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COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,
SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: LARRY SCHWARTZ

Monday, June 24, 2024

Washington, D.C.

The interview in the above matter was held via Zoom, commencing at 2:00 p.m.

1 Appearances:

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5 For the SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC:

6

7 JACK EMMER, COUNSEL

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13 For LARRY SCHWARTZ:

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1 Mr. Emmer. We can go on the record. This is a transcribed interview of Mr. Larry
2 Schwartz conducted by the House Select Subcommittee on the Coronavirus Pandemic
3 under the authority granted to it by House Resolution 5, and the rules of the Committee
4 on Oversight and Accountability.

5 Further, pursuant to House Resolution 5, the Select Subcommittee has
6 wide-ranging jurisdiction, but specifically to investigate the implementation or
7 effectiveness of any federal law or regulation applied, enacted, or under consideration to
8 address the Coronavirus pandemic, and prepare for future pandemics.

9 Can the witness please state his name and spell his last name for the record.

10 Mr. Schwartz. Lawrence Schwartz, S-c-h-w-a-r-t-z.

11 Mr. Emmer. Thank you, Mr. Schwartz. My name is Jack Emmer, and I am senior
12 counsel for the majority staff of the Select Subcommittee. I want to thank you for coming
13 in today for this interview. The Select Subcommittee recognizes that you are here
14 voluntarily, and we appreciate that.

15 Under the Select Subcommittee and Committee on Oversight and Accountability's
16 rules, you are allowed to have an attorney present to advise you during this interview.

17 Do you have an attorney representing you in a personal capacity present with you
18 today?

19 Mr. Schwartz. Yes.

20 Mr. Emmer. Will counsel please identify themselves for the record.

21 Mr. Petrillo. Sure. Guy Petrillo. Petrillo, Klein, & Boxer, 655 Third Avenue in New
22 York, New York, 10017.

23 Mr. Emmer. Thank you. For the record, starting with the majority staff, can the
24 additional staff members please introduce themselves with their name, title, and
25 affiliation.

1 Mr. Osterhues. Eric Osterhues, Chief Counsel for the Republican side.

2 Ms. [REDACTED], Senior Counsel for the Democratic staff.

3 Mr. [REDACTED], Democratic Counsel.

4 Mr. Emmer. Thank you. Mr. Schwartz, before we begin, I would like to go over
5 the ground rules for this interview. The way this interview will proceed is as follows: The
6 majority and minority staff will alternate asking you questions. One hour per side, per
7 round until each side is finished with their questioning.

8 The majority staff will begin and proceed for an hour, and then the minority staff
9 will have an hour to ask questions. We will then alternate back and forth in this matter
10 until both sides have no more questions. If either side is in the middle of a specific line of
11 questions, they may choose to end a few minutes past an hour to ensure completion of
12 that specific line of questioning, including any pertinent follow-ups. In this interview,
13 while one member of the staff for each side may lead the questioning, additional staff
14 may ask questions.

15 There is a court reporter taking down everything I say and everything you say to
16 make a written record of the interview. For the record to be clear, please wait until the
17 staffer questioning you finishes each question before you begin your answer. And the
18 staffer will wait until you finish your response before proceeding to the next question.

19 Further, to ensure the court reporter can properly record this interview, please
20 speak clearly, concisely, and slowly. Also the court reporter cannot record nonverbal
21 answers, such as nodding or shaking your head. So it is important that you answer each
22 question with an audible, verbal answer.

23 Exhibits may be entered into the record. Majority exhibits will be identified
24 numerically. Minority exhibits will be identified alphabetically.

25 Do you understand?

1 Mr. Schwartz. Yes.

2 Mr. Emmer. We want you to answer our questions in the most complete and
3 truthful manner possible, so we will take our time. If you have any questions or do not
4 fully understand the question, please let us know. We will attempt to clarify, add context
5 to, or rephrase questions.

6 Do you understand?

7 Mr. Schwartz. Yes.

8 Mr. Emmer. If we ask about specific conversations or events in the past, and you
9 are unable to recall the exact words or details, you should testify to the substance of
10 those conversations or events to the best of your recollection. If you recall only a part of
11 the conversation or events, you should give us your best recollection of those events or
12 parts of conversations that you do recall.

13 Do you understand?

14 Mr. Schwartz. Yes.

15 Mr. Emmer. Although, you are here voluntarily and we will not swear you in, you
16 are required pursuant to Title 8, Section 1001 of the United States Code to answer
17 questions from Congress truthfully. This also applies to questions posed by congressional
18 staff in this interview.

19 Do you understand?

20 Mr. Schwartz. Yes.

21 Mr. Emmer. If at any time you knowingly make false statements, you could be
22 subject to criminal prosecution.

23 Do you understand?

24 Mr. Schwartz. Yes.

25 Mr. Emmer. Is there any reason you are unable to provide truthful testimony in

1 today's interview?

