

I. INTRODUCTION

1. Hatton W. Sumners Foundation for the Study and Teaching of Self-Government, Inc. d/b/a Sumners Foundation (hereinafter “Sumners Foundation”) provided the National Center for Policy Analysis (hereinafter “NCPA”) with a \$140,000.00 restricted grant to be used as an endowment, the income of which was earmarked to fund an internship program administered by NCPA. The Sumners Foundation also provided the NCPA with approximately \$235,000 a year for fourteen (14) years to fund a Sumners Lecture Series and a Sumners Scholars Program. The Defendants, as officers and/or directors of NCPA, engaged in fraudulent actions and violated their fiduciary duties to the Sumners Foundations, which led to the unauthorized use of the restricted funds. The Sumners Foundation assigned its causes of action against Defendants to Plaintiff RFS; and, Plaintiff brings this suit against the Defendants.

II. DISCOVERY CONTROL PLAN

2. In accordance with TEXAS RULE OF CIVIL PROCEDURE 190.3, the Plaintiff designates that discovery in this case should be conducted under a Level 3 Discovery Control Plan. *See* TEX. R. CIV. P. 190.3.

III. MONETARY DESIGNATION

3. In accordance with TEXAS RULE OF CIVIL PROCEDURE 47, the Plaintiff hereby gives notice that it seeks monetary relief in excess of \$1,000,000.00. *See* TEX. R. CIV. P. 47.

IV. PARTIES

4. **Plaintiff** is a Texas limited liability company organized and existing under the laws of the State of Texas, having its offices and principal place of business in Harris County, Texas.

5. **Defendant JAMES AMOS, JR.**, an individual residing in Tarrant County, Texas, was an executive officer of the NCPA. Defendant AMOS may be served with process at 2204 Still Water Ct. Southlake, Texas 76092, or wherever he may be found.

6. **Defendant STEPHEN A. BATMAN** was a board member of the NCPA board of directors. He may be served with process at 6902 Gaston Avenue, Dallas, Texas 75214, or wherever he may be found.

7. **Defendant WILLIAM D. GROSS**, an individual residing in Dallas County, Texas, was a board member of the NCPA board of directors. Defendant GROSS may be served with process at 4214 Manning Lane, Dallas, Texas 75220, or wherever he may be found.

8. **Defendant DENNIS McCUISTION** was an executive officer and a board member of the NCPA board of directors. He may be served with process at 68 Vista Court, Pottsboro, Texas 75076, or wherever he may be found.

9. **Defendant REAGAN STEWART** was the dissolution manager for the NCPA. He may be served with process at his business address, Clarion Financial Services, LLC, 4809 Cole Avenue, Suite 108, Dallas, Texas 75205 or wherever he may be found.

10. **Defendant MICHAEL L. WHALEN** may be served with process at 1501 River Drive, Moline, Illinois 61265, or wherever he may be found.

V. JURISDICTION AND VENUE

11. The Court has jurisdiction over Defendants because the amount in controversy falls within jurisdictional limits of this Court.

12. Venue is proper in this Court because all or a substantial part of the events or occurrences giving rise to Plaintiff's causes of action took place in Dallas County, Texas.

Venue is therefore proper in Dallas County pursuant to TEXAS CIVIL PRACTICE & REMEDIES CODE §15.002(a)(1). *See* TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1).

VI. FACTS

NCPA

13. The NCPA was a non-profit American think tank founded in 1982 by Dr. John Goodman. Its goals were to develop and promote private alternatives to government regulation and control.

14. Generally, the NCPA was dedicated to solving problems by relying on the strength of the competitive, entrepreneurial private sector. Topics it addressed include reforms in health care, taxes, Social Security, welfare, education, and environmental regulation.

15. In its thirty-one (31) year history the NCPA was a remarkable success. For example, the NCPA originated the idea of Health Savings Accounts (“HSA”), helped develop the first private sector HSA sold in the marketplace and helped persuade Congress to make these accounts tax advantaged. In fact, former U.S. Senator Phil Gramm once said, “The NCPA does more with fewer resources than any other think tank in America.”

16. As of June 2014, the NCPA had \$750,000 in the bank, \$6 million in (endowment) bequests, \$5 million in annual giving and a reliable group of supporters and its future looked bright. Three years later the organization had virtually no money in the bank, no endowment, and more than \$1 million of debt.

THE SUMNERS FOUNDATION

17. One of the NCPA’s donors was the Sumners Foundation which was established in 1949 for the study and teaching of the science of self-government. Through

several scholarship programs, speaking series, and educational initiatives, the Trustees of the Sumners Foundation sought to educate the public at large—especially young men and women in high school, college, and graduate schools—who were civically engaged and possessed a capacity for leadership. These young scholars demonstrated academic excellence, a sense of civic responsibility, and potential for leadership.

18. The Sumners Foundation had fourteen graduate and undergraduate scholarship programs in Texas and Oklahoma, seven of which were supported by endowments. In all cases, scholarship applications and administration were handled by individual institutions like NCPA. In addition to receiving varying degrees of financial support for their collegiate or post-graduate educations, “Sumners Scholars” enjoy special access to other programs sponsored by the Sumners Foundation. These currently include private access to speakers through the Hatton W. Sumners Distinguished Lecture Series (hereinafter the “Lecture Series”); participation in a variety of public policy, leadership, and civic participation programs; and access to several educational and internship opportunities in Washington, D.C. and in other states.

THE SUMNERS FOUNDATION’S 2000 GRANT TO NCPA AND SUBSEQUENT ENDOWMENT

19. Over the course of many years, the Sumners Foundation donated money to NCPA, sponsored NCPA through the Lecture Series, and allocated specific grants to NCPA that the Sumners Foundation determined were consistent with Sumners Foundation’s mission.

20. As part of the Sumners Foundation’s continuing grants to NCPA, including its restricted grants, the Sumners Foundation and NCPA entered into the Grant

Agreement, dated June 23, 2000 (hereinafter the “Agreement”).¹ A true and correct copy of the Agreement is attached hereto as **Exhibit “A,”** and incorporated herein by reference. The Agreement states, in part:

7. If the grant is intended to support a specific project or to provide general support for a specific period, the **Foundation, at its discretion, may require any portion of the grant unexpended at the completion of the project or the end of the period to be returned to the Foundation.** (Emphasis added).

See **Exhibit “A,”** the Agreement at ¶ 7.

21. In or about July 2002, the Sumners Foundation approved and paid a \$375,000.00 grant to NCPA under the Agreement. Of this amount, \$140,000.00 was restricted to an endowment, with the income of the endowment earmarked to fund the NCPA Internship Program. The endowment, including its income, are hereinafter referred to as the “Restricted Funds.”

22. The remainder of the grant (\$235,000) was designated for a Sumners Lecture Series and a Sumners Student Program and similar gifts continued for the next fourteen (14) years.

23. On July 26, 2002, in its grant request, NCPA acknowledged the restricted nature of the \$140,000.00 and stated that income from the restricted grant was going to be used to pay for certain NCPA interns. Moreover, on information and belief, NCPA has identified the restricted funds on its IRS Form 990 as “restricted” in accordance with federal law - see **Exhibit “B,”**:

¹ This initial grant was intended to fund a continuation of the Lecture Series, the Sumners Scholars Public Policy Seminar, and the Debates public affairs program.

29	Permanently restricted net assets	140,000	29	140,000
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See *National Center for Policy Analysis*, Nonprofit Explorer, PROPUBLICA, projects.propublica.org/nonprofits/organizations/751804932.

24. On or about September 30, 2015, the NCPA informed the Sumners Foundation that the Restricted Fund's account value at that time was **\$142,787.49**.

25. On information and belief, in the spring of 2016 Defendant AMOS (then acting as President and CEO of the NCPA) called the Sumners Foundation to discuss certain issues, including the Restricted Fund's current value, which Defendant AMOS represented was not substantially different from its value on September 30, 2015.

26. However, Defendant AMOS and the NCPA's statements were false and upon information and belief, as evidenced through deposition testimony in other matters and court records, Defendants engaged in a series of fraudulent actions, gross mismanagement, negligence, failing to honor their duties of good faith and fidelity, and other acts and omissions actions that violated their contractual and fiduciary duties to the Sumners Foundation that resulted in the misappropriation of the Restricted Funds.

THE SYSTEMATIC UNRAVELING OF THE NCPA

NCPA AND THE BOARD'S LACK OF INSTITUTIONAL CONTROL

27. According to an exhaustive investigation by the Dallas Police Department, the NCPA CFO, Joshua Galloway, embezzled \$1,226,545.43 over an eight-month period – an amount equal to about one-third of the organization's operating budget. See **Exhibit "C."** During that time, the NCPA amassed more than \$1 million in unpaid bills.

Amazingly, in all that time, neither the NCPA management nor the NCPA board discovered the theft or the internal operational failures surrounding Galloway, until Galloway (who was subsequently sentenced to prison for these acts) confessed to the crime.

28. Galloway used every method imaginable to pilfer money. He made illegal ATM withdrawals, made unauthorized purchases with the company credit card, forged checks written to himself, withdrew funds from capital accounts, etc. Along the way, he used NCPA money to make his child support payments, buy jewelry for his girlfriend and pay a firm to prepare his tax return. He even used NCPA funds to purchase a getaway car.

29. None of the misappropriation of funds described above would have occurred had the officers and board members of the NCPA not dismantled financial controls that were put in place and rigorously followed for 30 years by the NCPA founder John Goodman, administrator Jeanette Goodman and COO Richard Walker. According to a review of the Police Department report by Richard Walker, every single act of embezzlement was made possible by the dismantlement of previous financial controls. Dismantlement required acts of commission, not merely acts of omission. *See Exhibit “D.”*

30. The Dallas Police Department report correctly predicted that the Galloway embezzlement would injure the NCPA’s relationship with donors, vendors and scholars and even foretold that it would lead to the bankruptcy of the organization. Yet, those responsible for the supervision of the staff, managing the day-to-day operations, creating a purposeful agenda and demanding exceptional commitment to the organization took no responsibility for failing to perform their duties, were not disciplined in any meaningful

way and instead were basically rewarded by allowing them to keep their Board seats, titles and employment positions.

31. On information and belief, the officers or board members did not make any serious effort to institute financial controls to ensure that embezzlement of NCPA funds would not occur in the future.

- A review of the board minutes shows no evidence that the board was fully informed about the extent of the Galloway theft and its impact on the organization.
- A review of the board minutes shows no evidence that the board made any serious effort to discover how the Galloway embezzlement took place or to institute financial controls to prevent a repeat of such behavior in the future.
- There appears to be no memo, no email message or any minutes of any meeting in which the Defendants show awareness that they lost \$1.2 million.

32. But for the grossly negligent way in which the Defendants mismanaged the NCPA's finances:

- The Summers Foundation capital gift would never have been stolen, and would instead have remained in a segregated capital account.
- Summers funds intended to support a Lecture Series would never have been stolen, and would instead have been available to spend for legitimate purposes.
- In all probability, the NCPA would still be a successful, ongoing, organization operating today.

DEFENDANTS' BREACHES OF THEIR FIDUCIARY DUTIES RESULTED IN THE MISAPPROPRIATION OF THE RESTRICTED FUNDS

33. As explained by Jacki Pick, who served as COO for NCPA, during a deposition in another matter testified among other things that:

Q. ...[NCPA] money that was restricted was used for unrestricted purposes and was used for something it wasn't supposed to be used for?

A. The only thing I can tell you is that the Sumners endowment was emptied and put into the operating fund by Galloway. So that was used to pay people. It was to cover for earlier theft.

See **Exhibit "E,"** the Oral and Videotaped Deposition of Jacki Pick dated December 21, 2017 (hereinafter the "Pick Deposition") at ¶63:24-65:14.

34. The misappropriation of the Restricted Funds was the result of a series of actions and/or inactions by Defendants that violated their fiduciary duties, including:

a. NEGLIGENT HIRING AND MONITORING OF JOSHUA GALLOWAY AS CFO

35. Defendants approved and hired Joshua Galloway as the NCPA's CFO without properly vetting Mr. Galloway. Had the Defendants simply performed a basic background check they would have been aware of his criminal background.² Defendants failed to even interview or conduct a proper background check of Mr. Galloway before Mr. Galloway was hired to manage NCPA's finances.

b. Negligence with Financial Standards and Controls

² Within three (3) months of being hired, Mr. Galloway was in the midst of a 10-year probation for an unrelated felony financial crime in Denton County. See **Exhibit "E,"** the Pick Deposition at ¶ 20:2-4; see also Tasha Tsiaperas, *Ex-official gets 9 years, must repay \$631,000 he stole from Dallas conservative think tank*, Dallas Morning News, Oct. 27, 2017, <https://www.dallasnews.com/news/courts/2017/10/27/ex-official-gets-9-years-must-repay-631000-he-stole-from-dallas-conservative-think-tank/> (hereinafter the "Galloway Article").

In fact, Defendant GROSS testified that Mr. Galloway's criminal tendencies would have been discovered through a background check.

Q. His prior criminal acts, do you believe those were events that would've been discovered through a background check?

A. Possibly.

See **Exhibit "E,"** at ¶50:2-5.

36. It is clear that Defendants neglected all financial standards and controls in that, at the time, Defendants were not even aware of the financial standards and controls in place to protect NCPA against embezzlement or simply neglected them, as made clear by Defendant GROSS in a deposition related to NCPA in another matter:

Q. Were you aware of any systems of financial controls that were in place in the NCPA to protect against embezzlement?

A. I do not.³

See also **Exhibit “F,”** of the Oral and Videotaped Deposition of James Amos, Jr. dated December 21, 2017 (hereinafter the “Amos Deposition”), at ¶32:15-20.

37. Unfortunately, Defendants’ gross mismanagement and neglect of financial standards and controls did not end with Mr. Galloway’s embezzlement., despite their fiduciary obligations to do so, Defendants did not review the NCPA policies that were in place at the time of the embezzlement, did not install new policies that would prevent embezzlement from happening again, and did not take any action to improve the NCPA’s financial controls. The Defendants were apparently uninterested in how the embezzlement happened or what the actual amount was, as made evident by the testimony of Defendant GROSS (the board member most knowledgeable about financial regulations and controls):

Q.... Mr. Galloway’s embezzling funds from the NCPA. I’ve seen the figures from 600,000 to \$1 million. Do you know what the actual amount embezzled was?

A. I do not.

³ See **Exhibit “G,”** the Gross Deposition at ¶48:15-18.

19 | Q. Did you review the policies that were in place
20 | at the time?
21 | A. No. | 4

22 | Q. Did you help to draft new policies that would
23 | prevent this from happening again?
24 | A. No. | 5

7 | Q. Do you know -- I'm sorry. Did you make any
8 | suggestions as to how to improve the financial controls?
9 | A. No.
10 | Q. Do you know if any changes were made in the
11 | financial controls?
12 | A. No.
13 | Q. Were you ever concerned that they may not
14 | change the way things were handled?
15 | A. No.
16 | Q. Were you ever concerned that this would happen
17 | again?
18 | A. No. | 6

5 | Q. Do you know what changes were made?
6 | A. I do not know what specific changes were made. | 7

21 | Q. Do you recall any of the specific changes that
22 | were made?
23 | A. I was not involved in those specific changes. | 8

⁴ See Exhibit "G," the Gross Deposition at ¶50:19-21.

⁵ See Exhibit "G," the Gross Deposition at ¶50:22-24.

⁶ See Exhibit "G," the Gross Deposition at ¶51:7-18.

⁷ See Exhibit "G," the Gross Deposition at ¶ 52:5-6.

⁸ See Exhibit "G," the Gross Deposition at ¶52:21-23.

38. **Mismanaging NCPA's Budget, Causing the Loss of Assets and Records.** Upon information and belief, Defendants' gross mismanagement, negligence and poor decision making led to the following: ⁹

- i. NCPA's failure to pay its web host, subsequently losing control of the NCPA website;
- ii. NCPA's failure to pay the NCPA auditor, eventually losing access to the most recent audits that were necessary to apply for and obtain gifts from large foundations;
- iii. NCPA's failure to pay rent, leading to NCPA's landlord blocking access to the NCPA premises and eliminating access to important and vital records, including, but not limited to, board books, minutes, and resolutions;
- iv. NCPA's failure to pay its storage company, which led to NCPA losing access to its own archives.

ENGAGING NCPA IN GROUNDLESS PUBLIC RELATIONS BATTLES AND FRIVOLOUS SUITS AGAINST ITS LEADERS

39. Defendants engaged NCPA in a costly public relations battle with NCPA founder, Dr. John Goodman, and a frivolous lawsuit against, the NCPA board secretary, W. Mike Baggett. These actions were expensive and eventually led to the misappropriation of the Restricted Funds. Even worse, these attacks were frivolous and self-destructive. For example, the NCPA paid Dr. Goodman \$575,000.00, to settle a libel and slander suit. *See Exhibit "J,"* the Deposition of Dennis McCuistion dated February 20, 2019 (hereinafter the "McCuistion Deposition"), at ¶ 67:16-22.

FRIVOLOUS LAWSUIT AGAINST W. MIKE BAGGETT AND WINSTEAD P.C.

40. At the direction of Defendants, NCPA filed a frivolous suit that impeded charitable contributions and alienated donors, members, and supporters.

⁹ See **Exhibit "H,"** the Deposition of Reagan Stewart dated December 21, 2017 (hereinafter the "Stewart Deposition,") at ¶28:17-30:15; *see also Exhibit "I,"* NCPA Voluntary Chapter 7 Petition, Schedules, and Statement of Financial Affairs, *In re The National Center for Policy Analysis*; Cause No. 18-30453-bjh7 (Bankr. N.D. Tex. 2018).

41. Specifically, Defendants approved the filing of a frivolous lawsuit against its own Board secretary, W. Mike Baggett, and Mr. Baggett’s law firm, Winstead P.C. *See Exhibit “K,”* Plaintiff’s Original Petition, *The National Center for Policy Analysis v. Winstead P.C. and W. Mike Baggett*, Cause No. DC-14-13453 in the 192nd Judicial District Court, Dallas County, Texas (hereinafter the “Baggett Lawsuit”).

17	Q. Was the entire board -- was the entire board
18	involved in this decision to file this lawsuit?
19	MR. KENNEDY: Objection to the form.
20	A. I believe, yes.

See Exhibit “G,” Gross Deposition at ¶79:17-20; *see also Exhibit “K,”* Plaintiff’s Original Petition, Baggett Lawsuit.

A. One reason the lawsuit was frivolous is that the NCPA had already waived all claims against Baggett and Winstead in their settlement with John Goodman.

42. Another reason the lawsuit was frivolous is that the only financial losses the NCPA suffered were losses the NCPA voluntarily assumed and intentionally created. The NCPA claimed that it suffered financially because Baggett failed to promptly notify the board of a sexual harassment claim by secretary Sherri Collins. However, John Goodman offered to pay all legal costs and all settlement costs, holding the NCPA harmless. *See Exhibit “L,”* John Goodman’s letter to the board dated June 2nd, 2014. The only cost to the NCPA appears to be the loss of contributions due to the “sex scandal” that the Defendants themselves created, publicized and promoted.

43. Nonetheless, the frivolous lawsuit against Mr. Baggett, a leader of the Dallas business community and arguably one of the most prominent attorneys in Dallas at the time, and Winstead P.C., one of the largest law firms in Dallas damaged the NCPA’s relationship with the Dallas business community and the Dallas philanthropical

community; and it made significant fundraising for NCPA in Dallas almost impossible. Defendants approved a board action that essentially bit the hand that fed NCPA and eventually led to the illegal use of restricted funds for operating expenses and the eventual bankruptcy of the organization.

44. The lawsuit against Mr. Baggett and Winstead P.C. was settled for an undisclosed amount. However, a similar lawsuit, *The National Center for Policy Analysis v. Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*, settled for the trivial sum of \$10,000.00. See **Exhibit “E,”** the Pick Deposition at ¶47:2-12.

NEGLIGENT CREATION AND PROMOTION OF A SEX SCANDAL

45. In their lawsuit against Mr. Baggett and Winsted PC, the Defendants claimed the NCPA had lost \$2 million, or 40 percent of its operating budget, because of a sex scandal. Yet, this scandal was wholly created, publicized and promoted by the Defendants themselves. It appears that published information about “sex” at the NCPA only came from the Defendants, their employees and their agents – and no one else. Among the newly uncovered documents are the following:

- i. An email message from Merrie Spaeth to the NCPA staff encouraging them to tell reporters that Dr. Goodman was guilty of sexual misconduct. See **Exhibit “M.”**
- ii. Email messages between Merrie Spaeth’s firm and the NCPA staff, targeting reporters and publications to receive the NCPA press release about Dr. Goodman being charged with sexual misconduct. (See **Exhibit “M.”**)
- iii. Email messages between Merrie Spaeth’s firm and the NCPA staff congratulating each other on the success of getting the sexual misconduct charge reported in the local media. See **Exhibit “M.”**
- iv. A letter to NCPA donor Tony De Nicola accusing Dr. Goodman of “sexual misconduct and breach of fiduciary duty” –on information and belief, a form letter sent to many donors. See **Exhibit “N.”**

- v. A letter from Gillespie to Allen West with witness testimony that NCPA Development Director Eileen Resnik directed, emailed and forwarded copies of a salacious *D Magazine* article (repeating the defamatory statements for which the NCPA had already paid Goodman a in settlement) – telling donors and prospects the information in the article was true. *See Exhibit “O.”*
- vi. According to Resnik, both she and Dennis McCuistion referred people to the *D Magazine* article whenever they were asked about the departure of Dr. Goodman. This was “standard procedure.”
- vii. Testimony that the NCPA made no attempt to determine how its own confidential legal documents were leaked to *D Magazine*. *See Exhibits “P,” and “Q.”*
- viii. According to Richard Walker, McCuistion and Resnik took a large white poster board with photos of John Goodman and former secretary Sherri Collins to fundraising meetings with donors and prospects – to tell the story of a sexual scandal.

46. The lawsuit itself gratuitously contained salacious language and false information about a sexual relationship. The Defendants apparently knew it would generate even more news coverage of the type that the lawsuit claimed had already caused great financial harm to the organization. For example:

- Email message from a Spaeth employee establishes that Spaeth knew about the lawsuit before the NCPA staff did, apologizes for not informing the NCPA staff that the lawsuit against Baggett was being filed, acknowledges that the language in the lawsuit was salacious and likely to attract media attention, and acknowledges no surprise that the media coverage had already begun. *See Exhibit “R.”*
- Billing records from Spaeth showing that \$1,008 worth of time was billed to the NCPA around the time of the Baggett lawsuit. *See Exhibit “S.”*

47. Only a few weeks after the Defendants accused Dr. Goodman of “sexual misconduct” in phone calls to reporters, press releases, web posts, etc., the NCPA’s own attorney admitted in a document submitted to a mediator that the claim was “suspect” and gave persuasive arguments for that suspicion. *See Exhibit “T,”* Deposition of Lori Carr, *NCPA v. Ogletree, et. al.*, at ¶ 138, ff. In the mediation itself, the NCPA explicitly

maintained that all claims of sexual misconduct were untrue. *See Exhibit “O,”* Hal Gillespie letter to Allen West, April 30, 2015. ¶2 para 2.].

THE BOARD FAILED TO EXERCISE DUE CARE IN HOW THEY MANAGED THE NCPA’S AFFAIRS AND PARTICULARLY WITH RESPECT TO ALL RESTRICTED FUNDS

48. The failure to exercise due care of the Restricted Funds is not an isolated instance, on information and belief. The Defendants appear to have misused virtually every restricted grant they received during the final three (3) years of the NCPA’s life:

A \$50,000 grant from Jerry Mills was restricted for the purpose of a search for a new CEO. Instead, the money was used for operating expenses.¹⁰

On information and belief, as much as \$750,000 of a restricted grant administered through HRJ Consulting was used for operating expenses and/or embezzled.¹¹

Although some of the HRJ embezzled funds were eventually recovered, much of the money was spent on operating expenses. Bankruptcy records show that \$175,000 in billings for tax work produced by the Beacon Hill Institute at Sussex University and funded by the HRJ grant was never paid.

Prior to Tuerck’s involvement, Boston University economist Lawrence Kotlikoff and his colleagues were performing tax work under the terms of the HRJ grant. However, in the fall of 2014 Kotlikoff broke with the NCPA. In departing, he returned the money that had been paid him under the latest installment of HRJ funding. On information and belief, the funds Kotlikoff returned were then used to pay down the NCPA’s mounting debts rather than being used for their restricted purposes.

On information and belief, the Defendants apparently sent false and misleading reports to the Sumners Foundation concerning the use of foundation funds for a luncheon speaker series. Defendants claimed they paid fees to speakers who in fact had waived their fees in order to sell copies of their new books.

On information and belief, the Defendants apparently sent false and misleading reports to HRJ, including false representations about money paid to tax scholars.

¹⁰ *See Exhibit “U.”*

¹¹ *See Exhibit “E.”*

ACTING WITH MALICE DEFENDANTS FAILED TO EXERCISE ORDINARY CARE

49. Defendants did not act in good faith; did not exercise ordinary care; and did not act in the best interest of the NCPA. Instead, they carried out a vendetta against Dr. Goodman, in which the desire to discredit him overrode their legal obligations.

50. Specifically, email correspondence between NCPA Chairman Jerry Mills and Defendants Steve Ivy, Tex Gross and Dennis McCuistion shows their failure to exercise ordinary care and their recklessness in that they placed their own malicious intentions ahead of their duties to the NCPA.

51. At another point Batman recommends trashing Goodman in the context of a lawsuit that would be widely publicized in the media such that the Defendants couldn't be sued for libel. This foreshadowed what the Defendants actually did in the lawsuit against Mr. Baggett and Winsted PC.

NEGLIGENT HIRING OF DENNIS MCCUISTION AS INTERIM CEO

52. Defendants negligently hired Dennis McCuistion as Interim CEO. Mr. McCuistion was a local TV talk show host who had no experience with think tanks or with academic research. At the time of his hiring, most NCPA board members did not know him and had never met him.

53. Once hired, McCuistion treated the position as a part-time job, spending most of his time on other activities. Even though NCPA donors were panicking because of the newspaper war with John Goodman and the NCPA's production and promotion of a sex scandal, McCuistion made no effort to contact them, form a relationship with them, or put their concerns to rest.¹²

¹² See Exhibit "J."

54. On information and belief, McCuistion’s unpleasant personality was the reason several board members resigned, including the Chairman Jerry Mills and Gen. Tommy Franks. In all, most of the board resigned during the eight (8) months McCuistion was CEO.

55. During his short tenure, five (5) of the organization’s top seven (7) donors quit giving altogether. After McCuistion had been only five (5) months on the job, the NCPA claimed in court documents that it had lost \$2 million (about 40 percent of its operating budget).¹³

56. On McCuistion’s watch, the NCPA lost all or part of some of its most important programs. For example, all the economists who participated in the organization’s highly prestigious Tax Center resigned. The NCPA lost its sponsorship of a very successful summer youth program, cosponsored by Gen. Tommy Franks; and Franks ended his personal relationship with the organization. The Sumners Foundation cut back (but did not completely end) its sponsorship of the Sumners Lecture series.

57. Defendants approved the hiring of Dennis McCuistion as interim CEO even though Mr. McCuistion had other responsibilities that interfered with his responsibilities as CEO of NCPA, including teaching courses at the University of Texas at Dallas and fundraising for another nonprofit organization. Mr. McCuistion admits to his other responsibilities:

15	Q. At the time that you accepted the position with	
16	NCPA, were you with the University of -- UTD, University	
17	of Texas in Dallas?	
18	A. Yes.	14

¹³ See **Exhibit “K.”**

¹⁴ See **Exhibit “J,”** the McCuistion Deposition at ¶ 81:15-18.

24 | Q. So you maintained that position while you were |
25 | with the NCPA? |

1 | A. Yes. | 15

8 | A. Well, let me stop you. I have been and am the |
9 | chairman of the Foundation for Responsible Television, |
10 | and that raises money for a television program; but |
11 | that's a foundation that gets money, not much, but gets |
12 | money. It's not a foundation that gives money, and it's |
13 | not like the NCPA think tank. It's just a 501(c)(3). |

14 | Q. Did you continue to function in some capacity |
15 | with that foundation while you were with the NCPA? |

16 | A. I did. | 16

58. On information and belief, five female employees at the NCPA lodged sexual harassment complaints against McCuiston, and three of them took their complaints to the NCPA board chairman, during his short tenure as head of the organization.

59. On information and belief, the Board apparently approved a \$15-20 thousand settlement with a female complainant *See Exhibit "V," NCPA board minutes* – an amount greater than the cost of John Goodman’s sexual harassment settlement (which Defendants claim was the cause of his dismissal).

60. Defendants were aware of the sexual misconduct allegations made against Mr. McCuiston, but admit that the only allegations that were formally investigated were those against Dr. Goodman. For example, Defendant GROSS states that he didn’t believe the women:

¹⁵ See **Exhibit "J,"** the McCuiston Deposition at ¶ 81:24-82:1.

¹⁶ See **Exhibit "J,"** the McCuiston Deposition at ¶ 82:8-16.

11 Q. I've also asked you about allegations made
12 against Mr. West and allegations made against
13 Mr. McCuistion?
14 A. Yes.
15 Q. But your testimony today says that the only
16 allegations that were formally investigated by the board
17 were those made against Mr. Goodman; is that correct?
18 A. That's correct, because I believe the other
19 allegations were false.

17

NEGLIGENT HIRING OF ALLEN WEST AS CEO

61. Defendants approved the hiring of Allen West as CEO even though Mr. West had no background in the think tank world or in the world of academic research. On information and belief, West had other management and fundraising obligations and he treated the NCPA position as a part time job. Under West's leadership, revenue losses for the NCPA were almost as large as they were under McCuistion.

62. West was a highly partisan figure who was prone to intemperate and extremist remarks.¹⁸ Prior to his hire, a Google search of the words "Allen West + sex scandal" would have produced numerous links. When asked why these allegations were not investigated, Gross said that (as in the case of McCuistion) he didn't believe the women. See **Exhibit "G,"** the Gross deposition at ¶45:15-17.

NEGLIGENT HIRING OF JAMES AMOS AS CEO

63. Defendants negligently hired AMOS as CEO. AMOS was an individual with no think-tank experience, and no experience with academic research.

64. AMOS had an extensive history of lawsuits against him, defending claims of "fraud" and "misrepresentation," including, upon information and belief:

¹⁷ See **Exhibit "G,"** Gross Deposition at ¶ 90:11-19.

¹⁸ Todd J. Gillman and Gromer Jeffers, Jr., "GOP Chairman West Resigns," Dallas Morning News, June 5, 2021. <https://www.dallasnews.com/news/politics/2021/06/04/texas-gop-chairman-allen-west-resigns-may-challenge-gov-greg-abbott-in-primary/>

- *Kevin Buchanan, As Appointed Receiver of NCPA, v. James Amos, Jr., et al.*; Cause No. DC-19-16781; In the 44th Judicial District Court, Dallas County, Texas;
- *Rubin, et al., v. James H. Amos, Jr., Sona International Corporation, et al.*; Cause No. 1:05-cv-06305-SAS-RLE; In the New York Southern District Court;
- *EZ Solutions, LLC, et al., v. James H. Amos, Jr., Sona Laser Centers, et al.*, Cause No. 1-06-c-v-00201-SS; In the Texas, Western District Court;
- *Gentle Laser Solutions, Inc., et al., v. James H. Amos, Jr., Sona International Corp., et al.*; Cause No. 1:06-cv-00665-NLH-JS; In New Jersey District Court;
- *Light Technology Systems, LLC, et al., v. James H. Amos, Jr., Sona Int'l Corp., et al.*; Cause No. 0:05-cv-02413-JMR-JJG; In Minnesota District Court;
- *Baltimore Laser Solutions, Inc. v. James H. Amos, Jr., Sona International Corp., et al.*; Cause No. 1:06-cv-01390; In the Maryland District Court;
- *McCollum Press, Inc., v. James H. Amos, Jr., Time Minder Comm., Inc., et al.*; Cause 1:94-mc-00137-UNA; In the District of Columbia District Court;
- *Capital Works, LLC, et al., v. James H. Amos, Jr., Sona International Corp. et al.*; Cause No. 8:05-cv-01804-PJM; In the District of Columbia District Court.

65. On information and belief, Defendants never bothered to run a background check on Amos before hiring him.

66. On information and belief, Amos treated the CEO position as a part time job. He had competing management and fundraising obligations. Although he did not draw a salary, the NCPA did pay his expenses. He did not form a relationship with donors and did not secure their future funding of the organization.

67. While Amos was in charge, the NCPA lost its final two large donors (the Sumners Foundation and the grants administered through HRJ). This loss amounted to approximately \$1 million a year. These losses were the financial death knell for the organization, although Amos and the other Defendants continued to run up debt.

68. The Sumners Foundation was explicit about why it ended the Sumners Lecture Series and the Sumners Scholars Program and why it asked for the return of the Restricted Grant: “The NCPA was poorly managed.”

DEFENDANTS NEGLIGENTLY AND RECKLESSLY DROVE AWAY DONORS AND SUPPORTERS

69. According to the *Dallas Morning News*, when John Goodman and Pete du Pont left the NCPA in June 2014, there was \$750,000 in the bank, \$6 million in (endowment) bequests, \$5 million in annual giving and a reliable group of supporters. When the organization folded in June 2017, there was virtually no money in the bank, no endowment, and more than \$1 million of debt. See **website: <https://www.ncpathinktank.org/w18/>**.

70. The Defendants drove away virtually all significant donors in a very short amount of time by engaging in a self-destructive newspaper war with its leader and founder; by filing a frivolous lawsuit against the most prominent attorney in Dallas and one of the City’s largest law firms; by allowing a highly publicized theft of one-third of its resources through grossly negligent financial management; by hiring managers who had no experience or skills in running a think-tank; by hiring managers whose reputations were harmful to the image of the organization; and by failing to produce any think-tank material that donors wanted to support. All the while, they did little if anything, to help the organization survive financially.

71. The NCPA was founded by pillars of the Dallas business community and the Dallas philanthropic world. The original board members included Wayne Calloway (CEO of Frito Lay), Jere Thompson (CEO of the Southland Corporation, which owns the 7-Eleven stores), Robert Dedman (endower of the Dedman School of Liberal Arts at SMU),

Russell Perry (CEO of Republic Financial Services, who was active in civic affairs and who founded the Communities Foundation of Texas — the largest charitable institution in Dallas), John Stephens (CEO of Employers Insurance of Texas) and entrepreneur and philanthropist, Bud Smith.

72. During its lifetime, the NCPA was supported by local business tycoons and philanthropists, including Will Caruth, Ebby Halliday, Harold Simmons, Perry Bass, Lee Bass, Caroline Rose Hunt, Bunker Hunt, Boone Pickens, Harlan Crow, Trammel Crow, Mack Pogue, Jere Thompson Jr., Cary McGuire, Mary Kay Ash, Ray Hunt, Ambassador Jeanne Phillips, Gov. Bill Clements, Brint Ryan, Clayton Williams, Ed Cox (SMU Cox School of Business), Forrest Hogle (Perot Science Museum), Dennis Berman (Denitech), Tom Armstrong (Armstrong Foundation), Peter O'Donnell (O'Donnell Foundation), Jimmy Thompson (Thompson Petroleum Corporation), Don Potts (Capital Institutional Services), Don Bucholz (Southwest Securities), Lee Roy Mitchell (Cinemark), Lee Raymond (Exxon), Michael Jordan (PepsiCo), Gene Bishop (M Bank), Ron Jensen (UICI) and Bob McNair (Houston Oilers). Yet the day the NCPA closed its doors, it was supported by not a single major Dallas business and not a single local foundation.

NCPA'S DISSOLUTION

73. On information and belief, on multiple occasions, Defendant AMOS (then acting as President and CEO of NCPA) called the Sumners Foundation to discuss certain issues, including the Restricted Fund's current value, which Defendant AMOS represented was not substantially different from its \$142,787.49 value on September 30, 2015.

74. Further, Defendant AMOS informed the Sumners Foundation that despite Galloway's termination and arrest, NCPA's operations would be "continuing uninterrupted." Defendant AMOS stated that the NCPA filed a claim under its Employee Dishonesty insurance policy and expected the insurance monies within thirty days. Further, Defendant AMOS stated the funds seized from Galloway were to be returned as soon as the prosecutor cleared the evidence.

75. On February 8, 2017, Galloway's criminal court approved the release to NCPA of \$610,000.00 in cash, and also gold with a value of at least \$40,000.00. Subsequently the gold was sold at market value and all of the funds were deposited into NCPA's operating account.

76. Despite the return of the embezzled funds, NCPA closed its doors and hired Reagan Stewart with Clarion Financial Services, LLC to liquidate its assets. With NCPA having ceased operations, the Restricted Funds were to be returned to the Sumners Foundation, as demanded by the Sumners Foundation on multiple occasions.

77. Nonetheless, by December 2017, NCPA only had \$10,000.00 to its name—all other accounts, including the Restricted Funds account were gone, as Reagan Stewart testified to in a deposition in another matter. *See Exhibit "H,"* Stewart Deposition at ¶27:10-13.

78. Defendants engaged in the unauthorized use of the Restricted Funds despite having full knowledge that restricted funds may only be used for restricted purposes. *See Exhibit "G,"* Gross Deposition at ¶83:15-23 and *Exhibit "J,"* McCuistion Deposition at ¶83:15-23.

79. During the second half of 2017, the Board and Reagan Stewart (a dissolution specialist) began stripping out assets and trying to sell them at below market value. *See Exhibit “H,”* Stewart Deposition at ¶¶20:12-27:13.

80. Because of the way the NCPA as an organization was managed and/or mis-managed over the final three (3) years, assets that might have been valuable to other organizations turned out to be virtually worthless. *See Exhibit “W.”*

- The NCPA had a very successful luncheon speaker series – going back for more than two decades. But the NCPA could not at the time of its closing provide the names and addresses of the people who were invited to, or attended, those luncheons.
- The NCPA’s valedictory message bragged about its very successful high school debate program – with workshops, sample cases and debate materials. But the organization was unable to supply the names and email addresses of the students, teachers, debate coaches and others involved in the program
- The NCPA also boasted about its student essay program. But it could not supply the names and email addresses of the students involved or the parents, teachers, schools and various organizations who supported the program.
- *Daily Policy Digest* was universally praised in the public policy community. Yet the NCPA could not provide the email addresses of the subscribers or the open rates for its emails.
- The NCPA had a very successful Health Policy Blog. Yet it could not furnish the email addresses of the people who participated.

81. One asset that had value, however, was the organization’s URL address. According to the NCPA’s Internet Service Provider, in its last year of life, the NCPA internet site was receiving 150,598 visits every month by 78,194 unique visitors who looked at 850,122 pages. Those visitors came from more than 190 countries. Importantly, 94% of this traffic came via a bookmark, a link in an email or a direct address. There were more than 15,000 instances per month where the access was from a link on another

website. Based on ad value alone, the ISP(ISP) estimates that the monetary value of this kind of traffic is equal to \$20,622 per month, or \$247,462 per year.

82. Yet the Defendants sold this extremely valuable asset to the community pharmacists (who wanted the initials NCPA for their own website) for a mere \$7,500. They sold it for pennies on the dollar. *See Exhibit “I,”* Bankruptcy records.

83. When Stewart announced that NCPA assets would be sold at auction, John Goodman offered to pay \$2,000 more than any other bid for 20 assets up to a total of \$300,000. *See Exhibit “X.”*

84. Goodman put three conditions on the purchase: (1) he asked to know how much he was being asked to pay for each asset; (2) he asked that the NCPA verify that it possessed clear title to each asset being purchased; and (3) he asked whether the NCPA could deliver each of the assets. *See Exhibits “W,”* and *“X.”* The NCPA rejected all three conditions. *See Exhibit “Y,”* Dee Ruckman email to Michael McConnell.

85. Even worse than the loss of money was the flagrant disregard for donor intent. NCPA’s domain name was sold to the National Community Pharmacists Association, which immediately converted the web page for its own use. When it did that, the URL links to thousands of NCPA documents by writers, journalists, researchers, congressional and legislative offices and other think tanks were broken. Overall, links to 35 years of NCPA studies, brief analyses, backgrounders, blog entries, photos, videos and other online documents are now lost to the Internet – forever. *See Exhibit “Z,”* NCPA website document.

86. NCPA donors contributed more than \$100 million through the years to support this work. Board members made no attempt to copy these documents or preserve

them in any way. Instead, they allowed the Internet links to them to be forever broken in return for a mere pittance from the pharmacists.

87. Former NCPA board member Larry Wedekind and at least one other witness said that in selling assets, certain Board members violated the clear instructions of the full NCPA board. Not only that, such Board members conducted these transactions in secret. They refused to tell Wedekind what they sold, when they sold it, who they sold it to and for what price. Ivy also withheld other information, including financial information, that all board members have a right to have access to. Wedekind could not even get copies of the minutes of boards meetings that he attended.

88. Had the Defendants negotiated with Goodman, it seems likely they would have secured \$300,000.00, and perhaps even more. This amount would have covered the Restricted Funds amount. *See Exhibit “H,”* Stewart Deposition at ¶ 44:9-19.

89. Despite repeated demands, the Defendants have refused and continue to refuse to return the Restricted Funds.

VII. CAUSES OF ACTION

BREACH OF FIDUCIARY DUTY

90. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs of this Petition and incorporates them by reference herein for all purposes.

91. Defendants each owed fiduciary duties to Sumners Foundation arising from the Restricted Funds granted by Sumners Foundation to NCPA. The Restricted Funds were to be returned upon request. The Defendants owed fiduciary duties to the Plaintiff which they have breached by self-dealing, failing to account or disclose, failing to act fairly, mismanagement, gross mismanagement, negligence, failing to honor their duties

of good faith and fidelity, and other acts and omissions, and all of which result in continuing damages to Plaintiffs.

92. Defendants engaged in a series of actions and decisions that violated their fiduciary duties to the Sumners Foundation and resulted in the misappropriation and/or misuse of the Restricted Funds. Specifically:

Defendants BATMAN, GROSS, and WHALEN

- a. negligent hired and failed to monitor Joshua Galloway as CFO, which led to Mr. Galloway's embezzlement and the misappropriation of the Restricted Funds for operations and to cover the embezzlement.

Defendants BATMAN, GROSS, and WHALEN

- b. neglected NCPA's financial standards and controls, which facilitated Joshua Galloway's embezzlement and left NCPA in an alarming and precarious financial position such that Defendants had to use the Restricted Funds for operations and to cover the embezzlement.

Defendants BATMAN, GROSS, MCCUISTION, and WHALEN

- c. approved unrealistic budgets even though NCPA could not even maintain its expenses—leading to the misappropriation of Restricted Funds for operations.

Defendants BATMAN, GROSS, MCCUISTION and WHALEN

- d. engaged NCPA in costly public relations battles and frivolous suits against NCPA founder, Dr. John Goodman, and NCPA board secretary, W. Mike Baggett. These actions were expensive and took a financial toll on NCPA, leading to the misappropriation of the Restricted Funds.
- e. Defendants BATMAN, GROSS, MCCUISTION and WHALEN negligently hired Allen West as CEO, which affected NCPA's image and donations, leading to the misappropriation of the Restricted Funds for operational uses.
- f. Defendants BATMAN, GROSS, and WHALEN negligently hired Dennis McCuistion as Interim CEO: Defendants negligently hired Dennis McCuistion as Interim CEO, which affected NCPA's image and donations, leading to the misappropriation of the Restricted Funds for operational uses.
- g. Defendants BATMAN, GROSS, MCCUISTION and WHALEN negligently hired James Amos as CEO, which affected management of NCPA, leading to the misappropriation of the Restricted Funds for operational uses.

- h. Defendants AMOS, and STEWART stripped NCPA assets and sold them at below-market value even when there were offers that may have covered the Restricted Fund amount.
- i. Defendants AMOS, and Stewart failed to obtain the necessary authority on the negotiation and sale of NCPA assets.

93. The Defendants' breach proximately caused injury to Sumners Foundation; specifically, the loss of the Restricted Funds. Worse yet, Defendants' actions violated the rights of the public, who owned a beneficial interest in the Restricted Funds. *See Blocker v. State*, 718 S.W.2d 409, 415 (Tex. App.—Houston [1st Dist.] 1986). Misappropriating funds and engaging in actions and decisions that directly led to the misappropriation do not contribute to Sumner Foundation's purpose or for the good of the public. Pursuant to Texas law, such actions are illegal and against public policy. *See Blocker*, 718 S.W.2d at 415; *see Gearhart Indus., Inc. v. Smith Int'l, Inc.*, 741 F.2d 707, 719 (5th Cir. 1984) (in the breach of fiduciary duty context, illegal acts are those that are against public policy, violate statute, or constitute *malum in se* or *malum prohibitum*). Thus, Defendants are not protected by the business judgment rule or the non-profit safe harbor under TEXAS BUSINESS ORGANIZATIONS CODE § 22.221.

COMMON LAW FRAUD

94. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs of this Petition and incorporates them by reference herein for all purposes.

95. Defendant AMOS made false statements of fact, false statements of opinion, and false promises of future performance to Sumners Foundation regarding the existence, value, and use of the Restricted Funds. Further, all Defendants made false representations to Sumners Foundation by their conduct. Specifically, all Defendants misappropriated the

Restricted Funds, engaged in actions and/or decisions that led to the misappropriation, and concealed the misappropriation. Defendants' representations were material.

96. Additionally, Defendants knew the representations were false or made the representations recklessly, as a positive assertion, and without knowledge of their truth. Defendants made the representations with the intent that Sumners Foundation refrain from requesting the return of the Restricted Funds; and Sumners Foundation relied on the representations. The Defendants' breach caused injury to Sumners Foundation; specifically, the loss of the Restricted Funds.

FRAUDULENT INDUCEMENT

97. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs of this Petition and incorporates them by reference herein for all purposes.

98. Defendant AMOS made false statements of fact, false statements of opinion, and false promises of future performance to Sumners Foundation regarding the existence, value, and use of the Restricted Funds. Further, all Defendants made false representations to Sumners Foundation by their conduct. Specifically, all Defendants misappropriated the Restricted Funds, engaged in actions and/or decisions that led to the misappropriation, and concealed the misappropriation. Defendants' representations were material.

99. Additionally, Defendants knew the representations were false or made the representations recklessly, as a positive assertion, and without knowledge of their truth. Defendants made the representations with the intent that Sumners Foundation donate the Restricted Funds and, thereafter, refrain from requesting the return of the Restricted Funds. Sumners Foundation relied on the representations by continuing to donate to NCPA. The Defendants' breach caused injury to Sumners Foundation; specifically, the loss of the Restricted Funds.

FRAUD BY NON-DISCLOSURE

100. Plaintiff re-alleges each and every allegation set forth in the preceding paragraphs of this Petition and incorporates them by reference herein for all purposes.

101. All Defendants concealed from or failed to disclose certain material facts to Sumners Foundation regarding the Restricted Funds. Defendants had a duty to disclose same but were deliberately silent when they had a duty to speak. Further, all Defendants knew Sumners Foundation was ignorant of the facts and did not have an equal opportunity to discover those facts. By failing to disclose the facts, Defendants intended to induce Sumners Foundation to refrain from requesting the return of the Restricted Funds. Sumners Foundation relied on Defendants' non-disclosure and was injured as a result of acting without the knowledge of the undisclosed facts. Specifically, Sumners Foundation suffered the loss of the Restricted Funds.

EXEMPLARY DAMAGES

102. Pursuant to TEXAS CIVIL PRACTICES & REMEDIES CODE §41.003(a), Plaintiff is entitled to exemplary damages because Plaintiff's injury results from Defendants' fraud, malice and/or gross negligence.

CONDITIONS PRECEDENT

103. All conditions precedent to Plaintiff's right to recovery has been performed, have occurred, and/or have been waived.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff RECOVERY FUNDING SERVICE, LLC, as assignee of HATTON W. SUMNERS FOUNDATION FOR THE STUDY AND TEACHING OF THE SCIENCE OF SELF-GOVERNMENT, INC. d/b/a SUMNERS FOUNDATION respectfully requests that Defendants JAMES AMOS, JR., WILLIAM D.

GROSS, STEPHEN A. BATMAN, DENNIS McCUISTION, REAGAN STEWART and MICHAEL L. WHALEN be cited to appear and answer herein and that upon final hearing Plaintiff have judgment against Defendants, jointly and severally, for the following:

- a. Actual damages;
- b. Exemplary damages;
- c. Equitable relief;
- d. Constructive trust;
- e. Fee Forfeiture;
- f. Profit disgorgement;
- g. Accounting;
- h. Pre-judgment interest;
- i. Post-judgment interest at the rate per annum as published by the Texas Office of Consumer Credit Commission at the time of Judgment;
- j. Costs of court;
- k. Such other and further relief, at law or in equity, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

FRIEDMAN & FEIGER, L.L.P.

/s/ Lawrence J. Friedman

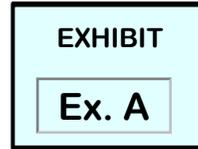
by: _____

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ATTORNEYS FOR PLAINTIFF

HATTON W. SUMNERS FOUNDATION
FOR THE STUDY AND TEACHING
OF THE SCIENCE OF SELF-GOVERNMENT, INC.
325 N. ST. PAUL STREET, SUITE 3920



TRUSTEES
JAMES CLEO THOMPSON, JR., CHAIRMAN
ALFRED P. MURRAH, JR.
THOMAS S. WALKER
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GORDON R. CARPENTER

DALLAS, TEXAS 75201
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TRUSTEES
CHARLES L. MOORE
DAVID G. DRUMM
MICHAEL A. CAWLEY
PETE GEREN
DAVID B. LONG
—
HUGH C. AKIN
EXECUTIVE DIRECTOR

June 30, 2000

Dr. John C. Goodman
President
National Center for Policy Analysis
12655 N. Central Expressway, Suite 720
Dallas, Texas 75243

Dear Dr. Goodman: 

On behalf of the Trustees of the Foundation, it is my pleasure to forward to you the enclosed grant check in the amount of \$500,000.00.

As you will recall from our grant award letter, \$375,000 of this grant is to insure the continuation of the *Hatton W. Sumners Distinguished Lecture Series*, the *Sumners Scholars Public Policy Seminar*, and *Debates Debates* public affairs program through December 31, 2001. The remaining \$125,000 is unrestricted.

You have our best wishes for the continued success of the National Center for Policy Analysis during the coming months. If there is anyway in which we can be of further assistance, please don't hesitate to contact me.

Sincerely,



Hugh C. Akin

DATE	INVOICE NO	COMMENT	AMOUNT	DISCOUNT	NET AMOUNT
06/30/00	6-30	GRANT - 2000	500,000.00	.00	500,000.00

CHECK: 007422 06/30/00 NATIONAL CENTER FOR

CHK TOTAL: 500,000.00

HATTON W. SUMNERS FOUNDATION, INC.

325 N. ST. PAUL, SUITE 3920
DALLAS, TEXAS 75201
(214) 220-2128

BANK OF AMERICA, TEXAS NA
DALLAS, TEXAS

7422

007422

*FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS

DATE

AMOUNT

06/30/00

***500,000.00*

PAY TO THE ORDER OF:

NATIONAL CENTER FOR
POLICY ANALYSIS

HATTON W. SUMNERS FOUNDATION

NCBA

⑈007422⑈ 1000025⑈ ⑈1252874679⑈

SECURITY FEATURES: MICRO PRINT TOP & BOTTOM BORDERS COLORED PATTERN - ARTIFICIAL WATERMARK ON REVERSE SIDE - MISSING FEATURE INDICATES A COPY

HATTON W. SUMNERS FOUNDATION, INC.

7422

DATE	INVOICE NO	COMMENT	AMOUNT	DISCOUNT	NET AMOUNT
06/30/00	6-30	GRANT - 2000	500,000.00	.00	500,000.00

CHECK: 007422 06/30/00 NATIONAL CENTER FOR

CHK TOTAL: 500,000.00

HATTON W. SUMNERS FOUNDATION

325 North St. Paul Street, Suite 3920

Dallas, Texas 75201

(214) 220-2128

GRANT AGREEMENT

The "Grantee" (**National Center for Policy Analysis**) accepts the grant made by the Hatton W. Sumners Foundation (the "Foundation") by grant award letter dated **June 20, 2000**, and agrees to the following:

1. No part of this grant, or any income received with respect thereto, shall be used for any purpose other than the purposes specified in the Foundation's grant award letter.
2. No part of this grant shall be expended a) to carry on propaganda or otherwise attempt to influence legislation within the meaning of Section 4945(d)(1) of the Internal Revenue Code (the "Code"), or b) to influence the outcome of any specific public election or carry on, directly or indirectly, any voter registration drive except as permitted by Section 4945(f).
3. No part of this grant shall be used for any purpose other than one specified in Code Section 170(c)(2)(B).
4. The Grantee shall furnish to the Foundation full and complete reports describing the manner in which the grant funds were spent and the progress that was made in accomplishing the purposes of the grant. A Preliminary Report shall be delivered to the Foundation no later than September 1, 2001, and the Annual Report shall be delivered no later than December 15, 2001.
5. The Foundation may, at its expense, monitor and conduct an evaluation of operations funded by the grant, which may include visits by Foundation representatives to observe the Grantee's program procedures and operations and discuss the program with the Grantee's personnel.
6. A complete and accurate record of the funds received and expenses incurred under this grant must be maintained by the Grantee for at least four years after all grant funds are fully expended. The Foundation may, at its expenses and on reasonable notice to the Grantee, audit, or have audited, the Grantee's records as they relate to the activities funded by this grant.
7. If the grant is intended to support a specific project or to provide general support for a specific period, the Foundation, at its discretion, may require any portion of the grant unexpended at the completion of the project or the end of the period to be returned to the Foundation.
8. The Grantee will allow the Foundation to review and approve the text of any proposed publicity concerning this grant prior to its release.

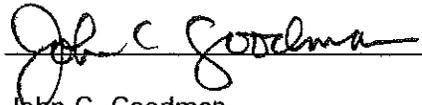
- 9. All obligations of the Foundation hereunder will terminate if a) the Grantee loses its status as an organization described in Code Section 501(c)(3) and not classified as a private foundation under Code Section 509(a) before all funds under this grant are dispensed; b) the Grantee uses this grant for any purpose not authorized under this agreement; or c) such action is necessary to prevent the Foundation from incurring any tax or penalty under the Internal Revenue Code or from losing its status as an organization exempt from federal income taxation.

- 10. The Grantee shall immediately notify the Foundation in writing if: a) its tax exemption is revoked, b) it has any reasonable grounds to believe its tax exemption may be revoked, c) any change is made or proposed to the Grantee's classification as an organization described in Code Section 509(a)(1), (2) or (3) or as a private operating foundation or it has any reasonable grounds to believe any such change may be made, or d) the Grantee believes that it cannot continue to expend the grant in the manner designated in the Foundation's grant award letter.

If the Foundation does not receive the countersigned copy of this letter within fourteen (14) days of mailing, this grant can be revoked.

The Grantee acknowledges that it has received and retained a copy of this Agreement. The undersigned hereby certifies that he or she is duly authorized to accept this grant on behalf of the Grantee and to commit the Grantee to all of its terms and conditions.

Name of Grantee Organization: National Center for Policy Analysis

Signature: 

Name: John C. Goodman
(Please Print or Type)

Title: President

Date: June 23, 2000

** PUBLIC DISCLOSURE COPY **

Form **990**

Return of Organization Exempt From Income Tax

OMB No. 1545-0047

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

2015

Department of the Treasury
Internal Revenue Service

Do not enter social security numbers on this form as it may be made public.
Information about Form 990 and its instructions is at www.irs.gov/form990.

Open to Public Inspection

A For the 2015 calendar year, or tax year beginning OCT 1, 2015 and ending 09 30, 2016

B Check if applicable:
 Address change
 Name change
 Initial return
 Final return/terminated
 Amended return
 Application pending

C Name of organization: **NATIONAL CENTER FOR POLICY ANALYSIS**
 Doing business as: _____
 Number and street (or P.O. box if mail is not delivered to street address): **14180 DALLAS PARKWAY**
 City or town, state or province, country, and ZIP or foreign postal code: **DALLAS, TX 75254**

D Employer identification number: **75-1804932**

E Telephone number: **972-308-6478**

F Name and address of principal officer: **REAGAN STEWART**
SAME AS C ABOVE

G Gross receipts \$: **1,952,460.**

H(a) Is this a group return for subordinates? Yes No
H(b) Are all subordinates included? Yes No
 If "No," attach a list. (see instructions)

I Tax-exempt status: 501(c)(3) 501(c) () (insert no.) 4947(a)(1) or 527

J Website: **WWW.NCPA.ORG**

K Form of organization: Corporation Trust Association Other

L Year of formation: **1982** **M** State of legal domicile: **TX**

Part I Summary		Prior Year	Current Year
1 Briefly describe the organization's mission or most significant activities: PUBLIC POLICY RESEARCH AND EDUCATION.			
2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.			
Activities & Governance	3 Number of voting members of the governing body (Part VI, line 1a)	3	5
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	4
	5 Total number of individuals employed in calendar year 2015 (Part V, line 2a)	5	39
	6 Total number of volunteers (estimate if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0.
	b Net unrelated business taxable income from Form 990-T, line 34	7b	0.
Revenue	8 Contributions and grants (Part VIII, line 1h)	2,880,305.	1,917,464.
	9 Program service revenue (Part VIII, line 2g)	104,333.	33,236.
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	15,031.	57.
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	9,474.	1,703.
	12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	3,009,143.	1,952,460.
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	0.	4,000.
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0.	0.
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	2,035,457.	1,718,698.
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0.	0.
	b Total fundraising expenses (Part IX, column (D), line 25)	72,953.	
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	1,504,916.	1,541,220.
18 Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	3,540,373.	3,263,918.	
19 Revenue less expenses. Subtract line 18 from line 12	-531,230.	-1,311,458.	
Net Assets or Fund Balances	20 Total assets (Part X, line 16)	Beginning of Current Year 1,867,931.	End of Year 1,191,431.
	21 Total liabilities (Part X, line 26)	965,233.	1,600,191.
	22 Net assets or fund balances. Subtract line 21 from line 20	902,698.	-408,760.

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here

Signature of officer: **REAGAN STEWART, OFFICER**
 Date: _____
 Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name: **CURTIS MAXFIELD**
 Preparer's signature: *Curtis Maxfield*
 Date: **8/15/17**
 Check if self-employed:
 PTIN: **P00445178**
 Firm's name: **WHITLEY PENN LLP**
 Firm's EIN: **75-2393478**
 Firm's address: **8343 DOUGLAS AVENUE, STE. 400**
DALLAS, TX 75225
 Phone no. (214) 393-9300

May the IRS discuss this return with the preparer shown above? (see instructions) Yes No

532001 12-16-15

LHA For Paperwork Reduction Act Notice, see the separate instructions.

Form 990 (2015)

FISCAL EXHIBIT 2

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EXHIBIT

Ex. C

Impact Statement

Embezzlement from NCPA by former Finance Director, Joshua Shane Galloway a/k/a Joshua Steven Galloway

Joshua Galloway embezzled approximately one million dollars from the National Center for Policy Analysis ("NCPA"), a Dallas based non-profit. This eight month embezzlement drained approximately one-third of the funds that the nonprofit needed to operate.

As a result of the crime, NCPA has had to lay off multiple employees, and might ultimately go bankrupt, ending the jobs of approximately 20 employees who put food on the table for their families. NCPA is unable to pay dozens of vendors, including scholars who create the NCPA's work product.

Even if NCPA can weather the storm, the reputational damage in the donor community is now in the press and will take years to overcome. NCPA had a duty to tell donors that an embezzlement had occurred. It is not clear that the largest donors, who supported nearly one-third of the NCPA budget, will continue to give. The donors have the ability to ask for their money back, and this could sink NCPA. NCPA had no choice but to go on a search for a new CEO to satisfy donors, further damaging the NCPA reputation with leadership turnover (donors often will not give until leadership has been in place for one year, so that they can evaluate the organization after it assumes a new direction).

NCPA has had to pay out almost \$100,000.00 to lawyers, crisis communications specialists, IT forensics experts, private investigators, and accountants to rebuild the books and financial and personnel documents that Galloway when he was fired from NCPA.

Separately, Galloway's refusal to pay NCPA vendors on time damaged NCPA's relationships with vendors and NCPA's ability to fundraise. Galloway was not paying vendors so that there would be more money in NCPA's accounts for him to steal. Example: On New Year's Eve, Dec. 31, 2015, the largest fundraising day of the year for nonprofits, NCPA's COO received a call at home that the NCPA fundraising website was down. Investigation revealed that the web site provider, Lexicom, cut service after not being paid for six months. This shocked NCPA leadership who had been reviewing Accounts Payable statements regularly, never seeing Lexicom on the list of unpaid invoices (a list prepared by Galloway). The Lexicom CEO - who is also the brother of the NCPA's largest donor - explained that he had complained for months for payment, and that on three occasions that month, Galloway had told him that the check was being overnighted, yet it never arrived. NCPA paid the vendor. But the damage had been done: (1) the largest donor would surely hear that NCPA was not paying its bills, jeopardizing that relationship and (2) the largest fundraising day of the year had been a missed opportunity since the NCPA website was down for part of it.

NCPA had paid a firm that specialized in placing veterans into jobs to find and vet Galloway for a fee of \$12,000.00. This firm did not do a background check of Galloway, which would have shown that Galloway had already been indicted for stealing from his children's trust fund and for drug activity. **Bottom line: Galloway is a career criminal who ruins lives, livelihoods, and now, a thirty year-old nonprofit that has done great work for the public.**

September 1, 2015 to September 30, 2015 Statement

October 1, 2015 to October 31, 2015 Statement

November 1, 2015 to November 30, 2015 Statement

December 1, 2015 to December 31, 2015 Statement

Year End Statement Report

Galloway Chase Bank Checking Account

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Galloway Check History

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Photos of Recovered Property

Video of Galloway Interview

ARTICLES OF INCORPORATION

FCS NUMBER: 16-004

Return To: DALLAS POLICE DEPARTMENT
FINANCIAL CRIME SQUAD
1400 S. LAMAR STREET 4TH FLOOR
DALLAS, TEXAS 75215
(214) 671-3517 ATTN: Sgt. Santiesteban

COMPLAINT FORM (PLEASE TYPE OR PRINT)

This complaint form is provided to you with the understanding that this office may conduct an investigation to determine if a firm or person is in violation of Penal Laws of the State of Texas. We strongly recommend that you consult with your own private attorney to determine your legal rights and civil remedies in this matter.

I. INFORMATION OF THE ACCUSED PARTY:

Full Name: Joshua Galloway Telephone: _____
4191 Cherry Ridge Dr Frisco, Tx 75033
Address (Street, City, State, Zip)

Start/Hire Date: 4/16/15 Work hours: N/A Job Title: CFO

Social Security Number: 475-12-9539 Driver License: _____

DOB: 9/24/1980 Race: W Sex: M Ht: 6'3" Wt: 260 Hair: Brown Eyes: Blue

II. Complainant Information: Please provide copy of: "ARTICLES OF INCORPORATION"

1. National Center for Policy Analysis
Full Name (Company Name if Applicable)
14180 Decker Parkway Suite 350, Dallas, Tx 75254
Address (Street, City, State, Zip)

Office: (972) 386-6272 Other: (972) 308-6483
Telephone Numbers

2. Reporting Person Name: JACKI PICK DOB: 10-20-76
373 Las Colinas Blvd E #168, Irving, Tx 75039
Address and Telephone Numbers (Office, Home and/or Cell)

3. Witness Name: _____ DOB: _____

Address and Telephone Numbers (Office, Home and/or Cell)

III. INFORMATION ABOUT THE OFFENSE:

- 1. Dates of the offense: From: April 16, 2015 TO: January 29, 2016
- 2. Physical address where offense occurred: 14180 Dallas Parkway, Ste. 350, Dallas TX 75254
- 3. Total amount of actual monetary loss suffered: over \$600,000
- 4. What other agencies have you contacted: FBI, Denton Co. Protection, DHS, TSA, NoC
- 5. Are you currently in a civil litigation with the accused: No

IV. FACT DESCRIPTION:

Describe the exact nature of your complaint below by providing a brief description. On a separate sheet of paper provide a detailed description of the circumstances surrounding your allegations of the offense. Include the name(s) and contact information of all individual(s) that have knowledge of the offense. Provide dates and times if possible, and recite facts in chronological order in which they occurred. REMEMBER the following: Who discovered, What was discovered, When discovered, Where discovered, Why discovered, and How was it discovered.

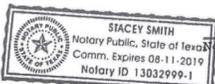
See Attachment

I certify that the information I have provided the Dallas Police Department in this complaint form is true and correct to the best of my knowledge and belief, and is furnished for the sole purpose of instituting a criminal investigation where the investigation indicates criminal activity and leads to criminal prosecution and not for the purpose of recovering personal property or any other items of value. I authorize the Dallas Police Department to use the information given in any manner, which they deem necessary and proper.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO before me this the 12th day of August, A.D., 2016

(Seal)



My Commission Expires: 8.11.2019

C:\Users\jason.sibley\Desktop\FCS COMP FORMS\New Version of Financial Crimes Complaint Form.doc

take him months to correct what he alleged was the sloppy or partial work of the last Finance Director.² Galloway knew that both the CEO and the COO were new, having hired on in January and February 2015, respectively, with very little institutional knowledge of the books. He also knew that the former Finance Director had performed poorly, and had not reconciled the books in the previous six months nor kept complete records. He also knew that the previous audit for NCPA in winter 2014 was not thorough. This created a perfect situation to exploit for theft.

The COO, Jacki Pick, scheduled a monthly recurring appointment with Galloway and Development staff to complete reconciliations an internal control. Galloway would tell the COO a few days in advance of the appointment that he and the Development staff had already met and reconciled the books. The COO would believe him, and remove the appointment from the calendar. Eventually, Pick removed the recurring appointment from the calendar completely, believing the staff were ignoring it and meeting on days more convenient to them, which was acceptable. Pick later learned that Galloway was lying to her to avoid having to do reconciliation completely, because this would have more quickly revealed Galloway's theft.

As the year wore on, Galloway's job performance began to worsen. He had to be told multiple times to make out checks, and his work deteriorated to the point that leadership had to stand over him to force him to issue checks.

By fall 2015, Galloway began showing signs of extreme stress. He put on approximately 40 pounds, and his hair began graying quickly. He spoke continually of his stress and its cause being his wife and in-laws attempting to take his children from him.

In November 2015, NCPA engaged an accounting firm to do the nonprofit's annual audit. The accountants gave Galloway a list of greater than 50 financial schedules to return to them to give them proper visibility into the NCPA books. Galloway reported to COO Jacki Pick that he was steadfastly preparing the necessary information for the accountants. Pick was shocked to learn from the accountants on the eve of the audit deadline, December 7, 2015, that they had received nothing from Galloway. He claimed that this was because he had no choice but to rebuild the first six months of the NCPA's books singlehandedly because the former Finance Director had not coded transactions or properly recorded them for the first six months of the fiscal year, making the deadline impossible. Galloway pledged to work nights and weekends until the books were rebuilt.

Galloway continued to make excuses, dragging his feet with the audit, missing two deadlines in December. At the same time NCPA had chronic IT problems that were causing all IT systems to crash many workdays, and sometimes all five workdays. NCPA hired multiple experts (RescueTech, DBS Solutions, CCSHorizons, Joe Brouhbard) to assist the IT Director in fixing the IT problems.

² See Statement of the Director of Development, Eileen Resnik, Book 2, Tab 2.

Attachment to Complaint Form

Hiring Josh Galloway:

NCPA paid an employment agency, Valor Services, \$12,000.00 to find and vet a Finance Director. The firm presented Joshua Galloway for hire. (NCPA would discover the following year that the agency had missed in their vetting that Galloway had been indicted for Misappropriation of Funds as a Fiduciary in 2014, allegedly stealing money from his children's funds.¹ Perhaps they missed this information because Joshua Shane Galloway changed his name from Joshua Steven Galloway at some point prior to hiring on at NCPA, and he sometimes used other aliases and a fake social security number.)

Unequipped with this relevant information, the NCPA (National Center for Policy Analysis) hired Joshua Shane Galloway to work as Director of Finance on April 16, 2015.

Galloway's duties included loading all transactions into Quickbooks, preparing financial statements, processing accounts payable, HR and payroll. Galloway was the only employee who had access to NCPA accounts, online or otherwise. Galloway's direct supervisor was Col. Allen West, CEO at the time, now Executive Director. Galloway worked exclusively at the NCPA office located 14180 Dallas Parkway, Suite 350, Dallas, TX 75254.

Destruction of NCPA Records:

Immediately after joining NCPA, Galloway urged that NCPA "go paperless" by digitizing all files. Leadership agreed, and Galloway and a temp began scanning and then shredding documents en masse. In hindsight, this might have been an effort to destroy evidence, as reconstruction of the files he destroyed has become greatly complicated given that we are missing files, electronic and physical. Galloway deleted his personnel files. NCPA paid an outside firm, Valor Services, \$12,000.00 to find and vet Galloway, and they have refused to turn over vetting documents for Galloway.

Galloway's Poor Performance Masked Theft:

Galloway refused month after month to complete reconciliation of the NCPA financial statements with management and development staff - a key internal control - on the basis that the "books [he inherited from the former Finance Director] were a mess" and it was going to

¹ See Tab 10.

The IT Director, Chris Betts, came to the COO to report that he had entered the server room and witnessed Galloway pulling cords from the server, perhaps bringing down the system.³ He asked Galloway - who had no reason to ever be in the server room - what he was doing, and Galloway claimed that he was just trying to help. The COO did not believe this account, instead suspecting that the IT Director was attempting to pass blame for his inability to solve the IT problems to Galloway. Even so, the COO agreed to permit the IT Director to place a video camera onto the server room to learn if this was true. According to the IT Director, who was tasked with monitoring the server room, the camera did not capture Galloway in the server room after this instance in which he was caught. The COO later learned that NCPA's Graphic Designer, who assists with IT issues, witnessed Galloway pulling the server cords as well.⁴ It is now obvious that bringing down the system bought Galloway more time to delay NCPA's audit and to steal.

Galloway left town New Year's week, without notice, for Hawaii, further delaying his work on the audit.⁵ While he was gone, on New Year's Eve - the largest fundraising day of the year - NCPA's website went down. NCPA learned that its web provider, Lexicom, had taken the website down because Galloway had not paid them in months. The CEO of Lexicom told the COO that he had spoken with Galloway three times in December 2015, threatening to cut web service if payments were not received. Three times Galloway lied to the CEO, telling him that the check was in the mail. When the check did not arrive after the third verbal promise from Galloway, the CEO cut the web service. NCPA would later learn that the Lexicom check, like so many others, had been signed by NCPA leadership but never sent by Galloway. Instead, Galloway hid them in a file folder, leaving more money in NCPA accounts for Galloway to steal.⁶ This made the cash flow appear normal.

After speaking with the CEO of the normal vendor at Lexicom on New Year's Eve, the COO called Valor Services, the agency that placed Galloway at NCPA, to tell them of Galloway's work performance and that she wanted them to begin looking for a new Director of Finance to replace Galloway. Upon returning from Hawaii, Galloway made a plea for his job explaining that he had simply used insufficient postage for the payment which had to go to Canada. This made no sense, since the payment had, according to Galloway, been sent three times. NCPA CEO, Allen West, who agreed to give Galloway another chance.

The following week, Galloway missed yet another deadline to submit audit materials on January 7, 2016.

By January 18, 2016, the COO had reached her patience limit with Galloway. She asked the Chairman of the Board, who is also the Chairman of the Audit Committee, to authorize her to bring a remediation team into NCPA to do the pre-audit work for Galloway, specifically a team

³ Statement of Chris Betts, Tab ____.

⁴ Statement of Nick Pinner, Tab ____.

⁵ See AMEX statement, closing date ____, Tab ____.

⁶ See Tab 5-3.

from Valor Services, the agency that placed Galloway with the NCPA. She also urged the Chairman to support Galloway's termination, and he did.

Galloway's termination:

When the remediation team arrived on January 22, 2016, Pick scheduled a conference call with the auditor, Galloway, and the team. On this call, Galloway first explained that the entire year would need to be rebuilt, showing that he had lied about completing all of this work in the month of December. Then, he melted down, shouting at the auditor, the COO, and the Director of Development that he "would not be held hostage and micromanaged."

Following this meltdown, CEO Allen West terminated Galloway for unprofessional behavior. West gave Galloway an ultimatum: he could stay to assist with the audit, leaving Feb. 1 with a good recommendation or he could leave immediately with no letter of recommendation. Galloway opted to stay through Feb. 1.

On Monday, Jan. 25, 2016 Galloway did not show up for work as he had promised the CEO. The COO worked with the Valor Services remediation team. They quickly determined that Galloway had destroyed the Quickbooks file, most hard copy financial files, and his own personnel file. Also, he had changed the password on the online financial accounts, keeping NCPA from having visibility. He had made himself administrator on many accounts, such that NCPA could not access the accounts and had to re-do the authorizations, which took a period of days to complete. This bought Galloway time to get away, with NCPA having limited ability to see what he had done. NCPA had to use IT backup to restore what little bit of financial records Galloway had kept. An IT forensics team, G-C Partners, confirmed that Galloway had destroyed IT records and completed searches such as, "Where do I hide a bank account?"

Galloway's Signed Confession and Flight:

On the evening of Jan. 25, 2016, while working with the remediation team, the COO received a phone call from a lawyer named Richard Warfield, who claimed to represent Josh Galloway. Warfield told the COO that Galloway had come to him in either late November 2015 or early December 2015 to confess that he had stolen greater than \$600,000.00 from the NCPA in the form of three large checks that he had forged or both forged and co-signed. Now, Galloway wanted to return the money in exchange for a signed agreement that NCPA would not notify the prosecutor. Warfield asked to meet with the CEO and COO immediately.

The CEO and COO took the meeting. Warfield presented a document styled as an affidavit for signature by the CEO, Allen West, with a very short statement that NCPA would not notify the prosecutor of Galloway's wrongdoing. NCPA refused to sign. The NCPA COO is a lawyer, and urged that nothing be signed until reviewed by counsel. NCPA consulted four lawyers (criminal,

Case Summary:

Suspect Joshua Shane Galloway was hired as Finance Director by the complainant, the National Center for Policy Analysis (NCPA), in April, 2011 as finance director. As finance director, his job responsibilities and duties included accounts payable, accounts receivable, payroll, tax preparation and audit preparation. Reportee Jacki Pick, the NCPA's Executive Vice President, advised that the suspect was fired from his position on January 22, 2016 for obstructing a financial audit that had been continuously delayed. The termination agreement allowed Suspect Galloway to assist in the delayed audit until February 1, 2016. The National Center for Policy Analysis is located at 14180 Dallas Parkway, Suite 350 in Dallas, Dallas County, Texas.

Reportee Pick reported that on January 25, 2016, she received a call from attorney Richard Warfield advising her that Suspect Galloway had embezzled over \$600,000.00 from the complainant. In an attempt to recoup the embezzled funds, the NCPA drafted an "Acknowledgement of Restitution of Funds and Confidentiality Agreement." The agreement was for Suspect Galloway's "admitted misappropriation of funds from NCPA in the amount of \$610,000.00....." and requested "\$570,000.00 as partial restitution to the NCPA no later than 5:00 p.m. EST, Wednesday, January 27, 2016." The NCPA never received any reimbursement for the embezzled funds.

After receiving the information regarding the embezzlement, Reportee Pick began an audit of the NCPA's accounts and located three checks made payable to "Fidelity Brokerage Services, LLC," who the complainant is not affiliated with. These checks were written on one of the NCPA's Legacy Texas checking accounts (account number 70041199). Reportee Pick and Witness Allen West, Executive Director and Vice Chair, advised that the checks were forgeries and that Suspect Galloway was not an authorized signer on the account. Reportee Pick advised that Suspect Galloway also deleted items in the NCPA's QuickBooks accounting system. The three forged checks totaled \$630,000.00.

Based on the information provided by the complainant, evidence obtained and initial investigation, a warrant for theft was issued for the arrest of Suspect Galloway. Suspect Galloway was arrested on February 8, 2016 in Nashville, Tennessee for the theft warrant and a probation violation out of Denton County. Suspect Galloway was subsequently extradited to Dallas County Jail on February 25, 2016. On February 26, 2016, Detective Sibley, #7012 and Detective Bowen, #8522 interviewed Suspect Galloway at Dallas Police Headquarters. Suspect Galloway waived his Miranda Rights and agreed to speak with detectives.

Suspect Galloway told detectives that he was hired in April, 2015 as Finance Director and that he was responsible for accounts payable, accounts receivable, payroll, audits and tax preparation. When asked about the three forged checks, he stated he "cant' comment on the specifics." Suspect Galloway stated that when he was arrested that he had roughly \$340,000.00 to \$360,000.00 in cash, 10,000 Euros, and 60 gold one-ounce bars (about \$75,000.00) he purchased from a company in Oklahoma in 2015. Suspect Galloway stated that he wished he never had "the access and control" he had and that there was "too much temptation, opportunity..... I made some bad choices." Suspect Galloway stated that he did not know why he did not take the offer to make the issue right when he had the opportunity (referring to the "Restitution of Funds and Confidentiality Agreement." He said that if he could go back in time, he would give all the money back to the complainant. Suspect Galloway advised that he did not want to comment on transfers from the Fidelity investment account to his Chase account, but did say that the NCPA did not contribute to the Fidelity account.

corporate, nonprofit, employment) and rewrote the agreement to state that Galloway would return the funds by COB Wednesday, Jan. 27, 2016 along with a written explanation of how he stole the money.⁷

Galloway met his lawyer the morning of Jan. 27, 2016 and signed the statement, which functions as a confession. Attorney Warfield sent the agreement, electronically, to NCPA. Galloway asked Warfield to meet him at Comerica Bank where he said the funds were being held, in cash, in a safe deposit box. Warfield met Galloway there, and Galloway claimed that he had the wrong set of keys to open the box, and that he needed to drive to Ft. Worth to get the correct set of keys. When Galloway returned, he opened the box, and it was empty. Warfield took a photo of the empty safety deposit box and texted it to the NCPA. Galloway claimed that his girlfriend and fiancé had a second key to the box, and that she must have taken the money "for safe keeping" to insure that Galloway did not spend it on hookers. Galloway then claimed that the money was being held at the girlfriend's sister's house in Ft. Worth. He departed for Ft. Worth. By this time, the deadline of his signed agreement to return NCPA's money by close of business had passed.

Monica Kramer Offers to Testify

NCPA leadership believed that Galloway was not going to follow through. A Facebook search revealed that Galloway's girlfriend and fiancé was named Monica Kramer. A quick background check on Kramer through Lexis revealed the names of Kramer's family. Counsel for NCPA called Monica's father, who was able to get Monica on the phone immediately.

Monica shared on the speaker-phone with NCPA leadership and their counsel that she had just left Galloway at Mi Cocina in Ft. Worth. Galloway had switched vehicles with her at the restaurant, having driven hers to the restaurant, and her having driven his new white Range Rover (which NCPA later learned was purchased with NCPA funds). NCPA believes the car switch was designed to throw off anyone who was tracking Galloway, and NCPA believes that Galloway knew that NCPA had a private investigation team following him around the clock. Monica described that the Range Rover as being packed full of suitcases. She explained that Galloway was "talking crazy," explaining to Monica that he had cash and gold on his person, that he had to leave the country, and that he thought he only had a couple of days to get out of the U.S. Monica stated that she told Josh that she never wanted to speak to him again. Monica stated that "everything Josh had ever told me was a lie."

Monica and her father confirmed that no member of their family was holding any assets of NCPA.

⁷ See Tab 5-9.

NCPA called the Dallas Police Department that same evening, and met with officers from the Financial Crimes Division to make out a complaint over the phone. NCPA also called the FBI to report the crime.

NCPA alerted Legacy Texas Bank of the embezzlement and swore out affidavits regarding the three large checks that Galloway admitted to forging.⁸

NCPA spent the following days tracking Galloway through the GPS in his Range Rover with the aid of Monica who had her phone set to track the whereabouts of the vehicle. NCPA reported Galloway's movement to law enforcement. Galloway went to Houston and then to the New Orleans airport, where he parked the vehicle. At about this time, counsel for NCPA told NCPA that Monica had stopped tracking the vehicle for unknown reasons.

Methods of Theft:

In the following days, the COO took over NCPA's audit preparation work and the outsourcing of HR, both of which had been Galloway responsibilities. A review of financial records revealed that Galloway had stolen significantly more than the \$610,000.00 he had confessed.

First, Pick reviewed the NCPA checking account to find the three checks that Galloway admitted to stealing.

- A check for \$140,000.00 to Fidelity Brokerage Services, LLC on September 10, 2015 (Check # 24501) on which Galloway forged the signature of Col. Allen West and co-signed his own signature (Galloway was not an authorized signatory on the account).⁹
- A check for \$140,000.00 to Fidelity Brokerage Services, LLC on November 4, 2015 (Check #24524) on which Galloway forged the signature of Col. Allen West and co-signed himself.¹⁰
- A check for \$350,000.00 to Fidelity Brokerage Services, LLC on November 25, 2015 (Check # 24550) on which Galloway forged the signatures of both CEO Allen West and COO Jacki Pick.¹¹

A more thorough review of the NCPA checking account for the entire period that Galloway worked at NCPA revealed that he had stolen smaller amounts earlier in the year. On May 5, 2015, Galloway paid himself \$15,000.00 with an NCPA check #24398 that read "accounting services retainer" in the memo.¹² Also on May 5, 2015, Galloway wrote a second check to himself,

⁸ See Tab 11.

⁹ See Tab 4 and see Tab ___ for a copy of NCPA signature cards that were in place during the dates that Galloway forged and signed the checks.

¹⁰ See Tab 4.

¹¹ See Tab 4.

¹² See Tabs 4 and 5-14.

Between April 27, 2015 and October 16, 2015, Galloway made \$8,315.00 in unauthorized ATM transactions.²⁰

Between August 14, 2015 and February 2016, Galloway paid his child support payments through NCPA's Operating Account, without authorization, stealing approximately \$15,000.00.²¹

On October 20, 2015, Galloway drew down NCPA's \$50,000.00 Letter of Credit with Legacy Bank, without authorization.²²

Attempts at Further Theft:

NCPA discovered in late January a wire transfer implementation form that Galloway was in the process of completing on January 22, 2016, the day NCPA terminated his employment.²³ This form would have added Galloway to initiate wires up to \$50,000.00 in any of NCPA's three bank accounts with Legacy Texas Bank. It also would have eliminated dual approval for this transaction "despite the recommendation of the bank" to the contrary - in a Rider. The Sales Agreement would have permitted a transfer of up to \$200,000.00 without dual approval, with Galloway listed as an "Additional User."²⁴ Galloway did all of this without NCPA's knowledge.

It appears that Galloway tried to apply for credit for the NCPA to obtain more funds to steal, unbeknownst to NCPA leadership. After Galloway's termination, a letter arrived in the mail dated February 2, 2016 from National Funding explaining that they were turning down the NCPA for credit - an application that management did not authorize and knew nothing about.²⁴

Methods of Obscuring Theft - Fulfilling the Intent Element:

At the urging of counsel, NCPA obtained an IT forensics firm, G-C Partners, to make a copy of Galloway's desktop hard disk to do an assessment.²⁵ G-C determined that Galloway deleted evidence of his electronic activity on the NCPA system. Further, he was running searches such as "where can I hide a bank account?" G-C Partners made a complete imaged copy of Galloway's hard-drive that NCPA has secured and that is available to law enforcement.

Galloway concealed the embezzled money by failing to pay some of NCPA's expenses, so that the books would balance. At the direction of NCPA management, Galloway would process checks to

²⁰ See Tab 5-18 and 5-19 for physical locations of withdrawals.

²¹ See Tab 5-20.

²² See Tab 5-23.

²³ See Tab 6.

²⁴ See Tab 5-2.

²⁵ See Tab ____.

vendors, then NCPA's CEO or COO would sign the checks with the full expectation that Galloway would mail them off to vendors, but instead Galloway would not mail the checks, keeping the funds in the account so that it would be available for his theft. So far NCPA has found at least seven checks in Galloway's files that had been signed by NCPA leadership but never sent to the vendor.²⁶

Galloway destroyed NCPA's QuickBooks data, and NCPA's IT Director, Chris Betts, had to attempt to restructure the data with IT backup. The backup partially recovered the data.

A careful examination of the check register revealed that Galloway was using two sets of Quickbooks to obscure his theft. Checks that were generated on the same day would be made out in two different fonts.²⁷ A temporary employee, Kim Nix, explained that some checks appeared in the set of Quickbooks that NCPA recovered, while others did not.²⁸

NCPA found a transaction on Galloway's corporate American Express card showing payment to a Singapore based tax preparation firm that was paid in Singapore currency.²⁹ On December 9, 2016, Galloway paid funds to OneIBC, International Business Solutions, using the NCPA credit card.³⁰

END

²⁶ See Tab 5-3.

²⁷ See Tab 5-8.

²⁸ See Tab 5-7.

²⁹ See Tab ____.

³⁰ See Tab ____, Dec. 2015 statement

#24399, for \$3,500.00.¹³ On October 21, 2015, Galloway made a wire transfer from NCPA's bank account to Fidelity Brokerage for \$1,054.00.¹⁴ NCPA did not authorize these payments.

Between April 16, 2015 and December 31, 2015, Galloway paid himself \$106,083.32 in salary when he had only been authorized to earn \$72,000.00 annually. In addition, he paid himself \$55,000.00 in unauthorized bonuses.¹⁵ He reported a total of 153,583.32 on his 1099.¹⁶ Prorated, the salary from his hire date on April 16, 2015 through his termination date of January 22, 2016 should have been ____.

On June 5, 2015, Galloway made an unauthorized request to cash out the NCPA's Vanguard investments.¹⁷ The total was \$55,611.15 for the first Vanguard Account # 5111-09958805002 and \$53,294.12 for the second Vanguard Account, #0129-09958805002. NCPA does not know what Galloway did with this money. NCPA has requested all documentation for this account and all correspondence with Vanguard to attempt to track these funds.

On June 26, 2015, Galloway made an unauthorized transaction to cash out NCPA's Chase Investment account, #1905000442.¹⁸ He had a check made out to NCPA for \$50,000.00 - the maximum permitted in a single transaction. On June 29, three days later, he cashed out the rest. Both were mailed to the NCPA's address. NCPA does not know what Galloway did with this money. NCPA has requested all documentation for this account and all correspondence with Chase to attempt to track these funds.

Between May 9, 2015 and February 2016, Galloway abused the NCPA corporate credit card. NCPA did a thorough review of the unauthorized charges over this time period, and calculated approximately \$465,000.00. Galloway used NCPA funds to pay down the card each month. Galloway's fiancé, Monica Kramer, is a witness to much of the misuse of the AMEX, and she has agreed to cooperate in Galloway's prosecution.¹⁹

¹³ See Tab 4.

¹⁴ See Tab 5-17.

¹⁵ See Tabs 5 and 5-17.

¹⁶ See Tab 5-12.

¹⁷ See Tab 5-4.

¹⁸ See Tab 5-5.

¹⁹ See Tab 5-13. NCPA's COO and counsel met with Galloway's former fiancé, Monica Kramer, in an attempt to recover assets that Galloway purchased for Kramer misusing the NCPA AMEX (jewelry, expensive handbags, furniture, etc.). Monica explained that she had been detained by law enforcement on Super Bowl Sunday, prompting her to secure a criminal defense lawyer, Lance Evans. Evans assured NCPA that all goods that Galloway had purchased for Monica with the NCPA AMEX card were secured and inventoried, ready for return to NCPA, but that he would not advise his client to release the items until she is cleared from prosecution. Monica agreed to give everything back to NCPA, and to testify against Galloway. Monica claimed that she is the person who gave the U.S. Marshalls Galloway's whereabouts on the day he was arrested in Nashville in early February.

Based on the information provided by the Reportee, Detective Sibley subpoenaed several accounts belonging to Suspect Galloway, his girlfriend Monica Kramer and the complainant.

Detective Sibley reviewed Suspect Galloway's Fidelity Investment Account (X77796881) and located the three forged checks made payable to "Fidelity Brokerage Services, LLC." These checks were in the amounts of \$140,000.00 (number 24501), \$140,000.00 (number 24524) and \$350,000.00 (number 24550) for a total of \$630,000.00. The subpoenaed Fidelity records, as well as the suspect's subpoenaed Chase Bank checking account (682118000) records show that all of these funds, plus interest, were transferred to the Chase Bank checking account. Unauthorized check number 24399 in the amount of \$3,500 was also deposited into the same Chase Bank checking account.

Reportee Pick advised that the suspect also inflated his payroll. During the time of his employment, the suspect was to receive a salary of \$72,000.00. The suspect's prorated pay from April 30, 2015 to January 15, 2016 should have been \$54,000.00. Subpoenaed payroll records obtained from Commonwealth Payroll and HR show that the suspect overpaid himself a total of \$107,083.32 during that period.

Reportee Pick advised that she reviewed the account statements from the suspect's NCPA issued American Express credit card during his employment. Reportee Pick advised that the suspect made multiple unauthorized charges, unrelated to organizational business, totaling \$462,448.11.

Reportee Pick advised that she reviewed bank statements and identified multiple transactions in which the suspect used local automatic teller machines (ATMs) to make cash withdrawals from the complainant's checking account. Reportee Pick stated that she found the Legacy Texas debit card (ending in 5864) in the suspect's office once his employment was terminated. The name on the card reads "Nezmaris Hassan," a former employee of the complainant's who worked there from 2012 until July, 2015. Detective Sibley contacted Witness Nezmaris Hassan on July 28, 2016 and she reported that she was given access to the debit card to run errands for the NCPA on an as needed basis. Witness Hassan advised that the card would remain in the office of accountant Linda Campbell and she would have to get it from the office each time she was to use it. Witness Hassan stated that she did not keep the card in her possession and never used the debit card's ATM feature. The total loss to the complainant as a result of this activity is \$8514.00.

The total loss to the complainant as a result of the suspect's actions is \$1,226,545.43

PROSECUTION REPORT
FINANCIAL CRIMES SQUAD
DALLAS POLICE DEPARTMENT
214-671-3546

Detective: Jason E. Sibley, #7012 Service Number: 021788-2016
FCS Number: 16-004

Defendant: Joshua Shane Galloway

Aliases: Josh Galloway

Race: White Sex: Male Ht: 6'6" Wt: 280
D.O.B. September 24, 1980 Hair: Brown Eyes: Blue

Characteristics:

Identifications: TX DL #18662669, SS# 467-89-2288

Home Address & Phone: NONE

Work Address & Phone: NONE

Other Location Information: Denton County Jail

Prior Criminal Record: ATTACHED

Offense: Theft F/1 Date: April 16, 2015 - January 29, 2016

Offense Location: 14180 Dallas Parkway Suite 350 Dallas, TX 75254

Property Taken & Approximate Total Value: \$1,226,545.43

Complainant: National Center for Policy Analysis

Home Address & Phone: 14180 Dallas Parkway Suite 350 Dallas, TX 75254 972-386-6272

Work address & Phone: 14180 Dallas Parkway Suite 350 Dallas, TX 75254 972-386-6272

Approved by: Sgt. [Signature] 6972 9/1/2016

PROSECUTION REPORT
FINANCIAL CRIMES SQUAD
DALLAS POLICE DEPARTMENT
214-671-3546

Detective: Jason E. Sibley, #7012 Service Number: 021788-2016
FCS Number: 16-004

Defendant: Joshua Shane Galloway

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Race: White Sex: Male Ht: 6'6" Wt: 280
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Home Address & Phone: NONE

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Approved by: Sgt. [Signature] 6972 9/1/2016

COMPLAINANT

National Center for Policy Analysis (NCPA)
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272

REPORTING PERSON

Jacki Pick, Executive V.P.
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272
jacki.pick@ncpa.org

That she provided police with documentation regarding this offense and met the investigating detective on several occasions to discuss the case. That she identified the suspect and provided police identifying and contact information for the suspect.

WITNESS

Lt. Col. Allen West
14180 Dallas Parkway Suite 350
Dallas, TX 75254
allen.west@ncpa.org

That he provided police with documentation regarding this offense and met with the investigating detective.

WITNESS

Nezmaris Hassan
5400 Preston Oaks #3065
Dallas, TX 75254
214-551-0973

That she was employed by the complainant from 2012 to July, 2015. That there was a Legacy Texas debit card with her name that she used for errands and supplies for the complainant. That she never used the card for an ATM transaction.

INVESTIGATING OFFICER

Jason E. Sibley, #7012
Dallas Police Department
Financial Crimes Unit
1400 S. Lamar, 4th Floor
Dallas, Texas 75215
214-671-3020

Can testify that he was assigned the case for investigation. That he contacted the witnesses and submitted this report to the Dallas County District Attorney.

Dallas County, Texas Service#: 021788-2016
AISI#: 2987184 Arrest#: _____
Warrant Number: _____ Charge: MONEY LAUNDERING 34.02 F/1
Suspect Name: GALLOWAY, JOSHUA, SHANE

Interviewed Suspect Galloway at Dallas Police Headquarters. Suspect Galloway waived his Miranda Rights and agreed to speak with detectives.

Suspect Galloway told detectives that he was hired in April, 2015 as Finance Director and that he was responsible for accounts payable, accounts receivable, payroll, audits and tax preparation. When asked about the three forged checks, he stated he "can't comment on the specifics." Suspect Galloway stated that when he was arrested that he had roughly \$340,000.00 to \$360,000.00 in cash, 10,000 Euros, and 60 gold one-ounce bars (about \$75,000.00) he purchased from a company in Oklahoma in 2015. Suspect Galloway stated that he wished he never had "the access and control" he had and that there was "too much temptation, opportunity..... I made some bad choices." Suspect Galloway stated that he did not know why he did not take the offer to make the issue right when he had the opportunity (referring to the "Restitution of Funds and Confidentiality Agreement"). He said that if he could go back in time, he would give all the money back to the NCPA. Suspect Galloway advised that he did not want to comment on transfers from the Fidelity investment account to his Chase account, but did say that the NCPA did not contribute to the Fidelity account.

Based on the information provided by the Reporter, Detective Sibley subpoenaed several accounts belonging to Suspect Galloway, his girlfriend Monica Kramer and the National Center for Policy Analysis.

Detective Sibley reviewed Suspect Galloway's Fidelity Investment Account (X77796881) and learned that the three forged checks made payable to "Fidelity Brokerage Services, LLC" were all deposited into this account. These checks were in the amounts of \$140,000.00 (number 24501), \$140,000.00 (number 24524) and \$350,000.00 (number 24550) for a total of \$630,000.00. The subpoenaed Fidelity records, as well as the suspect's subpoenaed Chase Bank checking account (682118000) records show that all of these stolen funds, plus interest, were transferred to the suspect's Chase Bank checking account.

Suspect Galloway knowingly transferred the proceeds of criminal activity (theft by forgery) from his Fidelity investment account (X77796881) to his Chase Bank checking account (682118000).

The total amount transferred, including interest earned on the stolen funds, was \$632,787.49.

JCS # 7012 WHEREFORE Affiant requests that an arrest warrant be issued for the above accused individual in accordance with the law.
AFFIANT

SUBSCRIBED AND SWORN BEFORE ME on the day of NOV 10 2016 20

Lina Blanchette
MAGISTRATE, IN AND FOR DALLAS COUNTY, TEXAS

MAGISTRATE'S DETERMINATION OF PROBABLE CAUSE

On this the day of NOV 10 2016 20, I hereby acknowledge that I have examined the foregoing affidavit and have determined that reasonable cause exists for issuance of an arrest warrant for the individual accused therein.

Lina Blanchette
MAGISTRATE, IN AND FOR DALLAS COUNTY, TEXAS

Dallas County, Texas
AISI#: 2987184
Warrant Number:
Suspect Name: GALLOWAY, JOSHUA, SHANE

Service#: 021788-2016
Arrest#: 021788-2016
Charge: MONEY LAUNDERING 34.02
F/1

AFFIDAVIT FOR ARREST WARRANT COUNTY OF DALLAS STATE OF TEXAS

Before me, the undersigned authority, on this day personally appeared the undersigned affiant who, after being duly sworn by me, on oath stated: my name is J. E. Sibley, #7012 and I am a peace officer of the City of Dallas, Dallas County, Texas. I, the affiant, have good reason and do believe that between the dates of September 10, 2015 and December 10, 2015, one JOSHUA SHANE GALLOWAY did then and there in the City of Dallas, Dallas County, Texas commit the offense of MONEY LAUNDERING, a violation of section 34.02 of the Texas Penal Code, a FELONY 1.

Affiant's belief is based upon the following facts and information:

Affiant's personal investigation of this alleged offense.

a fellow peace officer of the City of Dallas, Dallas County, Texas, who personally participated in the investigation of this alleged offense, providing this information to affiant, and whose information affiant believes to be credible.

Suspect Joshua Shane Galloway was hired as Finance Director by the complainant, the National Center for Policy Analysis (NCPA), in April, 2015 as finance director. As finance director, his job responsibilities and duties included accounts payable, accounts receivable, payroll, tax preparation and audit preparation. Suspect Galloway's annual salary for this position was \$72,000.00, paid \$3,000.00 twice monthly. Witness Jacki Pick, the NCPA's Executive Vice President, advised that the suspect was terminated from his position on January 22, 2016 for obstructing a financial audit that had been continuously delayed. The termination agreement allowed Suspect Galloway to assist in the delayed audit until February 1, 2016. The National Center for Policy Analysis is located at 14180 Dallas Parkway, Suite 350 in Dallas, Dallas County, Texas.

Witness Pick reported that on January 25, 2016, she received a call from attorney Richard Warfield advising her that Suspect Galloway had embezzled over \$600,000.00 from the National Center for Policy Analysis. In an attempt to recoup the embezzled funds, the NCPA drafted an "Acknowledgement of Restitution of Funds and Confidentiality Agreement." The agreement was for Suspect Galloway's "admitted misappropriation of funds from NCPA in the amount of \$610,000.00...." and requested "\$570,000.00 as partial restitution to the NCPA no later than 5:00 p.m. EST, Wednesday, January 27, 2016." The NCPA never received any reimbursement for the embezzled funds.

After receiving the information regarding the embezzlement, Witness Pick began an audit of the NCPA's accounts and located three checks made payable to "Fidelity Brokerage Services, LLC," who the complainant is not affiliated with. These checks were written on one of the NCPA's Legacy Texas checking accounts (account number 70041189). Witness Pick and Witness Allen West, Executive Director and Vice Chair, advised that the checks were forged and that Suspect Galloway was not an authorized signer on the account. Witness Pick advised that Suspect Galloway also deflected items in the NCPA's QuickBooks accounting system. The three forged checks totaled \$630,000.00.

Based on the information provided by Witness Pick and Witness West, evidence obtained and initial investigation, a warrant for theft was issued for the arrest of Suspect Galloway. Suspect Galloway was arrested on February 8, 2016 in Nashville, Tennessee for the theft warrant and a probation violation out of Denton County. Suspect Galloway was subsequently extradited to Dallas County Jail on February 25, 2016. On February 26, 2016, Detective Sibley, #7012 and Detective Bowen, #8522

PROSECUTION REPORT
FINANCIAL CRIMES SQUAD
DALLAS POLICE DEPARTMENT
214-671-3546

Detective: Jason E. Sibley, #7012

Service Number: 021788-2016

FCS Number: 16-004

Defendant: Joshua Shane Galloway

Aliases: Josh Galloway

Race: White Sex: Male Ht: 6'6" Wt: 280
D.O.B. September 24, 1980 Hair: Brown Eyes: Blue

Characteristics:

Identifications: TX DL #18662669, SS# 467-89-2288

Home Address & Phone: NONE

Work Address & Phone: NONE

Other Location Information: Denton County Jail

Prior Criminal Record: ATTACHED

Offense: Theft F/1

Date: April 16, 2015 - January 29, 2016

Offense Location: 14180 Dallas Parkway Suite 350 Dallas, TX 75254

Property Taken & Approximate Total Value: \$1,226,545.43

Complainant: National Center for Policy Analysis

Home Address & Phone: 14180 Dallas Parkway Suite 350 Dallas, TX 75254 972-386-6272

Work address & Phone: 14180 Dallas Parkway Suite 350 Dallas, TX 75254 972-386-6272

Approved by: Sgt. [Signature] 692 9/1/2016

COMPLAINANT

National Center for Policy Analysis (NCPA)
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272

REPORTING PERSON

Jacki Pick, Executive V.P.
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272
jacki.pick@ncpa.org

That she provided police with documentation regarding this offense and met the investigating detective on several occasions to discuss the case. That she identified the suspect and provided police identifying and contact information for the suspect.

WITNESS

Lt. Col. Allen West
14180 Dallas Parkway Suite 350
Dallas, TX 75254
allen.west@ncpa.org

That he provided police with documentation regarding this offense and met with the investigating detective.

WITNESS

Nezmaris Hassan
5400 Preston Oaks #3065
Dallas, TX 75254
214-551-0973

That she was employed by the complainant from 2012 to July, 2015. That there was a Legacy Texas debit card with her name that she used for errands and supplies for the complainant. That she never used the card for an ATM transaction.

INVESTIGATING OFFICER

Jason E. Sibley, #7012
Dallas Police Department
Financial Crimes Unit
1400 S. Lamar, 4th Floor
Dallas, Texas 75215
214-671-3020

Can testify that he was assigned the case for investigation. That he contacted the witnesses and submitted this report to the Dallas County District Attorney.

Student	Employer / School	Report Type	16-017276
Police No. 14180	Prefix	Date / Time Occurred 09/02/2015 12:00	Page 2 of 4
CA	Street Name	Occurrence 11/25/2015 12:00	Date / Time Reported

COMPLAINANT

National Center for Policy Analysis (NCPA)
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272

REPORTING PERSON

Jacki Pick, Executive V.P.
14180 Dallas Parkway Suite 350
Dallas, TX 75254
972-386-6272
jacki.pick@ncpa.org

That she provided police with documentation regarding this offense and met the investigating detective on several occasions to discuss the case. That she identified the suspect and provided police identifying and contact information for the suspect.

WITNESS

Lt. Col. Allen West
14180 Dallas Parkway Suite 350
Dallas, TX 75254
allen.west@ncpa.org

That he provided police with documentation regarding this offense and met with the investigating detective.

WITNESS

Nezmaris Hassan
5400 Preston Oaks #3065
Dallas, TX 75254
214-551-0973

That she was employed by the complainant from 2012 to July, 2015. That there was a Legacy Texas debit card with her name that she used for errands and supplies for the complainant. That she never used the card for an ATM transaction.

INVESTIGATING OFFICER

Jason E. Sibley, #7012
Dallas Police Department
Financial Crimes Unit
1400 S. Lamar, 4th Floor
Dallas, Texas 75215
214-671-3020

Can testify that he was assigned the case for investigation. That he contacted the witnesses and submitted this report to the Dallas County District Attorney.

CITY OF DALLAS POLICE DEPARTMENT

Incident Report

Case Number 021788-2016 CAD Incident # 16-0172736
Report Type Incident Report Page 4 of 4
Date / Time Occurred 8/19/2015 12:00 to 11/25/2015 12:00 Date / Time Reported 12/22/2015 14:00

Details: Hair Color BROWN, Eye Color BLUE, Build MEDIUM, Hair BEARD, Facial Hair Color PARS, Hair Length 10, Complexion 10, Hand Preference Left, Palm Decoloration None, Scars None, Tattoos None, Shaves None, Hat None, Citizenship US CITIZEN, Marital Status SINGLE, Ethnicity NON-HISPANIC

Offense: THEFT OF PROP > OR EQUAL \$300K (BY EMPLOYEE) (PC 31.03(e)(7))
Associated with Victim: [X]
Vehicle: 15 LAND ROVER RANGE ROVER, WHITE, VIN [redacted]

PROPERTY: MONEY, STOLEN, Value \$630,000.00, Tag # [redacted]

SUSPECT STOLE \$630,000 VIA THREE FORGED CHECKS
THEFT OF PROP > OR EQUAL \$300K (BY EMPLOYEE) (PC 31.03(e)(7))

Between September 10, 2013 and November 25, 2015, the suspect stole, forged and deposited three of the complainant's checks into a Fidelity Brokerage Account belonging to the suspect. The total loss to the complainant is \$630,000.00.

Incident Report

Case Number 021788-2016 CAD Incident # 16-0172736
Report Type Incident Report Page 2 of 4
Date / Time Occurred 8/19/2015 12:00 to 11/25/2015 12:00 Date / Time Reported 12/22/2015 14:00

Person Type: Student
Employer / School: FAITH FAMILY ACADEMY
Street Name: WEST KIEB BLVD, City: DALLAS, State: TEXAS, Zip: 75224

Person Type: OTHER PERSON
First Name: MONICA, Middle Name: SUZANNE, Suffix:
Last Name: WEAVER, Race: WHITE, Sex: FEMALE, SSN: 450-65-0336, Date of Birth: 08/20/1983, Age: 32, Age Range: 18 to

Person Type: OTHER PERSON
First Name: WEST, Middle Name: KIEB, Suffix:
Last Name: WEST, Race: WHITE, Sex: FEMALE, SSN: 450-65-0336, Date of Birth: 08/20/1983, Age: 32, Age Range: 18 to

Person Type: OTHER PERSON
First Name: [redacted], Middle Name: [redacted], Suffix: [redacted]
Last Name: [redacted], Race: [redacted], Sex: [redacted], SSN: [redacted], Date of Birth: [redacted], Age: [redacted], Age Range: [redacted] to

Person Type: OTHER PERSON
First Name: [redacted], Middle Name: [redacted], Suffix: [redacted]
Last Name: [redacted], Race: [redacted], Sex: [redacted], SSN: [redacted], Date of Birth: [redacted], Age: [redacted], Age Range: [redacted] to

Person Type: OTHER PERSON
First Name: [redacted], Middle Name: [redacted], Suffix: [redacted]
Last Name: [redacted], Race: [redacted], Sex: [redacted], SSN: [redacted], Date of Birth: [redacted], Age: [redacted], Age Range: [redacted] to

Incident Report

Case Number 021788-2016 CAD Incident # 16-0172736
Report Type Incident Report Page 3 of 4
Date / Time Occurred 8/19/2015 12:00 to 11/25/2015 12:00 Date / Time Reported 12/22/2015 14:00

Associated Offense: THEFT OF PROP > OR EQUAL \$300K (BY EMPLOYEE) (PC 31.03(e)(7))
Associated with Victim: [X]

Vehicle: 15 LAND ROVER RANGE ROVER, WHITE, VIN [redacted]

Registered Owner Info: Registered Owner Name (Last, First, MI), Sex, Race, DOB, House No, Street Name, City, State, Zip, Insurance Company, Policy Number, Financed By/Financier

Vehicle Elements: Description, Stolen, Recovered, Other, Age in Ignition, Stolen Located, Stolen Check, Tow/Recd, Check, Evidence of Shipping / Tampering, Recovered By, Recovered Value, Recovery Code, Disposition, How Vehicle Taken, Owner Notified by Recovering Officer, Impounded, Towed, Location Towed From, Location Towed To, Vehicle Owner Name, Tow Truck Operator Signature

Recovery Address: House No, Prefix, Street Name, City, State, Zip, Unit No, Unit Type

Suspect: [X] Present, [] Unknown, [] Arrested, [] Surrendered
First Name: JOSHUA, Middle Name: SHANE, Suffix:
Last Name: SULLOWAY, Race: WHITE, Sex: MALE, SSN: 467-82-2288, Date of Birth: 09/24/1980, Age: 35, Age Range: 18 to

Suspect Home Address: House No, Prefix, Street Name, City, State, Zip, Unit No, Unit Type
SUSPECT HOME ADDRESS: 14190 DALLAS PARKWAY, DALLAS, TEXAS 75244

Support Employment Information: Employer / School, Occupation, House No, Prefix, Street Name, City, State, Zip, Work Phone, Hours of Employment

Incident Report

Case Number 021788-2016 CAD Incident # 16-0172736
Report Type Incident Report Page 1 of 4
Date / Time Occurred 8/19/2015 12:00 to 11/25/2015 12:00 Date / Time Reported 12/22/2015 14:00

Arrested Suspects, Additional Suspects, Unknown Suspects, Victims, Other Persons, Vehicles, Items, Evidence Court, Liable Court, Related Case #

Location Given by Dispatcher: 14190 DALLAS PARKWAY
Clearance by Exception, Exceptional Clearance Date

Situation Found, Case Status, Incident Address: House No, Prefix, Street Name, City, State, Zip, County, District, Best

Offense: Primary Offense: THEFT OF PROP > OR EQUAL \$300K (BY EMPLOYEE) (PC 31.03(e)(7))
Counts: 1
Business Offense: BUSINESS OFFENSE, # Permitted, Family Violence, Offense Using: NOT APPLICABLE

Drug Related: Drug Related, Drug Related, Drug Type, Drug Endangered Child, Hite Crime: NONE

MO Panel, Entry Area, Entry Point, Entry Point 1, Entry Point 2, Target Area, Victim Target, Victim Target 1, Victim Target 2, Action 1 on Victim, Action 2 on Victim, Action 3 on Victim, Action 1 to Premises, Action 2 to Premises, Action 3 to Premises, Excluded Offense 1, Excluded Offense 2, Preceding Circumstance

Person Type: REPORTING
First Name: ALLEN, Middle Name: R, Suffix:
Last Name: WEST, Race: BLACK, Sex: MALE, SSN: [redacted], Date of Birth: [redacted], Age: 55, Age Range: 18 to

Person Type: CELL PHONE
First Name: DALLAS, Middle Name: PROWY, Suffix:
Last Name: DALLAS, Race: [redacted], Sex: [redacted], SSN: [redacted], Date of Birth: [redacted], Age: [redacted], Age Range: [redacted] to

DECLARATION OF RICHARD WALKER

1. I, Richard Walker, state and declare as follows:
2. "I am over 21 years of age and fully competent to make this declaration. The facts set forth herein are true and correct and are within my personal knowledge.
3. I am one of the former Chief Financial Officers of National Center for Policy Analysis ("NCPA").
4. When Janice Estes was dismissed as CFO, I was placed in charge of the NCPA's financial affairs. At that time, the NCPA's cash control consisted of a cash management worksheet. The worksheet provided a rolling account of predicted cash receipts and estimated cash expenditures.
5. As I became the key contact for the auditor, Bob Daniell, we discussed the benefits of implementing a more rigorous system to convert the NCPA's financial affairs to an electronic system. As a result, we decided that a system of internal controls would allow him to more faithfully "attest" that the NCPA was making its best effort to prevent fraud.
6. A system of internal controls was implemented in late 2009 or early 2010. I developed a task-and-responsibilities grid for control of cash. The grid identified each control and the staff member's responsible for it. Around 2011, maybe early 2012, IT Director Chris McGregor and I expanded the controls to include an ongoing internal audit that added controls for physical assets.
7. Shortly after his arrival, I scheduled a meeting with interim CEO Dennis McCuiston to discuss the NCPA's finances, including internal controls. At that meeting, I showed him the accounting manual and gave him a copy of the internal control grid and procedures.
8. An investigation determined that Josh Galloway ("Galloway") embezzled \$1,226,545.43 within a period of fewer than eight months.
9. The NCPA paid \$12,000 to the Valor Employment Agency to find a CFO. Valor had little or no experience in executive search. As a result, they presented Josh Galloway without properly vetting him through a background investigation that would have discovered his history of drug abuse and an indictment for theft from his children's trust fund. Such an investigation is routine at financial placement firms previously used by the NCPA.
10. The NCPA hired Galloway on April 16, 2015 solely on his credentials as a CPA and his availability. The latter should have provoked questions. Almost immediately, he was given sole authority for the NCPA's financial operations, including exclusive

access to the accounting software (QuickBooks), and sole responsibility for preparation of financial statements, all bookkeeping functions (payables, receivables, etc.), and the NCPA's investment accounts, etc., without restriction and absent any supervision.

11. His immediate supervisors were Allen West, the CEO, and COO Jacki Pick.

12. The NCPA was the recipient of two grants from the Hatton W. Sumners Foundation. One supported a schedule of four Distinguished Lecture Series (DLS) events each year. Funds from this annual grant were restricted to DLS events and were to be expended during the year of the grant. Another grant in support of the NCPA's intern program had been awarded several years earlier. The principal of this grant was permanently restricted with the interest earned from investment of the principal to be used to support an intern position's. The \$140,000 was for DLS. I don't think the intern grant principal was \$109,000. It might have grown to that, however. I received authorization to spend the interest, but don't think they did before my departure.

13. In a phone call with Chris McGregor and me in late May or early June 2015 (shortly after his arrival), Galloway insisted that the permanently restricted principal of the intern grant, the interest earned from investment of the principal, and the funds provided for the DLS events could be spent for general operations. I warned against this in the strongest terms. However, his stated position was that "he was a CPA and Chris and I were not." According to a subsequent investigation by the Dallas Policy Department, those funds were embezzled for Galloway's personal use shortly thereafter.

- On June 5, 2015 Galloway cashed out the NCPA's Vanguard investments through unauthorized withdrawals of \$55,611.15 (Vanguard #5111-09958805002) and \$53,294.12 (Vanguard #0129-09958805002). The NCPA does not know what Galloway did with these funds.
- On June 26, 2015 Galloway withdrew \$50,000, the maximum allowed for a single transaction, from the NCPA's Chase Investment account (#10905000442). Three days later, June 19, he cashed out the remainder. Again, the NCPA does not know what he did with the money.

14. Had NCPA's internal controls been in place, regular statements from Vanguard would have been sent to the COO, reviewed by the Controller, and both the Development and Events Directors would have been informed of the funds remaining available. Removing and/or ignoring the proper controls and failure to maintain the cash flow worksheet directly led to their abuse.

15. The NCPA's bank account and corresponding Letter of Credit (LOC) were set up by me, administered by the Controller, and supervised by the COO. A list of invoices and other remittances to be paid were prepared by the Controller for the COO's review and approval.

16. The monthly bank statement was sent to the COO, who forwarded it to the Controller. The Controller then prepared both a reconciliation for that month and a “proof of cash” for the COO’s approval. The reconciled cash figure was then incorporated into the cash flow worksheet. Using the NCPA’s system of cash controls, it would not have been possible for the CFO to hide his fraud—personal payments, e.g., would have been caught by any of the NCPA’s controls: the bank statement, the reconciliation, the “proof of cash,” or during preparation of the cash flow worksheet.

17. Furthermore, any check written for more than \$25,000 required the CEO’s signature in addition to the COO’s. Later, the Board approved IT Director Chris McGregor as the second signatory.

18. Galloway confessed to forging signatures on three checks, totaling \$610,000. But a review of the NCPA’s financial records revealed far more:

- On May 5, Galloway paid himself \$15,000 (NCPA check #24398) for “Accounting Services Retainer.” Since he was a salaried employee, he was not due a retainer. In any case, there was no supervision to prevent him from doing so.
- On the same day, he wrote a second check (NCPA #24399) for \$3,500; also not authorized.
- On October 21, 2015, Galloway transferred \$1,054 by wire from the NCPA’s bank account to Fidelity Brokerage. The transfer was not authorized.
- Between April 16, 2015 and December 31, 2015, a span of fewer than nine months, Galloway paid himself a salary of \$106,083.32, \$34,083.32 more than his annual salary of \$72,000.
- In addition, he paid himself, without authorization, \$55,000 in bonuses.
- As a result, Galloway reported a total of \$153,583.32 on his 1099. There is a discrepancy, however, as the salary of \$106,083.32 plus the \$55,000 bonus total \$161,083.32.
- Between August 14, 2015 and February 2016, Galloway paid child support obligations in the amount of \$15,000 from the NCPA’s operating account at Legacy Texas Bank. None of the payments were unauthorized.

- Finally, and again without authorization, Galloway extinguished the NCPA's full \$50,000 LOC with Legacy Texas Bank.

19. Failure to observe the NCPA's internal controls and allowing all these responsibilities to be consolidated under one staff member with no supervision or oversight was reckless and allowed the CFO to inflate his salary, write unauthorized bonus checks for deposit in his personal accounts, and even pay child support with NCPA funds; all of which are illegal.

20. The CEO, COO, Controller, and directors of the Development, Events, and Government Affairs departments held American Express credit cards in their names. Cards held by the CEO and COO were limited only by Amex. Cards held by the Controller and department heads were limited to \$5,000 and all charges required authorization by the COO.

21. The CEO or his assistant would inform both the COO and Controller of any charges incurred by the CEO. The assistant would forward receipts for those charges to the Controller. The COO also forwarded receipts for his charges to the Controller. When charges were approved for department heads, the COO would inform the Controller, and the department head using the card would forward receipts to the Controller.

22. The monthly Amex statement was sent to the COO. After his review, the statement was forwarded to the Controller for her review and remittance.

23. Abandoning any semblance of control and allowing the use of these credit cards invited abuse by Josh Galloway. With no supervision, Galloway consolidated the Amex cards under his control. Not only was he able to transfer ownership of these cards to himself, he also was able to charge them up to their respective limits without detection.

24. According to a later review by the NCPA, Galloway ran up unauthorized charges of approximately \$465,000 between May 9, 2015 and February 2016, at least some of which was expended on jewelry, expensive handbags, furniture, and other items for Galloway's fiancé, Monica Kramer. The list of unauthorized charges included the "purchase of a white Range Rover," all purchased with NCPA funds.

25. The NCPA's normal credit card procedures, referenced above, would have detected promptly and immediately ended Galloway's rampant abuse and costly illegal behavior.

26. Galloway's illegal and unauthorized ATM withdrawals would have been made through abuse of the NCPA's Amex card/s or its debit card.

27. In 2012 the COO authorized a Mastercard debit card for incidental, petty cash expenses not requiring an Amex card. The card's limit was \$200. The IT Director

kept custody of the card in a small safe in the IT closet. Most often, the card was used by the COO's assistant to purchase refreshments for Board meetings and hosting visitors at the NCPA's headquarters.

28. Each use of the card was authorized by the COO, who notified the IT Director, who would give the card to the assistant. She would return the card after using it to the IT Director and submit the receipt to the Controller. The debit card bill was sent to the Controller, who would reconcile the statement with the receipts provided, then send it to the COO for approval prior to paying the Mastercard invoice.

29. Because he was given control of the NCPA's finances with no supervision whatsoever, Galloway was able between April 27, 2015 and October 16, 2015, a span of fewer than six months, to make unauthorized ATM transactions of \$8,315. This abuse would have been detected and stopped no later than receipt of the first monthly Amex and Mastercard statements, if not before.

