

HGO106000

1 HGO106000

2 Alderson Reporting

3

4

5

6 COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

7 U.S. HOUSE OF REPRESENTATIVES,

8 WASHINGTON, D.C.

9

10

11

12

13 DEPOSITION OF: SEAN KOLMER

14

15

16

17

18 Friday, April 15, 2016

19

20 Washington, D.C.

21

22 The deposition in the above matter was held in Room

23 2247 of the Rayburn House Office Building commencing at

24 9:57 a.m.

25

HGO106000

26 Appearances:

27

28

29 For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

30

31 [REDACTED]

32 [REDACTED]

33 [REDACTED]

34 [REDACTED]

35 [REDACTED]

36 [REDACTED]

37

38

39 For the DEPONENT:

40

41 [REDACTED]

42 [REDACTED]

43 [REDACTED]

44

45

46

47

48

49

50

HGO106000

51

I N D E X

52

53 EXAMINATION BY :

PAGE

54

55

[REDACTED]

12

56

[REDACTED]

63

57

[REDACTED]

107

58

[REDACTED]

147

59

[REDACTED]

193

60

[REDACTED]

210

61

62

63

64

E X H I B I T S

65

66 EXHIBIT 1

Subpoena

67 EXHIBIT 2

Email String 2/12/13

68 EXHIBIT 3

Email String 2/2/14

69 EXHIBIT 4

Email String 3/29/14

70 EXHIBIT 5

Email String 3/26/14

71 EXHIBIT 6

Email String 3/27/14

72 EXHIBIT 7

First Data Report

73 EXHIBIT 8

Email String 11/20/13

74 EXHIBIT 9

Email String 1/13/14

75 EXHIBIT 10

Email String 2/12/14

HGO106000

	E X H I B I T S	
		PAGE
76		
77		
78	EXHIBIT 11	Email String 4/7/14
79	EXHIBIT 12	Email String 4/8/14
80	EXHIBIT 13	Email String 4/8/14
81	EXHIBIT 14	Email String 4/16/14
82	EXHIBIT 15	Email String 4/19/14
83	EXHIBIT 16	Email String 4/22/14
84	EXHIBIT 17	Email String 4/30/14
85	EXHIBIT 18	Email String 6/6/14
86	EXHIBIT 19	Email String 7/7/14
87	EXHIBIT 20	Email String 7/20/14
88	EXHIBIT 21	Email String 4/18/14
89	EXHIBIT 22	Letter dated 12/30/15
90	EXHIBIT 23	The Eagle article 5/16/15
91	EXHIBIT 24	International Business Times
92		article 10/4/15
93	EXHIBIT 25	Texas Tribune article 3/4/15
94	EXHIBIT 26	Associated Press article
95		12/10/12
96	EXHIBIT 27	The Washington Post article
97		3/14/15
98	EXHIBIT 28	Cover Oregon Final Report
99		May 8, 2014
100		

HGO106000

101	E X H I B I T S		
102			PAGE
103	EXHIBIT 29	Email String 5/23/14	
104	EXHIBIT 30	Email String 4/24/14	
105	EXHIBIT 31	Email String 4/6/14	
106			

HGO106000

107 [REDACTED]. This is the deposition of Sean
108 Kolmer conducted by the House Committee on Oversight and
109 Government Reform. This deposition is occurring under
110 subpoena issued by Chairman Chaffetz as part of the
111 committee's investigation of Cover Oregon.

112 Before I get into my preamble, I'll mark the
113 subpoena as Exhibit 1 and enter it into the record.

114 (Exhibit 1 was marked and entered.)

115 Will the witness please state your name for the
116 record?

117 Mr. Kolmer. Sean Kolmer.

118 [REDACTED] Thank you.

119 [REDACTED]

[REDACTED] Chairman Chaffetz' committee staff, and I'll
121 ask everyone else from the committee at the table to please
122 introduce themselves as well.

123 [REDACTED]

[REDACTED]

[REDACTED]

126 [REDACTED]

[REDACTED]

[REDACTED]

129 [REDACTED]

[REDACTED]

131 [REDACTED] with the law firm [REDACTED]

HGO106000

132 [REDACTED].

133 [REDACTED] [REDACTED]

[REDACTED] [REDACTED] from the ranking member staff. We're
135 introducing ourselves for the record. You're up.

136 [REDACTED] [REDACTED] ranking member
137 staff.

138 [REDACTED] Because the witness is compelled
139 to be here by a subpoena, we are operating pursuant to the
140 committee rules, specifically Rule 15, which covers the
141 guidelines for today's deposition. We have copies of the
142 rules here with us today, so we can all stay on the same
143 page if anyone has questions, but I'll also go over them
144 briefly for the record.

145 The way the questioning proceeds is the majority
146 will ask questions first for up to an hour, and then the
147 minority will have an opportunity to ask questions for an
148 equal period of time if they choose.

149 We will firmly adhere to the one-hour time limit
150 for each side, and I will manage the clock so we all know
151 exactly how much time is remaining in any given round.

152 Questions may only be asked by a member of the
153 committee or staff attorney designated by the chairman
154 ranking member. We will rotate back and forth, one hour
155 per side, until we are out of questions and the deposition
156 will be over.

HGO106000

157 As I mentioned, we are operating under
158 compulsion, unlike under a voluntary-induced setting. The
159 witness is required to answer all questions posed, except
160 to preserve a privilege.

161 The witness or his counsel may object to a
162 question to preserve the privilege and not for any other
163 reason, such as if the answer would be uncomfortable or
164 confidential. If the witness objects to a question, the
165 objection should be stated clearly and in a
166 non-argumentative manner.

167 Members and committee staff are not permitted to
168 raise formal objections, only the witness or his counsel
169 may do so. The chairman will rule on the objection after
170 the deposition has adjourned, and there is a process in the
171 committee rules for adjudicating any objections.

172 With respect to objections, be advised that the
173 House of Representatives and the committee do not recognize
174 any purported nondisclosure privileges associated with
175 common law, including, but not limited to, the deliberative
176 process privilege, the attorney-client privilege, and
177 attorney work product protections, and any purported
178 contractual privileges, such as nondisclosure agreements.

179 As you can see, there's an official reporter
180 taking down everything we say to make a written record, so
181 we ask that you give verbal responses to all questions.

HGO106000

182 It's also important that we don't talk over one another so
183 the court reporter can take down a clear record.

184 Do you understand that?

185 Mr. Kolmer. Yes.

186 [REDACTED] All witnesses who appear before
187 the committee may be accompanied by counsel, and you're
188 appearing here today with counsel. Your counsel introduced
189 himself for the record. We want you to answer our
190 questions in the most complete and truthful manner
191 possible, so we'll take our time.

192 If you have any questions or if you do not
193 understand any of our questions, please just let us know.
194 If you honestly don't know the answer to a question or do
195 not remember, it's best not to guess. Please give us your
196 best recollection, and it's okay to tell us if you learned
197 information from someone else, just indicate how you came
198 to know the information.

199 And if there are things you don't know or can't
200 remember, just say so, and please inform us who, to the
201 best of your knowledge, might be able to provide a more
202 complete answer.

203 We'd like to take a break whenever it's
204 convenient for you. This can be after every hour of
205 questioning, after a couple of rounds or whatever you
206 prefer. During a round of questioning, if you need

HGO106000

207 anything, water, a quick break, just let us know. We'll go
208 off the record and stop the clock. We'd like to make this
209 as easy and comfortable as possible.

210 Committee Rule 15(e) requires a member of the
211 committee to be present during the deposition. It's my
212 understanding that Mr. Kolmer waived that requirement for
213 today's deposition; is that correct?

214 ██████████ That's correct.

215 ██████████ In a moment, you will be placed
216 under oath. Title 18, Section 1621 of the U.S. Code
217 requires that you answer questions truthfully when you are
218 under oath. Also, Title 18, Section 1001 requires you to
219 answer questions from Congress truthfully.

220 Do you understand that?

221 Mr. Kolmer. Yes.

222 ██████████ This also applies to questions
223 posed by Congressional staff.

224 Do you understand that?

225 Mr. Kolmer. Yes.

226 ██████████ Witnesses that knowingly provide
227 false testimony could be subject to criminal prosecution.

228 Do you understand that?

229 Mr. Kolmer. Yes.

230 ██████████ Is there any reason that you're
231 unable to provide truthful answers to today's questions?

HGO106000

232 Mr. Kolmer. No.

233 [REDACTED] Pursuant to the committee rules,
234 the witness will be sworn in before providing testimony.

235 Whereupon,

236 SEAN KOLMER,

237 called as a witness, having been first duly sworn to
238 tell the truth, the whole truth, and nothing but the truth,
239 was examined and testified as follows:

240 Mr. Kolmer. Yes, I do.

241 [REDACTED] Thanks. And I'll just wrap up by
242 noting that the content of what we discuss here today is
243 confidential, so we ask that you not speak about what we
244 discuss in the deposition to anyone who's not present
245 today.

246 That's the end of my preamble. My colleague,
247 [REDACTED], will start the first hour of questions, and I'll
248 start the clock.

249 EXAMINATION

250 [REDACTED]

251 Q Good morning. Can you please state your name
252 and current occupation for the record?

253 A Sean Kolmer. I'm currently the senior vice
254 president of policy and advocacy for the Oregon Association
255 of Hospitals and Health Systems.

256 Q Thank you.

HGO106000

257 And what positions did you hold in the
258 governor's office under former Governor Kitzhaber?

259 A I was the governor's health care policy advisor.

260 Q Is that only the position that you held under
261 the former Governor Kitzhaber?

262 A Correct.

263 Q And how long did you hold the position as his
264 health policy advisor?

265 A I started there in March of 2011. I left in
266 late October of 2013, came back January 1 of 2014, and was
267 there through his resignation, February 18th of 2015.

268 Q And you said you left in late October 2013.
269 Where did you -- did you temporarily have another position,
270 or why did you leave in October 2013?

271 A I accepted a position with the Oregon Health
272 Authority.

273 Q Why did you go back to the governor's office on
274 January 1st, 2014?

275 A I was asked to come back by Chief of Staff Mike
276 Bonetto and the governor.

277 Q Did they give you a reason for asking you to
278 come back to the office?

279 A One of the reasons was to make sure that we had
280 everybody that we needed to work through the issues that we
281 were having with Cover Oregon.

HGO106000

282 Q Did you work on Kitzhaber's 2014 reelection
283 campaign at all?

284 A No.

285 Q Did you assist in any capacity on his reelection
286 campaign?

287 A No.

288 Q Have you held any other positions with the state
289 of Oregon?

290 A Yes.

291 Q What else? What other positions have you held
292 for the state of Oregon?

293 A In the Office of Oregon Health policy and
294 Research, I was the research director. I was the deputy
295 director.

296 Q Did you hold those positions before or after
297 working for former Governor Kitzhaber?

298 A Before.

299 Q Have you held any position for the state of
300 Oregon since leaving the governor's office?

301 A Since leaving Governor Kitzhaber's office?

302 Q Yes.

303 A Yes. I was appointed to the same position of
304 health care policy advisor to the current Governor Kate
305 Brown.

306 Q And how long did you hold that position?

HGO106000

307 A I held that position until August of 2015.

308 Q Thank you.

309 What did you do to prepare for this deposition?

310 A I met with counsel both here in D.C. and in

311 Oregon.

312 Q Thank you.

313 Were you ever an employee of Cover Oregon?

314 A No.

315 Q Since leaving the governor's office, have you

316 had any discussions with Michael Bonetto about Cover

317 Oregon?

318 A Not about Cover Oregon.

319 Q Since leaving the governor's office, have you

320 had any discussions with Bruce Goldberg about Cover Oregon?

321 A Not about Cover Oregon.

322 Q Since leaving the governor's office, have you

323 had any discussions with Patricia McCaig about Cover

324 Oregon?

325 A Not about Cover Oregon.

326 Q Since leaving the governor's office, have you

327 had any discussions with Patricia McCaig about this

328 committee's investigation?

329 A No.

330 Q Since leaving the governor's office, have you

331 spoken with John Kitzhaber about Cover Oregon?

HGO106000

332 A No.

333 Q Since leaving the governor's office, have you
334 had any discussions with Michael Bonetto about this
335 committee's investigation?

336 A Yes.

337 Q What did you discuss with Michael Bonetto about
338 this investigation?

339 A That he was subpoenaed as well. That's as far
340 as it went.

341 Q Did you discuss his deposition with the
342 committee at all?

343 A No.

344 Q Did he say what he was subpoenaed for?

345 A No.

346 Q When did you first become involved in the Cover
347 Oregon project?

348 A I believe when I was the deputy administrator at
349 the Office of Oregon Health Policy and Research as the
350 state was beginning to think about applying for
351 establishment grants.

352 Q And did you stay involved in the Cover Oregon
353 project throughout its duration?

354 A From a policy perspective and a direction
355 perspective, yes.

356 Q Is it your understanding that the Oregon

HGO106000

357 legislators established Cover Oregon as a public
358 corporation with its own independent Board of Directors?

359 A Yes.

360 Q And what was the role of the Cover Oregon Board
361 of Directors?

362 A They were accountable for the oversight, the
363 direction, and the implementation of our health insurance
364 exchange.

365 Q And what was the role of the executive director
366 of Cover Oregon?

367 A To implement the wishes of the board and the
368 enabling legislation.

369 Q And did the executive director of Cover Oregon
370 report to the governor in any capacity?

371 A He advised the governor, but he reported to the
372 Board of Directors.

373 Q Did the Oregon legislature establish any
374 requirements that the executive director of Cover Oregon
375 advised the governor? Was he obligated to advise the
376 governor in any way? Did the governor have any type of --

377 A I don't believe he was obligated by statute.

378 Q And who did the executive director report to in
379 the organization?

380 A The chair of the Board of Directors and the
381 board.

HGO106000

382 Q And were you familiar with Cover Oregon's
383 government structure and policy manual?

384 A To a degree.

385 Q Can you describe, to the extent that you are
386 familiar with the Cover Oregon government structure, how
387 you understood it to operate?

388 A I understood it to operate where the board set
389 outcomes for the staff, and the executive director had
390 authority to work within those outcomes and create any
391 structure underneath him to make that work and to deliver
392 on those outcomes.

393 Q As the governor's health policy advisor, were
394 you aware of any authority that the governor was given over
395 Cover Oregon by the Oregon legislature?

396 A Not to my knowledge.

397 Q Did the governor communicate with members of the
398 Cover Oregon Board of Directors on a regular basis?

399 A I wouldn't say on a regular basis.

400 Q How frequently did the governor communicate with
401 members of the Cover Oregon Board of Directors?

402 A I don't remember.

403 Q Did you communicate with the Cover Oregon Board
404 of Directors on a regular basis?

405 A Probably not on a regular basis, but I did
406 communicate with them.

HGO106000

407 Q Beginning in April 2014, how frequently did you
408 communicate with the Cover Oregon Board of Directors, so
409 throughout the month of April 2014?

410 A I don't remember.

411 Q Do you recall why Oregon decided to have a
412 state-based exchange?

413 A We felt, and the legislature felt, that it was
414 really important for Oregon to control its own destiny and
415 to use the opportunity of the ACA to expand health
416 insurance coverage, and we thought it best for us to do it
417 and for us to establish our own state-based exchange.

418 Q And can you describe the vision that Oregon had
419 for its state-based exchange?

420 A The overall vision was a seamless end-to-end,
421 anyone could go with their laptop out in the sunny weather
422 and enroll in coverage end-to-end and also connect them to
423 any social services that they might need as well, so a
424 one-stop shop for government services that are either
425 offered through health insurance or through other services
426 like TANF and food stamps and WIC and things like that.

427 Q And can you describe the role of the Oregon
428 Health Authority in the Cover Oregon project?

429 A Oregon Health Authority is the state's Medicaid
430 agency. So the health insurance exchange was designed not
431 only for commercial coverage and enrollment in the

HGO106000

432 commercial market, but also allow people to enroll into
433 Medicaid as well and determine eligibility for Medicaid as
434 well.

435 Q And can you describe how the various agencies
436 that played a role in the Cover Oregon project worked
437 together on the project?

438 A They worked closely together from what I
439 remember. The initial establishment grant and the funding
440 from the federal government came through the Oregon Health
441 Authority because Cover Oregon didn't exist for some of
442 that time period, so they had to work closely together not
443 only from that perspective, but also from a policy
444 perspective and a vision perspective of making that
445 seamless for individuals to enroll into commercial coverage
446 and Medicare at the same time.

447 Q Did you ever experience any conflict between the
448 different agencies that worked on the Cover Oregon project?

449 A Conflict in what way?

450 Q Between the agencies, did they have different
451 competing priorities, OHA and the staff at Cover Oregon or
452 their goals?

453 A It was a very complicated project and a very big
454 project that no one in the state had undertaken before. I
455 know there were disagreements. I can't remember which ones
456 they were specifically. But when you have those kind of

HGO106000

457 big decisions between a lot of people and a lot of
458 agencies, there's going to be disagreements.

459 Q And so OHA, Oregon Health Authority, and Cover
460 Oregon played a role in the project. What other state
461 organizations played a role in the project?

462 A I believe the Department of Human Services,
463 which is our social services agency. I believe the
464 Department of Administrative Services, which is the
465 administrative branch of state government. The Department
466 of Consumer and Business Services, which is where our
467 health insurance division is or insurance division lives.
468 I believe those are the only agencies involved.

469 Q Did anyone ever express any concerns that there
470 was distrust between OHA and Cover Oregon to you?

471 A Not that I know of.

472 Q And can you describe how the scope for the
473 project changed over time throughout project development?

474 A Well, the objective of Cover Oregon's
475 establishment and our exchange establishment and the vision
476 of that didn't change. I believe as the project got more
477 complicated and the timelines became more apparent, the
478 scope had to change in order for anything to work and for
479 things to happen at all.

480 Q You said as the timelines became more apparent.
481 Can you elaborate on what you mean by, as the timelines

HGO106000

482 became more apparent?

483 A So as I remember, in the summer of 2013, I began
484 to know from reports from Cover Oregon and the staff there
485 that they might need to do a staged launch, and that's
486 different than what we had heard previous to that point.

487 They still believed that we were on track. They
488 still believed that we were going to launch in October for
489 open enrollment, but that was the first indication of, at
490 my level, scope changes on the project as we moved forward.

491 Q How often did the staff from Cover Oregon brief
492 you on the project development?

493 A From what I recall, at least monthly during the
494 work.

495 Q Monthly from what time period?

496 A Probably from its initial inception. So from
497 about 2011, we had a health care roundtable, for lack of a
498 better word, from the governor's office that involved Cover
499 Oregon. So it might have been policy issues. It might
500 have been implementation issues.

501 And then, obviously, as things began to get more
502 challenging over there, we met with them much more
503 frequently, both over the phone and in person.

504 Q And who did you meet with most frequently from
505 Cover Oregon?

506 A Probably most frequently Rocky King who was the

HGO106000

507 executive director at the time; Amy Fauver, who I don't
508 know what her official role was, but she was communications
509 and marketing; and on occasion his other leadership team.

510 Q Rocky King's other leadership team?

511 A Yeah, Rocky King's leadership team.

512 Q And when Rocky King left Cover Oregon, who did
513 you meet with from Cover Oregon?

514 A Same group except for Rocky, and then at that
515 point when Rocky left, Dr. Bruce Goldberg assumed the role
516 of executive director of Cover Oregon.

517 Q And was there ever any concern that Oregon had
518 tried to accomplish too much, given the tight deadlines
519 that were established under the Patient Protection and
520 Affordable Care Act?

521 A Yes.

522 Q Did CMS ever raise any concerns about Oregon's
523 ambitious vision?

524 A Not to me directly.

525 Q Do you know if they raised concerns to -- did
526 you ever hear of them raising concerns to anyone else?

527 A Not that I remember.

528 Q Were you involved in -- with the application
529 process for the federal grants for the Oregon Health
530 Insurance Exchange Corporation?

531 A I don't remember if I did them or not.

HGO106000

532 Q Do you know if Cover Oregon received funding
533 from any other source other than the federal government?

534 A I don't believe so.

535 Q I'm introducing Exhibit 2 into the record.

536 (Exhibit 2 was marked and entered.)

537 Q So this is an email that Rocky King sent to you,
538 copying David Barenberg and Mike Bonetto, in February 2013.
539 Can you please describe your level of involvement with the
540 Cover Oregon project at around this time?

541 A So at this time, I was the governor's health
542 care policy advisor. I believe our Oregon legislature was
543 in session at this point, and I believe this is a response
544 from Bob Cummings, who was the legislative lead for IT
545 projects, especially Cover Oregon, and I believe he raised
546 some concerns that the Cover Oregon team was attempting to
547 address from him and the speaker's office.

548 Q Can you clarify what you mean by, he raised some
549 concerns that they were trying to address? Do you recall
550 the concerns that Bob Cummings raised in February 2013?

551 A I don't recall them because most of the concerns
552 that I remember about Bob were very technical, and I'm not
553 a technical software person, or project management person,
554 so those were usually his kinds of concerns that I saw and
555 were expressed.

556 Q Okay. Well, then on the first page of the

HGO106000

557 email, Rocky King writes: "There is clarity on commitment.
558 As I've said to all that will listen and in writing
559 (Gootee, Kotek, Conger, Cummings, Dewey, the board, staff,
560 Barney, Mike, etc.), I will make a decision on the specific
561 time frame after we go live in October. Why? Simple. I
562 don't know if I will need another 3 months, 6 months or 1
563 year to stabilize this system, debug it, and what the
564 scheduled priorities are until we go live. That said, it
565 will be accomplished prior to expanding to larger groups in
566 2016.

567 Let's be direct here. This project is full of
568 risk, the time frames are nearly impossible and I'm not
569 sure we can make the time frames as it now stands. Our QA
570 just gave a report to us stating they believe the IT side
571 is 2 to 4 months behind (we disagree, but it is not an
572 issue of being behind, just a disagreement on how much).
573 Everyday we are reducing the scope of the project and I'm
574 not about to take 3 weeks of scarce resources to
575 retool/redesign the small group interface and shopping
576 experience prior to going live."

577 Did Rocky King often express concerns to you
578 about the status of the project and whether it would be
579 able to launch on October 1st, 2013?

580 A He always told me and us that they were going to
581 launch in October. I think Rocky, as you can see in this

HGO106000

582 email, expressed all kinds of concerns. This was a large
583 project, very complicated project, both on the IT side and
584 on the management side. So Rocky expressed concern to me
585 every time I talked to him, whether it was warranted or
586 not. He was anxious all the way through this.

587 Q So when he expressed concerns to you and was
588 anxious, even though he may have said he felt it was going
589 to launch on October 1, 2013, were you ever concerned that
590 it wouldn't be able to launch, given how broad the project
591 scope was?

592 A I didn't get concerned until we got closer to
593 October 1st.

594 Q And do you recall the project to build the
595 health insurance exchange being handed over from Oregon
596 Health Authority to Cover Oregon around May 2013?

597 A I believe so, yes.

598 Q And do you recall why the project was handed
599 over from the Oregon Health Authority to Cover Oregon?

600 A I believe it was a financial move.

601 Q And can you elaborate on what you mean by, it
602 was a financial move?

603 A I believe the state OHA had the establishment
604 grant and the federal funding to establish the exchange and
605 were transferring those monies and that responsibility and
606 that oversight over to Cover Oregon.

HGO106000

607 Q And do you remember at the time when it was
608 handed over there ever being any concern that OHA had less
609 money in its budget than it had anticipated, so the project
610 should be handed over earlier than they expected, or was
611 the site not developed as fully as they had anticipated?

612 A Yes. I do remember them turning it over
613 earlier, but I didn't know the details about why they were
614 doing it, and I don't remember those details.

615 Q Did Rocky King talk to you about the details of
616 why they were turning it over earlier?

617 A I believe so, yes.

618 Q And do you recall what he told you about...

619 A I don't remember.

620 Q Did Bruce Goldberg tell you about them turning
621 it over earlier?

622 A I'm sure he did.

623 Q And do you recall what he said about...

624 A I do not.

625 Q Do you believe that when OHA handed the project
626 over to Cover Oregon in May 2013, it was a functional
627 insurance exchange?

628 A No, I do not.

629 Q Do you know if they believed it to be a
630 functional insurance exchange?

631 A I don't believe anybody thought it was a

HGO106000

632 functioning exchange at this point.

633 Q Do you know if CMS delayed the issuance of any
634 guidelines or regulations that were important for project
635 development and resulted in a delay in the project's
636 timeline?

637 A I don't know.

638 Q Were you ever involved in any discussions about
639 feeling pressure to launch on October 1, 2013, regardless
640 of the status of the website?

641 A No.

642 Q So you never were involved in any discussion
643 about potentially feeling that there was pressure to launch
644 on October 1, 2013?

645 A No. I didn't feel like there was pressure to
646 launch.

647 Q You talked about it a little bit already, but
648 can you describe when you first became aware that the
649 website might not be ready to launch on October 1, 2013?

650 A So in the summer, there was -- Rocky began to
651 tell us indications of a staged launch, which meant only
652 certain things were going to be open on October 1st, and
653 then as we got closer to October 1st, I believe it was
654 sometime at the end of September, early October, it was
655 really clear that it wasn't going to launch as everybody
656 had envisioned it to launch and not just be a staged

HGO106000

657 launch.

658 And then as October went through, every deadline
659 that the contractor and the vendor and the IT vendor would
660 give Cover Oregon was missed, and so we continued to delay
661 the full launch of what was expected, which -- meaning an
662 end-to-end enrollment process.

663 Q And so you said Rocky King gave you updates.
664 Was OHA still involved in the project even after they
665 handed it over to Cover Oregon?