2 Mr. Schwartz. No.

3 Mr. Emmer. The Select Subcommittee follows the rules of the Committee on
4 Oversight and Accountability. Please note that if you wish to assert a privilege over any
5 statement today, that assertion must comply with the rules of the Committee on
6 Oversight and Accountability. Pursuant to that, committee rule 16-C-1 states: For the
7 chair to consider assertions of privilege over testimony or statements, witnesses or
8 entities must clearly state the specific privilege being asserted and the reason for the
9 assertion on or before the scheduled date, testimony, or appearance.

10 Do you understand?

11 Mr. Schwartz. Yes.

12 Mr. Emmer. Ordinarily, we take a five-minute break at the end of each hour of
13 questioning, but if you need a longer break or a break before that, please let us know,
14 and we will be happy to accommodate. However, to the extent that there is a pending
15 question, we would ask that you finish answering the question before we take the break.

16 Do you understand?

17 Mr. Schwartz. Yes.

18 Mr. Emmer. Do you have any other questions before we begin?

19 Mr. Schwartz. No.

20 EXAMINATION

21 BY MR. EMMER:

22 Q Let's start by briefly discussing your education and experience. Mr.
23 Schwartz, where did you attend undergraduate school?

24 A Binghamton State University.

25 Q And what degree did you graduate with?

1 A A BA in political science.

2 Q Who is your current employer, and what is your current job title?

3 A My current employer is OTG. I'm their chief strategy officer.

4 Q Can you briefly go through your professional career up until now?

5 A Okay. After I graduated from Binghamton State University -- I can't give you
6 exact dates and years -- my first job was with the City of New York. I was under a grant to
7 evaluate the Employee Performance Program that the City of New York had to evaluate
8 employee performance. I did that for approximately a year.

9 I joined the New York State Senate Democratic Minority in 1982 and was there
10 until July of 1987. I then became deputy county executive in January of 1988 in Suffolk
11 County Long Island or Suffolk County, New York. I was deputy executive in 1991. I don't
12 know what that noise is.

13 In 1992, I was an independent consultant working on a number of political
14 campaigns in 1993. I ended up going to work for M & R Strategic Services which was a
15 government affairs/lobbying firm. As a vice president of the firm, I was there for
16 approximately 5 years. I then became the deputy county executive in Westchester
17 County in 1998. I was there for approximately 11 years.

18 I then became secretary to the Governor, at that time to Governor David Paterson
19 in 2009 through the end of his term. Then Governor Cuo -- then Attorney General Cuomo
20 was elected Governor. I stayed on as his senior advisor and became, again, secretary to
21 the Governor for him in July of 2011, I believe. And then I stayed as secretary to
22 Governor through February of 2015. And I joined OTG in March, late March of 2015.

23 Q Thank you. I realize that was a lot to go through.

24 What was your role in the Governor's office during the pandemic?

25 A Well, first, I was working for OTG at the time, and the former Governor

1 contacted me and said he needed my help and asked me if I could take a leave of absence
2 from OTG to help him deal with the COVID pandemic in New York. I had spoken to the
3 then CEO of the company, and because I was trying to help the State and fellow New
4 Yorkers, he was okay with me taking a leave from my duties at OTG.

5 And so I came back to Albany at his request. And I was asked to do an assessment
6 and get my arms around the State's inventory of personal protective equipment. What
7 did we have? Did we have enough? What were the needs of our healthcare system? You
8 know, what was the status of how we maintained inventory? Do we have accurate
9 accounts? Because it was a tremendous demand and need for PPE by first responders, by
10 the entire healthcare system.

11 And it was a major task, and he felt that I was the only one capable of being able
12 to get him or get him accurate answers and information.

13 Q And to be clear, did you have an official title during this volunteering role?

14 A No.

15 Q Okay. And during the pandemic, is it true that you lived at the Mansion?

16 A Yes, he actually asked me to live in the Mansion. I was more than happy and
17 interested in staying at the Marriott below the Capitol. But he felt because he was asking
18 me to take this on, he wanted me to be comfortable. And he felt that I would be more
19 comfortable staying in the Mansion than I would be in a hotel. And so I agreed to do it
20 because the Governor asked me.

21 Q Thank you. Now Mr. Schwartz, I want to ask you if you communicated with
22 any of the following people regarding COVID-19 and nursing homes between January 1st,
23 2020, and when you left or stopped volunteering in the pandemic response. And for now
24 you can say yes or no, and we will come back to discuss each one.

25 Do you understand the question?

1 A Can you repeat your question that you're going to ask me?

2 Q Yes. I am going to go through a list of names, and I am going to ask you if
3 you communicated with any of the following people regarding COVID-19 and nursing
4 homes between January 1st, 2020, and when you left the Cuomo administration.