30. Once cash controls were in place, the COO asked the IT Director, Chris McGregor, to prepare an internal audit system for the NCPA's physical assets, ranging from access controls and tools to computers and servers. Control of all physical assets and restrictions on access to NCPA servers and its collateral server storage site were put in place in 2011.

31. Failure to continue to observe these physical controls allowed Galloway to "go paperless" and digitize all NCPA files, shredding all paper documentation. In effect, the CFO was permitted to "reconstruct" the NCPA's finances. Given that both physical and digital files remain missing, evidence critical to both the NCPA's and DPD's investigation of Galloway, critical evidence could have been destroyed.

32. It was later discovered, for example, that Galloway had entered the server room and was observed detaching cords from the servers (further explained under the Audit discussion below). The NCPA's controls for physical access prevent anyone from entering the server room without IT personnel present. They also prohibited anyone other than IT personnel from even touching the server assets.

33. The NCPA's failure to provide even the most rudimentary supervision of cash, its physical assets, and its most important financial employee was costly; eventually resulting in bankruptcy.

34. According to the DPD's investigation after Galloway's arrest, the NCPA paid "almost \$100,000 to attorneys, crisis communications specialists, forensic IT experts, private investigators, and accountants" to rebuild the financial mess Galloway left; expenses that would have been unnecessary had any semblance of internal controls been applied.

35. Furthermore, "As a result of (Galloway's) crime, the NCPA had to lay off multiple employees, ending the jobs of approximately 20 NCPA employees who put food

on the table for their families.” The DPD report also noted that due to Galloway’s malfeasance, the NCPA could not pay “dozens of vendors, including scholars who create the NCPA’s work product.”

36. From the beginning, Galloway refused to reconcile the NCPA’s financial statements, blaming the “books (he inherited from the former Finance Director) were a mess and it “would take him months to correct” them. I can vouch for them being current through July 2014. After that, I had no effective control of any NCPA department, especially finance.

37. According to the DPD report, COO Jacki Pick “scheduled a recurring appointment with Galloway and Development staff to complete reconciliations.” The DPD also noted that “Galloway would tell (Pick) that he and the development staff had already met and reconciled the books.” Rather than demanding a reconciliation report, Pick “believed (Galloway)” and “removed the recurring appointment from the calendar completely, believing the staff were ignoring it.” As a result, no reconciliations were reported to or, most important, requested by Pick or West.

38. The CFO’s job performance worsened, the DPD report notes. He began showing signs of “extreme stress;” to the point that “he had to be told multiple times to make out checks” and “leadership had to stand over him to force him to issue checks.”

39. In November 2015, however, the NCPA engaged an accounting firm to prepare their annual audit. The auditors “gave Galloway a list of greater than 50 financial schedules to return to them to give them proper visibility into the NCPA’s books.”

40. Galloway assured the COO that he was “steadfastly” preparing them. However, Pick “was shocked to learn from the accountants on the eve of the audit deadline, December 7, 2015, that they had received nothing from Galloway.” He blamed the delay on the “restructuring” of the NCPA’s books made necessary by improper “coding of transactions” by the previous Finance Director.

41. The delay continued. He missed two deadlines in December. To make matters even worse, the NCPA began to have chronic IT problems (see reference above to Galloway improperly entering the server room and disconnecting wires from the server), causing its website to crash on many workdays, sometimes all five weekdays. As the DPD report concludes, “It is now obvious that bringing down the system brought Galloway more time to delay the NCPA’s audit and to steal.”

42. The NCPA’s website finally went down on New Year’s Eve, this time because its web provider, Lexicom, had not been paid for months. Three times, Galloway lied to the CEO, telling him that Lexicom had been paid. The Lexicom check “had been signed by NCPA leadership but never sent.” Instead, the police report continued, “Galloway hid them in a file folder, leaving more money in the NCPA accounts for Galloway to steal. This made cash flow appear normal.” The NCPA later found at least seven checks in Galloway’s file that had been signed but never mailed.

43. Finally, the COO called Lexicom, then called Valor Services, the agency that recommended Galloway to the NCPA, and told them “she wanted to begin looking for a new Director of Finance.” Galloway returned from vacation in Hawaii to plead for his job. He told CEO Allen West that the only reason Lexicom had not received the check was insufficient postage. West accepted the excuse and agreed to give Galloway another chance.

44. Galloway missed another audit deadline on January 7, 2016. At that point, the COO asked the Board Chairman, Steve Ivy, who also was Chairman of the Audit Committee, to authorize retention of a “remediation team” to complete the pre-audit work. She asked Ivy to support Galloway’s termination. He did.

45. On January 22, 2016, the COO scheduled a conference call with Galloway, the auditor, and the remediation team. He wound up shouting at the other attendees that he “would not be held hostage and micromanaged.” West fired Galloway for unprofessional behavior but offered him an ultimatum: “he could stay to assist with the audit, leaving February 1 with a good recommendation.” Galloway accepted.

46. However, Galloway did not show up for work on the next Monday, January 25, as promised. In his absence, the remediation team discovered Galloway’s destruction of both the electronic and hard copy financial files, his own personal files, that he changed passwords, locking the NCPA out of all files, and had made himself administrator on other accounts. Reworking the authorizations took days to complete, buying “Galloway time to get away.”

47. That same evening, January 25, the COO received a call from a lawyer, Richard Warfield, who told her he represented Galloway. The lawyer told the COO that Galloway had confessed to him in November or early December that he “had stolen greater than \$600,000 from the NCPA in the form of three checks that he had both signed and co-signed.” The lawyer also told the COO that Galloway would return the money in exchange for a “signed agreement that the NCPA would not notify the prosecutor.”

48. West refused to sign such an agreement. Later, after consulting several attorneys, the NCPA re-wrote the agreement such that “Galloway would return the funds by Wednesday, January 27, 2016 along with a written explanation of how he stole the money.” He signed the agreement, “which functions as a confession.”

49. Galloway had fled. After leading NCPA executives and his lawyer on an adventure, Galloway was arrested in Nashville on February 8, 2016. When arrested, Galloway had roughly \$340,000 to \$360,000 in cash, 10,000 Euros, and 60 one-ounce gold bars in his possession. He told authorities that “he wished he had never had the access and control” he was given due to the absence of cash controls and proper supervision, adding “there was too much temptation. I made some bad choices.”

50. Financial controls had been rigorously followed at the NCPA long before

they were dismantled by interim CEO Dennis McCuiston, CEO Allen West, COO Jacki Pick, and perhaps even Jim Amos, who succeeded West as CEO. In fact, the absence, in toto, of oversight was deliberate, systematic, and given the CFO's background, makes other executives equally as culpable.

51. Long before I was hired in 2000, CEO John Goodman, and CDO Jeanette Goodman had meticulously supervised revenues and expenses by rigorously updating its cash flow worksheet. As described earlier, the NCPA's auditor, its CDO, and I developed the first system of internal controls to complement the worksheet.

52. Finally, I personally authored the late written copy of the controls document prior to meeting with Dennis McCuiston shortly after he was hired at the NCPA. All controls were abandoned shortly after that.

53. Given the scale of Josh Galloway's crimes, the short time span during which the embezzlement was accomplished, and the total lack of supervision by NCPA executives and the Board of Directors, the term, "gross negligence," does not begin to describe the abdication of fiduciary responsibility by all those responsible.

54. The DPD report correctly predicted Galloway's crimes would damage the NCPA's relationship with donors, vendors, and scholars, leading to dissolution of the organization, and eventually bankruptcy. Yet among those primarily responsible only Galloway has been disciplined in any meaningful way:

- Steve Ivy continued as Chairman of the Board and Audit Committee.
- Dennis McCuiston, under whose supervision the NCPA's financial controls were originally dismantled, remained on the Board, although he was eventually asked to leave due to unrelated personnel matters.
- Lt. Col. West was relieved as CEO but was "promoted" to Vice Chairman of the Board and continued to receive a salary until the NCPA finally closed its doors more than a year later.
- The COO, Jacki Pick, continued to be employed and was paid to help dissolve the organization's assets even after the NCPA closed its doors.

55. There is tangible evidence that the NCPA's officers and Board Members defaulted on their fiduciary responsibilities throughout this tragic ordeal for NCPA's employees:

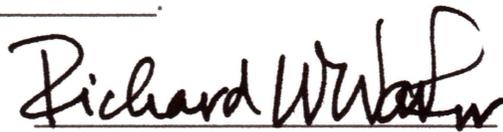
- A review of Board minutes shows no evidence members were fully informed about the extent of Galloway's crimes.

- The Board minutes also show that members, especially the Audit Committee, made no serious effort to discover how the embezzlement occurred, nor how to re-institute financial controls to prevent similar behavior in the future.
- There appears to be no memo, no email message, nor minutes of any meeting in which the officers or Board Members show they were aware that they lost \$1.2 million and assured the destruction of the NCPA because financial controls that had been in place and effective for more than 30 years had been dismantled. Nor did they seem to be aware that the controls needed to be reinstated to prevent future financial crimes.
- William "Tex" Gross, who as Chairman of Commerce Street Holdings was the Board Member most knowledgeable about banking and cash management, never asked a single question about how the embezzlement occurred or whether procedures had been put into place to prevent the future theft of NCPA funds.

56. In fact, had NCPA's officers and Board Members fulfilled their fiduciary responsibilities, even if only in a perfunctory fashion, none of Galloway's transgressions would have survived his first month of his employment.

My name is Richard Walker, my date of birth is ___April 6, 1947___, and my address is ___8612 Glenmont Drive, North Richland Hills, TX_____. I declare under penalty of perjury that the foregoing is true and correct."

Executed on _____ July 28, 2021_____.


Richard Walker

2 RICHARD W. WALKER * IN THE DISTRICT COURT
 3 Plaintiff, *
 4 VS. * 298TH JUDICIAL DISTRICT
 5 NATIONAL CENTER FOR POLICY *
 6 ANALYSIS *
 7 Defendant. * DALLAS COUNTY, TEXAS

9 *****
 10 ORAL AND VIDEOTAPED DEPOSITION OF
 11 JACKI PICK
 12 DECEMBER 21, 2017
 13 *****

CERTIFIED COPY

15 ORAL AND VIDEOTAPED DEPOSITION OF JACKI
 16 PICK, a witness produced at the instance of the
 17 Plaintiff, was taken in the above-styled and -numbered
 18 cause on the 21st day of December, 2017, from
 19 10:46 a.m. to 1:05 p.m., before Brooke Barr, CSR in
 20 and for the State of Texas, reported by machine
 21 shorthand, at The Law Offices of Thomas E. Shaw, PC,
 22 9304 Forest Lane, Suite 252, North Building, Dallas,
 23 Texas 75243, pursuant to the Texas Rules of Civil
 24 Procedure and any provisions stated on the record or
 25 attached hereto.

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Also present:

19 Richard W. Walker, Plaintiff
 20 James Amos, Jr., Defendant Representative
 21 Reagan Stewart, Defendant Representative
 22 Kevin Slayter, Videographer

THE VIDEOGRAPHER: Video is rolling.

We're on the record at 10:46.

(Witness sworn.)

THE REPORTER: Thank you.

(Exhibits 1 through 10 premarked.)

JACKI PICK,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. DEWOLF:

Q. Would you state your name for the record.

A. Jacki Pick.

Q. All right. Ms. Pick, you know who I am and why I'm here, correct?

A. Yes.

Q. Ma'am, I know you're a lawyer, but let's make sure that we understand -- makes the deposition go easier, three rules. One is, if you would listen to my question and let me finish it and I'll let you finish your answer.

Secondly, if you could answer audibly and not with a smile or a shake of the head.

Is that agreeable?

A. Agreeable.

Q. Okay. And then third, if you -- I ever ask you a question that you don't understand, please ask

1 me to rephrase it.

2 Is that agreeable?

3 A. Yes.

4 Q. Now, you understand that even though this is
5 being done informally, that the same penalties for
6 perjury applies if you were testifying in a court of
7 law, correct?

8 A. Yes.

9 Q. Now, ma'am, who have you talked to in
10 preparing for your deposition?

11 A. Tom Shaw, spoke to Jim this morning on the
12 way here, and this chairman. I didn't really discuss
13 it. So I guess that's about it.

14 Q. Okay. Have you -- have you reviewed any
15 documents preparing for your deposition?

16 A. Well, yeah, I helped to produce documents.

17 Q. Okay. Other than helping to produce the
18 documents, did you -- review any particular documents
19 in preparing for your deposition?

20 A. Not outside those that I produced.

21 Q. Okay. Now, have you ever given a deposition
22 or testified in a court of law before?

23 A. I've given a deposition.

24 Q. Okay. What was the deposition about?

25 A. It was about alleged legal malpractice, not

1 representing the NCPA. Is he also representing you
2 individually?

3 A. We have not agreed to that.

4 Q. Okay. You are aware that you are entitled to
5 separate counsel --

6 A. Yes.

7 Q. -- don't you?

8 A. Uh-huh.

9 Q. And I don't think this will apply to you, but
10 you are aware that you can assert the Fifth Amendment
11 should there be any questions that will incriminate
12 you?

13 A. Yes.

14 Q. Now, on topics, it's my understanding that
15 you are -- Exhibit Number 1 to this deposition is a
16 deposition notice. You have --

17 MR. DEWOLF: She should probably use
18 these.

19 MR. SHAW: Yeah.

20 Q. (BY MR. DEWOLF) -- it's my understanding you
21 have been designated to talk about Exhibit Number --
22 Topic Numbers 1, 6 through 9, and 14; is that correct?

23 A. Yes.

24 Q. What is your current address, ma'am?

25 A. 8714 Broken Point Drive, Irving, Texas 75063.

1 on my part.

2 Q. Okay. Well, tell me about it, just
3 generally.

4 A. So basically, this is a case also for NCPA,
5 where we were the plaintiff. It was NCPA v. Ogiatree.
6 And so I was the corporate representative for that
7 case.

8 Q. And do you know what the current status of
9 that case is?

10 A. I know there was discussion about settling it
11 two months ago, maybe. But I don't know where that
12 left off because I'm not really involved in that
13 anymore.

14 Q. Okay. Is that -- Reagan Stewart's taking the
15 baton on that?

16 A. Yeah.

17 Q. Okay. Have you ever personally been a
18 defendant or a plaintiff in a case?

19 A. No.

20 Q. Have you ever been divorced?

21 A. Nope.

22 Q. Okay. Have you ever been convicted of a
23 crime within the last ten years?

24 A. No.

25 Q. You understand that Mr. Shaw's here

1 Q. Thank you.

2 Tell the jury a little bit about your
3 background.

4 A. Born in Ohio. Went to school at Marshall
5 University and Vanderbilt University, a lawyer by
6 training.

7 Q. You went to Vanderbilt for law school?

8 A. Uh-huh.

9 Q. When did you graduate?

10 A. 2003.

11 Q. Okay. And tell me what you did following
12 2000 -- your graduation from law school?

13 A. So I worked in a firm in Nashville,
14 litigating.

15 Q. Which firm?

16 A. Gideon & Wiseman.

17 Q. Okay. How long did you work there?

18 A. Total, I guess, probably about a year and a
19 half.

20 Q. Okay. What did you do after that?

21 A. Went to Wachovia Bank and worked in the
22 corporate trust division. And --

23 Q. In Nashville?

24 A. Uh-huh.

25 Q. Yeah.

1 A. And then --

2 Q. Remember, not the uh-huhs --

3 A. Oh, I'm sorry.

4 Q. -- you got to answer audibly.

5 A. Yes, that's correct.

6 Q. Okay. And then after that?

7 A. After that job I went to Capitol Hill, was

8 there for about 7 1/2 years.

9 Q. And what did you do there?

10 A. I was the Republican counsel for a member of

11 the judiciary committee, and then later became counsel

12 to the subcommittee on the Constitution.

13 Q. And what did you do after that?

14 A. I went to work for a defense contractor

15 called, Tesla. And was there for maybe a year and a

16 half or two years.

17 Q. What did you do at Tesla?

18 A. I helped them to sell solar energy and

19 otherwise, consulted on missile defense contracts

20 and --

21 Q. Were you acting as a lawyer or as a business

22 person?

23 A. Both, depending on what time it was. But I

24 had my general counsel's license in Virginia to act as

25 counsel for them.

1 Q. Not general counsel, correct?

2 A. No, no.

3 Q. Okay. And you're not licensed in Texas, are

4 you?

5 A. No.

6 Q. And you're not -- don't have a license as a

7 general counsel in Texas, do you?

8 A. No.

9 Q. Okay. What are you doing today?

10 A. Right now, I'm consulting full-time for the

11 Texas Public Policy Foundation, which is in Austin.

12 Q. Have you moved to Austin?

13 A. Huh-uh, I stay here.

14 Q. Okay. And do you have any accounting

15 background?

16 A. No.

17 Q. Do you have any specialized expertise in

18 reading financial statements, profit and loss

19 statements, things of that sort?

20 A. I took a class on it in law school, but

21 that's it.

22 Q. Okay.

23 A. Well, okay, in Wachovia Bank I did a lot of

24 spreadsheets and financial statements, but I wouldn't

25 call myself an expert.

1 So a little bit of both.

2 Q. All right.

3 A. But so after that, I left there and came out

4 to Texas and went to work for NCPA in February 2015.

5 Q. Okay. And who hired you?

6 A. Allen West.

7 Q. And what were you hired to do?

8 A. He told me I was hired to be the chief

9 operating officer. But pretty quickly -- I mean,

10 immediately, the litigation consumed my time mostly.

11 So I didn't have a traditional COO's role there. And

12 also, NCPA's kind of organized a little differently.

13 Our bylaws say that the CEO does financial oversight,

14 for example, which might be a little different than

15 most places.

16 So basically, I feel like I spent the

17 majority of my time managing interfacing with lawyers.

18 We had, maybe, seven lawyers who helped us in various

19 matters and I was the interface on that.

20 Q. All right. And you were -- but your title

21 during that time period, if we were to look on the

22 website, was as chief operating officer --

23 A. Uh-huh.

24 Q. -- correct?

25 A. Yeah.

1 Q. Okay. Have you ever acted as a chief

2 operating officer before the NCPA?

3 A. No.

4 Q. What did you understand your job

5 responsibilities were as the COO of NCPA?

6 A. I was to do whatever the Colonel told me to

7 do. And as I said, he primarily wanted me to address

8 the legal issues first and basically, manage the

9 lawyers completely. He didn't want to have to deal

10 with it.

11 I then later would be tasked to work with

12 the auditors to basically get them anything they

13 needed to get audits done. We had two different

14 audits, and I think I was the primary person on both

15 of those.

16 And that was the most of it.

17 Q. All right. Was there any written description

18 of your job responsibilities?

19 A. There was, but I think it was very old and I

20 don't really think that it was correct -- matched what

21 I was doing day to day.

22 Q. Okay. Where does that exist?

23 A. Probably on the NCPA G-drive, I think. I

24 mean, the shared drive.

25 Q. All right. And so there is an NCPA shared

1 drive, which exists somewhere; is that right?

2 A. Yes.

3 Q. And is that a repository for NCPA documents?

4 A. Yeah. But it's not -- it's not like

5 everything goes there. Only some things go there.

6 Q. Who currently has control of that?

7 A. So it exists on the server, which is in the

8 premises, so Reagan has access to that with a key.

9 I have at least part of it on a drive,

10 which was created for me to do the document production

11 so I could see what was in there.

12 Q. I would ask that you preserve that drive and

13 any other documents that are within your possession,

14 ma'am.

15 A. Okay.

16 Q. Okay. Is that agreeable?

17 A. Yes.

18 Q. Okay. Now, who did you replace as COO? Was

19 there a COO when you came?

20 A. No. So Richard had, I guess, stepped down in

21 December 2014. I came in February 2015.

22 Q. All right.

23 A. So there was no COO in the interim.

24 Q. All right. And what was your salary from --

25 in 2015, '16, and '17? If there are any changes, let

1 A. Give me the dates again.

2 Q. January 2015 to February of 2016.

3 A. I'm not a hundred percent sure they all

4 stayed on. But I don't remember the dates when they

5 stepped down.

6 Q. Okay.

7 A. So I want to say in September of 2015, that

8 maybe Tony Batman stepped down.

9 Q. Are there any records which reflect who the

10 board members were during that time period?

11 A. Yes. Again, those would be on the G-drive.

12 And I know there weren't very good at records. I

13 mean, like, they would just resign and tell nobody and

14 send no paper.

15 Q. Okay.

16 A. So I think we tried at one point to go back

17 and piece together approximately when these people

18 came and went.

19 Q. Okay.

20 A. So there wasn't -- there wasn't some formal

21 slip or something that they filled out.

22 Q. Or even just an e-mail, hey, I resign.

23 A. Yeah. Those probably exist in -- in Colonel

24 West's inbox, I would imagine --

25 Q. Which is part of --

1 me know about that.

2 A. So my salary when I started was 135,000 a

3 year. And then at some point, I want to say in 2016,

4 maybe mid 2016, it went up to 140,000 a year. And

5 that's where it stayed until probably about March or

6 April of 2017.

7 And then I went part-time, so it got

8 reduced to like 70,000 a year.

9 Q. Okay. Who did you report to?

10 A. Colonel West and then Jim Amos.

11 Q. Okay. And then how long was Colonel West the

12 CEO of NCPA?

13 A. He came on January 1st, 2015, and he stepped

14 down sometime in February 2016.

15 Q. Okay. And who were the board members, if you

16 can recall, during that time period of January 2015 to

17 February of 2016?

18 A. So those would be Steve Ivy.

19 Q. Right.

20 A. Mike Whalen, John Strauss, Tony Batman,

21 Dennis McCustion, Larry Wedekind, I think would have

22 joined by then, Allen West, and Tex Gross.

23 Q. And those board members remained on the board

24 from the period of February -- January 2015 through

25 February of 2016 to the best of your knowledge?

1 A. -- and maybe Steve Ivy.

2 Q. -- that G-drive?

3 A. No, it's not part of the G-drive. The

4 G-drive is just a -- that's a separate deal.

5 Q. Well, when you say "Colonel West's inbox,"

6 there -- those are e-mails that are on the NCPA

7 domain?

8 A. They're on the server.

9 Q. Okay.

10 A. But that doesn't mean they're in the G-drive.

11 That's a separate, smaller section.

12 Q. I understand. Thank you.

13 And did Mr. West, Colonel West, have a

14 NCPA e-mail address?

15 A. Uh-huh.

16 Q. You need to answer audibly.

17 A. Yes, yes, sorry.

18 Q. And did Steve Ivy have one as well?

19 A. No.

20 Q. Did you have one?

21 A. Yes.

22 Q. Now, as COO, who did you supervise, who

23 reported to you?

24 A. Well, technically, under our org chart, our

25 seven directors reported to me. But in practice, they

1 really reported to Colonel West because that was his
2 preference. So he basically altered that. He wanted
3 to manage personnel issues.

4 Q. Okay. Now, when you said the seven directors
5 reported to you, didn't you mean that you reported to
6 them?

7 A. No.

8 Q. No?

9 A. I mean, in an org chart, there would be --
10 you know, under -- there would be Colonel West, there
11 would be me, and then there would be seven directors
12 who were -- director is a loose term.

13 MR. AMOS: Not -- not board of directors.

14 A. Not -- yeah, not board of directors --

15 Q. (BY MR. DEWOLF) Okay.

16 A. -- I'm talking about -- this is a usage --
17 just a --

18 Q. Okay. So who were the -- who were the --

19 MR. DEWOLF: Thank you.

20 MR. AMOS: Sorry.

21 MR. DEWOLF: No, appreciate that.

22 Q. (BY MR. DEWOLF) Who were the seven -- not
23 board directors, but directors that reported to you or
24 to Colonel West?

25 A. Those would be the director of development,

1 finance when you started?

2 A. That was a lady named Lisa Rank (phonetic).
3 And she resigned her job two days after I got there.

4 Q. And you got there -- what was your start date
5 exactly?

6 A. February -- I think it was the 16th of 2015.

7 Q. All right. And then were steps taken to try
8 and hire a replacement director of finance?

9 A. Yes, immediately.

10 Q. Okay.

11 A. So we went through all kinds of networks --
12 and you know, there are places you can call to get
13 people inside the nonprofit world who specialize --
14 it's a different kind of finance. You probably know
15 that.

16 Went through maybe seven or eight
17 organizations and universities with no luck. And then
18 we contacted a group called Valor Services. And Valor
19 specializes in placing disabled veterans who were
20 officers.

21 And so Colonel West met with them a few
22 times. We described the need. They presented Josh
23 Galloway. We paid them \$12,000 to vet his background,
24 his credentials, to do a criminal background check.
25 They presented him as clean.

1 Eileen Resnik.

2 Q. Okay.

3 A. The director of communications, Katharens
4 Daniels, the director of IT, Chris McGregor -- and
5 that later became Chris something else, whose name I
6 don't remember --

7 MR. AMOS: Betts, Betts.

8 A. Betts.

9 Q. (BY MR. DEWOLF) Okay.

10 A. Then, the director of youth programs, Rachel
11 Stevens. The director of legislative affairs, Brian
12 Williams.

13 Q. Okay.

14 A. The director of publications, Joe Barnett.

15 Q. Okay.

16 A. And director of events, Robbie Ellis.

17 Q. Okay. Any others that you can think of?

18 A. I think that's all.

19 Q. Okay. Now, at some point, was there a --
20 chief financial officer that was hired by the NCPA --

21 A. Excuse me. Thank you, thank you.

22 There is a director of finance, sorry,

23 Q. Okay.

24 A. I missed one.

25 Q. All right. And who was the director of

1 And we hired him in April of 2015.

2 Q. All right. Did you eventually find out that
3 Mr. Galloway did have criminal background?

4 A. Yes.

5 Q. Okay. And was any action brought against
6 Valor Services for this?

7 A. We had lawyers pursue that. And they
8 determined --

9 MR. SHAW: Don't disclose what they
10 determined.

11 THE WITNESS: Okay.

12 MR. SHAW: Okay.

13 A. We had lawyers pursue that, yes.

14 Q. (BY MR. DEWOLF) Okay. What -- did you get
15 any money out of Valor Services?

16 A. No.

17 Q. Why?

18 A. Because as I understand it -- my memory's a
19 little murky, they were not insured.

20 Q. Okay. And so Josh Galloway was hired in
21 April of 2015. And when was he -- resign or let go?

22 A. I want to say that the formal termination
23 date was February -- I know it was in February 20 --
24 I'm sorry, January 2016. And I think it was on the
25 22nd. It's a little murky now, because Colonel West

1 did the firing.

2 But it was on the 18th that he -- he had
3 an -- a meltdown of a -- of a type. And Colonel West
4 had a discussion with him and it was determined -- he
5 wasn't -- I don't think -- he didn't fire him right
6 then. He was going to stay around for like, two weeks
7 to help transition the audit to somebody else.

8 And so I -- I don't think he was actually
9 formally fired on the 18th. But he was already told
10 he was on his way out.

11 Q. Okay. When was the embezzlement discovered?

12 A. That would have been -- I need to see a
13 calendar, but I think it was the following Monday,
14 which would have been the 22nd-ish of January.

15 Q. Okay. And how was it uncovered?

16 A. Well, I and the CEO of Valor Services, who
17 came in after we explained what was going on, were
18 trying to get into the NCPA accounts and were unable
19 to do so. All of the accounts had been blocked,
20 and -- and we were unable to see anything.

21 So we got a phone call then from --
22 because the embezzler was supposed to have been there
23 that day helping us, and he was MIA. So he had his
24 lawyer call us that day and tell us that he had
25 embezzled \$600,000.

1 look over the financial statements, I would, you know,
2 review them in advance of board meetings and with the
3 board, things like that.

4 Q. Who did you believe was responsible for
5 seeing that there were adequate internal controls and
6 enterprise risk controls at the NCPA from January 2015
7 to January 2016?

8 A. I believe that was the CEO, based on the
9 bylaws.

10 Q. And would it also have been the board of
11 directors?

12 A. We have a -- an audit committee and we have a
13 finance committee. They certainly have a fiduciary
14 duty.

15 Q. Okay. So in your -- in your opinion, the
16 audit committee and finance committee, at least of the
17 board of directors, had an obligation to make sure
18 there were adequate financial internal controls?

19 A. I really don't know, in corporate governance,
20 if that falls to the officer or to the board. I don't
21 know the answer.

22 Q. Okay. But you do -- what is it -- well,
23 you're a lawyer, ma'am, and worked in companies and
24 were the operating officer.

25 What is your view of the division of

1 Q. Okay.

2 A. So I mean, I knew -- I knew we had a problem
3 that morning when I -- I took over the audit with the
4 head of Valor Services. Something was wrong. And
5 then the lawyer called and confirmed that.

6 Q. Okay. Who was responsible, during this time
7 period of April 2015 through January of 2016, for
8 seeing that the financial internal controls were
9 complied with?

10 A. What we did was, immediately after we
11 discovered the embezzlement --

12 Q. No. I'm talking about during the time period
13 of April 2015 to January of 2016?

14 A. Oh, okay.

15 So the answer is, Josh was handling
16 finances and Colonel West was doing oversight of
17 finances, because that is what the NCPA bylaws say.

18 Q. Okay. Who was response -- so you, as chief
19 operating officer, did not feel you had any
20 responsibility for seeing that internal controls were
21 complied with?

22 A. I did some things to see to it, but it really
23 wasn't my -- the buck didn't stop with me.

24 Q. Okay.

25 A. So I would schedule reconciliations, I would

1 authority between a board of directors and a -- an
2 officer such as yourself?

3 MR. SHAW: Object to form; asks for a
4 legal conclusion.

5 A. Yeah, I think that is a question of law
6 depending on the state and then how the bylaws decide
7 to break it down within that parameter.

8 And so I don't know how to answer your
9 question.

10 Q. (BY MR. DEMOLE) That's fine. What do you
11 understand under the -- strike that. New question.

12 Where are the NCPA bylaws and corporate
13 documents?

14 A. I believe they are in a binder, last time I
15 saw them.

16 Q. And where is the binder?

17 A. The last time I saw it, it was inside the
18 offices.

19 Q. Inside the NCPA's offices?

20 A. (Witness nods.)

21 Q. You need to answer audibly.

22 A. Say it again?

23 Q. Audibly.

24 A. Yes, inside NCPA's physical offices.

25 Q. Okay. And what do you understand, under

1 those documents, the board of directors'
2 responsibilities are with regard to seeing that there
3 were sufficient internal controls?

4 MR. SHAW: Object to form.

5 A. Again, I don't know what is theirs to do,
6 versus what is the CEO's to do.

7 Q. (BY MR. DEWOLF) I'm talking about, do you
8 know what the board -- what the corporate documents
9 say in that regard?

10 MR. SHAW: Object to form.

11 A. No.

12 Q. (BY MR. DEWOLF) Okay. Now, how many board
13 meetings were held in 2015, from April 2015 to January
14 2016?

15 A. From memory, I think there was -- I think
16 there was one in May, one in September, and I think
17 one in December.

18 Q. Okay. And were board packets supplied to the
19 board members?

20 A. Yes.

21 Q. And did you take responsibility for preparing
22 those board packets?

23 A. I was involved in it. We actually had admin
24 people who bound them up and distributed them.

25 Q. Was financial information provided to the

1 know that Colonel West or the board did in deciding to
2 hire Mr. Galloway, other than -- other than using
3 Valor Services?

4 MR. SHAW: Object to form.

5 A. I believe he was interviewed once or twice by
6 Colonel West.

7 Q. (BY MR. DEWOLF) Was he ever interviewed by
8 board members?

9 A. Not that I remember.

10 Q. What steps, if any, do you know that Colonel
11 West took to supervise the work of Mr. Galloway?

12 A. I don't know.

13 Q. What steps, if any, did the board of
14 directors do to monitor Mr. Galloway's work, if you
15 know?

16 A. I don't know.

17 Q. Who would know?

18 A. Colonel West.

19 Q. Where does Colonel West live, do you know?

20 A. Last I knew, Dallas. North Dallas.

21 I don't know the address.

22 Q. What -- what internal controls were in place
23 in January of '15 to January of 2016 to see whether --
24 to prevent any sort of embezzlement?

25 A. We do reconciliations monthly, which is done

1 board?

2 A. Yes.

3 Q. And would that include profit and loss
4 statements?

5 A. Yes.

6 Q. Would that include cash flow?

7 A. Yes.

8 Q. Would that include accounts payable?

9 A. Not necessarily.

10 Q. Why not?

11 A. I mean, it would -- it would include whatever
12 AP information would show up on a standard, you know,
13 balance sheet, P&L, anything that's -- that's owed,
14 that's a liability, would be shown. But I mean,
15 I'm -- when you say AP, I'm talking about like the
16 Bill.com printout showing an itemized list of
17 everybody who's owed.

18 I don't remember if those were there or
19 not.

20 Q. And are copies of the board packets in the
21 NCPA records?

22 A. Uh-huh. I -- I -- to do the production, I
23 had to tear some of them up to provide responsive
24 stuff you.

25 Q. Okay. What due diligence, if any, do you

1 by the director of development and the director of
2 finance. So Galloway and Eileen Resnik. You have
3 board meetings where the statements are printed out
4 from QuickBooks to show what the books look like to
5 the board.

6 And what -- we now know is, that he was
7 running two sets of QuickBooks. So presumably, there
8 was the real QuickBooks and the phony QuickBooks.

9 And other than that, he and Colonel West
10 would meet and talk about every transaction. It's a
11 small enough company that we would discuss pretty much
12 who is going to get paid and when. And what are we
13 going to take on as new vendors and not, new
14 expenditures.

15 And Colonel West wanted to be involved in
16 every decision.

17 Q. Okay.

18 A. So I think they spoke frequently about moneys
19 in and moneys out.

20 Q. And what steps were taken during this time
21 period of April 2015 to January of 2016 to have a
22 third-party verify that there was no embezzlement
23 going on?

24 A. So we have an annual audit. And that sit --
25 that discussion began -- I want to say, in like,

1 October. And we decided to change auditing firms. So

2 --

3 Q. From whom to whom?

4 A. From -- company is called Jackson something
5 or Smith Jackson or something like that. Can't
6 remember the name of the company. Bob the auditor is
7 there. I can't remember. Richard would remember,
8 maybe.

9 But over to Whitley Penn. And so that
10 transition took place in November. And so in other
11 words, Josh came in in April, the audit was to begin
12 in October, four months later -- six months later,
13 excuse me, in which case the auditors would be looking
14 at the books,

15 But then because we switched auditors,
16 that was delayed a bit. Then Whitley Penn would have
17 started in November of 2015.

18 Q. Why was the former audit company fired?

19 A. I don't remember precisely why. I don't
20 remember.

21 Q. Now, once Mr. Amos was the CEO, the NCPA
22 started having more rigorous third-party controls,
23 correct?

24 A. Yes.

25 Q. And in your opinion, those controls should

1 A. I suppose.

2 Q. (BY MR. DEWOLF) Did -- do you believe that
3 these types of internal control -- external controls,
4 which Mr. Amos put in place, should have been put in
5 place by Colonel West?

6 MR. SHAW: Object to form.

7 A. Are you asking now about outsourcing?

8 Q. (BY MR. DEWOLF) Yes.

9 A. I think that would have been great.

10 Q. Do you know what internal controls were in
11 place when Richard Walker left the NCPA?

12 A. Well, I wasn't there. The -- the only clues
13 that I would have about that would be discussions with
14 Lisa Rank, who was the finance director, who
15 overlapped us. And she, as I said, she turned in her
16 resignation two days after I got there. And I begged
17 her to stay or until we could find someone else.

18 But she basically did everything herself
19 and she -- you know, I -- my understanding, one reason
20 why we parted ways is, the books had not been
21 reconciled, they told us, for many months before
22 Colonel West and I showed up.

23 And the accountant said that there were
24 just no entries at all, you know, anywhere in
25 QuickBooks on the system to suggest that the books had

1 have been in place between April 2015 and January of
2 2016, correct?

3 A. Well, it was more than just a control, it was
4 an outsourcing. I mean, you can have -- adequate
5 controls internally, so --

6 Q. But I'm really talking about outside,
7 third-party controls or third-party validation.

8 Mr. Amos put those in place, and you
9 agreed with that decision, correct?

10 A. I did.

11 Q. And is it your opinion that those should have
12 been put in place by the board of directors in -- from
13 April 2015 to January of 2016?

14 MR. SHAW: Object to form.

15 A. I don't know about that the board of
16 directors should have anticipated that there was
17 anything inadequate in the controls. I don't -- I
18 don't really know what -- remember, I was very new at
19 that time.

20 I don't know what the practice was. I
21 don't know -- I don't know how much any of them knew
22 about anything.

23 Q. (BY MR. DEWOLF) Okay. They're all
24 sophisticated businessmen, aren't they?

25 MR. SHAW: Object to form.

1 been reconciled. So we walked into a situation where
2 we didn't even know where we were.

3 So I -- I think -- I don't know if it's a
4 lack of -- I don't know -- I can't even get a
5 reflection of internal controls from her because I
6 think there was a problem. I mean, I think she
7 couldn't do her job.

8 Q. So -- so you knew that there was -- when you
9 came in and you -- and Colonel West knew when you guys
10 came in, in February of 2016 -- '15, that there was a
11 lack of reconciliation, the books were in disarray; is
12 that fair to say?

13 MR. SHAW: Object to form.

14 A. My understanding is, we didn't know where we
15 were.

16 Q. (BY MR. DEWOLF) And that -- you knew and the
17 -- Colonel West knew in February of 2015, correct?

18 MR. SHAW: Object to form.

19 A. I don't know what he knew. I mean, I
20 don't -- I'm not sure of what he would say or think.

21 But well, look -- some of this, I'm
22 getting from the new finance director, who obviously
23 was not an honest person, saying all the things that
24 were in disarray and nothing had been done. And you
25 know, we had a -- clearly, a finance director who was

1 sitting on her hands for two months before JOSH got
2 there, because she had resigned her job already.
3 So I'm not sure -- I'm not sure we have a
4 good grip on what was in existence before.

5 MR. DEWOLF: I'm going to object to your
6 answer as being nonresponsive, although I think you
7 were trying to be responsive, ma'am.

8 Q. (BY MR. DEWOLF) My question is simply, did
9 you, as the chief operating officer, know in February,
10 March, April of 2015 that the books of the NCPA were
11 in disarray?

12 A. I knew they weren't current.

13 Q. Okay. And you reported that information, as
14 you were obligated to do, not only to the chief
15 executive officer, Mr. West, but also to the board of
16 directors, correct?

17 A. They -- it wasn't for me to report because
18 they knew.

19 Q. All right. And -- and so you knew in April
20 -- by April of 2015, you knew that the in -- if there
21 were internal -- strike that. New question.

22 Is it fair to say that in April of 2015,
23 it is your opinion that there were no internal
24 controls or segregation of duties with regard to
25 financial matters at the NCPA?

1 A. Those are eight people. And I don't know, at
2 that time, what any of them individually knew or
3 didn't know.

4 The only thing that I remember is, I had
5 this finance director who I think really could not do
6 her job, either physically or mentally or -- or I
7 don't know what. I don't know why not. -- she just
8 couldn't.

9 And so we had no one there who could do
10 accounting. And going into -- and so we hired someone
11 else in April, as I said, which was Josh Galloway.

12 And he told the board that he didn't know
13 where any -- anything was or how anything was. That
14 it would take him a while to figure it out because he
15 thought that she had not done her job competently.

16 Now, whether or not that's true, I
17 don't -- do we believe Josh Galloway? Maybe she did a
18 fine job and that's just him making an excuse so it
19 would, you know, obscure whatever he did next.

20 I don't know.

21 Q. Uh-huh. But it is fair to say that the board
22 was on notice through Mr. Galloway that according to
23 him, at least, the financial records of the NCPA were
24 in disarray.

25 A. He told them that.

1 MR. SHAW: Object to form.

2 A. No, I wouldn't say --

3 MR. SHAW: Wait, wait, wait.

4 Are you asking her individually or as a
5 corporate representative?

6 MR. DEWOLF: As -- I mean, well, it's --

7 MR. SHAW: It's two different things.

8 Q. (BY MR. DEWOLF) Okay. Well, answer it both
9 ways, then.

10 MR. SHAW: No. She is not being
11 presented individually. She is just being
12 presented --

13 MR. DEWOLF: Okay.

14 Q. (BY MR. DEWOLF) Well, just tell me what --
15 is it fair to say the NCPA knew in March or April of
16 2015, that there were inadequate internal controls?

17 A. No, I would not say that. The first thing I
18 would say is, when we say "the board," we're talking
19 about eight people. It --

20 Q. And I'm talking about the -- the outside
21 board. I'm not talking about this board of
22 director -- board of finance, board of --

23 A. No, no, no. I'm talking about -- yes, I'm
24 talking about the board of directors.

25 Q. Okay.

1 MR. SHAW: Object to form.

2 Q. (BY MR. DEWOLF) All right. And what -- in
3 between April of 2015 and January of 2016, what
4 internal controls were present at the NCPA as it
5 relates to segregation of duties?

6 Do you know what I mean by the term
7 "segregation of duties"?

8 A. Well, I mean, whose duties?

9 Q. The duties for the financial records and the
10 financial check-writing authority, for example.

11 A. We had controls where, basically, once you go
12 above a certain amount, there had to be more than one
13 signature. The -- the -- there were only a limited
14 number of people who could sign. Josh Galloway was
15 not one of them, nor was he ever given permission to
16 sign for anything anywhere ever.

17 We later learned that he would forge his
18 way -- you know, if -- if he didn't have permission to
19 sign, he'd just sign Colonel West's name. Or if he
20 wanted permission to sign, he would send a form to
21 someone and just say, sign -- you know, Colonel West's
22 name saying Josh Galloway can do the following.

23 So it didn't -- those controls were just
24 overridden by -- you know, were all dishonesty on his
25 part.

1 Q. Uh-huh. And but with regard to segregation
2 of duties as it relates to preparation of checks, did
3 you have a system in place where one person prepared
4 the checks and a second person would actually sign the
5 checks -- during this time period?

6 A. I believe that the --

7 Q. That's just a yes-or-no.

8 A. -- you know, I'm just not -- I'm not a
9 hundred percent certain. I just don't know.

10 Q. Okay. Is there anywhere in the NCPA's
11 records where during this time period there were
12 written internal controls? And I -- and I'm talking
13 about April 2015 through January of 2016, were there
14 any written internal controls for financial matters at
15 the NCPA?

16 A. I don't remember.

17 Q. Okay. Now, were the -- as the chief
18 operating officer, did you receive copies of the bank
19 statements?

20 A. Not customarily, no.

21 Q. Okay. But you did on some occasions?

22 A. During audits, we would look at them. And
23 then once Lori Orta took over, then she would come in
24 like every Friday and take all our financial
25 statements to her office and work on them there.

1 would. But again, I would be looking for specific
2 things.

3 So I wasn't doing it for purpose of
4 financial oversight exactly. I was just wanting to
5 know, can you show me something has cleared or
6 whatever.

7 Q. Well, did -- did Colonel West do that,
8 regularly check the bank account?

9 A. I don't know.

10 Q. All right. Did -- there were -- I think
11 Mr. Amos talked about there were three significant
12 checks were wrote -- written on Legacy Bank.

13 A. Uh-huh.

14 Q. How much were they for?

15 A. I believe they were in quick succession,
16 140,000, 140,000, and maybe 360,000.

17 Q. Okay. And when were those checks written?

18 A. I want to say one at the end of September,
19 and maybe two in November, like toward the end of
20 November. It was after -- the big one went out after
21 our largest donor gave us money. So the money -- that
22 money hit the account, then he took that as his one to
23 write a big check.

24 Q. All right. And did anyone at the bank ever
25 check to confirm that they were valid checks --

1 Q. Okay. But in October of 2015, when you began
2 the audit, you received copies of the bank statements,
3 correct?

4 A. We didn't begin it in October of 2015,
5 because we switched auditors.

6 So Josh Galloway was supposed to be
7 kicking all the information over to Whitley Penn that
8 was needed to do the audit. So -- and again, Colonel
9 West is the person who does the financial oversight.

10 I don't remember seeing bank accounts. I
11 remember sometimes I would ask Josh to pull up the
12 bank account and we would look at individual things I
13 wanted to see had cleared or something like that.

14 But I don't -- I didn't customarily have
15 them brought to my desk for review, no.

16 Q. Okay. And so you had the ability to go on
17 the website with Josh and check the bank account,
18 correct?

19 A. Yeah.

20 Q. Okay. But you didn't do that on a regular
21 basis, did you?

22 A. Depends on what you mean by regular. I mean
23 --

24 Q. Well, once a month?

25 A. -- if I had a -- if I had a reason to look, I

1 A. We --

2 Q. -- check with the NCPA?

3 A. No. And we thought that that was cause for
4 liability on their part. And they said that when that
5 account was set up, that that internal control was
6 refused.

7 Q. And who refused that?

8 A. That would either be Goodman or Walker, I
9 don't know.

10 Q. Okay. And did you -- when taking over as the
11 COO and -- did you ever check the bank accounts to see
12 what internal controls were there?

13 A. No.

14 Q. Okay. Was there arbitration ever commenced
15 against Legacy Bank in that regard?

16 A. I don't know whatever was decided. I think I
17 recall seeing after we dissolved, notice that Legacy
18 had sued us. I thought I saw something like, service
19 of process, Legacy vs. NCPA. But again, I was gone by
20 then. I never opened it. I don't know what it said,
21 don't know what it was about.

22 Q. Okay. Is there an engagement letter from the
23 auditors, Whitley Penn?

24 A. Yes.

25 Q. And that's in the records?

1 A. You mean that I produced?

2 Q. Not -- it's not in what you produced.

3 Is there a copy in the J-drive or

4 someplace in these records at NCPA's offices?

5 A. I know they sent an engagement letter. I

6 don't know if we ever signed it.

7 Q. Okay. I'm going to skip around a little bit,

8 just because Mr. Amos suggested you might be the best

9 person to talk about a few things. So I apologize for

10 that.

11 Let's look at Exhibit Number 4 to your

12 deposition -- to the NCPA's deposition. Do you

13 recognize that?

14 A. Yes.

15 Q. Now, it shows there that there was officer --

16 office furniture and equipment worth \$1,133,000 and

17 change.

18 Do you know where that office equipment

19 and furniture is?

20 A. As of maybe two or three weeks ago, which is

21 the last time I was in the NCPA offices, there was

22 furniture there. And by equipment, I assume that

23 means all the IT equipment too. I'm told by the IT

24 people, we had more servers than employees, so I guess

25 that would include all of them.

1 Who are Littler Mendelson?

2 A. As you said, they are a law firm downtown.

3 Q. And what were they retained by the NCPA to

4 do?

5 A. Colonel West brought them in to basically

6 take ownership of hunting down Galloway and the

7 assets.

8 Q. And how much was their bill in total, if you

9 know, approximately?

10 A. You mean at the end when it was all tallied

11 up?

12 Q. Over \$300,000?

13 A. Oh, no, no, no, no. I would say -- let me

14 think about it. I think in total they billed us

15 around \$130,000, I think.

16 Q. Okay. We'll look at something that may

17 refresh your recollection.

18 How about Johnston Tobey, they were

19 retained to work on the malpractice claim with

20 Ogletree; is that right?

21 A. Yes.

22 Q. So tell me about that lawsuit and what it's

23 about, what the allegations are, and current status,

24 if you know?

25 A. Well, it's on the public record. Basically,

1 And so everything that I had ever seen

2 that we owned was still there at the offices.

3 Q. Okay. And is there -- there was an office --

4 I think Mr. Amos said there was an office in

5 Washington. Was there furniture there as well?

6 A. I think so. Because I remember that the

7 staffer there said that he would just take everything

8 and put it in his garage since he didn't know what

9 else to do with it.

10 Q. So is that where it's currently located, as

11 far as you know?

12 A. As far as I know.

13 Q. Now, on the second page of this exhibit,

14 there is a long-term liability 2,500 deferred

15 retirement obligation.

16 What does that refer to?

17 A. The only thing I think that could be is

18 Richard Walker's contract.

19 Q. Okay. Let's look at Exhibit Number 6 to

20 your -- to the deposition.

21 Can you identify that?

22 A. This is an AP list from Bill.com as of

23 December 23rd, 2016.

24 Q. And it shows that -- a significant amount of

25 expenses for Littler Mendelson.

1 we, NCPA, alleged a breach of fiduciary duty and also

2 legal malpractice on the part of a partner at

3 Ogletree. And the case went on for a long time. And

4 it was still ongoing when NCPA voted to dissolve in

5 July.

6 Q. What were the basic allegations? What was

7 the alleged malpractice and breach of fiduciary duty?

8 A. Essentially, the -- John Goodman was the CEO.

9 He was alleged to have had an inappropriate

10 relationship with a subordinate. He basically

11 attempted to -- outside the knowledge of the board,

12 take care of that problem.

13 He went to a board member, Mike Baggett,

14 at Winstead and said, would you please help me draft a

15 contract to pay this person a settlement to end the

16 dispute.

17 And -- and basically, do something that

18 would be a breach of the standard of care for most

19 lawyers to do employment matters, which is give her

20 money, give her a guaranteed employment contract with

21 NCPA, which is our assets, not John Goodman's, and

22 keep her here working here in a contract that you

23 know -- so -- so Winstead refused to do that and

24 referred him over to Ogletree.

25 Q. And I don't know anything about Ogletree. Is

1 it a big firm, small firm?

2 A. I don't know.

3 Q. Okay.

4 A. So but anyway, I mean, it's been around for a
5 long time, but I don't know how big it is.

6 But the point is, that -- so Ogletree
7 drafted for him two contracts. And in one of them,
8 bottom line, there's a signature line for the
9 aggrieved, there is a signature line for NCPA, and
10 there's a signature line for John Goodman.

11 He signed on behalf of both the
12 organization and himself, personally.

13 And so we were arguing that the firm
14 represented NCPA without our knowledge or permission
15 and bartered away our assets in the form of an
16 employment contract and a payout to this person that
17 we didn't even know about, which then subjected us to
18 liability because she sued us again.

19 Q. Who -- who paid the money to this woman? Was
20 it the NCPA or Goodman?

21 A. I believe that both gave her value -- Goodman
22 gave her some cash out -- out of what I believe was
23 his personal money, if I'm recalling this correctly.

24 But also, he gave her a guarantee
25 employment contract with NCPA.

1 A. So I don't know.

2 Q. (BY MR. DEWOLF) What did Reagan tell you the
3 current status is?

4 A. I believe it got settled.

5 Q. Do you know much money they got?

6 A. No. But I -- I heard it was a small amount.

7 Q. Okay.

8 A. I don't know.

9 MR. DEWOLF: Reagan, you want to just
10 tell us how much it was settled for?

11 MR. STEWART: Ten grand.

12 MR. DEWOLF: Okay.

13 Q. (BY MR. DEWOLF) Okay. Your memory is good.
14 Littler Mendelson, this shows \$132,000.

15 Now, you would review these financial
16 profit and loss statements and the financial
17 statements each month, wouldn't you?

18 A. Once we went to Bill.com and Lori Osta, PC,
19 yes.

20 Q. Okay. From January -- I'm sorry, from
21 February 2015 to January of 2016, did you monthly
22 check the financials -- strike that.

23 Did you require that financial statements
24 be generated, including profit and loss statements,
25 cash flow, AP, the whole bit?

1 Q. Right. What -- what were the alleged damages
2 in this suit?

3 A. NCPA's damages was basically, because --
4 because this all goes back to 2012, if only Ogletree
5 had not breached their duty by representing us without
6 permission, and putting us in a position of
7 vulnerability, we wouldn't have had the 2014 blowup,
8 which was the scandal that hit the front page of the
9 Dallas Morning News and D Magazine, which caused us to
10 lose, you know, 20 donors who had given for at least
11 ten consecutive years at the six-figure level. And we
12 would still be move -- marching on successfully --

13 Q. So the damages are millions of dollars?

14 A. Yeah.

15 Q. Okay. And you don't know what the current
16 state of that case is?

17 A. I -- I -- I had heard that it would be
18 negotiated away. But I don't -- I mean, that would be
19 for Reagan Stewart to answer. I don't know what
20 happened.

21 MR. SHAW: If you heard that from
22 lawyers, probably best --

23 THE WITNESS: I did not hear it from
24 lawyers.

25 MR. SHAW: Okay.

1 A. No.

2 Q. Why not?

3 A. I didn't think that that was in my lane.

4 Q. Okay. Did anyone at NCPA require those
5 documents be generated?

6 A. I don't know.

7 Q. Did the board of directors require that they
8 be generated monthly, if you know?

9 A. I don't know. But certainly they required
10 they be generated for board meetings. So quarterly,
11 minimum.

12 Q. All right. Now, when is it that you believe
13 NCPA became insolvent?

14 A. If we define insolvency as, we're not
15 bringing in enough money to pay our bills?

16 Q. Yes.

17 A. Well, we were never far from insolvency from
18 the beginning. But I think we actually --

19 Q. And from the beginning being January --
20 February --

21 A. When I came in --

22 Q. -- of 2015?

23 A. -- yeah.

24 Q. Right.

25 A. And be -- and significantly before that, too.

1 We believed that we were -- see, there's
2 what we thought and there's what we were. We were not
3 actually insolvent during the Galloway embezzlement
4 months, but we believed that we were -- because he
5 kept telling us that we were.

6 Q. All right.

7 A. And but I think that we actually were
8 bringing in enough money to cover our bills up until
9 the embezzlement. I mean, I -- we didn't know how
10 well off we were, how much we actually had.

11 Q. Uh-huh.

12 A. So I think that probably starting from
13 November, the end of November, 2015, and going
14 forward -- I don't know, I mean, we were -- we were
15 bringing in enough to stay operational.

16 Q. Okay.

17 A. So it depends on -- you know, we can't pay
18 all of our bills. I don't how to define insolvency
19 here.

20 Q. If you can't pay all the -- let's use the
21 definition of -- if you can't pay all the bills that
22 you have in full, you're insolvent.

23 When do you think you reached that point?

24 MR. SHAW: Object to form.

25 A. Yeah, I'm not sure that's how insolvency is

1 The -- this was a -- do you recognize
2 this, ma'am?

3 A. Yes.

4 Q. It's a December 15th, 2016 board minute. And
5 this reflects that you were present at that board
6 meeting; is that correct?

7 A. Yes.

8 Q. Now, Lori Orta discussed the 2014 audit,
9 when was that audit completed?

10 A. Very late. I want to say --

11 Q. This is 2014.

12 A. Right. I want to say that it wasn't complete
13 until the middle of 2016.

14 Q. All right. And so -- and this audit gave an
15 unqualified opinion and provided no significant
16 criticisms with regard to internal controls as of the
17 close of business in financial year 2014; is that
18 correct?

19 A. Yes.

20 You know what, actually I don't know if
21 they -- I think they actually do look ahead. I don't
22 know. I'm not sure how auditors assess if they stop
23 exactly where they're auditing or if they look beyond.
24 Because we have to do a lot of subsequent stuff,
25 right, submit a lot of subsequent transactions for an

1 defined, but taking your -- your definition, I'm going
2 to say December, then, 2015.

3 Q. Okay. And this is number -- Exhibit Number
4 3, which is in front of you.

5 Do you recognize that? That's a profit
6 and loss statement generated, it looks like 10/18 of
7 '16?

8 A. Yeah.

9 Q. And that indicates that you guys had a net
10 income, as of October of 2000 -- well, as of September
11 30th, 2016 as \$1.7 million in the hole; is that
12 correct?

13 A. That's what it says.

14 Q. And that's -- and it never got any better
15 from that point to the dissolution, correct?

16 A. I think it did. I mean, we got --

17 Q. Well, did it ever go to zero?

18 A. No.

19 Q. All right. So you always were in the hole,
20 from a net income standpoint, from -- in your opinion,
21 December of '15 forward, correct?

22 A. I believe so.

23 Q. Okay. In one of your exhibits is a --
24 Exhibit Number 2, is a board minute. I want to ask
25 you a few questions about that.

1 audit.

2 So they may have been looking beyond
3 2014. I don't know.

4 Q. Okay. And Ms. Orta, she has a accounting
5 practice here Dallas?

6 A. Uh-huh, yes.

7 Q. And she's with Whitley Penn or somebody else?

8 A. No.

9 Q. Okay.

10 A. She has her own firm, which is Lori Orta, PC.

11 Q. And she was acting as a de facto comptroller,
12 internal controller for the NCPA; is that correct?

13 A. Yes.

14 Q. Now, look on Page 3. And point 4, it says,
15 Based on the earlier board vote, Pick will follow
16 up -- will follow up a move to arbitration with legal
17 counsel, Kenny Stevens.

18 What does that refer to?

19 A. I believe that's referring to the decision to
20 arbitrate with Legacy Bank.

21 Q. Okay. Let's talk for a second about D&O
22 coverage.

23 You -- there was some D&O coverage -- who
24 -- strike that.

25 Who is responsible for obtaining D&O

1 coverage for the NCPA from 2015 until the dissolution?

2 A. Me.

3 Q. And was there D&O coverage from February of
4 2015 through June of 2016?

5 A. Yes.

6 Q. Was any claim made against that policy?

7 A. I don't remember.

8 Q. Are you aware of any claim, D&O claim, that
9 was made against any D&O policy while you were at the
10 NCPA?

11 A. Well, there was a strange \$100,000 payout to
12 Richard Walker that showed up when we renewed our D&O
13 that we didn't know about, somehow. And I don't know
14 what that represented.

15 In fact, when I left, that was being
16 looked into by the people at Swingle Collins. Because
17 they were asking me, what is this?

18 And I said, I don't know. I'm not
19 familiar with this.

20 Q. Okay. Did you ever look at the settlement
21 agreement between Mr. Walker and the NCPA?

22 A. Yes.

23 Q. Okay. And you're aware that there were
24 proceeds that would come out of the settlement with
25 Mike Baggett that went to Mr. Walker, right?

1 did -- what other insurance did NCPA have during the
2 time that you were the COO?

3 A. We carried employment practices, we carried
4 ERISA, or fiduciary. We carried premises. We carried
5 event insurance. We carried business -- general
6 business package, you know, which is like a panopoly.

7 Q. Okay.

8 A. That -- workers' comp. I mean, I don't know,
9 just normal stuff --

10 Q. All right. Did you -- was there anything --
11 and they call it different things: Was there any
12 blanket bond or was there any sort of insurance
13 protecting against internal theft or embezzlement?

14 A. Yes.

15 Q. Okay. And what was that under, the EPL
16 policy or something else?

17 A. I think that we had it -- at different times,
18 under The Hartford business lines or business
19 packages. So it's part of a larger package.

20 And then, when we outsourced our HR and
21 payroll to Nextep PEO, that came with insurance too.
22 And I think that there is some crime insurance in
23 there.

24 But it was not anything related to
25 Galloway because that came after, obviously. The --

1 A. Yes. But that was the year before.

2 Q. Okay. In any event, was -- to your
3 knowledge, was any D&O claim made -- and I'll just do
4 it year by year.

5 Was any claim made on the D&O policy in
6 effect from February 2015 to June 2016?

7 A. Unless it was Richard's claim, I don't know.

8 Q. You don't know of any other claim; is that
9 correct?

10 A. Right. Like --

11 Q. Okay.

12 A. -- everything came under employment
13 practices.

14 Q. I'm talking about D&O first.

15 A. Yeah, right, exact -- so I don't think so.

16 Q. All right. Was there any claim made against
17 the D&O policy from -- that existed from September of
18 2016 to September 2017?

19 A. I don't remember there being a claim.

20 Q. Now, has any claim been made on the policy
21 that's currently in place that you're aware of?

22 A. I mentioned earlier that I saw a claim come
23 in from Legacy. I don't know what that was made
24 against.

25 Q. Okay. Now, in addition to a D&O policy,

1 the outsourcing of both the accounting --

2 Q. Right, right.

3 A. -- and of the HR was post Galloway --

4 Q. So -- so let's talk about just -- were any
5 claims made on the EPL policies from 2015 to the
6 present time that you're aware of?

7 A. Yeah. So we had -- I don't know about before
8 I got there.

9 Q. I'm not talking about before you got there.
10 After you got there.

11 A. So my first week on the job, we had a claim
12 by a lady named Donna Nash Williams.

13 Q. Okay. Next?

14 A. Then we had one by Johnette Johnson.

15 Q. Okay. Next?

16 A. That's all I'm remembering.

17 Q. All right. And with regard to any other
18 insurance that you had, the -- were there any other
19 claims made during the time that you were at the NCPA?

20 And specifically, I'm directing you
21 toward Galloway. Because I understand you got some
22 proceeds from an insurance policy; is that correct?

23 A. For his behavior, yes.

24 Q. Okay. How much did you get?

25 A. That was 160,000.

1 Q: Was that a policy limit amount or what was
2 that based on?
3 A: Yeah.
4 Q: Your policy -- the policy limit was 160,000
5 or was that the extent of the damage?
6 A: That was the policy limit.
7 Q: Okay.
8 A: For that particular bad behavior.
9 Q: All right. And did you -- were any claims
10 made on any other policies for Mr. Galloway's
11 behavior?
12 A: Not that I recall.
13 Q: Now, in the -- did you negotiate the 2017-to-
14 2018 policy -- sorry, 2017-to-2019 policy?
15 A: D&O?
16 Q: Yes.
17 MR. SHAW: Object to form.
18 A: I don't know about negotiate. We, Jim and
19 I --
20 Q: (BY MR. DEWOLF) Jim who?
21 A: Amos.
22 Q: Okay.
23 A: -- supplied information and then they gave us
24 quotes and based on the quotes that came back, along
25 with the chairman, a decision was made to pick one of

1 regard to Galloway?
2 A: Our broker at Swingle Collins does the
3 interface with the company. So we don't interface
4 with the company directly. And this is what the
5 company said -- this is what Hanover said.
6 Q: Okay. Who was your contact at Swingle
7 Collins?
8 A: Warren Gravely and sometimes Brenda Goss;
9 Q: And who had the principal discussions with
10 them regarding the policy on the NCPA side?
11 A: Either me or Jim.
12 Q: Okay. And was there some discussion at some
13 point about excluding claims for Mr. Walker?
14 A: You know, there was, but I don't know if it
15 was in relationship to this policy or the two others
16 that we had gotten back offers on.
17 Q: And those were two -- so you had two other
18 offers on D&O coverage?
19 A: Uh-huh.
20 Q: And who were they from?
21 A: I think one was from Chubb, and I forget who
22 the other one was.
23 Q: Did any of them have -- not have an exclusion
24 for the Galloway?
25 A: I don't remember.

1 the providers.
2 Q: All right. So I'm going to send you what's
3 been marked as Exhibit 11 to this --
4 MR. DEWOLF: Thank you.
5 (Exhibit 11 marked.)
6 Q: (BY MR. DEWOLF) -- deposition. Is this the
7 D&O policy which is currently in place for the NCPA?
8 A: Yes.
9 Q: And it's a \$2 million policy; is that right?
10 A: Yes.
11 Q: And it's got a specific exclusion,
12 Endorsement Number 2, which says that no claims
13 related to the Galloway fraud incident, the insurance
14 policy doesn't cover; is that right?
15 A: I remember that, but I'm not finding it in
16 the document.
17 Q: If you look at NCPA Bates Label Number
18 002052,
19 A: Okay.
20 Okay.
21 Q: Tell me why that was negotiated.
22 A: It wasn't really negotiated, they just said
23 that was all they were going to offer.
24 Q: All right. And -- and who brought up the
25 point that we're not going to give you coverage with

1 Q: Do you have copies of those insurance
2 policies?
3 A: I don't know. I don't know if we would have
4 kept anything like that,
5 Q: Okay.
6 MR. DEWOLF: And I'm going to reserve any
7 questions about the EPL policy. I may not have any.
8 But once Mr. Shaw gets that to me, I may have
9 questions.
10 Q: (BY MR. DEWOLF) You have -- if you look at
11 your exhibits, there is an e-mail from you to someone
12 named Gravely at Swingle Collins. It says --
13 A: Which exhibit is this?
14 Q: I -- I don't know. I'll have to look through
15 the -- through the exhibits, ma'am.
16 MR. SHAW: It's -- I believe it's Exhibit
17 9.
18 MR. DEWOLF: Yeah.
19 Q: (BY MR. DEWOLF) If you'd look at Exhibit 9.
20 MR. SHAW: It's either Exhibit 7 --
21 MR. DEWOLF: It's dated June 21st, 2017.
22 MR. SHAW: That would be Exhibit 8 --
23 MR. DEWOLF: It's -- that's -- okay.
24 It's Exhibit 8.
25 MR. SHAW: Yeah.

1 THE WITNESS: Exhibit -- okay. Got
2 it, 8.
3 Q. (BY MR. DEWOLF) So it says, Jim just called
4 to say he spoke with you, and you had come to an
5 agreement.
6 What agreement was that?
7 A. About which insurance to purchase.
8 Q. And what was the -- what were the decision
9 points on which insurance?
10 A. How much it cost, mostly.
11 Q. Okay. And why did you do it for three years
12 versus one year, wouldn't one year cost less?
13 A. I don't remember the pricing on it. I
14 don't -- I don't remember the thinking on that.
15 Q. Look at Exhibit Number 7.
16 So do you recognize that, ma'am? It's an
17 e-mail from you, dated June 12th, 2017, to James Amos.
18 A. Uh-huh.
19 Q. You need to answer audibly.
20 A. Yes.
21 Q. All right. And that appears to be dealing
22 with the D&O coverage; is that right?
23 A. Yes.
24 Q. And it says, This ERP option is -- will be
25 ready in the event we're -- they're unable to exercise

1 another 10, 15 minutes and see where we are.
2 Q. (BY MR. DEWOLF) Let me hand you what's been
3 marked as Exhibit Number 12.
4 MR. DEWOLF: I don't have another copy of
5 that. I apologize.
6 I think there is two copies. Would you
7 hand him one.
8 THE WITNESS: Yeah.
9 MR. SHAW: Thank you.
10 Q. (BY MR. DEWOLF) So do you recognize what
11 Exhibit Number 12 is, ma'am?
12 A. Yes.
13 Q. What is it?
14 A. Financial statements for the NCPA year-ended
15 September 30, 2015.
16 Q. And when was this actually generated?
17 If you look at the third page in, that
18 might help you.
19 A. It says, September 13, 2016.
20 Q. Okay. So it took over a year -- almost a
21 year to get the audit for the NCPA for the fiscal year
22 ending September 30, 2015; is that correct?
23 A. Yes.
24 Q. Okay. Are you aware of whether any money
25 that was restricted was ever used for unrestricted

1 D&O coverage this week for the following year.
2 What -- what does ERB -- P option mean?
3 A. I forget what it stands for. But I think the
4 E stands for extension. I think it is an extension of
5 the existing policy.
6 Q. And the existing policy, that we don't have a
7 copy of, did that have an exclusion for Joey Galloway?
8 A. I don't remember.
9 Q. Okay. I'm going to hand you what's going to
10 be marked as Exhibit Number 12 to your deposition.
11 (Exhibit 12 marked.)
12 MR. SHAW: Steve, did you mark the --
13 this as an exhibit?
14 MR. DEWOLF: I did. I believe it's
15 Number 11.
16 MR. SHAW: My apologies.
17 MR. DEWOLF: Is that Number 11?
18 THE WITNESS: Hanover is 11.
19 MR. DEWOLF: Yeah.
20 MR. SHAW: Got it.
21 Q. (BY MR. DEWOLF) All right. So -- and --
22 MR. DEWOLF: How long have we been going?
23 THE VIDEOGRAPHER: Little over an hour,
24 hour and ten.
25 MR. DEWOLF: Okay. Why don't we go for

1 purposes?
2 A. The only thing I can tell you is that the
3 Summers endowment was emptied and put into the
4 operating fund by Galloway. So that was used to pay
5 people. It was to cover for earlier theft. In other
6 words, it wasn't stolen, it was misappropriated.
7 Q. But it wasn't -- it was used for something it
8 wasn't supposed to be used for?
9 A. Well, probably in part. I mean, because what
10 it's used for, technically, is to pay interns. That
11 would be the stated purpose. I'm sure we paid interns
12 with that money.
13 Q. But you also used the money for other --
14 purposes, correct?
15 A. We did. But also, I'll tell you that there's
16 some talk about -- NCPA had paid interns out of its
17 own operating fund when it could have been paying it
18 with that money.
19 So in other words, the -- there was talk
20 about, okay, but we paid -- I don't know there was a
21 calculation done showing that thousands and thousands
22 of dollars -- maybe hundreds of interns had been paid
23 out of the operating fund and not out of that fund.
24 Q. All right. And do you know whether or not
25 the Summer Fund -- the Summer Foundation has made a

1 claim against the NCPA?
 2 A. I don't know if the claim's been filed.
 3 Q. Okay. But you know they've -- they've
 4 complained about that use of funds?
 5 A. Yes.
 6 Q. Okay.
 7 A. Well, they complained -- they want their --
 8 it was an endowment. In other words, it wasn't just
 9 money to draw down on.
 10 Q. Right.
 11 A. It was an endowment.
 12 Q. Right. And they want the endowment back,
 13 correct?
 14 A. I would assume so.
 15 Q. Okay.
 16 A. I'm not sure --
 17 Q. Do you know whether any of that money still
 18 exists?
 19 A. I don't know.
 20 Q. If you look at Bates Label Number 001680,
 21 there's some handwriting.
 22 Can you tell me what that -- whose
 23 handwriting that is?
 24 A. I don't know.
 25 Q. Okay. Let me hand you what's going to be

1 MR. DEWOLF: Oh, okay.
 2 MR. SHAW: Thank you.
 3 MR. STEWART: You're welcome.
 4 Q. (BY MR. DEWOLF) Answer it -- okay. That's
 5 all I've got on that.
 6 Now, with regard to this embezzlement,
 7 about how much do you think was embezzled?
 8 A. Well, stolen or misappropriated, it gets up
 9 to about 1.1 million.
 10 Q. Now, whether -- is there a difference between
 11 embezzled and misappropriated?
 12 A. I think so. I mean --
 13 Q. Okay. What's the -- what's the difference?
 14 A. When I -- when I say embezzled, I mean
 15 stolen.
 16 Q. Okay.
 17 A. To himself. Misappropriated means he moved
 18 our money around and did other things, like make NCPA
 19 payroll, with our money to cover up earlier theft.
 20 Q. Okay. But in terms of -- but that was
 21 actually used for NCPA purposes, correct?
 22 A. Yes.
 23 Q. All right. But in terms of actual embezzled
 24 money, how much money was embezzled approximately?
 25 A. Okay. I'm going to have to estimate.

1 marked as Exhibit Number 13 to your deposition.
 2 (Exhibit 13 marked.)
 3 MR. SHAW: Thank you.
 4 Q. (BY MR. DEWOLF) And do you recognize it,
 5 ma'am?
 6 A. Yes.
 7 Q. What is it?
 8 A. NCPA financial statements for the year--
 9 ended -- two years-ended September 30, 2016 and 2015.
 10 Q. All right. And the next page gives a table
 11 of content. And then there's report of independent
 12 auditors, and then that is completely blank.
 13 Do you know why that's blank?
 14 A. No.
 15 Q. Was -- did --
 16 MR. DEWOLF: Counsel, that wasn't
 17 redacted for any reason you're aware of?
 18 MR. SHAW: No, sir.
 19 MR. DEWOLF: Okay. I would ask if you
 20 guys could go back and try and find that page so we
 21 can figure out what it says.
 22 MR. STEWART: Tom, I might -- might be
 23 able to help that.
 24 It was never completed because it hasn't
 25 been paid for.

1 Q. Well, why -- why don't we not estimate,
 2 because I can help you.
 3 A. Okay.
 4 (Exhibit 14 marked.)
 5 Q. (BY MR. DEWOLF) Going to hand you what's
 6 been marked as Exhibit Number 14. Do you recognize
 7 this?
 8 A. I do.
 9 Q. What is it?
 10 A. This is Laurel, who was an admin at NCPA,
 11 asking me if I knew the amount of embezzled funds,
 12 Q. All right. And it says that, Approximately
 13 \$1 million was embezzled.
 14 Does that refresh your recollection?
 15 A. Yeah. But let me see what I -- how I
 16 explained that.
 17 Q. Well, your first sentence -- does the first
 18 sentence say, Approximately \$1 million was embezzled?
 19 A. Yes.
 20 Q. All right. So now, let's talk about
 21 recovery.
 22 There was approximately 356,000 in
 23 currency recovered, 168,000 in Chase account
 24 recovered, 42,000 in gold, 30,000 in Kramer items, and
 25 \$5,000 in other items.

1 Is that correct?

2 A. That's what I wrote.

3 Q. And do you believe it to be accurate?

4 A. Yeah.

5 Q. Okay. Now, did you also receive \$160,000 in
6 crime insurance?

7 A. Yes.

8 Q. Did you also receive 215,000 in debt
9 forgiveness from Amex?

10 A. Well, we received it, and then they took it
11 back.

12 Q. Okay. Where -- what is the current status of
13 that?

14 A. They sent us a statement in, I think, August
15 of 2016 saying, this account is under review and in
16 dispute, so do not pay this bill. And that's the last
17 correspondence we ever received from them.

18 MR. DEWOLF: Okay. Are you aware of
19 anything since then?

20 MR. STEWART: Is it okay I --

21 MR. SHAW: Yeah, sure --

22 MR. DEWOLF: I mean, just make it easier.

23 MR. SHAW: Sure, yeah.

24 MR. STEWART: We -- we got a supplement
25 statement somewhere around March --

1 A. I think it would be impossible to say.

2 Q. (BY MR. DEWOLF) Well, isn't it true that you
3 have said to people that you believe that the
4 embezzlement by Mr. Galloway and the accompanying
5 negative press put the kibosh on your -- really hurt
6 your donor relations, and that ultimately ended in
7 the -- resulted in the demise of the NCPA?

8 MR. SHAW: Object to form.

9 A. It was a factor. I don't know how much of a
10 factor it was compared to the Goodman scandal for some
11 people.

12 MR. DEWOLF: Objection; nonresponsive.

13 Q. (BY MR. DEWOLF) Ma'am, my question was,
14 isn't it true that you wrote to people saying that you
15 believed that the embezzlement by Galloway and the
16 adverse press was the major factor on why the NCPA
17 went broke?

18 MR. SHAW: Object to form.

19 A. I don't remember if I wrote that or not.

20 Q. (BY MR. DEWOLF) Okay. Isn't it true --
21 well, we'll have a chance to look at that.

22 Isn't it true that you told people that
23 you believed that the embezzlement and the adverse
24 press had a negative impact on donor relations?

25 MR. SHAW: Object to form.

1 MR. DEWOLF: Of '17?

2 MR. STEWART: -- of '17 that -- it's a
3 little bit cryptic, but it says, basically, we -- we
4 are still investigating this, but if you have not
5 heard back from us in 60 days, consider this account
6 closed.

7 MR. AMOS: Wow.

8 MR. DEWOLF: Okay.

9 MR. STEWART: And --

10 MR. SHAW: Wow.

11 MR. STEWART: -- that was the last
12 anything we received from American Express.

13 MR. DEWOLF: Okay --

14 MR. STEWART: -- so I'm interpreting it
15 as it -- it's gone.

16 MR. DEWOLF: Right. So --
17 (Sotto voce discussion.)

18 Q. (BY MR. DEWOLF) -- so assuming that that is
19 accurate, then you -- you've recovered \$75,000 of
20 approximately the \$1 million embezzled, correct?

21 A. Yes.

22 Q. Now, it's your view, isn't it, ma'am, that
23 really that the embezzlement was the straw that broke
24 the NCPA's back, correct?

25 MR. SHAW: Object to form.

1 A. Yeah.

2 Q. (BY MR. DEWOLF) Isn't it true that you told
3 them that because of that negative impact on donor
4 relations, that's what caused the NCPA's demise?

5 MR. SHAW: Object to form.

6 A. I don't remember if I worded it that way.

7 Q. (BY MR. DEWOLF) You wouldn't disagree with
8 it today, would you?

9 MR. SHAW: Object to form.

10 A. I'm not sure I would agree.

11 Q. (BY MR. DEWOLF) Well, but you wouldn't
12 disagree?

13 MR. SHAW: Object to form.

14 A. I don't know if I was talking about a certain
15 donor or a certain class of donors or -- or what. I
16 just don't know the context of that.

17 MR. DEWOLF: Objection; nonresponsive.

18 Q. (BY MR. DEWOLF) Ma'am, my question is, would
19 you agree or disagree or don't have an opinion that
20 the embezzlement by Galloway was the biggest reason
21 why the NCPA voted to dissolve itself?

22 MR. SHAW: Object to form.

23 A. Well, now I'd be speculating about what the
24 board thought, right?

25 Q. (BY MR. DEWOLF) I'll rephrase. That's fine.

1 Isn't it true that -- strike that.
2 Isn't it true that you believe that
3 Galloway was the biggest reason why the NCPA had the
4 financial difficulties from which it could not
5 recover?

6 MR. SHAW: Object to form.

7 A. I might have believed that at some point
8 along the way. I don't remember.

9 Q. (BY MR. DEWOLF) Okay. Well, in August of
10 2017, did you believe that?

11 A. I don't remember what I was thinking then --

12 Q. On -- on August 1st, 2017, when you wrote
13 Rick Watson at 8:54 in the morning, did you believe
14 that, yes or no?

15 A. I don't remember what I was thinking then.

16 Q. Okay. Let me hand you what's been marked as
17 Exhibit Number 15 to your deposition.

18 (Exhibit 15 marked.)

19 Q. (BY MR. DEWOLF) Do you recognize Exhibit
20 Number 15?

21 A. Yes.

22 Q. What is Exhibit Number 15 -- what is it?

23 A. Well, first, I'm going to read down and then
24 up.

25 Q. Well, I'd just like you to answer, ma'am.

1 did -- so we have it on the record --

2 A. Uh-huh.

3 Q. -- it says, He was not the only reason, but
4 he might be the biggest reason.

5 We were so -- far behind on AP by the
6 time we recovered the embezzled funds, that we could
7 not catch up, and the embezzlement hit the press,
8 damaging our reputation with the donor community.

9 A. I correctly recall --

10 Q. Wait a minute. Did -- I'm just saying, did I
11 read that correctly?

12 A. Yes.

13 Q. When you wrote that, was that an accurate
14 statement?

15 A. Yes.

16 Q. All right. And then the next question is,
17 ma'am, did you write that on the NCPA -- from an NCPA
18 e-mail address?

19 A. No.

20 Q. You're sure about that, ma'am?

21 A. It says -- oh, I'm sorry. I'm looking at the
22 CC.

23 It doesn't spell out whether it was an
24 NCPA address, but it might have been.

25 Q. Well, look at the last sentence. It says,

1 Is that an e-mail from you, dated August
2 1st, 2017 at 8:54, to Rick Watson, and the reference
3 is, Galloway?

4 A. Yes.

5 Q. Okay. And in the question, Mr. Watson asks
6 you a question -- and this is an e-mail that he had
7 sent earlier that morning. And his question to you.
8 Was Galloway the reason for the financial difficulties
9 that led to dissolution?

10 Did I read that correctly?

11 A. Uh-huh, yes.

12 Q. And your response, ma'am, would you read it
13 in for the record, making sure to look at the camera?

14 A. I said, He was not the only reason, but he
15 might have been the biggest reason.

16 We were so far behind on AP by the time
17 we recovered the embezzled funds, we could not catch
18 up. The embezzlement hit the press, damaging our
19 reputation with the donor community.

20 (Reporter instruction.)

21 MR. SHAW: She's not answering that --
22 this -- this e-mail was not written while she was
23 acting on behalf of NCPA, I don't believe, so it
24 would be her personal opinion.

25 Q. (BY MR. DEWOLF) Ma'am, did you write that --

1 This might be the last time I'm able to check this
2 e-mail. If you need to reach me, best to e-mail me at
3 the Tesla address copied here, and then gave your
4 phone number.

5 Did I read that correctly?

6 And you're looking at the wrong place,

7 A. Oh, sorry.

8 Yes, that's right.

9 Q. And does that indicate to you that that was
10 an NCPA e-mail that you sent this from?

11 A. It probably was.

12 Q. Okay. And you believe that that -- the
13 statements you made in that were accurate at the time
14 you wrote it, correct?

15 A. This is a qualified statement, yes.

16 MR. DEWOLF: Objection; nonresponsive.

17 Q. (BY MR. DEWOLF) Do you believe that it was
18 accurate -- that that was accurate when you wrote it?

19 A. Yes.

20 Q. Okay.

21 MR. DEWOLF: We have about five more
22 minutes and then we'll take a break.

23 MR. SHAW: Sure.

24 Want to step out, guys?

25 MR. DEWOLF: Well, I -- we can keep --

1 MR. SHAW: Oh --
 2 MR. DEWOLF: -- stop right here --
 3 MR. SHAW: -- oh, no, go ahead, I
 4 apologize, I thought you wanted to take a --
 5 MR. DEWOLF: -- that's a good point. We
 6 can stop.
 7 MR. SHAW: Why don't we -- do you want to
 8 finish her up, first?
 9 MR. DEWOLF: Well, I -- I don't know how
 10 long -- I -- I -- at some point, I'd like to take a
 11 break, kind of see where I am.
 12 MR. SHAW: Can we finish with her so
 13 these two can leave? Because they came in the same
 14 car. Would that be okay, before lunch?
 15 MR. DEWOLF: Sure, sure. That's totally
 16 fine, but --
 17 MR. SHAW: Okay.
 18 MR. DEWOLF: -- I need -- I'm going to
 19 need five minutes to look at my stuff --
 20 MR. SHAW: Sure, sure. Of course --
 21 MR. DEWOLF: -- if that's all right.
 22 MR. SHAW: -- of course,
 23 THE VIDEOGRAPHER: Off the record at
 24 12:15.
 25 (Recess taken.)

1 Q. Okay. When -- the time that you were there
 2 and Mr. Galloway was there, April of '15 to January of
 3 '16, when the bank statements would be mailed in --
 4 and I guess that's the first question.
 5 Were they mailed or were they sent by
 6 e-mail or both?
 7 A. I don't remember.
 8 Q. Okay. Do you know what the standard practice
 9 was in terms of reviewing the bank statements, who did
 10 it?
 11 A. As I said, development would meet with
 12 finance and try to reconcile those statements.
 13 Q. Who was development from April of 2015 to
 14 January of 2016?
 15 A. Eileen Resnik.
 16 Q. And when she was fired, apparently -- when
 17 was she fired?
 18 A. September 2016.
 19 Q. So she was there throughout the time of
 20 Mr. Galloway's embezzlement?
 21 A. Yeah.
 22 Q. All right. And is she an accountant by
 23 trade, do you know?
 24 A. I don't think so.
 25 Q. Okay. So why did you not have anybody with a

1 THE VIDEOGRAPHER: Back on the record at
 2 12:32.
 3 Q. [BY MR. DEWOLF] Now, ma'am, the legal and
 4 accounting records that NCPA has, those are all
 5 located -- as far as you know, they're still residing
 6 in NCPA's offices; is that correct?
 7 A. No, a lot of them don't. They reside with
 8 our lawyers, they reside with our accountants at Lori
 9 Orta, PC, they reside with the auditors at Whitley
 10 Penn.
 11 Because -- as they mentioned earlier,
 12 that audit was never -- I think the audit was
 13 completed, but we never got the audit because we
 14 couldn't pay for it.
 15 Q. Okay. But in terms of the actual documents
 16 generated, NCPA's own accounting records, those belong
 17 to NCPA, correct?
 18 MR. SHAW: Object to form.
 19 A. They are -- they -- I suppose they're our
 20 property, but I don't know that we're the custodian.
 21 We have Lori keep those.
 22 Q. (BY MR. DEWOLF) Okay. And Lori works at
 23 your -- at -- at least did, at the NCPA's control and
 24 direction, correct?
 25 A. Yeah.

1 bookkeeping background or accounting background review
 2 those bank statements separately?
 3 A. Well, I mean, he had an accounting
 4 background.
 5 Q. He being who?
 6 A. Galloway.
 7 Q. I'm not talking about Galloway. I'm talking
 8 about did you have somebody besides Galloway with an
 9 accounting background look at the bank statements that
 10 came in every month?
 11 A. Not on a monthly basis. The auditor would
 12 look at them but --
 13 Q. Once a year?
 14 A. Yeah.
 15 Q. Okay. And were copies --
 16 A. Well, and -- listen, Colonel West probably
 17 was looking at them. I don't know. You'd have to ask
 18 him.
 19 Q. I suspect I will.
 20 Isn't it true, ma'am, that the NCPA knew,
 21 prior to discovering Galloway's embezzlement at their
 22 shop, that he had embezzled funds someplace else?
 23 MR. SHAW: Object to the form.
 24 A. We did not know when we hired him --
 25 Q. (BY MR. DEWOLF) Right.

1 A. -- because Valor Services said he had a clean
2 background. So we absolutely believed he had no
3 criminal history coming into the NCPA.

4 Q. But you learned that while he was at the
5 NCPA, correct?

6 A. Yes.

7 Q. When did you learn that?

8 A. Well, I didn't learn it -- I didn't learn
9 exactly what he had done because it wasn't shared with
10 me. But I know that -- all I know is that there was
11 something that got hit in his due diligence with
12 Whitley Penn.

13 And that was handled by Colonel West.

14 Q. Okay. So Whitley Penn did some due diligence
15 when?

16 A. November 2016.

17 Q. And --

18 A. Was --

19 Q. -- no, not --

20 A. -- 2015, sorry.

21 Q. Yeah.

22 A. 2015.

23 Q. And -- and so -- and what did Whitley Penn
24 discover?

25 A. I don't know. Because apparently, inside

1 A. -- deferred adjudication for the claim -- or
2 the charge was, stealing \$90,000 from his kids'
3 college funds.

4 Q. (BY MR. DEWOLF) Okay. Now, and when did
5 that occur?

6 A. That occurred, I guess, the year before. So
7 he had not been --

8 Q. In 2014?

9 A. Yeah.

10 Q. And -- and --

11 A. And so --

12 Q. -- which county was it in?

13 A. Denton.

14 Q. Okay.

15 A. Because I think I found this out when we were
16 working with Littler Mendelson and law enforcement to
17 try and track him down because that's when then,
18 obviously, all of that check was done.

19 Q. Okay. Did the NCPA do any sort of background
20 check itself with regard to Josh Galloway?

21 A. Not beyond the one we paid for and -- in his
22 hiring.

23 Q. Yeah. You -- you had Valor, who was the
24 search firm. But I'm asking, did they do their own
25 background?

1 their office, they don't even tell -- one Whitley Penn
2 officer doesn't even speak to the person that
3 interfaces with us about what it was. They didn't
4 know what it was.

5 Q. All right. But -- but as part of their due
6 diligence as an accounting firm, they discovered this,
7 correct?

8 A. They said there was something that caused him
9 to not -- to hit a flag on the due diligence.

10 Q. All right. And Colonel West was advised of
11 that, correct?

12 A. Yes.

13 Q. And was the board of directors advised of
14 that?

15 A. The Colonel told me that he would tell them.

16 Q. Okay. And did you ultimately find out what
17 that was?

18 A. I did not find out until -- I want to say --
19 I don't remember. I don't remember when it was, but
20 it was like, months later.

21 Q. What was it?

22 A. He had been not convicted, but there's a term
23 for it in Texas. I want to call it postponed
24 adjudication, but that's not --

25 MR. SHAW: Deferred adjudication.

1 A. No. We didn't think we needed to --

2 Q. Did -- did they do a criminal -- did --

3 MR. SHAW: No, he's asking about Valor.

4 Q. (BY MR. DEWOLF) Well, let me ask it over --

5 MR. SHAW: I apologize if I'm stepping
6 over.

7 Q. (BY MR. DEWOLF) So the -- poor question.

8 The NCPA, to your knowledge, did not do
9 any sort of background check or criminal records check
10 for Mr. Galloway; is that correct -- other than
11 retaining or visiting with Valor Services?

12 A. Well, we didn't just visit with them. We
13 signed a contract that directed them to perform a
14 comprehensive criminal background check, and we were
15 paying for that.

16 Q. And -- and you have a copy of that contract?

17 A. Yeah.

18 Q. And the contract says that they're going to
19 do a criminal background check?

20 A. Uh-huh.

21 Q. You have to answer --

22 A. Yes.

23 Q. -- audibly.

24 A. Yes.

25 Q. Okay.

1 A. At client's direction, we shall -- you know,
2 do a criminal background check, something like that.

3 Q. And -- and did client direct them to do a
4 background check?

5 A. Yes.

6 Q. Is there an e-mail to that effect?

7 A. No. We met about it twice.

8 Q. Okay. You have no e-mail that confirms that
9 you guys requested a back -- a criminal background
10 check?

11 A. I don't remember.

12 Q. Okay.

13 A. I mean, that's been too long ago.

14 Q. All right. And is there -- was there an
15 additional charge for a criminal background check?

16 A. There -- my understanding, it's included in
17 the 12k.

18 Q. But you're not sure of that?

19 A. No, it's all part of the same contract.

20 Q. Okay. Was there a criminal background check
21 ever provided by Valor to you?

22 A. No.

23 Q. So as I understand it, part of the package,
24 and -- and let's go back.

25 Who approved the Valor contract?

1 financial things not have --

2 A. Of course.

3 Q. -- any sort of defalcation or anything of
4 that sort, correct?

5 A. Right.

6 And to be clear, I want to clarify, he
7 was -- his deferred adjudication happened months after
8 he came on to work for us. So one reason why that
9 wouldn't come up in a background check is, it hadn't
10 happened yet. He hadn't been adjudicated yet.

11 I don't know what should have come up in
12 terms of an indictment or charges, but we were assured
13 there was nothing there.

14 Q. And -- and you don't recall anything in
15 writing to that effect, and -- is that right?

16 A. Yeah, I don't remember seeing anything in
17 writing about his criminal record.

18 Q. All right. Or any sort of actual printout,
19 here's his criminal record?

20 A. I don't remember that.

21 Q. Now, what -- you're a lawyer. Is there
22 anything under LexisNexis you can do or -- to do a
23 criminal background check for somebody?

24 A. Some information is available. And I'm not
25 clear what is available without FCRA approval, where is

1 A. I don't know who signed. It would have been
2 either Colonel West or me. But Colonel West would had
3 to have approved it.

4 Q. And is this something that he would have
5 spoken to the board about, or members of the board?

6 A. I don't know if he would have spoken to them
7 in advance of doing it.

8 Q. Okay. Now, the task that Valor was asked to
9 do, was to perform a comprehensive background check --
10 according to you, do a comprehensive background check,
11 including a criminal record check; is that right?

12 A. Yes.

13 Q. Now, and it's your testimony that when you
14 got that back from Valor, you didn't get a copy of the
15 criminal records check, did you?

16 A. I don't remember that.

17 Q. Okay. And you don't remember any affirmative
18 statement from them that he had no criminal
19 background, do you?

20 A. Oh, I do remember that.

21 Q. Okay. And it's in writing that he had no --

22 A. I don't remember in writing. We had a clear
23 discussion about it.

24 Q. Okay. And -- and do you think it's very
25 important that someone that's going to handle

1 person has to sign for consent for a certain --
2 background checks.

3 I don't know what all you can get just on
4 the open web --

5 Q. Did anybody request that Josh Galloway sign a
6 consent for a criminal background check?

7 A. I --

8 Q. Anyone at NCPA?

9 A. I think the answer to that is, yes. I also
10 think that Valor did the same -- or excuse me, I'm
11 assuming Valor did the same.

12 Q. All right. So when did NCPA ask him to sign
13 a validation so you could do a criminal background
14 check?

15 A. We have that form signed as soon as we hire
16 someone.

17 Q. Okay. So that form was signed by him in
18 April of 2015, correct?

19 A. Approximately.

20 Q. Yeah. And did the NCPA, after they asked him
21 to sign that, did they ever do the criminal background
22 check?

23 A. Not to my knowledge. Because it had just
24 been done in our minds -- we had just paid for it.

25 MR. DEWOLF: Objection to everything

1 after "not to my knowledge," as being unresponsive.
 2 Q. (BY MR. DEWOLF) And so the record's clear,
 3 you're not aware of during the time that -- April of
 4 '15 to January of 2016, whether checks were prepared
 5 separately from the person that was actually going to
 6 sign them?

7 A. Say that again.

8 Q. Sure. I'm asking about an internal control.
 9 I'm asking whether it existed at the NCPA during the
 10 time period of April 2015 to January of 2016.

11 Did you have a segregation of duties
 12 where one person would prepare the check and one
 13 person would sign?

14 A. Yes. What should happen is, either Colonel
 15 West or I would be the signers. Neither of us held
 16 that check stock. Someone else would prepare the
 17 check -- typically the finance person, that would be
 18 printed out of the QuickBooks and presented to us to
 19 sign.

20 Q. Who prepared --

21 A. If that's what you're asking.

22 Q. -- who prepared the checks in this case?

23 A. Galloway.

24 Q. Okay. So under the internal controls that
 25 existed under your watch and Colonel West's watch and

1 and then into a Chase account, which we then got back,
 2 which you saw in my notes.

3 Q. Right.

4 A. So --

5 Q. So -- other than those -- three checks, was
 6 there any other money that he embezzled?

7 A. Well, he misused the credit card. He --
 8 unbeknownst to us, gave himself a credit card. Not
 9 everybody at NCPA had a credit card. So he, I guess,
 10 some -- whatever is required to issue a new credit
 11 card in a different name, he did it.

12 Q. Okay. And these are all American Express
 13 cards?

14 A. Yeah, one American Express card.

15 Q. Okay.

16 A. So there were multiple American Express
 17 cards, but different employees had them and could use
 18 them for different things.

19 Q. Okay.

20 A. So we -- you know, he was giving each of us
 21 our American Express statement every month to review
 22 and make sure it was accurate. We would do that, hand
 23 it back to him. Unbeknownst to us, he had given
 24 himself one and was using it and we didn't know.

25 Q. All right. And what -- all those American

1 the board at that time, the checks were not prepared
 2 separately from the -- strike that. New question.

3 How did Galloway embezzle the money?

4 MR. SHAW: Object to form.

5 Q. (BY MR. DEWOLF) If you know.

6 A. Well, he forged three very large checks when
 7 the big money came in at the end of the year.

8 Q. Okay.

9 A. Two --

10 Q. And that's September for 140 and then
 11 November for about 600 -- or 500,000; is that right?

12 A. Approximately, yeah.

13 Q. Okay.

14 A. And so he would forge his name -- and he was
 15 never a signat on the account --

16 Q. Uh-huh.

17 A. -- Colonel West's name, and in one instance,
 18 my name, on these checks. The checks were made out to
 19 Fidelity Investments of Kentucky.

20 And I -- I don't know how that worked. I
 21 don't know -- I don't know how they knew to put it
 22 into an account that he could get to. I really don't
 23 know what happened on that end.

24 But anyway, the prosecutor subsequently
 25 told me that money went into those Fidelity accounts

1 Express charges, those were not -- they -- according
 2 to, I think, Mr. Stewart, they did not -- you disputed
 3 them and no one's asked you to pay those; is that
 4 right?

5 A. Right.

6 Q. So other -- we talked about that, about the
 7 American Express charges.

8 So you had these three checks. Other
 9 than the three checks, what other things did he
 10 embezzle? We've talked about the expense account, so
 11 I'm leaving that.

12 A. Yeah. So he got himself an ATM card and
 13 pulled out like, \$400 at a time here and there, once
 14 in a while.

15 Q. Approximately how much was that?

16 A. You know, I want to say it was less than
 17 10,000.

18 Q. Okay.

19 MR. AMOS: He bought a car.

20 A. Yeah, he -- when he decided to flee the
 21 jurisdiction, he leased a car, and he did that --
 22 again, that falls under the Amex. He used out
 23 American Express card to put down the money to get a
 24 Range Rover leased. And so he leased a car with our
 25 Amex.

1 It was -- that's just part of the Amex,
2 same thing --

3 Q. (BY MR. DEWOLF) All right. All right. So
4 other than (he 10,000 and the approximately 500 and 40
5 -- \$640,000, was there anything else that he
6 embezzled?

7 A. He -- toward the end, in the last couple few
8 months he was there, he set up an auto debit to pay
9 his child support out of our operating account,

10 Q. Okay. And that would have been December and
11 January?

12 A. And February,

13 Q. Of -- December and January of 2000 and --
14 December of '15, January and February of 2016?

15 A. Yeah. And I don't remember exactly when that
16 started.

17 Q. Okay. What else?

18 A. Well, he pulled out the Summer's money to put
19 into the operating fund. So again, that's not
20 embezzled, necessarily, but it's misappropriate.

21 Q. Okay. I'm talking about embezzled.

22 A. I don't remember what I'm forgetting now.
23 That's certainly the bulk of it.

24 Q. All right. So when were these three checks
25 -- one check was in September, do you remember what

1 don't understand --

2 A. Yeah. But he didn't steal it for himself.
3 He used it to cover up earlier theft. He -- I -- I
4 believe he took money -- he drew on our line of credit
5 to put money into the operating account to cover our
6 expenses, again, to cover up his earlier theft.

7 Q. (BY MR. DEWOLF) All right. And then how --
8 let's move to, how did he get caught? Was that
9 something where he confessed?

10 A. No. He -- okay. So basically, I got -- I --
11 I lost all patience with him making every excuse in
12 the world for not getting this audit done. And so I
13 went to the chairman, Mr. Ivy, and I said, will you
14 please give me permission to bring in a second set of
15 eyes to put on these books?

16 And that was January, maybe, 17. And
17 because I -- you know, I was out of -- out of excuses
18 with him.

19 And so Chairman Ivy said, yes, please,

20 And so I called Valor Service because I
21 considered this partly their fault. They gave me a
22 bad employee. And --

23 Q. (BY MR. DEWOLF) When did you discover he was
24 a bad employee, when did you come to that opinion?

25 A. Well, obviously by mid January I had his last

1 day?

2 A. No.

3 Q. How about the two checks in November?

4 A. I want to say one was very -- very toward the
5 end, like the 23rd maybe.

6 Q. Is that when the funds came in from that --

7 A. It would have been right after the -- yeah,
8 the large check arrived.

9 Q. Okay. And who -- who was the large check
10 from?

11 A. That's our anonymous donor, our largest
12 donor.

13 Q. The one in Canada?

14 A. Yeah.

15 Q. Okay.

16 MR. AMOS: There was also the line of
17 credit at Legacy that he created and emptied. It's
18 another 50 grand --

19 A. Yeah. But that's another --

20 MR. SHAW: Sorry, Steve. Is that --

21 MR. DEWOLF: Yeah, that's fine. That's
22 fine. That's fine.

23 A. That's another misappropriation thing,
24 though. He -- where he would --

25 MR. AMOS: It's cash out. I mean, I

1 straw.

2 Q. No. But -- right, but before then, you
3 thought he was a bad employee. From the get-go or?

4 A. He missed a lot of work there toward the end,
5 right toward the end, would not do what he was told
6 toward the end, missed a few deadlines for the audit
7 toward the end.

8 Q. So was this September, October?

9 A. No. This was more like, December, January.

10 And so I just decided that something had
11 to be done. So Steve Ivy is the audit chairman. So I
12 asked him to please give me permission to do this.
13 And he said, please, do.

14 And so the next morning I had Valor in
15 there. Because the CEO of Valor actually has an
16 accounting background. And he said, look, I -- you
17 know, I guarantee the people I provide to you in
18 staffing. So number one, he said, fire this guy
19 immediately and I'll find you a new finance director
20 and meanwhile, I'll jump in and do your audit to
21 mitigate damages.

22 Q. Okay.

23 A. And so I said, great. And so he came in that
24 morning.

25 Q. On the 17th?

1 A. I think that would have been the 18th.
 2 Q. 18th, okay.
 3 A. You know what, I'm not a hundred percent
 4 sure, but it's --
 5 Q. 17th or 18th. Okay.
 6 A. -- right about there.
 7 And so yeah, when I told -- when I told
 8 Josh to come into my office because we're going to get
 9 this audit done now and he saw the CEO of Valor
 10 Services, he had a meltdown on me and he freaked out
 11 and he started screaming at everyone.
 12 Q. Saying what?
 13 A. I will not be held hostage, bitch, to you and
 14 your deadlines and I'm sick of you bullying me and
 15 pushing me around and being on my ass and --
 16 MR. AMOS: F-ing this and F-ing that.
 17 A. Yeah. And then --
 18 Q. (BY MR. DEWOLF) Okay. So --
 19 A. Yeah. So he laid into me pretty hard because
 20 I had been on his case --
 21 Q. Right. Okay.
 22 A. -- about not getting things done. And -- and
 23 then he cussed out Eileen Resnik too for being on him
 24 about not getting stuff done. And then he yelled at
 25 the auditor. And so clearly, he just -- he just told

1 into it?
 2 A. As soon as I took it out of Josh's hands,
 3 yes.
 4 Q. Yeah. And -- and --
 5 MR. SHAW: Excuse me, Steve, what year is
 6 this?
 7 MR. DEWOLF: This is 2016 --
 8 A. 2016.
 9 MR. SHAW: '16, December 2016?
 10 MR. DEWOLF: No, January of 2016.
 11 MR. SHAW: January. Okay. So -- my
 12 apologies.
 13 Q. (BY MR. DEWOLF) And then did he -- and then
 14 he ultimately confessed to it, I guess?
 15 A. Yes.
 16 Q. Okay.
 17 A. He went to his lawyer.
 18 Q. But within an hour of you really digging into
 19 it, you could tell?
 20 A. Oh, within minutes.
 21 Q. Within minutes.
 22 A. I -- I -- when -- I mean, I had been digging
 23 into it for a month and a half. Why isn't this
 24 getting done? Where is everything?
 25 Q. No, but in terms of actually looking at the

1 us he was not -- he would not do anything we asked him
 2 to do.
 3 Q. All right. And so then what happened?
 4 A. So I -- he then ran down to Colonel West to
 5 plead his case to Colonel West.
 6 Q. Right?
 7 A. And Colonel West -- I don't remember this all
 8 super clearly now, but basically, I told him what had
 9 happened after Josh had left. And when he found out
 10 that he had screamed at the auditor on the phone, then
 11 he said, well, I have no choice but to fire him.
 12 Q. Okay. Then what happened?
 13 A. So then he brought him back and told him that
 14 he wanted him to stay on for two weeks to help Valor
 15 do an audit. And he said, that's fine.
 16 And I don't remember what happened the
 17 rest of the day. I think maybe -- Valor had to leave
 18 or something. So we agreed we'd start on Monday
 19 morning.
 20 And then Monday, Josh didn't show up.
 21 And that's when we realized that he had changed the
 22 passwords on everything. We couldn't find documents.
 23 There were two sets of QuickBooks.
 24 Q. When -- when -- when were the -- and this was
 25 immediately pretty obvious, once you started digging

1 documents, getting in, all that stuff, within minutes
 2 you could tell there was a problem?
 3 MR. SHAW: Object to form.
 4 A. Well, within -- I was trying to get into the
 5 documents and could not get into stuff because he had
 6 moved it, hidden it --
 7 Q. (BY MR. DEWOLF) Right. And that was a red
 8 flag.
 9 A. Absolutely, yeah.
 10 Q. Okay.
 11 A. And -- and with -- the problem was that he
 12 had lied to us and said that he had been sending stuff
 13 over to the auditors steadily since either late
 14 November or early December; we believed him.
 15 So then when the auditor told me she
 16 hadn't received anything and I knew that he was lying,
 17 then you know, that's when I went to the chairman and
 18 said, you know, please give me permission to --
 19 Q. I -- I understand. But to -- to focus on
 20 this, what I'm trying to ask is, once you actually
 21 took the steps to go in and look at the financial
 22 records, it was obvious from the changing of the
 23 password or this other stuff that there was a big
 24 problem?
 25 MR. SHAW: Object to form.

1 A. Yes.

2 Q. (BY MR. DEWOLF) Okay. Now, let me switch

3 topics so I can get you out of here.

4 Why did you guys, if you know, make the

5 decision to get the D&O policy for not one year, but

6 three years?

7 A. I don't remember. I think that was --

8 Q. Who would know?

9 A. I believe we took advice from Counsel on that

10 and --

11 Q. Which counsel?

12 A. That would have been Beverly Godbey at

13 Gardere, I think.

14 Q. Okay.

15 A. I think.

16 Q. Let's talk about the -- you have been listed

17 by Mr. Shaw -- so you can complain to him about this,

18 as Number 14, any assets owned by the NCPA other than

19 bank accounts or brokerage accounts for the time

20 period September 15th through 16 through October 15th,

21 2017.

22 What assets does the NCPA own other than

23 bank accounts and brokerage accounts?

24 A. We own, as I said, our furniture and IT

25 equipment as physical assets. We did own a mailing

1 MR. STEWART: It's not Canadian.

2 THE WITNESS: Oh.

3 MR. DEWOLF: Okay,

4 Have you sold it?

5 MR. STEWART: Yes, sir. Just the URL,

6 MR. DEWOLF: Uh-huh.

7 Q. (BY MR. DEWOLF) What else do you have?

8 A. I don't know what else.

9 Q. Okay.

10 MR. DEWOLF: I think that's it. So why

11 don't you guys go.

12 Thank you for your time, ma'am.

13 And we'll take a 30-minute break -- yeah,

14 and then we'll come back and take Mr. Stewart.

15 MR. SHAW: How long do you think you'll

16 be --

17 THE VIDEOGRAPHER: Off the record at

18 12:59.

19 (Recess taken.)

20 THE VIDEOGRAPHER: Back on the record at

21 12:59.

22 EXAMINATION

23 BY MR. SHAW:

24 Q. On Exhibit 15 -- you understand you're still

25 under oath, right?

1 list and a donor list. I-- I think there was

2 discussion of selling those; I don't know if that

3 happened or not.

4 We believed that we owned a tax model

5 that would have been worth, maybe, at least a quarter

6 of a million dollars, and that's in dispute with

7 another group. I don't know what the outcome of that

8 is.

9 Q. Okay.

10 A. We own certain copyrights or URLs and --

11 Q. Right.

12 A. -- our brand. You know, some intellectual

13 property. I don't know how to itemize that for you or

14 what all it is, because most of it predates me. I've

15 just seen it in boxes.

16 Q. What about the domain name?

17 A. That was ours during that time frame, of

18 course.

19 Q. And is it still?

20 A. I don't know.

21 Q. Have you heard that it's been sold to a

22 pharmacy, Canadian group of Canadian pharmacists?

23 A. No.

24 MR. STEWART: It's not Canadian --

25 A. I'm not involved in that stuff.

1 A. I do.

2 Q. Okay. On Exhibit 15, you talk about Galloway

3 being not the only reason, and that he might have been

4 the biggest reason.

5 First of all, what are some of the other

6 reasons that you were thinking about, if you can

7 remember?

8 MR. DEWOLF: Objection; form.

9 A. So what I was thinking is two-fold.

10 Number one, NCPA lost about half of its

11 donors -- certainly the big six-figure donors, after

12 the Goodman incident of 2014, long before there was

13 Josh Galloway.

14 In other words, I saw a -- it was like,

15 one day I just kind of wrote it out on paper and took

16 all the six-figure donors who had been giving for at

17 least ten consecutive years, most of them -- some of

18 them 20 consecutive years, who left us in 2014.

19 After the Goodman scandal hit the press,

20 they never came back. That was a major blow and we

21 never recovered from it. And that was long before

22 Josh Galloway. Also -- you know, I bet you that was

23 maybe 50 percent of our money, prior to the -- the

24 Goodman event.

25 Second, I actually was interested in how

1 much money we brought in before the Galloway
2 embezzlement and after the Galloway embezzlement. So
3 it happened almost -- it hit the press almost in the
4 center of the fiscal year for NCPA, right?

5 Because the fiscal year would start
6 October 1st. It hit the press in about mid-March, so
7 you're almost to April 1.

8 For maybe the first time in many years,
9 NCPA actually brought in more money after the Galloway
10 incident hit the press than before. If you look at
11 the moneys in -- and that's unusual.

12 I mean, a nonprofit is going to bring in
13 the lion's share of its budget in the first quarter of
14 the year because people want to get their tax
15 deduction between October and December 31.

16 And so we actually brought in more money.
17 So there's no question that Galloway was a factor.
18 But I don't know if he was the biggest factor. And
19 that's absolutely why I put the word "might" in front
20 of that. I don't know.

21 I mean, how do you weigh that against a
22 Goodman scandal? You can show a far more direct
23 financial impact from Goodman than from Galloway,
24 which goes in the other direction. So that's what I
25 was thinking.

1 forward at the NCPA. We changed leadership. We
2 outsourced our finances. We outsourced our payroll.

3 You know, we, therefore, imposed best
4 practices and internal controls after that. And
5 apparently, look at the numbers, people believed it.

6 And by the way -- and of interest I
7 thought, to me, or what shocked me about it, is nearly
8 everyone that we told about it had the same thing
9 happen to them in the past and they were sympathetic.

10 When we, you know, told our donors what
11 had happened, our biggest donor kicked over a large
12 contribution to us out of sympathy because it had
13 happened to them. And it has happened to almost
14 everyone, you know, who we had to talk to.

15 So it actually made us sympathetic in the
16 minds of some people. Nearly anyone of means will
17 have someone come along at some point to try to take
18 what they've got, so --

19 Q. Okay.

20 A. -- does that answer your question?

21 Q. I think it does.

22 A. Okay.

23 Q. Yes, thank you.

24 MR. SHAW: No further questions. Thank
25 you.

1 Q. Okay. And as -- as far as the future impact
2 of harm done either by Goodman or Galloway, are you in
3 a position to -- to quantify that?

4 A. Well, in the sense that Goodman continued to
5 wage war against us pretty much incessantly. And by
6 that, I mean, we would intercept e-mails people would
7 forward to us of Goodman saying, you know, take a look
8 at this bad press that Colonel West got. Oh, I feel
9 so bad for him. And send that out to the boards of
10 all the foundations that were supporting us or
11 considering supporting us.

12 And so you know, we know that he was
13 saying bad things about us behind our back. That is a
14 -- a constant ongoing problem that we had. And for as
15 long as that war continued, donors seemed to not want
16 to get involved with either us or Goodman.

17 They didn't -- in other words, our donors
18 -- our big donors didn't leave us and go to Goodman
19 when he founded a competing think tank. You can see
20 that in his 990s, that did not happen. People didn't
21 want to get involved at all for as long as there's a
22 war going on. And so that was a ongoing problem.

23 With Galloway, look, the guy was
24 apprehended and now he's in the pen. So that is not a
25 problem at the -- that would not be a problem going

FURTHER EXAMINATION

1 BY MR. DEWOLF:

2 Q. Now, ma'am, isn't it true that a number of
3 the donors who gave to the NCPA when Goodman started
4 his own shop went over and worked with him?

5 A. What I'm basing this on is, I looked at his
6 first 990 he reported, which would be, I believe, for
7 the year 2015. So he got booted from NCPA June 2014.
8 Runs his own shop in 2015. What I recall seeing as of
9 the end of 2015, was that he had a \$100,000 loan on
10 his books, and like \$80,000 incoming in revenue for
11 the year.

12 So that -- if that is -- if that is true,
13 it was not reflected on that 990. I don't think I
14 have seen his later 990s. So I don't know what it
15 says.

16 Q. Okay. Well, have you heard that donors have
17 gone from the NCPA to him?

18 A. No.

19 Q. Okay.

20 MR. DEWOLF: I don't have any further
21 questions.

22 MR. SHAW: Thank you.

23 THE VIDEOGRAPHER: Off the record 1:05,
24 (Deposition concluded at 1:05 p.m.)
25

CHANGES AND SIGNATURE

WITNESS NAME: JACKI PICK

DATE OF DEPOSITION: DECEMBER 21, 2017

PAGE LINE CHANGE REASON

I, JACKI PICK, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above:

JACKI PICK

CAUSE NO. DC-16-05388

RICHARD W. WALKER * IN THE DISTRICT COURT
Plaintiff, *
*
VS. * 298TH JUDICIAL DISTRICT
*
NATIONAL CENTER FOR POLICY *
ANALYSIS *
Defendant. * DALLAS COUNTY, TEXAS

REPORTER'S CERTIFICATION DEPOSITION OF JACKI PICK DECEMBER 21, 2017

I, Brooke N. Barr, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, JACKI PICK, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on January 5, 2018 to the witness, JACKI PICK, C/O THOMAS E. SHAW, attorney, for examination, signature, and return by January 24, 2018;

That the amount of time used by each party at the deposition is as follows:

STEVEN K. DEWOLF: 01 hours, 57 minutes

THOMAS E. SHAW: 00 hours, 05 minutes

That pursuant to information given to the

THE STATE OF _____

COUNTY OF _____

Before me, _____,

on this day personally appeared JACKI PICK, known to me or proved to me on the oath of _____ of _____ through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this _____ day of _____, _____.

NOTARY PUBLIC IN AND FOR THE STATE OF _____ My Commission Expires: _____

deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

Steven K. DeWolf, Counsel for Plaintiff; Thomas E. Shaw, Counsel for Defendant.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action;

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.

Certified to by me this 5th day of January, 2018.

BROOKE N. BARR, CSR Texas CSR Number 6521 Expiration Date 12/31/19 LEGAL SOLUTIONS COURT REPORTING Firm Registration Number 424 3102 Maple Avenue Suite 450 Dallas, Texas 75201 (866) 468-1023 (866) 651-4292 (Fax)



2 RICHARD W. WALKER * IN THE DISTRICT COURT
 3 Plaintiff, *
 4 VS. * 298TH JUDICIAL DISTRICT
 5 NATIONAL CENTER FOR POLICY *
 6 ANALYSIS *
 7 Defendant. * DALLAS COUNTY, TEXAS

8
 9 *****
 10 ORAL AND VIDEOTAPED DEPOSITION OF
 11 JAMES AMOS, JR.
 12 DECEMBER 21, 2017
 13 *****

CERTIFIED COPY

14
 15 ORAL AND VIDEOTAPED DEPOSITION OF JAMES
 16 AMOS, JR., a witness produced at the instance of the
 17 Plaintiff, was taken in the above-styled and -numbered
 18 cause on the 21st day of December, 2017, from
 19 9:13 a.m. to 10:44 a.m., before Brooke Barr, CSR in
 20 and for the State of Texas, reported by machine
 21 shorthand, at The Law Offices of Thomas E. Shaw, PC,
 22 9304 Forest Lane, Suite 252, North Building, Dallas,
 23 Texas 75243, pursuant to the Texas Rules of Civil
 24 Procedure and any provisions stated on the record or
 25 attached hereto.

1		
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1
 2
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21 Also present:
 22 Richard W. Walker, Plaintiff
 23 Jacki Pick, Defendant Representative
 24 Reagan Stewart, Defendant Representative
 25 Kevin Slayter, Videographer

THE VIDEOGRAPHER: Video is rolling.

1
 2 We're on the record at 9:13.
 3 (Witness sworn.)
 4 THE REPORTER: Thank you.
 5 Counsel, we are on the record. Are we
 6 taking this pursuant to the Rules?
 7 MR. DEWOLF: We are.
 8 (Exhibit 1 marked.)

9 JAMES AMOS, JR.,
 10 having been first duly sworn, testified as follows:

EXAMINATION

11 BY MR. DEWOLF:
 12 Q. Would you state your name for the record,
 13 sir.
 14 A. James H. Amos, Jr.
 15 Q. Okay. Mr. Amos, my name is Steve DeWolf, as
 16 you know. We're taking your deposition with regard to
 17 post judgment matters. I know you're not unfamiliar
 18 with depositions, but let's just refresh your
 19 recollection. Let's have three rules.
 20 One is, listen to my question and let me
 21 finish it. I will let you finish your answer.
 22 Second, if I don't -- if you don't
 23 understand one of my questions, if it's vague or
 24 obtuse, please ask me to rephrase it.
 25

1 And third, if you would answer audibly
2 and not with an uh-huh or a shrug because it's hard
3 for Nikki to get that down.

4 Is that agreeable?

5 A. Yes, sir.

6 Q. Okay. You understand that even though this
7 is being held informally, the same penalties for
8 perjury apply as if you were testifying in a court of
9 law?

10 A. Yes, sir.

11 Q. Now, what documents, if any, have you
12 reviewed prior to coming here in preparation for your
13 deposition?

14 A. None.

15 Q. What persons have you talked to prior to
16 coming here in preparation for your deposition?

17 A. Tom Walsh would be the only one --

18 Q. Tom Shaw?

19 A. Tom Shaw. And then Jacki and I have chatted
20 once.

21 Q. All right. So with regard to Mr. Shaw, am I
22 correct that Mr. Shaw is representing you
23 individually, as well as for on behalf of NCPA?

24 A. I think that's correct, is it not?

25 Q. Okay. Yeah. All right.

1 it, Exhibit Number 1?

2 A. Yes, I know what it is --

3 Q. Okay.

4 A. -- yes.

5 Q. And you have reviewed it before?

6 A. I've looked at it, yes.

7 Q. And it's my understanding you're going to
8 testify with regard to Areas 2 through 5, 10 and -- 10
9 through 13; is that correct?

10 A. I believe that's correct.

11 Q. All right. Now, to the extent that I overlap
12 a bit -- I'm going to try not to, but I may. There
13 may be some bleed-over.

14 Now, you understand, sir, that you're
15 entitled to have your separate counsel here to the
16 extent that your rights and those of NCPA diverge?

17 A. Yes, sir.

18 Q. And you're aware that you also have the right
19 to plead the Fifth Amendment, should there be
20 questions which might incriminate you.

21 A. Well, that's certainly comforting. I wasn't
22 aware of it, but that's nice.

23 Q. All right. Now, you're still at the same
24 address as you were over the last year?

25 A. Yes, sir.

1 And then tell me about your discussions
2 with Jacki.

3 A. Just very briefly, we chatted yesterday
4 afternoon and both decided there really wasn't much to
5 discuss about the deposition.

6 Q. Okay. Now, you've given your deposition
7 before and you have testified in trial before; is that
8 correct?

9 A. Yes, sir.

10 Q. Okay. Approximately how many times?

11 A. Oh, my goodness.

12 Q. 10, 12?

13 A. Yeah.

14 Q. Okay.

15 A. Yes.

16 Q. And then, you've been a defendant in multiple
17 lawsuits as well, correct?

18 A. Certainly two or three times, yes.

19 Q. And have you ever been convicted of a crime
20 in the last ten years?

21 A. No.

22 Q. Okay. Now, I've handed -- in front of you is
23 Exhibit Number 1 to the corp rep deposition. It lists
24 a number of topics.

