?

A That I had been subpoenaed, that I was coming back. He is one of the codefendants on the Oracle stuff, and I think that was pretty much it.

Q And have you spoken with John Kitzhaber about Cover Oregon since receiving our letter?

A No, I haven't.

Q Have you spoken since receiving our letter?

A Since what.

Q Since receiving our letter. Have you spoken with him at all?

A I have spoken with him. I have not spoken with him at all about Cover Oregon or about this investigation.

Q And when was the last time you spoke with Mr. Bonetto?

A On the anniversary of the Governor's resignation, which was about 10 days ago. It was February 18, and it was not about this. It was --

Q This committee's investigation did not come up at that time?

A No, it didn't.

Q Do you currently work with Mr. Bonetto in any capacity?

A No.

Q And when was the last time you spoke with Mr. Kitzhaber?

A I haven't spoken to him since Thanksgiving. I've had some notes from him though, probably two or three, one over the holidays. They were personal in nature.

Q All right. This is exhibit 32. I'll give you some time to review this.

A May 25. Yes.

[McCaig Exhibit No. 32

Was marked for identification.]

BY MR. [REDACTED]

Q And I'm only going to be asking you, it looks like, about the first page here.

A All right.

Q In this email you say, "To make sure we are all on the same page, the proposed list of actions currently in the works are," and then there's A --

A Okay, where are you?

Q I'm sorry. It's right after the red writing there.

A Okay.

Q "To make sure we are all on the same page, the proposed list of actions currently in the works are: A, Governor's letter to the

AG." You'll see A, B, C, D. I'm going to go through each one of these individually.

The first proposal is Governor's letter to the AG requesting expedited action to pursue damages from Oracle. Who came up with that idea?

A The Governor and the State of Oregon hired a law firm in February or January to investigate its options on recovering the losses associated with the failed Web site. So it had been in the works about whether to move forward on that for months.

Q And how were you informed of this as a potential option for an action?

A The Governor had consistently in many of the materials that you brought forward talked about a very methodical process to deal with the State issues, the ones he was directly responsible for, and then turn his sights on the appropriate way to hold Oracle accountable. So this was consistent with the Governor's intention of moving forward.

Q Okay. And then, maybe in the interest of saving time, you'll see that B, C, and D provide other options here. I imagine the answer might be the same. So how did you come up with those specific actions?

A I don't think that they were -- and maybe I misunderstood you -- they weren't alternative options. It was if the Governor was going to decide to move forward on requesting an expedited action to pursue damages from Oracle, that there would be a package of things that he would do in response to the other issues that people had raised

as potential ways of recovering damages. These were all ideas that had come forward.

Q Okay. And in drafting this email, did you consult with anybody at the time of putting it together?

A All of this was a compilation of at least everybody on this cc list and others' thoughts about what options might exist.

Q Can you go through the others that were consulted in relating to this.

A Mike, Sean, Tim. I don't believe that Mark or Kevin were part of this. The Governor was clearly part of it.

Q How was the decision made of who to send letters to about Oracle?

A Well, these were just options. So, in fact, some of this didn't happen. B didn't happen. D, I don't think D happened. So, again, it was the proposed list of actions, and in order to move forward with the proposed list of actions you've got to work through and see whether there's something there to be done, and how credible it is. And that's what we were identifying is what were the options.

Q Did you consult with anyone from Cover Oregon when creating these lists?

A No, I didn't.

Q Do you think they should have been consulted?

A No, actually. This was the Governor's issue.

Q Okay. You mentioned this was an ongoing issue, but in creating this email and the list of things, what materials did you reply

upon to draft this up?

A What materials did I use to draft -- to come up with this list?

Q Uh-huh.

A Conversations with folks about -- brainstorming with folks about what possible items would be appropriate.

Q Okay.

A Identify the two or three most appropriate, yeah. So --

Q It appears there weren't many replies to this. Did you get responses from John Kitzhaber about what he wanted to do here?

A I'm surprised there aren't responses to this. So let me think about that. Well, so this was to John summarizing what we were all working on, so I'm not surprised that I didn't hear back from any of these people.

It was a summary of what we had discussed and what the work plan was. That's really what this was, was a description of the work plan. We're working on the actions, which is the basis for the Governor's announcement.

So the Governor had already told us clearly that he was considering making an announcement of his intent to pursue Oracle. I didn't initiate that, and so that's what the intent is, and this is the work plan that's going to go with delivering that for the Governor.