666 A Yes.

667 Q And were they also involved in determining the
668 status of the website?

669 A Not to my knowledge.

670 Q And then can you describe how the website was
671 rolled out, beginning with what happened on October 1,
672 2013, until the portal was launched for agents and
673 community partners?

674 A Can you say that one again?

675 Q Can you describe how the website was rolled out,
676 beginning with what happened on October 1, 2013, how the
677 website was used on that date, until the portal was
678 launched for agents and community partners?

679 A To the best of my knowledge, it was essentially
680 a static website, that people could print a PDF and then
681 submit it, and then there would be a whole host of manual

HGO106000

682 processes to actually determine somebody eligible and then
683 enroll them into coverage, whether that be commercial
684 coverage or Medicaid.

685 Q And do you recall if the way the website
686 operated between October 1, 2013, and April 2014, changed?

687 A Not to my knowledge.

688 Q You're not aware of it changing in its
689 operations and whether it opened to community agents and --

690 A It may have. I don't remember when it did. It
691 may have. But it never did what it was supposed to do, is
692 what I mostly remember.

693 Q Do you know who would be responsible for making
694 the decision about whether the website did launch to
695 individuals?

696 A The ultimate decision was the Cover Oregon
697 board. They had the responsibility as the group that was
698 responsible for Cover Oregon and the health insurance
699 exchange.

700 Q So you said that the website didn't launch as
701 anticipated on October 1, 2013. Can you describe, to the
702 extent you're familiar with it, how the IT team responded
703 to the failed launch in October 1, 2013?

704 A I don't recall how they responded. I'm not an
705 IT guy.

706 Q Were you really involved with the IT details at

HGO106000

707 all, or were you just more on --

708 A No, I'm the policy guy. So my job was to make
709 sure I had enough information to understand what was
710 happening and leaning on the IT experts, the folks that
711 really knew the details of what was happening and whether
712 things were going to happen or weren't going to happen.

713 Q So is it fair to say you really had no
714 first-hand knowledge of the status of the technical
715 operations of the website, that you just heard through
716 other people?

717 A Correct.

718 Q Okay. Thank you.

719 And did you ever discuss whether the exchange
720 could be financially sustainable in April 2014?

721 A Yes.

722 Q And who did you discuss it with?

723 A From who I remember, the staff at Cover Oregon,
724 probably some board members, and governor's office staff.

725 Q And did you guys believe that it could be
726 financially sustainable in April 2014?

727 A I did not believe that.

728 Q Did anyone believe that?

729 A I don't know.

730 Q Why didn't you believe it?

731 A At that point, we still didn't have a functional

HGO106000

732 exchange. We didn't have a technology or website that was
733 doing what it was supposed to be doing, and I believe by
734 that point we had some objective analysis of what the IT
735 system actually looked like.

736 It wasn't just the staff at Cover Oregon telling
737 us it wasn't working. It was experts and outside experts
738 saying it's not working, and looking under the hood and
739 saying it's not working, and then them being able to tell
740 us and tell me this is how much more expensive it's going
741 to be if you're going to try and fix this.

742 So I didn't believe that it was sustainable
743 based on the financing of what we currently had versus what
744 we might have to pay to fix it.

745 Q Okay. Thank you.

746 A Yeah.

747 Q So I'm going to list some individuals, and I was
748 wondering if you could please describe their role that each
749 of the individuals played with the governor's office, and
750 then also if they weren't involved in the governor's
751 office, the governor's reelection campaign.

752 A Okay.

753 Q Michael Bonetto, was he -- did he work for the
754 governor's office?

755 A Yes.

756 Q And what did he do for the governor's office?

HGO106000

757 A He was initially my colleague as the health
758 policy advisor and then he was chief of staff.

759 Q And did he work for the governor's reelection
760 campaign to your knowledge?

761 A I don't think so.

762 Q Did Alex Pettit work for the governor's office?

763 A Not to my knowledge.

764 Q Did Alex Pettit work for the governor's
765 reelection campaign?

766 A Not that I know.

767 Q Did Kevin Looper work for the governor's office?

768 A Didn't work for the governor's office.

769 Q Did he work for the governor's reelection
770 campaign?

771 A I believe so.

772 Q Did Tina Evan work for the governor's office?

773 A She worked for the governor's office in -- yes,
774 March, I think it was.

775 Q Did she work for the governor's office before
776 March 2013?

777 A I believe don't so.

778 Q Did she work on the governor's reelection
779 campaign?

780 A Not that I know of.

781 Q Did Mark Wiener work for the governor's office?

HGO106000

782 A No.

783 Q Did Mark Wiener work for the governor's
784 reelection campaign?

785 A I believe so.

786 Q Did Cylvia Hayes work for the governor's office?

787 A I don't know.

788 Q To your knowledge, did Cylvia Hayes work for the
789 governor's reelection campaign?

790 A Not that I know of.

791 Q To your knowledge, did Bruce Goldberg work for
792 the governor's office?

793 A No.

794 Q To your knowledge, did Bruce Goldberg work for
795 the governor's reelection campaign?

796 A Not that I know of.

797 Q To your knowledge, did Steve Bella work for the
798 governor's office?

799 A I don't know.

800 Q To your knowledge, did Steve Bella work for the
801 governor's reelection campaign?

802 A I don't know.

803 Q Did Christian Gaston work for the governor's
804 office to your knowledge?

805 A I believe he did after the election.

806 Q So after November 2014?

HGO106000

807 A Correct.

808 Q Did he work for the governor's office before
809 November 2014 to your knowledge?

810 A Not that I know of.

811 Q Did Christian Gaston work for the governor's
812 reelection campaign to your knowledge?

813 A I believe so, yes.

814 Q Did Dan Carol work for the governor's office?

815 A Yes.

816 Q What did Dan Carol do for the governor's office?

817 A I don't remember his official title, but he did
818 a lot of environmental work and energy work for the
819 governor.

820 Q And for what periods do you recall that Dan
821 Carol worked for the governor's office?

822 A To the best of my knowledge, he worked there
823 from when I started in March of 2011 through the
824 resignation.

825 Q And to your knowledge, did Dan Carol work on
826 Cover Oregon issues?

827 A Not that I know of.

828 Q Did Dan Carol work on the governor's reelection
829 campaign to your knowledge?

830 A I don't know.

831 Q Did Jan Murdock work for the governor's office?

HGO106000

- 832 A Yes.
- 833 Q In what capacity did she work for the governor's
834 office?
- 835 A She was his executive assistant.
- 836 Q And do you know how long she worked for the
837 governor's office as his executive assistant?
- 838 A For his entire term.
- 839 Q And do you know if Jan Murdock worked for the
840 governor's reelection campaign?
- 841 A I believe so, yes.
- 842 Q And during his reelection campaign, did she ever
843 stop working for the governor's office?
- 844 A I believe she did, yes.
- 845 Q Did you know when she stopped working for the
846 governor's office?
- 847 A I don't remember.
- 848 Q Okay. Thank you.
- 849 And what was Tim Raphael's role with the
850 governor's office?
- 851 A He was the communications director.
- 852 Q How long was he the governor's communications
853 director?
- 854 A I believe he was the communications director
855 from the start of his term, I believe, until November,
856 December 2013.

HGO106000

857 Q And what did Tim Raphael do when he left the
858 governor's office in November or December 2013?

859 A I believe he was hired for a communications
860 consulting firm.

861 Q Do you know if he worked for the governor's
862 office at all after he left as communications director in
863 November or December 2013?

864 A I don't know.

865 Q Do you know if Tim Raphael worked on the
866 governor's reelection campaign?

867 A I don't know.

868 Q Can you describe your understanding of Tim
869 Raphael's role as it relates to Cover Oregon?

870 A He had a role when he was in the governor's
871 office. That's the role I know about.

872 Q Did you work with Tim Raphael at all on Cover
873 Oregon issues after he left the governor's office?

874 A I didn't work with him.

875 Q Did you understand him to have a role in Cover
876 Oregon issues after he left the governor's office?

877 A Yeah. Tim is a very smart communications
878 expert, and when we began to have the tremendous challenges
879 that we were having with Cover Oregon, as we do with a lot
880 of other issues, we call the folks that we know and trust,
881 whether inside or outside state government, to help us

HGO106000

882 think through issues.

883 Q Do you know who worked with Tim Raphael on Cover
884 Oregon issues?

885 A No, I don't know.

886 Q And what was Patricia McCaig's role with the
887 governor's office?

888 A As far as I know, she didn't have an official
889 role.

890 Q Did you work with Patricia McCaig at all while
891 you worked for the governor's office?

892 A I talked with Patricia McCaig while I was in the
893 governor's office.

894 Q On what issues did work with Patricia McCaig?

895 A Cover Oregon issues.

896 Q And approximately, do you recall what time
897 periods you worked with Patricia McCaig on Cover Oregon
898 issues? Was it throughout the entire Cover Oregon project
899 or did it start at a certain point?

900 A It wasn't through the entire Cover Oregon
901 project. Very similar to Tim's engagement, it was, you
902 know, the first couple months of 2014 probably, as far as I
903 can remember.

904 Q So you mostly worked with Patricia McCaig on
905 Cover Oregon issues then during the beginning of 2014?

906 A Right.

HGO106000

907 Q Okay. Thank you.

908 And did you work with Patricia McCaig on any
909 issues other than Cover Oregon?

910 A Not to my knowledge.

911 Q And to your knowledge, did the governor's office
912 use campaign funds to supplement its work at all?

913 A Not that I know of.

914 Q Do you believe that the governor's office should
915 use campaign funds to supplement its work?

916 A No.

917 Q Do you know if governors -- if staff from the
918 governor's office coordinated with members of the
919 governor's reelection team on different issues?

920 A Not that I know of.

921 Q Are you aware of any policies and procedures
922 established by the state of Oregon or the governor's office
923 in Oregon to limit the commingling of campaign activity
924 with official actions of the governor's office?

925 A Yes, I'm aware.

926 Q And what policies or procedures are you familiar
927 with that limits the commingling of activity?

928 A Generally, I remember being in a room just like
929 this, with a bunch of lawyers telling us we can't commingle
930 our state business and any campaign business that we would
931 be doing personally. So I don't remember the exact

HGO106000

932 policies, but it's pretty clear to us the lines.

933 Q Could you elaborate on what some of those lines
934 were when you sat in that room, what they told you that you
935 were allowed to do and what you weren't allowed to do?

936 A Sure. I had two cell phones at the time. I
937 couldn't use one cell phone for personal business or
938 campaign business. We had a state email address. There
939 couldn't be any campaign activities, if we were engaged in
940 the campaign at all, which I was not. We weren't allowed
941 to use state business for that.

942 We weren't allowed to advocate for a particular
943 position that was going to be on the ballot. Those kinds
944 of things were the kinds of things they said make sure you
945 don't do these things if you're going to do them in your
946 personal life.

947 Q Did that mean if you -- did they advise that if
948 it was a campaign issue, you should use your personal email
949 account?

950 A Yes, if we were engaged with the campaign.

951 Q And then were official staff for the governor's
952 office or Oregon employees allowed to brief and update
953 campaign staffers for the governor?

954 A Were we allowed to?

955 Q Was that something they discussed in your
956 meetings of whether an official state employee was allowed

HGO106000

957 to work with the campaign staffers for the governor?

958 [REDACTED]. Those are two different questions.

959 Can you be a little more specific?

960 Q Sure. So did they discuss whether or not, in
961 your official capacity, the work that you did you could
962 talk to and brief campaign staffers on those issues and
963 keep them up-to-date on what was occurring in the
964 governor's office?

965 A So on state business, as long as it was state
966 business, we could talk to anybody we needed to talk to for
967 advice or counsel or insight, regardless of whether they
968 had a role or not on a campaign.

969 Q And then are you familiar with a team that was
970 created by Michael Bonetto to address Cover Oregon issues?

971 A I'm not aware of any official team.

972 Q Were you part of any sort of group that was
973 created by Michael Bonetto to talk about Cover Oregon
974 issues?

975 A I assume. We had a lot of groups at that point
976 in time.

977 Q Do you recall who you spoke with most frequently
978 about Cover Oregon issues?

979 A My chief of staff and the governor.

980 Q Was there anyone else that you spoke with
981 frequently about Cover Oregon issues, other than the chief

HGO106000

982 of staff and the governor?

983 A Yeah. At that point, Dr. Bruce Goldberg in his
984 role as the director of the Oregon Health Authority and
985 then as the interim director of Cover Oregon. Tina Edlund,
986 who was the chief of policy at the Oregon Health Authority
987 and became the interim director of the Oregon Health
988 Authority when Bruce left. I'm sure there's others. It
989 was a tumultuous time.

990 Q Did you communicate with Patricia McCaig
991 regularly in the beginning of 2014 on Cover Oregon issues?

992 A Yes.

993 Q Thank you.

994 I'm introducing Exhibit 3 into the record.

995 (Exhibit 3 was marked and entered.)

996 Q So it looks like from this email chain on
997 February 2, 2014, you email a group of individuals and say,
998 "Talked to Mike about getting a call together with all of
999 us later this evening. I propose 8:30 using the following
1000 call in info."

1001 It looks like you sent this email from your
1002 personal email account; is that correct?

1003 A Yes.

1004 Q And did you send this to Bruce Goldberg, Mike
1005 Bonetto, Nkenge Harmon Johnson, Pat Wentz, and Tina Edlund?

1006 A Yes.

HGO106000

1007 Q And did you send it to all of their personal
1008 emails addresses?

1009 A Yes.

1010 Q And do you recall why you were using your
1011 personal email account?

1012 A I don't recall. I have all of their personal
1013 email accounts because I'm friends with all them in a
1014 personal way. So I don't recall why I did it that way.

1015 Q And do you recall why you were -- why you would
1016 have been emailing to get a call together with this group
1017 of individuals?

1018 A We frequently had a call with this group of
1019 individuals around the work that we were doing.

1020 Q And did you frequently schedule these calls by
1021 using your personal email?

1022 A I don't recall if I did or not.

1023 Q And then Michael Bonetto, it looks like he sends
1024 the email to Patricia McCaig and says -- asks if there's
1025 any chance that she can make the call later this evening,
1026 and he says that the plan is to discuss some Cover Oregon
1027 media issues, want to make sure we have a handle on things.

1028 Did you know that he was going to invite
1029 Patricia McCaig to join the call?

1030 A I don't remember.

1031 Q Do you recall if anyone else was invited to join

HGO106000

1032 the call, or did you have a lot of group calls with these
1033 individuals?

1034 A With the individuals that I sent the email to?

1035 Q Yes.

1036 A Yes. I had a lot of calls with those folks.

1037 Q And was there anyone else that often joined
1038 those calls that you had with that group of individuals
1039 that are on this email chain?

1040 A I'm sure, but I don't remember.

1041 Q Do you remember if Patricia McCaig often joined
1042 those calls?

1043 A I know she was on some of the calls. Yeah.

1044 Q And do you recall if Tim Raphael often joined
1045 the calls that you had with this group of individuals?

1046 A I don't recall Tim being on these calls.

1047 Q Do you recall if Kevin Looper joined some of the
1048 calls you had with this group of individuals?

1049 A I don't remember.

1050 Q Are you familiar with a team that was called the
1051 Area 51 Team?

1052 A No, I'm not. Fun name, though.

1053 Q So is it fair to say you weren't a member of the
1054 Area 51 Team?

1055 A Not to my knowledge. I've been called a lot of
1056 things. I don't know.

HGO106000

1057 Q And are you familiar with the technology
1058 advisory group that was convened for Cover Oregon?

1059 A Yes, I am. I think I know what the group is.
1060 Yeah.

1061 Q Was it maybe the Technology Options Work Group?
1062 Is that...

1063 A I think that's -- I think I know what group
1064 you're talking about. Yes. Got a whole bunch of names.
1065 Yes.

1066 Q And then can you describe what this group was?

1067 A To the best of my knowledge, that group was
1068 convened by Cover Oregon and the technology team to bring
1069 in outside experts from health systems, health insurers,
1070 technology people that didn't have intimate knowledge of
1071 what was happening or how the system was built, but really
1072 to help them think through what do we do next, how do we
1073 make this thing work, how do we change things, develop some
1074 options, and really have a group of outside experts do
1075 that.

1076 Q And do you recall who established this group?

1077 A I don't recall.

1078 Q And were you a member of the technology advisory
1079 group?

1080 A I was not a member of it.

1081 Q Did you attend the technology advisory group

HGO106000

1082 meetings?

1083 A I believe so, yes.

1084 Q So you say you weren't a member, but you
1085 attended the meetings. What was your role with the group?

1086 A My role was a listening role. Part of my job in
1087 the governor's office was to get as much information as
1088 humanly possible around a particular topic, and it was in
1089 that capacity.

1090 Q And were there other people that attended the
1091 meetings, to your knowledge, that also weren't members
1092 or...

1093 A I believe so, yes.

1094 Q And were the technology advisory group meetings
1095 open to the public?

1096 A I don't believe so.

1097 Q Do you recall if there were voting and nonvoting
1098 members of the technology advisory group?

1099 A I don't remember.

1100 Q Did you feel as though the Cover Oregon Board of
1101 Directors was relying on this technology group to make a
1102 recommendation to them about the technology solution for
1103 Cover Oregon?

1104 A Yes. That was the point of the group, from what
1105 I remember.

1106 Q Do you remember if the technology group reported

HGO106000

1107 to the Cover Oregon Board of Directors?

1108 A I don't remember how it worked.

1109 Q Do you remember whether meeting -- who
1110 determined whether meetings were held for the technology
1111 advisory group?

1112 A I don't remember.

1113 Q Do you remember how membership was determined
1114 for the technology advisory group?

1115 A I don't know.

1116 Q Do you remember if the technology advisory group
1117 made a recommendation at the end of March for the Cover
1118 Oregon technology option?

1119 A I don't remember when. I know they made a final
1120 recommendation that eventually went to the board.

1121 Q Okay. So do you remember before the final
1122 recommendation if they made a preliminary recommendation?

1123 A I believe so.

1124 Q Do you recall what that preliminary
1125 recommendation was?

1126 A I believe it was a two-track recommendation,
1127 where I think Alex said it best. It's a 100-day sprint of
1128 whether they could fix what Cover Oregon currently had,
1129 with very clear milestones and trigger points, and if any
1130 one of those things weren't met on those deadlines, then
1131 the recommendation would be to transition to the Federally

HGO106000

1132 Facilitated Marketplace.

1133 Q Okay. Thank you.

1134 I'm introducing Exhibit 4 into the record.

1135 (Exhibit 4 was marked and entered.)

1136 Q I'd like to direct your attention to the email
1137 that begins on the page with the Bates Stamp No.
1138 GOV_HR00051184, that Bruce Wilkinson sent on March 28,
1139 2014. So Bruce begins the email saying, "Bruce, thank you
1140 for this opportunity. I do plan to participate and very
1141 much appreciate the opportunity to contribute to this
1142 ongoing work toward the success of Cover Oregon. I did not
1143 have a lot to add to Thursday's meeting as I agreed with
1144 almost everything that was discussed. In that spirit, I
1145 will say that I fully support the consensus decision of the
1146 group (option 9+2 or, as Sue rechristened it, option 11).

1147 However, one possible concern that we might well
1148 consider for a minute or two fairly soon is this: Now that
1149 we have decided to mitigate the risk of Option 2 by setting
1150 a trigger date of late May or early June for invoking
1151 Option 9 as a contingency, it seems reasonable to infer
1152 that the risk of a successful Option 9 rises incrementally
1153 from day-to-day between now and the trigger date, unless we
1154 are doing something to develop that option. Of course,
1155 working on parallel fronts also has a cost. Based on the
1156 group response to my question about a 'two front war' (that

HGO106000

1157 we have decided to only work on Option 2 until the end of
1158 May), I inferred that we have chosen to believe that the
1159 risk increment accruing to Option 9 during the next two
1160 months is negligible relative to the cost of a parallel
1161 attack."

1162 Do you recall who Bruce Wilkinson is?

1163 A I believe he works for Providence.

1164 Q And do you recall if he was a member of the
1165 technology advisory group throughout the duration of the
1166 group?

1167 A I know he was a participant. I don't know if it
1168 was for the duration.

1169 Q And so is it fair to interpret what I just read
1170 as Mr. Wilkinson stating that at its March 27, 2014,
1171 meeting, the technology advisory group had initially
1172 recommended to continue with the existing technology and
1173 have the FFM as a backup but not to work on the two plans
1174 simultaneously?

1175 Does that sound familiar, it sounds like?

1176 A It sounds fair.

1177 Q And then do you remember having this discussion
1178 in the March 27, 2014, technology advisory group --

1179 A I don't remember.

1180 Q -- meeting about whether to do them
1181 simultaneously or separately?

HGO106000

1182 A I don't remember specifically.

1183 Q Okay. But do you recall if on the March 27th
1184 meeting before making its preliminary recommendation, the
1185 technology advisory group had recommended just continuing
1186 to work on developing and deploying the existing technology
1187 and holding off on doing anything with the federal exchange
1188 until May?

1189 A I don't remember.

1190 Q Okay. Thank you.

1191 So before the email, you had discussed a little
1192 bit that you do remember the preliminary recommendation of
1193 the technology advisory group to work on the existing
1194 technology with the FFM as a contingency.

1195 Are you aware of Alex Pettit briefing anyone
1196 about the technology advisory group's preliminary
1197 recommendation?

1198 A I know he briefed me.

1199 Q He briefed -- you attended the meetings,
1200 correct?

1201 A Correct.

1202 Q So he briefed you as well. Was that in a
1203 separate meeting he briefed you?

1204 A It was usually in a separate meeting, but I was
1205 in most of those meetings, from what I remember.

1206 Q So why did he brief you? Did he brief you on it

HGO106000

1207 separately from the group as well?

1208 A Yes.

1209 Q And was anyone else attending that briefing?

1210 A I'm sure there were people on that briefing
1211 other than me. I know there were.

1212 Q So why was that briefing being held?

1213 A Frankly, I'm not a technology guy. So as
1214 they're going through their three or four hours of
1215 technology, I needed the dumbed-down version of what
1216 they're actually talking about and what they're actually
1217 doing and why one is better than another.

1218 Q Do you remember if there was a certain group
1219 that this briefing was being given to? Was it for the
1220 governor's office? Do you know who Alex Pettit -- you said
1221 you don't recall what members, who was at the briefing,
1222 but...

1223 A So in my role, Alex reported to the governor's
1224 office in his old role as the CIO of the state, and he felt
1225 an obligation to continue to make sure we understood what
1226 was going on in the governor's office and for the governor.

1227 Q Do you recall if Michael Bonetto was at the
1228 briefing?

1229 A I assume he was at some of them.

1230 Q So can you -- so there were multiple briefings
1231 on...

HGO106000

1232 A I don't remember.

1233 Q Was Bruce Goldberg at the technology advisory
1234 group meetings that you recall?

1235 A I believe he was at some.

1236 Q Did he also brief you on the technology advisory
1237 group's work?

1238 A From what I remember.

1239 Q Did you brief anyone about the technology
1240 advisory group's recommendation or work in early
1241 April 2014?

1242 A Yes.

1243 Q Who did you brief?

1244 A Governor and chief of staff.

1245 Q And do you recall what you told them during that
1246 briefing?

1247 A I don't remember.

1248 Q Did you have any concerns about the technology
1249 advisory group's preliminary recommendation?

1250 A No. I just had concerns generally about where
1251 we were on that process. The overarching message that I
1252 kept receiving from the technology group and the briefings
1253 about them is time was not on our side. The system that we
1254 had was innately broken, and every minute we wasted was
1255 going to put more pressure on any option we chose.

1256 Q Do you know if the governor had any concerns

HGO106000

1257 about the technology advisory group's preliminary
1258 recommendation?

1259 A I don't remember if we did or not.

1260 Q Do you remember if Michael Bonetto had any
1261 concerns about the technology advisory group's preliminary
1262 recommendation?

1263 A I don't remember.

1264 Q And can you describe the role of the governor's
1265 office in deciding that Cover Oregon should switch from the
1266 state supported IT platform to healthcare.gov?

1267 A It wasn't the governor's decision.

1268 Q But to the extent that the governor was
1269 involved, in your opinion, what was the governor's office
1270 role?

1271 A Our role was to take all the information in, and
1272 it was clear we had a preference, and it was clear we had a
1273 recommendation, but that was it. The Cover Oregon board
1274 had all the responsibility to change the direction of what
1275 Cover Oregon was doing.

1276 Q And you said it was clear you had to preference.
1277 What was the preference of the governor's office?

1278 A The preference for us was to move to the
1279 Federally Facilitated Marketplace for the 2015 open
1280 enrollment period.

1281 Q Do you know when that became the preference of

HGO106000

1282 the governor's office?

1283 A I don't remember.

1284 Q To your knowledge, did former Governor Kitzhaber
1285 ever believe that he would be the one that had to make the
1286 decision for Cover Oregon's technology?

1287 A I don't know if he felt that or not.

1288 Q Did Michael Bonetto ever tell you that Oregon
1289 did not need an IT platform that was going to be highly
1290 scrutinized over the next several years?

1291 A I don't remember.

1292 Q Did former Governor Kitzhaber ever tell you that
1293 Oregon did not need an IT platform that was going to be
1294 highly scrutinized over the next several years?

1295 A I don't remember.

1296 Q Were you concerned about having an IT platform
1297 that was going to be highly scrutinized over the next
1298 several years?

1299 A Yes.

1300 Q Is that one of the reasons that you preferred
1301 that Oregon switch to the Federally Facilitated
1302 Marketplace?

1303 A My preference was to make sure we could enroll
1304 people into coverage, and at that point, we hadn't been
1305 able to do that with the system that we paid for.

1306 Q Okay. Thank you.

HGO106000

1307 I'm introducing Exhibit 5 into the record.

1308 (Exhibit 5 was marked and entered.)

