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Transcript of Administrative Hearing, Day 2

Date: March 5, 2020

Case: Pautrat -v- Foundation for Financial Education

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2 (5 to 8)

<p>5</p> <p>1 MR. CHONG: Did you think it was appropriate?</p> <p>2 MS. PAUTRAUT: No.</p> <p>3 MR. CHONG: Did you say something?</p> <p>4 MS. PAUTRAUT: No.</p> <p>5 MR. CHONG: Why would you -- why did you not say</p> <p>6 something?</p> <p>7 MS. PAUTRAUT: He's my boss. I'm not going to say</p> <p>8 anything.</p> <p>9 MR. CHONG: Did the person you were talking to hear</p> <p>10 this comment?</p> <p>11 MS. PAUTRAUT: I don't think she did because she</p> <p>12 didn't say anything to me.</p> <p>13 MR. CHONG: Okay. Well, is this the first time that</p> <p>14 Mr. Lee made a comment about a woman's appearance at work</p> <p>15 that you heard?</p> <p>16 MS. PAUTRAUT: No.</p> <p>17 MR. CHONG: Give me an example of another time that</p> <p>18 you heard him make a comment.</p> <p>19 MS. PAUTRAUT: So one time we were talking about</p> <p>20 something work-related and Ingrid passed by and so he</p> <p>21 basically stops mid-sentence and looked at her, like</p> <p>22 followed her with his eyes and was, like, damn, we have</p> <p>23 attractive women in this office.</p> <p>24 MR. ABRAMSON: I didn't get the last part of her</p> <p>25 sentence.</p>	<p>7</p> <p>1 this, how you and I are sitting.</p> <p>2 MR. CHONG: And to specify what three feet apart?</p> <p>3 MS. PAUTRAUT: Approximately.</p> <p>4 MR. CHONG: Okay.</p> <p>5 MS. PAUTRAUT: And so there was like a hair on my</p> <p>6 stomach and so he went to like grab the hair off of my</p> <p>7 stomach.</p> <p>8 MR. CHONG: Okay. Did he say anything as he did that?</p> <p>9 MS. PAUTRAUT: He didn't say anything he just went in</p> <p>10 for it and I just kind of like backed away and told him</p> <p>11 that, you know, I could have gotten it myself.</p> <p>12 MR. CHONG: Okay. How did you -- if he didn't say</p> <p>13 anything how did you come to understand that what he was</p> <p>14 doing was trying to get a hair off your stomach?</p> <p>15 MS. PAUTRAUT: You're right, he did say that there was</p> <p>16 a hair on my stomach and he was getting it.</p> <p>17 MR. CHONG: Okay.</p> <p>18 MS. PAUTRAUT: Sorry, it was five years ago.</p> <p>19 MR. CHONG: Sure. And you said you physically</p> <p>20 responded to him doing that? How did you respond to him</p> <p>21 doing that?</p> <p>22 MS. PAUTRAUT: I backed away because it's -- first of</p> <p>23 all no woman likes to be touched on her stomach in her</p> <p>24 midsection and also I just didn't appreciate it because I</p> <p>25 could have gotten it myself, had I known ahead of time.</p>
<p>6</p> <p>1 MS. PAUTRAUT: He said, damn, we have attractive women</p> <p>2 in this office.</p> <p>3 MR. ABRAMSON: Okay. Thank you.</p> <p>4 MR. CHONG: And did you say something to him then?</p> <p>5 MS. PAUTRAUT: No.</p> <p>6 MR. CHONG: Okay. So this was -- the comment about</p> <p>7 your legs was on April 15th, 2017, correct?</p> <p>8 MS. PAUTRAUT: April 17th.</p> <p>9 MR. CHONG: April 17th, correct 2015. Did something</p> <p>10 else happen that day?</p> <p>11 MS. PAUTRAUT: That's the day that we went to the</p> <p>12 Pentagon.</p> <p>13 MR. CHONG: Okay. And why did you go to the Pentagon?</p> <p>14 MS. PAUTRAUT: I went to the Pentagon with him because</p> <p>15 I had lost my voice so I couldn't make the phone calls that</p> <p>16 I was supposed to make. And so they pulled me off the</p> <p>17 phones to go with him to go with him to do the financial</p> <p>18 presentation. To watch him.</p> <p>19 MR. CHONG: Okay. And was this the first time you had</p> <p>20 gone on a financial presentation with Mr. Lee?</p> <p>21 MS. PAUTRAUT: The first time with Mr. Lee, yes.</p> <p>22 MR. CHONG: Okay. Did something happen after the</p> <p>23 presentation?</p> <p>24 MS. PAUTRAUT: We were waiting to be escorted outside</p> <p>25 of the Pentagon and we were kind of like standing, like,</p>	<p>8</p> <p>1 MR. CHONG: Did he actually make contact with your</p> <p>2 body?</p> <p>3 MS. PAUTRAUT: Slight contact.</p> <p>4 MR. CHONG: Okay. How did you leave the Pentagon that</p> <p>5 day?</p> <p>6 MS. PAUTRAUT: We left the Pentagon the same way we</p> <p>7 got there, in his car.</p> <p>8 MR. CHONG: Okay. And did something happen in the car</p> <p>9 on the way away from the Pentagon, leaving the Pentagon?</p> <p>10 MS. PAUTRAUT: So we had a conversation in the car</p> <p>11 about how apparently I don't have a poker face. He can read</p> <p>12 me. And we also talked about his kids because I mentioned</p> <p>13 them.</p> <p>14 MR. CHONG: Okay.</p> <p>15 MS. PAUTRAUT: Because it was nice weather outside.</p> <p>16 MR. CHONG: What did you mention about his kids?</p> <p>17 MS. PAUTRAUT: So it was nice outside and so what I</p> <p>18 had mentioned was the fact that was he going to take his</p> <p>19 kids out over the weekend because it was nice outside.</p> <p>20 MR. CHONG: How did he respond to your question?</p> <p>21 MS. PAUTRAUT: It was interesting because I didn't</p> <p>22 expect him to get offended. And -- and -- it seemed like he</p> <p>23 got offended or annoyed, like I was insinuating for some</p> <p>24 reason that he didn't take his kids out, he wasn't a good</p> <p>25 dad when all I was just pointing out was that it was nice</p>

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 outside and it was a good thing to do.</p> <p>2 MR. CHONG: Okay. When he told you you had no poker</p> <p>3 face, I think you testified, what was your reaction to that</p> <p>4 comment?</p> <p>5 MS. PAUTRAUT: I was just kind of surprised because I</p> <p>6 didn't have a poker face. I'm not sure how he's not, like,</p> <p>7 he can read me well, and I'm not having a poker face how he</p> <p>8 can't understand that I am, like, backing away from him or</p> <p>9 I'm not commenting when he's saying certain things or he's</p> <p>10 saying certain things to me or I'm not responding to his</p> <p>11 text messages. It just threw me off.</p> <p>12 MR. CHONG: Okay. Did you have a thought process in</p> <p>13 mind when you asked Mr. Lee about his children?</p> <p>14 MS. PAUTRAUT: Yes.</p> <p>15 MR. CHONG: What was that thought process?</p> <p>16 MS. PAUTRAUT: So my thought process was as long as I</p> <p>17 can keep the conversation on his family and safe zones then</p> <p>18 we wouldn't talk about me or we couldn't get into any type</p> <p>19 of real discussion.</p> <p>20 MR. CHONG: About you, you mean?</p> <p>21 MS. PAUTRAUT: Yeah about me.</p> <p>22 MR. CHONG: All right. In this car ride home did you</p> <p>23 make any -- were any decisions made as to returning to the</p> <p>24 office?</p> <p>25 MS. PAUTRAUT: Yes.</p>	<p style="text-align: right;">11</p> <p>1 and tried to touch your body?</p> <p>2 MS. PAUTRAUT: Right. And this time it's like because,</p> <p>3 you know, it's sleeveless and it's his hand, it's not skin</p> <p>4 to skin contact so now you're like physically touching my</p> <p>5 skin.</p> <p>6 MR. CHONG: Okay. And you said you responded to it</p> <p>7 how?</p> <p>8 MS. PAUTRAUT: By backing away.</p> <p>9 MR. CHONG: Okay. Did anything else happen after that?</p> <p>10 MS. PAUTRAUT: I mean he tried again but he couldn't</p> <p>11 touch me.</p> <p>12 MR. CHONG: So he reached for your arm again after you</p> <p>13 backed away?</p> <p>14 MS. PAUTRAUT: Because we were still at the register</p> <p>15 and he had paid for us.</p> <p>16 MR. CHONG: Okay. And how did you respond to the</p> <p>17 second effort to touch you?</p> <p>18 MS. PAUTRAUT: I didn't say anything. I just backed</p> <p>19 away. Nothing.</p> <p>20 MR. CHONG: Okay. Did you ever make a complaint to</p> <p>21 anyone at F3E or CFP about how Mr. Lee was making you feel?</p> <p>22 MS. PAUTRAUT: Yes.</p> <p>23 MR. CHONG: And to whom did you make that complaint?</p> <p>24 MS. PAUTRAUT: I made it to Elizabeth.</p> <p>25 MR. CHONG: Elizabeth de los Santos?</p>
<p style="text-align: right;">10</p> <p>1 MR. CHONG: And what decision was made?</p> <p>2 MS. PAUTRAUT: He had said for us to go get some ice</p> <p>3 cream.</p> <p>4 MR. CHONG: Okay. Did you want to get ice cream?</p> <p>5 MS. PAUTRAUT: Could at work, I didn't have a voice,</p> <p>6 so yeah I went.</p> <p>7 MR. CHONG: And so you -- the two of you went to an</p> <p>8 ice cream shop?</p> <p>9 MS. PAUTRAUT: We went to Baskin-Robbins on 3rd and</p> <p>10 55.</p> <p>11 MR. CHONG: Okay. Is that near the office?</p> <p>12 MS. PAUTRAUT: Yes.</p> <p>13 MR. CHONG: Okay. Did you just pick up ice cream to go</p> <p>14 or did you eat it there?</p> <p>15 MS. PAUTRAUT: We ate it there.</p> <p>16 MR. CHONG: Okay.</p> <p>17 MS. PAUTRAUT: What, if anything, happened at the ice</p> <p>18 cream shop?</p> <p>19 MS. PAUTRAUT: So what ended up happening was I had a</p> <p>20 sleeveless dress on and so I was leaning up against the</p> <p>21 counter like this. And so my elbows are double jointed and</p> <p>22 so he went to reach for it and was asking me like what had</p> <p>23 happened. And I pulled away from him.</p> <p>24 MR. CHONG: When you say he reached for it, you</p> <p>25 meant -- you mean he actually physically reached out again</p>	<p style="text-align: right;">12</p> <p>1 MS. PAUTRAUT: Elizabeth de los Santos.</p> <p>2 MR. CHONG: Okay. When did you do so?</p> <p>3 MS. PAUTRAUT: I did that a couple of times via phone</p> <p>4 but I believe it was maybe the 27th. It was April, like</p> <p>5 mid-April.</p> <p>6 MR. CHONG: April 27th is late April. So the 27th</p> <p>7 isn't mid-April. So it's -- someone --</p> <p>8 HEARING EXAMINER PRAGER: Please, keep your voice up.</p> <p>9 It's hard for me to hear. I'm not sure if Mr. Abramson can</p> <p>10 hear it at all.</p> <p>11 MR. CHONG: I apologize.</p> <p>12 MS. PAUTRAUT: I'm trying to remember. I think maybe</p> <p>13 it was -- so I had complained to her verbally prior to and</p> <p>14 then I had ended up sending her an email for sure, like, in</p> <p>15 writing what was going on and that email was sent on the</p> <p>16 6th.</p> <p>17 MR. CHONG: On the 6th?</p> <p>18 MS. PAUTRAUT: But I told her on -- on May 6th. But I</p> <p>19 told her I believe it was the 27th.</p> <p>20 MR. CHONG: Okay.</p> <p>21 MS. PAUTRAUT: Prior to. I told her a couple of times</p> <p>22 so I'm not 100 percent sure on the other dates.</p> <p>23 MR. CHONG: Okay. So just to make sure that that's</p> <p>24 clear, to my understanding is your testimony just now was</p> <p>25 that you made verbal complaints on or around April 27th and</p>

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4 (13 to 16)

<p>13</p> <p>1 that you sent an email on May 6th; is that right?</p> <p>2 MS. PAUTRAUT: Yes.</p> <p>3 MR. CHONG: Okay. Why did you complain to Ms. de los</p> <p>4 Santos?</p> <p>5 MS. PAUTRAUT: She was my regional director.</p> <p>6 MR. CHONG: Uh-huh.</p> <p>7 MS. PAUTRAUT: And we had a relationship and I didn't</p> <p>8 know who else to talk to.</p> <p>9 MR. CHONG: Did you understand anyone to have an HR</p> <p>10 role in F3E?</p> <p>11 MS. PAUTRAUT: Not when I was there, no.</p> <p>12 MR. CHONG: Okay. And how did Ms. de los Santos</p> <p>13 respond to your complaint?</p> <p>14 MS. PAUTRAUT: So essentially, she said that I needed</p> <p>15 to treat Jonathan like a mentor, like a father; that us</p> <p>16 attractive women can either be victims or be proactive in</p> <p>17 how we're treated. So she basically defended him and, like,</p> <p>18 didn't really seem like she listened to my complaint.</p> <p>19 MR. CHONG: Did she, at that time, indicate anything</p> <p>20 about an official company response to your complaint?</p> <p>21 MS. PAUTRAUT: She said that I should talk to Web.</p> <p>22 MR. CHONG: Okay.</p> <p>23 HEARING EXAMINER PRAGER: Sorry. Talk to whom?</p> <p>24 MS. PAUTRAUT: Web Sewell, Sewel, however he</p> <p>25 pronounces his last name, sorry.</p>	<p>15</p> <p>1 MR. CHONG: Okay.</p> <p>2 HEARING EXAMINER PRAGER: Mr. Chong?</p> <p>3 MR. CHONG: Yes.</p> <p>4 HEARING EXAMINER PRAGER: The record may not bear me</p> <p>5 out but I don't see that C 10 has been admitted yet.</p> <p>6 MR. CHONG: It has not yet. I'm about to move it.</p> <p>7 HEARING EXAMINER PRAGER: Oh, I'm sorry I thought you</p> <p>8 said it has been admitted.</p> <p>9 MR. CHONG: No, no, no, no; previously marked. Sorry.</p> <p>10 Is that the email that you are referring to that Ms. de los</p> <p>11 Santos sent to you after your verbal complaint of</p> <p>12 harassment in the workplace?</p> <p>13 MS. PAUTRAUT: Yes.</p> <p>14 MR. CHONG: Okay. Move the admission of C 10.</p> <p>15 HEARING EXAMINER PRAGER: Any objections?</p> <p>16 MR. SCHILLER: No objections.</p> <p>17 MR. ABRAMSON: No objection.</p> <p>18 HEARING EXAMINER PRAGER: Well, I have a question.</p> <p>19 C 10 has something in writing above it that says, "Note to</p> <p>20 file. Giselle asked Elizabeth to keep," can't read the next</p> <p>21 word.</p> <p>22 MR. SCHILLER: Concerns.</p> <p>23 HEARING EXAMINER PRAGER: "concerns private. Did not</p> <p>24 contact Web as requested." Whose handwriting is that, if</p> <p>25 you know, Ms. Pautrat?</p>
<p>14</p> <p>1 MR. CHONG: Did she give you suggestions on how to</p> <p>2 negotiate your interactions with Mr. Lee?</p> <p>3 MS. PAUTRAUT: All she told me was that I should treat</p> <p>4 him like a mentor. That I should complement him, his</p> <p>5 managerial style and just, you know, maybe that would cut</p> <p>6 anything off.</p> <p>7 MR. CHONG: All right. How did that make you feel?</p> <p>8 MS. PAUTRAUT: Upset, frustrated, annoyed because here</p> <p>9 I am telling you something that's going on and you're</p> <p>10 basically telling me to compliment this person. I don't see</p> <p>11 how the two would -- I don't see the relationship between</p> <p>12 the two. You're telling me as attractive women we need to</p> <p>13 do this, this, and this. So you weren't understanding at</p> <p>14 all to what I was telling you.</p> <p>15 MR. CHONG: Did she do anything else in response to</p> <p>16 your verbal report of harassment in the workplace?</p> <p>17 MS. PAUTRAUT: She did send a copy of the employee</p> <p>18 handbook, like the excerpt on sexual harassment.</p> <p>19 MR. CHONG: Do you remember when she sent that?</p> <p>20 MS. PAUTRAUT: It may have been the end of April. I'm</p> <p>21 not 100 percent sure, maybe the 27th, the same day.</p> <p>22 MR. CHONG: Okay. I'm going to direct your attention</p> <p>23 to an exhibit that's been previously marked as C 10. Is</p> <p>24 this the email that you're referring to?</p> <p>25 MS. PAUTRAUT: Uh-huh, yes.</p>	<p>16</p> <p>1 MR. CHONG: Do you know?</p> <p>2 MS. PAUTRAUT: I don't know whose handwriting that is.</p> <p>3 HEARING EXAMINER PRAGER: But it's not your</p> <p>4 handwriting; is that what you would say?</p> <p>5 MS. PAUTRAUT: Correct, it's not my handwriting.</p> <p>6 HEARING EXAMINER PRAGER: All right.</p> <p>7 (Exhibit C 10 was admitted into evidence.)</p> <p>8 MR. CHONG: In the absence of anything more I am happy</p> <p>9 to have the document admitted without the note attached,</p> <p>10 without the handwritten note.</p> <p>11 MR. SCHILLER: No. He admitted it.</p> <p>12 HEARING EXAMINER PRAGER: Right. Yeah, I'm not sure at</p> <p>13 this point we don't know who wrote it. We'll keep it as is</p> <p>14 for whatever value it has. All right. I haven't read this</p> <p>15 so we'll stop for a moment while I read it. All right. I</p> <p>16 have a question, Ms. Pautrat, if you know.</p> <p>17 MS. PAUTRAUT: Yes, sir.</p> <p>18 HEARING EXAMINER PRAGER: The first sentence after the</p> <p>19 greeting of hey, Giselle it says, "so I checked BC." What</p> <p>20 is BC?</p> <p>21 MS. PAUTRAUT: Big Contacts that was a database system</p> <p>22 that we used to track the calls and appointments that we</p> <p>23 scheduled from the workshops.</p> <p>24 HEARING EXAMINER PRAGER: Okay, Mr. Chong, you may</p> <p>25 continue.</p>

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5 (17 to 20)

<p>17</p> <p>1 MR. CHONG: Thank you. Ms. Pautrat, this email 2 references -- this email references an employee manual in 3 the second full paragraph after, hey Giselle; do you see 4 that? The paragraph that starts with, "On a separate note." 5 MS. PAUTRAUT: Yes. 6 MR. CHONG: Do you remember what the attachment looked 7 like? 8 MS. PAUTRAUT: Yes. 9 MR. CHONG: Okay. I'm going to show you a document 10 that has been previously marked and admitted as Exhibit 11 C 6, and ask you is this a document that was attached to 12 this email that you received? 13 MS. PAUTRAUT: Yes. 14 MR. CHONG: All right. This is a -- 15 HEARING EXAMINER PRAGER: Excuse me. Let me catch up 16 with you. All right, you can continue. 17 MR. CHONG: Thank you. And this is -- for the record, 18 this is page that's Bates marked GP 13, 13? 19 MS. PAUTRAUT: Yes. 20 MR. CHONG: Which was part of Exhibit C 6. And Your 21 Honor, just to make sure I have it right, the C 10 was 22 admitted? 23 HEARING EXAMINER PRAGER: Yes. 24 MR. CHONG: Thank you. Actually -- does -- did Ms. de 25 los Santos in this email express any other concerns to you</p>	<p>19</p> <p>1 objection is overruled. 2 MR. CHONG: So Ms. de los Santos, in this email, 3 references the fact that you are talking about your 4 situation with other employees? Is that right? So do you 5 have an understanding of who Ms. de los Santos is referring 6 to as someone else to whom you are speaking about your 7 workplace concerns? 8 MS. PAUTRAUT: I know I talked to Simon because he was 9 my direct co-worker. We were doing the same job and in the 10 same office, and Ingrid. 11 MR. SCHILLER: I would object. Non-responsive. The 12 question was does she know who Elizabeth was talking about. 13 MS. PAUTRAUT: That's my assumption. That's my thought 14 process. 15 MR. SCHILLER: That's why I'm objecting. 16 HEARING EXAMINER PRAGER: Well, again, it's overruled. 17 She's -- it doesn't mean that de los Santos was talking 18 about these people, but these are the ones that she -- that 19 Ms. Pautrat had talked to so presumably there is some 20 overlap. 21 MR. CHONG: So you just mentioned Simon and Ingrid; is 22 that correct? 23 MS. PAUTRAUT: Yes. 24 MR. CHONG: Is there anybody else? 25 HEARING EXAMINER PRAGER: Excuse me again. Give me</p>
<p>18</p> <p>1 about your complaints of harassment? 2 MS. PAUTRAUT: Yes. 3 MR. CHONG: What were those complaints? I mean what 4 were those concerns? 5 MS. PAUTRAUT: She said that I needed to keep our 6 conversations private and be care of who I spoke to because 7 it could be considered defamation of character. And I was 8 only talking about what was happening with my employees 9 about my -- I mean like my environment and it was happening 10 to her too. 11 MR. CHONG: You mean it was happening to Ms. de los 12 Santos as well? 13 MS. PAUTRAUT: No, it was happening to another co- 14 worker. 15 MR. SCHILLER: Objection. 16 HEARING EXAMINER PRAGER: What's your objection? 17 MR. SCHILLER: Speculation. I mean do we have 18 witnesses to that effect and -- 19 HEARING EXAMINER PRAGER: I'm sorry. Let's read the 20 question and the answer. 21 (Previous question and answer played back.) 22 HEARING EXAMINER PRAGER: I'm not sure what the 23 objection is; she's testifying it was happening to another 24 co-worker, you find out, or Mr. Chong can find out who the 25 co-worker was and how Ms. Pautrat was aware of it. So the</p>	<p>20</p> <p>1 full names if you would. Ingrid who? 2 MS. PAUTRAUT: Ingrid Palencia. 3 HEARING EXAMINER PRAGER: Would you spell it as best 4 you can? 5 MS. PAUTRAUT: P-A-L-E-N-C-I-A. 6 HEARING EXAMINER PRAGER: And -- 7 MS. PAUTRAUT: Simon Clayton. 8 HEARING EXAMINER PRAGER: Simon Clayton, okay. You've 9 identified him before. 10 MS. PAUTRAUT: Yes, sir. 11 HEARING EXAMINER PRAGER: Okay. 12 MR. CHONG: Anybody else? 13 MS. PAUTRAUT: I mean aside from, you know, talking to 14 Elizabeth about it previously, nobody else at work. 15 MR. CHONG: Okay. And her email also suggests that you 16 should speak with Web Sewell; is that right? 17 MS. PAUTRAUT: After saying that if speaking with Jon 18 was uncomfortable that's the step that should be taken. 19 MR. CHONG: And did you ever sit down with Web Sewell 20 to discuss these concerns? 21 MS. PAUTRAUT: I did not. 22 MR. CHONG: Why not? 23 MS. PAUTRAUT: I was nervous. I was scared. I thought 24 that the part of my understanding from this was that 25 contact would be made and we would talk about the</p>

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6 (21 to 24)

<p>21</p> <p>1 situation. But contact was never made and we never talked 2 about what was happening. All the responsibility was just 3 laid, put on me. 4 MR. CHONG: And how long after this email was sent 5 from Ms. de los Santos did you remain at the job? 6 MS. PAUTRAUT: I was fired three business days 7 afterwards. 8 MR. ABRAMSON: Could you repeat that? 9 MS. PAUTRAUT: Three business days after. After the 10 6th, after my email. 11 MR. CHONG: Oh, okay. So not three business days after 12 May 4th. 13 MS. PAUTRAUT: Not after the 4th. After the 6th so May 14 11th I was fired. 15 MR. CHONG: Okay. So it's one calendar week after this 16 email? Did Ms. de los Santos assure you that you would be 17 protected from retaliation for having made a complaint of 18 sexual harassment? 19 MS. PAUTRAUT: No. 20 MR. CHONG: Did Web Sewell assure you that you would 21 be protected from retaliation for having made a complaint 22 of sexual harassment? 23 MS. PAUTRAUT: No. 24 MR. CHONG: What, if anything, happened in the office 25 after you sent this email? Oh, I'm sorry. I haven't gotten</p>	<p>23</p> <p>1 point? 2 MS. PAUTRAUT: No, not that I remember. 3 MR. CHONG: And this email was sent from your personal 4 Gmail account? 5 MS. PAUTRAUT: Yes. 6 MR. CHONG: Have you since May 6, 2015 have you 7 conducted a search of your personal Gmail account to see if 8 any responses came in from that email? 9 MS. PAUTRAUT: Yes, I've -- I -- I looked at it the 10 other day a couple of times. 11 MR. CHONG: And did you find any responses? 12 MS. PAUTRAUT: Not to this but I did find other 13 emails. 14 MR. CHONG: Okay. But nothing responding to this 15 email? 16 MS. PAUTRAUT: Not that I can recall right now, no. 17 MR. CHONG: What, if anything happened in the office 18 after you sent this email to Ms. de los Santos? 19 MS. PAUTRAUT: So I was informed that Jonathan was 20 having my -- 21 MR. SCHILLER: Objection. Objection. Can we have a by 22 who and then -- 23 MS. PAUTRAUT: Sure. 24 HEARING EXAMINER PRAGER: I'm sorry? 25 MR. SCHILLER: So she's about to testify to what</p>
<p>22</p> <p>1 to that yet. Did you follow up with this -- on this email 2 with Ms. de los Santos? 3 MS. PAUTRAUT: Yes. 4 MR. CHONG: And how did you follow up on that? 5 MS. PAUTRAUT: I wrote an email on May 6th and I 6 clearly stated that I was being sexually harassed. And I 7 explained everything in the email to her on the 6th. 8 MR. CHONG: I'm going to show you a copy of a document 9 marked Exhibit C 9, which has been previously admitted into 10 evidence, I believe. 11 HEARING EXAMINER PRAGER: Yes, my notes say it has 12 been. 13 MR. CHONG: Is that the document -- is that the email 14 that you sent to Ms. de los Santos? 15 MS. PAUTRAUT: Yes. 16 MR. CHONG: And it's dated May 6th, correct? 17 MS. PAUTRAUT: Correct. 18 MR. CHONG: Okay. What was your intention in sending 19 this email? 20 MS. PAUTRAUT: Writing it down and letting her know, 21 hey, this is what's going on. The email that you sent me is 22 pretty much -- you're blaming me. You're putting all of 23 this on me, nothing's being done about what he's saying or 24 what he's doing. 25 MR. CHONG: Did she respond to this email at any</p>	<p>24</p> <p>1 another said and the question is to who and I, again, would 2 note an objection as to hearsay unless it's -- I mean I 3 know you're letting all hearsay in so it doesn't -- there's 4 been -- she's about to testify to what someone else said. 5 HEARING EXAMINER PRAGER: Let me hear the question 6 again, please. 7 (Previous question played back.) 8 HEARING EXAMINER PRAGER: All right, you can stop. I 9 think it's overruled but I think, Mr. Chong, let's find out 10 if she was informed about something who informed her? 11 MR. CHONG: Okay. Thank you. As relevant to this 12 conversation, did you learn about what was happening with 13 respect to your employment in the office after you sent 14 this email to Ms. de los Santos? 15 MS. PAUTRAUT: Yes. 16 MR. CHONG: And from who did you pick up certain 17 information? 18 MS. PAUTRAUT: Simon Clayton and Ingrid Palencia let 19 me know that -- 20 MR. SCHILLER: Objection. 21 HEARING EXAMINER PRAGER: Yes? 22 MR. SCHILLER: Those are employees. 23 HEARING EXAMINER PRAGER: Right. 24 MR. SCHILLER: Not a party opponent. 25 HEARING EXAMINER PRAGER: Correct. I understand. I'll</p>

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7 (25 to 28)

<p style="text-align: right;">25</p> <p>1 take the testimony. But I understand your objection. Can 2 you continue your answer if you remember what the question 3 was? 4 MS. PAUTRAUT: I may be repetitive because I'm trying 5 to remember but Simon and Ingrid let me know that my 6 records were being pulled. Like how many phone calls I 7 made, how many times I left the office including bathroom 8 breaks so that I just needed to be careful or look for 9 another job. 10 MR. CHONG: Did Simon represent to you that he was 11 personally being asked to do these activities? 12 MR. SCHILLER: Objection again. I'm just going to have 13 a -- 14 HEARING EXAMINER PRAGER: Right. 15 MR. SCHILLER: -- continuing objection. 16 HEARING EXAMINER PRAGER: I understand. 17 MR. SCHILLER: Because if he's not here to testify why 18 have it, you know. 19 HEARING EXAMINER PRAGER: I understand, yes. 20 MR. CHONG: You can answer the question. 21 MS. PAUTRAUT: Yes. 22 MR. CHONG: And did Ingrid also indicate that she was 23 personally being asked to do this? 24 MS. PAUTRAUT: Yes. 25 MR. CHONG: Okay.</p>	<p style="text-align: right;">27</p> <p>1 shoe to drop because nothing was being said. It was just 2 the whole environment, everything changed. So I was 3 completely stressed out. I was worried about was I going to 4 get fired was something going to be said what else were 5 they going to try to get on me. It was so bad that I ended 6 up having to put like, a pillow on the floor and I kneeled 7 down on it to type because I had so much tension in my 8 back. And later on I went that day that I wasn't feeling 9 well to the chiropractor and he made me go home because I 10 literally could not sit any more. I was just so stressed 11 out and I was so tense. 12 MR. CHONG: And you attribute that stress to what? 13 MS. PAUTRAUT: I was scared. I was nervous. I was 14 scared that I was going to get fired and that I had to deal 15 with all this stuff, the uncertainty, the walking around on 16 eggshells. It was just building up. 17 MR. CHONG: And then what happened? 18 MS. PAUTRAUT: Nothing was ever said. I was called 19 into Nick's office. 20 MR. CHONG: And what day was that? 21 MS. PAUTRAUT: That was on the 11th. 22 MR. CHONG: On the 11th. On the 11th you were called 23 into Nick's office for what purpose? 24 MS. PAUTRAUT: There wasn't a purpose. I was just 25 called into his office and when I walked in Nick was at his</p>
<p style="text-align: right;">26</p> <p>1 MR. ABRAMSON: Mr. Chong, could you speak up because I 2 missed a word in your first question about Simon. That he 3 was being asked to do what? 4 MR. CHONG: To engage in these activities personally. 5 MR. ABRAMSON: Engage. Okay. 6 MR. CHONG: And how were you feeling -- 7 MR. ABRAMSON: Just, sorry. Again, part of the issue 8 is there are people outside. 9 HEARING EXAMINER PRAGER: I understand. 10 MR. ABRAMSON: Their voices come in and I'm the first 11 person to hear it and -- 12 HEARING EXAMINER PRAGER: Well, we can go off the 13 record for a moment if you want to move your seat closer to 14 here so that you can be closer to the testimony and the 15 questioning. 16 MR. ABRAMSON: I'll struggle to hear it. 17 HEARING EXAMINER PRAGER: All right. 18 MR. CHONG: All right, can we go back on the record. 19 HEARING EXAMINER PRAGER: Yes, we haven't gone off the 20 record. 21 MR. CHONG: Oh, okay. How were you feeling in the days 22 after your complaint to Ms. de los Santos? 23 MS. PAUTRAUT: Well, afterwards I mean it was always 24 anxious and then after I sent the email I was really 25 stressed out and really anxious like waiting for the other</p>	<p style="text-align: right;">28</p> <p>1 desk, Web was sitting here. I sat down and Elizabeth was on 2 speakerphone. 3 HEARING EXAMINER PRAGER: All right. Nick is who? 4 MS. PAUTRAUT: Nick Herman. 5 HEARING EXAMINER PRAGER: And Web is? 6 MS. PAUTRAUT: Web Sewell. 7 HEARING EXAMINER PRAGER: Okay. 8 MR. CHONG: And what did you learn at this meeting? 9 MS. PAUTRAUT: I got fired. 10 MR. CHONG: What reasons were given to you for this -- 11 for your termination? 12 MS. PAUTRAUT: I got fired because I mis-scheduled a 13 few appointments. 14 MR. CHONG: Is that the only reason you were given? 15 MS. PAUTRAUT: Yes. 16 MR. CHONG: Did you receive a written follow up 17 explaining the reasons for your termination? 18 MS. PAUTRAUT: No. Web told me that he send me one 19 within the week and I never got anything. 20 MR. CHONG: Now, this happened seven calendar days 21 after you sent -- after you -- seven calendar days after 22 Ms. de los Santos sent an email to you recounting your 23 verbal discussions and five calendar days after you sent an 24 email to Ms. de los Santos. In that time between those two 25 emails and your termination did -- to your knowledge did</p>

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8 (29 to 32)

<p style="text-align: right;">29</p> <p>1 anyone ever take any action on your sexual harassment 2 complaint? 3 MS. PAUTRAUT: No. 4 MR. CHONG: All right. So we've discussed in your 5 testimony many of the incidents that give rise to today's 6 complaint. So let's go back and revisit some of them and 7 just ask you how they made you feel. All right. So one of 8 the things we talked about was how you met with Mr. Lee for 9 lunch one-on-one shortly after starting. Do you remember 10 that testimony? 11 MS. PAUTRAUT: Yes. 12 MR. CHONG: Okay. When you went out to lunch with Mr. 13 Lee what was going through your head? 14 MS. PAUTRAUT: I was stressed out because I needed to 15 make sure that I had the finances for the insurance all 16 straightened out because I'm my sole provider and I provide 17 for my parents financially. So I needed to make sure that 18 that was okay. 19 MR. CHONG: At the time did you think that it was odd 20 that he asked you to lunch instead of just talking to you 21 at work about this? 22 MR. SCHILLER: Objection, leading. 23 HEARING EXAMINER PRAGER: Yes, let's rephrase the 24 question, Mr. Chong. 25 MR. CHONG: Did you think anything of the fact that</p>	<p style="text-align: right;">31</p> <p>1 MR. SCHILLER: Objection. This was asked and answered 2 when he was going through the timeline and her explanation 3 of harassment. 4 HEARING EXAMINER PRAGER: I think you're vaguely 5 correct. But since I can't remember exactly and the record 6 will show it one way or another I'll accept the testimony. 7 What was the -- will you repeat the question? 8 (Prior question played back.) 9 HEARING EXAMINER PRAGER: Okay. Did you hear the 10 question? 11 MS. PAUTRAUT: Yes, sir. No. 12 MR. CHONG: Okay. Let's move onto your testimony about 13 the time you were making breakfast in the kitchen; do you 14 remember that testimony? 15 MS. PAUTRAUT: Yes. 16 MR. CHONG: How did that encounter make you feel? 17 MS. PAUTRAUT: It made me feel uncomfortable, creeped 18 out. You know, as -- as a women you're always told to be 19 careful, look at your surroundings and to turn around and 20 not know how long he was just standing there was very 21 uncomfortable and unsettling. 22 MR. CHONG: And we also talked about you receiving a 23 number of text messages from Mr. Lee; do you remember 24 those? 25 MS. PAUTRAUT: Yes.</p>
<p style="text-align: right;">30</p> <p>1 you went to lunch instead of talking at the office? 2 MS. PAUTRAUT: I didn't think about it. My goal was 3 just to make sure that I had this information that I can do 4 what I needed to do. 5 MR. CHONG: Okay. We also talked earlier about him -- 6 about Mr. Lee asking you to attend a basketball game with 7 him; do you recall that testimony? 8 MS. PAUTRAUT: Yes. 9 MR. CHONG: All right. When he asked you to attend a 10 basketball game with him what was going through your head 11 then? 12 MS. PAUTRAUT: That it was inappropriate. I just 13 didn't understand why he was asking me to a basketball 14 game. 15 MR. CHONG: Did you -- do you enjoy basketball? 16 MS. PAUTRAUT: No. 17 MR. CHONG: Did you ever give him the impression that 18 you enjoy basketball? 19 MS. PAUTRAUT: No, not that I know of. 20 MR. CHONG: Okay. And did you sense any professional 21 reason that it would be okay for you to attend a basketball 22 game with Mr. Lee? 23 MS. PAUTRAUT: No. 24 MR. SCHILLER: Objection. 25 HEARING EXAMINER PRAGER: Okay.</p>	<p style="text-align: right;">32</p> <p>1 MR. CHONG: And we talked about how some of those came 2 when he was on vacation; do you remember that? 3 MS. PAUTRAUT: Yes. 4 MR. CHONG: How long into your job was it before Mr. 5 Lee went on vacation and began sending you text messages? 6 MS. PAUTRAUT: Maybe like a couple of weeks. 7 MR. CHONG: Okay. Did you have a personal relationship 8 with Mr. Lee at the time? 9 MR. SCHILLER: Objection. All of this was covered. 10 We're repeating all of the testimony we had yesterday. 11 HEARING EXAMINER PRAGER: I understand your objection 12 but I can't, at the moment, recall exactly what her 13 response was or exactly what the question was. It seems 14 familiar. Mr. Chong, I think that there is some legitimacy 15 to the objection. I will permit her to answer this question 16 but future questions, try not to repeat what you've already 17 asked yesterday. 18 MR. CHONG: Thank you. Why don't you answer this 19 question. 20 MS. PAUTRAUT: The question was? 21 MR. CHONG: Did you have a personal relationship with 22 Mr. Lee at the time? 23 MS. PAUTRAUT: No, I never had a personal relationship 24 with him. 25 MR. CHONG: Okay. So when you were receiving these</p>