25 It's my under -- first, do you recognize

1 Q. Okay. Tell the jury briefly where you were
2 born and raised.

3 A. Was born and raised in Saint Louis, Missouri.

4 Q. Then, I know that you spent some time in the
5 Marines in Vietnam. Where did you go to college?

6 A. University of Missouri.

7 Q. And what did you study there?

8 A. I had two majors; English history and
9 political science.

10 Q. Okay. Do you have any accounting background?

11 A. No.

12 Q. Okay. Do you consider yourself a
13 sophisticated businessman?

14 A. I consider myself a knowledgeable business
15 person.

16 Q. How long have you been in business?

17 A. 30 years.

18 Q. All right. And do you think that you're able
19 to read financial documents, financial records pretty
20 well?

21 A. I think I can read them and understand them.
22 Although, like many other disciplines, I would not
23 consider myself an expert.

24 Q. Okay. What do you -- I understand you're no
25 longer the CEO of NCPA; is that correct?

1 A. That's correct.

2 Q. What are you doing today?

3 A. I sit on a number of boards. I do a fair
4 amount of speaking and I'm -- and I write.

5 Q. Okay. What boards are you on, sir?

6 A. I chair APFL, which is the franchising arm,
7 Procter & Gamble. I'm on the board of WSI, which is
8 the world's largest digital marketing company in
9 Canada in Toronto. I'm on the board of management --
10 or mortgage consulting services here -- based here in
11 Dallas.

12 The International Franchise Association.
13 As a past chair, I remain on that board. Mr. Clean
14 Performance Car Washes, based in Atlanta, another
15 branch of Procter & Gamble. And some nonprofits.

16 Q. Okay. Thank you.

17 Now, when did you first become associated
18 with the NCPA?

19 A. I think it was in February of 2016, something
20 in that area there.

21 Q. And -- and what was the position that you
22 first became associated with NCPA with?

23 A. Well, I was asked by the chairman, Mr. Steve
24 Ivy, to come in and essentially, as a volunteer, be
25 acting president and CEO.

1 A. Well, there were some changes. I think
2 Dennis McCuistion was a board member. Larry Wedekind,
3 Steve Ivy, and, of course, myself. I believe Mike
4 Whalen remained on the board, although I don't think
5 he ever attended a board meeting.

6 Q. Okay.

7 A. There was a short period of time, I think,
8 where John Carona was on the board. And that's all I
9 can recall, actually.

10 Q. Okay. And so Dennis McCuistion I know was an
11 interim CEO and then he was, as you say, on the board.

12 When did he leave the board and do you
13 know why he left the board?

14 A. You know, I don't remember. But I -- I -- I
15 -- I would say it was maybe eight months after --
16 after I came on.

17 Q. Okay. And -- and from the time that -- okay.
18 Strike that.

19 Now, at the notice of dissolution, July
20 of 2017, who was -- still remained on the board?

21 A. Steve, Larry Wedekind, myself, -- oh, Allen
22 West, of course, I missed --

23 Q. Yeah.

24 A. -- was -- remained on the board through that
25 whole period. Mike would have still been on, but not

1 Q. And that was February of 2016?

2 A. I think that's correct.

3 Q. All right. And who was the previous CEO?

4 A. Allen West.

5 Q. Okay. And how long was -- if you know, how
6 long was Allen West the CEO?

7 A. To my knowledge, it was roughly a year, maybe
8 a little more than that.

9 Q. All right. And do you know why you were
10 asked to step in and Allen was asked to step out?

11 A. I do.

12 Q. Can you tell me why?

13 A. There was an embezzlement of a million or
14 more dollars that had taken place.

15 Q. Okay. And did the board feel that it was his
16 responsibility?

17 A. I think that's correct.

18 Q. Okay. Now, at the time that you were a --
19 strike that.

20 You were asked to come in as the CEO, and
21 then were you also placed on the board of directors?

22 A. Yes.

23 Q. All right. And tell me, in February of 2016,
24 who the members of the board were and how that changed
25 through notice of dissolution, if it did change?

1 present.

2 So I think the only change was probably
3 Dennis.

4 Q. Okay.

5 A. Something like that.

6 Q. All right. Now, you would agree with me --
7 and I realize you're not a lawyer, but that board
8 members have a fiduciary duty to the institution.

9 MR. SHAW: Object to form.

10 A. Of course.

11 Q. (BY MR. DEWOLF) And you would agree with me
12 that they have a duty of care?

13 MR. SHAW: Object to form.

14 A. Of course.

15 Q. (BY MR. DEWOLF) All right. Now, did the
16 board members get paid any compensation?

17 A. No.

18 Q. Now, in the course of you being the CEO and a
19 member of the board, did you have an occasion to
20 review the board minutes and what had occurred with
21 the NCPA for the previous two years?

22 A. I don't think I saw the previous two years,
23 I saw, perhaps, maybe the previous year --

24 Q. All right --

25 A. -- three or four --

1 Q. -- and that would have been --
 2 A. -- three or four board books that was left in
 3 Allen's office.
 4 Q. And so when you say the previous year,
 5 probably 2015?
 6 A. Part of -- part of it, at any rate.
 7 Q. Okay.
 8 A. Two or three board meetings.
 9 Q. All right. Are you aware of any board
 10 meetings that were held in February -- in -- excuse
 11 me, in 2015?
 12 A. No.
 13 Q. Okay. Are you aware of any board meetings
 14 that were held in 2016?
 15 A. Yes.
 16 Q. How many board meetings were held?
 17 A. I want to say, three?
 18 Q. Okay. The reason I ask is, we've only got
 19 records for one.
 20 A. Right.
 21 Q. So was there a board meeting held in -- prior
 22 to September of 2016?
 23 A. I think -- I think there was a board meeting
 24 in March, roughly. And I want to say one near the end
 25 of the year.

1 A. Yes.
 2 Q. And the NCPA has vacated those premises,
 3 correct?
 4 A. As far as I know.
 5 Q. All right. And do you know where those
 6 documents have been stored since then?
 7 A. I do not.
 8 Q. Okay. What else, besides the financial
 9 information, was typically provided in a board packet?
 10 A. Well, there would have been -- the financials
 11 would have been reflective of one discipline.
 12 Certainly sales, marketing, the pipeline that existed
 13 for -- for -- for -- for donor relationships. Any
 14 kind of operational issues that might be there.
 15 Always, there would have been a legal overview.
 16 The normal things that you would expect
 17 to take place in a -- a nonprofit or for-profit board
 18 meeting.
 19 Q. And certainly, the board members had the
 20 ability to request financials from the NCPA on a more
 21 regular basis than just at the board meetings,
 22 correct?
 23 A. Well, I think any board member would have
 24 that.
 25 Q. Now, tell me about your duties as the CEO.

1 Q. All right. And so two board meetings is what
 2 you recall for 2016?
 3 A. Best I can recall.
 4 Q. How about 2017?
 5 A. Just the one in July.
 6 Q. All right. And at the board meetings, was it
 7 common practice to provide -- for the board members to
 8 be provided with a financial?
 9 A. Yes.
 10 Q. And -- and that would be some sort of
 11 financial packet with cash flow, their profit and
 12 loss, their general financial condition?
 13 A. Yes.
 14 Q. And to your knowledge, do those records for
 15 the December 2016 meeting still exist?
 16 A. Well, I would think they'd be somewhere.
 17 Q. Now, where are the records, the -- the
 18 business records I'm talking about, such as board
 19 minutes, board packets, those types of things, where
 20 do those currently reside, if you know?
 21 A. I don't know. I -- the -- the last board
 22 books I saw when I left NCPA were -- were still in a
 23 file cabinet or a drawer. I had several in my own
 24 office there.
 25 Q. At the NCPA?

1 A. Well -- you know, I -- for me, coming into
 2 NCPA was a -- a function of trying to understand where
 3 it was in order to see -- see if the situation,
 4 frankly, was fixable.
 5 And to that end, you know, I'd have to --
 6 certainly the records would be there, but I think that
 7 when I -- when I came in, there was a accounts payable
 8 that was surely approaching, you know, a million,
 9 maybe a million three or four, something like that. I
 10 -- it fluctuated almost daily.
 11 There was no cash because it had been
 12 embezzled. And so in my own mind, what I thought
 13 would -- was a threefold strategy, which would have
 14 been directly related to my duties, was to set about,
 15 number one, reducing the AP, if possible. We can talk
 16 more about that if you'd like.
 17 Two, was to try to repair the donor
 18 relationships. Because ultimately, without greater
 19 confidence in that relationship, there would be no
 20 future for the NCPA.
 21 And three, if -- if those two pieces
 22 were -- were adequately addressed, it would be to see
 23 if there was a sustainable operating model that
 24 ultimately would carry the organization forward.
 25 Q. It was your view when you came in in February

1 of 2016 that the NCPA was, as a de facto matter,
2 insolvent.
3 A. Well, I -- I think as a practical matter, if
4 you just looked at the cash in and what was available
5 and the -- the AP itself, I think one could draw that
6 conclusion, at least initially, before any discussions
7 with donors and to understand intent and to understand
8 what was left out there. There were payments that
9 were due by donors that were significant that would
10 have taken it through 2016.

11 But that, again, balanced against a large
12 AP, was a significant challenge.

13 Q. Right. And so the answer to my question is,
14 at least on its face, it was insolvent when you came
15 in?

16 MR. SHAW: Object to form.

17 A. Yeah. I -- look, I -- I -- you know, my
18 discipline has always been development. I think if
19 you go back and talk to somebody that was a number
20 cruncher, they would say it was at a serious place.

21 Q. (BY MR. DEWOLF) And -- I'm -- apologize sir,
22 I'm -- I'm just trying to get an answer to my question
23 --

24 A. No, no, I -- I'm -- I'm trying to answer.

25 Q. And I know you are. But I -- I just -- and I

1 year and a half or so prior to the embezzlement with
2 the founder, Mr. Goodman, who was accused of many not
3 so pleasant things that certainly made the press here
4 in Dallas, that first impaired the donor relationship
5 significantly.

6 And then a year later, to have the
7 embezzlement, it was probably devastating to some
8 donors. And I would proffer that in all business
9 for-profit, but especially nonprofit, the donor
10 relationships and relationships in general, are
11 everything.

12 Q. (BY MR. DEWOLF) Okay. Now, were you
13 compensated to be the chief executive officer?

14 A. No.

15 Q. Okay. And was that a full-time job?

16 A. Well, I would say in terms of hours expended,
17 it was more than full-time for me.

18 Q. All right. And did you receive any perks,
19 such as retirement or healthcare?

20 A. No.

21 Q. Okay. When you started in February of 2016,
22 who was the CFO and who reported to you? I need to --
23 like to know a little bit about the organizational
24 structure when you were there and as it evolved over
25 the time until the dissolution.

1 know you're not a financial guru --

2 A. No --

3 Q. -- But you've done businesses.

4 A. -- I have.

5 Q. Would you agree that given the amount --
6 large amount of AP, the fact that there was no cash,
7 that it was, in your mind, insolvent at that point?

8 MR. SHAW: Object to form.

9 A. Okay. The answer to that question is, on a
10 given day, yes.

11 Q. (BY MR. DEWOLF) Okay.

12 A. But there was cash coming in that might not
13 have been there that day.

14 Q. I understand. Now, you said that you needed
15 to repair the donor relationships.

16 Is it fair to say that because of this
17 embezzlement and the publicity it got, the donor
18 relationships were put in the tank?

19 MR. SHAW: Object to form.

20 A. It's -- it's fair to say if somebody were --
21 and it would be an interesting case study, actually --
22 were to go back and do a root cause analysis of the
23 end game of NCPA, you would see two things that were
24 quite obvious.

25 One, is that there was a serious issue a

1 A. Well, the organizational structure, I think,
2 was largely in disarray. The CFO is who embezzled the
3 money. And he was gone.

4 So there was no de facto CFO in place and
5 subsequently, as part of the process of trying to
6 repair and fix, we outsourced that function to a firm
7 for two reasons.

8 One, it removed -- it would have been a
9 step of removing any additional doubt to a donor that
10 we were being fiduciary responsible. And two, it was
11 just the right thing to do.

12 So --

13 Q. Particularly, from an internal control
14 perspective.

15 A. Well, the issue is enterprise risk
16 management.

17 Q. Right.

18 A. And it is internal controls.

19 Q. Right.

20 A. You're absolutely correct.

21 Q. Right.

22 A. Which were pieces that desperately needed to
23 be put in place.

24 Q. Did it appear to you when you got there that
25 the internal controls that were there were not being

1 followed?

2 A. I think it's correct to say that going back
3 to Mr. Goodman, Mr. Walker, and everyone subsequently,
4 including Allen, I don't think there were any
5 significant enterprise risk management pieces or
6 internal controls.

7 Q. And you believe that is a devastating
8 weakness, don't you, sir?

9 A. No, I believe --

10 MR. SHAW: Object to form.

11 A. -- I believe that -- that those are basic and
12 fundamental requirements that are necessary to protect
13 an organization or firm.

14 Q. (BY MR. DEWOLF) And in your view, those were
15 obvious deficiencies, correct?

16 A. Yes, sir.

17 Q. Okay. And the other members of the board
18 were aware of that, correct?

19 MR. SHAW: Object to form.

20 A. Yes. Well, that is what we set about doing
21 was repairing and fixing those issues.

22 Q. (BY MR. DEWOLF) Okay. So there was, I
23 think, when you were president -- CEO, and then you
24 had Ms. Pick, who was the chief operating officer; is
25 that right?

1 And I don't remember exactly when it was, but it
2 became apparent to me that -- that it was -- I mean,
3 it was all she could do to just pursue and handle that
4 piece.

5 Q. Who was responsible for the financial
6 accounting, reporting, compiling for the NCPA when
7 Jacki kind of was focused on the -- the recovery?

8 A. You'd have to -- it would be the firm that we
9 outsourced to. And think that's Lori Orta -- Orta, as
10 I recall correctly -- if I -- if I call it --
11 correctly.

12 Q. And was she a CPA?

13 A. She is, yes.

14 Q. Now, is she with Whitley Penn or is that a
15 different accounting firm?

16 A. I -- I don't know -- if she wasn't with them,
17 probably referred by Whitley Penn. And Whitley
18 here -- you know, you're right. Whitley Penn would
19 have been the overall accounting auditor.

20 Q. Right.

21 A. The auditor, which is separate -- from the
22 controlling aspect of what Lori Orta was doing --

23 Q. Right.

24 A. -- that's correct.

25 Q. So Lori was an independent contractor, but

1 A. For a period of time.

2 Q. Okay. When -- when was she -- when you came
3 in, was there a chief operating officer and who was
4 it?

5 A. It was Jacki Pick.

6 Q. And how long was she the operating officer?

7 A. I don't think but a matter of months,
8 something like that.

9 Q. And then she left that -- do you know when
10 she came on to the NCPA?

11 A. I -- I think she'd been there maybe a --
12 obviously, you can ask Jacki, but I think --

13 Q. Yeah.

14 A. -- maybe eight months, something like that.

15 Q. And -- and then what -- how did her role
16 change?

17 A. Well, her role changed because the effort --
18 part of the effort, when we talk about repair and fix,
19 was to try to recover some of the -- some or all of --
20 of the embezzled money. And Jacki worked horrific
21 hours, horrific hours and working with the police,
22 often doing their job for them, the investigators, and
23 ultimately, really, I think, being central to
24 recovering any of those moneys.

25 And so that was a full-time occupation.

1 she was a de facto internal controller?

2 A. Yes.

3 Q. Okay.

4 A. Yes.

5 Q. Do you know when -- I'm going to talk a
6 little bit about this fellow, Galloway.

7 Do you know about when he was hired and
8 who hired him?

9 A. I don't know when he was hired. You know,
10 I -- I would assume it was in the last year, prior to
11 arriving on the scene myself.

12 And I think Allen West hired Josh
13 Galloway.

14 Q. Okay. Would -- that's one of the topics that
15 I've listed.

16 Would Jacki -- I think Jacki is listed as
17 the person on that.

18 MR. DEWOLF: Is that correct?

19 MS. PICK: Yes.

20 MR. DEWOLF: She's nodding. Okay.

21 All right. Then I will pass on that.

22 Q. (BY MR. DEWOLF) What bank did NCPA use in
23 2015 -- from 2015, 2016 to 2017?

24 A. I think there were only two banks that I
25 recall. One was Legacy.

1 Q. And what was the other?

2 A. Liberty -- Liberty -- Liberty Bank?

3 Q. Now, I -- I have seen some accounting

4 records. But I don't know that I've seen actual bank

5 statements from either bank.

6 Do those exist?

7 A. I would assume they do.

8 Q. Okay. Did you guys get those documents?

9 Would you on a month -- strike that. New question.

10 On a monthly basis, would the NCPA get a

11 bank statement with copies of the checks that were

12 written?

13 MR. SHAW: Object to form.

14 A. I don't know the answer to that question.

15 It's possible.

16 Q. (BY MR. DEWOLF) Okay. Who would know?

17 A. Lori Orta would know.

18 Q. Okay.

19 MR. DEWOLF: I don't think those were

20 produced. Do you know whether they exist?

21 MS. PICK: They do. And Lori has them.

22 MR. DEWOLF: Okay. Do you know why they

23 haven't been produced?

24 MS. PICK: Because Lori has them. We're

25 not the custodian.

1 I was a large American Express card bill. Who had --

2 while you were CEO, who had access to that?

3 A. I don't think anyone had access to it post

4 Galloway.

5 Q. Okay.

6 A. There may have been an existing card, which

7 Jacki would be aware of. But I don't know that there

8 was any -- ever any additional activity post Galloway.

9 Q. Okay. And -- and do you know, during the

10 Galloway era, who supervised and approved those

11 charges, if anyone?

12 A. Well, I -- I suspect there's two answers to

13 that. One, is who should have supervised it or could

14 have or would have or whatever. But then, there's the

15 malintent of Mr. Galloway --

16 Q. I understand.

17 A. -- who I think manipulated, internally, that

18 situation, would be my view of that.

19 Q. Okay.

20 A. And -- and actually created accounts and did

21 things that, you know.

22 So -- so that's the whole issue if you --

23 if you go back and look at enterprise risk management.

24 Do you have external controls that allow, you know,

25 those things to occur or not to occur.

1 MR. DEWOLF: Okay.

2 Q. (BY MR. DEWOLF) What about brokerage

3 accounts? Did you have a brokerage -- did the NCPA

4 have a brokerage account?

5 A. Okay. So that's -- the answer to that I

6 think is, yes. I think there was a -- a Chase

7 account. There may have been another brokerage

8 account. I'm just not sure. But I -- I -- I'm fairly

9 certain of the Chase account.

10 I think those were some of the questions

11 and issues about additional moneys that had been

12 embezzled and that related to those accounts.

13 Q. And do you know whether Chase, or whoever

14 brokers you had, supplied the NCPA with monthly

15 statements?

16 A. I -- again, I -- one can only assume that

17 they did. When I was looking at those pieces, we

18 couldn't get access, as I recall, to any of that

19 information because the investigators wouldn't allow

20 us to see into them until they had progressed with

21 whatever way they were progressing with Mr. Galloway.

22 Q. All right. But that's been finished. So did

23 those records return to the NCPA?

24 A. I don't know. I don't know.

25 Q. Okay. Credit card use. I know that there

1 Q. Right. And in your mind, who could have or

2 should have approved those charges?

3 A. Look, I don't think there's -- it -- it -- it

4 -- it is extremely difficult in my mind to sever that

5 responsibility from the sitting CEO, and the one

6 before him, and the one before him, or the chief

7 operating officer before him.

8 Q. Right.

9 A. I'm -- you know, I think -- I think that -- I

10 think those are fair questions to ask.

11 Q. Okay. And you're not aware of during

12 Mr. Walker's time, any sort of financial fraud or --

13 or embezzlement, are you?

14 A. No.

15 Q. Okay.

16 A. I'm also not aware of any significant

17 internal controls to prohibit that from occurring.

18 Q. Okay. And in your view, the lack of internal

19 controls from Mr. Walker's time until you came in

20 place, that was a obvious and significant deficiency

21 of the NCPA, correct?

22 A. I think it predated Mr. Walker.

23 Q. Yeah. But you think it was an obvious and

24 glaring deficiency, correct?

25 A. Well, again, if -- if one goes back and tries

1 to do some type of analysis of this, I think that
2 would be an obvious conclusion.

3 Q. Okay. Thank you.

4 What was the -- I noticed in the -- there
5 was a significant amount of money that was paid each
6 month for salaries. What -- what were the -- during
7 your time, and -- what were those -- who was getting
8 paid?

9 A. Well, I know we reduced the -- the over -- I
10 mean, again, you have the -- the numbers, I'm sure --

11 Q. Sure.

12 A. -- but I know we significantly reduced -- we
13 -- we terminated 13 or 14 people in that period of
14 time, at least one a month on average.

15 Q. Right. And -- and -- but who was the most
16 highly-paid employee?

17 A. Allen would have been the highest paid.

18 Q. Okay. But then after you, was he still being
19 paid -- after you became --

20 A. Yes.

21 Q. -- CEO?

22 A. Yes.

23 Q. He was still being paid?

24 A. And he was still the highest paid employee.

25 Q. And he -- so he was an employee, as well as,

1 two different -- at least two different types of
2 funds. One were restricted and one were unrestricted,
3 correct?

4 A. Yes.

5 Q. Can you explain to me the difference?

6 A. Well, I think generally, restricted funds are
7 those that are given for a specific purpose. And --
8 and all other moneys go into a general operating fund,
9 which are nonrestricted funds.

10 Q. Do you know whether during your tenure any
11 restricted moneys were used for general operating
12 purposes?

13 A. I don't believe they were.

14 Q. Okay. Do you -- you are aware that there is
15 at least one donor who contends that they were used?

16 A. If you are talking about Hatton Summers. But
17 that was prior to me.

18 Q. Okay. Tell me about that.

19 A. Well, it -- again, it was -- would have been
20 money in a brokerage account that Mr. Galloway stole.

21 Q. Okay. And again, that's another example of
22 those enterprise controls not being -- you called it
23 enterprise risk, I'm sorry. Enterprise risk and
24 internal -- controls not being in place, correct?

25 A. I think as a practical -- well, look,

1 being on the board?

2 A. Well, he was paid as -- he was paid before
3 and he was paid after.

4 Q. Well, what was -- what was Mr. West's
5 position after you became CEO?

6 A. Well, he certainly was a spokesperson for
7 NCPA. He had a very visible presence as a Fox News
8 contributor. He was always on the air there.

9 And it was the opinion of the board
10 that -- that he was a positive contributor in terms of
11 working with donor relationships and -- and producing
12 donor money.

13 Q. And about how much was he making a year, if
14 you know?

15 A. I think -- I think when he was hired as CEO,
16 it was 200 or 250,000 a year. And when I came in, I
17 had a discussion with him and that was reduced to
18 \$150,000 a year, if I recall accurate. It was
19 something in that range.

20 Q. All right.

21 Now, you would agree with me that the
22 NCPA was principally funded through donations, grants,
23 charitable contributions, correct?

24 A. Every nonprofit is.

25 Q. Right. And at least for the NCPA, there were

1 certainly smart -- smarter people than me can assess
2 something like that.

3 Q. Okay.

4 A. You -- you -- you can have controls in place,
5 and you also have nefarious people like Mr. Galloway
6 that will try to find ways around that. And then, you
7 can subsequently have an argument whether you had the
8 appropriate --

9 Q. Right.

10 A. -- controls in place or not.

11 Q. Sure. But in this case, the controls were
12 not in place?

13 A. Well, there wasn't a control in place that
14 stopped it from happening. I think that's obvious.

15 Q. Well, and in your view, I think you've said
16 it several times, that you believe that starting with
17 Mr. Walker and prior to his time, there were not
18 adequate and appropriate enterprise risk controls or
19 internal controls, correct --

20 A. I think that's accurate.

21 Q. Okay. Tell me about the financial condition
22 of the NCPA as of December -- strike that.

23 As of July 1st, 2017.

24 A. Well, as I described earlier, in my mind,
25 there was a path to becoming whole. And again, I --

1 you'd -- I think you can follow the line in the
2 financials. The first thing that -- that I did,
3 unhappily, was to try to reach out to every accounts
4 payable that was a part of NCPA.

5 Q. Uh-huh.

6 A. And there were many. I -- you know, I
7 don't -- I'll bet there were, you know, in total,
8 maybe 40 or 50 people on that list of organizations or
9 company -- now, there were maybe a top 10 or 12 that
10 some of which were significant, as you pointed out,
11 like American Express.

12 And in those discussions, I asked people
13 if they would, you know, work with us. And I
14 explained, as I did to you, sir, when we had that
15 conversation, that, you know, we were -- I explained
16 what happened.

17 I told them that we had a chance or an
18 opportunity to recover dollars, that we still had
19 relationships that we were building on, and that we
20 had some optimism that we could continue on.

21 Most people -- and at some point, as
22 those discussions went further and we had recovered
23 some cash, I offered 50 percent of what was owed to
24 people. They could take a payment or they could take
25 half of what they were owed. And everyone cooperated,

1 Q. Right.

2 A. But you have to ask yourself a question in
3 situations like this. If you buy runway for four or
4 five or six months, do you think you're going to have
5 a sustainable operating entity going forward. And if
6 you think you do, then you might place that bet. If
7 you don't, you make a different decision.

8 And the decision was made in that board
9 meeting not to go forward.

10 Q. Okay.

11 A. And that's when Mr. -- that is when Reagan
12 was --

13 Q. Retained.

14 A. -- retained.

15 Q. All right. So now, in your experience, was
16 the accounts payable register or list, was that part
17 of the board packet that was provided to the board
18 members?

19 A. I believe it was, yes.

20 Listen, and that, by the way, as a matter
21 of course, was -- was a discussion in every board
22 meeting that I attended.

23 Q. Right.

24 A. It was a significant part of the discussion
25 to determine what -- how we believed we were doing and

1 as a matter of fact, except you and your client.

2 And so we reduced -- you know, I think we
3 reduced that AP maybe by five or \$600,000 during that
4 period.

5 Q. But, sir, I -- I don't mean to cut you off.
6 But I was really asking, what was the financial
7 condition --

8 A. Well, I'm getting there and I'm trying to --

9 Q. Okay.

10 A. -- explain why.

11 Q. Okay. I'm not asking why. I'm just asking,
12 how much money did they have --

13 A. Oh, well, we were -- we -- you know, prior to
14 that board meeting, it became obvious to me that
15 unless we had some major changes that we were, in
16 fact, going to be insolvent. And we were doing
17 everything we could to make payroll, reduce payroll,
18 make payroll, pay them -- pay what we needed to on the
19 AP to survive.

20 Q. Okay.

21 A. And so I -- I -- I talked to Steve Ivy and I
22 told him -- I said, listen, this is -- this is where
23 we're at. Now, every board member can write checks.

24 Q. Right.

25 A. I was willing to write a check.

1 progressing and -- and we were progressing for some
2 time.

3 I -- there is another mitigating factor
4 there that may be worth speaking to.

5 Q. Sure. If you want to, go ahead.

6 A. No, I -- look, I'm just going to say that a
7 continuing and impactful challenge to writing this
8 ship was Mr. Goodman's continuing negative distribute
9 about NCPA to existing donors, letters he wrote,
10 negative letters, as we would try to -- and I'm -- I'm
11 telling you this from personal experience because I
12 talked to these primary donors and they told me it was
13 taking place, and it continued to unsettle them.

14 And it was -- was -- I think,
15 significantly impactful in our ability to raise funds.

16 Q. Uh-huh. Let me hand you what's been marked
17 as Exhibit 2 to your deposition and ask you if you can
18 recognize it.

19 (Exhibit 2 marked.)

20 MR. SHAW: Thank you.

21 MR. DEWOLF: Uh-huh.

22 Q. (BY MR. DEWOLF) Do you recognize that, sir?

23 A. It's -- it's -- it's -- it's minutes from a
24 board meeting held on December 15th, 2016.

25 Q. All right. And on the first page, it says,

1 Jacki Pick was present, Lori Orta, CPA was -- and
2 another CPA were present.

3 Was it typical in the board meetings that
4 Ms. Pick, as the chief operating officer, and perhaps
5 some of these accounting folks would be present
6 during -- for and -- available to answer any
7 questions?

8 A. Yes.

9 Q. Now, in the third paragraph -- excuse me, it
10 says that the 2014 audit, that the auditors gave an
11 unqualified opinion and limited commentary on the
12 internal controls.

13 She stated this was excellent.

14 Do you see that?

15 A. Who is she?

16 Q. Lori Orta.

17 A. Okay.

18 Q. Do you see that language?

19 A. Yes, I do.

20 Q. Okay. Do you agree or disagree with that,
21 sir?

22 A. Well, in hindsight, I would disagree.

23 Q. Okay. Then on the second page at the second
24 paragraph, it talks about the possibility of
25 arbitration with Legacy Bank.

1 But the three checks -- I mean, let's
2 face it, this -- this guy, Galloway, wrote checks of
3 140,000, 140,000, and 340,000 that were cashed by
4 Legacy Bank. And eight or nine times higher than any
5 other check, in terms of amount, that went through
6 Legacy.

7 Q. Okay.

8 A. And --

9 Q. And there was no requirement of a second
10 signature at --

11 A. I think there was --

12 Q. -- at that time?

13 A. -- I think there was -- I think there was a
14 requirement. Now, the timing may be different.

15 But it didn't make any difference because
16 he forged both signatures. He forged Adam -- Allen
17 West's signature and his own. He forged signatures
18 when he was opening brokerage accounts.

19 Q. Okay.

20 A. And loan accounts.

21 Q. All right. And so the reason why the
22 arbitration against Legacy Bank did not go forward was
23 simply a lack of funds, not of merit?

24 A. Yeah. Well, I certainly believe there was
25 merit. But if you get right down to it, sir, we were

1 Tell me what, if anything, happened on
2 that?

3 A. Where are we at here now?

4 Q. Second page, second paragraph. The paragraph
5 starts, The board discussed.

6 A. Yeah, I'm reading it.

7 Q. Oh, okay.

8 A. Okay.

9 Q. So my question is, was there an arbitration
10 with Legacy Bank?

11 A. We had several meetings. We never had a
12 formal arbitration with them. But we had several
13 meetings with Legacy Bank.

14 Q. Okay. Did Legacy Bank -- strike that.

15 Do you believe that there is a claim
16 against Legacy Bank which still exists?

17 A. I believe there is a claim that won't be
18 pursued because there is no financial way to do it.

19 Q. Okay. And --

20 A. I absolutely believe they have liability.

21 Q. And how much is that claim worth, do you
22 think?

23 A. Well, that's -- that's what the -- if there
24 were an arbitration or mediation or lawsuit, that's
25 what that would determine.

1 having trouble paying bills, I don't know how in the
2 heck we would have funded a lawsuit against --

3 Q. Totally understand. Just asking.

4 A. Yeah, yeah.

5 Q. Okay. Did you ever have any legal research
6 done by anyone on the validity of the claim or anybody
7 look into that?

8 A. I talked to lawyers.

9 MR. SHAW: Just caution you not to
10 discuss exactly what you discussed with the lawyers.

11 THE WITNESS: Right.

12 MR. SHAW: But the fact that you had
13 discussions --

14 A. No. We had discussions, but it certainly
15 wasn't any in depth formal analysis.

16 Q. (BY MR. DEWOLF) Right. And was the
17 impression you got coming out of those discussions
18 that the lawyers thought it was meritorious as well?

19 A. Yes.

20 Q. Okay. Now, then it says that there was a
21 list of 5,000 donors capable of giving a thousand
22 dollars or more.

23 That's -- Kristina Barton said that she
24 had a -- a list.

25 A. Yeah.

1 Q. Does that list still exist?

2 A. I don't -- I would assume it does.

3 Q. Okay.

4 A. I don't have any --

5 Q. Then, down -- Jacki Pick gave a litigation
6 update.

7 Do you see that, sir?

8 A. Yes.

9 Q. And it says, Depositions have been concluded
10 in the NCPA/Ogletree case.

11 What -- what is that about?

12 A. That's one probably where you should speak to
13 Jacki about that. I mean, she has -- she's most
14 intimately involved in it. As I -- as I recall,
15 Ogletree -- all I remember is that the feeling was
16 that we had a significant possibility of a judgment
17 against those folks.

18 Q. Okay.

19 A. And again --

20 Q. Do you know if that -- that lawsuit still
21 exists?

22 A. I don't know. But it might.

23 Q. Okay.

24 A. Some of the -- for me anyway, you know, as
25 you know, I went to Steve in April, telling him I'm

1 Q. (BY MR. DEWOLF) So let's look at -- on the
2 first page, total 5,100.

3 Do you see that down there at the bottom
4 on expense?

5 A. Yes.

6 Q. And it shows that 1,491,540 were paid for
7 salaries, wages, and other comp. You've talked about
8 Mr. West.

9 Was there anybody else who was making
10 significant salaries at the NCPA?

11 A. Well, I don't -- it depends on what you call
12 significant salaries, but --

13 Q. Over 100,000.

14 A. Well, there were -- there were -- Jacki would
15 have been the only one.

16 Q. Okay. And how much was she making?

17 A. I would -- I'd say right at 100,000.

18 Q. Now, on the second page, Number 8450,
19 meetings and conferences.

20 A. Yes.

21 Q. That was for conferences that you-all put on?

22 A. Yes, revenue producing --

23 Q. Okay.

24 A. -- conferences.

25 Q. And then, I look here on the last page, that

1 having two surgeries back to back in May and --

2 Q. Right.

3 A. October. So I was kind of out of the loop
4 for a while after that.

5 Q. Yeah.

6 And then on the third page, Number 4, it
7 says, Pick will follow up a move to arbitration with
8 legal counsel, Kenny Stephens.

9 What -- what is that, an arbitration with
10 whom?

11 A. I don't know.

12 Q. Okay. Is that another Pick question?

13 A. Probably. I just don't remember what's being
14 referenced here.

15 Q. Okay.

16 A. Let's -- it may be the -- Galloway
17 recoveries. I -- I just don't -- I don't remember.

18 Q. That's fine.

19 A. Sorry.

20 Q. So in terms of the -- I'm going to show you
21 part of financial statements for the NCPA. This is
22 October 15 through September 16, and just ask you a
23 few questions about that.

24 (Exhibit 3 marked.)

25 A. Okay.

1 in September of -- as of September of '16, you showed
2 a negative net income of \$1.7 million.

3 A. Right.

4 Q. And that general financial condition existed
5 when you came onboard, correct?

6 A. Yes.

7 Q. And continued through the end of the company,
8 correct?

9 A. Yes.

10 Q. Okay.

11 (Exhibit 4 marked.)

12 Q. (BY MR. DEWOLF) I'm going to show you
13 Exhibit Number 4, which is another financial record.

14 Just have a question or two about it.

15 A. Yep.

16 Q. And Exhibit Number 4 says -- it's a balance
17 sheet of NCPA as of September 30th, 2016.

18 A. Yes.

19 Q. If you notice down there at Item Number 1420,
20 office furniture and equipment, that amount was
21 carried -- and we'll see later, through 2017.

22 Where is all this furniture -- office
23 furniture and equipment, where is that?

24 A. I don't know. I don't have any idea.

25 Q. Okay. Well, you only --

1 A. It would have been in the building, so.
 2 Q. All right.
 3 A. Yeah.
 4 Q. So did you think that you guys had a million
 5 dollars worth of furniture?
 6 A. I will tell you -- I mean, what you should do
 7 if you want the answer to that -- and probably
 8 Mr. Walker would know, when they moved into this
 9 luxurious space over here in North Dallas, they spent
 10 enormous amounts of money and bought a lot of
 11 furniture that was very expensive.
 12 And when we were trying to renegotiate a
 13 place, I mean, it was just almost impossible because
 14 of that weight.
 15 Q. Okay.
 16 A. So.
 17 Q. But I'm just talking about the furniture now.
 18 --
 19 A. I don't know.
 20 Q. -- I'm not talking about the office space,
 21 A. I don't know.
 22 Q. You don't know?
 23 A. You'd have to go back and look at the
 24 invoices. You know, there were some expensive
 25 furniture there.

1 to sublease that?
 2 A. I don't know.
 3 Q. And in terms of the furniture, you don't know
 4 what happened to that?
 5 A. I do not.
 6 Q. And same questions with regard to the
 7 Washington space?
 8 A. I have no idea.
 9 Q. Okay. Now, on Page 2, Item Number 2500.
 10 That shows a deferred retirement obligation of
 11 173,000. Is that the amount for Mr. Walker?
 12 A. I don't know.
 13 Q. Okay. And it shows a net equity of negative
 14 859,000.
 15 That's the condition that you found the
 16 company in and that's the condition it ended up in,
 17 correct?
 18 A. Yes, sir.
 19 Q. Okay. How long do you think that condition
 20 existed prior to you coming onboard?
 21 MR. SHAW: Object to form.
 22 A. Well, I have no way of knowing that. I -- I
 23 would have to assume it was post embezzlement.
 24 Q. (BY MR. DEWOLF) Okay.
 25 A. But I would point out that -- I mean, for --

1 Q. Do you know whether it's still there?
 2 A. When I walked out the door, it was.
 3 Q. Okay. And do you know where the office --
 4 strike that.
 5 As I understand, there was also some
 6 space in Washington, DC.
 7 A. There was.
 8 Q. And is that space currently unoccupied as
 9 well?
 10 A. It's gone, as far as I know.
 11 Q. Okay. It's been released to someone else?
 12 A. I think we just -- I think -- and again, that
 13 was -- Allen West had that space. I think we walked
 14 away from it. We had our -- the staff in Washington
 15 DC was housed out of there. And eventually, we just
 16 had them work out of their own homes and commute.
 17 Q. But so -- just to make sure the record is
 18 clear, there was office space in Dallas?
 19 A. Yes.
 20 Q. That office space, as of July 1st, you guys
 21 walked away. You don't know whether that lease --
 22 that space has been leased to someone else?
 23 A. I do not know.
 24 Q. And you don't know whether or not
 25 Mr. Stewart, on behalf of the NCPA, has made efforts

1 Q. Well, you can just stop at post embezzlement.
 2 I really wasn't asking --
 3 A. Done. Done.
 4 Q. Okay. Let me show you, just to get a feel
 5 for the creditors -- I'm going to hand you Exhibit
 6 Number 6.
 7 (Exhibit 6 marked.)
 8 Q. (BY MR. DEWOLF) This appears to be -- well,
 9 first, do you recognize it?
 10 A. Yes.
 11 Q. And it appears to be something that was
 12 generated by Lloyd Bentsen IV on December 23, 2016.
 13 And it's an accounts payable list, it looks like.
 14 A. Yes.
 15 Q. And it shows there that you had a sig --
 16 significant amount of money owed to lawyers.
 17 A. Yes.
 18 Q. So Littler Mendelson, what -- what were they
 19 doing for you guys?
 20 A. Well, again, they were involved in various
 21 pieces of litigation before I got there. And -- well,
 22 no, they were -- they were auditor, I --
 23 Q. Littler Mendelson is a law firm.
 24 A. They handled a lot of litigation that was
 25 ongoing for NCPA subsequent to -- to Mr. Goodman's

1 activity and Mr. Galloway's activity.
 2 Q. Do -- do you know specifically what they were
 3 doing?
 4 A. No. But Jacki could tell you.
 5 Q. Okay. Is that the same answer for all the
 6 different law firms?
 7 A. Yes.
 8 Q. Okay.
 9 MR. SHAW: Steve, did you skip five
 10 intentionally?
 11 MR. DEWOLF: I did not. I'm going to --
 12 I'll have a five here in just a minute.
 13 MR. SHAW: Sure.
 14 MR. DEWOLF: Thank you for that.
 15 Q. (BY MR. DEWOLF) Let's look at Exhibit Number
 16 5.
 17 [Exhibit 5 marked.]
 18 A. Yeah.
 19 Q. Do you recognize that, sir?
 20 A. I do.
 21 Q. What is it?
 22 A. That is the gold that was recovered that
 23 Mr. Galloway had on his person when he was arrested.
 24 Q. All right. And did you buy that gold?
 25 A. I did.

1 mistake that -- I guess that doesn't exist.
 2 MS. PICK: No, it -- it exists --
 3 MR. STEWART: No, it exists.
 4 MS. PICK: -- we can get it for you.
 5 MR. DEWOLF: Okay.
 6 MS. PICK: I don't know if I didn't
 7 understand the request to want the policy before this
 8 policy, or if I did produce it and it somehow didn't
 9 make it into the stack. I don't know.
 10 MR. DEWOLF: Okay. Well, not a big deal.
 11 But if we could get it, I'd appreciate it.
 12 MS. PICK: Yeah.
 13 MR. DEWOLF: So if you'd write that one
 14 down and fax it.
 15 MR. SHAW: Sure. The 2016 E&O or --
 16 MR. DEWOLF: D&O.
 17 MR. SHAW: D&O, okay.
 18 [Exhibit 7 marked.]
 19 Q. (BY MR. DEWOLF) Let me hand you what's going
 20 to be marked as Exhibit Number 7 to your deposition.
 21 MR. DEWOLF: I'll try not to skip numbers
 22 again.
 23 MR. SHAW: That's right.
 24 Q. (BY MR. DEWOLF) Do you recognize that, sir?
 25 A. Yes.

1 Q. And did you ever get a -- did the NCPA or you
 2 ever get a third-party appraisal as to the value
 3 before you bought it?
 4 A. No. We -- I paid the -- the spot price, the
 5 market price for that day without broker's fees --
 6 Q. Okay.
 7 A. -- so I just monetized it for NCPA.
 8 Q. And so what you did is, you just looked at
 9 the spot broker's price and -- and paid that?
 10 A. Correct.
 11 Q. Okay.
 12 A. It was about 40-something thousand dollars.
 13 Q. And as I recall, that was -- you actually
 14 paid them about 32, but you'd given them a loan for
 15 about 10,000 bucks?
 16 A. Correct.
 17 Q. Okay.
 18 A. That's exactly right.
 19 Q. All right. So I want to direct your
 20 attention to the insurance policies. So let's start
 21 with --
 22 MR. DEWOLF: Did -- were you able to find
 23 the 2016?
 24 MS. PICK: No.
 25 MR. DEWOLF: Okay. So that's just a

1 Q. So is this an e-mail from Jacki Pick to you,
 2 regarding a -- additional D&O coverage?
 3 A. It is.
 4 Q. Now, tell me why in June of 2017, when you
 5 knew the company was going down financially, that you
 6 wanted to procure D&O coverage.
 7 MR. SHAW: To the extent it requires you
 8 to disclose what lawyers may have told you, I would
 9 advise you not to disclose it. Otherwise, please
 10 answer.
 11 A. Well, my answer would be, I -- I can't
 12 imagine a situation where you would want to operate
 13 without D&O insurance, regardless.
 14 Q. (BY MR. DEWOLF) Right. But you -- you -- by
 15 June 12th of 2017, you knew that the company was going
 16 to be dissolved, didn't you?
 17 A. Yes.
 18 Q. So why, if you knew the company was going to
 19 be dissolved, did you secure insurance if the company
 20 wasn't going to be in existence?
 21 A. Well, I think as -- I think anybody sitting
 22 in that situation, as a member of a board, was -- want
 23 to be sure that -- that D&O insurance was continuing.
 24 Q. Okay.
 25 A. That's -- that's, to me, would be common

1 sense.

2 Q. All right. And I noticed -- and we'll come
3 to it in a minute, that -- strike that.

4 Did you -- who was your broker on this?

5 A. I don't know.

6 Q. Okay. Well, we're going to come to that and
7 I can refresh your -- does the name, Swindle or
8 Swingle Collins -- Swingle -- swindle was a Freudian
9 slip.

10 Does Swingle Collins ring a bell to you?

11 A. That was funny.

12 Q. I think you and I are the only ones who
13 caught it.

14 A. Well, I got it.

15 Q. Yeah.

16 A. Yes, it does.

17 (Exhibit 8 marked.)

18 Q. (BY MR. DEWOLF) All right. Let me hand you
19 what's been marked as Exhibit Number 8 to your
20 deposition, and ask you if you can identify it?

21 A. It's a -- it's an e-mail from Jacki to me.

22 Q. All right. And it deals with the same D&O
23 insurance, correct?

24 A. Yes.

25 Q. Now, we're June 21st. You knew the company

1 Q. Right. And do you know the reason why --
2 strike that.

3 Who is the best person to ask about the
4 discussions leading up to actually getting the
5 insurance policy, who was leading that for the NCPA,
6 was that you?

7 A. No.

8 Q. Or was that Jacki?

9 A. Well, I -- listen, I'm responsible for all of
10 it, but I think JP was having the discussions.

11 Q. Okay. Now, so you don't know why there was
12 an exclusion for claims relating to Mr. Galloway, do
13 you?

14 A. I -- I remember being told that that was the
15 case, but I don't know why.

16 Q. Okay. Are you aware of any claim that has
17 been made or notice that has been made with regard to
18 the -- that policy?

19 A. Not that I'm aware of.

20 Q. Okay.

21 (Exhibit 9 marked.)

22 Q. (BY MR. DEWOLF) Let me hand you what's been
23 marked as Exhibit Number 9 to your deposition.

24 MR. DEWOLF: Thank You.

25 Q. (BY MR. DEWOLF) Do you recognize that?

1 was going to be dissolved in just a few days.

2 It said that you had talked to Jim at
3 Swingle Collins and you guys had come to an agreement.

4 Tell me about those discussions.

5 A. I absolutely -- I -- I have -- I have no
6 memory of that.

7 Q. And -- and we'll -- we'll come to some
8 e-mails either now or in Jacki's deposition, but there
9 was some discussion with the broker and perhaps the
10 insurer about excluding claims for Josh Galloway.

11 Do you recall that?

12 A. I -- no, I don't.

13 Q. Okay.

14 A. I will say this, just thinking about this
15 now.

16 This was a series of discussions I know
17 that Jacki was having for a period of time. And these
18 guys -- I mean, it was going on, as I recall, for
19 months. Where it ended up and the timing of this was
20 a -- I don't -- I don't know why, other than the fact
21 that -- that we certainly had tremendous difficulty
22 getting coverage, anyway, after an embezzlement.

23 Q. Right.

24 A. So those -- that was the pushes and pulls on
25 some of this.

1 A. Yes, sir.

2 Q. What is it?

3 A. It's an e-mail from Jacki to these insurance
4 providers.

5 Q. And it's copying both the chairman and you.

6 A. Yes.

7 Q. And it says, Noting that the Galloway and
8 Walker are excluded in terms of possible claims
9 covered.

10 Do you know why those two claims were
11 being discussed?

12 A. I don't.

13 Q. Okay. Now, you also got an EPL policy. Do
14 you know what those are, sir?

15 A. I don't.

16 Q. Okay. So EPL is a -- fancy way to say
17 employment practices liability --

18 A. Right.

19 Q. Do you know why you guys got that insurance
20 at this late date as --

21 A. I don't.

22 (Exhibit 10 marked.)

23 Q. (BY MR. DEWOLF) Okay. Now, I'm handing you
24 what's been marked as Exhibit Number 10 to your
25 deposition.

1 I would ask you about, this does not
2 appear to be a complete copy. Because we have Page 1
3 of 2, 2 of 2, and then it's 1 of 9 and 2 of 9. But
4 pages 7 through 9 are not there.

5 A. Right.

6 Q. Do you know where they are or any reason why
7 we don't have them?

8 A. I do not.

9 Q. Okay.

10 MR. DEWOLF: Sir, if you could put that
11 on the list.

12 MR. SHAW: How many pages are we missing

13 --

14 MR. DEWOLF: Pages 7 of 9.

15 MR. SHAW: Roger that.

16 MR. DEWOLF: 7 of 9 of the EPL policy.

17 MR. SHAW: So 3 through 9, looks like, of
18 the -- of the EPL; is that -- is that right, Steve?

19 MR. DEWOLF: Yeah.

20 MR. SHAW: Okay.

21 MR. DEWOLF: It's 3 through 9.

22 MR. SHAW: Right.

23 Q. (BY MR. DEWOLF) Talk to me about the
24 decision to get Reagan Stewart, how you got his name,
25 how he is being compensated.

1 A. And I am chagrined that that could not occur.

2 Q. So I guess really, that's a good point to the
3 last set of questions.

4 From your understanding, what assets did
5 exist when the -- NCPA gave its dissolution notice and
6 ceased doing business, what assets were there that it
7 had?

8 A. Listen, I -- again, an asset is an asset in
9 the -- in the eye of the beholder.

10 Q. Sure.

11 A. But in my view, you had a 34-year-old,
12 really, a significant company that has done great
13 things. You know, one might ask, what the heck I
14 spent over a year here without compensation for.

15 Q. Right.

16 A. I believed in NCPA and -- and Steve Ivy was a
17 friend. And -- and -- and I -- for me, having spent
18 30 years on the business side fighting government
19 regulations, it was attractive to me to think about
20 what would happen if you could impact policy.

21 Q. Right. But I'm asking --

22 A. So here is your assets.

23 Q. Right.

24 A. And that's part of it to me. I thought that
25 30-years-plus or 34-years produced assets. One of

1 A. So -- so -- subsequent -- you know,
2 obviously, I'm having discussions with the chairman.
3 And subsequently, we met with Counsel at Gardere, both
4 for nonprofits and bankruptcy.

5 And I believe Gardere was the primary
6 reference for Reagan. And the decision was made --
7 once the decision was made to -- to put a dissolution
8 officer in place, then Reagan was selected for that.

9 Q. And do you know how he is being compensated?

10 A. As I recall, it was a one-time tranche, and
11 then an hourly rate. And I don't remember what it
12 was.

13 Q. Okay. And that money was going to be out of
14 what remains of the NCPA asset?

15 A. Yes.

16 Q. Okay.

17 A. Yeah. Well, the -- once said. The idea was
18 that we felt we had assets that were saleable and we
19 could satisfy as many of these things as we could,
20 which -- in discussions that you and I have had
21 previously, our -- listen, the intent from the
22 beginning was to repair the ship and pay everybody.

23 Q. Right.

24 A. That was the intent. And that was the hope.

25 Q. Right.

1 them you referenced could have or should have been the
2 donor list.

3 Q. Right.

4 A. The e-mail list. The information that had
5 been accumulated there through all of those years.

6 I felt that the -- the white papers and
7 work that had been done by these fine academics all of
8 these years --

9 Q. Okay.

10 A. -- had asset value.

11 We had a tax package that, I think, is
12 one of best -- may be the best in the country.

13 Q. Uh-huh.

14 A. That I felt would -- would have asset value.

15 And you can run right down the list of
16 the very basic things like, perhaps, furniture and
17 other things.

18 But I thought there were -- there was a
19 possibility of -- and again, I think Reagan can really
20 run through this for you. Because he's had to deal
21 with that on an intimate basis now for months.

22 But I thought it was possible that we may
23 be able to -- to -- to generate some reasonable cash
24 from those assets and help satisfy some of these
25 outstanding debts.

1 Q. Uh-huh. And do you know if any of the NCPA's
2 assets have been sold today?

3 A. I don't know if anything has been executed.
4 There's been a lot of discussion.

5 Q. Okay.

6 MR. DEWOLF: Why don't we take a
7 five-minute break.

8 Let me see if I got anything else or I
9 may be finished.

10 THE VIDEOGRAPHER: Off the record at
11 10:20.

12 (Recess taken.)

13 THE VIDEOGRAPHER: Back on the record at
14 10:43.

15 Q. (BY MR. DEWOLF) Sir, you said that there
16 might be a couple of extra board members you hadn't
17 mentioned.

18 A. Of board seats.

19 Q. Board seats.

20 A. Yeah. Aspen Dental in Syracuse and The Joint
21 in -- in Scottsdale, Arizona.

22 Q. Oh, that you are on.

23 A. That I sit on.

24 Q. Oh, oh, oh, okay. Sorry, I misunderstood.
25 Sir, who is Eileen Resnik?

1 Q. (BY MR. DEWOLF) Okay. Well -- it doesn't
2 matter.

3 MR. DEWOLF: That's all I've got. Thank
4 you.

5 THE WITNESS: Okay. Yes, sir.

6 MR. DEWOLF: Appreciate your time.

7 THE WITNESS: Yes, sir. Thank you.

8 THE VIDEOGRAPHER: Off the record at
9 10:44.

10 (Deposition concluded at 10:44 a.m.)

1 A: She was running development when I came to
2 NCPA.

3 Q. Okay. Did -- was a decision made to fire
4 her?

5 A. Yes.

6 Q. Why?

7 A. We had a -- a company that -- I'm trying to
8 think of the name of the -- Nex -- Nextep, Nextep --
9 that provided guidance for us on the human resource
10 side. We had an internal complaint from two of the --
11 of our interns. They did an official investigation
12 and told us that we had to fire her.

13 Q. And -- and that was sexual harassment or --
14 or --

15 A. I don't think I should speak to that.

16 THE WITNESS: Should I speak to that?

17 MR. SHAW: No. If -- if you learned that
18 from Counsel, no.

19 THE WITNESS: Well, that's where it came
20 from.

21 MR. SHAW: Okay.

22 A. But, I mean, I'm not -- I'm not -- I'm happy
23 to tell you, I'm just not sure that --

24 MR. SHAW: I don't --

25 A. -- it ought to be a matter of record here.

1 CHANGES AND SIGNATURE
2 WITNESS NAME: JAMES AMOS, JR.
3 DATE OF DEPOSITION: DECEMBER 21, 2017
4 PAGE LINE CHANGE REASON

Table with 4 columns: PAGE, LINE, CHANGE, REASON. Rows 5-20 are empty.

21 I, JAMES AMOS, JR., have read the foregoing
22 deposition and hereby affix my signature that same is
23 true and correct, except as noted above:

24 _____
25 JAMES AMOS, JR.

1 THE STATE OF _____)
 2 COUNTY OF _____)
 3
 4 Before me, _____,
 5 on this day personally appeared JAMES AMOS, JR., known
 6 to me or proved to me on the oath of _____
 7 or through _____ (description of
 8 identity card or other document) to be the person
 9 whose name is subscribed to the foregoing instrument
 10 and acknowledged to me that he/she executed the same
 11 for the purpose and consideration therein expressed.
 12
 13

14 Given under my hand and seal of office on
 15 this _____ day of _____, _____
 16
 17

18 NOTARY PUBLIC IN AND FOR
 19 THE STATE OF _____
 20 My Commission Expires: _____
 21
 22
 23
 24
 25

1 deposition officer at the time said testimony was
 2 taken, the following includes counsel for all parties
 3 of record:
 4 Steven K. DeWolf, Counsel for Plaintiff;
 5 Thomas E. Shaw, Counsel for Defendant.
 6 I further certify that I am neither counsel for,
 7 related to, nor employed by any of the parties or
 8 attorneys in the action in which this proceeding was
 9 taken, and further that I am not financially or
 10 otherwise interested in the outcome of the action.
 11 Further certification requirements pursuant to
 12 Rule 203 of TRCP will be certified to after they have
 13 occurred.

14 Certified to by me this 5th day of January,
 15 2018.
 16
 17

18 BROOKE N. BARR, CSR
 19 Texas CSR Number 6521
 20 Expiration Date 12/31/19
 21 LEGAL SOLUTIONS COURT REPORTING
 22 Firm Registration Number 424
 23 3102 Maple Avenue
 24 Suite 450
 25 Dallas, Texas 75201
 (866) 468-1023
 (866) 651-4292 (Fax)



1 CAUSE NO. DC-16-05388

2 RICHARD W. WALKER * IN THE DISTRICT COURT
 3 Plaintiff, *
 4 *
 5 VS. * 298TH JUDICIAL DISTRICT
 6 *
 7 NATIONAL CENTER FOR POLICY *
 8 ANALYSIS *
 9 *
 10 Defendant. * DALLAS COUNTY, TEXAS

11 REPORTER'S CERTIFICATION
 12 DEPOSITION OF JAMES AMOS, JR.
 13 DECEMBER 21, 2017

14 I, Brooke N. Barr, Certified Shorthand Reporter in
 15 and for the State of Texas, hereby certify to the
 16 following:
 17

18 That the witness, JAMES AMOS, JR., was duly sworn
 19 by the officer and that the transcript of the oral
 20 deposition is a true record of the testimony given by
 21 the witness;

22 That the deposition transcript was submitted on
 23 January 5, 2018 to the witness, JAMES AMOS, JR.,
 24 C/O THOMAS E. SHAW, attorney, for examination,
 25 signature, and return by January 26, 2018;

That the amount of time used by each party at the
 deposition is as follows:

STEVEN K. DEWOLF: 01 hours, 08 minutes
 THOMAS E. SHAW: 00 hours, 00 minutes
 That pursuant to information given to the

CAUSE NO. DC-16-05388

RICHARD W. WALKER, IN THE DISTRICT COURT OF
 Plaintiff, DALLAS COUNTY, TEXAS
 v. NATIONAL CENTER FOR POLICY ANALYSIS, 298TH JUDICIAL DISTRICT
 Defendant.

PLAINTIFF'S SECOND AMENDED POST-JUDGMENT NOTICE OF INTENTION TO TAKE ORAL AND VIDEOTAPED DEPOSITION OF CORPORATE REPRESENTATIVE OF NATIONAL CENTER FOR POLICY ANALYSIS

TO: National Center for Policy Analysis, by and through its counsel of record, Thomas E. Shaw, Esq., The Law Offices of Thomas E. Shaw, P.C., 9304 Forest Lane, Suite 252, North Building, Dallas, Texas 75243

Pursuant to Rule 621a of the TEXAS RULES OF CIVIL PROCEDURE, Richard W. Walker hereby notifies all parties of record that he intends to take the oral deposition of the corporate representative of National Center for Policy Analysis ("NCPA"), before a certified court reporter authorized by law to administer oaths, on Thursday, December 21, 2017, commencing at 9:00 a.m., at:

The Law Offices of Thomas E. Shaw, P.C.
 9304 Forest Lane
 Suite 252, North Building
 Dallas, Texas 75243

Please take further notice that the corporate representative must be able to testify fully on behalf of NCPA about the topics shown on Exhibit A attached hereto. Pursuant to TEX. R. CIV. P. 199.2(b)(1), within a reasonable time before the deposition, NCPA is requested to designate one



Oral Deposition - William Dudley Gross
February 22, 2019

CAUSE NO. DC-16-05388

1 FISCAL SOLUTIONS, LLC as) IN THE DISTRICT COURT
 2 assignee of RICHARD W.)
 3 WALKER,)
 4)
 5 Plaintiff,)
 6 v.) 298th JUDICIAL DISTRICT
 7)
 8 NATIONAL CENTER FOR POLICY)
 9 ANALYSIS,)
 10)
 11 Defendant.) DALLAS COUNTY, TEXAS

ORAL DEPOSITION
WILLIAM DUDLEY GROSS
FEBRUARY 22, 2019

EXHIBIT

Ex. G

ORAL DEPOSITION OF WILLIAM DUDLEY GROSS,
produced as a witness at the instance of the Plaintiff,
and duly sworn, was taken in the above-styled and
numbered cause on February 22, 2019, from 10:03 a.m. to
1:32 p.m., before Adrienne Harris, Certified Shorthand
Reporter in and for the State of Texas, at the offices
of Kennedy Law, P.C., 1445 Ross Avenue, Suite 2750,
Dallas, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

Julia Whaley & Associates
214-668-5578 JulietXCISR@gmail.com

Oral Deposition - William Dudley Gross
February 22, 2019

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APPEARANCES

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AGREEMENTS

DEPOSITION OF: WILLIAM DUDLEY GROSS

DATE: FEBRUARY 22, 2019

CAUSE NO. DC-16-05388

TAKEN PURSUANT TO:

- Notice
 Agreement
 Court Order
 Rules of Civil Procedure

ORIGINAL TO:

- Witness
 Witness's Attorney (Mr. Kennedy)
 Producing Attorney
 Waived

NUMBER OF DAYS FOR SIGNATURE:

- 20 days
 30 days
 other:

MISCELLANEOUS:

- Any objection made by one party inures to all parties.
 An unsigned copy may be used at any trial or hearing.

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10:04 1 simply just ask you, is that a yes or is that a no?
10:04 2 Okay?

10:04 3 A. Yes.

10:04 4 Q. If we could also try not to speak over one
10:04 5 another. I'll let you finish your answers before I
10:04 6 start back, and if you, in turn, would let me finish a
10:04 7 question before you answer it, so she's not trying to
10:04 8 type us talking over one another.

10:05 9 The last thing is that if you don't understand
10:05 10 a question I have, please let me know and I'll rephrase
10:05 11 it or work with a better question so that you understand
10:05 12 what I'm asking.

10:05 13 And if you need to take a break at any time,
10:05 14 let me know. If there's a question on the table, I may
10:05 15 ask that we finish the question; but other than that,
10:05 16 we're not here to break any marathon record. So if you
10:05 17 need a break, just let me know.

10:05 18 Mr. Gross, how are you currently employed?

10:05 19 A. I work for Commerce Street Capital.

10:05 20 Q. And what is Commerce Street Capital?

10:05 21 A. It's an investment banking firm and broker-
10:05 22 dealer.

10:05 23 Q. And what is your position at Commerce Street
10:05 24 Capital?

10:05 25 A. Chairman.

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WILLIAM DUDLEY GROSS,

the said witness, having been first duly cautioned and
sworn to testify to the truth, the whole truth and
nothing but the truth, testified under oath as follows:

EXAMINATION

BY MR. BYNUM:

Q. Good morning.

A. Good morning.

Q. My name is Douglas Bynum. I am here today at
this deposition representing Fiscal Solutions as
assignee to Richard -- as assignee of Richard Walker.
Would you please state your name for the record.

A. William Dudley Gross.

Q. And, Mr. Gross, do you go by Tex?

A. Yes.

Q. Mr. Gross, have you ever given a deposition
before?

A. Yes.

Q. I'm going to go over a couple of things.
You're probably familiar with these. It just works for
me if I go over them in advance. If you would, please
answer my questions verbally, no head nods or
headshakes. It allows the court reporter to take down
an answer.

If there is a head nod or a headshake, I may

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Q. Now, you were a board member with the NCPA; is
that correct?

A. Correct.

Q. And do you know when you first joined the
board?

A. I do not remember the exact date.

Q. Do you know which year it was?

A. I believe it was 2014 or '15.

Q. If I were to ask you -- strike that.

If I were to say that it was in -- prior to
June 2014, would that sound correct?

A. I do not remember the date that I joined the
board.

Q. All right. Are you on -- are you currently a
member of any other boards for a foundation or nonprofit
organizations?

A. No.

Q. Since 2014, were you a member of any other
boards -- any other boards for other foundations or
nonprofit organizations besides the NCPA?

A. No.

Q. Prior to joining the board, were you involved
with the NCPA?

A. Would you restate the question?

Q. Yes.

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- 10:07 1 A. I don't understand what you mean by "involved."
10:07 2 Q. Did you donate money to the NCPA?
10:07 3 A. Yes.
10:07 4 Q. Would you attend events that they were putting
10:07 5 on?
10:07 6 A. Yes.
10:07 7 Q. Were you familiar with other board members from
10:07 8 the NCPA while -- prior to you joining the board?
10:08 9 A. No.
10:08 10 Q. Do you recall who was on the board at the time
10:08 11 that you came on?
10:08 12 A. I recall a few.
10:08 13 Q. Would you please list those?
10:08 14 A. Steve Ivy, John Goodman, Ray Wooldridge, and
10:08 15 that's all I recall.
10:08 16 Q. Okay. Do you remember who approached you about
10:08 17 joining the board?
10:08 18 A. Yes.
10:08 19 Q. And who was that?
10:08 20 A. Ray Wooldridge and John Goodman.
10:08 21 Q. Do you recall how long it took from the time
10:08 22 they approached you to when you joined the board?
10:09 23 A. No.
10:09 24 Q. When did you leave the board?
10:09 25 A. The first quarter of 2016.

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- 10:12 1 Q. When you joined the board of the NCPA, was
10:12 2 there any documents or written agreements that were
10:12 3 signed by you and the NCPA?
10:12 4 A. No.
10:12 5 Q. What was the process for joining the board?
10:12 6 A. I do not know what the process was. I was
10:12 7 invited to join the board.
10:12 8 Q. Did you interview before any other members of
10:12 9 the board before you joined?
10:12 10 A. No, other than Ray Wooldridge and John Goodman.
10:13 11 Q. Okay. While you were a board member for the
10:13 12 NCPA, did you have an NCPA email address?
10:13 13 A. No.
10:13 14 Q. What email address would you use for NCPA
10:13 15 business?
10:13 16 MR. KENNEDY: Objection to form.
10:13 17 A. My usual email address.
10:13 18 Q. (By Mr. Bynum) Your personal email address?
10:13 19 A. My business email address.
10:13 20 Q. And what email address is that?
10:13 21 A. TGross@CStreetCap.com.
10:13 22 Q. And I take it that you still use this email
10:13 23 address?
10:13 24 A. I use a slightly different email address now.
10:13 25 Q. What's the email address you use now?

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- 10:09 1 Q. Do you recall why you left the board?
10:09 2 A. General frustration.
10:09 3 Q. Frustration towards what?
10:09 4 A. The circumstances that beset the organization.
10:09 5 Q. Could you be more specific regarding the
10:10 6 circumstances?
10:10 7 A. John Goodman's misbehavior, Sherri Collins'
10:10 8 action against Mr. Goodman and the board, Richard
10:10 9 Walker's failure to communicate the Goodman-Sherri
10:10 10 Collins situation to the board, and lack of funding.
10:10 11 Q. Do you recall who was the CEO of the NCPA when
10:11 12 you left the board?
10:11 13 A. Jim Amos.
10:11 14 Q. Reagan Stewart was not involved with the NCPA
10:11 15 at the time you left; is that correct?
10:11 16 A. Would you repeat the person?
10:11 17 Q. Sorry. Let me just -- I'll just start another
10:11 18 question. Do you know who Reagan Stewart is?
10:11 19 A. I do not recall Reagan Stewart.
10:11 20 Q. Okay. And at the time you joined the board of
10:11 21 the NCPA, what was your understanding as to the
10:11 22 responsibility of the board members?
10:11 23 A. Basically to help fund the organization and be
10:12 24 a participating member of the board with -- and judge
10:12 25 board matters.

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- 10:14 1 A. TGross@CStreetHoldings.com.
10:14 2 Q. Now, for the TGross, CStreetCap.com, do you
10:14 3 know how those emails are saved or archived?
10:14 4 A. I assume they are archived, but I do not know.
10:14 5 I am not a technical person.
10:14 6 Q. Do you know the policy at Commerce Street
10:14 7 Capital for retaining emails?
10:14 8 A. I do not.
10:14 9 Q. Why do you think the NCPA had to close its
10:14 10 doors?
10:14 11 A. Lack of funding and a downward spiral begun by
10:15 12 John Goodman, Sherri Collins and Richard Walker.
10:15 13 Q. As we sit here today looking back, are there
10:15 14 things that could've been done differently in an effort
10:15 15 to keep the NCPA's doors open?
10:15 16 MR. KENNEDY: Objection to form.
10:15 17 A. Yes.
10:15 18 Q. (By Mr. Bynum) And what could've been done?
10:15 19 A. John Goodman could not have advanced sexually
10:15 20 to Sherri Collins, and Richard Walker could've informed
10:16 21 the board of the malfeasance and misbehavior of
10:16 22 Mr. Goodman to the board and could have informed the
10:16 23 board of the contract with Ms. Collins and NCPA and
10:16 24 Mr. Goodman.
10:16 25 Q. Is there anything that the NCPA could've done

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10:16 1 differently?

10:16 2 A. I just told you what they could've done

10:16 3 differently.

10:16 4 Q. Let me rephrase my question.

10:16 5 Could the board have taken any other actions

10:16 6 that would've helped maintain the NCPA's doors open as

10:16 7 opposed to it having to close?

10:16 8 A. Not to my knowledge.

10:17 9 Q. Now, you brought up an agreement that

10:17 10 Mr. Goodman had with Ms. Collins; is that correct?

10:17 11 A. Yes.

10:17 12 Q. Can you tell me about that agreement?

10:17 13 A. I do not know the details. I know that there

10:17 14 was an egregious contract after Ms. Collins brought the

10:17 15 issue about Mr. Goodman, and that contract was not

10:17 16 disclosed to the board by Ms. Collins, Mr. Goodman nor

10:17 17 Richard Walker.

10:17 18 Q. Do you know if anybody on the board knew about

10:17 19 that agreement?

10:17 20 A. I --

10:17 21 MR. KENNEDY: Objection to form. Go ahead.

10:17 22 A. I do not know. You'd have to ask other board

10:17 23 members if they knew it.

10:17 24 Q. (By Mr. Bynum) So you --

10:17 25 A. I don't -- I have no knowledge of it.

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10:19 1 Q. Mr. Goodman was terminated in June of 2014. Do

10:19 2 you recall that?

10:19 3 A. Yes.

10:19 4 Q. So you would've joined the board prior to June

10:19 5 of 2014?

10:19 6 A. Yes, just prior. Within the -- my first board

10:19 7 meeting -- in my first board meeting, the circumstance

10:20 8 with Mr. Goodman and Ms. Collins was brought to the

10:20 9 board's attention by Mr. Goodman.

10:20 10 Q. Okay. Who was the chairman of the board at the

10:20 11 time that you joined?

10:20 12 A. I actually don't recall.

10:20 13 Q. Was it Mr. Jerry Mills?

10:20 14 A. I do not recall -- I do not recall.

10:20 15 Q. During time between -- sorry. Strike that.

10:20 16 Who replaced Mr. Goodman at the NCPA?

10:21 17 A. Allen West.

10:21 18 Q. Did Dennis McCuistion act as interim CEO in

10:21 19 between Mr. Goodman and Mr. West?

10:21 20 A. That is correct.

10:21 21 Q. Now, between the time in which Mr. Goodman was

10:21 22 terminated and Mr. McCuistion took over as an interim

10:21 23 CEO, do you know who was running the day-to-day of the

10:21 24 NCPA?

10:21 25 A. I do not.

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10:18 1 Q. So when you say that they didn't disclose it to

10:18 2 the board, as we sit here today, you don't know if they

10:18 3 didn't disclose it to individuals on the board; is that

10:18 4 correct?

10:18 5 A. I do not know.

10:18 6 Q. Okay. So it could've been disclosed to board

10:18 7 members. You just were not aware of it?

10:18 8 A. I have no knowledge of disclosure to the board

10:18 9 or any members of the board.

10:18 10 Q. Now, you stated that it was Mr. Goodman and

10:18 11 Mr. Wooldridge that invited you to join the board; is

10:18 12 that correct?

10:18 13 A. Yes.

10:18 14 Q. What was your opinion of Mr. Goodman as the CEO

10:18 15 of the NCPA?

10:18 16 A. At what time?

10:18 17 Q. At the time you joined the board.

10:18 18 A. I thought he was okay.

10:18 19 Q. What led to Mr. Goodman's termination?

10:19 20 A. His behavior with Ms. Collins, as I understand

10:19 21 it.

10:19 22 Q. Now, you say as you understand it. As we sit

10:19 23 here today, do you remember if you were on the board at

10:19 24 the time of Mr. Goodman's termination?

10:19 25 A. Yes.

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Oral Deposition - William Dudley Gross
February 22, 2019

10:21 1 Q. How long had you known Mr. Goodman prior to

10:21 2 joining the board?

10:22 3 A. Fifty years.

10:22 4 Q. How did you know Mr. Goodman?

10:22 5 A. We were in school together at the University of

10:22 6 Texas.

10:22 7 Q. Okay. Now, you said that Mr. Wooldridge also

10:22 8 approached you about joining the board. How long had

10:22 9 you known Mr. Wooldridge prior to joining the board?

10:22 10 A. Thirty-five years.

10:22 11 Q. And how did you know Mr. Wooldridge?

10:23 12 A. I worked for Mr. Wooldridge at Schneider Bernet

10:23 13 & Hickman. No, sorry. Strike that. I worked for

10:23 14 Mr. Wooldridge at Southwest Securities.

10:23 15 Q. Okay.

10:23 16 A. And let me correct the 35 years to about 30

10:23 17 years.

10:23 18 Q. Give or take that range?

10:23 19 A. [Witness nods.]

10:23 20 Q. Now, you had known Mr. Goodman for about 50

10:23 21 years.

10:23 22 A. Yes.

10:23 23 Q. We'll keep it general with that amount of time.

10:23 24 A. Yes.

10:23 25 Q. What was your opinion of him overall prior to

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Oral Deposition - William Dudley Gross
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10:23 1 learning of his acts with Ms. Collins?
 10:23 2 A. I thought Mr. Goodman was intelligent and an
 10:23 3 okay individual.
 10:24 4 Q. Do you believe that Mr. Goodman wanted to stay
 10:24 5 with the NCPA?
 10:24 6 A. I have no knowledge.
 10:24 7 Q. Did you ever discuss this with Mr. Goodman?
 10:24 8 A. No.
 10:24 9 Q. So after knowing him for about 50 years, once
 10:24 10 all of this occurred, you didn't speak to him
 10:24 11 individually about this?
 10:24 12 A. I did not.
 10:24 13 Q. Why is that?
 10:24 14 A. Because he, well, provided sexual misbehavior
 10:24 15 with an employee.
 10:24 16 Q. Did you ever go to Mr. Goodman and ask him for
 10:24 17 his side of the story?
 10:24 18 A. He presented his side of the story at the first
 10:24 19 board meeting I attended. No, I did not go to
 10:24 20 Mr. Goodman individually.
 10:25 21 Q. Was Mr. Goodman staying with the NCPA ever
 10:25 22 discussed as a possibility amongst the board members?
 10:25 23 MR. KENNEDY: Object to the form.
 10:25 24 A. Restate the question.
 10:25 25 Q. (By Mr. Bynum) Was the possibility of

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10:26 1 A. I saw the report and heard the results of the
 10:26 2 report in the board meeting.
 10:26 3 Q. But did you ever read it?
 10:26 4 A. No.
 10:26 5 Q. So prior to -- sorry. Do you know if that
 10:27 6 report resulted in Mr. Goodman being terminated?
 10:27 7 A. Restate the question.
 10:27 8 Q. Was the results of that report the reason that
 10:27 9 Mr. Goodman was terminated?
 10:27 10 A. I do not recall the exact -- let me -- I
 10:27 11 assumed that the report was part of the reason for
 10:27 12 Mr. Goodman's termination.
 10:27 13 Q. Okay. So in this board meeting -- I'm sorry.
 10:28 14 This was your first board meeting with the NCPA; is that
 10:28 15 correct?
 10:28 16 A. Correct.
 10:28 17 Q. And in this board meeting, you learned of the
 10:28 18 settlement agreement between Mr. Goodman and
 10:28 19 Mrs. Collin -- Ms. Collins; is that correct?
 10:28 20 A. No.
 10:28 21 Q. When did you learn of the settlement agreement?
 10:28 22 A. At a later date. I do not remember the date.
 10:28 23 Q. Can you tell me, outside of Mr. Goodman giving
 10:28 24 his side of the story to the board at your first board
 10:28 25 meeting, did anything else -- was anything else

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10:25 1 Mr. Goodman staying on board with the NCPA ever
 10:25 2 discussed amongst the board members prior to his
 10:25 3 termination?
 10:25 4 MR. KENNEDY: Object to the form.
 10:25 5 A. I don't remember any discussions like that.
 10:25 6 Q. (By Mr. Bynum) Did you ever meet with
 10:25 7 Ms. Collins regarding her allegations against
 10:25 8 Mr. Goodman?
 10:25 9 A. No.
 10:25 10 Q. Do you know if anybody from the board ever
 10:25 11 spoke with Ms. Collins regarding her allegations against
 10:25 12 Mr. Goodman?
 10:26 13 A. Do not.
 10:26 14 Q. Can you tell me what steps the board took to
 10:26 15 investigate this matter?
 10:26 16 A. As I remember, they hired an independent law
 10:26 17 firm to do an independent valuation of the allegations.
 10:26 18 Q. Do you recall that law firm?
 10:26 19 A. I do not.
 10:26 20 Q. Do you recall the individual?
 10:26 21 A. I do not.
 10:26 22 Q. Do you recall ever reading the -- I'm sorry.
 10:26 23 Was there a report?
 10:26 24 A. I believe there was a report.
 10:26 25 Q. Do you recall reading that report?

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10:28 1 discussed about his actions and Ms. Collins'
 10:28 2 allegations?
 10:29 3 A. Not that I remember.
 10:29 4 Q. When was the -- when was the results of the
 10:29 5 report by the independent firm presented to the board?
 10:29 6 A. Subsequent to my first board meeting. I do not
 10:29 7 remember the exact time.
 10:29 8 Q. Were you at that board meeting?
 10:29 9 A. I can't remember the exact board meeting, but I
 10:29 10 know that the results were given to the board.
 10:29 11 Q. But were you at the meeting in which the
 10:29 12 results were given --
 10:29 13 A. I do not remember.
 10:29 14 Q. -- to the board?
 10:29 15 So how did you learn of the results of the
 10:29 16 report?
 10:30 17 A. I was either told the results of the report or
 10:30 18 I was at the board meeting. I do not remember.
 10:30 19 Q. Do you recall if you were at the board meeting
 10:30 20 that voted to terminate Mr. Goodman?
 10:30 21 A. Yes.
 10:30 22 Q. And how did you vote?
 10:30 23 A. I voted yes.
 10:30 24 Q. And you voted yes without reading the report;
 10:30 25 is that correct?

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10:30 1 A. I was given the results of the report.
10:30 2 Q. Were you given those results verbally?
10:30 3 A. Yes.
10:30 4 Q. So you did not read the report?
10:30 5 A. I did not.
10:30 6 Q. Do you know if everybody that voted to
10:30 7 terminate Mr. Goodman read the report?
10:30 8 A. I do not.
10:30 9 Q. Do you know if all the board members were at
10:30 10 the vote in which Mr. Goodman was terminated?
10:30 11 MR. KENNEDY: Object to the form.
10:30 12 A. I do not know if all board members were
10:30 13 present.
10:30 14 Q. (By Mr. Bynum) Do you recall any of the board
10:30 15 members that were present?
10:31 16 A. Most of them.
10:31 17 Q. Can you recall any individuals?
10:31 18 A. I believe most of the board was there.
10:31 19 Q. But you're not specific as to which ones; is
10:31 20 that correct?
10:31 21 A. I believe most board members were present at
10:31 22 the meeting at which we voted to fire Mr. Goodman.
10:31 23 Q. Was Mr. Ivy there?
10:31 24 A. I do not specifically remember Mr. Ivy being
10:31 25 there.

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10:34 1 Q. Do you know whose decision it was to issue the
10:34 2 press release?
10:34 3 A. I assume it was staff and people at the board
10:34 4 level who were involved in this situation.
10:34 5 Q. Now, were you involved in this situation?
10:34 6 A. I was involved in the vote to terminate
10:34 7 Mr. Goodman.
10:34 8 Q. Did anybody run this press release by you
10:34 9 before it was released?
10:34 10 A. I don't remember.
10:35 11 Q. I'd like to show you what we've marked as
10:35 12 Exhibit 2.
13 (Exhibit 2 marked.)
10:35 14 Q. (By Mr. Bynum) Exhibit 2 is a press release
10:36 15 that clarifies the dismissal of John Goodman. We
10:36 16 obtained this by subpoena from Mr. John Goodman. Do you
10:36 17 recognize this press release?
10:36 18 A. I recognize that it is a press release. I
10:36 19 do -- I don't remember this specific press release.
10:36 20 Q. Can you explain to me, if you know, why there
10:36 21 was a change in the wording between the first press
10:36 22 release and the second press release?
10:36 23 A. No.
10:36 24 Q. In the first press release, in Exhibit 1, it
10:36 25 goes: Because this is a personnel issue, the details

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10:31 1 Q. Was Mr. Wooldridge there?
10:31 2 A. I do not know if Mr. Wooldridge was there.
10:31 3 Q. Do you know if Mr. Mills was there?
10:31 4 A. I believe Mr. Mills were there.
10:32 5 Q. Was it ever discussed amongst the board
10:32 6 members, at a meeting you attended, about any of the
10:32 7 backlash for terminating Mr. Goodman?
10:32 8 A. You'll have to explain what you mean by
10:32 9 "backlash."
10:32 10 Q. Was it ever discussed, at a board meeting,
10:32 11 about the potential for a loss of fundraising because of
10:32 12 the termination of Mr. Goodman?
10:32 13 A. I believe, yes.
10:32 14 Q. And do you recall if the board had a plan in
10:32 15 place to counteract the loss of fundraising?
10:32 16 A. I do not.
10:33 17 Q. I want to show you what's been marked as
10:33 18 Exhibit 1.
19 (Exhibit 1 marked.)
10:33 20 Q. (By Mr. Bynum) Exhibit 1 is a press release
10:34 21 from the NCPA regarding severing of ties with
10:34 22 Mr. Goodman. Do you recognize this press release?
10:34 23 A. I recognize the verbiage.
10:34 24 Q. Did you approve this language?
10:34 25 A. No.

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10:36 1 are and will remain confidential. Did you see that in
10:36 2 the first --
10:36 3 A. Yes, I saw it.
10:36 4 Q. In Exhibit 2, it clarifies and states that:
10:36 5 After an extensive investigation of found sexual
10:36 6 misconduct and breach of fiduciary duty that warranted
10:36 7 Goodman's dismissal. Do you see that?
10:36 8 A. Yes.
10:36 9 Q. Would you consider -- I'm sorry. Would you
10:37 10 describe the second release as more harsh?
10:37 11 MR. KENNEDY: Objection to the form.
10:37 12 A. No.
10:37 13 Q. (By Mr. Bynum) How would you describe the
10:37 14 second release?
10:37 15 A. More descriptive.
10:37 16 Q. Do you know why it was decided to put out a
10:37 17 clarification?
10:37 18 A. I do not.
10:37 19 Q. Do you know if it was brought before the board?
10:37 20 A. No.
10:37 21 Q. As we sit here today, do you know who approved
10:37 22 this press release?
10:37 23 A. I do not.
10:37 24 Q. What do you think was the benefit to the NCPA
10:37 25 by releasing these two press releases?

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10:38 1 A. To more accurately describe the dismissal of
10:38 2 Mr. Goodman.
10:38 3 Q. Do you believe that the information in these
10:38 4 press releases hurt the NCPA?
10:38 5 A. I don't know.
10:38 6 Q. I'd like to show you what we've marked as
10:38 7 Exhibit 3.
8 (Exhibit 3 marked.)
10:41 9 Q. (By Mr. Bynum) Have you had a chance to review
10:41 10 Exhibit 3?
10:41 11 A. Yes.
10:41 12 Q. This is an email that we obtained from
10:41 13 Ms. Merrie Spaeth by a subpoena, from Rebecca Shaw to
10:41 14 Casey Comfort, and it's an email chain that has an
10:41 15 action plan to handle the termination of John Goodman.
10:41 16 Do you recognize this action plan on Page 2?
10:41 17 A. I recognize it as an action plan.
10:42 18 Q. Do you recall seeing this in June of 2014?
10:42 19 A. I do not recall seeing it. I assume I saw it.
10:42 20 Q. Now, the subject of this email is -- I'm sorry.
10:42 21 The attachment to this email is labeled as Action Plan
10:42 22 Draft No. 2. Do you know if you ever saw Draft No. 1?
10:42 23 A. No.
10:42 24 Q. In this email, it states that Attorney Lori
10:42 25 Carr toned down and removed language she felt was too

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10:44 1 the rest of the board.
10:44 2 Q. Were you at any board meeting in which they
10:44 3 discussed how the board would help to reach out to the
10:44 4 fund -- to the donors after Goodman was terminated?
10:44 5 A. I was never asked to reach out to donors.
10:44 6 Q. But were you at a board meeting in which it was
10:44 7 discussed amongst the board members who would reach out
10:44 8 to the donors?
10:44 9 A. I do not remember.
10:44 10 Q. Now, at this time, do you know if Mr. Goodman
10:44 11 wanted to maintain some relationship with the NCPA?
10:44 12 A. You'd have to ask Mr. Goodman.
10:44 13 Q. Was it ever discussed amongst the board
10:44 14 members, his desire to maintain a relationship with the
10:44 15 NCPA?
10:44 16 A. I never had any discussion about maintaining a
10:44 17 relationship with Mr. Goodman.
10:45 18 Q. Did you have a discussion with anybody else on
10:45 19 the board about Mr. Goodman maintaining a relationship
10:45 20 with the NCPA?
10:45 21 A. I never had a discussion with anyone about
10:45 22 Mr. Goodman maintaining a relationship with the board.
10:45 23 Q. I'd like to show you what we have marked as
10:45 24 Exhibit 4.
25 (Exhibit 4 marked.)

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10:42 1 inflammatory in the action plan. Would you know what
10:42 2 language was toned down?
10:42 3 A. No.
10:42 4 Q. Step one of this action plan stated: Identify
10:42 5 and Contact Critical Contacts. Did you ever contact
10:43 6 anybody regarding the Goodman termination on behalf of
10:43 7 the NCPA?
10:43 8 A. No.
10:43 9 Q. Did you ever reach out to any donors?
10:43 10 A. No.
10:43 11 Q. Step two was -- says that there will be a brief
10:43 12 board meeting at 2:00 p.m. on Thursday. Do you recall a
10:43 13 board meeting about this action plan?
10:43 14 A. No.
10:43 15 Q. Do you recall if there was a board meeting that
10:43 16 you didn't -- you were noticed of but did not attend?
10:43 17 A. I assumed I attended the board meeting. I do
10:43 18 not recall it.
10:43 19 Q. Do you know how the NCPA was going to handle
10:43 20 reaching out to the top donors?
10:43 21 A. That was a matter for the staff and the person
10:43 22 in charge of talking to donors.
10:43 23 Q. So the board was not actively involved in
10:43 24 trying to --
10:43 25 A. I was not actively involved. You'd have to ask

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10:45 1 MR. BYNUM: Sorry. Can we go off the record
10:45 2 just a second?
3 (Discussion off the record.)
10:48 4 Q. (By Mr. Bynum) Do you recognize Exhibit 4?
10:48 5 A. Do I recognize it?
10:48 6 Q. Yes. Exhibit 4 is an article from the D
10:48 7 Magazine from June 2014. Do you recognize this article?
10:48 8 A. No.
10:48 9 Q. Have you ever seen it before?
10:48 10 A. No.
10:48 11 Q. I'd like to hand you what we're marking as
10:48 12 Exhibit 5.
13 (Exhibit 5 marked.)
10:50 14 Q. (By Mr. Bynum) Exhibit 5 is an article from the
10:50 15 Dallas News -- Dallas Morning News from June of 2014
10:50 16 regarding the NCPA's turmoil with ouster of founder,
10:50 17 John Goodman. Have you ever seen this article before?
10:50 18 A. I believe I saw it online.
10:50 19 Q. Okay. Exhibit 6.
20 (Exhibit 6 marked.)
10:51 21 Q. (By Mr. Bynum) Exhibit 6 is an article from
10:51 22 June 13th, 2014, out of the D Magazine. It's entitled,
10:51 23 John Goodman: NCPA Board is Scared, Amateurish and
10:51 24 Grasping at Straws. Have you seen this article before?
10:51 25 A. No.

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10:52 1 Q. Exhibit 7.
2 (Exhibit 7 marked.)
10:53 3 Q. (By Mr. Bynum) Do you recognize Exhibit 7?
10:53 4 A. Yes.
10:54 5 Q. Exhibit 7 is a Dallas Morning News article from
10:54 6 June 13th of 2014. Have you read this article before?
10:54 7 A. I believe I read it online.
10:54 8 Q. Now, when you state you read it online, was
10:54 9 this back in June of 2014?
10:54 10 A. Or thereabouts.
10:54 11 Q. It was closer to then than it was today?
10:54 12 A. Of course.
10:54 13 Q. Okay. And then one last article, Exhibit 8.
14 (Exhibit 8 marked.)
10:55 15 Q. (By Mr. Bynum) Exhibit 8 is an article from
10:55 16 June 16th, 2014 from the Washington Post. Do you
10:55 17 recognize this article?
10:55 18 A. No.
10:55 19 Q. Have you ever seen it before?
10:55 20 A. No.
10:55 21 Q. In these exhibits, No. 4 through 8, these
10:55 22 articles from the press, it appears to me that the NCPA
10:55 23 and Mr. Goodman are going back and forth almost
10:56 24 attacking each other. Would you agree with that?
10:56 25 MR. KENNEDY: Objection to form.

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10:57 1 MR. KENNEDY: Objection to the form.
10:57 2 A. Restate that. I'm not -- who took a different
10:58 3 tone? Your question's not clear.
10:58 4 Q. (By Mr. Bynum) The articles that were written
10:58 5 by D Magazine, the Dallas Morning News and the
10:58 6 Washington Post --
10:58 7 A. Yes.
10:58 8 Q. -- would those articles -- sorry. Do you
10:58 9 believe those articles would've taken a different tone
10:58 10 had the second press release that clarified
10:58 11 Mr. Goodman's termination not been released?
10:58 12 A. I do not know that. I can't -- I can't --
10:58 13 you'd have to ask the Dallas Morning News and the D
10:58 14 Magazine and the Washington Post, if they had taken a
10:58 15 different tone.
10:58 16 Q. To your knowledge, was the NCPA's second press
10:58 17 release, the one that clarified the dismissal of John
10:58 18 Goodman, was that the first time that it'd been released
10:59 19 that there was extensive investigation that found sexual
10:59 20 misconduct and breach of fiduciary duty that warranted
10:59 21 Goodman's dismissal?
10:59 22 A. To my knowledge, that was the first time it was
10:59 23 released that Mr. Goodman participated in sexual
10:59 24 misconduct and was fired.
10:59 25 Q. The first press release didn't state anything

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10:56 1 A. It appears.
10:56 2 Q. (By Mr. Bynum) Is this the sort of news
10:56 3 coverage the NCPA was looking for when it released its
10:56 4 press releases?
10:56 5 A. No. The NCPA was not looking for Mr. Goodman
10:56 6 to have sexual misbehavior with Ms. Collins and for
10:56 7 Mr. Walker to fail to disclose it to the board in a
10:56 8 timely manner, and this certainly hurt the NCPA.
10:56 9 Q. How did it hurt the NCPA?
10:56 10 A. Fundraising.
10:56 11 Q. When the NCPA released their press releases --
10:57 12 I don't believe you last -- I don't believe you answered
10:57 13 my last question, so I'm going to ask it again. These
10:57 14 Exhibits 4 through 8, these articles, was this the kind
10:57 15 of news coverage the NCPA was looking for when it
10:57 16 released its press releases explaining Mr. Goodman's
10:57 17 termination?
10:57 18 MR. KENNEDY: Objection to the form.
10:57 19 A. The NCPA released its press releases and
10:57 20 Mr. Goodman released his. Nobody was looking for
10:57 21 anything specifically other than releasing the truth.
10:57 22 Q. (By Mr. Bynum) Going back to Exhibits 1 and 2,
10:57 23 do you believe that the articles following Mr. Goodman's
10:57 24 termination took a different tone because of the NCPA's
10:57 25 clarification press release?

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10:59 1 about that; is that correct?
10:59 2 MR. KENNEDY: Objection to the form.
10:59 3 A. The first press release did not discuss the
10:59 4 details of his misconduct.
10:59 5 Q. (By Mr. Bynum) Thank you. Do you know Merrie
10:59 6 Spaeth?
10:59 7 A. No.
10:59 8 Q. Do you know what her role was with the NCPA?
10:59 9 A. No.
10:59 10 Q. Are you aware that she was hired by the NCPA?
11:00 11 A. Can you tell me what -- can you restate what
11:00 12 was her role? I do not know her.
11:00 13 Q. Are you aware that the NCPA hired Ms. Spaeth
11:00 14 and Spaeth Communications to handle what's been
11:00 15 described as PR and damage control regarding the Goodman
11:00 16 termination?
11:00 17 A. I am aware that we hired someone in a PR firm.
11:00 18 Q. Did you ever meet Ms. Spaeth?
11:00 19 A. No.
11:00 20 Q. Had you ever worked with her in the past?
11:00 21 A. No.
11:00 22 Q. Had you ever worked with her firm in the past?
11:00 23 A. Not that I know of.
11:00 24 Q. Do you know if she -- if Ms. Spaeth was brought
11:00 25 on specifically for the Goodman termination?

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11:00 1 A. I do not know that.
11:01 2 Q. I'm handing you what's marked as Exhibit 9.
3 (Exhibit 9 marked.)
11:01 4 MR. KENNEDY: What number did you say?
11:01 5 MR. BYNUM: 9. I'm sorry.
11:03 6 Q. (By Mr. Bynum) Exhibit 9 is an email we
11:03 7 obtained from Ms. Spaeth through subpoena. The subject
11:03 8 of this email is: JCG Termination Release, Draft 6.
11:03 9 This refers to the John Goodman release. Have you ever
11:04 10 seen this release?
11:04 11 A. No.
11:04 12 Q. This shows Draft 6. At any time, did you see
11:04 13 Drafts 1 through 5 regarding this?
11:04 14 A. I have no recollection of Drafts 1 through 5.
11:04 15 Q. Do you recall approving any draft, as a board
11:04 16 member, prior to it being released by the NCPA?
11:04 17 A. No.
11:04 18 Q. Do you know who would've approved the release
11:04 19 of the draft?
11:04 20 A. Staff and specific board members who were
11:04 21 handling the situation.
11:04 22 Q. Okay.
11:04 23 A. Not me.
11:04 24 Q. A couple of the answers have been staff and
11:04 25 particular board members. Do you recall any of the

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11:08 1 billed 61 hours in the month of June 2014 to the NCPA.
11:08 2 Do you know if all 61 of those hours were towards the
11:08 3 Goodman termination?
11:08 4 A. Repeat the question?
11:08 5 Q. Do you know if all 61 hours that were billed
11:08 6 related to the Goodman termination?
11:08 7 A. I do not.
11:08 8 Q. Do you know who would've approved spending the
11:08 9 \$13,000 on these services?
11:08 10 A. I do not.
11:08 11 Q. To the best of your recollection, was this bill
11:08 12 ever presented to the board?
11:08 13 A. I have no recollection of this bill.
11:09 14 Q. When you came onto the board, who was
11:09 15 responsible for NCPA's fundraising?
11:09 16 A. The individuals in -- John Goodman, and there
11:09 17 was a development officer. I do not recall the name.
11:09 18 Q. Can you tell me today, was John Goodman -- I'm
11:09 19 sorry. Did John Goodman raise a majority of the funds
11:09 20 for the NCPA while he was involved with the NCPA?
11:09 21 MR. KENNEDY: Objection, form.
11:09 22 A. You'd have to ask Mr. Goodman. I have no
11:09 23 knowledge of that.
11:09 24 Q. (By Mr. Bynum) We discussed earlier, I just
11:10 25 want to clarify, you did not reach out to any donors or

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11:04 1 staff members that would've been handling this?
11:04 2 A. No.
11:04 3 Q. Do you recall them by position if not by name?
11:04 4 A. In general, the staff that was -- I was not
11:04 5 intimately involved in the staff.
11:04 6 Q. Do you recall the names of any of the specific
11:05 7 board members that would've been involved in handling
11:05 8 this?
11:05 9 A. Jerry Mills.
11:05 10 Q. Anyone besides Mr. Mills?
11:05 11 A. No.
11:05 12 Q. Now, I'd like to show you what's been marked as
11:05 13 Exhibit 10.
14 (Exhibit 10 marked.)
11:06 15 MR. BYNUM: One document in a paper clip. It's
11:06 16 not stapled.
11:07 17 Q. (By Mr. Bynum) Exhibit 10 is a stack of
11:07 18 invoices from Spaeth Communications to the NCPA. Do you
11:07 19 recognize that?
11:07 20 A. No.
11:07 21 Q. Would you agree with me that this is a stack of
11:08 22 invoices from Spaeth Communications?
11:08 23 A. Yes.
11:08 24 Q. I want to focus on the first invoice in here,
11:08 25 Invoice 6776. It shows that Spaeth Communications

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11:10 1 potential donors in the wake of the Goodman termination
11:10 2 about continuing -- continuing to contribute to the
11:10 3 NCPA; is that correct?
11:10 4 A. That is correct. I was never involved in
11:10 5 fundraising.
11:10 6 Q. And nobody ever asked you to help with the
11:10 7 fundraising; is that correct?
11:10 8 A. Correct.
11:10 9 Q. In general, either as a board member or not,
11:10 10 did you ever speak to anybody that quit contributing
11:10 11 money to the NCPA after the Goodman termination?
11:11 12 A. No.
11:11 13 Q. Were there any specific board meetings that
11:11 14 discussed the lack of fundraising because of the Goodman
11:11 15 termination?
11:11 16 A. Fundraising was discussed at board meetings on
11:11 17 an ongoing basis.
11:11 18 Q. Do you recall any plans that the board had to
11:11 19 increase fundraising after the board had terminated
11:11 20 Mr. Goodman?
11:11 21 A. Fundraising was always a topic that was
11:11 22 addressed by the board.
11:11 23 Q. You don't recall any specific --
11:11 24 A. No.
11:11 25 Q. Now, Mr. McCuiston came on in June of 2014 to

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- 11:12 1 replace Mr. Goodman on an interim basis; is that
11:12 2 correct?
11:12 3 A. Correct.
11:12 4 Q. Do you know who brought Mr. McCuistion to the
11:12 5 NCPA?
11:12 6 A. I believe it was Mr. Ivy, myself and one or two
11:12 7 other board members that I don't remember.
11:12 8 Q. Did you know Mr. McCuistion prior to him taking
11:12 9 over at the NCPA?
11:12 10 A. I did.
11:12 11 Q. And how did you know Mr. McCuistion?
11:12 12 A. He was a former banker, and my firm's clients
11:12 13 are in the banking business.
11:13 14 Q. Did you personally interview Mr. McCuistion?
11:13 15 A. No. I had conversations with Mr. McCuistion,
11:13 16 but I did not interview Mr. McCuistion.
11:13 17 Q. In your mind, what made Mr. McCuistion a good
11:13 18 fit in the interim basis at the NCPA?
11:13 19 A. Mr. McCuistion had good organizational skills,
11:13 20 good speaking skills, good interpersonal skills and was
11:13 21 willing to take over NCPA on an interim basis until we
11:14 22 found a suitable candidate.
11:14 23 MR. KENNEDY: At some point, I need to take a
11:14 24 bio break. We've been going for about an hour. So just
11:14 25 let me know when it's convenient.

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- 11:22 1 A. Not specifically.
11:22 2 Q. Do you recall if there was a search committee
11:22 3 formed to find the replacement? I'm sorry. Do you
11:22 4 recall if there was a search committee formed to find
11:22 5 the permanent CEO?
11:23 6 A. I do not specifically recall that. I assumed
11:23 7 there was a search committee, but I think the board was
11:23 8 looking for a permanent CEO.
11:23 9 Q. Would you consider yourself an active
11:23 10 participant in finding that permanent CEO?
11:23 11 A. Somewhat active.
11:23 12 Q. What did you --
11:23 13 A. Moderately active.
11:23 14 Q. I'm sorry?
11:23 15 A. Moderately active.
11:23 16 Q. What did you do to help aid in the search for
11:23 17 the CEO?
11:23 18 A. I visited with the board about candidates, and
11:23 19 I visited with Colonel West.
11:24 20 Q. As we sit here today, do you know if Mr. West
11:24 21 was the first person that was offered the position?
11:24 22 A. I do not.
11:24 23 Q. Do you recall if any other people were offered
11:24 24 the position?
11:24 25 A. I do not think so.

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- 11:14 1 MR. BYNUM: That's fine. We'll take a break
11:14 2 right now.
11:14 3 (Recess from 11:14 a.m. to 11:21 a.m.)
11:21 4 Q. (By Mr. Bynum) Mr. Gross, were you -- we had
11:21 5 just gone over the qualities that you thought would make
11:21 6 Mr. McCuistion a good fit with the NCPA. Were you aware
11:21 7 of his fundraising skills prior to him joining the NCPA?
11:21 8 A. No.
11:21 9 Q. Do you know if he was a fundraiser?
11:21 10 A. I do not.
11:21 11 Q. Do you know when Mr. McCuistion was replaced at
11:21 12 the NCPA?
11:21 13 A. I don't remember the date.
11:21 14 Q. Who replaced Mr. McCuistion?
11:21 15 A. Allen West.
11:22 16 Q. If I were to tell you that Allen West started
11:22 17 on January the 1st -- I'm sorry, on January the 2nd,
11:22 18 2015, on or about, would you have any reason to disagree
11:22 19 with that?
11:22 20 A. No.
11:22 21 Q. Do you know how Mr. West came to be the CEO of
11:22 22 the NCPA?
11:22 23 A. He was recommended by certain members of the
11:22 24 staff and he became the CEO.
11:22 25 Q. Do you recall who recommended him?

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- 11:24 1 Q. Do you know if any candidates turned down the
11:24 2 position prior to being offered it?
11:24 3 A. I do not.
11:24 4 Q. Do you understand what I'm asking there?
11:24 5 A. You'll have to be a little more specific.
11:24 6 Q. Do you know if the NCPA was interested in any
11:24 7 candidates that withdrew their name from consideration
11:24 8 prior to being offered a job?
11:24 9 A. I do not recall that.
11:24 10 Q. As we sit here today, do you remember, was it
11:24 11 hard to find qualified candidates for the position?
11:24 12 A. I don't believe so.
11:24 13 Q. What kind of candidate was the NCPA looking
11:25 14 for?
11:25 15 A. Someone who was a good leader and a good
11:25 16 speaker and good assist in fundraising.
11:25 17 Q. Do you recall the compensation package for
11:25 18 Mr. West, when he was brought on with the NCPA?
11:25 19 A. Not specifically in exact amounts.
11:25 20 Q. Were you involved in any of the negotiations
11:25 21 with Mr. West?
11:25 22 A. No.
11:25 23 Q. Do you know who was involved on behalf of the
11:25 24 NCPA?
11:25 25 A. I don't remember specifically the individuals.

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11:25 1 Q. Do you know what Mr. West -- I'm sorry. Do you
11:26 2 know how Mr. West was employed prior to taking the job
11:26 3 as the CEO?

11:26 4 A. Mr. West was former military, colonel in the
11:26 5 Army, and he was a congressman from the state of Florida
11:26 6 and I thought he was the perfect fit.

11:26 7 Q. Do you remember what he was doing prior to --
11:26 8 immediately prior to taking the CEO position?

11:26 9 A. I do not. I know he was on Fox News.

11:26 10 Q. Did the board have any concerns over Mr. West's
11:26 11 political beliefs and views with regards to heading up
11:26 12 the NCPA?

11:26 13 A. The board -- you'll have to repeat that, make
11:26 14 it a little more clearer.

11:26 15 Q. Do you know if the board had any concerns with
11:26 16 Mr. West's political views?

11:26 17 A. No.

11:26 18 Q. Do you know if the board was concerned that his
11:27 19 political views would hurt the NCPA?

11:27 20 A. No.

11:27 21 Q. Do you know if the board had talked to Mr. West
11:27 22 about how he was to present his political views after he
11:27 23 took over the CEO position?

11:27 24 A. I was never a part of any conversations with
11:27 25 Mr. West about his political views.

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11:29 1 A. I do not.

11:29 2 Q. As we sit here today, do you know if Mr. West
11:29 3 was allowed to maintain his own personal website and
11:29 4 blog while he was the CEO of the NCPA?

11:29 5 A. I believe that he was able to do that.

11:29 6 Q. Do you know if there was any background
11:29 7 searches done on Mr. West prior to offering him the job?

11:29 8 A. That was done by staff if it -- so I don't know
11:29 9 if there was a background check or not.

11:29 10 Q. You're saying it would've been done by the
11:29 11 staff; is that correct?

11:29 12 A. Yes.

11:29 13 Q. And you're not aware of any background search?

11:29 14 A. I'm not aware. He was a former congressman, he
11:29 15 served with honor in the U.S. Military, and he was a
11:29 16 brilliant speaker and I thought he was well qualified
11:29 17 for the job.

11:29 18 Q. Okay. Are you aware -- sorry. At the time he
11:30 19 was hired, were you aware of any allegations made
11:30 20 against Mr. West?

11:30 21 A. No.

11:30 22 Q. After he was hired, were you made aware of any
11:30 23 allegations made against Mr. West?

11:30 24 A. I saw an inference but no -- perhaps an
11:30 25 allegation, but I know of no -- nothing that was

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11:27 1 Q. Was there any concern amongst the board about
11:27 2 Mr. West being the face of the NCPA?

11:27 3 A. I don't believe so.

11:27 4 Q. Was there any concern that hiring Mr. West
11:27 5 would change the public image of the NCPA?

11:28 6 A. Rephrase the question, please.

11:28 7 Q. Mr. West was on Fox News; is that correct?

11:28 8 A. Yes, sir.

11:28 9 Q. Mr. West was a former congressman; is that
11:28 10 correct?

11:28 11 A. Correct.

11:28 12 Q. Mr. West's political views were expressed on
11:28 13 Fox News and on a blog that he ran; is that correct?

11:28 14 A. Yes.

11:28 15 Q. Was the NCPA concerned that the reputation of
11:28 16 Mr. West, regarding his political views, would that
11:28 17 change the public image of the NCPA?

11:28 18 A. I do not remember the board being concerned
11:28 19 about Colonel West changing NCPA.

11:28 20 Q. Do you believe that Mr. West was the best
11:28 21 candidate for the job?

11:28 22 A. I did.

11:28 23 Q. As we sit here today, do you know if
11:28 24 fundraising increased at the NCPA after Mr. West took
11:28 25 over?

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11:30 1 substantiated.

11:30 2 Q. What inference are you referring to?

11:30 3 A. I vaguely remember someone accusing him of some
11:30 4 type behavior.

11:30 5 Q. Do you know what type of behavior? Do you know
11:30 6 who that's --

11:30 7 A. I can hardly remember two or three years ago.

11:30 8 Q. Do you recall who the someone was?

11:30 9 A. No.

11:30 10 Q. I'd like to show you what we have marked as
11:31 11 Exhibit 11.

(Exhibit 11 marked.)

11:33 13 Q. (By Mr. Bynum) Exhibit 11 is a document titled:
11:33 14 Charles Johnson Compilation. We received this document
11:33 15 from Ms. Spaeth in response to a subpoena. These are
11:33 16 notes that were sent to the NCPA regarding an interview,
11:33 17 a radio interview, in which allegations against Mr. West
11:33 18 were discussed. Have you ever seen this document?

11:33 19 A. No.

11:33 20 Q. Do you know if these allegations were ever
11:33 21 discussed amongst the board members of the NCPA?

11:33 22 A. I vaguely remember a comment or two about it
11:33 23 and we dismissed it, and I dismiss it today.

11:33 24 Q. Did you speak with anybody regarding these
11:34 25 allegations?

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11:34 1 A. I spoke with a couple of the board members and
11:34 2 we dismissed it.

11:34 3 Q. Did anybody from the board approach Mr. West
11:34 4 regarding these allegations?

11:34 5 A. I do not know. You'd have to ask the other
11:34 6 members of the board.

11:34 7 Q. Did anybody from the board follow up with
11:34 8 Charles Johnson regarding these allegations?

11:34 9 A. I have no knowledge of Charles Johnson or any
11:34 10 board member. You'd have to ask other board members.

11:34 11 Q. So these allegations against Mr. West were
11:34 12 discussed briefly and then dismissed; is that correct?

11:34 13 A. I dismissed them personally. You'll have to
11:34 14 ask the other board members if they dismissed them.

11:34 15 Q. As a board member, did you believe that the
11:34 16 NCPA should've investigated these allegations?

11:34 17 A. No. I dismissed them.

11:34 18 Q. But yet the John Goodman termination led to an
11:35 19 investigation and his termination; is that correct? I'm
11:35 20 sorry. The John Goodman acts led to an investigation
11:35 21 and his termination; is that correct?

11:35 22 A. John Goodman's acts and the investigation and
11:35 23 John Goodman's admission of his acts led to his
11:35 24 termination.

11:35 25 Q. Did you personally ever ask Allen West about

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11:36 1 Q. And you still dismiss this without discussing
11:37 2 it with him?

11:37 3 A. My judgment of Colonel West at that time was
11:37 4 that these were assassination items and they were not
11:37 5 true, and I dismissed them.

11:37 6 Q. Who is Joshua Galloway?

11:37 7 A. He was -- I believe he was the CFO of NCPA.

11:37 8 Q. Do you know when Josh Galloway -- do you know
11:37 9 when Mr. Galloway joined the NCPA?

11:37 10 A. I do not.

11:37 11 Q. Do you know who hired Mr. Galloway?

11:37 12 A. Staff and, I assume -- well, let me say the
11:38 13 staff hired Josh.

11:38 14 Q. Do you know who was the CEO when Mr. Galloway
11:38 15 was brought on?

11:38 16 A. I do not.

11:38 17 Q. If I were to tell you that Mr. Galloway was
11:38 18 hired while Allen West was the CEO, do you have any
11:38 19 reason to not believe that?

11:38 20 A. I have no reason to disbelieve that.

11:38 21 Q. Do you know who Valor Services is?

11:38 22 A. Who?

11:38 23 Q. Valor Services?

11:38 24 A. I do not.

11:38 25 Q. I want to ask you a couple questions about

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11:35 1 these allegations?

11:35 2 A. No.

11:35 3 Q. So you didn't get his side of the story?

11:35 4 A. I do not believe them to be true.

11:35 5 Q. I understand that. But as the board member,
11:35 6 did you ask Mr. West about these allegations?

11:35 7 A. No.

11:35 8 Q. To your knowledge, did anybody on the board ask
11:35 9 him?

11:35 10 A. I do not know. You'll have to ask the board
11:35 11 members.

11:35 12 Q. How long had you known Mr. West?

11:35 13 A. I met him on his first visit to Dallas.

11:35 14 Q. So prior to the NCPA interviewing him for the
11:36 15 CEO position, you had never met Mr. West?

11:36 16 A. No.

11:36 17 Q. This came out around the spring of 2015, this
11:36 18 Charles Johnson Compilation. Okay. Mr. West was --
11:36 19 officially came on the NCPA in January of 2015.

11:36 20 A. Yes.

11:36 21 Q. And if you had only known him from the time
11:36 22 that he began talking to the NCPA about taking the
11:36 23 position, you would've known him for less than a year;
11:36 24 is that correct?

11:36 25 A. Correct.

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11:38 1 Mr. Galloway's embezzling funds from the NCPA. I've
11:38 2 seen the figures from 600,000 to \$1 million. Do you
11:38 3 know what the actual amount embezzled was?

11:38 4 A. I do not.

11:38 5 Q. Does that range sound about right to you, based
11:39 6 on your recollection?

11:39 7 A. The range of 600,000 sounds about right, but I
11:39 8 do not know.

11:39 9 Q. Do you know what percentage of that was
11:39 10 eventually recovered?

11:39 11 A. I do not.

11:39 12 Q. Do you know if the NCPA had any policies in
11:39 13 place to background employees?

11:39 14 A. No.

11:39 15 Q. Were you aware of any systems of financial
11:39 16 controls that were in place in the NCPA to protect
11:39 17 against embezzlement?

11:39 18 A. I do not.

11:39 19 Q. When did you first learn of the embezzlement?

11:39 20 A. Within days of the occurrence. I do not
11:39 21 remember the date. Within days of the discovery of the
11:39 22 occurrence.

11:39 23 Q. And do you know how it was discovered?

11:39 24 A. I do not.

11:39 25 Q. Who told you of the embezzlement?

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- 11:40 1 A. I do not remember who told me.
- 11:40 2 Q. Did you learn from a board member or did you
11:40 3 learn from an outside source?
- 11:40 4 A. I either learned from a board member or staff.
- 11:40 5 Q. You learned from somebody in -- you learned
11:40 6 from somebody involved with the NCPA?
- 11:40 7 A. Yes.
- 11:40 8 Q. Do you know if anybody attempted to cover up
11:40 9 the embezzlement?
- 11:40 10 A. I have no knowledge of that, other than Josh.
- 11:40 11 Q. I'd like to show you Exhibit 12.
12 (Exhibit 12 marked.)
- 11:42 13 Q. (By Mr. Bynum) 12 is an article from the Dallas
11:42 14 Morning News from October of 2000- -- I'm sorry, 2017, I
11:42 15 believe. This article here states that the NCPA hired
11:43 16 Mr. Galloway in April of 2015. By July of 2015,
11:43 17 Mr. Galloway was on a ten-year probation for unrelated
11:43 18 felony financial crime in Denton County.
- 11:43 19 Were you aware of that unrelated financial
11:43 20 crime at any point?
- 11:43 21 A. No.
- 11:43 22 Q. As we sit here today to discuss this, is that
11:43 23 the first time you've heard of that?
- 11:43 24 A. Yes.
- 11:43 25 Q. Had you ever seen this article before?

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- 11:45 1 staff or another board member, about increasing the
11:45 2 security and control so that this would not happen
11:45 3 again?
- 11:45 4 A. Yes, board member.
- 11:45 5 Q. And who was that board member?
- 11:45 6 A. Dennis McCuiston.
- 11:45 7 Q. Do you know -- I'm sorry. Did you make any
11:45 8 suggestions as to how to improve the financial controls?
- 11:45 9 A. No.
- 11:45 10 Q. Do you know if any changes were made in the
11:45 11 financial controls?
- 11:45 12 A. No.
- 11:45 13 Q. Were you ever concerned that they may not
11:45 14 change the way things were handled?
- 11:45 15 A. No.
- 11:45 16 Q. Were you ever concerned that this would happen
11:45 17 again?
- 11:45 18 A. No.
- 11:46 19 Q. Why not?
- 11:46 20 A. Because I believed that proper controls were
11:46 21 placed.
- 11:46 22 Q. When were proper controls placed?
- 11:46 23 A. Shortly after discover of the fraud.
- 11:46 24 Q. So changes were made?
- 11:46 25 A. I assume they were made.

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- 11:43 1 A. No.
- 11:43 2 Q. His prior criminal acts, do you believe those
11:43 3 were events that would've been discovered through a
11:43 4 background check?
- 11:43 5 A. Possibly.
- 11:43 6 Q. Do you know of any internal fallout -- I'm
11:43 7 sorry. What was the internal fallout at the NCPA
11:44 8 because of this embezzlement?
- 11:44 9 MR. KENNEDY: Objection to form.
- 11:44 10 A. I think the board had to examine our policies
11:44 11 and try to prevent that from happening again.
- 11:44 12 Q. (By Mr. Bynum) Do you recall what actions the
11:44 13 board took to prevent this from happening again?
- 11:44 14 A. No.
- 11:44 15 Q. Did you take any interest in the lack of --
11:44 16 what appears to be the lack of financial controls in the
11:44 17 NCPA after this?
- 11:44 18 A. Yes.
- 11:45 19 Q. Did you review the policies that were in place
11:45 20 at the time?
- 11:45 21 A. No.
- 11:45 22 Q. Did you help to draft new policies that would
11:45 23 prevent this from happening again?
- 11:45 24 A. No.
- 11:45 25 Q. Did you speak with anybody at the NCPA, as a

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- 11:46 1 Q. Do you know if they --
- 11:46 2 A. Yes.
- 11:46 3 Q. -- were made?
- 11:46 4 A. I believe they were made.
- 11:46 5 Q. Do you know what changes were made?
- 11:46 6 A. I do not know what specific changes were made.
- 11:46 7 Q. Do you know who told you the changes were made?
- 11:46 8 A. No.
- 11:46 9 Q. Did you ever follow up?
- 11:46 10 A. I was satisfied that the proper changes were
11:46 11 made to prevent it in the future.
- 11:46 12 Q. What led you to be satisfied that proper
11:46 13 changes were made?
- 11:46 14 A. Report to the board that the proper changes had
11:46 15 been made.
- 11:46 16 Q. Do you recall who made that report?
- 11:46 17 A. No.
- 11:46 18 Q. Do you recall which board meeting -- sorry. Do
11:47 19 you recall which board meeting that report was made?
- 11:47 20 A. No.
- 11:47 21 Q. Do you recall any of the specific changes that
11:47 22 were made?
- 11:47 23 A. I was not involved in those specific changes.
- 11:47 24 Q. Do you recall any of the changes that the
11:47 25 report's date was made?

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- 11:47 1 A. Would you repeat?
- 11:47 2 Q. Do you recall any changes that the report that
- 11:47 3 was presented to the board -- do you recall any of the
- 11:47 4 changes that were listed?
- 11:47 5 A. I do not recall specific changes. I was just
- 11:47 6 told that changes had been in place.
- 11:47 7 Q. And based on that conversation, you were
- 11:47 8 satisfied?
- 11:47 9 A. Yes.
- 11:47 10 Q. And as we sit here today, can you tell me who
- 11:47 11 told you that?
- 11:47 12 A. No.
- 11:47 13 Q. Do you know about when you were told that?
- 11:47 14 A. Shortly after we discovered the fraud.
- 11:48 15 Q. Did Mr. West -- sorry. Was Mr. West stripped
- 11:48 16 of the CEO title as a result of this embezzlement?
- 11:48 17 A. Mr. West became vice chairman of the board, as
- 11:48 18 I remember.
- 11:48 19 Q. But he was no longer the CEO; is that correct?
- 11:48 20 A. He was no longer the CEO.
- 11:48 21 Q. Why was he no longer the CEO?
- 11:48 22 A. Because of the fraud.
- 11:48 23 Q. So because of this embezzlement, he was
- 11:48 24 stripped of the title of CEO?
- 11:48 25 A. He was no longer the CEO. He was vice chairman

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- 11:50 1 this. Did anything happen to Ms. Pick as a result of
- 11:50 2 the embezzlement?
- 11:50 3 A. You'd have to ask Ms. Pick.
- 11:50 4 Q. Sitting here today as a board member, though,
- 11:50 5 you don't recall --
- 11:50 6 A. I do not recall anything happening to Ms. Pick.
- 11:50 7 Q. Now, as a result of this embezzlement, there
- 11:50 8 was a dispute with Legacy Bank over forged checks. Do
- 11:50 9 you recall that dispute?
- 11:50 10 A. No.
- 11:50 11 Q. Do you recall anything regarding forged checks
- 11:51 12 with Legacy Bank?
- 11:51 13 A. I do recall forged checks with Legacy Bank.
- 11:51 14 Q. What specifics do you recall about those forged
- 11:51 15 checks?
- 11:51 16 A. I recall that Josh forged signatures.
- 11:51 17 Q. Did the NCPA request that Legacy refund that
- 11:51 18 money since the checks were forged?
- 11:51 19 A. I do not know the details of that.
- 11:51 20 Q. Do you know if Legacy Bank ever returned money
- 11:51 21 to the NCPA based on those forged checks?
- 11:51 22 A. I do not.
- 11:51 23 Q. Do you know if Legacy Bank had any policies in
- 11:51 24 place to prevent this type of embezzlement?
- 11:51 25 A. I do not.