1309 Q This appears to be an email chain from March 26,
1310 2014, with you, Michael Bonetto, and Governor Kitzhaber
1311 included on the chain. Would you agree?

1312 A Yes.

1313 Q And so in the middle of the first page, you ask
1314 former Governor Kitzhaber if he will be joining tomorrow at
1315 10 for tech team.

1316 Kitzhaber responded to your email and said, "10
1317 a.m. works. However, I would you to set up the meeting at
1318 the beginning with the attached risk assessment (really a
1319 summary of what Bruce put together yesterday) which lays
1320 out what I think is the single most essential question we
1321 need to answer: what is our degree of confidence that our
1322 current technology platform is the right platform; that it
1323 will work, that we can get it up soon enough; and that it
1324 will perform reliably and be within our budget."

1325 Do you know why Governor Kitzhaber had asked
1326 Bruce Goldberg to put information together on the
1327 technology options for him?

1328 A So he could understand what was happening.

1329 Q And do you know why this work was being
1330 discussed outside of the technology advisory group?

1331 A So he could understand what was going on.

HGO106000

1332 Q And then do you recall if Governor Kitzhaber
1333 attended the technology advisory group meeting?

1334 A I don't remember.

1335 Q If you turn back to the -- I believe it's the
1336 risk assessment, beginning on the page with Bates Stamp No.
1337 MBG2037567. Is it your understanding that this is the risk
1338 assessment that Governor Kitzhaber was referring to in his
1339 email?

1340 A I don't know if this is the one that he's
1341 referring to.

1342 Q Do you know who created this document?

1343 A I don't remember.

1344 Q If you'll go to the middle of the portion that's
1345 highlighted in yellow that begins with "So... Central
1346 Question," the page says, "The entry level technology
1347 question really hinges on whether we believe we can get the
1348 current code and technology architecture up and running,
1349 how soon, how reliable, and how much the cost. I think it
1350 is a mistake to hedge our bets with the federal exchange as
1351 the
1352 backup."

1353 Do you know what was meant by, I think it is a
1354 mistake to hedge our bets with the federal exchange as the
1355 backup?

1356 A I don't know what he meant here.

HGO106000

1357 Q Did you have any discussions about that
1358 statement with anyone?

1359 A I don't remember.

1360 Q Do you know if the governor, did he ever express
1361 any concerns to you that it was a mistake to hedge your
1362 bets with the federal exchange as the
1363 backup?

1364 A Not that I remember.

1365 Q Do you recall if you discussed the statement
1366 with Michael Bonetto?

1367 A Not that I remember.

1368 Q I'm introducing Exhibit 6 into the record and
1369 see if that helps refresh your memory.

1370 (Exhibit 6 was marked and entered.)

1371 Q So in this email from you to Michael Bonetto,
1372 sent on March 27, 2014, you write: "I was re-reviewing his
1373 take on where he is. Caught this sentence that I missed
1374 before. I think it is a mistake to hedge our bets with the
1375 federal exchange as the backup. Call me prior to 8."

1376 Do you remember why this particular sentence may
1377 have caught your attention?

1378 A I don't remember.

1379 Q And so do you recall whether you and Mike
1380 Bonetto discussed this statement on March 27, 2014?

1381 A I don't remember.

HGO106000

1382 Q Okay. Thank you.

1383 Do you recall how Alex Pettit was chosen to
1384 serve as the interim chief information officer of Cover
1385 Oregon?

1386 A I believe he was asked by the governor.

1387 Q Did you have any involvement in the process?

1388 A I believe I didn't, until it was already done.

1389 Q So what involvement did you have after it was
1390 already done then, I guess?

1391 A As I was with a lot people there, I was a
1392 liaison for the governor and his representative, as Alex
1393 needed me for anything.

1394 Q So you worked with Alex once he served in that
1395 role, not that you had any --

1396 A Correct. I didn't know Alex before, correct.

1397 Q And do you recall if Sara Miller went with Alex
1398 Pettit to Cover Oregon?

1399 A I believe she did. Yes.

1400 Q And do you know what role Sara Miller was going
1401 to serve at Cover Oregon?

1402 A I don't know what her official role was.

1403 Q And do you know how it was decided that she
1404 would go with Alex Pettit to Cover Oregon?

1405 A If I remember, it was Alex's request.

1406 Q Do you recall if Sara Miller had any involvement

HGO106000

1407 in the project to transition to healthcare.gov?

1408 A Yes, she did.

1409 Q And what role did she serve?

1410 A I believe she was the lead project manager. I
1411 don't know what her official title was.

1412 Q And do you know what her responsibilities were
1413 as the lead project manager?

1414 A I believe it was to make sure it got done.

1415 Q And at that time, was she still working in Cover
1416 Oregon, or did she transition into another office to serve
1417 in that role?

1418 A I don't remember.

1419 Q And did anyone else assist her with her role as
1420 the lead project manager to assist with the transition to
1421 healthcare.gov?

1422 A There was a lot of people that helped her do it.

1423 Q Were there any individuals that were the primary
1424 individuals that helped her in that role?

1425 A The primary responsibility from the governor's
1426 office was Tina Edlund at that time.

1427 Q And how was Tina Edlund selected for that role?

1428 A She was the best person for the job.

1429 Q And do you know who selected her for that role?

1430 A It was a joint decision and a recommendation
1431 from myself and Mike Bonetto to the governor.

HGO106000

1432 Q And did the Cover Oregon Board of Directors
1433 participate in that decision to select her to serve as the
1434 person who was in charge of the project to switch to
1435 healthcare.gov?

1436 A I don't recall.

1437 [REDACTED] We will take five minutes and
1438 rotate chairs.

1439 (Off the record.)

1440 EXAMINATION

1441 [REDACTED]

1442 Q Thank you again for being here. I wanted to ask
1443 briefly about your position in the governor's office. How
1444 would you describe your responsibilities?

1445 A I advise the governor on policy, on his health
1446 care agenda, and implementation of his health care agenda.

1447 Q Did you ever act as a liaison to other state,
1448 federal agencies, or entities --

1449 A Yes.

1450 Q -- in that capacity?

1451 Did you act as a liaison to Cover Oregon after
1452 it was established?

1453 A Yes.

1454 Q And who did you most frequently communicate
1455 with?

1456 A Most frequently, Rocky King.

HGO106000

1457 Q And how did you view the purpose of that, of
1458 your liaison role?

1459 A Cover Oregon and the health insurance exchange
1460 was a central component to the governor's health care
1461 agenda. It was really important for him to get people
1462 coverage, and in order to do that, Cover Oregon and the
1463 health insurance exchange had to work, and my role was to
1464 make sure it was continuing down that path from a vision
1465 perspective, from a policy perspective, and then as Cover
1466 Oregon needed stuff or needed conversations with our state
1467 legislature, our delegation, federal partners, I could help
1468 assist in that way.

1469 Q What other agencies did you communicate with in
1470 this way?

1471 A State or federal?

1472 Q State.

1473 A State. The Oregon Health Authority, which is
1474 our Medicaid agency. Department of Human Services,
1475 Department of Consumer and Business Services, which is
1476 where our insurance division is, and then any other state
1477 agency that had a role at any point.

1478 Q And you mentioned that you would occasionally
1479 consult with outside experts?

1480 A Uh-huh.

1481 Q What was the purpose for doing that?

HGO106000

1482 A That I need smart people and smart advice.
1483 There was a lot of times where we would get somebody who
1484 had -- was a retired executive of some health care industry
1485 or was a really smart researcher from another place, that
1486 we just needed ideas from and conversations with. We knew
1487 we weren't the smartest people on everything, so we needed
1488 to make sure we were, and bringing in outside people to do
1489 that was usually the best way, whether they were inside or
1490 outside state government.

1491 Q And would you say you regularly did that on a
1492 regular basis --

1493 A Uh-huh.

1494 Q -- for a variety of issues?

1495 A Yes.

1496 Q Do you know how the concept for Oregon's health
1497 insurance exchange first came about?

1498 A I don't recall the exact moment, but Oregon had
1499 been on a path since about 2007 to develop its own health
1500 insurance exchange well before the ACA. So the ACA created
1501 a tremendous opportunity for us to do that.

1502 Q And why did Oregon want to develop its own
1503 exchange?

1504 A We believed it was the best way to provide
1505 coverage for people who didn't have coverage. At that
1506 point in time, Oregon had about a 17% uninsured rate, and

HGO106000

1507 we, as a small state, were having a real challenge in
1508 figuring out to cover those folks. We believe that was a
1509 necessary first step in the reform efforts.

1510 Q And where were you working when Oregon first
1511 began developing its insurance exchange after the ACA was
1512 enacted?

1513 A I believe I was still at the Oregon Health
1514 Authority as the deputy director of the policy SHOP.

1515 Q And what was your level of involvement at that
1516 time, in the early phases of the insurance exchange
1517 development?

1518 A It was really policy goals, policy objectives,
1519 what we were attempting to achieve, and then how that
1520 translates into what legislation would look like for the
1521 state to have its own.

1522 Q And were you aware of the IT component of that
1523 project at the time?

1524 A I was aware of it. Yes.

1525 Q To what extent were you involved in that
1526 component?

1527 A I wasn't involved, as far as I know.

1528 Q Just aware and kept informed?

1529 A Aware that we needed IT to make it all work.
1530 Yeah.

1531 Q Do you know when Oregon decided to contract out

HGO106000

1532 the development of its insurance exchange website?

1533 A I don't remember the exact time.

1534 Q Do you know why Oregon decided to contract out
1535 the development of the website?

1536 A I believe they felt it was the best option to
1537 deliver technology on time and on budget.

1538 Q At a high level, do you know how Oregon came to
1539 select Oracle to do that work?

1540 A I don't remember, no.

1541 Q Do you know if any other vendors submitted bids
1542 to develop the exchange website?

1543 A I don't remember.

1544 Q Do you know why Oracle was selected?

1545 A I believe that the group that selected them
1546 believed they could do the work and that Oracle said they
1547 could do the work in the scope that was described and on
1548 the timelines that we all knew were there.

1549 Q Are you aware of any representations Oracle made
1550 at the time about the level of customization that would be
1551 required to develop the exchange website technology?

1552 A Yes. To the best of my knowledge, they
1553 essentially said it was off the shelf, and then as reports
1554 later would come to note, that it wasn't off the shelf. It
1555 was highly customizable, which I think created challenges
1556 on the technology side to deliver what they said they would

HGO106000

1557 deliver.

1558 Q I'd like to show you a document marked Exhibit
1559 7.

1560 (Exhibit 7 was marked and entered.)

1561 Q And this is the First Data Cover Oregon Website
1562 Implementation Assessment dated April 23rd, 2014. Are you
1563 familiar with this document?

1564 A I am.

1565 Q And who is First Data?

1566 A I believe they are a consulting firm.

1567 Q And do you know why they put together this
1568 report?

1569 A I believe they were asked by the governor and
1570 the state to do an analysis, an objective analysis, of what
1571 went wrong and how we could do better moving forward.

1572 Q If you turn to page 5, the second to last
1573 paragraph on that page, the report reads: "It should be
1574 noted that the amount of Oracle software customization
1575 required has been significantly more than anticipated.
1576 Although the Oracle software was reported to meet 95% of
1577 the original requirements without customization, a HIX-IT
1578 Project Assessment Report from May 2013 estimated the
1579 system to be 60% COTS" -- which is Commercial Off the
1580 Shelf -- "and 40% custom configuration."

1581 Were you aware that First Data had made this

HGO106000

1582 finding about Oracle software?

1583 A I am.

1584 Q What's your interpretation of the finding?

1585 A That the arrangement that the state went into
1586 with Oracle to deliver on its head wasn't correct. They
1587 promised that it wasn't going to be customizable, they
1588 didn't think it was, and turns out it was highly
1589 customizable.

1590 Q Why would it have been preferable to Oregon that
1591 only 5% of Oracle's product was customizable as opposed to
1592 40%?

1593 A Well, this was a very large project, a project
1594 that we hadn't encountered before, that no one had
1595 encountered before, and the less customization, the better
1596 so it could be on time and it could work the way that we
1597 needed it to work.

1598 Every time you go in and try to customize
1599 something, something else is going to change. And clearly,
1600 in this case, a lot of that customization created a lot of
1601 the challenges that the technology never worked, and it
1602 wasn't what the state signed up for.

1603 Q Do you know when individuals within Cover Oregon
1604 or OHA or elsewhere came to the realization that the
1605 technology was much more customizable than they thought?
1606 The First Data report references a May 2013 assessment

HGO106000

1607 report.

1608 Do you know if this is -- if that's the date
1609 they became aware?

1610 A I don't know if that's the exact date. I think
1611 when I got more engaged at the end of the summer, early
1612 fall of 2013, and hearing from experts and getting
1613 objective eyes inside the system, they kept telling me over
1614 and over that it's more of a mess than we thought, it's
1615 more customizable than we thought.

1616 Q And who are "they" that you're referring to?

1617 A Well, one example is Alex Pettit, I think when
1618 he came, and he wasn't from the state. He just got there.
1619 He was an expert. He was a respected expert in the field
1620 and kept advising us that it's more of a mess than we had
1621 anticipated.

1622 Q And he and others were learning this information
1623 from outside experts that were brought in or from Oracle?

1624 A They were learning it from outside objective
1625 observers who are technology experts, who were looking at
1626 the technology and saying it doesn't work, of course it
1627 doesn't work because of this. Those are the folks that
1628 were doing it, not folks like me.

1629 Q Do you know what Oracle -- what representations
1630 Oracle was making about the level of customization at that
1631 time?

HGO106000

1632 A From what I remember, they continued to say that
1633 it should work, it does work. I never witnessed it ever
1634 working the way that it was supposed to work.

1635 Q When were you made aware of the October 1st,
1636 2013, deadline for Oregon's exchange website to go live to
1637 the public? In other words, to have a fully functional
1638 exchange website that could be used by the public to enroll
1639 in health care insurance?

1640 A My expectation would have been October 1.

1641 Q And when did you become aware of that deadline?

1642 A The deadline, that that was the deadline?

1643 Q Yes.

1644 A When the ACA passed, right, everybody knew that
1645 deadline.

1646 Q So you just answered my next question. But was
1647 this a deadline that, in your opinion, was widely known by
1648 individuals working on the exchange project?

1649 A Absolutely.

1650 Q Is this a deadline that you would have expected
1651 Oracle to be aware of?

1652 A Yes.

1653 Q Was it your understanding that Oracle had
1654 committed to completing a fully functional exchange website
1655 that could be used by members of the public by October 1,
1656 2013?

HGO106000

1657 A Yes.

1658 Q And what was the basis of your understanding?

1659 A That they were the contractor that was supposed
1660 to deliver that.

1661 Q And why was it important for the exchange to go
1662 live by October 1st?

1663 A That was the date of open enrollment. That was
1664 the first date that people could get health insurance that
1665 couldn't afford it, that didn't have it. We had a huge
1666 need in Oregon. 17% uninsured. And they were waiting for
1667 October 1st to come so they could enroll.

1668 Q And they were planning to do that by going
1669 online to the website that Oracle was building?

1670 A Correct.

1671 Q At a high level, what was your understanding of
1672 Oregon's expectations for what the end product of the
1673 website would look like?

1674 A The end product of the vision that Oregon had,
1675 and the vision that was the reason we contracted with
1676 Oracle, was anyone could take a laptop, as long as they had
1677 an Internet connection, could sit down without help from
1678 anybody else and enroll, shop, buy, enroll in coverage
1679 end-to-end in half an hour, 45 minutes, an hour.

1680 And again, to the best of my knowledge, that
1681 never happened.

HGO106000

1682 Q Do you know whether Oregon communicated that
1683 expectation to Oracle?

1684 A I don't know, but I hope so.

1685 Q Would it be your assumption that that
1686 expectation was communicated?

1687 A Yes, it is my expectation.

1688 Q Are you aware of any actions Oracle took that
1689 would have suggested it did not understand Oregon's
1690 expectation for the end product of the website?

1691 A Not that I know of.

1692 Q To your knowledge, before filing its lawsuit,
1693 did Oracle ever dispute the expectation that it would
1694 deliver a fully functional website that could be used by
1695 members of the public by October 1, 2013?

1696 A Not to my knowledge.

1697 Q So in the months leading up to the October 1st
1698 go live date, what was your level of involvement in the
1699 development of the website?

1700 A I had no involvement in the development of the
1701 website, but I was briefed by the Cover Oregon staff on the
1702 progress to date on whether they felt like we were going to
1703 open on October 1st, and then as I stated previously, what
1704 that was going to look like, and so then how we could talk
1705 about it and how we could prepare the public for what was
1706 going to happen on October 1st.

HGO106000

1707 Q Who at Cover Oregon and OHA were providing these
1708 updates to you?

1709 A Predominately, it was Rocky King and his
1710 leadership at Cover Oregon, and at that time, it was still
1711 Bruce Goldberg and his leadership team, Oregon Health
1712 Authority.

1713 Q And in the summer months leading up to
1714 October 1st, generally speaking, what were you hearing from
1715 Rocky King and others at Cover Oregon and those at OHA
1716 about how the website was coming along?

1717 A It was a high-risk project, it was a
1718 high-risk project the moment they started, but we're on
1719 track. We're assured by our contractors and by our IT
1720 folks that we're on track.

1721 Q Sorry. When you say "our contractors," who were
1722 you referring to?

1723 A I'm referring to Oracle.

1724 Q Going back to the First Data report, if you turn
1725 to page 63, so this is a timeline of key events that was
1726 prepared by First Data, it says at the top of the page
1727 there. If you look at the next page, page 64 and go to the
1728 entry dated June 19, 2013, it reads: "Governor's office
1729 briefing meeting on IT project with Sean Kolmer, Mike
1730 Bonetto, Rocky King, Aaron Karjala, Erinn Kelley-Siel,
1731 Bruce Goldberg, and Carolyn Lawson. Update - Project on

HGO106000

1732 Track."

1733 Can you briefly tell me who the individuals
1734 listed here are, apart from yourself?

1735 A Sure. Mike Bonetto was the health care advisor
1736 with the governor. Rocky King, the executive director of
1737 Cover Oregon. Aaron Karjala was the chief information
1738 officer of Cover Oregon. Erinn Kelley-Siel was the
1739 director of the Department of Human Services. Bruce
1740 Goldberg was the director of the Oregon Health Authority,
1741 and Carolyn Lawson was the chief information officer of the
1742 Oregon Health Authority.

1743 Q Do you recall attending this meeting?

1744 A I don't recall attending this meeting.

1745 Q Do you know what the purposes -- from reading
1746 the description here and from your general recollection of
1747 being briefed at the time, do you know what the purpose of
1748 this meeting would have been?

1749 A The purpose of this meeting was a usual and
1750 consistent update that these team members had to the
1751 governor's office, to make sure we understood where they
1752 were on the project, progress to date, any challenges, and
1753 let us know, like it says here, that the project is on
1754 track.

1755 Q And what was your understanding of what "on
1756 track" meant?

HGO106000

1757 A "On track" to me at that time period meant the
1758 website was going to be fully functional and fully
1759 operational on October 1st.

1760 Q To your knowledge, did "on track" pertain to the
1761 status of Oracle's work on the exchange website?

1762 A Yes.

1763 Q And who was telling you that the project was on
1764 track at these meetings?

1765 A The Cover Oregon team and the OHA team,
1766 especially the IT experts in that group.

1767 Q And what was the basis of their belief that the
1768 project was on track?

1769 A I believe and I understand that they were
1770 hearing that from Oracle and other contractors that they
1771 had.

1772 Q If you turn to page 65, are three descriptions
1773 at the top of the page. The first two are dated July 12,
1774 2013, July 27, 2013. They both read: "Governor's office
1775 briefing meeting on IT project with Sean Kolmer, Mike
1776 Bonetto, Rocky King, Aaron Karjala, Erinn Kelley-Siel,
1777 Bruce Goldberg and Carolyn Lawson. Update - Project on
1778 Track."

1779 Do you recall attending any of these meetings in
1780 July of 2013?

1781 A I don't recall them specifically, but I was

HGO106000

1782 clearly in these meetings.

1783 Q And what was your understanding of what "on
1784 track" meant?

1785 A We were going to have a fully functional health
1786 insurance exchange website on October 1st.

1787 Q And who was telling you that the project would
1788 be on track?

1789 A Cover Oregon and Oregon Health Authority.

1790 Q And what did you understand to be the basis of
1791 their belief that the project was still on track at this
1792 time?

1793 A I believe they were hearing from contractors,
1794 Oracle specifically, around whether they were going to
1795 deliver the project on time and on budget.

1796 Q The next entry is dated July 31, 2013, reads:
1797 "Governor's office brief meeting on IT project with Sean
1798 Kolmer, Mike Bonetto, Rocky King, Aaron Karjala, Erinn
1799 Kelley-Siel, Bruce Goldberg and Carolyn Lawson.
1800 Update - May need to do a stage launch but project on
1801 track."

1802 Do you recall this meeting?

1803 A I don't recall the specific meeting.

1804 Q Do you recall first being informed that the
1805 website would -- may need to do a stage launch?

1806 A Yes.

HGO106000

1807 Q Do you recall what was conveyed to you about
1808 what had changed between the prior meetings when the
1809 project was simply on track and in this meeting when the
1810 website would have to be staged?

1811 A My recollection of staged doesn't mean it's not
1812 going to be done. It means it might not be done
1813 October 1st. So my expectation out of that meeting was
1814 things were still on track to have a fully functional
1815 website that Oracle was going to deliver. It just might
1816 not happen on October 1st.

1817 Q And do you know whether staged launch pertained
1818 to who could actually use the website when it did open, for
1819 example, just a member of the general public versus an
1820 agent or a community partner?

1821 A Yes, and that was my expectation of a staged
1822 launch. And what I was being told at that point in time
1823 was, open it up to folks who could navigate through it and
1824 help other people navigate it through it, to fix things if
1825 there were things that weren't working and then be able to
1826 open it up to the general public.

1827 Q And was it your understanding that the more
1828 limited website, which could be used by agents and
1829 community partners, would still be live October 1st?

1830 A Yes.

1831 Q And who told you about the staged launch, do you

HGO106000

1832 recall?

1833 A The Cover Oregon staff and the Oregon Health
1834 Authority.

1835 Q What explanation did they provide?

1836 A They continued to say that the contractor,
1837 Oracle specifically, had confidence that they were going to
1838 get to October 1st and, even with the staged launch, would
1839 be able to open up a fully operational exchange that the
1840 general public could use.

1841 Q And at this point in time, in July 2013, what
1842 was your level of confidence in Oracle's ability produce a
1843 functional website by October 1st, 2013?

1844 A In July?

1845 Q Uh-huh.

1846 A I was as confident as I could be at that time.
1847 Again, it was a large scale project, but everything I was
1848 hearing from the experts was that we were going to launch
1849 and that we were going to be open for business October 1st.

1850 Q By "experts" there, do you mean Cover Oregon?

1851 A The Cover Oregon team, OHA team. And they were
1852 hearing it from Oracle and other contractors that things
1853 were going to work.

1854 Q Please go to the next page, page 66, to the
1855 entry dated September 3, 2013. This entry reads:

1856 "Governor's office briefing meeting on IT project with Sean

HGO106000

1857 Kolmer, Mike Bonetto, Rocky King, Aaron Karjala, Erinn
1858 Kelley-Siel, Bruce Goldberg and Carolyn Lawson.
1859 Update - Will be a staged launch but project on track."

1860 Do you recall attending this meeting?

1861 A I don't recall the specific meeting, but I know
1862 the content.

1863 Q At this point in time, on September -- you know,
1864 roughly, September 2013, was it still your understanding
1865 that the website project was on track notwithstanding the
1866 staged launch?

1867 A Yes.

1868 Q And what was the basis of your understanding at
1869 that time?

1870 A Was hearing from the Cover Oregon team and the
1871 Oregon Health Authority team, which was hearing from Oracle
1872 and other contractors that it was just a delay in time, not
1873 that it wasn't going to be delivered, and these are things
1874 that could be expected and that it would work.

1875 Q And when you say it would be delivered --

1876 A Health insurance exchange, where the general
1877 public could go online and enroll without the help of
1878 somebody.

1879 Q Okay. Please turn to page 68, the entry dated
1880 September 28, 2013. This entry reads: "Cover Oregon
1881 conducts an internal website end-to-end test with Oracle

HGO106000

1882 leadership that fails. Rocky declared at that meeting that
1883 'he was pulling the plug' on the website."

1884 Do you know what the end-to-end test referenced here
1885 was?

1886 A My belief is the end-to-end test is the general
1887 public could go on to a website and shop, buy, and enroll
1888 in health insurance coverage end-to-end without somebody's
1889 help.

1890 Q Were you aware of this test at the time?

1891 A I was aware of the test at the time.

1892 Q And were you aware that the test failed?

1893 A I was aware that it failed.

1894 Q What was your reaction to that?

1895 A Astonishment, disbelief, 'cause everything that
1896 we had heard, that I had heard up to this point was things
1897 were on track, don't worry, it was going to work.

1898 Q You had heard that from?

1899 A From the Cover Oregon team, the Oregon Health
1900 Authority team, who was hearing it from the contractors,
1901 Oracle specifically, who was building the website.

1902 Q Do you know what Oracle's response to the
1903 failure of this test was?

1904 A I don't know.

1905 Q What was the response of individuals that you
1906 worked with at Cover Oregon and OHA?

HGO106000

1907 A I think they all shared my disbelief and then,
1908 frankly, turned to concern very quickly. We had a large
1909 campaign to get people into coverage. People were waiting
1910 to get into coverage, and we were two days out from
1911 October 1st, and Oracle and the IT folks were telling us it
1912 wasn't going to work.

1913 Q And was this the first time that you became
1914 aware that it wasn't going to work?

1915 A Yes.

1916 Q To your knowledge, was this the first time that
1917 individuals at Cover Oregon and OHA became aware that it
1918 wasn't going to work?