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9 (33 to 36)

<p>33</p> <p>1 texts from Mr. Lee what was going through your mind?</p> <p>2 MS. PAUTRAUT: A lot. I was stressed out because I</p> <p>3 knew that the text messages were inappropriate and if he's</p> <p>4 with his girlfriend any woman would not appreciate their</p> <p>5 significant other texting another woman. And so if she had</p> <p>6 a problem with it I could have issues at work, probably</p> <p>7 lose my job. Also, I'm really sensitive to, like,</p> <p>8 infidelity because my ex-husband cheated on me so I make</p> <p>9 sure that I'm far away from that. I didn't want to get</p> <p>10 wrapped up into anything, pulled into anything at all,</p> <p>11 possibly.</p> <p>12 MR. CHONG: Well, you also testified earlier about Mr.</p> <p>13 Lee's tendency to ask you to go traveling with him; do you</p> <p>14 remember that testimony?</p> <p>15 MS. PAUTRAUT: Yes.</p> <p>16 MR. CHONG: When he made these requests of you, or</p> <p>17 suggestions of you, how did that make you feel?</p> <p>18 MS. PAUTRAUT: It made me feel uncomfortable because</p> <p>19 there wasn't a reason for me, in my position, to go</p> <p>20 traveling anywhere since I was just making calls. And it</p> <p>21 made me feel like -- it just made me wonder what's -- like,</p> <p>22 why? Why would you ask me? When there are other people in</p> <p>23 the office that have been there longer.</p> <p>24 MR. CHONG: Were you concerned about how other people</p> <p>25 in the office would perceive these requests?</p>	<p>35</p> <p>1 MR. CHONG: How did that make you feel as you were</p> <p>2 observing that?</p> <p>3 MS. PAUTRAUT: Just that pretty much we were there to</p> <p>4 just a good show, a good look at.</p> <p>5 MR. CHONG: And by we, who are you referring to?</p> <p>6 MS. PAUTRAUT: The women in the office.</p> <p>7 MR. CHONG: When he reached for your torso area,</p> <p>8 ostensibly to remove some hair, what was going through your</p> <p>9 mind?</p> <p>10 MS. PAUTRAUT: I was really uncomfortable. I didn't</p> <p>11 like it at all because we had -- he had gone from basically</p> <p>12 like saying stuff and texting to now, like, you're in my</p> <p>13 space. You're in my bubble. And I didn't ask you into my</p> <p>14 space but yet you felt like you could.</p> <p>15 MR. CHONG: And again, we talked about him touching</p> <p>16 you at the ice cream store. How did that make you feel?</p> <p>17 MS. PAUTRAUT: Completely uncomfortable because it was</p> <p>18 skin to skin contact. You know, like he shouldn't have --</p> <p>19 he shouldn't have touched me. Even just to go like this,</p> <p>20 like, it's me, it's not like I asked you to, didn't want</p> <p>21 it, backed away, completely felt uncomfortable.</p> <p>22 MR. CHONG: All right. Have these experiences with Mr.</p> <p>23 Lee affected you at any other jobs?</p> <p>24 MR. SCHILLER: Objection.</p> <p>25 MS. PAUTRAUT: Yes.</p>
<p>34</p> <p>1 MS. PAUTRAUT: Yes.</p> <p>2 MR. CHONG: How so?</p> <p>3 MS. PAUTRAUT: Supposedly I was already attractive and</p> <p>4 they weren't going to like me so I didn't need any</p> <p>5 favoritism.</p> <p>6 MR. CHONG: And when you say supposedly I was</p> <p>7 attractive what are you referring to?</p> <p>8 MS. PAUTRAUT: The comment that was made to me during</p> <p>9 my interview.</p> <p>10 MR. CHONG: From your testimony from this morning we</p> <p>11 talked about how you heard Mr. Lee commenting on your legs;</p> <p>12 how did that comment make you feel?</p> <p>13 MS. PAUTRAUT: It just made me feel like I was just</p> <p>14 being like objectified. Like you can say what you want.</p> <p>15 MR. CHONG: And did his comment about your physical</p> <p>16 appearance have any impact on your thoughts about going</p> <p>17 traveling with him?</p> <p>18 MS. PAUTRAUT: Yes.</p> <p>19 MR. CHONG: And what was that impact?</p> <p>20 MS. PAUTRAUT: Don't be alone with him. Don't put</p> <p>21 yourself in a situation where you could possibly be alone.</p> <p>22 MR. CHONG: And we talked about how he looked at</p> <p>23 Ingrid's body as she walked down the hall; do you remember</p> <p>24 that?</p> <p>25 MS. PAUTRAUT: Yes.</p>	<p>36</p> <p>1 MR. SCHILLER: Is there going to be some medical</p> <p>2 testimony here or some -- I mean affected you at other job?</p> <p>3 We're talking about the statute is limited to a civil</p> <p>4 remedy and up to a certain amount for the extent of the</p> <p>5 conduct at this workplace. There's no claim for lost -- no</p> <p>6 lost wage claim here. There is no other claim in the</p> <p>7 submission by counsel, there's no claim for personal</p> <p>8 injury. It's limited to the sanctions that are available</p> <p>9 under the Montgomery County Code. And the Montgomery County</p> <p>10 Code is clear on what this -- the Board can do. A civil</p> <p>11 penalty up to \$5,000 and possible attorney's fees and then</p> <p>12 you have to consider the nature and extent of the</p> <p>13 discriminatory act.</p> <p>14 HEARING EXAMINER PRAGER: I understand but the</p> <p>15 question is whether or not -- how it affected her in her</p> <p>16 other employment and that would go to the question of</p> <p>17 whether or not she suffered as a result. And so I think</p> <p>18 we'll overrule your objection.</p> <p>19 MR. SCHILLER: Well, I asked -- I asked in discovery</p> <p>20 whether or not there was any -- well, I think I -- what was</p> <p>21 my question I did ask in discovery --</p> <p>22 HEARING EXAMINER PRAGER: Well, at any rate we'll have</p> <p>23 the testimony and you'll be able to when you do you cross-</p> <p>24 examination you'll be able to bring that up.</p> <p>25 MR. SCHILLER: Okay.</p>

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10 (37 to 40)

<p>37</p> <p>1 MR. CHONG: So the question was about your subsequent 2 jobs. And how these experiences carried into your 3 interactions there. Do you recall any interactions at any 4 subsequent job which you can trace back to your 5 interactions with Mr. Lee? 6 MS. PAUTRAUT: Yes. 7 MR. CHONG: Give me an example. 8 MS. PAUTRAUT: My job at TransCen which was the job -- 9 MR. CHONG: Speak up, please. 10 MS. PAUTRAUT: My job at TransCen was the job after 11 this one. And I would constantly ask my supervisor if I 12 could go to the bathroom. I would constantly check in via 13 email and verbally, everything that I was doing because I 14 wanted her to know everything. And she actually told me 15 that -- 16 MR. SCHILLER: Objection. 17 HEARING EXAMINER PRAGER: Yes, go ahead. 18 MR. SCHILLER: So this is now a new employer and she's 19 about to testify what this new employer said. What 20 relevance does that have? I have to say relevance because I 21 can't object on hearsay. 22 HEARING EXAMINER PRAGER: Right. Mr. Chong? 23 MR. CHONG: Well, it's not going to truth. What we're 24 talking about here is the fact that Ms. Pautrat's 25 experiences with Mr. Lee caused her to come to a state of</p>	<p>39</p> <p>1 Lee? 2 MS. PAUTRAUT: Yes. 3 MR. CHONG: Can you describe that? 4 MS. PAUTRAUT: Yes. At church there was this man who 5 is part of the church. And he would constantly seek me out 6 to talk to me. He would, you know like, put his hand on me 7 and stuff and I let him know that that wasn't appropriate, 8 that I didn't want it. I started speaking up. I told 9 someone at the church but because he was higher up, you 10 know like, it was well, like, don't be around him and 11 whatever. So there was two times where, in front of other 12 people he had asked me if he made me feel uncomfortable and 13 I said yes. And so the situation didn't get better so I 14 just left the church. 15 MR. CHONG: All right. Thank you. I have no more 16 questions. 17 HEARING EXAMINER PRAGER: All right. We're going to 18 have cross-examination now. We'll take a 10-minute break. 19 (Off the record at 10:25 a.m.) 20 (On the record at 10:37 a.m.) 21 HEARING EXAMINER PRAGER: Mr. Schiller. 22 MR. SCHILLER: Yes. Thank you. 23 HEARING EXAMINER PRAGER: You may start your cross- 24 examination. 25 MR. SCHILLER: Thank you. Ms. Pautrat, did I say that</p>
<p>38</p> <p>1 mind where she had to -- where she felt she had to check in 2 with her new supervisor much more than one would normally 3 expect of an employee. And the supervisor's response to her 4 checking in which, hopefully we'll be able to hear, 5 demonstrates how unreasonable her responses are in that 6 regard. 7 HEARING EXAMINER PRAGER: Well, I think we're going 8 too far off the track. I will sustain Mr. Schiller's 9 objection. People who are not here and won't testify and 10 people who were -- another employer is a little bit remote. 11 MR. CHONG: Okay. Were there any other examples of how 12 you saw -- how you believed Mr. Lee -- your experiences 13 with Mr. Lee carried over into other aspects of your life? 14 MS. PAUTRAUT: Also, I mean there's a lot of things. 15 But also, at my current job we had a, like, employee 16 weekend workshop -- week workshop kind of thing. And I was 17 at the table with a co-worker from a different site and so 18 the women I went and I hugged each of them and then to 19 James Fedora, who is one of our corporate people, I stuck 20 my hand out to shake his hand and he was offended because 21 he said I had hugged everybody else. He asked why did you 22 hug everybody else and not me and I said because you don't 23 hug men at work. 24 MR. CHONG: And is there a personal relationship also 25 that you feel was affected by your interactions with Mr.</p>	<p>40</p> <p>1 right? 2 MS. PAUTRAUT: Yes. 3 MR. SCHILLER: Okay. Ms. Pautrat, you became employed 4 with F3E as you testified to in 2015 and that would have 5 been -- you started work in March; is that right? 6 MS. PAUTRAUT: Yes, sir. 7 MR. SCHILLER: Okay. And how did you learn of that 8 organization? 9 MS. PAUTRAUT: I learned about the position from Toby 10 Studley. 11 MR. SCHILLER: Okay. How long had you known Toby 12 Studley? 13 MS. PAUTRAUT: I've known Toby since I was about 14. 14 MR. SCHILLER: Okay. And how old were you in 2015? 15 MS. PAUTRAUT: 2015, probably in my 30s. 16 MR. SCHILLER: 30 what? 17 MS. PAUTRAUT: I don't know I would have to like 18 figure it out. 19 MR. SCHILLER: Subtract five years. 20 MS. PAUTRAUT: 35. 21 MR. SCHILLER: Okay. So at 35 would you say that -- 35 22 years of age you would have had some life experience; fair 23 to say? 24 MR. CHONG: Objection. Argumentative and vague. 25 MR. SCHILLER: I'll --</p>

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11 (41 to 44)

<p>41</p> <p>1 HEARING EXAMINER PRAGER: Well, it's a legitimate 2 question. It doesn't sound vague to me. She can answer it. 3 So I overrule the objection. 4 MS. PAUTRAUT: Sure. 5 MR. SCHILLER: Okay. And you have had -- you submitted 6 a resume when you were hired, correct? 7 MS. PAUTRAUT: Correct. 8 MR. SCHILLER: All right. And the last job you had 9 before becoming employed for F3E was doing some seminars 10 you testified to, some speaking? 11 MS. PAUTRAUT: That was before the last job I had 12 right before going to the Foundation was residential. 13 MR. SCHILLER: Okay. So the -- 14 MS. PAUTRAUT: Glen Haven. 15 MR. SCHILLER: The job before was at a leasing office, 16 yes? 17 MS. PAUTRAUT: Correct for a privatized military 18 housing. 19 MR. SCHILLER: All right. But you don't give 20 presentations -- 21 HEARING EXAMINER PRAGER: Excuse me. Could you keep 22 your voice up because I couldn't hear you. Can you repeat 23 your answer? 24 MS. PAUTRAUT: The last job that I had was for leasing 25 for privatized military housing and before that that's the</p>	<p>43</p> <p>1 MR. SCHILLER: With benefits? 2 MS. PAUTRAUT: Yes. 3 MR. SCHILLER: Okay. And the offer of employment for 4 the Foundation was less than that, correct? It was 30,000 a 5 year, correct? 6 MS. PAUTRAUT: That was how the offer letter was 7 worded, but I got \$43,000 a year I made sure because I 8 could not accept a position less than -- I would not be 9 able to meet my financial obligations. 10 MR. SCHILLER: So how were you going to get the other 11 13,000? 12 MS. PAUTRAUT: If you look at the offer letter it says 13 that I was going to be offered the 43,000. I would be 14 offered 30,000 and that I would be a commission of the rest 15 that would be -- it was like basically guaranteed. I never 16 got anything less than 43. I wouldn't have accepted the 17 position for anything less than 43. 18 MR. SCHILLER: Well, you never made 43,000 for the 19 year, correct? 20 MS. PAUTRAUT: Well, because I was fired I did not. 21 MR. SCHILLER: Right. That's right so you never did 22 make 43, correct? 23 MS. PAUTRAUT: Correct because I was fired. 24 MR. SCHILLER: Right. So how was it your understanding 25 that you were going to be paid a commission</p>
<p>42</p> <p>1 job that I had that was speaking. 2 HEARING EXAMINER PRAGER: Thank you. 3 MR. SCHILLER: Okay. So the residential leasing 4 office, you didn't give presentations in that job, correct? 5 MS. PAUTRAUT: Not correct. 6 MR. SCHILLER: So you gave presentations showing 7 apartments, correct? 8 MS. PAUTRAUT: I showed apartments and also we had 9 groups for the military wives that were onsite and so I 10 would teach different classes like knitting, financial 11 classes, just like different things. I would give little 12 presentations and workshops that way. 13 MR. SCHILLER: You would teach financial shops? 14 MS. PAUTRAUT: Like just budgeting. 15 MR. SCHILLER: Budgeting. But not financial -- not 16 investment planning and stuff like that? 17 MS. PAUTRAUT: No, not at all. 18 MR. SCHILLER: Okay. How long were you there? 19 MS. PAUTRAUT: Maybe approximately a year, maybe, I'm 20 not sure. 21 MR. SCHILLER: Short of a year? 22 MS. PAUTRAUT: Possibly, I'm not 100 percent sure. 23 MR. SCHILLER: How much were you making there? 24 MS. PAUTRAUT: I was making about, if I can remember, 25 about \$40,000, \$41,000 a year in salary.</p>	<p>44</p> <p>1 MS. PAUTRAUT: That's why I had to review the offer 2 letter and I made sure that I was guaranteed that I was 3 going to get that 43. It didn't make sense to me why the 4 commission was involved in there. I didn't understand it 5 but since I was guaranteed that I was going to make 43 I 6 went ahead and took the position because I knew I could 7 meet my obligations. 8 MR. SCHILLER: Okay. And who was going to pay you, the 9 Foundation or another company? 10 MS. PAUTRAUT: The Foundation was going to pay me. 11 That was my understanding. 12 MR. SCHILLER: Okay. And your understanding of your 13 position was that you were going to be giving presentations 14 to large groups of individuals, correct? 15 MS. PAUTRAUT: Correct, yes sir. 16 MR. SCHILLER: All right. And did you question where 17 these presentations were given? Like were they -- did you 18 have an understanding at all when you first had that 19 interview when you first came onto site or talked to Toby 20 Studley? 21 MS. PAUTRAUT: So it was told to me that these 22 presentations were done for people who needed, like, 23 financial planning and things like that. That they would be 24 at their place of employment and the non-profit would come 25 in and we would present and then we would go ahead and get</p>

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12 (45 to 48)

<p>45</p> <p>1 clients. So it was told to me that I would be presenting at 2 different organizations and companies. Once I got into the 3 actual F3E that's when I learned that it was mostly 4 government placements, like the Pentagon. 5 MR. SCHILLER: Okay. So where, where were these places 6 of business? What was your understanding as to where they 7 were located? 8 MR. CHONG: Objection to relevance. 9 MR. SCHILLER: You want me to respond? I can quickly 10 respond. 11 HEARING EXAMINER PRAGER: Yes, go ahead. 12 MR. SCHILLER: Yes, so they're bringing up this issue 13 of travel, a discussion for travel. 14 HEARING EXAMINER PRAGER: All right. I think even 15 without your explanation I think it's a legitimate question 16 so it's overruled. 17 MR. SCHILLER: So where? What was your understanding 18 as to where these presentations were to take place and 19 occur? 20 MS. PAUTRAUT: These particular presentations were to 21 occur within the DMV, that's my understanding of the actual 22 presentations. 23 MR. SCHILLER: Okay. And how did that become your 24 understanding that it would only happen in the Washington, 25 DC metropolitan area? Was that ever told you to you?</p>	<p>47</p> <p>1 office per week? 2 MS. PAUTRAUT: I have no idea. 3 MR. SCHILLER: Well, you were there three months. 4 MR. CHONG: Objection. 5 MS. PAUTRAUT: I don't keep track -- 6 HEARING EXAMINER PRAGER: What's the objection? 7 MR. CHONG: Argumentative. 8 MR. SCHILLER: It's cross. 9 MR. CHONG: And the question. 10 MR. SCHILLER: It's cross. 11 HEARING EXAMINER PRAGER: It is cross-examination and 12 it is a legitimate question so please answer. 13 MR. SCHILLER: Well, you were only there 90 days. 14 MS. PAUTRAUT: I didn't keep track of his schedule. 15 MR. SCHILLER: You kept track of your schedule, 16 correct? 17 MS. PAUTRAUT: Yes, I did. 18 MR. SCHILLER: You were highly attuned to Mr. Lee 19 because you believed you were being discriminated against 20 over that period of time, correct? 21 MS. PAUTRAUT: Correct. 22 MR. SCHILLER: So you would have loved it if he wasn't 23 there, correct? 24 MS. PAUTRAUT: And I was fine when he wasn't there. 25 MR. SCHILLER: All right. So who many days a week</p>
<p>46</p> <p>1 MS. PAUTRAUT: No, it was just what I thought. 2 MR. SCHILLER: Okay. Did there come a time you learned 3 that the presentations were nationwide? 4 MS. PAUTRAUT: Not that I can recall. 5 MR. SCHILLER: You were there for about two months 6 total, right? 7 MS. PAUTRAUT: Three months. 8 MR. SCHILLER: Three months. Over that three month 9 period you never learned that these presentations were 10 nationwide? 11 MS. PAUTRAUT: Because I was scheduling for within the 12 area. So the main presentations that I scheduled for were 13 with Web at the Pentagon; that's why. 14 MR. SCHILLER: You learned that Mr. Lee traveled 15 regularly, correct? 16 MS. PAUTRAUT: Yes. 17 MR. SCHILLER: Okay. Did you ever -- did you know 18 whether or not the travel was business related for purposes 19 of presentations? 20 MS. PAUTRAUT: Not unless I was told, no. 21 MR. SCHILLER: But you knew that he traveled 22 regularly, correct? 23 MS. PAUTRAUT: Correct because he wasn't in the 24 office. 25 MR. SCHILLER: How many days a week was he out of the</p>	<p>48</p> <p>1 wasn't he there over that 90 day period? 2 MS. PAUTRAUT: Being that it was five years ago, sir, 3 I honestly don't know how many days he was and wasn't 4 there. The days that he was there it was very uncomfortable 5 and it was very apparent. 6 MR. SCHILLER: Okay. So he was out of the office 7 regularly on travel, correct? 8 MS. PAUTRAUT: I already answered that, yes sir. 9 MR. SCHILLER: All right. And you knew that he gave 10 presentations as part of his job, correct? 11 MS. PAUTRAUT: As one part of his job, yes sir. 12 MR. SCHILLER: Okay. Now, Toby Studley you said that 13 you knew him from the age 14. 14 MS. PAUTRAUT: Approximately, yes. 15 MR. SCHILLER: Okay. Did you have a social 16 relationship with him? 17 MS. PAUTRAUT: Yes, with him and his family. 18 MR. SCHILLER: Okay. 19 HEARING EXAMINER PRAGER: I'm sorry, what was that 20 again? 21 MS. PAUTRAUT: With him and his family. That's how I 22 first met him and his wife. 23 MR. SCHILLER: And did you -- in your relationship 24 with Toby Studley and his family, wife, did you ever 25 discuss Jonathan Lee?</p>

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13 (49 to 52)

<p>49</p> <p>1 MS. PAUTRAUT: So when Toby told me about the position 2 he told me that the position was with Jonathan who he knew 3 and he wanted me to go ahead and make sure that I was 4 finally in a position would be advancing because with 5 social work you don't really have room to, like, grow and 6 to grow financially as well. 7 MR. SCHILLER: You mean to make a lot of money? 8 MS. PAUTRAUT: I mean to grow and make -- yeah, have a 9 career. 10 MR. SCHILLER: Okay. 11 MS. PAUTRAUT: Yes. 12 MR. SCHILLER: So your -- in your mind you were 13 being -- you were going to be hired into a company where 14 you were going to be sent out to give presentations? 15 MS. PAUTRAUT: Yes, based on my history, yes. 16 MR. SCHILLER: Okay. And what exactly was the job 17 right before the apartment complex job? 18 MS. PAUTRAUT: That was working at a non-profit a teen 19 clinic called TAYA. And I presented to young people, 20 multiple groups about STD prevention pregnancy prevention, 21 sexual health. 22 MR. SCHILLER: Okay. But not financial? 23 MS. PAUTRAUT: No. 24 MR. SCHILLER: Okay. And -- so in the first 30 days 25 you're doing secretarial work, right?</p>	<p>51</p> <p>1 MS. PAUTRAUT: Yes, sir. Sorry. 2 MR. SCHILLER: Now, you had testified and mentioned 3 that you were, in your discussion with Toby Studley, that 4 you were having some hard times, yes? 5 MR. CHONG: I -- mischaracterizes the testimony. 6 HEARING EXAMINER PRAGER: Well, the record will show. 7 And Ms. Pautrat can answer. 8 MS. PAUTRAUT: Do you mind repeating? I'm not -- 9 MR. SCHILLER: Sure. 10 MS. PAUTRAUT: I'm not sure I'm understanding 11 completely. 12 MR. SCHILLER: Isn't it true that you testified that 13 you were experiencing hard times? 14 MS. PAUTRAUT: Hard times in general or hard times at 15 work? 16 MR. SCHILLER: Hard times in general right before 17 getting the job. 18 MS. PAUTRAUT: Toby's known me since I was 14 so he's 19 known all my hard times. So there wasn't particularly a 20 hard time before I went to work at F3E. 21 MR. SCHILLER: All right. So when you went to work at 22 the Gude Drive address what hard times where you going 23 through at that time? Was it financial or was it personal? 24 MS. PAUTRAUT: Personal. 25 MR. SCHILLER: What kind of personal? What was going</p>
<p>50</p> <p>1 MS. PAUTRAUT: Making phone calls, sure if you want to 2 say secretarial work, I guess so. 3 HEARING EXAMINER PRAGER: Let me understand, Mr. 4 Schiller. Where was your question, was this at her previous 5 job or -- 6 MR. SCHILLER: No, I'm sorry. I -- after I finished 7 and it was answered, if it wasn't answered properly and I 8 did phrase it improperly. I was talking about when she 9 started work on Gude Drive. 10 HEARING EXAMINER PRAGER: Okay. All right. Ms. 11 Pautrat, did you understand the question that he had asked? 12 MS. PAUTRAUT: Yes. Yes, sir. 13 MR. SCHILLER: Okay. And after 30 days did you ever 14 complain or talk to anyone about you not giving 15 presentations? 16 MS. PAUTRAUT: While I was there I did not complain 17 about not giving presentations. 18 MR. SCHILLER: When you were -- when you had your 19 interview with Mr. Lee, did your social relationship come 20 up -- social relationship with Toby Studley come up? 21 MS. PAUTRAUT: I was asked yes, how I knew Toby. 22 MR. SCHILLER: You're saying Jonathan asked you how 23 you know Toby? 24 MS. PAUTRAUT: Uh-huh. 25 HEARING EXAMINER PRAGER: Was that a yes?</p>	<p>52</p> <p>1 on? Do you need me to repeat the question. 2 MS. PAUTRAUT: I don't need you to repeat the question 3 at all. 4 MR. SCHILLER: All right. So what type of personal 5 hard times was going on? 6 MS. PAUTRAUT: I was still trying to feel better and 7 get better over sitting here and having to constantly take 8 care of my parents, take care of myself, be on my own. Just 9 dealing with life stuff, being on your own. 10 MR. SCHILLER: Okay. So you were ultimately hired for 11 a full-time position, correct? 12 MS. PAUTRAUT: Yes, sir. 13 MR. SCHILLER: You weren't hourly, right? , 14 MS. PAUTRAUT: No, sir. 15 MR. SCHILLER: Did -- and you -- your work week was a 16 40 hour work week, correct? 17 MS. PAUTRAUT: Correct, sir. 18 MR. SCHILLER: Okay. So you were asked to -- you said 19 you were asked to come in at 8:30 in the morning? 20 MS. PAUTRAUT: Yes, sir. 21 MR. SCHILLER: All right. And you were -- and you left 22 at 4:30, correct? 23 MS. PAUTRAUT: No, I did not, sir. 24 MR. SCHILLER: And when did you leave? 25 MS. PAUTRAUT: I left between, if I can remember since</p>

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14 (53 to 56)

<p>53</p> <p>1 it was so long ago 5:00 and 5:30.</p> <p>2 MR. SCHILLER: Okay. And your testimony is that you</p> <p>3 came in at 8:30 sharp every day?</p> <p>4 MS. PAUTRAUT: Yes. I'm always early for work. You</p> <p>5 don't mess around with work.</p> <p>6 MR. SCHILLER: Wouldn't have been a problem if you</p> <p>7 came in at 9:00?</p> <p>8 MS. PAUTRAUT: Yes, it would have been a problem.</p> <p>9 MR. SCHILLER: For who?</p> <p>10 MS. PAUTRAUT: For Jonathan.</p> <p>11 MR. SCHILLER: Mr. Lee wasn't in the office all that</p> <p>12 much, correct?</p> <p>13 MS. PAUTRAUT: When I brought it up to his attention</p> <p>14 about my hours because I was told from my office manager</p> <p>15 and my regional director that why was I coming in at 8:30</p> <p>16 and not leaving at 4:30 I brought it up to him. When I</p> <p>17 brought it up to him he was curt and he was like, oh you</p> <p>18 don't want to work?</p> <p>19 MR. SCHILLER: Who, Mr. Lee?</p> <p>20 MS. PAUTRAUT: Yes, sir.</p> <p>21 MR. SCHILLER: And when was this, what date?</p> <p>22 MS. PAUTRAUT: I don't have an exact date for it.</p> <p>23 MR. SCHILLER: Was it within the first 30 days?</p> <p>24 MS. PAUTRAUT: Yes, because I remember Elizabeth de</p> <p>25 los Santos was there and I had talked to her about it and</p>	<p>55</p> <p>1 schedule.</p> <p>2 MR. SCHILLER: You didn't have to log into a computer</p> <p>3 and send an email regarding your time, right?</p> <p>4 MS. PAUTRAUT: There was no time tracking system.</p> <p>5 MR. SCHILLER: Okay.</p> <p>6 COURT REPORTER: I'm sorry, we're going to have to</p> <p>7 interrupt -- the outside noise is being distracting again.</p> <p>8 My apologies.</p> <p>9 HEARING EXAMINER PRAGER: No, that's fine.</p> <p>10 (Off the record at 10:57:13 a.m.)</p> <p>11 (On the record at 10:57:27 a.m.)</p> <p>12 MR. SCHILLER: I don't object to the door being</p> <p>13 closed. I know you believe -- I know it's an open forum but</p> <p>14 courthouse doors are closed also as long as we don't lock</p> <p>15 it. I don't understand why the door can't be closed. It</p> <p>16 doesn't say any sign that it's closed or private.</p> <p>17 MR. ABRAMSON: Maybe it could be partially open.</p> <p>18 MR. SCHILLER: Because I don't think any party here</p> <p>19 would --</p> <p>20 HEARING EXAMINER PRAGER: No, I understand.</p> <p>21 Theoretically people can come in and listen to this so if</p> <p>22 the door is closed it means that they're not likely to come</p> <p>23 in.</p> <p>24 MR. SCHILLER: We can put a note on the door, open --</p> <p>25 HEARING EXAMINER PRAGER: Well, we could but we</p>
<p>54</p> <p>1 that's when she suggested I talk to Jonathan.</p> <p>2 MR. SCHILLER: Well, what schedule --</p> <p>3 HEARING EXAMINER PRAGER: Can you hold on a moment</p> <p>4 because of the noise.</p> <p>5 (Off the record at 10:54 a.m.)</p> <p>6 (On the record at 10:55 a.m.)</p> <p>7 HEARING EXAMINER PRAGER: Back on the record.</p> <p>8 MR. SCHILLER: Did you ever -- okay. So did you</p> <p>9 ever -- so if you got in at 8:30 and you say you left --</p> <p>10 you were leaving at 5:00?</p> <p>11 MS. PAUTRAUT: 5:00, 5:30 I'm not 100 percent sure.</p> <p>12 MR. SCHILLER: You could have taken an hour and a half</p> <p>13 lunch, right?</p> <p>14 MS. PAUTRAUT: When you're told that you're only</p> <p>15 supposed to have a 30-minute lunch break, you only have</p> <p>16 what you're supposed to take.</p> <p>17 MR. SCHILLER: Who told you that?</p> <p>18 MS. PAUTRAUT: I can't remember exactly who said how</p> <p>19 long the lunch break if it was Jonathan or Web, that I'm</p> <p>20 not 100 percent sure about, sir.</p> <p>21 MR. SCHILLER: There was no timecard, correct?</p> <p>22 MS. PAUTRAUT: Absolutely, there was no timecard.</p> <p>23 Honor system.</p> <p>24 MR. SCHILLER: Was Nicholas Herman there every day?</p> <p>25 MS. PAUTRAUT: Not that I remember. I don't know his</p>	<p>56</p> <p>1 haven't -- maybe we can do that this afternoon.</p> <p>2 MR. SCHILLER: Okay.</p> <p>3 MR. ABRAMSON: Could we have the door ajar but mainly</p> <p>4 closed so that --</p> <p>5 HEARING EXAMINER PRAGER: Yeah, we can do that. Why</p> <p>6 don't you --</p> <p>7 MR. ABRAMSON: Let's try that.</p> <p>8 HEARING EXAMINER PRAGER: All right would you -- I</p> <p>9 can't remember what the last question was.</p> <p>10 (Last question played back.)</p> <p>11 HEARING EXAMINER PRAGER: And that was the last?</p> <p>12 COURT REPORTER: That was, yes.</p> <p>13 HEARING EXAMINER PRAGER: All right. Mr. Schiller,</p> <p>14 we're back on the record.</p> <p>15 MR. SCHILLER: Thank you. At the initial -- you</p> <p>16 received a contract of employment, correct?</p> <p>17 MS. PAUTRAUT: An offer letter, yes sir.</p> <p>18 MR. SCHILLER: All right. And in that offer letter it</p> <p>19 did not describe your duties of employment, correct?</p> <p>20 MS. PAUTRAUT: Correct.</p> <p>21 MR. SCHILLER: So when you started work you were put</p> <p>22 in an office with another person, correct?</p> <p>23 MS. PAUTRAUT: Uh-huh. Yes, sir.</p> <p>24 MR. SCHILLER: And who was that other person?</p> <p>25 MS. PAUTRAUT: Olivia and Mario.</p>

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15 (57 to 60)

<p>57</p> <p>1 MR. SCHILLER: Two other people, correct?</p> <p>2 MS. PAUTRAUT: Correct.</p> <p>3 HEARING EXAMINER PRAGER: Excuse me can you say who</p> <p>4 the last names are.</p> <p>5 MS. PAUTRAUT: I don't know the last names of these</p> <p>6 individuals; I'm sorry.</p> <p>7 HEARING EXAMINER PRAGER: And would you repeat their</p> <p>8 names?</p> <p>9 MS. PAUTRAUT: Olivia and Mario.</p> <p>10 HEARING EXAMINER PRAGER: Good, thank you. And Mario</p> <p>11 is a man?</p> <p>12 MS. PAUTRAUT: Yes, sir.</p> <p>13 HEARING EXAMINER PRAGER: And Olivia is a female I</p> <p>14 assume?</p> <p>15 MS. PAUTRAUT: Yes, sir.</p> <p>16 HEARING EXAMINER PRAGER: Good. Thank you.</p> <p>17 MR. SCHILLER: How long after you started working</p> <p>18 there did you learn that Jonathan Lee had a girlfriend</p> <p>19 working in the office also?</p> <p>20 MS. PAUTRAUT: I don't remember. It was probably</p> <p>21 within the first couple of weeks.</p> <p>22 MR. SCHILLER: Okay. And how -- was her office right</p> <p>23 next door to your office?</p> <p>24 MS. PAUTRAUT: I wasn't right next door, it was kind</p> <p>25 of like across the hall.</p>	<p>59</p> <p>1 MR. SCHILLER: Okay. And did he ask it again?</p> <p>2 MS. PAUTRAUT: Yes.</p> <p>3 MR. SCHILLER: When?</p> <p>4 MS. PAUTRAUT: The exact date of it, sir, I don't</p> <p>5 recall the exact date.</p> <p>6 MR. SCHILLER: All right. So two weeks in he says --</p> <p>7 isn't it true he said do you mind traveling?</p> <p>8 MS. PAUTRAUT: Do I mind traveling?</p> <p>9 MR. SCHILLER: Yeah, what did he -- what exactly did</p> <p>10 he say?</p> <p>11 MS. PAUTRAUT: His exact words I don't know.</p> <p>12 MR. SCHILLER: Okay.</p> <p>13 MS. PAUTRAUT: But --</p> <p>14 MR. SCHILLER: So I'll ask another question.</p> <p>15 HEARING EXAMINER PRAGER: She wanted to continue --</p> <p>16 MS. PAUTRAUT: -- but let me finish.</p> <p>17 HEARING EXAMINER PRAGER: Continue answering.</p> <p>18 MS. PAUTRAUT: Thank you, sir. But he did ask me about</p> <p>19 traveling with him. His exact words I don't know.</p> <p>20 MR. SCHILLER: All right. Did you ever follow up with</p> <p>21 that and say to -- did you ask the question to teach me how</p> <p>22 to give a presentation?</p> <p>23 MS. PAUTRAUT: I did not follow up with a question on</p> <p>24 teaching me how to give -- how to do the presentation or</p> <p>25 anything like that.</p>
<p>58</p> <p>1 MR. SCHILLER: Across the hall. And did she come to</p> <p>2 work every day?</p> <p>3 MS. PAUTRAUT: I don't know.</p> <p>4 MR. SCHILLER: Okay. And why is it you don't know?</p> <p>5 MS. PAUTRAUT: Because she had a varying schedule.</p> <p>6 People were coming in and out. People had their schedules</p> <p>7 so I don't know everybody's schedule. Just like my schedule</p> <p>8 wasn't known by everybody.</p> <p>9 MR. SCHILLER: You were there every day 8:30 to 5:00,</p> <p>10 5:30, yes?</p> <p>11 MS. PAUTRAUT: Yes, sir.</p> <p>12 MR. SCHILLER: So wouldn't everybody know that you</p> <p>13 worked every day, all day long?</p> <p>14 MS. PAUTRAUT: I can't speculate as to what they may</p> <p>15 or may not know.</p> <p>16 MR. SCHILLER: Okay. You never did a financial</p> <p>17 presentation, correct?</p> <p>18 MS. PAUTRAUT: Correct. I never did a financial</p> <p>19 presentation.</p> <p>20 MR. SCHILLER: You raised the issue that Mr. Lee asked</p> <p>21 if you would mind traveling, correct?</p> <p>22 MS. PAUTRAUT: Yes, sir.</p> <p>23 MR. SCHILLER: Okay. When did he do that?</p> <p>24 MS. PAUTRAUT: Like a couple of weeks into working</p> <p>25 there.</p>	<p>60</p> <p>1 MR. SCHILLER: Okay.</p> <p>2 MS. PAUTRAUT: Bedaze I just didn't think that I</p> <p>3 should be traveling.</p> <p>4 MR. SCHILLER: Okay. Well you went to --</p> <p>5 MS. PAUTRAUT: If I'm making phone calls I shouldn't</p> <p>6 be traveling.</p> <p>7 MR. SCHILLER: Well, wait a minute --</p> <p>8 MS. PAUTRAUT: That's all I was doing.</p> <p>9 MR. SCHILLER: -- your job was --</p> <p>10 HEARING EXAMINER PRAGER: Wait, wait. Let her finish</p> <p>11 her answers. I know you're anxious to jump in but let her</p> <p>12 answer.</p> <p>13 MS. PAUTRAUT: My job was to do presentations. But</p> <p>14 when I was hired and what I was actually doing at the time</p> <p>15 was making phone calls to all the F3E attendees who had</p> <p>16 filled out a survey. So my time was spent calling them,</p> <p>17 making the appointments to set them up to speak with a</p> <p>18 financial advisor. So there was no reason for me to be</p> <p>19 traveling if I wasn't doing an actual presentation.</p> <p>20 MR. SCHILLER: So you've never done a presentation</p> <p>21 before?</p> <p>22 MS. PAUTRAUT: Not on this information or for F3E.</p> <p>23 MR. SCHILLER: Right. So how were you going to give</p> <p>24 one if you didn't go on one and you weren't trained how to</p> <p>25 give them?</p>

