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1st Session

HOUSE OF REPRESENTATIVES

REPORT
115–272

IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE BEN RAY LUJÁN

REPORT

OF THE

COMMITTEE ON ETHICS

AUGUST 1, 2017.—Referred to the House Calendar and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
Washington, DC, August 1, 2017.

Hon. KAREN L. HAAS,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. HAAS: Pursuant to clauses 3(a)(2) and 3(b) of rule XI of the Rules of the House of Representatives, we herewith transmit the attached report, "In the Matter of Allegations Relating to Representative Ben Ray Luján."

Sincerely,

SUSAN W. BROOKS,
Chairwoman.
THEODORE E. DEUTCH,
Ranking Member.

CONTENTS

I. INTRODUCTION 1
II. PROCEDURAL BACKGROUND 2
III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT 2
IV. BACKGROUND 4
A. REPRESENTATIVE LUJÁN'S EMAIL TO A CAMPAIGN VOLUNTEER 5
B. THE JUNE 22, 2016, CAMPAIGN EMAIL BY BOULDER STRATEGIES 5
C. THE JUNE 23, 2016, CAMPAIGN EMAIL BY BOULDER STRATEGIES 7
V. FINDINGS 9
A. SOLICITATION OF CAMPAIGN CONTRIBUTIONS AND OTHER CAMPAIGN ACTIVITY IN HOUSE BUILDINGS 9
1. REPRESENTATIVE LUJÁN'S EMAIL DID NOT SOLICIT CAMPAIGN CONTRIBUTIONS 9
2. THE RECORD DOES NOT SHOW THAT REPRESENTATIVE LUJÁN ENGAGED IN CAMPAIGN ACTIVITY IN A HOUSE BUILDING 10
B. BOULDER STRATEGIES' USE OF AN IMAGE OF THE HOUSE FLOOR IN THE JUNE 23, 2016, CAMPAIGN SOLICITATION 11
VI. CONCLUSION 12
VII. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(C) 13
APPENDIX 1: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS (REVIEW NO. 17–8362) 14
APPENDIX 2: REPRESENTATIVE LUJÁN'S SUBMISSION 242
APPENDIX 3: EXHIBITS TO COMMITTEE REPORT 257

House Calendar No. 76

115TH CONGRESS *1st Session* } HOUSE OF REPRESENTATIVES { REPORT 115–272

IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE BEN RAY LUJÁN

AUGUST 1, 2017.—Referred to the House Calendar and ordered to be printed

Mrs. BROOKS of Indiana, from the Committee on Ethics, submitted the following

R E P O R T

In accordance with House Rule XI, clauses 3(a)(2) and 3(b), the Committee on Ethics (Committee) hereby submits the following Report to the House of Representatives:

I. INTRODUCTION

On May 11, 2017, the Office of Congressional Ethics (OCE) transmitted to the Committee a Report and Findings (OCE's Referral) regarding Representative Ben Ray Luján. OCE reviewed allegations that Representative Luján violated laws, House rules, and other standards of conduct by (1) improperly conducting campaign or political activity from the floor of the House of Representatives; (2) improperly soliciting campaign contributions from a federal building; and (3) improperly using an image of a House of Representatives floor proceeding for campaign and political purposes.[1]

OCE found that there was "substantial reason to believe that Representative Luján conducted campaign or political activity from the House Floor, solicited a campaign contribution from a federal building, or used an image of a House Floor proceeding for campaign or political purposes."[2] For that reason, OCE recommended that the Committee further review these allegations.[3] However, OCE acknowledged that "the evolving nature of electronic communications and campaign solicitations sometimes presents novel issues that are not directly addressed by the House Ethics Manual," and that OCE's review "raised difficult questions about the

[1] OCE's Referral at 1 (Appendix A).
[2] *Id.* at 1, 16.
[3] *Id.* at 1.

application of House rules to solicitations via email."[4] OCE suggested that "Members may benefit from additional guidance regarding campaign activities and electronic communications."[5]

The Committee agreed that this was an area where additional guidance could be useful, and did further review the allegations. Following its review, the Committee concluded that the evidence is insufficient to warrant further action against Representative Luján. Specifically, the Committee did not find that Representative Luján engaged in campaign or political activity, or solicited campaign contributions, from the House Floor or any other federal building. The Committee did find that Representative Luján's campaign consultant used an image of House proceedings from the House recording system in a campaign communication, which was an inadvertent, technical violation of House Rule V, clause 2(c)(1). Members are ultimately responsible for actions taken in their name that they delegate to third parties. Thus, Members should take reasonable steps to ensure that their campaign committees or consultants comply with all applicable laws, rules, and regulations. However, given the limited nature of the violation, as well as Representative Luján's subsequent efforts to prevent any recurrence of this issue, the Committee did not find that a sanction was warranted.

Accordingly, the Committee unanimously voted to dismiss this matter, publish this Report, and take no further action. Upon publication of this Report, the Committee considers the matter closed.

II. PROCEDURAL BACKGROUND

OCE commenced a preliminary review of this matter on February 4, 2017. On March 6, 2017, OCE initiated a second-phase review. On May 5, 2017, the OCE Board voted five to one to adopt the Findings and refer the matter to the Committee with a recommendation for further review.

The Committee received OCE's referral on May 11, 2017. The Committee issued voluntary requests for information to Representative Luján, and he responded by voluntarily providing documents and other information to the Committee. In total, the Committee reviewed over 1,250 pages of materials, including the transcripts of four voluntary interviews.

On July 27, 2017, the Committee unanimously voted to release this Report and take no further action with respect to Representative Luján.

III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

Federal law, 18 U.S.C. § 607, makes it "unlawful for . . . Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person." According to the *House Ethics Manual*, "[t]he prohibition against House Members or employees soliciting campaign or political contributions in or from House offices, rooms, or buildings is

[4] *Id.* at 15.
[5] *Id.*

very broad."[6] With one minor exception—an allowance for Members to solicit campaign contributions from other Members in House buildings—"the prohibition applies to all forms of solicitations—solicitations made in person, over the telephone, or through the mail." The *Ethics Manual* specifically notes that a Member may not prepare or make a campaign communication in a House building, even if the Member uses his own phone or other communications device.[7]

A separate statute, 31 U.S.C. § 1301(a), requires that "appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Based on this statute, the Committee has long cautioned Members and House employees against the use of House buildings for unofficial activities. With respect to the use of official resources, including House buildings, for campaign or political activity, the *Ethics Manual* states that the statutory prohibition is absolute:

> A provision of the *Members' Handbook* permits the incidental personal use of House equipment and supplies "when such use is negligible in nature, frequency, time consumed, and expense." However, this policy applies only to incidental personal use of those resources, and not to their use for campaign or political purposes.[8]

In addition, the *Ethics Manual* states that "the House rooms, offices, and buildings are considered official resources, and as such, they [should] not be used for the conduct of any campaign or political activity."[9] "Among the specific activities that clearly may not be undertaken in a congressional office . . . are the solicitation of contributions; the drafting of campaign speeches, statements, press releases or literature; the completion of FEC reports; the creation or issuance of a campaign mailing; and the holding of a meeting on campaign business."[10]

The purpose of these laws and rules is generally to preclude campaign or political activity from taking place in a congressional office. However, the Committee has recognized that there are certain limited activities that, while related to a Member's campaign, may properly take place in a congressional office. The Committee's view has been that it would be impractical and unnecessary to attempt to prohibit these specific activities. In this regard, the Committee has long advised that certain very limited and very specific activities are permissible.[11]

The Committee's jurisdiction is of current House Members, officers, and employees. However, many Members delegate certain campaign communications functions to outside entities. Antici-

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[6] *See House Ethics Manual* (2008) (hereinafter "*Ethics Manual*") at 144.

[7] *See id.* at 144–45 ("A telephone solicitation from a House office or building would not be permissible merely because the call is billed to a credit card of a political organization or to an outside telephone number, or because it is made using a cell phone in the hallway. Similarly, when a House Member or employee makes solicitation calls somewhere else, such as at one of the campaign committee offices, and has to leave a message, the individual should not leave his or her House office telephone number for the return call. In addition, a fundraising mailing should not be either prepared or assembled in a House room or office, even if no House equipment or supplies are used in the process.").

[8] *Id.* at 126 (emphasis in original).

[9] *Id.* at 145 (emphasis in original); *see also id.* ("In addition, the rules issued by the House Office Building Commission concerning the use of the House office buildings prohibit the soliciting of contributions in the buildings other than for certain charitable purposes.")

[10] *Id.* at 124 (emphasis in original).

[11] *Id.* at 132–35.

pating this practical reality, the *Ethics Manual* states that "under these rules, a Member or employee must take reasonable steps to ensure that any outside organization over which he or she exercises control—including the individual's own authorized campaign committee or, for example, a 'leadership PAC'—operates in compliance with applicable law."[12]

With respect to use of images from the House Floor, House Rule V, clause 1, provides that "[t]he Speaker shall administer, direct, and control a system for close-circuit viewing of floor proceedings of the House," and clause 2(c) states that "[c]overage made available under this clause, including any recording thereof—(1) may not be used for any partisan political campaign purpose."[13] The *Ethics Manual* further explains that "[b]roadcast coverage and recordings of House Floor proceedings may not be used for any political purpose under House Rule V, clause 2(c)(1)."[14]

IV. BACKGROUND

On June 22 and June 23, 2016, Representative Ben Ray Luján, Representative for New Mexico's 3rd District, participated in a sit-in on the House Floor. The sit-in was an organized attempt by Democratic Members to force a vote on the "No Fly No Buy" bill prior to adjourning for the July 4th recess.[15] Representative Luján joined the sit-in around midday on June 22, 2016,[16] and participated in the sit-in until he left and went home after 7:00 AM on June 23.[17] According to Representative Luján, he did not remain on the House Floor throughout the entire sit-in. Instead, he recalls leaving the House Floor for a pre-scheduled "lunch or [] meeting outside of the building."[18] Representative Luján also stated that he "left for a bit of time and then [] came back to the floor during the night,"[19] and recalled leaving the House Floor to take bathroom breaks and to walk "outside to the front of the building of the Capitol, just [to] get a breath of air."[20] In addition, Representative Luján told OCE that "[t]here were people gathering outside the Capitol, so members would leave periodically to go and either just stand with the crowd or speak to the crowd."[21]

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[12] *Id.* at 123.

[13] House Rule V.

[14] *Ethics Manual* at 128.

[15] *See* Exhibit 5 to OCE's Referral (attaching June 22, 2016, Boulder Strategies email explaining Representative Luján's call for action via the sit-in).

[16] Representative Luján's June 22, 2016, calendar indicates that he was scheduled to take lunch at 11:30 AM, *see* Exhibit 7, and email correspondence from Representative Luján's staff indicates that he was "heading to the floor" at 12:13 PM, *see* Exhibit 8, and that he cancelled 12:30 PM and 2:30 PM meetings to remain on the House Floor, *see* Exhibit 9. When questioned regarding what time he joined the sit-in on the House Floor, Representative Luján stated that he could not recall the exact time but that it was around lunchtime. *See* Exhibit 1 to OCE's Referral, Interview of Representative Luján at 24.

[17] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 22–24; Exhibit 1 (6:32 AM message indicating that Representative Luján was still on the House Floor and had been asked to speak "during the 7 o'clock hour."). Emails produced by Representative Luján also indicate that at 9:37 AM on June 23, 2016, he was en route to a meeting at the offices of the Democratic Congressional Campaign Committee (hereinafter "DCCC"), and he arrived there shortly after 9:45 AM. *See* Exhibit 2 & Exhibit 4.

[18] Exhibit 1 to OCE's Referral, Interview of Representative Luján, at 23–25.

[19] *Id.* at 23–24.

[20] *Id.* at 24.

[21] *Id.*

A. REPRESENTATIVE LUJÁN'S EMAIL TO A CAMPAIGN VOLUNTEER

On June 22, 2016, at 3:00 PM, while Representative Lujan was on or near the House Floor for the sit-in, he received an email from Representative Michelle Lujan Grisham's campaign committee. The email stated that Representative Lujan Grisham was "literally on the House floor," and requested that the recipients "add your name to this petition," which related to the "No Fly No Buy" bill.[22] The email did not request a campaign contribution.[23]

At 4:02 PM, Representative Luján forwarded Representative Lujan Grisham's email to a volunteer for his campaign (Campaign Volunteer),[24] with a one-sentence email stating "Get something out."[25] The email was sent from Representative Luján's personal email account to Campaign Volunteer's personal email account, and the email did not provide additional details regarding what Representative Luján wanted to "get out."[26] Representative Luján does not recall whether he was on the House Floor, inside the Capitol, or inside any other federal building at the time he forwarded the email to Campaign Volunteer.[27]

B. THE JUNE 22, 2016, CAMPAIGN EMAIL BY BOULDER STRATEGIES

Representative Luján's principal campaign committee, People for Ben, contracted with Boulder Strategies, a private political consulting firm, to handle campaign solicitations and petitions through "[o]nline fund-raising and digital strategy."[28] Boulder Strategies' responsibilities included creating a calendar of when to send targeted email correspondence based on current events, the news cycle, and items relevant to Representative Luján's voting base.[29] Boulder Strategies sent both "solicitations for contributions and also [] emails that were petitions, asking people to sign on with different policy issues" to Representative Luján's supporters throughout the 2016 election cycle.[30] Representative Luján left the decision whether a particular occasion called for a petition or a solicitation up to Boulder Strategies because Boulder Strategies was using a technology called HubSpot.[31] HubSpot is a marketing software

[22] Exhibit 2 to OCE's Referral.

[23] *Id.*

[24] Campaign Volunteer is the Chief of Staff for the DCCC, but Representative Luján has asserted that he was acting in his personal capacity in assisting Representative Luján's campaign. *See* June 2, 2017, Letter from Representative Luján to Chairwoman Brooks and Ranking Member Deutch (hereinafter "Representative Luján Submission"), at 6. During the course of the sit-in, it appears Campaign Volunteer's email correspondence with Boulder Strategies, Representative Luján, and Representative Luján's campaign committee was limited to emails from his personal email account.

[25] Exhibit 2 to OCE's Referral.

[26] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 34–35; Exhibit 2 to OCE's referral.

[27] While it is unclear where Representative Luján was located at 4:02 PM, Representative Luján's submissions indicate he was conferring with staff members regarding sit-in related interviews sometime between 3:35 PM and 3:58 PM. *See* Exhibit 3; Exhibit 1 to OCE's Referral, Interview of Representative Luján at 34 ("I was in and out of the Capitol quite a bit. I don't remember exactly where I was when I sent [the 4:02 PM email to Campaign Volunteer]".).

[28] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 6.

[29] Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 17–18.

[30] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 9; Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 20 ("It wasn't just solicitations. It was—it was just content delivery as well.").

[31] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 31–32 ("I don't know that it's up to Aaron to make a decision of whether something is a petition or if it's an online solicitation for money. That's what Boulder Strategies was hired to do and that's their job."); Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 56 ("They were in charge of his entire

Continued

platform that was used by Boulder Strategies to test the type of messages and content that best captured public attention, and to determine which messages were ideal for generating fundraising revenue.[32]

Campaign Volunteer told OCE he viewed Representative Luján's email to "Get something out" as a suggestion and did not convey the message to Boulder Strategies because Boulder Strategies already had email correspondence addressing the "No Fly No Buy" bill scheduled to be released on June 22, 2016.[33] Indeed, after the Orlando shooting prompted the 2016 "No Fly No Buy" bill, Boulder Strategies scheduled multiple emails to be released on Representative Luján's behalf regarding the bill, bill-related events, and the general issue of gun violence in America.[34]

On June 22, 2016, at 7:11 PM, the President of Boulder Strategies sent an email[35] to Representative Luján's campaign committee staff and to Campaign Volunteer, requesting that they review a draft message on behalf of People for Ben.[36] According to the President of Boulder Strategies, the "e-mail was a continuation of a series of e-mails [Boulder Strategies had] been doing on [the] No Fly No Buy" bill.[37] Boulder Strategies "simply took an e-mail that was already in the pipeline," which they "were already planning to send," and "inserted the first line of the e-mail that talked about [Representative Luján] being on the floor to make it relevant for the day's topic."[38]

The message included a link redirecting recipients to a contribution page allowing them "to make a contribution if they so choose."[39] Representative Luján told OCE that he did not review the draft, propose any language with respect to the draft, or participate in the decision whether to include the contribution link.[40] Neither OCE nor the Committee obtained any information to the contrary.

The email was ultimately sent at approximately 8:15 PM on June 22, 2016,[41] to People for Ben supporters, with the following text included:

---

e-mail program. They are the people who physically clicked 'send' with their technology HubSpot or whatever they used to, like, message test and see which e-mails get more clicks and less clicks and how to include e-mail solicitations and all that other stuff, right. They were sort of the keeper of the keys when it came to that kind of stuff.").

[32] Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 21 ("they had a technology called HubSpot that basically they would like message test things . . . and from whatever technology that they had they could decide like, wow, people are really paying attention to, like, you know, this issue or that issue or whatever."); *id.* at 22 ("It was kind of like a known fact that if an e-mail came across . . . if it had a solicitation within it that they had already identified that that was a subject matter via this technology HubSpot, that could potentially yield a good amount of campaign donations online.").

[33] *Id.* at 71–72 ("[B]ased on what was happening I knew that there, that they were already doing their thing here to create content, and so I, I didn't do anything.").

[34] *Id.* at 31–36, 46–47.

[35] Boulder Strategies sent their emails on Representative Luján's behalf from their offices in Boulder, Colorado. *Id.* at 67.

[36] Exhibit 5 to OCE's Referral.

[37] Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 6.

[38] *Id.*

[39] *Id.* at 8.

[40] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 36–37 (explaining that Representative Luján played no role in the drafting or editing of the email); *see also id.* at 16–17 (explaining that Boulder Strategies sent Representative Luján drafts of solicitations and petitions for the first few months of 2016, but stopped sending drafts after that and "[a]s far as editing or drafting or anything like that, I had—I never did that."); *id.* at 22 ("I think early on, I may have received them. But later, E-mails would get sent out to whatever list Boulder Strategies had, without me seeing them or editing them at all.").

[41] *See* Exhibit 10.

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter—and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. In what world do we think that's a good idea?

Sign our pledge if you demand a vote on the bipartisan No Fly, No Buy bill.

My Republican colleagues would rather go on a 4th of July recess before voting on this time-sensitive bill. That's why we're on the House floor demanding action.

Enough is enough—no bill, no break. Full stop. SIGN HERE.

I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.

The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to *legally* purchase an AR–15, military-grade assault rifle.

Stand up if you support our sit-in.

At a minimum, we must come together, put aside our politics, and pass this commonsense measure.

Thank you,

Ben Ray

CONTRIBUTE

Paid for and authorized by People for Ben.

Based on all of the evidence the Committee collected, it is not clear where Representative Luján was physically located when Boulder Strategies released this message.

C. THE JUNE 23, 2016, CAMPAIGN EMAIL BY BOULDER STRATEGIES

On June 23, 2016, at 9:29 AM, Campaign Volunteer sent an email to the President of Boulder Strategies and the People for Ben campaign staff.[42] The email stated "[p]lease get another email ready for this morning. The members will have been on the floor for 24 hours, as of 11:00 this morning. We need to do a $$ ask on this."[43] Campaign Volunteer's request was based on a perceived impending shift in the news cycle away from the sit-in and the "No Fly No Buy" bill.[44]

Boulder Strategies complied with the request, and the June 23, 2016, email was sent to a campaign distribution list at 11:11 AM.[45] The email contained an image of the House Floor that was obtained from an Associated Press news article.[46] The original source of the image appears to be the House Broadcast network; Boulder

[42] Exhibit 6 to OCE's Referral.

[43] *Id.*

[44] Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 74–75 ("before [T] the news cycle moved to another subject which it often does very quickly I had suggested to them that we should probably send out another e-mail based on everything that was going on because the news cycle was probably about to shift.").

[45] *See* Exhibit 11 (Boulder Strategies' email confirming that the June 23, 2016, "Email is out"). Boulder Strategies sent their emails on Representative Luján's behalf from their offices in Boulder, Colorado. *See* Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 67.

[46] Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 66.

Strategies included a citation to the image that stated "Credit to House Television via AP."[47]

The email from Boulder Strategies read as follows:

> Friend,
>
> As we pass the 11 am hour in Washington DC, my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote on the bi-partisan No Fly, No Buy bill.
>
> Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.
>
> Do you stand with us? Chip in $24 towards our emergency fundraising goal—$1 for every hour we've been in the well of the House Chamber demanding action.
>
> A moment of silence on the House floor is simply not enough to honor the lives of those we have lost. We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.
>
> Tell the GOP: It's simple—No Fly, No Buy, No Break. Click to contribute $24 (or whatever you can) right now to show your support!
>
> As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.
>
> Thanks for having our back,
>
> —Ben Ray

Representative Luján left the Capitol around 7:00 AM on June 23, 2016, and went home to sleep.[48] An email from Representative Luján's staff at 9:37 AM indicated he was on his way from his home to a meeting off the Capitol grounds at the DCCC office building.[49] Based on this and other contemporaneous emails, it does not appear that Representative Luján was in a federal building when Campaign Volunteer sent his email to Boulder Strategies.[50] It is possible that Representative Luján was on the House Floor at 11:11 AM on June 23rd, when Boulder Strategies sent the second sit-in related email to supporters; the email suggested that he was "now" on the Floor, and communications between Representative Luján's staff indicated that he was hoping to return to the floor after his 9:45 AM meeting at the DCCC.[51] However, given that Representative Luján did not actually write, review, or send the June 23 email to his supporters,[52] the statement that he was "now" on the Floor may have been mere puffery, or based on an expectation of what Representative Luján would do, rather than his actual movements. And the internal communications between

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[47] Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 12.

[48] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 22–24; Exhibit 1 (6:32 AM message indicating that Representative Luján was still on the House Floor and had been asked to speak "during the 7 o'clock hour."); Exhibit 2.

[49] *See* Exhibits 2 & 4.

[50] *See* Exhibit 4 (9:37 AM email indicating that Representative Luján was heading to a meeting at the DCCC office building but would "be a few minutes late to the 9:45" AM meeting).

[51] *See* Exhibit 2.

[52] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 38–39.

Representative Luján's staff do not indicate whether he actually returned to the Floor before the sit-in concluded.

V. FINDINGS

A. SOLICITATION OF CAMPAIGN CONTRIBUTIONS AND OTHER CAMPAIGN ACTIVITY IN HOUSE BUILDINGS

1. Representative Luján's email did not solicit campaign contributions

As previously discussed, Representative Luján did not personally send the June 22 and June 23, 2016, emails to supporters that were the subject of OCE's Referral. Instead, Representative Luján's campaign consultant, Boulder Strategies, sent the two messages to supporters on behalf of Representative Luján's campaign committee, People for Ben. However, if the Committee found that Representative Luján, while on the House Floor, directed a third-party to solicit campaign contributions, such conduct would raise serious questions about compliance with at least the spirit of 18 U.S.C. § 607, which prohibits the solicitation of campaign contributions from a federal building.[53] However, in this case, the evidence does not establish any improper conduct by Representative Luján with respect to either the June 22 or June 23 emails from Boulder Strategies.

As a threshold matter, it does not appear that either campaign email was actually sent at the direction of Representative Luján. Boulder Strategies told OCE that the June 22 email to supporters was already planned and largely prepared at the time Representative Luján told Campaign Volunteer to "Get something out."[54] While the June 23 email was not planned and prepared in advance of the sit-in, it was created at the direction of Campaign Volunteer, with no input or direction from Representative Luján.[55] Boulder Strategies did send drafts of the June 22 and June 23 emails to Representative Luján's campaign committee before releasing them, but it does not appear that those drafts were shared with Representative Luján.[56] This is significant because campaign committees are permitted to work, independently but simultaneously, on campaign matters while a Member is working on official House business.[57]

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[53] House Rule XXIII, clause 2, requires Members to adhere to the spirit as well as the letter of the Rules of the House.

[54] *See* Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 6 ("We had done a series of emails about this topic already. Then when the sit-in began on the House floor, we simply took an email that was already in the pipeline, we were already planning to send an email of this type, and we simply inserted the first line of the email that talked about him being on the floor to make it relevant for the day's topic.").

[55] Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 58–60 ("Did you have any communication with Representative Luján before you sent that communication to Boulder Strategies about another e-mail? [Answer]: No. Mr. Payne: So for two days you had no communication with [T] Representative Luján? [Answer]: That's correct.").

[56] Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 7–11 (indicating that the President of Boulder Strategies crafted the language of the June 22 and June 23 emails himself, without input from Representative Luján, that Representative Luján was not provided drafts of the emails, and that Representative Luján did not sign-off on the messages).

[57] *See* Committee on Standards of Official Conduct, *Investigation of Alleged Improper Political Solicitation,* 99th Cong., 1st Sess. 19 (1985) ("In view of the foregoing, since the DCCC had no knowledge of Wilhelm's actions on its behalf, it follows that the DCCC should not be held liable for whatever actions Wilhelm took *vis-à-vis* the solicitation efforts, particularly as regards any alleged violation of 18 U.S.C. 602 or 607. From this it, therefore, also follows that, absent any

Continued

Further, the evidence does not show that when Representative Luján gave the direction to "Get something out," he meant that his campaign consultants should send a solicitation for campaign funds. Representative Luján forwarded an email that another Member sent to supporters with a petition related to the "No Fly No Buy" bill. The other Member's email did not include any solicitation of campaign contributions.[58] Thus, to the extent Representative Luján intended his campaign to "get out" a similar petition, there would be no solicitation, and no violation of 18 U.S.C. § 607. It is worth noting that Representative Luján gave Boulder Strategies the discretion to determine whether any particular email they sent from his campaign committee would be a solicitation or something else.[59] Thus, he created a condition in which an ambiguous instruction to Boulder Strategies could be read, and implemented, either way. Moreover, as previously discussed, the Committee holds Members responsible for ensuring that campaign consultants who work on their behalf follow all applicable laws, rules, regulations, and other standard of conduct.[60] In this case, however, there is no evidence that Representative Luján expected, or should have expected, that when he forwarded a petition from another Member's campaign to his own campaign consultants, that would result in a campaign solicitation.

Accordingly, the Committee did not find that Representative Luján violated either the letter or the spirit of the federal law prohibiting the solicitation of campaign donations from a federal building.

2. The record does not show that Representative Luján engaged in campaign activity in a House building

While the evidence does not establish that Representative Luján's email to "Get something out" solicited campaign contributions, there is a separate question whether, by sending the email, he engaged in *any* campaign or political activity from a House building. Doing so would violate both a federal statute, 31 U.S.C. § 1301(a), and regulations from the Committee on House Administration (CHA). As previously discussed, the Committee and CHA have made clear that even "incidental" campaign or political activity in a House building is not permitted.[61]

Representative Luján's email, on June 22, 2016, to Campaign Volunteer, with the direction to "Get something out" about the sit-in was clearly campaign or political activity. This inference is supported by the message that Representative Luján forwarded with his direction, which was a petition about the sit-in from another Member's campaign to her supporters,[62] and by Campaign Volunteer's role with Representative Luján's campaign, and as a conduit between Representative Luján and the paid campaign consultants at Boulder Strategies.

DCCC responsibility for the solicitations, the respondents should similarly not be held liable for Wilhelm's actions.").

[58] *See* Exhibit 2 to OCE's Referral.

[59] Exhibit 1 to OCE's Referral, Interview of Representative Luján at 9, 31–32; Exhibit 3 to OCE's Referral, Interview of DCCC Chief of Staff at 56.

[60] *Ethics Manual* at 123.

[61] *See id.* at 126.

[62] *See* Exhibit 2 to OCE's Referral.

However, any allegation that Representative Luján engaged in campaign or political activity from a federal building would require proof that Representative Luján was on the House Floor or in another federal space when he sent out his sole email at issue here, the instruction to "Get something out."[63] After reviewing all of the available evidence, including C–SPAN footage of the sit-in, Representative Luján's testimony to OCE,[64] and contemporaneous emails and text messages from and between the Member and his staff, the Committee could not establish Representative Luján's location when he forwarded another Member's petition to Campaign Volunteer. Without some proof of Representative Luján's location, the Committee will not find that he violated the letter or spirit of federal law or House regulations regarding campaign activity in House buildings.

Nonetheless, the Committee cautions all Members that drafting, editing, commenting on, or sending campaign or political communications from a House building is not permitted. The Committee has long recognized that there are certain limited campaign or political activities that, while related to a Member's campaign, may properly take place in a congressional office.[65] However, sending a direction to a campaign consultant or volunteer to "Get something out" does not fall within the very limited and very specific exceptions to the general rule. In this age of always-on mobile communications, Members may find it impractical or unreasonable to have to exit a House building before sending a three-word campaign email. However, that is what the relevant law, rules, and regulations require.

B. BOULDER STRATEGIES' USE OF AN IMAGE OF THE HOUSE FLOOR IN THE JUNE 23, 2016, CAMPAIGN SOLICITATION

The Committee found that Boulder Strategies' use of a still image of the House Floor[66] in campaign correspondence on behalf of People for Ben was a technical violation of House Rule V, clause 2(c)(1), which prohibits partisan use of the "system for close-circuit viewing of floor proceedings of the House," which the Speaker administers, directs, and controls.

While Representative Luján's submission to the Committee argues that Rule V only prohibits use of video footage from floor proceedings and not still images,[67] this interpretation finds no support in the express language of Rule V or the guidance historically dispensed by the Committee. House Rule V prohibits the use of "[c]overage made available under this clause, including any recording thereof."[68] Limiting the term "coverage" to video recordings when the provision expressly lists "recording[s]" as simply one example of coverage would be inconsistent. Further, in a 2014 "Pink

[63] *See id.*

[64] Representative Luján recalled that he was on and off the House Floor, and in and out of the Capitol building, during the sit-in. *See* Exhibit 1 to OCE's Referral, Interview of Representative Luján, at 23–25.

[65] *Ethics Manual* at 132–35.

[66] This image was not sourced from C–SPAN's rebroadcast of images that House Members were broadcasting from their phones, using third-party, nonofficial mobile applications, after the House Floor cameras were turned off. Rather, as previously discussed, the still image that Boulder Strategies used came from an Associated Press article, which included a screen shot from the cameras that are part of the House broadcasting system.

[67] Representative Luján Submission at 9–10.

[68] House Rule V, Clause 2(c).

Sheet" distributed to all Member offices, the Committee made clear that Members may not re-use an image of floor proceedings published by a third-party, if the Member could not use that image in the first instance.[69]

Representative Luján's submission to the Committee indicates that the image was originally sourced from the House Broadcast network, although the video capture was made by the Associated Press and published by them as a still image. Thus, Representative Luján's campaign committee and consultant did not directly source the image from the House recording system, but made derivative use of it.[70] However, the Committee's guidance has made clear that such a derivative use is not permissible.

Representative Luján has presented evidence that he was not aware that Boulder Strategies would include a still image of the House Floor in its email correspondence, and that he played no part in creating or reviewing the correspondence.[71] The Committee has long held that Members of the House are responsible for ensuring that individuals speaking on their behalf comply with applicable House rules.[72] The Committee believes such a Rule is necessary to ensure that individuals do not rely upon third parties to circumvent relevant House rules.[73] In this case, the Committee is satisfied that, after Boulder Strategies sent the email that was the subject of OCE's Referral, Representative Luján took steps to prevent a recurrence of this issue, by instructing Boulder Strategies that "[a]s a standing rule from here out," "[w]e will not be using any images of the [H]ouse floor in any of our emails."[74] In addition, while the Committee disapproves of any violation of House rules, given the totality of the circumstances here, this is not the type of conduct that would merit any further action. Indeed, the Committee regularly addresses allegations of violations of House Rule V in an advisory manner, rather than investigating each such allegation.

VI. CONCLUSION

As noted by OCE, "the evolving nature of electronic communications and campaign solicitations sometimes presents novel issues that are not directly addressed by the House Ethics Manual."[75] The Committee agreed that this is an area where additional guidance could be useful.

Although the Committee did not conclude that Representative Luján made, or directed the making of, campaign solicitations from

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[69] *See* Memorandum from the Committee to all Members, "Campaign Activity Guidance," Aug. 15, 2014, at 16 (*available at* http://ethics.house.gov/sites/ethics.house.gov/files/20140815%20Pink%20Sheet.pdf).

[70] Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 12.

[71] While a draft of the June 23, 2016, email including the image of the House Floor was circulated to Campaign Volunteer and Representative Luján's campaign committee approximately thirty minutes before its release, there is no evidence that Representative Luján's campaign committee reviewed the message before it was released, and Campaign Volunteer appears to have provided an expedited sign-off on the draft message.

[72] *See Ethics Manual* at 123.

[73] In a likely oversight, Representative Luján's agreement with Boulder Strategies includes a provision that Boulder Strategies shall "comply with the applicable Federal Election Commission regulations, as well as any other applicable federal or state laws," but does not contain a similar requirement with respect to compliance with House rules. *See* Exhibit 5.

[74] Exhibit 6; Exhibit 4 to OCE's Referral, Interview of President of Boulder Strategies at 12 (after a follow-up conversation, "[w]e agreed not to use further images from the house floor, regardless of their sourcing, going forward").

[75] OCE's Referral at 15.

the House Floor or any federal building, the Committee cautions all Members that use of a third party to send campaign correspondence does not absolve them of their responsibility to ensure campaign correspondence complies with applicable laws and House rules. A Member's campaign committee or consultants may release campaign correspondence on the Member's behalf at any time, regardless of where the Member is. However, Members are reminded that, subject to very limited exceptions, they may not conduct campaign or political activity from a House building, whether hallway, office, or cafeteria, and thus, they may not draft, edit, or send campaign communications, or direct the drafting, editing, or sending of such communications, from a House building. This rule, which is embodied in federal law, applies even where the Member is using a personal or campaign communications device, and even if they are not using the House internet system.

With respect to the use of a screen shot sourced from the House recording system, the Committee found that the campaign consultant's actions did violate House Rule V, and that Representative Luján is ultimately responsible for that violation. However, there is no evidence that Representative Luján was aware of the decision to use the image before it was included in a campaign solicitation, and Representative Luján and his campaign have taken steps to prevent any recurrence of this issue in the future. For these reasons, the Committee does not believe that any sanction of Representative Luján would be appropriate.

The Committee has determined to take no further action in this matter, and upon publication of this Report, considers the matter closed.

VII. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(c)

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.

APPENDIX 1

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 17-8362

The Board of the Office of Congressional Ethics ("the Board"), by a vote of no less than four members, on May 5, 2017, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative Ben Ray Luján

NATURE OF THE ALLEGED VIOLATION: In June 2016, Representative Luján requested that his congressional campaign committee issue communications during a "sit-in" demonstration. The committee issued emails stating Representative Luján was on the House floor at the time the emails were sent. One of the emails specifically requested a campaign contribution and contained an image of the House floor.

If Representative Luján conducted campaign or political activity from the House floor, solicited a campaign contribution from a federal building, or used an image of a House floor proceeding for campaign or political purposes, then he may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Luján conducted campaign or political activity from the House floor, solicited a campaign contribution from a federal building, or used an image of a House floor proceeding for campaign or political purposes.

VOTES IN THE AFFIRMATIVE: 5

VOTES IN THE NEGATIVE: 1

ABSTENTIONS: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON ETHICS: Omar S. Ashmawy, Staff Director & Chief Counsel.

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 17-8362

TABLE OF CONTENTS

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdiction Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. REPRESENTATIVE LUJÁN MAY HAVE VIOLATED HOUSE RULES AND STANDARDS OF CONDUCT BY REQUESTING THAT A CAMPAIGN COMMITTEE SOLICIATION BE ISSUED WHILE IN A HOUSE BUILDING 5

A. Applicable Law, Rules, and Standards of Conduct 5

B. Representative Luján Participated in a Sit-in on the House Floor from June 22, 2016 to June 23, 2016 6

C. During the Sit-in Representative Luján Requested that His Campaign Issue a Communication 7

D. Representative Luján's Campaign Committee Sent an Email Stating that Representative Luján Was on the House Floor 10

E. Representative Luján's Campaign Committee Sent Another Email Stating that Representative Luján Was on the House Floor and Specifically Requested a Campaign Contribution 13

III. CONCLUSION 16

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 17-8362

On May 5, 2017, the Board of the Office of Congressional Ethics (hereafter "the Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. On June 22 and 23, 2016, Representative Luján participated in a "sit-in" on the floor of the House of Representatives. On June 22, Representative Luján requested that his campaign committee "get something out" related to the sit-in. Representative Luján may have been on the House floor or inside a federal building when he made the request.

2. Representative Luján's campaign committee then sent an email with language stating that Representative Luján was on the House floor at the time. The email contained links so that potential visitors to the site could make campaign contributions to his campaign committee.

3. On June 23, Representative Luján's campaign committee sent another email that again contained language that Representative Luján was on the House floor. That email specifically requested a campaign contribution and also contained an image of the House floor.

4. The Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Luján conducted campaign or political activity from the House floor, solicited a campaign contribution from a federal building, or used an image of a House floor proceeding for campaign or political purposes.

B. Jurisdiction Statement

5. The allegations that were the subject of this review concern Representative Ben Ray Luján, a Member of the United States House of Representatives from the 3rd District of New Mexico. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter "OCE") directs that, "[n]o review shall be undertaken... by the board of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008.

[1] H. Res. 895, 110th Cong. §1(e) (2008) (as amended).

Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

C. Procedural History

6. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on February 3, 2017. The preliminary review commenced on February 4, 2017.[2] The preliminary review was scheduled to end on March 5, 2017.

7. On February 6, 2017, the OCE notified Representative Luján of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.

8. At least three members of the Board voted to initiate a second-phase review in this matter on March 3, 2017. The second-phase review commenced on March 6, 2017. The second-phase review was scheduled to end on April 19, 2017.

9. On March 6, 2017, the OCE notified Representative Luján of the initiation of the second-phase review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.

10. The Board voted to refer the matter to the Committee on Ethics for further review and adopted these findings on May 5, 2017.

11. The report and its findings in this matter were transmitted to the Committee on Ethics on May 11, 2017.

D. Summary of Investigative Activity

12. The OCE requested testimonial and in some cases documentary information from the following sources:

    (1) Representative Luján;

    (2) Representative Luján's Former Communications Director;

    (3) The Democratic Congressional Campaign Committee ("DCCC") Chief of Staff; and;

    (4) The President of Boulder Strategies.

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to H. Res. 895 of the 110th Congress, as amended (hereafter "the Resolution"), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

II. REPRESENTATIVE LUJÁN MAY HAVE VIOLATED HOUSE RULES, STANDARDS OF CONDUCT, AND FEDERAL LAW BY REQUESTING THAT A CAMPAIGN COMMITTEE COMMUNICATION BE ISSUED WHILE ON THE HOUSE FLOOR

A. Applicable Law, Rules, and Standards of Conduct

13. House Ethics Manual

*"Official resources of the House must, as a general rule, be used for the performance of official business of the House, and hence those resources may **not** be used for campaign or political purposes . . . ."*[3]

"The House buildings, and House rooms and offices . . . are supported with official funds and hence are considered official resources. Accordingly, as a general rule, they may not be used for the conduct of campaign or political purposes."[4]

*"Among the specific activities that clearly may **not** be undertaken in a congressional office or using official House resources (including official staff time) are the solicitation of contributions; the drafting of campaign speeches, statements, press releases or literature; the completion of FEC reports; the creation or issuance of a campaign mailing; and the holding of a meeting on campaign business."*[5]

"The prohibition against House Members or employees soliciting campaign or political contributions in or from House offices, rooms, or buildings is very broad."[6] *The House Ethics Manual also explains, "the House rooms, offices, and buildings are considered official resources, and as such, they are **not** [sic] be used for the conduct of **any** campaign or political activity, including the solicitation of contributions."*[7]

"Moreover, under these rules, a Member or employee must take reasonable steps to ensure that any outside organization over which he or she exercises control – including the individual's own authorized campaign committee or, for example, a 'leadership PAC' – operates in compliance with applicable law."[8]

In addition, "[a]nything supported with official funds is an official resource, including congressional offices. The House Office Building Commission, comprised of the Speaker, the Majority Leader, and the Minority Leader, has issued regulations governing the use of House facilities. These regulations generally ban solicitation and commercial activity, limit photography, restrict use of meeting rooms to congressionally related purposes, and impose various health and safety restraints. In addition, as is true of all official

[3] House Ethics Manual (2008) at 123-24 (emphasis in original).
[4] *Id.* at 127.
[5] *Id.* at 124 (emphasis in original).
[6] *Id.* at 144.
[7] *Id.* at 145 (emphasis in original).
[8] *Id.* at 122.

resources, congressional offices may not be used for the conduct of campaign or political activities."[9]

"Broadcast coverage and recordings of House floor proceedings may not be used for any political purpose under House Rule 5, clause 2(c)(1). In addition, under House Rule 11, clause 4(b), radio and television tapes and film of any coverage of House committee proceedings may not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for public office."[10]

14. 18 U.S.C. § 607

(a) Prohibition (1) In general -

It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

B. Representative Luján Participated in a Sit-in on the House Floor from June 22, 2016 to June 23, 2016

15. Representative Luján participated in a June 22, 2016 "sit-in" on the floor of the House of Representatives.[11] He told the OCE that he was in his office during a meeting and saw on C-SPAN that House members were gathering on the House floor concerning the "No-fly, No-buy" bill.[12] He did not recall what time he made the decision to go to the House floor and participate, but told his staff to "clear the day."[13] Representative Luján's participation in the sit-in began on June, 22, 2016, continued overnight, and ended on June 23, 2016.[14]

16. Representative Luján described to the OCE various instances when he may not have been directly on the House floor, or in the Capitol complex during the sit-in.

17. Representative Luján stated that on June 22, 2016, he recalled an afternoon meeting "around" lunchtime where he left the Capitol in a vehicle.[15] He then came back to the

[9] *Id.* at 325.
[10] *Id.* at 128.
[11] Transcript of Interview of Rep. Luján, Mar. 2, 2017 ("Rep. Luján TOI") (Exhibit 1 at 17-8362_0024)
[12] *Id.* at 17-8362_0024-25.
[13] *Id.*
[14] *Id.*
[15] *Id.* at 17-8362_0027.

House floor later on June 22, 2016, "during the night."[16] From that time, Representative Luján stated that he was on the House floor "off and on" until the morning of June 23, 2016.[17]

18. Representative Luján told the OCE that during the sit-in, crowds had gathered outside the Capitol and members would sometimes leave the Capitol to greet the crowds.[18] He did not say whether he took part in greeting the crowds. Representative Luján also stated that "bathroom breaks, walking outside to the front of the building of the Capitol, just to get a breath of fresh air. . ." and getting a drink of water were all reasons Members may have left the House floor during the sit-in demonstration.[19]

19. When describing the timeframe when he may have left the House floor, after his afternoon meeting, and into the night, Representative Luján stated that it "wasn't just during the time that the sun went down . . . what I would describe as nighttime. It was throughout that period that I would [leave the House floor]."[20]

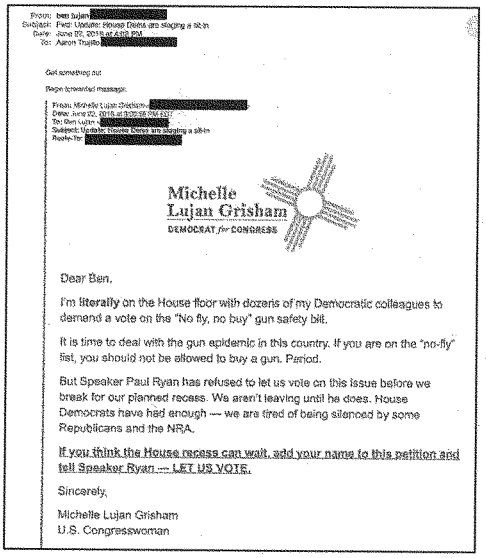
20. Representative Luján told the OCE that he concluded his participation in the sit-in and "walked home" on June 23, 2016 at "6:00 or 7:00"AM.

C. **<u>During the Sit-in Representative Luján Requested that His Campaign Issue a Communication</u>**

21. On June 22, 2016 at 3:00PM, Representative Luján received an email from Representative Michelle Luján Grisham's campaign committee concerning the "No-fly, No-buy" bill, claiming that Representative Luján Grisham was "literally on the House floor . . . ."[21] The email asked recipients to "add your name to this petition . . . ."[22] The email did not appear to request a campaign contribution.

[16] *Id.* Rep. Luján later told the OCE that he returned from the meeting "later on that day" instead of at night. *Id.*
[17] *Id.*
[18] *Id.* at 17-8362_0026.
[19] *Id.* at 17-8362_0026, 28.
[20] *Id.* at 17-8362_0028.
[21] Email from Rep. Michelle Luján Grisham's Campaign Committee to Rep. Luján, June 22, 2016 (Exhibit 2 at 17-8362_0061).
[22] *Id.*

22. At 4:02PM the same day, Representative Luján forwarded the email to the DCCC Chief of Staff, directing him to "Get something out."[23] At the time, the DCCC Chief of Staff was Representative Luján's primary contact for campaign messaging with Boulder Strategies, an online fundraising and digital strategy firm Representative Luján hired in 2016.[24]



From: ben lujan[redacted]
Subject: Fwd: Update: House Dems are staging a sit-in
Date: June 22, 2016 at 4:02 PM
To: Aaron Trujillo [redacted]

Get something out

Begin forwarded message:

From: Michelle Lujan Grisham [redacted]
Date: June 22, 2016 at 3:20:18 PM EDT
To: Ben Lujan [redacted]
Subject: Update: House Dems are staging a sit-in
Reply-To: [redacted]

Michelle Lujan Grisham
DEMOCRAT for CONGRESS

Dear Ben,

I'm literally on the House floor with dozens of my Democratic colleagues to demand a vote on the "No fly, no buy" gun safety bill.

It is time to deal with the gun epidemic in this country. If you are on the "no-fly" list, you should not be allowed to buy a gun. Period.

But Speaker Paul Ryan has refused to let us vote on this issue before we break for our planned recess. We aren't leaving until he does. House Democrats have had enough — we are tired of being silenced by some Republicans and the NRA.

If you think the House recess can wait, add your name to this petition and tell Speaker Ryan — LET US VOTE.

Sincerely,

Michelle Lujan Grisham
U.S. Congresswoman

23. Representative Luján could not recall where he was physically located at 4:02PM on June 22, 2016.[25] When asked if it was possible that he sent the email while in a House building or within the Capitol complex, he responded that "I think anything's – it's possible, but I was – like I said, depending on where I was moving to or moving from."[26]

24. Representative Luján told the OCE that upon receiving the email from Representative Luján Grisham's campaign committee, he thought that "Michelle had a good idea" and that his intention was to tell the DCCC Chief of Staff to "get something out."[27]

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[23] Email from Rep. Luján to the DCCC Chief of Staff, June 22, 2016 (Exhibit 2 at 17-8362_0061).
[24] Rep. Luján TOI (Exhibit 1 at 17-8362_0008-09). The DCCC Chief of Staff had previously worked in Rep. Luján's congressional office and continued to provide services to Rep. Luján's campaign committee in a volunteer capacity. Transcript of Interview of the DCCC Chief of Staff, Mar. 1, 2017 ("DCCC Chief of Staff TOI") (Exhibit 3 at 17-8362_0070).
[25] Rep. Luján TOI (Exhibit 1 at 17-8362_0036).
[26] *Id.*
[27] *Id.* at 17-8362_0032.