1919 A I believe so, yes.

1920 Q I'm sorry. When I say "it," I mean the website.

1921 A Correct.

1922 Q Did the website, in fact, launch to agents and
1923 partners on October 1st?

1924 A I don't recall if it was October 1st or not.

1925 Q Do you know when the website went live to the
1926 general public as initially planned?

1927 A I don't believe it ever did.

1928 Q What was your reaction to Oracle's inability to
1929 have the website ready to launch on October 1st?

1930 A My reaction was disbelief. They appeared to be
1931 a very capable IT company that the state had expectations

HGO106000

1932 on, and they said they could do it, and they didn't
1933 deliver.

1934 Q So after the website failed to launch as planned
1935 on October 1st, did you still at that point in time believe
1936 that Oracle would eventually produce a fully functional
1937 website that could be used by members of the public to
1938 enroll in insurance?

1939 A Yes.

1940 Q Why?

1941 A Oracle continued to tell the Cover Oregon staff
1942 that they needed more time, that they needed a little bit
1943 of this or a little bit of that to fix it and get it up and
1944 running. So every indication that I was receiving was that
1945 it would be up, it was just a matter of time.

1946 Q So it was your understanding that officials at
1947 Cover Oregon and OHA still believed at this point in time
1948 that Oracle would eventually produce a fully functional
1949 website that could be used by members of the general
1950 public?

1951 A Yes.

1952 Q And again, what did you understand to be the
1953 basis of their belief?

1954 A Because Oracle kept telling them they would do
1955 it.

1956 Q Okay. I'd like to show you a document marked

HGO106000

1957 Exhibit 8.

1958 (Exhibit 8 was marked and entered.)

1959 Q So this is an email from Rocky King to you and
1960 Mike Bonetto and others on November 20, 2013. Do you
1961 remember receiving this email?

1962 A I don't remember receiving it.

1963 Q This email is dated November 20th, which is
1964 almost two months after the website failed to launch; is
1965 that correct?

1966 A Correct.

1967 Q Had the website subsequently gone live by this
1968 point, November 20th, 2013?

1969 A To the best of my knowledge, it had not gone
1970 live to the general public as it was supposed to.

1971 Q And who is Rocky King?

1972 A Rocky King was the executive director of Cover
1973 Oregon.

1974 Q Mr. King appears to be forwarding an email chain
1975 between himself and Edward Screven. I may not be
1976 pronouncing that correctly.

1977 Do you know who Edward Screven is?

1978 A He's an Oracle employee.

1979 Q Turn to the last page of the document, Bates
1980 numbered GOV_HR0006828. This is the first e-mail in the
1981 chain from Mr. Screven to Mr. King. Mr. Screven writes:

HGO106000

1982 "For the time being, the team is to focus exclusively on
1983 issues that block 'go live.' Working on an enhancement
1984 will need my approval."

1985 How do you interpret Mr. Screven's comment that Oracle
1986 was focusing solely on issues that blocked going live at
1987 this point in November 20th, 2013?

1988 A It was my understanding that go live meant the
1989 general public would be able to enroll into coverage on a
1990 publicly facing website and then go live, that's the
1991 reference to go live.

1992 Q And in your opinion, did Mr. Screven's email
1993 give any indication that the website would not go live to
1994 the general public?

1995 A No.

1996 Q If you can turn back to the first page of the
1997 email chain, this is Bates number ending 68276. This is an
1998 email from Mr. King to Mr. Screven. He writes: "I concur
1999 with no new requirements, scope, functionality, etc.,
2000 unless related specifically to our goal of a functioning
2001 system 12-9 and 12-16."

2002 Are you with me?

2003 A Yeah, I hear you. I was waiting for a question.
2004 Sorry.

2005 Q What do the numbers 12-9 and 12-16?

2006 A December 9th and December 16th, I believe.

HGO106000

2007 Q And do you know what those dates referred to?

2008 A These dates referred to the dates that the
2009 Oracle told the Cover Oregon staff that they would have the
2010 go live system, fully functional system.

2011 Q And by "fully functional system," you mean?

2012 A A fully functional health insurance exchange
2013 website that the general public can enroll into health
2014 insurance coverage.

2015 Q And when you were receiving this email in
2016 November 2013, would you have been under the impression
2017 that the website would go live at some point in December
2018 from the content of this email?

2019 A Yes.

2020 Q And was it your understanding at this point in
2021 time that Oracle's sole focus was working on the core goal
2022 of getting the website to go live by the December dates of
2023 12-9 and 12-16?

2024 A That was my understanding. Yes.

2025 Q The next paragraph down, Mr. King writes: "It
2026 is also important to note that the October 1st deliverable
2027 included end-to-end individual, SHOP and their supporting
2028 interfaces, as well as a significant number of dashboards
2029 (CSR, agents, carriers, etc.). At Oracle's request, we
2030 have continually cut initial launch scope over the last 4
2031 months in an attempt to bring up the basic portal site."

HGO106000

2032 What is your understanding of what "end-to-end" means?

2033 A Where the general public can go to a computer
2034 and, without assistance, shop and enroll into health
2035 insurance coverage.

2036 Q And what does SHOP refer to, S-H-O-P?

2037 A The small business exchange.

2038 Q And were you told at this point why Cover Oregon
2039 had, quote, continually cut launch scope as Mr. King wrote?

2040 A Say that again.

2041 Q Did you have an understanding at this point in
2042 November 2013 of why Cover Oregon had continually cut the
2043 launch scope, as Mr. King writes in his email?

2044 A Yes, 'cause I believe it was clear to him that
2045 the contractor, namely Oracle, wasn't delivering on
2046 specific pieces of the contract.

2047 Q So the need to cut the scope was because Oracle
2048 was not producing everything that --

2049 A Correct.

2050 Q -- would be needed for, you know, an original
2051 fully functional website --

2052 A Correct.

2053 Q -- intended?

2054 At the bottom of that paragraph, Mr. King
2055 writes: "So while I support 'drawing the line' I just
2056 think it is important to say that we have been moving that

HGO106000

2057 line (in the broadest sense) continually in support to
2058 bring up the 'basic' portal functionality."

2059 What did you understand Mr. King's remark to
2060 be -- to mean here?

2061 A That Cover Oregon was continually allowing
2062 Oracle to miss deadlines on other things in order to make
2063 the general public website and interface operational on
2064 October 1st.

2065 Q And what was your understanding of why Cover
2066 Oregon was letting Oracle miss those deadlines on other
2067 things in order to make the public facing website go live?

2068 A Because we had people who needed health
2069 insurance.

2070 Q So was it your understanding that Cover Oregon
2071 was prioritizing the basic portal functionality so that
2072 individuals could enroll in insurance at the expense of
2073 other features that may have been included in the
2074 initial --

2075 A Yes.

2076 Q -- expectation of the project?

2077 And at this point in time, did you still believe
2078 that Oracle would be able to produce a fully functional
2079 website that could be used by members of the public?

2080 A Yes.

2081 Q What was the basis of your belief at that point?

HGO106000

2082 A The Cover Oregon team and the Oregon Health
2083 Authority team, through communications with Oracle, kept
2084 telling us that.

2085 Q When you say "through communications with
2086 Oracle," what do you mean by that?

2087 A Well, this email indicates they kept telling us,
2088 Oracle kept telling us they were going to deliver.

2089 Q Okay. I'd like to show you another document
2090 marked Exhibit 9.

2091 (Exhibit 9 was marked and entered.)

2092 Q So if you take a look at the second email on the
2093 first page, which is Bates numbered GOV_HR00071459, this is
2094 an email from Bruce Goldberg to John Kitzhaber, Mike
2095 Bonetto, yourself and others, on January 12th, 2014. The
2096 subject line "Internal Advisory."

2097 Who is Bruce Goldberg?

2098 A Bruce Goldberg, I believe, at this time was the
2099 interim director at Cover Oregon.

2100 Q Do you recall receiving this email in January of
2101 2014?

2102 A I don't recall receiving it.

2103 Q Dr. Goldberg appears to be forwarding an email
2104 chain between himself and someone named Ravi Puri. Do you
2105 know who Ravi Puri is?

2106 A He's an Oracle employee.

HGO106000

2107 Q Had the website gone live to the general public
2108 by this date, which is January 12, 2014?

2109 A No.

2110 Q If you turn to the last page of the document,
2111 Bates number ending in 71461, the email at the top of the
2112 page is from Dr. Goldberg to Mr. Puri on January 11, 2014.
2113 He writes: "Any sense of when I will get the plan for
2114 2/3?"

2115 Q What does 2/3 mean?

2116 A February 3rd of 2014, I believe.

2117 Q And what do you understand Dr. Goldberg to be
2118 referencing here?

2119 A He was asking when Oracle would deliver the go
2120 live fully functional website that they continued to
2121 promise.

2122 Q And do you know what the plan for February 3rd
2123 was?

2124 A The plan to launch the website on February 3rd.

2125 Q Go back one page to the Bates number ending in
2126 71460, Mr. Puri responds to Dr. Goldberg on the same day,
2127 January 11, 2014. He writes: "Regarding the plan, a
2128 meeting has been scheduled with you, Aaron, Joli and Brad
2129 Sachar for Tuesday (1/14) and Thursday (1/16) to review the
2130 plan in anticipation of the 2/3/14 date."

2131 Q Do you know who these individuals referenced

HGO106000

2132 here are?

2133 A I believe Aaron is likely Aaron Karjala, the CIO
2134 of Cover Oregon at that time. I don't know who the other
2135 two are.

2136 Q And what is the plan that Mr. Puri is referring
2137 to?

2138 A I believe it's the plan for the expectation that
2139 Oracle set to have a go live, fully functional website on
2140 February 3rd of 2014.

2141 Q And by "fully functional," you mean?

2142 A General public can go online anywhere and shop
2143 and enroll in health insurance coverage.

2144 Q Now, let's go to Dr. Goldberg's email to you and
2145 others on January 12th, which is on Bates number ending
2146 71459, the first page of the chain. He writes in the first
2147 paragraph: "Governor, Oracle has committed to a 2/3
2148 deliverable. I have continued to ask for a clear plan with
2149 milestones that we can track to assure we will be
2150 successful on 2/3."

2151 Again, what was your understanding of the 2/3
2152 deliverable.

2153 A The 2/3 deliverable was a fully functional
2154 website where the general public could shop and enroll in
2155 health insurance coverage.

2156 Q Why do you think Dr. Goldberg was looking for "a

HGO106000

2157 clear plan with milestones" in advance of this go live
2158 date?

2159 A My understanding is at that point Oracle had
2160 continued to offer dates that they were going to deliver a
2161 fully functional website, and they hadn't done that to this
2162 point. And Bruce had anxieties, we all had anxieties,
2163 about their ability to deliver based on their past
2164 performance.

2165 Q Do you know whether the plan for "2/3" was one
2166 that was proposed by Oracle or one that was developed by
2167 Cover Oregon?

2168 A I don't remember.

2169 Q So in the next paragraph, Dr. Goldberg writes:
2170 "When I asked once again for the plan for a 2/3 go live...
2171 I was not given the plan, but rather, once again, the bills
2172 for work done to date, and work that will be done
2173 through 2/3, that I mentioned to you previously (see
2174 attached). This really concerns me and angers me."

2175 Do you know why Dr. Goldberg would have been
2176 concerned and angered by this.

2177 A Yes, 'cause we continued to get commitments from
2178 Oracle to deliver on the product they said they were going
2179 to deliver, and we weren't getting a fully fleshed out plan
2180 with milestone deliverables from them.

2181 Q And at the time that you received this email on

HGO106000

2182 January 2014, did you share Dr. Goldberg's concern?

2183 A Yes.

2184 Q Did you agree with Dr. Goldberg's assessment
2185 that Oracle was providing bills rather than a clear plan or
2186 a functioning website?

2187 A Yes.

2188 Q And were you disturbed by the fact that Oracle
2189 was providing bills rather than a plan?

2190 A Yes.

2191 Q So at this point in time, despite all the
2192 previous missed deadlines, was it still your impression
2193 that your contacts at Cover Oregon and OHA still believed
2194 the website would eventually go live and be fully
2195 functional to members of the public?

2196 A Yes.

2197 Q And was it your understanding that the website
2198 would still be fully functional and go live to members of
2199 the public?

2200 A Yes.

2201 Q And what was your understanding of the basis of
2202 their belief that the website would go live?

2203 A Oracle continued to tell the state contacts that
2204 it was going to work.

2205 Q I'd like to show you one more document marked
2206 Exhibit 10.

HGO106000

2207 (Exhibit 10 was marked and entered.)

2208 Q I'm sorry. Bear with me one second. So, again,
2209 this is an email from Dr. Bruce Goldberg to yourself and
2210 Mike Bonetto, dated February 12, 2014. This is page Bates
2211 number GOV_HR00082871.

2212 Do you recall receiving this email?

2213 A I don't recall.

2214 Q The date of this email is a little over a week
2215 after the website was scheduled to go live on February 3rd,
2216 2014, as referenced in the prior email chain; is that
2217 correct?

2218 A Correct.

2219 Q Do you know if the website had gone live for the
2220 general public at this point?

2221 A It had not.

2222 Q The subject of the email is "Forward R1.1 1:00
2223 PM status call notes," and it appears to be an email
2224 forwarded from David Ford, with notes from the 1:00 p.m.
2225 call.

2226 Do you know who David Ford is?

2227 A I don't know who David Ford is.

2228 Q And were you aware of the status call that the
2229 email refers to?

2230 A I'm aware of it. Yeah.

2231 Q What was it?

HGO106000

2232 A I believe they had calls like this on a fairly
2233 regular basis with the IT teams at Cover Oregon and the
2234 Health Authority and the Oracle staff.

2235 Q Dr. Goldberg writes in his cover note to you,
2236 "Tech details re" -- means regarding -- "system for you
2237 tech savvy guys. The first few paragraphs tell it all."

2238 If you turn the page, page Bates number 82872, the
2239 notes read in the first full sentence there:

2240 "Troubleshooting continues for Cherry Avenue/5503 (people
2241 doing manual application processing). These are the three
2242 main issues that we are tracking."

2243 Do you know what Cherry Avenue is?

2244 A Cherry Avenue is a location in Salem
2245 where -- because the Oracle system never worked and because
2246 we never had a fully functioning website, we had to
2247 manually process every application we got, not only for
2248 commercial health insurance but also for Medicaid.

2249 Q And what did that mean, "manually process"?

2250 A We had to hire over 200 people. We had to use
2251 faxes and copy machines and paper to do eligibility and
2252 enrollment into health insurance.

2253 Q Do you know what the main issues identified
2254 besides numbers one, two and three refer to?

2255 A I don't know what they refer to.

2256 Q Did you understand them to be errors with the --

HGO106000

2257 A Yes.

2258 Q -- website process?

2259 A Yes.

2260 Q In your opinion, were these issues that would
2261 have been created by user error?

2262 A Not that I'm aware of. These are errors that
2263 are caused by the underlying technology that we were trying
2264 to use in our manual process.

2265 Q So a bit farther down the page, the note states:
2266 "In addition to the three main issues, the Triage Team is
2267 continuing to track the following issues."

2268 Do you know what the Triage Team was?

2269 A The Triage Team was a combination of Cover
2270 Oregon staff, Oregon Health Authority staff, other state
2271 staff, who are in charge of the manual process, and daily
2272 met to make sure that we could continue to enroll people
2273 into health insurance coverage.

2274 Q I'm sorry. Did you say Oracle was --

2275 A Oracle was not, as far as I know, part of that
2276 team.

2277 Q And I counted here 11 bullets reflecting
2278 additional issues with the website. Is it your
2279 understanding that all of these additional issues pertain
2280 to the hybrid manual application process you were
2281 describing earlier?

HGO106000

2282 A Yes.

2283 Q And again, is it your understanding that these
2284 issues would have been caused by user error?

2285 A No. These are Oracle technology errors that
2286 even though we didn't have a fully functional website on
2287 October 1st, and we never had one, we continue to have
2288 problems with software they did build even though our
2289 manual process.

2290 Q So despite all of these issues, was it still
2291 your understanding and belief that the website would
2292 eventually go live to the public?

2293 A Yes.

2294 Q Do you know what representations Oracle was
2295 making at this point about whether and when the system
2296 would go live to the public?

2297 A They continued to tell us that it would go live,
2298 that Oracle told us it would go live. I don't recall at
2299 this point whether they gave us a date or not.

2300 Q Did Oracle produce a fully functional website
2301 that could be used by members of the public by October 1st,
2302 2013?

2303 A No.

2304 Q Did Oracle produce a fully functional website
2305 that could be used by members of the public by December 9th
2306 or December 12th, 2013?

HGO106000

2307 A No.

2308 Q Did Oracle produce a fully functional website by
2309 February 3rd, 2014?

2310 A No.

2311 Q Did Oracle produce a fully functional website in
2312 March of 2014?

2313 A No.

2314 Q Oracle has claimed that it produced a fully
2315 functional website in February 2014. What is your response
2316 to that claim?

2317 A I never saw a website that worked the way that
2318 it was supposed to work.

2319 Q Do you know whether anyone, besides Oracle,
2320 considered the website to be fully functioning and ready
2321 for the public's use at any time during the 2014 open
2322 enrollment period?

2323 A Not that I know of.

2324 Q I'd like go back briefly to Exhibit 2. So when
2325 you were discussing this email with [REDACTED] -- and
2326 again, this is an email from Rocky King to you and others
2327 on February 12th, 2013, first page, Bates number
2328 GOV_HR00017625, you mention that despite Mr. King's
2329 anxieties about the website, which are illustrated in this
2330 email, he still believed that the website would go live on
2331 October 1st.

HGO106000

2332 Do you know what the basis of his belief was?

2333 A My understanding is he was continually assured
2334 by Oracle that that would happen.

2335 Q Even though Mr. King obviously had concerns
2336 about the website, which are contained in this email, it
2337 was your understanding that he still believed the website
2338 would go live?

2339 A Correct.

2340 Q And this was in February 2013?

2341 A Correct.

2342 Q And do you know whether this email pertains
2343 specifically to issues with the pediatric dental benefit?

2344 A It looks like the original email title was the
2345 stand-alone pediatric dental benefit.

2346 Q In the first paragraph of Mr. King's email in
2347 the second line, he says, "I will make a decision on the
2348 specific time frame after we go live in October."

2349 Do you know what he's referring to here?

2350 A I believe he was referring to there's some state
2351 decisions about our health insurance market around the
2352 product that's offered, not the technology, and he wanted
2353 to make sure that that decision on pediatric dental benefit
2354 happened after the technology and the website went live
2355 October 1st of 2013.

2356 Q So is it your understanding that at the time

HGO106000

2357 Cover Oregon was prioritizing getting a fully functional
2358 website that could be used by members of the public before
2359 addressing additional issues like this standalone pediatric
2360 dental benefit?

2361 A Yes.

2362 Q I'd like to ask you a few questions about the
2363 Technology Options Work Group that you were discussing
2364 earlier. Do you recall who decided to convene the
2365 Technology Options Work Group?

2366 A I believe it was Cover Oregon.

2367 Q In your opinion, why was the work group
2368 convened?

2369 A I think they felt, and frankly I felt, we needed
2370 an objective view of the technology that we had from folks
2371 who understood technology to do an objective assessment of
2372 what we had so that the Cover Oregon board could decide how
2373 to move forward.

2374 Q And how would you describe the work group?

2375 A The work group was an amazing amalgamation of
2376 technology experts who left their full-time jobs for long
2377 four-, five-, six-hour meetings with their colleagues for a
2378 sense of purpose because they understood the need and the
2379 desire to make sure this worked.

2380 Q And were work group members selected for
2381 particular expertise or experience in their fields that

HGO106000

2382 they were working in?

2383 A Correct. Most of them, if I remember correctly,
2384 were chief information officers for large health systems,
2385 large health insurers, or had a very extensive background
2386 in technology.

2387 Q And you mentioned earlier that you participated
2388 in the meetings of the work group. What was your role in
2389 the work group?

2390 A My role was to be a liaison for the governor's
2391 office and to listen and to understand their
2392 decision-making process as they develop their
2393 recommendations, so I could understand what they were
2394 doing, how they were doing their work, and what the end
2395 result of that work was going to look like.

2396 Q And why was it important for you to understand
2397 what they were doing?

2398 A Because it was really important for the governor
2399 to understand what was happening, because even though he
2400 wasn't the decision maker on any of this, he was going to
2401 be held publicly accountable for all of this anyway.

2402 Q So why did the governor need to understand what
2403 the work group was doing?

2404 A This was about getting people health insurance
2405 coverage. It was a pillar of his legacy. It was a pillar
2406 of the work we were trying to do. This was a key

HGO106000

2407 component. So it really was going to shape what we were
2408 going to do moving forward, and that was really important.

2409 Q Were you the only member of the governor's
2410 office that participated in the work group?

2411 A I don't believe so. I believe Mike Bonetto had
2412 joined at one time or another. At that point, he was the
2413 chief of staff. So I was the primary point of contact for
2414 the group.

2415 Q Did you vote on the work group's ultimate
2416 recommendation to switch to the federal technology?

2417 A I don't believe so.

2418 Q Did the work group solicit and receive expert
2419 input from other sources?

2420 A I believe so, yes.

2421 Q Do you know which sources those might have been?

2422 A I believe Deloitte was a primary developer of
2423 options but ultimately not a recommender. The group did
2424 the recommendations.

2425 Q That leads me to my next question. What was the
2426 objective of the work group?

2427 A The objective of the work group, to the best of
2428 my understanding, was to objectively analyze the technology
2429 that we had, with the goal being how do we most effectively
2430 and efficiently enroll people into coverage, and we needed
2431 to make sure that we had the lowest risk, on time, least

HGO106000

2432 costly option for open enrollment November of 2015.

2433 Q And how did the group carry out its objective?

2434 A They met regularly. I don't know what the pace
2435 of them was. I don't remember. They met regularly for
2436 multiple hours. I believe they had conference calls. They
2437 asked staff to do work at -- the IT staff at Cover Oregon.
2438 They leaned on expertise of Deloitte to bring them options,
2439 and they asked anybody else that they needed to for
2440 information to make an objective decision about the
2441 functionality of the technology that was currently
2442 available.

2443 Q I think I'm going to really let you win and stop
2444 here, because I want to make sure I get through -- I want
2445 to talk about the report that the work group put together,
2446 but I want to make sure I can do it all in one setting.
2447 You get six minutes of your life back.

2448 A Okay.

2449 (Off the record.)

2450 EXAMINATION

2451 [REDACTED]

2452 Q Sorry. I don't mean to jump around on timing.
2453 My questions are going to go back to sort of the beginning
2454 of April 2014 when you were working on evaluating the
2455 different technology options for Cover Oregon. I had an
2456 exhibit. I'm entering Exhibit 11 into the record.

HGO106000

2457 (Exhibit 11 was marked and entered.)

2458 Q This email chain indicates that a call was held
2459 on April 5th, 2014, about Cover Oregon, would you agree, if
2460 you look at the email from Bruce Goldberg that he sent on
2461 Sunday, April 6th to Alex Pettit, Mike Bonetto, Patty
2462 Wentz, and you?

2463 A Yes.

2464 Q It says, "Following up on our call from
2465 yesterday."

2466 A Yes.

2467 Q So do you recall if, in the beginning of April,
2468 you participated in a lot of calls with this group of
2469 individuals?

2470 A I believe so, yes.

2471 Q Do you recall this call that you had on
2472 April 5th with Bruce Goldberg, Alex Pettit, Mike Bonetto,
2473 and Patty Wentz?

2474 A I don't remember the call.

2475 Q Do you remember discussions that you had with
2476 this group of individuals during this weekend?

2477 A I don't remember specifically, no.

2478 Q Do you recall what you would have been
2479 discussing with this group of individuals?

2480 A Well, based on this email, yeah.

2481 Q So can you describe what you would have been

HGO106000

2482 discussing with them?

2483 A I believe it's the progress of the technology
2484 work group that Cover Oregon had convened.

2485 Q Do you recall -- it says, "Alex, email tech team
2486 Monday morning to postpone meeting for a week."

2487 Do you recall why Alex Pettit was being asked to
2488 postpone the tech team meeting?

2489 A I don't know.

2490 Q And then it also says, "Alex, costs of moving to
2491 Connecticut system."

2492 Do you recall why Alex was exploring the cost of
2493 moving to the Connecticut system?

2494 A I believe it was one of the options that was
2495 being considered by the technology group.

2496 Q Do you know if in this period, in early April,
2497 you were still exploring that option with this group?

2498 A I don't remember.

2499 Q During these discussions, were you exploring
2500 different options or what exactly were you doing with -- so
2501 you were updating them on the progress of the technology
2502 advisory group, you said. But what was Alex and Bruce,
2503 what were they presenting to you?

2504 A I don't know what they were presenting on any of
2505 these calls. What was happening at that time was they were
2506 making sure we understood the conversations and the options

HGO106000

2507 that the technical advisory group was walking through, so
2508 we understood what was happening and could help wherever we
2509 could.

2510 Q If you'll turn to the page with the Bates Stamp
2511 No. GOV_HR00049298, I believe it's an email from Patty
2512 Wentz, and she says, "Sorry for not sending this sooner.
2513 Was offline most of today but I did recall something Alex
2514 mentioned on the call yesterday, which is that he is
2515 planning to give contractors their 30-day notice."

2516 Do you recall why Alex was planning on giving
2517 contractors their 30-day notice?

2518 A I don't recall.

2519 Q Do you recall what contractors he was giving the
2520 30-day notice to?

2521 A I don't.

2522 Q Do you recall the discussion about giving
2523 contractors a 30-day notice?

2524 A I don't remember.

2525 Q So the email indicates also that Bruce is going
2526 to gather the Cover Oregon budget and remaining funds by
2527 Monday morning. Do you recall the discussions that you
2528 were having about the Cover Oregon budget at this time?

