

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JACK BEAM and RENEE BEAM,

Plaintiffs,

v.

DONALD F. McGAHN II, FEDERAL  
ELECTION COMMISSION CHAIRMAN,

Defendant.

Civil No. 07cv1227

Judge Pallmeyer

Mag. Judge Cole

Defendant's Motion for Summary  
Judgment

**DEFENDANT FEDERAL ELECTION COMMISSION'S  
MOTION FOR SUMMARY JUDGMENT**

Defendant Federal Election Commission ("Commission" or "FEC") moves for Summary Judgment pursuant to Federal Rule of Civil Procedure 56 and the Court's May 28, 2009 Order. The Court should enter judgment for the Commission because there is no genuine issue of fact as to whether anyone at the Department of Justice transferred, or anyone at the Commission ever received, any private financial information belonging to Jack Beam or Renee Beam in violation of the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. §§ 3401 *et seq.* In support of this motion, the Commission has also filed a memorandum of law and its statement of material facts as to which there is no genuine issue supported by two Fed. R. Civ. P. 56(e) affidavits and uncontradicted deposition testimony, pursuant to Northern District of Illinois LR56.1(a)(3).

Respectfully submitted,

/s/ Thomasenia P. Duncan  
Thomasenia P. Duncan  
General Counsel

/s/ David Kolker  
David Kolker  
Associate General Counsel

/s/ Harry J. Summers  
Harry J. Summers  
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/s/ Benjamin A. Streeter III  
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July 10, 2009

FOR THE DEFENDANT  
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AND ITS CHAIRMAN  
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Memorandum in Support of Defendant's  
Motion for Summary Judgment

**MEMORANDUM IN SUPPORT OF  
DEFENDANT FEDERAL ELECTION COMMISSION'S  
MOTION FOR SUMMARY JUDGMENT**

Defendant Federal Election Commission ("Commission" or "FEC") files this brief in support of its Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56 and the Court's May 28, 2009 Order (Docket # 140). The Court should enter judgment for the Commission because there is no genuine issue as to whether anyone at the Commission ever received from the Department of Justice ("Department") any private financial information belonging to Jack Beam or Renee Beam in violation of the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. §§ 3401 *et seq.*, which is the only claim remaining in this case following the Court's October 15, 2008 order (Docket # 108). In support of this motion, the Commission files two Fed. R. Civ. P. 56(e) affidavits, uncontradicted deposition testimony, and a statement of material facts as to which there is no genuine issue pursuant to Northern District of Illinois LR56.1(a)(3).

## I. BACKGROUND

On March 2, 2007, attorney Jack Beam and his spouse, Renee Beam, filed their Application for Writ of Mandamus and Complaint (Docket #1) in this case. The plaintiffs alleged that they were the targets of an ongoing grand jury investigation centered on the Michigan law firm with which Mr. Beam is affiliated (Fieger, Fieger, Kenney & Johnson) involving alleged illegal contributions made during the 2004 Presidential election campaign cycle to candidate John Edwards. Plaintiffs also alleged that the Department of Justice violated the Federal Election Campaign Act, 2 U.S.C. §§ 431-55 (“FECA” or “Act”) by pursuing its own criminal investigation in the absence of a Commission referral of the matter to the Department pursuant to 2 U.S.C. § 437g(a)(6).

This Court issued a Minute Order (Docket # 46) on June 22, 2007, granting defendants’ motions to dismiss without prejudice. Plaintiffs then filed their Amended Complaint (“Am. Comp.”) (Docket #47) on June 29, 2007. The Amended Complaint alleged for the first time that defendants had violated the Right to Financial Privacy Act by “secretly accessing Plaintiffs’ financial records and/or suppressing the existence of its [sic] acts” (Am. Compl. ¶ 26), and failing to inform plaintiffs of the alleged access (*id.* ¶ 12), and also alleged that defendants had “conspired to retaliate” (*id.* ¶¶ 32, 40) against plaintiffs for exercising their First Amendment rights. Plaintiffs also renewed their claims that defendants had failed to comply with the alleged requirement that a referral occur before the Department could pursue a criminal prosecution.

On March 7, 2008, the Court dismissed the Amended Complaint, ruling that plaintiffs had “not pleaded a violation of FECA’s referral provision.” Memorandum Opinion and Order (“Mem. Op.”) (Docket #90) at 18. *See id.* at 13-22. With respect to plaintiffs’ other claims, the Court held that it lacked subject matter jurisdiction because plaintiffs lacked standing and

because their claims were not ripe. *Id.* at 6-13. Plaintiffs filed their three-count Second Amended Complaint (Docket #91) on March 24, 2008. Count I again alleges that defendants have violated the RFPA, adding a more direct allegation that federal agents seized plaintiffs' private financial records.

On October 15, 2008, the Court dismissed all claims against the Department with prejudice. October Memorandum Opinion and Order ("Oct. Mem. Op.") (Docket #108). With respect to the FEC, the Court dismissed all but one of plaintiffs' claims, leaving open the possibility that plaintiffs might prevail on their RFPA claim that their private financial information had improperly been received by the Commission from the Department, even if the Department had properly obtained the information in the first instance. *See* 12 U.S.C. § 3412(a). The Court stated that "[a]n agency that obtained financial records from another department or agency could thus be liable under § 3417, even if the original agency obtained the documents legally.... although Plaintiffs' allegations that the Attorney General obtained their financial records illegally fails, the FEC could still be liable for obtaining the records from the Department of Justice without following the procedures outlined in § 3412." Oct. Mem. Op. at 14. The Court permitted discovery into any possible transfer of private financial information from the Department, but emphasized the tenuous nature of this remaining claim: "If Plaintiffs still lack any evidence that an RFPA violation occurred after they have had the chance to engage in discovery, summary judgment in favor of the FEC may well be appropriate." (*Id.* at 15.) Extensive discovery directed at the Commission finally concluded on May 28, 2009.

**II. THE COMMISSION NEVER RECEIVED FROM THE DEPARTMENT ANY PRIVATE FINANCIAL INFORMATION OF JACK OR RENEE BEAM, SO PLAINTIFFS' RFP A CLAIM MUST FAIL**

Because plaintiffs have failed to uncover any evidence that the Commission ever received any private financial information of Jack and Renee Beam from the Department of Justice, and because the only financial records the Commission possesses about the Beams are copies of three contribution checks they wrote to candidate John Edwards, which were received from the Edwards campaign as part of a statutorily mandated audit, no violation of the RFP A could have occurred. The Court should therefore enter summary judgment on behalf of the Commission on the remaining claim in this case.

**A. Summary Judgment Standards**

Under Fed. R. Civ. P. 56(c), the

judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.

“In other words, the record must reveal that no reasonable jury could find for the non-moving party.” Nat’l Athletic Sportswear, Inc. v. Westfield Ins. Co., 528 F.3d 508, 512 (7<sup>th</sup> Cir. 2008) (citations and quotation marks omitted). The “court’s role is not to evaluate the weight of the evidence, to judge the credibility of witnesses, or to determine the truth of the matter, but instead to determine whether there is a genuine issue of triable fact.” Id. (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986)).

Ultimately, summary judgment is the “put up or shut up” moment in a lawsuit. Johnson v. Cambridge Indus., Inc., 325 F.3d 892, 901 (7<sup>th</sup> Cir. 2003). “Once a party has made a properly-supported motion for summary judgment, the opposing party may not simply rest upon

the pleadings but must instead submit evidentiary materials that ‘set forth specific facts showing that there is a genuine issue for trial.’” Harney v. Speedway SuperAmerica, LLC, 526 F.3d 1099, 1104 (7th Cir. 2008); see Fed. R. Civ. P. 56(e)(2). Indeed, “to avoid summary judgment a nonmovant must produce more than a scintilla of evidence to support his position that a genuine issue of material fact exists and must set forth specific facts that demonstrate a genuine issue of triable fact.” LaBouve v. Boeing Co., 387 F. Supp. 2d 845, 847 (N.D. Ill. 2005) (citations and quotation marks omitted); Morfin v. City of E. Chicago, 349 F.3d 989, 997 (7<sup>th</sup> Cir. 2003). A court should draw all reasonable inferences from undisputed facts in favor of the nonmoving party, but “[i]rrelevant or unnecessary facts do not deter summary judgment, even when in dispute.” Harney, 526 F.3d at 1104. Nor can conclusory allegations alone bar a finding of summary judgment. Perez v. Globe Ground No. Amer. LLC., 482 F. Supp. 2d 1023, 1028 (N.D. Ill. 2007).

**B. Plaintiffs Have No Evidence That the Commission Received Any Private Financial Information from the Department in Violation of Section 3417 of the RFPA**

The gravamen of plaintiffs’ sole remaining claim is that the Department obtained their private financial information and “transmitted such illegally gathered documents to the Federal Election Commission.” Second Amended Complaint ¶ 18 (Docket # 91). However, following the completion of wide-ranging discovery by plaintiffs in this case, the undisputed evidence demonstrates that no one at the FEC ever possessed any private financial information belonging to the Beams other than three contribution checks they gave to the Edwards campaign. The Commission obtained these checks as part of a statutory audit of the Edwards for President Committee, not from the Department of Justice or plaintiffs’ bank. Declaration of Audra L.

Wassom ¶ 7 (Exhibit 1 to the FEC’s Statement of Material Facts).<sup>1</sup> No credible evidence exists that the Department of Justice ever transferred any private financial information of the Beams to FEC staff, showed any such material to any FEC staffer, or even discussed such material with FEC staff, nor was such evidence found in documents provided to the Court for its in camera review.<sup>2</sup> Indeed, the Commission’s primary contact with the Department on this matter has declared under oath that the Commission received no financial information about the Beams from the Department. Id. ¶¶ 2-8. The Department’s primary contact with the Commission has confirmed this under oath. Declaration of M. Kendall Day ¶¶ 3-4 (Exh. 2). See FEC’s Statement of Material Facts ¶¶ 5-7. Moreover, no credible evidence shows that any grand jury material of any type was sent to the FEC staff by anyone, including any employee of the Department of Justice, and plaintiffs have never alleged that the Commission obtained any of their financial information directly from any bank. In short, because Jack and Renee Beam have completely failed to sustain their evidentiary burden in this case, the Court should enter summary judgment for the Commission.

As discussed supra p. 3, the Court’s October 15, 2008 Order dismissed all of plaintiffs’ claims except for the very narrow allegation that the FEC may have violated the RFPA by allegedly receiving from the Department of Justice private financial information belonging to Plaintiffs. Such liability would apparently stem from the Department’s potential failure (as the transferring agency) to properly certify “in writing” that the Department believes that the transfer records “are relevant to a legitimate law enforcement inquiry ... within the jurisdiction of the

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<sup>1</sup> Audra Wassom left the Federal Election Commission in November 2008 and was married at approximately the same time. She later appeared for a deposition under her married name, Audra Wassom Bayes. Hereafter all citations to FEC exhibits refer to exhibits attached to the Commission’s Statement of Material Facts.

<sup>2</sup> See Minute Order dated July 7, 2009 (Docket #141).

[FEC],” 12 U.S.C. § 3412(a), even though that section apparently does not require a receiving agency [i.e., the Commission] to make any similar certification. The Court then permitted plaintiffs discovery to test only the factual basis for this narrow claim, while warning that the failure to uncover any evidence supporting plaintiffs’ RFPA claim would mean that “summary judgment in favor of the FEC may well be appropriate.” Oct. Mem. Op. at 15.

Plaintiffs have now had their discovery, including extensive document requests, interrogatories, and eight depositions of FEC staff.<sup>3</sup> Plaintiffs uncovered no evidence that any private financial records or private financial information of the Beams — other than the three contribution checks to the Edwards campaign — had ever been in the possession of anyone at the Commission. Instead, the record demonstrates that no RFPA violation occurred:

a) No FEC staff has ever seen or has any information regarding any private financial information belonging to either Jack Beam or Renee Beam (other than the contribution checks to the Edwards campaign, see infra pp. 9-11). Deposition of Colleen T. Sealander 27:11-14 (Exh. 3); Deposition of Roger Hearnon 56:2-5 (Exh. 4); Deposition of Audra Wassom Bayes 23:7-12, 75:2-5, 77:3-7 (Exh. 5); Deposition of Mark D. Shonkwiler 48:13-16 (Exh. 6).

b) No FEC staff has seen any bank checking account statement containing the names Jack Beam or Renee Beam or otherwise relating to their private financial information. Sealander Dep. 26:11-18 (Exh. 3); Bayes Dep. 76:4-11 (Exh. 5).

c) No FEC staff has seen any bank savings account statement containing the names Jack Beam or Renee Beam or otherwise belonging to them. Hearnon Dep. 55:10-13 (Exh. 4); Shonkwiler Dep. 51:17-52:1 (Exh. 6).

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<sup>3</sup> On March 10, 2009, plaintiffs deposed Audra Wassom Bayes, Colleen T. Sealander, and Roger Hearnon. On March 11, 2009, plaintiffs deposed Philip Olaya, Mark Shonkwiler, Madelynn Lane, Thomas Andersen, and Peter Blumberg.

d) No FEC staff has seen any mutual fund statement containing the names Jack Beam or Renee Beam or otherwise belonging to them. Bayes Dep. 76:12-15 (Exh. 5); Shonkwiler Dep. 53:3-6 (Exh. 6).

e) No FEC staff has seen any brokerage account statement containing the names Jack Beam or Renee Beam or otherwise belonging to them. Sealander Dep. 27:8-10 (Exh. 3); Hearron Dep. 55:19-56:1 (Exh. 4); Bayes Dep. 76:15-77:2 (Exh. 5); Shonkwiler Dep. 52:21-53:2 (Exh. 6).

f) No FEC staff has ever seen any grand jury transcripts from the criminal trial in Detroit, Michigan of persons related to the Fieger firm. Hearron Dep. 53:3-15, 54:2-8 (Exh. 4); Bayes Dep. 60:5-9 (Exh. 5); Shonkwiler Dep. 42:5-8 (Exh. 6).

g) No FEC staff issued an administrative subpoena of any type, including any request for any private financial information belonging to either Jack Beam or Renee Beam. Bayes Dep. 67:12-22 (Exh. 5); Deposition of Peter G. Blumberg 22:7-15 (Exh. 7).

h) No FEC staff has seen any private financial document containing the social security number or home address of Jack or Renee Beam. Sealander Dep. 26:6-10 (Exh. 3); Hearron Dep. 54:9-15, 55:14-18 (Exh. 4); Bayes Dep. 75:18-76:3 (Exh. 5); Shonkwiler Dep. 52:2-20 (Exh. 6).

In short, the record contains no evidence that any private financial records of Jack or Renee Beam have been improperly obtained by anyone, that any “unwarranted intrusion” into the financial privacy of the Beams took place, see Anderson v. La Junta State Bank, 115 F.3d 756, 758 (10<sup>th</sup> Cir. 1997), or that the Department ever transferred to the Commission financial

information of any type belonging to the Beams for use in any FEC investigation. See FEC Statement of Material Facts ¶¶ 14-23.<sup>4</sup>

Thus, plaintiffs' discovery has failed to reveal any evidence demonstrating that the Department ever transferred, or that the Commission ever received from the Department, any private financial information belonging to plaintiffs. Under these circumstances, plaintiffs cannot establish any violation of the RFPFA. Accordingly, summary judgment should be entered for the Commission.<sup>5</sup>

**C. The Only Personal Financial Information of the Plaintiffs in the Possession of FEC Staff are the Three 2004 Contribution Checks**

Not only have plaintiffs failed to prove that any transfer of private financial information occurred between the Department and the FEC, they also have failed to allege — let alone produce any evidence — that the Commission obtained the three contribution checks the Beams wrote to the 2004 Edwards campaign in violation of any law, including the RFPFA. The RFPFA prohibits any “Government authority” from having access to, or the information contained in, the financial records of any customer of a financial institution unless certain safeguards are met. 12

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<sup>4</sup> To the extent any FEC witness may appear to have been uncertain as to the source or nature of information he may (or may not) have seen, that cannot provide the evidence as to a transfer of private financial information of the Beams required for plaintiffs to prevail, given the clear testimony from the most knowledgeable witnesses that no such transfer occurred. Indeed, it appears that the Department did not introduce any financial records of Jack or Renee Beam in the related criminal jury trial of Geoffrey Fieger in the United States District Court for the Southern District of Michigan, and there is no evidence that the Department even issued a grand jury subpoena for any private financial information of the Beams.

<sup>5</sup> The Commission respectfully disagrees with the Court's earlier conclusion (Oct. Mem. Op. at 14) that the Commission could be liable under the RFPFA — even if it had received financial information about the Beams from the Department — based on any alleged failure to make and provide notice of a certification as required under 12 U.S.C. § 3412. That provision places certain obligations on the transferring agency, and plaintiffs have not alleged that the Commission improperly transferred their financial information to another agency. As the alleged receiving agency, the Commission would have had no obligations under Section 3412.

U.S.C. § 3402. Any Governmental authority “obtaining or disclosing financial records or information contained therein” may be liable to the customer to whom the records relate.

12 U.S.C. § 3417. But not all information or records pertaining to a customer’s financial circumstances will implicate the civil liability provisions of the RFPA. Instead, the RFPA defines a “financial record” as an original or copy of information “known to [be] derived from, any record *held by a financial institution* pertaining to a customer’s relationship with the financial institution.” 12 U.S.C. § 3401(2) (emphasis added). Because it is undisputed that the Commission obtained the Beams’ contribution checks from the Edwards campaign committee during a statutorily-required audit of that committee, the RFPA does not apply to the Commission’s receipt of those checks.

The Commission’s primary enforcement attorney on this matter, Audra Wassom Bayes, explained that the Audit Division of the FEC “obtained the copies of those checks from the Edwards for President committee in conjunction with the 26 U.S.C. § 9038 audit of that committee.” Wassom Bayes Decl. ¶ 7 (Exh. 2). In addition, Colleen T. Sealander, a litigation supervisor who was one of the Commission’s attorneys defending this case, described how she contacted the Commission’s Audit Division soon after this case was filed in 2007. She spoke with either Marty Favor or Zuzana Parrish, FEC auditors, to request copies of anything relating to the alleged Jack or Renee Beam contributions to the Edwards 2004 campaign. Sealander Dep. 24-25 (Exh. 3). Ms. Sealander understood that the Audit Division would have such information from its statutory audits of publicly-financed Presidential campaigns. Ms. Parrish responded to this inquiry with copies of the three checks. See FEC’s Statement of Material Facts ¶¶ 8-13; Ex. 8.

Although these checks contain certain private information, such as a P.O. Box address, checking account number, and bank routing number, they are not “financial records” as that term is used in the RFPA. The checks were not held by a financial institution and then obtained by the Commission directly from the institution or indirectly from the Department. See 12 U.S.C. § 3401(2). No financial institution, or “officer, employees, or agent of a financial institution,” 12 U.S.C. § 3403(a), had any role in the release of these checks to any “Government authority.” Id. Rather, these checks were executed by the Beams and then remitted to the Edwards campaign, which in turn transferred them to the Commission’s Audit staff pursuant to the 26 U.S.C. § 9038 audit. The Beams themselves were thus responsible for the release of any private information contained on the face of those instruments when they sent the checks to the Edwards campaign, and that campaign then lawfully transferred those checks to the Commission for the statutory audit. Nothing in the RFPA prevents such checks from being reported to the Commission for statutorily-required audits. See 12 U.S.C. § 3413(d).

Accordingly, because the only financial records relating to Jack or Renee Beam in the possession of the FEC are the three contribution checks received from the Edwards campaign—not from the Department or a financial institution—there is no evidence of an RFPA violation.

### CONCLUSION

For the reasons stated above, no violation of the RFPA has occurred and this Court should enter summary judgment against plaintiffs and on behalf of the Federal Election Commission, dismissing Count I of the Second Amended Complaint with prejudice.

Respectfully submitted,

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/s/ David Kolker

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2009, I electronically filed the foregoing Memorandum in Support of Defendant Federal Election Commission's Motion for Summary Judgment. The Court's Commission/ECF system will send notification of such filing to the following e-mail addresses:

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Civil No. 07cv1227

Judge Pallmeyer  
Mag. Judge Cole

LR56.1(a) Statement

**DEFENDANT FEDERAL ELECTION COMMISSION'S  
LOCAL RULE 56.1(a)(3) STATEMENT OF MATERIAL FACTS  
AS TO WHICH THERE IS NO GENUINE ISSUE**

In support of its Motion for Summary Judgment filed this date, defendant Federal Election Commission ("Commission" or "FEC") herewith submits its Local Rule 56.1(a)(3) Statement of Material Facts as to which there is no genuine issue and which entitle the Commission to summary judgment as a matter of law. The Commission's Statement also includes a description of the parties and all facts supporting this Court's venue and jurisdiction. LR 56.1(a)(3)(A) & (B). For the reasons stated in the FEC's memorandum of law, there is no genuine dispute that the Department of Justice ("Department") never transferred to the Commission, and that the FEC never received, any of the plaintiffs' private financial information in violation of the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. §§ 3401 et seq. As a result, this Honorable Court should enter a finding of summary judgment for the Commission.

**A. The Parties, Venue and the Court’s Jurisdiction**

1. Plaintiffs Jack and Renee Beam are residents of Cook County, Illinois, located in the Northern District of Illinois, Eastern Division. Second Amended Complaint at ¶ 1 (Docket # 91). Plaintiffs allege that they have “documentary proof” that “federal agents of the Justice Department and/or FBI had, in fact, obtained [and transferred to the FEC their private] financial records in violation of the RFPFA.” *Id.* at ¶¶ 16 & 19.

2. The Federal Election Commission is the independent agency of the United States government empowered to administer, interpret and enforce three federal statutes — the Federal Election Campaign Act, 2 U.S.C. §§ 431-55 (“FECA” or “Act”),<sup>1</sup> the Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9013,<sup>2</sup> and the Presidential Primary Matching Payment Account Act, 26 U.S.C. §§ 9031-9042.<sup>3</sup> Pursuant to the FECA, the Commission has “exclusive jurisdiction with respect to the civil enforcement” of the Act and the two presidential public funding statutes. 2 U.S.C. § 437c(b)(1).

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<sup>1</sup> The FECA imposes extensive requirements for comprehensive public disclosure of contributions and expenditures in connection with federal election campaigns. 2 U.S.C. §§ 432-434. The Act places dollar limitations on contributions by individuals and multi-candidate political committees to candidates for federal office, 2 U.S.C. § 441a(a), and prohibits campaign contributions by corporations and unions from their treasury funds. 2 U.S.C. § 441b(a). The Act also prohibits contributions made in the name of another. 2 U.S.C. § 441f. Contributing money to a candidate in one’s own name using funds provided by someone else is an example of activity that violates 2 U.S.C. § 441f. 11 C.F.R. § 110.4(b)(2)(i).

<sup>2</sup> The Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9013, provides for a voluntary program of public financing of the general election campaigns of eligible major and minor party nominees for the offices of President and Vice President of the United States.

<sup>3</sup> The Presidential Primary Matching Payment Act, 26 U.S.C. §§ 9031-9042, provides partial federal financing for the campaigns of presidential primary candidates who choose to participate and satisfy certain eligibility requirements.

3. Donald F. McGahn II, the former Chairman of the Commission, was sued here in his official capacity. But if plaintiffs have any cause of action, it is against the Commission itself, which alone has the powers and duties at issue in this case. See, e.g., 2 U.S.C. §§ 437c(b), 437d(a), 437g(a).

4. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1346(a)(2) because this action arises under the laws of the United States. Venue in the Northern District of Illinois is proper because the plaintiffs all reside here. 28 U.S.C. §§ 1391(e) and 1402(a).

**B. The Department of Justice Never Transferred Any Bank Records of Jack or Renee Beam to the Commission**

5. M. Kendall Day, a trial attorney in the Public Integrity Section of the Criminal Division of the Department of Justice, swore in a declaration that he worked on the criminal prosecution involving allegations of campaign finance violations by Fieger firm associates in the Eastern District of Michigan and that he was additionally tasked with the job of communicating with the Commission. Declaration of M. Kendall Day at ¶ 2 & 3 (Exh. 2). He clearly avers: “I did not provide any bank records for Jack and Rene Beam to the FEC.” Id. at ¶ 3.

6. Mr. Day also confirmed that no other Department staff involved in this criminal prosecution for the Department (AUSAs Christopher Varner and Lynn Helland, as well as an unnamed FBI case agent) transferred any of the Beams’ bank records to the Commission. Id. at ¶ 4.

7. Audra Wassom Bayes was a staff attorney for the Federal Election Commission who served as the primary staff attorney for Matter Under Review 5818, in which Jack and Renee Beam, among others, are respondents. Based upon a review of all

e-mail communications between Commission staff and Department employees, all hard copy Department documents transferred to the FEC, and all Department CD-ROMs given to FEC staff, Ms. Bayes declared that the Commission received no private financial information of Jack or Renee Beam from the Department. Declaration of Audra L. Wassom at ¶ 6 (Exh. 1).

**C. The Only Personal Financial Information of the Beams in the Possession of the Commission Are Three Contribution Checks Written to the 2004 Edwards Presidential Campaign That Were Obtained in a Statutory Audit of that Campaign**

8. Commission staff is in possession of three checks made payable to the Edwards for President 2004 Committee: check # 195, written by Renee Beam on January 30, 2003 for \$2,000; check # 375, written by Jack Beam on January 20, 2003 for \$1,000; and check # 377, written by Jack Beam on January 28, 2003 for \$1,000. Bayes Decl. at ¶ 7 (Exh. 1; Exh. 8). Ms. Bayes and other staff of the Commission's Office of General Counsel obtained copies of these checks from the FEC's Audit Division, which in turn had received those documents directly from the Edwards for President 2004 Committee pursuant to the 26 U.S.C. § 9038 audit of that committee. Id.

9. These three checks are the only personal financial information of Jack and Renee Beam in the possession of the FEC, and they were not transmitted to the FEC from the Department. Bayes Decl. at ¶ 8 (Exh. 1).

10. Colleen T. Sealander, who served as an Assistant General Counsel for Litigation prior to her departure from the FEC's employ, see Deposition of Colleen T. Sealander 6:3-4 (Exh. 3), described how those three checks came into her possession. Soon after plaintiffs filed their suit in early 2007, Ms. Sealander "asked the [A]udit [D]ivision at the Federal Election Commission whether we had any records pertaining to

contributions the Beams alleged in their complaint they had made to the Edwards campaign.” Id. 24:16-20. That request was tendered to either “Marty Favin or Suzzanna [sic] Parish.” Id. 25:4.

11. Ms. Sealander understood that the Audit Division normally had such records for a Presidential campaign that was publicly funded because of statutory audit requirements. Id. 25:17-20. Audits of Presidential campaigns receiving public funding are authorized by 26 U.S.C. § 9038(a).

12. In response to her inquiry, Ms. Sealander received copies of the three checks used to make the Edwards contributions. Id. 26:4-5.

13. As a consequence, the check copies were not transferred to the Commission from the Department, but came from an internal Commission source, the authorized audit of the Edwards Committee.

**D. Aside from the Contribution Checks, the Commission Received No Private Financial Information that Belongs to Jack or Renee Beam**

14. FEC staff attorney Audra Wassom Bayes, the primary enforcement attorney assigned to the investigation at issue in this matter, received no personal financial information belonging to the Beams from the Department.

11 During the course of your work on the  
12 matters that we’ve been discussing today, did you  
13 ever receive any of the type of financial  
14 information data I’ve just asked you about from  
15 the Department of Justice?

16 A No. Not to my recollection.

17 Q And this is with respect to either Jack  
18 or Renee Beam?

19 A No.

20 Q Have you ever received any financial  
21 information of any sort regarding Jack or Renee  
22 Beam from the Department of Justice?

1 A No.

Deposition of Audra Wassom Bayes 77:11-78:1 (Exh. 5).

15. No FEC staff has ever seen or has any information regarding any private financial information belonging to either Jack Beam or Renee Beam, as FEC witnesses confirmed.

- 11 Q Is it fair to say you've never seen any  
12 private financial information belonging to either  
13 Jack or Renee Beam?  
14 A That's correct.

Sealander Dep. 27:11-14 (Exh. 3).

- 2 Q Have you seen anything else that can be  
3 considered private financial information that  
4 belongs either to Jack or to Renee Beam?  
5 A No.

Deposition of Roger Hearron 56:2-5 (Exh. 4).

- 7 Q Okay. So at no time were you aware that  
8 the FEC personally gathered Jack or Renee Beam's  
9 financial records, either by administrative  
10 subpoena or otherwise?  
11 A No. To my knowledge the FEC never  
12 gathered the Beams' personal financial records.

Bayes Dep. 23:7-12 (Exh. 5).

- 2 Q And what private information of the  
3 Beams -- of what private information of the Beams  
4 do you have direct knowledge?  
5 A None.

Bayes Dep. 75:2-5 (Exh. 5).

- 3 Q Have you seen any type of private  
4 financial information that would come from a bank  
5 institution that belongs to either Jack Beam or  
6 Renee Beam?  
7 A No.

Bayes Dep. 77:3-7 (Exh. 5).

12 Q Okay. Mr. Olaya testified this morning  
13 that he reviewed certain financial records with  
14 balance statements and credits and debits.

15 Did you have occasion also to see those  
16 financial records?

17 A These are from trial exhibits?

18 Q That's unclear to me.

19 MR. STREETER: That was his testimony.

20 THE WITNESS: You know, I -- I may have  
21 flipped through a bunch of exhibits. And I may  
22 have seen -- I may have seen things marked as  
1 trial exhibits that may have been financial  
2 records. I don't have any specific -- I don't  
3 have a recollection of specific ones. It may have  
4 just have been that I clicked on a few exhibits to  
5 see what sorts of things were on the disk.

6 BY MR. DEZSI:

7 Q Okay. And so you don't have any  
8 recollection of -- of who -- who the  
9 individuals --

10 A No.

11 Q -- were to which those records  
12 pertained?

13 A You know, actually, I think the records  
14 that I particularly recall looking at were records  
15 belonging to the law firm. I'm not sure that I  
16 saw any of the individuals' records.

Deposition of Mark Shonkwiler 47:12-48:16 (Exh. 6).

16. No FEC staff has seen any bank checking account statement containing either the name Jack Beam or Renee Beam or otherwise relating to their private financial information, as FEC witnesses confirmed.

11 Q Have you ever seen a check account from  
12 any financial institution for either Jack or Renee  
13 Beam?

14 A I'm sorry. A check account?

15 Q A checking account balance statement.

16 A Oh, like a -- like your monthly --

17 Q Monthly statement.

18 A -- statement from the bank? No.

19 Q I'm sorry. My question was really

20 unclear.

21 A No, I've never seen that for either of  
22 the Beams.

Sealander Dep. 26:11-22 (Exh. 3).

4 Q Have you ever seen any checking account  
5 from any institution, financial institution that  
6 belongs to Jack Beam?

7 A No.

8 Q Have you ever seen any checking account  
9 from any financial institution that belongs to  
10 Renee Beam?

11 A No.

Bayes Dep. 76:4-11 (Exh. 5).

17. No FEC staff has seen any document containing the social security  
number or home address of either Jack or Renee Beam, as FEC witnesses confirmed.

6 Q Okay. Have you ever seen a social  
7 security number for Jack or for Renee Beam?

8 A Not that I remember. In fact, I think I  
9 would remember that. So I -- I think -- feel  
10 fairly certain the answer is no.

Sealander Dep. 26:6-10 (Exh. 3).

9 Q With respect to Jack Beam, have you ever  
10 seen any document that contains a social security  
11 number -- the social security number of Mr. Beam?

12 A Not to my knowledge.

13 Q Have you ever seen any document that  
14 contains a social security number of Renee Beam?

15 A Not to my knowledge.

Hearron Dep. 54:9-15 (Exh. 4).

18 Q All right. Now, with respect to Jack  
19 Beam, have you ever seen any document whatsoever  
20 that contains his social security number?

21 A Not to my recollection, no.

22 Q Have you ever seen any document of any  
1 sort whatsoever that contains the social security  
2 number of Renee Beam?

3 A No, not to my recollection.

Bayes Dep. 75:18-76:3 (Exh. 5).

2 Q Do you recall seeing any document in  
3 this case, in your involvement on this case,  
4 containing a social security number for Jack or  
5 Renee Beam?

6 A I do not.

7 Q Do you recall seeing any document  
8 anywhere that contains a home address for Jack or  
9 Renee Beam in this matter?

10 A I recall seeing Jack and Renee Beam's  
11 response to the complaint. I don't recall what  
12 address was on it. I don't know if it was a  
13 business or a home address. It was a -- it was a  
14 colorful response, which is why it sticks in my  
15 mind. But I don't recall what the address was on  
16 the top of the letterhead.

17 Q Have you seen any financial information  
18 that contains a home address for Jack or Renee  
19 Beam?

20 A That that -- no.

Shonkwiler Dep. 52:2-20 (Exh. 6).

18. No FEC staff has seen any bank savings statement containing either the name Jack Beam or Renee Beam or otherwise belonging to them, as FEC witnesses confirmed.

10 Q Have you seen any savings account  
11 belonging to Jack or Renee Beam that contains  
12 their address or social security number?

13 A No.

14 Q Have you seen any savings account of  
15 Jack or Renee Beam from any source that contains  
16 their home address or their social security  
17 number?

18 A No.

Herron Dep. 55:10-18 (Exh. 4).

17 Q Do you recall having ever seen any bank  
18 statement belonging to Jack Beam?

19 A No, I do not.

Shonkwiler Dep. 51:17-19 (Exh. 6).

20. No FEC staff has seen any mutual fund or money market statement containing either the name Jack Beam or Renee Beam or otherwise belonging to them, as FEC witnesses confirmed.

12 Q Have you ever seen any market -- money  
13 market statement from any account belonging to  
14 Jack or Renee Beam?

15 A No.

Bayes Dep. 76:12-15 (Exh. 5).

3 Q Have you seen any money market accounts  
4 for either Jack or Renee Beam?

5 A No.

Shonkwiler Dep. 53:3-5 (Exh. 6).

21. No FEC staff has seen any brokerage account statement containing either the name Jack Beam or Renee Beam or otherwise belonging to them, as FEC witnesses confirmed.

21 A No, I've never seen that for either of  
22 the Beams.

1 Q Or a checking account?

2 A No, not for any -- any bank account --

3 Q Including a --

4 A -- including -- including a checking  
5 account, including a savings account, including  
6 whatever other account one might have at a bank.

7 Q Money market?

8 A Exactly. No stock account --

9 Q Brokerage account?

10 A -- right.

11 Q Is it fair to say you've never seen any  
12 private financial information belonging to either  
13 Jack or Renee Beam?

14 A That's correct.

Sealander Dep. 26:21-27:14 (Exh. 3).

19 Q Have you ever seen any stock brokerage  
20 accounts belonging to Jack or Renee Beam that  
21 contains either their social security number or  
22 their home address?

1 A No.

Hearron Dep. 55:19 – 56:1 (Exh. 4).

16 Q Have you ever seen any brokerage account  
17 statement belonging to either Jack or Renee Beam?

18 A No.

19 Q Have you seen -- I'm running out of  
20 types of financial instruments.

21 Have you seen any -- any stock  
22 account -- stock brokerage account records

1 belonging to either Jack or Renee Beam?

