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# Transcript of Administrative Hearing, Day 1

**Date:** March 4, 2020

**Case:** Pautrat -v- Foundation for Financial Education

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<p>5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER PRAGER: Good morning. This is the</p> <p>3 hearing of OZAH case number HR 19-1 of the hearing of</p> <p>4 Giselle Pautrat's complaint against three Respondents; the</p> <p>5 Foundation for Financial Education, the Capital Financial</p> <p>6 Partners, and Jonathan Lee. Her case is brought under</p> <p>7 Chapter 7 of the Montgomery County Code, the chapter on</p> <p>8 human rights and civil liberties. I'm Lutz Alexander Prager</p> <p>9 assigned responsibility for conducting the hearing and</p> <p>10 issuing findings to the County's Commission on Human</p> <p>11 Rights. On December 13th, I scheduled this hearing for</p> <p>12 today at 9:30 a.m. On March 15th, Ms. Pautrat filed an</p> <p>13 administrative complaint with the County Office of Human</p> <p>14 Rights alleging that the three Respondents had jointly or</p> <p>15 severally discriminated against her on the basis of her sex</p> <p>16 by harassing her and by retaliating against her when she</p> <p>17 complained. If she provides sufficient proof of harassment</p> <p>18 and retaliation, she could prove violations of sections</p> <p>19 27-19A1 and 19C1 of the county human rights act. In January</p> <p>20 2019, the Office of Human Rights issued a finding of</p> <p>21 reasonable cause that Respondents had violated the human</p> <p>22 rights law on both grounds. Its efforts of conciliation</p> <p>23 between the parties failed. Later that month the commission</p> <p>24 on human rights referred this case to the office of zoning</p> <p>25 and administrative hearings to conduct an evidentiary</p>	<p>7</p> <p>1 Education.</p> <p>2 HEARING EXAMINER PRAGER: Good. And you don't have any</p> <p>3 co-counsel assisting you; am I correct?</p> <p>4 MR. SCHILLER: Correct.</p> <p>5 HEARING EXAMINER PRAGER: And are you – are your</p> <p>6 witnesses prepared to testify today if necessary?</p> <p>7 MR. SCHILLER: Yes.</p> <p>8 HEARING EXAMINER PRAGER: All right. And those who are</p> <p>9 not here are on a 30 minute standby I hope.</p> <p>10 MR. SCHILLER: Yes.</p> <p>11 HEARING EXAMINER PRAGER: Good. And finally, Mr.</p> <p>12 Abramson, I ask you to identify yourself and answer the</p> <p>13 same questions.</p> <p>14 MR. ABRAMSON: Frederick Abramson, counsel for Capital</p> <p>15 Financial Partners.</p> <p>16 HEARING EXAMINER PRAGER: All right. And you may sit</p> <p>17 down.</p> <p>18 MR. ABRAMSON: Thank you.</p> <p>19 HEARING EXAMINER PRAGER: Now you have your – two</p> <p>20 witnesses, one in Texas and one in Florida, if I</p> <p>21 understand. We will be talking about them in a few minutes</p> <p>22 in terms of how they testify and when. Are there any other</p> <p>23 witnesses that you are –</p> <p>24 MR. ABRAMSON: No, Your Honor.</p> <p>25 HEARING EXAMINER PRAGER: Presenting? Now let me</p>
<p>6</p> <p>1 hearing. This is that hearing. I will now as counsel for</p> <p>2 the parties to identify themselves. First lead counsel for</p> <p>3 Ms. Pautrat please stand and state your name for the</p> <p>4 record.</p> <p>5 MR. CHONG: My name is Dennis Chong, and with me is</p> <p>6 Ms. Pautrat. She is standing on my left.</p> <p>7 HEARING EXAMINER PRAGER: Thank you. And I take it</p> <p>8 since nobody is sitting next to you, that you don't have</p> <p>9 any co-counsel assisting you at this time?</p> <p>10 MR. CHONG: That's correct.</p> <p>11 HEARING EXAMINER PRAGER: All right. And you are</p> <p>12 prepared to proceed?</p> <p>13 MR. CHONG: Yes, Your Honor.</p> <p>14 HEARING EXAMINER PRAGER: Okay. Aside from your</p> <p>15 client, are there any witnesses that you will be presenting</p> <p>16 today? And are they here?</p> <p>17 MR. CHONG: Your Honor, I expect to present Lauren</p> <p>18 Byers. She is on her way. She has indicated that she parked</p> <p>19 and she is on her way up to the room now.</p> <p>20 HEARING EXAMINER PRAGER: All right. You don't have to</p> <p>21 stand up every time. Thank you. Now I'm going to ask the</p> <p>22 lead counsel for the Foundation and Mr. Lee to rise and</p> <p>23 state your name for the record.</p> <p>24 MR. SCHILLER: Yes, thank you, Judge. David Schiller</p> <p>25 on behalf of David Lee and the Foundation for Financial</p>	<p>8</p> <p>1 summarize the essential aspects of this proceeding. It's</p> <p>2 governed by the Montgomery County Administrative Procedure</p> <p>3 Act. All testimony will be under oath and subject to the</p> <p>4 penalties of perjury. As the parties have previously been</p> <p>5 advised under section 2A8, 15 of the APA, the hearing will</p> <p>6 proceed sequentially. First, there will be disposition of</p> <p>7 all outstanding preliminary motions and preliminary</p> <p>8 matters. Then there will be opening statements of the</p> <p>9 parties, though I believe that they are a waste of time. C,</p> <p>10 there will be a presentation of Complainant's factual case</p> <p>11 and cross examination of her witnesses. Then there will be</p> <p>12 presentation of Respondents factual cases and cross</p> <p>13 examinations of their witnesses. Then there will be</p> <p>14 rebuttal evidence by the Complainant and cross examination</p> <p>15 of rebuttal witnesses, if any. And finally, there will be</p> <p>16 rebuttal by go Respondents and cross examination of their</p> <p>17 rebuttal witnesses. Though there is a provision in the</p> <p>18 administrative procedure act, there could also be closing</p> <p>19 arguments, though as I will say later on, I don't believe</p> <p>20 that closing arguments are very helpful. And there will be</p> <p>21 an opportunity for counsel to file briefs following this</p> <p>22 hearing. In addition to these statutory matters, the</p> <p>23 parties should be aware of the following; even though the</p> <p>24 administrative procedures are informal, I frown on leading</p> <p>25 questions on direct examination. I can also interrupt the</p>

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<p style="text-align: right;">9</p> <p>1 questioning to require questions to be reformulated. And</p> <p>2 after cross-examination or at any other time, I will pose</p> <p>3 my own questions if I think I need clarification of the</p> <p>4 testimony. The questions will not necessarily indicate what</p> <p>5 I believe the merits of the testimony to be. I won't allow</p> <p>6 repetitious questioning or testimony, or the badgering of</p> <p>7 witnesses. The rule on witnesses will apply. That means</p> <p>8 witnesses expected to be called to testify won't be</p> <p>9 permitted in the hearing room until called to the witness</p> <p>10 stand. Each party will have one representative present to</p> <p>11 assist counsel, however. Mr. Chong, I take it that Ms.</p> <p>12 Pautrat will be your representative who will be here.</p> <p>13 MR. CHONG: That's correct.</p> <p>14 HEARING EXAMINER PRAGER: And Mr. Schiller, who will</p> <p>15 be your representative?</p> <p>16 MR. SCHILLER: Jonathan Lee.</p> <p>17 HEARING EXAMINER PRAGER: And is he here?</p> <p>18 MR. SCHILLER: He is to my left.</p> <p>19 HEARING EXAMINER PRAGER: All right. And how about Mr.</p> <p>20 Abramson, do you –</p> <p>21 MR. ABRAMSON: Nicholas Herman who is sitting here.</p> <p>22 HEARING EXAMINER PRAGER: All right. Now I have a</p> <p>23 couple of preliminary matters in addition to what I've</p> <p>24 already said. Because this case has two respondents, I need</p> <p>25 to know who will cross-examine and examine and present</p>	<p style="text-align: right;">11</p> <p>1 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>2 MR. SCHILLER: I do for the truthfulness.</p> <p>3 HEARING EXAMINER PRAGER: Well, there is no –</p> <p>4 MR. SCHILLER: If they are –</p> <p>5 HEARING EXAMINER PRAGER: These are – you may object.</p> <p>6 These are the complaint. Obviously, you can object to that.</p> <p>7 But they are part of the record in any event.</p> <p>8 MR. SCHILLER: Sure, perfect.</p> <p>9 HEARING EXAMINER PRAGER: Mr. Abramson, do you have</p> <p>10 any objections?</p> <p>11 MR. ABRAMSON: No, Your Honor.</p> <p>12 HEARING EXAMINER PRAGER: Good.</p> <p>13 (Exhibits H1, H2, and H3 were admitted into</p> <p>14 evidence.)</p> <p>15 HEARING EXAMINER PRAGER: Now we are going to go off</p> <p>16 the record for a moment.</p> <p>17 (Off the record at 9:42 a.m.)</p> <p>18 (On the record at 9:43 a.m.)</p> <p>19 HEARING EXAMINER PRAGER: I've just been talking to</p> <p>20 Mr. Abramson about the out-of-state witnesses who will</p> <p>21 appear tomorrow. And we will make the arrangements for that</p> <p>22 so that they can do that tomorrow. And now we will go with</p> <p>23 what we have today. Are there any motions that anybody</p> <p>24 wants to present? Mr. Chong, do you have any motions before</p> <p>25 we start?</p>
<p style="text-align: right;">10</p> <p>1 evidence first. Mr. Schiller, have you and Mr. Abramson</p> <p>2 reached an agreement as to the sequence of questioning or</p> <p>3 presentation of testimony?</p> <p>4 MR. SCHILLER: No.</p> <p>5 HEARING EXAMINER PRAGER: All right. Mr. Abramson, is</p> <p>6 that same – true?</p> <p>7 MR. ABRAMSON: We haven't discussed it, no.</p> <p>8 HEARING EXAMINER PRAGER: All right. I'm going to give</p> <p>9 you an opportunity in a few minutes to discuss that briefly</p> <p>10 because – and since there are two of you, I need to know</p> <p>11 which sequence we're going to be following. And if you can</p> <p>12 come to an agreement, fine. If not, I will just designate</p> <p>13 one of you. All right. Secondly, so that the hearing</p> <p>14 accurately reflects the procedural requirements for this</p> <p>15 hearing have been satisfied, then I'm going to propose</p> <p>16 admitting three documents that are already in the record.</p> <p>17 They are the Pautrat complaint, the Office of Human Rights</p> <p>18 referral to the Human Rights Commission, and the</p> <p>19 commission's case review boards referral to OZAH for this</p> <p>20 hearing. Currently they are identified as docket entries,</p> <p>21 1A, 2, and 3. They will be designated as hearing exhibits,</p> <p>22 that is HE Exhibits 1, 2, and 3 respectively, and entered</p> <p>23 into the hearing exhibits. Now, are there any objections to</p> <p>24 that? Mr. Chong, are you – do you object to that?</p> <p>25 MR. CHONG: I do not, Your Honor.</p>	<p style="text-align: right;">12</p> <p>1 MR. CHONG: May I ask, have you – have we reached a</p> <p>2 resolution with regard to Ms. Kazavoka's witness testimony?</p> <p>3 HEARING EXAMINER PRAGER: No, we haven't. My latest</p> <p>4 understanding was that – am I correct that Mr. Schiller,</p> <p>5 you said will only present her as a rebuttal?</p> <p>6 MR. SCHILLER: Correct.</p> <p>7 HEARING EXAMINER PRAGER: And we will – if and when</p> <p>8 that happens, we will discuss it at that point. At this</p> <p>9 point, I think it's too early. So we can – and will be –</p> <p>10 presumably, it will not be today in any event.</p> <p>11 MR. CHONG: Right. I asked for logistical purposes</p> <p>12 because if she is going to testify, I have Ms. Byers here.</p> <p>13 And I would like her to speak to some of her knowledge of</p> <p>14 Ms. Kazavoka – or interactions with Ms. Kazavoka. And I –</p> <p>15 for Ms. Byers's convenience, I don't want to have to call</p> <p>16 her back to make that testimony in rebuttal. So what I</p> <p>17 would like to do is ask her those questions about Ms.</p> <p>18 Kazavoka today on the – in the event that Ms. Kazavoka</p> <p>19 testifies later.</p> <p>20 HEARING EXAMINER PRAGER: Any objection to that Mr.</p> <p>21 Schiller?</p> <p>22 MR. SCHILLER: I do, yes. I may not be calling her. I</p> <p>23 don't think it's appropriate – relevant to ask questions</p> <p>24 about another person or employee when they may or may not</p> <p>25 testify.</p>

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<p>13</p> <p>1 HEARING EXAMINER PRAGER: I don't want to have a 2 witness come here twice if they don't need to. But I think 3 we really should do it in sequence. So if there is 4 testimony later today or tomorrow by Ms. Kazavoka – help me 5 out with the name again. 6 MR. SCHILLER: Kazavoka. 7 HEARING EXAMINER PRAGER: Okay. By her, then she will 8 have to come back for rebuttal. 9 MR. CHONG: All right. I'll see what I can do with 10 that. Thank you. 11 HEARING EXAMINER PRAGER: All right. Mr. Abramson, do 12 you – sorry. Mr. Schiller, do you have any preliminary 13 motions of any sort? 14 MR. SCHILLER: No. 15 HEARING EXAMINER PRAGER: All right. Mr. Abramson, how 16 about you? 17 MR. ABRAMSON: No, sir. 18 HEARING EXAMINER PRAGER: All right. Now 19 theoretically, counsel is allowed to make preliminary 20 statements before we get to the testimony. But I don't see 21 much point to it, but I will give you an opportunity if you 22 want to. Mr. Chong, do you want to make preliminary 23 statement? 24 MR. CHONG: Yes, Your Honor. Just briefly. I believe 25 that after the testimony that will be presented in Ms.</p>	<p>15</p> <p>1 HEARING EXAMINER PRAGER: All right. Mr. Abramson, do 2 you have anything you want to say as a preliminary matter? 3 MR. ABRAMSON: Our positions were stated previously. 4 We have no opening statement. 5 HEARING EXAMINER PRAGER: All right. We will go off 6 the record for a moment. 7 (Off the record at 09:48:03 a.m.) 8 (On the record at 09:48:19 a.m.) 9 HEARING EXAMINER PRAGER: All right. We will be back 10 on the record. Now Mr. Chong, you are about to be able to 11 present your evidence. I noticed that there are two people 12 here. If they are to be witnesses, they will have to wait 13 outside, unless you – one of them is going to be – you said 14 Ms. Pautrat is not going to be your first witness. 15 MR. CHONG: That's correct. 16 HEARING EXAMINER PRAGER: All right. Are the other to 17 your witnesses? 18 MR. CHONG: Yes, Ms. Byers is here. She will be my 19 first witness. And then the other individual here will not 20 be a witness. 21 HEARING EXAMINER PRAGER: All right. Will not be a 22 witness? 23 MR. CHONG: Correct. 24 HEARING EXAMINER PRAGER: All right. Then you may call 25 your first witness.</p>
<p>14</p> <p>1 Pautrat's case, and she will be able to demonstrate that 2 she was subject to sexual harassment while in the 3 workplace. And much of this has already been admitted by 4 the Respondents. A large issue in this case is who Ms. 5 Pautrat's actual employer was. The two respondents tend to 6 point fingers at each other. So a bulk of the evidence that 7 will be presented is to the effect of trying to establish 8 who the employer was or at least their relationship and Ms. 9 Pautrat's relationship and to the two of them together. 10 Otherwise, I guess I will just – I will stand on the record 11 after that. 12 HEARING EXAMINER PRAGER: Very good. Thank you. Mr. 13 Schiller, give up a statement you want to make? 14 MR. SCHILLER: Sure. I just – I think you are – I 15 think you are fully aware of the facts and circumstances. 16 You've been involved in this matter for a while. So I don't 17 need to recite the facts. We take issue with counsel's 18 offer or argument or opening statement that there has been 19 admission to any sexual harassment or retaliatory 20 discharge. We take issue with that. We are going to be 21 contesting that. And that Ms. Pautrat was terminated for 22 cause, not for any retaliatory reason. After the evidence 23 is presented, we believe you'll find that there was no 24 sexual harassment or hostile environment and that she 25 wasn't terminated for a retaliatory reason, but for cause.</p>	<p>16</p> <p>1 MR. CHONG: Lauren Byers. 2 MS. BYERS: One second. Sorry. 3 MR. CHONG: Where should she sit, Your Honor? 4 HEARING EXAMINER PRAGER: We will go off the record 5 again. 6 (Off the record at 09:49:24 a.m.) 7 (on the record at 09:49:39 a.m.) 8 HEARING EXAMINER PRAGER: All right. Would you please 9 identify yourself? 10 MS. BYERS: Lauren Byers. 11 HEARING EXAMINER PRAGER: Would you spell your name, 12 please? 13 MS. BYERS: My last name? 14 HEARING EXAMINER PRAGER: Yes. 15 MS. BYERS: B-Y-E-R-S. 16 HEARING EXAMINER PRAGER: Okay. And do you swear to 17 tell the truth, the whole truth and nothing but the truth? 18 MS. BYERS: Yes. 19 HEARING EXAMINER PRAGER: Under penalty of perjury? 20 MS. BYERS: Yes. 21 HEARING EXAMINER PRAGER: All right. Mr. Chong, you 22 may proceed. 23 MR. CHONG: Thank you. Good morning Ms. Byers. Thank 24 you for coming in this morning. Did you – were you employed 25 by the Foundation for Financial Education?</p>

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<p>17</p> <p>1 MS. BYERS: I'm not 100 percent sure. That's what they 2 had me interview for, but it wasn't clear when I got hired. 3 MR. CHONG: Okay. So let's backup for second in. Who 4 did you interview with? 5 MS. BYERS: Jonathan Lee. 6 MR. CHONG: And at the time that you interviewed with 7 Jonathan Lee, who did he represent himself as representing 8 for purposes of your employment? 9 MS. BYERS: Capital Financial Partners. 10 MR. CHONG: Okay. Did you – so is your testimony that 11 you worked at Capital Financial Partners? 12 MS. BYERS: I'm not 100 percent sure. 13 MR. CHONG: Okay. Do you have an understanding of the 14 you actually worked for? Capital Financial Partners or the 15 Foundation for Financial Education? 16 MR. SCHILLER: I think it was asked and answered. 17 HEARING EXAMINER PRAGER: He can ask again. 18 MS. BYERS: Sorry. 19 MR. CHONG: Do you have an understanding as to which 20 entity you actually worked for? Capital Financial Partners 21 or Foundation for Financial Education? 22 MS. BYERS: Front desk we answered, if I did – I mean, 23 I worked at the front desk when Ingrid wasn't there. But 24 front desk I answered as Capital Financial Partners. And 25 then in the back was Foundation for Financial Education.</p>	<p>19</p> <p>1 call back. 2 MR. CHONG: Okay. When you say that would discuss – 3 when you say they would discuss, who is they? 4 MS. BYERS: Nick and – I know Web did and there was 5 one other person who sat in the back. 6 MR. CHONG: Okay. So Nick and Web and one other person 7 would do what exactly? To the best of your understanding. 8 MS. BYERS: They would go to different companies and 9 just talk about what financial plans they offered or – and 10 I wasn't 100 percent sure. 11 MR. CHONG: All right. And by the way, Nick is Nick 12 Herman; is that right? 13 MS. BYERS: Yes. 14 MR. CHONG: And Web is Web Sewell? 15 MS. BYERS: Yes. 16 MR. CHONG: Okay. And so Mr. Herman and Mr. Sewell and 17 you think somebody else went out and presented 18 opportunities. And then what was your understanding of what 19 happened after that? 20 MS. BYERS: They would bring back whatever information 21 they got from those employees and then we would have to 22 call them and schedule an appointment. 23 MR. CHONG: Okay. When you called these people to 24 schedule appointments, did you have to – did you follow a 25 script?</p>
<p>18</p> <p>1 MR. CHONG: Okay. Do you recall who you received your 2 paychecks from? 3 MS. BYERS: I cannot recall. 4 MR. CHONG: Do you recall who you got your W-2 from? 5 MS. BYERS: I cannot recall. 6 MR. CHONG: Okay. How long were you employed by one of 7 those organizations? 8 MS. BYERS: It was like three months. 9 MR. CHONG: Okay. And why did you leave? 10 MS. BYERS: Because I was not hired for what I was 11 promised. 12 MR. CHONG: What were your job duties while you were 13 there? 14 MS. BYERS: When I initially interviewed, it was – I 15 was supposed to be there for front desk. So then when I got 16 there, they actually put me in the back making phone calls 17 and appointments. 18 MR. CHONG: Okay. When you are – when you're talking 19 about making phone calls and appointments, describe what 20 that means. 21 MS. BYERS: I guess they would go – they would go to – 22 like out on financial – I can't – they would discuss with 23 different companies about what financial plans that they 24 offered. And then those employees would fill out their 25 information, I guess on a sheet. And that's who I would</p>	<p>20</p> <p>1 MS. BYERS: Yes. 2 MR. CHONG: And what kind of – could you describe that 3 script? 4 MS. BYERS: My name is Lauren. I'm calling from 5 Foundation for Financial Education. You attended one of our 6 seminars, or something to that effect. You have provided us 7 with your information. We would like to schedule an 8 appointment with you with one of our financial advisors. 9 MR. CHONG: When you scheduled an appointment for 10 these people – so you were calling people who attended 11 these seminars, I think was the word you used. 12 MS. BYERS: Yeah. 13 MR. CHONG: When you would schedule these people to 14 come in to meet with someone, those people that they were 15 meeting with, to your understanding, were those people with 16 Capital Financial Planners or Foundation for Financial 17 Education? 18 MS. BYERS: I don't know. 19 MR. CHONG: Okay. 20 MS. BYERS: I think – I don't know. 21 MR. CHONG: Okay. Thank you. Did you have any kind of 22 quota or requirement with respect to these calls? 23 MS. BYERS: I think it would differ on different – 24 MR. SCHILLER: Objection as to whether her job duties 25 were and whether she had a quota as relevant.</p>

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6 (21 to 24)

<p>21</p> <p>1 HEARING EXAMINER PRAGER: Well, we will see if it's 2 relevant. You can continue your questioning. 3 MR. CHONG: I'm sorry. You can continue your answer. 4 MS. BYERS: I can't remember what the quota was, but 5 you had to meet one. 6 MR. CHONG: You did have to meet a quota you said? 7 MS. BYERS: Yeah. 8 MR. CHONG: Okay. Did you ever meet your quota? 9 MS. BYERS: No. 10 MR. CHONG: Okay. And you were there for, you said 11 three months? 12 MS. BYERS: Uh-huh. 13 MR. CHONG: When you ever counseled or written up for 14 failing to meet that quota? 15 MS. BYERS: No. 16 MR. CHONG: Okay. Was there a clock-in system at the 17 office? 18 MS. BYERS: No. 19 MR. CHONG: Did anyone monitor breaks or anything like 20 that? 21 MS. BYERS: Yes and no. I guess it just depended if I 22 guess Jonathan was in or not. Or one of the financial 23 advisors would notice if someone was out late. So they 24 would – there wasn't any real system of how long lunches 25 were supposed to be.</p>	<p>23</p> <p>1 respond to that? 2 MR. CHONG: Your Honor, the defense appears to be that 3 Ms. Pautrat was let go for cause. And part of the cause as 4 I understand it is – are the issues that I'm exploring with 5 Ms. Byers. The point of the examination is that Ms. Byers 6 was not being disciplined for the things that I believe 7 they are going to say Ms. Pautrat was guilty of. 8 HEARING EXAMINER PRAGER: Sounds plausible. I will 9 overrule the objection. 10 MR. CHONG: I'm sorry. I think the question was, did 11 you ever take time off from work for other purposes, any 12 purposes? 13 MS. BYERS: Yeah. 14 MR. CHONG: How much time off would you say you took 15 during those three months? 16 MS. BYERS: I would say at least like eight or nine. I 17 can't – 18 MR. CHONG: Eight or nine days? Workdays or hours? 19 MS. BYERS: Oh, are you talking about days or just – 20 MR. CHONG: Talk about whatever time off you want to - 21 - 22 MS. BYERS: I just – I don't – I'm sorry. I don't know 23 how to – I can't remember how many, but I knew it was a 24 significant amount of days that I – 25 MR. CHONG: Okay. So –</p>
<p>22</p> <p>1 MR. CHONG: Okay. 2 MS. BYERS: I mean, it was 30 minutes, but – 3 MR. CHONG: Are you completing – is your answer 4 complete? 5 MS. BYERS: Yes. Yeah. 6 MR. CHONG: Do you know of any PTO or sick leave 7 policy? 8 MS. BYERS: No. 9 MR. CHONG: Okay. Was it ever brought your attention 10 that you were away from your desk for excessive periods of 11 time? 12 MS. BYERS: No. 13 MR. CHONG: Did you take breaks at work? 14 MS. BYERS: I took lunch breaks. 15 MR. CHONG: Okay. Did you take any other breaks? 16 MS. BYERS: No. 17 MR. CHONG: Did you take time off for any other 18 purposes? 19 MR. SCHILLER: Your Honor, I have to object again. I 20 don't know how this is related to and relevant to Ms. 21 Pautrat's claim. They haven't an established a foundation 22 as to what her terms of conditions were, whether or not she 23 was salaried, what her – I mean, whether or not she had 24 identical job duties and identical positions. So it – 25 HEARING EXAMINER PRAGER: Mr. Chong, do you want to</p>	<p>24</p> <p>1 HEARING EXAMINER PRAGER: I'm sorry. What was the 2 answer: it was or was not? 3 MS. BYERS: It was. I did, yes. I did take days off. 4 MR. CHONG: So your testimony is you took a 5 significant number of days off during your three months of 6 employment? 7 MS. BYERS: More towards the end I did, before I left. 8 But not towards like the first few months I was there. I 9 mean, I was only there for like four months. 10 MR. CHONG: Okay. Did anyone ever counsel you on your 11 absence? 12 MS. BYERS: No. 13 MR. CHONG: Were you salaried or were you hourly? 14 MS. BYERS: I believe salary, but I'm not 100 percent 15 sure about that either. 16 MR. CHONG: Okay. These telephone calls you are 17 making, was that your entire job? 18 MS. BYERS: Yes. Well, they put – like I said, I was 19 hired to be up front. So if the front desk girl was not 20 there, then I would take over that. But it was after I got 21 hired, they put me in the back to make some calls, yes. 22 MR. CHONG: Okay. The front desk girl, what was her 23 name? 24 MS. BYERS: Ingrid. 25 MR. CHONG: Ingrid, is that Ingrid Palencia?</p>

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7 (25 to 28)