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- 11:48 1 of the board.
- 11:48 2 Q. Did the NCPA perform an investigation into the
- 11:48 3 embezzlement?
- 11:48 4 A. I do not know. I assume they did.
- 11:49 5 Q. After Mr. West was no longer the CEO, do you
- 11:49 6 know if his compensation package with the NCPA changed?
- 11:49 7 A. I believe it was reduced.
- 11:49 8 Q. As we sit here today, can you think of any
- 11:49 9 actions that should've been in place that could've
- 11:49 10 prevented this embezzlement?
- 11:49 11 A. Proper controls could've been in place to
- 11:49 12 prevent the fraud.
- 11:49 13 Q. And in your opinion, who's responsible for
- 11:49 14 making sure those controls were in place?
- 11:49 15 A. Members of the staff.
- 11:50 16 Q. Any specific positions that would be
- 11:50 17 responsible for that?
- 11:50 18 A. I would say the CEO and the chief operating
- 11:50 19 officer.
- 11:50 20 Q. The CEO at that time was Mr. West, but do you
- 11:50 21 recall who the chief operating officer was at that time?
- 11:50 22 A. Yes.
- 11:50 23 Q. And who was that?
- 11:50 24 A. Jacki Pick.
- 11:50 25 Q. Mr. West was no longer the CEO as a result of

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- 11:51 1 Q. How do you -- can you tell me how you think a
- 11:51 2 forged check would get through a banking system like
- 11:52 3 Legacy?
- 11:52 4 A. I'm not familiar with those things in a bank.
- 11:52 5 Q. Do you believe that Legacy should've had
- 11:52 6 policies in place to protect their customers?
- 11:52 7 A. I do not know.
- 11:52 8 Q. Do you know whose signatures were on the
- 11:52 9 signature card at the bank?
- 11:52 10 A. I do not know.
- 11:52 11 Q. Do you know who from NCPA was handling this
- 11:52 12 dispute with Legacy?
- 11:52 13 A. I do not.
- 11:52 14 Q. I'd like to show you what we have marked as
- 11:53 15 Exhibit 13.
- 16 (Exhibit 13 marked.)
- 11:54 17 Q. (By Mr. Bynum) Exhibit 13 is an NCPA meeting of
- 11:54 18 the board of directors resolution, dated March 22nd,
- 11:54 19 2016. Now, this is a draft and it's not been executed.
- 11:54 20 Do you recognize this document?
- 11:54 21 A. No.
- 11:54 22 Q. Do you know if this document was ever executed?
- 11:55 23 A. I do not.
- 11:55 24 Q. Do you know if the \$50,000 revolving line of
- 11:55 25 credit, renewing it into an interest-only term loan, was

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11:55 1 ever taken?

11:55 2 A. I do not.

11:55 3 Q. Do you know if the \$500,000 interest-only term

11:55 4 loan with a December 2016 maturity was ever taken?

11:55 5 A. I do not.

11:55 6 Q. Outside of the two loans that are addressed in

11:55 7 this document, do you recall of any loans the NCPA took

11:55 8 in the aftermath of Mr. Galloway's embezzlement?

11:55 9 A. I do not.

11:55 10 Q. Does your answer mean that the NCPA did not

11:55 11 take money out, or does it simply mean that you don't

11:55 12 recall it happening?

11:55 13 A. I do not recall because I resigned from the

11:55 14 board around this time. I do not remember the exact

11:55 15 date, but I do not know about this loan.

11:56 16 Q. You resigned about this time; is that correct?

11:56 17 A. In this time frame. I do not remember the

11:56 18 specific date, but I resigned in the first quarter of

11:56 19 2016, as I remember. I do not remember this loan.

11:56 20 Q. Okay. After the embezzlement --

11:56 21 MR. KENNEDY: I'm sorry. Can we go off the

11:56 22 record for a second? I think he's been expecting some

11:56 23 important calls.

11:56 24 MR. BYNUM: That's fine. We'll take a moment.

25 (Recess from 11:56 a.m. to 12:03 p.m.)

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12:04 1 A. I do not.

12:04 2 Q. Do you know if -- I'm sorry. Because of the

12:04 3 embezzlement and by keeping Mr. West on, was the NCPA

12:04 4 limited in the candidates it could go after because of

12:04 5 the salary restrictions?

12:04 6 A. Not that I know of.

12:04 7 Q. Do you know if any other name was tossed around

12:05 8 besides Mr. Amos's for the position?

12:05 9 A. I do not remember.

12:05 10 Q. Did you have any reservations about Mr. Amos

12:05 11 taking over as CEO?

12:05 12 A. No. I took Mr. Ivy's recommendation seriously,

12:05 13 and Mr. Ivy thought he was a good man.

12:05 14 Q. Do you know if Mr. Amos was involved with

12:05 15 fundraising for the NCPA?

12:05 16 A. I do not. I resigned.

12:05 17 Q. I'm going to try to narrow down the time from

12:05 18 where you resigned and did not. You do not recall

12:05 19 anything regarding Exhibit 13 that was the minutes from

12:05 20 March 22nd, 2016?

12:05 21 A. No.

12:05 22 Q. And were you on the board when Mr. Amos was

12:05 23 voted as the CEO?

12:05 24 A. Yes. Yes.

12:05 25 Q. Do you know as we sit here today, was that your

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12:03 1 Q. (By Mr. Bynum) Can you explain to me why the

12:03 2 board decided to keep Mr. West on at the NCPA after the

12:03 3 embezzlement?

12:03 4 A. No.

12:03 5 Q. Was it ever discussed terminating him

12:03 6 completely from the NCPA?

12:03 7 A. No, not while I was on the board.

12:03 8 Q. Mr. Amos was hired to replace Mr. West; is that

12:03 9 correct?

12:03 10 A. Correct.

12:03 11 Q. Do you know how the board found Mr. Amos?

12:03 12 A. Mr. Amos was recommended by the chairman of the

12:03 13 board, Steve Ivy.

12:03 14 Q. Do you recall if there was a search committee

12:03 15 or anything put together to find Mr. West's replacement?

12:03 16 A. No.

12:04 17 Q. Do you recall the process for hiring Mr. Amos?

12:04 18 A. I know that we all spoke with Mr. Amos, and

12:04 19 Mr. Ivy spoke of Mr. Amos's capacity and qualities, and

12:04 20 I believe that Mr. Ivy has good judgment.

12:04 21 Q. Did you know Mr. Amos prior to his taking over

12:04 22 at the NCPA?

12:04 23 A. I did not.

12:04 24 Q. Do you recall what Mr. Amos's compensation

12:04 25 package was at the NCPA?

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12:06 1 last board meeting?

12:06 2 A. I believe it was.

12:06 3 Q. Is it a fair statement that fundraising

12:06 4 decreased annually from 2014 until you left the board?

12:06 5 A. Yes.

6 (Reporter clarification.)

12:06 7 Q. (By Mr. Bynum) At any time, did the board take

12:06 8 a more active approach with the NCPA's budget?

12:06 9 A. The budget was always discussed at board level.

12:06 10 Q. Did the board approve the budget?

12:06 11 A. I assume they approved a budget.

12:06 12 Q. Did you ever vote to approve a budget while you

12:06 13 were on the board?

12:06 14 A. I don't remember that specifically.

12:06 15 Q. Do you know of any board members specifically

12:06 16 that took an active role in -- that took an active role

12:06 17 in the budget?

12:06 18 A. No.

12:06 19 Q. Now, you came on board with the NCPA in 2014,

12:06 20 just prior to Mr. Goodman's termination; is that

12:06 21 correct?

12:06 22 A. Correct.

12:06 23 Q. Do you recall how many board members were on

12:06 24 the board at that time?

12:06 25 A. I would estimate ten.

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12:07 1 Q. Is it true that a number of the board members
12:07 2 resigned in the three to six months after Mr. Goodman's
12:07 3 termination?
12:07 4 A. Yes.
12:07 5 Q. Do you recall why they resigned?
12:07 6 A. No.
12:07 7 Q. Did you ever specifically speak with any
12:07 8 individuals about their resignations?
12:07 9 A. No.
12:07 10 Q. Why did you stay on after Mr. Goodman's
12:07 11 termination?
12:08 12 A. I attempted to try to right the ship and save
12:08 13 NCPA.
12:08 14 Q. As we sit here today, do you remember any
12:08 15 specific actions that you took to help right the ship
12:08 16 and save the NCPA?
12:08 17 A. You need to restate that.
12:08 18 Q. Did you present any ideas to the board that you
12:08 19 thought would help right the ship, as you said, and save
12:08 20 the NCPA?
12:08 21 A. I don't remember specific ideas.
12:08 22 Q. Do you remember any general ideas?
12:08 23 A. No.
12:08 24 Q. Any general departments that you thought you
12:08 25 could help with?

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12:10 1 Collins began it all.
12:10 2 Q. Do you believe the embezzlement had anything to
12:10 3 do with the downfall of the NCPA?
12:10 4 A. The embezzlement didn't hurt -- didn't help.
12:10 5 Excuse me.
12:10 6 Q. Now, you resigned from the NCPA, correct?
12:10 7 A. Correct.
12:10 8 Q. Nobody asked you leave the board?
12:10 9 A. No.
12:10 10 Q. Do you know if anybody asked Mr. McCuistion to
12:10 11 leave the board?
12:10 12 A. I have no knowledge of that. You'd have to ask
12:10 13 Mr. McCuistion.
12:10 14 Q. I'd like to show you what I've marked as
12:10 15 Exhibit 15.
12:11 16 THE REPORTER: Or 14?
12:11 17 MR. BYNUM: 14. Thank you.
18 (Exhibit 14 marked.)
12:12 19 Q. (By Mr. Bynum) Exhibit 14 is an unexecuted
12:12 20 draft of a confidential settlement agreement, general
12:12 21 release, and covenant not to sue, between John Goodman,
12:12 22 Jerry Mills and the National Center for Policy Analysis.
12:12 23 Do you recognize this document?
12:12 24 A. No.
12:12 25 Q. Have you ever seen a copy of this document?

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12:08 1 A. No.
12:09 2 Q. Were you still on the -- I'm sorry. When you
12:09 3 resigned your position on the board, was Mr. McCuistion
12:09 4 still on the board?
12:09 5 A. Yes.
12:09 6 Q. So you left the NCPA before Mr. McCuistion did?
12:09 7 A. I believe so.
12:09 8 Q. Do you know if he left shortly after you did?
12:09 9 A. I believe he left shortly thereafter.
12:09 10 Q. Do you know why he left?
12:09 11 A. No. You'd have to ask him.
12:09 12 Q. Did you two ever discuss y'all's concerns with
12:09 13 the NCPA and why you each left?
12:09 14 A. I discussed my departure from the board with
12:09 15 Mr. McCuistion.
12:09 16 Q. And I'm sorry, but you never discussed his
12:09 17 departure?
12:09 18 A. I did not.
12:09 19 Q. At the time of your departure, do you believe
12:09 20 the board was as effective as it could have been?
12:09 21 A. I believe the board was as effective as it
12:09 22 could have been under the circumstances, difficulty
12:10 23 brought on by John Goodman, Sherri Collins, Richard
12:10 24 Walker. That was the catalyst that began the downward
12:10 25 spiral of NCPA. Richard Walker, John Goodman, Sherri

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12:12 1 MR. KENNEDY: Objection to form.
12:12 2 A. Not that I remember.
12:12 3 Q. (By Mr. Bynum) Did you ever see an executed
12:12 4 settlement agreement between Mr. Goodman, Mr. Mills and
12:12 5 the NCPA?
12:12 6 A. I never saw an executed agreement. I heard
12:12 7 that there was an executed agreement.
12:13 8 Q. And when you heard of this executed agreement,
12:13 9 was that at a board meeting?
12:13 10 A. Yes.
12:13 11 Q. Do you know why the NCPA agreed to this
12:13 12 settlement?
12:13 13 A. Actually, because the insurance carrier agreed
12:13 14 to it and agreed to pay Mr. Goodman, not the NCPA.
12:13 15 Q. Did the NCPA want to settle this?
12:13 16 A. I have no knowledge of that.
12:13 17 Q. As a board member for the NCPA, did you want to
12:13 18 settle this?
12:14 19 A. Can I speak with my attorney?
12:14 20 Q. That's fine.
12:14 21 MR. KENNEDY: All right. Let's step out.
12:14 22 MR. BYNUM: We'll go off the record.
23 (Recess from 12:14 p.m. to 12:15 p.m.)
12:15 24 MR. KENNEDY: I need to explain that the board
12:15 25 received legal advice concerning what to do. If you're

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12:15 1 asking him what he personally wanted to do and what he
12:15 2 personally thought, that's fine. But to the extent that
12:16 3 he was given legal advice, I don't want the witness
12:16 4 disclosing legal advice.

12:16 5 MR. BYNUM: Okay.

12:16 6 MR. KENNEDY: Okay.

12:16 7 Q. (By Mr. Bynum) Personally, do you believe the
12:16 8 NCPA should've settled this case?

12:16 9 A. I had my own personal feelings about the case,
12:16 10 and from a position of personal opinion, I did not wish
12:16 11 to settle the case. Based on legal advice given to the
12:16 12 board, the board unanimously accepted the settlement,
12:17 13 and because the insurance company paid the settlement,
12:17 14 there was a unanimous vote.

12:17 15 Q. Can you tell me who from the -- I'm sorry. Can
12:17 16 you tell me who represented the NCPA at this mediation?

12:17 17 A. No.

12:17 18 Q. Did you represent the NCPA at this mediation?

12:17 19 A. Absolutely not.

12:17 20 Q. What were Mr. Goodman's causes of action
12:17 21 against the NCPA?

12:17 22 A. I have no recollection, his causes.

12:17 23 Q. Do you know why Mr. Goodman would accuse the
12:17 24 NCPA of libel?

12:17 25 A. No.

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12:19 1 A. No.

12:19 2 Q. Mr. Walker?

12:19 3 A. No.

12:19 4 Q. Did you ever speak to the news, a reporter,
12:19 5 newspaper or any publication about anything involving
12:19 6 the NCPA?

12:19 7 A. I did not.

12:20 8 Q. I'd like to show you what I have marked as
12:20 9 Exhibit 15.

10 (Exhibit 15 marked.)

12:20 11 MR. KENNEDY: For the record, Exhibit 15 is not
12:20 12 to be -- does not appear to be complete. There seems to
12:20 13 be language cut off from one page to another due to the
12:20 14 header.

12:20 15 MR. BYNUM: Okay.

12:20 16 MR. KENNEDY: I don't know if that's going to
12:20 17 be relevant to your questioning or not.

12:23 18 Q. (By Mr. Bynum) Exhibit 15 is an article of D
12:23 19 Magazine titled: How an Office Romance Went Off the
12:23 20 Rails and Brought Down the NCPA's John Goodman. Have
12:23 21 you ever seen this article before?

12:23 22 A. No.

12:23 23 Q. Sitting here and reading it for the first time,
12:23 24 are you aware of -- do you have personal knowledge of
12:23 25 who the source was for this magazine article?

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12:17 1 Q. Do you know why the NCPA would've -- I mean,
12:18 2 I'm sorry, do you know why Mr. Goodman would've accused
12:18 3 the NCPA of slander?

12:18 4 A. No.

12:18 5 Q. As we sit here today, do you recall that libel
12:18 6 and slander were two of the causes of action Mr. Goodman
12:18 7 claimed against the NCPA?

12:18 8 A. No. You're telling me that.

12:18 9 Q. And it's your testimony here today that the
12:18 10 NCPA was instructed to settle this case by the insurance
12:18 11 provider?

12:18 12 A. No. My testimony is that the insurance company
12:18 13 paid the settlement.

12:18 14 Q. And because the NC-- I'm sorry. And because
12:19 15 the insurance provider paid the settlement, the NCPA
12:19 16 settled the claim?

12:19 17 A. No, because of legal advice.

12:19 18 Q. Did you ever speak to any newspaper publication
12:19 19 or reporter --

12:19 20 A. No.

12:19 21 Q. -- about --

12:19 22 A. Sorry.

12:19 23 Q. Sorry. About Mr. Goodman?

12:19 24 A. No.

12:19 25 Q. About Ms. Collins?

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12:23 1 A. I have no knowledge of that.

12:23 2 Q. You weren't the source of the information; were
12:23 3 you?

12:23 4 A. Absolutely not.

12:23 5 Q. Was this kind of articles in publicity, do you
12:23 6 believe that was good for the NCPA?

12:23 7 A. No.

12:23 8 Q. Do you believe this was bad for the NCPA?

12:23 9 A. Yes.

12:24 10 Q. We had briefly talked about, a moment ago, the
12:24 11 settlement with Mr. Goodman. And without asking you
12:24 12 anything that -- legal advice that the board received,
12:24 13 was there any discussion amongst the board members about
12:24 14 fighting the -- like, fighting the lawsuit?

12:24 15 A. I simply do not remember.

12:24 16 Q. But the board voted eventually to accept the
12:24 17 advice and settle the claim?

12:24 18 MR. KENNEDY: Objection to the form.

12:24 19 A. The board voted because the insurance company
12:24 20 paid the settlement, and because of legal advice, the
12:24 21 board voted unanimously to accept the settlement.

12:24 22 Q. (By Mr. Bynum) Do you know the insurance
12:25 23 company's reasons for wanting to accept the settlement?

12:25 24 A. I have no idea.

12:25 25 Q. As we sit here today, you don't recall that

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12:25 1 ever being discussed to the board?
 12:25 2 A. No. You'd need to talk to the insurance
 12:25 3 company.
 12:25 4 Q. By chance, do you know who the insurance
 12:25 5 company was at that time?
 12:25 6 A. I have no clue.
 12:25 7 Q. I'd like to show you Exhibit 16.
 8 (Exhibit 16 marked.)
 12:33 9 Q. (By Mr. Bynum) You've had a chance to review
 12:33 10 Exhibit 16?
 12:33 11 A. Yes.
 12:33 12 Q. Exhibit 16 is Plaintiff's Original Petition in
 12:33 13 a lawsuit filed by the National Center for Policy
 12:33 14 Analysis against Winstead PC and W. Mike Baggett. Have
 12:33 15 you ever seen this document before?
 12:33 16 A. No.
 12:33 17 Q. Do you know when the decision was made by the
 12:33 18 NCPA to file suit against Mr. Baggett and Winstead?
 12:34 19 A. I do not remember the date.
 12:34 20 Q. Do you recall any board meetings in which this
 12:34 21 lawsuit was discussed prior to filing it?
 12:34 22 A. Yes.
 12:34 23 Q. Why did the board decide to file a lawsuit
 12:34 24 against Winstead and Mr. Baggett?
 12:34 25 MR. KENNEDY: To the extent that the question

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12:35 1 direct and proximate cause of the Baggett/Winstead
 12:36 2 cover-up, the NCPA lost at least \$2 million in
 12:36 3 fundraising. Do you know how that number was
 12:36 4 determined?
 12:36 5 A. I do not.
 12:36 6 Q. Were you involved in any calculations to
 12:36 7 determine how much --
 12:36 8 A. No.
 12:36 9 Q. -- was lost in fundraising?
 12:36 10 Paragraph 79 states that: As a direct and
 12:36 11 proximate cause of the Baggett/Winstead cover-up, the
 12:36 12 NCPA suffered injury to its reputation due to
 12:36 13 unfavorable press. Do you believe that the NCPA
 12:36 14 suffered injury to its reputation due to the unfavorable
 12:36 15 press?
 12:36 16 A. That's what this lawsuit states.
 12:36 17 Q. I understand that. But do you believe the NCPA
 12:36 18 suffered injury to its reputation?
 12:36 19 A. Yes.
 12:36 20 Q. What type of unfavorable press led to that
 12:36 21 injury?
 12:36 22 A. The press that you -- the unfavorable press
 12:37 23 that you have given me in exhibits.
 12:37 24 Q. So the exhibits that we spoke of earlier --
 12:37 25 I'll show them to you here real quick. Exhibit 4, the D

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12:34 1 calls for you to give legal -- to disclose legal advice
 12:34 2 from counsel, you should not answer by disclosing the
 12:34 3 legal advice. To the extent you can answer without
 12:34 4 disclosing legal advice, you should do so.
 12:34 5 A. So you want to rephrase the question where I
 12:34 6 can answer it properly?
 12:34 7 Q. (By Mr. Bynum) Why did the board decide to file
 12:34 8 lawsuit against Winstead and Mr. Baggett?
 12:34 9 MR. KENNEDY: Same objection.
 12:34 10 A. On counsel advice that NCPA should file this
 12:35 11 lawsuit.
 12:35 12 Q. (By Mr. Bynum) Do you know who brought the idea
 12:35 13 to file this lawsuit before the board?
 12:35 14 A. I do not.
 12:35 15 Q. Did you bring the idea before the board?
 12:35 16 A. No.
 12:35 17 Q. Was the entire board -- was the entire board
 12:35 18 involved in this decision to file this lawsuit?
 12:35 19 MR. KENNEDY: Objection to the form.
 12:35 20 A. I believe, yes.
 12:35 21 Q. (By Mr. Bynum) Was the decision to file this
 12:35 22 lawsuit put to a vote at a board member -- at a board
 12:35 23 meeting?
 12:35 24 A. I do not remember that.
 12:35 25 Q. In Paragraph 78 on Page 10, it states: As a

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12:37 1 Magazine article; Exhibit 5, the Dallas News article;
 12:37 2 Exhibit 6, the D Magazine article; Exhibit 7, the Dallas
 12:37 3 News article; and Exhibit 8, the Washington Post
 12:37 4 article. Are these examples of the kind of unfavorable
 12:37 5 press?
 12:37 6 A. Yes.
 12:37 7 Q. Were all of these articles published after the
 12:37 8 NCPA released both its first press release involving the
 12:37 9 termination of Mr. Goodman and the second press release
 12:37 10 that -- excuse me, I want to get the language right --
 12:37 11 clarified Mr. Goodman's dismissal?
 12:37 12 A. You would have to look at the chronology. I
 12:37 13 cannot comment on the chronology of the time that
 12:38 14 they -- the reports were issued versus the time that
 12:38 15 the press release was issued.
 12:38 16 Q. Okay. The press release was issued on June
 12:38 17 the 13th, 2014.
 12:38 18 A. June the 13th. Okay.
 12:38 19 Q. Actually, I'm sorry, both press releases were.
 12:38 20 So any articles after June the 13th -- I'm sorry.
 12:38 21 Strike that. Let me ask this question again.
 12:38 22 So the articles published after June the 13th,
 12:38 23 would that be because of the press releases?
 12:38 24 A. Not necessarily.
 12:38 25 Q. Do you know how else those are -- what else

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12:38 1 would've led to those article beings published?
12:38 2 A. I do not know.
12:39 3 Q. Now, I've given five examples in exhibits today
12:39 4 of this -- the type of press coverage. Do you know if
12:39 5 there are any other articles out there?
12:39 6 A. I do not.
12:39 7 Q. Do you recall reading any other articles?
12:39 8 A. No.
12:39 9 Q. Do you know if Ms. Spaeth was involved in
12:39 10 preparation of this lawsuit?
12:39 11 A. No, I do not know.
12:39 12 Q. How involved were you in preparing this
12:39 13 lawsuit?
12:39 14 A. I was not involved.
12:39 15 Q. Do you believe that there was any benefit to
12:39 16 the NCPA in any press that was released because of this
12:40 17 lawsuit?
12:40 18 MR. KENNEDY: I object to the form. Go ahead.
12:40 19 Q. (By Mr. Bynum) I'd like to show you
12:40 20 Exhibit 19 -- I'm sorry, Exhibit 17.
21 (Exhibit 17 marked.)
12:40 22 A. I can put this up?
12:40 23 Q. (By Mr. Bynum) Yes.
12:42 24 Exhibit 17, you've had a chance to review?
12:42 25 A. This?

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12:45 1 A. I can't judge that.
12:45 2 Q. Do you believe it was unfavorable for the NCPA
12:45 3 for all of this to be brought back out into the press?
12:45 4 A. Not necessar- -- not necessarily, because it
12:45 5 helped us get a settlement from Winstead.
12:45 6 Q. Did it help the NCPA in any other ways?
12:46 7 A. I couldn't tell you.
12:46 8 Q. Do you know if fundraising increased after the
12:46 9 release of those articles?
12:46 10 A. I do not know.
12:46 11 Q. Do you know if fundraising ever got back to the
12:46 12 level that it was before Mr. Goodman was terminated?
12:46 13 A. No, it did not.
12:46 14 Q. When did you find out that the lawsuit had been
12:46 15 filed?
12:46 16 A. That the Winstead lawsuit --
12:46 17 Q. Yes.
12:46 18 A. -- had been filed? I do not remember the exact
12:46 19 date.
12:46 20 Q. Do you recall if you knew that it was going to
12:46 21 be filed before it was filed?
12:46 22 A. Yes.
12:46 23 Q. So it was discussed at a board meeting in
12:46 24 advance that the NCPA was going to take this action?
12:46 25 A. Yes.

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12:42 1 Q. Yes.
12:42 2 A. Yes.
12:42 3 Q. And this is an article from the Dallas Morning
12:42 4 News titled: Dallas think tank sues law firm over
12:42 5 ex-CEO scandal. Have you ever seen this article before?
12:42 6 A. No. I've seen it online.
12:42 7 Q. Have you read it before?
12:42 8 A. I've read it online.
12:42 9 Q. I'd also like to show you what we have marked
12:42 10 as Exhibit 18.
11 (Exhibit 18 marked.)
12:44 12 A. Here's two copies of this.
12:44 13 Q. (By Mr. Bynum) Exhibit 18 is a D Magazine
12:44 14 article titled: Million-dollar Lawsuit Rips Winstead
12:45 15 Advice in NCPA Sex Scandal. Have you ever seen this
12:45 16 article before today?
12:45 17 A. No.
12:45 18 Q. Now, Exhibit 17 and Exhibit 18 are articles
12:45 19 related to the lawsuit the NCPA filed against Winstead
12:45 20 and Mr. Baggett; is that correct?
12:45 21 A. Correct.
12:45 22 Q. Do you believe that it was good press for the
12:45 23 NCPA that these articles were out there?
12:45 24 A. Good press for the NCPA?
12:45 25 Q. Yes.

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12:47 1 Q. Now, you had recommended -- I'm sorry. You
12:47 2 were one of the board members that recommended Dennis
12:47 3 McCuiston come on as the interim CEO at the NCPA; is
12:47 4 that correct?
12:47 5 A. I was one of the board members, yes.
12:47 6 Q. Do you know if he maintained responsibilities
12:47 7 for the Foundation for Responsible Television while he
12:47 8 was with the NCPA?
12:47 9 A. I do not know. I believe he did.
12:47 10 Q. And do you know if he continued teaching
12:47 11 classes at the University of Texas at Dallas while he
12:47 12 was with the NCPA?
12:47 13 A. I do not know, but I believe he did. He may
12:47 14 have taken a sabbatical. I just don't remember.
12:47 15 Q. Do you believe that either one of these
12:47 16 would've interfered with his responsibilities with the
12:48 17 NCPA?
12:48 18 A. No.
12:48 19 Q. You were still on the board in January of 2015;
12:48 20 is that correct?
12:48 21 A. Yes.
12:48 22 Q. This would've been -- this board meeting that
12:48 23 I'm about to discuss would've been right after Allen
12:48 24 West officially took over as the CEO.
12:48 25 A. Okay.

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12:48 1 Q. I'd like to show you what we have marked as
12:48 2 Exhibit 19.
3 (Exhibit 19 marked.)
12:48 4 A. I can put these up?
12:48 5 Q. (By Mr. Bynum) Yes.
12:49 6 Exhibit 19 is a document of the minutes of the
12:50 7 NCPA board meeting January 13th, 2015. Have you ever
12:50 8 seen a copy of these minutes?
12:50 9 A. No.
12:50 10 Q. Quick question. At the NCPA board meetings,
12:50 11 were the members ever provided copies of the minutes
12:50 12 that they attended?
12:50 13 A. Prior minutes?
12:50 14 Q. Yes. I'm sorry, let me rephrase. Let me ask a
12:50 15 better question. If you went to a meeting in January of
12:50 16 2015 of the board for the NCPA, once those meetings --
12:50 17 once those minutes were typed up and approved, would you
12:50 18 later receive a copy of those minutes?
12:50 19 A. I believe I would.
12:50 20 Q. Would you have to request those or would those
12:50 21 just be sent to you?
12:50 22 A. I simply don't remember.
12:50 23 Q. Did you ever keep any of the minutes from the
12:50 24 meetings that you --
12:50 25 A. No, I left them with NCPA.

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12:51 1 Mr. McCuistion about these allegations?
12:52 2 A. I do not remember talking about this.
12:52 3 Q. Do you recall how any of these allegations
12:52 4 might've been resolved?
12:52 5 A. No.
12:52 6 Q. Do you recall if you spoke to any of the three
12:52 7 NCPA employees about these allegations?
12:52 8 A. No.
12:52 9 Q. Do you remember having conversations with any
12:52 10 other members on the board about these allegations?
12:52 11 A. No.
12:52 12 Q. Do you know if Mr. McCuistion left the NCPA
12:52 13 because of these allegations?
12:52 14 A. No, I do not know that.
12:52 15 Q. Outside of these -- this paragraph and these
12:52 16 minutes, do you know of anything else the NCPA did
12:52 17 regarding the allegations made against former CEO Dennis
12:52 18 McCuistion?
12:52 19 A. No.
12:52 20 Q. You're not saying they weren't investigated.
12:52 21 You're saying you don't recall --
12:52 22 A. I don't recall.
12:52 23 Q. -- them being investigated?
12:52 24 A. That is correct.
12:52 25 Q. Would you have been a part of the

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12:51 1 Q. Okay. You left the document with --
12:51 2 A. I left all the documents at the NCPA, for their
12:51 3 files.
12:51 4 Q. Okay. Now, going back to Exhibit 19. This is
12:51 5 a meeting that you were in attendance at, states here in
12:51 6 the first paragraph.
12:51 7 A. Yeah.
12:51 8 Q. Also, any meeting -- any member that was in
12:51 9 attendance at the meeting would be identified in the
12:51 10 minutes, correct?
12:51 11 A. I would think so, yes.
12:51 12 Q. In the second paragraph, it states: A
12:51 13 discussion was held about allegations by three NCPA
12:51 14 employees against former CEO Dennis McCuistion. Do you
12:51 15 see that?
12:51 16 A. Yes.
12:51 17 Q. Do you recall these allegations?
12:51 18 A. I do not recall the allegations.
12:51 19 Q. Do you recall how the board would've handled
12:51 20 these allegations?
12:51 21 A. I do not.
12:51 22 Q. Do you know if an investigation was made into
12:51 23 these allegations?
12:51 24 A. No, I do not.
12:51 25 Q. Do you remember ever speaking with

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12:52 1 investigation?
12:52 2 A. No.
12:53 3 Q. I'd like to show you what I have marked as
12:53 4 Exhibit 20.
5 (Exhibit 20 marked.)
12:53 6 MR. BYNUM: Can we go off the record for just a
12:53 7 second?
8 (Discussion off the record.)
12:55 9 MR. BYNUM: Let's go back on the record.
12:57 10 Q. (By Mr. Bynum) Have you had a chance to review
12:57 11 Exhibit 20?
12:57 12 A. Yes.
12:57 13 Q. Exhibit 20 is minutes of a telephonic executive
12:57 14 committee meeting, dated August 12th, 2014; is that
12:57 15 correct?
12:57 16 A. Yes.
12:57 17 Q. Now, were you on the executive committee
12:58 18 meeting?
12:58 19 A. If I was on this meeting, I guess I was
12:58 20 considered executive committee.
12:58 21 Q. I don't see your name in the first paragraph,
12:58 22 so I didn't know if you were --
12:58 23 A. Well, wait a minute. Let me see. Well, then I
12:58 24 wasn't. I mean, I wouldn't assume that I was, but I --
12:58 25 who knows.

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12:58 1 Q. Okay.
12:58 2 A. I'm not -- I do not remember being a member of
12:58 3 the executive committee, quote/unquote.
12:58 4 Q. Underneath the second paragraph, there's some
12:58 5 numbered paragraphs.
12:58 6 A. Yeah.
12:58 7 Q. So No. 3?
12:58 8 A. 1, 2, 3, 4, 5?
12:58 9 Q. Yes. No. 3 --
12:58 10 A. Uh-huh.
12:58 11 Q. -- it says: He discussed the conflict between
12:58 12 Dennis and Tonya Featherstone and his opinion that
12:58 13 losing Tonya would hurt funding efforts. "He," based on
12:58 14 this document, is Jerry Mills; would you agree with
12:59 15 that?
12:59 16 A. Yes.
12:59 17 Q. Do you know what conflict between Dennis and
12:59 18 Tonya Featherstone he was referring to?
12:59 19 A. No.
12:59 20 Q. Do you know who Tonya Featherstone was?
12:59 21 A. My recollection is she was perhaps the
12:59 22 development person.
12:59 23 Q. So if Tonya was the development person, and at
12:59 24 this point after Mr. Goodman had been terminated, a lot
12:59 25 of the responsibilities of fundraising would be on her

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01:01 1 Q. Now, this had referenced a -- I'm sorry.
01:01 2 Exhibit 20 had referenced an executive committee
01:01 3 meeting. Did the board at the NCPA have different
01:01 4 committees?
01:01 5 A. I don't remember, but ...
01:01 6 Q. So you wouldn't remember any committees that
01:01 7 you were on?
01:01 8 A. No.
01:01 9 Q. Can you recall attending most of the meetings
01:01 10 while you were on the board?
01:01 11 A. Most, yes.
01:01 12 Q. If you couldn't make it personally, did you try
01:01 13 to make it by telephone?
01:01 14 A. Yes.
01:02 15 Q. Can you explain restricted funds to me?
01:02 16 A. From donors?
01:02 17 Q. Yes.
01:02 18 A. I believe restricted funds refers to a donor --
01:02 19 a donor mandating a certain purpose for his fund
01:02 20 donation, his or her.
01:02 21 Q. And were those funds only to be used for that
01:02 22 purpose?
01:02 23 A. Yes.
01:02 24 Q. I'd like to show you Exhibit 21.
01:02 25 (Exhibit 21 marked.)

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12:59 1 plate; is that correct?
12:59 2 A. If she was indeed the development person. I
12:59 3 may have another person confused with her, but I believe
12:59 4 she was the development person.
12:59 5 Q. And you don't know the conflict that Mr. Mills
12:59 6 is referring to?
01:00 7 A. I do not.
01:00 8 Q. Do you know what resulted with Tonya and
01:00 9 Dennis?
01:00 10 A. No.
01:00 11 Q. Do you know if she stayed at the NCPA?
01:00 12 A. I know she ultimately was no longer with NCA --
01:00 13 NCPA, but I do not know the circumstances of that.
01:00 14 Q. If she was the person in the development
01:00 15 department and both her -- sorry, and both her and
01:00 16 Mr. Goodman were no longer with the NCPA, can you tell
01:00 17 me today who was responsible for fundraising at that
01:00 18 time?
01:00 19 MR. KENNEDY: Objection to form.
01:00 20 A. Well, at that time, it was Tonya Featherstone.
01:00 21 Q. (By Mr. Bynum) After Tonya left, who was
01:00 22 responsible for fundraising?
01:00 23 A. We recruited another -- a development person
01:00 24 who had previously worked for the NCPA, shortly after
01:00 25 Tonya's departure.

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01:03 1 Q. (By Mr. Bynum) I will tell you right now, as
01:03 2 you're reviewing that, that Exhibit 21 is an email dated
01:03 3 November 16th, 2016, and I understand that you were no
01:03 4 longer on the board at that time.
01:03 5 A. Yeah, exactly.
01:03 6 Q. Okay. But if you will review it, I have a
01:03 7 question.
01:03 8 A. Okay.
01:03 9 Q. Exhibit 21 is an email from Jim Amos to Harry
01:03 10 Jones. In the sub- -- in the text of this email, it
01:03 11 states: I cannot make payroll at this time.
01:03 12 Prior to you leaving the board at the NCPA, had
01:04 13 the NCPA had any issues with payroll?
01:04 14 A. I do not remember any issues with payroll.
01:04 15 Q. Do you know if there were any meetings
01:04 16 discussing the threat of not being able to make a
01:04 17 payroll while you were a member of the board?
01:04 18 A. I had no meeting.
01:04 19 Q. I'd like to show you what I have marked as
01:04 20 Exhibit 22.
01:04 21 (Exhibit 22 marked.)
01:06 22 Q. (By Mr. Bynum) Exhibit 22 is Plaintiff's
01:06 23 Original Petition filed by Richard Walker against the
01:06 24 National Center for Policy Analysis. And, again, this
01:06 25 document was filed on May 5th, 2016, and it's my

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01:06 1 understanding, based on your testimony here today, you
01:06 2 were no longer on the board at that time.
01:06 3 A. I was no longer on the board.
01:06 4 Q. Bringing this up because the facts of this
01:06 5 case, on Paragraph 7, Page 2, states that Walker had a
01:06 6 number of claims against the NCPA, and the parties
01:06 7 settled these disputes in a mediation conducted in
01:06 8 December of 2014. You weren't on the board in 2014; is
01:06 9 that correct?
01:06 10 A. [Witness nods.]
01:06 11 Q. Do you recall Mr. Walker's claims against the
01:06 12 NCPA?
01:06 13 A. At that time? No. A dispute, no.
01:06 14 Q. Do you recall a mediation and a settlement with
01:06 15 Mr. Walker in December of 2014?
01:06 16 A. I do not recall a settlement. I simply recall
01:07 17 an agreement to pay him a retirement package. I don't
01:07 18 know if you call that a settlement or not.
01:07 19 Q. According to Paragraph 7 here, it says, as part
01:07 20 of the process, a confidential settlement agreement was
01:07 21 executed by NCPA and Walker. Under the terms of that
01:07 22 contract, the NCPA was to pay Mr. Walker \$2,760.42 twice
01:07 23 a month for 48 months. Do you recall those terms?
01:07 24 A. I recall them.
01:07 25 Q. Was that proposal brought towards -- was it

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01:09 1 A. I'm not sure.
01:09 2 Q. Okay.
01:09 3 A. I don't think so, but I'm just simply not sure.
01:09 4 Q. Now, I just want to clarify, because you were
01:09 5 never at a board meeting in which the decision to reduce
01:09 6 Mr. Walker's payments was discussed?
01:09 7 A. Is that with Jim Amos? Was he on ...
01:09 8 Q. I'm sorry. The time frame's a little off
01:09 9 because you remember leaving in early 2016 --
01:09 10 A. Yes.
01:09 11 Q. -- but not quite exactly when in 2016.
01:09 12 A. First quarter.
01:09 13 Q. Well, this was in March 31st of 2016.
01:09 14 A. I don't believe I was on the board then.
01:09 15 Q. Okay. And I understand that. I'm just going
01:10 16 to clarify with another question. You don't recall
01:10 17 being at a meeting in which Mr. Walker's payments being
01:10 18 reduced was discussed?
01:10 19 A. No.
01:10 20 MR. BYNUM: Okay. We can go off the record.
01:10 21 (Recess from 1:10 p.m. to 1:20 p.m.)
01:20 22 Q. (By Mr. Bynum) Couple of follow-up questions.
01:20 23 At the first part of the deposition, you had testified
01:20 24 that you left the board out of general frustration; is
01:20 25 that correct?

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01:07 1 brought in front of the board?
01:07 2 A. My recollection, yes.
01:07 3 Q. And did the board vote to approve those terms?
01:07 4 A. I believe they did.
01:07 5 Q. Was anybody else besides the NCPA and
01:07 6 Mr. Walker involved in these discussions?
01:07 7 A. I have no knowledge or recollection of anyone
01:07 8 else.
01:07 9 Q. Do you remem- -- do you recall if an insurance
01:08 10 carrier was involved in these discussions?
01:08 11 A. I do not recall.
01:08 12 Q. Do you know why the NCPA decided to
01:08 13 unilaterally reduce those payments to Mr. Walker?
01:08 14 A. I do not.
01:08 15 Q. This apparently happened in March of 2016. Do
01:08 16 you recall if you were still on the board in 2000- --
01:08 17 A. I don't believe I was on the board.
01:08 18 Q. Who was all still on the board when you left?
01:08 19 A. Steve Ivy, Dennis McCuistion. I assume it was
01:08 20 Jim Amos. Perhaps Larry Wedekind, W-I-D-E-K-I-N-D
01:08 21 [sic].
01:09 22 Q. Do you know if Mr. Whalen was still on the
01:09 23 board?
01:09 24 A. What date?
01:09 25 Q. March 2000- -- when you left.

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01:20 1 A. Correct.
01:20 2 Q. But you also testified that you believed the
01:20 3 board was effective when you left. Can you explain to
01:20 4 me what frustrations you had with the board? Or, I'm
01:20 5 sorry, can you explain what frustrations led to you
01:20 6 leaving the board?
01:20 7 A. The final nail in the coffin was the fraud.
01:20 8 Q. Do you believe the NCPA could recover from the
01:20 9 embezzlement?
01:20 10 A. Did I believe they could recover?
01:20 11 Q. Yes.
01:20 12 A. I had no -- at the time, I had no knowledge
01:20 13 whether they could recover or not.
01:20 14 Q. But you thought --
01:20 15 A. Perhaps. I mean, it's a possibility.
01:21 16 Q. But you felt that -- but you felt that was the
01:21 17 final nail in the coffin, as you said?
01:21 18 A. No, the final nail in the coffin for me
01:21 19 personally.
01:21 20 Q. Okay.
01:21 21 A. Not the firm.
01:21 22 Q. You'd also stated that your understanding of
01:21 23 the responsibilities of a board member was to help
01:21 24 fundraise and be a participating member. Do you recall
01:21 25 that?

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- 01:21 1 A. Yeah.
- 01:21 2 Q. As we sit here today, can you give me the names
01:21 3 of any board members that were actively involved in
01:21 4 fundraising for the NCPA?
- 01:21 5 A. I have no knowledge of that. Let me restate
01:21 6 that. It should be support fundraising, not actually
01:21 7 fundraise themselves.
- 01:21 8 Q. And in your mind, what does support fundraising
01:21 9 mean?
- 01:21 10 A. Hire the right people to fundraise and support
01:21 11 the fundraising effort.
- 01:21 12 Q. So the board's responsible for hiring the
01:21 13 fundraisers that then raise the money for the NCPA?
- 01:22 14 A. Yes.
- 01:22 15 Q. Do you recall who are the more active members
01:22 16 on the board?
- 01:22 17 A. The board was small after the Goodman incident,
01:22 18 and all members were relatively active.
- 01:22 19 Q. As we sit here today, can you recall the names
01:22 20 of any members that might've been absentee members, they
01:23 21 just kept the title of board member but they never
01:23 22 attended any meetings?
- 01:23 23 A. No.
- 01:23 24 Q. Do you recall who replaced Mr. Galloway?
- 01:23 25 A. Mr. who?

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- 01:24 1 A. Yes.
- 01:24 2 Q. Can you be more specific on this malfeasance
01:24 3 that you're referring to?
- 01:24 4 A. Yeah, two things. Number one, he failed in his
01:24 5 duty to inform the board of the now 2012 sexual
01:24 6 misconduct with John Goodman and Sherri Collins, and he
01:25 7 failed to disclose to the board the 2014 repeated sexual
01:25 8 misconduct of Mr. Goodman and Sherri Collins. He had a
01:25 9 duty to inform the board.
- 01:25 10 Number two, I have learned that he erased and
01:25 11 destroyed his email traffic for a certain period of time
01:25 12 that involved communications about Mr. Goodman and
01:25 13 Sherri Collins and the new contract that was awarded to
01:25 14 her in settlement of her grievance against NCPA. So if
01:26 15 he destroyed information and failed to inform the board,
01:26 16 that's malfeasance to me.
- 01:26 17 Q. One of the exhibits marked today was the
01:26 18 Exhibit 22, the Plaintiff's Original Petition, Richard
01:26 19 Walker vs. National Center for Policy Analysis. If you
01:26 20 could please direct your attention to Exhibit 22.
- 01:26 21 A. Yes.
- 01:27 22 Q. And if you would direct your attention to
01:27 23 Page 2, Paragraph 7, it says: Out of that maelstrom,
01:27 24 Walker had a number of claims against NCPA. The
01:27 25 parties, however, settled these disputes in a mediation

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- 01:23 1 Q. Mr. Galloway, Josh Galloway.
- 01:23 2 A. I have -- no, I have no recollection of that.
- 01:23 3 Q. Do you know if he was replaced prior to you
01:23 4 leaving the board?
- 01:23 5 A. I do not know because I resigned shortly
01:23 6 thereafter.
- 01:23 7 Q. Throughout the course of the deposition, we've
01:23 8 discussed the allegations made against Mr. Goodman which
01:23 9 resulted in his termination, correct?
- 01:23 10 A. Yes.
- 01:23 11 Q. I've also asked you about allegations made
01:23 12 against Mr. West and allegations made against
01:23 13 Mr. McCuiston?
- 01:24 14 A. Yes.
- 01:24 15 Q. But your testimony today says that the only
01:24 16 allegations that were formally investigated by the board
01:24 17 were those made against Mr. Goodman; is that correct?
- 01:24 18 A. That's correct, because I believe the other
01:24 19 allegations were false.
- 01:24 20 MR. BYNUM: I'll pass the witness.
- 21 EXAMINATION
- 01:24 22 BY MR. KENNEDY:
- 01:24 23 Q. Mr. Gross, I just have a couple of questions
01:24 24 for you. You mentioned some malfeasance, so to speak,
01:24 25 by Mr. Walker?

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- 01:27 1 conducted in December of 2014. As part of that process,
01:27 2 a confidential settlement agreement contract was
01:27 3 executed by NCPA and Walker.
- 01:27 4 Do you see that?
- 01:27 5 A. Yes.
- 01:27 6 Q. Did you learn about Walker's malfeasance before
01:27 7 or after this contract between NCPA and Walker?
- 01:28 8 A. I learned of his malfeasance of not informing
01:28 9 the board before, and I learned of the erasure of the
01:28 10 email trails regarding that situation afterwards, I
01:28 11 believe.
- 01:28 12 Q. Okay. How certain are you that you knew of the
01:28 13 malfeasance regarding his knowledge before? How certain
01:28 14 are you of that? Could you be wrong?
- 01:28 15 A. I am confident -- oh, because he had a
01:29 16 conversation with the lawyer from Winstead, and that
01:29 17 lawyer instructed him not to tell the board.
- 01:29 18 Q. Okay. The emails that were destroyed by him,
01:29 19 do you know if they were ever recovered?
- 01:29 20 A. Yes, they've been recovered, because there was
01:29 21 a backup.
- 01:29 22 Q. So, in fact, sir, do you know when -- were the
01:29 23 emails recovered before or after this December 2014
01:29 24 agreement?
- 01:29 25 A. I believe they were discovered after December

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February 22, 2019

CAUSE NO. DC-16-05388

FISCAL SOLUTIONS, LLC as) IN THE DISTRICT COURT
assignee of RICHARD W.)
WALKER,)
)
Plaintiff,)
)
v.) 298th JUDICIAL DISTRICT
)
)
NATIONAL CENTER FOR POLICY)
ANALYSIS,)
)
Defendant.) DALLAS COUNTY, TEXAS

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF WILLIAM DUDLEY GROSS
FEBRUARY 22, 2019

I, Adrienne Harris, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, WILLIAM DUDLEY GROSS, was
duly sworn and that the transcript of the deposition is
a true record of the testimony given by the witness;

That the deposition transcript was duly
submitted on _____ to Mr. Stephen A.
Kennedy, the attorney for the witness/Defendant, for
examination, signature, and return to me by
_____.

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Further certification requirements pursuant
to Rule 203 of the Texas Code of Civil Procedure will be
complied with after they have occurred.

Certified to by me on this ____ day of

_____, _____.

ADRIANNE HARRIS, CSR
CSR Certificate No. 7967
Expiration Date: 12-31-19
Julia Whaley & Associates
Firm Registration No. 436
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
(214)668-5578/Fax: (972)236-6666

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That pursuant to information given to the
deposition officer at the time said testimony was taken,
the following includes all parties of record and the
amount of time used by each party at the time of the
deposition:

Mr. Douglas L. Bynum (02h52m)
Mr. Stephen A. Kennedy (00h08m)

FOR PLAINTIFF:

Mr. Douglas L. Bynum
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I further certify that I am neither counsel
for, related to, nor employed by any of the parties in
the action in which this proceeding was taken, and
further that I am not financially or otherwise
interested in the outcome of this action.

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Oral Deposition - William Dudley Gross
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FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was/was not returned
to the deposition officer on _____.

If returned, the attached Changes and
Signature page(s) contain(s) any changes and the reasons
therefor.

If returned, the original deposition was
delivered to Mr. Douglas L. Bynum, Custodial Attorney.

\$_____ is the deposition officer's
charges to the Plaintiff for preparing the original
deposition transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this ____ day of

_____, _____.

ADRIANNE HARRIS, CSR
CSR Certificate No. 7967
Expiration Date: 12-31-19
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CAUSE NO. DC-16-05388

1 RICHARD W. WALKER + IN THE DISTRICT COURT
 2 Plaintiff, +
 3 +
 4 VS. + 298TH JUDICIAL DISTRICT
 5 NATIONAL CENTER FOR POLICY -
 6 ANALYSIS +
 7 Defendant. * DALLAS COUNTY, TEXAS

 ORAL AND VIDEOTAPED DEPOSITION OF
 REAGAN STEWART
 DECEMBER 21, 2017

CERTIFIED COPY

ORAL AND VIDEOTAPED DEPOSITION OF REAGAN STEWART, a witness produced at the instance of the Plaintiff, was taken in the above-styled and -numbered cause on the 21st day of December, 2017, from 1:48 p.m. to 2:56 p.m., before Brooke Barr, CSR in and for the State of Texas, reported by machine shorthand, at The Law Offices of Thomas E. Shaw, PC, 9304 Forest Lane, Suite 252, North Building, Dallas, Texas 75243, pursuant to the Texas Rules of Civil Procedure and any provisions stated on the record or attached hereto.

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Also present:
 Richard W. Walker, Plaintiff
 James Amos, Jr., Defendant Representative
 Kevin Slayter, Videographer

THE VIDEOGRAPHER: Video is rolling.
 We're on the record at 1:48.
 (Brief interruption.)
 (Witness sworn.)
 THE REPORTER: Thank you.
 Counsel, we are on the record.
 (Exhibits 1 through 15 premarked.)
 REAGAN STEWART,
 having been first duly sworn, testified as follows:
 EXAMINATION
 BY MR. DEWOLF:
 Q. Would you state your name for the record,
 sir.
 A. Reagan Stewart.
 Q. Okay. Mr. Stewart, my name is Steve DeWolf.
 You understand I represent Richard Walker in
 connection with this post judgment deposition.
 You heard me for the last two witnesses
 give the rules of engagement. Are you comfortable
 with using those?
 A. Yes, sir.
 Q. You understand perjury and all that stuff?
 A. Yes, sir.
 Q. Have you talked to anyone in preparing for
 your deposition?

1 A. Very briefly with Mr. Shaw.
 2 Q. Other than that?
 3 A. None.
 4 Q. Any documents reviewed?
 5 A. I helped, some, in terms of the document
 6 production that has been sent to you. But reviewing
 7 any documents for this deposition, no.
 8 Q. Have you given a deposition or testified in a
 9 court of law before?
 10 A. Yes, I have.
 11 Q. How many times?
 12 A. Several.
 13 Q. Give me a number.
 14 A. 40, 50.
 15 Q. It did not look like it was your first rodeo.
 16 A. No, sir.
 17 Q. So -- and is that just in terms of doing what
 18 you do that it is not unusual for you to be called in
 19 to give a deposition?
 20 A. That -- that is correct. Many times in -- in
 21 bankruptcies and insolvencies, restructurings, where
 22 things have gone awry --
 23 Q. Okay.
 24 A. -- depositions and court testimony is very
 25 common.

1 A. Dallas 75205.
 2 Q. Tell me where you were born and raised.
 3 A. Winnfield, Louisiana.
 4 Q. Where did you go to college?
 5 A. Louisiana State University.
 6 Q. And after going to LSU -- when did you
 7 graduate?
 8 A. Undergraduate in '81, graduate school in '82.
 9 Q. What was your -- I assume it was an MBA in
 10 '82?
 11 A. A master's in finance.
 12 Q. Master's in finance.
 13 A. Yes.
 14 Q. Okay. Give me a brief -- I have read the
 15 Clarion website, so I know a little bit about your
 16 background.
 17 But why don't you give me the overview of
 18 your background?
 19 A. Came to Dallas in '83. Worked for what was,
 20 at that point in time, the Mercantile National Bank.
 21 I was a corporate lending officer there.
 22 The bank went -- it -- Mercantile went to
 23 MBank, it failed in '89. And when it was bought by
 24 Bank One, I left then --
 25 (Sotto voce discussion.)

1 Q. All right. Have you ever personally been a
 2 defendant or a plaintiff in a case?
 3 A. I have not.
 4 Q. Have you been convicted of a crime in the
 5 last ten years?
 6 A. No, sir.
 7 Q. Are you being represented individually or in
 8 your capacity as the dissolution officer for -- by
 9 Mr. Shaw?
 10 A. I am not.
 11 Q. Well, let's -- that was a poor question. Let
 12 me try it again.
 13 A. Okay.
 14 Q. Is Mr. Shaw representing you as the
 15 dissolution officer of the NCPA?
 16 A. He is representing NCPA and I am a
 17 participant as being the dissolution officer.
 18 Q. Okay. Is he also representing you
 19 individually in this deposition?
 20 A. We have not contracted for -- for that.
 21 Q. All right. Now, give me a current -- and
 22 work address is fine -- a current work address where
 23 you may be found.
 24 A. 4809 Cole Avenue, Suite 108.
 25 Q. Okay.

1 A. -- to go into the corporate finance group at
 2 Arthur Andersen. But there, I principally worked on
 3 bankruptcies, debt or equity exchange, turnarounds,
 4 restructurings, interim management, and companies that
 5 were underperforming to some degree.
 6 I left there and went with a -- a telecom
 7 roll-up that ran into its own issues of over-leverage
 8 in a telecom bust. So that lasted a year and a half
 9 or so.
 10 And then I've been on my own as a chief
 11 restructuring officer, interim CFO and financial
 12 consultant to small businesses -- small-to-medium-
 13 sized businesses for the past 17 years.
 14 Q. Okay. And tell me, as a -- interim CEO --
 15 A. CFO.
 16 Q. -- sorry, CFO, what are the typical size of
 17 those companies?
 18 A. Generally, anywhere -- this is a very broad
 19 range. Generally, anywhere from 50 to 500 million a
 20 year in revenue.
 21 Q. All right. And based on your experience,
 22 training, and education, would you consider yourself
 23 an expert in terms of the internal controls of -- and
 24 financial controls a company of that size should have?
 25 A. I'm certainly --

MR. SHAW: Object to form.

A. -- Very familiar with it.

MR. SHAW: Object to the form.

Q. (BY MR. DEWOLF) Okay. Now, and have you in the course of your job responsibilities as the dissolution officer for NCPA, reviewed what internal controls and financial oversight existed at NCPA for the time period of January 2015 through January 2016?

A. No, sir, I have not.

Q. Have you formed any opinion as to why NCPA had to go into dissolution?

A. Yes. Very simply, they weren't bringing in enough money to even cover payroll, much less the other expenses of the organization.

Q. And how long had that condition existed, based on your review of the records?

A. At least a year.

Q. Okay. And you believe it was insolvent at least a year before the time that they went into dissolution, correct?

MR. SHAW: Object to form.

A. And when you're saying insolvency, you're talking about the UCC code interpretation, not the bankruptcy code interpretation?

Q. Actually, that's a good question. And I'm

And so for that, I would say somewhere around a year, prior to or middle of last year, they had breached that point.

Q. Well, you've looked at the financial records for the NCPA, haven't you?

A. Yes.

Q. Okay. How far back did you go in your review?

A. Really -- well, in depth, probably -- to what I normally do, none. This is an unusual thing where I was not really looking backwards in the situation. I was assigned with taking what they had on their plate at that point and disposing of it.

But to understand the -- the basic size and the -- the creditors that were involved, I probably looked backwards through fiscal 2015, but not prior to that.

Now, I did look at the basic income statements going back to 2011 so that I could give the necessary information to the potential buyers of the assets so they would have some basis for what it was.

But that's -- that's different than saying, I analyzed it.

Q. All right. Well, let's take -- and the fiscal year ended in September of each year?

not sure I know, either one.

But let's try the definition -- the bankruptcy definition, which --

A. Okay. The bankruptcy code definition is very simple. Do the fair market value of the assets exceed the total liabilities of the company. That's it. This -- that's really, from what I do, that's kind of the gold standard for determining insolvency.

However, when you have a no-asset not-for-profit, you're never really probably going to be technically solvent.

Q. All right.

A. Because of the nature of what you have.

You don't have assets, you don't have physical assets --

Q. I understand.

A. So --

Q. I understand.

A. -- so --

Q. So let's still -- let's use this -- go ahead and answer, and then I'll --

A. But the -- the universal -- the uniform commercial code defines it as, are you able to meet your operating expenses and debt requirements in the ordinary course of business, yes or no.

A. Yes.

Q. All right. So let's take September 30th, 2014.

At that point, was the institution -- based on what you see, was it capable of cash flowing, was it -- did it -- excuse me, have net equity?

MR. SHAW: Object to form.

A. I -- I don't remember those numbers for that year.

Q. (BY MR. DEWOLF) Okay. Well, how about when in -- how about fiscal year 2015, at the close of fiscal year 2015, did the institution have net equity positive or negative?

A. I don't recall.

Q. Okay. Well, when did you think that the institution's financial problems began?

MR. SHAW: Object to form.

A. It was really in the 2012, 2013 range where things started turning.

Q. (BY MR. DEWOLF) And -- and what was the cause of that, if you have an opinion?

A. I -- I did no analysis for that.

Q. Okay. Now, I'm going to show you what's been -- strike that.

But as far as you know, up through

1 December of 2014, the institution was still able to
 2 pay its bills on a regular basis, correct?
 3 A. Yes.
 4 Q. Okay. When did the institution stop paying
 5 its bills on a regular basis?
 6 A. I don't know the specific time frame for
 7 that.
 8 Q. Approximate?
 9 A. I -- I'm not being evasive.
 10 Q. I don't think you're being evasive. I would
 11 have said if I thought so.
 12 A. I -- I didn't -- I have not done --
 13 Q. I -- I totally understand --
 14 A. -- okay --
 15 Q. -- I totally understand.
 16 A. -- I have not done the forensics to make that
 17 professional opinion.
 18 Q. Totally understand.
 19 So let me show you what's been Exhibit
 20 Number 3. And this shows a negative net income of
 21 \$1.7 million.
 22 Do you see that, sir?
 23 A. Yes, I do.
 24 Q. What does that indicate to you?
 25 MR. SHAW: Object to form.

1 MR. SHAW: Object to form.
 2 A. I think it was a -- An accumulation of a
 3 number of things that had happened over the last three
 4 or four years.
 5 Q. (BY MR. DEWOLF) Tell me what those were?
 6 A. Well, obviously -- you know, the changes
 7 in -- there was a lot of changes in directors, there
 8 were changes in officers, there were changes in the
 9 CEO, CFO, and there was the embezzlement.
 10 And so you had a number of things that
 11 created instability and changes, and there was --
 12 there was a declination in terms of the number of
 13 people who were donating and the amounts that they
 14 were donating, so that the revenues decreased pretty
 15 steadily over the last three years.
 16 But the expenses didn't reduce --
 17 Q. Correspondingly.
 18 A. -- correspondingly to where you could remain
 19 in a solvent paying position.
 20 Q. Right. And would you agree with me that as a
 21 prudent overseer of an institution, you should always
 22 try and match your expenses with your income?
 23 MR. SHAW: Object to form.
 24 A. That's a good goal to have.
 25 Q. (BY MR. DEWOLF) Yeah. And particularly, if

1 A. It tells me that something bad happened.
 2 Q. (BY MR. DEWOLF) And can -- do you have any
 3 idea when -- what that bad thing was and when it
 4 occurred?
 5 A. This was the -- the calendar year in which
 6 the -- the embezzlement took place. But that's just
 7 part of the picture.
 8 Q. All right. Do you think that the cause of
 9 the NCPA's demise was primarily because of this
 10 embezzlement?
 11 A. It's -- it is a combination of things. And I
 12 wouldn't say primary.
 13 Q. Okay.
 14 A. Because if -- if you look at -- if you have a
 15 net income of 1,762,000, and the fraudulent charges
 16 were 791, that tells you there was a million of other
 17 stuff that caused the other -- the other -- okay.
 18 So what was that?
 19 Q. Okay. And -- and -- and again, you may not
 20 have done this --
 21 A. That's correct.
 22 Q. -- forensic review, but my question is, do
 23 you think that the cause of the NCPA's demise was
 24 really financial mismanagement prior to the
 25 embezzlement?

1 you are a nonprofit, that's something that you should
 2 -- as a member of the board of directors, that is
 3 something you should aspire to?
 4 A. Yes.
 5 Q. Okay. And is it your opinion that prior to
 6 Mr. Amos being there, that the board of directors did
 7 not do a good job in terms of managing and matching
 8 income to expenses?
 9 MR. SHAW: Object to form.
 10 A. I'm not certain all of that can be thrown on
 11 the -- on the board of directors. I don't -- sure,
 12 they owe -- they had the ultimate control of the
 13 company. But was that the -- directors, was it the
 14 officers, was it the people doing the -- the
 15 day-to-day work? I don't know.
 16 Q. (BY MR. DEWOLF) Well, at the end of the day,
 17 the buck stops with the officers and directors,
 18 correct?
 19 A. That's correct.
 20 Q. And at the end of the day, the buck really
 21 stops with the directors, correct?
 22 A. Yes, sir.
 23 Q. And -- and is it your opinion that the
 24 directors did not do a good job with regard to the
 25 financial management of the NCPA, prior to Mr. Amos

1 being involved?

2 MR. SHAW: Object to form.

3 A. I -- I don't think I would answer it that
4 way. I would just say that they incurred a lot of
5 financial setbacks during that period.

6 Q. (BY MR. DEWOLF) All right. Well, then in --
7 during --

8 MR. DEWOLF: And I'll object to that
9 answer, respectfully, as being nonresponsive.

10 Q. (BY MR. DEWOLF) Sir, would you agree with me
11 that prior to Mr. Amos being there, that the NCPA did
12 not do -- did not act prudently in matching its
13 expenses to its income?

14 MR. SHAW: Object to form.

15 A. I would say that income and expenses were not
16 properly balanced --

17 Q. (BY MR. DEWOLF) And would -- and I didn't
18 mean to cut you off.

19 A. Okay.

20 Q. Okay.

21 A. -- but I'm not -- incurring bad times does
22 not mean that you were imprudent.

23 Q. I understand. But -- but as a -- and you
24 have prepared board packets many a time, haven't you,
25 sir?

1 MR. DEWOLF: I'll respectfully object to
2 your answer as being nonresponsive.

3 THE WITNESS: Okay.

4 Q. (BY MR. DEWOLF) Let me ask it one more time
5 and we'll move on.

6 But my question is, if a board of
7 directors -- strike that. Let me set a predicate.

8 You would agree with me that a board of
9 directors has the ultimate responsibility to make sure
10 that the expenses match the income so that the
11 institution can be a going concern?

12 MR. SHAW: Object to form.

13 A. Correct.

14 Q. (BY MR. DEWOLF) And part of the financial
15 oversight that the board has is, to look at what the
16 projected income is in the future, correct?

17 MR. SHAW: Object to form.

18 A. Correct.

19 Q. (BY MR. DEWOLF) And --

20 MR. SHAW: Can you let me make my
21 objection --

22 THE WITNESS: Yes, I'm sorry.

23 Q. (BY MR. DEWOLF) And that it would be
24 mismanagement on the part of the board of directors if
25 they did not match the projected income with the

1 A. I -- I have done a lot of financial reports,
2 yes.

3 Q. All right. And wouldn't you expect that as
4 a -- as part of any board packet, there would be
5 financial information including cash flow, including
6 AP, including a forecast of, here are our expenses,
7 here's our projected income, correct?

8 MR. SHAW: Object to form.

9 A. Yes.

10 Q. (BY MR. DEWOLF) And as a prudent board
11 member, you would want to match those expenses to the
12 projected income, correct?

13 MR. SHAW: Object to form.

14 A. Yes, you would.

15 Q. (BY MR. DEWOLF) And if you didn't do that,
16 that would be mismanagement, correct?

17 MR. SHAW: Object to form.

18 A. I -- I wouldn't use the word "mismanagement,"
19 because that infers that they did something wrong.
20 People give less and during -- in various economic
21 times, and so that may not be mismanagement, it may
22 just be the situation.

23 So I -- I would -- you know, I wouldn't
24 call it -- I wouldn't call it mismanagement.

25 Q. (BY MR. DEWOLF) Okay.

1 expenses?

2 MR. SHAW: Object to form.

3 A. I would say it would be mismanagement if they
4 didn't respond to the difference, the changes in
5 the -- into the company.

6 Q. (BY MR. DEWOLF) Fair comment.

7 One of the -- I'm going to switch topics.

8 One of the items in the balance sheet is,
9 office furniture and equipment. And maybe we can kind
10 of cut to the chase to some extent.

11 A. Okay.

12 Q. Why -- why don't you tell me, as we sit here
13 today, what the current assets of the NCPA are, and
14 list them by category and present value?

15 A. Sure. Let me first talk about the two things
16 that we have sold -- three things we've sold.

17 There is a donor list. And that was a
18 list of a little over 21,000 names of people who had
19 at some point in time had contributed funds to NCPA.

20 There was a mailing list. And that was a
21 list of -- of approximately 200,000 e-mail addresses
22 for people who had voluntarily signed up to receive
23 the various publications of NCPA.

24 Q. Right.

25 A. And ultimately, hopefully, turning them into

1 donors as well.
 2 Both of those lists were sold two months
 3 ago.
 4 Q. Who were they sold to and how much did you
 5 receive?
 6 A. I received \$50,000. And it was --
 7 Q. Each or for both?
 8 A. Both, for both.
 9 Q. And who was that to?
 10 A. The Texas Public Policy Foundation.
 11 Q. Okay. Is that who Jacki Pick is now working
 12 for?
 13 A. I believe that is correct.
 14 Q. Okay. What other assets do you have -- or
 15 you said you had three things that were sold.
 16 What's the next thing that was sold?
 17 A. It was simply the -- the URL to the website.
 18 Q. And I'm not smart enough to know what a URL
 19 is.
 20 A. That's just the website address. It's not
 21 the website, it's not the infrastructure, it's not the
 22 mechanics, it's not anything. It's just --
 23 Q. It's just NCPA.com?
 24 A. Dot org.
 25 Q. Dot org.

1 A. There is an interest in a federal tax model
 2 for -- forecast model.
 3 Q. Okay.
 4 A. Of which the ownership has been disputed.
 5 Q. Ms. Pick said that she thought that was worth
 6 a quarter million dollars. Let's assume that the
 7 dispute that -- that we own it, somebody else doesn't
 8 own it, what do you think the value is on that?
 9 MR. SHAW: Object to form.
 10 A. If it were a clean -- if it were a clean
 11 ownership where we had full --
 12 Q. (BY MR. DEWOLF) I'm --
 13 A. -- full, clean title to it, it could easily
 14 be worth 250 or more.
 15 Q. Okay.
 16 A. But we don't.
 17 Q. Okay. Who is it that's disputing title?
 18 A. The model was originally contracted with
 19 Suffolk University in Boston.
 20 Q. Uh-huh.
 21 A. And so the original agreement was made with
 22 them. They utilized a group called the Beacon Hill
 23 Institute, which is somewhat affiliated with the
 24 university. Separate legal entity, but -- Beacon Hill
 25 was the one who finished the model and who is the one

1 A. That's it.
 2 Q. Who did -- who did you sell that to and how
 3 much?
 4 A. The National Community Pharmacist
 5 Association.
 6 Q. And are they out of Canada?
 7 A. They are not. They are out of Virginia.
 8 They wanted a more simplistic URL, so
 9 they bought only the URL, and then they also bought
 10 the rights to the Facebook and Twitter accounts.
 11 Q. How much did you get for that?
 12 A. \$7,500.
 13 Q. Okay. And what other assets do you have?
 14 A. Okay. We still have the infrastructure of
 15 the website, which is a fairly robust website, with
 16 a -- a -- the library of the publications of the NCPA.
 17 We have --
 18 Q. What do you estimate the value is on that?
 19 MR. SHAW: Object to form.
 20 A. I would really say, it's not that much now.
 21 Q. You're saying \$5,000 or less?
 22 A. Yes.
 23 Q. Okay.
 24 A. I do.
 25 Q. All right. What else you got?

1 who states that they have the ownership of the model.
 2 Q. What's the current status of the negotiations
 3 with them?
 4 A. It's been suspended at this point in time.
 5 There are other things that we wanted to -- to get
 6 through first. And then we -- we are going to, I
 7 guess, determine how we want to proceed on that
 8 matter.
 9 Q. Now, has the Beacon Group, have they offered
 10 to buy out the NCPA's interest?
 11 A. No. They had original wanted to buy the
 12 model, because they didn't think they owned it until
 13 they reviewed the documents. And now they think that
 14 they own it so --
 15 Q. All right.
 16 A. -- they're --
 17 Q. All right. So that's.
 18 A. -- that's where they stand.
 19 Q. And -- and -- and how do you -- as we sit
 20 here today, given their claim on -- on ownership, what
 21 do you think the value is?
 22 MR. SHAW: Object to form.
 23 A. I don't have an educated guess, but I would
 24 say less than 100,000.
 25 Q. (BY MR. DEWOLF) Okay. What other assets?

1 A. There are a couple of -- or there's -- there
2 are a couple of programs that are basically tied to
3 the -- to the website. But they're programs that are
4 debate central, which is an online way of coaching
5 students in debate and mock trials.

6 And then there's another that is a young
7 patriot award for awarding kids with writing essays on
8 patriotism and related matters.

9 Q. What's the value of those?

10 A. Both of them -- you know, very small, well
11 less than -- well less than \$5,000.

12 Q. Okay.

13 A. And then the only other asset is the -- the
14 furniture and the computer equipment that's in the
15 office.

16 Q. Now, the Dallas office. What about the DC
17 office?

18 A. I'm not aware of any assets that are in the
19 DC office.

20 Q. Okay. Have you -- we heard testimony that
21 there is furniture that's in somebody's garage.

22 Have you checked on that?

23 A. No. That's the first I've heard of it.

24 Q. Okay.

25 A. All of the -- yeah.

1 Q. Okay.

2 A. So I'm not -- and the -- the computer
3 equipment is very old.

4 Q. Okay.

5 A. It's --

6 Q. Any other assets?

7 A. Just the -- I -- I guess a little bit of
8 trademarks, the name, and a couple of other affiliated
9 names.

10 Q. What about, is there any cash or is there any
11 brokerage accounts?

12 A. No brokerage accounts. There's around,
13 maybe, ten grand in a bank account.

14 Q. All right. And let's then -- now, let's turn
15 to the creditors.

16 A. Okay.

17 Q. And we'll talk about how you got hired.

18 But tell me who the -- the creditors are?

19 And give me anybody over -- I'm going to
20 exclude Mr. Kenny Stevens. I'm sure he'll be
21 disappointed.

22 A. No, that -- that help me.

23 Q. Yeah.

24 A. Because -- because there's -- there's
25 probably --

1 Q. Okay. All right. And -- and -- and so on
2 this furniture and IT, this is all located -- of
3 furniture and computers, servers, et cetera, that's
4 all in the NCPA office here, correct?

5 A. Yeah, yes, sir.

6 Q. And what is -- do you estimate the current
7 value to be?

8 A. Well, I'll first of all say that it is -- by
9 way of the lease, it is the landlord's collateral.

10 Q. I was going to come to that in a minute.

11 A. Sorry. Sorry for --

12 Q. That's all right.

13 A. -- ruining that for you.

14 But it is their collateral, which they
15 have reminded me on pretty much every -- every
16 conversation.

17 Q. Okay. And what do you think the current
18 value is on that?

19 MR. SHAW: Object to form.

20 A. I'm putting it at a net zero. Because a lot
21 of it is modular stuff and so you have to hire
22 somebody to take it down, then move it, then put it
23 back up.

24 So the net proceeds are fairly de
25 minimis.

1 Q. You've got a bunch. So --

2 A. I've got a bunch.

3 Q. All right. So -- so --

4 A. Okay. But there's --

5 Q. -- let's talk about the big boys.

6 A. Yeah, let's -- okay.

7 There is roughly a million-three owed.

8 Q. Okay.

9 A. Now, in that, there's probably six big
10 groups.

11 Q. Okay. Let's --

12 A. One -- one is American Express, which it's
13 listed there, but I don't believe it would be an
14 account that would be paid.

15 Q. Okay. And how much is that?

16 A. That's 215.

17 Q. Okay. What's the next one?

18 A. We have two landlord claims. There is
19 \$185,000 note with the landlord that had previously
20 owned the office building. And that was for unpaid
21 rent. Then they --

22 Q. Now, you said a note. Is that -- a lease
23 obligation, what is that for?

24 A. It is a note for unpaid lease payments.

25 Q. Okay. And so what happened is, the NCPA at

1 some point stopped paying their rent?
 2 A. Correct.
 3 Q. And that's money owed?
 4 A. That's money owed.
 5 Q. Okay. All right. What else you got?
 6 A. We haven't made a full payment in rent since
 7 April for the existing owner of the building. And so
 8 that's roughly 90 to 100,000.
 9 Q. Okay. What about future obligation?
 10 A. It's -- it runs at about ten grand a month.
 11 Q. And what steps have been taken to sublease --
 12 either sublease the property or to have the tenant --
 13 the landlord to release it?
 14 A. We told them from day one -- and they wanted
 15 to take the obligation of finding the -- you know, a
 16 replacement tenant. They haven't done that yet.
 17 Q. Have they made any steps that you're aware
 18 of?
 19 A. I know that they've showed -- shown the place
 20 to people, even -- you know, offering it with
 21 inclusive of -- of the furniture that's in it. But
 22 they haven't signed a lease. So it sat there.
 23 Now, we've been able to still -- we don't
 24 go up there that often, but we still go up there and
 25 we've had access to the office.

1 We have professional fees somewhere around 175.
 2 Q. And the professional fees are for Kenny
 3 Stephens for 32 --?
 4 A. No, he's -- no, he's --
 5 Q. He is farther down?
 6 A. Yeah, he's in -- he's in the other group.
 7 The -- the professional fees are myself,
 8 Gardere Wynne, and Whitley Penn.
 9 Q. And how much are you billing an hour?
 10 A. 325.
 11 Q. And -- okay. And then -- and you received
 12 a -- an initial tranche, right?
 13 A. I received a --
 14 MR. SHAW: Object to form.
 15 A. -- I received an initial payment of 20,000
 16 for a retainer. And then --
 17 Q. (BY MR. DEWOLF) Okay. And -- and
 18 that's self-liquidating, have you burned through that?
 19 A. Oh -- no.
 20 MR. SHAW: Object to form.
 21 A. Well, from the initial 20, oh, yes, yes, yes.
 22 Q. (BY MR. DEWOLF) Okay. How much do you think
 23 your fees to date have been on this?
 24 A. The unpaid?
 25 Q. Paid and unpaid?

1 Q. Yeah, but -- but you guys could sublease that
 2 and -- you know, for X amount of --
 3 A. But that's not a right that they've given us
 4 to do.
 5 Q. Do you have that under the lease?
 6 A. Do I have what under the lease?
 7 Q. Do you have -- under the lease, do you
 8 have -- does NCPA, as the tenant, have the right to
 9 sublease that property?
 10 A. I don't recall.
 11 Q. (BY MR. DEWOLF) Okay. Is that something you
 12 ought to look at? Because if you can sublease it,
 13 then you're going to reduce your future obligation,
 14 correct?
 15 A. Theoretically, yes.
 16 Q. Okay. Would you be kind enough to look at
 17 that for me?
 18 A. Sure.
 19 Q. Okay. What other creditors you got?
 20 A. Suffolk University is owed \$170,000 for the
 21 amounts that we were to pay them to produce the tax
 22 model.
 23 Q. Okay.
 24 A. The -- the Sumner's Foundation is owed
 25 140,000. Mr. Walker's judgment is 160-ish. And then

1 A. I've received payment of 35,000. And I'm
 2 owed like, 130, 140.
 3 Q. Okay. And now, you have talked about the
 4 professional. Give me the next category.
 5 A. That's it of the major ones.
 6 Q. Okay. And then minor ones, any minor ones
 7 you got?
 8 A. Well, you know, you have a number of --
 9 there -- there are law firms in there, including Kenny
 10 Stephens. I think he is around 39,000.
 11 Q. How about Mr. Shaw, has he been paid?
 12 A. He has been paid the one invoice that I have
 13 received.
 14 Q. Okay. And on the professional, that -- that
 15 group, yourself, Gardere, and Whitley Penn, what did
 16 you say the -- the amount of that was?
 17 A. It was about 170, 175,000.
 18 Q. Okay. You were retained by NCPA upon
 19 recommendation of Gardere to act as the dissolution
 20 officer; is that right?
 21 A. Yes, sir.
 22 Q. And you received the initial tranche of
 23 20,000, plus you've been billing it out per hour,
 24 correct?
 25 You need to answer audibly.

1 A. Yes, yes. I'm sorry, yes.

2 Q. Now, you would agree with me that one of the

3 assets -- strike that.

4 You would agree with me that you have a

5 fiduciary obligation as the dissolution officer to

6 look for all the possible assets of the NCPA?

7 MR. SHAW: Object to form.

8 A. Yes.

9 Q. (BY MR. DEWOLF) And you would agree with me

10 that claims against third parties is one of the

11 possible assets of the NCPA, correct?

12 MR. SHAW: Object to form.

13 A. Correct.

14 Q. (BY MR. DEWOLF) And you would agree with me

15 that claims against a directors and officers policy

16 would be one such claim?

17 MR. SHAW: Object to form.

18 A. Potential.

19 Q. (BY MR. DEWOLF) Right. And tell me what

20 steps, if any, you have taken to investigate the

21 propriety of such a claim by the NCPA against the

22 officers and directors of the NC -- former officer and

23 directors of the NCPA?

24 A. I have not conducted any analysis on that.

25 Q. Why not?

1 aware of?

2 A. I know nothing about the man.

3 Q. Okay. Have you done anything to look at what

4 type of assets he has?

5 A. No.

6 Q. Okay. Why not?

7 Well, to be able to value whether that --

8 that judgment is worth the paper it's written on,

9 don't you need to know if he's got anything behind it?

10 A. We have not conducted that analysis at this

11 point.

12 Q. Okay. Okay. Do you think that's something

13 you might do?

14 A. It will be something that we -- we look at.

15 Q. Okay. So when is it, in terms of your game

16 plan, when is it that you think that the dissolution

17 of the NCPA will be wound up?

18 A. I'm going to say sometime in the first of the

19 year. I think -- I think there have been a few things

20 that have slowed us down a little bit.

21 But I think analyzing the Galloway issue,

22 analyzing the tax model issue, analyzing what other

23 interest that we have that we might be able to sell,

24 are key for us to do.

25 The issue that we have right now,

1 A. Well, for one, it's being adequately analyzed

2 on an ongoing basis.

3 Q. Who is analyzing that?

4 A. You. But it's just not a claim that -- that

5 we've looked to pursue at this point in time.

6 Q. Okay. What other claims are there that you

7 have reviewed and considered in terms of assets?

8 Because I think you said that you've got \$10,000 from

9 a legal malpractice claim?

10 A. Correct.

11 Q. Well, that was an asset I didn't hear you

12 talk about. So there's 10,000 in revenue you got from

13 that.

14 Are there any other pending lawsuits or

15 possible claims you're aware of?

16 A. The only thing that's out there is, that

17 there was a recent judgment against Mr. Galloway of I

18 think it was 615,000. Whether or not it's even

19 remotely collectible or not is hard to tell at this

20 point in time.

21 But that is -- that is an issue that's

22 out there.

23 Q. That's the restitution?

24 A. Yeah.

25 Q. And -- and does he have any assets you're

1 obviously, with a million-three in liabilities and

2 less than ten grand in the bank, we don't have

3 anything to offer the creditors at this point. And

4 that's --

5 Q. Well, does the -- and -- and when you -- what

6 is going to be the determination, on your part, on

7 when you're going to take steps to dissolve the

8 institution?

9 MR. SHAW: Object to form to the extent

10 it calls for a disclosure of attorney-client

11 privileged information.

12 A. I'd still say it's in the first of the year.

13 Q. (BY MR. DEWOLF) Well, when you say "the

14 first," first quarter?

15 A. Yeah, probably first quarter.

16 Q. All right. Now, as -- when you do a

17 dissolution, are you required to give notice to the

18 creditors?

19 MR. SHAW: Object to form.

20 A. We will. The -- we're planning on dissolving

21 the company according to state business commercial

22 code, which is -- and it's set up for not for profits.

23 And it's basically a simple report of -- kind of a

24 state of the union address of what assets you had,

25 what did you do with them, what did you do with the

1 proceeds, and you submit that form to -- not a form, a
2 report to the Secretary of State.

3 And that's basically it. But -- but
4 you'd also -- give notice to all the creditors, as
5 well.

6 Q. (BY MR. DEWOLF) All right. And -- and will
7 you agree to give Mr. Walker notice in advance -- at
8 least two weeks in advance, of filing that report?

9 MR. SHAW: Hold -- hold on. He'll take
10 that under advisement with legal counsel.

11 A. I will take that --

12 Q. (BY MR. DEWOLF) Well, no, wait a minute,
13 wait a minute, that's --

14 A. That was going to be my answer anyway. I
15 mean, I'm not -- I'm going to do that along with
16 counsel from Gardere Wynne and so --

17 Q. So is Gardere Wynne really NCPA's counsel in
18 this?

19 A. Yes, it is.

20 Q. Okay. Then why is Mr. Shaw here?

21 A. Well, he's not handling -- they are not
22 handling the litigation piece --

23 MR. SHAW: I -- I'm just -- I'm just
24 handling this.

25 Q. (BY MR. DEWOLF) Is the NCPA willing to

1 Q. (BY MR. DEWOLF) Right. And so would you --
2 can you think of any reason why you would not assign
3 those claims to Mr. Walker?

4 MR. SHAW: Object to form.

5 A. I -- Mr. DeWolf, I haven't given it enough
6 consideration to give you an answer for there --

7 Q. Okay.

8 A. -- to that.

9 Q. What else do you have to have to make that
10 determination?

11 A. I would -- I am not going to make a -- a spot
12 analysis here as to whether or not that's something
13 I'm going to accept or not. I have to review it with
14 counsel. There is more involved with that sort of a
15 transaction than me just saying, yeah, I'll do it.

16 Q. Okay. Well, sir, I've already asked you, you
17 have been aware for months that there was a -- a D&O
18 policy, correct?

19 A. Yes.

20 Q. And is it your testimony today, under oath,
21 that you have not done a single step of investigating
22 whether those claims -- were there any claims toward
23 that policy?

24 A. No, I have not.

25 Q. And -- and do you have any explanation for

1 assign any claims that it has against officers and
2 directors to Mr. Walker in satisfaction of his claim?

3 MR. SHAW: I'm going to instruct you to
4 confer with counsel before answering that.

5 MR. DEWOLF: That -- that's not a -- that
6 -- that -- that -- that's not a valid objection.

7 You either can say yes or no or I don't
8 know. But you can't say that -- I mean, that's not
9 calling for a privilege --

10 MR. SHAW: Steve, I think that it --

11 MR. DEWOLF: No, no, it's not asking for
12 privilege.

13 MR. SHAW: Sure it is.

14 MR. DEWOLF: Not it's not.

15 MR. SHAW: All right. Do you -- can you
16 answer that question without consulting with your
17 counsel?

18 A. I will consider every configuration I can
19 that seems to be a reasonable solution for the various
20 creditors of the estate. And I will look at all
21 options that I have available to me.

22 Q. (BY MR. DEWOLF) Okay. And you have a
23 fiduciary obligation to do that, don't you?

24 MR. SHAW: Object to form.

25 A. To a degree, yes.

1 that?

2 A. It's -- I don't agree that it's necessarily a
3 valid claim at this point.

4 Q. Well, do you have -- so you've done some
5 investigation?

6 A. Well, no, I don't -- I just don't see any --
7 I don't think that the estate has a claim against
8 the -- the directors.

9 Q. Tell me why.

10 MR. SHAW: Object to form. That calls
11 for attorney-client privilege.

12 A. It also -- you know --

13 Q. (BY MR. DEWOLF) Well, have you or anyone at
14 your direction analyzed whether or not there's a
15 claim, potential claim, against the officers and
16 directors?

17 A. No.

18 Q. Okay. And why have you not done that?
19 Simply been too busy, other stuff to do?

20 A. No, no. Just haven't viewed it to be a -- a
21 claim we're going to pursue at this time.

22 Q. Okay. And -- and you understand that you
23 have a fiduciary obligation to the institution for
24 your own errors and omissions to pursue all possible
25 sources of revenue for the NCPA?

1 A. I'm supposed to do the best I can do.

2 Q. Right. And do you have any of your own

3 personal insurance for breach of fiduciary duty or

4 errors and omissions?

5 A. I do not.

6 Q. Okay. Do you have any legal mal -- well, it

7 wouldn't be legal. Do you have any insurance which

8 would cover conduct by you that fell below your

9 standard of care?

10 A. No.

11 Q. In terms of analyzing the creditors, have you

12 determined a priority in your mind on who gets paid

13 first?

14 And -- and there's some legal analysis in

15 that perhaps, but --

16 MR. SHAW: Object to form.

17 A. The State code is -- doesn't have a lot of

18 structure there. But along the same lines of a

19 Chapter 7, you have -- you know, priority in

20 administrative and secured claims that come before

21 general unsecureds.

22 But if you have no money, I mean

23 distributions --

24 Q. Well, where is the judgment -- line in that

25 category?

1 A. Not that I've seen.

2 Q. Now, Mr. Walker -- I, on behalf of

3 Mr. Walker, sent you a letter with a copy of the

4 agreed judgment and asked you to call me to discuss

5 resolution.

6 You never called me. Tell me why,

7 A. Under advice of counsel, I didn't call.

8 Q. Okay. Did you ever have counsel communicate

9 with me?

10 A. I believe that they did.

11 Q. Who was it?

12 A. Well, up through the point in time that Kenny

13 Stephens was involved, it was him. And if it was

14 after that, it would have been Mr. Shaw.

15 Q. Okay. Now, Mr. Walker -- I've made an offer

16 or recommendation that I would settle this matter for

17 \$100,000.

18 Did you ever receive that?

19 A. I did see that.

20 Q. Okay. And I never received a response. Can

21 you tell me why?

22 A. We don't have \$100,000.

23 Q. Okay. And -- and -- you have a \$2 million

24 D&O policy, right?

25 A. I believe that's correct.

1 MR. SHAW: Object to form.

2 A. It -- it depends on -- on how -- on what it

3 was. And --

4 Q. [BY MR. DEWOLF] Mr. Walker's claim, how do

5 you --

6 A. I understand. I have not prioritized the

7 claims.

8 Q. Now, the -- \$80,000 on this note and the --

9 100,000 in -- was the 100,000 for the real estate, was

10 that -- were those notes or is that just rental

11 obligations?

12 A. The 185 to the old landlord is a note.

13 Q. Okay.

14 A. The 90 to 100 to the existing landlord is

15 just simply unpaid rent.

16 Q. Okay. And are there any personal guarantees

17 on any of these notes?

18 A. There are not.

19 Q. Are there any -- does the NCPA guarantee that

20 note over and aside the amount of its furniture?

21 A. Well, it's a direct obligation of the

22 corporation.

23 Q. Okay. Are there any personal guarantees with

24 regard to any of these other potential creditors by

25 anyone?

1 Q. And -- and that has, at least on face value,

2 \$2 million, correct?

3 A. Uh-huh.

4 Q. You need to answer audibly.

5 A. That's correct.

6 Q. Now, you have received other offers for the

7 assets of the NCPA, haven't you?

8 A. Yes.

9 Q. Who else have you received offers from?

10 Let me even be more specific.

11 Isn't it true that you received an

12 offer -- an offer from John Goodman for -- depending

13 on how you count it, \$300,000?

14 I'm not sure I understand his math, but

15 the offer was --

16 A. He -- he submitted a highly contingent offer

17 that had the number, \$300,000, written on the piece of

18 paper, but was not attainable by any stretch of the

19 imagination.

20 Q. Okay. Other than Mr. Goodman's offer, have

21 you received any other offers for assets?

22 A. Yes, I did.

23 Q. Are there any that you're currently

24 entertaining?

25 A. No, there are not.

1 Q. And you made the decision that you made to
2 not accept those offers because you thought it was in
3 the best interest of the institution, correct, and the
4 creditors?

5 A. Well, they were financially inferior --

6 Q. Okay.

7 A. -- offers.

8 Q. Now, what about destruction of documents?
9 I've sent you a preservation letter.

10 A. I did.

11 Q. And --

12 A. Yeah.

13 Q. -- and you're not taking any steps to destroy
14 those documents, are you?

15 A. No, sir.

16 Q. Where do the documents current -- of NCPA,
17 currently exist?

18 A. The vast majority of them are on the G-drive
19 that Ms. Pick talked about.

20 Q. Okay. And that's located at the NCPA's old
21 offices?

22 A. Yes.

23 Q. And what about the corporate records, where
24 are they located, minutes, board packets, that type of
25 stuff?

1 Q. And you're aware of your responsibility once
2 an institution is dissolved and financially insolvent,
3 correct?

4 A. Yes.

5 Q. You need to answer audibly.

6 A. Yes.

7 Q. You're aware of your obligations as it deals
8 -- and you have been a bankruptcy trustee, correct?

9 A. Yes.

10 Q. All right. So you know that one of the
11 things, much like you are doing here, a bankruptcy
12 trustee goes out and looks for claims.

13 A. That's right.

14 Q. Right. And to date, you have not done that
15 with regard to the D&O policy; is that true?

16 A. That is true.

17 Q. Okay. Now, and you would agree with me that
18 at least theoretically -- theoretically, that there
19 are possible claims against former officers and
20 directors -- not Mr. Amos, for negligent hiring,
21 failure to supervise, failure to enforce internal
22 controls as relates to Mr. Galloway, and in addition,
23 simply financial mismanagement?

24 MR. SHAW: Object to form.

25 Q. (BY MR. DEWOLF) Those are theoretically

1 A. Some of that is at the office, some of it's
2 on the G-drive.

3 Q. Bylaws?

4 A. Bylaws are in a binder in my office.

5 Q. Would you agree with me that it's possible
6 that the NCPA has claims against former officers and
7 directors -- not Mr. Amos -- for financial
8 mismanagement, negligent hiring of Mr. Galloway,
9 failure to supervise Mr. Galloway, failure to enforce
10 internal controls?

11 MR. SHAW: Object to form.

12 A. I would agree with you that all of those
13 issues are problematic, but I'm not going to assign a
14 cause to that. I have not --

15 Q. (BY MR. DEWOLF) Well --

16 A. -- I have not analyzed that. I have not been
17 called to, and it's not part of my engagement.

18 Q. (BY MR. DEWOLF) I understand -- well, it is part
19 of your engagement to determine what assets the NCPA
20 has, and to try and maximize those assets,
21 particularly as it deals with creditors, correct?

22 A. Correct.

23 Q. And you're aware of the trust fund doctrine,
24 aren't you sir, in Texas?

25 A. Yes.

1 possible, correct?

2 A. Those are theoretically possible.

3 Q. All right. And have you taken any steps to
4 try and put the insured's company on notice of
5 potential claims?

6 A. The insurance company is aware of your
7 judgment investigation.

8 Q. And has the insurance company indicated any
9 interest in getting that resolved amicably?

10 A. They gave me no response at all.

11 Q. Okay.

12 A. May I add?

13 I want to say that that -- all of my
14 conversations were with the insurance broker, not the
15 insurance company.

16 Q. I understand. Thank you for that
17 clarification.

18 And to date, you have not retained
19 counsel or any other professional to investigate the
20 propriety of those claims that I mentioned, have you?

21 A. I have not.

22 Q. Okay. Now, are the board of directors -- the
23 current board of directors as of July 1st, 2017, they
24 are still sitting as board of directors, aren't they?

25 MR. DEWOLF: Mr. Shaw, don't shake your

1 head.

2 MR. SHAW: I apologize.

3 A. To my knowledge, there was not a formal
4 dissolution of the board of directors. There has been
5 no meetings, there has been no conversation with all
6 of them in attendance. They've been helpful in terms
7 of information for me.

8 But they've take -- they've taken no
9 board actions since July the 3rd.

10 Q. (BY MR. DEWOLF) And you're not aware of any
11 member of that board that was there -- that -- members
12 of the board as of July 1st, 2017, you're not aware of
13 any of those board members who have resigned their
14 board seat, have you, sir?

15 A. There is some ambiguity as to whether not
16 Mr. Wedekind resigned or not. I did receive
17 correspondence from him, and he didn't say I'm
18 resigning, it says since I have resigned, I am doing
19 this and this.

20 Q. Okay.

21 A. So he -- he is another one of those that kind
22 of resigned, but failed to tell anybody. So whether
23 or not he's on the board or not, I --

24 Q. Okay.

25 A. -- I don't know, unclear.

1 even know it existed, so.

2 MR. DEWOLF: Yeah, I didn't either. So
3 just arguably present it, and I would appreciate that.

4 MR. SHAW: Yeah, that's not a problem.

5 (Exhibit 16 marked.)

6 Q. (BY MR. DEWOLF) So let's look at Exhibit
7 Number 16. Do you recognize that, sir?

8 MR. SHAW: Steve, will you send me a list
9 of what you want so that I know exactly.

10 MR. DEWOLF: Shaw, you've been the
11 scribbler, buddy. I haven't been writing these down.
12 I've just been articulating, so --

13 MR. SHAW: All right.

14 MR. DEWOLF: -- do your best on it.

15 MR. SHAW: All right, I'll do the best I
16 can.

17 MR. DEWOLF: That's all I can ask.

18 MR. SHAW: Yeah, sure.

19 Q. (BY MR. DEWOLF) Okay. So do you recognize
20 Exhibit Number 16?

21 A. Yes.

22 Q. Now, this -- what is it?

23 A. This is the resolution by the board of
24 directors authorizing for the termination,
25 liquidation, and winding up of the company.

1 Q. All right. Now, did the -- did you and the
2 board of directors develop a plan of dissolution and
3 distribution for NCPA?

4 A. Yes.

5 Q. Is that written?

6 A. The -- a written plan?

7 Q. Yes.

8 A. Well, I -- I'd say, yeah. I would say that
9 basically what we had discussed as the board, myself,
10 and then with Gardere Wynne, is fairly well summarized
11 in the sale memorandum, which I believe that you may
12 have gotten a copy of.

13 Q. I have not gotten a copy of that.

14 So let me hand you what was marked --

15 A. There were the proceeds there of, you know,
16 how we would go about the auction and then ultimately,
17 dissolving the company.

18 Q. Okay.

19 MR. DEWOLF: Counsel, I'd like to have a
20 copy of that, please, the sale memorandum.

21 Thank you.

22 MR. SHAW: I wasn't aware that you asked
23 for that.

24 MR. DEWOLF: Well, I think arguably --

25 MR. SHAW: I don't even know -- I didn't

1 Q. All right. And this is not a signed copy, I
2 will represent to you I have ones that were signed.
3 This one has one signature in it. May allow for
4 signature and counterparties, but I have seen a couple
5 of signatures, but not all of them.

6 This has got Whalen and it may have --

7 MR. SHAW: Wedekind.

8 Q. (BY MR. DEWOLF) Wedekind. And yeah, so but
9 if you look on that, it's prepared by Gardere,
10 correct? If you look at the footer on Page 1 of the
11 document?

12 A. Yes.

13 Q. And then it says there, that there was a --
14 in the second resolve further it says, There is a plan
15 of distribution and dissolution of the assets of the
16 company.

17 MR. SHAW: Where is that, Steve?

18 MR. DEWOLF: It is on Page 1. It says,
19 Resolve further, in the first little I says, Develop a
20 plan of dissolution and distribution.

21 Do you see it right at the bottom of the
22 page.

23 MR. SHAW: Uh-huh.

24 A. Uh-huh.

25 Q. (BY MR. DEWOLF) And -- and has such a --

1 other than the sales memorandum, which Mr. Shaw is
2 going to get me, has there been any other written plan
3 of dissolution and distribution?

4 A. I'm trying to recall whether or not that may
5 have been a part of an e-mail, but I don't recall
6 specifically, but I just know that basically, that was
7 an accumulation of all of our conversations as to how
8 we were going to go about it.

9 Q. So is it fair to say that whatever the sales
10 memorandum has is the de facto plan of distribution
11 and dissolution?

12 A. Yes.

13 Q. All right. And under your general
14 implementing authority, you have been given the power
15 to do whatever it takes to look at what the -- assets
16 are, maximize the assets, and pay the creditors,
17 correct?

18 A. That's correct.

19 Q. Okay.

20 MR. DEWOLF: Let's go off the record.
21 I've got about five minutes to talk to my client and
22 then I may not have any other questions.

23 I would like to have, perhaps, a little
24 visit for all of us off the record.

25 MR. SHAW: Sure.

1 CHANGES AND SIGNATURE

2 WITNESS NAME: REAGAN STEWART

3 DATE OF DEPOSITION: DECEMBER 21, 2017

4 PAGE LINE CHANGE REASON

PAGE	LINE	CHANGE	REASON
5			
6			
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21 I, REAGAN STEWART, have read the foregoing
22 deposition and hereby affix my signature that same is
23 true and correct, except as noted above:

24 REAGAN STEWART
25

1 THE VIDEOGRAPHER: Off the record at
2 2:49.

3 (Recess taken.)

4 THE VIDEOGRAPHER: Back on the record at
5 2:50.

6 EXAMINATION

7 BY MR. SHAW:

8 Q. Mr. Stewart, what was the date of the meeting
9 that you and the members of board of directors had
10 that resulted in Exhibit 16?

11 A. It was either July 2nd or July 3rd.

12 Q. And --

13 MR. AMOS: Third.

14 A. Third.

15 Q. (BY MR. SHAW) All right. And where did it
16 occur?

17 A. In the offices at NCPA.

18 Q. Okay. And was there any discussion about
19 whether or not the board of directors would continue
20 in that capacity?

21 A. There was the discussion that the board was
22 going to resign.

23 Q. Okay.

24 A. But it was never -- or at least from what
25 I've seen, it was never documented.

1 THE STATE OF _____)

2 COUNTY OF _____)

3
4 Before me, _____,
5 on this day personally appeared REAGAN STEWART, known
6 to me or proved to me on the oath of _____
7 or through _____ (description of
8 identity card or other document) to be the person
9 whose name is subscribed to the foregoing instrument
10 and acknowledged to me that he/she executed the same
11 for the purpose and consideration therein expressed.
12
13

14 Given under my hand and seal of office on
15 this ___ day of _____, _____.
16

17 NOTARY PUBLIC IN AND FOR
18 THE STATE OF _____
19 My Commission Expires: _____
20
21
22
23
24
25

CAUSE NO. DC-16-05388

1 RICHARD W. WALKER * IN THE DISTRICT COURT
 2 Plaintiff, *
 3 *
 4 VS. * 298TH JUDICIAL DISTRICT
 5 *
 6 NATIONAL CENTER FOR POLICY *
 ANALYSIS *
 7 Defendant. * DALLAS COUNTY, TEXAS

REPORTER'S CERTIFICATION
 DEPOSITION OF REAGAN STEWART
 DECEMBER 21, 2017

8 I, Brooke N. Barr, Certified Shorthand Reporter in
 9 and for the State of Texas, hereby certify to the
 10 following:
 11

12 That the witness, REAGAN STEWART, was duly sworn
 13 by the officer and that the transcript of the oral
 14 deposition is a true record of the testimony given by
 15 the witness;
 16

17 That the deposition transcript was submitted on
 18 January 5, 2018 to the witness, REAGAN STEWART,
 19 C/O THOMAS E. SHAW, attorney, for examination,
 20 signature, and return by January 26, 2018;

21 That the amount of time used by each party at the
 22 deposition is as follows:

23 STEVEN K. DEWOLF: 01 hours, 05 minutes

24 THOMAS E. SHAW: 00 hours, 02 minutes

25 That pursuant to information given to the

RICHARD W. WALKER, § IN THE DISTRICT COURT OF
 Plaintiff, § §
 v. § § DALLAS COUNTY, TEXAS
 NATIONAL CENTER FOR POLICY § §
 ANALYSIS, § §
 Defendant. § 298TH JUDICIAL DISTRICT

PLAINTIFF'S SECOND AMENDED POST-JUDGMENT NOTICE OF
 INTENTION TO TAKE ORAL AND VIDEOTAPE DEPOSITION OF CORPORATE
 REPRESENTATIVE OF NATIONAL CENTER FOR POLICY ANALYSIS

TO: National Center for Policy Analysis, by and through its counsel of record, Thomas E. Shaw,
 Esq., The Law Offices of Thomas E. Shaw, P.C., 9304 Forest Lane, Suite 252, North
 Building, Dallas, Texas 75243

Pursuant to Rule 621a of the TEXAS RULES OF CIVIL PROCEDURE, Richard W. Walker
 hereby notifies all parties of record that he intends to take the oral deposition of the corporate
 representative of National Center for Policy Analysis ("NCPA"), before a certified court reporter
 authorized by law to administer oaths, on Thursday, December 21, 2017, commencing at
 9:00 a.m., at:

The Law Offices of Thomas E. Shaw, P.C.
 9304 Forest Lane
 Suite 252, North Building
 Dallas, Texas 75243

Please take further notice that the corporate representative must be able to testify fully on
 behalf of NCPA about the topics shown on Exhibit A attached hereto. Pursuant to TEX. R. CIV.
 P. 199.2(b)(1), within a reasonable time before the deposition, NCPA is requested to designate one



1 deposition officer at the time said testimony was
 2 taken, the following includes counsel for all parties
 3 of record:

4 Steven K. DeWolf, Counsel for Plaintiff;

5 Thomas E. Shaw, Counsel for Defendant.

6 I further certify that I am neither counsel for,
 7 related to, nor employed by any of the parties or
 8 attorneys in the action in which this proceeding was
 9 taken, and further that I am not financially or
 10 otherwise interested in the outcome of the action.

11 Further certification requirements pursuant to
 12 Rule 203 of TRCP will be certified to after they have
 13 occurred.

14 Certified to by me this 5th day of January,
 15 2018.

16
 17 
 BROOKE N. BARR, CSR
 Texas CSR Number 6521
 Expiration Date 12/31/19
 LEGAL SOLUTIONS COURT REPORTING
 Firm Registration Number 424
 3102 Maple Avenue
 Suite 450
 Dallas, Texas 75201
 (866) 468-1023
 (866) 651-4292 (Fax)



or more individuals to testify on its behalf and set forth, for each individual designated, the matters
 on which the individual will testify.

Such deposition will continue until concluded to the satisfaction of all parties, and upon
 completion may be used in evidence in the above-styled and numbered cause. This deposition will
 be recorded by stenographic means as allowed by the TEXAS RULES OF CIVIL PROCEDURE or the
 TEXAS RULES OF EVIDENCE, and may be videotaped. Plaintiff may attend and observe this
 deposition.

Respectfully submitted,

DEWOLF LAW

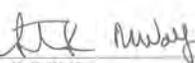

 Steven K. DeWolf
 SBN 05671200
 10,000 N. Central Expwy., Suite 1405
 Dallas, Texas 75231
 Telephone: (214) 615-4170
 Facsimile: (214) 615-4171
 Email: steve@dewolfllaw.com

ATTORNEY FOR RICHARD W. WALKER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of this document was served
 upon all counsel of record in accordance with the TEXAS RULES OF CIVIL PROCEDURE on the 12th
 day of December, 2017:

Thomas E. Shaw, Esq.
 The Law Offices of Thomas E. Shaw, P.C.
 9304 Forest Lane
 Suite 252, North Building
 Dallas, Texas 75243
 Email: totes@sbcglobal.net


 Steven K. DeWolf

Fill in this information to identify your case:

United States Bankruptcy Court for the:

NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION

Case number (if known) Chapter 7

Check if this an amended filing

Official Form 201

Voluntary Petition for Non-Individuals Filing for Bankruptcy

4/16

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known). For more information, a separate document, Instructions for Bankruptcy Forms for Non-Individuals, is available.

1. Debtor's name The National Center for Policy Analysis

2. All other names debtor used in the last 8 years

3. Debtor's federal Employer Identification Number (EIN) 75-1804932

4. Debtor's address Principal place of business

14180 Dallas Pkwy Ste 425 Dallas, TX 75254-4335

Mailing address, if different from principal place of business

P.O. Box, Number, Street, City, State & ZIP Code

Location of principal assets, if different from principal place of business 14180 Dallas Pkwy Ste 425 Dallas, TX 75254-4335

5. Debtor's website (URL)

6. Type of debtor Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))



Debtor The National Center for Policy Analysis

Case number (if known)

11. Why is the case filed in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

Check all that apply:

Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety.

What is the hazard?

It needs to be physically secured or protected from the weather.

It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).

Where is the property?

Number, Street, City, State & ZIP Code

Is the property insured?

No

Yes. Insurance agency

Contact name

Phone

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

Funds will be available for distribution to unsecured creditors.

After any administrative expenses are paid, no funds will be available to unsecured creditors.

14. Estimated number of creditors

1-49

50-99

100-199

200-999

1,000-5,000

5001-10,000

10,001-25,000

25,001-50,000

50,001-100,000

More than 100,000

15. Estimated Assets

\$0 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

\$500,001 - \$1 million

\$1,000,001 - \$10 million

\$10,000,001 - \$50 million

\$50,000,001 - \$100 million

\$100,000,001 - \$500 million

\$500,000,001 - \$1 billion

\$1,000,000,001 - \$10 billion

\$10,000,000,001 - \$50 billion

More than \$50 billion

16. Estimated liabilities

\$0 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$500,000

\$500,001 - \$1 million

\$1,000,001 - \$10 million

\$10,000,001 - \$50 million

\$50,000,001 - \$100 million

\$100,000,001 - \$500 million

\$500,000,001 - \$1 billion

\$1,000,000,001 - \$10 billion

\$10,000,000,001 - \$50 billion

More than \$50 billion

Debtor The National Center for Policy Analysis

Case number (if known)

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
Railroad (as defined in 11 U.S.C. § 101(44))
Stockbroker (as defined in 11 U.S.C. § 101(53A))
Commodity Broker (as defined in 11 U.S.C. § 101(6))
Clearing Bank (as defined in 11 U.S.C. § 781(3))
None of the above

B. Check all that apply

- Tax-exempt entity (as described in 26 U.S.C. §501)
Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. §80a-3)
Investment advisor (as defined in 15 U.S.C. §80b-2(a)(11))

C. NAICS (North American Industry Classification System) 4-digit code that best describes debtor. See http://www.uscourts.gov/four-digit-national-association-naics-codes.

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
Chapter 9
Chapter 11. Check all that apply.

- Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,566,050 (amount subject to adjustment on 4/01/19 and every 3 years after that).
The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). If the debtor is a small business debtor, attach the most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if all of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).
A plan is being filed with this petition.
Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(f).
The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy under Chapter 11 (Official Form 201A) with this form.
The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.

Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

No. Yes.

If more than 2 cases, attach a separate list. District When Case number

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

No. Yes.

List all cases. If more than 1, attach a separate list. Debtor Relationship District When Case number, if known

Debtor The National Center for Policy Analysis

Case number (if known)

Request for Relief, Declaration, and Signatures

WARNING - Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both, 18 U.S.C. §§ 152, 1541, 1519, and 3571.

17. Declaration and signature of authorized representative of debtor

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition. I have been authorized to file this petition on behalf of the debtor. I have examined the information in this petition and have a reasonable belief that the information is true and correct. I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2018 MM/DD/YYYY

X /s/ Reagan Stewart Reagan Stewart Printed name
Signature of authorized representative of debtor
Title Dissolution Officer

18. Signature of attorney

X /s/ Daniel I. Morenoff

Date February 5, 2018

Signature of attorney for debtor

MM/DD/YYYY

Printed name

The Morenoff Firm, PLLC

Firm name

PO Box 12347

Dallas, TX 75225-0347

Number, Street, City, State & ZIP Code

Contact phone

Email address dan.morenoff@morenoff-firm.com

24032700 TXN

Bar number and State

Fill in this information to identify the case: Debtor name The National Center for Policy Analysis United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION Case number (if known)

Check if this is an amended filing

Official Form 206A/B Schedule A/B: Assets - Real and Personal Property

12/15

Disclose all property, real and personal, which the debtor owns or in which the debtor has any other legal, equitable, or future interest. Include all property in which the debtor holds rights and powers exercisable for the debtor's own benefit.

Be as complete and accurate as possible. If more space is needed, attach a separate sheet to this form. At the top of any pages added, write the debtor's name and case number (if known).

For Part 1 through Part 11, list each asset under the appropriate category or attach separate supporting schedules, such as a fixed asset schedule or depreciation schedule, that gives the details for each asset in a particular category.

Part 1: Cash and cash equivalents

1. Does the debtor have any cash or cash equivalents?

No. Go to Part 2. Yes Fill in the information below.

Table with columns: General description, Net book value of debtor's interest, Valuation method used for current value, Current value of debtor's interest. Row 3.1: Liberty Capital Bank, Checking, 9410, \$1.54

4. Other cash equivalents (Identify all)

5. Total of Part 1. Add lines 2 through 4 (including amounts on any additional sheets). Copy the total to line 80. \$1.54

Part 2: Deposits and Prepayments

6. Does the debtor have any deposits or prepayments?

No. Go to Part 3. Yes Fill in the information below.

Part 3: Accounts receivable

10. Does the debtor have any accounts receivable?

No. Go to Part 4. Yes Fill in the information below.

Part 4: Investments

13. Does the debtor own any investments?

No. Go to Part 5. Yes Fill in the information below.

Debtor The National Center for Policy Analysis Name Case number (if known)

Part 10: Intangibles and intellectual property

59. Does the debtor have any interests in intangibles or intellectual property?

No. Go to Part 11. Yes Fill in the information below.

Table with columns: General description, Net book value of debtor's interest, Valuation method used for current value, Current value of debtor's interest. Rows: Patents and Copyrights (See Attachment 60) - unknown; Internet domain names and websites; Licenses, franchises, and royalties; Customer lists, mailing lists, or other compilations; Other intangibles, or intellectual property Financial Interest in Tax Forecasts Model - unknown

65. Goodwill

66. Total of Part 10. Add lines 60 through 65. Copy the total to line 89. \$0.00

67. Do your lists or records include personally identifiable information of customers (as defined in 11 U.S.C. §§ 101(41A) and 107)?

No. Yes

68. Is there an amortization or other similar schedule available for any of the property listed in Part 10?

No. Yes

69. Has any of the property listed in Part 10 been appraised by a professional within the last year?

No. Yes

Part 11: All other assets

70. Does the debtor own any other assets that have not yet been reported on this form?

Include all interests in executory contracts and unexpired leases not previously reported on this form.

No. Go to Part 12. Yes Fill in the information below.

Table with columns: General description, Net book value of debtor's interest, Valuation method used for current value, Current value of debtor's interest. Rows: Notes receivable; Tax refunds and unused net operating losses (NOLs); Interests in insurance policies or annuities EPL Policy (Claims-Made Policy / Term Extends Through 6/26/19) - \$2,000,000.00

Debtor The National Center for Policy Analysis Name Case number (if known)

Part 5: Inventory, excluding agriculture assets

18. Does the debtor own any inventory (excluding agriculture assets)?

No. Go to Part 6. Yes Fill in the information below.

Part 6: Farming and fishing-related assets (other than titled motor vehicles and land)

27. Does the debtor own or lease any farming and fishing-related assets (other than titled motor vehicles and land)?

No. Go to Part 7. Yes Fill in the information below.

Part 7: Office furniture, fixtures, and equipment; and collectibles

38. Does the debtor own or lease any office furniture, fixtures, equipment, or collectibles?

No. Go to Part 8. Yes Fill in the information below.

Table with columns: General description, Net book value of debtor's interest, Valuation method used for current value, Current value of debtor's interest. Row 39: Office furniture FF&E (including televisions) - \$25,000.00

40. Office fixtures

41. Office equipment, including all computer equipment and communication systems equipment and software

42. Collectibles Examples: Antiques and figurines; paintings, prints, or other artwork; books, pictures, or other art objects; china and crystal; stamp, coin, or baseball card collections; other collections, memorabilia, or collectibles

43. Total of Part 7. Add lines 39 through 42. Copy the total to line 86. \$25,000.00

44. Is a depreciation schedule available for any of the property listed in Part 7?

No. Yes

45. Has any of the property listed in Part 7 been appraised by a professional within the last year?

No. Yes

Part 8: Machinery, equipment, and vehicles

46. Does the debtor own or lease any machinery, equipment, or vehicles?

No. Go to Part 9. Yes Fill in the information below.

Part 9: Real property

54. Does the debtor own or lease any real property?

No. Go to Part 10. Yes Fill in the information below.

Debtor The National Center for Policy Analysis Name Case number (if known)

74. Causes of action against third parties (whether or not a lawsuit has been filed)

Table with columns: Nature of claim, Restitution Under Criminal Judgment, Amount requested. Row: Galloway Restitution Claim - \$1.00

75. Other contingent and unliquidated claims or causes of action of every nature, including counterclaims of the debtor and rights to set off claims

Table with columns: Nature of claim, Contingent Obligation Related to Social Media Rights, Amount requested. Row: National Community Pharmacists Association - \$7,500.00

76. Trusts, equitable or future interests in property

77. Other property of any kind not already listed Examples: Season tickets, country club membership

Table with columns: Nature of claim, Office Artwork, Amount requested. Row: Office Artwork - unknown

78. Total of Part 11. Add lines 71 through 77. Copy the total to line 90. \$2,007,500.00

79. Has any of the property listed in Part 11 been appraised by a professional within the last year?

No. Yes

Debtor The National Center for Policy Analysis Case number (if known) _____
Name _____

Part 12: Summary

In Part 12 copy all of the totals from the earlier parts of the form

Type of property	Current value of personal property	Current value of real property
80. Cash, cash equivalents, and financial assets. <i>Copy line 5, Part 1</i>	\$1.54	
81. Deposits and prepayments. <i>Copy line 9, Part 2.</i>	\$0.00	
82. Accounts receivable. <i>Copy line 12, Part 3.</i>	\$0.00	
83. Investments. <i>Copy line 17, Part 4.</i>	\$0.00	
84. Inventory. <i>Copy line 23, Part 5.</i>	\$0.00	
85. Farming and fishing-related assets. <i>Copy line 33, Part 6.</i>	\$0.00	
86. Office furniture, fixtures, and equipment; and collectibles. <i>Copy line 43, Part 7.</i>	\$25,000.00	
87. Machinery, equipment, and vehicles. <i>Copy line 51, Part 8.</i>	\$0.00	
88. Real property. <i>Copy line 56, Part 9.</i>		\$0.00
89. Intangibles and intellectual property. <i>Copy line 66, Part 10.</i>	\$0.00	
90. All other assets. <i>Copy line 78, Part 11.</i>	\$2,007,500.00	
91. Total. Add lines 80 through 90 for each column	\$2,032,501.54	\$0.00
92. Total of all property on Schedule A/B. Add lines 91a+91b=92	\$2,032,501.54	

Fill in this information to identify the case:

Debtor name The National Center for Policy Analysis
United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
Case number (if known) _____

Check if this is an amended filing

Official Form 206E/F Schedule E/F: Creditors Who Have Unsecured Claims 12/15

Be as complete and accurate as possible. Use Part 1 for creditors with PRIORITY unsecured claims and Part 2 for creditors with NONPRIORITY unsecured claims. List the other party to any executory contracts or unexpired leases that could result in a claim. Also list executory contracts on Schedule A/B: Assets - Real and Personal Property (Official Form 206A/B) and on Schedule G: Executory Contracts and Unexpired Leases (Official Form 206G). Number the entries in Parts 1 and 2 in the boxes on the left. If more space is needed for Part 1 or Part 2, fill out and attach the Additional Page of that Part included in this form.

Part 1: List All Creditors with PRIORITY Unsecured Claims

- Do any creditors have priority unsecured claims? (See 11 U.S.C. § 507).
 No. Go to Part 2.
 Yes. Go to line 2.
- List in alphabetical order all creditors who have unsecured claims that are entitled to priority in whole or in part. If the debtor has more than 3 creditors with priority unsecured claims, fill out and attach the Additional Page of Part 1.

Priority creditor's name and mailing address	As of the petition filing date, the claim is:	Total claim	Priority amount
2.1 Alan Hamill 6147 Desco Dr Dallas, TX 75225-1904	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$464.80	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

2.2 Brian Williams 2447 Woodland Ct Chesapeake Beach, MD 20732-4607	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$272.59	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

Fill in this information to identify the case:

Debtor name The National Center for Policy Analysis
United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
Case number (if known) _____

Check if this is an amended filing

Official Form 206D Schedule D: Creditors Who Have Claims Secured by Property 12/15

- Be as complete and accurate as possible.
- Do any creditors have claims secured by debtor's property?
 No. Check this box and submit page 1 of this form to the court with debtor's other schedules. Debtor has nothing else to report on this form.
 Yes. Fill in all of the information below.

Part 1: List Creditors Who Have Secured Claims

2. List in alphabetical order all creditors who have secured claims. If a creditor has more than one secured claim, list the creditor separately for each claim.

Priority creditor's name	Describe debtor's property that is subject to a lien	Column A Amount of claim Do not deduct the value of collateral.	Column B Value of collateral that supports this claim
2.1 Transwestern Creditor's Name 14180 Dallas Pkwy Ste 320 Dallas, TX 75254-4304 Creditor's mailing address Creditor's email address, if known Date debt was incurred Last 4 digits of account number	Describe the lien <u>Balance on Office Lease</u> Is the creditor an insider or related party? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Is anyone else liable on this claim? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Fill out Schedule H: Codebitors (Official Form 206H)	\$84,308.19	unknown

3. Total of the dollar amounts from Part 1, Column A, including the amounts from the Additional Page, if any. \$84,308.19

Part 2: List Others to Be Notified for a Debt Already Listed in Part 1

List in alphabetical order any others who must be notified for a debt already listed in Part 1. Examples of entities that may be listed are collection agencies, assignees of claims listed above, and attorneys for secured creditors.