2 A No.

Bayes Dep. 76:16-77:2 (Exh. 5).

21 Q Have you seen any stock brokerage  
22 accounts containing -- any stock brokerage account

1 for either Jack or Renee Beam?

2 A No.

Shonkwiler Dep. 52:21-53:2 (Exh. 6).

22. No FEC staff issued an administrative subpoena of any type, including any request for any private financial information belonging to either Jack Beam or Renee Beam, as FEC witnesses confirmed.

12 Q Okay. Just to clarify, you had said  
13 that you didn't issue any administrative  
14 subpoenas; and you said that the FEC had not  
15 personally gathered with Jack and Renee Beam's  
16 bank records at any time that you're aware of;  
17 isn't that correct?

18 A Well, those are two separate questions.  
19 We never issued any administrative subpoenas to my  
20 knowledge with respect to Jack and Renee Beam, and  
21 did not gather and Jack and Renee Beam's bank  
22 records.

Bayes Dep. 67:12-22 (Exh. 5).

7 Q At any time in -- during your work on  
8 this matter, did you have occasion to review any  
9 financial statements generated from banks or  
10 financial institutions?

11 A I don't believe that I ever did review  
12 any financial records.

Deposition of Peter Blumberg 22:7-12 (Exh. 7).

23. No FEC Staff has ever seen any grand jury transcripts from the criminal trial in Detroit, Michigan, related to allegations of campaign finance violations by Fieger firm associates, as FEC witness confirmed.

3 You also testified earlier that you may  
4 have seen grand jury transcripts in this case.

5 Do you recall when that might have  
6 happened?

7 A Thinking about that question now, I made  
8 a mistake with my answer. I have never seen grand  
9 jury transcripts. I have seen trial transcripts.

10 Q All right. So the material that you  
11 previously referred to as grand jury transcripts  
12 were in actually transcripts from the criminal  
13 trial of various defendants in the Fieger case,  
14 thus related to this case?

15 A That's correct.

16 Q That's fair?

17 Do you recall when you might have seen  
18 those transcripts?

19 A No, not exactly. It was at some point  
20 after the end of the criminal trial.

21 Q Which was in the summer of 2008, if you  
22 recall that?

1 A Yes.

2 Q Okay. Now, with respect to material  
3 received from the Department of Justice, have you  
4 seen any material from the Department of Justice  
5 relating to the Beams or to anyone else in the  
6 Fieger universe that had its origin in the grand  
7 jury proceedings related to that criminal trial?

8 A No, I have not.

Hearron Dep. 53:3-54: 8 (Exh. 4).

5 Q Okay. Did you review or receive any  
6 grand jury transcripts from the Department of  
7 Justice?

8 MR. STREETER: You can answer that.

9 THE WITNESS: No.

Bayes Dep. 60:5-9 (Exh. 5).

5 Q Okay. How about have you had occasion  
6 to see or review any grand jury transcripts from  
7 this matter?

8 A No.

Shonkwiler Dep. 42:5 -8 (Exh. 6).

24. As a result, the Commission received no private financial information belonging to plaintiffs other than the three contribution checks received during the statutory audit of the John Edwards campaign.

Respectfully submitted,

/s/ Thomasenia P. Duncan  
Thomasenia P. Duncan  
General Counsel

/s/ David Kolker  
David Kolker  
Associate General Counsel

/s/ Harry J. Summers  
Harry J. Summers  
Assistant General Counsel

/s/ Benjamin A. Streeter III  
Benjamin A. Streeter III  
Attorney  
bstreeter@fec.gov

July 10, 2009

FOR THE DEFENDANT  
FEDERAL ELECTION COMMISSION  
AND ITS CHAIRMAN  
999 E Street, N.W.  
Washington, D.C. 20463  
(202) 694-1650

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that he served the foregoing Defendant Federal Election Commission's Local Rule 56.1(a)(3) Statement of Material Facts as to Which There is No Genuine Issue via the Court's ECF filing system this 10<sup>th</sup> day of July, 2009. The Court's ECF system will send notification of such filing to the following e-mail addresses:

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Assistant United States Attorney

/s/ Benjamin A. Streeter III  
Benjamin A. Streeter III

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JACK BEAM and RENEE BEAM,

Plaintiffs,

v.

DONALD F. McGAHN II, FEDERAL  
ELECTION COMMISSION  
CHAIRMAN,

Defendant.

Civil No. 07cv1227

Judge Pallmeyer

Mag. Judge Cole

**FEDERAL ELECTION COMMISSION  
EXHIBITS 1 THROUGH 8  
FILED IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT**

JULY 10, 2009

# **EXHIBIT**

## **1**

**Declaration of Audra L. Wassom**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JACK BEAM and RENEE BEAM,

Plaintiffs,

v.

DONALD F. McGAHN II, FEDERAL  
ELECTION COMMISSION  
CHAIRMAN, in his official capacity,

Defendant.

Civil No. 07cv1227

Judge Pallmeyer  
Mag. Judge Cole

**Declaration of Audra L. Wassom**

Audra L. Wassom avers that she is competent to testify in this matter based upon her personal knowledge, and if called upon to testify, would state as follows:

1. I have been an attorney in the Enforcement Division of the Federal Election Commission's Office of General Counsel since October of 2004. From October 2004 to the beginning of August 2008, I was a staff attorney in the Enforcement Division. Since the beginning of August 2008, I have been an Acting Assistant General Counsel in the Enforcement Division.
2. As a staff attorney, I was the primary attorney handling Matter Under Review ("MUR") 5818, in which Jack and Renee Beam, among others, are respondents. As part of my duties related to that matter, I was the primary contact with the Department of Justice for all communications related to the matter. Consequently, prior to September 2008 all documents transmitted by the Department of Justice to the Federal Election Commission relating to MUR 5818 were directed to my attention.
3. Since I have become an Acting Assistant General Counsel, two other staff attorneys have taken over responsibility for this matter. However, the Department of Justice has not transmitted any new documents to the Federal Election Commission pertaining to this matter since my role as the primary attorney ended.

4. A search of documents related to this matter in the possession of the Federal Election Commission revealed that the Department of Justice transmitted no personal financial information pertaining to Jack or Renee Beam to the Federal Election Commission at any time during my involvement in MUR 5818.
5. To search for any personal financial information transmitted to the Federal Election Commission by the Department of Justice pertaining to Jack or Renee Beam, we reviewed all e-mail communications in our possession between employees, including myself, in the Office of General Counsel of the Federal Election Commission and employees of the Department of Justice related to MUR 5818, all documents provided to the Federal Election Commission by the Department of Justice in hard copy, and all documents provided to the Federal Election Commission by the Department of Justice in electronic format (CD-ROM).
6. In addition, I consulted with Kendall Day of the Office of Public Integrity in the Department of Justice. He confirmed that the Department of Justice had not transmitted any personal financial information pertaining to Jack or Renee Beam to the Federal Election Commission. Moreover, Mr. Day assured me that he took care to not transfer to me or anyone else in the Federal Election Commission any grand jury material arising from the criminal case in the Eastern District of Michigan known as United States of America v. Geoffrey Fieger, et al, criminal case no. 07-20414 that had not otherwise been made public or used as an exhibit in the public trial in that criminal case.
7. We do have copies of three checks written by Jack and Renee Beam to the Edwards for President Committee: a \$1,000 check written on January 20, 2003 by Jack Beam (check #375), a \$1,000 check written on January 28, 2003 by Jack Beam (check # 377), and a \$2,000 check written on January 30, 2003 by Renee Beam (check # 195). We did not receive copies of those checks from the Department of Justice. The Enforcement Division of the Office of General Counsel obtained the copies of those checks from Audit Division of the Federal Election Commission. The Audit Division obtained the copies of those checks from the Edwards for President committee in conjunction with the 26 U.S.C. § 9038 audit of that committee.

8. We have no personal financial information pertaining to Jack or Renee Beam other than the copies of the three checks written to the Edwards for President committee, which were obtained internally and not from the Department of Justice.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 8<sup>th</sup> day of December, 2008.



Audra L. Wassom

Acting Assistant General  
Counsel for the Enforcement  
Division, Federal Election  
Commission

# **EXHIBIT**

## **2**

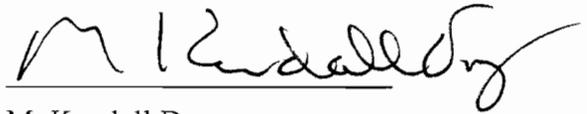
**Declaration of M. Kendall Day**

**Declaration of M. Kendall Day**

1. I have worked for the Department of Justice since September 2003. I am currently employed as a Trial Attorney in the Public Integrity Section of the Criminal Division, having joined that section in March, 2005.
2. From April 2005 through June 2008, I was the Trial Attorney assigned by my section to investigate allegations of campaign finance violations occurring in the Eastern District of Michigan. From May of 2005 through June 2008, I jointly worked the investigation and eventual prosecution with Supervisory AUSA Lynn Helland in the U.S. Attorney's Office for the Eastern District of Michigan. From May 2005 through early 2007, another AUSA was also assigned to the case, Christopher Varner.
3. Of the three prosecutors working the investigation, I was the one tasked with communicating with the FEC. I did not provide any bank records for Jack and Rene Beam to the FEC.
4. Even though I was the one communicating with the FEC, I checked with the others involved in the investigation. AUSAs Helland and Varner, and the FBI case agent, all confirmed to me that they did not provide any bank records for Jack and Rene Beam to the FEC.

5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12/3/08

A handwritten signature in black ink, appearing to read "M. Kendall Day", written over a horizontal line.

M. Kendall Day

Trial Attorney

**EXHIBIT**

**3**

**Deposition of Colleen T. Sealander**

Colleen Sealander

Washington, DC

RECEIVED  
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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

March 10, 2009  
Page 1  
2009 MAR 31 A 10:32

1 THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

2 EASTERN DIVISION

3 - - - - -

JACK AND RENEE BEAM, :

4 :

Plaintiffs, :

5 :

v. : CA No. 07-cv-1227

6 :

MICHAEL B. MUKASEY, UNITED STATES:

7 ATTORNEY GENERAL, in his official:

Capacity; FEDERAL ELECTION :

8 COMMISSION CHAIRMAN DAVID M. :

MASON, in his official capacity; :

9 UNKNOWN AGENTS OF THE FEDERAL :

BUREAU OF INVESTIGATION, in their:

10 individual and official :

capacities, :

11 :

Defendants. :

12 - - - - -

Washington, D.C.

Tuesday, March 10, 2009

15 Deposition of

16 COLLEEN T. SEALANDER, called for examination

17 by counsel for Plaintiffs, pursuant to notice, at

18 the Offices of the Federal Election Commission, 999

19 E Street, NW, Washington, D.C., commencing at 2:03

20 p.m., before Barbara A. Huber, Notary Public in and

21 for the District of Columbia, when were present on

22 behalf of the respective parties:

Colleen Sealander

March 10, 2009

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:                  2 On behalf of Plaintiffs:                  3 MICHAEL DEZSI, ESQUIRE                  Fieger, Fieger, Kenney, Johnson &amp; Giroux                  4 19390 West Ten Mile Road                  Southfield, Michigan 48075                  5 (248) 355-5555                  midezsi@fiegerlaw.com                  6                  On behalf of Defendants:                  7                  BENJAMIN A. STREETER, III, ESQUIRE                  8 HARRY J. SUMMERS, ESQUIRE                  Federal Election Commission                  9 999 E Street, NW                  Washington, D.C. 20463                  10 (202) 694-1650                  bstreeter@fec.gov                  hsummers@fec.gov                  11                  12 * * * * *                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS                  2 Whereupon,                  3 COLLEEN T. SEALANDER,                  4 was called as a witness by counsel for Plaintiff,                  5 and having been duly sworn by the Notary Public,                  6 was examined and testified as follows:                  7 EXAMINATION BY COUNSEL FOR PLAINTIFFS                  8 BY MR. DEZSI:                  9 Q Hi. Good morning, Ms. Sealander. My                  10 name is Michael Dezsi. We've met before.                  11 A Good afternoon.                  12 Q Thank you. Just to be clear -- I'm you                  13 sure you know this, you're a lawyer -- but make                  14 sure your responses are all verbal, yes's and                  15 no's, and not nods of the heard, so that the court                  16 reporter can record them.                  17 A I understand.                  18 Q Sure. Have you been deposed before?                  19 Have you ever been deposed?                  20 A No.                  21 Q Okay. Congratulations. This is the                  22 first.</p>
<p style="text-align: right;">Page 3</p> <p>1 CONTENTS                  2 EXAMINATION BY: PAGE                  3 Counsel for Plaintiffs 4                  4 Counsel for Defendants 23                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22</p>	<p style="text-align: right;">Page 5</p> <p>1 MR. STREETER: And she's so thrilled.                  2 BY MR. DEZSI:                  3 Q Could you please state your full name                  4 for the record?                  5 A Colleen Tove Sealander. My middle name                  6 is spelled T-O-V-E.                  7 Q And could you tell me your dates of                  8 employment with the Federal Election Commission?                  9 A Yes. August 15th or 16th, 1993, through                  10 the first of September 2007.                  11 Q Okay. And during your time at the                  12 Federal Election Commission, could you give me all                  13 of your titles that you've held --                  14 A Sure.                  15 Q -- or jobs?                  16 A I started out as a law clerk. And then                  17 I was an attorney.                  18 Q Like a staff attorney?                  19 A Yes, staff attorney in the enforcement                  20 division. Then I was the acting supervisory                  21 attorney at the central enforcement docket. And                  22 then I resumed being an attorney in the</p>

Colleen Sealander

March 10, 2009

Washington, DC

Page 6

1 enforcement division. And then I transferred to  
 2 the litigation division, where I served as an  
 3 attorney. And then I was the assistant general  
 4 counsel for litigation.  
 5 Q And that's where you were when you left  
 6 the agency?  
 7 A That's right.  
 8 Q Okay. And just so I have a little bit  
 9 of an idea, could you tell me what you did prior  
 10 to working at the FEC, your legal background?  
 11 A I went to law school. I started at the  
 12 FEC right out of law school.  
 13 Q I see. Okay.  
 14 And currently you're employed where?  
 15 A I am not employed.  
 16 Q Okay. So you're not -- in a legal  
 17 capacity you're not employed?  
 18 A Correct.  
 19 Q Okay. Can you tell me how you first  
 20 came to know or have you heard the name Jack and  
 21 Renee Beam?  
 22 A I have heard the name. I first came to

Page 7

1 know the name when those individuals sued the  
 2 Federal Election Commission in the United States  
 3 District Court for the Northern District of  
 4 Illinois in 2007.  
 5 Q Okay. And you were not familiar with  
 6 them prior to that, their lawsuit?  
 7 A No.  
 8 Q Okay. Can you tell me also, Audra  
 9 Wassom was a staff attorney whom you supervised  
 10 for some period?  
 11 A No.  
 12 Q Okay. My mistake.  
 13 Were you aware that the Federal Election  
 14 Commission had sent Jack and Renee Beam letters  
 15 finding reason to believe that they had violated  
 16 the act?  
 17 MR. STREETER: At what time?  
 18 BY MR. DEZSI:  
 19 Q Back in September of '06.  
 20 A I was not aware in September of '06 that  
 21 the Federal Election Commission had sent any  
 22 letters to the Beams. I subsequently became aware

Page 8

1 of that after the Beams sued the Commission in  
 2 2007 in the --  
 3 Q Oh, okay. So as a result of their  
 4 lawsuit. Okay.  
 5 If I could just show you what we have  
 6 marked as Exhibits A and B. These were attached  
 7 to Audra Wassom's deposition this morning. This  
 8 is a letter to Jack Beam from Michael Toner, dated  
 9 September 26th, 2006.  
 10 A (Witness examined document).  
 11 Q And essentially the same letter to  
 12 Ms. Renee Beam, dated September 26th. If you  
 13 could just take a look at those for a moment.  
 14 A (Witness examined document).  
 15 MR. STREETER: You done?  
 16 THE WITNESS: Personal time.  
 17 BY MR. DEZSI:  
 18 Q Have you seen this letter before?  
 19 A Well, there's two of them. But taking  
 20 your question as to the both of them, I'm not  
 21 sure, although I'm -- I'm virtually certain that I  
 22 have.

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1 Q Okay. And the factual and legal  
 2 analysis that's attached to the letter, just take  
 3 a look at that. It's either A or B. Whatever one  
 4 you're referring to, it's essentially the same.  
 5 MR. STREETER: Well, the question is  
 6 which one you're referring to.  
 7 BY MR. DEZSI:  
 8 Q Well, I'll refer to A, just for purposes  
 9 of -- A, I believe is --  
 10 A Jack Beam.  
 11 Q -- Jack Beam.  
 12 A Okay. Yes, I see the factual and legal  
 13 analysis.  
 14 Q Okay. According to the factual and  
 15 legal analysis that's attached to this letter, the  
 16 Federal Election Commission had reason to believe  
 17 that Jack Beam committed a violation of the act by  
 18 being reimbursed for his contribution to the  
 19 Edwards committee; is that true? Is that correct?  
 20 A Are you reading from something?  
 21 Q Yeah, from the bottom of page 2, the  
 22 last paragraph.

Colleen Sealander

March 10, 2009

Washington, DC

Page 10

1 A Of the factual and legal analysis?  
 2 Q Yes, that's correct.  
 3 A From the bottom of page 2?  
 4 Q Uh-huh. Last paragraph, starting with,  
 5 if Jack Beam accepted reimbursement for his  
 6 contribution to the --  
 7 A Yes, I see that.  
 8 Q You're aware then that the FEC's  
 9 allegation against Jack Beam was that if he had  
 10 been reimbursed, he would have committed a  
 11 violation -- he may have committed a violation of  
 12 section 441f of the act?  
 13 A Are you aware of that?  
 14 Q Could you -- could you repeat the  
 15 question? I'm a little hung up on your use of the  
 16 term "allegation," but --  
 17 Q Oh, okay. What --  
 18 A I take it you don't mean it in the --  
 19 its strict legal sense. The Commission --  
 20 Q No, I --  
 21 A -- to my knowledge, hasn't sued the  
 22 Beams in court for --

Page 11

1 Q That's correct.  
 2 A -- violation. All right.  
 3 Q In terms of the allegation that's  
 4 contained in the -- the reason to --  
 5 A Okay. So --  
 6 Q -- believe letter --  
 7 A -- so state your question. Would that  
 8 have -- could you just restate your question for  
 9 me?  
 10 Q Sure.  
 11 A In the reason to believe letter, and  
 12 with the attached legal and factual analysis, the  
 13 Commission has made the allegation that if Jack  
 14 Beam had accepted reimbursement for his  
 15 contribution, he may have violated Section 441f.  
 16 A Is that your understanding of this  
 17 letter?  
 18 A Yes.  
 19 Q Okay. And generally speaking, in your  
 20 experience here with the Commission and  
 21 enforcement, generally speaking, would you have to  
 22 examine bank records in order to prove a violation

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1 of 441f under a theory of reimbursement?  
 2 MR. STREETER: Could you read the  
 3 question back? What's the verb? Would have to  
 4 examine?  
 5 (Whereupon the reporter read  
 6 the record as requested.)  
 7 MR. STREETER: You can answer.  
 8 THE WITNESS: In my experience at the  
 9 FEC, if the Commission wants to prove that  
 10 somebody has violated Section 441f, it's -- it  
 11 frequently uses bank records to prove that fact or  
 12 not.  
 13 BY MR. DEZSI:  
 14 Q Okay. Thank you.  
 15 A And if I could just have you take a look  
 16 at Section 441f, 2 United States Code Section  
 17 441f.  
 18 Q Do you agree with me that reimbursement  
 19 is not prohibited under that statute?  
 20 A (Witness examined document). I do not.  
 21 Q You do not agree with me?  
 22 A So it's your position that reimbursement

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1 is prohibited by 441f?  
 2 A It's -- it's the Commission's position  
 3 that reimbursement is prohibited by 441f.  
 4 Q Okay. But we can agree that  
 5 reimbursement isn't -- doesn't appear in this  
 6 statute?  
 7 A The word "reimbursement" does not appear  
 8 in Section 441f of the statute.  
 9 Q Okay. In your experience at the FEC,  
 10 without disclosing any specific matters of course,  
 11 have you worked on 441f reimbursement matters in  
 12 the past?  
 13 A Yes.  
 14 Q Okay. And in your experience with those  
 15 other matters, did you have occasion to exam bank  
 16 records?  
 17 A No.  
 18 Q Are you aware of any administrative  
 19 subpoenas that were issued by the Federal Election  
 20 Commission to obtain bank records in -- in the  
 21 civil investigation of Plaintiff Jack or Renee  
 22 Beam?

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1 A No.  
 2 Q Were you aware that the Department of  
 3 Justice was conducting a criminal investigation  
 4 simultaneous -- at the time, excuse me, at the  
 5 time that the FEC had sent its own reason to  
 6 believe letter, they were conducting a similar  
 7 criminal investigation of the respondents?  
 8 A No.  
 9 Q Okay. At what point did you become  
 10 aware that the Department of Justice was  
 11 investigating the same respondents subject to --  
 12 that were subject to the FEC civil investigation?  
 13 A I -- I never became of aware of that.  
 14 I'm not aware of that now.  
 15 Q Okay.  
 16 A The same individuals.  
 17 Q Okay. But you were aware that -- were  
 18 you aware that the Department of Justice was  
 19 carrying on a criminal investigation targeting, at  
 20 least to our knowledge, Mr. Fieger, Jeffrey  
 21 Fieger?  
 22 A I became aware of that.

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1 Q Okay. And did you have conversations  
 2 with any individuals from the Department of  
 3 Justice regarding the Department of Justice's  
 4 criminal case that I just mentioned?  
 5 A No.  
 6 Q At any time during the FEC's civil  
 7 investigation did you have any communications,  
 8 either written or otherwise, with any agents from  
 9 the Department of Justice?  
 10 A What are the dates of the FEC civil  
 11 investigation?  
 12 Q The FEC's civil investigation, according  
 13 to this reason to believe letter, began September  
 14 of '06, September 26th, of '06.  
 15 A Okay. And is it ongoing?  
 16 Q The FEC's? Yes.  
 17 A Okay. So from September '06 till now,  
 18 am I aware of any communications with the  
 19 Department of Justice?  
 20 Q Did you have any communications with the  
 21 Department of Justice?  
 22 A Sure.

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1 Q Okay. And who at the Department of  
 2 Justice did you communicate with?  
 3 A With the -- generally speaking, with the  
 4 civil division lawyers -- or sorry, the civil  
 5 lawyers who were representing the Department of  
 6 Justice in the four Fieger lawsuits.  
 7 Q You're talking -- okay.  
 8 A So Peter Caplan in Detroit, Eric Beane  
 9 here in Washington, Tamara Ulrich at -- here in  
 10 Washington.  
 11 Q Okay. Did you have any communications  
 12 with a trial attorney by the name of Kendall Day?  
 13 A No.  
 14 Q Okay. Do you know who Kendall Day is?  
 15 A Vaguely.  
 16 Q Okay. Did you have any communications  
 17 with United States -- Assistant United States  
 18 Attorney Lynn Helland?  
 19 A No.  
 20 Q Assistant United States Attorney Chris  
 21 Varner?  
 22 A No.

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1 Q Okay. How about FBI Special Agent  
 2 Jeffrey Rees?  
 3 A No.  
 4 Q Okay. And at the same time, you don't  
 5 recall -- or did you have any e-mail  
 6 communications with any of those people?  
 7 I know that would fall within the same  
 8 question, but you don't remember having any e-mail  
 9 communications with Kendall Day?  
 10 A I mean, that's a different question than  
 11 what you asked me. You asked me if I had  
 12 communicated with any of these people, and the  
 13 answer of which is no for each and every one of  
 14 them. Now you're asking me were they ever on an  
 15 e-mail that I received? I don't know.  
 16 Q Okay. After the FEC sent -- after  
 17 Mr. Toner's letter that we referred to on --  
 18 A Exhibits A and B.  
 19 Q After those were sent out to Plaintiffs  
 20 Jack and Renee Beam, were you aware that the  
 21 Federal Election Commission had made an agreement  
 22 with the Department of Justice whereby they would

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1 not continue investigating this civil matter?  
 2 MR. STREETER: Objection. That assumes  
 3 facts not in evidence. Also, it goes to the  
 4 law -- violates the law enforcement privilege;  
 5 also 437g(a)(12). Instruct the witness not to  
 6 answer.  
 7 BY MR. DEZSI:  
 8 Q Okay. At any time, Ms. Sealander, did  
 9 you examine any documents that were in the  
 10 possession of the SEC obtained from the Department  
 11 of Justice from their criminal investigation?  
 12 A No.  
 13 Q At any time did you see any CD's in the  
 14 possession of the FEC that were obtained from the  
 15 Department of Justice?  
 16 A Compact disks?  
 17 Q Compact disks.  
 18 A No.  
 19 Q Okay. Did you have any direct  
 20 supervisory role in the FEC's civil investigation  
 21 which resulted in the -- these letters that were  
 22 sent, the Exhibit A and B?

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1 MR. STREETER: Specifically you mean the  
 2 MUR that's identified there, the MUR 581?  
 3 MR. DEZSI: As to -- yes.  
 4 THE WITNESS: My understanding of the  
 5 FEC's process is that until it sends that letter,  
 6 it doesn't begin an investigation. So to my  
 7 knowledge, there could not have been, under the  
 8 statute, an investigation prior to sending those  
 9 letters.  
 10 BY MR. DEZSI:  
 11 Q Okay. But from the date of this letter  
 12 forward, did you have any supervisory  
 13 responsibility over this particular matter --  
 14 A No.  
 15 Q -- involving -- no.  
 16 Did you communicate with Audra Wassom  
 17 about this matter?  
 18 A Yes.  
 19 Q Okay. And could you just estimate for  
 20 me how many -- on how many occasions that may have  
 21 been, ten, or fifty, or five?  
 22 A Fifteen, twenty, twenty-five, something

Page 20

1 like that.  
 2 Q And could you tell me what your role was  
 3 in those -- in those -- in that capacity; if you  
 4 were speaking with Ms. Wassom, what was -- in what  
 5 capacity were you serving?  
 6 MR. STREETER: Objection. That violates  
 7 2 U.S.C. 437g(a)(12). Instruct the witness not to  
 8 answer.  
 9 BY MR. DEZSI:  
 10 Q You were not acting as Ms. Wassom's  
 11 direct supervisor over this matter when she was  
 12 working on this?  
 13 A That's correct.  
 14 Q Okay. Were you supervising any other  
 15 agents or attorneys or employees at the FEC who  
 16 were working on this matter?  
 17 A No.  
 18 Q Just give me a second.  
 19 A No problem.  
 20 Q I just have a few more questions for  
 21 you, Ms. Sealander.  
 22 Were you aware at any time that the

Page 21

1 Department of Justice had obtained the financial  
 2 records for the Plaintiffs Jack and Renee Beam or  
 3 other Fieger firm employees?  
 4 A I wasn't aware of it before, and I'm  
 5 still not aware of it.  
 6 Q And needless to say, did you ever see  
 7 any of the Department of Justice's grand jury  
 8 subpoenas that were sent out in their criminal  
 9 case?  
 10 A No, I did not.  
 11 Q Okay. If I could just show you this  
 12 statute. This is section 12 United States Code  
 13 Section 3412 of the Right to Financial Privacy  
 14 Act.  
 15 A Okay.  
 16 Q Paragraph A, if you could maybe take a  
 17 look at that and read that to yourself for a  
 18 moment.  
 19 MR. STREETER: Is this the RFPA  
 20 provision?  
 21 THE WITNESS: You would like me to look  
 22 at Section 3412-A?

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1 BY MR. DEZSI:  
 2 Q Yes. Just read it over to yourself.  
 3 I'm going to ask questions.  
 4 A (Witness examined document). Okay.  
 5 I've read it.  
 6 Q Okay. In your experience with the FEC,  
 7 have you had occasion to transfer and/or share  
 8 financial records with other federal agencies?  
 9 A No.  
 10 Q No.  
 11 Have you ever seen a certification  
 12 that's referred to in that statute, 3412 --  
 13 A No.  
 14 Q -- that's been executed by yourself?  
 15 A Sorry. No.  
 16 Q No.  
 17 And have you seen --  
 18 A Or any -- or anyone else.  
 19 Q Or anyone else. Okay.  
 20 And obviously then you -- you've never  
 21 personally executed a certification to transfer  
 22 records under that section?

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1 A I -- in my capacity at the SEC over --  
 2 almost fifteen years, I've never received from  
 3 another agency or sent to another agency financial  
 4 records.  
 5 Q Okay. Were you aware of that section of  
 6 the statute prior to today?  
 7 Have you seen that before?  
 8 A I'm generally familiar with the RFPA,  
 9 but I cannot tell you that I've had occasion to  
 10 focus on this particular provision.  
 11 Q Okay. And so you -- you didn't have any  
 12 occasion to look at or study or examine the  
 13 necessity for certification for transferring  
 14 financial records?  
 15 A That's correct.  
 16 Q Okay.  
 17 MR. DEZSI: Okay. I don't have any  
 18 further questions for the witness.  
 19 MR. STREETER: I have a few.  
 20 EXAMINATION BY COUNSEL FOR DEFENDANTS  
 21 BY MR. STREETER:  
 22 Q Ms. Sealander, have you ever seen the

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1 contribution checks that Jack or Renee Beam  
 2 provided or sent to the Edwards 2004 Presidential  
 3 campaign?  
 4 A Yes.  
 5 Q And when did you first see those records  
 6 the copies of those checks, approximately?  
 7 A Shortly after the Commission was -- suit  
 8 was filed against the Commission by the Beams in  
 9 the United States for the Northern District of  
 10 Illinois.  
 11 Q Do you recall how those checks came to  
 12 fall within your purview?  
 13 A Yes.  
 14 Q And could you describe how you came to  
 15 view those checks?  
 16 A I had asked the audit division at the  
 17 Federal Election Commission whether we had any  
 18 records pertaining to contributions the Beams  
 19 alleged in their complaint they had made to the  
 20 Edwards campaign. And --  
 21 Q Do you recall --  
 22 A -- those checks were -- were provided to

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1 me by the audit division.  
 2 Q And that request was tendered to whom,  
 3 if you recall?  
 4 A Either Marty Favin or Suzzanna Parish.  
 5 Q And the nature of your request was to  
 6 provide you with copies of any contributions made  
 7 by these two individuals to that campaign?  
 8 A I am actually not sure whether I even  
 9 knew that we had checks, copies of checks  
 10 in-house. I don't remember asking them to go get  
 11 me copies of checks, although I may have. I -- I  
 12 believe what I asked them was what -- if --  
 13 whether there was any information; and if so, what  
 14 information that was, that was possessed by the  
 15 audit division with regard to these alleged  
 16 contribution.  
 17 I understood that the audit division had  
 18 such records normally for a prior Presidential  
 19 campaign that was publicly funded because of the  
 20 audit requirements.  
 21 Q At the time you made this request, the  
 22 Edwards 2004 campaign had ended; is that correct?

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1 A Oh, yes, by years.  
 2 Q Okay. And the response you got back  
 3 from Marty and Suzzanna was what?  
 4 A The only thing that I remember getting  
 5 were copies of the checks.  
 6 Q Okay. Have you ever seen a social  
 7 security number for Jack or for Renee Beam?  
 8 A Not that I remember. In fact, I think I  
 9 would remember that. So I -- I think -- feel  
 10 fairly certain the answer is no.  
 11 Q Have you ever seen a check account from  
 12 any financial institution for either Jack or Renee  
 13 Beam?  
 14 A I'm sorry. A check account?  
 15 Q A checking account balance statement.  
 16 A Oh, like a -- like your monthly --  
 17 Q Monthly statement.  
 18 A -- statement from the bank? No.  
 19 Q I'm sorry. My question was really  
 20 unclear.  
 21 A No, I've never seen that for either of  
 22 the Beams.

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1 Q Or a checking account?  
 2 A No, not for any -- any bank account --  
 3 Q Including a --  
 4 A -- including -- including a checking  
 5 account, including a savings account, including  
 6 whatever other account one might have at a bank.  
 7 Q Money market?  
 8 A Exactly. No stock account --  
 9 Q Brokerage account?  
 10 A -- right.  
 11 Q Is it fair to say you've never seen any  
 12 private financial information belonging to either  
 13 Jack or Renee Beam?  
 14 A That's correct.  
 15 MR. STREETER: That's all I have.  
 16 MR. DEZSI: I have nothing further.  
 17  
 18 (Whereupon at 2:27 p.m., the  
 19 deposition of COLLEEN T.  
 20 SEALANDER was adjourned.)  
 21  
 22 (Signature waived.)