5 A Is that open-ended? Are you asking me a specific thing about nursing
6 homes? Are you asking me about any anything?

7 Q Right now COVID-19 and nursing homes. And when we go through each
8 one, I'll have more specifics. So --

9 A Okay.

10 Q Just yes or no. We'll make our way through the list, and then we'll return
11 and ask you follow-ups.

12 All right. So first, former Governor Andrew Cuomo?

13 A Yes.

14 Q Melissa DeRosa?

15 A Yes.

16 Q Ms. Linda Lacewell?

17 A Yes.

18 Q Mr. Gareth Rhodes?

19 A Yes.

20 Q Dr. Jim Malatras?

21 A Yes.

22 Q Mr. Rich Azzopardi?

23 A I do not recall.

24 Q Mr. Peter Ajemian?

25 A I do not recall.

- 1 Q Ms. Beth Garvey?
- 2 A Yes.
- 3 Q Ms. Judith Mogul?
- 4 A I do not recall.
- 5 Q Ms. Megan Baldwin?
- 6 A Yes.
- 7 Q Mr. Robert Mujica?
- 8 A Yes.
- 9 Q Ms. Jill DesRosiers?
- 10 A I do not recall.
- 11 Q Ms. Stephanie Benton?
- 12 A I do not recall.
- 13 Q Dr. Howard Zucker?
- 14 A Yes.
- 15 Q Dr. Eleanor Adams?
- 16 A I don't believe so. But I'll say I do not recall. I'm not even sure if she
- 17 was -- she left either right before or shortly thereafter I believe I got there. So I don't
- 18 believe I even knew her or had any contact with her.
- 19 Q Ms. Sally Dreslin?
- 20 A I do not recall.
- 21 Q Mr. Gary Holmes?
- 22 A I do not recall.
- 23 Q Mr. Kenneth Raske?
- 24 A Regarding nursing homes?
- 25 Q Correct.

- 1 A I do not recall.
- 2 Q Mr. Lee Pearlman?
- 3 A I do not recall.
- 4 Q Mr. Giorgio DeRosa?
- 5 A I am going to say I do not recall. Because I don't recall speaking to him about
6 it or anything.
- 7 Q Mr. Michael Douling?
- 8 A Maybe.
- 9 Q Mr. Alex Azar?
- 10 A Who?
- 11 Q Alex Azar?
- 12 A I do not recall.
- 13 Q Ms. Seema Verma?
- 14 A Who?
- 15 Q The Administrator with CMS?
- 16 A I do not recall, no.
- 17 Q Let's first talk about the former Governor.
- 18 Did you ever have any discussions regarding the need for the March 25th order
19 prior to its issuance with former Governor Andrew Cuomo?
- 20 A No.
- 21 Q Did you ever have discussions with the former Governor regarding the
22 March 25th order?
- 23 A Can you repeat the question?
- 24 Q Did you ever have any discussions with the former Governor regarding the
25 March 25th order?

1 A Not that I recall.

2 Q Relatedly, did you have any former discussions with the former Governor
3 regarding the enforcement of the March 25th order on nursing homes?

4 A I don't recall having any discussion with him.

5 Q What about former Secretary Melissa DeRosa, do you recall having
6 conversations with her regarding the March 25th order prior to its issuance?

7 A I don't recall having a conversation, sir.

8 Q Do you recall having any conversations with her regarding the March 25th
9 order?

10 A No, I do not recall having any conversations with her.

11 Q Do you recall having any conversations with her regarding nursing
12 homes -- scratch that.

13 Let's talk about Ms. Linda Lacewell.

14 A Okay.

15 Q Did you ever any have any discussions with Ms. Lacewell regarding the
16 March 25th order prior to the issuance of the order?

17 A I do not recall having any conversation with Linda Lacewell.

18 The Reporter. Counsel, do you have spellings for this list of names?

19 Mr. Emmer. You know, if it's easier, I'll be happy to send you a copy of the list
20 following the examination.

21 BY MR. EMMER:

22 Q Do you recall having any discussions regarding the discharge of nursing
23 home residents back into hospitals prior to the issuance of the March 25th order?

24 A With Linda Lacewell?

25 Q Yes.

1 A I don't recall having any conversation with her.

2 Q Do you recall having any conversations with Ms. Lacewell regarding the
3 March 25th order at any point during the pandemic?

4 A I don't recall ever having a conversation with her about that order.

5 Q Did you have any discussions with Ms. Beth Garvey regarding the
6 March 25th order?

7 A I don't recall having a conversation with her. And yeah, I just got back from
8 Albany. There was a press release on March 23rd that said I was here in Albany to help
9 the State of New York. And if anything, I arrived a few days prior to March 23rd. So I
10 mean, I never even got to Albany until the third week of March per the request of the
11 Governor to help on COVID, and it was on PPE.