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16 (61 to 64)

<p>61</p> <p>1 MS. PAUTRAUT: There's a difference between traveling 2 within the DMV to actually give the presentations and 3 traveling on vacations like, and/or other places out of 4 state. 5 MR. SCHILLER: Okay. What -- let's just say -- let's 6 go there. Why is that? The subject matter is the same, 7 correct? 8 MS. PAUTRAUT: When doing the representations they 9 lasted maybe 45 minutes to an hour maybe. I didn't do them 10 so between sitting here and going with Jonathan on one and 11 I believe with Nick I may have gone on one and knowing what 12 the presentations other people discussed about that's how 13 long approximately it was. So you're not going to be gone 14 for days from your home or from the office. 15 MR. SCHILLER: When did you learn that they took 45 16 minutes to an hour? 17 MS. PAUTRAUT: When I went to the Pentagon. 18 MR. SCHILLER: Okay. And that was in April, correct? 19 MS. PAUTRAUT: And when I also -- 20 MR. SCHILLER: That was -- 21 MS. PAUTRAUT: It wasn't -- 22 MR. SCHILLER: Judge, could I -- 23 HEARING EXAMINER PRAGER: Let her finish her answer. 24 MR. SCHILLER: She -- well, she didn't respond to the 25 question.</p>	<p>63</p> <p>1 not you minded traveling, correct? 2 MS. PAUTRAUT: Right. So my understanding was within 3 the area because most questions on an application or on a 4 job interview would say do you mind traveling and my 5 understanding is in the area. 6 MR. SCHILLER: Well, he didn't say you're going 7 traveling -- 8 HEARING EXAMINER PRAGER: Mr. Schiller, I think you've 9 made your point on this. Let's proceed. 10 MR. SCHILLER: So you didn't -- that was in the first 11 two weeks. When did he ask you again whether or not you 12 wanted to travel? 13 MS. PAUTRAUT: I can't remember 100 percent. 14 MR. SCHILLER: Okay. You indicate that you received a 15 text message, correct? 16 MS. PAUTRAUT: Yes, sir. 17 MR. SCHILLER: Or text messages, correct? 18 MS. PAUTRAUT: Yes, sir. 19 MR. SCHILLER: All right, when was the first text 20 message you received from Mr. Lee? 21 MS. PAUTRAUT: It was within a couple of weeks of me 22 working there. 23 MR. SCHILLER: Okay. How did he get your cell number? 24 MS. PAUTRAUT: Through the application that I filled 25 out. I only have one number.</p>
<p>62</p> <p>1 HEARING EXAMINER PRAGER: Well, let her finish the 2 answer and then you can ask her again for anything that she 3 didn't say. 4 MS. PAUTRAUT: So yeah, you're right. That April. 5 However, I'm scheduling the appointments so I have to know 6 how long these presentations are going for. I knew how long 7 the presenters were going to be at the different sites 8 because I had to schedule things. 9 MR. SCHILLER: So in the first two weeks the question 10 was do you mind traveling, correct? 11 MS. PAUTRAUT: Yes, sir. 12 MR. SCHILLER: All right. You didn't take that to 13 determine whether or not you were willing to travel outside 14 of the DMV area as part of your job in giving presentations 15 to earn commission? 16 MS. PAUTRAUT: Absolutely correct. Because -- 17 MR. SCHILLER: Okay. 18 MS. PAUTRAUT: -- I did not know that they were 19 talking out of state traveling you get reimbursed for 20 traveling with your car within the area. So that was not 21 ever said that I would be traveling out of state to give a 22 presentation. 23 MR. SCHILLER: But it was just a question, correct? 24 MS. PAUTRAUT: A question, what do you mean? 25 MR. SCHILLER: He just asked a question, whether or</p>	<p>64</p> <p>1 MR. SCHILLER: Okay. And do you have a copy of the 2 text messages you're referring to? 3 MS. PAUTRAUT: I do not. It's been five years and I've 4 had several phones since. 5 MR. SCHILLER: Okay. So in the -- you were there for 6 let's just call it 90 days, maybe more, maybe less; fair to 7 say? Is that fair to say? 8 MS. PAUTRAUT: Sure. 9 MR. SCHILLER: Okay. You had sent -- you had noted 10 text messages in your complaint and to Elizabeth de los 11 Santos, correct? 12 MS. PAUTRAUT: Correct, sir. 13 MR. SCHILLER: All right. So you -- if you believed 14 that they were so important why isn't it that you didn't 15 print them out at the time when you were making these 16 allegations? 17 MS. PAUTRAUT: I did not think that I would have to 18 use them for anything. When you talk to somebody that is 19 your regional director and you let them know what is 20 happening in your workplace and she didn't ask for anything 21 either, I thought I was doing the right thing in terms of 22 telling my supervisor what's happening. 23 MR. SCHILLER: Okay. So let's just -- are you done? 24 MS. PAUTRAUT: Yes, I'm done, sir. 25 MR. SCHILLER: So let me ask you about the first text</p>

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<p>65</p> <p>1 message comes in the first two weeks, correct?</p> <p>2 MS. PAUTRAUT: Yes, sir.</p> <p>3 MR. SCHILLER: Okay. Did you respond to that first</p> <p>4 text message to Mr. Lee, please don't text me; this is my</p> <p>5 personal number?</p> <p>6 MS. PAUTRAUT: I did not respond that, sir.</p> <p>7 MR. SCHILLER: In fact, at no time did you respond to</p> <p>8 Mr. Lee stop texting me or don't text me?</p> <p>9 MS. PAUTRAUT: You're correct. I did not respond that</p> <p>10 because --</p> <p>11 MR. SCHILLER: I just asked if you responded that.</p> <p>12 MS. PAUTRAUT: I know, but I was about to talk and you</p> <p>13 were making a face.</p> <p>14 MR. SCHILLER: Well, that's because I --</p> <p>15 HEARING EXAMINER PRAGER: I --</p> <p>16 MR. SCHILLER: I think it's been asked and answered.</p> <p>17 HEARING EXAMINER PRAGER: Ms. Pautrat, did you want to</p> <p>18 add anything to what you were saying?</p> <p>19 MS. PAUTRAUT: Yes sir, I did. Thank you. I didn't</p> <p>20 respond to that because it wasn't appropriate. I didn't</p> <p>21 want to sit here and be put in an awkward position of</p> <p>22 possibly losing my job or something. Like you don't -- it's</p> <p>23 hard when it's you're subordinate that you're sitting here</p> <p>24 and have to be like don't do this.</p> <p>25 MR. SCHILLER: So you indicate that Mr. Lee, asked you</p>	<p>67</p> <p>1 responded to?</p> <p>2 MS. PAUTRAUT: I don't recall responding to any of</p> <p>3 them.</p> <p>4 MR. SCHILLER: Okay.</p> <p>5 HEARING EXAMINER PRAGER: We'll go off the record.</p> <p>6 (Off the record at 11:11 a.m.)</p> <p>7 (On the record at 11:12 a.m.)</p> <p>8 HEARING EXAMINER PRAGER: Mr. Schiller. We're back on</p> <p>9 the record.</p> <p>10 MR. SCHILLER: Thank you. Okay. So this basketball</p> <p>11 game, that was by text, correct?</p> <p>12 MS. PAUTRAUT: I believe so, sir, yes.</p> <p>13 MR. SCHILLER: And you have no recollection as to how</p> <p>14 long into the employment?</p> <p>15 MS. PAUTRAUT: No, sir.</p> <p>16 MR. SCHILLER: Okay. And did you -- was it -- and you</p> <p>17 don't recall anything about it, correct; is that fair to</p> <p>18 say?</p> <p>19 MS. PAUTRAUT: Yes, that is correct. That's fair to</p> <p>20 say.</p> <p>21 MR. SCHILLER: Okay. And you don't recall what the</p> <p>22 text said?</p> <p>23 MS. PAUTRAUT: Once again, like I said, no sir. It's</p> <p>24 been so long I don't remember exactly.</p> <p>25 MR. SCHILLER: So why do you raise it?</p>
<p>66</p> <p>1 to a basketball game, right?</p> <p>2 MS. PAUTRAUT: Yes, sir.</p> <p>3 MR. SCHILLER: When? When did he do that?</p> <p>4 MS. PAUTRAUT: I don't have the exact date of when he</p> <p>5 did that, sir.</p> <p>6 MR. SCHILLER: And was that by text or did he actually</p> <p>7 do it in person?</p> <p>8 MS. PAUTRAUT: He did it by text and I did not</p> <p>9 respond.</p> <p>10 MR. SCHILLER: Okay. You're saying that you didn't say</p> <p>11 no thank you?</p> <p>12 MS. PAUTRAUT: I didn't say anything, sir.</p> <p>13 MR. SCHILLER: Just left it blank?</p> <p>14 MS. PAUTRAUT: That I can recall, yes because I never</p> <p>15 wanted to respond.</p> <p>16 MR. SCHILLER: Did you respond to any of the text</p> <p>17 messages?</p> <p>18 MS. PAUTRAUT: Not that I can remember.</p> <p>19 MR. SCHILLER: Okay. So this -- so if we're looking at</p> <p>20 the text messages on a phone, your phone -- how many text</p> <p>21 messages were there?</p> <p>22 MS. PAUTRAUT: Sir, I honestly, I don't know it's been</p> <p>23 five years. Exactly how many text messages there were I</p> <p>24 don't know.</p> <p>25 MR. SCHILLER: Okay. And all of them were not</p>	<p>68</p> <p>1 MS. PAUTRAUT: Because it happened, sir.</p> <p>2 MR. SCHILLER: Okay. So the happening is that you were</p> <p>3 invited to a basketball game?</p> <p>4 MS. PAUTRAUT: Yes.</p> <p>5 MR. SCHILLER: Correct?</p> <p>6 MS. PAUTRAUT: I was invited to a basketball game.</p> <p>7 MR. SCHILLER: Okay. And you put invited to a</p> <p>8 basketball game into the same category as I was invited to</p> <p>9 lunch, correct?</p> <p>10 MS. PAUTRAUT: Correct because it was inappropriate.</p> <p>11 Why are you asking me to a basketball game after hours --</p> <p>12 MR. SCHILLER: Well you --</p> <p>13 MS. PAUTRAUT: -- because it has nothing to do with</p> <p>14 work. The lunch had to do with the insurance which had to</p> <p>15 do with work.</p> <p>16 MR. SCHILLER: Well, how do you know the basketball</p> <p>17 game wasn't during business hours? You don't know anything</p> <p>18 about the basketball game, correct?</p> <p>19 MS. PAUTRAUT: I don't know the date of the basketball</p> <p>20 game, you are correct. When he asked me it was in the</p> <p>21 evening. But I don't have specific information about the</p> <p>22 entire basketball game. He never mentioned that it was for</p> <p>23 a work-related purpose so I didn't go. It's not --</p> <p>24 MR. SCHILLER: Not only --</p> <p>25 MS. PAUTRAUT: -- not appropriate.</p>

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18 (69 to 72)

<p>69</p> <p>1 MR. SCHILLER: According to you.</p> <p>2 MS. PAUTRAUT: Right.</p> <p>3 MR. SCHILLER: Your interpretation was it wasn't</p> <p>4 appropriate?</p> <p>5 MS. PAUTRAUT: Right. Because I shouldn't be hanging</p> <p>6 out with my supervisor and my boss outside of business</p> <p>7 hours alone.</p> <p>8 MR. SCHILLER: What if it's work related? What if</p> <p>9 it's -- there's going to be discussion about work</p> <p>10 presentation; isn't -- couldn't that be discussed at that</p> <p>11 basketball game?</p> <p>12 MS. PAUTRAUT: It could be discussed in the office.</p> <p>13 MR. SCHILLER: Right. But couldn't it be discussed at</p> <p>14 basket --</p> <p>15 HEARING EXAMINER PRAGER: Mr. Schiller, I think you've</p> <p>16 pursued this far enough. Let's move on beyond the</p> <p>17 basketball game.</p> <p>18 MR. SCHILLER: All right. And let's just talk about</p> <p>19 the lunch. You thought it was inappropriate to have lunch</p> <p>20 to discuss insurance, health insurance? Is that -- that was</p> <p>21 inappropriate.</p> <p>22 MS. PAUTRAUT: I did not say that. You said that.</p> <p>23 MR. SCHILLER: Okay. So you thought it was a form of</p> <p>24 harassment to ask you to lunch?</p> <p>25 MS. PAUTRAUT: That's not what I said.</p>	<p>71</p> <p>1 MS. PAUTRAUT: I didn't know that he went out with co-</p> <p>2 workers on a regular basis for lunch as he testified here.</p> <p>3 MR. SCHILLER: Okay. Now, you mentioned that you the</p> <p>4 first couple of weeks -- I will ask you. I'm sorry. Isn't</p> <p>5 it true that you testified about the April he went on a</p> <p>6 trip to Florida, correct?</p> <p>7 MS. PAUTRAUT: Yes, sir.</p> <p>8 MR. SCHILLER: And you knew that he was on a trip with</p> <p>9 a co-employee with you?</p> <p>10 MS. PAUTRAUT: I believe that he was on a trip with</p> <p>11 his girlfriend.</p> <p>12 MR. SCHILLER: And that would be a co-employee who</p> <p>13 worked at the same location, correct?</p> <p>14 MS. PAUTRAUT: Yes, sir.</p> <p>15 MR. SCHILLER: And you indicate that you received a</p> <p>16 text from him while he was on that trip, correct?</p> <p>17 MS. PAUTRAUT: Yes, sir.</p> <p>18 MR. SCHILLER: Okay. And again, you did not, when you</p> <p>19 received that text isn't it true you sent a response back</p> <p>20 to him? You actually texted back, correct?</p> <p>21 MS. PAUTRAUT: I'm not sure, sir. Most of the times</p> <p>22 when I got texts I remember not sending text messages. So I</p> <p>23 don't know.</p> <p>24 MR. SCHILLER: And again, you didn't respond you</p> <p>25 didn't say work related matters only, please or stop</p>
<p>70</p> <p>1 MR. SCHILLER: Okay. So why did you mention going to</p> <p>2 lunch?</p> <p>3 MS. PAUTRAUT: Why did I mention going to lunch?</p> <p>4 MR. SCHILLER: Yeah.</p> <p>5 MS. PAUTRAUT: Because it's something that at that</p> <p>6 particular point in time it was business hours, co-workers</p> <p>7 were available and aware where we were going. We were</p> <p>8 talking about what needed to be addressed right away and I</p> <p>9 was thinking about this is my goal, I need to talk about</p> <p>10 getting the insurance settled and that's where my thought</p> <p>11 process was.</p> <p>12 MR. SCHILLER: And this was in the first week,</p> <p>13 correct?</p> <p>14 MS. PAUTRAUT: Approximately, yes.</p> <p>15 MR. SCHILLER: All right. So at that time you did not</p> <p>16 know whether or not Mr. Lee had lunch with other employees</p> <p>17 on a regular basis, correct?</p> <p>18 MS. PAUTRAUT: As he testified, no. That's when I</p> <p>19 learned of that.</p> <p>20 MR. SCHILLER: I'm sorry. That is incorrect or</p> <p>21 correct?</p> <p>22 MS. PAUTRAUT: When he testified about having lunch</p> <p>23 with other co-workers here that's when I learned about it.</p> <p>24 MR. SCHILLER: No, I'm asking what you do in your</p> <p>25 first week of employment.</p>	<p>72</p> <p>1 texting me?</p> <p>2 MS. PAUTRAUT: Correct. I did not say that, sir.</p> <p>3 MR. SCHILLER: Okay. Isn't it true that Mr. Lee never</p> <p>4 asked you if you wanted to travel for personal reason or</p> <p>5 vacation?</p> <p>6 MS. PAUTRAUT: No.</p> <p>7 MR. SCHILLER: He just asked -- isn't it true he just</p> <p>8 asked you if you minded traveling, correct?</p> <p>9 MS. PAUTRAUT: Correct. He did ask me to travel, yes.</p> <p>10 MR. SCHILLER: You referenced a nickname, correct?</p> <p>11 MS. PAUTRAUT: Yes, sir.</p> <p>12 MR. SCHILLER: All right. Did you -- isn't it true</p> <p>13 that you've never mentioned, commented, or told him to not</p> <p>14 call you a nickname?</p> <p>15 MS. PAUTRAUT: Yes, because he is my supervisor. You</p> <p>16 don't question and go against what they say.</p> <p>17 MR. SCHILLER: No, I just asked you whether or not --</p> <p>18 one question.</p> <p>19 MS. PAUTRAUT: I answered the question.</p> <p>20 MR. SCHILLER: Okay. So the answer is no, you never</p> <p>21 did, correct?</p> <p>22 MS. PAUTRAUT: Yes.</p> <p>23 MR. SCHILLER: And you were -- when was this -- what</p> <p>24 date was this kitchen incident?</p> <p>25 MS. PAUTRAUT: I don't remember the date, sir.</p>

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19 (73 to 76)

<p>73</p> <p>1 MR. SCHILLER: The first month, second month?</p> <p>2 MS. PAUTRAUT: Within the first month.</p> <p>3 MR. SCHILLER: Okay. And you -- what time of day was</p> <p>4 this?</p> <p>5 MS. PAUTRAUT: It was in the morning, sir.</p> <p>6 MR. SCHILLER: Okay. And you clearly remember that you</p> <p>7 turned around and don't know how long Mr. Lee was there,</p> <p>8 correct?</p> <p>9 MS. PAUTRAUT: Correct.</p> <p>10 MR. SCHILLER: So why is it that you are making an</p> <p>11 issue out of that? It could have been one second, correct?</p> <p>12 MS. PAUTRAUT: I make an issue with it because of the</p> <p>13 fact that when you're a woman and you think that you are</p> <p>14 alone and you turn around and there is a man behind you</p> <p>15 that did not announce himself that is kind of scary and</p> <p>16 startling, sir.</p> <p>17 MR. SCHILLER: It could have been one second.</p> <p>18 MS. PAUTRAUT: Then why not announce yourself, sir?</p> <p>19 MR. SCHILLER: Because it could have been one second.</p> <p>20 MS. PAUTRAUT: Good morning, Giselle.</p> <p>21 MR. SCHILLER: So -- okay so --</p> <p>22 HEARING EXAMINER PRAGER: Mr. Schiller, you've asked</p> <p>23 the question times now. Let's move on.</p> <p>24 MR. SCHILLER: I was about the move on. Welcome to</p> <p>25 another question.</p>	<p>75</p> <p>1 office complimented my scarves on a daily basis.</p> <p>2 MR. SCHILLER: So --</p> <p>3 MS. PAUTRAUT: Nobody else took notice that every day</p> <p>4 that they would make a compliment on my scarf.</p> <p>5 MR. SCHILLER: So if he enters the kitchen he</p> <p>6 shouldn't say good morning either?</p> <p>7 MS. PAUTRAUT: There is nothing with me respectful and</p> <p>8 saying the proper cues in a social situation.</p> <p>9 MR. SCHILLER: Like good morning?</p> <p>10 MS. PAUTRAUT: Correct. Because then I know that</p> <p>11 you're standing behind me when I have no idea that you were</p> <p>12 there.</p> <p>13 MR. SCHILLER: All right.</p> <p>14 MS. PAUTRAUT: Good morning. Okay, I might get</p> <p>15 startled because I thought I was by myself but that's the</p> <p>16 right thing to do in a social setting.</p> <p>17 MR. SCHILLER: Okay. But not nice scarf?</p> <p>18 MS. PAUTRAUT: Complimenting me on every scarf like</p> <p>19 you just said, every day. He shouldn't be paying attention</p> <p>20 to what I'm wearing.</p> <p>21 MR. SCHILLER: That's not a nicety? That's not just</p> <p>22 being nice?</p> <p>23 MS. PAUTRAUT: Every single day, sir?</p> <p>24 MR. SCHILLER: Yeah.</p> <p>25 MS. PAUTRAUT: No.</p>
<p>74</p> <p>1 HEARING EXAMINER PRAGER: Okay.</p> <p>2 MR. SCHILLER: So isn't it true that you were working</p> <p>3 there in 2015 you wore a different scarf every day?</p> <p>4 MS. PAUTRAUT: Yes sir, it is.</p> <p>5 MR. SCHILLER: Okay. And Mr. Lee complimented you on a</p> <p>6 scarf every day, or any time he saw you?</p> <p>7 MS. PAUTRAUT: Yes, sir.</p> <p>8 MR. SCHILLER: Okay. And is that a problem?</p> <p>9 MS. PAUTRAUT: Why is he noticing my fashion?</p> <p>10 MR. SCHILLER: Why are you -- okay. So why are you</p> <p>11 wearing different scarves every day?</p> <p>12 MS. PAUTRAUT: Because it's my personal fashion; it's</p> <p>13 what I like to do.</p> <p>14 MR. SCHILLER: But aren't you projecting the fashion</p> <p>15 for others?</p> <p>16 MS. PAUTRAUT: I'm projecting for myself. I'm wearing</p> <p>17 it for myself, not necessarily to get comp units from other</p> <p>18 people or to get a reaction from somebody else.</p> <p>19 MR. SCHILLER: Okay. And if somebody complimented you</p> <p>20 on a scarf, that annoyed you, wouldn't you tell them don't</p> <p>21 compliment me on my scarf, this scarf is for me?</p> <p>22 MS. PAUTRAUT: Once again he is my supervisor.</p> <p>23 MR. SCHILLER: Uh-huh.</p> <p>24 MS. PAUTRAUT: The man who holds my paycheck. I didn't</p> <p>25 say anything to ruffle any feathers. Nobody else in the</p>	<p>76</p> <p>1 MR. SCHILLER: Okay. Good morning's different from</p> <p>2 nice scarf, yes?</p> <p>3 MS. PAUTRAUT: Good morning is what everybody would</p> <p>4 say when they walk into a room. Yes, sir. Good afternoon.</p> <p>5 Good evening, yes sir.</p> <p>6 MR. SCHILLER: Okay. You were -- who asked to go to</p> <p>7 the Pentagon; you or Mr. Lee?</p> <p>8 MS. PAUTRAUT: Mr. Lee.</p> <p>9 MR. SCHILLER: Did he say do you want to go to the</p> <p>10 Pentagon to see me do a presentation? How was it exactly</p> <p>11 stated?</p> <p>12 MS. PAUTRAUT: Well, that day Mr. Lee was going to do</p> <p>13 a presentation and so was Web and I tried to go with Web,</p> <p>14 but Mr. Lee had me go with him to the Pentagon.</p> <p>15 MR. SCHILLER: Did Web go?</p> <p>16 MS. PAUTRAUT: To the Pentagon or to his presentation?</p> <p>17 I'm sorry.</p> <p>18 MR. SCHILLER: Isn't it the same thing?</p> <p>19 MS. PAUTRAUT: No, because there was two different</p> <p>20 presentation, sir.</p> <p>21 MR. SCHILLER: There were two different presentations</p> <p>22 at the Pentagon for the same day?</p> <p>23 MS. PAUTRAUT: No, not at the Pentagon, sir. There was</p> <p>24 a presentation that Web was supposed to so and then</p> <p>25 Jonathan was going to do. And so I had asked if I could go</p>

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20 (77 to 80)

<p style="text-align: right;">77</p> <p>1 with Web. Jonathan wanted me to go with him. So I went with 2 Jonathan to the Pentagon. 3 MR. SCHILLER: Okay. So how was it brought up? I mean, 4 did he say you're going to the Pentagon with me? Did Mr. 5 Lee say to you you're going to the Pentagon? 6 MS. PAUTRAUT: He had me go to the Pentagon with him 7 because I have lost my voice and I could not make the phone 8 calls with the way I sounded. His exact words, I do not 9 know that he had me go to the Pentagon with him. 10 MR. SCHILLER: All right. Well, that was my question. 11 So you don't -- 12 MS. PAUTRAUT: And I answered your question. 13 HEARING EXAMINER PRAGER: Ms. Pautrat, please just 14 answer questions. 15 MS. PAUTRAUT: Yes, sir. 16 HEARING EXAMINER PRAGER: No comments. 17 MR. SCHILLER: So you don't know the exact 18 conversation regarding how you were to go to the Pentagon, 19 correct? 20 MS. PAUTRAUT: The exact wording, correct, I don't 21 know. 22 MR. SCHILLER: Who drove? 23 MS. PAUTRAUT: Mr. Lee drove. 24 MR. SCHILLER: And on the way there did you talk about 25 business?</p>	<p style="text-align: right;">79</p> <p>1 employer, correct? 2 MS. PAUTRAUT: Yes, sir. 3 MR. SCHILLER: Okay. Mr. Lee never touched you on the 4 way over to the Pentagon, correct? 5 MS. PAUTRAUT: Not on the way to the Pentagon, no sir. 6 MR. SCHILLER: Okay. And you indicated on the way back 7 he reached over -- did he touch you? Did you indicate he 8 touched you in the car on the way back? 9 MS. PAUTRAUT: I did not indicate he -- me in the car. 10 It was after the presentation at the Pentagon when we were 11 waiting to be escorted out. When there was like, supposedly 12 a hair on my stomach and he went to go get it. So we were 13 in the car, sir. 14 MR. SCHILLER: Okay. So that was my question, in the 15 car on the way back no touching, correct? 16 MS. PAUTRAUT: No, sir. 17 MR. SCHILLER: Never touched you in in the car? 18 MS. PAUTRAUT: No, sir. 19 MR. SCHILLER: And on the way back from the Pentagon 20 you asked him about what he was doing over the weekend, 21 correct? 22 MS. PAUTRAUT: Because he had his kids, he told me -- 23 MR. SCHILLER: No, no. Judge, I mean -- I -- this is 24 cross and I'm asking Your Honor to instruct her just to 25 answer the question.</p>
<p style="text-align: right;">78</p> <p>1 MS. PAUTRAUT: On the way there we talked about the 2 presentation and how the setup would probably be of going 3 into the Pentagon since I had never been. 4 MR. SCHILLER: Okay. And did you talk to him about 5 other matters? 6 MS. PAUTRAUT: Not on the way there. We were talking 7 about work. We were talking about the Pentagon because I 8 had never been. 9 MR. SCHILLER: And then after -- in the end of served 10 the presentation, correct? 11 MS. PAUTRAUT: Yes, sir. 12 MR. SCHILLER: All right. How long did the 13 presentation last? 14 MS. PAUTRAUT: 45 minutes, maybe an hour. 15 MR. SCHILLER: Okay. And then you left the 16 presentation and you were back in Mr. Lee's car, correct? 17 MS. PAUTRAUT: Yes, sir. 18 MR. SCHILLER: Okay. You were pretty thorough in your 19 complaint, correct? 20 MS. PAUTRAUT: Yes, sir. 21 MR. SCHILLER: In your email to Ms. de los Santos, 22 correct? 23 MS. PAUTRAUT: Yes, sir. 24 MR. SCHILLER: All right. And you included all 25 important matters regarding contact with Mr. Lee and your</p>	<p style="text-align: right;">80</p> <p>1 HEARING EXAMINER PRAGER: Well, she did answer the 2 question. You interrupted her. she did answer the question. 3 You interrupted her. 4 MR. SCHILLER: Well -- 5 HEARING EXAMINER PRAGER: Ask the question again -- 6 would you play it back, please? 7 (Previous question played back.) 8 HEARING EXAMINER PRAGER: Yes she was going to 9 explain -- my understanding was she asked him about what he 10 was doing over the weekend because he had his kids is that 11 the import of your answer? 12 MS. PAUTRAUT: Yes, sir. 13 HEARING EXAMINER PRAGER: All right. 14 MR. SCHILLER: Well, I believe that -- I mean my 15 objection is it's a yes or no question. And she's not being 16 responsive. That's -- if it can't be answered with a yes or 17 nor then when it's permitted -- 18 HEARING EXAMINER PRAGER: That was not just a yes or 19 no question. Let's move on, please. 20 MR. SCHILLER: All right. So when you were in the car 21 on the way back you asked Mr. Lee what he was doing over 22 the weekend, correct? 23 MS. PAUTRAUT: Yes, sir. 24 MR. SCHILLER: Pardon? 25 MS. PAUTRAUT: Yes, sir.</p>

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21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 MR. SCHILLER: Okay. Is that -- was that work-related?</p> <p>2 MS. PAUTRAUT: No, sir.</p> <p>3 MR. SCHILLER: And you indicate that on the way back</p> <p>4 you stopped at Baskin-Robbins, correct?</p> <p>5 MS. PAUTRAUT: Yes, sir.</p> <p>6 MR. SCHILLER: Whose idea was that?</p> <p>7 MS. PAUTRAUT: Jonathan's, sir.</p> <p>8 MR. SCHILLER: All right. Did you -- your throat was</p> <p>9 hurting?</p> <p>10 MS. PAUTRAUT: I had lost my voice.</p> <p>11 MR. SCHILLER: All right. Did you think that was a</p> <p>12 nice thing to do for someone who has lost their voice maybe</p> <p>13 ice cream would help, or did you take that as a form of</p> <p>14 harassment?</p> <p>15 MS. PAUTRAUT: I didn't have a voice so I didn't want</p> <p>16 to go back to work. So I went to go get ice cream.</p> <p>17 MR. SCHILLER: Okay. So you didn't say no, I don't</p> <p>18 want to get ice cream?</p> <p>19 MS. PAUTRAUT: I did not say no, I do not want to get</p> <p>20 ice cream. It was a public place, I would be fine.</p> <p>21 MR. SCHILLER: Did you have a prior incident before</p> <p>22 working for Mr. Lee where you were -- had an incident where</p> <p>23 you were along with a man? A bad incident?</p> <p>24 MS. PAUTRAUT: I've never had, that I can remember, at</p> <p>25 work a bad incident. The only thing I can remember is that</p>	<p style="text-align: right;">83</p> <p>1 the inside of your arm you pulled away, right?</p> <p>2 MS. PAUTRAUT: Yes, sir.</p> <p>3 MR. SCHILLER: Okay. Did you say to him, don't touch</p> <p>4 me?</p> <p>5 MS. PAUTRAUT: I did not say don't touch me.</p> <p>6 MR. SCHILLER: Okay. Isn't it true that he never</p> <p>7 touched you after that, correct?</p> <p>8 MS. PAUTRAUT: Attempted.</p> <p>9 MR. SCHILLER: No, no. I mean after that date.</p> <p>10 MS. PAUTRAUT: After that date, you are correct, sir.</p> <p>11 MR. SCHILLER: Okay. You indicate in your complaint</p> <p>12 that -- or you testified that you said Mr. Lee said to you</p> <p>13 that he could read you, right?</p> <p>14 MS. PAUTRAUT: Yes, sir.</p> <p>15 MR. SCHILLER: Okay. And that you didn't have a poker</p> <p>16 face, right?</p> <p>17 MS. PAUTRAUT: Yes, sir.</p> <p>18 MR. SCHILLER: Okay. You never said to him after that,</p> <p>19 what do you mean, correct?</p> <p>20 MS. PAUTRAUT: Correct, sir.</p> <p>21 MR. SCHILLER: Okay. You just ignored it, right?</p> <p>22 MS. PAUTRAUT: I didn't question him, sir.</p> <p>23 MR. SCHILLER: Okay. And you don't read minds, right?</p> <p>24 MS. PAUTRAUT: No sir, I do not read minds.</p> <p>25 MR. SCHILLER: Okay. You interpreted that as a sexual</p>
<p style="text-align: right;">82</p> <p>1 there was a gentleman who walked in one time in the leasing</p> <p>2 office in the back but that's all I remember.</p> <p>3 MR. SCHILLER: And trapped you? Cornered you?</p> <p>4 MS. PAUTRAUT: He didn't -- yeah, he didn't let me</p> <p>5 out.</p> <p>6 MR. SCHILLER: Okay. So did you have a -- you had a</p> <p>7 fear from that of being alone with men?</p> <p>8 MS. PAUTRAUT: As a woman, you are always very</p> <p>9 cautious when you are along with a man. Yes.</p> <p>10 MR. SCHILLER: Okay.</p> <p>11 MS. PAUTRAUT: Always.</p> <p>12 MR. SCHILLER: All right. At the Baskin-Robbins you</p> <p>13 indicate that your elbow is double-jointed, correct?</p> <p>14 MS. PAUTRAUT: Yes, sir.</p> <p>15 MR. SCHILLER: Okay. And the -- Mr. Lee reaching over</p> <p>16 to touch her elbow that was inside between your bicep and</p> <p>17 your forearm, right?</p> <p>18 MS. PAUTRAUT: Yeah, right here, sir.</p> <p>19 MR. SCHILLER: Okay.</p> <p>20 MS. PAUTRAUT: Yeah.</p> <p>21 MR. SCHILLER: And did he ever make it there?</p> <p>22 MS. PAUTRAUT: Yes, sir.</p> <p>23 MR. SCHILLER: Did his hand ever make it there?</p> <p>24 MS. PAUTRAUT: Yes sir, he did.</p> <p>25 MR. SCHILLER: Okay. And then when it touched your --</p>	<p style="text-align: right;">84</p> <p>1 connotation?</p> <p>2 MS. PAUTRAUT: What, him saying that he could read me?</p> <p>3 MR. SCHILLER: Yeah. Yes.</p> <p>4 MS. PAUTRAUT: I understand. I was thinking, sir.</p> <p>5 MR. SCHILLER: That's -- oh.</p> <p>6 MS. PAUTRAUT: I didn't say that that was a sexual</p> <p>7 connotation that he can read me. He's just really being</p> <p>8 passionate about how he thinks he knows me.</p> <p>9 MR. SCHILLER: Okay. And you're -- when Mr. Lee was</p> <p>10 there in the first 90 days -- you know the 90 day period</p> <p>11 you were there. He would come into your office how many</p> <p>12 times, two, three times, four times a day?</p> <p>13 MS. PAUTRAUT: Three, maybe four times a day. I'm not</p> <p>14 100 percent sure --</p> <p>15 MR. SCHILLER: Okay.</p> <p>16 MS. PAUTRAUT: -- exactly how many times a day.</p> <p>17 MR. SCHILLER: All right. And that office, as you</p> <p>18 indicated had two other people in it also, right?</p> <p>19 MS. PAUTRAUT: Yes, that were in and out. Yes, sir.</p> <p>20 MR. SCHILLER: All right. And there were about five</p> <p>21 other offices in that suite, correct?</p> <p>22 MS. PAUTRAUT: Approximately yes, I believe so.</p> <p>23 MR. SCHILLER: Okay. And how long would these three to</p> <p>24 four times a day coming into the office last? How many</p> <p>25 minutes?</p>

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22 (85 to 88)