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1 CERTIFICATE OF NOTARY PUBLIC  
 2 I, BARBARA A. HUBER, CSR, the officer  
 3 before whom the foregoing deposition was taken, do  
 4 hereby certify that the witness whose testimony  
 5 appears in the foregoing deposition was duly sworn  
 6 by me; that the testimony of said witness was  
 7 taken by me in stenotypy and thereafter reduced to  
 8 print under my direction; that said deposition is  
 9 a true record of the testimony given by said  
 10 witness; that I am neither counsel for, related  
 11 to, nor employed by any of the parties to the  
 12 action in which this deposition was taken; and,  
 13 furthermore, that I am not a relative or employee  
 14 of any attorney or counsel employed by the parties  
 15 hereto, nor financially or otherwise interested in  
 16 the outcome of this action.  
 17  
 18  
 19 \_\_\_\_\_  
 20 BARBARA A. HUBER, CSR  
 21 Notary Public, in and for the  
 22 District of Columbia

My Commission Expires:  
 March 14, 2012

# **EXHIBIT**

**4**

**Deposition of Roger HERRON**

Roger A. Hearron

Washington, DC

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COUNSEL  
March 10, 2009

2009 MAR 31 A 10:33 Page 1

1 THE UNITED STATES DISTRICT COURT  
 2 NORTHERN DISTRICT OF ILLINOIS  
 3 EASTERN DIVISION  
 4  
 5 JACK AND RENEE BEAM, :  
 6 :  
 7 Plaintiffs, :  
 8 :  
 9 v. : CA No. 07-cv-1227  
 10 :  
 11 MICHAEL B. MUKASEY, UNITED STATES:  
 12 ATTORNEY GENERAL, in his official:  
 13 Capacity; FEDERAL ELECTION :  
 14 COMMISSION CHAIRMAN DAVID M. :  
 15 MASON, in his official capacity; :  
 16 UNKNOWN AGENTS OF THE FEDERAL :  
 17 BUREAU OF INVESTIGATION, in their:  
 18 individual and official :  
 19 capacities, :  
 20 :  
 21 Defendants. :  
 22

13 Washington, D.C.  
 14 Tuesday, March 10, 2009  
 15 Deposition of  
 16 ROGER A. HEARRON, called for examination  
 17 by counsel for Plaintiffs, pursuant to notice, at  
 18 the Offices of the Federal Election Commission, 999  
 19 E Street, NW, Washington, D.C., commencing at 2:52  
 20 p.m., before Barbara A. Huber, Notary Public in and  
 21 for the District of Columbia, when were present on  
 22 behalf of the respective parties:

Roger A. Hearron

March 10, 2009

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of Plaintiffs:</p> <p>3 MICHAEL DEZSI, ESQUIRE</p> <p>4 Fieger, Fieger, Kenney, Johnson &amp; Giroux</p> <p>5 19390 West Ten Mile Road</p> <p>6 Southfield, Michigan 48075</p> <p>7 (248) 355-5555</p> <p>8 midezsi@fiegerlaw.com</p> <p>9</p> <p>10 On behalf of Defendants:</p> <p>11 BENJAMIN A. STREETER, III, ESQUIRE</p> <p>12 HARRY J. SUMMERS, ESQUIRE</p> <p>13 Federal Election Commission</p> <p>14 999 E Street, NW</p> <p>15 Washington, D.C. 20463</p> <p>16 (202) 694-1650</p> <p>17 bstreeter@fec.gov</p> <p>18 hsummers@fec.gov</p> <p>19</p> <p>20 * * * * *</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 Whereupon,</p> <p>3 ROGER A. HEARRON,</p> <p>4 was called as a witness by counsel for Plaintiffs,</p> <p>5 and having been duly sworn by the Notary Public,</p> <p>6 was examined and testified as follows:</p> <p>7 EXAMINATION BY COUNSEL FOR PLAINTIFFS</p> <p>8 BY MR. DEZSI:</p> <p>9 Q Good afternoon, Roger, Mr. Hearron.</p> <p>10 A Good afternoon.</p> <p>11 Q Good afternoon. My name is Michael</p> <p>12 Dezsi. I'm the attorney who represents the</p> <p>13 Plaintiffs Jack and Renee Beam in this matter.</p> <p>14 And if I could just remind you when you respond to</p> <p>15 my questions if you would please respond verbally</p> <p>16 with yes's or no's, and not a nod of the head,</p> <p>17 just so that the court reporter can get</p> <p>18 everything.</p> <p>19 A Okay.</p> <p>20 Q And also she has -- our court reporter</p> <p>21 has admonished us a couple times that only one of</p> <p>22 us can talk at a time. So if you would allow me</p>
<p style="text-align: right;">Page 3</p> <p>1 CONTENTS</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 Counsel for Plaintiffs 4</p> <p>4 Counsel for Defendants 48</p> <p>5 Counsel for Plaintiffs 58</p> <p>6 Counsel for Defendants 61</p> <p>7</p> <p>8</p> <p>9</p> <p>10 PLAINTIFF'S DEPOSITION EXHIBITS: PAGE</p> <p>11 D - E-Mail, October 23, 2007; Attachment 25</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 to finish my question, and I'll allow you to</p> <p>2 finish your answers.</p> <p>3 A Okay.</p> <p>4 Q If you don't understand any of my</p> <p>5 questions, just ask me to repeat. And I'll be</p> <p>6 happy to either rephrase it or repeat it if it</p> <p>7 doesn't make sense to you.</p> <p>8 A Okay.</p> <p>9 Q And I might repeat it if it doesn't make</p> <p>10 sense to me.</p> <p>11 Mr. Hearron, could you just state your</p> <p>12 full name for the record, please?</p> <p>13 A Yes. It's Roger A. Hearron.</p> <p>14 Q And your spelling of your last name?</p> <p>15 A H-E-A-R-R-O-N.</p> <p>16 Q Okay. And you're currently employed by</p> <p>17 the Federal Election Commission; is that correct?</p> <p>18 A Yes.</p> <p>19 Q Okay. And what is your title?</p> <p>20 A I'm an investigator.</p> <p>21 Q Okay. That's the title, investigator?</p> <p>22 It's not FEC, or audit investigator; it's just</p>

Roger A. Hearron

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<p>1 investigator?</p> <p>2 A Investigator.</p> <p>3 Q Okay. And how long have you been</p> <p>4 employed by the Commission?</p> <p>5 A A little over five years.</p> <p>6 Q Okay. And what did you do prior to your</p> <p>7 employment here at the Commission?</p> <p>8 A Prior to that I was a D.C. police</p> <p>9 officer for 25 years.</p> <p>10 Q Okay. And you do not have a law</p> <p>11 license; is that correct?</p> <p>12 A That is correct.</p> <p>13 Q Okay.</p> <p>14 A I do not.</p> <p>15 Q You're probably happy that you don't?</p> <p>16 A Yes, I am.</p> <p>17 Q Okay. Mr. Hearron, I want to ask you</p> <p>18 when was the first time that you heard the names</p> <p>19 Jack or Renee Beam, if you can recall generally?</p> <p>20 A It's -- I would guess that it's been</p> <p>21 over a couple years ago.</p> <p>22 Q And how did you come to hear their</p>	<p>1 posed that as a question.</p> <p>2 MR. DEZSI: I'm going to get there.</p> <p>3 MR. STREETER: Okay. Okay.</p> <p>4 BY MR. DEZSI:</p> <p>5 Q Just for the record, this is Plaintiff's</p> <p>6 Exhibit A, which was attached to Ms. Wassom's</p> <p>7 deposition this morning, a letter from Michael</p> <p>8 Toner to Jack Beam, dated September 26, 2006. And</p> <p>9 I don't know what you guys call this. I call it a</p> <p>10 reason to believe letter.</p> <p>11 Would that be your understanding of this</p> <p>12 letter?</p> <p>13 A Yes. That's correct.</p> <p>14 Q Okay. And then in response to this</p> <p>15 letter, Mr. Beam wrote a letter back to Mr. Toner,</p> <p>16 which it sounds like some candy-nose.</p> <p>17 Do you remember referring to Mr. Toner</p> <p>18 as a candy-nose; is that correct?</p> <p>19 A That's the one I remember, yes.</p> <p>20 Q Okay.</p> <p>21 MR. DEZSI: So we know. Now we know</p> <p>22 it's the same letter.</p>
Page 7	Page 9
<p>1 names, first?</p> <p>2 A I read a letter, a response letter that</p> <p>3 was sent from Mr. Beam to the Federal Election</p> <p>4 Commission.</p> <p>5 Q Uh-huh. Okay. That must have been --</p> <p>6 that must have been a response letter to</p> <p>7 Mr. Toner's letter dated September 26th. If I</p> <p>8 could just have you take a look at that letter, if</p> <p>9 you recognize that. If you would take a look at</p> <p>10 it.</p> <p>11 A (Witness examined document).</p> <p>12 MR. STREETER: Objection. Because it</p> <p>13 again assumes facts not evidence, but --</p> <p>14 BY MR. DEZSI:</p> <p>15 Q Have you seen that letter before?</p> <p>16 A I have seen this.</p> <p>17 Q Okay. And this letter --</p> <p>18 MR. STREETER: Excuse me for</p> <p>19 interrupting. Let me -- let me go back. You said</p> <p>20 that the letter that he recalls having seen that</p> <p>21 was written by Jack Beam, and then you said that</p> <p>22 that must be in response to this. But you never</p>	<p>1 MR. STREETER: Is that your</p> <p>2 understanding, that that -- the Beam letter was in</p> <p>3 response to that?</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. STREETER: Okay. I wasn't clear.</p> <p>6 Sorry.</p> <p>7 BY MR. DEZSI:</p> <p>8 Q Mr. Hearron, when a letter like this</p> <p>9 goes out, do you have any involvement in</p> <p>10 investigating the factual basis of the allegations</p> <p>11 contained in these reason to believe letters?</p> <p>12 A Sometimes, yes.</p> <p>13 Q Okay. Do you recall, did you have</p> <p>14 involvement in this case with putting together a</p> <p>15 factual basis or investigating the factual basis?</p> <p>16 A Yes, I did.</p> <p>17 Q Okay. And can you describe to me what</p> <p>18 your role was in that, and what exactly you did?</p> <p>19 MR. STREETER: Objection, that violates</p> <p>20 2 U.S.C. 437g(a)(12). The witness is instructed</p> <p>21 not to answer.</p> <p>22 BY MR. DEZSI:</p>

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1 Q Okay. Can you tell me, did you have any  
 2 participation or role in investigating Jack and  
 3 Renee Beam, the factual allegations contained in  
 4 this letter as to Jack or Renee Beam?  
 5 MR. STREETER: Objection, asked and  
 6 answered. But the witness can answer again.  
 7 THE WITNESS: Yes, I did.  
 8 BY MR. DEZSI:  
 9 Q Okay. And can you tell me what your  
 10 involvement was in that manner?  
 11 MR. STREETER: Objection that violates 2  
 12 U.S.C. 437g(a)(12).  
 13 MR. DEZSI: It's only as to Jack and  
 14 Renee Beam. And we've waived that as to Jack and  
 15 Renee Beam.  
 16 MR. STREETER: No, but once again, you  
 17 have 70 other respondents that you represent.  
 18 Anything that he says that pertains to Jack and  
 19 Renee Beam may very well apply to the other --  
 20 MR. DEZSI: Yeah, but I --  
 21 MR. STREETER: -- 70. And he is  
 22 instructed not to answer.

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1 MR. DEZSI: Okay. But the question is  
 2 limited to Jack and Renee Beam. So I'm going to  
 3 ask the question once more.  
 4 BY MR. DEZSI:  
 5 Q Did you have any participation or  
 6 investigation in the factual basis that's  
 7 contained in this letter as to Jack or Renee Beam?  
 8 MR. STREETER: Objection, that violates  
 9 2 U.S.C. 437g(a)(12). Why don't you ask him if he  
 10 did anything at all only in respect to Jack and  
 11 Renee Beam first, before you ask a more general  
 12 question?  
 13 MR. DEZSI: Sounds like the same, but --  
 14 BY MR. DEZSI:  
 15 Q Okay. Did you investigate Jack and/or  
 16 Renee Beam and their prior contributions to any  
 17 federal candidates?  
 18 MR. STREETER: At what point?  
 19 BY MR. DEZSI:  
 20 Q At any point either before or after this  
 21 letter?  
 22 MR. STREETER: You can answer that.

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1 Specifically Jack and Renee Beam?  
 2 MR. DEZSI: Uh-huh.  
 3 MR. STREETER: All right.  
 4 THE WITNESS: Yes, I did.  
 5 BY MR. DEZSI:  
 6 Q Okay. Can you tell me, describe what  
 7 that investigation entailed?  
 8 MR. STREETER: Can we get a timeframe  
 9 for this?  
 10 MR. DEZSI: At any time either before or  
 11 after the investigation he's -- he's referring to  
 12 that he had participated in such an investigation.  
 13 THE WITNESS: I ran their names through  
 14 the Federal Election Commission database for  
 15 contributors, to see if they had made  
 16 contributions to the 2004 Edwards for President  
 17 campaign, and found out that they had.  
 18 BY MR. DEZSI:  
 19 Q Okay. Do you remember about when, when  
 20 that happened, when you did that?  
 21 Would that have been -- if this letter  
 22 was sent in September of 2006, would that have

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1 been in close proximity to that date, or would it  
 2 have been after, or before?  
 3 A It would have been close to the date of  
 4 the letter.  
 5 Q Okay. And by who's direction or request  
 6 did you do that? By who -- from whom at the FEC?  
 7 Who would have requested you to do that?  
 8 How would that have come to your -- on  
 9 your desk?  
 10 MR. STREETER: Okay. That question  
 11 violates both 437g(a)(12) and a law enforcement  
 12 privilege. And he's instructed not to answer.  
 13 BY MR. DEZSI:  
 14 Q Were you supervised by a staff attorney  
 15 at the FEC in your investigatory role?  
 16 MR. STREETER: With respect to this  
 17 case, or in general?  
 18 BY MR. DEZSI:  
 19 Q With respect to this case.  
 20 A Yes, I had a supervisor at the time.  
 21 Q And who would that have been?  
 22 A Larry Calvert.

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1 Q Okay. And so can you just tell me  
 2 generally how does -- how does a matter come to  
 3 your -- on your desk?  
 4 Does Mr. Calvert, if he is your  
 5 supervisor, does he send you a request and ask you  
 6 to run names through the FEC's database, or  
 7 just -- could you just describe that for me?  
 8 MR. STREETER: No, I guess I have to  
 9 object to that one, as well, law enforcement  
 10 privilege grounds, as well, and 437g(a)(12).  
 11 Because it goes to the assignment of work. And  
 12 that worries me.  
 13 BY MR. DEZSI:  
 14 Q In the general course of your  
 15 responsibilities, how do you get an assignment?  
 16 Who is it that brings something to you?  
 17 Is it an attorney? Is it just your  
 18 supervisor? Is it a number of -- a number of  
 19 staff attorneys at the FEC?  
 20 Who specifically would -- or generally,  
 21 who would -- who would bring you that assignment?  
 22 A It can be done in a number of ways. I

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1 think more in answer to your question, the  
 2 investigators decide who's going to work on a  
 3 specific matter that comes in.  
 4 Q And how does it come in to -- how do you  
 5 get it?  
 6 A Well, it comes in, in different ways.  
 7 The staff attorney assigned to the case may come  
 8 in and ask for an investigator's assistance.  
 9 Mr. Calvert may ask us to work on a matter. Some  
 10 of the other office of the general counsel team  
 11 leaders may ask us to help out.  
 12 Q Okay. And can you recall who  
 13 specifically asked you to look -- to run Jack and  
 14 Renee Beam's names for their contributions?  
 15 MR. STREETER: That question violates a  
 16 law enforcement privilege and violates 2 U.S.C.  
 17 437g(a)(12). The witness is instructed not to  
 18 answer.  
 19 BY MR. DEZSI:  
 20 Q Okay. Can you tell me who Larry Calvert  
 21 is?  
 22 What his title and position?

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1 MR. STREETER: At this time, or at the  
 2 time that --  
 3 BY MR. DEZSI:  
 4 Q At the time that he was your supervisor.  
 5 A He was the assistant general counsel in  
 6 enforcement, I believe.  
 7 MR. STREETER: I think he was a deputy  
 8 associate.  
 9 MR. SUMMERS: He might have been deputy  
 10 associate.  
 11 MR. STREETER: Who can tell, with all  
 12 these titles.  
 13 THE WITNESS: I don't know what his  
 14 title was.  
 15 BY MR. DEZSI:  
 16 Q Okay. But you described him as your  
 17 supervisor?  
 18 A He was my direct supervisor at the time,  
 19 yes.  
 20 Q Okay. But that doesn't necessarily mean  
 21 that all of your assignments would come from him;  
 22 but he was just your direct supervisor?

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1 A That's correct.  
 2 Q Okay. I got it. Thank you.  
 3 Did you also work with Audra Wassom on  
 4 this matter, as an investigator?  
 5 A Yes, I did.  
 6 Q Okay. Was she your primary contact or  
 7 person of contact while you were investigating  
 8 this matter?  
 9 A Yes, she was.  
 10 Q Okay. I'll have you take a look again  
 11 at this letter.  
 12 Okay. In this letter, on page 2, it  
 13 says in this bottom paragraph --  
 14 MR. STREETER: For identification  
 15 purposes, that's Exhibit A again?  
 16 BY MR. DEZSI:  
 17 Q Yes. I'm sorry. I'm referring to  
 18 Exhibit A.  
 19 It says, Jack Beam had never contributed  
 20 to a federal political committee prior to his  
 21 contributions to the Edwards campaign.  
 22 Would that statement come as a result of

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1 your investigation?  
 2 MR. STREETER: I object to that on  
 3 437g(a)(12) grounds, and for law enforcement  
 4 privilege, to the extent that it's asking about  
 5 this specific investigation. The witness is  
 6 instructed not to answer.  
 7 BY MR. DEZSI:  
 8 Q In the general course of your duties, do  
 9 you provide information, to a staff attorney or  
 10 whoever requests the information, would you  
 11 provide information to them about an individual's  
 12 lack of or prior contributions? Is that something  
 13 that you would generally do?  
 14 A It would be something that I would  
 15 sometimes do.  
 16 Q Okay. And when you -- when you look for  
 17 prior contributions, you have a database; and I  
 18 assume you -- you put someone's name in the  
 19 database, and then you look -- the database tells  
 20 you if that person has made a contribution; is  
 21 that correct?  
 22 A That's one way of doing it, yes.

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1 Q And how extensive is that database?  
 2 Let's say if somebody had made a  
 3 contribution in 1980 to a federal campaign, would  
 4 it appear in that database, generally?  
 5 A I don't think so.  
 6 Q Okay. Do you know if there's sort of a  
 7 period in time where contributions are housed in  
 8 this database, whereas perhaps they weren't prior  
 9 to a certain time, or --  
 10 A I believe there's the case, yes.  
 11 Q Do you know about when that -- when that  
 12 might have started happening, that they were  
 13 housed in this database?  
 14 A I do not.  
 15 Q Okay.  
 16 MR. DEZSI: Give me just a moment.  
 17 MR. STREETER: Uh-huh.  
 18 BY MR. DEZSI:  
 19 Q The letter that you're looking at, the  
 20 Exhibit A, was it your understanding that the  
 21 Federal Election Commission's reason to believe  
 22 letter was based on Jack Beam or Renee Beam having

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1 been reimbursed for their contributions as a  
 2 violation of the Federal Election Commission act?  
 3 MR. STREETER: I'm sorry. Could you  
 4 read that question back?  
 5 (Whereupon the reporter read  
 6 the record as requested.)  
 7 MR. STREETER: You can answer that.  
 8 THE WITNESS: It was something we were  
 9 looking at, at the time, yes.  
 10 BY MR. DEZSI:  
 11 Q Okay. During your work on this case,  
 12 did you have occasion to communicate or talk to  
 13 anybody from the Department of Justice?  
 14 A Yes, I did.  
 15 Q Okay. And can you tell me who at the  
 16 Department of Justice you talked to or  
 17 communicated with, whether by e-mail, letter,  
 18 phone conversation, face-to-face meetings?  
 19 A AUSA Kendall Day. I'm sorry. He's not  
 20 an AUSA. He's a -- he works out of the Department  
 21 of Justice public integrity section.  
 22 Q Okay. How about Assistant United States

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1 Attorney Lynn Helland?  
 2 A Yes, I sat in on a teleconference where  
 3 he was involved. He was in Detroit at the time.  
 4 Q Okay. And how about Assistant United  
 5 States Attorney Chris Varner?  
 6 A No.  
 7 Q No.  
 8 And FBI Special Agent Jeff Rees?  
 9 A Rees was also involved in the  
 10 teleconference that -- that I was a witness to,  
 11 from Detroit.  
 12 Q Okay. Did you speak with Mr. Rees or  
 13 Mr. Helland, other than that telephone -- that  
 14 teleconference, on other occasions?  
 15 A No.  
 16 Q No.  
 17 How about e-mail? Do you recall having  
 18 any e-mail communications with either Mr. Rees  
 19 from the FBI or Lynn Helland?  
 20 A No.  
 21 Q No. Okay. Let's go back to Kendall  
 22 Day, the trial attorney from the Department of

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1 Justice.  
 2 Did you meet with him face-to-face on  
 3 any occasions?  
 4 A Yes.  
 5 Q Okay. And can you tell me about how  
 6 many times?  
 7 A I recollect three times.  
 8 Q Okay. And where were those meetings?  
 9 A Two of the meetings were here at the  
 10 Federal Election Commission. One of the meetings  
 11 was at Mr. Day's office at the Department of  
 12 Justice.  
 13 Q Okay. And who else was present in those  
 14 meetings?  
 15 A Well, do you want them individually?  
 16 Q Sure.  
 17 A Okay. The meeting we had at DOJ was  
 18 made up of, besides myself, Audra Wassom, Tom  
 19 Andersen, Larry Calvert. That's all. And I need  
 20 to go back and say that we actually had two  
 21 meetings at DOJ.  
 22 Q Okay. And when you said in the -- as to

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1 the first meeting, you said yourself,  
 2 Ms. Wassom --  
 3 A Okay. I'm -- yeah. The first meeting,  
 4 it was myself, Ms. Wassom, and Larry Calvert.  
 5 Q Okay. And also then Kendall Day?  
 6 A Yes.  
 7 Q Okay.  
 8 A And that's the time we had the  
 9 teleconference with them in Detroit.  
 10 Q Okay. Okay. And then you said there  
 11 was a second DOJ meeting?  
 12 A Yes.  
 13 Q And that would have been -- who would  
 14 have been present during that meeting?  
 15 A Present there was Tom Andersen, Audra  
 16 Wassom, and myself, from the FEC.  
 17 Q Okay. At any time during any of these  
 18 meetings or any other -- any other meetings that  
 19 you may have had with the Department of Justice,  
 20 did you obtain any records or compact disks from  
 21 the Department of Justice or Kendall Day?  
 22 A Yes.

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1 Q Okay. And can you tell me what you --  
 2 when that -- when that would have happened?  
 3 A Well, I remember receiving two different  
 4 things from him. I believe one was a CD that we  
 5 received sometime after the reason to believe  
 6 letters were sent out.  
 7 Q Uh-huh. Okay.  
 8 A And then we also received material after  
 9 the criminal trial.  
 10 Q Okay. And after the criminal trial, who  
 11 initiated that exchange of information?  
 12 MR. STREETER: Objection, that violates  
 13 a law enforcement privilege, and 437g(a)(12). The  
 14 witness is instructed not to answer.  
 15 BY MR. DEZSI:  
 16 Q Okay. Were you the one that received  
 17 the documents after the trial?  
 18 A I received them, yes. I believe they  
 19 were sent in the form of an e-mail.  
 20 Q Okay. And do you remember the contents  
 21 of that e-mail or that -- the documents that you  
 22 received?

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1 MR. STREETER: Objection, that violates  
 2 a law enforcement privilege, and 437g(a)(12). The  
 3 witness is instructed not to answer.  
 4 BY MR. DEZSI:  
 5 Q Okay. I'm going to just give you a  
 6 document.  
 7 MR. DEZSI: I'm going to mark this as  
 8 Plaintiff's Exhibit D.  
 9 (Plaintiff's Deposition  
 10 Exhibit D was marked for  
 11 identification.)  
 12 BY MR. DEZSI:  
 13 Q And take a look at this.  
 14 Mr. Hearron, do you recognize this  
 15 e-mail?  
 16 A I do.  
 17 Q Okay. Can you describe to me how this  
 18 e-mail came about?  
 19 MR. STREETER: Objection, that violates  
 20 a law enforcement, provision for -- just a law  
 21 enforcement privilege. The witness is instructed  
 22 not to answer. The e-mail speaks for itself.

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1 MR. DEZSI: Okay. Would you let the  
 2 record reflect that Plaintiff's Exhibit D has not  
 3 been produced to Plaintiffs, nor has it been  
 4 identified as withheld on the Federal Election  
 5 Commission's privileged log.  
 6 MR. STREETER: Let me also say for the  
 7 record that it's not at all clear that the second  
 8 page of this document actually relates to the  
 9 first page, since the attachment on the face of  
 10 the first page isn't identified, although it very  
 11 well could be part of the same e-mail. It's just  
 12 that there's no evidence in the record now to  
 13 reflect that fact.  
 14 BY MR. DEZSI:  
 15 Q Mr. Hearron, this e-mail that we're  
 16 looking at, it appears -- it says, Please review  
 17 the attachment and give me your opinion.  
 18 This is an e-mail from you to Kendall  
 19 Day, dated October 23 of 2007, with a cc to Audra  
 20 Wassom.  
 21 Again, from the beginning of the e-mail  
 22 it says, Kendall Day, please review the attachment

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1 and give me your opinion. Is this the format that  
 2 you are looking for with the contributor history.  
 3 Thanks.  
 4 Mr. Hearron, it appears that -- isn't it  
 5 true that Mr. Day must have requested you to --  
 6 must have requested that you produce some sort of  
 7 charts for the Department of Justice for use in  
 8 their criminal case; is that true?  
 9 MR. STREETER: Objection, that calls for  
 10 speculation. It violates a law enforcement  
 11 privilege. It violates 437g(a)(12). The witness  
 12 is instructed not to answer.  
 13 BY MR. DEZSI:  
 14 Q Mr. Hearron, did you prepare the  
 15 attachment that is attached to the e-mail, which  
 16 has a name Jeffrey Danzig on the top?  
 17 A (Witness examined document). Yes, I  
 18 did.  
 19 Q Okay. Did you prepare other similar  
 20 charts?  
 21 A Similar in what way?  
 22 Q Similar to this with other -- for other

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1 individuals?  
 2 A Yes, I did.  
 3 Q And were these prepared for the  
 4 Department of Justice's use in their criminal  
 5 trial?  
 6 MR. STREETER: Objection, that violates  
 7 a law enforcement privilege. It violates  
 8 437g(a)(12). The witness is instructed not to  
 9 answer.  
 10 BY MR. DEZSI:  
 11 Q Mr. Hearron, were you aware that the  
 12 Department of Justice had obtained the bank  
 13 records for Jack and Renee Beam for use in their  
 14 criminal case?  
 15 MR. STREETER: Objection, that assumes  
 16 facts not in evidence. The witness can answer if  
 17 he knows, knows an answer.  
 18 THE WITNESS: No, I was not.  
 19 BY MR. DEZSI:  
 20 Q Were you aware that the Department of  
 21 Justice had gathered financial records for many of  
 22 the Fieger firm employees for use in its criminal

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1 case?  
 2 MR. STREETER: Objection to that one  
 3 because it's vague. But the witness can answer.  
 4 THE WITNESS: Yes, I was.  
 5 BY MR. DEZSI:  
 6 Q Okay. Did Mr. Day disclose to you that  
 7 he had in fact obtained those financial records  
 8 for individuals related to the Fieger firm?  
 9 MR. STREETER: I'm going to object to  
 10 that one on law enforcement privilege grounds, and  
 11 2 U.S.C. 437g(a)(12). Instruct the witness not to  
 12 answer.  
 13 BY MR. DEZSI:  
 14 Q Okay. Mr. Hearron, you mentioned that  
 15 you had received a CD from the Department of  
 16 Justice, which you believe you got after the  
 17 reason to -- the FEC's reason to believe letter.  
 18 When you received that CD, would you  
 19 have logged that in your normal course of your  
 20 duties?  
 21 Or how would you indicate the receipt of  
 22 that document or that file or that compact disk?

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1 MR. STREETER: If he did.  
 2 THE WITNESS: I don't remember.  
 3 BY MR. DEZSI:  
 4 Q Is it in the normal course of your  
 5 duties -- if you receive something like a compact  
 6 disk, is it your practice to log that; or do you  
 7 have a process by which that gets logged when it  
 8 comes into the FEC?  
 9 A If I would have received the original  
 10 CD, yes, that would have been logged.  
 11 Q And how would it be logged?  
 12 A Well, we have a -- a unit that keeps all  
 13 of our files and records. And it would have gone  
 14 to them.  
 15 Q And what unit is that?  
 16 Does it have a department title or --  
 17 A It's called CELA.  
 18 MR. STREETER: Central enforcement  
 19 document.  
 20 THE WITNESS: Yes.  
 21 MR. DEZSI: Central --  
 22 MR. STREETER: Enforcement docket.

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1 MR. DEZSI: -- enforcement docket.  
 2 BY MR. DEZSI:  
 3 Q Okay. So just -- could you walk me  
 4 through how this would happen if -- if you get a  
 5 CD, you go to a meeting with the Department of  
 6 Justice. And let's -- let's just assume this for  
 7 a moment that Kendall Day gives you this CD. You  
 8 bring it back here.  
 9 And then can you tell me from that point  
 10 how CELA gets it in order for it to be docketed?  
 11 MR. STREETER: Can we call it CED, not  
 12 CELA?  
 13 MR. DEZSI: Oh, sure.  
 14 BY MR. DEZSI:  
 15 Q CED.  
 16 A I would attach it to the something to  
 17 the CD, with the case number. And then there's a  
 18 depository for records, whatever the case may be,  
 19 where it's dropped off. And then somebody from  
 20 CED will take it and -- and make sure it gets into  
 21 the proper file.  
 22 Q Okay. And when you say you log it, you

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1 attach a case number, are you referring to like an  
 2 MUR?  
 3 A Yes.  
 4 Q An MUR number.  
 5 So in this case it -- assuming that you  
 6 got that CD from -- from Kendall Day, you would  
 7 log that under MUR 5818?  
 8 A That's correct.  
 9 Q Okay. And then who keeps the CD, the  
 10 CE -- the central enforcement docket, they  
 11 actually physically hold that CD?  
 12 A Yes.  
 13 Q Until somebody, yourself or a staff  
 14 attorney, calls for it?  
 15 A Well, I would usually make copies --  
 16 Q Oh, okay.  
 17 A -- of the original.  
 18 Q I see.  
 19 So the copies could be used by yourself  
 20 or a staff attorney --  
 21 A Yes.  
 22 Q -- Ms. Wassom for instance?

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1 A Yes.  
 2 Q And the original stays with the CED?  
 3 A That's correct.  
 4 Q I see.  
 5 And once the CED receives those  
 6 documents or those compact disks, is that logged  
 7 into an electronic database?  
 8 A I don't know.  
 9 Q Okay. So do you know if you were to  
 10 pull up some sort of internal docket or some --  
 11 and internal spreadsheet or something for this  
 12 case, would it have entries of all of the  
 13 different documents that are in the possession of  
 14 CED?  
 15 A The CED file is each document or CD,  
 16 whatever the case may be, is -- is manually  
 17 inventoried within that particular case file.  
 18 Q Okay. And is there then a spreadsheet  
 19 or an electronic file that can be opened; and I  
 20 can read that you -- that the CED entered a  
 21 document on September 1st, or December 15th?  
 22 A I don't know. We have electronic files,

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1 but I'm not sure that everything is electronically  
 2 entered.  
 3 MR. STREETER: Off the record for a  
 4 second.  
 5 (Discussion off the record)  
 6 BY MR. DEZSI:  
 7 Q Mr. Hearron, the CD that you received  
 8 from the Justice Department after the reason to  
 9 believe letter, do you remember the contents of  
 10 that CD?  
 11 MR. STREETER: Objection to that one on  
 12 law enforcement privileged grounds. He's  
 13 instructed not to answer.  
 14 BY MR. DEZSI:  
 15 Q You mentioned that was one of the CD's  
 16 that you received from the Department of Justice  
 17 was after this reason to believe letter was sent  
 18 back in September of 2006. And you mentioned that  
 19 you received other documents after the trial; is  
 20 that correct?  
 21 A That's correct.  
 22 Q And can you tell me how it came about

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1 that you received documents after the trial?  
 2 MR. STREETER: Objection to -- that  
 3 question calls for information that will violate  
 4 the law enforcement privilege, and also violate 2  
 5 U.S.C. 437g(a)(12). The witness is instructed not  
 6 to answer.  
 7 BY MR. DEZSI:  
 8 Q The documents that you received after  
 9 trial, the compact disk that you received after  
 10 trial, do you know the contents of that CD?  
 11 MR. STREETER: Same objection. Same  
 12 instruction. Also, that question assumes facts  
 13 not in evidence.  
 14 BY MR. DEZSI:  
 15 Q Mr. Hearron, if we could go back to that  
 16 e-mail that we have marked there in front of you  
 17 as D.  
 18 Did Mr. Day or anyone else from the  
 19 Department of Justice, did they ask you to create  
 20 any other types of documents or charts for use in  
 21 their criminal case?  
 22 MR. STREETER: Objection. Violates law

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1 enforcement privilege. The witness is instructed  
 2 not to answer.  
 3 And just to clarify, you're asking other  
 4 than contributions that he attached on the list?  
 5 MR. DEZSI: Other than this -- this  
 6 chart that's attached to this e-mail.  
 7 MR. STREETER: Okay. And then I want to  
 8 add a 437g(a)(12) objection, too. Instruct the  
 9 witness not to answer.  
 10 BY MR. DEZSI:  
 11 Q Mr. Hearron, if we could go back for a  
 12 moment.  
 13 In the course of your investigatory  
 14 responsibilities here at the FEC, have you had  
 15 occasion in the past to work with the Department  
 16 of Justice?  
 17 MR. STREETER: In other matters?  
 18 BY MR. DEZSI:  
 19 Q In other matters?  
 20 MR. STREETER: Okay. Sorry.  
 21 THE WITNESS: Yes, I have.  
 22 BY MR. DEZSI:

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1 Q Okay. And can you just give me an  
 2 estimate as to how many times in the past you've  
 3 worked with the DOJ?  
 4 A On two other occasions. I'm sorry.  
 5 Three other occasions.  
 6 Q Okay. And can you tell me who at the  
 7 Department of Justice you talked to on those  
 8 occasions, or who was your contact person?  
 9 A No, I'm sorry, I don't remember.  
 10 Q Okay. It wasn't Kendall Day?  
 11 A No, it was not.  
 12 Q Okay. In the past -- in those past  
 13 matters where you have worked with the Department  
 14 of Justice, has that involved providing an  
 15 investigation into campaign contributions?  
 16 MR. STREETER: If you understand.  
 17 THE WITNESS: I'm sorry. Repeat the  
 18 question.  
 19 BY MR. DEZSI:  
 20 Q Okay. Sure.  
 21 In the past when you've -- when you've  
 22 worked with the Department of Justice on those

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1 three occasions in the past, was that in your role  
 2 as an investigator with the FEC?  
 3 A That's correct.  
 4 Q Okay. And were you -- did you  
 5 provide -- did you provide campaign contribution  
 6 histories, or something similar, on those  
 7 instances?  
 8 A No, I don't believe so.  
 9 Q Okay. Have you had occasion to look at  
 10 or to exchange any type of financial information  
 11 with the Department of Justice, the bank records  
 12 or anything like bank records or financial  
 13 records?  
 14 MR. STREETER: Talking about these three  
 15 other instances?  
 16 MR. DEZSI: Yes.  
 17 MR. STREETER: All right.  
 18 THE WITNESS: No.  
 19 BY MR. DEZSI:  
 20 Q Okay. I'm just going to have you take a  
 21 look, if you would, at this section of the  
 22 statute, which is 12 United States Code Section

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1 3412, and then the paragraph A, which are refers  
 2 to transfer of financial records. If you could  
 3 just take a moment and read that to yourself,  
 4 Mr. Hearron.  
 5 A (Witness examined document). Okay.  
 6 Q Okay. Are you familiar with that  
 7 statute, or have you seen it before?  
 8 A Yes, I have.  
 9 Q Okay. And have you had occasion, during  
 10 your employment with the FEC, to either transfer,  
 11 to share financial records with any other  
 12 financial agency -- or federal agencies?  
 13 A I'm sorry. Repeat the question.  
 14 Q Have you -- during your employment with  
 15 the FEC, have you had occasion to share any  
 16 financial records with other federal agencies?  
 17 Have you either exchanged, disclosed,  
 18 transferred any financial records with other  
 19 federal agencies?  
 20 A Yes.  
 21 Q Yes.  
 22 And have you had occasion to execute or

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1 to sign any of these certifications that are  
 2 referred to in this section A of the Section 3412  
 3 of this law?  
 4 A I have not, no.  
 5 Q Have you ever seen one of these  
 6 certifications?  
 7 A I don't recall.  
 8 Q Okay. I'll take it back.  
 9 A (Handing document).  
 10 Q Thank you.  
 11 In the past when you've had occasion to  
 12 exchange financial records, was that with the  
 13 Department of Justice?  
 14 A Yes, it was.  
 15 Q Okay. And you don't recall at that time  
 16 having seen one of these certifications?  
 17 A I do not recall that.  
 18 Q Okay. Thank you.  
 19 If we could then flip back to  
 20 Plaintiff's Exhibit A, if you would.  
 21 A (Witness examined document).  
 22 Q And if you would, please, Mr. Hearron,

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1 flip back to page 2 of 2 of the factual and legal  
 2 analysis.  
 3 A (Witness examined document).  
 4 Q Okay. And the first full paragraph on  
 5 that page, starting with, According to news  
 6 accounts, Joseph Bird, a former attorney at the  
 7 firm, has alleged that firm reimbursed him for  
 8 contributions he and his spouse made to the  
 9 Edwards' committee. And there's a citation to a  
 10 newspaper article.  
 11 Sarah Karush, lawyer, says Fieger  
 12 partner told him to contribute, Detroit News,  
 13 December 3, 2005.  
 14 Would that have been your responsibility  
 15 to seek or to search for newspaper articles like  
 16 this, or including this one?  
 17 MR. STREETER: That question violates 2  
 18 U.S.C. 437g(a)(12). The witness is instructed not  
 19 to answer.  
 20 MR. DEZSI: This letter is to Jack Beam.  
 21 MR. STREETER: Again, it goes to the 70  
 22 other respondents that you represent.

