

1 NORTH CAROLINA
2 COUNTY OF WAKE

BEFORE THE
STATE BOARD OF ELECTIONS
& ETHICS ENFORCEMENT

3

4 IN RE: INVESTIGATION OF ELECTION |
5 IRREGULARITIES AFFECTING COUNTIES |
6 WITHIN THE NINTH CONGRESSIONAL |
DISTRICT

7

8

EVIDENTIARY HEARING

9

Location: North Carolina State Bar
217 East Edenton Street
Raleigh, North Carolina

10

11

WEDNESDAY, FEBRUARY 20, 2019
9:15 a.m.

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VOLUME III OF IV
(Pages 534 through 799)

15

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Board members in attendance:
Mr. Robert B. Cordle, Chairman
Mr. T. Jeff Carmon, III
Mr. Ken Raymond
Dr. Stella E. Anderson
Mr. David C. Black

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Board's staff present:
Ms. Kim Westbrook Strach, Executive Director
Mr. Joshua Lawson, General Counsel
Ms. Katelyn Love, Deputy General Counsel
Ms. Joan Fleming, Chief Investigator

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Also present:
Mr. Mark Elias Mr. William Gilkeson
Mr. Jon Berkon Ms. Sarah Fairress
Mr. David Freedman Mr. Timothy Haga
Mr. Alex Dale Mr. Jeff Scott

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PROCEEDINGS

9:17 a.m.

CHAIRMAN CORDLE: We are now back in order. I do believe Mr. Yates was testifying when we left last night. Mr. Elias was questioning him at that time. If you have anything more, please go ahead, sir.

MR. ELIAS: Thank you very much.

(Whereupon,

SCOTT ANDREW YATES,

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

CROSS EXAMINATION BY MR. ELIAS (resumed): 9:17 a.m.

Q Thank you, Mr. Yates for continuing on with your testimony. It's very much appreciated. I think it's been quite illuminating.

I want to pick up where I let off, and I'd like to mark for admission into evidence Exhibit 33, I think we're up to.

(Whereupon, Exhibit No. 33 was marked for identification.)

CHAIRMAN CORDLE: Mr. Yates, you have that as 33?

THE WITNESS: Yes, Mr. Chairman.

CHAIRMAN CORDLE: Thank you.

Q Have you had a chance to take a look at this?

A I'm just taking a look at it now, sir.

1 Q Okay. Just tell me when you're ready.

2 (Witness reviews document.)

3 A I'm ready, Mr. Elias. Thank you, sir.

4 Q I think you said yesterday that Dr. Harris
5 informed you of a minor criminal issue.

6 A Yes, sir, he did.

7 Q What was the nature of the issue that he described
8 as minor?

9 A He said that there were minor criminal issues--I
10 don't remember if he said "issue" or "issues"--that he
11 believed were related to a divorce.

12 Q And you mentioned that you googled Mr. Dowless and
13 came across some criminal background; is that correct?

14 A Yes. I googled before I met with him, as I often
15 do with people before I meet with them. I googled what I
16 thought at the time was Mr. Dowless's name. I googled--what
17 we reported, showed to the board, I googled M-c-R-a-e
18 Dowless, D-o-w-l--e-s-s.

19 At the time I didn't know his first name was
20 Leslie. I thought I had his name spelled correctly. It
21 came up on a Courtrecords.org link. Clicked on that and
22 did a search there, and that showed three misdemeanor--three
23 what I believed to be misdemeanor charges from 20 years or
24 more ago.

25 Q So it didn't show the fraud charge that we see

1 from 1992.

2 A No, sir. Absolutely not.

3 Q And I think you testified that had you seen that,
4 you would have objected to him being hired or not wanted to
5 work with him.

6 A That's correct, Mr. Elias.

7 MR. ELIAS: I want to show you what has
8 been--what will be marked as Exhibit 34.

9 CHAIRMAN CORDLE: Mr. Elias, are you through
10 with 33?

11 MR. ELIAS: Excuse me?

12 CHAIRMAN CORDLE: Are you through--

13 MR. ELIAS: I am. Thank you.

14 CHAIRMAN CORDLE: Does this witness know that
15 this is from--run by the North Carolina government. My
16 understanding is it's free to search it.

17 MR. ELIAS: Yes.

18 Q So our--this document is a--is from a--it's from
19 the North Carolina Department of Safety's own website. Do
20 you see that?

21 A Yes, sir.

22 Q And this is available to the public.

23 A Okay.

24 Q But you never saw this?

25 A I never saw it. No, sir.

1 Q Do you know if Dr. Harris saw it?

2 A I have no idea.

3 Q Do you know--was there any other person other than
4 Dr. Harris who--you said it was not your practice to run
5 criminal background checks.

6 A That's correct.

7 Q And was it your responsibility to do so?

8 A I was not asked to do it. I didn't believe it was
9 my responsibility. There's never been any agreement for any
10 campaign. I've never had a campaign ask me to run a
11 criminal background check on anyone.

12 Q Including--

13 A I've had campaigns ask me to do opposition
14 research on opponents, but never criminal background checks
15 on employees, contractors, vendors, other consultants,
16 anyone.

17 Q And Dr. Harris, didn't ask you to do that, right?

18 A He did not. No, sir.

19 Q And did he suggest that there was anyone else,
20 other than you, who might be doing that for the campaign?

21 A He did not.

22 Q Do you know of any other employee of the campaign
23 who would have been in a position to do that?

24 A I don't know of any employee that would've been
25 tasked with doing that.

1 Q That's what I meant. How about any other
2 consultant?

3 A No, sir.

4 Q Excuse me?

5 A No, sir.

6 (Whereupon, Exhibit No. 34
7 was marked for identification.)

8 Q So I want to show you what I just had marked as
9 Exhibit 34 which is an article entitled, "Mark Harris says
10 background check on McCrae Dowless missed his felonies."
11 Do you see that?

12 A Yes, sir.

13 Q And can you read the second full paragraph?

14 A Sure. Mr. Elias, would you mind if I take time
15 to read the whole article.

16 Q Oh, no, no.

17 A I haven't seen it before. Thank you, sir. I
18 apologize, Mr. Chairman. I'll read it quickly.

19 CHAIRMAN CORDLE: Oh, please, that's fine.

20 MR. ELIAS: No, no, take your time.

21 (Witness reviews document.)

22 Q Can you read the second full paragraph?

23 A Are you asking me to read it out loud?

24 Q Yes.

25 A "Mark Harris said he didn't know before November's

1 election that state elections board investigators found
2 evidence that operative Leslie McCrae Dowless, Jr., may have
3 illegally handled ballots in 2016. Harris said he didn't
4 know that that evidence was referred to federal prosecutors.

5 "A background check by Harris's political
6 consultant missed Dowless's previous felony convictions for
7 insurance fraud and perjury, Harris said in an interview
8 with the Associated Press."

9 Q Do you know which political consultants Mr. Harris
10 is referring to as having missed the felony convictions?

11 A I do not, sir.

12 Q Do you think there are any political consultants
13 who could fairly be said to have missed those convictions?

14 A I don't--I don't believe so. I didn't do a
15 background check. I did an internet search on Google, went
16 to a Courtrecords.org site, and erroneously misspelled Mr.
17 Dowless's name because I'd never met him, didn't know how
18 to spell his name, didn't know his first name was Leslie
19 Dowless, didn't know he was a junior.

20 Q I think you testified you didn't even do that at
21 Mr. Harris's request; you did that just because you google
22 people when you need to know who you're meeting.

23 A That would be correct, Mr. Elias.

24 Q So Mr. Harris had no expectation that you'd be
25 doing a background check, as far as you know.

1 A As far as I know.

2 Q Do you have an opinion as to whether it's fair
3 that he's telling the press that it was you or other
4 political consultants that missed this key fact?

5 A I don't want to speculate as to what he was
6 thinking when he said that.

7 Q I'm not asking you to speculate what he was
8 thinking. I'm asking you sitting here today as a business
9 owner whose reputation's on the line whether it was fair for
10 the candidate to suggest that his political consultants are
11 the ones who missed a key fact that, in your words, would
12 have kept you from ever working with Mr. Dowless?

13 MR. DALE: Objection, Mr. Chairman. If
14 witnesses are going to be asked what they think of other
15 people's statements and whether it's fair or not, we're
16 going to be here till March. So I'm going to object to
17 that.

18 CHAIRMAN CORDLE: Right. I think your question
19 is improper. Strike it.

20 Q Were you aware that the State Election Board
21 investigators have found evidence that Leslie McDowell
22 (sic), Jr., may have illegally handled ballots in 2016?

23 A No, sir, I was not.

24 Q And were you aware that that evidence was referred
25 to federal prosecutors?

1 A No, sir, I was not, not until after November 27th
2 when it first appeared in the media.

3 Q Fair enough. I was talking about the time. Thank
4 you for the clarification.

5 A Yes, sir.

6 Q You testified yesterday that you were unaware of
7 the 2016 Bladen County hearing with the Board of Elections
8 about the Dowless protest, what we were just talking about;
9 is that correct?

10 A Yes, sir.

11 Q And you testified yesterday, I believe, the North
12 Carolina Republican Party and its staff failed to inform you
13 that he had taken the Fifth or refused to testify in that
14 hearing; is that correct?

15 A Yes, sir. That's correct.

16 (Whereupon, Exhibit No. 35
17 was marked for identification.)

18 Q I'd like to show you what is marked as Exhibit 35.
19 You see that this is an official transcript of the North
20 Carolina Board of Election hearing held on Saturday,
21 December 3rd, 2016?

22 A Yes, sir.

23 Q This is an official record of the board.

24 A Yes, sir.

25 Q And can you turn to Page 142; I think it's three

1 pages in. Do you see where Mr. Dowless was asked how he
2 obtained campaign finance reports and other records filed
3 with the State Board by the Bladen Improvement PAC?

4 A Not yet, but I'm looking.

5 (Witness reviews document.)

6 A Do you know which line? The lines are numbered.
7 Do you know which line that is, Mr. Elias?

8 Q Yeah, I--sorry, I think you have to start reading
9 on Page 141, and then it carries on to 142. I apologize.

10 A Okay. No worries. That would be why I wasn't
11 able to see it.

12 Q Yeah, I know.

13 (Witness reviews document.)

14 A Yes, I've read pages 141 and 142, Mr. Elias.

15 Q And is it correct that Mr. Dowless was asked how
16 he obtained campaign finance reports and other records filed
17 with the State Board by Bladen Improvement PAC?

18 A Yes, sir.

19 Q And what was his answer?

20 A To which question?

21 Q "Who gave you that?" This is line 20 on Page 142.

22 A Yes. Mr. Dowless's answer according to line 20
23 and 21 of the report was, "Mr. Dowless: I'd rather take the
24 Fifth on that, who gave that to me."

25 Q But you didn't know that he had taken the Fifth?

1 A Had no idea until after November 27th.

2 Q Are you--I assume in your business you monitor a
3 lot of television and radio because you're in the
4 communication side of the political world, right?

5 A Yes, sir. I get more of my news from online, but
6 I do monitor it, yes, sir.

7 Q And is, among the news sources that you would
8 follow, National Public Radio?

9 A Not generally. They're not generally one that I
10 listen to on a regular basis. I'll occasionally--somebody
11 will occasionally send me a story or a link but not day to
12 day.

13 Q But you're familiar with it.

14 A Yes, sir.

15 Q And you'll occasionally be sent a link or--

16 A Yes, sir.

17 (Whereupon, Exhibit No. 36
18 was marked for identification.)

19 Q I want to point your attention to Exhibit 36,
20 which I'm going to hand you.

21 A Thank you.

22 Q Are you familiar with a National Public Radio
23 program called "This American Life"?

24 A Yes, I've heard of the program before.

25 Q Have you ever listened to an episode?

1 A I don't recall specifically, but I'm sure I have.

2 Q Were you aware that there was in fact an episode
3 of "This American Life" that featured the activities
4 following the 2016 election in Bladen County?

5 A Not prior to November 27th.

6 Q And so I take it you weren't familiar that it
7 featured prominently McCrea Dowless's activities.

8 A Correct. I wasn't aware of anything--I wasn't
9 aware of the program, that particular program, that report,
10 anything about Mr. Dowless at all being reported by National
11 Public Radio prior to the 27th.

12 MR. DALE: Mr. Chairman, again, I'm going
13 to object because the witness has said he has no knowledge
14 of this, and he's continued to be asked questions.

15 CHAIRMAN CORDLE: I understand. But I think
16 he'll ask some other questions.

17 MR. ELIAS: I think I'm entitled to show
18 what was--

19 CHAIRMAN CORDLE: Go ahead.

20 MR. ELIAS: --publicly available for him
21 to have heard.

22 Q So the--if you turn to--maybe they're not
23 numbered, but it is Page--

24 A If it's the same page that's on the screen, I have
25 it in front of me, Mr. Elias.

1 Q You see the text that begins with "Here's what
2 tumbles out"?

3 A Not yet.

4 (Witness reviews document.)

5 A Do we have any idea what page that is?

6 Q It should be the eighth page.

7 A The eighth page? Thank you, sir.

8 (Witness reviews document.)

9 A Still not seeing the words, "Here's what tumbles
10 out." I apologize. I'm looking for it.

11 DR. ANDERSON: It's the next to the last
12 page.

13 THE WITNESS: Thank you, ma'am.

14 A Okay, I found it. I apologize.

15 Q So I'm going to read it, and I'm going to stop
16 along the way just to ask you whether something, to your
17 understanding, is correct.

18 A Yes, sir.

19 Q "Here's what tumbles out of McCrae under the
20 Board's questioning. He had some people working for him
21 getting out the vote." Was that your understanding of what
22 he did for Mr. Harris?

23 A Yes. He had people working for him getting out
24 the vote.

25 Q Were they volunteers or were they paid?

1 A My understanding is he had paid people, but he
2 also had some volunteers that assisted him. That's what Mr.
3 Dowless told me.

4 Q "The volunteers though were allegedly getting paid
5 for each ballot they turned in." Is that your
6 understanding?

7 A No, sir.

8 Q "That is illegal." Is it your understanding that
9 if they were getting paid for every ballot they turned in,
10 that would be illegal?

11 A That's my understanding. Yes, sir.

12 Q "One of the voters who signed an affidavit said
13 the Get Out The Vote workers came by and had her family
14 request absentee ballots." Is that consistent with what you
15 understood he was going for Mr. Harris?

16 A Would you give me one second to read that for
17 myself, please?

18 Q Sure.

19 (Witness reviews document.)

20 A Yes, that is consistent with what I understand he
21 was doing for Mr. Harris.

22 Q "But then they never received their absentee
23 ballots in the mail like they were supposed to." Did you
24 ever hear complaints from Mr. Dowless or from anyone where
25 Mr. Dowless was working that people who had requested

1 absentee ballots were not actually receiving them?

2 A I heard reports that there were delays in people
3 receiving the absentee ballots due to the hurricane and some
4 folks were concerned about that, and Mr. Dowless encouraged
5 some of them to go ahead and vote early.

6 A friend of mine, Pastor Terry Dove, actually told
7 me that his son did not receive his absentee ballot in the
8 mail until election day and they were worried that it would
9 be counted, so he told his son to immediately fill it out,
10 and that his son went and mailed it that day so it would be
11 counted.

12 That's the only time I--the only time I'm aware
13 of people not receiving it, is people that were concerned
14 that they didn't receive it in the mail because of the
15 hurricane.

16 Q The next sentence, "Then when the family went to
17 vote on election day, they were told they'd already voted.
18 In essence McCrae's getting accused of paying people to
19 obtain absentee ballots, fill them out, and cast their vote
20 on someone else's behalf. That for sure is illegal."

21 Do you agree that that for sure is illegal?

22 A Yes, sir.

23 Q And you didn't know that he was accused of that
24 in 2016?

25 A I did not. No, sir.

1 Q So it was on the radio, it was in newspapers, it
2 was in interviews, it was in transcripts. None of that made
3 its way to you.

4 A None of that made its way to me, no, sir.

5 Q Do you know if any of that made its way to Mr.
6 Harris?

7 A I do not. If it did, he never mentioned it to me.

8 Q If it did, would that have raised a red--if it had
9 come to you, would it have raised a red flag?

10 A Absolutely.

11 Q And if it went to anyone else associated with the
12 campaign, it should've raised a red flag for them.

13 A Yes, sir.

14 Q And you would've expected them to let you know.

15 A Absolutely.

16 Q And you would've expected Dr. Harris to let you
17 know if he did.

18 A Absolutely.

19 Q I want to next--

20 CHAIRMAN CORDLE: May I just interrupt? This
21 paper appears to have Dallas Woodhouse's name in it a number
22 of places. He seems to be participating in it. And it
23 talks about voter fraud in Bladen County. I wonder if he
24 discussed this with you at all.

25 THE WITNESS: Mr. Dowless never discussed

1 this with me, Mr. Chairman. I'm sorry, Mr. Woodhouse. Mr.
2 Dallas Woodhouse.

3 CHAIRMAN CORDLE: Too many Dowlesses.

4 THE WITNESS: Too many Dowlesses.

5 FEMALE IN AUDIENCE: It's not spelled the same.

6 (Laughter)

7 MR. ELIAS: I was going to turn to Mr.
8 Woodhouse next and ask you--

9 CHAIRMAN CORDLE: I'm sorry.

10 MR. ELIAS: No, no, that's totally fine.

11 Q Did anyone from the North Carolina Republican
12 Party inform you of any of this?

13 A No, sir.

14 Q Did Dallas Woodhouse inform you of any of this?

15 A No, sir.

16 (Whereupon, Exhibit No. 37
17 was marked for identification.)

18 Q I want to play for you a couple of audio clips
19 that Mr. Woodhouse--from Mr. Woodhouse that appeared on the
20 same program. It's in the transcript; we're just going to
21 play the audio rather than having you read those.

22 MR. DALE: Mr. Elias, there's no date on
23 this article that's Exhibit 36. Can we get clarification
24 of the date it occurred?

25 MR. ELIAS: It's not an article. It's

1 actually a radio program. This is a transcript of the radio
2 program, and I will give you the date of the radio program.

3 Q I'm going to play you a clip. It's in the
4 transcript in front of you, so if you don't hear the clip
5 or you don't--are not sure the clip is correct, you can
6 track it along.

7 A Yes, sir. Do you know at what point the clip
8 begins?

9 Q The first one is--the first one should be on--

10 RECORDING: "Under a select few
11 circumstances, you can get assistance from a"--

12 MR. FREEDMAN: Mr. Chairman, the witness has
13 already stated he didn't know anything about this article.
14 He's been shown the article. Additionally playing this
15 article--

16 CHAIRMAN CORDLE: I believe he's entitled to
17 play the article and ask him if he's heard it or if it
18 appears to be Mr. Woodhouse's voice and if Mr. Woodhouse
19 told him about this.

20 MR. FREEDMAN: I believe--I would say--I
21 would contend he can refresh his recollection as to it, but
22 beyond that, Your Honor, Mr. Chairman.

23 CHAIRMAN CORDLE: Well, Mr. Woodhouse is here,
24 and I believe he will be called. I don't know, but that's
25 fine. I assume you all have him on your witness list. At

1 least I believe--I think both of you all have him on the
2 list.

3 MR. FREEDMAN: Yes.

4 Q Okay, so we're going to go ahead and play the
5 clip. Do you need me to find it for you in the transcript?

6 A That would be helpful, sir.

7 Q Okay. That's Page 4.

8 RECORDING: "Under a select few
9 circumstances, you can get assistance from a relative or
10 somebody who declares your help. Now, that is intended to
11 be a neighbor helping a neighbor, a friend helping a friend.
12 If somebody's going out there and helping hundreds of
13 people, they are harvesting ballots."

14 Q Do you see that? That's on--I think I gave you
15 the wrong page; it's Page 5.

16 A Uh-huh (affirmative).

17 Q Did that accord with your understanding of the
18 law?

19 A He's--may I ask a question for clarification?

20 Q Sure. Please.

21 A He's talking about assistance with absentee
22 ballots and not absentee ballot requests?

23 Q Correct.

24 A I'm not--yeah, that seems to be--that seems to be
25 consistent.

1 Q But you didn't believe that Mr. Dowless was doing
2 any of this on your--

3 A I did not. He told me he was not doing that.

4 Q He wasn't assisting at all in the collection of
5 ballots.

6 A He told me he was not collecting ballots, that no
7 one that worked for him was collecting ballots.

8 Q Or even witnessing ballots.

9 A He never told me they were witnessing ballots or
10 not witnessing ballots.

11 Q I thought you said yesterday you didn't believe
12 you were paying for witnessing ballots.

13 A We were not paying for witnessing ballots. I know
14 that for a fact.

15 Q Do you agree that if someone went out--is going
16 out there and helping hundreds of people, they're harvesting
17 ballots?

18 A If they are collecting ballots, they are
19 harvesting ballots. That's not--that's my--I'm not an
20 attorney, but that's my understanding of the law.

21 Q But Mr. Woodhouse never shared this with you.

22 A Mr. Woodhouse never shared this with me. I didn't
23 know Mr. Woodhouse did this interview until after November
24 27th.

25 Q I'm going to play you a clip from the prior page.

1 RECORDING: "Should the election board
2 find that these are absentee ballot mills with the purpose
3 of fraudulent voting, those people should go to jail. They
4 should go to jail. They should spend the first term of the
5 Trump administration behind bars."

6 Q Did Mr. Woodhouse ever discuss with you that
7 people who had committed election fraud should go to jail?

8 A No, sir.

9 Q Do you agree with him, that if there were absentee
10 ballot mills and fraudulent voting, people should go to
11 jail?

12 A Yes, sir.

13 Q Do you think that if people directed others to do
14 that, they should go to jail as well?

15 A Yes, sir.

16 Q And if someone hired someone to engage in those
17 practices, they should go to jail.

18 A If they hired someone specifically to engage in
19 this practice and indeed they were engaging in it.

20 Q Then they should go to jail.

21 A Yes. If someone lied to them and told them they
22 weren't engaging in it; they didn't know, they can't be held
23 responsible for that.

24 MR. ELIAS: I want to show you Tab--I'm
25 sorry, not tab. I'm sorry. Exhibit--I want to mark and

1 show you Exhibit 38.

2 (Whereupon, Exhibit No. 38
3 was marked for identification.)

4 MR. BERKON: We considered the audio 37.

5 CHAIRMAN CORDLE: All right.

6 MR. ELIAS: Yes, I guess for the record
7 we considered the audio 37.

8 (Witness reviews document.)

9 Q Have you had a chance to review it?

10 A No, I have not.

11 Q Okay. Take your time.

12 A Okay.

13 CHAIRMAN CORDLE: It's about 19 pages, so it
14 might take him a minute.

15 Q I'm interested, just so you know, on the first
16 seven pages.

17 A So I'm sorry, sir. Would you like me to read the
18 whole thing or just the first seven pages?

19 Q You're free to read the whole thing, but I'm going
20 to point your attention only to the first seven.

21 A Thank you, sir.

22 (Witness reviews document.)

23 A I've read the first nine pages, Mr. Elias.

24 Q Thank you. Looking at the cover, this is an audio
25 transcription of an interview with Nick Ochsner.

1 A Yes, sir.

2 Q Do you know who Nick Ochsner is?

3 A I believe he's a reporter for WBTV in Charlotte.

4 Q So you are familiar with his work?

5 A Yes, sir.

6 Q So is that one of the news outlets you would
7 monitor?

8 A At times, yes.

9 Q So turning your attention to Page 2, and we may
10 use the page numbers; I know they're minimized, so there are
11 multiple pages on a given page. Does that--

12 A Yes, sir. Yeah, that makes perfect sense.

13 Q Can you read the sentence at line--that begins on
14 line 15 and goes to the end of line 18.

15 CHAIRMAN CORDLE: Now, you're talking about him
16 reading a little page--

17 MR. ELIAS: Yes.

18 CHAIRMAN CORDLE: --that's in here.

19 MR. ELIAS: Yeah, Page 2.

20 CHAIRMAN CORDLE: Page 2.

21 THE WITNESS: I'm sorry, do you want me to
22 start at line 15 and end at which line, Mr. Elias?

23 MR. ELIAS: Eighteen.

24 A "Lost. I mean I got beat. Johnson beat me
25 significantly in that county and with absentee ballots, and

1 I remember looking at that and going, 'wow, that's
2 unusual.'"

3 Q And who is saying that in this interview?

4 A Mr. Harris.

5 Q And what--can you tell contextually what county
6 he's referring to?

7 A Bladen County.

8 Q Yeah. So it's fair to say that Dr. Harris is
9 saying that he looked at the results and absentee ballots
10 in Bladen county and he said, quote, "Wow, that's unusual";
11 is that correct?

12 A That's what this ways, yes, sir.

13 Q So I showed you the results from Bladen County
14 absentee ballots yesterday, and my recollection is you
15 didn't think it was unusual.

16 A I did not.

17 Q Did Dr. Harris ever express to you sentiments such
18 as these, that he did think it was unusual?

19 A I don't recall him specifically saying that. He
20 could have. I know he explained to me why he felt that Mr.
21 Johnson got the results he did in Bladen County.

22 Q What were those reasons?

23 A That he had a absentee ballot--well funded
24 absentee ballot program run by McCrae Dowless.

25 Q Okay, let's talk about that program because we

1 talked about it yesterday, but I want to see if anything in
2 this interview refreshes your recollection because I think
3 you've been pretty clear as to what was covered in that
4 program and what wasn't.

5 And I've asked you questions yesterday about it
6 and today, and you've been consistent, but I want to give
7 one last chance based on this transcript--

8 A Yes, sir.

9 Q --to see if I have it right. On Page 4--

10 CHAIRMAN CORDLE: And this, again, is the little
11 Page 4.

12 MR. ELIAS: Yes.

13 CHAIRMAN CORDLE: Because there are four pages
14 on each page of the exhibit.

15 MR. ELIAS: Actually it begins at the
16 bottom of Page 3 with one line.

17 Q So I'm going to read this again so that we can
18 have (indiscernible word due to cough in audience) as we go
19 along and make sure that we have it crystal clear.

20 A Yes, sir.

21 Q Bottom of Page 3, you see where it says, "Mr.
22 Harris."

23 A Yes, sir.

24 Q So that's Mr. Harris speaking, right?

25 A Yes, sir.

1 CHAIRMAN CORDLE: And he was asked, "What do
2 you think McCrae Dowless did for your campaign in 2018?"

3 Q Right. That's the question that was answered.

4 A Yes.

5 Q "In 2019 McCrae Dowless shared with me that there
6 was an absentee program and a Get Out The Vote program that
7 he did, and he explained it to me because I wanted to
8 understand what that meant."

9 Was Dr. Harris the kind of candidate who's hands
10 on and wants to understand the details of things or is he
11 just hands off?

12 A It would vary from time to time.

13 Q So it doesn't surprise you that in this instance
14 he wanted to understand what it meant that Mr. Dowless was
15 doing.

16 A That wouldn't surprise me.

17 Q And I'm going back to the transcript, "And it was
18 the same thing I assumed he had done to have success that
19 he had in the past." Did you understand that the program
20 that Mr. Dowless was going to run for you was the same
21 program that he had run in the past?

22 A Yes, sir.

23 Q So the program that was the subject of "This
24 American Life" and the program that led him to take the
25 Fifth and the program that led to claims of fraud, that was

1 the program--I understand you didn't know--

2 MR. DALE: Objection. That's not what
3 any of those articles talk about. You're talking about the
4 Bladen Improvement PAC. He's making statements about him
5 that aren't accurate.

6 Q You understood that the program that he was
7 referring to in 2016 to be the program that we have covered
8 today.

9 A I understand the program that he was going to run
10 in--you said 2016?

11 Q In 2018.

12 A I understood that the program that he was going
13 to run in 2018 was to be similar to the program that he ran
14 for Mr. Todd Johnson.

15 Q Thank you. That's better put than my question.
16 And it was a two-stage program. Do you see where he says
17 that?

18 A Yes, sir.

19 Q "It was a two-stage program. Stage 1 is the
20 absentee ballot application or absentee ballot request form.
21 And he said that he hired individuals that worked for him
22 that went out and canvassed door to door trying to encourage
23 people to be involved and where they were willing to fill
24 out an absentee ballot request form.

25 "And they would fill out the absentee ballot

1 request form and they would take it and then would return
2 it to the Board of Elections. And that was what he was
3 doing in Phase 1." Does that sound correct?

4 A Yes, sir.

5 Q Mr. Harris didn't reference encouraging people who
6 to vote for in Phase 1 in this transcript, right?

7 A In that transcript.

8 Q But you understood part of Phase 1 was also that
9 he would--when these folks were applying for an absentee
10 ballot, he would tell them when they received it who he
11 recommended they vote for.

12 A Yes, sir.

13 Q Then I want to pick up the transcript on Page 4
14 at line 18. "Phase 2 was the absentee ballot part. And so
15 once an individual had turned in the absentee ballot, it was
16 explained to me they would--Board of Elections would mail
17 an absentee ballot to that address.

18 "And then he would have two people that would go
19 and follow up on those absentee ballot requests once the
20 ballot got there, and their job was basically to knock on
21 the door, to follow up with those people and offer their
22 services to--if they needed any assistance with their
23 ballot."

24 I take it from your other testimony you were
25 unaware of Phase 2.

1 A I was not unaware of Phase 2. I was aware that
2 they would go back out to--when people--when the ballot--
3 what I was aware of, Mr. Elias, was when people would go
4 back--I'm sorry.

5 When the Board--when they received--the Board of
6 Elections had mailed back our ballots which is public
7 record, is publicly available in North Carolina when
8 absentee ballots had been mailed out.

9 When they believed that the ballots had been
10 mailed back out, Mr. Dowless would send someone out to knock
11 on their door and to remind--to see if they'd gotten their
12 ballot, to remind them to fill it out, and to encourage them
13 to vote for the candidates that he was working for.

14 Q But where he says that "they were to offer their
15 services to--if they needed any assistance with their
16 ballot," that doesn't seem consistent with what you had
17 previously testified.

18 A That is--that is not what I was told. You are
19 correct. That would not be consistent with what I was
20 testifying because that's not consistent with what I was
21 told.

22 Q And just continuing, "And the ballots, as I
23 understood it, required two witnesses, if it was just being
24 witnessed, or the signature of one notary. And they would
25 offer to do that, and then they would tell people in that

1 process that, you know, they urged them to get their ballot
2 in the mail that day."

3 I take it that also, based on your prior
4 testimony, was not something you were aware of that they
5 were doing.

6 A I was aware of part of that. I was aware that
7 they were urged to get their ballot in the mail that day.

8 Q But not the part about offering the witnessing.
9 That you were unaware of.

10 A That's correct, Mr. Elias.

11 Q How often did you talk to Mr. Harris?

12 A Most days. Not daily. It would depend on the
13 campaign, how busy he was, but it was more days than not.

14 Q Had you talked to Mr. Dowless most days?

15 A Yes, sir.

16 Q Why do you think that they both hid from you the
17 parts of Phase 2 that you were unaware of?

18 MR. DALE: Judge, that was not mentioned
19 for hiding anything.

20 CHAIRMAN CORDLE: I disagree--I don't disagree
21 with you, sir. I think you should rephrase that question.

22 Q Do you have any reason to believe that either Mr.
23 Dowless or Mr. Harris were not raising the part of Phase 2
24 that you were unaware of with you?

25 A I'm not sure I understand what you're asking. I'm

1 sorry.

2 Q Would you have expected in the normal course that
3 you would've fully understood and been told by Dr. Harris
4 what he expected this program to look like?

5 A Yes, and I thought I had been.

6 Q Does it surprise you now that--to learn that you
7 didn't?

8 A Yes.

9 Q That in all the conversations you had with Dr.
10 Harris and Mr. Dowless, this never came up?

11 A It never came up, although I don't recall other
12 than the initial conversation that I had with Mr. Harris
13 where he told me about the program in June; I believe it was
14 late June of 2017. Beyond that conversation, I don't
15 remember having any conversation after that with Dr. Harris
16 about the mechanics of the program at all.

17 Q But it surprises you that it never--that Dr.
18 Harris never mentioned this to you.

19 A Yes.

20 Q According to FEC filings, which I can show you if
21 I need to, the campaign currently owes Red Dome \$34,310.
22 Is that correct?

23 A I believe--I--that is correct. I believe it may
24 actually be more than that.

25 Q How much do you believe it to be?

1 A I believe it's in the neighborhood--I don't have
2 my records in front of me, so going by memory, somewhere in
3 the neighborhood of 50-ish thousand dollars.

4 Q And how long have they owed that 50-ish thousand
5 dollars to you?

6 A They were billed in mid to late November. I don't
7 remember the exact date. Prior to the 27th for, you know,
8 final invoices from the campaign.

9 Q So if they only listed on their FEC report
10 \$34,310, that would be an incorrect number.

11 A I believe it to be, but I don't have my records
12 in front of me. I can't state definitively.

13 CHAIRMAN CORDLE: Or it may be, sir, that the
14 report was filed before they received a final bill.

15 Q Do you know if this report was filed in January?

16 A I don't know. I don't know which report you're
17 referencing.

18 Q Do you know that campaign--do federal campaigns
19 file year end reports?

20 A Yes, sir.

21 Q And when do they filed their year end reports?

22 A In January.

23 Q On the \$34,310, which is all that I have access
24 to on the public record, the purpose of that is listed as
25 "reimbursement payments for Bladen absentee, early voting

1 poll workers, reimbursement door to door." Is that an
2 accurate description?

3 A Yes, sir.

4 Q What does "Bladen absentee" refer to?

5 A That refers to payments that were made to Mr.
6 Dowless for absentee ballot request forms.

7 Q And what does "door to door" refer to?

8 A "Door to door" refers to the door to door program
9 we were running at the direction of our field--our political
10 director Conrad Pogorzelski in primarily Mecklenburg and
11 Union, but I believe they have been door to door in every
12 county. I'd have to look at records to know--be certain
13 what counties they did door to door.

14 Q Has the campaign informed you when it plans to pay
15 the debt?

16 A They informed me that they plan to pay it, but not
17 when. I should say they've informed my counsel. I haven't
18 spoken to the campaign directly about it.

19 Q Fair point. Is it your understanding that the
20 campaign spent approximately two million dollars in the 2018
21 election?

22 A Yes, sir.

23 Q And the payments to Mr. Dowless from the campaign
24 were somewhere between 100 and 130 thousand dollars. Is
25 that right?

1 A That seems right.

2 Q Do you have a sense if it's closer to 100 or 130?

3 A My sense is it's probably--probably in the middle,
4 maybe a little bit closer to 100.

5 Q So the campaign spend five percent of its total
6 budget on Mr. Dowless.

7 A Yes, sir.

8 Q Is that one of the highest budget items? It seems
9 like a lot for absentee ballots in one county.

10 A He was also working in Robeson County, and he also
11 did some work in Cumberland County with limited success.

12 Q Oh, that's right. So he was actually not just
13 working in Bladen County. He was working in two other
14 counties.

15 A Yes, sir. And he wasn't just doing absentee
16 ballot program--an absentee ballot program. He did kind of
17 additional work for the campaign as well in that area.

18 Q So I just want to make sure I understood the
19 financial arrangement. He was paid a monthly fee of \$1,200
20 in the primary and \$1,625 in the general.