Name and address	On which line in Part 1 did you enter the related creditor?	Last 4 digits of account number for this entity

Debtor The National Center for Policy Analysis Case number (if known) _____
Name _____

2.3 David Grantham 6717 Rolling Hills Dr North Richland Hills, TX 76182-4358	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$302.30	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

2.4 Devon Herrick 4007 Cedarview Rd Dallas, TX 75287-5002	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$1,452.44	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

2.5 Jacki Pick 8714 Broken Point Dr Irving, TX 75063-4800	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$2,312.74	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

2.6 Joe Barnett 1013 Rosewood Ln Arlington, TX 76010-5833	As of the petition filing date, the claim is: Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed	\$403.06	\$0.00
Date or dates debt was incurred <u>1/1/17 - 6/30/17</u>	Basis for the claim: <u>Accrued Vacation</u>		
Last 4 digits of account number	Is the claim subject to offset?		
Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		

Debtor The National Center for Policy Analysis		Case number (if known) _____
Name _____		
2.7	Priority creditor's name and mailing address Kristina Barton 1555 Elm St # 2306 Dallas, TX 75201-3516 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$1,787.62 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
2.8	Priority creditor's name and mailing address Lloyd Bentsen 5060 Westgrove Dr Dallas, TX 75248-6043 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$731.99 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
2.9	Priority creditor's name and mailing address Luke Twombly 3440 Rosedale Ave # 3 Dallas, TX 75205-1389 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$0.00 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
2.10	Priority creditor's name and mailing address Munisie, LLC Lakeside Professional Campus 190 N Evergreen Ave Ste 205 Woodbury, NJ 08096-1862 Date or dates debt was incurred _____ Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$48.68 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Withholding Tax for Washington, DC Employee Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Debtor The National Center for Policy Analysis		Case number (if known) _____
Name _____		
3.3	Nonpriority creditor's name and mailing address American Express Merchant Services PO Box 53765 Phoenix, AZ 85072-3765 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$28.82 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.4	Nonpriority creditor's name and mailing address AT&T PO Box 5019 Carol Stream, IL 60197-5019 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$6,338.18 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.5	Nonpriority creditor's name and mailing address Brown's Furniture Service 4009 Old Denton Rd Ste 114-223 Carrollton, TX 75007-1000 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$2,142.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.6	Nonpriority creditor's name and mailing address Campaign Now, LLC 15851 Dallas Pkwy Ste 600 Addison, TX 75001-6030 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$6,000.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.7	Nonpriority creditor's name and mailing address CCS Horizon, Inc. PO Box 261417 Plano, TX 75026-1417 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$110.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.8	Nonpriority creditor's name and mailing address Cisco 1702 Townhurst Dr Houston, TX 77043-2811 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$3,705.73 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.9	Nonpriority creditor's name and mailing address Cision US, Inc. 12051 Indian Creek Ct Beltsville, MD 20705-1246 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$2,500.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Debtor The National Center for Policy Analysis		Case number (if known) _____
Name _____		
2.11	Priority creditor's name and mailing address Nick Pinner 5630 Spring Valley Rd Apt 15A Dallas, TX 75254-3171 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$1,340.72 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
2.12	Priority creditor's name and mailing address Stacey Smith 7421 Frankford Rd Apt 2612 Dallas, TX 75252-9156 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$1,150.78 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
2.13	Priority creditor's name and mailing address The Honorable Allen West 9925 Wood Forest Dr Dallas, TX 75243-4920 Date or dates debt was incurred 1/1/17 - 6/30/17 Last 4 digits of account number _____ Specify Code subsection of PRIORITY unsecured claim: 11 U.S.C. § 507(a) (d)	As of the petition filing date, the claim is: \$3,351.79 \$0.00 Check all that apply: <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Accrued Vacation Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Part 2: List All Creditors with NONPRIORITY Unsecured Claims
3. List in alphabetical order all of the creditors with nonpriority unsecured claims. If the debtor has more than 6 creditors with nonpriority unsecured claims, list out and attach the Additional Page of Part 2.

3.1	Nonpriority creditor's name and mailing address Allegra Marketing 14131 Midway Rd Ste 119 Addison, TX 75001-3638 Date(s) debt was incurred 8/16/17 Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$2,778.18 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.2	Nonpriority creditor's name and mailing address American Express PO Box 650448 Dallas, TX 75265-0448 Date(s) debt was incurred _____ Last 4 digits of account number 1007	As of the petition filing date, the claim is: Check all that apply. \$215,770.22 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Debtor The National Center for Policy Analysis		Case number (if known) _____
Name _____		
3.10	Nonpriority creditor's name and mailing address Clarion Financial Services, LLC 4809 Cole Ave Ste 108 Dallas, TX 75205-3553 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$150,609.69 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.11	Nonpriority creditor's name and mailing address Connex Systems, Inc. 2033 Chenault Dr Ste 150 Carrollton, TX 75006-4968 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$87.84 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.12	Nonpriority creditor's name and mailing address Corporation Service Company 251 Little Falls Dr Wilmington, DE 19808-1674 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$918.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.13	Nonpriority creditor's name and mailing address Credence Resource Management 17000 Dallas Pkwy Ste 204 Dallas, TX 75248-1940 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$1,771.31 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.14	Nonpriority creditor's name and mailing address Dennis McCuiston C/O FOUNDATION FOR RESPONSIBLE TELEVISION 11700 Preston Rd Dallas, TX 75230-6112 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$585.23 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.15	Nonpriority creditor's name and mailing address Devon Herrick 4007 Cedarview Rd Dallas, TX 75287-5002 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$826.01 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: Expense Reimbursement Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes
3.16	Nonpriority creditor's name and mailing address Emily Edwards 3132 Tidal Bay Ln Virginia Beach, VA 23451-1149 Date(s) debt was incurred _____ Last 4 digits of account number _____	As of the petition filing date, the claim is: Check all that apply. \$3,290.00 <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: _____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes

Debtor Name	Case number (if known)	Amount
3.17 Nonpriority creditor's name and mailing address Estes, Okon, Thorne & Carr, PLLC 3811 Turtle Creek Blvd Ste 2000 Dallas, TX 75219-4453 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$24,004.83
3.18 Nonpriority creditor's name and mailing address Evan Fitchett 8412 Kalliope Pl Chesterfield, VA 23838-6226 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Young Patriot Award</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$5,000.00
3.19 Nonpriority creditor's name and mailing address First Data Services 14141 Southwest Fwy Sugar Land, TX 77478-3493 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$74.84
3.20 Nonpriority creditor's name and mailing address Gardere Wynne Sewell 2021 McKinney Ave Ste 1600 Dallas, TX 75201-3340 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input checked="" type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	unknown
3.21 Nonpriority creditor's name and mailing address Grant Miller Photography 6959 Coronado Ave Dallas, TX 75214-4017 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$1,050.00
3.22 Nonpriority creditor's name and mailing address Gregory Rehmkne 14307 23rd Ave SW Burien, WA 98166-1008 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$1,000.00
3.23 Nonpriority creditor's name and mailing address Hatton W. Summers Foundation 325 N Saint Paul St Ste 3920 Dallas, TX 75201-3821 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$140,000.00

Debtor Name	Case number (if known)	Amount
3.31 Nonpriority creditor's name and mailing address Konica Minolta 21146 Network Pl Chicago, IL 60673-1211 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$17,111.45
3.32 Nonpriority creditor's name and mailing address Law Offices of Kenneth K. Stephens 4709 W Lovers Ln Ste 100 Dallas, TX 75209-3176 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$31,511.24
3.33 Nonpriority creditor's name and mailing address Lexicom, Ltd. PO Box 36021 Calgary, AB T3E-7C6 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$3,599.95
3.34 Nonpriority creditor's name and mailing address Logix PO Box 3608 Houston, TX 77253-3608 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$3,288.93
3.35 Nonpriority creditor's name and mailing address Lori K. Orta, PC 5050 Quorum Dr Ste 312 Dallas, TX 75254-7039 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$15,231.13
3.36 Nonpriority creditor's name and mailing address Munsch Hardt Kopf & Carr 500 N Akard St Ste 3800 Dallas, TX 75201-6659 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$636.00
3.37 Nonpriority creditor's name and mailing address Netrico, LLC 116 N Tennessee St Ste 200 McKinney, TX 75069-4357 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$2,650.00

Debtor Name	Case number (if known)	Amount
3.24 Nonpriority creditor's name and mailing address HCWE Worldwide Economics PO Box 1108 Cambria, CA 93428-1108 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$4,000.00
3.25 Nonpriority creditor's name and mailing address High Profile, Inc. 4851 Lyndon B Johnson Fwy Ste 500 Dallas, TX 75244-6019 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$5,219.33
3.26 Nonpriority creditor's name and mailing address I Constituent 600 Pennsylvania Ave SE Ste 310 Washington, DC 20003-6300 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$510.00
3.27 Nonpriority creditor's name and mailing address IC System, Inc. PO Box 64378 Saint Paul, MN 55164-0378 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$14,586.69
3.28 Nonpriority creditor's name and mailing address Iron Mountain 1101 Enterprise Dr Royersford, PA 19468-4201 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$7,708.06
3.29 Nonpriority creditor's name and mailing address Jack Boles Parking PO Box 190326 Dallas, TX 75219-0326 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$560.00
3.30 Nonpriority creditor's name and mailing address Joe Barnett 1013 Rosewood Ln Arlington, TX 76010-5833 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Reimbursement of Expenses</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$448.34

Debtor Name	Case number (if known)	Amount
3.38 Nonpriority creditor's name and mailing address Old Parkland Hospitality 3819 Maple Ave Dallas, TX 75219-3913 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$23,451.86
3.39 Nonpriority creditor's name and mailing address Onyx Transportation Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$213.30
3.40 Nonpriority creditor's name and mailing address Pam Villarreal 1612 Savage Dr Plano, TX 75023-1831 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: <u>Expense Reimbursement</u> Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$1,619.41
3.41 Nonpriority creditor's name and mailing address Pitney Bowes 2225 American Dr Neenah, WI 54956-1005 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$347.37
3.42 Nonpriority creditor's name and mailing address Ready Refresh PO Box 856680 Louisville, KY 40285-6680 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$43.69
3.43 Nonpriority creditor's name and mailing address Richard McKenzie 3 Owen Ct Irvine, CA 92617-4040 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input checked="" type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$2,500.00
3.44 Nonpriority creditor's name and mailing address Richard Walker c/o DeWolf Law 10000 N Central Expy Ste 1405 Dallas, TX 75231-4110 Date(s) debt was incurred ____ Last 4 digits of account number ____	As of the petition filing date, the claim is: Check all that apply. <input type="checkbox"/> Contingent <input type="checkbox"/> Unliquidated <input type="checkbox"/> Disputed Basis for the claim: ____ Is the claim subject to offset? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	\$160,517.80

Debtor The National Center for Policy Analysis Case number (if known) _____
 Name _____

3.45 Nonpriority creditor's name and mailing address Richard Walker As of the petition filing date, the claim is: Check all that apply. \$0.00
c/o DeVolf Law
10000 N Central Expy Ste 1405
Dallas, TX 75231-4110
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: Derivative Suit Asserted Against Company, with its D&O
 Is the claim subject to offset? No Yes

3.46 Nonpriority creditor's name and mailing address SMM/TP Properties LP As of the petition filing date, the claim is: Check all that apply. \$185,541.27
c/o KBS Realty Advisors, LLC
800 Newport Center Dr Ste 700
Newport Beach, CA 92660-6319
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: Office Rent
 Is the claim subject to offset? No Yes

3.47 Nonpriority creditor's name and mailing address Sound Ideas Production Group As of the petition filing date, the claim is: Check all that apply. \$800.00
1500 Precision Dr Ste 130
Plano, TX 75074-8664
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.48 Nonpriority creditor's name and mailing address Suffolk University at Boston As of the petition filing date, the claim is: Check all that apply. \$175,000.00
73 Tremont St
Boston, MA 02108-3916
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.49 Nonpriority creditor's name and mailing address Teladoc, Inc. As of the petition filing date, the claim is: Check all that apply. \$22.00
PO Box 123417
Dallas, TX 75312-3417
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.50 Nonpriority creditor's name and mailing address Time Warner Cable As of the petition filing date, the claim is: Check all that apply. \$292.03
PO Box 60074
City of Industry, CA 91716-0074
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.51 Nonpriority creditor's name and mailing address US Legal Support As of the petition filing date, the claim is: Check all that apply. \$791.45
5910 N Central Expy Ste 100
Dallas, TX 75206-5130
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

Fill in this information to identify the case:
 Debtor name The National Center for Policy Analysis
 United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
 Case number (if known) _____
 Check if this is an amended filing

Official Form 206G
Schedule G: Executory Contracts and Unexpired Leases 12/15
 Be as complete and accurate as possible. If more space is needed, copy and attach the additional page, number the entries consecutively.

1. Does the debtor have any executory contracts or unexpired leases?
 No. Check this box and file this form with the debtor's other schedules. There is nothing else to report on this form.
 Yes. Fill in all of the information below even if the contacts of leases are listed on Schedule A/B: Assets - Real and Personal Property (Official Form 206A/B).

2. List all contracts and unexpired leases State the name and mailing address for all other parties with whom the debtor has an executory contract or unexpired lease

2.1. State what the contract or lease is for and the nature of the debtor's interest **Document Storage**
 State the term remaining Open: Month-to-Month
 List the contract number of any government contract _____
Iron Mountain
1101 Enterprise Dr
Royersford, PA 19468-4201

2.2. State what the contract or lease is for and the nature of the debtor's interest **Copier/Printer Lease**
 State the term remaining Through 10/2020
 List the contract number of any government contract _____
Konica Minolta
21146 Network Pl
Chicago, IL 60673-1211

2.3. State what the contract or lease is for and the nature of the debtor's interest **Postage Meter**
 State the term remaining Unknown - Perhaps Month-to-Month
 List the contract number of any government contract _____
Pitney Bowes
2225 American Dr
Neenah, WI 54956-1005

2.4. State what the contract or lease is for and the nature of the debtor's interest **Office Lease**
 State the term remaining Through 2022
 List the contract number of any government contract _____
Transwestern
14180 Dallas Pkwy Ste 320
Dallas, TX 75254-4304

Debtor The National Center for Policy Analysis Case number (if known) _____
 Name _____

3.52 Nonpriority creditor's name and mailing address Valentine Direct Marketing As of the petition filing date, the claim is: Check all that apply. \$81.47
2344 Farrington St
Dallas, TX 75207-6014
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.53 Nonpriority creditor's name and mailing address Vincent Serafino Geary Waddell As of the petition filing date, the claim is: Check all that apply. \$2,000.00
1601 Elm St Ste 4100
Dallas, TX 75201-7274
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.54 Nonpriority creditor's name and mailing address West Publishing As of the petition filing date, the claim is: Check all that apply. \$3,844.01
c/o Thomson Reuters
610 Opperman Dr
Eagan, MN 55123-1340
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

3.55 Nonpriority creditor's name and mailing address Whitley Penn As of the petition filing date, the claim is: Check all that apply. \$23,413.00
1400 W 7th St Ste 400
Fort Worth, TX 76102-2628
 Date(s) debt was incurred _____
 Last 4 digits of account number _____
 Contingent
 Unliquidated
 Disputed
 Basis for the claim: _____
 Is the claim subject to offset? No Yes

Part 3: List Others to Be Notified About Unsecured Claims

4. List in alphabetical order any others who must be notified for claims listed in Parts 1 and 2. Examples of entities that may be listed are collection agencies, assignees of claims listed above, and attorneys for unsecured creditors.

If no others need to be notified for the debts listed in Parts 1 and 2, do not fill out or submit this page. If additional pages are needed, copy the next page.

Name and mailing address	On which line in Part 1 or Part 2 is the related creditor (if any) listed?	Last 4 digits of account number, if any

Part 4: Total Amounts of the Priority and Nonpriority Unsecured Claims

5. Add the amounts of priority and nonpriority unsecured claims.

5a. Total claims from Part 1	\$	13,619.51
5b. Total claims from Part 2	\$	1,256,130.66
5c. Total of Parts 1 and 2 Lines 5a + 5b = 5c.	\$	1,269,750.17

Fill in this information to identify the case:
 Debtor name The National Center for Policy Analysis
 United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
 Case number (if known) _____
 Check if this is an amended filing

Official Form 206H
Schedule H: Your Codebtors 12/15
 Be as complete and accurate as possible. If more space is needed, copy the Additional Page, numbering the entries consecutively. Attach the Additional Page to this page.

1. Do you have any codebtors?
 No. Check this box and submit this form to the court with the debtor's other schedules. Nothing else needs to be reported on this form.
 Yes

2. In Column 1, list as codebtors all of the people or entities who are also liable for any debts listed by the debtor in the schedules of creditors, Schedules D-G. Include all guarantors and co-obligors. In Column 2, identify the creditor to whom the debt is owed and each schedule on which the creditor is listed. If the codebtor is liable on a debt to more than one creditor, list each creditor separately in Column 2.

Column 1: Codebtor	Column 2: Creditor
2.1 Name _____ Mailing Address _____ Street _____ City _____ State _____ Zip Code _____	Name _____ Check all schedules that apply: <input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.2 Name _____ Mailing Address _____ Street _____ City _____ State _____ Zip Code _____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.3 Name _____ Mailing Address _____ Street _____ City _____ State _____ Zip Code _____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G
2.4 Name _____ Mailing Address _____ Street _____ City _____ State _____ Zip Code _____	<input type="checkbox"/> D <input type="checkbox"/> E/F <input type="checkbox"/> G

Fill in this information to identify the case:

Debtor name The National Center for Policy Analysis
 United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
 Case number (if known) _____

Check if this is an amended filing

Official Form 206Sum
Summary of Assets and Liabilities for Non-Individuals 12/15

Part 1: Summary of Assets

1. **Schedule A/B: Assets-Real and Personal Property** (Official Form 206A/B)

1a. **Real property:**
 Copy line 88 from Schedule A/B \$ **0.00**

1b. **Total personal property:**
 Copy line 91A from Schedule A/B \$ **2,032,501.54**

1c. **Total of all property:**
 Copy line 92 from Schedule A/B \$ **2,032,501.54**

Part 2: Summary of Liabilities

2. **Schedule D: Creditors Who Have Claims Secured by Property** (Official Form 206D)
 Copy the total dollar amount listed in Column A Amount of claim, from line 3 of Schedule D \$ **84,308.19**

3. **Schedule E/F: Creditors Who Have Unsecured Claims** (Official Form 206E/F)

3a. **Total claim amounts of priority unsecured claims:**
 Copy the total claims from Part 1 from line 5a of Schedule E/F \$ **13,619.51**

3b. **Total amount of claims of nonpriority amount of unsecured claims:**
 Copy the total of the amount of claims from Part 2 from line 5b of Schedule E/F +\$ **1,256,130.66**

4. **Total liabilities**
 Lines 2 + 3a + 3b \$ **1,354,058.36**

Debtor The National Center for Policy Analysis Case number (if known) _____

3. **Certain payments or transfers to creditors within 90 days before filing this case**

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,425. (This amount may be adjusted on 4/01/19 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

None.

Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer <i>Check all that apply</i>
3.1. Legacy Texas Bank 7031 Snider Plz Dallas, TX 75205-1334	11/16/17	\$40,000.00	<input checked="" type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other _____
3.2. Clarion Financial Services, LLC 4809 Cole Ave Ste 108 Dallas, TX 75205-3553	1/10/18 1/29/18	\$9,095.85	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input checked="" type="checkbox"/> Services <input type="checkbox"/> Other _____

4. **Payments or other transfers of property made within 1 year before filing this case that benefited any insider**

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or cosigned by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,425. (This amount may be adjusted on 4/01/19 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

None.

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.1. James H. Atmos, Jr. 2204 Still Water Ct Southlake, TX 76092-5559 President and CEO	3/27/17	\$4,179.06	Reimbursement of Expenses
4.2. Jacki Pick 8714 Broken Point Dr Irving, TX 75063-4800 GC of Debtor	3/27/17	\$685.55	Reimbursement of Expenses
4.3. Jacki Pick 8714 Broken Point Dr Irving, TX 75063-4800 GC	2/1/17 - 6/30/17	\$51,860.00	Bi-Monthly Payroll Payments
4.4. Jacki Pick 8714 Broken Point Dr Irving, TX 75063-4800 Outside Counsel	11/10/7 (\$1,800.00) 1/4/18 (\$5,700.00)	\$7,500.00	Payment for Services
4.5. The Honorable Alan West 9925 Wood Forest Dr Dallas, TX 75243-4920 Director	2/1/17 - 6/30/17	\$75,000.00	Bi-Monthly Payroll Payments

Fill in this information to identify the case:

Debtor name The National Center for Policy Analysis
 United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION
 Case number (if known) _____

Check if this is an amended filing

Official Form 207
Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy 04/16

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

Part 1: Income

1. **Gross revenue from business**

None.

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year

Sources of revenue Check all that apply	Gross revenue (before deductions and exclusions)
From the beginning of the fiscal year to filing date: From 10/01/2018 to Filing Date	<input type="checkbox"/> Operating a business \$0.00 <input checked="" type="checkbox"/> Other <u>Dissolving</u>
For prior year: From 10/01/2017 to Filing Date	<input checked="" type="checkbox"/> Operating a business \$744,463.00 <input type="checkbox"/> Other _____
For year before that: From 10/01/2016 to 9/30/2017	<input checked="" type="checkbox"/> Operating a business \$1,952,460.00 <input type="checkbox"/> Other _____

2. **Non-business revenue**
 Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

None.

Description of sources of revenue	Gross revenue from each source (before deductions and exclusions)
From the beginning of the fiscal year to filing date: From 10/01/2018 to Filing Date	<u>Dissolving</u> \$0.00
For prior year: From 10/01/2017 to 12/31/2017	<u>Settlement of Lawsuit</u> \$10,000.00
For year before that: From 10/01/2016 to 12/31/2016	<u>None</u> \$0.00

Part 2: List Certain Transfers Made Before Filing for Bankruptcy

Debtor The National Center for Policy Analysis Case number (if known) _____

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.6. Reagan Stewart / Clarion Fin'l Srvs, LLC 4809 Cole Ave Ste 108 Dallas, TX 75205-3553 Dissolution Officer	7/3/17 (\$20,000.00) 8/21/17 (\$2,500.00) 9/5/17 (\$2,500.00) 9/12/17 (\$5,000.00) 10/13/17 (\$650.00) 10/20/17 (\$5,000.00)	\$35,650.00	Professional Fees and Reimbursements

5. **Repossessions, foreclosures, and returns**

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

None.

Creditor's name and address	Describe of the Property	Date	Value of property
<input type="checkbox"/> None			

6. **Setoffs**
 List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

None.

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
<input type="checkbox"/> None			

Part 3: Legal Actions or Assignments

7. **Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits**

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

None.

Case title Case number	Nature of case	Court or agency's name and address	Status of case
7.1. Walker v. NCPA DC-16-05388	Breach of Contract	298th Judicial District Court 600 Commerce St Fl 8 Dallas, TX 75202-4606	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded
7.2. Walker v. Ivy et al. DC-18-00398	Derivative Suit Brought by Mr. Walker against NCPA and Its Officers and Directors	44th Judicial District Court 600 Commerce St Fl 5 Dallas, TX 75202-4606	<input checked="" type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
7.3. NCPA v. Ogletree, Deakins, Nash, Smoak & Stewart, P.C. DC-14-13453	Malpractice / Fiduciary Breach	192nd Judicial District Court 600 Commerce St Fl 7 Dallas, TX 75202-4606	<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input checked="" type="checkbox"/> Concluded

8. **Assignments and receivership**

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

Debtor The National Center for Policy Analysis Case number (if known) _____

None

Part 4: Certain Gifts and Charitable Contributions

9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000

None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
------------------------------	-------------------------------------------	-------------	-------

Part 5: Certain Losses

10. All losses from fire, theft, or other casualty within 1 year before filing this case.

None

Description of the property lost and how the loss occurred	Amount of payments received for the loss	Dates of loss	Value of property lost
<small>If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received. List unpaid claims on Official Form 106A/B (Schedule A/B: Assets - Real and Personal Property).</small>			

Part 6: Certain Payments or Transfers

11. Payments related to bankruptcy
List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

None.

Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
11.1. The Morenoff Firm, PLLC PO Box 12347 Dallas, TX 75225-0347	0.00	Retainer Cleared: 1/29/18 Draws Against: 2/5/18 and 2/7/18	\$7,000.00
Email or website address <u>www.morenoff-firm.com</u>			
Who made the payment, if not debtor? Debtor's Directors			

11.2. Clarion Financial Services, LLC 4809 Cole Ave Ste 108 Dallas, TX 75205-3553		(Itemized at #3 and #4, Above)	\$44,745.85
Email or website address <u>http://www.clarionfinancialservices.com</u>			
Who made the payment, if not debtor?			

Debtor The National Center for Policy Analysis Case number (if known) _____

16. Does the debtor collect and retain personally identifiable information of customers?

- No.
 Yes. State the nature of the information collected and retained.
Donor Checking Account and Credit Card Numbers
 Does the debtor have a privacy policy about that information?
 No
 Yes

17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b), or other pension or profit-sharing plan made available by the debtor as an employee benefit?

- No. Go to Part 10.
 Yes. Does the debtor serve as plan administrator?
 No Go to Part 10.
 Yes. Fill in below:
 Name of plan NCPA Retirement Plan Employer identification number of the plan EIN: 75-1804932/001
 Has the plan been terminated?
 No
 Yes

Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units

18. Closed financial accounts
Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred? Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

Financial Institution name and Address	Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
18.1. Legacy Texas Bank PO Box 869105 Plano, TX 75066-9105	XXXX-9994	<input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other	10/30/17	\$2,948.74

19. Safe deposit boxes
List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

Depository institution name and address	Names of anyone with access to it Address	Description of the contents	Do you still have it?
Liberty Capital Bank 5055 Keller Springs Rd Addison, TX 75001-5997	Mr. Stewart and Mr. Amos	Empty	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

20. Off-premises storage
List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

Debtor The National Center for Policy Analysis Case number (if known) _____

12. Self-settled trusts of which the debtor is a beneficiary
List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device. Do not include transfers already listed on this statement.

None.

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
-------------------------	-----------------------------------	---------------------------	-----------------------

13. Transfers not already listed on this statement
List any transfers of money or other property by sale, trade, or any other means made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

None.

Who received transfer? Address	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
13.1. Texas Public Policy Foundation 901 Congress Ave Austin, TX 78701-2421	Mailing and Donor Lists	11/15/17	\$50,000.00
Relationship to debtor			

13.2. National Community Pharmacists Associati 100 Daingerfield Rd Alexandria, VA 22314-2886	NCPA URL, Facebook, and Twitter Handles	12/11/17	\$7,500.00
Relationship to debtor			

Part 7: Previous Locations

14. Previous addresses
List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

Does not apply

Address	Dates of occupancy From-To
14.1. 14180 Dallas Pkwy Ste 350 Dallas, TX 75254-4369	12/23/13 - 5/26/17

Part 8: Health Care Bankruptcies

15. Health Care bankruptcies
Is the debtor primarily engaged in offering services and facilities for:
 - diagnosing or treating injury, deformity, or disease, or
 - providing any surgical, psychiatric, drug treatment, or obstetric care?

- No. Go to Part 9.
 Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
---------------------------	----------------------------------------------------------------------------------	---------------------------------------------------------------------------

Part 9: Personally Identifiable Information

Debtor The National Center for Policy Analysis Case number (if known) _____

None

Facility name and address	Names of anyone with access to it	Description of the contents	Do you still have it?
Iron Mountain 2000 Lone Star Dr Dallas, TX 75212-6312		Records, Publications, Miscellaneous	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own

21. Property held for another
List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, held in trust, do not list leased or rented property.

None

Part 12: Details About Environment Information

For the purpose of Part 12, the following definitions apply:
 Environmental law means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium).
 Site means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.
 Hazardous material means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- No.
 Yes. Provide details below.

Case title Case number	Court or agency name and address	Nature of the case	Status of case
---------------------------	----------------------------------	--------------------	----------------

23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?

- No.
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
-----------------------	------------------------------------	-----------------------------	----------------

24. Has the debtor notified any governmental unit of any release of hazardous material?

- No.
 Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
-----------------------	------------------------------------	-----------------------------	----------------

Part 13: Details About the Debtor's Business or Connections to Any Business

25. Other businesses in which the debtor has or has had an interest
List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

None

Debtor The National Center for Policy Analysis Case number (if known) _____

Business name address Describe the nature of the business Employer identification number
Do not include Social Security number or ITIN.
Dates business existed

26. Books, records, and financial statements
26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.
 None

Name and address	Date of service From-To
26a.1. Lori K. Orta, P.C. 5050 Quorum Dr Ste 312 Dallas, TX 75254-7039	2015 - 7/31/2017
26a.2. Whitley Penn 8343 Douglas Ave Ste 400 Dallas, TX 75225-5801	2015 - 9/30/2017

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.
 None

Name and address	Date of service From-To
26b.1. Lori K. Orta, P.C. 5050 Quorum Dr Ste 312 Dallas, TX 75254-7039	2015 - 7/31/2017
26b.2. Whitley Penn 8343 Douglas Ave Ste 400 Dallas, TX 75225-5801	2015 - 9/30/2017

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.
 None

Name and address	If any books of account and records are unavailable, explain why
26c.1. Lori K. Orta, P.C. 5050 Quorum Dr Ste 312 Dallas, TX 75254-7039	

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.
 None

Name and address
26d.1. Legacy Texas Bank 7031 Snider Plz Dallas, TX 75205-1334

27. Inventories
Have any inventories of the debtor's property been taken within 2 years before filing this case?
 No
 Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory	Date of inventory	The dollar amount and basis (cost, market, or other basis) of each inventory

Official Form 207 Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy page 8
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Debtor The National Center for Policy Analysis Date (month/year) _____

Name of the parent corporation Employer identification number of the parent corporation

35. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?
 No
 Yes. Identify below.

Name of the pension fund Employer identification number of the parent corporation

Part 14. Signature and Declaration

WARNING—Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both.
18 U.S.C. §§ 152, 1341, 1519, and 3671.

I have examined the information in this Statement of Financial Affairs and any attachments and have a reasonable belief that the information is true and correct.
I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2018

/s/ Reagan Stewart Reagan Stewart Reagan Stewart
Signature of individual signing on behalf of the debtor Printed name

Position or relationship to debtor: Dissolution Officer

Are additional pages to Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy (Official Form 207) attached?
 No
 Yes

Official Form 207 Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy page 10
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Debtor The National Center for Policy Analysis Case number (if known) _____

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Name	Address	Position and nature of any interest	% of interest, if any
Steve Ivy	3500 Maple Ave Fl 17 Dallas, TX 75219-3941	Chairman of the Board of Directors	0%
James H. Amos, Jr.	2204 Still Water Ct Southlake, TX 76092-5559	President and CEO Director	0%
The Honorable Allen West	9925 Wood Forest Dr Dallas, TX 75243-4920	Director	0%
Clarion Financial Services, LLC	4809 Cole Ave Ste 108 Dallas, TX 75205-3553	Dissolution Officer	0%
Michael Whalen	1501 River Dr Moline, IL 61265-1307	Director	0%

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?
 No
 Yes. Identify below.

Name	Address	Position and nature of any interest	Period during which position or interest was held
Larry Wedekind	1900 North Loop W Fl 4 Houston, TX 77018-8100	Former Director, 0%	Through 1/18
Jacki Pick	8714 Broken Point Dr Irving, TX 75063-4800	Executive VP	Through 3/30/17

30. Payments, distributions, or withdrawals credited or given to insiders
Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?
 No
 Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?
 No
 Yes. Identify below.

Official Form 207 Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy page 9
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Oral Deposition - Dennis McCuiston
February 20, 2019

CAUSE NO. DC-16-05388

1 FISCAL SOLUTIONS, LLC as) IN THE DISTRICT COURT
 2 assignee of RICHARD W.)
 3 WALKER,)
 4 Plaintiff,)
 5)
 6 v.) 298th JUDIC
 7)
 8 NATIONAL CENTER FOR POLICY)
 9 ANALYSIS,)
 10 Defendant.) DALLAS COUNTY, TEXAS

EXHIBIT
Ex. J

ORAL DEPOSITION
DENNIS MCCUISTION
FEBRUARY 20, 2019

ORAL DEPOSITION OF DENNIS MCCUISTION,
produced as a witness at the instance of the Plaintiff,
and duly sworn, was taken in the above-styled and
numbered cause on February 20, 2019, from 10:05 a.m. to
12:56 p.m., before Adrienne Harris, Certified Shorthand
Reporter in and for the State of Texas, at the offices
of Kennedy Law, P.C., 1445 Ross Avenue, Suite 2750,
Dallas, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or
attached hereto.

Julia Whaley & Associates
214-668-5578 JulietXCISR@gmail.com

Oral Deposition - Dennis McCuiston
February 20, 2019

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AGREEMENTS

DEPOSITION OF: DENNIS MCCUISTION

DATE: FEBRUARY 20, 2019

CAUSE NO. DC-16-05388

TAKEN PURSUANT TO:

- (X) Notice
() Agreement
() Court Order
(X) Rules of Civil Procedure

ORIGINAL TO:

- () Witness
(X) Witness's Attorney (Mr. Kennedy)
() Producing Attorney
() Waived

NUMBER OF DAYS FOR SIGNATURE:

- (X) 20 days
() 30 days
() other:

MISCELLANEOUS:

- () Any objection made by one party inures to all parties.
(X) An unsigned copy may be used at any trial or hearing.

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10:06 1 one another; makes for a terrible record later. And
10:06 2 I'll apologize now, I'll do it. I can't help it.
10:06 3 If you don't understand a question I'm asking,
10:06 4 just have me repeat it and we'll get through so that you
10:06 5 understand the question that's being posed. Okay? If
10:06 6 you need a break, let me know. We'll take one. The
10:06 7 only thing I might ask, if there's a question on the
10:06 8 table, that we get through that before we take a break.
10:06 9 Okay?

A. Yes.

10:06 11 Q. Mr. McCuiston, what do you do for employment
10:06 12 as of today?

10:06 13 A. I'm a clinical professor of corporate
10:06 14 governance at the University of Texas at Dallas, and I
10:06 15 run the Institute for Excellence in Corporate Governance
10:06 16 there.

10:06 17 Q. And is that institute associated with the
10:06 18 University of Texas Dallas?

10:06 19 A. Yes.

10:06 20 Q. Now, we are here today to discuss the National
10:06 21 Center for -- excuse me, the NCPA, the National Center
10:07 22 for Policy --

10:07 23 A. Analysis.

10:07 24 Q. -- Analysis. What was your position with the
10:07 25 NCPA?

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DENNIS MCCUISTION,

1 the said witness, having been first duly cautioned and
2 sworn to testify to the truth, the whole truth and
3 nothing but the truth, testified under oath as follows:

EXAMINATION

6 BY MR. BYNUM:

10:05 7 Q. Good morning. Will you please state your name
10:05 8 for the record.

10:05 9 A. Dennis McCuiston.

10:05 10 Q. Mr. McCuiston, my name's Doug Bynum. I'm here
10:05 11 representing Fiscal Solutions as assignee of Richard
10:05 12 Walker to take your deposition today. Okay?

10:05 13 A. Yes.

10:05 14 Q. Have you ever had your deposition taken before?

10:05 15 A. Yes.

10:05 16 Q. Couple of ground rules I'm going to go over.
10:05 17 You've probably heard these before, but I feel better if
10:05 18 I say them out loud. If you would, please answer
10:05 19 your -- answer my questions verbally. If you do a head
10:05 20 nod or a headshake, I may ask you, is that a yes or is
10:05 21 that a no, so that the court reporter here can get a
10:05 22 verbal answer.

10:05 23 The other thing, and I'm bad about this, is
10:06 24 let's let one another finish speaking before the other
10:06 25 one starts, so she's not trying to type us talking over

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10:07 1 A. I was the CEO and a board member from roughly
10:07 2 middle of June until the end of December 2014.

10:07 3 Q. Now, prior to June 2014, did you have any
10:07 4 association with the NCPA?

10:07 5 A. No.

10:07 6 Q. Who approached you about your position there?

10:07 7 A. A couple of the board members.

10:07 8 Q. Which board members?

10:07 9 A. Tex Gross and Jerry something. I'm sorry, I
10:07 10 can't remember his last name.

10:07 11 Q. Would that be Jerry Mills?

10:07 12 A. Jerry Mills. Thank you.

10:07 13 Q. Prior to June of 2014, did you have a -- did
10:08 14 you know who Jerry Mills was?

10:08 15 A. No.

10:08 16 Q. Did you know who Tex Gross was?

10:08 17 A. Yes.

10:08 18 Q. And how long did you know Tex Gross?

10:08 19 A. Twenty or 25 years.

10:08 20 Q. I assume that relationship was not just
10:08 21 business. Did y'all have a friendly relationship, a
10:08 22 personal relationship?

10:08 23 A. Mostly business.

10:08 24 Q. Mostly business. Okay.

10:08 25 At the time -- in June 2014, what was your

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10:08 1 understanding as to why the position of CEO was
10:08 2 available -- was open?
10:08 3 A. I was told that the former CEO and founder,
10:08 4 John Goodman, whom I'd known for a long time, was let
10:08 5 go.
10:08 6 Q. And why do you -- what was your understanding
10:08 7 as to why he was let go?
10:08 8 A. I was uncertain at the time.
10:08 9 Q. Over the span of the next days and weeks, did
10:09 10 you learn as to why he was let go?
10:09 11 A. Yes.
10:09 12 Q. And why was that?
10:09 13 A. Well, let's say he apparently did some things
10:09 14 that were in breach of his fiduciary duty to the
10:09 15 organization and apparently had treated one of the
10:09 16 employees poorly.
10:09 17 Q. What were your duties and responsibilities as
10:09 18 the CEO for NCPA?
10:09 19 A. The usual duties that any CEO would have, and
10:09 20 that is responsibility for the overall company, running
10:09 21 meetings that the organization held, being responsible
10:10 22 overall for the employees and trying to find my
10:10 23 replacement.
10:10 24 Q. Were these duties and responsibilities, were
10:10 25 they put into a document form? Was there an employment

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10:11 1 Q. Now, in your position of CEO, who did you
10:11 2 report to?
10:11 3 A. The board.
10:11 4 Q. Do you recall who was on the board at this
10:11 5 time?
10:11 6 A. I don't.
10:11 7 Q. Do you recall anybody who was on the board?
10:11 8 A. Yes, some.
10:11 9 Q. Okay.
10:11 10 A. Jerry Mills, Steve Ivy, Tex Gross, Tony Batman,
10:12 11 There were others, but most of them I never met in
10:12 12 person because they quit before we ever had a real board
10:12 13 meeting.
10:12 14 Q. You said they quit before you had your first
10:12 15 official board meeting when you were the CEO?
10:12 16 A. Yes.
10:12 17 Q. Do you understand why they quit?
10:12 18 A. I don't really remember.
10:12 19 Q. You said that you were there from Jan- -- I'm
10:12 20 sorry, from June of 2014 to December of 2014.
10:12 21 A. Correct.
10:12 22 Q. In that time, were any of the board members
10:12 23 that had resigned or quit replaced?
10:12 24 A. I don't remember us adding a new board member.
10:13 25 That doesn't mean that we didn't, but I don't remember.

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10:10 1 agreement or anything that you signed with the NCPA?
10:10 2 A. There was an employment agreement.
10:10 3 Q. And were you given a copy of that employment
10:10 4 agreement?
10:10 5 A. I'm sure that I was.
10:10 6 Q. Do you know if you still have that agreement?
10:10 7 A. I don't.
10:10 8 Q. I'm sorry, you don't know or you don't have --
10:10 9 A. I don't have it. I don't keep documents like
10:10 10 that for any length of time, and that's been five years
10:10 11 almost now.
10:10 12 Q. And do you know who would've signed that
10:11 13 document on behalf of NCPA?
10:11 14 A. I don't know.
10:11 15 Q. Do you know who was running the NCPA while
10:11 16 Mr. Good- -- between when Mr. Goodman was let go and
10:11 17 when you had taken the position of CEO?
10:11 18 A. Depends on who you would've talked to.
10:11 19 Q. Who would -- just a -- who was your
10:11 20 understanding? Did you know --
10:11 21 A. Well, Jerry Mills, the chairman, was
10:11 22 effectively running it, according to some. Richard
10:11 23 Walker was the chief operating officer, I believe his
10:11 24 title was; and according to others, he would've been
10:11 25 running it.

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10:13 1 Q. While you were with the NCPA, did you have an
10:13 2 official NCPA email address?
10:13 3 A. Yes.
10:13 4 Q. Do you by chance recall what that email address
10:13 5 was?
10:13 6 A. I don't, but it was whatever the normal is at
10:13 7 NCPA.org, and I don't remember if it was both names or a
10:13 8 dot. I just don't remember.
10:13 9 Q. Did you ever use a personal email address while
10:13 10 you were with the NCPA, for NCPA business?
10:13 11 A. If I did, very -- no. Not for NCPA business,
10:14 12 no. I had an NCPA address and what's called an VPN so
10:14 13 that when I was in some other place, UTD or home, I
10:14 14 could use that same email address that was NCPA.
10:14 15 Q. But you did not use a personal email address
10:14 16 for any NCPA business?
10:14 17 A. Not that I recall.
10:14 18 Q. Do you have the same personal email address now
10:14 19 that you did in 2014?
10:14 20 A. I do.
10:14 21 Q. You said that you had known John Goodman prior
10:14 22 to June of 2014; is that correct?
10:14 23 A. Yes.
10:14 24 Q. Was it also mostly through business-related
10:14 25 relationships or did you know him personally?

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10:15 1 A. Business.
10:15 2 Q. What was your opinion of John Goodman at the
10:15 3 time of June 2014?
10:15 4 A. Very smart guy, one of the most knowledgeable
10:15 5 healthcare economists in the country.
10:15 6 Q. I'm going to show you what's going to be marked
10:15 7 as Exhibit 1.
8 (Exhibit 1 marked.)
10:15 9 Q. (By Mr. Bynum) Give you a second to look over
10:15 10 the document.
10:15 11 A. Sure.
10:16 12 Q. Exhibit 1 is a document, is an email that we
10:16 13 received from Ms. Merrie Spaeth. In this email, it
10:16 14 states that you wanted to tell the media that you
10:17 15 knew -- that you've known John for 35 years and think
10:17 16 he's the best healthcare economist in the country. Do
10:17 17 you recall anything like that in June 2014?
10:17 18 A. Yes.
10:17 19 Q. It also states in the paragraph after this that
10:17 20 you think that the NCPA's future is tied with John's,
10:17 21 "John" being John Goodman.
10:17 22 A. Yes.
10:17 23 Q. Do you remember thinking that in 2014?
10:17 24 A. Yes.
10:17 25 Q. So as we sit here today, you have the same

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10:19 1 was a big contract that he had with another economist in
10:20 2 Boston, Larry Kotlikoff, K-O-T-L-I-K-O-F-F.
10:20 3 Q. Was that the only project that you continued to
10:20 4 work with Mr. Goodman?
10:20 5 A. All I can remember.
10:20 6 Q. Do you recall how long that project lasted?
10:20 7 A. I don't, but it was -- it was probably
10:20 8 terminated about the same time I left; so about that the
10:20 9 time, I would guess.
10:20 10 Q. Do you recall how much collaboration there was
10:20 11 with Mr. Goodman? Was it a weekly basis, a monthly
10:20 12 basis?
10:20 13 A. Nothing like that. If I needed to talk to him
10:20 14 about something that was in the contract and in his
10:20 15 agreement with Kotlikoff, I would call him. I seldom
10:21 16 ever talked to John after June of 2014.
10:21 17 Q. Did you speak with Mr. Goodman about his
10:21 18 termination from NCPA in June of 2014?
10:21 19 A. Yes.
10:21 20 Q. Do you recall if he wanted to continue working
10:21 21 with the NCPA or not?
10:21 22 A. I think John always wanted to continue working
10:21 23 with NCPA.
10:21 24 Q. In your communications with the board members,
10:21 25 was anybody on the board still willing to work to keep

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10:17 1 opinion about John Goodman that you expressed in --
10:17 2 expressed in this email?
10:17 3 A. Yes.
10:17 4 Q. Now, it was -- did the NCPA continue to work
10:18 5 with John Goodman after June of 2014?
10:18 6 A. I don't know what you meant by continue to work
10:18 7 with him.
10:18 8 Q. It states in here that -- I apologize. I'm
10:18 9 going to show you what's marked as Exhibit 2.
10 (Exhibit 2 marked.)
10:19 11 A. Okay.
10:19 12 Q. (By Mr. Bynum) Exhibit 2 is another document
10:19 13 that we received from Ms. Spaeth. It contains a press
10:19 14 release from June 20th of 2014. In the second paragraph
10:19 15 of this press release, it states that: Meanwhile,
10:19 16 McCuiston added, the NCPA will continue to collaborate
10:19 17 with Goodman on certain ongoing projects, just as it
10:19 18 would with any expert.
10:19 19 Do you see that in here?
10:19 20 A. Yes.
10:19 21 Q. Did you continue to collaborate on any projects
10:19 22 with John Goodman going forward?
10:19 23 A. On one, yes.
10:19 24 Q. Which project was that?
10:19 25 A. I'm not sure what the name of it was, but it

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10:21 1 John Goodman working with the NCPA?
10:21 2 A. Not that I recall.
10:21 3 Q. Do you recall anybody on the board determined
10:21 4 to move forward with the NCPA without Mr. Goodman?
10:21 5 A. I'm not sure I understand your question.
10:22 6 Q. I'll rephrase. Were any of the board members
10:22 7 dead set on the NCPA moving forward without Mr. Goodman
10:22 8 involved?
10:22 9 A. As I recall, most all of them were -- wanted
10:22 10 NCPA to continue without Mr. Goodman.
10:22 11 Q. Okay. Now, you were the acting CEO from June
10:22 12 of 2014 to December of 2014; is that correct?
10:22 13 A. Correct.
10:22 14 Q. Once you were replaced as CEO, what was your
10:22 15 position with the NCPA?
10:22 16 A. I stayed on the board for a while.
10:22 17 Q. And how long was a while?
10:22 18 A. I'm guessing about 18 months, but I don't know
10:22 19 exactly. I'm going to say sometime in 2016.
10:22 20 Q. So mid 2016?
10:22 21 A. Uh-huh.
10:22 22 Q. Not holding you to that, but just --
10:22 23 A. Mid to fall of 2016 is my best recollection.
10:23 24 Q. And why did you leave the board?
10:23 25 A. I didn't think that the board was being as

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10:23 1 effective as I would like it, and so I decided I would
10:23 2 be better off getting off the board, and the CEO at the
10:23 3 time didn't really care for me either.
10:23 4 Q. And who is the CEO in the fall of -- in 2016?
10:23 5 A. Jim Amos.
10:23 6 Q. And you said that you didn't believe the board
10:23 7 was as effective as you would've liked for it to be.
10:23 8 Can you give me some examples of what you mean by that?
10:23 9 A. Many of the board members didn't attend
10:23 10 meetings. The -- let's say, some members of the board
10:24 11 seemed to be more or less running the organization
10:24 12 without talking necessarily to the rest of the board
10:24 13 members.
10:24 14 Q. When you say some board members weren't
10:24 15 attending meetings --
10:24 16 A. Uh-huh.
10:24 17 Q. -- was that -- were they not attending at all?
10:24 18 Were they attending via phone?
10:24 19 A. Sometimes not at all, sometimes via phone.
10:24 20 Q. How often were these board meetings taking
10:24 21 place in 2016?
10:24 22 A. Quarterly.
10:24 23 Q. Can you recall, as we sit here today, which
10:24 24 board members would tend to not attend these meetings?
10:24 25 A. I really can't, but we had some that were out

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10:26 1 Q. As we sit here today, why do you believe the
10:26 2 NCPA had to close its doors?
10:26 3 A. I really don't know.
10:26 4 Q. Do you recall the financial situation of the
10:26 5 NCPA when you left in June? I mean, I'm sorry, in 2016?
10:26 6 A. Yes.
10:26 7 Q. What was the financial situation?
10:26 8 A. I would say it was not healthy, mainly because
10:27 9 of, well, two things. John Goodman's leaving the
10:27 10 company in the way he did, plus there was a defalcation
10:27 11 by the former CFO -- his name was Josh something -- who
10:27 12 had stolen most of the cash; and part of that cash had
10:27 13 been recovered, as I recall, but it was difficult.
10:27 14 THE WITNESS: I'm trying to sneeze. I
10:27 15 apologize. I'm trying not to sneeze, actually, so I'm
10:27 16 sorry.
10:27 17 Q. (By Mr. Bynum) Is it Josh Galloway that you're
10:27 18 referring to?
10:27 19 A. Yes.
10:27 20 Q. I have a couple of questions about Josh
10:27 21 Galloway. We'll get to those in a little bit. I wanted
10:27 22 to follow up on your -- you said, in the way that
10:27 23 Mr. Goodman left the organization. Can you be more
10:27 24 specific?
10:27 25 A. Well, it was a scandal, so a lot of people who

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10:24 1 of state, so that made it more difficult.
10:25 2 Q. Do you recall the ones that would be at the
10:25 3 board meetings?
10:25 4 A. Well, typically the ones that lived in Dallas.
10:25 5 Q. Any specific names?
10:25 6 A. Steve Ivy, Allen West, Tex Gross.
10:25 7 Q. And yourself?
10:25 8 A. And myself.
10:25 9 Q. Do you think it was efficient for the board to
10:25 10 have out-of-state members?
10:25 11 A. Well, it's never efficient, but when you form a
10:25 12 board, you look for different skill sets on the board.
10:25 13 Plus, you look for people who have a passion for, in
10:25 14 this case, public policy, and also those who are willing
10:25 15 to make financial contributions as well as open doors
10:26 16 and -- policy doors.
10:26 17 Q. Would you also agree, though, that part of
10:26 18 having the board members would be those that could
10:26 19 attend meetings to help with the organization?
10:26 20 A. That's part of it, but boards don't normally
10:26 21 get overly involved in a day-to-day basis, and joining
10:26 22 by phone or Skype or whatever is acceptable.
10:26 23 Q. But some sort of attendance is better than
10:26 24 none?
10:26 25 A. Of course.

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10:27 1 gave money to the organization were not anxious to give
10:28 2 with the scandal, and of course a lot of people who gave
10:28 3 were giving because of John because he was the founder
10:28 4 and had been the CEO for over 30 years. So that made it
10:28 5 difficult, as well, those two things.
10:28 6 Q. As the CEO, was part of your duties and
10:28 7 responsibilities -- did that involve fundraising?
10:28 8 A. Yes.
10:28 9 Q. Do you recall, in the six months that you were
10:28 10 there, how many of the larger donors of the NCPA that
10:28 11 you personally met with?
10:28 12 A. I don't recall.
10:29 13 Q. I've got a list here. I'm just going to read
10:29 14 off some names, if you can tell me if you met with these
10:29 15 personally or not.
10:29 16 A. Personally or phone? Does that count, too, or
10:29 17 just personally?
10:29 18 Q. I'll ask you the name, and then you can tell me
10:29 19 if you met with them personally or by phone.
10:29 20 A. Okay.
10:29 21 Q. Michael Gleba with the Scaife Foundation?
10:29 22 A. No.
10:29 23 Q. Michael Grebe with the Bradley Foundation?
10:29 24 A. No.
10:29 25 Q. Stephen Moore with the Murdock Foundation?

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10:29 1 A. No.
10:29 2 Q. Charles Preston with the Lilly Endowment?
10:29 3 A. No.
10:29 4 Q. Heather Rae Johnson with HRJ Consulting?
10:29 5 A. Yes, by phone.
10:29 6 Q. Neil -- I'm sorry?
10:29 7 A. By phone.
10:29 8 Q. Neil Anderson from Anderson Foundation?
10:29 9 A. Don't recall.
10:29 10 Q. John Robinson from the Amon Carter Foundation?
10:29 11 A. No.
10:29 12 Q. Bernie Marcus from the Marcus Foundation?
10:29 13 A. Tried to, but didn't.
10:30 14 Q. Tom Armstrong from the Armstrong Foundation?
10:30 15 A. No.
10:30 16 Q. Pete Green from the Sid Richardson Foundation?
10:30 17 A. It's Pete Geren --
10:30 18 Q. I'm sorry, Pete Geren.
10:30 19 A. -- G-E-R-E-N, yes.
10:30 20 Q. Phone or in person?
10:30 21 A. In person.
10:30 22 Q. Hugh Aiken from the Summers Foundation?
10:30 23 A. Yes, in person.
10:30 24 Q. Tom Smith from the Smith Foundation?
10:30 25 A. Tried to.

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10:31 1 Q. Charlie Moncrief?
10:31 2 A. No.
10:31 3 Q. Leigh Curry?
10:31 4 A. No.
10:31 5 Q. James Whitaker?
10:31 6 A. No.
10:31 7 Q. Virginia James?
10:31 8 A. What's her name, again?
10:31 9 Q. Virginia James.
10:31 10 A. Virginia James. Yes, by phone.
10:31 11 Q. Tony De Nicola?
10:31 12 A. Don't know that person.
10:31 13 Q. Jeff and Lu Ann Jensen?
10:32 14 A. Yes, personally.
10:32 15 Q. Jere Thompson?
10:32 16 A. Yes, personally.
10:32 17 Q. Of the ones that you were able to speak to
10:32 18 either in person or by phone, did any of these continue
10:32 19 to donate?
10:32 20 A. Yes.
10:32 21 Q. Did any of them choose not to contribute
10:32 22 anymore?
10:32 23 A. Boy, I can't recall based upon what we just
10:32 24 went over there.
10:32 25 Q. Generally, any ones that you spoke to that

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10:30 1 Q. Ken Cole, Pfizer?
10:30 2 A. No.
10:30 3 Q. Tony Mader from Anthem?
10:30 4 A. No.
10:30 5 Q. Emilio Pacheco from the Liberty Fund?
10:30 6 A. Yes.
10:30 7 Q. Did I get close to pronouncing it right?
10:30 8 A. That's as close as I can get.
10:30 9 Q. Was that in person?
10:30 10 A. No, phone.
10:30 11 Q. Anyone from the Bodman Foundation?
10:30 12 A. Bodman, did you say?
10:30 13 Q. Bodman, B-O-D-M-A-N.
10:31 14 A. I don't remember them.
10:31 15 Q. Lee Roy Mitchell?
10:31 16 A. Yes, personally.
10:31 17 Q. Boone Pickens?
10:31 18 A. No.
10:31 19 Q. Bob McNair?
10:31 20 A. I think by phone. He's Houston, I think, if I
10:31 21 recall.
10:31 22 Q. I believe so.
10:31 23 A. Uh-huh.
10:31 24 Q. Paul Singer?
10:31 25 A. Tried.

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10:32 1 might have chosen not to donate any more money, do you
10:32 2 recall the reasons they gave?
10:32 3 A. Well, it was typically because of the scandal
10:32 4 over John Goodman's leaving.
10:32 5 Q. In your time on the board, do you recall if any
10:33 6 of the ones that stopped contributing came back on board
10:33 7 as far as donations?
10:33 8 A. I can't recall.
10:33 9 Q. Now, what was your approach to fundraising for
10:33 10 the NCPA?
10:33 11 A. Well, it was two-pronged. First, personal
10:33 12 contacts, as you see there; but, secondly, when I went
10:33 13 on board, there was a -- there were two people in
10:33 14 fundraising, and so it was their job to contact most of
10:33 15 these people.
10:33 16 Third, the chairman, Mr. Mills, had been in
10:33 17 contact with many of those same people, so I didn't need
10:33 18 to duplicate that. Fourth, Mr. Walker, as the chief
10:33 19 operating officer -- and by the way, was that his title?
10:33 20 Do you know if that's the right title? I can't recall.
10:33 21 Q. I believe that it was COO, yes.
10:33 22 A. He had -- over the years he was there, had a
10:34 23 relationship with some of these people; so he made some
10:34 24 of the contacts, as well.
10:34 25 Q. When you came on as the CEO, did you attempt to

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10:34 1 reach out to a new database, for lack of a better word,
10:34 2 but a group of people that might be interested in
10:34 3 donating money?
10:34 4 A. Yes.
10:34 5 Q. Do you recall how much new donations were
10:34 6 brought in in the second half of 2014?
10:34 7 A. I don't recall. I would say not a lot. Not as
10:34 8 much as I would've liked, put it that way.
10:34 9 Q. You stated that two people at the NCPA was in
10:34 10 charge of the donations and that was their job to reach
10:34 11 out to them.
10:34 12 A. Correct.
10:34 13 Q. Do you recall who they were?
10:34 14 A. If you had their names, I would recall them.
10:35 15 Q. Was there a Tonya Featherstone?
10:35 16 A. That's one of them.
10:35 17 Q. And do you recall how long she stayed on after
10:35 18 you took over?
10:35 19 A. Ninety days or less.
10:35 20 Q. So less than three months?
10:35 21 A. Yes.
10:35 22 Q. Do you know who replaced her?
10:35 23 A. Yes.
10:35 24 Q. And who was that?
10:35 25 A. This is good since I'm the one who brought her

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10:37 1 then only casually. It was actually the week I started
10:37 2 when a friend of mine said, you need to meet Eileen and
10:37 3 arrange to lunch with her, shortly after I started.
10:37 4 Q. How long was Ms. Resnik with the NCPA the
10:37 5 second time?
10:37 6 A. I'm not sure. You'll have to ask her.
10:37 7 Q. Do you recall if she was still there when you
10:37 8 left in 2016?
10:37 9 A. She left right about that time, I think, either
10:37 10 just before or just after. It might've been just
10:37 11 before, but I can't recall.
10:37 12 Q. Do you recall who replaced her?
10:38 13 A. I don't.
10:38 14 Q. And I don't have the name for a second person.
10:38 15 While we've been having this conversation, did the name
10:38 16 of the second person come back to you?
10:38 17 A. No, but she's a wonderful lady who worked --
10:38 18 had worked with Eileen, before Eileen left the first
10:38 19 time, had worked with Tonya, and then continued to work
10:38 20 with Eileen when Eileen came back; and so I think she
10:38 21 was there to almost the end, just a really nice person
10:38 22 who was great with databases.
10:38 23 Q. That was going to be my next question, if you
10:38 24 knew when she left, but you stated you believe it was --
10:38 25 A. I think almost at the end.

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10:35 1 back. She was there for several years and I hired her
10:35 2 back, and her name is Eileen, E-I-L-E-E-N.
10:35 3 Q. Is it Resnik?
10:35 4 A. Resnik, thank you. R-E-S-N-I-K, as I recall.
10:35 5 Q. Now, you stated that she had been there and
10:35 6 that you brought her back.
10:35 7 A. Correct.
10:35 8 Q. So she used to be with the NCPA?
10:36 9 A. Correct.
10:36 10 Q. And where was she when you hired her back?
10:36 11 A. She was working for a nonprofit, some religious
10:36 12 school in North Dallas. I forget the name of it, but
10:36 13 she was the development officer for that school.
10:36 14 Q. Okay. Do you by chance why she left the NCPA
10:36 15 the first time?
10:36 16 A. Yes.
10:36 17 Q. And why was that?
10:36 18 A. Because of the -- let's say, the culture in the
10:36 19 organization.
10:36 20 Q. How long had she been gone from the NCPA?
10:36 21 A. My guess is two years.
10:37 22 Q. Now, you had brought her back. Did you know
10:37 23 her outside of the NCPA, through other business
10:37 24 organizations or through other people?
10:37 25 A. No, I just knew her when she was with NCPA, but

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10:38 1 Q. Okay. While you were the CEO of the NCPA, do
10:38 2 you recall how much of your time was dedicated to
10:38 3 fundraising?
10:38 4 A. Too much.
10:38 5 Q. Could you give me a percentage of the too much?
10:39 6 A. It would be hard to say. I had so many other
10:39 7 things to do, that it was not a big percentage. I would
10:39 8 say 10 to 20, no more than that.
10:39 9 Q. So when you said "too much," you meant that in
10:39 10 relation to the fact that there were so many other
10:39 11 things to do?
10:39 12 A. Right.
10:39 13 Q. I'd like to show you what I've marked as
10:39 14 Exhibit 3.
10:39 15 (Exhibit 3 marked.)
10:40 16 A. Okay.
10:40 17 Q. (By Mr. Bynum) Exhibit 3 is part of a document
10:40 18 that we obtained from Mr. Reagan Stewart for the
10:40 19 corporate documents from the NCPA.
10:40 20 A. I don't know Reagan Stewart.
10:40 21 Q. Reagan Stewart was almost the -- I would say,
10:40 22 the dissolution officer. He had come on at the end as
10:40 23 the NCPA was winding down.
10:40 24 A. Okay.
10:40 25 Q. Now, these are fundraising highlights from

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10:41 1 October of 2016 to June of 2017. You had stated that
10:41 2 you left summer to fall of 2016.
10:41 3 A. I think so.
10:41 4 Q. So I'm not going to worry about new significant
10:41 5 donors at the top because that would've come in after
10:41 6 your time you were there.
10:41 7 A. Correct.
10:41 8 Q. What I'd like to focus on is the significant
10:41 9 renewed donor list towards the bottom on the second
10:41 10 page. Going through this, do you recognize any of these
10:41 11 donors as somebody that you personally spoke to about
10:41 12 bringing money on, fundraising for the NCPA?
10:41 13 A. Yes.
10:41 14 Q. And which ones are those?
10:41 15 A. Cary Maguire, Diana Davis Spencer Foundation,
10:41 16 Jere Thompson, and that's J-E-R-E Thompson. Hoglund,
10:41 17 H-O-G-L-U-N-D, Foundation, Larry Foster, Eric Affeldt,
10:42 18 A-F-F-E-L-D-T, Copart, C-O-P-A-R-T, Terry, T-E-R-R-Y,
10:42 19 Kafka, K-A-F-K-A, Charles Koch, K-O-C-H, Institute.
10:42 20 Q. Now, of the ones that we just spoke about, were
10:42 21 any of these brought on in late 2014 while you were
10:42 22 at -- while you were acting as the CEO?
10:42 23 A. I couldn't say.
10:42 24 Q. But you did speak to either the individuals or
10:42 25 the foundations here involved about bringing money into

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10:44 1 Q. Do you recall the names of any of those three
10:44 2 or four people?
10:44 3 A. Fred Smith was one of them. Kim Dennis. My
10:44 4 first name is her last name, Kim Dennis. Those are the
10:44 5 only two that -- who come to mind.
10:45 6 Q. And who was Fred Smith?
10:45 7 A. Fred Smith, at the time, was the CEO, and he
10:45 8 was the founder of the Competitive Enterprise Institute
10:45 9 in Washington D.C.
10:45 10 Q. And Kim Dennis?
10:45 11 A. Kim Dennis is the, I don't know, CEO or
10:45 12 executive director of the Searle Foundation, S-E-A-R-L-E
10:45 13 Foundation, in D.C.
10:45 14 Q. Were any of the members on this committee local
10:45 15 members?
10:45 16 A. No.
10:45 17 Q. Now, Mr. Allen West was chosen as the next CEO
10:45 18 for the NCPA, correct?
10:45 19 A. Correct.
10:45 20 Q. How was his -- how did his name come up?
10:46 21 A. He was scheduled to speak for NCPA on
10:46 22 September 17th, 2014. The reason I know it was
10:46 23 September 17th is because that's Constitution Day,
10:46 24 something which he reminded us in his speech, by the
10:46 25 way, as you might imagine that he knew that; and I met

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10:43 1 the NCPA?
10:43 2 A. Yes.
10:43 3 Q. And I only recall the Jere Thompson as the only
10:43 4 name on here from the list that we went back -- we went
10:43 5 over briefly earlier. So Jere Thompson, it seemed,
10:43 6 continued to donate through 2014 through at least June
10:43 7 of 2017. Does that look correct?
10:43 8 A. Apparently.
10:43 9 Q. Now, you were brought on in an interim
10:43 10 position, correct?
10:43 11 A. Correct.
10:43 12 Q. You understood that you were just going to be a
10:43 13 stopgap, and that while you were there in performing
10:43 14 those responsibilities and duties, you would be looking
10:43 15 for a more permanent placement -- replacement?
10:43 16 A. Correct.
10:43 17 Q. What was the process for finding the
10:44 18 replacement?
10:44 19 A. Two things. People that I and others with NCPA
10:44 20 knew, and then we had contracted with a search firm out
10:44 21 of South Carolina, whose names I can't recall, but they
10:44 22 did searches in the public policy arena; and one more I
10:44 23 just remembered, actually had a committee of people from
10:44 24 think tanks and/or donors, three or four people, who
10:44 25 also helped me.

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10:46 1 him along with some other board members that night
10:46 2 before his speech. We got to know him, was good.
10:46 3 And then when we were looking for someone to
10:46 4 take the place, Eileen Resnik came into my office and
10:46 5 said, what about Allen West? I said, he wouldn't be
10:46 6 interested in something like this. She said, I think he
10:46 7 might. And I said, well, why don't you call him and
10:46 8 see? She did, he was, and that's how it happened.
10:46 9 Q. So that was September of 2014?
10:46 10 A. Well, that probably was October/November of
10:47 11 2014. He spoke for us in September, but that would've
10:47 12 been October/November.
10:47 13 Q. Do you recall any of the other names that were
10:47 14 floated out between the committees, the members of the
10:47 15 board and yourself?
10:47 16 A. I spoke with Tom Giovanetti,
10:47 17 G-I-O-V-A-N-E-T-I -- maybe two Ns, I'm not sure -- and
10:47 18 he runs an Institute for Policy Innovation here in
10:47 19 Dallas, another think tank. I spoke with the chief
10:47 20 fundraiser of Mothers Against Drunk Driving, don't
10:47 21 remember his name.
10:47 22 I spoke with an economist in Washington D.C.,
10:47 23 who I don't recall his name, but he had put on sessions
10:48 24 in Guatemala; and I also spoke to an economist at the
10:48 25 Texas Public Policy Foundation, and I don't remember his

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10:48 1 name.

10:48 2 Q. Was Mr. West the only person that was offered

10:48 3 the job?

10:48 4 A. I would say yes and no. In talking to two or

10:48 5 three of those other people, I basically had floated the

10:48 6 idea of their coming on board as well as Allen, because

10:48 7 I thought it would be good to have -- Allen's a great

10:48 8 guy and a good fundraiser and very well known and well

10:48 9 respected, but he had never run a think tank and he

10:49 10 wasn't an economist.

10:49 11 So we had talked to some of the other people

10:49 12 about the idea of perhaps coming on. We didn't actually

10:49 13 offer him the CEO job as we did Allen West.

10:49 14 Q. Do you think it was important to have somebody

10:49 15 in this position that had some amount of think tank

10:49 16 experience?

10:49 17 A. We thought so at the time.

10:49 18 Q. You'd also mentioned that Mr. West was not an

10:49 19 economist. Do you think it was important to have

10:49 20 somebody that had some sort of work as an economist in

10:49 21 his background, or in that realm, so to speak?

10:49 22 A. Either in his position or the number two

10:49 23 position, we thought that would be appropriate.

10:49 24 Q. Now, at this time, who was the number two?

10:49 25 A. Well, after Richard Walker left, we didn't

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10:51 1 with the NCPA?

10:51 2 A. I don't.

10:51 3 Q. Do you recall what your compensation was with

10:51 4 the NCPA?

10:51 5 A. I don't, but about 15,000 a month, as I recall.

10:51 6 Q. As you sit here today, do you recall if his was

10:51 7 more than that?

10:51 8 A. Yes.

10:51 9 Q. You had said there was an employment agreement

10:51 10 when you signed on to be the CEO.

10:52 11 A. Yes.

10:52 12 Q. Was there also an employment agreement when

10:52 13 Mr. West signed on --

10:52 14 A. Yes.

10:52 15 Q. -- to be the CEO?

10:52 16 Do you recall who signed that on behalf of the

10:52 17 NCPA?

10:52 18 A. I don't.

10:52 19 Q. Did you sign it on behalf of the NCPA?

10:52 20 A. May have, but I don't recall.

10:52 21 Q. Now, prior to taking his position with the

10:52 22 NCPA, do you recall what Mr. West was doing for

10:52 23 employment?

10:52 24 A. Well, he was speaking, for one thing, and he

10:52 25 ran a profit-making -- or at least a revenue-generating

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10:50 1 really have a number two.

10:50 2 Q. And would it be correct to state that there was

10:50 3 not a -- a replacement for Mr. Walker was not found by

10:50 4 the time you left the NCPA?

10:50 5 A. Correct.

10:50 6 Q. So that position remained open?

10:50 7 A. Correct.

10:50 8 Q. Who negotiated the position with Mr. West?

10:50 9 A. I and some of the other board members.

10:50 10 Q. And do you recall which board members?

10:50 11 A. I don't. It was a joint thing with the board.

10:50 12 Q. And how long did the negotiations with Mr. West

10:50 13 last?

10:50 14 A. It wasn't a long negotiation, and he wanted to

10:50 15 do it and we wanted to have him. Probably not more than

10:50 16 two, three weeks maximum.

10:50 17 Q. Do you recall about when he accepted the

10:51 18 position?

10:51 19 A. If I were guessing, latter part of November.

10:51 20 Q. Okay.

10:51 21 A. It's 2014.

10:51 22 Q. And do you recall when he officially came on

10:51 23 board with the NCPA?

10:51 24 A. January 1st, 2015.

10:51 25 Q. Do you recall what his compensation package was

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10:52 1 website. As far as I know, those were the two things he

10:52 2 was doing.

10:52 3 Q. What was your understanding of the agreement

10:52 4 between Mr. West and the NCPA as far as his ability to

10:52 5 continue speaking or running a revenue-generating

10:53 6 website?

10:53 7 A. You know, there was some agreement that he

10:53 8 could do -- I don't remember what it was -- X number of

10:53 9 speaking engagements a month for his own benefit, but

10:53 10 that most of the speaking engagements, especially when

10:53 11 he was paid, that the money would flow to NCPA.

10:53 12 Q. So I want to be clear on this. If Mr. West

10:53 13 continued to speak, that the majority of ones that

10:53 14 raised money, that revenue went back to the NCPA?

10:53 15 A. Correct.

10:53 16 Q. Does that include any engagements he would've

10:53 17 scheduled himself?

10:53 18 A. Some.

10:53 19 Q. When Mr. West would speak in this capacity, did

10:53 20 he represent the NCPA?

10:53 21 A. Typically.

10:53 22 Q. And what about his website or blog posting?

10:53 23 A. I don't know anything about that. I don't

10:54 24 follow websites and blog postings.

10:54 25 Q. So do you recall at the time, though,

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10:54 1 discussing with him regarding his continuing to be able
 10:54 2 to post blogs?
 10:54 3 A. Yes. I talked to his person who ran his
 10:54 4 website, actually.
 10:54 5 Q. And he was allowed to continue that website
 10:54 6 while he was with the NCPA?
 10:54 7 A. Yes.
 10:54 8 Q. Now, you stated that it was a revenue-
 10:54 9 generating website.
 10:54 10 A. I think so, yes.
 10:54 11 Q. Then, to the best of your knowledge, the
 10:54 12 revenue that was generated from that website after he
 10:54 13 came on the NCPA in January of 2015, did that money go
 10:54 14 to the NCPA or did that money continue -- stay with
 10:54 15 Mr. West?
 10:54 16 A. Stayed with him.
 10:55 17 Q. I'd like to show you what we've marked as
 10:55 18 Exhibit 4.
 19 (Exhibit 4 marked.)
 10:59 20 A. Okay.
 10:59 21 Q. (By Mr. Bynum) Exhibit 4 is an email chain that
 10:59 22 we got from Ms. Spaeth. It's dated November 14th of
 10:59 23 2014. First off, I'd like to ask you, when was it
 10:59 24 announced that Mr. West would be taking over at the
 10:59 25 NCPA?

need exhibit

11:01 1 Do you recall if you sent out a statement of
 11:01 2 this nature?
 11:01 3 A. I don't.
 11:01 4 Q. Do you recall any conversations that either you
 11:01 5 or board members with the NCPA had with Mr. West
 11:01 6 regarding his political views?
 11:01 7 A. Yes. I did.
 11:01 8 Q. And was it a concern that his views were not in
 11:01 9 line with the NCPA at that time?
 11:01 10 A. Yes.
 11:01 11 Q. What kind of discussions did you have with
 11:01 12 Mr. West regarding this?
 11:01 13 A. Just that his own particular political views
 11:01 14 need to go away and he needs to focus on policy.
 11:01 15 Q. And was this a constant topic with Mr. West?
 11:01 16 A. I wouldn't say constant, but we had it on more
 11:01 17 than one occasion.
 11:01 18 Q. Was it ever brought up by the board, before
 11:02 19 hiring Mr. West, that this could be a real concern?
 11:02 20 A. It was discussed.
 11:02 21 Q. At the end of the day, though, the board chose
 11:02 22 to move forward with hiring Mr. West, though?
 11:02 23 A. Correct.
 11:02 24 Q. Can you tell me today why the board chose to
 11:02 25 not go with somebody that had more policy experience?

10:59 1 A. No idea.
 10:59 2 Q. Do you recall if it was announced prior to
 10:59 3 November 14, 2014?
 10:59 4 A. I doubt it, but I'm not sure.
 10:59 5 Q. In November of 2014, was Steve Ivy a board
 10:59 6 member with the NCPA?
 10:59 7 A. I think so.
 10:59 8 Q. Part of this email chain is an email from Steve
 11:00 9 Ivy in which -- it looks like he suggests a statement
 11:00 10 from you as the CEO of the NCPA. Starts at the very
 11:00 11 bottom of Page 1 with: I appreciate you bringing these
 11:00 12 comments to my attention.
 11:00 13 A. Okay.
 11:00 14 Q. It mentions in here, the second half of the
 11:00 15 statement: Technically speaking, Allen doesn't start
 11:00 16 until January the 2nd, 2015; but as you pointed out, he
 11:00 17 invoked NCPA's name with his comments. Honestly, we
 11:00 18 thought his flame-throwing days were behind him, but
 11:00 19 clearly, we were wrong.
 11:00 20 Allen is a very bright, capable and
 11:00 21 well-intentioned man, and we continue to look forward to
 11:00 22 his joining the NCPA; but I can assure you that if he
 11:01 23 doesn't focus on policy and stay positive, neutral
 11:01 24 vis-a-vis these individuals, that relationship will be
 11:01 25 short-lived.

11:02 1 A. Sure. No one had the, let's say, credibility
 11:02 2 and name recognition and, in our opinion, the ability to
 11:02 3 raise funds and provide credibility to the organization
 11:02 4 instantly that someone of Allen West's stature had.
 11:02 5 Q. Do you believe that hiring Allen West changed
 11:03 6 the public image of the NCPA?
 11:03 7 A. I'm not in the public image business. I
 11:03 8 couldn't say.
 11:03 9 MR. KENNEDY: At some point, I'd like to take a
 11:03 10 bio break.
 11:03 11 MR. BYNUM: Then we'll just take a break right
 11:03 12 now.
 13 (Recess from 11:03 a.m. to 11:12 a.m.)
 11:12 14 Q. (By Mr. Bynum) Were there any concerns
 11:12 15 regarding how the donors would feel about Mr. West's
 11:12 16 appointment?
 11:12 17 A. Yes.
 11:12 18 Q. And what were those concerns?
 11:12 19 A. That he would be seen as too conservative.
 11:12 20 Q. Now, you say that a concern was that he would
 11:12 21 be seen as too conservative. At that time, did the NCPA
 11:12 22 have a political view?
 11:12 23 A. I think the NCPA was seen as a libertarian
 11:12 24 conservative think tank, but the views from the policy
 11:12 25 standpoint were then and should've been wherever the

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- 11:13 1 **evidence leads you.**
- 11:13 2 Q. How did the NCPA board plan to handle the
- 11:13 3 concerns from the donors?
- 11:13 4 A. Well, we talked to the donors who had concerns.
- 11:13 5 We talked to the donors who loved the idea.
- 11:13 6 Q. When you say "talked to," was there an email or
- 11:13 7 document sent out to the donors, or was this a "let's
- 11:13 8 get them on the phone and meet them in person and
- 11:13 9 discuss this face-to-face," so to speak?
- 11:13 10 A. Little of each. The big donors, face-to-face.
- 11:13 11 Others, press release.
- 11:13 12 Q. Okay. Do you recall if fundraising increased
- 11:13 13 from the time Mr. West was the CEO?
- 11:13 14 A. Don't recall.
- 11:14 15 Q. I'd like to show you what's going to be marked
- 11:14 16 as Exhibit 5.
- 17 (Exhibit 5 marked.)
- 11:14 18 A. 27th day of what is this; do you know?
- 11:14 19 Q. (By Mr. Bynum) March 27th is the interview.
- 11:14 20 A. Pardon me?
- 11:14 21 Q. The interview is from March 27th.
- 11:14 22 A. Of what year?
- 11:14 23 Q. 2015, I believe.
- 11:14 24 A. Who is Kaufman mentioned here, CJ defended
- 11:15 25 Kaufman? I've never seen this before, so that's why I'm

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- 11:19 1 Q. Do you recall at any time, were these
- 11:19 2 allegations discussed with Mr. West?
- 11:19 3 A. Don't recall.
- 11:19 4 Q. But as we sit here today, you're not aware of
- 11:19 5 these allegations at the time that he was hired?
- 11:19 6 A. Correct.
- 11:19 7 Q. Do you recall how long Mr. West was the CEO for
- 11:19 8 the NCPA?
- 11:19 9 A. I don't.
- 11:19 10 Q. Do you know that if these allegations had been
- 11:20 11 brought up prior to his position with the -- prior to
- 11:20 12 him accepting the position with the NCPA, do you think
- 11:20 13 the NCPA would've gone in a different direction?
- 11:20 14 MR. KENNEDY: Objection, calls -- objection,
- 11:20 15 form.
- 11:20 16 A. Allegations are one thing. I checked out
- 11:20 17 Mr. Johnson. He's not a credible source.
- 11:20 18 Q. (By Mr. Bynum) Okay. When did you check out
- 11:20 19 Mr. Johnson?
- 11:20 20 A. Whenever I heard about this. I'm not sure what
- 11:20 21 the date is, if that's March of 2015 or whatever. I'm
- 11:20 22 not sure when. Sometime I heard about this, I checked
- 11:20 23 out Mr. Johnson, and I couldn't tell you when.
- 11:20 24 Q. So while you've never seen this document --
- 11:20 25 A. To my knowledge, I've never seen that document,

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- 11:16 1 asking. Okay.
- 11:17 2 Q. The document marked Exhibit 5 is a document
- 11:17 3 that we received upon a subpoena for documents from
- 11:18 4 Ms. Spaeth.
- 11:18 5 A. Okay.
- 11:18 6 Q. You had just stated that you had never seen
- 11:18 7 this before; is that correct?
- 11:18 8 A. Correct.
- 11:18 9 Q. This was a document that Ms. Spaeth sent us
- 11:18 10 that came because we've asked for documents that related
- 11:18 11 to the NCPA and her communications with the NCPA. Were
- 11:18 12 you aware of any allegations made against Mr. West prior
- 11:18 13 to the NCPA hiring Mr. West?
- 11:18 14 A. No.
- 11:18 15 Q. Were you aware of any allegations -- I'm sorry.
- 11:18 16 Let me rephrase that. After he was hired, did you later
- 11:18 17 become aware of any allegations made against Mr. West?
- 11:18 18 A. Yes.
- 11:18 19 Q. Do you recall when you became aware of those?
- 11:18 20 A. I do not.
- 11:18 21 Q. Were you still on the board of directors of the
- 11:18 22 NCPA at the time?
- 11:18 23 A. Yes.
- 11:18 24 Q. Were they discussed by the board?
- 11:19 25 A. I don't recall.

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- 11:20 1 no.
- 11:20 2 Q. But you have heard of Mr. Johnson before?
- 11:20 3 A. Yes.
- 11:20 4 Q. Is that the only -- is that the only time you'd
- 11:20 5 heard about these allegations against Mr. West?
- 11:20 6 A. Yes.
- 11:20 7 Q. Was Mr. Johnson ever discussed amongst the
- 11:20 8 board members?
- 11:21 9 A. Not that I'm aware.
- 11:21 10 Q. To your knowledge, were there any complaints
- 11:21 11 within the NCPA employees or otherwise of Mr. West's
- 11:21 12 behavior?
- 11:21 13 A. No.
- 11:21 14 Q. Now, we brought up the name Joshua Galloway
- 11:21 15 earlier today. He was the CFO for the NCPA; is that
- 11:21 16 correct?
- 11:21 17 A. Yes.
- 11:21 18 Q. Do you recall when Mr. Galloway was brought on
- 11:21 19 at the NCPA?
- 11:21 20 A. No.
- 11:21 21 Q. Was Mr. Galloway there prior to you coming on
- 11:21 22 board in June of 2015?
- 11:21 23 A. No.
- 11:21 24 Q. Was he hired prior to January of 2015, when
- 11:21 25 Mr. West was the --

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11:21 1 A. No.
11:21 2 Q. So Mr. Galloway was hired by the NCPA while
11:22 3 Mr. West was the CEO?
11:22 4 A. Correct.
11:22 5 Q. And do you recall which position he was hired
11:22 6 for?
11:22 7 A. I don't know what his title was, but he was the
11:22 8 one to do the bookkeeping/accounting/CFO'ing, but I
11:22 9 couldn't tell you what his title was.
11:22 10 Q. Do you know who Mr. Galloway reported to?
11:22 11 A. I'm not sure if it was Mr. West or Ms. Pick.
11:22 12 It would've been one of the two.
11:22 13 Q. And who is Ms. Pick?
11:22 14 A. Jacki Pick, J-A-C-K-I. Pick, P-I-C-K.
11:22 15 Q. And what was her position with the NCPA?
11:22 16 A. I think her title was chief operating officer.
11:22 17 She was basically hired to replace Richard Walker.
11:22 18 Q. Now, we had discussed earlier that when
11:22 19 Mr. Walker was the COO, he was the number two, so to
11:22 20 speak. When Ms. Pick came on, did she have the same
11:23 21 roles and responsibilities that Mr. Walker did?
11:23 22 A. As far as I know.
11:23 23 Q. Do you recall how -- strike that.
11:23 24 While you were there in 2014, how were people
11:23 25 brought on, the employees? Were they found through

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11:24 1 position; is that correct?
11:24 2 A. I'm not sure if there was somebody between or
11:25 3 not. I'm just not sure.
11:25 4 Q. Was there typically just one person that
11:25 5 handled the bookkeeping/CFO-type responsibilities?
11:25 6 A. I'm sure there was more than one person. Maybe
11:25 7 somebody else wrote checks or -- there typically is dual
11:25 8 control over those things, but I couldn't tell you who
11:25 9 they were.
11:25 10 Q. Now, why would you have dual control over those
11:25 11 things?
11:25 12 A. Why wouldn't you not?
11:25 13 Q. I'm just curious. You said, typically, you
11:25 14 would have dual control. I didn't know if there was --
11:25 15 A. Typically, yes. I guess just to prevent the
11:25 16 kind of thing that Josh Galloway got away with; don't
11:25 17 you guess?
11:25 18 Q. Kind of leading into my next question. Do you
11:25 19 know, at the time Josh Galloway was there, who else
11:25 20 would've had control?
11:25 21 A. I do not.
11:25 22 Q. Can you say -- sorry. Can you say specifically
11:25 23 right now that there was a second person?
11:25 24 A. I cannot.
11:26 25 Q. I'm not going to walk through the whole

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11:23 1 services or did the NCPA post jobs to fill positions?
11:23 2 A. I think it was both.
11:23 3 Q. Do you recall any services that the NCPA used
11:23 4 in late 2014 --
11:23 5 A. No.
11:23 6 Q. -- to help find personnel?
11:23 7 A. No.
11:23 8 Q. Do you know of a company called Valor Services,
11:23 9 V-A-L-O-R?
11:23 10 A. Not by name.
11:23 11 Q. So you wouldn't know of any relationship they
11:23 12 had with the NCPA?
11:23 13 A. No.
11:24 14 Q. Prior to Mr. Galloway being hired by the NCPA,
11:24 15 who had that position?
11:24 16 A. I don't recall her name. Maybe Leslie
11:24 17 something.
11:24 18 Q. Do you know how long she had been there?
11:24 19 A. I don't.
11:24 20 Q. Did you hire her or was she there prior to?
11:24 21 A. She was there prior to.
11:24 22 Q. Was her title CFO; do you recall?
11:24 23 A. I don't recall.
11:24 24 Q. We'll call her Leslie for now. Leslie was
11:24 25 there and then she left, and then Mr. Galloway took that

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11:26 1 Galloway incident. He was --
11:26 2 A. Thank you.
11:26 3 Q. -- embezzled. He was arrested for this. I've
11:26 4 seen figures anywhere from 600,000 to \$1 million. Do
11:26 5 you know what the number was that was embezzled?
11:26 6 A. No, but I know that that's the range we always
11:26 7 talked about.
11:26 8 Q. Do you recall when Mr. Galloway was arrested?
11:26 9 A. I don't, but I'm going to guess sometime early
11:26 10 in 2016.
11:26 11 Q. You were still on the board of the NCPA when he
11:26 12 was -- when he was caught?
11:26 13 A. Yes.
11:26 14 Q. Do you recall what percentage of the funds
11:26 15 embezzled were recovered?
11:26 16 A. I don't.
11:26 17 Q. As we sit here today, can you tell me, do you
11:27 18 know if it was more or less than 50 percent?
11:27 19 A. I don't.
11:27 20 Q. Do you know if it was the practice of the NCPA
11:27 21 to run background searches on their employees at the
11:27 22 time?
11:27 23 A. Not that I'm aware of.
11:27 24 Q. Do you know of any systems of financial
11:27 25 controls that were in place at the NCPA at the time to

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- 11:27 1 protect against these sort of actions?
- 11:27 2 A. No, other than dual signatures on checks over a
- 11:27 3 certain amount.
- 11:27 4 Q. And as we sit here today, both knowing the
- 11:27 5 facts of the embezzlement, dual signatures were not
- 11:27 6 required at the time; is that correct?
- 11:27 7 A. That's not my understanding. My understanding
- 11:27 8 is that he forged those signatures and the bank, in
- 11:27 9 their typical bank stuff these days, never paid
- 11:27 10 attention to the signature card. That's my
- 11:28 11 understanding.
- 11:28 12 Q. How did you learn of this embezzlement?
- 11:28 13 A. I don't know. A call from somebody at NCPA,
- 11:28 14 but I don't remember who it was.
- 11:28 15 Q. This would've happened in 2016. Do you recall,
- 11:28 16 was there any special meetings of the board members
- 11:28 17 called for this, to discuss this topic?
- 11:28 18 A. I don't recall, but I'm sure there were.
- 11:28 19 Q. And do you recall when the full board learned
- 11:28 20 of this embezzlement?
- 11:28 21 A. No.
- 11:29 22 Q. While you were on the board in 2016, after this
- 11:29 23 embezzlement was found, what was the internal fallout at
- 11:29 24 the NCPA? Did anybody lose their jobs over this? Were
- 11:29 25 policies changed?

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- 11:31 1 A. Well, he's the face of the organization. He's
- 11:31 2 on Fox News several times a week, making speeches,
- 11:31 3 raising money.
- 11:31 4 Q. Was he terminated as CEO or did he resign?
- 11:31 5 A. I don't remember.
- 11:31 6 Q. Now, in the immediate fallout from when he lost
- 11:31 7 the position of CEO, who took over?
- 11:31 8 A. I believe Jim Amos.
- 11:31 9 Q. Was this immediate?
- 11:31 10 A. I don't know immediate, but I would say pretty
- 11:31 11 close to immediate.
- 11:31 12 Q. Now, going back to 2014, when Mr. Goodman was
- 11:31 13 terminated, they brought on you as the interim CEO until
- 11:32 14 they could find a permanent replacement. Were those
- 11:32 15 steps taken after Mr. West lost the title of CEO? Was
- 11:32 16 Mr. Amos brought in as an interim CEO, so to speak,
- 11:32 17 while a search was in place to find a replacement, or
- 11:32 18 was Mr. Amos brought in to replace Mr. West?
- 11:32 19 A. He was brought in to take that part of
- 11:32 20 Mr. West's title. It wasn't as if Mr. West left. He
- 11:32 21 did not.
- 11:32 22 Q. So what responsibilities were stripped from
- 11:32 23 Mr. West after this?
- 11:32 24 A. Well, like any responsibilities not the chief
- 11:32 25 executive officer. So he didn't have day-to-day

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- 11:29 1 A. I couldn't say.
- 11:29 2 Q. As we sit here today, can you tell me if
- 11:29 3 Mr. West lost his position as the CEO because of this?
- 11:29 4 A. Yes, he did.
- 11:29 5 Q. And why did he lose his job because of this?
- 11:29 6 What was the reasoning of the board?
- 11:29 7 A. Well, he hired the guy and he didn't properly
- 11:29 8 supervise him.
- 11:30 9 Q. Now, it's my understanding that after Mr. West
- 11:30 10 lost the position of CEO, he became vice chairman of the
- 11:30 11 board; is that correct?
- 11:30 12 A. He might've already been vice chairman. I'm
- 11:30 13 not sure, but he had -- he did not have the CEO title
- 11:30 14 anymore. He may have just kept the title of vice
- 11:30 15 chairman or he might've been given the title of vice
- 11:30 16 chairman, but I don't recall.
- 11:30 17 Q. But even after he lost the title of CEO, did
- 11:30 18 Mr. West continue on the board?
- 11:30 19 A. Yes.
- 11:30 20 Q. Was it ever discussed amongst the board
- 11:30 21 members, that while taking away the title of CEO from
- 11:30 22 Mr. West, that he should also be removed from the board?
- 11:30 23 A. I don't recall that discussion.
- 11:30 24 Q. Can you tell me the reasoning for keeping
- 11:30 25 Mr. West on the board after this?

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- 11:32 1 operational responsibilities like I did in 2014.
- 11:32 2 Q. And Mr. Amos had these day -- I'm sorry.
- 11:33 3 Mr. Amos had these day-to-day responsibilities?
- 11:33 4 A. Yes.
- 11:33 5 Q. Was Mr. Amos part of the board prior to this?
- 11:33 6 A. No.
- 11:33 7 Q. Where did the NCPA find Mr. Amos?
- 11:33 8 A. I'm not sure.
- 11:33 9 Q. As we sit here today, do you recall if Mr. Amos
- 11:33 10 had any think tank experience? Was he an economist?
- 11:33 11 A. Not to my knowledge.
- 11:33 12 Q. Do you recall who recommended Mr. Amos for this
- 11:33 13 position?
- 11:33 14 A. I don't.
- 11:33 15 Q. Do you recall if a search was made to find a
- 11:33 16 replacement?
- 11:33 17 A. Not to my knowledge.
- 11:33 18 Q. Was a committee formed to find Mr. Amos?
- 11:33 19 A. Not to my knowledge.
- 11:33 20 Q. So as we sit here today, it appears that the
- 11:34 21 search to find the replacement for Mr. Goodman was more
- 11:34 22 thorough than the search to find a new CEO after
- 11:34 23 Mr. West. Is that a correct statement?
- 11:34 24 MR. KENNEDY: Objection to the form.
- 11:34 25 A. Yeah, repeat the question, if you will.

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- 11:34 1 Q. (By Mr. Bynum) I'll just rephrase and start
11:34 2 over. In June of 2014, you were brought on as the
11:34 3 interim CEO, with that understanding, while a committee
11:34 4 was formed and the NCPA took a long-step approach to
11:34 5 find a replacement CEO; is that correct?
11:34 6 A. Correct.
11:34 7 Q. And that took -- it was approximately six
11:34 8 months from the time that you signed on as interim CEO
11:34 9 until Mr. West accepted the CEO position --
11:34 10 A. Yes.
11:34 11 Q. -- officially.
11:34 12 Do you recall how long after Mr. West was
11:35 13 stripped of the CEO title before Mr. Amos came on board?
11:35 14 MR. KENNEDY: Objection to form.
11:35 15 A. I would say it was very close to
11:35 16 simultaneously.
11:35 17 Q. (By Mr. Bynum) So this was an immediate
11:35 18 reaction to bringing Mr. Amos on as the CEO?
11:35 19 A. Well, I wouldn't -- I'm not sure I would
11:35 20 characterize it that way. Why don't you try again on
11:35 21 your question.
11:35 22 Q. Did the NCPA have a search committee to replace
11:35 23 Mr. West?
11:35 24 A. No.
11:35 25 Q. Do you know if the NCPA interviewed multiple

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- 11:37 1 other interests, but I'm not sure what they were.
11:37 2 Q. Now, while Mr. West was the CEO, are you aware
11:37 3 of how much time he spent in the NCPA offices?
11:37 4 A. No.
11:37 5 Q. Is there a lot of travel involved as the CEO
11:37 6 for the NCPA? Was there a lot of travel involved?
11:37 7 A. In Mr. Goodman's case, yes. In Mr. West's
11:38 8 case, yes. In my case, no.
11:38 9 Q. Why was that?
11:38 10 A. Which one?
11:38 11 Q. I'm sorry. Why did you not have much travel
11:38 12 involved?
11:38 13 A. Well, because Mr. Goodman and Mr. West were out
11:38 14 speaking on behalf of NCPA, is one of their major
11:38 15 functions was speaking, outreach, and fundraising. My
11:38 16 major job was to take care of what I found there, get
11:38 17 some lawsuits settled, hire my own replacement.
11:38 18 Q. Was there much travel for Mr. Amos as the CEO?
11:38 19 A. Wouldn't know.
11:38 20 Q. Was this still expected of Mr. West to continue
11:38 21 to travel and speak?
11:38 22 A. Yes.
11:38 23 Q. Now, I believe, and correct me if I'm wrong,
11:38 24 when we were speaking earlier about when you left the
11:39 25 NCPA, you had stated something about a relationship with

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- 11:35 1 potential CEOs before they hired Mr. West -- or I mean,
11:35 2 I'm sorry, before they hired Mr. Amos?
11:35 3 A. Not that I'm aware of.
11:35 4 Q. Would it be safe to say that Mr. Amos replaced
11:35 5 Mr. West in less than 30 days?
11:35 6 A. I'm not sure.
11:36 7 Q. Less than 90 days?
11:36 8 A. I would say yes.
11:36 9 Q. Do you recall a dispute with Legacy Bank over
11:36 10 forged checks resulting from Joshua Galloway's
11:36 11 embezzlement?
11:36 12 A. Yes.
11:36 13 Q. Do you recall how that matter was resolved?
11:36 14 A. No.
11:36 15 Q. Do you know if a lawsuit was filed?
11:36 16 A. I don't know.
11:36 17 Q. Do you recall, as we sit here today, who was in
11:36 18 charge at Legacy Bank at this time?
11:36 19 A. Do you mean the CEO?
11:36 20 Q. Yes.
11:36 21 A. Well, Kevin Hanigan, I believe, was the CEO.
11:37 22 Q. Do you recall any other business interests that
11:37 23 Mr. Amos had while he was the CEO of NCPA?
11:37 24 A. Just that he was on, I think, the Board of the
11:37 25 National Retail Association; and he might've had some

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- 11:39 1 Mr. Amos, or that you didn't get along with him
11:39 2 necessarily well; is that correct? Am I --
11:39 3 A. You mean when I left the board?
11:39 4 Q. Yes, when you left the board.
11:39 5 A. That's correct.
11:39 6 Q. When Mr. Amos came on as CEO, had you known him
11:39 7 prior to this?
11:39 8 A. No.
11:39 9 Q. Did you speak with him prior to him accepting
11:39 10 the CEO position?
11:39 11 A. Had dinner with him one night.
11:39 12 Q. As we sit here today and looking back on
11:39 13 Mr. Galloway's embezzlement, were there any systems in
11:39 14 place in 2014, while you were the CEO, that were no
11:39 15 longer in place in 2015?
11:40 16 MR. KENNEDY: Objection to form.
11:40 17 A. I don't know.
11:40 18 Q. (By Mr. Bynum) Do you think that Mr. Galloway's
11:40 19 embezzlement was a large reason -- I'm sorry. Rephrase
11:40 20 this. Do you think Mr. Galloway's embezzlement actions
11:40 21 helped lead the NCPA to shut its doors?
11:40 22 A. I would say possibly, sure.
11:40 23 Q. How long after Mr. Amos came on board before
11:40 24 you left the board as the -- from the NCPA?
11:40 25 A. Boy, I don't know, and let's assume that I left

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11:40 1 in the fall of '16. It would be about nine months, but
11:40 2 I'm not sure if that's exactly the time I left or not,
11:40 3 but that's my best recollection.

11:40 4 Q. Okay.

11:40 5 A. Do you have the date there? Because I don't --
11:40 6 I don't --

11:40 7 Q. I do not have the date when you left, no, sir.
11:40 8 I know that it happened before November of 2016.

11:41 9 A. Okay.

11:41 10 Q. And I believe Mr. Amos came on board around
11:41 11 February of 2016.

11:41 12 A. That sounds about right, yes.

11:41 13 Q. I'd like to show you what we've marked as
11:41 14 Exhibit 6.

(Exhibit 6 marked.)

need Exhibit 6

11:42 15 A. Okay.

11:42 16 Q. (By Mr. Bynum) Exhibit 6 is the Form 990,
11:42 17 Public Disclosure Copy, for the NCPA from calendar year
11:42 18 of October 1st, 2014, ending September 30th, 2015.

11:42 19 Line 8 shows the contributions and grants. So
11:42 20 the prior year ending in September of 2014, the NCPA
11:42 21 raised just over \$5 million. In the year ending
11:42 22 September of 2015, it was down to two million nine --
11:42 23 eight hundred eighty thousand dollars. Do you know what
11:42 24 contributed to that loss? I'm sorry. Do you know what
11:42 25

11:44 1 A. No, no way.

11:44 2 Q. Now, I'd like to show you what we have marked
11:44 3 as Exhibit 7.

(Exhibit 7 marked.)

need Exhibit 7

11:45 5 Q. (By Mr. Bynum) It's the same for the year
11:45 6 ending in September 2016.

11:45 7 MR. KENNEDY: Can I get that read back?

(The record was read as requested.)

11:45 9 MR. BYNUM: It's the same form. This is for
11:45 10 October 1st, 2015, ending in September of 2016.

11:45 11 MR. KENNEDY: Thank you.

11:46 12 Q. (By Mr. Bynum) On this Line 8, it also shows
11:46 13 that contributions -- revenues were down roughly
11:46 14 \$900,000. As we sit here today, what do you believe led
11:46 15 to, again, the lack of revenue in the year ending in
11:46 16 September 2016?

11:46 17 A. I couldn't say specifically, but I'd be fairly
11:46 18 certain that it was the John Goodman thing followed on
11:46 19 by the Josh Galloway embezzlement.

11:46 20 Q. Now, after the Josh Galloway embezzlement --
11:46 21 and we agreed that the range was between 600,000 and
11:46 22 \$1 million. Was there meetings to decide how to recoup
11:46 23 that lost money? Cut expenses? 600,000 and \$1 million
11:46 24 is quite a bit of money, especially on one where revenue
11:46 25 generated is just under \$2 million. Do you recall any

11:43 1 contributed to the almost \$2 million less in --

11:43 2 A. In revenue --

11:43 3 Q. Yes.

11:43 4 A. -- yes. Well, of course, it was John --
11:43 5 primarily John Goodman's leaving the organization. That
11:43 6 was the major factor.

11:43 7 Q. Now, while revenue was down just over
11:43 8 \$2 million, it appears the salaries only decreased just
11:43 9 under \$800,000. Were there discussions amongst the
11:43 10 board how to cut expenses while revenues were down?

11:43 11 A. There were always discussions about revenues
11:43 12 and expenses, every board meeting, yes.

11:43 13 Q. As we sit here today, can you tell me what
11:43 14 expenses were cut in the year ending in September of
11:44 15 2015 to help balance the loss of revenue?

11:44 16 A. I mean, obviously this 990 doesn't include all
11:44 17 of the backup information, but as you pointed out, about
11:44 18 800,000 less in salaries and then about 250,000 less in
11:44 19 other expenses. I have no idea what those other
11:44 20 expenses were.

11:44 21 Q. Do you by chance recall what the salaries -- or
11:44 22 the cut in salaries were?

11:44 23 A. Well, I mean, I'm looking at roughly 800,000
11:44 24 cuts in salaries, but you mean who?

11:44 25 Q. Yes.

11:47 1 specific meetings to steps that would be taken?

11:47 2 A. Well, there were always discussions in the
11:47 3 boardroom about cutting expenses, listing people's
11:47 4 salaries, maybe cutting people's salaries. We had a big
11:47 5 overhead on the facility, and of course you can't tell
11:47 6 on these things how much of these expenses were accrued
11:47 7 versus how many of them were cash; and so that's not
11:48 8 something you can tell from looking at this statement.

11:48 9 Q. Was there an active effort to increase
11:48 10 fundraising?

11:48 11 A. Of course.

11:48 12 Q. As we sit here today, can you recall what steps
11:48 13 were made in the first half of 2016 to increase
11:48 14 fundraising for the NCPA?

11:48 15 A. Not that I recall.

11:48 16 Q. And you don't recall any special board meetings
11:48 17 that were called related to the Joshua Galloway
11:48 18 embezzlement?

11:48 19 A. No, I think I said earlier that I think there
11:48 20 was.

11:48 21 Q. Okay. Here's Exhibit 8.

(Exhibit 8 marked.)

11:49 22 A. Okay.

11:49 23 Q. (By Mr. Bynum) Now, I understand that in
11:49 24 November of 2000- -- I'm sorry. Exhibit 8 is an email
11:49 25

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11:49 1 from Jim Amos to Harry Jones. It's dated Wednesday,
11:49 2 November 16th, 2016. Now, I understand that you were no
11:49 3 longer with NCPA, on the board or otherwise, in
11:49 4 November of 2016.
11:49 5 A. Correct.
11:49 6 Q. In this email, Mr. Amos says: I cannot make
11:49 7 the next payroll at this time. Do you see that?
11:49 8 A. I do.
11:50 9 Q. While you were on the board with NCPA, was
11:50 10 there ever a time that payroll was missed?
11:50 11 A. Not that I recall.
11:50 12 Q. Was there any meetings or discussions, after
11:50 13 the Galloway embezzlement, about the inability to make
11:50 14 payroll?
11:50 15 A. I'm sure, like any other expense that got
11:50 16 talked about, but I don't remember it.
11:50 17 Q. So if you don't recall a conversation like
11:50 18 that, you wouldn't recall steps that would be made to
11:50 19 try to avoid a situation where you -- they could not
11:50 20 make payroll?
11:50 21 A. Correct.
11:50 22 Q. Going back to when you were the interim CEO, we
11:51 23 discussed that some board members had left the board; is
11:51 24 that correct?
11:51 25 A. Yes.

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11:52 1 contract for the services of Ms. Spaeth or Spaeth
11:52 2 Communications, I believe --
11:52 3 A. Not that I remember.
11:52 4 Q. Okay. What was Ms. Spaeth's role for the NCPA?
11:52 5 A. I think she was hired -- and this was before I
11:52 6 came on board. She was hired to do public relations,
11:52 7 especially damage control, in the wake of the Goodman
11:53 8 departure.
11:53 9 Q. Prior to the Goodman departure, do you know if
11:53 10 she ever worked with the NCPA?
11:53 11 A. Do not know.
11:53 12 Q. Now, you say she was hired to do PR and damage
11:53 13 control. Was she ever involved in any fundraiser
11:53 14 development?
11:53 15 A. Not that I'm aware of.
11:53 16 Q. Do you recall if she was hired on a retainer or
11:53 17 if she would bill out and then be paid for that?
11:53 18 A. I don't recall.
11:53 19 Q. At the time you were brought on in 2014, did
11:53 20 NCPA have an in-house communications and PR department?
11:53 21 A. Well, we had an in-house communications woman,
11:53 22 yes.
11:53 23 Q. And who was that?
11:53 24 A. Caytie Daniell, C-A-Y-T-I-E D-A-N-I-E-L-L, I
11:54 25 believe. Does that sound right?

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11:51 1 Q. Was Tommy Franks one of those board members?
11:51 2 A. Yes.
11:51 3 Q. Did you ever speak to Tommy Franks?
11:51 4 A. Yes.
11:51 5 Q. Do you know why he left the board?
11:51 6 A. I can tell you what he told me.
11:51 7 Q. Okay.
11:51 8 A. He said there was too much drama.
11:51 9 Q. And what did he mean by "drama;" do you know?
11:51 10 A. He didn't define it.
11:51 11 Q. Was this in person?
11:51 12 A. On the phone.
11:51 13 Q. Did Jerry Mills resign while you were CEO?
11:51 14 A. He did.
11:51 15 Q. And do you recall why he resigned?
11:51 16 A. I don't recall.
11:52 17 Q. Now, do you know Ms. Merrie Spaeth?
11:52 18 A. I do.
11:52 19 Q. And did you know her prior to your position
11:52 20 with the NCPA?
11:52 21 A. I did.
11:52 22 Q. Had you worked with Ms. Spaeth prior to the
11:52 23 NCPA?
11:52 24 A. I don't know what you mean by "worked with."
11:52 25 Q. Did anybody that you were employed with

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11:54 1 Q. It sounds right.
11:54 2 A. Okay.
11:54 3 Q. Do you know if Ms. Spaeth was brought on
11:54 4 because Caytie Daniell couldn't handle the PR part of
11:54 5 Goodman's departure?
11:54 6 A. Don't know.
11:54 7 Q. Do you know if Ms. Spaeth continued to work
11:54 8 with the NCPA after June of 2014?
11:54 9 A. I think she did at least one other thing while
11:54 10 I was there, but I don't remember what it was.
11:55 11 Q. While you were interim CEO, you said that NCPA
11:55 12 had retained a search firm out of South Carolina --
11:55 13 A. I think so.
11:55 14 Q. -- is that correct?
11:55 15 Do you recall the name of that search firm?
11:55 16 A. If you called it, I might, but I don't know off
11:55 17 the top of my head.
11:55 18 Q. Was Kathy Hagler involved with that office
11:55 19 firm?
11:55 20 A. No.
11:55 21 Q. Who is Kathy Hagler?
11:55 22 A. She was a consultant and a friend of Jerry
11:55 23 Mills.
11:55 24 Q. Do you know who brought -- do you know whose
11:55 25 decision it was to use the search firm out of South

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11:55 1 Carolina?

11:55 2 A. Mine probably.

11:56 3 Q. Do you recall as we sit here today, had you

11:56 4 worked with that search firm in the past?

11:56 5 A. I hadn't personally, but I am -- been very much

11:56 6 involved in think tanks my whole life, and a lot of the

11:56 7 think tank people I knew knew her and recommended her,

11:56 8 and I had heard her name many times before.

11:56 9 Q. Now, regarding Kathy Hagler, I'd like to show

11:56 10 you what I've marked as Exhibit 9.

11 11 (Exhibit 9 marked.)

11:57 12 A. Okay.

11:57 13 Q. (By Mr. Bynum) Exhibit 9 is a document that we

11:57 14 received after a subpoena request to Mr. Mills. It's

11:57 15 titled: Correspondence/Email To Be Sent to Dennis

11:57 16 McCuiston. Did you ever receive this correspondence?

11:57 17 A. I don't recall it, but it's very possible,

11:57 18 because the items in there are something I recall, of

11:58 19 course.

11:58 20 Q. The correspondence refers to a \$50,000

11:58 21 contribution made by Mr. Mills to be used for the

11:58 22 consulting work of one Kathy Hagler in the CEO search.

11:58 23 Was Kathy Hagler hired by NCPA to help with the search?

11:58 24 A. No.

11:58 25 Q. Was the \$50,000 returned to Mr. Mills?

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need exhibit

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12:00 1 Q. I'd like to show you what we're going to mark

12:00 2 as Exhibit 10. This is another draft that we -- of

12:00 3 documents we received from Mr. Mills.

12:00 4 (Exhibit 10 marked.)

12:02 5 A. Now, did you call out this as -- this is an

12:02 6 unexecuted copy?

12:02 7 Q. (By Mr. Bynum) I stated that it was a draft

12:02 8 when I handed it out. I'll explain it when I --

12:02 9 A. Sure. No problem.

12:02 10 Q. Have you had a chance to look at Exhibit 10?

12:02 11 A. I have.

12:02 12 Q. Exhibit 10 is a draft of a confidential

12:02 13 settlement agreement.

12:02 14 MR. BYNUM: As Mr. McCuiston pointed out, it

12:02 15 is unsigned.

12:02 16 Q. (By Mr. Bynum) We received this, in response to

12:02 17 a subpoena request, from Mr. Mills. This document

12:02 18 states that the NCPA was to pay a total of \$575,000 to

12:03 19 Mr. John Goodman and his attorneys, Gillespie Sanford.

12:03 20 Now, this is an unsigned copy. Was an agreement reached

12:03 21 with Mr. Goodman?

12:03 22 A. Yes, sir.

12:03 23 Q. Was the agreement for a total of \$575,000?

12:03 24 A. I don't recall.

12:03 25 MR. KENNEDY: Well, okay, I was going to object

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11:58 1 A. No.

11:58 2 Q. In your recollection of the events with

11:58 3 Mr. Mills, were the funds contributed to be used

11:58 4 specifically for Ms. Hagler?

11:58 5 A. No.

11:58 6 Q. How was this resolved with Mr. Mills? You said

11:58 7 the money was not returned?

11:58 8 A. I do not recall how it was resolved.

11:58 9 Q. Do you know if the donation in question is what

11:59 10 led to Mr. Mills' resignation?

11:59 11 A. I don't know.

11:59 12 Q. Do you know if Mr. Mills pursued any legal

11:59 13 avenues to recoup the \$50,000?

11:59 14 A. Not to my knowledge.

11:59 15 Q. Mr. Mills just kind of quit asking for it back?

11:59 16 Did he ...?

11:59 17 A. I really don't recall what -- I hadn't thought

11:59 18 about that in years until you mentioned that, frankly.

11:59 19 Q. Was the \$50,000 used for the CEO search but not

11:59 20 for Ms. Hagler's services?

11:59 21 A. No. We didn't pay any money for the CEO

11:59 22 search.

11:59 23 Q. Do you recall if \$50,000 was just put into an

11:59 24 operating account and moved forward?

11:59 25 A. I think so.

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12:03 1 to the form. I -- there is some confidentiality issues

12:03 2 that I'm a little bit concerned about, but since the

12:03 3 witness has testified he doesn't know, we can just

12:03 4 proceed, then.

12:03 5 MR. BYNUM: Do you want to go off the record

12:03 6 for a moment?

12:03 7 MR. KENNEDY: Yeah. Could we? Do you mind?

12:03 8 MR. BYNUM: Okay.

12:03 9 (Discussion off the record.)

12:04 10 Q. (By Mr. Bynum) We were just talking about a

12:04 11 settlement agreement between Mr. Goodman and the NCPA;

12:05 12 is that correct?

12:05 13 A. Yes.

12:05 14 Q. Was there a lawsuit filed against the NCPA that

12:05 15 led to this settlement?

12:05 16 A. Either a lawsuit or a threat of a -- or a

12:05 17 threat of a lawsuit, and I'm not sure which.

12:05 18 Q. And that would've been by Mr. Goodman, correct?

12:05 19 A. Correct.

12:05 20 Q. Do you recall, as we sit here today, his causes

12:05 21 of action?

12:05 22 A. I couldn't tell you specifically what they

12:05 23 were. They were the typical thing that most attorneys

12:05 24 trump up when you're trying to get money from somebody

12:05 25 who doesn't really owe you anything.

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12:05 1 Q. Okay.
12:05 2 A. So I'll let you use your own imagination.
12:05 3 Q. All right. Was this settlement related to
12:05 4 Mr. Goodman's termination from the NCPA?
12:05 5 A. Yes.
12:05 6 Q. Was there a mediation regarding this
12:05 7 settlement?
12:06 8 A. Yes.
12:06 9 Q. Who from the NCPA was at the mediation?
12:06 10 A. I was.
12:06 11 Q. Was anybody else?
12:06 12 A. Well, Jerry Mills was there. He was named, as
12:06 13 you see there, individually. And of course a lawyer,
12:06 14 Lori Carr, her name is in there.
12:06 15 Q. Were any other board members from the NCPA
12:06 16 there?
12:06 17 A. No. Their D&O insurance carrier had a lawyer
12:06 18 there.
12:06 19 Q. Do you recall how much in damages Mr. Goodman
12:06 20 was seeking?
12:06 21 A. Oh, I think it was some absurdity, like
12:06 22 21 million.
12:06 23 Q. Okay. \$575,000 is quite a bit for an
12:06 24 association whose revenue was down to \$2 million. Was
12:07 25 the NCPA concerned with this matter dragging out?

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12:09 1 Q. Was this settlement an action that needed board
12:09 2 approval?
12:09 3 A. I believe so, yes.
12:09 4 Q. Do you recall what the board vote was for this
12:09 5 settlement?
12:09 6 A. I don't, but I'm sure it was 100 percent in
12:09 7 agreement.
12:09 8 Q. Now, again, this is an unexecuted copy, so the
12:09 9 date could be off. This was July 2014. Do you recall
12:09 10 if the settlement agreement was executed around that
12:09 11 general vicinity of time?
12:09 12 A. I would say so.
12:09 13 Q. So if I had board meetings minutes from June of
12:09 14 2014 to December of 2014, I would be able to find any
12:10 15 mention of this?
12:10 16 A. I hope so.
12:10 17 Q. Who was the D&O provider for NCPA at the time?
12:10 18 A. Don't recall.
12:10 19 Q. I'd like to show you what I've marked as
12:10 20 Exhibit 11.
12:10 21 (Exhibit 11 marked.)
12:10 22 Q. (By Mr. Bynum) This is a copy of a D Magazine
12:10 23 article from August of 2014.
12:11 24 A. Okay.
12:11 25 Q. Do you recall ever seeing this article?

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need exhibit 11

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12:07 1 A. As you, I hope, know, NCPA had to pay \$5,000.
12:07 2 The D&O insurance covered --
12:07 3 MR. KENNEDY: Okay.
12:07 4 THE WITNESS: All right.
12:07 5 MR. KENNEDY: I need to interrupt to the extent
12:07 6 any of this is confidential on what NCPA contributed and
12:07 7 what might've been contributed by someone else could be
12:07 8 covered by confidentiality. So I would caution the
12:07 9 witness not to disclose confidential information.
12:07 10 A. Okay. Let me rephrase it and say that the cost
12:07 11 to NCPA was de minimis.
12:08 12 Q. (By Mr. Bynum) Was there a concern that if a
12:08 13 lawsuit was filed, that the NCPA could be subject to a
12:08 14 judgment significantly greater than \$575,000?
12:08 15 A. Not in my mind.
12:08 16 Q. Do you recall if Mr. Mills was concerned?
12:08 17 A. Have no idea. You have to ask Mr. Mills.
12:08 18 Q. Okay. If in your mind you believed that the
12:08 19 NCPA would not be at risk for any amount more than the
12:08 20 \$575,000, why did you agree to a settlement?
12:08 21 A. Settlement was done by the D&O insurance
12:08 22 coverage.
12:08 23 Q. So the decision maker in the room was the D&O
12:08 24 insurance person?
12:08 25 A. Correct.

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12:11 1 A. Oh, yes.
12:11 2 Q. Was this an article that would become the topic
12:11 3 of any discussion with fundraisers -- I'm sorry, with
12:11 4 donors?
12:11 5 A. Yes.
12:11 6 Q. Is this kind of bad press -- I'm sorry. Let me
12:11 7 rephrase. Was this type of press the kind of obstacle
12:11 8 that was facing the NCPA in regards to fundraising?
12:11 9 A. Of course.
12:11 10 Q. Now, on Page 4 of Exhibit 11, in the first full
12:12 11 paragraph, about halfway down it states: Our sources
12:12 12 asked to remain anonymous, either because they were
12:12 13 still negotiating for NCPA severance packages, had
12:12 14 promised not to say anything bad against the
12:12 15 organization as part of a severance agreement, or did
12:12 16 not want to jeopardize the jobs of friends who still
12:12 17 work at the think tank. Do you see that?
12:12 18 A. I do.
12:12 19 Q. Was there any internal investigations to try to
12:12 20 find the source of these articles -- of this article?
12:12 21 A. No.
12:12 22 Q. Do you know if anybody from the NCPA provided
12:12 23 information for this article?
12:12 24 A. I don't know.
12:12 25 Q. Is it safe to say that this article -- I'm

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12:12 1 sorry. To say again what was said earlier, press like
 12:12 2 this made it difficult to fundraise, correct?
 12:12 3 A. Yes.
 12:13 4 Q. We had spoken about Exhibit 10, the
 12:13 5 confidentiality -- I mean, I'm sorry, the settlement
 12:13 6 agreement. Now, there's a confidentiality clause in
 12:13 7 this, correct?
 12:13 8 A. Correct.
 12:13 9 Q. Would the leaking of any information to the
 12:13 10 reporter of this story be a violation of that
 12:13 11 confidential agreement?
 12:13 12 MR. KENNEDY: Objection to form.
 12:13 13 A. Well, I don't remember exactly what the
 12:13 14 confidentiality agreement says, but in general, we
 12:13 15 weren't supposed to talk about it, and in general, we
 12:13 16 did not.
 12:13 17 Q. (By Mr. Bynum) Now, when you say "we did not,"
 12:13 18 you're referring to ...?
 12:13 19 A. The board and NCPA as opposed to other people
 12:13 20 who did.
 12:13 21 Q. Can you speak for everybody at the NCPA?
 12:13 22 A. I can tell you -- no, I can't speak for
 12:13 23 everybody. In my opinion -- I can speak my opinion --
 12:13 24 is that they didn't talk about it because they knew,
 12:14 25 first of all, it was confidential; but, secondly, it was

12:16 1 A. As far as I recall, sure.
 12:16 2 Q. And if I were to look back at minute meetings,
 12:16 3 I would be able to find that?
 12:16 4 A. I hope so.
 12:16 5 Q. Page 10 of Exhibit 12, Paragraph 78 states
 12:16 6 that: As a direct and proximate cause of the
 12:16 7 Baggett/Winstead cover-up, the NCPA lost at least
 12:16 8 \$2 million in fundraising. Do you know how that
 12:16 9 number ...?
 12:16 10 A. I know approximately how it came about. We
 12:16 11 asked our fundraiser, Eileen Resnik, to look back at
 12:16 12 amounts that had been collected from certain donors over
 12:17 13 the past two or three years and then determined which
 12:17 14 ones we probably would've gotten had this whole event
 12:17 15 not happened.
 12:17 16 Q. And on Paragraph 79, it states that: As a
 12:17 17 direct and approximate cause of the Baggett/Winstead
 12:17 18 cover-up, the NCPA suffered injury to its reputation due
 12:17 19 to unfavorable press.
 12:17 20 A. Correct.
 12:17 21 Q. The article from the D Magazine that's marked
 12:17 22 as Exhibit 11, is this the type of unfavorable press
 12:17 23 that the lawsuit would be referring to?
 12:17 24 A. Yes.
 12:17 25 Q. Do you recall, was -- do you recall how the COO

12:14 1 not in our best interest. So why would we?
 12:14 2 Q. I'd like to show you what I have marked as
 12:14 3 Exhibit 12.
 12:14 4 (Exhibit 12 marked.) ← need e
 12:15 5 A. Okay.
 12:15 6 Q. (By Mr. Bynum) Exhibit 12 is a file-stamped
 12:15 7 copy of a lawsuit between the National Center for Policy
 12:15 8 Analysis and -- versus Winstead PC and W. Mike Baggett.
 12:15 9 Do you know who made the decision for the NCPA to file
 12:15 10 suit against Winstead and Mr. Baggett?
 12:15 11 A. Yeah, the board of NCPA.
 12:15 12 Q. Was the entire board involved in that decision?
 12:15 13 A. I don't recall, but I would be fairly certain
 12:15 14 that that's the case, yes.
 12:15 15 Q. Now, this is in November of 2014.
 12:15 16 A. Well, that's what I was looking for. I just
 12:15 17 didn't see the date. So, okay, I'll take your word for
 12:15 18 it.
 12:16 19 THE WITNESS: You filed it.
 12:16 20 Q. (By Mr. Bynum) It's right up here at the top
 12:16 21 corner. Right here at the top corner.
 12:16 22 A. Oh, at the top corner. Sorry. Oh, good.
 12:16 23 Thank you. I just missed it. Sorry about that.
 12:16 24 Q. So you believe the entire board was involved in
 12:16 25 making this decision to file a lawsuit?