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1 BY MR. DEZSI:  
 2 Q Okay. In the general course of your  
 3 investigative responsibilities, would it be within  
 4 your job to sometimes look for and to find  
 5 newspaper articles to support the Federal Election  
 6 Commission's reason to believe findings?  
 7 A Sometimes.  
 8 Q Sometimes.  
 9 And could you tell me about how many  
 10 times you've done that in the past?  
 11 Just a ballpark.  
 12 A Well, several occasions.  
 13 Q Okay. So in those instances, let's --  
 14 let's assume that a staff attorney or somebody  
 15 comes to you with a matter and you open an  
 16 investigation.  
 17 So then you might just start Google  
 18 searching? Is that how that would come to be?  
 19 Or how would you look for that,  
 20 newspaper articles, that is?  
 21 A Google search, or we subscribe to  
 22 some -- some programs where that information is --

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1 we can get that information through these  
 2 different programs.  
 3 Q Okay. So something like Lexus or -- for  
 4 cases, but it's something that's used for  
 5 newspapers, or is that -- that sounds like that's  
 6 what you're referring to?  
 7 A Yes.  
 8 Q Okay. And do you recall actually  
 9 looking and finding these particular articles?  
 10 MR. STREETER: Objection. That violates  
 11 2 U.S.C. 437g(a)(12). The witness is instructed  
 12 not to answer.  
 13 BY MR. DEZSI:  
 14 Q Mr. Hearron, during the course of your  
 15 work on this matter, do you recall looking at any  
 16 FBI 302 reports?  
 17 A Yes.  
 18 Q Okay. How about any IRS field  
 19 memorandum, memoranda?  
 20 A I believe so.  
 21 Q Okay. And how about any grand jury  
 22 transcripts?

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1 A Yes.  
 2 Q And how about exhibits that were used by  
 3 the Department of Justice in their criminal case  
 4 against Geoffrey Fieger?  
 5 A Yes.  
 6 Q And were you aware that the Department  
 7 of Justice had obtained financial records from  
 8 Mr. Fieger that they used in his criminal case?  
 9 MR. STREETER: You can answer that.  
 10 THE WITNESS: I'm sorry. Repeat the  
 11 question.  
 12 BY MR. DEZSI:  
 13 Q Were you aware that the Department of  
 14 Justice had gathered financial records that they  
 15 had used against Mr. Fieger in his criminal case?  
 16 A Yes.  
 17 Q Were you also -- were you aware that  
 18 Ms. Wassom had requested from the Department of  
 19 Justice several of their evidence or documents  
 20 that they used in their criminal case?  
 21 MR. STREETER: Objection, that assumes  
 22 facts not in evidence. It violates the law

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1 enforcement privilege. The witness is instructed  
 2 not to answer that one.  
 3 BY MR. DEZSI:  
 4 Q You were aware that Mr. Fieger was  
 5 acquitted of all -- of the charges brought against  
 6 him by the Department of Justice?  
 7 A Yes.  
 8 Q Okay. And after that acquittal, is it  
 9 true that you and Ms. Wassom, as you indicated,  
 10 met with the Department of Justice?  
 11 A Yes.  
 12 Q Okay. At which time you received a CD,  
 13 the contents of which I believe counsel has  
 14 objected to as privileged; is that correct?  
 15 A At some point we received that. I'm not  
 16 sure if it was at that meeting or not.  
 17 Q Okay. Do you recall at any time during  
 18 this matter, either before or after the acquittal,  
 19 if you provided any information to the Department  
 20 of Justice other than that graph, that chart that  
 21 was contained in your -- attached to your e-mail?  
 22 MR. STREETER: That question violates

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<p>1 the law enforcement privilege. The witness is                  2 instructed not to answer.                  3 MR. DEZSI: Give me a second if you                  4 would.                  5 Can we take a break?                  6 MR. STREETER: Sure.                  7 (Recess)                  8 BY MR. DEZSI:                  9 Q Mr. Hearron, I just have a couple more                  10 questions for you before we go.                  11 If you could take a look -- this is a                  12 copy of the subpoena for the notice of deposition                  13 that was originally served on you for your                  14 appearance today. Attached to that is Exhibit A                  15 asking you to produce documents.                  16 Have you seen that document before?                  17 A Yes, I have.                  18 Q Okay. And were you responsible for                  19 searching for documents, for your own documents,                  20 or --                  21 A Yes, I was.                  22 Q Okay. So you located documents or</p>	<p>1 MR. STREETER: Yeah.                  2 BY MR. DEZSI:                  3 Q And you're not sure why that document                  4 wouldn't have been located within the -- when you                  5 did your search?                  6 A No, I do not.                  7 Q Okay.                  8 MR. DEZSI: I don't think I have any                  9 other questions.                  10 I would like to reserve the witness. I                  11 may have you back, depending on if we ask the                  12 judge in Chicago to rule on some of the privileges                  13 that were asserted by counsel. And depending on                  14 how she rules on those, I might have you back for                  15 a very brief period. But I will reserve your                  16 testimony.                  17 THE WITNESS: Okay.                  18 MR. STREETER: I have a few cross-exam                  19 questions.                  20 EXAMINATION BY COUNSEL FOR DEFENDANTS                  21 BY MR. STREETER:                  22 Q Mr. Hearron, you were asked a series of</p>
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<p>1 didn't locate documents; and whatever you -- and                  2 whatever you found, would that have been turned                  3 over to counsel?                  4 A That's correct.                  5 Q Okay. Do you know why this particular                  6 document, the one that I marked Plaintiff's                  7 Exhibit D, was not located or produced as a result                  8 of that exhibit?                  9 A I do not know.                  10 Q Okay. Can you just give me an idea of                  11 how -- how would you search for documents in                  12 response to that subpoena?                  13 A I went through my paper files and my                  14 electronic files.                  15 Q And when you say you went through your                  16 electronic files, like WordPerfect files?                  17 Can you describe to me what's included                  18 in that?                  19 A WordPerfect, electronic mail.                  20 Q Okay.                  21 MR. STREETER: We use Lotus now, too.                  22 MR. DEZSI: Oh, Lotus? Okay.</p>	<p>1 questions about the RFPA statute, the 12 U.S.C.                  2 3412 provision that Mr. Dezsi showed you. And I                  3 guess I don't have it in front of me anymore. He                  4 asked you to look at the --                  5 MR. DEZSI: You want the statute?                  6 MR. STREETER: No, no. That's okay. I                  7 don't think he needs to see it.                  8 BY MR. STREETER:                  9 Q And you answered the question about the                  10 certification of transfers of financial                  11 information either to or from other agencies.                  12 Do you recall those questions?                  13 A Yes, I do.                  14 Q Have you ever been involved in                  15 exchanging any private financial information of                  16 any individuals in any case other than the current                  17 case?                  18 A No, I have not been.                  19 Q And if there was -- if any personal                  20 information of any type was transferred during the                  21 course -- let me start again.                  22 If any private -- if any, personal</p>

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1 information, person financial information of any  
 2 type, was either transferred to you or by you in  
 3 any case that you've been involved with during  
 4 your tenure here at the FEC, was that information  
 5 transferred in the current case, or some other  
 6 case?  
 7 A The current case.  
 8 Q If the information that was transferred  
 9 was private financial information -- meaning stuff  
 10 that's not public -- and a certification had to be  
 11 prepared, would you be the only person who would  
 12 be responsible for preparing the certification, or  
 13 would other people involved in the matter also  
 14 have to involve -- may -- may be the ones who  
 15 prepared the certification?  
 16 A It would have been someone else. I  
 17 wouldn't have been involved in that, the  
 18 preparation of that document.  
 19 Q The fact that you did not yourself  
 20 prepare certificates, doesn't mean that other  
 21 persons involved in the matters may have prepared  
 22 the certification?

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1 A They may have.  
 2 Q With respect to -- you said that -- that  
 3 in this case you received information from the  
 4 Department of Justice in the form of e-mail  
 5 attachments and in the form of CD's, or a CD.  
 6 Do you recall how many CD's were  
 7 involved?  
 8 A No, I don't.  
 9 Q Do you recall when the CD might have  
 10 been received from DOJ, at what point in time?  
 11 A I believe the CD came shortly after our  
 12 finding of reason to believe. I may have that  
 13 confused with us receiving the e-mail.  
 14 Q An e-mail --  
 15 A In other words, I'm not sure if the CD  
 16 came first, or the e-mail came first.  
 17 Q And would the --  
 18 A But we received one of each.  
 19 Q Okay. Would those two items have been  
 20 received at about the same time, or would they  
 21 have been --  
 22 A No.

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1 Q -- months apart?  
 2 A They were months apart.  
 3 Q Months apart.  
 4 All right. Do you recall with what was  
 5 contained in the CD?  
 6 A No, I don't.  
 7 Q Could that CD have contained transcripts  
 8 of the criminal trial testimony that was given in  
 9 the Fieger criminal case?  
 10 A It could have.  
 11 Q Do you recall whether it did or not?  
 12 A I do not.  
 13 Q Okay. And the attachments that -- to  
 14 the e-mail that you described, could those  
 15 attachments have been related to Department of  
 16 Justice criminal trial material of some kind, if  
 17 you recall?  
 18 A It could have been, yes.  
 19 Q Do you have any recollection of what was  
 20 actually contained in that, those PDF attachments?  
 21 A No, I do not.  
 22 Q All right. Fair enough.

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1 During your work on this case -- let  
 2 me -- strike that.  
 3 You also testified earlier that you may  
 4 have seen grand jury transcripts in this case.  
 5 Do you recall when that might have  
 6 happened?  
 7 A Thinking about that question now, I made  
 8 a mistake with my answer. I have never seen grand  
 9 jury transcripts. I have seen trial transcripts.  
 10 Q All right. So the material that you  
 11 previously referred to as grand jury transcripts  
 12 were in actually transcripts from the criminal  
 13 trial of various defendants in the Fieger case,  
 14 thus related to this case?  
 15 A That's correct.  
 16 Q That's fair?  
 17 Do you recall when you might have seen  
 18 those transcripts?  
 19 A No, not exactly. It was at some point  
 20 after the end of the criminal trial.  
 21 Q Which was in the summer of 2008, if you  
 22 recall that?

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1 A Yes.  
 2 Q Okay. Now, with respect to material  
 3 received from the Department of Justice, have you  
 4 seen any material from the Department of Justice  
 5 relating to the Beams or to anyone else in the  
 6 Fieger universe that had its origin in the grand  
 7 jury proceedings related to that criminal trial?  
 8 A No, I have not.  
 9 Q With respect to Jack Beam, have you ever  
 10 seen any document that contains a social security  
 11 number -- the social security number of Mr. Beam?  
 12 A Not to my knowledge.  
 13 Q Have you ever seen any document that  
 14 contains a social security number of Renee Beam?  
 15 A Not to my knowledge.  
 16 Q Have you seen any document that contains  
 17 a home address of either Jack or Renee Beam, of  
 18 any type?  
 19 A Yes, I have.  
 20 Q And what was that?  
 21 A Well, one place I can think of would be  
 22 the Federal Election Commission database of

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1 regular contributions.  
 2 Q Because the law requires that the Beams  
 3 report their home address, correct?  
 4 A That's correct.  
 5 Q Okay. With respect to financial  
 6 information, have you seen any bank statements,  
 7 any bank statements of any type of Jack or Renee  
 8 Beam that contains their home address?  
 9 A No, I have not.  
 10 Q Have you seen any savings account  
 11 belonging to Jack or Renee Beam that contains  
 12 their address or social security number?  
 13 A No.  
 14 Q Have you seen any savings account of  
 15 Jack or Renee Beam from any source that contains  
 16 their home address or their social security  
 17 number?  
 18 A No.  
 19 Q Have you ever seen any stock brokerage  
 20 accounts belonging to Jack or Renee Beam that  
 21 contains either their social security number or  
 22 their home address?

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1 A No.  
 2 Q Have you seen anything else that can be  
 3 considered private financial information that  
 4 belongs either to Jack or to Renee Beam?  
 5 A No.  
 6 Q Is it possible that you've seen copies  
 7 of bank statements or money market statements in  
 8 which certain information has been redacted?  
 9 A Yes, I have.  
 10 Q Can you state what that material might  
 11 have been?  
 12 A Bank statements involving individuals in  
 13 the Fieger criminal case.  
 14 Q The question was related to solely Jack  
 15 or Renee Beam, not to other possible defendants in  
 16 the --  
 17 A No.  
 18 Q Okay. And you just said you've seen  
 19 bank statements relating to our people in what I  
 20 will call the Fieger universe that has been  
 21 redacted; is that correct?  
 22 A Yes.

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1 Q Can you tell me what type of information  
 2 was redacted?  
 3 A Personal information.  
 4 Q Such as?  
 5 A Social security numbers, telephone  
 6 numbers, home addresses.  
 7 Q So it's fair to say that any document  
 8 you've ever seen that relates to any individuals  
 9 in the Fieger universe has been redacted to take  
 10 out this private financial information --  
 11 A Yes.  
 12 Q -- this private information?  
 13 With respect to the documents that you  
 14 have seen, which I guess would be the redacted  
 15 documents, do you know if those documents were  
 16 public or not?  
 17 A Yes, they were.  
 18 Q And why do you say that?  
 19 A Because they were used as exhibits in  
 20 criminal trial which --  
 21 Q Concluded last year?  
 22 A -- concluded, yes.

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1 MR. STREETER: I have nothing else.  
 2 Thank you, sir.  
 3 MR. DEZSI: I have some follow-up  
 4 questions.  
 5 EXAMINATION BY COUNSEL FOR PLAINTIFFS  
 6 BY MR. DEZSI:  
 7 Q Where did you get the financial records  
 8 that you're referring to that you saw that were  
 9 redacted?  
 10 A From DOJ.  
 11 Q And do you recall any of the names of  
 12 the individuals of those documents?  
 13 A No.  
 14 Q And in what form were those documents?  
 15 Were those paper, or electronic?  
 16 MR. STREETER: You mean as transmitted,  
 17 or when he actually saw them?  
 18 BY MR. DEZSI:  
 19 Q When you saw them, what did you see?  
 20 Paper? You saw a computer file?  
 21 A No. Once again, it was either on a CD  
 22 or e-mail.

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1 Q Okay. And do you remember about how  
 2 many pages or documents we're talking about?  
 3 Are we talking about ten, or a hundred,  
 4 or 200?  
 5 A I would say a lot, a hundred, closer to  
 6 a hundred than to ten.  
 7 Q Might it be closer to a thousand than  
 8 ten?  
 9 A Well, I don't -- no.  
 10 Q Okay. Earlier you indicated -- and  
 11 Mr. Hearron, I don't mean to trick you or to -- to  
 12 play a trick on you. Earlier you had indicated  
 13 that you had seen grand jury transcripts. And  
 14 you've now testified that you did not see grand  
 15 jury transcripts.  
 16 Do you know the difference between grand  
 17 jury transcripts and trial transcripts?  
 18 A Yes, I do.  
 19 Q And you would know the difference in  
 20 their markings, or --  
 21 A Yes.  
 22 Q Were you prepped for your deposition

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1 today?  
 2 A Yes, I was.  
 3 Q By whom?  
 4 A Mr. Streeter.  
 5 Q Okay. And did you -- without disclosing  
 6 the contents of your discussions, did you have  
 7 occasion to discuss your testimony during the  
 8 break?  
 9 A Yes.  
 10 Q As to the financial records that you've  
 11 testified that you've seen, those were redacted  
 12 how, with the just like black mark-outs; or how  
 13 were they redacted?  
 14 A It appeared to be black mark-outs.  
 15 Q I ask because sometimes there's computer  
 16 programs that sort of assert black boxes over  
 17 things, versus just -- I'm a simple guy. I just  
 18 take a Sharpie.  
 19 A I believe it was done manually.  
 20 Q Okay. And can you tell me how those  
 21 documents were categorized or how they were  
 22 stored? Were they alphabetical, or how?

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1 A I don't recall there being any order to  
 2 them at all.  
 3 Q Okay. You couldn't be certain in that  
 4 those documents were Jack or Renee Beam's; you've  
 5 testified that you don't recall whose documents  
 6 they were, whose names in particular; is that  
 7 correct?  
 8 A Yes.  
 9 Q Okay.  
 10 MR. DEZSI: I have no further questions  
 11 for you.  
 12 EXAMINATION BY COUNSEL FOR DEFENDANTS  
 13 BY MR. STREETER:  
 14 Q And, in fact, Mr. Hearron, you don't  
 15 recall specifically having ever seen any bank  
 16 statements of any type, redacted or non-redacted,  
 17 that pertain to Jack or Renee Beam, correct?  
 18 A That's correct.  
 19 MR. STREETER: Nothing further.  
 20 MR. DEZSI: Again, I would like to  
 21 reserve the witness's testimony, in case we have  
 22 some further issues after the privilege issues are

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1 resolved.  
 2 MR. STREETER: And as a result, we can't  
 3 waive.  
 4  
 5  
 6  
 7 (Whereupon at 4:05 p.m., the  
 8 deposition of ROGER A.  
 9 HEARRON was adjourned.)  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22

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1 CERTIFICATE OF NOTARY PUBLIC  
 2 I, BARBARA A. HUBER, CSR, the officer  
 3 before whom the foregoing deposition was taken, do  
 4 hereby certify that the witness whose testimony  
 5 appears in the foregoing deposition was duly sworn  
 6 by me; that the testimony of said witness was  
 7 taken by me in stenotypy and thereafter reduced to  
 8 print under my direction; that said deposition is  
 9 a true record of the testimony given by said  
 10 witness; that I am neither counsel for, related  
 11 to, nor employed by any of the parties to the  
 12 action in which this deposition was taken; and,  
 13 furthermore, that I am not a relative or employee  
 14 of any attorney or counsel employed by the parties  
 15 hereto, nor financially or otherwise interested in  
 16 the outcome of this action.  
 17  
 18  
 19 \_\_\_\_\_  
 20 BARBARA A. HUBER, CSR  
 21 Notary Public, in and for the  
 22 District of Columbia  
 My Commission Expires:  
 March 14, 2012

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1 ACKNOWLEDGEMENT OF DEPONENT  
 2  
 3  
 4 I, ROGER A. HEARRON, do hereby acknowledge I  
 5 have read and examined the foregoing pages of  
 6 testimony, and the same is a true, correct and  
 7 complete transcription of the testimony given by  
 8 me, and any changes or corrections, if any, appear  
 9 in the attached errata sheet signed by me.  
 10  
 11  
 12  
 13  
 14  
 15 \_\_\_\_\_  
 Date ROGER A. HEARRON  
 16  
 17 Subscribed and Sworn to before me this  
 18 \_\_\_\_ day of \_\_\_\_\_, 2009.  
 19  
 20 \_\_\_\_\_  
 21 Notary Public  
 22 My Commission Expires:

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**EXHIBIT**

**5**

**Deposition of Audra Wassom Bayes**

Audra Wassom Bayes

Washington, DC

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
March 10, 2009

2009 MAR 31 A 10:32 Page 1

1 THE UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF ILLINOIS  
3 EASTERN DIVISION  
4  
5 JACK AND RENEE BEAM, :  
6 :  
7 Plaintiffs, :  
8 :  
9 v. : CA No. 07-cv-1227  
10 :  
11 MICHAEL B. MUKASEY, UNITED STATES:  
12 ATTORNEY GENERAL, in his official:  
13 Capacity; FEDERAL ELECTION :  
14 COMMISSION CHAIRMAN DAVID M. :  
15 MASON, in his official capacity; :  
16 UNKNOWN AGENTS OF THE FEDERAL :  
17 BUREAU OF INVESTIGATION, in their:  
18 individual and official :  
19 capacities, :  
20 :  
21 Defendants. :  
22

Washington, D.C.

Tuesday, March 10, 2009

Deposition of

AUDRA WASSOM BAYES, called for examination  
by counsel for Plaintiffs, pursuant to notice, at  
the Offices of the Federal Election Commission, 999  
E Street, NW, Washington, D.C., commencing at 10:15  
a.m., before Barbara A. Huber, Notary Public in and  
for the District of Columbia, when were present on  
behalf of the respective parties:

Audra Wassom Bayes

March 10, 2009

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of Plaintiffs:</p> <p>3 MICHAEL DEZSI, ESQUIRE</p> <p>4 Fieger, Fieger, Kenney, Johnson &amp; Giroux</p> <p>5 19390 West Ten Mile Road</p> <p>6 Southfield, Michigan 48075</p> <p>7 (248) 355-5555</p> <p>8 midezsi@fiiegerlaw.com</p> <p>9</p> <p>10 On behalf of Defendants:</p> <p>11 BENJAMIN A. STREETER, III, ESQUIRE</p> <p>12 HARRY J. SUMMERS, ESQUIRE</p> <p>13 Federal Election Commission</p> <p>14 999 E Street, NW</p> <p>15 Washington, D.C. 20463</p> <p>16 (202) 694-1650</p> <p>17 bstreeter@fec.gov</p> <p>18 hsummers@fec.gov</p> <p>19</p> <p>20 * * * * *</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 Whereupon,</p> <p>3 AUDRA WASSOM BAYES,</p> <p>4 was called as a witness by counsel for Plaintiffs,</p> <p>5 and having been duly sworn by the Notary Public,</p> <p>6 was examined and testified as follows:</p> <p>7 EXAMINATION BY COUNSEL FOR PLAINTIFFS</p> <p>8 BY MR. DEZSI:</p> <p>9 Q Good morning, Audra. My name is Michael</p> <p>10 Dezsi. We met. And I represent the Plaintiffs,</p> <p>11 Jack and Renee Beam in this matter.</p> <p>12 Are you familiar with their complaint,</p> <p>13 or their lawsuit?</p> <p>14 A Vaguely, yes.</p> <p>15 Q Okay.</p> <p>16 A I know that it exists.</p> <p>17 Q Okay. If I could just remind you when</p> <p>18 you respond, to please give verbal responses as</p> <p>19 opposed to nodes. I'm sure you're aware of that.</p> <p>20 A Okay.</p> <p>21 Q Audra, is this the first time you've</p> <p>22 been deposed?</p>
<p style="text-align: right;">Page 3</p> <p>1 CONTENTS</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 Counsel for Plaintiffs 4</p> <p>4 Counsel for Defendants 74</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 PLAINTIFF'S DEPOSITION EXHIBITS: PAGE</p> <p>10 A - Letter, September 26, 2006; Attachment 11</p> <p>11 B - Letter, September 26, 2006; Attachment 11</p> <p>12 C - E-Mail String, February 21-25, 2008 56</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 A Yes.</p> <p>2 Q As either a witness or a party or a</p> <p>3 litigant or something?</p> <p>4 A Well, when I worked at the firm, I'm</p> <p>5 sure I sat in on some deposition --</p> <p>6 Q But you weren't --</p> <p>7 A -- as like a second chair representing.</p> <p>8 Q But you weren't a witness?</p> <p>9 A I was not a witness, no.</p> <p>10 Q Okay. All right. Audra, if you could</p> <p>11 please give me your full name and your title and</p> <p>12 position while you were employed at the Federal</p> <p>13 Election Commission?</p> <p>14 A Audra Leigh, L-E-I-G-H, Bayes, B, as in</p> <p>15 boy, A-Y-E-S, was -- when I was at the FEC, the</p> <p>16 last name was Wassom, W-A-S-S-O-M. And my last</p> <p>17 title at the FEC was acting assistant general</p> <p>18 counsel in enforcement. Prior to that, I was a</p> <p>19 staff attorney.</p> <p>20 Q Okay. And you began your employment</p> <p>21 with the FEC when?</p> <p>22 A October 2004.</p>

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<p>1 Q And you continued employment through</p> <p>2 what date?</p> <p>3 A My last day was December 11th or 12th of</p> <p>4 2008.</p> <p>5 Q Okay. And what -- could you just tell</p> <p>6 me briefly about your prior legal employment</p> <p>7 before the FEC?</p> <p>8 A Before the FEC, I was at a small firm,</p> <p>9 called Harmon Curran Spielberg &amp; Eisenberg, for</p> <p>10 about four to five months. And prior to that I</p> <p>11 was at Akin Gump Strauss Hauer &amp; Feld for</p> <p>12 approximately a year.</p> <p>13 Q Okay. And you graduated law school what</p> <p>14 year?</p> <p>15 A 2003.</p> <p>16 Q Okay. I was just putting together some</p> <p>17 dates.</p> <p>18 And you're employed with currently</p> <p>19 where?</p> <p>20 A The United States Senate Select</p> <p>21 Committee on Ethics.</p> <p>22 Q Okay. And you went there, of course,</p>	<p>1 Mr. Cranmer relating to this matter generally,</p> <p>2 telling us that DOJ was investigating Mr. Fieger</p> <p>3 and the law firm, and that they felt that it was a</p> <p>4 FECA issue, and that the SEC needed to look into</p> <p>5 it. That letter sort of started our process here.</p> <p>6 And I suppose the first I heard of the</p> <p>7 Beams was when we were doing our own internal look</p> <p>8 into public records and disclosure reports for the</p> <p>9 FEC to find associates of the firm and Mr. Fieger.</p> <p>10 And I -- we must have seen the Beams through that</p> <p>11 process.</p> <p>12 Q Okay. And if I could ask you when you</p> <p>13 refer to the public records and the disclosure of</p> <p>14 the FEC, who actually did that?</p> <p>15 Did you actually look at the public</p> <p>16 records and the disclosures, or did someone else</p> <p>17 do that?</p> <p>18 A I don't remember exactly. It's quite</p> <p>19 some time ago. I would say we got some materials</p> <p>20 from our audit division. So Suzzanna -- and I</p> <p>21 forget her last name -- in our audit division</p> <p>22 probably was be the first one to look at some of</p>
Page 7	Page 9
<p>1 when you left the FEC in December of '08, or</p> <p>2 shortly thereafter?</p> <p>3 A Yes.</p> <p>4 Q Okay. And while you were employed at</p> <p>5 the FEC, who was your direct supervisor?</p> <p>6 A When I was a staff attorney, my direct</p> <p>7 supervisor was Mark Shonkwiler. When I was the</p> <p>8 acting assistant general counsel, my direct</p> <p>9 supervisor was Ann Marie Terzaken. And she also</p> <p>10 had a -- two different deputies I worked under:</p> <p>11 Kathleen Guith and Stephen Gura.</p> <p>12 Q Okay. And did you -- were you also --</p> <p>13 were you also under the supervision of Colleen</p> <p>14 Sealander?</p> <p>15 A No.</p> <p>16 Q Okay. Can you tell me how you first</p> <p>17 came to hear or know about Jack and Renee Beam?</p> <p>18 A It must have been -- we received a</p> <p>19 letter from -- and I forget the firm now -- that</p> <p>20 was originally representing Mr. Fieger.</p> <p>21 Q Mr. Cranmer, Tom Cranmer?</p> <p>22 A Yes. Yes. We received a letter from</p>	<p>1 the materials we received. And she passed those</p> <p>2 along to me. And I looked at them.</p> <p>3 Roger Hearron -- and I don't remember</p> <p>4 the exact -- I think he was on the case from the</p> <p>5 very beginning. He's one of our investigators.</p> <p>6 He would have probably looked at everything along</p> <p>7 with me.</p> <p>8 Q So it's sort of -- it sounds like as a</p> <p>9 staff attorney or -- as a staff attorney you have</p> <p>10 an investigator, the audit division, who does some</p> <p>11 of the investigation; and Roger would be someone</p> <p>12 in that department who would look at FEC</p> <p>13 disclosure reports?</p> <p>14 A He's not in the audit division. He was</p> <p>15 in the enforcement division. So Roger was</p> <p>16 assisting me. And if I looked at something, I</p> <p>17 would also pass it along to Roger and he would</p> <p>18 look at it; and vice versa --</p> <p>19 Q Okay.</p> <p>20 A -- if I asked him to look into some</p> <p>21 things, he would find materials, look at them, and</p> <p>22 then pass them along to me.</p>

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1 Q Okay. And you mentioned someone by the  
 2 name of Susan or Suzzanna.  
 3 A Suzzanna --  
 4 Q Suzzanna --  
 5 A -- I believe that's --  
 6 Q -- do you recall --  
 7 A -- her name.  
 8 Q You mentioned somebody named Suzzanna  
 9 from the audit division?  
 10 A Yes. She -- I don't remember exactly  
 11 how we got into contact with her particularly, but  
 12 I know that she looked at materials from the 2004  
 13 audit of John Edwards Presidential campaign and  
 14 ran some searches -- I don't know how she did  
 15 that -- to help us locate individuals who either  
 16 worked at the Fieger law firm or were obviously  
 17 related to or associates of Mr. Fieger.  
 18 Q Okay. And do you know Suzzanna's last  
 19 name?  
 20 MR. STREETER: Parish.  
 21 THE WITNESS: Yeah, Parish.  
 22 BY MR. DEZSI:

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1 Q Parish. Okay. Thank you.  
 2 Okay. If I could have you take a look  
 3 at this. I'm sure you've probably seen this  
 4 before.  
 5 A (Witness examined document).  
 6 Q This letter -- one letter is addressed  
 7 to Jack Beam, and one is addressed to Renee Beam.  
 8 A (Witness examined document).  
 9 MR. STREETER: Do you wanted to mark  
 10 them?  
 11 MR. DEZSI: Yes. We'll mark the letter  
 12 to Jack Beam as Plaintiff's Exhibit A.  
 13 (Plaintiff's Deposition  
 14 Exhibit A was marked for  
 15 identification.  
 16 MR. DEZSI: And we'll mark the letter to  
 17 Mrs. Renee Beam as Plaintiff's Exhibit B. And  
 18 these are letters signed from Michael Toner,  
 19 Chairman of the Federal Election Commission. And  
 20 these are both dated September 26th of 2006.  
 21 (Plaintiff's Deposition  
 22 Exhibit B was marked for

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1 identification.)  
 2 BY MR. DEZSI:  
 3 Q Do you recall this? Do you recall this  
 4 letter?  
 5 A Yes.  
 6 Q Okay. And the factual and legal  
 7 analysis, that's also attached to the letter?  
 8 A Yes.  
 9 Q Okay. If I could maybe take you through  
 10 this.  
 11 In the letter -- either one, to Jack  
 12 Beam or Renee Beam, it's essentially the same --  
 13 in the letter to Jack Beam, under the factual and  
 14 legal analysis it says --  
 15 MR. STREETER: Give her a page number.  
 16 MR. DEZSI: It's not -- there's not page  
 17 numbers.  
 18 THE WITNESS: If it's the first, there  
 19 are page numbers on the following pages, at the  
 20 top.  
 21 BY MR. DEZSI:  
 22 Q Oh. Excuse me. So it would be page 1

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1 of the lead factual and legal analysis.  
 2 A Uh-huh.  
 3 Q It says here at the bottom that,  
 4 Commission records reflect that all 16 of the  
 5 attorneys currently employed by the firm or  
 6 employed by the firm at the time of their  
 7 contribution, as well as 30 other individuals who  
 8 appear to be former firm employees, current  
 9 non-lawyer employees, and family members of  
 10 current or former firm employees [sic] contributed  
 11 to the Edwards committee in 2003.  
 12 Audra, this information, this would have  
 13 been gathered from the reports that you were  
 14 discussing from the audit division and/or  
 15 Mr. Hearron from your enforcement division?  
 16 MR. STREETER: Objection, relevance.  
 17 This question has nothing to do with the Beams'  
 18 private financial information; also violates 2  
 19 U.S.C. 437g(a)(12), the confidentiality provision  
 20 of the FECA. I'll instruct the witness not to  
 21 answer that question.  
 22 MR. DEZSI: Could we go off the record

<p style="text-align: right;">Page 14</p> <p>1 for just a moment?</p> <p>2 (Discussion off the record)</p> <p>3 BY MR. DEZSI:</p> <p>4 Q Audra, on -- in this letter, it says of</p> <p>5 these contributors, 34 of these 46 have no</p> <p>6 previous record of contributing to any federal</p> <p>7 campaign.</p> <p>8 And further down in the article, or in</p> <p>9 this factual analysis, on page -- excuse me just a</p> <p>10 moment. Okay. On page 2 of 2, toward the bottom</p> <p>11 of the paragraph, this letter states that, Jack</p> <p>12 Beam had never contributed to a federal political</p> <p>13 committee prior to his contributions to the</p> <p>14 Edwards committee.</p> <p>15 Is that also -- is that statement, would</p> <p>16 that have been gathered by your auditors or</p> <p>17 Mr. Hearron from the enforcement division?</p> <p>18 MR. STREETER: Objection, same</p> <p>19 objections. Goes to a question of privilege on</p> <p>20 whether or not -- it violates the 2 U.S.C.</p> <p>21 437g(a)(12) prohibition. Again, it's -- the</p> <p>22 process that's used to provide information that</p>	<p style="text-align: right;">Page 16</p> <p>1 another person.</p> <p>2 Q Okay. Thank you.</p> <p>3 So in this -- in the letter to Mr. Beam</p> <p>4 and in the factual legal analysis, the Commission</p> <p>5 is basically telling Mr. Beam that he may have</p> <p>6 violated the act by accepting reimbursement for</p> <p>7 his contribution; isn't that correct?</p> <p>8 A Yes.</p> <p>9 Q And the Commission is alleging that if</p> <p>10 Jack Beam accepted reimbursement for his</p> <p>11 contribution, that that would be a violation of</p> <p>12 441f; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. And the statute that you just</p> <p>15 read, Section 441f, it does not contain any</p> <p>16 prohibition on reimbursement, or the word</p> <p>17 "reimbursement" is not used in the statute; is</p> <p>18 that correct?</p> <p>19 MR. STREETER: Objection. The statute</p> <p>20 speaks for itself. The witness can answer the</p> <p>21 question if she can.</p> <p>22 BY MR. DEZSI:</p>
<p style="text-align: right;">Page 15</p> <p>1 goes into the legal analysis you have there</p> <p>2 pertains to the other witnesses, the other</p> <p>3 respondents that you represent. And you haven't</p> <p>4 given us waivers for them.</p> <p>5 Also, it be violates the law enforcement</p> <p>6 privilege, so I'll instruct the witness not to</p> <p>7 answer that.</p> <p>8 BY MR. DEZSI:</p> <p>9 Q Okay. Audra, on the next -- on the next</p> <p>10 line of this letter it says, If Jack Beam accepted</p> <p>11 reimbursement for his contribution, then he may</p> <p>12 have violated the act.</p> <p>13 If I could have you take a look at this</p> <p>14 2 U.S.C. Section 441f --</p> <p>15 A Uh-huh.</p> <p>16 Q -- could you just read the language of</p> <p>17 that F for the record, please?</p> <p>18 A No person shall make a contribution in</p> <p>19 the name of another person, or knowingly permit</p> <p>20 his name to be used to affect such contribution.</p> <p>21 And no person shall knowingly accept a</p> <p>22 contribution made by one person in the name of</p>	<p style="text-align: right;">Page 17</p> <p>1 Q Sure.</p> <p>2 A I will not say that the statute does not</p> <p>3 contain a prohibition on reimbursement. It does.</p> <p>4 I will say it does not contain the word</p> <p>5 "reimbursement."</p> <p>6 Q Okay. So according to the FEC's</p> <p>7 allegation that Mr. Beam would have violated 441f</p> <p>8 by accepting reimbursement, isn't it correct that</p> <p>9 the Commission would have to examine bank records</p> <p>10 in order to make that or to prove that allegation?</p> <p>11 MR. STREETER: Objection, relevance.</p> <p>12 Objection, law enforcement privilege. Objection,</p> <p>13 437g(a)(12). Process used by the Commission to</p> <p>14 satisfy itself that violations may have occurred</p> <p>15 is strictly within the law enforcement privilege.</p> <p>16 And I'll instruct the witness not to answer.</p> <p>17 BY MR. DEZSI:</p> <p>18 Q Audra, if Mr. Beam had accepted</p> <p>19 reimbursement for his contribution, how would --</p> <p>20 generally, how would the FEC seek to prove that</p> <p>21 violation, in your -- if you've worked on that</p> <p>22 before, in your capacity as a staff attorney,</p>