21 A Yes, sir.

22 Q And then he was paid per request form, \$4 in the
23 primary and \$5 in the general.

24 A Yes, sir.

25 Q And then he was paid for reimbursements.

1 A Yes, sir.

2 Q Were the reimbursements for request forms in the
3 \$4 or \$5, or were those separate?

4 A The reimbursements were separate.

5 Q So you were also paying for the request forms.

6 A Yes. He was getting paid \$4 in the primary for
7 request forms and \$5 in the general for request forms.

8 Q What about for witnessing? You said he wasn't
9 being paid.

10 A He was not paid a dime for witnesses.

11 Q And for collecting ballots, he wasn't paid.

12 A He was not paid a dime for collecting ballots.
13 He told me on a number of occasions that he never collected
14 any ballots.

15 Q Did the campaign agree to any win bonus for Mr.
16 Dowless?

17 A No, sir.

18 Q And bonus at all?

19 A No, sir.

20 Q Do you have a win bonus arrangement with the
21 campaign?

22 A No, sir.

23 Q So you got paid the same whether you won or lost.

24 A Yes, sir.

25 Q You testified yesterday--you testified yesterday

1 that Mr. Dowless bragged of his great relationship with the
2 Bladen County Republican board members.

3 A Yes, sir.

4 Q Do you remember who those board members were that
5 he said he had a great relationship with?

6 A I don't. He would just say that--I know--well,
7 I know one was former Board member--and I believe he's a
8 County Commission--Ray Britt, and he mentioned him several
9 times. I think he mentioned the name of Bobby Ludlow, but
10 I would be--I really don't remember who he mentioned on the
11 board.

12 And I could be wrong, but just my recollection,
13 I believe--and Ms. Strach and Mr. Lawson might be able to
14 answer this question, but I believe over the course of the
15 time of this campaign, that some of the board members may
16 have changed because of some of the issues of North Carolina
17 election law unrelated to our campaign.

18 MR. ELIAS: I want to go back to Exhibit
19 35. So, Mr. Chairman, we have additional data from the same
20 transcript which we can mark as 39 or we can include that
21 in 38 and--35.

22 CHAIRMAN CORDLE: Let's just do the separate
23 marking.

24 MR. ELIAS: So I'm going to give you what
25 is going to be marked as Exhibit 39.

1 CHAIRMAN CORDLE: Is that Page 217?

2 (Whereupon, Exhibit No. 39

3 was marked for identification.)

4 Q So before we look at the exhibit, I just have a
5 couple of--I mean you're welcome to look at it, but I have
6 a couple of other questions.

7 A Sure.

8 Q When he said he had a great relationship, what did
9 he tell you he was--how was he benefitting from that
10 relationship?

11 A I have no idea how he was benefitting from it.
12 He told me that he was in regular communication with them,
13 and that they--that he would get publicly available
14 information from them; that they were good to get
15 information from. From my personal experience, some boards
16 in the state, it's easy to get information from; some it can
17 be painful to get information from.

18 Q But just to be clear, your testimony, I believe,
19 was that he had a good relationship not with the board but
20 with the Republican members of the board.

21 A That was my--yes, the Republican members of the
22 board would be what he told me. That's correct.

23 Q Right. And so the information he was getting was
24 not from the board; it was from the Republican members of
25 the board.

1 A Well, I believe the information he was getting in
2 terms of numbers and data and reports would have been from
3 the staff. He had a good personal relationship with the
4 Republican members of the board.

5 Q So I want to show you Pages 165 and 166. These
6 are of the--okay, sorry. I'm going to start with Exhibit
7 35, and look at Page 159. Do you see that?

8 A Yes, sir.

9 Q Do you know who Mr. Malcolm is?

10 A I do now after all this.

11 Q Who was he?

12 A He was a member of the State Board of Elections.

13 Q So I'm going to read this for the record to make
14 it easier. Line 3, "Mr. Malcolm: On each one of those you
15 had put initials either on the top left or top right-hand
16 corner.

17 "Mr. Dowless: That was on the request forms.

18 "Mr. Malcolm: On the request forms.

19 "Mr. Dowless: Yes, sir."

20 Q Were you aware that Mr. Dowless was putting
21 initials on the absentee ballot request forms that he was
22 submitting?

23 A No, sir. Absolutely not.

24 Q Did he tell you that that was a mechanism that he
25 used to--so that the state--so that the county board could

1 notify him rather than the voters--the applicants if there
2 were a problem with those forms?

3 A He did not tell me that.

4 Q Would you view that as appropriate; that if
5 someone submits an absentee ballot form that it isn't
6 proper, that the board contacts the person who submitted it
7 and not the person who filled it out?

8 A I would view that as inappropriate.

9 Q I want to now take a look at Exhibit 39 which is
10 further in that same transcript. Do you see line 9?

11 A Yes, sir.

12 Q Mr. Malcolm asks, "Related to the problems with
13 the ballots, who was it that called you from the Bladen
14 County Board of Elections and told you there were problems?
15 Was it a board member of Ms. Shaw or one of the workers?"

16 Would you find it appropriate for someone from the
17 Board of Elections to call a--to call Mr. Dowless about
18 problems with ballots as opposed to calling the voter?

19 A I would not find that appropriate.

20 Q Turning to Page 166, line 9, Mr. Malcolm asks, "So
21 would it be correct for me to say Ms. Shaw, or Ms. Cynthia,
22 knew that you were the one putting the initials on the
23 absentee ballot request forms?"

24 "Mr. Dowless: That they knew it?

25 "Mr. Malcolm: Yes.

1 "Mr. Dowless: Yes. I told them I was doing it
2 so that if there was a problem, we could find--get the
3 problem, what was happening.

4 "Mr. Malcolm: Before they processed them?

5 "Mr. Dowless: Yes."

6 Chairman Whitney asks, "Just for clarification,
7 every absentee ballot request form that was turned in had
8 somebody's initials on it.

9 "Mr. Dowless: Yes."

10 Was this the kind of public, quote, unquote,
11 "public information" that you thought Mr. Dowless was
12 getting?

13 A Absolutely not.

14 Q Was this public information?

15 A Was what public information?

16 Q Would you view this as appropriate information to
17 be shared?

18 A No. Absolutely not.

19 Q So this is not--when we said that the Republican
20 board members were giving public information, this is not
21 what you meant?

22 A No, sir.

23 Q You've been around a lot of campaigns.

24 A Yes, sir.

25 Q How important is real time information on who's

1 voted and--who's voted and hasn't voted to a campaign?

2 A It's very important.

3 Q Vital to a campaign, right?

4 A Yes.

5 Q The RNC and the NRCC and the state party in
6 campaigning spend lots of money to try to track information
7 about when people have voted?

8 A That's my--I'm not privy to their financials, but
9 that's my understanding.

10 Q And also when people--who has submitted an
11 absentee ballot form.

12 A That's my understanding.

13 Q And also whether absentee ballot forms have been
14 processed or have problems?

15 A I don't know whether they track that or not. I
16 know--I know the--I don't know whether the--I can't tell you
17 whether the party committees track that information or not.

18 Q Do campaigns track that information?

19 A I can't speak to other campaigns, but I know when
20 I get the publicly available data from the Board, it shows
21 the absentee ballot requests that have come in, absentee
22 ballots that have gone out. There's a column on there that
23 shows that there's errors, and I do check that column to see
24 if there are errors.

25 Q Because that's an important piece of information.

1 A Yes, sir.

2 Q And knowing that information before other
3 campaigns would know that information would be pretty
4 valuable, wouldn't it?

5 A Yes, sir.

6 Q It would cast doubt on the fairness of an
7 election, wouldn't it? If one side had access to that
8 information and the other didn't, would that cast doubt on
9 the fairness of an election?

10 A I don't know that that's for me to decide.

11 Q I'm asking you as a professional. You must have
12 an opinion. Would you think it was fair if one side had
13 access to that information and the other didn't?

14 MR. DALE: Objection, Mr. Chairman.
15 You've previously said that getting to the ultimate issues
16 of that are for the board are not appropriate questions of
17 witnesses.

18 MR ELIAS: I'm not asking a question that
19 goes to the ultimate issue.

20 CHAIRMAN CORDLE: I think the question is
21 proper.

22 A I would be concerned if I worked on a campaign and
23 found out the other campaign was getting that information
24 ahead of time, yes, sir.

25 Q And that would include--if you worked on a

1 campaign and the Democrats had a system where they put
2 initials on request forms and then the Democratic board
3 members told them these are the problems, you'd find that
4 unfair.

5 A I would find it very concerning, yes.

6 Q And unfair.

7 A Yes.

8 Q Did you listen to yesterday's testimony from Ms.
9 Maultsby about--regarding Cynthia Shaw's question about
10 whether one stop vote totals had been leaked?

11 A I heard portions of it, but I don't believe I
12 heard all of it.

13 Q Had you ever heard that information about one stop
14 shop--one stop--now I did a one stop shop. Amazon's getting
15 a commission every time I speak.

16 (Laughter)

17 Q One stop voting. So vote totals. Did you ever
18 hear that information about one stop vote totals were being
19 leaked?

20 A I only heard an allegation that they may have been
21 leaked in news reports after November 27th.

22 Q When was the last time you spoke to Mr. Harris?

23 A I can't recall with clarity, but it would have
24 been--he and I spoke--well, the last time I spoke to Dr.
25 Harris was as we were leaving here yesterday. He said

1 hello. We passed each other in the hall.

2 Q Okay. So before that?

3 A It was here on Monday, I believe. I believe we
4 spoke on Monday here at well.

5 Q And what did you speak about?

6 A We just said hello. It was very brief.

7 Q Other than hello and pleasantries, when was the
8 last time you spoke to Dr. Harris?

9 A We had a phone conversation; it was a Sunday night
10 right after the--I believe it was right after the Board had
11 voted not to certify the second time. I can't be certain
12 without looking at phone records, but I--I don't recall, but
13 it was--I know it was a Sunday night. I know it was about
14 11 o'clock at night because I was laying in bed about to
15 fall asleep when the phone rang.

16 Q And what was the substance of that conversation?

17 A He had listened to a news report on TV. He was
18 upset about the news report, didn't feel it was accurate or
19 fair, and I walked downstairs to the screened porch so not
20 to disturb other people, and I just--I mostly listened to
21 what he said.

22 Q What was the news report that he thought was
23 unfair?

24 A I--it was--I don't remember the specifics of the
25 news report.

1 Q What was the--you must recall what he thought was
2 unfair because you remembered he was calling to say
3 something was unfair.

4 A I--he was--it was a news report about the
5 investigations that were coming out and stuff in Bladen
6 County. He didn't believe it. He was incredulous at the
7 allegations. He thought it was just--he thought it was
8 blatantly unfair. That what he was hearing on the news
9 reports about--issues with absentee ballots in Bladen County
10 were false.

11 Q Did he think that Mr. Dowless was being falsely
12 accused?

13 A He--at that--that was the impression that I got.
14 I don't know if he used those words, but that was the
15 impression that I got.

16 Q That Mr. Dowless was getting a bad rap.

17 A That would have been the impression I got from the
18 phone call, yes, sir.

19 Q And this was after the 27th.

20 A This was after the 27th, yes, sir.

21 Q Prior to the 27th, did you have any conversations
22 with Dr. Harris about the results in Bladen County other
23 than we've already discussed? Anything about irregularities
24 in Bladen County?

25 A No, sir.

1 Q Have you had any discussions with Dr. Harris about
2 being retained for a special election if one is called?

3 A No, sir.

4 Q Do you anticipate that you would be the general
5 consultant for a--you would work on a future Harris
6 campaign?

7 A I have no idea.

8 Q Would you be open to it?

9 A I don't--I don't know at this point. I would be
10 open to having conversations with him, yes.

11 Q But you haven't had any conversations about a
12 special election.

13 A I have not had any conversations about a special
14 election.

15 Q With anyone or just not with Dr. Harris?

16 A With--

17 CHAIRMAN CORDLE: Well, I don't think that's
18 appropriate to ask him about his future business relations.

19 MR. ELIAS: Well, I think it goes to the
20 question of bias. If he expects future payments from Dr.
21 Harris, I think it---

22 CHAIRMAN CORDLE: I think we've done enough of
23 that.

24 MR. ELIAS: Thank you very much.

25 THE WITNESS: Thank you.

1 CROSS EXAMINATION BY MR. DALE: 10:23 a.m.

2 Q Good morning, Mr. Yates. My name is Alex Dale.
3 I represent Dr. Harris. Thank you again for your testimony
4 today.

5 A Yes, sir.

6 Q I want to first turn your attention to Exhibit 36.
7 That was the "This American Life" article, transcript,
8 whatever you want to call it, if you could find that.

9 A Yes, sir.

10 Q And you recall that Mr. Elias presented this
11 article to you and asked you a series of questions about it.

12 A Yes, sir.

13 Q And he also played you some of the audio portions
14 of some statements made by Dallas Woodhouse.

15 A Yes, sir.

16 Q But he never gave you a date for this interview,
17 did he?

18 A He did not.

19 Q I'll represent to you that it was re-posted on
20 January 10th of 2017, which means the interview needed to
21 have occurred prior to January 10th of 2017. Would you
22 agree that it had to have occurred before that date if it
23 was re-posted January 10 of 2017?

24 A That makes sense.

25 Q So everything that's being talked about in this

1 Exhibit 36 had nothing to do with the 2018 election, does
2 it?

3 A That's correct.

4 Q And you weren't told that before you were asked
5 questions about it.

6 A That's correct.

7 Q And in fact if you look on Page--again, they're
8 not numbered. It's Page 4. At the top do you see the
9 quote--it's the second paragraph--from Dallas Woodhouse
10 beginning "Should the election board find."

11 A Yes, sir.

12 Q And in fact that last sentence says--of Mr.
13 Woodhouse's quote says, "They should spend the first term
14 of the Trump administration behind bars." Do you see that
15 statement?

16 A Yes, sir.

17 Q So in fact, not just based on my representation
18 today but that statement alone shows you this was before
19 President Trump was put into office.

20 A Yes, sir.

21 Q Do you understand that what Mr. Woodhouse is
22 talking about were the activities of the Bladen Improvement
23 PAC in the 2016 election?

24 A I haven't read enough of the interview to--I can
25 read it quickly, but I haven't read enough of this to be

1 able to answer that question.

2 Q All right. Well, let's take a minute then, and
3 I want to ask you, do you see anything in here about any
4 absentee by mail operation by McCrae Dowless being
5 undertaken.

6 A Sure.

7 Q Why don't you take a minute to look.

8 A Yes, sir. I'm happy to.

9 (Witness reviews document.)

10 CHAIRMAN CORDLE: Mr. Dale, if you want to put
11 all of this in context, there was--in the 2016 election,
12 there were a lot of complaints filed by the McCrory campaign
13 against the Cooker campaign that went before the State Board
14 of Elections.

15 One of them was filed by Mr. Dowless, and in which
16 he accused, as I understand it, the Bladen Improvement
17 Association, but he had attached to it an affidavit or two
18 that involved workers he had hired and paid, and that's what
19 the questions showed up earlier from.

20 Mr. Malcolm makes it a concern, and so Mr. Dowless
21 is mentioned in here. But the complaint was about the
22 Bladen Improvement Association, and the Board turned that
23 complaint down at that time. I think that puts into context
24 that--

25 MR. DALE: (interjecting) It does, Mr.

1 Chairman.

2 CHAIRMAN CORDLE: --to everybody.

3 MR. DALE: And I think it also gives
4 context; as you said, there were affidavits about Mr.
5 Dowless's operation in '16 and yet the protest was
6 dismissed.

7 CHAIRMAN CORDLE: That he attached to his
8 complaint.

9 MR. DALE: Agreed. Agreed.

10 CHAIRMAN CORDLE: And his complaint was--it's
11 in the campaign for the Soil and Water supervision thing he
12 ran for, and he won the election. And so it started all
13 kind of questions; why do you complain about the election
14 that you won?

15 MR. DALE: Yes, sir. And you're right,
16 Mr. Chairman, in fact--

17 CHAIRMAN CORDLE: But I'm not trying to throw
18 anything off on your candidate--

19 MR. DALE: Sure.

20 CHAIRMAN CORDLE: --because your candidate was
21 not involved, or your client was not involved in it.

22 MR. DALE: Certainly.

23 CHAIRMAN CORDLE: But it was a very confusing
24 situation apparently for everybody at that time.

25 MR. DALE: Yes. That's right, and I just

1 think it's important and the reason for this line of
2 questioning is in 2016 we now have the investigator's report
3 that's out there publicly from 2016 that came out in
4 December--

5 CHAIRMAN CORDLE: Right.

6 MR. DALE: --that shows the state board
7 did have to evidence of McCrae Dowless's operation in '16,
8 but that was not publicly disclosed yet. It was still--the
9 races were still--

10 CHAIRMAN CORDLE: Except for the questions asked
11 at the hearing, but I would generally agree with you.

12 Q Mr. Yates, I'm not intending to rush you in any
13 way. You just tell me when you're ready.

14 A Yes, sir, I will. Thank you, Mr. Dale.

15 (Witness reviews document.)

16 Q Mr. Yates, I don't want to belabor this. I think
17 with the context the chairman and I discussed, we've kind
18 of addressed some of the issues with this article. So,
19 again--

20 CHAIRMAN CORDLE: I believe it's technically a
21 transcript of a radio show.

22 MR. DALE: Thank you. It is a radio
23 interview that occurred at some point before January 10 of
24 2017.

25 Q Mr. Yates, you were also handed Exhibit 35 which

1 was a transcript or portions of a transcript before the
2 State Board of Elections on December 3rd of 2016.

3 A Yes, sir.

4 Q If you could, turn to Page 142 at the top; I
5 believe it's the third page of the document.

6 A Yes, sir.

7 Q Do you understand what Mr. Dowless was taking the
8 Fifth on in this hearing?

9 A It appears that he was taking the Fifth on who
10 gave him campaign finance reports.

11 Q He was not taking the Fifth on any absentee by
12 mail operation, was he?

13 A From what I can read here, he was not.

14 Q And in fact the hearing that was conducted on
15 December 3rd was about his protest of the Bladen Improvement
16 PAC, not anything--any operation he was undertaking. That
17 was--the impetus was his protest of the Bladen Improvement
18 PAC.

19 A That's my understanding.

20 Q So that's a little different; when you heard the
21 words "he took the Fifth," that context gives it a little
22 different flavor, doesn't it?

23 A It does.

24 Q You also were asked about that you thought it was
25 inappropriate to have initials on absentee ballot request

1 forms, and that that was done in 2016. Do you remember that
2 line of questioning by Mr. Elias?

3 A Yes, sir.

4 Q You're not aware of that being done in 2018, are
5 you?

6 A No, sir.

7 Q And Dr. Harris is not aware of that being done in
8 2018, is he, to your knowledge?

9 A To my knowledge. He never told me it was being
10 done.

11 Q And in 2016 even though initials were on the
12 absentee ballot request forms, all the races were certified
13 in that election including McCrae Dowless and Bladen County
14 Soil and Water District Supervisor, weren't they?

15 A Yes, sir.

16 Q Are you aware of the members of the Bladen
17 Improvement PAC putting initials on absentee ballot request
18 forms?

19 A No, sir.

20 Q You talked a little bit about how Sheriff
21 McVicker's race--how he joined in the absentee by mail
22 program of Mr. Dowless for the 2018 general election, didn't
23 he?

24 A Yes, sir.

25 Q And in fact whatever absentee by mail operation

1 was being done by Mr. Dowless, it was being done equally--
2 in equal measure for both the Harris campaign and the
3 McVicker campaign; is that correct?

4 A As far as I know.

5 Q You have no knowledge it was handled any
6 differently.

7 A Correct.

8 Q And in fact it would have been your direction as
9 the consultant that they should have been treated equally
10 in the absentee by mail program.

11 A I don't remember giving that specific direction,
12 Mr. Dale, but my understanding was that it was being run the
13 same way. From the point that Mr. McVicker joined in the
14 operation, it was run the same way for Sheriff McVicker and
15 for Mr. Harris, or for Dr. Harris.

16 Q And Sheriff McVicker came in after his primary and
17 joined the race for the general election.

18 A Yes, sir.

19 Q First he joined the absentee by mail program in
20 the general election.

21 A Yes, sir.

22 Q And at no time was Sheriff McVicker ever kept out
23 of any absentee by mail operation all the way up through
24 election day in November of 2018, was he?

25 A Not to my knowledge. But I wasn't on the ground

1 in Bladen County.

2 Q And Sheriff McVicker was certified and received
3 a certificate of election for his race, wasn't he?

4 A Yes, sir.

5 Q Thank you. You spent a lot of time talking about
6 the google search that you ran on McCrae Dowless.

7 A Yes, sir.

8 Q McCrae Dowless was an elected official in Bladen
9 County, wasn't he?

10 A Yes, sir.

11 Q And that certainly gave you some context to who
12 he was before you set out to meet with him, didn't it?

13 A Yes, sir.

14 Q That suggested to you or any other person looking
15 into him that the public had chosen him to serve a role,
16 hadn't they?

17 A Yes, sir.

18 Q And that certainly is something our--in our
19 society that we give some credence to, isn't it?

20 A Yes, sir.

21 Q So you testified that you did a google search on
22 McCrae Dowless, and you found a court search record, I
23 believe; is that correct?

24 A It was--I did a google search on McCrae Dowless,
25 as I stated before. I'd not met him, didn't know his full

1 name, misspelled his name, but I did see a search result for
2 Courtrecords.org. Yes, sir.

3 Q And you were shown this morning some more serious
4 charges that had been brought against Mr. Dowless and
5 convictions against Mr. Dowless this morning in a record.

6 A Yes, sir.

7 Q And you testified that did not come up in your
8 court search results.

9 A That's correct.

10 Q And that was because of the use of the name; is
11 that right.

12 A I don't know why it didn't come up in the results,
13 but I know I misspelled the name. You can see that on the
14 documents that were produced by my counsel.

15 Q Mr. Yates, yesterday--and I hope they're still in
16 front of you--there were a list of--there was a check log
17 and a packet of checks.

18 A I do not have that, Mr. Dale.

19 Q They're not in front of you. Maybe Madam Court
20 Reporter has them.

21 (Pause)

22 CHAIRMAN CORDLE: Exhibit 26.

23 MR. DALE: And Exhibit 27 should be the
24 checks themselves.

25 THE WITNESS: Thank you, Mr. Chairman.

1 Q All right. Mr. Yates, do you have Exhibit 27 in
2 front of you which is the batch of checks?

3 A Yes, sir.

4 Q Mr. Yates, you testified that when you ran your
5 search, you did not it under Leslie McCrea Dowless.

6 A Uh-huh (affirmative).

7 Q And the--you did not know that was his name, I
8 believe was your testimony.

9 A That's correct. I knew him as McCrae Dowless.
10 That was what Dr. Harris had told me.

11 Q Let's look at the first check, up at the top.

12 CHAIRMAN CORDLE: And I believe all these checks
13 are in Exhibit 26.

14 MR. DALE: 26, they are, yes, sir.

15 Q So the first check you wrote to McCrae Dowless was
16 August of 2017; is that right?

17 A Yes, according to the check log, that appears to
18 be correct.

19 Q And you wrote that check to McCrae Dowless.

20 A Yes, sir.

21 Q And in fact that's reflective of the fact you did
22 not know his name was Leslie McCrae Dowless, is it not?

23 A I don't personally recall at what point I learned
24 his name was Leslie McCrae Dowless.

25 Q And the second check in that pack also is to

1 McCrae Dowless without being addressed to Leslie McCrae
2 Dowless; is that right?

3 A That is correct.

4 Q And then we see on August 25th of 2017 is when
5 Leslie McCrae Dowless name--

6 A Yes, sir.

7 Q So it's consistent with how you wrote the original
8 checks with what your testimony was previously, that you did
9 not know his name was Leslie McCrae Dowless from when the
10 relationship began.

11 A Yes, sir.

12 Q You mentioned when you ran the search, it only
13 pulled up that limited information from court search. Have
14 you ever recreated that search since that time to see if it
15 turned up more?

16 A My counsel and I in his office recreated that
17 search within the last two weeks. I don't remember the
18 exact date. We spelled the name the same way I spelled it
19 that day which I believe was M-c-R-a-e Dowless. I did spell
20 Dowless correctly, D-o-w-l-e-s-s. And the search was also
21 the exact same.

22 Q You were asked a lot of questions about whether
23 certain absentee by mail results were unusual.

24 A Yes, sir.

25 Q Absentee by mail results can be unusual but legal,

1 can't they?

2 A Yes, sir.

3 Q That's a reflection of an active but legal
4 absentee by mail program, right?

5 A Yes, sir.

6 Q In District 9 in Mecklenburg County in the
7 Democratic primary in 2018, Mr. McCready had 117 absentee
8 by mail votes, and his opponent had 27 absentee by mail
9 votes. That reflects that Mr. McCready had 81 percent of
10 the absentee by mail votes in that Democratic primary.
11 Would you call that unusual?

12 A My knowledge of the race, based on the fact that
13 Mr. McCready was running an aggressive campaign and spending
14 much more money than his opponent, those results would not
15 be unusual. That would be what I would have expected.

16 Q So a high absentee by mail result is not going to
17 suggest to you, necessarily, illegality.

18 A That's correct.

19 Q And in fact it's not fair to say someone could see
20 illegality just because of a high return rate in absentee
21 by mail for one candidate.

22 A Yes, sir, that's correct.

23 Q And similar questions: In the Bladen County
24 sheriff's race in the Democratic primary, the absentee by
25 mail results were 120 for Hakeem Brown and 1 for Gary

1 Edwards. That's over 99 percent for one candidate. Would
2 you call that unusual?

3 A Yes.

4 Q What makes that one unusual as opposed to what you
5 heard about the Mecklenburg Democratic primary count?

6 A I mean I--I don't know if "unusual" is the right
7 word. I don't know anything about the context of that race,
8 who was campaigning and who was not. To evaluate whether
9 or not that was unusual, I'd have to know more about the
10 context of that campaign.

11 I don't know if Mr. Ward--I believe Hakeem Ward
12 was the candidate's name.

13 Q Hakeem Brown.

14 A Hakeem Brown. I'm sorry. I don't know if he was
15 running a much more aggressive campaign than his opponent.
16 I wasn't paying attention to the Bladen sheriff's Democrat
17 primary. Until you named the names, I couldn't have told
18 you who the candidates were.

19 Q And part of that context would be whether the
20 Bladen Improvement PAC was active in that race, wouldn't it?

21 A That would be, yes, sir.

22 Q And that would impact whether you thought it was
23 unusual.

24 A Yes, sir.

25 MR. DALE: Mr. Chairman, are we on

1 Exhibit 39 now?

2 COURT REPORTER: 40, I think.

3 CHAIRMAN CORDLE: Exhibit 40.

4 MR FREEDMAN: Is that correct?

5 CHAIRMAN CORDLE: Mr. Dale, I think you're safer
6 asking the court reporter rather than asking me.

7 MR. DALE: Certainly, Mr. Chair.

8 (Whereupon, Exhibit No. 40
9 was marked for identification.)

10 Q Mr. Yates, I've handed you what has been marked
11 as Exhibit 40.

12 MR. ELIAS: We don't have a copy.

13 Q We'll start by looking at the top. Sometimes it's
14 not all up here on the screen.

15 CHAIRMAN CORDLE: We don't have copies of that
16 document either. Do you have copies for us? Is this one
17 of the exhibits in your brief?

18 MR. DALE: It is not, Mr. Chairman.

19 CHAIRMAN CORDLE: If you've got a couple of
20 them, we can share.

21 MR. FREEDMAN: We have plenty. I've got one
22 for everyone.

23 MR. DALE: May I approach?

24 CHAIRMAN CORDLE: Yes, sir.

25 (Documents handed up to the Board members.)

1 Q All right. Mr. Yates, you testified yesterday
2 that your target in Bladen County was to be consistent with
3 how President Trump had done in 2016.

4 A Yes, sir.

5 Q And that was to reach a vote total around 60
6 percent, as I recall your testimony.

7 A Yes. That the percentage that I recall that Mr.
8 Trump got in the Ninth District portion of Bladen County in
9 2016.

10 Q So looking at the votes from the general election
11 in Bladen County in 2018, what percentage did Dr. Harris
12 receive on election day?

13 A On election day he received 59 percent.

14 Q And on the absentee one stop?

15 A Fifty-six percent.

16 Q And the absentee by mail?

17 A Sixty-one percent.

18 Q So in fact Dr. Harris received, within a few
19 percentage points, consistently the same number of votes
20 across each category of voting type. Is that accurate?

21 A Yes, sir.

22 Q And so when you see 420 absentee by mail votes,
23 again, we're talking about votes, that is something you
24 would've expected given that percentage you were chasing;
25 is that right?

1 A Yes. I would've expected that number of absentee
2 by mail votes.

3 Q So when we're talking about the absentee votes,
4 that is consistent with his other performance in the other
5 areas and it's also consistent with the target you had for
6 him.

7 A Yes, sir.

8 Q Let's look at the Robeson numbers now.

9 A Sure.

10 Q They're at the bottom of the page. Did you have
11 a target in Robeson that was different than Bladen?

12 A Robeson was a county where there was some internal
13 disagreement on what percentage of the vote we could get in
14 the county. Dr. Harris believed it was much higher than I
15 would. Some of the other staff believed we could do much
16 better there than I thought we could.

17 My goal was 41 to 42 percent in Robeson County,
18 and that was influenced by conversations that I had had with
19 local politicians in Robeson County such as Dr. Phillip
20 Stephens who is the Robeson County party chair.

21 Q So in fact Dr. Harris underperformed from your
22 expectations in the absentee by mail program in Robeson
23 County.

24 A That would be correct. Yes, sir.

25 Q And again though Dr. Harris's results are fairly

1 consistent from each type of vote from election day,
2 absentee one stop, and absentee by mail; is that right?

3 A Yes. He did a little better, as you can see, on
4 election day than on one stop or by mail.

5 Q In general context, is it fair in your experience
6 that, you know, on the whole--and I realize this is an on
7 the whole average--the Republican candidates tend to do a
8 little better on election day and the Democratic candidates
9 tend to do a little better in the one stop voting?

10 A That's correct.

11 Q So the fact that Dr. Harris was up a few
12 percentage points on election day would not be something
13 that would surprise you compared to how he did in early
14 voting or absentee by mail.

15 A It would be expected. As best I recall, on
16 election night, Mr. Dale, we were behind district-wide in
17 early voting, and then we went ahead after election day
18 votes came in.

19 Q So looking at both Bladen and Robeson Counties,
20 is this consistent with how you would have expected Dr.
21 Harris to perform regardless if McCrae Dowless was involved
22 at all?

23 A Yes, sir.

24 Q And do you think the voters intent was reflected
25 in the fact that this performance is consistent with what

1 projections were?

2 CHAIRMAN CORDLE: Well, that doesn't seem to me
3 to be an appropriate question.

4 Q Mr. Yates, you have significant experience in sort
5 of projecting how you think candidates will perform in
6 certain elections.

7 A Yes, sir.

8 Q And that's based on how you are reading the tea
9 leaves, if you will, how voters may feel about a certain
10 candidate; is that right?

11 A As well as looking at past election results,
12 changes in voter registration, publicly available polling,
13 polling that my client may have paid for, various things.

14 Q And based on what you were seeing and how you
15 thought the voters would go, were the results consistent
16 with that?

17 A Yes, sir.

18 Q And I believe you testified you heard the
19 testimony of some of the other witnesses from Monday and
20 Tuesday as well; is that correct?

21 A Yes. I heard some, but I can't be certain that
22 I heard it all. I was watching on the video feed.

23 Q And did you hear the testimony that reflected that
24 with possibly the exception of the one ballot, all the other
25 ballots were sealed and delivered, in whatever means they

1 were delivered, with the votes already cast?

2 A Yes. That's the testimony I heard.

3 Q Dr. Harris won by 905 votes as of election day;
4 is that right?

5 A As of the result--it's actually after--

6 Q That's--

7 A --higher on election day, that was after absentees
8 came in, provisionals, et cetera. That number continued to
9 change for a period of days.

10 Q I apologize. I misstated that question. That he
11 was--he had a 905 vote lead at the conclusion of the county
12 canvasses.

13 A Yes, sir. That's correct.

14 Q And the counties all completed their canvasses
15 with no protests before the counties.

16 A That's my understanding.

17 Q So he came out of that with a 905 vote lead. And
18 if you--if there was no absentee by mail vote given to Dr.
19 Harris, at the end of the day he would still have the
20 winning vote total in this race, wouldn't he?

21 CHAIRMAN CORDLE: Excuse me. Are you asking--

22 MR. DALE: Let me rephrase it.

23 CHAIRMAN CORDLE: Are you asking about whether
24 a county--

25 MR. DALE: (interposing) I am. I am.

1 (unintelligible crosstalking)

2 CHAIRMAN CORDLE: --about Robeson. Are you
3 asking about the entire district?

4 Q Mr. Yates, if Dr. Harris had received or was
5 determined to receive no absentee by mail votes from Bladen
6 County in the 2018 election, would he still be the winning
7 vote-getter?

8 A Yes.

9 Q And if Dr. Harris were to receive no absentee by
10 mail votes in both Bladen and Robeson Counties, would he
11 still be the top vote-getter at the end of this election?

12 A Yes, sir.

13 Q And Mr. Yates, it's true that if you went
14 district-wide in District 9, that Dan McCready actually had
15 over 2,000 more absentee by mail votes than Dr. Harris; is
16 that correct?

17 A I don't have--I don't believe I have the district-
18 wide numbers in front of me, but that--that seems to be
19 correct, based on my memory, Mr. Dale.

20 (Whereupon, Exhibit No. 41
21 was marked for identification.)

22 Q Mr. Yates, I've handed you what's been marked as
23 Exhibit 41.

24 A Yes, sir.

25 Q Do you see the absentee by mail vote totals?

1 A I do.

2 Q And is it a correct statement that Mr. McCreedy
3 received over 2,000 more absentee by mail votes across
4 District 9 than Dr. Harris?

5 A Yes, sir.

6 Q You mentioned in your testimony yesterday that
7 McCrae had mentioned to you the Bladen Improvement PAC.

8 A Yes, sir.

9 Q What was Mr. Dowless's--what did Mr. Dowless tell
10 you about the Bladen Improvement PAC?

11 A He told me that they--that they were people who
12 didn't play by the rules, they did things the wrong way,
13 they didn't care what the rules were, they were very
14 aggressive in their campaigning, and I don't remember his
15 specific words, but he described a group that I would
16 consider to be very unscrupulous.

17 Q And did he at any time say he was working with any
18 member of the Bladen Improvement PAC?

19 A No. He told me he detested the Bladen Improvement
20 PAC.

21 Q Did he ever share with you that he and the Bladen
22 Improvement PAC sort of had their own turfs and they were
23 keeping separate turfs from each other?

24 A No, sir.

25 Q And what I mean by "turfs" there is there were

1 certain voters that both groups knew the other one had and
2 they would not cross those lines. Did he ever tell you
3 that?