25. The OCE asked Representative Luján repeatedly about the meaning and intention behind telling the DCCC Chief of Staff to "get something out." Representative Luján told the OCE that he wanted the DCCC Chief of Staff to "Get a message out, maybe get something out, take a look at this good idea . . ." and "It was to tell [the DCCC Chief of Staff] get something out, I guess. So I guess something similar [to Representative Luján Grisham's email], yeah. Get something out."[28]

26. He stated further that "Michelle had a good idea here to say she wanted to create some attention that whatever – all the work that people were doing, and lend your voice to say, sign a petition and say, let us vote . . . This wasn't a solicitation for money, that was in this email . . . it was my hope that we could get something out that would ask people to lend their voices."[29]

27. Representative Luján told the OCE that he recalled that Boulder Strategies generally would "send solicitations for contributions and also send emails that were petitions, asking people to sign on with different policy issues."[30]

28. In this instance, Representative Luján told the OCE that both the DCCC Chief of Staff and Boulder Strategies had the authority to decide whether the campaign message would be in the form of a petition or solicitation for campaign contributions.[31]

29. After receiving the email from Representative Luján to "get something out," the DCCC Chief of Staff told the OCE that he did not believe the message from Representative Luján was a "directive to go get something out."[32] He believed "it was him just like expressing that he thought this was either a good way to talk about the issue, or maybe he thought the [email from Representative Luján Grisham] looked good or something, kind of left up to my own interpretation a little bit."[33]

30. In contrast to the DCCC Chief of Staff's testimony, the President of Boulder Strategies told the OCE that he was "instructed" to send a campaign email on behalf of Representative Luján's campaign committee on June 22, 2016 and that although he could not recall specifically who issued the instruction, typically it would have been from the DCCC Chief of Staff.[34]

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[28] *Id.* at 17-8362_0029-30.
[29] *Id.* at 17-8362_0032.
[30] *Id.* at 17-8362_0011.
[31] *Id.* at 17-8362_0033-35.
[32] DCCC Chief of Staff TOI (Exhibit 3 at 17-8362_0120).
[33] *Id.*
[34] Transcript of Interview of President of Boulder Strategies, Feb. 28, 2017 ("Boulder Strategies President TOI") (Exhibit 4 at 17-8362_0172).

D. Representative Luján's Campaign Committee Sent an Email Stating that Representative Luján Was on the House Floor

31. At 7:11PM on June 22, 2016, roughly three hours after Representative Luján asked the DCCC Chief of Staff to "get something out," the President of Boulder Strategies sent an email to members of Representative Luján's campaign committee staff and the DCCC Chief of Staff, requesting that the recipients "Please review for immediate send . . ." and stating that "Immediate $$ after action after the form submit."[35]

FOR IMMEDIATE APPROVAL Fwd: Preview Message - Rich Text - Staying on the Floor

Nick Passanante <[redacted]> Wed, Jun 22, 2016 at 7:11 PM
To: andrew stoldard <[redacted]>, Aaron James Trujillo <[redacted]>, Angela Ramirez <[redacted]>, Steve Fitzer <[redacted]>, Amir Salehzadeh <[redacted]>

Please review for immediate send.

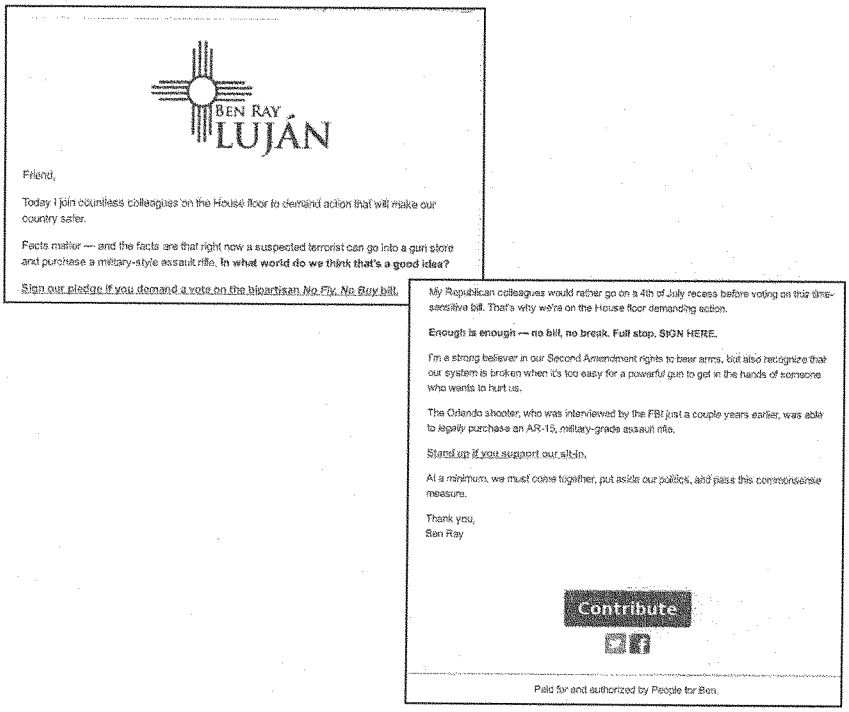
We're making one change to the landing page form (removing the trump question).

Immediate $$ after action after the form submit.

32. The President of Boulder Strategies told the OCE that "Immediate $$ after action after the form submit" meant that if someone "clicked on the link that says 'Sign or Pledge' . . . then it would automatically redirect to a contribution page to where they would then be able to make a contribution if they so choose."[36] He stated that he was not directed to add that feature by Representative Luján or his campaign staff but that it was "standard practice" for "most petitions" that Boulder Strategies created.[37]

[35] Email from President of Boulder Strategies to Rep. Luján campaign staff and DCCC Chief of Staff, June 22, 2016 (Exhibit 5 at 17-8362_0183).
[36] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0172).
[37] *Id.*

33. The email discussed above accompanied a draft email shown below that would become the first campaign committee email issued on June 22, 2016 regarding the sit-in.[38] The email concludes with a "contribute" link.[39] The contribute link was "permanent" on any Boulder Strategies email, according to the DCCC Chief of Staff.[40]



BEN RAY LUJÁN

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea?**

Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy* bill.

My Republican colleagues would rather go on a 4th of July recess before voting on this dangerous bill. That's why we're on the House floor demanding action.

Enough is enough — no bill, no break. Full stop. SIGN HERE.

I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.

The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to legally purchase an AR-15, military-grade assault rifle.

Stand up if you support our sit-in.

At a minimum, we must come together, put aside our politics, and pass this commonsense measure.

Thank you,
Ben Ray

Contribute

Paid for and authorized by People for Ben.

[38] *Id.* After edits were made to this draft by Boulder Strategies and Rep. Luján's campaign staff, an almost identical version was used as a final campaign email.
[39] *Id.*
[40] DCCC Chief of Staff TOI (Exhibit 3 at 17-8362_0106-07).

34. The text of the draft email reads:

> Today I join countless colleagues on the House floor to demand action that will make our country safer. Facts matter - and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea**?
>
> Sign our pledge if you demand a vote on the bipartisan No Fly, No Buy bill.
>
> My Republican colleagues would rather go on a 4th of July recess before voting on this time-sensitive bill. That's why we're on the House floor demanding action. **Enough is enough – no bill, no break. Full stop. SIGN HERE.**
>
> I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.
>
> The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to legally purchase an AR-15, military-grade assault rifle.
>
> Stand up if you support our sit-in.
>
> At a minimum, we must come together, put aside our politics, and pass this commonsense measure.
>
> Thank you,
>
> Ben Ray
>
> CONTRIBUTE
>
> Paid for and authorized by People for Ben.[41]

35. Although Representative Luján asked the DCCC Chief of Staff to "get something out" on June 22, 2016, the President of Boulder Strategies told the OCE he created the "House floor" language shown in the email and that Representative Luján did not take part in the email's creation.[42] Representative Luján corroborated this information.[43]

36. The President of Boulder Strategies also told the OCE that the email was part of a "series" of campaign emails "on this topic" that had been issued "at least a week prior."[44]

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[41] Email from Boulder Strategies President to Rep. Luján campaign staff and DCCC Chief of Staff, June 22, 2016 (Exhibit 5 at 17-8362_0183-84) (emphasis in original). Underlined portions appear to be hyperlinks to additional webpages.
[42] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0171).
[43] Rep. Luján TOI (Exhibit 1 at 17-8362_0038).
[44] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0170).

E. Representative Luján's Campaign Committee Sent Another Email Stating that Representative Luján Was on the House Floor and Specifically Requested Campaign Contributions

37. On June 23, 2016 at 9:29AM, the DCCC Chief of Staff sent an email to the President of Boulder Strategies and Representative Luján's campaign staff, requesting "another email ready for this morning. The members will have been on the floor for 24 hours, as of 11:00 this morning. We need to do a $$ ask on this."[45]

Another "Sit In" Email

Aaron Political <[redacted]> Thu, Jun 23, 2016 at 9:29 AM
To: Nick Passanante <[redacted]>, Andrew Stoddard <[redacted]>,

Please get another email ready for this morning. The members will have been on the floor for 24 hours, as of 11:00 this morning. We need to do a $$ ask on this.

38. The June 23, 2016 draft email shown below would become the second campaign committee email issued regarding the sit-in.[46]

BEN RAY LUJÁN

Friend,

As we pass the 11am hour in Washington DC, my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote on the bi-partisan *No Fly, No Buy* bill.

Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.

Do you stand with us? Chip in $24 towards our emergency fundraising goal -- $1 for every hour we've been in the well of the House Chamber demanding action.

A moment of silence on the House floor is simply not enough to honor the lives of those we have lost. We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.

Image from video provided by House Democrats shows Rep. Jerry McNerney (D-Calif.) speaking on the floor of the House of Representatives on June 23, 2016 as Democrats stand up from their seats to hold up signs with names of mass shooting victims / victims' loved ones as part of a sit-in to demand a vote on gun control legislation.

Tell the GOP: It's simple -- No Fly, No Buy. No Bill, No Break. Click to contribute $24 (or whatever you can) right now to show your support!

As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.

Thanks for having our back.

-Ben Ray

[45] Email from DCCC Chief of Staff to Boulder Strategies President and Rep. Luján's campaign staff, June 23, 2016 (Exhibit 6 at 17-8362_0186).
[46] Email from the President of Boulder Strategies to the DCCC Chief of Staff, *et al.*, June 23, 2016 (Exhibit 7 at 17-8362_0188-89).

39. The text of the draft email reads:

> As we pass the 11 am hour in Washington DC, **my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote on the bi-partisan *No Fly, No Buy* bill.**
>
> Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.
>
> Do you stand with us? Chip in $24 towards our emergency fundraising goal -- $1 for every hour we've been in the well of the House Chamber demanding action.
>
> **A moment of silence on the House floor is simply not enough to honor the lives of those we have lost.** We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.
>
> (Image from video provided by House Television shows House Speaker Paul Ryan at podium attempting to bring House back in order late on night of June 22, 2016 as Democrats stand up from sit-in to hold up signs with names of mass shooting victims / Credit: House Television via AP)
>
> **Tell the GOP: It's simple -- No Fly, No Buy. No Bill, No Break. Click to contribute $24 (or whatever you can) right now to show your support!**
>
> As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.
>
> Thanks for having our back,
>
> -Ben Ray[47]

40. Representative Luján and the President of Boulder Strategies both stated that Representative Luján played no part in drafting the second email on June 23, 2016.[48]

41. However, the President of Boulder Strategies told the OCE that he believed "there was a conversation prior to [sending the email] . . . about the Congressman wanting to time this email appropriately."[49] Although he could not identify who specifically told him about Representative Luján's desire to time the email appropriately, the President of Boulder Strategies assumed that the DCCC Chief of Staff told him.[50]

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[47] *Id.*
[48] Rep. Luján TOI (Exhibit 1 at 17-8362_0041); Boulder Strategies President TOI Exhibit 4 at 17-8362_0174).
[49] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0174-75).
[50] *Id.*

42. He stated that the second email "was an email that was not on the calendar. It was not one that we had already prepared. It was one that they asked for specifically to be added to the schedule for the morning."[51]

43. Concerning the use of a photograph of the House floor, Representative Luján's Former Communications Director told the OCE that he believed he became aware of the photograph's usage after the President of Boulder Strategies informed him "a couple days" after the second email was sent.[52] The President of Boulder Strategies told the Former Communications Director that the photo came from a "news account and not directly from the floor."[53]

44. The President of Boulder Strategies told the OCE that he had a conversation with Representative Luján's campaign staff about the photo and "whether the usage met certain standards."[54] He stated that "we agreed not to use further images from the House floor, regardless of their sourcing, going forward, despite that the email went through the appropriate approval process . . . It was a photograph that we sourced from an AP article that was syndicated in thousands of papers across the country that day."[55]

45. In sum, Representative Luján may have conducted campaign or political activity by requesting that his campaign committee "get something out" while on the House floor or in a federal building. The committee then sent two emails stating that Representative Luján was on the House floor and connected campaign contributions to the sit-in. A photograph of the House floor was also used in one of the emails as partisan political campaign material.

46. The Board notes that Representative Luján was cooperative throughout the review. The Board recognizes that the evolving nature of electronic communications and campaign solicitations sometimes presents novel issues that are not directly addressed by the House Ethics Manual. This review raised difficult questions about the application of House rules to solicitations via email. Ultimately, according to House standards of conduct, Members are also responsible for the activities of their outside organizations, including their congressional campaign committees. The Board believes that Members may benefit from additional guidance regarding campaign activities and electronic communications.

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[51] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0173).
[52] Transcript of Interview of Rep. Luján's Former Comm. Director, Feb. 28, 2017 (Exhibit 8 at 17-8362_0204-05).
[53] *Id.* at 17-8362_0205.
[54] Boulder Strategies President TOI (Exhibit 4 at 17-8362_0176).
[55] *Id.*

III. CONCLUSION

47. On June 22 and June 23, 2016, Representative Luján's congressional campaign committee sent campaign emails stating that Representative Luján was on the House floor contemporaneous with the email's issuance.

48. The first email, on June 22, was specifically requested by Representative Luján during a time when he may have been on the House floor or in a federal building. Although the email did not make an overt request for a campaign contribution in the email text, it may have provided links so that viewers could make a contribution to Representative Luján's campaign committee.

49. The second email, on June 23, contained similar language to the first and specifically requested a campaign contribution. The second email also contained an image of the House floor.

50. For the reasons stated above, the Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Luján conducted campaign or political activity from the House floor, solicited a campaign contribution from a Federal building, or used an image of a House floor proceeding for campaign or political purposes.

EXHIBIT 1

Planet Depos®
We Make It Happen®

Transcript of Interview of Congressman Ben Ray Lujan

Date: March 2, 2017
Case: Interview with the Office of Congressional Ethics

Planet Depos
Phone: 888-433-3767
Fax: 888-503-3767
Email: [redacted]
www.planetdepos.com

WORLDWIDE COURT REPORTING | INTERPRETATION | TRIAL SERVICES

1 INTERVIEW

2

3 CONGRESSMAN BEN RAY LUJAN

4 BEFORE THE OFFICE OF CONGRESSIONAL ETHICS

5 Washington, DC

6 Thursday, March 2, 2017

7 8:13 A.M.

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17

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19

20 Job No.: 137153

21 Pages 1 - 43

22 Reported by: Colleen L. Darkow

1 Interview of CONGRESSMAN BEN RAY LUJAN, held
2 at the offices of:
3
4 CONGRESSMAN BEN RAY LUJAN
5 2231 Rayburn House Office Building
6 50 Independence Avenue, SW
7 Washington, DC 20219
8 (202) 225-6190
9
10
11
12
13 Pursuant to agreement before Colleen L. Darkow,
14 Court Reporter and Notary Public of the District of
15 Columbia.
16
17
18
19
20
21
22

1 A P P E A R A N C E S
2 ON BEHALF OF CONGRESSMAN LUJAN:
3 BRIAN G. SVOBODA, ESQUIRE
4 RACHEL L. JACOBS, ESQUIRE
5 PERKINS COIE, LLP
6 700 Thirteenth Street, NW
7 Suite 600
8 Washington, DC 20005
9 (202) 654-6200
10
11 ON BEHALF OF THE OFFICE OF CONGRESSIONAL
12 ETHICS:
13 KEDRIC PAYNE, ESQUIRE
14 HELEN EISNER, ESQUIRE
15 U.S. HOUSE OF REPRESENTATIVES
16 OFFICE OF CONGRESSIONAL ETHICS
17 425 3rd Street, SW
18 Suite 1110
19 Washington, DC 20024
20 (202) 225-9739
21
22

1 C O N T E N T S

2 INTERVIEW OF CONGRESSMAN LUJAN PAGE

3 By Mr. Payne 5

4 By Ms. Eisner 21

5 By Mr. Payne 22

6 By Ms. Eisner 40

7

8

9 E X H I B I T S

10 (No exhibits were marked for identification.)

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1 P R O C E E D I N G S
2 CONGRESSMAN BEN RAY LUJAN,
3 INTERVIEW BY COUNSEL FOR THE
4 OFFICE OF CONGRESSIONAL ETHICS
5 BY MR. PAYNE:
6 Q. Good morning, Congressman.
7 A. Good morning.
8 Q. So, as I just stated, you were presented
9 with the False Statements Act; is that correct?
10 A. Correct.
11 Q. And you were advised that it does apply;
12 we advised you that?
13 A. Correct.
14 Q. Let me just begin with a little bit of
15 background.
16 Are you familiar with Boulder Strategies?
17 A. Yes.
18 Q. And what is Boulder Strategies?
19 A. Boulder Strategies is a consulting group
20 that does online strategy, fund-raising.
21 Q. And do they assist your campaign with
22 those type of services?

1 A. We hired, or I hired Boulder Strategies to
2 do some work this last election cycle for me, for
3 People for Ben.
4 Q. And when did you hire Boulder Strategies
5 exactly?
6 A. I don't know. Sometime at the end of 2015
7 or into 2016.
8 Q. And what specifically did you want them to
9 do for you?
10 A. Online fund-raising and digital strategy.
11 Q. And digital strategy, can you give me a
12 little bit more details of what you mean by that?
13 A. To work with helping me with, I guess,
14 Twitter, Facebook, things of that nature.
15 Q. And with whom have you communicated at
16 Boulder Strategies; who are your contacts there?
17 A. I rarely visit with them, with any of
18 principals there. I think I had some of the
19 initial conversations, when we hired them, with one
20 of the principals. I couldn't even tell you with
21 whom.
22 And predominantly Aaron, I believe, Aaron

1 Trujillo, who is a Dtrip (Phonetic) staff, also
2 helps me -- volunteers, helps me with my efforts on
3 my campaign, is the individual that communicates
4 with them predominantly.
5 Q. And was Aaron involved in the hiring of
6 Boulder Strategies?
7 A. Yes.
8 Q. How did you find Boulder Strategies?
9 A. Word of mouth. And then we were looking
10 for a group, and we sat down with three or four
11 different entities, and then ultimately decided on
12 Boulder Strategies.
13 I think Boulder did some work for
14 Congressman Polis and it may have been just word of
15 mouth, so something like that.
16 Q. Do you know Nick Passanante?
17 A. I think he's one of the principals there.
18 Q. Do you believe you've met Nick before?
19 A. I think he's the gentleman that we sat
20 with when we were looking to hire a digital
21 strategist.
22 Q. Do you routinely communicate then with

1 Boulder Strategies?
2 It sounds like you're saying that you were
3 not the main contact with the organization.
4 A. I don't routinely communicate with Boulder
5 Strategies in any way; online, E-mail, phone.
6 Q. Now, when Boulder Strategies --
7 A. Or in person I guess I should say, yeah.
8 Q. Okay. When Boulder Strategies is going to
9 send one of these online fund-raising
10 communications -- and I'm assuming those are
11 E-mails; is that correct?
12 A. So Boulder Strategies predominantly, I
13 think -- I don't know that they do anything else
14 for online or for electronic solicitations other
15 than E-mails.
16 MR. SVOBODA: One thing, just so the
17 record's clear, we've been talking back and forth
18 in the present tense, but we're talking about what
19 happened during 2016, correct? That Boulder
20 Strategies no longer is engaged by People for Ben.
21 MR. PAYNE: Oh, let's clarify that for the
22 record.

1 BY MR. PAYNE:
2 Q. So is Boulder Strategies -- are they
3 retained by your campaign at this time?
4 A. Boulder Strategies no longer does work for
5 my campaign, for People for Ben.
6 Q. And when did that end?
7 A. I want to say at the end of this last
8 election cycle, so maybe sometime right after
9 November of '16.
10 Q. And why did that relationship end?
11 A. Just decided not to use Boulder Strategies
12 any more. There were some questions during the
13 campaign, and it was just time to move on.
14 Q. So during the time period when Boulder
15 Strategies was retained by your campaign, you're
16 saying they would send out E-mail with campaign
17 contribution solicitations?
18 A. So Boulder Strategies, it's my
19 recollection that Boulder Strategies would send
20 solicitations for contributions and also send
21 E-mails that were petitions, asking people to sign
22 on with different policy issues.

1 Q. Have you ever requested that Boulder
2 Strategies send out any particular solicitation?
3 A. I don't recall asking Boulder specifically
4 to send out a particular solicitation. But early
5 on with hiring Boulder Strategies, I definitely
6 would maybe suggest different areas of attention as
7 I would see other members sending out E-mails, and
8 I would suggest, you know, what about a kind of an
9 idea of something like this, but never directly
10 with Boulder that I can recollect.
11 You know, I would visit with other people,
12 maybe someone like Aaron, and offer an idea. But
13 that was early on in the process in January. And
14 then things just started moving along and it was
15 rare for me just to jump in and even offer ideas.
16 Q. Let me make sure I follow what you just
17 said.
18 A. Yeah.
19 Q. So around January of 2016, you would
20 suggest to Boulder Strategies certain E-mails that
21 they may send, but you would do that directly with
22 Boulder Strategies or indirectly?

1 A. I would not -- I rarely, if ever,
2 communicated directly with Boulder Strategies. If
3 I ever had an idea, it would be just talked about
4 or -- with Aaron or someone like Aaron I guess, to
5 communicate that. And, I mean, sometimes I think
6 did them, sometimes they didn't.
7 Q. Okay. So you would talk to Aaron and he
8 would know to then speak with Boulder Strategies
9 about your idea of an E-mail solicitation?
10 A. I would hope that he would talk to Boulder
11 Strategies. Like I said, sometimes they did
12 E-mails and sometimes those ideas came to fruition,
13 sometimes you wouldn't see anything that reflected
14 whatever you -- whatever was suggested.
15 Q. And you mentioned it could be Aaron or
16 someone else.
17 Who are the other potential people who you
18 may have communicated an idea with during that time
19 period of early 2016, that would then be
20 communicated to Boulder Strategies?
21 A. Aaron or Drew Stoddard. If Drew and I
22 were I were having a conversation about this.

1 Q. And who is Drew?
2 A. Drew Stoddard is my former communications
3 director in the office, no longer with the office.
4 Q. And what was his role with your campaign?
5 A. Drew volunteered on the campaign in
6 different capacities, predominantly giving me ideas
7 of some, you know, maybe talking points or visiting
8 with him about how we could communicate with
9 supporters.
10 I'd share ideas with him as well, and he'd
11 share those either with Aaron or I'm guessing with
12 Boulder Strategies directly. I don't know what his
13 line of communication was directly with Boulder or
14 with Aaron.
15 Q. Who else from your congressional office
16 would work on these matters for your campaign,
17 whether that's volunteer basis or --
18 A. My chief of staff, Angela Ramirez, would
19 volunteer as well.
20 Q. Anyone else?
21 A. Predominantly, the two of them. My
22 district director sometimes would occasionally

1 volunteer, but that was more, you know, knocking
2 doors or something on the weekends. That's kind of
3 the work that Jennifer would do to volunteer.
4 Q. And your district director was not
5 involved in Boulder Strategies services?
6 A. No. I very much doubt. I'm not aware of
7 Jennifer being involved in any of those
8 conversations.
9 Q. Who on your campaign staff would
10 communicate with Boulder Strategies?
11 A. Tara Lujan, if anyone, would communicate
12 with Boulder Strategies. But predominantly, it
13 would be --
14 Q. What is --
15 A. Tara Lujan, no relation, served as our
16 campaign director, campaign manager during this
17 last cycle. But Tara, I don't believe that Tara
18 had direct communications with Boulder Strategies
19 on online work.
20 Predominantly it was Aaron that would
21 communicate with them. Aaron is the gentleman as
22 well, that when I sat down to hire Boulder

1 Strategies, that process was with Aaron. Yeah.
2 Q. Now, why was Aaron the main contact with
3 Boulder Strategies?
4 A. I trust Aaron. I think that Aaron's very
5 thorough in how he scrutinizes contracts and
6 scrutinizes the process, and that's why Aaron was
7 the person.
8 Q. How do you know Aaron?
9 A. Jeez, we grew up in the same community,
10 and Aaron began working on my campaign sometime
11 back in 2007. Was part of my official office from
12 a ledge perspective.
13 Left the office and then joined the DCCC
14 some years later when I was appointed chair, and is
15 still working with the DCCC today.
16 Q. You mentioned that he'd started working
17 with your office, I think, around 2007.
18 When did you first meet Aaron?
19 A. Not my office, on my campaign.
20 Q. On your campaign, okay.
21 A. Yeah, so I wasn't sworn in until 2009.
22 And Aaron may have joined -- I don't know if Aaron

1 joined in 2007 or 2008. Sometime in that
2 timeframe.
3 I wouldn't say that I knew Aaron
4 personally. I knew Aaron because we grew up in the
5 community. Small communities, families go to the
6 same churches, we went to the same high school.
7 He's a lot younger than I, some years, I
8 don't know, ten or more years, eight or more years,
9 something like that.
10 Q. But no relation?
11 A. No.
12 Q. And I want to now just make sure I
13 understand your role in general when it comes to
14 E-mail solicitations.
15 So when E-mail solicitations were going to
16 be sent, you've explained that you wouldn't
17 necessarily tell Boulder Strategies directly to
18 send an E-mail; is that correct?
19 A. That's correct.
20 Q. What was your role in solicitations, what
21 did you do?
22 A. With online?

1 Q. Correct.
2 A. So we hired Boulder Strategies to assist
3 us in reaching out to supporters via E-mail. And
4 early on, I think there -- if my recollection
5 serves me correct, there would be ideas that might
6 be shared with staff like Aaron about E-mails that
7 I might see from other members of Congress. I
8 guess you get put on different lists as well.
9 So if you see E-mails that good, you can
10 say, hey, that sounds like a nice idea or maybe
11 something like that. You would send something
12 early on and say, hey, take a look at this one or,
13 you know, I received this today, take a look at it.
14 But that was predominantly it.
15 As far as editing or drafting or anything
16 like that, I had -- I never did that.
17 Q. Would they send -- they meaning your
18 campaign or Boulder Strategies, would they send
19 drafts to you for approval before they were sent
20 out?
21 A. Early on, there -- I think there were
22 drafts that may have been sent to us, or sent to

1 me. But like I said, it's my recollection that
2 that was early in the process.
3 And that stopped happening through, I
4 don't know, maybe after the first quarter, maybe
5 after the first month. It wasn't normal practice
6 after, if ever.
7 Q. Okay, so just so I have the time period
8 straight. You're saying maybe from January to
9 March approximately 2016, they would send you
10 drafts, but then that stopped a little bit after
11 that time period?
12 A. I would say if it lasted that long. But
13 I'm thinking that it -- you know, it's probably
14 speculation, but it was early in the process. So
15 maybe the first month, maybe into February, but I
16 couldn't tell you that it continued to happen after
17 that.
18 I just know that that wasn't the process
19 going in as we were moving, you know, through the
20 campaign and I was traveling or we saw even
21 different reports coming in from Boulder with what
22 the success or what they were not doing with their

1 online solicitations.
2 Q. Now, most companies that have -- that
3 provide these type of services, send online
4 solicitations quite frequently, but I'm not sure
5 about Boulder Strategies.
6 How often would you say they were sending
7 out online solicitations?
8 A. It appeared that they treated different
9 clients differently, and other clients may have
10 received -- gotten more E-mails go out. I don't
11 think that my campaign had a lot of E-mails going
12 out.
13 Q. So per week, would you estimate?
14 A. I couldn't even tell you.
15 Q. Would you say more than one?
16 A. Sometimes yes, sometimes no. I really
17 couldn't tell you, but I know the volume was not
18 what I saw that other members would show or that
19 you would see with other.
20 I think Boulders could probably answer
21 that question better, give you a report or
22 something.

1 MR. SVOBODA: And Kedric, so the record is
2 clear, when you refer to solicitations, you mean
3 not simply the direct asks for money but also the
4 petitions to which the congressman referred,
5 correct? Any sort of E-mail that they might send
6 as part of the E-mail program?
7 Q. That is correct, I'm referring to how you
8 define solicitations, which falls into two
9 categories; the campaign contribution solicitations
10 as well as petitions.
11 A. Okay, thank you. And yes, the answer
12 still holds true. I'm not certain of the volume of
13 what they were sending out. It just didn't seem
14 like there was a big volume.
15 Q. How often would you send E-mails that you
16 might forward along indirectly to them about what
17 other members were doing so that they would send
18 out E-mail solicitations?
19 A. I don't know that it was on a regular
20 basis. It would be if you would read something
21 that seemed like a good idea and you pass it along.
22 Sometimes you read something that was a

1 good idea and you just -- it didn't get passed
2 along. I don't know that I could put a number of
3 how many that -- that was.
4 Q. But you are saying that you saw other
5 members sending out multiple E-mails, so I'm
6 assuming you're receiving multiple E-mails.
7 And would it be like once week you may
8 forward something along to Aaron or someone else to
9 say, look at this, or whatever you referred to
10 earlier?
11 A. It probably was either once a week, once
12 every few weeks. It was random. It just depends
13 on when you would see something that you thought,
14 hey, this -- this looks like something we should
15 consider.
16 And like I said, just because I sent it
17 didn't always mean that Boulder would do something
18 with that idea that I would see anyway.
19 Q. But when you sent it, these type of
20 forwards, what did -- you wanted them to consider
21 sending something as a result of you forwarding?
22 A. I would send, you know, like an E-mail to

1 Aaron, for example, if I received it from another
2 member, whatever their team was.
3 And it wasn't even from another member,
4 it's whoever their online consultant was or whoever
5 was doing work like Boulder Strategies. And say,
6 hey, take a look at this, what do you think.
7 BY MS. EISNER:
8 Q. And just to clarify, you said earlier that
9 the policy sort of changed earlier on, there might
10 have been some communications about receiving
11 drafts but that changed later. What --
12 A. I think it's unfair to describe it as
13 policy. I mean, I think early on, you know, you
14 hire a consultant and you say, hey, I want to see
15 kind of what you're doing a little bit more. So
16 you know, kind of include me in what's happening.
17 But then you establish a trust with a
18 team, you hope that they're doing the job they're
19 supposed to be. And so you tell the team, hey, you
20 have autonomy, keep moving. And I would say that's
21 what it was like early on in the --
22 Q. Understood. And my use of policy wasn't

1 -- doesn't necessarily have to be binding, just
2 kind of what was happening in practice.
3 But as far as kind of final
4 communications, whether they were solicitations or
5 petitions, would you always receive those types of
6 E-mails?
7 A. I think early on, I may have received
8 them. But later, E-mails would get sent out to
9 whatever list Boulder Strategies had, without me
10 seeing them or editing them at all.
11 Q. Okay.
12 BY MR. PAYNE:
13 Q. I want to now just talk about the sit-in
14 that happened in Congress around June 22nd, 2016;
15 do you recall that?
16 A. I do.
17 Q. And you participated in that sit-in?
18 A. I did.
19 Q. When did you begin participating in the
20 sit-in?
21 A. So I was in a meeting and C-span was on
22 and I saw that members began to go to the floor and

1 I don't even know that I had the volume on. I
2 turned the volume on at that time and saw that the
3 members were going down and reading something to
4 the Speaker or whoever was in the chair and it was
5 clear that this was about 'No-Fly No-Buy' and that
6 members were gathering on the floor.
7 And so I don't know what the time was, but
8 I made decision at that time with the staff and I
9 said, I'm going to the floor, to which they
10 replied, you know, you have some -- you have a
11 schedule today.
12 And I told them, I'm going to the floor.
13 Clear the day, let me know if there's anything that
14 we have to do or if there's some people that we can
15 still meet with maybe during the day, but I'm going
16 to the floor. And I went to the floor.
17 Q. And then when you went to the floor, how
18 long did you stay on the floor?
19 A. So I was on the floor off and on until the
20 next morning for the -- I sat there for a period of
21 time and then we had a lunch or we had a meeting
22 outside of the building.

1 So I left for a bit of time, I don't know
2 how much time, but I left for a bit of time and
3 then I came back to the floor during the night.
4 There were people gathering outside the
5 Capitol, so members would leave periodically to go
6 and either just stand with the crowd or speak to
7 the crowd. You know, bathroom breaks, walking
8 outside to the front of the building of the
9 Capitol, just get a breath of air, and then go back
10 in.
11 So from the time I went in to the time
12 that I left, it was 6:00 or 7:00 a.m. the next
13 morning with times that I left in between, I would
14 say.
15 Q. Okay. Let me just walk through it again.
16 A. Okay.
17 Q. So when you went there before lunch?
18 A. I don't know if it was before lunch, but
19 it was somewhere in that timeframe. That sounds
20 about right.
21 Q. And then you left for lunch?
22 A. There -- I wouldn't say it was for lunch.

1 There was a meeting in the afternoon sometime. I
2 think it was a lunch meeting, I'm not sure. But
3 there was something in the afternoon that I
4 remember leaving the Capitol and the actual, you
5 know, getting in a vehicle and going somewhere.
6 And then came back later on that day. And
7 then once I came back that day, I didn't leave the
8 building in a car. As a matter of fact, I even
9 walked home the next morning at whatever it was,
10 6:00 or 7:00.
11 But, you know, the crowds again were
12 gathering and so we'd go inside and outside of the
13 Capitol Building to the front there, in front of
14 the steps or in front just to chat with another
15 member, like I said, just to get a little bit of
16 that cold air on your face that night.
17 Q. So at nighttime, you were there after
18 lunch when you returned from this meeting?
19 A. Uh-huh.
20 Q. And then at night, you would go out where
21 the crowds were gathered outside of the Capitol?
22 A. So from the time that I returned in and

1 out, like, you know, I don't know if it was every
2 hour or every whatever it was. Well, you're
3 sitting there on the floor and your legs kind of
4 get a little tight. You know, you want to get a
5 drink of water or something.
6 So you get up periodically, stretch your
7 legs, go outside, just take a breath of air or
8 something and then just -- and go back in.
9 But that wasn't just during the time that
10 the sun went down, what I would describe as
11 nighttime. It was throughout that period that I
12 would do that.
13 Q. And do you recall that a E-mail was sent
14 out from your campaign on June 22nd about the
15 sit-in?
16 A. I don't recall. After E-mails were shown
17 to me, then it was clear that something was sent
18 out from Boulder Strategies, but I didn't recall.
19 Q. And let me show you this E-mail, which I'm
20 sure you've seen, that's Bates-stamped THRL 0098.
21 If you can just walk me through what's
22 going on here. So it's an E-mail from Ben Lujan to

1 Aaron Trujillo, and it says, get something out.
2 Can you just explain to me, what does that
3 mean, what is this E-mail that you forwarded to
4 him, and all the context?
5 A. So this is an example of an E-mail that
6 you would see that you might receive from another
7 member from their people and that I saw it.
8 You know, Michelle is asking in this
9 E-mail from her folks for people to lend their
10 voices to be heard, right, sort of this is a
11 petition. And so when I saw this, I forwarded it
12 to Aaron, you know, get something out.
13 Q. And why did you forward it to Aaron?
14 A. Aaron's a person that I would communicate
15 with on things like this.
16 Q. And what did you mean by, get something
17 out; get what out?
18 A. Get a message out, maybe get something
19 out, take a look at this good idea.
20 Q. Get a similar E-mail to the one that's
21 from Michelle Lujan Grisham; is that what you mean?
22 A. Get something out.

1 Q. But do you --
2 A. It's just that. So get something out I
3 think just means that there's different members
4 that do different things, different strategists
5 that do different things.
6 Boulder Strategies created E-mails,
7 content, whatever it was. So get something out I
8 think just means that, get something out.
9 Q. So this E-mail assumes that what you
10 referenced before, what you intended for Aaron to
11 speak with Boulder Strategies about getting out an
12 E-mail solicitation?
13 A. I would say that I would ask Aaron to
14 reach out. And like I said, sometimes there were
15 communications, sometimes there weren't.
16 Q. But just so I follow with this E-mail, did
17 you intend that Aaron would discuss with Boulder
18 Strategies this idea of a message to get out to
19 your E-mail list?
20 A. It was to tell Aaron get something out, I
21 guess. So I guess something similar, yeah. Get
22 something out.

1 Q. And Boulder Strategies would send that
2 out?
3 A. Boulder -- again, Boulder -- so I think
4 the way that you started the questioning was asking
5 who the consultant was. The consultant that was
6 hired to do online work was Boulder Strategies.
7 Q. Okay.
8 A. Boulder Strategies sent E-mails out,
9 whether it was petitions or it was online
10 solicitations or anything like that. So Boulder
11 Strategies is the group that would send things out
12 or not send things out.
13 Q. Okay, okay.
14 A. Often times the reason they're not doing
15 work any more is because they wouldn't send things
16 out as well. But it was up to Boulder Strategies.
17 Q. I think you and I are on the same page, I
18 think I understand you. So let me just run through
19 it again.
20 You sent it to Aaron with the idea that
21 Aaron would send this to the people who get E-mails
22 out, Boulder Strategies?

1 A. With the idea that at least Aaron would
2 talk to them about something. Like I said,
3 sometimes they, Boulder Strategies, would send
4 something out, sometimes they wouldn't.
5 But the idea here was to get something to
6 Aaron, say talk to them and say I guess in this
7 case, it was get something out.
8 Q. Now, I've gone through the technical part.
9 Now we're just getting to the why.
10 Why did you want to send out a message at
11 this point?
12 A. Well, you know, Michelle, I think, had a
13 good idea here to say she wanted to create some
14 attention that whatever -- all the work that people
15 were doing, and lend your voice to say, sign a
16 petition and say, let us vote.
17 I -- you know, there's petitions that you
18 send out to folks that say, we just need your voice
19 to be heard. This wasn't a solicitation for money,
20 that was in this E-mail at all.
21 And so I think there's different tools.
22 Like I said earlier, Boulder Strategies would

1 either send petitions out or they would send direct
2 asks for contributions for money.
3 This was a request from Michelle to people
4 to say lend your voice, sign a petition. And I
5 thought that was a good idea, so that's what I
6 said, is get something out. And it was my hope
7 that we could get something out that would ask
8 people to lend their voices.
9 Q. Now, was Aaron to understand the
10 distinction between sending out an E-mail that is a
11 solicitation for a petition versus solicitation for
12 a campaign contribution?
13 A. I don't know. The E-mail, you can see it
14 for yourself, it's a -- this doesn't ask for money.
15 And when I said, get something out, right, it's --
16 I'm -- do you want me to read this into the record
17 or --
18 Q. It's in the record when I --
19 A. I think that's what this says, is get
20 something out. So it's -- I don't know that it's
21 up to Aaron to make a decision of whether something
22 is a petition or if it's an online solicitation for

1 money. That's what Boulder Strategies was hired to
2 do and that's their job.
3 Q. So Boulder Strategies makes the
4 distinction between whether or not it's going to be
5 a solicitation for campaign contribution or
6 solicitation for petition?
7 A. Boulder Strategies was hired to come up
8 with an online strategy and presence for online
9 programs, whether it was for money or if it was for
10 petitions.
11 And so Boulder, it's my understanding,
12 would create different E-mails depending on what
13 they thought would work and what wouldn't work in
14 reaching out to the community, and not only
15 educating them through petitions or asking them to
16 lend their voices, or if they would send an online
17 solicitation. But Boulder would do that, that's my
18 belief.
19 Q. So it was your belief that once your
20 campaign communicated with Boulder, it would be
21 either a campaign solicitation, or an E-mail
22 petition solicitation, but it could be either/or

1 the moment they were notified by your campaign?
2 A. I believe so. You know, whether someone's
3 asking Boulder for a petition or for an online
4 solicitation, they're the experts.
5 And I think that Boulder Strategies should
6 know what strategy they're deploying based on their
7 practices and why they do the work they do.
8 Q. And did Aaron respond to this E-mail?
9 A. No.
10 Q. How do you know? I mean, just --
11 A. Because you all had me do a search to see
12 if there were any E-mails. And, you know, in the
13 timeframe that you sent me, that's what I found.
14 Q. Do you think you had any conversations
15 with Aaron at this time about the request to get
16 something out?
17 A. I don't remember that I did.
18 MR. SVOBODA: And at this time, you mean
19 the 22nd?
20 MR. PAYNE: That's correct, the 22nd 2016.
21 Let me -- right, I mean, at this happening.
22 MR. SVOBODA: Contemporaneously with the

1 sending of the E-mail.
2 MR. PAYNE: So let me rephrase it.
3 BY MR. PAYNE:
4 Q. Before any E-mail was sent on June 22nd,
5 2016, did you have any conversation with Aaron
6 about sending an E-mail?
7 A. I don't remember that I did.
8 Q. When you sent this E-mail, where were you?
9 So this E-mail says it's 4:02 p.m., June 22nd,
10 2016; where were you?
11 A. I don't remember where I was. It was in
12 the afternoon during the sit-in. So, you know, I
13 was in and out of the Capitol quite a bit. I don't
14 remember exactly where I was when I sent it.
15 Q. Is it possible that you sent it while you
16 were within the House, Capitol Building?
17 A. I think anything's -- it's possible, but I
18 was -- like I said, depending on where I was moving
19 to or moving from. But it was that afternoon
20 clearly at four o'clock.
21 Q. Did you -- well, let me show you the
22 actual E-mail. Let met me back up once again.

1 This E-mail account, benraylujan@me.com,
2 what is that E-mail account?
3 A. That was a personal E-mail account of
4 mine.
5 MR. SVOBODA: And Kedric, if that ends up
6 being on any sort of transcript, I assume that
7 information will be redacted so the world doesn't
8 have a congressman's private E-mail?
9 MR. PAYNE: Well, it's going to be in that
10 document. We always redact the documents.
11 MR. SVOBODA: Fair enough.
12 MR. PAYNE: That's great.
13 MR. SVOBODA: Thank you.
14 MR. PAYNE: Sure.
15 BY MR. PAYNE:
16 Q. Congressman, I want to show you the E-mail
17 that was sent, or at least a draft, close to a
18 final draft of it. This is document stamped THRL
19 0041 through 0044.
20 I think I'm giving you -- I am not giving
21 you the right document. Hold that though, we're
22 going to use that in a second.

1 A. Okay.
2 Q. Thank you for your patience.
3 A. No, sir.
4 Q. Instead showing you document Bates-stamped
5 THRL 0036 through 0038.
6 Feel free to read the entire E-mail, but I
7 want to ask you about the draft E-mail from Ben Ray
8 Lujan to friends at the bottom.
9 A. Okay.
10 Q. Okay. So the first sentence of the E-mail
11 from Ben Ray Lujan says, today I joined countless
12 colleagues on the House floor to demand action that
13 will make our country safer.
14 What was your role in that language being
15 in that E-mail?
16 A. None.
17 Q. Did you review this language before it was
18 sent?
19 A. No.
20 Q. Did you approve the language?
21 A. No.
22 Q. Did you instruct anyone to include that

1 language?
2 A. No.
3 Q. And when did you first see that this
4 E-mail had been sent?
5 A. I couldn't even tell you.
6 Q. Do you receive the E-mails that are sent
7 from your campaign similar to the way you received
8 them from other members of Congress?
9 A. So I sometimes do. That's a -- one of the
10 questions that I had, is sometimes it seemed that I
11 would receive E-mails and other times I would hear
12 from supporters that they received an E-mail, and I
13 would go check my inbox and I wouldn't see it.
14 MR. SVOBODA: Perhaps you were spam
15 blocking yourself.
16 A. Whatever was happening.
17 Q. So you don't recall whether or not you saw
18 this while you were still participating in the
19 sit-in?
20 A. Uh-uh.
21 Q. Now, this was sent, it seems, in the
22 evening of Wednesday June 22nd, 2016, which is

1 after you sent the request to Aaron to get
2 something out.
3 Is it your understanding that you saying
4 get something out led to this E-mail being sent
5 later in the evening?
6 A. It could be. I don't know what Boulder
7 Strategies was doing or not doing, if they were
8 already putting E-mails together for their clients
9 or not putting together E-mails for their clients.
10 Q. Let me now look at that second document
11 that I gave you.
12 A. 0041?
13 Q. That's correct.
14 A. Okay.
15 Q. Again, feel free to read the entire
16 document, but I wanted to draw your attention to
17 the Ben Ray Lujan for Congress E-mail.
18 A. Okay.
19 Q. What was your role in drafting -- well, I
20 should -- let me rephrase it.
21 What is your exact role in this E-mail
22 being sent?