2529 A I don't recall specifics, no.

2530 Q And Mike Bonetto emails Bruce and says, "I'm
2531 going to keep the 9 a.m. call scheduled for tomorrow," in

HGO106000

2532 his email he sent on April 6, 2014, near the top of the
2533 page.

2534 Do you recall what conversation or telephone
2535 call Michael Bonetto would be keeping scheduled?

2536 A I don't recall.

2537 Q I'm introducing Exhibit 12 into the record.

2538 (Exhibit 12 was marked and entered.)

2539 Q So in this email that was sent on April 8th,
2540 2014, Bruce Goldberg is emailing Mike Bonetto and you, and
2541 he says, "Sean and I were on a call with Marilyn Tavenner
2542 today regarding timeline for decision making about our
2543 exchange."

2544 Do you recall what your conversation was with
2545 Marilyn Tavenner about the timeline for decision making
2546 about the exchange?

2547 A I don't recall specifically, no.

2548 Q Do you know why you were having a call with
2549 Marilyn Tavenner?

2550 A I would routinely have calls with our partners,
2551 whether they were federal or not, to make sure they
2552 understood where the technology group was going or was
2553 going to recommend and what implication that might have on
2554 our relationship with our federal partners.

2555 Q And were you working a lot with CMS during the
2556 month of April?

HGO106000

2557 A I was communicating with CMS during the month of
2558 April.

2559 Q And did you -- do you recall telling them about
2560 the technology work group's preliminary recommendation?

2561 A I don't remember, no.

2562 Q And so in this email, Bruce Goldberg also said
2563 there was a new piece of information regarding the federal
2564 exchange. He says, "Two weeks ago Teresa Miller and team
2565 were very clear that states who choose to go to the FFM
2566 will not get any funding, etc. They have now reconsidered
2567 that.

2568 Should we choose to go to the FFM... they would
2569 like to consider any state that goes to the FFM a
2570 state-based market. In that regard, there will be funding
2571 for some functions through 2015."

2572 Q Do you recall learning that they changed their
2573 position?

2574 A I don't recall, but the email says that.

2575 Q So you don't recall whether Teresa Miller
2576 explained why they changed their position?

2577 A I don't remember, no.

2578 Q Did you ever discuss whether Oregon would be
2579 able to retain their premium assessment fee if it switched
2580 to healthcare.gov with CMS?

2581 A Yes.

HGO106000

2582 Q When did you start discussing that possibility
2583 with CMS?

2584 A I don't remember.

2585 Q Do you recall when you learned that Oregon would
2586 able to retain their premium assessment fee if it switched
2587 to healthcare.gov?

2588 A I don't remember.

2589 Q Do you know what Oregon anticipated doing with
2590 the premium assessment fee if they retained it?

2591 A To the best of my knowledge, we were going to
2592 continue to operate our state-based exchange.

2593 Q Can you elaborate what you mean by, continue to
2594 operate your state-based exchange?

2595 A So Cover Oregon was a state-based exchange, both
2596 designation from the federal government and based on our
2597 state legislation, and any fee assessment would continue to
2598 be used as it was previously being used.

2599 Q And do you know how -- was Oregon able to retain
2600 its premium assessment fee?

2601 A From what I remember, yes.

2602 Q And do you know how Oregon used it?

2603 A Not that I know.

2604 Q Do you recall when CMS made the decision to
2605 allow Oregon to retain its premium assessment fee?

2606 A I don't remember.

HGO106000

2607 Q I'm introducing Exhibit 13 into the record.

2608 (Exhibit 13 was marked and entered.)

2609 Q So on April 8, 2014, you emailed Mike Bonetto:

2610 "To be clear, we will have to run the hybrid process

2611 through December in any scenario."

2612 Do you remember what you meant by that

2613 statement?

2614 A We were currently running a hybrid manual
2615 process because the Oracle technology didn't work as it was

2616 supposed to, so I wanted to make sure that, as

2617 conversations were happening, everyone was clear that all

2618 the information that I was receiving, that we have to

2619 continue that process through 2014.

2620 Q Do you know why you felt the need to have to

2621 clarify it to Michael Bonetto? Was there any discussion

2622 where somebody believed there would be a different option?

2623 A I don't know what others believed, but Mike was
2624 my boss at that time.

2625 Q Did you seem to think that he wasn't

2626 understanding that you would need to run the hybrid process

2627 through December?

2628 A I don't know what he believed, but I wanted

2629 to -- I believe I wanted to make sure he understood all of

2630 the scenarios as we were understanding what was the process

2631 moving forward.

HGO106000

2632 Q And then on the email below your email, it's an
2633 email from Patricia McCaig, and she's discussing a call
2634 that was going to occur on April 8, 2014.

2635 Do you recall if you participated in this call?

2636 A I don't recall.

2637 Q Do you recall if you participated in any phone
2638 calls with Patricia McCaig and Tim Raphael and this group
2639 of individuals in April?

2640 A Not that I recall.

2641 Q Do you know why Michael Bonetto would
2642 have -- did Michael Bonetto forward this email to you that
2643 Patricia McCaig sent to the group?

2644 A I don't know. It appears so, but I don't -- it
2645 doesn't look like it.

2646 Q Did Michael Bonetto ever discuss the
2647 conversations that he was having with Patricia McCaig about
2648 Cover Oregon with you?

2649 A Yes.

2650 Q What did he tell you about his conversations
2651 with Patricia McCaig?

2652 A Patricia was a communications expert, and he
2653 wanted to make sure that as we were getting information, he
2654 was also getting counsel and advice, and we were also
2655 getting the best counsel and advice we could, to then
2656 deliver that information to Cover Oregon and others for the

HGO106000

2657 process of moving forward.

2658 Q And when you say you were getting the best
2659 counsel and advice, what -- who were you getting counsel
2660 and advice from?

2661 A Could have been from people in state government,
2662 could have been Cover Oregon, could have been old
2663 executives that are no longer a part of health systems, a
2664 whole range of people were helping us on Cover Oregon.

2665 Q And what was Patricia's role exactly?

2666 A She didn't have an official role, as far as I
2667 know.

2668 Q So he worked with Patricia McCaig. Can you give
2669 an example potentially of how he utilized Patricia McCaig?

2670 A I can't tell you how Mike used her.

2671 Q Did you ever collaborate with Patricia McCaig on
2672 issues?

2673 A Yes.

2674 Q And what did you collaborate with Patricia
2675 McCaig on?

2676 A One of the things I collaborated with her on is
2677 once the technology advisory committee made their
2678 recommendation and the board was going to make their
2679 recommendation and their decision about how to move
2680 forward, I sought out her counsel and advice about how to
2681 talk about it, how to communicate it in the non-technology

HGO106000

2682 way and in the non-policy walkway, so the general public
2683 could understand what we were doing and why we were doing
2684 it.

2685 Q And so you said you sought out her advice after
2686 the board had made their recommendation. Do you mean after
2687 the board had -- the technology advisory group had made
2688 their recommendation? Do you mean after the technology
2689 advisory group made their preliminary recommendation or
2690 when they made their final recommendation on April 24th?

2691 A I don't remember.

2692 Q Did Michael Bonetto ever discuss his
2693 conversations Tim Raphael with you?

2694 A I'm sure he did.

2695 Q Do you recall what he said about his
2696 conversations?

2697 A I don't remember.

2698 Q Did you have any conversations with Tim Raphael?

2699 A When?

2700 Q In April 2014?

2701 A I'm sure I did.

2702 Q What would you have talked to Tim Raphael about?

2703 A My recollection is the same kinds of
2704 conversations I would have with Patricia or with a
2705 communications director at Cover Oregon, to help us think
2706 through how we talk about it with the public so they

HGO106000

2707 understand what we were going to do.

2708 Q During this time in April 2014, do you know if
2709 Patricia McCaig was updating former Governor Kitzhaber
2710 about the technology options for Cover Oregon?

2711 A I don't know.

2712 Q Were you updating the former governor about
2713 technology options for Cover Oregon?

2714 A Yes.

2715 Q Did Patricia McCaig participate in those
2716 conversation with you?

2717 A I believe she might have participated in some.

2718 Q Do you believe that -- did Tim Raphael
2719 participate in those conversations with you?

2720 A I believe so.

2721 Q And did Mark Wiener participate in those
2722 conversations between you and the governor?

2723 A Not that I remember.

2724 Q Did Kevin Looper participate in those
2725 conversations?

2726 A Not that I remember.

2727 Q Do you recall the April 10, 2014, Cover Oregon
2728 board meeting?

2729 A I don't.

2730 Q Did anyone ever discuss staging the April 25,
2731 2014, Cover Oregon Board of Directors meeting with you?

HGO106000

2732 A Say that again.

2733 Q Did anyone ever discuss staging the April 25,
2734 2014, Cover Oregon Board of Directors meeting with you?

2735 A I don't know what staging means.

2736 Q Did anyone talk about how to prepare for the
2737 April 25, 2014, Cover Oregon Board of Directors meeting?

2738 A Yes, I'm sure.

2739 Q Who would have discussed preparing for the Board
2740 of Directors meeting with you?

2741 A The director of the -- of Cover Oregon, Bruce
2742 Goldberg.

2743 Q Do you recall anyone else discussing preparing
2744 for the Cover Oregon Board of Directors meeting with you?

2745 A I don't recall.

2746 Q Did anyone ever discuss preparing for the final
2747 technology advisory group meeting on April 24, 2014, with
2748 you?

2749 A Yes.

2750 Q Who discussed preparing for the meeting with
2751 you?

2752 A Bruce Goldberg, as the director of Cover Oregon
2753 at the time.

2754 Q Did Alex Pettit discuss preparing for the
2755 April 24, 2014 --

2756 A I assume, but I don't remember.

HGO106000

2757 Q And how long was Bruce Goldberg involved in
2758 Cover Oregon work?

2759 A As the director?

2760 Q Yeah. So you said he helped you prepare for the
2761 April 24th, 2014, technology advisory group meeting. I was
2762 wondering how long did you work with him on Cover Oregon
2763 issues?

2764 A Well, he was the director of the Health
2765 Authority from its inception, so he was always involved in
2766 those conversations or a lot of those conversations, and he
2767 was the interim director starting in January, and I don't
2768 remember when his resignation date was.

2769 Q But you do remember working with him to prepare
2770 for the final technology advisory group meeting?

2771 A Yeah.

2772 Q Do you remember how you worked with him?

2773 A I don't remember.

2774 Q I'm introducing Exhibit 14 into the record.

2775 (Exhibit 14 was marked and entered.)

2776 Q So did you send this email to Michael Bonetto,
2777 copying Patricia McCaig, Tim Raphael, Patty Wentz and
2778 Dmitri Palmateer on April 16, 2014?

2779 A Yes.

2780 Q And who is Patty Wentz?

2781 A Patty Wentz at that time, I believe, was the

HGO106000

2782 communications director at the Oregon Health Authority.

2783 Q And who is Dmitri Palmateer?

2784 A He was the legislative director for the
2785 governor.

2786 Q And just for the record, who was Tim Raphael?

2787 A Tim Raphael was a private citizen at that point.

2788 Q And who was Patricia McCaig?

2789 A Patricia McCaig was a private citizen at that
2790 point.

2791 Q And who was Mike Bonetto?

2792 A He was the governor's chief of staff.

2793 Q And the subject line of the email reads: "Draft
2794 from Alex."

2795 Do you recall what draft from Alex was being
2796 referred to in the subject line of the email?

2797 A I don't.

2798 Q Do you remember who Alex was that was being
2799 referred to in the subject line?

2800 A I believe it's a reference to Alex Pettit.

2801 Q Do you recall if the draft from Alex that you
2802 were referring to in the subject line is a draft of a
2803 PowerPoint presentation for the final technology advisory
2804 group meeting?

2805 A I don't, I don't know.

2806 Q Did you discuss the final PowerPoint

HGO106000

2807 presentation for the technology advisory group meeting with
2808 this group of individuals that are copied on the email?

2809 A I believe so, yes.

2810 Q And so in the email, you say, "Budget - talked
2811 with BG yesterday" --

2812 Who is BG?

2813 A I believe BG is Bruce Goldberg.

2814 Q -- "yesterday and here is where I think we are."

2815 Why are you emailing this group about your
2816 discussion with Bruce Goldberg about the Cover Oregon
2817 budget?

2818 A This group of individuals has expertise and
2819 insight and counsel that we needed during this process.

2820 Q What type of expertise do they have that you
2821 needed?

2822 A The Cover Oregon board was going to be making a
2823 fairly monumental decision, and the public was watching,
2824 and we needed to make sure that they had all the tools that
2825 they needed to effectively communicate that.

2826 Q And next to number three, you say, "Bottom line:
2827 We should not have AP only present IT budget as the reason
2828 for the decision. He should get those 20% estimates to
2829 also use and then it can be part of the whole package for
2830 CO Board."

2831 Who is AP?

HGO106000

2832 A I believe it's Alex Pettit.

2833 Q And what was his role?

2834 A I believe he was the chief information officer
2835 at Cover Oregon at the time.

2836 Q And do you recall what you meant by the comment
2837 that "We should not have AP only present the IT budget as
2838 the reason for the decision"?

2839 A I don't recall.

2840 Q Do you recall what decision you were referring
2841 to in the email?

2842 A I don't.

2843 Q Do you refer -- do you remember what 20%
2844 estimates you were asking for?

2845 A I don't.

2846 Q And under number 2, at the end, you say, "We
2847 should have Clyde ask for that work as well."

2848 Do you recall who Clyde is?

2849 A I believe it references Clyde Hamstreet.

2850 Q And who was he?

2851 A He was a contractor that the Cover Oregon board
2852 brought in to help with Cover Oregon.

2853 Q Did he have a specific position at Cover Oregon?

2854 A I don't believe at this time he did. Although,
2855 he became the interim director of Cover Oregon.

2856 Q Okay. Thank you.

HGO106000

2857 I'm introducing Exhibit 15 into the record.

2858 (Exhibit 15 was marked and entered.)

2859 Q So in this email that you sent to Patricia
2860 McCaig, copying Mike Bonetto on April 19th, 2014, you say
2861 towards the end of the email, "I talked to MB but wanted to
2862 make sure you know as well. We will have just a quorum on
2863 Friday and won't have either chair or vice chair in the
2864 room. Liz could join by phone. I will have Cover Oregon
2865 hold the time for the members for Friday."

2866 Do you recall if you're referring to the
2867 April 25th, 2014, Cover Oregon board meeting?

2868 A I don't recall.

2869 Q Who's MB?

2870 A I believe that's Mike Bonetto.

2871 Q So do you remember whether or not you talked to
2872 Cover Oregon board members before their April 25th, 2014,
2873 meeting?

2874 A I believe I have, but I don't remember the
2875 specific instance.

2876 Q What conversations do you recall having with the
2877 Cover Oregon board members before the final meeting on
2878 April 25th, 2014?

2879 A I don't remember.

2880 Q Do you remember if there was a reason that you
2881 would have wanted to have the Cover Oregon board meeting

HGO106000

2882 the week of April 19th, 2014?

2883 A I don't remember.

2884 Q Did you play any role in scheduling Cover Oregon
2885 board meetings?

2886 A I don't recall if I did.

2887 Q To your knowledge, did former Governor Kitzhaber
2888 call or meet with any of the Cover Oregon board members
2889 before the April 25th, 2014, meeting?

2890 A I don't remember.

2891 Q Did he often speak to Cover Oregon board members
2892 before board meetings?

2893 A He would speak to board members. I don't know
2894 if they were before board meetings specifically.

2895 Q Okay. Thank you.

2896 I'm introducing Exhibit 16 into the record.

2897 (Exhibit 16 was marked and entered.)

2898 Q So is this an email chain between you, Michael
2899 Bonetto, and Patricia McCaig from April 22, 2014?

2900 A Yes.

2901 Q So on April 22, 2014, it looks like you emailed
2902 the group and say, "I want to send CMS the IT draft today.
2903 Any concerns? I want them to weigh in on any dog whistles
2904 for them. They are wanting us to frame 'continue working
2905 with our federal partners' which allows us to own the
2906 decision but does not box them in."

HGO106000

2907 Do you recall what draft you wanted to send to
2908 CMS?

2909 A I don't, but I assume it was about the decision
2910 that the Cover Oregon board was going to make.

2911 Q And do you know why you would be sending it to
2912 CMS?

2913 A Because they have a significant stake in our
2914 shared success.

2915 Q And do you recall the conversations you were
2916 having with CMS about the IT decision?

2917 A I don't recall specifically. No.

2918 Q Do you recall any general details about the
2919 conversations you were having with CMS?

2920 A My role was to make sure that CMS was informed
2921 about the decisions that the Cover Oregon board was
2922 planning on making and when they would make them and any
2923 insight and guidance they had for us that would be helpful.

2924 Q Do you know why you were emailing Patricia
2925 McCaig and Mike Bonetto, asking whether they had any
2926 concerns if you send CMS the IT draft?

2927 A I sent it to Mike Bonetto as my boss. He was
2928 chief of staff at that time. And again Patricia is a
2929 communications expert and wanted make sure that the
2930 PowerPoint made sense and if she had any feedback or
2931 insight that I could consider.

HGO106000

2932 Q And do you recall if you asked anyone else about
2933 sending the draft to CMS?

2934 A I don't recall.

2935 Q At the bottom of the email, you say, "They heard
2936 from us this was likely to happen before our D.C. trip but
2937 talking with them today made it real so they will give us
2938 more attention."

2939 Do you know what they heard was likely to happen
2940 before your trip to D.C.?

2941 A I believe it's a reference to the Cover Oregon
2942 decision.

2943 Q And so what did they hear was likely to happen
2944 before your trip to D.C.?

2945 A I believe this is a reference to the meeting
2946 that going to happen.

2947 Q So the meeting they anticipated to be -- would
2948 happen. Did you know at this point what the outcome of the
2949 meeting was going to be?

2950 A I don't recall.

2951 Q Okay. Thank you.

2952 So after the April 25, 2014, meeting, did any
2953 members of the Cover Oregon Board of Directors express any
2954 interest to you in keeping the door open and potentially
2955 returning to having a state based IT platform?

2956 A Yes.

HGO106000

2957 Q Do you recall what members of the Cover Oregon
2958 board wanted to keep the door open?

2959 A I believe George Brown.

2960 Q Do you know if any other members wanted to keep
2961 the door open?

2962 A I don't remember.

2963 Q Did you have discussions with him about his
2964 desire to keep the door open?

2965 A Yes.

2966 Q And what did you discuss with him?

2967 A My conversation with George was, what we were
2968 hoping for is they would choose the least risky, lowest
2969 cost, on-time option.

2970 Q And what did George respond to your statement?

2971 A I don't remember what he said.

2972 Q Do you know if Alex Pettit ever expressed any
2973 interest in keeping the door open and potentially returning
2974 to having a state-based IT platform to you?

2975 A I don't remember.

2976 Q I'm introducing Exhibit 17 into the record.

2977 (Exhibit 17 was marked and entered.)

2978 A Small print.

2979 Q Sorry. That's how it was produced.

2980 At the bottom -- this is an email chain between
2981 you, Patricia McCaig, and Michael Bonetto; would you agree?

HGO106000

2982 A Yes.

2983 Q From April 30th, 2014, and a few days before
2984 that date, starting on April 28th, 2014?

2985 A Yes.

2986 Q And so on April 28th, 2014, you say, "Apologies
2987 for the call tonight. Not as tight as needed to be and
2988 understand the frustration of what you all heard. Will put
2989 something for us to review the next time we get together
2990 versus the free form format that does not lend itself to
2991 clarity of what we have already agreed we were doing and
2992 what we are doing moving forward."

2993 What had you guys already agreed that you were
2994 doing?

2995 A I don't remember.

2996 Q Do you remember at this point what your plan was
2997 to do moving forward?

2998 A Our plan moving forward, what do you mean?

2999 Q So I guess I would start with -- you say
3000 "apologies for the call tonight." Do you remember having a
3001 call with Patricia McCaig and Michael Bonetto around this
3002 period, April 28th, that you would be apologizing for not
3003 being as tight as it needed to be?

3004 A I don't remember, but apparently, I was so...

3005 Q And so Patricia McCaig, she responds to your
3006 email and says, "Yep, I'm very worried about creep... Mike,

HGO106000

3007 I think you need to talk to the governor again, if
3008 possible, before he talks to George Brown. May be too
3009 late. I do not think we are/were clear on the future of
3010 Cover Oregon. I regret that I wasn't more direct with him
3011 on that call."

3012 Do you remember what Patricia McCaig meant by
3013 "the creep"?

3014 A I don't.

3015 Q Were you concerned about George Brown discussing
3016 his interest in keeping the door open with the governor?

3017 A I wasn't concerned about the governor talking to
3018 George Brown.

3019 Q Were you concerned about George Brown discussing
3020 his desire to keep the door open on the technology options?

3021 A Not that I remember.

3022 Q So in the email a few lines up, on April 29th,
3023 2014, Patricia McCaig wrote in the chain: "Obp just
3024 announced Liz Baxter on think out loud. I thought we put a
3025 stake in that on Friday and Clyde was going to call her,"
3026 and you respond seeming surprised by that statement.

3027 Do you recall why you would be surprised that
3028 "Obp just announced that Liz Baxter on think out loud?"

3029 A I don't remember.

3030 Q Do you remember if there was any discussion
3031 about limiting the amount of people that talk to the media

HGO106000

3032 after the April 25, 2514, Cover Oregon board meeting?

3033 A Yes.

3034 Q And what were those discussions?

3035 A I collectively believed that we needed to speak
3036 with one voice when the Cover Oregon board made the
3037 decision and wanted to make sure that we could do that the
3038 best we could do.

3039 Q And do you remember who -- did you identify
3040 somebody as the one voice that would speak for Cover
3041 Oregon?

3042 A I don't remember.

3043 Q Was it Liz Baxter, or seemingly from the email
3044 chain, by being surprised that she was talking to Obp?

3045 A I don't know, but she was the chair of the board
3046 at that time.

3047 Q Do you know who participated in those
3048 conversations of wanting to limit the number -- the amount
3049 of people who talked to the media after the Cover Oregon
3050 board meeting on April 25th?

3051 A I don't remember.

3052 Q Do you remember after the board meeting, so
3053 starting around in May 2014, any members of the Cover
3054 Oregon Board of Directors expressing concern with whether
3055 or not the governor's office is becoming heavily involved
3056 in Cover Oregon?

HGO106000

3057 A Yes.

3058 Q Do you recall what board members expressed
3059 concern?

3060 A I don't remember which board members, but they
3061 expressed concern.

3062 Q Do you remember their concerns?

3063 A I don't specifically, no.

3064 Q Do you remember speaking about their concerns
3065 with anyone?

3066 A I'm sure I did, but I don't remember
3067 specifically.

3068 Q Did the board have any reaction to Tina Edlund
3069 getting selected to lead the transition project to
3070 healthcare.gov?

3071 A I don't remember what their reaction was.

3072 Q Do you recall if you talked to Patricia McCaig
3073 about the concerns of the Cover Oregon Board of Director
3074 members?

3075 A Say that one again.

3076 Q Do you remember if you talked to Patricia McCaig
3077 about any concerns that members of the Cover Oregon Board
3078 of Directors were having in May 2014?

3079 A I don't remember.

3080 Q I'm introducing Exhibit 18 into the record.
3081 (Exhibit 18 was marked and entered.)

HGO106000

3082 Q So is this a June 6, 2014, email that you sent
3083 to Mike Bonetto and Patricia McCaig?

3084 A Yes.

3085 Q And was the subject of the email preparing for
3086 an upcoming Cover Oregon Board of Directors meeting?

3087 A Yes.

3088 Q And so in the Item No. 3 in the email, you say,
3089 "ED search: They will be recommending Aaron in the morning
3090 at the Search Committee and approving moving forward at the
3091 Board. PM: Aaron is an exec at Kaiser and on board for
3092 where we want to go."

3093 In this item, are you discussing Aaron Patnode
3094 being brought on to Cover Oregon as the executive director?

3095 A Yes.

3096 Q And how do you know that they will be
3097 recommending Aaron in the morning?

3098 A I believe it was a conversation with members of
3099 the Search Committee.

3100 Q And then you say, "PM: Aaron is an exec at
3101 Kaiser and on board for where we want to go."

3102 Are you telling -- is PM, Patricia McCaig?

3103 A I assume, yes.

3104 Q And do you recall what you meant by, Aaron is on
3105 board for where we want to go?

3106 A He understood what we wanted to achieve and what

HGO106000

3107 we wanted to accomplish by enrolling people in the
3108 coverage.

3109 Q And why did you feel the need to tell Patricia
3110 McCaig that he was on board with where you wanted to go?

3111 A Patricia isn't a health care person. She
3112 doesn't know these people, and Aaron was an unknown
3113 quantity to her, so I felt important for her to know who
3114 she was -- or who he was, excuse me.

3115 Q And why was it important for her to have that
3116 knowledge about who Aaron was?

3117 A 'Cause this was a very important topic that we
3118 were working on.

3119 Q And what was Patricia McCaig's involvement in
3120 June 2014 with Cover Oregon?

3121 A She had no official involvement in Cover Oregon.

3122 Q So at the bottom of the email, you say, "I have
3123 Clyde not wanting to talk with Board about legal actions at
3124 the Board meeting but getting small groups of the Board to
3125 get briefed by legal. Don't know if this will hold but we
3126 need to keep this conversation away from the Board
3127 meeting."

3128 Do you recall why you wanted to keep the
3129 conversation away from the board meeting?

3130 A I don't recall specifically, no.

3131 Q Do you recall any details about why you may have

HGO106000

3132 wanted to keep it away from the board meeting?