4 A No, he never told me that.

5 Q You testified earlier about campaign finance
6 reports. You're familiar with those, aren't you?

7 A Yes.

8 Q And you review them regularly as part of what you
9 do, and "regularly" may be too strong a word, but you review
10 them--

11 A Regularly. I look online at campaign finance
12 reports for a client's opponents, but I don't do campaign
13 compliance. I don't review reports before they're filed.
14 That's not my area, and I prefer to stay as far away from
15 that area as I possibly can.

16 Q Understood.

17 CHAIRMAN CORDLE: Mr. Yates, if what Mr. Dowless
18 told you about the Bladen Improvement Association PAC is
19 true, and I understand you know just what he told you.

20 THE WITNESS: Yes, sir.

21 CHAIRMAN CORDLE: Then if you add that to what
22 unscrupulous stuff Mr. Dowless was doing that you've said
23 you would not put up with if you'd known it--

24 THE WITNESS: Yes, sir.

25 CHAIRMAN CORDLE: --you've got a pretty bad

1 situation down there in that county; is that correct?

2 THE WITNESS: It sounds like it to me. I
3 will say he never offered any evidence of what the Bladen
4 Improvement PAC was doing because I would have immediately
5 reported that. He just talked very badly about them, was
6 very critical of them in conversations with me.

7 CHAIRMAN CORDLE: I'm not trying to say it's
8 true because I obviously don't know either, but it shows a
9 whole bad situation for the entire county, does it not?

10 THE WITNESS: It does, yes, sir.

11 CHAIRMAN CORDLE: Thank you.

12 MR. RAYMOND: Mr. Yates.

13 THE WITNESS: Yes, Mr. Raymond.

14 MR. RAYMOND: When Mr. Dowless told you
15 about the Bladen County Improvement PAC and the work they
16 did, did he also explain--did he go into any detail about
17 their turf, their voters, or geographically where they
18 operate?

19 THE WITNESS: I don't remember him going
20 into any details on that. He would talk about different
21 parts of the county, different precincts that he felt like,
22 based on his experience, that were more--that would be more
23 favorable to Dr. Harris, different precincts, about
24 locations that would be more favorable to Mr. McCready, but
25 I don't remember--he never talked about who their--what

1 their turf was, what their voters were--where they were.
2 He never gave me any indication that anything was divided
3 up like that.

4 MR. RAYMOND: Thank you.

5 THE WITNESS: Yes, sir.

6 Q Mr. Yates, I'm handing you what's been marked as
7 Exhibits 42 and 43.

8 (Whereupon, Exhibits Nos. 42 and 43
9 were marked for identification.)

10 A Mr. Dale, I've got three, three documents, two are
11 labeled and one is not.

12 Q Extra copies.

13 A Thank you, sir.

14 Q Mr. Yates--

15 CHAIRMAN CORDLE: Excuse me. Could you tell us
16 which exhibit is which?

17 MR. DALE: Yes, sir. We'll be starting
18 with--

19 CHAIRMAN CORDLE: One is a 2019 and one's a
20 2018. Is that the dates filed?

21 MR. BLACK: 10/29.

22 MR. DALE: I'm going to be starting with
23 42, which is the third quarter, and which is dated October.

24 MR. RAYMOND: Date received?

25 MR DALE: October 23, 2018? So 42 is

1 the third quarter.

2 CHAIRMAN CORDLE: 43 would be the--

3 MR. DALE: Fourth quarter.

4 CHAIRMAN CORDLE: --fourth quarter. Thank you.

5 MR. DALE: And just for the Board's
6 benefit, middle of the page, sort of third column is where
7 you can see the markings of third and fourth quarter.

8 CHAIRMAN CORDLE: Thank you.

9 Q All right, Mr. Yates, these are campaign finance
10 reports; is that correct?

11 A Yes, sir.

12 Q And are they campaign finance reports from the
13 Bladen County Improvement Association?

14 A Yes, sir.

15 Q Which is also commonly known as the Bladen County
16 Improvement PAC?

17 A Yes, sir.

18 Q And again, 42, you will see, has been marked--
19 Exhibit 42 has been marked, and that should show in there
20 that it is the third quarter report. Do you see that?

21 A Yes, sir.

22 CHAIRMAN CORDLE: Has he ever seen--Mr. Yates,
23 have you ever seen these reports before?

24 THE WITNESS: I don't recall ever having
25 seen them before.

1 CHAIRMAN CORDLE: Why don't you tell us what's
2 important in there, Mr. Dale, instead of going through and
3 asking him. Maybe we can speed some things up that way.

4 MR. DALE: Certainly. So--

5 CHAIRMAN CORDLE: I mean we'll accept the
6 documents for what they purport to be.

7 MR. DALE: Certainly. So what's
8 meaningful in here is if you--to establish, first of all,
9 that there's no confusion that any absentee by mail program
10 of McCrae Dowless was separate from any absentee by mail
11 program of Bladen County Improvement PAC, and that's
12 reflected by who was funding them.

13 The testimony on Monday was clear that it was--
14 that Mr. Dowless's operatives were assisting Republican
15 candidates, and the campaign finance report from the Bladen
16 County Improvement PAC reflects that they are being funded
17 by the North Carolina Democratic Party.

18 MR. ELIAS: I think this is--is this what
19 you had in mind that he--because I can offer my argument.

20 CHAIRMAN CORDLE: Yeah, I don't quite
21 understand; it shows the Democratic Party gave them \$1,000,
22 from what I can see. Maybe--

23 MR. DALE: Yes, sir.

24 CHAIRMAN CORDLE: I don't think there's much
25 question that this group was working for Democrats. Is that

1 what you're trying to--and they may have been working for
2 others, too, but--

3 MR. DALE: I just want to make it
4 clear--

5 CHAIRMAN CORDLE: --I recall hearing that they
6 were essentially working for Democrats.

7 MR. DALE: As long as that's clear
8 because there were testimony about one of the Bladen County
9 Improvement PAC individuals making copies in Mr. Dowless's
10 office, and I just want to clarify.

11 MR. ELIAS: Objection. That is not what
12 the testimony was. There was an individual who was making
13 copies. There's no foundation that that individual was
14 connected to the PAC.

15 (Crosstalking)

16 CHAIRMAN CORDLE: I think that is correct. Ms.
17 Wooten was coming over, and maybe Mr. Munn; I'm not sure
18 about whether he was coming or not that way.

19 MR. DALE: Lola Wooten has testified to
20 coming over to the McCrae Dowless's office.

21 MR. ELIAS: Right, but there's no
22 foundation that Lola Wooten was working for Democrats in
23 this election.

24 MR. DALE: Well, this is what this report
25 shows; it shows she's being paid by the PAC.

1 MR. BLACK: Mr. Chairman.

2 CHAIRMAN CORDLE: It shows there are payments
3 being made to Ms. Wooten, I see on--

4 MR. RAYMOND: Yes.

5 MR. ELIAS: You don't know what--but you
6 don't know what those payments were made for.

7 MR. DALE: They're for Get Out The Vote.

8 CHAIRMAN CORDLE: Get Our The Vote.

9 MR. DALE: But in October, before early
10 voting has started.

11 MR. ELIAS: Well, now you're testifying.
12 Would you like to take the stand? Because I'd love to cross
13 you.

14 MR. DALE: Mr. Chairman asked me to give
15 the report.

16 CHAIRMAN CORDLE: Well, hold on just a minute.

17 (Unintelligible crosstalking.)

18 CHAIRMAN CORDLE: But if you're trying to show
19 that Ms. Wooten was paid money, that shows in here. We can
20 do that real quickly and move on to things that may be in
21 dispute. I don't think that's in dispute.

22 MR. BLACK: Mr. Chairman.

23 CHAIRMAN CORDLE: Yes.

24 MR. BLACK: The notes in here do say GOTV
25 under her name.

1 CHAIRMAN CORDLE: Right.

2 MR. DALE: And as well, Mr. Chairman, I'd
3 like to point out Michael Cogdell who's also there who also
4 had a large number of absentee ballot requests. Mr. Cogdell
5 had 110 absentee ballot request forms submitted. Lola
6 Wooten, who we've already talked about, and that exhausts
7 Exhibit 42.

8 MR. ELIAS: None of these are a question
9 for the witness, apparently.

10 CHAIRMAN CORDLE: I understand, and I've asked
11 him to tell me what's--tell us what's important rather than
12 asking the witness who has never seen these documents
13 before.

14 MR. DALE: And then Exhibit 43, the
15 fourth quarter, shows Lola Wooten received a total of \$885
16 for Get Out The Vote efforts in 2018 general election.
17 Deborah Monroe who there was testimony about yesterday
18 received over \$1,000 in this election in Get Out The Vote
19 efforts. Arthur Owens who requested 20 absentee ballot
20 request forms was also paid here and reflected in that.

21 There was testimony yesterday about Sandra Goins
22 and testimony--apparently there's investigation that this
23 Board's not going to take into account in its decision here,
24 but about the testimony of Ms. Willis yesterday and the fact
25 that Sandra Goins was involved in that--in that exchange.

1 And--

2 CHAIRMAN CORDLE: And this is being offered to
3 try to show that Bladen Improvement PAC was doing the same
4 thing that Mr. Dowless was doing?

5 MR. DALE: This is being offered to show
6 that--there's going to be testimony and an expert report
7 presented about anomalies in request forms, and we are
8 presenting this evidence to show anomalies in request forms
9 were operating on both sides of the political aisle, so--

10 CHAIRMAN CORDLE: They were clearly trying to
11 get absentee ballots, but Get Out The Vote, where I come
12 from and probably where Mr. Black comes from, is usually a
13 effort by people to call, go by people's houses, and things.
14 I think it's unusual at least in my experience to call Get
15 Out The Vote an absentee ballot type thing.

16 MR. FREEDMAN: And you said there was
17 testimony from--

18 CHAIRMAN CORDLE: There was testimony.

19 MR. FREEDMAN: There was testimony these
20 witnesses picked up the ballots.

21 CHAIRMAN CORDLE: Yes.

22 MR. FREEDMAN: So I agree with you, Get Out
23 The--as we're stating, Get Out The Vote is different than
24 picking up absentee ballots.

25 MR. ELIAS: There was no testimony that

1 I recall that anyone was working on behalf of Bladen County
2 Improvement Association to pick up ballots. I think that
3 that is a mischaracterization of the testimony.

4 CHAIRMAN CORDLE: I think that's correct. I
5 don't recall any testimony--

6 MR. BLACK: Lisa Britt testified to that.

7 MR. DALE: And Precious Hall. Precious
8 Hall testified these members of the Bladen Improvement
9 PAC--

10 CHAIRMAN CORDLE: You're right. She did.

11 MR. ELIAS: What they--what they--what you
12 are doing is every person paid by an organization doesn't
13 mean that they were working for that organization to do that
14 purpose. In fact, this witness has said that Mr. Dowless
15 did a bunch of activities that he says wasn't done on their
16 behalf.

17 So what you're doing is you're smearing this
18 organization saying that people who appear on this report
19 as doing GOTV, which is not the same as absentee balloting,
20 and you know that, and this witness, when I ask him, he'll
21 know that--he'll say that.

22 You're saying that somehow because they got paid
23 by Bladen Improvement small sums of money, somehow that ties
24 them to doing unlawful activity, and there's no --

25 MR. FREEDMAN: Didn't you just say that Dr.

1 Harris is tied to McCrae Dowless because he paid him--

2 MR. ELIAS: He hired him. He hired him.

3 He described the program. We're going to hear from him.

4 MR. FREEDMAN: You're doing the exact same
5 thing.

6 CHAIRMAN CORDLE: Well, let's go back to--I
7 think we have enough talk about what's in these papers, and
8 if you have questions for the witness, let's ask them, and
9 let's not talk to him about things he knows nothing about
10 and I don't think wants to talk about.

11 MR. DALE: I understand, Mr. Chairman.
12 There was a lot of latitude given to Mr. McCready's counsel.

13 CHAIRMAN CORDLE: And we've given you a lot
14 of--we'll give you a lot latitude.

15 MR. FREEDMAN: Thank you, and we appreciate
16 that.

17 MR. DALE: We appreciate that. Thank
18 you.

19 CROSS EXAMINATION BY MR. DALE (resumed):

20 Q You talked a little bit in your testimony about
21 all--yesterday about all the activities that Mr. Dowless was
22 doing for the Harris, McVicker, and other campaigns that he
23 was working on.

24 I'd like to get the full universe of those
25 activities because I don't think that came out clearly

1 yesterday. I understand--

2 CHAIRMAN CORDLE: Well, I think he said he was
3 reporting what he had heard yesterday, not that he had
4 first-hand knowledge about what Mr. Dowless actually did.

5 MR. DALE: His testimony was about what
6 he was--and this is the consultant who's paying him for
7 certain activities, and--

8 CHAIRMAN CORDLE: He testified--

9 MR. DALE: --was being told and paid
10 based on that.

11 CHAIRMAN CORDLE: He testified about what he
12 understood he was to do, and he testified about what he
13 heard in testimony at this hearing about what he actually
14 did. And they differ.

15 MR. DALE: And I'm not trying to re-ask
16 questions about the absentee by mail operation. I'm asking
17 questions about the other things he was doing--

18 CHAIRMAN CORDLE: Okay. Thank you.

19 MR. DALE: --to make it clear why the
20 other side wants to talk about how often Mr. Yates and Mr.
21 Harris at different times were talking to McCrae Dowless.
22 McCrae Dowless was doing many other things other than
23 absentee by mail, and that's why I want to get into what
24 these other activities were.

25 Q So, Mr. Yates, what other--okay, putting aside the

1 absentee by mail operation, what other activities was Mr.
2 Dowless doing for the candidates you were working with?

3 A He--for Mr. Harris he provided poll workers to
4 work at early voting sites as well as polling places on
5 election day and during early voting in the primary
6 election. He did that in Bladen County, in Cumberland
7 County, and I believe in Robeson County, was in Bladen
8 County the entire time.

9 I can't recall--I don't believe we covered all the
10 sites in Cumberland and Robeson, and obviously we're only
11 covering the sites within our district. I don't believe we
12 covered all the sites the entire time just because of
13 resources. So I'm not certain how many times that he
14 covered those. That was a primary function of his.

15 He was paying folks \$10 to \$12 an hour to work at
16 those locations at least--and he said he had at least two
17 workers at those locations when he had folks there. He was
18 responsible for putting up yard signs in Bladen County.

19 He may have done some yard signs in other counties
20 as well, but regular yard signs and large yard signs, and
21 then he was responsible for taking those signs up after the
22 primary, for putting them back out after the general
23 election--I'm sorry, before the general election.

24 During the general election phrase of the
25 campaign, before Hurricane Florence hit, he paid folks to

1 go back out and pick up the yard signs so they wouldn't be
2 destroyed. After Hurricane Florence had come through, he
3 paid people to go back out and put the yard signs up.

4 He set up events for Mr. Harris. He set up
5 opportunities for Mr. Harris to participate in parades. He
6 had--he set up booths at events that Mr. Harris attended,
7 and I believe some that Mr. Harris did not attend, where he
8 had workers at those booths who were passing out information
9 about the campaign.

10 He helped set up speaking opportunities for Mr.
11 Harris. He set up a fundraiser at Lu Mil Vineyard in the
12 fall of 2017 that I believe I testified about yesterday.
13 He set up a post primary victory party dinner at Lu Mil
14 Vineyard approximately a week, week and a half after the
15 primary.

16 He also set up an event after the general
17 election, an appreciation event after the general election.
18 I think it was the Saturday after the general election. I
19 don't--I didn't attend. I don't know what the location was
20 for that. So he did a number of event work as well.

21 He also reached out to elected officials in Bladen
22 County who were friends and associates of his to seek their
23 support and endorsement of Dr. Harris.

24 Q Thank you. I want to talk a minute about the
25 hurricane. You had several races that you were consulting

1 on that were impacted by Hurricane Florence; is that right?

2 A Yes, sir.

3 Q What did you see about how that event impacted
4 absentee by mail in all of those races?

5 A It delayed the sending out of ballots. It
6 obviously impacted postal service in various areas for a
7 period of time, so it impacted people's ability to send--to
8 mail an absentee ballot request if they had a request to
9 mail in.

10 I'm sure--the county offices were closed for a
11 period of time, so I would feel certain that included the
12 Board of Elections. So they were closed down, so they
13 couldn't--obviously when they're closed, they can't process
14 absentee ballot requests; they can't send out absentee
15 ballots.

16 It appeared to cause--judging from afar, it
17 appeared to cause significant delays in the ability to
18 process ballots, to get ballots back out. And it appeared
19 to cause people issues with being able to send them in
20 because mail service--send in request forms because mail
21 service wasn't running.

22 Q So given that event, how meaningful it was to
23 people in Bladen and Robeson Counties, it would not surprise
24 you that some--a larger number of absentee ballots than had
25 been requested would not have been turned in.

1 A Would not have surprised me at all. I expected
2 that because of the hurricane. In fact, we were encouraging
3 people who had not--who had requested ballots but not
4 received theirs to go vote early which you were allowed to
5 do if you'd not voted an absentee ballot.

6 Q McCrae mentioned to you there was some past
7 history between him and you said Jens Lutz and Malcolm going
8 back (indiscernible words due to coughing in audience).
9 What did he say about that?

10 A He said that he and Jens Lutz had been on the
11 opposite sides of various elections in Bladen County, and
12 that he won and Mr. Lutz lost, and Mr. Lutz, I believe
13 Dowless's words were, hated him because he beat him, and
14 that Mr. Malcolm carried the--was buddies with Mr. Lutz and
15 because of what Mr. Lutz had told him about Mr. Dowless--
16 about Mr. Dowless, that Mr. Malcolm also could not stand Mr.
17 Dowless, that Mr. Dowless felt they were out to get him.

18 Q He was indicating to you the relationship between
19 Mr. Lutz and Mr. Malcolm?

20 A He did not. He just said they were friends.

21 Q At some point during the campaign, because of what
22 Mr. Dowless was continuing to tell you to suggest his
23 operation was legal, you engaged him with other candidates
24 you work with; is that right?

25 A That's correct, at their direction. I had other

1 candidates I work with ask me to also contract with Mr.
2 Dowless.

3 Q In fact, I think you testified it's not unusual
4 for the candidate themselves to work on someone--to contract
5 with someone who's going to handle grassroots work; is that
6 right?

7 A Yes.

8 Q So this would be standard for Dr. Harris or any
9 other candidate to have been the one to engage Mr. Dowless
10 as opposed to you; is that right?

11 A I've gone into it--I've had several clients who
12 had vendors, campaign managers, et cetera, that they had
13 contracted with before I came on board.

14 Q And so it's true that you developed a comfort
15 level with Mr. Dowless, based on what he was telling you,
16 to the point where you were comfortable with the other
17 candidates engaging with him. And that was because of what
18 he was telling you, right?

19 A Because of what he was telling me I believed he
20 was running a lawful absentee ballot program, and based on
21 what he told me, I had no reason to believe he was not
22 running a lawful absentee ballot program.

23 Q You also testified in your first day that the RNC
24 and the North Carolina Republican Party did some what you
25 described as chase calling--

1 A Yes, sir.

2 Q --in Bladen County for absentee by mail votes.

3 Describe for us what chase calling is.

4 A First I would say I assume they did it. They were
5 asked to do it. I can't verify what they did. Chase
6 calling is where you take the absentee ballot list provided,
7 all the information, data, provided by the Board. The Board
8 does not provide phone numbers.

9 You take that information. You do a phone match
10 to it, and then you make calls to those voters asking
11 them--I don't know what their script was, so I don't know
12 what they were asking, but they were calling for the purpose
13 of reminding them to vote absentee by mail and to vote for
14 the Republican candidate or candidates.

15 Q And to your knowledge, did anyone respond to those
16 calls saying that they had not requested an absentee by
17 mail?

18 A Not to my knowledge.

19 Q Mr. Yates, were there other candidates in other
20 races within the Ninth District that were doing absentee by
21 mail programs, other than what we've covered? We've already
22 covered Bladen Improvement PAC individuals' operations, and
23 we've covered Mr. Dowless's. Other than those, are you
24 aware of other ones doing absentee by mail operations?

25 A May I ask you a question for clarification?

1 Q Certainly.

2 A Are you asking about absentee ballot--to generate
3 absentee ballot requests?

4 Q Yes, sir.

5 A There were a number of--there was an independent
6 expenditure group, I believe out of the Washington, D.C.,
7 area, that was sending direct mail across the district
8 heavily trying to get--and it was--it appeared from who we
9 heard was getting into it, it was very targeted toward
10 Democrat friendly voters to get them to send in absentee
11 ballot requests.

12 Q Was that organization the Center for Voter
13 Information?

14 A Yes, sir.

15 Q Do you know anything about that organization?

16 A I wasn't familiar with it prior to this--prior to
17 this cycle, but I know that it seemed that their primary
18 purpose was to generate absentee ballot requests from voters
19 who were highly likely to be favorable to Democrats and from
20 just what I gathered from who I'd heard had received them,
21 it--I don't know who they were targeting, but it appeared
22 that they were likely targeting people who didn't normally
23 vote but who, if they did vote, would vote Democrat.

24 CHAIRMAN CORDLE: Mr. Dale, we've been at it
25 over two and a half hours now. If you're at a stopping

1 place here, we might take a break.

2 MR. DALE: That'd be fine.

3 CHAIRMAN CORDLE: If you can finish him right
4 now--

5 MR. DALE: We can take a short break, and
6 then I'll finish with him.

7 CHAIRMAN CORDLE: Let's take a ten minute break
8 then. Thank you.

9 (Whereupon, a brief recess was taken
10 from 11:22 a.m. to 11:40 a.m.)

11 CHAIRMAN CORDLE: I'd like the hearing to come
12 back to order please. Mr. Dale, we're still with you.

13 MR. DALE: Thank you, Mr. Chairman.

14 CROSS EXAMINATION BY MR. DALE (resumed):

15 Q Welcome back, Mr. Yates. I want to talk about why
16 having a Bladen County grassroots operation was meaningful.
17 Is it true that the Charlotte television networks don't
18 reach Bladen County?

19 A That's correct.

20 Q So from someone who was a consultant who was
21 handling media buys and issue of how to get the message out,
22 why would that make a Bladen County grassroots operation
23 more meaningful?

24 A Because that would be one of several ways we could
25 get messages to Bladen County if we would reach them with

1 Charlotte TV.

2 Q In fact if you were apt to buy television ads for
3 Bladen County, you would have to buy them out of the
4 Wilmington market; is that right?

5 A Wilmington or--I think it's Wilmington. It's
6 either Wilmington or Raleigh. I don't have the TV market
7 map in front of me.

8 Q Mr. Elias asked you about the FEC report of what
9 was owed to Red Dome Group by the Harris campaign. Do you
10 remember those questions?

11 A Yes, sir.

12 Q And I just want to be clear in your testimony.
13 He certainly implied there was something wrong about that
14 report, but you sitting here today have no knowledge there's
15 anything wrong with that report, do you?

16 A I haven't reviewed that report. So I have no
17 knowledge. I don't feel comfortable commenting on a report
18 that I haven't personally reviewed.

19 Q And you have no reason to believe the Harris
20 campaign would have any reason to put something false on a
21 FEC report, do you?

22 A I have no knowledge about that.

23 Q You've heard a lot of testimony about--from the
24 witnesses the past several days. Based on all that you've
25 heard--and you've expressed the comment, you don't know what

1 to believe at times.

2 Are all the questions or uncertainties in your
3 mind confined to the absentee by mail operation of Mr.
4 Dowless and not to anything else he was doing?

5 A I haven't heard every minute of testimony, but I
6 haven't heard any testimony to any irregularities outside
7 of the absent--or alleged irregularities outside of the
8 absentee ballot by mail program.

9 Q Mr. Elias also asked you some questions about how
10 you would feel if the NRCC had been told about possible
11 fraud in Bladen County. Do you remember his line of
12 questioning on that?

13 A Yes, sir.

14 Q And I believe your first response was that if that
15 was coming from the Pittenger campaign, you would question
16 it because you find some of their workers not to be
17 truthful, I believe were your words; is that right?

18 A Yes, sir.

19 Q Are you aware the NRCC denies that that was ever
20 told to them by anyone from Pittenger's camp?

21 A I wasn't aware of that one way or the other.

22 Q Are you aware that the NRCC issued a statement in
23 December that said--

24 CHAIRMAN CORDLE: Do you want to offer the
25 statement? He said he doesn't know about it.

1 MR. DALE: Be happy to show it to him.

2 CHAIRMAN CORDLE: Did you want to just introduce
3 the statement instead of asking him to read it or anything
4 and tell us what it says?

5 Q I'll move off of what the statement says directly
6 because you have no reason to believe the NRCC would ever
7 hide that information from you, do you?

8 A I don't have any reason to believe they would, but
9 I don't know.

10 Q And as someone working on a Republican
11 Congressional campaign, it would shock you if they had some
12 information like that, wouldn't it?

13 A It would shock me if they had it and they hid it
14 from me, yes, sir.

15 Q Mr. Elias also asked you about what a gentleman
16 by the name of Walter McDuffie said. Do you remember that
17 line of questioning?

18 A Yes.

19 Q And he suggested he had--that Mr. McDuffie had
20 warned Dr. Harris about McCrae Dowless before Dr. Harris
21 engaged McCrae Dowless. Do you remember that line of
22 questioning?

23 A Yes, sir.

24 Q Are you aware that Mr. McDuffie denies that
25 statement being shared with Dr. Harris at any time?

1 A I wasn't until last night when I saw some
2 posts--I believe it was on social media; I don't remember
3 if it was Twitter or Facebook--where he--where people had
4 referenced back to a story where Mr. McDuffie denied that.

5 Q Mr. Elias also handed you a news article or,
6 excuse me, a transcript from a television interview that was
7 given with Nick Ochsner with WBTV earlier this morning. Do
8 you remember talking about that, that interview?

9 A Yes, sir.

10 Q And in that interview Dr. Harris talked about the
11 sort of two phases of what he understood Mr. Dowless's
12 absentee by mail program to look like.

13 A Yes, sir.

14 Q And you covered Phase 1 and then you talked a
15 little bit about Phase 2.

16 A Yes, sir.

17 Q As we look back on that article and what Dr.
18 Harris said, I want to ask you just a preliminary question
19 before we get into exactly what he said.

20 A May I have a minute to find that article?

21 Q Sure. We can look at it now if you'd like.

22 A Okay.

23 MR. ELIAS: What's the exhibit? Is it the
24 article or the transcript?

25 MR. DALE: It's Exhibit 38.

1 MR. ELIAS: It's the transcript, right?

2 A Okay. I have it in front of me, Mr. Dale.

3 Q Mr. Yates, the topic of my questions deals with
4 starting at the very bottom of Page 3 to the beginning of
5 4 and 5.

6 A So the small Page 3 instead of the actual page 3.

7 Q Yes, sir. It's the condensed pages 3, 4, and 5,
8 which appear on the Exhibit Page 2.

9 A Okay. Thank you, sir.

10 Q So you see there at the bottom of condensed page
11 4, it says, "Phase 2 was the absentee ballot part." Do you
12 see where I am?

13 A Yes, sir.

14 Q And it talked about, as you go on into Page--
15 again, condensed Page 5, it talks about being a witness.
16 Do you see that?

17 A Yes, sir.

18 Q Witnessing the--it's a normal part of an absentee
19 ballot container return envelope for there to be some amount
20 of witnessing on it, isn't there?

21 A Yes, sir.

22 Q In fact that's a requirement for it to be counted,
23 isn't it?

24 A Yes, sir.

25 Q And so if someone was merely witnessing a--as part

1 of an absentee by mail program, there's nothing illegal
2 about that in and of itself, is there?

3 A As far as I know.

4 Q So if Dr. Harris had heard that Mr. Dowless's
5 people were witnessing ballots, that in and of itself, does
6 not mean Dr. Harris knew of any wrongdoing with any ballot,
7 does it?

8 A I don't--I don't believe so.

9 Q You talked about McCrae Dowless working for
10 some--he told you he worked for some other candidates in
11 prior years.

12 A Yes, sir.

13 Q Did he tell you the scope in terms of time of how
14 long he'd been working with candidates?

15 A I believe, as best as I can remember, he said he
16 started doing this in 2010.

17 Q Did he give you any names of candidates or elected
18 officials he'd done work with in 2010?

19 A He did not in 2010, not that I remember.

20 Q Did he tell you at any time he worked with any
21 municipal candidates?

22 A He said he'd worked on municipal races. He never
23 mentioned candidates.

24 Q Did McCrae Dowless tell you he worked in the--did
25 he tell you any candidates he worked with in the 2012

1 election?

2 A Not that I recall.

3 Q Did he tell you any candidates he worked with in
4 2014?

5 A Yes, sir.

6 Q And who were they?

7 A Jim McVicker, and there was a Waddell, former
8 state representative. I think his first name may be Ken
9 Waddell. He had worked with him in 2014. I believe he
10 mentioned working for some other local candidates in 2014.
11 I know he mentioned working for some of the county
12 commissioners. I believe he worked with some judicial
13 candidates as well.

14 Q Do you remember what judicial candidates it was?

15 A I do not.

16 Q Do you remember what county commissioners?

17 A I don't, and I don't even know if he told me by
18 name, but I just know that he mentioned working for county
19 commission candidates.

20 Q What party affiliation is Ken Waddell?

21 A Ken Waddell is a Democrat, I believe.

22 Q And did Mr. Dowless tell you who he worked with
23 in 2016?

24 A Mr. Todd Johnson, and I don't remember who he said
25 besides that. I think there was at least one county

1 commissioner he worked with in 2016.

2 Q So based on what I've heard from your testimony,
3 if we take the testimony we've heard earlier, McCrae Dowless
4 pulled the wool over the eyes of a number of people, didn't
5 he?

6 A That's what it appears.

7 Q And not just any people; we're talking law
8 enforcement officials, state house reps in both political
9 parties.

10 MR. ELIAS: Objection. I don't know how
11 he knows who he pulled the wool--

12 CHAIRMAN CORDLE: Yes, and I think that question
13 goes a little too far. The objection will be upheld.

14 Q Mr. Yates, if we were to take the testimony we
15 heard earlier this week, that it's true that--is it not true
16 that several elected officials were led to believe that
17 McCrae Dowless was operating a legal absentee--

18 MR. ELIAS: Objection.

19 Q --by mail operation?

20 CHAIRMAN CORDLE: Objection. The same question.
21 They may have known he was complicit in, so I think the
22 objection is well taken.

23 Q What was it like to work with Dr. Harris?

24 A It was mostly a positive experience. He was an
25 engaged candidate. He was, you know, an eager candidate,

1 excited to run for office. He was--he and I developed a
2 good relationship. He's very likeable, pleasant candidate
3 to work with.

4 Q Was there any time where you felt like Dr. Harris
5 was not being transparent or forthcoming with you?

6 A I can't recall any time when I felt that way.

7 MR. DALE: Thank you, Mr. Yates. That's
8 all my questions.

9 DR. ANDERSON: I have a question.

10 CHAIRMAN CORDLE: One of our board members has
11 a question here to start with.

12 DR. ANDERSON: So, Mr. Yates, some of
13 yesterday, I think, some questions by Counsel Lawson was
14 trying to get at how much would have been paid roughly for,
15 like, manning an early voting site versus anything else--

16 THE WITNESS: Yes, sir.

17 DR. ANDERSON: --the absentee work, et
18 cetera. The one thing that can be determined is the maximum
19 number of hours that an early voting site could have been
20 manned, and so correct me if I'm wrong; I'm going off of you
21 saying that he typically--he reported that he had two
22 people--

23 THE WITNESS: At least two people.

24 DR. ANDERSON: --okay, manning an early
25 voting site, and we'll go with manning it the full time that

1 it was open. There's 18 days max, but to get to that would
2 include Sundays. I'm not sure that Bladen had Sundays.

3 So I did a little calculation, and we'll go with
4 the \$15 an hour that you said was like the higher rate that
5 he ended up paying, and for the number of days and hours--
6 when it was Monday through Friday, they were open 12 hours
7 a day.

8 When it was a Saturday, typically--well, final
9 Saturday, only 8:00 to 1:00, but at any rate, I've come up
10 with about \$5,000 for two workers to man the site for the
11 entire time. And so that's easier to put together what's
12 possible, what's maximum, you know, with those basic
13 assumptions.

14 And I don't recall from the primary if the length
15 of the period or the hours or any of that was mandated. Do
16 you recall, Kim?

17 DIRECTOR STRACH: There were 17 days in the May
18 primary.

19 DR. ANDERSON: Okay.

20 DIRECTOR STRACH: And they did not have to match
21 hours at that time.

22 DR. ANDERSON: Right. So, but even if we
23 double it to \$10,000 for Bladen County for paying two
24 workers the higher rate, and I don't know what kind of work
25 was done in Robeson. I do know Robeson had six early voting

1 sites. I'm assuming that he did not have workers manning
2 those. So, you know, 10, 15 thousand dollars seems to be
3 only the logical part of what he would have been doing for
4 paying to man early voting sites.

5 Would you--do you have any thoughts--

6 THE WITNESS: I know that he had workers in
7 Cumberland County in both the primary and the general at
8 early voting sites, at, I think, two sites in Cumberland.
9 I don't believe he had any workers at Robeson in early
10 voting sites in the general.

11 I know he had some at early voting sites in
12 Robeson in the primary. I don't recall how many. And he
13 also had workers in Bladen at every precinct from 6:30 a.m.
14 to 7:30 p.m., at least two, on election day.

15 DR. ANDERSON: Would you agree that this
16 seems to be a category of expense that is fairly fixed in
17 nature based on number of people, number of sites, number
18 of hours, pay rate, and that even a generous calculation
19 would be 10 to 15 thousand, it seems to me. I don't know.
20 You may disagree.

21 THE WITNESS: I don't know that that--that
22 would be speculation without me having to be able to look
23 at records as to what that amount was. Ten to 15 thousand
24 seems low to me. It was certainly low based on what he was
25 telling me.

1 DR. ANDERSON: But yesterday I think we got
2 a sense of these expenses, these payments were largely based
3 on what he would relay to you and then you would go with
4 that, and there weren't like things written down necessarily
5 that--

6 THE WITNESS: Yes, ma'am.

7 DR. ANDERSON: --they did.

8 THE WITNESS: Yes, ma'am.

9 DR. ANDERSON: That's all.

10 MR. CARMON: Good morning, Mr. Yates.
11 Putting all party affiliations aside, with all that's
12 occurred over the past two days, do you think someone should
13 have known that something was not quite on the up and up
14 with Mr. Dowless?

15 THE WITNESS: I don't know that anybody on
16 the campaign should have known. I think there--this is--I
17 mean this is definitely asking me to speculate. There may
18 have been people in Bladen County that should have known.
19 Bladen County Board may should have known.

20 I--I mean I went to Bladen County four times over
21 the course of the primary and general election campaign.
22 I was relying on what Mr. Dowless told me. I don't know--
23 other people were down there more than I was. I don't know
24 what they observed when they were there.

25 MR. CARMON: With the description he gave

1 to you of his relationship with the Bladen Improvement
2 Association, did it surprise you that he would have any
3 contact with anyone that was association with that
4 association?