<p>85</p> <p>1 MS. PAUTRAUT: I don't know exactly how many minutes, 2 sir. 3 MR. SCHILLER: Okay. You had some issues with 4 scheduling at the office in your first 90 days, correct? 5 MS. PAUTRAUT: Yes, sir. 6 MR. SCHILLER: Okay. You were -- you had made some 7 mistakes in appointments, correct? 8 MS. PAUTRAUT: Yes, sir. 9 MR. SCHILLER: And there were discussions regarding 10 those stakes with Elizabeth de los Santos, correct? 11 MS. PAUTRAUT: To correct them, yes sir. 12 MR. SCHILLER: And Mr. Herman had some issues also, 13 correct? 14 MS. PAUTRAUT: The one time that I scheduled him, yes 15 sir. 16 MR. SCHILLER: And you had an issue with spelling, 17 correct? 18 MS. PAUTRAUT: I may have had a couple of typos, yes. 19 MR. SCHILLER: In one case there was a -- you were 20 asked to prepare a flyer, correct? 21 MS. PAUTRAUT: No, I wasn't the one who did all the 22 marketing information, that was Olivia, she was the -- how 23 do you say -- the graphic designer or the graphic artist. 24 MR. SCHILLER: Do you remember an email conversation 25 with Ms. Elizabeth de los Santos regarding a submission by</p>	<p>87</p> <p>1 errors, correct? 2 MS. PAUTRAUT: In that incident if you're trying to 3 say that that could be possible. 4 MR. CHONG: Objection to the characterization as some 5 spelling errors. The testimony sounds like it's one. 6 HEARING EXAMINER PRAGER: Yes, Mr. Schiller, what are 7 you talking about? 8 MR. SCHILLER: Were there incidents where you were 9 reprimanded for spelling? 10 MS. PAUTRAUT: No. 11 MR. SCHILLER: Okay. Did you have discussions with 12 Elizabeth de los Santos about spelling errors? 13 MS. PAUTRAUT: No. The discussions were about not 14 hitting my numbers. 15 MR. SCHILLER: But you had a discussion in an email 16 from Elizabeth de los Santos about a misspelling on a flyer 17 and it's your job to proof it, correct? 18 MS. PAUTRAUT: It was not my job to proof all of the 19 flyers. 20 HEARING EXAMINER PRAGER: Mr. Schiller, you've 21 confused me. Where does that appear? 22 MR. SCHILLER: In my cross-examination. 23 HEARING EXAMINER PRAGER: No, no, where -- you said it 24 was in an email from Ms. de los Santos. Is that in the 25 record, or is this your characterization?</p>
<p>86</p> <p>1 you of a flyer which had a misspelling in it? And that you 2 had to redo the flyer? You didn't proof it? 3 MS. PAUTRAUT: I don't recall that. 4 HEARING EXAMINER PRAGER: Wait, wait. 5 MR. SCHILLER: Well, I'm not talking about -- 6 HEARING EXAMINER PRAGER: Wait, wait, wait. 7 MR. SCHILLER: I'm not done with -- 8 HEARING EXAMINER PRAGER: Go ahead. He's asking a 9 question, go ahead. 10 MR. SCHILLER: I'm not finished. Thank you. Where you 11 submitted a flyer and it had a misspelling in it and it was 12 your job to correct it? 13 MS. PAUTRAUT: Honestly, I don't recall because I 14 wasn't the one who made the flyers. I do remember having to 15 try and help proofread some of the flyers that went out. 16 But did I physically made a flyer, I didn't know how to do 17 that. That wasn't part of my job scope, that was Olivia who 18 was doing those. 19 MR. SCHILLER: Okay. But -- and your job was to 20 proofread them, right? 21 MS. PAUTRAUT: Not, all of them. Once I was asked, I 22 believe, to read it over. I wasn't asked to proofread all 23 of the material that went out. 24 MR. SCHILLER: But it's fair to say that you also had, 25 in addition to, scheduling errors you had some spelling</p>	<p>88</p> <p>1 MR. SCHILLER: I'm asking her questions regarding -- 2 HEARING EXAMINER PRAGER: Yes, I understand that. 3 MR. SCHILLER: Right. 4 HEARING EXAMINER PRAGER: But the way you phrased it 5 was that there was a email from Ms. de los Santos. My 6 question is is that in the record. 7 MR. SCHILLER: It's about to be if she answers it then 8 I don't -- we don't need it. If she doesn't then Ms. de los 9 Santos will be called to rebut. 10 HEARING EXAMINER PRAGER: All right. 11 MR. SCHILLER: And she may have that document, or I 12 may use it -- 13 HEARING EXAMINER PRAGER: All right. You've clarified 14 that it is not in the record; that you may introduce it. 15 All right. Thank you. Go ahead. 16 MR. SCHILLER: Do you recall having -- isn't it true 17 that there was a discussion in an email exchange regarding 18 your misspelling in a flyer? Or your proofing -- 19 MS. PAUTRAUT: There may have been, sir. 20 MR. SCHILLER: May have been, or there was? 21 MS. PAUTRAUT: I don't remember because it was so long 22 ago, sir. 23 MR. SCHILLER: And you were to hit quotas in regard to 24 appointments being made, correct? 25 MS. PAUTRAUT: Yes, sir.</p>

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23 (89 to 92)

<p>89</p> <p>1 MR. SCHILLER: All right and who established that 2 quota? 3 MS. PAUTRAUT: During the training, Elizabeth. 4 MR. SCHILLER: And that quota was 20 meetings a week? 5 MS. PAUTRAUT: Twenty appointments a week, yes sir. 6 MR. SCHILLER: Twenty appointments a week. 7 MS. PAUTRAUT: Uh-huh. 8 MR. SCHILLER: Okay. And that meeting and quota was 9 set up in the first two weeks, correct? 10 MS. PAUTRAUT: Yes, sir. 11 MR. SCHILLER: And you did not meet that quota, 12 correct? 13 MS. PAUTRAUT: Correct, sir. 14 MR. SCHILLER: Never met that quota, correct? 15 MS. PAUTRAUT: Correct, sir. 16 MR. SCHILLER: And when -- and you were told that you 17 weren't meeting your quota by Elizabeth de los Santos, 18 correct? 19 MS. PAUTRAUT: Correct, sir. 20 MR. SCHILLER: Did you ever lie down on a couch in the 21 office? 22 MS. PAUTRAUT: Not to my recall at all, sir. 23 MR. SCHILLER: Did you ever take a nap at work? 24 MS. PAUTRAUT: Not that I recall, sir. 25 MR. SCHILLER: Was there a couch in the office?</p>	<p>91</p> <p>1 MR. SCHILLER: Wages of other employees. 2 MS. PAUTRAUT: I don't recall. 3 MR. SCHILLER: So you don't know if the other 4 employees are salary or hourly, correct? 5 MS. PAUTRAUT: Correct. I did not know if they were 6 hourly or salary. 7 MR. SCHILLER: Okay. You indicate in your email to Ms. 8 Elizabeth de los Santos on May 6 that on April 17th, that 9 would be the Pentagon? 10 MS. PAUTRAUT: Yes, sir. 11 MR. SCHILLER: That you told him not to touch me when 12 he reached for my stomach. 13 MS. PAUTRAUT: Right, but I could've gotten it myself. 14 I said I could've gotten the hair myself. 15 MR. SCHILLER: Did you -- but you didn't tell him 16 don't touch me? 17 MS. PAUTRAUT: I don't recall my exact words but you 18 could tell that if I'm recoiling from you and I'm telling 19 you I could do it myself that's body language saying don't 20 touch me. 21 MR. SCHILLER: Okay. So that's what I'm trying to 22 clarify. 23 MS. PAUTRAUT: Right. 24 MR. SCHILLER: I mean you never told -- you didn't say 25 to him don't touch me?</p>
<p>90</p> <p>1 HEARING EXAMINER PRAGER: I'm sorry, I didn't hear the 2 question. 3 MR. SCHILLER: Wasn't there a couch in the office. 4 MS. PAUTRAUT: I don't remember if there was a couch 5 or not in the office. There could have been one. I don't 6 remember to be honest with you. 7 HEARING EXAMINER PRAGER: Mr. Schiller? 8 MR. SCHILLER: Yes. I'm here. 9 HEARING EXAMINER PRAGER: Yes, let's proceed. 10 MR. SCHILLER: You were talking about your experiences 11 with Mr. Lee to other employees, correct? 12 MS. PAUTRAUT: Yes, sir. 13 MR. SCHILLER: Okay. Who initiated those 14 conversations, you? 15 MS. PAUTRAUT: With Ingrid it was both. Sometimes she 16 would, sometimes I would based on what was going on. 17 MR. SCHILLER: And you, at any time over the 90 day. 18 That you were there did you learn the wages of the other 19 employees? 20 MR. CHONG: Objection, relevance. 21 HEARING EXAMINER PRAGER: I'm not quite sure what the 22 relevance is but maybe Mr. Schiller will develop it so the 23 question can be answered. 24 MS. PAUTRAUT: You want to -- what was the question 25 again?</p>	<p>92</p> <p>1 MS. PAUTRAUT: Verbally, I did not say the words and 2 don't touch me. Actions -- 3 MR. SCHILLER: Okay. But you indicated -- 4 MS. PAUTRAUT: -- and everything, yes I did. 5 MR. SCHILLER: But you indicated in your email on May 6 6 that you -- you state specifically on April 17, I told 7 him not to touch me, correct? 8 MS. PAUTRAUT: That could be correct, sir. 9 MR. SCHILLER: All right so -- 10 MS. PAUTRAUT: Based on the email five years ago, and 11 trying to remember exactly what was said. 12 HEARING EXAMINER PRAGER: Excuse me. Where in the 13 asked -- are we talking about C 9? 14 MR. SCHILLER: Mine is referenced GP20 so it's C -- 15 it's C -- it's in C 8. 16 HEARING EXAMINER PRAGER: C 8? 17 MR. SCHILLER: You may be looking at a different book. 18 It's Bates stamped GP0020. It's the May 6 email which is in 19 evidence. 20 HEARING EXAMINER PRAGER: Yes, I have the May 6 email 21 and -- 22 MR. SCHILLER: All right. It's -- 23 HEARING EXAMINER PRAGER: -- where -- 24 MR. SCHILLER: Half -- 25 HEARING EXAMINER PRAGER: -- and it starts with the</p>

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24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 word, Elizabeth and it says, "As I stated to you." 2 MR. SCHILLER: Sure. So do you see the word 3 specifically right in the seventh or eighth line? 4 Specifically on April -- 5 HEARING EXAMINER PRAGER: Okay. Yes, I do. 6 MR. SCHILLER: Okay. So isn't it true that you sent an 7 email May 6 where you state, "Specifically on April 17 I 8 told him not to touch me." Yes? 9 MS. PAUTRAUT: Yes, sir. It's the email. 10 MR. SCHILLER: All right. Okay. But you testified that 11 you just pulled away, correct? 12 MS. PAUTRAUT: Yes, sir. 13 MR. SCHILLER: So this is not true, correct? 14 MS. PAUTRAUT: It's not a thing that -- 15 HEARING EXAMINER PRAGER: I'm sorry, what is not true? 16 Which is not true? 17 MR. SCHILLER: The -- it is not true that you told 18 him -- "I told him not to touch me." Correct? 19 MS. PAUTRAUT: You can tell when you don't want 20 someone to touch it. It's loud enough when you recoil. It's 21 loud enough when you sit there and you say, I could have 22 done it myself. That is -- communication is 90 percent body 23 language. You can tell, so yes, I did tell him. 24 MR. SCHILLER: The reference in the same letter 25 that -- and you acknowledge at the bottom, "furthermore,</p>	<p style="text-align: right;">95</p> <p>1 HEARING EXAMINER PRAGER: I'm sorry. What was that? 2 MR. SCHILLER: But you don't know how Simon was 3 compensated, correct? 4 MR. CHONG: Objection to relevance on that. 5 HEARING EXAMINER PRAGER: Yeah, I'm not sure what the 6 point is. If there are standards it doesn't make any 7 difference how people are being paid for them. What are you 8 trying to show? 9 MR. SCHILLER: Their position is that she was treated 10 differently, that this quote it didn't really matter. So I 11 am asking her whether or not she even knew whether or not 12 Simon had a quota as part of his employment. 13 MR. CHONG: That's -- that's -- 14 HEARING EXAMINER PRAGER: Well, I think that she has 15 testified that they thought that she and Simon thought that 16 each of them had quotas and they compared the quotas. So 17 let's move on, Mr. Schiller. 18 MR. SCHILLER: Yes, sir. Okay. I have just a couple 19 more questions. You -- in your application for employment 20 you understood that you were an at will employee, correct? 21 MS. PAUTRAUT: Yes, sir. 22 MR. SCHILLER: And prior to your complaint of 23 harassment and discrimination you were aware that there 24 were performance issues, correct? 25 MS. PAUTRAUT: That I did not meet my numbers, yes</p>
<p style="text-align: right;">94</p> <p>1 I'm not the only employee not meeting what is a near 2 impossible goal." Right? 3 MS. PAUTRAUT: Yes, sir. 4 MR. SCHILLER: Okay. So -- at that time did you have 5 the quotas and goals on other employees? 6 MS. PAUTRAUT: Simon and I worked together and we had 7 the whiteboard which I had attested to earlier. So we made 8 a healthy competition to make sure that we could meet our 9 20 each. 10 MR. SCHILLER: Okay. 11 MS. PAUTRAUT: So him and I both did not meet our 12 quotas, sir. 13 MR. SCHILLER: Simon, you have no idea whether or not 14 Simon was hourly or salary plus commission, correct? 15 MS. PAUTRAUT: Correct, just that we had to meet the 16 same quota. 17 MR. SCHILLER: Well, the quota board the two of you 18 made, right? 19 MS. PAUTRAUT: No. That was there before I got there. 20 MR. SCHILLER: Okay. 21 MS. PAUTRAUT: So that was to say how many 22 appointments to keep track of how many appointments we had 23 scheduled. 24 MR. SCHILLER: Okay. But you don't know how Simon was 25 compensated, correct?</p>	<p style="text-align: right;">96</p> <p>1 sir. 2 MR. SCHILLER: Okay. I'm wrapping up, Judge. No 3 further questions. 4 HEARING EXAMINER PRAGER: All right. Mr. Abramson, do 5 you have any cross-examination you want to do? 6 MR. ABRAMSON: Yes, I do. 7 HEARING EXAMINER PRAGER: All right. Proceed. 8 MR. ABRAMSON: Sorry, proceed? 9 HEARING EXAMINER PRAGER: Please. 10 MR. ABRAMSON: Ms. Pautrat -- 11 MS. PAUTRAUT: Yes, sir. 12 MR. ABRAMSON: When you were working who set your 13 hours? 14 MS. PAUTRAUT: Jonathan. 15 MR. ABRAMSON: And who kept track of your activities? 16 MS. PAUTRAUT: So I would talk to Elizabeth de los 17 Santos. I would talk to her via email or on the phone so 18 her and -- I guess Web. I mean there wasn't a tracking 19 system. It was just checking in when you got there, telling 20 your progress kind of thing. 21 MR. ABRAMSON: Okay so would you be talking with Ms. 22 de los Santos on a daily basis? 23 MS. PAUTRAUT: Basically, yes. 24 MR. ABRAMSON: And with Web on a daily basis? 25 MS. PAUTRAUT: Yes, sir.</p>

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25 (97 to 100)

<p>97</p> <p>1 MR. ABRAMSON: Okay. Could you set your own hours in</p> <p>2 working for the Foundation?</p> <p>3 MS. PAUTRAUT: No, sir.</p> <p>4 MR. ABRAMSON: Did you consider yourself to be a</p> <p>5 volunteer for the Foundation?</p> <p>6 MS. PAUTRAUT: No, sir.</p> <p>7 MR. ABRAMSON: Who was responsible for evaluating your</p> <p>8 job performance?</p> <p>9 MS. PAUTRAUT: I would -- I'm not 100 percent sure but</p> <p>10 I would assume that it would have been Elizabeth since I</p> <p>11 had the most contact with her, or Web.</p> <p>12 MR. ABRAMSON: Okay. Elizabeth or Web Sewell?</p> <p>13 MS. PAUTRAUT: Yes, sir.</p> <p>14 MR. ABRAMSON: And when they were evaluating what</p> <p>15 feedback did Web Sewell give you about your work?</p> <p>16 MS. PAUTRAUT: Him and -- well, he did not want me to</p> <p>17 burn out because of my hours since I wasn't leaving at</p> <p>18 4:00, 4:30-ish. He did say that he was concerned that I</p> <p>19 wasn't hitting my numbers and that was pretty much it.</p> <p>20 MR. ABRAMSON: When do you recall he first started</p> <p>21 mentioning a concern about meeting your numbers?</p> <p>22 MS. PAUTRAUT: So probably it would have been maybe</p> <p>23 the first month of me being there.</p> <p>24 MR. ABRAMSON: Okay. And your testimony is that</p> <p>25 Elizabeth de los Santos also raised concerns about not</p>	<p>99</p> <p>1 the two.</p> <p>2 MR. ABRAMSON: Okay.</p> <p>3 MS. PAUTRAUT: I think it was two.</p> <p>4 MR. ABRAMSON: Okay. After you were fired, did you</p> <p>5 apply for unemployment insurance?</p> <p>6 MS. PAUTRAUT: Yes, sir.</p> <p>7 MR. ABRAMSON: And who did you name as your employer?</p> <p>8 MS. PAUTRAUT: F3E, sir.</p> <p>9 MR. ABRAMSON: And what happened after you applied for</p> <p>10 that with F3E as your employer?</p> <p>11 MS. PAUTRAUT: I was denied unemployment because they</p> <p>12 said I never worked for them.</p> <p>13 MR. ABRAMSON: And did they -- did you ever get</p> <p>14 unemployment compensation?</p> <p>15 MS. PAUTRAUT: I think I may have gotten one payment</p> <p>16 because it took so long to try to figure out who I actually</p> <p>17 worked for and who I didn't work for. There was an</p> <p>18 investigation.</p> <p>19 MR. ABRAMSON: So when you say worked for you meant</p> <p>20 who actually paid you?</p> <p>21 MS. PAUTRAUT: Correct, sir.</p> <p>22 MR. ABRAMSON: Okay. And then you provided information</p> <p>23 to unemployment that Capital Financial had given you</p> <p>24 payroll checks?</p> <p>25 MS. PAUTRAUT: Yes, sir.</p>
<p>98</p> <p>1 hitting numbers?</p> <p>2 MS. PAUTRAUT: Yes sir, about not meeting my numbers.</p> <p>3 MR. ABRAMSON: And when did she start, to the best of</p> <p>4 your knowledge, giving you that feedback?</p> <p>5 MS. PAUTRAUT: It was approximately about the same</p> <p>6 time.</p> <p>7 MR. ABRAMSON: Okay. Did Nick Herman ever give you</p> <p>8 feedback about your job performance?</p> <p>9 MS. PAUTRAUT: No.</p> <p>10 MR. ABRAMSON: Did you have any interaction with Nick</p> <p>11 Herman about your job performance?</p> <p>12 MS. PAUTRAUT: Only two interactions but not about my</p> <p>13 job performance.</p> <p>14 MR. ABRAMSON: Two interactions?</p> <p>15 HEARING EXAMINER PRAGER: I'm sorry, I couldn't hear</p> <p>16 you. Say that again, please.</p> <p>17 MS. PAUTRAUT: Not about my job performance but I only</p> <p>18 had two interactions with him.</p> <p>19 MR. SCHILLER: Two interactions?</p> <p>20 MS. PAUTRAUT: Yes.</p> <p>21 MR. ABRAMSON: Could you describe those two to the</p> <p>22 best of your memory?</p> <p>23 MS. PAUTRAUT: He helped me set up like an online</p> <p>24 insurance. I don't remember the exact, I think it was for</p> <p>25 the state. And then when I got fired I believe those were</p>	<p>100</p> <p>1 MR. ABRAMSON: Okay. What was your understanding about</p> <p>2 why Capital Financial was paying your salary?</p> <p>3 MS. PAUTRAUT: Honestly, I didn't even know this and</p> <p>4 think about it. I was just doing my work and collecting my</p> <p>5 paycheck.</p> <p>6 MR. ABRAMSON: Were the checks given to you</p> <p>7 personally, or were they direct deposited into your</p> <p>8 account?</p> <p>9 MS. PAUTRAUT: The checks were personal paper checks</p> <p>10 and the last one was a direct deposit, if I remember</p> <p>11 correctly.</p> <p>12 MR. ABRAMSON: Okay. Did you ever consider yourself to</p> <p>13 be a volunteer of the Foundation?</p> <p>14 MS. PAUTRAUT: Never.</p> <p>15 MR. ABRAMSON: Did you consider yourself to be an</p> <p>16 employee?</p> <p>17 MS. PAUTRAUT: Yes, sir.</p> <p>18 MR. ABRAMSON: Did you consider the other people</p> <p>19 working there to be volunteers?</p> <p>20 MS. PAUTRAUT: No, sir.</p> <p>21 MR. ABRAMSON: And to your knowledge, did they</p> <p>22 consider themselves to be volunteers?</p> <p>23 MS. PAUTRAUT: Not that I know of.</p> <p>24 MR. ABRAMSON: Anyone ever tell you that they were a</p> <p>25 volunteer?</p>

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26 (101 to 104)

<p>101</p> <p>1 MS. PAUTRAUT: No, sir.</p> <p>2 MR. ABRAMSON: Okay. Do you know the identity of the</p> <p>3 person or persons who actually decided to terminate you?</p> <p>4 MS. PAUTRAUT: The actual decision, who made it?</p> <p>5 MR. ABRAMSON: Yes.</p> <p>6 MS. PAUTRAUT: I don't know. I just know who was in</p> <p>7 the room that day I got fired.</p> <p>8 MR. ABRAMSON: Okay. In your testimony was that Nick</p> <p>9 Herman was in the room and Web Sewell was in the room</p> <p>10 You're nodding.</p> <p>11 MS. PAUTRAUT: Yes, sir. I'm sorry.</p> <p>12 MR. ABRAMSON: It's all right.</p> <p>13 MS. PAUTRAUT: I was waiting for you to finish.</p> <p>14 MR. ABRAMSON: And then Elizabeth de los Santos was on</p> <p>15 the phone?</p> <p>16 MS. PAUTRAUT: Correct, sir.</p> <p>17 MR. ABRAMSON: Okay. When you work at the Foundation</p> <p>18 did you have a dedicated phone line to your desk?</p> <p>19 MS. PAUTRAUT: Yes, sir.</p> <p>20 MR. ABRAMSON: Okay. And did the phone line have --</p> <p>21 did you have a voicemail message on the phone?</p> <p>22 MS. PAUTRAUT: I want to say yes, I believe so.</p> <p>23 MR. ABRAMSON: Okay. And on your voice mail how would</p> <p>24 you -- to the best of your recollection how did you</p> <p>25 identify yourself on the phone?</p>	<p>103</p> <p>1 have your profile on that website as well?</p> <p>2 MS. PAUTRAUT: What do you mean my profile? I'm sorry.</p> <p>3 MR. ABRAMSON: Was there information about you working</p> <p>4 for the Foundation on the Foundation website? Let me</p> <p>5 rephrase that. Were you identified on the Foundation</p> <p>6 website as a person related to the Foundation?</p> <p>7 MS. PAUTRAUT: Yes, sir.</p> <p>8 MR. ABRAMSON: Was your picture there?</p> <p>9 MS. PAUTRAUT: Yes, sir.</p> <p>10 MR. ABRAMSON: Do you know if Capital Financial</p> <p>11 Partners had a website?</p> <p>12 MS. PAUTRAUT: I don't remember if they had. I didn't</p> <p>13 deal with Financial -- Capital Financial Partners. I dealt</p> <p>14 with F3E. So I'm not 100 percent sure.</p> <p>15 MR. ABRAMSON: And when you say you dealt with F3E you</p> <p>16 meant with the people working for F3E?</p> <p>17 MS. PAUTRAUT: The people, the individuals that</p> <p>18 attended the workshops, yes sir.</p> <p>19 MR. ABRAMSON: And then scheduling workshops with</p> <p>20 employers and government agencies; is that correct?</p> <p>21 MS. PAUTRAUT: Yes, sir.</p> <p>22 MR. ABRAMSON: And it's your testimony that you never</p> <p>23 described to Nick Herman any of the problems that you were</p> <p>24 having with Mr. Lee; is that correct?</p> <p>25 MS. PAUTRAUT: Correct, only to Elizabeth.</p>
<p>102</p> <p>1 MS. PAUTRAUT: You have reached Giselle at the</p> <p>2 Foundation for Financial Education.</p> <p>3 MR. ABRAMSON: Okay. And how about on social media</p> <p>4 sites; were you ever instructed or told to post who you</p> <p>5 were working for on social media sites, like LinkedIn or</p> <p>6 Facebook?</p> <p>7 MS. PAUTRAUT: I was never told to do it, no. But if</p> <p>8 you looked me up you could see that F3E came up. And my</p> <p>9 picture came up with F3E because there was a bio that I had</p> <p>10 to write.</p> <p>11 MR. ABRAMSON: You had to write on behalf of F3E?</p> <p>12 MS. PAUTRAUT: Yes, sir.</p> <p>13 MR. ABRAMSON: And so when you say that it will come</p> <p>14 up was this on Facebook?</p> <p>15 MS. PAUTRAUT: This was on Google.</p> <p>16 MR. ABRAMSON: On Google.</p> <p>17 MS. PAUTRAUT: Yes, sir.</p> <p>18 MR. ABRAMSON: So if you Googled your name it would</p> <p>19 come up about you working at the Foundation?</p> <p>20 MS. PAUTRAUT: Yes, sir.</p> <p>21 MR. ABRAMSON: With your picture?</p> <p>22 MS. PAUTRAUT: Yes, sir.</p> <p>23 MR. ABRAMSON: Did you have a post on LinkedIn?</p> <p>24 MS. PAUTRAUT: I don't remember.</p> <p>25 MR. ABRAMSON: And on the Foundation website did you</p>	<p>104</p> <p>1 MR. ABRAMSON: Only to Elizabeth.</p> <p>2 MS. PAUTRAUT: Yes, sir.</p> <p>3 MR. ABRAMSON: Now, there were mentions in your</p> <p>4 testimony of text messages?</p> <p>5 MS. PAUTRAUT: Yes, sir.</p> <p>6 MR. ABRAMSON: Received from Mr. Lee?</p> <p>7 MS. PAUTRAUT: Yes, sir.</p> <p>8 MR. ABRAMSON: What happened to those text messages?</p> <p>9 MS. PAUTRAUT: I don't have them, sir. They were in</p> <p>10 the phone and I don't have the phone.</p> <p>11 MR. ABRAMSON: They were in a phone that you had at</p> <p>12 that time?</p> <p>13 MS. PAUTRAUT: Yes, sir.</p> <p>14 MR. ABRAMSON: Did you ever forward those text</p> <p>15 messages to anybody?</p> <p>16 MS. PAUTRAUT: No, sir.</p> <p>17 MR. ABRAMSON: So those text messages basically were</p> <p>18 gone after you got rid of the phone?</p> <p>19 MS. PAUTRAUT: Basically, yeah.</p> <p>20 MR. ABRAMSON: Who is your cell phone account with?</p> <p>21 MS. PAUTRAUT: Verizon.</p> <p>22 MR. ABRAMSON: Verizon.</p> <p>23 MS. PAUTRAUT: Yes, sir.</p> <p>24 MR. ABRAMSON: So you never, just to clarify, you</p> <p>25 never forwarded any text message to Ms. de los Santos?</p>

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27 (105 to 108)

<p>105</p> <p>1 MS. PAUTRAUT: The actual text messages, no sir. I</p> <p>2 described them</p> <p>3 MR. ABRAMSON: And you described them in a phone</p> <p>4 conversation with Ms. de los Santos.</p> <p>5 MS. PAUTRAUT: Correct, sir.</p> <p>6 MR. ABRAMSON: Or in an email with Ms. de los Santos?</p> <p>7 MS. PAUTRAUT: Yes, sir.</p> <p>8 MR. ABRAMSON: Okay. In Exhibit 9, C 9 in the black</p> <p>9 binder, which has been admitted the May 6 email to Ms. de</p> <p>10 los Santos I noticed that you sent it from your personal</p> <p>11 Gmail account?</p> <p>12 MS. PAUTRAUT: The email, yes sir.</p> <p>13 MR. ABRAMSON: Could you share with us why you sent it</p> <p>14 from your Gmail account instead of your F3E online account?</p> <p>15 MS. PAUTRAUT: Yes sir, the reason I sent it from my</p> <p>16 Gmail account was because I didn't want to send it from my</p> <p>17 work account.</p> <p>18 MR. ABRAMSON: Because?</p> <p>19 MS. PAUTRAUT: I was at home -- because I was scared.</p> <p>20 MR. ABRAMSON: Scared of?</p> <p>21 MS. PAUTRAUT: I'm sitting here and I'm saying that</p> <p>22 I'm being harassed I'm being sexually harassed, I'm needed</p> <p>23 it come from my email when I was at home not during work</p> <p>24 hours. I didn't want it to be on the F3E or any of the</p> <p>25 emails. It's personal so I sent it from a personal email.</p>	<p>107</p> <p>1 MS. PAUTRAUT: My timeline and my composition.</p> <p>2 HEARING EXAMINER PRAGER: And when you did it why did</p> <p>3 you name both the Foundation and Capital Financial as the</p> <p>4 respondents?</p> <p>5 MS. PAUTRAUT: The reason I did that is because it was</p> <p>6 always unclear and I wanted to make sure that even though I</p> <p>7 worked for the Foundation and there as the umbrella of CFP</p> <p>8 an then the non-profit of the Foundation that I was</p> <p>9 covered. Because it's flip-floppy of like who does what and</p> <p>10 it's such a gray line so that's why. Does that make sense?</p> <p>11 HEARING EXAMINER PRAGER: I'm sorry?</p> <p>12 MS. PAUTRAUT: Did I -- did I explain that --</p> <p>13 HEARING EXAMINER PRAGER: Well, I'll -- you don't have</p> <p>14 to ask me questions.</p> <p>15 MS. PAUTRAUT: I'm sorry.</p> <p>16 HEARING EXAMINER PRAGER: Let me ask you questions. So</p> <p>17 what did you understand at the time that you filed your</p> <p>18 complaint? What did you understand the relationship between</p> <p>19 those two entities to be as best you can phrase it?</p> <p>20 MS. PAUTRAUT: That they were partners. That they were</p> <p>21 related. That they were linked to one another.</p> <p>22 HEARING EXAMINER PRAGER: You said you were hired by</p> <p>23 Jonathan Lee; is that correct?</p> <p>24 MS. PAUTRAUT: Yes, sir.</p> <p>25 HEARING EXAMINER PRAGER: Okay. And when Mr. Lee</p>
<p>106</p> <p>1 MR. ABRAMSON: Okay. Thank you, Your Honor. I have no</p> <p>2 further questions.</p> <p>3 HEARING EXAMINER PRAGER: All right. Ms. Pautrat, I</p> <p>4 have a number of questions for you.</p> <p>5 MS. PAUTRAUT: Yes, sir.</p> <p>6 HEARING EXAMINER PRAGER: First of all your complaint</p> <p>7 to the Office of Human Rights.</p> <p>8 MS. PAUTRAUT: Yes, sir.</p> <p>9 MR. ABRAMSON: Who composed that? Did you compose that</p> <p>10 yourself or was that done by people at the Office of Human</p> <p>11 Rights?</p> <p>12 MS. PAUTRAUT: It was done when I was there, sir. The</p> <p>13 complaint when I arrived at the Office of Human Rights.</p> <p>14 HEARING EXAMINER PRAGER: And you dictated it? I'm</p> <p>15 trying to find out how the wording was -- how the phrasing</p> <p>16 was done in that complaint.</p> <p>17 MS. PAUTRAUT: So I had, as soon as I was let go, I</p> <p>18 had a lawyer. And she told me to go to the Human Rights</p> <p>19 office which I did. I did the complaint. And that was it. I</p> <p>20 submitted it. She helped me based on what I had said. It</p> <p>21 was all what I had said and then I submitted it.</p> <p>22 HEARING EXAMINER PRAGER: But it was your composition?</p> <p>23 MS. PAUTRAUT: Yes, sir.</p> <p>24 HEARING EXAMINER PRAGER: Okay. That's what I was</p> <p>25 trying to find out.</p>	<p>108</p> <p>1 offered you the job whom did you understand you were</p> <p>2 working for?</p> <p>3 MS. PAUTRAUT: F3E.</p> <p>4 HEARING EXAMINER PRAGER: But at the time you did not</p> <p>5 think you were working for Capital Financial?</p> <p>6 MS. PAUTRAUT: Correct, sir.</p> <p>7 HEARING EXAMINER PRAGER: Were you aware at the time</p> <p>8 of the link between them at the time that you accepted the</p> <p>9 job?</p> <p>10 MS. PAUTRAUT: No. I just accepted the job because I</p> <p>11 was offered it.</p> <p>12 HEARING EXAMINER PRAGER: All right. Now, you signed a</p> <p>13 contract that you were -- or understanding which is in the</p> <p>14 record and I can't -- maybe Mr. Chong can remind me which</p> <p>15 document it is. But in any event, you signed this that you</p> <p>16 were both an employee of the Foundation and Capital</p> <p>17 Financial; do you remember that?</p> <p>18 MS. PAUTRAUT: Yes, sir.</p> <p>19 HEARING EXAMINER PRAGER: Now, at the time that you</p> <p>20 signed that did you have any contact with Mr. Herman?</p> <p>21 MS. PAUTRAUT: Other than the offer letter that he</p> <p>22 sent me, no. I had no physical contact with him.</p> <p>23 HEARING EXAMINER PRAGER: Mr. Chong, help me out.</p> <p>24 Which is that --</p> <p>25 MR. CHONG: Sure. It's Exhibit C 15, I believe is what</p>

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28 (109 to 112)

<p>109</p> <p>1 you're referring to.</p> <p>2 HEARING EXAMINER PRAGER: Yes, I'm referring to</p> <p>3 Employee Confidential Non-Competition and Non-Solicitation</p> <p>4 Agreement. And it was signed by Mr. Sewell at the time as</p> <p>5 well as by you; is that correct?</p> <p>6 MS. PAUTRAUT: Yes, sir.</p> <p>7 HEARING EXAMINER PRAGER: And did you understand who</p> <p>8 Mr. Sewell was working for at the time?</p> <p>9 MS. PAUTRAUT: I thought it was F3E. I wasn't 100</p> <p>10 percent between the two.</p> <p>11 HEARING EXAMINER PRAGER: Okay. But the -- but it has,</p> <p>12 as you know, it has both Capital Financial Partners and the</p> <p>13 Foundation for Financial Education there.</p> <p>14 MS. PAUTRAUT: Yes, sir.</p> <p>15 HEARING EXAMINER PRAGER: But you didn't ask Mr.</p> <p>16 Sewell at the time anything about the two entities; is that</p> <p>17 correct?</p> <p>18 MS. PAUTRAUT: Correct, sir.</p> <p>19 HEARING EXAMINER PRAGER: And I think you testified</p> <p>20 just momentarily -- a few moments ago that you had two</p> <p>21 contacts with Mr. Herman while you were working; one was at</p> <p>22 the time you were let go, and what was the other one again?</p> <p>23 MS. PAUTRAUT: Insurance. Helping me set up my</p> <p>24 insurance online.</p> <p>25 HEARING EXAMINER PRAGER: Okay. And how early in</p>	<p>111</p> <p>1 directly in words that his comments and behavior was</p> <p>2 unwelcome; is that correct?</p> <p>3 MS. PAUTRAUT: Yes, sir.</p> <p>4 HEARING EXAMINER PRAGER: Okay. And tell me again why</p> <p>5 you didn't do that.</p> <p>6 MS. PAUTRAUT: Yes, sir. Because he was my boss. And I</p> <p>7 knew that if you say something you could potentially get</p> <p>8 fired so I was just looking for another job.</p> <p>9 HEARING EXAMINER PRAGER: So basically, if I can put</p> <p>10 words in your mouth, you were scared; is that correct?</p> <p>11 MS. PAUTRAUT: Yes, sir. I needed my job.</p> <p>12 HEARING EXAMINER PRAGER: And again, help me out. In</p> <p>13 your testimony I think you said, but I'm not quite sure so</p> <p>14 just verify it one way or another, did you ever complain</p> <p>15 about Mr. Lee's behavior to any of your co-workers other</p> <p>16 than Ms. de los Santos in that email that's already in the</p> <p>17 record?</p> <p>18 MS. PAUTRAUT: Yes, sir.</p> <p>19 HEARING EXAMINER PRAGER: And who did you complain to?</p> <p>20 MS. PAUTRAUT: Simon Clayton and Ingrid Palencia.</p> <p>21 HEARING EXAMINER PRAGER: Okay. Now, they're not here.</p> <p>22 MS. PAUTRAUT: Correct, sir.</p> <p>23 HEARING EXAMINER PRAGER: So it's one of the problems</p> <p>24 with your testimony and what's going on here is that it</p> <p>25 seems to be since Mr. Lee is here it's a he says, she says</p>
<p>110</p> <p>1 your -- at the time you had been hired, how early was that?</p> <p>2 MS. PAUTRAUT: Within the first couple of weeks is</p> <p>3 when we did the insurance.</p> <p>4 HEARING EXAMINER PRAGER: All right. Do you have any</p> <p>5 idea of which of your colleagues worked for the Foundation</p> <p>6 and which worked for Capital Financial? Was that ever</p> <p>7 discussed?</p> <p>8 MS. PAUTRAUT: It wasn't discussed exactly who had</p> <p>9 which positions, no sir. I had assumed that Simon and I</p> <p>10 were both with F3E and that Lauren was as well because we</p> <p>11 were all doing the same job. But I didn't know anything</p> <p>12 else.</p> <p>13 HEARING EXAMINER PRAGER: All right. Well, the --</p> <p>14 you've only mentioned three people. There were -- how many</p> <p>15 people were in the office at the time approximately?</p> <p>16 MS. PAUTRAUT: Probably like nine maybe.</p> <p>17 HEARING EXAMINER PRAGER: Okay. And so you've now</p> <p>18 mentioned three of them, what do you know about the other</p> <p>19 six?</p> <p>20 MS. PAUTRAUT: I didn't because I didn't really</p> <p>21 interact with them. So I don't really know what they were</p> <p>22 doing.</p> <p>23 HEARING EXAMINER PRAGER: Tell me again, though I</p> <p>24 think the testimony when I read it will be fairly clear,</p> <p>25 but my understanding is that you never told Mr. Lee</p>	<p>112</p> <p>1 question. Did you try to get them to -- Mr. Chong, I'll ask</p> <p>2 you this. Did you try to get these witnesses to come?</p> <p>3 MR. CHONG: I could not locate Ms. Palencia and I</p> <p>4 believe she has moved since these events have taken place.</p> <p>5 They did take place five years ago and I was not able to</p> <p>6 get in touch with Simon.</p> <p>7 HEARING EXAMINER PRAGER: When was the last time, Ms.</p> <p>8 Pautrat, that you dealt with either of those two people?</p> <p>9 MS. PAUTRAT: Probably five years ago.</p> <p>10 HEARING EXAMINER PRAGER: And -- but not after work? I</p> <p>11 mean after you left the Foundation or Capital Financial you</p> <p>12 never had any contact with those people; is that correct?</p> <p>13 MS. PAUTRAT: Correct, sir.</p> <p>14 HEARING EXAMINER PRAGER: Now, I'm going to tell you</p> <p>15 some things about some case law; decisions by the Supreme</p> <p>16 Court and by Maryland courts. They talk about what sexual</p> <p>17 harassment is and what it is not for purposes of the law.</p> <p>18 And generally, we follow -- certainly follow the Supreme</p> <p>19 Court decisions and Maryland law although the Maryland</p> <p>20 courts, in terms of their interpretation of the statutes</p> <p>21 because the Montgomery County statute is pretty similar in</p> <p>22 most ways. But there are differences. At any rate, let me</p> <p>23 just say the -- in one case called the Meritor Savings Bank</p> <p>24 the court said that -- I'm quoting now. "Sexual harassment</p> <p>25 could be actionable under Title VII," the federal law. "The</p>

