EXHIBIT "A"

In The Matter Of:

NYS Attorney General v.
Donald Trump

November 27, 2023

Ny Supreme Court- Civil

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1 SUPREME COURT OF THE STATE OF NEW YORK
  COUNTY OF NEW YORK: CIVIL TERM: PART 37
2 ---X
  PEOPLE OF THE STATE OF NEW YORK, BY LETITIA
3 JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
  YORK,
4
                    Plaintiff,
5
           - against -   INDEX #
6   452564/2022
  DONALD J. TRUMP; DONALD TRUMP JR.; ERIC TRUMP;
7 IVANKA TRUMP; ALLEN WEISSELBERG; JEFFREY
  McCONNEY; THE DONALD J. TRUMP REVOCABLE TRUST;
8 THE TRUMP ORGANIZATION, INC.; TRUMP ORGANIZATION
  LLC; DJT HOLDINGS, LLC; DJT HOLDINGS MANAGING
9 MEMBER; TRUMP ENDEAVOR 12, LLC; 401 NORTH WABASH
  VENTURE, LLC; TRUMP OLD POST OFFICE, LLC; 40 WALL
10 STREET, LLC; and SEVEN SPRINGS, LLC,
11   Defendants.
  ---X
12 Bench Trial
13   November 27, 2023
                60 Centre Street
14   New York, New York 10007
15
  B E F O R E: THE HONORABLE ARTHUR S. ENGORON,
16   Justice of the Supreme Court
17
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1   COURT OFFICER: All rise.
2   Part 37 is now in session.
3   The Honorable Judge Arthur Engoron presiding.
4 Make sure all cell phones are on silent. Laptops and cell
5 phones will be permitted, but only to members of the
6 press. There is absolutely no recording or photography of
7 any kind allowed in the courtroom.
8   Now be seated and come to order.
9   THE COURT: Defendants would you like to call
10 your next witness?
11   MR. ROBERT: Yes, Your Honor. The defendants
12 call Mark Hawthorn.
13   (Whereupon, the witness took the stand.)
14   COURT OFFICER: Please raise your right hand.
15   M A R K   H A W T H O R N, after having
16 first been duly sworn was examined and testified as
17 follows:
18   COURT OFFICER: Please have a seat.
19   State your full name and home or business
20 address for the record.
21   THE WITNESS: My name is Mark Hawthorn, and my
22 business address is 725 Fifth Avenue, New York.
23   THE COURT: Zip code?
24   THE WITNESS: 10022.
25   THE COURT: We probably heard that before.

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1   Mr. Robert, would you like to proceed?
2   MR. ROBERT: Thank you. Good morning, Your
3 Honor.
4 DIRECT EXAMINATION
5 BY MR. ROBERT:
6   Q   Good morning, Mr. Hawthorn.
7   A   Good morning.
8   Q   I know you testified a few weeks ago. But I, just to
9 put things context, I want to go briefly through your
10 educational background and professional history. Okay, sir?
11   A   Okay.
12   Q   Please tell us about your educational background from
13 college on.
14   A   So, I attended the University of Florida and I
15 obtained a Bachelor's degree and a Master's degree in
16 accounting in the year 2000.
17   Subsequent to graduation I had my first employment at
18 Arthur Anderson, which is a public accounting firm in Fort
19 Lauderdale, Florida. I worked at Arthur Anderson from 2000 to
20 2002. From 2002 to --
21   Q   I'll break it down.
22   Prior to your work at Arthur Anderson, did you obtain
23 any professional certification?
24   A   Yes. I obtained a CPA license in the state of
25 Florida.

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1 Q And when did you obtain that license, sir?
2 A I obtained that license in 2000.
3 Q Okay. So now talking about your time at Arthur
4 Anderson, which I believe you said was 2000 to 2002, sir?
5 A Correct.
6 Q What did you do at Arthur Anderson during that time?
7 A I was in the audit practice, so I worked on audits of
8 both public and private companies as a staff auditor; with
9 increasing responsibility to a senior auditor overseeing audit
10 engagements for the firm.
11 Q And in its most basic sense, what is an audit, sir?
12 A An audit is a -- when a company requests that a firm,
13 such as an accounting firm, comes in and does work and
14 procedures to check the books and records of the company; and
15 to issue -- potentially issue audited financial statements of
16 the company.
17 Q When an accounting firm reviews -- I know review is a
18 term of art, I will not use that word. When an accounting firm
19 analyzes financial records of a client of theirs, are there
20 different levels of review?
21 A Yes.
22 Q What are those different levels?
23 A Generally speaking there is a compilation; there is a
24 review; there is an audit; and there is maybe something else
25 called agreed-upon procedures.

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1 Q Okay. Taking -- leaving the agreed-upon procedures
2 out for a moment. Very briefly, can you explain those three
3 things?
4 A Sure. So, in terms of the level of work that an
5 accounting firm would undergo, the compilation is the lowest
6 level of work and assurance. So a report that is issued with a
7 compilation opinion states that.
8 Whereas, a review would be additional procedures that
9 are done.
10 And an audit would be the highest level of assurance
11 that there is substantive testing and other procedures done by
12 the accounting firm with respect to the financial statements.
13 Q And when you discussed your experience at Arthur
14 Anderson, was that solely in the audit, meaning one of those
15 three, or did that encompass more than just audits?
16 A My role encompassed everything, because we had
17 clients that had different needs. So I would have a client
18 that has a need to issue a compilation report or I might have a
19 client, same client, have a need to issue an audit report.
20 Generally speaking, an audit report is required for
21 publicly traded companies that file financial statements with
22 the SEC or have public debt.
23 Whereas a compilation would be more for another
24 purpose. If, for example, a company needed to provide numbers
25 to a lender or something like that, generally speaking.

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1 Q And, sir, when you just testified about your work at
2 Arthur Anderson, you said your role kind of expanded during
3 those two years. What did you mean by that?
4 A I started out as a staff person, so I was on client
5 engagements in a staff capacity doing work at the direction of
6 an audit senior, an audit manager. And after about a year was
7 promoted to an audit senior, where you are doing more of the
8 planning, you are doing more of the client interaction and
9 different levels of responsibility in a supervisory capacity
10 over an audit staff, if that makes sense.
11 Q It does.
12 What was the role you had at the time you left Arthur
13 Anderson in 2002?
14 A I was an audit senior.
15 Q Where did you go from Arthur Anderson, sir?
16 A In 2002 I went to Ernst & Young. It effectively took
17 over the practice of Arthur Anderson in Fort Lauderdale at the
18 time. So I was in the same office with the same clients. It
19 was just that the Ernst & Young firm took over that office from
20 Arthur Anderson at the time in 2002.
21 Q How long were you there with Ernst & Young?
22 A Ernst & Young, I was there for two years from 2002 to
23 2004. And I started as an audit senior, and continued in that
24 role as a -- an experienced audit senior when I left in 2004.
25 Q And did your responsibilities change in any way

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1 during those two years from 2002 to 2004?
2 A They did. I had increasing levels of responsibility
3 as I became more senior to the firm and more senior on the
4 client engagements that I was on. So I had more in supervisory
5 responsibilities, I had more interactions with the client on
6 more technical accounting matters, as I have gotten more, at
7 the time skilled in certain transactions and understanding
8 accounting rules and financial reporting disclosure.
9 Q Where did you go after Ernst & Young?
10 A I left Ernst & Young in June of 2004, and I joined a
11 firm called Kerzner International, which is a company, not an
12 audit firm. So Kerzner International at the time, based in
13 Plantation, Florida, was the owner and operator of luxury
14 resort hotels. And I served as my first role as the manager of
15 financial reporting.
16 Q And what made you decide to go to Kerzner
17 International in 2004?
18 A It was a unique opportunity to work in private
19 industry, which I had an affinity to do. And it was a good
20 circumstance for me because the individual they were looking
21 for had my -- I believed I fit the background for what they
22 were looking for, meaning some level of public accounting
23 experience, and an understanding also of the hospitality
24 industry.
25 At Ernst & Young I had worked on some hospitality

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1 clients as well, so it gave me an opportunity to expand my
2 career and work at a private company in a capacity where I had
3 the right skill set.
4   Q   And from what years did you work at Kerzner
5 International, sir?
6   A   I worked at Kerzner International from 2004 to 2016.
7   Q   And can you describe for the Court how your role, if
8 in any way, changed at that time period in Kerzner?
9   A   Over the course of my employment at Kerzner I again
10 had increasing levels of responsibility. So I started as a
11 manager of financial reporting. At the time in 2004 to 2006
12 the company was a public company. So I was in charge of
13 overseeing the financial statements that were filed with the
14 SEC.
15   In 2006 the company went private on private
16 transaction. And I continued in a role of financial reporting
17 but more so as a private company where you report to the
18 ownership interests of the company versus public company
19 reporting.
20   And then as the -- my role expanded in 2000 -- let's
21 say 12 and thereafter, I got involved more also in treasury.
22 Became appointed as the vice president of treasury, where I
23 still held financial reporting oversight and responsibilities
24 because of my knowledge of that area.
25   But also got involved working with the company's

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1 lenders; working with the company's other stakeholders in terms
2 of financial matters. Not only historical financial matters,
3 which is what the financial statements oversee or tell, but
4 also prospective financial matters like, you know, how the
5 company is capitalized, how the company is working with its
6 lenders on debt arrangements and things like that.
7   Q   You used a phrase, "vice president of treasury;" what
8 exactly does that mean or did it mean?
9   A   That meant my role was expanded to not just be with
10 financial reporting, but also work with lenders and also
11 oversee the cash flow of the company. So in treasury you are
12 also dealing with banks; you are dealing with lenders; you are
13 dealing with cash flow forecasting for the operations of the
14 company. Not necessarily just financial reporting, which is a
15 more historical-type role where you are issuing financials of
16 what happened in the past. But my role also expanded to be
17 more operational in terms of how the company is looking forward
18 prospectively and doing its business.
19   Q   You testified that you dealt with lenders and
20 stakeholders, what did you mean by stakeholders?
21   A   Board members of the company. So even though it is a
22 private company, the board was comprised of certain individuals
23 appointed to direct the operations of the company. So, we
24 would also, in my role, provide to the board of the company,
25 like, quarterly updates. So, I would help provide board

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1 packages, so to speak, that gave, you know, information on
2 quarterly board meetings to the ownership of the company and
3 directors of the company.
4   Q   When you testified a little earlier, you talked about
5 the "public accounting background," what do you mean by the
6 term "public accounting"?
7   A   Public accounting is generally referred to, again, a
8 firm like Arthur Anderson, Ernst & Young that is engaged in the
9 audits or other work of companies that are public registrants.
10 Again, so a company that might have stock traded on a stock
11 exchange or public debt. So, generally speaking, that's what
12 public accounting means. It deals with companies that have
13 those type of more stringent requirements than a private
14 enterprise that wouldn't necessarily have those thresholds of
15 reporting requirements.
16   THE COURT: Mr. Robert, I am not sure everyone
17 can hear you as well as I can. Raise that and raise your
18 voice.
19   MR. ROBERT: Thank you, Your Honor. First time
20 I am accused of that.
21   THE COURT: If you switch places with him you
22 are fine.
23   Q   Mr. Hawthorn, you are familiar with a term called
24 GAAP, right?
25   A   Yes.

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1   Q   What is GAAP?
2   A   GAAP is an acronym for Generally Accepted Accounting
3 Principles.
4   Q   And what is your general understanding of what GAAP
5 is?
6   A   GAAP is effectively the rules and guidelines around
7 accounting practice in companies that are, you know, recording
8 books and records and how transactions are recorded and
9 reported.
10   Q   Okay. I now want to take you past 2016, where did
11 you go after Kerzner in 2016?
12   A   So in February of 2016 I was hired as the Chief
13 Accounting Officer of Trump Hotels based in New York.
14   Q   And what is the role -- what was the role of Chief
15 Accounting Officer at the Trump Hotels in New York?
16   A   So my role when I started was reporting to the CEO of
17 Trump Hotels, a gentleman named Eric Danziger at the time. My
18 role encompassed overseeing all of the financial and accounting
19 aspects of the hotel division of the Trump Organization.
20   Q   And how, if in any way, did your title and/or role
21 change since that time in 2016?
22   A   In 2016 while my title was effectively Chief
23 Accounting Officer, I was the highest ranking finance and
24 accounting executive in the hotel division. So, in January of
25 2020 my title was effectively updated to Chief Financial

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1 Officer of Trump Hotels. Although I continued to still report
2 to the CEO of Trump Hotels and was effectively doing the same
3 job.
4   Q   Did the scope of your job then change at all from
5 2016 to '20, or just your title?
6   A   The title. The scope was effectively the same.
7   Q   Okay. And what, if anything -- withdrawn.
8   Since 2020, what position have you held with the
9 company?
10   A   So in May of 2022, the CEO of Trump Hotels, Mr. Eric
11 Danziger, left the company. So the company promoted me to
12 Chief Operating Officer of Trump Hotels. I still have
13 continuing responsibility over finance and accounting, but I
14 now oversee the operational aspects of the hotel portfolio as
15 the highest executive level in the hotel division. Not just
16 for finance and accounting but also for operations.
17   Q   And you had mentioned you had report -- withdrawn.
18   When Mr. Danziger -- was he the CEO of the hotel
19 group you said?
20   A   Yes.
21   Q   At that point he was your direct report?
22   A   Yes.
23   Q   Since he left the company, who is your direct report?
24   A   My direct report is Eric Trump.
25   Q   Okay. And that's the same today, correct?

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1   A   There is some overlap because certain of the hotels
2 are resort hotels, meaning that they have golf courses on the
3 property. And so there is some overlap where the golf course
4 is a component of the resort hotel, and its financials roll up
5 into the reporting of that hotel resort.
6   Q   And would Doral be one of those?
7   A   Doral is a good example.
8   Q   Okay. Going to the hotel division specifically, if
9 you could explain how the accounting team in the hotel division
10 works?
11   A   I would describe our structure as very decentralized,
12 meaning that each hotel has its own general manager who
13 oversees the entire property, and has its own finance
14 department that does the day-to-day finance of the hotel.
15   So, for example, if you mention Doral, Doral has its
16 own general manager. Doral has its own director of finance.
17 Each hotel has its own departments like that to do the
18 day-to-day accounting and finance work and day-to-day
19 operations; under the auspices and the direction of the
20 corporate office where I reside, but obviously we entrust the
21 teams at the properties to handle the day-to-day of the
22 operations.
23   Q   So looking at it from an organizational chart, for
24 the purpose if you are sitting at the role of the COO of the
25 hotel division, who is it in the hotels that reports to you?

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1   A   Correct.
2   Q   And is there a CEO of the hotel division?
3   A   No, there is no one with that title. But I, as the
4 Chief Operating Officer or COO, I am at the highest executive
5 level of the hotel division of the company.
6   Q   And I think you described it a few moments ago, but
7 just to be clear, what exactly are the responsibilities of the
8 Chief Operating Officer of the hotel division? Is it okay if I
9 call it the hotel division?
10   A   That's accurate. It is not just finance and
11 accounting but it is everything related to the hotel division
12 operations, including sales and marketing; including
13 operational aspects of how to operate a hotel; how we set rates
14 for room rates; and how we employ, employees over across the
15 hotel portfolio. So not just financing accountant, but all
16 operational aspects.
17   Q   I referred to the hotel division. What, if any,
18 other divisions does the Trump Organization have?
19   A   So broadly speaking there is commercial real estate
20 in the organization. Then there is hospitality-related assets
21 like hotels. And then similar to that there is a golf
22 division. So there is private and public golf courses in the
23 company.
24   Q   And do any of the golf courses fall within your
25 bucket?

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1   A   All of the general managers of the hotels. So the
2 leaders of the actual hotel properties.
3   Q   And when you want financial information about these
4 individual hotels, how do you go about getting it?
5   A   Each individual hotel prepares its own financial
6 information; maintains its own books and records or general
7 ledger, is a common term for books and records. So at the
8 property level those are all maintained. We have a mechanism
9 at the corporate office where we have a reporting timeline
10 where the hotels will report to us in a very standardized way.
11 There are monthly financial reports.
12   And our other applicable reports that we will review,
13 and discuss and review these with the properties, to get a
14 better understanding and be, kind of, on top of the operation
15 and understanding what is happening in the business.
16   Q   I know you are familiar with the name Allen
17 Weisselberg, correct?
18   A   Yes.
19   Q   Where was Allen Weisselberg within the corporate
20 structure?
21   A   Allen Weisselberg was the Chief Financial Officer of
22 the Trump Organization.
23   Q   And what, if anywhere -- withdrawn.
24   How, if in any way, did your role change after
25 Mr. Weisselberg left the company?

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1 A After Mr. Weisselberg left the company I have been
2 called upon from time to time as needed to assist with how the
3 company is operating generally in other divisions, so not just
4 the hotel division. And I have been called upon to, kind of,
5 ask how we could replicate certain practices and procedures
6 that we do in the hotel division across the company.
7 Q And if you could add a little more detail to that?
8 A Sure. I mean, I think the hotel division, in my
9 humble opinion, because I have -- I am overseeing it, we have a
10 good set of procedures and controls and ways we go about doing
11 the day-to-day business in the operations. So, for example, we
12 have a standardized chart of accounts. I know it sounds kind
13 of boring, but if every hotel has the same general chart of
14 accounts, it is easy to have consistency and roll up across the
15 company.
16 And do you want me to keep explaining?
17 Q Let me break it down a little.
18 A Okay.
19 Q Did there come a time that someone within the Trump
20 Organization asked you to assist in these other projects after
21 Mr. Weisselberg left?
22 A Yes. I think Eric Trump has asked me -- well, I know
23 Eric Trump has asked me to assist in other matters where I can
24 be of assistance to the company.
25 Q Okay. And just so that we are clear, that assistance

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1 is in what form?
2 A It is helping to utilize certain of the
3 characteristics of the hotel division and other ways to create,
4 you know, more efficiencies, better procedures and practices
5 across the company as a whole.
6 Q You talked about uniformity, and I think you used a
7 phrase "roll up" a couple of minutes ago. What did you
8 discover when you were asked to help -- I'll use the word
9 "modernize" the other divisions?
10 A So as an example, I think as I was explaining before,
11 the hotel division has the benefit of already an existing
12 structure where every hotel is accounted for in the same way.
13 As I was asked to, kind of, assist in other areas of the
14 business, for example in the golf division, which is similar to
15 the hospitality division hotels, the golf division at the time
16 of, let's say, summer of 2021, didn't have that same
17 uniformity. As the golf division grew over time, golf courses
18 were acquired and the property level comptrollers entrusted to
19 oversee the books and records, either continued to use the same
20 chart of accounts that they had on a previous ownership, or had
21 discretion in how they could book transactions in a chart of
22 accounts that made sense for their property.
23 So as an example, one of the projects that I helped
24 to oversee over the last year and a half with some team members
25 from my team, is to help standardize the chart of accounts for

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1 golf, so that you could consistently compare across every golf
2 course the operations, the performance and understand, if
3 everything is booked the same way and the same accounts, you
4 can have consistency. That's an example.
5 Q You used the phrase, "chart of accounts," what do you
6 mean by that?
7 A The chart of accounts is the, for lack of a better
8 term, the books and records of the company, where all of the
9 debits and credits go when you book journal entries. So there
10 is typically a number assigned to a certain general ledger
11 account. A description assigned to a certain general ledger
12 account that comprises the assets, liabilities and equity of
13 the books and records of the trial balance. And so it is much
14 more efficient as a corporate oversight to evaluate the
15 performance of your portfolio if everyone is on the same chart.
16 Now, that's not to say that each entity had anything
17 wrong with it. It is just that each entity maybe booked things
18 in a different account than a different entity. So if you are
19 trying to cross compare certain things, it may not be as
20 noticeable because they are not on an apples to apples basis.
21 So this is kind of inherent, you know, efficiency in the
22 organization and the golf division similar to what we had in
23 the hotel division as an example.
24 Q Has there been any new accounting software that has
25 been used as a result of your involvement in these other

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1 divisions?
2 A So, in addition to the chart of accounts project at
3 golf, which is utilizing the same software which is golf
4 specific, there is an undertaking ongoing now at the Trump
5 Organization corporate accounting level to input new general
6 ledger accounting software, so to be more modern, to be more
7 like the hotel division. Meaning in a way that today in 2023
8 there is software packages available that helps people do their
9 jobs a little bit easier, more consistent and have more
10 control, standardization.
11 So we have a -- I am assisting with a project at the
12 corporate office accounting level to put in a new system that
13 will help in this effort to improve the efficiency and the
14 reporting and the technical capabilities of the -- the other
15 divisions of the company, like the commercial real estate and
16 the corporate office and that sort of thing.
17 Q When you talk about the corporate office, what are
18 you referring to?
19 A So, the corporate office resides generally at
20 725 Fifth Avenue in New York, which has a back office
21 accounting function. There is a team that oversees those
22 assets. Whereas I oversee the hospitality hotel assets.
23 Q And what is the difference between the corporate
24 accounting level you used -- you phrased, as opposed to how
25 things work at the hotels or golf courses?

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1   A   Maybe to put it in the appropriate context, that was
2 kind of the corporate office's, kind of, generally referred to
3 the prior regime of Jeff McConney and Allen Weisselberg.
4 Whereas now we have other individuals in certain roles
5 overseeing the commercial assets, the real estate assets of the
6 portfolio.
7   Q   And the commercial assets are no longer governed by
8 the corporate accounting department, or are they?
9   A   They are.
10   Q   Is there a distinction between who is running -- who
11 is in the corporate accounting department versus who is at the
12 golf courses and hotels? If so, what is that?
13   A   There is. So we have, again, myself in hotels. We
14 have an individual in golf. We have individuals in the
15 corporate accounting function today.
16   You know, for example, I think you may know Donna
17 Kidder. She continues to be in the capacity of an assistant
18 comptroller. We have a director of finance now that is running
19 the oversight of that department, that runs that day-to-day.
20   Q   What, if any, involvement did you have in the last
21 few years with the check issuing system at the Trump
22 Organization?
23   A   Can you repeat the question?
24   Q   Sure. What, if any, involvement have you had in the
25 last few years with the check issuing system of the Trump

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1 Organization?
2   A   By check issuing system you are referring to
3 disbursements?
4   Q   Yes, disbursements, paying bills.
5   A   Sure. So as an example of, kind of, how the company
6 used to do things versus how it does it now, the company under
7 the prior regime, you know, ran as it did as a family run
8 enterprise using very basic functions. For example, to pay
9 bills and vendors everything was always paid via paper check.
10 That's -- that worked in the 1980s and it still works today.
11 But there is other ways to get vendors paid more quickly, more
12 timely, more accurately. So, I was asked to assist in, kind
13 of, helping the corporate office, kind of, maybe update
14 modernize the way things are done, because we do things in the
15 hotel division that is more, let's say, in the way companies
16 operate today.
17   Q   Did there come a point in time someone at the Trump
18 Organization specifically asked you to assist with this
19 disbursement issue?
20   A   Yes.
21   Q   And who was that person?
22   A   Eric Trump.
23   Q   And what were the circumstances surrounding -- first
24 of all, when was that, if you recall?
25   A   It was probably in the summer of 2021.

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1   Q   What were the circumstances surrounding that, sir?
2   A   So, just for perspective and background, right, the
3 way that the corporate office functioned, had previously
4 worked, is that there was only -- if you are only paying with
5 check and you only have three signers who can sign checks, you
6 are very limited on how you can make disbursements. And the
7 three signers that were always entrusted with overseeing the
8 bank accounts were Allen Weisselberg, Donald Trump Jr. and Eric
9 Trump. So, in practice, Allen Weisselberg in his role, to my
10 understanding, would be the one that would review check
11 disbursements and sign them so that they would go out, because
12 that was his role.
13   I guess at the time of summer of 2021 Allen
14 Weisselberg was no longer in the role of Chief Financial
15 Officer. He was removed from those duties. So, when the
16 operation keeps needing to run, checks need to be signed. So
17 now you only have two signers who can sign checks, Donald J.
18 Trump Jr. and Eric Trump. So I recall walking into Eric
19 Trump's office and he called me in to assist, and he had a
20 stack of checks to sign that was very high.
21   And he said: Well, what do I do with all of these?
22 Because typically Eric would never sign checks. It would be
23 Allen. Allen would sign all of the checks and Eric would work
24 on the operation. But if you need to pay vendors, who is going
25 to sign the check? It is really Eric or Don.

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1   So Eric came to me and he said: Well, Mark, how do
2 you do this in the hotel division?
3   I said: Well, we don't do it like this. We pay
4 through ACH. We pay through virtual means, electronic means.
5 We have systems and processes that are available and tools that
6 are available to the company to modernize, kind of, the
7 functionality. So that's how I got involved in that project.
8   So commensurate with, kind of, the upgrade of the
9 general ledger package of the Trump Organization at large and
10 the corporate office, my role has helped assist in replicating
11 some of the hotel division efficiencies to the organization so
12 that we are able to pay vendors in a more efficient way. Saves
13 a lot of time and resources when you are not needing to put a
14 stamp on envelopes and trace and track down outstanding checks.
15 So, kind of one of the initiatives I have helped with. And
16 Eric Trump, I know, is proud of being as paperless as we can in
17 disbursements.
18   Q   You have heard of something during the course of this
19 trial called a Statement of Financial Condition, correct, sir?
20   A   Yes.
21   Q   And did you have any involvement in the preparation
22 of President Trump's Statement of Financial Condition?
23   A   I did not.
24   Q   Did there come a time that you became aware of a
25 document called President Trump's Statement of Financial

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1 Condition?
2   A   Yes.
3   Q   And when was that approximately?
4   A   In connection with one of the hotel audits that I was
5 working on. There was a request from one of those auditors to
6 get some more information about the parent company of the
7 hotel. And I was doing some diligence to try to provide the
8 best available information. In doing so, I was aware that
9 there was this document that existed. And I helped to
10 facilitate a meeting with the accounting team in the hotel --
11 that was doing the audit of the hotel, and the accounting team
12 that was familiar with the statement, so that they could
13 discuss it and understand whatever questions they had.
14   (The following proceedings were stenographically
15 recorded by Senior Court Reporter Michael Ranita.)
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1   Q   When you talk about the accounting team who was
2 familiar, who are you referring to?
3   A   At the time that was Whitley Penn.
4   Q   So when was this -- was this meeting virtual, in person
5 or something else, telephone?
6   A   Um, so this was a meeting that I helped to coordinate.
7 It was effectively a video conference on the Google Meet
8 platform that was, I think, in November of 2021, if I'm correct.
9 That helped to facilitate the Whitley Penn accounting team. The
10 other team involved was an audit firm called Johnston
11 Carmichael. They are one of the audit firms that we use for the
12 Scotland entities. So we have a couple of assets in Scotland.
13 That was the team that needed some information about the parent.
14 And so I helped to facilitate that virtual meeting.
15   Q   Other than your participation in facilitating this
16 virtual meeting in 2021, do you recall having any other
17 knowledge or involvement with the President Trump Statement of
18 Financial Condition?
19   A   No.
20   Q   Are you aware of whether The Trump Organization still
21 prepares a Statement of Financial Condition for President Trump?
22   A   It is not prepared, to my knowledge.
23   Q   And what, if anything, has replaced that now at The
24 Trump Organization, if you are aware of it?
25   A   There is not a roll up financial statement of the

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1 company. It's not required by any lender currently, and/or any
2 other constituency.
3   Q   Okay.
4   I want to switch topics for a minute and talk to you
5 about Mazars. Are you familiar with a company known as Mazars?
6   A   Yes.
7   Q   And what is Mazars?
8   A   Mazars is an accounting firm. It was the main
9 accounting firm of The Trump Organization when I started in
10 2016, and I guess prior to that they had a long standing
11 relationship with The Trump Organization to be the, um, you
12 know, financial, um, statement preparers and auditors, as well
13 as the tax preparers for the company.
14   Q   And who was the main point of contact that you dealt
15 with at Mazars while they were the outside accountants to The
16 Trump Organization?
17   A   The main audit partner was Donald Bender.
18   Q   How often would you be in contact with Mr. Bender?
19   A   I would be in contact with him frequently as it related
20 to the audits and compilations of the hotel assets that we were
21 entrusted, to insure that financial reports were issued for
22 those entities.
23   Q   So with regard to your interaction with Mr. Bender,
24 what services were you, on behalf of the hotel group, if you
25 will, seeking from Mazars and Mr. Bender?