5 THE WITNESS: Surprised isn't a strong
6 enough word. It's shocked and floored me.

7 MR. CARMON: Thank you.

8 THE WITNESS: Yes, sir.

9 CHAIRMAN CORDLE: Do you have some short
10 questions, short time?

11 MR. ELIAS: I have limited--

12 MR. LAWSON: Some of the other candidates
13 may--

14 CHAIRMAN CORDLE: Oh, I'm sorry. Mr. Gilkeson.

15 MR. ELIAS: Oh, I'm sorry.

16 CROSS EXAMINATION BY MR. HAGA: 12:00 p.m.

17 Q Good morning, Mr. Yates. My name is Tim Haga.
18 I'm a counsel for Mr. Jack Moody. He was the judicial
19 candidate in Robeson County.

20 A Yes, sir.

21 Q So I want to narrow your focus a little bit down
22 to Robeson County if we can.

23 A Yes, sir.

24 Q In talking about the structure earlier, I didn't
25 quite understand the working relationship that you had

1 between the Harris campaign, yourself, and Mr. Dowless, so
2 I want to try to focus that a little bit. I think you
3 talked about it being a pass-through earlier.

4 (unintelligible crosstalking)

5 Q --and the estimation that Mr. Elias had made.

6 A I'm sorry, I couldn't hear you, sir.

7 Q Can you hear me now?

8 A Yes, sir.

9 Q All right. Mr.--I've got a microphone here. Can
10 you hear me now?

11 A Yes, sir.

12 Q All right. Mr. Elias had spoken about the
13 relationship between you, Mr. Harris, and Mr. Dowless as
14 being kind of a pass-through. I think you had said that was
15 a fairly fair assumption. Was that--

16 A I don't--I don't recall Mr. Elias using the term
17 "pass-through."

18 Q Well, there was some--I'm trying to get an
19 understanding of how the money passed from Mr. Harris's
20 campaign through you down to Mr. Dowless.

21 A I paid Mr. Dowless on behalf of the Harris
22 campaign and I was reimbursed by the Harris campaign for my
23 payments to Mr. Dowless. And the terms of how I was to pay
24 Mr. Dowless had been outlined by the Harris campaign before
25 I came on board.

1 And as I said in testimony yesterday, they were
2 slightly adjusted for the general election, and the Harris
3 campaign reimbursed me for payments to Mr. Dowless.

4 Q Okay, so when they were slightly adjusted, who did
5 the slight adjustment?

6 A Mr. Dowless asked, for the general election, that
7 his monthly payment go up from \$1,200 to \$1,625, and he
8 asked that the amount paid for absentee ballot requests go
9 from 4 to \$5.

10 Q And that went through you back up to Mr. Harris's
11 or Dr. Harris's campaign.

12 A Yes, sir. I went through me back up to Dr.
13 Harris; it was okayed, and we did that.

14 Q Did you have any input on that decision?

15 A I guess I did. I just passed it along and I
16 passed along Mr. Dowless's reasoning for it.

17 Q How much oversight did you have of Mr. Dowless's
18 behavior or activities?

19 A Very little.

20 Q In the scope of the contract that you had with Mr.
21 Harris, was it ever laid out what your relationship would
22 be to Mr. Dowless?

23 A In the agreement--I don't have the agreement I had
24 with Mr. Harris in front of me, but I don't believe it
25 referenced Mr. Dowless at all.

1 Q Okay. What was to your understanding the scope
2 of work that was to occur within Robeson County?

3 A The scope of work that was to occur in Robeson
4 County was concentrated primarily in the house district
5 that's currently represented by Representative Brendan
6 Jones. I don't recall off the top of my head the number of
7 that district, and it--because that was the area where we
8 felt like the voters were mostly likely to support Dr.
9 Harris, and the primary focus--there were some yard signs
10 and other things done there, but the primary focus was to
11 generate absentee ballot requests and then to encourage
12 folks to complete those absentee ballot requests.

13 Q So most of the effort, to your understanding, was
14 that Get Out The Vote type or, correction, the absentee
15 ballot request effort.

16 A In Robeson County?

17 Q Robeson County.

18 A Yes, that was the most effort in Robeson County.
19 It was also some yard signs done in Robeson County, but I
20 believe that was most of the effort in Robeson.

21 Q Are you able to estimate what was spent in Robeson
22 County because if you look at Exhibit 27, most of the checks
23 are made out in lump for Bladen, Robeson, Cumberland, or
24 they're lumped together.

25 A I could not.

1 Q Do you have an estimate at all how much was
2 budgeted for Robeson County?

3 A We did not divide the budget up for what we had
4 for Mr. Dowless by county.

5 Q So he was kind of given general oversight of where
6 to do or to target or microtarget his efforts?

7 A Yes, sir.

8 Q All right. You had talked about the targeting or
9 benchmarks for Robeson, and you've talked earlier about
10 trying to get that 60 percent benchmark for Trump's campaign
11 to relate to Dr. Harris's campaign. Were there any similar
12 benchmarks for Robeson County?

13 A The benchmark that I had for Robeson County was
14 based on conversations that I had with Phillip Stephens who
15 was the party chair in Robeson County. And Phillip, from
16 the conversations he and I had, felt strongly that you
17 needed in excess of 40 percent as a Republican in Robeson
18 County to win district-wide. He said typically 41 to 42
19 percent.

20 I knew, because the McCready campaign was strong
21 in certain parts of Robeson, that it was going to be hard
22 for us to do much better than that, so that was the
23 benchmark that I had set in Robeson.

24 Some other folks on the campaign believed that we
25 could do better than that in Robeson County.

1 Q And when you say 40 percent, you mean for the
2 absentee ballots?

3 A No. Forty percent of the overall vote. Dr.
4 Stephens told me that 40 percent of the overall--if a
5 Republican received 40 percent of all the votes cast in
6 Robeson County, one stop, absentee, provisional, election
7 day, et cetera, if they received--his opinion was if you
8 could get to 40 percent or more in Robeson, you would win
9 district-wide.

10 Q You had talked earlier about the--some of the
11 relationships in Bladen County, his distaste for the Bladen
12 County Improvement PAC. Did you ever have any discussions
13 with him about similar counteroperations that were going on
14 in Robeson County?

15 A None that I can recall.

16 Q And in looking at the numbers, I think, yesterday,
17 you had seen where I think it was--Pittenger had had
18 inordinately high amount of returns on the absentee ballots,
19 and you said that you could identify in that particular
20 county that there was probably some activity going on in
21 the fact that his numbers were higher than everybody else's,
22 significantly higher on the absentee ballots.

23 A I'm not following you. I don't remember that.
24 I'm sorry, sir.

25 Q All right. Give me just one second, and I will

1 find that for you.

2 (Pause)

3 Q Well, we'll move on and come back to that. You
4 had said earlier that Dr. Harris had underperformed in
5 Robeson County based on expectations. Did you ever
6 ascertain why?

7 A No, I never really ascertained. I felt like--the
8 only thing I remember ascertaining when I looked over
9 election results, I had not done a thorough--you know, after
10 action analysis of the campaign to figure out why we did
11 what we did where we did at this point in time, but I know
12 that it seemed like the, you know, turnout was extreme--I
13 don't know. I mean I could guess what I think it is, but
14 I couldn't give you any definitive reason.

15 Q Last couple of questions I have. If you'll look
16 at Exhibit 30, that was the e-mail to you--from you to Ms.
17 Harris.

18 A If you'll give me one second to find that, sir.
19 I'm sorry. I think it's in my folder from yesterday.

20 COURT REPORTER: I have it here.

21 (Exhibit document handed to witness.)

22 THE WITNESS: Thank you. Thank you, Mr.

23 Chairman.

24 A Yes, sir.

25 Q All right, and on Page 2 of that exhibit, you've

1 got that second full paragraph right before you end the e-
2 mail, that last sentence. Would you read that please.

3 A "I will go"--at the very top?

4 Q No. "He has generated."

5 A "He has generated over 400 absentee ballot
6 requests in Robeson so far, so many of those folks (sic) may
7 be his and a ton of his folks are Democrats."

8 Q And can you help explain that sentence?

9 A I had checked with McCrae that--McCrae had told
10 me that he had generated over 400 absentee ballot requests
11 in Robeson County, and that a lot of the requests that he
12 had generated were from Democrats who he believed were
13 conservative Democrats, a lot of them probably evangelical
14 Democrats who would be favorable to a candidate like Dr.
15 Harris.

16 Q Can you help explain a little more about that
17 conservative Democrat--demographic within Robeson County?

18 A Sure. My thought is it's primarily Brendan
19 Jones's house district. Those precincts, just going from
20 memory--I don't have election results in front of me, but
21 going from memory, those precincts Republicans tend to
22 outvote the Republican registration there.

23 So they're concentrated geographically in that
24 area. There's demographic characteristics those folks tend
25 to have in common. They tend to be evangelical, very

1 socially conservative, and concentrated at that part of the
2 county.

3 Q And if you look a little further down, because I'm
4 having a hard time reconciling that some of the Democrats
5 are conservative based on your conversations here, but then
6 down here there's a concern that says "Notice Dems are
7 outpacing Republicans." It's further down in the e-mail,
8 about halfway down through the next one.

9 A Are you talking about Ms. Harris's e-mail now?

10 Q Right. The one that's in bold where it says,
11 "Even in Union County."

12 A Sure.

13 Q I presume that was across the entire spectrum.

14 A She was talking about the entire district, yes.

15 Q Did you see that in Robeson County? Did you do
16 any analysis on that?

17 A I don't know that I did any analysis. I looked
18 at the number of absentee ballot requests that had come in
19 by a party.

20 Q What would generate--why would the Democrats be
21 outpacing the Republicans? What would explain that
22 district-wide?

23 A I believe it was--my personal opinion is that it
24 was related to the mailing that Mr. Dale described earlier
25 that went out across the district targeting Democrat voters

1 to try to get them to request absentee ballots.

2 That was--as I best recollect, that was Ms.
3 Harris's concern, that that mailer had driven up absentee
4 ballot requests from Democrats district-wide.

5 Q Did you ever get a chance to look at those numbers
6 specifically for Robeson on that issue?

7 A The number of requests from Robeson County?

8 Q Correct.

9 A Yeah, we were--we tracked--I looked at charts
10 daily. The RNC sent them out. Ms. Harris pulled numbers
11 every day. A contractor that worked at my office would pull
12 numbers every day. I looked at numbers every day, absentee
13 ballot requests for every county. We broke them down in a
14 number of ways.

15 Q What did the numbers from Robeson County tell you?

16 A I don't--I looked at so many numbers in so many
17 different races I couldn't tell you without having the
18 numbers in front of me. I was doing this for multiple
19 clients as well as Dr. Harris. I don't recall the specific
20 numbers for Robeson County. I'm sorry.

21 MR. HAGA: I've got nothing further.

22 CHAIRMAN CORDLE: Thank you, sir. Mr. Gilkeson.

23 MR. GILKESON: Yes, sir. I have three

24 exhibits that I'd like to bring up if I can.

25 CHAIRMAN CORDLE: Please do so.

1 MR. GILKESON: I should first give them to
2 the lady here?

3 CHAIRMAN CORDLE: Yes, so she can mark them.
4 (Whereupon, Exhibits Nos. 44, 45, and 46
5 were marked for identification.)

6 MR. GILKESON: Should I take them now to the
7 witness or what should I do?

8 CHAIRMAN CORDLE: Do you have copies for people?

9 MR. GILKESON: I do.

10 CHAIRMAN CORDLE: Let's pass the copies around.
11 You can give them to the witness as well.

12 MR. GILKESON: Okay.

13 (Exhibits were distributed.)

14 CHAIRMAN CORDLE: Now, Mr. Gilkeson, has the
15 witness ever seen these documents before, to your knowledge?

16 MR. GILKESON: I don't believe he has. The
17 microphone is on now, right?

18 CROSS EXAMINATION BY MR. GILKESON: 12:13 p.m.

19 Q Mr. Yates, the first document, Number 44, is a
20 fairly simple spreadsheet that is a comparison of voting--
21 of all voting, voting by all methods in the Ninth
22 Congressional District race in Bladen and Robeson Counties
23 and the voting my mail absentee in the two counties.

24 Robeson is a much bigger county than Bladen and
25 it's--and all of Robeson is in the Ninth Congressional

1 District but only a part of Bladen is, and yet the--and
2 three times as many total votes were cast in Robeson in the
3 Ninth Congressional District race as in Bladen, but the
4 number of absentee ballots in Bladen were greater--in the
5 Ninth Congressional District were greater than in Robeson
6 County. Of course this is in the 2018 general election.

7 Why do you think there's that disparity? Do you
8 have any--

9 A I would have to speculate to tell you why I
10 thought that.

11 CHAIRMAN CORDLE: Well, we don't want any
12 speculation if you know or have an opinion on it.

13 A My--the only opinion I would say is that from what
14 Mr. Dowless told me--and I am on record as saying I don't
15 know whether to believe anything Mr. Dowless ever told me,
16 but from what Mr. Dowless told me, he was only working in
17 a portion of Robeson County in the House District--I think
18 you marked it for me; I believe it's House District 46, and
19 that he didn't have--he wasn't spending as much time, didn't
20 have as many people working there.

21 That could be a factor, but anything I could
22 provide beyond that would be speculation, and again, that's
23 based on what Mr. Dowless told me, and I have no clue
24 whether--at this point I have no clue whether to believe
25 anything he ever told me.

1 Q Okay. The next exhibit would be Exhibit 45, and
2 this is about the two house districts in Robeson County.
3 You said that your understanding was the focus of Mr.
4 Dowless's operation was in District 46, the district that's
5 represented by Representative Brendan Jones, right?

6 A Yes, sir.

7 Q And so this is a rough picture of House District
8 46 which is around the rim of the northern and eastern rim
9 of the county, and the rest of the county's in District 47.

10 CHAIRMAN CORDLE: Mr. Gilkeson, what are the
11 blue?

12 MR GILKESON: The blue--this is a--from the
13 State Board of Elections, election night website, and this
14 is the race--

15 CHAIRMAN CORDLE: Well, the red and the blue are
16 both in District 46?

17 MR. GILKESON: Right.

18 CHAIRMAN CORDLE: Okay.

19 MR. GILKESON: They are both in 46.

20 CHAIRMAN CORDLE: All right.

21 MR. GILKESON: The blue is a precinct that
22 was carried by the Democrat, the red is a precinct that was
23 carried by the Republican. This was just the best map I
24 could find--

25 CHAIRMAN CORDLE: That's fine.

1 MR. GILKESON: --to show the district.

2 Q At the top of the page is the demographics of the
3 two districts--

4 A Yes, sir.

5 Q --which show that the District 46 is about 40
6 percent of the county; it's the smaller portion of the
7 county, and it has a much higher percentage of white--this
8 the census data from the 2010 census of the total population
9 rather than just voters, but the white percentage is 43
10 percent as opposed--in 46 as opposed to 20 percent in 47.
11 And the Indian population is also much smaller.

12 Do these demographics have anything to do with why
13 this was the focus--that District 46 was the focus of Mr.
14 Dowless's efforts or the campaign's efforts?

15 A No, sir, it had nothing to do with those
16 demographics.

17 Q Okay. You said in your e-mail that--in Exhibit
18 30, I believe, that we were just talking about a few minutes
19 ago, there was a statement on Page 2 of that. This is the
20 e-mail that you exchanged with Ms. Harris.

21 A Yes, sir.

22 Q And at--sort of at the beginning of the second
23 paragraph, it says, "I would send an absentee letter out in
24 Robeson to all white and Native American voters. I would
25 not send it to African-American voters."

1 What is the reason for that kind--what would be
2 the reason for that targeting?

3 A We had polling data that showed that we polled
4 well with white voters, particularly at that area of the
5 district, and that we believed that we polled well based on
6 polling data and other data with Native Americans.

7 Dr. Harris did not poll well, unlike--similar to
8 a lot of Republicans, Dr. Harris didn't poll well with
9 African-American voters.

10 Q The third exhibit, Exhibit 46, I believe, is a
11 spreadsheet showing the precincts in House District 46, the
12 district that was being targeted, and it shows the absentee
13 vote in three races, in three contests, the Congressional
14 District 9 contest between the Democrat McCready and the
15 Republican Harris, the House District 46 race between the
16 Democrat Barbara Yates Lockamy, I think, is the right name
17 and the incumbent Republican Representative Brendan Jones,
18 and then the third race was the district court race that the
19 Democratic candidate was our client, Vanessa Burton, and the
20 Republican candidate was Mr. Haga's client, Jack Moody.

21 Looking down the data there, would you agree that
22 it looks like in this targeted portion of the county the
23 most absentee ballot action was going on in St. Paul's
24 precinct?

25 A That's what it appears from looking at this data,

1 yes, sir.

2 Q Do you have any idea why that would be?

3 A I do not.

4 Q Okay. If you look at the three candidates, is it
5 true that two of the Republican candidates were clients of
6 Red Dome Group and received the services of Mr. Dowless and
7 his absentee ballot campaign; that is, Dr. Harris and
8 Representative Jones?

9 A Yes, sir.

10 Q And then there's another Republican candidate, Mr.
11 Moody.

12 A Yes, sir.

13 Q Does it look to you as though the vote in all
14 three of those contests are pretty much similar, are very
15 close? The Republican candidates got just within a few
16 votes of each other, and the Democratic candidates got just
17 within a few votes of each other. Does that appear to be
18 correct?

19 A Are you asking about the overall results or that
20 particular highlighted precinct?

21 Q That particular highlighted precinct.

22 A That would be correct.

23 Q But do you have any idea why that would be? What
24 would be the reason that the Republican candidate who
25 was--we don't know whether he was a customer of Red Dome

1 Group or not, but we have not heard that he was.

2 A He was not a client of Red Dome Group. I do
3 not--I've never--to my knowledge, I've never had a
4 conversation with him at all, and I don't know why his vote
5 numbers would be similar.

6 Q Is there some phenom--I mean you're a political
7 consultant. Is there some phenomenon about a down ballot
8 to spill over or something from one candidate to another in
9 the same party?

10 A It happens. I mean it varies between location and
11 district and things like that, but there are situations
12 where--I mean it's usually if candidates of one party are
13 successful at the top of the ballot, they're successful at
14 the bottom of the ballot.

15 I mean it would follow--I think it's reasonable
16 to believe if somebody voted Republican for president,
17 they're going to vote Republican for the tickets on the
18 bottom of the ballot.

19 Everybody doesn't vote that way. Some people
20 split their tickets, but most people, in my experience of
21 just talking to voters, most people vote similar parties up
22 and down the ballot.

23 Q Are there a lot of people who vote for the top
24 races or vote for the races that they know about, and they
25 just leave the others blank, a common phenomenon?

1 A At times that occurs, yes, sir.

2 Q But you're not seeing it here, right?

3 A I don't see it there, no, sir.

4 Q So it looks like the--what you say, it looks like
5 that whatever was happening in this precinct benefitted the
6 Republican candidates equally and disadvantaged the
7 Democratic candidate equally, whatever it was--

8 A I always say that the Republican candidates'
9 performance appears to be virtually equal. The Democratic
10 candidates' performance appear to be virtually equal. I
11 don't know what was happening in that particular precinct,
12 so to go beyond that would require me to speculate.

13 MR. GILKESON: Thank you. That's all I've
14 got.

15 THE WITNESS: Thank you, sir.

16 CHAIRMAN CORDLE: Are you going to tell me you
17 have more questions?

18 MR. ELIAS: I do, but there are a few--
19 there are very few and they're just limited to the couple
20 of new topics or the topics that were (unintelligible word).

21 MR. CARMON: Mr. Chairman, may I ask mine
22 first because mine is really short.

23 CHAIRMAN CORDLE: Yes.

24 MR. CARMON: Mr. Yates, you said yesterday
25 that Sheriff McVicker paid you \$8,000.

1 THE WITNESS: Yes, sir.

2 MR. CARMON: What did Mr. Dowless do for
3 him for \$8,000 that Dr. Harris's being significantly more?

4 THE WITNESS: They were doing--they were
5 working on absentee ballot requests for both is my
6 understanding. I know Mr. Dowless had communication with
7 Mr. Vicker--Mr. McVicker and his campaign outside of me, so
8 I don't know what else they may have asked him to do. My
9 understanding is he was working on absentee ballot requests.

10 MR. CARMON: Thank you.

11 CHAIRMAN CORDLE: Mr. Elias, we're with you.

12 CROSS EXAMINATION BY MR. ELIAS: 12:30 p.m.

13 Q Do you recall being shown the official results
14 from Mecklenburg County in the McCready primary?

15 A I recall that they were read to me. I don't know
16 that they were shown--I don't remember if they were shown.
17 I've seen so much today.

18 MR. ELIAS: So I'm just going to mark them
19 very, very quickly and Mr. Chairman, I will try to do a
20 summary question, but if it's objected to, I can make it
21 (unintelligible) in my case.

22 (Whereupon, Exhibit No. 47
23 was marked for identification.)

24 Q It appears to me that Mr. McCready had took an
25 opposition in the Democratic primary, and if we look at the

1 absentee by mail results of 1/17 to 27 which is what I
2 believe was read to you, those are actually consistent with
3 the overall results of election day, one stop shopping--I'm
4 sorry, one stop voting, and that there is no--there is
5 nothing different about the absentee by mail results in any
6 of the other forms of voting.

7 A That appears to be correct. Yes, sir.

8 Q Okay. One other topic. You mentioned that you
9 did a criminal background check of sorts. You clicked on
10 a website, and that website was provided in
11 Courtrecords.org.

12 A I believe that's correct.

13 Q And was that--did that come up in the Google
14 search or is that a website you googled?

15 A I believe it came up as a Google search or an
16 internet search of some kind.

17 Q Okay, so I'm going to show you what the Google
18 results--what a Google search would have looked like before
19 June 30th, 2017. Does that seem like a fair time frame?

20 A Yes, sir.

21 CHAIRMAN CORDLE: I think you need to remember
22 his testimony had been he misspelled--

23 MR. ELIAS: I understand. We're going to
24 account for that.

25 CHAIRMAN CORDLE: Fine. Thank you.

1 MR. DALE: Mr. Chairman, are you going
2 to require him to lay some degree of foundation of how the
3 search was done, considering the witness is obviously
4 not--

5 CHAIRMAN CORDLE: He's going to explain to us
6 what he did.

7 MR. ELIAS: If you'd like to take the
8 time, I'm happy even to put on a witness. If you want, we
9 could do it live for everybody.

10 CHAIRMAN CORDLE: I'd like you to tell us what
11 is the document.

12 MR. ELIAS: All right. So this is
13 Exhibit, for the record--

14 CHAIRMAN CORDLE: I believe it's 48.

15 COURT REPORTER: 48

16 MR. ELIAS: --48.

17 (Whereupon, Exhibit No. 48
18 was marked for identification.)

19 Q I believe you said that you or you and your
20 counsel went on Google and set a time limit of what Google
21 would have looked like--what a Google search would have
22 looked like at a particular time.

23 A You have to ask my--my counsel did the search, so
24 that would be a question for counsel.

25 Q Are you aware that you can do that; that you can

1 do a search as to what Google results would have looked like
2 during a given time period?

3 A I am not.

4 Q Well, I'm going to represent to the Board and if
5 we need a foundation, we can do it.

6 MR. DALE: Mr. Chairman, he's just said
7 he doesn't know how to do this, so--

8 CHAIRMAN CORDLE: I want the lawyer to tell me
9 why he wants to offer this.

10 MR. ELIAS: I want to offer this because
11 Google in fact allows you to search the Google results of
12 what Google result of search would have been at a given
13 time.

14 CHAIRMAN CORDLE: And it shows up on the search
15 as before June 30th, 2017.

16 MR. ELIAS: Correct, and the reason why
17 I think it's relevant is because it was elicited by opposing
18 counsel that this exact search had been done, and now
19 opposing counsel is trying to keep it out, the fact that
20 this is what the results--

21 CHAIRMAN CORDLE: Just tell us why you think
22 this has some bearing.

23 Q So does this look like what came up when you did
24 the search?

25 A I believe--I mean this was a year and a half ago.

1 I don't remember exactly what I put in. I believe I put in
2 McRae Dowless, spelled that way, but I believe I also
3 included NC in the search, but I can't be certain.

4 Q Okay, so I did note you had put NC.

5 A I believe that I did. I know that's on the
6 Courtrecords.org document. I don't know. I did the search
7 a year and a half ago.

8 Q Are you familiar with the fact that when you
9 mistype a name, that Google thinks you've mistyped it, it
10 actually tells you, "Did you mean McCrae," spelled
11 correctly.

12 A Yes, sir, but I thought I had spelled the name
13 correctly the other way.

14 Q So you didn't click on that?

15 A No, sir.

16 MR. DALE: Mr. Chairman, I again have to
17 object. If you look at this exhibit, you see midway down
18 it says "Page 181," dash, "Daily Haymaker." Then it says,
19 "NC 09 Dems put at least 126K on the streets of Robeson
20 County in 2018 for McRae (sic) Dowless-like opps."

21 So this is pulling articles from '18 and
22 information from 2018, but it's supposedly before June 30th,
23 2017.

24 CHAIRMAN CORDLE: Well, let's go on and see what
25 he has.

1 MR. ELIAS: I just wanted to--I was mostly
2 laying the question of whether he can identify the database
3 that he searched, but I think he told me that it was
4 Courtrecord.org. So now what I'd like to do is to hand up
5 for marking a copy of the website Courtrecords.org,
6 searching for McCrae Dowless.

7 Q Would you have searched for McCrae (sic) Dowless's
8 name also with the same misspelling?

9 A On Courtrecords.org?

10 Q Yes.

11 A Yes, I did.

12 Q And do you remember what came up?

13 A I remember seeing three charges. I believe they
14 were all--they were charges that I believed to be
15 misdemeanors and they were all from at least 20 years
16 before.

17 (Whereupon, Exhibit No. 49
18 was marked for identification.)

19 Q Is this what you recall it looking like?

20 A Yes, sir, I believe so.

21 Q So one of the charges was failing to produce
22 proper title.

23 A Yes.

24 Q One of them was assault on a female.

25 A Yes, sir.

1 Q Did you find it troubling that he had been
2 convicted for assaulting a female?

3 A I don't believe this says he was convicted.

4 Q Okay. Did you find it troubling that he was
5 charged with assault on a female?

6 A I found it consistent with what I had been told
7 is that he had some criminal issues related to a divorce.
8 They were 20 years ago or more. That he hadn't had any
9 problem since that time.

10 A number of prominent people in Bladen County
11 including Judge Marion Warren would vouch for him and his
12 character. So I felt like--I didn't know if he'd been
13 convicted or not, and I personally felt like these were
14 misdemeanor charges.

15 They were charges that could have been related to
16 a divorce. They were 20 years old or more, older. At this
17 point he was an elected official of Bladen County, and a
18 number of respected people in Bladen County as well as Judge
19 Marion Warren had vouched for him to Dr. Harris.

20 At that point I saw no reason to be concerned.
21 I printed a copy for my records because I had run the
22 search.

23 Q There was opportunity to buy the full report,
24 right?

25 A Yes, sir.

1 Q Did you do that?

2 A I did not.

3 Q And why not?

4 A Because it was consistent with what Dr. Harris had
5 told me, so I didn't feel the need to.

6 Q So you thought that Dr. Harris knew that McCrae
7 Dowless had been charged with assaulting a woman.

8 MR. DALE: Objection. This is
9 speculation. He's asking about what somebody else knows.

10 MR. ELIAS: I'm asking what he--he said
11 he didn't buy the report because Dr. Harris knew about it.

12 THE WITNESS: I believe--

13 CHAIRMAN CORDLE: He said that Dr. Harris told
14 him about certain minor matters.

15 MR. ELIAS: Right.

16 THE WITNESS: Dr. Harris did not tell me the
17 specific charges, but I believed that these were likely to
18 be the charges that he referenced.

19 Q And you thought that assault on a female was a
20 minor charge.

21 A I thought it was a misdemeanor.

22 Q How did you know it was a misdemeanor?

23 A Just--I thought in my head it was a misdemeanor.

24 CHAIRMAN CORDLE: I think we all know that--

25 A I thought that was a misdemeanor charge--

1 CHAIRMAN CORDLE: Excuse me--assault on females
2 often happen, are charges in divorce type proceedings which,
3 as I understand, is what he said.

4 MR. ELIAS: I understand, but I asked why
5 he knew he was a misdemeanor. Assault can be--

6 CHAIRMAN CORDLE: I think he doesn't know.

7 THE WITNESS: I did know, but I assumed it
8 was because I was told the charges filed against him were
9 minor crimes, misdemeanors.

10 Q And assault on a female didn't warrant any further
11 inquiry of Dr. Harris.

12 A No, because it was consistent with what he had
13 told me.

14 Q And assault on a female didn't warrant any further
15 inquiry of Mr. Dowless.

16 A It did not because he had been vouched for by Dr.
17 Harris. Dr. Harris had spoken to a number of respected
18 people in Bladen County. Judge Marion Warren, who is
19 someone I've known for a number of years, had vouched for
20 Mr. Dowless, Mr. Dowless's character, and the absentee
21 program that Mr. Dowless was running.

22 CHAIRMAN CORDLE: I think we've been over this
23 line enough and we should move on.

24 MR. ELIAS: Okay. I have nothing further.

25 MR LAWSON: We have a couple of quick

1 ones.

2 CHAIRMAN CORDLE: Yes. Staff has something.

3 REDIRECT EXAMINATION BY MS. LOVE: 12:40 p.m.

4 Q Good morning, Mr. Yates, or good afternoon.

5 A Good afternoon.

6 Q My name is Katelyn Love. I'm Deputy General
7 Counsel for the State Board of Elections. I just have a
8 handful of questions, mainly about 2017.

9 A Yes, ma'am.

10 Q You were talking earlier about activities that
11 Dowless undertook in Robeson County. Can you describe what
12 those activities were in 2017?

13 A He was--I believe in 2017 what Mr. Dowless told
14 me--again, I'm on record as saying I don't now whether to
15 believe anything Mr. Dowless told me, but he told me he had
16 workers in Robeson County working to get absentee ballot
17 requests for Dr. Harris in 2017.

18 Q Would there have been any workers putting out
19 signs for Harris in 2017 in Robeson County?

20 A I do not remember, without looking at campaign
21 receipts, when we first purchased yard signs. It's entirely
22 possible.

23 Q And how about Cumberland County; what activities
24 were you told that Dowless was undertaking there in 2017?

25 A He was--he didn't do much in Cumberland at all.

1 He intended to get some absentee ballot requests in
2 Cumberland. In the primary he told me he wasn't having much
3 luck, that he didn't have as good of contacts there as he
4 thought, didn't have the workers there that he needed, and
5 we tried it again in the general, and then had similar
6 results. He would get a smattering of absentee ballot
7 requests there in the primary--in the general.

8 In the general, I believe his brother was helping
9 him with some campaign activities there. He probably put
10 more into early voting in Cumberland than he did into
11 absentee ballots.

12 Q And I believe you testified yesterday that Mr.
13 Dowless paid \$4 per request in the primary.

14 A He--I don't know what he paid his workers. He was
15 paid \$4 per request in the primary.

16 Q By Red Dome.

17 A Yes, by--well, by Dr. Harris through Red Dome.

18 Q And you also testified that in 2017 Dowless was
19 working to get requests in Bladen County, some in Robeson
20 County, and a smattering in Cumberland County; is that
21 correct?

22 A Yes, ma'am.

23 Q Would you say most of the request activity in 2017
24 was in Bladen County?

25 A I believe that to be correct.

1 Q Do you have Exhibit 26 in front of you? It's the
2 check log.

3 A I can find it, yes, ma'am.

4 (Pause)

5 Q Do you have it?

6 A I do, yes, ma'am.

7 Q So looking at the top of this exhibit, you can see
8 there's a number of checks. Would it surprise you to add
9 all of them up and see that those checks from 2017 totaled
10 \$9,432 excluding retainers paid to Mr. Dowless?

11 A It wouldn't surprise me because he claimed that
12 he would--he was--I remember in 2017 there was a large
13 number of absentee ballot requests that Mr. Dowless claimed
14 to have obtained.

15 He said that when he--the way he explained the
16 program to me was he would obtain more requests early
17 because he was going back to people who had obtained
18 absentee--that he would be going back to people who had done
19 requests previously, and then it would actually slow down
20 over time.

21 Q Would it surprise you to learn that there were
22 only 184 requests in Bladen County for that primary that
23 were dated either in 2017 or did not have a date on them?

24 A That would surprise me. That was not consistent
25 with what he told me. Well, after--well, it would have

1 surprised me if you told me that a few weeks ago. It
2 doesn't surprise me now.

3 Q Sure. Would it surprise you now to learn that the
4 \$9,432 that was paid to Mr. Dowless in 2017 that was not a
5 retainer would come out to around \$51 per absentee request?

6 A That would shock me. That was not consistent with
7 the numbers that he gave me.

8 Q What were the numbers that he gave you?

9 A I don't remember exactly, but it worked out with
10 the \$4 ballot request. There are other expenses in that
11 \$9,000 number because he would occasionally ask for money
12 for copies; he occasionally--I remember at least once he had
13 bought pizza for workers--told me he bought pizza for
14 workers.

15 And so there were other expenses and
16 reimbursements in there, and there were some events that he
17 represented the campaign at during that time period, but he
18 would tell me the number of absentee ballots he had--ballot
19 requests that he had generated, I would multiply that by 4,
20 I would write him the check.

21 And when I went to invoice Harris, I would ask
22 Dowless how many absentee ballot requests that he had gotten
23 since the last time, he would tell me that number, and that
24 would be put into my invoice to the Harris campaign.

25 Q Do you or Red Dome Group have any records that

1 could be referred to to tie down what that number of
2 requests was?

3 A I do not. He did not provide me with any receipts
4 or written records. It was all verbal representations from
5 Mr. Dowless.

6 Q I believe you mentioned that Mr. Dowless's
7 practice was to collect and hold onto absentee requests that
8 were turned in early in 2017.

9 A That was my understanding, yes, ma'am.

10 Q And that was done to conceal the campaign's
11 advantage from political opponents?

12 A That--yes. That's what he told me. He said that
13 was his normal practice so the other campaigns didn't know
14 how many ballots he requested so they would up their efforts
15 or try to duplicate his efforts.

16 I inferred from what he told me, that he was
17 speaking probably of Bladen Improvement PAC.

18 Q Can you think of any other reason why he might
19 have decided to turn those in in batches rather than as they
20 came in?

21 A I can't think of any other reason. That's the
22 reason he gave me.

23 Q Could it be to make sure that the Board of
24 Elections mailed out large batches of absentee ballots so
25 the workers could go back and get a bunch of them--

1 A I have no idea. That's asking me to speculate.
2 The only thing he told me was that he did it so that the
3 other folks would not know--when the records became
4 available the first day, the other side would not know how
5 many absentee requests we had, so they wouldn't try to
6 quickly duplicate efforts and things of that nature. That's
7 all he told me.