1 A. No role.
2 Q. Did you request that this E-mail be sent?
3 A. No.
4 Q. Did you read any draft of the E-mail
5 before it was sent?
6 A. No.
7 Q. And did you approve the sending of this
8 E-mail?
9 A. No.
10 Q. When did you first learn that it had been
11 sent?
12 A. I couldn't tell you.
13 Q. Now, everyone knows -- well, I shouldn't
14 say everyone.
15 At a given time, when there was attention
16 drawn to E-mails that had been sent during the
17 sit-in.
18 And do you recall that a few days later
19 and possibly even a few weeks later, there was
20 concern about your E-mails that were sent during
21 the sit-in?
22 A. There was an article or something that was

1 written about the issue, if I remember correctly.
2 Q. And then can you tell me more about that?
3 Like, what I mean is what did you learn about
4 potential problems with these E-mails and then what
5 were your actions to deal with those concerns?
6 MR. SVOBODA: And here, Congressman,
7 you'll want to avoid conversations about that you
8 may have had with your own attorneys or that your
9 staff may have had with your attorneys, so.
10 A. I mean, I don't remember necessarily.
11 Someone may have shown me the E-mail, or not. And,
12 you know, when I see E-mails like this that have a
13 photo in them, I ask, well, where did that citation
14 come from.
15 And I, again, it's speculating, but I
16 could have or probably asked, like, what is this.
17 Q. Do you recall who you had a talk with?
18 A. It was probably Aaron.
19 MR. PAYNE: Do you have any questions?
20 BY MS. EISNER:
21 Q. So after that conversation with Aaron, was
22 there any effect on the relationship with Boulder

1 or with your campaign staff with regards to E-mails
2 of this nature?
3 A. I think Aaron said he called Boulder and
4 asked, you know, what they sent out because of
5 maybe the article, something like that. And there
6 were a lot of questions as to what Boulder did and
7 making sure that they follow all the rules
8 associated with citing information.
9 And I believe Boulder assured Aaron that
10 there was -- and so this is, again, me getting it
11 third-hand, right? Assured Aaron that this was a
12 photo that was taken from a news website or a
13 television station or something, a print media
14 folks. And I don't know what other follow-up there
15 was after that.
16 MS. EISNER: That's all I have.
17 MR. PAYNE: Well, Congressman, thank you
18 so much. If there's anything that I didn't cover,
19 anything that you believe may clarify something,
20 let me know now and we can share it with board.
21 CONGRESSMAN LUJAN: It seemed pretty
22 thorough. I don't know. Is there anything else?

1 MR. SVOBODA: No, I think we're good.
2 CONGRESSMAN LUJAN: Okay, thanks.
3 (Off the record at 8:51 A.M.)
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1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC
2 I, Colleen Darkow, the officer before whom the
3 foregoing interview was taken, do hereby certify
4 that the foregoing transcript is a true and correct
5 record of the interview; that said interview was
6 taken by me stenographically and thereafter reduced
7 to typewriting under my direction; that review was
8 not requested; and that I am neither related to,
9 nor employed by any of the parties to this case and
10 have no interest, financial or otherwise, in its
11 outcome.
12 IN WITNESS THEREOF, I have hereunto set my hand
13 and affixed my notarial seal this 13th day of
14 March, 2017.
15
16 Colleen Darkow
17 Colleen Darkow
18 Notary Public
19 My Commission Expires 9/14/21
20
21
22

A

aaron 6:22, 7:5, 10:12, 11:4, 11:7, 11:15, 11:21, 12:11, 12:14, 13:20, 13:21, 14:1, 14:2, 14:4, 14:6, 14:8, 14:10, 14:18, 14:22, 15:3, 15:4, 16:6, 20:8, 21:1, 27:1, 27:12, 27:13, 28:10, 28:13, 28:17, 28:20, 29:20, 29:21, 30:1, 30:6, 31:9, 31:21, 33:8, 33:15, 34:5, 38:1, 40:18, 40:21, 41:3, 41:9, 41:11
aaron's 14:4, 27:14
about 8:18, 10:8, 11:3, 11:9, 11:22, 12:8, 16:6, 18:5, 19:16, 21:10, 22:13, 23:5, 24:20, 26:14, 28:11, 30:2, 33:15, 34:6, 36:7, 39:20, 40:1, 40:2, 40:3, 40:7
account 35:1, 35:2, 35:3
act 5:9
action 36:12
actions 40:5
actual 25:4, 34:22
advised 5:11, 5:12
affixed 43:13
after 9:8, 17:4, 17:5, 17:6, 17:10, 17:16, 25:17, 26:16, 38:1, 40:21, 41:15
afternoon 25:1, 25:3, 34:12, 34:19
again 24:15, 25:11, 29:3, 29:19, 34:22, 38:15, 40:15, 41:10
agreement 2:13
air 24:9, 25:16, 26:7
all 22:10, 27:4, 30:14, 30:20, 33:11, 41:7, 41:16
along 10:14, 19:16, 19:21, 20:2, 20:8
already 38:8
also 7:1, 9:20, 19:3
always 20:17, 22:5, 35:10
angela 12:18
another 21:1, 21:3, 25:14, 27:6
answer 18:20, 19:11
any 6:17, 8:5, 9:12, 10:2, 13:7, 19:5, 29:15, 33:12, 33:14, 34:4, 34:5, 35:6, 39:4, 40:19, 40:22, 43:9
anyone 12:20, 13:11, 36:22
anything 8:13, 11:13, 16:15, 23:13, 29:10, 41:18, 41:19, 41:22
anything's 34:17
anyway 20:18
appeared 18:8
apply 5:11
appointed 14:14
approval 16:19
approve 36:20, 39:7
approximately 17:9
areas 10:6
around 10:19, 14:17, 22:14
article 39:22, 41:5
asked 40:16, 41:4
asking 9:21, 10:3, 27:8, 29:4, 32:15, 33:3
asks 19:3, 31:2
assist 5:21, 16:2
associated 41:8
assume 35:6
assumes 28:9
assuming 8:10, 20:6
assured 41:9, 41:11
attention 10:6, 30:14, 38:16, 39:15
attorneys 40:8, 40:9
autonomy 21:20
avenue 2:6
avoid 40:7
aware 13:6

B

back 8:17, 14:11, 24:3, 24:9, 25:6, 25:7, 26:8, 34:22
background 5:15
based 33:6
basis 12:17, 19:20
bates-stamped 26:20, 36:4
bathroom 24:7
because 15:4, 20:16, 29:15, 33:11,

41:4
been
7:14, 8:17, 16:22, 21:10, 37:4, 39:10, 39:16
before
1:4, 2:13, 7:18, 16:19, 24:17, 24:18, 28:10, 34:4, 36:17, 39:5, 43:2
began
14:10, 22:22
begin
5:14, 22:19
behalf
3:2, 3:11
being
13:7, 35:6, 36:14, 38:4, 38:22
belief
32:18, 32:19
believe
6:22, 7:18, 13:17, 33:2, 41:9, 41:19
ben
1:3, 2:1, 2:4, 5:2, 6:3, 8:20, 9:5, 26:22, 36:7, 36:11, 38:17
benraylujan@me
35:1
better
18:21
between
24:13, 31:10, 32:4
big
19:14
binding
22:1
bit
5:14, 6:12, 17:10, 21:15, 24:1, 24:2, 25:15, 34:13
blocking
37:15
board
41:20
bottom
36:8
boulder
5:16, 5:18, 5:19, 6:1, 6:4, 6:16, 7:6, 7:8, 7:12, 7:13, 8:1, 8:4, 8:6, 8:8, 8:12, 8:19, 9:2, 9:4, 9:11, 9:14, 9:18, 9:19, 10:1, 10:3, 10:5, 10:10, 10:20, 10:22, 11:2, 11:8, 11:10, 11:20, 12:12, 12:13, 13:5, 13:10, 13:12, 13:18, 13:22, 14:3, 15:17, 16:2, 16:18, 17:21, 18:5, 20:17, 21:5, 22:9, 26:18, 28:6, 28:11, 28:17, 29:1, 29:3, 29:6, 29:8, 29:10, 29:16, 29:22, 30:3, 30:22, 32:1, 32:3, 32:7, 32:11, 32:17, 32:20, 33:3, 33:5, 38:6, 40:22, 41:3, 41:6, 41:9
boulders
18:20
breaks
24:7
breath
24:9, 26:7
brian
3:3
building
2:5, 23:22, 24:8, 25:8, 25:13, 34:16

C

c-span
22:21
called
41:3
came
11:12, 24:3, 25:6, 25:7
campaign
5:21, 7:3, 9:3, 9:5, 9:13, 9:15, 9:16, 12:4, 12:5, 12:16, 13:9, 13:16, 14:10, 14:19, 14:20, 16:18, 17:20, 18:11, 19:9, 26:14, 31:12, 32:5, 32:20, 32:21, 33:1, 37:7, 41:1
capacities
12:6
capitol
24:5, 24:9, 25:4, 25:13, 25:21, 34:13, 34:16
car
25:8
case
30:7, 43:9
categories
19:9
certain
10:20, 19:12
certificate
43:1
certify
43:3
chair
14:14, 23:4
changed
21:9, 21:11
chat
25:14
check
37:13
chief
12:18
churches
15:6
citation
40:13
citing
41:8
clarify
8:21, 21:8, 41:19
clear
8:17, 19:2, 23:5, 23:13, 26:17
clearly
34:20
clients
18:9, 38:8, 38:9
close
35:17
coie
3:5
cold
25:16
colleagues
36:12
colleen
1:22, 2:13, 43:2, 43:17
columbia
2:15
com
35:1
come
32:7, 40:14
comes
15:13
coming
17:21

commission 43:21
communicate 7:22, 8:4, 11:5, 12:8, 13:10, 13:11, 13:21, 27:14
communicated 6:15, 11:2, 11:18, 11:20, 32:20
communicates 7:3
communication 12:13
communications 8:10, 12:2, 13:18, 21:10, 22:4, 28:15
communities 15:5
community 14:9, 15:5, 32:14
companies 18:2
concern 39:20
concerns 40:5
congress 16:7, 22:14, 37:8, 38:17
congressional 1:4, 3:11, 3:16, 5:4, 12:15
congressman 1:3, 2:1, 2:4, 3:2, 4:2, 5:2, 5:6, 7:14, 19:4, 35:16, 40:6, 41:17, 41:21, 42:2
congressman's 35:8
consider 20:15, 20:20
consultant 21:4, 21:14, 29:5
consulting 5:19
contact 8:3, 14:2
contacts 6:16
contemporaneously 33:22
content 28:7
context 27:4
continued 17:16
contracts 14:5
contribution 9:17, 19:9, 31:12, 32:5
contributions 9:20, 31:2
conversation 11:22, 34:5, 40:21
conversations 6:19, 13:8, 33:14, 40:7
correct 5:9, 5:10, 5:13, 8:11, 8:19, 15:18, 15:19, 16:1, 16:5, 19:5, 19:7, 33:20, 38:13, 43:4
correctly 40:1
could 11:15, 12:8, 18:20, 20:2, 31:7, 32:22, 38:6, 40:16
couldn't 6:20, 17:16, 18:14, 18:17, 37:5, 39:12
counsel 5:3
countless 36:11
country 36:13
court 2:14
cover 41:18
create 30:13, 32:12
created 28:6
crowd 24:6, 24:7
crowds 25:11, 25:21
cycle 6:2, 9:8, 13:17

D

darkow 1:22, 2:13, 43:2, 43:17
day 23:13, 23:15, 25:6, 25:7, 43:13
days 39:18
dc 1:5, 2:7, 3:8, 3:19
dccc 14:13, 14:15
deal 40:5
decided 7:11, 9:11
decision 23:8, 31:21
define 19:8
definitely 10:5
demand 36:12
depending 32:12, 34:18
depends 20:12
deploying 33:6
describe 21:12, 26:10
details 6:12
different 7:11, 9:22, 10:6, 12:6, 16:8, 17:21, 18:8, 28:3, 28:4, 28:5, 30:21, 32:12
differently 18:9
digital 6:10, 6:11, 7:20
direct 13:18, 19:3, 31:1
direction 43:7
directly 10:9, 10:21, 11:2, 12:12, 12:13, 15:17
director 12:3, 12:22, 13:4, 13:16
discuss 28:17
distinction 31:10, 32:4
district 2:14, 12:22, 13:4
document 35:10, 35:18, 35:21, 36:4, 38:10, 38:16
documents 35:10
doing 17:22, 19:17, 21:5, 21:15,

21:18, 29:14, 30:15, 38:7
doors 13:2
doubt 13:6
down 7:10, 13:22, 23:3, 26:10
draft 35:17, 35:18, 36:7, 39:4
drafting 16:15, 38:19
drafts 16:19, 16:22, 17:10, 21:11
draw 38:16
drawn 39:16
drew 11:21, 12:1, 12:2, 12:5
drink 26:5
dtrip 7:1
during 8:19, 9:12, 9:14, 11:18, 13:16, 23:15, 24:3, 26:9, 34:12, 39:16, 39:20

E

e-mail 8:5, 9:16, 11:9, 15:14, 15:15, 15:18, 16:3, 19:5, 19:6, 19:18, 20:22, 26:13, 26:19, 26:22, 27:3, 27:5, 27:9, 27:20, 28:9, 28:12, 28:16, 28:19, 30:20, 31:10, 31:13, 32:21, 33:8, 34:1, 34:4, 34:6, 34:8, 34:9, 34:22, 35:1, 35:2, 35:3, 35:8, 35:16, 36:6, 36:7, 36:10, 36:15, 37:4, 37:12, 38:4, 38:17, 38:21, 39:2, 39:4, 39:8, 40:11
e-mails 8:11, 8:15, 9:21, 10:7, 10:20, 11:12, 16:6, 16:9, 18:10, 18:11, 19:15, 20:5, 20:6, 22:6, 22:8, 26:16, 28:6, 29:8, 29:21, 32:12, 33:12, 37:6, 37:11, 38:8, 38:9, 39:16, 39:20, 40:4, 40:12, 41:1
earlier 20:10, 21:8, 21:9, 30:22
early 10:4, 10:13, 11:19, 16:4, 16:12, 16:21, 17:2, 17:14, 21:13, 21:21, 22:7
editing 16:15, 22:10
educating 32:15
effect 40:22
efforts 7:2
eight 15:8
eisner 3:14, 4:4, 4:6, 21:7, 40:20, 41:16
either 12:11, 20:11, 24:6, 31:1, 32:21, 32:22
election 6:2, 9:8
electronic 8:14
else 8:13, 11:16, 12:15, 12:20, 20:8, 41:22
employed 43:9
end 6:6, 9:6, 9:7, 9:10
ends 35:5
engaged 8:20
enough 35:11
entire 36:6, 38:15
entities 7:11
esquire 3:3, 3:4, 3:13, 3:14
establish 21:17
estimate 18:13
ethics 1:4, 3:12, 3:16, 5:4
even 6:20, 10:15, 17:20, 18:14, 21:3, 23:1, 25:8, 37:5, 39:19
evening 37:22, 38:5
ever 10:1, 11:1, 11:3, 17:6
every 20:12, 26:1, 26:2
everyone 39:13, 39:14
exact 38:21
exactly 6:5, 34:14
example 21:1, 27:5
exhibits 4:10
experts 33:4
expires 43:21
explain 27:2
explained 15:16

F

face 25:16
facebook 6:14
fact 25:8
fair 35:11
falls 19:8
false 5:9
familiar 5:16
families 15:5
far 16:15, 22:3

february
17:15
feel
36:6, 38:15
few
20:12, 39:18, 39:19
final
22:3, 35:18
financial
43:10
find
7:8
first
14:18, 17:4, 17:5, 17:15, 36:10, 37:3, 39:10
floor
22:22, 23:6, 23:9, 23:12, 23:16, 23:17, 23:18, 23:19, 24:3, 26:3, 36:12
folks
27:9, 30:18, 41:14
follow
10:16, 28:16, 41:7
follow-up
41:14
foregoing
43:3, 43:4
former
12:2
forth
8:17
forward
19:16, 20:8, 27:13
forwarded
27:3, 27:11
forwarding
20:21
forwards
20:20
found
33:13
four
7:10, 34:20
free
36:6, 38:15
frequently
18:4
friends
36:8
front
24:8, 25:13, 25:14
fruition
11:12
fund-raising
5:20, 6:10, 8:9

G

gathered
25:21
gathering
23:6, 24:4, 25:12
gave
38:11
general
15:13
gentleman
7:19, 13:21
getting
25:5, 28:11, 30:9, 41:10
give
6:11, 18:21
given
39:15
giving
12:6, 35:20
go
15:5, 18:10, 22:22, 24:5, 24:9, 25:12, 25:20, 26:7, 26:8, 37:13
going
8:8, 15:15, 17:19, 18:11, 23:3, 23:9, 23:12, 23:15, 25:5, 26:22, 32:4, 35:9, 35:22
gone
30:8
good
5:6, 5:7, 16:9, 19:21, 20:1, 27:19, 30:13, 31:5, 42:1
gotten
18:10
great
35:12
grew
14:9, 15:4
grisham
27:21
group
5:19, 7:10, 29:11
guess
6:13, 8:7, 11:4, 16:8, 28:21, 30:6
guessing
12:11

H

hand
43:12
happen
17:16
happened
8:19, 22:14
happening
17:3, 21:16, 22:2, 33:21, 37:16
hear
37:11
heard
27:10, 30:19
held
2:1
helen
3:14
helping
6:13
helps
7:2
here
26:22, 30:5, 30:13, 40:6
hereby
43:3
hereunto
43:12
hey
16:10, 16:12, 20:14, 21:6, 21:14, 21:19
high
15:6
hire
6:4, 7:20, 13:22, 21:14
hired
6:1, 6:19, 16:2, 29:6, 32:1, 32:7
hiring
7:5, 10:5
hold
35:21
holds
19:12
home
25:9
hope
11:10, 21:18, 31:6
hour
26:2
house
2:5, 3:15, 34:16, 36:12

I

idea
10:9, 10:12, 11:3, 11:9, 11:18, 16:10, 19:21, 20:1, 20:18, 27:19,

28:18, 29:20, 30:1, 30:5, 30:13, 31:5
ideas
10:15, 11:12, 12:6, 12:10, 16:5
identification
4:10
inbox
37:13
include
21:16, 36:22
independence
2:6
indirectly
10:22, 19:16
individual
7:3
information
35:7, 41:8
initial
6:19
inside
25:12
instead
36:4
instruct
36:22
intend
28:17
intended
28:10
interest
43:10
interview
1:1, 2:1, 4:2, 5:3, 43:3, 43:5
involved
7:5, 13:5, 13:7
issue
40:1
issues
9:22

J

jacobs
3:4
january
10:13, 10:19, 17:8
jeez
14:9
jennifer
13:3, 13:7
job
1:20, 21:18, 32:2
joined
14:13, 14:22, 15:1, 36:11
jump
10:15
june
22:14, 26:14, 34:4, 34:9, 37:22

K

kedric
3:13, 19:1, 35:5
keep
21:20
kind
10:8, 13:2, 21:15, 21:16, 22:2, 22:3, 26:3
knew
15:3, 15:4
knocking
13:1
know
6:6, 7:16, 8:13, 10:8, 10:11, 11:8, 12:7, 12:12, 13:1, 14:8, 14:22, 15:8, 16:13, 17:4, 17:13, 17:18, 17:19, 18:17, 19:19, 20:2, 20:22, 21:13, 21:16, 23:1, 23:7, 23:10, 23:13, 24:1, 24:7, 24:18, 25:5, 25:11, 26:1, 26:4, 27:8, 27:12, 30:12, 30:17, 31:13, 31:20, 33:2, 33:6, 33:10, 33:12, 34:12, 38:6, 40:12, 41:4, 41:14, 41:20, 41:22
knows
39:13

L

language
36:14, 36:17, 36:20, 37:1
last
6:2, 9:7, 13:17
lasted
17:12
later
14:14, 21:11, 22:8, 25:6, 38:5, 39:18, 39:19
learn
39:10, 40:3
least
30:1, 35:17
leave
24:5, 25:7
leaving
25:4
led
38:4
ledge
14:12
left
14:13, 24:1, 24:2, 24:12, 24:13, 24:21
legs
26:3, 26:7
lend
27:9, 30:15, 31:4, 31:8, 32:16
let's
8:21
line
12:13
list
22:9, 28:19
lists
16:8
little
5:14, 6:12, 17:10, 21:15, 25:15, 26:4
llp
3:5
long
17:12, 23:18
longer
8:20, 9:4, 12:3
look
16:12, 16:13, 20:9, 21:6, 27:19, 38:10
looking
7:9, 7:20
looks
20:14
lot
15:7, 18:11, 41:6
lujan
1:3, 2:1, 2:4, 3:2, 4:2, 5:2, 13:11, 13:15, 26:22, 27:21, 36:8, 36:11, 38:17, 41:21, 42:2
lunch
23:21, 24:17, 24:18, 24:21, 24:22, 25:2, 25:18

M

made
23:8

main
8:3, 14:2
make
10:16, 15:12, 31:21, 36:13
makes
32:3
making
41:7
manager
13:16
many
20:3
march
1:6, 17:9, 43:14
marked
4:10
matter
25:8
matters
12:16
maybe
9:8, 10:6, 10:12, 12:7, 16:10, 17:4, 17:8, 17:15, 23:15, 27:18, 41:5
mean
6:12, 11:5, 19:2, 20:17, 21:13, 27:3, 27:16, 27:21, 33:10, 33:18, 33:21, 40:3, 40:10
meaning
16:17
means
28:3, 28:8
media
41:13
meet
14:18, 23:15
meeting
22:21, 23:21, 25:1, 25:2, 25:18
member
21:2, 21:3, 25:15, 27:7
members
10:7, 16:7, 18:18, 19:17, 20:5, 22:22, 23:3, 23:6, 24:5, 28:3, 37:8
mentioned
11:15, 14:16
message
27:18, 28:18, 30:10
met
7:18, 34:22
michelle
27:8, 27:21, 30:12, 31:3
might
16:5, 16:7, 19:5, 19:16, 21:9, 27:6
mine
35:4
moment
33:1
money
19:3, 30:19, 31:2, 31:14, 32:1, 32:9
month
17:5, 17:15
more
6:12, 9:12, 13:1, 15:8, 18:10, 18:15, 21:15, 29:15, 40:2
morning
5:6, 5:7, 23:20, 24:13, 25:9
most
18:2
mouth
7:9, 7:15
move
9:13
moving
10:14, 17:19, 21:20, 34:18, 34:19
much
13:6, 24:2, 41:18
multiple
20:5, 20:6

N

nature
6:14, 41:2
nd
22:14, 26:14, 33:19, 33:20, 34:4, 34:9, 37:22
necessarily
15:17, 22:1, 40:10
need
30:18
neither
43:8
never
10:9, 16:16
news
41:12
next
23:20, 24:12, 25:9
nice
16:10
nick
7:16, 7:18
night
24:3, 25:16, 25:20
nighttime
25:17, 26:11
no-buy
23:5
no-fly
23:5
none
36:16
normal
17:5
notarial
43:13
notary
2:14, 43:19
notified
33:1
november
9:9
number
20:2
nw
3:6

O

o'clock
34:20
occasionally
12:22
offer
10:12, 10:15
office
1:4, 2:5, 3:11, 3:16, 5:4, 12:3, 12:15, 14:11, 14:13, 14:17, 14:19
officer
43:2
offices
2:2
official
14:11
often
18:6, 19:15, 29:14
oh
8:21
okay
8:8, 11:7, 14:20, 17:7, 19:11, 22:11, 24:15, 24:16, 29:7, 29:13, 36:1, 36:9, 36:10, 38:14, 38:18, 42:2

once
20:7, 20:11, 25:7, 32:19, 34:22
one
6:19, 7:17, 8:9, 8:16, 16:12, 18:15, 27:20, 37:9
online
5:20, 6:10, 8:5, 8:9, 8:14, 13:19, 15:22, 18:1, 18:3, 18:7, 21:4, 29:6, 29:9, 31:22, 32:8, 32:16, 33:3
only
32:14
organization
8:3
other
8:14, 10:7, 10:11, 11:17, 16:7, 18:9, 18:18, 18:19, 19:17, 20:4, 37:8, 37:11, 41:14
otherwise
43:10
out
9:16, 10:2, 10:4, 10:7, 16:3, 16:20, 18:7, 18:10, 18:12, 19:13, 19:18, 20:5, 22:8, 25:20, 26:1, 26:14, 26:18, 27:1, 27:12, 27:17, 27:18, 27:19, 27:22, 28:2, 28:7, 28:8, 28:11, 28:14, 28:18, 28:20, 28:22, 29:2, 29:8, 29:11, 29:12, 29:16, 29:22, 30:4, 30:7, 30:10, 30:18, 31:1, 31:6, 31:7, 31:10, 31:15, 31:20, 32:14, 33:16, 34:13, 38:2, 38:4, 41:4
outcome
43:11
outside
23:22, 24:4, 24:8, 25:12, 25:21, 26:7
own
40:8

P

page
4:2, 29:17
pages
1:21
part
14:11, 19:6, 30:8
participated
22:17
participating
22:19, 37:18
particular
10:2, 10:4
parties
43:9
pass
19:21
passanante
7:16
passed
20:1
patience
36:2
payne
3:13, 4:3, 4:5, 5:5, 8:21, 9:1, 22:12, 33:20, 34:2, 34:3, 35:9, 35:12, 35:14, 35:15, 40:19, 41:17
people
6:3, 8:20, 9:5, 9:21, 10:11, 11:17, 23:14, 24:4, 27:7, 27:9, 29:21, 30:14, 31:3, 31:8
perhaps
37:14
period
9:14, 11:19, 17:7, 17:11, 23:20, 26:11
periodically
24:5, 26:6
perkins
3:5
person
8:7, 14:7, 27:14
personal
35:3
personally
15:4
perspective
14:12
petition
27:11, 30:16, 31:4, 31:11, 31:22, 32:6, 32:22, 33:3
petitions
9:21, 19:4, 19:10, 22:5, 29:9, 30:17, 31:1, 32:10, 32:15
phone
8:5
phonetic
7:1
photo
40:13, 41:12
point
30:11
points
12:7
policy
9:22, 21:9, 21:13, 21:22
polis
7:14
possible
34:15, 34:17
possibly
39:19
potential
11:17, 40:4
practice
17:5, 22:2
practices
33:7
predominantly
6:22, 7:4, 8:12, 12:6, 12:21, 13:12, 13:20, 16:14
presence
32:8
present
8:18
presented
5:8
pretty
41:21
principals
6:18, 6:20, 7:17
print
41:13
private
35:8
probably
17:13, 18:20, 20:11, 40:16, 40:18
problems
40:4
process
10:13, 14:1, 14:6, 17:2,

17:14, 17:18
program
19:6
programs
32:9
provide
18:3
public
2:14, 43:1,
43:19
pursuant
2:13
put
16:8, 20:2
putting
38:8, 38:9

Q

quarter
17:4
question
18:21
questioning
29:4
questions
9:12, 37:10,
40:19, 41:6
quite
18:4, 34:13

R

rachel
3:4
ramirez
12:18
random
20:12
rare
10:15
rarely
6:17, 11:1
ray
1:3, 2:1, 2:4,
5:2, 36:7,
36:11, 38:17
rayburn
2:5
reach
28:14
reaching
16:3, 32:14
read
19:20, 19:22,
31:16, 36:6,
38:15, 39:4
reading
23:3
really
18:16
reason
29:14
recall
10:3, 22:15,
26:13, 26:16,
26:18, 37:17,
39:18, 40:17
receive
22:5, 27:6,
37:6, 37:11
received
16:13, 18:10,
21:1, 22:7,
37:7, 37:12
receiving
20:6, 21:10
recollect
10:10
recollection
9:19, 16:4,
17:1
record
8:22, 19:1,
31:16, 31:18,
42:3, 43:5
record's
8:17
redact
35:10
redacted
35:7
reduced
43:6
refer
19:2
referenced
28:10
referred
19:4, 20:9
referring
19:7
reflected
11:13
regards
41:1
regular
19:19
related
43:8
relation
13:15, 15:10
relationship
9:10, 40:22
remember
25:4, 33:17,
34:7, 34:11,
34:14, 40:1,
40:10
rephrase
34:2, 38:20
replied
23:10
report
18:21
reported
1:22
reporter
2:14
reporter-notary
43:1
reports
17:21
representatives
3:15
request
31:3, 33:15,
38:1, 39:2
requested
10:1, 43:8
respond
33:8
result
20:21
retained
9:3, 9:15
returned
25:18, 25:22
review
36:17, 43:7
right
9:8, 24:20,
27:10, 31:15,
33:21, 35:21,
41:11
role
12:4, 15:13,
15:20, 36:14,
38:19, 38:21,
39:1
routinely
7:22, 8:4
rules
41:7
run
29:18

S

safer
36:13
said
10:17, 11:11,
17:1, 20:16,
21:8, 23:9,
25:15, 28:14,
30:2, 30:22,
31:6, 31:15,
34:18, 41:3,
43:5
same
14:9, 15:6,
29:17
sat
7:10, 7:19,
13:22, 23:20
saw
17:20, 18:18,
20:4, 22:22,
23:2, 27:7,
27:11, 37:17
say
8:7, 9:7, 15:3,
16:10, 16:12,
17:12, 18:6,
18:15, 20:9,
21:5, 21:14,

21:20, 24:14, 24:22, 28:13, 30:6, 30:13, 30:15, 30:16, 30:18, 31:4, 39:14
saying
8:2, 9:16, 17:8, 20:4, 38:3
says
27:1, 31:19, 34:9, 36:11
schedule
23:11
school
15:6
scrutinizes
14:5, 14:6
seal
43:13
search
33:11
second
35:22, 38:10
see
10:7, 11:13, 16:7, 16:9, 18:19, 20:13, 20:18, 21:14, 27:6, 31:13, 33:11, 37:3, 37:13, 40:12
seeing
22:10
seem
19:13
seemed
19:21, 37:10, 41:21
seems
37:21
seen
26:20
send
8:9, 9:16, 9:19, 9:20, 10:2, 10:4, 10:21, 15:18, 16:11, 16:17, 16:18, 17:9, 18:3, 19:5, 19:15, 19:17, 20:22, 29:1, 29:11, 29:12, 29:15, 29:21, 30:3, 30:10, 30:18, 31:1, 32:16
sending
10:7, 18:6, 19:13, 20:5, 20:21, 31:10, 34:1, 34:6, 39:7
sent
15:16, 16:19, 16:22, 20:16, 20:19, 22:8, 26:13, 26:17, 29:8, 29:20, 33:13, 34:4, 34:8, 34:14, 34:15, 35:17, 36:18, 37:4, 37:6, 37:21, 38:1, 38:4, 38:22, 39:2, 39:5, 39:11, 39:16, 39:20, 41:4
sentence
36:10
served
13:15
serves
16:5
services
5:22, 13:5, 18:3
set
43:12
share
12:10, 12:11, 41:20
shared
16:6
shorthand
43:1
should
8:7, 20:14, 33:5, 38:20
shouldn't
39:13
show
18:18, 26:19, 34:21, 35:16
showing
36:4
shown
26:16, 40:11
sign
9:21, 30:15, 31:4
signature-jd0yz
43:15
similar
27:20, 28:21, 37:7
simply
19:3
sir
36:3
sit-in
22:13, 22:17, 22:20, 26:15, 34:12, 37:19, 39:17, 39:21
sitting
26:3
small
15:5
solicitation
10:2, 10:4, 11:9, 28:12, 30:19, 31:11, 31:22, 32:5, 32:6, 32:17, 32:21, 32:22, 33:4
solicitations
8:14, 9:17, 9:20, 15:14, 15:15, 15:20, 18:1, 18:4, 18:7, 19:2, 19:8, 19:9, 19:18, 22:4, 29:10
some
6:2, 6:18, 7:13, 9:12, 12:7, 14:14, 15:7, 21:10, 23:10, 23:14, 30:13
someone
10:12, 11:4, 11:16, 20:8, 40:11
someone's
33:2
something
7:15, 10:9, 13:2, 15:9, 16:11, 18:22, 19:20, 19:22, 20:8, 20:13, 20:14, 20:17, 20:21, 23:3, 25:3, 26:5, 26:8, 26:17, 27:1, 27:12, 27:16, 27:18, 27:22, 28:2, 28:7, 28:8, 28:20, 28:21, 28:22, 30:2, 30:4, 30:5, 30:7, 31:6, 31:7, 31:15, 31:20, 31:21, 33:16, 38:2, 38:4, 39:22, 41:5, 41:13, 41:19
sometime
6:6, 9:8, 14:10, 15:1, 25:1
sometimes
11:5, 11:6, 11:11, 11:12, 11:13, 12:22, 18:16, 19:22,

28:14, 28:15, 30:3, 30:4, 37:9, 37:10
somewhere 24:19, 25:5
sort 19:5, 21:9, 27:10, 35:6
sounds 8:2, 16:10, 24:19
spam 37:14
speak 11:8, 24:6, 28:11
speaker 23:4
specifically 6:8, 10:3
speculating 40:15
speculation 17:14
staff 7:1, 12:18, 13:9, 16:6, 23:8, 40:9, 41:1
stamped 35:18
stand 24:6
started 10:14, 14:16, 29:4
stated 5:8
statements 5:9
station 41:13
stay 23:18
stenographically 43:6
steps 25:14
still 14:15, 19:12, 23:15, 37:18
stoddard 11:21, 12:2
stopped 17:3, 17:10
straight 17:8
strategies 5:16, 5:18, 5:19, 6:1, 6:4, 6:16, 7:6, 7:8, 7:12, 8:1, 8:5, 8:6, 8:8, 8:12, 8:20, 9:2, 9:4, 9:11, 9:15, 9:18, 9:19, 10:2, 10:5, 10:20, 10:22, 11:2, 11:8, 11:11, 11:20, 12:12, 13:5, 13:10, 13:12, 13:18, 14:1, 14:3, 15:17, 16:2, 16:18, 18:5, 21:5, 22:9, 26:18, 28:6, 28:11, 28:18, 29:1, 29:6, 29:8, 29:11, 29:16, 29:22, 30:3, 30:22, 32:1, 32:3, 32:7, 33:5, 38:7
strategist 7:21
strategists 28:4
strategy 5:20, 6:10, 6:11, 32:8, 33:6
street 3:6, 3:17
stretch 26:6
success 17:22
suggest 10:6, 10:8, 10:20
suggested 11:14
suite 3:7, 3:18
sun 26:10
supporters 12:9, 16:3, 37:12
supposed 21:19
sure 10:16, 15:12, 18:4, 25:2, 26:20, 35:14, 41:7
svoboda 3:3, 8:16, 19:1, 33:18, 33:22, 35:5, 35:11, 35:13, 37:14, 40:6, 42:1
sw 2:6, 3:17
sworn 14:21

T

take 16:12, 16:13, 21:6, 26:7, 27:19
taken 41:12, 43:3, 43:6
talk 11:7, 11:10, 22:13, 30:2, 30:6, 40:17
talked 11:3
talking 8:17, 8:18, 12:7
tara 13:11, 13:15, 13:17
team 21:2, 21:18, 21:19
technical 30:8
television 41:13
tell 6:20, 15:17, 17:16, 18:14, 18:17, 21:19, 28:20, 37:5, 39:12, 40:2
ten 15:8
tense 8:18
th 43:13
thank 19:11, 35:13, 36:2, 41:17
thanks 42:2
thereafter 43:6
thereof 43:12
thing 8:16
things 6:14, 10:14, 27:15, 28:4, 28:5, 29:11, 29:12, 29:15
think 6:18, 7:13, 7:17, 7:19, 8:13, 11:5, 14:4, 14:17, 16:4, 16:21, 18:11, 18:20, 21:6, 21:12, 21:13, 22:7, 25:2, 28:3,

28:8, 29:3, 29:17, 29:18, 30:12, 30:21, 31:19, 33:5, 33:14, 34:17, 35:20, 41:3, 42:1
thinking 17:13
third-hand 41:11
thirteenth 3:6
thorough 14:5, 41:22
thought 20:13, 31:5, 32:13
three 7:10
thrl 26:20, 35:18, 36:5
through 17:3, 17:19, 24:15, 26:21, 29:18, 30:8, 32:15, 35:19, 36:5
throughout 26:11
thursday 1:6
tight 26:4
time 9:3, 9:13, 9:14, 11:18, 17:7, 17:11, 23:2, 23:7, 23:8, 23:21, 24:1, 24:2, 24:11, 25:22, 26:9, 33:15, 33:18, 39:15
timeframe 15:2, 24:19, 33:13
times 24:13, 29:14, 37:11
today 14:15, 16:13, 23:11, 36:11
together 38:8, 38:9
told 23:12
tools 30:21
transcript 35:6, 43:4
traveling 17:20
treated 18:8
true 19:12, 43:4
trujillo 7:1, 27:1
trust 14:4, 21:17
turned 23:2
twitter 6:14
two 12:21, 19:8
type 5:22, 18:3, 20:19
types 22:5
typewriting 43:7

U

uh-huh 25:19
uh-uh 37:20
ultimately 7:11
under 43:7
understand 15:13, 29:18, 31:9
understanding 32:11, 38:3
understood 21:22
unfair 21:12
until 14:21, 23:19
use 9:11, 21:22, 35:22

V

vehicle 25:5
versus 31:11
via 16:3
visit 6:17, 10:11
visiting 12:7
voice 30:15, 30:18, 31:4
voices 27:10, 31:8, 32:16
volume 18:17, 19:12, 19:14, 23:1, 23:2
volunteer 12:17, 12:19, 13:1, 13:3
volunteered 12:5
volunteers 7:2
vote 30:16

W

walk 24:15, 26:21
walked 25:9
walking 24:7
want 6:8, 9:7, 15:12, 21:14, 22:13, 26:4, 30:10, 31:16, 35:16, 36:7, 40:7
wanted 20:20, 30:13, 38:16
washington 1:5, 2:7, 3:8, 3:19
water 26:5
way 8:5, 29:4, 37:7
we're 8:18, 30:9, 35:21, 42:1
we've 8:17
website 41:12
wednesday 37:22
week 18:13, 20:7, 20:11
weekends 13:2
weeks 20:12, 39:19
went 15:6, 23:16, 23:17, 24:11, 24:17, 26:10
weren't 28:15
whatever 11:14, 20:9, 21:2, 22:9, 25:9, 26:2, 28:7, 30:14, 37:16
whether 12:17, 22:4,

29:9, 31:21, 32:4, 32:9, 33:2, 37:17
whoever 21:4, 23:4
within 34:16
without 22:9
witness 43:12
word 7:9, 7:14
work 6:2, 6:13, 7:13, 9:4, 12:16, 13:3, 13:19, 21:5, 29:6, 29:15, 30:14, 32:13, 33:7
working 14:10, 14:15, 14:16
world 35:7
wouldn't 11:13, 15:3, 15:16, 24:22, 29:15, 30:4, 32:13, 37:13
written 40:1

Y

yeah 8:7, 10:18, 14:1, 14:21, 28:21
years 14:14, 15:7, 15:8
younger 15:7
yourself 31:14, 37:15

0

00 24:12, 25:10
0036 36:5
0038 36:5
0041 35:19, 38:12
0044 35:19
0098 26:20
02 34:9

1

1110 3:18
13 1:7, 43:13
137153 1:20
14 43:21
16 9:9

2

20005 3:8
20024 3:19
2007 14:11, 14:17, 15:1
2008 15:1
2009 14:21
2015 6:6
2016 6:7, 8:19, 10:19, 11:19, 17:9, 22:14, 33:20, 34:5, 34:10, 37:22
2017 1:6, 43:14
202 2:8, 3:9, 3:20
20219 2:7
21 4:4, 43:21
22 4:5, 22:14, 26:14, 33:19, 33:20, 34:4, 34:9, 37:22
2231 2:5
225 2:8, 3:20

3

3rd 3:17

4

4 34:9
40 4:6
425 3:17
43 1:21

5

50 2:6
51 42:3

6

6 24:12, 25:10
600 3:7
6190 2:8
6200 3:9
654 3:9

7

7 24:12, 25:10
700 3:6

8

8 1:7, 42:3

9

9739 3:20

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

ERRATA SHEET

Page	Line	Correction	Reason
11	6	The word "they" should be inserted before the phrase "did them...": they did them.	The sentence is missing a word and does not make sense without it.
14	12	The word ledge should be changed to leg.	The Congressman was referring to the legislative perspective, which would be leg perspective.
16	9	The word "are" should be inserted between "that" and "good": that are good.	This sentence is missing a word and does not make sense without it.
18	19	The word "other" should be plural: others.	This word should be plural to make sense in the sentence.
18	20	The word "Boulders" should not be plural: Boulder.	The Congressman was referring to the company, Boulder Strategies, which is not plural.
36	11	The word "joined" should be "join."	The questioner is reading from THRL 0036 which uses the term "join," not "joined."

This errata sheet is submitted subject to 18 U.S.C. § 1001 (commonly known as the False Statements Act).

Witness Name: Benlay Lajian

Witness Signature: [signature]

Date: 4/25/2017

EXHIBIT 2

From: ben lujan [redacted]
Subject: Fwd: Update: House Dems are staging a sit-in
Date: June 22, 2016 at 4:02 PM
To: Aaron Trujillo [redacted]

Get something out

Begin forwarded message:

From: Michelle Lujan Grisham [redacted]
Date: June 22, 2016 at 3:00:59 PM EDT
To: Ben Lujan [redacted]
Subject: Update: House Dems are staging a sit-in
Reply-To: [redacted]

Michelle
Lujan Grisham
DEMOCRAT *for* CONGRESS

Dear Ben,

I'm **literally** on the House floor with dozens of my Democratic colleagues to demand a vote on the "No fly, no buy" gun safety bill.

It is time to deal with the gun epidemic in this country. If you are on the "no-fly" list, you should not be allowed to buy a gun. Period.

But Speaker Paul Ryan has refused to let us vote on this issue before we break for our planned recess. We aren't leaving until he does. House Democrats have had enough — we are tired of being silenced by some Republicans and the NRA.

If you think the House recess can wait, add your name to this petition and tell Speaker Ryan — LET US VOTE.

Sincerely,

Michelle Lujan Grisham
U.S. Congresswoman

PAID FOR BY FRIENDS OF MICHELLE

This email was sent to benrayllujan@me.com. If you believe we need a Congresswoman who will fight to give everyone a chance to live the American Dream, then follow Michelle Lujan Grisham on Facebook and Twitter. Should you want to unsubscribe then you can click here.

EXHIBIT 3

Planet Depos®
We Make It Happen™

Transcript of Interview of [redacted]

Date: March 1, 2017
Case: Interview with the Office of Congressional Ethics

Planet Depos
Phone: 888-433-3767
Fax: 888-503-3767
Email: [redacted]
www.planetdepos.com

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1 - - - - - - - - - - - - - -x
2 INTERVIEW WITH THE :
3 OFFICE OF :
4 CONGRESSIONAL ETHICS :
5 - - - - - - - - - - - - - -x
6
7 Interview of [redacted]
8 Washington, DC
9 Wednesday, March 1, 2017
10 4:03 p.m.
11
12
13
14
15
16
17
18
19
20 Job No.: 137151
21 Pages: 1 -
22 Reported By: Janet A. Hamilton, RDR

1 Interview of [redacted], held at the
2 offices of:
3
4
5 Perkins Coie, LLP
6 700 Thirteenth Street, Northwest
7 Suite 600
8 Washington, DC 20005-3960
9 (202) 654-6200
10
11
12
13
14
15
16 Pursuant to agreement, before Janet A.
17 Hamilton, Registered Diplomate Reporter and Notary
18 Public in and for the District of Columbia.
19
20
21
22

1 A P P E A R A N C E S
2 ON BEHALF OF U.S. HOUSE OF REPRESENTATIVES
3 OFFICE OF CONGRESSIONAL ETHICS:
4 KEDRIC PAYNE, ESQUIRE
5 HELEN EISNER, ESQUIRE
6 Investigating Counsel
7 U.S. House of Representatives Office
8 of Congressional Ethics
9 P.O. Box 895
10 Washington, DC 20515-0895
11 (202) 225-9739
12
13 ON BEHALF OF [redacted]:
14 BRIAN G. SVOBODA, ESQUIRE
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17 700 Thirteenth Street, Northwest
18 Suite 600
19 Washington, DC 20005-3960
20 (202) 434-1654
21
22

1 P R O C E E D I N G S
2 -----
3 BY MR. PAYNE: All right. So, [redacted], we
4 will begin. I just want to first start with
5 background, and let me also back up and just say
6 that you were provided with the False Statements
7 Act; is that correct?
8 [redacted]: That's correct.
9 MR. PAYNE: Okay. And we anticipate that
10 you will be able to sign the form but that we did
11 advise you or let you know that the False
12 Statements Act applies --
13 [redacted]: Certainly.
14 MR. PAYNE: -- and whether or not you
15 signed it.
16 [redacted]: Certainly. I just want to
17 understand more about it, so --
18 MR. PAYNE: No problem. So let me begin
19 just by gaining a little bit of your background.
20 Where are you currently employed?
21 [redacted]: I'm currently employed at
22 the Democratic Congressional Campaign Committee.

1 MR. PAYNE: And what is your title there?
2 [redacted]: My title there is chief of
3 staff.
4 MR. PAYNE: How long have you been
5 employed there?
6 [redacted]: I've been employed there
7 since January of 2015.
8 MR. PAYNE: And were you ever employed
9 with Representative Luján's congressional office?
10 [redacted]: Yes, I was.
11 MR. PAYNE: And when was that?
12 [redacted]: My last date of employment
13 there was in 2000 -- 2012 or 2013. After I worked
14 in his office I went over to the US Department of
15 Commerce and I worked in the Office of Legislative
16 and Intergovernmental Affairs there before going to
17 the Democratic Congressional Campaign Committee.
18 MR. PAYNE: And you said you ended
19 employment with Representative Luján in 2012.
20 About how long were you employed with his
21 congressional office?
22 [redacted]: I was employed with his

1 congressional office since I came to Washington, DC
2 which was in 2009.
3 MR. PAYNE: What was your title while
4 employed with the congressional office?
5 [redacted]: I had a few different
6 tiles. I started off as a legislative
7 correspondent, and I made my way up to a
8 legislative assistant by the time that I was
9 finished in his office.
10 MR. PAYNE: Okay. Have you ever been
11 employed with Representative Luján's campaign
12 committee?
13 [redacted]: Yes. In 2008, 2007 and
14 2008 I worked on his first campaign for Congress.
15 I was a political director for his campaign, and
16 then in 2009 before the 2010 reelect campaign I
17 took a leave of absence from my job on the Hill,
18 and I went back to New Mexico for several months to
19 work on his first reelection campaign. I was the
20 campaign manager, and then after the campaign was
21 over I came back after my leave of absence, and I
22 began working in the congressional office again.