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1   A   It would be compilation services and audit services.
2   Q   What about tax services or tax advice?
3   A   Limited for me. My role is primarily related to
4 financial reporting of individual entities in the hospitality
5 portfolio.
6   Q   What do you mean by "compilation services"?
7   A   A "compilation" is effectively the assistance of the
8 accounting firm to put together the annual financial statements
9 of the entity that's being asked to be done on, where the
10 accounting firm would put together the balance sheet, income
11 statement, um, statement of cash flows, in a summarized
12 annualized report.
13   Q   And would they do this for all of the hotel properties?
14   A   They would do it for hotel properties that required to
15 have a compilation statement.
16   Q   And who, if anyone, would be making this requirement?
17   A   It was required by certain lenders.
18   Q   And do the extent that those properties fell within
19 your division or your wheelhouse, you would have had involvement
20 with Mr. Bender with those; correct?
21   A   Correct.
22   Q   And you talked about audit services, too. What were
23 you referring to there?
24   A   Audit services was -- are engagements that Mazars was
25 entered into an engagement with the company to do an actual

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1 financial audit of an entity. So we had a property, a hotel
2 property that required an audit from its, um -- under the terms
3 of its lease agreement, and also under the terms of its debt.
4 So one property under those requirements needed to have an audit
5 issued versus a compilation.
6   Q   If you, on behalf of your division, had accounting
7 questions, who, if anyone, would you turn to outside of The
8 Trump Organization?
9   A   We would turn to Mazars.
10   Q   And who, if anyone, would you turn to within The Trump
11 Organization during that time period that Mazars was the outside
12 accountant?
13   A   It would be myself.
14   Q   Other than consulting with yourself, is it fair to say
15 that Mazars would have been the only other entity you had
16 contacted with?
17   A   Correct.
18   Q   Primarily that would have been Mr. Bender?
19   A   Correct. I could still hold a CPA license. I'm not a
20 practicing CPA. You know, I'm -- I worked work for a private
21 company, so while I still keep up with accounting rules and
22 regulations and changes, relied heavily on Mazars to understand
23 what the current pronouncements are in accounting so that when
24 we are issuing -- when they are issuing financial statements,
25 that we make sure that we are properly disclosing required

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1 disclosures that were ensuring that we are properly recording
2 entries appropriately and in accordance with the latest
3 standards.
4   Q   How did you communicate with Mazars?
5   A   Telephone, e-mail, um, frequent communication as
6 needed.
7   Q   In-person meetings as well?
8   A   In-person, of course.
9   Q   What kind of information did you give Mazars about the
10 hotels in your division?
11   A   We would give them the information that they would
12 require to put together the compilation or for their audit,
13 which would be the underlying financial statements of the
14 entity, and any supporting backup, or schedules, or detail that
15 they required so that they could conduct audit testing.
16   Q   Do you recall ever an instance where Mazars asked you
17 for something and you didn't provide it to them?
18   A   No.
19   Q   At some point in time, Mazars was no longer the outside
20 accountants for The Trump Organization; correct?
21   A   Correct.
22   Q   Do you remember approximately when that was?
23   A   Um, I don't recall exactly, but it would have been 2020
24 or 2021, around there.
25   Q   And who comes in to be the new outside accountants for

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1 The Trump Organization?
2   A   A firm called Whitley Penn.
3   Q   And what, if any involvement, did you have in the
4 selection of Whitley Penn to be the new external accountants for
5 The Trump Organization?
6   A   I had some involvement because the audits and
7 compilations under my responsibility, I, you know, took great
8 pride in to make sure were accurate. We wanted to make sure we
9 had a good firm that had the capability to do the work. So the
10 initial meetings, I was part of it with respect to the
11 hospitality properties that we needed to have certain work
12 performed, such as these audits and compilations.
13   Q   Were you involved in the selection of the Whitley Penn
14 firm, or after they were selected, for lack of a better word, to
15 help get them up to speed, or both?
16   A   A little bit of both. My input was valued based on my
17 kind of interactions with Whitley Penn at the onset, and the
18 questions that I would ask if they were capable of handling the
19 work. Um, and then I was one of the probably primary liaisons
20 with the audit partners at Whitley Penn, especially with respect
21 of the hospitality properties.
22   Q   And the primary point of contact at Whitley Penn was,
23 and is?
24   A   On the audit, same gentleman named Camron Harris.
25   Q   You talked about on the audit side. What do you mean

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1 by that?
2   A   Whitley Penn was taking over the kind of the role of
3 Mazars previously. Whitley Penn also has a tax division. So
4 the company relies on Whitley Penn, and its tax division of its
5 firm to help with the tax preparation of tax filings of all the
6 entities that require them. So there's another audit partner
7 and another component of that practice that oversees, let's say,
8 tax compliance work versus audit and financial accounting work.
9   Q   So when we refer to an audit partner -- I know this
10 confused me for the longest time -- it doesn't necessarily just
11 mean an audit; correct?
12   A   Correct. It means attestation services is a fancy word
13 for it.
14   Q   My question is, what is an attestation service?
15   A   It's work that is engaged with a firm and a client, to
16 whatever extent they both agree, that the client has engaged the
17 firm to do work to substantiate the books and records of the
18 company. If it's an audit, to understand the policies and
19 practices of the company.
20   So effectively, the value of an audit firm to any
21 company, right, is that they want to evidence to an outside
22 party that someone else has looked at these numbers or looked at
23 these books and records and has done procedures to understand
24 them, and the issuance of the final report is also being
25 represented by this firm.

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1 Q With regard to your division, how, if in any way, is
2 Whitley Penn tasked with anything different than Mazars?
3 A It's a similar -- it's similar generally. They are
4 tasked in my division to be the firm that, again, prepares the
5 compilation statements, that does the audit work for the
6 entities that need audits.
7   And then while I'm not a tax person, I still have some
8 involvement with their tax division when it comes to the
9 hospitality assets and certain information that they might
10 require.
11 Q You mentioned a little while ago that when the process
12 of, I guess, on boarding a new accounting firm -- do you know
13 what I mean when I say "on boarding"?
14 A Yes.
15 Q That you were involved not just as it related to your
16 division, but more generally, can you explain a little bit more
17 about that?
18 A Um, again, I had some input based on my background as a
19 former accounting firm personnel and auditor myself to, to, um,
20 meet with Whitley Penn during the selection process if we wanted
21 them to be our firm. So I, you know, got a chance to meet with
22 them in person, on the phone, um, kind of understand their
23 qualifications, their staffing levels, that they could handle
24 the work. So I was probably just another helpful resource to,
25 um, vouch that we believed that they had the capability to, you

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1 know, be our accounting firm.
2 Q Switching topics slightly, if I use the phrase
3 "financial reporting", what does that mean to someone with your
4 background?
5 A "Financial reporting" is very generally just the um,
6 financial summary of an entity. Um, reporting could be very
7 simply internal reporting from management to review operational
8 performance and make decisions. It's a very broad term.
9 Financial reporting can go from very, you know, like I said,
10 very internal books and records to external reporting, which is
11 a more formal report that's issued on an annual basis, or
12 quarterly basis, required for any purpose.
13   Generally speaking, financial reporting, between, if
14 it's internal, sometimes referred to as management reporting,
15 it's very much customary based on the industry that you are in.
16 So, like, for example, in the hospitality industry, the
17 hospitality accounts, we refer to the Uniform System for
18 Accounts for the Lodging Industry, USALI. So anyone in hotel
19 accounting would know that term because it's an internal
20 management financial reporting guidelines and structure, so that
21 we, as a hotel company, are booking things and recording things
22 similar to other hospitality companies; that's not necessarily
23 GAAP required, right? Whereas GAAP and other more stringent
24 financial metrics are applicable to external reporting audits,
25 compilations, things like that.

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1 Q You testified a few moments ago that generally speaking
2 the scope of work between Whitley Penn and Mazars was basically
3 the same; fair?
4 A Yes.
5 Q What kind of -- and I'm going to take you back to the
6 period 2011. What kind of reporting did Mazars do for The Trump
7 Organization?
8   MR. AMER: Objection. Foundation. The witness
9   said he didn't start to be employed until, I think, 2016.
10   MR. ROBERT: The witness is now the COO of the
11   hotel division.
12 Q When you first joined the company in 2016, what, if
13 anything, did you come to learn about how things had been done
14 previously to help do you your job, if anything.
15 A I had to understand how the books and records were
16 prepared prior to my joining the company. I also had to review
17 various agreements, contracts and financial statements going
18 back many years to understand how these assets performed
19 previously and what the reporting requirements, um, you know,
20 are of these entities.
21 Q Did you review financial statements that had been
22 prepared by Mazars for The Trump Organization from 2011 forward?
23 A I did.
24 Q And what did you come to learn from those?
25 A That every year, as required, these financial

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1 statements were issued; that they were submitted to lenders as
2 required, and that they were completed as needed.
3 Q So going back, let's say, to 2011, how many of these
4 different financial reports did Mazars do that you had looked
5 at?
6 A Hard to say. Probably over a hundred. Mazars, maybe
7 50, something like that.
8 Q And what ran the scope of what kind of reports these
9 were?
10 A Compilations, reviews, audits. They did a lot of work
11 for the company in terms of issuing entity-level financial
12 statements.
13 Q In addition to you reviewing these records back in 2016
14 when you joined the company, did you have an opportunity to look
15 at them, again, before you testified here today?
16 A I did.
17 Q And did you prepare a chart outlining all of the
18 various reports that Mazars and Whitley Penn have done for The
19 Trump Organization since 2011?
20 A I did.
21   MR. ROBERT: Your Honor, I would like to put on the
22   screen D-1054, which is a demonstrative exhibit that was
23   prepared by Mr. Hawthorn.
24   (Whereupon, the exhibit was displayed on the
25   screen.)

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1   MR. ROBERT: We have a copy to hand up, please.
2   (The witness was handed the exhibit.)
3   Q   Mr. Hawthorn, what is this document?
4   A   So this is a summary document that illustrates, for the
5   years 2011 to 2022, all of the financial statements that were
6   issued by various accounting firms on behalf of the company for
7   various entities. The chart is simply showing that from 2011 to
8   2022, across numerous United States based properties, that there
9   have been 82 financial statements, annual financial statements
10   issued for these entities. It indicates in the box whether it
11   was a compilation, an audit or a review.
12   And then also on the lower part of the chart it also
13   includes other accounting firms. I think I mentioned the
14   Scotland property in the past that had an audit firm named JCCA,
15   an Ireland audit done by a firm called BDO, both are
16   internationally recognized accounting firms in those areas.
17   So those areas also required audited financial
18   statements for years presented. So it provides a snapshot for
19   all of the work that the accounting firms and the company at
20   large has done over the last ten years to issue compliant
21   financial statements.
22   Q   Sir, to Mr. Amer's point, from 2011 to 2015, you did
23   not work at The Trump Organization; correct?
24   A   Correct.
25   Q   And the preparation of these reports in 2011 to 2015,

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1   obviously you were not involved in the creation or preparation
2   of those; correct?
3   A   Correct.
4   Q   Was the 2016 year the first year that you were
5   personally involved or would it be more accurate to start with
6   the ones in 2017?
7   A   2016 I started in February, so this would be a year
8   ended December 31st, 2016, generally speaking, year. That
9   report would have been issued in 2017 after the fiscal year end
10   closed.
11   Q   So let's take a look at 2016 to start, if we could.
12   What, if any, involvement did you have in the compilation report
13   prepared by Mazars for -- withdrawn.
14   What is Trump Endeavor 12?
15   A   Trump Endeavor 12 is the legal entity that is the
16   ownership entity of Trump National Doral. That is the 643 room
17   hotel resort with four golf courses in Florida.
18   Q   Mr. Hawthorn, what, if any, involvement did you have in
19   the compilation report prepared by Mazars in 2016 for Trump
20   Endeavor 12?
21   A   So I was the liaison for the company on behalf of the
22   hotel division so that Mazars could prepare the compilation on
23   the company's behalf.
24   Q   And for whose purpose was that compilation prepared?
25   A   So the compilation was prepared because the lender of

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1   this entity, so the entity, Trump Endeavor 12, has a loan
2   outstanding with, at the time, Deutsche Bank. Under the terms
3   of the loan agreement, the lender requires annual compilation
4   financial statements of the borrower. So that's why these were
5   prepared from 2016 onward.
6   Q   And do you recall Mazars asking you for any
7   information, with regard to this compilation, that you didn't
8   provide to them?
9   A   Say that again.
10   Q   Do you recall ever being asked by Mazars to provide you
11   information to prepare this compilation that you didn't provide
12   to Mazars?
13   A   No. We provided them everything they asked for.
14   Q   Going to the second item on 2016, what, if any,
15   involvement did you have in the compilation for the 401 North
16   Wabash, LLC entity?
17   A   So similar to the above, so 401 North Wabash, LLC that
18   is the legal entity of the ownership of the commercial space and
19   unsold units at the Trump Chicago. Again, that entity has, at
20   that time, debt outstanding with Deutsche Bank under the loan
21   agreement.
22   The loan agreement requires that the borrower provides
23   entity-level compilation financial statements to the lender. So
24   from all those years presented, those were provided.
25   Q   And I know I pronounced it wrong. I didn't say

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1   "triplex", but I was close enough. So it's 401 North Wabash?
2   THE COURT: Wabash.
3   MR. ROBERT: I'll call it the Chicago property?
4   A   That's the address of the Chicago property.
5   Q   Mr. Hawthorn, moving to the third item, Trump Old Post
6   Office, LLC, what, if any, involvement did you have in the audit
7   that was performed by Mazars in 2016?
8   A   So I was involved in that similar to the above. The
9   procedures were more detailed than a compilation, because it's
10   an audit. So the entity, Trump Old Post Office, LLC, again, at
11   the time had a loan outstanding. The loan required that the
12   borrower provide audited financial statements.
13   In the other cases they were compilation financial
14   statements. So just following the terms of the loan, Trump Old
15   Post Office, LLC's requirement was for an audit.
16   So in a similar fashion, I oversaw and was a liaison
17   for Mazars to get them the information they needed for
18   completing those audits. There's also another line that says
19   "compilation." So that was an entity where we had both an audit
20   and a compilation done for a certain period of time. Um, that
21   was also required as a result of the loan instrument requiring
22   certain testing at a different date than the audit date. So,
23   therefore, in a certain period of time, as you see from 2019 to
24   2021, a compilation was also performed.
25   MR. ROBERT: Don't worry, Judge. I'm not going to

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1   do each year, but I'll get to 2019 in a minute.
2   Q   Mr. Hawthorn, I'm not going to ask you about each
3   entity, this one question, but fair to say with all the entities
4   on this chart there was never a time that you can recall that
5   Mazars asked you for information and you didn't provide it; fair
6   enough?
7   A   Correct.
8   Q   Going to the --
9   THE COURT: Already asked. Leading.
10   MR. ROBERT: He didn't object, and I'm trying to
11   move it along.
12   THE COURT: You asked him previously --
13   MR. AMER: For the relevance, you know, I think
14   hopefully we are done with the chart soon.
15   MR. ROBERT: We are not. This chart demonstrates
16   that there are over 116 financial statements that no one had
17   a problem with, and all the work that Mazars did and all the
18   work Whitley Penn did, this is absolutely relevant.
19   THE COURT: I'm not joining the relevance fray, I'm
20   just saying, you asked him if he ever was asked by Mazars
21   for information and he did not give it. And he said, "No."
22   And I think you asked pretty much the exact same question.
23   MR. ROBERT: I don't plan to ask it anymore on this
24   chart; that much I could assure you, Judge.
25   Q   Moving to 40 Wall Street, LLC. Do you see that in

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1   2016?
2   A   Yes.
3   Q   What, if any, involvement did you have in an audit?
4   A   I did not have involvement in that one.
5   Q   Same question for TIHT Commercial?
6   A   I did not have direct involvement.
7   Q   Trump Plaza, LLC?
8   A   I did not have any involvement.
9   Q   Trump Tower Commercial?
10   A   I did not have direct involvement.
11   Q   Why is it, sir, that with regard to 40 Wall Street,
12   TIHT Commercial, LLC, Trump Plaza, LLC, or Trump Tower
13   Commercial, LLC, that you had no involvement in that?
14   A   Those aren't in the hospitality portfolio. Those are,
15   again, commercial real estates, but I'm aware in my position
16   that these audits were done.
17   Q   And your answer would be the same for those assets, for
18   the assets meaning 40 Wall, TIHT Commercial, Trump Plaza, Trump
19   Tower Commercial, your answer would be the same for -- from 2011
20   -- well, from 2016 to 2022, those were not under your
21   supervision; fair enough?
22   A   Correct.
23   Q   Okay. Moving down in 2016, what is JCCA?
24   A   That's an abbreviation for a firm called Johnston
25   Carmichael. That is an audit firm of Scotland entities.

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1   Q   And, again, fair to say that starting in 2016, that's
2   when you became involved in those?
3   A   Correct.
4   Q   And what, if any, involvement did you have --
5   withdrawn.
6   What is SLC Turnberry, Ltd?
7   A   That is the legal entity that is the ownership entity
8   of the hotel property named Trump Turnberry in Scotland.
9   Q   What, if any, involvement did you have in the 2016
10   audit of the SLC Turnberry, Ltd. property, sir?
11   A   Similar to Trump Old Post Office, LLC, my involvement
12   was to oversee the relationship with the audit firm and make
13   sure they got all the information they needed so the report
14   could be issued.
15   Q   What, if any, difference was there the way you had to
16   deal with audits of international properties versus domestic
17   properties?
18   A   There's some difference because accounting standards
19   are different in the UK and Ireland as opposed to the US. But
20   generally speaking, it's the similar broad based
21   responsibilities.
22   Q   And what, if any, involvement did you have in the 2016
23   audit of -- withdrawn.
24   What is Trump International Golf Club Scotland, Ltd?
25   A   That is the legal entity name of the golf course and

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1   small hotel in Aberdeen, Scotland.
2   Q   What, if any, involvement did you have in the audit of
3   that property in 2016?
4   A   I had the same involvement as Turnberry. I interacted
5   with the audit firm, as necessary, to assist with the issuance
6   of those financials.
7   Q   Continuing to move down, who is BDO?
8   A   BDO is another accounting firm. It's an international
9   accounting firm, in this case, based out of Ireland. So they
10   oversaw the audits of our Ireland properties.
11   Q   Sir, what is TIGL Ireland Enterprises, Ltd?
12   A   That is the legal entity of that property. So both
13   those entities are two legal entities that comprise the
14   ownership and operation of Trump Doonbeg, which is another
15   property in Ireland.
16   Q   What is the difference between TIGL Ireland Enterprises
17   Ltd. and TIGL Management?
18   A   They just oversee different functions of the resort.
19   One oversees the hotel accommodation. One oversees the golf
20   course component. Just generally speaking, it required two
21   legal entities for its set up.
22   Q   What, if any, involvement did you have in the audit of
23   TIGL Ireland Enterprise, Ltd. audit, 2016?
24   A   Same as Scotland. Oversight, ensuring that the audit
25   firm got what they needed to do the audits.

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1 Q   And same thing as TIGL management, correct, sir?
2 A   Correct.
3 Q   Just so the record is clear, these are golf courses.
4 Why is it that they fell within your purview of hotels?
5 A   These are hotel resorts. There are hotels that have
6 overnight guest rooms, as well as a golf course. So similar to
7 Doral, Turnberry, Aberdeen and Doonbeg are all overnight
8 accommodation services, hotel properties that have a golf course
9 as an amenity in the golf courses.
10 Q   Drawing your attention to 2019 for a moment, and you
11 kind of alluded to this earlier, if I draw your attention to
12 Trump Old Post Office, LLC, do you see that?
13 A   Yes.
14 Q   There is a compilation in addition to an audit for
15 2019; correct?
16 A   Yes.
17 Q   Why is that?
18 A   That was required by the lender in accordance with a
19 reporting test. So they required not only annual audited
20 financials, but they required annual, what we call "debt service
21 testing." There is an acronym called DSCR, which is debt
22 service coverage ratio. That loan agreement required testing
23 over a trailing 12-month period ending in January, whereas the
24 fiscal year financial statements were a 12-month period ending
25 in August. So we did an audit for the August period, and we did

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1 a compilation for the DSCR testing period.
2   MR. ROBERT: Your Honor, I'm going to try to finish
3 this chart very quickly, but to do that I would like to move
4 D-1054, rather than demonstrative, into evidence, otherwise
5 I have to ask him a question about each line item to get the
6 testimony out. And I want to make it simpler, so I could
7 refer to the document as a whole.
8   MR. AMER: My initial question is, why aren't we
9 marking this as demonstrative instead of an exhibit.
10   MR. ROBERT: It should be an exhibit.
11   MR. AMER: It's got D-1054. Why don't we mark it
12 as demonstrative?
13   MR. ROBERT: Let's introduce this in evidence as
14 D-1054, a document created by Mr. Hawthorn. I'm fine with
15 that. It would make this go much faster.
16   MR. AMER: I thought we weren't introducing into
17 evidence demonstratives.
18   MR. ROBERT: No, I'm changing my mind, because it
19 will take me at least a half hour to go through each item
20 with Mr. Hawthorn. This is much easier.
21   THE COURT: I don't think demonstratives just go in
22 as ordinary evidence.
23   MR. ROBERT: So I'll withdraw the request to put it
24 in as a demonstrative and enter it as a piece of evidence.
25 It's a document created by Mr. Hawthorn based on his review

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1 of documents in explaining what was done for each property.
2   If the Court and Attorney General don't want it to
3 come in evidence that way, I'll go through each year and ask
4 him was there an audit, what involvement did you have. I'm
5 happy to do it. That's fine.
6   MR. AMER: I think the problem is the best evidence
7 rule. If you are going to put in evidence about each of
8 these audits, then you should put in the audit or
9 compilation. You shouldn't just put in a chart that
10 summarizes something that isn't already in evidence.
11   MR. ROBERT: It's not --
12   MR. AMER: It's a problem, I think.
13   MR. ROBERT: I'm not attempting to get into the
14 bona fides of what was there, just that these were done and
15 he was involved in getting them done. I'm not suggesting
16 and I don't want to get into having to put in 116 financial
17 statements.
18   MR. AMER: Well, so this document we saw for the
19 first time last night, and I don't think it was created
20 prior to that or shortly before that. And it purports to
21 summarize a lot of evidence, but that evidence has not been
22 introduced into -- as exhibits in this case. So it's just
23 not proper to use a summary chart in this fashion.
24   MR. ROBERT: I'm happy to do it the long way,
25 Judge.

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1   THE COURT: Do it the long way.
2   MR. ROBERT: Okay.
3   THE COURT: If that's what plaintiff wants.
4   MR. ROBERT: That's fine.
5 Q   Drawing your attention to 2017, Mr. Hawthorn --
6 A   Yes.
7 Q   -- were you involved in a compilation involving Trump
8 Endeavor 12, LLC?
9 A   Yes.
10 Q   What was your role with regard to that compilation?
11   MR. AMER: Different objection, and I am going to
12 have to involve you with the relevance fray, your Honor. I
13 don't see how any of this is relevant.
14   We are not challenging the audits or compilations
15 that were submitted to any lender by the borrowing entity.
16 This case is all about Donald J. Trump's financial
17 disclosure under the guaranties in the form of his Statement
18 of Financial Condition.
19   As far as I'm aware, this chart doesn't include any
20 entry relating to the compilation that was the Statement of
21 Financial Condition for Mr. Trump under the guaranty. So I
22 just don't see how it's relevant.
23   MR. ROBERT: So, first of all, your Honor, this is
24 the first time I'm hearing that the government is not making
25 a claim against any of the guarantor's of the loan, so if

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1   that's news --
2   MR. AMER: That's not what I said. For disclosure
3   of their compilation or "their" being the borrower's
4   compilation or audit financials.
5   MR. ROBERT: But the named defendants in the case
6   include, in particular, Trump Endeavor 12, 401 North
7   Wabash --
8   THE COURT: Wabash.
9   MR. ROBERT: Wabash, and Trump Old Post Office,
10   LLC. So their conduct is clearly an issue, unless you want
11   to withdraw the claims against those corporate or business
12   entities.
13   What we are demonstrating through this is that
14   these entities prepared financial information. This
15   financial information was prepared either by Mazars or
16   Whitley Penn, or by the international accountants.
17   Mr. Hawthorn was involved in this, and there was no issue
18   with these. I don't see any issue with that at all.
19   (Continued on the next page.)
20
21
22
23
24
25

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1   MR. AMER: It is irrelevant to the case. We are
2   not challenging the financial statements that were
3   prepared and submitted by the borrowing entities on their
4   own behalf. We are challenging the Statements of
5   Financial Condition by the guarantor.
6   MR. ROBERT: Then what is your claim against the
7   individual defendants if it is not for the financial -- if
8   it is not for them entering into the loan agreements?
9   I am sorry, Judge.
10   THE COURT: Overruled. I believe they are
11   relevant. And we will save time just letting him go the
12   long way.
13   MR. ROBERT: Could I have the last question read
14   back, please?
15   THE COURT: Read back the last question, which
16   is a ways back.
17   MR. ROBERT: That's why I forgot it.
18   (Whereupon, the record was read back by the
19   court reporter.)
20   A   Same as my role in the previous year, seeing that the
21   information was provided to the accounting firm so that they
22   could issue the report.
23   Q   And were you involved in an audit of Trump Old Post
24   Office in 2017?
25   A   Yes.