8 MS. LOVE: Mr. Chair, I have nothing
9 further. I believe Ms. Strach has just a couple of follow-
10 ups.

11 DIRECTOR STRACH: Sorry, Mr. Yates, I do have
12 just a couple.

13 REDIRECT EXAMINATION BY DIRECTOR STRACH: 12:47 p.m.

14 Q Just for clarification, could you look at--you
15 might need me, probably, to hand up Exhibit 28 again.

16 CHAIRMAN CORDLE: Those are the invoices?

17 MR. LAWSON: Yeah, an invoice copy.

18 CHAIRMAN CORDLE: I think he has those over
19 there.

20 A Yes, ma'am.

21 Q I think Mr. Elias asked you a question about how
22 much the Harris campaign still owes you.

23 A Yes, ma'am.

24 Q And I think you said around \$50,000.

25 A That's my best recollection without having the

1 invoices in front of me.

2 Q And that's why I thought this might be helpful to
3 you. Could you look through these invoices and see if you
4 can identify the invoices that haven't been paid?

5 A Yes, I can do that. There's an invoice at the
6 end, Harris 29, for \$32,634 that I believe has not been
7 paid. The invoice Harris 028--do you want me to tell you
8 what's on these invoices or just the numbers?

9 Q Just the number is fine.

10 A I believe that was \$7,881.50 that hasn't been
11 paid, and there--I'm not sure--without having my records in
12 front of me, I'm not sure if 27 was paid or not.

13 I'm sorry, I misspoke. I'm sorry. 29 was the
14 invoice that had been--I believe 29 had been paid. I
15 believe it's 26 that has not been paid. I know 28 has not
16 been paid. I'm not sure about 27, and then invoice 25 has
17 been paid partially. There's an \$11,250 balance left on
18 that.

19 If I was able to--when I'm able to log into my
20 invoice software, I'm happy to get back to you and tell you
21 exactly what that number is, but without logging into it,
22 I wouldn't--I can't be certain. There was one of the 32,
23 34 thousand dollar invoice has been paid, I believe, and one
24 was not. I'm not sure which one was and which one wasn't
25 without looking it up.

1 Q Do you know if all of the expenses that you paid
2 to McCrae Dowless have been reimbursed by the Harris
3 campaign?

4 A I believe one of the invoices that was not paid
5 included payments that I had made to Mr. Dowless. I believe
6 that was the \$34,000 invoice. I believe that--I believe
7 that's the one that had not been paid.

8 Q The Harris 26; is that correct?

9 A Yes, ma'am.

10 Q And I just wanted to refer--Mr. Elias had it; I
11 think it's Exhibit 34, and if no one objects, we have blown
12 up just the picture that's in that. It's a news article,
13 I think. I just wanted to see if you--if we can blow that
14 up a little bit.

15 A I have not--I have not seen that in one of these
16 exhibits. It could have been in it, but I--

17 Q It's was just at the top of the page.

18 A Okay. I didn't notice it.

19 Q And I just want to ask you a question about--I
20 don't know if you can see it. That might be as good as we
21 can get it, but if you see on the table beside Mr. Dowless,
22 there's a paper, and I'll represent to you that that paper
23 is a flyer that we mailed out in Bladen County to all
24 absentee voters that were receiving their ballots basically
25 alerting them to the fact that they were not to allow anyone

1 to collect their ballot and just to explain the rules.

2 And I was just wondering if Mr. Dowless ever--
3 based on the phone calls that you had and the frequency of
4 them, did he ever complain to you about that?

5 A No.

6 Q So he never told you that there was things going
7 around in Bladen County, that the Board of Elections was
8 putting something out and he was concerned about that, but
9 he didn't express those concerns to you?

10 A He never expressed those concerns to me.

11 DIRECTOR STRACH: And then I just want to hand
12 up an exhibit. We can mark this one, yes.

13 MR. LAWSON: It's 5-0, 50.

14 (Whereupon, Exhibit No. 50
15 was marked for identification.)

16 Q Mr. Yates, do you recognize this document?

17 A Yes, ma'am, I do.

18 Q And as you see, it says that it is a victory
19 bonus, and it's a clarification of one of Mr. Elias's
20 questions.

21 A Yes, ma'am.

22 Q So as you see, this document says that there will
23 be a victory bonus if the client--to the--"by the client of
24 \$25,000 should Mr. Harris be elected to the US House with
25 payment made by April 15th, 2019," and Dr. Harris has signed

1 this. Is there some reason why this is not in effect?

2 A This was a victory bonus for Old Message,
3 Incorporated, which was the media consultant at the general
4 election, so you would have to ask them.

5 Q So this is not for you.

6 A This was not for--no. Unfortunately I did not
7 have a victory bonus.

8 Q Okay. Thank you for clarifying that.

9 A Yes, ma'am.

10 Q And then finally yesterday I asked you whether or
11 not at any time around the time that you were hired, did
12 anyone express any concerns or red flags to you about--with
13 McCrae Dowless and anything that he may be doing?

14 A I don't recall anybody doing that.

15 Q And I just wanted--I know you've said that, and
16 I just wanted to ask you, do you recall having a phone
17 conversation with Dr. Harris's son, John Harris?

18 A I had a few conversations with John Harris.

19 Q Did you ever have a conversation with him where
20 he expressed concerns about McCrae Dowless and his
21 activities with an absentee ballot program?

22 A I do not recall ever having a conversation with
23 him about that.

24 Q So you don't recall him ever expressing any
25 concerns whatsoever about Mr. Dowless.

1 A If that conversation happened, I do not recall it
2 happening.

3 DIRECTOR STRACH: Okay, that's all I have.

4 THE WITNESS: Thank you.

5 CHAIRMAN CORDLE: Mr. Dale.

6 MR. DALE: Thank you, Mr. Chairman

7 RE CROSS EXAMINATION BY MR. DALE: 12:55 p.m.

8 Q Mr. Yates, if you could pull up Exhibit 48, which
9 is the Google search, again.

10 A Yes, sir.

11 Q You see at the top there it says "Before June 30,
12 2017"?

13 A Yes, sir.

14 Q Isn't it true that when you placed that filter on
15 it, it's only pulling up pages created before that date;
16 it's not recreating its search before that date?

17 A I'm not technical enough to know that, Mr. Dale.

18 Q You were asked by Mr. Elias about whether the
19 absentee by mail that Mr. McCready received in the primary,
20 whether it was consistent with his overall performance, and
21 you said it was.

22 A From the information he gave me, it appeared to
23 be, yes.

24 Q And isn't that also true that Dr. Harris's
25 absentee by mail performance in the 2018 general election

1 is consistent with his overall performance in Bladen and
2 Robeson County as well?

3 A Yes, sir.

4 MR. DALE: That's all I have.

5 CHAIRMAN CORDLE: We will do--I'm sorry. Mr.
6 Haga?

7 MR. HAGA: Yes, sir. I've got a couple
8 of exhibits I'd like Mr. Yates to look at real quick just
9 to--

10 CHAIRMAN CORDLE: Are they things he knows about
11 or things you just want to ask him about?

12 MR. HAGA: Well, I'd like to get his
13 opinion on them because they do come back to some of the
14 polling numbers that were from election day. If you'll give
15 me just one second.

16 CHAIRMAN CORDLE: Sure. Take your time. We
17 will--after these questions, we will plan to take our lunch
18 break till one o'clock. Excuse me, till two o'clock. Yeah,
19 and at that time be back to the State Board, I presume, with
20 the next witness.

21 MR. HAGA: I think we're entering these
22 as 51 and 52.

23 CHAIRMAN CORDLE: All right.

24 (Whereupon, Exhibits Nos. 51 and 52

25 were marked for identification.)

1 RE CROSS EXAMINATION BY MR. HAGA: 12:57 p.m.

2 Q Just to go through these real quick, these were
3 generated by Ms. Burton's counsel, and they're a part of the
4 original exhibits that came through, and earlier they talked
5 about the St. Paul's area. That would be on--look at the
6 one that says, "Counted Robeson Absentee Ballots by Precinct
7 in the Burton - Moody Election."

8 A That'd be Exhibit 51, sir?

9 Q I believe so.

10 CHAIRMAN CORDLE: And that has at the bottom of
11 it--

12 MR. HAGA: It says "App. G"--

13 CHAIRMAN CORDLE: --003?

14 MR HAGA: Correct, sir.

15 CHAIRMAN CORDLE: All right, that's the only
16 document we have here.

17 MR. HAGA: There should be a second one
18 that says "App. B-001."

19 CHAIRMAN CORDLE: We don't have it here.

20 (Pause)

21 (Document handed up to the Board.)

22 MR. HAGA: All right, make sure we've got
23 the right one.

24 CHAIRMAN CORDLE: That would be 52.

25 Q Will you look at 32A on Exhibit 51?

1 A Yes, sir.

2 Q That's the one that says App. G-003 at the bottom.
3 They talked about there being 63 absentee ballots for Moody
4 and 32 for Ms. Burton, but if you look at--on 5A, line 12,
5 13, 19, 22, 26A, and 29A, those are all areas that received
6 more than 10--or the difference was more than 10 in absentee
7 ballots, correct?

8 A I'm sorry. Are these the ones you circled, sir?

9 Q Correct.

10 A There's one of those where the difference is not
11 more than 10.

12 Q It should have been highlighted. The highlight
13 didn't come through.

14 A Okay. Precinct 12 is circled.

15 Q Correct.

16 A The difference there is only eight.

17 Q So we've got one district that actually went a
18 higher absentee ballot for Mr. Moody, and all these other
19 ones that had significantly higher ones for Ms. Burton.

20 A Yes.

21 Q Do you see that?

22 A Yes.

23 Q Do you--what would cause that?

24 A Either--I would have--I'm not familiar with the
25 race. I mean I would really have to speculate to answer

1 that. There's a number of things that could cause that.
2 It could be that Ms. Burton ran more of a campaign in those
3 precincts than she did in other places.

4 Q Okay.

5 A It could be that Mr. Moody did.

6 CHAIRMAN CORDLE: Well, let's stop talking--

7 A I have no idea.

8 CHAIRMAN CORDLE: Let's don't ask him things he
9 doesn't know about.

10 Q The--on the second one, the one that says "App.
11 B-001" at the bottom, at the very bottom--we talked about
12 the significant amount of absentee ballots, correct? What
13 was the total percentage of Democrat votes involved? Should
14 be at the very bottom, about the middle statistic.

15 A Sixty-six-point-six-three (66.63) percent.

16 Q And then if you go to the very first one at the
17 front, it says 50.11 for Ms. Burton.

18 A Yes.

19 Q Why the big distinction between the two? If
20 you've got a heavily Democrat population within Robeson
21 County.

22 A Again, I know nothing about the specifics of this
23 race. I--anything you ask me about this race would cause
24 me to have to speculate. I could give you any number of
25 reasons--

1 CHAIRMAN CORDLE: Well, let's stop.

2 A --I think could be possible, but I don't know.

3 CHAIRMAN CORDLE: Okay. If you don't know, you
4 don't know.

5 MR. HAGA: Nothing further.

6 CHAIRMAN CORDLE: Did you have anything you
7 wanted to call to our attention on these documents, Mr.
8 Haga, without asking the witness who doesn't know anything
9 about it?

10 MR. HAGA: No, sir. No further at this
11 time.

12 CHAIRMAN CORDLE: Because we're willing to have
13 the lawyers tell us what's in the document.

14 MR. HAGA: I understand.

15 CHAIRMAN CORDLE: There's no jury here, so. All
16 right, let's take a break for lunch then. We'll start back
17 at two o'clock.

18 (Whereupon, a lunch recess was taken
19 from 1:04 p.m. to 2:03 p.m.)

20 CHAIRMAN CORDLE: I'd like to call this
21 evidentiary hearing back to order, please. Ms. Strach, are
22 you ready for your next witness?

23 DIRECTOR STRACH: I am, Mr. Chairman. The staff
24 would call John Harris.

25 (The witness steps forward.)

1 CHAIRMAN CORDLE: Mr. Harris, would you state
2 your name, please, sir.

3 THE WITNESS: Yes. My name is John Harris.

4 CHAIRMAN CORDLE: And I understand you're a
5 lawyer.

6 THE WITNESS: I am a lawyer.

7 CHAIRMAN CORDLE: We all hate to be on the wrong
8 side of events.

9 THE WITNESS: I've been watching a lot of
10 lawyers talk for a long time.

11 (Laughter)

12 CHAIRMAN CORDLE: Well, as the Chair of this
13 group, I issued the subpoena requiring you to attend this
14 hearing. I now excuse you from that subpoena. You're free
15 to leave at any time. You're not required to answer
16 questions, but if you do, these answers are voluntary and
17 under oath. Do you understand?

18 THE WITNESS: I do understand that, yes,
19 sir.

20 CHAIRMAN CORDLE: Do you have an attorney here
21 with you?

22 THE WITNESS: I do not, but I am one and I
23 represent myself in this capacity.

24 CHAIRMAN CORDLE: Well, you know what they say
25 about that. If you don't understand a question, you should

1 ask for clarification, and if you don't know the answer to
2 a question, please say so and don't speculate or guess.

3 THE WITNESS: Sure.

4 CHAIRMAN CORDLE: If you would stand and be
5 sworn, please, by the court reporter.

6 (Whereupon,

7 JOHN HARRIS,

8 having first been duly sworn, was
9 examined and testified as follows:)

10 CHAIRMAN CORDLE: Thank you, sir.

11 THE WITNESS: Mr. Cordle, if it's okay, may
12 I make just a brief statement relative to my employment
13 before I start?

14 CHAIRMAN CORDLE: You may.

15 THE WITNESS: Sure. I would just like to
16 state for the record that I am currently employed as an
17 assistant United States attorney here in the Eastern
18 District of North Carolina, but as an employee of the US
19 Department of Justice, I'm not authorized and will not be
20 speaking on behalf of the Department of Justice in any way.

21

22 I'm here as a citizen, in my private capacity, and
23 I will also note, and it may shorten things if anyone is
24 interested, I have gathered no information whatsoever
25 relevant to any of these proceedings during my time as an

1 assistant US attorney which started October 1st of this
2 year, 2018. I'm sorry, it was last year, 2018.

3 CHAIRMAN CORDLE: I presume you would recuse
4 yourself from any investigation into the Ninth District?

5 THE WITNESS: I will say I have no idea what
6 has happened, what is happening, or what will happen with
7 respect to any investigation that may or may not exist. I
8 simply know nothing about it.

9 CHAIRMAN CORDLE: All right. Ms. Strach.

10 DIRECT EXAMINATION BY DIRECTOR STRACH: 2:08 p.m.

11 Q Thank you, Mr. Harris, for being here today.

12 A Yes, ma'am.

13 Q You are the son of Mark and Beth Harris, correct?

14 A Yes, ma'am.

15 Q And you just told us, but you are an assistant
16 attorney--employed as an assistant United States attorney
17 with the US Attorney's Office here in the Eastern District,
18 here in Raleigh, right?

19 A That's right, here in Raleigh. I am actually an
20 attorney in the civil division of the United States
21 Attorney's Office.

22 Q At some point after the State Board's decision to
23 delay certification in the Ninth Congressional (sic) race
24 and after subpoenas had been issued in connection with the
25 investigation connected to that, did you conduct a search

1 of your personal e-mails?

2 A I did.

3 Q And did you discovery any e-mails that you think
4 were relevant to this investigation?

5 A I did.

6 Q And what did you do upon discovering those e-
7 mails?

8 A So, as you well know, the process for the vote to
9 not certify the race took place over a few days, and so
10 there were a couple of different times where I searched my
11 e-mails in light of things that I just remembered,
12 conversations that I had had.

13 Sometime in mid December after certain media
14 reports surfaced, I searched my e-mails again in light of
15 something that I had read, and I discovered certain e-mail
16 communications between myself and my parents.

17 At that point, given that I was a licensed
18 attorney, although I did not think that those communications
19 were privileged in any way, I contacted my father's counsel,
20 who I believe was his attorney at that time, to let him know
21 that I had discovered certain communications and to ask
22 whether any communications with me before or during the
23 course of the campaign were going to be considered
24 privileged.

25 There was a couple of weeks of back and forth,

1 where they didn't really have an answer for me at first.
2 Eventually I had the chance to speak with my father's
3 personal attorney who--we discussed the e-mail
4 communications at issue, and it was confirmed to me that
5 they were not going to be asserting privilege and that they
6 were not going to be asserting that they were confidential
7 in the course of the--any kind of attorney/client
8 relationship.

9 I mean I did that just to make sure before I was
10 asked about them or anything else; that, you know, I didn't
11 disclose anything because I wanted to make sure I was
12 abiding by my obligations as a lawyer.

13 Q Is it true that based on the advice that you were
14 given, that communications were not privileged and your
15 uncertainty about whether e-mails had been turned over in
16 the discovery process with the subpoena, is it true that you
17 reached out to our office to just let us know that you would
18 make yourself available if we had any questions or our
19 investigators had any questions.

20 A Let me kind of make sure I clarify as to the way
21 that that worked.

22 Q Sure.

23 A So I received confirmation sometime late December
24 or early January, that communications were not going to be
25 privileged and was told that those communications were going

1 to be turned over and produced to the Board.

2 And in fact I remember the date. I believe it was
3 a Sunday afternoon; I think it was January 6th. I received
4 a phone call from my father's counsel who told me that in
5 fact they were being produced, because I had asked him--you
6 can imagine, there has been quite a media presence in this
7 case, and so I just asked him, "Hey, I don't know what the
8 State Board is going to post, what's going to be public.
9 Can you give me some advance notice before they're actually
10 produced?"

11 And that was Mr. Freedman. He was kind enough to
12 do that. He called me and say, "Hey, these are going to
13 be--these are going to be produced." I believe that same
14 day, and in fact I think he had told me a few days before
15 that, that that was going to be happening sometime in the
16 next week.

17 That same day, I believe, I called Mr. Lawson and
18 let him know that I understood that certain communications
19 with me were going to be produced. And so I told him in
20 light of the fact that there was no sitting Board of
21 Elections at that time, that I wasn't going to try to put
22 up some big legal fight, but, you know, if anyone wanted to
23 ask me about them, I'd be happy to answer questions.

24 Q And is it also true that as a result of that, that
25 I reached out to you to arrange for us to sit down and have

1 an interview?

2 A That's right. Probably two and a half, three
3 weeks later, Ms. Strach contacted me, and you asked me if
4 I would be willing to come down for an interview.

5 Q Did you support your father's campaigns in 2016
6 and 2018?

7 A Yes, I did.

8 Q And how did you do that?

9 A Well, in 2016 I was working up in D.C. I was a
10 federal law clerk on the D.C. Circuit Court of Appeals. And
11 I would really just serve as a sounding board for my dad and
12 for my mom and talk about what was going on in the campaign.

13 In the 2018 campaign I had moved back to Raleigh
14 in the fall of 2016, and so over the course of 2017 and
15 2018, it was very similar. I would talk, be a sounding
16 board about what was going on. We'd exchange e-mails. He'd
17 forward me poll results.

18 He would--you know, sometimes there'd be issues
19 about messaging, and we would just talk about the campaign
20 and what was going on. As you can imagine, it was
21 essentially the primary thing going on in my parents' lives
22 at that point.

23 Q Absolutely. Do you know Andy Yates?

24 A Yes.

25 Q And have you ever had a discussion with him

1 regarding concerns you might have had about McCrae Dowless?

2 A Yes, I have.

3 Q And when do you think that was and can you tell
4 us about what that discussion entailed?

5 A Sure. So, in, I believe, late May, April-May of
6 2017, I had discussions with my parents about folks that
7 they were considering hiring for political consultants, and
8 they noted that Andy Yates was one of the people that they
9 were considering hiring, and in fact, I believe my dad
10 forwarded along to me a proposal from Andy in like late May
11 of 2017.

12 So sometime thereafter--I'm not sure when--Andy
13 was hired, and the campaign was going to officially launch
14 in July of 2017. And so I believe sometime in mid, late
15 June, somewhere in there, I talked to Andy about a few
16 things.

17 My number 1 thing I wanted to talk to him about
18 was based on my own political instincts, was that even
19 though the 2018 race was going to be a re-match in the
20 primary between my dad and the then incumbent Congressman
21 Robert Pittenger.

22 I thought Dan McCready, as a Democrat, we knew was
23 going to be extraordinarily well funded and was going to
24 offer a contrast to other types of candidates that had run
25 before. So I mainly talked to Andy about the political

1 dimensions of making sure that they didn't run so hard in
2 the primary that they isolated voters in the general
3 election.

4 So that was sort of the impetus for talking to
5 Andy, get a sense for and to share that view, but during the
6 course of that conversation, I raised concerns about what
7 I had then learned at that point, that McCrae Dowless had
8 been hired to be part of the 2018 campaign.

9 And as far as I recall--and I know we'll talk more
10 about some earlier discussions I had had with my parents,
11 but I don't remember exactly what I said to Andy. My
12 recollection was expressing general concerns, that, "Look,
13 I have heard some about this McCrae Dowless guy."

14 I don't even know if I knew his last name at that
15 point. It was mainly bandied about as McCrae. "Heard about
16 this McCrae guy. You know, seems to me like he may be kind
17 of a shady character." You know, "Are you sure that
18 everything that he's saying that he's going to do, he's
19 going to actually do?"

20 And in that conversation Andy basically assured
21 me--that was kind of, you know, his demeanor; everyone's
22 sitting here all day and watched him. He assured me; he
23 said, "Yeah, we're going to make sure that, you know, he
24 does what he says he's going to do."

25 I will say my impression was that Andy, when I

1 expressed my concerns, my impression, without being able to
2 put words exactly to what Andy said, was that he was a
3 little bit wary. You know, he had never worked with McCrae
4 before, but that he was going to, you know, make sure that
5 he did whatever he said he was going to do.

6 And I do recall, and I believe it was in that same
7 conversation, that he indicated that they had decided that
8 they were going to set it up so that McCrae was an
9 independent contractor with Red Dome in the middle, and so
10 there was an extra layer between McCrae and the campaign.

11 Q And was it your impression that they did that
12 because of concerns about McCrae Dowless?

13 A That was my impression at the time. I later
14 learned that they decided to have everyone, all the campaign
15 staff paid through Red Dome, but my impression at the time
16 was that that decision was driven by concerns about McCrae.
17 That was based on my conversation with Andy.

18 Q And when you left that conversation, did you feel
19 like at least maybe your concerns were going to be
20 addressed?

21 A I felt--well, we'll talk a little bit about some
22 of the--the basis for the concerns. I will say at that
23 point, with respect to Andy, my overall sense was that he
24 was going to exercise some oversight to try to make sure
25 that whatever had been told to my parents by McCrae, you

1 know, that--you know, they were the guys that were on the
2 ground; you know, I was up here in Raleigh talking on the
3 phone to people--that they were going to make sure that it
4 was taken care of and was done appropriately.

5 Q And I do want to talk about some of the details
6 about why you had concerns, but before doing that, have you
7 listened--did you listen to Andy Yates' testimony?

8 A I did.

9 Q And did you listen to his characterization of his
10 description of how McCrae Dowless was paid and how he kept
11 up with how he was paying? My question to you is do you
12 think he would be able to identify any red flags from that
13 oversight based on what you heard?

14 A Well, I was certainly surprised at the lack of
15 record keeping that he described. That--I had no idea about
16 that. I will say my understanding of the way McCrae was
17 going to be paid was very different than everything that's
18 been discussed.

19 My understanding was it was kind of like there was
20 a set general fee that was going to pay workers for, you
21 know, a given county. So the whole idea of paying by ballot
22 request forms, any of that, that was all news to me. But
23 certainly I did not see that Andy was, based on his
24 testimony, exercising any oversight. I mean he said that
25 he didn't exercise any oversight.

1 Q And as you said, you understood that--you didn't
2 understand that he was to be paid per ballot request or in
3 any structure like that. You thought it was going to be a
4 flat rate.

5 A The way I remember having it described to me,
6 again, just over the phone--I think this was in a
7 conversation with my father--was essentially that McCrae was
8 going to get paid, you know, some amount. I don't really
9 remember what it was.

10 And that there were sort of different levels, if
11 you will, kind of like the gold plan, the silver plan, and
12 the bronze plan, and the more--the gold plan just meant you
13 had more workers and, you know, the silver plan was you had
14 fewer workers, and the bronze plan even fewer, and that was
15 really all that I knew about how he was getting paid.

16 And it was tied to the amount of people that he
17 could put on the ground to request absentee ballot request
18 forms, and then to go back out and to encourage, as McCrae
19 had told it to my parents, encourage them to return their
20 ballot.

21 Q So let's talk about--let's go back to the June
22 2016 primary, and talk about the things that sort of you
23 were doing and recognizing around that time. Leading up to
24 the primary election, did you review any data related to
25 absentee voting trends in your father's contest?

1 A That's in the 2016 primary?

2 Q 2016 primary.

3 A Yes, ma'am, I did.

4 Q And what kind of data do you remember reviewing?

5 A So the 2016 primary, as I'm sure everyone in this
6 room will remember, the US House Districts were redrawn, and
7 so there was a very short campaign season.

8 And so I was up in D.C. working at the time, and
9 when early voting started, basically every couple of days
10 I would come home from work--I had at that point about a
11 seven month old at home. I helped my wife get him to bed,
12 and then I would download the publicly available absentee
13 voter file for that day from the Board of Elections website,
14 and then I compiled a big spreadsheet.

15 And I would spend an inordinate amount of time,
16 because I'm not a Excel whiz, deleting and scanning through,
17 deleting all this data so I could get it in some sort of
18 usable fashion.

19 And I believe I hear my mother laughing because
20 I believe she also later spent an inordinate amount of time
21 doing that as well. But I would then sort the data so I
22 could kind of come up and see, all right, how are people
23 voting. I would sort it by county.

24 I would look at things like race. I would look
25 at things like age, you know, average age, just to get a

1 sense of what it was looking like because it was going to
2 be a low turnout election, and I followed the early voting
3 results. Certainly knew the law of big numbers; it'll start
4 predicting how things are looking for you.

5 Q On election night were you sort of monitoring
6 things that night as well?

7 A Yeah. I remember getting home from work and
8 sitting down at my computer whenever the polls closed around
9 7:30 or so, and hunkered down to State Board of Elections
10 website with a big cup of coffee and just watching the
11 returns come in.

12 Q Good place to go. Were you noticing anything
13 unusual when you were looking at the data that night?

14 A So over the course of that evening, I do recall
15 noticing that the Bladen County absentee votes seemed
16 strange. Now, I will tell you that's based on later e-mail
17 communications I reviewed. I can't give you exactly all the
18 details of that; that is, that it looked strange.

19 DIRECTOR STRACH: I'm going to hand you up an
20 exhibit.

21 MR. LAWSON: What number are we?

22 COURT REPORTER: 53.

23 MR. LAWSON: 53.

24 (Whereupon, Exhibit No. 53

25 was marked for identification.)

1 Q Mr. Harris, do you recognize this e-mail?

2 A Yes, I do.

3 Q And who is this e-mail from and who is it to?

4 A This is an e-mail that I sent to my father and I
5 copied my mother.

6 Q And you notice the time. It's sent on election
7 night, June 7th. That was the date, correct?

8 A That's right.

9 Q And it look like it was pretty late at night.

10 A That's right. I went it, it says, at 11:04 p.m.,
11 which, as I recall, was probably about 30 or so--well, I
12 don't want to speculate too much. It was around the time
13 where I think the election night returns had concluded, I
14 believe, and we kind of knew where things stood.

15 Q And so do you know what prompted you to send this
16 e-mail at that time?

17 A Yes. So, as I said, I believe this was about 30
18 minutes or so after the election results had concluded, and
19 that night, primary night, for those who were political
20 watchers may remember, my dad had done really well in the
21 Union County and some of the other counties, and was ahead
22 going into the last few precincts in Mecklenburg County.

23 And then the last few precincts in Mecklenburg
24 County, Robert Pittenger had a large margin that put him
25 over the top, just at around 135 votes or so on election

1 night.

2 And so immediately within that time span, via text
3 message and otherwise, there was communication about calling
4 for a recount which the margin of victory was within the
5 statutory margin where by right you could call for a
6 recount.

7 And so the reason I sent this e-mail is because
8 I understood at that point that he was going to be retaining
9 an attorney to help him in assessing the recount, and I was
10 looking for anything that suggested a systematic voting
11 counting error.

12 And when I looked at the results from Bladen
13 County, in the absentee by mail, as I indicate in the e-
14 mail, that irregularity in the first paragraph suggests
15 perhaps there is a more systematic error because my dad had
16 outperformed Mr. Pittenger on election day and early voting,
17 but Mr. Johnson, the third place finisher, now Senator
18 Johnson, had an extraordinarily high percentage of absentee
19 by mail votes.

20 And my initial reaction was this can't be, and
21 frankly it had zero to do with fraud; I thought there was
22 an error in the counting machine. I thought, you know, we
23 had new districts; maybe the precincts got mixed up.

24 I thought, you know, Bladen County split the
25 Seventh and the Ninth, and so maybe there were issues about

1 Democratic ballots getting counted as Republican, et cetera,
2 et cetera.

3 And so that's what this meant to summarize how
4 these numbers seemed so off.

5 Q So you thought--at that point you sort of thought
6 that it was a Board of Elections problem.

7 A I thought there was some sort of voting error or
8 counting error because I just couldn't see how Todd Johnson
9 would get 214, my dad would get 4, and Robert Pittenger
10 would get zero in absentee by mail when the other numbers
11 were, you know, more or less what one would expect in terms
12 of early voting and election day; they were comparable.

13 Q So that's--I guess that explains the next to the
14 last paragraph where you're talking about the absentees and
15 the fact that Bladen County had 22 percent of all the
16 absentees in the district but only two percent of all the
17 one stop or election day.

18 A That's exactly right, and so as I indicate here,
19 it was not only the percentage that Mr. Johnson won, but it
20 was the total number of absentee by mail cast in Bladen that
21 raised an issue for me, and as I indicated, it suggests
22 something had gone awry.

23 And, again, it suggested that there was some kind
24 of counting error; that maybe these ballots were meant for
25 a different district or something like that.

1 Q And did you also learn on election night that--
2 did you hear that there was someone that was working the
3 absentee ballots in Bladen County?

4 A Yes. So that night I had a conversation with my
5 dad on the phone very late. I remember it well because my
6 wife had long since gone to bed, and my son was asleep, and
7 so I had a tendency to be a wanderer when I talk on the
8 phone, and so I went outside.

9 Thankfully it was a nice summer night, and I
10 walked all around the parking lot and talked to my dad on
11 the phone for quite some time. And he told me, because we
12 had exchanged this e-mail--after I sent him this e-mail and
13 after we had exchanged text messages, he told me that
14 someone in his campaign, staff or someone there with him on
15 election night, had indicated that there was someone down
16 in Bladen County who was focused on absentee ballots for Mr.
17 Johnson and that's why these results seemed to be so off.

18 Q Do you think it was known before that night that
19 that was going on?

20 A I have no idea about whether anyone in the
21 campaign knew before that night that something like that
22 was going on.

23 Q But you didn't.

24 A I certainly had no idea that there was a targeted
25 absentee ballot effort in the 2016 election for Mr. Johnson

1 before election night.

2 Q So after election night, there needs to be a
3 determination of whether or not you're going to ask for
4 recount. Did you do any additional research or looking at
5 the data?

6 A So there were a couple of other things that caught
7 sort of my attention and raised some issues that also shaded
8 my view of the data after I learned that there was someone
9 that was down in Bladen County that was focused on absentee
10 ballots.

11 One of them is listed in an e-mail that was based
12 before I even knew that fact, and that was that, you know,
13 as I indicated to my dad, that he should tell his lawyers.
14 When I was looking at the absentee voter data, I was doing
15 overall averages for the district based on race and average
16 age and things like that.

17 As political observers who will not be surprised
18 to learn, in the Republican primary down there, it was like
19 95 percent white. When I was looking at the Bladen County
20 election data for the absentee ballots that were voted in
21 the 2016 primary, it was a noticeably higher proportion than
22 would be expected of African-American voters.

23 So when you're strolling through the lines, it
24 has race, and you could look and you kind of expect, you
25 know, nine out of ten to be white; that's kind of consistent

1 with what you saw, but they were higher--as I said, there
2 were a disproportionately high number of black voters from
3 that county relative to the other counties. And that seemed
4 unusual.

5 Once I had learned that there was someone focusing
6 on absentee ballots, I went back and looked at the data, and
7 what got my attention at that point was that the Board of
8 Elections data that you can load into Excel, one of the
9 columns that you can sort by is the date the ballot was
10 actually received by the relevant Board of Elections.

11 So I did that; I sorted the data, you know,
12 shortly after this, you know, within the probably two weeks
13 after election night, and noticed that there were large, in
14 my view, higher than expected batches of ballots arriving
15 on the same date.

16 So one would expect if people are randomly sending
17 in about 218 ballots, that they would be scattered over the
18 course of days. There may be more than one that arrives on
19 a given day, but there would be a kind of even distribution.

20 What I noticed was, again, batching of dates
21 received. And so at that point I began to be concerned that
22 someone was actively down there collecting the ballots
23 because that would explain why; they go collect the ballots,
24 they walk down to the post office or the P.O. box, take a
25 big batch, put them in, and then they all pop up on the same

1 date at the Board of Elections.

2 Q Did you talk about those concerns with your
3 father?

4 A I did.

5 Q And so that he could utilize that for making a
6 decision whether to file a protest or--or was that to be
7 used whether or not to ask for a recount?

8 A So I will say the batching issue, I will tell you,
9 I do not remember the exact timing of me learning that and
10 whether the issues related to recount had already been
11 resolved by then or not.

12 I raised that issue, as I'm sure we'll talk about,
13 at a later point in time, but in the 2016 election, I mean
14 I raised these concerns that are contained in this e-mail,
15 and I was kind of harping on them when I would talk. I was
16 like, "Make sure you tell your lawyers. Make sure you tell
17 your lawyers to look at Bladen County. That just seems like
18 something's gone wrong there."

19 I don't remember specifically discussing the
20 batching issue when the recount process was going on.

21 Q And did your father ask for a recount?

22 A Yes.

23 Q He did. Do you know when you learned the identity
24 of the person that was down in Bladen County that was part
25 of this absentee program that had been part of this 2016

1 primary?

2 A Well, I will answer that question in kind of two
3 ways. The first time that I really learned who it was that
4 was engaged in this type of activity in 2016 was probably
5 in April of 2017 when I learned for sure.

6 Going back in my e-mails, I did find a reference
7 to this person in November of 2016 in a e-mail communication
8 with my father, but I will be honest; if you had asked me
9 in December or January of 2016 if I could tell you the name
10 of who was the guy that was working for Todd Johnson, I
11 couldn't have told you who it was.

12 DIRECTOR STRACH: Speaking of that, I'm going
13 to hand you up that e-mail.

14 (Whereupon, Exhibit No. 54
15 was marked for identification.)

16 MR. LAWSON: That's 54.

17 CHAIRMAN CORDLE: What number is that?

18 MR. LAWSON: 54.

19 Q Mr. Harris, is this the e-mail you were referring
20 to?

21 A This is the e-mail, Ms. Strach. I will also
22 comment that I will need to go buy a new printer at home,
23 I guess.

24 (Laughter)

25 Q It is a little light. So is this a press release

1 that you forwarded?

2 A Yes. So I can describe the contents of this e-
3 mail.

4 Q Please.

5 A So if you look at the date, I believe it--it's a
6 little hard to see there, but I believe it's November 15,
7 2015 (sic), around 7:16 p.m. I received what's essentially
8 just a stock campaign list e-mail from the Pat McCrory
9 campaign. It came from a gentleman Russell Peck, but this
10 was just a e-mail blast to the campaign list.