3133 A I don't recall.

3134 Q Did you ever discuss with Patricia McCaig and
3135 Michael Bonetto the need to try and shut down Cover Oregon?

3136 A Yes.

3137 Q And can you elaborate on what you mean by the
3138 need to shut down, why you would have discussed shutting
3139 down Cover Oregon?

3140 A From a policy perspective, my recommendation to
3141 the governor eventually was that it wasn't working, the
3142 current structure didn't work, and it needed to be brought
3143 back into state government.

3144 Q And did you discuss the need to shut down Cover
3145 Oregon with Clyde Hamstreet at all?

3146 A Yes, I assume I did.

3147 Q Do you recall Clyde Hamstreet's opinion on
3148 whether Cover Oregon needed to be shut down?

3149 A I don't remember his opinion.

3150 Q Thank you.

3151 I'm introducing Exhibit 19 into the record.

3152 (Exhibit 19 was marked and entered.)

3153 Q So is this an email that you sent on July 17,
3154 2014, to Patricia McCaig, Tim Raphael, Dmitri Palmateer,
3155 Nkenge Harmon Johnson, Tina Edlund and Mike Bonetto, with
3156 comments about an upcoming Cover Oregon Board of Directors

HGO106000

3157 meeting?

3158 A Yes.

3159 Q And who is Nkenge Harmon Johnson?

3160 A She was the communications director for the
3161 governor at the time.

3162 Q Thank you.

3163 And do you recall why you were sending this
3164 information from your personal email account?

3165 A I don't recall why.

3166 Q Do you remember the times you -- why you would
3167 choose to use your personal email account for work-related
3168 business?

3169 A I don't recall. But I knew the rules of
3170 engagement and never had any expectation of this not being
3171 public. It was public work.

3172 Q Okay. Thank you.

3173 I was just wondering if there were certain
3174 reasons, certain times you did use your personal email
3175 account and other times using your work account.

3176 Did you ever email Patricia McCaig from your
3177 work account?

3178 A I don't recall if I did.

3179 Q Did you ever email Tim Raphael from your work
3180 account?

3181 A When?

HGO106000

3182 Q After he left the governor's office, so I guess
3183 after December 2013.

3184 A I don't remember if I did or not.

3185 Q Okay. Thank you.

3186 So at the bottom of the email on the page with
3187 Bates Stamp No. MBG2008316, you state: "Main worries. 1.
3188 I still have not seen material and sounds like Clyde has
3189 been heavily involved in most of them. When I get them, I
3190 will send. Main area of concern the 'economic framework'
3191 that my gut tells me is Clyde making his business pitch to
3192 save this thing."

3193 So do you remember what you meant by, you were
3194 concerned that Clyde has been heavily involved in most of
3195 the materials?

3196 A I don't recall.

3197 Q And were you worried in July 2014 that Clyde
3198 Hamstreet was going to make a business pitch to save this
3199 thing?

3200 A Apparently, I was, 'cause that's in the email.

3201 Q Do you recall anything about what you were
3202 worried he was going to make a pitch to save?

3203 A I believe I was talking about Cover Oregon as an
3204 entity.

3205 Q And do you remember if there were discussions at
3206 this time about whether or not to retain Cover Oregon as an

HGO106000

3207 independent entity?

3208 A I don't remember.

3209 Q Okay. Thank you.

3210 I'm introducing Exhibit 20 into the record.

3211 (Exhibit 20 was marked and entered.)

3212 Q So in this July 20, 2014, email that you sent
3213 Tim Raphael, Tina Edlund, Dmitri Palmateer, and Mike
3214 Bonetto, copying Patricia McCaig, you say, "Here is a new
3215 version with edits I have gotten. I still think we need to
3216 get stronger that the tech decision has been made and the
3217 only real work is about the remaining functions."

3218 And do you remember within the summer of 2014
3219 there was still some ambiguity about whether the tech
3220 decision had been made for Cover Oregon?

3221 A Not that I remember.

3222 Q Do you remember why you were saying in this
3223 email that you thought you needed to get stronger that the
3224 tech decision has been made and the only real work done is
3225 about the remaining functions?

3226 A I don't remember.

3227 Q Do you recall if in this email you are
3228 discussing an upcoming Cover Oregon Board of Directors
3229 meeting?

3230 A I believe so.

3231 Q And on the page with the Bates Stamp No.

HGO106000

3232 MBG2005793, it appears there's a draft of a letter to Chair
3233 Baxter.

3234 Do you recall this letter?

3235 A Yes.

3236 Q Do you recall who drafted this letter?

3237 A I don't.

3238 Q Do you recall the purpose of the letter?

3239 A The purpose of the letter was to communicate to
3240 the chair of Cover Oregon the governor's preference.

3241 Q And what was the governor's preference in the
3242 summer of 2014?

3243 A Was to move commercial enrollments to the
3244 federal exchange.

3245 Q Okay. Thank you.

3246 And so was the governor's office ever concerned
3247 about how the media was discussing Cover Oregon?

3248 A Yes.

3249 Q What were their biggest concerns?

3250 A That it was on the front page of every paper for
3251 six months.

3252 Q And who in the governor's office was most
3253 concerned about the way that the media was covering Cover
3254 Oregon?

3255 A I think everybody in the governor's office.

3256 Q Did you ever have any conversations directly

HGO106000

3257 with the governor about the way the media was covering
3258 Cover Oregon?

3259 A Yes.

3260 Q And did he give you any strategies or directions
3261 on how to address the media coverage of Cover Oregon?

3262 A I assume that he did, but I'm not the media -- I
3263 wasn't the media interface.

3264 Q And who was the media interface for the
3265 governor's office?

3266 A The communications director, I believe at the
3267 time was Nkenge.

3268 Q How long did Nkenge work at the governor's
3269 office?

3270 A I don't know exactly when she left.

3271 Q Do you know around the time that Nkenge left the
3272 governor's office?

3273 A I don't remember.

3274 Q Do you remember why she left the governor's
3275 office?

3276 A No.

3277 Q Did the governor's office have a media strategy
3278 with respect to Cover Oregon?

3279 A Yes.

3280 Q Did you participate in developing the media
3281 strategy with respect to Cover Oregon?

HGO106000

3282 A Yes.

3283 Q And can you elaborate on what the media strategy
3284 was?

3285 A To make sure we could effectively communicate
3286 what it was going to mean for Oregonians to get coverage on
3287 this new path. They had seen nothing but failure from a
3288 technology standpoint to get people enrolled, and we wanted
3289 to assure the public that we believed that Cover Oregon
3290 made the right choice to move to the federal technology.

3291 Q And do you remember who was involved in
3292 developing the media strategy for the governor's office?

3293 A I don't remember.

3294 Q Were you involved in the process of bringing
3295 Clyde Hamstreet on to serve as the interim executive
3296 director of Cover Oregon?

3297 A Not that I remember.

3298 Q Do you know who was involved in the process of
3299 bringing Clyde Hamstreet on to serve as the interim
3300 executive director of Cover Oregon?

3301 A I know the governor was.

3302 Q Do you know who initiated the process of
3303 reaching out to Clyde Hamstreet?

3304 A I don't.

3305 Q Do you recall why Bruce Goldberg resigned from
3306 his position as the director of the Oregon Health Authority

HGO106000

3307 and the interim executive director of Cover Oregon?

3308 A You'll have to ask him.

3309 Q But do you recall within the governor's office
3310 any discussions about whether there was a need to ask Bruce
3311 Goldberg to resign from his positions?

3312 A None that I was a part of it.

3313 Q Do you recall if there was any discussions about
3314 firing Bruce Goldberg if he did not resign?

3315 A Not that I know of.

3316 Q I'm introducing Exhibit 21 into the record.
3317 (Exhibit 21 was marked and entered.)

3318 Q So from this email chain, it looks like on
3319 April 17th Michael Bonetto emailed you to let you know that
3320 something Patricia and he discussed with Bruce's
3321 involvement in Cover Oregon moving forward, and Michael
3322 Bonetto said that Patricia and Tim are very nervous about
3323 anything that might entail a new contract for Bruce (like
3324 Clyde mentioned today).

3325 Do you recall this discussion with Clyde
3326 Hamstreet about potentially having a new contract for Bruce
3327 Goldberg?

3328 A Yes.

3329 Q And do you know if Bruce Goldberg did continue
3330 working at Cover Oregon and enter into a new contract after
3331 this date?

HGO106000

3332 A I don't know if he entered into a new contract.
3333 I know he continued to help at Cover Oregon at Clyde's
3334 request.

3335 Q And so in the email, you say, "I thought we have
3336 always been clear this is Clyde's call. Frankly, we need
3337 him during this time and that letter for him at Cover
3338 Oregon was always about him staying until a new Ed is on
3339 board and the transition time is good."

3340 Why did you believe that it was important for
3341 Bruce Goldberg to remain in Cover Oregon work?

3342 A He was an incredible asset to help that
3343 organization and help Clyde in the transition.

3344 Q And do you know why Patricia and Tim were very
3345 nervous about anything that might entail a new contract
3346 with Bruce?

3347 A I don't know.

3348 Q Did you have a conversation outside of this
3349 email exchange with Michael Bonetto about their concerns?

3350 A Not that I remember.

3351 Q Do you know why Michael Bonetto was telling you
3352 about Patricia McCaig and Tim Raphael's concerns about
3353 anything that might entail a new contract for Bruce?

3354 A You'll have to ask Mike.

3355 Q Do you know if Clyde Hamstreet was asked to
3356 provide an oral report rather than a written report about

HGO106000

3357 his observations of Cover Oregon?

3358 A I only understood he had a final report to
3359 deliver.

3360 Q Did Clyde Hamstreet deliver a final oral report?

3361 A I believe so, yes.

3362 Q Did you attend the oral report that Clyde
3363 Hamstreet presented about Cover Oregon?

3364 A I believe it was a phone call.

3365 Q Do you know who else either attended the report
3366 in person or was on the phone?

3367 A I remember Aaron. I don't remember if there was
3368 anybody else on it.

3369 Q Aaron Patnode?

3370 A Patnode.

3371 Q Do you recall if there were any members of the
3372 Cover Oregon Board of Directors on the call?

3373 A Not that I remember.

3374 Q And was there anything about his presentation
3375 that stuck out to you as new information about Cover Oregon
3376 or that you found particularly insightful?

3377 A Not that I remember.

3378 Q Do you recall if, during this presentation,
3379 Clyde Hamstreet ever advised that they needed to get
3380 politics out of the picture?

3381 A I don't remember, but I assume he said it.

HGO106000

3382 Q Why are you assuming he said it? Did he say
3383 that frequently?

3384 A Yes.

3385 Q And what did he mean by, there was a need to get
3386 politics out of the picture?

3387 A He's a businessman. That's all.

3388 Q And so did he think that --

3389 A This was a brand new space for him being in the
3390 public eye like this.

3391 [REDACTED] We will take a break here.

3392 (Off the record.)

3393 EXAMINATION

3394 [REDACTED]

3395 Q So in the last round of questioning, you talked
3396 a little bit about how there was sort of sustained media
3397 attention on Oregon's exchange and the failure to go live
3398 in October and November and December, et cetera.

3399 In your view, would it have been politically
3400 favorable for the website to go live as planned on
3401 October 1st?

3402 A Would it have been politically favorable?

3403 Absolutely.

3404 Q Would it have been politically favorable for the
3405 general public to have been able to enroll in insurance on
3406 October 1st?

HGO106000

3407 A Yes.

3408 Q Did the governor receive criticism or negative
3409 media attention from the fact that the website failed to go
3410 live on October 1st?

3411 A Yes, quite a bit.

3412 Q And did the governor receive criticism, negative
3413 attention for the fact that the general public was unable
3414 to enroll in insurance at that time?

3415 A Yes.

3416 Q Was it politically favorable to have sustained
3417 media attention on the decision to switch to the federal
3418 technology?

3419 A I don't think so. I think it was a policy
3420 decision. We wanted to make sure people got coverage. At
3421 that point, we weren't worried about whether it was
3422 politically motivated or not.

3423 Q And so the sustained attention, media attention,
3424 on this decision to switch back to the federal technology
3425 that the board made was not something that the governor's
3426 office sought out or --

3427 A Correct.

3428 Q -- appreciated?

3429 Do you know who made the ultimate decision to
3430 switch to the federal technology?

3431 A The Cover Oregon board.

HGO106000

3432 Q And to your knowledge, did any of the members of
3433 the board hold public office at the time they made that
3434 decision?

3435 A Not that I'm aware of. Although, there's ex
3436 officio members on the board that are state employees.

3437 Q To your knowledge, were any of the members of
3438 the Board of Directors themselves up for reelection at the
3439 time they made the decision to switch back to the
3440 federal --

3441 A Not that I'm aware of.

3442 Q So in your view, was the board's decision to
3443 switch back to the federal technology politically
3444 motivated?

3445 A No.

3446 Q Why do you believe the board decided to switch
3447 back to the federal technology?

3448 A It was the only option that we had, that they
3449 had, to ensure they could enroll people and coverage with a
3450 publicly facing website. The federal exchange worked. We
3451 knew it worked. The system that Oracle built for Cover
3452 Oregon didn't work, and it was going to be too costly and
3453 too long of a time period to try to fix it based on the
3454 technical expertise.

3455 Q Are you aware that the state of Kentucky also
3456 decided to establish its own state-based exchange?

HGO106000

3457 A Yes.

3458 Q And are you aware that Kentucky successfully
3459 established a working exchange website?

3460 A Yes.

3461 Q And are you aware that Kentucky's exchange has
3462 actually been hailed as a example of a website that worked
3463 really well?

3464 A Yes.

3465 Q Do you know how many people approximately have
3466 been enrolled in health insurance through Kentucky's
3467 exchange website?

3468 A I don't know.

3469 Q Are you aware that the state of Kentucky
3470 recently elected a new governor?

3471 A Yes.

3472 Q And are you aware that Governor Bevin opposes
3473 the ACA?

3474 A Yes.

3475 Q Are you aware that Governor Bevin ran his
3476 campaign for governor on a pledge that he would dismantle
3477 the Kentucky insurance exchange and switch back to the
3478 federal marketplace?

3479 A Yes.

3480 Q Are you aware that another of Governor Bevin's
3481 campaign pledges was to roll back Kentucky's Medicaid

HGO106000

3482 expansion?

3483 A Yes.

3484 Q And what is -- can you explain what the Medicaid
3485 expansion was?

3486 A It was the opportunity to partner with the
3487 federal government to expand Medicaid coverage to
3488 individuals up to 138% of poverty.

3489 Q And did Governor Bevin's predecessor make the
3490 decision to accept the Medicaid expansion?

3491 A I believe so, yes.

3492 Q Are you aware that in his first press conference
3493 after being elected, the governor identified dismantling
3494 the exchange as one of his top priorities?

3495 A I wasn't aware of that.

3496 Q Were you aware that the other priority Governor
3497 Bevin articulated in that press conference was issuing an
3498 executive order that would allow county clerks to refuse to
3499 issue marriage licenses to same sex couples?

3500 A I was aware of that.

3501 Q I'd like to enter into the record Exhibit 22.
3502 (Exhibit 22 was marked and entered.)

3503 Q This is a letter that Governor Bevin sent to
3504 Secretary Burwell on December 30th, 2015. Are you aware
3505 that in December 2015 the governor notified the secretary
3506 of HHS that he intended to, quote, wind down and cease

HGO106000

3507 operation of the Kentucky exchange and switch back to the
3508 federal exchange, quote, as soon as practicable?

3509 A No, I wasn't aware.

3510 Q Are you aware of any current Congressional
3511 investigations into Governor Bevin's decision to switch
3512 back to the federal exchange?

3513 A No, I'm not aware.

3514 Q I want to go back quickly to a discussion you
3515 and [REDACTED] were having about the rule that you were
3516 aware of around the use of official resources for campaign
3517 purposes. So you mentioned that you were made aware of the
3518 rules that apply to you as a state employee; is that
3519 correct?

3520 A Correct.

3521 Q And are you an ethics expert?

3522 A No.

3523 Q Are you a lawyer?

3524 A No.

3525 Q Is it fair to say that you were made aware of
3526 the rules around state campaign resources that apply to you
3527 in your capacity as a state employee?

3528 A Correct.

3529 Q Is it fair to say that any other knowledge or
3530 opinions or understanding you would have about rules that
3531 did not apply to you would be speculation by you?

HGO106000

3532 A Yes.

3533 Q I'd also like to ask about your use of personal
3534 email, which has come up a few times today. You touched on
3535 this a little bit in the last hour, but under what
3536 circumstances would you typically use your personal email
3537 for state business?

3538 A I don't remember, but based on the record, it
3539 was folks that I have personal relationships with and were
3540 friends with or colleagues with.

3541 Q Would you say that you ever purposely used your
3542 personal email account rather than your state email
3543 account?

3544 A No.

3545 Q Was it your understanding at the time -- I'm
3546 sorry.

3547 What was your understanding at the time of
3548 whether these emails you were sending on your personal
3549 account would be preserved in the public record?

3550 A It was an expectation of mine that they would be
3551 preserved and that I would preserve them, and anything I
3552 talked about work related on any medium or any device is
3553 public record and available to the public.

3554 Q Is it your understanding that your personal
3555 emails or the emails that you wrote on your personal
3556 account have now been made public as part of this

HGO106000

3557 investigation and other investigations?

3558 A Yes.

3559 Q Did you send emails through your personal
3560 account to the hide them from the public or make them
3561 secret?

3562 A No.

3563 Q Have you purposely deleted any official emails
3564 from your personal email account?

3565 A Not that I'm aware of.

3566 Q At the time you were sending these emails, were
3567 you aware of any laws that prohibited Oregon state
3568 employees from using their personal email accounts?

3569 A Not that I'm aware of.

3570 Q Were you aware of any policies or procedures in
3571 the governor's office that would have prohibited you from
3572 using your personal email account?

3573 A Not that I'm aware of.

3574 Q Would it surprise you to learn that officials in
3575 the other states have used personal email accounts to
3576 conduct official business?

3577 A It wouldn't surprise me.

3578 Q I'd like to introduce Exhibit 23.

3579 (Exhibit 23 was marked and entered.)

3580 Q This is an article from the Wichita Eagle
3581 titled, "Governor Sam Brownback also used private email

HGO106000

3582 address to communicate with staff," dated May 16, 2015.

3583 Have you seen this article before?

3584 A I have not.

3585 Q If you go to the first paragraph of the article,
3586 it reads: "Governor Sam Brownback uses a private email
3587 address to communicate with his staff and others, meaning
3588 that many of his communications would fall outside the
3589 bounds of the state's open records law."

3590 From this article, it appears that Governor
3591 Brownback used his personal email to conduct official
3592 business. Would you agree?

3593 A Yes.

3594 Q Does this surprise you?

3595 A No.

3596 Q On the next page, second paragraph, the article
3597 reads: "'The Governor prefers to communicate in person or
3598 on the phone whenever possible,' Hawley said in an email.
3599 'However, when he does use email, he uses a personal email
3600 account.'"

3601 And then the fourth paragraph reads: "The Eagle
3602 reported in January that Brownback's budget director, Shawn
3603 Sullivan, had used a private email address to send a draft
3604 of the state budget several weeks before it was released to
3605 lawmakers."

3606 What do you make of the revelations in this

HGO106000

3607 article?

3608 A I'm not surprised.

3609 Q Are you aware of any Congressional
3610 investigations into Governor Brownback's use of personal
3611 email?

3612 A I'm not aware of any.

3613 Q I'd like to introduce Exhibit 24.
3614 (Exhibit 24 was marked and entered.)

3615 Q This is an article in the International Business
3616 Times titled, "Chris Christie Had Two Private Email
3617 Accounts; New Jersey Governor Blocks Release Of Any
3618 Messages He May Have Sent To Government Officials." On
3619 page 2, the second paragraph of the article reads: "'When
3620 I'm president of the United States, you'll have a right to
3621 know what your president is doing, and we have the
3622 obligation to be held accountable for what we're doing,' he
3623 declared. Yet, back in New Jersey, the Republican
3624 governor's administration is asserting executive privilege
3625 to block the release of any emails he may have sent to
3626 state officials from two private email accounts."

3627 So in addition to using personal email, it
3628 appears from this article that Governor Christie was also
3629 taking steps to prevent those emails from being released.
3630 Is that your interpretation of the article?

3631 A Yes.

HGO106000

3632 Q Does this surprise you?

3633 A No.

3634 Q If you turn the page again to page 3, at the
3635 bottom of the page, it reads: "Christie said in March that
3636 'there is no law in New Jersey that requires you to do
3637 state business on a state email account.' However, his
3638 office has required since last year that officials use
3639 government email addresses for state business, Christie
3640 said."

3641 So according to Governor Christie, New Jersey
3642 law does not require official business to be conducted via
3643 state or official email, or at least it did not. Is that
3644 your interpretation?

3645 A Correct.

3646 Q Does that surprise you?

3647 A No.

3648 Q Are you aware of any Congressional
3649 investigations into Governor Christie's use of personal
3650 email?

3651 A No.

3652 Q I'd like to introduce Exhibit 25.

3653 (Exhibit 25 was marked and entered.)

3654 Q This is an article from The Texas Tribune
3655 titled, "Et tu, Rick? Perry Has Own Private Email Trail,
3656 dated March 4, 2015.

HGO106000

3657 Have you seen this article before?

3658 A I have not.

3659 Q If you go to the third paragraph on this second

3660 page, it reads: "'In reviewing

3661 non-confidential documents related to the UT Board of

3662 Regents investigation and reviewing public testimony by

3663 Regent Brenda Pejovich of the UT Board of Regents, it's

3664 clear to me based on that review that

3665 then-Governor Perry was using a private email account to

3666 communicate with members of the Board of Regents.'" "

3667 And then if you move to the last paragraph on

3668 the same page, it reads: "The emails, in which Perry is

3669 identified as only 'RP,' show him corresponding with a

3670 number of UT regents as well as Jeff Sandefer, a prominent

3671 Republican donor and informal advisor to Perry."

3672 So this article appears to reference

3673 then-Republic Governor Rick Perry's use of a personal email

3674 to communicate with his personal advisor; is that correct?

3675 A Yes.

3676 Q Does this surprise you?

3677 A No.

3678 Q Are you aware of any Congressional investigation

3679 into Governor Perry's use of personal email?

3680 A No.

3681 Q I'd like to introduce Exhibit 26.

HGO106000

3682 (Exhibit 26 was marked and entered.)

3683 Q This is an AP story titled, "Bobby Jindal aides
3684 used personal email to strategize on Medicaid cuts." This
3685 is dated December 10th, 2012. The first paragraph of the
3686 first page reads: "Top officials in Louisiana Governor
3687 Bobby Jindal's administration used personal email accounts
3688 to craft media strategy for imposing hundreds of millions
3689 of dollars in Medicaid cuts - a method of communication
3690 that can make it more difficult to track under public
3691 records laws despite Jindal's pledge to bring more
3692 transparency to state government."

3693 The next paragraph reads: "Emails reviewed by
3694 The Associated Press reveal that non-state government email
3695 addresses were used dozens of times by state officials to
3696 communicate last summer about a public relations offensive
3697 for making \$523 million in health care cuts."

3698 Does it surprise you that Governor Jindal's
3699 aides were using their personal email accounts to develop a
3700 PR strategy around -- for his proposed Medicaid cuts?

3701 A No.

3702 Q If you go to the first paragraph of the next
3703 page, second sentence, "Though Jindal wasn't included in
3704 the email discussions reviewed by the AP, his spokeswoman
3705 said the governor uses a private email account to
3706 communicate with immediate staff."

HGO106000

3707 According to this article, Governor Jindal uses
3708 his personal email account to discuss official business
3709 with his staff. Is that your reading?

3710 A Yes.

3711 Q Moving to the fifth paragraph of this page,
3712 starts with, "While governor in Massachusetts, Romney used
3713 two private email addresses to communicate with aides,
3714 develop policy and political strategy, and edit op-ed
3715 articles and press releases."

3716 Do you know which governor this section is
3717 referring to here?

3718 A I believe former Governor Romney.

3719 Q So former Republican Governor Mitt Romney used
3720 his personal email accounts to conduct official business;
3721 is that correct?

3722 A That's what it says. Yes.

3723 Q The article continues, "The communications were
3724 legal under Massachusetts law, but state public officials
3725 deemed them public records and subject to archiving."

3726 Is that a similar approach, from your reading of
3727 this article, that Oregon took?

3728 A Yes. This was always my expectation as a state
3729 employee in Oregon.

3730 Q Are you aware of any Congressional
3731 investigations into Governor Jindal's use of personal

HGO106000

3732 email?

3733 A No.

3734 Q Are you aware of any Congressional
3735 investigations into Governor Romney's use of personal
3736 email?

3737 A No.

3738 Q I'd like to introduce Exhibit 27.
3739 (Exhibit 27 was marked and entered.)

3740 Q This is a Washington Post article titled, "As
3741 governor, Jeb Bush used email to discuss security, troop
3742 deployments." It's dated March 14, 2015. The first
3743 paragraph on page 1 reads: "Jeb Bush used his private
3744 email account as Florida governor to discuss security and
3745 military issues such as troop deployments to the Middle
3746 East and the protection of nuclear plants."

3747 Does it surprise you that former Governor Bush
3748 used his personal email account to discuss security and
3749 military issues?

3750 A No.

3751 Q The last paragraph on the page reads: "As
3752 governor, Bush used his account, jeb@jeb.org, to conduct
3753 official, political and personal business, including plans
3754 to woo new businesses to the state, judicial appointments
3755 and military matters, the email records show."

3756 I'm sorry, that's on the following page.

HGO106000

3757 Are you aware of any Congressional
3758 investigations into former Governor Bush's use of his
3759 personal email account?