12 Q Mr. Schwartz, when did you learn about the March 25th order?

13 A I don't recall.

14 Q When you learned about the order, did you ask where it originated from?

15 A I don't recall if or when I learned about the order, and I certainly don't recall
16 ever having a conversation with anyone regarding it. I was involved with dealing with the
17 State's issue of making sure that every nurse, doctor, emergency service personnel, first
18 responders, essential workers, had enough PPE to protect themselves and protect people
19 that became in contact with COVID.

20 And then my responsibilities grew as I got there, including working with the
21 healthcare system on patient load-balancing, making sure, you know, hospitals weren't
22 overwhelmed with patients, and to spread it out.

23 So I had more than a full plate to focus on, the things that I was asked and tasked
24 to do. And I really -- I wasn't involved with other things that were going on. I just -- I
25 wasn't involved in other areas. I was completely inundated and consumed with dealing

1 with finding PPE, making sure that enough PPE and the right PPE -- and ventilators got
2 where they were needed as well as then dealing with leading a group of people to make
3 sure hospitals weren't overrun with COVID patients.

4 Q Okay. To make sure the record is clear, you're testifying that you do not
5 know where the March 25th order originated from, correct?

6 A I don't recall where it originated from, correct.

7 Q Do you recall whether you had any conversations with anyone about the
8 March 25th order?

9 A I'd like to take a 30-second timeout and confer with my attorney.

10 Q That's fine.

11 Off the record, please.

12 [Discussion off the record.]

13 BY MR. EMMER:

14 Q We can go back on the record.

15 A So the question, if I understood it correctly, I don't recall having any
16 conversation with anyone regarding the nursing home order.

17 Q Mr. Schwartz, have you read former Secretary DeRosa's book?

18 A No.

19 Q In the book she describes having discuss discussions with you regarding
20 nursing homes and the public outcry sometime in the spring or summer of 2020. That's
21 what you're testifying is you don't recall having any conversations regarding this matter?

22 A As I mentioned to you, I don't recall having any conversation with her
23 regarding the nursing home order that you've mentioned that was I think issued on
24 March 25th.

25 Q Do you recall any discussions regarding the rescission of the order on May

1 10th, 2020?

2 A I do not recall having a conversation with anyone in the administration
3 regarding rescinding the order.

4 Q Did you have any conversations with Mr. DeRosa regarding the public outcry
5 over the nursing home situation?

6 A I did have a conversation with her regarding the outcry.

7 Q Can you elaborate on the nature of those discussions?

8 A There were stories in the press, or the press was reporting that they felt that
9 the administration was undercounting the number of nursing home COVID deaths
10 because they were excluding those nursing home patients that died as a result of COVID
11 or COVID-related complications in a hospital, right? And, you know, my advice to the
12 administration was to release those numbers.

13 You know, nobody did anything wrong. And that the press felt that the
14 administration was undercounting by not including those deaths of nursing home patients
15 who died in a hospital. And I said you should include those numbers and release it
16 because the press wouldn't like let up on it.

17 Q Do you recall whether there was anyone in the administration that didn't
18 support releasing those numbers?

19 A I don't recall who might have agreed with that or disagreed with that. I don't
20 recall that.

21 Q Let's talk about the data that the administration was reviewing and
22 presenting to the public.

23 Mr. Schwartz, do you think the administration was fully transparent regarding the
24 data throughout the pandemic?

25 A I'm not really sure what that means.

1 Q Do you think the administration was fully transparent regarding the amount
2 of nursing home residents who died of COVID-19 during the pandemic?

3 A I don't know.

4 Q Besides the discussion that you just spoke about, did you have any role or
5 part in the collecting or viewing of nursing home data throughout the pandemic?

6 A I may have had a role as it related to PPE. If you had asked any questions on
7 the surveys regarding what nursing homes had in inventory, then from that level, yes.
8 And also when I came back a second time, when I was overseeing the vaccine distribution
9 for New York State, there might have been information relating to nursing homes and
10 making sure patients, staff, and whatnot had access to vaccines, whether it was Moderna
11 or Pfizer.

12 Q But to be clear, your role within the development of those surveys, you had
13 no role in the counting of nursing home fatalities?

14 A I don't recall ever having any role with regards to your question.

15 Q Let's talk about how the data was reported to the public.

16 Did you have any role in the methodology in which nursing home fatalities were
17 categorized and presented to the public?

18 A I don't recall having any role or any involvement in that.

19 Q So from May 3rd, 2020, to February 3rd, 2021, the department and the
20 administration excluded deaths that occurred at other locations from the nursing home
21 fatality total.