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1   Q   And what, if any, involvement did you have with
2   that -- withdrawn.
3   What was your role with regard to that?
4   A   Same role as in 2016: Overseeing the audit, that the
5   audit firm got the information they required to issue their
6   report.
7   Q   Were you -- what, if any, involvement did you have
8   with -- just trying to read this, Your Honor -- withdrawn.
9   In 2017, were you involved in an audit involving SLC
10   Turnberry Limited?
11   A   Yes.
12   Q   As well as an audit of Trump International Golf Club
13   Scotland Limited in 2017?
14   A   Yes.
15   Q   And what was your involvement, sir?
16   A   Overseeing the audit from the client's side to see
17   that the audit firm got the information they needed to issue
18   the report.
19   Q   Was there an audit that was done for the Doonbeg
20   properties in Ireland in 2017?
21   A   Yes.
22   Q   And how many audits were there?
23   A   Two.
24   Q   What was your involvement with those?
25   A   Overseeing the audit engagement process to ensure the

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1   audit firm got the information they needed to issue their
2   report.
3   Q   Turning to 2018. Mr. Hawthorn, was there a
4   compilation prepared by Mazars for Trump Endeavor 12 LLC?
5   A   Yes.
6   Q   What, if any, involvement did you have with that?
7   A   Overseeing that to see that the audit firm got the
8   information they required to issue their report.
9   Q   And sir, was there a compilation report in 2018
10   prepared by Mazars for 401 North Wabash LLC?
11   A   Yes.
12   THE COURT: Better, but still not there.
13   MR. ROBERT: What is the right pronunciation?
14   MR. KISE: He may need to listen to Johnny Cash
15   on the weekends to learn about Wabash.
16   THE WITNESS: I would pronounce it Wabash.
17   (wah-bash)
18   MR. AMER: Just to be clear, I am not against
19   Mr. Robert collapsing these questions into a single
20   question to deal with multiple years or multiple entities.
21   So, that wasn't -- I don't know that the long way means he
22   has to ask a separate question for each year.
23   THE COURT: Let me just try what I would do
24   here. I would just let it in as a demonstrative, as
25   demonstrative evidence after asking him whether his answer

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1 would be the same. You say it is irrelevant, so let's
2 just let it in and move.
3 MR. AMER: We are fine with that. That wasn't
4 my issue.
5 MR. ROBERT: If it is solely in for
6 demonstrative purposes, there is nothing in the record
7 that what is contained in here is exactly what he prepared
8 and he was involved in the audits. If we are saying I can
9 ask a generalized question and it goes in for -- that's
10 why I sought to introduce this as a piece of evidence as
11 opposed to as for demonstrative.
12 THE COURT: I changed my mind. Let's do it your
13 way. As long as plaintiff agrees and we can agree on some
14 language that he would testify that he was aware -- I am
15 not sure of the right word, of the -- all of the audits,
16 compilations and anything else in here actually occurred.
17 MR. AMER: That's fine with me. My only point
18 was Mr. Robert could ask a question for the years 2018 to
19 2021, were you involved in preparing the compilation for
20 Trump Endeavor 12 LLC. And we would deal with all of
21 those years in one question, instead of having to ask the
22 same question for each year separately.
23 MR. KISE: Perhaps Mr. Amer would want to do the
24 direct and cross today and move it along to feel better?
25 MR. AMER: I am just trying to be helpful,

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1 Mr. Kise.
2 MR. KISE: I know you are. I just couldn't
3 resist.
4 THE COURT: I think I can just do this myself.
5 Mr. Hawthorn, this is a chart that you prepared,
6 correct?
7 THE WITNESS: Yes, sir.
8 THE COURT: And submitted it last night,
9 apparently, to the plaintiffs. Or maybe you don't know
10 that.
11 MR. ROBERT: I can attest that that's right.
12 THE COURT: Okay. And this list, I see, reviews
13 audits and compilations of the entities listed on the
14 left, for the years listed on the right; is that correct?
15 THE WITNESS: Yes.
16 THE COURT: And if you can summarize, what was
17 your involvement in or knowledge of these various reports,
18 I'll call them?
19 THE WITNESS: So my knowledge is that there is
20 an individual report for each one of those entries. So
21 there is 116 sets of financial statements that are
22 available to cite and to see for these demarcations here.
23 THE COURT: And --
24 THE WITNESS: Personally, I was involved from my
25 2016 joining the company, thereafter. When I joined the

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1 company in 2016 my role required me to understand the
2 history of these entities and therefore I was able to cite
3 and see and review the years prior to my joining the
4 company.
5 THE COURT: And I am not asking if you read
6 every line, but did you actually see either hard copy or
7 digital copy each one of these 116 "reports," I'll call
8 it?
9 THE WITNESS: Yes.
10 THE COURT: All right. It is in.
11 (Whereupon, the document referred to was deemed
12 marked for evidence as Defendant's Exhibit 1054 by
13 the Court.)
14 THE COURT: And I want to compliment the
15 witness. He is the first one to really be able to stare
16 at me and still have his voice picked up by the
17 microphone. You are very good at that. It is a skill.
18 All right. It is in evidence for the limited
19 purposes. But if there is any further objection I'll
20 reconsider.
21 MR. AMER: That's fine, Your Honor, for the
22 limited purposes.
23 THE COURT: Okay.
24 Q So with regard to Trump Endeavor 12 and 401 North
25 Wabash, the reports listed in D-1054 were produced for purposes

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1 of loans that were procured, correct?
2 A Correct.
3 Q And what is your familiarity, if any, with the
4 Chicago and Doral loans?
5 A I am familiar that those entities named are the
6 borrowers under those loans. I am familiar in my role of
7 overseeing the hotel division -- I am familiar with the loan
8 instrument. I had to read it. I had to understand it as part
9 of my job function.
10 Q And those two properties fall within your purview of
11 your division, correct?
12 A Correct, they are hotel properties.
13 Q So I want to talk to you about the Chicago loan.
14 Okay, sir?
15 A Yes, sir.
16 Q And when was the Chicago loan taken out,
17 approximately?
18 A My understanding is that the Chicago loan was taken
19 out in June of 2014 with an original principal balance of
20 $69 million.
21 Q And pursuant to the loan documents back in June of
22 2014, was there a guaranty that was attached to it?
23 A Yes, I believe there was.
24 Q And what, if anything, do you know about that
25 guaranty in terms of a net worth requirement?

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1   A   My understanding is that the inception of the loan,
2   which was in June of 2014, there was a 100 percent guaranty on
3   the loan. And there was a requirement of a $2.5 billion net
4   worth at that point in time, June 2014.
5   Q   And Mr. Hawthorn, what, if anything, happened with
6   regard to that loan in December of 2014, just about six months
7   later?
8   MR. AMER: Objection, lack of foundation.
9   THE COURT: Sustained.
10   But you can try to get a foundation, form a
11   foundation.
12   Q   Mr. Hawthorn, did there come a time -- withdrawn.
13   Was that loan for principal, interest or both?
14   A   It was a principal -- it was an interest-only loan.
15   So therefore the requirement was to pay monthly interest. And
16   the principal would mature at the maturity of the loan.
17   Q   Did there come a time when principal was reduced on
18   that loan?
19   A   Yes.
20   Q   And when was that?
21   A   That was six months later, December 2014.
22   Q   And how much principal was paid down at that point?
23   MR. AMER: This is the same foundation
24   objection.
25   THE COURT: Yeah. He wasn't working there, so.

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1   MR. ROBERT: He testified that he has reviewed
2   the loan documents. He knows the loan documents. He is
3   familiar with them because this is now one of his
4   properties that he is overseeing and in charge of, so he
5   knows what happened to the loan. And eventually we are
6   going to get into what happened from 2016 on. And the
7   loan documents are in evidence already.
8   MR. AMER: Your Honor --
9   THE COURT: Wouldn't this be hearsay?
10   MR. ROBERT: No.
11   THE COURT: Anyway, Mr. Amer?
12   MR. AMER: I think if we have lengthier
13   discussion on this line of questioning that probably
14   requires us to excuse the witness, Your Honor.
15   THE COURT: Okay. I'll ask you to step in the
16   back.
17   (Whereupon the witness stepped down from the
18   stand and exited the courtroom.)
19   THE COURT: Go ahead, Mr. Amer.
20   MR. AMER: I haven't heard any foundation that
21   would explain why this fact witness would have all of this
22   knowledge about the loan servicing, which I understand was
23   done through corporate accounting, which he didn't work
24   in. And I am concerned that what is happening here is
25   that we are turning a fact witness into an expert witness

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1   on the loans and what happened with the loans over the
2   life of the loans. And there is no evidence in the record
3   that this witness in his role that was circumscribed to
4   the hotel division, would have had that type of
5   responsibility or involvement in how the loans operated.
6   So, and I think to turn this witness from a fact witness
7   into an expert witness on the loans, is improper. He
8   wasn't designated as an expert and it is, you know, not
9   anything that was ever disclosed to us in the form of an
10   expert report. So he shouldn't be allowed to become an
11   expert in these loans.
12   THE COURT: Well, Mr. Amer, I have a different
13   take. I don't think he needs to be an expert to say a
14   loan was paid off. But he wasn't there. So, to me it is
15   hearsay.
16   MR. ROBERT: Your Honor, this witness is going
17   to be laying out certain facts. And we will have expert
18   testimony from Mr. Unell later in the week, which is the
19   banking expert that would be akin to an expert. But
20   Mr. Hawthorn clearly would know what was paid and when it
21   was paid, as his role, he was the CFO and now the COO of
22   the hotel division. This loan was operational before it
23   was paid off during his time as CFO and then COO. So he
24   certainly would know what the term of the loan was, when
25   payments were made to the loan; and what the implications

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1   of those payments were for the Trump Organization and for
2   the guarantor. That is certainly something he would know.
3   THE COURT: And when was this paid off?
4   MR. ROBERT: Well, the original loan of 69
5   million was reduced to 45 million in 2014. And then the
6   loan was paid off in October of '23, just a couple of
7   weeks ago.
8   THE COURT: Well, how does he know what happened
9   in 2014?
10   MR. ROBERT: He is going to know that from the
11   fact that he has reviewed the documents. And there is
12   also an e-mail that I am about to introduce, which is
13   between Emily Schroeder of Deutsche Bank and Jeff
14   McConney, that confirms that this payment was made in
15   December of -- in 2014.
16   MR. AMER: That's the point. Right? They had
17   Mr. McConney on the stand. He was in corporate
18   accounting. He had a role to play with the loan. I
19   haven't heard anything about this witness's job
20   description that would suggest that he had anything other
21   than a passing knowledge of the fact that these loans
22   existed. But not that he had any responsibility for
23   maintaining the loans or interacting with the bank
24   personnel about these loans. So I think this is just
25   having this witness review a bunch of documents so that he

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1 can testify about loans that he didn't have any
2 responsibility for.
3 THE COURT: Mr. Kise? You are standing so you
4 are either leaving or you want to say something.
5 MR. KISE: I am happy to go back to Florida,
6 I'll tell you that. Do I need to speak? That's the next
7 question, before I violate your first principle.
8 THE COURT: Well, I want to split the baby.
9 What happened in 2014 he wouldn't know if he says it was
10 paid off later.
11 But let me ask plaintiffs a direct question. Is
12 there some doubt that this stuff happened? If yes, yes.
13 But if not, why should we fight about it?
14 MR. AMER: Because they are not getting it in
15 through a witness who has any actual knowledge about what
16 happened. If they want to put it in through a different
17 witness, if they want to call Mr. Garten or somebody else
18 who had a role. We can do this on a foundational basis.
19 If you want to just see if they can lay the proper
20 foundation based on questions about his role and
21 responsibility, we could do it that way.
22 MR. ROBERT: First --
23 THE COURT: You are not answering my question.
24 Is the -- do you doubt what he is saying, what he is going
25 to say, that the loan was reduced and then paid off?

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1 MR. AMER: I think there are some things in the
2 exhibits that we have seen that we are disputing.
3 Particularly whether there was a continuing requirement
4 for the guarantor to submit a certification, at least in
5 the documents we have seen, that they sent us last night.
6 There is going to be a dispute over that.
7 MR. ROBERT: Whether --
8 THE COURT: That can't be done in cross
9 examination?
10 MR. AMER: If the testimony is going to come in
11 on that, it should come in through a witness who actually
12 knows about it, not a witness who has just read a bunch of
13 documents to, you know, come to testify today about it for
14 the first time.
15 THE COURT: Well then the cross-examining could
16 be: How do you know? Oh, you don't really know.
17 MR. AMER: Well, then --
18 THE COURT: I am not telling you how to run your
19 show, but.
20 MR. AMER: I understand that. But there is a
21 need for foundation. And that's a common objection, and
22 there is a reason for it, Your Honor.
23 THE COURT: Okay. Mr. Robert, can you deal with
24 the objection?
25 MR. ROBERT: Your Honor, I can lay a foundation

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1 through the witness. In his role as the CFO and COO he
2 reviews loan documents; he is intimately involved; has
3 intimate knowledge of the provisions of the loans.
4 I was trying to be simple because Ms. Schroeder,
5 who is testifying tomorrow, it is her e-mail, he can get
6 it in through her. But it makes more sense to do it this
7 way.
8 I'll do whatever the Court wants.
9 THE COURT: Lay a foundation.
10 MR. ROBERT: Okay, fine.
11 THE COURT: Let's get the witness back.
12 MR. ROBERT: Thank you, Judge.
13 (Whereupon the witness resumed the stand.)
14 THE COURT: Welcome back.
15 Okay. Next question.
16 Q Mr. Hawthorn, in your combined role as CFO of the
17 hotel group and now COO of the hotel group what, if any,
18 involvement do you have in overseeing the Chicago loan?
19 A So, I oversee the compliance of the loan in terms of
20 the property level obligations. So, that includes the
21 oversight of the compilation report that was submitted,
22 oversight of the DSCR test that needs to be or had to be
23 submitted; and also to ensure that the interest is paid on
24 time. Because the borrower pays monthly interest to ensure
25 that the loan is compliant with its terms.

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1 Q What is a DSCR test?
2 A So that is the debt service coverage ratio test. It
3 is a very common ratio that lenders put into loan agreements to
4 help provide evidence that the borrower has sufficient cash
5 flow or net operating income, sometimes is what it is called,
6 to service the loan.
7 Q And what, if anything, do you need to know about the
8 loan documents themselves to be able to understand how to
9 prepare a DSCR?
10 A You need to understand definitions in the loan
11 agreement, defined terms, how things are calculated. You need
12 to understand provisions in the loan regarding financial
13 reporting, and other compliance matters. As well as just the
14 loan generally to understand how you can be compliant with your
15 obligation as a borrower.
16 Q Is one of the issues of the DSCR how much of the
17 principal amount is still due to the bank?
18 MR. AMER: Objection, leading.
19 THE COURT: Sustained.
20 Q What are some of the factors that you must look at to
21 determine whether the DSCR is satisfied?
22 A The DSCR is a periodic test. It is an annual test
23 derived from the income statement of the loan. The revenues
24 and expenses, which derives the net operating income, which is
25 your numerator. And then the interest expense is the

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1 denominator.
2 Q Are you familiar in these loans of a concept known as
3 a step down?
4 A Yes.
5 Q What is a step down?
6 A A step down is a concept relating to the guaranty of
7 the loan, and the percentage of which the loan is guaranteed.
8 Q And what are the factors that go into the, in
9 particular, the Doral loan -- withdrawn.
10   What are the factors specific with the Chicago loan
11 that you need to understand to understand the step down
12 percentage?
13 A The step down percentage is effectively dependent on
14 the DSCR and/or another term called the loan-to-value or the
15 LTV, another acronym.
16 Q And this may sound very simplistic, sir, but the
17 loan-to-value, by definition you have to know how much of the
18 principal loan is still outstanding, correct?
19   MR. AMER: Objection, leading.
20   THE COURT: Sustained.
21 Q What are the factors you need to consider in
22 determining the LTV, sir?
23 A You need to know the principal of the loan. And we
24 don't determine the value, the bank would determine the value.
25 Q Those are the two factors necessary to determine the

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1 LTV, correct?
2 A Correct.
3 Q So I am going to ask you again, sir, what, if
4 anything, happened in December of 2014 with regard to the
5 principal of this loan?
6 A So the principal was paid down.
7   MR. AMER: Objection, foundation grounds.
8   THE COURT: Sustained.
9 Q Were you -- did there come a time that you became
10 aware of what the principal amount of the loan was?
11 A Yes.
12 Q And what is the -- what was the principal amount of
13 the loan prior to October of 2023?
14   MR. AMER: Objection. Can we find out how he
15   became aware as part of the foundation?
16   THE COURT: Yes. Sustained.
17 Q Did you become aware of this, sir?
18 A It is in the financial statements that I prepare with
19 the accounting firm.
20 Q So, again, sir, in December of 2014, was there --
21 what, if anything, happened with regard to the principal
22 balance of this loan?
23 A It was $45 million. It was reduced from 69 million
24 to 45 million.
25   MR. ROBERT: I am going to show the witness a

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1 document that has been marked as D-1055 for
2 identification.
3   THE COURT: And six-minute warning.
4   MR. ROBERT: Thank you.
5   (Handing)
6 Q I ask the witness to take a look at the document for
7 a moment.
8   Putting the document to the side for a minute, going
9 back to the notion of a step down percentage; what is the
10 significance of that?
11 A It is the percentage of the loan principal that is
12 guaranteed by the guarantor.
13 Q And what, if anything, under the terms of this loan
14 happened to the guaranty in December of 2014?
15   MR. AMER: Objection, foundation.
16   THE COURT: Sustained.
17 Q Mr. Hawthorn, are there provisions in this loan that
18 speak of what happens to the guaranty as the principal amount
19 is reduced?
20 A Yes.
21 Q And what factors under the terms of the loan are
22 looked at in determining what happens to the guaranty?
23 A The principal, the DSCR and/or the LTV.
24 Q Is there some sort of formula that is then used?
25 A Yes.

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1 Q What is that formula, sir?
2 A The loan-to-value is the bank appraised value over
3 the principal. The DSCR is the net operating income over the
4 interest expense.
5 Q And did there come a time in 2014 that the guaranty
6 was changed on the Chicago loan?
7   MR. AMER: Objection, foundation.
8   THE COURT: Sustained.
9 Q What, if anything, are you aware of with regard to
10 the guaranty in or around December of 2014 as relates to the
11 Chicago loan?
12   MR. AMER: Objection, foundation.
13   THE COURT: What, if anything, are you aware of?
14   Sustained.
15 Q Was there -- withdrawn.
16   As a result of the payment of the $15 million in
17 December of 2014, what, if anything -- what, if any effect, did
18 that have on the guaranty?
19   MR. AMER: Objection, foundation.
20   THE COURT: To the -- the actual payment? Is
21   that?
22   MR. AMER: To the affect on the guaranty of a
23   payment made two years before he started working for the
24   company.
25   THE COURT: If he knows the payment was made as

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1   an accountant, well, I suppose --
2   MR. ROBERT: He is also the one doing the DSCR
3   test every month and looking at the loan-to-value ratio,
4   so he clearly knows this.
5   MR. KISE: Yes, Your Honor. All of this
6   foundation stuff seems to be dancing on the head of a pin.
7   Corporations only speak through appropriate individuals.
8   So if someone leaves the company, and a new person comes
9   in, and that new person has to learn what happened before
10   they got there, that doesn't mean everything that they now
11   know can't be -- they can't testify to. I mean, what if
12   the other person is dead? What if the other person who
13   left is no longer employed? So it is kind of, I don't
14   want to use the word, silly, but it is almost silly that a
15   person who is now the de facto CFO/COO that is in the role
16   in the company that would have to have this broad
17   understanding of what took place historically, can't
18   testify.
19   This man testified as the corporate
20   representative in their own deposition. He was the
21   designee. So I don't really understand all of this
22   foundational stuff. Just because someone in a corporation
23   wasn't there -- there were things that happened in the
24   corporation in the 1980s and 1990s, but as the person now
25   responsible for that, he would have to know that. And

1   they can't be precluded from testifying because they
2   weren't actually present at the time, as long as they have
3   a sufficient basis of knowledge in their current role in
4   the company to testify about it.
5   And as Your Honor pointed out correctly, if they
6   want to explore the limits of that knowledge on cross
7   examination, then they can explore the limits of that
8   knowledge on cross examination. But to say that the
9   person in that role now can't testify because he wasn't
10   actually there, doesn't make any legal sense.
11   THE COURT: I think this is an interesting
12   philosophical issue. I tend to take a somewhat hard line
13   view on -- I think I have said this before -- witnesses,
14   either you are a fact witness or an expert witness. If
15   you are a fact witness, how do you know. Did you see it?
16   Did you hear it?
17   MR. KISE: Did you learn it though? He is not
18   an expert witness. He is not an expert witness because he
19   is testifying about factual matters that took place before
20   he joined the company. He is a fact witness for the
21   company. And if he learned it through reviewing
22   documents, reviewing things in his role that would
23   naturally encompass these issues, then there is just
24   really no reason to preclude his testimony based on
25   foundation simply because he wasn't physically at the

1   company at the time. Any CFO or COO that takes over in a
2   role is going to have that limitation that they weren't
3   there prior to when they arrived. That doesn't mean they
4   can't testify with competence and knowledge about matters
5   within the ambit of their responsibilities.
6   THE COURT: I'll pick up on something you said.
7   What he learned. That's why plaintiff is entitled to ask
8   how did he learn it.
9   MR. KISE: How did he learn it, that's fair, and
10   they can ask that. How did he learn it. If they want to
11   question the --
12   THE COURT: Well --
13   MR. KISE: -- the limits of that, that's fine.
14   THE COURT: It is not just the cross examination
15   point. It is a foundation point.
16   MR. KISE: How did he learn? He reviewed the
17   documents.
18   MR. AMER: So.
19   MR. ROBERT: I think as the CFO --
20   MR. AMER: Excuse me. Excuse me. We are at a
21   point where I think the witness needs to be excused again,
22   or you want to take a break?
23   THE COURT: We will break for lunch and order
24   the witness not to discuss the case or his testimony
25   during the break.

1   THE WITNESS: Yes, sir.
2   THE COURT: Okay. See you all at 11:45. Not
3   lunch.
4   MR. ROBERT: We knew what you meant, Judge.
5   THE COURT: It is called a sanity break.
6   (Pause in the proceeding.)
7   (The following proceedings were stenographically
8   recorded by Senior Court Reporter Michael Ranita.)

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1   THE COURT OFFICER: All rise. Part 37 is back in
2   session. Please be seated and come to order.
3   THE COURT: I have to ask the witness to go in the
4   back for just another minute or two. I hope it's not so bad
5   back there. I spend half my day back there.
6   Where is your buddy.
7   MR. ROBERT: He went back to Florida, maybe.
8   THE COURT: Here's what I'm going to do. As I
9   often do, or sometimes do, I'll telegraph what I plan to do,
10   and you can argue strenuously if you really feel strongly.
11   MR. AMER: I did want a quick opportunity to
12   respond to Mr. Kise.
13   There were two things that Mr. Kise said that I
14   think need a response. One is, he referred to this witness
15   as the "de facto CFO" of the company. And I want to make
16   clear that I don't believe that is supported by the
17   testimony. I think he said his role was in the hotel
18   division, and, in fact, the corporate accounting department
19   has a new director of finance, whose name remains
20   undisclosed, but we'll get to that.
21   But the other thing that he said in terms of
22   foundation, I think is also unsupported. The witness -- and
23   this is really the crux of it. I think we are entitled to
24   the foundation for how this witness knows what happened to
25   the guaranty, the effect on the guaranty, based on some

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1   payment made in 2014 before he was working there. And I
2   believe the witness has said that his foundation for that is
3   the preparation of financial statements in 2016 and later.
4   And I just don't understand how preparing a financial
5   statement would give him any knowledge of what the effect of
6   the payment was on the guaranty two years earlier.
7   So those are my two points, your Honor.
8   THE COURT: Well, here's what I plan to do. I'll
9   just repeat, you are either a fact witness or you are an
10   expert witness. He's not an expert. He's a fact witness,
11   so what did he see? What did he hear?
12   I'll see to Mr. Amer's point, and we'll ask the
13   foundation of his knowledge, if there's a question that is
14   not obvious that he would know. If he says, as I expect may
15   be, well, I saw a document. I saw a receipt. You know, I
16   saw it on the screen. Um, I'll let him say that, but I'm
17   the Judge, and whether the document -- the record is
18   reliable, and whether I believe he actually saw it. And
19   that will be enough foundation for him to say it, but I'll
20   decide what it means in the long run.
21   Mr. Amer, is that -- and Mr. Robert, any comments?
22   MR. ROBERT: I don't have a problem with that at
23   all.
24   MR. AMER: I think --
25   THE COURT: You don't have a problem?

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1   MR. ROBERT: No, sir. It's fair game.
2   THE COURT: Mr. Amer?
3   MR. WALLACE: I think if he is going to rely on a
4   document or a function that he performed, then the dots need
5   to be connected. He can't just say he relies on a document
6   if the document actually doesn't shed light on what it is he
7   is about to testify to.
8   MR. ROBERT: So two things, your Honor. Well --
9   THE COURT: Maybe you should quit while you are
10   ahead.
11   MR. ROBERT: Sounds like a good idea. That's why
12   I'm stopping.
13   THE COURT: Which is another way of saying, rule
14   number one.
15   All right. Let's get the witness again.
16   MR. ROBERT: Yes, sir.
17   (Whereupon, the witness stepped into the witness
18   stand.)
19   MR. ROBERT: May I proceed?
20   THE COURT: Please.
21   Q   Mr. Hawthorn, how did you come to the knowledge that in
22   December of 2014, a $15 million payment was made toward
23   principal on the Chicago loan?
24   A   The balance of 45 million is stated in the financial
25   statements for that year that I've reviewed.