Q And did you speak with Mike Bonetto about this email?

A I don't know if directly about this email -- well, yes. There are elements of this that we all participated in in the

development. There was a mini draft to an AG letter. There was a discussion about pursuing the investment counsel that Mike was engaged in, and somebody on the staff figured out a reason that that didn't work. I don't recall the Wyden, Merkley, GAO, and I think we ended up for some reason -- so Mike was needing all of that. I was describing the work plan to get it done.

Q I'd like to introduce exhibit 33.

[McCaig Exhibit No. 33

Was marked for identification.]

BY MR. [REDACTED]

Q This is another email. I'll give you time to review that. Let me know when you're ready.

A Okay.

Q This is an email from Governor Kitzhaber to you and Mike Bonetto?

A Yes.

Q And he drafted the memorandum that's attached to it?

A He drafted the memorandum, yes.

Q Do you know what happened the day before that caused him to write the memo?

A I do.

Q Yeah, what happened?

A I do. It was awful. We had a -- he had a guy who was mentally imbalanced. I want to be careful about that because I don't know if that was -- but he was a State police risk. He was a serious

risk to the Governor and had followed him around. And then there was a particular news station which was particularly hostile to the Governor on the Cover Oregon stuff.

And there was a combustible moment where this guy who was dangerous and said horrific things to the Governor and shouted them out in very inappropriate ways. And channel 2 and a couple of reporters caught the Governor by himself, and it was just not pleasant. It was really not pleasant.

Q This sounds like something that the Governor wouldn't forget, it seems like you're saying, that it was a pretty bad incident.

A Yeah. It was a -- for this Governor, being unprepared really bothers him. Some people are quick on their feet. And he's pretty quick on his feet, but he likes being prepared.

Q Do you know if -- were you present when this happened?

A No.

Q Was Mike Bonetto present or --

A No. It was on the news. So other news people filmed this thing happening, and it was played on the channels that night, showing the Governor kind of --

Q Where did this take place?

A Outside of public speaking event that he was going into at Portland State University, if I remember correctly. So he was -- I think -- did he use the word here "ambushed"? This fits -- I think he used that word here, and that's the way he felt, and he -- it really upset him.

Q And did you talk to Mike Bonetto about this incident?

A We all talked about it. Part of it was the -- Mike had to deal with State police issues as well because the Governor was moved from one place to another in a way that he wasn't protected, so there were -- there was a whole series of --

Q Oh, so Mr. Bonetto, as a result of this incident, would have to handle the security relating to it?

A Yeah, right.

Q So the memo on the second page here, and it's the beginning of the third --

A Sandini is the guy who was the person who had a concealed weapon permit and the State police had been watching him. And so that's the name of the guy who I was speaking about.

Q And actually, I'm sorry, I guess it would be just the first page of the memo. It's the second page of the email. And you'll see down here at the bottom where it says, "We are totally on the defensive now. Cover Oregon has derailed any forward momentum."

What do you think the Governor meant by that?

A That he felt that he had lost the ability to talk about and raise the other issues on his agenda that were really important to him.

Q And then if you go to the last page, you'll see that there are all these arrow bullet points here. I'd like to ask you about the last paragraph right above those. It begins with, "And yet, we can't seem to compete with the free independent expenditure campaign that the Cover Oregon issue is giving to Dennis Richardson."

And you testified to this earlier, but who is Dennis Richardson?

A Dennis Richardson was his Republican opponent in the general election.

Q And what do you believe he meant by "free independent expenditure campaign"?

A That it was an issue of incredible public intensity, and that it was being coopted and used extensively in some very political ways in electoral politics.

Q And just to ask again, you had testified earlier that politics never came into any Cover Oregon decision. So how do you reconcile the Governor's statement here about the free independent expenditure campaign with the idea that it never came into play?

A Well, he said that we can't compete with a free independent expenditure campaign. And what he's talking about there is his ability to get messages out about other kinds of things that he cared about on his agenda, because there was a constant drum beat by Dennis Richardson and predominantly Republicans at this point to link the Governor to failure on it.

So just because two things happened to be linked or real doesn't mean one causes the other. So it was a political environment. Nobody would tell you that it was not a political environment. But because it was a political environment does not mean that the decisions that were made by the Cover Oregon board were politically driven or were influenced by politics.

Q But I asked you about whether the Governor's decisions were

politically motivated? Not the Cover Oregon board.