22 Your testimony today is that you had no role, nor were involved in discussions
23 relating to that discussion?

24 A Please repeat the question.

25 Q Sure. On May 3rd, 2020, the administration decided to exclude nursing

1 home fatalities that occurred outside the nursing home, meaning that they only counted
2 or that they were not counting deaths that occurred at other locations, including
3 hospitals.

4 Do you recall being a part of any discussions relating to that decision?

5 A I don't recall being part of any discussion relating to that decision.

6 Q The end of April or May 2020, members of the administration discovered
7 that certain fatalities that occurred after 5 p.m. were not being included in the death
8 totals.

9 Do you recall this occurring?

10 A I do not recall.

11 Q On August 3rd, 2020, Zucker testified in the New York legislature and
12 declined to provide the New York legislature the numbers of nursing home residents who
13 died.

14 Do you recall Dr. Zucker's testimony?

15 A I do not recall the merits of his testimony. I do recall he was called to testify
16 before the legislature, but I don't recall the substance of the testimony and the
17 questioning.

18 Q Do you know why he wouldn't have been able to provide the number of
19 nursing home fatality numbers in August of 2020?

20 A I do not recall why, you know, he could not release any information beyond
21 what he released, I guess.

22 Q Mr. Schwartz, Gareth Rhodes testified to us that he was ordered to conduct
23 an audit of the Department of Health numbers after this hearing in August 2020.

24 Were you aware of that audit?

25 A I believe I heard something to the effect that there -- I don't recall that he

1 was tasked to lead it. I kind of recall that he was involved or -- but they were doing some
2 kind of count. But again, I was now not only still dealing with PPE and making sure that
3 nursing homes -- I mean not nursing homes, excuse me --hospitals had adequate beds to
4 accept COVID patients, including the Javits Center and the ship that the White House
5 brought in.

6 But then I was involved in working on building a new contact tracing program in
7 the State of New York. So again, you know, I had very specific assigned tasks that was
8 taking up 15 hours a day of my time.

9 Q So in August of 2020, you weren't involved in any deliberations within the
10 administration regarding what data to release to the public?

11 A No, I don't recall that -- other than what I told you on a previous question
12 you asked me about when the press started criticizing or raising questions about the
13 accuracy of the information, I suggested that the hospital data regarding nursing home
14 patients be included in the nursing home death count.

15 Q And I feel like you already have answered this, but Dr. Zucker testified in
16 October, maybe November he had prepared a letter reporting the full number of nursing
17 home deaths.

18 Do you recall being a part of any deliberations regarding that letter?

19 A No, I do not recall being part of any deliberations involving that letter.

20 Q If you don't mind we'll go off the record for a minute.

21 A My attorney says okay. Okay.

22 Q Thank you. We'll go off the record. Thanks.

23 [Discussion off the record.]

24 BY MR. EMMER:

25 Q We can go back on the record.

1 A Okay.

2 Q Mr. Schwartz, did you have any role in the drafting of the July 6th, 2020,
3 New York Department of Health report?

4 A Report on what?

5 Q The report entitled, "Factors Associated With Nursing Home Infections and
6 Fatalities in New York State During the COVID-19 Global Health Crisis," published by the
7 Department of Health on July 6th, 2020?

8 A I do not recall having any role, nor any involvement in the publication of that
9 report.

10 Q Do you recall being a part of any discussions regarding that report?

11 A I do not recall being part of any discussions.

12 Q And to be clear, we don't have the drafts of the report. But on June 27th, we
13 have had witnesses testify that members of the administration decided to exclude the
14 fatalities that occurred at a facility.

15 Are you aware of that decision?

16 A I'm unaware of that decision. I don't recall that decision even being made,
17 let alone I'm not aware of it.

18 Q Are you aware of who played a role in the development of the Department
19 of Health report?

20 A To the best of my knowledge I know the state health department was
21 involved with the report. I believe Linda Lacewell, Jim Malatras, Gareth Rhodes. Not sure
22 who else may have played a role in the authorship of the report. It could have been
23 Melissa, but you know.

24 Q On June 27th, or excuse me -- the executive chamber produced a privilege
25 log a few month ago to us. And the reason why I'm asking this is because there were

1 emails that you were privy to in June of 2020 regarding the report.

2 Is it your testimony today that you do not recall being a part of any discussions or
3 deliberations regarding that report?

4 A I do not recall being part of any deliberation or discussions involving that
5 report.

6 Q I think you may have cut out there.

7 A No, I was finished.

8 Q Are you aware of whether the Governor played a role in the development of
9 the Department of Health report?

10 A I'm unaware if the Governor did or did not have a role in the development of
11 that report.

12 Q So while you were living at the Mansion, you never discussed the July 6th
13 report with the former Governor?

14 A I do not recall having a conversation with the Governor regarding that
15 report.

16 Q Thank you, Mr. Schwartz. I want to return back to the relationship section,
17 just to make sure the record is clear. We went through and talked about the former
18 Governor, Melissa DeRosa, and Linda Lacewell.