<p>25</p> <p>1 MS. BYERS: Yes.</p> <p>2 MR. CHONG: All right. Can you – what is your</p> <p>3 understanding as to who was making hiring decisions for the</p> <p>4 office?</p> <p>5 MS. BYERS: Jonathan was making the hiring decisions.</p> <p>6 MR. CHONG: Okay.</p> <p>7 HEARING EXAMINER PRAGER: Excuse me. There is – I'm</p> <p>8 sure your microphone is picking you up, but my ears aren't</p> <p>9 always picking you up.</p> <p>10 MS. BYERS: Okay. Sorry.</p> <p>11 HEARING EXAMINER PRAGER: So will you try to keep your</p> <p>12 voice up a little higher? A little louder?</p> <p>13 MS. BYERS: Jonathan.</p> <p>14 MR. CHONG: And can you describe the women in the</p> <p>15 office in general?</p> <p>16 MS. BYERS: When you say describe, like height or like</p> <p>17 what are you looking for?</p> <p>18 MR. CHONG: Well, let's back off that question for a</p> <p>19 little bit.</p> <p>20 MS. BYERS: Okay.</p> <p>21 MR. CHONG: Did you observe – and by Jonathan, do you</p> <p>22 mean Jonathan Lee?</p> <p>23 MS. BYERS: Yes.</p> <p>24 MR. CHONG: Okay. Did you observe Mr. Lee's</p> <p>25 interactions with the women in the office?</p>	<p>27</p> <p>1 MS. BYERS: He was walking in the direction towards</p> <p>2 me. He watched her walk past him. His eyes followed her and</p> <p>3 then he went to keep walking in the direction he was</p> <p>4 looking at and he smiled. He gave like a smirk.</p> <p>5 MR. CHONG: A smirk. And how would you interpret that</p> <p>6 smirk?</p> <p>7 MS. BYERS: He liked the way she looked in the dress.</p> <p>8 MR. CHONG: Okay. And did you find that appropriate?</p> <p>9 MS. BYERS: No.</p> <p>10 MR. SCHILLER: Objection.</p> <p>11 HEARING EXAMINER PRAGER: What's your objection?</p> <p>12 MR. SCHILLER: She's not the Complainant. Whether she</p> <p>13 finds it appropriate or not is not relevant for this</p> <p>14 hearing.</p> <p>15 HEARING EXAMINER PRAGER: Well, it's – I will weigh</p> <p>16 that testimony. The objection is overruled.</p> <p>17 MR. CHONG: Were there any other instances of Mr. Lee</p> <p>18 that you can describe Mr. Lee's interactions with women in</p> <p>19 the office?</p> <p>20 MS. BYERS: He would send – Ingrid called me and told</p> <p>21 me that she was sending him –</p> <p>22 MR. SCHILLER: Objection.</p> <p>23 HEARING EXAMINER PRAGER: What's your objection now?</p> <p>24 MR. SCHILLER: I know the administrative proceedings</p> <p>25 act allows hearsay, but it's only if it has indicia of</p>
<p>26</p> <p>1 MS. BYERS: Yes, I did.</p> <p>2 MR. CHONG: And what – how would you characterize his</p> <p>3 interactions with the women in office?</p> <p>4 MS. BYERS: Not appropriate.</p> <p>5 MR. CHONG: Can you explain why?</p> <p>6 MS. BYERS: In one particular instance that I remember</p> <p>7 was when Ingrid Palencia wore a dress, a black dress. And</p> <p>8 he had made a look when she walked past and he looked up at</p> <p>9 me and smiled as in he was watching her.</p> <p>10 MR. SCHILLER: Objection.</p> <p>11 HEARING EXAMINER PRAGER: What's your objection?</p> <p>12 MR. SCHILLER: Speculation. I mean, she can describe</p> <p>13 what she saw, but when she goes to as if, I think that's</p> <p>14 speculating as to what – she can testify to what she just</p> <p>15 said, but at the point she says, as it, it's pure</p> <p>16 speculation as to what he is thinking. I mean, if he – and</p> <p>17 she testifies to what he said, that's another thing.</p> <p>18 HEARING EXAMINER PRAGER: Well, we will – presumably,</p> <p>19 she will explain in a moment. So I will allow that in the</p> <p>20 testimony as it is. The objection is overruled.</p> <p>21 MR. CHONG: So you testified that Mr. Lee looked at</p> <p>22 Ms. Palencia. Did you say as she walked by or –</p> <p>23 MS. BYERS: When she walked past him, yes.</p> <p>24 MR. CHONG: And that he turned to you and smiled. Is</p> <p>25 that – that was your –</p>	<p>28</p> <p>1 reliability. This is – she's about to testify to what</p> <p>2 someone else said without any subject to cross and without</p> <p>3 any ability to weigh the veracity. So I think it's going be</p> <p>4 on the stretch of the intent of the statute.</p> <p>5 HEARING EXAMINER PRAGER: Well, it is, as you point</p> <p>6 out, hearsay is permissible. And I will weigh the</p> <p>7 testimony. I will let it continue. Again, the objection is</p> <p>8 overruled.</p> <p>9 MR. CHONG: Could you continue your answer?</p> <p>10 MS. BYERS: She had told me that he was sending her</p> <p>11 drunk text messages. Did I see those text messages? No, I</p> <p>12 did not.</p> <p>13 MR. CHONG: Did she describe for you what those drunk</p> <p>14 text messages were about?</p> <p>15 MS. BYERS: No, she just said drunk texting.</p> <p>16 MR. CHONG: Okay. Did she tell you what time of day</p> <p>17 those text messages were made?</p> <p>18 MS. BYERS: Late at night.</p> <p>19 MR. CHONG: Okay. Did she tell you how she felt about</p> <p>20 those messages?</p> <p>21 MS. BYERS: They were inappropriate.</p> <p>22 MR. SCHILLER: Your Honor, we have a – you asked for a</p> <p>23 witness list and books and specific – so if we are – if</p> <p>24 we're going to be allowed to elicit testimony from</p> <p>25 witnesses who aren't listed or here, I don't understand why</p>



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<p>29</p> <p>1 we even presented a witness list, because all she is doing</p> <p>2 is saying what someone else – I mean, it's –</p> <p>3 HEARING EXAMINER PRAGER: I understand. And as I said</p> <p>4 before, it will be given the appropriate weight. So I</p> <p>5 understand your criticism, but I will let it continue.</p> <p>6 MR. CHONG: Were there any other interactions with</p> <p>7 women in the office that you know of?</p> <p>8 MS. BYERS: With Giselle, he had sent a text message</p> <p>9 while he was out of town, somewhere on a beach. I know that</p> <p>10 much. He had sent her a picture of the beach and told her</p> <p>11 that he missed her and wishes she was there.</p> <p>12 MR. CHONG: And he learned that how?</p> <p>13 MS. BYERS: Giselle showed me.</p> <p>14 MR. CHONG: Okay. Did you find these texts</p> <p>15 appropriate?</p> <p>16 MS. BYERS: No.</p> <p>17 MR. CHONG: Why not?</p> <p>18 MS. BYERS: Because he's our boss. It's just not</p> <p>19 appropriate at all.</p> <p>20 MR. CHONG: Was there any other women in the office</p> <p>21 who you talked to about Mr. Lee's actions?</p> <p>22 MS. BYERS: Alex, she called me.</p> <p>23 MR. CHONG: And Alex's last name, do you know it?</p> <p>24 MS. BYERS: I don't know how to – I know it starts</p> <p>25 with a K.</p>	<p>31</p> <p>1 could you try to quantify that?</p> <p>2 MS. BYERS: Like three or four.</p> <p>3 MR. CHONG: Three or four –</p> <p>4 MS. BYERS: Three or four times he would go back</p> <p>5 there.</p> <p>6 MR. CHONG: Per day?</p> <p>7 MS. BYERS: Yes.</p> <p>8 MR. CHONG: Is that a lot?</p> <p>9 MR. SCHILLER: Objection. How could she determine</p> <p>10 what's a lot for a boss who was running the business?</p> <p>11 HEARING EXAMINER PRAGER: Well, presumably we will get</p> <p>12 that testimony. Again Mr. Schiller, I will listen to the</p> <p>13 evidence.</p> <p>14 MR. SCHILLER: Okay.</p> <p>15 MR. CHONG: You can answer the question if you know.</p> <p>16 MS. BYERS: I didn't see him with really anybody else</p> <p>17 going back that many times.</p> <p>18 MR. CHONG: All right. So it sounds like compared to</p> <p>19 other people – sorry. I'll take that back. There were other</p> <p>20 people in the back, as you refer to it, who were also</p> <p>21 making these phone calls?</p> <p>22 MS. BYERS: Yes.</p> <p>23 MR. CHONG: Is your understanding that Ms. Pautrat was</p> <p>24 making the same types of phone calls that you were?</p> <p>25 MS. BYERS: Yes.</p>
<p>30</p> <p>1 MR. CHONG: Is it Kazavoka?</p> <p>2 MS. BYERS: Yes.</p> <p>3 MR. CHONG: And did she tell you about a text message</p> <p>4 she received from Mr. Lee?</p> <p>5 MS. BYERS: Yes. She also said that she received drunk</p> <p>6 text messages from him at night.</p> <p>7 MR. CHONG: Now you – you know Giselle Pautrat,</p> <p>8 correct?</p> <p>9 MS. BYERS: Yes.</p> <p>10 MR. CHONG: Did you meet her at work?</p> <p>11 MS. BYERS: Yes.</p> <p>12 MR. CHONG: Were your friends before meeting at work?</p> <p>13 MS. BYERS: No.</p> <p>14 MR. CHONG: Would you consider her a friend outside of</p> <p>15 work?</p> <p>16 MS. BYERS: I mean, we don't really talk. So</p> <p>17 acquaintances, maybe. Or I guess it would be --</p> <p>18 MR. SCHILLER: Sorry. What was that?</p> <p>19 MS. BYERS: Acquaintance. I'm sorry.</p> <p>20 MR. CHONG: All right. In the office, do you have a</p> <p>21 sense of how much time Mr. Lee spent with Giselle or Ms.</p> <p>22 Pautrat in the office?</p> <p>23 MS. BYERS: He would go back to her desk pretty</p> <p>24 frequently.</p> <p>25 MR. CHONG: How – when you said pretty frequently,</p>	<p>32</p> <p>1 MR. CHONG: For the same purpose?</p> <p>2 MS. BYERS: Yes.</p> <p>3 MR. CHONG: So were there are multiple people doing</p> <p>4 that job where you were stationed?</p> <p>5 MS. BYERS: Yes.</p> <p>6 MR. CHONG: And so compared to the other people who</p> <p>7 were doing the same job, is it your testimony that Mr. Lee</p> <p>8 would visit Ms. Pautrat in the office more than other</p> <p>9 people doing that same job?</p> <p>10 MS. BYERS: Yes.</p> <p>11 MR. CHONG: Okay. That's all I have for this witness.</p> <p>12 HEARING EXAMINER PRAGER: Since most of the testimony</p> <p>13 at this point has to do with Mr. Lee, I think, unless there</p> <p>14 is an objection from Mr. Abramson, that Mr. Schiller, you</p> <p>15 should start the cross-examination. Mr. Abramson, any</p> <p>16 objections to that?</p> <p>17 MR. ABRAMSON: No, Your Honor.</p> <p>18 HEARING EXAMINER PRAGER: All right. Mr. Schiller, you</p> <p>19 may start.</p> <p>20 MR. SCHILLER: Thank you. It's Ms. Bier, correct?</p> <p>21 MS. BYERS: Byers.</p> <p>22 MR. SCHILLER: Byers? Okay.</p> <p>23 MS. BYERS: Yes.</p> <p>24 MR. SCHILLER: You started work, it was what? The Gude</p> <p>25 Drive location?</p>

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<p>33</p> <p>1 MS. BYERS: Not far from here. So it would be – I 2 believe so. I can't remember exactly the name of the office 3 building. 4 MR. SCHILLER: The office? All right. Office building 5 off of Rockville Pike in Gude Drive? 6 MS. BYERS: Yes, 355, yeah. 7 MR. SCHILLER: Okay. And you started what month? 8 MS. BYERS: I believe January. 9 MR. SCHILLER: Okay. And then you ended – 10 HEARING EXAMINER PRAGER: Excuse me. Of what year? 11 MS. BYERS: 2015. 12 MR. SCHILLER: Okay, and you – 13 MS. BYERS: Or 2014. Yeah, 2015. 14 MR. SCHILLER: And you quit in March? 15 MS. BYERS: Yes. 16 MR. SCHILLER: Okay. Do you remember what day in 17 March? 18 MS. BYERS: No. 19 MR. SCHILLER: All right. So you were there three 20 months, correct? 21 MS. BYERS: Yes. 22 MR. SCHILLER: Okay. And Ms. Pautrat, she started work 23 when? 24 MS. BYERS: I would say a couple of weeks after I 25 started. So maybe mid to – in January.</p>	<p>35</p> <p>1 MS. BYERS: Honestly, I can't remember. 2 MR. SCHILLER: You didn't get paid for the days you 3 weren't there, right? 4 MR. CHONG: Objection. She testified that she doesn't 5 remember. 6 MR. SCHILLER: It's a different – 7 HEARING EXAMINER PRAGER: Your objection is overruled. 8 You may continue cross-examination. 9 MR. SCHILLER: You didn't get paid for the days you 10 weren't there, correct? 11 MS. BYERS: I can't remember. 12 MR. SCHILLER: Do you recall whether or not you 13 received a letter of employment? 14 MS. BYERS: I cannot remember, but I know that SPS 15 Consulting sent me an email saying – I cannot remember that 16 either. I do remember getting a handbook though. 17 MR. SCHILLER: Okay. Right. But the handbook didn't 18 have your pay in it, right? 19 MS. BYERS: No. 20 MR. SCHILLER: Okay. Do you remember what your hourly 21 rate was? 22 MS. BYERS: No, I do not remember. 23 MR. SCHILLER: Okay. Do you remember – did you have 24 any benefits? Do they offer you any benefits? 25 MS. BYERS: No, they did not.</p>
<p>34</p> <p>1 MR. SCHILLER: So your testimony is she started when 2 you started? 3 MS. BYERS: A couple of weeks after I started. 4 MR. SCHILLER: Would it be in February? Do you even 5 know? 6 MS. BYERS: It could – it was a couple of weeks. I 7 know it was a couple of weeks because it wasn't long after 8 I got there. 9 MR. SCHILLER: Isn't that true you only worked with 10 her for about 30 days overlap? 11 MS. BYERS: Yeah, I guess. 12 MR. SCHILLER: Okay. And how did you get the job? A 13 temp agency? Employment agency? Was it – 14 MS. BYERS: SPS Consulting. 15 MR. SCHILLER: Okay. Is that Toby – is that Mr. Toby 16 Studley ring a bell? 17 MS. BYERS: I know he owns it. 18 MR. SCHILLER: All right. So he – you were sent over 19 there from an employment agency, right? 20 MS. BYERS: Yes. 21 MR. SCHILLER: Okay. You were an hourly employee, 22 correct? 23 MS. BYERS: I cannot remember if I was hourly or 24 salary. 25 MR. SCHILLER: Did your paychecks fluctuate?</p>	<p>36</p> <p>1 MR. SCHILLER: Okay. 2 MS. BYERS: That was one problem. 3 MR. SCHILLER: So no health insurance? No vacation? 4 None of that, right? 5 MS. BYERS: No. They were working on it after I got 6 there. 7 MR. SCHILLER: Okay. So you weren't – so you didn't 8 have sick leave, right? 9 MS. BYERS: I don't believe so. 10 MR. SCHILLER: Okay. You were – who was your 11 supervisor? 12 MS. BYERS: I believe Jonathan was. 13 MR. SCHILLER: Did you report to anyone else? 14 MS. BYERS: Web. 15 MR. SCHILLER: All right. And who is your 16 understanding as to who Web is? 17 MS. BYERS: He was a financial advisor and I guess he 18 was a lawyer as well. That's what he told me. 19 MR. SCHILLER: Okay. And who did you – if you had any 20 problems with employment or needed the day off, who did you 21 talk to? 22 MS. BYERS: Either Web or Jonathan. 23 MR. SCHILLER: Okay. And who would – when you came in, 24 who would keep track of your time? Like how did they – who 25 would know you were there?</p>

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10 (37 to 40)

<p>37</p> <p>1 MS. BYERS: We didn't keep track of our time.</p> <p>2 MR. SCHILLER: When you showed up, there were other</p> <p>3 people there, correct?</p> <p>4 MS. BYERS: Yeah.</p> <p>5 MR. SCHILLER: Okay. So somebody had an idea of who</p> <p>6 was coming and going, right?</p> <p>7 MS. BYERS: Yeah, but –</p> <p>8 MR. SCHILLER: Who was that? Who was that?</p> <p>9 MS. BYERS: It was Jonathan or Web or whatever was in</p> <p>10 the office.</p> <p>11 MR. SCHILLER: Okay. How about Elizabeth de los</p> <p>12 Santos, was she there every day?</p> <p>13 MS. BYERS: No, she lives in Texas.</p> <p>14 MR. SCHILLER: Okay, so she was not?</p> <p>15 MS. BYERS: No. She was there maybe a couple of days.</p> <p>16 She went with Jonathan to a funeral and something else. I</p> <p>17 don't – I can't remember.</p> <p>18 MR. SCHILLER: Okay. Any other supervisor of you?</p> <p>19 MS. BYERS: No. Not that I'm aware of.</p> <p>20 MR. SCHILLER: Okay. So you weren't – you never went</p> <p>21 on any educational seminars, right?</p> <p>22 MS. BYERS: I went with one with Web. I actually asked</p> <p>23 to go.</p> <p>24 MR. SCHILLER: All right.</p> <p>25 MS. BYERS: Because I was not 100 percent sure on what</p>	<p>39</p> <p>1 MS. BYERS: No.</p> <p>2 MR. SCHILLER: Okay. Have you maintained a friendship</p> <p>3 with Ms. Pautrat since leaving your employ?</p> <p>4 MS. BYERS: I don't really talk to her that often.</p> <p>5 When I do, it's –</p> <p>6 MR. SCHILLER: How often do you communicate?</p> <p>7 MS. BYERS: Maybe once a year, twice a year.</p> <p>8 MR. SCHILLER: Okay. Is it about this case or are you</p> <p>9 guys you communicating about social activities?</p> <p>10 MS. BYERS: We did social activities. We communicated</p> <p>11 about social activities and just one thing about the case</p> <p>12 and that was –</p> <p>13 MR. SCHILLER: Okay.</p> <p>14 MS. BYERS: She just told me that –</p> <p>15 MR. SCHILLER: All right. I just asked if you –</p> <p>16 HEARING EXAMINER PRAGER: Don't interrupt the witness.</p> <p>17 Go ahead. Continue.</p> <p>18 MS. BYERS: She just told me about the court date.</p> <p>19 That was about it. She just text messaged me to let me know</p> <p>20 that a lawyer will be contacting me because I don't answer</p> <p>21 unknown phone calls.</p> <p>22 MR. SCHILLER: You prepared an affidavit, correct?</p> <p>23 MS. BYERS: Yes.</p> <p>24 MR. SCHILLER: Dated June 25, yes?</p> <p>25 MS. BYERS: Yes.</p>
<p>38</p> <p>1 – to tell the people who attended the seminar. I wanted to</p> <p>2 know what was going on.</p> <p>3 MR. SCHILLER: Sure. Sure. So how did you get there to</p> <p>4 this seminar? Did you drive with Web?</p> <p>5 MS. BYERS: Yes.</p> <p>6 MR. SCHILLER: Okay. And did you have lunch?</p> <p>7 MS. BYERS: No.</p> <p>8 MR. SCHILLER: Was it a half-day seminar or all-day</p> <p>9 seminar?</p> <p>10 MS. BYERS: It was half.</p> <p>11 MR. SCHILLER: A half-day, okay. And you – in the</p> <p>12 office, there were – you were not the only female, right?</p> <p>13 MS. BYERS: No.</p> <p>14 MR. SCHILLER: Okay. There were three females?</p> <p>15 MS. BYERS: I would say about nine.</p> <p>16 MR. SCHILLER: Okay. And you – not full-time?</p> <p>17 MS. BYERS: I think one wasn't full-time.</p> <p>18 MR. SCHILLER: You don't know if they were full-time</p> <p>19 or part-time, correct?</p> <p>20 MS. BYERS: No.</p> <p>21 MR. SCHILLER: Okay. And how many men?</p> <p>22 MS. BYERS: Five or six.</p> <p>23 MR. SCHILLER: Okay. And you don't know who worked for</p> <p>24 what company, right? Whether or not it was the Foundation</p> <p>25 solely or whether or not it was Capital Financial, right?</p>	<p>40</p> <p>1 MR. SCHILLER: All right. And you signed the affidavit</p> <p>2 June 25, correct?</p> <p>3 MS. BYERS: Uh-huh.</p> <p>4 MR. SCHILLER: Who prepared the affidavit for you?</p> <p>5 MS. BYERS: I cannot remember his name, but he did</p> <p>6 work at a law firm in DC. I don't know if it was the one</p> <p>7 Mr. Chong works at or –</p> <p>8 MR. SCHILLER: Did you write this affidavit or was it</p> <p>9 just sent to you?</p> <p>10 MS. BYERS: They called me and asked my experience and</p> <p>11 they wrote it up. They sent it to me and said edit anything</p> <p>12 that needs to be edited out.</p> <p>13 MR. SCHILLER: Did you edit anything out?</p> <p>14 MS. BYERS: I can't remember. I honestly can't</p> <p>15 remember.</p> <p>16 MR. SCHILLER: Okay. You indicated that you were</p> <p>17 taking off – that you took off two or three days a week</p> <p>18 every week, correct?</p> <p>19 MS. BYERS: Towards the end, yes.</p> <p>20 MR. SCHILLER: Okay. And is it true you were told and</p> <p>21 learned that Ms. Pautrat was terminated because she was</p> <p>22 missing appointment dates and scheduling errors, correct?</p> <p>23 MS. BYERS: Yes.</p> <p>24 MR. SCHILLER: When Ms. Pautrat was hired – well, let</p> <p>25 me ask you this. So when you were hired, who trained you?</p>

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11 (41 to 44)

<p>41</p> <p>1 MS. BYERS: Someone that they had terminated a couple 2 of days after me. I was a replacement. I do not remember 3 her name. 4 MR. SCHILLER: Okay. And who trained you? 5 MS. BYERS: She trained me and then Simon Clayton. 6 MR. SCHILLER: Okay. And how long did it take to – I 7 mean, did you ever become trained? 8 MS. BYERS: I mean – 9 MR. CHONG: Objection, vague. 10 MR. SCHILLER: Did you ever – I will rephrase. Did you 11 ever – I mean, you indicated that you wanted to go on a 12 seminar with Web, right? 13 MS. BYERS: Yes. 14 MR. SCHILLER: And when did you go on that seminar? 15 When did you go on that seminar? 16 MS. BYERS: I can't – this was five years ago. I'm 17 trying to work the best off of my memory. And honestly, I 18 cannot remember, but I do remember that I went with Web. 19 And it was after training because I did not know what 20 Foundation for Financial Education was for. So – 21 MR. SCHILLER: Okay. So how long were you trained for? 22 HEARING EXAMINER PRAGER: Mr. Schiller – 23 MR. SCHILLER: Yeah. 24 HEARING EXAMINER PRAGER: You've been interrupting the 25 witness too much. Can you wait until she finishes?</p>	<p>43</p> <p>1 MR. SCHILLER: Okay. Did – 2 MR. CHONG: I'm sorry. Just for clarification. So is 3 the testimony that it is not fair to say that he did not 4 train you well? 5 MR. SCHILLER: Well - - 6 HEARING EXAMINER PRAGER: You can clarify that when 7 you – on redirect. Mr. Schiller is doing the questioning at 8 the moment. 9 MR. SCHILLER: So you – you don't – I mean, you had 10 time to – you were given an opportunity to make additions 11 to your affidavit, right? 12 MS. BYERS: Yes, they said edit – 13 MR. SCHILLER: Okay. Did you make additions to the 14 affidavit that was sent to you? 15 MS. BYERS: I cannot remember that. 16 MR. SCHILLER: All right. Is the affidavit that you 17 signed a complete affidavit? 18 MS. BYERS: Yes. 19 MR. SCHILLER: You don't indicate anywhere that Mr. 20 Lee made advances upon you, correct? 21 MS. BYERS: No. 22 MR. SCHILLER: All right. He didn't make advances on 23 you, correct? 24 MS. BYERS: Correct. 25 MR. SCHILLER: The Gude Drive location, isn't it true</p>
<p>42</p> <p>1 MR. SCHILLER: Yes. 2 HEARING EXAMINER PRAGER: Did you want to say anything 3 more? 4 MS. BYERS: No, I guess not. 5 MR. SCHILLER: How long were you – how long did it 6 take to train you? 7 MS. BYERS: About a week, maybe, because it was a 8 script that we went off of. 9 MR. SCHILLER: Okay. And while you were being trained, 10 how often or how much time were you spending with Simon 11 Clayton? 12 MS. BYERS: Not much. 13 MR. SCHILLER: What is not much? 14 MS. BYERS: I saw him at work and that was probably 15 about it. 16 MR. SCHILLER: Well, describe your training. 17 MS. BYERS: He showed me the script, how to make an 18 appointment on the Google calendar, and that was pretty 19 much it. That's why I requested to go on that training with 20 Web because I wanted to at least know what people that's 21 when I called them, if they had any questions how to answer 22 what to tell – because the training was very, very vague. 23 MR. SCHILLER: Okay. So is it fair to say that Simon 24 Clayton didn't train you well? 25 MS. BYERS: No.</p>	<p>44</p> <p>1 it's a – it's an office that has an open door? It has open 2 doors? It's a wide open office, correct? 3 MS. BYERS: Yes. 4 MR. SCHILLER: Okay. Mr. Lee had an office with a door 5 that could close, correct? 6 MS. BYERS: Yes. 7 MR. SCHILLER: And in that office there is a big 8 conference table? 9 MS. BYERS: Yes. 10 MR. SCHILLER: Okay. Not too much unlike this room, 11 but smaller, correct? 12 MS. BYERS: Yes. 13 MR. SCHILLER: Okay. And then in the back there's 14 cubicles, correct? 15 MS. BYERS: There is two cubicles in the back. 16 MR. SCHILLER: All right, but it's – so in the back 17 there are people who work without office doors, correct? 18 MS. BYERS: They had office doors, yes. 19 MR. SCHILLER: Okay. But people shared offices, right? 20 MS. BYERS: Yes. 21 MR. SCHILLER: Okay. Is that true that Mr. Lee's 22 fiancé worked in the same office? 23 MS. BYERS: She wasn't a fiancé at the time. 24 MR. SCHILLER: Girlfriend? 25 MS. BYERS: I didn't know that it was his girlfriend.</p>

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12 (45 to 48)

<p>45</p> <p>1 MR. SCHILLER: Okay. You later learned it was his 2 girlfriend, then fiancé, and now wife, right? 3 MS. BYERS: I was – when I first started working 4 there, no, I did not know that they had any – I didn't know 5 they had any boyfriend/girlfriend relationship. I noticed 6 that he was with her as well, a lot. But I just – that was 7 – I mean, that was it. That's all I really noticed was that 8 they were together a lot. 9 MR. SCHILLER: Okay. 10 MS. BYERS: So yes, I did finally realize when Olivia 11 told me that that was his girlfriend. 12 MR. SCHILLER: Okay. And where in relation to her 13 workspace did she sit in relation to Ms. Pautrat's 14 workspace? 15 MS. BYERS: There were in two different offices. 16 MR. SCHILLER: How far away? 17 MS. BYERS: Not far. 18 MR. SCHILLER: Within earshot? 19 MS. BYERS: I'm sorry. 20 MR. SCHILLER: Within earshot? 21 MS. BYERS: I guess you could say that. 22 MR. SCHILLER: I mean, it's a small office. 23 MS. BYERS: Yeah. 24 MR. SCHILLER: Isn't it true that when people were 25 talking and one office, if they were talking loudly, you</p>	<p>47</p> <p>1 because Mr. Schiller gave a look to me. 2 MR. SCHILLER: Yeah, I was – 3 HEARING EXAMINER PRAGER: So I felt I needed to 4 respond. 5 MR. SCHILLER: Well, I didn't know if I should object 6 or you were going to. I mean, I was going to ask the – Your 7 Honor to instruct the witness to answer the question. 8 HEARING EXAMINER PRAGER: But looks don't make it into 9 the record. 10 MR. SCHILLER: Sure. So I would lodge my objection. 11 HEARING EXAMINER PRAGER: All right. 12 MR. SCHILLER: Could you please instruct the witness? 13 HEARING EXAMINER PRAGER: Well, she has answered the 14 question as best she could. You can continue asking 15 questions. 16 MR. ABRAMSON: Could we ask her to -- 17 MR. SCHILLER: Then I would move to strike -- 18 MR. ABRAMSON: I couldn't understand her answer. 19 HEARING EXAMINER PRAGER: All right. Would you -- Mr. 20 Schiller, would you ask that question again? And we will 21 see what comes out from the witness. Mr. Schiller? 22 MR. SCHILLER: Yes. 23 HEARING EXAMINER PRAGER: Ask the question again, 24 please. 25 MR. SCHILLER: Could we have it read back? I want to</p>
<p>46</p> <p>1 can hear it in the other office? 2 MS. BYERS: Okay. 3 MR. SCHILLER: Isn't that true? 4 MS. BYERS: Giselle was in the back corner of the 5 office, in one office. And what was her name? Kelly. Kelly 6 was towards the front of her office. So if Jonathan Lee 7 went back there and he had discussions with her, it's very 8 easily for someone to whisper and not hear. So I'm not 9 saying that happened, but I'm saying that just because he 10 walked into her office, doesn't mean that we were able to 11 hear everything he was saying, no. 12 MR. SCHILLER: Okay. So when you say that Jonathan 13 walked into Ms. Pautrat's office three or four, three or 14 four times a day while you were there, there was also 15 someone else in that office, correct? Because she shared an 16 office with someone else, correct? 17 MS. BYERS: Yes, but she was in the back corner. 18 MR. SCHILLER: All right, but there was someone else 19 in that office also, correct? 20 MS. BYERS: Yeah, it doesn't excuse text messages 21 though. 22 HEARING EXAMINER PRAGER: She made the testimony she 23 has made. Continue asking questions. 24 MR. SCHILLER: Okay. 25 HEARING EXAMINER PRAGER: For the record, that was</p>	<p>48</p> <p>1 make sure I have it right. 2 (Prior question played back.) 3 MR. SCHILLER: So there was somebody else in that 4 office sharing with Ms. Pautrat? 5 MS. BYERS: I can't say that someone was in office. I 6 can't say that someone was not in the office. 7 MR. SCHILLER: Where was your office in relation to 8 her office? 9 MS. BYERS: It was in the -- it was kind of in the 10 corner as well. It was like a little cube that I had. 11 MR. SCHILLER: Same room? 12 MS. BYERS: No. 13 MR. SCHILLER: Okay. 14 MS. BYERS: It was outside of the office -- 15 MR. SCHILLER: So we -- 16 MS. BYERS: A little bit of head of her -- their 17 office. 18 MR. SCHILLER: So if -- could you see in Ms. Pautrat's 19 office when you were in your office? 20 MS. BYERS: No. 21 MR. SCHILLER: You were just seeing a hallway, 22 correct? 23 MS. BYERS: Yes. 24 MR. SCHILLER: Okay. So when you say Mr. Lee went into 25 Ms. Pautrat's office three or four times a day while you</p>