3760 A No.

3761 Q So is it fair to say that many governors,
3762 including Republican governors, view the use of personal
3763 email to conduct official business, as appropriate, in the
3764 absence of a law or policy prohibiting the practice?

3765 A Yes.

3766 Q Now, I'd like to go back to the technology work
3767 group. So on the last round, we were discussing your
3768 involvement in the work group. Can you just briefly, so we
3769 get back on the same page, describe your role in the work
3770 group, how you viewed your role in the group?

3771 A My role was a listening role, an understanding
3772 role, a question-asking role, but I did not have any
3773 decision-making authority, nor a vote on the work group;
3774 that was the technical people that were appointed to the
3775 work group.

3776 Q And why did you not have decision-making
3777 authority or a vote?

3778 A 'Cause I'm not a technical expert.

3779 Q I'd like to show you Exhibit 28.

3780 (Exhibit 28 was marked and entered.)

3781 Q This is a document entitled, "Cover Oregon Final

HGO106000

3782 Report May 8, 2014." Do you recognize this document?

3783 A Yes.

3784 Q What is it?

3785 A I believe it's the final report of the
3786 technology group's recommendation to the board.

3787 Q And who is Alex Pettit?

3788 A At this time, I believe he was the interim chief
3789 information officer at Cover Oregon.

3790 Q And why was the report issued under his header
3791 at the top of the page?

3792 A I don't know. You'll have to ask him.

3793 Q Was it your understanding, when you began
3794 participating in the work group, that the work group would
3795 eventually prepare a report like this to convey its
3796 recommendation to the Cover Oregon board?

3797 A Yes. That was the expectation.

3798 Q Do you know why that was the approach that was
3799 taken?

3800 A I don't remember why.

3801 Q Are you confident in the information contained
3802 in the report?

3803 A I'm confident in the process, and I'm confident
3804 in the result.

3805 Q I'd like to ask about the various technology
3806 alternatives that the work group considered. Do you recall

HGO106000

3807 how many technology alternatives were initially on the
3808 table for the work group?

3809 A Not initially, no.

3810 Q Do you recall how the various technology
3811 alternatives that were initially on the table were
3812 identified by the work group?

3813 A Say that one again.

3814 Q Do you recall how the alternatives were sort
3815 of -- how they came to be discussed by the work group? In
3816 other words, how did the work group decide that these were
3817 the alternatives that they were going to start with to
3818 consider and then ultimately come to their recommendation?

3819 A I believe the initial batch of options were
3820 created by Deloitte, an objective third party, and then if
3821 I remember correctly, options were put on the table by the
3822 work group members themselves, as things that they would
3823 recommend us considering and the board considering, being
3824 technology experts.

3825 Q And do you remember how the work group assessed
3826 each of the different options or alternatives?

3827 A They asked for as much information as they could
3828 around the risk of being successful, how much each of the
3829 options would cost, and how long each option would take.

3830 Q So if you had to articulate those criteria, are
3831 risk, schedule, and cost a fair summary?

HGO106000

3832 A Yes.

3833 Q Do you recall when the work group dismissed the
3834 option of staying the course and keeping the current
3835 technology?

3836 A I don't remember the exact date.

3837 Q Do you remember why that alternative was
3838 dismissed?

3839 A Because it didn't meet the risk, time, and cost
3840 objectives that they set forth in their
3841 decision-making process.

3842 Q And do you remember why the other alternatives
3843 were eventually dismissed?

3844 A For the same reasons.

3845 Q Do you recall which of the original options or
3846 alternatives the work group started with were left over at
3847 the end, the final -- there were three final options?

3848 A I don't remember specifically the three options.

3849 Q If you go to page 6, under "Final Three
3850 Alternatives," the first sentence of the second paragraph
3851 reads: "The transfer of another state's solution (Transfer
3852 SBM) alternative was considered an 'on the bubble' option."

3853 What is your understanding of what "on the
3854 bubble" means here?

3855 A My understanding is "on the bubble" means we
3856 didn't know enough about how to do it, whether it would

HGO106000

3857 work. If I remember the conversations correctly at the
3858 technology group, there was a lot of concern that nobody
3859 had done something like that before, and we'd already been
3860 down that kind of path, and so it was an intriguing option,
3861 but they didn't know enough about whether it could work or
3862 not.

3863 Q And is that why the option was eventually
3864 dismissed?

3865 A I believe so, yes.

3866 Q Moving to the next page, under "Preliminary
3867 Recommendation," the report reads: "Based upon the
3868 information provided to the work group by the Cover Oregon
3869 staff and consultants, the TOW recommended that Cover
3870 Oregon should continue development and deployment of the
3871 current technology solution with a new vendor while
3872 actively retaining the ability to migrate to the FFM
3873 solution as a contingency if key Cover Oregon milestones
3874 were missed."

3875 What does TOW stand for?

3876 A I believe it's the technology options work
3877 group.

3878 Q And what does FFM mean?

3879 A Federally Facilitated Marketplace.

3880 Q So in your own words, what was the group's
3881 preliminary recommendation?

HGO106000

3882 A Bring in a new contractor to fix the technology
3883 that never worked that Oracle built; if it could be fixed
3884 in 100 days with specific milestones and deliverables, we
3885 would stay that course, but the second that one of those
3886 milestones is missed, then we would transition the
3887 commercial enrollment functions to the FFM.

3888 Q And do you know whether this recommendation
3889 reflected the consensus of the work group at the time?

3890 A I believe it did.

3891 Q So asking about the 100-day plan that you
3892 referenced, can you just describe what that was? You just
3893 briefly mentioned it just now.

3894 A One of the things that I know the work group
3895 talked a lot about was all of the missed deadlines from
3896 October, all the promises that Oracle made about when
3897 things would be done, and not having a clear timeline,
3898 milestones, and deliverables.

3899 And they wanted to be really clear around any
3900 recommendations they made had those aspects built into the
3901 plan, and then it would be an objective choice to go to the
3902 FFM. It wouldn't be a favor. There would be objective
3903 analysis about whether to go or not.

3904 Q Why was it called the 100-day plan?

3905 A I don't remember. I assume it took 100 days.

3906 Q Fair guess. Was there a next deadline that

HGO106000

3907 everyone was working towards, a next event or deadline that
3908 was sort of the on the horizon?

3909 A Not that I remember.

3910 Q Do you know when the next open enrollment period
3911 was?

3912 A I believe it was November 15th.

3913 Q If you go back to the paragraph under
3914 "Preliminary Recommendation," the last sentence says, "The
3915 State of Oregon's Chief Information Officer would monitor
3916 the achievement of milestones and if not met, would shift
3917 to deployment of the FFM for 2015 open enrollment and
3918 maintain the current Cover Oregon exchange technology
3919 through December 31, 2014 to support 2014 QHP enrollment."

3920 What does QHP stand for?

3921 A Qualified Health Plans.

3922 Q And these are the plans that are allowed to
3923 participate in --

3924 A In the exchange, the commercial.

3925 Q Do you know whether the milestones that were set
3926 in the 100-day plan were met?

3927 A They were not met.

3928 Q Do you know if the work group considered how
3929 costly it would be to keep the current technology within
3930 the new vendor?

3931 A Yes, I do.

HGO106000

3932 Q Okay. If you turn to the next page, the bottom
3933 of the page, the report reads: "Deloitte's estimate for
3934 the total level of effort to achieve stabilization,
3935 completion of the current enrollment solution, and
3936 development of new functionality to support renewal and
3937 change of circumstances is 390,000 hours. At \$200 per hour
3938 blended rate, the cost to Oregon was estimated to approach
3939 \$78 million, which does not include the core costs of
3940 hardware, software, licensing, and staff that Cover Oregon
3941 currently supports."

3942 What was your interpretation of Deloitte's
3943 assessment of the cost to stay with the current technology?

3944 A This was an amazing amount of cost for something
3945 that we had been told for a long time was really close to
3946 being done. So it was a cost that I couldn't believe, to
3947 be honest.

3948 Q And just for the record, this is something that
3949 you were -- Cover Oregon and OHA had been told was close to
3950 being done beginning in October 2013?

3951 A Correct.

3952 Q And this report was dated May 8, 2014?

3953 A Correct.

3954 Q And was the website working at this time?

3955 A No.

3956 Q Do you know whether the work group considered

HGO106000

3957 how risky it would be to keep the current technology with
3958 the new vendor?

3959 A Yes.

3960 Q So if you go down to the last full paragraph on
3961 that page -- oh, I'm sorry. Go down to the second
3962 paragraph on that page first, reads: "In summary, the
3963 timeline necessary introduces substantial risk to the
3964 project while assuming capabilities which Cover Oregon does
3965 not currently have, and allows little margin for error.
3966 Not all the necessary functionality can be completed by the
3967 November 2014 deadline. Finally, this option exceeds the
3968 resources of Cover Oregon. This option failed the
3969 reasonable gap analysis trigger previously identified."

3970 Do you know what the reasonable gap analysis
3971 trigger is?

3972 A I believe it was the objective analysis from the
3973 technology advisory group to weigh the options and
3974 recommend options to move forward.

3975 Q And this assessment that I just read reflects
3976 the option of keeping the current technology; is that
3977 correct?

3978 A Correct.

3979 Q And do you know why the option of keeping the
3980 current technology failed the reasonable gap analysis
3981 trigger?

HGO106000

3982 A It cost too much money, they weren't going to be
3983 able to deliver it by November of 2015, and they were still
3984 tremendous risks to being able to actually build it.

3985 Q And what was occurring in November of 2015?

3986 A Open enrollment for 2015.

3987 Q Do you know whether the work group also analyzed
3988 how much it would cost and how risky it would be to use the
3989 federal technology?

3990 A I believe so, yes.

3991 Q Okay. So now under the heading "Utilize the
3992 Federal Technology," the last full paragraph on the page
3993 reads: "Enrollment, renewal, and change of circumstance
3994 functionality are currently available throughout the FFM,
3995 providing the lowest risk option to Oregon. All
3996 functionality will be available before November 2014, and
3997 the preliminary cost estimate from Deloitte of \$4 million
3998 to 6 million is within available Cover Oregon resources."

3999 What was your understanding of why enrollment,
4000 renewal, and change of circumstance functionality were
4001 already currently available through the FFM?

4002 A 'Cause the FFM worked.

4003 Q Whereas the --

4004 A Whereas our exchange that Oracle built didn't
4005 work.

4006 Q In your view, why did the work group believe

HGO106000

4007 that switching to the federal technology was ultimately the
4008 lowest risk option for Oregon?

4009 A It was the lowest risk because we knew it
4010 worked. It was a known entity. People were currently
4011 enrolling on it. It was well within budget, and there was
4012 timeline to get there.

4013 Q So what was the work group's ultimate
4014 recommendation to the board of Cover Oregon?

4015 A Was to transition the commercial enrollments of
4016 the exchange to utilize the federal technology of the FFM.

4017 Q Do you know when this recommendation was
4018 reached?

4019 A I don't remember the exact date.

4020 Q Do you know whether it was a unanimous decision?

4021 A I believe was.

4022 Q Did you vote on this recommendation?

4023 A I did not.

4024 Q Did you ever instruct the work group to
4025 disregard any of the technology alternatives that were
4026 originally on the table?

4027 A No.

4028 Q Did any individuals outside the work group
4029 influence the work group's ultimate decision to switch to
4030 the federal technology?

4031 A Not that I know of.

HGO106000

4032 Q To your knowledge, did any of the governor's
4033 advisors or staff instruct the work group to disregard the
4034 other technology options?

4035 A Not that I know of.

4036 Q To your knowledge, did the governor instruct the
4037 work group to disregard the other technology options?

4038 A No.

4039 Q To your knowledge, did any of the governor's
4040 advisors or staff ever instruct the work group to make the
4041 recommendation to switch to the federal technology?

4042 A No.

4043 Q To your knowledge, did the governor ever make
4044 the recommendation or instruct the work group to make the
4045 recommendation to switch to the federal technology?

4046 A No.

4047 Q Would you say that Governor Kitzhaber's upcoming
4048 reelection factored into the work group's decision to
4049 switch to the federal technology?

4050 A No.

4051 Q I want to ask quickly about Exhibit 5.

4052 A Oh, here it is.

4053 Q So this is the email from John Kitzhaber to you
4054 and others on March 26, 2014. In your discussion with [REDACTED]
[REDACTED], you mentioned that Governor Kitzhaber wanted to
4056 know what was going on with the technology work group and

HGO106000

4057 with sort of the recommendation, how the process was coming
4058 for the recommendation.

4059 Why did the governor want to know about that?

4060 A It was a hugely important topic in our state.
4061 We had been working for almost three and four years to
4062 expand coverage to people who didn't have coverage. It
4063 wasn't happening how any of us wanted it to happen. And he
4064 wanted to make sure he understood what we were doing moving
4065 forward so we could continue to do that.

4066 Q Do you think he wanted to know what was going on
4067 so that he could influence the ultimate recommendation?

4068 A No.

4069 Q I want to ask about the Cover Oregon Board of
4070 Directors.

4071 A Sure.

4072 Q You mentioned this before, but what was your
4073 understanding of the purpose, function of the Cover Oregon
4074 Board of Directors?

4075 A The Cover Oregon board had full authority to
4076 implement the powers that the legislature gave them as an
4077 organization to enroll people into health insurance
4078 coverage.

4079 Q And what decision-making authority did the board
4080 have?

4081 A They had full decision-making authority over any

HGO106000

4082 Cover Oregon activity.

4083 Q Did the executive director of Cover Oregon have
4084 the authority to overrule a decision made by the board?

4085 A No.

4086 Q Did the governor have the authority to overrule
4087 a decision made by the board?

4088 A No.

4089 Q You mentioned that the governor would
4090 occasionally speak to board members. Under what
4091 circumstances and why would the governor communicate with
4092 board members?

4093 A The board members were governor-appointed,
4094 Senate-confirmed positions, so he had conversations with
4095 them as appointees, and he would talk to them about
4096 preferences and would advise them on certain things,
4097 whether it was about Cover Oregon or not.

4098 It was a very diverse board that had other
4099 interests, other than the work of Cover Oregon, that he
4100 would work with them on.

4101 Q Was it your understanding that the governor
4102 would communicate with board members in order to influence
4103 their decisions about Cover Oregon or other matters or
4104 direct them to make a certain decision?

4105 A He would never direct them. When I would have
4106 conversations with them on his behalf, I would make it

HGO106000

4107 clear our preferences, but it was their ultimate authority
4108 to make a decision.

4109 Q You mentioned that you occasionally attended
4110 board meetings?

4111 A Uh-huh.

4112 Q Why did you attend those meetings?

4113 A To understand what was happening in the
4114 meetings. They were public meetings. I was a member of
4115 the public unless I was invited by the board to participate
4116 or to present.

4117 Q So would you say that, except for those
4118 circumstances in which you were invited to participate or
4119 present, you were not an official member of the board?

4120 A I was not an official member of the board.

4121 Q What was your role at the board meetings?

4122 A Sometimes they would ask me to present.
4123 Sometimes they would ask me to sit at the table and have a
4124 conversation with them, as counsel, as advice, but no more
4125 than that.

4126 Q Did anyone else from the governor's staff
4127 typically attend the board meeting?

4128 A I believe so, but it wasn't until later, when
4129 Tina Edlund was officially a part of the governor's team.

4130 Q Did any of the governor's personal advisors
4131 attend the board meeting?

HGO106000

4132 A I don't think so.

4133 Q So is it fair to say that, as the governor's
4134 health policy advisor, it was your job to keep the governor
4135 apprised of what the board was doing, as well as offer your
4136 expert sort of counsel and opinion to the board as they
4137 were considering various options before them?

4138 A Yes.

4139 Q Do you know what information the board
4140 considered before making the decision to switch to the
4141 federal technology?

4142 A I don't know all of the information. I know
4143 they used the technical advisory work group's
4144 recommendations and work, and the work that is in front of
4145 us here from Alex.

4146 Q Was there particular -- what work from Alex are
4147 you referring to?

4148 A The Cover Oregon final report, May 8, 2014, from
4149 Alex Pettit.

4150 Q And do you know whether the board received any
4151 type of presentation from the technology options work group
4152 before it made the decision to switch?

4153 A I don't remember.

4154 Q Did you attend the meeting at which the board
4155 made the decision to switch to the federal technology?

4156 A I believe so, yes.

HGO106000

4157 Q Do you recall approximately when this meeting
4158 took place?

4159 A I don't remember.

4160 Q What was the technology options work group's
4161 recommendation to the board at that meeting?

4162 A It was to recommend transitioning the commercial
4163 enrollment functions to the Federally Facilitated
4164 Marketplace.

4165 Q And what was the reason for the work group's
4166 recommendation?

4167 A It was the least risky, lowest cost, on-time
4168 option that was available to us at the time.

4169 Q To your knowledge, was the board required to
4170 come to the same conclusion as the technology options work
4171 group?

4172 A No.

4173 Q Who made the final decision to switch to the
4174 federal technology for commercial insurance?

4175 A The Cover Oregon board.

4176 Q When was this decision made?

4177 A I believe it was in the spring of 2014.

4178 Q How was the decision made?

4179 A It was made in a public setting, as they make
4180 all of their decisions. I'm assuming there was a rollcall
4181 vote by the chair, and there was a record of them all

HGO106000

4182 voting.

4183 Q Do you know whether the vote was unanimous to
4184 switch?

4185 A I believe it was.

4186 Q Did you have any reason to believe that the
4187 Cover Oregon board had been coerced or pressured into
4188 voting to switch to the federal technology?

4189 A No.

4190 Q Some have claimed that the board was acting as a
4191 pass-through or a rubber stamp rather than having real
4192 independent authority. How would you respond to that
4193 allegation?

4194 A They're an independent board. A lot of them are
4195 very independent-minded people. They created a process to
4196 inform them on their decision making. I made it very
4197 clear, as a representative of the governor, what I believed
4198 was the right path and what the governor believed the right
4199 path was, but that was just one piece of information for
4200 them as they made their decision.

4201 Q You laughed in response to that question. Why
4202 did you laugh?

4203 A They're an independent board. The governor
4204 didn't have the authority to make the decision. We didn't
4205 have the authority to make the decision. The legislature
4206 made it very clear in enabling -- the enabling legislation

HGO106000

4207 of Cover Oregon board had all the authority to make these
4208 decisions.

4209 Q Was it your view that the governor believed he
4210 had the authority to make the decision rather than the
4211 board?

4212 A I don't know what he believed, but we knew he
4213 didn't have the decision-making authority on it.

4214 Q Did he ever say anything to you to communicate
4215 that he thought he had the decision-making authority?

4216 A No, he did not.

4217 Q I'd like to go back to Exhibit 14. Sorry to
4218 make you dig through. It's an email from Mr. Kolmer with
4219 the subject, "Draft from Alex." So as you recall, this is
4220 an April 16, 2014, email from you to Mike Bonetto, copying
4221 Patricia McCaig, Tim Raphael, Patty Wentz, and Dmitri
4222 Palmateer.

4223 And just for the record, who is the "Alex" that
4224 you're referring to in the subject line here?

4225 A I believe it was Alex Pettit.

4226 Q And do you recall what draft you were referring
4227 to?

4228 A I don't recall.

4229 Q My colleague on the majority asked about the
4230 last line of the email where you wrote: "Bottom line: We
4231 should not have AP only present the IT budget as the reason

HGO106000

4232 for the decision. He should get those 20% estimates to
4233 also use and then it can be part of the whole package for
4234 CO board."

4235 And again, who is AP?

4236 A Alex Pettit.

4237 Q And CO board stands for?

4238 A Cover Oregon board.

4239 Q What do you believe that you meant when you
4240 wrote this email, if you can recall?

4241 A The process that the technology work group went
4242 through wasn't just about cost. It was about risk and
4243 about timeline, and I believe my comment here was, Alex
4244 also shouldn't just present it as a cost issue, that it was
4245 really a functionality issue and a timeline issue as well.

4246 Q And in the last round, you mentioned that you
4247 felt the board should have all the tools they needed to
4248 make this decision. Does this factor into it, not just
4249 knowing about cost but other elements?

4250 A Correct.

4251 Q So is it fair to say that you wanted to make
4252 sure the board had all of the relevant context before
4253 making the decision?

4254 A Yes. It was a very big decision for a group
4255 that had been hoping the technology would have worked
4256 October 1st, and we wanted to make sure they all the

HGO106000

4257 information they needed, whether it was from the board or
4258 not, to make a really, really big decision.

4259 Q I want to go back to Exhibit 17. This is an
4260 email chain between you, Mike Bonetto, and Patricia McCaig
4261 on April 29, 2014, and April 30, 2014.

4262 A You said 17?

4263 Q Yes. So you discussed with [REDACTED] on April
4264 29th at 7:42 a.m., the second to last -- or the third to
4265 last email on the page here, you wrote: "You all should
4266 know George could be supporting the creep with Governor.
4267 So if I ask George for advice, George will want to keep
4268 door open."

4269 Do you recall what you were referring to there?

4270 A I believe this was around the time where this
4271 was a really big decision, and George had been part of this
4272 board for a very long time and wanted to make sure they
4273 were making the right decision and not rushing to a
4274 decision.

4275 Q And what was the creep you were referring to, if
4276 you recall?

4277 A To the best I remember, it's around the 100-day
4278 sprint versus the FFM and wanting to make sure that we do
4279 that well and objectively before decision.

4280 Q Do you know -- this email is dated April 28th,
4281 29th, and 30th. Do you know whether the decision to switch

HGO106000

4282 to the federal technology had actually already been made by
4283 this point?

4284 A I think it had already been made at this point.

4285 Q By the Board of Directors?

4286 A By the board, correct.

4287 Q So going to Ms. McCaig's email at 7:57, she
4288 writes: "Obp just announced Liz Baxter on think out loud.
4289 I thought we put a stake in that on Friday and Clyde was
4290 going to call her?"

4291 And who is Liz Baxter again?

4292 A She was currently the chair of Cover Oregon at
4293 the time.

4294 Q And who is the "Clyde" that Ms. McCaig was
4295 referring to?

4296 A Clyde Hamstreet.

4297 Q And again, what was McCaig referring to with her
4298 email?

4299 A Apparently, Liz Baxter was going on an NPR show,
4300 a radio show.

4301 Q You responded at 8:25 saying, "The only one who
4302 can effectively tell her to stop talking to media is gov.
4303 No one to date has been able to put a stop to this. We all
4304 have had conversations at various times."

4305 Why did you think that the governor was the only
4306 one who could encourage Ms. Baxter not to speak to the

HGO106000

4307 media about the board's decision?

4308 A They'd been friends and colleagues for a very
4309 long time.

4310 Q And you mention that there had been a collective
4311 decision to have a single spokesperson to communicate the
4312 board's decision to the public. Why was that decision
4313 made? Why was that important?

4314 A It was really important because of the chaos
4315 that had happened over the last eight months. There was a
4316 lot of false reporting happening, false narratives, a lot
4317 of uncertainty in the public, and it was really important
4318 to everyone involved to make sure we were speaking, not
4319 necessarily with one person, but with one voice, and making
4320 sure that whoever was out talking about the decision that
4321 Cover Oregon made was accurately portraying it so that the
4322 public understood what was happening.

4323 Q And was this the decision that you had made
4324 unilaterally?

4325 A No.

4326 Q Was this a collective decision that --

4327 A Collective.

4328 Q Did this email chain have anything to do with
4329 trying to influence or direct the board's decision to
4330 switch to the federal technology?

4331 A Not that I know of.

HGO106000

4332 Q As best you can tell, did this email chain occur
4333 after the switch to the federal technology?

4334 A I believe so, yes.

4335 Q Okay. I'd like to now switch gears a little bit
4336 and talk about some of the questions my colleagues on the
4337 majority have asked you about your interaction with
4338 Governor Kitzhaber's campaign staff and personal advisors.

4339 A Sure.

4340 Q While in your role as health policy advisory to
4341 the governor, did you ever consult with individuals outside
4342 of the governor's office regarding health policy issues?

4343 A Yes.

4344 Q Who did you consult with?

4345 A Ex-CEOs of companies, ex-leaderships in other
4346 companies, private individuals who work at health care
4347 companies. A lot people that I work with don't have
4348 official roles in state government.

4349 Q And what was the purpose of seeking out these
4350 people and consulting with them?

4351 A Getting smarter about a topic, understanding if
4352 it was an issue that we'd already talked about previously
4353 in the state, to understand where they were, understand
4354 what they believe the right direction was, to give me as
4355 much information as possible to make a recommendation to
4356 the governor.

HGO106000

4357 Q Did you ever communicate with any of the
4358 governor's personal advisors?

4359 A Yes.

4360 Q Did you communicate with Patricia McCaig?

4361 A Yes.

4362 Q Why did you communicate with her?

4363 A She is an expert in communications, and I sought
4364 her counsel to make sure that the advice and counsel I was
4365 giving the governor and, as we were talking to the public,
4366 made sense, and any expertise she could provide me in those
4367 conversations was
4368 well-received and accepted.

4369 Q Did you ever consult with any of the governor's
4370 campaign staff?

4371 A Not that I know of.

4372 Q Did you ever communicate with his campaign
4373 staff?

4374 A Not that I know of.

4375 Q Did you ever communicate with Ms. McCaig about
4376 issues related to Cover Oregon?

4377 A Yes.

4378 Q And is it fair to say that you would seek her
4379 advice because of her expertise in communications and not
4380 because of her role as a health policy expert or IT expert?

4381 A Correct.

HGO106000

4382 Q Did Ms. McCaig hold herself out as a health
4383 policy expert?

4384 A No.

4385 Q Did she hold herself out as an IT expert?

4386 A No.

4387 Q To your knowledge, did she ever -- did
4388 Ms. McCaig ever provide health policy advice to you or the
4389 governor or anyone else in the governor's office?