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29 (113 to 116)

<p>113</p> <p>1 two types of sexual harassment are a hostile environment 2 and quid pro quo." Quid pro quo meaning something for 3 something else, and exchange. And it said that sexual 4 harassment, this was quoting an earlier case is, "unwelcome 5 sexual advances, requests for sexual favors and other 6 verbal or physical conduct of a sexual nature." Now, did 7 Mr. Lee ever -- he never explicitly, by your testimony I 8 gathered, requested sexual favors from you; is that 9 correct? 10 MS. PAUTRAT: Yes, sir. 11 HEARING EXAMINER PRAGER: And the physical contact 12 that you've talked about is that he touched you twice, if I 13 recall correctly, once on the stomach and once he tried 14 to -- I can't remember whether it was successful or not, 15 but it doesn't make any difference, tried to touch you on 16 your elbows? 17 MS. PAUTRAT: Yes, sir. 18 HEARING EXAMINER PRAGER: Okay. Those are the only two 19 incidents, if I have it correct? 20 MS. PAUTRAT: Yes, sir. 21 HEARING EXAMINER PRAGER: Now, the court talks about 22 these -- this type of harassment can be a violation of the 23 law if it creates a hostile or abusive work environment. 24 Why do you think it was a hostile or abusive work 25 environment that the things that Mr. Lee did that you found</p>	<p>115</p> <p>1 humiliating, or a mere offensive utterance and whether it 2 unreasonably interferes with an employee's work 3 performance." Do you think it unreasonably interfered with 4 your work performance? 5 MS. PAUTRAT: Yes, sir. And that's why it was also 6 stated in the email. 7 HEARING EXAMINER PRAGER: Okay. It wasn't physically 8 threatening; is that correct? 9 MS. PAUTRAT: I wasn't sure what was going to happen. 10 I was just on high alert all the time and stressed out and 11 anxious. 12 HEARING EXAMINER PRAGER: Did you think that what Mr. 13 Lee was doing was asking for a quid pro quo? That he wanted 14 something from you in return for your being able to 15 continue in the job? 16 MS. PAUTRAT: I think he wanted more time. I don't 17 know what he wanted, honestly, sir. 18 HEARING EXAMINER PRAGER: Okay. So well what did you 19 think he wanted, if anything? Even if you didn't know what 20 he wanted. 21 MS. PAUTRAT: I think he just wanted to be alone with 22 me. I don't know. I just know that I just didn't feel 23 comfortable. 24 HEARING EXAMINER PRAGER: All right. 25 MS. PAUTRAT: And I know it wasn't right.</p>
<p>114</p> <p>1 offensive, why was that hostile or abusive? 2 MS. PAUTRAT: The reason it was -- I found it to be 3 hostile, sir, is because every day, like, I was anxious 4 because I didn't know what was going to happen. He already 5 told me that I was attractive and that the other women 6 weren't going to like me. He had given me special attention 7 by stopping by my office. He's sitting here and he's 8 texting his girlfriend could get upset, find out. I was 9 stressed about if she found out then maybe there would be 10 an opportunity for me to lose my job, which I needed. I 11 needed my job so I was constantly worried about losing it. 12 I wanted to make sure I was doing the right thing, that I 13 was doing my work. I was trying to hit my numbers. So it 14 was just so tense and stressful that I just didn't know 15 what was going to happen, if I said something wrong, if I 16 did something wrong, was my job in jeopardy. 17 HEARING EXAMINER PRAGER: Did you -- one of the other 18 things that courts had talked about is -- well, I will 19 quote this now. This is from -- a quotation from a case 20 called Feragher vs. City of Boca Raton. This is not for 21 your benefit that I am reciting the names of these things, 22 it is so that the lawyers can look at these. It said that 23 one of the problems -- one of the criteria is if you look 24 at the quote, "the frequency of the discriminatory conduct, 25 its severity, whether it is physically threatening or</p>	<p>116</p> <p>1 HEARING EXAMINER PRAGER: You also alleged at some 2 point, I think this was in your complaint, it said Mr. 3 Lee's attitude changed and he began asking co-employees 4 about you. 5 MS. PAUTRAT: Yes, sir. 6 HEARING EXAMINER PRAGER: Did any of them tell you 7 what his questions were? 8 MS. PAUTRAT: Yes, sir. 9 HEARING EXAMINER PRAGER: What were those questions as 10 far as you can remember them? 11 HEARING EXAMINER PRAGER: Why I had -- Simon had asked 12 me -- said that Jonathan had asked him why had my attitude 13 changed. 14 HEARING EXAMINER PRAGER: Why -- I'm sorry. Why you 15 were attitude had changed? 16 MS. PAUTRAT: Yes, sir. Why my attitude had changed. 17 Elizabeth said the same thing. Ingrid told me that she was 18 being asked to keep track of, like, how many times I, like, 19 left the office. So that's what I recall. 20 HEARING EXAMINER PRAGER: Okay. But these are -- and 21 these were questions, as far as you understand these were 22 the questions asked by Mr. Lee of these other people; is 23 that correct? 24 MS. PAUTRAT: Yes, that's how it was presented to me. 25 HEARING EXAMINER PRAGER: All right. Now, will find</p>

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<p>117</p> <p>1 out more which he testifies, but what did you understand</p> <p>2 Ms. de los Santos was the national coordinator for?</p> <p>3 MS. PAUTRAT: She was a regional director for F3E. And</p> <p>4 that she just -- I'm not sure. She just was the head person</p> <p>5 over that, like, department. I just knew that I -- I had --</p> <p>6 I worked with her.</p> <p>7 HEARING EXAMINER PRAGER: And did you ever understand</p> <p>8 that she had anything to do with Capital Financial?</p> <p>9 MS. PAUTRAT: No, sir.</p> <p>10 HEARING EXAMINER PRAGER: Okay. You don't know or --</p> <p>11 MS. PAUTRAT: I don't know, sir. I'm sorry, I don't</p> <p>12 know.</p> <p>13 HEARING EXAMINER PRAGER: All right. When you were</p> <p>14 fired, I think you said Mr. Sewell and Mr. Herman were in</p> <p>15 the office and Ms. de los Santos was on the phone; is that</p> <p>16 correct?</p> <p>17 MS. PAUTRAT: Yes, sir.</p> <p>18 HEARING EXAMINER PRAGER: Who took the lead in telling</p> <p>19 you you were fired?</p> <p>20 MS. PAUTRAT: Nick Herman.</p> <p>21 HEARING EXAMINER PRAGER: Okay. And what did Mr.</p> <p>22 Herman tell you as far as you can remember, as to all of</p> <p>23 the reasons that you were fired?</p> <p>24 MS. PAUTRAT: Mr. Herman had said that there was some</p> <p>25 scheduling issues and that there was a complaint. And</p>	<p>119</p> <p>1 HEARING EXAMINER PRAGER: What sort of relationship</p> <p>2 did you have with her?</p> <p>3 MS. PAUTRAT: She was a suite-mate, like, in the</p> <p>4 office.</p> <p>5 HEARING EXAMINER PRAGER: And did you talk to her</p> <p>6 frequently?</p> <p>7 MS. PAUTRAT: Not -- I didn't have a personal</p> <p>8 relationship with her, no.</p> <p>9 HEARING EXAMINER PRAGER: Okay. So you never</p> <p>10 complained about Mr. Lee to her?</p> <p>11 MS. PAUTRAT: No. Not that I remember at all. I talked</p> <p>12 to people that I -- I talked to the people that I had</p> <p>13 mentioned.</p> <p>14 HEARING EXAMINER PRAGER: And after you were fired how</p> <p>15 long was it before you received income from another</p> <p>16 employer?</p> <p>17 MS. PAUTRAT: So I did some side jobs to try and get</p> <p>18 money. Maybe -- my full-time job was three months after.</p> <p>19 TransCen had hired me three months after with a full-time</p> <p>20 salary.</p> <p>21 HEARING EXAMINER PRAGER: Okay. And who was the</p> <p>22 employer that you went?</p> <p>23 MS. PAUTRAT: TransCen.</p> <p>24 HEARING EXAMINER PRAGER: Right. Thank you.</p> <p>25 MS. PAUTRAT: Yes, sir.</p>
<p>118</p> <p>1 Elizabeth corrected him on the complaint. Because he said</p> <p>2 it was a formal complaint, she said no, it was just a</p> <p>3 complaint and that for those reasons it didn't seem like we</p> <p>4 were going to work out.</p> <p>5 HEARING EXAMINER PRAGER: All right. Did Mr. Sewell</p> <p>6 participate in the conversation or was he just a listener?</p> <p>7 MS. PAUTRAT: He was just a listener that I can</p> <p>8 remember.</p> <p>9 HEARING EXAMINER PRAGER: And correct me again, I</p> <p>10 think you already said this but just to verify; you said</p> <p>11 that Mr. Herman took the lead and Ms. de los Santos</p> <p>12 participated when she was asked questions or to correct him</p> <p>13 on this one thing that you said, otherwise she was silent?</p> <p>14 MS. PAUTRAT: Yes, sir.</p> <p>15 HEARING EXAMINER PRAGER: All right. And who is</p> <p>16 Alexandra Kazavoka?</p> <p>17 MS. PAUTRAT: She was an employee. She's another</p> <p>18 person in the office.</p> <p>19 HEARING EXAMINER PRAGER: And do you know who she</p> <p>20 worked for?</p> <p>21 MS. PAUTRAT: I'm not 100 percent sure who she worked</p> <p>22 for.</p> <p>23 HEARING EXAMINER PRAGER: Do you know what her</p> <p>24 position was?</p> <p>25 MS. PAUTRAT: I did not know what her position was.</p>	<p>120</p> <p>1 HEARING EXAMINER PRAGER: And was the income higher or</p> <p>2 lower than what you received from capital financial and the</p> <p>3 Foundation?</p> <p>4 MS. PAUTRAT: I think it may have been slightly</p> <p>5 higher, if not the same. I can't recall 100 percent.</p> <p>6 HEARING EXAMINER PRAGER: All right. Now, I am not</p> <p>7 quite sure, the record will bear this out at some point but</p> <p>8 am I correct in saying you don't -- you aren't asking for a</p> <p>9 difference either in pay or for income lost as a result of</p> <p>10 this firing?</p> <p>11 MS. PAUTRAT: I believe so.</p> <p>12 HEARING EXAMINER PRAGER: You believe so what?</p> <p>13 MS. PAUTRAT: I'm trying to understand the question.</p> <p>14 I'm sorry.</p> <p>15 HEARING EXAMINER PRAGER: Well, one of the things that</p> <p>16 you can get under this law is you can get back pay. And</p> <p>17 back pay means the difference between what you would have</p> <p>18 earned and what you did earn as a result of being fired,</p> <p>19 say. And you're not asking for that?</p> <p>20 MS. PAUTRAT: No, sir.</p> <p>21 HEARING EXAMINER PRAGER: Okay. Well, I have a couple</p> <p>22 of more questions about some of your testimony. What I have</p> <p>23 been asking about is what I prepared in advance. But you</p> <p>24 testified today and there are a couple of questions that I</p> <p>25 noted. But since we are now at 12:30: I think we should</p>

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<p>121</p> <p>1 break and we will continue when we come back, and I may 2 have some more questions. 3 MS. PAUTRAT: Yes, sir. 4 HEARING EXAMINER PRAGER: But then this will be -- 5 that will be this afternoon because we're going to have Ms. 6 de los Santos, we think, testify, and I have no idea how 7 long that is going to take. All right. With that we'll 8 break for three-quarters of an hour and be back here at 9 about 1:15. And we're off the record. 10 (Off the record at 12:29 p.m.) 11 (On the record at 1:21 p.m.) 12 HEARING EXAMINER PRAGER: We're starting the hearing 13 again, although at this point Mr. Schiller and his client, 14 Mr. Lee, are not here. We will proceed without them. Ms. 15 Pautrat I was asking you some questions before and I'm 16 going to go now through some notes and it will -- we may 17 have to stop at some point because of this call we are 18 making two Ms. de los Santos. 19 MS. PAUTRAT: Yes, sir. 20 HEARING EXAMINER PRAGER: But we don't know when that 21 is going to be. All right. Now, you testified that you have 22 received an offer of a job from Nick Herman through -- 23 after the interview, according to my notes. And that job 24 offer was signed by Mr. Herman; is that correct? 25 MS. PAUTRAT: Yes, sir.</p>	<p>123</p> <p>1 there is another one is Jleeffg@aol.com; do you have any 2 idea who that is? 3 MS. PAUTRAT: Yes, that's my friend. I was asking her 4 questions about the offer. 5 HEARING EXAMINER PRAGER: I'm sorry? 6 MS. PAUTRAT: That was my friend. 7 HEARING EXAMINER PRAGER: And why would Mr. Herman 8 send -- 9 MS. PAUTRAT: Oh, I'm sorry. 10 HEARING EXAMINER PRAGER: Oh, this is a forwarded 11 message. 12 MS. PAUTRAT: Yeah. 13 HEARING EXAMINER PRAGER: Okay. 14 MS. PAUTRAT: So up here where it says -- yeah, I 15 don't know who that is. 16 HEARING EXAMINER PRAGER: Okay. 17 MS. PAUTRAT: Sorry. I was mistaken, my apologies. 18 Yeah, I don't know who the Jleeffg@aol is. 19 HEARING EXAMINER PRAGER: Okay. Thank you. Did Ms. de 20 los Santos ever warn you that you yes being fired? 21 MS. PAUTRAT: No. 22 HEARING EXAMINER PRAGER: Did anybody? 23 MS. PAUTRAT: No, sir. 24 HEARING EXAMINER PRAGER: When Mr. Lee asked you about 25 traveling with him, did you understand that it was a</p>
<p>122</p> <p>1 HEARING EXAMINER PRAGER: Okay. Do you have a copy of 2 that offer? 3 MS. PAUTRAT: Yes, sir. 4 HEARING EXAMINER PRAGER: 5 MR. CHONG: May I, Your Honor? 6 HEARING EXAMINER PRAGER: Pardon? 7 MR. CHONG: May I address your question? 8 HEARING EXAMINER PRAGER: Yes. 9 MR. CHONG: I believe it was admitted as part of 10 Complainant's Exhibit C 25. It was page GP134 of that 11 exhibit. 12 HEARING EXAMINER PRAGER: I see it. Ms. Pautrat there 13 is -- I'm glad that I see this. It is an email from Mr. 14 Herman with an email address of 15 NHerman@capitalfinancialpartners.org and then there is a cc 16 to Web Sewell at -- and it's -- the email there is 17 WebF3E@gmail.com. And then another one 18 Esebold@capitalfinancialpartners.org. Do you know who 19 Esebold is? 20 MS. PAUTRAT: Eric Sebold. 21 HEARING EXAMINER PRAGER: Okay. And do you know 22 anything about him? What his position was? 23 MS. PAUTRAT: He was another financial advisor. That's 24 all I know. I didn't really interact with him. 25 HEARING EXAMINER PRAGER: Okay. And what about --</p>	<p>124</p> <p>1 general question as to whether or not you would travel 2 outside the local area, or was it -- did you understand it 3 was only to travel with Mr. Lee? 4 MS. PAUTRAT: Only to travel with Mr. Lee. 5 HEARING EXAMINER PRAGER: And why did you think that? 6 MS. PAUTRAT: Because of the way that he was with me 7 in terms of trying to talk to me, be alone with me. 8 HEARING EXAMINER PRAGER: All right. 9 MS. PAUTRAT: And I also assume, why should I be 10 traveling with him anyways if it's work related because I 11 didn't need to be there. 12 HEARING EXAMINER PRAGER: You didn't need to be where? 13 I'm sorry. 14 MS. PAUTRAT: I didn't need to be traveling because I 15 was only on the phones. 16 HEARING EXAMINER PRAGER: And what did you understand 17 the question that was asked as to whether or not you were 18 an at will employee? What did you understand --, will first 19 of all, were you told you were an at will employee? 20 MS. PAUTRAT: I don't remember being physically told 21 if I was in at will party. But I know that it was in the 22 paperwork. 23 HEARING EXAMINER PRAGER: It was in the paperwork 24 where? 25 MS. PAUTRAT: I think. Was it in the not compete, I</p>

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<p>125</p> <p>1 don't -- I'm not sure.</p> <p>2 HEARING EXAMINER PRAGER: Okay.</p> <p>3 MS. PAUTRAT: Yeah.</p> <p>4 HEARING EXAMINER PRAGER: But you were aware of it at</p> <p>5 some point that you were an at-will --</p> <p>6 MS. PAUTRAT: Yes, sir.</p> <p>7 HEARING EXAMINER PRAGER: And what did you understand</p> <p>8 by that?</p> <p>9 MS. PAUTRAT: That you can be let go for anything.</p> <p>10 HEARING EXAMINER PRAGER: As opposed to? I'm not quite</p> <p>11 sure what --</p> <p>12 MS. PAUTRAT: That's all I understood that you could</p> <p>13 just be let go.</p> <p>14 HEARING EXAMINER PRAGER: Okay.</p> <p>15 MS. PAUTRAT: Yeah.</p> <p>16 HEARING EXAMINER PRAGER: And my notes here, I just</p> <p>17 want to verify, I think this is an accurate notation. That</p> <p>18 you -- I believe you said that you didn't know who actually</p> <p>19 decided that you should be fired; is that correct?</p> <p>20 MS. PAUTRAT: Correct.</p> <p>21 HEARING EXAMINER PRAGER: I think that those are my</p> <p>22 only questions. We are going to interrupt now for a moment</p> <p>23 while I find out whether or not our IT person is going to</p> <p>24 be here momentarily set up this Skype call. We'll go off</p> <p>25 the record.</p>	<p>127</p> <p>1 asking you questions, and of course, Mr. Abramson will be</p> <p>2 here and he has Mr. Herman with him. And Mr. Abramson will</p> <p>3 start the questioning. All right? Now, even though you are</p> <p>4 going to have to be under oath when you appeared before the</p> <p>5 notary public, I want you to tell me that you that you</p> <p>6 swear or affirm that the testimony you are about to give is</p> <p>7 true and complete under penalty of perjury.</p> <p>8 MS. DE LOS SANTOS: I swear the testimony I am about</p> <p>9 to give is true and complete.</p> <p>10 HEARING EXAMINER PRAGER: All right. Thank you. Mr.</p> <p>11 Abramson, you can start the questioning.</p> <p>12 MR. ABRAMSON: Thank you. Ms. de los Santos, in 2015</p> <p>13 were you an employee of the Foundation for Financial</p> <p>14 Education?</p> <p>15 MS. DE LOS SANTOS: Yes. Yes, sir.</p> <p>16 MR. ABRAMSON: Okay. In that employment, what was your</p> <p>17 role at the Foundation?</p> <p>18 MS. DE LOS SANTOS: So I ran both the DC chapter and</p> <p>19 also the national program that we had in other states.</p> <p>20 MR. ABRAMSON: Okay. And in that activity did you have</p> <p>21 any supervisory role over other F3E employees?</p> <p>22 MS. DE LOS SANTOS: Yes.</p> <p>23 MR. ABRAMSON: And what was that role -- what</p> <p>24 supervisory role did you have?</p> <p>25 MS. DE LOS SANTOS: Oh, depending on each employee it</p>
<p>126</p> <p>1 (Off the record at 1:29 p.m.)</p> <p>2 (On the record at 1:54 p.m.)</p> <p>3 HEARING EXAMINER PRAGER: Ms. de los Santos, I'm Lutz</p> <p>4 Prager, I'm the hearing examiner. You're going to be placed</p> <p>5 under oath in a few moments, but in addition you're going</p> <p>6 to be required at some point in the near future to sign</p> <p>7 that the testimony that you are giving today is under oath</p> <p>8 under the penalty of perjury which means that you are going</p> <p>9 to have to go to a notary public when you get a copy of</p> <p>10 today's transcript and have that notarized. Do you</p> <p>11 understand that?</p> <p>12 MS. DE LOS SANTOS: Yes, sir.</p> <p>13 HEARING EXAMINER PRAGER: Okay. And that is going to</p> <p>14 be sent to you, I believe, by Mr. Abramson and you should</p> <p>15 send it back to Mr. Abramson and he will then forward it to</p> <p>16 us.</p> <p>17 MS. DE LOS SANTOS: Okay.</p> <p>18 HEARING EXAMINER PRAGER: All right. Is that clear Mr.</p> <p>19 Abramson?</p> <p>20 MR. ABRAMSON: Yes.</p> <p>21 HEARING EXAMINER PRAGER: Good. Just to -- do you have</p> <p>22 the vision of who -- the people at the table. But in</p> <p>23 addition to Ms. Pautrat, there is her longer, Dennis Chong</p> <p>24 who will be asking you questions later on. David Schiller</p> <p>25 who is representing Mr. Lee who will also probably be</p>	<p>128</p> <p>1 was sort of a team effort in trying to introduce our non-</p> <p>2 profit to the community. So depending on what we needed, we</p> <p>3 had some employees that -- Sam Hill he built our graphic</p> <p>4 design for our marketing material or power points. I had</p> <p>5 other employees that worked on the scene on getting the</p> <p>6 word out about our non-profit to communities so they would</p> <p>7 pick up the phone and they would contact organizations and</p> <p>8 request that a 15 minute meeting so we could go in and</p> <p>9 share our message. And then I also have employees that</p> <p>10 after a workshop, a lot of times people would need</p> <p>11 additional items so they would reach out to them and find</p> <p>12 out if there was a need for us to meet with them and give</p> <p>13 them additional guidance on their planning.</p> <p>14 MR. ABRAMSON: Okay. Do you know Giselle Pautrat?</p> <p>15 MS. DE LOS SANTOS: Yes.</p> <p>16 MR. ABRAMSON: You do?</p> <p>17 MS. DE LOS SANTOS: Yes sir, I do.</p> <p>18 MR. ABRAMSON: You do. And how do you know her?</p> <p>19 MS. DE LOS SANTOS: She was an employee at the</p> <p>20 Foundation for a couple of months.</p> <p>21 MR. ABRAMSON: Okay. Did you have direct oversight</p> <p>22 over Ms. Pautrat?</p> <p>23 MS. DE LOS SANTOS: Yes, sir.</p> <p>24 MR. ABRAMSON: And would you describe her work?</p> <p>25 MS. DE LOS SANTOS: So the goal of Ms. Pautrat was to</p>

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<p style="text-align: right;">129</p> <p>1 help me with non-profit activities. So it would go from --</p> <p>2 I needed help with verifying that the material we were</p> <p>3 sending to organizations didn't have any spelling errors or</p> <p>4 just grammar errors; to reaching out to organizations and</p> <p>5 introducing our non-profit to them, and she would schedule</p> <p>6 a 15-minute appointment for me or someone else to go and</p> <p>7 talk to them about our non-profit.</p> <p>8 MR. ABRAMSON: Okay.</p> <p>9 MS. DE LOS SANTOS: And also follow-up appointments.</p> <p>10 So sometimes after a workshop she would also call and find</p> <p>11 out what they were needing and see if there was a need for</p> <p>12 us to step in and help them.</p> <p>13 MR. ABRAMSON: Okay. Would you describe the quality of</p> <p>14 her work as you observed it?</p> <p>15 MR. CHONG: Objection. Ms. de los Santos was</p> <p>16 identified by CFP in the pre-hearing statement as providing</p> <p>17 testimony not on this topic. She was identified -- "she</p> <p>18 will identify that her involvement with the Complainant for</p> <p>19 both her work activities and her allegations of sexual</p> <p>20 harassment was always with and through the Foundation for</p> <p>21 Financial Education." She was not identified as someone</p> <p>22 who would testify as to the work standards and quality of</p> <p>23 work that Ms. Pautrat had.</p> <p>24 HEARING EXAMINER PRAGER: Mr. Abramson, you want to</p> <p>25 respond to that?</p>	<p style="text-align: right;">131</p> <p>1 had is I wasn't receiving the amount of activity that I</p> <p>2 needed or the -- having to double check because sometimes</p> <p>3 there were errors. And so I would probably say it needed</p> <p>4 work.</p> <p>5 MR. ABRAMSON: How often did you discuss Ms. Pautat's</p> <p>6 performance with her?</p> <p>7 MS. DE LOS SANTOS: Occasionally I did. We tried</p> <p>8 different techniques. One time we tried having her, you</p> <p>9 know, three hours a day on the phone because we were having</p> <p>10 a hard time of getting our message out to the community and</p> <p>11 getting companies to scheduling appointments with her. So</p> <p>12 then we tried a different approach where I asked her to</p> <p>13 make 100 calls a day. I've been in sales in the past so I</p> <p>14 kind of know of a lot of times with activity you've got to</p> <p>15 put in as much activity as possible to get pumping. So we</p> <p>16 tried different approaches because every avenue that I was</p> <p>17 trying it wasn't -- it -- I want' having success.</p> <p>18 MR. ABRAMSON: So some of these interactions were</p> <p>19 verbal with her?</p> <p>20 MS. DE LOS SANTOS: Verbal and also through email. I</p> <p>21 know there was at least one time where I told them, hey,</p> <p>22 this didn't work of doing three hours on the phone last</p> <p>23 week so let's try now -- this week let's try 100 calls and</p> <p>24 let's see if that might be a better approach and</p> <p>25 opportunity.</p>
<p style="text-align: right;">130</p> <p>1 MR. ABRAMSON: This is a rebuttal witness and it is</p> <p>2 rebutting direct testimony of the Complainant.</p> <p>3 MR. CHONG: My understanding is she is not a rebuttal</p> <p>4 witness. This is a case in chief witness.</p> <p>5 HEARING EXAMINER PRAGER: That's my understanding to.</p> <p>6 MR. ABRAMSON: We are offering her specifically to</p> <p>7 rebut testimony of the Complainant which is on the record</p> <p>8 regarding the quality of her work. And she testified about</p> <p>9 Ms. de los Santos' interactions with her and evaluations so</p> <p>10 it is material and relevant for Ms. de los Santos to</p> <p>11 describe the quality of the work in the testimony since it</p> <p>12 has already been in the record in email and other</p> <p>13 testimony.</p> <p>14 HEARING EXAMINER PRAGER: Mr. Chong, you may</p> <p>15 technically be correct, but since there has been so much</p> <p>16 testimony about relationship with Ms. de los Santos it</p> <p>17 obviously is helpful to me to find out what these</p> <p>18 interactions are and I believe that the question that was</p> <p>19 being asked is relevant to that. So I will overrule your</p> <p>20 objection.</p> <p>21 MR. ABRAMSON: Thank you. So the question was would</p> <p>22 you describe the quality of her work?</p> <p>23 MS. DE LOS SANTOS: It needed work. A lot of the role</p> <p>24 that I needed, I needed people that I could implement and I</p> <p>25 didn't have to double check. And one of the challenges I</p>	<p style="text-align: right;">132</p> <p>1 HEARING EXAMINER PRAGER: Ms. de los Santos, you just</p> <p>2 said you did something with them, who are the them that you</p> <p>3 are talking about?</p> <p>4 MS. DE LOS SANTOS: I had tried with her and another</p> <p>5 employee named Simon. He did a little bit with the non-</p> <p>6 profit and during her time there he was helping me with</p> <p>7 community outreach and scheduling face to face. What we</p> <p>8 call is a face-to-face which is they pretty much you get on</p> <p>9 the phone, and make requests, 15 minutes of their time, and</p> <p>10 keep it really light and her and Simon would schedule the</p> <p>11 face-to-face appointments.</p> <p>12 HEARING EXAMINER PRAGER: Mr. Abramson.</p> <p>13 MR. ABRAMSON: Did there come a time when you decided</p> <p>14 to terminate Ms. Pautrat's employment?</p> <p>15 MS. DE LOS SANTOS: Yes. There was a point where I</p> <p>16 realized that I needed additional help and the quality of</p> <p>17 the work, it was -- I needed help and I did speak and I</p> <p>18 made it very aware that I needed someone else to come in</p> <p>19 and to help me with sharing the load. It was too much of a</p> <p>20 load and I needed to find employees that I didn't have to</p> <p>21 either -- I didn't want to micromanage and I didn't want to</p> <p>22 have to be double checking her work because then that's</p> <p>23 just -- that's the same amount of work for me.</p> <p>24 MR. ABRAMSON: And what reason did you give Ms. trap</p> <p>25 for her termination?</p>

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<p>133</p> <p>1 MS. DE LOS SANTOS: Say that again?</p> <p>2 MR. ABRAMSON: What reasons did you give Ms. trap for</p> <p>3 her termination?</p> <p>4 MS. DE LOS SANTOS: Back in 2015 I believe we told her</p> <p>5 it was because of the quality of her work. We fired her for</p> <p>6 cause because we weren't generating what we needed from</p> <p>7 her.</p> <p>8 MR. ABRAMSON: Okay. And then do you recall there was</p> <p>9 a meeting with Mr. Herman and you --</p> <p>10 MS. DE LOS SANTOS: Yes.</p> <p>11 MR. ABRAMSON: -- were on the phone at that time?</p> <p>12 MS. DE LOS SANTOS: Yes, I was on the phone.</p> <p>13 MR. ABRAMSON: Was anybody else in the room with Mr.</p> <p>14 Herman and Ms. Pautrat?</p> <p>15 MS. DE LOS SANTOS: That was it, just us three.</p> <p>16 MR. ABRAMSON: Okay. And that is when she learned that</p> <p>17 she was being terminated?</p> <p>18 MS. DE LOS SANTOS: Yes.</p> <p>19 MR. ABRAMSON: Okay. Thank you. I have no further</p> <p>20 questions.</p> <p>21 HEARING EXAMINER PRAGER: Mr. Schiller, do you have</p> <p>22 any questions for her?</p> <p>23 MR. SCHILLER: One moment please. Your Honor?</p> <p>24 HEARING EXAMINER PRAGER: Yes.</p> <p>25 MR. SCHILLER: Yes, one moment please.</p>	<p>135</p> <p>1 MR. CHONG: Objection.</p> <p>2 MS. DE LOS SANTOS: Probably --</p> <p>3 MR. CHONG: Facts not in evidence.</p> <p>4 HEARING EXAMINER PRAGER: Excuse me. There has been an</p> <p>5 objection.</p> <p>6 MR. CHONG: Asked not evidence. The question talks</p> <p>7 about her being an employee of Herman, Inc. and she's never</p> <p>8 said that she is an employee of Herman, Inc.</p> <p>9 HEARING EXAMINER PRAGER: All right. Well, you can ask</p> <p>10 that, Mr. Chong, when you have a chance to cross-examine.</p> <p>11 Do you remember the question Ms. de los Santos?</p> <p>12 MR. ABRAMSON: Can that question be repeated?</p> <p>13 MS. DE LOS SANTOS: If I'm correct -- the question was</p> <p>14 how long was I employed when Giselle started her</p> <p>15 employment?</p> <p>16 HEARING EXAMINER PRAGER: Right. I believe.</p> <p>17 MR. SCHILLER: Yes.</p> <p>18 MS. DE LOS SANTOS: So hang on. So probably around</p> <p>19 February of 2014, I believe.</p> <p>20 MR. SCHILLER: Okay. And over that period of time how</p> <p>21 many people had you supervised?</p> <p>22 MS. DE LOS SANTOS: Dozens.</p> <p>23 MR. SCHILLER: Okay.</p> <p>24 MS. DE LOS SANTOS: A lot.</p> <p>25 MR. SCHILLER: All right. And of these individuals</p>
<p>134</p> <p>1 HEARING EXAMINER PRAGER: Uh-huh.</p> <p>2 MR. SCHILLER: Thank you. Okay. Thank you. Ms. de los</p> <p>3 Santos, were you Ms. Pautrat's supervisor?</p> <p>4 MS. DE LOS SANTOS: Yes.</p> <p>5 MR. SCHILLER: And how often were you communicating</p> <p>6 with Ms. trap?</p> <p>7 MS. DE LOS SANTOS: Multiple times a day.</p> <p>8 MR. SCHILLER: Okay. And is that from the day she</p> <p>9 started until the day that she was terminated?</p> <p>10 MS. DE LOS SANTOS: Yes.</p> <p>11 MR. SCHILLER: Was she at work every day, if you</p> <p>12 recall?</p> <p>13 MS. DE LOS SANTOS: So I know initially she had</p> <p>14 gone -- approval for a couple of days off initially. And</p> <p>15 she had put that in writing, and she made me aware before</p> <p>16 her employment that she had -- and there was an agreement</p> <p>17 that a certain amount -- I forget how many days it was, but</p> <p>18 because I worked remotely I didn't see what time she came</p> <p>19 in or how long she was out of the office. And then the</p> <p>20 other issue I have is kind of for me for employees, as long</p> <p>21 as you are getting your job done that's all I cared about.</p> <p>22 So I didn't micromanage her minutes in the office.</p> <p>23 MR. SCHILLER: Okay. How long had you been with the</p> <p>24 Foundation or Herman, Inc. in 2015? How many -- how much</p> <p>25 time whether it was years, months, days?</p>	<p>136</p> <p>1 were any of them working full-time for salary?</p> <p>2 MS. DE LOS SANTOS: Full-time for salary. I was</p> <p>3 definitely full-time salary. I mean when you say full time</p> <p>4 for salary you mean fully focused in on the non-profit and</p> <p>5 no other activities, just strictly the non-profit?</p> <p>6 MR. SCHILLER: No. What I am asking is, of these</p> <p>7 individuals that you supervised, you said dozens, or any of</p> <p>8 those individuals full-time salaried people versus hourly?</p> <p>9 MS. DE LOS SANTOS: You know what, that when I don't</p> <p>10 know because I wasn't involved in their compensation. That</p> <p>11 one I can't answer. I don't know.</p> <p>12 MR. SCHILLER: Okay.</p> <p>13 MS. DE LOS SANTOS: I know they were making -- they</p> <p>14 were getting compensated but I don't know which ones were</p> <p>15 hourly or which ones were full-time. I know that there was</p> <p>16 a mixture at some points. If we had an intern that had a</p> <p>17 drive and could only give us X amount of hours a week we</p> <p>18 definitely brought them in and we paid them hourly. But</p> <p>19 I -- to say -- I don't know about the actual finances</p> <p>20 behind it.</p> <p>21 MR. SCHILLER: In 2015, March to May 2015, who were</p> <p>22 you paid by?</p> <p>23 MS. DE LOS SANTOS: The Foundation.</p> <p>24 MR. SCHILLER: Okay. Were you paid by Herman, Inc. at</p> <p>25 all during that period of time?</p>