12:18 1 found out about the lawsuit? I'm sorry. Do you recall
 12:18 2 how the COO of NCPA found out about the lawsuit?
 12:18 3 MR. KENNEDY: Objection to form.
 12:18 4 A. Who is the COO of --
 12:18 5 Q. (By Mr. Bynum) Richard Walker at this time.
 12:18 6 A. Richard Walker. Do I recall how he found out
 12:18 7 about this lawsuit?
 12:18 8 Q. Yes.
 12:18 9 A. I don't know. Typically, he attended the board
 12:18 10 meetings, so he would be right there when we were
 12:18 11 talking about it.
 12:18 12 Q. I'd like to show you what I have marked as
 12:18 13 Exhibit 13.
 12:18 14 (Exhibit 13 marked.) ← Need
 12:20 15 A. Okay.
 12:20 16 Q. (By Mr. Bynum) Exhibit 13 is an email chain
 12:20 17 that we received from Ms. Spaeth in response to a
 12:20 18 subpoena request of her documents.
 12:20 19 From Rebecca Shaw, who is with Spaeth
 12:20 20 Communications, to Catherine Daniell, and she CC'd
 12:20 21 Merrie Spaeth on this. It says: I'm appalled that no
 12:20 22 one gave you and Richard a heads-up on the filing.
 12:20 23 Dennis and Steve are savvy enough to know that this
 12:20 24 would generate salacious news coverage and additional
 12:20 25 embarrassing details. Merrie and I are here this

12:20 1 afternoon if you need us.

12:20 2 Can you recall how Ms. Spaeth's office knew

12:20 3 about the lawsuit before the people at the NCPA did?

12:20 4 A. I have no idea.

12:21 5 Q. Based on this email, it looks like Richard

12:21 6 Walker might not have been involved in the board meeting

12:21 7 in which it was determined to file suit; is that

12:21 8 correct?

12:21 9 A. Possible.

12:21 10 MR. KENNEDY: Objection to form.

12:21 11 A. It's possible he wasn't in there.

12:21 12 Q. (By Mr. Bynum) I'd like to show you what I've

12:21 13 marked as Exhibit 14 and 15.

14 (Exhibits 14 and 15 marked.)

12:22 15 Q. (By Mr. Bynum) Have you had a chance to review

12:22 16 both?

12:22 17 A. I have.

12:22 18 Q. Exhibit 15 is an article from D Magazine

12:22 19 from November of 2014.

12:22 20 A. I think it's Exhibit 14.

12:22 21 Q. Exhibit 14, I'm sorry. Exhibit 14 is an

12:22 22 article from D Magazine from November of 2014. Exhibit

12:23 23 15 is an article from the Dallas News website from

12:23 24 November of 2014. Are these two articles both the kind

12:23 25 of press that would bring negative connotations to the

Need E

12:24 1 fiduciary duty in this thing.

12:24 2 Q. Was Mr. Baggett involved with the NCPA prior to

12:24 3 2014?

12:24 4 A. He was on the board.

12:24 5 Q. And was he a donor at the time in 2014; do you

12:24 6 recall?

12:25 7 A. I don't recall.

12:25 8 Q. Do you believe that Exhibits 14 and 15 were the

12:25 9 same kind of unfavorable press that previous Exhibit 11

12:25 10 was for the NCPA?

12:25 11 A. Not necessarily.

12:25 12 Q. Would you agree that these two articles

12:25 13 continued to keep the NCPA in the press related to the

12:25 14 termination of Mr. Goodman?

12:25 15 A. Of course.

12:25 16 Q. We had spoken earlier and you had said that you

12:25 17 believed that Ms. Spaeth worked on one or two other

12:25 18 projects with the NCPA.

12:25 19 A. Best I recall.

12:25 20 Q. Was this lawsuit one of those projects?

12:26 21 A. No idea.

12:26 22 MR. BYNUM: Tell you what, what I'd like to do

12:26 23 is take a break, go over my notes for a few minutes. I

12:26 24 think we're close to wrapping up.

25 (Recess from 12:26 p.m. to 12:33 p.m.)

12:23 1 NCPA?

12:23 2 MR. KENNEDY: Object to the form.

12:23 3 A. I am not certain that these two would,

12:23 4 necessarily, because we have found who the culprits

12:23 5 were, and we named two of the three culprits in this

12:23 6 particular situation, that two of them -- two of the

12:23 7 three are named there.

12:23 8 Q. (By Mr. Bynum) And who are those culprits?

12:23 9 A. Mike Baggett/Winstead and John Goodman.

12:23 10 Q. And you believe they're the ones that leaked

12:23 11 the information?

12:23 12 A. Leaked what information?

12:23 13 Q. I'm sorry. I'll rephrase that.

12:24 14 They're the culprits for what?

12:24 15 A. They're the culprits for the breach of

12:24 16 fiduciary duty. They're two of the three culprits for

12:24 17 the breach of fiduciary duty.

12:24 18 Q. And who was the third?

12:24 19 A. Richard Walker.

12:24 20 Q. What did Richard Walker do?

12:24 21 A. Richard Walker knew about everything. He

12:24 22 looked at the contract. He saw Sherri's contract. He

12:24 23 knew what happened, what Sherri had alleged. He had a

12:24 24 series of emails going back and forth with Sherri. He

12:24 25 didn't tell the board about it. He breached his own

12:33 1 Q. (By Mr. Bynum) Couple of follow-up questions.

12:33 2 Do you know -- sorry. Do you know of any fundraisers --

12:33 3 I'm sorry. Do you know of any donors that the NCPA lost

12:33 4 as a result of the NCPA filing a lawsuit against

12:33 5 Mr. Baggett and Winstead?

12:33 6 A. No.

12:33 7 Q. We spoke earlier about Mr. West's time as the

12:33 8 CEO, and during that time, he hired Joshua Galloway,

12:33 9 correct?

12:33 10 A. Correct.

12:33 11 Q. Was board approval required for any hirings at

12:33 12 NCPA?

12:33 13 A. I don't recall.

12:33 14 Q. Mr. West was stripped of the CEO title after

12:34 15 the Josh Galloway embezzlement; is that correct?

12:34 16 A. Correct.

12:34 17 Q. He stayed on, though, as part of the board,

12:34 18 correct?

12:34 19 A. Correct.

12:34 20 Q. Do you know if his compensation package changed

12:34 21 at all?

12:34 22 A. I believe it did, but I'm not sure.

12:34 23 Q. Now, when Mr. Amos was brought on as the CEO,

12:34 24 did you have any reservations at first about him taking

12:34 25 that -- him being offered that position?

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12:34 1 A. I had some reservations early on.
12:34 2 Q. And were those ever brought up in a board
12:34 3 meeting?
12:34 4 A. I don't recall.
12:34 5 Q. Do you recall if you ever aired those out to
12:34 6 another board member in a meeting or out of a meeting?
12:34 7 A. I don't recall.
12:35 8 Q. Going back to Exhibit 6, which is the Public
12:35 9 Disclosure Form 990 from October of '14 to September of
12:35 10 '15?
12:35 11 A. Uh-huh.
12:35 12 Q. Would the \$575,000 settlement be attributed in
12:35 13 full on this form?
12:35 14 A. Oh, no.
12:35 15 Q. At the time that you accepted the position with
12:35 16 NCPA, were you with the University of -- UTD, University
12:35 17 of Texas in Dallas?
12:35 18 A. Yes.
12:35 19 Q. And what was your job there?
12:35 20 A. Same as it is now.
12:35 21 Q. Have you held that same position this entire
12:35 22 time?
12:35 23 A. Yes.
12:35 24 Q. So you maintained that position while you were
12:36 25 with the NCPA?

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12:37 1 suggestion of John Goodman.
12:37 2 Q. And the Hatton Sumners would give money to the
12:37 3 NCPA, as well, correct?
12:37 4 A. They were the second largest donor.
12:37 5 Q. Okay. Now, was the Hatton Sumners donations to
12:37 6 the NCPA, was that a restricted donation?
12:37 7 A. It's hard to say that it was, quote,
12:37 8 restricted; however, I would say it was directed to hold
12:38 9 either three or four events.
12:38 10 Q. Okay.
12:38 11 A. Bringing in speakers and that sort of thing,
12:38 12 the Hatton W. Sumners lecture series. So it was to pay
12:38 13 those speakers, cover the cost of bringing those people
12:38 14 in and putting on the events, yes.
12:38 15 Q. Okay. Let me ask you this: If that money was
12:38 16 not used for those reasons, was it to remain untouched?
12:38 17 A. Well, okay, there's -- there was one other
12:38 18 piece. These matters over here covered overhead as well
12:38 19 as those events. There was, however, an endowment, a
12:38 20 Hatton W. Sumners endowment, I think about \$160,000,
12:38 21 that was there specifically for the income of which
12:38 22 could be used to pay interns and a few other things like
12:38 23 that.
12:38 24 Q. Okay.
12:39 25 A. But the endowment itself was not to be touched,

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12:36 1 A. Yes.
12:36 2 Q. Did you have any other employment?
12:36 3 A. No.
12:36 4 Q. Were you involved with any other foundations or
12:36 5 organizations?
12:36 6 A. No.
12:36 7 Q. Did you fund --
12:36 8 A. Well, let me stop you. I have been and am the
12:36 9 chairman of the Foundation for Responsible Television,
12:36 10 and that raises money for a television program; but
12:36 11 that's a foundation that gets money, not much, but gets
12:36 12 money. It's not a foundation that gives money, and it's
12:36 13 not like the NCPA think tank. It's just a 501(c)(3).
12:36 14 Q. Did you continue to function in some capacity
12:36 15 with that foundation while you were with the NCPA?
12:36 16 A. I did.
12:36 17 Q. Since both the NCPA and the foundation
12:36 18 received -- sought out donors for money, was there ever
12:36 19 a conflict in trying to raise money for one over the
12:37 20 other?
12:37 21 A. No conflict, but there was one common donor,
12:37 22 and that's the Hatton W. Sumners Foundation. They had
12:37 23 given the Foundation for Responsible Television money
12:37 24 since -- off and on since 1994, basically at the --
12:37 25 interesting enough and how ironic this is, at the

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12:39 1 correct.
12:39 2 Q. Do you recall if at any time that the endowment
12:39 3 was touched?
12:39 4 A. It might've been touched in 2016 or '17, but
12:39 5 I'm not certain, but certainly not touched while I was
12:39 6 there or while Richard Walker was there.
12:39 7 Q. Do you know if it was touched during the Joshua
12:39 8 Galloway embezzlement?
12:39 9 A. I don't know that.
12:39 10 Q. Now, the endowment, if Hatton Sumner -- I'm
12:39 11 sorry. If the Hatton Sumners would've requested the
12:39 12 money back, the endowment should have been there to
12:39 13 return; is that correct?
12:39 14 A. Correct.
12:39 15 Q. And I'm not in any type of think tank or
12:39 16 foundation or --
12:39 17 A. I understand.
12:39 18 Q. How hard is it to release that money?
12:40 19 A. Depends. In general, easy. We had another
12:40 20 small endowment, and the people, after the John thing --
12:40 21 John Goodman thing came up, wanted their money back and
12:40 22 we just wrote them a check, but that was \$25,000.
12:40 23 Q. Okay.
12:40 24 A. Because the funds were in a money market
12:40 25 account or something. The only thing that would cause a

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- 12:40 1 problem is if the endowment funds were invested in
12:40 2 something that might not be as liquid. That's the
12:40 3 only -- but, otherwise, it's just a question of they --
12:40 4 if the endowment agreement said they could ask for it
12:40 5 back, then we need to give it back.
- 12:40 6 Q. While you were the interim CEO -- excuse me.
12:41 7 While you were the interim CEO at the NCPA, did you
12:41 8 split time at the offices of the NCPA and the offices of
12:41 9 the foundation?
- 12:41 10 A. The foundation doesn't really have any offices.
12:41 11 There are no full-time employees. So I would take, you
12:41 12 know, 20 television programs a year, six or seven at a
12:41 13 time, but there were no offices and I've never been paid
12:41 14 for the Foundation for Responsible Television.
- 12:41 15 Q. And where were these television shows taped at?
12:41 16 A. At that time, they were taped as they are
12:41 17 today, at Richland College, in the Jan LeCroy Center.
- 12:41 18 Q. Do you believe that any activities involved
12:41 19 with the foundation or with UTD interfered with your
12:41 20 responsibilities as interim CEO at NCPA?
- 12:41 21 A. No.
- 12:41 22 Q. Did you continue to teach classes at UTD?
12:42 23 A. I cut my schedule back in half.
- 12:42 24 Q. If you cut it back in half, how many classes
12:42 25 were you teaching at the time?

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- 12:43 1 A. No.
- 12:43 2 Q. Are board members compensated?
12:43 3 A. No.
- 12:43 4 Q. Are their expenses reimbursed?
12:43 5 A. Typically.
- 12:43 6 Q. I show you what we have marked as Exhibit 16
12:43 7 (Exhibit 16 marked.) need Exhibit 16
- 12:44 8 Q. (By Mr. Bynum) These are minutes of an NCPA
12:44 9 board meeting from January 13th, 2015.
- 12:45 10 A. Okay.
- 12:45 11 Q. Briefly, it states in here that a discussion
12:45 12 was held about allegations by three NCPA employees
12:45 13 against yourself.
- 12:45 14 A. Uh-huh.
- 12:45 15 Q. What were those allegations?
12:45 16 A. The secretary who Richard Walker hired to work
12:45 17 for him, and for me during the time I was there, alleged
12:46 18 that I had looked at her ass and that I had made some
12:46 19 comment about her being fat.
- 12:46 20 She then got another person to say that I made
12:46 21 a comment at a Christmas party when everybody was
12:46 22 wearing an ugly sweater, I made the comment to one of
12:46 23 the -- not to one of the staff people, but one of the
12:46 24 economists, that I doubt she'd look ugly in any sweater.
12:46 25 I don't remember what the third situation was, but it

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- 12:42 1 A. Two classes.
- 12:42 2 Q. I'm sorry?
12:42 3 A. Two classes a semester.
- 12:42 4 (Reporter clarification.)
- 12:42 5 Q. (By Mr. Bynum) Now, as part of your
12:42 6 compensation bonus -- I mean, I'm sorry, as part of your
12:42 7 compensation plan as interim CEO, was there a bonus
12:42 8 structure?
- 12:42 9 A. There was.
- 12:42 10 Q. And what was it based on?
12:42 11 A. I had no idea. I don't have a copy of that
12:42 12 document. But if you have it, I'll be glad to --
- 12:42 13 Q. Do you recall if you received a bonus in 2014?
12:42 14 A. I did receive a bonus in 2014 or the first part
12:42 15 of 2015. I'm not sure which.
- 12:42 16 Q. Was there any type of a severance package when
12:42 17 you left the NCPA?
- 12:43 18 A. No.
- 12:43 19 Q. No severance as when you stepped down from CEO
12:43 20 for Mr. West to take over or when you left the board?
- 12:43 21 A. No.
- 12:43 22 Q. Outside of the salary for the -- that you
12:43 23 received as the interim CEO from roughly June of 2014
12:43 24 through December of 2014, and the bonus for 2014, did
12:43 25 you receive any other income from the NCPA?

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- 12:46 1 was as spurious as that.
- 12:46 2 Q. Do you recall the names of any of these former
12:46 3 employees?
- 12:46 4 A. Yeah. Pam, Pam Villarreal,
12:46 5 V-I-L-L-A-R-R-E-A-L, I think. She now works with me at
12:47 6 UT Dallas. She's an economist. And then Tiana,
12:47 7 T-I-A-N-A, I think her name was. I don't remember her
12:47 8 last name. She was the one that Richard had hired and
12:47 9 who worked for Richard and me.
- 12:47 10 Q. So she was the secretary?
12:47 11 A. Uh-huh.
- 12:47 12 Q. Do you recall the third name?
12:47 13 A. I don't. I don't even remember who the third
12:47 14 person was, actually.
- 12:47 15 Q. So Pam was the ugly sweater comment?
12:47 16 A. Uh-huh.
- 12:47 17 Q. And you said she's now at UTD?
12:47 18 A. Uh-huh.
- 12:47 19 Q. Were these allegations ever resolved with these
12:47 20 three individuals?
- 12:47 21 A. Oh, we hired our lawyer to check it out, which
12:47 22 she did, and there was nothing at all to the
12:48 23 allegations, of course, and -- but to make sure that we
12:48 24 dotted our Is and crossed our Ts, our lawyer held a two-
12:48 25 hour setting with our employees on sexual harassment.

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12:48 1 Q. There were no settlements or --
12:48 2 A. Oh, no.
12:48 3 Q. Now, the following sentence says part of this
12:48 4 discussion centered on how these allegations may have
12:48 5 affected CEO Allen West's initial actions when taking
12:48 6 over the NCPA. Was there any -- did these allegations
12:48 7 affect his taking over?
12:48 8 A. I don't think there was any doubt about it, but
12:48 9 it wasn't those allegations. She poisoned him in every
12:48 10 conceivable way before he took over. She said that I
12:48 11 was a racist. And, see, if I want to hire a very smart
12:49 12 black man, I guess that makes me a racist.
12:49 13 She was dating a black man herself, and so she
12:49 14 alleged that -- I don't know what she alleged, but she
12:49 15 told him all kinds of things about -- who knows what she
12:49 16 told him; and he was at a disadvantage from the day he
12:49 17 walked in. What she got mad about was that I had
12:49 18 corrected her, just between the two of us one day, when
12:49 19 she said, me and Dub are going to go to the movies, or
12:49 20 something like that.
12:49 21 And I said, Tiana, you're about to get a very
12:49 22 high-profile individual in here, going to be talking to
12:49 23 very important people, politicians, donors, and we don't
12:49 24 say, me and Dub are going to go do this. What do we
12:49 25 say? She said, oh, Dub and I. I said, that'd be right.

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12:51 1 BY MR. KENNEDY:
12:51 2 Q. Approximately when was Mr. -- when did
12:51 3 Mr. Walker leave the employment of NCPA?
12:51 4 A. You know, that's a good question. I'm going to
12:51 5 say December of 2014, but that's a guesstimate of mine.
12:51 6 Q. When did you first learn of any conduct by
12:51 7 Mr. Walker that you would call a breach of his fiduciary
12:51 8 duty?
12:51 9 A. That's a good question, too. I learned about
12:51 10 the most serious aspect of it after he had left. So it
12:52 11 would've been sometime late '14, early '15, I'd guess,
12:52 12 and that's when it became apparent that he had erased
12:52 13 emails from his own situation.
12:52 14 We found that out -- you found that out,
12:52 15 actually, through forensic accounting and asked
12:52 16 questions about it, and I had always thought that he
12:52 17 should've put his hand up when he knew that something
12:52 18 was going on back in -- whenever the Sherri Collins
12:52 19 thing came up.
12:52 20 And he basically didn't, in my opinion, and I
12:52 21 told him this, because he was trying to get to
12:52 22 retirement so he could collect his retirement, and it'd
12:52 23 rock the boat. He knew John Goodman would throw him
12:52 24 under the bus, which John Goodman would have, by the
12:53 25 way. So he kept what he knew from the board of

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12:49 1 So that's what made her mad. That, and there was one
12:49 2 other comment, which I can't recall.
12:49 3 And she was fired, by the way, by Jacki Pick
12:50 4 six weeks later for total insubordination. They had to
12:50 5 bring the lawyer in to fire her, just to make sure
12:50 6 she -- she was erasing stuff from her computer as they
12:50 7 walked into her office, and let's just say she was a
12:50 8 troublemaker extraordinaire.
12:50 9 Q. So she was fired for cause?
12:50 10 A. Yes. By a woman.
12:50 11 Q. Now, at the time of January 2015, Steve Ivy was
12:50 12 the chairman.
12:50 13 A. Correct.
12:50 14 Q. Do you know how long he had been chairman?
12:50 15 A. You know, I think he took over after Jerry
12:50 16 Mills resigned. So I'm going to guess in 90 days, just
12:50 17 guessing, somewhere in that vicinity.
12:50 18 Q. So while you were the CEO for the NCPA, the two
12:51 19 chairmen were Mr. Mills and Mr. Ivy?
12:51 20 A. Correct.
12:51 21 MR. BYNUM: All right. I believe that's all
12:51 22 the questions I have. Pass the witness.
12:51 23 MR. KENNEDY: I've just got a couple quick
12:51 24 questions for you, sir.

EXAMINATION

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12:53 1 directors.
12:53 2 Q. Would deleting emails be an offense that would
12:53 3 rise to a level of termination for cause?
12:53 4 A. Yes.
12:53 5 Q. Had you known he had been intentionally
12:53 6 deleting his emails to cover up the situation involving
12:53 7 Sherri Collins and Mr. Walker, would you have made a
12:53 8 recommendation to terminate him with cause?
12:53 9 A. Yes.
12:53 10 MR. KENNEDY: Thank you. Nothing further.
12:53 11 RE-EXAMINATION
12:53 12 BY MR. BYNUM:
12:53 13 Q. Real quick. When Mr. Walker left the NCPA, did
12:53 14 he leave by his own choosing?
12:53 15 A. Yes.
12:53 16 Q. And was there any type of settlement agreement
12:53 17 otherwise when he left the payout plan?
12:54 18 A. We went through a mediation with him, just as
12:54 19 we had with John Goodman and John Goodman's girlfriend,
12:54 20 and we went through a mediation with Richard, as well.
12:54 21 Q. Who was in on that mediation?
12:54 22 A. I was.
12:54 23 Q. Anybody else with the NCPA?
12:54 24 A. The lawyer and the D&O coverage lawyer.
12:54 25 Q. Was Mr. Mills?

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February 20, 2019

CAUSE NO. DC-16-05388

FISCAL SOLUTIONS, LLC as) IN THE DISTRICT COURT
assignee of RICHARD W.)
WALKER,)
)
Plaintiff,)
)
v.) 298th JUDICIAL DISTRICT
)
)
NATIONAL CENTER FOR POLICY)
ANALYSIS,)
)
Defendant.) DALLAS COUNTY, TEXAS

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF DENNIS MCCUISTION
FEBRUARY 20, 2019

I, Adrienne Harris, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, DENNIS MCCUISTION, was duly
sworn and that the transcript of the deposition is a
true record of the testimony given by the witness;

That the deposition transcript was duly
submitted on _____ to Mr. Stephen A.
Kennedy, the attorney for the witness/Defendant, for
examination, signature, and return to me by
_____.

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Oral Deposition - Dennis McCuiston
February 20, 2019

Further certification requirements pursuant
to Rule 203 of the Texas Code of Civil Procedure will be
complied with after they have occurred.

Certified to by me on this ____ day of

ADRIANNE HARRIS, CSR
CSR Certificate No. 7967
Expiration Date: 12-31-19
Julia Whaley & Associates
Firm Registration No. 436
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
(214)668-5578/Fax: (972)236-6666

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Oral Deposition - Dennis McCuiston
February 20, 2019

That pursuant to information given to the
deposition officer at the time said testimony was taken,
the following includes all parties of record and the
amount of time used by each party at the time of the
deposition:

Mr. Douglas L. Bynum (02h31m)
Mr. Stephen A. Kennedy (00h03m)

FOR PLAINTIFF:

Mr. Douglas L. Bynum
DARRELL W. COOK & ASSOCIATES, P.C.
6688 North Central Expressway
Suite 1000
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Phone: (214)368-4686
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FOR DEFENDANT:

Mr. Stephen A. Kennedy
KENNEDY LAW, P.C.
1445 Ross Avenue
Suite 2750
Dallas, Texas 75202
Phone: (214)716-4343
Fax: (214)593-2821
Email: skennedy@saklaw.net

I further certify that I am neither counsel
for, related to, nor employed by any of the parties in
the action in which this proceeding was taken, and
further that I am not financially or otherwise
interested in the outcome of this action.

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Oral Deposition - Dennis McCuiston
February 20, 2019

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was/was not returned
to the deposition officer on _____.

If returned, the attached Changes and
Signature page(s) contain(s) any changes and the reasons
therefor.

If returned, the original deposition was
delivered to Mr. Douglas L. Bynum, Custodial Attorney.

\$_____ is the deposition officer's
charges to the Plaintiff for preparing the original
deposition transcript and any copies of exhibits.

The deposition was delivered in accordance
with Rule 203.3, and a copy of this certificate, served
on all parties shown herein, was filed with the Clerk.

Certified to by me on this ____ day of

ADRIANNE HARRIS, CSR
CSR Certificate No. 7967
Expiration Date: 12-31-19
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Tonya Pointer

CAUSE NO. DC-14-13453

THE NATIONAL CENTER
FOR POLICY ANALYSIS,

Plaintiff,

v.

WINSTEAD, P.C., and
W. MIKE BAGGETT,

Defendants.

§
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§

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

PLAINTIFF’S ORIGINAL PETITION

Plaintiff, The National Center for Policy Analysis (“Plaintiff” or the “NCPA”), files this Original Petition against Defendants Winstead, P.C. (“Winstead”) and W. Mike Baggett (“Baggett”)(together, the “Defendants”), and asserts the following:

DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery in this matter under Level 2, Rule 190.2 of the Texas Rules of Civil Procedure.

PARTIES, JURISDICTION, CLAIMS FOR RELIEF, AND VENUE

2. Plaintiff is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Dallas County, Texas.

3. Defendant Baggett is an individual who may be served at 500 Winstead Building, 2728 N. Harwood Street, Dallas, Texas 75201, or wherever he may be found.

4. Defendant Winstead is a corporation organized and existing under the laws of the State of Texas and may be served through its General Counsel, Don Campbell, at 500 Winstead Building, 2728 N. Harwood Street, Dallas, Texas 75201.

5. This Court has subject matter jurisdiction pursuant to §25.0592 of the TEXAS GOVERNMENT CODE.

6. Pursuant to TEX. R. CIV. P. 47, Plaintiff seeks monetary relief in an amount exceeding \$1,000,000, including damages, penalties, costs, expenses, pre-judgment interest, and attorney fees.

7. Venue is proper in Dallas County, Texas under TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1) in that a substantial part of the events or omissions giving rise to the claim occurred in Dallas County, Texas.

MATERIAL PREDICATE FACTS

8. Plaintiff is a nonprofit, nonpartisan public policy research organization, established in 1983. The NCPA's goal is to develop and promote private, free-market alternatives to government regulation and control, solving problems by relying on the strength of the competitive, entrepreneurial private sector.

9. Winstead is a corporate law firm with nine offices across the United States, including Austin, Charlotte, Dallas, Fort Worth, Houston, New Orleans, San Antonio, The Woodlands, and Washington, D.C.

10. Baggett is an attorney who served as Winstead's Chairman and CEO from 1992 to 2006, and who currently serves as Chairman Emeritus.

11. At all times relevant to the claims asserted herein, Baggett served as a member of the Board of Directors for the NCPA.

12. At all times relevant to the claims asserted herein, John Goodman was Plaintiff's President and CEO.

13. Separately, Goodman was a frequent speaker at various conventions and other functions, for which he was paid a fee. On information and belief, Goodman ran his speaking circuit business as an unincorporated sole proprietorship. For simplicity, the business will be referenced herein as “Goodman’s Sole Proprietorship.”

14. At all times relevant hereto, Sherri Collins (“Collins”), was an employee of Plaintiff who served as Goodman’s executive assistant.

15. Collins also had a separate position at Goodman’s Sole Proprietorship and was paid 10% of what Goodman collected while on the speaking circuit.

16. The NCPA was not involved in, did not sponsor, and otherwise did not profit from Goodman’s Sole Proprietorship.

Factual Context Giving Rise to Defendants’ Errors and Omissions

17. Goodman and Collins had a sexual relationship during 2012.

18. Collins claims it was not a consensual relationship, but a requirement for her to keep her job as Goodman’s executive assistant.

19. Goodman claims that Collins sought him out, that the relationship was consensual and that it was not a requirement to keep her job.

20. During the Fall of 2012, Goodman gave a speech in Santa Monica, California. The speaking arrangement was organized through Goodman’s Sole Proprietorship.

21. Collins organized the event and was to receive 10% of the fees generated from the speaking arrangement.

22. Collins accompanied Goodman to California.

23. While in California, Goodman allegedly assaulted Collins because she would not sleep with him during the trip.

24. Collins claimed that she filed a police report when she returned to Texas.

25. Collins retained counsel, who alleged that Goodman had sexually harassed Collins during the course of business at the NCPA, which eventually led to her assault in California.

26. Counsel for Collins claimed that Goodman was liable in his personal capacity and that the NCPA was liable as the employer.

27. To defend both himself and the NCPA, Goodman went to NCPA board member Mike Baggett, requesting legal advice.

The First Series of Errors and Omissions by Defendants

28. Baggett, a, NCPA Board Member, told Goodman that Winstead could represent both Goodman and Plaintiff.

29. Baggett, an NCPA Board Member, told Goodman and the NCPA's Chief Operating Officer, Richard Walker, that it was unnecessary to inform the Board of the claims alleged, including the assault charges, because it involved a personnel matter.

30. Baggett had ample opportunity to inform the NCPA, through its board of directors, that Goodman had allegedly assaulted an NCPA employee and allegedly sexually harassed the employee.

31. At the time, Plaintiff's Board of Directors was not advised of the alleged sexual harassment claims, was not advised of the alleged assault and was not advised of the affair between the CEO and his executive assistant.

32. At the time, Plaintiff's Board of Directors was not advised that Winstead was providing legal services on its behalf with respect to a sexual harassment claim against the CEO, and had not approved of that representation.

33. At the time, Plaintiff's Board of Directors was not aware that Winstead would be providing legal services to Goodman in his individual capacity.

34. At the time, Plaintiff's Board of Directors was not advised of any actual or potential conflict of interest in having Winstead provide legal services for the NCPA and Goodman.

35. Plaintiff did not waive any conflict of interest in having Winstead provide legal services for both the NCPA and Goodman.

36. Baggett did not have the authority to hire legal counsel for this matter without Board approval.

37. Baggett did not have authority to engage his own law firm on behalf of NCPA for this matter.

38. The Board was never advised that a settlement offer had been made by counsel for Collins.

39. The Board never approved any settlement offer made on its behalf by Winstead.

40. As part of the settlement, Goodman wanted to promote Collins to head of Human Resources, give her a substantial raise, and have her continue working with his Sole Proprietorship and travel with him on the speaking circuit. Goodman also wanted a personal release from all of claims alleged against him.

41. One of the lawyers involved in the conflict drafted a proposed employment agreement consistent with Goodman's terms. Both the employment agreement and Goodman's personal release are hereinafter referred to as the "Transaction Documents."

42. Winstead provided legal services on behalf of both Goodman and the NCPA. Among other things, Winstead reviewed the proposed Transaction Documents, provided advice concerning same and was involved in the negotiations concerning the Transaction Documents.

43. At the time the Transaction Documents were drafted, Plaintiff's Board was not advised of the alleged assault.

44. At the time the Transaction Documents were drafted, Plaintiff's Board was not advised that Collins was being promoted.

45. At the time the Transaction Documents were drafted, Plaintiff's Board was not advised that Winstead was representing Goodman in negotiations to secure a release for Goodman.

46. On or about November 29, 2012, Winstead finally recognized that it had a conflict of interest in representing both the NCPA and Goodman. Winstead's General Counsel, Don Campbell, discovered the situation and determined that the Firm could not represent both Goodman and NCPA. In an email dated November 29, 2012, Winstead informed Goodman of the decision. Campbell and Baggett were copied on the email. A true and correct copy of the email is attached as Exhibit A.

47. Baggett referred the matter to a former Winstead partner to close the deal. The Transaction Documents, which were nearly final at that point, were executed the following day.

48. After discovering their hardhearted error, Winstead, Baggett and Campbell failed to contact the NCPA and report the conflict, multiple instances of attorney malpractice, and breach of fiduciary duties.

49. Upon discovering the conflict, Winstead and Baggett were required to inform the Board that they had represented the NCPA without consent in a sexual harassment suit and the sexual harassment suit included claims of physical assault.

50. Upon discovering the conflict, Winstead and Baggett were required to inform the Board that they had received a settlement offer from Collins' attorney and failed to present the offer to the NCPA Board for consideration.

51. Upon discovering the conflict, Winstead and Baggett were required to inform the Board that they had represented Goodman without first getting a waiver.

52. Upon discovering the conflict, Winstead and Baggett were required to inform the Board that they had represented NCPA when a conflict of interest existed.

53. For nearly 18 months, Baggett attended numerous NCPA Board meetings as if nothing had ever occurred.

54. For nearly 18 months, Winstead continued to provide legal advice to the NCPA as if nothing had ever occurred.

55. During the following 18 month period, Winstead charged NCPA \$52,431.62 in legal fees.

The Second Series of Errors and Omissions by Defendants

56. In approximately February of 2014, Collins again complained that Goodman had sexually harassed her.

57. In March 2014, Goodman contacted Baggett to secure legal representation.

58. In a March 2014 voicemail message to Plaintiff's Chief Operating Officer, Baggett reaffirmed that Winstead could represent both Goodman and Plaintiff and that there was no conflict in doing so.

59. Baggett later reaffirmed that it was unnecessary to inform the Board of Directors of the situation.

60. Just as it did the first time, Winstead failed to notify the Board of Directors regarding the claim; failed to report the conflict of interest in representing both Goodman and the NCPA; and never informed the Board that it would be incurring legal fees to represent it.

61. Consistent with his conduct in 2012, Baggett failed to tell Plaintiff's Board of Directors about the new sexual harassment claims.

62. In March 2014, Plaintiff's Board of Directors was not advised of the alleged sexual harassment claims, was not advised of the alleged assault in 2012 and was not advised of the affair between the CEO and his executive assistant.

63. In March 2014, Plaintiff's Board of Directors was not advised that Winstead was providing legal services on its behalf with respect to a sexual harassment claim against its CEO and had not approved of same.

64. In March 2014, Plaintiff's Board of Directors was not aware that Winstead would be providing legal services to Goodman in his individual capacity.

65. In March 2014, Plaintiff's Board of Directors was not advised of any actual or potential conflict of interest in having Winstead provide legal services for the NCPA and Goodman.

66. Plaintiff did not waive any conflict of interest in having Winstead provide legal services for both the NCPA and Goodman.

67. Baggett, in his capacity as a Board Member, did not have the authority to hire legal counsel for this matter without Board approval.

68. Baggett did not have authority to engage his own law firm on behalf of NCPA for this matter.

69. In March 2014, the Board was not advised that a settlement offer had been made by counsel for Collins.

70. In March 2014, the Board had not approved Winstead to take any action in the case.

71. Without reporting any information to the Board, Winstead plodded on. From March through April, 2014, Winstead charged the NCPA a total of \$30,914.74 for working on the 2014 claim for sexual harassment.

The Winstead/Baggett Cover-Up Damages the NCPA

72. In April 2014, the Board of Directors first learned of the Collins/Goodman incident of 2012, the 2012 Transaction Documents settling the Collins assault and sexual harassment claims, and the new sexual harassment claims made in 2014. News that Baggett (an NCPA Board Member) and Winstead (its outside counsel) knew of, and concealed, the incidents that had occurred in 2012 shook the organization to its foundation, nearly resulting in the organization's demise.

73. The first thing that the NCPA did was terminate Winstead as counsel.

74. Plaintiff authorized an outside attorney to investigate the sexual harassment claims. After concluding the investigation, Plaintiff then terminated Goodman on June 8, 2014.

75. Because of the Baggett/Winstead cover-up, Plaintiff was forced to settle with both Goodman and Collins on unfavorable terms.

76. As a direct and proximate cause of the Baggett/Winstead cover-up, at least one director/donor required the NCPA to refund his donation.

77. As a direct and proximate cause of the Baggett/Winstead cover-up, organizations that served as professional fund raisers for the entity terminated their relationships due to the bad press associated with the NCPA.

78. As a direct and proximate cause of the Baggett/Winstead cover-up, the NCPA lost at least \$2,000,000 in fund raising.

79. As a direct and proximate cause of the Baggett/Winstead cover-up, the NCPA suffered injury to its reputation due to unfavorable press.

80. As a direct and proximate cause of the Baggett/Winstead cover-up the NCPA continues to be the subject of actual and threatened litigation.

81. Putting aside the staggering monetary losses and bad PR, the deepest-cut-of-all came from Baggett. He had been a supporter of the organization for many years. Yet with no remorse, Baggett actively covered-up the ugly events of 2012, looked the other way, and when his conduct was exposed, he repeated the mantra of too many lawyers throughout the land: deny, deny, deny. Baggett pushed the moral compass of the organization to its polar extreme.

COUNT 1
BREACH OF FIDUCIARY DUTY CLAIM FOR 2012 CONDUCT

82. Plaintiff re-alleges and incorporates the above paragraphs as if fully contained herein.

83. As a member of the Board of Directors for the NCPA, Baggett owed Plaintiff duties of care and candor, which he breached by negotiating the 2012 Transaction Documents.

84. As counsel, Winstead owed Plaintiff duties of care and candor, which it breached by negotiating the 2012 Transaction Documents.

85. Defendants owed Plaintiff a duty to fully disclose the allegations made by Collins in 2012; the terms of any settlement offers; and the content of the Transaction Documents.

Defendants failed to advise the NCPA of any assessment of the risk and potential harm to the organization resulting from Collins' allegations and the proposed settlement implemented through the Transaction Documents.

86. Through their cover-up of the facts alleged, Defendants breached all fiduciary duties recognized in the State of Texas.

87. Defendants' conduct acted against the best interests of the NCPA and was done with knowledge and intent.

88. Because Defendants' conduct was fraudulently concealed, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

89. Because Defendants' conduct was inherently undiscoverable at the time that it occurred, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

90. As a direct and proximate result of Baggett and Winstead's breaches of their fiduciary duties to Plaintiff, the NCPA has suffered substantial monetary damages as well as irreparable harm to its reputation and goodwill.

COUNT 2
BREACH OF FIDUCIARY DUTY CLAIM FOR 2014 CONDUCT

91. Plaintiff re-alleges and incorporates the above paragraphs as if fully contained herein.

92. As a member of the Board of Directors for the NCPA, Baggett owed Plaintiff duties of care and candor, which he breached by failing to disclose the new allegations of sexual harassment made in 2014 and the continuation of his cover-up of the actions occurring in 2012. Baggett knew of the new sexual harassment claims in March of 2014 but did not immediately report them to the Board.

93. As counsel, Winstead owed Plaintiff duties of care and candor, which it breached by failing to disclose the new allegations of sexual harassment made in 2014 and the allegations made in 2012. Counsel knew of the allegations in March of 2014, but failed to immediately report the conduct to Plaintiff and instead proceeded to bill the NCPA for approximately \$31,000 for the defense of a matter the NCPA board did not know existed.

94. Defendants owed Plaintiff a duty to fully disclose the allegations made by Collins in 2014; the terms of any settlement offers; and an assessment of the risk and harm to the organization.

95. Through their cover-up of the facts alleged in 2014, Defendants breached all fiduciary duties recognized in State of Texas.

96. Defendants' conduct acted against the best interests of the NCPA and was done with knowledge and intent.

97. Because Defendants' conduct was fraudulently concealed, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

98. Because Defendants' conduct was inherently undiscoverable at the time that it occurred, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

99. As a direct and proximate result of Defendants' breaches of their fiduciary duties to Plaintiff, the NCPA has suffered substantial monetary damages as well as irreparable harm to its reputation and goodwill.

COUNT 3 – LEGAL MALPRACTICE

100. Plaintiff re-alleges and incorporates the above paragraphs as if fully contained herein.

101. In both the 2012 and 2014 sexual harassment disputes, Baggett and Winstead purportedly represented both Goodman and the NCPA in resolving the Claims.

102. An actual conflict of interest existed in each instance. Winstead and Baggett knew of the actual conflict at least as early as November 29, 2012, because they were so advised by Winstead's partner Don Campbell. They withdrew from representing the parties in 2012 but never told the Board of Directors of the NCPA of the conflict.

103. The Transaction Documents that Winstead negotiated in 2012 were ill-advised and designed to satisfy the needs and wants of Goodman to the detriment of the NCPA. The Transaction Documents predictably led to new allegations of sexual harassment in 2014. Had Winstead disclosed all of the facts in 2012, the Board never would have approved the Transaction Documents, which served only the interests of Goodman.

104. When faced with yet another conflict of interest between the same parties, involving the same players, involving the same conduct 18 months later, Winstead did not acknowledge its conflict of interest and did not withdraw from the representation. The firm instead billed the NCPA approximately \$31,000 in one month for defending a claim that was never disclosed to the Board. Winstead's General Counsel, Campbell, either knew about the 2014 conflict and did nothing, or the information was hidden from him so that Winstead could bill NCPA and collect revenue.

105. By failing to disclose the above-described conflict of interest in representing both Goodman and the NCPA, and for other failures involved in conducting the defense, Defendants committed legal malpractice.

106. Because Defendants' conduct was fraudulently concealed, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

107. Because Defendants' conduct was inherently undiscoverable at the time that it occurred, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

108. As a result of Defendants' actions, the NCPA has suffered substantial monetary damages as well as irreparable harm to its reputation and goodwill.

109. As a result of the malpractice described herein, the Defendants are jointly and severally liable to the NCPA.

COUNT 4 – NEGLIGENT MISREPRESENTATION

110. Plaintiff re-alleges and incorporates the above paragraphs as if fully contained herein.

111. In 2012, Defendants made the affirmative representation that Defendants had no conflict of interest in representing both the NCPA and Goodman. Although this decision was later reversed, Defendants supplied false information to employees of the NCPA and did not exercise reasonable care or competence in their communications. The NCPA suffered pecuniary loss by justifiably relying on the representations made by Defendants.

112. On a second occasion, in 2014, Defendants again made the affirmative representation that Defendants had no conflict of interest in representing both the NCPA and Goodman. Defendants supplied false information to employees of the NCPA and did not exercise reasonable care or competence in their communications. The NCPA suffered pecuniary loss by justifiably relying on the representations made by Defendants.

113. Because Defendants' conduct was fraudulently concealed, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

114. Because Defendants' conduct was inherently undiscoverable at the time that it occurred, Plaintiff could not have reasonably discovered the breach of fiduciary duties by the Defendants until April 2014.

115. As a result of Defendants' negligent misrepresentations, the NCPA has suffered substantial monetary damages as well as irreparable harm to its reputation and goodwill.

116. As a result of Defendants' misrepresentations, the Defendants are jointly and severally liable to the NCPA.

REQUEST FOR DISCLOSURE

117. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

PRAYER

WHEREFORE, PREMISES CONSIDERED, The National Center for Policy Analysis, prays that Defendants Winstead P.C. and W. Mike Baggett be cited to appear and answer herein, that upon final hearing the Court enter judgment for Plaintiff:

1. for actual damages in an amount exceeding \$1,000,000;
2. for punitive, exemplary or other enhanced damages for the tort claims asserted herein;
3. for special damages, consequential damages, lost profits, disgorgement of profits, and all other forms of damages permissible under Texas law;
4. for pre-judgment interest in accordance with the TEXAS FINANCE CODE;
5. for an additional reasonable amount as attorney's fees;
6. for post-judgment interest on the sum of the foregoing from date of judgment until paid;
7. for all costs of court; and

8. for such other and further relief, at law or in equity, as to which Plaintiff may be justly entitled.

Respectfully Submitted,

/s/ Stephen A. Kennedy
Stephen A. Kennedy
State Bar No. 11300425

KENNEDY LAW, P.C.
1445 Ross Ave. Suite
Dallas, TX 75202
Tel.: (214) 716-4343
Fax: (214) 593-2821
skennedy@saklaw.net

ATTORNEY FOR PLAINTIFF
THE NATIONAL CENTER FOR POLICY
ANALYSIS

EXHIBIT A

Subject: Collins Matter
Date: Thu Nov 29 15:30:55 EST 2012
From: "Smart, John" <jsmart@winstead.com>
To: "john.goodman@ncpa.org" <john.goodman@ncpa.org>
CC: "Baggett, Mike" <mbaggett@winstead.com>,"Campbell, Don" <DCampbell@winstead.com>,"Dargene, Dan C." <Dan.Dargene@ogletreedeakins.com>
Attachments: "Dargene- Dan C.vcf" 0.60KB

Dear John:

After further consultation with our general counsel, we have determined that Winstead cannot bring this matter to a conclusion today and that we need to refer you to another attorney with expertise in this area of law. I have contacted former Winstead law partner, Dan Dargene, who is with Ogletree Deakins (a firm specializing in employment matters) to assist you with wrapping up your negotiation with Sherri Collins and her counsel. We will provide Mr. Dargene with the last term sheet you received from Mr. Elsey. Dan is board-certified employment lawyer with close to 30 years of experience that I would trust with any employment-related matter. I have informed Dan that you're eager to get this matter resolved.

Dan's contact information is attached. I will ask him to call you. I am sorry we could not see this thing to a successful conclusion for you. We certainly appreciate every opportunity we have to work with you and the NCPA.

Best regards,

John D. Smart

Winstead PC | 500 Winstead Building | 2728 Harwood Street | Dallas, Texas 75201
214.745.5495 *direct* | 214.745.5390 *fax* | jsmart@winstead.com | www.winstead.com

IRS Circular 230 Required Notice--IRS regulations require that we inform you as follows: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended to be used and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or tax-related matter[s].

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EXHIBIT

Ex. L

DR. JOHN GOODMAN EMAIL DATED JUNE 2, 2014 REGARDING RESPONSIBILITY

From: John Goodman [<mailto:john.goodman@ncpa.org>]

Sent: Monday, June 02, 2014 6:26 AM

To: 'Julia Kilmer'; Brent Beesley; mbaggett@winstead.com; Tony Batman; hjb3@bowenhanes.com; Gen. Tommy Franks; Tex Gross; Steve Ivy; Victor Lattimore; Mike Montgomery; Greg Wilkinson; Raymond Woodridge; RJW@twqholdings.com; Jerry Mills (jerry@immills.com)

Cc: tewis@sisna.com; bcollett@winstead.com; Lisa Carpenter - 1st Global Executive Administration; smw@bowenhanes.com; mth@tommyfranks.com; Gayla Perkins Lopez; Smith, Diane - 1363; Connie Boucher; Leia Wilkinson; Patti Linex; Susie J. Kerley; Jerry Mills

Subject: RE: Conference call change in phone number - 2:00 p.m. today

On the matter of Sherri Collins, this is my mistake and I think I should assume full responsibility for it.

I don't want to pay for the fact checking and I don't want to pay for lawyers that aren't reporting to me. I do want us to take full advantage of any insurance coverage we have.

I will need complete cooperation from the NCPA staff and access to all relevant documents.

Given that, I will take control of the law suit. I will settle it or litigate it. And I will pay all remaining costs.

On another matter, we have not been following the bylaws on contracts. We have had many contracts that lasted for more than one year that were not approved by the board – including Richard's employment agreement. Some of these were signed by me. I think most were signed by Richard.

We need to have these contracts retroactively approved by the board. Or, we need to do something else. But we can't have a question of personal liability hanging in the air.

John C. Goodman
National Center for Policy Analysis
President & CEO
Keliye Wright Fellow
P.O. Box 741175
Dallas, TX 75374-1175

972-386-6272 -Office
972-674-4992 -Fax

CONFIDENTIAL

Cassie L. Lawson

From: Cassie L. Lawson
Sent: Friday, November 09, 2018 10:04 AM
To: 'Steve Green'
Subject: NCPA 2

EXHIBIT

Ex. M

From: Merrie Spaeth <merrie@spaethcom.com>
Sent: Wednesday, June 18, 2014 8:26 PM
To: Rebecca Shaw <rebecca@spaethcom.com>; Katie Sibley <katie@spaethcom.com>
Cc: Emily Turner <emily@spaethcom.com>; Cassie L. Lawson <cassie@spaethcom.com>; Sally Ann Moyer <sallyann@spaethcom.com>
Subject: call with Dennis McQuiston - NCPA update - oh boy

Cassie – we need to send Dennis everyone’s cell phones and emails.
Sally Ann – see line about Twitter. Can you check tonight to see what’s being said?
Katie – do you have the twitter messages which were written last week? I didn’t file them.

My friend, Dennis McQuiston, may be named interim CEO of NCPA. He was approached by Tex Gross. He was elected by the board today. he’ll need to meet with his Dean (he teaches at the business school at UT/Dallas, has already off loaded half his teaching load.) He also talked to John Goodman whose story is that all he, John, has done was react to the jabs that NCPA took at him in National Review and the DMN.

More: Mike Baggett, a lawyer with Winstead, on NCPA board and is the Secretary, and knew about the agreement that John had with Sherry Collins and actually drafted the agreement. John says he asked Mike if the Board needed to know about it, and Mike said ‘no, it’s just operational.’ Mike is also denying to the Board that he knew about it. So this obviously raises all kinds of governance questions.

John says that there are adverse comments on Twitter from NCPA. Dennis asked us to look into what the NCPA is tweeting, putting on Facebook, etc. asap.

Dennis told the board that he wanted to say to the media: “I’ve known John 35 years, think he’s the best health care economist in the country. There are some governance issues and he’s no longer with the NCPA, and we certainly wish him well.” John asked that the press release be taken off the NCPA website, Dennis talked to Jerry Hill who called NCPA and asked that it be taken down, and it was immediately. Dennis then talked again to John who said he had an apt with a reporter tomorrow (Thursday) morning to dump on NCPA and that he would not keep that apt.

Dennis does think that John is saying irresponsible things. Dennis wants to control the flow of information from NCPA. He thinks NCPA’s future is tied with John’s. We may have given donors and/or Hill people wrong information.

Sherry also has a criminal past, 2 misdemeanors and a felony conviction. Dennis says John is thinking with the wrong organ.

Richard Walker's job – as we thought earlier – is also in jeopardy. Dennis thinks that Richard knew about John's activities and didn't tell the board. Alas, he has an employment contract which is very advantageous to Richard and very bad for NCPA (which he probably wrote for himself.) The Board would have fired him today but Dennis was afraid that he couldn't function if John and Richard were both gone. Dennis says we need to be careful in our dealings with Richard. Lori confronted Richard today and told him that NCPA has cause to fire him because he knew about these. Richard's response was that he was afraid for his job, and that he really didn't have any proof. Lori's response was that proof wasn't the issue, that what mattered was that you had reason to believe something wasn't right, and he had a responsibility to bring that information forward. Richard saw the agreement that Sherry and John signed, and John wanted him to sign it. And one of the times when John and Sherry did things they shouldn't have, Sherry came back and said to Richard, that she didn't want to sleep with John, that John had forced himself on her, that she was afraid for her job, didn't want to lose her salary. This raises the bar to sexual assault and should have been reported to the board.

Dennis says they plan to have an announcement Friday at 10:00 and send out a press release. Dennis says he's an interim CEO, plans to stay 6 months and find a replacement, maybe 2 people so they don't create another John Goodman/one man show. Dennis says that if they can stabilize the situation, he thinks there is going to be a number of great candidates who will want to run NCPA.

He says I can talk to Steve Ivy, say I've talked to Dennis, and ask if I can clue Caytie in, that she would want to start drafting something tonight, quotes, and what of his background material on the web we want to hand out. I did call Steve and he said it was OK to tell Caytie and get her working on this.

I suggest that we need to put him on a plane and go around the country meeting donors, media, influential, etc., and that we need to put together a call sheet and at least call and say "Dennis has asked me to get your schedule for next week because he would like to talk to you."

Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Saturday, June 21, 2014 7:00 PM
To: Dennis McCuistion (mccuistion@mccuistion.com); Jerry Mills (jerry@jmmills.com); steve@ha.com; tbatman@1stglobal.com; Richard Walker; Brian Williams; Joe Barnett; Tonya Featherstone; Dayana Osuna
Cc: Merrie Spaeth; Rebecca Shaw; Emily Turner; Katie Sibley; Sally Ann Moyer
Subject: Announcement News Coverage

This is Jim Landers piece from today. He claims that donations have fallen short of expenses and reiterates JCG's claims, and quotes Dennis. (full text below)

<http://www.dallasnews.com/business/headlines/20140620-mccuistion-interim-head-of-national-center-for-policy-analysis.ece>

This is D's Frontburner blog from yesterday:

<http://frontburner.dmagazine.com/2014/06/20/ncpa-names-an-interim-leader-will-continue-to-collaborate-with-ousted-president-and-ceo/>

As to the rest of the coverage overnight and today, there are several hundred outlets nationally that have picked up the news releases as they were written.

Caytie Daniell

[Home](#) > [Business](#) > [General Business](#)

Dennis McCuistion named interim head of National Center for Policy Analysis



By JIM LANDERS

Staff Writer jlanders@dallasnews.com

Dallas television show host Dennis McCuistion was named interim president and CEO of the National Center for Policy Analysis on Friday.

McCuistion, who hosts *McCuistion* on KERA-TV (Channel 13), takes over at the libertarian Dallas think tank after the dismissal last week of founding CEO John Goodman.

The center's board of directors fired Goodman for alleged sexual misconduct and breach of fiduciary duty. Goodman says the charges are not true and has vowed to sue.

McCuistion's appointment was effective immediately, said Catherine Daniell, a spokeswoman for the National Center for Policy Analysis.

McCuistion, 71, said he would be heading the center's search for a permanent leader but would not be a candidate for the job. He said he intends to continue making his TV show.

Goodman said last week that his knowledge of the \$5 million center's donors was unique and that the Dallas think tank would have a hard time moving forward without him.

McCuistion said his immediate focus was on fund-raising. For the last two years, donations have fallen short of expenses at the center.

"There's no question the people who have funded the organization in the past are great folks who believe in the cause. It's not a question of believing in one person," he said. "This is a great \$4 [million] to \$5 million center, but it needs to go to the next level."

McCuistion said he has known Goodman for more than 30 years.

"John is just my favorite health care economist in the country — still is," he said.

Follow Jim Landers on Twitter at @landersjim.

Catherine Daniell

Senior Director of Communications

National Center for Policy Analysis

972-308-6479 (office)

817-991-1041 (cell)



catherine.daniell@ncpa.org

www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

The National Center for Policy Analysis (NCPA) is a nonprofit, nonpartisan public policy research organization, established in 1983. We bring together the best and brightest minds to tackle the country's most difficult public policy problems — in health care, taxes, retirement, education, energy and the environment. Visit our website today for more information.

Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Thursday, June 19, 2014 3:44 PM
To: Merrie Spaeth; Tony Batman - 1st Global CEO
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); mccuistion@mccuistion.com; Rebecca Shaw; Richard Walker
Subject: RE: All systems are go [WARNING: SPF validation failed]
Attachments: 06 19 14 DM Release-Draft 3.docx

Importance: High

All,

Draft three of the release is attached. There is one sentence referring to JCG for close review and a couple of blanks for Dennis to fill in.

Would you like me to send it to Lori Carr, as well?

Regards,
Caytie

Catherine Daniell

Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



catherine.daniell@ncpa.org

www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

The National Center for Policy Analysis (NCPA) is a nonprofit, nonpartisan public policy research organization, established in 1983. We bring together the best and brightest minds to tackle the country's most difficult public policy problems — in health care, taxes, retirement, education, energy and the environment. Visit our website today for more information.

From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Thursday, June 19, 2014 3:20 PM
To: Tony Batman - 1st Global CEO
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); mccuistion@mccuistion.com
Subject: RE: All systems are go [WARNING: SPF validation failed]

Thank you. Caytie has our final draft of the release, and will take it to Richard in moments, and then circulate to the four of you. If you think it's close to final, we can make it final tomorrow morning. We would like to have it ready to distribute at 10:00.

From: Tony Batman - 1st Global CEO [mailto:TBatman@1stGlobal.com]
Sent: Thursday, June 19, 2014 3:13 PM
To: Merrie Spaeth
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); mccuistion@mccuistion.com
Subject: RE: All systems are go

Merrie, yes, I think that is the plan unless Jerry or Dennis think otherwise. Time is of the essence and select NCPA staff obviously have to be involved and responsible for the publicity. I do not think there is any risk in the possible short term leaks/rumors that are probably inevitable. The actual announcement will add positive energy to the possible rumors of Dennis's CEO position.

My take for what it's worth.

Tony

From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Thursday, June 19, 2014 3:03 PM
To: Tony Batman - 1st Global CEO; Ivy, Steve - 1254 (Steve@HA.com)
Subject: RE: All systems are go

Thank you all. So Caytie is cleared to let Richard know that she knows and is working on a press release – which she will send to all (Richard, Dennis, Tony, Steve, Lori, Jerry) momentarily? We are also working on Board talking points, Q&A etc.

Merrie

From: Tony Batman - 1st Global CEO [mailto:TBatman@1stGlobal.com]
Sent: Thursday, June 19, 2014 2:57 PM
To: Dennis McCuistion
Cc: Jerry Mills(jerry@jmmills.com); Tex Gross(tgross@cstreetcap.com); Lori Carr; Merrie Spaeth
Subject: RE: All systems are go

Dennis, congratulations! This is a wonderful new day for NCPA. I am here to help you anyway I can. It has been a pleasure getting to know you in our whirl wind courtship since Friday!

Tony

From: Dennis McCuistion [mailto:mccuistion@mccuistion.com]
Sent: Thursday, June 19, 2014 2:18 PM
To: Jerry Mills(jerry@jmmills.com); Tony Batman - 1st Global CEO; Tex Gross (tgross@cstreetcap.com); merrie@spaethcom.com; Lori Carr
Subject: All systems are go

Hello to all,

The Dean was very supportive and only says that NCPA owes UTD big time...I assured him that the debt would be paid. I will still be teaching my Monday and Wednesday evening classes plus running the Institute. There are other dates as I mentioned that I am already committed for, but they can be worked around. I will get to keep my benefits here, so NCPA will save on that.

So, I have a 4pm meeting here, and would like to meet with Richard and Lauren if possible around 5pm or so and get started on setting up the office, email, phone etc. Can you arrange this Jerry?

Lori and I have talked today about a variety of issues and want to move forward quickly on the legal front. Lori, I just forwarded you an email from John, so call me when you can.

Merrie and I spoke last night and I'm sure she and Caytie have gotten control of the Facebook, Twitter and media matters.

Think we discussed having an employee meeting at 10am in the morning. Again, Jerry, can you make that work? I spoke briefly with Brian Williams, and he understandably has a trust issue with John. He will be seeing him this afternoon at a meeting they are both attending. Told Brian that we would talk again soon.

Merrie, what do you need from me for press releases etc?

Tony, thanks for all your assistance along the way, and Tex, I hope you are enjoying MY vacation in Europe!!!!

Let me know about the meetings this afternoon and in the morning.

Best,

Dennis

Dennis McCuiston, Clinical Professor of Corporate Governance
Executive Director, Institute for Excellence in Corporate Governance
University of Texas at Dallas
Room 2.405 Naveen Jindal School of Management
Richardson, Texas 75080
972-883-5967
214-394-7201 cell
dennis.mccuiston@utdallas.edu
www.mccuiston.tv.com

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DM News Release

Draft 3

RE: NCPA Names Interim CEO

FOR IMMEDIATE RELEASE

Contact: Catherine Daniell at 972-308-6479 or catherine.daniell@ncpa.org

NCPA Names Dennis McCuistion as Interim CEO

Dallas, TX (June 20, 2014) – The Board of Directors of the National Center for Policy Analysis (NCPA) has named former bank CEO, strategic business consultant and television host Dennis McCuistion as interim CEO of the 31-year old nonprofit, nonpartisan public policy think tank.

McCuistion's appointment follows the NCPA Board's decision last week to end its relationship with John C. Goodman, according to Board Chairman Jerry Mills.

"Dennis McCuistion is an outstanding individual to take the interim CEO position," said Mills. "His business management acumen and long-time familiarity with the NCPA make him an excellent choice to take the leadership position."

Dennis McCuistion is a former bank CEO who is widely recognized as host and co-executive producer of the award-winning television program *McCuistion* that has aired on for ____ years. For ____ years, he has consulted for nonprofits and corporate clients nationwide on financial, executive leadership and strategic planning issues. He is the author of several economic strategy books and is currently director of the Institute for Excellence in Corporate Governance at the University of Texas at Dallas. McCuistion received his Masters of _____ (?) and undergraduate degrees from Southern Methodist University.

"There is an enormous range of talented scholars at the NCPA in Dallas, Washington, D.C. and across the country," said McCuistion. "I am committed to continue building on the organization's extraordinary track record. Looking forward, I am confident the NCPA will continue as one of the strongest national leaders in developing public policy research."

McCuistion said that his top priority will be to assist the board and review the leadership structure which will support NCPA's ambitious goals in the future.

Please direct any questions to Catherine Daniell.

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Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Friday, June 20, 2014 4:13 PM
To: Merrie Spaeth; Rebecca Shaw
Subject: RE: dennis's email [WARNING: SPF validation failed]

Merrie – I have these two, but have been using the first one.

'Dennis McCuiston' (dennism@mccuiston.com)
Dennis McCuiston (mccuiston@mccuiston.com)

Rebecca was a *great* asset and I think it did go well. I feel very optimistic about the future and am looking forward to life after crisis communications. ☺

You all have been exceptional.

We can expect a story in tomorrow's DMN, I think. Dennis talked to Jim Landers after this initial post.
<http://bizbeatblog.dallasnews.com/2014/06/mccuiston-named-interim-head-of-national-center-for-policy-analysis.html/>

Whew. We'll see what tomorrow brings.

Best wishes for a sane and quiet weekend,
Caytie

Catherine Daniell
Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



catherine.daniell@ncpa.org
www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

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From: Merrie Spaeth [<mailto:merrie@spaethcom.com>]
Sent: Friday, June 20, 2014 4:03 PM
To: Rebecca Shaw; Catherine Daniell
Subject: dennis's email [WARNING: SPF validation failed]

I have lost the email that Dennis said he wanted us to use. Do you have it handy? And does he have a NCPA email yet?

Caytie – I gather from Rebecca that things went exceptionally well. Your view?

Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Monday, June 16, 2014 8:20 AM
To: Ivy, Steve - 1254; Richard Walker; Merrie Spaeth
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley; lcarr@estesokon.com
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

We can update and post the updated version on our website without distributing it to media.

Merrie, what say you?

Thanks,
Caytie

Catherine Daniell
Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



www.ncpa.org

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From: Ivy, Steve - 1254 [mailto:Steve@HA.com]
Sent: Monday, June 16, 2014 8:17 AM
To: Richard Walker; 'Merrie Spaeth'; Catherine Daniell
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley; lcarr@estesokon.com
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

Perhaps just edit it but not re-release it per se?

From: Richard Walker [mailto:richard.walker@ncpa.org]
Sent: Monday, June 16, 2014 8:11 AM
To: 'Merrie Spaeth'; Catherine Daniell; Ivy, Steve - 1254; lcarr@estesokon.com
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

Given that some clarification is now necessary and that we didn't get splashed all over the Sunday DMN, should we pull down the news release?

Richard W. Walker
COO, NCPA

From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Sunday, June 15, 2014 6:53 PM
To: Catherine Daniell; Richard Walker; Ivy, Steve - 1254 (Steve@HA.com); lcarr@estesokon.com
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

Caytie – a few points for clarification. JG says the vote was not unanimous because only half the directors participated in the meeting/telephone call. I think it's defensible to say "unanimous" but we should clarify how many board members participated. I assume it was a quorum or enough for a vote but you may need to respond to a question about it.

Also JG claims that Jerry Mills actually fired him two weeks ago, that they had several conversations and several reasons were given. Again, I think the board firing as the actionable event is defensible, but we should try to clarify the facts.

Hope the weekend has been quiet,
Merrie

From: Catherine Daniell [mailto:caytie.daniell@ncpa.org]
Sent: Friday, June 13, 2014 7:54 PM
To: Richard Walker; Merrie Spaeth; Ivy, Steve - 1254 (Steve@HA.com); lcarr@estesokon.com; Brian Williams; Tonya Featherstone
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

Thanks. This has been an exemplary team effort. Kudos to all!

Catherine Daniell

Senior Director of Communications
National Center for Policy Analysis
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From: Richard Walker
Sent: Friday, June 13, 2014 7:46 PM
To: 'Merrie Spaeth'; Catherine Daniell; Ivy, Steve - 1254 (Steve@HA.com); lcarr@estesokon.com; Brian Williams; Tonya Featherstone
Cc: Emily Turner; Sally Ann Moyer; Katie Sibley
Subject: RE: Jay Bowen [WARNING: SPF validation failed]

Good job, Caytie.

Richard W. Walker
COO, NCPA

From: Merrie Spaeth [<mailto:merrie@spaethcom.com>]

Sent: Friday, June 13, 2014 6:08 PM

To: Catherine Daniell; Richard Walker; Ivy, Steve - 1254 (Steve@HA.com); lcarr@estesokon.com; Brian Williams; Tonya Featherstone

Cc: Emily Turner; Sally Ann Moyer; Katie Sibley

Subject: FW: Jay Bowen [WARNING: SPF validation failed]

And it continues.....

From: Sally Ann Moyer

Sent: Friday, June 13, 2014 6:05 PM

To: Merrie Spaeth; Catherine Daniell (caytie.daniell@ncpa.org)

Cc: Emily Turner; Katie Sibley

Subject: RE: Jay Bowen

Wanted to make sure you saw this just posted on D Magazine's FrontBurner blog:

<http://frontburner.dmagazine.com/2014/06/13/john-c-goodman-ncpa-board-is-scared-amateurish-and-grasping-at-straws>

From: Merrie Spaeth

Sent: Friday, June 13, 2014 5:31 PM

To: Catherine Daniell (caytie.daniell@ncpa.org)

Cc: Emily Turner; Sally Ann Moyer; Katie Sibley

Subject: FW: Jay Bowen

Caytie – no need to answer this until later. I'm just beginning to wade through all the emails. Do I gather this director resigned because of JG leaving?

From: Jerry Mills [<mailto:jerry@jimmills.com>]

Sent: Friday, June 13, 2014 2:06 PM

To: Catherine Daniell

Cc: lcarr@estesokon.com; Merrie Spaeth; Emily Turner; Sally Ann Moyer; Rebecca Shaw; Katie Sibley; mbaggett@winstead.com; tbatman@1stglobal.com; BBeesley@xmission.com; hjb3@bowenhanes.com; spar06@tommyfranks.com; tgross@cstreetholdings.com; steve@ha.com; vic@lpitx.com; Mike@TrekResources.com; gwilkinson@hill-wilkinson.com; ray@barwfarms.com

Subject: Jay Bowen

FYI I just received a letter of resignation from Jay Bowen. If I new how to attach it I would send it to you but it will have to wait until Monday.

Sent from my iPad

On Jun 13, 2014, at 1:42 PM, Catherine Daniell <caytie.daniell@ncpa.org> wrote:

Important update on the Dallas Morning News website:

<http://bizbeatblog.dallasnews.com/2014/06/ncpa-says-goodman-dismissed-for-sexual-misconduct.html>

Catherine Daniell

Senior Director of Communications

National Center for Policy Analysis

972-308-6479 (office)

817-991-1041 (cell)

<image002.jpg>

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From: Megan Simons

Sent: Friday, June 13, 2014 1:28 PM

To: Catherine Daniell

Subject: DMN Update

<http://bizbeatblog.dallasnews.com/2014/06/ncpa-says-goodman-dismissed-for-sexual-misconduct.html>

Megan Simons

Media and Education Policy

National Center for Policy Analysis

megan.simons@ncpa.org

972.308.6624

<image001.jpg>

www.ncpa.org

Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Friday, June 20, 2014 6:17 PM
To: Merrie Spaeth; Rebecca Shaw
Subject: RE: dennis's email [WARNING: SPF validation failed]

Merrie and Rebecca,

I reviewed my past emails after catching my breath and the email that Dennis is using most frequently is mccuistion@mccuistion.com.

I know that IT was working on setting up his NCPA email but don't know if it's functional yet. It should be dennis.mccuistion@ncpa.org.

Best,

C

Catherine Daniell

Senior Director of Communications

National Center for Policy Analysis

972-308-6479 (office)

817-991-1041 (cell)



catherine.daniell@ncpa.org

www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

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From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Friday, June 20, 2014 4:03 PM
To: Rebecca Shaw; Catherine Daniell
Subject: dennis's email [WARNING: SPF validation failed]

I have lost the email that Dennis said he wanted us to use. Do you have it handy? And does he have a NCPA email yet?

Caytie – I gather from Rebecca that things went exceptionally well. Your view?

Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Friday, June 20, 2014 6:25 PM
To: Merrie Spaeth
Cc: Rebecca Shaw
Subject: RE: dennis's email [WARNING: SPF validation failed]

Thanks, Merrie. That means a great deal, especially coming from you. You and your team are simply the best of the best and I am enormously grateful for your guidance, availability and wisdom. Not to mention bringing moments of fun to crisis communication! I feel like I've known you guys for years instead of days.

All the best,
Caytie

Catherine Daniell
Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



catherine.daniell@ncpa.org

www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

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From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Friday, June 20, 2014 6:17 PM
To: Catherine Daniell
Cc: Rebecca Shaw
Subject: Re: dennis's email [WARNING: SPF validation failed]

Thanks caytie and great work this week. You shine!

Merrie Spaeth

On Jun 20, 2014, at 6:14 PM, "Catherine Daniell" <caytie.daniell@ncpa.org> wrote:

Merrie and Rebecca,

I reviewed my past emails after catching my breath and the email that Dennis is using most frequently is mccuistion@mccuistion.com.

I know that IT was working on setting up his NCPA email but don't know if it's functional yet. It should be dennis.mccuistion@ncpa.org.

Best,
C

Catherine Daniell

Senior Director of Communications

National Center for Policy Analysis

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<image001.jpg>

catherine.daniell@ncpa.org

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From: Merrie Spaeth [<mailto:merrie@spaethcom.com>]

Sent: Friday, June 20, 2014 4:03 PM

To: Rebecca Shaw; Catherine Daniell

Subject: dennis's email [WARNING: SPF validation failed]

I have lost the email that Dennis said he wanted us to use. Do you have it handy? And does he have a NCPA email yet?

Caytie – I gather from Rebecca that things went exceptionally well. Your view?

Cassie L. Lawson

From: Richard Walker <richard.walker@ncpa.org>
Sent: Thursday, June 19, 2014 10:10 AM
To: Merrie Spaeth; Katie Sibley; Dayana Osuna; Catherine Daniell; Robbie Ellis; Tonya Featherstone; Lauren Flake; Joe Barnett; Chris McGregor; Brian Williams; John Graham
Subject: Dismissal

The ad about John's dismissal has been removed from our Web site. We can restore if needed as we go forward. Please let me know if you have questions.

Richard W. Walker
Chief Operating Officer
National Center for Policy Analysis
(972) 308-6483 direct line
(214) 507-4610 mobile
richard.walker@ncpa.org (preferred)
PO Box 741175
Dallas, TX 75374-1175

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Cassie L. Lawson

From: Dennis McCuiston <mccuiston@mccuiston.com>
Sent: Thursday, June 19, 2014 4:02 PM
To: Catherine Daniell; Merrie Spaeth; Tony Batman - 1st Global CEO
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); Rebecca Shaw; Richard Walker
Subject: RE: All systems are go [WARNING: SPF validation failed]
Attachments: 06 19 14 DM Release-Draft 4.docx

Here is draft 4....try it...and I would think just leave JCG out of the release instead of saying severed relationship...Dennis

From: Catherine Daniell [mailto:caytie.daniell@ncpa.org]
Sent: Thursday, June 19, 2014 3:44 PM
To: Merrie Spaeth; Tony Batman - 1st Global CEO
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); Dennis McCuiston; rebecca@spaethcom.com; Richard Walker
Subject: RE: All systems are go [WARNING: SPF validation failed]
Importance: High

All,

Draft three of the release is attached. There is one sentence referring to JCG for close review and a couple of blanks for Dennis to fill in.

Would you like me to send it to Lori Carr, as well?

Regards,
Caytie

Catherine Daniell
Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



catherine.daniell@ncpa.org

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Ron Paul @ NCPA – Friday, Oct. 31

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From: Merrie Spaeth [mailto:merrie@spaethcom.com]
Sent: Thursday, June 19, 2014 3:20 PM
To: Tony Batman - 1st Global CEO

Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); mccuistion@mccuistion.com
Subject: RE: All systems are go [WARNING: SPF validation failed]

Thank you. Caytie has our final draft of the release, and will take it to Richard in moments, and then circulate to the four of you. If you think it's close to final, we can make it final tomorrow morning. We would like to have it ready to distribute at 10:00.

From: Tony Batman - 1st Global CEO [<mailto:TBatman@1stGlobal.com>]
Sent: Thursday, June 19, 2014 3:13 PM
To: Merrie Spaeth
Cc: Ivy, Steve - 1254 (Steve@HA.com); Jerry Mills(jerry@jmmills.com); mccuistion@mccuistion.com
Subject: RE: All systems are go

Merrie, yes, I think that is the plan unless Jerry or Dennis think otherwise. Time is of the essence and select NCPA staff obviously have to be involved and responsible for the publicity. I do not think there is any risk in the possible short term leaks/rumors that are probably inevitable. The actual announcement will add positive energy to the possible rumors of Dennis's CEO position.

My take for what it's worth.

Tony

From: Merrie Spaeth [<mailto:merrie@spaethcom.com>]
Sent: Thursday, June 19, 2014 3:03 PM
To: Tony Batman - 1st Global CEO; Ivy, Steve - 1254 (Steve@HA.com)
Subject: RE: All systems are go

Thank you all. So Caytie is cleared to let Richard know that she knows and is working on a press release – which she will send to all (Richard, Dennis, Tony, Steve, Lori, Jerry) momentarily? We are also working on Board talking points, Q&A etc.

Merrie

From: Tony Batman - 1st Global CEO [<mailto:TBatman@1stGlobal.com>]
Sent: Thursday, June 19, 2014 2:57 PM
To: Dennis McCuistion
Cc: Jerry Mills(jerry@jmmills.com); Tex Gross(tgross@cstreetcap.com); Lori Carr; Merrie Spaeth
Subject: RE: All systems are go

Dennis, congratulations! This is a wonderful new day for NCPA. I am here to help you anyway I can. It has been a pleasure getting to know you in our whirl wind courtship since Friday!

Tony

From: Dennis McCuistion [<mailto:mccuistion@mccuistion.com>]
Sent: Thursday, June 19, 2014 2:18 PM
To: Jerry Mills(jerry@jmmills.com); Tony Batman - 1st Global CEO; Tex Gross (tgross@cstreetcap.com); merrie@spaethcom.com; Lori Carr
Subject: All systems are go

Hello to all,

The Dean was very supportive and only says that NCPA owes UTD big time...I assured him that the debt would be paid. I will still be teaching my Monday and Wednesday evening classes plus running the Institute. There are other dates as I mentioned that I am already committed for, but they can be worked around. I will get to keep my benefits here, so NCPA will save on that.

So, I have a 4pm meeting here, and would like to meet with Richard and Lauren if possible around 5pm or so and get started on setting up the office, email, phone etc. Can you arrange this Jerry?
Lori and I have talked today about a variety of issues and want to move forward quickly on the legal front. Lori, I just forwarded you an email from John, so call me when you can.

Merrie and I spoke last night and I'm sure she and Caytie have gotten control of the Facebook, Twitter and media matters.

Think we discussed having an employee meeting at 10am in the morning. Again, Jerry, can you make that work? I spoke briefly with Brian Williams, and he understandably has a trust issue with John. He will be seeing him this afternoon at a meeting they are both attending. Told Brian that we would talk again soon.

Merrie, what do you need from me for press releases etc?

Tony, thanks for all your assistance along the way, and Tex, I hope you are enjoying MY vacation in Europe!!!!

Let me know about the meetings this afternoon and in the morning.

Best,

Dennis

Dennis McCuiston, Clinical Professor of Corporate Governance
Executive Director, Institute for Excellence in Corporate Governance
University of Texas at Dallas
Room 2.405 Naveen Jindal School of Management
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972-883-5967
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DM News Release

Draft 3

RE: NCPA Names Interim CEO

FOR IMMEDIATE RELEASE

Contact: Catherine Daniell at 972-308-6479 or catherine.daniell@ncpa.org

NCPA Names Dennis McCuiston as Interim CEO

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McCuiston's appointment follows the NCPA Board's decision last week to end its relationship with John C. Goodman, according to Board Chairman Jerry Mills.

"Dennis McCuiston is an outstanding individual to take the interim CEO position," said Mills. "His business management acumen and long-time familiarity with the NCPA make him an excellent choice to take the leadership position."

Dennis McCuiston is a former bank CEO who is widely recognized as host and co-executive producer of the award-winning television program *McCuiston* now in its 25th year on KERA, Channel 13. For over 35 years, he has consulted for nonprofits and corporate clients nationwide on financial, executive leadership, corporate governance and strategic planning issues. He is the author of three books, hundreds of articles and is currently executive director of the Institute for Excellence in Corporate Governance at the University of Texas at Dallas. McCuiston received his Masters of Liberal Arts and undergraduate degrees from Southern Methodist University.

"There is an enormous range of talented scholars at the NCPA in Dallas, Washington, D.C. and across the country," said McCuiston. "I am committed to continue building on the organization's extraordinary track record. Looking forward, I am confident the NCPA will continue as one of the strongest national leaders in developing public policy research."

McCuiston said that his top priority will be to assist the board and review the leadership structure which will support NCPA's ambitious goals in the future.

Please direct any questions to Catherine Daniell.

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Cassie L. Lawson

From: Emily Turner
Sent: Thursday, June 19, 2014 8:12 AM
To: Sally Ann Moyer; Merrie Spaeth
Cc: Rebecca Shaw; Katie Sibley; Cassie L. Comfort
Subject: RE: call with Dennis McQuiston - NCPA update - oh boy
Attachments: 06 13 14 NCPA Action Plan Draft 2-Attny Revisions-1.docx

Great job, SA! Attached is the original language that was developed last week and approved for Twitter posting.

Best,
Emily

Emily Turner
Spaeth Communications, Inc.
Senior Vice President
Columbus, GA
t: 850-766-2412
[website](#) | [linkedin](#) | [twitter](#) | [facebook](#)

From: Sally Ann Moyer
Sent: Wednesday, June 18, 2014 10:07 PM
To: Merrie Spaeth
Cc: Rebecca Shaw; Katie Sibley; Emily Turner; Cassie L. Comfort
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I suggest that we need to put him on a plane and go around the country meeting donors, media, influential, etc., and that we need to put together a call sheet and at least call and say "Dennis has asked me to get your schedule for next week because he would like to talk to you."

Action Plan

Step One: Identify and Contact Critical Contacts- Wednesday/ Thursday

Top Donors (100 people/Tonya)

Hill Contacts, top policy leaders and Think Tanks we have relationships with (40 people/Brian)

Top Policy contacts (RWW/Joe)

Step Two: Brief Board

Board Briefing 2 PM Thursday

Discuss plan and distribute talking points

Discuss list of calls to key donors (Tonya creating key donor list)

Discuss protocol for communication (Refer all media calls to Caytie, all communication should follow talking points and should be by phone, no emails.)

Step Two: Notify Press- Friday

Personal calls to media contacts

Press release to general media

Email from chairman

Post Notice on website

Respond to social media, as needed

Talking Points

- Because this is a personnel issue the details are confidential.
- The board conducted an investigation and concluded that there was factual support that warranted the dismissal of John Goodman by a unanimous vote of the board.
- The Board is aggressively interviewing new leadership.
- NCPA staff, commitment and capabilities are stronger than ever.

Employees and Staff:

- We are confident in the decision the board has made.

Potential Q & A

What happened to John?

He was terminated by the board for cause.

Why was he fired?

Personnel issues are confidential. But, what I can tell you is... (refer talking points)

Who fired him?

The Board.

Who's running NCPA?

The staff and board until new leadership is named.

Will there be litigation?

We hope not. We can't predict.

Is the NCPA in a crisis?

No. We're looking toward the future.

How will his departure effect NCPA?

It will not.

John is saying [whatever that story may be.]

That's not case/ It's more complicated than that. The board conducted an investigation and concluded that there was factual support that warranted the dismissal of John Goodman by a unanimous vote of the board.

John says X about the staff?

He lost the confidence and trust of the board and staff.

I heard this was about a sexual affair?

Personnel issues are confidential.

Holding Twitter Statements

To only be used if social activity begins.

The NCPA board voted to dismiss John Goodman. We're looking to the future.

NCPA Board is actively interviewing new CEO candidates.

If hype around WHY becomes a large social topic:

He lost the confidence and trust of the board and staff.

If needed,

Personnel issues are confidential. NCPA is looking toward the future.

Cassie L. Lawson

From: Emily Turner
Sent: Thursday, June 19, 2014 8:45 AM
To: Merrie Spaeth; Sally Ann Moyer
Cc: Rebecca Shaw; Katie Sibley; Cassie L. Comfort
Subject: RE: call with Dennis McQuiston - NCPA update - oh boy

Yes, here are 16 of the latest posts, but as you will see the last one was on Tuesday, June 17. They're all either rehashes of the issue or personal opinions, which is what Twitter is all about.

1. **Matt McCord** @mattMD Jun 17

So sorry @NCPA. **John Goodman** has a brilliant and innovative health policy mind. <http://bit.ly/1i8HWQE>

Expand

- Reply**
- Retweet**
- Favorite**

2.  **Andrew M. Grossman** @andrewmgrossman Jun 16

Not good. RT @jadler1969: What's happening between **NCPA** & **John Goodman**? <http://wapo.st/1oy26pR> via @washingtonpost

Expand

- Reply**
- Retweet**
- Favorite**

3.  **Jonathan H. Adler** @jadler1969 Jun 16

Goodman v. **NCPA**: **John Goodman**, founder and president of the National Center for Policy Analysis, has split wit... <http://wapo.st/1kHSPmS>

Expand

- Reply**
- Retweet**
- Favorite**

4.  **Alejandro Chafuen** @Chafuen Jun 16

Unfortunate battle of board vs **John Goodman** at @NCPA reveals importance of transitions and determining ownership <http://www.forbes.com/sites/alejandrochafuen/2013/07/18/replacing-the-indispensable-leadership-challenges-at-think-tanks/> ...

Sully, VA

View summary

- **Reply**
- **Retweet**
- **Favorite**

5.  **Bruce Bartlett @BruceBartlett** Jun 15

Anyone know the details of former **NCPA** president **John Goodman**'s alleged "sexual misconduct"? [http://www.ncpa.org/media/ncpa-clarifies-dismissal-of-john-c-goodman ...](http://www.ncpa.org/media/ncpa-clarifies-dismissal-of-john-c-goodman...)

Expand

- **Reply**
- **Retweet**
- **Favorite**

6. Followed by [TED Talks](#)

 **Virginia Postrel @vpostrel** Jun 15

John Goodman fired by **NCPA** in organizational soap opera. He was making \$500K in \$5 million budget. That's high. <http://fb.me/16wrD0vIp>

Expand

- **Reply**
- **Retweet**
- **Favorite**

7. 1.  **Timothy McBride @mcbридetd** Jun 14

Dallas think tank **NCPA** dismissal of **John Goodman** turns heated | Dallas Morning News [http://www.dallasnews.com/business/headlines/20140613-dallas-think-tank-chief-s-dismissal-turns-heated.ece ...](http://www.dallasnews.com/business/headlines/20140613-dallas-think-tank-chief-s-dismissal-turns-heated.ece...)

Expand

- **Reply**
- **Retweet**
- **Favorite**

8.  **Timothy McBride @mcbридetd** Jun 14

in new Dallas soap opera...**John Goodman** ousted by **NCPA**...says board is 'Scared,' Amateurish, 'Grasping at Straws' | [http://frontburner.dmagazine.com/2014/06/13/john-c-goodman-ncpa-board-is-scared-amateurish-and-grasping-at-straws/ ...](http://frontburner.dmagazine.com/2014/06/13/john-c-goodman-ncpa-board-is-scared-amateurish-and-grasping-at-straws/...)

Expand

- Reply**
- Retweet**
- Favorite**

9.  **Bruce Bartlett @BruceBartlett** Jun 14

Brad DeLong on the **John Goodman/NCPA** saga to date. <http://delong.typepad.com/sdj/2014/06/john-goodman-i-just-lost-5-million-punitive-damages-close-to-20-million-if-im-right-they-should-be-scared.html> ...

Expand

- Reply**
- Retweet**
- Favorite**

10.  **Austan Goolsbee @Austan_Goolsbee** Jun 14

No, it was for that last season of Roseanne **@BruceBartlett**: Was **John Goodman** fired by **NCPA** b/c he said Ocare should be fixed, not repealed?

View conversation

- Reply**
- Retweet**
- Favorite**

11.  **Adrianna McIntyre @onceuponA** Jun 13

So. The story about **NCPA** canning **John Goodman** keeps getting weirder: <http://frontburner.dmagazine.com/2014/06/13/john-c-goodman-ncpa-board-is-scared-amateurish-and-grasping-at-straws/> ...

Expand

- Reply**
- Retweet**
- Favorite**

12.  **Dale Perryman @DGPerryman** Jun 13

#DallasNews Media Contacts - Fired Dallas think tank head **John Goodman** was dismissed after an investigation fo... <http://ow.ly/2Ibhk>

Expand

- Reply**
- Retweet**
- Favorite**

13.  **Kristin H Rosengren @RosenKris** Jun 13

Whoa RT @ericsschul: **NCPA** pres and conservative health wonk **John Goodman** fired for alleged sexual misconduct <http://bizbeatblog.dallasnews.com/2014/06/ncpa-says-goodman-dismissed-for-sexual-misconduct.html/> ...

Expand

- Reply**
- Retweet**
- Favorite**

14.  **Suzanne Altobello @suzaltobello** Jun 13

National Center for Policy Analysis says founder **John Goodman** dismissed for sexual misconduct <http://fb.me/1hQJWce2Z>

Expand

- Reply**
- Retweet**
- Favorite**

15.  **Bruce Bartlett @BruceBartlett** Jun 13

Schadenfreude alert: **John Goodman**, who fired me for criticizing George W. Bush, has apparently been canned. <http://bizbeatblog.dallasnews.com/2014/06/ncpa-says-goodman-dismissed-for-sexual-misconduct.html/> ...

Expand

- Reply**
- Retweet**
- Favorite**

16.  **Alexander Gaffney @AlecGaffney** Jun 13

One of the biggest names in conservative health policy (**John Goodman**) is out at **NCPA**, and it's looking quite ugly: <http://ow.ly/xZniw>

Expand

- Reply**
- Retweet**
- Favorite**
-

Emily Turner
Spaeth Communications, Inc.
Senior Vice President
Columbus, GA

t: 850-766-2412

[website](#) | [linkedin](#) | [twitter](#) | [facebook](#)

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Sent: Thursday, June 19, 2014 9:38 AM
To: Sally Ann Moyer
Cc: Rebecca Shaw; Katie Sibley; Emily Turner; Cassie L. Comfort
Subject: RE: call with Dennis McQuiston - NCPA update - oh boy

Are there any about Dr. Goodman?

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Cassie L. Lawson

From: Catherine Daniell <caytie.daniell@ncpa.org>
Sent: Friday, June 20, 2014 4:02 PM
To: ~Dallas Distribution List; ~Dallas Interns; ~DC Distribution List; ~DC Interns
Cc: Jerry Mills (jerry@jmmills.com); steve@ha.com; tbatman@1stglobal.com; Dennis McCuiston (mccuiston@mccuiston.com); Merrie Spaeth; Rebecca Shaw; Emily Turner; Katie Sibley; Sally Ann Moyer
Subject: Follow up McCuiston Announcement
Attachments: 06 19 14 DM 2nd Release-Final.docx

All,

Here is the 2nd release that went out this afternoon with an update on supportive reaction from outside the NCPA.

Catherine Daniell

Senior Director of Communications

National Center for Policy Analysis

972-308-6479 (office)

817-991-1041 (cell)



catherine.daniell@ncpa.org

www.ncpa.org

Ron Paul @ NCPA – Friday, Oct. 31

The National Center for Policy Analysis (NCPA) is a nonprofit, nonpartisan public policy research organization, established in 1983. We bring together the best and brightest minds to tackle the country's most difficult public policy problems — in health care, taxes, retirement, education, energy and the environment. [Visit our website today](#) for more information.

DM 2nd News Release

Final

RE: Reaction to New NCPA Interim Pres./CEO

FOR IMMEDIATE RELEASE

Contact: Catherine Daniell at 972-308-6479 or catherine.daniell@ncpa.org

Response Positive on NCPA Board Naming Dennis McCuistion New Interim President and CEO

Dallas, TX (June 20, 2014) – Praise for former bank CEO and strategic business consultant Dennis McCuistion and the National Center for Policy Analysis (NCPA) is following today's earlier announcement from the NCPA's Board of Directors naming McCuistion as interim president and CEO of the 31-year old nonprofit, nonpartisan public policy think tank.

Reaction has come from other think tanks and the business community, including:

Steve Moore, Heritage Foundation Chief Economist:

"Dennis McCuistion has impeccable free market credentials and has widespread respect among conservative leaders and in Washington. He is the right man to ensure that NCPA remains at the forefront of the debate on pro-growth entitlement, budget and tax reform, as it has been for the last quarter century. Mr. McCuistion will enable its voice of reason to continue to ring out."

John Allison, President and CEO of the Cato Institute and former CEO of BB&T:

"I have known Dennis McCuistion for many years and I am confident that he will do an excellent job guiding NCPA through this transition. Dennis is a person of high character, and a strong advocate for a free society. NCPA has made important contributions to many policy debates – especially healthcare – and I expect those contributions to continue, and expand, under Dennis's leadership."

Dick Bowen, UTD Professor and ethics/corporate governance expert:

"I have worked closely with Dennis McCuistion and the Institute for Excellence in Corporate Governance and have been a fan of and a guest on the *McCuistion* program. Dennis is obsessive about researching and discussing all sides of an issue. There is no doubt that Dennis will continue NCPA's key role in educating the public about the important issues of our time."

Dory Wiley, President and CEO of Commerce Street Holdings:

"I think the board made a great choice with Dennis. He is very experienced in dealing with companies going through change and has spent many years consulting with them. I know that he has been very supportive of NCPA and its positions and wants to put its success as his number one goal."

McCuistion's appointment follows the departure of John C. Goodman last week.

"Dennis McCuistion is an outstanding individual to take the interim president and CEO position," said NCPA Board Chairman Jerry Mills. "His business management acumen and long-time familiarity with the NCPA make him an excellent choice to take the leadership position."

Dennis McCuistion is a former bank CEO who is widely recognized as host and co-executive producer of the award-winning television program *McCuistion* now in its 25th year on Dallas' KERA, Channel 13. For over 35 years, he has consulted for nonprofits and corporate clients nationwide on financial, executive leadership, corporate governance and strategic planning issues. He is the author of three books, hundreds of articles and is currently executive director of the Institute for Excellence in Corporate Governance at the University of Texas at Dallas.

"There is an enormous range of talented scholars at the NCPA in Dallas, Washington, D.C. and across the country," said McCuistion. "I am committed to continue building on the organization's extraordinary track record. Looking forward, I am confident the NCPA will continue as one of the strongest national leaders in developing public policy research."

McCuistion said that his top priority will be to assist the board and put in place the talent and management team to take the NCPA to the next level of service to this great nation of ours.

Please direct any questions to Catherine Daniell.

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Cassie L. Lawson

From: Brian Williams <brian.williams@ncpa.org>
Sent: Monday, June 16, 2014 1:47 PM
To: Merrie Spaeth; Katie Sibley; Emily Turner; Sally Ann Moyer; Richard Walker; Brian Williams; lcarr@estesokon.com; Tonya Featherstone; Joe Barnett; Dayana Osuna
Subject: FW: [Repeal Coalition] health contract with America
Attachments: Health contract With America-- new.docx; Principles for Replacing ObamaCare.docx

See below e-mail from a Capitol Hill staffer, noting that Dr. Goodman is "still pushing out NCPA product." The documents are not on NCPA letterhead, but one of them (Principles for Replacing ObamaCare) has "National Center for Policy Analysis" written along the top.

Brian Williams.
Legislative Director
National Center for Policy Analysis
(202) 220-3194 direct line
(202) 747-4819 mobile
brian.williams@ncpa.org (preferred)
601 Pennsylvania Avenue, NW
Suite 900, South Building
Washington, D.C. 20004

The NCPA is a 501(c)(3) nonprofit, nonpartisan public policy research organization headquartered in Dallas with offices in Washington, D.C. The NCPA depends solely on the contributions of individuals, corporations and foundations that advocate private sector solutions to public policy problems. All contributions are tax-deductible.

From: Martin, John (Roe) [mailto:John.Martin@mail.house.gov]
Sent: Monday, June 16, 2014 2:36 PM
To: Brian Williams
Subject: FW: [Repeal Coalition] health contract with America

Hey Brian –

Just wanted to give you a heads up that Goodman is still pushing out NCPA product.

From: repealcoalition@googlegroups.com [mailto:repealcoalition@googlegroups.com] **On Behalf Of** John Goodman
Sent: Monday, June 16, 2014 1:38 PM
To: repealcoalition@googlegroups.com
Subject: [Repeal Coalition] health contract with America

Being considered by the House Republican doctors:

--

You received this message because you are subscribed to the Google Groups "The Repeal Coalition" group.

To unsubscribe from this group and stop receiving emails from it, send an email to repealcoalition+unsubscribe@googlegroups.com.

To post to this group, send email to repealcoalition@googlegroups.com.

Visit this group at <http://groups.google.com/group/repealcoalition>.

For more options, visit <https://groups.google.com/d/optout>.

NCPA JUNE 19, 2014 LETTER TO TONY DENICOLA

From: Tonya Featherstone <tonya.featherstone@ncpa.org>
Date: June 19, 2014 at 1:37:32 PM EDT
To: "Tdenicola@welshcarson.com" <Tdenicola@welshcarson.com>
Subject: NCPA - John Goodman's Termination

EXHIBIT

Ex. N

Tony,

The National Center for Policy Analysis has terminated the employment of President and CEO John Goodman for sexual misconduct and breach of fiduciary duty. The NCPA strives to conduct itself with the highest distinction and always be good stewards of your gracious financial support. After a very extensive investigation, our Board of Directors voted unanimously to terminate John Goodman.

The NCPA acknowledges and appreciates Goodman's many contributions to public policy over the last three decades. While Goodman has been the spokesperson of the organization, the NCPA and its many accomplishments is much more than the product of just one individual. We have a vast network of nationally regarded public policy scholars and professionals. Our staff and intellectual capabilities are stronger than ever:

- Senior Fellows John Graham and Devon Herrick are experts in health care policy.
- Senior Fellow Thomas Saving is a prominent economist and former Public Trustee of the Social Security and Medicare Trust Funds.
- Senior Fellow Laurence Kotlikoff is a renowned economist and heads the NCPA's Tax Analysis Center.
- Senior Fellow Pamela Villarreal is an expert on retirement, Social Security and taxes.

Those are just a few of our many policy scholars. We are very proud of our ongoing projects and initiatives advocating free-market alternatives to government regulation and public policy issues. We assure you that our efforts will continue unabated.

Our mission that fostered your initial support is and always will remain the same. Your continued dedication and support of the NCPA is critical to our future success.

If you have any questions or concerns regarding this matter, please do not hesitate to contact us.

Thanks again for your support and we look forward to you being a part of our exciting future.

Sincerely,

Tonya
Tonya Featherstone
Senior Director of Development
National Center for Policy Analysis
12770 Coit Road, Suite 800, Dallas TX 75243
972.308.6603 (office)
972.239.9823 (fax)



Gillespie Sanford LLP
Attorneys at Law

Hal K. Gillespie*
Joseph H. Gillespie*
James D. Sanford*

*Board Certified in Labor and Employment Law -
Texas Board of Legal Specialization

Thursday, April 30, 2015

Via Priority Mail
9405 5118 9956 2913 1104 87
Col. Allen West
National Center for Policy Analysis
14180 Dallas Parkway, Suite 350
Dallas, Texas 75254

EXHIBIT

Ex. O

Col. West,

Greetings. Joseph Gillespie and I represent Dr. Goodman and represented him last summer during the litigation related to his departure from the National Center for Policy Analysis ("NCPA"). It has come to our attention that some employees of the NCPA and even NCPA board members have made and are making derogatory comments about Dr. Goodman. In some cases these statements constitute actionable libel and slander. In all cases, they reflect a malicious desire to denigrate Dr. Goodman's character and harm his reputation.

Mr. Maurice Aguirre ("Aguirre") is a disinterested witness to a conversation he had with Dennis McCuistion and Eileen Resnik in which Mr. McCuistion asserted that "John Goodman probably stole money from the NCPA." This statement is clearly defamatory and constitutes slander *per se*. Further, it was made after McCuistion (as acting CEO) and Jerry Mills (as chairman) conducted an exhaustive search through the NCPA financial records and found no financial impropriety on Dr. Goodman's part. McCuistion must have known the statement he made was false at the time he made it.

In a follow-up phone call, Ms. Resnik told Mr. Aguirre that she had no disagreement with Mr. McCuistion's view of Dr. Goodman and the NCPA. This was clearly an endorsement of McCuistion's slanderous statements.

In addition, witnesses have described how both Mr. McCuistion and Ms. Resnik have given or emailed copies of a D Magazine article about Dr. Goodman to various people and told them that the allegations about Dr. Goodman in the article are true. As you may know this article describes allegations that Dr. Goodman sexually harassed Sherri Collins and physically assaulted her and that these are the reasons Dr. Goodman was dismissed from the NCPA. The witnesses have described that Mr. McCuistion and Ms. Resnik did not merely forward the article, they orally embellished upon the accusations.

The witnesses regarding this slander that we know of at this time include Aguirre, NCPA donor Leigh Curry, former NCPA board member G.N. (Polly) Parrot, and NCPA donor Laura Woodall. These are merely the individuals who have voluntarily come forward to Dr. Goodman about their surprise regarding the actions of NCPA and its agents. We are gravely concerned



Col. West
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April 30, 2015

that many other individuals have been told these same false allegations but that we will only discover the extent of the slander through discovery in litigation and through a thorough review of Mr. McCuiston's and Ms. Resnick's calendars, emails, and travel itineraries.

What is more troubling about these slanderous statements is that at the time of these communications, Mr. McCuiston and Ms. Resnik knew, or should have known, that in litigating these matters with Ms. Collins, the NCPA explicitly denied all of Collins' claims.

Furthermore, similar actions by the NCPA this past summer lead to a claim wherein Dr. Goodman and the NCPA (and its board members) ultimately resolved the dispute. It is unconscionable that the same kinds of actions that lead to that resolution, are continuing still. The actions of the NCPA and its agents are subjecting the NCPA (and those individuals) to significant liability and the NCPA's insurer should be provided a copy of this letter.

Mr. McCuiston and Ms. Resnick may believe they are free from potential liability by merely pointing people to the D Magazine article. The problem is they are embellishing upon that article, making additional false statements, and claiming the statements in the article are true (when they are aware of the falsity of those statements). It is also clear that the sources for the article are current and former NCPA employees and that NCPA provided the photos used in the article.

After NCPA formally acknowledged the accusations made by Ms. Collins were false and after resolving Dr. Goodman's defamation claims, at least two NCPA Board Members (Tex Gross and Mike Whelan) have sent emails to Dr. Goodman and others asserting (or continuing to assert) the very false claims that lead to Dr. Goodman's defamation claims this past summer.

Additionally, numerous people have told Dr. Goodman that when they have tried to locate him by calling the NCPA (an organization he founded and was associated with for decades), NCPA representatives have claimed that have no idea where he can be reached. In addition, the NCPA cancelled Dr. Goodman's membership in the Association of Private Enterprise Education without telling him or giving the organization any reason. This kind of behavior is mean and spiteful and serves no defensible purpose.

Under federal law, Dr. Goodman is protected against retaliation for the way he investigated, participated in the investigation of, and ultimately resolved the baseless sexual harassment lawsuit of Ms. Collins. This point was already made last summer when Mr. Goodman and the NCPA (and its Board Members) resolved their differences. However, it appears that some people at the NCPA desire to continue a campaign of harassment and retaliation against Dr. Goodman that continues to violate federal law and further exposes the NCPA and its agents to liability.

Ordinarily a letter of this sort would include demands that you cease and desist and retract the false statements under threat of litigation. However, Dr. Goodman and I are aware

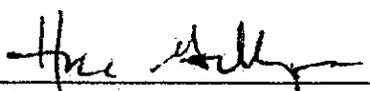
Col. West
Page 3 of 3
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that you are new to the NCPA and may not even know about the history of these problems. Further, Dr. Goodman desires an amicable mutual resolution to these problems if possible.

Therefore, please let me know any suggestions you have regarding fully resolving the above issues without further litigation.

Sincerely,

GILLESPIE SANFORD, LLP



Hal K. Gillespie

HKG/bjp

cc: Joseph H. Gillespie



Million-dollar Lawsuit Rips Winstead Advice in NCPA Sex Scandal

Contretemps cost it at least \$2 million in fundraising, free-market think tank asserts.

BY [GLENN HUNTER](#) PUBLISHED IN [FRONTBURNER](#) NOVEMBER 19, 2014 11:15 AM

In recent months, the National Center for Policy Analysis has worked hard to put a sex scandal involving its founder behind it. The free-market think tank fired the founder, John C. Goodman, hired a new leader (tea party star Allen B. West), and scheduled several high-profile speakers for its events. Now, however, the Dallas-based NCPA has filed a lawsuit against a prominent law firm and the firm's chairman emeritus that revisits the sex scandal in detail. Among other things, the suit asserts that l'affaire Goodman caused the nonprofit organization to lose at least \$2 million in fundraising—and nearly put it out of business.

In its suit filed Nov. 17 in state District Court in Dallas, the NCPA charges Dallas-based Winstead PC and the firm's W. Mike Baggett with breach of fiduciary duty, legal malpractice, and negligent misrepresentation in connection with the events that led to Goodman's firing in June. Baggett was a member of the NCPA board of directors during the relevant timeframe preceding Goodman's termination and, according to the suit, provided Goodman and the think tank with legal advice as a Winstead attorney. The suit, which was filed by Stephen A. Kennedy of Kennedy Law PC, seeks at least \$1 million in relief, including actual and punitive damages, penalties, court costs, expenses, and attorney fees.

Asked to comment on the filing, Winstead Chairman and CEO Kevin A. Sullivan said that while the firm does not give statements on pending litigation, "All of us at Winstead have always taken great pride in Mike Baggett's many accomplishments whether in the courtroom, on the civic front, or with the bar association. We look forward to vigorously defending these allegations and feel certain that a thorough review of the circumstances will show that Mike acted appropriately and ethically as he always does."

As previously reported in *D CEO* magazine, Goodman's firing stemmed from an unusual arrangement that was made with his assistant, Sherri Collins, after Collins accused Goodman of assaulting her in a Southern California hotel room in 2012. To avoid threatened litigation for violating "both state and federal discrimination laws," Goodman promoted Collins to be the NCPA's director of human relations, at an annual salary of \$85,000, plus a guaranteed bonus and benefits, for at least three years. The arrangement finally came to the attention of the NCPA board earlier this year, and Collins as well as Goodman left the organization.

In its suit, the NCPA says that in addition to serving as president of the think tank, Goodman ran a speaking business on the side, paying Collins 10 percent of the fees he collected on the speaking circuit. The two "had a sexual relationship during 2012," the suit goes on, and, in the fall of that year, traveled for a speaking engagement to Santa Monica, California, where Goodman "allegedly assaulted Collins because she would

not sleep with him during the trip.” The suit goes on: “Collins retained counsel, who alleged that Goodman had sexually harassed Collins during the course of business at the NCPA, which eventually led to her assault in California. Counsel for Collins claimed that Goodman was liable in his personal capacity and that the NCPA was liable as the employer. To defend both himself and the NCPA, Goodman went to ... Baggett, [and] requested legal advice.”

Baggett told Goodman that Winstead could represent both Goodman and the NCPA, the suit claims. The lawyer also told Goodman and Richard Walker, the NCPA’s chief operating officer, that it wasn’t necessary to tell the board about the claims alleged, including the assault charges, because it involved a personnel matter, according to the suit. Not only did the NCPA board not know about the affair and the assault, the suit goes on, it also didn’t know that Winstead was providing legal services to Goodman and the NCPA with respect to the sexual harassment claim. Without the board’s knowledge, the suit says, Winstead also had a hand in negotiating a settlement calling for Collins’ promotion in return for a personal release of all claims against Goodman.

In late November 2012, the suit alleges, when Winstead finally recognized that it had a conflict of interest in representing both Goodman and the NCPA, its general counsel, Don Campbell, decided that the firm could not represent both of them. His decision was conveyed to Goodman, the suit says, and Baggett then referred a proposed employment agreement and Goodman’s personal “release” document to a former Winstead partner to “close the deal.”

Says the suit: “The [documents] that Winstead negotiated in 2012 were ill-advised and designed to satisfy the needs and wants of Goodman to the detriment of the NCPA. ... Had Winstead disclosed all the facts in 2012, the board never would have approved the [documents], which served only the interests of Goodman.”

For nearly 18 months after that, the suits says, Baggett “attended numerous NCPA board meetings as if nothing had ever occurred,” and Winstead continued to provide legal advice to the think tank.

Flash-forward, then, to this past February, when Collins again complained that Goodman had sexually harassed her, the suit says, and Goodman again contacted Baggett to secure legal representation. Baggett agreed, telling Walker again in a voicemail message that Winstead could represent both Goodman and the NCPA without a conflict, and that it wasn't necessary to inform the board about it, the suit says. Over the next two months, it continues, Winstead charged the NCPA nearly \$31,000 for working on Collins' 2014 sexual harassment claim.

In April, the board finally learned about the 2012 incident in California; the 2012 release and employment arrangements; and the new, 2014 harassment claims, the suit continues. It adds: "News that Baggett and Winstead knew of, and concealed, the incidents that had occurred in 2012 shook the organization to its foundation, nearly resulting in the organization's demise." After terminating Winstead as counsel, the think tank engaged an outside attorney to investigate the sexual harassment and fired Goodman on June 8. "Because of the Baggett/Winstead cover-up," the suit alleges, the NCPA "was forced to settle with both Goodman and Collins on unfavorable terms."

As a result of all these events, the suit goes on, professional fundraisers for the think tank terminated their relationships, the NCPA lost at least \$2 million in fundraising, and the organization suffered injury to its reputation and goodwill and continues to be the subject of "actual and threatened" litigation.

"Putting aside the staggering monetary losses and bad PR, the deepest cut of all came from Baggett," the suit concludes. "He had been a supporter of [the NCPA] for many years. Yet with no remorse, Baggett actively covered up the ugly events of 2012, looked the other way, and when his conduct was exposed, he repeated the mantra of too many lawyers throughout the land: deny, deny, deny. Baggett pushed the moral compass of the organization to its polar extreme."

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How an Office Romance Went Off the Rails and Brought Down the NCPA's John Goodman

One-time 'temp secretary' becomes think tank's HR director following alleged California incident.

BY GLENN HUNTER PUBLISHED IN FRONTBURNER AUGUST 26, 2014 12:09

Back in June, when the National Center for Policy Analysis fired its CEO for alleged “sexual misconduct and breach of fiduciary duty,” the free-market think tank had more than a dozen directors on its board. Chief executive John C. Goodman denied the charges at the time, you might recall, and said his dismissal was based on trivialities. Today the

assistant's position to be the NCPA's director of human relations, at a yearly salary of \$85,000, plus a guaranteed annual bonus and other benefits, for at least three years, sources say. Collins had done "aspects of HR work" at previous jobs, NCPA spokeswoman Catherine Daniell says.

When another employee came forward this spring to protest her treatment by the HR director, as well as the "relationship" between Goodman and Collins, sources say the relationship became the focus of scrutiny by the group's board members. For many if not most, this was the first they'd heard about it. At least one of the directors, John Strauss, raised questions about Collins's professionalism and the California incident, asked that his six-figure contribution to the NCPA be returned, and resigned his position on the board. Eventually the HR director left the organization.

In early June, Collins, then 47, was arrested at a house in Frisco for assault and criminal mischief. According to Frisco police, Collins had assaulted a "boyfriend" (not Goodman) by trying to hit him with a fake plant and throwing things across the living room at him. It wasn't Collins' first brush with the law. Texas Department of Public Safety records show she had been arrested four times in North Texas between 1997 and 2009, on charges ranging from assault and theft to criminal mischief.

NCPA board members who were asked to comment for this story, including Jerry M. Mills, the board chairman, and Mike Montgomery, did not return phone calls. Neither did Strauss or Goodman. Collins referred us to her attorney, Chuck Elsey of the Elsey & Elsey law firm in Flower Mound. He didn't respond, either. Our sources asked to remain anonymous either because they were still negotiating for NCPA severance packages, had promised "not to say anything bad against" the organization as part of a severance agreement, or did not want to jeopardize the jobs of friends still working at the think tank.

One employment-law expert briefed by *D CEO* on the situation, Matt Scott of Dallas' Kendall Law Group LLP, says problems like the NCPA's occur with some frequency in today's workplace, especially when a successful CEO with a "fair amount of arrogance" uses the "organization as their own, to do with it what they want." At the

same time, Scott says, many smaller companies fail to take HR issues seriously, putting people with little or no experience in charge of HR. “That goes on for awhile until they cross the line and it blows up in their face,” says Scott, who has represented both management and employees in employment cases. “So, this [situation] doesn’t surprise me. ...

“What is unusual, though, is to settle [a discrimination charge] by giving someone a promotion,” he goes on. “Usually the accused is gone, and the other person stays.” Someone with a criminal background like Collins’ shouldn’t have been hired in the first place, Scott adds. “A number of poor decisions were made, and these things don’t occur in a vacuum. From her hiring to the [alleged California incident to the promotion], it was a recipe for disaster,” he says. “And it sounds like that’s exactly what they had.”

Goodman had led the NCPA ever since its founding in 1983 at the University of Dallas, helping to attract more than \$100 million in funding over the years from the likes of Exxon Mobil Corp., the Scaife Family Foundation, and foundations run by Charles and David Koch. For more than two decades Goodman’s wife, Jeannette Nordstrom-Goodman, also worked as a top executive at the nonprofit. (Records show the couple divorced in 2012, and Nordstrom-Goodman has relocated to Florida.) According to the group’s latest Form 990, filed for the fiscal year ended Sept. 30, 2012, the NCPA had \$4.13 million in revenue and expenses of \$4.92 million, while Goodman’s total compensation was \$587,337 (see accompanying chart).

Goodman and the NCPA, which has a full-time staff of 22 plus a number of interns and part-time workers, hired Collins in 2011 as a “temp secretary,” a former employee says, through the Recruit Texas employment agency. No background check was done on Collins. “John liked her,” says the ex-employee. “He would rub her leg. She would smile. It seemed like two people in a relationship.”

Then came the alleged altercation in Southern California. There, the source says Collins later told her and other NCPA employees, the “hotel room was torn up” after Goodman became jealous and upset with Collins and “apparently choked her.”

Afterward Collins phoned an NCPA official in Dallas about the incident, crying, and later threatened to file assault charges against Goodman, the source says.

“Settlement and release” and employment agreements resulting from the alleged incident gave Collins new status and freedom at the NCPA, the source says. Stipulations of the November 2012 agreements said that, unless the parties mutually agreed, Goodman would refrain from having any contact with Collins that wasn’t related to the duties of her job—and that he would not act or speak in any way that could be construed as discrimination or sexual harassment. As the months went by, the source says, Collins “started to display a different personality around the office.” According to the source, the HR director became increasingly “hostile, combative, and disrespectful” toward the source and other NCPA employees. That caused the source to complain in an email to Goodman, Collins, and the think tank’s chief operating officer, Richard Walker, that the NCPA had become “a hostile work environment because of the ... harassment relationship that is taking place” between Goodman and Collins.

Not long afterward, the source says, she was fired. In March, she filed a complaint with the Dallas district office of the Equal Employment Opportunity Commission. The source added that Collins also had been let go following a “meltdown” in the office and was threatening legal action against Goodman and the NCPA, aiming to be paid for three full years of work, as stipulated in her employment agreement. In a document prepared by lawyers to rebut Collins’ claims, the HR director was portrayed as the aggressor in the relationship with Goodman. The report also said Goodman believed Collins was suffering from a “multiple personality disorder.”

In July, *D CEO* was working to secure an interview with Goodman. But that ended July 9, when a voicemail message was left jointly by Goodman and McCuiston, the think tank’s interim CEO. Goodman said that, as part of an undisclosed agreement that had just been reached, “we really can’t say anything.” Then, in a brief formal statement, McCuiston added: “We deeply regret any differences we had with a

former employee, and all disputes with her have been mutually resolved. We do not wish to comment further.”

In a press release a couple of weeks later, Mills said the NCPA had patched up its differences with Goodman and was looking forward to working with him on future projects.

HEFTY PAYDAY

As a percentage of expenses, the NCPA compensated its president much more generously than other conservative think tanks.

THINK TANK	COMPENSATION	% OF EXPENSES
National Center for Policy Analysis, John Goodman	\$450,173	9.14
Ludwig von Mises Institute, Llewellyn Rockwell Jr.	\$175,078	4.77
Competitive Enterprise Institute, Fred Smith Jr.	\$236,300	4.38
Manhattan Institute, Lawrence Mone	\$453,104	3.37
Cato Institute, Edward Crane	\$466,872	2.08
American Enterprise Institute, Arthur Brooks	\$637,500	2.00
Heritage Foundation, Edwin Feulner	\$1,162,696	1.42

**Base, bonus, and incentive compensation only. Does not include nontaxable benefits or retirement and other deferred compensation. Source: Charity Navigator, latest fiscal year available.*

A version of this story appears in the September 2014 issue of D CEO.

Cassie L. Lawson

From: Rebecca Shaw
Sent: Wednesday, November 19, 2014 12:45 PM
To: 'Catherine Daniell'
Cc: Merrie Spaeth
Subject: RE: Lawsuit Story Posted at D's Frontburner Blog

EXHIBIT

Ex. R

I'm appalled that no one gave you and Richard a heads-up on the filing. Dennis and Steve are savvy enough to know that this would generate salacious news coverage and additional embarrassing details. Merrie and I are here this afternoon if you need us.

From: Catherine Daniell [mailto:caytie.daniell@ncpa.org]
Sent: Wednesday, November 19, 2014 12:31 PM
To: Stephen Kennedy; Richard Walker; Dennis McCuiston; knauf@saklaw.net; Steve Ivy (steve@ha.com)
Subject: Lawsuit Story Posted at D's Frontburner Blog
Importance: High

Glenn Hunter beat Jim Landers to the punch. The detailed story is posted online:
<http://frontburner.dmagazine.com/2014/11/19/million-dollar-lawsuit-rips-winstead-advice-in-ncpa-sex-scandal/>

Catherine Daniell
Senior Director of Communications
National Center for Policy Analysis
972-308-6479 (office)
817-991-1041 (cell)



catherine.daniell@ncpa.org



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From: Stephen Kennedy [mailto:skennedy@saklaw.net]
Sent: Wednesday, November 19, 2014 12:17 PM
To: Richard Walker
Cc: Catherine Daniell; Dennis McCuiston; knauf@saklaw.net; Steve Ivy (steve@ha.com)
Subject: RE: action v Baggett

All,

I agree with the "we cannot comment" statement. Does anyone have her lawyer's number? The request to say no comment will be best if it comes directly from her lawyer. Thanks.

I will set up a conference call for 2:30 on my bridge line.

Call-in information is 214-716-4344, PIN 6425.

From: Richard Walker [<mailto:richard.walker@ncpa.org>]
Sent: Wednesday, November 19, 2014 11:59 AM
To: Stephen Kennedy
Cc: Catherine Daniell; Dennis McCuiston; knauf@saklaw.net; Steve Ivy (steve@ha.com)
Subject: RE: action v Baggett

Caytie and I spoke with Steve Ivy in Dennis's absence. We've also given a heads-up to Rebecca Shaw at Spaeth just in case she's called in. We're told that Dennis will be in around 1 or 2, so perhaps we can conference then. Steve Ivy suggested, and Caytie and I agree, that we say that we cannot comment on current litigation. But you may have different thoughts. FYI, the reporter told Caytie that you said no comment. The reporter is also trying to reach Baggett, John Goodman and Sherri Collins. The latter is my greatest concern since her response could be wildly unpredictable, to say the least. So I left her a vm and texted her to give her a heads-up to avoid the call. Caytie spoke with the reporter and has all the details on his inquiry.

Richard W. Walker
COO, NCPA

From: Stephen Kennedy [<mailto:skennedy@saklaw.net>]
Sent: Wednesday, November 19, 2014 11:50 AM
To: Richard Walker
Cc: Catherine Daniell; Dennis McCuiston; knauf@saklaw.net
Subject: RE: action v Baggett
Importance: High

Richard and Dennis –

Can we have a phone conference today to discuss the media coverage? I would like to have a universal "no comment" policy on every single question because settlement negotiations are on-going. It may not be a bad idea to have board members on the call. Dennis – I am sending you a separate email in that regard.

From: Richard Walker [<mailto:richard.walker@ncpa.org>]
Sent: Wednesday, November 19, 2014 11:40 AM
To: Stephen Kennedy
Cc: Catherine Daniell; Dennis McCuiston
Subject: action v Baggett

Steve,

Can we obtain a copy of the lawsuit v Mike Baggett. We've received an inquiry from a reporter at The Dallas Morning News.