1 MR. PAYNE: Okay. Do you currently
2 provide any services to Representative Luján's
3 campaign committee?
4 [redacted]: I mean I'm in touch with
5 the individuals who work on his political work back
6 in New Mexico. I'm more of a volunteer capacity.
7 I'm not paid by the campaign, but, you know, I've
8 worked with the Congressman for many, many years.
9 I'm from New Mexico. I've done politics in New
10 Mexico, and I'll often give my advice on just what
11 I think might be good ideas or, you know, things
12 to, to look at in further detail, but I do that
13 with a number of different campaigns as well in my
14 role at the Campaign Committee.
15 MR. PAYNE: So can you walk me through
16 the type of work that you currently provide to the
17 campaign? I know you say it's on a volunteer
18 basis, but can you give more details besides just
19 the types?
20 [redacted]: Sure. If anybody who is
21 involved in his political campaign might have a
22 question about who somebody is or, you know, if

1 there's an issue happening in New Mexico that I
2 might be familiar with, they might give me a call
3 and I might provide advice to them on, you know,
4 how they should -- who they should talk to, how
5 they might be able to handle any given issue given
6 the circumstances, things of that nature, because,
7 again, I am from New Mexico, and I've worked in New
8 Mexico politics. Even before I worked for
9 Congressman Luján I had worked in New Mexico
10 politics for about four or five years before I
11 worked for him. So I have a good lay of the land,
12 and sometimes the people that worked on his
13 campaign side will just ask me questions.
14 MR. PAYNE: Okay.
15 [redacted]: And, you know, they know
16 that they can call me in the evenings or whatever
17 like, you know, when I'm around to ask me
18 questions.
19 MR. PAYNE: You mentioned people who work
20 on his campaign. Who were those people who contact
21 you?
22 [redacted]: Mm-hmm. So currently he

1 has two people working on his campaign that are in
2 the role of finance, finance consultants, and that
3 would be Steve Fitzer who is his primary finance
4 consultant. He does work in both Washington, DC
5 and New Mexico, and then there's another individual
6 that works for Steve Fitzer and his name is Sean
7 Marcus, and he does primarily work in New Mexico.
8 MR. PAYNE: Do you do any work related to
9 sending out campaign e-mails for Representative
10 Luján's campaign?
11 [redacted]: I've been involved in
12 providing ideas or reviewing any sort of content
13 that is sent out by the Congressman's e-mail
14 program simply because, you know, there are nuanced
15 ways to talk about certain issues especially if
16 you're trying to communicate to grassroots
17 supporters and things of that nature, and so like
18 every now and again, if I get an opportunity, I'll
19 sort of scan the e-mail to say, oh, this looks good
20 or, you know, you know, say this maybe a different
21 way or, you know, if there are any flags that I
22 might raise regarding an e-mail or something like

1 that, I will, but it's not a consistent thing.
2 It's kind of just like on a case-by-case basis just
3 depending on whether or not I have time during the
4 day, you know, like if I'm, you know, I've got an
5 extra minute or two here or there and, and I have
6 time to look at things.
7 Sometimes, you know, like especially last
8 year, I will help, like if there's a conference
9 call with the campaign staff because last year the
10 Congressman had basically a fully operating
11 campaign with a campaign manager and their finance
12 consultants and Boulder Strategies who was the main
13 e-mail, e-mail program consultant, if there are,
14 like, conference calls or anything like that that
15 are scheduled for any time during the week, I'll
16 participate in those conference calls just
17 depending on what's going on during the week.
18 MR. PAYNE: And then what is your role in
19 those conference calls then?
20 [redacted]: Like I said, I'll just --
21 I'm just kind of like a volunteer; like I'll listen
22 and provide advice if I think something is, needs,

1 you know, clarification or provide ideas sometimes,
2 but it's the primary function of the other
3 individuals to, like, execute whatever we talked
4 about on the phone calls. So, for example, if it's
5 finance related, it's Steve Fitzer; if it's e-mail
6 related, it's -- it was Boulder Strategies; if it's
7 like field or anything related, it's whoever the
8 campaign manager is at any given point in time, but
9 I'll just sort of like participate in an advisory
10 role, but I'm basically a volunteer.
11 MR. PAYNE: What was your role with
12 Boulder Strategies? You mentioned them. How often
13 would you interact with Boulder Strategies?
14 [redacted]: I interacted with them
15 quite a bit I would say, especially in the
16 beginning of their time as Congressman Luján's
17 e-mail consultants, especially because that was a
18 time when they were trying to get to know the
19 Congressman and, you know, create content that was
20 maybe in his voice, if you will, the way he would
21 say things or the way that, you know, certain
22 pictures looked or things of that nature, the

1 formatting of the e-mails, that kind of stuff,
2 because they wanted to do right by him. So I would
3 talk to them quite frequently to kind of just give
4 them advice on what I thought would, would be a
5 good way for them to approach any given project or
6 creating content and things of that nature. Simply
7 because I had worked for the Congressman for so
8 many years, I had worked on his campaign, you know,
9 I had a lot of experience with being in New Mexico
10 and doing politics in New Mexico, and so that was
11 basically the advice that I gave him.
12 MR. PAYNE: Now, when was this? You said
13 it was when they first came on, but when was that
14 time period?
15 [redacted]: It was the majority -- I'm
16 saying the majority of my interaction with them was
17 when they first started, that was very frequent.
18 MR. PAYNE: When did they first start?
19 [redacted]: Let me think. I don't
20 remember if it was late 2015 or early 2016, but at
21 some point in early 2016 I know that they were
22 fully on board, and that's when they reached out to

1 me for advice and --
2 MR. PAYNE: Were you involved in the
3 hiring of Boulder Strategies?
4 [redacted]: I was involved in their
5 interview, but I didn't, like, make the decision to
6 hire them. There were a number of different
7 companies that came to pitch Congressman Luján on
8 what services they could offer in terms of an
9 e-mail program, and I was sitting in on those
10 interviews just to hear what they had to say
11 because, like I said, you know, I would offer
12 advice to Congressman Luján's campaign, you know,
13 anybody that was involved in his political side
14 like Steve Fitzer and others. Steve Fitzer was
15 also in those interviews as well, but I didn't make
16 the decision to hire Boulder, but I was involved in
17 those interviews.
18 MS. EISNER: Who invited you to
19 participate in the interviews?
20 [redacted]: I sort of invited myself.
21 I mean I knew that sort of there was an open door
22 for me to participate in Congressman Luján's

1 campaign because I had done it for many years, and
2 it was something that I kind of just took upon
3 myself to go and sit in on those interviews because
4 I wanted to be in the loop, especially if somebody
5 had asked me a question or anything of that nature,
6 especially if they asked me a question about New
7 Mexico. So I knew that, like, it was an open
8 invitation. I didn't have to, like, ask for
9 permission, or nobody had to ask me to be involved
10 in that at all.
11 MR. PAYNE: Did you have anything else?
12 MS. EISNER: You can go ahead.
13 MR. PAYNE: So in the very beginning
14 which you think may have been some point early 2016
15 were you the main point of contact for Boulder
16 Strategies with respect to the campaign for
17 Representative Luján?
18 [redacted]: I -- I was probably one of
19 their main contacts simply because they were asking
20 me their opinion on how they should approach the
21 e-mail program and, you know, how widespread e-mail
22 use is in New Mexico and that kind of stuff just

1 because I had worked on campaigns before and I kind
2 of just know that information from my work on
3 campaigns, but I would say in addition to me
4 another one of their primary contacts was Steve
5 Fitzer because Steve Fitzer oversees all of the
6 finance operations, and included in that would be
7 e-mail fundraising as well. So, so part of the
8 e-mail program obviously sometimes is asking for
9 campaign donations through e-mail, and because that
10 had a financial component Steve Fitzer would be the
11 one to be the main contact for anything related to
12 that.
13 MR. PAYNE: Okay. So then you would work
14 on helping them draft the e-mails? And let me be
15 more specific. You would help Boulder Strategies
16 in its very beginning know the voice and know how
17 to draft the campaign e-mails that they would send;
18 is that correct?
19 [redacted]: Yeah, sometimes.
20 MR. PAYNE: Would you also approve any
21 solicitation, an e-mail solicitation that Boulder
22 Strategies would send on behalf of the campaign?

1 [redacted]: So, so I wouldn't say
2 approved because I wasn't, like, the end-all be-all
3 voice of, like, who was in charge of the e-mail
4 program. There were several people that Boulder
5 wanted to just keep in the loop consistently about
6 what they're sending, and so we had this sort of
7 like piecemeal system where, you know, we always
8 knew that, that I would be on an e-mail before it
9 went out. They would share the content with an
10 e-mail before it went out with a number of
11 individuals, and, and Steve Fitzer and myself sort
12 of like took it upon ourselves to be like, yeah,
13 we'll take a look and say, like, we're good with
14 this or maybe we should change a line here. I
15 often line edited e-mails because, you know, it
16 didn't sound right or, you know, there were things
17 that were in the e-mails that concerned me.
18 For example, like there was a point in
19 time early on when Boulder was drafting content
20 where they were like using e-mail, or they were
21 using pictures from the Internet and pasting them
22 in the body of the e-mail without citing them

1 properly. So naturally that was like a big red
2 flag for me, and I said any time you use a picture
3 or anything -- it doesn't matter if it's, like, a
4 picture of a sunset or a picture of anything --
5 like, you have to cite it because if, if somebody's
6 picture or intellectual property is captured in one
7 of our campaign e-mails, it's going to be a problem
8 especially if we don't cite where it comes from.
9 So things like that, yes, absolutely I
10 would be involved in helping them figure out
11 before, you know, they sent an e-mail out or
12 something like that as it related to the content of
13 the e-mail.
14 MR. PAYNE: How about when the decision
15 was made to even send out campaign e-mails? How
16 did that -- how would those typically start?
17 [redacted]: So it started with -- it
18 started sort of big picture with a calendar. So
19 Boulder Strategies was in charge of creating a
20 calendar of e-mails that would go out every month,
21 and their expertise was how to sort of create the
22 best possible structure for the calendar and then

1 creating the content therein that would follow the
2 calendar, and that calendar was sort of based on
3 like current events, like what was in the news
4 cycle, you know, sort of anything that was relevant
5 to Congressman Luján's district back home, you
6 know, like New Mexico's birthday or, you know,
7 anything like that that would go into delivering a
8 message to show that Congressman Luján was, you
9 know, very much had his pulse back in New Mexico
10 but has his pulse on current events across the
11 country, and so a yearly calendar would get
12 formulated, and then from there a quarterly and a
13 monthly calendar would get formulated, and just
14 depending, like, if anything popped in the news
15 cycle, like sometimes that would influence whether
16 Boulder or not created content and stuff like that.
17 So they also had their ear to the ground when it
18 came to that kind of stuff, but that's basically
19 how the process worked, and then, you know, they
20 would, you know, go back with their writers, or I
21 don't know if they had writers or however they did
22 it, and come back to that e-mail chain that I

1 described earlier where we would provide our
2 feedback with whatever they had created on any
3 given day or any given week based on what was going
4 on or what they had planned in the calendar,
5 anything lining that.
6 MR. PAYNE: Okay. And would you ever
7 initiate campaign e-mails such that, you know, you
8 speak to them and you instruct them to draft
9 something or you --
10 [redacted]: Yeah. Sometimes if I --
11 MR. PAYNE: -- originate something by
12 e-mail?
13 [redacted]: Yeah. Sometimes if I
14 thought there was a good idea out there, I would
15 say, hey, we should think about doing something
16 like this.
17 MR. SVOBODA: [redacted], you want to make
18 sure to let Kedric finish his question.
19 [redacted]: Oh, sorry. Habit. I
20 thought about it.
21 MR. PAYNE: It just helps the record.
22 [redacted]: Oh, okay.

1 MR. PAYNE: You mentioned your role with
2 the solicitations and Steve's role and Boulder
3 Strategies. What was the role of Representative
4 Luján with these e-mails?
5 [redacted]: Well, first I want to
6 clarify. It wasn't just solicitations. It was --
7 it was just content delivery as well. Like that
8 was -- it was like an all-encompassing program,
9 right. It was thanking people for being engaged.
10 It was sharing current events, and then sometimes
11 there would be a solicitation for support for the
12 Congressman's campaign. So it wasn't just that.
13 MR. PAYNE: Okay.
14 [redacted]: And then can you repeat
15 your question again?
16 MR. PAYNE: Well, let me just --
17 [redacted]: I wanted to clarify that
18 point though.
19 MR. PAYNE: I'm glad you did. So how
20 would you decide whether or not the e-mail was
21 going to be one of these categories, that is a
22 thank-you versus a current event versus a campaign

1 solicitation?

2 [redacted]: Well, Boulder would decide

3 because they had a technology called HubSpot that

4 basically they would like message test things, and

5 they did this for all their clients, right. So we

6 weren't the only client that they had. They had a

7 number of different congressional clients and

8 corporate clients and organizations and things that

9 they do e-mail communications for, and from

10 whatever technology that they had they could decide

11 like, wow, people are really paying attention to,

12 like, you know, this issue or that issue or

13 whatever. So we never really knew what they were

14 going to say we should fundraise off of. It was

15 based on their recommendation as to what was

16 getting the most clicks. That's how they described

17 it; you know, this is getting a lot of clicks from

18 our other clients, or this is getting a lot of

19 clicks from what we're seeing out there through our

20 technology HubSpot, and then they wouldn't even

21 necessarily ask for our permission to say, like,

22 hey, we want to do a fundraising e-mail on this.

1 They would write the content. It was kind of like
2 a known fact that if an e-mail came across for our,
3 for us to kind of look at, that if it had a
4 solicitation within it that they had already
5 identified that that was a subject matter via this
6 technology HubSpot, that could potentially yield a
7 good amount of campaign donations online.
8 MR. PAYNE: Were there ever occasions
9 where you instructed Boulder Strategies to include
10 the solicitation in an e-mail?
11 [redacted]: I can't remember
12 specifically, but I would probably say yes.
13 MR. PAYNE: And then what would you base
14 it on? So if they're basing the decision on
15 clicks --
16 [redacted]: I kind of just based it on
17 like a gut feeling. Like if something was, like,
18 in the news cycle for several days, then I would
19 probably say, oh, hey, this might be a good idea
20 for a fundraising e-mail. There were many times
21 when they came back and they're, like, no, that's
22 not a good idea; but I kind of just based it off of

1 sort of my own political pulse, if you will, of
2 what I thought activists and voters and people were
3 paying attention to at the time.
4 MR. PAYNE: Now going back to the
5 original question which was Representative Luján's
6 involvement. So what was his involvement in these
7 type of e-mails where they are solicitations or the
8 other categories that you described?
9 [redacted]: So he would never edit
10 e-mails or say, like, this is something I want to
11 send out or anything like that. The majority of
12 his feedback came sort of after the fact, and also
13 he, for whatever reason, subscribes to a lot of
14 other members of Congress and organizations' e-mail
15 lists as well, and he would say sort of like after
16 the fact, so, so I'll take our e-mail program, for
17 example, if, if Boulder Strategies had created the
18 content based on the calendar and all the other
19 things and HubSpot and everything and they decided
20 that we wanted to send an e-mail out about climate
21 change, and then, you know, I might get an
22 opportunity to review it and say I'm good with

1 this, and Steve Fitzer might get an opportunity to
2 review it and say he's good with it, and Boulder
3 decides to send that e-mail out to the list.
4 Congressman Luján would comment after the fact: I
5 don't like how this looks. This doesn't sound like
6 me. You know, we need to figure out a better way
7 to talk about this issue because there are some
8 nuances there that you're not capturing, that kind
9 of stuff.
10 MR. PAYNE: Nothing positive? You said
11 it was always --
12 [redacted]: I mean if it was positive,
13 you know, we didn't get any feedback so we felt
14 like we were doing a good job.
15 MR. PAYNE: Okay.
16 [redacted]: But, you know, I mean --
17 and then there were also like, you know, plenty of
18 times where he would maybe forward an e-mail from
19 another list that says, oh, I think this is neat
20 or, like, you know, we should look at this or
21 something because he liked the way either the
22 content looked or he liked the way that the content

1 was being talked about in the e-mail and that kind
2 of stuff.
3 MR. PAYNE: So he, in those situations
4 where he would forward something, he would send
5 that forward to you, or would he send it to someone
6 else?
7 [redacted]: He would more than likely
8 send it to me.
9 MR. PAYNE: And why would he send it to
10 you?
11 [redacted]: Just because he and I have
12 a lot of face time, and we often talk about
13 political strategy and messaging and things of that
14 nature, right, and so he probably just felt more
15 comfortable sharing that information with me
16 knowing that, you know, if I have the opportunity,
17 I would share that and maybe with Boulder or with
18 Steve Fitzer or anybody that was involved, his
19 campaign or anything like that, as opposed to
20 having to go to too many people to share the same
21 idea.
22 MR. PAYNE: Okay. And so -- well, I want

1 to understand, are there any times where
2 Representative Luján would initiate an e-mail, but
3 it sounds like you're saying in certain situations
4 he would forward something to you, and that would
5 start an e-mail that Boulder Strategies would send?
6 [redacted]: No, not necessarily,
7 because I think almost all of the time Boulder was
8 already working on creating maybe the e-mail that
9 he said, oh, hey, this looks neat, like a neat idea
10 or whatever, right. So if it was a question about
11 formatting or not capturing his voice properly or
12 not talking about an issue in the way that he
13 wanted to talk about the issue or whatever's
14 happening, current events, that kind of stuff, that
15 sometimes is direct feedback that I would share
16 with Boulder, but in terms of, like, the actual
17 idea for a subject matter or things of that nature,
18 more often than not I would never even tell
19 Boulder, like, hey, Congressman Luján really likes
20 this, this e-mail from so-and-so simply because I
21 already knew that Boulder was already working on
22 something because of the calendar that they,

1 because on the calendar that they had created, the
2 weekly calendar, monthly calendar, all that kind of
3 stuff.
4 MR. PAYNE: But did he ever just say, I
5 need a particular e-mail sent out? So not
6 necessarily something that falls into this category
7 you described him forwarding, but he would
8 communicate to you, I need e-mail to go out on a
9 particular subject or whatever?
10 [redacted]: No, no. I was never
11 directed specifically by him to send an e-mail out
12 on a specific subject.
13 MR. PAYNE: Was anyone from the
14 Congressional Office involved in the solicitations
15 or the e-mails? I should -- let me -- you made a
16 good point of how you distinguish the e-mails, so
17 let me just speak broadly. In terms of those
18 e-mails that were sent by Boulder Strategies,
19 during the time period that you were working with
20 them last year 2016, were people from the
21 Congressional Office involved in reviewing those or
22 any type of approval?

1 MR. SVOBODA: And Kedric, would you
2 distinguish between in their official capacity or
3 volunteer capacity or either? I mean how are --
4 help me to understand, to follow that.
5 MR. PAYNE: Well, sure. So answer that
6 part, and I can distinguish it that way.
7 [redacted]: Okay. Or I can just
8 describe it how I understood it to be, the
9 situation to be.
10 MR. PAYNE: Okay, mm-hmm.
11 [redacted]: For the sake of keeping
12 people in the loop, knowing that both Steve Fitzer
13 and I were the individuals that were most of the
14 time involved in either taking a look at the e-mail
15 or anything like that, Boulder Strategies added the
16 e-mail addresses of Angela Ramirez, the personal
17 e-mail addresses of Angela Ramirez and Andrew
18 Stoddard to the e-mail chain generally, but that
19 was just to keep them in the loop so that when they
20 had an opportunity on their own personal time to
21 kind of review their e-mail for the day, their
22 personal e-mail for the day, they could see what

1 was happening, but in terms of approvals, no. They
2 were on those e-mail chains simply to know what was
3 in the loop and, if they felt necessary, provide
4 any type of feedback that they wanted to give given
5 the, you know, the time when they had personal time
6 during the day or, you know, whatever they were
7 doing. I mean I don't know where they were or, you
8 know; I'm sure that they kept track of their own
9 personal time and all that kind of stuff, but it
10 was simply to keep them in the loop on what was
11 happening on any given day.
12 MR. PAYNE: Okay. And you mentioned that
13 you have face time with the member.
14 [redacted]: Mm-hmm.
15 MR. PAYNE: When did this face time
16 typically occur?
17 [redacted]: It occurred between drives
18 between, between his office in the DCCC. So, you
19 know, he has a car and a driver, and I would wait
20 for him outside the Congressional Office and, you
21 know, if he was on the way or something, I'd come
22 and jump in the car and chat with him for five or

1 ten minutes, and then he does keep office hours at
2 the DCCC several times a day. So in those time
3 blocks I would get, you know, 15 or 20 minutes with
4 him most days.
5 Sometimes on Fridays I would drive him to
6 the airport from his home just to get a little bit
7 of extra time to talk with him, and then there were
8 several occasions last year through my duties at
9 the DCCC that we actually traveled together on long
10 trips to California and other places, so that gave
11 us plenty of time to talk in an airplane or in a
12 car or anything like that. So those were the times
13 when we would discuss his campaign. Those were the
14 times when we would discuss different ideas, things
15 of that nature, or I would keep him updated on what
16 was going on, that kind of stuff.
17 MR. PAYNE: Okay. I want to now
18 specifically talk about the sit-in demonstration
19 that happened around June 22nd, 2016.
20 [redacted]: Mm-hmm.
21 MR. PAYNE: And do you remember that
22 sit-in demonstration on the Hill?

1 [redacted]: I do.
2 MR. PAYNE: Okay. And do you recall that
3 Representative Luján's campaign sent out e-mails
4 related to the sit-in?
5 [redacted]: I do.
6 MR. PAYNE: And do you recall how many
7 e-mails were sent out?
8 [redacted]: Oh, I don't. I don't re-
9 -- I mean two.
10 MR. PAYNE: Okay.
11 [redacted]: But it was actually not
12 related to the sit-in because the sit-in was
13 prompted by this whole no fly-no buy because of the
14 Orlando shooting. That was the sort of impetus of
15 the e-mails, right, and so when I mentioned current
16 events or things that were happening in the country
17 or, you know, issues that are important to
18 constituents or things of that nature, the Orlando
19 shooting was what prompted a bunch of e-mail action
20 during that time.
21 MR. PAYNE: Okay. I want to show you I
22 think one of the e-mails that you're referring

1 to --
2 [redacted]: Sure.
3 MR. PAYNE: -- just so we're on the same
4 page. This is document Bates stamped THRL009. Do
5 you need a copy?
6 MR. SVOBODA: I think, remember, he needs
7 the code that's in the lower right-hand corner.
8 MR. PAYNE: Do you need this at all?
9 MR. SVOBODA: That's just the number that
10 they use so that they're able to distinguish one
11 document from the other, so he can give you this,
12 and you and he will both know that you're talking
13 about the same document.
14 [redacted]: Got it.
15 MR. PAYNE: Feel free to read the entire
16 e-mail, but I want to draw your attention to the
17 e-mail at the bottom that appears to be a draft
18 related to the no fly-no buy bill that you just
19 mentioned.
20 [redacted]: Okay.
21 MR. PAYNE: Does this refresh your
22 recollection about that e-mail that was sent?

1 [redacted]: About this e-mail?
2 MR. PAYNE: Right.
3 [redacted]: Yeah, totally.
4 MR. PAYNE: And what was your role in
5 this e-mail?
6 [redacted]: So if I remember
7 correctly, before this e-mail was drafted Boulder
8 Strategies sent out their ideas for the week or
9 whatever they did, and, and somewhere in the
10 conversation because the Orlando shooting had
11 happened I think it was on a Saturday night,
12 Saturday or Sunday -- it was during the weekend,
13 right -- so everything for that week was sort of
14 surrounding this, this topic, and, and then Boulder
15 Strategies just went to work and, and started
16 drafting e-mails based on what was happening
17 surrounding the Orlando shooting.
18 The -- the idea for the, for the no fly-
19 no buy concept or whatever, that was what Boulder
20 had come up with, and then they sent this e-mail
21 around for approval at that time.
22 MR. PAYNE: Okay.

1 MS. EISNER: What other e-mails or
2 outreach had Boulder Strategies done or proposed
3 related to no fly-no buy prior to this date June
4 22nd?
5 [redacted]: I don't remember, but it
6 came -- it would -- it used to come in the form of,
7 like, a content calendar or content for the week,
8 whatever, that was going to happen, and so when
9 this happened, obviously all of that changed
10 because it was a current event that was a hot topic
11 especially amongst people in New Mexico and around
12 the country, and I believe Boulder wanted to
13 capitalize on that. So they decided to, to start
14 drafting the content, and it was actually kind of
15 assumed -- when they sent us this for approval or
16 for, you know, to look at or whatever, they called
17 it approval, but basically it was like if Aaron or
18 Steve Fitzer can take a look at these, that's
19 great; if not, they're going to, like, move forward
20 anyway, and if something was wrong with the e-mail
21 or whatever, they'd just, like, blame it on us and
22 say you didn't approve it or you didn't look at it

1 or whatever, but yeah, I mean I think it was just
2 sort of assumed that because that was happening,
3 given the nature of, like, how e-mail programs
4 work, like, there's this underlying assumption
5 about e-mail programs, right, and it's, like, you
6 plan as much as you can, but if a big topic happens
7 or something or something happens in the press or
8 whatever and there's an opportunity to communicate
9 with your supporters or grassroots voters or
10 anything like that, then you take what's in the
11 news cycle and you try to add additional
12 information or your way of talking about the issue
13 or whatever the case may be. And so given that
14 common understanding, when Boulder had presented
15 this to us, even if it did deviate from whatever
16 the proposed calendar had been, we were kind of
17 just, like, okay, you know, this is the direction
18 they want to go because they have that technology
19 HubSpot and they have other congressional clients
20 who are probably also talking about the same thing,
21 and there were many other members of Congress
22 talking about this issue and organizations and the

1 news and everything like that. So it was, like, a
2 common understanding that, yeah, obviously they're
3 going to draft an e-mail about this because if, if
4 they were to send out an e-mail from Congressman
5 Luján's account saying like, oh, how great are
6 puppies, you know, like, they would sound tone deaf
7 to everything that's going on, so, and then, you
8 know, once you start an e-mail program the people
9 who receive your e-mails expect to get an e-mail
10 from you especially if there's like something big
11 happening, right, at that particular point in time,
12 right. So Boulder Strategies was well aware of
13 that, and that was the reason that they started to
14 generate this type of content because the news
15 cycle was completely filled by this subject matter.
16 MR. PAYNE: So after they generated this
17 and sent it to you what did you do with this e-mail
18 or with this draft I should say?
19 [redacted]: I don't remember, but I
20 probably looked at it, and I -- I don't know. I
21 might have said, hey, I'm good with this; this
22 looks good or, you know, I might have made some

1 line edits, but that's what I would do, you know,
2 in e-mails that I was sent if I had time.
3 MR. PAYNE: The first sentence here says,
4 "Today I join countless colleagues on the House
5 floor to demand action that will make our country
6 safer."
7 [redacted]: Mm-hmm.
8 MR. PAYNE: Did you have any role in
9 drafting that language?
10 [redacted]: No. I didn't draft that
11 language. That was Boulder Strategies, and I don't
12 know, that -- I didn't draft that language, but,
13 like, at the time, if you remember the news
14 coverage from that time, it was like 24/7 of
15 basically this debate on the floor. So I think
16 that that's why Boulder Strategies wrote that.
17 That's just an assumption.
18 MR. PAYNE: Did you have any
19 communication with Representative Luján concerning
20 an e-mail related to this sit-in?
21 [redacted]: No, not about the sit-in,
22 but this is different from the sit-in. This is the

1 bill.
2 MR. PAYNE: Okay. Did you have any
3 communications with Representative Luján concerning
4 this e-mail?
5 [redacted]: No, not that I recall.
6 Maybe he -- I mean he -- I think he forwarded an
7 e-mail that he thought was, like, a good idea or
8 something that, like, he liked, the way that they
9 were talking about the, about the, the subject
10 matter, but like I said before, when it came to
11 Boulder Strategies' role in this, you know, a
12 hundred times out of a hundred they were already
13 like drafting e-mails about what the subject matter
14 that the Congressman might have said, oh, this
15 looks like a neat idea or something like that.
16 Like they were already on it. So that's not
17 necessarily even an idea I would have gone back to
18 even tell Boulder, like, hey, this is what the
19 Congressman wants to say because I never did that.
20 It was just because I knew that Boulder was already
21 sort of on the case based on what they were, what
22 they were drafting and what was being sent around

1 by other members of Congress and all that kind of
2 stuff, right, to prevent that the, the optics of
3 being tone deaf on what's going on around the
4 country. I knew that they were professional enough
5 to know that they better be focusing on this
6 because everyone else was.
7 MR. PAYNE: Okay. And let me make sure I
8 follow it. So in the first sentence it talks about
9 today I joined countless colleagues on the House
10 floor. You're saying that does not refer to the
11 sit-in?
12 [redacted]: I don't think so. I think
13 it refers to this bill because at the time, and
14 again, I'm just trying to remember this all right
15 now, there were countless people on the floor
16 giving speeches about gun violence in America, and
17 that was prompted by the Orlando shooting at the
18 time, and, and so, yeah, members were on the floor
19 or at the time talking about gun violence.
20 MR. PAYNE: Can you turn to the second
21 page, and this may refresh your recollection. In
22 the next-to-the-last sentence, paragraph I should

1 say, it says, "Stand up if you support our sit-in."
2 [redacted]: Oh. So then maybe the
3 sit-in must have started by that time.
4 MR. PAYNE: And so does that refresh your
5 recollection that this e-mail was related to the
6 sit-in as well as the no fly-no buy legislation
7 that you just mentioned?
8 [redacted]: Well, to me it seems like
9 a contradictory e-mail that we screwed up because
10 it refers to two separate things, and so that just
11 means to me that, you know, as Boulder was drafting
12 stuff that they wanted to get as much content in an
13 e-mail as possible to prompt people to click on the
14 e-mail and read it.
15 MR. PAYNE: Now, did you have any
16 discussions with Representative Luján about the
17 sit-in?
18 [redacted]: Not about the sit-in.
19 MR. PAYNE: What about?
20 [redacted]: Not about the sit-in.
21 MR. PAYNE: About anything else --
22 [redacted]: Oh, no.

1 MR. PAYNE: -- around this time period?
2 MR. SVOBODA: Excuse me. And you mean
3 apart from the e-mail also. Apart from any issues
4 related to e-mail or fundraising, whether he had
5 any communications with the Congressman --
6 MR. PAYNE: That's correct.
7 MR. SVOBODA: -- generally about the
8 sit-in --
9 MR. PAYNE: That's correct.
10 MR. SVOBODA: -- at the time it was
11 occurring.
12 MR. PAYNE: That's right.
13 [redacted]: I didn't have any
14 conversations with the Congressman about the
15 sit-in. As a matter of fact, he wasn't even
16 around, so --
17 MR. PAYNE: What do you mean he wasn't
18 around?
19 [redacted]: He wasn't anywhere where I
20 could talk to him. So I didn't have any --
21 MR. PAYNE: Where was he?
22 [redacted]: I believe he was on the

1 floor or in his office because all this was
2 happening.
3 MS. EISNER: And where were you?
4 [redacted]: I was in my office at the
5 DCCC.
6 MR. PAYNE: And you believe he was in the
7 House floor and his office, what, during this
8 entire day on the 22nd?
9 [redacted]: Like whatever he does on
10 the official side, meetings or votes or anything
11 like that, like, while I get to watch votes on the
12 television or anything like that, I never have
13 conversations with him while he's on the official
14 side. The conversations I have with him are
15 whether I'm waiting outside for someone to come
16 pick me up, his driver, so that I could sit with
17 him in the car or when he comes to the DCCC and we
18 have meetings in his office or my office and if I'm
19 traveling with him somewhere and we get face time
20 on an airplane or in a vehicle, those are the times
21 I have conversations with him.
22 MR. PAYNE: Okay.

1 MS. EISNER: How do you find out when
2 he's ready to meet you to, you know, for you to be
3 picked up to travel from one location to the next?
4 Who communicates that to you?
5 [redacted]: So the DCCC has a driver
6 that's hired to drive the Congressman around, and
7 he is part of his scheduling team. Now, schedulers
8 are allowed to see both sides of the schedule, and
9 the driver will tell me, I'm on the way to pick up
10 the Congressman; meet me here in five minutes,
11 because he is part of the scheduling team. That's
12 how I find out.
13 MS. EISNER: So this communication comes
14 from the driver?
15 [redacted]: That's paid for by the
16 DCCC who is part of his scheduling team.
17 MR. PAYNE: With this e-mail here you see
18 there's a contribution --
19 [redacted]: Mm-hmm.
20 MR. PAYNE: -- block at the bottom? How
21 did that come to be in the e-mail?
22 [redacted]: I think that might

1 actually just, is something that's permanent.
2 MR. PAYNE: Such that any e-mail that
3 they send may have that "contribute" button at the
4 bottom?
5 [redacted]: Yeah. Like sometime -- I
6 think it's just like one of the, like the Face book
7 or Twitter button, it's like something that's,
8 like -- so, for example, if the subject of an
9 e-mail is climate change is bad, you know, get
10 involved in your local community about climate
11 change, that "contribute" button is always just at
12 the bottom next to the Twitter and the Face book,
13 but if the communication is, give me five dollars
14 because today is the fifth anniversary of whatever,
15 right, that's a direct ask, that "contribute"
16 button is always there as well. So I think it's
17 just something that's permanent. I don't know.
18 You'd have to ask Boulder Strategies why they put
19 that there. I don't know.
20 MR. PAYNE: I want to show you an e-mail,
21 and the document is Bates stamp THRL0098.
22 [redacted]: Mm-hmm.

1 MR. PAYNE: Can you walk me through this
2 e-mail? It's an e-mail that is from Ben Luján to
3 you dated June 22nd.
4 [redacted]: Sure.
5 MR. PAYNE: And if you could just walk me
6 through what this means. So he says to you, get
7 something out.
8 [redacted]: Mm-hmm.
9 MR. PAYNE: What did that mean to you?
10 [redacted]: To me that just means he
11 thought this was an idea that he liked. Like I
12 said, he would forward me e-mails from members and
13 organizations all the time because he liked the way
14 they talked about an issue or something like that,
15 and so I already, you know, at this point in time I
16 already knew that Boulder was drafting this because
17 given the subject matter of everything that was
18 happening. So it was sort of just like, hey, this
19 is a way I like to talk about the issue or
20 something like that. I would almost describe it as
21 like, you know, if you're, if you're on the
22 Internet or you're walking around or something and

1 you see something that's like really neat, like,
2 hey, we should do that, like, hey, we should go eat
3 there sometime or whatever. It's not a directive.
4 It's kind of just like an acknowledgement that he
5 may have liked the way that this e-mail read or
6 looked or whatever.
7 MR. PAYNE: And how did you respond when
8 he sent this that says get something out?
9 [redacted]: I don't think I responded
10 at all.
11 MR. PAYNE: Is it common for you not to
12 respond when the Congressman sends you an e-mail?
13 [redacted]: Sometimes, yeah.
14 MR. PAYNE: And when you say that they
15 were already working on something, it was your
16 understanding that they were working on e-mail
17 about the no fly-no buy legislation?
18 [redacted]: No. It was my
19 understanding that they were working on e-mails
20 surrounding gun violence in America, that the
21 specific subject matter, you know, while obviously
22 the coverage of the House floor probably had a lot

1 to do to influence it and all that kind of stuff,
2 it was the Orlando shooting that had started the
3 whole new shift in communications from the e-mail
4 program.
5 So they could have general -- you know, I
6 don't know what the time is on this, but if I
7 remember correctly from what happened that week,
8 everyone knew that all of the Democrats were going
9 to be talking about gun violence in America because
10 up to that point there had been so many things that
11 had happened with regard to gun violence that the
12 Orlando shooting shined a spotlight on gun violence
13 generally, and obviously that's a hot topic of
14 debate, and CNN was covering this, this no fly-no
15 buy bill, but that was sort of a more specific
16 subject matter of the larger subject of gun
17 violence as a whole in America.
18 So when, when I received this e-mail
19 message from Congressman Luján, I took it to mean,
20 oh, he thought this was a good way to talk about
21 gun violence or something to his grassroots e-mail
22 list knowing that because Boulder Strategies was a

1 firm in charge of our e-mail program and knowing
2 that they're not tone deaf that they were probably
3 already drafting something regarding guns; it just
4 happened to be the no fly-no buy bill.
5 MR. PAYNE: Okay. And can you read the
6 subject line of this e-mail that was forwarded to
7 you --
8 [redacted]: Oh, this one. Okay.
9 MR. PAYNE: -- the subject line from --
10 [redacted]: Subject. Update: House
11 Dems are staging sit-in.
12 MR. PAYNE: Okay. And then what was the
13 sit-in?
14 [redacted]: Well, first, that was
15 probably the subject line of this e-mail that was
16 sent out by Michelle Luján Grisham, not the subject
17 line that Congressman Luján typed in the subject
18 box.
19 MR. PAYNE: Okay. And does that subject
20 say anything about gun violence?
21 [redacted]: No.
22 MR. PAYNE: So once you received this

1 e-mail from the Congressman with the subject line
2 stating a sit-in, are you saying that you felt as
3 though the e-mail that was going to be about gun
4 violence addressed what he wanted you to be
5 concerned about?
6 [redacted]: Well, I don't know if he
7 wanted me to be concerned about anything. I think
8 he was just forwarding me this e-mail which the
9 subject of this e-mail, and I don't know who
10 Michelle Luján Grisham's online consultant is or
11 whatever, is update: House are staging a sit-in,
12 and I don't think that was a signal to me at all.
13 What I think the Congressman was trying to convey
14 was the fact that a member had sent out an e-mail
15 regarding gun violence. The specific issue in this
16 e-mail was no fly-no buy, but the fact that all of
17 this stuff was happening on the House floor and
18 people were trying to sort of capture the greater
19 subject matter of gun violence and, and regulation
20 on keeping guns out of the hands of people that
21 don't have guns as a general subject matter, that
22 that's what he was trying to convey by forwarding

1 me this e-mail.
2 MR. PAYNE: Now, he sent you an e-mail
3 that talks about the sit-in. The e-mail we just
4 looked at before that was drafted by Boulder
5 Strategies mentions a sit-in.
6 [redacted]: Mm-hmm.
7 MR. PAYNE: Did you communicate anything
8 about the sit-in to Boulder Strategies to include
9 in the e-mail that they sent?
10 [redacted]: No, I don't think so.
11 MR. PAYNE: How did Boulder Strategies
12 come up with the idea to put the sit-in in the
13 e-mail that they sent?
14 [redacted]: So like I said before,
15 Boulder Strategies has many clients including other
16 members of Congress. In addition to that the way
17 that the e-mail communication consultant world
18 works, just like many other consulting practices in
19 different industries, is that people tend to start
20 speaking the same language. Like there's sort of
21 group think, if you will, in terms of like what to
22 talk about and what the hot topic issue is of the

1 time period or anything like that. So I knew given
2 my previous work with Boulder that they were
3 probably already drafting material based on what
4 was happening in the news cycle, and what was
5 happening in the news cycle was first Orlando, then
6 whatever was happening on the house floor, and then
7 all of a sudden the sit-in started popping up on
8 the TV, right, and people were, like, live
9 streaming and doing all that kind of stuff, and I
10 knew that they were paying attention. So that's
11 probably how that got into these e-mails.
12 MR. PAYNE: I'm just thinking back to
13 what you said where you're the main point of
14 contact at this time period for Boulder Strategies.
15 [redacted]: No. I said early on I was
16 the main point of contact.
17 MR. PAYNE: And you said that was in
18 2016.
19 [redacted]: The early 2016, like in
20 March or in April of 2016. I would have more
21 regular conversations with Boulder at that time
22 than at this time because at this time they had

1 already been doing Congressman Luján's e-mail
2 program for several months. So I didn't need to
3 speak with them frequently. I was concentrating on
4 other things. I would, you know, if I got a
5 chance, review any of the e-mails. Like if there
6 was a hot topic or something, I might suggest, you
7 know, hey, we should try to do something with this
8 or whatever, but I wasn't necessarily their main
9 point of contact.
10 Like they did -- they did pay attention
11 if I gave feedback for sure, absolutely, because
12 they knew that, like, I had been involved in New
13 Mexico politics, and I had worked on the Chairman's
14 campaign once upon a time and that kind of stuff.
15 MS. EISNER: So who was the main point of
16 contact then on June 22nd, 2016?
17 [redacted]: I don't know. Steve
18 Fitzer perhaps.
19 MS. EISNER: So --
20 [redacted]: I don't necessarily know
21 if there was -- sadly enough to say, I don't even
22 know if there was a main contact for Boulder

1 because, like, they had been hired to do this
2 e-mail program, and they would keep everyone in the
3 loop by showing us content and showing us calendars
4 and things of that nature, but there was never a
5 designated main point of contact, like this is the
6 person you always talk to.
7 I kind of, like I said before, when I sat
8 in on the interviews and things of that nature
9 regarding the Congressman's campaign or if I were
10 to ever participate in conference calls or anything
11 like that, I knew that I had an open door to
12 participate in the campaign regardless, and if I
13 found time to do that in my day, I would do it, and
14 on particular days like this, it was a day where I
15 was helping the campaign, so I did.
16 MS. EISNER: Okay. So I'm looking at
17 this same document and, you know, the forwarded
18 e-mail from Ben Luján is sent just to you.
19 [redacted]: Mm-hmm.
20 MS. EISNER: So maybe you can help me
21 understand, you know, why did he have the
22 expectation that you were the individual that he

1 should e-mail as far as get something out?
2 [redacted]: Hmm. Well, I mean I would
3 often be the main person he contacted for a number
4 of reasons, like if he needed to get something
5 figured out with his campaign or anything like
6 that. So this, this to me just wasn't like, oh, my
7 God, go get an e-mail out right now. It was just
8 more of him sort of like communicating with me as
9 he normally did about ideas that he had. It could
10 --
11 MS. EISNER: So the --
12 [redacted]: -- be anybody.
13 MS. EISNER: -- get something out, who
14 would have gotten something out then? Who was he
15 expecting to get something out?
16 [redacted]: Boulder Strategies
17 probably, mm-hmm.
18 MS. EISNER: So, so his expectation, and
19 correct me if I'm wrong then, is he was sending you
20 an e-mail with an expectation that you would
21 communicate to Boulder Strategies; is that correct?
22 MR. SVOBODA: Well, to be clear, you're

1 asking him --
2 [redacted]: No.
3 MR. SVOBODA: -- for his understanding --
4 MS. EISNER: His understanding.
5 MR. SVOBODA: -- of what the
6 Congressman's expectations.
7 MS. EISNER: I'm asking for your
8 understanding of his expectations.
9 [redacted]: No, I don't think that's
10 what he meant because, again, it comes back to a,
11 sort of like a nuanced view of like how the, how
12 the Congressman communicates with me because I've
13 worked with him for so long, right.
14 MS. EISNER: Mm-hmm.
15 [redacted]: So like I said before,
16 there were many times when we would be, you know,
17 at a campaign rally or doing anything, and he would
18 be, like, oh, that's a greet idea; we should do
19 something like that. That's what I meant him to
20 say in this e-mail. I didn't -- I didn't interpret
21 this to be a directive of go right now, go to your
22 computer, write something about fly-no buy, and

1 then hit "send." That's not what I meant -- I
2 thought he meant by this, and then your question
3 about who was in charge of getting something out,
4 it was Boulder Strategies. They were in charge of
5 his entire e-mail program. They are the people who
6 physically clicked "send" with their technology
7 HubSpot or whatever they used to, like, message
8 test and see which e-mails get more clicks and less
9 clicks and how to include e-mail solicitations and
10 all that other stuff, right. They were sort of the
11 keeper of the keys when it came to that kind of
12 stuff.
13 MR. PAYNE: Are you saying you saw this
14 as an FYI, like he's sending this to you as a for
15 your information with no action that was supposed
16 to be taken on your part?
17 [redacted]: Yeah.
18 MR. PAYNE: And get something out to you
19 means take no action?
20 [redacted]: Wait. You have to
21 understand that the Congressman and I have, have a
22 longstanding working relationship, and I know the

1 way he sort of like talks in like free, free lingo
2 speak right. This was not a direct proper sentence
3 to tell me to do something. This was him just like
4 expressing that he thought this was either a good
5 way to talk about the issue, or maybe he thought
6 the e-mail looked good or something, kind of often
7 left up to my interpretation a little bit. This
8 was not a directive to go get something out. This
9 was more like, hey, we should think about doing
10 something like that.
11 MR. PAYNE: Mm-hmm.
12 MR. SVOBODA: Kedric, I know we've been
13 going for almost an hour, and I'm gathering we're
14 probably not quite to the goal line yet.
15 MR. PAYNE: We're getting close. We're
16 getting close. I'm about to move on to another
17 question.
18 MR. SVOBODA: Aaron, how are you doing?
19 Do you need water or anything?
20 [redacted]: No. I've got my coffee.
21 I'm good.
22 MR. PAYNE: Yeah. Like I said, I never

1 intended this to take too much time. Let's move
2 on. Well, do you have any more questions?
3 MS. EISNER: Go ahead.
4 MR. PAYNE: I want to talk about, you
5 mentioned that there were two e-mails that were
6 sent --
7 [redacted]: Mm-hmm.
8 MR. PAYNE: -- related to this subject
9 matter. One is this one we just mentioned here.
10 What was the second one that you recall?
11 [redacted]: So I recall the no fly-no
12 buy one because of this graphic. That's why I
13 recall that.
14 MR. PAYNE: Mm-hmm.
15 [redacted]: And then I recall a second
16 one that was definitely during the time after the
17 sit-in, after the sit-in.
18 MR. PAYNE: Okay. And when you say
19 "after the sit-in," you mean after -- well, what do
20 you mean by "after the sit-in"?
21 [redacted]: I mean by after the sit-in
22 because at that time, because by this time Boulder

1 and I were communicating, right. We're
2 communicating through these e-mails, and everyone
3 was watching what was happening on the House floor,
4 and there was 24-hour coverage and everything like
5 that, and then it was being reported that the
6 Republicans were going to end the sit-in on CNN.
7 So given the sake of time I, I probably
8 communicated to Boulder Strategies like, hey, you
9 know, the Republicans are going to end the sit-in
10 as it's being reported; like we should probably try
11 to get another e-mail out that just basically
12 expresses the same sort of sentiment, because
13 remember, the sit-in was prompted by the Orlando
14 shooting and the string of gun violence well before
15 the actual sit-in. That's why -- and that's what
16 was being reported on TV, and that's what the
17 organizers of the sit-in were saying on TV, and so
18 given the discussion that was shown on CNN about no
19 fly-no buy and then given what was being reported
20 on CNN about the fact that the Republicans were
21 going to use a rule or something of that nature to
22 end the sit-in, then I probably told Boulder, like,

1 hey, we should try to get something out as soon as
2 possible regarding everything that's happening.
3 MR. PAYNE: Did you have any
4 communication with Representative Luján before you
5 sent that communication to Boulder Strategies about
6 another e-mail?
7 [redacted]: No.
8 MR. PAYNE: So for two days you had no
9 communication with a Representative Luján?
10 [redacted]: That's correct.
11 MR. PAYNE: And at this point you're
12 directing Boulder Strategies to send out an e-mail.
13 So are you the point of contact at that point to
14 tell them what e-mail should be sent and which ones
15 should not?
16 [redacted]: Mm-hmm. As I stated
17 before, they knew that I was somebody who had
18 worked on the campaign for a very long time, and I
19 probably had as good a read of anybody as to what
20 was going on or like ideas for communicating with
21 constituents or people on the e-mail or grassroots
22 people or voters or whatever. So yeah, they, they

1 trusted me at that particular point in time
2 probably as somebody that they should pay attention
3 to if I had an idea. So if you want to call that
4 the main point of contact and in the context of
5 them taking my idea and doing something with it,
6 then yeah, because it was probably my idea.
7 MR. PAYNE: And did you take part in
8 drafting that e-mail that you requested Boulder
9 Strategies to send the following day June 23rd?
10 [redacted]: I didn't draft it. I, I
11 may have made some line edits. I didn't draft the
12 entire thing, and then I think I said, hey, I'm
13 good with this.
14 MR. PAYNE: Let me show you a copy of it.
15 This is a document Bates stamped THRL0041 through
16 0044.
17 [redacted]: Okay.
18 MR. SVOBODA: Aaron, you'll want to read
19 the whole thing closely.
20 [redacted]: Sure. Okay.
21 MR. PAYNE: Okay. So is this the e-mail
22 that you're referring to, the second e-mail that

1 was sent?
2 [redacted]: Mm-hmm.
3 MR. PAYNE: And then what were your edits
4 to it? What section did you edit? What did you
5 add?
6 [redacted]: Oh, I don't know.
7 MR. SVOBODA: Do you recall whether you
8 edited at all?
9 [redacted]: Well, no.
10 MR. PAYNE: Well, you just stated that --
11 [redacted]: I said I might have. I
12 said I might have, but you know --
13 MS. JACOBS: Ask the court reporter to
14 read it back.
15 MR. PAYNE: That's not necessary. I just
16 -- I mean --
17 MS. EISNER: I think you said you may
18 have made line edits and said, hey, I'm good with
19 this.
20 [redacted]: Mm-hmm. So I don't --
21 MS. EISNER: Do you recall specific line
22 edits?