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13 (49 to 52)

<p style="text-align: right;">49</p> <p>1 were working there, that you observed, you wouldn't know 2 who was in the office at that time, correct? 3 MS. BYERS: Correct, I would not know who was in that 4 office. 5 MR. SCHILLER: Did you ever see the job description 6 and duties of Ms. Pautrat? The notice of job duties? 7 MS. BYERS: No, but we worked – 8 MR. SCHILLER: I think it's been answered. 9 HEARING EXAMINER PRAGER: No, but she was in the 10 middle of saying – you asked the question. Let her answer. 11 MS. BYERS: So no, I did not, but we were doing the 12 same job. 13 MR. SCHILLER: But you are in a different office, 14 correct? 15 MS. BYERS: I was sitting in the hallway, but that 16 doesn't matter. We can still do the same job in a different 17 office. 18 MR. SCHILLER: So your position is that you were doing 19 an identical job? 20 MS. BYERS: Yes. 21 MR. SCHILLER: Okay. And you have never seen her job 22 notice, hiring – have you seen her employment – 23 MS. BYERS: No, but he partnered us up for like little 24 – trying to get clients. He would partner – sorry. He would 25 partners up to try to get clients to make appointments. So</p>	<p style="text-align: right;">51</p> <p>1 MS. BYERS: No. 2 MR. ABRAMSON: Did Nick Herman supervise you? 3 MS. BYERS: It depends if I was running the calendars, 4 really. 5 MR. ABRAMSON: Could you explain? Say it depends on 6 the calendars? 7 MS. BYERS: I feel like I was supervised by – my main 8 supervisors were Jonathan Lee and Web. However, when it 9 came to booking appointments and other general duties that 10 had to do with each advisor, they would have to supervise 11 me on what to do just – 12 MR. ABRAMSON: They? Whose they? 13 MS. BYERS: Nick. I can't remember the other 14 gentleman's name in the back, but – I can't remember his 15 name. 16 MR. ABRAMSON: And so you said this would've been when 17 you were booking appointments? 18 MS. BYERS: Yes. 19 MR. ABRAMSON: And this was on Google calendar? 20 MS. BYERS: Yes. 21 MR. ABRAMSON: And were they supervising how you used 22 Google calendar? 23 MS. BYERS: Yeah. 24 MR. ABRAMSON: Was there anything else about the 25 supervision besides using Google calendar?</p>
<p style="text-align: right;">50</p> <p>1 if we weren't doing the same job, then I don't know why he 2 would partner either her or I up to get the job done. 3 MR. SCHILLER: Who is he? 4 MS. BYERS: Jonathan Lee. 5 MR. SCHILLER: Okay. Is there – is it your position 6 that there is only one job to do in that office? Just one 7 task? 8 MS. BYERS: I'm sorry. Repeat that. 9 MR. SCHILLER: Sure. Is it your position that there is 10 only one task to do that office? 11 MS. BYERS: No. 12 MR. SCHILLER: Okay. 13 MS. BYERS: Can I get some water, please? 14 MR. SCHILLER: Indulgence please, for one moment. 15 Okay. No further questions. 16 HEARING EXAMINER PRAGER: No further questions. Mr. 17 Abramson, do you have any questions for this witness? 18 MR. ABRAMSON: Yes, Your Honor. Hi Ms. Byers. 19 MS. BYERS: Hi. 20 MR. ABRAMSON: You testified that Mr. Lee supervised 21 you? 22 MS. BYERS: Yes, as well as Web. 23 MR. ABRAMSON: And Web supervised you? 24 MS. BYERS: Yes. 25 MR. ABRAMSON: Did Ms. de los Santos supervise you?</p>	<p style="text-align: right;">52</p> <p>1 MS. BYERS: Unless they wanted me to purchase 2 something with their credit card like office supplies or 3 something like that. 4 MR. ABRAMSON: Who is they that would ask you to 5 purchase office supplies? 6 MS. BYERS: It would be Jonathan, but when Jonathan 7 wasn't there, Web wasn't there, then it would either be 8 Nick or the other gentleman. 9 MR. ABRAMSON: Okay. Do you recall what role Nick had 10 with F3E? 11 MS. BYERS: I don't think he had a role at F3E. I 12 don't know, honestly. I know he was a financial advisor, 13 but I did not know – it was very confusing in that office. 14 MR. ABRAMSON: In what way? 15 MS. BYERS: I didn't really know who – it was either 16 Capital Financial Partners or F3E. I mean, we had an email 17 that said F3E, but a signature that said Capital Financial 18 Partners. So it was very – it was just very – it was very 19 strange. I can't – 20 MR. ABRAMSON: So you were given an email account that 21 said F3E? 22 MS. BYERS: Yes. 23 MR. ABRAMSON: Were you give in an email account that 24 the Capital Financial Partners? 25 MS. BYERS: The signature was Capital Financial</p>

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14 (53 to 56)

<p>53</p> <p>1 Partners.</p> <p>2 MR. ABRAMSON: In the email itself?</p> <p>3 MS. BYERS: Yeah. When I was sitting at the front</p> <p>4 desk, yes.</p> <p>5 MR. ABRAMSON: Okay. To clarify, when you were sitting</p> <p>6 at the front desk, I think you testified you answered the</p> <p>7 phone as Capital Financial Partners.</p> <p>8 MS. BYERS: Yes.</p> <p>9 MR. ABRAMSON: But when you sent an email to somebody</p> <p>10 –</p> <p>11 MS. BYERS: It said like Lauren at –</p> <p>12 LaurenF3E@gmail.com or something like that. Then we would</p> <p>13 have a signature that said Capital Financial Partners at</p> <p>14 the bottom.</p> <p>15 MR. ABRAMSON: In the email?</p> <p>16 MS. BYERS: Yes.</p> <p>17 MR. ABRAMSON: That you sent?</p> <p>18 MS. BYERS: Yeah, it was just – it was confusing.</p> <p>19 MR. ABRAMSON: Okay. To the best of your recollection,</p> <p>20 what was F3E's business?</p> <p>21 MS. BYERS: They were a nonprofit organization. That</p> <p>22 is much as I got from it.</p> <p>23 MR. ABRAMSON: Do you recall what activities they</p> <p>24 performed?</p> <p>25 MS. BYERS: They went out on seminars to different</p>	<p>55</p> <p>1 Partners.</p> <p>2 MR. ABRAMSON: Now when you booked workshops, you</p> <p>3 represented yourself as F3E; is that correct?</p> <p>4 MS. BYERS: Yes.</p> <p>5 MR. ABRAMSON: And when you called attendees of</p> <p>6 workshops, you identified yourself as F3E to make an</p> <p>7 appointment with Nick Herman?</p> <p>8 MS. BYERS: Yes, but I would also identify myself as</p> <p>9 Capital Financial Partners when I sat up front. So –</p> <p>10 MR. ABRAMSON: But my question was, when you called</p> <p>11 people for –</p> <p>12 HEARING EXAMINER PRAGER: Excuse me Mr. Abramson. Let</p> <p>13 her finish her testimony.</p> <p>14 MR. ABRAMSON: Okay. Sure.</p> <p>15 MS. BYERS: That's why I was confused about which one</p> <p>16 I worked for.</p> <p>17 MR. ABRAMSON: I want to distinguish when you were</p> <p>18 making phone calls to set up appointments versus being up</p> <p>19 front when you are answering the phone. When you made phone</p> <p>20 calls, you represented yourself as being from F3E; is that</p> <p>21 correct?</p> <p>22 MS. BYERS: Yes, but I made phone calls from both. I</p> <p>23 made phone calls for F3E and I made phone calls regarding</p> <p>24 wills and trusts that people were – where I would identify</p> <p>25 myself as Capital Financial Partners as well.</p>
<p>54</p> <p>1 companies and educated them on their – whatever financial</p> <p>2 plans they offered.</p> <p>3 MR. ABRAMSON: And what else did they do?</p> <p>4 MS. BYERS: They would have – I mean, once the</p> <p>5 appointments were booked, they would meet with the client.</p> <p>6 And that is much as I know.</p> <p>7 MR. ABRAMSON: When you booked appointments, where</p> <p>8 they only for Nick Herman? Or did you book appointments for</p> <p>9 Jonathan Lee as well?</p> <p>10 MS. BYERS: I didn't book appointments for Jonathan. I</p> <p>11 booked appointments for Nick and I booked appointments for</p> <p>12 another gentleman.</p> <p>13 MR. ABRAMSON: Okay. Did someone else book</p> <p>14 appointments for Jonathan?</p> <p>15 MS. BYERS: I am not aware of that.</p> <p>16 MR. ABRAMSON: Okay. Did you consider yourself to be</p> <p>17 an employee of F3E?</p> <p>18 MS. BYERS: I don't know what I was really an employee</p> <p>19 of. I don't know if it was F3E or if it was Capital</p> <p>20 Financial Partners.</p> <p>21 MR. ABRAMSON: My question was, did you consider</p> <p>22 yourself an employee of F3E?</p> <p>23 MS. BYERS: I considered myself as an employee of</p> <p>24 Capital Financial Partners and F3E because I both had the</p> <p>25 email of F3E and I had a signature of Capital Financial</p>	<p>56</p> <p>1 MR. ABRAMSON: And –</p> <p>2 MS. BYERS: But yes, I did identify myself as</p> <p>3 Foundation for Financial Education, but at the same time,</p> <p>4 in the same office building a few steps up, I was Capital</p> <p>5 Financial Partners.</p> <p>6 MR. ABRAMSON: I understand. Now when you talked about</p> <p>7 wills and trusts, were these calls on wills and trusts made</p> <p>8 to people who had attended the workshops?</p> <p>9 MS. BYERS: I don't know.</p> <p>10 MR. ABRAMSON: How were you told to make the calls?</p> <p>11 MS. BYERS: My name is Lauren. I'm calling from</p> <p>12 Capital Financial Partners.</p> <p>13 MR. ABRAMSON: My fault for asking a vague question.</p> <p>14 How did the name of the person to call for wills and trusts</p> <p>15 come to you to make the calls?</p> <p>16 MS. BYERS: Because we would have to edit their – they</p> <p>17 would fill out their wills and we would have to edit it. If</p> <p>18 we could not figure out what their handwriting said, we</p> <p>19 would have to call and make confirmation of what they</p> <p>20 wanted in their – sorry, in their will, yes. And then</p> <p>21 that's when I would identify myself as Capital Financial</p> <p>22 Partners.</p> <p>23 MR. ABRAMSON: And when these wills were made out, the</p> <p>24 people who made them out were not F3E people? They weren't</p> <p>25 attendees of workshops, that were clients of Capital</p>

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15 (57 to 60)

<p>57</p> <p>1 Financial Partners?</p> <p>2 MS. BYERS: That's one confusion because my email</p> <p>3 still said F3E, but my signature said Capital Financial</p> <p>4 Partners. So it was very unclear for me.</p> <p>5 MR. ABRAMSON: Okay. Who did you report to on a daily</p> <p>6 basis?</p> <p>7 MS. BYERS: Either Jonathan or Web. Or if they weren't</p> <p>8 there, it would be Nick.</p> <p>9 MR. ABRAMSON: Did you ever report to Nick directly as</p> <p>10 part of your job?</p> <p>11 MS. BYERS: I never really directly reported to</p> <p>12 Jonathan, or Web, or Nick. I just walked in. I just walked</p> <p>13 in and did my job.</p> <p>14 MR. ABRAMSON: Okay. I have no further questions.</p> <p>15 HEARING EXAMINER PRAGER: All right. I'm going to ask</p> <p>16 some questions of you because I didn't understand all of</p> <p>17 your testimony, and other things I need to get clarified.</p> <p>18 You talked about text messages and looks. Did Mr. Lee, as</p> <p>19 far as you were able to observe, ever touch Ms. Pautrat?</p> <p>20 MS. BYERS: I did not observe that, no.</p> <p>21 HEARING EXAMINER PRAGER: All right. Did he touch any</p> <p>22 other women in the office as far you know?</p> <p>23 MS. BYERS: No.</p> <p>24 HEARING EXAMINER PRAGER: When you signed that</p> <p>25 affidavit that has been talked about, were you satisfied</p>	<p>59</p> <p>1 to give his, I guess business partner's son or something</p> <p>2 like that, a job there. And that's when she told me that he</p> <p>3 had been sending her drunk text messages as well. That's</p> <p>4 why she wanted to know about Giselle's case. And she said –</p> <p>5 she texted me and she just basically asked what was going</p> <p>6 on with it to help her find a job. So I helped her find a</p> <p>7 job.</p> <p>8 HEARING EXAMINER PRAGER: And who is this your talking</p> <p>9 about?</p> <p>10 MS. BYERS: Alex.</p> <p>11 HEARING EXAMINER PRAGER: Does she have a last name?</p> <p>12 MS. BYERS: The last name I can't pronounce. It starts</p> <p>13 with a K.</p> <p>14 HEARING EXAMINER PRAGER: All right. And she was</p> <p>15 working there at the same time you were at –</p> <p>16 MS. BYERS: Yes.</p> <p>17 HEARING EXAMINER PRAGER: When you received your</p> <p>18 training – my notes aren't very clear here. Who did the</p> <p>19 training of you? What individuals?</p> <p>20 HEARING EXAMINER PRAGER: So it was a lady that I was</p> <p>21 replacing – she did not know I was replacing her – that</p> <p>22 Jonathan Lee terminated a couple of days afterwards. And</p> <p>23 then Simon Clayton trained me.</p> <p>24 HEARING EXAMINER PRAGER: All right. And do you know</p> <p>25 what Mr. Clayton's position was –</p>
<p>58</p> <p>1 that it accurately portrayed everything you wanted to say?</p> <p>2 MS. BYERS: Yes.</p> <p>3 HEARING EXAMINER PRAGER: Was anything omitted that</p> <p>4 you wanted to say?</p> <p>5 MS. BYERS: I mean, there was stuff that happened</p> <p>6 after I signed the affidavit, but I don't know if I should</p> <p>7 mention – I didn't know if I should mention that, as far as</p> <p>8 when it comes to Alex, his other employee that he had</p> <p>9 terminated. And she called me to about –</p> <p>10 MR. SCHILLER: Objection. You are – I know you are the</p> <p>11 hearing examiner and that you can participate – questions</p> <p>12 for clarification, but none of this is – none of what she's</p> <p>13 about to testify to was – is an evidence to testify to.</p> <p>14 HEARING EXAMINER PRAGER: Well, we will find out.</p> <p>15 MR. SCHILLER: Okay.</p> <p>16 HEARING EXAMINER PRAGER: What is it – I'm intrigued</p> <p>17 now. What was it that happened afterwards? Was this while</p> <p>18 you were still employed?</p> <p>19 MS. BYERS: No. No, I wasn't employed there. Alex had</p> <p>20 called me probably about six months to a year later, maybe</p> <p>21 a little bit more than that. She called to let me know that</p> <p>22 Jonathan – she wanted to know more about what was going on</p> <p>23 with Giselle. I really couldn't tell her because I didn't</p> <p>24 know 100 percent. So I had given her Giselle's number. She</p> <p>25 said that she was terminated from – Jonathan terminated her</p>	<p>60</p> <p>1 MS. BYERS: I know he was making calls as well. I</p> <p>2 wasn't sure what – he was making calls based on the sheets</p> <p>3 that the employees on the seminars would give us. But I</p> <p>4 know he was working on something else and I don't – I</p> <p>5 really don't know what else he was working on.</p> <p>6 HEARING EXAMINER PRAGER: Mr. Clayton is not a</p> <p>7 supervisor; is that correct?</p> <p>8 MS. BYERS: No, correct.</p> <p>9 HEARING EXAMINER PRAGER: Tell me please, there were a</p> <p>10 couple of questions, but I still don't fully understand</p> <p>11 what relationships, if any, during the time that you worked</p> <p>12 there, did you have with Nicholas Herman. Tell me all the –</p> <p>13 tell me as much as you can in as much detail as you can as</p> <p>14 your relationships with them.</p> <p>15 MS. BYERS: I really didn't have a relationship with –</p> <p>16 I had – it was just when I was booking him appointments and</p> <p>17 that was pretty much it. If he needed me to buy office</p> <p>18 supplies, he would tell me. But if Jonathan or Web were not</p> <p>19 at work, he would be somebody that I would report to. That</p> <p>20 was about it.</p> <p>21 HEARING EXAMINER PRAGER: And did anybody ever clarify</p> <p>22 his position in the organization?</p> <p>23 MS. BYERS: He was a financial advisor. That was it.</p> <p>24 That's all I knew.</p> <p>25 HEARING EXAMINER PRAGER: All right. Tell me a little</p>



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16 (61 to 64)

<p style="text-align: right;">61</p> <p>1 bit – what you understand as these wills and trusts that</p> <p>2 you testified to, because I don't understand what you are</p> <p>3 doing.</p> <p>4 MS. BYERS: I really didn't understand too much of</p> <p>5 what I was doing either. But the only thing I knew was that</p> <p>6 whatever clients that they would have that would ask for a</p> <p>7 will, we – they did free wills. So the client would fill it</p> <p>8 out and we would have to – we would have to take whatever</p> <p>9 they filled out and we would have to type it out because</p> <p>10 they would hand write it.</p> <p>11 HEARING EXAMINER PRAGER: All right. And this is a</p> <p>12 will or a trust for the individual? Or a will or trust for</p> <p>13 one of your employers?</p> <p>14 MS. BYERS: I'm not 100 percent sure who the wills and</p> <p>15 trusts were for.</p> <p>16 HEARING EXAMINER PRAGER: Well, did the name Capital</p> <p>17 Financial appear?</p> <p>18 MS. BYERS: Yeah, sorry. Yes, Capital Financial</p> <p>19 Partners, yes.</p> <p>20 HEARING EXAMINER PRAGER: Okay. And that appeared in</p> <p>21 all of the wills and trusts? Or just some as far as you</p> <p>22 know?</p> <p>23 MS. BYERS: It didn't have – I don't – I still have a</p> <p>24 copy of it, but I did not see a Capital Financial Partner</p> <p>25 or F3E on it. I just knew – I was told that it was – when I</p>	<p style="text-align: right;">63</p> <p>1 MS. BYERS: I'm –</p> <p>2 MR. CHONG: There needs to be a foundation. She –</p> <p>3 HEARING EXAMINER PRAGER: Well, let her answer.</p> <p>4 MR. CHONG: Sure.</p> <p>5 MS. BYERS: It would be – like I said, we would call</p> <p>6 as Capital Financial Partners. Whether we would – whether</p> <p>7 they would get the employees from those seminars that they</p> <p>8 would go to, I'm not 100 percent sure how that worked out.</p> <p>9 HEARING EXAMINER PRAGER: But my question, maybe I</p> <p>10 didn't phrase it properly. You said you corrected or you</p> <p>11 read the wills or trusts. And if something was unclear, you</p> <p>12 would call.</p> <p>13 MS. BYERS: Yes.</p> <p>14 HEARING EXAMINER PRAGER: Now in the trust or the</p> <p>15 will, was it Capital Financial that would appear in the</p> <p>16 will or the trust? Or the Foundation?</p> <p>17 MS. BYERS: I don't think there was a name in it at</p> <p>18 all.</p> <p>19 HEARING EXAMINER PRAGER: Okay. Thank you. And what</p> <p>20 was your understanding that Mr. Sewell's position was with</p> <p>21 the company or with either of these organizations?</p> <p>22 MS. BYERS: I just was told he was a financial advisor</p> <p>23 and he was – I don't know if he was like a lawyer who</p> <p>24 represented – but I know he was a lawyer or he did – he</p> <p>25 worked out like the financial stuff for the – I don't know</p>
<p style="text-align: right;">62</p> <p>1 called, say Capital Financial Partners when the wills</p> <p>2 needed to be edited.</p> <p>3 HEARING EXAMINER PRAGER: I'm sorry. Say that again,</p> <p>4 please.</p> <p>5 MS. BYERS: So when we would – when the client would</p> <p>6 send in their will, what would happen is, if we couldn't</p> <p>7 read their handwriting or we needed to send out a final</p> <p>8 copy or anything, we would call them. And I would say my</p> <p>9 name is Lauren. I'm calling from Capital Financial</p> <p>10 Partners. I have a couple of questions on the will you just</p> <p>11 submitted. Like a – sorry. I'm trying to – that is much as</p> <p>12 I can give. Because they would – like I said, they would</p> <p>13 fill out the will. And if we couldn't read their</p> <p>14 handwriting, we would have to call them back and let them</p> <p>15 know I need clarification on something. Or when we were</p> <p>16 finished with the will, we would let them know and call</p> <p>17 them and they would come and pick it up because it would</p> <p>18 have to be notarized.</p> <p>19 HEARING EXAMINER PRAGER: All right. And again, I'm</p> <p>20 not quite sure I understand. The beneficiary would be the</p> <p>21 foundation?</p> <p>22 MS. BYERS: It was Capital Financial Partners.</p> <p>23 HEARING EXAMINER PRAGER: Would be the beneficiary of</p> <p>24 the will or the trust?</p> <p>25 MR. CHONG: She –</p>	<p style="text-align: right;">64</p> <p>1 where I'm – it was clear to me that he was a financial</p> <p>2 advisor.</p> <p>3 HEARING EXAMINER PRAGER: A financial advisor to whom?</p> <p>4 MS. BYERS: I'm not 100 percent sure.</p> <p>5 HEARING EXAMINER PRAGER: Okay.</p> <p>6 MS. BYERS: I believe it was Foundation for Financial</p> <p>7 Education, but it was – it was confusing there.</p> <p>8 HEARING EXAMINER PRAGER: All right. And I think you</p> <p>9 made some testimony about Ms. de los Santos. Who was she or</p> <p>10 what was her role as far as you knew?</p> <p>11 MS. BYERS: She was like an outreach coordinator or</p> <p>12 something like that. That's what I was told.</p> <p>13 HEARING EXAMINER PRAGER: And did you understand which</p> <p>14 of these organizations she was working for?</p> <p>15 MS. BYERS: She told me – well, sorry. She didn't tell</p> <p>16 me. When she would call – make these calls, she would say,</p> <p>17 Foundation for Financial Education.</p> <p>18 HEARING EXAMINER PRAGER: Okay. You said, I think at</p> <p>19 the beginning of your testimony, that you did not remember</p> <p>20 who signed your paychecks. Do you have any – have you</p> <p>21 thought about it? Do you have any idea who might have</p> <p>22 signed it?</p> <p>23 MS. BYERS: It said Herman, Inc. I believe it said</p> <p>24 Herman, Inc. on them.</p> <p>25 HEARING EXAMINER PRAGER: All right.</p>

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17 (65 to 68)

<p>65</p> <p>1 MS. BYERS: They were handwritten.</p> <p>2 HEARING EXAMINER PRAGER: And how did you know about</p> <p>3 these text messages that women in the office received?</p> <p>4 MS. BYERS: Giselle showed me and Ingrid, she called</p> <p>5 and she told me because I – she no longer wanted to work</p> <p>6 there anymore because she wasn't comfortable either. So I</p> <p>7 helped her with her resume and she had got another job. So</p> <p>8 that's when she had told me that Jonathan Lee was sending</p> <p>9 her text messages while he was – text messages and calls</p> <p>10 while she was – while he was intoxicated.</p> <p>11 HEARING EXAMINER PRAGER: All right. And who was this</p> <p>12 person? Do you remember the full name?</p> <p>13 MS. BYERS: Ingrid Palencia.</p> <p>14 HEARING EXAMINER PRAGER: Spell it as best you can.</p> <p>15 MS. BYERS: I-N-G-R-I-D, P-A-L-E-N-C-I-A.</p> <p>16 HEARING EXAMINER PRAGER: All right. And she left</p> <p>17 before you did or after?</p> <p>18 MS. BYERS: She left after I did.</p> <p>19 MR. ABRAMSON: All right. Did you ever receive similar</p> <p>20 text messages from Mr. Lee?</p> <p>21 MS. BYERS: I did not, no.</p> <p>22 HEARING EXAMINER PRAGER: For the moment, I think</p> <p>23 those are the questions that I have. Mr. Chong, do you have</p> <p>24 any redirect?</p> <p>25 MR. CHONG: Please. I'm going to show you please, was</p>	<p>67</p> <p>1 to other statements. There is hearsay within hearsay. She</p> <p>2 is here testifying. I asked specific questions. Redirect</p> <p>3 she – I believe he can ask questions related to my</p> <p>4 questions, but he is trying to move into evidence a</p> <p>5 document that contains hearsay within hearsay. It's hearsay</p> <p>6 and then there is hearsay within the hearsay. What – I</p> <p>7 mean, this reference is an individual, a statement by Simon</p> <p>8 Clayton. And also contains speculation.</p> <p>9 HEARING EXAMINER PRAGER: Mr. Abramson, what's your</p> <p>10 position?</p> <p>11 MR. ABRAMSON: No objection.</p> <p>12 HEARING EXAMINER PRAGER: All right. Mr. Schiller, I</p> <p>13 understand your reference to the Clayton paragraph. But I</p> <p>14 will take that into account. Your objection is overruled.</p> <p>15 So Exhibit C 12 is hereby admitted.</p> <p>16 (Exhibit C 12 was admitted into evidence.)</p> <p>17 MR. CHONG: Ms. Byers, you testified earlier that you</p> <p>18 went on one educational seminar with Mr. Sewell; is that</p> <p>19 correct?</p> <p>20 MS. BYERS: Yes.</p> <p>21 MR. CHONG: To your knowledge, who sponsored that</p> <p>22 educational seminar? Was it F3E, or CFP, or neither, or</p> <p>23 both?</p> <p>24 MS. BYERS: I'm not sure.</p> <p>25 MR. CHONG: Okay. I can take that back by the way.</p>
<p>66</p> <p>1 previously been marked as Exhibit C 12. Do you recognize</p> <p>2 that document?</p> <p>3 MS. BYERS: Yes.</p> <p>4 MR. CHONG: Is that the affidavit that we've been</p> <p>5 talking about during your testimony today?</p> <p>6 MS. BYERS: Yes.</p> <p>7 HEARING EXAMINER PRAGER: All right. Just a moment</p> <p>8 while I look at it. We will go off the record for moment.</p> <p>9 Where is it? Where is that?</p> <p>10 MR. CHONG: It's C 12.</p> <p>11 (Off the record at 10:58 a.m.)</p> <p>12 (On the record at 10:59 a.m.)</p> <p>13 HEARING EXAMINER PRAGER: All right Mr. Chong, you may</p> <p>14 continue.</p> <p>15 MR. CHONG: Thank you. Is everything in that affidavit</p> <p>16 still accurate and correct?</p> <p>17 MS. BYERS: Yeah. Yes.</p> <p>18 MR. CHONG: I move the admission of Exhibit C 12.</p> <p>19 HEARING EXAMINER PRAGER: Any objections by Mr.</p> <p>20 Schiller?</p> <p>21 MR. SCHILLER: I would object.</p> <p>22 HEARING EXAMINER PRAGER: Pardon?</p> <p>23 MR. SCHILLER: I would object, yes.</p> <p>24 HEARING EXAMINER PRAGER: On what grounds?</p> <p>25 MR. SCHILLER: Well, it has statements in here related</p>	<p>68</p> <p>1 MS. BYERS: Oh, okay.</p> <p>2 MR. CHONG: Thank you. You're not sure who sponsored</p> <p>3 that seminar that you attended with Mr. Sewell?</p> <p>4 MS. BYERS: Yeah, I don't – yeah, I'm not sure.</p> <p>5 MR. CHONG: Okay. When did you learn that Mr. Lee was</p> <p>6 dating someone in the office?</p> <p>7 MS. BYERS: About like two weeks – a couple of weeks</p> <p>8 before I quit.</p> <p>9 MR. CHONG: You talked about how Mr. Lee would visit</p> <p>10 Ms. Pautrat's office. And you were asked on cross-</p> <p>11 examination if there was somebody else in that office. You</p> <p>12 know the other person – who shared the office with Ms.</p> <p>13 Pautrat was?</p> <p>14 MS. BYERS: Olivia.</p> <p>15 MR. CHONG: Olivia? Do you know her last name?</p> <p>16 MS. BYERS: No.</p> <p>17 MR. CHONG: Was Olivia always in the office?</p> <p>18 MS. BYERS: No.</p> <p>19 MR. CHONG: Were there days when she would be absent</p> <p>20 from the office?</p> <p>21 MS. BYERS: Yes.</p> <p>22 MR. CHONG: Would you be able to tell if she was in</p> <p>23 the office?</p> <p>24 MS. BYERS: Yeah.</p> <p>25 MR. CHONG: How?</p>

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18 (69 to 72)