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<p>1 looking at 441f violations, how would the FEC                  2 generally seek to prove a 441f violation based on                  3 reimbursement?                  4 MR. STREETER: Objection. I'm not sure                  5 I understand the question.                  6 MR. DEZSI: Okay. I can -- I'll                  7 rephrase the question.                  8 MR. STREETER: All right.                  9 BY MR. DEZSI:                  10 Q In your experience working for the FEC,                  11 if the FEC finds a reason to believe that an                  12 individual may have violated Section 441f by being                  13 reimbursed for a contribution, how would the FEC                  14 generally go about proving that allegation?                  15 MR. STREETER: Objection, law                  16 enforcement privilege again. You're asking her                  17 how the Commission -- you're asking her about the                  18 Commission's law enforcement procedures. You                  19 can't do that. You certainly can't do it when                  20 you're representing 60 respondents who are subject                  21 to these very same law enforcement privileges. I                  22 instruct the witness not to answer.</p>	<p>1 his spouse made to the Edwards committee.                  2 And there's two newspaper articles cited                  3 in this factual and legal analysis.                  4 Is it your understanding that the                  5 Commission -- the Commission's allegations toward                  6 Mr. Beam and his wife Renee Beam were based solely                  7 on these newspaper articles?                  8 MR. STREETER: Same objections, law                  9 enforcement procedure, law enforcement privilege,                  10 437g(a)(12), probative as well. But I think the                  11 witness can answer that question to the extent                  12 that she can explain the limitations on the                  13 Commission at the RTB's levels.                  14 If you can, and if you so desire.                  15 THE WITNESS: At the RTB stage, the                  16 Commission can only make its decision based upon                  17 matters of the public record, which would include                  18 newspaper articles, disclosure reports filed with                  19 the Commission, anything in the public domain.                  20 BY MR. DEZSI:                  21 Q Okay. And do you recall those newspaper                  22 articles?</p>
Page 19	Page 21
<p>1 BY MR. DEZSI:                  2 Q Ms. Wassom, would you agree that if the                  3 Commission has reason to believe that somebody                  4 violated Section 441f by accepting reimbursement,                  5 that it would be necessary to look at their bank                  6 records to determine whether they were indeed                  7 reimbursed for their contribution?                  8 MR. STREETER: Same objection. Also                  9 objection based on 2 U.S.C. 437g(a)(12). Instruct                  10 the witness not to answer.                  11 BY MR. DEZSI:                  12 Q Ms. Wassom, in this letter --                  13 MR. STREETER: Why don't you ask her if                  14 she ever got records?                  15 MR. DEZSI: Okay. I'm not there yet.                  16 MR. STREETER: Okay.                  17 BY MR. DEZSI:                  18 Q If according -- according to this page 2                  19 of this letter and this factual legal analysis --                  20 it says, According to be legal accounts, Joseph                  21 Bird, a former attorney at the firm has alleged                  22 that firm reimbursed him for contribution he and</p>	<p>1 A Not specifically, no.                  2 Q Do you remember if either Jack or Renee                  3 Beam were mentioned anywhere in those newspaper                  4 articles?                  5 A I don't remember.                  6 Q Okay. Ms. Wassom, is it --                  7 MR. STREETER: Bayes.                  8 BY MR. DEZSI:                  9 Q Oh, excuse me. Ms. Wassom, Bayes --                  10 MR. STREETER: I have the same problem.                  11 BY MR. DEZSI:                  12 Q -- is it -- isn't it true that under the                  13 FEC's theory of 441f, which prohibits                  14 reimbursement, that the Commission would have to                  15 look at the source of money in order to determine                  16 whether reimbursement has occurred?                  17 MR. STREETER: Objection, law                  18 enforcement privilege. Instruct the witness not                  19 to answer.                  20 BY MR. DEZSI:                  21 Q The last paragraph of page 2 of 2, do                  22 you -- can you tell me the factual basis; that is,</p>

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1 what factual basis supported the FEC's assertion  
 2 that Jack Beam had never contributed to a  
 3 political committee prior to his contributions to  
 4 the Edwards campaign?  
 5 MR. STREETER: Can you read that  
 6 question back, please?  
 7 (Whereupon the reporter read  
 8 the record as requested.)  
 9 MR. STREETER: Same objection, law  
 10 enforcement privilege, 2 USC 437g(a)(12).  
 11 Instruct the witness not to answer.  
 12 BY MR. DEZSI:  
 13 Q Ms. Wassom, during your time at the FEC  
 14 while working on this matter, including Jack and  
 15 Renee Beam, did you ever issue any administrative  
 16 subpoenas to obtain the Plaintiff Jack and Renee  
 17 Beam's financial records?  
 18 MR. STREETER: Objection, law  
 19 enforcement privilege, 2 USC 437g(a)(12). But  
 20 I'll permit the witness to answer that question  
 21 without waiving any other concerns based on those  
 22 objections. But if she has an answer that

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1 question, she can pose it.  
 2 THE WITNESS: No, we did not.  
 3 BY MR. DEZSI:  
 4 Q Okay. You're not aware of anybody else  
 5 that issued administrative subpoenas other than --  
 6 A I do not.  
 7 Q Okay. So at no time were you aware that  
 8 the FEC personally gathered Jack or Renee Beam's  
 9 financial records, either by administrative  
 10 subpoena or otherwise?  
 11 A No. To my knowledge the FEC never  
 12 gathered the Beams' personal financial records.  
 13 Q If I could have you take a look at this  
 14 statute. This is 12 United States Code Section  
 15 3412. And I'm referring to paragraph A. If you  
 16 could just take a look at that and read it to  
 17 yourself.  
 18 A (Witness examined document). Okay.  
 19 Q If I could just have it back now.  
 20 A (Handing document).  
 21 Q Have you seen this statute before?  
 22 A Yes.

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1 Q During your time at the FEC, had you  
 2 ever had occasion to obtain or share any financial  
 3 records with any other government agencies, in  
 4 general, without disclosing any specifics?  
 5 MR. STREETER: All right. This question  
 6 is being posed without respect to any specific  
 7 investigation?  
 8 MR. DEZSI: That's right. I'm just  
 9 asking generally.  
 10 MR. STREETER: Okay. You can answer  
 11 that.  
 12 THE WITNESS: Would you repeat the  
 13 question?  
 14 BY MR. DEZSI:  
 15 Q Sure.  
 16 A I'm sorry.  
 17 Q While -- at any time while you were  
 18 employed by the FEC, had you ever shared or  
 19 transferred any financial records with any other  
 20 federal agencies?  
 21 A Within the confines of that statute,  
 22 yes.

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1 Q Okay. And what agencies were -- did you  
 2 work with on those disclosures?  
 3 MR. STREETER: Law enforcement  
 4 privilege.  
 5 Instruct you not to answer that. That's  
 6 getting into specific instances.  
 7 BY MR. DEZSI:  
 8 Q Okay. This section 3412, talking about  
 9 transfer of financial records, it says that,  
 10 Financial records originally obtained pursuant to  
 11 this title shall not be transferred to another  
 12 agency or department unless the transferring  
 13 agency or department certifies in writing that  
 14 there is reason to believe that the records are  
 15 relevant to a legitimate law enforcement inquiry.  
 16 Audra, can you tell me, what does this  
 17 certification look like?  
 18 If you were to -- if you were to invoke  
 19 this statute to transfer records, what does the  
 20 certification look like?  
 21 A I have to say I don't remember  
 22 specifically.

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1 Q Is it something you would prepare?  
 2 A I believed it is something that we  
 3 prepared within this building. I don't remember  
 4 if I personally prepared it.  
 5 Q Okay. And do you recall, are these  
 6 certifications, are these notarized, or are  
 7 they --  
 8 A I don't remember.  
 9 Q Okay. Ms. Wassom, Bayes, during your  
 10 work on this -- on this matter, isn't it true that  
 11 you came to know certain employees from the  
 12 Department of Justice who were working on a  
 13 criminal matter, similar criminal matter?  
 14 A Yes.  
 15 Q Okay. And can you tell me who from the  
 16 Department of Justice you communicated with?  
 17 A Kendall Day, who was my primary contact.  
 18 I believe -- I may have had contact with Craig  
 19 Donsanto at one point. And there may have been  
 20 one or two other people, but I don't remember  
 21 their names.  
 22 Q Okay. Have you heard the name Lynn

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1 Helland?  
 2 A Yes. Yes. I'm sorry. I have had  
 3 contact with Mr. Helland.  
 4 Q Okay. And how about Chris Varner?  
 5 A I believe I may have talked to him once  
 6 or twice.  
 7 Q Okay. And how about Jeffrey Rees?  
 8 A I don't -- I don't think I ever had a  
 9 conversation with Jeffrey Rees, but I can't be  
 10 sure that he wasn't involved in a conversation  
 11 where several people were --  
 12 Q Okay.  
 13 A -- were on a phone call or some other.  
 14 Q Any other individuals from the FBI that  
 15 you may have --  
 16 A Not to my recollection.  
 17 Q Anybody else from the FBI that you may  
 18 have communicated with?  
 19 A Not to my recollection.  
 20 Q Okay. And how about Noel Hillman?  
 21 A I'm pretty positive I never had contact  
 22 with Noel Hillman about this matter.

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1 Q Okay. And can you tell me your  
 2 understanding of what Kendall Day's role is, what  
 3 he does at the DOJ?  
 4 MR. STREETER: In general or --  
 5 BY MR. DEZSI:  
 6 Q In general.  
 7 A My understanding is he -- that he is  
 8 a -- a line attorney with the public integrity  
 9 division. I don't know his exact title. I don't  
 10 remember it.  
 11 Q Okay. And if you had to estimate, how  
 12 many times did you talk or communicate with  
 13 Kendall days, if you just had to estimate?  
 14 A This would have been over, what, about a  
 15 two-year period? So I'm not sure I could give a  
 16 good estimate.  
 17 Q Maybe ten, or --  
 18 A More than --  
 19 Q -- fifty?  
 20 A -- ten. If you count two-second phone  
 21 calls or e-mails, maybe fifty.  
 22 Q And about how many times did you

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1 personally meet with him, face-to-face contact?  
 2 A Probably five or six.  
 3 Q Okay. And did you have any face-to-face  
 4 meetings with either Lynn Helland or Craig  
 5 Donsanto?  
 6 MR. STREETER: Objection, compound.  
 7 BY MR. DEZSI:  
 8 Q Lynn Helland?  
 9 A I'm not sure. I don't remember if they  
 10 came into town at any point for a meeting, or if I  
 11 saw them over a conference call, a  
 12 videoconference.  
 13 Q Okay.  
 14 A I'm not sure.  
 15 Q And how about did you meet face-to-face  
 16 with Craig Donsanto, or a videoconference, or --  
 17 A I believe that we had one face-to-face  
 18 meeting with Craig Donsanto.  
 19 Q Okay. And do you know what  
 20 Mr. Donsanto's position or his role generally at  
 21 the DOJ?  
 22 A He is -- he's -- he's in a supervisory

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1 role. I'm not sure if he's second in command or  
 2 third in command of public integrity.  
 3 Q Okay. Was it your understanding that he  
 4 was supervising Kendall Day in some matter in this  
 5 case?  
 6 A By supervising, I would say generally,  
 7 only in the sense that he is a supervisor in that  
 8 office. I -- I don't know whether or not he had  
 9 any direct supervisory role specific to this case.  
 10 Q Okay. If we can back up then.  
 11 You mentioned that you first came to  
 12 know about Jack and Renee Beam after Mr. Cranmer  
 13 sent a letter to the FEC?  
 14 A That's correct.  
 15 Q Which was I believe February of '06, if  
 16 you just take my representation for that.  
 17 A That sounds about right.  
 18 MR. STREETER: What was the date?  
 19 MR. DEZSI: February of '06.  
 20 MR. STREETER: February? I still think  
 21 it's October or September or August. But it  
 22 doesn't matter.

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1 BY MR. DEZSI:  
 2 Q After February of '06 until September of  
 3 '06, is that the time in which you and your  
 4 assistants or investigators were working on  
 5 putting together your factual basis for the  
 6 letters that were eventually sent to Jack and  
 7 Renee Beam?  
 8 A Yes.  
 9 Q Okay. And were you aware at that time  
 10 that the Department of Justice was conducting a  
 11 criminal investigation?  
 12 A Yes. Mr. Carnmer told us they were, in  
 13 his letter.  
 14 Q Okay. Do you remember your first  
 15 contacts with any agents from the Department of  
 16 Justice, either Kendall Day or anyone else?  
 17 MR. STREETER: Law enforcement  
 18 privilege. Is this only a question about time?  
 19 MR. DEZSI: Just time.  
 20 MR. STREETER: Just time. You can  
 21 answer.  
 22 THE WITNESS: It probably -- it would

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1 have been August or September of '06.  
 2 BY MR. DEZSI:  
 3 Q Okay. Okay. So in September, when the  
 4 FEC -- after which the FEC sent Jack and Renee  
 5 Beam these letters, were you aware that the FEC  
 6 had made some agreement with the Department of  
 7 Justice not to pursue their civil investigation?  
 8 MR. STREETER: Objection, law  
 9 enforcement privilege. Instruct the witness not  
 10 to answer. Objection, 437g(a)(12). Instruct the  
 11 witness not to answer. Objection, attorney work  
 12 product. Instruct the witness not to answer.  
 13 BY MR. DEZSI:  
 14 Q After September of '06, did you have an  
 15 active -- a further active role in this civil  
 16 matter against Jack and Renee Beam, after  
 17 September of 2006?  
 18 A Yes.  
 19 Q Isn't it true that at some point you had  
 20 made an agreement with Kendall Day to share  
 21 documents or evidence gathered by the Department  
 22 of Justice with the Federal Election Commission?

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1 MR. STREETER: Objection, law  
 2 enforcement privilege. Instruct the witness not  
 3 to answer. Objection, 437g(a)(12). Instruct the  
 4 witness not to answer. And that's the only two.  
 5 BY MR. DEZSI:  
 6 Q At any time did you share with Kendall  
 7 Day or anyone else from the DOJ any of the  
 8 information that the FEC had gathered in their  
 9 investigation?  
 10 MR. STREETER: Objection, relevance.  
 11 Objection, law enforcement privilege. Instruct  
 12 the witness not to answer. Objection,  
 13 437g(a)(12). Instruct the witness not to answer.  
 14 BY MR. DEZSI:  
 15 Q Do you recall at any time receiving any  
 16 CD's from any individuals from the Department of  
 17 Justice?  
 18 A Yes.  
 19 Q Okay. And do you know when,  
 20 approximately, you may have received those?  
 21 A I don't remember the exact timing, but  
 22 it would have been I believe sometime last summer.

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1 I believe it was after the criminal trial was  
 2 over, if I remember correctly.  
 3 Q Okay. And was that at your request that  
 4 you received those CD's?  
 5 MR. STREETER: Objection, law  
 6 enforcement privilege. Instruct the witness not  
 7 to answer. Objection, 437g(a)(12). Instruct the  
 8 witness not to answer.  
 9 BY MR. DEZSI:  
 10 Q When you received those CD's, were -- or  
 11 how many are we referring to?  
 12 MR. STREETER: You can answer.  
 13 THE WITNESS: I -- I don't remember. I  
 14 think there may have been -- there may have been  
 15 four, but I honestly don't remember.  
 16 BY MR. DEZSI:  
 17 Q Okay. And do you know if those CD's  
 18 were accompanied by cover letters?  
 19 A I would expect that they were, but I  
 20 don't have a specific memory of that.  
 21 Q Okay. And do you know specifically who  
 22 sent those to you?

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1 A I believe it was Kendall Day.  
 2 Q Okay. And in the normal course of your  
 3 function at the FEC, how would you receive those  
 4 CD's? Would you time-stamp them? Would they be  
 5 logged in, or otherwise?  
 6 MR. STREETER: This is a question about  
 7 general procedures now?  
 8 MR. DEZSI: Uh-huh.  
 9 MR. STREETER: All right. You can  
 10 answer that.  
 11 THE WITNESS: I don't specifically know,  
 12 not doing the logging in or time-stamping myself.  
 13 But I do generally that when I would get any form  
 14 of communication in my "in" box, in my mailbox, it  
 15 would be time-stamped.  
 16 BY MR. DEZSI:  
 17 Q Okay. So generally when mail would come  
 18 in to you --  
 19 A Uh-huh.  
 20 Q -- at the FEC, you have a mail  
 21 department or something like a mail department  
 22 that would time-stamp those or receive-stamped

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1 them; is that correct?  
 2 A I believe so, yes.  
 3 Q And then they would be put in your box?  
 4 A Correct.  
 5 Q And if you had an open case, generally  
 6 speaking, if you had a matter under review, was it  
 7 ever your practice or consume to note your file  
 8 that you've received particular items from another  
 9 agency?  
 10 MR. STREETER: Objection. That assumes  
 11 facts not in evidence, in terms there being an  
 12 existence of some kind of a file or log. But  
 13 notwithstanding, she can answer the question if  
 14 she can.  
 15 THE WITNESS: I don't -- I don't think I  
 16 would generally note when I received a letter,  
 17 because it would be part of -- part of the file.  
 18 I wouldn't have a reason --  
 19 BY MR. DEZSI:  
 20 Q Okay.  
 21 A -- to note it specifically.  
 22 Q And, generally, when you keep your file,

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1 if you have a matter under review for instance, do  
 2 you generally keep that in red ropes?  
 3 A It would depend on the case.  
 4 Q Uh-huh.  
 5 A The size of the case would kind of  
 6 depend on how I keep my files.  
 7 Q If -- if not red ropes, how else may you  
 8 keep them, generally?  
 9 A Three-ring binders --  
 10 Q Okay.  
 11 A -- manila folders, and --  
 12 Q And so for instance like if you received  
 13 these CD's, you may have put them into a manila  
 14 folder, or you may have put them into a red rope,  
 15 or -- is generally that's what you're -- is that  
 16 what you're telling me?  
 17 A If -- if I received some sort of  
 18 electronic format of documentation like a CD, I  
 19 would generally keep a copy for my file in  
 20 whatever format I was keeping the file for that  
 21 case, depending on the size of the case. And a  
 22 copy would be kept in the main file in our

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1 docketing department.  
 2 Q Okay. And did you also -- as a general  
 3 practice, did you take those CD's, and did you  
 4 save those onto -- electronically onto your hard  
 5 drive?  
 6 A Not typically, so as to avoid crashing  
 7 my computer.  
 8 Q And so just if you needed something,  
 9 maybe you would pull it up and you would save  
 10 something in particular?  
 11 A Yes.  
 12 Q Otherwise, you wouldn't generally save  
 13 them?  
 14 A Not if it was a large amount of  
 15 information on a CD, no.  
 16 Q And do you remember, in the case of  
 17 these CD's that you're referring to that you  
 18 received from Kendall Day or someone else at the  
 19 DOJ, if you would have saved any of those on your  
 20 hard drive?  
 21 MR. STREETER: Objection, law  
 22 enforcement privilege. Objection, 437g(a)(12).

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1 Instruct the witness not to answer.  
 2 BY MR. DEZSI:  
 3 Q At any time, Ms. Wassom, Bayes, did you  
 4 also send to Mr. Day, Kendall Day, or anyone else  
 5 at the DOJ any documents or CD's that in your  
 6 possession or the FEC had in -- in this matter?  
 7 MR. STREETER: Go ahead.  
 8 THE WITNESS: Yes, we did.  
 9 BY MR. DEZSI:  
 10 Q And can you tell me about when that  
 11 happened?  
 12 A I don't actually remember. This was a  
 13 two-year case. It happened probably on two or  
 14 three occasions throughout that two-year time  
 15 period. And I don't remember exactly when.  
 16 Q Okay. And was that at the request of  
 17 the DOJ that they were seeking your records, or  
 18 was it -- or was it something other than that?  
 19 MR. STREETER: Objection, law  
 20 enforcement privilege. Objection, objection,  
 21 437g(a)(12). Objection, attorney work product.  
 22 Instruct the witness not to answer.

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1 BY MR. DEZSI:  
 2 Q Were you aware, during your civil  
 3 investigation, that the Department of Justice had  
 4 obtained the financial records for most all of the  
 5 Fieger firm employees, including Plaintiffs Jack  
 6 and Renee Beam?  
 7 MR. STREETER: Objection, compound. Can  
 8 you separate the Beams from everybody else?  
 9 MR. DEZSI: Sure.  
 10 MR. STREETER: But right now it's a  
 11 compound question.  
 12 MR. DEZSI: Sure. I'll break it.  
 13 BY MR. DEZSI:  
 14 Q Were you aware, during your civil  
 15 investigation, that the Department of Justice had  
 16 gathered financial records for most all of the  
 17 Fieger firm employees?  
 18 MR. STREETER: Excluding the Beams?  
 19 BY MR. DEZSI:  
 20 Q Excluding -- including or excluding,  
 21 just in general the Fieger firm employees?  
 22 MR. STREETER: Okay. Then I have to

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1 object to this based on law enforcement privilege  
 2 grounds, and the 437g(a)(12). The universe is  
 3 just too broad.  
 4 BY MR. DEZSI:  
 5 Q Okay. Were you aware, during your civil  
 6 investigation, that the Department of Justice had  
 7 obtained and gathered the financial records for  
 8 Jack and Renee Beam?  
 9 A No.  
 10 Q Were you aware that the Department of  
 11 Justice had gathered bank records for anybody,  
 12 other than Jack and Renee Beam, associated with  
 13 the Fieger firm?  
 14 MR. STREETER: You can answer that.  
 15 THE WITNESS: If you're referring to  
 16 anyone specifically, no. I believe I was aware  
 17 that generally as part of their investigation they  
 18 were looking at financial documents.  
 19 BY MR. DEZSI:  
 20 Q Okay. And were you aware that the  
 21 Department of Justice had indicted Mr. Fieger  
 22 under a theory of 441f that prohibited

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<p>1 reimbursement?</p> <p>2 A Yes.</p> <p>3 Q And were you aware that the Government's</p> <p>4 theory -- the Department of Justice's theory that</p> <p>5 reimbursement is a crime required them to gather</p> <p>6 the financial records for those individuals who</p> <p>7 were being investigated?</p> <p>8 MR. STREETER: Objection, that calls for</p> <p>9 her to be speculative about someone else's state</p> <p>10 of mine, someone else's activities, someone else's</p> <p>11 procedures. She can't possibly respond to that.</p> <p>12 BY MR. DEZSI:</p> <p>13 Q Generally, was it your knowledge that --</p> <p>14 did you know that the Department of Justice had</p> <p>15 gathered bank records to prove reimbursement as</p> <p>16 part of their criminal case against Mr. Fieger?</p> <p>17 MR. STREETER: Same objection. Why</p> <p>18 don't you ask her about -- ask her if she's ever</p> <p>19 seen trial exhibits.</p> <p>20 MR. DEZSI: I'll get there.</p> <p>21 MR. STREETER: All right.</p> <p>22 BY MR. DEZSI:</p>	<p>1 understood that the Department of Justice's case</p> <p>2 against Mr. Fieger was premised upon a theory of</p> <p>3 reimbursement under 441f? Do you know?</p> <p>4 MR. STREETER: You can answer that.</p> <p>5 THE WITNESS: That is my understanding,</p> <p>6 yes.</p> <p>7 BY MR. DEZSI:</p> <p>8 Q Okay. And did you know that in order</p> <p>9 for the Department of Justice to prove that, that</p> <p>10 case, they needed to look and they did look at</p> <p>11 bank records for Fieger firm employees? Did you</p> <p>12 know that?</p> <p>13 MR. STREETER: Objection. That's</p> <p>14 compound.</p> <p>15 BY MR. DEZSI:</p> <p>16 Q Do you know that the Department of</p> <p>17 Justice had looked at financial records as part of</p> <p>18 their case, their criminal case?</p> <p>19 MR. DEZSI: If she knows, she can tell</p> <p>20 me. If she doesn't --</p> <p>21 MR. STREETER: All right.</p> <p>22 MR. DEZSI: -- she doesn't know.</p>
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<p>1 Q Were you aware -- were you aware</p> <p>2 generally speaking that the Department of Justice</p> <p>3 had used financial records to prosecute Mr. Fieger</p> <p>4 under a theory of reimbursement?</p> <p>5 MR. STREETER: Again, you're --</p> <p>6 you're -- all right, law enforcement privilege.</p> <p>7 Instruct the witness not to answer. And this time</p> <p>8 we're asserting DOJ's law enforcement privilege.</p> <p>9 I mean, you're asking her about stuff she can't</p> <p>10 possibly know about unless she's seen something.</p> <p>11 You've not asking --</p> <p>12 MR. DEZSI: She can tell me if she</p> <p>13 doesn't know about it.</p> <p>14 MR. STREETER: But you're asking her</p> <p>15 about -- to tell you generally what another --</p> <p>16 MR. DEZSI: Okay.</p> <p>17 MR. STREETER: -- agencies theory of</p> <p>18 prosecution was, when she wasn't part of that</p> <p>19 prosecution.</p> <p>20 BY MR. DEZSI:</p> <p>21 Q Ms. Wassom, Bayes, could you tell me if</p> <p>22 you understood the Department of Justice -- if you</p>	<p>1 MR. STREETER: Let's move on.</p> <p>2 You can answer it.</p> <p>3 THE WITNESS: Yes, I -- I believe --</p> <p>4 it's my understanding that they looked at some</p> <p>5 financial records.</p> <p>6 BY MR. DEZSI:</p> <p>7 Q Okay. So is it your understanding that</p> <p>8 the Department of Justice's case and the FEC's</p> <p>9 civil case were both premised own this same theory</p> <p>10 of reimbursement under 441f?</p> <p>11 MR. STREETER: Objection. That's</p> <p>12 compound. Start with that.</p> <p>13 BY MR. DEZSI:</p> <p>14 Q Were you aware that the FEC's -- the</p> <p>15 FEC's reason to believe letter was based on the</p> <p>16 same theory as the Department of Justice's</p> <p>17 criminal investigation and prosecution?</p> <p>18 A I'm not sure what you mean by theory.</p> <p>19 Q That reimbursement was prohibited under</p> <p>20 441f?</p> <p>21 MR. STREETER: You can answer that.</p> <p>22 THE WITNESS: I'm not going to say it</p>

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<p>1 was the same as DOJ's, because I don't know what  2 their investigation -- I mean, I -- I don't know  3 what their idea of reimbursement is. I'm not  4 going to speak for them. I will say that what we  5 were looking at is whether or not contributions to  6 a federal candidate were reimbursed.  7 BY MR. DEZSI:  8 Q Okay. And how would you generally do  9 that?  10 Generally speaking, how would you do  11 that?  12 How would you look at whether a  13 candidate -- and individual was reimbursed?  14 MR. STREETER: All right, now, that one  15 I'll object to on law enforcement privilege  16 grounds, because you're asking generally about our  17 law enforcement procedures when we're doing  18 investigations. And she can't answer that.  19 BY MR. DEZSI:  20 Q Ms. Wassom, Bayes, in the past, how many  21 times have you worked with the Department of  22 Justice in matters similar to this case?</p>	<p>1 DO -- from the Department of Justice to the FEC?  2 A Receiving documents from the Department  3 of Justice?  4 MR. STREETER: Sending to or receiving?  5 BY MR. DEZSI:  6 Q First receiving, receiving documents.  7 A I don't believe in those instances that  8 we did, but I'm not sure.  9 Q Okay. Do you remember sending any FEC  10 materials to the Department of Justice or the U.S.  11 Attorney's Office in those other matters that  12 you're referring to?  13 MR. STREETER: All right, I have to  14 impose a 437g(a)(12) objection.  15 BY MR. DEZSI:  16 Q You said earlier that you were not aware  17 that the FEC had ever issued any administrative  18 subpoenas to obtain the bank records for Jack or  19 Renee Beam; isn't that correct?  20 A That's correct.  21 Q And you also said that you were aware  22 that the DOJ had gathered bank records for its</p>
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<p>1 A One or two.  2 Q Okay. And who from the Department of  3 Justice did you have contact within those matters?  4 MR. STREETER: Objection, relevance.  5 But you can answer it if you can.  6 THE WITNESS: I don't remember  7 specifically. In one matter it was actually  8 someone in the U.S. Attorney's Office at the  9 location.  10 BY MR. DEZSI:  11 Q Okay.  12 A And I don't remember otherwise.  13 Q Okay. And in those instances, do you  14 recall whether you had received any financial  15 records from the Department of Justice?  16 MR. STREETER: Objection. Relevance.  17 But you can answer.  18 THE WITNESS: I don't believe that we  19 did, but I don't remember for sure.  20 BY MR. DEZSI:  21 Q And in those instances, do you remember  22 sharing documents or receiving documents between</p>	<p>1 criminal investigation; isn't that correct?  2 A Generally speaking. I -- I don't know  3 with respect to any specific individual.  4 Q Isn't it true that after the DOJ's  5 criminal trial ended against Mr. Fieger, that you  6 had asked Kendall Day to share with you the DOJ's  7 materials that they had gathered in their criminal  8 case?  9 MR. STREETER: You can answer that.  10 THE WITNESS: We received materials. I  11 believe that I asked for them, but I do not  12 remember specifically.  13 BY MR. DEZSI:  14 Q Okay. And do you recall, did you have a  15 physical meeting with anyone from the Department  16 of Justice in that regard?  17 A After the criminal trial?  18 Q Yes, after the criminal trial.  19 A Yes. I believe I had one or two  20 meetings with Kendall Day.  21 Q Okay. And those were set up at -- upon  22 who's request, yours or his?</p>

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1 MR. STREETER: That's law enforcement  
 2 privilege.  
 3 BY MR. DEZSI:  
 4 Q Okay. Can you tell me who else would  
 5 have been present at those meetings?  
 6 A I don't remember exactly, but I believe  
 7 it would have been myself, Roger Hearron. And we  
 8 may -- Ben Streeter. We may have had a second  
 9 meeting. I don't remember this meeting actually  
 10 ever occurred or not. It would have included  
 11 myself, Roger Hearron, Phillip Olaya, and Peter  
 12 Blumberg, and potentially Mark Shonkwiler. But I  
 13 don't actually remember if that meeting occurred.  
 14 Q And that would have been -- you're  
 15 referring to a meeting after the criminal case had  
 16 ended --  
 17 A Yes.  
 18 Q -- the DOJ's criminal case against  
 19 Mr. Fieger?  
 20 Okay. The first meeting that you --  
 21 that you referred to, you said where you were  
 22 present, Roger, Ben -- Mr. Streeter, excuse me --

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1 and also Kendall Day, or someone from --  
 2 A Yes.  
 3 Q Okay. Just Kendall Day from the  
 4 Department of Justice?  
 5 A I believe that it was just Kendall Day,  
 6 yes.  
 7 Q Okay. And in the second meeting that  
 8 you're referring to, would that --  
 9 MR. STREETER: That may have occurred.  
 10 BY MR. DEZSI:  
 11 Q -- that may have occurred, would that  
 12 have included Kendall Day, also?  
 13 A Yes, it would have. I -- I remember  
 14 talking about setting up a meeting. I do not  
 15 remember if that meeting actually occurred.  
 16 Q Okay. And anybody else from the  
 17 Department of Justice that -- present in either of  
 18 those meetings, other than Kendall Day?  
 19 A No.  
 20 Q Okay. Was it your custom to take notes  
 21 for meetings like this?  
 22 MR. STREETER: You can answer that.

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1 THE WITNESS: Yes, generally, I'll take  
 2 notes at meetings. The extent of the notes will  
 3 vary.  
 4 BY MR. DEZSI:  
 5 Q Okay. And if you take notes, do you  
 6 include those in your file, or is that something  
 7 sometimes you just toss out, or --  
 8 A I would generally keep them in my file  
 9 until the end of a case. And then I would --  
 10 whenever I figured out what to do with the rest of  
 11 the file, the notes would generally be shredded.  
 12 Q Okay. Do you generally -- do you take  
 13 notes on paper and pencil, or --  
 14 A Yes.  
 15 Q -- do you do it by laptop, or --  
 16 A Generally paper and pen.  
 17 Q Oh, okay. And so if you just sort of  
 18 write -- scribble some notes down, you would then  
 19 maybe break those out of your -- your notebook and  
 20 just put them in the file and --  
 21 A Yeah, or just keep a legal pad for the  
 22 case.