19 On the return back to where you said that you had conversations with Mr. Rhodes
20 regarding nursing homes and COVID-19, did you have any discussions related to the
21 March 25th order with Mr. Rhodes?

22 A I do not recall having had a conversation with him about that.

23 Q What were your discussions with Mr. Rhodes?

24 A It might have been about PPE. It could have been about -- you know, he
25 worked closely with me on the early warning system that we put together to make sure

1 that no hospitals were overrun with COVID patients.

2 Elmhurst Hospital experienced about 15 deaths in 24 hours at their hospital. So
3 he worked very closely with me regarding that. So those are the two things I worked on.
4 Especially with the PPE, again, I had to make sure that we were getting -- helping
5 hospitals, nursing homes, local governments, the Port Authority the MTA, --

6 Whether it was masks, gloves, other types of personal protective equipment,
7 ventilators that were needed to make sure that institutions or other entities that needed
8 certain things in order to be able to operate and keep the public safe, then he and I might
9 have crossed paths.

10 Q What were the nature of your conversations with Dr. Jim Malatras about
11 COVID-19 in nursing homes?

12 A I don't recall specific conversations with Jim on nursing homes. You know,
13 when I came back -- you have to understand that when I came back as a volunteer in
14 March of 2020, I basically ended my tour of duty in early October when we got
15 the -- when we were able to stand up the new contact tracing program in New York State
16 in partnership with John's Hopkins, the Bloomberg Foundation, and the state health
17 department. And then I was asked, like 6 weeks later by the Governor a second time,
18 that if I would come back sometime in November of 2020, and oversee the vaccine
19 program that was developed in New York State as the Pfizer vaccine and the Moderna
20 vaccine was about to be distributed by the Federal Government.

21 So at some point here, you know, even though ACIP the Federal Government was
22 having pharmacies vaccinate nursing home residents and nursing home staff, there might
23 have been conversations regarding nursing homes and vaccines.

24 Q What were the nature of your discussions with Ms. Megan Baldwin
25 regarding COVID-19 at nursing homes?

1 A I don't recall.

2 Q What was Ms. Megan Baldwin's role in the response to the pandemic?

3 A I'm not exactly sure. I'm not sure if she was a deputy secretary for health at
4 the time during the COVID pandemic. If that was the case, she was sort of like being a
5 liaison between the state health department and the chamber that's called the
6 Governor's office, I think, on a kind of multitude of things relating to COVID.

7 Q What were the nature of your discussions with Dr. Howard Zucker regarding
8 COVID-19 in nursing homes?

9 A I don't recall having any specific conversations with Dr. Zucker regarding
10 nursing homes. My conversations with Dr. Zucker were dealing with if there was a
11 request from a hospital or even a nursing home or anyone else on the need of ventilators
12 and requesting X number of ventilators, I might ask Dr. Zucker if he would contact the
13 CEO of a hospital or of a nursing home and find out and ascertain for me whether or not
14 the request was legitimate or not. Should we give them the number they're requesting,
15 give them a less amount?

16 So I used him based on his background and knowledge as a resource to help me
17 make decisions. Because we didn't have unlimited supplies of anything. So we had to
18 make sure that everything that we did, everything we gave out was done on the merits
19 and not based on people trying to stockpile, you know, out of fear of running out.

20 Q Mr. Schwartz, you answered that you did not recall, but it seemed that you
21 did recall having some sort of discussions regarding the pandemic with Mr. Giorgio
22 DeRosa.

23 And I don't want to mischaracterize your testimony, but can you just briefly
24 explain what type of conversations you might have been having with him in March
25 of 2020?

1 A The only conversation that -- first of all, I do not recall having a single
2 conversation regarding Giorgio DeRosa regarding nursing homes. He along with many
3 other lobbyists and other third parties would call me up and say, can I help you with PPE?
4 I have a client that does PPE, I have a client that has access to PPE, or something like that.
5 That might have been the extent of the conversation.

6 Q Did you have any discussions with Mr. DeRosa regarding hospital capacity
7 issues in the spring of 2020?

8 A I don't recall if I did or didn't.

9 Q Did you have any discussions with Mr. Kenneth Raske regarding hospital
10 capacity issues in spring 2020?

11 A Well, when the Governor formed this task force to deal with patient loading,
12 you have to understand that all the consultant reports said that New York State lacked
13 hospital bed capacity to deal with what they were projecting to be the number of COVID
14 patients that were going to be hospitalized.