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<p>137</p> <p>1 MS. DE LOS SANTOS: No. I believe at that point it was</p> <p>2 the Foundation.</p> <p>3 MR. SCHILLER: Okay. And did you ever, over the dozen</p> <p>4 people that you were supervising, did any of those other</p> <p>5 individuals have difficulty meeting quota?</p> <p>6 MS. DE LOS SANTOS: I mean, yes. At some point because</p> <p>7 a apportion of it is trying to generate activity and you</p> <p>8 never want to set quotas way below expectations because</p> <p>9 people get complacent but a lot of the time it was kind of</p> <p>10 washed by -- people would have good months and they would</p> <p>11 have it bad months, but as long as it was a mixture I was</p> <p>12 okay with that because we're never going to show up to work</p> <p>13 and perform day after day, and we're all going to have bad</p> <p>14 days. But as long as they had as many good days, if not</p> <p>15 more than bad days I was okay with that. But it fluctuated.</p> <p>16 MR. SCHILLER: Did Ms. Pautrat have her fluctuation of</p> <p>17 good days and bad days, did the good days make up for the</p> <p>18 bad days?</p> <p>19 MS. DE LOS SANTOS: Unfortunately, it didn't. I tried</p> <p>20 positioning Giselle or Ms. Pautrat in many different</p> <p>21 avenues because the thing about my position is I needed so</p> <p>22 much help there was different ways to utilize her and</p> <p>23 different approaches that I tried but it wasn't successful</p> <p>24 and so eventually a couple of months in I realized that it</p> <p>25 was -- it wasn't going to be a good fit.</p>	<p>139</p> <p>1 MS. DE LOS SANTOS: Yes.</p> <p>2 MR. SCHILLER: And did you communicate that with Ms.</p> <p>3 Pautrat?</p> <p>4 MS. DE LOS SANTOS: The first couple of times I did,</p> <p>5 but then afterwards I realized that it was just going to be</p> <p>6 easier just for me to do it myself, and that became an</p> <p>7 issue because instead of me offloading some of the day-to-</p> <p>8 day activities like that I was having to do it again</p> <p>9 myself.</p> <p>10 MR. SCHILLER: Did --</p> <p>11 MS. DE LOS SANTOS: But it --</p> <p>12 MR. SCHILLER: Were you done; I'm sorry.</p> <p>13 MS. DE LOS SANTOS: Yes, I did initially but then once</p> <p>14 I realized that it wasn't the strong suit then I tried to</p> <p>15 pivot toward something else. I thought maybe might be a</p> <p>16 good fit to plug her into.</p> <p>17 MR. SCHILLER: Did you ever find a fit? Was there a</p> <p>18 fit?</p> <p>19 MS. DE LOS SANTOS: Unfortunately that's why I was</p> <p>20 okay with letting her go because I couldn't find a fit.</p> <p>21 MR. SCHILLER: Okay. Did you -- was there any issue</p> <p>22 with her even scheduling individuals for meetings?</p> <p>23 MS. DE LOS SANTOS: Yes. And because we are a non-</p> <p>24 profit and we don't have very much money so a lot of the</p> <p>25 times what we don't pay for in money we give up in man</p>
<p>138</p> <p>1 MR. SCHILLER: Okay. Did her complaint and discussion</p> <p>2 with you regarding harassment, was that taken into</p> <p>3 consideration in the discharge?</p> <p>4 MS. DE LOS SANTOS: No.</p> <p>5 MR. SCHILLER: And did you have other issues with the</p> <p>6 performance of Ms. Pautrat's work beyond the quota issue?</p> <p>7 MS. DE LOS SANTOS: Yes. One of the areas I needed</p> <p>8 help with -- so after I schedule a class with an</p> <p>9 organization we offer to create flyers for them so that</p> <p>10 they don't have to do any work, we try to make it as easy</p> <p>11 as possible for them to use our non-profit. And one of the</p> <p>12 things that I would request from her is we have a graphic</p> <p>13 designer that's amazing and she's extremely artistic but</p> <p>14 she -- where she lacks was in the fine details of spelling</p> <p>15 and grammar errors. And so one of the areas that I asked</p> <p>16 Giselle to help me with is verifying that the material that</p> <p>17 was being sent to the company that is correct because</p> <p>18 although that's not a hard thing to do it does take time</p> <p>19 and I needed to offload some of those areas that were time</p> <p>20 consuming. And something as simple as misspelling the</p> <p>21 organization's name was an issue and so I couldn't even use</p> <p>22 her on the process side. So yes, that was another area.</p> <p>23 MR. SCHILLER: Okay. So did you notify -- was there --</p> <p>24 were there spelling errors? The proofreading, were there</p> <p>25 issues?</p>	<p>140</p> <p>1 hours. And so I needed her on the phone either scheduling</p> <p>2 appointments to have me go out and speak with the company</p> <p>3 about scheduling additional classes and even that -- I mean</p> <p>4 even after she left her employment nothing came from those</p> <p>5 scheduling.</p> <p>6 MR. SCHILLER: What about scheduling for Mr. Herman?</p> <p>7 MS. DE LOS SANTOS: Scheduling for Mr. Herman --</p> <p>8 MR. SCHILLER: Was there a problem that you became</p> <p>9 aware of?</p> <p>10 MS. DE LOS SANTOS: Yes. She -- and you've got to</p> <p>11 excuse me, this is five years later. I know that there were</p> <p>12 a couple of times where she either booked someone at the</p> <p>13 wrong time or made a mistake with a double booking. And I</p> <p>14 mean in the very beginning with employees when they are new</p> <p>15 I try to -- we all make mistakes when we're trying to learn</p> <p>16 in the very beginning so I try to be aware that there's a</p> <p>17 learning curve. But I do know at least once -- at least one</p> <p>18 time there -- I have a memory there was a scheduling</p> <p>19 conflict where she was she did book incorrectly. These</p> <p>20 thing with these meeting is you really -- you only really</p> <p>21 have one shot. If you start messing up like this our</p> <p>22 credibility is completely shot because we are a non-profit</p> <p>23 we have to show that we -- our professionalism. And so when</p> <p>24 we commit something we had to stick with it because trying</p> <p>25 to rebook someone for a second time it can be really</p>

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<p>141</p> <p>1 challenging.</p> <p>2 MR. SCHILLER: So you recall having a communication</p> <p>3 with Ms. Pautrat about her scheduling issue?</p> <p>4 MS. DE LOS SANTOS: Yes. Yes, I did.</p> <p>5 MR. SCHILLER: And whose decision was it to terminate</p> <p>6 Ms. Pautrat?</p> <p>7 MS. DE LOS SANTOS: I did recommend that we find</p> <p>8 someone else. I did recommend that we let her go.</p> <p>9 MR. SCHILLER: Okay. And who did you -- did you</p> <p>10 ever -- when you say recommend, who did you have a</p> <p>11 conversation with regarding that?</p> <p>12 MS. DE LOS SANTOS: That's the one thing I don't</p> <p>13 remember. I mean I -- I don't remember who I had spoken to</p> <p>14 about that. But I made it very clear. A lot of times our</p> <p>15 non-profit it's a -- its' really an effort with the entire</p> <p>16 team and so when one person is struggling it completely</p> <p>17 stops the entire momentum. And so I don't remember who had</p> <p>18 I had spoken to but I know that I had recommended that</p> <p>19 maybe it's time for me to find a -- find someone else that</p> <p>20 can help us with trying to move the non-profit forward.</p> <p>21 MR. SCHILLER: Did you receive communication, whether</p> <p>22 it be verbal or written, from Mr. Lee to terminate Ms.</p> <p>23 Pautrat?</p> <p>24 MS. DE LOS SANTOS: That part I don't remember.</p> <p>25 MR. SCHILLER: Okay. What about Mr. Herman?</p>	<p>143</p> <p>1 that just takes picking up the phone and calling multiple</p> <p>2 people. And that's how I was trying, at that point, to</p> <p>3 quantify her success.</p> <p>4 MR. SCHILLER: Did you -- did there come a time when</p> <p>5 you asked other employees to monitor Ms. Pautrat's work?</p> <p>6 MS. DE LOS SANTOS: No.</p> <p>7 MR. SCHILLER: Okay. Did you ever have a conversation</p> <p>8 with Mr. Lee and/or Mr. Herman about monitoring Ms.</p> <p>9 Pautrat's work?</p> <p>10 MS. DE LOS SANTOS: No, only because my entire job was</p> <p>11 to monitor the non-profit's staff's work. So it kind of was</p> <p>12 implied that I monitor it to begin with. So I never really</p> <p>13 had that conversation about that because I was understood</p> <p>14 as her supervisor I was monitoring her activity.</p> <p>15 MR. SCHILLER: Do you recall when you notified Mr. Lee</p> <p>16 of the email that Ms. Pautrat sent to you regarding her</p> <p>17 experience in the workplace?</p> <p>18 MS. DE LOS SANTOS: Well, I hadn't contacted Mr. Lee</p> <p>19 initially. I got that email -- this was the first time I've</p> <p>20 ever experienced any type of allegation and so I didn't</p> <p>21 want to mess up. And so I went to -- there was a lawyer on</p> <p>22 the staff and I asked him if I could -- she had asked me to</p> <p>23 please don't tell anyone but it just -- it didn't sit right</p> <p>24 someone just told me that they feel like they're being --</p> <p>25 it's a hostile environment. So I spoke with one of the</p>
<p>142</p> <p>1 MS. DE LOS SANTOS: Sorry, that part I don't remember.</p> <p>2 I was out of the office. I know I had spoken to them</p> <p>3 earlier on and did explain to them the situation that I was</p> <p>4 having, and the thing about the non-profit is there's only</p> <p>5 so many dollars that we have paid towards the non-profit</p> <p>6 and I realized I needed additional support and</p> <p>7 unfortunately I wasn't -- I wasn't receiving that. And so I</p> <p>8 don't remember who had -- I remember getting a phone call</p> <p>9 and saying we're going to terminate her today and I was on</p> <p>10 the call afterwards or when we terminated her. But I mean</p> <p>11 it's five years back. I can't answer that question beyond</p> <p>12 that; I'm sorry.</p> <p>13 MR. SCHILLER: Okay. Do you recall how early on you</p> <p>14 were -- you had a discussion regarding Ms. Pautrat's</p> <p>15 performance. You mentioned early on.</p> <p>16 MS. DE LOS SANTOS: So I know at least in April I</p> <p>17 had -- I was worried about the activity. So I at least</p> <p>18 remember because I have an email where it said that I was</p> <p>19 worried about the activity at least from early April. I was</p> <p>20 starting to notice that -- and that's the thing in the very</p> <p>21 beginning I'm okay with mistakes in the very beginning</p> <p>22 because there is a learning curve. But I think by then she</p> <p>23 was already a little into it so the learning curve should</p> <p>24 have already started weaning off. And the thing is I</p> <p>25 couldn't justify activity calls as a learning curve because</p>	<p>144</p> <p>1 employees at the office who is a lawyer and I asked him for</p> <p>2 his feedback on what I should do because I was in uncharted</p> <p>3 territory. And that's when he told me that I needed to do</p> <p>4 something because as her supervisor I couldn't just keep it</p> <p>5 private. And so that's when I contacted Gisele. I looked at</p> <p>6 the employee handbook to see what we had and I sent that to</p> <p>7 Gisele and I told her we had to do something. We couldn't</p> <p>8 keep it as is if that's how she was feeling.</p> <p>9 HEARING EXAMINER PRAGER: Ms. de los Santos, excuse my</p> <p>10 voice, it just stopped. Who was the -- give us the name of</p> <p>11 the person that you consulted who you say was a lawyer.</p> <p>12 MS. DE LOS SANTOS: Web Sewell.</p> <p>13 HEARING EXAMINER PRAGER: Thank you.</p> <p>14 MR. SCHILLER: Did you ever have a conversation with</p> <p>15 Mr. Lee regarding the complaint and allegations prior to</p> <p>16 the time of Ms. Pautrat being terminated?</p> <p>17 MS. DE LOS SANTOS: I'm sorry, I don't remember.</p> <p>18 MR. SCHILLER: Okay.</p> <p>19 MS. DE LOS SANTOS: I know I gave it to Web and at</p> <p>20 that point -- the one thing about Jon and Giselle and I</p> <p>21 guess I shouldn't even say it with her in particular, Jon</p> <p>22 had a very hands-off approach with the non-profit. He let</p> <p>23 me lead it in the way that I wanted to. So he didn't have</p> <p>24 much involvement in the day-to-day operations. He wanted</p> <p>25 feedback on the activity of it but he wasn't, at that time,</p>

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<p>145</p> <p>1 directly involved in a lot of it. If that makes sense.</p> <p>2 MR. SCHILLER: Thank you.</p> <p>3 HEARING EXAMINER PRAGER: You're done?</p> <p>4 MR. SCHILLER: I'm done.</p> <p>5 HEARING EXAMINER PRAGER: Mr. Chong do you have</p> <p>6 questions?</p> <p>7 MR. CHONG: Yes, please. What is your title with F3E?</p> <p>8 MS. DE LOS SANTOS: National program director.</p> <p>9 MR. CHONG: Is that considered a director position,</p> <p>10 equivalent to a vice president, or no?</p> <p>11 MS. DE LOS SANTOS: No.</p> <p>12 MR. CHONG: Do you have any HR functions?</p> <p>13 MS. DE LOS SANTOS: No.</p> <p>14 MR. CHONG: You testified that in the meeting at which</p> <p>15 Ms. Pautrat was terminated that it was just Mr. Herman and</p> <p>16 her, and you on the phone; is that right?</p> <p>17 MS. DE LOS SANTOS: Yes, sir.</p> <p>18 MR. CHONG: Was Web Sewell in the room?</p> <p>19 MS. DE LOS SANTOS: No, sir.</p> <p>20 MR. CHONG: You're sure about that?</p> <p>21 MS. DE LOS SANTOS: You know what, actually I can't</p> <p>22 say I'm sure because I was a voice call in. the only person</p> <p>23 that could tell you would be Nick and Giselle because I was</p> <p>24 voiced in but usually Web would say he's in the room. It</p> <p>25 would be odd for him to be in the room without telling me</p>	<p>147</p> <p>1 consisted of telling her that she should tell Mr. Lee that</p> <p>2 he was a good mentor and maybe that would get him to back</p> <p>3 off; didn't you?</p> <p>4 MS. DE LOS SANTOS: I don't remember. I would need to</p> <p>5 look at the email.</p> <p>6 MR. CHONG: Okay. Now, subsequent to that discussion</p> <p>7 you sent an email to Ms. Pautrat talking about her</p> <p>8 allegations; is that right?</p> <p>9 MS. DE LOS SANTOS: Yes.</p> <p>10 MR. CHONG: Do you remember that email?</p> <p>11 MS. DE LOS SANTOS: Is that the one where I sent her</p> <p>12 the manual?</p> <p>13 MR. CHONG: I believe so, yes. Do you remember that</p> <p>14 email?</p> <p>15 MS. DE LOS SANTOS: Okay. Yes.</p> <p>16 MR. CHONG: Okay.</p> <p>17 MS. DE LOS SANTOS: Do you mind if I pull it up on my</p> <p>18 computer so I can look at it?</p> <p>19 MR. CHONG: I think --</p> <p>20 MS. DE LOS SANTOS: Or you could pull it up on yours.</p> <p>21 Yeah, I think it will better if I pull it up so that we are</p> <p>22 all certain that we have the same document.</p> <p>23 MS. DE LOS SANTOS: Perfect.</p> <p>24 MR. CHONG: Mr. Prager, could we get Nick back in</p> <p>25 here? I think it might be the password protection that's</p>
<p>146</p> <p>1 on a call like this.</p> <p>2 MR. CHONG: You've listed a series of complaints about</p> <p>3 Ms. Pautrat's work performance. Did you ever tell her</p> <p>4 specifically that her job was in jeopardy?</p> <p>5 MS. DE LOS SANTOS: Did I ever tell her -- usually I</p> <p>6 don't tell employees their job is in jeopardy. Usually I</p> <p>7 will tell them, you know, I will tell them where they need</p> <p>8 improvement but I try not to make them feel like their job</p> <p>9 is in jeopardy every day.</p> <p>10 MR. CHONG: Well, did you ever say I'm displeased with</p> <p>11 your work product and if you don't shape up you could lose</p> <p>12 your job?</p> <p>13 MS. DE LOS SANTOS: No, I never said you could lose</p> <p>14 your job. I always told her I needed help and I would tell</p> <p>15 her where I needed help. I tried doing -- I tried doing</p> <p>16 what you said in a very gentle way to the employees.</p> <p>17 MR. CHONG: You had a conversation with Ms. Pautrat in</p> <p>18 late April of 2015 in which she expressed her concerns</p> <p>19 about the way Mr. Lee treated her in the office; isn't that</p> <p>20 right?</p> <p>21 MS. DE LOS SANTOS: Yes, sir.</p> <p>22 MR. CHONG: And as a result of the conversation you</p> <p>23 provided her with some guidance, didn't you?</p> <p>24 MS. DE LOS SANTOS: I tried.</p> <p>25 MR. CHONG: Did that guidance -- that guidance</p>	<p>148</p> <p>1 not allowing me to open this document.</p> <p>2 HEARING EXAMINER PRAGER: Okay. We'll go off the</p> <p>3 record for a moment while I place a call.</p> <p>4 MS. DE LOS SANTOS: Okay.</p> <p>5 (Off the record 2:26 p.m.)</p> <p>6 (On the record at 2:32 p.m.)</p> <p>7 HEARING EXAMINER PRAGER: We're back on the record.</p> <p>8 Mr. Chong, will you ask your questions?</p> <p>9 MR. CHONG: Thank you. I apologize for that Ms. de los</p> <p>10 Santos, let's go ahead and pull up what has been previously</p> <p>11 admitted in this proceeding as C 10. There we go. Do you</p> <p>12 see this document Ms. de los Santos?</p> <p>13 MS. DE LOS SANTOS: Yes.</p> <p>14 MR. CHONG: Okay. Is this the email that you sent to</p> <p>15 Ms. Pautrat on May 4, 2015?</p> <p>16 MS. DE LOS SANTOS: Yes.</p> <p>17 MR. CHONG: I would call your attention to the</p> <p>18 paragraph that starts with the work "Giselle, I know you</p> <p>19 asked," all right.</p> <p>20 MS. DE LOS SANTOS: Okay.</p> <p>21 MR. CHONG: And that paragraph deals with Ms.</p> <p>22 Giselle's concerns about possible sexual harassment; is</p> <p>23 that right?</p> <p>24 MS. DE LOS SANTOS: Yes.</p> <p>25 MR. CHONG: And you -- it looks like your first</p>

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<p>149</p> <p>1 response to it is, "I've received word that I'm not the 2 only person at the office you've voiced your concerns to. 3 You need to be conscious of potential defamation." Did I 4 read that accurately? 5 MS. DE LOS SANTOS: Okay. 6 MR. CHONG: I'm sorry? 7 MS. DE LOS SANTOS: I'm sorry. I heard you say the 8 first sentence but then it blacked out. Can you repeat that 9 one more time? 10 MR. CHONG: Okay. Sure. It looks like your first 11 response to Ms. Pautrat's concerns you say I received word 12 that I am not the only person in the office you have voiced 13 your concerns to. You need to be conscious of potential 14 defamation." Is that what you wrote? 15 MS. DE LOS SANTOS: Yes. 16 MR. CHONG: Okay so did Web -- you said you consulted 17 with Web Sewell about Ms. Pautrat's concerns before 18 responding to her; is that correct? 19 MS. DE LOS SANTOS: Yes. 20 MR. CHONG: And did Web Sewell tell you that when 21 someone comes to you with a complaint of sexual harassment 22 your first concern is to be concerned about defamation of 23 the accused person? 24 MS. DE LOS SANTOS: No. No, Web Sewell had asked me to 25 tell her that she needed to speak directly with him and</p>	<p>151</p> <p>1 MR. CHONG: Was it the full employee manual or just a 2 page? 3 MS. DE LOS SANTOS: Oh, we'd have to look . 4 MR. CHONG: Okay. Let me see if I can call it up for 5 you. This document right there. Oh, sorry. No this is not 6 the right one. It's six. This document right here which has 7 previously been admitted as exhibit C 6. Does this look 8 like the document you sent to Ms. Pautrat with this email? 9 MS. DE LOS SANTOS: Yes, that looks like an employee 10 manual. 11 MR. CHONG: Okay. And on May 6, you received an email 12 from Ms. Pautrat summarizing her concerns; did you not? 13 MS. DE LOS SANTOS: Yes sir, I did. 14 MR. CHONG: And you forwarded that email to Mr. Lee; 15 is that correct? 16 MS. DE LOS SANTOS: I don't know that. I don't recall 17 on that part. I believe -- I know I was involved with -- I 18 don't remember about Mr. Lee. 19 MR. CHONG: I'm going to call up another document for 20 you to review. 21 MS. DE LOS SANTOS: Okay. 22 MR. CHONG: And Mr. Prager, I requested it be marked 23 as Exhibit 20 -- I think we are on 29 for Complainant. 24 HEARING EXAMINER PRAGER: Mr. Abramson, after you have 25 taken a look at it do you have any objection?</p>
<p>150</p> <p>1 then he gave me a resource handout needed to be given to 2 her so we could figure out the proper protocol. The reason 3 I had said that to her was she had initially asked me to 4 keep this in confidence between her and I, and from what I 5 understood me being her supervisor and keeping this in 6 confidence would put me at jeopardy so I initially I was 7 considering it because she had asked me to keep it private, 8 but then when she started -- or I found out that she had 9 told other employees, well then that put me in jeopardy 10 because she had asked me to keep it secret for her. Yet she 11 was telling other people without telling me. 12 MR. CHONG: But your concern as articulated in this 13 email isn't about putting you in jeopardy, at least for 14 that purpose. It's about defamation; isn't it? 15 MS. DE LOS SANTOS: Well, it's a mixture. It was 16 definitely that but I also, because of this is uncharted 17 territory I -- it's a serious allegation. And I don't -- my 18 goal was to have her follow the proper protocol so that she 19 can make sure that she was putting herself in a position 20 that was the right path which was she needed to contact a 21 Web, and start the protocol from there. 22 MR. CHONG: Okay. You sent along as an attachment to 23 this email, you said you sent along this attachment to this 24 email the employee manual; is that right? 25 MS. DE LOS SANTOS: Yes, sir.</p>	<p>152</p> <p>1 MR. CHONG: I haven't moved it yes I'm just going to 2 mark it for now. 3 HEARING EXAMINER PRAGER: Oh, okay. 4 MR. CHONG: Do you see this Ms. de los Santos? 5 MS. DE LOS SANTOS: Yes. 6 MR. CHONG: Okay so this is the -- this right here 7 that you see on the screen that is an email that Ms. 8 Pautrat sent to you; isn't that right? 9 MS. DE LOS SANTOS: Yes. 10 MR. CHONG: Okay and above it is a header indicating 11 that it is from you sent to Jon, Joeffig@aol.com; is that 12 right? 13 MS. DE LOS SANTOS: Yes. 14 MR. CHONG: Okay. And Joeffig is Jonathan Lee, correct? 15 MS. DE LOS SANTOS: Yes, sir. 16 MR. CHONG: Okay. So you forwarded this email to Mr. 17 Lee on May 6, 2015; correct? 18 MS. DE LOS SANTOS: Yes, sir. 19 MR. CHONG: Okay. I move the admission of C 29. 20 HEARING EXAMINER PRAGER: Any objections, Mr. 21 Abramson? 22 MR. ABRAMSON: This is C 29, so it is not in the book? 23 MR. CHONG: Correct. 24 MR. ABRAMSON: No objection. 25 HEARING EXAMINER PRAGER: And how about you, Mr.</p>

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<p>153</p> <p>1 Schiller?</p> <p>2 MR. SCHILLER: No objection.</p> <p>3 HEARING EXAMINER PRAGER: All right. Without</p> <p>4 objection, C 29 is admitted in evidence. Hold on Mr. Chong.</p> <p>5 I have to make a notation. All right.</p> <p>6 (Exhibit C 29 was received into evidence.)</p> <p>7 HEARING EXAMINER PRAGER: You may continue.</p> <p>8 MR. CHONG: All right. You testified Ms. Santana said</p> <p>9 that as early as April 2015 you had some significant</p> <p>10 concerns about Ms. Pautrat's work product, that you were</p> <p>11 seriously considering letting her go; is that right? Am I</p> <p>12 summarizing your testimony accurately?</p> <p>13 MS. DE LOS SANTOS: I wouldn't say at that point I was</p> <p>14 considering letting her go. At that point I was having some</p> <p>15 serious concerns.</p> <p>16 MR. CHONG: Okay. When in April?</p> <p>17 MS. DE LOS SANTOS: Say again?</p> <p>18 MR. CHONG: When in April?</p> <p>19 MS. DE LOS SANTOS: April 13th.</p> <p>20 MR. CHONG: Okay. I'm going to mark another exhibit,</p> <p>21 please, as C 30. I'm going to show you another exhibit,</p> <p>22 please, Ms. de los Santos.</p> <p>23 MS. DE LOS SANTOS: Okay.</p> <p>24 MR. CHONG: Okay. So here is an email chain and it's</p> <p>25 dated April 21, 2015; is that an email from you to Ms.</p>	<p>155</p> <p>1 HEARING EXAMINER PRAGER: Okay. Mr. Schiller do you</p> <p>2 have any?</p> <p>3 MR. SCHILLER: Yes, I do.</p> <p>4 HEARING EXAMINER PRAGER: What is your objection?</p> <p>5 MR. SCHILLER: We haven't been provided this in a book</p> <p>6 or through discovery and it doesn't -- I don't believe it</p> <p>7 is complete for context purposes. And this is cross-</p> <p>8 examination so without the complete email exchange</p> <p>9 regarding the caption which is, "Sorry about the sweetie."</p> <p>10 So -- and --</p> <p>11 HEARING EXAMINER PRAGER: Yeah, go ahead. Sorry.</p> <p>12 MR. SCHILLER: "Sorry about the sweetie." So</p> <p>13 originally no one is in the office with me. So that's the</p> <p>14 context. So where's the rest?</p> <p>15 HEARING EXAMINER PRAGER: Mr. Chong?</p> <p>16 MR. CHONG: This is rebuttal and so she testified that</p> <p>17 she had significant problems with Ms. Pautrat's performance</p> <p>18 well before this and now we have -- I'm trying to use this</p> <p>19 to demonstrate that as late as April 21 she is sending an</p> <p>20 email that says, "Everything you received is because you</p> <p>21 are the right person for the job." The remainder of the</p> <p>22 context doesn't seem relevant but I will represent, I</p> <p>23 believe, that the bottom half of this email is the first</p> <p>24 one in the chain and the top half of it I removed because</p> <p>25 it is forwarding the document to me.</p>
<p>154</p> <p>1 Pautrat?</p> <p>2 MS. DE LOS SANTOS: Yes.</p> <p>3 MR. CHONG: I move the admission of C 30.</p> <p>4 HEARING EXAMINER PRAGER: Mr. Abramson, any</p> <p>5 objections?</p> <p>6 MR. CHONG: Ms. de los Santos could you scroll --</p> <p>7 MR. SCHILLER: Your Honor.</p> <p>8 HEARING EXAMINER PRAGER: Wait, wait, wait.</p> <p>9 MR. CHONG: -- If you'd like you to scroll through the</p> <p>10 exhibit I'm happy to just as me to.</p> <p>11 MS. DE LOS SANTOS: Can you try to make it --</p> <p>12 HEARING EXAMINER PRAGER: Wait, wait. Mr. Abramson do</p> <p>13 you have any objection to this?</p> <p>14 MR. ABRAMSON: Which one are we talking about, Your</p> <p>15 Honor?</p> <p>16 HEARING EXAMINER PRAGER: The C 30.</p> <p>17 MR. ABRAMSON: C 30, no Your Honor.</p> <p>18 HEARING EXAMINER PRAGER: That he's just handed you.</p> <p>19 MR. ABRAMSON: I'm sorry?</p> <p>20 HEARING EXAMINER PRAGER: Mr. Chong just handed you --</p> <p>21 MR. ABRAMSON: C 30.</p> <p>22 HEARING EXAMINER PRAGER: Right. Uh-huh.</p> <p>23 MR. ABRAMSON: Right.</p> <p>24 HEARING EXAMINER PRAGER: Do you have any objection?</p> <p>25 MR. ABRAMSON: No.</p>	<p>156</p> <p>1 HEARING EXAMINER PRAGER: I believe it is relevant so</p> <p>2 I will admit it. Go ahead Mr. Chong.</p> <p>3 MR. CHONG: All right so let's --</p> <p>4 HEARING EXAMINER PRAGER: Are you moving its</p> <p>5 admission?</p> <p>6 MR. CHONG: I am moving its admission.</p> <p>7 HEARING EXAMINER PRAGER: All right.</p> <p>8 MR. CHONG: So Ms. de los Santos.</p> <p>9 HEARING EXAMINER PRAGER: Just a minute.</p> <p>10 MS. DE LOS SANTOS: Can I see the first email that's</p> <p>11 down at the very bottom?</p> <p>12 HEARING EXAMINER PRAGER: Just a moment, please.</p> <p>13 Complainant's Exhibit C 30 is hereby admitted. I'm sorry,</p> <p>14 Mr. Chong.</p> <p>15 (Exhibit C 30 was admitted into evidence.)</p> <p>16 MR. CHONG: Ms. de los Santos I've scrolled to the</p> <p>17 first part of the email for your review. Do you need to see</p> <p>18 anything more?</p> <p>19 MS. DE LOS SANTOS: No, I'll just be fine with that.</p> <p>20 MR. CHONG: Okay so I'm scrolling back to the top half</p> <p>21 which is the part of the email that is your text to Ms.</p> <p>22 Pautrat, and there is -- the last thing you say in your</p> <p>23 email is "everything you received is because you are the</p> <p>24 right person for the job." Did I read that correctly?</p> <p>25 MS. DE LOS SANTOS: Yes, you read that correctly.</p>

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<p>157</p> <p>1 MR. CHONG: All right. So this email was sent after 2 the time that you are now claiming that you had significant 3 problems with her performance, correct? 4 MS. DE LOS SANTOS: Yes. 5 MR. CHONG: But she is the right person for the job, 6 yet she is performing poorly? 7 MS. DE LOS SANTOS: So this email, I'm sorry about the 8 sweetie; the reason she had emailed me that was actually 9 because I had a conversation with her prior about 10 professionalism, of not calling me or people sweetie in the 11 office. And so actually initially the reason she signed 12 that email sorry about the sweetie, I requested a little 13 bit more professionalism. And then the next email, if you 14 don't mind scrolling up of what I had written. 15 MR. CHONG: There's nothing more to this email. 16 MS. DE LOS SANTOS: Go back to where I try to give her 17 positive affirmation. 18 MR. CHONG: Oh, I see. 19 MS. DE LOS SANTOS: So there she had just started her 20 job a month prior. I was trying to -- I can't just -- when 21 a new employee starts and they are struggling I can't just 22 completely be negative with them because it doesn't -- 23 there's no morale. And so I tried to do positive 24 affirmations, when especially in a situation my penis where 25 she realized she had made a mistake in professionalism. And</p>	<p>159</p> <p>1 the job. But all the other negatives I was having 2 challenges with. I can't fix the other parts. And that's it 3 just as critical as being the right person for the job you 4 can only -- you're -- you can only do so well in your 5 career with your personality. The other part is activity 6 and just attention to detail. I needed both. 7 MR. CHONG: Okay. Let's move on. I'm going to mark 8 another exhibit as C 31. Oh by the way, let's -- going back 9 to C 30 for just a second, please. You just testified that 10 as of April 21 she was barely a month into the job so he 11 wanted to, I guess, be gentle with her in your criticisms; 12 is that a fair summary of what you just said? 13 MS. DE LOS SANTOS: Well, yes because I didn't know 14 was her being aware that she had made a mistake and so I 15 didn't want to continue bombarding her with negativity. 16 I -- she was the right person because of her personality. 17 MR. CHONG: She was terminated less than a month later 18 though, right? 19 MS. DE LOS SANTOS: How long do you give an employee 20 when you realize it's not a good fit? 21 MR. CHONG: So you are saying she was barely a month 22 into the job, you're going to soft glove her and two weeks 23 later it's not good enough? 24 MS. DE LOS SANTOS: How long do I give? 25 MR. CHONG: All right.</p>
<p>158</p> <p>1 so she had barely -- she had just gotten hired the month 2 before so I'm telling her, like, yes, you can do this 3 because I wanted her to believe she can do it. But it was 4 time it was just -- I mean that email is an example of one 5 of the issues I had with her which was professionalism. 6 MR. CHONG: Well, I'm confused. Because you earlier 7 testified that by early April, as early as April 13th you 8 had concerns with her performance -- 9 MS. DE LOS SANTOS: Yes. 10 MR. CHONG: -- and now you're saying here that she's 11 the right person for the job. So and it -- 12 MS. DE LOS SANTOS: She had -- 13 MR. CHONG: -- giving her a soft -- if you're trying 14 to soft glove your criticisms of her. 15 MS. DE LOS SANTOS: Well, I mean I believed she could 16 do it. she had the personality. A lot of what it is is 17 you've got to have the personality of being outgoing. Ms. 18 Pautrat's extremely outgoing. She could have been, she 19 should have been the right person for the job. The only 20 problem was I couldn't get her activity up. I couldn't get 21 her to, you know, look over and make sure that our content 22 was correct and so she had all the makings to be good at it 23 because a lot of it is a being an extroverted and being 24 personable and having a personality where you connect. So I 25 did feel like at that front she was the right person for</p>	<p>160</p> <p>1 MS. DE LOS SANTOS: How long is enough? 2 MR. CHONG: Let's look at the exhibit that I've just 3 marked as C 31. 31. Ms. de los Santos -- 4 HEARING EXAMINER PRAGER: Just a moment. Any 5 objections to C 31? It hasn't been moved into admission yet 6 but he's asking questions about it. Mr. Abramson? 7 MR. ABRAMSON: No objection. 8 HEARING EXAMINER PRAGER: Mr. Schiller? 9 MR. SCHILLER: Yes. I asked for this in discovery and 10 it wasn't provided, correct? Correct? 11 MR. CHONG: I don't think so. I would have provided it 12 if it was asked for. 13 MR. SCHILLER: I believe I asked it in my request for 14 production of documents. 15 HEARING EXAMINER PRAGER: Well, what did you ask for, 16 this specific -- 17 MR. SCHILLER: All communications between Ms. Pautrat 18 and the respondents. As a supervisor for F3E, so this is a 19 document -- 20 HEARING EXAMINER PRAGER: Do you have a copy of your 21 request? 22 MR. SCHILLER: I'll look. I'm not sure I brought that 23 file. Let me see. I mean I know I requested it, that's all 24 I can say. I don't have that -- my requests. 25 MR. CHONG: I don't have a copy either, Your Honor.</p>