11 Q And this was right after the November election,
12 correct?

13 A Right. This is just a few days after the November
14 election between the then governor Pat McCrory and the now
15 governor Roy Cooper. And as you can see, that e-mail, to
16 the extent you can see, indicates that a massive voting
17 fraud scheme allegedly had been uncovered in Bladen County,
18 and it talks about absentee ballots fraudulently cast, et
19 cetera.

20 A little bit after getting this e-mail, let's say
21 about 20 minutes, I forwarded this to my dad and said,
22 "Preaching to the choir."

23 Q That's what I wanted to ask you about. What did
24 you mean by that?

25 A Well, I meant by that, that I had thought at that

1 point--certainly by this point I thought that we, to a
2 certain extent, had been the victims of a massive voting
3 fraud scheme, so to speak, probably--you know, maybe not as
4 massive as what Governor McCrory thought he was
5 experiencing, but I thought that there were issues with the
6 2016 election.

7 I'd say we were victims in some way that again I'm
8 not sure that it would have necessarily mattered. Certainly
9 that was a conclusion at the recount stage, I think, and why
10 it wasn't pursued any further was because the person who got
11 all these ballots in Bladen in 2016, Mr. Johnson, now
12 Senator Johnson, he was a third place finisher.

13 So you take away all his votes and it doesn't make
14 a difference. We still would have been down by 132 votes
15 to then Congressman Pittenger.

16 Q So moving on, so this is November 2016, and I
17 guess early in 2017 your dad's trying to determine whether
18 he's going to seek election in the Ninth Congressional
19 District. Were you aware that your father had a meeting
20 scheduled with McCrae Dowless on April 6th, 2017?

21 A At the time, on April 6 or in advance, I do not
22 believe I was aware before that, that he was going down for
23 a meeting with dad.

24 Q And when did you become aware that he had had that
25 meeting with Mr. Dowless?

1 A So he called me the following day, on April 7--
2 well, I say he called me. I may have called him. Either
3 he called me or I called him, and it was on my morning
4 commute from where I lived into work.

5 And I called him and he was just giving me the
6 updates on what was going on, and he described this meeting
7 that had taken place down in Bladen County with Mr. McCrae,
8 and again--with McCrae. I, again, on April 7, I still don't
9 think I could have told you this last name was Dowless, but
10 with a gentleman named McCrae and several other folks in the
11 Bladen County community of well known political types, as
12 he said to me.

13 And he indicated that McCrae had described an
14 absentee ballot program to him that essentially was designed
15 to focus on turning out absentee ballots by sending out
16 people to get request forms, have those request forms
17 submitted to the Board of Elections, have people go back out
18 based on publicly available data about when the absentee
19 ballots were mailed, and then encourage them to vote and
20 then leave.

21 And so as he described the program to me at that
22 point, you know, that was what he said that McCrae was
23 telling him that he could do. He also--at that point I knew
24 that this gentleman McCrae was the same buy who had worked
25 for Todd Johnson in 2016.

1 Q And going back to the exhibit I just gave you, the
2 one that talked about Democrat voting fraud, look at your
3 response from your dad at the top. Was this the first time
4 that you knew that McCrae--that you knew about McCrae
5 Dowless's name?

6 A So, again, based on just a search through my e-
7 mails, this is the first time that I see this name or, as
8 you can see it; there's a typo here, and I searched this
9 misspelling as well, but that I could find in my e-mails.

10 Again, I'm pretty sure if you had asked me on
11 November 16th or, you know, sometimes thereafter, December
12 or January, who is the guy that was working for Todd
13 Johnson, I wouldn't have been able to tell you his name, but
14 this was the only--the first time in my e-mails that I see,
15 you know, a reference to Mr. Dowless, in this e-mail back
16 from my father.

17 Q And do you remember if you sort of put that
18 together; that what was being talked about here was Democrat
19 voter fraud and Mr. Dowless had worked for Todd Johnson who
20 was a Republican?

21 Did you make the connection that this was the same
22 guy that's working--apparently working in two different--
23 well, not really two different things. He was--basically
24 he was identify voter fraud on the Democrat side.

25 A To be honest, no. Frankly, I didn't remember this

1 e-mail exchange until I went back and searched my e-mails.
2 And during the saga with the McCrory campaign and their
3 challenge, other than around this same time of reading a
4 news report about Bladen County issues and, you know,
5 getting this e-mail and forwarding it along, I did not
6 follow that closely.

7 I did not know until all of this, frankly, all
8 broke out that McCrae had testified at that hearing, that
9 he was a part of that at all. I didn't know any of that.

10 Q So really when you read this, you didn't put that
11 necessarily together, that he had testified at this hearing
12 before the State Board.

13 A Yeah, I had no idea about that. What I saw here
14 is he said that the guy who made the claim, Dowless, you
15 know, Mr. Dowless, is the same guy that Johnson paid. You
16 know, then I connected that he knew that whoever was making
17 the claim for the McCrory votes was the same guy that had
18 worked for Johnson. But I didn't follow the rest of that
19 protest process with the McCrory campaign. I just didn't
20 really know what was going on.

21 Q It just didn't get your attention up to follow it
22 through, through the whole saga in December.

23 A Exactly. And you've got to remember, at this
24 point, I mean, this is November of 2016. It was very much
25 an open question whether, you know, dad would seek election

1 again. At this point in November of 2016, there wasn't like
2 a "oh, we're gearing up for a new 2018 campaign, and so I've
3 got to keep an eye on who all the operatives may be." That
4 wasn't really in anyone's mind, I don't think, at that
5 point.

6 Q So April 7th comes. Your dad's had this meeting
7 with Mr. Dowless, and so you have a phone conversation about
8 that. I want to hand up--

9 MR. LAWSON: 55.

10 Q --55.

11 (Whereupon, Exhibit No. 55
12 was marked for identification.)

13 Q So do you recognize this e-mail?

14 A Yes, ma'am.

15 Q And you note that it's on April 7th, as you were
16 talking about, and it's--the time looks like it was 8:56
17 a.m. So had you had a phone conversation prior to sending
18 this e-mail?

19 A That's exactly right, Ms. Strach. So I had a
20 phone conversation, and as I recall, it lasted quite some
21 time. I usually got in the office between 8:15 and 8:30,
22 and so I usually left my house, you know, 7:30, 7:45.

23 As I recall, we talked on the phone basically my
24 whole drive, about 20 minutes. I got out--I stayed in my
25 car in the parking deck. I walked across Fayetteville

1 Street from the parking deck, sat on the side of the
2 sidewalk, and had a lengthy telephone conversation.

3 And at the end of that conversation or somewhere
4 therein, I said that I would follow up--you know, we can
5 talk about the conversation, but I said that I would follow
6 up with an e-mail, and that culminated in this first e-mail
7 at 8:56 a.m.

8 Q Were you concerned? After your conversation, were
9 there things that made you feel you needed to put something
10 in writing?

11 A I wouldn't necessarily say at that point that I
12 was thinking that I needed to put something in writing. I
13 certainly was trying to make sure that everything that I
14 said on the phone, that I also told him again to get across
15 the points that I wanted to make sure that he understood and
16 that my mother understood.

17 As you can see, the first e-mail I sent to my dad,
18 but I forwarded it a few minutes later, you know, about 20
19 minutes later to my mom because, as I recall, my mom had
20 also been on the phone during at least part of that phone
21 conversation early in the morning.

22 So, as I recall, I don't remember if she was on
23 the whole time or they were sitting in the kitchen or riding
24 in the car and, you know, putting it on speaker phone, but
25 that's why I forwarded it to her.

1 You can see, I believe, the remaining e-mails she
2 is copied on as well. So she was up to speed on whatever
3 I had sent following up on the phone call.

4 Q This might go to what your actual conversation
5 was. So did you see the very first thing that you do, no
6 text other than just the statute that talks about it being
7 a felony to collect absentee ballots.

8 Why did you send that statute at that time?

9 A So, I think that it would be helpful for me, Ms.
10 Strach, if that's okay, to describe the phone call and what
11 kind of led to it.

12 So after having the conversation with my dad where
13 he basically filled me in on the April 6th meeting with
14 McCrae, I expressed my concerns based on everything that I
15 did know up to that point; namely, my belief that McCrae had
16 engaged in collecting ballots in the 2016.

17 Now, that belief was based on my review of the
18 absentee voter data that I've already described, and also
19 just the general sense of reports that I was getting back
20 that this guy was kind of a shady character. That was my
21 impression at the time.

22 So the phone call itself, I remember we discussed
23 the program, we discussed some of the ins and outs of it,
24 and I told him that collecting ballots was a felony, and I
25 would send him the statute that showed that collecting

1 ballots was a felony.

2 I will also say I do remember in that conversation
3 having some discussion, and I don't, frankly, remember much
4 about this, but at least I learned at that point that Mr.
5 Dowless had a criminal conviction of some kind. I can't
6 tell you what it was.

7 I remember thinking it wasn't--it wasn't something
8 that was, you know, so kind of random or commonplace, like,
9 you know, that I didn't think it would have an effect. The
10 fact that there was a criminal conviction, that worried me.

11 I will also be honest; my primary concern in
12 expressing this during the phone call was not so much about
13 what was legal or illegal, but that if he was a shady
14 character and it was a close race with Robert Pittenger--
15 and this is then later reflected in my e-mails--and I
16 remember talking on this phone--on the phone because I said,
17 "You better believe that Robert Pittenger, if it's a close
18 race, he's going to send everything after you to determine,
19 you know, whether or not anything had gone on."

20 And I was really worried about the political
21 ramifications of having someone like McCrae and what I had
22 looked at be a part of the campaign. It was primary at that
23 point a political concern.

24 Q When you said you were telling your dad that it
25 was illegal to collect ballots, had the explanation of

1 McCrae's program led you to think that that might be part
2 of it; that maybe they didn't understand that? What led you
3 to think that you needed to tell him that or in providing
4 the statute that you can't collect ballots?

5 A What led me to believe that was that analysis of
6 the voter data I had done. I didn't think McCrae was
7 telling him--let me say this. I had no reason to believe
8 at any point that my father actually knew--or my mother or
9 anyone else affiliated with the campaign actually knew that
10 McCrae and his folks were doing the things that have been
11 described today. I have no reason to believe that at all.

12 I believed that Mr. Dowless told them he wasn't
13 doing any of this. And they believed him. For me at this
14 point when I'm hearing this relayed, I didn't believe them.
15 I thought that they were illegally collecting ballots based
16 on the data I had reviewed, and that was what informed, you
17 know, my view on it and why I wanted to relay that to them.

18 Q So you again described the research, I guess, you
19 had done based on the number of absentee ballots that were
20 being delivered, that you think that was sort of evidence
21 that it was being collected. Did you talk about that
22 specifically in that conversation?

23 A Yes.

24 Q And so what led them to think that maybe that was
25 not what he was doing? Did they talk to you about why they

1 thought that maybe he's not doing that?

2 A They just believed that--they said that they had
3 asked, you know, this question, and he had assured them, as
4 we've heard a number of times, both in the public and, you
5 know, what Andy Yates said during the eight hours he was on
6 the stand, that no one can touch a ballot.

7 You know, I absolutely believed that McCrae
8 Dowless told them that he never let anybody touch a ballot,
9 and he gave them examples about where the legal line was.
10 I just didn't believe McCrae because the numbers didn't add
11 up.

12 Q There is an exchange, or at 9:21, if you'll look
13 down, we don't have what's there; it says "quoted text
14 hidden." Do you know what that--what you were sending to
15 your father?

16 A So, the way I think this appears here is if you
17 look at the Friday at 9:21, that "quoted text hidden," that
18 was just me forwarding to my mother that same provision.
19 And then in my father's response e-mail to me, it just is
20 not showing the whole string; it's just the next message.

21 So he responded, "So you found no problem in
22 handling request forms," and as he says, "I'm certain they
23 have been mailed in then." He, again, expressing his belief
24 in what McCrae had indicated.

25 Q Right, so he's--you sent him the statute. He's

1 looking at it. He's looking at what or remembering what
2 McCrae told him he was doing. He was thinking, yes, that's
3 still compliant with North Carolina law.

4 A He is expressing to--he was expressing back to me,
5 based on our phone call, that he believed that they were
6 going to be mailed in and that that would be compliant with
7 North Carolina law, yes, ma'am.

8 Q If you look down at 9:29, this is what you're
9 referring to and I guess that you were talking about in the
10 conversation; you reiterate. The last paragraph where you
11 say, "The key thing that I am fairly certain they do that
12 is illegal is that they collect the completed absentee
13 ballots and mail them all at once."

14 A That's right.

15 Q "The way they pop up in batches at the Board of
16 Elections makes me believe that. But if they simply leave
17 the ballot with the voter and say 'be sure to mail it in,'
18 that that's not illegal."

19 A That's correct.

20 Q And that's what you were talking about that you
21 had talked to them on the phone about.

22 A That's right. I had indicated that view on the
23 phone and then I reiterated it in an e-mail, yes, ma'am.

24 DIRECTOR STRACH: And this is the second page
25 of the e-mail. Dive me just a minute.

1 (Pause)

2 Q So all this takes place in sort of a short time
3 span, so that at 9:54 you sent an e-mail to your father, and
4 could you read the second paragraph?

5 A Right, so, and just to make sure that we're clear,
6 so he had responded to my previous e-mail--

7 Q Right.

8 A --and had indicated that, you know, these were
9 some of the examples of what they may do; they may walk the
10 person to the mailbox and put it in, raise the flag, and if
11 the ballot is already sealed and signed, as he says, "They
12 don't pick them up, to my understanding, but encourage them
13 to mail that day by putting it in the mailbox and raising
14 the flag." That's what McCrae had told them.

15 So my response was that "a good test is if you're
16 comfortable with the full process he uses being broadcast
17 on the news." And then I said, "It's a legal gray area as
18 to what taking into possession for delivery to the Board of
19 Elections means. Taking it yourself and popping it in a big
20 PO mailbox is a felony." That's what I believed was
21 happening and I had indicated in my e-mail.

22 "Walking the person to their mailbox probably
23 isn't," because, again, you're not taking possession of the
24 ballot. "Walking the ballot from someone's front door to
25 their mailbox at their request," as I indicated, "tough

1 call," because the statute, you know, the language says you
2 have to take it into that person's possession for delivery,
3 the ballot.

4 Q Correct. And so after this exchange and your
5 father thanks you, you're aware that he engaged Mr. Dowless
6 on April 20th, so some days later after that. Did your
7 father or your parents explain to you why they made that
8 decision in light of your concerns and the information that
9 they had--that you had provided to them?

10 A They didn't--they did not tell me in any kind of,
11 you know, long fashion, like, "Look, we hear what you're
12 saying, but we just, you know, think that maybe you're off."

13 As far as I know, I will tell you I felt like on
14 the phone--I'll be honest, I felt like on the phone with
15 them, that their mind was kind of made up. I felt like this
16 when I was reviewing these e-mails and seeing the exchange,
17 that they were, you know, trying to--they were trying to
18 figure it out, but they had kind of made up their mind.

19 So I don't remember having a specific
20 conversation. I think I just learned sometime later that
21 they had decided to go with McCrae, but I don't think that
22 we discussed, you know, these concerns in kind of that
23 weighing process after that.

24 Q And do you know what it was that you think made
25 up their mind?

1 A I think they just believed McCrae, and as my
2 father has told the media, I mean, he got good results in
3 2016, and they believed that the process that he was
4 undertaking was legal.

5 Q And were you aware that prior to April 6, do you
6 know if your father or your parents had ever met McCrae
7 Dowless before?

8 A Prior to April 6th, I do not believe that either
9 of them had met McCrae Dowless before, but I really don't
10 know. Obviously in 2016, my dad was down there campaigning,
11 and he may have run across him, but I don't know.

12 Q So the meeting they had on April 6th you think
13 likely was probably the first time they had met Mr. Dowless.

14 A As far as I know, that's correct.

15 Q Have you ever asked your father if he asked Mr.
16 Dowless if he collects ballots?

17 A I don't know if I've ever asked him that
18 specifically. That was part of what we were talking about
19 on April 7th. You know, "Well, what did he say the process
20 was? What did you ask him? Did you ask him about these
21 things?" You know, that was our conversation that preceded
22 these e-mails.

23 After this--after this exchange when they decided
24 to go with McCrae notwithstanding the concerns I had raised,
25 we didn't talk about that decision again, you know, and

1 again, I more was a sounding board and was occasionally, you
2 know, reviewing information or, you know, looking at polls
3 and talking about, you know, speeches and stuff like that,
4 but I wasn't a on-the-ground staffer. I was an associate
5 at a law firm billing a lot of hours.

6 Q And I guess the only reason I ask--I understand.
7 I guess the reason I--only reason I ask that is that was the
8 only day--first day he had met him, and then you didn't know
9 he was going to meet him that day, and then you have these
10 conversations the next day and express your concerns.

11 Did you think he would go back and say, "Hey, let
12 me make sure; let me go and ask that question. And he's
13 really convinced that this guy is collecting ballots. Let
14 me go to him and ask him, just straight out ask him." Do
15 you know if that ever happened?

16 A I do not know.

17 Q You were talking about your discussion with Andy
18 Yates, and we talked about the fact that you had expressed
19 your concerns to him because--and I think just as you said,
20 that even if there were problems, that, you know, that could
21 really make your dad's campaign look bad.

22 And you believed that the arrangement for him to
23 be an independent contractor for Red Dome was probably the
24 result of those concerns.

25 A That's right, and one thing I do want to clarify

1 just to make sure it's clear is I don't remember telling
2 Andy Yates these concerns in as stark of terms. I don't
3 remember telling Andy, "I think the guy collects ballots."

4 I don't remember. I might have, but I really
5 don't remember that. All I can remember from my phone
6 conversation with Andy was a general expression of concern
7 about a shady character, but that was after this point in
8 time, so this was still consistent with my thinking.

9 Q Did you monitor absentee data during the 2018
10 primary?

11 A Not nearly to the extent that I did in 2016. My
12 wife and I had our second child on April 23rd, 2018, and so
13 I was not, suffice it to say, downloading the daily
14 absentee, you know, list like I did in 2016, but I was, you
15 know, keeping in touch with my parents about what was going
16 on leading into the primary including about, you know,
17 absentee numbers because it's an important predictor for all
18 campaigns as to how things are looking.

19 Q Sure. And did you--in the limited things that you
20 did, did you see any red flags in the 2018 primary, things
21 that you might be looking for since you are aware this guy
22 might not be exactly who your parents think he is?

23 A Sure. I did not do any kind of analysis of the
24 votes as they were coming in before election day. I
25 followed on election night very closely. I saw the results

1 that were similarly disproportionate in the 2018 primary to
2 what had occurred in the 2016 primary.

3 But leading up to the primary, I just wasn't
4 looking at it, and frankly, you know, that--my parents had
5 made a decision to go with this guy. I wasn't trying to
6 investigate--to continue to investigate this. I just had
7 other stuff going on.

8 Q I understand. And you had other things going on,
9 but did you have an expectation or a belief that Mr. Yates
10 or the Red Dome relationship would be some way of monitoring
11 and sort of keeping a check, having more time to sort of
12 keep a check on what Mr. Dowless was doing?

13 A Sure. I assumed, and it turned out, I think, to
14 be an unfortunately poor assumption, but I assumed that in
15 light of the concerns I had raised directly to my father,
16 in light of the concerns that I had expressed in more
17 general terms perhaps to Mr. Yates, that even if they
18 decided to go with it because they believed that what he was
19 doing was legal, that they were making sure that it was
20 legal.

21 I mean they had a campaign staff and they had
22 other folks that were down there. Mr. Yates was a
23 consultant that was paying Mr. Dowless's bill. So that is
24 certainly what I assumed. I certainly was not exercising
25 an oversight role in any kind of way on the campaign. I had

1 no formal role in the campaign.

2 Q And at any time prior to 2017 or any time prior
3 to the election or after, has your father or your parents
4 said anything that makes you believe that they knew that Mr.
5 Dowless was collecting ballots?

6 A No. Absolutely not. I think they were lied to
7 and they believed the person who lied to them.

8 DIRECTOR STRACH: I have no other questions.

9 CROSS EXAMINATION BY MR. ELIAS: 3:01 p.m.

10 Q Thank you, Mr. Harris, for agreeing to testify.
11 My name is Mark Elias, and I represent Dan McCready. Let
12 me first start with a small note of praise. You clerked for
13 a very prestigious judge in the D.C. Circuit, so for those
14 of you who are following along and don't realize what an
15 achievement that is, it is truly something your parents
16 should have a lot of pride in, in your academic and
17 professional achievements.

18 A Well, I'll tell you, Mr. Elias, the really thing
19 I'm proud of, especially in light of the Duke-Carolina game
20 tonight, is that the D.C. Circuit clerks beat the Supreme
21 Court clerks in a basketball game.

22 (Laughter)

23 Q I have no doubt. So I just want to cover a few
24 things that you went through so that I have--so that I
25 completely understand it. The--you graduated from law

1 school when? What year did you graduate law school?

2 A I graduated from--I graduated law school in May
3 of 2015, I took the Bar in July, and was licensed in August
4 of 2015.

5 Q Okay. So you--I'm just trying to figure out when
6 you were clerking and when you were here.

7 A I was clerking from the fall of 2015, August,
8 until the following August of 2016. So I was in D.C. from
9 August 2015 to 2016, and then I moved back and have been
10 here since the fall of 2016.

11 Q Well, if you tell people you had more time on your
12 hands when you were a clerk on the D.C. Circuit, I think
13 you're going to upset a lot of judges in Washington, D.C.

14 A I think that I will exercise my right not to
15 answer that question.

16 (Laughter)

17 Q And had you been involved in politics before the
18 2016 race?

19 A Yes, to a degree. I had worked down at the North
20 Carolina General Assembly in college. I worked down there
21 starting in 2011 and stayed on through 2012, and the summer
22 before law school worked full time, and so I was engaged and
23 familiar, you know, with the political process starting
24 essentially from the 2011 time frame.

25 Q And the reason why I asked is because you did a

1 very sophisticated analysis of the primary results in 2016
2 and I didn't know if that was because you had a background
3 in it or if you had just picked it up.

4 A I'd like to say it was because I'm a savant, but
5 that's not the case. I had worked in--you know, I'd worked
6 at the General Assembly. I was familiar with the political
7 process, and I will say it was not until the 2016 election
8 work that I realized that the Board of Elections posted all
9 of this absentee data publicly.

10 And so once I found it, again, I spent an
11 inordinate amount of time because I am not an Excel whiz,
12 you know, getting all the data sorted, but it was because
13 it was something that interests me and I enjoyed looking at
14 the data.

15 Q And as you looked at the results of the Bladen
16 County primary in 2016, you had identified I think what you
17 said were anomalous or highly unusual results with respect
18 to the in person--I'm sorry--with respect to the vote by
19 mail absentees.

20 A That's correct.

21 Q And I think you wrote an e-mail--you can look at
22 the e-mail in front of you; I'm not trying to trip you
23 up--that "This smacks of something gone awry." Is that
24 right?

25 A Yes. And discussing particularly the 22 percent

1 of absentee by mail votes district-wide coming out of Bladen
2 County versus only two percent of the votes being in person;
3 that's what I said; it smacks of something gone awry.

4 Q Yeah, I wanted to focus on that because there has
5 not been as much testimony on that point. There's been a
6 lot about the raw numbers, but I was hoping you could expand
7 a little bit about why that two percent versus 22 percent
8 struck you as a red flag.

9 A Well, again, looking at kind of the law of big
10 numbers, once you start getting into, you know, 1,000 or so,
11 you should expect with some variability given that voter
12 behavior influences how people vote, but you should kind of
13 expect that if you had a total percentage or given precinct
14 or county, however you're measuring it, that the types of
15 votes are going to be within the ballpark of percentage
16 splits for in person, for early, and for absentee.

17 You also expect the population for counties that
18 have higher populations to have higher proportions or
19 similar proportions of absentee ballot votes.

20 What was unique about this situation was that
21 Bladen County's in person voting was about what I would've
22 expected. I think I said here it's about two percent
23 because it's a smaller population county and you only have
24 about half the county in the district.

25 So when you've got in person votes at only two

1 percent, you would expect absentee votes, looking district-
2 wide, the proportion coming out of Bladen County, to be
3 about two percent give or take, and it was 11 times that.

4 Q That was a red flag.

5 A Yeah, it suggested that there were far more
6 absentee by mail ballots cast in Bladen County than would
7 be expected given normal voting patterns.

8 Q The second point you make--or in the next
9 paragraph, I should say, you say that based on your analysis
10 of absentee by mail votes in Bladen County, there were a
11 disproportionately high number of black votes from the
12 county relative to other counties' absentee by mail ballots.

13 And I assume you're talking about in the
14 Republican primary.

15 A That's exactly right, and I apologize if I
16 accidentally turned my mike off. I just turned it back on.
17 That's exactly right. So again, I had been tracking all
18 absentee by mail and early voting--they're all produced
19 together in the voter file--for the entire district.

20 And I was doing these long, you know, views of the
21 percentages for--by county, the percentage breakdown by
22 county and the average age and the race district-wide. And
23 so I believe district-wide in terms of early and absentee
24 by mail votes, it was like 95 percent white or something.
25 In terms of these are voters who are going to cast ballots

1 in the Republican primary, 95 percent white.

2 When I looked at the data for Bladen County
3 absentee by mail, and I can't tell you what the number was,
4 but it was a noticeably higher proportion of African-
5 American voters than 95--or than five percent.

6 Q So that would suggest that whomever was doing
7 absentee balloting--was running the absentee ballot program
8 in Bladen County, which I think we've now stipulated was Mr.
9 Dowless, was turning out not just white voters to vote for
10 Mr. Johnson, but also black voters to vote for Mr. Johnson.

11 A Well, I will say it was noticeable, but I think
12 I'd be careful about what you're going to infer from it
13 because it could be that there are just a lot more African-
14 American Republican voters in Bladen County. It may be that
15 there's just a lot of unaffiliated black voters who can vote
16 for a Republican candidate in Bladen.

17 It was unusual because statewide the proportion
18 of African-American voters who are voting--who are
19 registered Democrats and are not able then to vote in a
20 Republican primary, you know, it's a really high proportion
21 of African-American voters that are registered Democrats as
22 opposed to unaffiliated and Republican.

23 Q And you don't know of any--do you know of any
24 reason why African-Americans in Bladen County would be more
25 likely to be Republican than elsewhere in the state?

1 A No. And that's why about my, you know, view is
2 that assuming that everything in Bladen County was the same
3 as it was in Mecklenburg, Union, Anson, et cetera, that's
4 why it was noticeably higher.

5 Q Right, which again--I don't want to quibble on
6 this point, but I just want to ask it again to make sure
7 that I--that you and I are in sync--which would suggest that
8 the most likely scenario, and I know you don't have personal
9 knowledge, but the most likely scenario is that whoever was
10 doing turnout for absentee ballots in the Republican primary
11 was turning out black votes as well as white votes.

12 A I would agree that they were turning out black
13 votes as well as white votes. It was more black votes in
14 the Republican primary in Bladen County than would be
15 expected based on the numbers.

16 Q That's all I was asking.

17 A Sure. Yes.

18 Q Do you recall whether--or I know you searched your
19 e-mail. So do you recall or do you know was there a reply
20 to this e-mail?

21 A I do not believe--I should say I don't recall.
22 Sitting here today I do not believe that there was a reply.
23 This was on election night when there was a lot going on,
24 and essentially this was a way that I could get all this
25 information to my parents so that they could share it with

1 counsel in a recount process.

2 Q And Mr. Harris, let me assure you I am not sitting
3 on any documents of e-mails of yours other than what they
4 have just given us and shown you. So there's no surprises
5 coming in this (indiscernible word).

6 A Sure.

7 Q When I asked if you knew if there's another e-
8 mail, it might be that the Board simply didn't chose to show
9 it to you. So that's why I asked.

10 A Sure, sure Yeah, and I don't have any reason to
11 think otherwise. I certainly haven't given you any of my
12 e-mails.

13 (Laughter)

14 Q This is true. Do you recall when you looked at
15 the 2018 primary results--and I know you did a more cursory
16 review, but do you recall whether you noticed a similar
17 pattern of African-Americans seemingly voting Republican?

18 A I could not tell you. I did not look at that
19 granular level of detail. I'll tell you what I looked at
20 in the 2018 primary results was the media narrative
21 immediately after the primary results, was that more
22 Democrats had cast votes for Mr. McCready district-wide than
23 the total number of Republican votes cast in the Republican
24 primary, suggesting a wave.

25 And I looked at data in local races, particularly

1 the sheriff's race in Robeson County in an effort to
2 understand whether I believed that that was actually the
3 case or not; that a wave was materializing.

4 And my ultimate view was that local races were
5 driving turnout among Democrats, but I didn't look at any
6 level of granular detail with respect to our primary votes.

7 Q Do you recall that in the time period that your
8 father was looking at a potential recount or contest or
9 whatever the process would be, that he expressed that there
10 had been shady or illegal or inappropriate absentee ballot
11 harvesting or retrieving in Bladen County?

12 A I was not privy to all of the conversations that
13 my father or the campaign staff of 2016 had with their
14 counsel. I am not aware of him ever suggesting to his
15 counsel that there was illegal activity.

16 The concerns that I raised in this 2016 election
17 night e-mail, I certainly believe that they were raised with
18 his counsel in assessing the recount. But as I said
19 earlier, what I was looking for here--I had no idea about
20 fraud--I was looking at numbers that said 214 to 4 to zero
21 and said, "There's a ballot machine that's messed up
22 somewhere." I wasn't thinking about fraud or anything like
23 that at that point.

24 Q Did your father or mother ever express to you a
25 belief that there may have been fraud?

1 A In the 2016 primary?

2 Q In that time period following the 2016 primary.

3 A Again, I--what I recall is there being a
4 description of someone in Bladen County working for Todd
5 Johnson, and I do remember him being described as some sort
6 of shady character, and that's the term that sticks in my
7 mind, and whether that's my term or someone else's words,
8 that was my view of whoever it was that was working for Todd
9 Johnson in the aftermath of this.

10 But I don't--I certainly don't remember my parents
11 saying to me, you know, "Someone's down there engaging in
12 election fraud" at this time. But again, I certainly
13 thought it was a shady character, and that was part of why
14 I forwarded the e-mail about--from McCrory's campaign in
15 2016.

16 Q Well, so I wanted to look at that e-mail next.
17 So I take it this e-mail from Russell Peck, I can sort of
18 barely make out the header, but I assume this was a mass e-
19 mail you got.

20 A That's correct. It was a stock campaign e-mail
21 that was blasted out.

22 Q So Mr. Peck wasn't e-mailing you specifically.

23 A I don't believe so.

24 Q And you then forward the e-mail? I'm just trying
25 to understand from the headers.

1 A That's correct. I forwarded that e-mail to my
2 dad's e-mail address and said the message, "Preaching to the
3 choir," which is a euphemism for "we've experienced this
4 too" to some extent.

5 Q Right, but this is talking about Democrats
6 committing some sort of fraud scheme in Bladen County. What
7 you all had experienced was not at the hands of Democrats,
8 right?

9 A Right. What we had experienced occurred in a
10 Republican primary, and so when I say "Preaching to the
11 choir," I'm not referencing anything about the party. I'm
12 just saying, look, we know there is a shady character down
13 there and the numbers are off, and so, you know, I see this
14 here, and so it sent me back to those days.

15 Q And is it fair to say that at that point, you at
16 least were--by saying "Preaching to the choir," were you
17 suggesting at this point that perhaps there was fraud
18 because you're saying we were the victims of the same thing,
19 and this e-mail's about fraud.

20 A Yeah, that's a good question. I don't know the
21 answer to that. I certainly--I certainly think by this
22 point I had looked at the data where I saw the batching, and
23 so I believed at this point that ballot collection had
24 occurred. But that's all I can say about what I was
25 thinking at the time that--in terms of fraud.

1 Q And ballot collection is fraud, under North
2 Carolina law.

3 A Ballot collection is illegal and is a felony.
4 There's no fraud statute that--you know, or anything like
5 that. It's illegal, and we can talk about whether it is a
6 misrepresentation or anything else, but it's certainly a
7 felony.

8 Q Did you think that--and perhaps not, but at this
9 time period, in 2016, did you think that the high number of
10 African-American votes might have been the product of those
11 voters being defrauded?

12 A No. I thought that once I saw the batching data
13 and I believed there was collection effort--and again, I
14 must confess. It's hard for me to separate out this
15 November time frame from maybe the April time frame, but
16 what I recall with respect to the disproportion in the
17 racial breakdown is that once I saw the batching data and
18 I thought collection was going on, I thought they were just
19 targeting, you know, apartment complexes.

20 And so you might go in and you might go around to
21 everyone in that apartment complex and it didn't matter if
22 they were white or black or whoever; they'd just go get them
23 to submit and ask for an absentee ballot and then collect
24 the ballot.

25 And so unlike an approach that was more targeted

1 based on political affiliation, it was sort of get whatever
2 you can and that's why the race numbers were maybe more what
3 you would expect based on where people live, but not what
4 you would expect in terms of the breakdown of party
5 affiliation, if that makes sense.

6 Q And your father's response is to say "Amen, but
7 interestingly enough the guy who made the claim, Dowess,"
8 which I assume is Dowless, "is the same guy that Johnson
9 paid to run the," quote, "absentee ballot program for him."

10 How did--how did you--how did your--can you tell
11 from this e-mail because, again, the copy is hard to read,
12 how he knew that this related to Mr. Dowless? Because I
13 don't see anything in the e-mail that references Dowless.

14 A I don't think there was anything in the e-mail
15 that referenced Dowless. I don't know. My understanding
16 is that he had learned that information from some other
17 source at the time.

18 Again, on November 15th if you'd have said the
19 name McCrae Dowless independently of Todd Johnson, I would
20 have not known anything about a person named McCrae Dowless.
21 My understanding is that he knew based on conversations with
22 more and more people that--someone had told him that--
23 exactly what he's telling me in this e-mail.

24 So he didn't get that from my e-mail. He knows
25 it and is telling it back to me in response.

1 Q And the last question I have about the e-mail is
2 the last line, "You can shoot the bull to a bull shooter."

3 A My view of that is it's a typo, and it's supposed
4 to say, "You can't shoot bull to a bull shooter." And so
5 it is indicating that Mr. Dowless did not like, as it says,
6 "didn't like the Dems cutting into his business," and it
7 suggests that Mr. Dowless was aware of what was going on
8 because he had engaged in suspicious activity in the past.

9 Q Well, it's more than suspicious activity, right?
10 The e-mail is "Democratic Voting Fraud Scheme Uncovered."

11 A Well, this is a stock campaign e-mail, Mr. Elias.
12 I mean I think we can all agree--we may not agree on
13 anything else, except we can all agree we all get way too
14 many hyperbolic fundraising e-mails.

15 And so I'm not sure that I would infer anything
16 about the e-mail below from Mr. McCrory's campaign into
17 anything that my dad said about, you know, shooting bull to
18 a bull shooter.