1 [redacted]: Looking at this
2 specifically I don't remember any specific line
3 edits, I don't. I don't remember specific line
4 edits that I made to this.
5 MR. PAYNE: Okay. With either of these
6 e-mails, the first one, the second one, did you
7 have those conversations that you mentioned before
8 with Representative Luján following them being sent
9 out with him having any type of comments on the
10 e-mails?
11 MR. SVOBODA: During what time frame,
12 Kedric? I'm sorry.
13 MR. PAYNE: Any time frame. So, well,
14 I'll divide it. So during this time period 2016
15 did you have any communications with Representative
16 Luján about these e-mails after they were sent?
17 [redacted]: 2016.
18 MR. PAYNE: Mm-hmm.
19 [redacted]: The year of 2016.
20 MR. PAYNE: Mm-hmm.
21 [redacted]: So several weeks after, or
22 I don't know if it was several weeks or several

1 days, but some time had occurred after, after all
2 of this had happened, right, like, and everything
3 was great, like, you know, we were moving forward,
4 and then a blogger, some blog raised issue with the
5 e-mail and said that they thought something was
6 wrong with it, and then a news story came out about
7 the e-mail particularly because they were raising
8 issue with a number of things that were happening
9 at the particular point in time. I guess there was
10 some issues with the live streaming and other
11 things that were happening at that particular point
12 in time. This e-mail was mentioned in that news
13 story. When that news story occurred, Congressman
14 Luján obviously saw the news story and then became
15 concerned that there might be something wrong with
16 the e-mail. That -- I remember that specifically
17 happening regarding, regarding this.
18 MR. PAYNE: And what did he say?
19 [redacted]: He said, is there
20 something wrong with the e-mail? You know, if
21 they're -- if they're saying that there's something
22 wrong with it, is there? Like is there something

1 wrong with it? And then in addition, like, they
2 knew that, like, this group that did the blog
3 before the news story was, like, a right wing group
4 that always would raise issues about anything and
5 kind of hype them up and blow things out of
6 proportion and that kind of stuff. So he -- but he
7 was generally concerned that something might have
8 been wrong.
9 MR. PAYNE: And what was your response
10 when he asked is something wrong with the e-mail?
11 [redacted]: My response was, I don't
12 know. Let me go find out.
13 MR. PAYNE: And what did you find out?
14 [redacted]: Well, I think --
15 MR. SVOBODA: You'll want to be careful
16 here not to talk about conversations with your own
17 attorneys about that with the DCCC, but beyond that
18 I mean obviously you should answer the question.
19 [redacted]: Well, specifically I, I
20 thought I read in the news story, I don't remember
21 specifically, but I thought I read in the news
22 story that they had referenced the fact that there

1 was a picture of the House floor in the e-mail, and
2 so what I did is I went back to Boulder Strategies,
3 and I asked: Where did you get this picture of the
4 House floor? And if you recall what I said early
5 on in the interview was that they were pulling
6 pictures off the Internet and putting them in
7 e-mails without properly citing them, and so I, I
8 asked: Where did you get this picture of the House
9 floor, and they said they had gotten it from a news
10 story, a CBS news story or an AP news story and
11 that they had properly cited it in the e-mail and,
12 you know, I had forgotten all about the e-mail at
13 that point, and so then I went back and looked, and
14 there was a citation on the bottom of the picture
15 that says where Boulder Strategies got the picture
16 from.
17 MR. PAYNE: And did you have any
18 conversations with Representative Luján at that
19 time in 2016 about whether there was concern with
20 the appearance that this e-mail was sent from him
21 on the House floor?
22 [redacted]: No, never, because e-mails

1 are never sent from him. So, so no. We were never
2 concerned that people thought he was sending
3 e-mails from the House floor because he wasn't.
4 Boulder Strategies in Boulder, Colorado was in
5 charge of drafting content and physically hitting
6 "send" on their HubSpot or whatever it's called,
7 and so no, never.
8 MR. PAYNE: I want to show you another
9 e-mail, and that's Bates stamped THRL0080 through
10 82. Feel free again to read the entire e-mail, but
11 I'm going to ask you questions about the first two
12 sentences.
13 [redacted]: Okay.
14 MR. SVOBODA: The first two sentences of
15 Nick Passanante's e-mail or the first two sentences
16 of the draft e-mail that was being sent to people?
17 MR. PAYNE: Nick Passanante's?
18 MR. SVOBODA: Got it.
19 [redacted]: Okay.
20 MR. PAYNE: So in this e-mail Nick is
21 discussing the sit-in e-mails as well as an e-mail
22 related to the immigration case, and it says,

1 quote, But it's ready to go when the boss wants to
2 send it, end quote.
3 [redacted]: Mm-hmm.
4 MR. PAYNE: What is your understanding in
5 this e-mail to you about who Nick considered to be
6 the boss?
7 [redacted]: Sure. So this is Nick not
8 understanding how, how we do e-mail I guess. The
9 boss was, boss, I consider the boss, Congressman
10 Luján, was never involved in saying hit "send" on
11 this, don't hit "send" on that or anything. He
12 provided his feedback after the fact, and so this
13 is Nick just not understanding that Congressman
14 Luján is not involved in the process.
15 MR. PAYNE: And where do you think he got
16 that misunderstanding from? I mean -- I mean you
17 mentioned earlier that you were the one who
18 basically showed him the ropes in the beginning --
19 [redacted]: Sure.
20 MR. PAYNE: -- understanding his voice
21 and everything else on how everything works.
22 [redacted]: I don't know. I really

1 don't know. I don't know if it's appropriate to
2 talk about our relationship with Boulder right now,
3 is it?
4 MR. SVOBODA: Do you need to -- do you
5 need to take a break and confer before we do that?
6 [redacted]: Yeah. That would be
7 great, if we could talk about it.
8 MR. SVOBODA: Could we have just like two
9 minutes?
10 MR. PAYNE: Sure.
11 MR. SVOBODA: Thank you very much.
12 (A brief recess was taken.)
13 (A discussion was held off the record.)
14 MR. PAYNE: So my question for you is
15 just can you provide us with some context of the
16 relationship between the campaign and Boulder
17 Strategies?
18 [redacted]: So there was a formal
19 relationship with Boulder Strategies. They were
20 hired as the e-mail and online consultant for
21 Congressman Luján's campaign, and they were hired
22 by the campaign manager.

1 MR. PAYNE: And has that relationship
2 been a positive relationship, or had there been
3 some concerns?
4 [redacted]: I think one of the biggest
5 struggles with the relationship just viewing how
6 Boulder created content and sent content and
7 things, one of the biggest struggles during the
8 time that they were under contract with the
9 campaign was sometimes, sometimes they weren't
10 always as organized as, as I think people would
11 have liked them to have been.
12 MR. PAYNE: Okay.
13 [redacted]: And that in particular
14 leads me to my answer to this question that Nick
15 doesn't know what he's talking about because they
16 were unorganized, and so obviously Congressman
17 Luján for however many months up until now that
18 Boulder had been doing his e-mail program had never
19 once personally approved an e-mail to go out. So
20 why he's asking this question now is confusing to
21 me, so that's all.
22 MR. PAYNE: Okay. Helen, do you have any

1 questions?
2 MS. EISNER: Yeah. Just one follow-up
3 area, and going back to the e-mail. I think you
4 still have it in front of you, the HRL98, the
5 e-mail that the Congressman wrote with get
6 something out.
7 [redacted]: Mm-hmm.
8 MS. EISNER: What actions were taken in
9 response to this statement, "get something out"?
10 [redacted]: Nothing. I mean this,
11 this did not prompt any specific actions that were
12 not already occurring based on what was happening
13 on TV with the understanding that Boulder was
14 probably already drafting things and that we would
15 probably get to review whatever content they had
16 put together shortly. So, so nothing. Like I
17 think everyone expected that Boulder would try to
18 generate some sort of e-mail regarding what was
19 happening on TV.
20 MS. EISNER: Okay. So the Congressman's
21 statement "get something out" generated no action?
22 [redacted]: Not from me, and I was the

1 only one on the e-mail. Again, I took it to mean
2 like, hey, this is a good idea; this, I like the
3 way this looks, like up for sort of interpretation
4 to me almost as if, you know, people see something
5 that they like and say, you know, I like that or,
6 you know, we should try that one day or something,
7 you know. It was -- it was not a directive. It
8 was just more of a suggestion.
9 MR. SVOBODA: But you're not saying you
10 ignored him. You're saying that their wheels were
11 already moving to achieve the outcome you would
12 have wanted.
13 [redacted]: Yeah. I mean based on,
14 based on what was happening I knew that there, that
15 they were already doing their thing here to create
16 content, and so I, I didn't do anything. I mean I
17 didn't do anything.
18 MS. EISNER: Okay. And then besides the
19 two e-mails that we've been discussing from the
20 22nd and the 23rd what other contact was already
21 in -- you know, wheels were in motion, as you said.
22 What other content was generated by Boulder

1 Strategies that you thought, you know, was already
2 in motion based on this statement "get something
3 out?"
4 [redacted]: I have no idea. I don't
5 know what Boulder was drafting at the time. I
6 just -- I just knew or assumed based on having seen
7 how Boulder operated before and knowing that what
8 was on CNN and on the TV and being reported was a
9 huge topic that our e-mail list was very interested
10 in and knowing that Boulder knew that because they
11 had been our online consultants or the Chairman's
12 online consultants for many months, I assumed that
13 they were already drafting something that
14 referenced what was happening on TV.
15 MS. EISNER: Okay. But besides drafting,
16 because I understand the statement you don't know
17 exactly what they were drafting.
18 [redacted]: Mm-hmm.
19 MS. EISNER: But as far as any type of
20 outreach, anything that actually went out, what,
21 you know, outreach, e-mails, communications,
22 besides the two we've already talked about which

1 you've explained were sort of part of that same
2 process, what other e-mails or communications went
3 out that would have been a part of that same
4 process?
5 [redacted]: Like formally like this?
6 MS. EISNER: Formally what are you aware
7 of?
8 [redacted]: I don't think there were
9 any others, but I don't know.
10 MR. PAYNE: And you said during this
11 first day on Saturday, on the 22nd, you assumed
12 that they were drafting, you knew they were
13 working, so you didn't have to tell them to do
14 anything.
15 [redacted]: Mm-hmm.
16 MR. PAYNE: Why was the next day
17 different when it was still on CNN, still in the
18 news media, why did you then have to tell them to
19 write another e-mail and frame it as, quote,
20 another e-mail?
21 [redacted]: Because I had seen on TV
22 that the house Republicans were getting ready to

1 move on from the media attention that was happening
2 by ending the sit-in, by not having a vote or
3 whatever was happening on the House floor at that
4 time because that was being reported on CNN, and
5 before the move, the news cycle moved to another
6 subject which it often does very quickly I had
7 suggested to them that we should probably send out
8 another e-mail based on everything that was going
9 on because the news cycle was probably about to
10 shift.
11 MR. PAYNE: And you were watching the
12 sit-in during this entire time?
13 [redacted]: Mm-hmm.
14 MR. PAYNE: Even on Wednesday?
15 [redacted]: I watched -- I watch CNN
16 all day every day.
17 MR. PAYNE: Like most of America.
18 MR. SVOBODA: Poor man.
19 [redacted]: So, so yeah. I mean I
20 watch day and night all the time. So I'm sure I
21 was watching.
22 MR. PAYNE: And so did you see

1 Representative Luján there during the sit-in from
2 where you were watching?
3 [redacted]: I don't recall seeing him.
4 There were a bunch of members down there. No, I
5 don't recall seeing him on TV.
6 MR. PAYNE: But you knew he was
7 participating in the sit-in?
8 [redacted]: Yes.
9 MR. PAYNE: Okay.
10 [redacted]: I knew he was
11 participating in the sit-in because I had not had
12 contact with him for many, many hours.
13 MR. PAYNE: Any more questions?
14 MS. EISNER: That's all I have.
15 MR. PAYNE: Okay. All right. Well,
16 thank you so much, [redacted]. I know this went a
17 little longer than we anticipated, but the
18 information provided is going to be helpful for the
19 board, and we appreciate it.
20 [redacted]: Okay. Great. Thank you.
21 (The interview of [redacted]
22 concluded at 5:18 p.m.)

1 CERTIFICATE OF REPORTER
2
3 I, Janet A. Hamilton, the officer before whom
4 the foregoing proceedings were taken, do hereby
5 certify that the foregoing transcript is a true and
6 correct record of the proceedings; that said
7 proceedings were taken by me stenographically and
8 thereafter reduced to typewriting under my
9 supervision; and that I am neither counsel for,
10 related to, nor employed by any of the parties to
11 this case and have no interest, financial or
12 otherwise, in its outcome.
13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my notarial seal this 13th day of
15 March, 2017.
16
17 My commission expires March 14, 2018.
18
19
20 _____
21 NOTARY PUBLIC IN AND FOR
22 DISTRICT OF COLUMBIA

A

[redacted]
1:7, 2:1, 3:13, 4:3, 19:17, 34:17, 57:18, 61:18, 76:16, 76:21
able
4:10, 8:5, 32:10
about
4:17, 5:20, 7:22, 8:10, 9:15, 11:4, 14:6, 16:5, 17:14, 19:15, 19:20, 23:20, 24:7, 25:1, 25:12, 26:10, 26:12, 26:13, 30:18, 32:13, 32:22, 33:1, 35:5, 35:12, 35:20, 35:22, 36:3, 37:21, 38:9, 38:13, 39:8, 39:16, 39:19, 40:16, 40:18, 40:19, 40:20, 40:21, 41:7, 41:14, 44:10, 45:14, 45:19, 46:17, 47:9, 47:20, 48:20, 49:3, 49:5, 49:7, 50:3, 50:8, 50:22, 54:9, 55:22, 56:3, 57:5, 57:9, 57:16, 58:4, 59:18, 59:20, 60:5, 63:16, 64:6, 65:4, 65:16, 65:17, 66:12, 66:19, 67:11, 68:5, 69:2, 69:7, 70:15, 73:22, 75:9
absence
6:17, 6:21
absolutely
17:9, 52:11
account
36:5
achieve
72:11
acknowledgement
46:4
across
18:10, 22:2
act
4:7, 4:12
action
31:19, 37:5, 56:15, 56:19, 71:21
actions
71:8, 71:11
activists
23:2
actual
26:16, 59:15
actually
30:9, 31:11, 34:14, 44:1, 73:20
add
35:11, 62:5
added
28:15
addition
15:3, 50:16, 65:1
additional
35:11
addressed
49:4
addresses
28:16, 28:17
advice
7:10, 8:3, 10:22, 12:4, 12:11, 13:1, 13:12
advise
4:11
advisory
11:9
affairs
5:16
affixed
77:14
after
5:13, 6:20, 6:21, 23:12, 23:15, 24:4, 36:16, 58:16, 58:17, 58:19, 58:20, 58:21, 63:16, 63:21, 64:1, 68:12
again
6:22, 8:7, 9:18, 20:15, 39:14, 55:10, 67:10, 72:1
agreement
2:16
ahead
14:12, 58:3
airplane
30:11, 42:20
airport
30:6
all
4:3, 14:10, 15:5, 21:5, 23:18, 26:7, 27:2, 29:9, 32:8, 34:9, 39:1, 39:14, 42:1, 45:13, 46:10, 47:1, 47:8, 49:12, 49:16, 51:7, 51:9, 56:10, 62:8, 64:1, 66:12, 70:21, 75:16, 75:20, 76:14, 76:15
all-encompassing
20:8
allowed
43:8
almost
26:7, 45:20, 57:13, 72:4
already
22:4, 26:8, 26:21, 38:12, 38:16, 38:20, 45:15, 45:16, 46:15, 48:3, 51:3, 52:1, 71:12, 71:14, 72:11, 72:15, 72:20, 73:1, 73:13, 73:22
also
4:5, 13:15, 15:20, 18:17, 23:12, 24:17, 35:20, 41:3
always
16:7, 24:11, 44:11, 44:16, 53:6, 65:4, 70:10
america
39:16, 46:20, 47:9, 47:17, 75:17
amongst
34:11
amount
22:7
andrew
28:17
angela
28:16, 28:17
anniversary
44:14
another
9:5, 15:4, 24:19, 57:16, 59:11, 60:6, 67:8, 74:19, 74:20, 75:5, 75:8
answer
28:5, 65:18,

70:14
anticipate
4:9
anticipated
76:17
any
7:2, 8:5, 9:8, 9:12, 9:21, 10:15, 11:8, 12:5, 15:20, 17:2, 19:2, 19:3, 24:13, 26:1, 27:22, 29:4, 29:11, 37:8, 37:18, 38:2, 40:15, 41:3, 41:5, 41:13, 41:20, 44:2, 52:5, 58:2, 60:3, 63:2, 63:9, 63:13, 63:15, 66:17, 70:22, 71:11, 73:19, 74:9, 76:13, 77:10
anybody
7:20, 13:13, 25:18, 54:12, 60:19
anyone
27:13
anything
10:14, 11:7, 14:5, 14:11, 15:11, 17:3, 17:4, 18:4, 18:7, 18:14, 19:5, 23:11, 25:19, 28:15, 30:12, 35:10, 40:21, 42:10, 42:12, 48:20, 49:7, 50:7, 51:1, 53:10, 54:5, 55:17, 57:19, 65:4, 68:11, 72:16, 72:17, 73:20, 74:14
anyway
34:20
anywhere
41:19
ap
66:10
apart
41:3
appearance
66:20
appears
32:17
applies
4:12
appreciate
76:19
approach
12:5, 14:20
appropriate
69:1
approval
27:22, 33:21, 34:15, 34:17
approvals
29:1
approve
15:20, 34:22
approved
16:2, 70:19
april
51:20
area
71:3
around
8:17, 30:19, 33:21, 34:11, 38:22, 39:3, 41:1, 41:16, 41:18, 43:6, 45:22
asked
14:5, 14:6, 65:10, 66:3, 66:8
asking
14:19, 15:8, 55:1, 55:7, 70:20
assistant
6:8
assumed
34:15, 35:2, 73:6, 73:12, 74:11
assumption
35:4, 37:17
attention
21:11, 23:3, 32:16, 51:10, 52:10, 61:2, 75:1
attorneys
65:17
aware
36:12, 74:6

B

back
4:5, 6:18, 6:21, 7:5, 18:5, 18:9, 18:20, 18:22, 22:21, 23:4, 38:17, 51:12, 55:10, 62:14, 66:2, 66:13, 71:3
background
4:5, 4:19
bad
44:9
base
22:13
based
18:2, 19:3, 21:15, 22:16, 22:22, 23:18, 33:16, 38:21, 51:3, 71:12, 72:13, 72:14, 73:2, 73:6, 75:8
basically
10:10, 11:10, 12:11, 18:18, 21:4, 34:17, 37:15, 59:11, 68:18
basing
22:14
basis
7:18, 10:2
bates
32:4, 44:21, 61:15, 67:9
be-all
16:2
became
64:14
because
8:6, 9:14, 10:9, 11:17, 12:2, 12:7, 13:11, 14:1, 14:3, 14:19, 15:1, 15:5, 15:9, 16:2, 16:15, 17:5, 21:3, 24:7, 24:21, 25:11, 26:7, 26:20, 26:22, 27:1, 31:12, 31:13, 33:10, 34:10, 35:2, 35:18, 36:3, 36:14, 38:19, 38:20, 39:6, 39:13, 40:9, 42:1, 43:11, 44:14, 45:13, 45:16, 47:9, 47:22, 51:22, 52:11, 53:1, 55:10, 55:12, 58:12, 58:22, 59:12, 61:6, 64:7, 66:22, 67:3, 70:15, 73:10, 73:16, 74:21, 75:4, 75:9, 76:11
been
5:4, 5:6, 6:10,

9:11, 14:14, 35:16, 47:10, 52:1, 52:12, 53:1, 57:12, 65:8, 70:2, 70:11, 70:18, 72:19, 73:11, 74:3
before
2:16, 5:16, 6:16, 8:8, 8:10, 15:1, 16:8, 16:10, 17:11, 33:7, 38:10, 50:4, 50:14, 53:7, 55:15, 59:14, 60:4, 60:17, 63:7, 65:3, 69:5, 73:7, 75:5, 77:3
began
6:22
begin
4:4, 4:18
beginning
11:16, 14:13, 15:16, 68:18
behalf
3:2, 3:13, 15:22
being
12:9, 20:9, 25:1, 38:22, 39:3, 59:5, 59:10, 59:16, 59:19, 63:8, 67:16, 73:8, 75:4
believe
34:12, 41:22, 42:6
ben
45:2, 53:18
besides
7:18, 72:18, 73:15, 73:22
best
17:22
better
24:6, 39:5
between
28:2, 29:17, 29:18, 69:16
beyond
65:17
big
17:1, 17:18, 35:6, 36:10
biggest
70:4, 70:7
bill
32:18, 38:1, 39:13, 47:15, 48:4
birthday
18:6
bit
4:19, 11:15, 30:6, 57:7
blame
34:21
block
43:20
blocks
30:3
blog
64:4, 65:2
blogger
64:4
blow
65:5
board
12:22, 76:19
body
16:22
book
44:6, 44:12
boss
68:1, 68:6, 68:9
both
9:4, 28:12, 32:12, 43:8
bottom
32:17, 43:20, 44:4, 44:12, 66:14
boulder
10:12, 11:6, 11:12, 11:13, 13:3, 13:16, 14:15, 15:15, 15:21, 16:4, 16:19, 17:19, 18:16, 20:2, 21:2, 22:9, 23:17, 24:2, 25:17, 26:5, 26:7, 26:16, 26:19, 26:21, 27:18, 28:15, 33:7, 33:14, 33:19, 34:2, 34:12, 35:14, 36:12, 37:11, 37:16, 38:11, 38:18, 38:20, 40:11, 44:18, 45:16, 47:22, 50:4, 50:8, 50:11, 50:15, 51:2, 51:14, 51:21, 52:22, 54:16, 54:21, 56:4, 58:22, 59:8, 59:22, 60:5, 60:12, 61:8, 66:2, 66:15, 67:4, 69:2, 69:16, 69:19, 70:6, 70:18, 71:13, 71:17, 72:22, 73:5, 73:7, 73:10
box
3:9, 48:18
break
69:5
brian
3:14
brief
69:12
broadly
27:17
bunch
31:19, 76:4
button
44:3, 44:7, 44:11, 44:16
buy
31:13, 32:18, 33:19, 34:3, 40:6, 46:17, 47:15, 48:4, 49:16, 55:22, 58:12, 59:19

C

calendar
17:18, 17:20, 17:22, 18:2, 18:11, 18:13, 19:4, 23:18, 26:22, 27:1, 27:2, 34:7, 35:16
calendars
53:3
california
30:10
call
8:2, 8:16, 10:9, 61:3
called
21:3, 34:16, 67:6
calls
10:14, 10:16, 10:19, 11:4, 53:10
came
6:1, 6:21, 12:13, 13:7, 18:18, 22:2, 22:21, 23:12, 34:6, 38:10, 56:11, 64:6
campaign
4:22, 5:17, 6:11, 6:14, 6:15, 6:16, 6:19, 6:20, 7:3,

7:7, 7:14, 7:17, 7:21, 8:13, 8:20, 9:1, 9:9, 9:10, 10:9, 10:11, 11:8, 12:8, 13:12, 14:1, 14:16, 15:9, 15:17, 15:22, 17:7, 17:15, 19:7, 20:12, 20:22, 22:7, 25:19, 30:13, 31:3, 52:14, 53:9, 53:12, 53:15, 54:5, 55:17, 60:18, 69:16, 69:21, 69:22, 70:9
campaigns
7:13, 15:1, 15:3
can't
22:11
capacity
7:6, 28:2, 28:3
capitalize
34:13
capture
49:18
captured
17:6
capturing
24:8, 26:11
car
29:19, 29:22, 30:12, 42:17
careful
65:15
case
35:13, 38:21, 67:22, 77:11
case-by-case
10:2
categories
20:21, 23:8
category
27:6
cbs
66:10
certain
9:15, 11:21, 26:3
certainly
4:13, 4:16
certificate
77:1
certify
77:5
chain
18:22, 28:18
chains
29:2
chairman's
52:13, 73:11
chance
52:5
change
16:14, 23:21, 44:9, 44:11
changed
34:9
charge
16:3, 17:19, 48:1, 56:3, 56:4, 67:5
chat
29:22
chief
5:2
circumstances
8:6
citation
66:14
cite
17:5, 17:8
cited
66:11
citing
16:22, 66:7
clarification
11:1
clarify
20:6, 20:17
clear
54:22
click
40:13
clicked
56:6
clicks
21:16, 21:17, 21:19, 22:15, 56:8, 56:9
client
21:6
clients
21:5, 21:7, 21:8, 21:18, 35:19, 50:15
climate
23:20, 44:9, 44:10
close
57:15, 57:16
closely
61:19
cnn
47:14, 59:6, 59:18, 59:20, 73:8, 74:17, 75:4, 75:15
code
32:7
coffee
57:20
coie
2:5, 3:16
colleagues
37:4, 39:9
colorado
67:4
columbia
2:18, 77:22
come
18:22, 29:21, 33:20, 34:6, 42:15, 43:21, 50:12
comes
17:8, 42:17, 43:13, 55:10
comfortable
25:15
comment
24:4
comments
63:9
commerce
5:15
commission
77:17
committee
4:22, 5:17, 6:12, 7:3, 7:14
common
35:14, 36:2, 46:11
communicate
9:16, 27:8, 35:8, 50:7, 54:21
communicated
59:8
communicates
43:4, 55:12
communicating
54:8, 59:1, 59:2, 60:20
communication
37:19, 43:13, 44:13, 50:17, 60:4, 60:5, 60:9
communications
21:9, 38:3, 41:5, 47:3, 63:15, 73:21, 74:2
community
44:10
companies
13:7
completely
36:15
component
15:10
computer
55:22
concentrating
52:3
concept
33:19

concern
66:19
concerned
16:17, 49:5, 49:7, 64:15, 65:7, 67:2
concerning
37:19, 38:3
concerns
70:3
concluded
76:22
confer
69:5
conference
10:8, 10:14, 10:16, 10:19, 53:10
confusing
70:20
congress
6:14, 23:14, 35:21, 39:1, 50:16
congressional
1:4, 3:3, 3:8, 4:22, 5:9, 5:17, 5:21, 6:1, 6:4, 6:22, 21:7, 27:14, 27:21, 29:20, 35:19
congressman
7:8, 8:9, 10:10, 11:16, 11:19, 12:7, 13:7, 13:12, 13:22, 18:5, 18:8, 24:4, 26:19, 36:4, 38:14, 38:19, 41:5, 41:14, 43:6, 43:10, 46:12, 47:19, 48:17, 49:1, 49:13, 52:1, 55:12, 56:21, 64:13, 68:9, 68:13, 69:21, 70:16, 71:5
congressman's
9:13, 20:12, 53:9, 55:6, 71:20
consider
68:9
considered
68:5
consistent
10:1
consistently
16:5
constituents
31:18, 60:21
consultant
9:4, 10:13, 49:10, 50:17, 69:20
consultants
9:2, 10:12, 11:17, 73:11, 73:12
consulting
50:18
contact
8:20, 14:15, 15:11, 51:14, 51:16, 52:9, 52:16, 52:22, 53:5, 60:13, 61:4, 72:20, 76:12
contacted
54:3
contacts
14:19, 15:4
content
9:12, 11:19, 12:6, 16:9, 16:19, 17:12, 18:1, 18:16, 20:7, 22:1, 23:18, 24:22, 34:7, 34:14, 36:14, 40:12, 53:3, 67:5, 70:6, 71:15, 72:16, 72:22
context
61:4, 69:15
contract
70:8
contradictory
40:9
contribute
44:3, 44:11, 44:15
contribution
43:18
conversation
33:10
conversations
41:14, 42:13, 42:14, 42:21, 51:21, 63:7, 65:16, 66:18
convey
49:13, 49:22
copy
32:5, 61:14
corner
32:7
corporate
21:8
correct
4:7, 4:8, 15:18, 41:6, 41:9, 54:19, 54:21, 60:10, 77:6
correctly
33:7, 47:7
correspondent
6:7
could
13:8, 21:10, 22:6, 28:22, 41:20, 42:16, 45:5, 47:5, 54:9, 69:7, 69:8
counsel
3:6, 77:9
countless
37:4, 39:9, 39:15
country
18:11, 31:16, 34:12, 37:5, 39:4
court
62:13
coverage
37:14, 46:22, 59:4
covering
47:14
create
11:19, 17:21, 72:15
created
18:16, 19:2, 23:17, 27:1, 70:6
creating
12:6, 17:19, 18:1, 26:8
current
18:3, 18:10, 20:10, 20:22, 26:14, 31:15, 34:10
currently
4:20, 4:21, 7:1, 7:16, 8:22
cycle
18:4, 18:15, 22:18, 35:11, 36:15, 51:4, 51:5, 75:5, 75:9

D

date
5:12, 34:3
dated
45:3
day
10:4, 19:3, 28:21, 28:22, 29:6, 29:11, 30:2, 42:8, 53:13, 53:14, 61:9, 72:6, 74:11, 74:16,

75:16, 75:20, 77:14
days
22:18, 30:4, 53:14, 60:8, 64:1
dc
1:8, 2:8, 3:10, 3:19, 6:1, 9:4
dccc
29:18, 30:2, 30:9, 42:5, 42:17, 43:5, 43:16, 65:17
deaf
36:6, 39:3, 48:2
debate
37:15, 47:14
decide
20:20, 21:2, 21:10
decided
23:19, 34:13
decides
24:3
decision
13:5, 13:16, 17:14, 22:14
definitely
58:16
delivering
18:7
delivery
20:7
demand
37:5
democratic
4:22, 5:17
democrats
47:8
demonstration
30:18, 30:22
dems
48:11
department
5:14
depending
10:3, 10:17, 18:14
describe
28:8, 45:20
described
19:1, 21:16, 23:8, 27:7
designated
53:5
detail
7:12
details
7:18
deviate
35:15
different
6:5, 7:13, 9:20, 13:6, 21:7, 30:14, 37:22, 50:19, 74:17
diplomate
2:17
direct
26:15, 44:15, 57:2
directed
27:11
directing
60:12
direction
35:17
directive
46:3, 55:21, 57:8, 72:7
director
6:15
discuss
30:13, 30:14
discussing
67:21, 72:19
discussion
59:18, 69:13
discussions
40:16
distinguish
27:16, 28:2, 28:6, 32:10
district
2:18, 18:5, 77:22
divide
63:14
document
32:4, 32:11, 32:13, 44:21, 53:17, 61:15
doing
12:10, 19:15, 24:14, 29:7, 51:9, 52:1, 55:17, 57:9, 57:18, 61:5, 70:18, 72:15
dollars
44:13
donations
15:9, 22:7
done
7:9, 14:1, 34:2
door
13:21, 53:11
down
76:4
draft
15:14, 15:17, 19:8, 32:17, 36:3, 36:18, 37:10, 37:12, 61:10, 61:11, 67:16
drafted
33:7, 50:4
drafting
16:19, 33:16, 34:14, 37:9, 38:13, 38:22, 40:11, 45:16, 48:3, 51:3, 61:8, 67:5, 71:14, 73:5, 73:13, 73:15, 73:17, 74:12
draw
32:16
drive
30:5, 43:6
driver
29:19, 42:16, 43:5, 43:9, 43:14
drives
29:17
during
10:3, 10:15, 10:17, 27:19, 29:6, 31:20, 33:12, 42:7, 58:16, 63:11, 63:14, 70:7, 74:10, 75:12, 76:1
duties
30:8

E

e-mails
9:9, 12:1, 15:14, 15:17, 16:15, 16:17, 17:7, 17:15, 17:20, 19:7, 20:4, 23:7, 23:10, 27:15, 27:16, 27:18, 31:3, 31:7, 31:15, 31:22, 33:16, 34:1, 36:9, 37:2, 38:13, 45:12, 46:19, 51:11, 52:5, 56:8, 58:5, 59:2, 63:6, 63:10, 63:16, 66:7, 66:22, 67:3, 67:21, 72:19, 73:21, 74:2
ear
18:17
earlier
19:1, 68:17
early
12:20, 12:21, 14:14, 16:19, 51:15, 51:19, 66:4

eat
46:2
edit
23:9, 62:4
edited
16:15, 62:8
edits
37:1, 61:11, 62:3, 62:18, 62:22, 63:3, 63:4
eisner
3:5, 13:18, 14:12, 34:1, 42:3, 43:1, 43:13, 52:15, 52:19, 53:16, 53:20, 54:11, 54:13, 54:18, 55:4, 55:7, 55:14, 58:3, 62:17, 62:21, 71:2, 71:8, 71:20, 72:18, 73:15, 73:19, 74:6, 76:14
either
24:21, 28:3, 28:14, 57:4, 63:5
else
14:11, 25:6, 39:6, 40:21, 68:21
employed
4:20, 4:21, 5:5, 5:6, 5:8, 5:20, 5:22, 6:4, 6:11, 77:10
employment
5:12, 5:19
end
59:6, 59:9, 59:22, 68:2
end-all
16:2
ended
5:18
ending
75:2
engaged
20:9
enough
39:4, 52:21
entire
32:15, 42:8, 56:5, 61:12, 67:10, 75:12
especially
9:15, 10:7, 11:15, 11:17, 14:4, 14:6, 17:8, 34:11, 36:10
esquire
3:4, 3:5, 3:14, 3:15
ethics
1:4, 3:3, 3:8
even
8:8, 17:15, 21:20, 26:18, 35:15, 38:17, 38:18, 41:15, 52:21, 75:14
evenings
8:16
event
20:22, 34:10
events
18:3, 18:10, 20:10, 26:14, 31:16
ever
5:8, 6:10, 19:6, 22:8, 27:4, 53:10
every
9:18, 17:20, 75:16
everyone
39:6, 47:8, 53:2, 59:2, 71:17
everything
23:19, 33:13, 36:1, 36:7, 45:17, 59:4, 60:2, 64:2, 68:21, 75:8
exactly
73:17
example
11:4, 16:18, 23:17, 44:8
excuse
41:2
execute
11:3
expect
36:9
expectation
53:22, 54:18, 54:20
expectations
55:6, 55:8
expected
71:17
expecting
54:15
experience
12:9
expertise
17:21
expires
77:17
explained
74:1
expresses
59:12
expressing
57:4
extra
10:5, 30:7

F

face
25:12, 29:13, 29:15, 42:19, 44:6, 44:12
fact
22:2, 23:12, 23:16, 24:4, 41:15, 49:14, 49:16, 59:20, 65:22, 68:12
falls
27:6
false
4:6, 4:11
familiar
8:2
far
54:1, 73:19
feedback
19:2, 23:12, 24:13, 26:15, 29:4, 52:11, 68:12
feel
32:15, 67:10
feeling
22:17
felt
24:13, 25:14, 29:3, 49:2
few
6:5
field
11:7
fifth
44:14
figure
17:10, 24:6
figured
54:5
filled
36:15
finance
9:2, 9:3, 10:11, 11:5, 15:6
financial
15:10, 77:11
find
43:1, 43:12, 65:12, 65:13
finish
19:18
finished
6:9
firm
48:1

first
4:4, 6:14, 6:19, 12:13, 12:17, 12:18, 20:5, 37:3, 39:8, 48:14, 51:5, 63:6, 67:11, 67:14, 67:15, 74:11
fitzer
9:3, 9:6, 11:5, 13:14, 15:5, 15:10, 16:11, 24:1, 25:18, 28:12, 34:18, 52:18
five
8:10, 29:22, 43:10, 44:13
flag
17:2
flags
9:21
floor
37:5, 37:15, 39:10, 39:15, 39:18, 42:1, 42:7, 46:22, 49:17, 51:6, 59:3, 66:1, 66:4, 66:9, 66:21, 67:3, 75:3
fly
33:18
fly-no
31:13, 32:18, 34:3, 40:6, 46:17, 47:14, 48:4, 49:16, 55:22, 58:11, 59:19
focusing
39:5
follow
18:1, 28:4, 39:8
follow-up
71:2
following
61:9, 63:8
foregoing
77:4, 77:5
forgotten
66:12
form
4:10, 34:6
formal
69:18
formally
74:5, 74:6
formatting
12:1, 26:11
formulated
18:12, 18:13
forward
24:18, 25:4, 25:5, 26:4, 34:19, 45:12, 64:3
forwarded
38:6, 48:6, 53:17
forwarding
27:7, 49:8, 49:22
found
53:13
four
8:10
frame
63:11, 63:13, 74:19
free
32:15, 57:1, 67:10
frequent
12:17
frequently
12:3, 52:3
fridays
30:5
front
71:4
fully
10:10, 12:22
function
11:2
fundraise
21:14
fundraising
15:7, 21:22, 22:20, 41:4
further
7:12
fyi
56:14

G

gaining
4:19
gathering
57:13
gave
12:11, 30:10, 52:11
general
47:5, 49:21
generally
28:18, 41:7, 47:13, 65:7
generate
36:14, 71:18
generated
36:16, 71:21, 72:22
getting
21:16, 21:17, 21:18, 56:3, 57:15, 57:16, 74:22
give
7:10, 7:18, 8:2, 12:3, 29:4, 32:11, 44:13
given
8:5, 11:8, 12:5, 19:3, 29:4, 29:11, 35:3, 35:13, 45:17, 51:1, 59:7, 59:18, 59:19
giving
39:16
glad
20:19
go
14:3, 14:12, 17:20, 18:7, 18:20, 25:20, 27:8, 35:18, 46:2, 54:7, 55:21, 57:8, 58:3, 65:12, 68:1, 70:19
goal
57:14
god
54:7
going
5:16, 10:17, 17:7, 19:3, 20:21, 21:14, 23:4, 30:16, 34:8, 34:19, 36:3, 36:7, 39:3, 47:8, 49:3, 57:13, 59:6, 59:9, 59:21, 60:20, 67:11, 71:3, 75:8, 76:18
gone
38:17
good
7:11, 8:11, 9:19, 12:5, 16:13, 19:14, 22:7, 22:19, 22:22, 23:22, 24:2, 24:14, 27:16, 36:21, 36:22, 38:7, 47:20, 57:4, 57:6, 57:21, 60:19, 61:13, 62:18, 72:2
gotten
54:14, 66:9
graphic
58:12
grassroots
9:16, 35:9, 47:21, 60:21

great
34:19, 36:5, 64:3, 69:7, 76:20
greater
49:18
greet
55:18
grisham
48:16
grisham's
49:10
ground
18:17
group
50:21, 65:2, 65:3
guess
64:9, 68:8
gun
39:16, 39:19, 46:20, 47:9, 47:11, 47:12, 47:16, 47:21, 48:20, 49:3, 49:15, 49:19, 59:14
guns
48:3, 49:20, 49:21
gut
22:17

H

habit
19:19
hamilton
1:22, 2:17, 77:3
hand
77:14
handle
8:5
hands
49:20
happen
34:8
happened
30:19, 33:11, 34:9, 47:7, 47:11, 48:4, 64:2
happening
8:1, 26:14, 29:1, 29:11, 31:16, 33:16, 35:2, 36:11, 42:2, 45:18, 49:17, 51:4, 51:5, 51:6, 59:3, 60:2, 64:8, 64:11, 64:17, 71:12, 71:19, 72:14, 73:14, 75:1, 75:3
happens
35:6, 35:7
hear
13:10
held
2:1, 69:13
helen
3:5, 70:22
help
10:8, 15:15, 28:4, 53:20
helpful
76:18
helping
15:14, 17:10, 53:15
helps
19:21
here
10:5, 16:14, 37:3, 43:10, 43:17, 58:9, 65:16, 72:15
hereby
77:4
hereunto
77:13
hey
19:15, 21:22, 22:19, 26:9, 26:19, 36:21, 38:18, 45:18, 46:2, 52:7, 57:9, 59:8, 60:1, 61:12, 62:18, 72:2
hill
6:17, 30:22
hire
13:6, 13:16
hired
43:6, 53:1, 69:20, 69:21
hiring
13:3
hit
56:1, 68:10, 68:11
hitting
67:5
hmm
54:2
home
18:5, 30:6
hot
34:10, 47:13, 50:22, 52:6
hour
57:13, 59:4
hours
30:1, 76:12
house
3:2, 3:7, 37:4, 39:9, 42:7, 46:22, 48:10, 49:11, 49:17, 51:6, 59:3, 66:1, 66:4, 66:8, 66:21, 67:3, 74:22, 75:3
however
18:21, 70:17
hrl
71:4
hubspot
21:3, 21:20, 22:6, 23:19, 35:19, 56:7, 67:6
huge
73:9
hundred
38:12
hype
65:5

I

idea
19:14, 22:19, 22:22, 25:21, 26:9, 26:17, 33:18, 38:7, 38:15, 38:17, 45:11, 50:12, 55:18, 61:3, 61:5, 61:6, 72:2, 73:4
ideas
7:11, 9:12, 11:1, 30:14, 33:8, 54:9, 60:20
identified
22:5
ignored
72:10
immigration
67:22
impetus
31:14
important
31:17
include
22:9, 50:8, 56:9
included
15:6
including
50:15
individual
9:5, 53:22
individuals
7:5, 11:3, 16:11, 28:13
industries
50:19

influence
18:15, 47:1
information
15:2, 25:15, 35:12, 56:15, 76:18
initiate
19:7, 26:2
instruct
19:8
instructed
22:9
intellectual
17:6
intended
58:1
interact
11:13
interacted
11:14
interaction
12:16
interest
77:11
interested
73:9
intergovernmental
5:16
internet
16:21, 45:22, 66:6
interpret
55:20
interpretation
57:7, 72:3
interview
1:2, 1:7, 2:1, 13:5, 66:5, 76:21
interviews
13:10, 13:15, 13:17, 13:19, 14:3, 53:8
investigating
3:6
invitation
14:8
invited
13:18, 13:20
involved
7:21, 9:11, 13:2, 13:4, 13:13, 13:16, 14:9, 17:10, 25:18, 27:14, 27:21, 28:14, 44:10, 52:12, 68:10, 68:14
involvement
23:6
issue
8:1, 8:5, 21:12, 24:7, 26:12, 26:13, 35:12, 35:22, 45:14, 45:19, 49:15, 50:22, 57:5, 64:4, 64:8
issues
9:15, 31:17, 41:3, 64:10, 65:4

J

jacobs
3:15, 62:13
janet
1:22, 2:16, 77:3
january
5:7
job
1:20, 6:17, 24:14
join
37:4
joined
39:9
jump
29:22
june
30:19, 34:3, 45:3, 52:16, 61:9

K

kedric
3:4, 19:18, 28:1, 57:12, 63:12
keep
16:5, 28:19, 29:10, 30:1, 30:15, 53:2
keeper
56:11
keeping
28:11, 49:20
kept
29:8
keys
56:11
kind
10:2, 10:21, 12:1, 12:3, 14:2, 14:22, 15:1, 18:18, 22:1, 22:3, 22:16, 22:22, 24:8, 25:1, 26:14, 27:2, 28:21, 29:9, 30:16, 34:14, 35:16, 39:1, 46:4, 47:1, 51:9, 52:14, 53:7, 56:11, 57:6, 65:5, 65:6
knew
13:21, 14:7, 16:8, 21:13, 26:21, 38:20, 39:4, 45:16, 47:8, 51:1, 51:10, 52:12, 53:11, 60:17, 65:2, 72:14, 73:6, 73:10, 74:12, 76:6, 76:10
knowing
25:16, 28:12, 47:22, 48:1, 73:7, 73:10
known
22:2

L

land
8:11
language
37:9, 37:11, 37:12, 50:20
larger
47:16
last
5:12, 10:7, 10:9, 27:20, 30:8
late
12:20
lay
8:11
leads
70:14
leave
6:17, 6:21
left
57:7
legislation
40:6, 46:17
legislative
5:15, 6:6, 6:8
less
56:8
let's
58:1
liked
24:21, 24:22, 38:8, 45:11, 45:13, 46:5, 70:11
likely
25:7
likes
26:19
line
16:14, 16:15, 37:1, 48:6, 48:9, 48:15, 48:17, 49:1, 57:14, 61:11, 62:18, 62:21, 63:2, 63:3

lingo
57:1
lining
19:5
list
24:3, 24:19, 47:22, 73:9
listen
10:21
lists
23:15
little
4:19, 30:6, 57:7, 76:17
live
51:8, 64:10
llp
2:5, 3:16
local
44:10
location
43:3
long
5:4, 5:20, 30:9, 55:13, 60:18
longer
76:17
longstanding
56:22
look
7:12, 10:6, 16:13, 22:3, 24:20, 28:14, 34:16, 34:18, 34:22
looked
11:22, 24:22, 36:20, 46:6, 50:4, 57:6, 66:13
looking
53:16, 63:1
looks
9:19, 24:5, 26:9, 36:22, 38:15, 72:3
loop
14:4, 16:5, 28:12, 28:19, 29:3, 29:10, 53:3
lot
12:9, 21:17, 21:18, 23:13, 25:12, 46:22
lower
32:7
luján
5:19, 8:9, 13:7, 14:17, 18:8, 20:4, 24:4, 26:2, 26:19, 37:19, 38:3, 40:16, 45:2, 47:19, 48:16, 48:17, 49:10, 53:18, 60:4, 60:9, 63:8, 63:16, 64:14, 66:18, 68:10, 68:14, 70:17, 76:1
luján's
5:9, 6:11, 7:2, 9:10, 11:16, 13:12, 13:22, 18:5, 23:5, 31:3, 36:5, 52:1, 69:21