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1   Q   And why -- what exactly do you review in the financial
2   statements that led you to see that?
3   A   The balance sheet.
4   Q   Is the balance sheet something that you review every
5   year?
6   A   Yes.
7   Q   And you started that practice in 2016?
8   A   Yes.
9   Q   And when you assumed your role in 2016, had you looked
10   at the balance sheet for prior years?
11   A   Yes.
12   Q   How many years back did you look at those, if you
13   remember?
14   A   As far back as I needed to to understand the history of
15   the entity.
16   Q   Would that certainly include 2014 and 2015?
17   A   Yes.
18   Q   And sir, so the testimony is clear, it is from that
19   review that you know that the $15 million payment was made;
20   correct?
21   A   Correct.
22   Q   Okay.
23   I'm going to draw -- and, sir, in addition to knowing
24   that the payment was made, how, if in any way in your
25   preparation of the financials, are you concerned about what

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1 effect the guaranty has on that loan?
2   MR. AMER: Objection. Leading.
3   THE COURT: Can you read it back.
4   (Whereupon, the requested question was read back by
5   the court reporter.)
6   THE COURT: Well, it's convoluted, but if you could
7   answer, I'll allow it.
8   A   I understand that the guaranty is linked to the
9 stepdown percentage in the loan agreement.
10   Q   And why would that matter to you in your role as CFO
11 and COO of the hotel group, with regard to this loan?
12   A   Because I oversee the hotel portfolio and I oversee all
13 aspects relating to hotel assets.
14   Q   But more specific than that, is there a financial
15 reason in your role as to why you would want to know whether the
16 guaranty was in effect or not?
17   MR. AMER: Objection. Leading.
18   THE COURT: Leading.
19   Q   What do you want to understand with regard to the loans
20 that are -- withdrawn.
21   Part of your role is to oversee the loans for the
22 properties in your division; correct?
23   A   Yes.
24   Q   And what are the factors that you look at when
25 determining -- withdrawn.

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1   What do you want to know about those loans?
2   A   I want to know everything about them so I could
3 understand them to do my job.
4   Q   I can't ask you a leading question, so what would that
5 include?
6   A   That would include terms and conditions of the loan, it
7 would include the principal balance, it would include interest
8 rates, it would include any guarantee provisions and anything
9 contained therein that we, as a company, need to be compliant
10 with.
11   Q   Now, you just focused on the guarantee provisions. Why
12 would you want to know about the guarantee provisions?
13   A   To have an understanding of the loan and the
14 obligations of borrower.
15   Q   The examples that you just gave, did you do that
16 process with regard to the Chicago loan?
17   A   I did.
18   Q   And did you do that process when you took over your
19 role in 2016?
20   A   I did.
21   Q   And could you do this every subsequent year with regard
22 to this loan?
23   A   Yes.
24   Q   And sir, after this payment was made in December of
25 2014, what was your understanding as to the effect of the

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1 guaranty?
2   A   My understanding is that in connection with the
3 principal reduction, that the stepdown percentage, effectively
4 the guaranty percentage, was reduced to zero.
5   Q   And do you know if The Trump Organization received
6 confirmation from anyone about that fact?
7   MR. AMER: Objection. Lack of foundation.
8   We are talking about 2014 now, right?
9   MR. ROBERT: Right. So I'm asking him if he knows
10   in or around 2014, or '15, whether The Trump Organization
11   had confirmation of that from anyone other than you.
12   MR. AMER: Lack of foundation.
13   THE COURT: I think that is a foundational
14   question.
15   MR. ROBERT: Yeah.
16   THE COURT: Overruled.
17   A   So I reviewed correspondence with the lender and the
18 company's representatives about the matter.
19   Q   And in front of you has been presented Defendant's
20 Exhibit 1055. Is this one of the documents that you reviewed?
21   A   Yes.
22   Q   What is this document?
23   A   This is an e-mail from Deutsche Bank to Jeff McConney
24 in 2015.
25   Q   Let's go to the bottom of it and work our way up.

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1   (Whereupon, the exhibit was displayed on the
2   screen.)
3   Q   What do you see occurring on January 21st, 2015, at
4 12:12 p.m?
5   MR. AMER: I'm going to object, your Honor. This
6   is a witness just reading a document that was sent before he
7   worked for the company. How is this appropriate?
8   THE COURT: Sustained.
9   MR. ROBERT: Your Honor, if I may, first of all, I
10   spent hours listening to having the Attorney General have
11   people read from e-mails.
12   Secondarily, this is one of the documents --
13   THE COURT: But, well, a lot of those e-mails they
14   sent, they received, they were there at the time, had
15   independent confirmation.
16   MR. ROBERT: Your Honor, this witness said this was
17   one of the e-mails he reviewed in coming to his assessment.
18   I think the e-mail comes into evidence because it's a
19   corporate record, but nonetheless, I'll introduce it subject
20   to connection, because Ms. Schroeder is going to be here
21   tomorrow or Wednesday -- I'm not sure what day she is
22   testifying -- and say she sent this e-mail exchange to
23   Mr. McConney. The e-mail is coming in whether we do it
24   today, tomorrow or subject to connection, but it's coming
25   in.

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1   THE COURT: Why should it come in with this
2 witness?
3   MR. ROBERT: Because he claims that this is one of
4 the documents that he used to confirm his knowledge that
5 Deutsche Bank agreed with his assessment that the guaranty
6 was no longer in existence once there was the pay down.
7   THE COURT: That satisfied Engoron's two prong
8 test.
9   Overruled. I'm changing my mind, overruled.
10   MR. ROBERT: So we then have 1055 in evidence,
11 correct, sir?
12   THE COURT: I'm sorry?
13   MR. ROBERT: D-1055 is in evidence, correct?
14   THE COURT: You didn't move it into evidence
15 before. You were just asking him to --
16   MR. ROBERT: Okay. I'll refer and just go through
17 the questions and move it in afterwards, subject to
18 connection, if you want, for tomorrow.
19   THE COURT: Let's do that.
20   MR. ROBERT: If I could have the question read
21 back, please.
22   THE COURT: Please.
23   (Whereupon, the requested question was read back by
24 the court reporter.)
25   A   I see an e-mail inquiry to Jeffrey McConney, to Emily

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1 Schroeder, inquiring that the loan is now paid down to 45
2 million and that the DJT guaranty is gone.
3   Q   And do you see a response to that e-mail on the earlier
4 page?
5   (Whereupon, the exhibit was displayed on the
6   screen.)
7   Q
8   A   I do.
9   Q   And what is Ms. Schroeder's response?
10   A   Her response is "confirmed."
11   Q   Let's go in between, Mr. Hawthorn. It starts at the
12 bottom of the page.
13   A   Her response is, "I'm pretty sure you are correct. I
14 just want to take a quick look at the docs and will get back to
15 you to it confirm."
16   Q   Does Mr. McConney respond to that on January 21st about
17 an hour and change later?
18   A   He does. He says, "Thanks, Emily."
19   Q   And does Ms. Schroeder respond to him a half hour
20 later?
21   A   She does.
22   Q   What did she say?
23   A   She says, "Confirmed, Jeff. Once the loan is at 45
24 million or below, the LTV versus the apprised value of 133
25 million is 34 percent, which is below the 35 percent threshold

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1 for the required guaranty. Thus, Mr. Trump's guaranty burns
2 down to zero percent."
3   MR. ROBERT: Your Honor, I move Defendant's
4 Exhibit 1055 into evidence.
5   MR. AMER: No objection.
6   THE COURT: It's in.
7   (Defendant's Exhibit 1055 was admitted in
8 evidence.)
9   Q   Mr. Hawthorn, what obligations, if any, did you
10 understand The Trump Organization had from 2015 through August
11 of 2020 with regard to this loan?
12   A   Um, I'm familiar with the borrower's reporting
13 requirements, which included the issuance and the delivery of
14 the compilation financial statements, as well as the DSCR test
15 on an annual basis, accompanied with a compliance certificate
16 certifying that the amounts presented to the lender were
17 accurate.
18   Q   And these were presented every year, sir?
19   A   Yes, sir.
20   MR. ROBERT: I'm not going to take him through each
21 year, Judge.
22   If we could slow the witness and the Court
23 Defendant's Exhibit 1047, please, and cull it up on the
24 screen.
25   (Whereupon, the exhibit was displayed on the

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1   screen.)
2   MR. ROBERT: We also have a copy for the Attorney
3 General.
4   (The witness was handed the exhibit.)
5   Q   Mr. Hawthorn, you've been handed a document identified
6 as Defendant's Exhibit 1047. What is this document?
7   A   This document is correspondence that I prepared and
8 submitted to Deutsche Bank in connection with the annual
9 compliance testing.
10   Q   Who is Joshua Frank, sir?
11   A   Joshua Frank is a representative of Deutsche Bank. He
12 was my primary contact at the bank when dealing with any matters
13 relating to this loan.
14   Q   And what do we find on the page identified as 1047-2,
15 and 3, and 4?
16   A   So attached to my cover letter, which is dash one, dash
17 two is the annual compliance certificate of 401 North Wabash
18 Venture, LLC for the 2018 year.
19   Q   And the rest of the document D1047-five through
20 D-1047-12?
21   A   Those are the accompanying financial statements, the
22 actual issued compilation statements of the entity for the year
23 2018.
24   Q   And this is the package that you sent to Mr. Frank on
25 April 30th, 2019?

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1 A   Correct.

2   MR. ROBERT: Your Honor, I move Defendant's

3 Exhibit 1047 into evidence.

4   MR. AMER: No objection.

5   THE COURT: Granted. It's in.

6 Q   Drawing your attention to page two of that, which would

7 be 1047-2, 3 and 4, what, if any, involvement did you have in

8 the preparation of the compliance certificate?

9 A   I prepared it.

10 Q   And what did you do to prepare that certificate, sir,

11 specifically?

12 A   I had to review the 2018 issued financial statements

13 and the numbers therein. I had to also compute the DSCR for the

14 period. And then I had to list out those amounts on this

15 certificate for visibility, and the computation of the DSCR for

16 that period.

17   (Whereupon, the exhibit was displayed on the

18   screen.)

19 Q   And what are we looking at on the top of D-1047? It's

20 actually the bottom of D-1047-2 onto the top of page three.

21 What are we looking at this there?

22 A   Section two is a confirmation of the debt service

23 coverage ratios, the DSCR, and its components for that fiscal

24 year.

25 Q   What are those components, sir?

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1 A   Those components are the operating income and operating

2 contributions over less operating expenses, and that amount

3 divided by the debt service expense for the period, coming to a

4 calculation of 2.384 for this period.

5 Q   What, if any, significance is there to the 2.38?

6 A   The 2.38 is compared to the threshold required in the

7 loan agreement. If you see in section two, it says that they

8 are required to maintain a DSCR of 1.25. So it's exceeding

9 that. And therefore, the ratio in this particular year is

10 complied with.

11 Q   I'm then going to draw your attention to D1047-4.

12 A   Okay.

13 Q   Who signed this document?

14 A   This was signed by Donald Trump, Jr., as president of

15 the 401 North Wabash Venture, LLC entity.

16 Q   What, if any, involvement did you have in Mr. Trump

17 executing this agreement, referring to Mr. Donald Trump, Jr?

18 A   I provided Donald Trump, Jr. this packet, noting that

19 it was complete, that the team, led by myself, prepared it; that

20 it was ready to be submitted so that he may sign the certificate

21 so it could be submitted.

22 Q   And this was a conversation you would have had with

23 him; correct?

24 A   Yes. Probably also documented in an e-mail.

25 Q   Okay. And what are we looking at at D-1047-5 through

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1 12?

2 A   These are the compilation financial statements of this

3 entity for this fiscal year.

4 Q   And these were required under the terms of the loan?

5 A   Correct.

6 Q   Okay. Thank you, sir.

7   I'm now going to ask the witness to look at what was

8 has been marked as Defendant's Exhibit 1051, and ask that it be

9 handed to the witness, the Court and Attorney General.

10   (Whereupon, the exhibit was displayed on the

11   screen.)

12   (The witness was handed the exhibit.)

13 Q   Mr. Hawthorn, you've been handed what's been marked as

14 Defendant's Exhibit 1051 for identification. Do you recognize

15 this document?

16 A   Yes.

17 Q   Mr. Hawthorn, what is this document?

18 A   This is an e-mail from myself to Joshua Frank at

19 Deutsche Bank, with the same information that was shown

20 previously, but for this time it's the 2019 year.

21 Q   And for saving time, attached to this is your cover

22 letter; correct?

23 A   Correct.

24 Q   And what is on pages three through five?

25 A   It's the compliance certificate for the 2019 year.

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1 Q   And what is at six through 14?

2 A   It is the compilation financial statements for the 2019

3 year.

4 Q   And sir, with regard to -- what, if any, involvement

5 did you have in the preparation of the compliance certificate?

6 A   I prepared it.

7 Q   Using the same method and procedure you just testified

8 about for the previous year?

9 A   Correct.

10 Q   What, if any, involvement did you have in Mr. Donald

11 Trump, Jr's. execution of this agreement?

12 A   Similar to 2018 and every other year, I would advise

13 him that the work had been completed, that we were comfortable

14 with it being submitted, and we would present it to him for

15 signature so it could be sent duly to the lender.

16   MR. ROBERT: Your Honor, I move Defendant's

17 Exhibit 1051 into evidence.

18   MR. AMER: No objection.

19   THE COURT: Granted. It's in.

20   (Defendant's Exhibit 1051 was admitted in

21   evidence.)

22 Q   Mr. Hawthorn, what, if anything, happened with regard

23 to this loan in August of 2020?

24 A   August of 2020, we recall was during the COVID-19

25 pandemic. During that year, businesses such as hotels were shut

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1 down and not able to conduct business. So that year was a year
2 where, on its face, we would not have met the DSCR requirement,
3 because the net operating income would not have exceeded the
4 interest expense for the period, although, the borrower
5 continued to make its monthly interest payments and was not in
6 default of any obligation. It was still able to make the
7 payments.
8   The calculation in and of itself was not meeting the
9 threshold because of a low economic environment, and people not
10 able to stay at the hotel.
11   Q What, if anything, happened with regard to this loan as
12 a result of that?
13   A What happened is if in this period you do not meet the
14 DSCR, the lender, at any time during the loan, has the
15 opportunity to do its own fair value assessment, doing an
16 appraisal of the loan to determine the loan to value. So the
17 fact that this DSCR was not met, it allows them the opportunity
18 to do that.
19   There's also, I guess, three prongs by which a DSCR can
20 -- if it's failed on its face, can be effectively remedied. One
21 is, the lender would commission an appraisal as I described.
22   The other is the lender could have the borrower post
23 collateral of a certain amount to satisfy the lender.
24   And the third is that the borrower can pay down the
25 loan to a certain amount to satisfy the lender per the terms of

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1 the agreement.
2   MR. AMER: Your Honor, I'm going to move to strike
3 the answer. The question was what, if anything, happened
4 with regard to this loan as a result of that, "that" meaning
5 COVID. I don't think the answer responded to that.
6   MR. ROBERT: He's -- I'm sorry, your Honor.
7   THE COURT: Granted. The question was a lot
8 simpler than the answer.
9   THE WITNESS: Sorry.
10   THE COURT: These things happen.
11   Q With regard to this particular loan, did The Trump
12 Organization receive notice from Deutsche Bank?
13   A Yes.
14   Q And what did Deutsche Bank -- what was your
15 understanding as to what the Trump Organization -- withdrawn.
16   Did The Trump Organization DSCR fall below the
17 acceptable limit?
18   A Correct.
19   Q What, if any, options did the Trump Organization have
20 at that time with regard to this loan?
21   A They could either post collateral, pay down the loan,
22 or reinstate the stepdown percentage to an acceptable level,
23 which would have been ten percent at that point in time.
24   Q And what does that mean in practical terms for The
25 Trump Organization if they were going to increase the stepdown

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1 at that point?
2   A So the stepdown percentage being the amount of loan
3 that's guaranteed, it basically means that the loan would then
4 be guaranteed no longer at zero percent, but it would be
5 guaranteed at ten percent. So in August of 2020, the loan would
6 then be guaranteed as 4.5 million.
7   In addition, the net worth requirement, which before
8 was zero of the guarantor, now goes to ten percent of
9 2.5 billion, the original amount, therefore, the net worth
10 requirement is 250 million.
11   Q Did The Trump Organization take Deutsche Bank up on the
12 offer to increase the stepdown basis to zero -- to ten percent?
13   A Yes.
14   Q And at the same time did Trump Organization agree to
15 have a minimum net worth of $250 million?
16   A Yes.
17   MR. ROBERT: Your Honor, I would like to show the
18 witness Defendant's Exhibit 1050.
19   (Whereupon, the exhibit was displayed on the
20 screen.)
21   Q Mr. Hawthorn, what do you recognize this document to
22 be?
23   A This is correspondence from Deutsche Bank to the
24 attention of the entity 401 North Wabash Venture.
25   Q And do you recognize the signatures on page three of

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1 this letter?
2   A Yes.
3   Q Whose signatures are those?
4   A Donald Trump, Jr. and Eric Trump.
5   Q Could these signatures indicate this is the official
6 acceptance of that proposal with the increase of the stepdown
7 basis that you just referenced?
8   A Yes.
9   MR. ROBERT: Your Honor, I move Defendant's
10 Exhibit 1050 into evidence.
11   MR. AMER: For notice purposes or for more than
12 notice purposes.
13   MR. ROBERT: For the fact that the Trump
14 Organization did, in fact, agree to increase the stepdown
15 percentage, which had been zero, to 10 percent.
16   THE COURT: If that's all he wants it admitted for,
17 I'm fine with that.
18   Mr. Amer, do you agree?
19   MR. AMER: That's fine.
20   THE COURT: It's in for that purpose.
21   MR. ROBERT: Well, to be clear, it would be
22 everything contained in the paragraph that says, "This will
23 also confirm that" because that's what The Trump
24 Organization is confirming.
25   THE COURT: Well, they are saying "we confirm it."

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1   MR. ROBERT: And then The Trump Organization,
2 signed by Eric Trump and Donald Trump, Jr. on behalf of the
3 corporate entity, are agreeing to that term.
4   THE COURT: Okay.
5   MR. AMER: Just so we are clear, it's coming in for
6 the acknowledgment and agreement that appears on the final
7 page that's signed by the Trump employees; is that right?
8   MR. ROBERT: Can I just read what you just said.
9 I'm going to read it from there.
10   (Whereupon, there is a brief pause in the
11 testimony.)
12   MR. ROBERT: Yeah, that The Trump Organization is
13 agreeing to what Deutsche Bank offered them, yes.
14   THE COURT: Okay. That's what it's in for.
15 Q   What, if any, impact did this have, then, on the loan,
16 sir?
17 A   So this increased the stepdown percentage or the
18 guaranty percentage from zero to 10 percent.
19 Q   And again, as to the net worth?
20 A   The net worth was now 250 million.
21 Q   What, if anything, happened with regard to this loan a
22 year or so later in July of 2021?
23 A   Performance since rebounded after the pandemic
24 subsided. Hotel guests were able to come to the hotel again.
25 So in the subsequent reporting, the DSCR test, because revenues

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1 were able to rebound, the DSCR test was, um, met on the face.
2 Q   And what, if any, impact did that have on the loan and
3 revival of the guaranty you just spoke of?
4 A   At that point in time, then the company had the option
5 to take the stepdown percentage back down to zero and remove the
6 guaranty entirely again.
7 Q   What, if anything, did The Trump Organization do with
8 that?
9   MR. AMER: I'm sorry. Again, I'll move to strike
10 the answer, because I think the question was what impact did
11 it have on the guaranty, and answer was the company had the
12 option to do something. But that doesn't respond to what
13 actually happened.
14   MR. ROBERT: I think it does, because he's
15 explaining, as a result of what they do with the guaranty
16 that affects the company's interest rate.
17   THE COURT: I understand Mr. Amer's point.
18   MR. ROBERT: Let me see the question and I'll ask
19 it again. Can I scroll this up?
20   (Whereupon, there is a brief pause in the
21 testimony.)
22 Q   Let's break it down.
23   What, if any, impact did this development in the change
24 of the DSCR have in July of 2021 as to the loan itself? Not the
25 guaranty, just the loan.

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1 A   The interest rate increased.
2 Q   And what, if any, impact did this new DSCR in July of
3 2021 have on the guaranty?
4 A   The guaranty went away again.
5 Q   And did The Trump Organization, in fact, allow the
6 guaranty to go away in July of 2021?
7 A   Yes.
8   MR. AMER: Objection. Leading.
9   THE COURT: Sustained. Leading.
10 Q   And what, if any, impact was -- what, if any, impact
11 was there on the guaranty in July of 2021 as a result of the
12 DSCR now being above the limit?
13 A   The guaranty went away.
14 Q   And what, if any, impact did the guaranty going away
15 have on the loan itself?
16 A   No guaranty means no net worth requirement of the
17 guarantor.
18 Q   And what, if any, impact did it have on the interest
19 rate?
20 A   It increased the interest rate 25 basis points.
21 Q   Now, I would like to show the witness what's been
22 marked as Defendant's Exhibit 1046?
23   (Whereupon, the exhibit was displayed on the
24 screen.)
25   (The witness was handed the exhibit.)

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1 Q   Mr. Hawthorn, I've shown you what has been marked as
2 Defendant's Exhibit D-1046 for identification.
3   What do you recognize this document to be?
4 A   This is an e-mail correspondence from myself to Julie
5 Brand, who, at the time, was the director of finance for the
6 Trump Chicago Hotel.
7   MR. ROBERT: Your Honor, I move Defendant's
8 Exhibit 1046 into evidence.
9   MR. AMER: No objection.
10   THE COURT: Granted. It's in.
11   (Defendant's Exhibit 1046 was admitted in
12 evidence.)
13 Q   Mr. Hawthorn, if you could please read what you are
14 telling -- withdrawn.
15   Who is Ms. Brand again?
16 A   She, at the time, was the director of finance for the
17 Trump Chicago Hotel.
18 Q   And what, if any, role would the director of finance
19 have with regard to this loan?
20 A   At the property level, the property is responsible for
21 paying the interest, the monthly interest from available cash
22 flows at the property, so she would receive the monthly invoice
23 of the loan every month.
24 Q   And what did you exactly tell Ms. Brand in this e-mail,
25 if you could read it to the Court, please.

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1   A   I said, "Julie, FYI below, the good news for the
2 company is that the results allow for the partial guaranty to go
3 away. That means that the ten percent guaranty went to zero."
4   And then I say, "The not so good news for the hotel is
5 that the margin on the LIBOR interest rate now goes up by 25
6 basis points, from 1.75 to 2.0 percent, and you'll see that on
7 next month's invoice, and expect the monthly interest to be
8 slightly higher prospectively."
9   (Continued on the next page.)
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1   A   Because the step down percentage went back up to
2 10 percent, the requirement was reinstated to submit guarantor
3 financials.
4   Q   And then with regard to that what, if anything,
5 happened in July of 2021?
6   A   Because the step down percentage went back down to
7 zero percent, there is no longer a requirement to submit
8 guarantor financials.
9   Q   And, sir, was this loan paid in full?
10   A   Yes.
11   Q   And when was this loan paid in full?
12   A   October of 2023.
13   Q   And, sir, what, if any, requirement was there with
14 regard to presenting the bank with a Statement of Financial
15 Condition for this loan from July of 2021 to the time the loan
16 was repaid in August of 2023?
17   A   None.
18   MR. ROBERT: Your Honor, I would like to show
19 the witness what has been marked as DD-2, this time truly
20 a demonstrative piece of evidence. If we can show it to
21 the witness, the Court, and put it up on the screen,
22 please?
23   Do we have copies of it? Sorry, I am still old
24 school with the paper.
25   (Handing)

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1   Q   And Mr. Hawthorn, to your understanding, why is it
2 that the interest rate went up by 25 basis points at this time?
3   A   Because the step down percentage was reduced from
4 10 percent to zero.
5   Q   Is it your understanding from based on your review of
6 the loan documents and your review of the various financial
7 statements, that from the time the guaranty was voided in
8 December of 14 through August of 2020, that the Trump
9 Organization was required to send Statements of Financial
10 Condition to the bank?
11   MR. AMER: Objection, leading.
12   THE COURT: Sustained, leading.
13   Q   What, if any, obligations of the loan that had
14 existed prior to December of 2014 were no longer in effect from
15 2014 to 2020, if any?
16   MR. AMER: Objection, foundation.
17   THE COURT: Can I ask for a readback.
18   (Whereupon, the record was read back by the
19 court reporter.)
20   THE COURT: Overruled, based on the totality of
21 his prior testimony.
22   A   There is no requirement to submit guarantor
23 financials.
24   Q   And sir, what, if anything, changed in August of 2020
25 with regard to the guarantor financials?

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1   Q   Mr. Hawthorn, you have been handed what has been
2 marked as a demonstrative exhibit marked as DD-2; do you
3 recognize this document?
4   A   Yes.
5   Q   What is this document?
6   A   This is a timeline of the loan and key events from
7 June 2014 through October 2023.
8   Q   Did you prepare this document?
9   A   I assisted with the preparation of it.
10   Q   And does this document reflect the testimony you just
11 gave about when the SOFC was required by Deutsche Bank and when
12 it wasn't?
13   A   Yes.
14   Q   So according to this demonstrative piece of evidence
15 from December of 2014 through August of 2020, the SOFC was not
16 required, correct?
17   MR. AMER: Can we have some clarity on what
18 Statement of Financial Condition this is relating to?
19 Because we have this SFCs of the borrower entities; there
20 is also the guarantor SFC; so it is unclear what this is.
21   MR. ROBERT: I think it is a disingenuous
22 objection because this case is about the SOFC. But so the
23 record is clear, this is evidencing President Trump's
24 Statement of Financial Condition, which is the guarantor's
25 Statement of Financial Condition, which is the basis of

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1 the lawsuit that the Attorney General brought. That's
2 what this is referencing.
3   THE COURT: Well, now we know. So okay.
4   MR. AMER: Thank you.
5   MR. ROBERT: If I could have the last question
6 read back, please?
7   THE COURT: Please read back.
8   (Whereupon, the record was read back by the
9   court reporter.)
10   A   Correct.
11   Q   And sir, based on this demonstrative, the SOFC was
12 also not required from July of 2021 through August of 2023,
13 correct?
14   A   Correct.
15   Q   Okay. I want to now draw your attention to the Doral
16 loan. Okay, sir?
17   A   Okay.
18   Q   What, if any, involvement did you have in your role
19 as CFO/COO of the hotel unit with regard to the Doral loan?
20   A   So in my role I am responsible for the oversight of
21 the hotel portfolio, including Doral, including the
22 understanding of the loan agreement, under which Doral is a
23 borrower, and understanding its terms.
24   I was also responsible for the preparation of the
25 annual financial statements, along with the accounting firm, to

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1 be submitted to the borrower.
2   And just like the Chicago loan, there is also a DSCR
3 annual test.
4   And also a step down percentage test.
5   So very similar document, very similar
6 responsibilities on my part in my role to understand the
7 document and to ensure our compliance with it.
8   Q   And in your role of overseeing these various
9 financial statements and documents for the -- for Doral, did
10 you become familiar with the loan itself and the amount of the
11 loan?
12   A   Yes.
13   Q   And in that course of your work, did you also become
14 familiar with the terms and conditions of that loan?
15   A   Yes.
16   Q   And why would your knowledge of the terms and
17 conditions of that loan be important to do your job as CFO/COO
18 of the hotels?
19   A   Again to understand the obligations of that
20 particular property, which falls under my responsibility.
21   Q   Are you aware, sir, that there was a loan taken out
22 with Deutsche Bank for Doral?
23   A   Yes.
24   Q   And do you know approximately when that loan was?
25   A   I believe it was in 2012.