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<p>161</p> <p>1 HEARING EXAMINER PRAGER: Well, since we don't have it</p> <p>2 in front of me and since this seems to be an innocuous,</p> <p>3 I'll overrule the objection. But I -- if at some point you</p> <p>4 find that indeed it was requested share that with the rest</p> <p>5 of the parties and with me and we'll -- I'll consider</p> <p>6 revising that ruling. But for the moment it's admitted.</p> <p>7 MR. SCHILLER: Okay. And you did have a pre-trial</p> <p>8 directive to present all documents and they were aware Ms.</p> <p>9 Elizabeth de los Santos was subpoenaed and would be</p> <p>10 testified and this is a document they had in their</p> <p>11 possession also. So -- and these are two documents.</p> <p>12 HEARING EXAMINER PRAGER: Mr. Chong?</p> <p>13 MR. CHONG: The pretrial order refers to all documents</p> <p>14 that we intend to use in our case in chief. This is</p> <p>15 rebuttal, you've just been clear when you first called her.</p> <p>16 MR. ABRAMSON: Correct.</p> <p>17 HEARING EXAMINER PRAGER: I believe that's true. So</p> <p>18 yes. At the moment it's overruled. If it turns out that you</p> <p>19 can show, Mr. Schiller, that this was requested and was not</p> <p>20 produced obviously I will reconsider it. Yes, go ahead.</p> <p>21 MR. CHONG: Ms. de los Santos, thank you for your</p> <p>22 patience. Do you see this email right now?</p> <p>23 MS. DE LOS SANTOS: Yes, I do.</p> <p>24 MR. CHONG: Okay. I can scroll through it and that's</p> <p>25 actually the balance of it down here.</p>	<p>163</p> <p>1 Okay.</p> <p>2 HEARING EXAMINER PRAGER: Here you are. Here's my</p> <p>3 copy.</p> <p>4 MR. CHONG: Appreciate it, thank you.</p> <p>5 HEARING EXAMINER PRAGER: So we will mark this new one</p> <p>6 as C 31.</p> <p>7 MR. CHONG: I'm sorry -- I do -- I do want to -- I</p> <p>8 need this one at some point so I don't know if you want to</p> <p>9 use the number after that.</p> <p>10 HEARING EXAMINER PRAGER: Wait.</p> <p>11 MR. CHONG: All right, so --</p> <p>12 HEARING EXAMINER PRAGER: Wait, wait, wait. Let</p> <p>13 everybody have a chance to look at this and -- Mr.</p> <p>14 Abramson, any objections to this one?</p> <p>15 MR. ABRAMSON: No objection.</p> <p>16 HEARING EXAMINER PRAGER: Mr. Schiller, other than</p> <p>17 your outstanding objection that it should have been</p> <p>18 produced earlier?</p> <p>19 MR. SCHILLER: All these documents should have, yes.</p> <p>20 HEARING EXAMINER PRAGER: Yes. Other than that you</p> <p>21 have any objection to this document?</p> <p>22 MR. SCHILLER: No.</p> <p>23 HEARING EXAMINER PRAGER: All right. Mr. Chong, you've</p> <p>24 moved -- I assume you're going to move to have this</p> <p>25 admitted?</p>
<p>162</p> <p>1 MS. DE LOS SANTOS: Okay.</p> <p>2 MR. CHONG: And I can scroll up.</p> <p>3 MS. DE LOS SANTOS: Can you go all the way to the very</p> <p>4 bottom?</p> <p>5 MR. CHONG: This is the very bottom right here.</p> <p>6 MS. DE LOS SANTOS: Okay. Make sure -- I can't seem</p> <p>7 to -- it seems to be on the corner, can you put it more in</p> <p>8 the middle? I just read half a sentence as --</p> <p>9 MR. SCHILLER: Wait a minute, what are we reading?</p> <p>10 HEARING EXAMINER PRAGER: Wait a minute, this document</p> <p>11 is not what I'm holding in my hand.</p> <p>12 MR. SCHILLER: Nor I.</p> <p>13 MR. CHONG: All right. All right. Oh, wait. What are</p> <p>14 you holding in your hand? Oh.</p> <p>15 HEARING EXAMINER PRAGER: We take it back. It's the</p> <p>16 wrong document.</p> <p>17 MR. CHONG: Okay. Sorry. It's this document.</p> <p>18 HEARING EXAMINER PRAGER: Mr. Chong, how many more of</p> <p>19 these are you going to be producing?</p> <p>20 MR. CHONG: This is all.</p> <p>21 HEARING EXAMINER PRAGER: Okay. So the -- this will be</p> <p>22 marked -- you withdraw the one that you initially were</p> <p>23 going to have as C 31?</p> <p>24 MR. CHONG: Yes. And I -- if I could get those back</p> <p>25 because I really don't know what that document was now.</p>	<p>164</p> <p>1 MR. CHONG: Yes.</p> <p>2 HEARING EXAMINER PRAGER: Okay. So that motion is</p> <p>3 granted. Go ahead.</p> <p>4 (Exhibit C 31 was admitted into evidence.)</p> <p>5 MR. CHONG: As long as we're here can we just do C 32</p> <p>6 as well, which is the document I just retrieved from</p> <p>7 everyone?</p> <p>8 HEARING EXAMINER PRAGER: All right.</p> <p>9 MR. CHONG: And I'll show this to Ms. de los Santos</p> <p>10 now?</p> <p>11 HEARING EXAMINER PRAGER: Right. Because that -- we've</p> <p>12 already dealt -- discussed so C 32 is also admitted.</p> <p>13 (Exhibit C 32 was admitted into evidence.)</p> <p>14 HEARING EXAMINER PRAGER: And let's start with C 31.</p> <p>15 MR. CHONG: Actually, can we start with C 32. I</p> <p>16 apologize it's in chronological order.</p> <p>17 HEARING EXAMINER PRAGER: All right.</p> <p>18 MR. CHONG: All right, Ms. de los Santos, we're now</p> <p>19 looking at a document that has been marked as Exhibit C 32,</p> <p>20 and it appears to be an email from you -- you know, the</p> <p>21 last one of it is an email from you to Giselle -- Ms.</p> <p>22 Pautrat on April 27, saying, no worries it happens to all</p> <p>23 of us. And I can scroll down and show you the rest of it,</p> <p>24 and move over so you can see the rest of it. Here's the</p> <p>25 bottom of the email. So this is the email that precipitated</p>

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<p>165</p> <p>1 that.</p> <p>2 MS. DE LOS SANTOS: Okay. I'm with you.</p> <p>3 MR. CHONG: Okay. So you read Ms. traps email to you,</p> <p>4 and your response was, "No worries it happens to all of</p> <p>5 us." Did I read that correctly?</p> <p>6 MS. DE LOS SANTOS: Yes, sir.</p> <p>7 MR. CHONG: So as of April 27, the date of this email,</p> <p>8 again, a date after which you have just testified that you</p> <p>9 had significant concerns about her performance, you are</p> <p>10 telling her no worries, it happens to all of us; is that</p> <p>11 right?</p> <p>12 MS. DE LOS SANTOS: Yes, sir.</p> <p>13 MR. CHONG: Okay. Thank you. Now, I --</p> <p>14 MS. DE LOS SANTOS: Can I -- can I elaborate on that</p> <p>15 though?</p> <p>16 MR. CHONG: Let's move on.</p> <p>17 MR. SCHILLER: No.</p> <p>18 HEARING EXAMINER PRAGER: Well, no. If she wants to</p> <p>19 elaborate you may.</p> <p>20 MS. DE LOS SANTOS: So -- and during the work,</p> <p>21 employees are going to make mistakes. But a lot of the</p> <p>22 times when I would give constructive criticism or talk to</p> <p>23 them about when they're poorly performing I didn't feel it</p> <p>24 appropriate to email them my concerns because the problem</p> <p>25 is anything you write something tone isn't relayed and</p>	<p>167</p> <p>1 an easier -- like, if you look at the hierarchy of</p> <p>2 challenges that I had, that was one of more -- a smaller</p> <p>3 issue compared to the overall challenge I was having. I</p> <p>4 don't ever expect employees to give me perfection. But the</p> <p>5 underlying issues I was having with her, while this was a</p> <p>6 pebble in that mountain, this email wasn't the reason I</p> <p>7 removed her. And, you know, I talked to her about -- and</p> <p>8 what she was referencing there is the contacts, it's a CRM</p> <p>9 system, customer relation management system. And there is a</p> <p>10 little bit of a learning curve so that -- I was willing to,</p> <p>11 no worries. Because you know, it's a CRM system, but it</p> <p>12 wasn't because of her inputting data incorrectly, or double</p> <p>13 booking that was the primary reason why I removed her. Now,</p> <p>14 those are all little pebbles but that wasn't the -- that</p> <p>15 was -- anyone makes a mistake on the CRM, but that wasn't</p> <p>16 the reason I requested her to find someone else.</p> <p>17 MR. CHONG: Well, you just cited double booking and</p> <p>18 booking issues as one of the reasons you terminated her;</p> <p>19 isn't right?</p> <p>20 MS. DE LOS SANTOS: It's a pebble in the mountain of</p> <p>21 the major issues that I had with her. That's a small --</p> <p>22 that email that you are showing me right there, is a very</p> <p>23 small pebble in the challenges I had with her. And when I</p> <p>24 did critique her it was a verbally, it was on the phone</p> <p>25 because it just there is so many ways that people can</p>
<p>166</p> <p>1 empathy or understanding or, you know, when you say hey you</p> <p>2 need to work on this and you read it in an email it can go</p> <p>3 from, hey you need to work on this, or it can go from hey,</p> <p>4 you need to work on this. And so a lot of the times when I</p> <p>5 was giving feedback to Giselle about her performance and</p> <p>6 the need for improvement it wasn't over email because I</p> <p>7 realized that that -- me conveying it wasn't going to come</p> <p>8 across the way I need it to. So a lot of it was verbally</p> <p>9 over the phone of me critiquing her. And yes, occasionally</p> <p>10 I would send her an email on you know, if she sent me, hey</p> <p>11 I made a mistake, but a lot of the times when I was</p> <p>12 critiquing her I made it a point with all employees to talk</p> <p>13 to them on the phone instead of messaging them because</p> <p>14 people read one thing and you can put a single sentence and</p> <p>15 you have five people read it and five different people will</p> <p>16 receive it in different ways because of the way that they</p> <p>17 read the tone or the way that their views are. And so a lot</p> <p>18 of the times with Giselle it was -- like most employees if</p> <p>19 I had an issue I wouldn't email them because I didn't want</p> <p>20 them to decipher the tone. I would pick up the phone and I</p> <p>21 would have a conversation with them.</p> <p>22 MR. CHONG: How is an employee supposed to take an</p> <p>23 email that says, no worries, to me that this is a problem?</p> <p>24 MS. DE LOS SANTOS: So at that point -- that one</p> <p>25 wasn't a problem because of -- see that double booking was</p>	<p>168</p> <p>1 receive an email and especially when you are critiquing</p> <p>2 someone it's important for me as a supervisor that I don't</p> <p>3 allow them to run away with it in their mind. It's</p> <p>4 important that we have communication and we're on the same</p> <p>5 page. And so that's an example of something that was a</p> <p>6 pebble but when I would critique her on other things it was</p> <p>7 usually over the phone.</p> <p>8 MR. CHONG: Did F3E have a progressive discipline</p> <p>9 policy in place?</p> <p>10 MS. DE LOS SANTOS: An aggressive -- I don't even know</p> <p>11 what that means.</p> <p>12 MR. CHONG: Progressive. Progressive discipline.</p> <p>13 MS. DE LOS SANTOS: A progressive discipline policy.</p> <p>14 What is that?</p> <p>15 MR. CHONG: Do you know what that term means?</p> <p>16 MS. DE LOS SANTOS: No.</p> <p>17 MR. CHONG: Okay. If you don't that's fine. Did CFP's</p> <p>18 employment manual apply to F3E employees?</p> <p>19 MS. DE LOS SANTOS: Did CFP's employee manual.</p> <p>20 MR. ABRAMSON: Objection.</p> <p>21 MS. DE LOS SANTOS: It was a manual for both of them.</p> <p>22 I just kind of figured that they were just trying to save</p> <p>23 ink and instead of printing out two separate ones it was</p> <p>24 just hey, this is the way that we do it on both sides, on</p> <p>25 the non-profit and for profit side.</p>

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<p>169</p> <p>1 MR. CHONG: Okay. If you were to look at CFP's</p> <p>2 employment manual would you say that that applied to Ms.</p> <p>3 Pautrat's employment?</p> <p>4 MR. ABRAMSON: Objection, Your Honor. CFP's employment</p> <p>5 manual is not -- has not been introduced into evidence.</p> <p>6 MR. CHONG: Not yet. I'm trying to lay the foundation</p> <p>7 so that I can get there.</p> <p>8 HEARING EXAMINER PRAGER: Okay. You may continue but</p> <p>9 as Mr. Chong said, it is not introduced yet so it may be</p> <p>10 premature.</p> <p>11 MR. CHONG: Okay. All right. So let's move on right</p> <p>12 now to this email, this last email that I also showed you</p> <p>13 earlier. I believe it is now Exhibit C 31. So the bottom of</p> <p>14 the email is here, and then it goes up to here. Do you see</p> <p>15 that Ms. de los Santos?</p> <p>16 MS. DE LOS SANTOS: Yes.</p> <p>17 MR. CHONG: Do you need more time to review it?</p> <p>18 MS. DE LOS SANTOS: Can you go to the very, very</p> <p>19 bottom?</p> <p>20 MR. CHONG: This is the very, very bottom.</p> <p>21 MS. DE LOS SANTOS: Please make sure the flyer is sent</p> <p>22 off to Rick and Jen in DC and bold at lines 3 and 4. Please</p> <p>23 make sure the flyer is sent out to Rick in a context and</p> <p>24 product 3. It's possible that sometime this morning -- she</p> <p>25 also informed me that she sent 30 brochures and 30 packets</p>	<p>171</p> <p>1 received Ms. Pautrat's email about her complaints about Mr.</p> <p>2 Lee?</p> <p>3 MS. DE LOS SANTOS: Oh, I don't know. I would have to</p> <p>4 look at the -- don't you have the email? Could you look at</p> <p>5 the date on that?</p> <p>6 MR. CHONG: That's a good idea.</p> <p>7 MS. DE LOS SANTOS: I'm so sorry, I -- yeah, I don't</p> <p>8 remember the email, or the date.</p> <p>9 MR. CHONG: All right. So here is the email from Ms.</p> <p>10 Pautrat to you.</p> <p>11 MS. DE LOS SANTOS: May 6th, yes.</p> <p>12 MR. CHONG: All right. And you forwarded it Mr. Lee.</p> <p>13 So --</p> <p>14 MS. DE LOS SANTOS: Okay. And then the other one, when</p> <p>15 she sent out the flyer to the host and did it correctly,</p> <p>16 and I wrote you equals awesome that was May 11, correct?</p> <p>17 Did I lose you?</p> <p>18 MR. CHONG: No, I'm here. I'm sorry. So you equals</p> <p>19 awesome it looks like it was sent on May 6th. All right. Do</p> <p>20 you see that?</p> <p>21 MS. DE LOS SANTOS: Yeah.</p> <p>22 MR. CHONG: Okay. All right, so immediately after the</p> <p>23 you equals awesome email you received -- you had already</p> <p>24 talked to Ms. Pautrat about her concerns, right?</p> <p>25 MS. DE LOS SANTOS: Yes.</p>
<p>170</p> <p>1 to them. Okay. So Rick and Jen are two different. Who is</p> <p>2 Jen? Okay. And then go up. It was sent out. Okay.</p> <p>3 MR. CHONG: And then the very top is your email to Ms.</p> <p>4 Pautrat on May 6 at 3:08 p.m. And can you read what that</p> <p>5 says?</p> <p>6 MS. DE LOS SANTOS: It looks blacked out.</p> <p>7 MR. CHONG: Unfortunately it's also highlighted --</p> <p>8 it's actually highlighted, can -- you can't read that?</p> <p>9 MS. DE LOS SANTOS: No.</p> <p>10 MR. CHONG: I'm going to represent to you and I hope</p> <p>11 counsel in the room and stipulate with me that under the</p> <p>12 highlighting is the phrase, "you equals awesome." Does that</p> <p>13 sound --</p> <p>14 MS. DE LOS SANTOS: Yes.</p> <p>15 MR. CHONG: Does that sound right?</p> <p>16 MS. DE LOS SANTOS: Yes.</p> <p>17 MR. CHONG: Okay. So you sent an email to Ms. Pautrat</p> <p>18 on May 6th saying, you equals awesome; isn't that right?</p> <p>19 MS. DE LOS SANTOS: Yes. For sending out a flyer to --</p> <p>20 or not even just verifying the flyer was correct and</p> <p>21 sending it out to a host.</p> <p>22 MR. CHONG: Okay. Thank you. I'm going to try one more</p> <p>23 document. Excuse me for a second. All right. That's all</p> <p>24 I've got there. So by May 6th, when you sent out this, you</p> <p>25 equals awesome, email you had already received -- had you</p>	<p>172</p> <p>1 MR. CHONG: You knew that she was -- you knew that she</p> <p>2 was raising a complaint of sexual harassment at the time?</p> <p>3 MS. DE LOS SANTOS: Yes.</p> <p>4 MR. CHONG: Okay. Did you investigate Ms. Pautrat's</p> <p>5 complaints of harassment?</p> <p>6 MS. DE LOS SANTOS: Did I investigate. I spoke with</p> <p>7 her and then I spoke with Web who was the lawyer at the</p> <p>8 office. And beyond that I requested that Web, as a third</p> <p>9 party, get involved because I didn't -- I didn't have the</p> <p>10 experience or knowledge on how to approach such a serious</p> <p>11 allegation. And so I wouldn't have known how to investigate</p> <p>12 beyond talking to her and talking to Web about what to do.</p> <p>13 MR. CHONG: So your testimony then is that you asked</p> <p>14 Web Sewell to investigate the complaint?</p> <p>15 MS. DE LOS SANTOS: Well, I asked him for guidance.</p> <p>16 And then he said she needs to contact me. So that --</p> <p>17 because it that's a -- and that was the formal thing to do.</p> <p>18 So that is when I sent an email and said you need to</p> <p>19 contact Web because that would be the next chain of events</p> <p>20 and proper for her to call in addressing something as</p> <p>21 serious as this.</p> <p>22 MR. CHONG: How detailed were you when you told Mr.</p> <p>23 Sewell that she was making complaints?</p> <p>24 MS. DE LOS SANTOS: I forwarded him the email.</p> <p>25 MR. CHONG: You forwarded him the email. Okay.</p>

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<p>173</p> <p>1 MS. DE LOS SANTOS: Well, initially, I talked to him 2 and I told him what she had told me and when he asked for 3 additional details and from what I understand, you've got 4 to excuse my ignorance on this because I'm not well versed 5 in the legal system, the dove was in the detail or 6 something like that. So he asked me what exactly is she 7 telling you and I couldn't verbally -- it was really all in 8 the email so I sent it to him. And I asked for guidance 9 because she was expressing to me that she was being 10 sexually harassed and that's a big claim and that's -- 11 that's something that's serious and needs to be addressed. 12 And once he read what she was saying he said, you know, the 13 next step is she needs to contact me so that we can get the 14 ball rolling. And so that's when I sent her the email and 15 said you need to contact Web. And I don't know if she ever 16 contacted him or not.</p> <p>17 MR. CHONG: I'm sorry, I'm not sure the timeline there 18 is accurate because the email in which you tell Ms. Pautrat 19 to contact Web Sewell, which is what you just testified to 20 is in late April before this May 6 email, isn't it?</p> <p>21 MS. DE LOS SANTOS: Web or Jon?</p> <p>22 MR. CHONG: Web.</p> <p>23 MS. DE LOS SANTOS: Web, I would need to look. Do you 24 have the email that I sent to Web?</p> <p>25 MR. CHONG: I don't want to keep you for too long so</p>	<p>175</p> <p>1 the workshop. With Ms. Pautrat I don't ever remember an 2 organization that she had started a relationship with 3 coming onboard. And a lot of times it's -- and that's why I 4 initially said you're the right person for the job because 5 a lot of it is relationship building and so usually I would 6 remember a host of how I was introduced to them and if it 7 was someone from -- if it was someone that was in her 8 appointments and got them on the phone they would usually 9 also remember that person because that was the first line 10 in building the relationship. And so I don't ever remember 11 an organization that Giselle brought on board and 12 introduced to us during her time.</p> <p>13 MR. CHONG: So the fact that someone else chose not to 14 establish a relationship with you is Ms. Pautrat's fault?</p> <p>15 MS. DE LOS SANTOS: It's just very odd that we didn't 16 get anything. Like, you know, we had a -- just as an 17 example we had an intern at our office and she was a high 18 school student and this high school student was able to get 19 people on the phone and able to book organizations. And 20 maybe not even book the class but at least get me to get on 21 the phone so that I could share our story. And with Ms. 22 Pautrat I don't ever remember anyone getting on the phone 23 and wanting to develop that relationship with us.</p> <p>24 MR. CHONG: You had a quota system in effect for the 25 number of appointments with a -- follow up appointments</p>
<p>174</p> <p>1 I'm just going to wait on the record on that one. You 2 stated earlier in your testimony today that even 3 subsequent -- I'll outline it. Even after Ms. Pautrat left 4 employment some of the appointments that she lined up 5 didn't work out; am I remembering that correctly?</p> <p>6 MS. DE LOS SANTOS: From memory, I don't remember any 7 of the organizations that she had scheduled face-to-face 8 appointments with. I don't remember establishing any type 9 of relationship from those face-to-face appointments.</p> <p>10 MR. CHONG: Okay. And are you blaming Ms. Pautrat that 11 those things weren't fruitful, even though she arranged the 12 meetings for you?</p> <p>13 MS. DE LOS SANTOS: No, I'm not blaming her for that.</p> <p>14 MR. CHONG: Okay. So you testified just now that when 15 you were asked why -- what her performance deficiencies 16 included you said that even after she left some of these 17 appointments didn't pan out so it sounded like, to me, like 18 you were blaming her for the fact that these appointments 19 didn't lead to fruitful contracts; is that what your 20 testimony was?</p> <p>21 MR. CHONG: Well, we usually have a pretty high 22 conversion rate when it comes to -- if we can get in the 23 door and tell our story and show them the impact that our 24 non-profit has been having on organizations we usually have 25 a pretty high impact of being able to go in there and doing</p>	<p>176</p> <p>1 that Ms. Pautrat was supposed to make with people who had 2 attended F3E workshops; isn't that right?</p> <p>3 MS. DE LOS SANTOS: Yes, sir.</p> <p>4 MR. CHONG: Okay. What was that quota? What was that 5 goal?</p> <p>6 MS. DE LOS SANTOS: I would have to look it up. I know 7 at one point it was -- we had a goal of -- we brought it 8 down to 15. Initially it was 20 and it was -- they spoke to 9 me that they felt 20 was demotivating and so I looked back 10 at the numbers and realized that they had hit beyond 15 11 before. They had -- you know beyond that so I figured 15 12 was a good base. So I think it was 15 at that point. But I 13 tried, initially when she wasn't even hitting that 15 quota 14 I tried, you know, hours, and talk time and amount of dials 15 that was going out every day. But for appointments I 16 believe it was 15.</p> <p>17 MR. CHONG: Let me show you a document and we'll work 18 through that, please. I'm referring now to Exhibit C 28. 19 This is the entirety of the exhibit on the screen right 20 now.</p> <p>21 HEARING EXAMINER PRAGER: Just a moment.</p> <p>22 MS. DE LOS SANTOS: Yes. I remember that.</p> <p>23 MR. CHONG: Just a minute, please.</p> <p>24 HEARING EXAMINER PRAGER: Just a moment. All right, 25 this exhibit is not yet in the record. Mr. Abramson take a</p>

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<p>177</p> <p>1 look at it and Mr. Schiller as well and tell me what you 2 say. First Mr. Abramson, after you have had a chance to 3 look at it. 4 MR. ABRAMSON: No objection, Your Honor. 5 HEARING EXAMINER PRAGER: All right, what about you 6 Mr. Schiller? 7 MR. SCHILLER: Same objection. 8 HEARING EXAMINER PRAGER: Pardon? 9 MR. SCHILLER: Same objection I've been making the 10 whole time. 11 HEARING EXAMINER PRAGER: All right. 12 MR. CHONG: Which objection is this? This has been 13 previously produced so that objection can't stand. 14 HEARING EXAMINER PRAGER: Yes, this is -- 15 MR. SCHILLER: That's fine. All right. No objection if 16 it has been -- if it's already been produced. Let me look. 17 What number is it in the book? 18 MR. CHONG: C 28. 19 HEARING EXAMINER PRAGER: Since there are no 20 objections C 28 is admitted. 21 (Exhibit C 28 was admitted into evidence.) 22 MR. SCHILLER: I got it. Thank you. 23 MR. CHONG: All right. Ms. de los Santos can you read 24 the highlighted section, because I know there was a problem 25 reading it last time. Can you read what's under there?</p>	<p>179</p> <p>1 MR. CHONG: And part of the reason that you wanted to 2 terminate her was that she had not met that goal; is that 3 right? 4 MS. DE LOS SANTOS: Yes. 5 MR. CHONG: And she was terminated on May 11th; is 6 that right? 7 MS. DE LOS SANTOS: Yes. 8 MR. CHONG: Okay. So you terminated her in part 9 because she couldn't make her 20 hour goal -- 20 10 appointments per week on the same day that you recognized 11 that that goal was too difficult and you reduced it; is 12 that accurate? 13 MS. DE LOS SANTOS: Well, it's -- the issue that I had 14 was -- so I -- that was brought up to me by an employee 15 named Simon. Then the challenge is if you see the three 16 people on that email, Simon, Web, and Giselle; Simon and 17 Web spent at least half of their time doing other activity 18 and they were telling me that it was a hard goal. And so 19 Giselle was 100 percent with the non-profit so while they 20 only had 50 percent of their time to book these 20 21 appointments Giselle had much more time and so that was a 22 challenge was I had some employees that were telling me 23 that -- that completely had a full load that were 100 24 percent -- or doing this 50 percent of the time, and had 25 another 50 percent doing other activities, and I had Ms.</p>
<p>178</p> <p>1 MS. DE LOS SANTOS: Yes, this one I can. It says, 2 "goal from 20 to 15." 3 MR. CHONG: Okay. So as of -- on May 11th, 2015 it 4 looks like you, this email is from you, on that date you 5 changed the goal from 20 to 15; isn't that right? 6 MS. DE LOS SANTOS: Yes. 7 MR. CHONG: So before this date the goal was 20 calls 8 per week, right? 9 MS. DE LOS SANTOS: No, not 20 calls. 20 appointments. 10 MR. CHONG: I'm sorry, correct, 20 appointments. I'm 11 sorry, you're right. So before May 11th the goal was 20 12 appointments per week and you determined that that was too 13 high; is that right? 14 MS. DE LOS SANTOS: Well, they told me that and part 15 of supervising is morale and so if they felt that it was 16 too high I was willing to try a different approach and if 17 they felt 15 was a better number, I mean it's a difference 18 of 5, I'll take it. I just -- I needed something from them. 19 MR. CHONG: Okay. 20 MS. DE LOS SANTOS: And if they said that was a more 21 attainable goal I was willing to be flexible. 22 MR. CHONG: And so before May 11th the date of this 23 email, the goal was 20 appointments per week and Ms. 24 Pautrat was being to that goal, right? 25 MS. DE LOS SANTOS: Yes.</p>	<p>180</p> <p>1 Pautrat that was 100 percent with the non-profit not 2 completing it. It's hard to compare them all in the same 3 basket when she was allocating 100 percent of her time 4 towards the same goal that these guys only had percent of 5 their time to allocate towards. 6 MR. CHONG: By 100 percent of the time, do you mean 7 she was spending 100 percent of her time making these phone 8 calls, trying to book these appointments? 9 MS. DE LOS SANTOS: She was spending 100 percent of 10 her time on non-profit activity. 11 MR. CHONG: But that does not mean that 100 percent of 12 her time was spent calling around and trying to book these 13 appointments; is that correct? Isn't that correct? 14 MS. DE LOS SANTOS: Well, yes. But she had a lot less 15 workload than the other two people that were telling me 16 that they couldn't attain that goal. And for me it was 17 overall satisfaction of the team. And if two of the 18 employees, actually one of them -- of one of the employees 19 is telling me this wasn't an attainable goal and he didn't 20 have as much time to allocate towards it, I lowered the bar 21 for all of them even though Ms. Pautrat have as much of a 22 workload as they did. 23 MR. CHONG: But you just testified earlier today that 24 her workload included things like creating and proofing 25 flyers, cold calling other companies to try and get them to</p>

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<p>181</p> <p>1 become workshop hosts.</p> <p>2 MS. DE LOS SANTOS: So -- yes, so the proofreading</p> <p>3 flyers we maybe averaged between 10 classes a month to a</p> <p>4 max of 20. And so that Ms. Pautrat would have to open up a</p> <p>5 PDF and just proofread it. I don't know how long that</p> <p>6 usually takes her but these are one page marketing</p> <p>7 materials. And it's not even looking over the entire</p> <p>8 document, it's just verifying the stuff that we plug in,</p> <p>9 like the company name or the room number, that that's</p> <p>10 correct. So that shouldn't have taken a lot of time. And</p> <p>11 then the other thing that I did was when we needed to do if</p> <p>12 she got in appointments from companies I was willing to</p> <p>13 include that, if that was a face-to-face appointment. And</p> <p>14 so she was 100 percent, but even if it wasn't scheduling</p> <p>15 after a workshop and it was scheduling a company I was</p> <p>16 willing to be flexible and including that in her numbers</p> <p>17 because either way that's activity. Either way that's</p> <p>18 finding a source to plug her in where she would excel at.</p> <p>19 MR. CHONG: I have no more questions at this time.</p> <p>20 HEARING EXAMINER PRAGER: All right.</p> <p>21 MR. ABRAMSON: May I --</p> <p>22 HEARING EXAMINER PRAGER: Ms. de los Santos I have a</p> <p>23 number of questions for you.</p> <p>24 MR. ABRAMSON: Before you -- may I ask two questions</p> <p>25 on redirect, please?</p>	<p>183</p> <p>1 MS. DE LOS SANTOS: Yes. Well, let me clarify. Those</p> <p>2 were not employees underneath our non-profit. Our goal was</p> <p>3 to try to get our curriculum into the community on a</p> <p>4 national scale so what we did is we had educators that we</p> <p>5 would teach them about our non-profit approach and then</p> <p>6 they would pay a monthly membership to be a part of our</p> <p>7 non-profit so that -- and it helped offset, with the web</p> <p>8 hosting, emails, and then from there, one of my other jobs</p> <p>9 was I would -- when I would bring on a new chapter in a new</p> <p>10 city that meant that I also had to not only train the</p> <p>11 educator who would be presenting the classes but it meant</p> <p>12 that I would have to train their admin on all of the day to</p> <p>13 day operations on how to get our non-profit up and running.</p> <p>14 So it was -- even though it might have been one office in</p> <p>15 California that probably meant I was training about five</p> <p>16 different people at that location as well.</p> <p>17 HEARING EXAMINER PRAGER: I'm not sure I understand.</p> <p>18 These educators, you say they paid the Foundation? Or</p> <p>19 and -- they worked for free; is that the idea?</p> <p>20 MS. DE LOS SANTOS: They paid a monthly membership for</p> <p>21 the Foundation to help offset the costs. But yeah, a lot of</p> <p>22 it was on a volunteer basis. And so it didn't matter if we</p> <p>23 were going into a room where it was complete people needed</p> <p>24 help on credit or whatever it was they were volunteering</p> <p>25 their time to help get our non-profit's word out.</p>
<p>182</p> <p>1 HEARING EXAMINER PRAGER: Pardon?</p> <p>2 MR. ABRAMSON: May I ask one quick follow-up on</p> <p>3 redirect?</p> <p>4 HEARING EXAMINER PRAGER: Well, you'll get a chance.</p> <p>5 MR. ABRAMSON: Okay.</p> <p>6 HEARING EXAMINER PRAGER: You'll get a chance after I</p> <p>7 have asked these questions. Ms. de los Santos, tell me</p> <p>8 exactly what your position was with the company.</p> <p>9 MS. DE LOS SANTOS: So I ran the non-profit from</p> <p>10 the -- and when you say my position, do you kind of want to</p> <p>11 know what I was doing while I was there? Or just --</p> <p>12 HEARING EXAMINER PRAGER: No. What was it called.</p> <p>13 MS. DE LOS SANTOS: I was the national program</p> <p>14 director.</p> <p>15 HEARING EXAMINER PRAGER: Okay. And you testified, I</p> <p>16 believe, that in addition to local -- being local there</p> <p>17 was, indeed, a national program?</p> <p>18 MS. DE LOS SANTOS: Yes.</p> <p>19 HEARING EXAMINER PRAGER: Where were the others --</p> <p>20 other programs?</p> <p>21 MS. DE LOS SANTOS: All over the country. We had</p> <p>22 offices in California, we had North Carolina, we had Texas,</p> <p>23 we had Hawaii. Multiple places around the U.S.</p> <p>24 HEARING EXAMINER PRAGER: And there were employees in</p> <p>25 those various locations around the country?</p>	<p>184</p> <p>1 HEARING EXAMINER PRAGER: And they would not be</p> <p>2 reimbursed is what you are saying?</p> <p>3 MS. DE LOS SANTOS: Yeah.</p> <p>4 HEARING EXAMINER PRAGER: All right. So you're still</p> <p>5 employed by either the Foundation or by Capital --</p> <p>6 MS. DE LOS SANTOS: No.</p> <p>7 HEARING EXAMINER PRAGER: No?</p> <p>8 MS. DE LOS SANTOS: No.</p> <p>9 HEARING EXAMINER PRAGER: When did you leave?</p> <p>10 MS. DE LOS SANTOS: July of 2017.</p> <p>11 HEARING EXAMINER PRAGER: You testified, if I</p> <p>12 understand correctly, that you believe you were paid by the</p> <p>13 Foundation; is that correct?</p> <p>14 MS. DE LOS SANTOS: Yes, sir.</p> <p>15 HEARING EXAMINER PRAGER: There has been evidence in</p> <p>16 the record that checks made out to Ms. Pautrat were</p> <p>17 actually paid by Capital Financial Partners.</p> <p>18 MS. DE LOS SANTOS: Okay.</p> <p>19 HEARING EXAMINER PRAGER: When you say you were paid</p> <p>20 by the Foundation, is that because you got checks that were</p> <p>21 from the Foundation?</p> <p>22 MS. DE LOS SANTOS: I believe it -- so I believe it</p> <p>23 was a mixture. I know in 2015 it was coming from the</p> <p>24 Foundation but I know that they were employees, and you've</p> <p>25 got to excuse my ignorance because I wasn't heavily</p>

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<p>185</p> <p>1 involved in the day-to-day operations of employees' 2 compensation. But I know that there were employees that 3 were paid through the -- they received their check on the 4 for profit side because they did a lot of the for profit 5 work. But part of the kind of commitment that was given to 6 our DC chapter was a portion of their time was allocated 7 towards the non-profit services. So even though they might 8 have received a check from Herman, Inc. they might have 9 still continued on with the non-profit side of helping. And 10 we had employees ranging from me that all I did was 100 11 percent of the job of non-profit, and then we had employees 12 that did 50/50 of their time, and then we had other 13 employees of that work purely on the for-profit side. And 14 so it was kind of -- it was kind of intertwined. But being 15 in there you kind of knew what was the for-profit and not- 16 for-profit because if it was not-for-profit I was involved 17 and if it was for-profit I wasn't involved. 18 HEARING EXAMINER PRAGER: Well, there had been a 19 statement that was made in this case that, indeed, Capital 20 Financial Partners paid Ms. Pautrat's salary because the 21 Foundation had no money to do so. Are you saying it did 22 have money to pay you in particular? 23 MS. DE LOS SANTOS: Did we have enough money to pay me 24 in particular? It wasn't that much money. I mean it sounds 25 lovely when you say that we have volunteers all across the</p>	<p>187</p> <p>1 to formulate my thoughts. Did you work for Mr. Herman at 2 any time? 3 MS. DE LOS SANTOS: In day-to-day operations, no. 4 HEARING EXAMINER PRAGER: And what do you mean by day- 5 to-day operations as opposed to what? 6 MS. DE LOS SANTOS: So Nick would volunteer his time 7 in doing classes in the community and going out there, so 8 there was a little bit of involvement with him with the 9 non-profit volunteering his time but in -- I never did any 10 for-profit work underneath Nick's organization. 11 HEARING EXAMINER PRAGER: Say you didn't consider him 12 a supervisor? 13 MS. DE LOS SANTOS: No. I mean I considered him one of 14 the big dogs because he controlled the purse strings and he 15 was in Jon's partner and so there was a level of respect 16 and understanding that I was below the totem pole. But Nick 17 wasn't a super -- I didn't do any for-profit where Nick 18 would supervise me. Any individual that Nick was 19 supervising in the for-profit side was dealing with for- 20 profit business and just the day-to-day operations of that. 21 So him and I didn't have much -- other than when I would 22 ask him for certain hours for him to go out into the 23 community and do talks. 24 HEARING EXAMINER PRAGER: All right. I can't remember 25 your answer. I think I remember but just to make it clear,</p>
<p>186</p> <p>1 country but sadly most people don't want to work for free. 2 But in order -- I know she had a pretty decent sized 3 salary. We could not -- we would have needed help. We could 4 have not been able to do everything that we were doing and 5 then somehow figure out a way through the non-profit of 6 trying to bring in more. 7 HEARING EXAMINER PRAGER: Well, let me go back to the 8 question I asked because -- you are certain that your 9 checks came from the Foundation; is that correct? 10 MS. DE LOS SANTOS: And in 2015 I'm 90 percent sure. 11 The problem is you're asking me about five years ago. 12 HEARING EXAMINER PRAGER: I understand. 13 MS. DE LOS SANTOS: Say again? 14 HEARING EXAMINER PRAGER: I said I understand that. 15 MS. DE LOS SANTOS: So I believe in 2015 it was coming 16 from the non-profit but I'm 90 percent sure. 17 HEARING EXAMINER PRAGER: All right. Who did you 18 report to? What individuals? 19 MS. DE LOS SANTOS: Mr. Lee. 20 HEARING EXAMINER PRAGER: You worked for Mr. Lee? 21 MS. DE LOS SANTOS: Yes. 22 HEARING EXAMINER PRAGER: All right. Did you also work 23 for -- 24 MS. DE LOS SANTOS: Say that again, I didn't -- 25 HEARING EXAMINER PRAGER: No, I'm sorry I was trying</p>	<p>188</p> <p>1 did Mr. Lee participate in discussing Ms. Pautrat's firing 2 with you? 3 MS. DE LOS SANTOS: I don't believe so. 4 HEARING EXAMINER PRAGER: All right. To whom did you 5 recommend the firing, if Mr. Lee was your boss and her 6 boss, who did you recommend the firing to? 7 MS. DE LOS SANTOS: You see that's the hard part 8 because that's a part where I'm fuzzy because a lot of 9 times when we would talk about the non-profit and Mr. Lee, 10 Mr. Herman, and even Web Sewell to a certain extent, were 11 people that I would communicate frequently about the day- 12 to-day operations about our non-profit. And even though I 13 wasn't directly working underneath them they all were 14 involved in some manner. When it came to the future of the 15 non-profit or the day-to-day operations and they would ask 16 me how things were going I know I had mentioned that I was 17 struggling but I can't remember who I -- I know I have 18 spoken to all of them in confidence. You know and that's -- 19 I never spoke to the peers or the people that I was working 20 above. But I felt comfortable speaking with them freely 21 about the challenges I was having. Because I do realize 22 that it's a non-profit. And so every dollar that they are 23 giving me they don't have to give me. And so it was a 24 burden to carry of making sure that every dollar they gave 25 me was allocated and being maximized because this was a pro</p>