M

made
6:7, 17:15, 27:15, 36:22, 61:11, 62:18, 63:4
main
10:12, 14:15, 14:19, 15:11, 51:13, 51:16, 52:8, 52:15, 52:22, 53:5, 54:3, 61:4
majority
12:15, 12:16, 23:11
make
13:5, 13:15, 19:17, 37:5, 39:7
man
75:18
manager
6:20, 10:11, 11:8, 69:22
many
7:8, 12:8, 14:1, 22:20, 25:20, 31:6, 35:21, 47:10, 50:15, 50:18, 55:16, 70:17, 73:12, 76:12
march
1:9, 51:20, 77:15, 77:17
marcus
9:7
material
51:3
matter
17:3, 22:5, 26:17, 36:15, 38:10, 38:13, 41:15, 45:17, 46:21, 47:16, 49:19, 49:21, 58:9
maybe
9:20, 11:20, 16:14, 24:18, 25:17, 26:8, 38:6, 40:2, 53:20, 57:5
mean
7:4, 13:21, 24:12, 24:16, 28:3, 29:7, 31:9, 35:1, 38:6, 41:2, 41:17, 45:9, 47:19, 54:2, 58:19, 58:20, 58:21, 62:16, 65:18, 68:16, 71:10, 72:1, 72:13, 72:16, 75:19
means
40:11, 45:6, 45:10, 56:19
meant
55:10, 55:19, 56:1, 56:2
media
74:18, 75:1
meet
43:2, 43:10
meetings
42:10, 42:18
member
29:13, 49:14
members
23:14, 35:21, 39:1, 39:18, 45:12, 50:16, 76:4
mentioned
8:19, 11:12, 20:1, 29:12, 31:15, 32:19, 40:7, 58:5, 58:9, 63:7, 64:12, 68:17
mentions
50:5
message
18:8, 21:4, 47:19, 56:7
messaging
25:13
mexico
6:18, 7:6, 7:9, 7:10, 8:1, 8:7, 8:8, 8:9, 9:5, 9:7, 12:9, 12:10, 14:7, 14:22, 18:9, 34:11, 52:13
mexico's
18:6
michelle
48:16, 49:10

might
7:11, 7:21, 8:2, 8:3, 8:5, 9:22, 22:19, 23:21, 24:1, 36:21, 36:22, 38:14, 43:22, 52:6, 62:11, 62:12, 64:15, 65:7
minute
10:5
minutes
30:1, 30:3, 43:10, 69:9
misunderstanding
68:16
mm-hmm
8:22, 28:10, 29:14, 30:20, 37:7, 43:19, 44:22, 45:8, 50:6, 53:19, 54:17, 55:14, 57:11, 58:7, 58:14, 60:16, 62:2, 62:20, 63:18, 63:20, 68:3, 71:7, 73:18, 74:15, 75:13
month
17:20
monthly
18:13, 27:2
months
6:18, 52:2, 70:17, 73:12
more
4:17, 7:6, 7:18, 15:15, 25:7, 25:14, 26:18, 47:15, 51:20, 54:8, 56:8, 57:9, 58:2, 72:8, 76:13
most
21:16, 28:13, 30:4, 75:17
motion
72:21, 73:2
move
34:19, 57:16, 58:1, 75:1, 75:5
moved
75:5
moving
64:3, 72:11
much
18:9, 35:6, 40:12, 58:1, 69:11, 76:16
must
40:3
myself
13:20, 14:3, 16:11

N

name
9:6
naturally
17:1
nature
8:6, 9:17, 11:22, 12:6, 14:5, 25:14, 26:17, 30:15, 31:18, 35:3, 53:4, 53:8, 59:21
nd
30:19, 34:4, 42:8, 45:3, 52:16, 72:20, 74:11
neat
24:19, 26:9, 38:15, 46:1
necessarily
21:21, 26:6, 27:6, 38:17, 52:8, 52:20
necessary
29:3, 62:15
need
24:6, 27:5, 27:8, 32:5, 32:8, 52:2, 57:19, 69:4, 69:5
needed
54:4
needs
10:22, 32:6
neither
77:9
never
21:13, 23:9, 26:18, 27:10, 38:19, 42:12, 53:4, 57:22, 66:22, 67:1, 67:7, 68:10, 70:18
new
6:18, 7:6, 7:9, 8:1, 8:7, 8:9, 9:5, 9:7, 12:9, 12:10, 14:6, 14:22, 18:6, 18:9, 34:11, 47:3, 52:12
news
18:3, 18:14, 22:18, 35:11, 36:1, 36:14, 37:13, 51:4, 51:5, 64:6, 64:12, 64:13, 64:14, 65:3, 65:20, 65:21, 66:9, 66:10, 74:18, 75:5, 75:9
next
43:3, 44:12, 74:16
next-to-the-last
39:22
nick
67:15, 67:17, 67:20, 68:5, 68:7, 68:13, 70:14
night
33:11, 75:20
nobody
14:9
normally
54:9
northwest
2:6, 3:17
notarial
77:14
notary
2:17, 77:21
nothing
24:10, 71:10, 71:16
nuanced
9:14, 55:11
nuances
24:8
number
7:13, 13:6, 16:10, 21:7, 32:9, 54:3, 64:8

O

obviously
15:8, 34:9, 36:2, 46:21, 47:13, 64:14, 65:18, 70:16
occasions
22:8, 30:8
occur
29:16
occurred
29:17, 64:1, 64:13
occurring
41:11, 71:12
offer
13:8, 13:11
office
1:3, 3:3, 3:7, 5:9, 5:14, 5:15, 5:21, 6:1, 6:4, 6:9, 6:22, 27:14, 27:21, 29:18, 29:20,

30:1, 42:1, 42:4, 42:7, 42:18
officer 77:3
offices 2:2
official 28:2, 42:10, 42:13
often 7:10, 11:12, 16:15, 25:12, 26:18, 54:3, 57:6, 75:6
oh 9:19, 19:19, 19:22, 22:19, 24:19, 26:9, 31:8, 36:5, 38:14, 40:2, 40:22, 47:20, 48:8, 54:6, 55:18, 62:6
okay 4:9, 6:10, 7:1, 8:14, 15:13, 19:6, 19:22, 20:13, 24:15, 25:22, 28:7, 28:10, 29:12, 30:17, 31:2, 31:10, 31:21, 32:20, 33:22, 35:17, 38:2, 39:7, 42:22, 48:5, 48:8, 48:12, 48:19, 53:16, 58:18, 61:17, 61:20, 61:21, 63:5, 67:13, 67:19, 70:12, 70:22, 71:20, 72:18, 73:15, 76:9, 76:15, 76:20
once 36:8, 48:22, 52:14, 70:19
one 14:18, 15:4, 15:11, 17:6, 20:21, 31:22, 32:10, 43:3, 44:6, 48:8, 58:9, 58:10, 58:12, 58:16, 63:6, 68:17, 70:4, 70:7, 71:2, 72:1, 72:6
ones 60:14
online 22:7, 49:10, 69:20, 73:11, 73:12
only 21:6, 72:1
open 13:21, 14:7, 53:11
operated 73:7
operating 10:10
operations 15:6
opinion 14:20
opportunity 9:18, 23:22, 24:1, 25:16, 28:20, 35:8
opposed 25:19
optics 39:2
organizations 21:8, 23:14, 35:22, 45:13
organized 70:10
organizers 59:17
original 23:5
originate 19:11
orlando 31:14, 31:18, 33:10, 33:17, 39:17, 47:2, 47:12, 51:5, 59:13
other 11:2, 21:18, 23:8, 23:14, 23:18, 30:10, 32:11, 34:1, 35:19, 35:21, 39:1, 50:15, 50:18, 52:4, 56:10, 64:10, 72:20, 72:22, 74:2
others 13:14, 74:9
otherwise 77:12
ourselves 16:12
out 9:9, 9:13, 12:22, 16:9, 16:10, 17:10, 17:11, 17:15, 17:20, 19:14, 21:19, 23:11, 23:20, 24:3, 24:6, 27:5, 27:8, 27:11, 31:3, 31:7, 33:8, 36:4, 38:12, 43:1, 43:12, 45:7, 46:8, 48:16, 49:14, 49:20, 54:1, 54:5, 54:7, 54:13, 54:14, 54:15, 56:3, 56:18, 57:8, 59:11, 60:1, 60:12, 63:9, 64:6, 65:5, 65:12, 65:13, 70:19, 71:6, 71:9, 71:21, 73:3, 73:20, 74:3, 75:7
outcome 72:11, 77:12
outreach 34:2, 73:20, 73:21
outside 29:20, 42:15
over 5:14, 6:21
oversees 15:5
own 23:1, 28:20, 29:8, 65:16

P

page 32:4, 39:21
pages 1:21
paid 7:7, 43:15
paragraph 39:22
part 15:7, 28:6, 43:7, 43:11, 43:16, 56:16, 61:7, 74:1, 74:3
participate 10:16, 11:9, 13:19, 13:22, 53:10, 53:12
participating 76:7, 76:11
particular 27:5, 27:9, 36:11, 53:14, 61:1, 64:9, 64:11, 70:13
particularly 64:7

parties
77:10
passanante's
67:15, 67:17
pasting
16:21
pay
52:10, 61:2
paying
21:11, 23:3,
51:10
people
8:12, 8:19,
8:20, 9:1, 16:4,
20:9, 21:11,
23:2, 25:20,
27:20, 28:12,
34:11, 36:8,
39:15, 40:13,
49:18, 49:20,
50:19, 51:8,
56:5, 60:21,
60:22, 67:2,
67:16, 70:10,
72:4
perhaps
52:18
period
12:14, 27:19,
41:1, 51:1,
51:14, 63:14
perkins
2:5, 3:16
permanent
44:1, 44:17
permission
14:9, 21:21
person
53:6, 54:3
personal
28:16, 28:20,
28:22, 29:5,
29:9
personally
70:19
phone
11:4
physically
56:6, 67:5
pick
42:16, 43:9
picked
43:3
picture
17:2, 17:4,
17:6, 17:18,
66:1, 66:3,
66:8, 66:14,
66:15
pictures
11:22, 16:21,
66:6
piecemeal
16:7
pitch
13:7
places
30:10
plan
35:6
planned
19:4
plenty
24:17, 30:11
point
11:8, 12:21,
14:14, 14:15,
16:18, 20:18,
27:16, 36:11,
45:15, 47:10,
51:13, 51:16,
52:9, 52:15,
53:5, 60:11,
60:13, 61:1,
61:4, 64:9,
64:11, 66:13
political
6:15, 7:5,
7:21, 13:13,
23:1, 25:13
politics
7:9, 8:8, 8:10,
12:10, 52:13
poor
75:18
popped
18:14
popping
51:7
positive
24:10, 24:12,
70:2
possible
17:22, 40:13,
60:2
potentially
22:6
practices
50:18
presented
35:14
press
35:7
prevent
39:2
previous
51:2
primarily
9:7
primary
9:3, 11:2, 15:4
prior
34:3
probably
14:18, 22:12,
22:19, 25:14,
35:20, 36:20,
46:22, 48:2,
48:15, 51:3,
51:11, 54:17,
57:14, 59:7,
59:10, 59:22,
60:19, 61:2,
61:6, 71:14,
71:15, 75:7,
75:9
problem
4:18, 17:7
proceedings
77:4, 77:6,
77:7
process
18:19, 68:14,
74:2, 74:4
professional
39:4
program
9:14, 10:13,
13:9, 14:21,
15:8, 16:4,
20:8, 23:16,
36:8, 47:4,
48:1, 52:2,
53:2, 56:5,
70:18
programs
35:3, 35:5
project
12:5
prompt
40:13, 71:11
prompted
31:13, 31:19,
39:17, 59:13
proper
57:2
properly
17:1, 26:11,
66:7, 66:11
property
17:6
proportion
65:6
proposed
34:2, 35:16
provide
7:2, 7:16, 8:3,
10:22, 11:1,
19:1, 29:3,
69:15
provided
4:6, 68:12,
76:18
providing
9:12
public
2:18, 77:21
pulling
66:5
pulse
18:9, 18:10,
23:1
puppies
36:6

pursuant
2:16
put
44:18, 50:12, 71:16
putting
66:6

Q

quarterly
18:12
question
7:22, 14:5, 14:6, 19:18, 20:15, 23:5, 26:10, 56:2, 57:17, 65:18, 69:14, 70:14, 70:20
questions
8:13, 8:18, 58:2, 67:11, 71:1, 76:13
quickly
75:6
quite
11:15, 12:3, 57:14
quote
68:1, 68:2, 74:19

R

rachel
3:15
raise
9:22, 65:4
raised
64:4
raising
64:7
rally
55:17
ramirez
28:16, 28:17
rd
61:9, 72:20
rdr
1:22
reached
12:22
read
32:15, 40:14, 46:5, 48:5, 60:19, 61:18, 62:14, 65:20, 65:21, 67:10
ready
43:2, 68:1, 74:22
really
21:11, 21:13, 26:19, 46:1, 68:22
reason
23:13, 36:13
reasons
54:4
recall
31:2, 31:6, 38:5, 58:10, 58:11, 58:13, 58:15, 62:7, 62:21, 66:4, 76:3, 76:5
receive
36:9
received
47:18, 48:22
recess
69:12
recollection
32:22, 39:21, 40:5
recommendation
21:15
record
19:21, 69:13, 77:6
red
17:1
reduced
77:8
reelect
6:16
reelection
6:19
refer
39:10
referenced
65:22, 73:14
referring
31:22, 61:22
refers
39:13, 40:10
refresh
32:21, 39:21, 40:4
regard
47:11
regarding
9:22, 48:3, 49:15, 53:9, 60:2, 64:17, 71:18
regardless
53:12
registered
2:17
regular
51:21
regulation
49:19
related
9:8, 11:5, 11:6, 11:7, 15:11, 17:12, 31:4, 31:12, 32:18, 34:3, 37:20, 40:5, 41:4, 58:8, 67:22, 77:10
relationship
56:22, 69:2, 69:16, 69:19, 70:1, 70:2, 70:5
relevant
18:4
remember
12:20, 22:11, 30:21, 32:6, 33:6, 34:5, 36:19, 37:13, 39:14, 47:7, 59:13, 63:2, 63:3, 64:16, 65:20
repeat
20:14
reported
1:22, 59:5, 59:10, 59:16, 59:19, 73:8, 75:4
reporter
2:17, 62:13, 77:1
representative
5:9, 5:19, 6:11, 7:2, 9:9, 14:17, 20:3, 23:5, 26:2, 31:3, 37:19, 38:3, 40:16, 60:4, 60:9, 63:8, 63:15, 66:18, 76:1
representatives
3:2, 3:7
republicans
59:6, 59:9, 59:20, 74:22
requested
61:8
respect
14:16
respond
46:7, 46:12
responded
46:9
response
65:9, 65:11, 71:9
review
23:22, 24:2, 28:21, 52:5, 71:15
reviewing
9:12, 27:21
right
4:3, 12:2, 16:16, 20:9, 21:5, 25:14,

26:10, 31:15, 33:2, 33:13, 35:5, 36:11, 36:12, 39:2, 39:14, 41:12, 44:15, 51:8, 54:7, 55:13, 55:21, 56:10, 57:2, 59:1, 64:2, 65:3, 69:2, 76:15
right-hand 32:7
role 7:14, 9:2, 10:18, 11:10, 11:11, 20:1, 20:2, 20:3, 33:4, 37:8, 38:11
ropes 68:18
rule 59:21

S

sadly 52:21
safer 37:6
said 5:18, 10:20, 12:12, 13:11, 17:2, 24:10, 26:9, 36:21, 38:10, 38:14, 45:12, 50:14, 51:13, 51:15, 51:17, 53:7, 55:15, 57:22, 61:12, 62:11, 62:12, 62:17, 62:18, 64:5, 64:19, 66:4, 66:9, 72:21, 74:10, 77:6
sake 28:11, 59:7
same 25:20, 32:3, 32:13, 35:20, 50:20, 53:17, 59:12, 74:1, 74:3
sat 53:7
saturday 33:11, 33:12, 74:11
saw 56:13, 64:14
say 4:5, 7:17, 9:19, 9:20, 11:15, 11:21, 13:10, 15:3, 16:1, 16:13, 19:15, 21:14, 21:21, 22:12, 22:19, 23:10, 23:15, 23:22, 24:2, 27:4, 34:22, 36:18, 38:19, 40:1, 46:14, 48:20, 52:21, 55:20, 58:18, 64:18, 72:5
saying 12:16, 26:3, 36:5, 39:10, 49:2, 56:13, 59:17, 64:21, 68:10, 72:9, 72:10
says 24:19, 37:3, 40:1, 45:6, 46:8, 66:15, 67:22
scan 9:19
schedule 43:8
scheduled 10:15
schedulers 43:7
scheduling 43:7, 43:11, 43:16
screwed 40:9
seal 77:14
sean 9:6
second 39:20, 58:10, 58:15, 61:22, 63:6
section 62:4
see 28:22, 43:8, 43:17, 46:1, 56:8, 72:4, 75:22
seeing 21:19, 76:3, 76:5
seems 40:8
seen 73:6, 74:21
send 15:17, 15:22, 17:15, 23:11, 23:20, 24:3, 25:4, 25:5, 25:8, 25:9, 26:5, 27:11, 36:4, 44:3, 56:1, 56:6, 60:12, 61:9, 67:6, 68:2, 68:10, 68:11, 75:7
sending 9:9, 16:6, 54:19, 56:14, 67:2
sends 46:12
sent 9:13, 17:11, 27:5, 27:18, 31:3, 31:7, 32:22, 33:8, 33:20, 34:15, 36:17, 37:2, 38:22, 46:8, 48:16, 49:14, 50:2, 50:9, 50:13, 53:18, 58:6, 60:5, 60:14, 62:1, 63:8, 63:16, 66:20, 67:1, 67:16, 70:6
sentence 37:3, 39:8, 39:22, 57:2
sentences 67:12, 67:14, 67:15
sentiment 59:12
separate 40:10
services 7:2, 13:8
set 77:13
several 6:18, 16:4, 22:18, 30:2, 30:8, 52:2, 63:21, 63:22
share 16:9, 25:17, 25:20, 26:15
sharing 20:10, 25:15
shift 47:3, 75:10
shined 47:12
shooting 31:14, 31:19, 33:10, 33:17, 39:17, 47:2,

47:12, 59:14
shortly
71:16
should
8:4, 14:20, 16:14, 19:15, 21:14, 24:20, 27:15, 36:18, 39:22, 46:2, 52:7, 54:1, 55:18, 57:9, 59:10, 60:1, 60:14, 60:15, 61:2, 65:18, 72:6, 75:7
show
18:8, 31:21, 44:20, 61:14, 67:8
showed
68:18
showing
53:3
shown
59:18
side
8:13, 13:13, 42:10, 42:14
sides
43:8
sign
4:10
signal
49:12
signature-jmlvn
77:19
signed
4:15
simply
9:14, 12:6, 14:19, 26:20, 29:2, 29:10
since
5:7, 6:1
sit
14:3, 42:16
sit-in
30:18, 30:22, 31:4, 31:12, 37:20, 37:21, 37:22, 39:11, 40:1, 40:3, 40:6, 40:17, 40:18, 40:20, 41:8, 41:15, 48:11, 48:13, 49:2, 49:11, 50:3, 50:5, 50:8, 50:12, 51:7, 58:17, 58:19, 58:20, 58:21, 59:6, 59:9, 59:13, 59:15, 59:17, 59:22, 67:21, 75:2, 75:12, 76:1, 76:7, 76:11
sitting
13:9
situation
28:9
situations
25:3, 26:3
so-and-so
26:20
solicitation
15:21, 20:11, 21:1, 22:4, 22:10
solicitations
20:2, 20:6, 23:7, 27:14, 56:9
some
12:21, 14:14, 24:7, 36:22, 61:11, 64:1, 64:4, 64:10, 69:15, 70:3, 71:18
somebody
7:22, 14:4, 60:17, 61:2
somebody's
17:5
someone
25:5, 42:15
something
9:22, 10:22, 14:2, 17:12, 19:9, 19:11, 19:15, 22:17, 23:10, 24:21, 25:4, 26:4, 26:22, 27:6, 29:21, 34:20, 35:7, 36:10, 38:8, 38:15, 44:1, 44:7, 44:17, 45:7, 45:14, 45:20, 45:22, 46:1, 46:8, 46:15, 47:21, 48:3, 52:6, 52:7, 54:1, 54:4, 54:13, 54:14, 54:15, 55:19, 55:22, 56:3, 56:18, 57:3, 57:6, 57:8, 57:10, 59:21, 60:1, 61:5, 64:5, 64:15, 64:20, 64:21, 64:22, 65:7, 65:10, 71:6, 71:9, 71:21, 72:4, 72:6, 73:2, 73:13
sometime
44:5, 46:3
sometimes
8:12, 10:7, 11:1, 15:8, 15:19, 18:15, 19:10, 19:13, 20:10, 26:15, 30:5, 46:13, 70:9
somewhere
33:9, 42:19
soon
60:1
sorry
19:19, 63:12
sort
9:12, 9:19, 11:9, 13:20, 13:21, 16:6, 16:11, 17:18, 17:21, 18:2, 18:4, 23:1, 23:12, 23:15, 31:14, 33:13, 35:2, 38:21, 45:18, 47:15, 49:18, 50:20, 54:8, 55:11, 56:10, 57:1, 59:12, 71:18, 72:3, 74:1
sound
16:16, 24:5, 36:6
sounds
26:3
speak
19:8, 27:17, 52:3, 57:2
speaking
50:20
specific
15:15, 27:12, 46:21, 47:15, 49:15, 62:21, 63:2, 63:3, 71:11
specifically
22:12, 27:11, 30:18, 63:2, 64:16, 65:19, 65:21
speeches
39:16
spotlight
47:12
staff
5:3, 10:9
staging
48:11, 49:11
stamp
44:21

stamped
32:4, 61:15, 67:9
stand
40:1
start
4:4, 12:18, 17:16, 26:5, 34:13, 36:8, 50:19
started
6:6, 12:17, 17:17, 17:18, 33:15, 36:13, 40:3, 47:2, 51:7
stated
60:16, 62:10
statement
71:9, 71:21, 73:2, 73:16
statements
4:6, 4:12
stating
49:2
stenographically
77:7
steve
9:3, 9:6, 11:5, 13:14, 15:4, 15:5, 15:10, 16:11, 24:1, 25:18, 28:12, 34:18, 52:17
steve's
20:2
still
71:4, 74:17
stoddard
28:18
story
64:6, 64:13, 64:14, 65:3, 65:20, 65:22, 66:10
strategies
10:12, 11:6, 11:12, 11:13, 13:3, 14:16, 15:15, 15:22, 17:19, 20:3, 22:9, 23:17, 26:5, 27:18, 28:15, 33:8, 33:15, 34:2, 36:12, 37:11, 37:16, 38:11, 44:18, 47:22, 50:5, 50:8, 50:11, 50:15, 51:14, 54:16, 54:21, 56:4, 59:8, 60:5, 60:12, 61:9, 66:2, 66:15, 67:4, 69:17, 69:19, 73:1
strategy
25:13
streaming
51:9, 64:10
street
2:6, 3:17
string
59:14
structure
17:22
struggles
70:5, 70:7
stuff
12:1, 14:22, 18:16, 18:18, 24:9, 25:2, 26:14, 27:3, 29:9, 30:16, 39:2, 40:12, 47:1, 49:17, 51:9, 52:14, 56:10, 56:12, 65:6
subject
22:5, 26:17, 27:9, 27:12, 36:15, 38:9, 38:13, 44:8, 45:17, 46:21, 47:16, 48:6, 48:9, 48:10, 48:15, 48:16, 48:17, 48:19, 49:1, 49:9, 49:19, 49:21, 58:8, 75:6
subscribes
23:13
sudden
51:7
suggest
52:6
suggested
75:7
suggestion
72:8
suite
2:7, 3:18
sunday
33:12
sunset
17:4
supervision
77:9
support
20:11, 40:1
supporters
9:17, 35:9
supposed
56:15
sure
7:20, 19:18, 28:5, 29:8, 32:2, 39:7, 45:4, 52:11, 61:20, 68:7, 68:19, 69:10, 75:20
surrounding
33:14, 33:17, 46:20
svoboda
3:14, 19:17, 28:1, 32:6, 32:9, 41:2, 41:7, 41:10, 54:22, 55:3, 55:5, 57:12, 57:18, 61:18, 62:7, 63:11, 65:15, 67:14, 67:18, 69:4, 69:8, 69:11, 72:9, 75:18
system
16:7

T

take
16:13, 23:16, 34:18, 35:10, 56:19, 58:1, 61:7, 69:5
taken
56:16, 69:12, 71:8, 77:4, 77:7
taking
28:14, 61:5
talk
8:4, 9:15, 12:3, 24:7, 25:12, 26:13, 30:7, 30:11, 30:18, 41:20, 45:19, 47:20, 50:22, 53:6, 57:5, 58:4, 65:16, 69:2, 69:7
talked
11:3, 25:1, 45:14, 73:22
talking
26:12, 32:12, 35:12, 35:20, 35:22, 38:9, 39:19, 47:9, 70:15
talks
39:8, 50:3, 57:1
team
43:7, 43:11, 43:16
technology
21:3, 21:10,

21:20, 22:6, 35:18, 56:6
television
42:12
tell
26:18, 38:18, 43:9, 57:3, 60:14, 74:13, 74:18
ten
30:1
tend
50:19
terms
13:8, 26:16, 27:17, 29:1, 50:21
test
21:4, 56:8
th
77:14
thank
69:11, 76:16, 76:20
thank-you
20:22
thanking
20:9
thereafter
77:8
therein
18:1
they'd
34:21
thing
10:1, 35:20, 61:12, 61:19, 72:15
things
7:11, 8:6, 9:17, 10:6, 11:21, 11:22, 12:6, 16:16, 17:9, 21:4, 21:8, 23:19, 25:13, 26:17, 30:14, 31:16, 31:18, 40:10, 47:10, 52:4, 53:4, 53:8, 64:8, 64:11, 65:5, 70:7, 71:14
think
7:11, 10:22, 12:19, 14:14, 19:15, 24:19, 26:7, 31:22, 32:6, 33:11, 35:1, 37:15, 38:6, 39:12, 43:22, 44:6, 44:16, 46:9, 49:7, 49:12, 49:13, 50:10, 50:21, 55:9, 57:9, 61:12, 62:17, 65:14, 68:15, 70:4, 70:10, 71:3, 71:17, 74:8
thinking
51:12
thirteenth
2:6, 3:17
thought
12:4, 19:14, 19:20, 23:2, 38:7, 45:11, 47:20, 56:2, 57:4, 57:5, 64:5, 65:20, 65:21, 67:2, 73:1
thrl
32:4, 44:21, 61:15, 67:9
through
7:15, 15:9, 21:19, 30:8, 45:1, 45:6, 59:2, 61:15, 67:9
tiles
6:6
time
6:8, 10:3, 10:6, 10:15, 11:8, 11:16, 11:18, 12:14, 16:19, 17:2, 23:3, 25:12, 26:7, 27:19, 28:14, 28:20, 29:5, 29:9, 29:13, 29:15, 30:2, 30:7, 30:11, 31:20, 33:21, 36:11, 37:2, 37:13, 37:14, 39:13, 39:18, 39:19, 40:3, 41:1, 41:10, 42:19, 45:13, 45:15, 47:6, 51:1, 51:14, 51:21, 51:22, 52:14, 53:13, 58:1, 58:16, 58:22, 59:7, 60:18, 61:1, 63:11, 63:13, 63:14, 64:1, 64:9, 64:12, 66:19, 70:8, 73:5, 75:4, 75:12, 75:20
times
22:20, 24:18, 26:1, 30:2, 30:12, 30:14, 38:12, 42:20, 55:16
title
5:1, 5:2, 6:3
today
37:4, 39:9, 44:14
together
30:9, 71:16
told
59:22
tone
36:6, 39:3, 48:2
took
6:17, 14:2, 16:12, 47:19, 72:1
topic
33:14, 34:10, 35:6, 47:13, 50:22, 52:6, 73:9
totally
33:3
touch
7:4
track
29:8
transcript
77:5
travel
43:3
traveled
30:9
traveling
42:19
trips
30:10
true
77:5
trusted
61:1
try
35:11, 52:7, 59:10, 60:1, 71:17, 72:6
trying
9:16, 11:18, 39:14, 49:13, 49:18, 49:22
turn
39:20
tv
51:8, 59:16, 59:17, 71:13, 71:19, 73:8, 73:14, 74:21, 76:5
twitter
44:7, 44:12

two
9:1, 10:5, 31:9, 40:10, 58:5, 60:8, 67:11, 67:14, 67:15, 69:8, 72:19, 73:22
type
7:16, 23:7, 27:22, 29:4, 36:14, 63:9, 73:19
typed
48:17
types
7:19
typewriting
77:8
typically
17:16, 29:16

U

under
70:8, 77:8
underlying
35:4
understand
4:17, 26:1, 28:4, 53:21, 56:21, 73:16
understanding
35:14, 36:2, 46:16, 46:19, 55:3, 55:4, 55:8, 68:4, 68:8, 68:13, 68:20, 71:13
understood
28:8
unorganized
70:16
until
70:17
update
48:10, 49:11
updated
30:15
use
14:22, 17:2, 32:10, 59:21
using
16:20, 16:21

V

vehicle
42:20
versus
20:22
via
22:5
view
55:11
viewing
70:5
violence
39:16, 39:19, 46:20, 47:9, 47:11, 47:12, 47:17, 47:21, 48:20, 49:4, 49:15, 49:19, 59:14
voice
11:20, 15:16, 16:3, 26:11, 68:20
volunteer
7:6, 7:17, 10:21, 11:10, 28:3
vote
75:2
voters
23:2, 35:9, 60:22
votes
42:10, 42:11

W

wait
29:19, 56:20
waiting
42:15
walk
7:15, 45:1, 45:5
walking
45:22
want
4:4, 4:16, 19:17, 20:5, 21:22, 23:10, 25:22, 30:17, 31:21, 32:16, 35:18, 44:20, 58:4, 61:3, 61:18, 65:15, 67:8
wanted
12:2, 14:4, 16:5, 20:17, 23:20, 26:13, 29:4, 34:12, 40:12, 49:4, 49:7, 72:12
wants
38:19, 68:1
washington
1:8, 2:8, 3:10, 3:19, 6:1, 9:4
watch
42:11, 75:15, 75:20
watched
75:15
watching
59:3, 75:11, 75:21, 76:2
water
57:19
way
6:7, 9:21, 11:20, 11:21, 12:5, 24:6, 24:21, 24:22, 26:12, 28:6, 29:21, 35:12, 38:8, 43:9, 45:13, 45:19, 46:5, 47:20, 50:16, 57:1, 57:5, 72:3
ways
9:15
we'll
16:13
we're
16:13, 21:19, 32:3, 57:13, 57:15, 59:1
we've
57:12, 72:19, 73:22
wednesday
1:9, 75:14
week
10:15, 10:17, 19:3, 33:8, 33:13, 34:7, 47:7
weekend
33:12
weekly
27:2
weeks
63:21, 63:22
went
5:14, 6:18, 16:9, 16:10, 33:15, 66:2, 66:13, 73:20, 74:2, 76:16
weren't
21:6, 70:9
whatever
8:16, 11:3, 19:2, 21:10, 21:13, 23:13, 26:10, 27:9, 29:6, 33:9, 33:19, 34:8, 34:16, 34:21, 35:1, 35:8, 35:13, 35:15, 42:9, 44:14, 46:3, 46:6, 49:11, 51:6, 52:8, 56:7, 60:22, 67:6, 71:15, 75:3
whatever's
26:13
wheels
72:10, 72:21

whereof
77:13
whether
4:14, 10:3, 18:15, 20:20, 41:4, 42:15, 62:7, 66:19
whoever
11:7
whole
31:13, 47:3, 47:17, 61:19
widespread
14:21
wing
65:3
within
22:4
without
16:22, 66:7
witness
77:13
work
6:19, 7:5, 7:16, 8:19, 9:4, 9:7, 9:8, 15:2, 15:13, 33:15, 35:4, 51:2
worked
5:13, 5:15, 6:14, 7:8, 8:7, 8:8, 8:9, 8:11, 8:12, 12:7, 12:8, 15:1, 18:19, 52:13, 55:13, 60:18
working
6:22, 9:1, 26:8, 26:21, 27:19, 46:15, 46:16, 46:19, 56:22, 74:13
works
9:6, 50:18, 68:21
world
50:17
wouldn't
16:1, 21:20
wow
21:11
write
22:1, 55:22, 74:19
writers
18:20, 18:21
wrong
34:20, 54:19, 64:6, 64:15, 64:20, 64:22, 65:1, 65:8, 65:10
wrote
37:16, 71:5

X

x
1:1, 1:5

Y

yeah
15:19, 16:12, 19:10, 19:13, 33:3, 35:1, 36:2, 39:18, 44:5, 46:13, 56:17, 57:22, 60:22, 61:6, 69:6, 71:2, 72:13, 75:19
year
10:8, 10:9, 27:20, 30:8, 63:19
yearly
18:11
years
7:8, 8:10, 12:8, 14:1
yield
22:6

0

0041
61:15
0044
61:16
0080
67:9
009
32:4
0098
44:21
03
1:10
0895
3:10

1

13
77:14
137151
1:20
14
77:17
15
30:3
1654
3:20
18
76:22

2

20
30:3
2000
5:13
20005
2:8, 3:19
2007
6:13
2008
6:13, 6:14
2009
6:2, 6:16
2010
6:16
2012
5:13, 5:19
2013
5:13
2015
5:7, 12:20
2016
12:20, 12:21, 14:14, 27:20, 30:19, 51:18, 51:19, 51:20, 52:16, 63:14, 63:17, 63:19, 66:19
2017
1:9, 77:15
2018
77:17
202
2:9, 3:11, 3:20
20515
3:10
22
30:19, 34:4, 42:8, 45:3, 52:16, 72:20, 74:11
225
3:11
23
61:9, 72:20
24
37:14, 59:4

3

3960
2:8, 3:19

4

4
1:10
434
3:20

5

5
76:22

6

600
2:7, 3:18
6200
2:9
654
2:9

7

700
2:6, 3:17

8
82
67:10
895
3:9
9
9739
3:11
98
71:4

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

ERRATA SHEET

Page	Line	Correction	Reason
19	5	The word "lining" should be replaced with the word "like."	The transcription appears to have mistaken the word [redacted] actually used here.
31	9	There should be a question mark, instead of a period, after the word two.	[redacted] recalls speculating here.
44	5	Sometime should have an "s" on the end.	The word is just missing the "s" at the end.
51	19	The phrase "part of" should be inserted between early and 2016.	The sentence does not make sense without this phrase.
63	17	There should be a question mark, instead of a period, after 2016. 2016?	[redacted] asked Kedric Payne for clarification here.
63	19	There should be a question mark, instead of a period after 2016. The year of 2016?	[redacted] asked Kedric Payne for clarification here.

This errata sheet is submitted subject to 18 U.S.C. § 1001 (commonly known as the False Statements Act).

Witness Name: [redacted]

Witness Signature: [redacted]

Date: 4-24-17

EXHIBIT 4

Transcript of Interview of President of Boulder Strategies
February 28, 2017

Kedric Payne: So Kedric Payne here with Helen Eisner. We are interviewing President of Boulder Strategies and his counsel, Eric Kleinfeld, is also on the telephone. President of Boulder Strategies is appearing over the telephone as well. It is 5:03 PM on Tuesday, February 28th, 2017. President of Boulder Strategies, you did receive the False Statements Act and you signed the Acknowledgment Form. Is that correct?

Pres. Boulder Strat.: That is correct.

Kedric Payne: Okay. I just want to first start with a little bit of background. Where are you currently employed?

Pres. Boulder Strat.: I'm the president of Boulder Strategies.

Kedric Payne: And what is Boulder Strategies?

Pres. Boulder Strat.: We are digital consulting firm that works with political and non-profit organizations, primarily in regards to digital advertising and marketing, as well as with e-mail communications and fundraising.

Kedric Payne: And how long have you been employed with Boulder Strategies?

Pres. Boulder Strat.: Boulder Strategies was founded in October of 2013 and I've been employed as the president since then.

Kedric Payne: You mentioned that your clients are political and non-profit organizations. Can you give me an example of those clients? I don't necessarily need specifics, but I just need something more detailed.

Pres. Boulder Strat.: Sure. We work for ... we have relationships with the Democratic Congressional Campaign Committee, for example. We work for members of Congress on the campaign side, not the official side, and we also work with organizations like environmental groups, trade organizations, things like the American Heart Association, Healthier Colorado, groups like that, that are either 501C3 or 501C4 with an advocacy tint...plan to them.

1

2 Kedric Payne: Okay. You mentioned the broad services that the company provides. What
3 specific services do you personally provide?

4

5 Pres. Boulder Strat.: So in my role, I manage a team of staff that does the primary writing and
6 content developments for our clients. I also provide general consulting
7 advice in terms of message development and overall strategy on the digital
8 side of the campaign, or the digital side of the organization.

9

10 Kedric Payne: And Representative Lujan is one of your clients. Is that correct?

11

12 Pres. Boulder Strat.: He is not any longer. He was a client from February of 2016 through
13 December 31st of 2016.

14

15 Kedric Payne: And how did it come to be that you were working with Representative Lujan?

16

17 Pres. Boulder Strat.: We responded to a request for proposal in, I believe it was June of 2015, and
18 I'll have to check that date. It called for a request for a proposal for new
19 digital side ... digital consultant for their campaign operations. We went
20 through a process of pitching them our services and then we became under
21 contract with them in February of 2016, again on the campaign side.

22

23 Kedric Payne: Okay, so the contract was with whom specifically?

24

25 Pres. Boulder Strat.: It was with People for Ben, which is his campaign committee.

26

27 Kedric Payne: Who were your points of contact with People for Ben?

28

29 Pres. Boulder Strat.: We had four primary points of contact. One of them was Aaron Trujillo.
30 Another was Angela Ramirez. Another was Steve Fister. And the final was
31 Andrew Stoddard.

32

33 Kedric Payne: And did you have any communications with Representative Lujan?

Pres. Boulder Strat.: Not day to day. The only communications that we had were on occasional conference calls, typically once a quarter and before we were under contract during the pitch process to obtain the contract.

Kedric Payne: And during those quarterly conference calls, what type of discussions did you have with Representative Lujan?

Pres. Boulder Strat.: They were typically with multiple consultants that handle everything from polling and research, to digital, to campaign activities in his district on a field level. So we typically covered our respective roles in terms of what the congressman gave us, his updates, and on the campaign operations. We also would discuss goals and benchmarks for digital fundraising activities and, in general, we would cover certain overarching themes that we would be talking about, but we would never ... beyond that, all the day to day activities went through our other four staff contacts.

Kedric Payne: Okay. So who would provide you guidance on the type of campaign e-mails they wanted from your company?

Pres. Boulder Strat.: So the typical process would be that we would propose a monthly calendar, as topics and e-mails and social media content, etc. They would then have the opportunity to review our ideas and our thoughts about what those topics should be and provide feedback. This was always done by the same four points of contact that I IDed earlier, Aaron, Andrew, Angela and Steve. And then we had the approval process in place in terms of, once we actually got topics approved or they decide if they want to interject other topics besides what we had proposed. They could do that at any point during the course of the week or during the course of the month. We would do our best to get that into the pipeline and then we would have the approval process that, once we wrote the content, my staff wrote the content, they would then have a period of time to review all that content and provide edits or feedback and then the final approval on actually sending e-mails on their behalf.

Kedric Payne: And with respect to that final approval, what was your understanding of Representative Lujan's role in any type of final approval?

1 Pres. Boulder Strat.: I have no knowledge of his role in any type of approval. Our approval
2 process was strictly related to the staff contacts.
3
4 Kedric Payne: So you mentioned that you would have the monthly calls, I'm sorry, monthly
5 plan, but were there other ways that a solicitation may be initiated, where
6 something may come up that was not necessarily on the monthly plan?
7
8 Pres. Boulder Strat.: Yes, absolutely. The typical process would be for them to e-mail or call one
9 of us, either myself or a project manager. They would get that different topic
10 into our pipeline.
11
12 Kedric Payne: Okay. You say that one of those four people you mentioned before would
13 contact you and then would request a different topic or different focus?
14
15 Pres. Boulder Strat.: That's correct.
16
17 Kedric Payne: And did you ever self-initiate during that monthly period to do a different
18 type of E-mail that had not been covered or not been requested by those
19 four?
20
21 Pres. Boulder Strat.: No, sir.
22
23 Helen Eisner: Of those four individuals you mentioned, Angela, Steve, Aaron, Andrew,
24 which one of those, or what percentage of the time did you hear from those
25 four as far as initiating a solicitation that wasn't going through the normal
26 calendaring process?
27
28 Pres. Boulder Strat.: Aaron Trujillo would be the most common point of contact on that. Angela
29 would be the second, and Andrew would be the third. Steve almost very
30 rarely would interject in that way.
31
32 Kedric Payne: And how often would they give you something that was not on the monthly
33 plan?
34

1 Pres. Boulder Strat.: I don't have that information off-hand. I would have to go back through e-
2 mails to find that.

3

4 Kedric Payne: But do you have a sense that it was quite frequent for them to give you
5 something that was a little different or that was more of a rare occurrence?

6

7 Pres. Boulder Strat.: I would say that it was ... common to me that would be get maybe two or
8 three of those requests every month.

9

10 Kedric Payne: I want to ask about a particular e-mail. Do you recall the sit-in
11 demonstration that occurred in the capitol around June 22nd, 2016?

12

13 Pres. Boulder Strat.: I do.

14

15 Kedric Payne: And are you familiar with an e-mail that was sent by People for Ben?

16

17 Pres. Boulder Strat.: I am, yes.

18

19 Kedric Payne: Okay. And can you explain to me how that all came about?

20

21 Pres. Boulder Strat.: So, can you [inaudible 00:09:50] of which e-mail you're speaking of around
22 that particular time period?

23

24 Kedric Payne: Okay, no problem.

25

26 Pres. Boulder Strat.: I will refer you to the document ... and you did receive the packet of
27 documents that we sent to your attorney?

28

29 Pres. Boulder Strat.: I did, yes.

30

31 Kedric Payne: The first one, which is at the very bottom, you'll see bates stamped
32 THRL0009?

Pres. Boulder Strat.: Yes, okay.

Kedric Payne: And, I think this is an initial draft of the email, but it still is, for the most part, the core email. This is the email we're referring to from June 22, 2016.

Pres. Boulder Strat.: Correct. Okay. I understand.

Kedric Payne: Okay.

Pres. Boulder Strat.: This email, let me just read it real quickly. This email was a continuation of a series of emails that we had been doing on "No Fly, No Buy" which was the concept that if you could not, if you were on the No Fly List, then you shouldn't, also be able to buy a gun. We had done a series of emails about this topic already. Then when the sit-in began on the House floor, we simply took an email that was already in the pipeline, we were already planning to send an email of this type, and we simply inserted the first line of the email that talked about him being on the floor to make it relevant for the day's topic.

Kedric Payne: And, about how ... Let me see how to phrase this. Basically, I'm trying to see with a series of emails on this topic, help me understand how long that series had been going? Are we talking about a few weeks before this? Or that had been going on for months?

Pres. Boulder Strat.: This series had been a planned part of the monthly calendar. It was something that we had been doing for at least a week prior before the sit-ins began. I believe, I'd have to go back and check, but I believe we sent at least two or three emails prior to this email that were on this topic.

Kedric Payne: Okay.

Helen Eisner: Prior to this email, how successful had that effort been as far as raising funds?

Pres. Boulder Strat.: I do not have that information off hand.

Helen Eisner: Do you have a general sense? We're not looking for dollars and cents, just was it raising a significant amount of money? Or was it an unsuccessful approach? Just your general read on how that campaign solicitation was working as far as outreach and funds that were coming in.

Pres. Boulder Strat.: Sure. I can say that this line of messaging has been very successful for the preceding days. It was one of the reasons why we were continuing with it, irregardless of what was going on in Washington that day. It was part of the extended plan because it had a very high engagement rate in terms of open and clicks, which we judge ourselves on, as well as from a fundraising standpoint.

Kedric Payne: Who drafted the language that you just mentioned to make it relevant, that first sentence?

Pres. Boulder Strat.: I inserted that myself.

Kedric Payne: And did you have any contact or communication with Representative Lujan when you drafted that?

Pres. Boulder Strat.: I did not.

Kedric Payne: Did you have any communication with anyone in his Congressional office when you drafted that?

Pres. Boulder Strat.: As you can see in that email thread, everybody on our point of contact list was involved in that in terms of seeing it as well. So, Andrew, Aaron, Angela, and Steve were all involved in that, definitely.

Kedric Payne: Had any of those people you just mentioned instruct you or request that you include that first sentence?

Pres. Boulder Strat.: I do not believe that it was ... I do not recall if it was a specific instruction. I do believe that we were instructed to make it relevant to the topic at hand that day, which was the sit-in.

Kedric Payne: And did you have an understanding that Representative Lujan wanted an email to be sent that day during the sit-in?

Pres. Boulder Strat.: I can't speak to whether or not the Congressman would have specifically requested that. I can only speak to the fact that we were instructed to send an email that day that was relevant to the topic at hand by the staff.

Helen Eisner: Who specifically in the staff instructed you to make that email relevant to the topic at hand?

Pres. Boulder Strat.: I do not recall, but it would typically have either ... It would have typically come from Aaron Trujillo.

Kedric Payne: What was Andrew Stoddard's role in that email?

Pres. Boulder Strat.: Andrew was typically the first edit process in all the emails. He was involved in their communications. He would typically edit emails before we got approval from Aaron and Angela to actually send those emails.

Kedric Payne: Okay. There's a line in that email that says, "Immediate dollar sign, dollar sign, after action, after the form submit." What does that mean?

Pres. Boulder Strat.: It means that if they had clicked on ... Somebody had read that email and clicked on the link that says "Sign or Pledge", once they actually got to the website, and they filled out the form on the website to add their name, then it would automatically redirect to a contribution page to where they would then be able to make a contribution if they so choose.

Kedric Payne: Okay. Did anyone direct you to add that feature to this particular email?

Pres. Boulder Strat.: No, they did not. That would be standard practice for most petitions that are related to things like this where we're trying to take an action and then immediately push them for an upsell into a contribution.

Kedric Payne: Okay. I want to ask you now about an email on June 23rd. You can go to the documents that were sent to you. It is bates stamped THRL0039?

Pres. Boulder Strat.: Three Nine ... Okay, yes I have it.

Kedric Payne: Can you take a look at it? That is an email that is from Aaron to you dated June 23rd, 2016. If you can just take a look at it and then just explain to me what it means and what happened.