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1   Q   And do you know the principal amount of that loan,
2 sir?
3   A   125 million.
4   Q   And, sir, do you have an understanding as to whether
5 there was guaranty associated with that loan?
6   A   Yes.
7   Q   And do you have an understanding as to what the terms
8 of that guaranty were back in June of 2012?
9   A   My understanding is it was a 100 percent guaranty.
10   Q   And anything with regard to a net worth requirement?
11   A   My understanding is that the original loan at the
12 onset had a $2.5 billion net worth provision.
13   Q   What, if anything, happened with regard to this loan
14 in August of 2013?
15   A   I understand that the loan had an amendment.
16   Q   And what was the import of that amendment?
17   A   The import of the amendment was to bring it to the
18 concept of the step down percentage, similar to Chicago, to
19 allow for a partial guaranty of the loan.
20   Q   And that was in August of 2013?
21   A   Yes.
22   Q   And without going through everything, it is similar
23 in concept to what we just talked about with regard to Chicago?
24   A   Yes.
25   Q   And sir, what, if anything, happened with regard to

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1 this loan in August of 2015?
2   A   My understanding is that the step down percentage was
3 elected to be 10 percent. And that meant that the guarantors
4 guaranty is 10 percent of the loan balance. So effectively the
5 guarantor is guaranteeing 12.5 million of the loan at that
6 point in time, no longer 100 percent of the loan. And at the
7 same time because it is a 10 percent step down percentage, the
8 net worth requirement of the guarantor is 250 million at that
9 point in time.
10   Q   And did that net worth requirement from August of
11 2015 of $250 million change from then to the time the loan was
12 changed?
13   A   It did not. It remained the same.
14   Q   When was this loan paid in full, sir?
15   A   The loan was repaid in May of 2022.
16   Q   Going back to the period of August of 2015 and the
17 step down basis, what, if any, option was given to the Trump
18 Organization to exercise the step down basis?
19   A   The company had the option to elect the step down
20 percentage to go all the way to zero percent because the LTV
21 was satisfied to allow that to occur. The company, however,
22 elected to keep the step down percentage at 10 percent at that
23 point in time.
24   Q   Which then led to the $250 million net worth
25 requirement and the 12 and a half million dollar guaranty

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1 limit, correct?

2   A   Correct.

3   Q   And, sir, during the course of this loan what, if

4 any, requirements of reporting did the Trump Organization have,

5 or particularly Trump Endeavor 12?

6   A   Trump Endeavor 12 had compilation financial

7 statements that were prepared annually every year, issued by

8 Mazars and then Whitley Penn. Those financial statements were

9 submitted to the borrower and also submitted along with a

10 compliance certificate and a DSCR calculation every year, just

11 like the Chicago loan we looked at previously.

12   THE COURT: Was the question what they did or

13 what they were obligated to do?

14   MR. ROBERT: First it is what they are obligated

15 to do. And now I am going to show documents that showed

16 what they did that were consistent.

17   THE COURT: He didn't answer what they were

18 obligated to do. He answered what they did.

19   Q   The answer you just gave, what they were supposed to

20 do, did the Trump Organization, in fact, do that?

21   A   Yes.

22   MR. ROBERT: Just give me a second. I want to

23 limit this to one year to make it faster.

24   Q   And these financials were required to be provided

25 once a year, correct, sir?

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1   A   Correct.

2   Q   I would like to show the witness Exhibit D-1048.

3   (Handing)

4   MR. ROBERT: And I'll make the second year very

5 fast Judge, don't worry.

6   THE COURT: You read my mind.

7   MR. ROBERT: I try.

8   Q   Mr. Hawthorn, I have handed you what has been marked

9 as Exhibit 1048 for identification. Do you recognize this

10 document?

11   A   Yes.

12   Q   What do you recognize this document to be?

13   A   This is my correspondence to Joshua Frank at Deutsche

14 Bank relating to Trump Endeavor 12 LLC.

15   Q   What is attached to the letter?

16   A   Annual compliance certificates for the year 2018,

17 along with a calculation of the DSCR, along with the annual

18 financial statements of the entity.

19   Q   And the -- what, if any, role did you have in the

20 preparation of the compliance certificate?

21   A   I prepared it.

22   Q   And the same steps that you testified about earlier

23 for the Chicago loan would apply to the Trump Endeavor 12 loan?

24   A   Correct.

25   Q   And the signatory on page D1048-4 is whose?

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1   A   Donald Trump Jr.

2   Q   And the process that you articulated earlier with how

3 you would present this to Mr. Trump Jr. for his execution with

4 regard to the Chicago property, would be the same as for this?

5   A   Correct.

6   MR. ROBERT: Your Honor, I move Defendant's

7 Exhibit 1048 into evidence.

8   MR. AMER: No objection.

9   THE COURT: Granted, it is in.

10   (Whereupon, the document referred to was deemed

11 marked for evidence as Defendant's Exhibit 1048 by

12 the Court.)

13   MR. ROBERT: I would like to show the witness

14 what has been marked as Defendant's Exhibit 1052.

15   (Handing)

16   Q   Mr. Hawthorn, what do you recognize Defendant's

17 Exhibit 1052 for identification to be?

18   A   This is my correspondence to Deutsche Bank in a

19 similar fashion; but this time it is for the year 2019.

20   Q   And this, again, has your letter attached as well as

21 the compliance certificate and the financial statement prepared

22 by Mazars, correct?

23   A   Correct.

24   MR. ROBERT: I move Defendant's Exhibit 1052

25 into evidence.

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1   MR. AMER: No objection.

2   THE COURT: Granted, it is in.

3   (Whereupon, the document referred to was deemed

4 marked for evidence as Defendant's Exhibit 1052 by

5 the Court.)

6   Q   And the same questions I asked you, sir. What was

7 your involvement in the preparation of the compliance

8 certificate?

9   A   I prepared it.

10   Q   And in the same manner as you earlier testified?

11   A   Yes.

12   Q   And this is signed by Donald Trump Jr. on behalf of

13 Trump Endeavor 12?

14   A   Yes.

15   Q   And the manner in which you present -- withdrawn.

16   Did you present this to him for signature?

17   A   Yes, I did.

18   Q   And the manner in which you presented it to him for

19 signature is the same as you testified to earlier?

20   A   Yes.

21   MR. ROBERT: I would now like to show the

22 witness what has been marked for demonstrative purposes

23 Defendant's Exhibit DD-3.

24   Q   And sir, while that is being handed up. When was the

25 Trump National Doral loan paid in full?

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1   A   May of 2022.
2   (Handing)
3   Q   And sir, this demonstrative exhibit DD-3, who
4   prepared this?
5   A   I assisted with the preparation of it.
6   Q   And reviewing this, is this consistent with your
7   testimony you gave earlier this morning with regard to this
8   timeline?
9   A   Yes.
10 Q   So from August of 2015 through May of 2022, the
11 guaranty was only 10 percent with a $250 million net worth
12 requirement, correct?
13 A   Correct.
14 Q   Sir, another one of the properties in your division
15 is the Trump Old Post Office, correct?
16 A   Correct.
17 Q   And sir, the loan involving the Old Trump Post
18 Office, what, if any, involvement did you have with that loan?
19 (sic.)
20 A   Similar to Chicago and Doral, I had to understand the
21 terms and conditions of the loan; I had to ensure that the
22 property level, borrower level information was provided to the
23 lender as required.
24 Q   And what, if any, terms and conditions were there
25 that the Trump Organization needed to undertake with regard to

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1   that loan in terms of reporting?
2   A   Annual financial statements to be submitted with a
3   compliance certificate similar to these other two loans; as
4   well as a DSCR calculation similar to these other two loans.
5   Q   And sir, is that, in fact, what happened with regard
6   to this particular loan?
7   A   Yes.
8   Q   Now, a little earlier you testified that this
9   property had two certifications each year, correct?
10 A   Yes.
11 Q   I am going to take you through each one separately,
12 but I am going to start with the one in May of 2019.
13   MR. ROBERT: If we could show the witness
14 defense exhibit 1049?
15   And this time, Judge, I am only going to use one
16 year's worth.
17   (Handing)
18 Q   Sir, this would be consistent with each year of the
19 loan, correct?
20 A   Yes.
21 Q   Okay.
22   Sir, you have been handed what has been marked as
23 Defendant's Exhibit 1049 for identification. What do you
24 recognize this document to be?
25 A   This is my correspondence to Joshua Frank and

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1   Deutsche Bank relating to the Trump Old Post Office LLC loan.
2   And this is for the year -- this is for the 12 months ending
3   January 31, 2019.
4   Q   And sir, there is a compliance certificate attached
5   to it?
6   A   Yes.
7   Q   And what, if any, involvement did you have in the
8   preparation of the compliance certificate?
9   A   I prepared it.
10 Q   Using the same methods that you talked about earlier?
11 A   Yes.
12 Q   And this is signed by Donald Trump Jr. on behalf of
13 Trump Old Post Office LLC?
14 A   Yes.
15 Q   Did you present this to Mr. Trump Jr. for signature?
16 A   Yes.
17 Q   Is the manner in which you did that the same as you
18 testified to earlier on the other documents?
19 A   Yes.
20 Q   What is the final document from Mazars attached to
21 this?
22 A   This is the compilation financial statement for the
23 entity for the year ended -- for the 12 months ended
24 January 31, 2019.
25   MR. SUAREZ: Your Honor, I move Defendant's

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1   Exhibit 1049 into evidence.
2   MR. AMER: No objection.
3   THE COURT: Granted, it is in evidence.
4   (Whereupon, the document referred to was deemed
5   marked for evidence as Defendant's Exhibit 1049 by
6   the Court.)
7   Q   Mr. Hawthorn, in a moment I am going to show you an
8   e-mail -- hold this -- hold this to the side for a moment.
9   MR. ROBERT: I would like to show the witness
10 Exhibit PX-497. We have copies of it.
11   Yes, Andy, I am actually using one of yours.
12   (Handing)
13 Q   Mr. Hawthorn, do you recognize the document that has
14 been identified for identification as PX-497?
15 A   Yes.
16 Q   And what is this document, sir?
17 A   This is my correspondence to Deutsche Bank for the
18 Trump Old Post Office LLC loan, and its reporting requirements
19 for the year ended August 31, 2019.
20   MR. ROBERT: I move Plaintiff's Exhibit 497 into
21 evidence. I don't think it has already been introduced.
22   MR. AMER: No objection.
23   THE COURT: Granted, it is in evidence.
24   (Whereupon, the document referred to was deemed
25 marked for evidence as Plaintiff's Exhibit 497 by the

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1 Court.)

2 Q Mr. Hawthorn, before we look at the document itself

3 PX-497, what is the difference between these two, aside from

4 the date?

5 A Between the two Trump Old Post Office documents?

6 Q Correct. One being, one you send in May and one you

7 send in December?

8 A The one sent in December submits the annual audited

9 financial statements of the entity. This entity had a fiscal

10 year end of August 31, 2019. Attached to this submission were

11 the annual audited financial statements.

12 Q Okay. So, Defendant's Exhibit 1049, which I showed

13 you a few moments ago, that would be the same as the ones I

14 showed you for Chicago and the ones I showed you for Doral,

15 correct?

16 A They would include the DSCR provision. They would

17 not include or reattach the annual financial statements.

18 Q And they were also not audits that were attached to

19 those, correct?

20 A Correct. Those were compilations. This was an

21 audit.

22 Q Okay. So what was the requirement that -- withdrawn.

23 What was the reason why the Trump Organization

24 provided audited financials with this December 2019 exchange

25 with the bank?

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1 A In clarification with the lender, that I did

2 personally and with other representatives, we confirmed that

3 the DSCR testing period for this loan was on a 12-month ended

4 January 31, period. And therefore the DSCR was not computed

5 off of the annual financial statements which were on an

6 August 31, 2019, year. So we had to do two sets of financial

7 statements for compliance purposes, the audited financial

8 statements which were satisfying that requirement, the entities

9 on a fiscal year ending August. Then the DSCR was required to

10 be due on a 12-month January period. And again, only a

11 compilation was required.

12 Q And sir, how would you describe the difference, and I

13 know when we started the exam you gave us the difference

14 between an audit, a review and compilation, but specifically,

15 aside from you explaining that the dates are different, how did

16 this audit of Trump Old Post Office LLC differ from the

17 compilation that is provided earlier in the year?

18 A Well, you can see in the audit itself it has a full

19 set of footnotes. The work done by Mazars and the audit

20 opinion indicates it was an audit. So it was much more

21 detailed procedures for an audit. There was substantive

22 testing done of the entity. Whereas, a compilation is less

23 testing, more putting the numbers together in a document.

24 Q I am going to switch gears now. You can put that

25 aside. Thank you, Mr. Hawthorn. And talk to you about the

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1 monitor who has been put in place in the Trump Organization.

2 What, if any, involvement have you had with the monitor?

3 A I have had significant involvement with Judge Barbara

4 Jones, who is the appointed monitor that we work with

5 regularly.

6 Q When did you first come into contact with Judge

7 Jones?

8 A In November of 2022.

9 Q And what were the circumstances surrounding that

10 first meeting with her?

11 A She came to our offices with certain of her staff

12 members and therefore --

13 Q Let's break it down. Who was it that came with her,

14 if you remember?

15 A Members of her team. She is with a firm called

16 Bracewell, so there were representatives from Bracewell on her

17 team. And then on our side it was myself, it was Alan Garten

18 and I believe certain of our attorneys were present as well.

19 Q And what was discussed at that first meeting?

20 MR. AMER: I am going to object, Your Honor, to

21 hearsay, to the extent that it is going to include what

22 Judge Jones or any of her colleagues said to the Trump

23 Organization individuals.

24 MR. ROBERT: This is as good a time as any. We

25 are going to add Barbara Jones and Tom Kokakis to the

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1 witness list. I ask if we need a subpoena issued by the

2 Court or can just serve them with a subpoena, because

3 their testimony is crucial to the equitable relief you are

4 seeking. So we might as well clear that up as well.

5 MR. AMER: It doesn't relate to my objection.

6 MR. ROBERT: I'll rephrase the question.

7 But you raise a good point. We will need her

8 testimony. So we can handle that in the break, talk to

9 the Court about that.

10 MR. AMER: Again, I think the witness can say

11 what the Trump Organization employees told Judge Jones and

12 her staff, but I don't think it is appropriate to have

13 this witness relay what they were told, because that's

14 hearsay.

15 THE COURT: You want to make sure that I am not

16 arguing for you before you argue I see.

17 MR. KISE: Right.

18 THE COURT: I think -- I am surprised at the

19 objection. But why don't we see what the specific

20 questions are.

21 MR. AMER: I think the question I objected to

22 was: Tell us what was discussed. So it raises the issue,

23 Your Honor.

24 THE COURT: I don't think what was discussed

25 would be hearsay. What was discussed.

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1　　You were there, right?
2　　Overruled.
3　　What was discussed? The topics, not the
4　statements which we can then address.
5　　MR. AMER: As long as it is limited to the
6　topics I don't have any problem.
7　　MR. ROBERT: Does the Attorney General have any
8　objection to us calling Judge Jones or her colleagues to
9　testify?
10　　MR. AMER: I am not going to be able to answer
11　that right now. I have to discuss it with my colleagues.
12　　THE COURT: Okay. So what was discussed
13　generally, not did Judge Jones say.
14　A　So, the November 2022 meeting was an introductory
15　meeting. Judge Jones and her team were interested in learning
16　about the company, its structure, its organization, and its key
17　executives in place running the company, and how it runs today.
18　So that was an introductory meeting that set in motion a very
19　cooperative, transparent, regular partnership where myself, as
20　one of the individuals on behalf of the company, meets
21　regularly with Judge Jones and her team members.
22　　At the onset of the meeting it was clear that it
23　would take some time for the monitor and their representatives
24　to fully understand the depth and the complexity of the
25　organization. So they did ask a lot of questions to understand

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1　the entity's structure, who does what in the organization, how
2　process flows work. So it was definitely a significant
3　undertaking on our side to make sure we were being fully
4　compliant, answering all of their questions diligently,
5　responding to inquiries and so forth.
6　Q　What was the matter -- withdrawn.
7　　Were requests for information made of you and the
8　Trump Organization?
9　A　Yes.
10　Q　And how did you provide that information to the
11　monitor -- withdrawn.
12　　Did the monitor request it be sent to her or to
13　others?
14　A　As an administrative matter the monitor and their --
15　her designees set up a data room that allowed for information
16　that they requested to be provided to them in the format that
17　they requested. The onset of the monitorship obviously was a
18　lot of questions, again, to get an understanding of the company
19　which is, you know, has a lot of entities and a lot of business
20　components to it, and a lot of operating businesses.
21　　So, as they, meaning the monitor and their designees,
22　asked questions, we would provide the information they
23　requested. There would be a lot of follow-up questions. And
24　through the course of since November 2022, we have gotten into
25　a pretty good mutual understanding of what they require and how

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1　we respond to them timely and get them what they need.
2　　So, ongoing it has been very detailed. It has been
3　very thorough. And you know, any and all questions that they
4　ask we have been transparent and open and happy to assist them
5　in whatever information they need.
6　Q　So you --
7　　MR. AMER: My only objection is to the phrase,
8　mutual, good mutual understanding. I think that implies
9　that it went both ways. He can certainly testify as to
10　his understanding. But I don't think it is appropriate
11　for him to testify about what Judge Jones and her staff
12　had an understanding of.
13　　THE COURT: He wouldn't know what was in their
14　mind.
15　　As long as I have you, Mr. Amer, I am assuming
16　that Ms. Jones was there to ask questions and listen, not
17　just say things. And anything she said was probably not
18　going to be introduced to prove the truth of its contents
19　here, so, that's why I found that a strange objection.
20　　MR. ROBERT: I would respectfully disagree.
21　　MR. AMER: Since I don't know what this witness
22　will say about what Judge Jones may have said at the
23　meeting, it is hard to know in advance whether it is just
24　for notice purposes or not.
25　　But, in terms of my prior objection on good

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1　mutual understanding?
2　　THE COURT: Yes, sustained. I'll note for the
3　record that the witness wouldn't know what was really in
4　Judge Jones' mind. He might have heard hearsay, you
5　people have been great.
6　　MR. ROBERT: On that point, yes, there was
7　conversations. Judge Jones made observations and comments
8　which I think are plainly relevant.
9　　I'll serve this as an opportunity to give notice
10　under our order that we intend to call Judge Jones and Tom
11　Kokakis in our case in our defense. We will work out the
12　scheduling with the Attorney General and the Court.
13　Q　But in addition to that, are you aware of any request
14　the monitor made of the Trump Organization that was not
15　complied with?
16　A　No.
17　Q　Are you aware of whether the monitor found anything
18　wrong in all of the months she has been looking at Trump
19　Organization records?
20　A　No.
21　Q　Have you been advised that she uncovered any fraud at
22　the Trump Organization?
23　A　No.
24　Q　Are you advised as to whether she uncovered anything
25　improper?

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1 　A　We have had ongoing conversations and as they have
2 　asked questions they have delved more into questions. And so
3 　there have been certain observations they have highlighted to
4 　us to inquire more. We believe everything that they have
5 　deemed as an observation that we have responded to diligently,
6 　and you know, very adequately, that what they have observed we
7 　have a response for. But I would certainly say in my
8 　experience in all of the meetings and correspondence no one
9 　from that team has ever communicated to us that they have
10 　uncovered any fraud or irregularities.
11 　　　　MR. ROBERT: I have no further questions of this
12 　witness, Your Honor. Thank you.
13 　　　　THE COURT: I was just about to announce the
14 　five minute break. But Mr. Amer, do you want to start?
15 　Or whomever?
16 　　　　MR. AMER: I can start.
17 　　　　THE COURT: Yeah, let's. Five minutes are five
18 　minutes.
19 　　　　MR. ROBERT: I am willing to stipulate those
20 　five.
21 　　　　THE COURT: Let's start the cross examination.
22 　We have six minutes.
23 　　　　MR. AMER: Thank you, Your Honor.
24
25

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1 　CROSS-EXAMINATION
2 　BY MR. AMER:
3 　　Q　Good afternoon, Mr. Hawthorn.
4 　　A　Good afternoon.
5 　　Q　I want to go through a number of comments you made
6 　during your direct to seek some clarification. You talked
7 　about compilation being the lowest level of assurance; do you
8 　recall that?
9 　　A　Yes.
10 　　(The following proceedings were stenographically
11 　recorded by Senior Court Reporter Michael Ranita.)
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1 　　Q　And that's assurance to the client; correct?
2 　　A　Assurance to the reader of the financial statements.
3 　　Q　Is it also the lowest level of assurance for the client
4 　who retains the outside accounting firm?
5 　　A　It's lower than an audit, but in context it means the
6 　lowest level of assurance to the reader of the financial
7 　statements.
8 　　Q　Does that also indicate, though, to the client that
9 　what they are paying for is the lowest level of assurance among
10 　the three choices you outlined?
11 　　A　Yes.
12 　　Q　And you indicated that with a compilation. I think you
13 　said there's no substantive testing; is that right?
14 　　A　There's no testing of invoices and samples where an
15 　audit would have that type of thing.
16 　　Q　There's no testing of the financial figures in the
17 　compilation; correct?
18 　　A　There's observation and review and an understanding of
19 　what goes into the numbers. An auditor doing a compilation
20 　isn't just going to kind of cover their ears and eyes to what's
21 　happening, and seeing the numbers, but they are not going to
22 　pull underlying documents like an audit to verify that -- so
23 　like in an audit, for example, Mr. Amer, you would have an
24 　auditor test certain transactions by pulling source data,
25 　whereas in a compilation, the accounting firm would put together

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M. Hawthorn - by Defense - Cross (Mr. Amer) Page 5239

1 　the numbers, maybe do some analytical procedures to see how it
2 　all looks, and ask some questions. But it would definitely be
3 　less substantive procedures than an audit.
4 　　Q　Just to go back to my question, which was specific to
5 　testing in a compilation, there's no substantive testing of the
6 　figures; yes?
7 　　A　Generally speaking, yes.
8 　　Q　I'm correct, yes?
9 　　A　There's what I would call analytical procedures, but no
10 　testing of underlying documents.
11 　　Q　And you indicated that for the entities that you were
12 　responsible for, they had both compilations and audits; correct?
13 　　A　Correct.
14 　　Q　And am I correct that there was no reason why The Trump
15 　Organization could not have retained Mazars to do an audit of
16 　Donald J. Trump's financial statements as opposed to just a
17 　compilation; right?
18 　　A　I don't know.
19 　　Q　You don't know of any reason why they couldn't have
20 　hired Mazars to do an audit; right?
21 　　A　I don't know. It's not -- that wouldn't be my area,
22 　being in the hospitality division. So if you are asking a
23 　hypothetical --
24 　　Q　No, I'm asking, as you sit here today, you were aware
25 　of no reason why The Trump Organization could not have retained

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1 Mazars to do an audit instead of a compilation; is that fair?
2   A   And I think I previously testified there is no
3 requirement for an audit. So if the company -- if any private
4 company doesn't have a requirement for an audit for some
5 constituency like a lender or a government agency, there's
6 really no need for an audit.
7   Q   Despite the fact --
8   THE COURT: You are not answering the question. Am
9 I correct, Mr. Amer? You agree?
10   MR. AMER: Correct. I agree.
11   THE COURT: But you are asking it in the negative.
12 Why don't you ask it in the positive.
13   Is there any reason -- and Mr. Amer, if you want to
14 ask a different question, or whatever, is there any reason
15 The Trump Organization could not have asked for an audit?
16   THE WITNESS: I would just say, other than time and
17 resources and the cost of it, no.
18   THE COURT: Did I ask it in the negative? Sorry.
19 Let me rephrase it. We are going to get the same answer.
20   MR. AMER: It's harder than it looks.
21   A   The same answer, I think.
22   THE COURT: Could The Trump Organization have asked
23 for an audit if they were willing to pay for it?
24   THE WITNESS: Yes.
25   THE COURT: Okay. See, it's not so hard, Mr. Amer.

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1   MR. AMER: Took you two tries, so.
2   Q   And I want to ask you about your specific role at The
3 Trump Organization. Am I correct that your current position is
4 within the hotels division?
5   A   Correct.
6   Q   And you oversee the hotel brand operations and are the
7 most senior executive person within the hotel division; correct?
8   A   Yes.
9   Q   And am I correct that your responsibilities as Chief
10 Operating Officer of Trump Hotels is limited to the owned and
11 managed hotels of the portfolio of the hotel division?
12   A   No.
13   Q   Can we go ahead and put up Mr. Hawthorn's trial
14 testimony from last month? It's at lines 14 -- page 1417,
15 starts at line 17?
16   (Whereupon, the exhibit was displayed on the
17 screen.)
18   MR. AMER: Sixteen.
19   Q   "So are you the most senior executive person within the
20 hotel's division at The Trump Organization?
21   "ANSWER: Yes.
22   "QUESTION: And can you just explain to us how the
23 hotel's division fits within the overall corporate structure
24 of The Trump Organization?
25   "ANSWER: Everything related to the hotel

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1 properties that we own and/or manage. So the organization,
2 as you may be familiar, owns commercial real estate,
3 operates golf courses and has other holdings. So the hotel
4 division operates specifically to the owned and managed
5 hotels in the hotel portfolio."
6   So in terms of what's within the hotel's division,
7 that is just the owned and managed hotel portfolio; is that
8 right?
9   A   Yes.
10   Q   And --
11   THE COURT: If you want another few minutes, fine,
12 or we could break now. It's up to you.
13   MR. AMER: We could break now. That's fine.
14   THE COURT: You're hungry. Okay. 2:15 as usual.
15   And I'll direct the witness not to discuss the
16 case, or his testimony, of course. You've heard that
17 several times.
18   (Whereupon, the case on trial was adjourned until
19 2:15 for the luncheon recess.)
20 *   *   *   *   *   *   *   *
21   A F T E R N O O N   S E S S I O N
22 *   *   *   *   *   *   *
23   THE COURT OFFICER: All rise. Part 37 is back in
24 session. The Honorable Judge Arthur Engoron presiding.
25 Please be seated and come to order.