19 Q Well, again, I'm only asking questions. I'm
20 not--but as I--is it not a fair reading that your father is
21 seeing an e-mail that says "Urgent: Democrat voting fraud
22 scheme," and part of his response is "Dowless didn't like
23 Dems cutting into his business," his business presumably
24 being a fraud scheme. Is that a fair reading?

25 A I don't think that is necessarily a fair reading

1 to connect, you know, fraud scheme. I will absolutely say
2 that I think what my dad was trying to say in this e-mail
3 was that the allegations of Dems cutting into the business
4 would be the business of absentee ballot activities and
5 potentially nefarious ones.

6 And so the implication of this e-mail, in my view,
7 is that Dowless knows what's going on with whatever the
8 Democrats are doing because he's doing the same, I would
9 think.

10 Q And that the Democrats are doing something
11 illegal.

12 A Well, that's--I don't know that my dad is
13 necessarily saying that.

14 Q You mentioned that on election night or, sorry,
15 in following the election in 2016--well, let me ask you, did
16 you follow the election results in the general election
17 2016?

18 A Yes, I did.

19 Q And I think you said that--and did you look at the
20 absentee ballot return numbers in Bladen County?

21 A In 2016?

22 Q Yes.

23 A Yes. That's what I've discussed; in great detail
24 I analyzed the numbers in 2016.

25 Q The general election I'm talking about now.

1 A Oh, in the general election.

2 Q I'm moving temporally forward. We're now in
3 November.

4 A I'm sorry, I'm sorry. No, no. I didn't follow
5 it closely really at all. I looked at who won, saw that Mr.
6 Pittenger had won. You know, the presidential election was
7 what I was looking at.

8 I looked closely at some of the numbers not
9 related to absentee ballots per se but related to the
10 McCrory - Cooper race because it was an extraordinarily
11 close race.

12 Q And did you follow the aftermath of the McCrory -
13 Cooper race?

14 A I only followed it a little bit in the news about,
15 number 1, that a protest had been filed related to Bladen
16 County. I believe there were some concerns that I read a
17 news report about in Durham County, but that is pretty much
18 the extent of it.

19 After, you know, this time frame of November 15th
20 or thereabouts, I can tell you affirmatively I did not ever
21 read a transcript that you've shown a bunch of other people
22 about what Mr. Dowless said at a hearing in front of the
23 State Board of Elections. I wasn't aware at all of the ins
24 and outs of that process whatsoever.

25 Q Did you know that Mr. Dowless--I think you said

1 you did not know that Mr. Dowless had testified in that
2 hearing.

3 A That's correct. I had no idea about anything
4 related to that hearing.

5 Q I think part of it is you said that at that point
6 your father wasn't--you didn't--as far as you know, your
7 father didn't have in mind running again, so it was kind of
8 not relevant.

9 A Well, it was definitely--had not been decided at
10 that point, so any following of politics was just what I
11 followed in the news, and so I saw news reports about kind
12 of what was going on.

13 And that's what I said; you know, I got this e-
14 mail. I knew that there were issues in Bladen County that
15 were alleged and there were issues in Durham County, I
16 think, but past that, in terms of what happened at the
17 hearing and going on into December, you know, I really
18 didn't follow at all.

19 Q So let's move forward then to when--when did your
20 father decide that he was going to run?

21 A That is literally impossible to put a date on.
22 There was an ongoing process. He was certainly thinking
23 about it in the, you know, late March, early April time
24 frame.

25 Q Then let's start there. I just--I moved the

1 calendar forward to--

2 A Sure.

3 Q --then skip over months where it doesn't sound
4 like there's anything going on.

5 A Sure.

6 Q So tell me about how--who had been your father's
7 campaign manager or consultant in the last race?

8 A I cannot remember the exact name of the campaign
9 consultant. Again, I was in D.C. during the entirety of
10 that campaign. The campaign director, I believe, was--or
11 campaign manager was named Martin Newt (phonetic spelling),
12 I believe, and he and the consultant were kind of from the
13 same place, but they were not--I think there were some
14 ongoing discussions about, you know, if they were going to
15 be involved in the 2018.

16 He was--my understanding, and I wasn't in on any
17 of these meetings, but that he was just talking to people
18 as one might do when they're considering running for office
19 and talking with people who might provide campaign related
20 services, including Andy Yates among others.

21 Q So this is the question I was trying to get at.
22 So at the end of March, early April, do you know, is your
23 father talking to Mr. Yates before or after he has talked
24 to Mr. Dowless?

25 A I can say affirmatively my understanding is

1 that--when exactly their conversations occurred, I'm not
2 sure. The first time he met with Andy Yates--he had made
3 the decision to hire McCrae Dowless before he made the
4 decision to hire Andy Yates.

5 Q Okay, so that's--keeping in our little time line,
6 we'll go to the--we'll take it in that order then. Do you
7 know the date that your father met with McCrae Dowless?

8 A I only know it as a result of this investigation
9 process, and it was April 6th which was the day before my
10 phone call and e-mail exchange on April 7.

11 Q Do you think you knew before the 6th that he was
12 meeting with McCrae?

13 A No, I did not.

14 Q Do you know how he came to meet with McCrae
15 Dowless?

16 A Only the same thing that's been, I think, publicly
17 reported, although, again--I think he told me on the phone
18 that he had, you know, been introduced to him by folks that,
19 you know, were down--political types in Bladen County.

20 I know since, he's described Marion Warren
21 introducing him. I can't remember in April if I knew that
22 or not. And I have spoken with Marion Warren on the phone,
23 you know, before, in the past about, you know, something,
24 but I don't know him in any kind of way.

25 Q I assume you haven't spoken to him since November

1 27th, 2018.

2 A No. I haven't spoken to Marion Warren in many
3 years.

4 Q And so you learned of the meeting with McCrae
5 Dowless after it took place.

6 A Yes, the day after.

7 Q The morning after.

8 A That's correct.

9 Q And do you know why it came up?

10 A Again, I was generally a sounding board and talked
11 to my parents about campaign related things. I cannot
12 remember if I called them or if they called me. You know,
13 I don't talk to my parents every single day, but we would
14 usually talk--you know, we would usually talk at that time,
15 you know, a couple of times a week.

16 And so either he called me or I called him on my
17 way in to work just to see what was going on. And this is
18 what was going on.

19 Q And, you know, it would seem like in some ways a
20 small part of the campaign, you know, who's going to be
21 involved in absentee balloting in one county, to raise with
22 a busy son, but I just--is there a reason why you think your
23 parents wanted to talk to you about Dowless in particular?

24 A Well, I'll say this. I certainly didn't get the
25 sense that they were calling me to, you know, ask me for my

1 advice and legal expertise about whether or not what he was
2 describing was legal or not.

3 It was simply, you know, "You might find this
4 interesting. You know, we had a really interesting meeting
5 down in Bladen County yesterday. Went down, sat down with
6 the guy that, you know, worked with Todd Johnson, and then
7 he kind of explained what he had done for him."

8 Q And did you remind them that you had come to the
9 conclusion that what he had done was probably illegal?

10 A Yes.

11 Q And the e-mail that--so you went to your office,
12 I assume, and then you e-mail the first of these e-mails
13 which is the statute itself.

14 A That's correct.

15 Q And I assume that's because on the phone you
16 discussed that statute.

17 A That's correct.

18 Q Were you familiar with the statute already? I
19 mean how did you know--I mean in a lot of states this is
20 actually lawful conduct. So how did you know--

21 A Yeah, that's a good question. And I don't really
22 know the answer. I think that I knew--I knew that--or I
23 thought that collecting a ballot was illegal. I don't know
24 how exactly I knew it.

25 I know obviously I've talked about reading these

1 news reports in 2016 election. I'm not sure. I just
2 remember telling them that collecting the ballot is illegal,
3 and I'm pretty sure that there would be a statute that
4 described it as illegal conduct.

5 And so when I hung up the phone, I went in my
6 office, you know, pulled out the general statutes, and
7 copied and pasted this. In the original e-mail you can't
8 tell it, but 6, this whole part is highlighted.

9 Q I'm sorry. Say that again.

10 A So subsection (a), and then I kind of cut out the
11 rest until 6, the part that has the text, you know, the
12 three lines of text, after (6), all that was highlighted.
13 I highlighted that when I sent it in the original e-mail.

14 Q I see. And then what is the e-mail at 9:21? You
15 may have explained this, but I didn't understand it.

16 A I forwarded the exact same e-mail at 8:56 I had
17 sent to my dad to my mom. And so when it says "quoted text
18 hidden," it's just because Google--when I printed this out,
19 just says the exact same thing.

20 And the reason I had done that, as I testified to
21 earlier, was that she had been on the phone, I believe, for
22 at least a part of the conversation that preceded these e-
23 mails, so I sent the statute to my dad which I probably just
24 forgot to copy her and realized it, and so I forwarded her
25 the statute as well.

1 Q And was it unusual for you, when you talked to
2 your dad, for your mom to be on as well?

3 A Not particularly. More so in recent years. We
4 do that more in recent years, where they both are in the
5 same place and we'll talk on the phone at the same time.

6 Q Do you think it was because you were talking about
7 something involving the campaign or--

8 A Yeah. I mean probably, because things that they
9 were--they were both, you know, really trying to decide at
10 this point, you know, how they were going to put together
11 a campaign team.

12 And again, if you'd have asked me on April 7th was
13 there still an off-chance that he would not run, I think I
14 would say there's still an off-chance that he wouldn't run.
15 He was meeting with people to decide, and you know, at the
16 same time to request their campaign services and assess
17 their ability to provide them, and whether he was going to
18 run again. So, you know, that was sort of--the both of them
19 were very much involved in that process.

20 Q Did your dad express to you or your mom, either
21 on those calls or otherwise, that they had raised with Mr.
22 Dowless their concerns about the 2016?

23 A Could you repeat your question, please?

24 Q So at the end of 2016 your father sent an e-mail
25 that is not complimentary about the program that Mr. Dowless

1 ran.

2 A Right.

3 Q And suggests that whether it was fraud or
4 irregular or improper or what have you, that it was critical
5 of the program that Mr. Dowless had run; is that correct?

6 A Yes. I would not characterize it in every single
7 way that you just did, but I would say the e-mail that he
8 sent certainly suggested that Mr. Dowless, you know, is
9 engaging in activities related to absentee ballots that dad
10 wouldn't necessarily think were all above board.

11 Q Right. So did your--did either of your parents
12 express to you that they had raised that concern or that
13 sentiment with Mr. Dowless when they met with him?

14 A I would say--I would say yes, to a certain degree.
15 I don't know--I can't remember that they told me, "We sat
16 him down and we said, 'Do you collect ballots or not?'" But
17 I definitely remember, you know, collection being part of
18 the conversation because, as Andy Yates has got up here and
19 said, you know, McCrae, as was reported to me by my dad on
20 that day; I remember it in the phone call, McCrae told them,
21 "We don't touch the ballot. We don't collect a ballot," you
22 know, et cetera, et cetera.

23 So, you know, whether they posed it as a question,
24 ballot collection, as far as I understood it, was part of
25 that April 6th conversation between them, and McCrae assured

1 them that he did not collect the ballots.

2 Q And do you know--did your father check with a
3 lawyer about this for his campaign?

4 A As far as I know, he did not inquire of any lawyer
5 about, you know, whether this was legal or not. Whether he
6 did or not, I don't know. He didn't tell me.

7 Q And if the only conversation that had taken place
8 on April 6th was that ballot collection would not take
9 place, why would you need to send the felony statute and
10 say--and answer all these questions?

11 I mean presumably you sent the felony statute
12 because something came up that suggested ballot collection
13 might take place.

14 A No, no, no. They believed McCrae when he said
15 ballot collection doesn't take place. That's what he told
16 them. I said, "I don't believe McCrae because I've looked
17 at the data and the numbers don't add up." And I said in
18 the phone call, "Collecting a ballot is a felony, and I'll
19 send you the statute."

20 And so, again, McCrae--in their conversation and
21 I don't think that they had a great deal of suspicion. They
22 believed what McCrae assured them. I didn't because I had
23 done the deep dive into the numbers, and you know, that's
24 what I indicate here; that the reason that I thought that
25 they were illegally collecting the ballots is because they

1 pop up in batches at the Board of Elections.

2 Q So your father's response to your e-mail is, "So
3 you found no problem in handing request forms," question
4 mark. "I am certain they have them mailed in then." Why
5 the "then" at the end of that e-mail?

6 A So, again, we're talking about request forms and
7 ballots. McCrae's program, as he described it to them and
8 they relayed to me, was that he would go out and would get
9 people to sign up for request forms and would collect those
10 request forms. Then he would go back out and encourage them
11 to send in their ballot after he knew that the ballot had
12 been sent based on publicly available information.

13 So I told him in the phone call that I thought
14 they were illegally collecting the ballots, and that Phase
15 2 program is where they broke the law because they went and
16 got the ballots and mailed them in.

17 When I sent him the statute that made it a felony,
18 as I read it, he was asking me, "So you didn't see any
19 problem in handling the request forms themselves," because
20 McCrae, I don't think, ever disputed that he would obtain
21 those request forms or collect them.

22 And then when he says "I'm certain they have them
23 mailed in then," I think that he is talking about ballots
24 because what he's saying is that, you know, if it's illegal,
25 if it's illegal with respect to ballots, then they must be

1 mailing them in.

2 Q So the "I'm certain they have them mailed in then"
3 doesn't relate to the request forms. It relates to the
4 statute about ballots.

5 A That's how I read it, yes, sir.

6 Q And I assume that's how you read it at the time.

7 A That's my best recollection, yes, sir.

8 Q You then respond. If I'm correct, the next e-mail
9 is your response.

10 A Yes, and I will note, and we can talk about this.
11 My response here is part of why I read this e-mail that way,
12 and we can explain it.

13 Q That's fair. I don't have--embarrassed to say I
14 may be the only American who doesn't use g-mail so I don't
15 have as much familiarity with the format as other people do.
16 You begin by saying, "This is not legal advice."

17 A Yes.

18 Q And I'm curious why you did that.

19 A Well, I wanted to make clear--you know, in his
20 question there, "You found no problem in handling request
21 forms." And so I told him, look, I thought what they were
22 doing was illegal based on what I had reviewed, and I would
23 send him the statute to show him that.

24 But when he's asking a question about handling the
25 request forms, I wanted to make sure he understood like,

1 look, I'm not giving you legal advice that you should go
2 rely on. If you want to get that kind of advice, you can
3 go seek out a lawyer and pay him or her to give you that
4 advice.

5 So I'm just saying that, so I'm explaining to him
6 that what follows is my general impression, but it's not a
7 legal opinion that he should rely on as legal advice.

8 Q Did your father ever reach out and seek legal
9 advice around this as far as you know?

10 A As far as I know, I don't know. He never told me
11 that he had consulted with a lawyer and they had said
12 anything about it.

13 Q I mean because it sounds like you were kind of
14 suggesting that they should do that.

15 A Certainly by suggesting that this wasn't legal
16 advice, I was suggesting that if they wanted legal advice,
17 they need to go to someone besides me.

18 Q It seems like it's a little stronger than that.
19 You're expressing extreme skepticism that this is a good
20 idea.

21 A Mr. Elias, I will say this. You work at a law
22 firm. When you are moving towards legal advice, there's all
23 sorts of issues that pop up, attorney/client privilege,
24 attorney/client relationships, conflicts of interest.

25 I worked at a large law firm with 130 plus

1 lawyers, so I was making it very clear to him, "We're not
2 entering into any kind of attorney/client relationship here.
3 This isn't legal advice. If you want it, go get it somewhere
4 else."

5 Q Did you suggest to him that he should seek legal
6 advice on the phone?

7 A I don't know that I suggested that directly.

8 Q Who was the lawyer who had handled the recount?

9 A His name is Josh Howard.

10 Q Do you know if Mr. Howard had looked into the
11 anomalous results in 2016?

12 A I believe that Mr. Howard was at least generally
13 aware of the same types of things that was in my e-mail
14 about the anomalous voting in Bladen County. The degree to
15 which he looked beyond those numbers or investigated on the
16 ground, you know, I don't know.

17 Again, I don't think at that point the--there was
18 a feeling that there was not much that could be done because
19 it was a third place finisher who had gotten all those
20 votes. You know, Mr. Pittenger--we actually had more votes
21 than him in Bladen County. It's close, four to zero.

22 DR. ANDERSON: May I ask a quick clarifying
23 question?

24 MR. ELIAS: Please.

25 DR. ANDERSON: Josh Howard, the lawyer

1 handling the recount, this was one and the same that chaired
2 the State Board of Elections starting in 2013?

3 THE WITNESS: My understanding is that, yes,
4 in 2016 in the aftermath of the primary, that being June of
5 2016, that Mr. Howard was no longer chairing the Board of
6 Elections that he had a private law firm, and that he was
7 the lawyer that was retained.

8 DR. ANDERSON: No, I understand that. I just
9 wanted to make sure that it was the same--

10 MR. FREEDMAN: It is one and the same.

11 DR. ANDERSON: Okay. So he knew election
12 law.

13 THE WITNESS: Well, I will say again that
14 the recount was in 2016 when Mr. Johnson had been utilizing
15 the services of Mr. Dowless.

16 Q (By Mr. Elias) You say that they are on thin ice
17 by sending somebody out to sign and/or witness the ballot.

18 A Yes.

19 Q What did that refer to? That's out of the e-mail
20 chain, so is that referring to something you had--that
21 doesn't seem to be replying to something in the e-mail
22 chain. Is that replying to something that you discussed on
23 the phone?

24 A That's correct. So, again, on the phone they had
25 described to me what McCrae had told them the ballot program

1 involved. That has been repeated in this hearing probably
2 50 times. So what--that was repeated to me on the phone,
3 that they would go out and get the ballot request forms,
4 they would collect the ballot request forms, they would go
5 back out in Phase 2, and they would go assist the voter, if
6 necessary, with signing or witnessing the ballot, and then
7 encouraging them to place the ballot in the mailbox.

8 They would never take the ballot. That's what
9 McCrae told my parents as my parent relayed it to me. What
10 I suggested is that it gets legally potentially more
11 problematic because when--even though it's technically not
12 illegal to sign or witness a ballot, to me it just is--it
13 just can throw up lots of red flags.

14 And frankly my view is just--it's just way safer
15 to not have, you know, somebody going around and signing,
16 witnessing a bunch of ballots.

17 Q So just to be clear, the Phase 1 and Phase 2 have
18 been described differently by different witnesses which is
19 why I asked the question. You heard Mr. Yates say on
20 numerous occasions that he was unaware of--that individuals
21 working for Mr. Dowless were being paid to go witness.

22 Are you saying that you understood from the
23 beginning that that was part of Phase 2?

24 A Yes. That was what was described to me on the
25 phone as the way that Mr. Dowless described it to, you know,

1 my dad. So that was described to me on the phone, that they
2 would go back out, if they needed someone to witness the
3 ballot after the ballot had been mailed, they would
4 sign/witness it.

5 Q Not after it had been mailed. You mean after it
6 had been voted.

7 A After the ballot had been mailed to the voter,
8 they would go back out. The voter would cast the ballot,
9 they would witness that they had signed it or that they had
10 cast it, and then they would encourage them to put it back
11 in the mail.

12 So, you know, my concern here is, and you
13 understand this, I'm sure, Mr. Elias, as a lawyer, I mean
14 there's a whole range of different activities in any given
15 situation that, you know, is really, really, really safe,
16 which is don't do any of this, and then there's really,
17 really, really problematic and illegal.

18 And in between, you know, there's--are the strict
19 legal lines, and what I'm suggesting here is that, you know,
20 sending someone out to sign or witness ballots
21 systematically, that may create more problems.

22 Q If we can go to the top of the next page, and
23 again, I'm going to apologize because it begins with "Mom
24 brought up a good point." And this is your father telling
25 you "mom brought up a good point," or is it you telling your

1 father that "mom brought up a good point"?

2 A This is my father telling me that my mom brought
3 up a good point.

4 Q Okay. And this a good point that was brought up
5 on the phone or is this a good point they've now had
6 internally and they are now telling you that they've
7 discussed?

8 A I believe it was the latter.

9 Q Okay. And that good point is "maybe they just go
10 with the person to their personal mailbox and put it in and
11 raise the flag for the mailman to pick up." That's a maybe.
12 Right? She didn't know that that's what Dowless was doing,
13 right, but this is saying like perhaps that's what they're
14 doing.

15 Q Well, what I read this responding to is the
16 concern that I expressed about the batching. So the way I
17 read this is responding to, is that, well, if they're going
18 around all on the same day and they're going to each house,
19 house by house by house by house, and they are making sure
20 that it gets put in the mailbox that day, then, you know,
21 if you've got 10 or 15 that are showing up on the same day
22 then maybe that's not unusual.

23 So if you go on and read the rest of the e-mail,
24 you know, he says, "Since the ballot's already sealed and
25 signed over the seal, they don't pick them up, to my

1 understanding"--and that's what he believed; that's what
2 McCrae told him--"but rather encourage them to mail it that
3 day by putting it in their mailbox and raising the flag."

4 So I think what my mom was suggesting to my dad
5 and he's relaying to me here was that they are coming up
6 with ways that explain potentially based--to essentially
7 reconcile what they heard from McCrae and this concern about
8 collection that I am expressing to them.

9 Q That's right. And so I think you anticipated my
10 next question. So basically you're saying "I'm certain what
11 they're doing is illegal," and your parents are trying to
12 reconcile that.

13 A I said that "The key thing that I am fairly
14 certain they do that is illegal is that they collect the
15 completed absentee ballots and mail them all at once."

16 Q Right. You're fairly certain that he is
17 collecting ballots.

18 A Yes.

19 Q And your parents are saying, "Well, maybe he's
20 doing it this other way."

21 A That's correct.

22 Q Because they want it to be true.

23 A Absolutely.

24 Q Even though you're saying it's not true.

25 A That's correct.

1 Q In law school or as a lawyer, are you familiar
2 with the concept of willful blindness?

3 MR. FREEDMAN: Objection.

4 THE WITNESS: I'm going to object to that
5 question as well. I don't think--

6 (Laughter obscures words)

7 CHAIRMAN CORDLE: I would concur with his
8 objection.

9 Q Your parents were wishing it to be true over your
10 objection as to what you thought was true.

11 A My impression was that they had received
12 assurances from Mr. Dowless that they believed, and that
13 they certainly did want it to be true notwithstanding my
14 objections.

15 And I will also say they were weighing what I had
16 provided in terms of a, you know, analysis against other
17 people that they respected who endorsed Mr. Dowless's
18 behavior.

19 And do I agree with their ultimate assessment?
20 No. I thought what he was doing was illegal, and I was
21 right, but that--I certainly think that that's what they
22 were doing; they were weighing it all out.

23 Q And you were also concerned about your parents'
24 well being.

25 A Absolutely.

1 Q And you wanted to be clear that this could all
2 blow up and be referred to the DA.

3 A Yes. So if you read that last paragraph, and
4 again, I mentioned this earlier in responding to Ms. Strach,
5 there were two dimensions to this. There's the legal
6 dimension which I thought they were legally collecting
7 ballots. There's the political dimension.

8 And as I indicated, in the last race, it was the
9 third place finisher that had done this. But if it was Mr.
10 Pittenger who had engaged Mr. Dowless and done this, I would
11 have strongly advocated going to the press with the analysis
12 of the numbers, investigated voters on the ground to see if
13 we needed to refer it to the CA for criminal action because
14 that's what I believed he was--that he was illegally
15 collecting ballots.

16 And what I was saying here was when you're trying
17 to make your decision because it was his decision to make,
18 you know, you need to be prepared for the same level of
19 scrutiny.

20 Q And you were right.

21 A I was right, unfortunately for all of us.

22 Q And was part of what your parents were considering
23 was the effectiveness of Mr. Dowless? Like they wanted him
24 to be right because what he did produced votes.

25 A I certainly believe that they thought that he was

1 effective in terms of getting results. But, you know, so
2 if he was ineffective--so to say they were considering that,
3 yeah, absolutely.

4 If he had lost repeatedly, I don't think that they
5 would've decided to go with him. But, you know, the fact
6 that he had a demonstrated record of success and other
7 people were endorsing his program, I think that weighed
8 heavily for him.

9 Q Okay. The fact that he had produced not just
10 success but what you viewed as anomalous success in a race
11 where your father had lost.

12 A I'm not so sure that the anomalous success was
13 necessarily part of the equation for them, but again, you're
14 basically asking me to speculate on, you know, their thought
15 process. I can tell you that my view is that they heard my
16 concerns, that other people that were a lot closer to the
17 situation and Mr. Dowless endorsed his activity, and Mr.
18 Dowless lied to them repeatedly, and so that's what I know.

19 Q Was there any discussion that if your father
20 didn't hire Mr. Dowless, one of the other Republicans would?

21 A I don't recall any discussion like that
22 whatsoever.

23 CHAIRMAN CORDLE: Mr. Elias, are you coming to
24 a point close to finishing so that we can take a break?

25 MR. ELIAS: We can take a break. I'm not

1 close to finishing, but we can take a break.

2 CHAIRMAN CORDLE: All right. My watch says
3 3:52. Let's be back at 4:02, please.

4 (Whereupon, a brief recess was taken
5 from 3:53 p.m. to 4:10 p.m.)

6 CHAIRMAN CORDLE: We can come back to order.
7 We're sorry, but we had some legal matters to discuss out
8 there. We're back in session, and I believe Mr. Elias
9 still has the witness.

10 CROSS EXAMINATION BY MR. ELIAS (resumes):

11 Q So turning back to the time period of April 7th,
12 I think we're at, right?

13 A That's the date that I have a phone conversation
14 and e-mail exchange, yes, sir.

15 Q Okay, so April 7th, 2017. You said that you were
16 not--that the payment structure that was articulated by Mr.
17 Yates on the stand was not your understanding as to what the
18 payment structure would be.

19 A That's right. And I would just say this. I did
20 not have a detailed discussion about the payment structure.
21 My understanding was, again, simply that Mr. Dowless would
22 get paid to cover geographic areas, and there were kind of
23 different levels that he would get paid for geographic areas
24 and that's--and it was essentially what the campaign could
25 afford and that would allow him to deploy, you know, more

1 people which would result in more ballot requests, et
2 cetera.

3 But I had never heard, until I sat down with an
4 interview with Ms. Strach, ever about, you know, per
5 absentee ballot request form payment or anything like that.

6 Q And when did you hear that it would--that the
7 payment would be structured based on geography?

8 A Well, I don't want to say there would be--based
9 on geography.

10 (Crosstalking obscures words by Mr. Elias.)

11 Q But what I do describe, yeah, I would--you know,
12 honestly, I'm not--I'm not sure. Sometime over the course
13 of just talking about the campaign finances generally, that
14 was my recollection over the course of, you know, June into
15 July, August, because I was familiar--again, as a sounding
16 board, I was familiar with the campaign and generally what
17 its budget was, how fundraising was going.

18 Unfortunately, you know, our current politics is
19 driven by, you know, fundraising, and so that's a big part
20 of the discussion in any kind of campaign.

21 Q Who did you hear it from? Did you hear it from
22 your father or from Mr. Yates?

23 A I cannot say for certain. I don't think I heard
24 it from Mr. Yates, so I can only conclude I probably heard
25 it from my father or mother.

1 Q Did you have regular contacts with Mr. Yates?

2 A No. We probably talked a handful of times and
3 much more so early on as the campaign was getting under way.

4 Q You mentioned if you had known that the payment
5 was being done per application, would that have raised
6 further red flags for you?

7 A If I had known that, I would have--yes, it would
8 have raised more questions about the way that this was being
9 done, and I will say, you know, I had certainly no idea that
10 there were (sic) no record keeping at all; that the backup
11 reimbursements to McCrae, but--

12 Q That was my next question. Would that have raised
13 a red flag?

14 A I mean I certainly--if, you know, dad had come to
15 me and said, "Hey, I just talked to Andy, and he's not
16 keeping any kind of expense reports or records," I would
17 have said, "Well, you need to tell him, 'You better start
18 doing that,' or you should fire him."

19 I mean that seems to me like a kind of a regular
20 business practice. But I wasn't involved really in that
21 side of things. My involvement as far as the finances were
22 more big picture and again was more related to the, you
23 know, messaging: "How's fundraising going? How's it going
24 versus Pittenger?" You know, that stuff.

25 Q And did you have an understanding or--well, do you

1 have an understanding as to whether there was a contract?

2 A I have on idea.

3 Q Do you have an expectation as to whether--

4 A I have no idea.

5 Q You mentioned that I think--well, let me--I don't
6 want to put words in your mouth. I don't know whether you
7 mentioned it at this point.

8 Were you aware in that time frame, so I'm not
9 talking about now, but in the time frame of, let's say, the
10 primary in--prior to the primary election day 2018, were you
11 aware that Mr. Dowless had a criminal record?

12 A I was aware that there was some criminal record,
13 and that was told to me by my dad, as I recall, in this
14 April 7th conversation.

15 Q And what was the nature of the criminal record?

16 A I do not remember. I will say my recollection is
17 that it was not something that was extraordinarily common.
18 Lots of people might have a misdemeanor, you know, marijuana
19 possession or there may be somebody that has a DWI or
20 something like that, that would be a crime and would be bad,
21 but it wouldn't really be related to the activity of what
22 they were doing.

23 I don't remember it being something like that, and
24 I do feel like I remember it being related something towards
25 kind of truthfulness or something like that, but I can't

1 tell you at all whether it was a felony, whether it was a
2 misdemeanor, and my dad may not have known at that point and
3 may not have told me.

4 I just remember that there was a criminal record,
5 and I do recall some impression that it made me say more--
6 express more why are you going to do this if it was someone
7 that has a criminal record.

8 Q So you said it may not have been your dad. I
9 thought you said it came up on the call.

10 A No, it did. My dad may not have known the actual
11 convictions when he talked to me on April 7th. He may not
12 have known what the criminal record was. He may have only
13 known that there was a criminal record.

14 Q Then when do you think you learned that it was for
15 something that was not usual?

16 A Yeah, so I think that he did know something, and
17 I think that he told me something, and that was my reaction,
18 but that is the extent of my memory, unfortunately, on that
19 particular issue.

20 Q So I'm going to show you what is marked as Exhibit
21 33.

22 A It may save some time if you'd like to have me
23 look at your exhibits, I'm now aware that he has felony--
24 that Mr. Dowless had felony convictions.

25 I'm aware that Mr. Yates apparently conducted a

1 Google search of Courtrecords.org that did not display those
2 convictions, and so I'm aware of all those general facts.
3 If I had known all of that, it would've furthered my
4 concerns. And I don't know if that might save us some time.

5 Q It will save us time. So none of the--none of
6 what you have seen about the felony convictions were fraud
7 type events or truthfulness offenses; none of that refreshes
8 your recollection?

9 A None of that refreshes my recollection about what
10 was shared at the time, and I've read all about that in
11 public media reports since November of 2018.

12 Q No, that's very helpful because that does--that
13 actually just saved us a bunch of time.

14 A Sure.

15 Q And was there any discussion that maybe someone
16 ought to do a criminal background check on this guy?

17 A Was there any discussion that anyone had already
18 done one?

19 Q Had already done or should do.

20 A I don't recall specifically in that April
21 conversation.

22 Q In a subsequent conversation did it come up?

23 A I don't remember. I don't think so. Again, what
24 I remember about April--what I remember about the April 7th
25 conversation was that I was told he had a criminal record.

1 I can't tell you what it was. I don't remember.

2 I know that that gave me more reason for concern,
3 again more so on the political dimension, along the lines
4 of what Mr. Yates testified to today.

5 Q Only on the political dimension, not as to whether
6 his activity that you already suspected was unlawful might
7 be unlawful?

8 A It was more so on a political dimension. That's
9 just my--that was my reaction. And so--but much more beyond
10 that, I don't remember.

11 Q I think I know the answer to this, but I'll ask
12 it anyway. Did you ever interact with Mr. Dowless?

13 A No. Never met him. Never saw him. Didn't know
14 what he looked like till his picture came in the paper.
15 Couldn't have even told you his last name until after
16 November of 2018.

17 Q Although you were told his name before then, you
18 just--it wouldn't have registered.

19 A He was, you know, bandied about as McCrae.

20 Q McCrae, right. Do you know how often your father
21 dealt with or spoke to Mr. Dowless?

22 A I do not know, but I do know that they talked
23 regularly. That was my impression.

24 Q And how did you gain that impression?

25 A I think from just speaking to my parents about

1 what was going on in their lives.

2 Q And what would they--what would your father say
3 about his conversations with McCrae?

4 A I don't recall him going into any kind of detail
5 other than that he would say, you know, "I talked to
6 McCrae," you know. He would bring that up occasionally, but
7 I don't remember anything specific about that.

8 Q Was it about an absentee ballot program?

9 A I think that he was talking to him regularly about
10 all of the activities that he had been, you know, hired to
11 provide down in Bladen County. My understanding was the
12 foremost of those activities, certainly probably the most
13 expensive, was the absentee ballots, but you know, my
14 understanding was he was recruiting volunteers, he was
15 staffing the polling sites, et cetera, et cetera.

16 Q And did you ever re-express your earlier concerns
17 about McCrae?

18 A Once the decision had been made to hire him
19 notwithstanding my objections, and I do not think after this
20 conversation we had another conversation before I found out,
21 and I don't know how I found out, that they decided to go
22 with McCrae. I guess my dad or mom told me that, but I
23 don't remember specifically.

24 And after they decided that and I had said my
25 piece, we didn't have any direct discussions like, "Look,

1 this guy is collecting ballots." I mean I'd already told
2 him.

3 Q You mentioned that one of the protective measures,
4 my term--and you can disagree with it, right or wrong--that
5 was taken was to have Dowless hired through Red Dome rather
6 than directly by the campaign.

7 A My recollection is that when I expressed general
8 concern--again, I didn't send Andy an e-mail after our phone
9 conversation, so I don't remember exactly what that
10 conversation entailed, but I do remember expressing general
11 concerns about Mr. Dowless.

12 His response to me was that he would make sure
13 that Mr. Dowless was doing what he had said he was going to
14 do, and that they were also going to have him hired as an
15 independent contractor through Red Dome to have an extra
16 layer of separation from the campaign.

17 And that was--my impression was that that was a
18 reaction to the concerns that I had expressed and that
19 frankly I thought Mr. Yates shared.

20 Q So I don't understand. How could it create
21 separation?

22 A Well, that's a good question. I think that the
23 thought was that if we're going to be paying McCrae through
24 the consultant entity, that it wouldn't be that the campaign
25 was directly paying McCrae. But you're right; I mean in

1 terms of the actual separation, you know, it was--it didn't
2 have any legal effect necessarily.

3 Q So it wasn't legal separation; it was political
4 separation.

5 A Exactly. And that was my impression.

6 Q Was part of the political separation that it would
7 not show that, you know, on FEC reports or otherwise that
8 McCrae was working directly for the campaign.

9 A I don't think that that necessarily was the
10 intent, but I don't know. I mean there's stated on FEC
11 reports, as far as I know, you know, references the Bladen
12 County Get Out The Vote and things like that. So--

13 Q But not McCrae Dowless.

14 A No, but I'm also not sure that if they had decided
15 to do it differently, I mean McCrae could have set up some
16 sort of, you know, corporation or LLC. I don't think that
17 there was any intent to deceive, you know, people looking
18 at those FEC reports.