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<p>189</p> <p>1 bono work.</p> <p>2 HEARING EXAMINER PRAGER: You -- well, let me change</p> <p>3 that. How many people did you, if you can recall, in 2015</p> <p>4 how many people did you directly supervise?</p> <p>5 MS. DE LOS SANTOS: Oh man. One, two, three, four, at</p> <p>6 least four minimum if not more. Yeah, at least four</p> <p>7 minimum.</p> <p>8 HEARING EXAMINER PRAGER: Okay. And I believe you said</p> <p>9 that Ms. Pautrat was not meeting whatever standard you</p> <p>10 thought she should. The other three then were meeting of</p> <p>11 standards?</p> <p>12 MS. DE LOS SANTOS: Yes.</p> <p>13 HEARING EXAMINER PRAGER: And what was, aside from</p> <p>14 the -- her misspellings or -- what were the major problems</p> <p>15 that you -- that she had as far as you were concerned?</p> <p>16 MS. DE LOS SANTOS: So because of my position where I</p> <p>17 was having to not only run the DC chapter but I was also</p> <p>18 helping other chapters across the country implement a</p> <p>19 financial -- a non-profit into their community, I needed</p> <p>20 help in the DC chapter. And one of those areas that I</p> <p>21 needed help with was community outreach. And that's where I</p> <p>22 had trouble with because although she had the personality</p> <p>23 and she was the right person for that with the personality</p> <p>24 that she had I couldn't, for whatever reason, get her to</p> <p>25 bring anything in the door. And that was -- that's half the</p>	<p>191</p> <p>1 about Ms. Pautrat, I think maybe she might have hit it once</p> <p>2 or twice. And you know what, I shouldn't even say a number.</p> <p>3 I believe she hit it at least -- okay, I'm going to say a</p> <p>4 number. At least once because at least I thought okay</p> <p>5 that's below the bar that I am going to give the rest of</p> <p>6 the people as well. But the other thing also is you can --</p> <p>7 it's the quality of the appointment book. And so a lot of</p> <p>8 the times, you know, if you -- you can book an appointment</p> <p>9 but if you show up and you have no idea what you're talking</p> <p>10 about or the relationship has it been established and they</p> <p>11 have no understanding of why you are even showing up, and I</p> <p>12 don't know this, I would have to look at the details about</p> <p>13 her, but I have experience where someone would schedule a</p> <p>14 15 minute appointment and then someone shows up and they</p> <p>15 have no idea why we are there. They just scheduled an</p> <p>16 appointment. And so it is also not only just the amount of</p> <p>17 the appointments but the quality and that is where the</p> <p>18 relationship building is so crucial for what we are doing.</p> <p>19 HEARING EXAMINER PRAGER: Pardon me for not</p> <p>20 understanding that, so these are relationships that that</p> <p>21 are established in a telephone call?</p> <p>22 MS. DE LOS SANTOS: Well, that's the beginning part of</p> <p>23 it. So the beginning part is just introducing our non-</p> <p>24 profit. Letting them know that we have resources available</p> <p>25 to them because they are in our community, and just asking</p>
<p>190</p> <p>1 battle. Because I'm a 501(c)(3) I don't have the money. I</p> <p>2 can't just throw money at marketing. It takes -- it's</p> <p>3 activity of the person picking up the phone and creating</p> <p>4 the connections and relationships and that's where I really</p> <p>5 needed Ms. Pautrat because I couldn't do that on my end</p> <p>6 because I had I had -- I was juggling about 20 other items</p> <p>7 and I needed someone in the DC office to go out there and</p> <p>8 establish those relationships. And whether it was coming in</p> <p>9 the door -- and a lot of times what happens we get someone</p> <p>10 on the phone even after a workshop and they come in and we</p> <p>11 guide them and a lot of times they would give us a referral</p> <p>12 to, you know, hey call this company they can really utilize</p> <p>13 your services. And so I wasn't getting any of that from her</p> <p>14 and it was struggling because I needed help in growing that</p> <p>15 DC chapter and I wasn't getting the support that I needed</p> <p>16 from her.</p> <p>17 HEARING EXAMINER PRAGER: All right. And when there</p> <p>18 were these 15 or 20 outreaches what percentage of feedback</p> <p>19 did you get from the 15 or the 20?</p> <p>20 MS. DE LOS SANTOS: You know what, I would have to</p> <p>21 look into that but most of the -- the thing with these</p> <p>22 relationships and these organizations and the reason I do</p> <p>23 remember quite a few of them is because once that</p> <p>24 relationship was established I would communicate with them</p> <p>25 often and it became an ongoing relationship. And the thing</p>	<p>192</p> <p>1 hey, you know, I would love to have someone stop by for</p> <p>2 about 15 minutes just to share with you a little bit more</p> <p>3 information about what we are doing over here. And that was</p> <p>4 literally the max I was asking. Just let them know why we</p> <p>5 are showing up and just schedule a 15-minute appointment.</p> <p>6 And then when we would show up then we could tell the</p> <p>7 story. And I can't say exactly it was for her, but I do</p> <p>8 have past experiences where it wasn't just about the</p> <p>9 appointment booked where someone would book an appointment</p> <p>10 and then when the person would show up it was scheduled for</p> <p>11 the meeting they would have no idea because the person that</p> <p>12 scheduled the appointment didn't set proper expectations.</p> <p>13 HEARING EXAMINER PRAGER: I understand what you're</p> <p>14 saying but I don't understand the mechanics of it. I asked</p> <p>15 you whether or not it was done just by telephone calls, and</p> <p>16 I think you started saying well, there is something else</p> <p>17 but was there something other than telephone calls before</p> <p>18 the --</p> <p>19 MS. DE LOS SANTOS: Just calls.</p> <p>20 MR. CHONG: Sorry, what was that?</p> <p>21 MS. DE LOS SANTOS: Just telephone calls.</p> <p>22 HEARING EXAMINER PRAGER: So I take it in there was no</p> <p>23 script that was given to the employees as to how that</p> <p>24 telephone call was to be made?</p> <p>25 MS. DE LOS SANTOS: Well, I would actually train them</p>

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<p>193</p> <p>1 and I would make the phone calls in front of them so they 2 could actually hear firsthand. And what they would do is -- 3 because anytime you call from a script it's very obvious so 4 what I do with the employees is I'll actually make the 5 phone calls with them and so they will write down the 6 points that they want to make sure that they say and I ask 7 them to do it in their own words. Because if I call and I 8 say hello, my name is Elizabeth and I am with the 9 Foundation for Financial Education. I'm requesting an 10 opportunity to have a 15-minute consultation well, that 11 sounds like the script and no one's going to want to meet 12 with you. But I would give them the guidelines of these are 13 the bullet points you want to get and they will listen to 14 me talk, listen to me with objections and that's how they 15 would learn.</p> <p>16 HEARING EXAMINER PRAGER: All right. I think the last 17 question, so people other than Ms. Pautrat had greater 18 percentage of success? You didn't have problems with the 19 appointments and that they made or what is there always 20 failure that somehow there is a lack of communication in 21 the telephone call that does, in fact, confuse the 22 recipient so that when you arrive they aren't quite sure 23 what is going on?</p> <p>24 MS. DE LOS SANTOS: It's on a person by person basis. 25 Some people got it and they could relay the message and</p>	<p>195</p> <p>1 MR. SCHILLER: Could you fire someone on your own? 2 MS. DE LOS SANTOS: I never requested to. I don't -- I 3 couldn't answer that because I never tried to. 4 MR. SCHILLER: Okay. So why did you -- why was Mr. 5 Herman at the meeting for Ms. Pautrat's termination? 6 MS. DE LOS SANTOS: Because I work remotely and that 7 is the type of conversation that you just don't want to 8 have over the phone. You want to have it in person. And so 9 because I wasn't in the office during that timeframe it 10 makes sense to having it there because I wasn't able to be 11 there and be there in person. 12 MR. SCHILLER: Okay. And did you make the decision to 13 terminate Ms. Pautrat? 14 MS. DE LOS SANTOS: Did I make the -- you know, I 15 never said I make the decision to terminate her. I asked -- 16 I said I need help, I need someone else. And when I said 17 well, all of our money is going towards her salary I did 18 request well, I need someone else in. And I think that 19 might have been leading to getting rid of her because they 20 told me only have so many dollars to make this work and it 21 wasn't working with her. So I think I did, in a very gentle 22 manner, but I didn't say I moved to terminate her 23 immediately. It was more this isn't working out, I need 24 someone else immediately. 25 MR. SCHILLER: Okay. Who did you contact to set up the</p>
<p>194</p> <p>1 they were good at that. And some people weren't good at it. 2 And for whatever reason -- so I wouldn't say it was -- 3 like, it wasn't as if there would be employee 1 and 4 employee 1 had a 50 percent shot of when the person 5 following up to meet in person would meet there was a 50/50 6 shot they did get the message. Usually if a person got it 7 that was scheduling the appointments it was across the 8 board that people showed up and they understood why we were 9 there. Now, there were some situations where the employee, 10 for whatever reason couldn't tell our story or create the 11 connection or explain to them that what we were wanting to 12 do and then usually those employees were the ones that 13 weren't successful and we didn't put them on the phone 14 because we realized it wasn't -- good at it.</p> <p>15 HEARING EXAMINER PRAGER: Thank you. Mr. Abramson, you 16 said you had some questions.</p> <p>17 MR. ABRAMSON: You actually asked them first, thank 18 you.</p> <p>19 HEARING EXAMINER PRAGER: And no other questions? 20 MR. ABRAMSON: No other questions. 21 HEARING EXAMINER PRAGER: Any other questions? 22 MR. SCHILLER: Yes. Ms. de los Santos, which you need 23 Mr. Lee's approval to terminate somebody? 24 MS. DE LOS SANTOS: Did I need his approval. If I need 25 his approval.</p>	<p>196</p> <p>1 termination meeting? 2 MS. DE LOS SANTOS: That part I don't remember. 3 MR. SCHILLER: No further questions. 4 HEARING EXAMINER PRAGER: All right. 5 MR. CHONG: And I ask a few clarifying questions? 6 HEARING EXAMINER PRAGER: Pardon? 7 MR. CHONG: Just a few clarifying questions? 8 HEARING EXAMINER PRAGER: All right, go ahead. 9 MR. CHONG: Ms. de los Santos, when you are being 10 asked by Mr. Prager about setting up these calls, or making 11 calls to set up in person meetings with companies, I guess 12 it is, to introduce the non-profit to them; is that what 13 you -- 14 MS. DE LOS SANTOS: Yes. 15 MR. CHONG: Okay. Is that different from following up 16 with people who attended workshops and requested additional 17 information? 18 MS. DE LOS SANTOS: Yes, sir. 19 MR. CHONG: Okay. So the testimony that you just gave 20 in response to Mr. Prager's questions about a different set 21 of questions in a different set of calls that Ms. Pautrat 22 was making; is that right? 23 MS. DE LOS SANTOS: Say that one more time, you cut 24 out on me. 25 MR. CHONG: So the answers that you gave to Mr.</p>

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<p>197</p> <p>1 Prager's most recent set of questions were about a 2 different set of phone calls establishing a different set 3 of appointments than the ones that she was - the 15 to 20 4 quota that we talked about earlier; is that right? 5 MS. DE LOS SANTOS: Well, I also included the face-to- 6 face in the 15 to 20 quota. For me it wasn't -- it didn't 7 matter whether it was a -- and we call them face-to-face 8 appointments because you actually meet them in the face. So 9 for me it wasn't -- if you are at least getting a 10 combination of both of them I was happy. I just -- I needed 11 something. And so two different calls because one was 12 community outreach, and that was face-to-face. And then the 13 other one was scheduling follow-up appointments to see if 14 we might be able to help them. But in my view, an 15 appointment is an appointment if you can book it and you 16 can get them in the door. And unfortunately, she wasn't -- 17 it wasn't working. I couldn't figure out why, she has the 18 personality for it it just -- and I don't know if it was 19 because of a lack of activity or what, but she just -- it 20 wasn't working. It wasn't growing and I was so needing 21 someone to help me on that end because I couldn't make 22 those calls myself because I was already so spread thin 23 that I needed support and that's where I needed her to come 24 in and help me. 25 MR. CHONG: All right. I have no more questions.</p>	<p>199</p> <p>1 Mr. Abramson, do you have a witness? 2 MR. ABRAMSON: No sir, no witnesses. 3 HEARING EXAMINER PRAGER: All right. And Mr. Schiller, 4 do you have any witnesses? 5 MR. SCHILLER: I incorporate the testimony of Ms. 6 Elizabeth de los Santos in my case in chief. 7 HEARING EXAMINER PRAGER: All right. 8 MR. SCHILLER: And then rest. 9 HEARING EXAMINER PRAGER: All right. 10 MR. CHONG: I continue -- I have a running objection 11 to that because Ms. de los Santos was not identified by F3E 12 or Mr. Lee as one of their witnesses in their case in 13 chief, and therefore I object to the use of her testimony 14 as their case in chief. 15 HEARING EXAMINER PRAGER: Well, except that she did 16 testify and I'm not sure -- the testimony is there. So I'm 17 not quite sure what your objection meetings. I understand 18 if they had tried to introduce her and there had been no 19 one else introducing that testimony I could understand your 20 objection. But since that testimony is before me, I can't 21 say it doesn't apply to them because they didn't because 22 they didn't call her. It's testimony in the record by one 23 of the parties that did call her. 24 MR. CHONG: With all due respect, Your Honor, she was 25 also -- the testimony that was elicited by her from Mr.</p>
<p>198</p> <p>1 HEARING EXAMINER PRAGER: All right. Ms. de los 2 Santos, thank you very much for your testimony. As I said, 3 at the very beginning, you will be getting a copy of your 4 testimony sent to you, and as quickly as possible if you 5 will have it notarized in Texas and send it back until we 6 have it notarized your testimony can't be used in this 7 case. 8 MS. DE LOS SANTOS: Yes sir, I understand that. 9 HEARING EXAMINER PRAGER: Okay. Good. Thank you very 10 much. 11 MS. DE LOS SANTOS: Thank you so much. 12 HEARING EXAMINER PRAGER: Bye-bye. 13 MS. DE LOS SANTOS: Bye. 14 HEARING EXAMINER PRAGER: Good. Let's take a 10-minute 15 break. 16 (Off the record at 3:42 p.m.) 17 (On the record at 3:54 p.m.) 18 HEARING EXAMINER PRAGER: Mr. Chong, I made a mistake 19 in asking the other parties whether or not they are going 20 to be having witnesses because we interrupted, after the 21 cross examination so you have a chance for redirect. Do you 22 want to do that now or would you prefer to do it as part of 23 your rebuttal if there are other witnesses? 24 MR. CHONG: Let's do it as part of rebuttal. 25 HEARING EXAMINER PRAGER: All right. Good. All right,</p>	<p>200</p> <p>1 Abramson's case in chief, I believe it was, again was also 2 outside the scope of his prehearing statement. So all of 3 that was admitted discretion nearly by you subject to this 4 objection. And as a factfinder without a jury it is not 5 like you have to instruct a jury to ignore it. You, as the 6 factfinder, are permitted to sustain the objection and then 7 not consider any of her testimony. 8 HEARING EXAMINER PRAGER: No, I understand that. 9 But -- 10 MR. CHONG: And neither of them identified her for the 11 propositions that she just testified to. 12 HEARING EXAMINER PRAGER: My recollection, and Mr. 13 Abramson -- my understanding is that she was identified as 14 somebody who would testify. In fact I issued a subpoena for 15 her or grounds for a foreign jurisdiction. Mr. Abramson do 16 you have any response to Mr. Chong's statement? 17 MR. ABRAMSON: Yes, sir. She was identified as a 18 witness. And she was identified as a witness on certain 19 matters, but her testimony was also a rebuttal testimony 20 because of where she is located in Texas and her rebuttal 21 testimony was against the case in chief of the Complainant 22 and specific points were made in that case in chief and her 23 testimony rebuts much of that testimony. 24 MR. CHONG: Your Honor, I also have, in my prehearing 25 statement in regard to witnesses Mr. Lee reserves the right</p>

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<p style="text-align: right;">201</p> <p>1 to call rebuttal witnesses. And the Complainant's position 2 is that she was fired because of discrimination, and not 3 for calls. That's what Ms. de los Santos was called for by 4 Mr. Herman and we are -- if we -- and I have a right to 5 call rebuttal witnesses and I am adopting and incorporating 6 her testimony in our case in chief. Otherwise, we will get 7 her back on Skype and go through the exact same questions 8 in testimony and it would be duplicative. It doesn't make 9 sense at all. And that's right in the first paragraph of my 10 prehearing statement, witness appendix, Mr. Lee reserves 11 the right to call rebuttal witnesses and I have the same 12 one from the Foundation. The Foundation reserves the right 13 to call rebuttal witnesses. And her testimony was -- and 14 her name was identified and they were on notice because of 15 the subpoena. 16 HEARING EXAMINER PRAGER: All right. I heard you. 17 MR. CHONG: May I add one more thing? 18 HEARING EXAMINER PRAGER: Not at the moment. We'll go 19 off the record for a moment. 20 (Off the record at 4:00 p.m.) 21 (On the record at 4:02 p.m.) 22 HEARING EXAMINER PRAGER: I have looked through the 23 prehearing submissions by Capital Financial Partners and by 24 Mr. Lee and by the Foundation, and I believe that paragraph 25 2 c of Appendix 1 of the Capital Financial Partners'</p>	<p style="text-align: right;">203</p> <p>1 you may have your rebuttal testimony. 2 MR. CHONG: I'm sorry, may I have maybe five minutes 3 to prep her? 4 HEARING EXAMINER PRAGER: Yes. All right. We'll go off 5 the record again. 6 (Off the record at 4:05 p.m.) 7 (On the record at 4:10 p.m.) 8 HEARING EXAMINER PRAGER: You may proceed. 9 MR. CHONG: Thank you. Ms. Pautrat, first things 10 first, you testified earlier that you had only interacted 11 with Mr. Herman twice; do you remember that testimony? 12 MS. PAUTRAT: Yes. 13 MR. CHONG: And would you like to revisit that 14 testimony now? 15 MS. PAUTRAT: It was three times. It was the 16 insurance for -- and I have to -- what did I say earlier? 17 It was my work insurance, and now I'm drawing a blank. 18 MR. CHONG: Okay. 19 MR. SCHILLER: Judge. 20 HEARING EXAMINER PRAGER: I'm sorry? 21 MR. SCHILLER: Judge, this is rebuttal of the only 22 testimony was Ms. de los Santos. So the scope needs to be 23 limited to rebutting her testimony. That is the only 24 testimony that is before -- 25 HEARING EXAMINER PRAGER: Well, that's not true</p>
<p style="text-align: right;">202</p> <p>1 submission is sufficient to support Ms. de los Santos 2 testimony, even though it does say she will testify that 3 her involvement -- yes, that she will testify that her 4 involvement with the Complainant for both her work 5 activities and her allegations of sexual harassment were 6 always with and through the Foundation for Financial 7 Education. That is obviously the gravamen of what she was 8 going to testify but she was going to talk about the 9 Complainant's work activities and allegations of sexual 10 harassment. I think it is broad enough to permit this 11 testimony, and I believe that since the testimony came in 12 that Mr. Lee and the Foundation can take advantage of it. 13 So I overrule your objection, Mr. Chong. 14 MR. SCHILLER: With the adoption and incorporation 15 into my clients' case in chief, we rest. 16 HEARING EXAMINER PRAGER: All right. So you are not 17 going to the bringing Ms. Kazavoka in to testify; is that 18 correct? 19 MR. SCHILLER: Or Mr. Studley, correct. 20 HEARING EXAMINER PRAGER: Or Mr. Studley, all right. 21 And then Mr. Chong, you -- well, let's go off the record 22 for a moment. 23 (Off the record at 4:05:03 p.m.) 24 (On the record at 4:05:42 p.m.) 25 HEARING EXAMINER PRAGER: On the record. Mr. Chong,</p>	<p style="text-align: right;">204</p> <p>1 because as I said before I did not give Mr. Chong the 2 opportunity to redirect when you had cross-examination and 3 Mr. Abramson had cross-examination of Ms. Pautrat. So 4 anything that you raised or that Mr. Abramson raised during 5 that time is fair game for right now. 6 MR. SCHILLER: Okay. Okay. I got it. 7 MR. CHONG: Do you remember what your previous -- 8 MS. PAUTRAT: Yeah. 9 HEARING EXAMINER PRAGER: Ask your question again. I 10 was sort of preoccupied so please ask it again and answer 11 it again. 12 MR. CHONG: Okay. So you had previously testified that 13 you had interacted with Nick only twice and I asked you if 14 you wanted to clarify or revisit that testimony now? 15 MS. PAUTRAT: Yes. It was when I got fired,, the 16 insurance and then the presentation. 17 MR. CHONG: Okay. So what do you mean when you say the 18 presentation? 19 MS. PAUTRAT: I went with him one time. 20 MR. CHONG: To a? 21 MS. PAUTRAT: To a site. I think it was, like, a 22 construction company or something where he did a 23 presentation and I heard him. 24 MR. CHONG: Okay. All right. In cross-examination you 25 were asked a series of questions about the word traveling</p>

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<p>205</p> <p>1 and when you were asked to go traveling with Mr. Lee; do 2 you remember that testimony? 3 MS. PAUTRAUT: Yes, sir. 4 MR. CHONG: First of all, did you -- when he asked you 5 MR. CHONG: First of all, did you -- when he asked you 6 if you wanted to go traveling did you understand that to 7 mean just travel in general, or did it mean traveling with 8 Mr. Lee? 9 MS. PAUTRAUT: Traveling with Mr. Lee. 10 MR. CHONG: Okay. Well, you have testified that part 11 of your job duties was to make calls to people who had 12 attended workshops and filled out form seeking additional 13 information. When you were reviewing these forms did you 14 have the opportunity to observe how many of those workshops 15 took place locally? 16 MS. PAUTRAUT: No. 17 MR. CHONG: Okay. The calls that you are making to 18 people who were former attendees of workshops, were they 19 all local employees? 20 MS. PAUTRAUT: Within the DMV, yes. 21 MR. CHONG: Within the DMV, right. Okay. So as far as 22 you can tell when you were looking through the survey 23 responses how many calls were you making to out of town 24 workshop attendees? 25 MS. PAUTRAUT: Do you mean, like, in another state</p>	<p>207</p> <p>1 nothing else to do, then try to cold call and book a face- 2 to-face. 3 MR. CHONG: And could you define a face-to-face? 4 MS. PAUTRAUT: So the difference between that phone 5 call and the other one was the fact that this one I would 6 call and try to get somebody to agree to having one of the 7 Financial Education workshops done at their organization or 8 company. And if we were able to get that booked that would 9 be the 15-minute face-to-face that she was talking about. 10 MR. CHONG: Okay. So in terms of following up with 11 people who had attended F3E workshops did you and Ms. de 12 los Santos develop a script for those phone calls? 13 MS. PAUTRAUT: It was all basically stemming from the 14 first one. You know, you attended the financial -- 15 Foundation for Financial Education workshop on such and 16 such date, and you and requested information about whatever 17 was on the survey. And just following up to see if you 18 wanted to go ahead and schedule that appointment with our 19 advisor. 20 MR. CHONG: Okay. And in a similar vein then did you 21 and Ms. de los Santos develop a working script for cold 22 calling places to set up face-to-faces? 23 MS. PAUTRAUT: It was just basically saying that we 24 were calling from the Foundation for Financial Education to 25 give -- they didn't like the word free. To give financial</p>
<p>206</p> <p>1 besides the DMV? 2 MR. CHONG: Outside the DMV area. 3 MS. PAUTRAUT: I didn't make reservations -- I mean I 4 didn't make appointments because our financial advisors 5 were in-house. So it would have to be within this area for 6 them to go to. 7 MR. CHONG: Okay. So as far as you know then -- did 8 you have reason to understand at that point why you were 9 doing that job that there were presentations going -- 10 substantive presentations going on outside the DMV? 11 MS. PAUTRAUT: No. Because I was based in Rockville. 12 MR. CHONG: Okay. You heard the testimony of Elizabeth 13 de los Santos and she talked a lot about your job 14 requirements and your abilities. Can you describe what she 15 obviously has understandings about what she expected of 16 you. And she testified that she communicated those 17 expectations of you. What was your understanding of what 18 your specific job responsibilities were and her 19 expectations of you. 20 MS. PAUTRAUT: My specific job responsibilities were 21 to make calls from the surveys that we would get back from 22 all of the workshops, and to go ahead and get them 23 scheduled with the financial advisors, and to go ahead and 24 schedule at least 20 appointments a week. We would filter 25 through the current surveys, old surveys, and if there was</p>	<p>208</p> <p>1 seminar/workshops to employees so that they can have, like, 2 a better financial stability. I don't remember the exact 3 words because it was a long time ago, but it was a 4 basically along those lines. 5 MR. CHONG: Okay. And from where would you draw your 6 pool people to make these cold calls? 7 MS. PAUTRAUT: So I remember once we were given like a 8 list. I don't remember how long that list was or how old 9 that list was and then also we would go ahead and look 10 online. Because I remember I went to some places in 11 Rockville. 12 MR. CHONG: By online, what do you mean? 13 MS. PAUTRAUT: Like Google. 14 MR. CHONG: So you would randomly Google businesses 15 and just call them and say hey, we have services we can 16 provide; is that what you're saying? 17 MS. PAUTRAUT: Yes. 18 MR. CHONG: Okay. When you cold called people and say 19 we'd like to provide you services how power do you have in 20 terms of getting them to say yes? 21 MS. PAUTRAUT: I don't have any power. I'm going 22 through HR, I'm going through secretaries that are 23 screening -- or excuse me, Admins that are screening phone 24 calls that won't let me get to the higher up who would make 25 that decision on whether or not they thought it was</p>

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<p>209</p> <p>1 beneficial for their employees.</p> <p>2 MR. CHONG: Did Ms. de los Santos train you or</p> <p>3 otherwise instruct you, or encourage you on how to break</p> <p>4 through from these barriers that you just identified to</p> <p>5 successfully get a face-to-face scheduled?</p> <p>6 MS. PAUTRAUT: It wasn't an intense training or</p> <p>7 anything we just talked about what are barriers. And it was</p> <p>8 just kind of like hey we have to figure out how to overcome</p> <p>9 them.</p> <p>10 MR. CHONG: So did she tell you how to overcome them?</p> <p>11 MS. PAUTRAUT: Be persuasive, get to the right person.</p> <p>12 MR. CHONG: Is that the extent of what she trained you</p> <p>13 with --</p> <p>14 MS. PAUTRAUT: Uh-huh.</p> <p>15 MR. CHONG: -- in terms of overcoming barriers?</p> <p>16 MS. PAUTRAUT: Yes.</p> <p>17 MR. CHONG: Okay. So okay. I have no more questions.</p> <p>18 HEARING EXAMINER PRAGER: Are there any rebuttal</p> <p>19 questions Mr. Abramson?</p> <p>20 MR. ABRAMSON: No, sir.</p> <p>21 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>22 MR. SCHILLER: No.</p> <p>23 HEARING EXAMINER PRAGER: All right. Well, that seems</p> <p>24 to conclude the testimony. Ms. Pautrat, you're off the</p> <p>25 witness stand. So now I'm just going to be talking to the</p>	<p>211</p> <p>1 MR. ABRAMSON: Friday -- the 21 days from the first</p> <p>2 part of the example from --</p> <p>3 HEARING EXAMINER PRAGER: All right. Mr. Chong, do you</p> <p>4 have any problems with 21 days after March 10th?</p> <p>5 MR. CHONG: No, sir.</p> <p>6 HEARING EXAMINER PRAGER: I mean March 20th?</p> <p>7 MR. CHONG: No sir, no problem.</p> <p>8 MR. SCHILLER: I'm sorry. I'm confused is April 10th</p> <p>9 when the transcript is coming or March 20th?</p> <p>10 HEARING EXAMINER PRAGER: No, March 20th is when the</p> <p>11 transcript is coming and I proposed April 10th for the</p> <p>12 briefing.</p> <p>13 MR. SCHILLER: So April 10th is the due date?</p> <p>14 HEARING EXAMINER PRAGER: Correct.</p> <p>15 MR. SCHILLER: That is not going to be enough time for</p> <p>16 me given my court calendar. I'm a sole practitioner.</p> <p>17 HEARING EXAMINER PRAGER: Uh-huh.</p> <p>18 MR. SCHILLER: So I would ask for the week of the 20th</p> <p>19 to 24th, the 22nd.</p> <p>20 HEARING EXAMINER PRAGER: What day of the week is</p> <p>21 that?</p> <p>22 MR. SCHILLER: That's a Wednesday.</p> <p>23 HEARING EXAMINER PRAGER: The 22nd is a Wednesday?</p> <p>24 MR. SCHILLER: Yes.</p> <p>25 HEARING EXAMINER PRAGER: Is there -- Mr. Chong, do</p>
<p>210</p> <p>1 lawyers. So as I said at the very beginning, there is the</p> <p>2 possibility for closing arguments but I really don't</p> <p>3 believe that they are terribly helpful. What is helpful is</p> <p>4 briefing by the parties. Is there anybody who believes that</p> <p>5 you have to make a statement now? Mr. Chong?</p> <p>6 MR. CHONG: I won't if they won't.</p> <p>7 HEARING EXAMINER PRAGER: Okay.</p> <p>8 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>9 MR. SCHILLER: I've been in situations where the Court</p> <p>10 asked for a closing argument briefed so it appears that's</p> <p>11 what you're asking for, and I will provide one on behalf of</p> <p>12 my client.</p> <p>13 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>14 MR. ABRAMSON: No sir, a briefing is fine.</p> <p>15 HEARING EXAMINER PRAGER: All right. Now, I've been</p> <p>16 informed that the transcript will take about two weeks to</p> <p>17 prepare which if it is true then the transcripts will be</p> <p>18 available on -- the last one on March 19th or 20th. Let's</p> <p>19 say the 20th since I was calculating from tomorrow. And I</p> <p>20 was thinking that 21 days after you receive the transcripts</p> <p>21 that you would do the briefing and I don't have a calendar</p> <p>22 in front of me and I am not quite sure when the 21 days are</p> <p>23 up. Does anyone have a calendar?</p> <p>24 MR. ABRAMSON: April 10th.</p> <p>25 HEARING EXAMINER PRAGER: April 10th.</p>	<p>212</p> <p>1 you have problems with April 22nd?</p> <p>2 MR. CHONG: I mean, no. It's more time than previously</p> <p>3 proposed so sure, I'll take it.</p> <p>4 HEARING EXAMINER PRAGER: Okay. And what about you Mr.</p> <p>5 Abramson?</p> <p>6 MR. ABRAMSON: April 22nd is fine.</p> <p>7 HEARING EXAMINER PRAGER: Okay. So the parties are</p> <p>8 hereby directed to file their briefs in this case on April</p> <p>9 22nd. Now, the briefing obviously should discuss the</p> <p>10 testimony but it should also discuss the laws that are</p> <p>11 appropriate. The laws are primarily, of course, the</p> <p>12 county's human rights law but you can also discuss the</p> <p>13 state and federal laws on employment discrimination as well</p> <p>14 as anything -- any peripheral issues that you believe have</p> <p>15 come up. So given that, I will ask Mr. Chong; my</p> <p>16 recommendation is that the briefs be 30 pages long or</p> <p>17 shorter, does 30 pages seem sufficient for you, Mr. Chong?</p> <p>18 MR. CHONG: I mean I hope so. I don't know as I review</p> <p>19 my notes -- I know off the top of my head I can think of a</p> <p>20 few ancillary issues that might have to be addressed but a</p> <p>21 do still hope that it will fit within 30 pages.</p> <p>22 HEARING EXAMINER PRAGER: All right.</p> <p>23 MR. CHONG: So I mean I honestly can't promise it</p> <p>24 though.</p> <p>25 HEARING EXAMINER PRAGER: All right. Mr. Schiller?</p>

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<p>213</p> <p>1 MR. SCHILLER: I can't either because some of the --</p> <p>2 if I am incorporating case law in a -- if it is just</p> <p>3 closing argument --</p> <p>4 HEARING EXAMINER PRAGER: No it would --</p> <p>5 MR. SCHILLER: I mean if we are talking a full-blown</p> <p>6 memorandum incorporating cases --</p> <p>7 HEARING EXAMINER PRAGER: It would --</p> <p>8 MR. SCHILLER: I need just on the -- just addressing</p> <p>9 what this body can impose and award there is going to be</p> <p>10 some substantial language in some of the cases that address</p> <p>11 it, so I am not sure. I really haven't --</p> <p>12 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>13 MR. ABRAMSON: Likewise it's hard to know.</p> <p>14 HEARING EXAMINER PRAGER: All right. For the time</p> <p>15 being there will be a limit of 35 pages for the briefs and</p> <p>16 since there is a lot of time between now and the 22nd I</p> <p>17 would want a motion at least 10 days before that if you</p> <p>18 feel that you need to exceed the 35 page limit. Now, I have</p> <p>19 a problem Mr. Chong. In my order of September 9th, 2019 I</p> <p>20 have at page 9 I said, Ms. Pautrat is directed to file a</p> <p>21 request for reimbursement by Respondents of attorneys' fees</p> <p>22 and associated expenses for the cost of preparing her</p> <p>23 opposition to the motions to vacate the orders of default.</p> <p>24 The request should be supported by bills or other evidence</p> <p>25 of costs incurred and paid. I've never gotten anything</p>	<p>215</p> <p>1 they were indeed at separate times.</p> <p>2 MR. SCHILLER: And for -- I'm sorry. And our position</p> <p>3 would be for several reasons and at separate timings.</p> <p>4 MR. CHONG: I'll review the bills and make that</p> <p>5 effort.</p> <p>6 HEARING EXAMINER PRAGER: Okay. Yes, try and if there</p> <p>7 is a problem I'm sure that the parties will let me know.</p> <p>8 So, we'll start with Mr. Chong. Is there anything else that</p> <p>9 needs to be dealt with today?</p> <p>10 MR. CHONG: I don't think so.</p> <p>11 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>12 MR. SCHILLER: No, sir.</p> <p>13 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>14 MR. ABRAMSON: No.</p> <p>15 HEARING EXAMINER PRAGER: All right. With that I</p> <p>16 conclude the hearing in this case. As you know, it is my</p> <p>17 responsibility to make a decision, but the decision isn't</p> <p>18 really a decision. What I do is I report -- I file a report</p> <p>19 with the Commission on Human Rights and it's the Commission</p> <p>20 on Human Rights that makes the final decision. Generally,</p> <p>21 they follow the leads of the hearing examiners, but not</p> <p>22 necessarily. So I will try to get that report done</p> <p>23 expeditiously. We'll see how long your briefs are and how</p> <p>24 much research I have to do. So you will be kept informed if</p> <p>25 I need extensions of time I will -- I don't have to ask for</p>
<p>214</p> <p>1 back. Does that mean you waive that reimbursement?</p> <p>2 MR. CHONG: I am not, Your Honor. I was hoping to be</p> <p>3 able to incorporate it into the fees for this case if I</p> <p>4 prevail and then if not, file that.</p> <p>5 HEARING EXAMINER PRAGER: Well, let's assume you don't</p> <p>6 prevail for the moment --</p> <p>7 MR. CHONG: Okay.</p> <p>8 HEARING EXAMINER PRAGER: -- because, as I say, this</p> <p>9 is separate from the merits.</p> <p>10 MR. CHONG: Okay. I can get that filed in the next 10</p> <p>11 days or so.</p> <p>12 HEARING EXAMINER PRAGER: All right. Would you do so?</p> <p>13 MR. CHONG: Sure.</p> <p>14 HEARING EXAMINER PRAGER: Supported by whatever</p> <p>15 evidence you have of the actual time spent and the expenses</p> <p>16 of -- for preparing the opposition.</p> <p>17 MR. CHONG: Yes, sir.</p> <p>18 MR. SCHILLER: And that's only in regard to which</p> <p>19 entity?</p> <p>20 HEARING EXAMINER PRAGER: Both of them.</p> <p>21 MR. SCHILLER: Then it -- and I would hope you order</p> <p>22 that it's separate, the billing is itemized in separate in</p> <p>23 regard to the activities for each.</p> <p>24 HEARING EXAMINER PRAGER: All right. Well, that seems</p> <p>25 fair. Can you do that Mr. Chong? Can you separate because</p>	<p>216</p> <p>1 permission but I will keep you informed that I need more</p> <p>2 time. With that I conclude the hearing in this case and</p> <p>3 thank you very much.</p> <p>4 MR. ABRAMSON: Thank you.</p> <p>5 MR. SCHILLER: Thank you.</p> <p>6 MR. CHONG: Thank you.</p> <p>7 (The recording was concluded.)</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>23</p> <p>24</p> <p>25</p>

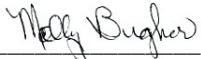
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CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording as provided; and that I am neither counsel for, related to, nor employed by and of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher

A			
abilities	166:8, 185:25,	addition	advancing
206:14	189:18, 194:7	86:25, 126:5,	49:4
ability	act	126:23, 182:16	advantage
217:5	36:13	additional	202:12
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