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1   THE COURT: I'm going to ask Mr. Amer to hold his
2 horses for a few moments, but he could stand at the podium.
3   I have considered defendant's late request to add
4 Judge Barbara Jones and attorney Tom Kokakis of her staff to
5 the witness list. I hereby preclude their testimony.
6 Besides being untimely, defendant's request is inappropriate
7 as Judge Jones and her staff are arms of the court, and you
8 cannot question the Court in this matter.
9   The independent monitor order stated that they are
10 to report back to the Court via their reports, and the
11 reports speak for themselves. I also do not want to create
12 the possibility of any conflicts of interest of any kind.
13 The last thing this case needs is to have Judge Jones need
14 to step aside.
15   Finally, I am not aware of a single instance in
16 which a litigant asked to examine an independent monitor, or
17 anything like an independent monitor, and I spent part of
18 the lunch break researching the issue. I couldn't find any
19 examples. And for sure I'm not aware of any court granting
20 or allowing this.
21   But I'll hear from the defendants if they have
22 authority for their request.
23   MR. KISE: We don't at this time, your Honor, but
24 to the extent that we research the issue and decide to raise
25 it, then we'll return to it.

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1   MR. ROBERT: Will there be a formal order or will
2 you so order the transcript?
3   THE COURT: I would ask that you just so order the
4 transcript.
5   And yes, Mr. Kise, I would grant your request. If
6 you find some authority for the proposition, of course I'll
7 hear it.
8   MR. KISE: Thank you.
9   THE COURT: Okay. Let's get the witness back on
10 the witness stand.
11   (Whereupon, the witness stepped into the witness
12 stand.)
13   THE COURT: Mr. Amer, please continue.
14   MR. AMER: Thank you, your Honor.
15 Q We were discussing your role and responsibilities at
16 The Trump Organization. And I want to ask you a few more
17 questions to clarify what that role is.
18   Have you ever worked in the corporate accounting
19 department at Trump Tower, which is the department that
20 Mr. Weisselberg and Mr. McConney worked in?
21 A No.
22 Q Did you take over Mr. Weisselberg's responsibilities
23 that he had when he was CFO of the corporate accounting
24 department after he left the organization?
25 A Partially.

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1 Q And is the partial point the responsibility that you
2 were asked to assist in in standardizing the accounting
3 methodology across various divisions?
4 A That's a good example.
5 Q What else, aside from that standardization project, do
6 you consider to be responsibility that Mr. Weisselberg had that
7 you now have?
8 A I would say just helpful guidance and accounting
9 knowledge to any arms of the business that are needing of
10 assistance.
11 Q Were you ever asked to provide helpful guidance and
12 accounting knowledge with respect to the preparation of Donald
13 J. Trump's Statement of Financial Condition?
14 A No.
15   MR. AMER: I would like to show you some trial
16 testimony from Donald Trump, Jr., just so we could further
17 clarify your role. It's page 3987 starting at line 13,
18 continuing onto the next page, line two.
19   (Whereupon, the exhibit was displayed on the
20 screen.)
21   MR. AMER: So if we could get the rest of the
22 answer on the page on the screen.
23   (Whereupon, the exhibit was displayed on the
24 screen.)
25 Q This is Donald Trump, Jr.'s trial testimony during his

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1 direct examination by Mr. Robert:
2   "QUESTION: So when you testified a week ago, you
3 mentioned that Mark Hawthorn was the CFO of The Trump
4 Organization. Is that actually his official title?
5   "ANSWER: I think he's still chief financial
6 officer. He, he's assumed that role, I guess I just said,
7 sort of. So he is the, you know, the finance guy within
8 Trump, Trump world now and has taken on all those decisional
9 responsibilities. He is an actual CPA and does that. So it
10 may not -- again, we are not as -- not as big on title, but
11 he's functioning in that capacity, correct."
12   Are you functioning in the capacity as the chief
13 financial officer of The Trump Organization?
14 A No.
15 Q I think you mentioned that others are -- well, first of
16 all, do you oversee the corporate accounting department?
17 A No.
18 Q I think you mentioned that others are overseeing the
19 corporate accounting department in the wake of Mr. McConney and
20 Mr. Weisselberg leaving the company; correct?
21 A Yes.
22 Q And you mentioned Donna Kidder. Is she the assistant
23 controller now?
24 A Yes.
25 Q You also mentioned that there is now a director of

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1 finance; is that right?
2 A Yes.
3 Q And what is that person's name?
4 A His name is Michael love chuck.
5 Q And when did he assume the position of director of
6 finance?
7 A He's been a director of finance at the company for over
8 20 years. He served as the director of finance for the Trump
9 International Hotel and Tower in New York, a hotel property.
10   Subsequently to that, he took on the same role for the
11 Trump International SoHo Hotel and the Trump International
12 Washington, D.C. Hotel when that hotel was sold in May of 2022.
13   He did not leave the company. He was able to use the
14 skills and expertise in the corporate accounting function as the
15 director of finance.
16 Q Is it your testimony that he is now functioning in the
17 capacity as the chief financial officer of The Trump
18 Organization?
19 A No.
20 Q Is there anyone else other than Ms. Kidder and Mr. Love
21 chuck, who is overseeing the corporate accounting department?
22 A ^ Splg Mr. Love chuck would be the highest individual
23 of financial expertise in that area.
24 Q I'm just trying to find out if there are any other
25 people?

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1 A   There's a team, yes.
2 Q   Who are they?
3 A   They are the accounting staff for that team.
4 Q   The same staff that was there before Mr. Weisselberg
5 left?
6 A   Some yes, some are now.
7 Q   Has any individual in the corporate accounting
8 department taken over in the capacity as the chief financial
9 officer of The Trump Organization?
10 A   No.
11 Q   And to the extent --
12   MR. AMER: Can we put up Mr. Trump's testimony we
13 were just looking at.
14   (Whereupon, the exhibit was displayed on the
15 screen.)
16 Q   And to the extent that Donald Trump, Jr.'s testimony
17 could be read to suggest that you are functioning in the
18 capacity of CFO of The Trump Organization, that would be
19 incorrect?
20 A   There is no CFO of The Trump Organization.
21 Q   And to the extent that his testimony could be read to
22 mean that you have taken on all of the decisional
23 responsibilities that Mr. Weisselberg had, his testimony would
24 be inaccurate; correct?
25   MR. ROBERT: Objection.

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1   THE COURT: What's the objection?
2   MR. ROBERT: He's saying to the extent his
3   testimony could be interpreted that way. It's either the
4   testimony is or it isn't. This witness is not there to
5   extrapolate how one could interpret Mr. Trump, Jr.'s
6   testimony.
7   MR. AMER: I'll withdraw --
8   THE COURT: Rephrase.
9   MR. AMER: -- and rephrase.
10 Q   When Mr. Trump testified that you have taken on all
11 those decisional responsibilities of the CFO of The Trump
12 Organization, he was wrong; correct?
13 A   I think the word "all" makes it incorrect.
14 Q   And we spoke about the project to standardize across
15 the various divisions how the general ledgers are kept; correct?
16 A   Yes.
17 Q   Was that a project that you undertook with an outside
18 consulting firm named Ankura?
19 A   No.
20 Q   Were you involved in a project related to updating the
21 accounting processes with Ankura?
22 A   The company engaged Ankura to assist with an evaluation
23 of the finance function so that areas of improvement could be
24 identified.
25 Q   And that was something that you worked with Ankura on;

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1 correct?
2 A   Yes.
3 Q   Were you ever asked by anyone within The Trump
4 Organization to assist with respect to any other engagement with
5 Ankura?
6 A   No.
7   MR. AMER: Let's go ahead and put up D-1054.
8   (Whereupon, the exhibit was displayed on the
9   screen.)
10   (The witness was handed the exhibit.)
11 Q   Do you recall you testified about this chart?
12 A   Yes.
13 Q   Correct? And I believe you said you prepared this
14 chart; is that right?
15 A   Yes.
16 Q   And with respect to the statements that predate your
17 arrival at The Trump Organization in 2016, am I correct that
18 your knowledge of those prior statements was based on your
19 review of those statements upon your arrival?
20 A   Upon or thereafter.
21 Q   Well, how far after?
22 A   In the process of being subpoenaed for information, I
23 was part of the team that helps provide all of these documents,
24 as requested. And as a process of understanding and going
25 through the history of how these documents were prepared and

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1 issued, I've seen all these documents. So we have an electronic
2 folder of keeping record of all of these individual statements.
3 Q   Let me just clarify, because I want to zero in on when
4 you reviewed the statements from 2011 to 2015, did you review
5 those upon arriving at the organization in 2016 in order to be
6 able to perform your job functions?
7 A   Certainly, yes, the ones related to the hotel division
8 that I was getting up to speed on. Certainly the other ones
9 relating to the commercial aspect, I didn't learn about until
10 much later.
11 Q   So specifically let's identify those. The ones that
12 relate to commercial properties, that wouldn't have been -- that
13 aren't within the auspices of the hotel division, that's 40 Wall
14 Street, TIH Commercial, LLC, Trump Plaza and Trump Tower
15 Commercial; correct?
16 A   Correct.
17 Q   And is it the case, then, that the statements for those
18 entities from 2011 all the way through 2022 were not statements
19 you -- that you reviewed until you prepared to testify here at
20 this trial; is that right?
21 A   Not exactly.
22 Q   What is incorrect about that?
23 A   In my role as being the liaison for the monitor, I'm
24 now copied on all correspondence of any financial documents
25 submitted to lenders. So in addition to all these annual

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1 statements for those properties, I'm also copied on quarterly
2 bank compliance statements, so that we made information flow
3 directly to the monitor.
4   So, for example, the 2021 audited statements of 40
5 Wall, TIHT Commercial, LLC, Trump Plaza, LLC, and Trump Tower
6 Commercial, LLC, I am copied on correspondence relating to
7 submission of those to lenders, including the 2021 financial
8 statements, because in my role as a liaison to the monitor, I
9 want to make sure we are encompassing any and all requests that
10 they need.
11   Q So we all understand the monitor was appointed in 2023,
12 okay?
13   A Incorrect. November of 2022.
14   THE COURT: I think it was 2022.
15   Q November of 2022. So just to be clear, you did not
16 review -- can we just refer to 40 Wall Street, TIH Commercial,
17 Trump Plaza, and Trump Tower Commercial as "the four commercial
18 properties"?
19   A Yes, sir.
20   Q Okay. So am I correct that you did not review any of
21 the statements on this chart for the four commercial properties
22 prior to November of 2022?
23   A That's fair.
24   Q And you had no involvement in preparing the statements
25 for the four commercial properties; correct?

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1   A Correct.
2   Q You testified on direct that you were not aware of any
3 instance with respect to the preparation of the statements on
4 this chart where Mazars asked for information and didn't receive
5 it; is that right?
6   A Correct.
7   Q Okay.
8   But with respect to the four commercial properties,
9 since you weren't involved in the preparation of those
10 statements, is it fair to say you wouldn't know what Mazars
11 asked for or what was provided in response to those requests;
12 right?
13   A Yes, I was thinking about the hotel statements.
14   Q So your response to Mr. Robert's question with respect
15 to not knowing of any instance where Mazars asked for something
16 and didn't get it in return, it excluded the four commercial
17 property statements; right?
18   A That's fair.
19   Q And similarly, you had zero involvement in preparing
20 Donald J. Trump's Statement of Financial Condition; correct?
21   A Correct.
22   Q And so you would have no knowledge of any requests that
23 Mazars made during the course of the preparation of those
24 statements; right?
25   A Correct.

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1   MR. AMER: Now let's go ahead and look at D-1055.
2   (Whereupon, the exhibit was displayed on the
3   screen.)
4   (The witness was handed the exhibit.)
5   Q This is a series of e-mails that you testified about on
6 direct. Do you recall that?
7   A Yes.
8   Q Was the first time you saw this document in preparation
9 for testifying at this trial?
10   A Yes.
11   Q So this was not anything that you looked at when you
12 came -- when you were first employed back in 2016; right?
13   A This particular e-mail? I don't recall having looked
14 at it then.
15   Q And this was not anything that you saw in connection
16 with your role as liaison for the monitor; right?
17   A Correct.
18   Q And you'll see in Ms. Schroeder's e-mail, she mentions
19 in the last sentence, "Mr. Trump's guaranty burns down to 0."
20 Do you see that?
21   A Yes.
22   Q Is there anything in this document indicating that when
23 the guaranty burns down to zero, that means the guarantor is no
24 longer obligated to submit a compliance certificate attaching
25 the guarantor's Statement of Financial Condition?

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1   A The e-mail does not say that.
2   MR. AMER: And if we look at demonstrative DD2.
3   (Whereupon, the exhibit was displayed on the
4   screen.)
5   Q This is a document I believe you testified you assisted
6 in preparing; correct?
7   A Yes.
8   Q Were there others involved in its preparation?
9   A In-house counsel and myself. I drew it on a piece of
10 paper out of my mind, and they helped put it into a nice format.
11   Q Other than formatting, is the entirety of the contents
12 of this document something you prepared?
13   A Um, most of it.
14   Q Well, which part isn't?
15   A The dates, the key terms, just the timeline, right. I
16 could go back to the loan documents, understand the timeline of
17 the loan to help simplify for the explanation of the history of
18 this particular instrument.
19   Q Well, how about what's in red? Is that yours?
20   A Yes.
21   Q Okay. And what was the basis for your concluding that
22 the Donald J. Trump Statement of Financial Condition was not
23 required between December 2014 and August 2020?
24   A My understanding of the loan documents.
25   Q And was that also the basis for your understanding that

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1 -- was that also the basis for your stating that Donald J.
2 Trump's Statement of Financial Condition was not required
3 between July 2021 and October 2023?
4   A   Yes, the loan documents.
5   MR. AMER: Let's go ahead and look at a document
6   that we've marked as Plaintiff's Exhibit 503.
7   (Whereupon, the exhibit was displayed on the
8   screen.)
9   MR. AMER: That's in evidence, actually.
10   (The witness was handed the exhibit.)
11   Q   This is an e-mail from Joshua Frank at Deutsche Bank
12   that has a scan.
13   MR. AMER: And then if you look at the next page.
14   (Whereupon, the exhibit was displayed on the
15   screen.)
16   Q   You'll see that it's a May 10, 2016 compliance
17   certificate. Do you see that?
18   A   Yes.
19   Q   And this is a compliance certificate from the
20   guarantor, Donald J. Trump. Do you see that?
21   A   I see it.
22   Q   Have you seen this document before?
23   A   No.
24   MR. AMER: Can we put the side by side with the
25   demonstrative chart that we were just looking at.

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1   (Whereupon, the exhibit was displayed on the
2   screen.)
3   Q   You'll see that this is a compliance certificate being
4   sent during the period of time where you've written in red in
5   this chart that the Statement of Financial Condition was not
6   required. Do you see that?
7   A   Yes.
8   Q   Were you aware, when you were preparing this chart,
9   that, in fact, The Trump Organization had submitted a compliance
10   certificate in May 2016 that attached the 2015 Statement of
11   Financial Condition for Donald J. Trump as guarantor?
12   A   Yes.
13   Q   So it's your understanding that despite your view that
14   there was no obligation to provide a compliance certificate,
15   that nevertheless, the company did submit a compliance
16   certificate?
17   A   Correct.
18   MR. AMER: Let's go ahead and --
19   Q   By the way, did you ask to see any of the compliance
20   certificates that had been submitted during the period where you
21   write in red that the statement was not required?
22   A   I did not.
23   MR. AMER: Let's go ahead and show Plaintiff's
24   Exhibit 393 in evidence.
25   (Whereupon, the exhibit was displayed on the

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1   screen.)
2   MR. AMER: Actually, if we could just flip through
3   until we get to the Chicago one.
4   (Whereupon, the exhibit displayed on the screen was
5   scrolled through.)
6   (The witness was handed the exhibit.)
7   MR. AMER: Go back to five.
8   Q   Do you see, on page five, there is a compliance
9   certificate. And that's on the Chicago loan?
10   A   Yes.
11   Q   We could go back. You saw that it was in respect to
12   the three loans, that included Chicago; right?
13   A   Mm-hmm.
14   Q   Had you seen this document before preparing the chart?
15   A   No.
16   Q   And so this is a 2018 compliance certificate attaching
17   the 2018 Statement of Financial Condition. Do you see that?
18   A   Yes.
19   Q   And it's your understanding that this was submitted
20   notwithstanding your view that there was no obligation to do so;
21   is that right?
22   A   Correct.
23   Q   And let's look at one more.
24   MR. AMER: Plaintiff's Exhibit 502.
25   (Whereupon, the exhibit was displayed on the

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1   screen.)
2   Q   And this is a year later. This compliance certificate
3   also for the Chicago loan; correct?
4   A   Yes.
5   Q   Have you seen this before?
6   A   No.
7   Q   This is a compliance certificate that was submitted
8   attaching the 2019 Statement of Financial Condition for Donald
9   J. Trump as guarantor; right?
10   A   Yes.
11   Q   And it's your understanding that this was submitted
12   notwithstanding your view that there was no obligation to do so;
13   is that correct?
14   A   Correct.
15   MR. AMER: Let's go ahead and mark as Plaintiff's
16   Exhibit 5 -- I'm sorry.
17   Your Honor, I'm not sure that 502 was admitted into
18   evidence, but if it hasn't been, I would ask that it be
19   admitted.
20   THE COURT: Granted. It's in.
21   (Plaintiff's Exhibit 502 was deemed marked and
22   admitted in evidence.)
23   MR. AMER: Let's go ahead and look at Plaintiff's
24   Exhibit 563.
25   (Whereupon, the exhibit was displayed on the

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1   screen.)
2   (The witness was handed the exhibit.)
3   (Continued on the next page.)
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1   THE COURT: Okay. Hold on.
2   Mr. Kise?
3   MR. KISE: Your Honor --
4   MR. AMER: Do we need to excuse the witness if
5   this is going to be a lengthy --
6   MR. KISE: No. It is a quick question.
7   Turnabout is fair play, I think is the phrase.
8   What is the foundation about asking this witness
9   for this document? It is hearsay and he is reading it
10   into evidence between two individuals, neither of which is
11   the witness. I don't know what the -- he is just reading
12   it into evidence. It is hearsay. What is the purpose
13   of --
14   THE COURT: Well, we didn't let him finish and
15   then ask questions.
16   MR. KISE: Maybe we should excuse the witness
17   then, because we kind of need to know what the question is
18   before he reads the entire thing into evidence.
19   MR. AMER: The witness has indicated he prepared
20   a chart that says in this timeframe no Statement of
21   Financial Condition was required to be submitted. And
22   that's his view that there was no such obligation. This
23   letter goes directly to that point, Your Honor.
24   THE COURT: Objection overruled.
25   MR. KISE: If he has never seen it before.

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1   Q   You will see, Mr. Hawthorn, that this is an e-mail
2   from Gregory Candela to Adam Rosen dated September 23, 2022.
3   Do you see that?
4   A   Yes, I see it.
5   Q   And this is during the period of time where you
6   indicated in your chart in red that a Statement of Financial
7   Condition is not required, right?
8   A   Correct.
9   Q   And this is -- the subject of this is the Chicago
10   loan, correct?
11   A   Correct.
12   Q   I am going to read to you from this document. Have
13   you seen this e-mail before?
14   A   No.
15   Q   "Adam, I write in response to your request,
16   communicated to me on September 8, that in connection with the
17   amended and restated guaranty of Donald J. Trump with respect
18   to the outstanding loan by Deutsche Bank Trust Company Americas
19   to 401 North Wabash Venture LLC, Deutsche Bank agree to accept,
20   in lieu of the annual Statement of Financial Condition of the
21   guarantor as of June 30, 2022, required by section 11(i)(A) of
22   the guaranty to be delivered to Deutsche Bank by October 28,
23   2022, a one-page spreadsheet that shows his material assets and
24   liabilities, but does not show any valuations of real estate
25   assets."

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1   THE COURT: So?
2   MR. KISE: Okay.
3   THE COURT: Okay, overruled.
4   If you want to continue reading, or whatever.
5   MR. AMER: I do, just the next sentence.
6   Q   "The modified financial reporting you have proposed
7   is not acceptable to Deutsche Bank."
8   Do you see that?
9   A   I see it.
10   Q   Were you aware that there was a request made to
11   excuse the Trump Organization from having to submit Donald J.
12   Trump's annual Statement of Financial Condition as of June 30,
13   2022 during the period where you wrote in your chart that no
14   such obligation existed?
15   A   I was aware of a disagreement between the parties on
16   the interpretation of the loan.
17   Q   Well, this is not a disagreement, this is a request
18   that the bank accept something in lieu of the Statement of
19   Financial Condition. And the bank says no, it is not
20   acceptable. Right?
21   MR. KISE: Your Honor, now he is testifying and
22   arguing with the witness. The witness answered his
23   question.
24   MR. ROBERT: I am curious if Mr. Amer is going
25   to show the response from Mr. Rosen to Mr. Candela. Which

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1　　maybe is the next document to show the witness?
2　　　　　MR. AMER: I am going to conduct my exam the way
3　　I am going to conduct it.
4　　　　　MR. ROBERT: For completeness, I would think you
5　　want to respond.
6　　　　　MR. AMER: You can do redirect.
7　　　　　THE COURT: There is a little bit of testimony
8　　in your question. Can you rephrase?
9　　　　　MR. AMER: The witness characterized this as a
10　　disagreement.
11　Q　　Where in this letter do you see a disagreement?
12　A　　Not in this e-mail.
13　Q　　Okay. This e-mail is a rejection of a proposal,
14　correct?
15　A　　Yes.
16　Q　　And at the bottom of this e-mail, if we could go down
17　to the bottom, it says Deutsche Bank will not agree to waive or
18　otherwise modify the guarantor's obligation to deliver to
19　Deutsche Bank no later than October 28, 2022, his annual
20　Statement of Financial Condition (as defined in the guaranty)
21　as of June 30, 2022.
22　　　Do you see that?
23　A　　I see it.
24　Q　　Were you aware in September 2022 that Deutsche Bank's
25　view was that the guarantor had an obligation to deliver Donald

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1　J. Trump's Statement of Financial Condition?
2　A　　Yes.
3　Q　　And your view is that no such obligation existed; is
4　that right?
5　A　　Yes.
6　Q　　And your view is based on the loan documentation that
7　is the same documentation that Deutsche Bank is looking at when
8　they write this e-mail, correct?
9　A　　Yes.
10　　　THE COURT: Well, he wouldn't necessarily know
11　what Deutsche Bank was looking at. But I understand.
12　Q　　It is the same loan documentation that Deutsche Bank
13　had in its files. Right?
14　　　THE COURT: He doesn't know what they looked at.
15　But you could -- we will take the question to mean, did
16　they have the same information that the witness looked at.
17　And his answer is yes.
18　　　THE WITNESS: I believe so, yes.
19　　　MR. AMER: Your Honor, I move to admit
20　Plaintiff's Exhibit 563.
21　　　THE COURT: Granted, it is in.
22　　　MR. ROBERT: Same objection.
23　　　THE COURT: Overruled.
24　　　(Whereupon, the document referred to was deemed
25　　　marked for evidence as Plaintiff's Exhibit 563 by the

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1　　Court reporter.)
2　Q　Let's go ahead and look at Plaintiff's Exhibit 562.
3　　　THE COURT: Mr. Kise?
4　　　MR. KISE: Your Honor, this e-mail that he is
5　moving into evidence, the one between Candela and Rosen, I
6　mean, it is one thing to question him about it for
7　impeachment, but to move it into evidence substantively
8　without any foundation, that's quite a different matter
9　altogether. What is the foundation? This isn't between
10　either of the recipients -- the recipient or the sender.
11　And it is being offered to prove what, the truth of the
12　matter asserted? It is a hearsay document.
13　　　THE COURT: The credibility of the witness.
14　　　MR. KISE: That's impeachment.
15　　　THE COURT: The correctness of the witness.
16　　　MR. KISE: That's impeachment, not substantive
17　evidence. I don't see how this comes in as substantive
18　evidence. It is hearsay.
19　　　MR. AMER: We can limit it for purposes of
20　notice, Your Honor, to Adam Rosen of the Trump
21　Organization.
22　　　THE COURT: Admitted as evidence of notice?
23　　　MR. AMER: Notice of the contents -- notice of
24　the contents of the letter, the e-mail which is Deutsche
25　Bank's position. Notice to Adam Rosen of Deutsche Bank's

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1　position that they were not accepting the proposal.
2　　　THE COURT: Sounds good to me. Seems to be an
3　important part of this case.
4　　　MR. KISE: Notice of Deutsche Bank's position?
5　　　THE COURT: Right.
6　　　MR. KISE: Same objection.
7　Q　This is another e-mail from Mr. Candela to Mr. Rosen.
8　This one dated a month later in October of 2022. This is still
9　during the period of time where you have written in red that
10　there was no obligation to submit a compliance certificate,
11　correct?
12　A　Yes.
13　Q　Have you seen this e-mail before?
14　A　No.
15　Q　And in the second paragraph, which I'll just read to
16　you, Mr. Candela writes to Mr. Rosen at the Trump Organization:
17　　Having considered the request, Deutsche Bank is
18　willing to agree to extend the guarantor's time by which to
19　deliver the three financial reports specified above by from
20　October 28 to December 31 on the condition that:
21　　And then little (ii): The guarantor timely delivers
22　his annual certificate of compliance required by section
23　11(i)(D) of the guaranty by the due date of October 28.
24　　Do you see that?
25　A　Yes.