A No. The Governor's issues -- the Governor's decisions were not driven by politics. Expressing frustration that the issues that he cared so deeply about didn't have and couldn't get the light of day because he was being ambushed and continually assaulted by the less noble elements of politics was pretty frustrating to him.

Q And I'll just note that at the bottom of this email, for the last three bullet points, it says -- it's underlined, "On the campaign side."

A And this was not unlike what I said before that where there was an opportunity to use the campaign in a way to assist him in his official capacities by putting somebody like Tim Raphael on to do it, that it was totally legitimate to do it.

Because if there were funds available to put the Governor on television, on Cover Oregon, that would be totally appropriate to do with a campaign and that's not something that he could have done with State resources at the time.

So he's raising the question, are we at a place now where we should consider doing other kinds of activities using the campaign funds as a vessel for moving a broader message about Cover Oregon.

Q And so this was obviously a very stressful day, and he wrote this email. Did you reply to him about this?

A I did. There is a reply that says something like, take a deep breath. I'm going to go out and get some food. I remember this because I knew this was a stressful email from a guy who didn't sleep

the night before.

Q Yeah.

A And what I was uncertain about was whether it was a moment in time where we had some systemic problems with the way we were staffing him and what we needed. I didn't know. And I remember, I sent him an email, and I think so did -- boy, I think somebody else did too, just trying to walk him back in off the ledge a little bit.

Q So what did you end up -- what did you end up doing as a result of this email?

A Nothing. I mean, as it relates to this, I think my email was comforting in saying that, you know, we were -- I have to look at my email. But I don't think we responded specifically to any of the items in here.

Q Wait, so just so we're clear here, he talks about Cover Oregon. You didn't respond specifically to anything related to Cover Oregon after this?

A No. We were already in the midst of Cover Oregon, so there was nothing -- Cover Oregon was already an ongoing issue that we were all dealing with. So it wasn't like we hadn't been doing anything with Cover Oregon and the next day we did. We were already -- this was 5/24 and this was -- oh, this is the 5/25.

So we were already beginning to think about what we were doing and had had conversations in order to produce that.

Q So just to make sure we get this on the record too, I'd like you to go back down to the few more thoughts section.

A On the campaign -- oh, uh-huh.

Q It says in the second paragraph, what is our plan for the next 2 months? Is it written down?

Did you come up with a plan related to that?

A No.

Q So as you mentioned here, what's the date of this email that the Governor sent?

A The 24th.

Q And then the email that we showed you before where you outlined your plan to send a letter at Oracle, what day is that?

A The 25th.

Q So that's the next day?

A Yeah. But this isn't the kind of work one does overnight. Coming up with this --

Ms. [REDACTED] What is "this"?

The [REDACTED] Oh, I'm sorry. Exhibit 32. This isn't the kind of work somebody comes up with overnight.

Mr. [REDACTED] How long were you working on that email then?

Ms. [REDACTED] Could we let Ms. McCaig finish her answer, please.

The Witness. In order to even have arrived at these suggestions, as I said earlier, people were brainstorming and coming up with conversations about this. This had been in the works even in one of these other about the Governor wanting to go after Oracle and we were looking at our options long before this happened.

BY MR. [REDACTED]

Q Specifically related to the May 25 email though --

A You're not really saying -- I want to be clear I understand your emphasis here. You're suggesting that this email, where the Governor admits to being concerned, and on the defensive, is that thing which propelled us to go forward and suggest suing Oracle? That there was not other obvious reasons, like a failed Web site, that had embarrassed the State, and wasted endless dollars; that he was doing it because of this?

Q I'm merely asking you about what the dates are in the emails at this point.

A Well, a coincidence between dates doesn't seem to negate that there was an entire extraordinary body of work documenting a failed Web site with a company that took advantage of the State of Oregon and people who had done really good work.

Q And that is actually something that we needed to clarify for the record. Who was the systems integrator for Cover Oregon?

A I have no idea.

Q Do you know what a systems integrator is?

A No.

Q Do you know who hired Oracle?

A I don't know who. The Cover Oregon board maybe.

Q Do you know who is responsible for managing or doing oversight of Oracle's work?

A To some extent the Governor was. I had heard that in his first data report that he was responsible for part of that.

Q Let's go back to the May 25 email. When did you draft this?

A Well, it says at 2:46 p.m.

Q So you wrote this all in one sitting?

A Well, it takes me a long time to write, so --

Q Did you begin writing this email before --

Ms. [REDACTED] Will you let Ms. McCaig finish her answers to your questions. She doesn't have counsel here.