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1 Q Okay. Okay. And you referred to  
 2 receiving CD's from the Department of Justice.  
 3 Would it maybe have been during those  
 4 meetings, or other -- at other times?  
 5 A I don't believe any CD's were brought to  
 6 the meetings. I think that they were sent here  
 7 after.  
 8 Q Okay. Did you have a conversation with  
 9 Kendall Day regarding the financial records that  
 10 the DOJ had gathered?  
 11 MR. STREETER: Can you put a time frame  
 12 on that? Are we talking post, post criminal  
 13 trial?  
 14 BY MR. DEZSI:  
 15 Q No, let's -- at any time either during  
 16 your tenure, before the -- before the acquittal or  
 17 after the acquittal?  
 18 MR. STREETER: Now we're talking about  
 19 financial records in general, or --  
 20 BY MR. DEZSI:  
 21 Q Financial records, yes.  
 22 Do you -- do you recall any conversation

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1 with Kendall Day regarding financial records  
 2 related generally to this matter?  
 3 MR. STREETER: All right. You can  
 4 answer that.  
 5 THE WITNESS: Not specifically. I don't  
 6 recall any specific conversation about financial  
 7 records.  
 8 BY MR. DEZSI:  
 9 Q Do you recall conversations with Kendall  
 10 Day relating to someone from the Federal Election  
 11 Commission testifying as an expert witness?  
 12 MR. STREETER: You can answer that.  
 13 THE WITNESS: Yes.  
 14 BY MR. DEZSI:  
 15 Q Okay. And do you recall who was -- who  
 16 from the FEC was going to testify as an expert  
 17 witness?  
 18 MR. STREETER: Objection, law  
 19 enforcement privilege. Objection, 437g(a)(12) --  
 20 well, no, just law enforcement privilege.  
 21 Instruct the witness not to answer.  
 22 BY MR. DEZSI:

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1 Q Do you know Tom Andersen?  
 2 A Yes, I do.  
 3 Q And what is Tom Andersen's position?  
 4 A Currently, I'm not sure. When I was  
 5 here, towards the end of my tenure here, he was an  
 6 executive assistant for one of for commissioners  
 7 upstairs, for Commissioner Walther. Prior to  
 8 that, he was at one point an acting assistant  
 9 general counsel, and at other various points a  
 10 staff attorney.  
 11 Q Was it your understanding that  
 12 Mr. Andersen was going to serve as an expert  
 13 witness for the Department of Justice?  
 14 MR. STREETER: Objection asked and  
 15 answered. Executive -- law enforcement privilege.  
 16 Instruct the witness not to answer.  
 17 MR. DEZSI: Give me just a second,  
 18 please.  
 19 MR. STREETER: Actually, re-ask that  
 20 question. I'll let her answer that question.  
 21 BY MR. DEZSI:  
 22 Q Were you aware that Mr. Andersen was

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1 going to serve as an expert witness for the  
 2 Department of Justice, in your criminal case?  
 3 MR. STREETER: You can answer that  
 4 limited question.  
 5 THE WITNESS: Yes, I was aware that --  
 6 that he had been asked to do so.  
 7 BY MR. DEZSI:  
 8 Q Actually, I'm sorry, Ms. Wassom. I  
 9 don't think I -- I don't mean to trick you. If  
 10 you could just take look at that e-mail. I should  
 11 have given you that first before the question.  
 12 A (Witness examined document).  
 13 MR. STREETER: Would you like to mark  
 14 it?  
 15 MR. DEZSI: Yeah, we'll mark it.  
 16 (Plaintiff's Deposition  
 17 Exhibit C was marked for  
 18 identification.  
 19 MR. STREETER: We didn't bother marking  
 20 the statutes, but --  
 21 MR. DEZSI: That's fine. I'm not going  
 22 to mark them.

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1 MR. STREETER: This is exhibit?  
 2 MR. DEZSI: Plaintiff's Exhibit C.  
 3 MR. STREETER: Why do you use letters?  
 4 Do you have multiple other copies of that?  
 5 MR. DEZSI: Yeah.  
 6 (Handing document).  
 7 THE WITNESS: (Witness examined  
 8 document). Okay.  
 9 BY MR. DEZSI:  
 10 Q Okay. Ms. Wassom, do you recall this,  
 11 this e-mail that you sent to Kendall Day dated  
 12 February 25th, 2005?  
 13 A I recall it in a sense that it's  
 14 obviously from me and I just looked at it, yes.  
 15 Q Okay. And, again, this is -- could you  
 16 just tell me what this is referring to?  
 17 A This is an e-mail letting Kendall know  
 18 that we had found a witness for him to potentially  
 19 use in this matter, in the criminal trial.  
 20 MR. DEZSI: Okay. And if the record  
 21 would reflect this e-mail from Audra Wassom to  
 22 Kendall Day dated February 25th, 2008. This

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<p>1 e-mail was neither produced nor listed on the                  2 Commission's privileged log that was produced to                  3 Plaintiffs, as part of Plaintiff's request for                  4 production of documents.                  5 MR. STREETER: So noted.                  6 BY MR. DEZSI:                  7 Q Were you aware that Mr. Andersen did not                  8 end up serving as the expert witness for the                  9 FEC -- for the DOJ, excuse me?                  10 A Yes, I was aware of that.                  11 Q And there was a change, or for some                  12 reason Mr. Andersen did not end up testifying?                  13 A I don't know why he didn't, but I know                  14 he didn't.                  15 Q Okay. Do you know who was next in line                  16 to testify after Mr. Andersen?                  17 A No, I have no idea.                  18 MR. STREETER: Objection.                  19 BY MR. DEZSI:                  20 Q During the time that you worked on this                  21 case, isn't it true that you had an agreement with                  22 the Department of Justice or Kendall Day to share</p>	<p>1 Department of Justice grand jury subpoenas?                  2 MR. STREETER: You can answer that.                  3 THE WITNESS: No. Not to my knowledge.                  4 BY MR. DEZSI:                  5 Q Okay. Did you review or receive any                  6 grand jury transcripts from the Department of                  7 Justice?                  8 MR. STREETER: You can answer that.                  9 THE WITNESS: No.                  10 BY MR. DEZSI:                  11 Q Okay. Just give me one minute.                  12 Ms. Wassom, Bayes, isn't it true that                  13 you had an agreement with Kendall Day regarding                  14 the certain -- certain procedures that you and he                  15 would follow in exchanging information between                  16 yourselves?                  17 MR. STREETER: Objection, law                  18 enforcement privilege. Instruct the witness not                  19 to answer. Objection, 437g(a)(12). Instruct the                  20 witness not to answer. Objection, attorney work                  21 product. Instruct the witness not to answer.                  22 BY MR. DEZSI:</p>
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<p>1 non-grand jury materials?                  2 MR. STREETER: Objection, law                  3 enforcement privilege. Instruct the witness not                  4 to answer. Objection, 437g(a)(12). Instruct the                  5 witness not to answer.                  6 BY MR. DEZSI:                  7 Q Isn't it true that during your work on                  8 this case, you received multiple FBI 302 reports                  9 from the Department of Justice?                  10 MR. STREETER: You can answer that.                  11 THE WITNESS: Yes, that's correct.                  12 BY MR. DEZSI:                  13 Q Isn't it also true that during your work                  14 on this case you received IRS reports or IRS                  15 memoranda from field interviews?                  16 MR. STREETER: You can answer that.                  17 THE WITNESS: I -- I don't actually                  18 remember. If it was in with the 302's, maybe.                  19 But I don't remember anything specifically marked                  20 from the IRS.                  21 BY MR. DEZSI:                  22 Q Okay. Did you actually see any of the</p>	<p>1 Q Ms. Wassom, just to backtrack. I know                  2 that you're no longer employed by the FEC. When I                  3 sent you a subpoena, it had an attachment asking                  4 for document production.                  5 Did you have any documents in your                  6 possession at the time that you received that, the                  7 subpoena?                  8 A No.                  9 Q Okay. And you wouldn't have any e-mails                  10 on any non-governmental servers?                  11 A No.                  12 Q Ms. Wassom, can you tell me, during your                  13 work on this case, did you have communications                  14 with anybody other than the individuals -- you've                  15 mentioned your supervisors -- any commissioners or                  16 perhaps with former Chairman Michael Toner?                  17 MR. STREETER: Objection, that's                  18 attorney-client privilege. Instruct the witness                  19 not to answer.                  20 BY MR. DEZSI:                  21 Q Have you had communications with anybody                  22 about this case, other than Mr. Toner, that you</p>

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1 haven't mentioned, from the FEC or the DOJ?  
 2 MR. STREETER: And that's -- it's way  
 3 too compound even for me to understand. Can you  
 4 break it down?  
 5 BY MR. DEZSI:  
 6 Q Did you have any communications with  
 7 anybody from the Department of Justice about this  
 8 case, other than who you've already mentioned?  
 9 MR. STREETER: You can answer that.  
 10 THE WITNESS: Not to my recollection,  
 11 but I couldn't be certain.  
 12 BY MR. DEZSI:  
 13 Q Okay. You're familiar with or you know  
 14 Madeline Lane?  
 15 A Yes.  
 16 Q Okay. Can you tell me what her role is  
 17 generally at the FEC?  
 18 A She's a supervisor in the reports and  
 19 analysis division. I don't remember her exact  
 20 title.  
 21 Q Okay. And what exactly does that  
 22 division -- what exactly do they do, generally?

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1 A My understanding, generally, is that  
 2 they're responsible for analyzing the disclosure  
 3 reports submitted by anyone required to report to  
 4 us, and also getting those reports up on the --  
 5 the website, in the public record.  
 6 Q Okay. And were you aware that she was  
 7 also involved in this case with the Department of  
 8 Justice?  
 9 A Yes, I was.  
 10 Q Okay. And do you know what her role  
 11 was; how she assisted the Department of Justice or  
 12 how she communicated with the Department of  
 13 Justice?  
 14 MR. STREETER: Yeah, it's a compound  
 15 question. Object to the assisted with.  
 16 MR. DEZSI: I'll rephrase it.  
 17 MR. STREETER: All right.  
 18 BY MR. DEZSI:  
 19 Q What was the extent of her involvement  
 20 with you and your civil case?  
 21 What did she provide for you or help you  
 22 with?

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1 MR. STREETER: Objection, 437g(a)(12).  
 2 BY MR. DEZSI:  
 3 Q Are you aware that Ms. Lane had  
 4 communications with the Department of Justice?  
 5 A Yes.  
 6 Q Okay. Do you know with whom she  
 7 spoke --  
 8 MR. STREETER: You can answer that.  
 9 BY MR. DEZSI:  
 10 Q -- at the Department of Justice?  
 11 MR. STREETER: Or communicated with?  
 12 MR. DEZSI: Or communicated, correct.  
 13 MR. STREETER: If you know.  
 14 THE WITNESS: I -- I -- I can't tell you  
 15 completely. Because I don't know if she had  
 16 communications that I wasn't aware of. But of the  
 17 with communications that I was aware of, I believe  
 18 it was Kendall Day. And I don't know if she  
 19 talked to anyone else there or not.  
 20 BY MR. DEZSI:  
 21 Q Okay. Before you would take any action  
 22 perhaps requesting documents from the DOJ, would

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1 you speak to your supervisor -- supervising  
 2 attorney about those steps, or were you  
 3 independent in that regard?  
 4 MR. STREETER: If you can, answer that.  
 5 THE WITNESS: I'm not sure how to answer  
 6 that, because I can't say that there was any  
 7 standard. There -- you know, I can't say that  
 8 there was a norm where I would have to ask every  
 9 single time or not. And, you know, whether the  
 10 conversation with the supervisor was  
 11 contemporaneous with the conversation with someone  
 12 else, I --  
 13 BY MR. DEZSI:  
 14 Q Okay. So after the criminal trial ended  
 15 in June of last year, at your request you had --  
 16 you had sought documents from the Department of  
 17 Justice.  
 18 Was that pursuant to any supervisor  
 19 directing you to do so, or was that at your own --  
 20 your own decision?  
 21 MR. STREETER: Objection, assumes facts  
 22 not in evidence as to who may -- who requested or

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1 didn't make a request. And I'll pose the  
 2 437g(a)(12) objection. Instruct the witness not  
 3 to answer.  
 4 BY MR. DEZSI:  
 5 Q You earlier testified that you had  
 6 requested documents from the Department of Justice  
 7 post trial; is that correct?  
 8 MR. STREETER: Objection, law  
 9 enforcement privilege, 437g(a)(12). I think you  
 10 tried to ask that question and she was instructed  
 11 not to answer the question. That's my  
 12 recollection. She said that she received  
 13 documents. The question is -- the question as to  
 14 who may have requested or how that exchange  
 15 occurred is what we've been objecting to.  
 16 MR. DEZSI: Do you guys mind if we take  
 17 a break?  
 18 MR. STREETER: Sure.  
 19 (Recess)  
 20 BY MR. DEZSI:  
 21 Q Ms. Wassom, we earlier spoke about  
 22 communications that you had with the Department of

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1 Justice.  
 2 Can you tell me, after this letter of  
 3 September 26th to Jack and Renee Beam was sent  
 4 out, can you tell me if you're aware of an  
 5 agreement with the Department of Justice that the  
 6 FEC would halt its civil investigation pending  
 7 resolution of the criminal case?  
 8 MR. STREETER: Objection, 437g(a)(12).  
 9 Objection, law enforcement privilege. Instruct  
 10 the witness not to answer.  
 11 BY MR. DEZSI:  
 12 Q Okay. Just to clarify, you had said  
 13 that you didn't issue any administrative  
 14 subpoenas; and you said that the FEC had not  
 15 personally gathered with Jack and Renee Beam's  
 16 bank records at any time that you're aware of;  
 17 isn't that correct?  
 18 A Well, those are two separate questions.  
 19 We never issued any administrative subpoenas to my  
 20 knowledge with respect to Jack and Renee Beam, and  
 21 did not gather and Jack and Renee Beam's bank  
 22 records.

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1 Q Okay. You mentioned that you had gotten  
 2 CD's from the Department of Justice or Kendall  
 3 Day. And you said maybe four of them.  
 4 Do you remember the content of those  
 5 CD's?  
 6 A I believe it was trial transcripts from  
 7 the criminal trial, and DOJ's exhibits that were  
 8 used in the criminal trial, and potentially any  
 9 defense exhibits that they had.  
 10 Q Were you aware that the DOJ had used  
 11 financial records during the criminal trial?  
 12 MR. STREETER: Objection, asked and  
 13 answered.  
 14 If you know, you can answer.  
 15 THE WITNESS: I believe that they did,  
 16 but I don't remember specifically.  
 17 BY MR. DEZSI:  
 18 Q Were you -- do you know if those  
 19 financial records were on the CD's that you  
 20 received from the Department of Justice?  
 21 A I don't specifically remember financial  
 22 records being on those CD's, but I couldn't tell

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1 you for sure.  
 2 Q Do you remember what you would have  
 3 done -- I know you mentioned about your  
 4 recordkeeping, but do you remember what you would  
 5 have done with those CD's in particular?  
 6 Would you they just have been put in the  
 7 file?  
 8 MR. STREETER: You can answer.  
 9 THE WITNESS: I believe we had -- I know  
 10 we had copies made of the CD's. I believe we had  
 11 four copies made. And that may be where the four  
 12 is coming from. DOJ may have only given me one or  
 13 two CD's. I don't remember for sure. But I  
 14 believe we had copies made for myself,  
 15 Mr. Hearron, Mr. Shonkwiler, and Mr. Olaya. And  
 16 then I believe we retained the originals in our  
 17 primary file.  
 18 MR. STREETER: I got a copy, too.  
 19 THE WITNESS: Okay.  
 20 And Mr. Streeter a copy. So maybe we  
 21 had four or five copies made of that -- whatever  
 22 CD's we got from DOJ.

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1 BY MR. DEZSI:  
 2 Q Okay. So you indicated that the CD's  
 3 contained certain trial exhibits, and that also  
 4 that you -- that you were aware that the  
 5 Department of Justice had used financial records  
 6 during the criminal case; is that correct?  
 7 MR. STREETER: If you can answer.  
 8 THE WITNESS: I believe that they used  
 9 financial records. And yes, the CD's contained  
 10 trial exhibits.  
 11 BY MR. DEZSI:  
 12 Q Okay. Can you tell me who mister -- you  
 13 mentioned Mr. Oloya [sic]?  
 14 A "Olaya."  
 15 Q "Olaya."  
 16 Can you tell me what his position is?  
 17 A He's a staff attorney here. He started  
 18 sometime last spring or summer. And we brought  
 19 him on to help me out with the case. And then  
 20 when I became an assistant, acting assistant  
 21 general counsel, I transferred primary  
 22 responsibility to the case -- for the case to him

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1 and to Mr. Blumberg.  
 2 Q Okay. So you said he started in the  
 3 spring of -- you said last --  
 4 A Spring or summer of '08. I don't --  
 5 Q '08.  
 6 A -- remember exactly.  
 7 Q And from that point forward, you were  
 8 working with him on this file; that's correct?  
 9 A Yes.  
 10 Q Okay. Do you know who had primary  
 11 responsibility for the file after you left the  
 12 FEC?  
 13 A No.  
 14 Q And you mentioned Mr. Blumberg.  
 15 Could you tell me who he is?  
 16 A Peter Blumberg was another staff  
 17 attorney here. I believe he's not an assistant  
 18 general counsel.  
 19 Q And what was his involvement with this  
 20 matter, Mr. Blumberg?  
 21 A When I became acting assistant general  
 22 counsel, the case was handed over to Mr. Blumberg

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1 and Mr. Olaya. And I don't know which one of them  
 2 was considered the lead attorney on the matter.  
 3 Q Okay.  
 4 MR. DEZSI: Give me just a second.  
 5 MR. STREETER: Uh-huh.  
 6 BY MR. DEZSI:  
 7 Q Also, Ms. Wassom, is it true that you  
 8 kept -- in the course of your work on this matter,  
 9 you kept a telephone log?  
 10 MR. STREETER: You can answer.  
 11 THE WITNESS: I believe that I did on  
 12 this matter, yes.  
 13 BY MR. DEZSI:  
 14 Q Okay. Do you generally keep telephone  
 15 logs?  
 16 A It depends on the case.  
 17 Q Okay. And how exactly do you keep that?  
 18 What does it look like?  
 19 A I can't tell you for sure, but typically  
 20 it'll be a -- maybe a three-column or so chart  
 21 with the -- the date, the person's name and phone  
 22 number, and very brief notes about the

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1 conversation.  
 2 Q And is that a computer file or is that  
 3 handwritten?  
 4 A Generally on computer.  
 5 Q Okay. So maybe you have it on your  
 6 computer, you open up a file; and if you make a  
 7 call, to Kendall Day for instance, you then log it  
 8 as you begin your -- as you make the call, or at  
 9 the end of your call?  
 10 A Probably after the call.  
 11 Q Okay. And that would have been part of  
 12 the file, also, that would have been kept?  
 13 A It would have been part of my personal  
 14 attorney notes. It would not have been part of  
 15 the main file.  
 16 Q Okay. I understand.  
 17 And was that -- your telephone log, was  
 18 that pretty extensive?  
 19 I mean, did you -- did you generally use  
 20 that in this case whenever you made calls, or just  
 21 sometimes, or --  
 22 A In this case, I tried to use it as much

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<p>1 as I could. But I can't say that I would have  2 noted every single call on there.  3 Q Okay.  4 MR. STREETER: You know from the  5 privileged log it's multi-paged?  6 MR. DEZSI: Uh-huh.  7 MR. STREETER: Okay.  8 THE WITNESS: I also can't say when I  9 started that log. So I don't know if I started it  10 at the beginning of the case, or when.  11 MR. DEZSI: Okay. Ms. Wassom, Bayes, as  12 I indicated, I'd like to reserve your testimony.  13 I don't have anything further at this  14 time.  15 THE WITNESS: Okay.  16 MR. STREETER: I have a few questions on  17 cross.  18 EXAMINATION BY COUNSEL FOR DEFENDANTS  19 BY MR. STREETER:  20 Q Ms. Bayes, you produced an affidavit in  21 this case stating your knowledge of certain  22 private information of the Beams; is that correct?</p>	<p>1 sort whatsoever that contains the social security  2 number of Renee Beam?  3 A No, not to my recollection.  4 Q Have you ever seen any checking account  5 from any institution, financial institution that  6 belongs to Jack Beam?  7 A No.  8 Q Have you ever seen any checking account  9 from any financial institution that belongs to  10 Renee Beam?  11 A No.  12 Q Have you ever seen any market -- money  13 market statement from any account belonging to  14 Jack or Renee Beam?  15 A No.  16 Q Have you ever seen any brokerage account  17 statement belonging to either Jack or Renee Beam?  18 A No.  19 Q Have you seen -- I'm running out of  20 types of financial instruments.  21 Have you seen any -- any stock  22 account -- stock brokerage account records</p>
Page 75	Page 77
<p>1 A Yes.  2 Q And what private information of the  3 Beams -- of what private information of the Beams  4 do you have direct knowledge?  5 A None.  6 Q Have you ever seen any personal  7 information, any financial information or  8 financial data prepared by the Beams, or financial  9 -- strike that.  10 Have you ever seen any financial  11 instruments prepared by the Beams?  12 A I have seen I believe two checks that  13 the Beams wrote to the Edwards campaign, and  14 that's all.  15 Q Are those checks referenced or are those  16 checks not referenced in your affidavit?  17 A I believe they are.  18 Q All right. Now, with respect to Jack  19 Beam, have you ever seen any document whatsoever  20 that contains his social security number?  21 A Not to my recollection, no.  22 Q Have you ever seen any document of any</p>	<p>1 belonging to either Jack or Renee Beam?  2 A No.  3 Q Have you seen any type of private  4 financial information that would come from a bank  5 institution that belongs to either Jack Beam or  6 Renee Beam?  7 A No.  8 Q In the course of investigation, did you  9 receive any information of the type I've just  10 asked you about from -- I'm going too fast.  11 During the course of your work on the  12 matters that we've been discussing today, did you  13 ever receive any of the type of financial  14 information data I've just asked you about from  15 the Department of Justice?  16 A No. Not to my recollection.  17 Q And this is with respect to either Jack  18 or Renee Beam?  19 A No.  20 Q Have you ever received any financial  21 information of any sort regarding Jack or Renee  22 Beam from the Department of Justice?</p>

Audra Wassom Bayes

March 10, 2009

Washington, DC

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<p>1 A No.</p> <p>2 MR. STREETER: I have nothing else.</p> <p>3 I think we're done.</p> <p>4</p> <p>5</p> <p>6</p> <p>7 (Whereupon at 11:50 a.m., the</p> <p>8 deposition of AUDRA WASSOM</p> <p>9 BAYES was adjourned.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, BARBARA A. HUBER, CSR, the officer</p> <p>3 before whom the foregoing deposition was taken, do</p> <p>4 hereby certify that the witness whose testimony</p> <p>5 appears in the foregoing deposition was duly sworn</p> <p>6 by me; that the testimony of said witness was</p> <p>7 taken by me in stenotypy and thereafter reduced to</p> <p>8 print under my direction; that said deposition is</p> <p>9 a true record of the testimony given by said</p> <p>10 witness; that I am neither counsel for, related</p> <p>11 to, nor employed by any of the parties to the</p> <p>12 action in which this deposition was taken; and,</p> <p>13 furthermore, that I am not a relative or employee</p> <p>14 of any attorney or counsel employed by the parties</p> <p>15 hereto, nor financially or otherwise interested in</p> <p>16 the outcome of this action.</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 BARBARA A. HUBER, CSR</p> <p>21 Notary Public, in and for the</p> <p>22 District of Columbia</p> <p>My Commission Expires:</p> <p>March 14, 2012</p>
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<p>1 ACKNOWLEDGEMENT OF DEPONENT</p> <p>2</p> <p>3</p> <p>4 I, AUDRA WASSOM BAYES, do hereby acknowledge</p> <p>5 I have read and examined the foregoing pages of</p> <p>6 testimony, and the same is a true, correct and</p> <p>7 complete transcription of the testimony given by</p> <p>8 me, and any changes or corrections, if any, appear</p> <p>9 in the attached errata sheet signed by me.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 _____</p> <p>Date AUDRA WASSOM BAYES</p> <p>16</p> <p>17 Subscribed and Sworn to before me this</p> <p>18 ____ day of _____, 2009.</p> <p>19</p> <p>20 _____</p> <p>21 Notary Public</p> <p>22 My Commission Expires:</p>	

**EXHIBIT**

**6**

**Deposition of Mark Shonkwiler**

Mark D. Shonkwiler

Washington, DC

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

March 11, 2009

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THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JACK AND RENEE BEAM,

Plaintiffs,

v.

MICHAEL B. MUKASEY, UNITED STATES:  
ATTORNEY GENERAL, in his official:  
Capacity; FEDERAL ELECTION  
COMMISSION CHAIRMAN DAVID M.  
MASON, in his official capacity;  
UNKNOWN AGENTS OF THE FEDERAL  
BUREAU OF INVESTIGATION, in their:  
individual and official  
capacities,

Defendants.

2009 MAR 31 A 10:34

: CA No. 07-cv-1227

Washington, D.C.

Wednesday, March 11, 2009

Deposition of

MARK D. SHONKWILER, called for examination  
by counsel for Plaintiffs, pursuant to notice, at  
the Offices of the Federal Election Commission, 999  
E Street, NW, Washington, D.C., commencing at 11:02  
a.m., before Barbara A. Huber, Notary Public in and  
for the District of Columbia, when were present on  
behalf of the respective parties:

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2 On behalf of Plaintiffs:</p> <p>3 MICHAEL DEZSI, ESQUIRE</p> <p>4 Fieger, Fieger, Kenney, Johnson &amp; Giroux</p> <p>5 19390 West Ten Mile Road</p> <p>6 Southfield, Michigan 48075</p> <p>7 (248) 355-5555</p> <p>8 midezsi@fiegenerlaw.com</p> <p>9</p> <p>10 On behalf of Defendants:</p> <p>11</p> <p>12 BENJAMIN A. STREETER, III, ESQUIRE</p> <p>13 Federal Election Commission</p> <p>14 999 E Street, NW</p> <p>15 Washington, D.C. 20463</p> <p>16 (202) 694-1650</p> <p>17 bstreeter@fec.gov</p> <p>18</p> <p>19 * * * * *</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 PROCEEDINGS</p> <p>2 Whereupon,</p> <p>3 MARK D. SHONKWILER,</p> <p>4 was called as a witness by counsel for Plaintiffs,</p> <p>5 and having been duly sworn by the Notary Public,</p> <p>6 was examined and testified as follows:</p> <p>7 EXAMINATION BY COUNSEL FOR PLAINTIFFS</p> <p>8 BY MR. DEZSI:</p> <p>9 Q Hi. Good morning, Mr. Shonkwiler. My</p> <p>10 name Michael Dezsi. We have not met before. I</p> <p>11 represent the Plaintiffs, Jack and Renee Beam, in</p> <p>12 this matter.</p> <p>13 If I could please have you state your</p> <p>14 full name for the record.</p> <p>15 A My name is Mark David Shonkwiler. It's</p> <p>16 spelled S-H-O-N-K-W-I-L-E-R.</p> <p>17 Q Okay. Thank you.</p> <p>18 And Mr. Shonkwiler, could you please</p> <p>19 tell me -- give me your title or position at the</p> <p>20 Federal Election Commission?</p> <p>21 A I am an assistant general counsel in the</p> <p>22 enforcement division. I currently am assigned to</p>
Page 3	Page 5
<p>1 CONTENTS</p> <p>2 EXAMINATION BY: PAGE</p> <p>3 Counsel for Plaintiffs 4</p> <p>4 Counsel for Defendants 50</p> <p>5 Counsel for Plaintiffs 53</p> <p>6 Counsel for Defendants 54</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 lead enforcement team number one.</p> <p>2 Q And now many enforcement teams are</p> <p>3 there, or divisions?</p> <p>4 A There are six enforcement teams in the</p> <p>5 division.</p> <p>6 Q Okay. And can you tell me the dates of</p> <p>7 your employment with the FEC?</p> <p>8 A I began at the FEC in October of 1997 as</p> <p>9 a staff attorney. I was promoted to assistant</p> <p>10 general counsel I believe it was in June of 2001.</p> <p>11 And at some point I served as the acting deputy</p> <p>12 associate general counsel for a period of six</p> <p>13 months last year.</p> <p>14 Q I'm sorry. The acting deputy --</p> <p>15 A Associate general counsel.</p> <p>16 Q I get so confused. There's so many</p> <p>17 names to put into the one thing.</p> <p>18 MR. STREETER: So do we.</p> <p>19 BY MR. DEZSI:</p> <p>20 Q I can't keep them straight.</p> <p>21 And if you could just give me an idea</p> <p>22 of -- I'd like to hear about your background, your</p>

Page 6

1 prior legal background, before joining the FEC.  
 2 If you could tell me a little bit about that.  
 3 A I worked for nine years at a large  
 4 Washington, D.C., law firm that at one time was  
 5 called McKenna, Connor & Cuneo. It was later  
 6 called McKenna & Cuneo. And after I left, I think  
 7 they changed their name again.  
 8 Q And they probably will be changing it  
 9 again soon, maybe.  
 10 Okay. And prior to that, where were  
 11 you?  
 12 A I graduated from the University of  
 13 Michigan law school.  
 14 Q Oh, okay. Are you a Michigan native,  
 15 or --  
 16 A No. I'm from Missouri originally.  
 17 Q Oh, okay. It's a great law school. I  
 18 didn't go there, but I -- I studied in the library  
 19 a lot for the bar exam, probably like a lot of  
 20 people.  
 21 Okay. Mr. Shonkwiler, also, have you  
 22 ever -- have you ever been deposed before?

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1 A No, I have not.  
 2 Q Okay. There's a first for everything --  
 3 A Yes.  
 4 Q -- I guess, yes. Thank you. I don't  
 5 mean to make light of it.  
 6 If you could just remember to verbalize  
 7 all of your answers, so that the court reporter  
 8 can record them. And Ms. Barbara has admonished  
 9 us a couple times that only one of us can speak at  
 10 a time. Sometimes I get a little exuberant. So I  
 11 will try to allow you to finish your answers. And  
 12 if you would please let me to finish my questions.  
 13 Mr. Shonkwiler, can you tell me how you  
 14 first became familiar with the name Jack or Renee  
 15 Beam?  
 16 A I believe at some point I became aware  
 17 that Jack and Renee Beam were two of the figures  
 18 involved in the Fieger sua sponte matter.  
 19 Q Uh-huh. Okay. And are you referring  
 20 generally to the matter under review, 5818?  
 21 A Yes.  
 22 Q Okay. And just so I understand a little

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1 bit of the structure, it's my understanding that  
 2 you were the supervisor of Ms. Audra Wassom; is  
 3 that correct?  
 4 A That's correct.  
 5 Q Okay. And were you the supervisor of  
 6 this matter from the time of its inception through  
 7 now?  
 8 A No.  
 9 Q Okay. Could you tell me who would have  
 10 been, or who was or is?  
 11 A The matter came in, in early 2006. And  
 12 I became aware of it because I was handling  
 13 another case relating to the Edwards campaign. I  
 14 briefly talked to Rhonda Vosdingh, who was the  
 15 head of the enforcement division, and asked if she  
 16 thought it should be assigned to my team, because  
 17 I was handling another matter. And I was told no,  
 18 it would be handed out in the normal course of the  
 19 assignment process.  
 20 Q Okay. And at that point in time when it  
 21 first came in, to whom was it assigned?  
 22 A It was first assigned to a staff

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1 attorney who is no longer with us. Because that  
 2 is how it came to my team. It was assigned to a  
 3 staff attorney who worked on -- Sue Lebeaux, Sue  
 4 Lebeaux was the team leader who was supervising  
 5 the case for a brief period. It was given to a  
 6 staff attorney on her team, whose name escapes my  
 7 memory.  
 8 And I think that she actually left the  
 9 FEC maybe a month or so -- maybe -- maybe it was  
 10 more than a month or so, maybe -- maybe it was two  
 11 months -- after she was assigned the case.  
 12 Q Okay.  
 13 A And at that point, it was reassigned to  
 14 my team and Audra Wassom.  
 15 Q Okay. And you mentioned Ms. Sue  
 16 Lebeaux?  
 17 A Uh-huh.  
 18 Q Is that L-A-B-E-A-U.  
 19 A I think it's -- yeah, act -- that is --  
 20 that is a correct spelling.  
 21 Q Okay. And --  
 22 A I'm sorry. I'm sorry. L-E-B-E-A-U-X, I

Page 10	Page 12
<p>1 believe.</p> <p>2 Q B-E-A-U-X. Okay. The French masculine,</p> <p>3 not the French feminine spelling.</p> <p>4 Okay. And Ms. Lebeaux would have been</p> <p>5 on par with you as a team leader --</p> <p>6 A Yes.</p> <p>7 Q -- is that correct?</p> <p>8 Okay. So it was first assigned to</p> <p>9 Ms. Lebeaux for a short period of time, along with</p> <p>10 one of her staff attorneys, who left shortly</p> <p>11 thereafter.</p> <p>12 And at the point of the departure of</p> <p>13 that staff attorney then, it then made its way to</p> <p>14 your team, Ms. Wassom and yourself?</p> <p>15 A That's correct.</p> <p>16 Q Okay. Is Ms. Lebeaux still employed by</p> <p>17 the FEC?</p> <p>18 A Yes, she is.</p> <p>19 Q Is she is still a team leader?</p> <p>20 A Yes, she is.</p> <p>21 Q Okay.</p> <p>22 A Will the record show that Mr. Dezsi</p>	<p>1 A No.</p> <p>2 Q You're not aware of anyone either on</p> <p>3 your team or any other members that have worked on</p> <p>4 your file that have issued any administrative</p> <p>5 subpoenas in this matter?</p> <p>6 A I do not recall any.</p> <p>7 Q Okay. And if we could just talk a</p> <p>8 moment about your supervision of Ms. Wassom and</p> <p>9 her work on this file.</p> <p>10 Could you just sort of describe to me</p> <p>11 how, in your capacity as a team leader, you would</p> <p>12 generally work with you one of your staff</p> <p>13 attorneys like Ms. Wassom, either generally or in</p> <p>14 regard to this case, just on a -- on a day-to-day</p> <p>15 basis?</p> <p>16 A Generally when a case is assigned to a</p> <p>17 staff attorney, I will meet with the staff</p> <p>18 attorney, discuss the matter. We frequently will</p> <p>19 prepare a memo setting forth our proposed plan of</p> <p>20 action, sometimes called an activation memo. I</p> <p>21 will -- the staff attorney will prepare a draft of</p> <p>22 what's called a first general counsel's report,</p>
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<p>1 exchanged a glance with Mr. Streeter.</p> <p>2 MR. STREETER: This is news to me.</p> <p>3 Yeah, I know, a notice of a dep is coming down</p> <p>4 the -- but that's all right. Add it to the pile.</p> <p>5 BY MR. DEZSI:</p> <p>6 Q Mr. Shonkwiler, if you would be so kind</p> <p>7 as to look at these exhibits that are marked</p> <p>8 Plaintiff's Exhibit A and B, which -- both of</p> <p>9 which are letters dated September 26th of 2006,</p> <p>10 signed by former Chairman Michael Toner. One</p> <p>11 letter is to Mr. Jack Beam. And the second letter</p> <p>12 is to Ms. Renee Beam. Attached to the -- to the</p> <p>13 cover letter is a legal and factual analysis.</p> <p>14 A (Witness examined document). Yes, I'm</p> <p>15 familiar with these.</p> <p>16 Q Okay. You've seen these before?</p> <p>17 A Yes, I have.</p> <p>18 Q Okay. Mr. Shonkwiler, are you aware of</p> <p>19 any administrative subpoenas that have been issued</p> <p>20 in this matter to obtain any financial records for</p> <p>21 the Respondents, or for Plaintiffs Jack and Renee</p> <p>22 Beam?</p>	<p>1 which I will review. That report would be also</p> <p>2 reviewed by people higher up in the hierarchy than</p> <p>3 me. It would make recommendations to the</p> <p>4 Commission.</p> <p>5 Q Okay. And in this letter that I've --</p> <p>6 in these Exhibits A and B that I've provided to</p> <p>7 you, if you would take a -- if you would flip to</p> <p>8 the legal and factual analysis, specifically page</p> <p>9 1 of 3. And the last paragraph of the page, if</p> <p>10 you could read that to yourself, through to the</p> <p>11 next page.</p> <p>12 A (Witness examined document). I have</p> <p>13 read it.</p> <p>14 Q Okay. Mr. Shonkwiler, if you could tell</p> <p>15 me, who would be responsible for investigating the</p> <p>16 factual basis which -- would eventually find its</p> <p>17 way into this -- into a letter like this?</p> <p>18 For instance, where it says, Further, 34</p> <p>19 of these 46 contributors have no previous record</p> <p>20 of contributing to any federal campaign.</p> <p>21 Mr. Shonkwiler, who would be responsible</p> <p>22 at the FEC for investigating that factual basis?</p>