<p>69</p> <p>1 MS. BYERS: I would be able to tell because she walks 2 past my desk before she gets into work. 3 MR. CHONG: Okay. 4 MS. BYERS: After, sorry. 5 MR. CHONG: I'm sorry? 6 MS. BYERS: After she gets into work, she would have 7 to pass my cube to go into her office. 8 MR. CHONG: So when you were observing the frequency 9 with which Mr. Lee visited Ms. Pautrat's office, you would 10 know whether Olivia was in her office as well at the time 11 to; is that right? 12 MS. BYERS: Yes, but I cannot recall who was in the 13 office, if there was anyone in the office at all when he 14 would go. 15 MR. CHONG: Okay, but it's possible that Mr. Lee's 16 visits to Ms. Pautrat's office did not involve having 17 someone in that office? 18 MS. BYERS: Correct. 19 MR. CHONG: Okay. You are asked about comparisons 20 between your job description and Ms. Pautrat's job 21 description. Did Simon also do the same job as the two of 22 you? 23 MS. BYERS: Yes. 24 MR. CHONG: Did the three of you have a system in 25 place to talk about your goals?</p>	<p>71</p> <p>1 MS. BYERS: Can you repeat that, please? 2 MR. CHONG: Do you know which organization, F3E or 3 CFP, or neither or both, was the organization that offered 4 to draft wills and trusts for people? 5 MS. BYERS: I believe it was Capital Financial 6 Partners. 7 MR. CHONG: Okay. 8 HEARING EXAMINER PRAGER: And Ms. Byers, I need to 9 again remind you, keep your voice up, please. 10 MS. BYERS: Oh, I'm sorry. Capital Financial Partners. 11 MR. CHONG: Okay. So when you are helping to draft 12 wills and trusts, you are doing so on behalf of Capital 13 Financial Partners? 14 MS. BYERS: Yes. 15 MR. CHONG: Okay. Now, there were some questions about 16 who the beneficiaries of these wills and trusts were. That 17 was never – that was – that was not Capital Financial 18 Partners or the Foundation for Financial Education; is that 19 right? 20 MS. BYERS: Well, it didn't have anything on there 21 indicating who it was. 22 MR. CHONG: Okay. You talked about communications you 23 had with Ms. Kazavoka after you left. Or was it after she 24 left? 25 MS. BYERS: After she got fired.</p>
<p>70</p> <p>1 MS. BYERS: Yes, along – yes. Yes. 2 MR. CHONG: Okay. Is it fair to say then that – 3 MR. SCHILLER: Objection. 4 HEARING EXAMINER PRAGER: He hasn't asked the question 5 yet. 6 MR. SCHILLER: Sure, leading. This is his direct. And 7 when he started question with, is it fair to say – 8 HEARING EXAMINER PRAGER: All right. Yes, I agree. Mr. 9 Chong, can you revise your question? 10 MR. CHONG: Certainly. You just testified that the 11 three of you had a system where you talked about the goals; 12 is that right? 13 MS. BYERS: Uh-huh. 14 MR. CHONG: When talking about – when engaging in that 15 system, did you learn from that what all three of your job 16 descriptions were? Or at least job duties at the time were? 17 MS. BYERS: Yeah, we had about -- 18 MR. CHONG: And so what did you then learn about the 19 three of your job duties at the time? 20 MS. BYERS: They were the same. 21 MR. CHONG: Okay. We talked extensively I think about 22 your work drafting wills and trusts. And I think there is 23 some confusion on the record about that. So let me see if I 24 can help clarify that. Do you know which organization, F3E 25 or CFP offered to draft wills and trusts for people?</p>	<p>72</p> <p>1 MR. CHONG: After she got fired. Do you remember 2 anything about what she told you immediately after she got 3 fired? 4 MS. BYERS: That – 5 MR. SCHILLER: Objection. This is in relation to the – 6 Your Honor's question. This is not – this is redirect. So 7 he is now – 8 HEARING EXAMINER PRAGER: I understand. I understand. 9 Mr. Chong, are you going to object if Mr. Schiller presents 10 testimony by Ms. Kazavoka? If I have that correct name. I'm 11 not quite sure what you are trying to bring out at this 12 point because we haven't heard anything from her at all. 13 MR. CHONG: I'm sorry. What was your question? 14 HEARING EXAMINER PRAGER: Well, I'm trying to 15 determine the proper sequence of this questioning. Since 16 there is – all right. I think I've decided in my mind how 17 this is going to work. Mr. Schiller, you're going to be 18 able to present her tomorrow. But since her name has been 19 mentioned a couple of times and she is apparently going to 20 be a witness – 21 MR. SCHILLER: She may, she may not. 22 HEARING EXAMINER PRAGER: All right. 23 MR. SCHILLER: And this is redirect. You asked a 24 question. 25 HEARING EXAMINER PRAGER: Correct.</p>

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19 (73 to 76)

<p>73</p> <p>1 MR. SCHILLER: So if it is – it is beyond the scope.</p> <p>2 HEARING EXAMINER PRAGER: I agree. Mr. Chong, I think</p> <p>3 we will have to defer that until there is testimony one way</p> <p>4 or another from Ms. Kazavoka.</p> <p>5 MR. CHONG: Okay. I have no more questions at this</p> <p>6 time.</p> <p>7 HEARING EXAMINER PRAGER: Okay. Mr. Schiller, you got</p> <p>8 any further questions?</p> <p>9 MR. SCHILLER: No, sir.</p> <p>10 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>11 MR. ABRAMSON: Yes, Your Honor, just one. Ms. Byers,</p> <p>12 my understanding of the term beneficiary is that in a will,</p> <p>13 that the person who gets whatever the person dies has as</p> <p>14 their property. It's a word used – it's a technical word. I</p> <p>15 think when the question was asked whether CFP or F3E were</p> <p>16 beneficiaries, my interpretation was when the person filled</p> <p>17 out the will, that they named as a party to receive things</p> <p>18 when the person died. Was CFP or F3E ever mentioned as the</p> <p>19 party who would get something when the person filling out</p> <p>20 the will would die?</p> <p>21 MS. BYERS: Maybe I'm not understanding. Sorry. I want</p> <p>22 to make sure I'm – can you repeat that? I just want to make</p> <p>23 sure I'm answering properly.</p> <p>24 MR. ABRAMSON: My understanding of a beneficiary is,</p> <p>25 in a will they receive the assets, certain assets when</p>	<p>75</p> <p>1 MS. BYERS: Thank you.</p> <p>2 MR. ABRAMSON: Thank you. I was just clarifying that</p> <p>3 for you. Thank you.</p> <p>4 HEARING EXAMINER PRAGER: Mr. Abramson, are you done?</p> <p>5 MR. ABRAMSON: Yes, I am. Thank you.</p> <p>6 HEARING EXAMINER PRAGER: Well, I have a question</p> <p>7 since Mr. Abramson brought this up. I believe at one point</p> <p>8 you said, or I understood you to say, that you had brought</p> <p>9 something along, a sample of one of these wills or trusts;</p> <p>10 is that correct?</p> <p>11 MS. BYERS: It's in my email. I did not bring them.</p> <p>12 It's in a PDF in my email.</p> <p>13 HEARING EXAMINER PRAGER: A PDF in your email to whom?</p> <p>14 MS. BYERS: Myself. So Ingrid sent me one while we</p> <p>15 were working together, to my personal email.</p> <p>16 HEARING EXAMINER PRAGER: All right. Thank you. Tell</p> <p>17 me again, it was the initial part of your testimony, but</p> <p>18 just remind me again. Why did you leave the employment?</p> <p>19 MS. BYERS: Because I was very confused about what –</p> <p>20 you know, really what my job title was. And I was not hired</p> <p>21 for – I was not hired to be someone who – a sales –</p> <p>22 basically a sales – not a sales call, but I wasn't – I was</p> <p>23 hired to be a front desk admin. And when I got there, that</p> <p>24 was not what I was doing.</p> <p>25 HEARING EXAMINER PRAGER: And that was the basis for</p>
<p>74</p> <p>1 someone dies. You were filling out wills for people who</p> <p>2 hadn't died yet.</p> <p>3 MS. BYERS: Right.</p> <p>4 MR. ABRAMSON: So in their will they would maybe name</p> <p>5 someone, or multiple people, or entities to receive assets</p> <p>6 when they died.</p> <p>7 MS. BYERS: Right.</p> <p>8 MR. ABRAMSON: I think the questions were, was CFP or</p> <p>9 FF3 ever named as someone to receive assets when the person</p> <p>10 died who is filling out the will, to the best of your</p> <p>11 recollection.</p> <p>12 MS. BYERS: No. No.</p> <p>13 MR. ABRAMSON: They were not?</p> <p>14 MS. BYERS: They were not. They – I'm sorry. I thought</p> <p>15 – and so on the will it had – I thought there had to be</p> <p>16 like a name on there who it represented, meaning F3E or</p> <p>17 CFP. And there was no name on there that represented either</p> <p>18 company is what I was – is what I meant.</p> <p>19 MR. ABRAMSON: Okay. And the person filling out the</p> <p>20 will never named F3E or CFP to receive anything after the</p> <p>21 person died, to the best of your recollection?</p> <p>22 MS. BYERS: Right.</p> <p>23 MR. ABRAMSON: Okay.</p> <p>24 MS. BYERS: Right.</p> <p>25 MR. ABRAMSON: Right.</p>	<p>76</p> <p>1 your deciding you're not going to continue working there;</p> <p>2 is that correct?</p> <p>3 MS. BYERS: It was just – it was an uncomfortable</p> <p>4 environment. I wasn't hired to do what I was doing. Like I</p> <p>5 said, it was supposed to be the front desk. I wasn't good</p> <p>6 at my job, the one that he gave to me. So I just decided to</p> <p>7 part ways.</p> <p>8 HEARING EXAMINER PRAGER: All right. Because there is</p> <p>9 something in your affidavit that I don't understand. Two</p> <p>10 things actually. In paragraph six, can you show her</p> <p>11 paragraph six, please? You say Mr. Lee communicated with</p> <p>12 the female staff including myself and Giselle –</p> <p>13 MS. BYERS: Well, maybe I should have –</p> <p>14 HEARING EXAMINER PRAGER: -- in very inappropriate –</p> <p>15 in very inappropriate ways. How did he communicate with</p> <p>16 you?</p> <p>17 MS. BYERS: So he –</p> <p>18 HEARING EXAMINER PRAGER: With you – now, let me</p> <p>19 finish the question. How did he communicate with you in a</p> <p>20 very inappropriate way?</p> <p>21 MS. BYERS: So he commented on a dress that I had on.</p> <p>22 But I honestly sometimes don't know how to interpret that.</p> <p>23 I mean, it was one of those things where I said, thank you.</p> <p>24 But it was – I didn't know if I should have felt</p> <p>25 uncomfortable. It was just an uncomfortable environment.</p>

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20 (77 to 80)

<p style="text-align: right;">77</p> <p>1 HEARING EXAMINER PRAGER: And this was a one-time 2 event? 3 MS. BYERS: Yes. Now in paragraph nine you say, I knew 4 I had to leave my position because of the unhealthy 5 environment. What was your unhealthy – what was the 6 unhealthy environment that you were referring to in that 7 paragraph? 8 MS. BYERS: The unhealthy environment with not knowing 9 how to differentiate between F3E and Capital Financial 10 Partners. Unhealthy environment meaning the way he talked 11 to women or communicated with them. I was being told by 12 different employees, different encounters that they would 13 have with him. So I was not – I just automatically – I just 14 was not comfortable with it anymore. So I left. 15 HEARING EXAMINER PRAGER: Okay. Now you testified a 16 couple of times about this – these texts and comments about 17 people's physical appearance. Did you ever find that 18 anybody – that Mr. Lee had requested sexual favors from the 19 employees? 20 MS. BYERS: I'm sorry. Repeat that. 21 HEARING EXAMINER PRAGER: Did you ever determine or 22 believe that Mr. – I'm sorry, Mr. Lee rather, requested 23 sexual favors from any employee? 24 MS. BYERS: No, I do know whatever he text messaged 25 Ingrid one night. I did not see the text message, but I</p>	<p style="text-align: right;">79</p> <p>1 not hitting my numbers either and I did not get fired and 2 neither did Simon. 3 MR. SCHILLER: But you don't know if you are hourly or 4 salaried, correct? 5 MS. BYERS: Right. 6 MR. SCHILLER: Okay. No further questions. 7 HEARING EXAMINER PRAGER: No further questions. Mr. 8 Abramson? 9 MR. ABRAMSON: Nothing, Your Honor. 10 HEARING EXAMINER PRAGER: Okay. Thank you. Ms. Byers, 11 you are excused. I don't know whether you will be recalled 12 at some point, but at the moment, you are excused. 13 MS. BYERS: Okay, thank you. 14 HEARING EXAMINER PRAGER: Thank you, very much. We 15 will go off the record for a moment. 16 (Off the record at 11:21 a.m.) 17 (On the record at 11:30 a.m.) 18 HEARING EXAMINER PRAGER: Mr. Chong, you can call your 19 next witness. 20 MR. CHONG: We call Jonathan Lee. 21 HEARING EXAMINER PRAGER: Mr. Lee? 22 MR. LEE: Yes. 23 HEARING EXAMINER PRAGER: Will you raise your right 24 hand. Do you swear to tell the truth, the whole truth and 25 nothing but the truth under penalty of perjury?</p>
<p style="text-align: right;">78</p> <p>1 know she was very disturbed and uncomfortable. 2 HEARING EXAMINER PRAGER: All right. Did you ever 3 believe that any consequences came from somebody's 4 rejection of Mr. Lee's comments? Were people penalized or 5 somehow – well, were penalized. Let's put it that way. 6 MS. BYERS: Well, I believe that was why Giselle was 7 fired, one of the reasons why she was fired. But other than 8 that, no, there was no – 9 HEARING EXAMINER PRAGER: All right. Thank you. And 10 finally, did you believe that these comments or texts by 11 Mr. Lee constituted intimidating, hostile, or offensive 12 work environment? 13 MS. BYERS: Offensive work environment, yes. 14 HEARING EXAMINER PRAGER: Okay. Thank you. Final 15 round, Mr. Chong, you have any questions based on what I 16 just asked? 17 MR. CHONG: No, sir. 18 HEARING EXAMINER PRAGER: Mr. Schiller, any questions? 19 MR. SCHILLER: Yes. You mentioned one of the reasons 20 that Ms. Pautrat was terminated. What was the other reason? 21 MS. BYERS: I believe that was the main reason that 22 she got fired. But the excuse was she wasn't hitting her 23 numbers. 24 MR. SCHILLER: Okay. 25 MS. BYERS: And I knew that wasn't true because I was</p>	<p style="text-align: right;">80</p> <p>1 MR. LEE: I do. 2 HEARING EXAMINER PRAGER: Will you state your full 3 name, please? 4 MR. LEE: Jonathan Lee. 5 HEARING EXAMINER PRAGER: All right. Mr. Chong. 6 MR. LEE: Good morning Mr. Lee. You are employed by 7 the Foundation for Financial Education; is that correct? 8 MR. LEE: It's a volunteer organization. 9 MR. CHONG: Are you – that doesn't answer the 10 question. Are you employed by the Foundation for Financial 11 Education? 12 MR. LEE: I'm not – you would have to interpret or 13 tell me exactly what employee means. 14 MR. CHONG: Are you the CEO of F3E? 15 MR. LEE: I am, yes. 16 MR. CHONG: Okay. Do you draw paychecks from F3E? 17 MR. LEE: I do not. 18 MR. CHONG: Okay. But you are a principle of F3E? 19 MR. LEE: I would say so, yes. 20 MR. CHONG: Are you a principle of Capital Financial 21 Partners as well? 22 MR. LEE: I'm not. 23 MR. CHONG: You're not. I will get to that. Did you 24 interview Ms. Pautrat for this job that we are talking 25 about?</p>

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21 (81 to 84)

<p>81</p> <p>1 MR. LEE: I did.</p> <p>2 MR. CHONG: How long – and the interview lasted for a</p> <p>3 couple of hours; is that right?</p> <p>4 MR. LEE: No, it did not last for a couple of hours.</p> <p>5 MR. CHONG: How long did it last?</p> <p>6 MR. LEE: Typical interviews are probably 15 to 20</p> <p>7 minutes.</p> <p>8 MR. CHONG: And how long did this – how long did her</p> <p>9 interview –</p> <p>10 MR. LEE: I don't have any recollection of her</p> <p>11 interview lasting longer than 15 or 20 minutes.</p> <p>12 MR. CHONG: Okay. You reviewed her resume before</p> <p>13 hiring her; is that right?</p> <p>14 MR. LEE: I'm sure I did.</p> <p>15 MR. CHONG: You made the decision to hire her, right?</p> <p>16 MR. LEE: I'm sure I did.</p> <p>17 MR. CHONG: Was – but nothing in her resume suggested</p> <p>18 that she had a background in financial planning or</p> <p>19 financial background --</p> <p>20 MR. LEE: No, she had no background whatsoever, that's</p> <p>21 right.</p> <p>22 MR. CHONG: And yet you hired her for this position at</p> <p>23 a financial planning firm?</p> <p>24 MR. LEE: No, I didn't hire her for a financial</p> <p>25 planning position.</p>	<p>83</p> <p>1 Partners to be hired by them, yes.</p> <p>2 MR. CHONG: Okay. And again, what is the purpose of</p> <p>3 the Foundation for Financial Education?</p> <p>4 MR. LEE: Financial education.</p> <p>5 MR. CHONG: Okay. To provide financial education, is</p> <p>6 that right?</p> <p>7 MR. LEE: That's right.</p> <p>8 MR. CHONG: Okay.</p> <p>9 MR. LEE: That's right.</p> <p>10 MR. CHONG: Okay.</p> <p>11 MR. LEE: She was not a financial educator though. She</p> <p>12 was purely administrative.</p> <p>13 MR. CHONG: She – what was her job – what were her job</p> <p>14 descriptions?</p> <p>15 MR. LEE: Administrative duties.</p> <p>16 MR. CHONG: Such as?</p> <p>17 MR. LEE: Appointment scheduling, clerical stuff,</p> <p>18 paperwork.</p> <p>19 MR. CHONG: So when, for example, she had to – she had</p> <p>20 to do follow-up calls the people who had attended your</p> <p>21 workshops, F3E's workshops; is that right?</p> <p>22 MR. LEE: Yeah, that's part of the scheduling, sure.</p> <p>23 MR. CHONG: Okay. So when she called these people and</p> <p>24 said, let's get you to come in, that's what she did, right?</p> <p>25 MR. LEE: Right.</p>
<p>82</p> <p>1 MR. CHONG: But you did hire her for a position in a</p> <p>2 financial planning firm, right?</p> <p>3 MR. LEE: Yeah, purely administrative position though.</p> <p>4 There is no financial planning designation for her or</p> <p>5 requirements for her or anything she needed to do</p> <p>6 financial planning related at all.</p> <p>7 MR. ABRAMSON: Objection, Your Honor.</p> <p>8 HEARING EXAMINER PRAGER: What's your objection?</p> <p>9 MR. ABRAMSON: He is using a word of art, financial</p> <p>10 planning firm. But it isn't clear whether he is talking</p> <p>11 about Capital Financial Partners or the Foundation for</p> <p>12 Financial Education. This is two corporate entities here.</p> <p>13 The term, a financial planning firm, is vague and</p> <p>14 ambiguous. And I would respectfully ask that the question</p> <p>15 be clarified so that the answer could be misconstrued.</p> <p>16 HEARING EXAMINER PRAGER: All right. That seems like a</p> <p>17 legitimate question. Mr. Chong, can you try to get some</p> <p>18 clarification?</p> <p>19 MR. CHONG: I will try, Your Honor. Did you hire her –</p> <p>20 did you hire Ms. Pautrat to be – to work for the Foundation</p> <p>21 for Financial Education?</p> <p>22 MR. LEE: I did.</p> <p>23 MR. CHONG: Okay. Did you hire Ms. Pautrat to work for</p> <p>24 Capital Financial Partners?</p> <p>25 MR. LEE: I referred her over to Capital Financial</p>	<p>84</p> <p>1 MR. CHONG: What was she to do when people had</p> <p>2 questions about their financial planning?</p> <p>3 MR. LEE: Not answer them.</p> <p>4 MR. CHONG: How – but she can't really effectively do</p> <p>5 her job if she –</p> <p>6 MR. LEE: She --</p> <p>7 HEARING EXAMINER: Just wait a minute. Mr. Lee, let</p> <p>8 him finish his question before you interrupt.</p> <p>9 MR. LEE: Sure.</p> <p>10 HEARING EXAMINER: Just wait. Mr. Chong –</p> <p>11 MR. ABRAMSON: Can we go off the record for a second?</p> <p>12 Mr. Lee if –</p> <p>13 HEARING EXAMINER: Just a moment. Mr. Chong was asking</p> <p>14 a question. Ask your question.</p> <p>15 MR. CHONG: She can't effectively do her job if she is</p> <p>16 not allowed to answer questions from people who ask about</p> <p>17 financial products; is that right?</p> <p>18 MR. LEE: She would –</p> <p>19 MR. SCHILLER: Objection.</p> <p>20 HEARING EXAMINER: Sorry. Mr. Abramson, I think we –</p> <p>21 MR. ABRAMSON: Because Mr. Lee is facing this</p> <p>22 direction, his voice, I often don't hear the words that he</p> <p>23 is answering. And I think it's important that I hear his</p> <p>24 answers.</p> <p>25 HEARING EXAMINER: Good point. Mr. Lee, would you</p>

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22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 please face the center of the table?</p> <p>2 MR. LEE: I will.</p> <p>3 HEARING EXAMINER: And try to keep your voice up.</p> <p>4 MR. LEE: Sure. Sure.</p> <p>5 HEARING EXAMINER: Now Mr. Schiller, what was your</p> <p>6 objection?</p> <p>7 MR. SCHILLER: Leading.</p> <p>8 MR. CHONG: He is a party opponent.</p> <p>9 MR. SCHILLER: Yes, just because he is a party</p> <p>10 opponent doesn't mean you can automatically ask leading</p> <p>11 questions. He hasn't been hostile at all. There is no</p> <p>12 foundation of hostility.</p> <p>13 HEARING EXAMINER: Well, it's --</p> <p>14 MR. SCHILLER: A party opponent -- I'm sorry. Go ahead.</p> <p>15 HEARING EXAMINER: I'm sorry to interrupt you, but he</p> <p>16 is one of the Respondents. And so it's perfectly legitimate</p> <p>17 for the Complainant's lawyer to assume he will be hostile.</p> <p>18 So I believe that leading questions are appropriate.</p> <p>19 MR. CHONG: Thank you, sir. Mr. Lee, do you know who</p> <p>20 Eugene Policastri is?</p> <p>21 MR. LEE: I do.</p> <p>22 MR. CHONG: And who is he?</p> <p>23 MR. LEE: He's an attorney.</p> <p>24 MR. CHONG: And in fact, he represented CFP and F3E;</p> <p>25 isn't that right?</p>	<p style="text-align: right;">87</p> <p>1 provided you previously.</p> <p>2 MR. SCHILLER: These are my -- right, these are my</p> <p>3 binders for today's hearing.</p> <p>4 MR. CHONG: Your Honor, may I borrow one of your extra</p> <p>5 copies of the binder?</p> <p>6 HEARING EXAMINER: Of course. We will go off the</p> <p>7 record for a moment. Why don't you come up here --</p> <p>8 (Off the record at 11:38:12 a.m.)</p> <p>9 (Back on the record at 11:38:20 a.m.)</p> <p>10 MR. CHONG: Back on the record. I've handed --</p> <p>11 HEARING EXAMINER: Just a moment, please.</p> <p>12 THE COURT REPORTER: We are back on.</p> <p>13 HEARING EXAMINER: Okay.</p> <p>14 MR. CHONG: I've handed the witness a copy of</p> <p>15 plaintiff's exhibit binder, plaintiff's hearing exhibits</p> <p>16 that I borrowed from the Hearing Examiner. I asked you to</p> <p>17 direct your attention to the exhibit marked C 20 in that</p> <p>18 binder. Do you recognize this document?</p> <p>19 MR. LEE: I've never seen it before.</p> <p>20 MR. CHONG: All right. It appears to be a complaint</p> <p>21 filed in the Circuit Court for Montgomery County Maryland</p> <p>22 with Herman, Inc., DBA, Capital Financial Partners, and</p> <p>23 Foundation for Financial Education as the plaintiffs. You</p> <p>24 have not seen this before?</p> <p>25 MR. LEE: I do not recognize it.</p>
<p style="text-align: right;">86</p> <p>1 MR. LEE: I believe so.</p> <p>2 MR. CHONG: Okay.</p> <p>3 HEARING EXAMINER: Mr. Chong, would you spell who</p> <p>4 you're --</p> <p>5 MR. CHONG: Oh, I'm sorry.</p> <p>6 HEARING EXAMINER: Spell who you are talking about?</p> <p>7 MR. CHONG: Poolicastri; P-O-L-I-C-A-S-T-R-I. The</p> <p>8 first name is Eugene; E-U-G-E-N-E.</p> <p>9 HEARING EXAMINER: All right. Ask the question again,</p> <p>10 please.</p> <p>11 MR. CHONG: So you said you know who Eugene Policastri</p> <p>12 is?</p> <p>13 MR. LEE: I do.</p> <p>14 MR. CHONG: And that Mr. Policastri represented</p> <p>15 Capital Financial Partners and Foundation for Financial</p> <p>16 Education; is that right?</p> <p>17 MR. LEE: I believe so.</p> <p>18 MR. CHONG: Okay. Drawing your attention to an exhibit</p> <p>19 previously marked as C 20.</p> <p>20 MR. SCHILLER: Go ahead. Ask your question.</p> <p>21 MR. CHONG: Could you take a look at that document,</p> <p>22 please?</p> <p>23 MR. SCHILLER: If you have a document to show him, do</p> <p>24 you want to show him the document?</p> <p>25 MR. CHONG: I believe it's in the binder that I</p>	<p style="text-align: right;">88</p> <p>1 MR. CHONG: Okay. Do you know who Sharon McClean is?</p> <p>2 MR. LEE: I do know Sharon McClean, yes.</p> <p>3 MR. CHONG: So CFP and F3E sued Sharon McClean. Do you</p> <p>4 remember that?</p> <p>5 MR. LEE: Yes, I do remember that.</p> <p>6 MR. CHONG: Okay. Let's turn to the exhibit marked</p> <p>7 C 21, please. Do you recognize this document?</p> <p>8 MR. LEE: I mean, all the court documents look the</p> <p>9 same to me. I can't say I recognize it over anything else.</p> <p>10 HEARING EXAMINER: I'm sorry. You will have to keep</p> <p>11 your voice up. I can't --</p> <p>12 MR. LEE: I don't -- yeah, sorry. I don't recognize</p> <p>13 this document in particular, no.</p> <p>14 MR. CHONG: Okay. Could you turn to the last page of</p> <p>15 document Exhibit C 21? It's got a Bates number at the</p> <p>16 bottom, GP0117. Is that your signature?</p> <p>17 MR. LEE: No, that's not my signature. It's a stamp.</p> <p>18 MR. CHONG: It's a stamp representing your signature;</p> <p>19 is that right?</p> <p>20 MR. LEE: It's a stamp representing my signature,</p> <p>21 that's right.</p> <p>22 MR. CHONG: Okay. So that signature therefore</p> <p>23 represents that you swore to the contents of this</p> <p>24 declaration under penalty of perjury; isn't that right?</p> <p>25 MR. LEE: I don't know. It's a stamp. I mean, I didn't</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 sign it. I don't know who stamped it. I couldn't tell you. 2 I typically wouldn't stamp my own signature. So I don't 3 know how to answer the question. 4 MR. CHONG: You don't remember reading this 5 declaration under penalty of perjury for submission to the 6 Circuit Court of Maryland, Montgomery County Maryland? 7 MR. LEE: Which document are we talking about? 8 MR. CHONG: Exhibit C 21. You don't remember reading 9 that affidavit and signing that and allowing someone to 10 sign your name for you? 11 MR. LEE: No, this is not my handwriting. The notes in 12 here are not my handwriting. I don't remember reading it. I 13 don't remember signing it. I can even see the notes in 14 here. It's not my handwriting. 15 MR. CHONG: All right. Do you remember attending a 16 motions hearing at the Circuit Court of Montgomery County 17 Maryland on March 10, 2016? 18 MR. LEE: I can't say if I do remember that. I mean, 19 it was a long time ago. 20 MR. CHONG: I direct your attention – 21 MR. LEE: I definitely went to court against Sharon 22 McClean, for sure. 23 MR. CHONG: I direct your attention to an exhibit 24 previously marked as CFP 4. It's in the white binder. 25 (Exhibit CFP 4 was introduced into the record.)</p>	<p style="text-align: right;">91</p> <p>1 HEARING EXAMINER: Mr. Lee – 2 MR. LEE: Yeah. 3 HEARING EXAMINER: Please keep your voice up. 4 MR. LEE: Sure. 5 HEARING EXAMINER: I need to hear the testimony. 6 MR. LEE: So – 7 HEARING EXAMINER: If you mumble, it doesn't help. 8 MR. LEE: I will try to face both of you at the same 9 time. 10 MR. CHONG: Indulgence, Your Honor. Your Honor, I ask 11 that you take judicial notice of Exhibit C 21 as a 12 complaint filed in the Circuit Court of Montgomery County 13 Maryland on behalf of Herman, Inc., DBA, Capital Financial 14 Partners, and Foundation for Financial Education. 15 HEARING EXAMINER: Mr. Abramson, Mr. Schiller – well, 16 let's start with Mr. Schiller. Any objections? 17 MR. SCHILLER: I do object. It's not something you can 18 take judicial notice of. It's not like judicial notice, the 19 sun comes up, rises in the east and sets in the west. This 20 is – if they want to get a certified copy of something in 21 and it's relevant, then Your Honor makes his decision as to 22 whether or not it comes into evidence. But you can't take 23 judicial notice of a transcript or a complaint without 24 certification. 25 HEARING EXAMINER: Well, let me ask you Mr. Lee, is</p>
<p style="text-align: right;">90</p> <p>1 MR. LEE: What tab would it be under? This white 2 binder? 3 MR. CHONG: Yes. 4 MR. LEE: Okay. 5 MR. CHONG: Exhibit 4. 6 MR. LEE: What's your question? 7 MR. CHONG: I haven't asked a question yet. 8 MR. LEE: Okay. 9 MR. CHONG: This appears to be a copy of the 10 transcript from a motions hearing that took place on March 11 10, 2016. Would you agree with me on that? 12 MR. LEE: I don't even know what you're looking at. 13 All I see is Herman, Inc. et al versus Sharon McClean et 14 al. 15 MR. LEE: In the middle that page it says, excerpts 16 from motion hearing; is that right? 17 MR. LEE: It does. 18 MR. CHONG: Okay. And then if we keep flipping pages, 19 we see what looks to be a transcription of the proceedings 20 that took place on the day. Would you agree with me on 21 that? 22 MR. LEE: I can't tell. 23 HEARING EXAMINER: Again, I'm going to have to ask you 24 – 25 MR. LEE: I can't tell.</p>	<p style="text-align: right;">92</p> <p>1 there any doubt that these are cases that were brought by 2 the foundation against, and one case, Sharon McClean and 3 True Blue Marketing? Well, they are both in that case. It's 4 case number 407477-V. Is there any question as to whether 5 or not those – the Foundation through which you are the 6 chief executive filed this suit? 7 MR. LEE: No, I do believe we filed a suit. 8 HEARING EXAMINER: All right. And is there any reason 9 to believe that this is – that these documents are made up? 10 MR. LEE: No reason for me. 11 HEARING EXAMINER: All right. Mr. Schiller, your 12 objection is overruled. 13 MR. CHONG: So I move the admission then of Exhibit C 14 20. 15 HEARING EXAMINER: 20 at the moment? 16 MR. CHONG: Yes. 17 HEARING EXAMINER: Okay. 18 MR. SCHILLER: Is that the transcript? 19 MR. CHONG: No, it's the complaint. 20 MR. SCHILLER: The complaint. Okay. 21 HEARING EXAMINER: All right. It's admitted. 22 (Exhibit C 20 was admitted into evidence.) 23 MR. CHONG: You were also involved, Mr. Lee, in a 24 lawsuit by and against Nick Herman; isn't that right? 25 MR. LEE: By and against Nick Herman? No, he -- he</p>