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1   Q   Were you aware when you were preparing your chart
2 indicating there was no obligation for the guarantor to provide
3 a Statement of Financial Condition, that the bank's view was
4 that the extension -- that an extension would be granted to
5 December 31 on the condition that the guarantor timely delivers
6 his annual certificate of compliance?
7   A   I am sorry, that was a long question, you lost me.
8   THE COURT: Do you want a readback?
9   MR. AMER: If I could get a readback.
10   THE COURT: Read back, please.
11   (Whereupon, the record was read back by the
12   court reporter.)
13   A   I was probably not aware, no.
14   Q   Would you agree that the bank's position as set forth
15 in this e-mail is inconsistent with your view that there was no
16 obligation to provide a Statement of Financial Condition for
17 the guarantor in this time period?
18   A   Correct.
19   Q   And if you look further down in this e-mail,
20 Mr. Candela writes: For your awareness and in considering the
21 request and proposing the agreement described above, Deutsche
22 Bank considered various factors, including but not limited to
23 the following:
24   And then I want to mention the second bullet, which
25 says:

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1   By operation of the guaranty, because the
2 loan-to-value ratio produced by last year's appraisal was less
3 than 35 percent, the step-down percentage of the guaranty is
4 currently zero percent.
5   Do you understand that to be a confirmation that the
6 guaranty has burned off?
7   A   Correct.
8   Q   And so notwithstanding the fact that the guaranty has
9 burned off, Deutsche Bank is still insisting that the guarantor
10 must deliver Donald J. Trump's Statement of Financial Condition
11 as part of a certificate of compliance, correct?
12   A   That's what this e-mail says.
13   Q   And the next bullet says:
14   Also by operation of the guaranty, because the
15 step-down percentage of the guaranty is currently zero percent,
16 the guarantor is not currently subject to a minimum net worth
17 requirement.
18   Do you see that?
19   A   Yes.
20   Q   And can we agree that notwithstanding the fact that
21 there is no minimum net worth requirement, Deutsche Bank is
22 still insisting that Donald J. Trump submit a certificate of
23 compliance with his Statement of Financial Condition?
24   A   Yes.
25   Q   So, would you agree that Deutsche Bank views the

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1 guarantor as being under an obligation to submit a certificate
2 of compliance with Donald J. Trump's Statement of Financial
3 Condition, notwithstanding the fact that the guaranty has
4 burned down to zero and there is no net worth requirement?
5   A   I don't know if this is the only e-mail related to
6 the exchange, so I don't know if this was the final conclusion.
7 Again, there is likely responses from Mr. Rosen that iterate
8 our position as a company, so I can't say if this was the final
9 determination or not. This is just one e-mail.
10   Q   Well, can we agree that based on this e-mail that is
11 what the bank's position is?
12   A   As of the date of this e-mail and as of the time of
13 this e-mail, yes.
14   MR. AMER: Your Honor, I move to admit
15   Plaintiff's Exhibit 562 for notice purpose.
16   THE COURT: Granted, it is in.
17   (Whereupon, the document referred to was deemed
18   marked for evidence as Plaintiff's Exhibit 562 by the
19   Court.)
20   Q   I want to show you Defendant's Exhibit 1047 which you
21 were asked about on direct.
22   I believe Mr. Hawthorn, your testimony was that you
23 prepared this compliance certificate, right?
24   A   Yes.
25   Q   And I think you said that in order to prepare this

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1 you had to review the borrowing entity's compilation statement
2 and the numbers in that statement; is that right?
3   A   Yes.
4   Q   And is that what you believe you were required to do
5 as the person preparing this compliance certificate?
6   A   Yes.
7   Q   And am I correct that you were never asked by anyone
8 to prepare the compliance certificate for any year for the
9 guarantor on the loans?
10   A   Correct.
11   MR. AMER: Let's go ahead and pull up
12   demonstrative DD-3.
13   Q   And this is a chart you prepared relating to the
14 Doral loan?
15   A   Yes.
16   (Handing)
17   Q   Did you receive any assistance preparing this, other
18 than assistance in formatting?
19   A   Mostly my work.
20   Q   Well, you say "mostly," is there work that isn't
21 yours?
22   A   Um, no. Again, it was probably in consultation with
23 in-house counsel.
24   Q   And am I correct that you are not suggesting on this
25 chart that there was ever a point in the life of this loan

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1 where the guarantor ceased to have an obligation to submit a
2 compliance certificate with Mr. Trump's Statement of Financial
3 Condition?
4   A   I am sorry, could you say it one more time?
5   Q   Sure. I'll rephrase it.
6   Are you suggesting that there was ever a point in the
7 life of this loan where the guarantor ceased to have an
8 obligation to submit a compliance certificate attaching
9 Mr. Trump's Statement of Financial Condition?
10   A   No, I am not suggesting that.
11   Q   Mr. Hawthorn, you also testified about your role in
12 liaising with the monitor; do you recall that?
13   A   Yes.
14   Q   And you characterized the relationship with the
15 monitor in various ways. I would like to share with you some
16 portion of the Judge's summary judgment decision discussing the
17 monitor's reporting, and ask you if you are familiar with it.
18   MR. AMER: If we could pull up the Court's
19   decision at page 33?
20   Q   First of all, have you read the Court's summary
21 judgment decision in this case?
22   A   Not wholly, but the section you have there I am
23 familiar with.
24   Q   And the decision states on August 3, 2023 Judge Jones
25 reported as follows:

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1   Since my appointment, I have reviewed material,
2 financial and accounting information submitted by the Trump
3 Organization. As part of my review, I have made preliminary
4 observations regarding certain current financial disclosures
5 with respect to the Trump Organization's reporting of financial
6 information.
7   Specifically, I have observed that information
8 regarding certain are material liabilities provided to
9 lenders -- such as intercompany loans between or among Trust
10 entities and Donald J. Trump, certain of the Trust's contingent
11 liabilities, as well as refundable golf club membership
12 deposits -- has been incomplete.
13   Were you aware that Judge Jones had issued a report
14 indicating that an aspect of the organization's reporting of
15 financial information has been incomplete?
16   A   Yes, we are aware of this letter.
17   Q   I was asking more if you were aware of the specific
18 statement conclusion that Judge Jones reached that certain
19 reporting had been incomplete?
20   A   Yes.
21   Q   She goes on to -- Judge Jones goes on to say the
22 Trust has also not consistently provided all required annual
23 and quarterly certifications attesting to the accuracy of
24 certain financial statements.
25   Were you aware that Judge Jones reported that?

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1   A   Yes.
2   Q   And she -- and Judge Jones finally states:
3   In addition, annual audited financial statements for
4 certain entities prepared by an external accounting firm list
5 depreciation expenses. However, interim internally prepared
6 financial statements provided to third parties for these same
7 entities inconsistently report depreciation expenses.
8   Were you aware that Judge Jones had identified such
9 inconsistencies?
10   A   Yes.
11   MR. AMER: That's all I have, Your Honor.
12   THE COURT: Any redirect?
13   MR. ROBERT: We have some, but we will need to
14 print a few documents we would need to use. I ask if we
15 can take our afternoon break a few minutes earlier and
16 then resume.
17   THE COURT: Okay. All right, 3:25.
18   MR. ROBERT: Thank you, sir.
19   (Pause in the proceedings.)
20   COURT OFFICER: All rise. Part 37 is back in
21 session. Please be seated and come to order.
22   THE COURT: Can we discuss scheduling,
23 particularly Friday of this week and next week, the
24 following week.
25   I'll ask defendants in the first instance what

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1 they are intending.
2   MR. KISE: I think, Judge, the witnesses
3 identified for this week will take us through Friday, the
4 ones that we already have, the Deutsche Bank witnesses.
5   THE COURT: Let's go over who they are so we are
6 sure we are on the same page.
7   MR. KISE: Williams, Sullivan, Pereless. Well,
8 Mr. Birney will probably spill over until tomorrow, some
9 tomorrow. And then we have, I think, Williams, Sullivan,
10 Pereless, Bravlik and then Unell, who is the banking
11 expert.
12   We will start -- we may not be done with
13 Ms. Bravlik until Thursday morning, so I think, you know,
14 the plan anyway, is that Unell will take us through
15 Friday.
16   THE COURT: I'll turn the microphone over to my
17 person who sits alongside of me.
18   MS. GREENFIELD: Just in case, can we have
19 another witness for Friday? Who were you planning to call
20 next Monday? Can they be available just in case we finish
21 that witness early?
22   MR. KISE: So Mr. Chin is in another trial on
23 Friday, who is called for Monday.
24   MS. GREENFIELD: Who do we have for Monday?
25   MR. KISE: Monday is Fred Chin.

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1   THE COURT: And you expect that to be an entire
2   day.
3   MR. KISE: That one, yes, he will be. And then
4   Moens, Schubin, on Tuesday.
5   MS. GREENFIELD: I am sorry, can you spell
6   those?
7   MR. KISE: M-O-E-N-S, Lawrence Moens.
8   And then John Schubin S-C-H-U-B-I-N.
9   And then he will continue over a little bit on
10 Wednesday. And then we will have Eric Trump on Wednesday
11 the 6th, either late morning or early afternoon. And then
12 Elie Bartov B-A-R-T-O-V will be the Thursday and over into
13 Friday.
14   MS. GREENFIELD: Okay. And then who else?
15   MR. KISE: And then the Monday will be President
16 Trump, the 11th, at least that's the plan. I don't have
17 final confirmation that's his schedule, but I think we can
18 make that work.
19   THE COURT: And that's your final witness?
20   MR. KISE: Right. So there may be, kind of like
21 we had with the plaintiff's case, there may be a little
22 gap between when Bartov is done and Trump takes the stand,
23 because I don't know that we can get him here on the 8th.
24 Fridays and Saturdays tend to be pretty challenging.
25   THE COURT: Okay.

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1   MR. ROBERT: Just so we are clear, if Mr. Birney
2   doesn't finish today, which he probably won't, we may have
3   to take a break with him and put him on after we are done
4   with the Deutsche Bank witnesses.
5   MS. GREENFIELD: I recall you said that last
6   week. We got that.
7   When do we know if there is going to be a
8   rebuttal?
9   MR. WALLACE: I believe we will know by the
10 middle of next week. We will update you on Friday if at
11 that point we think there is a need to bring back any
12 rebuttal witnesses, and if so who they would be. It will
13 be minimal at this point though, I think it is fair to
14 say.
15   MS. GREENFIELD: Okay. Thank you.
16   MR. WALLACE: I would just also note, I think we
17 will reraise our objections to Mr. Schubin's testimony.
18 He is an attorney who is going to testify about the legal
19 standards surrounding easements on the Mar-a-Lago
20 property. So we plan to renew an objection to his
21 testimony, since, in our view, that is a legal opinion and
22 is an improper basis for expert testimony.
23   I think we may have other objections to some of
24 the experts, but that one I think we would seek to exclude
25 Mr. Shubin at some point. And we can arrange that timing

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1   just to make sure we are not creating gaps on the
2   schedule.
3   THE COURT: Well, if that's all his testimony
4   would be, legality or the effect of the easements, I
5   suppose that would fall under the rule that there are no
6   legal experts allowed.
7   MR. WALLACE: I believe we briefed that in our
8   preliminary -- our motions, which were held in abeyance
9   pending people being free to reraise their objections
10 during trials. That's a note that we plan to reraise that
11 objection.
12   MR. KISE: We could potentially argue that this
13 Friday before Mr. Schubin takes the stand next week, and
14 that way we will know.
15   MR. WALLACE: That's fine from our perspective.
16   THE COURT: Fine.
17   So the redirect of current witness.
18   MR. ROBERT: Yes, Your Honor.
19   (Whereupon, the witness resumed the stand.)
20   THE COURT: Okay. Please proceed.
21   MR. ROBERT: Thank you, Your Honor.
22   Can you hear me?
23   THE COURT: Yes.
24   (Transcript continued on next page.)
25

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1   REDIRECT EXAMINATION
2   BY MR. ROBERT:
3   Q   Mr. Hawthorn, when Mr. Amer was questioning you he
4   asked you some questions regarding the analytical procedures
5   used for a compilation report; do you remember that?
6   A   Yes.
7   Q   And you testified that there was no testing involved,
8   correct?
9   A   Yes.
10   Q   What, if in any way, does GAAP affect the procedures
11 to follow for a compilation?
12   A   GAAP is still to be followed and also complied with.
13   Q   You were also asked a series of questions about the
14 loan for Chicago; do you remember that?
15   A   Yes.
16   Q   And Mr. Amer showed you some e-mails that set forth
17 Deutsche Bank's position; do you remember that?
18   A   Yes.
19   Q   After that exchange of e-mails in October of 2022,
20 did the Trump Organization ever submit a Statement of Financial
21 Condition to Deutsche Bank?
22   A   No.
23   Q   And did the bank ever send a default notice to the
24 Trump Organization after October of 2022?
25   A   No.

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1   Q   And ultimately that loan was paid off, correct?
2   A   Correct.
3   Q   Mr. Amer also was questioning you about portions of
4   Justice Engoron's summary judgment decision; do you remember
5   that?
6   A   Yes.
7   Q   And specifically he was asking you questions related
8   to Justice Engoron quoting from Barbara Jones' August 3, 2023
9   letter; do you remember that?
10   A   Yes.
11   MR. ROBERT: I would like to present to the
12   witness Defendant's Exhibit 1057 for identification.
13   (Handing)
14   Q   Mr. Hawthorn, what do you recognize this document to
15   be?
16   A   This is a letter from Judge Jones on Bracewell
17   letterhead updating the Court on the status of the monitorship.
18   MR. ROBERT: Your Honor, I'll represent that
19   this is filed on the public docket as NYSCEF 647. And I
20   ask that this document be introduced into evidence as
21   Defense Exhibit 1057.
22   MR. AMER: No objection.
23   THE COURT: Granted. It is in.
24   (Whereupon, the document referred to was deemed
25   marked for evidence as Defendant's Exhibit 1057 by

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1   the Court.)
2   Q   Mr. Hawthorn, I am going to draw your attention to
3   page two of this letter.
4   MR. ROBERT: If you could put it up on the
5   screen, Nate, as well?
6   Q   And I start by drawing your attention to the first
7   paragraph. Do you see that, sir?
8   A   Yes.
9   Q   Let's go through the first paragraph. What does the
10   first sentence says?
11   A   As noted above, since my appointment I have reviewed
12   material, financial and accounting information submitted by the
13   Trump Organization.
14   Q   Continue, sir.
15   A   As part of my review I have made preliminary
16   observations regarding certain -- certain financial disclosures
17   with respect to the Trump's organizations reporting of
18   financial information.
19   Q   Continue.
20   A   Specifically, I have observed that information
21   regarding certain material liabilities provided to lenders --
22   such as intercompany loans between or among Trust entities and
23   Donald J. Trump, certain of the Trust's contingent liabilities,
24   as well as refundable golf club membership deposits -- has been
25   incomplete.

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1   Q   Do you have an understanding of what Judge Jones is
2   saying in that last sentence?
3   A   I do.
4   Q   What is that?
5   A   During the course of the monitorship, as I mentioned,
6   we had a lot of discourse between the monitor of what they
7   observed and what our response to those observations were. So,
8   ten months into the monitorship we were advised by the
9   monitor's representatives that they would be advising the Court
10   of some updates. They provided to us in a meeting certain of
11   those matters for discussion, with which we provided responses.
12   Specifically to the matters that are raised here,
13   that's what this is talking about.
14   Q   And, sir, was the information incomplete?
15   A   It is our view that it was not because of our
16   response to the information. Specifically, for each point
17   noted here, the observation of information regarding certain
18   material provided to lenders, as you know the company no longer
19   prepares a Statement of Financial Condition. It is not
20   required by any lender. The company simply prepares a
21   statement of assets, material assets and material liabilities
22   to lenders. So one of the lenders, for example, today, that
23   has the Doral loan, receives that information.
24   Obviously because it is being provided to a lender it
25   is provided to the monitor. And the monitor had some questions

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1   about it. One of the questions arose relating to one of our
2   Scotland entities. So if you remember, we have a hotel in
3   Scotland, Trump Turnberry. We also have Trump Aberdeen. In
4   connection with the monitor's also review of those financial
5   statements, because they review all of the financial
6   statements, they identified to us and had questions about what
7   was disclosed in those financial statements about an
8   intercompany loan to the Trust.
9   Our response was, yes, that exists because the
10   company upon purchasing the Trump Turnberry asset in 2014
11   effectively loaned money to the Scotland entity, was set up as
12   a shareholder loan, and therefore that entity owes back money
13   to the Trust, to the parent entity.
14   This is what is referred to as an intercompany loan.
15   It is not a loan to a third party. It is not a loan that is
16   callable accept by the owner of the loan, which is the same
17   party.
18   So, the monitor's observation to us was, your
19   statement of liabilities doesn't include this loan. Why does
20   it not?
21   And our response was, well, if you are going to put
22   the loan as a liability, you also have to put the asset, the
23   receivable as well, because the Trust is owed that money from
24   itself, effectively.
25   They asked why was that information not included if

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1 you are submitting this to lenders. And our response is, it is
2 not something a lender would be concerned about because it is
3 not to a third party, it is to yourself. So in our view the
4 statement that we provided and continue to provide, is
5 completely accurate and completely transparent.
6   However, they had -- even though no lender had asked
7 us to make a change about it, the monitor said, would you take
8 our question under advisement and perhaps going forward you
9 could make a footnote on the schedule identifying that this is
10 an intercompany loan. So that's what this item is related to.
11 It is simply a loan within the Trust, not owed to a third
12 party.
13   So for someone to say it is incomplete, we actually
14 disagree with that because it is not something a lender would
15 be interested in. It is not an obligation outside of yourself.
16 If you are going to put a loan, you also have to put the
17 receivable. We didn't think it made sense to gross up assets
18 and liabilities. Rather, just if you want us to disclose it as
19 a footnote, we will. So prospectively we have done that. We
20 have made that revision.
21   (Whereupon, the following proceedings were
22 stenographically recorded by Senior Court Reporter Michael
23 Ranita.)
24
25

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1   Q   We now go on Mr. Hawthorn, to the last sentence of this
2 paragraph. Can you read that?
3   A   Sorry, the other comment in the sentence says "that
4 certain contingent liabilities, as well as refundable golf club
5 membership deposits has been incomplete. We were also aware
6 that the statement of material liabilities" --
7   MR. AMER: I'm sorry, your Honor, I don't think
8 this responds to the question. I'm not sure.
9   MR. ROBERT: I told him to finish the sentence.
10   MR. AMER: I thought you asked him to read the next
11 sentence.
12   MR. ROBERT: I apologize if I said the next
13 sentence.
14   A   There's two items noted in that sentence I want to make
15 sure I address it for completeness. The monitor asked us why
16 certain membership deposits at golf clubs would not be reflected
17 in the statement of material liabilities. The only reason that
18 the monitor observed these particular liabilities is that they
19 inquired of us for any and all financial reporting.
20   So when I made a statement before about a mutual
21 understanding, it was a mutual understanding about materiality.
22 At the onset of the monitorship, we were being as diligent and
23 forthright as we could, disclosing everything we possibly could.
24   The order said provide sales tax returns, financial
25 information to any party, and so we did that. Included in some

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1 of those submissions in January and February of 2023, included
2 certain balance sheet information and income statement
3 information of our golf courses to, um, leasing companies for
4 golf course maintenance equipment. Certainly not material
5 things in the scope of the company at large, but because it was
6 going to a leasing company, we wanted to make sure the monitor
7 saw that. Included on those balance sheets for those
8 individual, um, golf clubs includes a liability for refundable
9 membership deposits.
10   Most of those deposits come about when The Trump
11 Organization acquired a club in the past, and the policy of the
12 club was that those membership deposits for people who joined
13 the club were refundable. So therefore it's a liability on your
14 balance sheet.
15   Um, the reality is prospectively, and now, the company
16 doesn't have that policy. It doesn't have refundable membership
17 deposits. If someone wants to join the club, they have to pay
18 the cost to join the club now, and those deposits are generally
19 non-refundable.
20   Now, the monitor identified, well, okay certain of
21 these golf clubs that you are giving to a golf course
22 maintenance leasing company shows these liabilities, why
23 wouldn't you have that on the statement of material assets and
24 liabilities to the main lender, and why would it not be
25 disclosed.

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1   And our response is, they are not included on there
2 because if you included those liabilities, there's actually a
3 greater asset value associated with them. If those members
4 leave, a new member would have to join. You know, for a new
5 member to join, those members leave, and you would get a much
6 greater value from the new membership coming in. So from our
7 perspective and our disclosure to the monitor, by not including
8 those liabilities, we are actually being conservative, otherwise
9 we will have to put a much larger asset value offsetting those
10 liabilities, if that makes sense.
11   THE COURT: I follow that. What if they couldn't
12 find somebody to become a new member?
13   THE WITNESS: That's a possibility. But, um, in
14 our experience, membership changes very frequently. Certain
15 clubs, there are waiting lists to join membership. So in
16 most instances people are waiting to join, for old members
17 to leave for new members to come in.
18   Nonetheless, the statement of assets and
19 liabilities has a footnote that literally says, um, certain
20 contingent liabilities may be excluded. And, again, the
21 unfortunate thing about this disclosure doesn't mention
22 anything about materiality. In my experience, as an auditor
23 and public accounting, like none of these items are material
24 to the organization's financial representation as a whole,
25 if you are talking about these types of liabilities.

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1   THE COURT: How much was the average membership
2 back then?
3   THE WITNESS: Um, it's hard to say. It varies by
4 club.
5   THE COURT: Several hundred thousand dollars?
6   THE WITNESS: Sure.
7   THE COURT: Where are we drawing the line on
8 materiality?
9   THE WITNESS: We are talking about billions of
10 dollars of asset value, and liability value of much less
11 than that.
12   THE COURT: All right. Just continue.
13 Q   Fair to say, Mr. Hawthorn, that you respectfully
14 disagree with the statement that it's incomplete?
15 A   We explained to the monitor, we don't think it's
16 incomplete. We think it's accurate. In working with the
17 monitor in good faith, we understood their requests. We
18 understood that even though the lender asked for us to include
19 this or has a concern with this, we would take their advice and
20 prospectively take the footnote and make it clear.
21 Q   Let's go down to the last sentence in this paragraph.
22 If you could read that.
23 A   "The trust also has not consistently provided all
24 required annual and quarterly certifications attesting to the
25 accuracy of certain financial statements."

M. Hawthorn - by Defense - Redirect (Mr. Robert)   Page 5289

1 Q   What is your view as to that statement, sir?
2 A   Again, all of the multitude of financial statements,
3 quarterly compliance, annual compliance certificates that the
4 monitor reviewed, they identified that for a handful of them,
5 and those would relate to the commercial properties we talked
6 about earlier, like Trump Plaza, Trump International Commercial,
7 that historically, if you look at the actual loan document,
8 which was written many years ago, the financial reporting
9 section says the submission of these financials should also be
10 accompanied by a certification signed, right. And if you look
11 going back to the inception of these loans, every time it was
12 submitted by the company, there was no manual signature on the
13 paper that it was scanned and delivered to the lender.
14   Our response was, well, we understand that that's not
15 technically what the loan document says, but the bank has never
16 asked us to sign it over many years, so the practice has always
17 just continued. Um, and frankly when you submit something on
18 its face to a lender, you are already de facto, you know,
19 disclaiming the accuracy of it saying these are the statements
20 that you need. However, we said, "No problem. Going forward,
21 if you would like to add a signature line and someone to
22 physically sign the statement, we will do that." And we did
23 that going forward.
24   So, again, I get to say that something relating to a
25 statement --

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1   THE COURT REPORTER: I'm sorry, something
2 relating --
3 A   To say that something is incomplete is very broad and
4 general, but I think the specificity of it, again, in my
5 experience, this is nothing adversely material. This is nothing
6 misleading. This is nothing with an intent to defraud. These
7 are all observations that we discussed with the monitor when
8 they were advising of us these points.
9 Q   I move to the next paragraph, Mr. Hawthorn.
10   MR. ROBERT: If we could bring that up on the
11 screen.
12   (Whereupon, the exhibit was displayed on the
13 screen.)
14 A   So this says, "In addition, annual audited financial
15 statements for certain entities, prepared by an external
16 accounting firm, list depreciation expenses. However, interim
17 internally prepared financial statements provided to third
18 parties for these same entities inconsistently report
19 depreciation expenses."
20   Again, this arose from the same disclosure of financial
21 information sent to a golf course maintenance lender, back in
22 January and February, that even if we were to do it today, it
23 may not even meet the materiality threshold. But nonetheless,
24 those statements, if you are signing up to lease golf course
25 maintenance equipment like mowers and blowers and things like

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1 that, the leasing company wants to understand that you have
2 available cash flow and available financial wherewithal when you
3 submit your financial statements.
4   They don't require audited financial statements, which
5 would be in accordance with GAAP and have noncash charges, such
6 as depreciation expense. So we simply provide internally
7 prepared management financial expense, revenue, expected net
8 operating income. On those statements, what they observed, and
9 what we agreed with, is that the depreciation line was blank and
10 it was zero.
11   And our response was, at the time these were needed to
12 be prepared, depreciation expense was not yet finalized.
13 Depreciation expense for these entities is usually done on an
14 annual basis at the end of the period, because these entities
15 don't have audited financial statements. They only are needed
16 for tax returns and other purposes for filing taxes, and
17 therefore the accounting firm, Whitley Penn, Mazars, previously,
18 would do that calculation on behalf of the company at the end of
19 the year.
20   So our point was, yes, we agree with that statement,
21 and, again, our response was, number one, it's okay, because
22 it's an internal statement. It's not intended to be an audited
23 statement.
24   And number two, the receiving party doesn't really care
25 about depreciation because it's a noncash charge. It doesn't

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1 impact a lender's analysis if you have cash flow to service a
2 lease.
3   So we did have an internal conference call with the
4 monitor in August, or probably in July of 2023 as they reviewed
5 these points with us. They were, again, cordial, they were
6 explaining to us. We explained our responses very clearly. Um,
7 they did give us a draft of this before it went out. We did
8 strongly disagree with their draft because of the way it was
9 worded. It's very, you know, it's very vague and doesn't give
10 materiality. So I think to someone reading it without the
11 context might assume certain conclusions. But, again, with me
12 providing some specificity over these things being not adversely
13 material to the company, and our responses to them being, you
14 know, what we believed to be accurate, I just wanted to clarify
15 that point.
16   Q   For this last paragraph we just read are you telling us
17 that those third parties are literally the golf course
18 maintenance contracts for the plow and the lawn mower?
19   A   Correct.
20   Q   Let's go to the next paragraph, Mr. Hawthorn.
21   (Whereupon, the exhibit was displayed on the
22   screen.)
23   Q   If you could read that, please.
24   A   "The defendants maintain that its practices related to
25 these items are adequate. However, in the interest of

M. Hawthorn - by Defense - Redirect (Mr. Robert)   Page 5293

1 cooperation and transparency, defendants have agreed to address,
2 in future disclosures to lenders, the items I have identified,
3 and otherwise adjust their practices based upon my observations.
4 The Trump Organization will continue to inform the monitor
5 regarding the form and substance of these disclosures."
6   Q   And is this paragraph consistent with the conversations
7 that you had with the monitor at or around the time of this
8 letter?
9   A   It is consistent. Again, these are observations that
10 they identified to us. We provided our responses that we
11 believed everything was adequate, correct, materially correct.
12 But also in good faith working with the monitor, we are happy to
13 amend certain things to satisfy their observations. Even if
14 lenders didn't ask us, we'll go ahead and do that.
15   Q   Mr. Hawthorn, I'm going to draw your attention to the
16 last paragraph and ask you to read the first sentence?
17   (Whereupon, the exhibit was displayed on the
18   screen.)
19   A   "Based upon the foregoing, and having carefully
20 reviewed the information provided to me, it appears that the
21 defendants continue to cooperate with me and the requirements of
22 the Court's orders."
23   Q   Sir, at any time did the monitor accuse The Trump
24 Organization of disseminating false and misleading information?
25   A   No.