Richard W. Walker
Chief Operating Officer
National Center for Policy Analysis
(972) 308-6483 direct line
(214) 507-4610 mobile
richard.walker@ncpa.org (preferred)
14180 Dallas Parkway, Suite 350
Dallas, TX 75254

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Selection Criteria

Slip Classification Open
Slip Transaction Dat 6/1/2014 - 6/30/2014
Clie Selection Include: NCPA

Rate Info - identifies rate source and level

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Nickname 1: none				
92473 6/12/2014 WIP Background on issue. Introduction to Caytie and reviewed materials to prep for Friday's announcement.	TIME Emily Turner Services NCPA	0.50 0.00	275.00 T@1	137.50
92476 6/13/2014 WIP Worked with Caytie to advise and rework messages as things unfolded throughout the day. Made edits to the press release, discussed posting on the site and updated language. Monitored Twitter and articles. Participated in a call with Caytie, Lori and Tex regarding board commentary.	TIME Emily Turner Services NCPA	6.50 0.00	275.00 T@1	1787.50
92486 6/16/2014 WIP Latest update and articles/posts from the weekend.	TIME Emily Turner Services NCPA	0.33 0.00	275.00 T@1	90.75
92521 6/19/2014 WIP Read latest Twitter posts and status regarding new Interim CEO.	TIME Emily Turner Services NCPA	0.50 0.00	275.00 T@1	137.50
Total: Emily Turner				
	Billable	7.83		2153.25
	Unbillable	0.00		0.00
	Total	7.83		2153.25
92376 6/10/2014 WIP review Merrie's notes from call with Steve and Katherine, call with team, review statement and release	TIME Katie Sibley Services NCPA	2.33 0.00	250.00 T@1	582.50

7/2/2014
6:36 PM

Spaeth Communications, Inc.
Slip Listing1

Slip ID	Dates and Time	User	Activity	Units	Rate	Slip Value
	Posting Status	Client		DNB	Rate Info	
	Description	Reference		Time	Bill Status	
92381	TIME	Katie Sibley	Services	3.67	250.00	917.50
	6/11/2014	Services	NCPA	0.00	T@1	
	WIP					
	Team meeting to outline plan and review statements, review updates to release, emails with Caytie					
92396	TIME	Katie Sibley	Services	2.00	250.00	500.00
	6/12/2014	Services	NCPA	0.00	T@1	
	WIP					
	monitor social media, media					
92398	TIME	Katie Sibley	Services	3.33	250.00	832.50
	6/12/2014	Services	NCPA	0.00	T@1	
	WIP					
	meeting with team, strategy discussion					
92399	TIME	Katie Sibley	Services	0.50	250.00	125.00
	6/12/2014	Services	NCPA	0.00	T@1	
	WIP					
	brief team on NCPA					
92406	TIME	Katie Sibley	Services	2.00	250.00	500.00
	6/13/2014	Services	NCPA	0.00	T@1	
	WIP					
	emails on strategy, review media, monitor social in AM					
92413	TIME	Katie Sibley	Services	0.50	250.00	125.00
	6/14/2014	Services	NCPA	0.00	T@1	
	WIP					
	review emails, monitor social/ media					
92420	TIME	Katie Sibley	Services	1.33	250.00	332.50
	6/16/2014	Services	NCPA	0.00	T@1	
	WIP					
	review emails/coverage. Call with team.					
92426	TIME	Katie Sibley	Services	0.67	250.00	167.50
	6/17/2014	Services	NCPA	0.00	T@1	
	WIP					
	review new bullet point language/ update Rebecca on happenings					
92562	TIME	Katie Sibley	Services	0.67	250.00	167.50
	6/25/2014	Services	NCPA	0.00	T@1	
	WIP					
	review NCPA emails, releases, media and social medi					

7/2/2014
6:36 PM

Spaeth Communications, Inc.
Slip Listing1

Page 3

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Total: Katie Sibley				
	Billable	17.00		4250.00
	Unbillable	0.00		0.00
	Total	17.00		4250.00
92363 6/9/2014 WIP calls Steve Ivy and Catherine Daniell	TIME Merrie S Services NCPA	1.00 0.00	350.00 T@1	350.00
92368 6/10/2014 WIP calls and emails - conference call with Steve Ivy and others	TIME Merrie S Services NCPA	3.00 0.00	350.00 T@1	1050.00
92386 6/11/2014 WIP follow developments in email	TIME Merrie S Services NCPA	0.50 0.00	350.00 T@1	175.00
92389 6/12/2014 WIP update from Katie and review latest drafts of documents	TIME Merrie S Services NCPA	0.67 0.00	350.00 T@1	234.50
92392 6/12/2014 WIP meeting at NCPA to discuss press release, etc - plus calls	TIME Merrie S Services NCPA	3.00 0.00	350.00 T@1	1050.00
92394 6/12/2014 WIP calls from Caytie, and emails regarding press calls and Goodman press release	TIME Merrie S Services NCPA	0.33 0.00	350.00 T@1	115.50
92405 6/13/2014 WIP emails, and call	TIME Merrie S Services NCPA	1.50 0.00	350.00 T@1	525.00
92415 6/15/2014 WIP organize articles	TIME Merrie S Services NCPA	0.33 0.00	350.00 T@1	115.50

7/2/2014
6:36 PM

Spaeth Communications, Inc.
Slip Listing1

Slip ID	Dates and Time	User Activity	Units	Rate	Slip Value
Posting Status	Description	Client Reference	DNB Time	Rate Info Bill Status	
92419	TIME 6/16/2014 WIP various emails on matters, and call to caytie	Merrie S Services NCPA	0.50 0.00	350.00 T@1	175.00
92429	TIME 6/17/2014 WIP review and draft language for emails - emails with Caytie regarding ideas	Merrie S Services NCPA	0.50 0.00	350.00 T@1	175.00
92432	TIME 6/18/2014 WIP call Dennis McQ - email update to staff	Merrie S Services NCPA	1.50 0.00	350.00 T@1	525.00
92434	TIME 6/19/2014 WIP call Caytie D., email notes	Merrie S Services NCPA	0.67 0.00	350.00 T@1	234.50
92435	TIME 6/19/2014 WIP call Caytie regarding internal comms - email to Steve Ivy	Merrie S Services NCPA	0.17 0.00	350.00 T@1	59.50
92511	TIME 6/19/2014 WIP rev final press release and Bd Q&A	Merrie S Services NCPA	1.00 0.00	350.00 T@1	350.00
92533	TIME 6/20/2014 WIP selected emails and catch up with Rebecca	Merrie S Services NCPA	0.33 0.00	350.00 T@1	115.50
Total: Merrie S					
		Billable	15.00		5250.00
		Unbillable	0.00		0.00
		Total	15.00		5250.00
92648	TIME 6/11/2014 WIP Message Facilitation meeting, reviewed documents, edited release/communications plan	Rebecca S Services NCPA	3.17 0.00	300.00 T@1	951.00
92661	TIME 6/19/2014 WIP	Rebecca S Services NCPA	0.50 0.00	300.00 T@1	150.00

7/2/2014
6:36 PM

Spaeth Communications, Inc.
Slip Listing1

Page 5

Slip ID	Dates and Time	User Activity	Units DNB	Rate Rate Info	Slip Value
Posting Status	Description	Client Reference	Time	Bill Status	
	reviewed documents; added questions and responses regarding: acting president				
92664	TIME 6/20/2014 WIP Meeting; drafted communications	Rebecca S Services NCPA	3.50 0.00	300.00 T@1	1050.00
Total: Rebecca S					
		Billable	7.17		2151.00
		Unbillable	0.00		0.00
		Total	7.17		2151.00
92375	TIME 6/10/2014 WIP consulting and client discussion/ notes from call	Sally Ann Moyer Services NCPA	1.50 0.00	150.00 T@1	225.00
92379	TIME 6/11/2014 WIP client update	Sally Ann Moyer Services NCPA	0.50 0.00	150.00 T@1	75.00
92401	TIME 6/12/2014 WIP NCPA consulting/monitoring	Sally Ann Moyer Services NCPA	1.00 0.00	150.00 T@1	150.00
92407	TIME 6/13/2014 WIP NCPA monitoring/consulting	Sally Ann Moyer Services NCPA	5.00 0.00	150.00 T@1	750.00
92480	TIME 6/16/2014 WIP social and news monitoring/ consulting	Sally Ann Moyer Services NCPA	1.67 0.00	150.00 T@1	250.50
92501	TIME 6/18/2014 WIP consulting/ social media	Sally Ann Moyer Services NCPA	2.00 0.00	150.00 T@1	300.00
92515	TIME 6/19/2014 WIP consulting	Sally Ann Moyer Services NCPA	0.67 0.00	150.00 T@1	100.50

7/2/2014
6:36 PM

Spaeth Communications, Inc.
Slip Listing1

Slip ID	Dates and Time	Posting Status	Description	User Activity	Client Reference	Units DNB	Time	Rate Rate Info	Bill Status	Slip Value
92528	6/20/2014	TIME	WIP monitoring and research/ updates from releases	Sally Ann Moyer	Services NCPA	1.33	0.00	150.00	T@1	199.50
92539	6/23/2014	TIME	WIP monitoring	Sally Ann Moyer	Services NCPA	0.33	0.00	150.00	T@1	49.50
Total: Sally Ann Moyer										
				Billable		14.00				2100.00
				Unbillable		0.00				0.00
				Total		14.00				2100.00
Total: none										
				Billable		61.00				15904.25
				Unbillable		0.00				0.00
				Total		61.00				15904.25
Grand Total										
				Billable		61.00				15904.25
				Unbillable		0.00				0.00
				Total		61.00				15904.25



December 5, 2014

National Center for Policy Analysis
Attn: Richard Walker
richard.walker@ncpa.org

INVOICE #: 6963

For consulting and expenses incurred by Spaeth Communications, Inc. during November 2014:

* Consulting hours (3/hrs)	\$	1,008.50
----------------------------	----	----------

Total Amount Due:	\$	1,008.50
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Please remit payment to:

Spaeth Communications, Inc.
8150 N. Central Expwy, Suite 1410
Dallas, TX 75206

We appreciate your business!

PLEASE REMIT PAYMENT UPON RECEIPT.

Selection Criteria

Slip Classification Open
Slip Transaction Dat 11/1/2014 - 11/30/2014
Clie. Selection Include: NCPA

Rate Info - identifies rate source and level

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Nickname 1: none				
94591 TIME 11/14/2014 WIP calls Caytie Daniel, Dennis McC, drafted emails, discussion	Merrie S Services NCPA	1.50 0.00	350.00 T@1	525.00
94646 TIME 11/19/2014 WIP update Rebecca on lawsuit; front burner article	Merrie S Services NCPA	0.50 0.00	350.00 T@1	175.00
94659 TIME 11/20/2014 WIP update Rebecca and call with Steve Ivy	Merrie S Services NCPA	0.17 0.00	350.00 T@1	59.50
Total: Merrie S				
	Billable	2.17		759.50
	Unbillable	0.00		0.00
	Total	2.17		759.50
94603 TIME 11/14/2014 WIP calls with Caytie and Dennis; update on developments with blog comments and reporter inquiry; discussed strategy/drafted/edited response; f/u	Rebecca S Services NCPA	0.83 0.00	300.00 T@1	249.00
Total: Rebecca S				
	Billable	0.83		249.00
	Unbillable	0.00		0.00
	Total	0.83		249.00
Total: none				
	Billable	3.00		1008.50

12/5/2014
1:24 PM

Spaeth Communications, Inc.
Slip Listing 1

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
	Unbillable	0.00		0.00
	Total	3.00		1008.50
Grand Total	Billable	3.00		1008.50
	Unbillable	0.00		0.00
	Total	3.00		1008.50



April 11, 2015

National Center for Policy Analysis
Attn: Richard Walker
richard.walker@ncpa.org

INVOICE #: 7102

For consulting and expenses incurred by Spaeth Communications, Inc. during Marchy 2015:

* Consulting hours (.5/hrs)	\$	150.00
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Total Amount Due:	\$	150.00
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Please remit payment to:

Spaeth Communications, Inc.
8150 N. Central Expwy, Suite 1410
Dallas, TX 75206

We appreciate your business!

PLEASE REMIT PAYMENT UPON RECEIPT.

Selection Criteria

Slip.Classification Open
Slip.Transaction Dat 3/1/2015 - 3/31/2015
Clie.Selection Include: NCPA

Rate Info - identifies rate source and level

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Nickname 1: none				
96175 TIME 3/27/2015 WIP briefing on Allen West blogger developments	Rebecca S Services NCPA	0.33 0.00	300.00 T@1	99.00
96179 TIME 3/30/2015 WIP reviewed AW tweets	Rebecca S Services NCPA	0.17 0.00	300.00 T@1	51.00
Total: Rebecca S				
	Billable	0.50		150.00
	Unbillable	0.00		0.00
	Total	0.50		150.00
Total: none				
	Billable	0.50		150.00
	Unbillable	0.00		0.00
	Total	0.50		150.00
Grand Total				
	Billable	0.50		150.00
	Unbillable	0.00		0.00
	Total	0.50		150.00



May 13, 2015

National Center for Policy Analysis
Attn: Richard Walker
richard.walker@ncpa.org

INVOICE #: 7135

For consulting and expenses incurred by Spaeth Communications, Inc. during April 2015:

* Consulting hours (2.35/hrs.)	\$	696.00
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Total Amount Due:	\$	696.00
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Please remit payment to:
Spaeth Communications, Inc.
8150 N. Central Expwy, Suite 1410
Dallas, TX 75206

We appreciate your business!

PLEASE REMIT PAYMENT UPON RECEIPT.

Selection Criteria

Slip Classification Open
Slip Transaction Dat 4/1/2015 - 4/30/2015
Clie.Selection Include: NCPA

Rate Info - identifies rate source and level

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Nickname 1: none				
96131 TIME 4/1/2015 WIP update from Rebecca regarding energy and Col West	Merrie S Services NCPA	0.17 0.00	350.00 T@1	59.50
96204 TIME 4/2/2015 WIP meet with Col.West	Merrie S Services NCPA	0.17 0.00	350.00 T@1	59.50
96425 TIME 4/17/2015 WIP call we Rebecca Rose Marrow	Merrie S Services NCPA	0.50 0.50	350.00 T@1 Do Not Bill	175.00
Total: Merrie S				
	Billable	0.34		119.00
	Unbillable	0.50		175.00
	Total	0.84		294.00
96574 TIME 4/1/2015 WIP briefing on developments regarding: Charles Johnson blog; reviewed Evan-Miller radio interview;	Rebecca S Services NCPA	0.50 0.00	300.00 T@1	150.00
96581 TIME 4/2/2015 WIP Meeting with Caytie regarding: developments with Chuck Johnson blog; meeting with AW	Rebecca S Services NCPA	0.50 0.00	300.00 T@1	150.00
96586 TIME 4/3/2015 WIP Call from Stephen Kennedy/Jacki Pike regarding: request for records	Rebecca S Services NCPA	0.17 0.00	300.00 T@1	51.00

5/13/2015
1:05 PM

Spaeth Communications, Inc.
Slip Listing1

Slip ID Dates and Time Posting Status Description	User Activity Client Reference	Units DNB Time	Rate Rate Info Bill Status	Slip Value
Total: Rebecca S				
	Billable	1.17		351.00
	Unbillable	0.00		0.00
	Total	1.17		351.00
96128 TIME 4/1/2015 WIP check for Allen West coverage, Twitter	Sally Ann Moyer Services NCPA	0.17 0.00	150.00 T@1	25.50
96195 TIME 4/2/2015 WIP update	Sally Ann Moyer Services NCPA	0.17 0.00	150.00 T@1	25.50
Total: Sally Ann Moyer				
	Billable	0.34		51.00
	Unbillable	0.00		0.00
	Total	0.34		51.00
Total: none				
	Billable	1.85		521.00
	Unbillable	0.50		175.00
	Total	2.35		696.00
Grand Total				
	Billable	1.85		521.00
	Unbillable	0.50		175.00
	Total	2.35		696.00

1 NO. DC-14-13453
 2 THE NATIONAL CENTER FOR § IN THE DISTRICT COURT
 POLICY ANALYSIS, §
 3 §
 Plaintiff, §
 4 §
 V. § DALLAS COUNTY
 5 §
 OGLETREE, DEAKINS, NASH, §
 6 SMOAK & STEWART, P.C., §
 §
 Defendant. § 192ND JUDICIAL DISTRICT

EXHIBIT

Ex. T

10 ORAL AND VIDEOTAPED DEPOSITION OF
 11 LORI CARR
 12 NOVEMBER 11, 2016

15 ORAL AND VIDEOTAPED DEPOSITION OF
 16 LORI CARR, produced as a witness at the instance of
 17 the Defendant, and duly sworn, was taken in the
 18 above-styled and numbered cause on the 11th of
 19 November, 2016, from 9:07 a.m. to 3:56 p.m., before
 20 Jennifer Quick Davenport, CSR in and for the State of
 21 Texas, reported by machine shorthand, at the offices
 22 of Estes Thorne & Carr PLLC, 3811 Turtle Creek
 23 Boulevard, Suite 2000, in the City of Dallas, County
 24 of Dallas, State of Texas, pursuant to Notice and the
 25 Texas Rules of Civil Procedure.

Dickman Davenport, Inc
 214.855.5100 www.dickmandavenport.com 800.445.9548

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Dickman Davenport, Inc
 214.855.5100 www.dickmandavenport.com 800.445.9548

1 A P P E A R A N C E S
 2 FOR THE PLAINTIFF:

3 Mr. Robert Tobey
 JOHNSTON TOBEY BARUCH, P.C.
 4 3308 Oak Grove Avenue
 Dallas, Texas 75204
 5 214.741.6250
 robert@jtlaw.com

6 FOR THE DEFENDANT:

7 Mr. George M. Kryder
 Mr. Jordan W. Leu
 8 VINSON & ELKINS LLP
 2001 Ross Avenue, Suite 3700
 9 Dallas, Texas 75201
 214.220.7700
 10 gkryder@velaw.com
 jleu@velaw.com

11 ALSO PRESENT:

12 Ms. Jacki Pick
 13 Mr. Doug Bergman, Videographer

Dickman Davenport, Inc
 214.855.5100 www.dickmandavenport.com 800.445.9548

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22		
23		
24		
25		

10		12
1	A. I see that.	1 after the interests of NCPA.
2	Q. And was that the conclusion you reached, that Goodman had in fact not consulted separate counsel on behalf of NCPA?	2 Do you see that?
3	A. No.	3 A. I see that.
4	Q. Did you find any document in which you ever found that Dan Dargene and John Goodman reached an agreement whereby Dargene would represent NCPA?	4 Q. And do you recognize this as what lawyers commonly call an I'm-not-your-lawyer letter? They're disclaiming an attorney-client relationship with another party?
5	A. No.	5 A. No, because he's sending it to John Goodman.
6	Q. Would you say that again?	6 Q. And John Goodman was the president and CEO of NCPA, correct?
7	Q. Sure. You've never seen any document in which Dan Dargene said I represent NCPA, correct?	7 A. He was the president and CEO of NCPA.
8	A. That's true.	8 Q. And as the president and CEO of NCPA, he certainly had the authority to retain or fire lawyers, didn't he?
9	Q. You've never seen any document through which NCPA retained Dan Dargene or the Ogletree firm as counsel, correct?	9 A. I don't know.
10	A. I have never seen any kind of engagement letter between Dan Dargene and the NCPA.	10 Q. Okay. You do see that it's not ambiguous in any way to you that Mr. Dargene states that Ogletree represents Goodman alone individually and not NCPA, right?
11	Q. Right. Did you incidentally have an engagement letter, your firm, with NCPA?	11 A. I -- this is the first time I've ever seen this document. I don't have an opinion about that.
12	A. We do.	12 Q. Okay. You were not there, of course, and so you don't have any personal knowledge about the scope of any engagement between the Ogletree firm and John Goodman individually, correct?
13	Q. Okay. We'll have to look for that in the file.	
14	Did NCPA provide you with documents showing that Mr. Dargene had expressly disclaimed having an attorney-client relationship with the NCPA?	
15		
11		13
1	A. Where Dargene expressly disclaimed having a --	1 MR. TOBEY: Objection, form.
2	Q. Yes.	2 A. I was not where?
3	A. I don't remember.	3 Q. (By Mr. Kryder) You were not present with any -- any communication between Dan Dargene and John Goodman, right?
4	Q. Okay. Did you ever ask if NCPA had documents showing whether it had retained Mr. Dargene or Ogletree?	4 A. That's true.
5	A. I think I did.	5 Q. And the only two people who would know what the scope of the attorney-client relationship, if any, was between Mr. Dargene and John Goodman individually would be Dan Dargene and John Goodman?
6	Q. And they never gave you any document -- NCPA never gave you any document indicating that it had any financial or attorney-client relationship with Dargene or Ogletree, correct?	6 Q. Okay. Because there were people secretly recording them?
7	A. Can you restate that question?	7 A. I have no idea. I wasn't at that meeting. I don't know who else was at that meeting.
8	Q. NCPA never provided you with any document that spoke to whether Mr. Dargene disclaimed an attorney-client relationship with NCPA?	8 Q. Did you ever --
9	A. I don't remember seeing any kind of document like that.	9 A. I don't know if someone else might know what the scope of the engagement was.
10	Q. Let me show you what was earlier marked as Exhibit 13, which is an email from NCPA's files from Dan Dargene to John Goodman.	10 Q. Okay. You've never, though, seen any document in NCPA's files in which Dan Dargene or the Ogletree firm ever agreed to represent NCPA, correct?
11	Do you see that Mr. Dargene says, I want to make sure you understand that our representation in this matter is of you and you alone. We are not representing and have therefore no obligation to look	11 A. That's true.
12		12 Q. Do you agree that the attorney-client relationship is contractual, and that you would have a meeting of the minds between attorney and client?
13		13

6		8
1	PROCEEDINGS	1 a good reputation in town?
2	(Media 1.)	2 A. I know what lawyers have good reputations in town.
3	THE VIDEOGRAPHER: We're on the video record at 9:07, beginning tape number 1 of the videotaped deposition of Lori Carr. Today's date is November 11th, 2016.	3 town.
4	If the attorneys present would please state their appearances for the record, as well as any agreements, after which the court reporter would please swear in the witness?	4 Q. Okay.
5	MR. TOBEY: Robert Tobey for the plaintiff.	5 A. Of the ones that I know --
6	MR. KRYDER: George Kryder and Jordan Leu for the defendants.	6 Q. All right.
7	MR. TOBEY: Taken by the rules.	7 A. -- that have -- I can tell you if I know them, whether I think they have a good reputation or not.
8	MR. KRYDER: Correct.	8 Q. All right. And you don't have one opinion -- an opinion one way or another whether the Ogletree firm has a -- has a good reputation in labor and employment matters?
9	LORI CARR,	9 A. I think they're well-known for handling labor and employment matters.
10	having been first duly sworn, testified as follows:	10 Q. Okay. Is your firm well-known for handling labor and employment matters?
11	EXAMINATION	11 A. Is my firm well-known for handling labor and employment matters?
12	BY MR. KRYDER:	12 Q. Yeah.
13	Q. Could you state your name, please.	13 A. I don't know.
14	A. Lori Carr.	14 Q. Okay. Do you recall that you represented NCPA in a mediation involving Sherri Collins in approximately July of 2014?
15	Q. Ms. Carr, you're an attorney licensed to practice in Texas, right?	15 A. Yes.
16	A. I am.	
7		9
1	Q. And I assume you've taken and attended many depositions, so you -- you know the procedure, correct?	1 (Exhibit No. 66 marked.)
2	A. I have, and I do.	2 Q. (By Mr. Kryder) Let me show you what has been marked for identification as a mediation statement and ask if that appears to be a true and correct copy of the mediation statement from your file?
3	Q. All right.	3 A. It appears to be.
4	A. It's a compound question, but that's okay.	4 Q. All right. I want to direct your attention to page 3 of Exhibit 66. It's -- the first full paragraph, you write to the mediator, it is also unclear whether Goodman consulted legal counsel on behalf of the NCPA. He originally consulted with Mike Baggett, a board member and attorney. However, Baggett felt he had a conflict of interest since he was on the board and referred Goodman to Dan Dargene. I called Dargene, who stated that he represented Goodman individually and not the NCPA.
5	Q. That's fine. Who is Dan Dargene?	5 Is that a true statement that you called Mr. Dargene and he told you that he represented Goodman individually and not NCPA?
6	A. Dan Dargene is an attorney.	6 A. He did.
7	Q. All right. And do you know Mr. Dargene?	7 Q. Okay. Now, you say that if that's the case and Goodman sought counsel only for himself but not the NCPA, this is further evidence of self-dealing. Do you see that?
8	A. Do I know him personally?	
9	Q. Yes.	
10	A. No.	
11	Q. Do you know him by reputation?	
12	A. I do.	
13	Q. And do you know that he has an excellent reputation as a labor and employment law in Texas?	
14	A. Excellent? I would say he has a good reputation.	
15	Q. Okay. And you know the Ogletree Deakins firm is a well-regarded labor and employment firm?	
16	A. I am aware of the firm.	
17	Q. Okay. You just don't think they're well-regarded?	
18	A. What do you mean by that?	
19	Q. You don't know what law firms or lawyers have	

14		16
1	A. I don't know.	1 A. I don't remember.
2	MR. TOBEY: Objection, form.	2 Q. Okay. Well, let's talk about NCPA. Did you represent NCPA, the organization?
3	Q. (By Mr. Kryder) That's not been your experience?	3 A. I did.
4	A. I don't -- I'm not here to give an opinion on that.	4 Q. Did you disclaim an attorney-client relationship with any of its officers, directors or employees?
5	Q. Okay. Do you agree that in Texas the attorney-client relationship is contractual?	5 A. No.
6	A. I don't know.	6 Q. So you represented both NCPA and each of its directors, officers and employees?
7	Q. Do you recall, from your contracts class in law school or any subsequent research, that typically in a contract you have a meeting of the minds between the two parties?	7 MR. TOBEY: Objection, form.
8	A. I remember something about that from my contracts class a long, long time ago.	8 A. I'm not here to give opinions about disciplinary rules or who represents who in particular situations. My understanding is that I represented the NCPA.
9	Q. And so would you agree with the proposition that the attorney-client relationship is contractual, whereby an attorney agrees to render professional services for a client?	9 Q. (By Mr. Kryder) Okay. And you represented NCPA, but did you ever have an attorney-client relationship with any of the members of the board of directors?
10	MR. TOBEY: Objection, form.	10 A. I think as the NCPA, I did.
11	A. I don't know.	11 Q. Okay. So you represented NCPA, the organization, and you also had an attorney-client relationship with each of the members of the board?
12	Q. (By Mr. Kryder) Are you aware of -- you're aware that under the Texas disciplinary rules, that a corporation is distinct from its constituents like officers, directors and employees, right?	12 A. I had an attorney-client relationship with the NCPA.
13		
15		17
1	A. I'm not here to give opinions about the Texas disciplinary rules.	1 Q. Okay. So did that include each -- I guess you think if included each of the members of the board of directors?
2	Q. Okay. Well, every time you represent a corporation, do you also represent every one of its officers, directors or employees?	2 A. I think --
3	A. I'm not here to give opinions about the Texas disciplinary rules.	3 MR. TOBEY: Objection, form.
4	Q. Okay. Do you understand that employees and executives of a company, including your corporate clients, can hire separate individual counsel who will not represent the employer?	4 A. -- as representatives of the NCPA.
5	A. Under the Texas disciplinary rules or --	5 Q. (By Mr. Kryder) Okay. So, for example, you would have represented Jerry Mills individually?
6	Q. Just in practice.	6 A. I did not represent Jerry Mills individually.
7	A. Okay. Can you say the question again?	7 Q. He was a member of the board of directors, right?
8	Q. Sure. You understand that employees or clients, can hire separate individual client who doesn't represent the employer?	8 A. Right.
9	A. Including what corporate clients?	9 Q. Did you ever disclaim an attorney-client relationship with Jerry Mills?
10	Q. All right. Do you ever have any company, corporate clients?	10 A. No.
11	A. I do.	11 Q. So as far as he knew, you represented him individually?
12	Q. Okay. So let's say it's Ajax Company, and at Ajax company, if you've represented that company, have you ever disclaimed an attorney-client relationship with any of its employees?	12 A. I don't know what he knew.
13		13 Q. Okay. At any time during the investigation phase at NCPA, did you give any Upjohn warnings to anyone?
14		14 A. No.
15		15 Q. So if you sat down with Richard Walker or John Goodman, neither of them had any notice from you that facts or information they provided could be used

18	20
1 against them?	1 circumstance --
2 A. I never told them that.	2 Q. Sure, just generally.
3 Q. Okay. You understand that -- that it is	3 A. -- or --
4 common practice in the setting of a corporation to	4 Q. Just generally.
5 give Upjohn warnings to employees or officers of a	5 A. If there's no conflict?
6 corporation, don't you?	6 Q. Sure. Wouldn't you agree that a lawyer can
7 A. I don't know.	7 choose I'm going to represent you individually, and
8 Q. Okay. Have you ever given an Upjohn warning	8 I'm not going to -- I'm not going to represent your
9 to someone in the context of an investigation into	9 company?
10 employment practices at a company?	10 A. I guess just in general terms, sure.
11 A. I don't remember.	11 Q. Right. And that's exactly what Mr. Dargene
12 Q. Do you know what an Upjohn warning is?	12 did in Exhibit 13; he said, Mr. Goodman, I'm going to
13 A. I'm not sure.	13 represent you and you alone, and I'm not going to
14 Q. Okay. Do you understand that it is good	14 represent your company, correct?
15 practice for attorneys to indicate if they disclaim an	15 MR. TOBEY: Objection, form.
16 attorney-client relationship with an unrepresented	16 A. I don't know what Mr. Dargene's intent was.
17 person?	17 I see the words on the paper, but I'm not in a
18 A. I'm sorry, repeat that.	18 position to interpret them.
19 Q. Sure. Do you understand whether it's a good	19 Q. (By Mr. Kryder) All right. So you're not
20 practice for an attorney to say to an unrepresented	20 offering any interpretation of any documents involved
21 person, I'm not your lawyer, disclaim an	21 in this case, right?
22 attorney-client relationship with that person?	22 A. I'm not going to interpret a document that I
23 A. That's a pretty broad statement. I don't	23 did not author, no.
24 know what the circumstances are, so I don't really	24 Q. All right. Have you ever chosen to represent
25 have an opinion on that.	25 an individual only and to disclaim a representation of

19	21
1 Q. Okay. You see here, though, in Exhibit 13,	1 his corporate employer?
2 Mr. Dargene says, we are not representing and	2 A. Under what circumstance?
3 therefore have no obligation to look after the	3 Q. So under any circumstance, have you had --
4 interests of NCPA.	4 had a situation where you represented the chief
5 That's a pretty clear statement, isn't	5 executive officer and president of a company, like
6 it?	6 Mr. Goodman, but you said, I'm not representing your
7 A. I see what is written on this Exhibit 13.	7 company --
8 Q. Okay. And have you ever heard of an	8 A. I'm not sure. I'd have to think about that.
9 I'm-not-your-lawyer declaration or disclaimer in terms	9 Q. All right. You agree that the interests of
10 of your professional practice?	10 John Goodman and NCPA were adverse, right?
11 A. I have.	11 A. At what point in time?
12 Q. Okay. And have you ever given an	12 Q. As of December 10th, 2012, the date of
13 I'm-not-your-lawyer warning or directive to	13 Exhibit 13.
14 unrepresented persons?	14 A. December 10th. When they were drafting the
15 A. I have.	15 Settlement Agreement and the Employment Agreement?
16 Q. Did you give an I'm-not-your-lawyer directive	16 Q. You understand that Mr. Goodman was
17 or notice to any of the persons affiliated with NCPA	17 negotiating with Chuck Eley over the terms of an
18 during the time you represented them?	18 Employment Agreement and Settlement Agreement with --
19 A. I may have. I don't remember.	19 involving Sherri Collins, did you?
20 Q. Okay. Was it -- was it in writing?	20 A. I'm sorry, say that --
21 A. I don't remember.	21 Q. Sure.
22 Q. Okay. Do you understand that a lawyer has --	22 THE WITNESS: Can you read that back?
23 has the ability to choose whether he or she is	23 Q. (By Mr. Kryder) You understand that John
24 representing more than one client?	24 Goodman was directly negotiating with Chuck Eley over
25 A. Just generally or in a particular	25 the terms of the employment arrangement with Sherri

26	28
1 to Joe Gillespie documents that were NCPA's property,	1 Goodman and his current and former heirs, successors,
2 right?	2 assigns, attorneys?
3 A. I don't think I would have done that.	3 A. I see that.
4 Q. All right.	4 Q. All right. You did not carve out -- you knew
5 A. Although, one of these has a question, the	5 that Dan Dargene had been Mr. Goodman's attorney,
6 American Express invoices, in parentheses, it says	6 correct?
7 personal or NCPA, question mark.	7 A. At the time this was entered into?
8 Q. Okay. Well, regardless of whatever the	8 Q. Yes, in 2014.
9 question was on those, those documents were turned	9 A. I don't remember. I don't remember when I
10 over to Mr. Goodman, right?	10 talked to Dan, if it was before or after this.
11 A. Right.	11 Q. It was before this. But you -- regardless,
12 Q. All right. Do you understand that NCPA is	12 you did not carve out of the release with Goodman and
13 now trying to obtain those same attorneys' fees	13 his former attorneys any potential claim against Dan
14 invoices through a Motion to Compel?	14 Dargene or the Ogletree firm, did you?
15 A. No, I don't know that.	15 A. There's nothing in this document that says
16 Q. Would that be inconsistent with the	16 NCP can sue Dan Dargene or the Ogletree firm.
17 Settlement Agreement that was reached between NCPA and	17 Q. Did you advise NCPA that the release they
18 John Goodman releasing all claims?	18 were giving of Goodman and his former attorneys did
19 MR. TOBEY: Objection, form.	19 not carve out any right to pursue a claim against Dan
20 A. Do you have the Settlement Agreement?	20 Dargene or the Ogletree firm?
21 MR. KRYDER: Do you know what tab it is?	21 MR. TOBEY: Objection, form.
22 A second. Let me find the Settlement Agreement.	22 A. Say that again.
23 John Goodman Settlement Agreement.	23 Q. (By Mr. Kryder) Sure. Did you give NCPA any
24 MR. LEU: 48.	24 advice that the release contained in Exhibit 48 of
25 MR. KRYDER: It won't be in there. I'll	25 Mr. Goodman and his former attorneys did not carve out

27	29
1 get it for you.	1 any claims against Dan Dargene or the Ogletree firm?
2 Q. (By Mr. Kryder) There you go.	2 MR. TOBEY: Objection, form.
3 A. Okay. I would say no.	3 A. I did not tell them that this didn't carve
4 Q. All right. So do you see that in the release	4 out anything, but I don't think that this prohibits
5 on page 34 it says that none of the parties will ever	5 them from bringing a claim against their own
6 file or institute any suit, action or other proceeding	6 attorneys.
7 alleging any claim --	7 Q. (By Mr. Kryder) Okay. NCPA also -- you did
8 A. Where are you reading from?	8 not carve out of the release any potential claim that
9 Q. Sure. The Settlement Agreement, Exhibit 48,	9 NCPA had a right to obtain Goodman's personal attorney
10 page 3. It says, parties further promise that to the	10 files, correct?
11 extent permitted by law, none of them will ever file	11 A. I don't know what that has to do with the
12 or institute any suit, action or other proceeding	12 release.
13 alleging any claim released by this agreement.	13 Q. Well, if you're releasing Mr. Goodman from
14 Are you with me so far?	14 any claim against him, are you not also releasing a
15 A. I see that.	15 claim to obtain his attorney file at the Ogletree
16 Q. And if NCPA were claiming a right to obtain	16 firm?
17 Mr. Goodman's attorney files and invoices, wouldn't	17 A. Not necessarily.
18 that be inconsistent with having released all rights,	18 Q. You think there's an ambiguity about that?
19 claims and causes of action whatsoever?	19 A. No. I think they're apples and oranges.
20 MR. TOBEY: Objection, form.	20 Q. You understand, under the Settlement
21 A. I don't know.	21 Agreement, that the terms were supposed to be
22 Q. (By Mr. Kryder) You, in just looking on this	22 confidential and not disclosed by either Goodman or
23 same document, you did not -- do you see that it says	23 NCPA, right?
24 that Jerry Mills and NCPA irrevocably and	24 A. There's a confidentiality provision with
25 unconditionally release, acquit, and forever discharge	25 several exceptions in paragraph 9.

22	24
1 Collins as well as a Settlement Agreement?	1 Mr. Goodman around June the 3rd, 2014; does that sound
2 A. I'm not sure. I wasn't involved in those	2 right?
3 negotiations.	3 A. I don't remember.
4 Q. Okay. You understand that as of	4 Q. Okay. So you don't feel that John Goodman
5 approximately December 2012, that, in fact, there was	5 became adverse to NCPA until after he was fired, so
6 an Employment Agreement and Settlement Agreement	6 after June 2014?
7 entered into involving Sherri Collins?	7 A. He was adverse.
8 A. I -- can I look at the dates --	8 Q. I would say that there were other times
9 Q. Sure.	9 when his interests appeared to be divergent from the
10 A. -- of the agreements that are -- because I	10 NCPA.
11 don't remember the dates?	11 Q. So do you agree, then, that if Mr. Goodman
12 Yes, it looks like the Settlement	12 was adverse -- was adverse or had the potential to be
13 Agreement and the Employment Agreement were -- well,	13 adverse to NCPA, that Dan Dargene could not start a
14 one -- one was entered as of November 1st, and one was	14 representation of NCPA?
15 entered as of November 30th of 2012.	15 MR. TOBEY: Objection, form.
16 Q. Fine. And with respect to the Settlement	16 A. If he had the potential to be adverse?
17 Agreement and Employment Agreement you just	17 Q. (By Mr. Kryder) Yes. If Mr. Goodman was at
18 referenced, wouldn't you agree that Mr. Goodman had	18 the time of the --
19 adverse interests to those of his company NCPA?	19 A. Not necessarily.
20 A. Before they were drafted or after they were	20 Q. Okay. Now, let me show you, Ms. Carr, what
21 drafted?	21 was earlier marked for identification as Exhibit 14
22 Q. Before, during and after.	22 and ask if you recognize that as a true and correct
23 Let's just start while they are being --	23 copy of a letter you wrote to Joe Gillespie on June
24 while he was negotiating the terms of the Employment	24 23, 2014?
25 and Settlement Agreements.	25 A. It looks like it.

23	25
1 A. No, not necessarily, I wouldn't say they were	1 Q. And do you see that in Exhibit 14, you were
2 adverse.	2 returning John Goodman's personal items that had been
3 Q. Okay. So do you think that on behalf of	3 left at NCPA?
4 NCPA, Mr. Goodman had the authority, without being	4 A. Yes.
5 adverse, to negotiate an Employment Agreement	5 Q. And included in the personal items on page 1
6 involving Sherri Collins?	6 of Exhibit 14, you returned Mr. Goodman's personal
7 A. I don't know if he had the authority. I	7 file called Attorney Fee Bills - Ogletree Deakins re
8 haven't looked at the bylaws in a while. I think	8 Sherri Collins.
9 there is some limit of authority in the bylaws.	9 Do you see that?
10 Q. Okay. But there was nothing adverse in John	10 A. Yes.
11 Goodman negotiating an Employment Agreement for --	11 Q. You did not retain copies of Mr. Goodman's
12 involving Sherri Collins with Ms. Collins' lawyer	12 personal documents called Attorney Fee Bills -
13 Chuck Eley, was there?	13 Ogletree Deakins re Sherri Collins, did you?
14 A. Not necessarily.	14 A. I didn't retain copies of anything that we
15 Q. Okay. Was there any time when you concluded	15 sent back to him.
16 that John Goodman had interests that were adverse to	16 Q. All right. And --
17 NCPA?	17 A. I didn't even --
18 A. When he threatened to sue them.	18 Q. Okay.
19 Q. Okay. And that would have been --	19 A. -- look at any of these documents.
20 A. In 2014.	20 Q. And these documents were turned over to
21 Q. That would have been after he was terminated,	21 Mr. Gillespie as John Goodman's counsel because the
22 correct?	22 documents, including the attorney fee bills, were
23 A. Right.	23 Mr. Goodman's personal property, right?
24 Q. And just for the sake of, you know, sort of	24 A. That was my understanding.
25 time point, he was -- the board voted to terminate	25 Q. You certainly had no authority to turn over

30	32
1 Q. Right. But would you agree that NCPA would	1 are you directing me to one in particular?
2 not be authorized, consistent with this Settlement	2 Q. Well, all right. We can -- let's just start
3 Agreement, to tell D Magazine about the terms of the	3 at the very end --
4 settlement with Mr. Goodman or even the fact of	4 A. Okay.
5 settlement?	5 Q. -- if we could, then. So let's start at the
6 A. Let me read this.	6 very end. It is from you to Dan Dargene, June 23,
7 No, I would not agree with that.	7 2014. You say, Dan, we spoke briefly a few weeks ago.
8 Q. Okay. So you feel that under the Settlement	8 I represent the National Center for Policy Analysis.
9 Agreement, that NCPA can publish the terms of the	9 You say, it is my understanding you represented NCPA
10 settlement to the media?	10 with respect to a Settlement Agreement and Employment
11 A. That's not what I said.	11 Agreement with Sherri Collins.
12 Q. Okay. Well, what -- what provision would	12 Where did you get that understanding?
13 allow NCPA to disclose, disseminate, and/or publicize	13 A. From -- I know I got it from Chuck Eley, and
14 or cause or permit to be disclosed, disseminated, or	14 I'm not sure if I got it from anyone else.
15 publicized any term of the agreement to someone like	15 Q. All right. It says that --
16 D Magazine or any other publication?	16 A. Oh, I think the Winstead firm.
17 A. That's not what you asked me.	17 Q. Okay. It says, your contact would have been
18 Q. All right. Well, I'm asking you. Is it	18 NCPA's former president and CEO John Goodman. NCPA is
19 inconsistent with the confidentiality provision of	19 now adverse to Ms. Collins with respect to those
20 Exhibit 48 for NCPA to disclose, disseminate, or	20 agreements and is also adverse to Dr. Goodman.
21 publicize or cause to be disclosed, disseminated, or	21 So you agree, at least as of June 23rd,
22 publicized the terms of this agreement to anyone,	22 2014, NCPA was adverse to Goodman, right?
23 other than a tax advisor or a limited person?	23 A. Yes.
24 A. As I say, there's several exceptions to that	24 Q. Okay. You say here you spoke briefly to Dan
25 in paragraphs 9 (a), (b), (c), (d).	25 Dargene a few weeks ago.

31	33
1 Q. D Magazine is not one of them. You would	1 Do you have any recollection of any --
2 agree that NCPA would be breaching the Settlement	2 A. Wait. What are we looking at now?
3 Agreement, Exhibit 48, if it disclosed, disseminated,	3 Q. Sure. This same email, you say, Dan, we
4 or publicized the terms of this Settlement Agreement	4 spoke briefly a few weeks ago.
5 directly or indirectly to D Magazine?	5 A. Okay.
6 A. Well, I'm not going to say that that would	6 Q. Do you have any recollection of any
7 constitute a breach because I don't know what the	7 discussion you had with Dan Dargene prior to June 23,
8 circumstances would be. It wouldn't necessarily	8 2014?
9 constitute a breach. But you asked me earlier about	9 A. Well, this, when we spoke briefly a few weeks
10 the fact of the agreement, and that's not in here.	10 before that.
11 Q. Okay. Well, explain how it would not be a	11 Q. Yeah. But do you recall what you spoke
12 breach of the Settlement Agreement if NCPA directly or	12 about?
13 indirectly disclosed its terms to D Magazine or other	13 A. We spoke about what's in the email, about his
14 publication?	14 representation of the NCPA and that he wasn't sure, he
15 A. I don't know. There -- there might have	15 had to go back and look at his file.
16 been -- I mean, you're asking a hypothetical question,	16 Q. Okay. Let's turn to the next -- the next
17 and hypothetically, there might have been a prior	17 chronological email. It's from Dan Dargene to you on
18 breach by Mr. Goodman. I don't know. It's a	18 Monday, June 30th. Lori, in reviewing my file, we
19 hypothetical.	19 were retained by Mr. Goodman on an issue with Sherri
20 Q. All right. Let me show you what was marked	20 Collins and we were paid by Mr. Goodman via personal
21 for identification as Exhibit 15 in a previous	21 check. Therefore, I cannot discuss this matter with
22 deposition and ask if you recognize that as a true and	22 you further without Mr. Goodman's consent.
23 correct copy of an email from Dennis McCauston to you	23 Do you see that?
24 dated July 1, 2014?	24 A. Yes.
25 A. Do you want me to look at all the emails or	25 Q. And you understand that Mr. Dargene had

34	<p>1 obligations both of attorney-client privilege and of confidentiality under the disciplinary rules not to discuss a matter involving Mr. Goodman?</p> <p>4 A. I'm not here to give opinions about the disciplinary rules.</p> <p>6 Q. All right. You don't consider yourself an expert in the disciplinary rules?</p> <p>8 A. I do not.</p> <p>9 Q. Okay. Then we turn to the first page of Exhibit 15, Mr. Dargene writes to you on June 30th. Lori, I don't want to be obstructionist, but I think I've told you all I can without potentially violating the privilege.</p> <p>13 So Mr. Dargene consistently indicated to you that he could not divulge any information about his representation of John Goodman, correct?</p> <p>16 A. Correct.</p> <p>18 Q. You say in the next email, June 30th, 2014, from yourself to Dan Dargene, I understand, and if you only represented John individually, then I agree you cannot talk to me.</p> <p>21 That's still your position, isn't it?</p> <p>23 that if Dan Dargene only represented John Good -- John Goodman individually, as Mr. Dargene stated, then he could not talk with you?</p>	36	<p>1 the Collins Employment Agreement and Settlement Agreement, you felt it would be a breach of his duties to NCPA, correct?</p> <p>4 A. One of what options?</p> <p>5 Q. Okay. You indicated in one of the earlier exhibits that we just looked -- we looked at, that either Mr. Goodman -- if Goodman did not retain counsel to advise NCPA about the Collins Settlement and Employment Agreements, you felt he would be breaching his duty to the company?</p> <p>11 A. Where is that?</p> <p>12 Q. Is that an option? I'm just asking you.</p> <p>13 A. An option. I don't understand what you mean by option.</p> <p>15 Q. Let's turn to the mediation statement, Exhibit 66.</p> <p>17 A. Okay.</p> <p>18 Q. Page 3, and you represent to the mediator, it is also unclear whether Goodman consulted legal counsel on behalf of the NCPA.</p> <p>21 Do you see that?</p> <p>22 A. I see that.</p> <p>23 Q. You say, I called Dargene, who stated that he represented Goodman individually, and not the NCPA.</p> <p>25 If that's the case, then Goodman sought counsel for</p>
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35	<p>1 A. Yes, but that's why I was pushing because it was not -- didn't seem feasible to me that he only represented Mr. Goodman.</p> <p>4 Q. But Dan Dargene consistently had told you that he only represented --</p> <p>6 A. That's what he said.</p> <p>7 Q. -- him individually, Goodman individually?</p> <p>8 A. That's what he said, and I pushed back several times.</p> <p>10 Q. All right. Then the next email chronologically is from you to Dennis McCuiston at NCPA dated July 1, 2014.</p> <p>12 Do you see that?</p> <p>14 A. I do.</p> <p>15 Q. And you write, Dan is saying he only represented John individually. You say, either way, I don't think it will turn out well for John. Either he did not consult counsel on behalf of NCPA or he did, and we'll get to talk to Dan about his advice to John.</p> <p>19 Do you see that?</p> <p>21 A. Well, you left out a couple parts. I see the parts that you read.</p> <p>23 Q. All right. And one of the options that -- and we saw this in an earlier email, was that if John Goodman had not retained counsel to advise NCPA about</p>	37	<p>1 himself but not the NCPA, which is further evidence of his self-dealing.</p> <p>3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. And one of the options -- I mean, one of the items you discussed or represented to the mediator was that Goodman allegedly sought counsel only for himself but not for the NCPA.</p> <p>9 That was one scenario that you were outlining to the mediator, right?</p> <p>11 A. It says, if that's the case, then Goodman sought counsel for himself but not the NCPA.</p> <p>13 Q. All right.</p> <p>14 A. Which is further evidence of his self-dealing.</p> <p>16 Q. Right. And what Dan Dargene is telling you is Goodman only represented -- only retained me individually, not to advise as to NCPA, correct?</p> <p>19 A. That's what --</p> <p>20 MR. TOBEY: Objection; form.</p> <p>21 A. That's what Dan told me.</p> <p>22 Q. (By Mr. Kryder) And if Goodman did not consult or retain Mr. Goodman -- back up.</p> <p>24 If Mr. Goodman did not retain Dan Dargene to represent NCPA, that would be evidence of</p>
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42	<p>1 Do you see that?</p> <p>2 A. There's a lot of 5-12 --</p> <p>3 Q. Sure.</p> <p>4 A. They made us do individual entries, sorry.</p> <p>5 Q. No problem.</p> <p>6 Third entry from the bottom, Ms. Carr.</p> <p>7 A. I hate doing that.</p> <p>8 Yes, I see that.</p> <p>9 Q. Okay.</p> <p>10 MR. TOBEY: It's good practice.</p> <p>11 Q. (By Mr. Kryder) Do you see there's a time entry, communication with Richard Walker regarding legal hold notice and who to send it to?</p> <p>14 Do you see that?</p> <p>15 A. Right.</p> <p>16 Q. Do you know if a litigation hold notice, the scope of the people to whom it did go?</p> <p>18 A. I don't remember.</p> <p>19 Q. All right. Turning to the next page, roughly in the middle of the page, May 13, 2014. It says, under Lori Carr, telephone conference with Dan Dargene regarding litigation hold.</p> <p>22 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And beyond this time entry of May 13, 2014,</p>	44	<p>1 There may have been some overlap before we set up a separate matter.</p> <p>3 Q. Okay. If you could -- it will be the -- I guess the third page of this document, down at the bottom, June 30th, there's an entry for you, 6 communications with Dan Dargene regarding which party he represented in connection with negotiating the Sherri Collins agreements.</p> <p>8 Do you see that?</p> <p>10 A. I do.</p> <p>11 Q. (By Mr. Kryder) Do you see just touched on a series of email communications that you had with Mr. Dargene about this same subject, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And there's nothing in the time entry about your June 30, 2014 communication with Dan Dargene that adds anything more to your recollection about 18 discussions with him, correct?</p> <p>19 A. Say that again.</p> <p>20 Q. Sure. You can't tell us anything more about your discussions with Dan Dargene by reason of having reviewed this June 30th, 2014 time entry, correct?</p> <p>23 A. If you're asking me if I remember anything else that we talked about on June 30th of 2014, no, I don't.</p>
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43	<p>1 you're pretty specific. Is there anything you discussed with Dan Dargene other than litigation hold?</p> <p>3 A. Are you asking me if during this phone call on May 13th, we discussed anything other than the litigation hold?</p> <p>6 Q. Yeah, as you sit here today.</p> <p>7 A. Oh, I don't remember.</p> <p>8 Q. Okay.</p> <p>9 A. I may have said how about those Rangers or something.</p> <p>11 Q. Okay. All right.</p> <p>12 (Exhibit No. 68 marked.)</p> <p>13 Q. (By Mr. Kryder) Let me show you Ms. Carr, 14 what's been marked for identification as Exhibit 68. It's another invoice from your firm, but on the client matter is re John Goodman.</p> <p>17 Do you see that?</p> <p>18 A. It says client matter John Goodman.</p> <p>19 Q. Right.</p> <p>20 A. Yeah.</p> <p>21 Q. So would it appear, then, that you set up a separate matter for John Goodman -- for issues concerning John Goodman, and a separate matter for issues relating to Sherri Collins?</p> <p>24 A. Yeah. At some point -- at some point we did.</p>	45	<p>1 Q. Okay. All right. Now, according to the affidavit that you've provided in this case, you're rendering an expert opinion about the standard of care; is that correct?</p> <p>5 A. Right.</p> <p>6 Q. Do you have an engagement letter to render an expert opinion in this case?</p> <p>8 A. I don't remember if we did a separate engagement letter.</p> <p>10 MR. KRYDER: If there is one, we'd ask 11 that it be attached or provided.</p> <p>12 MR. TOBEY: There is not one.</p> <p>13 Q. (By Mr. Kryder) Okay. Does your firm 14 require engagement letters as a matter of policy?</p> <p>15 A. That's our goal.</p> <p>16 Q. What specifically were you asked to do in your engagement in connection with the affidavit opinion you're rendering in this case?</p> <p>17 A. I was asked to sign the affidavit.</p> <p>20 Q. And that was it? You were just -- you were 21 provided with an affidavit and asked to sign it?</p> <p>22 A. Well, we talked about it. I agreed to sign 23 it.</p> <p>24 Q. And the affidavit had been prepared by 25 Mr. Tobey or someone in his office?</p>
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38	<p>1 self-dealing by Mr. Goodman, in your view, right?</p> <p>2 A. Well, are you asking me to give an opinion because this is an advocacy mediation statement, and that's what I said here, and I'm not giving opinion.</p> <p>5 That's what I'm arguing.</p> <p>6 Q. Well, do you understand that as a lawyer, 7 that you, in the course of representing a client, that you shall not knowingly make a false statement of material fact?</p> <p>10 A. I'm not making any false statements of any fact, material or otherwise.</p> <p>12 Q. Right.</p> <p>13 A. What I'm saying is that I am making an argument here, and I'm not sure what -- if you're trying to -- if you're wanting me to give you an opinion, that's different than making an argument.</p> <p>17 Q. No. You're stating a -- you're stating to Cecilia Morgan, the mediator, I called Dargene who stated that he represented Goodman and not the NCPA.</p> <p>20 A. Right.</p> <p>21 Q. That's a statement of fact, right?</p> <p>22 A. And that is true.</p> <p>23 Q. Okay. That was a true statement of fact?</p> <p>24 A. That Dargene told me that is true.</p> <p>25 Q. And -- and did you believe the statement that</p>	40	<p>1 A. Hold on just a second.</p> <p>2 Q. Sure.</p> <p>3 A. Yes. Leslie Shaw says, I checked and we have never done business with Dan Dargene or the law firm of Ogletree Deakins.</p> <p>6 Q. Okay. And you don't have any information to dispute that statement, correct?</p> <p>8 A. No.</p> <p>9 Q. All right.</p> <p>10 (Exhibit No. 67 marked.)</p> <p>11 Q. (By Mr. Kryder) Let me show you next what's been marked for identification as Exhibit 67, which appears to be an invoice we obtained from your file.</p> <p>14 Do you recognize this?</p> <p>15 A. Yes. It looks like an invoice.</p> <p>16 Q. Now, this is set up submitted to Philadelphia Insurance Companies. Was that the carrier for NCPA?</p> <p>18 A. Well, it was addressed to NCPA and Philadelphia Insurance Company.</p> <p>20 Q. Right. But Philadelphia Insurance Company 21 was the -- was the carrier involved in this claim?</p> <p>22 A. Right.</p> <p>23 Q. All right. And this is a matter that you set up called re Sherri Collins, so this was for the dispute raised by Sherri Collins?</p>
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39	<p>1 you made, that factual statement that you made in the mediation statement?</p> <p>3 A. I think I've testified several times that Dan Dargene told me that he represented Goodman individually and not the NCPA.</p> <p>6 Q. Okay. Did you ever confirm with Goodman that he did not retain counsel on behalf of the NCPA?</p> <p>8 A. I can't remember.</p> <p>9 Q. Did you ever ask anyone at NCPA whether they had any records that would show that it, the NCPA, had ever paid one penny to Dan Dargene or the Ogletree firm?</p> <p>13 A. I did.</p> <p>14 Q. And they had no indication there was any payment or record between -- of a transaction between NCPA and the Ogletree firm, correct?</p> <p>17 A. I think so. I can't remember if it was the Ogletree firm or Dan Dargene.</p> <p>19 Q. Okay. Let me show you what was marked for identification as Exhibit 16 and ask if you recognize this as an email on which you're copied in which Leslie Shaw at NCPA informs you and Richard Walker, I checked and we have never done business with Dan Dargene at the law firm of Ogletree Deakins.</p> <p>25 Do you see that?</p>	41	<p>1 A. It was the Sherri Collins matter.</p> <p>2 Q. Okay. It looks as if the first time entry, 3 April 23, 2014, is a conference with Steve Ivy. Was 4 he the -- your initial contact person with anyone on behalf of NCPA?</p> <p>6 A. I think so.</p> <p>7 Q. Okay. Did you know Mr. Ivy?</p> <p>8 A. I do.</p> <p>9 Q. Have you represented him or his companies 10 before?</p> <p>11 A. I have represented his companies before.</p> <p>12 Q. If you could turn to the time entry, May 9, 13 2014, there's some initials for TM. Who is TM at your firm?</p> <p>15 A. It should say at the end. Terah Moxley.</p> <p>16 Q. And it says Ms. Moxley, analyze issues related to scope and issuance of litigation hold.</p> <p>18 Do you know how long it took for your firm to issue any kind of litigation hold in connection with the Sherri Collins matter?</p> <p>21 A. I don't remember.</p> <p>22 Q. If you turn to the next page, please.</p> <p>23 There's a time entry May 12, 2014, Lori Carr, communications with Richard Walker regarding legal hold notice and who to send it to.</p>
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46	<p>1 A. I didn't type it. We talked about it.</p> <p>2 Q. And it wasn't prepared at your law firm. It was emailed to you?</p> <p>4 A. I don't think so.</p> <p>5 Q. So you think it was sent to you as opposed to being prepared here in your law office?</p> <p>7 A. I think so.</p> <p>8 Q. Okay.</p> <p>9 A. I just don't remember.</p> <p>10 Q. All right. We saw from the time entry of a telephone call that you received from Steve Ivy that your first communication, at least in your time records, appeared to be around April the 23rd, 2014?</p> <p>14 A. If this is the first time entry. I don't know if there was a May bill.</p> <p>16 Q. This is the first bill that we --</p> <p>17 A. Okay.</p> <p>18 Q. -- obtained from your file.</p> <p>19 A. Okay.</p> <p>20 Q. So as of approximately April 23rd or, you know, end of April 2014, did you send an engagement letter outlining the scope of your firm's engagement with NCPA?</p> <p>24 A. I believe so.</p> <p>25 Q. We haven't seen one in the file.</p>	48	<p>1 what's been marked for identification as Exhibit 69, 2 and ask if you can identify that as a true and correct copy of an email from Jerry Mills to you dated May the 12th, 2014?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And as of May the 12th, 2014, had you already met with John Goodman?</p> <p>8 A. I don't think so.</p> <p>9 Q. Okay. At least as of May the 12th, 2014, nobody was aware of John Goodman having retained an attorney, correct?</p> <p>12 A. I was not.</p> <p>13 Q. Okay. And you told Chuck Eley not to -- you told Chuck Eley not to contact Goodman until you found out about whether Goodman had counsel; is that true?</p> <p>16 MR. TOBEY: Objection; form.</p> <p>18 A. I told him not to contact Goodman until I found out about whether John has counsel and he has agreed to do so for now.</p> <p>20 Q. (By Mr. Kryder) Correct.</p> <p>22 A. Right.</p> <p>23 Q. And as far as you know, as of May the 12th, 2014, Goodman had not retained an attorney, correct?</p> <p>25 A. As far as I know. I didn't know one way or</p>
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47	<p>1 A. Okay.</p> <p>2 Q. So if there is one separately, it wasn't in the file, and do you typically keep engagement letters in the file?</p> <p>5 A. Typically.</p> <p>6 Q. Well, we -- there doesn't appear to be one in the file, so if there has been one, I think you've already said -- you did not have any -- well, let me strike that.</p> <p>10 To the extent that you actually did have an engagement letter involving NCPA's issues with Sherri Collins, John Goodman or anybody else, to the best of your knowledge, if you had an engagement letter, did you only have one?</p> <p>15 A. I don't remember.</p> <p>16 Q. Okay. You never had an engagement letter with Jerry Mills, did you?</p> <p>18 A. No, I don't think so.</p> <p>19 Q. Were you representing Mr. Mills in connection with the settlement with John Goodman in which Mr. Mills was a released party?</p> <p>22 A. I can't remember.</p> <p>23 Q. Okay.</p> <p>24 (Exhibit No. 69 marked.)</p> <p>25 Q. (By Mr. Kryder) Let me show you, Ms. Carr,</p>	49	<p>1 the other.</p> <p>2 Q. Okay. I notice at the bottom of your email, you have what -- is this notice about electronic message, is this a standard notice that you -- your firm puts on emails?</p> <p>6 A. It was at the time. I don't know if it's changed.</p> <p>8 Q. So if you receive confidential -- if you receive a confidential or privileged document or information from the opposing party, don't you agree you would have an obligation not to keep that document and to return it to them?</p> <p>12 A. Well, I'm not going to give you an expert opinion about that, but that is what I do.</p> <p>15 Q. It's what you do regardless of whether it's required, correct?</p> <p>17 A. Right.</p> <p>18 Q. If someone gives you -- or you get access to a privileged or confidential document from another lawyer, you wouldn't retain it. You would turn it around and give it back to that other lawyer, right?</p> <p>22 A. Yeah. If I knew -- if I knew about it.</p> <p>23 Q. Okay.</p> <p>24 A. And if I knew that it was confidential or privileged.</p>
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50	<p>1 Q. Okay.</p> <p>2 A. That's my practice.</p> <p>3 Q. All right.</p> <p>4 (Exhibit No. 70 marked.)</p> <p>5 Q. (By Mr. Kryder) Let me show you, Ms. Carr,</p> <p>6 next what's been marked for identification as</p> <p>7 Exhibit 70 and ask if that appears to be a true and</p> <p>8 correct copy of an email from John Goodman to you</p> <p>9 dated June 2, 2014?</p> <p>10 A. It looks like it.</p> <p>11 Q. Sure. And at least as of June the 2nd, 2014,</p> <p>12 Goodman did not have counsel, correct?</p> <p>13 A. I don't know. He says -- the subject says I</p> <p>14 think I will have representation in the next few days.</p> <p>15 Q. So that would suggest that at this point in</p> <p>16 time, Mr. Goodman didn't -- had not retained a lawyer,</p> <p>17 right?</p> <p>18 A. That's what I would assume.</p> <p>19 (Exhibit No. 71 marked.)</p> <p>20 Q. (By Mr. Kryder) Ms. Carr, let me show you</p> <p>21 next what's been marked for identification as</p> <p>22 Exhibit 71. I ask if you have seen these minutes of</p> <p>23 the meeting of the executive committee of the board of</p> <p>24 directors of National Center for Policy Analysis dated</p> <p>25 May 29, 2014?</p>	52	<p>1 asked to do?</p> <p>2 A. Yes.</p> <p>3 Q. Could you just generally explain what</p> <p>4 Mr. Gover was asked to do?</p> <p>5 A. He was asked to conduct an investigation.</p> <p>6 Q. And were you part of that investigation? For</p> <p>7 example, did you sit in on interviews of people?</p> <p>8 A. No.</p> <p>9 Q. Did you sit in on the interview with Sherri</p> <p>10 Collins that was transcribed?</p> <p>11 A. I did sit in on that one.</p> <p>12 Q. Did you ever have any conversation with Rick</p> <p>13 Gover about whether he should destroy notes of his</p> <p>14 interviews of his investigation?</p> <p>15 A. Whether he should?</p> <p>16 Q. Should destroy his notes.</p> <p>17 A. I don't -- I don't remember. I remember that</p> <p>18 his practice was to -- you couldn't read his</p> <p>19 handwriting, so his practice was to type up his notes,</p> <p>20 and then shred the handwritten ones.</p> <p>21 Q. So do you know -- and he told you, before he</p> <p>22 destroyed any notes, that that's what he was going to</p> <p>23 do?</p> <p>24 A. I don't remember.</p> <p>25 Q. Okay. What -- what role did you have in the</p>
51	<p>1 A. I think I have seen this before.</p> <p>2 Q. Okay. It says that Ms. Lori Carr and</p> <p>3 Mr. Rick Gover, both attorneys retained by the NCPA</p> <p>4 board, president and CEO John Goodman, and operating</p> <p>5 officer Richard W. Walker were also present.</p> <p>6 Were you retained by the NCPA board?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So you weren't represented by the --</p> <p>9 retained by the company NCPA, just by the board?</p> <p>10 A. No. I was retained by the board on behalf of</p> <p>11 the organization.</p> <p>12 Q. Okay. And you don't know whether you had an</p> <p>13 individual attorney-client relationship with each of</p> <p>14 the members of the NCPA board, do you?</p> <p>15 A. I don't have an opinion about that.</p> <p>16 Q. Do you -- did you have an attorney-client</p> <p>17 relationship with John Goodman and Richard Walker?</p> <p>18 A. I don't have an opinion about that.</p> <p>19 Q. You might have, you might not; you just have</p> <p>20 no opinion?</p> <p>21 A. Well, I'm not -- I'm not giving you an</p> <p>22 opinion about it.</p> <p>23 Q. All right. This says, Mr. Gover delivered</p> <p>24 his oral report.</p> <p>25 Do you know generally what Mr. Gover was</p>	53	<p>1 investigation with Mr. Gover leading up to at least</p> <p>2 May 29, 2014, the date of this executive committee</p> <p>3 meeting?</p> <p>4 A. I wasn't involved in the investigation. I</p> <p>5 sat in on Sherri Collins' interview, but I did not</p> <p>6 participate, and I got updates from Mr. Gover.</p> <p>7 Q. Were John Goodman and Richard Walker provided</p> <p>8 copies of the Collins transcript of her interview?</p> <p>9 A. I don't remember.</p> <p>10 Q. Were Mr. Goodman and Mr. Walker provided</p> <p>11 copies of the investigatory materials that Rick Gover</p> <p>12 put together?</p> <p>13 A. I don't know.</p> <p>14 Q. Was there a -- would there have been a</p> <p>15 specific reason why materials from Mr. Gover's</p> <p>16 investigation would not be provided to Mr. Goodman or</p> <p>17 Mr. Walker?</p> <p>18 A. Sure.</p> <p>19 Q. What?</p> <p>20 A. Well, Mr. Goodman and Mr. Walker were each</p> <p>21 witnesses, and so in the course of an investigation,</p> <p>22 you don't tell one witness what another witness has</p> <p>23 said. You would want to segregate their testimony so</p> <p>24 that the -- for the integrity of the investigation.</p> <p>25 Q. Okay. So but Mr. Goodman and Mr. Walker were</p>

58	<p>1 him because of his contract was for a term, and then</p> <p>2 there was a very generous severance at the end of the</p> <p>3 term, and so I recommended that they consider seizing</p> <p>4 the opportunity to terminate him for cause.</p> <p>5 Q. Because he had entered into an employment</p> <p>6 contract with NCPA that you felt was too favorable?</p> <p>7 A. No.</p> <p>8 Q. Why -- why did you recommend that the</p> <p>9 opportunity be taken to terminate Mr. Walker on the</p> <p>10 basis of the terms of his contract?</p> <p>11 A. I think I just said because there was a term</p> <p>12 of employment and a very generous severance package at</p> <p>13 the end of the term, and so I recommended they take</p> <p>14 the opportunity to consider terminating him for cause</p> <p>15 so that they didn't have those financial burdens.</p> <p>16 Q. For what cause?</p> <p>17 A. I need to look at his contract.</p> <p>18 Q. Okay. Do you understand that ultimately</p> <p>19 Mr. Walker was paid in settlement approximately</p> <p>20 \$888,000?</p> <p>21 A. I don't remember the amount, but there was a</p> <p>22 negotiated settlement.</p> <p>23 Q. All right. During the period of time leading</p> <p>24 up to Mr. Walker's filing, is it fair to say you never</p> <p>25 advised Mr. Walker to obtain counsel?</p>	60	<p>1 A. And --</p> <p>2 Q. Did the board terminate Walker for any</p> <p>3 reason?</p> <p>4 A. My -- the way I remember it, it was a</p> <p>5 negotiated separation.</p> <p>6 Q. At any time before the negotiated separation,</p> <p>7 did you advise Richard Walker to obtain personal</p> <p>8 counsel?</p> <p>9 A. I don't remember.</p> <p>10 Q. At any time before --</p> <p>11 A. He had personal counsel.</p> <p>12 Q. Okay. At any time before the separation or</p> <p>13 board termination, did you give Mr. Walker any Ujiphan</p> <p>14 warnings?</p> <p>15 A. No.</p> <p>16 MR. KRYDER: We've been going for a</p> <p>17 while. It's probably a good time to go off the record</p> <p>18 and take a break.</p> <p>19 THE VIDEOGRAPHER: We're off the video</p> <p>20 record at 10:23.</p> <p>21 (Recess 10:23-10:41.)</p> <p>22 THE VIDEOGRAPHER: We're back on the</p> <p>23 video record at 10:41.</p> <p>24 Q. (By Mr. Kryder) Ms. Carr, we were talking</p> <p>25 about the termination decision by the board of</p>
59	<p>1 A. Mr. Walker's filing of what?</p> <p>2 Q. Filing.</p> <p>3 A. Oh, I don't think he was fired.</p> <p>4 Q. Before Mr. Walker was terminated -- I thought</p> <p>5 you said -- okay.</p> <p>6 So he was -- you thought there were --</p> <p>7 you could make an argument for terminating him for</p> <p>8 cause, but suggested that NCPA use it as an</p> <p>9 opportunity to negotiate his exit from the company?</p> <p>10 A. No.</p> <p>11 Q. Explain what you did about Richard Walker if</p> <p>12 you didn't recommend that he be fired.</p> <p>13 A. Okay. I think I've already said it twice.</p> <p>14 I'll say it one -- I'll say it again.</p> <p>15 I recommended that they -- because of the</p> <p>16 terms of his Employment Agreement, it was for a term</p> <p>17 with a very generous severance package at the end of</p> <p>18 the term that they could not withstand financially, I</p> <p>19 recommend that they consider taking the opportunity to</p> <p>20 terminate Mr. Walker for cause.</p> <p>21 Q. Okay. Prior -- and you don't think that the</p> <p>22 board ever terminated Mr. Walker for cause or without</p> <p>23 cause. You think he just --</p> <p>24 They did not terminate him for cause.</p> <p>25 Q. Okay.</p>	61	<p>1 directors, and I thought I'd just go ahead and show</p> <p>2 you what was marked as Deposition Exhibit 30 and ask</p> <p>3 if you've seen these minutes of the NCPA board of</p> <p>4 directors dated June 3, 2014?</p> <p>5 A. Okay.</p> <p>6 Q. Do you see that you attended the board</p> <p>7 meeting on June 3rd, 2014, at which the board passed a</p> <p>8 resolution terminating the employment of both John</p> <p>9 Goodman and Richard Walker?</p> <p>10 A. That's not what it says.</p> <p>11 Q. Well, it says, a motion was presented to the</p> <p>12 board by Vic Lattimore as follows: The board</p> <p>13 terminates the employment of John Goodman subject to</p> <p>14 terms negotiated by Jerry Mills.</p> <p>15 That's correct, isn't it?</p> <p>16 A. Right.</p> <p>17 Q. Okay. And the board also terminated the</p> <p>18 employment of Richard Walker upon legal approval and</p> <p>19 subject to terms negotiated by Jerry Mills, correct?</p> <p>20 A. Right.</p> <p>21 Q. So didn't the board vote to terminate both</p> <p>22 Mr. Goodman and Mr. Walker?</p> <p>23 A. They voted to terminate Mr. Walker with a</p> <p>24 contingency, and that was upon legal approval after we</p> <p>25 reviewed his contract because nobody had looked at his</p>

54	<p>1 present at the May 29, 2014 presentation by Mr. Gover,</p> <p>2 which included details about what various witnesses</p> <p>3 had said, correct?</p> <p>4 A. Let's see. This was the report, so it was</p> <p>5 after the investigation had been completed.</p> <p>6 Q. So Mr. Goodman and Mr. Walker got to hear</p> <p>7 what various witnesses had said about their conduct,</p> <p>8 correct?</p> <p>9 A. They heard some of what -- it was a summary,</p> <p>10 so they didn't hear everything, but everybody had</p> <p>11 already been interviewed, including Mr. Goodman and</p> <p>12 Mr. Walker.</p> <p>13 Q. Were Mr. Goodman and Mr. Walker offered a</p> <p>14 chance to respond to this oral report that Mr. Gover</p> <p>15 delivered on May 29, 2014?</p> <p>16 A. I don't know what you mean.</p> <p>17 Q. Well, they sat through a meeting in which</p> <p>18 Mr. Gover made comments that ultimately led to the</p> <p>19 firing of Goodman and Walker, right?</p> <p>20 A. No. It -- I -- I don't think that it's that</p> <p>21 simple.</p> <p>22 Q. All right. What -- how was it not that</p> <p>23 simple?</p> <p>24 A. There were multiple reasons for each of them</p> <p>25 leaving the NCPA.</p>	56	<p>1 we'll get to this, but the record reflects that the</p> <p>2 board voted to terminate Mr. Goodman just a few days</p> <p>3 later, on June the 3rd, 2014.</p> <p>4 Does that sound right to you?</p> <p>5 A. I don't remember.</p> <p>6 Q. Okay. Between May 29, 2014, when the</p> <p>7 executive committee heard this report of Mr. Gover,</p> <p>8 was John Goodman offered an opportunity to respond to</p> <p>9 the conclusions that Mr. Gover offered?</p> <p>10 A. You mean between May 29 and the time that he</p> <p>11 was terminated?</p> <p>12 Q. Yes.</p> <p>13 A. He did respond.</p> <p>14 Q. Okay. And was Mr. Goodman ever offered the</p> <p>15 opportunity to have counsel present during Mr. Gover's</p> <p>16 presentation to the board?</p> <p>17 A. I don't remember.</p> <p>18 Q. Was Joe Gillespie or Hal Gillespie ever</p> <p>19 provided with the investigatory materials that</p> <p>20 Mr. Gover assembled?</p> <p>21 A. I think they were.</p> <p>22 Q. Okay. Did Mr. Goodman have any particular</p> <p>23 reaction during the meeting, this May 29, 2014</p> <p>24 presentation?</p> <p>25 A. I was -- I attended by phone, so I don't --</p>
55	<p>1 Q. Well, they were both fired. They didn't just</p> <p>2 voluntarily leave, right?</p> <p>3 A. That's not true.</p> <p>4 Q. Okay. Both Goodman and Walker voluntarily</p> <p>5 left?</p> <p>6 A. I believe Walker's was -- yeah. He was</p> <p>7 not -- I don't remember him being fired.</p> <p>8 Q. Okay.</p> <p>9 A. It was a negotiated departure.</p> <p>10 Q. Did you --</p> <p>11 A. And he had his reasons.</p> <p>12 Q. And you saw nothing that gave NCPA any</p> <p>13 grounds to terminate Mr. Walker for cause or</p> <p>14 otherwise, correct?</p> <p>15 A. No.</p> <p>16 Q. All right. In the report that Mr. Gover</p> <p>17 gave, was there anything -- at this May 29, 2014</p> <p>18 meeting was there any criticism of Richard Walker's</p> <p>19 conduct?</p> <p>20 A. I don't remember.</p> <p>21 Q. In Mr. Gover's report was there any criticism</p> <p>22 of John Goodman's conduct?</p> <p>23 A. I don't remember what all was in his oral</p> <p>24 report, but I'm sure there was.</p> <p>25 Q. All right. And this was May 29, 2014, and</p>	57	<p>1 other than -- so I didn't see him.</p> <p>2 Q. Okay. Did you provide any comment to</p> <p>3 Mr. Gover's report?</p> <p>4 A. I'm pretty sure I did.</p> <p>5 Q. Okay. And were Mr. Goodman and Mr. Walker</p> <p>6 still present when you were giving your comments?</p> <p>7 A. I don't remember.</p> <p>8 Q. Okay. As a result of May -- the May 29, 2014</p> <p>9 report, did you advise NCPA that they should fire</p> <p>10 Richard Walker?</p> <p>11 A. I'm sorry, say that again.</p> <p>12 Q. Sure. Did you ever advise NCPA that they</p> <p>13 should fire Richard Walker?</p> <p>14 A. Did I ever advise them they should fire</p> <p>15 Richard Walker?</p> <p>16 Q. Right.</p> <p>17 A. Yes.</p> <p>18 Q. You did?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. When and why?</p> <p>21 A. I don't remember when, and it had to do with</p> <p>22 his contract.</p> <p>23 Q. And what -- what about Mr. Walker's contract</p> <p>24 led you to recommend that he be fired?</p> <p>25 A. I recommended that they consider terminating</p>

62	<p>1 contract at that point.</p> <p>2 Q. The minutes do not say why John Goodman was</p> <p>3 fired, correct?</p> <p>4 A. I mean, not directly.</p> <p>5 Q. Okay. Well, they say he's terminated. Was</p> <p>6 there any document you're aware of in which the NCPA</p> <p>7 board voted to terminate Mr. Goodman for cause?</p> <p>8 A. I don't know.</p> <p>9 Q. Was there any -- was John Goodman terminated</p> <p>10 for cause?</p> <p>11 A. I don't remember.</p> <p>12 Q. Was John Goodman terminated for breach of</p> <p>13 fiduciary duty?</p> <p>14 A. I think that went into the -- that was a</p> <p>15 factor in the decision.</p> <p>16 Q. But alleged breach of fiduciary duty was not</p> <p>17 a ground, specific ground, on which Mr. Goodman was</p> <p>18 terminated, was it?</p> <p>19 A. That was a factor in the decision.</p> <p>20 Q. All right. But he was not terminated for</p> <p>21 having breached fiduciary duties, was he?</p> <p>22 MR. TOBEY: Objection, form.</p> <p>23 A. I don't agree with that because that was a</p> <p>24 factor in the decision to terminate him.</p> <p>25 Q. (By Mr. Kryder) So you don't know whether</p>	64	<p>1 Q. You were there, and the -- and you heard that</p> <p>2 Goodman was terminated for cause by reason of breach</p> <p>3 of fiduciary duty and sexual misconduct?</p> <p>4 A. There was a discussion before the motion, and</p> <p>5 the discussion included the reasons for the</p> <p>6 termination, and those reasons included breach of</p> <p>7 fiduciary duty and sexual misconduct.</p> <p>8 Q. Okay. And what was the alleged breach of</p> <p>9 fiduciary duty?</p> <p>10 A. That he entered into these agreements with</p> <p>11 Sherri Collins and his conduct breached his fiduciary</p> <p>12 duties to the organization.</p> <p>13 Q. Did you advise the board that they should</p> <p>14 terminate Mr. Goodman?</p> <p>15 A. In June of 2014?</p> <p>16 Q. At this June 3rd, 2014 meeting, at or before</p> <p>17 this meeting, did you advise the board that they should</p> <p>18 fire Goodman?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And what specific advice did you give</p> <p>21 with respect to terminating Goodman?</p> <p>22 A. That they should terminate him.</p> <p>23 Q. Period, not on any specific ground; just say</p> <p>24 you're fired?</p> <p>25 A. That they should terminate him based on his</p>
63	<p>1 Goodman was terminated for cause; is that correct?</p> <p>2 A. Well, I don't know what you mean by cause</p> <p>3 because I don't know if you mean in a common law sense</p> <p>4 or if -- because I don't remember if he had a contract</p> <p>5 where cause was defined.</p> <p>6 Q. All right. Let's just go with the common law</p> <p>7 sense. Was Goodman terminated for cause, as you</p> <p>8 understand it?</p> <p>9 A. Probably.</p> <p>10 Q. But the minutes certainly don't say that;</p> <p>11 you'll agree with that?</p> <p>12 A. I don't -- I don't see the term for cause in</p> <p>13 here.</p> <p>14 Q. Okay. Certainly, the board did not have a</p> <p>15 vote that said we hereby present a motion that John</p> <p>16 Goodman be terminated for cause, including breach of</p> <p>17 fiduciary duty and sexual misconduct. That's not the</p> <p>18 motion, right?</p> <p>19 A. The motion was the board terminates the</p> <p>20 employment of John Goodman subject to terms negotiated</p> <p>21 by Jerry Mills.</p> <p>22 Q. Okay. All right. And the specific grounds</p> <p>23 on which Mr. Goodman was terminated were not sexual</p> <p>24 misconduct and breach of fiduciary duty, were they?</p> <p>25 A. I disagree with that.</p>	65	<p>1 conduct, his entering into the agreements, his keeping</p> <p>2 it from the board; the fact that there were now other</p> <p>3 plaintiffs or potential plaintiffs involved at this</p> <p>4 point; the fact that there was a sexual assault. It</p> <p>5 had gotten to a point where the only remedial action</p> <p>6 that would be meaningful at this point would be to</p> <p>7 terminate him.</p> <p>8 Q. Well, didn't you feel that Sherri Collins' or</p> <p>9 allegations were suspect in terms of harassment?</p> <p>10 A. No.</p> <p>11 Q. It would be inaccurate for you to have ever</p> <p>12 said to anybody, including the mediator, that</p> <p>13 Ms. Collins' allegations of harassment were suspect.</p> <p>14 You just didn't think that, right?</p> <p>15 A. I don't know what I said in the mediation</p> <p>16 statement.</p> <p>17 Q. Okay.</p> <p>18 A. But I didn't -- I don't remember what I put</p> <p>19 in the mediation statement.</p> <p>20 Q. Now --</p> <p>21 A. Do you want me to look at it?</p> <p>22 Q. We can come back to it.</p> <p>23 A. Okay.</p> <p>24 Q. Did you advise the board that they should</p> <p>25 authorize Jerry Mills to negotiate the terms of firing</p>

66	<p>1 John Goodman?</p> <p>2 A. Did I advise them?</p> <p>3 Q. Yes.</p> <p>4 A. Say that again. I'm sorry.</p> <p>5 Q. Sure. Did you advise the board that they should give Jerry Mills unlimited discretion to negotiate any terms Mills wanted with John Goodman?</p> <p>6 A. No.</p> <p>7 Q. Okay. Well, what limitations did you advise the board to place on Jerry Mills in terminating John Goodman and negotiating with him?</p> <p>8 A. I didn't provide advice on that.</p> <p>9 Q. Did you provide Jerry Mills a script to use for terminating John Goodman?</p> <p>10 A. I don't remember.</p> <p>11 Q. If there isn't one in the file, was there -- well, if there isn't one in the file, you certainly didn't destroy any script, right?</p> <p>12 A. No, I didn't.</p> <p>13 Q. Do you frequently provide a script to clients in terms of how to terminate an employee?</p> <p>14 A. Probably not frequently, but sometimes.</p> <p>15 Q. Did you know anything about Jerry Mills' skills, credentials or competency in terms of being able to terminate John Goodman?</p>	68
67	<p>1 A. Skills in being able to terminate him?</p> <p>2 Q. Yes.</p> <p>3 A. Like what?</p> <p>4 Q. Well, like not firing Goodman for reasons that were -- would lead to a wrongful termination or slander claim.</p> <p>5 A. Well, we discussed the reasons for the termination in the board meeting, so I knew that the reasons for the termination were.</p> <p>6 Q. Did Jerry Mills know?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So what did you -- did you tell Jerry Mills what he should or should not do in firing John Goodman?</p> <p>9 A. I don't remember.</p> <p>10 Q. At this point Jerry Mills was a member of the board and was one of your clients, right?</p> <p>11 A. He was a member of the board.</p> <p>12 Q. And did you offer any legal advice to Jerry Mills in terms of how he should terminate John Goodman?</p> <p>13 A. I don't remember.</p> <p>14 Q. Is it fair to say you've been retained various times to retain -- to fire an employee of one of your clients?</p>	69

74	<p>1 A. That it would be a bad idea?</p> <p>2 Q. Yeah.</p> <p>3 A. I don't remember if I told them it would be a bad idea.</p> <p>4 (Exhibit No. 72 marked.)</p> <p>5 Q. (By Mr. Kryder) We talked a few minutes ago about the Richard Walker Settlement Agreement. Let me ask you if Exhibit 72 appears to be a true and correct copy of the Settlement Agreement between NCPA and Mr. Walker?</p> <p>6 A. It looks like it.</p> <p>7 Q. And it appears one of the terms is that -- it's paragraph 1 (c) -- that Mr. Walker would be paid in installments over four years.</p> <p>8 Was it your understanding that Mr. Walker had a four-year contract, or do you know why NCPA ended up settling with him for a four-year period?</p> <p>9 A. I don't remember what the term of his contract was.</p> <p>10 Q. Okay.</p> <p>11 A. But I do remember that a payout was important to the NCPA from a cash flow perspective.</p> <p>12 Q. Okay. Was one option considered that instead of paying Mr. Walker, through all of these provisions, approximately, if I add them up, about \$885,000, that</p>	76
75	<p>1 they could continue to use his talents and have him employed by NCPA?</p> <p>2 A. Was one of the options that?</p> <p>3 Q. Right. That they considered was instead of paying him nearly \$600,000 over four years and get no services, to keep him at NCPA and have him continue to do his job?</p> <p>4 A. That was an option, but there were problems with that option.</p> <p>5 Q. And the problem with the option was what?</p> <p>6 A. I would have to look at his employment contract. I can't remember if it called for a lump-sum payment or if it called for more than what was settled for. I don't remember.</p> <p>7 Q. Okay. That's fine.</p> <p>8 (Exhibit No. 73 marked.)</p> <p>9 Q. (By Mr. Kryder) Let me show you next what's been marked for identification as Exhibit 73 and ask if you recognize that as a true and correct copy of the affidavit?</p> <p>10 A. It looks like it.</p> <p>11 Q. Does Exhibit 73 contain the opinions you intend to express in this case?</p> <p>12 A. It contains one opinion.</p> <p>13 Q. All right. Well, paragraph 7 --</p>	77

70	<p>1 A. Would I ever advise that?</p> <p>2 Q. Yeah.</p> <p>3 A. Well, it's legal. I don't know. I'd have to know more about the circumstances.</p> <p>4 Q. Mr. Mills didn't ask you for any advice about whether he should -- what he should or shouldn't say in terms of firing Mr. Goodman, did he?</p> <p>5 A. I don't remember.</p> <p>6 Q. Now, as of June the 3rd, 2014, the board did not authorize Mr. Mills to pay any money to John Goodman in connection with his termination, did they?</p> <p>7 A. I'm sorry, say that again.</p> <p>8 Q. Sure. As of this June 3rd, 2014 board meeting, it doesn't look as if the board authorized Mr. Mills to pay any amount of money to John Goodman, correct?</p> <p>9 A. I don't know. There's no mention of it in this Exhibit 30, but I don't remember if there was discussion about parameters around the financial settlement.</p> <p>10 Q. Was there any indication, as of the June 3rd meeting, that NCPA would wind up having to pay John Goodman as a result of his firing?</p> <p>11 A. I'm sorry, say that again.</p> <p>12 Q. Sure. Was there any indication, as of this</p>	72
71	<p>1 June 3, 2014 board meeting, that NCPA would end up having to pay John Goodman approximately \$575,000 as a result of his firing?</p> <p>2 A. Was there any indication?</p> <p>3 Q. Right.</p> <p>4 A. I don't really know how to answer that. I think that it was -- no one thought John was going to go quietly, let's put it that way, and that's why there was even mention of a negotiated termination.</p> <p>5 Q. All right. Wouldn't you agree, if you had handled the firing of John Goodman, it was less likely that there would have -- it would have led to a wrongful termination claim?</p> <p>6 A. If I had handled the firing?</p> <p>7 Q. Right.</p> <p>8 A. I don't understand.</p> <p>9 Q. Well, do you understand -- do you know what specific grounds on which Jerry Mills terminated John Goodman on June the 8th, 2014?</p> <p>10 A. I know why John Goodman was terminated.</p> <p>11 Q. That's not my question.</p> <p>12 Do you know what --</p> <p>13 A. I don't understand your question.</p> <p>14 Q. -- what words Jerry Mills used?</p> <p>15 A. Oh, no, I don't know what words.</p>	73

78	<p>1 you're asking.</p> <p>2 Q. So you haven't conducted any research to determine what standards should be used in a legal malpractice case in Texas, right?</p> <p>3 A. No. I know what the standard is, is what an ordinarily prudent attorney would do under the same or similar circumstances.</p> <p>4 Q. All right. Let me just ask you about, you don't expect to render any opinions about attorneys' fees expended by any party, do you?</p> <p>5 A. No.</p> <p>6 Q. You don't expect to express any opinions about fee disgorgement, do you?</p> <p>7 A. No.</p> <p>8 Q. You don't expect to express any opinions about any alleged fraudulent conduct involving Dan Dargene, Ogletree, John Goodman or others, do you?</p> <p>9 A. Fraudulent conduct?</p> <p>10 Q. Yes.</p> <p>11 A. No.</p> <p>12 Q. You don't expect to express any opinions about an alleged conspiracy, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And you don't hold yourself out as an expert</p>	80
79	<p>1 in Texas law concerning claims for civil conspiracy, do you?</p> <p>2 A. I'm not rendering any opinions about civil conspiracy.</p> <p>3 Q. You're not rendering any opinions about alleged breach of fiduciary duty, are you?</p> <p>4 A. No, I'm not.</p> <p>5 Q. You're not alleging -- I'm sorry, you're not expressing any opinions about purported damages, are you?</p> <p>6 A. Calculation of damages, no.</p> <p>7 Q. Okay. Well, you don't hold yourself out as a supposed expert in Texas law concerning damages, correct?</p> <p>8 A. What's a supposed expert?</p> <p>9 Q. Well, do you understand that under Texas law, that an attorney is immune to the other -- to an adverse party for advice that he gives to his client?</p> <p>10 A. Say it again.</p> <p>11 Q. Sure. Do you understand that if an attorney gives advice to a client who acts on that advice and allegedly harms a third party, that that third party can't sue the lawyer based on attorney immunity?</p> <p>12 MR. TOBEY: Objection, form.</p> <p>13 A. I don't know.</p>	81

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1 Q. (By Mr. Kryder) You've never -- you've never
2 done any research into attorney immunity in Texas?
3 A. I have not.
4 Q. You've never -- have you ever heard of the
5 Texas Supreme Court's Cantey Hanger case involving
6 attorney immunity?
7 A. I have heard of it.
8 Q. Okay. And then you understand that you
9 cannot -- a lawyer cannot be liable to an adverse
10 party based on attorney immunity regardless of the --
11 as long as it's in the course of the lawyer's legal
12 representation of a client?
13 A. I don't know.
14 Q. Okay. So you haven't evaluated whether
15 attorney immunity would apply in connection with Dan
16 Dargene's representation of John Goodman individually,
17 have you?
18 A. I haven't.
19 Q. Okay. So the event that you say was a
20 proximate cause was Dan Dargene's advice to do what?
21 A. To enter into these agreements in 2012.
22 Q. And you're saying that no lawyer can advise a
23 client individually, John, go ahead and enter into
24 these agreements individually?
25 A. It appears to me that he represented the

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1 A. 13. Yes. He says I want you to make -- to
2 make sure you understand that our representation in
3 this matter is of you and you alone.
4 Q. And that I'm not representing NCPA, correct?
5 A. That I have no obligation to look after the
6 interests of NCPA.
7 Q. And do you think that a Texas lawyer cannot
8 make that kind of agreement with an individual, that I
9 will represent you alone, but I will not represent
10 NCPA your company?
11 A. I think in certain circumstances, yes.
12 Q. In this circumstance, isn't that exactly what
13 Dan Dargene did?
14 A. It doesn't appear that way to me.
15 Q. All right. Now, okay, we're asking about the
16 event in question.
17 So the event in question that you're
18 opining about is Dan Dargene gave advice to John
19 Goodman that he could sign the Employment Agreement
20 and Settlement Agreement; is that it? Is that the
21 event in question?
22 A. That he could sign them? That he could enter
23 into them?
24 Q. You tell me what the event is.
25 A. Yeah, entering into those agreements.

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1 NCPA.
2 Q. Well, it says -- says it appears to you. Are
3 you ignoring the express disclaimer that Dan Dargene
4 had in his email to John Goodman saying I represent
5 you alone and not NCPA?
6 A. No.
7 Q. You disregard that?
8 A. No. I just don't see how he couldn't have
9 been representing both of them.
10 Q. Well, he could very easily be representing
11 only John Goodman because John Goodman could make a
12 decision on behalf of NCPA not to retain counsel for
13 NCPA, correct?
14 A. He could represent John because John could
15 make that decision? Is that what you're asking me?
16 Q. Let's make it simple. We'll leave it down.
17 You understand that a lawyer can choose
18 to represent only one client and disclaim an
19 attorney-client relation with somebody else, right?
20 A. I think under certain circumstances, yes.
21 Q. All right. And you understand that in this
22 instance, Dan Dargene wrote a letter expressly or
23 wrote an email expressly disclaiming any
24 attorney-client relationship with NCPA, right? That
25 was Exhibit 13.

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1 Q. All right. So you're saying that Dan Dargene
2 advising John Goodman allegedly that he could sign the
3 two agreements, the Employment and Settlement
4 Agreement, is the event about which you're linking to
5 some proximate cause?
6 A. I think that if he recommended that he enter
7 into those agreements, yeah, that's the event.
8 Q. Okay. That's the event, and the event is
9 linked to what cause?
10 A. That is the cause.
11 Q. Okay. You're saying that --
12 A. The terms -- the terms that are in those
13 agreements caused the harm.
14 Q. All right. And you can tell that just by
15 looking at the Employment Agreement and the Settlement
16 Agreement, that by entering into them, they have
17 caused harm?
18 A. I can look at those and say a couple of
19 things: One, no ordinarily prudent attorney would
20 recommend that; and, two, it was foreseeable that
21 those terms would cause the harm.
22 Q. And the harm is what?
23 A. Well, a lot of things. One, that Sherri
24 Collins would bring another claim; that she would be
25 revictimized; that the organization would be on the

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1 So what we're talking about is the only
2 opinions about proximate cause relate to claims by
3 Sherri Collins and claims by certain other employees,
4 right?
5 A. Right.
6 Q. Okay. And the employees include Donna
7 Williams, Johnette Johnson, you think Tonya
8 Featherstone. Was there anybody else?
9 A. That's what I can't remember. It seems like
10 there was, but I just can't remember.
11 Q. Okay. Have you evaluated whether plaintiff's
12 own conduct was a proximate cause of any damages?
13 A. Whether the NCPA's conduct was a proximate
14 cause of damages?
15 Q. Of any of their alleged damages in this case.
16 A. Well, I think my opinion goes to the standard
17 of care based on these agreements.
18 Q. I understand. But you have not -- do you
19 understand under Texas law, there can be more than one
20 proximate cause?
21 A. Yes.
22 Q. Okay. And you have not evaluated whether
23 there is more than one proximate cause, correct?
24 A. Other than what I've just talked about,
25 right, I haven't.

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1 foreseeable. With an organization like this, that
2 would translate into the donor dollars, too.
3 Q. Well, wasn't the real cause of the donor
4 dollars the public relations campaign that NCPA had in
5 trashing Mr. Goodman publicly?
6 A. I don't think so.
7 Q. You were a part of that program, weren't you?
8 You dealt directly with Merrie Spaeth and you knew
9 that they would be disseminating statements to the
10 press, to The Dallas Morning News and others, that
11 accused Mr. Goodman of sexual misconduct and breach of
12 fiduciary duty, right?
13 MR. TOBEY: Objection, form.
14 A. You had multiple questions in there. If you
15 want to break it down.
16 Q. (By Mr. Kryder) All right. You were aware
17 of NCPA's plan to issue a press release and
18 communications to donors about John Goodman having
19 been terminated for sexual misconduct and breach of
20 fiduciary duty, right?
21 A. I was aware of the press releases.
22 Q. Right. And you didn't tell NCPA don't send a
23 press release or communication that says John Goodman
24 was terminated for sexual misconduct and breach of
25 fiduciary duty, right?

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1 Q. And you have not evaluated whether
2 plaintiff's own conduct was a proximate cause of any
3 damages they allege in this case, have you?
4 A. What conduct?
5 Q. Any conduct by the plaintiff. You have not
6 evaluated whether the plaintiff's own conduct was a
7 proximate cause of any alleged damages in this case,
8 have you?
9 A. Right.
10 Q. Okay. You haven't evaluated whether any
11 other event or occurrence besides signing the two
12 agreements in question was a proximate cause of any
13 alleged damages, have you?
14 A. Well, I'm not sure how to answer that because
15 I was involved from a factual standpoint, and I think
16 these damages were brought on by this -- these
17 Employment Agreements.
18 Q. And the damages being what the sums that were
19 paid or incurred by reason of Sherri Collins'
20 allegations, and the sums that were paid or incurred
21 by reason of allegations by other employees concerning
22 a hostile work environment or disparate treatment?
23 A. Yeah. And I think you can -- I started to
24 say earlier I think you can include in that the loss
25 of donors because the events that transpired were

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1 A. I didn't tell them don't do that?
2 Q. Right.
3 A. Right.
4 Q. You didn't.
5 A. Right.
6 Q. And wasn't it reasonably foreseeable that if
7 NCPA sends a communication to The Dallas Morning News,
8 to media outlets, posts it on their web and sends it
9 to their donors, that John Goodman has been terminated
10 for sexual misconduct and breach of fiduciary duty,
11 it's reasonably foreseeable that there's going to be a
12 negative reaction among donors?
13 A. A negative reaction. I'll say this. By that
14 point the damage had been done because by entering
15 into these agreements, by not doing what should have
16 been done in 2012, resulting in a situation where the
17 only thing that the organization could do was to
18 terminate John Goodman, who was the longtime CEO and
19 face of the organization.
20 Q. And -- okay.
21 A. So by the time these -- so the donor money
22 had already been substantially affected.
23 Q. As of June the 3rd, when Mr. Goodman was
24 terminated?
25 A. Right.

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1 look for the financial obligations under the
2 agreements; that Sherri Collins would sue again or
3 threaten to sue again.
4 Q. Anything else?
5 A. I would have to look at the agreements.
6 Q. Okay. You understand that in settling with
7 Sherri Collins, NCPA was not out of pocket one penny.
8 It was all paid by insurance, right?
9 A. They were out of pocket for part of my fees.
10 Q. Okay. So a few thousand dollars. That's the
11 unpaid --
12 A. I don't remember how much. I mean, it's
13 insurance, but it's still damage.
14 Q. Okay. So just so I can be clear, you expect
15 to render an opinion that as a result of Dan
16 Dargene -- well, first of all, you don't know whether
17 Mr. Dargene advised Goodman to sign the Employment
18 Agreement or Settlement Agreement or not, correct?
19 A. I wasn't a part of those conversations.
20 Q. Okay. Do you know that John Goodman
21 negotiated the financial terms of the Employment
22 Agreement directly with Chuck Ebsy before Dan Dargene
23 was retained?
24 A. I don't remember the sequence of events. I
25 do remember seeing some emails between John Goodman

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1 intend to express an opinion, correct?
2 A. No, no.
3 Q. All right. Well, then --
4 A. Because it was also foreseeable that there
5 would be -- there could be claims by other employees.
6 Q. Okay. So the alleged harm was that
7 Sherri Collins could assert claims, and then also
8 claims by other employees; is that right?
9 A. Right.
10 Q. All right. And the two employees were Donna
11 Nash Williams, and the other one is Johnette Johnson,
12 right?
13 A. No. There was Tonya Featherstone. And I'm
14 trying to remember, it seems like there was someone
15 else, but I just can't remember.
16 Q. And did all of these people allege that they
17 were victimized by Sherri Collins?
18 A. No.
19 Q. They were -- so what -- what were the -- what
20 were the allegations by these people? Donna Williams,
21 let's start with her, that she was fired by Sherri
22 Collins, right?
23 A. I'd want to look at their claims.
24 specifically, but in general, the claims were that
25 they were subjected to a hostile work environment

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1 and Chuck Ebsy.
2 Q. All right. So as I understand it, you are
3 saying that the event that was proximately caused is
4 John Goodman signing the Employment Agreement and
5 Settlement Agreement with Sherri Collins in late 2012,
6 first of all, correct?
7 A. Right. Entering into those agreements.
8 Q. Okay. And that is the -- that is the event
9 and only event that you are pointing to or about which
10 you expect to -- to express an opinion, correct, the
11 event of signing those two agreements?
12 A. Yeah, along with the terms, obviously, that
13 were in the agreements.
14 Q. Okay.
15 A. What the agreements provided for.
16 Q. All right. And then you're saying that as a
17 result of signing those two agreements and the terms
18 they provided for, it was foreseeable that Ms. Collins
19 would bring a claim that she was revictimized -- she would
20 allegedly be revictimized; that she was assert a
21 claim, and that NCPA would have to pay it; is that
22 right?
23 A. Right.
24 Q. And that's the -- that's the only event that
25 allegedly was proximately caused about which you

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1 because of the conduct of John Goodman towards Sherri
2 Collins.
3 Q. Okay.
4 A. And that they were -- suffered disparate
5 treatment basically because they -- they were not the
6 subject of John Goodman's affections.
7 Q. All right. So I just want to be clear, then.
8 So you're alleging that the event, signing the
9 agreements with those terms, caused a harm, which is
10 claims by Sherri Collins; and, secondly, claims by
11 other employees generally that there's a hostile work
12 environment?
13 A. Right. And I think that you could probably
14 also have foreseen that -- well, I think that's it.
15 Q. All right. So the only opinions about
16 proximate cause you intend to express are that as a
17 result of Mr. Goodman -- I'm sorry, Sherri Collins
18 signing an Employment Agreement and Settlement
19 Agreement and the terms of those agreements, it led to
20 Ms. Collins asserting other claims against NCPA; and
21 it led to other employees asserting claims for, among
22 other things, a hostile work environment at NCPA,
23 correct?
24 A. And disparate treatment, right.
25 Q. And disparate treatment, okay.

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1 Q. How had donor money been substantially
2 affected by June 3, 2014, the day the board voted to
3 terminate John Goodman?
4 A. Because John Goodman was no longer going to
5 be associated with the organization.
6 Q. And so it was foreseeable that when the man
7 who founded the organization, had been there for 30
8 years and had the relations with donors, that if he
9 left, even under the best of circumstances, a lot of
10 those donors weren't going to stay?
11 A. Right.
12 Q. Right. Okay. So are you saying that the
13 harm, if any, was complete as of the date the board
14 voted to terminate John Goodman, June the 3rd, 2014?
15 MR. TOBEY: Objection, form.
16 A. I think that the damage had been done by
17 then. Did it get worse? Maybe. But the -- if you
18 look at what the board -- I mean, what the
19 communications were, the initial announcement was a
20 neutral announcement.
21 Q. (By Mr. Kryder) And that was a good idea,
22 wasn't it to have a neutral announcement?
23 A. Yes.
24 Q. And that's what you usually see, that an
25 executive in an organization says he or she and the

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1 terminate John Goodman.
2 Q. Well, they --
3 A. If that hadn't been the case, we never would
4 even be talking about what PR statements anybody's
5 going to make.
6 Q. Well, even -- even if Goodman -- you had --
7 even if you claim that it was necessary to terminate
8 Mr. Goodman, you could still take the high road and
9 say that he is terminated for reasons that are
10 confidential, and they didn't have to publicize that
11 he had been terminated for alleged sexual misconduct
12 and breach of fiduciary duty, right?
13 A. Can you say that again?
14 Q. Sure. I mean, regardless of what Mr. Goodman
15 said, wasn't it a better idea for NCPA to say that
16 Mr. Goodman has been terminated, the reasons for his
17 termination or personnel issues are confidential, and
18 leave it at that?
19 A. That's what they tried to do, and John
20 Goodman escalated it in a way that the organization
21 felt that they needed to put that information out
22 there; that it was better to have that information out
23 there.
24 Q. And you advised NCPA that they should issue a
25 press release saying that John Goodman had been

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1 organization say that, you know, Mr. Goodman is
2 parting ways, and the details of his departure are
3 confidential?
4 A. That's what they try to do.
5 Q. Right. And that would have been a good idea,
6 and NCPA had kept with a confidential statement
7 about Mr. Goodman's departure, there would not have
8 been negative publicity that would go out to the
9 public and to donors, right?
10 A. It was never contemplated to be a
11 confidential announcement. It couldn't be.
12 Q. The details of --
13 A. There was an --
14 Q. -- his termination. I'm sorry. The details
15 of this termination would be confidential?
16 A. There was an announcement that was agreed to,
17 and John Goodman violated the agreement.
18 But we would never even be talking about
19 what announcement we were going to make had the damage
20 not already been done.
21 Q. And the damage already done, as you're
22 saying, it was what?
23 A. That by entering into these agreements and
24 the terms of the agreements put the organization in a
25 position in 2014 where it had no option but to

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1 terminated by a unanimous board for sexual misconduct
2 and for breach of fiduciary duty, right?
3 A. I didn't advise them that they should do
4 that. That was Merrie Spaeth advised them that they
5 should do that.
6 Q. And Merrie Spaeth you knew was the person
7 behind the Swift Boat Veterans campaign against John
8 Kerry, didn't you?
9 A. I don't know.
10 Q. You've never heard that?
11 A. No. I don't know what her involvement is --
12 Q. All right. Now, you --
13 A. -- in any of that.
14 Q. So Merrie Spaeth is the one that decided that
15 -- there should be a public relations campaign
16 saying that John Goodman had been terminated by a
17 unanimous board for sexual misconduct and breach of
18 fiduciary duty?
19 A. I don't know what you mean by campaign.
20 Q. All right.
21 A. I know that a press release was put out, and
22 there were many people involved in that decision.
23 Q. All right. You did not render any advice
24 that NCPA should not issue a press release or
25 disseminate a communication saying that Goodman had

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1 been terminated by a unanimous board for sexual 2 misconduct and breach of fiduciary duty, right? 3 A. Say that again. 4 MR. TOBEY: Objection, form. 5 Q. (By Mr. Kryder) You did not advise NCPA that 6 they should -- shouldn't issue a press release or 7 other communication saying that Goodman had been 8 terminated by a unanimous board for sexual misconduct 9 and breach of fiduciary duty, did you? 10 A. Did I ever say you should not do that? 11 Q. Right. 12 A. I don't think so. 13 Q. Right. And wasn't it foreseeable that if 14 NCPA issued a press release and communications to 15 donors and others saying that John Goodman had been 16 terminated for sexual misconduct and breach of 17 fiduciary duty, that NCPA was going to lose donors and 18 have a diminishment of its reputation? 19 A. No. They actually thought that it would 20 improve it based -- or in counterbalancing the 21 misinformation that John had put out there. 22 Q. So it was a good thing for NCPA to publicize 23 that their founder had been terminated for sexual 24 misconduct and breach of fiduciary duty? That was 25 your conclusion?	1 a profit? 2 A. I don't give tax advice. 3 Q. Okay. Were you aware that NCPA is seeking to 4 recover lost profits in this case? 5 A. I don't -- I don't know. 6 Q. You're not rendering any opinions on 7 exemplary damages, right? 8 A. Right. 9 Q. You're not rendering any opinions, expressing 10 any opinions concerning alleged gross negligence, 11 right? 12 A. Right. 13 Q. Do you know, have you evaluated whether the 14 conduct of the Winstead firm or Mike Baggett 15 proximately caused any damage in this case? 16 A. I haven't looked at that. 17 Q. If Mike Baggett had advised the full board in 18 2012 of the controversy between Sherri Collins and 19 John Goodman, would not all of these alleged harms 20 that you're talking about have been avoided? 21 A. I don't know. 22 Q. If -- you know that Richard Walker was aware 23 of Ms. Collins' allegations against John Goodman, 24 correct? 25 A. I don't know what all Richard Walker was

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1 A. I didn't reach a conclusion on that. What I 2 said was that they thought that it was -- it would 3 improve their standing to counterbalance the 4 misinformation that John had put on there. 5 Q. Did the negative publicity in fact improve 6 NCPA's standing and reputation? 7 A. I don't know. It might have. 8 Q. Do you know what damages NCPA is seeking in 9 this case? 10 A. I don't know the amount. 11 Q. Do you know the kind of damage it's seeking 12 in this case? 13 A. Well, I think they're probably seeking what 14 I'm testifying about, the settlements and the 15 attorneys' fees and the loss of donors. 16 Q. Do you understand that NCPA is a nonprofit 17 organization? 18 A. I do. 19 Q. Sure. And you understand that nonprofit 20 organizations are prohibited by law from making a 21 profit? 22 A. I don't know the nonprofit rules, but -- I 23 don't know. 24 Q. Okay. Well, you know that an organization 25 like NCPA could lose its tax-exempt status if it makes	1 aware of. 2 Q. If -- 3 A. I know -- 4 Q. I'm sorry. 5 A. Go ahead. 6 Q. If Richard Walker had informed the board of 7 the Collins allegations that she had made as of 8 November of 2012, couldn't the harm that you're 9 opining about have been avoided? 10 A. Could it? 11 Q. Yes. 12 A. I guess anything's possible. 13 Q. Were there other members of the board of 14 directors besides Mr. Goodman and Mr. Baggett who were 15 aware of Sherri Collins' allegations prior to the time 16 these settlement Agreement and Employment Agreement, 17 were executed? 18 A. I'm not sure what Mike Baggett was aware of, 19 but I don't know of any other board member that was 20 aware. 21 Q. You're aware that Mike Baggett and Winstead 22 were used by NCPA? 23 A. Yes. 24 Q. And you're aware that NCPA, among other 25 things, alleged that Mike Baggett had known about

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1 beholder? 2 Q. Whether it's a good idea to distribute a 3 press release and communication stating that John 4 Goodman was terminated for sexual misconduct and 5 breach of fiduciary duty? 6 A. You're using good and bad when -- about 7 issues that are multifaceted, where there are 8 competing interests involved, and there are different 9 degrees than just good and bad. 10 Q. Okay. 11 A. So I don't know how to answer your question. 12 Q. So could another lawyer disagree with your 13 view that the Employment Agreement -- and that John 14 Goodman could enter into the Employment Agreement and 15 Settlement Agreement with Sherri Collins in 2012? 16 A. That he could enter into that? 17 Q. Yes. 18 A. I think that any reasonably prudent lawyer 19 would say that he should not have entered into those. 20 Q. In John Goodman's -- 21 A. Could -- 22 Q. Go ahead. 23 A. -- is different than -- I mean... 24 Q. I'm sorry, could it be different than what? 25 A. Your question was could he have entered into	1 Q. Well, then, why don't you undoive them and 2 explain what you mean here and then -- 3 A. Sure. 4 Q. -- I'll ask my questions. 5 A. Sure. This says that it is my professional 6 opinion, based on my years of experience in such 7 cases, that recommending resolution of a claim of 8 sexual harassment by a female employee by any 9 arrangement that includes placing that employee back 10 under the direct supervision of her harasser 11 necessarily engenders an increased risk of another 12 claim by that employee against the same employer, and 13 breaches the applicable standard of care for a Texas 14 attorney advising the employer. 15 So what this says is that that 16 arrangement engenders an increased risk. 17 Q. Okay. So are -- 18 A. It doesn't say that you can -- should never 19 do that. It's saying if you do, you're going to 20 increase your risk of another claim. 21 Q. Okay. How much of the -- of the -- how much 22 is that increased risk? 23 A. Substantial? 24 Q. Okay. Can you quantify it? 25 A. Can I quantify it?

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1 those. 2 Q. Right. You don't think that -- well, let me 3 ask you this. So your -- your statement is that no 4 lawyer can advise a client to enter into an 5 arrangement whereby a female employee goes back to the 6 workplace under the supervision of the alleged 7 harasser? 8 A. That's not what my affidavit says, but do you 9 want me to answer that question or -- 10 Q. Well, you say here, recommending resolution 11 of a claim of sexual misconduct by a female employee 12 by any arrangement that includes placing that employee 13 back under the direct supervision of the harasser. I 14 want to focus on that. 15 Are you saying there is no instance in 16 which a female employee could go back to the workplace 17 under the direct supervision of the individual who 18 allegedly harassed her? 19 A. Do you want to read the rest of the opinion 20 because it gives it context? 21 Q. I'm just asking you about that point. Are 22 you telling me there's no circumstance -- 23 A. I don't think you can divorce the two -- 24 Q. Okay. 25 A. -- because --	1 Q. How much -- how much the risk was -- well, 2 let me just back up here. 3 A. Well, it would be zero if you didn't do that. 4 Q. Okay. So Sherri Collins comes back to -- are 5 you saying there's no circumstances under which Sherri 6 Collins should have come back to work at NCPA in 2012? 7 A. Definitely not under the direct supervision 8 of John Goodman. And it would have been difficult for 9 both -- given the size of the organization, for both 10 of them to work there. But -- 11 Q. Wasn't Ms. Collins directly supervised by 12 Richard Walker? 13 A. I think she was super -- well, she was 14 supervised by both. 15 Q. Okay. 16 A. Richard Walker and John Goodman. 17 Q. So didn't Richard Walker have a duty to NCPA 18 to make sure that Ms. Collins was not harassed? 19 A. Every employee has a duty to report 20 harassment. 21 Q. Okay. And if any of the employees at NCPA 22 had reported harassment to the board of directors or 23 others, any of this alleged harm could have been 24 avoided, right? 25 MR. TOBEY: Objection, form.

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1 Ms. Collins' allegations and had advised Mr. Goodman 2 that the allegations didn't have to be brought to the 3 attention of the full board? 4 A. I don't know what the basis of that lawsuit 5 was. 6 Q. So ultimately you've not evaluated whether 7 the conduct of Winstead, Richard Walker or other 8 persons could have been a proximate cause of damages 9 that NCPA is seeking in this case, have you? 10 A. I don't know -- I don't know that -- I'm 11 sorry. Say that again. 12 Q. Sure. You have not evaluated whether the 13 conduct of Mike Baggett, Richard Walker or any other 14 person has been a proximate cause of damages in this 15 case, right? 16 A. Right. 17 Q. When you're talking about the standard of 18 care for an attorney in Texas, is the -- is the 19 standard national lawyers, Texas lawyers, Dallas 20 lawyers? What is it? 21 A. Well, I think it's Texas. 22 Q. Okay. Would you agree that if an attorney 23 makes a decision which a reasonably prudent attorney 24 could make in the same or similar circumstances, it's 25 not negligence even if the result is undesirable?	1 expectations? 2 A. I would think so. 3 Q. You agree that lawyers should not substitute 4 their personal view for the business judgment of their 5 client? 6 A. Say that again. 7 Q. Sure. A lawyer should not substitute their 8 personal view for the business judgment of the client? 9 A. Under what circumstance? That's a general 10 statement. 11 Q. If John Goodman thought that the financial 12 terms entered into with Sherri Collins were 13 appropriate, it's not the lawyer's job to question 14 client's business judgment, is it? 15 A. I think lawyers -- that's part of being a 16 lawyer, is to counsel your client. 17 Q. And you think a lawyer in Texas has a duty to 18 substitute her -- her business judgment for that of 19 the client? 20 A. To substitute it. You mean like imposing it? 21 Q. Do you tell your clients you're making a bad 22 deal? 23 A. Sure. 24 Q. Okay. Did you tell NCPA you're making a bad 25 deal by sending out a press release that accuses John

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1 MR. TOBEY: Objection, form. 2 A. Can you say that again? 3 Q. (By Mr. Kryder) Sure. Would you agree that 4 if an attorney makes a decision which a reasonably 5 prudent attorney could make in the same or similar 6 circumstances, it's not an act of negligence even if 7 the result is undesirable? 8 MR. TOBEY: Objection, form. 9 A. My understanding is the standard is what a 10 reasonably prudent attorney would make. 11 Q. (By Mr. Kryder) Do you understand that if an 12 attorney makes a decision which a reasonably prudent 13 attorney could make under the same or similar 14 circumstances, it's not negligence even if the result 15 is undesirable? 16 MR. TOBEY: Objection, form. 17 A. I agree that if an attorney makes a decision 18 that is -- that which an ordinarily prudent attorney 19 would make under the same or similar circumstances, 20 that it's not negligence. 21 Q. (By Mr. Kryder) Even if the result is 22 undesirable? 23 A. Yes. 24 Q. And you agree that attorneys cannot be held 25 strictly liable for all of their clients' unfulfilled	1 Goodman of sexual misconduct and breach of fiduciary 2 duty? 3 A. That they're making a bad deal? 4 Q. Yeah; that's a bad decision. 5 A. I don't think I told them that's a bad 6 decision. 7 Q. Okay. So you don't think it's a lawyer's job 8 to tell a client you've made a bad decision? 9 MR. TOBEY: Objection, form. 10 A. No, that's not what I said. 11 Q. (By Mr. Kryder) Well, do you think it's a 12 lawyer's duty to tell a client they made a bad 13 decision? 14 A. Sure. 15 Q. And you thought NCPA was making a good 16 decision by widely publicizing their view that John 17 Goodman was terminated for sexual misconduct and 18 breach of fiduciary duty? 19 A. You're using terms like good and bad, and I 20 don't think it's that black and white. 21 Q. Okay. 22 A. So I -- I mean... 23 Q. You think it's subjective in the eye of the 24 beholder? 25 A. What is subjective in the eye of the

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1 A. No, because they had already entered into the 2 agreement. 3 Q. (By Mr. Kryder) Well, you're saying that it 4 increases the risk when somebody comes back, there 5 will be another claim. If there were alleged 6 harassment when Ms. Collins came back, it could have 7 been reported by any employee or officer to the board 8 of directors, couldn't it? 9 A. It could have been. 10 Q. But it wasn't, was it? It was Mr. Walker, 11 you know, was aware of the terms of Ms. Collins' 12 arrangement, wasn't he? 13 A. I don't know. 14 Q. Did you ever investigate that? 15 A. I didn't do the investigation, and I don't 16 remember -- I don't remember what it said about that. 17 Q. Okay. 18 A. But it's in the investigation notes. 19 MR. TOBEY: Are you near a breaking 20 point? 21 MR. KRYDER: Sure. We can take a break. 22 THE VIDEOGRAPHER: We're off the video 23 record at 11:51. 24 (Lunch 11:51-1:01.) 25 (Media 2.)	1 Sherri Collins would return to work at NCPA under the 2 direct supervision of John Goodman, thereby having an 3 increased risk that she could be harassed again? 4 A. John -- what's his name, Elsey? 5 Q. Chuck Elsey. 6 A. He didn't represent the employer. 7 Q. I understand. So your -- your paragraph 7 8 applies to an attorney advising the employer. I'm 9 trying to look at the same standard as it applies to 10 an attorney representing the employee. 11 A. Uh-huh. 12 Q. So did Chuck Elsey breach the standard of 13 care by drafting the agreements under which Sherri 14 Collins would return to work at NCPA under the direct 15 supervision of John Goodman? 16 A. I haven't really thought about that. I'd 17 have to think about that some more -- 18 Q. Okay. So you -- 19 A. -- but -- I haven't -- I haven't thought 20 about that. 21 Q. Okay. So you don't have an opinion whether 22 an attorney advising the employee breaches the 23 standard of care by drafting agreements under which 24 Sherri Collins would return to work at NCPA under the 25 supervision of John Goodman, correct?