The Witness. So tell me what you're asking.

BY MR. [REDACTED]

Q Did you draft this email on May 25?

A I did draft this email, and I did write it on the 25th, and it was a continuation of a lot of work and effort that had been going in, evaluating what the steps were available to the Governor to regroup the losses that the State had incurred because of poor performance from Oracle.

Q In between this email on May 24 at 5:14 p.m. --

A May 24, the trash email.

Q Yes. And your May 25 email at 2:46 p.m., did you draft any other emails to the Governor?

A I did.

Q What were those related to?

A I responded to this.

Q Okay. But it was just related to that incident?

A Yeah. I don't know if there were others, but I know that I responded to this.

Q Okay. And as you mentioned before it was comforting. It didn't discuss any issues --

A Yeah.

Q All right. I'd like to introduce exhibit 34.

A We done with these two?

[McCaig Exhibit No. 34

Was marked for identification.]

BY MR. [REDACTED]

Q For now. Thanks.

A Okay.

Q Let me know when you have had time to read this.

A Yes.

Q What's the date of this email?

A May 30.

Q And who is Dmitri P.?

A He works for the Governor, in the Governor's office. He was doing his legislative stuff. And at this point he may have been sharing some of the communications -- no, not at this point. He wasn't. He was just his legislative aide.

Q And who's Duke Shepard?

A He worked in the Governor's office and was a senior policy adviser on -- I don't remember his areas of senior policy advice. He had specific areas that he was responsible for.

Q Okay. And what's the subject line of this email?

A "Oracle Yahoo stock page."

Q And the text of this email from Dmitri says, "Look at picture and the stories under their stock headlines. That is our goal, national stories that drag on their stock price."

Do you agree that's what this email says?

A Yes, I do agree that's what the printed words say.

Q Would you have a different interpretation of what they say?

A It's slightly humorous. It's intended to be -- we were -- yeah -- I mean --

Q I mean, explain on that. How is it humorous?

A Oracle had been a really bad partner and people were frustrated, and I think this is all part of just the sort of bravado that sometimes goes with that.

Q And then you responded, "We must develop a strategy on all of this. It is too good. Who is the SWAT team? I'm willing to do/get the work done."

What did you mean by that?

A Engaging in the fun-ness of wouldn't it be fun to do something like this. But nobody thought this was real.

Q So you said, "We must develop a strategy on all of this."

A It's too good. Who's the SWAT team, question mark, question mark. And there is -- it went nowhere. No one ever did anything with this. No one had any time, inclination. It was a one-off.

Q So did you have any other discussions with Dmitri P. about the impact on Oracle?

A This impact on Oracle?

Q Just generally.

A The impact on Oracle. Whose impact on Oracle?

Q This email is clearly about the goal is national stories that drag in the stock price. Did you ever discuss that with Dmitri P. outside this email?

A No.

Q Did you ever discuss that with Duke Shepard outside this email?

A About the price drop? No.

Q And did you ever discuss it with Mr. Bonetto?

A No. There was no time for good natured fun.

Q I'm just going to take a moment here so hopefully we don't have to do another round.

In your role as an adviser to the Governor's reelection campaign, did you ever conduct or participate or see any polls related to his reelection efforts that asked about Cover Oregon?

A Yes, in May I did.

Q That was the only time you would ever poll on that was in May?

A No, we did not poll in January, February, March, April. We started developing polling sometime in, I think, early May, late April.

Q And how often would you say the campaign polled on --

A We didn't.

Q Oh, you never polled during the campaign?

A No, not until this poll in April or May.

Q Okay. But were there any polls after that? I'm sorry.

A Oh, yes, there was a poll after he found out his partner had been married three times and he thought she'd only been married twice, and that was in October.

Q Wow. Was that poll just about that incident, or were there other policy issues in there?

A There may have been some policy issues in it, but the focus was broader or narrower than that, because there was even more.

Q I'm sorry.

Can I ask you generally, Ms. McCaig, I've noticed that you seem to recall a lot of the conversations in the meetings you had on this. And I'm curious --

A I went over every one of these emails.

Q Okay. You've --

A I worked really hard at this. It's one of the reasons I really wish -- I want to convey, I mean, it's a big deal for me.

And I don't have legal representation, and I have worked on this for 3 weeks. I have gone through every one of the emails I sent you, which were a lot. I've gone through all of the Oracle stuff. I really have leaned into this.