M. Hawthorn - by Defense - Recross (Mr. Amer)   Page 5294

1   MR. ROBERT: I have no further questions, your
2 Honor. Thank you.
3   THE COURT: Any recross?
4   MR. AMER: Just a few questions. Can I do it from
5   here?
6   THE COURT: Sure.
7 RECROSS EXAMINATION
8 BY MR. AMER:
9   Q   Mr. Hawthorn, am I correct that you had no role or
10 responsibility with respect to golf courses that were just golf
11 courses?
12   A   Now I do, in some capacity, but not previously, because
13 the golf courses are part of the chart of accounts conversion
14 project, for example.
15   Q   And prior to that point in time when you would have had
16 some responsibility for just the golf courses, you wouldn't have
17 had any involvement in the membership deposit -- the refundable
18 deposit membership liabilities?
19   A   I would have with respect to the hotels that have that
20 component. So, for example, Doral has that component.
21   Q   My question was golf courses that are just golf
22 courses.
23   A   Oh, correct.
24   Q   And all of the explanations that you've given on
25 redirect were all things that you told to Judge Jones her staff;

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1 correct?
2   A   Yes.
3   Q   And those were all things that you told Judge Jones and
4 her staff before she finalized the letter that was then quoted
5 by the Judge in his decision; correct?
6   A   Yes.
7   MR. AMER: That's all I have, your Honor.
8   THE COURT: Any re-redirect?
9   MR. ROBERT: Nothing further, your Honor, except I
10 would renew our request, and we'll brief it for you, about
11 our ability to call Judge Jones, because I think the
12 Attorney General just reopened the door asking about the
13 conversations and what she was aware of at the time the
14 letter was written.
15   Apparently the Attorney General is not accepting
16 the language in that letter to not be critical of The Trump
17 Organization, notwithstanding the language at the end that
18 says that "they cooperated with me and the requirements of
19 this Court's orders." So clearly the government is of the
20 view that somehow this letter says what it doesn't say.
21   So, therefore, we would renew our application to
22 have Judge Jones testify to either explain what she meant by
23 this, because right now there is clearly a disputed issue
24 between us and the government as to what it means.
25   THE COURT: Do you want to call -- let them call

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1 Judge Jones?

2 MR. AMER: No. And we think your Honor is correct,

3 that the case law does not permit it. I would also say that

4 the point of sharing the portion of the decision that

5 discusses Judge Jones's observations was to contrast that

6 with what this witness characterized as the relationship

7 between The Organization and Judge Jones and her staff,

8 which I think is inconsistent -- we would submit is

9 inconsistent with what the Judge's observations were in her

10 August 3rd letter.

11 MR. ROBERT: We would respectfully disagree,

12 because it was this Court that used the words "fraud" and

13 "misleading information" accusing The Trump Organization of

14 engaging in that. Those words appear nowhere in Judge

15 Jones' report. They appear nowhere in the earlier reports

16 submitted to Court. It was never a word or a concept that

17 was ever a disseminated to this witness, or anyone else

18 involved in the monitorship process, whether by Judge Jones,

19 the accountants she retained, or anyone else.

20 Notwithstanding the hundreds of thousands of dollars that

21 have been paid to the monitor and the accountant, which is

22 evidence of their due diligence of combing through

23 voluminous financial records, and there has been no evidence

24 of any false or misleading information.

25 THE COURT: Well, go ahead.

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1 MR. KISE: Your Honor, and again, we'll brief this,

2 but just as an aside, in Bankruptcy Court, monitors are

3 called examiners, they routinely testify. In SEC

4 receivership proceedings, the examiner or the receiver

5 routinely testifies, they're fiduciaries.

6 THE COURT: That's receiver, not monitor; right?

7 MR. KISE: But it's the same concept. It's the

8 exact same concept. The fact that they are arms of the

9 court and have fiduciary responsibilities does not in any

10 shape, form or fashion preclude them from testifying.

11 Additionally, a monitor can't communicate through a

12 report, because the report by itself is hearsay. The

13 report, itself, is hearsay. You can't take a report and use

14 that as truth of the matter asserted. The report, itself,

15 is hearsay.

16 As you could see the challenges that arise from

17 doing that, without the monitor here to testify, I mean,

18 they obviously have a very different view of what that

19 letter says than we do. They have opened the door by asking

20 this witness direct questions. I mean, they were cute.

21 They took your quoting of the letter, but it's the same

22 principle. So they -- what the monitor thinks is clearly

23 and squarely at issue with respect to equitable relief that

24 this Court is considering.

25 If the monitor is going to come in here, which I'm

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1 virtually certain she will, and say what it doesn't say in

2 that letter; there is no fraud. There's no -- hasn't been

3 any indicia of fraud. There hasn't been any ongoing indicia

4 of inappropriate activity. We are talking about, as this

5 witness just testified, minor accounting discrepancies, all

6 of which occur in a major corporation all the time.

7 So we need the monitor here to be able to, at least

8 present live testimony that can be considered, not hearsay,

9 in the record, as to whether or not there needs to be some

10 equitable relief to address things that we think do not

11 exist. We think she will say they don't exist, but the

12 government is clearly pounding the table saying, "No, no,

13 no. This is a fraudulent enterprise. We have to shut it

14 down and put them out of business." When you have a monitor

15 that's been in place for now 14 or 15 months and hasn't

16 uncovered any evidence of that, has a cooperative

17 relationship with the company, and clearly has confidence

18 that what the company is doing now is fine.

19 The idea that the government could even assert that

20 somehow we need to put these people out of business and shut

21 them down seems a nonstarter. It's almost as much as a

22 nonstarter as the whole certification roundabout we went

23 through, even when the guaranty is zero and there is no net

24 worth requirement, somehow or other there is harm if there's

25 a problem with the certification.

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1 But, in any event, I don't see how monitor

2 testimony is not squarely and highly relevant here. And

3 there is nothing to preclude the monitor from testifying

4 simply because she's got fiduciary obligations to the Court.

5 She is an independent monitor, just like in a Bankruptcy

6 Court, an independent examiner; just like in an SEC

7 proceeding, they are all the same.

8 THE COURT: Well, Mr. Kise, I won't even ask you,

9 I'll just suggest that every time you want to speak about a

10 particular issue that maybe you don't have to argue the

11 whole case.

12 MR. KISE: I feel like I have to, because we don't

13 seem to be getting anywhere. We don't seem to be

14 communicating at all. We have evidence that comes in after

15 -- witness after witness after witness, there's no problem.

16 There's no -- even today with the certifications, okay. So

17 even assuming they are right, there is a problem with the

18 certification, how does that go to equitable relief when

19 this is no guaranty. It's zero.

20 The document that they put into evidence says that

21 the guaranty was zero or 10 percent. Has there ever been

22 any allegation that the net worth of Donald Trump was below

23 $250 million? No. So all we are doing is having this sort

24 of circuitous discussion about them jumping up and down

25 saying, "There's fraud. There's fraud. There's fraud."

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1 But no one has said that, including the monitor. That's the
2 point of having the monitor come here. They are the only
3 ones in the courtroom jumping up and down saying there is
4 fraud, even though no one else is. The bank isn't. The
5 monitor isn't, and so I think we definitely need to be
6 entitled to bring that in.
7   So, yes, I apologize for pleading the case, but
8 that's kind of my job, is to plead the case, especially when
9 no one seems to be listening, particularly at that table.
10   THE COURT: Well, I think you just proved my point.
11 Every time you talk, it's a campaign speech.
12   MR. AMER: We hear everything they say. We are
13 just not convinced or impressed.
14   MR. KISE: No, they are not. Exactly. They are
15 not. And with respect, your Honor, it's not a campaign
16 speech.
17   MR. AMER: I didn't mean that to be an invitation
18 to hear it all over again, your Honor.
19   THE COURT: You know, I could excuse the witness,
20 but he might be enjoying this.
21   MR. KISE: He probably is.
22   THE COURT: A few things, one, I'll wait to see if
23 you come up with any monitor cases.
24   Two, if the Attorney General had been the first one
25 to bring up the -- anything about the monitor, that would be

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1 one thing, but if I remember correctly, you brought it up
2 first, asked a whole bunch of questions, and then they just
3 wanted to basically respond, answer to those questions. So
4 I don't think they opened the door. You tried to open the
5 door.
6   And third, as I had said earlier, the monitor is
7 supposed to report with statements. If there are
8 disagreements about what they mean, I'll worry about that.
9 Okay, I'll decide what her reports mean and the implications
10 thereof.
11   So anything else from either side?
12   MR. AMER: Nothing from the plaintiff.
13   THE COURT: All right. We have -- the witness is
14 excused. You could sit out there and be amused, if you
15 want.
16   Nice to meet you.
17   THE WITNESS: Thank you.
18   THE COURT: Okay. We have another witness for the
19 defense?
20   MR. ROBERT: We call Patrick Birney.
21   MR. WALLACE: Your Honor, for the record is
22 Mr. Birney a fact witness watching the proceedings? I don't
23 think --
24   MR. ROBERT: First of all, he's already been called
25 in your case. So I know of no prohibition. But secondly,

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1 he should be in his little anteroom in the Judge's chambers,
2 and I told Ms. Hernandez to watch the proceedings so she
3 knows when to come in.
4   MR. WALLACE: Ms. Hernandez is a lawyer on the
5 defendant's team, and if she's watching the case, that is
6 different than a fact witness.
7   THE COURT: All right. So we are good on that.
8   MR. WALLACE: Thank you for the clarification.
9   THE COURT: Quick front bar.
10   (Whereupon, there is a discussion held off the
11 record, at the bench, among the Court and all Counsel.)
12   THE COURT OFFICER: Is the court ready for the
13 witness?
14   THE COURT: We're ready.
15   THE COURT OFFICER: Witness entering.
16   MS. HERNANDEZ: Good afternoon, your Honor.
17   THE COURT: Good afternoon.
18   (Whereupon, the witness stepped into the witness
19 stand.)
20   THE COURT OFFICER: Please raise your right hand.
21   (The witness complied.)
22   THE COURT OFFICER: Do you solemnly swear or affirm
23 that any testimony you give will be the truth, the whole
24 truth and nothing but the truth?
25   THE WITNESS: I do.

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1 P A T R I C K   B I R N E Y, called by and on behalf of the
2 Defendant, having been first duly sworn, was examined and
3 testified as follows:
4   THE COURT OFFICER: Please have a seat. State your
5 full name and home or business address for the record.
6   THE WITNESS: Patrick Birney, 725 Fifth Avenue,
7 New York, New York 10022.
8   THE COURT: Okay. Please proceed.
9   MS. HERNANDEZ: Thank you, your Honor.
10 DIRECT EXAMINATION
11 BY MS. HERNANDEZ:
12   Q Mr. Birney, what is your educational background after
13 high school?
14   A I earned a degree in economics from the University of
15 Michigan.
16   Q Where did you work after college?
17   A AON Risk Solutions.
18   Q What was your position at AON?
19   A Account specialist.
20   Q What were your responsibilities as an accountant
21 specialist?
22   A I worked on an account management and sales team. Um,
23 I had a lot of clients who I worked on their renewals for
24 schedules of insurance, renewal exposures, auto ID cards,
25 invoicing, et cetera.

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1   Q   And where did you work after you left AON?

2   A   The Trump Organization.

3   Q   What was your title when you began at The Trump

4 Organization?

5   A   Senior financial analyst.

6   Q   What were your responsibilities as a senior financial

7 analyst?

8   A   Um, I worked on the insurance renewals and the, um,

9 golf course financials and operations.

10   Q   And what year did you start working at The Trump

11 Organization?

12   A   2015.

13   Q   So after senior financial analyst, what was the next

14 position you held at The Trump Organization?

15   A   Associate.

16   Q   And what were your responsibilities as an associate?

17   A   Similar responsibilities, worked on insurance and the

18 golf course financials. I worked on other projects. I did a

19 lot.

20   Q   And what position did you hold after associate?

21   A   Assistant vice president of financial operations.

22   Q   And what were your responsibilities as an assistant

23 vice president?

24   A   Similar, similar responsibilities; insurance, golf

25 courses. I do a lot of things for the company.

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1   Q   And what position did you hold after assistant vice

2 president?

3   A   Vice president financial operations.

4   Q   And what are your responsibilities as vice president?

5   A   Same thing.

6   Q   And when did you get that title?

7   A   About a year ago.

8   Q   Is that your current title at The Trump Organization?

9   A   Yes.

10   Q   When did you become involved in the preparation of

11 President Trump's Statement of Financial Condition?

12   A   2016.

13   Q   Why did you become involved?

14   A   Um, because Jeff McConney told me I'm going to work on

15 something.

16   Q   And what years were you involved in working on the

17 Statements of Financial Condition?

18   A   2016 through 2021.

19   Q   And in the first year that you were working on it in

20 2016, what did Jeff McConney explain to you about the process to

21 prepare the Statements of Financial Condition?

22   A   I think he told me that I was going to work on

23 something, um, and he e-mailed me the supporting data

24 spreadsheet for the Statement of Financial Condition. Um, I

25 don't know how much detail he gave in the initial briefing, um,

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1 but I went to him for any question that I had at that point.

2   Q   So throughout the preparation of the 2016 statement,

3 what was the interface between you and Mr. McConney as you got

4 used to this new role?

5   A   I worked with Jeff a lot in 2016. Any question that I

6 had, anything I had to gather, I went to him.

7   Q   And what was your role in preparing these Statements of

8 Financial Condition?

9   A   I gathered information and inputted it into multiple

10 spreadsheets.

11   Q   What spreadsheets were those?

12   A   The, um, supporting data spreadsheet. Um, there was a

13 loan spreadsheet, um, escrow spreadsheet, a cash spreadsheet. I

14 think there was a fifth spreadsheet, um, and then any of the

15 backup information that -- that was used for those spreadsheets.

16   Q   Okay.

17   And you mentioned the support data spreadsheet, what

18 was your intention in maintaining and updating that support data

19 spreadsheet?

20   A   Can you repeat the question, please.

21   Q   Sure. What was your intention when you were

22 maintaining and updating the support data spreadsheet for the

23 Statement of Financial Condition?

24   A   So every new year, um, I would just copy and paste the

25 spreadsheet from the year before so that it would have one year

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1 was the previous year and one year was the current year. And

2 then I would update those numbers and that information for the

3 current year.

4   Q   And who did you intend to look at the supporting data

5 spreadsheet?

6   A   Anybody who worked on the spreadsheet. Um, Jeff

7 McConney, Allen Weisselberg, ultimately, the accounting firm.

8   Q   And what did you expect them to learn by looking

9 through the spreadsheet?

10   A   How assets were valued.

11   Q   And did you intend to be accurate when maintaining and

12 updating the spreadsheet?

13   A   Yes.

14   (Continued on the next page.)

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1   Q   So very generally, what sort of information would you
2   have included in that supporting data spreadsheet?
3   A   It depends on the asset. It depends on the year. In
4   general, financial statement information, income statements,
5   balance sheets, square footage information, value of
6   residential unit information.
7   Q   And then you mentioned in a previous answer that you
8   would send Mazars the backup, can you describe what you mean
9   with when you say, "the backup"?
10   A   There is backup for the information on the supporting
11   data spreadsheet for all of the assets and liabilities.
12   Basically indicates where the information was from and what
13   information was used.
14   Q   And that's the information used throughout the
15   supporting data spreadsheet?
16   A   Yes.
17   Q   And how would that normally be divided, backup?
18   A   It would be divided by asset.
19   Q   Can you please describe your interface with Mazars on
20   the Statement of Financial Condition?
21   A   Usually in the last month of working on the Statement
22   of Financial Condition we would begin sending information to
23   Mazars, supporting data spreadsheet drafts, any backup to the
24   supporting data spreadsheet, any other spreadsheet. The Word
25   doc that ultimately became the Statement of Financial Condition

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1   would be sent to Mazars.
2   Mazars would call with questions, reach out to us
3   with questions. There was back and forth in that final month,
4   generally.
5   Q   Thank you. And who at Mazars would you normally
6   speak to about the statement?
7   A   Donald Bender and Jenn Safron.
8   Q   So you mentioned follow-up questions Mazars would
9   ask. Did they ever ask you about appraisals that were not
10   utilized in the Statement of Financial Condition?
11   A   Not that I can recall.
12   Q   And did they ever ask you to change the methodology
13   that a property was valued by?
14   A   Not that I can recall.
15   MS. HERNANDEZ: Okay. So I am going to pull up
16   what has already been admitted into evidence as PX758.
17   Q   Do you recognize this document, Mr. Birney?
18   A   Yes.
19   Q   What is it?
20   A   It is a version of the Statement of Financial
21   Condition supporting data spreadsheet for 2017.
22   Q   And does this appear to be the final version for
23   2017?
24   A   I don't know that.
25   Q   Do you see in column E? What would those numbers

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1   indicate there?
2   A   I believe those numbers are from Mazars.
3   Q   So would this appear to be the spreadsheet that
4   Mazars checked for 2017?
5   MR. HAREN: Objection as to "checked."
6   THE COURT: I am sorry.
7   MR. HAREN: Objection as to the word "checked."
8   THE COURT: Do you have a different word?
9   MR. HAREN: I think she is trying to establish
10   whether this was or was not the final version and whether
11   the numbers on the spreadsheet indicate that Mazars
12   processed -- processed it in some way.
13   But whether Mazars did some kind of process that
14   resulted in those numbers is not the same as Mazars
15   checking the numbers, so.
16   MS. HERNANDEZ: I am happy to change it to
17   processed.
18   Q   Does this appear to be the spreadsheet that Mazars
19   processed?
20   A   It appears to be a spreadsheet that -- a spreadsheet
21   that Mazars processed.
22   Q   Okay. And so I am going to take you to row 30 of the
23   spreadsheet.
24   Can you tell me a little bit about Trump Tower?
25   A   As it relates to the spreadsheet?

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1   Q   Sure. Just in general, a little bit about the
2   property.
3   A   Sure. Trump Tower is a commercial and residential
4   real estate asset. It is a condominium for residential, and
5   then it also has office space and retail space.
6   Q   And how was Trump Tower valued in 2017?
7   THE WITNESS: Can you scroll down slightly,
8   please?
9   (The image on the screen was scrolled)
10   A   It was valued by dividing net operating income into a
11   cap rate.
12   Q   And how would you have gathered the information used
13   to value Trump Tower in 2017?
14   THE WITNESS: Can you scroll up just slightly,
15   please?
16   (The document on the screen was scrolled.)
17   A   I would have asked Jeff McConney for the
18   December 2016 financial statement for Trump Tower. And then I
19   probably would have asked Jeff for everything else that is
20   here, unless it was already in the backup from the previous
21   year's SOFC backup.
22   Q   Would you look at the previous year's SOFC in
23   compiling a new year's information?
24   MR. WALLACE: Objection to the aspect of
25   "would," as opposed to whether the witness did something.

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1   THE COURT: Let's start with did, rather than
2 would.
3   Q   Did you look at the previous year's Statement of
4 Financial Condition?
5   MR. WALLACE: Objection, leading.
6   MS. HERNANDEZ: You tricked me there, Kevin.
7   THE COURT: It is leading, sorry. We led you
8 down the wrong path.
9   MS. HERNANDEZ: We did, right.
10   Q   How did the previous year's Statement of Financial
11 Condition play into the process for creating or maintaining and
12 updating the spreadsheet for a new year?
13   A   My process would have started by doing what we did in
14 the previous year. So obtaining the same sort of information.
15   And as we are looking at 2017, right?
16   Q   Correct.
17   A   I would have had the backup for 2016, because I
18 worked on that statement, and I probably would have looked at
19 the same backup for 2016 and requested that for the updated
20 year.
21   Q   So it would build upon each other every year?
22   A   Generally, yes.
23   MS. HERNANDEZ: And so, for Trump Tower I am
24 going to pull up what has been premarked in evidence as
25 PX-761.

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1 December 31, 2016 for Trump Tower Commercial LLC.
2   Q   And why would you have sent this to Mazars?
3   A   Because it is the backup for the number -- for the
4 numbers that were used on the supporting data spreadsheet.
5   Q   And who would have done this adding tape in the
6 middle of the document?
7   A   I think I did.
8   Q   And why would you have done that?
9   A   To indicate the calculations that were made.
10   Q   And what calculations are these?
11   A   The top one is for, it looks like average security
12 cost without excessive security due to political campaign.
13   The next one is for operating expenses.
14   Q   So why did you have to do that, average security cost
15 for this year?
16   A   Because I was told to.
17   MS. HERNANDEZ: Okay. And if we could go to
18 page four.
19   Q   What is this document? Or what is this page of the
20 document?
21   A   It looks like it indicates the Trump Tower campaign
22 lease information.
23   Q   And what role did this play in the 2017 value?
24   A   Can you show the spreadsheet back on the screen?
25   Q   Sure.

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1   (Handing)
2   Q   Do you recognize this document, Mr. Birney?
3   THE COURT: While he is looking, is this in
4 evidence?
5   MS. HERNANDEZ: Not yet.
6   THE COURT: Not yet. Okay.
7   A   Yes.
8   Q   What is this document?
9   A   The backup to the 2017 Trump Tower commercial
10 valuation, the backup to the information in the supporting data
11 spreadsheet.
12   Q   Would you -- is this the information you would have
13 sent to Mazars?
14   A   This is the information that was sent to Mazars.
15   MS. HERNANDEZ: Your Honor, I would like to move
16 Plaintiff's Exhibit 761 into evidence.
17   THE COURT: Granted, it is in.
18   (Whereupon, the document referred to was deemed
19   marked for evidence as Plaintiff's Exhibit 761 by the
20   Court.)
21   Q   So whose handwriting is this on the first page,
22 Mr. Birney?
23   A   Mine.
24   Q   And what is the first page of this document?
25   A   It is an income statement for the year ending

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1   MS. HERNANDEZ: Nate, can you pull up PX-758
2 again?
3   A   It has something to do with the rental income for
4 vacant campaign-related space line items on the supporting data
5 spreadsheet. I just can't pinpoint the data right now.
6   Q   Okay. But this would have been the data you were
7 looking at when putting these figures in in the supporting data
8 spreadsheet?
9   A   I believe so.
10   MS. HERNANDEZ: Okay. And then, Nate can you
11 actually pull it up side by side, PX-761?
12   And can you go to the last page?
13   And zoom in on --
14   Q   Well, let me ask you first. Mr. Birney, what is the
15 last page of the backup for Trump Tower?
16   A   It is a list of class A office building sales in
17 Manhattan, in midtown Manhattan, with the cap rate identified
18 that was used for this year; identified with the star.
19   MS. HERNANDEZ: And Nate, can you pull up number
20 five with the star?
21   It is okay if you have to take the supporting
22 data spreadsheet down.
23   Q   Is this the star you are referring to, Mr. Birney?
24   A   Yes.
25   Q   What does that star indicate?

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1   A   It indicates that that number was used.
2   Q   That this cap rate was used?
3   A   Yeah. It indicates that the 2.9 percent cap rate was
4   used.
5   Q   And where had you -- where would you have gotten this
6   market data from?
7   A   I think I got it from Jeff, who got it from Cushman,
8   I think.
9   MS. HERNANDEZ: And can we pull up PX-758 again?
10   Q   Is that what is reflected there on the cap rate note
11   on line 79?
12   THE WITNESS: Can you scroll down slightly?
13   (The document on the screen was scrolled.)
14   Q   Sorry, it would be 83 to 84.
15   A   Yes.
16   Q   So we are going to go to Niketown, the next property.
17   Can you tell me a little bit about Niketown?
18   A   Yes. Niketown is a retail space located on
19   57th Street, adjacent to Trump Tower.
20   Q   And how did you value Niketown in 2017?
21   A   Similar approach to Trump Tower. It was net
22   operating income divided by cap rate.
23   Q   And how would you have gathered the information again
24   to value Niketown here?
25   A   I probably would have had it from the year before.

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1   MS. HERNANDEZ: Okay. And so I am going to pull
2   up what has been premarked as D-1056.
3   THE COURT: Five-minute warning.
4   MS. HERNANDEZ: Thank you, Your Honor.
5   (Handing)
6   Q   Do you recognize this document, Mr. Birney?
7   A   Yes.
8   Q   And what is this document?
9   A   It is the backup to the supporting data spreadsheet
10   for the Niketown asset for 2017.
11   Q   And this would have -- would this have been sent to
12   Mazars?
13   A   This was sent to Mazars.
14   MS. HERNANDEZ: Your Honor, I would like to move
15   what has been premarked has Defendant's Exhibit 1056 into
16   evidence.
17   THE COURT: Granted, it is in.
18   (Whereupon, the document referred to was deemed
19   marked for evidence as Defendant's Exhibit 1056 by
20   the Court.)
21   Q   So, what are the first -- what is the first page of
22   this document, this backup?
23   A   It is a lease summary for the Nike lease.
24   Q   And going to page two, who would have done the
25   highlights and stars on this page?

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1   MR. WALLACE: Objection again to the "would."
2   Q   Who highlighted and added stars to this page?
3   A   I did.
4   Q   And why would -- why did you add those highlights and
5   stars?
6   A   To draw attention to it, because that was the number
7   that was used -- those were the numbers that were used in the
8   supporting data spreadsheet.
9   Q   And looking to page three.
10   Is that the same reason you added highlights and
11   stars to the numbers at the bottom of the page?
12   MR. WALLACE: Objection, leading.
13   THE COURT: Sustained.
14   Q   Why did you add stars to the numbers at the bottom of
15   the page?
16   A   To draw attention to the figures that were used in
17   the supporting data spreadsheet.
18   Q   And what figures are these?
19   A   Can you pull the spreadsheet up again?
20   Q   Sure.
21   MS. HERNANDEZ: Thank you, Nate.
22   A   Both figures were used, both the 1,652,847 and
23   1,702,432.
24   Q   I think you were continuing, were used?
25   A   Were used in the supporting data spreadsheet.

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1   MS. HERNANDEZ: That's a good stopping place for
2   me today, Your Honor.
3   THE COURT: You are not finished with the
4   witness but it is a good stopping place?
5   MS. HERNANDEZ: Yes, sir.
6   THE COURT: Okay. We will see you all 10:00
7   tomorrow.
8   MS. FAHERTY: Do you want to instruct the
9   witness, Your Honor?
10   THE COURT: I instruct the witness not to
11   discuss this case or his testimony or anything related to
12   it during the evening break while you are still a witness.
13   Thank you.
14   (Whereupon, the trial stood adjourned to
15   November 28, 2023 at 10:00 a.m.)

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