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1 THE VIDEOGRAPHER: We're back on the 2 video record at 1:01, beginning tape number 2. 3 Q. (By Mr. Kryder) I wanted to focus just a 4 couple more questions on your affidavit, paragraph 7. 5 So what I'm trying to understand is, 6 an attorney who is advising the employer, any time 7 that lawyer recommends an arrangement that places a 8 female lawyer back under the direct supervision of the 9 alleged harasser would breach the standard of care 10 because it might increase the risk of another claim by 11 that employee is that -- 12 A. I think the language I used in paragraph 7 13 best describes what my opinion is. 14 Q. Okay. But it's absolute, any arrangement 15 that includes placing the employee back under the 16 direct supervision of the harasser engenders an 17 increased risk of another claim by that employee and 18 breaches the applicable standard of care for a Texas 19 attorney advising the employer? 20 A. Right. 21 Q. That's what you're saying? 22 A. Risks another claim by that employee against 23 the same employer which the employee would return to 24 work under the supervision of his client, the alleged 25 harasser?	1 A. Sitting here today, I have not formed an 2 opinion on that, but I would say probably not 3 necessarily. 4 Q. Okay. Now, if -- looking at your opinions, 5 would an attorney advising the alleged harasser breach 6 the standard of care by drafting agreements under 7 which Sherri Collins would return to work at NCPA 8 under the supervision of John Goodman? 9 A. Say that again. 10 Q. Sure. Would an attorney advising the alleged 11 harasser breach the standard of care by drafting 12 agreements under which his client would return to work 13 under the supervision of her harasser? 14 A. I thought you said it was an attorney for the 15 harasser. 16 Q. Yes. Okay. Let's back up. 17 A. That the harasser would return to work? 18 Q. No. You understand that -- we'll call it the 19 employee and the alleged harasser, okay? 20 A. Okay. 21 Q. If an attorney for the alleged harasser, does 22 he breach the standard of care by drafting an 23 agreement under which the employee would return to 24 work under the supervision of his client, the alleged 25 harasser?

114	<p>1 A. Well, the harasser has no individual liability.</p> <p>2 Q. Okay. So an attorney representing the harasser would not breach the standard of care by drafting agreements under which the employee would return to work under the supervision of the alleged harasser?</p> <p>3 A. I haven't formed an opinion about that. I would have to think about it. But again, there's no risk of a lawsuit under Title VII against the harasser.</p> <p>4 Q. Okay. Okay. So an attorney advising the alleged harasser is not putting his client at risk of a lawsuit by having an arrangement where the alleged harasser continues to supervise the complaining employee?</p> <p>5 A. By the complaining employee?</p> <p>6 Q. Right.</p> <p>7 A. Right. Not under Title VII, no.</p> <p>8 Q. Okay. What is it exactly you contend Dan Dargene should have done differently in 2012?</p> <p>9 A. Well, one, advise against entering into these agreements; and, two, making sure that the board knew about the -- knew about the agreements.</p> <p>10 Q. Okay. Now, you just had previously said that</p>	116	<p>1 Q. All right. You said the second part is the criticism of Dan Dargene in 2012 is to, you said, make sure the board knew about the Employment and Settlement Agreement, correct?</p> <p>2 A. Right.</p> <p>3 Q. Mr. Dargene did not have an engagement letter with the NCPA board of directors, did he? He didn't have an engagement letter with the NCPA board of directors?</p> <p>4 A. Are you telling me that or --</p> <p>5 Q. I'm asking you. Have you seen anything in 12 which --</p> <p>6 A. I don't know.</p> <p>7 Q. All right. And you don't know whether you have an engagement with the NCPA board of directors because you haven't seen your engagement letter, right?</p> <p>8 A. I testified earlier that I do have an engagement letter with the NCPA.</p> <p>9 Q. Okay. But you don't know whether you represented the individual members of the board of directors of NCPA?</p> <p>10 A. I represented the NCPA.</p> <p>11 Q. Okay. And you did not represent the individual officers, directors or employees of the</p>
115	<p>1 a lawyer representing the alleged harasser, so in this case, Dan Dargene representing the alleged harasser John Goodman is not breaching the standard of care because there's no risk of a lawsuit against John Goodman, correct?</p> <p>2 A. I didn't say that.</p> <p>3 Q. And you weren't in a position to express an opinion whether an attorney representing the alleged harasser breaches the standard of care by drafting agreements so that the employee would return to work under the supervision of his client, the alleged harasser, right?</p> <p>4 A. I did not form an opinion.</p> <p>5 Q. Okay. And if -- if, as Mr. Dargene and Mr. Goodman apparently claim, Mr. Dargene represented only Mr. Goodman and not NCPA, there would be no breach of the standard of care for Mr. Dargene advising Mr. Goodman to enter into the Employment and Settlement Agreements with Sherri Collins in 2012, correct?</p> <p>6 A. I haven't --</p> <p>7 MR. TOBEY: Objection, form.</p> <p>8 A. -- formed an opinion about that there are --</p> <p>9 Q. (By Mr. Kryder) All right.</p> <p>10 A. -- other issues to consider.</p>	117	<p>1 NCPA?</p> <p>2 A. In what regard?</p> <p>3 Q. In regard to any of the matters at issue 4 involving Sherri Collins and John Goodman.</p> <p>5 A. I -- well, you asked me about Jerry Mills, 6 and I believe I did represent Jerry Mills. I was 7 trying to remember who had an attorney and -- because 8 there was at least one board member that had his own 9 attorney attend things, and I couldn't remember if 10 Jerry did or not.</p> <p>11 Q. So if someone had an attorney at the board 12 meeting, you did not represent that individual; 13 otherwise, you represented all of the employees or 14 directors who --</p> <p>15 A. No, that's not what I said.</p> <p>16 Q. Okay. Well --</p> <p>17 A. I'm talking specifically in regard to the 18 Settlement Agreement that Mr. Mills was a party 19 with Mr. Goodman.</p> <p>20 Q. Okay. And you don't think Mr. Mills had a -- 21 had a separate attorney in reaching the Settlement 22 Agreement?</p> <p>23 A. That's what I can't remember.</p> <p>24 Q. Okay. Anyway, so in terms of the Employment 25 Agreement and Settlement Agreement, Richard Walker,</p>

122	<p>1 into an Employment Agreement and Settlement Agreement with Sherri Collins? You just don't know who -- what persons had that knowledge, right?</p> <p>2 A. At what time?</p> <p>3 Q. As of let's say December 2012.</p> <p>4 A. As of -- when was it entered into?</p> <p>5 Q. The -- Ms. Collins' Employment Agreement was effective as of November 1, and I believe the Settlement Agreement was effective as of approximately November the 30th, but signed in December of 2012.</p> <p>6 A. I said I did not remember with respect to Mr. Walker. I know that John Goodman knew about it. I know that Sherri Collins knew about it. I know that Chuck Eley knew about it. And I'm not sure who else knew about it at that time.</p> <p>7 Q. All right. Let me just -- you are referring to a particular email, and I think this, if I can hand that to you for just one second, that's Exhibit 25, and it is a November 29 email from John Smart at the Winstead firm to John Goodman and others, and what Mr. Smart says, Dear John, after further consultation with our general counsel, we have determined that Winstead cannot bring this matter to a conclusion today, and that we need to refer you to another attorney with expertise in this area of law.</p>	124	<p>1 A. I see that.</p> <p>2 Q. And he makes a distinction clearly between you, John Goodman individually, and the NCPA separately as an organization, right?</p> <p>3 A. I don't know that he's trying to make a distinction.</p> <p>4 Q. Certainly that's --</p> <p>5 A. I see what it says.</p> <p>6 Q. And he makes a distinction between needing to refer you to another attorney and working with you individually and the NCPA, doesn't he?</p> <p>7 A. No, he doesn't say anything about individually. He says work with you and the NCPA. I don't know if that means working with John Goodman --</p> <p>8 Q. Okay.</p> <p>9 A. -- as his position with the NCPA or</p> <p>10 individually or --</p> <p>11 Q. All right.</p> <p>12 A. It says what it says. I mean, I didn't write this.</p> <p>13 Q. Okay. And Exhibit 25 doesn't say we're withdrawing from any further representation of NCPA on any matter, does it?</p> <p>14 A. It says we need to refer you to another attorney with expertise in this area of law.</p>
123	<p>1 Do you see that statement right there?</p> <p>2 A. I do. It doesn't have the inflection that you gave it.</p> <p>3 Q. Okay. Well, we can read it in another way.</p> <p>4 A. But I set the statement.</p> <p>5 Q. But you see that it says that we cannot bring the matter to a conclusion today?</p> <p>6 A. I see it says after further consultation with our general counsel, we have determined that Winstead cannot bring this matter to a conclusion today, and that we need to refer you to another attorney with expertise in this area of law, and then there's some more after that.</p> <p>7 Q. Okay. And he does not say that I need to refer you and NCPA to another attorney.</p> <p>8 Do you agree?</p> <p>9 A. Well, I don't know if he was referring --</p> <p>10 when he said you, I don't know if he's referring to John Goodman individually or as representative of the NCPA or both.</p> <p>11 Q. Right. And you see the last sentence of Exhibit 25, Mr. Smart says, we certainly appreciate every opportunity we have to work with you and the NCPA.</p> <p>12 Do you see that?</p>	125	<p>1 Q. Okay.</p> <p>2 A. Let me -- hang on. I haven't read --</p> <p>3 Q. Sure.</p> <p>4 A. -- all of it.</p> <p>5 And he's referring him to Dan Dargene to assist with wrapping up your negotiation with Sherri Collins and her counsel. We will provide Mr. Dargene with the last term sheet you received from Mr. Eley. Okay.</p> <p>7 Q. All right. So clearly Winstead was aware of the term -- the latest term sheet that John Goodman had negotiated with Mr. Eley, right? That's what it says?</p> <p>8 A. We will provide Mr. Dargene with the last term sheet you received from Mr. Eley.</p> <p>9 Q. All right. Okay. We can move on from that.</p> <p>10 A. That's what it says.</p> <p>11 Q. If I can have that back, you won't have to worry about hanging on to that.</p> <p>12 So one of your components of your opinion is that having an individual come back to a place of employment engenders an increased risk of another claim by that employee.</p> <p>13 When is it that the risk of harm became actual with respect to Ms. Collins? She came back to</p>

118	<p>1 COO of the company, knew about the Employment Agreement and Settlement Agreement and did not bring that to the attention of the board, correct?</p> <p>2 A. I think you asked me about this this morning, and I don't remember what Richard knew or didn't know.</p> <p>3 Q. Did you make any inquiry whether Richard Walker knew about the Employment Agreement and Settlement Agreement with Sherri Collins?</p> <p>4 A. Again, I didn't conduct the investigation.</p> <p>5 That was Rick Gover.</p> <p>6 Q. Okay. Well, in rendering an opinion about Dan Dargene and what he should or should not have done, don't you think it's important to know whether someone actually was in a position to make sure the board knew about the Employment Agreement and Settlement Agreement other than Dan Dargene?</p> <p>7 A. I'm not sure I follow your question, what you're asking.</p> <p>8 Q. All right. If Rick -- if Richard Walker was in a position to tell the board of directors of the company for which he served as chief operating officer about the Employment and Settlement Agreement with Sherri Collins, wouldn't you agree that he should have done so?</p> <p>9 A. I don't know what he knew or didn't know.</p>	120	<p>1 member. I do know that he was a board member in 2014.</p> <p>2 Q. Okay. Well, assume that Mike Baggett was a member of the board of directors of NCPA in 2012, okay? Can you?</p> <p>3 A. Okay.</p> <p>4 Q. All right. And assume that Mr. -- according to the lawsuit filed by NCPA, Mr. Baggett was aware of the allegations by Sherri Collins and Mr. Goodman's entering into arrangements with her, okay?</p> <p>5 A. So assume Mike Baggett knew of Sherri Collins' complaints and --</p> <p>6 Q. Against John Goodman.</p> <p>7 A. -- and of these, the Settlement Agreement and the Employment Agreement?</p> <p>8 Q. That he was going to enter into an arrangement with Sherri Collins to settle with her and to --</p> <p>9 A. Okay.</p> <p>10 Q. -- pay her.</p> <p>11 A. Okay.</p> <p>12 Q. Don't you agree that Mr. Baggett had a duty to disclose that to NCPA?</p> <p>13 A. What kind of a duty?</p> <p>14 Q. A fiduciary duty as a lawyer, a duty, fiduciary or other duty, as a director.</p>
119	<p>1 That's a hypothetical that I don't know what those underlying facts are.</p> <p>2 Q. All right. So if -- do you understand that if someone was in a position to tell the boards the facts that you say Dan Dargene should have disclosed, that those other persons should have done so?</p> <p>3 A. I don't know. I don't know what position they were in. I don't know if they were the attorney for the organization.</p> <p>4 Q. Well, you knew that Mike Baggett was an attorney for the organization, and that he and his firm were aware not only of the Collins allegations against Mr. Goodman, but that Mr. Goodman was negotiating terms to bring Ms. Collins back?</p> <p>5 A. I'm sorry, I didn't -- that was -- can you state that again?</p> <p>6 Q. Sure. Let me break it down.</p> <p>7 A. Yeah.</p> <p>8 Q. You knew that Mike Baggett was an attorney at law?</p> <p>9 A. I know that Mike Baggett is an attorney.</p> <p>10 Q. And you knew that Mr. Baggett was a member of the board of directors of NCPA as of at least December 2012, correct?</p> <p>11 A. I don't know when he was -- became a board</p>	121	<p>1 A. I don't know about director duty. My understanding was that Mike Baggett basically said he was not going to represent the organization and 4 referred it to -- that's why he referred it to Dan Dargene.</p> <p>5 Q. Did Mr. Baggett or anyone at Winstead advise the NCPA board of directors that they felt they had a conflict in representing John Goodman and NCPA concerning Ms. Collins' allegations?</p> <p>6 A. I don't know. I know I saw an email on that, but I don't know who it was to.</p> <p>7 Q. Have you seen any document through which Winstead ever withdrew from representing NCPA in connection with any matter involving Sherri Collins or John Goodman?</p> <p>8 A. I saw an email to the effect that they were not going to represent the NCPA. They felt they had a conflict or something like that.</p> <p>9 Q. Well, they had a -- they said, we can't -- we can't bring this to a conclusion for you today.</p> <p>10 Do you recall that?</p> <p>11 A. No.</p> <p>12 Q. I'll come back to it.</p> <p>13 So you have not evaluated what other persons had information that John Goodman had entered</p>

126	<p>1 work in 2012, but didn't make claims until 2014?</p> <p>2 A. Okay. There's a lot in that question.</p> <p>3 Q. Sure.</p> <p>4 A. So I've got to start with clarifying that that's not what my opinion says. You said any time someone comes back to work. That's not what this says.</p> <p>5 Q. Okay. Any arrangement that includes placing that employee back under the direct supervision of her harasser necessarily engenders an increased risk of another claim by that employee against the same employer?</p> <p>6 A. Right.</p> <p>7 Q. Okay. So when, with respect to Ms. Collins, did the increased risk become an actual purported harm?</p> <p>8 A. What do you mean by an actual purported harm?</p> <p>9 Q. Well, Ms. Collins came back to work in 2012 and did not raise any new harassment allegations until 2014, correct?</p> <p>10 A. I don't think that's true.</p> <p>11 Q. Well, when did Ms. Collins raise her allegations that you were hired to defend against?</p> <p>12 A. That I was hired to defend against?</p> <p>13 Q. Yes.</p>	128	<p>1 might make a claim, she didn't actually make one until 2014, right?</p> <p>2 MR. TOBEY: Objection, form.</p> <p>3 A. She did not hire an attorney to make a claim until 2014, as far as I know.</p> <p>4 Q. (By Mr. Kryder) Okay. So the risk that she might pursue a claim did not ripen into an actual claim until 2014, correct?</p> <p>5 A. No.</p> <p>6 Q. And so you can't identify any harm, alleged harm or actual harm, that took place until Ms. Collins made her new harassment allegations in 2014?</p> <p>7 A. I didn't follow that question.</p> <p>8 Q. You cannot identify any actual harm caused by Ms. Collins until she raised her new harassment allegations in 2014?</p> <p>9 A. I disagree with that.</p> <p>10 Q. Okay. What -- what alleged harm by Ms. Collins took place prior to the new harassment allegations in 2014?</p> <p>11 A. I thought you said risk of harm.</p> <p>12 Q. No. Actual harm.</p> <p>13 A. Okay.</p> <p>14 Q. Let's just back up. You say that --</p> <p>15 A. Well, what are you identifying as the harm?</p>
127	<p>1 A. That was -- that was in 2014.</p> <p>2 Q. Okay.</p> <p>3 A. Yeah.</p> <p>4 Q. So --</p> <p>5 A. I mean, when she raised them through her lawyer is what I'm -- that's what you're getting at, right?</p> <p>6 Q. Right.</p> <p>7 A. Okay. Yeah, she didn't raise her claims through a lawyer until 2014.</p> <p>8 Q. So between 2012 and when Chuck Eley raised -- as Ms. Collins' attorney raised harassment allegations there -- there had been no complaint by Sherri Collins, correct?</p> <p>9 A. I don't think that's correct.</p> <p>10 Q. Okay. Well, the first time that Ms. Collins threatened any kind of arbitration or suit was in 2014 through her lawyer Mr. Eley, correct?</p> <p>11 A. Where she threatened to sue?</p> <p>12 Q. Or institute arbitration.</p> <p>13 A. As far as I know.</p> <p>14 Q. Okay. So are you saying that, you know, your opinion talks about an increased risk of harm of a claim by another employee? I'm just trying to find out, even if it increased the risk that Ms. Collins</p>	129	<p>1 Q. I'm asking you what the harm is.</p> <p>2 A. Because there -- there's all kinds of harm going on here, prior to her hiring a lawyer to assert a claim.</p> <p>3 Q. You said the harm was entering into the Settlement Agreement and Employment Agreement as of 7 November and December 2012 previously, right?</p> <p>4 A. I don't think I said that was the harm. I think I said that was the --</p> <p>5 Q. The event?</p> <p>6 A. -- the event, yeah.</p> <p>7 Q. Okay. So the harm that you identified previously was a renewed claim by Sherri Collins, and secondly, claims by other employees about hostile work environment and -- and disparate treatment; is that correct?</p> <p>8 A. Well, I said that the harm that was foreseeable would include a claim by her, a claim by other employees, loss of donors.</p> <p>9 Q. Okay.</p> <p>10 A. I think also probably a potential issue with John Goodman.</p> <p>11 Q. Okay. So when did Sherri Collins' harm become actual?</p> <p>12 A. When did Sherri Collins sue?</p>

130	<p>1 Q. Yeah.</p> <p>2 A. In --</p> <p>3 Q. Or make a claim. Isn't that when she -- her risk of harm became actual harm under your testimony?</p> <p>4 A. No. I think the risk of harm is when -- you asked me earlier when did the claim accrue. I think as soon as the -- well, I think the risk was inherent in the agreements with the terms of the agreements, and then soon after she resumed work at the NCPA, the cause of action began to accrue.</p> <p>11 Q. But when did the cause of action actually accrue with respect to Ms. Collins?</p> <p>13 A. Soon after she started back to work.</p> <p>14 Q. So sometime in 2012?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So if she had raised a claim, were there issues that you could raise about the timeliness of her instituting any kind of claim because she had sat on it from 2012 to 2014?</p> <p>20 A. Her sexual harassment claim?</p> <p>21 Q. Yes.</p> <p>22 A. Could we have raised timeliness issues in 2014?</p> <p>24 A. I don't remember, but that -- you'd have to ask him.</p>	132
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131	<p>1 with a hostile work environment, so, no.</p> <p>2 And then a lot of the events that she relied on occurred within the limitations period.</p> <p>3 Q. All right.</p> <p>4 A. So I don't think that would have been a successful argument.</p> <p>7 Q. All right. Did you ever give any advice recommending a claim against Dan Dargene or the Ogletree firm?</p> <p>10 A. No.</p> <p>11 Q. Did you ever give any evaluation or advice in terms of potential claims against Mike Baggett and Winstead?</p> <p>13 A. I don't -- I don't think so.</p> <p>15 Q. Do you know if NCPA retained any counsel prior to -- prior to Mr. Tobey's firm, to evaluate and advise the board whether they should bring a claim against Winstead or Mr. Baggett?</p> <p>19 A. I believe they consulted with Steve Kennedy.</p> <p>20 Q. And were you also present when Mr. Collier at Thompson & Knight advised the board about potential claims?</p> <p>23 A. Was I also present?</p> <p>24 Q. Were you present?</p> <p>25 A. Was I present when?</p>	133
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138	<p>1 left NCPA, right?</p> <p>2 A. He did leave NCPA, and I don't know what the circumstances were for his leaving NCPA.</p> <p>3 Q. Okay.</p> <p>4 A. He was originally brought on as an interim CEO to begin with, so I don't know what happened there.</p> <p>7 Q. All right. Turning to the allegations of Sherri Collins, you concluded that Ms. Collins' claims of sexual harassment were suspect, didn't you?</p> <p>11 A. I don't think so.</p> <p>12 Q. All right. Well, let's turn to your mediation paper, which is Exhibit 66.</p> <p>14 A. Okay.</p> <p>15 Q. And if you, please, could turn to page 4, the bottom paragraph of your mediation statement about Sherri Collins' claims, and about four lines down you say, Ms. Collins' claims of sexual harassment are also suspect. If she felt harassed and even physically attacked, why would she agree to return to continue to work for Goodman. She never complained to any of the board members about his treatment of her, even though she admits that she could have easily talked to the chairman of the board without fear of reprisal. She did complain to the COO of the company of harassment,</p>	140
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139	<p>1 but not sexual harassment.</p> <p>2 Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. So you concluded that Sherri Collins' claims of sexual harassment were suspect, didn't you?</p> <p>6 A. I argued that they were suspect.</p> <p>7 Q. Okay.</p> <p>8 A. As an advocate for my client in a mediation statement.</p> <p>10 Q. Okay. Well, are you saying that you made a misleading statement in this mediation to Cecilia Morgan, the mediator?</p> <p>13 A. No.</p> <p>14 Q. Okay. You would have been in a position to argue, in an arbitration or a court, that Sherri Collins' claims of sexual harassment were suspect, correct?</p> <p>18 A. I would have what?</p> <p>19 Q. You would have been in a position to defend NCPA in an arbitration or other proceeding by urging that Ms. Collins' claims of sexual harassment were suspect, right?</p> <p>22 A. I would have argued that.</p> <p>24 Q. Okay.</p> <p>25 A. That doesn't make it so.</p>	141
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134	<p>1 any training for employees as of 2014 about not harassing people in the workplace?</p> <p>3 A. I don't remember. I don't remember if they had had training prior to 2014. I know that they did after.</p> <p>6 Q. Right. And the reason, if -- if there had been training in place, don't you agree Dennis McCuiston would not have been in a position to harass three women at NCPA in 2014?</p> <p>10 MR. TOBEY: Objection, form.</p> <p>11 Q. (By Mr. Kryder) Do you agree that if there had been policies and training in place, Dennis McCuiston would not have been in a position to harass three people at NCPA in 2014?</p> <p>15 MR. TOBEY: Objection, form.</p> <p>16 A. Okay. So I have to take that question in parts because there were training -- there was training and policies in place.</p> <p>19 And your question has a conclusion assumption that I don't agree with.</p> <p>21 Q. (By Mr. Kryder) There were allegations by three women employees that Mr. McCuiston had sexually harassed them, correct?</p> <p>24 A. There were allegations that Mr. McCuiston made some inappropriate comments. I don't remember</p>	136
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135	<p>1 how many employees, and I don't remember if the term sexual harassment was used.</p> <p>3 Q. And as a result, do you recall that there was antiharassment training and remedial action put into place after Mr. McCuiston had these allegations against him?</p> <p>7 A. I don't remember the timing of it, but I know that there was training.</p> <p>9 Q. Do you accept any responsibility for not recommending that policies and training be put into place so that Mr. McCuiston could not make those -- harass employees?</p> <p>13 MR. TOBEY: Objection, form.</p> <p>14 A. Say that again.</p> <p>15 Q. (By Mr. Kryder) Sure. Do you accept any responsibility for not advising NCPA to put into place training that would have prevented Mr. McCuiston from making inappropriate or harassing comments to female employees?</p> <p>20 A. Your question assumes facts that are not true.</p> <p>22 Q. And the facts are that wasn't in the scope of your engagement?</p> <p>24 A. No.</p> <p>25 Q. What are the facts that are untrue?</p>	137
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142	<p>1 the insurance company.</p> <p>2 Q. (By Mr. Kryder) All right.</p> <p>3 A. I don't think they paid it directly.</p> <p>4 Q. All right. If the board of directors had settled with Sherri Collins in 2012 instead of John Goodman negotiating her settlement, is there any way for you to know whether the board would have ended up paying the same amount of money, approximately \$104,000?</p> <p>10 A. Well, she took it in 2014. I bet -- it seems like she would have taken less in 2012, but --</p> <p>12 Q. Okay.</p> <p>13 A. -- I don't know that.</p> <p>14 Q. All right. Was there any evaluation made by you whether NCPA could have prevailed if Collins had gone to arbitration or trial?</p> <p>17 A. I'm sorry, say that again.</p> <p>18 Q. Sure. Did you evaluate whether NCPA would have prevailed if it had taken Collins to arbitration or trial when she brought her allegations?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And what was your conclusion?</p> <p>23 A. It was not likely.</p> <p>24 Q. Okay. And so the settlement of \$104,000 in 2014 was a reasonable settlement, in your view?</p>	144
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143	<p>1 A. Yes.</p> <p>2 Q. Okay. Did you evaluate whether Ms. Collins' extensive criminal record made her an unattractive plaintiff in any claim against NCPA?</p> <p>5 A. I don't know that it was extensive. We looked at -- I think she had some misdemeanors. I don't remember exactly. I know that there was some discussion about whether those would even actually come in as evidence, but I -- I don't think that they would have made much, if any, of an impact, given the causation standard in the lawsuit that she had against NCPA.</p> <p>13 (Exhibit No. 74 marked.)</p> <p>14 Q. (By Mr. Kryder) Well, let me show you what's been marked for identification as Exhibit 74, which are materials from your file. Do these appear to be the criminal complaints or records involving Sherri Collins that you were aware of?</p> <p>19 A. I remember the one on the first page. Was that after she was terminated?</p> <p>20 Q. This -- she apparently left sometime before June of 2014, so this --</p> <p>22 A. Okay.</p> <p>23 Q. -- this was following the time she left, as I understand it.</p>	145
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146	<p>1 A. Okay.</p> <p>2 Q. And do you see that Mr. Walker indicates that</p> <p>3 the executive committee of the board of directors</p> <p>4 today placed Dr. Goodman on indefinite administrative</p> <p>5 leave?</p> <p>6 A. I see that.</p> <p>7 Q. Do you know why Mr. Goodman was placed on</p> <p>8 administrative leave?</p> <p>9 A. I think it was pending the investigation.</p> <p>10 Q. All right. And does it appear, at least as</p> <p>11 of May 13, 2014, that Mr. Goodman is still</p> <p>12 unrepresented? In other words, Mr. Gover is not</p> <p>13 communicating with any counsel representing</p> <p>14 Dr. Goodman?</p> <p>15 A. I don't know, but Mr. Gover was acting as an</p> <p>16 investigator.</p> <p>17 Q. Okay. Well, Mr. Goodman -- Gover also was a</p> <p>18 lawyer, and if -- he would not be communicating with</p> <p>19 someone who was represented by counsel if Mr. Goodman</p> <p>20 had a lawyer, though, right?</p> <p>21 A. Not necessarily. He was a current employee</p> <p>22 and the company was conducting an investigation, and</p> <p>23 he had a duty as an employee to cooperate in the</p> <p>24 investigation, but I don't know who Mr. Gover was</p> <p>25 communicating with.</p>	148
147	<p>1 Q. All right. You continued to communicate with</p> <p>2 John Goodman until he -- directly until he retained</p> <p>3 the Gillespie firm, correct?</p> <p>4 A. I had some communication with John Goodman,</p> <p>5 but it was -- I don't -- I think -- my recollection is</p> <p>6 it was very little.</p> <p>7 Q. Okay.</p> <p>8 A. It was mainly him reaching out to me.</p> <p>9 (Exhibit No. 76 marked.)</p> <p>10 Q. (By Mr. Kryder) Okay. Let me show you</p> <p>11 what's been marked for identification as Exhibit 76.</p> <p>12 I ask if you recognize that as a true and correct copy</p> <p>13 of an email from Marcus Brown at Winstead to you dated</p> <p>14 May 14, 2014?</p> <p>15 A. Yeah. It's an email from me to him, and then</p> <p>16 he responded to it.</p> <p>17 Q. Did you end up getting the binder from Mr. --</p> <p>18 Mr. Brown that related to Winstead's investigation</p> <p>19 report on Sherri Collins?</p> <p>20 A. I got a binder that was -- he said was their</p> <p>21 investigation report.</p> <p>22 Q. Okay. And I don't believe that was in the</p> <p>23 file that was provided to us. Do you know what</p> <p>24 happened to the pretty thick binder?</p> <p>25 A. Well, a lot of the information is in</p>	149

154	<p>1 Q. All right. Let me show you what was</p> <p>2 previously marked for identification as Exhibit 32,</p> <p>3 and ask if you have seen this June 10, 2014 email from</p> <p>4 Jerry Mills to the board of -- various people on the</p> <p>5 board of directors, and you're also one of the persons</p> <p>6 who was given a copy?</p> <p>7 MR. TOBEY: This is one where you've</p> <p>8 supplied the highlighting?</p> <p>9 MR. KRYDER: Yes, that's right.</p> <p>10 A. Okay.</p> <p>11 Q. (By Mr. Kryder) Do you see that in</p> <p>12 Mr. Mills' email to you and to members of the board of</p> <p>13 directors and others, that he's reporting on his --</p> <p>14 the meeting at which he fired John Goodman?</p> <p>15 A. That's part of it.</p> <p>16 Q. Right. He said, I had a meeting with John</p> <p>17 Goodman Sunday morning to inform him of the board's</p> <p>18 decision to fire him as president and CEO. He says,</p> <p>19 present at that meeting were Goodman, Tonya</p> <p>20 Featherstone and Chris McGregor, IT director. The</p> <p>21 meeting was recorded.</p> <p>22 Have you listened to the tape recording</p> <p>23 of Mr. Mills firing John Goodman?</p> <p>24 A. I don't think so.</p> <p>25 Q. Do you know where the tape recording of Jerry</p>	156
155	<p>1 Mills firing John Goodman is located?</p> <p>2 A. I have no idea.</p> <p>3 Q. Did you send any document preservation notice</p> <p>4 to Jerry Mills to maintain this tape recording after</p> <p>5 you received Exhibit 32 and knew its existence?</p> <p>6 A. Well, we had sent out a preservation notice</p> <p>7 to the NCPA, including Jerry Mills.</p> <p>8 Q. Right. But you didn't send out anything to</p> <p>9 Mr. Mills upon receiving Exhibit 32 telling him to</p> <p>10 preserve the tape recording of his firing John</p> <p>11 Goodman, did you?</p> <p>12 A. I had already sent him a letter telling him</p> <p>13 to preserve anything having anything to do with any of</p> <p>14 these issues.</p> <p>15 Q. All right. But you didn't send any</p> <p>16 supplemental document preservation notice specifically</p> <p>17 relating to the tape recording that Mr. Mills made of</p> <p>18 firing John Goodman, did you?</p> <p>19 A. There was no need to. It was already covered</p> <p>20 by the notice I had already sent.</p> <p>21 Q. All right. And so is it your practice never</p> <p>22 to send a supplemental document preservation notice</p> <p>23 when new evidence such as this tape recording come to</p> <p>24 light?</p> <p>25 A. Is it my practice?</p>	157

150	<p>1 A. I don't know that this is the email, but</p> <p>2 that's what's written on this Exhibit 78.</p> <p>3 Q. All right. Do you understand that Mr. Mills</p> <p>4 fired Mr. Goodman on Sunday, June 8, 2014, the date of</p> <p>5 Goodman's email reprinted here?</p> <p>6 A. I don't remember that.</p> <p>7 Q. Okay. Wasn't it a reasonable position for</p> <p>8 Mr. Goodman to say we should not tell anybody about</p> <p>9 this firing until we work out how to do it with the</p> <p>10 least harm to everyone?</p> <p>11 A. Was it reasonable? Is that what you asked</p> <p>12 me?</p> <p>13 Q. Right, right.</p> <p>14 A. Yeah, except he didn't do it.</p> <p>15 Q. Well, NCPA is the one that publicized its</p> <p>16 view of the reasons for firing, right?</p> <p>17 A. Not in that order.</p> <p>18 Q. Well, Mr. Goodman did not say, hey, I was</p> <p>19 terminated from NCPA for alleged misconduct or alleged</p> <p>20 breach of fiduciary duty, right?</p> <p>21 A. This Exhibit 77 refreshes my memory --</p> <p>22 Q. I think it's 78.</p> <p>23 A. No, 77.</p> <p>24 Q. Oh, 77, Okay.</p> <p>25 A. Of what was going on, that the parties agreed</p>	152
151	<p>1 that they would be professional and work everything</p> <p>2 out, but John Goodman didn't keep up his end of the</p> <p>3 agreement.</p> <p>4 Q. Well, did NCPA keep up its end of the</p> <p>5 agreement by purporting to cancel a lunch meeting in</p> <p>6 Delaware with Governor Pete du Pont?</p> <p>7 A. See, I don't think that they did. There's --</p> <p>8 there's a lot of factual allegations in this --</p> <p>9 Q. Okay.</p> <p>10 A. -- Exhibit 78 that just aren't true.</p> <p>11 Q. All right. So as a lawyer, though, lawyer to</p> <p>12 lawyer, with Joe Gillespie, don't you think it -- he</p> <p>13 says it appears NCPA has decided to take an</p> <p>14 unnecessarily aggressive stance. Mr. Goodman and I</p> <p>15 are hopeful that there will be more cooperation going</p> <p>16 forward as that will best serve both Mr. Goodman and</p> <p>17 the NCPA.</p> <p>18 Did you reach out to Mr. Gillespie and</p> <p>19 see how the parties could cooperate to do what was</p> <p>20 best for NCPA?</p> <p>21 A. Did I reach out to him?</p> <p>22 Q. Yeah. Did you respond to Mr. Gillespie and</p> <p>23 try to work with him to do everything that could be</p> <p>24 done for the best of the organization NCPA?</p> <p>25 A. Joe and I talked several times on the phone.</p>	153

158	<p>1 Q. Well, we can get into this, but I think</p> <p>2 you're going to need to give this back to Gillespie</p> <p>3 and Sanford because the rest of this file is their</p> <p>4 file, and they may have -- here's Goodman v. NCPA, and</p> <p>5 these are mediation slides and confidential materials</p> <p>6 of the Gillespie and Sanford law firm.</p> <p>7 A. Oh, they send me those all the time. Which</p> <p>8 ones are you referring to?</p> <p>9 Q. The slides in here.</p> <p>10 A. Yeah.</p> <p>11 Q. If you turn to that, these are slides from</p> <p>12 the mediation by -- prepared by Gillespie, the</p> <p>13 Gillespie firm for purposes of the mediation. They</p> <p>14 then go on, they have some jury issues that appear to</p> <p>15 be from another matter. They have their trial</p> <p>16 exposure estimate. They have a draft petition of</p> <p>17 claims by John Goodman against NCPA.</p> <p>18 A. Okay. Why don't we go through it one at a</p> <p>19 time.</p> <p>20 Q. Okay.</p> <p>21 A. But first, these first two pages here, I</p> <p>22 mean, the second and third page, do you see at the top</p> <p>23 where it says Jane Valderrama versus Nationwide</p> <p>24 Insurance Company?</p> <p>25 Q. Right.</p>	160
159	<p>1 A. Okay. That's not this case, is it?</p> <p>2 Q. It is a law -- was it a lawsuit in which your</p> <p>3 firm was opposite Hal Gillespie?</p> <p>4 A. Yes.</p> <p>5 Q. What happened here is, Ms. Carr, Exhibit 79</p> <p>6 is a document that you picked up at the mediation with</p> <p>7 Joe Gillespie or Hal Gillespie, and it is their</p> <p>8 reading file --</p> <p>9 A. No, it's not.</p> <p>10 Q. -- of John Goodman v. NCPA. It contains</p> <p>11 their slides. It contains a draft petition that is</p> <p>12 Goodman versus NCPA, and this appears to be materials</p> <p>13 that Hal or Joe Gillespie left during the mediation,</p> <p>14 and somehow you ended up with them.</p> <p>15 MR. TOBEY: Objection, form.</p> <p>16 A. No, no, no, no, no, no. This is what Hal and</p> <p>17 Joe send me all the time.</p> <p>18 If you'll notice, in this other case that</p> <p>19 I had against them, they sent this same kind of</p> <p>20 preliminary trial exposure estimate, and they attach</p> <p>21 their -- they -- their slide presentation.</p> <p>22 Q. (By Mr. Kryder) Okay.</p> <p>23 A. And so that's for me to see. That's their</p> <p>24 side of the case.</p> <p>25 Q. Okay. So you're saying that this whole --</p>	161

162	<p>1 Q. Well, you're not permitted to just tear something out of a document. We can mark it. We can</p> <p>2 A. We can preserve it, and we can deal with Mr. Gillespie at some point.</p> <p>3 A. Those don't belong here.</p> <p>4 Q. I don't know what their position is on it.</p> <p>5 MR. TOBEY: Well, if the witness is saying these do not -- these were not part of Exhibit 79 or should not be part of Exhibit 79, which was given to her by the Gillespie firm, then, you know, they've been identified for the record already as dealing with another lawsuit. We know what they are.</p> <p>6 Q. (By Mr. Kryder) Well, all right. I mean, I -- you know, I could talk about the same issue with respect to the Supreme Court decision in In re: Meador. If you want to rip something out of there, try to do that, we'll deal with that later, but this appears to be a document that includes materials that you're saying shouldn't have been in there, but --</p> <p>7 A. No.</p> <p>8 Q. -- the document Exhibit 79 says a reading file from Gillespie Sanford.</p> <p>9 A. I didn't -- I didn't put this document together. They did. They gave it to me.</p>	164	<p>1 A. They gave it -- this is what they bring to mediations.</p> <p>2 Q. All right. Anyway, I'm not --</p> <p>3 A. I've had dozens of lawsuits with them, and this is exactly what they hand to me --</p> <p>4 Q. And --</p> <p>5 A. -- every time.</p> <p>6 Q. Whatever. All right.</p> <p>7 One of the documents that's included in here is an email from Tonya Featherstone to Tony de Nicola. This is -- if you'll keep turning it, it is before the Preliminary Trial Exposure Estimate for John Goodman.</p> <p>8 Do you see that?</p> <p>9 A. Okay.</p> <p>10 Q. This is an email from Tonya Featherstone to June -- June 19, 2014, to Tony de Nicola re John Goodman's termination.</p> <p>11 Do you see that?</p> <p>12 A. I see it says T. de Nicola. I don't know --</p> <p>13 Q. Right. And then it says Tony?</p> <p>14 A. Where? Okay.</p> <p>15 Q. Right here, Tony. So T. de Nicola presumably is Tony.</p> <p>16 Do you know, does it appear that this</p>
163	<p>1 Q. And the document given to you, including the two pages that you ripped out of there, are what were in your file.</p> <p>2 A. Well, and what I'm saying is that either they included it in here erroneously or my office put it in here erroneously. I don't know. But what I know is it involves a completely different lawsuit, a completely different client of mine, and it shouldn't have anything to do with this lawsuit.</p> <p>3 Q. I understand. I just object to you ripping something out of that, and we'll deal separately --</p> <p>4 A. Well, we talked this morning about if you come into something -- into possession of something that is privileged or contains confidential information, and this contains confidential information, that you're supposed to give it back to the attorney.</p> <p>5 Q. Yes. And you were supposed to have given Exhibit 79 back --</p> <p>6 A. No.</p> <p>7 Q. -- to Joe Gillespie and Hal Gillespie --</p> <p>8 A. No.</p> <p>9 Q. -- more than two years ago.</p> <p>10 A. No. They gave it to me.</p> <p>11 Q. All right.</p>	165	<p>1 email from Tonya Featherstone was actually sent to Mr. de Nicola?</p> <p>2 A. Does it appear that it was sent?</p> <p>3 Q. Yes.</p> <p>4 A. I don't know.</p> <p>5 Q. All right. And if this email is not among the records of NCPA, you don't have any explanation for that, do you?</p> <p>6 A. If it's not a --</p> <p>7 Q. If that email is not contained in NCPA's records anymore, you -- you have no understanding of it why that would be so?</p> <p>8 A. T. -- I don't have any knowledge of this email.</p> <p>9 Q. Okay. Let me show you what was marked for identification as Exhibit 18 in the previous deposition and ask if you recall receiving an email from Dennis McCuiston on June 25, 2014 about Rick Gover destroying his notes?</p> <p>10 A. What's the question?</p> <p>11 Q. Do you recall that Rick Gover destroyed his notes?</p> <p>12 A. Do you want me to tell you what I told you this morning again?</p> <p>13 Q. You said that he -- he replaced handwritten</p>

170	<p>1 message points and a plan of action moving forward.</p> <p>2 Please see the attached draft of the plan which is being reviewed now by attorney Lori Carr; and she goes on to say, with approval from the attorney and board members, this language is to be used for the response to donors.</p> <p>3 Were you asked to -- if you recall, to review the talking points and action plan from a legal standpoint?</p> <p>4 I think I was asked to review this.</p> <p>5 Q. And for what purpose? I mean, was it to get your legal advice about the talking points?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Let me show you next what's been marked -- it's a follow-up email, what's been marked for identification as Exhibit 36, and ask if you recognize this as a later email on June 11, 2014 in which Ms. Daniell says attorney Lori Carr toned down and removed language she felt too inflammatory in the action plan.</p> <p>8 A. Okay.</p> <p>9 Q. Do you recall toning down and removing inflammatory action -- language from the action plan?</p> <p>10 A. Well, I remember editing it. I don't know that I characterized it as that.</p>	172	<p>1 being at NCPA in and of itself was going to upset some donors.</p> <p>2 Q. Okay.</p> <p>3 A. I don't know if it upset them or not.</p> <p>4 Q. Okay. So your -- at least you had discussed with NCPA that John Goodman leaving, just by leaving, certain donors were going to -- were going to leave or no longer contribute?</p> <p>5 A. They expressed that concern to me.</p> <p>6 Q. All right. Were you asked to review anything that was posted on NCPA's website?</p> <p>7 A. I think so. I don't remember.</p> <p>8 Q. Okay.</p> <p>9 A. And these were -- these were talking points for individual discussions, not a press release.</p> <p>10 Q. Okay. Do you understand that -- let me show you what's marked for identification as Exhibit 39, that NCPA's website, on June 13, 2014, states, quote, because this is a personnel issue, the details are and will remain confidential.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And that certainly was consistent with the talking points that you had edited and either approved or didn't -- you didn't express a disagreement with</p>
171	<p>1 Q. Okay. Do you see that on Exhibit 36 the talking points now that at least reflect your input say that because this is a personnel issue, the details are confidential? The board conducted an investigation and concluded there was factual support that warranted the dismissal of John Goodman by a unanimous vote of the board.</p> <p>2 Do you see that?</p> <p>3 A. Yeah. And there's a few more talking points, but I see --</p> <p>4 Q. Right.</p> <p>5 A. -- what you're referencing.</p> <p>6 Q. But in terms at least as -- as the first two talking points relating to Mr. Goodman, because this is a personnel issue, the details are confidential, would you agree that's a pretty neutral statement that's not going to upset any donor?</p> <p>7 A. Oh, I don't know.</p> <p>8 Q. Okay. The second point says the board conducted an investigation and concluded that there was factual support that warranted the dismissal of John Goodman by a unanimous vote of the board.</p> <p>9 Again, does that seem to be a relatively benign statement that would not upset donors?</p> <p>10 A. I don't know. We felt that John Goodman not</p>	173	<p>1 the talking points?</p> <p>2 A. That is one of the talking points.</p> <p>3 Q. Okay. Let me show you next what is marked for identification as Exhibit 40, a later version of the NCPA website on June the 13th.</p> <p>4 This says that the board of directors of the National Center for Policy Analysis terminated former NCPA president and CEO John Goodman after an extensive investigation that found sexual misconduct and breach of fiduciary duty that warranted Goodman's dismissal.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And did you approve NCPA posting on their website the text of Exhibit 40?</p> <p>8 A. Did I approve it?</p> <p>9 Q. Yes.</p> <p>10 A. I saw it.</p> <p>11 Q. Did you advise NCPA against posting Exhibit 40 on their website?</p> <p>12 A. I didn't tell them not to.</p> <p>13 Q. Okay.</p> <p>14 A. But, again, this was after -- this is what we discussed this morning, that after the press releases of John Goodman, that the NCPA felt that they needed a</p>

166	<p>1 notes with typed notes, I believe?</p> <p>2 A. Right.</p> <p>3 Q. All right. Did Mr. Gover destroy his typewritten notes?</p> <p>4 A. No.</p> <p>5 Q. Do you have copies of all of Mr. Gover's typewritten notes?</p> <p>6 A. I believe I do.</p> <p>7 (Exhibit No. 80 marked.)</p> <p>8 Q. (By Mr. Kryder) Let me show you what's marked for identification as Exhibit 80 and ask if this is the document preservation directive that you referred to earlier in your testimony?</p> <p>9 A. It looks like the document preservation letter that we sent.</p> <p>10 Q. Did you have any follow-up to Mr. Walker in terms of instructions on the persons to whom Exhibit 80 should be disseminated?</p> <p>11 A. Well, it says in Attachment A who it should be disseminated to.</p> <p>12 Q. Okay. And the Exhibit 80 was only asking Mr. Walker, on behalf of the company, to retain documents relating to claims by Donna Nash Williams, that any claims involving John Goodman, correct?</p> <p>13 A. No, not correct.</p>	168	<p>1 litigation hold. That's really the only part of the letter that I intend to focus on, but of course you're welcome to look at it as much as you wish.</p> <p>2 A. Okay.</p> <p>3 Q. Do you see that at the bottom of page 2 of Exhibit 38, Mr. Gillespie is requesting there be a litigation hold on a whole series of documents, categories 1 through 5?</p> <p>4 A. Yes.</p> <p>5 Q. Do you see that?</p> <p>6 Did you forward Exhibit 38 to NCPA and ask them to have a litigation hold with respect to the materials Mr. Gillespie identified in Exhibit 38?</p> <p>7 A. I did forward this to the NCPA.</p> <p>8 Q. Was that done by email?</p> <p>9 A. I don't remember.</p> <p>10 Q. So we should expect to find a copy of Exhibit 38 in NCPA's files?</p> <p>11 A. I sent it to them.</p> <p>12 (Exhibit No. 81 marked.)</p> <p>13 Q. (By Mr. Kryder) Let me show you next what's been marked for identification as Exhibit 81 and ask if this appears to be another letter from Mr. Gillespie to you requesting the preservation of documents relating to Mr. Goodman?</p>
167	<p>1 Q. All right. You mentioned John Goodman, travel by John Goodman and Sherri Collins. Is there any other directive here in Exhibit 80 asking to hold all emails, documents, other materials concerning John Goodman in any respect?</p> <p>2 A. Yeah. The employment of Sherri Collins, all communications related to NCPA business, to, from or related to -- including emails, text messages, voicemails, et cetera, to, from or related to Sherri Collins, Donna Nash Williams, John Goodman and/or any member of the board of directors during the relevant time period, and the negotiation and finalization of any contracts related to Sherri Collins.</p> <p>3 Q. And did you follow up whether personnel at NCPA adhered to your directives?</p> <p>4 A. We worked with the IT person and -- to make sure that they had the capability to -- to comply with this.</p> <p>5 Q. All right. Let me show you next what's marked for identification as Exhibit 38, and ask if you recognize this as a letter from Joe Gillespie to you dated June 12, 2014, and the -- while you're looking at it, I'll tell you that the main thing I just want to ask you about is going to be on the second page, where Mr. Gillespie's asking you for a</p>	169	<p>1 A. Okay.</p> <p>2 Q. Was Exhibit 81 forwarded to anyone at NCPA?</p> <p>3 A. I believe so.</p> <p>4 Q. So we should expect to see Exhibit 81 in NCPA's records?</p> <p>5 A. I believe I forwarded it.</p> <p>6 MR. KRYDER: We've been going for another chunk of time, so why don't we go ahead and go off the record and take a break.</p> <p>7 THE VIDEOGRAPHER: We're off the video record at 2:26.</p> <p>8 (Recess 2:26-2:45.)</p> <p>9 (Media 3.)</p> <p>10 THE VIDEOGRAPHER: We're back on the video record at 2:45, beginning tape number 3.</p> <p>11 Q. (By Mr. Kryder) Ms. Carr, let me show you what's been marked previously for identification as Exhibit 35, and ask if you recognize this as an email from Catherine Daniell at NCPA dated June 11, 2014 to you and various others with an attached plan of action and talking points?</p> <p>12 A. Okay.</p> <p>13 Q. All right. Just for a couple of points here, Ms. Daniell says, we met all morning with Spaeth Communications' crisis communications team to work out</p>

174	<p>1 stronger message, and we had the -- he was diverting funds and all of that good stuff.</p> <p>2 Q. So the board thought a stronger message would retaliate against Goodman for whatever press he had put out?</p> <p>3 A. No. It was more that they -- it wasn't retaliation at all. It was that Goodman was trying to divert donors, and in doing so, was saving things about the NCPA and its directors that were untrue, and if left -- if just left to that, with no response, then it was more likely that those donors would leave than coming out with a stronger response of the true reasons for the termination so that the donors could be fully aware and make the decision on their own.</p> <p>4 Q. What were the allegedly untrue statements that John Goodman was saying about NCPA or about the reasons for his dismissal?</p> <p>5 A. Can you give me a copy of his press releases, and I can show you? He said that board members were threatening to sue other board members; that the board was incompetent; that there -- alluded to unethical things, I believe.</p> <p>6 Q. We're looking for that. I apologize.</p> <p>7 Let me -- one of the contemporaneous -- let me show you, it's the first page of Exhibit 37.</p>	176	<p>1 A. Okay. That's not contemporaneous. That's the day before.</p> <p>2 Q. Okay.</p> <p>3 A. Okay.</p> <p>4 Q. So the day before, John Goodman and Governor Pete du Pont have Exhibit 37, which is a positive statement thanking the outstanding NCPA staff and not making any disparaging statement whatsoever.</p> <p>5 MR. TOBEY: Objection, form.</p> <p>6 Q. Okay. Are you talking about the first page of Exhibit 37?</p> <p>7 Q. (By Mr. Kryder) Yes.</p> <p>8 A. Okay. First of all, it's untrue that Pete du Pont departed from the NCPA. John Goodman made that up.</p> <p>9 Q. Okay. So Governor du Pont is still at the NCPA after -- as of June the 12th, 2014?</p> <p>10 A. I can't remember what his title was. It might have been like chairman emeritus or something like that, but don't hold me to that.</p> <p>11 But Governor du Pont did not do anything to disassociate himself from the NCPA. John Goodman said that he did to make -- well, for obvious reasons. That was not true.</p> <p>12 Q. Okay. So you're saying that -- that</p>
175	<p>1 The contemporaneous press release involving Mr. Goodman and Pierre du Pont is Exhibit 37, and on June the 12th, 2014 Mr. Goodman says at the bottom, it has been an honor -- I'm sorry, Goodman says, I want to thank the outstanding NCPA staff for their hard work and dedication and wish them the best of luck in the future. I look forward to the exciting opportunities ahead.</p> <p>2 Governor du Pont says it has been an honor to work with John and build NCPA into a nationally recognized public policy leader. While it is unfortunate that our time at NCPA ended in a disagreement with the organization's board, we look forward to the future and what it holds.</p> <p>3 You can look at this more, but isn't this a fairly benign and positive statement from Governor du Pont and John Goodman about leaving?</p> <p>4 A. Okay, first of all, you started your question with some comment about something being contemporaneous. What -- what are you saying is contemporaneous?</p> <p>5 Q. This is June the 12th, 2014. This is the day before NCPA posts on its web a statement that John Goodman was terminated for sexual misconduct and breach of fiduciary duty.</p>	177	<p>1 Exhibit 37 is something -- a statement put out by John Goodman with no approval from Governor du Pont?</p> <p>2 A. If we're talking about the first page?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And how do you know that? Did you talk to Governor du Pont?</p> <p>6 A. I talked to Governor du Pont's attorney.</p> <p>7 Q. All right. Apart from, then, your position that Governor du Pont didn't approve it, there's nothing in Exhibit 37 that's -- that's disparaging about NCPA, is there?</p> <p>8 A. We're just talking about the first page --</p> <p>9 Q. Right.</p> <p>10 A. -- of Exhibit 37?</p> <p>11 Q. Right.</p> <p>12 A. Well, there are things in here that are not true and misleading, I would say.</p> <p>13 Q. Okay. What -- what's untrue and misleading?</p> <p>14 A. Well, as I said, Governor du Pont did not do with John Goodman. Governor du Pont did not make this quote because according to Governor du Pont's attorney, he did not give the quote. He did not -- he wasn't capable from a health standpoint. And so saying that Governor du Pont and I are leaving is</p>

178	180
1 untrue.	1 when Goodman was fired, if you know?
2 And, also, I think it's misleading for --	2 A. There were some board members who quit, and I
3 that John Goodman took credit for everything that the	3 don't remember if it was before or after, but around
4 organization had done.	4 that time period.
5 Q. Okay. All right. Let's move on to the next	5 Q. Okay.
6 one. If I can with have that back and put in my	6 A. Yeah.
7 binder.	7 Q. All right.
8 A. Do you want to talk about the second page of	8 (Exhibit No. 82 marked.)
9 Exhibit 37?	9 Q. (By Mr. Kryder) Let me show you next what's
10 Q. That's the -- that's the next day. We'll get	10 been marked for identification as Exhibit 82, and ask
11 to that.	11 if you recognize this as a true and correct copy of an
12 A. No, it's the same day.	12 email from Merrie Spaeth to you and others dated June
13 Q. Yeah, I understand.	13 the 13th, 2014?
14 A. It's June 12th.	14 A. Okay.
15 Q. And this is talking about Jim Landers, and	15 Q. So do you see that Merrie Spaeth, on the
16 I'm going to -- I'll come back to that.	16 bottom email on Exhibit 82 says, I recommend that
17 A. The second page of Exhibit 37 is where John	17 Caytie or Lori call Jim Landers and advise him of the
18 Goodman ratcheted up and said disparaging things about	18 inaccuracies in the story.
19 the NCPA.	19 Did you call Jim Landers or communicate
20 But do you want this back?	20 with him about alleged inaccuracies in the story in
21 Q. Yeah.	21 The Dallas Morning News?
22 A. Don't want to talk about it, okay.	22 I don't remember. I don't remember if it was
23 Q. Did you talk directly with Jim Lander	23 me or Caytie Daniel.
24 yourself?	24 Q. So Merrie Spaeth recommends that you or
25 A. I don't -- who is Jim Lander?	25 Caytie Daniel give Jim Landers the reason for the

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1 Q. Well, he's the author of the article that you	1 directors' vote being, quote, sexual misconduct, end
2 just looked at at The Dallas Morning News. Do you	2 quote, and, quote, breach of fiduciary duty, end
3 recall it?	3 quote, right?
4 A. Can I see the article again?	4 A. She says, I recommend that Caytie or Lori
5 Q. Sure.	5 call Jim Landers and advise him of the inaccuracies in
6 A. I don't think I did. I think that wasn't	6 the story, e.g. other directors leaving, and give him
7 from -- okay. Is it two pages?	7 the reasons for the directors' vote, e.g. sexual
8 MR. TOBEY: It is.	8 misconduct and breach of fiduciary duty.
9 Q. (By Mr. Kryder) Yes.	9 Q. So did either you or Caytie Daniel call Jim
10 A. Oh, can I see the Exhibit 37 again then?	10 Landers and advise him that the reason for the
11 MR. TOBEY: That's a copy of it.	11 directors' vote to terminate Goodman was sexual
12 THE WITNESS: Is that the whole -- there	12 misconduct and breach of fiduciary duty?
13 was just one page on his exhibit.	13 A. Again, I don't -- I don't remember.
14 MR. TOBEY: He would have a second page,	14 Q. You certainly did not tell Ms. Spaeth or the
15 also.	15 others on this email that you disagreed with having
16 MR. KRYDER: You're right. Jordan, will	16 either Caytie Daniel or yourself call Jim Landers at
17 you hand me the second one so I can give it?	17 The Dallas Morning News and advise him that
18 Q. (By Mr. Kryder) So this is the entirety of	18 the reasons the directors terminated Goodman were, quote,
19 Exhibit 37 there. But that's what Mr. Tobey has.	19 sexual misconduct, end quote, and, quote, breach of
20 A. Oh, okay.	20 fiduciary duty, end quote, correct?
21 Q. But Jim Lander was the writer with the byline	21 A. I did not do what now?
22 on The Dallas Morning News piece.	22 Q. You didn't tell -- you didn't disagree with
23 A. No, I don't think I ever talked to Jim	23 Merrie Spaeth's recommendation that either you or
24 Lander. I don't think so.	24 Ms. Daniel call Jim Landers and tell him that the
25 Q. Was it true that other board members quit	25 directors fired John Goodman because of sexual

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1 Q. But there were reasons beyond -- you say in	1 donor who said now that I've read that Goodman was
2 Exhibit 42, the reasons were more reasons that went	2 terminated for sexual misconduct and breach of
3 into the decision than sexual misconduct and breach of	3 fiduciary duty. I want to give money to NCPA?
4 fiduciary duty, right?	4 A. I don't know.
5 A. Right.	5 Q. Okay.
6 Q. Okay. So you think that, again, that sending	6 A. I don't know if they did or didn't.
7 to The Dallas Morning News and donors a statement that	7 (Exhibit No. 83 marked.)
8 Goodman was terminated for reasons including sexual	8 Q. (By Mr. Kryder) Let me show you next what's
9 misconduct and breach of fiduciary duty, was going to	9 been marked for identification as Exhibit 83. I ask
10 be positive from the standpoint of donors?	10 if you recognize this as an email from Richard Walker
11 A. Okay. Are you referring to Exhibit 40?	11 to you dated June 19th, 2014?
12 Q. Yes. Is that a statement that's going to be	12 A. It looks like it.
13 positive in terms of donors wanting to give money	13 Q. Was there a discussion with Mr. Walker or
14 or --	14 Mr. Mills about why NCPA removed the ad about John
15 A. I don't know that this was sent to donors.	15 Goodman's dismissal and also removed the release from
16 Q. It was posted on the website.	16 the website completely?
17 A. It was posted on the website. And, as I	17 A. I'm sure there was.
18 said, because they were combating all of the stuff in	18 Q. So did somebody conclude that as of June the
19 that exhibit that you took back from me and didn't	19 19th, that the release and material on the website was
20 want to talk about, because Goodman had escalated and	20 causing harm to NCPA?
21 made accusations against the NCPA, they felt that to	21 A. I don't know that to be a fact.
22 save -- I mean, that a more aggressive approach was	22 Q. Okay. As of June 19th, had Goodman done
23 needed to make sure that the donors had all of the	23 anything that led you to believe that it was a good
24 information that they needed in deciding whether to	24 idea to remove the statements from the website?
25 stay with the NCPA or divert their funds to John	25 A. Had Goodman done anything to lead me to

187	189
1 Goodman.	1 believe it was a good idea to remove those statements
2 Q. And with all of the information that you	2 from the web -- website?
3 wanted these donors and the public to have, the donors	3 Q. Right.
4 didn't give the money to NCPA, regardless of whether	4 A. Like what?
5 it was diverted to Goodman, right?	5 Q. Well, you said that it was Goodman's
6 A. I know that there was a decline in donorship.	6 statements and press release that led NCPA to want to
7 Q. And that was predictable that donors would	7 step up and be more aggressive in terms of what they
8 cease to contribute or lower their contribution when	8 said about him, right?
9 you approved communications to the public that	9 A. Right.
10 included Goodman being terminated for sexual	10 Q. So was there something that Goodman did that
11 misconduct and breach of fiduciary duty? That was	11 stood down and led NCPA to be less aggressive and to
12 predictable, wasn't it?	12 remove these statements from the website about sexual
13 MR. TOBEY: Objection; form.	13 misconduct and breach of fiduciary duty?
14 A. No.	14 A. I don't remember.
15 Q. (By Mr. Kryder) It was not?	15 Q. Okay. Did you ever object to the ransom --
16 A. No. In fact, donors might rather give their	16 well, did you ever see any emails from NCPA board
17 money to the NCPA than someone who is engaged in	17 members that were defamatory or exhibited malice
18 sexual misconduct and breach of their fiduciary duty.	18 toward John Goodman?
19 Q. Has anyone told you that any donor having	19 A. Defamatory or exhibited malice?
20 received information that you approved about Goodman	20 Q. Right.
21 being terminated for sexual misconduct and breach of	21 A. Well, I know they weren't pleased with him.
22 fiduciary duty said I want to give money to NCPA?	22 Q. Okay. But -- and so did you see emails or
23 Did anybody do that?	23 communications -- hear board members at NCPA express
24 A. Say that again. I didn't understand.	24 defamatory or malicious statements about John Goodman?
25 Q. Have you heard any donor -- heard of any	25 A. I saw emails and heard them express their

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1 misconduct and breach of fiduciary duty, did you?	1 reasons that went into the decision.
2 A. I don't remember.	2 Do you see that?
3 Q. If -- all right.	3 A. Yes.
4 And at the top email, this is a few	4 Q. So notwithstanding your statement that you
5 minutes later, Merrie Spaeth is communicating further.	5 didn't want to say that the reason Goodman was
6 It says, Caytie, these facts that directors have	6 terminated were sexual misconduct and breach of
7 departed but not for reasons cited by Goodman could be	7 fiduciary duty, NCPA went ahead and stated that those
8 a factoid that Larry -- that Lori shares with Jim	8 were the reasons that Mr. Goodman was terminated,
9 Landers.	9 correct?
10 So does it sound like at least Ms. Spaeth	10 A. I think you miss -- you just mischaracterized
11 is anticipating that you are going to be the person	11 what I said in this email.
12 who communicates with Jim Landers?	12 Q. It says, I don't know we want to say that the
13 A. I don't know. That's what it says as you	13 reasons he was terminated were sexual misconduct and
14 read it, but I don't remember.	14 breach of fiduciary duty.
15 Q. Okay. So you did not advise against -- not	15 You do say that, correct?
16 only did you not advise against telling Mr. Landers	16 A. I do say that and other things.
17 that Goodman had been terminated for sexual misconduct	17 Q. And the press release and the web posting
18 and breach of fiduciary duty, you may have been the	18 expressly said that Goodman was terminated for sexual
19 one who told Jim Landers that sexual misconduct and	19 misconduct and breach of fiduciary duty, didn't it?
20 breach of fiduciary duty are the reasons why Goodman	20 A. It says, after an extensive investigation
21 was fired?	21 that found sexual misconduct and breach of fiduciary
22 A. I think I answered both of those questions	22 duty that warranted Goodman's dismissal.
23 that I don't remember.	23 Q. Okay. So isn't it really the same thing,
24 Q. Okay. Did any -- any of the persons copied	24 that he was terminated for sexual misconduct and
25 on the email in Exhibit 82 object to having you or	25 breach of fiduciary duty?

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1 Caytie Daniel tell Jim Landers at The Dallas Morning	1 A. Well, in this Exhibit 42, I don't -- whatever
2 News that Mr. Goodman had been fired for sexual	2 language that we're all talking about is not in this
3 misconduct and breach of fiduciary duty?	3 exhibit, so I don't know what the language was that we
4 A. I don't remember.	4 were talking about, and I think that there is a
5 Q. Okay. Let me show you, Ms. Carr, what --	5 difference in saying that he was terminated for those
6 sorry. This one has a hole in it.	6 reasons alone and an investigation found sexual
7 Let me show you, Ms. Carr, what's been	7 misconduct and breach of fiduciary duty that warranted
8 marked for identification as Exhibit 42, and ask if	8 his dismissal.
9 this appears to be a true and correct copy of an email	9 Q. Okay. So we had looked at the website,
10 you received from Catherine Daniel June 13, 2014?	10 Exhibit 40. It said, NCPA terminated former NCPA
11 And I'm especially going to want -- you can of course	11 president and CEO John Goodman after an extensive
12 read it all, but I'm going to especially direct your	12 investigation that found sexual misconduct and breach
13 attention to page 2, the next to the bottom email from	13 of fiduciary duty that warranted Goodman's dismissal.
14 you on June 13th.	14 A. Right.
15 So if you could -- it's the bottom --	15 Q. Right?
16 A. Hold on just a minute.	16 A. Uh-huh.
17 Q. Oh, I'm sorry.	17 Q. Okay. So the investigation found that, but
18 A. Okay.	18 Goodman was -- you're saying was not terminated for
19 Q. You say in an email -- this is Exhibit 42.	19 sexual misconduct and breach --
20 You say in an email on Friday, June 13th, at 10:59	20 A. I'm saying that's not what that says.
21 a.m., to Caytie Daniel, Merrie Spaeth, Emily Turner,	21 Q. Okay. But are you telling me that Goodman
22 Sally Ann Moyer and Richard Walker, after looking at	22 was not terminated for sexual misconduct and breach of
23 the language again, I don't know that we want to say	23 fiduciary duty?
24 the reasons he was terminated were sexual misconduct	24 A. No. I think those factored into the
25 and breach of fiduciary duty. I think there were more	25 decision.

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1 opinion that they weren't happy with him.	1 Did you ever object to that statement or
2 Q. And did you ever ask the -- or instruct the	2 any of the other statements that are on Exhibit 46?
3 directors of NCPA to cease and desist from making	3 A. I don't know that I even agree that it's
4 malicious and defamatory statements about John	4 inflammatory and malicious. They were obviously
5 Goodman?	5 blowing off steam. It's not derogatory.
6 A. I don't remember that they made any malicious	6 If you see my email here -- and I
7 or defamatory statements.	7 remember this because my phone was blowing up as I was
8 Q. Let me show you what's been marked for	8 driving back from Austin -- it says, my main concern
9 identification as Exhibit 46.	9 is not jeopardizing insurance coverage. I'm driving
10 A. Sure.	10 back from Austin and say these emails when I stopped
11 Q. The highlighting in here, as I indicated to	11 for gas. Will respond fully when I get home.
12 Mr. Tobey, was provided by me.	12 So I -- I don't know that I even read
13 A. And the underlining, is that --	13 through --
14 Q. I'm not -- I'm not sure about the	14 Q. Okay.
15 underlining, where that came from. The highlighting	15 A. -- all of this venting, but --
16 is definitely -- I don't know. The highlighting is	16 Q. But you don't think --
17 mine.	17 A. -- did I say stop sending these emails? No.
18 And what I just want to know, you're	18 Q. Okay.
19 copied on this email, is if you recall some of the	19 A. It was among the board, and they were letting
20 highlighted statements here, and ever having objected	20 off steam.
21 to them, to the directors?	21 Q. Except you were copied as an attorney, and
22 A. You want me to just look at the highlighted	22 you certainly didn't tell them to stop?
23 portions?	23 A. I was copied.
24 Q. Those are the ones to which I direct your	24 (Exhibit No. 84 marked.)
25 attention. If you want to look at something else, I	25 Q. (By Mr. Kryder) All right. Let me show you

191	193
1 mean, for example, we must hit Goodman so goddamned	1 what's been marked for identification as Exhibit 84
2 hard (I will go to confessional at Mass again today)	2 and ask if you recall seeing this D Magazine --
3 that his black head spins until it falls off and we	3 A. I did.
4 figuratively get him in one punch with a sharp Bowie	4 Q. -- article?
5 knife he bleeds out in 30 seconds without knowing what	5 On the -- it's the third page of this
6 the hell happened to him.	6 D Magazine article. It says, according to documents,
7 Those are the words of your client	7 emails and interviews with multiple sources familiar
8 Mr. Batman, not me, but --	8 with the situation, Goodman's firing stemmed from an
9 MR. TOBEY: Objection; form.	9 extraordinary arrangement made with a NCPA employee
10 Q. (By Mr. Kryder) -- did -- did you ever	10 named Sherri Collins.
11 object to Mr. Batman's statement that I just read	11 Do you know what former employees or
12 there?	12 others at NCPA provided any information to Glenn
13 A. Did I object to it?	13 Hunter to write this article, Exhibit 84?
14 Q. Yes.	14 A. No.
15 A. Like -- I don't understand what you mean.	15 Q. Did anyone have a concern that if information
16 Q. Well, Mr. Batman was -- was he one of your	16 came from current and former NCPA employees, that they
17 clients?	17 might be violating the confidentiality agreement that
18 A. He was on the board.	18 was part of the settlement with John Goodman?
19 Q. Okay. So you don't know whether Mr. Batman	19 A. Did you say current and former?
20 was your client or not?	20 Q. Yes.
21 A. I represented the NCPA, not the board.	21 A. I would need to see the confidentiality
22 Q. Okay. You received this email, 46, and	22 provision because I think that we talked about that
23 Mr. Batman made the statement that I just read to you	23 earlier, and it was limited to the terms of the
24 and pointed out to you, which seems to be inflammatory	24 agreement, and the facts and circumstances that led to
25 -- and malicious.	25 it.

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1 Q. Okay.
2 A. Am I right about that?
3 Q. I don't know if I provided -- do you have
4 Exhibit 48?
5 A. I do. It says that they will keep the terms
6 of this agreement strictly and completely
7 confidential.
8 So not -- no, not necessarily, unless
9 they disclosed the terms of the agreement.
10 Q. Okay. So you think that there -- that
11 nothing would prevent a former president or former
12 NCPA employee to be the source of the article here,
13 Exhibit 84?
14 A. I would have to look at -- I would have to
15 read the entire article to see if it fell within the
16 scope of the confidentiality agreement.
17 Q. Were you the -- were you consulted as a
18 source for Exhibit 84?
19 A. No.
20 Q. Do you know if Merrie Spaeth was?
21 A. I don't know.
22 Q. Do you know, did -- have you inquired or --
23 who were the sources within NCPA for Exhibit 84?
24 A. Have I inquired?
25 Q. Yes.

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1 Q. All right. Moving on to another topic, that
2 is, claims by Donna Nash Williams, let me show you
3 what's marked for identification as Exhibit 52, and
4 ask if you recall having attended at least part of the
5 August 26, 2014 board of directors meeting.
6 A. Does it say I did or do you want me to read
7 the whole thing?
8 Q. If you'll turn, please, Ms. Carr, to the
9 third page.
10 A. Okay.
11 Q. Third paragraph down, it says at 11:05 a.m.,
12 Lori Carr joined the meeting, the first item discussed
13 was the demand letter from Donna Nash Williams'
14 lawyer.
15 A. Okay.
16 Q. Ms. Carr reported that it appeared that the
17 lawyer had missed the deadline by which the demand
18 letter was due. Mr. Walker reviewed the specific
19 reasons why Ms. Williams was fired for cause, and upon
20 a motion by Mr. Batman, seconded by Mr. Ivy and
21 unanimously approved, Ms. Carr's suggestion to ignore
22 the matter for now was approved.
23 Do you see that?
24 A. Yes.
25 Q. So at least as of the time of the board

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1 A. From --
2 Q. At NCPA who -- who there may have been the
3 source of --
4 A. I think we talked about this, and nobody
5 knew.
6 Q. Okay.
7 A. There may have been some speculation about
8 former employees, but nobody knew who his sources
9 were.
10 Q. So what was the -- who -- were there specific
11 former employees identified as the potential source
12 for the D Magazine article?
13 A. In here?
14 Q. No. You said that former employees or
15 speculated who some former employees may be. That's
16 what I understood you to say.
17 Did you hear from someone at NCPA that
18 some former employee may have been the source of the
19 D Magazine article?
20 A. Did I hear from -- I don't know who the
21 source was, and nobody at the NCPA knew who the source
22 or sources were. As I said, there may have been some
23 speculation, and I don't remember who it was. It was
24 speculation about former employees, and I don't
25 remember which ones they speculated, but nobody knew.

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1 meeting, August 26, 2014, you thought that the claim
2 raised by Donna Nash Williams was time-barred and
3 should be ignored, correct?
4 A. I did.
5 Q. Okay. And then ultimately was the matter
6 settled with Ms. Williams?
7 A. Yes.
8 Q. And was that a -- done on a cost-of-defense
9 analysis as opposed to a feeling that there was any
10 real liability?
11 A. Well, as it turned out, her claim was not
12 time-barred.
13 Q. Okay.
14 A. Okay. So there was risk as to liability and
15 cost of defense.
16 Q. Okay. So what led to your first conclusion
17 that Ms. Williams' claim was time-barred, if you
18 recall?
19 A. Yeah, if I looked at the file, I could tell
20 you exactly. But I'm pretty sure what happened was
21 she filed -- it had to do with her charge filing, and
22 I can't remember if she didn't file her charge on
23 time, or if she filed it, got a right to sue letter,
24 and then the time for filing suit had expired, and it
25 had.

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1 Q. First of all, on Exhibit 86, this -- does
2 this appear to be a copy of the Settlement Agreement
3 with Ms. Williams and as the letter from your
4 colleague states, the final settlement check of
5 \$27,000?
6 A. That's what it appears to be.
7 Q. Okay. All right. Ultimately, NCPA -- since
8 the carrier funded the settlement, NCPA was not out of
9 pocket for the Williams lawsuit, was it?
10 MR. TOBEY: Objection, form.
11 A. Well, they paid the settlement and were
12 reimbursed by the insurance company, and they also
13 were out of pocket for part of my fees. And I don't
14 know what other expenses they might have had, a
15 mediation fee, and I don't know what other expenses
16 they might have had.
17 Q. (By Mr. Kryder) And you don't know whether
18 NCPA recovered the fees of your firm or the expenses
19 of the mediation directly from the insurance carrier,
20 do you?
21 A. I know that they did not recover all of my
22 fees.
23 Q. Do you know how much of your fees NCPA was
24 unable to recover from the insurance carrier?
25 A. I don't, I don't know.

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1 you indicate about persons who were in the category of
2 employees who were subjected to an allegedly hostile
3 environment or disparate treatment, was it Tonya
4 Featherstone?
5 A. Right.
6 Q. What was Ms. Featherstone's claim, if you
7 know?
8 A. I believe it was also hostile work
9 environment.
10 Q. And did Tonya Featherstone actually assert an
11 EEOC or other claim?
12 A. No. I don't think she did. I think that
13 Richard Walker negotiated a severance agreement with
14 her.
15 Q. And you don't --
16 A. There was a -- there was a Settlement
17 Agreement or severance agreement or something of that
18 nature.
19 Q. Okay. And do you know -- you really don't
20 know what the nature of her complaint was that
21 Mr. Walker settled with her?
22 A. It was the hostile work environment.
23 Q. So was she being harassed by Sherri Collins
24 or hostile treatment by Sherri Collins?
25 A. That's what I can't remember, if it was by

203
1 Q. All right. You also mentioned next
2 Johnette -- I think you did, Johnette Johnson, who I
3 believe was Ms. Collins' administrative assistant. Do
4 you know whether Ms. Johnson is still with the NCPA?
5 A. No, she's not.
6 Q. Okay. Do you know what the circumstances
7 were of her claim and how it was resolved?
8 A. I don't remember her exact allegations, but
9 it was settled.
10 Q. Okay. And Mr. Tobey has just provided the
11 file, and we're not -- haven't been all the way
12 through it, but is it consistent with your
13 recollection that Ms. Johnson's claim was settled for
14 around \$10,000?
15 A. I think so. And I think she was going by
16 Gambrell at that point.
17 Q. Okay. So you don't recall what the -- what
18 the specific claim of harassment or hostile work
19 environment was for Ms. Gambrell Johnson, as you sit
20 there now?
21 A. I think it was a hostile work environment
22 claim, but I just don't know the exact specifics, but
23 I know that it arose out of the whole John
24 Goodman/Sherri Collins.
25 Q. Okay. Then the only other name that I heard

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1 Goodman or as having to endure Goodman harassing
2 Collins, and there might have been -- she might have
3 thrown a race claim in there, too. I just can't
4 remember.
5 Q. Your firm was not retained to defend NCPA in
6 terms of a threatened claim by Tonya Featherstone?
7 A. We didn't defend them, but I think there was
8 some advice and counsel to help them through that
9 issue.
10 MR. KRYDER: Okay. Let's go ahead and go
11 off the record a minute.
12 THE VIDEOGRAPHER: We're off the video
13 record at 3:42.
14 (Recess 3:42-3:56.)
15 MR. KRYDER: Subject to our right to
16 address issues that may come up concerning some of
17 these other employees and the like, we'll pass the
18 witness and reserve further questions.
19 MR. TOBEY: We'll reserve our questions
20 until time of trial.
21 MR. KRYDER: Thank you, Ms. Carr.
22 THE WITNESS: Okay. Thank you.
23 (Deposition concluded at 3:56 p.m.)
24
25

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1 But what we didn't know is that there was
2 another filing, I think maybe with a state agency -- I
3 can't remember. There was another filing or the EEOC
4 lost it or something, and her claim -- I can't
5 remember if it was revived or if it -- because of the
6 second -- this other dual filing, that it wasn't
7 really time-barred because they had not issued a right
8 to sue yet, and I think that's what happened, is that
9 the dual filing agency had not yet issued a right to
10 sue, so she still had time to file her claim.
11 Q. Okay.
12 (Exhibit No. 85 marked.)
13 Q. (By Mr. Kryder) Let me show you what's been
14 marked for identification as Exhibit 85 from your
15 file, and ask if you recognize this as your firm's
16 initial analysis and litigation plan concerning the
17 claim by Donna Nash Williams.
18 A. Okay. Do you want me to read the whole
19 thing?
20 Q. No, no.
21 A. Okay.
22 Q. So ultimately -- first of all, she reported
23 to -- Richard Walker was her supervisor, not John
24 Goodman or Sherri Collins, right? It says that at the
25 top of your analysis?

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1 Q. Yes.
2 A. That would have been -- well, not just fire
3 her, but a good option in 2012 would have been to
4 reach a financial settlement with Sherri Collins, give
5 some remedial training to John Goodman, bring in --
6 bring in training to the entire organization, and then
7 monitor -- also, an investigation should have been
8 conducted, and then monitor the behavior of
9 Mr. Goodman.
10 Q. All right. So the solution that you would
11 have recommended would be first to, if not terminate,
12 to sever, separate with Sherri Collins, and that
13 presumably would require some settlement payment with
14 her, right, in 2012?
15 A. Well, that's what she approached the NCPA
16 with.
17 Q. Okay.
18 A. That she wanted a financial settlement.
19 Q. Okay. And since she settled, Ms. Collins
20 settled for \$104,000 in 2014, I think you said
21 earlier, you anticipated she would have settled for
22 less money in 2012, if --
23 A. I think it --
24 Q. -- she had separated then?
25 A. I think it would be reasonable to conclude

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1 A. That's what it says.
2 Q. All right. So what is it that Dan Dargene
3 supposedly did or didn't do that led to Donna Nash
4 Williams asserting this claim for harassment? This is
5 all tied to the Employment or Settlement Agreement?
6 A. The main claim was -- it wasn't just
7 harassment. It was retaliation as well.
8 Q. Okay. Dan Dargene didn't retaliate against
9 Donna Nash Williams, right?
10 A. The basis of her retaliation claim was that
11 she complained about the continuing sexual harassment
12 relationship between John Goodman and Sherri Collins,
13 and had those 2012 agreements not been entered into,
14 had it been handled properly, she never would have
15 experienced those, that conduct, and therefore she
16 couldn't claim that she was engaged in protected
17 activity and couldn't claim that she was being
18 retaliated against.
19 Q. Right. So you're saying --
20 A. There was also a hostile work environment
21 claim based on the same facts.
22 Q. So you're saying that in 2012, NCPA should
23 have fired Sherri Collins so that she could not be
24 around in 2014 to --
25 A. In 2012?

201
1 that.
2 Q. Then the next component that you would have
3 recommended would be that John Goodman receive
4 training and counseling as well as other employees at
5 the company so that Mr. Goodman could remain but that
6 the workplace environment would be appropriate?
7 A. Right. He should -- he should be reprimanded
8 and trained and as well as the rest of the staff.
9 (Exhibit Nos. 86-87 marked.)
10 Q. (By Mr. Kryder) Let me show you next what's
11 been marked for identification --
12 A. I said other things, too, so I don't want the
13 record to --
14 Q. I understand.
15 A. Okay.
16 Q. Let me show you next what's been marked for
17 identification as Exhibit 86, and I'm also going to
18 show you what's been marked for identification as
19 Exhibit 87. I think these are -- appear to be the two
20 checks that are funding the settlement of the claims
21 against NCPA by Ms. Williams.
22 I just really want to know if this seems
23 to be what you understood about the Settlement
24 Agreement and settlement funds with Ms. Williams.
25 A. So what's the question?

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1 CHANGES AND SIGNATURE
2 WITNESS NAME: LORI CARR NOVEMBER 11, 2016
3 PAGE LINE CHANGE REASON
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208
1 NO. DC-14-13453
2 THE NATIONAL CENTER FOR § IN THE DISTRICT COURT
3 POLICY ANALYSIS, §
4 Plaintiff, §
5 V. § DALLAS COUNTY, TEXAS
6 §
7 O'LETFREE, DEANES, NASH, §
8 SMOAK & STEWART, P.C., §
9 Defendant, § 192ND JUDICIAL DISTRICT
10
11 REPORTERS CERTIFICATION
12 DEPOSITION OF LORI CARR
13 NOVEMBER 11, 2016
14
15 I, Jennifer Quick Davenport, Certified
16 Shorthand Reporter in and for the State of Texas,
17 hereby certify to the following:
18 That the witness, LORI CARR, was duly sworn
19 by the officer and that the transcript of oral
20 deposition is a true record of the testimony given by
21 the witness;
22 That the deposition transcript was submitted
23 on November 10th, 2016, to the witness or to the
24 attorney for the witness for examination, signature
25 and return to me by December 8th, 2016;
26 That the amount of time used by each party
27 at the deposition is as follows:
28 Mr. Robert Tobey - 0:00
29 Mr. George M. Kryder - 4:48

207
1 I, LORI CARR, have read the foregoing
2 deposition and hereby affirm my signature that same is
3 true and correct, except as noted above.
4
5
6 LORI CARR
7
8
9 THE STATE OF ()
10 COUNTY OF ()
11 Before me, (), on
12 this day personally appeared LORI CARR, known to me
13 (or proved to me under oath or through
14 () (description of identity card or
15 other document) to be the person whose name is
16 subscribed to the foregoing instrument and
17 acknowledged to me that they executed the same for the
18 purposes and consideration therein expressed.
19 Given under my hand and seal of office
20 this () day of (), 2016.
21
22 NOTARY PUBLIC IN AND FOR
23 THE STATE OF ()
24 My commission expires: ()
25

209
1 That pursuant to information given to the
2 deposition officer at the time said testimony was
3 taken, the following includes counsel for all parties
4 of record:
5 Mr. Robert Tobey, Attorney for Plaintiff
6 Mr. George M. Kryder and Jr. Jordan W. Leu, Attorneys
7 for Defendant
8 I further certify that I am neither counsel
9 for, related to, nor employed by any of the parties or
10 attorneys in the action in which this proceeding was
11 otherwise interested in the outcome of the action.
12 Further certification requirements pursuant
13 to Rule 203 of TRCP will be certified to after they
14 have occurred.
15 Certified to by me this 17th day of
16 November, 2016.
17
18 Jennifer Quick Davenport, Certified
19 Shorthand Reporter No. 1683
20 Dickman Davenport, Inc.
21 Firm Registration #312
22 Suite 101
23 4228 North Central Expressway
24 Dallas, Texas 75204
25 214.855.5100 800.445.9548
26 email: jquid@dickmandavenport.com
27 My commission expires 12-31-18

210

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP
2 The original deposition was/was not returned
3 to the deposition officer on _____;
4 If returned, the attached Changes and
5 Signature page contains any changes and the reasons
6 therefor;
7 If returned, the original deposition was
8 delivered to Mr. Kryder, Custodial Attorney;
9 That S. _____ is the deposition
10 officer's charges to the Defendant for preparing the
11 original deposition transcript and any copies of
12 exhibits;
13 That the deposition was delivered in
14 accordance with Rule 203.3, and that a copy of this
15 certificate was served on all parties shown herein on
16 _____ and filed with the Clerk.
17 Certified to by me this _____ day of
18 _____, 2016.

19 _____
20
21 Jennifer Quick Davenport, Certified
22 Shorthand Reporter No. 1683
23 Dickman Davenport, Inc.
24 Firm Registration #312
25 Suite 101
4228 North Central Expressway
Dallas, Texas 75204
214.855.5100 800.445.9548
email: jquik@dickmandavenport.com
My commission expires 12-31-18

Correspondence / E-Mail to Be Sent to Dennis McCuiston

EXHIBIT

Ex. U

Dennis:

We have had several telephone conversations and e-mail exchanges regarding my \$50,000 contribution to the NCPA, without resolution. Something must be done to bring this situation to a proper and equitable conclusion.

As you know, while I was Chairman of the Board of the NCPA I retained Kathy Hagler to perform consulting work as well as conducting a CEO search. The \$50,000 check that I sent to the NCPA on July 23, 2014 specifically states that it is to be used for those purposes only. It is perfectly clear to me that NCPA wants to misuse my contribution because Kathy's invoices have been questioned and are currently unpaid, and you have refused to utilize her services in any way for the purpose of finding and vetting a permanent CEO.. Although I have requested the return of my \$50,000 contribution and committed use of those funds to pay for the services intended, you have refused to remit it to me. This is completely unacceptable.

It seems to me that since you and I cannot reach a resolution of this problem, we are left with two different options. I am agreeable to submit my dispute to an impartial mediator. If you refuse that option, I am left with the unfortunate avenue of pursuing repayment through litigation. This is not an option that is particularly appealing to me, but I simply cannot allow my contribution to be misused in the manner that has been taking place. As such, if you do not agree to mediate, I will have no other option but to refer this matter to my counsel for collection.

Please let us put our personal differences aside and try to reach an equitable solution. Although I am amenable to talking to you further about this without a mediator, I feel that since our discussions have been very unproductive to this point, a mediator might be the best bet. I would appreciate hearing from you within 24 hours as to whether you would be agreeable to mediation, and failing that, I will unfortunately have to refer this matter to my counsel for further action.

I look forward to hearing from you very shortly.

Jerry Mills

1.

Dennis, your position on this is not correct. Surely you will recall that we began the process with Tonya involved in the donor interviews because she was the person at the NCPA who had the most contact with the donors. Having processed and responded to all the donor grants, which is in many cases a detailed and interactive process, gave her the relationship position that I believed and still believe could have been beneficial to the goal of securing the much needed funding for NCPA.

You are the one who made the decision not to allow Tonya to have this contact. I suggested that she go with Kathy and if you disagreed, that you go with Kathy, but of the three of you, Tonya would be the most beneficial for the immediate needs. You and I had four or five conversations concerning this issue, and my position never changed nor did yours. Also I want to add that I was involved in the early decision to have Tonya involved, and that your story of how events concerning the Vancouver trip happened is different from Tonya's. Richard's story is also different from yours.

I suggest you review the following e-mails concerning the Vancouver trip:

Hagler to McCuiston & Mills
7-12-2014 - 11:48 p.m. – concerning Board and Donor Draft Questions

Hagler to McCuiston & Mills
7-14-2014 - 7:04 p.m.

*Hi Dennis. I am in Vancouver, Washington this week and could arrange to meet with your donor here. Tonya and I discussed that briefly.
Can you let me know if that would work and I will get it on my schedule.
Also... Edits on the Board and donor documents?
Kathy*

McCuiston to Tonya & Hagler
7-14-2014 - 10:07 p.m.
Tonya

Please communicate with her on Vancouver donor...thanks. Dennis

Hagler to Tonya, Mills, McCuiston
7-15-2014 - 9:02 a.m.

Also, tomorrow (wed) would be a good day to visit with the donor. As far as you and I talking with them, there was a discussion about the appropriateness of an outsider (me) doing the interviews. Also they asked Dennis either to do them or to accompany me, in person, Skyps, or on the phone.

I have not received the final word from the Board or Dennis. I only suggested the Vancouver donor because I am here.

Talk soon.

Kathy

McCuiston to Hagler & Tonya

7-15-2014 - 9:43 a.m.

Tonya,

I am in Austin tomorrow so if you could join Kathy, that would be great...Dennis

Dennis, you continually refer to Tonya's behavior to be insubordination and take every opportunity to be critical of her; however, when I had enough personal involvement in any of the actual issues to have any facts or base my conclusion on all sides of the story, I find, in most cases, your position not to be credible. My only purpose in continuing to address this specific issue is because the Board, or what is left of it, only hears what you tell them.

Your e-mail to Tonya clearly said, "Tonya, I am in Austin tomorrow so if you could join Kathy, that would be great . . .Dennis"

My opinion is that Kathy was in Vancouver already and that you directed Tonya to join Kathy in Vancouver and do the donor interview. That is not an act of insubordination, but **what you have been doing is dishonorable and shameful.**

2.

Let me remind you that at the time I engaged Kathy to assist me in the CEO search, I was Chairman of the Board and I believed that to be the proper approach to get something started and to have a third party assist the board in finding the very best person for this important position. I specifically did not want you, me, or any single person to be in total control of that process. We obviously disagreed on how that should be done and had several discussions about Kathy's involvement, and we still disagree. I think a third party should be involved and present the findings to the BOD for their decision.

I do agree with getting recommendations from those individuals and entities you refer to in your response. However, I don't think they are the only people who have good contacts within the community and having another and wider outreach should be beneficial. I think you are missing the point as far as my concern on the bias issue. The reason for a third party to manage the process is so that the outcome will not be biased either by or for any one person. With you in charge, I fear it could be biased both by and for a single person.

Dennis, I believed those things enough to give the money to pay for at least \$50,000 of the strategic planning and having Kathy involved to have the best chance of giving the board good choices for a permanent CEO. **You are fully aware that the \$50,000 I donated was specifically for those purposes. Those two items are specifically noted and written on the check.** My goal was to get the best results for the NCPA.

3.

My only comment here is that the Board is not a bunch of amateurs; they are experienced and successful business people who should be able to sort through 14 items very quickly and distill them down to what they wanted as a BOD, not what you, I, nor Kathy want, but what the entire board wants.

4.

During the time we were discussing Goodman giving up the CEO role and being a scholar at the NCPA, I had repeated conversations with the staff about funding a professional search and each time the answer was the same, we don't have the budget for that. The anticipated cost for a professional CEO search alone was in excess of the total of \$50,000 I granted for this combined effort. So, Dennis, I really don't care about "your" smell test. It is my grant and I get to decide what it is to be used for.

5.

Dennis, I want to be very clear about this. I noted on the \$50,000 check I gave to the NCPA that it was to be used for the strategic planning and CEO search. As Chairman of the NCPA, I discussed the goals and actions that I wanted Kathy to address. As CEO, you have made the decision not to use Kathy as I intended and funded and to do only those things you want done and with only your input. Therefore, I respectfully request that you return the full amount of the grant, and I will pay Hagler and Associates for their services.

I just made a \$50,000 contribution restricted to the payment of Kathy Hagler for coordinating the CEO Search Committee and for the Strategic Planning work she is doing.

After these are accomplished, any funds not used are to be considered "unrestricted" for general use of the NCPA.

I expect the NCPA to return the \$50,000 donation by the end of this week.

EXHIBIT

Ex. V

**MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
NATIONAL CENTER FOR POLICY ANALYSIS
June 21, 2016**

Chairman Steve Ivy called the meeting to order at approximately 2:15 p.m. in the offices of NCPA.

Board members Ivy, McCuistion, Amos and West were present, and Carona, Wedekind and Whalen were not present. Also attending were Executive Vice President and Director of Development, Eileen Resnik and Executive Vice President Jacki Pick along with invited guest, CPA Lori Orta.

Mr. McCuistion moved the approval of the minutes of the March 21, 2016 board meeting. The motion was seconded by Mr. West and unanimously approved.

Chairman Ivy reviewed the balance sheet and profit loss as of the end of May 2016 along with the revised budget through fiscal year end 2016. Lori Orta answered questions about the numbers, and everyone was made aware of the adjustments to the stated total equity figure of \$513,000. While the adjusted net worth is negative, part of that is based on the projected amounts through September 30, 2016, and the other is based upon the uncertainty of some receivables from former Finance Director Josh Galloway along with adjustments to investments and payables. The projected numbers given did not include any monies from Cary Maguire or the Mitchell Foundation. A robust discussion was had regarding the balance sheet, income statement and the accounts payable aging schedule as of May 31, 2016.

Mr. Amos updated the board on several personnel changes, including adjusted hours and terminations along with the hiring of a new employee in Development, Kristina Barton.

Ms. Pick reviewed the situation with former employee Richard Walker and his retirement obligations, and she related that Walker had filed suit but that his retirement obligations have been brought to date. All parties agreed that the lawsuit would probably be dropped in the near future.

Ms. Pick shared with the Board a copy of a memorandum prepared by former Chief Operating Officer Richard Walker regarding a lien on Vanguard and Chase securities that the bank released in October 2014. Board member McQuistion urged that the issue was past tense and moot.

A legal update was given by Ms. Pick wherein she discussed at some length the suit by NCPA against Ogletree. Motions have been filed to support a partial motion for summary judgment along with a motion to compel discovery. She also mentioned that we might have an additional claim under Texas law for something known as negligent undertaking. The trial is set for January 2017. Ms. Pick then updated the board on the Josh Galloway matter and that about \$100,000 in original cost of certain assets that Mr. Galloway purchased with NCPA money were to be picked up from his girlfriend, Monica Kramer. A suit was never filed against Ms. Kramer, and Ms. Pick was fairly certain that we would get the assets along with the \$168,000 in a JP Morgan Chase bank account. There are two other accounts that we do not know the balances of

plus about \$433,000 in various currency, gold and Euros. We hope to get those in the next 90 days. She also indicated that we had not filed suit against Legacy Bank but that an attorney, Ken Stephens, has been hired. He will craft a demand letter to the bank prior to filing suit. Ms. Pick also indicated that NCPA may have to pay \$15,000-\$20,000 plus legal fees to settle an issue with a former employee, Dayana Osuna, who was hired a few years ago under an H1B employment agreement. Ms. Pick also indicated that the litigation filed by Donna Nash Williams was settled by the insurance company when she was awarded about \$60,000 plus \$10,000 for her lawyer. Part of this was paid in salary and part as a contractor. Finally, Ms. Pick indicated that the Directors and Officers Insurance policy with Philadelphia Insurance Company was renewed with a \$2,000,000 limit, and that the payroll contractor NextStep also has \$1 million in employment insurance.

Mr. Amos and Ms. Pick then related the issue with our office lease with Transwestern. We are presently about four months behind on the lease in the amount of \$16,000 per month plus related expenses. Conversations have been had with the landlord, and they are trying to sell the building and would like to make sure that NCPA can pay what is owed and perhaps stay in the building. Mr. Amos and Ms. Pick then related discussions they have had with the University of Dallas about relocating to their campus. In addition to saving about 75% on rent, the idea of being on the University campus had much appeal, and the president and provost of the University of Dallas seemed very positive about the possibility. Discussion of a UD representative joining the NCPA Board was well received.

Additional discussions have been held with the Dallas Communications Complex in Las Colinas where again, about three fourths of the rent could be saved if NCPA moved into the 7,000 square feet that they have available. After a lengthy discussion, the board authorized Ms. Pick and Mr. Amos to pursue the options and come back to the board with a recommendation. They were further authorized to look for subleasing prospects on our present space.

Chairman Ivy urged that a Notice of Circumstances be submitted to Philadelphia Insurance Company in light of the Galloway incident. Jacki Pick committed to submit the Notice.

Ms. Resnik then reviewed the fundraising goals of \$2,873,034 for the year. To date \$2,079,911 has been received and, not counting the committed and continuing revenue, we will still be looking for \$293,967 in new money between now and the end of September. The board reviewed recent contributors and the amount of money they have contributed, major donor prospects and foundation proposals, and Ms. Resnik reported on the positive response that was received to the announcement that the Hatton W. Sumners Distinguished Lecture Series luncheon featuring Boston Police Commissioner Ed Davis on September 9th was going to be a success. It appears that Sumners Foundation will continue to meet their commitment to the scholars weekend that follows the luncheon on September 9th.

Information on policy research and the Washington, DC update was reviewed, and Chairman Ivy suggested a monthly call amongst the board members and policy staff to have an in-depth policy discussion along with Washington, DC updates. That suggestion was well received by the individuals present.

The board also reviewed the earned media update which was in the board packet, and the IT update was also reviewed. The youth programs update was mentioned, and then Mr. Amos gave the board a brief overview of his ideas on strategic planning. He suggested that he is working on some individuals to come in and lead that process within the next 30 days.

There then ensued a discussion about the need for additional board members, the need to reconstitute the committee structure, and Mr. Amos mentioned beginning to implement an enterprise risk management process. Lori Orta is to send around a document for us to review, and she also suggested that it might be possible to have independent non-board members to serve on an audit committee.

Mr. McCuiston brought forth a proposal by Wellness Quest LLC of Grand Prairie, Texas for a social entrepreneurship plan. The plan was developed by Dr. Reg McDaniel, and its dual purposes were to communicate the results of an Alzheimer's study along with finding a way to provide a nutritional supplement to individuals with Alzheimer's with NCPA sharing in revenues. Following a discussion of the issue, it was basically decided that someone inhouse would review the proposal, but that the privacy issues would prevent NCPA from selling any email addresses and, of course, NCPA could not recommend any products.

Mr. West left the meeting at approximately 5 p.m.

Ms. Pick, Ms. Resnik and Ms. Orta left the meeting about 5:30 p.m., and an executive session of the remaining board members was held to discuss other issues, including the future relationship of Mr. Amos to the organization.

The meeting adjourned at 5:45 p.m.

R. S. Ivy, Chairman of the Board

MINUTES OF THE NCPA BOARD MEETING
January 13, 2015

The meeting was called to order by Chairman Steve Ivy at 4:10 p.m. in the offices of Heritage Auctions, and the following directors were in attendance: Steve Ivy, Tony Batman, Tex Gross, Mike Whalen, and Dennis McCuiston. Joining by phone were Dewey Corley and John Strauss.

A discussion was held about allegations by three NCPA employees against former CEO Dennis McCuiston. Part of that discussion centered on how those allegations may have affected CEO Allen West's initial actions when taking over NCPA on January 2, 2015.

Mr. Gross made a motion, seconded by Chairman Ivy, and unanimously approved to approve the previously submitted minutes as written of board meetings held on August 26, 2014, October 19, 2014, and December 23, 2014. Additionally, the Unanimous Consent which was executed on October 7, 2014 was also approved.

Allen West joined the meeting at 4:40 p. m. Colonel West was asked to give the board a brief review of his background and thinking process regarding his present role at NCPA and NCPA's future. Following that, each of the board members took the opportunity to share their perceptions with Colonel West. This dialogue lasted about an hour and was very informative from all sides. Mr. Whalen asked Colonel West to prepare for the February 3rd meeting a list of things that NCPA is doing in priority order, and then perhaps a list of what NCPA does not want to do. Mr. Strauss indicated that Allen Clark would make himself available to Colonel West for mentoring at any time.

Mr. Strauss left the board call at 5:45.

Colonel West then brought up the subject of whether a candidate for Executive Vice President/Chief Operating Officer should be required to have a PhD. The general sense of the board was that it was not necessary, but there were suggestions that perhaps the person should be very good at administration and that having some financial background would also be helpful.

Colonel West submitted the final contract for the Suffolk University Consulting Services Agreement which provides for the Beacon Hill Institute's provision of services to the Tax Analysis Center. That contract covers a two-year period and calls for payments of \$17,500 monthly. A motion was made by Chairman Ivy, seconded by Mr. Batman and unanimously approved that Colonel West be authorized to execute that contract on behalf of NCPA.

A conversation ensued regarding a proposal by Colonel West to enter into an agreement with CURE which is run by Star Parker. This would be a proposal for NCPA to do some research on the status of black families in America, and it is proposed that CURE would pay NCPA \$25,000 to make that happen. Mr. Batman mentioned that Art Laffer was working on a book on this subject and probably would be glad to share his research. On a motion made by Colonel West and seconded by Mr. Whalen, and unanimously approved, Colonel West was authorized to proceed on this matter.

The next item of business had to do with the process for vetting and approving potential new board members. Mr. McCuistion provided to the board a resolution on appointments of the NCPA officers, directors and committee members and committee chairs which was approved by the NCPA board of directors on October 14, 2013. There was a discussion about bringing on the board Larry Wedekind, and Mr. Wedekind had been asked to join the board sometime in 2014. Colonel West had met with him recently, and Mr. Wedekind had attended several of the recent NCPA meetings. Some of the board members did not know him, and so Colonel West was asked to get background information on Larry Wedekind, transmit it to Mr. McCuistion as Chair of the Governance Committee, and the Governance Committee would take it from there. There was a general consensus that Larry Wedekind would make a good board member, especially given his deep background in healthcare.

Mr. McCuistion shared the discussions that he had with NCPA's auditor, Bob Daniell, and they revolved around the litigation issues as well as financial issues. Mr. Daniell shared the board's opinion that there shouldn't be a going concern issue as far as the audit at this time.

It was agreed that we would develop proposed meeting dates for board meetings the rest of the year, and Mr. Batman brought up the issue of Mr. McCuistion's bonus and the need to accrue whatever amount may be due under that arrangement.

Mr. Gross moved and Mr. Whalen seconded, and it was unanimously approved, to adjourn at 6:50 p.m.

Reagan Stewart

<reagan_stewart@sbcglobal.net>

Fri, Sep 29, 2017,
2:08 PM



Dr. Goodman,

NCPA cannot verify which mailing subscriptions were originally requested by the individual members of the donor and mailing lists. Nor can it verify who actually received each mailing and corresponding open rates. Legal and financial materials have not been made available with the exception of the public filings of the 990s.

Reagan Stewart

From: John Goodman [mailto:johncgoodman46@gmail.com]
Sent: Friday, September 29, 2017 10:58 AM
To: Reagan A. Stewart
Cc: jeanettegoodman@goodmaninstitute.org
Subject: Clarification

Hi Reagan:

Just want to clarify the following.

Development

Mailing list, variously described as 18,000 and 21,000. The NCPA does not have a record of mailings for the last three years to this group and does not have a record of email open rates.

The NCPA does have electronic and paper files on current and past donors and prospects and email correspondence with and about these people, but will not make them available to outside bidders. It further plans to destroy these records.

Events

The NCPA does not have a separate, identifiable record of who attended or who was invited over the past three years or open rates for event email invitations

Health Policy Blog

The NCPA does not have a separate an identifiable record of the Health Alert email list. Nor does it have a separate and identifiable record of people who received emails or who were active at the blog. Nor does it have open rates for mailings to this group.

Debate Central

The NCPA does not have separate and identifiable email addresses of high school debate coaches and debate teachers or open rates on emails to this group.

The NCPA does not have separate and identifiable names and email addresses of high school debaters who participate at this site by seeking materials, comparing cases and sharing ideas in its chat rooms. Not does it have open rates for mailings to this groups.

Young Patriots Essay Contest

The NCPA does not have separate and identifiable names and addresses of students who participated in these contests or the open rates on email messages to them.

The NCPA does not have separate and identifiable names, emails addresses or open rates for the schools, parent groups and teacher groups who helped recruit students to these contests or open rates on mailings to them.

Daily Policy Digest:

The NCPA cannot produce and identify the subscribers or their email addresses or their open rates.

Free Our Health Care Now

The NCPA cannot identify the names and email addresses of people who signed the petition or the open rates on email messages to them.

Legal and Financial Records

The NCPA is unwilling to make these available to bidders

--

John C. Goodman
President
Goodman Institute for Public Policy Research
6335 W. Northwest Hwy., #2111
Dallas, TX 75225
202-679-9622
johngoodman@goodmaninstitute.org



EXHIBIT

Ex. X

October 19, 2017

Reagan A. Stewart
Clarion Financial Services, L.L.C.
4809 Cole Avenue, Suite 108
Dallas, TX 75205

Dear Reagan:

I am resubmitting what is essentially my previous bid (but with somewhat higher amounts) under protest, for the following reasons:

1. The previous auction was conducted and my bid was submitted under rules and procedures that were agreed to by you, me, Dee Ruckman and Michael McConnell. Not only did you agree to my method of bidding, you said that “any method of bidding is okay, so long as the intent of the bid is clear.”
2. My bidding method put me at great financial risk. Potentially, I could have spent \$300,000 and obtained only one asset. Having endured the risk, it seems grossly unfair to deny me any bids that I won.
3. My bid only helps the finances of the NCPA. It promises more money for the organization and its creditors than if I did not bid at all.
4. It is also consistent with the NCPA board’s final instruction – which I am told was to facilitate the sale of NCPA assets to me.
5. The whole idea of a sealed bid auction is that all bidders simultaneously submit bids, so that no bidder knows the bid of any other participant. Yet, in your telephone conversation with me you (perhaps inadvertently) revealed information about the other bids. You also conveyed your intent to talk with the other bidders – and I got the distinct impression you were going to give them information about the other bids as well. Under these circumstances, a second auction would be violating the general rules of sealed bidding. The bidders are not supposed to know anything about their rival bidders or their bids.

I have three other complaints:

1. Someone at the NCPA has greatly inflated the number of donors – to 21,000 I believe in the most recent correspondence. I have checked with two former senior officers and they assure me that the actual number is closer to 1,000. Both Jeanette and I have told you that. Grossly inflated numbers encourage higher bids and that increases the cost to me of obtaining information on the real donors.

2. You are selling information you do not have a right to sell. This statement is on the website for NCPA: "We use your IP address to help diagnose problems with our server, and to administer our website. We use cookies to deliver content specific to your interests. We will not sell, reveal or share your personal information."
3. With respect to the largest donor, you are contractually obligated not to reveal the identity or contact information on penalty of forfeiting the entire grant. For the last grant cycle, that would be more than \$2 million. For the life of the organization, it would amount to many more millions of dollars. There may be similar contracts with other donors.

As for items that may not be for sale, don't sell them. Similarly, if you can't produce an item, then obviously, you can't sell it Those contingencies will not affect my bid on the remaining items. But creditors should be told that there was a bid for these items that potentially was as high as \$300,000.

John



John Goodman's Bidding Method*

The amount of money available is \$X

Bid 1: \$2,000 more than the next highest bid up to \$X

If the bid is lost, \$X is available for the next bid. If the bid is won, \$X minus the bid price paid is available.

Bid 2: \$2,000 more than the next highest bid up to (\$X minus any amount paid to win bid 1).

On all succeeding bids: \$2,000 more than the next highest bid up to (\$X minus any amounts paid to win all previous bids).

After the final bid: \$X minus the sum of all of Goodman's winning bids reverts to John Goodman.

X = \$300,000

*As described and agreed to by all parties in a meeting with Reagan Stewart, Dee Ruckman, John Goodman and Michael McConnell at the offices of Gardere and Wynne at 11:00 AM on September 12, 2017.



John C. Goodman's Bids on NCPA Assets

Bid 1: The domain name "ncpa.org", including all text, photo, video, audio or other electronic media.

Bid 2: All trademark rights in, for and associated with the name "National Center for Policy Analysis" including all goodwill associated therewith.

Bid 3: All copyright rights for all NCPA studies, books and publications including the right to hard copies and electronic copies of text, photo, video, audio or other electronic media, and all URL addresses, in addition to rights already owned by John C. Goodman.

Bid 4: Rights to all social media names and accounts, including all text, photo, video, audio or other electronic media.

Bid 5: Exclusive rights to the names, addresses and email addresses of 21,000 "donors."

Bid 6: Exclusive rights to the names, addresses and email addresses of 200,000 additional mailing list people.

Bid 7: Exclusive rights to all development records, in hard copy or electronic format, including:

1. Email addresses of donors and prospects
2. All electronic files on current and past donors and prospects
3. All paper files on current and past donors and prospects
4. Copies of all paper mailings to donors and prospects and return correspondence.

Bid 8: Access to:

1. Electronic correspondence with donors and prospects and email messages about donors and prospects, including the complete email records of Tonya Featherstone, Eileen Resnik, Laurel Jordan, Alan Hamill, Christina Barton and anyone else employed in Development for the past five years.
2. Electronic correspondence of James Amos, Allen West, Dennis McCuiston and Jacki Pick – as they pertain to Development.

Bid 9: Exclusive rights to DFW NCPA Events mailing list, attendee lists and all event photos

Bid 10: Exclusive rights to the Health Alert email list and all Health Policy Blog text, photo, video, audio or other electronic media and archives associated with all connected URL addresses.

Bid 11: Exclusive rights to the NCPA Debate site including all text, photo, video, audio or other electronic media, including emails addresses of high school debate coaches, email addresses of high school debaters and all debate images and archives and all connected URL addresses.

Bid 12: Exclusive rights to email addresses for all Daily Policy Digest subscribers, archives and URLs including all text, photo, video, audio or other electronic media.

Bid 13: Exclusive rights to the domain name Free Our Health Care Now, including all text, photo, video, audio or other electronic media, and the complete email list of all signatories.

Bid 14: Exclusive rights to the NCPA YouTube channel, including all text, photo, video, audio or other electronic media, and all NCPA videos other than videos of Alan West and Jim Amos, in addition to videos already owned by John Goodman

Bid 15: Exclusive rights to all photos and NCPA photo libraries in hard copy or electronic format, presentations, text, audio, video, in addition to the photos John Goodman already owns.

Bid 16: US Flag that flew over the cemetery at Normandy.

Bid 17: Exclusive rights to the correspondence between the NCPA and all applicants for the Young Patriot's Essay Contest and all schools, teachers and other parties who help solicit entries for the contest – including names, email addresses and other identifying information.

Bid 18: Exclusive rights to all marketing records, in hard copy or electronic format, including contracts with outside vendors and all email to and from NCPA personnel regarding print, broadcast and electronic media.

Bid 19: Access to all email correspondence between the NCPA's Washington DC office and people in the public policy community and all communications among NCPA personnel about the DC office.

Bid 20: All NCPA legal and financial documents, including all contracts, settlement agreements, leases, audits and correspondence in hard copy or electronic format.

NCPA Offer to Sell assets to Dr Goodman



From: Ruckman, Dee
Sent: Monday, October 30, 2017 3:50 PM
To: 'Michael McConnell'
Subject: RE: NCPA/Goodman

Mike,

NCPA has agreed to sell to The Goodman Institute the assets listed on the attached Bill of Sale. The purchase price for the assets is \$89,500. To be clear, the sale is for all the assets listed. Further, as stated in Mr. Reagan Stewart's earlier e-mail, The Goodman Institute would also be responsible for all cure costs to vendors which have control of some of these assets. The two that he knows about are Lexicom for \$600 and Iron Mountain for approximately \$25,000.

The Goodman Institute has until Tuesday, October 31 at 4 pm CST to notify Mr. Stewart that the offer is accepted. If the notice of acceptance by the Goodman Institute is not received by such date and time, NCPA will proceed to sell the assets to other parties. Further, the closing of the sale shall occur on or before November 2, 2017. If the offer is accepted, The Goodman Institute shall deliver to Mr. Stewart a cashier's check payable to National Center for Policy Analysis in the amount of \$89,500 by noon CST on Thursday, November 2, 2017 at Mr. Stewart's office at Clarion Financial Services, LLC, [4809 Cole Avenue, Suite 108, Dallas, Texas 75205](#).

Deirdre B. Ruckman

Partner

t [214.999.4250](tel:214.999.4250) f [214.999.3250](tel:214.999.3250)

[2021 McKinney Avenue, Suite 1600, Dallas, Texas 75201](#)

<image002.png>

EXHIBIT

Ex. Z

The Harm Done by Selling the Domain Name ncpa.org to the Community Pharmacists

In its last year of life, the NCPA internet site was receiving 150,598 visits every month by 78,194 unique visitors who looked at 850,122 pages. Those visitors came from more than 190 countries. Importantly, 94% of this traffic came via a bookmark, a link in an email or a direct address. There were more than 15,000 instances per month where the access was from a link on another website.

Based on ad value alone, the NCPA's Internet Service Provider (ISP) estimates that the monetary value of this kind of traffic is equal to \$20,622 per month, or \$247,462 per year.

Rather than capitalize on this value, the defendants sold the NCPA's domain name to the National Community Pharmacists Association for a mere \$7,500 — knowing that the pharmacists intended to convert the web page for their own use. When they did that, the URL links to thousands of NCPA documents by writers, journalists, researchers, congressional and legislative offices and other think tanks were broken.

The Assets. Over a period of three decades, writers, researchers, reporters, congressional aides, members and staffers of state legislatures and city councils, other think tanks, teachers, students, academics and other interested

individuals created links to NCPA's online material. These included links to books, studies, backgrounders, brief analyses, speeches, conferences, briefings, radio and TV appearances and other documents. They created hot links and copied NCPA URL addresses into their books, articles, essays, editorials, blog posts, social media and in other venues.

Through these links, the NCPA functioned as a bona fide source of information for tens of thousands and perhaps even millions of people. The [NCPA URL addresses include](#):

- More than 270,000 links to text documents.
- More than 25,000 links to charts and graphs.
- More than 700 videos.
- And more than 800 photographic images

This intellectual property was created over a 34-year period and was funded by more than \$125 million in voluntary contributions.

Destruction of the Assets. Virtually all the NCPA documents existed only online. *But the NCPA directors made no attempt whatsoever to copy them or preserve them in any way.* That means they were accessible only through their URL addresses. So, when the pharmacists converted ncpa.org to their own use (thereby automatically severing all other think tank-related links), *all the links described above were destroyed.*

Because the links no longer worked, these documents were no longer widely disseminated and widely used. They literally disappeared from the Internet.

Take the assets the NCPA considered especially valuable in its solicitation of bids. After selling the domain name to the pharmacists:

- 35 years of public policy research disappeared from the Internet
- Debate Central disappeared from the Internet
- The Young Patriots Essay contest disappeared from the Internet

Also vanishing were:

Daily Policy Digest. This program summarized public policy research results on a daily basis, and it had the largest searchable database for such research found anywhere. It was truly a unique resource. For example, if you entered the words “minimum wage” in DPD’s search engine, you could discover every bit of research on the subject NCPA scholars consider worthwhile over the past 20 years. *Now it’s gone.*

Health Policy Blog. This was by far the leading right-of-center health policy blog on the Internet. It attracted comments and commentary by the leading health policy scholars on both the right and the left. The interactions were one-of-their kind and irreplaceable. *Now they’re gone.*

Bottom line: the NCPA decision-makers knew what they were doing, and they knew the consequences. They might have mitigated the damage they were about to do by at least copying the NCPA documents and preserving them. They chose not to.

What About other Retrieval Services? [Wayback Machine](#) is a retrieval service that through the years [copied about 5%](#) of the NCPA URL addresses. However, this is a small slice of the NCPA's total content, and it appears that almost all of these links no longer work.

A Covert Move to Prevent Total Destruction.

Unbeknownst to the NCPA board and without any request from anyone, the Internet Service Provider (IPS) copied virtually all of the NCPA online documents. He did so because he regarded the NCPA directors' planned destruction of years of cumulative research and their intent on wasting the investment of millions of donor dollars as unconscionable.

The documents can now be found at <http://www.ncpathinktank.org/pdfs/>, as part of a web site being maintained by the ISP for former NCPA board member Larry Wedekind.

The Value of What Has Been Saved. While the ISP's actions are fortuitous, the value of the documents today is perhaps only about 5% of their value before Ivy and Stewart allowed their Internet access to be destroyed. Here is why:

- All the links mentioned in the first paragraph above have been severed.
- Most of the people who bookmarked the NCPA URLs and established links to NCPA publications have no idea their links have been broken; when they find out, they will have no idea how to restore them.
- Nor can anyone alert them and correct their web addresses because no one knows who they are or where they kept their bookmarks.
- The Google search engine ranks sites based on their historical archives. An organization with a long history and a record of substantial traffic is rated much higher than a new entity with no history and no traffic.
- So, a study that might have appeared on page 1 in a Google search with its NCPA URL in the past, could easily show up on page 25 with a new URL today.
- Google, by the way, is like a third-party referral in sales. High rankings in Google are highly prized by everyone who puts content on the internet.

- Even if researchers or congressional aides know the exact title and the precise authorship of an NCPA study, it is unlikely they will be able to find it in any reasonable period of time today.

60 Minutes, on May 20, devoted a [lengthy segment to Google](#), in which they explained that if a document does not show up on page 1 in a search, it is unlikely that anyone will ever see it.

Even if someone managed to find the Wedekind site by chance, a search for a single document would be extremely difficult. This is because the Wedekind site has no search engine and no organization of documents (by subject or by author) comparable to what the NCPA once had. To do that would require a considerable investment of time and money. That's not likely to happen until certain legal issues are resolved.

Legal Status of the Documents. Technically, the NCPA (as represented by the NCPA's Appointed Receiver) and John Goodman own the NCPA documents the IPS has preserved. (Goodman owns the copyright on every document for which he is an author.) However, neither party owns the IPS's electronic copies of those documents, and neither party owns the current links to those documents. When the NCPA quit paying the ISP, it basically abandoned its own web site. The ISP has no obligation to the NCPA – contractually, financially or otherwise.

As of today, the IPS is under no obligation to anyone to preserve electronic copies of the documents or their URL addresses.

In selling the domain name to the pharmacists, the decision makers:

- Sold the asset at below market;
- Used the money to compensate themselves instead of paying creditor claims; and
- Showed callous disregard for donor intent.

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The Harm Done by Selling the Domain Name ncpa.org to the Community Pharmacists

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

LF PARA on behalf of Jason Friedman
Bar No. 24059784
lfpara@fflawoffice.com
Envelope ID: 57537674
Status as of 9/27/2021 1:29 PM CST

Associated Case Party: RECOVERY FUNDING SERVICE, LLC,

Name	BarNumber	Email	TimestampSubmitted	Status
Jason HFriedman		jhfriedman@fflawoffice.com	9/23/2021 12:12:11 PM	SENT
Jeff O'Dell		jodell@fflawoffice.com	9/23/2021 12:12:11 PM	SENT
Stacy Morrison		smorrison@fflawoffice.com	9/23/2021 12:12:11 PM	SENT
Mariam Alghaziani		malghaziani@fflawoffice.com	9/23/2021 12:12:11 PM	SENT