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1 MR. STREETER: Let me object to that  
 2 question on the grounds that it -- that it  
 3 violates 2 U.S.C. 437g(a)(12). Because it's a  
 4 question about the specific activity --  
 5 MR. DEZSI: Okay.  
 6 MR. STREETER: -- under this case. And  
 7 I --  
 8 MR. DEZSI: I'll rephrase it.  
 9 MR. STREETER: -- instruct the witness  
 10 not to answer.  
 11 MR. DEZSI: I'll rephrase the question.  
 12 BY MR. DEZSI:  
 13 Q Generally, in a case or a matter under  
 14 review, if there is an allegation made or an  
 15 allegation by the Federal Election Commission that  
 16 an individual has never contributed before --  
 17 without disclosing any particular matter -- who  
 18 generally would investigate the factual basis of  
 19 that conclusion?  
 20 A Generally, a staff attorney under --  
 21 working under my supervision would either review  
 22 the disclosure reports, or would ask a paralegal

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1 or an investigator on the staff to review the  
 2 disclosure reports that are filed with the  
 3 Commission, to determine a contributor history.  
 4 This information can be obtained on our website.  
 5 It's not exactly a secret.  
 6 Q Uh-huh. Okay. Sure.  
 7 And in this case, is it your  
 8 understanding that Mr. Roger Hearron was the  
 9 investigator that worked on the file with  
 10 Ms. Wassom?  
 11 A Mr. Hearron did work on the file with  
 12 Ms. Wassom, yes.  
 13 Q Okay. Are you aware of any other  
 14 investigators from the FEC who also contributed to  
 15 working on this file?  
 16 A No.  
 17 Q Are there a number of investigators at  
 18 the FEC?  
 19 A Yes.  
 20 Q Similar to Mr. Hearron?  
 21 A Uh-huh. I'm sorry. Yes, there are. I  
 22 believe we have four in the investigator section

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1 right now.  
 2 Q Okay. Okay. And also in the next  
 3 paragraph on page 2 of 3, if you would just take  
 4 look at that and read that to yourself, According  
 5 to news accounts.  
 6 A (Witness examined document). I've read  
 7 it.  
 8 Q Okay. In the general course of your  
 9 duties, would you ever verify or review the  
 10 information that's cited in a factual analysis  
 11 like this to -- to determine its source or it's --  
 12 it's -- actually, let's just start.  
 13 Would you ever review these sorts of  
 14 materials in your job as a supervisor?  
 15 MR. STREETER: Object to the term  
 16 "review" as vague. If the witness understands, he  
 17 can answer.  
 18 MR. DEZSI: Okay.  
 19 THE WITNESS: There are frequently  
 20 instances where attorneys will cite newspaper  
 21 articles in a first general counsel's report. If  
 22 the newspaper article was truly key, the sole

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1 source of a piece of information or -- or truly  
 2 key to our recommendation, I might very well  
 3 review the actual newspaper article.  
 4 BY MR. DEZSI:  
 5 Q Okay. Do you recall any recollection of  
 6 reviewing these particular newspaper articles?  
 7 MR. STREETER: Objection, that violates  
 8 2 U.S.C. 437g(a)(12). Instruct the witness not to  
 9 answer.  
 10 BY MR. DEZSI:  
 11 Q Okay. Mr. Shonkwiler, is it your  
 12 understanding that after these letters were sent  
 13 to the Plaintiffs Jack and Renee Beam, that the  
 14 FEC essentially halted its civil investigation of  
 15 this matter, pending resolution of the DOJ's  
 16 criminal proceedings?  
 17 MR. STREETER: That question violates  
 18 the law enforcement privilege. It also violates 2  
 19 U.S.C. 437g(a)(12). Instruct the witness not to  
 20 answer.  
 21 BY MR. DEZSI:  
 22 Q Mr. Shonkwiler, are you aware of -- are

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<p>1 you aware of whether the FEC individually, on --</p> <p>2 on behalf of itself, obtained any financial</p> <p>3 records after the date that this -- that these</p> <p>4 letters were sent to the Plaintiffs, Jack and</p> <p>5 Renee Beam; in other words, whether the FEC went</p> <p>6 out and gathered any financial records by use of</p> <p>7 its own resources, after the date of this letter?</p> <p>8 MR. STREETER: That question also</p> <p>9 violates the law enforcement privilege, and 2</p> <p>10 U.S.C. 437g(a)(12). But I will permit the witness</p> <p>11 to answer.</p> <p>12 THE WITNESS: I do not believe we did.</p> <p>13 BY MR. DEZSI:</p> <p>14 Q Okay. Were you aware that the</p> <p>15 Department of Justice had gathered a number of</p> <p>16 financial records for the individuals employed or</p> <p>17 associated with the Fieger law firm, including</p> <p>18 Plaintiffs Jack and Renee Beam?</p> <p>19 MR. STREETER: Let me object to that</p> <p>20 question because it's compound. And I think it</p> <p>21 needs to be separated out. You're lumping the</p> <p>22 Beams with 70 other people.</p>	<p>1 BY MR. DEZSI:</p> <p>2 Q Okay. In your experience with the</p> <p>3 Federal Election Commission, in a case involving</p> <p>4 an allegation of a 441f violation --</p> <p>5 A Uh-huh.</p> <p>6 Q -- is it the general practice of the</p> <p>7 Federal Election Commission to gather bank records</p> <p>8 to prove or to substantiate such claim?</p> <p>9 A It would depend upon the circumstances</p> <p>10 of the case.</p> <p>11 Q Okay. If you had a case involving</p> <p>12 alleged reimbursement of employees by an employer,</p> <p>13 is that the type of case -- if there's a number of</p> <p>14 employees, let's say a dozen -- is that the type</p> <p>15 of case where the FEC would seek to gather</p> <p>16 financial records to substantiate such violations</p> <p>17 or such claims?</p> <p>18 A Under certain circumstances, yes; under</p> <p>19 certain circumstances, no.</p> <p>20 Q Okay. Could you describe to me the</p> <p>21 circumstances that might warrant a --</p> <p>22 A If an alleged conduit responded to a</p>
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<p>1 MR. DEZSI: Okay. I'll -- I'll</p> <p>2 rephrase.</p> <p>3 BY MR. DEZSI:</p> <p>4 Q Mr. Shonkwiler, were you aware that the</p> <p>5 Department of Justice had gathered the financial</p> <p>6 records for members of the Fieger firm as part of</p> <p>7 its criminal investigation?</p> <p>8 A I'm aware that -- that you -- or I</p> <p>9 shouldn't say you -- that your clients have</p> <p>10 alleged that in a lawsuit, yes.</p> <p>11 Q Okay. But do you have -- do you have</p> <p>12 any specific knowledge or direct knowledge that</p> <p>13 the Department of Justice had, in fact, gathered</p> <p>14 financial records?</p> <p>15 MR. STREETER: You can answer that.</p> <p>16 THE WITNESS: I know generally that DOJ</p> <p>17 would seek to gather financial records of people</p> <p>18 who it viewed as conduits in a conduit</p> <p>19 contribution scheme. I do not have a firm -- I do</p> <p>20 not have a specific recollection of being told</p> <p>21 they had any specific records for any particular</p> <p>22 person, but I know that's their general practice.</p>	<p>1 complaint saying yes, I was reimbursed, and</p> <p>2 admitted that they were reimbursed, there might</p> <p>3 not be a need to gather records about it. If on</p> <p>4 the other hand there was an allegation that</p> <p>5 someone was reimbursed and they said no, I was</p> <p>6 never reimbursed, we might seek financial records</p> <p>7 to see if there were deposits made into a bank</p> <p>8 account in some proximity to the contribution.</p> <p>9 Q And you would generally do that by use</p> <p>10 of -- of the FEC's subpoena power; is that</p> <p>11 correct?</p> <p>12 A We might. Or we might just ask for it</p> <p>13 informally and receive it informally.</p> <p>14 Q Ask -- I'm sorry, ask for it informally</p> <p>15 from the financial institute?</p> <p>16 A No. From the -- from the conduit, from</p> <p>17 the person who -- who had made the -- who had --</p> <p>18 who was denying that they had been reimbursed.</p> <p>19 Q I see.</p> <p>20 So in that instance, the FEC might just</p> <p>21 send a request, just a letter request to the</p> <p>22 individual, to respondent, and ask the respondent</p>

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1 to provide their bank records?  
 2 A That is correct.  
 3 Q I see.  
 4 Have there been instances in these types  
 5 of cases that we're talking about where the FEC  
 6 has resorted to use of its administrative subpoena  
 7 power to gather such bank --  
 8 A There have been cases of this type where  
 9 we have used third-party subpoenas, yes.  
 10 Q Okay. Thank you.  
 11 Mr. Shonkwiler, I'm going to ask you if  
 12 you know a number of individuals. We'll go  
 13 through them individually.  
 14 Have you heard the name or are you  
 15 familiar with an individual by the name of Kendall  
 16 Day?  
 17 A Yes.  
 18 Q Okay. And what is your understanding of  
 19 his job description or job title?  
 20 A I believe he is an attorney with the  
 21 public integrity section of the criminal division  
 22 of the Department of Justice.

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1 Q Okay. And did you have occasion to  
 2 speak or communicate with him in any way during  
 3 this particular matter involving the Plaintiffs,  
 4 Jack and Renee Beam?  
 5 A I have talked to him in connection with  
 6 this particular matter. I do not recall ever  
 7 talking to him specifically about Jack or Renee  
 8 Beam.  
 9 Q Okay. And could you tell me about how  
 10 many times you've spoken to him on the phone --  
 11 we'll go through individually -- but about how  
 12 many times have you had phone conversations with  
 13 him?  
 14 A I'm not sure I've ever had a phone  
 15 conversation with Kendall Day.  
 16 Q Okay. How about face to face meetings  
 17 with him?  
 18 A I think I have met Mr. Day twice in  
 19 face-to-face meetings.  
 20 Q Okay. And could you give me an  
 21 approximate date of those meetings?  
 22 A I think the first one occurred in August

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1 of 2006. I came back from vacation. And I was  
 2 told by Audra Wassom that I was meeting -- I did  
 3 not take my BlackBerry with me on vacation. And I  
 4 was -- I was told that I would be meeting with  
 5 some people from the Department of Justice I think  
 6 the following day.  
 7 Q And --  
 8 A Or maybe -- maybe it was like two days.  
 9 But, you know, in other words, I came back on a  
 10 Monday; and I was told we have a meeting scheduled  
 11 with DOJ. And it was like a day in advance or  
 12 something.  
 13 Q Okay. And can you tell me who was  
 14 present at that meeting?  
 15 A Audra Wassom Larry Calvert and I went  
 16 over to the DJB offices in the Bond Building on  
 17 New York Avenue. Larry Calvert at the time was  
 18 the deputy associate general counsel for  
 19 enforcement. He was my direct boss.  
 20 Q And so you've indicated that Ms. Wassom,  
 21 Mr. Calvert, and yourself were present from the  
 22 Federal Election Commission.

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1 And who was present from the DOJ?  
 2 A I believe Mr. Day was there. I believe  
 3 Mr. Craig Donsanto was there. Mr. Donsanto is a  
 4 long-time DOJ attorney. He has a title something  
 5 along the lines of director election crimes  
 6 branch, or something like that. I believe they're  
 7 supervisor, Mr. Hulser [phonetic], was there.  
 8 Q Could you spell that name, if you know?  
 9 A I'm not really -- I think it may --  
 10 might be H-U-L-S-E-R, but I -- I could be wrong  
 11 about that.  
 12 Q Okay. And do you know his first name,  
 13 Mr. Hulser?  
 14 A I think it's Ray.  
 15 Q And when you say it's your understanding  
 16 that Mr. Hulser is whose supervisor?  
 17 A Mr. Day's and Mr. Donsanto's supervisor.  
 18 I think he's the deputy over there.  
 19 Q Okay. That describes the -- your first  
 20 meeting that you had with Mr. Day.  
 21 You mentioned there was another meeting,  
 22 also?

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1 A To -- to be complete, I think there also  
 2 may have been someone from the U.S. Attorney's  
 3 Office in Detroit who was conferencing by phone at  
 4 that meeting.  
 5 Q Okay.  
 6 A I don't remember the name of the person.  
 7 Q Would that -- may that person have been  
 8 Mr. Lynn Helland?  
 9 A That name sounds familiar. It may have  
 10 been Mr. Helland.  
 11 Q Okay.  
 12 A But I -- I'm not certain. I just  
 13 remember that there was someone from Detroit on  
 14 the phone.  
 15 Q Okay. Have you heard the name Chris  
 16 Varner an Assistant United States Attorney from  
 17 Detroit?  
 18 A You know, I may have heard the name.  
 19 And in -- indeed, he -- he may or may not have  
 20 been on the call. I don't -- I -- I don't know.  
 21 Q Okay. And how about FBI Special Agent  
 22 Jeffrey Rees?

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1 A Once again, that's a name that I heard  
 2 at some point, but I -- I couldn't say if that  
 3 person was -- I -- I don't -- I don't recall  
 4 meeting that person.  
 5 Q Okay. So Mr. Shonkwiler, you've  
 6 indicated that you had two meetings with Mr. Day.  
 7 So we just went through the first meeting, which  
 8 was in August of 2006.  
 9 And could you give me the approximate  
 10 date of the second meeting?  
 11 A I want to say the second meeting  
 12 happened in the summer of 2008, subsequent to the  
 13 criminal trial. Mr. Day came over to our offices.  
 14 I'm going to guess it was July, but I'm not --  
 15 I'm -- I'm not certain. I -- I would -- I would  
 16 guess it was sometime in July.  
 17 Q Okay. And could you tell me who was  
 18 present at that second meeting?  
 19 A Audra Wassom was there. Roger Hearron  
 20 was there. Seems like there were some other  
 21 people who might have been there, but I'm not --  
 22 I'm not -- I think the people from the F --

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1 from -- from the FEC side who were working on this  
 2 matter were there. Mr. Streeter might have been  
 3 there, but I'm not 100 percent certain.  
 4 I think this meet -- I don't think I  
 5 don't know if this meeting happened before or  
 6 after Phil Olaya started at the FEC.  
 7 Q Uh-huh.  
 8 A But I think it might have been before he  
 9 started. Peter Blumberg might have been there,  
 10 but he might not have. I -- I don't -- I -- I  
 11 just remember that we had a fairly -- a fairly  
 12 large crowd. And Mr. Day came on his own.  
 13 Q Okay. So Mr. Day was the only one from  
 14 the Justice Department.  
 15 No assistant United States Attorney's --  
 16 A No.  
 17 Q -- nobody from the U.S. Attorney's --  
 18 A No.  
 19 Q Nobody from the U.S. Attorney's Office?  
 20 A No.  
 21 Q Thank you.  
 22 And do you recall, during that first

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1 meeting back in August of 2006, do you recall an  
 2 exchange of any documents or compact disks or  
 3 files?  
 4 MR. STREETER: I'm going to object to  
 5 that on law enforcement privilege grounds, and  
 6 instruct the witness not to answer.  
 7 BY MR. DEZSI:  
 8 Q Mr. Shonkwiler, during that -- during  
 9 the second meeting that you referred to in the  
 10 summer of 2008, do you recall if there was an  
 11 exchange of any files, documents, or compact  
 12 disks?  
 13 MR. STREETER: Same objection. Same  
 14 instruction.  
 15 MR. DEZSI: Okay. Let the record  
 16 reflect that counsel has instructed the witness  
 17 not to answer the question on the grounds of  
 18 privilege.  
 19 MR. STREETER: Law enforcement  
 20 privilege.  
 21 BY MR. DEZSI:  
 22 Q Okay. Mr. Shonkwiler, in your role as a

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<p>1 supervising attorney/team leader, did you have                  2 occasion to actually look through the physical                  3 file of this matter, the documents and the report                  4 and whatnot, the physical file that -- that's kept                  5 by the Federal Election Commission?                  6 A I'm not entirely certain what you're                  7 asking me.                  8 Q Okay. During your work as a supervising                  9 attorney on this matter, what -- what documents                  10 would you have reviewed in your -- during your --                  11 your duties?                  12 MR. STREETER: I'm going to object to                  13 that question on 2 U.S.C. 437g(a)(12) grounds                  14 because you're asking about specifics, the                  15 specifics of Mr. Shonkwiler's activity in this                  16 case.                  17 MR. DEZSI: Okay.                  18 MR. STREETER: And he can't respond.                  19 MR. DEZSI: I'll rephrase the question.                  20 BY MR. DEZSI:                  21 Q It's my understanding that Ms. Wassom                  22 maintained the file for this matter, which has</p>	<p>1 And when correspondence goes out, it                  2 goes through CELA. And they make -- they put a                  3 copy in the file. When correspondence comes in,                  4 CELA puts a copy in the official file before it                  5 goes to the staff attorney.                  6 Q I see.                  7 MR. STREETER: I've forgotten about that                  8 name change, by the way.                  9 BY MR. DEZSI:                  10 Q CELA is like a clearing house, if you                  11 would, almost like a mailroom clearing house. And                  12 if you write a report or if Audra writes a report                  13 and you send it out to -- would that include if                  14 you write a report or a recommendation, it ends up                  15 going to the commissioners?                  16 A Yes.                  17 Q Okay.                  18 A When we submit a report to the                  19 Commission, it goes from the enforcement division                  20 to CELA, and then up to the Commission, to the                  21 Commission's secretary's office. And the                  22 Commission's secretary's office would distribute</p>
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<p>1 been described to me as being about three-quarters                  2 of a file cabinet drawer.                  3 Is that your understanding, also?                  4 A Attorneys who work for me would maintain                  5 a file relating to their cases. Of course, there                  6 would also be an official file that's maintained                  7 in another part of the -- of the -- the office of                  8 general counsel.                  9 Q And are those just merely duplicative --                  10 A Yes.                  11 Q -- files?                  12 A Yes.                  13 Q And who would see to it that all of the                  14 documents or files or items contained in the staff                  15 attorney's file are also contained in the general                  16 counsel's file?                  17 A It would be our practice for                  18 correspondence going in and coming out to go                  19 through what's called -- it used to be called                  20 central enforcement docket. Now it's called the                  21 complaints examination -- it's called CELA,                  22 C-E-L-A.</p>	<p>1 it to the individual commissioners.                  2 Q Okay. And is -- is CELA department                  3 actually responsible for take -- getting the                  4 report once you give it to them or Audra Wassom                  5 gives it to them?                  6 Are they the ones responsible for taking                  7 it upstairs to give to the commissioners?                  8 A Well, they take it upstairs to the                  9 Commission's secretary's office, which then -- I                  10 knot it's -- it's -- it's bureaucratic inside                  11 baseball. But they -- they would take it up to                  12 the Commission's secretary's office, which would                  13 then distribute it to the commissioners.                  14 Q Oh, okay.                  15 And in the course of your supervisory                  16 responsibilities, would you generally be going                  17 into the file, Audra Wassom's, the staff                  18 attorney's file, to either pull documents or                  19 review documents or to look at certain exhibits?                  20 MR. STREETER: I object to that question                  21 to the extent that it asks about specific                  22 activity in this case. If it's more a generalized</p>

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1 question, the witness can answer.  
 2 THE WITNESS: I also have a file that  
 3 includes things that go in and out of the case.  
 4 So I would also be getting copies of various -- of  
 5 various documents going in and out.  
 6 BY MR. DEZSI:  
 7 Q Okay. Mr. Shonkwiler, I'm going to ask  
 8 you to take a look at a particular statute here,  
 9 which is Title 12 United States Code Section 3412.  
 10 And I'm referring specifically to paragraph A of  
 11 that section. If you could take a moment to  
 12 review that and read that to yourself.  
 13 A (Witness examined document). Yes,  
 14 I'm -- I'm familiar with this statute. Sometimes  
 15 it's referred to as the Right to Financial Privacy  
 16 Act. That may not be the official term. But  
 17 sometimes it's called the RFPA.  
 18 Q I think it still is.  
 19 A Okay.  
 20 Q Thank you.  
 21 Mr. Shonkwiler, you've indicated that  
 22 you are familiar with this.

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1 Have you had occasion to examine this  
 2 statute or to rely upon this statute or to look at  
 3 this statute in the course of your work with the  
 4 Federal Election Commission?  
 5 A Yes, I have.  
 6 Q Okay. Could you just tell me generally,  
 7 without disclosing any specifics, if you have  
 8 exchanged or obtained financial records from other  
 9 federal agencies in the past while you were  
 10 employed by the FEC?  
 11 MR. STREETER: Objection, compound  
 12 question. Could you just break it apart?  
 13 MR. DEZSI: Okay.  
 14 BY MR. DEZSI:  
 15 Q During your work with the Federal  
 16 Election Commission, have you ever exchanged  
 17 financial records with another federal agency?  
 18 A Yes.  
 19 Q Okay. And could you tell me the name of  
 20 the federal agency?  
 21 MR. STREETER: I object to that on  
 22 437g(a)(12) grounds, if that matter is still

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1 closed to the public. Object to it also as  
 2 violating the law enforcement privilege.  
 3 MR. DEZSI: I can rephrase -- I'll  
 4 rephrase the question.  
 5 MR. STREETER: Fair enough.  
 6 BY MR. DEZSI:  
 7 Q Could you just -- could you tell me what  
 8 federal agencies in the past you've exchanged  
 9 records with, without disclosing any specifics?  
 10 MR. STREETER: You can answer that.  
 11 THE WITNESS: I believe that we have  
 12 sent records to the Department of Justice, both  
 13 the public integrity section and in specific the  
 14 U.S. Attorney's Office, when the commission made  
 15 a -- a referral to that agency.  
 16 BY MR. DEZSI:  
 17 Q Okay. And how about the other way  
 18 around? Have you received records from the  
 19 Department -- financial records from the  
 20 Department of Justice, in the past?  
 21 A I don't recall receiving financial  
 22 records from the Department of Justice. I -- I

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1 recall receiving referrals from some banking  
 2 agencies, where they made a referral to us, that  
 3 included some financial records.  
 4 Q Okay. If -- I'm a little confused.  
 5 Could you just describe, without  
 6 specifics, how that would work?  
 7 A financial institution sends you --  
 8 A I'm sorry. I think there has been an  
 9 instance where an agency such as the comptroller  
 10 of the currency or a state banking authority has  
 11 sent a referral to the FEC, basically stating in  
 12 the course of our review of this institution we  
 13 found what appears to have been an illegal  
 14 contribution --  
 15 Q Oh.  
 16 A -- and there may have been a record  
 17 of -- some sort of financial record attached to  
 18 that referral.  
 19 Q Okay. I see. Thank you.  
 20 In that section A of that statute, it  
 21 refers to a process of certification?  
 22 A Yes.

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1 Q Are you familiar with that --

2 A Yes, I am.

3 Q -- particular provision?

4 A Yes, I am.

5 Q Have you -- have you seen such a

6 certification in the past?

7 A Yes, I have.

8 Q Okay. Have you ever executed a

9 certification?

10 A No. I have prepared such a

11 certification to be executed by the head of the

12 enforcement division.

13 Q Okay. Can you describe for me what --

14 what that looks like, without giving me specifics

15 as to the one you prepared as to the names or

16 individuals?

17 But could you just describe for me, draw

18 me a picture or describe to me a picture of what

19 this certification looks like?

20 A It was a one-page -- may have been like

21 a one -- one paragraph certification by which the

22 head of the enforcement division certified that

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1 the files being transferred were relevant to a law

2 enforcement proceeding of the agency that we were

3 transferring them to.

4 Q Okay. And is that -- is that

5 certification, is that notarized, or is it just

6 signed, or --

7 A I recall it simply being signed. But

8 I -- I'm not -- I -- I couldn't be 100 percent

9 certain about that.

10 Q Okay. And as a supervising attorney

11 over an enforcement div -- an enforcement team,

12 whose responsibility would it be to ensure that

13 the members of your team know about the

14 certification process?

15 A I would probably be the person who would

16 bring it to their attention. It would only be

17 relevant -- I -- I don't think I've ever conducted

18 any sort of general training for my team on this

19 topic. But in cases where we have obtained

20 material that would be covered by this or we were

21 contemplating the transfer of such materials, I

22 would be the person who would advise the team

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1 member of the need to do it.

2 Q Okay. And have you ever had occasion to

3 inform or to explain to one of your team members

4 the need for the certification before a transfer

5 of records has occurred?

6 A Yes.

7 Q Okay. Is it ever -- has it ever

8 happened where one of your team members will come

9 to you and seek your approval for a certification

10 for the transfer of records?

11 A That has happened, yes.

12 Q Okay. Mr. Shonkwiler, do you recall

13 ever having seen a certification in this case

14 dealing with financial -- the financial records

15 for any of the Fieger firm employees?

16 MR. STREETER: Object to that question

17 on the grounds that it violates the law

18 enforcement privilege, and also that it violates 2

19 U.S.C. 437g(a)(12). But the witness will be

20 permitted to answer.

21 THE WITNESS: I do not recall us

22 preparing a certification in connection with the

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1 transfer of any records on this case.

2 BY MR. DEZSI:

3 Q Okay. I think we're finish with this.

4 If I can just take this back.

5 A (Handing document).

6 Q Okay. Thank you.

7 During the course of your work on this

8 file or your supervisory responsibilities in this

9 file --

10 A Uh-huh.

11 Q -- did you have occasion to read any FBI

12 302 reports that had been obtained from the

13 Department of Justice?

14 A Yes, I have.

15 Q Okay. How about IRS reports that are

16 prepared by IRS field agents?

17 A I do not recall seeing any IRS field

18 reports.

19 Q Okay. And you understand that the IRS

20 field reports are essentially the same as the FBI

21 302 reports, except they're prepared by IRS field

22 agents?

Mark D. Shonkwiler

March 11, 2009

Washington, DC

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<p>1 A Yes, I -- I actually have -- I have</p> <p>2 some -- at some point in my career, I have seen an</p> <p>3 IRS field report. But I do not recall seeing one</p> <p>4 in this case.</p> <p>5 Q Okay. How about have you had occasion</p> <p>6 to see or review any grand jury transcripts from</p> <p>7 this matter?</p> <p>8 A No.</p> <p>9 Q Okay. How about trial transcripts?</p> <p>10 A Yes, I have seen trial transcripts.</p> <p>11 Q And did you read the trial transcripts?</p> <p>12 A Portions.</p> <p>13 Q Portions?</p> <p>14 A I have read portions of the trial</p> <p>15 transcript.</p> <p>16 Q Okay.</p> <p>17 A I believe it's available to the public.</p> <p>18 Q I've had them long ago. Just kidding.</p> <p>19 Okay. Mr. Shonkwiler, were you aware</p> <p>20 that the FEC was intending to provide an expert</p> <p>21 witness to the Department of Justice for use in</p> <p>22 its criminal case?</p>	<p>1 MR. STREETER: Let me object to that</p> <p>2 question because of the inclusion of the purpose</p> <p>3 of the meeting; therefore, it violates the law</p> <p>4 enforcement privilege process. And I instruct the</p> <p>5 witness not to answer.</p> <p>6 BY MR. DEZSI:</p> <p>7 Q Okay. Were you -- were you aware of</p> <p>8 Mr. Andersen meeting with the Department of</p> <p>9 Justice in regards to this matter?</p> <p>10 A Yes, I believe he did.</p> <p>11 Q Were you aware that Ms. Lois Lerner</p> <p>12 eventually ended up serving as the expert witness</p> <p>13 to testify during the DOJ's criminal --</p> <p>14 A I was aware of that.</p> <p>15 Q Are you familiar with Ms. Lerner?</p> <p>16 A She was once my boss.</p> <p>17 Q Could you tell me what her his -- what</p> <p>18 her employment history was with the FEC?</p> <p>19 A She was the associate general counsel</p> <p>20 for enforcement for a number after years. And in</p> <p>21 2001, she served as the acting general counsel for</p> <p>22 a period of probably eight to nine months.</p>
Page 43	Page 45
<p>1 A I was aware of that.</p> <p>2 Q Okay. And to your understanding, who</p> <p>3 was the individual who was going to serve as the</p> <p>4 FEC's expert witness?</p> <p>5 A I believe Thomas Andersen was selected.</p> <p>6 Q Okay. And was by -- by whose -- by</p> <p>7 whose request?</p> <p>8 Was that by the request of the</p> <p>9 Department of Justice to provide an expert</p> <p>10 witness?</p> <p>11 MR. STREETER: Object to that one on law</p> <p>12 enforcement privileged grounds. Object to that on</p> <p>13 the grounds that -- no, just on law enforcement</p> <p>14 privilege. Instruct the witness not to answer.</p> <p>15 BY MR. DEZSI:</p> <p>16 Q Okay. Are you aware that Mr. Andersen</p> <p>17 did not end up serving as an expert witness?</p> <p>18 A I am aware of that, yes.</p> <p>19 Q Okay. Do you know if Mr. Andersen met</p> <p>20 with the Department of Justice or agents from the</p> <p>21 Department of Justice to prepare testimony as an</p> <p>22 expert witness?</p>	<p>1 Q And she left the FEC about when, if you</p> <p>2 remember?</p> <p>3 A I believe she left in the fall of 2001,</p> <p>4 maybe September.</p> <p>5 Q Okay. Are you a -- do you know if</p> <p>6 Ms. Lerner has testified on more than one occasion</p> <p>7 as an expert witness for the Department of</p> <p>8 Justice?</p> <p>9 A I know that she has testified numerous</p> <p>10 times as an expert witness for the Department of</p> <p>11 Justice.</p> <p>12 Q Okay. And do you know if Ms. Lerner met</p> <p>13 with the Department of Justice in regards to this</p> <p>14 matter that we're --</p> <p>15 A I do not.</p> <p>16 Q Okay. Mr. Shonkwiler, are you -- are</p> <p>17 you familiar -- are you aware that the Federal</p> <p>18 Election Commission had received certain files</p> <p>19 from the Department of Justice both before the</p> <p>20 criminal trial and after the criminal trial?</p> <p>21 MR. STREETER: Object to the question</p> <p>22 because it's compound. Also object to the</p>

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1 question because the term "file" is vague and  
 2 needs to provided more detail.  
 3 MR. DEZSI: Okay. I'll rephrase the  
 4 question.  
 5 BY MR. DEZSI:  
 6 Q Mr. Shonkwiler, are you aware of  
 7 documents or files or compact disks that have been  
 8 provided to the Federal Election Commission by the  
 9 Department of Justice at any time during this  
 10 proceeding?  
 11 A Yes.  
 12 Q Okay. And can you describe to me in  
 13 general what types of documents were provided?  
 14 A Subsequent to the trial, I believe a  
 15 compact disk was provided that had trial  
 16 transcripts and possibly exhibits on it.  
 17 Q Okay. Did you have occasion to look at  
 18 the contents of that compact disk?  
 19 A Not the entire disk; but yes, I did -- I  
 20 did review certain files on that compact disk.  
 21 Q Okay. Can you describe to me some of  
 22 the items that you saw on that disk?

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1 A I reviewed the trial testimony of  
 2 Mr. Fieger. I probably also reviewed the trial  
 3 testimony of one or two of the firm's employees  
 4 who testified about their interactions with  
 5 Mr. Fieger.  
 6 Q Hopefully some of the more interesting  
 7 ones.  
 8 Did you have occasion to look at any  
 9 financial records or summaries of financial  
 10 records?  
 11 A No, I did not.  
 12 Q Okay. Mr. Olaya testified this morning  
 13 that he reviewed certain financial records with  
 14 balance statements and credits and debits.  
 15 Did you have occasion also to see those  
 16 financial records?  
 17 A These are from trial exhibits?  
 18 Q That's unclear to me.  
 19 MR. STREETER: That was his testimony.  
 20 THE WITNESS: You know, I -- I may have  
 21 flipped through a bunch of exhibits. And I may  
 22 have seen -- I may have seen things marked as

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1 trial exhibits that may have been financial  
 2 records. I don't have any specific -- I don't  
 3 have a recollection of specific ones. It may have  
 4 just have been that I clicked on a few exhibits to  
 5 see what sorts of things were on the disk.  
 6 BY MR. DEZSI:  
 7 Q Okay. And so you don't have any  
 8 recollection of -- of who -- who the  
 9 individuals --  
 10 A No.  
 11 Q -- were to which those records  
 12 pertained?  
 13 A You know, actually, I think the records  
 14 that I particularly recall looking at were records  
 15 belonging to the law firm. I'm not sure that I  
 16 saw any of the individuals' records.  
 17 Q Okay.  
 18 A I did not make an exhaustive review of  
 19 all the exhibits. I -- I -- I think I spent most  
 20 of my time looking at the trial transcript, in  
 21 terms of looking at the testimony of certain  
 22 witnesses. If I recall correctly, the reason I

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1 didn't look at these things was there was no  
 2 dispute at trial that the people had been  
 3 reimbursed.  
 4 Q I see.  
 5 A So that would be -- it would be if there  
 6 was a dispute about the reimbursement that would  
 7 cause me to want to focus on financial records.  
 8 There was no -- once the trial testimony went in  
 9 that -- in which they all -- it was all -- it was  
 10 undisputed that the reimbursements occurred, that  
 11 part of it wasn't really something at which we --  
 12 we needed proof of --  
 13 Q Okay.  
 14 A -- to -- to address.  
 15 Q I understand.  
 16 Mr. Shonkwiler, since Audra Wassom has  
 17 left the Federal Election Commission, who has had  
 18 primary responsibility for this file?  
 19 A Phil Olaya is the primary attorney on  
 20 this file. At one point Peter Blumberg had sort  
 21 of a secondary role on the matter, but no longer,  
 22 because he's been promoted to be in -- also to be

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1 an assistant general counsel.  
 2 Q Okay. Would -- prior to his promotion  
 3 to that assistant general counsel position, was  
 4 Mr. Blumberg also a -- one of your team members?  
 5 A Yes.  
 6 Q Okay. So Mr. Olaya and Mr. Blumberg  
 7 were both on your team?  
 8 A That is correct.  
 9 Q Okay. So there was a period of time in  
 10 which their work on this file overlapped or was  
 11 sort of -- they -- they were concurrent, the two  
 12 of them?  
 13 A Yes.  
 14 Q Okay. But Mr. Blumberg is no longer  
 15 involved in this particular file?  
 16 A That is correct.  
 17 Q Okay.  
 18 MR. DEZSI: Okay. I don't have any  
 19 further questions for you.  
 20 MR. STREETER: I have only a few  
 21 questions for you, sir.  
 22 EXAMINATION BY COUNSEL FOR DEFENDANTS

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1 BY MR. STREETER:  
 2 Q You said earlier that with respect to  
 3 this case, MUR 5815, you and your staff prepared  
 4 no certifications under the RFPA?  
 5 A I think it's 5818, actually.  
 6 MR. STREETER: What did I say?  
 7 MR. DEZSI: I think you said 5815.  
 8 BY MR. STREETER:  
 9 Q 5818. You're correct.  
 10 But you said that you and your staff  
 11 prepared no certifications for the RFPA purposes?  
 12 A That is correct.  
 13 Q And why is that?  
 14 A I do not believe that we obtained any  
 15 information through subpoenas, or transferred any  
 16 information to any other agency.  
 17 Q Do you recall having ever seen any bank  
 18 statement belonging to Jack Beam?  
 19 A No, I do not.  
 20 Q Do you recall ever seeing a bank  
 21 statement, savings or checking, belonging to Renee  
 22 Beam?