15 Then you had around 45,000 bed capacity within our hospital healthcare system,
16 both upstate and downstate, and all the modeling that was done by McKenzie and others
17 were projecting at anywhere from 80 to 120,000 beds that were needed.

18 And then when that incident happened with Elmhurst, right, and the Governor
19 created this task force, internal task force to create this early warning system, I clearly
20 worked with not only Ken Raske who was the head of the Health and Hospitals
21 Association, but I also worked with HANYS, right, and other entities to work together as a
22 team to put together like an early warning system, so that -- and to work with us and help
23 us figure out that if a hospital was exceeding a certain census, we had to begin looking for
24 other hospitals to send patients to.

25 So it was essential that we were working with everyone, right, and everyone was

1 working with us to ensure patient safety and keeping, you know, minimizing putting
2 anyone at risk.

3 Q Thank you. We'll go off the record.

4 A Okay.

5 [Recess.]

6 BY MS. [REDACTED]

7 Q We can go back on the record. Mr. Schwartz, my name is [REDACTED] I am
8 senior counsel for the Democratic staff on the Select Subcommittee, and I just want to
9 thank you for taking the time to meet with us today. Hopefully, we can get through this
10 as expeditiously as possible.

11 A Thank you.

12 Q I just want to start by asking you, you said you first joined the Cuomo
13 administration's COVID task force around March 23rd, 2020. Is that correct?

14 A That I ended up getting up there a week earlier than that, per the request of
15 the Governor at the time, former Governor Cuomo who asked me to volunteer and take a
16 leave of absence from my job and come up full-time to help them with COVID.

17 Q Sure. So the request came after New York had had its first cases of
18 COVID-19, correct?

19 A Yes. And after New Rochelle -- yes.

20 Q Can you please share a little bit about what the atmosphere of the Cuomo
21 administration and the staff was at that time?

22 A Well, at that time, New York was the center of the universe of this pandemic.
23 The death counts were high and growing. And the number of people hospitalized was
24 growing, and hospitals were getting overwhelmed. And it was very little information and
25 very little knowledge of where it came from and how to stop the spread.

1 And so it was a very stressful time. And, you know, staff was working around the
2 clock. People were exhausted. I mean, everything was shut down. The first time I was
3 there I asked where do people go to get lunch? You know, and the answer was, we don't
4 know, because everything is closed.

5 And I literally asked the staff to go find a pizza place open. And I gave them my
6 credit card to go buy pizzas for the staff, because people needed to eat. You know, you
7 were really dealing with the unknown. Like I said, it was a very stressful time for
8 everyone.

9 Q And we've heard from some other folks who were working either in the
10 administration or on the COVID task force at the time that it was really a 24-hour-a-day
11 job at that time?

12 A Yeah. I mean, I was probably leaving the Mansion between 7 and 7:30 in the
13 morning and getting back to the Mansion between 9:30 and 10 o'clock at night six days a
14 week. I think I would leave on the seventh day to drive home to Westchester just to do
15 laundry, get clean clothes, and drive back up, and start again. And I'm a volunteer.

16 Q That sounds like an unenviable job, I will say.

17 A It continues to be an unenviable job.

18 Q And your first stint with the Cuomo administration lasted from that mid-
19 March point until when?

20 A Either late September, early October. I mean I stopped -- I left Albany -- in
21 terms of living in Albany, I believe it was sometime in September. I continued to stay
22 involved, but I was doing it from Westchester. You know, this took a tremendous toll on
23 my family, being away.

24 And, you know, they were all stressed out about COVID, and I wasn't there to
25 provide any support other than by phone or by ZOOM. And again, I was a volunteer, you

1 know. And, you know, I just -- I told the Governor that I'll finish up the contact tracing
2 project, but that I needed to get home, and I can do it from there. It didn't require my
3 physical presence in Albany.

4 So I finished like early October. And then, it wasn't until I think mid November, or
5 just before Thanksgiving when I received another call from the Governor asking if I can
6 come back to oversee the vaccine program. And the first doses of Pfizer were being
7 delivered, I think, the first week of December.

8 Q Thank you. Shifting gears a little bit. The majority asked you a couple of
9 questions about the Department of Health report that was released on July 6th. We've
10 spoken to several other people about this report as well.

11 One of them was Dr. Jim Malatras. He told us about a June 27th phone call where
12 Ms. DeRosa directed those on the call what numbers should be used in the report. And
13 that was referring to the numbers for nursing home death data.

14 And that was her making the decision to use the in-facility data only. Dr. Malatras
15 did recognize that you were not on that phone call. But he told us that he was disturbed
16 by this decision. And he sent a follow-up email after that June 27th phone call. And to his
17 recollection, you were one of the people who was on the follow-up email.