19 Q I wasn't trying to suggest that there was an
20 intent to do anything based on FEC reports. I was just
21 saying political considerations were to build sort of
22 optical distance.

23 A I would say that the political consideration was
24 to create a layer of separation, yes.

25 Q And so how does that then become that everyone on

1 the campaign is hired through Red Dome?

2 A I don't know. I wasn't a part of that discussion.
3 My guess is that since they were already doing McCrae that
4 way or they had decided to do McCrae that way, they thought
5 it would just be easier to do everyone that way.

6 But I wasn't part of that discussion. I don't
7 have any inferences about that because I--you know, about
8 why it was done that way. I will say my impression was the
9 decision to do McCrae that way was made first. I do believe
10 that to be the case.

11 Q And that the rest was just follow on.

12 A Yes.

13 Q Did you ever discuss with your parents or with
14 Andy Yates or anyone else the legal issues with respect to
15 treating everyone as an independent consultant and not
16 withholding payroll taxes, not paying overtime, none of
17 those things?

18 A We didn't talk about any of that stuff. And
19 frankly, I couldn't even tell you when I knew that they had
20 done it that way. You know, I wasn't consulted in--you
21 know, "Hey, we're thinking about we're going to do everyone
22 through, you know, independent contract."

23 That wasn't a part of any conversation I had. I
24 just learned somewhere down the road that they had
25 structured it that way.

1 Q And did you have legal concerns about structuring
2 everyone on the campaign as an independent contractor?

3 A Not--not particularly. Depending on how--I mean
4 it depended on the job that they did, but I wasn't in the
5 weeds. Let me put it this way. During the decision process
6 of my dad's decision to run again, and hiring Andy
7 particularly, I was more involved in that because I thought
8 it was really important to have a good general political
9 consultant who was going to be primarily responsible for the
10 rest. I was not particularly involved in the day to day
11 after that, so--

12 Q I ask only because you seem to have a very good
13 head on your shoulders and you gave your parents very good
14 advice, albeit not legal advice, about the law, so I didn't
15 know if this had also come up.

16 I wasn't suggesting that you would have had a
17 reason to (indiscernible word); I just was asking if you
18 had.

19 A Yeah, and again, I didn't even know it at the time
20 when that decision was being made with respect to the other
21 staff.

22 Q I want to show you what has been marked as Exhibit
23 15.

24 A Do you have a copy of that for me?

25 Q Oh, yes. The court reporter--I think she gave the

1 Board a copy actually.

2 (Exhibit was passed to the witness.)

3 THE WITNESS: Thank you.

4 Q I want to give you a--have you had a chance to
5 review it?

6 A Yes. Thank you.

7 Q Do you recognize what it is?

8 A I see that it is a--looks like a demonstrative
9 exhibit that I assume you prepared or someone prepared as
10 a table of the vote totals for the 2016 and 2018 primary
11 election absentee by mail.

12 Q Great. And I'm going to focus, not surprising,
13 on Bladen County. So do the numbers in 2016, the bottom set
14 of numbers, do those look correct to you?

15 A I suppose so. I will tell you that on my e-mail,
16 and this e-mail was sent election night before the canvass,
17 I got 20--I got 214 to 4 to zero. So I assume after the
18 canvass maybe, or after election night, some more came in.
19 But I have no reason to doubt those numbers.

20 Q So it turns out he did even better than your e-
21 mail.

22 A I suppose so.

23 Q Which would not have alleviated your concern,
24 correct?

25 A No, it would have required significantly more

1 votes for Harris or Pittenger in 2016 to alleviate my
2 concern.

3 Q So now I want to look at the 2018 numbers.

4 A Yes.

5 Q Anything about the Bladen County primary numbers
6 in '18 that strike you as unusual?

7 A I think they're disproportionately high for the
8 Harris campaign versus what would be expected in the normal
9 course.

10 Q So you're saying that in proportion Harris versus
11 Pittenger versus Goins, it's abnormally high for Harris.

12 A I think--and again, I didn't do any kind of
13 analysis on these in 2018 like I did in 2016, so I can't
14 rattle off numbers like I wish I could, but I mean just
15 looking at it here, Mecklenburg had almost 200 total
16 absentee votes. Okay, that's--and Union had a total of
17 about, also, 100. Those are the two most populist counties.
18 So when you've got 450 in Bladen County, that seems
19 disproportionate.

20 Q Okay, so I want to unpack two things as I did
21 with--when we talked earlier about your e-mail.

22 A Yes, sir.

23 Q So the first concern or first issue you're
24 spotting is simply the total number of votes in Bladen
25 versus other counties.

1 A That's correct. You would expect higher
2 population counties to produce more absentee by mail votes,
3 not always. It's not 100 percent true. Again, voting
4 behavior affects these types of things. Where you place
5 resources affects these types of things. But in general
6 this is disproportionate to what I would expect.

7 Q And is it even more disproportionate than what you
8 would expect that the Harris campaign received 437 which is
9 twice as many as Johnson received two years earlier?

10 A If you're comparing 2016 to 2018, no, because 2016
11 was a super short election cycle. It's a different deal.
12 It was essentially a special election that already had the
13 main primaries.

14 2018 May primary is a typical time, and you know,
15 everybody's on the ballot like normal. So I don't think
16 that comparing 2016 to 2018 is going to do much for you.

17 Q Do you know what the--in 2016 you said that part
18 of your analysis was that there were 996 absentee by mail
19 ballots passed in the entire district, and Bladen's 218
20 counted for 22 percent of them.

21 A That was on election night, yeah.

22 Q Do you know what the percentage was here?

23 A No idea.

24 Q Fifty-six percent. Right?

25 A Fifty-six percent of the absentee by mail?

1 Q --were from Bladen County.

2 A Yeah. Same problem, just higher.

3 Q Bigger problem, right?

4 A Well, you know, the big problem is not necessarily
5 the percentage per se. It's going to be relative to the
6 percentage of in-person votes, because where you're putting
7 your resources to turn-out voters matters.

8 So how--do you know the proportion--if can you
9 tell me the proportion of Bladen County in-person votes for
10 2018, I can tell you my thought on it. Frankly, it's
11 probably going to--my guess is it's probably going to be
12 somewhere around two to five percent, and so you're still
13 talking about in the order of ten times.

14 Q So highly suspicious.

15 A Yeah, same problem in 2018.

16 Q As a result of the primary results in 2018, were
17 there any conversations you're aware of where you or anyone
18 else says, "Hey, looks like he's at it again"?

19 A Not with me. I didn't have any of those types of
20 conversations. Frankly--and I'll tell you the reason why
21 was because at this point, even though I had previously
22 expressed these concerns and believed that McCrae was
23 collecting ballots, you know, we had our--I had expressed
24 those concerns, and we had our people, Mr. Yates and other
25 campaign staff that was supposed to be making sure McCrae

1 did what he did.

2 So when I saw these numbers and saw that they were
3 disproportionately high, I assumed that they were the, you
4 know, product of, you know, the program that Mr. McCrae had
5 put on the ground.

6 Now, am I still suspicious about what went on in
7 that primary? Absolutely. We've all heard over the last
8 three days the kind of stuff that went on, but I think the
9 reason I didn't raise any concerns at that point is because,
10 you know, we had our people that were supposed to be
11 exercising oversight. And so again, I assumed, wrongly,
12 that they were exercising oversight to make sure that he
13 wasn't collecting ballots.

14 Q Based on the 2016 results, you said, and I quote,
15 "I am fairly certain" that they were illegally--"fairly
16 certain," close quote, illegally collecting ballots.

17 A Yes.

18 Q Then you see these results, and you're saying that
19 you were no longer fairly certain that they were engaged in
20 illegal conduct because Andy Yates was standing in the way
21 of that.

22 A I would say when it comes to the 2018 primary
23 results, looking at these numbers, the analysis that I did
24 in 2016 applies equally. The big issue that I had that led,
25 and it's documented in my e-mail, in 2016 that led to my

1 conclusion that they were illegally collecting ballots was
2 the batching.

3 I didn't look again. My second child was born
4 about--it was April 23rd, so, I don't know, less than two
5 weeks before this election. I was lucky if I was getting
6 two hours of sleep and wasn't--didn't have two hours to look
7 at absentee ballot results.

8 So I wasn't digging into the numbers, but the
9 problem is the same; I will absolutely grant you, but we had
10 a campaign who had been told repeatedly that--Mr. Dowless
11 that he was going this.

12 The difference is I believed he was collecting
13 ballots in 2016 for an opponent. In this instance I thought
14 our people having been made aware of these concerns would
15 be making sure that he wasn't.

16 Q And the results were benefitting your father,
17 right?

18 A Well, certainly, but that, frankly, wasn't really
19 a part of any of it for me.

20 Q That might have been less incentive for Andy Yates
21 or your father or anyone to look into it.

22 A Perhaps. But I'll say, again, I will take
23 responsibility for my own assumption being wrong in that,
24 and I wish I would've looked at these numbers in more detail
25 and told Andy to ask more questions and told my dad to ask

1 more questions or go down there and do something if that
2 would've prevented all this, but I didn't, and I take
3 responsibility for--

4 Q Let me be clear, Mr. Harris. I don't think you
5 personally have any responsibility, so.

6 A Well, I appreciate that.

7 Q I think you raised the red flags at the
8 appropriate time and you raised them repeatedly. Is that
9 fair?

10 A I raised red flags at the time the decision was
11 made to hire Mr. Dowless. That's what I did. And again,
12 we're here for the Board to decide what's appropriate in
13 this case, so we don't need to talk about my responsibility
14 anymore.

15 Q There were a couple of questions about the time
16 line of production that I didn't understand. And it may
17 have been because either I was surprised that you were
18 taking the stand and I didn't follow or things just moved
19 too quickly.

20 So did you actually receive a request for
21 production or did you voluntarily reach out to the Board and
22 produce? How did this work again?

23 A So the way it worked is I located these e-mails
24 in December of 2018, after all this broke, okay? And I went
25 back into my e-mails and searched because my recollection

1 was that I had had some conversations with my parents about
2 this.

3 Frankly, I wasn't 100 percent sure what I had told
4 them. I just knew that I had talked with them about the
5 decision to hire McCrae, and I didn't know if there was any
6 e-mails, but I searched for things like Dowless, for McCrae.
7 I looked at all the e-mails that were from or to my parents,
8 and I located these.

9 At that point--that was in December, early to mid
10 December. At that point because I was a licensed attorney
11 and I wanted to make sure that I wasn't going to violate
12 either a privilege or as you well know, there's a
13 confidentiality obligation under the rules of ethics that's
14 broader than privilege, and so I wanted to make sure that
15 I was not going to breach any of that if I was asked about
16 these.

17 And so I reached out to Mr. John Branch, who was
18 representing my dad's campaign committee, and on December,
19 I believe, 22nd, and I called Mr. Branch and I said, "Mr.
20 Branch, I have become aware that there certain
21 communications between me and my parents that may be
22 relevant here. I want to know if any communication between
23 me and my parents, the campaign committee or my parents are
24 going to assert that those are privileged or part of an
25 attorney-client relationship."

1 He said, "Let me get back to you." Holidays came.
2 There was some back and forth. Eventually I saw that Mr.
3 Freedman was taking the lead publicly for my parents. I
4 will also note that I was not communicating with my parents
5 at all during--since December 3rd until December 22nd, at
6 a holiday function, and had very limited contact thereafter
7 because of, you know, a variety of reasons, mostly for their
8 and my own protection.

9 I talked to Mr. Freedman. I called him because
10 I hadn't heard back from Mr. Branch and I saw that Mr.
11 Freedman was kind of running point. And I said, "Mr.
12 Freedman, I'm aware of these communications." He said they
13 were aware of them.

14 I talked about each one of these three e-mails
15 that have been produced, specifically I referenced them, and
16 I said, "Are you guys going to assert that they're
17 privileged or made in the course of the attorney-client
18 privilege?"

19 Mr. Freedman said, "We are not going to assert
20 that they're privileged and we're going to produce them."
21 I said okay. I asked, "Before you produce them, if you
22 will, can you just give me advance notice, because as you're
23 well aware, the Board was regularly posting investigatory
24 updates and evidence on a portal, and as you are also aware
25 I had an inkling that the press might be interested in

1 them."

2 And so I wanted to have some advance notice that
3 they're going to be publicly posted, that I would know. So
4 Mr. Freedman called me and told me that they were going to
5 be producing these documents.

6 The same day I called Mr. Lawson and I let him
7 know that I understood certain communications with me had
8 been or were going to be produced, and I wanted to let him
9 know if they wanted to talk to me about them at all, he
10 could feel free to reach out and I wasn't going to put up
11 a legal fight.

12 And I will tell you that, you know, I'm in a
13 unique position because I work for the U.S. Department of
14 Justice and I'm the candidate's son and I wanted to let him
15 know, "Look, I'm not going to put up a huge fight about this
16 if you want to talk to me about them; I want to be
17 cooperative." And I put the ball in their court.

18 Subsequently they reached out to me to set up an
19 interview. I brought copies of these three e-mails that I
20 printed off to that interview because that's what I expected
21 to be asked about.

22 When I got to that interview, I handed them to
23 them when I was talking about my story, and so that's how,
24 as far as I know, they were produced.

25 Q Were your e-mails or other documents subject to

1 a request or a subpoena?

2 A I don't know whether these e-mails were subject
3 to a subpoena or not. I do know subpoenas were issued to
4 various parties. I never received a written request for
5 documents. My understanding is that the Harris campaign
6 committee did receive a subpoena.

7 Q But you have not received a subpoena from any law
8 enforcement authority or agency?

9 A I was subpoenaed only to attend this hearing.

10 Q I meant with respect to these documents.

11 A Right. I brought them to that interview because
12 I had been told they had been produced, and so I had copies
13 prepared to discuss.

14 Q I think I now understand. So you never--this is
15 not--this is explanatory, not suggestive of anything, but
16 you didn't produce them to the Board. The Board didn't seek
17 you to produce them. The Board sought the production of
18 them through Mr. Freedman and your father's counsel.

19 MR. FREEDMAN: Objection to that.

20 A My understanding is that the Board subpoenaed--

21 CHAIRMAN CORDLE: Let's let him answer.

22 A My understanding is that the Board subpoenaed the
23 Harris campaign and others. I don't know.

24 Q Sure.

25 A I haven't seen the subpoena. I haven't read it.

1 Don't know what it said. Okay? I was told that my
2 communications were going to be produced, so I brought them
3 to the interview when the Board reached out to interview me.

4 I do not know--well, I shouldn't say that. My
5 understanding is that prior to today they were not produced
6 by the campaign, and when I turned them over in my
7 interview, having believed that they had been produced, that
8 was the first the Board staff had seen them.

9 Q So the campaign had not produced them.

10 A That's my understanding, but that's--I've learned
11 that today for sure.

12 Q And so you produced them to the Board on what day?

13 A Whenever I sat down for an interview in late
14 January. I believe it was January--the week of January
15 28th.

16 Q And as far as--and it's your understanding that
17 at that point the campaign had not produced the e-mails
18 despite their assurances to you that they would be produced.

19 A What I have subsequently learned is that they were
20 not produced as of that date, and when I provided them in
21 my interview and brought them--and the whole reason that I
22 expected to have been requested to come talk to the Board
23 was because of these communications--my understanding was
24 that they had not been produced, and I freely gave them
25 over.

1 Q But you thought they had been produced.

2 A I certainly thought that they had been produced.

3 Q And that was because you were told that.

4 A That is correct.

5 Q And by whom were you told that?

6 A I was told that by Mr. Freeman.

7 Q You said that you have not spoken to your parents
8 much since December 3rd?

9 A On December 3rd I sent my parents an e-mail
10 communication that said a number of things and that said,
11 among them was that given that I was a Department of Justice
12 employee and the issues surrounding this, I thought it would
13 be best if we did not talk until all of this was resolved.

14 I do believe at that point that an expectation was
15 that the resolution would be before December 21st. I did
16 not speak with them, have any contact with them between that
17 day and I believe December 22nd when I saw them at a holiday
18 gathering with family, and we didn't discuss any of this.

19 After that I didn't have any contact with them for
20 some time until, as has been publicly reported, my dad had
21 some medical issues at which point I talked to my mom about
22 what was going on with dad and went down to visit my dad in
23 the hospital and stayed overnight there, came home, and I've
24 had limited contact with my parents since that. Talked to
25 my dad when he went home from the hospital.

1 But my contact about this has been quite limited.
2 And I did not tell my parents that I'd been subpoenaed to
3 testify or to talk--be present at this hearing.

4 Q So let's talk about before December 3rd, the
5 period between the November--election day was November 8th?

6 A I think it was the 6th.

7 Q Sixth. Between November 6th and November 27th,
8 did you have any conversations about Bladen County results,
9 absentee balloting, anything along--that touches on this?

10 A I don't think so. I was there with my parents on
11 election night. As you also know, as a department employee,
12 the (indiscernible word) applies, and my political
13 activities are extremely limited. I went down on election
14 night to be with my family, and that was the last time I saw
15 Mr. Yates.

16 Between that period and November 27th, I talked
17 with my dad a lot about getting his office set up and
18 staffing decisions and stuff like that, you know, expecting
19 that he was going to be going up to Congress, but I don't
20 recall any specific discussions about Bladen County.

21 Q On November 27th, the Board doesn't--refuses to
22 certify the election.

23 A They voted not to certify, right.

24 Q What conversations did you have with your parents
25 at that time?

1 A So that night everyone was very surprised. I
2 think that no one--I went on--when I learned about that, I
3 went on the Board of Elections website and I pulled the--I
4 pulled the canvass results, and my understanding was that
5 his name was approved in the canvass results that were
6 posted that morning at around 9:30 a.m.

7 So sometime between 9:30 a.m. and the end of that
8 day they had voted not to approve. So no one knew why, and
9 there were a lot of discussions about what was going on.
10 When I talked to my parents, I talked to my parents that
11 night on the phone. I don't recall the details of that
12 conversation except we were just trying to figure out what's
13 going on.

14 Q And did Bladen County come up in that
15 conversation?

16 A In that conversation I don't recall that Bladen
17 County came up. It did come up within a couple of days
18 because it came--through one means or another, I think it
19 came to fruition, and it may be through media reports, that
20 the Board was concerned about Bladen County. And I think
21 maybe Robeson was mentioned as well.

22 Q And what conversations did you have at that point?

23 A At that point my initial reaction--I do remember
24 exchanging some messages that--you know, to the effect of,
25 well, I wonder what the issue is, because even if you throw

1 out all of the votes--all of the absentee votes that were
2 received by my dad in Bladen County, and I think in Robeson
3 County for that matter, in the general election, the margin
4 of victory isn't affected.

5 I didn't know what they were looking at
6 specifically. I do recall my dad had spoke--they engaged
7 counsel. I do remember I urged my dad to tell his lawyers
8 again that the thing that they should--what they should
9 focus on is the open meetings and open records laws because
10 not only was everybody surprised, but no one had any reason
11 to understand why the decision was made not to certify.

12 And in my view, this board is not a--it doesn't
13 have the ability to conduct criminal investigations, and so
14 the criminal investigation portion of the open records
15 statute or of the meeting statute that was being cited I'm
16 not sure is appropriate. But in any event, I encouraged
17 them to figure out--use the laws to figure out how they
18 could get information.

19 He retained counsel, but there were some exchanges
20 where he was telling me what--some of the things his counsel
21 was saying, and I remember having exchanges like, "Look, you
22 don't need to tell me anything that your lawyer is telling
23 you because you're going to destroy a privilege; you know,
24 keep that the yourself."

25 And by that Saturday or so, I basically said we

1 don't need to text or talk about this anymore," and then
2 December 3rd I recall the Washington Post ran an article and
3 the media reports started coming out over that few days
4 about people in Bladen County and started to suggest that
5 Dowless had engaged in nefarious activities.

6 And so on December 3rd, that night, I sent an e-
7 mail, and that's when I cut off communication.

8 Q Did you have a concern between the 27th and the
9 3rd that perhaps Mr.--it was Mr. Dowless's behavior that was
10 at issue?

11 A Yes.

12 Q And did you have--did you express that concern to
13 your parents?

14 A Well, I will say I had that concern once I heard
15 what the media reports or otherwise that the Board was
16 concerned about Bladen County. Once they brought up Bladen
17 County, then, yes, I thought, you know, this was Mr.
18 Dowless, and, yeah, I think I expressed that to my parents.

19 I mean I knew the campaign--as I recall, it did
20 not take long for Mr. Dowless's name to get raised in all
21 of this, and I can't remember the exact time line, but we're
22 talking about a matter of days.

23 Q Right. I'm trying to just focus in on
24 conversations that you were privy to with your parents,
25 either of your parents about their reaction to it perhaps

1 being Mr. Dowless, your reaction to it perhaps involving
2 Mr. Dowless. What discussion was there about that?

3 A My recollection is that my discussions were mostly
4 limited to you're got to figure out what was the basis for
5 them not certifying, because no one knew. It wasn't public.
6 There were all sorts of allegations swirling around about
7 Mr. John Malcolm and Mr. Jens Lutz and all sorts of things
8 swirling around, and we didn't know why it wasn't certified.

9 Once Bladen County was raised, you know, and then
10 I think there were conversations about, well, maybe this is
11 an investigation related to, you know, McCrae's activities,
12 but there was no conversation where dad expressed or my mom
13 expressed that they thought at that point, well, we got
14 caught or something like that.

15 They didn't say anything like that, and they
16 didn't say anything like, you know, maybe McCrae was
17 engaging in collection. They honestly for days and probably
18 weeks--and they can tell you better than I can when--still
19 believed that this was, you know, I think mostly a political
20 hit job and that McCrae who had publicly denied any
21 wrongdoing--you know, they wanted to see what the facts were
22 now, and it was a long investigation process.

23 Q It sounds like you were surprised but not stunned
24 that Mr. Dowless had engaged in this behavior again.

25 A Once I saw the affidavits that were starting to

1 be filed and the interviews with the folks who purported to
2 work for Mr. Dowless talk about collecting, yeah. I mean
3 Mr. Yates said he was shocked and disturbed at the
4 testimony; I was mostly disturbed.

5 Q But not shocked.

6 A Less shocked.

7 MR. ELIAS: I have no further questions.
8 I just again want to thank you for being here and being
9 cooperative with the Board. You are a bright, articulate,
10 I'll say young, though perhaps you don't consider yourself
11 young, lawyer, and the US Attorney's Office is the better
12 for having you. So thank you.

13 THE WITNESS: Thank you.

14 CHAIRMAN CORDLE: Before we get started, I
15 assume you have some questions.

16 MR. FREEDMAN: Just a few questions.

17 CHAIRMAN CORDLE: My understanding is Dr. Harris
18 has asked to be out of here by 5:30 for some medical
19 treatment--

20 DR. HARRIS: Yes, that's correct.

21 CHAIRMAN CORDLE: --for his recent illnesses.
22 So we'll be stopping about that time. If he can be back
23 around 9:00 in the morning, we'd like to start at 9:00.

24 MR. HARRIS: You know, Friday it'll be
25 8:30.

1 (Laughter)

2 MR. ELIAS: I did notice that this Mr.
3 Harris is quite the early riser. So I'm a little jealous
4 of those of you who are ready to start at 8:15.

5 CROSS EXAMINATION BY MR. FREEDMAN: 4:50 p.m.

6 Q Good afternoon, Mr. Harris. My name is David
7 Freedman. As you said, we've talked on the phone on two or
8 three occasions before, but we've not met until today.

9 A That's correct.

10 Q And the reason you were contacting me was because
11 you and your father were not talking about the case.

12 A That's correct.

13 Q Let me start again. I'm David Freedman. I just
14 met you for the first time this afternoon, correct?

15 A That's correct.

16 Q We talked several times, what was it, sort of in
17 early January?

18 A I believe it was, yeah, late December or early
19 January, yes, sir.

20 Q And that was prior to me--that was prior to me
21 assisting your father to be interviewed by the Board, by the
22 State Board, correct?

23 A The first time that we spoke, I called you, as I
24 recall, and that was prior to his interview. My
25 understanding is at that point you had been retained to

1 represent him because I located you based on media reports
2 where you were providing comment, and I had not spoken to
3 my parents so I did not know who they had retained other
4 than Mr. Branch who I had called first and was still waiting
5 on an answer from.

6 Q And one of your concerns--we did discuss--as
7 you've said, we discussed those e-mails, and one of your
8 concerns was whether there was an attorney/client privilege
9 between you and your father in which case you wouldn't be
10 able to discuss anything; is that correct?

11 A That's correct. As you know, Mr. Freedman the
12 attorney/client privilege, whether I thought they were
13 privileged or not, that's the client's call to assert the
14 privilege, and if you were going to assert that, then my
15 hands would be tied.

16 Q And I called you back and I said we would not be
17 asserting the attorney/client privilege and you were free
18 to discuss.

19 A That's correct. And in fact you said that you
20 thought that it would be--you know, it would be foolish to
21 assert the privilege in case a judge ruled otherwise.

22 Q That's correct.

23 A You thought that these e-mails should be out in
24 public as far as I know.

25 Q That was correct. That was our discussion.

1 A Yes, sir.

2 Q We discussed those e-mails, and we discussed
3 how--well, we discussed e-mails, and I gave you complete
4 carte blanche to discuss those with anyone.

5 A Yes, you did.

6 Q And if I had not given you--if I had asserted the
7 attorney/client privilege, you would not have been free to
8 do so.

9 A If you had asserted the attorney/client privilege,
10 I would have not said a word until a court told me
11 otherwise.

12 Q Now, your father has been in the ministry your
13 entire life, correct, or just about?

14 A Yes. I believe my entire life. I'm 29 years old.

15 Q And he's out to serve people.

16 A I certainly believe that that is what he would
17 like to do.

18 Q And he believes in the best in people; is that
19 correct?

20 A I think that he certainly has a trusting
21 personality at times.

22 Q And he's willing to see the best in people.

23 A Again, I think that he will trust people, yes.

24 Q And you believe your father to be a very honest
25 person.

1 A I believe that he is honest.

2 Q Do you know why he wanted to leave the ministry
3 and go into the legislature?

4 A You know, I believe that he wanted to run for
5 Congress because he really felt like that that was a place
6 where he could be of service.

7 Q And you think he could be of service in Congress,
8 correct?

9 A I certainly--I mean I will say, you know, everyone
10 in the Ninth District elected him by a margin of 905 votes
11 after a very brutal campaign, and so, yes, certainly I think
12 that the folks in the Ninth District have selected him to
13 go to Congress.

14 Q And you had suspicions about McCrae Dowless from
15 the start.

16 A Yes. Since the 2016 primary election based on
17 those results.

18 Q And you've expressed that to your father.

19 A I did.

20 Q And in each case I believe you could not convince
21 your father otherwise.

22 A When I had this conversation in April, I certainly
23 felt like at the end of that conversation on the phone and
24 after the exchange of these e-mails, that their mind was
25 made up. And I didn't really pursue any additional

1 persuasive attempts.

2 Q And I believe you testified earlier that you
3 believe they were lied to, and when you said, "they," you
4 were talking about both your mom and dad?

5 A Yes.

6 Q So they were lied to and believed the person who
7 lied to them.

8 A That is what I believe.

9 Q Because your father would never engage in any
10 criminal conduct.

11 A I certainly do not believe that if he had known
12 that Mr. Dowless was collecting ballots illegally, that he
13 would've continued to retain him.

14 MR. FREEDMAN: I have no further questions.

15 CHAIRMAN CORDLE: I do want to correct one thing
16 you said, Mr. Harris, if I may, and that is the State Board
17 does have the duty of investigating and prosecuting
18 violations of this Article, meaning the elections laws.

19 We can investigate violations of it that may be
20 criminal, but we have to turn our investigations over to the
21 District Attorney, and they do anything with prosecution.
22 We do not prosecute people like you would think.

23 THE WITNESS: Right, and I understand that.
24 I don't know that a judge would rule about what that means
25 as far as the North Carolina open meetings laws and open

1 records laws as being as a--certainly an open question. But
2 I understand that, yes, sir.

3 CHAIRMAN CORDLE: Thank you.

4 MR. HARRIS: Are there any further
5 questions from the Board?

6 (Laughter)

7 MR. CARMON: I just want to be clear with
8 my understanding, not that your mom or your dad, but you're
9 saying the campaign should have exercised better control
10 over Mr. Dowless.

11 THE WITNESS: I certainly think in light of
12 the concerns that I had expressed and that they were aware
13 of, that I would have expected more control and oversight
14 than what I have heard testified to here today or--and
15 yesterday by Mr. Yates.

16 MR. CARMON: Thank you.

17 THE WITNESS: And--

18 CHAIRMAN CORDLE: Do you have something?

19 THE WITNESS: Well, I was going to say if
20 there's no further questions, I would like to just say
21 something to wrap things up.

22 CHAIRMAN CORDLE: Any further questions?

23 (No response)

24 CHAIRMAN CORDLE: You may go ahead, Mr. Harris.

25 THE WITNESS: Thank you, Mr. Chairman. I

1 just want to say this in closing. I love my dad and I love
2 my mom. Okay? I certainly have no vendetta against them,
3 no family scores to settle, okay? I think that they made
4 mistakes in this process, and they certainly did things
5 differently than I would have done them.

6 But the thing about all of this and engaging in
7 this process and watching it all unfold, I've thought a lot
8 more probably about my own little ones than my parents and
9 the world that we're building for them.

10 And I will be frank, Mr. Chairman, watching all
11 this process unfold, we have got to come up with a way to
12 transcend our partisan politics and the exploitation of
13 processes like this for political gain. That goes for both
14 parties, Democrats and Republicans and Libertarians.

15 And frankly, when I'm coming out of this process,
16 I'm just left thinking that we can all do a lot better than
17 this. And that's all I have, Mr. Chairman. Thank you.

18 CHAIRMAN CORDLE: Thank you, sir. You are
19 excused.

20 (Witness exits the stand.)

21 CHAIRMAN CORDLE: Your next witness is scheduled
22 to be Dr. Harris?

23 DIRECTOR STRACH: Yes.

24 CHAIRMAN CORDLE: Well, he's going to have to
25 leave in 30 minutes. I'm not sure we want to get started.

1 Do we have anything else we can put on?

2 MR. LAWSON: Mr. Chairman, just after you
3 end, if we could see counsel and the parties, if there are
4 parties, for brief update on a piece of evidence.

5 CHAIRMAN CORDLE: All right, well, I would say
6 let's take the break now and let Dr. Harris get to his
7 treatment. And we'll start even earlier in the morning.
8 Can we start at 8:30?

9 DR. HARRIS: Nine o'clock, 8:30?

10 CHAIRMAN CORDLE: When can you be back?

11 DR. HARRIS: Nine o'clock.

12 MS. HARRIS: We have a three hour drive.

13 CHAIRMAN CORDLE: Well, I understand.

14 MS. HARRIS: He has to do intravenous
15 antibiotics.

16 CHAIRMAN CORDLE: Yes, that's why I'm asking
17 when--

18 MS. HARRIS: Can we do 9:00?

19 CHAIRMAN CORDLE: Nine o'clock. All right.

20 Thank you. You all may go now, and we'll call this to a
21 close and ask the lawyers to come up for a meeting. Adjourn
22 for the day.

23 BENCH CONFERENCE AT THE BOARD DAIS: 5:00 p.m.

24 MR. LAWSON: So Precious Hall post-
25 testimony reached back to the State Board indicating that

1 she believes her memory to have been faulty and would like
2 to recant her testimony.

3 We're disclosing this because we think we have an
4 obligation under the Rules 3.3(a)(3) of the Rules of
5 Professional Conduct to disclose it. We have her here. We
6 anticipate she would come back, but she's not under subpoena
7 presently in the event that you guys end up wanting to call
8 her back or if you prefer, by affidavit or otherwise, to
9 solicit; however, I understand that given the (indiscernible
10 word) of her testimony if you wish to have cross
11 examination. Why she may have represented otherwise, or
12 what conversations may have led her later that evening of
13 wanting to speak to the charges.

14 So I'm putting you notice about that. I'm not
15 asking for a decision at the moment. We will request that
16 she comes back tomorrow unless somebody asks to subpoena her
17 in which case we can seek that.

18 CHAIRMAN CORDLE: I certainly don't want her to
19 break up everything. We can put her on for ten minutes and
20 somebody else--

21 MR. LAWSON: Well, I asked for it not to
22 be--

23 CHAIRMAN CORDLE: Well, but I don't know how--

24 MR. ELIAS: I don't know what her
25 recantation is going to include.

1 CHAIRMAN CORDLE: Let's see if we can put her
2 on tomorrow evening, the last thing we do. Does that make
3 some sense, tomorrow evening?

4 MR. FREEDMAN: I'm assuming you're going into
5 Friday then.

6 CHAIRMAN CORDLE: We have made some arrangements
7 with the State Bar in letting us have this room on Friday,
8 not the smaller courtroom. So we can go Friday, not that
9 we want to go Friday.

10 MR. LAWSON: So the disclosure is made.
11 If you want to seek a subpoena, please reach out to the
12 legal team by e-mail (unintelligible) we'll get with the
13 Chair. Otherwise we will just continue to ask her if shell
14 come back.

15 CHAIRMAN CORDLE: Are you--the State Board know
16 of any other witnesses it wants to call at this time? Are
17 you call going to call lots of witnesses?

18 MR. ELIAS: Not lots.

19 CHAIRMAN CORDLE: A few.

20 MR. ELIAS: A few.

21 CHAIRMAN CORDLE: All right.

22 MR. LAWSON: We should mention also all
23 subpoenas expired today, so if you're wanting us to subpoena
24 (unintelligible) I intend it's best you do it
25 (unintelligible).

1 MR. ELIAS: Why don't--what I propose is
2 why don't we each--each side meet separately now that we
3 have a little more time and try to figure out what our plans
4 are in terms of witnesses and then hopefully--I think each
5 night we've been whittling. That may be productive.

6 MR. FREEDMAN: I think we can whittle away.

7 CHAIRMAN CORDLE: I know nobody wants to come
8 back. I understand.

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(Whereupon, the proceedings
adjourned at 5:05 p.m.
to be reconvened on February 21, 2019.)

1 STATE OF NORTH CAROLINA

2 COUNTY OF ALAMANCE

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4 C E R T I F I C A T E

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6 I, G. Lynn Bodenheimer, Certified Verbatim
 7 Reporter and Notary Public, do hereby certify that I was
 8 present and served as court reporter for the foregoing
 9 proceeding held at the North Carolina State Board of
 10 Elections & Ethics Enforcement in Raleigh, North Carolina,
 11 on February 20, 2019; that said proceeding was reported by
 12 me and transcribed by me personally; and that the foregoing
 13 pages 534 through 798 constitute a true and accurate
 14 transcription of the proceeding.

15 I do further certify that I am not of counsel for
 16 or in the employment of either of the parties to this
 17 action, nor am I interested in the results of this action.

18 In witness whereof, I have hereunto subscribed my
 19 name this 25th day of March, 2019.

20

G. Lynn Bodenheimer

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22 -----
 23 G. LYNN BODENHEIMER
 Certified Verbatim Reporter/
 Notary Public No. 19942140002

24 My Commission Expires:

25 August 3, 2019