4390 A Didn't give it to me. I don't know about
4391 anybody else.

4392 Q Did she ever provide you with IT advice?

4393 A No.

4394 Q Did you ever feel coerced or pressured by Ms.
4395 McCaig to make a particular policy decision?

4396 A No.

4397 Q In your opinion, how did the governor sort of
4398 perceive the advice or counsel of Ms. McCaig or his
4399 campaign staff or others that were outside of the official
4400 office of the governor?

4401 A I think he just wanted the smartest people and
4402 the people that he trusted to give him the best advice on
4403 how to move forward as governor. He sought the same kind
4404 of advice from others that had nothing to do with the
4405 campaign.

4406 Q In your opinion, did the governor give more

HGO106000

4407 weight to the views of his campaign staff or personal
4408 advisors than use of you or others in the governor's
4409 office?

4410 A I don't believe so.

4411 Q In your opinion, did the governor make decisions
4412 with respect to Cover Oregon independently? Meaning, did
4413 he receive the advice, counsel of campaign staff, other
4414 advisors, but not take their direction necessarily?

4415 A He was a collector of information from all kinds
4416 of sources, and part of my job was to also give him the
4417 best advice possible from a policy perspective. If there
4418 was a decision for him to make, then he would make it.

4419 Q And just to be clear, did you ever feel
4420 pressured by any of the governor's campaign staff, personal
4421 advisors to reach a particular policy decision for a
4422 political reason?

4423 A No.

4424 Q Did you ever feel pressured by any of the
4425 governor's campaign staff or outside advisors to reach a
4426 particular policy decision for his reelection campaign
4427 purposes?

4428 A No.

4429 Q Are you aware of the SWAT Team that was created
4430 in early 2014?

4431 A I've heard it called that.

HGO106000

4432 Q And were you a member of the SWAT Team?

4433 A I guess.

4434 Q Do you know who the other members were?

4435 A There was at least a couple of -- Mike Bonetto,
4436 Bruce Goldberg. Those are the only two that I remember
4437 that were always on calls.

4438 Q Do you know why this team was created or why
4439 this group of people decided to begin communicating
4440 regularly?

4441 A We were in a crisis in the state. We had a huge
4442 project, technology project that failed and didn't work,
4443 and we were continuing to enroll people into coverage, and
4444 we needed all hands on deck from all places to help us
4445 think through what the best path forward was.

4446 Q Do you recall whether this team comprised both
4447 campaign staff and state staff?

4448 A I don't remember if it involved campaign staff.

4449 Q Did the SWAT Team direct policy development with
4450 regard to Cover Oregon?

4451 A No.

4452 Q Did the SWAT Team develop the underlying IT
4453 infrastructure for the exchange website?

4454 A No.

4455 Q In what role was the SWAT Team expected to play?

4456 A I believe they were expected to play an advice

HGO106000

4457 and communications role and counsel role. Any decisions
4458 that the governor was going to make in his official
4459 capacity came from his official staff, recommendations from
4460 staff. And again, the decision wasn't his around Cover
4461 Oregon anyway.

4462 [REDACTED] I think I will give you the
4463 remaining five minutes. Thank you.

4464 (Off the record.)

4465 EXAMINATION

4466 [REDACTED]

4467 Q I'd like to back up to October 1st, 2013. You
4468 mentioned at length the importance to -- or you would agree
4469 that it was important for the governor for people to get
4470 enrolled in coverage, and that was the main concern here,
4471 for individuals to be enrolled in health care in some form
4472 or the other.

4473 A Yes, for those individuals, not for us
4474 individually.

4475 Q And on October 1st, 2013, if I was a citizen of
4476 Oregon and I went to coveroregon.com or .org, what would
4477 I -- how would I be able to enroll on that day?

4478 A The best I remember is print a PDF or fill out a
4479 PDF application and send it in.

4480 Q And you testified earlier that you knew that the
4481 site was not going to go live several days before

HGO106000

4482 October 1st?

4483 A Uh-huh.

4484 Q Did you announce to the public in any way that
4485 the site would not be ready?

4486 A Cover Oregon announced it to the public, I
4487 believe, on October 1st.

4488 Q Why did they not announce it days before?

4489 A They weren't prepared to make the announcement.

4490 Q Why weren't they prepared?

4491 A Because Oracle kept telling them it was going to
4492 be live on October 1st, and until the demonstration that I
4493 think is documented here, the Cover Oregon staff didn't
4494 know it was going to work until the demonstration.

4495 Q And that demonstration was a few days before?

4496 A I believe so. I think it was two days before
4497 October 1st.

4498 Q And the few days gap is because?

4499 A 'Cause it was a huge thing that they just found
4500 out.

4501 Q Are you aware of the fact that agents and
4502 partners were able to enroll people through a system built
4503 as part of Cover Oregon?

4504 A Yes.

4505 Q And who built that system?

4506 A Oracle.

HGO106000

- 4507 Q And people were using that system?
- 4508 A Very specific individuals were using that
4509 system.
- 4510 Q You testified several times that nothing worked.
4511 So something here did work?
- 4512 A Pieces of what Oracle built worked.
- 4513 Q What were the milestones in the 100-day plan?
- 4514 A I don't remember.
- 4515 Q You just testified that none of them were met.
4516 So how do you reconcile that?
- 4517 A Well, at least one of them wasn't met.
- 4518 [REDACTED] I asked if all of them were
4519 met, and he said no. I didn't ask if any of them were met.
- 4520 [REDACTED] Wait. So you said all of them were
4521 not met?
- 4522 [REDACTED] No. I said were all of them met,
4523 and he said no.
- 4524 [REDACTED]
- 4525 Q Do you know if all of the milestones were not
4526 met?
- 4527 A I don't know, but I assume they weren't because
4528 we moved to the FFM.
- 4529 Q Were any of the milestones met?
- 4530 A I don't recall.
- 4531 Q Are you aware of any milestones being met there?

HGO106000

4532 A I'm not aware.

4533 Q In this report -- forgive me for not knowing
4534 what exhibit this is. This is the final report. It's
4535 page 9 there. For the record, what exhibit is that?

4536 A There's no -- Cover Oregon final report, May 8,
4537 2014, from Alex Pettit.

4538 Q Just go to page 9. I have a quick question
4539 about the very top of that. The cost that Oregon was
4540 estimating of \$78 million, do you know when that estimate
4541 was made?

4542 A I don't.

4543 Q And do you know who made that estimate?

4544 A I believe it was based on Deloitte's work.

4545 Q Okay. And you testified before that the board
4546 itself was an independent agency, correct?

4547 A Correct.

4548 Q So it would be inappropriate to have somebody
4549 who was not a member of the board making decisions related
4550 to Cover Oregon?

4551 A Correct. They couldn't make the decision. Only
4552 the Cover Oregon board could make the decision.

4553 Q This is Exhibit 29. I'll give you a second to
4554 review it.

4555 (Exhibit 29 was marked and entered.)

4556 Q This is an email that Michael Bonetto sent to

HGO106000

4557 Patricia McCaig and Tim Raphael, copying you on May 23rd,
4558 2014. And one of the documents that Michael Bonetto
4559 attached to the email is a Request For Special Procurement.

4560 Michael Bonetto says, "Just wanted to check in
4561 with you two and see if you have any final edits to these.
4562 Folks are looking to get everything finalized asap."

4563 Are you familiar with the document -- this
4564 document?

4565 A I'm not familiar with it, no.

4566 Q You will confirm, though, that you were cc'd on
4567 this email?

4568 A Yes.

4569 Q Do you know what the purpose of this document
4570 is?

4571 A According to what it says, "...seeks a System
4572 Integrator that must transition the MAGI Medicaid
4573 eligibility determination engine from Cover Oregon to OHA."

4574 Q For the purpose of connecting it to the
4575 Federally Facilitated Marketplace?

4576 A Uh-huh.

4577 Q Okay. On line 8, it says the total estimated
4578 cost is \$40 million. Would you agree to that?

4579 A Yeah.

4580 Q And do you know who was awarded the system
4581 integrator contract?

HGO106000

4582 A I don't think so.

4583 Q One thing I'd like to go back to now is that if
4584 you return to this Cover Oregon final report on page 9, at
4585 the bottom it says that all functionality will be able to
4586 transition to the Federally Facilitated Marketplace at 4 to
4587 \$6 million.

4588 A Uh-huh.

4589 Q Can you explain the discrepancy between the
4590 system integrator contract that would cost 40 million
4591 versus the amount explained in this?

4592 A I believe this cost for 4 to 6 million is what
4593 Cover Oregon's cost would be to transition the commercial
4594 enrollment system to the Federally Facilitated Marketplace.
4595 Some of these costs are about the failure of producing a
4596 Medicaid eligibility engine and the cost to the Oregon
4597 Health Authority to do that.

4598 Q And just to go back to this again, in item 3
4599 you'll see it says that "Medicaid eligibility can be moved
4600 to the Oregon Health Authority, requiring no further
4601 development from Cover Oregon."

4602 A Where is that?

4603 Q Item 3 on page 9.

4604 A Sorry. Yeah.

4605 Q So was the cost of the Medicaid transition just
4606 left out of here?

HGO106000

4607 A I don't know.

4608 Q And let's see here, why would Michael Bonetto
4609 send this to Patricia McCaig?

4610 A I don't know. You'll have to ask him.

4611 Q You testified at length that Patricia McCaig's
4612 role is a communications expert, correct?

4613 A Correct.

4614 Q What in this is a communications product?

4615 A I don't believe any of it is.

4616 Q So what part of her expertise would she need to
4617 see this for then?

4618 A I don't know.

4619 Q Why would Tim Raphael receive this?

4620 A I don't know.

4621 Q What was Tim Raphael's expertise, in your
4622 opinion, for assisting Cover Oregon?

4623 A Communications.

4624 Q So why would he be receiving this document if
4625 his expertise is in communications?

4626 A I don't know.

4627 Q Would you at least concede, based on this email,
4628 that people who had expertise in communications were
4629 receiving documents that were not related to
4630 communications?

4631 A I don't know. It looks like there were a bunch

HGO106000

4632 of other attachments to this email that aren't in here.

4633 Q And did you, Patricia McCaig, and Tim Raphael
4634 typically edit RFPs sent out by the Oregon Health
4635 Authority?

4636 A Not that I'm aware of.

4637 Q Then why would you edit this one?

4638 A I don't believe I did.

4639 Q Why would Michael Bonetto send this to Patricia
4640 McCaig or Tim Raphael to edit then?

4641 A I don't know. You'd have to ask him.

4642 Q And to be clear, you never had any conversations
4643 with Michael Bonetto about why they would be sent this?

4644 A I don't know. I don't remember.

4645 Q And a few more documents here. This will be
4646 Exhibit 30.

4647 (Exhibit 30 was marked and entered.)

4648 Q You sent this email to Patricia McCaig, Tim
4649 Raphael, Nkenge, and Michael Bonetto, correct?

4650 A Correct.

4651 Q And are these all of the meetings that you had
4652 with CMS about the move to the federal technology before
4653 the April 25, 2014, Cover Oregon board meeting?

4654 A I don't recall.

4655 Q Do you want to take a moment to read the email
4656 and see the --

HGO106000

4657 A Well, I don't recall if these were all the
4658 meetings.

4659 Q Oh, okay.

4660 A That's what I meant.

4661 Q But these are meetings that you had with CMS
4662 then?

4663 A I believe so.

4664 Q The first item says that the "Week of March 24:
4665 SK reaches out to CMS requesting a meeting with leadership
4666 to discuss where we are on the work we are undertaking."

4667 Do you recall why you reached out to CMS that
4668 week?

4669 A Because they were a partner of ours around Cover
4670 Oregon.

4671 Q And what was the purpose of your reaching out to
4672 them? Like, what's the subject matter?

4673 A I believe it was to let them know what the Cover
4674 Oregon board was doing, how things were progressing, and
4675 when we thought there was going to be a recommendation.

4676 Q And did anyone ask you to reach out to CMS at
4677 this time?

4678 A I don't recall if somebody did or not.

4679 Q And who did you brief about your meeting with
4680 CMS after that?

4681 A The governor and Mike.

HGO106000

4682 Q And then next item says, "April 3rd: SK meeting
4683 with CMS officials, discuss interest working
4684 collaboratively down the current dual path approach from
4685 original IT committee recommendation."

4686 What did you mean "original IT committee
4687 recommendation"?

4688 A I don't recall.

4689 Q How did CMS respond to your interest in working
4690 collaboratively down the current dual path approach from
4691 the original recommendation?

4692 A We had the meeting, I think.

4693 Q The next item says, "April 8: Meeting with
4694 Marilyn Tavenner and senior CMS staff. Discuss working
4695 moving forward together to help us with our decision-making
4696 process to collaboratively come to a decision. Put the
4697 current option on the table for us to consider as a viable
4698 path."

4699 What was the current option that they put on the
4700 table?

4701 A I don't recall specifically what the current
4702 option was on the table, but anything the Cover Oregon
4703 board was going to be doing was going to affect the
4704 relationship with our federal partners and wanted to make
4705 sure they understood the conversations that were happening.

4706 Q And why were you meeting with Marilyn Tavenner

HGO106000

4707 and CMS staff?

4708 A I don't understand the question.

4709 Q Why would you seek out to meet with Marilyn
4710 Tavenner and CMS staff?

4711 A That was part of my role as being the governor's
4712 advisor, is I liaise with our governor to federal
4713 officials, including CMS and HHS.

4714 Q Do you recall if CMS were the individuals that
4715 recommended that you potentially move to the federal
4716 exchange?

4717 A I don't believe they recommended it.

4718 Q And what do you mean by "to collaboratively come
4719 to a decision"?

4720 A I don't know, but the tone of the message is the
4721 same. This was a partnership with our federal partners,
4722 and we wanted to make sure that they were understanding
4723 what was happening just as much as we were.

4724 Q Do you believe that collaboratively coming to a
4725 decision with CMS is at odds with the fact that the Cover
4726 Oregon board is ultimately responsible for making the
4727 decision?

4728 A No.

4729 Q Did you communicate your discussions with CMS to
4730 any members of the Cover Oregon board?

4731 A Yes.

HGO106000

4732 Q Who? What people?

4733 A I don't recall who, but I'm sure I did.

4734 Q And how would you have communicated that?

4735 A Would have a phone call, would have been maybe
4736 an email.

4737 Q The next item says, "April 11: Meeting with CMS
4738 and Oregon staff to develop workplan for 'flushing out
4739 option.'" "

4740 And what option are you flushing out?

4741 A I don't know at this point. I don't remember.

4742 Q The final item says, "April 22: SK calls CMS
4743 and tells them this is our path and Board will be taking
4744 action. They are surprised by timing considering meeting
4745 with CMS the following week but understood our choice."

4746 What did you tell CMS was your path on
4747 April 22nd?

4748 A I believe that the Cover Oregon board was going
4749 to meet and was going to make a decision.

4750 Q And how did you know that the board would be
4751 meeting?

4752 A 'Cause the board told us they were going to be
4753 meeting.

4754 Q Okay. And how did you know they would be taking
4755 action?

4756 A Because they told us.

HGO106000

4757 Q Now, what is "our path" there?

4758 A The state's path.

4759 Q State's path. Okay.

4760 Just for the record, can you describe what that
4761 path would be when -- on April 22nd?

4762 A Whatever the choice the Cover Oregon board made
4763 to make sure people can enroll in coverage was going to be
4764 our choice.

4765 Q Did you feel any pressure from CMS to switch to
4766 healthcare.gov?

4767 A No.

4768 Q Do you understand why you wrote here that they
4769 were surprised by the timing?

4770 A I don't remember.

4771 Q And why did you include Patricia McCaig and Tim
4772 Raphael in this email chain?

4773 A I don't remember.

4774 Q How frequently did you -- did you communicate
4775 with CMS as part of your role with the governor during the
4776 Cover Oregon project?

4777 A Probably more frequently than I would like to
4778 remember.

4779 Q And we went over this earlier, but CMS never
4780 expressed any concerns to you about the scope of the
4781 project?

HGO106000

4782 A Not to me directly.

4783 Q And they never expressed to you any concerns
4784 about how the money was being spent?

4785 A Not to me directly.

4786 Q And they never expressed any concerns to you
4787 about the timeline of the budget and going through the
4788 money too quickly?

4789 A Not to me directly.

4790 Q This is Exhibit 31.

4791 (Exhibit 31 was marked and entered.)

4792 Q This is Exhibit 31. I'll just give you a moment
4793 to take a look. Is this an April 6, 2014, email chain from
4794 Triz delaRosa about concerns she heard from the Center for
4795 Consumer Information Insurance Oversight?

4796 Would you agree to that?

4797 A Yeah.

4798 Q And as we just went over, you were not receiving
4799 many concerns from CCIIO or CMS about the scope of the
4800 project or the budgetary issues?

4801 A Not the budgetary issues, yeah.

4802 Q Triz delaRosa said that "Terrence and others
4803 also expressed concerns about individuals within Cover
4804 Oregon changing positions and the apparent lack of
4805 understanding by the new staff about the grants and what
4806 funds could be used for in the future."

HGO106000

- 4807 Do you know who Terrence is?
- 4808 A I don't know who Terrence is.
- 4809 Q Did you discuss the concerns in this email with
4810 anyone?
- 4811 A I don't remember if I did.
- 4812 Q Triz delaRosa also says she spoke with Kevin
4813 Kelly last week on the same issue. Do you know who Kevin
4814 Kelly is?
- 4815 A I believe he worked for Deloitte.
- 4816 Q Triz also says that when she met with Kevin and
4817 his team, there seemed to be a limited understanding of
4818 what we could use grant funds to pay for in the future for
4819 a possible technology solution.
- 4820 [REDACTED] [REDACTED] can you point out where you
4821 are in the document?
- 4822 [REDACTED] Third paragraph down.
- 4823 [REDACTED]
- 4824 Q Triz says that when she met with Kevin and his
4825 team, there seemed to be limited understanding of what we
4826 could use grant funds to pay for in the future for a
4827 possible technology solution.
- 4828 Do you know why Triz was talking with Kevin
4829 Kelly from Deloitte on Thursday, April 3rd?
- 4830 A I don't.
- 4831 Q Were you involved in this conversation at all?

HGO106000

4832 A No, not that I remember.

4833 Q Do you know what she means by, there was a
4834 limited understanding of what you could use grant funds to
4835 pay for in the future for a possible technology solution?

4836 A No, I don't.

4837 Q Do you know what else was discussed during the
4838 conversation with Kelly -- or Kevin Kelly from Deloitte?

4839 A I don't.

4840 Q Did you ever take part in any conversations with
4841 the governor or with the Health Authority officials or
4842 Cover Oregon officials about concerns that switching to the
4843 FFM would violate the terms or conditions of the federal
4844 grant?

4845 A I think we were unclear.

4846 Q And do you know if there were any conversations
4847 about the terms of the federal grant with CMS officials?

4848 A Not that I remember.

4849 Q Did anyone from HHS, CMS, Oregon, or the White
4850 House ever ask you to delete emails or destroy documents
4851 related to Cover Oregon?

4852 A No.

4853 Q Did anyone from HHS, CMS, Oregon, or the White
4854 House ever ask you to delete emails or destroy documents
4855 related to the Patient Protection and Affordable Care Act?

4856 A No.

HGO106000

4857 Q And did anyone from HHS, CMS, Oregon, or the
4858 White House ever indirectly or directly suggest that they
4859 may want to delete or destroy emails related to Cover
4860 Oregon?

4861 A No.

4862 [REDACTED] Just give us a moment here. That's
4863 all for us. Hopefully, we can get you out of here soon.

4864 EXAMINATION

4865

4866 Q I'm going to jump around a little bit so bear
4867 with me. We need to go back to Exhibit 29. So this is the
4868 email from Mike Bonetto on May 23rd, 2014, to Patricia
4869 McCaig, Tim Raphael, cc'ing you.

4870 As you mentioned during the last round of
4871 questioning, it appears from the email here that there are
4872 several attachments to this email.

4873 A Correct.

4874 Q And there's only one attachment actually
4875 attached to the email that you have before you.

4876 A Correct.

4877 Q So is it fair to say that this is not a complete
4878 record of the original email that was sent?

4879 A Yes.

4880 Q [REDACTED] asked you about why communications
4881 individuals would be asked to edit a document like the

HGO106000

4882 attached. Just for the record, do you have any evidence
4883 that what the -- what Ms. McCaig and Mr. Raphael were being
4884 asked to edit was this particular document, among the
4885 several that were attached to this email?

4886 A I don't.

4887 Q I would also notice there appears to be a
4888 PowerPoint attached to this email as well from its file
4889 extension pptx. Is it possible -- is that correct?

4890 A Yes, that's correct.

4891 Q Is it possible that what Ms. McCaig and
4892 Mr. Raphael were being asked to edit is this PowerPoint
4893 rather than this document that was attached to this email?

4894 A Yes.

4895 Q Is it -- would it have surprised you that given
4896 the intense media scrutiny and public attention around
4897 every decision made by the Cover Oregon board for the
4898 several months, you know, from October 1st when the website
4899 failed to go live to the public, until this point, would it
4900 surprised you that the governor's communications advisors
4901 would want to be kept apprised and informed of major
4902 decisions involving Cover Oregon?

4903 A It wouldn't surprise me.

4904 Q And do you have any knowledge or evidence that
4905 Ms. McCaig or Mr. Raphael actually edited any of the
4906 documents attached to this email?

HGO106000

4907 A No, I don't.

4908 Q I want to go back to Exhibit 3. This is an
4909 email from Patricia McCaig to Mike Bonetto. I'm sorry.
4910 The email that was being asked about was from Mike Bonetto
4911 to Patricia McCaig, on February 2nd, 2014, writing: "Any
4912 chance you can make this call later this evening? Plan is
4913 to discuss some Cover Oregon media issues... want to make
4914 sure we have a handle on things. If not... no worries, we
4915 can catch up soon."

4916 Is it surprising that Mr. Bonetto would have
4917 asked Patricia McCaig to participate in a call discussing
4918 media issues?

4919 A No, it's not.

4920 Q Now, going back to -- why would it not surprise
4921 you that he would -- that Mike Bonetto would have asked
4922 Patricia McCaig to talk about media issues related to Cover
4923 Oregon?

4924 A 'Cause she was a communications expert.

4925 Q Now, going back to Exhibit 12, this is an email
4926 from Bruce Goldberg to Mike Bonetto and yourself, and it
4927 reads: "Sean and I were on a call with Marilyn Tavenner
4928 today regarding timeline for decision making about our
4929 exchange."

4930 Just for the record, on that call or on any
4931 call, did you ever perceive that CMS or HHS was trying to

HGO106000

4932 pressure you or others at Cover Oregon or other Oregon
4933 state officials into making a particular decision regarding
4934 their -- regarding Oregon's exchange?

4935 A No.

4936 Q And then moving to Exhibit 30, so this is an
4937 email from you to Patricia McCaig, Tim Raphael, Nkenge
4938 Harmon Johnson, and Mike Bonetto on April 24th, 2014, that
4939 ██████████ asked you about.

4940 Do you recall sending this email?

4941 A I don't recall sending it.

4942 Q Is it a fair characterization of the email the
4943 dates you were sketching out here and sort of the future
4944 actions that you were trying to anticipate what the board
4945 might do, rather than directing any particular outcome or
4946 action or decision?

4947 A Yes.

4948 Q So when you say on April 22nd, "SA calls CMS and
4949 tells them this is our path and Board will be taking
4950 action," is it fair to say that you were simply
4951 anticipating what you understood the board would be doing
4952 based on what the board was reporting to you and based on
4953 your involvement in board meetings and the technology work
4954 group and sort of all the information that you'd been
4955 collecting?

4956 A Yes.

HGO106000

4957 Q Were you in any way trying to direct or
4958 determine any decisions made by the board?

4959 A No.

4960 Q Were you aware of anyone else attempting to
4961 direct or determine any decisions being made by the board
4962 at this time?

4963 A No.

4964 Q Okay. And then sort of at a general
4965 level -- actually, no that was it. We're done.

4966 [REDACTED] Just while we're still on the
4967 record, as counsel is aware, a subpoena was requested for
4968 this deposition. That decision was made strictly on advice
4969 of counsel in the civil lawsuit and should not reflect on
4970 Mr. Kolmer's willingness to cooperate with the committee on
4971 the matter.

4972 While his testimony today was truthful to the
4973 best of his recollection, he reserves the right to
4974 supplement it with any information that should come to his
4975 attention at a later date. Thanks.

4976 [REDACTED] Go off the record.

4977 (Whereupon, at 2:53 p.m., the deposition was
4978 concluded.)

4979

HGO106000

4980

Certificate of Deponent

4981

4982

4983

4984

I have read the foregoing _____ pages, which

4985

contain the correct transcript of the answers made by me to

4986

the questions therein recorded.

4987

4988

4989

4990

4991

4992

Witness Name

4993

4994

4995

4996

Date

HGO106000

4997 District of Columbia

4998 Notary Public, to wit:

4999 I, Christine A. Gonzalez, CSR, RPR, a Notary
5000 Public of the District of Columbia, do hereby certify that
5001 the within-named witness personally appeared before me at
5002 the time and place herein set out, and after having been
5003 duly sworn by me, according to law, was examined by
5004 counsel.

5005 I further certify that the examination was
5006 recorded stenographically by me and this transcript is a
5007 true record of the proceedings.

5008 I further certify that I am not of counsel to
5009 any of the parties, nor in any way interested in the
5010 outcome of this action.

5011 As witness my hand and notarial seal this 19th
5012 of April, 2016.

5013

5014

5015

5016

5017 _____
Christine A. Gonzalez, CSR, RPR

5018 Notary Public

5019

5020 My Commission Expires:

5021 February 28, 2019