18 I know you said you did not recall, but I don't know if those details have jogged
19 any memory from you of being on an email around -- but after that June 27th phone call
20 and an email from Dr. Jim Malatras. Do you have any recollection of that?

21 A Again, I don't recall the email. That was 3 years ago. And I don't have access
22 to any of those emails. You know, when I left the chamber, those were the property of
23 the chamber. And I had a chamber inbox, but I didn't have access once I left and finished,
24 you know, to any of those emails. So I don't recall. And like I said, Jim is a friend, so is
25 Gareth. They were colleagues when I was secretary to the Governor.

1 I worked with them under the Cuomo administration. So when I came back, they
2 were still friends of mine, whether they were still workers of the -- employees of the
3 administration, or they were there in a volunteer capacity. So we were all friends and
4 colleagues.

5 Q Absolutely. And I totally understand. I don't think I would remember an
6 email from 3 years ago either, or 4 years ago. But I didn't know if those additional details
7 would help, so I did want to ask.

8 But at this time I am going to turn it over to my colleague, [REDACTED], who
9 has a couple of questions for you as well.

10 A Thank you.

11 BY MR. [REDACTED]

12 Q Good afternoon, Mr. Schwartz.

13 A Hello.

14 Q My name is [REDACTED]. I'm a counsel with the minority. Thanks again
15 for speaking with us today.

16 In the previous round, you testified that you recalled a conversation related to
17 press reports that the administration was potentially undercounting nursing home
18 deaths. And I just have a few questions about that.

19 Was the conversation you testified to a specific conversation?

20 A As I think I said earlier, and I was asked, I believe I had a conversation with
21 Melissa DeRosa. I don't recall if I had a conversation with anybody else where -- and this
22 was at a time where there were a number of press reports, questioning and criticizing the
23 data that was being put out by the administration on nursing home deaths.

24 And that they were not including nursing home patients that died in hospitals,
25 right. And they were transferred there after they tested positive for COVID. And it was

1 my suggestion and advice to include those deaths in the count. And my attitude was the
2 administration did nothing wrong.

3 We were dealing with a major health pandemic that the state and the country,
4 probably the world had never seen. And people were making tough decisions. And as far
5 as I'm concerned, all the decisions that I could see that were made were being made in
6 the best interest of public health and the health and safety of New York State residents.

7 And whether the decision was a good one or a bad one, or a right one or a wrong
8 one, just be transparent with the data.

1 [3:06 p.m.]

2 BY MR. [REDACTED]

3 Q Thanks.

4 When was that conversation?

5 A Sometime in 2020. I don't recall the specific month or whenever it was.

6 Q Do you recall a season, whether it was spring, summer, winter?

7 A I don't recall the specific time. I would think it was sometime in the spring,
8 whatever you define as spring. Late spring, spring, I don't -- yeah.

9 Q Okay. And you testified that you made the suggestion that the
10 administration should release data disclosing numbers. Was that suggestion in response
11 to a question from Ms. DeRosa about whether the administration should release those
12 numbers?

13 A I don't recall what my conversation -- you know, I ran into Melissa one time
14 in the Mansion, and she asked me a question. We had a conversation. I can't even recall
15 what the entire conversation was about. I just -- she was now the secretary to the
16 Governor. I was the former secretary to two governors. I just made a friendly suggestion
17 to a colleague about how I think the administration should handle the situation. Whether
18 they were going to listen or follow it or not, that was clearly up to them to do.

19 Q In that conversation do you recall what her response was to your
20 suggestion?

21 A I don't recall what her response was.

22 Q Do you recall if she expressed a view one way or another about whether
23 those numbers should be released?

24 A I don't recall if she expressed anything like that to me in that conversation.

25 Q How about in another conversation?

1 A Not with her with nursing homes, no, I don't recall any other conversation.

2 Q In that conversation did she express a view or did she express a reason, any
3 reason at all, that the out of facility numbers should not be released?

4 A Again, I don't really recall the specifics of the conversation. It was -- like you
5 just asked me, it was probably in the spring of 2020, which is over 4 years ago. It was a
6 conversation at, like, 6:30, 7 o'clock in the morning, you know, in the pool house at the
7 Mansion.

8 So I would go into the pool house -- there was a gym there, and I would use it at,
9 like, 5 o'clock in the morning before I would go into the Capitol between 7:00 and 7:30.
10 And it just so happened, for whatever reason, she was staying at the Mansion, and she
11 ended up coming down while I was in there. And, you know, we were both working out
12 and had a conversation, asked the question and made a suggestion. That's all I can recall.

13 Mr. [REDACTED] Okay. Thank you.

14 Unless [REDACTED] has any other questions, we can go off the record.

15 Ms. [REDACTED] No more questions for me. We can go off the record.

16 [Whereupon, at 3:11 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date