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24 (93 to 96)

<p>93</p> <p>1 sued me.</p> <p>2 MR. CHONG: And you countersued him; isn't that right?</p> <p>3 MR. LEE: Yes, that's fair to say.</p> <p>4 MR. CHONG: Okay. And this is in the Circuit Court for</p> <p>5 Montgomery County Maryland; is that right?</p> <p>6 MR. LEE: I believe so.</p> <p>7 MR. CHONG: Okay. I direct your attention in the black</p> <p>8 binder to exhibits – the exhibit marked C 22.</p> <p>9 MR. LEE: This I recognize.</p> <p>10 MR. CHONG: You recognize that as defendant's motion</p> <p>11 for partial summary judgment; is that right?</p> <p>12 MR. LEE: I do.</p> <p>13 MR. CHONG: Okay. And that motion, you allege -- or --</p> <p>14 yeah, you allege that there was an agreement between</p> <p>15 Capital Financial Partners and Foundation for Financial</p> <p>16 Education with respect to splitting commissions from</p> <p>17 clients received from the Foundation; is that right?</p> <p>18 HEARING EXAMINER: Mr. Chong, it will help me if you</p> <p>19 point out where it says those things.</p> <p>20 MR. CHONG: Sure. It's the first page of Exhibit C 22.</p> <p>21 It's a Bates marked GP118. And near the bottom of the page</p> <p>22 it has, it was the agreement of the parties, that's</p> <p>23 Nicholas Herman and Jonathan Lee, that while plaintiff</p> <p>24 owned 100 percent of Herman, Inc., the parties would split</p> <p>25 the commissions from clients referred by the Foundation</p>	<p>95</p> <p>1 moment, it's admitted.</p> <p>2 (Exhibit C 22 was admitted into evidence.)</p> <p>3 MR. CHONG: In any event, Mr. Prager, may I – if –</p> <p>4 whether the document is stricken or not, the allegations</p> <p>5 contained in it are still assertions made by Mr. Lee. And</p> <p>6 so they represent his position. It's a written position</p> <p>7 filed in a court of law. So it has indicia of liability and</p> <p>8 truth. So whether the document had been stricken or not, it</p> <p>9 is still a statement of what Mr. Lee's position is on their</p> <p>10 relationship.</p> <p>11 HEARING EXAMINER: Thank you. I said it's been</p> <p>12 admitted.</p> <p>13 MR. CHONG: Thank you. I draw your attention Mr. Lee,</p> <p>14 back to Exhibit C 23 in the black binder. That appears to</p> <p>15 be an affidavit from you in that same place. Again, turning</p> <p>16 to the last page of that, GP129, is that your signature at</p> <p>17 the bottom of the page?</p> <p>18 MR. LEE: That is my signature.</p> <p>19 MR. CHONG: Okay. And so again, you are affirming in</p> <p>20 paragraph three on the first page of 223, that you and Nick</p> <p>21 Herman had an agreement that the Capital Financial Partners</p> <p>22 would receive 60 percent of commissions paid to Herman Inc;</p> <p>23 is that right?</p> <p>24 MR. LEE: Yes.</p> <p>25 MR. CHONG: Okay. Move the admission of C 23.</p>
<p>94</p> <p>1 with plaintiff Herman retaining 40 percent and defendant</p> <p>2 Lee, 60 percent; is that right?</p> <p>3 MR. LEE: That's right.</p> <p>4 MR. CHONG: Okay. So there is a relationship between</p> <p>5 CFP and F3E, right?</p> <p>6 MR. LEE: Yes.</p> <p>7 MR. CHONG: Okay. And in fact, – oh. I move the entry</p> <p>8 of Exhibit C 22.</p> <p>9 HEARING EXAMINER: Any objection Mr. Schiller?</p> <p>10 MR. SCHILLER: No.</p> <p>11 MR. ABRAMSON: Your Honor, we –</p> <p>12 HEARING EXAMINER: And Mr. Abramson?</p> <p>13 MR. ABRAMSON: We object. This was stricken from the</p> <p>14 court record in the Circuit Court by a judge. So this is –</p> <p>15 this document is not part of the court record from which it</p> <p>16 was extracted.</p> <p>17 HEARING EXAMINER: Mr. Chong, any response to that?</p> <p>18 MR. CHONG: I retrieved it from the court. So I don't</p> <p>19 know about any striking of it. If it was stricken, it's</p> <p>20 still publicly available.</p> <p>21 MR. ABRAMSON: All right. Mr. Abramson, when it comes</p> <p>22 time for testimony from your client, you may raise this</p> <p>23 again. And if there is evidence that this indeed was</p> <p>24 stricken, rather than your representation that was</p> <p>25 stricken, we will re-examine the question. But at the</p>	<p>96</p> <p>1 HEARING EXAMINER: Mr. Schiller, any objections?</p> <p>2 MR. SCHILLER: No.</p> <p>3 HEARING EXAMINER: Mr. Abramson?</p> <p>4 MR. ABRAMSON: No, Your Honor.</p> <p>5 HEARING EXAMINER: All right. C 23 is admitted.</p> <p>6 (Exhibit C 23 was admitted into evidence.)</p> <p>7 MR. CHONG: Web Sewell was the attorney for F3E and</p> <p>8 CFP in 2016, right?</p> <p>9 MR. ABRAMSON: I believe so.</p> <p>10 MR. CHONG: Okay. And so when the Office of Human</p> <p>11 Rights for Montgomery County received Ms. Pautrat's charge</p> <p>12 of discrimination, Web Sewell provided a response to that</p> <p>13 charge; is that right?</p> <p>14 MR. LEE: I believe so, but he wasn't an acting</p> <p>15 attorney. He just held – you know, he had a JD from school,</p> <p>16 but he hadn't passed the bar and wasn't practicing law.</p> <p>17 MR. CHONG: But he still represented F3E and CFP for</p> <p>18 purposes of responding to the charges of discrimination;</p> <p>19 isn't that right?</p> <p>20 MR. LEE: I believe so.</p> <p>21 MR. CHONG: Okay. I will turn your attention in the</p> <p>22 black binder to the exhibit labeled C 2. It appears to be</p> <p>23 an email from Web Sewall to Esther Greene at the Montgomery</p> <p>24 County – of Montgomery County Maryland. Do you agree with</p> <p>25 me that that's what this appears to be?</p>

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25 (97 to 100)

<p>97</p> <p>1 MR. LEE: Yes.</p> <p>2 MR. CHONG: Okay. And it purports to be a cover email</p> <p>3 attaching responses to OHR's request for information. Is</p> <p>4 that accurate?</p> <p>5 MR. LEE: Yes.</p> <p>6 MR. CHONG: Your Honor, I move the admission of</p> <p>7 Exhibit C 2.</p> <p>8 HEARING EXAMINER: Any objection Mr. Schiller?</p> <p>9 MR. SCHILLER: No.</p> <p>10 HEARING EXAMINER: How about you Mr. Abramson?</p> <p>11 MR. ABRAMSON: No.</p> <p>12 MR. CHONG: All right. I –</p> <p>13 HEARING EXAMINER: C 2 is admitted now.</p> <p>14 (Exhibit C 2 was admitted into evidence.)</p> <p>15 MR. CHONG: Turning your attention to the exhibit</p> <p>16 marked C 3. That appears to be a Montgomery County Office</p> <p>17 of Human Rights request for information in this charge of</p> <p>18 discrimination. Is that – do you agree with me on that?</p> <p>19 MR. LEE: Yes.</p> <p>20 MR. CHONG: Okay. Your Honor, I move the admission of</p> <p>21 Exhibit C 3.</p> <p>22 HEARING EXAMINER: Mr. Schiller, any objections?</p> <p>23 MR. SCHILLER: No objections.</p> <p>24 HEARING EXAMINER: Mr. Abramson, any objections?</p> <p>25 MR. ABRAMSON: No objections.</p>	<p>99</p> <p>1 don't see anything as to who sent it, the date, whether or</p> <p>2 not my client adopted it, whether or not he submitted it,</p> <p>3 clients, who it came – who it is on behalf of. So I would</p> <p>4 object.</p> <p>5 HEARING EXAMINER: Mr. Chong, how do you respond?</p> <p>6 MR. CHONG: I can go into some questions to establish</p> <p>7 that these are responses on behalf of Mr. Lee. And I also</p> <p>8 know that it is part of the OHR case file and therefore you</p> <p>9 could take judicial notice of this as what was received by</p> <p>10 OHR in response to the request for information.</p> <p>11 HEARING EXAMINER: Well –</p> <p>12 MR. SCHILLER: It's part of the case file below in</p> <p>13 this matter.</p> <p>14 HEARING EXAMINER: Well, I agree you can ask the</p> <p>15 questions, but what you have here is attachment one. It's</p> <p>16 an attachment to what?</p> <p>17 MR. CHONG: Well, if you look, for example, in</p> <p>18 paragraph five on GP008, which is –</p> <p>19 HEARING EXAMINER: Wait a minute.</p> <p>20 MR. CHONG: I'm sorry. It's Exhibit C 4.</p> <p>21 HEARING EXAMINER: Right.</p> <p>22 MR. CHONG: Page GP0008, paragraph five. It refers to</p> <p>23 C Exhibit 1, statement of position. And that appears to be,</p> <p>24 as Mr. Lee has acknowledged, in response to OHR's request</p> <p>25 for information, paragraph five, which is, submit a written</p>
<p>98</p> <p>1 HEARING EXAMINER: All right. Without any objections,</p> <p>2 C 3 is admitted.</p> <p>3 (Exhibit C 3 was admitted into evidence.)</p> <p>4 MR. CHONG: Okay. And now let's turn your attention to</p> <p>5 Exhibit C 4, please. Exhibit C 4 starts at Bates labeled</p> <p>6 GP0007 with attachment one, request for information and F3E</p> <p>7 response. Do you see that?</p> <p>8 MR. LEE: Yes.</p> <p>9 MR. CHONG: Flip the page 2 GP0008 and 9. It appears</p> <p>10 to be numbered paragraphs responding to the questions posed</p> <p>11 in Exhibit C 3. Do you agree with me on that?</p> <p>12 MR. LEE: I'm sorry. Can you repeat that?</p> <p>13 MR. CHONG: If you flip the page of Exhibit C 4 to</p> <p>14 page GP8 and GP9, those two pages are numbered paragraphs</p> <p>15 responding to the questions posed in Exhibit C 3. Would you</p> <p>16 agree on that?</p> <p>17 MR. LEE: That's correct.</p> <p>18 MR. CHONG: Okay. Your Honor, I move the admission of</p> <p>19 Exhibit C 4.</p> <p>20 (Exhibit C 4 introduced into the record.)</p> <p>21 MR. SCHILLER: I would object.</p> <p>22 HEARING EXAMINER: I'm sorry, Mr. Schiller?</p> <p>23 MR. SCHILLER: I would object to the document, to the</p> <p>24 document. They are trying to get – I don't see any</p> <p>25 signature on the document. I don't see any attachment. I</p>	<p>100</p> <p>1 statement of position.</p> <p>2 HEARING EXAMINER: I understand that, but you haven't</p> <p>3 answered my question. Why is it called an attachment? Do</p> <p>4 you have any idea?</p> <p>5 MR. CHONG: I –</p> <p>6 HEARING EXAMINER: Attachments are usually some other</p> <p>7 document.</p> <p>8 MR. CHONG: Correct, Your Honor. I can't explain why</p> <p>9 Mr. Sewell would have chosen to file his response in a way</p> <p>10 that referenced attachments like this. But it appears that</p> <p>11 attachment one is a request for information and F3E</p> <p>12 response. That response was contained at GP8 and 9, and</p> <p>13 it's self-referential in paragraph five where it says –</p> <p>14 where what are asked for is a statement of position. "See</p> <p>15 this document as my statement of position."</p> <p>16 HEARING EXAMINER: Mr. Chong, why don't you see if you</p> <p>17 can get Mr. Lee to talk about this?</p> <p>18 MR. CHONG: Okay. Mr. Lee, looking at Exhibit C 4 at</p> <p>19 page GP8, paragraph seven starts with, I did tell. Is that</p> <p>20 – and that I, refers to you, doesn't it?</p> <p>21 MR. LEE: Yeah, but I didn't write that.</p> <p>22 MR. CHONG: All right. And paragraph eight, I did</p> <p>23 touch. That I, refers to you as well, doesn't it?</p> <p>24 MR. LEE: I didn't write it. Same thing.</p> <p>25 MR. CHONG: But it does refer to you?</p>

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26 (101 to 104)

<p>101</p> <p>1 MR. LEE: I'm not sure. If Web wrote it, I'm sure he 2 was writing in the third person for me, but he put I 3 instead, in the first person. I can only assume that. I'm 4 not him. I didn't write it. 5 MR. CHONG: All right. Paragraph nine says, my texts 6 were social. That's again, that's your texts, right? 7 MR. LEE: I mean, I didn't write that. That's not what 8 I said. So I can't really testify to that. 9 MR. CHONG: Okay. But you – Mr. Sewell wrote that upon 10 your behalf, didn't he? 11 MR. LEE: He is paraphrasing from his own perspective. 12 I don't – I never said those things to him. We had a very 13 short cell phone conversation about this matter and he 14 asked me some questions, but I didn't write either one of 15 those responses saying those things. 16 MR. CHONG: Did you tell him in words or in substance 17 what paragraph seven says? 18 MR. LEE: No, it's completely out of context. 19 MR. CHONG: But he represented this to OHR? 20 MR. LEE: He may have, yeah. 21 MR. CHONG: And did you tell him in words or in 22 substance what paragraph eight says? 23 MR. LEE: I did tell him that in one portion of that 24 sentence, but not the others. So I believe we might have 25 worked out together once. But we didn't spend time</p>	<p>103</p> <p>1 employment manual. Do you see that? 2 MR. LEE: I see it, yes. 3 MR. CHONG: All right. And turning over the page to 4 GP13. It's one page out of the employment manual. Do you 5 see that? 6 MR. LEE: I do. 7 MR. CHONG: This was submitted by Web Sewell to OHR; 8 isn't that right? 9 MR. LEE: I have no idea. 10 MR. CHONG: Okay. Then Web Sewell's email, which was 11 admitted as Exhibit C 2 says, attached, please find our 12 correspondence – our response to your request for 13 information. Is there any reason to doubt that this is the 14 attachment three that was part of his response to OHR? 15 MR. LEE: I would have no reason to not believe that. 16 MR. CHONG: Okay. Your Honor, I would move the 17 admission of C 6. 18 HEARING EXAMINER: Any objections Mr. Schiller? 19 MR. SCHILLER: No. 20 HEARING EXAMINER: Mr. Abramson? 21 MR. ABRAMSON: No. 22 HEARING EXAMINER: All right. C 6 is admitted. 23 (Exhibit C 6 was admitted into evidence.) 24 MR. CHONG: All right. Exhibit C 6, page GP13 appears 25 to contain sections 4.2, 4.3, 4.4, 4.5 from an employee</p>
<p>102</p> <p>1 socially, ever together during our work hours. So I didn't 2 – I never said that. 3 MR. CHONG: All right. What's this – 4 MR. LEE: And I certainly didn't make comments about 5 her husband because I didn't think she was married. I don't 6 know where that came from. That was made up completely. Or 7 misconstrued or misrepresented. 8 MR. CHONG: Well, let's just go through this then 9 paragraph by paragraph. Well, let's back up for a second. 10 Turning your attention to Exhibit C 5. Exhibit C 5 appears 11 to be F3E – it appears to be labeled as F3E organization 12 charts. Do you see that? 13 MR. LEE: I do. 14 MR. CHONG: And the next page labeled GP11 lists you 15 as CEO of Foundation for Financial Education, right? 16 MR. LEE: Yes, we've already established that. 17 MR. CHONG: Okay. Move the admission of Exhibit C 5. 18 HEARING EXAMINER: Any objections? 19 MR. SCHILLER: No. 20 HEARING EXAMINER: All right. And Mr. Abramson? 21 MR. ABRAMSON: No. 22 HEARING EXAMINER: All right. Exhibit C 5 is admitted. 23 (Exhibit C 5 was admitted into evidence.) 24 MR. CHONG: Now turning your attention to Exhibit C 6, 25 which appears to be labeled attachment three, F3E/CFP</p>	<p>104</p> <p>1 handbook; is that right? 2 MR. LEE: Yes. And for example, section 4.2, absence 3 without notice, talks about the need for CFP/F3E to arrange 4 for coverage if someone should be unable to work; is that 5 right? 6 MR. LEE: That's what this says, yes. 7 MR. CHONG: Okay. And section 4.3 called harassment 8 and sexual harassment starts right off with CFP/F3E is 9 committed to providing a work environment that is free of 10 discrimination and unlawful harassment; is that right? 11 MR. LEE: Yes. 12 MR. CHONG: Okay. Section 4.4, telephone use, talks 13 about CFP/F3E telephones being only use for work related 14 business, right? 15 MR. LEE: Yes. 16 MR. CHONG: So as of this – as of the writing of this 17 employment manual, CFP and F3E are effectively the same 18 operation; isn't that right? 19 MR. LEE: I don't know if I can agree with that 20 statement. 21 MR. ABRAMSON: Objection. Calls for – 22 HEARING EXAMINER: Just a moment. Mr. Lee, you said 23 you're not sure of the -- 24 MR. LEE: Yeah, I think they've adopted similar 25 guidelines, but I don't think they are effectively the same</p>

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27 (105 to 108)

<p>105</p> <p>1 entity, certainly.</p> <p>2 HEARING EXAMINER: Okay. What was your objection?</p> <p>3 MR. ABRAMSON: The question as phrased makes a</p> <p>4 conclusion of law, that they are the same operation. That</p> <p>5 would be inappropriate to raise at this point.</p> <p>6 HEARING EXAMINER: Well, Mr. Lee just responded that</p> <p>7 he didn't know whether or not they were. I believe he was</p> <p>8 hedging the answer as to whether this was – these are</p> <p>9 combined operations. Is that correct Mr. Lee?</p> <p>10 MR. LEE: Yes.</p> <p>11 HEARING EXAMINER: Your objection is overruled Mr.</p> <p>12 Abramson.</p> <p>13 MR. CHONG: All right.</p> <p>14 HEARING EXAMINER: We will go off the record for a</p> <p>15 moment. I put down on my –</p> <p>16 (Off the record at 12:04:33 p.m.)</p> <p>17 (On the record at 12:04:45 p.m.)</p> <p>18 MR. CHONG: So let's talk – I would like to talk about</p> <p>19 Exhibit C 3, which is OHR's request for information, in</p> <p>20 conjunction with Exhibit C 4, which appears to be the</p> <p>21 responses to that. Question number seven in Exhibit C 3,</p> <p>22 OHR's request for information, asks that the respondent</p> <p>23 address Complainant's allegation that Mr. Lee told her how</p> <p>24 attractive she was doing her job interview. Do you see</p> <p>25 that?</p>	<p>107</p> <p>1 that Toby told me because she was attractive she had had</p> <p>2 some issues with her previous coworkers. And I wanted to</p> <p>3 find out a little bit what happened with those jealous</p> <p>4 coworkers.</p> <p>5 MR. CHONG: All right. So Toby told you – I mean –</p> <p>6 MR. LEE: Toby told me, because she was attractive or</p> <p>7 the – that she had had some problems, that there were other</p> <p>8 female jealous coworkers. And I didn't know what that was</p> <p>9 about. So I asked her about it, what her previous issues</p> <p>10 were with coworkers and previous job experience and what</p> <p>11 was – why she left and what had happened and all that kind</p> <p>12 of stuff.</p> <p>13 MR. CHONG: Okay.</p> <p>14 MR. LEE: But I didn't say, I think you are</p> <p>15 attractive. I certainly didn't say that.</p> <p>16 MR. ABRAMSON: Your Honor, can we get Mr. Lee to</p> <p>17 clarify when he uses the word her whether he was talking</p> <p>18 about this person Toby or the complainant?</p> <p>19 MR. LEE: Yeah, I was talking definitely about her,</p> <p>20 Giselle, not Toby.</p> <p>21 HEARING EXAMINER: Thank you.</p> <p>22 MR. CHONG: What did Toby tell you about Ms. Pautrat's</p> <p>23 previous job and her jealous coworkers?</p> <p>24 MR. LEE: She said that she had a very sordid past.</p> <p>25 MR. CHONG: I'm sorry. He said, right?</p>
<p>106</p> <p>1 MR. LEE: Yes.</p> <p>2 MR. CHONG: All right. And in what appears to be the</p> <p>3 responses filed by Web Sewell, it says I did tell her she</p> <p>4 was attractive at the interview. Is that right?</p> <p>5 MR. LEE: That's what the response it, yes.</p> <p>6 MR. CHONG: Okay. Did you tell her she was attractive</p> <p>7 in the interview?</p> <p>8 MR. LEE: Not in that context.</p> <p>9 MR. CHONG: Well, the statement says, only as it</p> <p>10 related to what she and my friend Toby, who referred to me,</p> <p>11 had told me about her having jealous coworkers at her</p> <p>12 current job. Is that the context you are talking about?</p> <p>13 MR. LEE: Which – I'm sorry. What page are we looking</p> <p>14 at?</p> <p>15 MR. CHONG: This is Exhibit C 3. It's page GP-0008.</p> <p>16 MR. LEE: So ask me the question again, please.</p> <p>17 MR. CHONG: Paragraph seven says, "I did tell her she</p> <p>18 was attractive in the interview only as it related to what</p> <p>19 she and my friend Toby, who referred her to me, had told me</p> <p>20 about her having jealous coworkers at her current job."</p> <p>21 MR. LEE: Right.</p> <p>22 MR. CHONG: So that's the context you were talking</p> <p>23 about?</p> <p>24 MR. LEE: It's the first person narrative that is not</p> <p>25 accurate. So I didn't tell her she was attractive. I said</p>	<p>108</p> <p>1 MR. LEE: He said – sorry. He said that she had a</p> <p>2 sordid past with previous employers, she had had some</p> <p>3 issues with jealous coworkers. I think she had filed a</p> <p>4 sexual harassment complaint against another male coworker</p> <p>5 from her previous company. She had had significant history</p> <p>6 with issues and that I wanted to talk to her about it and</p> <p>7 make sure that this was going to be a good fit for her.</p> <p>8 MR. CHONG: Previous employers, plural?</p> <p>9 MR. LEE: I believe so, yes.</p> <p>10 MR. CHONG: How many?</p> <p>11 MR. LEE: Toby said it was multiple, more than one.</p> <p>12 MR. CHONG: Do you know how many?</p> <p>13 MR. LEE: I do not.</p> <p>14 MR. CHONG: Okay.</p> <p>15 HEARING EXAMINER: Excuse me. Just so I have a little</p> <p>16 bit of context, who is Toby?</p> <p>17 MR. LEE: Toby is the president and owner of the</p> <p>18 company that referred her over for employment. He owns the</p> <p>19 employment company.</p> <p>20 HEARING EXAMINER: And does he have a last name?</p> <p>21 MR. LEE: Studley.</p> <p>22 MR. ABRAMSON: I'm sorry. I couldn't hear that.</p> <p>23 MR. LEE: Toby Studley.</p> <p>24 MR. ABRAMSON: Studley, thank you.</p> <p>25 MR. LEE: And he is the owner of SPS Staffing Company.</p>

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28 (109 to 112)

<p>109</p> <p>1 MR. CHONG: So is it your contention that Web Sewell 2 filed this statement on behalf of F3E using your first 3 person pronoun without showing this to you before he did 4 so? 5 MR. LEE: Yes. 6 MR. CHONG: Okay. Let's look at paragraph eight. OHR's 7 request for information says, address Complainant's 8 allegation that during her first few weeks on the job Mr. 9 Lee began texting her on her personal – 10 MR. LEE: I'm sorry. I don't know – I can't – I don't 11 see where you are. 12 MR. CHONG: This is page GP0006. 13 MR. LEE: Okay. 14 MR. CHONG: Paragraph eight says, "address 15 Complainant's allegation that during her first few weeks on 16 the job, Mr. Lee began texting her on her personal phone 17 early in the morning and at night." And Mr. Sewell's 18 response, written in your voice, it says "I did text her 19 during non-office hours as well as spend time working out 20 with her socially during nonbusiness hours." 21 MR. SCHILLER: I would move to strike, written in his 22 voice. I mean, he can ask the question, but he can't 23 narrate his questions. 24 HEARING EXAMINER: Well, he's giving it in the 25 characterization that Mr. Lee can respond to. It was a</p>	<p>111</p> <p>1 did that quite regularly. 2 MR. CHONG: And these are discussions you couldn't 3 have had with her during work hours in the office? 4 MR. LEE: I could have had them and I did have them 5 with her at work too. 6 MR. CHONG: But you had them outside of work hours as 7 well? 8 MR. LEE: In addition, that's right. But I never – I 9 never said this and I never hung out with her socially 10 during nonbusiness hours. 11 MR. CHONG: You did ask her to hang out with you 12 socially during nonbusiness hours, didn't you? 13 MR. LEE: I do not remember ever asking her to hang 14 out with me socially. The only context would be potentially 15 in a babysitting capacity with my family and my wife. Maybe 16 working out once, and that was it. 17 MR. CHONG: On page GP-0006, paragraph nine says, 18 "address Complainant's allegations that these text messages 19 were not work-related, but were social and flirty." And 20 page G-0008, the response filed by Web Sewall on behalf of 21 respondent was, "my texts were social and flirty." Do you 22 now deny that that's your statement? 23 MR. LEE: I don't remember saying that they were 24 social and flirty, no. And I definitely don't remember 25 saying anything about her husband. But I do remember her</p>
<p>110</p> <p>1 question about whether or not this is in fact something 2 that Mr. Lee said as it appears on this document. So the 3 objection is overruled. 4 MR. CHONG: Did you text – you did text Giselle during 5 nonbusiness hours, right? 6 MR. LEE: I'm sure I did, yes. 7 MR. CHONG: Okay. 8 MR. LEE: Yes. 9 MR. CHONG: And those texts had nothing to do with 10 business; isn't that right? 11 MR. LEE: I – probably true. 12 MR. CHONG: Okay. 13 MR. LEE: I can't say I recall, but I would say that's 14 probably true. 15 MR. CHONG: Okay. Why would you text her about 16 nonbusiness related things during nonbusiness hours? 17 MR. LEE: So the context of the text may have been 18 something like, how was your weekend. Because she was 19 referred by Toby Studley and he wanted me to make sure that 20 she was comfortable, I would often times reach out to her 21 and see how she was doing. It was a very common thing for 22 me to do. I would ask her how she was doing at work. I 23 would ask her how she was doing in the morning before, 24 after work, just to make sure everything was okay and to 25 make sure that the transition to our company was good. I</p>	<p>112</p> <p>1 confiding in me personally about relationships, how she had 2 been cheated on before, how badly she wanted to be in a 3 relationship. I do recall of those things that she confided 4 in me. 5 MR. CHONG: When did she confide that? 6 MR. LEE: Multiple times, usually at work. Maybe I 7 think we were in a car one time on the way to a workshop 8 and we were talking. You know, that was probably 30, 40, 50 9 minutes each direction. 10 MR. CHONG: How many workshops did you attend with Ms. 11 Pautrat? 12 MR. LEE: I have no recollection of doing any more 13 than maybe one. 14 MR. CHONG: Okay. 15 MR. LEE: Maybe two, but I don't have a recollection 16 of more than that. 17 MR. CHONG: Did you consider her a social friend? 18 MR. LEE: No, I didn't consider her a social friend. I 19 wanted to be her friend, but I wouldn't have considered her 20 a social friend, no. We've never hung out outside the 21 office, like I said other than that maybe one time in the 22 exercise room. 23 MR. CHONG: So Web Sewell made up this statement out 24 of the whole cloth? 25 MR. LEE: I believe he just took it out of context or</p>