Pres. Boulder Strat.: Yes. This would be the email. After we had sent the previous email that we just discussed, the day earlier. That email had performed quite well. This was an email from Aaron in the morning of June 23rd, at 9:29 am. That basically instructed us to prepare another rapid response email. So this was an email that was not on the calendar. It was not one that we had already prepared. It was one that they asked for specifically to be added to the schedule for the morning. They wanted it out as quickly as possible. That was him specifically saying the members have been on the floor for 24 hours as of 11:00, and he specifically wanted to do a money ask surrounding that issue.

Kedric Payne: Was it also standard for Aaron to give you a telephone call to discuss these details or to give you more context of the type of email or what they wanted you to do?

Pres. Boulder Strat.: That was quite rare. It was almost always done over email.

Kedric Payne: Okay. Did you get any indication from Aaron that this particular second email was something that the Congressman wanted to go out?

Pres. Boulder Strat.: He never specified that specifically and I did not have that conversation with him.

Kedric Payne: You mentioned that Drew Stoddard would take a first draft at emails such as this. Did he take a first draft, or review this email, or provide you any edits?

Pres. Boulder Strat.: He did not. This second email, because it was a rapid response email, our internal protocol for that we have approval processes that are written in, or that are in place that he requires. On standard emails, we have a two thumbs up approval process, which means that at least two of the four contacts needed to sign off an email before it gets sent. On a rapid response email, we only have a one thumbs up approval process, which means that only one person needs to say, "Yes" and ready to go. Because this was rapid response, we wrote it very quickly. We inserted it into the email system, and we got approval just from Aaron. Aaron gave the approval and then we pressed send. Nobody else was involved in the editing.

Kedric Payne: Did you have any communication with Representative Lujan-

Kedric Payne: Did you have communication with Representative Lujan during the drafting of this second email?

Pres. Boulder Strat.: I did not.

Kedric Payne: Can you also take a look at the email that is stamped THRL0080? It is from you to Aaron, dated June 23, at 11:33 am.

Pres. Boulder Strat.: Okay.

Kedric Payne: It says in there, "But it's ready to go when the boss wants to send it." Who was the boss that you were referring to there?

Pres. Boulder Strat.: I'm referring to Congressman Lujan.

Kedric Payne: Then was it standard for him to approve certain emails before you would send them?

1 Pres. Boulder Strat.: No, it is not standard. I believe I was simply saying that ... Hold on. Let me
2 read this second email for a second. It was not a practice for the
3 congressman to actually to read or approve the emails as far as I know. I,
4 again, was not involved in that process on their end. We, our process, is only
5 about the staff approval side of things. However, I believe there was a
6 conversation prior to this about the congressman wanting to time this email
7 appropriately. Therefore, I wrote that in the email to say that it was ready to
8 go whenever it was actually approved on their end.

9

10 Kedric Payne: Who told you about a desire to have it timed to the congressman's wishes?

11

12 Pres. Boulder Strat.: Because it's not in the email, specifically, I don't recall, but I would always
13 assume that that instruction came from Aaron. That was our primary point
14 of contact on things like this.

15

16 Kedric Payne: Did you receive the go-ahead from the congressman on this email?

17

18 Pres. Boulder Strat.: I did not receive any notification from the congressman. I also do not recall
19 offhand if the email went out, but I have to say I believe it did, however,
20 because it was the immigration case, and that was something that we had
21 been planning for. So it was something that ... This was an email that had
22 already been written more than a month earlier in expectation of the case
23 being decided. We had two different emails, one that, if it came down one
24 way, one if it came down another way, and it was simply about the timing on
25 their end of when they wanted to send it. I believe this email did go out, but I
26 do not have any knowledge of the actual approval from the congressman
27 from their end.

28

29 Helen Eisner: What phone conversations did you have with Aaron that day or that
30 morning about this email or the approval process?

31

32 Pres. Boulder Strat.: I truly do not recall, being that was many months ago, about this particular
33 instance.

34

35 Kedric Payne: Any more questions?

36

1 Helen Eisner: Going through these different emails and talking about June 22 and June 23,
2 and the solicitations that went out, after those dates, what conversations did
3 you have, I guess we'll start with the four individuals, with Aaron and
4 Andrew, and Angela and Steve, about these solicitations after the emails had
5 already gone out?

6

7 Pres. Boulder Strat.: The only conversations that we had had about these emails after they had
8 gone out was about the usage of an AP photograph in the fundraising email.
9 That was the only conversation that we had about this, beyond they went
10 out.

11

12 Helen Eisner: What was the nature of that conversation about the AP photograph?

13

14 Pres. Boulder Strat.: It was simply a conversation about whether the usage met certain standards.
15 There was basically a conversation about whether or not that was
16 appropriate at the time. Also, we basically set up a ... We agreed not to use
17 further images from the house floor, regardless of their sourcing, going
18 forward, despite that the email went through the appropriate approval
19 process.

20

21 Helen Eisner: How do you know that it was an AP photograph? What's the basis of that
22 statement?

23

24 Pres. Boulder Strat.: It was a photograph that we sourced publicly from an AP article that was
25 syndicated in thousands of papers across the country that day. It was an AP
26 source photograph. On their website it was sourced, and it was sourced as ...
27 I have pull it up here a second. It was sourced as "Credit to House Television
28 via AP." We kept the exact citation for that in the email itself, as well, for that
29 sourcing, practices of that. Because that's typically ... If it was publicly
30 sourced, it's our understanding that we can utilize publicly sourced images
31 in emails, with those citations.

32

33 Kedric Payne: Just so we're clear, the picture that you're referring to, is that the same
34 picture that is on document number THRL0042?

35

36 Pres. Boulder Strat.: That is correct.

37

1 Helen Eisner: We talked about conversations that might have occurred with staff after
2 June 23. What about with the congressman?
3
4 Pres. Boulder Strat.: I had no direct conversation with the congressman.
5
6 Kedric Payne: Were there any conversations after the emails were sent concerning the
7 nature of the language referring to the member being on the House floor
8 when the solicitation was made?
9
10 Pres. Boulder Strat.: There was no conversation about the language. There was only
11 conversations about the image.
12
13 Kedric Payne: Have you been contacted by Representative Lujan's office with respect to
14 this Office of Congressional Ethics review?
15
16 Pres. Boulder Strat.: Only as a heads-up that it was occurring.
17
18 Kedric Payne: Did you provide any documents, whether those are emails, letter or
19 correspondence to Representative Lujan's office or anyone acting on his
20 behalf?
21
22 Eric Kleinfeld: I don't know if we want to answer that question directly. I mean, there has
23 been attorney conversations that we're not going to divulge.
24
25 Kedric Payne: Well, what I'm referring to are documents being sent from your client to the
26 congressman or the congressman's representatives. So not to his attorney
27 and not regarding any legal advice.
28
29 Eric Kleinfeld: Okay. Well, he can answer a question as to whether he sent any documents
30 directly, not through an attorney, to the congressman or the congressman's
31 staff.
32
33 Kedric Payne: I don't see how you're seeing the attorney-client privilege that way. I also
34 will point out that, with the House of Representatives, attorney-client
35 privileges do not even apply. Nevertheless, I'm respectful of not needing to

ask for information I don't need, so I'm absolutely not trying to get into any advice that you gave him, because you're the only attorney for the client. I'm just trying to see whether or not there's been any production of documents that were given the congressman.

Helen Eisner: Either directly or indirectly.

Eric Kleinfeld: Again, we object to any question relating to whether attorneys may have provided documents to each other.

Kedric Payne: The situation is that, with our proceedings, this is not a ... And, Eric, I know you haven't dealt with our office before. This isn't a proceeding before a court, so there's no objection that can be made. Again, you've been-

Eric Kleinfeld: Well, I certainly can instruct him not to answer the question.

Kedric Payne: You actually cannot. Let me just set the tone here. I'm not trying to ... We're at the end of the interview, and I'm not trying to delay or cause any issue. But just to set the legal restrictions clear. If you have your client not answer, then we can find that he is not cooperating with this federal investigation. Now, that is not where I want to take this, but my final question for this interview is just to understand whether there's been a production of documents. Maybe I can do it this way. Would you prefer, Eric, that I sent you a request for information for all documents that are in your client's possession related to this matter, and do it that way? I just think that is going to be more cumbersome. I'm just trying to see whether or not any documents have been provided to Representative Lujan's office.

Eric Kleinfeld: Well, I understand what you're saying, and we're not trying to interfere with the spirit of the question. But my point is I think a narrowly tailored question or a more narrowly tailor is appropriate, but to say indirectly, I think that goes beyond what I would allow my client to answer.

Helen Eisner: I mean, this is our process. It's your client's choice whether he wants to be cooperative or not. He's been incredibly cooperative and answered all of our questions. It's extremely relevant to our board to understand when any witness in our review process has shared any information with another witness. I think anyone who understand the basics of investigations would

see that it's just a matter of understanding what information has been shared between key individuals who are relevant to our review. The question that Kedric asked was whether or not your client provided documents to the congressman's office. That would include whether he provided them directly of whether he gave them to counsel, and those were provided in turn to the counsel for the congressman's office or to staffers.

I think that, if we went back to our board and said a witness would refuse to answer whether or not documents were shared between key witnesses, that's something that they would consider very seriously. I don't think that we're trying to ask any type of trick question here. We're just trying to understand what information might have been passed between individuals. You've been very cooperative. If you want this request to come in a more formal way, I think Kedric suggested we're willing to work with you to figure out an avenue that make your feel comfortable. But this is an important part of our process. President of Boulder Strategies, we really appreciate you answering all of our questions. As a witness to this review, we're just kind of leaving it up to you. This is the final questions. Really, I think we've gotten everything else we need from you. So it's really up to President of Boulder Strategies whether you want to answer the question or not.

Eric Kleinfeld: How about, since we're doing this by telephone ... Again, I totally understand what you're saying, and yeah, President of Boulder Strategies does want to be cooperative, and I think you've recognized that. How about this? Is there an avenue by which President of Boulder Strategies and I can confer, and then we can get back to you?

Kedric Payne: Yes. You can confer with your client on this. I'm just point out the fact that, if he does not answer, you know the consequences. I just want you to understand that there's no basis for objection. But, clearly, feel free to speak to your client. This is moving very quickly. We have to present it to the board on this Friday. Would you be able to go get back to me no later than tomorrow?

Eric Kleinfeld: I was actually thinking something faster.

Kedric Payne: Okay.

1 Eric Kleinfeld: President of Boulder Strategies, are you somewhere where you can step
2 away from the telephone and I can call you on your cellphone?
3
4 Pres. Boulder Strat.: I'm actually on my cellphone, but you can call me on the number and I can
5 just put this one on hold and take that one.
6
7 Eric Kleinfeld: Yeah, okay. I'm going to step away and confer with my client, if you can bear
8 with us.
9
10 Kedric Payne: Sure.
11
12 Helen Eisner: Sure.
13
14 Eric Kleinfeld: For five minutes.
15
16 Kedric Payne: Okay.
17
18 Helen Eisner: And we're going to go ahead and pause the recording during that time
19 period.
20
21 Eric Kleinfeld: Thank you.
22
23
24 Kedric Payne: Okay, we're back on the record now. You had a chance to confer with your
25 client on that question?
26
27 Eric Kleinfeld: Yes.
28
29 Kedric Payne: All right, and ...
30
31 Eric Kleinfeld: We're ready to answer the question. Do you want to restate the question?

1

2 Kedric Payne: Sure. President of Boulder Strategies, have you provided any documents to
3 representative Lujan's office or anyone acting on his behalf related to this
4 matter that we've been discussing with you?

5

6 Pres. Boulder Strat.: I have not provided any documents to the congressman or to his staff
7 directly. I did provide one document to my attorney and I can assume that
8 that was passed along to the congressman's attorneys.

9

10 Kedric Payne: What was that document?

11

12 Pres. Boulder Strat.: It was a screenshot of a confirmation page within our email system which is
13 called HubSpot. It was simply a confirmation page that showed that I myself
14 was the one that officially hit send on the email to be sent on the mass email
15 tool.

16

17 Kedric Payne: Okay. Well that concludes all of our questions. If there's anything else you
18 think you want to share that you think would be helpful to the board just let
19 me know.

20

21 Pres. Boulder Strat.: No, I think I covered it all.

22

23 Kedric Payne: Okay. All right. Thank you. Oh, do you have another –

24

25 Helen Eisner: Okay, we're going to go –

26

27

EXHIBIT 5

Gmail

Angela Ramirez <[redacted]>

FOR IMMEDIATE APPROVAL Fwd: Preview Message - Rich Text - Staying on the Floor

Nick Passanante <[redacted]> Wed, Jun 22, 2016 at 7:11 PM
To: andrew stoddard <[redacted]>, Aaron James Trujillo <[redacted]>, Angela Ramirez <[redacted]>, Steve Fitzer <[redacted]>, Amir Salehzadeh <[redacted]>

Please review for immediate send.

We're making one change to the landing page form (removing the trump question).

Immediate $$ after action after the form submit.

---------- Forwarded message ----------
From: <[redacted]>
Date: Wednesday, June 22, 2016
Subject: Preview Message - Rich Text - Staying on the Floor
To: [redacted]

Not rendering correctly? View this email as a web page here.

BEN RAY LUJÁN

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea?**

Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy* bill.

My Republican colleagues would rather go on a 4th of July recess before voting on this time-sensitive bill. That's why we're on the House floor demanding action.

Enough is enough — no bill, no break. Full stop. SIGN HERE.

I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.

The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to *legally* purchase an AR-15, military-grade assault rifle.

Stand up if you support our sit-in.

At a minimum, we must come together, put aside our politics, and pass this commonsense measure.

Thank you,
Ben Ray

Contribute

Paid for and authorized by People for Ben.

[redacted]

EXHIBIT 6

Gmail

Angela Ramirez <[redacted]>

Another "Sit In" Email

Aaron Political <[redacted]> Thu, Jun 23, 2016 at 9:29 AM
To: Nick Passanante <[redacted]>, Andrew Stoddard <[redacted]>,
[redacted]

Please get another email ready for this morning. The members will have been on the floor for 24 hours, as of 11:00 this morning. We need to do a $$ ask on this.

Sent from my iPhone

EXHIBIT 7

Gmail

Angela Ramirez <[redacted]>

FOR APPROVAL: Preview Message - Rich Text - UPDATE: 24 hours and counting

Nick Passanante <[redacted]> Thu, Jun 23, 2016 at 10:48 AM
To: Aaron James Trujillo <[redacted]>, andrew stoddard <[redacted]>, Angela Ramirez <[redacted]>, Steve Fitzer <[redacted]>

For this morning. See below.

-------- Forwarded message --------
From: <[redacted]>
Date: Thu, Jun 23, 2016 at 8:45 AM
Subject: Preview Message - Rich Text - UPDATE: 24 hours and counting
To: [redacted]

Friend,

As we pass the 11am hour in Washington DC, **my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote on the bi-partisan *No Fly, No Buy* bill.**

Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.

Do you stand with us? Chip in $24 towards our emergency fundraising goal -- $1 for every hour we've been in the well of the House Chamber demanding action.

A moment of silence on the House floor is simply not enough to honor the lives of those we have lost. We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.

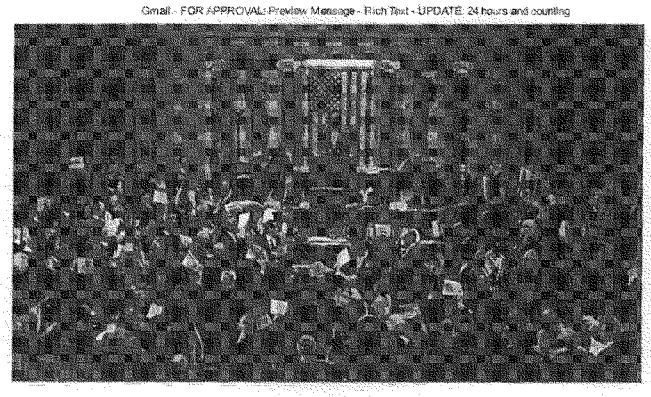

Image from video provided by House Television shows House Speaker Paul Ryan at podium attempting to bring House back in order late on night of June 22, 2016 as Democrats stand up from sit-in to hold up signs with names of mass shooting victims. | Credit: House Television via AP

Tell the GOP: It's simple -- No Fly, No Buy. No Bill, No Break. Click to contribute $24 (or whatever you can) right now to show your support!

As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.

Thanks for having our back,

-Ben Ray

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea?**

Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy* bill.

EXHIBIT 8

Transcript of Interview of Former Communications Director
February 28, 2017

1 Kedric Payne: So I just started the recorder, this is Kedric Payne and Helen Eisner, and we
2 are joined over the phone with Brian Svoboda and Rachel Jacobs, who are
3 representing Former Communications Director. Former Communications
4 Director, you said that you did receive the false statements act, and you are
5 aware that the false statements act is applicable during this conversation?
6
7 Former Comm. Dir.: Correct.
8
9 Kedric Payne: Okay. We are beginning the interview at 2:34PM and I just want to first start,
10 Former Communications Director, with asking you where you're currently
11 employed.
12
13 Former Comm. Dir.: Alliant Energy.
14
15 Kedric Payne: And what is your title there?
16
17 Former Comm. Dir.: It is ... Marketing and communications partner.
18
19 Kedric Payne: How long have you been employed with Alliant Energy?
20
21 Former Comm. Dir.: I started here October 17th, 2016.
22
23 Kedric Payne: Okay. And prior to your employment with Alliant, where were you employed?
24
25 Former Comm. Dir.: Congressman Ben Ray Lujan's office.
26
27 Kedric Payne: How long were you employed with Congressman Lujan?
28
29 Former Comm. Dir.: For about six years I started working for him in January of 2011.
30
31 Kedric Payne: And what was your title during that time period?
32

1 Former Comm. Dir.: I was a ... Deputy Chief of Staff and Communications Director.
2
3 Kedric Payne: And you kept that title the entire time?
4
5 Former Comm. Dir.: I actually started out as Communications Director and then ... shortly after I
6 had been there, I got the title of Deputy Chief of Staff as well.
7
8 Kedric Payne: Okay, and to whom did you report?
9
10 Former Comm. Dir.: To Angela Ramirez, the Congressman's Chief of Staff.
11
12 Kedric Payne: And did you have any direct reports?
13
14 Former Comm. Dir.: No. ... I'm sorry, if you could just clarify what you meant by direct reports?
15
16 Kedric Payne: Did anyone report to you?
17
18 Former Comm. Dir.: Not directly, no.
19
20 Kedric Payne: Okay. In which office did you work for the Congressman?
21
22 Former Comm. Dir.: I worked in his D.C. office.
23
24 Kedric Payne: And why did you leave employment with Congressman Lujan?
25
26 Former Comm. Dir.: Because I was looking for an opportunity to move to the Midwest and be
27 closer to family.
28
29 Kedric Payne: While you were employed in the congressional office did you perform any
30 campaign work ... Let me rephrase that so it's clear. During that time period

from 2011 to 2016, did you work on any campaign work for the Congressman?

Former Comm. Dir.: Yes, on a volunteer basis on my personal time.

Kedric Payne: And what type of work did you perform?

Former Comm. Dir.: I would ... write speeches, press releases, edit material that the campaign was producing.

Kedric Payne: Anything else?

Former Comm. Dir.: Those would be kind of the broad strokes, I mean, I reviewed fundraising e-mails that the campaign was sending out. I made phone calls close to Election Day, and went out and knocked on doors, those sort of things.

Kedric Payne: And for those fundraising e-mails, can you walk me through the type of work or drafting you would do for getting those out?

Former Comm. Dir.: Sure. Generally we would have our ... consultants that ... Boulder Strategies I believe is the name, or our finance team would usually draft up e-mails, and then I would ... they would send the others to review, and I was one of the people that generally would look at them and review them and sometimes offer edits.

Kedric Payne: And you would review them looking for what? What type of edits were you making?

Former Comm. Dir.: There's some punctuation, grammar stuff. Also things that were, you know, consistent with Congressman Lujan had been saying.

Kedric Payne: And when you say, "What he's been saying", what do you mean?

1 Former Comm. Dir.: Just things that would not be contradictory to ... a position that he's taken, or
2 a comment that he's made.
3
4 Kedric Payne: You mentioned Boulder Strategies was involved, who were the contact
5 people for Boulder Strategies?
6
7 Former Comm. Dir.: Nick ... I do not know how to say his last name, Passanante?
8
9 Kedric Payne: Right, yes, that's it.
10
11 Former Comm. Dir.: Yeah. There were other various members of his team that were included on
12 e-mails, but I don't remember their names.
13
14 Kedric Payne: And the finance team? Who were the members of the finance team?
15
16 Former Comm. Dir.: Steve Fitzner was the Congressman's finance person.
17
18 Kedric Payne: And when you say finance, I mean it can have multiple meanings, what do
19 you mean by the finance team? Finance people?
20
21 Former Comm. Dir.: Fundraiser.
22
23 Kedric Payne: Steve Fitzner, and anyone else on the finance team?
24
25 Former Comm. Dir.: It really was only him, I guess team is not the best way to put it. He was more
26 with the fundraiser and handled that duty for our Congressman.
27
28 Kedric Payne: What typically initiated these campaign solicitations that you would review?
29
30 Former Comm. Dir.: Usually the way the process worked is that they would send me something
31 when they had an idea for something they wanted to do.
32

1 Kedric Payne: And when you say, "They", you're referring to?

2

3 Former Comm. Dir.: It could be either Nick that had an idea, or Steve might've had an idea. Or
4 something they wanted to do, and they would send it for review.

5

6 Kedric Payne: Would you ever come up with an idea and have them begin a draft or send
7 something to them to review related to the campaign solicitations?

8

9 Former Comm. Dir.: I don't recall any specific instances, but ... I certainly couldn't say that that
10 never could've happened.

11

12 Helen Eisner: What about anyone else from the staff? Would anyone else have come up
13 with an idea and then pass that along to either Nick or Steve, or someone
14 else on the finance team to then initiate a solicitation?

15

16 Former Comm. Dir.: Aaron Trujillo, who was with the DCCC, was also someone who'd be on those
17 e-mails for review, and who might also offer ideas to them. Angela Ramirez
18 was also one who would be on there for review.

19

20 Kedric Payne: And what was Representative Lujan's role in these campaign solicitations in
21 general?

22

23 Former Comm. Dir.: I know at times he would review some of them, but that wasn't always the
24 case. I ... I don't remember specific instances, but he may have at times took
25 suggestions for things to do.

26

27 Kedric Payne: And when that would happen, when he would review them or he would
28 make suggestions, that would take place with you meeting with him in your
29 office, or some other type of way? How would those type of conversations
30 occur?

31

32 Former Comm. Dir.: I usually was not part of reviewing them with him. My role generally, I
33 would revise my edits back to Nick or Aaron, and someone else usually ...
34 that would kind of be the extent of my role. They may have been some
35 instances where I would mention we were working on it, but I left kind of

the review process to the campaigning consultants if they felt he needed to be involved.

Kedric Payne: When you provided your comments to Nick or Aaron would you meet with them and discuss your comments or have a telephone conversation? How would that typically occur?

Former Comm. Dir.: Usually it would be via email.

Kedric Payne: Where was Aaron located for the most part? Was he typically in the office when these types of things were going on or did you have to communicate with him in a different type of way?

Former Comm. Dir.: Well he worked over at the DCCC so I would either have to communicate with him via email or phone.

Kedric Payne: And Nick? Where was Nick located?

Former Comm. Dir.: I believe he was in Colorado but I ... I just know that he was remotely and not in the area.

Helen Eisner: If you did have any type of edits and you conveyed that to Nick or Aaron you said that at that point if they were going to bring something to the Congressman's attention it would go through them but not through you. What's your understanding of their process then for discussing any draft solicitation with the Congressman?

Former Comm. Dir.: I don't really know for sure.

Helen Eisner: Even if you don't know for sure, what's your understanding just based on working with them over a number of years of how it might have occurred?

Former Comm. Dir.: I don't want to speculate too much but in from my time working with them I think it developed into particular complexity or something they felt they needed to make sure the Congressman was aware of or wanted to make sure

they were saying something the way he would want it said then they may review it with him.

Helen Eisner: How would they review it with him?

Former Comm. Dir.: I don't know for sure. I would email or in person or over the phone, could have been a couple different ways. I don't know for sure.

Kedric Payne: Do you recall the sit in demonstration that happened in Congress on or about June 22, 2016?

Former Comm. Dir.: Yes.

Kedric Payne: Do you recall emails that Representative Lujan's campaign sent concerning that sit in?

Former Comm. Dir.: Yes.

Kedric Payne: Approximately how many emails were sent? I'm referring to the emails that were these campaign solicitations.

Former Comm. Dir.: Do you mean specifically that the campaign sent out or email as I've seen from the documentation you provided and from what I remember there were emails back and forth with edits, so do you mean all of those or just emails that went out from the campaign to [inaudible]?

Kedric Payne: The emails that went out from the campaign to potential donors.

Former Comm. Dir.: I believe there were two of them.

Kedric Payne: Okay. Can you walk us through each one? Walk us through the first one that you recall or the first one that was sent out.

1 Former Comm. Dir.: Sure. There was one that I believe that Nick had put together that he sent
2 around for our review that I did send edits to and sent back to him and that
3 is my only recollection of that one.
4
5 Kedric Payne: Do you have the documents that we sent over in front of you? I want to draw
6 your attention to a particular one.
7
8 Former Comm. Dir.: Yes.
9
10 Kedric Payne: The document Bates-stamped T-H-R-L-0-0-3-6 which is an email from you to
11 Nick dated June 22, 2016, can you take a look at that?
12
13 Brian Svoboda: Former Communications Director that will be page seven of the PDF that
14 you were sent and what Kedric called a Bates number is the number in the
15 lower right hand corner of the document.
16
17 Former Comm. Dir.: Okay. I'm sorry. Could you say the Bates number one more time?
18
19 Kedric Payne: Thirty-six. T-H-R-L-36.
20
21 Former Comm. Dir.: Okay. Yep, I have that one.
22
23 Kedric Payne: You see the draft email at the bottom of this document. Is that the one that
24 you were referencing just a moment ago?
25
26 Former Comm. Dir.: Yes.
27
28 Kedric Payne: Okay. What was your role again with this email? What did you do? I know
29 you mentioned that you made edits but just walk me through what
30 happened. How did you receive it and then what occurred after that?
31

1 Former Comm. Dir.: I received it from Nick, looks like asking for us to review it and so I would
2 have went through it for content as well as any grammatical or punctuation
3 issues and then sent back a couple of edits that I add to it.

4

5 Kedric Payne: Do you know what initiated Nick drafting this email?

6

7 Former Comm. Dir.: I don't recall what would have started that.

8

9 Kedric Payne: When you made your comments did you discuss those comments with
10 anyone other than what's on this email? What I mean is did you have any
11 phone conversations about those edits that you put into this email?

12

13 Former Comm. Dir.: I don't recall having any conversations with anyone about that.

14

15 Kedric Payne: Did you discuss the email with Representative Lujan at that time?

16

17 Former Comm. Dir.: I don't recall having any conversations with him about this when I was
18 editing it.

19

20 Kedric Payne: Is it possible that you spoke with him about it or communicated with him via
21 email or some other way at that time?

22

23 Former Comm. Dir.: I mean I don't recall but it's possible that when I saw him I might have told
24 him that we were working on this. I do recall that throughout that evening I
25 had a number of materials that I was working with him on from speeches
26 and social media stuff that I was telling him about and it's possible I may
27 have told him about this but I don't recall. I just don't recall a conversation
28 about it.

29

30 Helen Eisner: When you say working with him that evening were you present speaking
31 with him in person or was this through the phone? How were you
32 communicating with him?

33

34 Former Comm. Dir.: I was certainly speaking with him in person.

1

2 Helen Eisner: Okay.

3

4 Former Comm. Dir.: I may have ... There could have been some emails from my official account on
5 things that we were working with ... Things that we're doing on the floor as
6 well but I don't recall but I do know that I was speaking with him in person.

7

8 Helen Eisner: Those conversations in person, where did those occur?

9

10 Former Comm. Dir.: Those would have either been on the floor of the House or probably right off
11 the floor.

12

13 Kedric Payne: You were staffing the Congressman throughout that entire sit in
14 demonstration?

15

16 Former Comm. Dir.: Not the entire time. I was with him for a significant portion of the time but I
17 was not there the entire time.

18

19 Kedric Payne: Do you happen to know approximately when you were no longer there, even
20 if you don't know the precise time? Did you stay around midnight, after
21 midnight, or well before then?

22

23 Former Comm. Dir.: I was with him kind of shortly after everything started, which in my best
24 recollection is it was kind of early afternoon. I was kind of with him off and
25 on throughout the night because he wanted something ... To help him write a
26 possible speech that he may give on the floor or some remarks or if there
27 was other information pertinent to this that he wanted- So I was kind of
28 back and forth ... The floor to our office and my desk and I believe I was
29 there ... Pretty sure I didn't leave before 1 o'clock in the morning but I might
30 have been there as late as two-ish that morning.

31

32 Helen Eisner: And was any other staff with you providing the same kind of service, staffing
33 the congressman on the floor?

34

1 Former Comm. Dir.: Angela Ramirez would've also been on the floor at certain parts. I can't recall
2 exactly when but she also staffed the congressman generally when he was
3 on the floor. Sometimes we would switch off, sometimes we would both be
4 there. So, I think it's highly likely that during some of that point she was
5 probably down there.

6

7 Kedric Payne: Anyone else?

8

9 Former Comm. Dir.: Myself and Angela are the only two that had a pass to get on the floor.

10

11 Helen Eisner: And I know it's kind of hard to remember exactly the time going back a
12 number of months now but you left approximately one or two a.m. Do you
13 know what time you came back the next morning?

14

15 Former Comm. Dir.: It was probably nine or ten-ish in the morning, but probably close to nine to
16 my best recollection.

17

18 Helen Eisner: And at that point, what were your responsibilities when you returned to the
19 office that morning?

20

21 Former Comm. Dir.: I think at that point it was probably unclear whether the congressman
22 would be making more speeches on the floor so I think I was probably trying
23 to figure out if I needed to write anything else. Also, considering if I needed
24 to write anything more for social media or any press releases about what
25 transpired throughout the evening and what was going to continue to
26 transpire through the rest of the day.

27

28 Kedric Payne: Going back to June 22nd, that first day of the sit in, during your
29 conversations with the member over the course of the day and evening, did
30 he indicate to you that he wanted an email to go out on this topic?

31

32 Former Comm. Dir.: I do not recall any conversation to that effect.

33

34 Kedric Payne: So you mentioned a moment ago that there were two emails that you recall.
35 Let's go to the second one that was sent regarding the sit in, what do you
36 recall about that email? How it started and your role with getting it out.

1

2 Former Comm. Dir.: Well, I don't remember seeing this email until after it was sent out, maybe
3 even a couple of days later. I think with everything that had been going on
4 with the late night and then continuing in the morning, I don't think I had the
5 chance to ever look at that email and I think other people reviewed and
6 approved it and it went out and it wasn't until much later that I saw that it
7 had been sent.

8

9 Kedric Payne: And when you say "this email" are you referring to the email that's on
10 document bates stamped THRL0041?

11

12 Former Comm. Dir.: Yes, 41, pages 41 and 42.

13

14 Kedric Payne: Okay. Do you recall having any conversations with representative Lujan
15 about this email?

16

17 Former Comm. Dir.: I don't think I had any conversations with him, I don't recall any.

18

19 Kedric Payne: And are you aware of Representative Lujan requesting that this email be
20 sent out on the 23rd?

21

22 Former Comm. Dir.: Not to my knowledge.

23

24 Kedric Payne: I want to ask you about the document bates stamped THRL80? Probably the
25 last document that you have.

26

27 Brian Svoboda: Page 15 of the PDF.

28

29 Former Comm. Dir.: Got it. Okay.

30

31 Kedric Payne: There's an email from Nick to Aaron and you and Angela and Steve and Amir
32 and I wanted to have you ... if you'll read that first paragraph and I'll ask you
33 a question.

1

2 Former Comm. Dir.: Mm-hmm (affirmative), okay.

3

4 Kedric Payne: Okay, first who is Amir Salehzadeh?

5

6 Former Comm. Dir.: I believe he works, or worked at the time, for Boulder Strategies.

7

8 Kedric Payne: And do you know his role with Boulder Strategies?

9

10 Former Comm. Dir.: You know, I can't remember. I think he ... I don't know for sure.

11

12 Kedric Payne: In this email you see where Nick is discussing a ... An email related to DACA
13 but then he says see, he wants to "But it's ready to go when the boss wants
14 to send it."

15

16 Former Comm. Dir.: Mm-hmm (affirmative), mm-hmm (affirmative).

17

18 Kedric Payne: With him sending this email to you, what was the understanding of "who the
19 boss is" when it comes to this email?

20

21 Former Comm. Dir.: My understanding from this would be that the boss is congressman Lujan
22 however he wouldn't always be involved in the decision on when exactly to
23 send something.

24

25 Kedric Payne: And in this case, why would representative Lujan need to "OK" whether or
26 not these particular emails were sent?

27

28 Former Comm. Dir.: He wouldn't necessarily have to, someone else could have given Nick the
29 "OK" to send that without necessarily showing it to the congressman or
30 reviewing it with him.

31

32 Kedric Payne: We touched on this before but let me make sure I understand it. When it
33 comes to representative Lujan reviewing emails at this time period, around

June 2016, would it be 50% of the time he would need to review them? More than 50% or less than 50%?

Former Comm. Dir.: I'm really not sure because I don't remember kind of ... Let's see ... I don't know what others would have decided to show him for his reviews, I'm just not sure.

Kedric Payne: Would you say he was quite involved with the email solicitations and knowing what was going on, what was being sent?

Brian Svoboda: What do you mean by "quite involved"? Is there a more precise way I can get you to phrase that?

Kedric Payne: Well, I'll ask Former Communications Director. Former Communications Director, how would you rate his involvement with the review, and just awareness of email solicitations of this nature being sent.

Former Comm. Dir.: Then I would ... I would put kind of on the lower end. He wasn't reviewing everything that was going out. I don't know if others shared everything that went out, or at least after the fact. I mean, I know that they would update him on what they were working on at times, but I don't know the extent of if he knew every email that was going and what was in there.

Kedric Payne: Did you get the impression that he wasn't that interested in knowing which campaign solicitations were going out under his name?

Former Comm. Dir.: No. I think he was interested in a broader picture, but I don't think he was always felt like he had to read every last one of them.

Helen Eisner: I think you sort of explained your awareness and involvement in the two emails we've been discussing for June 22 and June 23. What about any conversations that you had with the congressman after they were sent? What can you tell us about those conversations?

Former Comm. Dir.: I don't know remember having any conversations with the congressman about it. I did have conversations with Angela Ramirez about the second

email, which would be number 42 and some initial discussion on the use of that picture. It was a discussion that it was from a news account and not directly from the floor.

Kedric Payne: When were you told that that it was from a news account and not from the floor?

Former Comm. Dir.: I don't remember specifically, but I believe it was Nick, Bolder Strategies, told us that's how they got it.

Helen Eisner: How did Nick communicate that to you?

Former Comm. Dir.: I don't remember if it was either email or if we had a call to talk about that.

Helen Eisner: Okay. When was that call, approximately, or email?

Former Comm. Dir.: I don't remember, because, again, I don't think I even saw that email for maybe even a couple days after.

Helen Eisner: Let me just make sure I understand. When you say you didn't see the email, you're talking about the second solicitation email, the number 42 one that you mentioned. But when you're talking about Nick and communicating about a picture, that's a separate communication? When would that communication have occurred, whether it was email or phone call?

Former Comm. Dir.: A couple days after the solicitation was sent, when I would have seen it for the first time, sometime after that there was some sort of communication about it.

Helen Eisner: Okay. What else can you tell us about that communication?

Former Comm. Dir.: Not much. I mean I don't think that there's much more to add to what I've already said.

1 Helen Eisner: Did Nick discuss anything else besides information relevant to the picture?

2

3 Former Comm. Dir.: Not that I recall.

4

5 Helen Eisner: Was anyone else involved in the communication from Nick?

6

7 Former Comm. Dir.: It's possible that Angela Ramirez and Aaron Trujillo would have also been
8 involved.

9

10 Kedric Payne: Did there come a time when you became aware of not only the concern
11 about the picture but also of the nature of the solicitation being connected
12 with the house floor proceedings?

13

14 Brian Svoboda: I didn't follow that. I'm sorry.

15

16 Helen Eisner: I'm sorry. We had a train going by in the background. Sometimes that makes
17 our questions hard to hear.

18

19 Kedric Payne: Former Communications Director, did you understand the question?

20

21 Former Comm. Dir.: I think I did. Maybe you could just repeat it one more time.

22

23 Kedric Payne: When did you become aware of concerns about the nature of that
24 solicitation being connected with the member's presence on the House floor?

25

26 Former Comm. Dir.: I think the first time that would happen was when there started to be some
27 news reports about that sort of activity and Republican members talking
28 about it and bringing up issues surrounding it. I think that was the first time
29 I became aware.

30

31 Kedric Payne: Did you have conversations with Angela about that, similar to the one you
32 had about the picture?

33

1 Former Comm. Dir.: Yes, I believe we discussed the issues around it.

2

3 Kedric Payne: What did she say?

4

5 Former Comm. Dir.: I don't remember specifically. I believe that ... Let's see. I just don't
6 remember many details of our conversations. I think we talked about the
7 rules as we understood them and why we thought everything was okay with
8 what we had done.

9

10 Kedric Payne: Did you inform the member of this issue?

11

12 Former Comm. Dir.: I don't recall having a conversation with him about it. I believe someone else
13 informed him of it?

14

15 Kedric Payne: Who do you think informed him?

16

17 Former Comm. Dir.: I don't want to speculate too much, but I think something like this. It would
18 have probably been Aaron who would have done it.

19

20 Kedric Payne: You mentioned some emails or potential emails. Did you perform a search of
21 your Gmail account for any documents related to this matter?

22

23 Former Comm. Dir.: Yes.

24

25 Kedric Payne: Did you provide those emails to anyone?

26

27 Former Comm. Dir.: No.

28

29 Kedric Payne: Okay. Approximately how many emails were you able to pull?

30

1 Former Comm. Dir.: I think ... Well, it kind of depends on how you count them, because Gmail
2 kind of puts those of similar subjects together. I think there were maybe two
3 or three.

4

5 Kedric Payne: What was the content of those emails? What are they discussing?

6

7 Former Comm. Dir.: I know I found one where I ... I don't remember who I sent it to, but where I
8 said that I hadn't seen or reviewed this second solicitation due to everything
9 that had been going on. I hadn't seen it prior to going out.

10

11 Kedric Payne: The others?

12

13 Former Comm. Dir.: The others were similar to what you have there. Edits, peoples' comments
14 on there. Those are the ones that I looked at.

15

16 Kedric Payne: Do any of those emails have Representative Lujan as a recipient or a sender?

17

18 Former Comm. Dir.: Let's see. I think at one point ... Well, after the second solicitation had been
19 sent, I think I forwarded it to him.

20

21 Kedric Payne: Okay. What's the date of that email?

22

23 Former Comm. Dir.: I have to look it up.

24

25 Brian Svoboda: Let's let the record to establish, Kedric, I'm not aware that Former
26 Communications Director's received a request for documents. Was one
27 tendered in your initial contact with him?

28

29 Kedric Payne: It was not. In the initial contact with him, there was not a request for
30 documents, just be patient for about a moment or so and that will occur.

31

32 Brian Svoboda: I just want the record to be clear that he hasn't somehow failed to meet
33 some sort of request that's already been tendered.

1

2 Kedric Payne: Absolutely not. This is in no way to imply that he's been anything but
3 cooperative. I've had multiple conversations ... Well, one conversation with
4 Former Communications Director, and he's always been cooperative. In no
5 way are we trying to imply that he has not. Do you see the date there,
6 Former Communications Director?

7

8 Former Comm. Dir.: I am looking for it now. Okay, it looks like on ... Let's see if this is actually the
9 right one. On June 27, I forwarded the email from Nick with the second
10 solicitation to the congressman.

11

12 Kedric Payne: Okay. Was there any other email that you were able to locate that had
13 Representative Lujan as a recipient or as a sender?

14

15 Former Comm. Dir.: That is the only one that I see right here. That looks to be the only one.

16

17 Helen Eisner: The email that you forwarded to the congressman on June 27, you
18 forwarded an email from Nick. When did that email ...What's the date on the
19 email from Nick that you then forwarded on June 27?

20

21 Former Comm. Dir.: June 23. The email that you have, document 41, that's what I forwarded on
22 to the congressman on the 27.

23

24 Kedric Payne: Okay. Former Communications Director, this is going to what Brian just
25 mentioned. We are requesting documents from you at this moment. We
26 request all of your emails from the date of June 21 through June 24,
27 including this June 27 email, which is a little bit outside of it.

28

29 Brian Svoboda: Kedric, it may be helpful if you would tender that request, actually, to me. An
30 email will be fine, but I'd like that in writing so that we can receive it and
31 know exactly what he needs to comply with. And the June 27 email is
32 actually a great example. I mean, it's either inside the scope or it's not. I
33 mean, we have no concern one way or the other, but if he's going to receive a
34 request for information, I'd like it to be in writing so that we can help him
35 objectively determine how he can comply with that.

36

1 Kedric Payne: I agree, and I always intended to put it in writing, but I just want to let you
2 know now what that will look like when we ... Well, I'm requesting it now,
3 but I'll put it in writing. Former Communications Director, we're going to
4 request your emails from that date range, June 21 to June 24, 2016 and the
5 emails that are related to campaign solicitations for Representative Lujan.
6 We will point out the June 27 email that you just mentioned is also what we
7 would like to see. Let me just make this clear, again. You're saying that you
8 have not already provided any documents to your counsel?

9

10 Former Comm. Dir.: I have not.

11

12 Kedric Payne: Okay.

13

14 Brian Svoboda: Kedric, to be clear, we'll see if, when the written request comes over, that
15 you're not asking Former Communications Director for all of his emails on
16 any subject between June 21 and June 24, correct?

17

18 Kedric Payne: I'll put it in writing, Brian. We will not doing anything that is over board,
19 because we have a limited amount of time. So, no. What I'm requesting are
20 limited to what you received for the other witnesses.

21

22 Brian Svoboda: Okay.

23

24 Kedric Payne: All right.

25

26 Brian Svoboda: Okay, great. We'd be glad to entertain that request and respond properly.

27

28 Kedric Payne: Okay. Thank you so much. Former Communications Director, we don't have
29 any more questions. If there anything you want to share because you think it
30 just would inform what we are trying to collect, so that we can provide it to
31 the board, please let us know.

32

33 Former Comm. Dir.: Thank you. I don't think I have anything else to provide at this time.

34

35 Kedric Payne: All right. Thank you.

1

2 Brian Svoboda: Kedric, if I could have on the record just a request that, if OCE transcribes
3 Former Communications Director's with the possibility of future publication,
4 that he might receive a copy of that for his review.

5

6 Kedric Payne: Okay. You are on the record, and that is our standard policy, to let you view
7 it and provide any errors or so that you see in there. All right. Thank you,
8 everyone. I am ending the record at 3:22 pm.

9

APPENDIX 2

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June 2, 2017

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The Honorable Susan W. Brooks, Chairwoman
The Honorable Theodore E. Deutch, Ranking Member
U.S. House of Representatives Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Re: Review No. 17-8362

Dear Chairwoman Brooks and Ranking Member Deutch:

On behalf of Representative Ben Ray Luján ("the Congressman"), we write in response to the above-referenced referral from the Office of Congressional Ethics ("OCE"). We respectfully request that the Committee on Ethics ("the Committee") dismiss this matter and take no further action.

INTRODUCTION

This referral is about whether Representative Luján—after cooperating completely with OCE in its review—should face continued investigation over three emails:

1. The first email was sent by a campaign vendor in Colorado. It was written in the Congressman's "voice" and said he was on the House floor. But the evidence is clear and uncontroverted: the Congressman did not write the email, he did not see it before it was sent, and the vendor sent it from private space more than a thousand miles away from the U.S. Capitol. Still, OCE alleged that Representative Luján may have solicited a contribution from a federal building in violation of 18 U.S.C. § 607.

2. The second email was also sent by the campaign vendor. It contained a photo of the House floor that the vendor took from a news article. Again, the evidence is clear: the Congressman did not write or approve the email, the vendor sent it from Colorado, the Congressman did not know about the email beforehand, and his representatives later took steps to see that the vendor used no such images in future communications. Still, OCE alleged that Representative Luján may have solicited a contribution from a federal building and used an image of House floor proceedings for political purposes.

3. The third email was three words long, sent by Representative Luján to a campaign aide: "Get something out." The record does not show that the Congressman was in House space when he sent that email. Rather, it shows that he was in and out of the Capitol building during that afternoon. The record also shows that there was no connection

> between this email and the other two emails at issue in this review, because the campaign vendor had already planned to email about this same topic, and the Congressman's campaign aide said consistently that he took no action on the Congressman's email. Still, OCE alleged that Representative Luján may have "conducted campaign or political activity from the House floor."

OCE appears to have been unsure about the basis for further investigation. Its Board divided over whether to send the referral in the first place.[1] Its Findings could not even consistently state one of the allegations.[2] Its Board found "that Representative Luján was cooperative throughout the review"; that "the evolving nature of electronic communications and campaign solicitations sometimes presents novel issues that are not directly addressed by the House Ethics Manual"; that the "review raised difficult questions about the application of House rules to solicitations via email"; and that "Members may benefit from additional guidance regarding campaign activities and electronic communications."[3]

However, Representative Luján's complete cooperation with OCE gives the Committee a full record that should allow it to resolve and close this matter. A correct review of that record should lead the Committee to find that the referral was erroneous, and that the facts and the law fail to support any of the alleged violations. The Committee should immediately dismiss this referral and take no further action.

FACTUAL BACKGROUND

On June 22 and June 23, 2016, Representative Luján participated in a "sit-in" on the House floor regarding gun legislation with many of his Democratic colleagues.[4] He "was on the floor off and on until the next morning."[5] For example, he sat on the House floor "for a period of time and then [he] had a lunch or [he] had a meeting outside of the building."[6] He also "left for a bit of time and then [he] came back to the floor during the night."[7] The Congressman recalls that "[t]here were people gathering outside the Capitol, so members would leave periodically to go and either just stand with the crowd or speak to the crowd" and he would take bathroom breaks, take walks "outside to the front of the building of the Capitol, just get a breath of air, and then go back in."[8] Representative Luján and other members would "go inside and outside of the Capitol

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[1] *See* Report and Findings at 1.
[2] *Compare* Report and Findings at 2 ("II. Representative Luján may have violated House rules and standards of conduct by requesting that a campaign committee soliciation [sic] be issued while in a House building") *with id.* at 5 ("II. Representative Luján may have violated House rules, standards of conduct, *and federal* law by requesting that a campaign committee *communication be issued while on the House floor*") (emphases added).
[3] Report and Findings ¶ 46.
[4] *See* Report and Findings, Exhibit 1, page 22, lines 13-18 (17-8362_0024).
[5] Report and Findings, Exhibit 1, page 23, lines 19-20 (17-8362_0025).
[6] Report and Findings, Exhibit 1, page 23, lines 20-22 (17-8362_0025).
[7] Report and Findings, Exhibit 1, page 24, lines 2-3 (17-8362_0026).
[8] Report and Findings, Exhibit 1, page 24, lines 4-10 (17-8362_0026).