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1 A I do not.  
 2 Q Do you recall seeing any document in  
 3 this case, in your involvement on this case,  
 4 containing a social security number for Jack or  
 5 Renee Beam?  
 6 A I do not.  
 7 Q Do you recall seeing any document  
 8 anywhere that contains a home address for Jack or  
 9 Renee Beam in this matter?  
 10 A I recall seeing Jack and Renee Beam's  
 11 response to the complaint. I don't recall what  
 12 address was on it. I don't know if it was a  
 13 business or a home address. It was a -- it was a  
 14 colorful response, which is why it sticks in my  
 15 mind. But I don't recall what the address was on  
 16 the top of the letterhead.  
 17 Q Have you seen any financial information  
 18 that contains a home address for Jack or Renee  
 19 Beam?  
 20 A That that -- no.  
 21 Q Have you seen any stock brokerage  
 22 accounts containing -- any stock brokerage account

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1 for either Jack or Renee Beam?  
 2 A No.  
 3 Q Have you seen any money market accounts  
 4 for either Jack or Renee Beam?  
 5 A No.  
 6 MR. STREETER: I have nothing further.  
 7 MR. DEZSI: Just one follow-up question.  
 8 EXAMINATION BY COUNSEL FOR PLAINTIFFS  
 9 BY MR. DEZSI:  
 10 Q You mentioned that had -- you may have  
 11 seen an address in Jack's or one of the -- their  
 12 responses to the complaint.  
 13 Are you referring to the reason to  
 14 believe letter, when you say complaint?  
 15 A I believe you're -- you are -- I  
 16 misspoke before. Yes, I -- I believe it must have  
 17 been a response to the reason to believe  
 18 notification.  
 19 Q Okay.  
 20 MR. DEZSI: Okay. I have nothing  
 21 further. And I'm not going to reserve the  
 22 witness.

Mark D. Shonkwiler

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1 MR. STREETER: Oh. In that case, we  
2 waive.

3 Oh, I have one more question.

4 EXAMINATION BY COUNSEL FOR DEFENDANTS

5 BY MR. STREETER:

6 Q The letter you referred to was -- was  
7 the letter that Mr. Jack Beam sent to the  
8 commissioner, sent to a long list of other public  
9 officials criticising the Fieger investigation; is  
10 that correct?

11 A Yes. And I -- I believe there were a  
12 number of ad hominem remarks about Chairman Toner,  
13 and possibly also then-President Bush. That's why  
14 I called it colorful.

15 MR. STREETER: Nothing further.

16 MR. DEZSI: Nothing further.

17 MR. STREETER: And we waive.

18

19 (Whereupon at 11:54 a.m., the  
20 deposition of MARK D.  
21 SHONKWILER was adjourned.)  
22 (Signature waived.)

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1 CERTIFICATE OF NOTARY PUBLIC  
2 I, BARBARA A. HUBER, CSR, the officer  
3 before whom the foregoing deposition was taken, do  
4 hereby certify that the witness whose testimony  
5 appears in the foregoing deposition was duly sworn  
6 by me; that the testimony of said witness was  
7 taken by me in stenotypy and thereafter reduced to  
8 print under my direction; that said deposition is  
9 a true record of the testimony given by said  
10 witness; that I am neither counsel for, related  
11 to, nor employed by any of the parties to the  
12 action in which this deposition was taken; and,  
13 furthermore, that I am not a relative or employee  
14 of any attorney or counsel employed by the parties  
15 hereto, nor financially or otherwise interested in  
16 the outcome of this action.

17

18

19

\_\_\_\_\_  
20 BARBARA A. HUBER, CSR  
21 Notary Public, in and for the  
22 District of Columbia

21 My Commission Expires:  
22 March 14, 2012

**EXHIBIT**

**7**

**Deposition of Peter Blumberg**

Peter G. Blumberg

Washington, DC

RECEIVED  
March 10, 2009  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Page 1

2009 MAR 31 A 10:39

1 THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

2 EASTERN DIVISION

3 - - - - -

JACK AND RENEE BEAM, :

4 :

Plaintiffs, :

5 :

v. : CA No. 07-cv-1227

6 :

MICHAEL B. MUKASEY, UNITED STATES:

7 ATTORNEY GENERAL, in his official:

Capacity; FEDERAL ELECTION :

8 COMMISSION CHAIRMAN DAVID M. :

MASON, in his official capacity; :

9 UNKNOWN AGENTS OF THE FEDERAL :

BUREAU OF INVESTIGATION, in their:

10 individual and official :

capacities, :

11 :

Defendants. :

12 - - - - -

13 Washington, D.C.

14 Wednesday, March 11, 2009

15 Deposition of

16 PETER G. BLUMBERG, called for examination  
17 by counsel for Plaintiffs, pursuant to notice, at  
18 the Offices of the Federal Election Commission, 999  
19 E Street, NW, Washington, D.C., commencing at 3:28  
20 p.m., before Barbara A. Huber, Notary Public in and  
21 for the District of Columbia, when were present on  
22 behalf of the respective parties:

Peter G. Blumberg

March 11, 2009

Washington, DC

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:                  2 On behalf of Plaintiffs:                  3 MICHAEL DEZSI, ESQUIRE                  Fieger, Fieger, Kenney, Johnson &amp; Giroux                  4 19390 West Ten Mile Road                  Southfield, Michigan 48075                  5 (248) 355-5555                  midezsi@fiegerlaw.com                  6                  On behalf of Defendants:                  7                  BENJAMIN A. STREETER, III, ESQUIRE                  8 Federal Election Commission                  999 E Street, NW                  9 Washington, D.C. 20463                  (202) 694-1650                  bstreeter@fec.gov                  10                  11 * * * * *                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS                  2 Whereupon,                  3 PETER G. BLUMBERG,                  4 was called as a witness by counsel for Plaintiffs,                  5 and having been duly sworn by the Notary Public,                  6 was examined and testified as follows:                  7 EXAMINATION BY COUNSEL FOR PLAINTIFFS                  8 BY MR. DEZSI:                  9 Q Good afternoon, Mr. Blumberg.                  10 A Good afternoon.                  11 Q Good afternoon. My name is Michael                  12 Dezsi. I represent the Plaintiffs in this matter,                  13 Jack and Renee Beam. And obviously today is the                  14 first time we've met. So I'll just go over a                  15 couple of basics for our deposition before we get                  16 started.                  17 Could you please state your full name                  18 for the record?                  19 A Peter Gunar Blumberg. I gave the court                  20 reporter my card, so --                  21 Q Okay.                  22 A -- she can get the spelling off of that.</p>
<p style="text-align: right;">Page 3</p> <p>1 CONTENTS                  2 EXAMINATION BY: PAGE                  3 Counsel for Plaintiffs 4                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22</p>	<p style="text-align: right;">Page 5</p> <p>1 MR. STREETER: Can you spell it for the                  2 record anyway?                  3 THE WITNESS: Peter is P-E-T-E-R. Gunar                  4 is G-U-N-A-R, Blumberg, B-L-U-M-B-E-R-G.                  5 BY MR. DEZSI:                  6 Q Okay. And Mr. Blumberg, is this the                  7 first time you've been deposed?                  8 A Yes, it is.                  9 Q Okay. Just some of the ground rules.                  10 I'm sure you're familiar with these. But if you                  11 would please try to verbalize all of your                  12 responses so the court reporter, Barbara, can                  13 record everything, your answers and my questions.                  14 And, also, she has admonished us a couple of times                  15 that only one of us can talk at a time. So we                  16 will try to be kind to her.                  17 And I have a tendency sometimes to get a                  18 little excited. So I will try to allow you to                  19 finish all of your answers, if you will allow me                  20 to finish my questions; and we can make a nice                  21 clean record.                  22 Mr. Blumberg, could you tell me your</p>

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1 title and position at the Federal Election  
 2 Commission?  
 3 A My title is assistant general counsel in  
 4 the enforcement division of the office of general  
 5 counsel at the FEC.  
 6 Q Okay. And your dates of employment here  
 7 at the agency?  
 8 A I started in September of 1992.  
 9 Q Okay. Uninterrupted through the  
 10 present?  
 11 A Uninterrupted through the present.  
 12 Q Okay. Can you just give me an idea of  
 13 your professional legal background, your  
 14 employment background, prior to joining the FEC?  
 15 A This is the first job that I had,  
 16 full-time job, coming straight out of law school.  
 17 Q Okay.  
 18 A So I had some internships. I don't know  
 19 if you --  
 20 Q No.  
 21 A -- need to hear about that.  
 22 Q No.

Page 7

1 And so you graduated from law school  
 2 in --  
 3 A 1992.  
 4 Q 1992.  
 5 Where did you go to law school?  
 6 A DePaul in Chicago.  
 7 Q Okay. And prior to your position as  
 8 assistant general counsel, could you just tell me  
 9 what your positions you've had here at the FEC?  
 10 A I was a staff attorney. I was also an  
 11 acting assistant general counsel, both in the  
 12 enforcement divisions and in a division called  
 13 public financing ethics and special projects,  
 14 which no longer exists. It's now the general law  
 15 and advice division. And I may have been an  
 16 acting special assistant general counsel at one  
 17 time, too, for a few months, in public financing  
 18 area.  
 19 Q Okay. Mr. Blumberg, can you tell me,  
 20 when is the first time you heard the names Jack  
 21 and Renee Beam?  
 22 A Maybe -- not -- you know, I -- I

Page 8

1 couldn't even necessarily say. Possibly even as  
 2 recently as a few months ago, in seeing e-mail  
 3 traffic of litigation documents that are routinely  
 4 circulated to managers.  
 5 Q Okay. And who would be your direct  
 6 supervisor, Mr. Blumberg?  
 7 A My direct supervisor is Ann Marie  
 8 Terzaken, who is the associate general counsel in  
 9 enforcement.  
 10 Q Okay. And do you supervise any  
 11 attorneys?  
 12 A Yes.  
 13 Q And can you describe for me either who  
 14 or what division or department?  
 15 A Yeah, I am the supervisor for team two  
 16 in the enforcement division, which is one of six  
 17 teams. And I supervise I guess four attorneys and  
 18 one paralegal.  
 19 Q Okay. So Mr. Andersen, who had just  
 20 testified, indicated that he was the team leader  
 21 for team one.  
 22 And is that -- is my understanding

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1 that --  
 2 MR. DEZSI: Was it Mr. Andersen?  
 3 MR. STREETER: Yeah.  
 4 BY MR. DEZSI:  
 5 Q Mr. Andersen, who testified --  
 6 MR. STREETER: It might have been  
 7 Shonkwiler, this morning.  
 8 BY MR. DEZSI:  
 9 Q Mr. Shonkwiler, is team one -- excuse  
 10 me -- yeah. Mr. Shonkwiler testified that he is a  
 11 team leader for team one.  
 12 So you are on the same level as him,  
 13 supervisor of team two?  
 14 A Correct.  
 15 Q Okay. I understand.  
 16 And it's my understanding also that you  
 17 had occasion to work with Mr. Olaya on -- on this  
 18 matter involving Jack and Renee Beam; or I guess  
 19 we should say more generally the -- the Fieger  
 20 matter that we're referring to, MUR 5818?  
 21 A That is correct.  
 22 Q Okay. And could you tell me what

Peter G. Blumberg

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1 your -- could you describe for me what your role  
 2 was versus Mr. Olaya's role?  
 3 A Well, I -- at -- the lead attorney on  
 4 the MUR 5818 was -- I believe was Audra Wassom.  
 5 And at one point Audra left team one to become  
 6 acting team leader. She got a -- received a  
 7 temporary promotion. And so that MUR needed to be  
 8 restaffed with new people.  
 9 And both Phil Olaya and myself were  
 10 added as attorneys to that project. I'm not sure  
 11 that we necessarily designated one person as the  
 12 lead attorney or not. My recollection is that  
 13 Phil was essentially going to be the lead on it.  
 14 But because he was relatively new and because I  
 15 had a lot of experience, that I would kind of be  
 16 a -- in a mentoring role on that case for him.  
 17 Q Okay. And if I could just have you take  
 18 a look at Plaintiff's Exhibits A and B. These are  
 19 two letters, each dated September 26th of 2006,  
 20 signed by former Chairman Michael Toner; one  
 21 letter to Jack Beam, and a second letter to Renee  
 22 Beam. And if you could take a moment to just

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1 review those letters.  
 2 A (Witness examined document). Well, I've  
 3 taken a look at them. If you're going to have  
 4 very detailed questions about the substance of  
 5 them, I might have to look at them again. But I  
 6 have a general --  
 7 Q I'll just ask --  
 8 A -- understanding of that they are.  
 9 Q I'll just ask you a couple of questions.  
 10 Have you seen those letters before?  
 11 A I don't think so.  
 12 Q How about a substantially similar letter  
 13 containing the same factual bases, under the same  
 14 MUR except to a different respondent?  
 15 A I probably have seen the letters that  
 16 went to Fieger himself. I'm not sure that I saw  
 17 any of the letters to the so-called, you know --  
 18 Q Okay.  
 19 A -- conduit respondents.  
 20 Q Okay. And can you tell me the  
 21 approximate date of when you may have looked at  
 22 that letter that you just referred to?

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1 A Yeah. I think I looked at them in the  
 2 late summer, early fall.  
 3 Q Of?  
 4 A Of this past year, of 2008.  
 5 Q Okay. And that's when you were  
 6 reassigned or re -- this MUR was restaffed with  
 7 you and Mr. Olaya?  
 8 A That's right.  
 9 Q Okay. And as part of you taking over a  
 10 portion of responsibility, did you have occasion  
 11 to review the entire file that was kept previously  
 12 by Ms. Wassom?  
 13 A I think I only read the key documents,  
 14 or what I perceived to be the key documents.  
 15 Q Okay. Mr. Blumberg, can you tell me, at  
 16 any time have you issued any administrative  
 17 subpoenas in this matter to gather any financial  
 18 records for the respondents?  
 19 A No, I don't believe I did.  
 20 Q Okay. Are you aware of anybody else  
 21 from the FEC who has issued administrative  
 22 subpoenas in this matter, for financial records?

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1 A No, I'm not.  
 2 Q Okay. Were you aware, when you began  
 3 working on this file, that the Justice Department  
 4 was proceeding with a parallel criminal  
 5 investigation?  
 6 A Can you repeat that question?  
 7 Q Sure.  
 8 When you began work on this file, on  
 9 this matter under review, were you aware that the  
 10 Justice Department was conducting a parallel  
 11 criminal investigation?  
 12 A Of whom?  
 13 Q Of the -- of some of the respondents  
 14 involved in -- in this -- in this matter?  
 15 MR. STREETER: I'm going to object to  
 16 that, because it assumes facts not in evidence;  
 17 namely, that an investigation was still underway  
 18 at that time by the DOJ.  
 19 THE WITNESS: I thought this was a --  
 20 the trial ended.  
 21 MR. DEZSI: Oh, excuse me. You're  
 22 right.

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1 BY MR. DEZSI:  
 2 Q Okay. Mr. Blumberg, were you -- you  
 3 were aware that the DOJ had concluded a criminal  
 4 investigation, a parallel criminal investigation  
 5 similar to this matter?  
 6 A Yeah, I'm not sure I would characterize  
 7 it as a parallel investigation, because I'm not  
 8 sure what that means. But the --  
 9 Q Sure.  
 10 A -- I knew that there had been a trial of  
 11 Geoffrey Fieger, and that it had concluded  
 12 sometime in the spring.  
 13 Q And when were you first made aware of  
 14 the Justice Department's criminal investigation of  
 15 Mr. Fieger?  
 16 A Again, I guess by whom. I think I may  
 17 have even just known about it from new reports. I  
 18 may have known about it -- yeah, I don't know. I  
 19 mean --  
 20 Q Okay.  
 21 A I think that I knew in general that  
 22 there had been -- that there was this MUR, 5818.

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1 And I -- I knew there was a parallel criminal  
 2 proceeding or there was a related criminal  
 3 proceeding.  
 4 Q Okay. Mr. Blumberg, when you took  
 5 response -- some -- a portion of responsibility  
 6 for this MUR, did it immediately occur to you that  
 7 this was related to the criminal prosecution by  
 8 the DOJ that you had previously heard about?  
 9 A Yeah, I think that that's fair to say.  
 10 Q Okay. Were you aware that the Justice  
 11 Department had gathered financial records for  
 12 Fieger firm employees as part of their criminal  
 13 investigation?  
 14 A I don't -- I don't think I knew that.  
 15 Q Were you later made aware of that during  
 16 your work on this file?  
 17 Did you later become aware that the  
 18 Justice Department had gathered financial records?  
 19 A No.  
 20 Q Okay. I'm going to ask you to take a  
 21 look, if you would, at this statute. And what I'm  
 22 showing you is Title 12 of the United States Code,

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1 Section 3412. And I'm referring specifically to  
 2 paragraph A. And if you could take a moment to  
 3 read that to yourself. I'm going to have a couple  
 4 questions for you.  
 5 A (Witness examined document). Okay.  
 6 Q Okay. Thank you.  
 7 Have you seen this, this provision of  
 8 this statute before?  
 9 A I'm not sure I have.  
 10 Q Okay. During your time -- your  
 11 employment with the Federal Election Commission,  
 12 have you had occasion to share financial records  
 13 with any other federal agencies?  
 14 A Not that I recall.  
 15 Q Okay. Have you had occasion, during  
 16 your employment with the FEC, to work with or --  
 17 to work with the Department of Justice on  
 18 criminal/civil matters?  
 19 A Yes.  
 20 Q Okay. And in any of those instances do  
 21 you recall the Justice Department sending to the  
 22 Federal Election Commission any financial records?

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1 A No.  
 2 Q Okay. And in any of those instances do  
 3 you recall the Federal Election Commission sending  
 4 any financial records to the Justice Department?  
 5 A I don't recall that, either.  
 6 Q Okay. The provision of that statute  
 7 which refers to certification, have you ever seen  
 8 such a certification before?  
 9 A No, I have not.  
 10 Q Okay. Okay. I'm going to ask you a  
 11 couple questions referring to Section 441f of  
 12 Title 2, sometimes referred to as conduit  
 13 contributions.  
 14 Have you had occasion, during your  
 15 employment with the Federal Election Commission,  
 16 to work on any 441f matters?  
 17 A Other than Fieger, or --  
 18 Q Yeah.  
 19 A -- including Fieger?  
 20 Q Other.  
 21 A Yes, I'm sure I have.  
 22 Q Okay. And during your work on those

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<p>1 other 441f matters, did you or anyone involved in</p> <p>2 those cases issue administrative subpoenas to</p> <p>3 obtain financial records for the respondents,</p> <p>4 without disclosing any specifics or --</p> <p>5 MR. STREETER: Subpoenas to individuals,</p> <p>6 or subpoenas to banks?</p> <p>7 BY MR. DEZSI:</p> <p>8 Q Subpoenas to banks for financial</p> <p>9 records?</p> <p>10 A I don't recall. I've issued subpoenas</p> <p>11 to banks. I'm not sure that it was in a 441f</p> <p>12 investigation or some other investigation.</p> <p>13 Q Okay. Were you aware, in regard to the</p> <p>14 Justice Department's criminal prosecution of</p> <p>15 Mr. Fieger, that that was a 441f criminal</p> <p>16 prosecution?</p> <p>17 A Was I aware?</p> <p>18 Q That it was -- that it was -- 441f was</p> <p>19 one of the charges of that criminal prosecution?</p> <p>20 A I probably was aware of that. Again, I</p> <p>21 can't trace to where it -- my aware of it.</p> <p>22 Q Okay.</p>	<p>1 this file, Mr. Blumberg, did you have occasion to</p> <p>2 communicate, either in writing or e-mail or</p> <p>3 telephone conference, with anybody from the</p> <p>4 Justice Department?</p> <p>5 A Yes. I participated in one meeting</p> <p>6 with -- I believe his name is Kendall Day from the</p> <p>7 Justice Department, and a handful of other FEC</p> <p>8 staff.</p> <p>9 Q Okay. Can you give me an approximate</p> <p>10 day of that meeting?</p> <p>11 A It was after the trial. It could have</p> <p>12 been May, June, or July of 2008.</p> <p>13 Q Okay. And could you also just give me a</p> <p>14 list of the individuals who were present at that</p> <p>15 meeting?</p> <p>16 A Huh. Okay. In addition to myself and</p> <p>17 Mr. Day, I recall that Mr. Mark Shonkwiler was</p> <p>18 there. Philip Olaya was there. I want to say</p> <p>19 that Ben Streeter was there, but I might be wrong</p> <p>20 about that. And I really -- I -- I would be</p> <p>21 speculating after that. Those are the key people.</p> <p>22 And maybe Audra Wassom was there, but I -- I</p>
Page 19	Page 21
<p>1 A And it really could have even been news</p> <p>2 reports or just general knowledge.</p> <p>3 Q If you could please flip to the legal</p> <p>4 and factual analysis contained within that Exhibit</p> <p>5 A.</p> <p>6 A (Witness examined document).</p> <p>7 Q And could I see the B for a second,</p> <p>8 please?</p> <p>9 A Which one?</p> <p>10 Q I'll just take B.</p> <p>11 A (Handing document).</p> <p>12 Q On page 2 of 3 on the factual legal and</p> <p>13 analysis, there -- there are two articles cited,</p> <p>14 newspaper articles cited.</p> <p>15 Did you ever review or read these</p> <p>16 particular articles?</p> <p>17 MR. STREETER: Objection, that violates</p> <p>18 437g(a)(12), because it asks a specific question</p> <p>19 about his activity on this MUR; and, therefore,</p> <p>20 the witness is instructed not to answer.</p> <p>21 BY MR. DEZSI:</p> <p>22 Q Okay. During your work on this -- on</p>	<p>1 don't -- I think Audra Wassom was there, actually.</p> <p>2 Q Okay. And that meeting took place</p> <p>3 where? In Washington?</p> <p>4 A Right. Yeah, in -- at the FEC here.</p> <p>5 Q At the FEC. Okay.</p> <p>6 And during that meeting, Mr. Blumberg,</p> <p>7 are you aware of whether any documents, files, or</p> <p>8 compact disks were exchanged between the Justice</p> <p>9 Department and the Federal Election Commission?</p> <p>10 A I do not recall anything being</p> <p>11 exchanged, no.</p> <p>12 Q Okay. And earlier today your colleague,</p> <p>13 Mr. Olaya, testified that he had occasion to</p> <p>14 review financial records from banks.</p> <p>15 Did you have occasion to review those</p> <p>16 same financial records?</p> <p>17 MR. STREETER: Yeah, I have to object to</p> <p>18 that one because it assumes facts not in evidence.</p> <p>19 And it also asks the witness to testify about</p> <p>20 something of which he has no direct knowledge,</p> <p>21 because he can't possibly know what the frame of</p> <p>22 reference is --</p>

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1 MR. DEZSI: Okay. I'll --  
 2 MR. STREETER: -- without documents that  
 3 he refer to.  
 4 MR. DEZSI: I'll rephrase. I'll  
 5 rephrase the question.  
 6 BY MR. DEZSI:  
 7 Q At any time in -- during your work on  
 8 this matter, did you have occasion to review any  
 9 financial statements generated from banks or  
 10 financial institutions?  
 11 A I don't believe that I ever did review  
 12 any financial records.  
 13 Q Okay. Are you aware of anyone else on  
 14 your team or colleagues have reviewed such  
 15 financial records?  
 16 A No, I'm hot.  
 17 Q Okay. So you weren't aware that  
 18 Mr. Olaya had reviewed certain financial records  
 19 that were obtained from the Justice Department?  
 20 A No. I mean, and I'm not -- even if he  
 21 did, I'm not sure that he would have gotten them  
 22 from the Justice Department, as you said.

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1 Q Okay. Are you --  
 2 A I don't know if he -- if he did, I  
 3 wouldn't know the source of it necessarily,  
 4 either, no.  
 5 Q Okay. Okay. At any time during your  
 6 work on this matter, did you review any materials  
 7 that were provided by the Justice Department to  
 8 the FEC?  
 9 A Not that I am aware of.  
 10 Q So could you maybe describe for me --  
 11 maybe we'll go at this in another way.  
 12 Could you describe for me from September  
 13 of '08, when you first became involved in this,  
 14 what sorts of activities you've performed -- in  
 15 general, without telling me something specific --  
 16 but what sorts of activities have you performed in  
 17 regard to this matter?  
 18 MR. STREETER: Objection, 437g(a)(12).  
 19 You're instructed not to answer that.  
 20 He can't describe that in specific or in  
 21 general, his work on this MUR.  
 22 BY MR. DEZSI:

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1 Q Mr. Blumberg, are you aware of any  
 2 compact disks that have been provided by the  
 3 Justice Department to the Federal Election  
 4 Commission after -- post trial, post criminal  
 5 trial of Mr. Fieger?  
 6 A No, I am not.  
 7 Q Okay. Did you have occasion, during  
 8 your work on this file, to review any FBI 302  
 9 reports?  
 10 MR. STREETER: You can answer that.  
 11 THE WITNESS: No, I don't recall ever  
 12 seeing any 302 reports.  
 13 BY MR. DEZSI:  
 14 Q Okay. Have you had occasion, during  
 15 your work on this file, to review the trial  
 16 transcripts from the DOJ's criminal prosecution of  
 17 Mr. Fieger?  
 18 A I know that such a review has taken  
 19 place. And I have read excerpts of transcripts.  
 20 I don't think that I've -- I was never tasked  
 21 to -- or I never read them from start to finish,  
 22 no.

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1 Q Okay. And when you read excerpts, in  
 2 what form did you read them?  
 3 Were they hard copies, or electronic?  
 4 MR. STREETER: And -- no, go ahead and  
 5 answer.  
 6 THE WITNESS: I think they were probably  
 7 hard copies flagged for me by --  
 8 BY MR. DEZSI:  
 9 Q Okay.  
 10 A -- my colleagues.  
 11 Q So you weren't -- were you given like a  
 12 volume of transcripts with certain ones flagged,  
 13 or was it just a few excerpts of pages that --  
 14 A Excerpts of pages.  
 15 Q And who provided those to you?  
 16 MR. STREETER: And that one you can't  
 17 answer, 437g(a)(12).  
 18 BY MR. DEZSI:  
 19 Q Mr. Blumberg, do you know the name Lynn  
 20 Helland? Lynn Helland, L-Y-N-N, Helland.  
 21 A No.  
 22 Q He's an Assistant United States Attorney

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1 from Detroit.  
 2 A No, I don't. I don't know him.  
 3 Q You've mentioned that you had occasion  
 4 to meet with Kendall Day.  
 5 Can you tell me your understanding of  
 6 his job title or his position?  
 7 A I -- my understanding of his position is  
 8 that he is a Assistant U.S. Attorney or DOJ  
 9 employee based here in Washington, but that he  
 10 was -- and that he might be at public integrity,  
 11 and that he was tasked with -- well, he was  
 12 assigned to the Fieger prosecution team, that he  
 13 was in fact one of the prosecutors. But he's  
 14 based out of Washington, D.C.  
 15 Q Okay. Have you ever heard the name  
 16 Chris Varner, Assistant United States Attorney  
 17 Chris Varner?  
 18 A I don't think so, no.  
 19 Q How about FBI Special Agent Jeff Rees,  
 20 Jeffrey Rees?  
 21 A No.  
 22 Q And how about have you had any occasion

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1 to work with Mr. Craig Donsanto?  
 2 A Not on Fieger, on num -- on other cases,  
 3 yes.  
 4 Q Okay. So you know Mr. Donsanto?  
 5 A Yeah.  
 6 Q But you didn't have occasion to work  
 7 with him on this matter at all?  
 8 A That's correct. Yeah.  
 9 Q Okay.  
 10 MR. DEZSI: Okay. Give me just a  
 11 second.  
 12 MR. STREETER: Uh-huh.  
 13 BY MR. DEZSI:  
 14 Q Mr. Blumberg, do you recall any e-mail  
 15 communications or letters that you may have  
 16 sent -- either sent or received with any Justice  
 17 Department employees?  
 18 MR. STREETER: Objection, asked and  
 19 answered.  
 20 But go ahead and answer it again.  
 21 THE WITNESS: I don't remember getting  
 22 any e-mails. If I did get one, it would have been

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1 from -- I may have been cc'd on something from  
 2 Kendall Day, but I don't really --  
 3 BY MR. DEZSI:  
 4 Q Okay.  
 5 A -- I don't remember.  
 6 Q Okay. And if I could just show you --  
 7 this is a copy of your notice of deposition for  
 8 your testimony today. And also attached to that  
 9 is an Exhibit A seeking -- seeking documents for  
 10 you to produce.  
 11 Have you seen that before?  
 12 A (Witness examined document). This looks  
 13 familiar, but I don't necessarily remember, you  
 14 know --  
 15 Q Okay.  
 16 A -- reviewing this.  
 17 Q In preparation for your testimony today,  
 18 did you search for documents responsive to the  
 19 subpoena?  
 20 A I remember conducting a document search,  
 21 but I don't remember if it was in response to a  
 22 subpoena, or if it was in response to a FOIA

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1 request.  
 2 Q Okay. And did you find any documents  
 3 when you did that search?  
 4 A I think that I was cc'd on a handful of  
 5 e-mails. But they were already in -- they were  
 6 known to the general law and advice group. I  
 7 mean, they were broadly distributed. I didn't  
 8 receive any e-mails that were just to me, or  
 9 anything like that.  
 10 Q Okay.  
 11 A In other words, they were --  
 12 MR. STREETER: Other people had --  
 13 THE WITNESS: Other people had -- other  
 14 people already -- I knew that Mark Shonkwiler, for  
 15 instance, had given the e-mails to the -- the  
 16 group.  
 17 BY MR. DEZSI:  
 18 Q Okay. I see.  
 19 MR. DEZSI: Mr. Blumberg, I don't have  
 20 any further questions for you.  
 21 MR. STREETER: I have no cross.  
 22 MR. DEZSI: I don't think I'm going to

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1 reserve his testimony. I think this will conclude  
 2 today.  
 3 MR. STREETER: And then we waive.  
 4 And you're all done.  
 5  
 6  
 7  
 8 (Whereupon at 3:56 p.m., the  
 9 deposition of PETER G.  
 10 BLUMBERG was adjourned.)  
 11  
 12 (Signature waived.)  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22

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1 CERTIFICATE OF NOTARY PUBLIC  
 2 I, BARBARA A. HUBER, CSR, the officer  
 3 before whom the foregoing deposition was taken, do  
 4 hereby certify that the witness whose testimony  
 5 appears in the foregoing deposition was duly sworn  
 6 by me; that the testimony of said witness was  
 7 taken by me in stenotypy and thereafter reduced to  
 8 print under my direction; that said deposition is  
 9 a true record of the testimony given by said  
 10 witness; that I am neither counsel for, related  
 11 to, nor employed by any of the parties to the  
 12 action in which this deposition was taken; and,  
 13 furthermore, that I am not a relative or employee  
 14 of any attorney or counsel employed by the parties  
 15 hereto, nor financially or otherwise interested in  
 16 the outcome of this action.  
 17  
 18  
 19 \_\_\_\_\_  
 20 BARBARA A. HUBER, CSR  
 21 Notary Public, in and for the  
 22 District of Columbia

My Commission Expires:  
 March 14, 2012

# **EXHIBIT**

## **8**

**Three 2004 Edwards For President Contribution Checks**

FO2/B



JACK BEAM  
P.O. BOX 818  
GLEN ARBOR, MI 49638

**CMA** Cash Management Account 375

DATE 1-20-03

25-80/440

PAY TO THE ORDER OF EDWARDS FOR PRESIDENT \$1,000.<sup>00</sup>

ONE THOUSAND AND 00/100 DOLLARS

AS  
Merrill Lynch

BANK ONE BANK ONE, COLUMBUS, OH  
Columbus, OH 43271

MEMO

⑆044000804⑆ 041141462490⑆ 0375

*Jack Beam*

F02/4



JACK BEAM  
P.O. BOX 818  
GLEN ARBOR, MI 48636

**CMA** Cash Management Account<sup>®</sup>

377

DATE 1-28-03

PAY TO THE ORDER OF EDWARDS FOR PRESIDENT \$ 1,000.<sup>00</sup> 25-80/448

ONE THOUSAND AND 00/100 DOLLARS

AS  
Merrill Lynch

BANK ONE BANK ONE COLUMBUS, OH

MEMO

*Jack Beam*

⑆044000804⑆ 041141462490⑆ 0379

FO 2/5



RENEE E BEAM  
P.O. BOX 018  
GIFEN ARBOR, MI 49636

**CMA** Cash Management Account 195

DATE 1-30-03

25-80:410

PAY TO THE ORDER OF EDWARDS FOR PRESIDENT

\$ 2,000.<sup>00</sup>

TWO THOUSAND AND 00/100

DOLLARS

Merrill Lynch

BANK ONE. BANK ONE COLLATERAL NA

*Renee E Beam*

MEMO

⑆044000804⑆ 041152099272⑆ 0195

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JACK BEAM and RENEE BEAM,

Plaintiffs,

v.

ALBERTO GONZALES, UNITED  
STATES ATTORNEY GENERAL,  
and ROBERT LENHARD, FEDERAL  
ELECTION COMMISSION  
CHAIRMAN,

Defendants.

Civil No. 07cv1227

Judge Pallmeyer  
Mag. Judge Cole

**NOTICE OF FILING**

To: Michael R. Deszi  
Fieger, Fieger, Kenney & Johnson, PC  
19390 West Ten Mile Road  
Southfield, MI 48075

PLEASE TAKE NOTICE that on July 10, 2009 the Defendant Federal Election Commission filed electronically with the Clerk of the United States District Court for the Northern District of Illinois its Motion for Summary Judgment, a Memorandum of Law in support thereof, and an accompanying Local Rule 56.1 Statement, copies of which are herewith served upon you.

DATED this 10th day of July, 2009.

Respectfully submitted,

/s/ Thomasenia P. Duncan

Thomasenia P. Duncan  
General Counsel

/s/ David Kolker  
David Kolker  
Associate General Counsel

/s/ Harry J. Summers  
Harry J. Summers  
Assistant General Counsel

/s/ Benjamin A. Streeter III  
Benjamin A. Streeter III  
Attorney

FOR THE DEFENDANT  
FEDERAL ELECTION COMMISSION AND ITS  
CHAIRMAN  
999 E Street, N.W.  
Washington, D.C. 20463  
(202) 694-1650

**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2009, I electronically filed the foregoing Notice of Filing, the FEC's Motion for Summary Judgment, a Memorandum of Law in support thereof and the Commission's Local Rule 56.1 Statement

. The Court's Commission/ECF system will send notification of such filing to the following e-mail addresses:

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United States Department of Justice

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Assistant United States Attorney

/s/ Benjamin A. Streeter III  
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