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29 (113 to 116)

<p style="text-align: right;">113</p> <p>1 misunderstood or misrepresented what was said. Like I said, 2 I remember him talking to me about what happened and it was 3 a very brief, on the cell phone conversation. And he said -- 4 yeah, he just asked me some questions and I told him what 5 happened. But he is answering them from the mind, the eye 6 of the first person. Those are obviously not accurate 7 because I never stated any of those things nor did I sign 8 anything saying that I did. 9 MR. CHONG: Page GP0009, paragraph 10, it says I never 10 touched her other than a hug or in greeting or goodbye. Is 11 that what -- is that accurate? 12 MR. LEE: I think that is materially accurate, yes. 13 MR. CHONG: Okay. Did you ever touch Giselle on the 14 elbow? Ms. Pautrat on the elbow? 15 MR. LEE: I have no recollection of touching her on 16 the elbow. 17 MR. CHONG: Okay. 18 MR. LEE: I absolutely do remember taking a hair off 19 of her shoulder when we were -- I believe we were in the car 20 together. She had a big hair. I took it off of her 21 shoulder. I do recall that, absolutely. 22 MR. CHONG: So assume for a moment that that's an 23 accurate recollection; what is your recollection of her 24 response to your plucking a hair off of her? 25 MR. LEE: I don't feel like she had any response at</p>	<p style="text-align: right;">115</p> <p>1 isn't that right? And said you wished -- 2 MR. LEE: I text people pics all the time, so it's 3 possible I could have done a food pic, but none of those 4 other things. I text people food pics every single day of 5 my life. 6 MR. CHONG: You called the office during this 7 vacation; isn't that right? 8 MR. LEE: I'm sure I did. 9 MR. CHONG: And Ms. Pautrat picked up the phone. 10 MR. LEE: I have no recollection of talking to her 11 while I was on vacation. 12 MR. CHONG: All right. You told her -- when she didn't 13 recognize your voice, you told her you were upset, right? 14 MR. LEE: Absolutely not. I have no recollection of 15 that at all. 16 MR. CHONG: All right you told her you love her voice 17 and you would never forget that voice, right? 18 MR. LEE: No, absolutely not. I have no recollection 19 of that at all. 20 MR. CHONG: While traveling, you texted Ms. Pautrat to 21 tell her that you missed her; isn't that right? 22 MR. LEE: I have no recollection of that at all. 23 MR. CHONG: All right. When Ms. Pautrat first started 24 she had a question about paying for her insurance coverage; 25 isn't that right?</p>
<p style="text-align: right;">114</p> <p>1 all. 2 MR. CHONG: Okay. You asked Ms. Pautrat to attend a 3 basketball game with you, didn't you? 4 MR. LEE: I don't believe I ever did that. I've never 5 gone to a basketball game. 6 MR. CHONG: But then on March 23rd through 25th of 7 2015 did you take a vacation? 8 MR. LEE: I have no recollection of that. 9 MR. CHONG: All right. If I told you you took a 10 vacation to Florida would that sound -- 11 MR. LEE: It would sound very reasonable, yes. 12 MR. CHONG: Okay. And you went with your girlfriend, 13 Kelly, right? 14 MR. LEE: Yes, probably. 15 MR. CHONG: All right. While you were down there you 16 texted Ms. Pautrat; didn't you? 17 MR. LEE: I have no recollection of that. 18 MR. CHONG: Okay. You texted her that you wished you 19 didn't have to go on this trip with her; isn't that right? 20 MR. LEE: I have no recollection of that whatsoever. 21 MR. CHONG: You texted her that you wished she were 22 with you; is that right? 23 MR. LEE: I have no recollection of that whatso -- you 24 should have those text messages if I did. 25 MR. CHONG: You texted her a photo of your breakfast;</p>	<p style="text-align: right;">116</p> <p>1 MR. LEE: I do recollect her having an issue with some 2 health insurance questions. 3 MR. CHONG: Okay. And in order to answer her questions 4 you took her out to lunch; isn't that correct? 5 MR. LEE: I recall taking her out to lunch. I don't 6 remember under what context it was. I've taken almost every 7 single one of my employees out to lunch multiple times. I 8 get out at lunch every single day. 9 MR. CHONG: Do you take your employees with you? 10 MR. LEE: Almost every time. I hardly ever eat alone. 11 HEARING EXAMINER PRAGER: I'm sorry, you raise your 12 voice again? 13 MR. LEE: I was just saying -- I always -- I use the 14 lunch as an opportunity to spend time with my employees. I 15 don't ever eat alone, rarely. 16 MR. CHONG: When Lauren Byers had questions about her 17 insurance coverage you didn't take her out to lunch, did 18 you? 19 MR. LEE: I don't remember ever having a conversation 20 with Lauren Byers about any health insurance questions 21 whatsoever. And nor would we have offered her any health 22 benefits because she was a temp employee. She was an hourly 23 employee so it wouldn't even have come up. 24 MR. CHONG: I'm going to go back if I could to the 25 document that was previously discussed, which is a document</p>

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30 (117 to 120)

<p>117</p> <p>1 that's been marked Exhibit C 21. You testified just now 2 that you don't remember ever seeing this document and you 3 don't remember signing this document; is that right? 4 MR. LEE: Yeah. I don't remember seeing it or signing 5 it; that's correct. 6 MR. CHONG: Okay. I'll turn your attention now, again, 7 to CFP Exhibit 4, which is in the white binder. 8 MR. LEE: This binder? 9 MR. CHONG: Yes. 10 MR. LEE: Okay. 11 MR. CHONG: This declaration came up in another court 12 proceeding where you testified under oath; didn't it? 13 MR. LEE: I don't remember. 14 MR. CHONG: All right. So I think you would agree with 15 me that Exhibit C 4 is a motions hearing in Montgomery 16 County Circuit Court -- 17 MR. LEE: Yeah, you already asked me that -- 18 MR. CHONG: -- dated March 10, 2016. 19 MR. LEE: -- and I do agree with that, yes. 20 MR. CHONG: Okay. Let's go to page 19 of that 21 transcript, CFP 100 is on the bottom, page 19 is on the 22 top. And the attorney examining you in that sequence makes 23 the exact same argument -- ask you the exact same questions 24 that I just did, right? "Does it appear to be your -- on 25 line 12 does that appear to be your signature?" Answer, "It</p>	<p>119</p> <p>1 Policastri says -- Mr. Policastri represents, "I sent it 2 over to him for signature. I got it back. I had no reason 3 to doubt that it wasn't his signature so I attached it, and 4 I filed it." And the court says: "Okay. So is this -- is 5 the stipulation that this is, in fact, his declaration?" 6 Answer on the top of page 22 is: "Yes." The Court: "Okay, 7 we can proceed." 8 MR. LEE: That was Mr. Policastri's declaration, not 9 mine. 10 MR. SCHILLER: In that case; that's not here. We're 11 not -- 12 HEARING EXAMINER PRAGER: You mean, Mr. Chong, what's 13 the exhibit? Exhibit 21, right? 14 MR. CHONG: Exhibit 21, correct. 15 HEARING EXAMINER PRAGER: And Mr. Schiller, that says 16 case number 407477-V on the first page of Exhibit C 21. And 17 on the first page of the exhibit in the white binder 18 also -- in C 4 -- in CPP -- the CFP it says Civil 407477. 19 Is there any question that those two cases are not 20 identical? 21 MR. SCHILLER: They're identical. But a stipulation 22 can be for a number of reasons in eight particular case for 23 a particular purpose. They are trying to admit a document 24 my client is indicating he didn't sign, he doesn't 25 recognize, he said the same thing at the court hearing, and</p>
<p>118</p> <p>1 looks like my signature, yes." Right? And then you 2 responded with the exact same answer. "I have no 3 recollection of signing this." Isn't that right? 4 MR. LEE: That's what this document says, yeah. 5 MR. CHONG: Okay. 6 MR. LEE: But obviously it's not my signature, it's a 7 stamp. 8 MR. CHONG: And after a colloquy on pages 20 and 21 -- 9 MR. LEE: I'm sorry, what pages? 10 MR. CHONG: 20 and 21; CFP 101, 102. 11 MR. LEE: 101 and 102. 12 MR. CHONG: And 103. Mr. Policastri, who was your 13 attorney, in fact stipulates that that document is your 14 declaration signed under the penalty of perjury; isn't that 15 right? 16 MR. LEE: I can't follow anything you're talking 17 about. 18 HEARING EXAMINER PRAGER: Where are you? Where is the 19 reference? 20 MR. CHONG: It's on -- the colloquy takes place 21 between pages 20 through 22 of Exhibit C 4. 22 HEARING EXAMINER PRAGER: But you mentioned in the 23 acknowledgement that Mr. Policastri made the -- where does 24 that appear? 25 MR. CHONG: Okay. So at the bottom of page 21, Mr.</p>	<p>120</p> <p>1 for whatever reason, and it could have been reasons other 2 than the authenticity, his attorney, at that particular 3 hearing, in that particular case stipulated to move on. But 4 for -- this is a separate hearing, a separate issue, there 5 has been a question and my client specifically testified 6 that's not my signature, I don't recognize this document. 7 So for admissibility purposes it's improper for it to come 8 in on that -- in that manner. 9 HEARING EXAMINER PRAGER: Well, it hasn't been moved 10 for exhibit but I understand your statement. But it is not, 11 at this point, not a very persuasive it to me. But when you 12 do your examination of Mr. Lee, you can try to bring that 13 up. 14 MR. CHONG: I do move the admission of Exhibit C 21, 15 Your Honor. 16 HEARING EXAMINER PRAGER: All right. I understand that 17 Mr. Schiller objects to it. Mr. Abramson, any objection to 18 C 21? 19 MR. ABRAMSON: No, Your Honor. 20 HEARING EXAMINER PRAGER: Okay. C 21 will be admitted. 21 And as I said, Mr. Schiller, if you have any reasons for 22 Mr. Lee to object to this as not really his statement we 23 can go through that at the time. It's admitted. 24 (Exhibit C 21 was admitted into evidence.) 25 HEARING EXAMINER PRAGER: Mr. Chong, it's getting on</p>

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31 (121 to 124)

<p style="text-align: right;">121</p> <p>1 to 12:30. Can you tell me how much longer you think your 2 examination will take? 3 MR. CHONG: Probably not a whole lot longer. A half an 4 hour maybe. We can take a lunch break if you want. 5 HEARING EXAMINER PRAGER: That would bring it up to 6 1:00. In that case it seems to be an appropriate time for 7 us to adjourn for lunch. And we will resume at a quarter 8 after 1:00. At this point we will go off the record. 9 (Off the record at 12:27 p.m.) 10 (On the record at 1:17 p.m.) 11 HEARING EXAMINER PRAGER: We're back on the record. 12 Mr. Chong is doing the examination. Go ahead, please. 13 MR. CHONG: Thank you. Mr. Lee, when we left off we 14 had just talked about Exhibit C 21 in the white binder, 15 which was your declaration made in the case against Sharon 16 McClain. It was received into evidence. I direct your 17 attention to paragraph two that declaration, under penalty 18 of perjury. 19 MR. LEE: Which document, I'm sorry? 20 MR. CHONG: It's C 21 -- 21 MR. LEE: In the white binder? 22 MR. CHONG: -- in the black binder. I'm sorry, did I 23 say white? I meant black. 24 MR. LEE: 21? 25 MR. CHONG: 21, yes. So in this declaration under</p>	<p style="text-align: right;">123</p> <p>1 MR. LEE: I said, in reality, I have no stake 2 whatsoever, and never did, in Capital Financial Partners, 3 Inc. I was an employee of Capital Financial Partners. 4 MR. CHONG: Did you receive a W-2 from Capital 5 Financial Partners? 6 MR. LEE: Yes, I did. 7 HEARING EXAMINER PRAGER: You were a what? 8 MR. LEE: I was an employee of Capital Financial 9 Partners. 10 HEARING EXAMINER PRAGER: You were an employee? 11 MR. LEE: I was and I received a W-2 from them, yes, 12 just like everybody else. 13 MR. CHONG: I apologize. Directing your attention, 14 please, to April 17, 2015. I assume you don't remember that 15 day off of the top of your head. 16 MR. LEE: Probably not, but it is tax day so -- 17 MR. CHONG: Okay. So you made a presentation to the 18 Pentagon that day; isn't that right? 19 MR. LEE: I have no recollection of that. 20 MR. CHONG: Do you deny it? 21 MR. LEE: Don't deny it, no. 22 MR. CHONG: Okay. And Ms. Pautrat came with you on 23 that day; is that right? 24 MR. LEE: I don't have a recollection of the day she 25 came with me.</p>
<p style="text-align: right;">122</p> <p>1 penalty of perjury it states, paragraph 2, "I am one of the 2 principles of Foundation for the National Education, Inc., 3 known as F3E; is that right? 4 MR. LEE: Yes. 5 MR. CHONG: Okay. And paragraph 4 on the next page it 6 also says in the -- toward the second half of that 7 sentence, "F3E would refer them to Capital Financial 8 Partners, Inc., a company in which I am also a principal; 9 do you see that? 10 MR. LEE: No. Which -- where, I'm sorry. 11 MR. CHONG: Paragraph 4, the second line, going on to 12 the third line, "F3E would refer them to Capital Financial 13 Partners, Inc., a company in which I am also a principal." 14 Do you see that? 15 MR. LEE: I do but I don't agree to it and I didn't 16 sign it and I didn't state that. 17 HEARING EXAMINER PRAGER: I'm sorry, I couldn't hear 18 you. 19 MR. LEE: I didn't agree to this. I didn't sign it. I 20 didn't state that. That statement that says I'm a principal 21 of Capital Financial Partners, Inc. And in fact, in 22 reality, I have no stake whatsoever in Capital Financial 23 Partners, Inc. 24 HEARING EXAMINER PRAGER: I'm sorry, I didn't catch a 25 word that you said.</p>	<p style="text-align: right;">124</p> <p>1 MR. CHONG: Okay. 2 HEARING EXAMINER PRAGER: You -- 3 MR. LEE: I don't have a recollection. 4 HEARING EXAMINER PRAGER: Mr. Lee, it's not helpful. 5 You've got to keep your voice up and mumbling does not help 6 anybody. 7 MR. CHONG: All right so -- 8 HEARING EXAMINER PRAGER: What was your answer to the 9 question? 10 MR. LEE: I don't recall her attending -- I don't 11 recall doing the workshop. I don't recall her attending 12 that workshop on that day. 13 MR. CHONG: Okay. But you do recall that Ms. Pautrat 14 came with you to one workshop at the Pentagon whether or 15 not it was this one. 16 MR. LEE: I do recall her coming with me, yes, to the 17 one workshop. 18 MR. CHONG: Okay. At the Pentagon? 19 MR. LEE: I don't recall where it was. 20 MR. CHONG: Okay but you don't know what particular 21 day it was? 22 MR. LEE: Don't know the day, don't know where it was. 23 MR. CHONG: All right. So you don't dispute that it 24 could have been on April 17, 2015? 25 MR. LEE: No, I don't.</p>



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32 (125 to 128)

<p>125</p> <p>1 MR. CHONG: Okay. That morning, in the office before</p> <p>2 departing for the site, you made a comment about Ms.</p> <p>3 Pautrat's legs, didn't you.</p> <p>4 MR. LEE: No, I have no recollection of doing that.</p> <p>5 MR. CHONG: After the presentation at the Pentagon,</p> <p>6 you noticed a stray hair on her stomach; isn't that right?</p> <p>7 MR. LEE: No, I did not.</p> <p>8 MR. CHONG: You reached out and took the hair from her</p> <p>9 stomach; isn't that right?</p> <p>10 MR. LEE: No, I did not.</p> <p>11 MR. CHONG: After leaving that site you decided that</p> <p>12 you would go get ice cream; isn't that right?</p> <p>13 MR. LEE: I have no recollection of getting ice cream.</p> <p>14 MR. CHONG: But you went to go get ice cream with her</p> <p>15 that day, didn't you?</p> <p>16 MR. LEE: I do not have any recollection of getting</p> <p>17 ice cream.</p> <p>18 MR. CHONG: Okay. Now, at the ice cream parlor you</p> <p>19 told Ms. Pautrat that you could read her and that she</p> <p>20 didn't have a poker face; isn't that right?</p> <p>21 MR. LEE: I have no recollection of that.</p> <p>22 MR. CHONG: Okay. And at the ice cream store you again</p> <p>23 reached out and you touched Ms. Pautrat, didn't you?</p> <p>24 MR. LEE: No, I did not.</p> <p>25 MR. CHONG: Okay. And she responded by retreating from</p>	<p>127</p> <p>1 the first day she started. I would need to ask that.</p> <p>2 MR. CHONG: But you asked people to gather that</p> <p>3 information didn't you?</p> <p>4 MR. LEE: I don't have any recollection of that.</p> <p>5 MR. CHONG: Okay. And you started criticizing her for</p> <p>6 her work when you had no reason to criticize her; isn't</p> <p>7 that right?</p> <p>8 MR. LEE: Do you have a specific criticism that I made</p> <p>9 because I don't remember making a single one.</p> <p>10 MR. CHONG: I'm asking the questions here. Did you</p> <p>11 start making –</p> <p>12 MR. LEE: I did not.</p> <p>13 MR. CHONG: Okay.</p> <p>14 MR. LEE: I just knew that she wasn't doing her job</p> <p>15 because people were reporting to me that she wasn't doing</p> <p>16 her job.</p> <p>17 MR. CHONG: Where people reporting to you that anybody</p> <p>18 else wasn't doing their job?</p> <p>19 MR. LEE: No because I wasn't responsible for those</p> <p>20 other people.</p> <p>21 MR. CHONG: So these other people would approach you</p> <p>22 to tell you about Ms. Pautrat not doing her job, and for</p> <p>23 some reason just her, nobody else?</p> <p>24 MR. LEE: Yeah because Elizabeth de los Santos was</p> <p>25 only responsible for Giselle. She had no oversight over</p>
<p>126</p> <p>1 you; isn't that right?</p> <p>2 MR. LEE: No, that is not correct.</p> <p>3 MR. CHONG: And the reached out and touched her again;</p> <p>4 isn't that right?</p> <p>5 MR. LEE: That is absolutely fabricated. There is no</p> <p>6 chance of that happening.</p> <p>7 MR. CHONG: Okay.</p> <p>8 MR. LEE: There would be no reason for me to touch</p> <p>9 her.</p> <p>10 MR. CHONG: In late April 2015 he started asking</p> <p>11 people in the office to gather information on Ms. Pautrat's</p> <p>12 work performance, didn't you?</p> <p>13 MR. LEE: No, I have no recollection of that.</p> <p>14 MR. CHONG: Okay. You started asking people to gather</p> <p>15 data regarding the number of calls she was making, didn't</p> <p>16 you?</p> <p>17 MR. LEE: I have no recollection of that.</p> <p>18 MR. CHONG: And you ask people to monitor the amount</p> <p>19 of time she was spending away from her desk; is that right?</p> <p>20 MR. LEE: No, I wasn't her supervisor. There would be</p> <p>21 no reason for me to need that information.</p> <p>22 MR. CHONG: You asked people to start gathering</p> <p>23 information about how many appointments she was</p> <p>24 successfully making; isn't that right?</p> <p>25 MR. LEE: They should have had that information from</p>	<p>128</p> <p>1 anybody else. She didn't have oversight over Lauren Byers</p> <p>2 who was there earlier, totally different scenario.</p> <p>3 MR. CHONG: Did Ms. Pautrat have a salary?</p> <p>4 MR. LEE: Yes.</p> <p>5 MR. CHONG: What was her salary?</p> <p>6 MR. LEE: 30,000.</p> <p>7 MR. CHONG: Is that a base?</p> <p>8 MR. LEE: Yes.</p> <p>9 MR. CHONG: So she earned commissions?</p> <p>10 MR. LEE: I don't think she ever earned any</p> <p>11 commissions. I don't know.</p> <p>12 MR. CHONG: So you're saying you only ever paid her</p> <p>13 \$30,000 a year?</p> <p>14 MR. LEE: I don't have any recollection of her making</p> <p>15 anything above what she was promised as salary. Maybe some</p> <p>16 health reimbursement, but I couldn't really say. I wasn't</p> <p>17 responsible for payroll or anything like that. I never</p> <p>18 wrote a check to her.</p> <p>19 MR. CHONG: There came a time when Ms. Pautrat</p> <p>20 complained to Elizabeth de los Santos about your behavior;</p> <p>21 isn't that right?</p> <p>22 MR. LEE: That is my understanding.</p> <p>23 MR. CHONG: And Elizabeth de los Santos forwarded that</p> <p>24 email to you; is that right?</p> <p>25 MR. LEE: That was not my understanding. I don't</p>

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33 (129 to 132)

<p style="text-align: right;">129</p> <p>1 recall getting the email when she filed the complaint. I 2 recall seeing the complaint after she was terminated. 3 MR. CHONG: By complaint are you referring to Ms. 4 Pautrat's talking to Ms. de los Santos or to the EEOC 5 charge of discrimination? 6 MR. LEE: Well, I definitely remember getting the 7 complaint from the EEOC, and I definitely remember hearing 8 about her making the complaint to Elizabeth de los Santos 9 but I do not have any recollection of Elizabeth de los 10 Santos forwarding that complaint to me via email. 11 MR. CHONG: Do you have an email address 12 JLeeFFG@aol.com? 13 MR. LEE: Yes, that's my email. 14 MR. CHONG: So you were told by Ms. de los Santos that 15 Ms. Pautrat had filed a – had complained about your 16 behavior by May 2015; is that right? 17 MR. LEE: I don't think so I don't remember the date. 18 I do remember that Elizabeth was telling me about her poor 19 work performance before I ever heard anything about any 20 type of complaint. 21 MR. CHONG: Any poor work performance was never 22 documented, was it? 23 MR. LEE: I'm sure Elizabeth has detailed notes. She 24 documents everything. 25 MR. CHONG: Have you provided those to us in response</p>	<p style="text-align: right;">131</p> <p>1 therefore, to be your responses to Ms. Pautrat's request 2 for production of documents. Would you agree with that? 3 MR. LEE: It looks to me like it's just asking – this 4 is a – this is a request for production of documents upon 5 the Foundation is what it looks like to me. 6 MR. CHONG: Do you agree with me that the first line 7 says, "Comes now the respondent, Jonathan Lee, by and 8 through counsel and responds to a request for production of 9 documents directed to Jonathan Lee." 10 MR. LEE: Yes. 11 MR. CHONG: Okay. Your Honor, I would move the entry 12 of Exhibit C 18. 13 HEARING EXAMINER PRAGER: I'm sorry? 14 MR. CHONG: I move the entry of Exhibit C 18. 15 HEARING EXAMINER PRAGER: Any objections, Mr. 16 Schiller? 17 MR. SCHILLER: No. 18 HEARING EXAMINER PRAGER: Mr. Abramson? 19 MR. ABRAMSON: None. 20 HEARING EXAMINER PRAGER: All right. Exhibit C 18 is 21 admitted. 22 (Exhibit C 18 was admitted into evidence.) 23 MR. CHONG: Question 4 -- request number 4 says, 24 "Please produce those documents regarding any performance 25 evaluations performed on Complainant during her employment</p>
<p style="text-align: right;">130</p> <p>1 to our discovery requests? 2 MR. LEE: No, I don't have any of those. I don't have 3 access to any of her reports. That was five years ago, she 4 doesn't report to me anymore. I'm pretty sure that she kept 5 track of her daily, and probably talked about poor 6 performance. I actually talked to the employment company 7 that Toby Studley owned about her poor performance before I 8 heard of any of these complaints coming down the pike. And 9 said we're probably not going to keep her. She is not 10 meeting her goals. There's other things that are going on. 11 She is missing days. She is sleeping on the couch. She is 12 coming in and work out close, there was a whole slew of 13 things that were happening. And I was like, you know, I 14 don't really have direct oversight of her but I just wanted 15 to let the employment agency know that they were probably 16 waiting for a fee and I said, you know, we may not keep her 17 that long. I don't really know. 18 MR. CHONG: Now, turn your attention in the black 19 binder to exhibit marked C 18. Do you recognize this 20 document? 21 MR. LEE: I do not recognize this document, no. Not 22 specifically. 23 MR. CHONG: It appears to be a set of responses to a 24 request for production of documents, and it starts off, 25 "Comes now the respondent, Jonathan Lee." They appear,</p>	<p style="text-align: right;">132</p> <p>1 with Foundation for Financial Education, Capital Partners, 2 Herman, Inc. or any other related entity." And it appears 3 the answer to that is, "I do not have any documents 4 regarding performance of valuations." Do you see that? 5 MR. LEE: I do. 6 MR. CHONG: So you're telling me now that there are 7 documents out there that you didn't produce in response to 8 this? 9 MR. LEE: No, I'm saying I don't have any documents, 10 but I'm sure Elizabeth, at the time, probably notated it. 11 And I don't have access to her stuff. I don't have access 12 to Capital Financial stuff either and never did. 13 MR. CHONG: Let's look at Exhibit C 19. C 19 appears 14 to be responses to requests for production of documents and 15 it starts off with, "Comes now the respondent, Foundation 16 for Financial Education." Do you agree with that? 17 MR. LEE: Yes. 18 MR. CHONG: I move the entry of Exhibit C 19. 19 HEARING EXAMINER PRAGER: Any objections Mr. Schiller? 20 MR. SCHILLER: No objection. 21 HEARING EXAMINER PRAGER: Mr. Abramson? 22 MR. ABRAMSON: No. 23 HEARING EXAMINER PRAGER: All right. 24 MR. CHONG: All right question 4 -- 25 HEARING EXAMINER PRAGER: Just a moment. Exhibit C 19</p>