Building to the front there, in front of the steps or in front just to chat with another member…just to get a little bit of that cold air on your face that night."[9]

This review involves three emails sent during those two days. Two of them were drafted and sent by Boulder Strategies, a private political consulting firm to People for Ben, the Congressman's principal campaign committee. The campaign hired Boulder Strategies for "online fund-raising and digital strategy" during the 2016 election cycle.[10] Boulder Strategies would send email petitions and solicitations for contributions to People for Ben supporters.[11] Like many other candidates, Representative Luján participated only occasionally in this process, largely entrusting the review and dissemination of these emails to his campaign team.[12] The third email was a private email that Representative Luján sent to a campaign aide on a private device from a personal account.

I. The June 22 campaign email sent by Boulder Strategies

Sent on June 22, 2016, the first campaign email sent by Boulder Strategies was one that the vendor was "already planning to send"[13] when the sit-in unfolded. That email said:

> Friend,
>
> Today I join countless colleagues on the House floor to demand action that will make our country safer.
>
> Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea?**
>
> **Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy bill*.**
>
> My Republican colleagues would rather go on a 4th of July recess before voting on this time-sensitive bill. That's why we're on the House floor demanding action.
>
> **Enough is enough — no bill, no break. Full stop. SIGN HERE.**
>
> I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.

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[9] Report and Findings, Exhibit 1, page 25, lines 12-16 (17-8362_0027).
[10] Report and Findings, Exhibit 1, page 6, lines 1-3, 10 (17-8362_0008).
[11] *See* Report and Findings, Exhibit 1, page 9, lines 19-22 (17-8362_0011).
[12] *See* Report and Findings, Exhibit 1, page 11, lines 1-6 (17-8362_0013); Report and Findings, Exhibit 2, pages 23-27 (17-8362_0086-90); Report and Findings, Exhibit 4, pages 3-4 (17-8362_0167-68).
[13] Report and Findings, Exhibit 4, page 6, lines 16-17 (17-8362_0170).

> The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to *legally* purchase an AR-15, military-grade assault rifle.
>
> Stand up if you support our sit-in.
>
> At a minimum, we must come together, put aside our politics, and pass this commonsense measure.
>
> Thank you,
>
> Ben Ray[14]

The email asked supporters to sign a petition and contained a "Contribute" button, which was a standard feature of the vendor's emails, even those that were not intended to raise funds.[15] It was sent through the campaign's normal process. Under that process, Boulder Strategies would work with campaign representatives to develop a monthly calendar of emails to send for the campaign; the staff at Boulder Strategies "wrote the content" and then campaign representatives would "review all that content and provide edits or feedback and then the final approval on actually sending e-mails on their behalf."[16] Representative Luján did not have a role in final approval of these emails. Rather, Boulder Strategies' "approval process was strictly related to the staff contacts" at the campaign.[17]

When this first email was drafted, it "was already in the pipeline."[18] The President of Boulder Strategies inserted the "first line of the email that talked about [Representative Luján] being on the floor to make it relevant for the day's topic."[19] This language was submitted without any contact or communication with Representative Luján or his staff.[20] Representative Luján had no role in the language being drafted.[21] He did not review or approve the email before it was sent.[22]

II. The June 23 campaign email sent by Boulder Strategies

The second campaign email sent by Boulder Strategies was sent the next morning on June 23, 2016, and was prompted by an email sent from a campaign aide to the President of Boulder Strategies, as would happen from time to time.[23] Specifically, the campaign aide requested that

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[14] Report and Findings, Exhibit 5 (17-8362_0184) (emphasis original).
[15] Report and Findings, Exhibit 4, page 9, lines 1-3 (17-8362_0173).
[16] Report and Findings, Exhibit 4, page 3, lines 21, 31-34 (17-8362_0167).
[17] Report and Findings, Exhibit 4, page 3, lines 36-37 and page 4, lines 1-2 (17-8362_0167-68).
[18] Report and Findings, Exhibit 4, page 6, line 16 (17-8362_0170).
[19] Report and Findings, Exhibit 4, page 6, lines 17-19, page 7 lines 14-17 (17-8362_0170-71).
[20] Report and Findings, Exhibit 4, page 7 lines 19-22, 31-32, page 8, lines 1-3 (17-8362_0171-72).
[21] *See* Report and Findings, Exhibit 1, page 36, lines 14-16 (17-8362_0038).
[22] Report and Findings, Exhibit 1, page 36, lines 17-21 (17-8362_0038).
[23] Report and Findings, Exhibit 4, page 3 lines 27-28 (17-8362_0167).

Boulder Strategies "get another email ready for this morning. The members will have been on the floor for 24 hours, as of 11:00 this morning. We need to do a $$ ask on this."[24] This second email said the following:

> Friend,
>
> As we pass the 11am hour in Washington DC, **my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote on the bi-partisan *No Fly, No Buy* bill.**
>
> Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.
>
> **Do you stand with us? Chip in $24 towards our emergency fundraising goal -- $1 for every how we've been in the well of the House Chamber demanding action.**
>
> **A moment of silence on the House floor is simply not enough to honor the lives of those we have lost.** We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.
>
> **Tell the GOP: It's simple -- No Fly, No Buy, No Break. Click to contribute $24 (or whatever you can) right now to show your support!**
>
> As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.
>
> Thanks for having our back,
>
> -Ben Ray[25]

This second email also contained a photograph of the House floor. The email contained no audio or video of floor proceedings. Rather, the photograph was a still image of the House floor that was drawn from a CBSNews.com/AP story, which in turn credited that image to "House Television via AP."[26]

As with the first campaign email sent by Boulder Strategies, Representative Luján was not consulted regarding the drafting of this email, nor was he aware of the use of the image.[27] At

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[24] Report and Findings, Exhibit 6 (17-8362_0186).
[25] Report and Findings, Exhibit 7 (17-8362_0188-89) (emphasis original).
[26] Report and Findings, Exhibit 7 (17-8362_0188-89).
[27] Report and Findings, Exhibit 4, page 10, lines 17-20.

10:48 am, the President of Boulder Strategies sent a draft of the email to the campaign aide and other members of Representative Luján's campaign team at their personal email addresses, but not including Representative Luján.[28] Representative Luján had no role in the email being sent. He did not read a draft of the email before it was sent, did not approve of the sending of the email, and did not request that the email be sent.[29]

III. The June 22 email sent by Representative Luján to a campaign aide

The third email at issue in this review was sent by Representative Luján to a campaign aide on a private device and private account. According to the email, it was sent at 4:02 pm on June 22, 2016.[30] Representative Luján forwarded an email he had received from another Member's campaign about the sit-in.[31] He said simply: "Get something out."[32] This was the sort of communication the Congressman would sometimes send to the campaign aide, who was the "person that [he] would communicate with things like this."[33] Despite the email's terseness, it represented no command or specific direction. Rather, "once every few weeks" Representative Luján would forward an email along this [campaign aide] or someone else to say "hey…this looks like something we should consider."[34] As the Representative acknowledged, "just because [he] sent it didn't always mean that Boulder [Strategies] would do something with that idea that [he] would see anyway."[35] "[S]ometimes they, Boulder Strategies, would send something out, sometimes they wouldn't."[36]

The record does not establish where Representative Luján was when he sent this email. While he was participating in the sit-in, he "was in and out of the Capitol quite a bit" and does not "remember exactly where [he] was when [he] sent" the email.[37] Under repeated questioning by OCE, Representative Luján said that "it's possible" that he sent the email to the aide while he was "within the House, Capitol Building" but he did not "remember where [he] was."[38]

OCE asked about the email between Representative Luján and his campaign aide only because the Congressman produced this same email himself voluntarily to OCE. As the OCE Board noted, "Representative Luján was cooperative throughout the review."[39] Nonetheless, OCE used the email as the basis for a third allegation against Representative Luján that had not been

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[28] Report and Findings, Exhibit 7 (17-8362_0188-89).
[29] Report and Findings, Exhibit 1, page 38, lines 21-22; page 39 lines 1-9 (17-8362_0040-41).
[30] Report and Findings, Exhibit 2 (17-8362_0061).
[31] *Id.*
[32] *Id.*
[33] Report and Findings, Exhibit 1, page 27, lines 14-15 (17-8362_0029).
[34] Report and Findings, Exhibit 1, page 20, lines 11-12, 14-15 (17-8362_0022).
[35] Report and Findings, Exhibit 1, page 20, lines 16-18 (17-8362_0022).
[36] Report and Findings, Exhibit 1, page 30, lines 3-4 (17-8362_0032).
[37] Report and Findings, Exhibit 1, page 34, lines 11-14 (17-8362_0036).
[38] Report and Findings, Exhibit 1, page 34, lines 11, 15-17 (17-8362_0036).
[39] Report and Findings ¶ 46.

previously disclosed to him in the review—that the Congressman himself "conducted campaign or political activity from the House floor ..."[40] OCE referred the allegation even though the record showed Representative Luján may have been outside the Capitol or House buildings when he sent the three-word email.

LEGAL DISCUSSION

I. None Of The Emails In This Matter Violated 18 U.S.C. § 607

There is no factual or legal basis to allege that Representative Luján "solicited a campaign contribution from a federal building."[41] While cooperating completely with OCE, Representative Luján proved beyond a reasonable doubt that the two campaign emails sent by a private campaign vendor were indeed sent by Boulder Strategies from private space in Colorado— more than 1,000 miles away from the Capitol.[42] The third email, from Representative Luján to his campaign aide, presents no issues whatsoever under 18 U.S.C. § 607, as it does not solicit a contribution at all. The Committee should dismiss summarily this baseless allegation.

Federal criminal law makes it "unlawful for an individual who is an officer or employee of the Federal Government, including...Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal...election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person."[43] This law prohibits (1) a Member of Congress (2) from soliciting or receiving money or a thing of value from any person (3) in connection with a federal election (4) while in any room or building occupied in the discharge of official duties by an officer or employee of the United States. Thus, a Member is prohibited from soliciting a campaign contribution in his House office, or in another building of the House of Representatives where he is performing official duties as a Member of Congress.

The Committee has made clear that 18 U.S.C. § 607 was "designed to address *coercive* activities— that is, political 'shakedowns'—directed at Federal employees."[44] That statute is "designed to protect Federal employees from coercion *vis-a-vis* political solicitations and ... this protection extends to the workplace—a Federal building."[45] For this reason, in 1985 the Committee found that the statute did not apply when a private DCCC contractor sent a fundraising solicitation with two Members' signatures and on the letterhead of the DCCC's

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[40] *Compare* Letter from Omar S. Ashmawy to Representative Luján (Feb. 6, 2017) ("statement of the nature of review") *with* Report and Findings at 1 ("nature of the alleged violation").
[41] Report and Findings at 1.
[42] About Us, Boulder Strategies, http://www.boulderstrategiesllc.com/about (last visited May 25, 2017).
[43] 18 U.S.C. § 607(a)(1).
[44] H. Rep. No. 99-277, at 4 (1985) (emphasis in original).
[45] *Id.*

Chair to other Members of Congress inside their House offices.[46] Although the use of House staff or office space to send a political fundraising solicitation would "represent an inappropriate use of resources" covered by official allowances, the specter of coercion is necessary for the solicitation to violate 18 U.S.C. § 607.[47]

Besides quoting the text of the statute,[48] OCE offers no exegesis of it, nor any explanation of how it could apply to any of the three emails at issue in this review. In fact, the Findings provide a subtle hint that OCE was divided over whether the statute applied. The Findings' Table of Contents refers to "a campaign committee soliciation [sic]," while the corresponding body text refers only to "a campaign committee *communication*."[49]

In any case, none of the emails meets any of the elements of 18 U.S.C. § 607. The record shows that the June 22 and June 23 campaign emails were sent not by Representative Luján, but by Boulder Strategies, a private political consulting firm operating in private space in Boulder, Colorado. No federal officer sent these emails, and no federal building was involved. Despite OCE's suggestion to the contrary, 18 U.S.C. § 607 cannot extend to the conduct of third parties in private space that is merely "contemporaneous" with when the Member is "on the House floor."[50] Otherwise, every time a Member votes on the floor, or attends a committee hearing, or sits in her office, she would have to worry about what her campaign's telemarketers are doing at that moment in their offices, or what her campaign's direct mail consultants are sending from theirs. OCE offered no authority to support such an expansive reading of the statute—and there is none.

Nor does Representative Luján's June 22 email to his campaign aide meet any of the elements of 18 U.S.C. § 607. The record strongly indicates that this email may have been sent from outside federal space. Moreover, that email was neither a solicitation nor a request for a solicitation. The Congressman's three-word communication—"Get something out"—cannot be construed as a solicitation, nor as a request for a fundraising solicitation, because the record shows the Congressman's campaign often emailed for purposes besides fundraising.[51] Even if the email could be construed as a request for a solicitation, the statute would not reach it. Rather, 18 USC § 607 reaches only the actual solicitation and receipt of contributions—which makes sense, given its purpose of presenting shakedowns. Finally, none of the emails is even alleged to have involved any sort of coercion, making the statute inapplicable to all of them.

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[46] *See id.* at 3-4, 18.
[47] *Id.* at 17-18.
[48] Report and Findings at 6.
[49] *Compare* Report and Findings at 2, 5 (emphasis added).
[50] Report and Findings ¶ 47.
[51] *See, e.g.*, Report and Findings, Exhibit 3, p. 20, lines 5-12 (17-8362_0083).

Neither the facts nor the law support the fanciful allegation that Representative Luján "solicited a campaign contribution from a federal building."[52] The Committee should summarily dismiss this allegation.

II. A Vendor's Use of a Still Photo From a Commercial News Outlet Does Not Violate the Restrictions on Using Video Coverage of House Proceedings

The June 23 campaign email sent by Boulder Strategies contained a photograph of Democratic Members on the House floor during the sit-in. Boulder Strategies took this photograph from a CBSNews.com/AP story and inserted it into the email, crediting the image to "House Television via AP." Moreover, they did so without the Congressman's knowledge. The facts and law provide no basis for further action against Representative Luján for use of this photograph.

House Rule 5 regulates "a system for complete and unedited audio and visual broadcasting and recording of the floor proceedings of the House."[53] To implement this system, Rule 5 prohibits Members from using coverage and recordings "for any partisan political campaign purpose."[54] The rule's purpose is to promote decorum in House debate by minimizing the likelihood of its future political use. The rule also buttresses the general prohibition on the use of official resources for political purposes. There is no clear authority that extends the prohibition to the use of a still photo obtained from a private, non-House source that itself was only indirectly derived from floor video coverage.[55]

Thus, House Rule 5's prohibitions do not clearly apply to the email at issue in this review. Even if they did apply, the record shows that Representative Luján did not know that the photo would be used, and that he disapproved of its use when he learned of it later.[56] Members can be held responsible for the conduct of their vendors and agents, and they should take reasonable steps to ensure compliance. Still, in a case like this, a vendor's departure from the Member's expectations of compliance and the own Member's lack of knowledge weighs against the Member's responsibility for the vendor's conduct.[57]

Finally, even if House Rule 5 covered the email, and even if the Member were appropriately held responsible for the resulting lapse, that would be the sort of matter that the Committee would normally handle in an advisory fashion. Each election cycle is replete with charges and counter-

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[52] Report and Findings at 1.
[53] Rule 5, cl. 2(a), Rules of the House of Representatives (114th Congress).
[54] Rule 5, cl. 2(c)(1).
[55] *See* House Ethics Manual at 128 (advising simply that "[b]roadcast coverage and recordings of House floor proceedings may not be used for any political purpose under House Rule 5, clause 2(c)(1).").
[56] *See* Report and Findings, Exhibit 1, pages 39-41(17-8362_0041-43); Report and Findings, Exhibit 3, pages 65-66 (17-8362_0128-29); Report and Findings, Exhibit 4, page 12 (17-8362_0176).
[57] *See, e.g.*, H. Rep. No. 99-277, at 19 ("since the DCCC had no knowledge of Wilhelm's actions on its behalf, it follows that the DCCC should not be held liable for whatever actions Wilhelm took *vis-a-vis* the solicitation efforts ...").

charges that Members and Members-elect have used actual *video* of the House floor in campaign television ads. Such claims are commonly, wisely and proportionately resolved without resort to public investigative processes like this one. To engage in months of investigation over a campaign vendor's single use of a still *photograph* obtained from a non-House source is unprecedented overkill—especially when the Member's representatives, after learning of the use, disapproved and took steps to prevent recurrence.[58]

The facts and the law do not support OCE's recommendation of investigation over the use of the photo in the June 23 campaign email sent by Boulder Strategies.

III. The Record Does Not Support a Finding Against Representative Luján Over His June 22 Email to His Campaign Aide.

Because Representative Luján cooperated completely with OCE's review, he produced to OCE an email he sent from a private device and a private account to a campaign aide. Forwarding a separate email that he had received from another Member's campaign, the Congressman told the aide simply: "Get something out." From this lone email, OCE assumed that Representative Luján requested a campaign communication while in a House building and used official resources for political purposes.

However, as noted above, the record does not show that Representative Luján was in House space when he sent the email. Even if he had been in House space, a single three-word email sent on a private device without using House staff or equipment would not provide a sufficient basis for continued investigation and enforcement.

Representative Luján does not dispute that official House resources may not be used for campaign or political purposes,[59] nor that this prohibition extends to House buildings.[60] As the House Ethics Manual says, these prohibitions stem from 31 U.S.C. § 1301(a), which provides that "[a]ppropriations shall be applied only to the objects for which appropriations were made."[61] Because "public funds may be used only for the purpose or purposes for which they were appropriated,"[62] and because "unauthorized items" may not be charged "to any appropriation,"[63] House buildings are considered "official resources" and hence cannot be used for non-appropriated purposes.[64]

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[58] *See* Report and Findings, Exhibit 4, page 12, lines 16-19 (17-8362_0176).
[59] House Ethics Manual at 123-24.
[60] *Id.* at 127, 145.
[61] *Id.* at 145; 31 U.S.C. § 1301(a).
[62] Principles of Appropriations Law, U.S. Government Accountability Office 4-6.
[63] *Id.*
[64] House Ethics Manual at 127.

Still, OCE's referral fails to present any substantial reason to believe that Representative Luján would have committed an actionable violation, even if he had been in House space when he sent the email. First, he used a private account and private device to send that email. He used neither House staff nor House equipment to send it. Second, without seeking in any way to undermine the general prohibition on using official resources for campaign activity, drafting and sending a three-word email involves less use of appropriated resources than certain activities the rules expressly permit, like the "Member-to-Member solicitations" in House buildings that the Committee has expressly and consistently permitted.[65] The Committee properly and aggressively prohibits the use of official space for political meetings, events, receptions, photo and film shoots, and the like.[66] Still, it has not gone so far as to suggest that enforcement lies against a brief, isolated, one-way aside to a third party, which happens every day in the House. Representative Luján's three-word communication to his campaign aide was simply an electronic version of such remarks, in a world where face-to-face interactions are rapidly giving way to digital communications, whether by text message or email. Furthermore, there is nothing on the record to indicate that any action was taken as a result of, or in response to, Representative Luján's three-word communication. There was no response to his email, no reference to his email in the communications between the campaign and Boulder Strategies, and the campaign email sent on June 22, after Representative Luján's three-word communication was sent, was already in the pipeline.

IV. The Findings Contain Misstatements and Clear Errors by OCE in This Review

The Findings present misstatements and errors that were prejudicial to Representative Luján and others involved in the review:

First, OCE's Report and Findings repeatedly mischaracterize witness testimony to create the illusion of a violation. For example, regarding the June 23 campaign email sent by Boulder Strategies, OCE said that "the President of Boulder Strategies told OCE that he believed 'there was a conversation prior to [sending the email] … about the Congressman wanting to time the email appropriately.'"[67] Yet a closer look at the transcript reveals that the email to which the President of Boulder Strategies was referring was a different email entirely—a document Bates-numbered THRL0080, which was about *an immigration case decided at the Supreme Court.*[68] Thus, the Findings give the misimpression that Representative Luján was involved in decisions about the June 23 campaign email, when all of the testimony and documents confirm that he was not.

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[65] *See* House Ethics Manual at 145-46.
[66] House Ethics Manual at 127.
[67] Record and Findings, ¶ 41.
[68] *See* Record and Findings, Exhibit 4, page 10, line 22; page 11, lines 18-27 (17-8362_0174-75).

Likewise, OCE labors to establish a causal connection between Representative Luján's June 22 email to his campaign aide, and the June 22 and June 23 campaign emails sent by Boulder Strategies. Thus, for example, the Findings say:

> In contrast to the [campaign aide's] testimony, the President of Boulder Strategies told the OCE that he was 'instructed' to send a campaign email on behalf of Representative Luján's campaign committee on June 22, 2016 and that although he could not recall specifically who issued the instruction, typically it would have been from the [campaign aide].[69]

The plain implication of this statement is that the campaign aide shared Representative Luján's email with Boulder Strategies. However, the President of Boulder Strategies' direct testimony clearly says that the June 22, 2016 email "was already in the pipeline" and that he "simply inserted the first line of the email that talked about [Representative Luján] being on the floor to make it relevant for the day's topic."[70] The campaign aide testified separately that Boulder Strategies was already working on an email that day, that he did not see the Congressman's email as a "directive,"[71] and that he did not think he communicated anything about the sit-in to Boulder Strategies to include in the e-mail that they sent.[72] Once again, OCE drafted its findings to create the misimpression that the Congressman was involved in an errant email—when the testimony and documents make clear he was not.

Second, OCE's Findings identify a cooperating witness and misstates the capacity in which he was acting. Specifically, the Findings repeatedly refer to Representative Luján's campaign aide as "the DCCC Chief of Staff,"[73] even though the testimony makes clear that he was acting as a volunteer for Representative Luján's campaign in his personal capacity[74] and had a relationship with Representative Luján that long preceded his involvement with the DCCC.[75] The effect was to create the misimpression that the DCCC was somehow involved in this matter, when in fact it was not. Moreover, in direct contravention of the OCE Resolution's anonymity protections, the Findings juxtapose anonymized references to this same witness with images of emails that contain his name, thus stripping him unnecessarily of the anonymity to which he is entitled under House rules.

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[69] Report and Findings, ¶ 30.
[70] Report and Findings, Exhibit 4, page 6, lines 16-19; page 7, lines 14-17 (17-8362_0170-71).
[71] Report and Findings, Exhibit 3, page 46, line 3 (17-8362_0109).
[72] Report and Findings, Exhibit 3, page 50, lines 7-10 (17-8362_0113); page 51, lines 1-4 (17-8362_0114).
[73] *See e.g.* Report and Findings, ¶ 22.
[74] *See* Report and Findings, Exhibit 3, page 7, line 6 (17-8362_0070).
[75] Report and Findings, Exhibit 3, page 6, lines 13-14 (17-8362_0069).

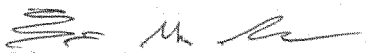
These matters may not be dispositive, and they do not affect the credibility of the underlying documents and testimony, which provide a sound basis for summary dismissal.[76] Still, they show the careless zeal with which OCE sought to ascribe violations to Representative Luján, despite the facts and law—all over two emails sent by a campaign vendor, and a single three-word email the Congressman sent privately to an aide.

CONCLUSION

The Committee on Ethics should summarily dismiss these allegations. The claim that Representative Luján violated 18 U.S.C. § 607's violation on soliciting contributions from a federal building is factually and legally wrong. The claim that the Congressman violated the restrictions on using video coverage of House floor proceedings is stretched beyond reasonableness, involving as it did a single still photo that the vendor obtained privately from a news report without the Congressman's knowledge or participation. Finally, the claim that Representative Luján should be investigated further because he sent one email on a private device from a personal account to a campaign aide represents a draconian application of the rules—if, indeed, he were even in House space at all when he sent it.

Representative Luján appreciates the opportunity to respond publicly to OCE's Report and Findings in this review and respectfully requests the Committee to dismiss this referral.

Very truly yours,



Brian G. Svoboda
Kate Sawyer Keane
Rachel L. Jacobs
Counsel to Representative Luján

cc: Tom Rust, Esq.
Patrick McMullen, Esq.
Representative Ben Ray Luján

[76] Also, when this investigation began, OCE would not even tell Representative Luján which emails were the subject of their review. The statement of the nature of the review OCE gave him on February 6 said that, in June 2016, he "sent a campaign solicitation email that contained an image of the House floor." Letter from Omar S. Ashmawy to Representative Luján (Feb. 6, 2017). When the Congressman's counsel asked OCE to identify that email, OCE refused, saying that the Congressman ought to be able to identify the email himself through news accounts. These tendentious and unsupportable interpretation of OCE's confidentiality obligations made it harder for Representative Luján to respond to the initial notice and resolve the matter at preliminary review, which ought to have been possible given the nature of the issues involved, and the fact that he cooperated completely with the review.

Declaration

I, Representative Luján, declare under penalty of perjury that the response and factual assertions contained in the attached letter dated June 2, 2017, relating to my response to the May 12, 2017, Committee on Ethics letter, are true and correct.

Signature: _____

Name: Representative Ben Ray Luján

Date: 6/6/17

APPENDIX 3

EXHIBIT 1

●●○○○ T-Mobile LTE 1:15 PM

2 People

Thu, Jun 23, 6:32 AM

Bri

Still here and am being asked to speak during the 7 o'clock hour

B Any ideas

Drew Stoddard

DS I think you can repeat the same basic message. We've been hear all day and all night. This issue is not going away and neither are we.

And then hit again on the main points. We need a vote. The American people should not be silenced. It's time to act and keep guns

Text Me...

BRL 00190

EXHIBIT 1

EXHIBIT 2

From: Craig Williams
To: Christina Jones; Aaron Trujillo; Kelly Ward; Hayley Dierker; Nicole Eynard; Angela Ramirez; Andrew Stoddard; Ian Russell
Subject: BRL today
Date: Thursday, June 23, 2016 7:54:23 AM

Team, just dropped BRL off at his apartment. He's exhausted and will try to get an hour of sleep or so and asked me to be back at 9:15.

NE I told him that you said Kelly or Ian can do the Derrick call if we need to.

He wants to go back to floor but will probably do the PFB check drop at 9:45. He expects the sit in to continue until at least 11 (the Leader wants to say we did it for 24 hours). Will update with more info as I receive it.

Sent from my Verizon Wireless 4G LTE smartphone

EXHIBIT 3

From: Stoddard, Andrew
Sent: Wednesday, June 22, 2016 3:58 PM
To: Ramirez, Angela
Cc: Catechis, Jennifer
Subject: Re: a good heads up

Taking boss off. I talked to him about interviews and he wants to think about it.

Sent from my iPhone

On Jun 22, 2016, at 3:35 PM, Ramirez, Angela <Angela.Ramirez@mail.house.gov> wrote:

Rep. ORourke somehow live streamed something on facebook. Might be a possibility. Drew, do you think it's worth setting up a radio call?—it'd mean boss leaving the floor which is not ideal.

From: Catechis, Jennifer
Sent: Wednesday, June 22, 2016 3:33 PM
To: Ramirez, Angela; Stoddard, Andrew; ben lujan
Subject: RE: a good heads up

Any chance we could get a call into a local radio station? Give a live report?

From: Ramirez, Angela
Sent: Wednesday, June 22, 2016 1:12 PM
To: Catechis, Jennifer; Stoddard, Andrew; ben lujan
Subject: RE: a good heads up

Ah, that might be part of the reason I've been spending my afternoon on our mainline! ☺

From: Catechis, Jennifer
Sent: Wednesday, June 22, 2016 2:59 PM
To: Stoddard, Andrew; Ramirez, Angela; ben lujan
Subject: a good heads up
Importance: High

From Laryha "Marshal" Martinez on Facebook (also a Planned Parenthood worker and a huge NM LGTBQ Community Organizer):

Friends
Right now Democratic Members of the House of Representatives are having a "sit in" to protest until the GOP allows a vote on gun control legislation. Sensible, reasonable things like background checks, and no legally sold weapons to suspected terrorists. Our New Mexico Champions Rep. Ben Ray Lujan (Ph: (202) 225-6190) and Rep. Congresswoman Michelle Lujan Grisham ((202) 225-6316) are both there!
Call their offices and THANK THEM!! Let's show them we are Standing(or sitting) with them!!! Share this message and help hold the House Republicans Accountable on Gun Violence! #nobillnobreak

EXHIBIT 4

From: Craig Williams
To: Christina Jones; Aaron Trujillo
Subject: BRL status
Date: Thursday, June 23, 2016 9:37:38 AM

He said he'll be a few minutes late to the 9:45. Will ping when I have more info or he's otw.

Sent from my Verizon Wireless 4G LTE smartphone

EXHIBIT 4

EXHIBIT 5

BOULDERSTRATEGIES LLC
Bold Leadership. Bold Victories.
WWW.BOULDERSTRATEGIESLLC.COM

CONSULTING AGREEMENT

This Agreement is made and entered on _____ by and between **BOULDER-STRATEGIES LLC**, a Colorado-based limited liability company ("Consultant") and **PEOPLE FOR BEN**, a New Mexico-based Political Committee ("Client").

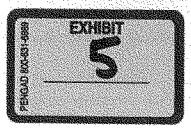
As part of the consideration for the contractual relationship between Consultant and Client, and for continuation of such contractual relationship, and of the mutual covenants contained herein, it is hereby agreed as follows:

1. Services to be Performed

During the term of this Agreement, Consultant's services to the Client may include, but are not necessarily limited to:

- Ongoing Strategic Advising related to campaign and national endeavors
- Creation of and ongoing adjustments to comprehensive digital plan
- Vendor management as related to digital components of campaign
- Management of website and digital infrastructure
- Online fundraising and prospecting services
- Digital communication content, Digital media production, Digital media buying

[redacted]



BRL 00581

COE.LUJAN.000581

6.3.2 Standard reports will be provided to Client at regular monthly and quarterly intervals. Consultant will additionally produce on-demand reports, at no additional cost, at the request of the Client with 48-hours notice.

6.4 Client agrees that any and all works created by the Consultant for the Client, may be used as part of Consultant's promotional materials and samples, without limitations or further expressed consent.

6.5 The obligations set forth in this Section shall survive indefinitely the termination of this Agreement.

7. Exclusivity

7.1 Client understands and agrees that Consultant may take on additional clients at its sole discretion and at any time during the term of this agreement. At the Client's request, Consultant shall disclose other consulting arrangements, including general scope of work and identity of clients, entered into during the course of this Agreement.

7.1.1 Without limiting Section 7.1, Consultant agrees in good faith to not enter into any additional consulting agreement that is a direct conflict of interest to this agreement, while this agreement is intact.

7.2 By entering into this Agreement, the Client DOES give to Consultant and Consultant DOES obtain, exclusive rights to provide to the Client all digital communication services (digital infrastructure maintenance, social media entities, list and data acquisition services, digital fundraising services, display and rich media production for digital mediums, and digital advertising placement), as covered by this Agreement. Excepting these stated items, the Client has the right to use other consultants or persons to perform any other services described (or not described) in this Agreement at the sole discretion of the Client.

8. Legal Compliance

8.1 Consultant acknowledges and agrees to comply with the applicable Federal Election Commission regulations, as well as any other applicable federal or state laws.

9. General

9.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Any action whatsoever to enforce any right hereunder shall be brought only in the courts of the State of Colorado. Any action arising in connection with this Agreement, including but not limited to, any action brought to remedy a breach of this Agreement, or to enforce the terms thereof, shall be brought in the courts of the State of Colorado. Each party hereby agrees that any such action shall brought exclusively in the courts of the State of Colorado; consents to the jurisdiction of such courts; and agrees that such courts shall be the proper venue for any such action.

Initials:_____/_____

EXHIBIT 6

PO BOX 31129
Santa Fe, NM 87594

Are you receiving too many emails? We understand. You can scale back by updating your email preferences to choose only the types of emails you want to receive. Or, if you really want to stop all future messages, you can click here to automatically unsubscribe.

Aaron Political <[redacted]@gmail.com> Mon, Jun 27, 2016 at 4:24 PM
To: Nick Passanante [redacted]@boulderstrategiesllc.com>
Cc: andrew stoddard <[redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Steve Fitzer [redacted]@gmail.com>

As a standing rule from here out. We will not be using any images of the house floor in any of our emails.

Sent from my iPhone
[Quoted text hidden]

Nick Passanante <[redacted]@boulderstrategiesllc.com> Mon, Jun 27, 2016 at 4:49 PM
To: Aaron Political [redacted]@gmail.com>
Cc: andrew stoddard [redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Steve Fitzer [redacted]@gmail.com>

Yep. Re-sent with a different crop of that headline to remove.

--
Nick Passanante
Founder & Principal
BOULDERSTRATEGIES LLC
(720) 432-8743 - Colorado | (202) 599-0194 - DC

Communications, Messaging and General Strategy: www.BoulderStrategiesLLC.com/Services
Full-Service Digital Advertising & Website Design: www.BoulderStrategiesLLC.com/Digital
Online Fundraising & Engagement: www.BoulderStrategiesLLC.com/Fundraising
Robust Grassroots Field Programs: www.BoulderStrategiesLLC.com/Canvass
Small Business Services: www.BoulderStrategiesLLC.com/SmallBiz

[Quoted text hidden]

Aaron Political <[redacted]@gmail.com> Mon, Jun 27, 2016 at 5:32 PM
To: Nick Passanante [redacted]@boulderstrategiesllc.com>
Cc: andrew stoddard [redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Steve Fitzer [redacted]@gmail.com>

I just wanted to re-enforce that point.

Sent from my iPhone
[Quoted text hidden]

Aaron Political <[redacted]@gmail.com> Mon, Jun 27, 2016 at 6:13 PM
To: Nick Passanante [redacted]@boulderstrategiesllc.com>
Cc: andrew stoddard [redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Steve Fitzer [redacted]@gmail.com>

Also - does Boulder have an understanding of house rules?

EXHIBIT 6
PENGAD 800-631-6989

EXHIBIT 7

From: Garcia, Chris
To: ben lujan [redacted]@me.com)
Cc: Ramirez, Angela; Stoddard, Andrew; Mason, Graham
Subject: updated schedule for today Wednesday, June 22, 2016.
Date: Wednesday, June 22, 2016 10:18:41 AM
Attachments: Lujan Ben Calendar.ics

~ FOR BRL schedule only~

BOSS: please see updated schedule for today Wednesday, June 22, 2016.

- 10:30am- canceled meeting with Kelly – Meeting was canceled today because Caucus meeting time has been extended to till 10:45am.
- 11:30am- Lunch. Please let me know if we need to pick up lunch for you.
- Please review schedule for the day- note you are on the official side today until your 2:30pm POTUS Dinner Prep.

Wednesday, June 22, 2016

June 2016

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	**22**	23	24	25
26	27	28	29	30		

Busy Tentative Out of Office Free Outside of Working Hours

June 2016

Wed, Jun 22

	All Day	Votes
	Before 7:30 AM	**Free**
	7:30 AM – 8:00 AM	Drive Time Lujan, Ben
	8:00 AM – 9:00 AM	[redacted] Breakfast

BRL 00014

COE.LUJAN.000015

		[redacted] L Street, N.W. Lujan, Ben
■	9:00 AM – 9:30 AM	Drive Time Lujan, Ben
■	9:00 AM – 10:45 AM	Weekly Caucus Meeting HVC-215 Garcia, Chris
□	**10:45 AM – 11:00 AM**	**Free**
■	11:00 AM – 11:30 AM	Senior Whip Meeting H-144 Lujan, Ben
■	11:30 AM – 11:45 AM	Meeting - [redacted] BRL_HQ Lujan, Ben
■	11:30 AM – 12:00 PM	Lunch TBD Lujan, Ben
■	12:00 PM – 12:20 PM	Meeting with Rep. Bass H-204 Ben Ray Luján
□	**12:20 PM – 12:30 PM**	**Free**
■	12:30 PM – 12:45 PM	BRL- stop by meeting [redacted] BRL-HQ Garcia, Chris
■	12:30 PM – 12:45 PM	BRL-Stop by [redacted] BRL-HQ Garcia, Chris
□	**12:45 PM – 12:50 PM**	**Free**
■	12:50 PM – 1:25 PM	LEADER PELOSI INVITATION - House Steps Event Telling Speaker Ryan: No Bill, No Break Rayburn Room of the Capitol at 12:50 p.m. Garcia, Chris
■	1:00 PM – 1:15 PM	FYI-Meeting [redacted] BRL-HQ Lujan, Ben
□	**1:25 PM – 1:30 PM**	**Free**
■	1:30 PM – 1:45 PM	Stop by Hello with [redacted] BRL-HQ Garcia, Chris
■	1:30 PM – 2:00 PM	Staff updates/ briefing BRL-HQ Lujan, Ben
■	At 2:00 PM	FYI-MEETING ON UNIQUE DEVICE IDENTIFIERS AND PATIENT SAFETY HVC-215, The Capitol.

EXHIBIT 8

From: Angela Ramirez
To: Chris Garica; Christina Jones
Cc: Andrew Stoddard
Subject: Boss heading to floor and then to the 12:30
Date: Wednesday, June 22, 2016 12:13:44 PM

BRL 00049

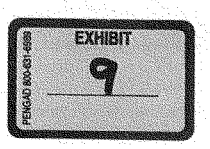
EXHIBIT 9

From: Andrew Stoddard
To: Angela Ramirez
Cc: Chris Garica; Christina Jones
Subject: Re: Boss heading to floor and then to the 12:30
Date: Wednesday, June 22, 2016 12:37:48 PM

BRL says he will be on the floor for some time.

Sent from my iPhone

> On Jun 22, 2016, at 12:13 PM, Angela Ramirez <[redacted]@gmail.com> wrote:
>



BRL 00051

From: Christina Jones
To: Missy Kurek
Cc: Stella Ross; Finance West; Aaron Trujillo; Nicholas Jordan; Krista Zuzenak; Mary Plasencia
Subject: RE: POTUS prep
Date: Wednesday, June 22, 2016 1:55:00 PM

This is getting canceled now. Boss will stay on the floor.

From: Christina Jones
Sent: Wednesday, June 22, 2016 12:32 PM
To: Missy Kurek
Cc: Stella Ross; Finance West; Aaron Trujillo; Nicholas Jordan; Krista Zuzenak; Mary Plasencia
Subject: Re: POTUS prep

Votes aren't supposed to be called til after 3pm. Should expect to move forward with 2:30 time.

Sent from my iPhone

On Jun 22, 2016, at 12:30 PM, Missy Kurek <[redacted]@DCCC.ORG> wrote:

> If it happens I can be there
> Do we think it will happen?
>
> Missy Kurek (315) 373-[redacted]
>
> On Jun 22, 2016, at 12:28 PM, Stella Ross <[redacted]@DCCC.ORG> wrote:
>
> > For 2:30pm ET Prep with BRL today, Krista is able to call in at the beginning to discuss arrival logistics (see directions email I just sent you) and the program.
> > Following program discussion, we should then discuss BRL's remarks.
> > We will print hard copies of the program and guest list for the meeting as well.
> > I'll dial for as much as I can.
> > Thanks all
> >
> > Call Line:
> > Dial-in Number: (712) 775-[redacted]
> > Access Code: [redacted]

EXHIBIT 10

Gmail

Aaron James Trujillo <ajxtrujillo@gmail.com>

FINAL VERSION: Fwd: Preview Message - Rich Text - Staying on the Floor

Nick Passanante <[redacted]@boulderstrategiesllc.com> Wed, Jun 22, 2016 at 8:15 PM
To: andrew stoddard <[redacted]@gmail.com>, Aaron James Trujillo <[redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Amir Salehzadeh <[redacted]@gmail.com>

--
Nick Passanante
Founder & Principal
BOULDERSTRATEGIES LLC
(720) 432-8743 - Colorado | (202) 599-0194 - DC

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---------- Forwarded message ----------
From: <[redacted]@hubspot.com>
Date: Wed, Jun 22, 2016 at 6:14 PM
Subject: Preview Message - Rich Text - Staying on the Floor
To: <[redacted]@boulderstrategiesllc.com>

Not rendering correctly? View this email as a web page here.

BEN RAY LUJÁN

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. In what world do we think that's a good idea?

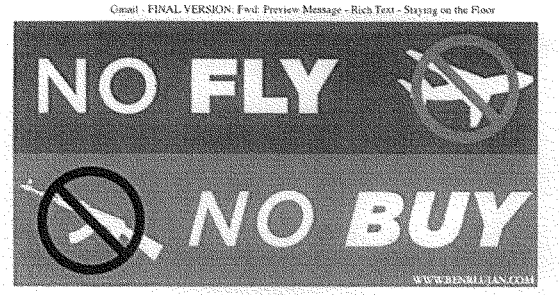
Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy* bill.

BRL000002

EXHIBIT 10 PENGO 202-01-998

THRL_0002

COE.LUJAN.000644



My Republican colleagues would rather go on a 4th of July recess before voting on this time-sensitive bill. That's why we're on the House floor demanding action -- this is a matter of national security.

Enough is enough --- no bill, no break. Full stop. SIGN HERE.

I'm a strong believer in our Second Amendment rights to bear arms, but also recognize that our system is broken when it's too easy for a powerful gun to get in the hands of someone who wants to hurt us.

The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to *legally* purchase an AR-15, military-grade assault rifle. We cannot allow this to happen ever again

Stand up if you support our sit-in.

At a minimum, we must come together, put aside our politics, and pass this commonsense measure.

Thank you,
Ben Ray

Contribute

Paid for and authorized by People for Ben.

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EXHIBIT 11

Gmail

Angela Ramirez <ramirez97@gmail.com>

FOR APPROVAL: Preview Message - Rich Text - UPDATE: 24 hours and counting

Nick Passanante <[redacted]@boulderstrategiesllc.com> Thu, Jun 23, 2016 at 11:11 AM
To: Aaron Political [redacted]@gmail.com>
Cc: andrew stoddard [redacted]@gmail.com>, Angela Ramirez <[redacted]@gmail.com>, Steve Fitzer <[redacted]@gmail.com>

Email is out.

Social:

TW: Entering hour 24 of the @HouseDemocrats sit-in. @SpeakerRyan: Its simple - #NoBillNoBreak http://act.benrlujan.com/no-bill-no-break

FB: My Democratic colleagues and I have now been on the House floor for more than 24 hours, demanding a vote on the bi-partisan No Fly, No Buy bill. Tell Speaker Ryan and the GOP that you stand with us. Add your name here: http://act.benrlujan.com/no-bill-no-break

Also -- we just saw the DACA/DAPA decision and have those emails ready to go. Do you want to do an afternoon send on those? Or hold off a day to give it its own space? Will send tests shortly regardless.

--
Nick Passanante
Founder & Principal
BOULDERSTRATEGIES LLC
(720) 432-[redacted] | Colorado | (202) 599-[redacted] | DC

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Small Business Services: www.BoulderStrategiesLLC.com/SmallBiz

On Thu, Jun 23, 2016 at 8:52 AM, Aaron Political <[redacted]@gmail.com> wrote:
Good with me

Sent from my iPhone

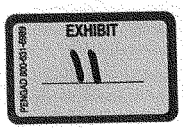
On Jun 23, 2016, at 10:48 AM, Nick Passanante <[redacted]@boulderstrategiesllc.com> wrote:

For this morning. See below.

---------- Forwarded message ----------
From: [redacted]@hubspot.com>
Date: Thu, Jun 23, 2016 at 8:45 AM
Subject: Preview Message - Rich Text - UPDATE: 24 hours and counting
To: [redacted]@boulderstrategiesllc.com

Friend,

As we pass the 11am hour in Washington DC, **my Democratic colleagues and I have now been on the House floor for greater than 24-hours, staging a sit-in to demand a vote**



on the bi-partisan *No Fly, No Buy* bill.

Despite the fact that Speaker Ryan has turned off the cameras and the microphones, I will stand with my colleagues to call for a vote on commonsense legislation that keeps guns out of the hands of those on the FBI Terrorist Watch List.

Do you stand with us? Chip in $24 towards our emergency fundraising goal -- $1 for every hour we've been in the well of the House Chamber demanding action.

A moment of silence on the House floor is simply not enough to honor the lives of those we have lost. We need action to keep guns out of the hands of suspected terrorists and it begins with a vote right here on the House floor.

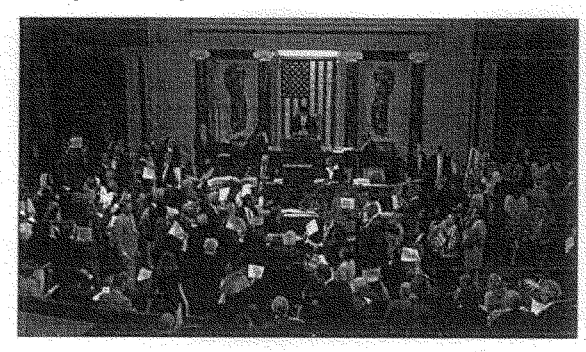


Image from video provided by House Television shows House Speaker Paul Ryan is position showing it being returned back to order late on night of June 22, 2016 as Democrats stand up from 25 in to hold up signs with names of mass shooting victims. Credit: House Television via AP

Tell the GOP: It's simple -- No Fly, No Buy. No Bill, No Break. Click to contribute $24 (or whatever you can) right now to show your support!

As I said in my email last night, this is a matter of national security. We must come together to pass this commonsense bill.

Thanks for having our back,

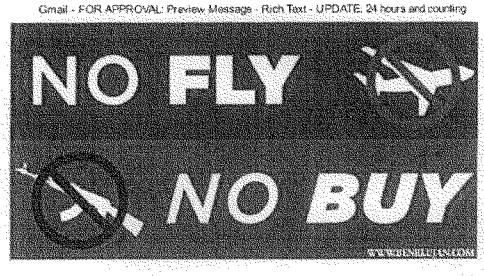
-Ben Ray

Friend,

Today I join countless colleagues on the House floor to demand action that will make our country safer.

Facts matter — and the facts are that right now a suspected terrorist can go into a gun store and purchase a military-style assault rifle. **In what world do we think that's a good idea?**

Sign our pledge if you demand a vote on the bipartisan *No Fly, No Buy* bill.



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The Orlando shooter, who was interviewed by the FBI just a couple years earlier, was able to *legally* purchase an AR-15, military-grade assault rifle. We cannot allow this to happen ever again

Stand up if you support our sit-in.

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Thank you.
Ben Ray

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Paid for and authorized by People for Ben.

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