Q We may have just a few more minutes, after we're done here, but one of the things I want to give you the opportunity to do here, while we have 14 minutes left on our time, is you have mentioned, both in our conversations before producing these materials and several times

today, that you believe that the media aspect of this has treated this very unfairly, either you or what happened.

And I'm just curious if you want to take the opportunity to lay out what you think was incorrect or what you think we should take a closer look at?

A I'm not quite sure I understand the focus of that question.

Q If you generally have anything you want to put on the record based to how you think that the media has gotten this wrong. I just say that as, you know, you've mentioned that to us before. And I'm curious if you want to just take the opportunity to say anything.

A Well, in terms of the Governor?

Q Governor, Cover Oregon, Oracle, everything.

A I think what I've said is that there was extensive relentless drive and fascination about the failures of Cover Oregon that usurped any other time, space, or capacity for other agendas.

I'm not sure that the media was always wrong. I'm just saying it was overwhelming, and it paralyzed his ability to have conversations about other agenda items and made it difficult to move forward on some of the Cover Oregon pieces. Some of the news reports were accurate.

As it relates to me, I believe that the committee's decision to investigate me, based on three quotes, that you pulled out of one newspaper article, from a reporter who created his own narrative based on those, seems like a big reach into a person's private life based on those, when I tried to give you a legitimate response to what my involvement was.

But I actually appreciate the role of government in asking these kind of things. But --

Mr. ██████ And since we have 12 minutes, are you guys going to do another round? Because if you are, we can take a minute to make sure we go over everything, otherwise I will just use this next 12 minutes. It's just a question if you have more questions, I cannot waste the people's time sitting here.

Ms. ██████ I think it would more expedient to go off the record, take a minute, gather your thoughts, and finish. That's fine with us.

Mr. ██████ Yeah, that's fine.

Ms. ██████ We will have some quick follow-up questions, but we don't have a full other round.

Mr. ██████ Yeah. Well, let's end it there and you guys go, and we'll just probably need another like minute or two.

Ms. ██████ Let's go off the record.

[Recess.]

BY MS. ██████

Q Hi, Ms. McCaig. My name is ██████ And I'm going to ask you a few very quick questions and then we'll call it a day.

In the last round in your conversation with my colleague in the majority, you discussed receipt of the subpoena from this committee dated February 1. Do you recall that?

A Yes.

Q Did the committee contact you to determine whether you were

available to fly from Oregon across the country to D.C. to spend a full day with this committee to provide your testimony prior to sending you the subpoena dated February 1?

A No.

Q So the first day that you knew we wanted you to appear on February 1 was the date you received the subpoena. Is that correct?

A That's correct.

Q Upon receiving the subpoena from this committee dated February 1, did you contact this committee?

A I did.

Q And what was the sum and substance of your response to this committee upon receipt of the subpoena?

A That I was more than willing to participate, but that I had -- I was not available February 1, and that I would make myself available any other day after February 15 or before February 1 to participate.

Q In fact, did you provide approximately 45 available days -- fewer, if we're counting working days -- maybe approximately 30 works days in February and March in which you'd be available to appear and provide testimony before this committee?

A My intent was -- yes, I did. I did. And my intent was to demonstrate my interest and willingness to participate, and that I really would be -- make myself available at any date after February 15 to appear.

Q My colleagues in the majority referenced a conversation

that you had with Per Ramfjord in advance of this deposition.

A Yes, with my other attorney in the room, yes.

Q Did Mr. Ramford coach you or suggest specific answers that you should provide to this committee over the course of today's deposition?

A Not at all. He did coach me on being more brief, more concise, and focused, and being present with the questions when they're asked.

Q But he didn't tell you what to say in response to questions?

A No. No.

Q Did Mr. Bonetto tell you what to say in response to questions?

A We never had a conversation about the deposition.

Q Can you put before you exhibits 33 and exhibits 32.

A I have them.

Q I believe exhibit 32 is an email from Governor Kitzhaber to yourself and Mr. Bonetto dated May 24. Is that correct?

Mr. [REDACTED] That's exhibit 33, I think.

The Witness. No. 32 is --

BY MS. [REDACTED]

Q Let me try that again. I believe exhibit 33 is an email from Governor Kitzhaber to Mr. Bonetto and yourself on May 24. Is that correct?

A Is that a trick question?

Q It's not.

A All right. Yes, that is correct.