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<p>133</p> <p>1 is admitted. 2 (Exhibit C 19 was admitted into evidence.) 3 MR. CHONG: Thank you. Question 4 in the request for 4 production of documents to the Foundation for Financial 5 Education also says, "Please produce those documents 6 regarding any performance evaluations performed on 7 Complainant," and the response is, "Complainant never 8 worked for the Foundation. The Foundation does not have any 9 documents regarding performance evaluations." Do you see 10 that? 11 MR. LEE: I do. 12 MR. CHONG: Is that accurate? 13 MR. LEE: I think it depends on how you look at it. 14 She never really formally drew salary from the Foundation. 15 She was never officially a paid employee. She was an 16 employee of Herman, Inc. She was a volunteer certainly so 17 under the statute, I can definitely see her being 18 considered an employee, but it was a volunteer non-paid 19 employee position. So I wouldn't have any performance 20 documents on a voluntary non-paid position. 21 MR. CHONG: You don't consider written complaints by 22 Elizabeth de los Santos that she was behaving 23 inappropriately at the office and not meeting her goals to 24 be documents relating to performance evaluations? 25 MR. LEE: Not for the Foundation. We never had a</p>	<p>135</p> <p>1 MR. CHONG: What do you understand to be the reasons 2 that Ms. Pautrat was terminated? 3 MR. LEE: Poor work performance. 4 MR. CHONG: Is that it? 5 MR. LEE: Yes. 6 MR. CHONG: Okay. And by poor work performance, what 7 do you mean? 8 MR. LEE: I just think that she had a lack of 9 attendance, I think she had bad work ethics, showing up to 10 work. I feel like she made a couple of very simple errors 11 on scheduling for clients. I believe that she was actually 12 reprimanded on some of those things. Not because I've 13 reprimanded her but because I have seen them in discovery 14 documents. And Elizabeth didn't want to keep her on so she 15 didn't keep her on. And of course, I'm sure that work 16 performance stuff was corroborated in the testimony if 17 Lauren she missed days. And I think Lauren was saying that 18 well, she wasn't reprimanded but Lauren was on her way out 19 so we didn't -- I mean she was a temporary employee anyway. 20 We could have -- we didn't have a problem with her looking 21 for a new job. We have no problem with Giselle looking for 22 a new job. They were free to do whatever they wanted and we 23 weren't trying to keep anybody there if they didn't want to 24 be there. 25 HEARING EXAMINER PRAGER: Excuse me, who was Lauren?</p>
<p>134</p> <p>1 Foundation performance evaluation. They are all volunteers. 2 Any evaluation she had would have been under the umbrella 3 of her paid job which was through Capital Financial 4 Partners. And Elizabeth de los Santos was also an employee 5 of Capital Financial Partners. All the evaluations and pay 6 would have come from there. 7 MR. CHONG: So you interpret the phrase performance 8 evaluations to not include written statements that she was 9 not performing appropriately? 10 MR. LEE: I never said that. 11 MR. CHONG: Well, you didn't produce any documents in 12 response to these two production requests, did you? 13 MR. LEE: I don't have any documents. 14 MR. CHONG: You just testified though that Elizabeth 15 de los Santos has documents -- 16 MR. LEE: No I said she -- 17 MR. CHONG: -- on her performance. 18 MR. LEE: -- she may. She probably should as her 19 manager, but I don't have them. I don't have access to 20 them. She doesn't work for me anymore. 21 MR. CHONG: Did you ask for them -- 22 MR. LEE: I did -- 23 MR. CHONG: -- in response to these document requests? 24 MR. LEE: I did not ask for them. You can ask her 25 tomorrow though if she has those documents.</p>	<p>136</p> <p>1 MR. LEE: Oh, Lauren was the young lady this morning. 2 She was just -- she had testified and said that she took 3 some days off to go interview looking for new jobs and we 4 encourage that. We don't want anybody working with us that 5 doesn't want to be working with us. Why would we? 6 MR. CHONG: Well, you didn't fire Lauren though. 7 MR. LEE: No, we didn't. 8 MR. CHONG: Right. So. Yeah. 9 MR. LEE: Lauren wasn't supervised by me. She wasn't 10 supervised by Elizabeth. She was supervised by somebody 11 else, probably Simon or Nick so that wasn't my call. 12 MR. CHONG: So Ms. Pautrat was doing work for the 13 financial -- the Foundation for Financial Education. 14 MR. LEE: She was volunteering, yes. 15 MR. CHONG: But you claim that you did not supervise 16 her? 17 MR. LEE: No. Not to -- 18 MR. CHONG: As the CEO of the company? 19 MR. LEE: Yeah, as the CEO I didn't directly direct 20 her one bit. In fact, I intentionally went out of my way 21 not to supervise her because of her personal relationship 22 with Toby Studley. I knew they were friends. So I told Toby 23 when I hired her I'm going to assign her to Elizabeth. That 24 way if there are any conflicts in the future I won't be 25 involved and they can -- everybody can maintain their</p>

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<p>137</p> <p>1 friendship. So I assigned her to Elizabeth and she managed 2 her directly and decided how she did. Did evaluations and 3 decided to let her go because of poor performance and other 4 issues. 5 MR. CHONG: So it was appropriate for you to keep your 6 distance from her managerially, but not socially? 7 MR. LEE: I try to keep my distance away from her 8 managerially, absolutely. And I tried to look in on her 9 periodically, as often as I could to let Toby know how she 10 was doing and adjusting to our work environment. I visited 11 her multiple times a day, as I did pretty much -- everybody 12 on my staff is important to me. Our doors are open, I mean 13 it's a small office. Our doors are open all the time. 14 People come into my office, I come into their office, it's 15 a regular occurrence for everybody that is important. 16 MR. CHONG: Did you send reports to Toby Studley about 17 Ms. Pautrat? 18 MR. LEE: I didn't send any reports to Toby Studley. 19 MR. CHONG: Did you make any reports to Toby Studley 20 at all? 21 MR. LEE: I didn't make any reports to Toby Studley. 22 MR. CHONG: You just testified that you checked in on 23 Ms. Pautrat every so often because you wanted to make sure 24 that your relationship with Toby was going well, right? 25 MR. LEE: I did.</p>	<p>139</p> <p>1 MR. CHONG: Thank you. 2 MR. LEE: I had a previous attorney that was dealing 3 with this complaint originally but since five years ago she 4 has retired. But you know, I think we try to comply anytime 5 anybody asked for something. If we had information we have 6 no reason not to comply. 7 MR. CHONG: I have no more questions for this witness. 8 HEARING EXAMINER PRAGER: Mr. Schiller. 9 MR. SCHILLER: I'll reserve. I mean I will probably be 10 calling him for my case. 11 HEARING EXAMINER PRAGER: Keep your voice up please. 12 MR. SCHILLER: Sorry. 13 HEARING EXAMINER PRAGER: Mr. Abramson? 14 MR. ABRAMSON: Thank you, Your Honor. Mr. Lee, is it 15 your testimony that at the times in question Foundation for 16 Financial Education had no employees? 17 MR. LEE: No. They did have employees but they were 18 all volunteer. 19 MR. ABRAMSON: Well, what's the distinction in your 20 mind between an employee and a volunteer? 21 MR. LEE: Employees get paid W-2 income and volunteers 22 don't get paid. 23 MR. ABRAMSON: So F3E did have employees? 24 MR. LEE: I would say yes, they have volunteer 25 employees.</p>
<p>138</p> <p>1 MR. CHONG: And so if you noticed problems wouldn't 2 you report those to Toby Studley? 3 MR. LEE: Well, I didn't give him a report. I just let 4 her know that Elizabeth, her supervisor, was telling me she 5 wasn't doing a very good job and we're probably not going 6 to be keeping her. 7 MR. CHONG: You let who know? 8 MR. LEE: Toby. 9 MR. CHONG: Okay. So sorry, you used her so that 10 confused me. 11 MR. LEE: Toby. 12 MR. CHONG: So you told Toby -- 13 MR. LEE: Yeah, Toby was aware that she wasn't doing 14 her job very well and we probably weren't going to keep 15 her. But I didn't furnish him with any reports. I just told 16 her that her supervisor, Elizabeth was letting me know that 17 things were not going well. 18 MR. CHONG: Well, what would be the -- 19 HEARING EXAMINER PRAGER: Excuse me. Because I'm not 20 quite sure, is Toby a she or a he? 21 MR. LEE: Toby is a he and he owns a staffing company. 22 HEARING EXAMINER PRAGER: All right. 23 MR. LEE: So Toby wants people to do well because if 24 they do then I've got to pay a fee to him. 25 HEARING EXAMINER PRAGER: You can continue.</p>	<p>140</p> <p>1 MR. ABRAMSON: Well, excuse me, it sounds like you're 2 confusing those two. You are saying that a volunteer is a 3 person that didn't get paid by F3E? 4 MR. LEE: Yes. 5 MR. ABRAMSON: And an employee is a person that did 6 get paid by F3E? 7 MR. LEE: No. An employee is a person that gets paid 8 by anybody. Volunteer can be considered an employee. 9 MR. ABRAMSON: My question is, were there people paid 10 as employees by F3E? 11 MR. LEE: Not that I recollect. 12 MR. ABRAMSON: Okay. In the white binder, first, in 13 the black binder, on Exhibit 19, I'm sorry, Exhibit 20, do 14 you recall filing that lawsuit? 15 MR. LEE: Do I recall filing that lawsuit? I recall 16 being a party to filing this lawsuit, yes. 17 MR. ABRAMSON: Well, but the party you're on is one of 18 the plaintiffs, correct? 19 MR. LEE: Yes, I believe so. And it wasn't me 20 personally it was through our company, the Foundation. 21 MR. ABRAMSON: Well. 22 MR. LEE: So I don't -- it wasn't a personal lawsuit 23 but I remember the company. 24 MR. ABRAMSON: Well, it says the Foundation for 25 Finance was the case, right?</p>

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<p>141</p> <p>1 MR. LEE: Yeah, my name is not on here, but the 2 foundation is. 3 MR. ABRAMSON: I didn't ask if your name was on it, I 4 said this was the Foundation for Finance -- 5 MR. LEE: That is not what you said. You said you. 6 You said me. 7 MR. ABRAMSON: Do you recall this lawsuit? 8 MR. LEE: I do recall the Foundation filing this 9 lawsuit, yes. 10 MR. ABRAMSON: Okay. Look at page 5, GP100. 11 HEARING EXAMINER PRAGER: I'm sorry? What was that? 12 MR. ABRAMSON: On GP0100, page 5. 13 MR. LEE: Yeah, I'm looking at it. 14 MR. ABRAMSON: Paragraph 18 says on December 9th, 15 after he hired the claimant as national director. Is that a 16 true statement? 17 MR. LEE: Only if you considered hired somebody, if 18 you can hire a volunteer, then it's a true statement. 19 MR. ABRAMSON: I think the word hire doesn't talk 20 about a volunteer. Did you mean that she was a volunteer 21 and you didn't hire her? 22 MR. LEE: I don't know if I can testify to the answer 23 to that question. 24 MR. ABRAMSON: Uh-huh. Look at 19. 25 MR. LEE: Yeah.</p>	<p>143</p> <p>1 MR. SCHILLER: I'm going to object to this line of 2 questioning. 3 MR. LEE: I didn't sign this document. 4 MR. SCHILLER: As to what relevance and also it refers 5 to Herman, Inc. also. So I think -- 6 MR. LEE: This could be a Herman, Inc. This is 7 probably -- 8 MR. SCHILLER: -- that paragraph applies to both. If 9 he's going down this line of questioning I still don't 10 understand what the relevance is either. 11 HEARING EXAMINER PRAGER: Well, I understand your 12 point that it seems to refer to both but the question being 13 asked is whether the -- was of McClean an employee of the 14 Foundation and there seems to be some suggestion that she 15 might have been because this was a lawsuit brought on 16 behalf of both of those parties. So your objection is 17 overruled. Do you want to restate your question or -- 18 MR. ABRAMSON: It's hard for me to remember now. 19 HEARING EXAMINER PRAGER: We can get it read back to 20 you. 21 (Previous question played back.) 22 MR. LEE: I can't make a distinction between an 23 employee and a volunteer. I am not a lawyer. I don't know 24 how to make that distinction. An employee though, in my 25 mind, would be somebody that had to draw a paycheck. If you</p>
<p>142</p> <p>1 MR. ABRAMSON: And carry out her employment duties. Is 2 a volunteer an employee? 3 MR. LEE: Looking at number 19, in carrying out 4 employment duties -- 5 MR. ABRAMSON: Paragraph 19. 6 MR. LEE: Is a volunteer an employee? 7 MR. ABRAMSON: Yeah. 8 MR. LEE: I don't know if I can answer that question. 9 MR. ABRAMSON: Well, in your mind there's no 10 distinction between a volunteer and an employee? 11 MR. LEE: No, there's definitely a distinction between 12 a volunteer and an employee. 13 MR. ABRAMSON: What's the difference? 14 MR. LEE: One gets paid and one doesn't. 15 MR. ABRAMSON: Okay. So when you use the word 16 employment duties -- 17 MR. LEE: I didn't -- 18 MR. ABRAMSON: -- are you talking about a paid person? 19 MR. LEE: -- use this word. This isn't my writing. 20 MR. ABRAMSON: Well, it's in a lawsuit. 21 MR. LEE: Right, but I didn't write this. 22 MR. ABRAMSON: IT's on behalf of the Foundation for 23 Financial Education. 24 MR. LEE: I want to see where I signed this. I didn't 25 sign this.</p>	<p>144</p> <p>1 are not drawing a paycheck you are a volunteer if you are 2 doing work. 3 MR. ABRAMSON: So paragraph 20 says so as an employee 4 of F3E, were you referring to her as a volunteer then? 5 MR. LEE: I wasn't referring to anything. I did write 6 this. I don't -- 7 MR. ABRAMSON: Well, it is represented to the court -- 8 MR. LEE: I don't even remember -- 9 MR. ABRAMSON: -- on behalf of the Foundation. 10 MR. LEE: Yeah, I don't remember stating yes or 11 writing yes. 12 MR. SCHILLER: Your Honor, for my client please have 13 the courtesy to finish the answer? 14 HEARING EXAMINER PRAGER: Good point, yes. Mr. 15 Abramson -- 16 MR. LEE: Why don't you asked me one question at a 17 time and let me answer that one and we will figure out what 18 you are trying to get at. 19 MR. ABRAMSON: I would love to have you answer one 20 question at a time. You have answered any so far. 21 MR. LEE: Just asked me one, and we will start there. 22 MR. ABRAMSON: Well, she was an employee of F3E, 23 according to paragraph 20; is that correct? 24 MR. LEE: According to paragraph 20 she was an 25 employee of F3E but that was not my paragraph 20. That was</p>

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<p>145</p> <p>1 not --</p> <p>2 MR. ABRAMSON: This was filed on behalf of the</p> <p>3 Foundation, correct?</p> <p>4 MR. LEE: It looks like it probably was but I don't</p> <p>5 remember ever reading this.</p> <p>6 MR. ABRAMSON: It looks like it probably was?</p> <p>7 MR. LEE: Yeah, but I can't tell on this page who</p> <p>8 signed or who submitted it. On the back, which I turned to</p> <p>9 the back of this, of all these documents it ended without a</p> <p>10 signature or date, so I can't really tell. If I go to the</p> <p>11 back of the entire chapter it looks like Eugene Policastri</p> <p>12 is the one. And Nick Herman signed it, but Nick Herman was</p> <p>13 also the treasurer of the Foundation. So Nick Herman easily</p> <p>14 could have written all these things and find it on behalf</p> <p>15 of Herman and the Foundation and not involved me at all.</p> <p>16 MR. ABRAMSON: So as the CEO of the Foundation and</p> <p>17 running the organization it's your testimony that a major</p> <p>18 lawsuit is filed against a former employee and you don't</p> <p>19 read it?</p> <p>20 MR. LEE: Absolutely.</p> <p>21 MR. ABRAMSON: You didn't know about it?</p> <p>22 MR. LEE: I definitely knew about it but it's very</p> <p>23 possible I didn't read it.</p> <p>24 MR. ABRAMSON: You didn't read it?</p> <p>25 MR. LEE: It's very possibly I didn't read it, yes.</p>	<p>147</p> <p>1 MR. LEE: I'm happy to answer the question.</p> <p>2 MR. ABRAMSON: -- practical business operations. And</p> <p>3 he, as a CEO, should be able to answer that.</p> <p>4 HEARING EXAMINER PRAGER: As I say, I think it is more</p> <p>5 rhetorical than anything else but I will let you ask the</p> <p>6 question and Mr. Lee, do you understand the question?</p> <p>7 MR. LEE: I do. And I'm sure there's tons of CEOs like</p> <p>8 Jeff Bazos when Amazon is getting sued for different things</p> <p>9 where he is not reading those lawsuits so I wouldn't expect</p> <p>10 a CEO to read through every lawsuit that a company goes</p> <p>11 through. Nor did I personally. I left that to the other</p> <p>12 members of our organization.</p> <p>13 MR. ABRAMSON: So your testimony that F3E is the same</p> <p>14 size as Amazon?</p> <p>15 MR. LEE: I never --</p> <p>16 MR. SCHILLER: Objection. We are --</p> <p>17 MR. ABRAMSON: He's --</p> <p>18 HEARING EXAMINER PRAGER: What is your --</p> <p>19 MR. SCHILLER: This is argumentative and it is going</p> <p>20 way off.</p> <p>21 HEARING EXAMINER PRAGER: No it's a -- it is</p> <p>22 argumentative but it is a legitimate question as to whether</p> <p>23 or not, since your client just said that there is a</p> <p>24 similarity between the two companies the question was how</p> <p>25 much of a similarity there was. And the question was is it</p>
<p>146</p> <p>1 MR. ABRAMSON: If an employee did that for a company</p> <p>2 you had investment in would you want to get that CEO fired?</p> <p>3 MR. SCHILLER: Objection.</p> <p>4 MR. LEE: I don't think the CEO's responsible --</p> <p>5 HEARING EXAMINER PRAGER: Wait, wait, wait. Wait.</p> <p>6 MR. LEE: Let me answer the question.</p> <p>7 HEARING EXAMINER PRAGER: There's been an objection.</p> <p>8 I'm not quite sure what your question is. It seems to be</p> <p>9 more of a rhetorical question -- statement rather than</p> <p>10 anything else.</p> <p>11 MR. ABRAMSON: Well, it's a question about --</p> <p>12 MR. LEE: He wants to know if I would fire myself as</p> <p>13 CEO.</p> <p>14 HEARING EXAMINER PRAGER: Wait, wait, wait. Mr. Lee --</p> <p>15 MR. LEE: Sorry.</p> <p>16 MR. ABRAMSON: It's a question about whether --</p> <p>17 HEARING EXAMINER PRAGER: This is a conversation I'm</p> <p>18 having at the moment with Mr. Abramson.</p> <p>19 MR. ABRAMSON: About Mr. Lee's testimony, because if</p> <p>20 you believe his testimony his role as a manager is grossly</p> <p>21 negligent by any standard. And what I am asking him is if a</p> <p>22 CEO of another company, had a lawsuit filed on behalf of</p> <p>23 his company and the CEO said, beats the hell out of me, I</p> <p>24 never knew about it, I didn't read it would he want that</p> <p>25 CEO fired as a matter of --</p>	<p>148</p> <p>1 the same size as Amazon. So the question can be asked. And</p> <p>2 Mr. Lee, would you answer please.</p> <p>3 MR. LEE: No, we're not the same size as Amazon.</p> <p>4 MR. ABRAMSON: I call your attention to Exhibit 2 in</p> <p>5 the white binder. Do you recognize that document?</p> <p>6 MR. LEE: No, I do not recognize this document.</p> <p>7 MR. ABRAMSON: Can you identify for the record?</p> <p>8 MR. LEE: I can. It is a tax return from 2015 filed on</p> <p>9 behalf of the Foundation for Financial Education.</p> <p>10 MR. ABRAMSON: You have never seen this before?</p> <p>11 MR. LEE: I have seen document similar. I can't</p> <p>12 testify to whether I have seen this exact one before.</p> <p>13 MR. ABRAMSON: I'm trying to understand your answer.</p> <p>14 You are saying you don't know if you saw the 2015 return?</p> <p>15 MR. LEE: I can tell you right now I didn't see the</p> <p>16 2015 return.</p> <p>17 MR. ABRAMSON: Well, even though, if you look at line</p> <p>18 15.</p> <p>19 MR. LEE: Uh-huh.</p> <p>20 MR. ABRAMSON: What does line 15 say?</p> <p>21 MR. LEE: Salaries, other compensation and employee</p> <p>22 benefits.</p> <p>23 MR. ABRAMSON: And is there a number there?</p> <p>24 MR. LEE: 35,000.</p> <p>25 MR. ABRAMSON: Doesn't that indicate that the</p>

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<p>149</p> <p>1 Foundation had employees?</p> <p>2 MR. LEE: It could have been other compensation.</p> <p>3 Expense reimbursement is pretty normal and customary. We</p> <p>4 reimburse expenses for volunteers for travel and for other</p> <p>5 things like that. So I couldn't tell you by this return</p> <p>6 what that was for.</p> <p>7 MR. ABRAMSON: Okay.</p> <p>8 MR. LEE: But I do see Nick Herman's name on here as</p> <p>9 president and treasurer which means he signed off on it as</p> <p>10 a director of the Foundation, which is probably why he got</p> <p>11 involved in that lawsuit without having me look at the</p> <p>12 whole. Thing because he had the ability to do that.</p> <p>13 MR. ABRAMSON: Well, look at the --</p> <p>14 MR. LEE: Because if you can sign a tax return you can</p> <p>15 pretty much do anything.</p> <p>16 MR. ABRAMSON: Uh-huh. Your testimony is tax returns</p> <p>17 can do anything?</p> <p>18 MR. LEE: If you have the ability, as the president</p> <p>19 and treasurer of the company to sign a tax return, you</p> <p>20 probably have ability to act on behalf of that company in</p> <p>21 almost any manner possible.</p> <p>22 MR. ABRAMSON: Well was he president of F3E?</p> <p>23 MR. LEE: I'm reading what it says here; I don't have</p> <p>24 any knowledge of whether he was or was not president of</p> <p>25 F3E.</p>	<p>151</p> <p>1 MR. SCHILLER: No objection.</p> <p>2 HEARING EXAMINER PRAGER: All right. Hold on a minute.</p> <p>3 MR. ABRAMSON: If you look at Exhibit --</p> <p>4 HEARING EXAMINER PRAGER: Hold on a minute, please.</p> <p>5 MR. ABRAMSON: Oh, okay.</p> <p>6 HEARING EXAMINER PRAGER: All right the exhibit -- Mr.</p> <p>7 Chong, do you have any objections to that?</p> <p>8 MR. CHONG: No objection.</p> <p>9 HEARING EXAMINER PRAGER: All right. Without objection</p> <p>10 the CFP 2 is admitted.</p> <p>11 (Exhibit CFP 2 was admitted into evidence.)</p> <p>12 HEARING EXAMINER PRAGER: Go ahead, Mr. Abramson.</p> <p>13 MR. ABRAMSON: I call your attention to Exhibit 3. Can</p> <p>14 you identify that for the record?</p> <p>15 MR. LEE: A tax return for 2016 on behalf of the</p> <p>16 Foundation for Financial Education.</p> <p>17 MR. ABRAMSON: Do you have any recollection of seeing</p> <p>18 that document?</p> <p>19 MR. LEE: I do not.</p> <p>20 MR. ABRAMSON: Would you look at line 15 on that tax</p> <p>21 return?</p> <p>22 MR. LEE: It says salaries, compensation and other</p> <p>23 benefits.</p> <p>24 MR. ABRAMSON: And what's the salaries for 2016?</p> <p>25 MR. LEE: 96,742.</p>
<p>150</p> <p>1 MR. ABRAMSON: Weren't you president of F3E?</p> <p>2 MR. LEE: I don't believe so. I believe I was the</p> <p>3 founder and CEO.</p> <p>4 MR. ABRAMSON: I see.</p> <p>5 MR. LEE: That title may have changed. But back then -</p> <p>6 -</p> <p>7 MR. ABRAMSON: Look at page 10 of the tax return.</p> <p>8 MR. LEE: Yes.</p> <p>9 MR. ABRAMSON: And will you --</p> <p>10 HEARING EXAMINER PRAGER: Wait, hold on. All right,</p> <p>11 Mr. Abramson.</p> <p>12 MR. ABRAMSON: Look at line 10.</p> <p>13 MR. LEE: Line 10 says payroll taxes.</p> <p>14 MR. ABRAMSON: Is there an entry for payroll taxes?</p> <p>15 MR. LEE: It says \$3,000.</p> <p>16 MR. ABRAMSON: Okay. You paid payroll taxes on</p> <p>17 non-employee compensation?</p> <p>18 MR. LEE: No. A company would not do that.</p> <p>19 MR. ABRAMSON: So that means there were employees?</p> <p>20 MR. LEE: Yeah, if there were payroll taxes there</p> <p>21 probably were employees. And I couldn't tell you who the</p> <p>22 employees were.</p> <p>23 MR. ABRAMSON: We move for the admission of Exhibit 2.</p> <p>24 HEARING EXAMINER PRAGER: Any objections?</p> <p>25 MR. CHONG: No.</p>	<p>152</p> <p>1 MR. ABRAMSON: And would you agree that those were</p> <p>2 salaries paid to employees?</p> <p>3 MR. LEE: The same answer as before. It could be other</p> <p>4 compensation or other things. Could be salaries, I don't</p> <p>5 know.</p> <p>6 MR. ABRAMSON: Okay. Look at page 10 of that document.</p> <p>7 HEARING EXAMINER PRAGER: Hold on.</p> <p>8 MR. ABRAMSON: What does line --</p> <p>9 HEARING EXAMINER PRAGER: Hold on.</p> <p>10 MR. ABRAMSON: Okay.</p> <p>11 MR. LEE: Payroll taxes, 7,000.</p> <p>12 MR. ABRAMSON: What does line 7 say?</p> <p>13 MR. LEE: Other salaries and wages 89,000.</p> <p>14 MR. ABRAMSON: Okay. And then line 10?</p> <p>15 MR. LEE: Payroll taxes 7000.</p> <p>16 MR. ABRAMSON: So you have employees getting roughly</p> <p>17 \$90,000 in payroll; is that right?</p> <p>18 MR. LEE: That's what it looks like, yes.</p> <p>19 MR. ABRAMSON: Okay. Now it is your testimony, if I</p> <p>20 recall, that you never wrote a check to the Complainant,</p> <p>21 Ms. Pautrat?</p> <p>22 MR. LEE: I never personally wrote a check to her.</p> <p>23 MR. ABRAMSON: Your Honor, I have a single copy of</p> <p>24 this which I would like to show you and then have -- show</p> <p>25 it to the --</p>

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<p>153</p> <p>1 HEARING EXAMINER PRAGER: Well, show it to the others 2 first. 3 MR. LEE: Yeah, that's Nick's signature, not mine. 4 MR. ABRAMSON: Could you identify it for the record? 5 HEARING EXAMINER PRAGER: Wait, wait. Show it to Mr. 6 Chong and then I want to see it. 7 MR. LEE: Can I take one more look? Okay. 8 HEARING EXAMINER PRAGER: Can I see it? 9 HEARING EXAMINER PRAGER: All right. What's been 10 proffered is something that seems to be a check drawn on 11 Capital One Bank and at the top it says Foundation for 12 Financial Education, Inc. And it's -- if it is a check it's 13 number 136. Mr. Abramson, what do you want to do with that? 14 MR. ABRAMSON: I want to show it to Mr. Lee and ask if 15 he knows anything about it. 16 MR. LEE: Never seen this check before in my life, but 17 I do recognize the signature of Nicholas Herman. 18 MR. ABRAMSON: Okay. So you have no knowledge of this 19 check at all? 20 MR. LEE: No. 21 MR. ABRAMSON: Okay. Did you indicate that Ms. de los 22 Santos was not an employee of the Foundation? 23 MR. LEE: She may have been a volunteer and maybe a 24 dual employee of Herman, Inc. and the Foundation. I don't 25 really know. I don't recall.</p>	<p>155</p> <p>1 that came up at the last minute because of his assertion 2 that F3E only had volunteers. 3 HEARING EXAMINER PRAGER: And when did you hear from 4 him that these were just volunteers other than this 5 morning's testimony? 6 MR. ABRAMSON: It was in a document that I saw 7 recently that he -- in the file. I can't recall the 8 document. 9 HEARING EXAMINER PRAGER: Mr. Schiller, is there such 10 a document as far as you know? 11 MR. SCHILLER: When I entered -- when I entered in 12 this case I filed a motion to dismiss. That was filed six 13 months ago where I alleged that I represented the 14 Foundation, I moved to dismiss. Ms. Pautrat was a volunteer 15 and I argued that it wasn't an employer. So this issue has 16 been on the table -- 17 MR. ABRAMSON: This doesn't relate to Ms. Pautrat. 18 HEARING EXAMINER PRAGER: Wait, wait, wait, just a 19 moment. Mr. Chong, what about you? 20 MR. CHONG: I'm sorry, what's the question right now? 21 HEARING EXAMINER PRAGER: Well, there's a question of 22 here are two exhibits that Mr. Abramson wants to introduce 23 that were not identified in -- prior to this at a time when 24 documents that were going to be admitted here should have 25 been identified. Do you have any objection to this?</p>
<p>154</p> <p>1 MR. ABRAMSON: So you don't recall if she was a 2 Foundation employee getting wages? 3 MR. LEE: No, I don't recall. 4 MR. ABRAMSON: Could you say she was not getting 5 wages? 6 MR. LEE: I couldn't say anything for sure. I didn't 7 do the taxes and I didn't do the payroll. 8 MR. ABRAMSON: Uh-huh. I'd like to show you this. 9 HEARING EXAMINER PRAGER: Mr. Abramson, I'm going to 10 be looking at this but a question I have for you is why 11 were these two exhibits not included in you were supposed 12 to be filing in this case? 13 MR. ABRAMSON: We weren't responding to anything on 14 behalf of the Foundation, Your Honor. This came out of a 15 file that was not related to the Foundation. 16 HEARING EXAMINER PRAGER: I'm sorry? 17 MR. ABRAMSON: This was -- 18 HEARING EXAMINER PRAGER: This was in your possession 19 and presumably it was something that you realized you -- or 20 should have realized you were going to present in this 21 case. 22 MR. ABRAMSON: We didn't realize it until we saw Mr. 23 Lee's statement that the people in F3E were volunteers 24 which we want to impeach because it was our understanding 25 that they had employees, not volunteers. This was something</p>	<p>156</p> <p>1 MR. CHONG: I don't take a position on their 2 disclosure at this point. 3 HEARING EXAMINER PRAGER: Okay. Mr. Schiller, what 4 about you? 5 MR. SCHILLER: I would like to voir dire and ask how 6 long he's had this document because there is a -- we've 7 been referencing litigation between the parties throughout 8 this hearing and there is a tremendous number of motions to 9 compel and sanctions for failing to provide documents by -- 10 and here's another example. In another proceeding where 11 these documents should have been identified because Your 12 Honor asked for a list of all documents and they have known 13 since, I don't know the date that's in -- it's in the file, 14 in this case but I immediately filed a motion to dismiss on 15 the ground of volunteer issue so they were aware of this 16 issue so it's not new information. So now they're coming -- 17 we're in the middle of a trial and they're coming up with 18 new documents we're looking at now for the first time, 19 which is -- yeah, it's just beyond our -- 20 HEARING EXAMINER PRAGER: All right, Mr. Abramson 21 what's your -- 22 MR. ABRAMSON: Well, Your Honor -- 23 HEARING EXAMINER PRAGER: -- what's your response to 24 this? 25 MR. ABRAMSON: This is a rebuttal document, Your</p>