Q And then exhibit 32 is an email from yourself to Governor, Mr. Bonetto, Mr. Kolmer, Mr. Raphael --

A Yes.

Q -- the next day, correct?

A Yes.

Q Did you write the email on May 25 in response to the email that you had received from Governor Kitzhaber the previous day, exhibit 33?

A Absolutely not.

[5:31 p.m.]

Q In exhibit 32, the email dated May 25 that you send to the Governor and Mr. Bonetto, amongst others, you list a series of actions that are, quote, "currently in the works." Did you develop or propose these actions?

A No.

Q Did all of these actions occur?

A No.

Q I believe you mentioned that one of the actions, the Governor's letter for the AG requesting expedited action to pursue damages from Oracle, was generated from a law firm that was hired months earlier in February and January. Is that correct?

A No. I don't -- if I implied that, that's not an accurate statement.

Q Can you clarify for me?

A I said that -- that there was a State interest in reviewing actions to pursue damages, and that that State action had been well known and had started sometime in January or February when the State hired a law firm to begin reviewing these kinds of things, not that they had come forward with this specific idea, but that it wasn't my idea that I came out of nowhere to come up with looking for a way to recover damages from Oracle, that that had been an ongoing and real conversation with a lot of different parties before I had anything to do with it.

Q Was recovering damages from Oracle one of the things the

law firm that had been hired in January of 2014 was considering?

A I assume that. Yes. In fact, I believe there's an article to that effect, which is how I actually know it, but --

Q So the possibility of recovering damages from Oracle was something that was being considered well before Governor Kitzhaber wrote you and Mr. Bonetto an email the night before?

A Oh, yes. And was publicly known that there -- that the Governor and others were looking at recovering damages from Oracle, yes.

[McCaig Exhibit No. 34

Was marked for identification.]

BY MS. [REDACTED]

Q Can you turn to exhibit 34? Exhibit 34 is an email chain, and the top email in the chain is from you to Dmitri P, Duke Shepard. And, actually, let's jump to the first email, which is from Dmitri P to you. And he says, "Look at picture and the stories under their stock headlines. That is our, goal national stories that drag on their stock price. Probably coincident that their stock price dropped a bit in after hours trading but worth a dream anyway. Dmitri." And then you respond to Dmitri and copy Duke Shepard, "We must develop a strategy on all of this. It is too good. Who is the SWAT team? I am willing to do/get the work done. PMc." Did I read that correctly?

A Yes.

Q Did you, in fact, develop a strategy to drag on Oracle's stock price?

A Can I hit pause here for a second? And I understand this is the way this came across, but I would not have replied and -- and done Duke -- and I think this went from Dmitri to the three of us. And I don't know why it doesn't show up here, just for the record. There is -- this was not just me. I think I hit a reply all, just for the record. Okay. Did I do what?

Q Did you develop a strategy to --

A No.

Q -- drag on Oracle's stock price?

A No. No.

Q You mentioned before when you were speaking with my colleague in the majority that you believed this email was intended to be humorous. Is that correct?

A I do. I believe it was intended to be humorous.

Q Looking back on it, do you think, perhaps, this was in poor taste?

A Poor taste? Worth a dream anyway? It is clearly an acknowledgment that it's a frivolous, just acting-out kind of email. Yes. It was probably in poor taste.

Q Were you expressing frustration about the situation with Oracle?

A Yes.

Q Did you take any action to try to impact Oracle's stock price or good standing as a company?

A No.

Q Are you aware of Dmitri P taking any action to impact Oracle's stock price or standing as a company?

A No.

Q Are you aware of Duke Shepard taking any action to impact Oracle's stock price or standing as a company?

A No.

Q Are you aware of Governor Kitzhaber, or any other State employee, taking any action to impact Oracle's stock price or standing as a company?

A No.

Q You mentioned the last line of the email, "probably coincident that their price dropped a bit." Do you think it is in fact a coincidence that Oracle's stock price dropped at this time?

A I have no idea what that is about. Coincidence -- look at picture and the stories under their stock headlines. I don't know what the pictures and the stories were. National stories that drag -- so isn't he saying that you look at the picture and the stories under their stock headlines, and that that's what the coincidence is related to? I don't -- I have no idea what the -- what the reason that -- what the coincidence was that their prices dropped a bit. What am I missing?

Ms. [REDACTED] Okay. We will go off.

[Whereupon, at 5:37 p.m., the deposition was concluded.]

Certificate of Deponent/Interviewee

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

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Witness Name

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Date