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<p>157</p> <p>1 Honor. I receive it this morning and it's rebuttal. It's 2 not part of our case in chief. And it's specifically to 3 rebut the fact that Mr. Lee is lying under oath about -- 4 and dissembling about his testimony that F3E had only 5 volunteers and no employees. The purpose of this is to show 6 that Mr. Lee is being untruthful. That he had employees. He 7 knew he had employees and that among them is Elizabeth de 8 los Santos who he testified earlier was a volunteer. And to 9 rebut that and to show that he is being untruthful that's 10 the purpose of this being offered; it's the only purpose. 11 HEARING EXAMINER PRAGER: Well, I take Mr. Schiller's 12 objection seriously and I will give it consideration but 13 for the time being I will allow you to ask questions about 14 it. But whether or not it will be introduced into the 15 record is something we will deal with later on. 16 MR. ABRAMSON: Okay. So I shall show you this, Mr. 17 Lee. And it is a W-2 for what person? 18 MR. LEE: Elizabeth de los Santos. 19 MR. ABRAMSON: And you testified that she was not an 20 employee at that time? 21 MR. LEE: I testified I had no knowledge of her 22 getting a salary from the Foundation. 23 MR. ABRAMSON: You said that she was a volunteer? 24 MR. LEE: Yeah. I testified that the Foundation is a 25 volunteer-run organization meaning it's mostly run by</p>	<p>159</p> <p>1 MR. ABRAMSON: Okay. So six people; you don't recall 2 who was responsible for what? 3 MR. LEE: No. I recall Elizabeth was responsible for 4 managing Giselle. 5 MR. ABRAMSON: But you had no oversight personally? 6 MR. LEE: No. 7 MR. ABRAMSON: What did you do as the CEO of the 8 Foundation? 9 MR. LEE: I raised money. I wrote all the training 10 programs. I traveled all over the country advising other 11 advisors and members of our Foundation, other volunteers. 12 MR. ABRAMSON: How much money did you raise in 2015? 13 MR. LEE: I don't know. You can probably look at the 14 tax return and figure that out. 15 MR. ABRAMSON: Well, what does the tax return for 2015 16 say? How much money you raised? 17 MR. LEE: I don't think it would say how much I 18 personally raised. It might say the total. 19 MR. ABRAMSON: How much was the total raised? Total 20 contributions. 21 MR. LEE: 125,000 in 2015. 22 MR. ABRAMSON: All right. So you traveled all over the 23 country in 2015 to raise \$125,000? 24 MR. LEE: I did, yes. 25 MR. ABRAMSON: I see. Okay. And what was F3E's</p>
<p>158</p> <p>1 volunteers. I have no knowledge of Elizabeth getting a 2 salary. If she got one Nick would obviously know that as 3 the president and treasurer. I didn't deal with this type 4 of stuff. I didn't deal with the tax returns, I've never 5 seen these things in my life. 6 MR. ABRAMSON: I see. Well, Your Honor, subject to 7 your postponed ruling I would ask that that be admitted. 8 HEARING EXAMINER PRAGER: All right. It will be 9 pending and we can deal with it at the conclusion. 10 MR. LEE: I can say that was not her total 11 compensation, I do know that. She was making much more 12 money than that. So she had to have been a dual employee 13 MR. ABRAMSON: Did you supervise Ms. Pautrat? 14 MR. LEE: I did not. 15 MR. ABRAMSON: You had no oversight over her? 16 MR. LEE: No, I did not. 17 MR. ABRAMSON: Who supervised her? 18 MR. LEE: Elizabeth de los Santos. 19 MR. ABRAMSON: Anybody else? 20 MR. LEE: I don't know. Somebody else could have but 21 it was primarily Elizabeth 22 MR. ABRAMSON: How many people were working F3E in any 23 capacity in 2015? 24 MR. LEE: I don't recollect an exact number. Maybe 25 six.</p>	<p>160</p> <p>1 business? 2 MR. LEE: Financial education. 3 MR. ABRAMSON: Oh. How did it do that? 4 MR. LEE: It held workshops for the public. 5 MR. ABRAMSON: And where were these workshops held? 6 MR. LEE: Usually at people's places of employment. 7 MR. ABRAMSON: Well, were individuals signing up for 8 these workshops or were they organizations? 9 MR. LEE: The organizations would allow individuals to 10 sign up for the workshops at the organization. 11 MR. ABRAMSON: And what organizations -- kind of 12 organizations and did F3E do workshops with? 13 MR. LEE: Mostly government. 14 MR. ABRAMSON: Okay. And what was the Complainant's 15 role with regard to the workshops? 16 MR. LEE: I believe her role was to try to schedule 17 people that attended workshops, but I couldn't say exactly. 18 MR. ABRAMSON: When you say schedule people to attend 19 workshops, what does that mean? 20 MR. LEE: So schedule somebody who attended a workshop 21 and requested a meeting, schedule their meeting for them to 22 come in and meet with one of our financial counselors. 23 MR. ABRAMSON: Would one of the financial counselors 24 be yourself? 25 MR. LEE: It would be, yes.</p>

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<p>161</p> <p>1 MR. ABRAMSON: So she scheduled meetings for you 2 personally? 3 MR. LEE: I don't remember her ever scheduling 4 meetings for me personally. I think they get assigned to 5 certain people so she would probably have been scheduling 6 meetings for net, mostly Nick and Eric at the time. 7 MR. ABRAMSON: So you weren't getting meetings 8 scheduled for you personally? 9 MR. LEE: I can't say if I was or wasn't. 10 MR. ABRAMSON: Were you getting clients -- strike that. 11 When you were in these meetings -- so you don't recall if 12 you were getting meetings scheduled with individuals to get 13 financial planning? 14 MR. LEE: Not from Giselle. 15 MR. ABRAMSON: Not from Giselle. 16 MR. LEE: Right. 17 MR. ABRAMSON: How about other people? 18 MR. LEE: I don't know the relevance of other people. 19 I don't recall. 20 MR. ABRAMSON: That wasn't my question. 21 MR. LEE: Yeah, I don't recall. 2016 and '15 that was 22 -- I don't recall. 23 MR. ABRAMSON: So the people who worked for F3E were 24 they or were they not scheduling meetings with individuals 25 for you personally?</p>	<p>163</p> <p>1 correct that this is a way of getting information that 2 could be got in other cases. But for me it is important 3 because I need to know the relationship between these two 4 Respondents and this is helpful so the questions, I think, 5 are pertinent at this time. 6 MR. ABRAMSON: I'm sorry -- 7 HEARING EXAMINER PRAGER: Go ahead. Mr. Abramson, you 8 can -- do you need to have that question read back? 9 MR. LEE: I don't. I remember the question. 10 MR. ABRAMSON: Okay. 11 HEARING EXAMINER PRAGER: Pardon? 12 MR. LEE: I remember the question. It was three 13 seconds ago. 14 HEARING EXAMINER PRAGER: All right. 15 MR. LEE: He asked me where my income came from in 16 2015 and I said it came from a number of different sources 17 to include personal financial sales to personal clients and 18 fees and that people paid me to mentor them, and a number 19 of different insurance companies. 20 HEARING EXAMINER PRAGER: Mr. Abramson? 21 MR. ABRAMSON: Were these personal clients and 22 insurance company payments made through scheduling done by 23 F3E people? 24 MR. LEE: I cannot recall. I might have also been an 25 employee of Capital Financial Partners at the time. In</p>
<p>162</p> <p>1 MR. LEE: I don't recall. 2 MR. ABRAMSON: One way or the other? 3 MR. LEE: Yeah, I don't recall. 4 MR. ABRAMSON: In 2015 where was your income coming 5 from? 6 MR. LEE: My income from the Foundation or my -- 7 MR. ABRAMSON: No, where was your personal income 8 coming from? 9 MR. LEE: My personal income in 2015 was coming from 10 maybe seven or eight different sources. 11 MR. ABRAMSON: Well, were any of these dealing with 12 financial planning? 13 MR. LEE: Yeah sure, some of them were dealing with 14 financial planning. 15 MR. ABRAMSON: Okay. And what other sources where 16 there besides financial planning? 17 MR. LEE: I get -- 18 MR. SCHILLER: Your Honor, if I may cut this off. 19 There is pending litigation and it seems like counsel is 20 using this as a deposition focusing on another case. This 21 should be honed in an specific to this litigation and this 22 complaint. I mean he is talking about where is your 23 compensation is coming from other entities and other 24 businesses. 25 HEARING EXAMINER PRAGER: Mr. Schiller, you may be</p>	<p>164</p> <p>1 fact, I think I was. So I was getting a salary probably 2 from Herman, Inc. and Capital Financial as well. I believe 3 that was one of my sources of income. 4 MR. ABRAMSON: Did you have any independent source of 5 meeting the client to get financial planning other than the 6 Foundation for Financial Education? 7 MR. LEE: Sure. Twenty-five years' worth of experience 8 and referrals from existing clients. 9 MR. ABRAMSON: They just came to you? 10 MR. LEE: Called in every single day. I get referrals 11 almost every single day. 12 MR. ABRAMSON: Uh-huh. In terms of the Complainant, is 13 it your testimony that you had no oversight over her 14 activities? 15 MR. LEE: That's right. No managerial oversight. 16 MR. ABRAMSON: I couldn't hear. No -- 17 MR. LEE: Yes, that's right. No managerial oversight. 18 MR. ABRAMSON: Managerial oversight. Did Nick Herman 19 have managerial oversight over her activities? 20 MR. LEE: I mean Nick Herman had the ability to fire 21 or hire anybody he wanted through the Herman, Inc. So I 22 don't know if he had oversight at all. But he certainly had 23 the ability to hire and fire anybody he wanted. 24 MR. ABRAMSON: Well, if he would hire somebody for F3E 25 was he acting as the CFO of operations?</p>

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<p>165</p> <p>1 MR. LEE: No, he was acting as the president and</p> <p>2 treasurer, like it says on the tax return.</p> <p>3 MR. ABRAMSON: So he was acting on behalf of the</p> <p>4 Foundation for Financial Education?</p> <p>5 MR. LEE: Potentially or as a dual role because, just</p> <p>6 like I was a dual employee many – I think most people were</p> <p>7 because they were dual employees of Herman, Inc. and the</p> <p>8 Foundation.</p> <p>9 MR. ABRAMSON: Well, my question is was he acting in</p> <p>10 that role as a person on behalf of the Foundation?</p> <p>11 MR. LEE: Oh, I can't comment on how he was acting.</p> <p>12 MR. ABRAMSON: You don't know?</p> <p>13 MR. LEE: No.</p> <p>14 MR. ABRAMSON: You didn't keep track of that?</p> <p>15 MR. LEE: Nope.</p> <p>16 MR. ABRAMSON: Did you explain Nick Herman's role to</p> <p>17 people who worked for F3E?</p> <p>18 MR. LEE: I don't recall.</p> <p>19 MR. ABRAMSON: You didn't -- you don't recall one way</p> <p>20 or the other?</p> <p>21 MR. LEE: I don't recall.</p> <p>22 MR. ABRAMSON: Do you know if Nick ever asked the</p> <p>23 Complainant to perform any tasks related to the CFP and not</p> <p>24 F3E?</p> <p>25 MR. LEE: I'm sure he did. She had clerical</p>	<p>167</p> <p>1 of CFP.</p> <p>2 MR. ABRAMSON: So it is your testimony that you had</p> <p>3 not people working full time for F3E and not CFP in terms</p> <p>4 of tasks?</p> <p>5 MR. LEE: Can you restate that question, please?</p> <p>6 MR. ABRAMSON: Is it your testimony that the</p> <p>7 Foundation for Financial Education had no people working</p> <p>8 full time on tasks strictly devoted to F3E?</p> <p>9 MR. LEE: I can't recall.</p> <p>10 MR. ABRAMSON: You can't recall whether people were</p> <p>11 working in the sole capacity as an F3E representative?</p> <p>12 MR. LEE: No, I can't recall. I don't think we had any</p> <p>13 strictly 100 percent volunteers for F3E solely, I don't</p> <p>14 believe we did.</p> <p>15 MR. ABRAMSON: Did you give people business cards?</p> <p>16 MR. LEE: That I personally give them business cards,</p> <p>17 I believe we did.</p> <p>18 MR. ABRAMSON: Did the Foundation give them business</p> <p>19 cards?</p> <p>20 MR. LEE: I believe they did.</p> <p>21 MR. ABRAMSON: Did the business cards then apply to</p> <p>22 the Foundation and CFP, or just the Foundation?</p> <p>23 MR. LEE: I believe they – but I couldn't tell you if</p> <p>24 they got CFP cards or not, but everybody who volunteers for</p> <p>25 the Foundation we gave them a Foundation email and a</p>
<p>166</p> <p>1 responsibilities as well.</p> <p>2 MR. ABRAMSON: Well I ask you if you knew whether he</p> <p>3 did, not if you're sure he did.</p> <p>4 MR. LEE: Uh --</p> <p>5 MR. ABRAMSON: Do you have any firsthand knowledge of</p> <p>6 him asking her to do something for CFP?</p> <p>7 MR. LEE: Yes. Everybody that was in the office that</p> <p>8 was an employee of CFP had CFP responsibilities, i.e.</p> <p>9 Scheduling appointments for CFP clients, i.e. answering</p> <p>10 phones, i.e. doing paperwork, sending emails, clerical</p> <p>11 stuff, handing files off, case support. Anything they would</p> <p>12 be asked they would definitely be responsibilities of an</p> <p>13 employee of CFP.</p> <p>14 MR. ABRAMSON: But is that a general statement that</p> <p>15 apply to every person who worked in that office?</p> <p>16 MR. LEE: Every employee of CFP had duties for CFP. I</p> <p>17 would say yes.</p> <p>18 MR. ABRAMSON: Even if they were working for the</p> <p>19 Foundation for Financial Education?</p> <p>20 MR. LEE: There wasn't any employees that were only</p> <p>21 working for the Foundation. Everybody was at least a CFP</p> <p>22 employee, and then some may be considered dual as</p> <p>23 volunteers.</p> <p>24 MR. ABRAMSON: You mean they were being paid by CFP?</p> <p>25 MR. LEE: They were being paid by CFP, and employees</p>	<p>168</p> <p>1 Foundation business card.</p> <p>2 MR. ABRAMSON: You said you met with Ms. Pautrat for</p> <p>3 the decision to hire her?</p> <p>4 MR. LEE: I'm sorry?</p> <p>5 MR. ABRAMSON: You met with the Complainant before you</p> <p>6 decided to hire her?</p> <p>7 MR. LEE: Yes.</p> <p>8 MR. ABRAMSON: And what were the circumstances of the</p> <p>9 meeting?</p> <p>10 MR. LEE: It was an interview.</p> <p>11 MR. ABRAMSON: And where was the meeting?</p> <p>12 MR. LEE: I don't recall the meeting.</p> <p>13 MR. ABRAMSON: Where would you have held the meeting?</p> <p>14 MR. LEE: At the office.</p> <p>15 MR. ABRAMSON: At what office?</p> <p>16 MR. LEE: At the office of 30 West Gude Drive.</p> <p>17 MR. ABRAMSON: Okay. Do you recall the circumstances</p> <p>18 of the meeting?</p> <p>19 MR. LEE: I do not.</p> <p>20 MR. ABRAMSON: You recall what was discussed?</p> <p>21 MR. LEE: The only things that I do recall are things</p> <p>22 that I have already testified to which was basically her</p> <p>23 work history, her relationship with Toby and, you know,</p> <p>24 what we potentially would have an opportunity for her with</p> <p>25 us if it worked out.</p>

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<p>169</p> <p>1 MR. ABRAMSON: What input did you have in the decision</p> <p>2 to hire her?</p> <p>3 MR. LEE: Oh I had very strong recommendation input.</p> <p>4 MR. ABRAMSON: Was it your decision?</p> <p>5 MR. LEE: I definitely wanted to hire her. But I</p> <p>6 believe if Herman, Inc. or Nick Herman didn't want to hire</p> <p>7 her they would not have been forced to hire her.</p> <p>8 MR. ABRAMSON: So you are saying – testifying that</p> <p>9 Herman, Inc. had a veto decision?</p> <p>10 MR. LEE: Sure. Sure. Sure. I had no say in Herman,</p> <p>11 Inc. so he could veto anything he wants.</p> <p>12 MR. ABRAMSON: But you made the decision to hire her?</p> <p>13 MR. LEE: I recommended her for hire, absolutely.</p> <p>14 MR. ABRAMSON: You recommended?</p> <p>15 MR. LEE: Yes.</p> <p>16 MR. ABRAMSON: Do you know whether Mr. Herman</p> <p>17 interviewed her?</p> <p>18 MR. LEE: I do not know that.</p> <p>19 MR. ABRAMSON: One way or the other?</p> <p>20 MR. LEE: No, I don't know that.</p> <p>21 MR. ABRAMSON: Do you know what input he had in the</p> <p>22 decision to hire her?</p> <p>23 MR. LEE: I do not know that.</p> <p>24 MR. ABRAMSON: Did you tell Ms. de los Santos to</p> <p>25 terminate Ms. Pautrat? I told Ms. de los Santos if she</p>	<p>171</p> <p>1 MR. ABRAMSON: One way or the other?</p> <p>2 MR. LEE: No.</p> <p>3 MR. ABRAMSON: How was these F3E people, how was the</p> <p>4 performance monitored and evaluated?</p> <p>5 MR. LEE: Who specifically are you talking about?</p> <p>6 MR. ABRAMSON: People who worked for F3E? How did you</p> <p>7 evaluate their performance and monitor them?</p> <p>8 MR. LEE: So I would say each person had their own</p> <p>9 specific person they reported to and monitor the activity</p> <p>10 and their performance.</p> <p>11 MR. ABRAMSON: Well, you said earlier that you only</p> <p>12 have six people working?</p> <p>13 MR. LEE: Correct.</p> <p>14 MR. ABRAMSON: So how many people could you have</p> <p>15 people reporting to?</p> <p>16 MR. LEE: Well, some reported to Nick. Some reported</p> <p>17 to Web, some reported to Simon, whoever the office manager</p> <p>18 was at the time.</p> <p>19 HEARING EXAMINER PRAGER: Who --</p> <p>20 MR. ABRAMSON: So nobody reported to --</p> <p>21 HEARING EXAMINER PRAGER: Who is Simon? That's the</p> <p>22 first time I've heard the name?</p> <p>23 MR. LEE: No, they mentioned Simon earlier in</p> <p>24 testimony.</p> <p>25 HEARING EXAMINER PRAGER: Well, tell me again.</p>
<p>170</p> <p>1 wasn't performing and she needed to terminate her that she</p> <p>2 could, but it was completely her decision.</p> <p>3 MR. ABRAMSON: And what did you mean by not</p> <p>4 performing?</p> <p>5 MR. LEE: Well, Ms. de los Santos had some</p> <p>6 expectations for activity and for job performance that she</p> <p>7 had to live up to.</p> <p>8 MR. ABRAMSON: What were those expectations?</p> <p>9 MR. LEE: I couldn't tell you. I don't recall.</p> <p>10 MR. ABRAMSON: At all?</p> <p>11 MR. LEE: No.</p> <p>12 MR. ABRAMSON: Did F3E have any control over the work</p> <p>13 that people did own behalf of F3E?</p> <p>14 MR. LEE: Control?</p> <p>15 MR. ABRAMSON: Yeah.</p> <p>16 MR. LEE: I don't know what you mean by that question.</p> <p>17 MR. ABRAMSON: Did you give them a script to use when</p> <p>18 they called agencies to schedule workshops?</p> <p>19 MR. LEE: I didn't give them a script personally, but</p> <p>20 somebody probably did.</p> <p>21 MR. ABRAMSON: So the Foundation, someone at the</p> <p>22 Foundation gave them a script?</p> <p>23 MR. LEE: Probably, yeah.</p> <p>24 MR. ABRAMSON: Probably. Did you write the script?</p> <p>25 MR. LEE: I don't recall.</p>	<p>172</p> <p>1 MR. LEE: Simon was just an employee of Herman, Inc.</p> <p>2 and a dual employee of F3E as a volunteer as well, I</p> <p>3 believe.</p> <p>4 HEARING EXAMINER PRAGER: And is there a last name?</p> <p>5 MR. LEE: Simon Clayton.</p> <p>6 HEARING EXAMINER PRAGER: Okay.</p> <p>7 MR. LEE: Yeah. And so different people reported to</p> <p>8 different people. But I didn't have much oversight over</p> <p>9 people's day-to-day activity.</p> <p>10 MR. ABRAMSON: You were a hands-off manager?</p> <p>11 MR. LEE: For the most part I would say.</p> <p>12 MR. ABRAMSON: Why were F3E email addresses given to</p> <p>13 people who were working there?</p> <p>14 MR. LEE: So they could identify themselves as</p> <p>15 members, or volunteer members of F3E.</p> <p>16 MR. ABRAMSON: Did their email say they were volunteer</p> <p>17 members?</p> <p>18 MR. LEE: I don't believe so. But I'm not the one who</p> <p>19 created any of those emails so I wouldn't know.</p> <p>20 MR. ABRAMSON: Did you ever see the emails?</p> <p>21 MR. LEE: I saw some, yes. But I didn't create any of</p> <p>22 them.</p> <p>23 MR. ABRAMSON: So you don't recall seeing whether they</p> <p>24 identified themselves as volunteers or not?</p> <p>25 MR. LEE: No, I do not recall that.</p>

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<p>173</p> <p>1 MR. ABRAMSON: One way or the other?</p> <p>2 MR. LEE: Actually, I take that back. Some of them – I</p> <p>3 do remember seeing the word volunteer on some of them, yes.</p> <p>4 But I couldn't say for all of them. I definitely remember</p> <p>5 seeing the word volunteer on F3E business cards, yes.</p> <p>6 MR. ABRAMSON: I have no further questions.</p> <p>7 HEARING EXAMINER PRAGER: All right. I have a number</p> <p>8 of questions. First of all, Mr. Lee, who were the officers</p> <p>9 of the Foundation? We know that you were one. Who were the</p> <p>10 others?</p> <p>11 MR. LEE: So I was one and Nicholas Herman was one.</p> <p>12 And I don't -- we might have had one or two other ones, but</p> <p>13 I couldn't tell you off the top of my head. I mean Nick and</p> <p>14 I were the two principals.</p> <p>15 HEARING EXAMINER PRAGER: All right. And who choose</p> <p>16 you to be the CEO?</p> <p>17 MR. LEE: Well, we formed the 501(c)(3) over a period</p> <p>18 of about 9 to 12 months and we had to list officers and</p> <p>19 they -- the gentleman who filed all the paperwork listed me</p> <p>20 as the president, and CEO and listed Nick as whatever his</p> <p>21 title was. And I think we picked one or two other people to</p> <p>22 be on the board as we were required for the filing.</p> <p>23 HEARING EXAMINER PRAGER: I'm sorry. I don't</p> <p>24 understand. From your testimony thus far it just seems to</p> <p>25 be that other people were doing all of these things. What</p>	<p>175</p> <p>1 the only person, why was it founded?</p> <p>2 MR. LEE: We needed to create an organization to get</p> <p>3 501(c)(3) status so we could accept donations and give</p> <p>4 people tax deductions.</p> <p>5 HEARING EXAMINER PRAGER: I see. All right.</p> <p>6 MR. LEE: And I didn't realize how big it was going to</p> <p>7 get, but we kept growing.</p> <p>8 HEARING EXAMINER PRAGER: Was there a board of</p> <p>9 directors?</p> <p>10 MR. LEE: Yes. There was, I think three or four</p> <p>11 people.</p> <p>12 HEARING EXAMINER PRAGER: And you don't know the names</p> <p>13 of these people?</p> <p>14 MR. LEE: I don't recall who they were at the onset. I</p> <p>15 mean Nick and I, definitely the two of us and there was</p> <p>16 definitely one or two other people but I couldn't tell you</p> <p>17 exactly who.</p> <p>18 HEARING EXAMINER PRAGER: When was this founded?</p> <p>19 MR. LEE: The actual year was probably 10 years ago</p> <p>20 somewhere between 8 and 10 years ago. I couldn't tell you</p> <p>21 exactly though. I could look it up.</p> <p>22 HEARING EXAMINER PRAGER: So between 2010 and 2012 is</p> <p>23 a basically what you are saying?</p> <p>24 MR. LEE: Yeah. If I had to guess I would say closer</p> <p>25 to 2012.</p>
<p>174</p> <p>1 was your role in forming –</p> <p>2 MR. LEE: My primary role –</p> <p>3 HEARING EXAMINER PRAGER: In forming this</p> <p>4 organization?</p> <p>5 MR. LEE: So I helped form the organization</p> <p>6 HEARING EXAMINER PRAGER: All right. And tell me who</p> <p>7 helped you formed the organization.</p> <p>8 MR. LEE: A gentleman named William Renke.</p> <p>9 HEARING EXAMINER PRAGER: And who was – what was his</p> <p>10 role?</p> <p>11 MR. LEE: He was the case manager for the company.</p> <p>12 HEARING EXAMINER PRAGER: For which company?</p> <p>13 MR. LEE: Capital Financial.</p> <p>14 HEARING EXAMINER PRAGER: All right. So you worked</p> <p>15 with him to establish an independent organization?</p> <p>16 MR. LEE: That's right.</p> <p>17 HEARING EXAMINER PRAGER: And he, or who then shows</p> <p>18 you as the CEO? That was my question and I still haven't</p> <p>19 gotten an answer.</p> <p>20 MR. LEE: When we first filed it I was the only person</p> <p>21 involved so I had to be CEO and founder on the document</p> <p>22 that we started. And then we had to name other people as</p> <p>23 well.</p> <p>24 HEARING EXAMINER PRAGER: All right. Well, tell me why</p> <p>25 it was founded if there was only one person, if you were</p>	<p>176</p> <p>1 HEARING EXAMINER PRAGER: All right. And this was a</p> <p>2 small group of people, right?</p> <p>3 MR. LEE: Yes.</p> <p>4 HEARING EXAMINER PRAGER: But you don't remember the</p> <p>5 names of the people that you -0-</p> <p>6 MR. LEE: Well, I don't remember the names of the</p> <p>7 people that we actually put as officers on the foundation.</p> <p>8 HEARING EXAMINER PRAGER: I don't. Who would know</p> <p>9 that?</p> <p>10 MR. LEE: Well, Nick would know.</p> <p>11 HEARING EXAMINER PRAGER: And he is the only one who</p> <p>12 would know?</p> <p>13 MR. LEE: Probably, yeah.</p> <p>14 HEARING EXAMINER PRAGER: And you can't --</p> <p>15 MR. LEE: William Renke would know, he's the one who</p> <p>16 did all the paperwork.</p> <p>17 HEARING EXAMINER PRAGER: All right. And who chose Mr.</p> <p>18 Herman as the , I think the name was treasurer and</p> <p>19 president, is that –</p> <p>20 MR. LEE: Yeah, I'm sure we agreed on – I'm sure we</p> <p>21 agreed to that together.</p> <p>22 HEARING EXAMINER PRAGER: Who is we?</p> <p>23 MR. LEE: Nick and I.</p> <p>24 HEARING EXAMINER PRAGER: Try to be as specific as</p> <p>25 possible.</p>

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<p>177</p> <p>1 MR. LEE: I'm sure Nick and I agreed to that when Bill</p> <p>2 Renke had to file the forms with the IRS. I'm sure we</p> <p>3 agreed to that.</p> <p>4 HEARING EXAMINER PRAGER: Now Ms. Pautrat not in her</p> <p>5 testimony, but in filings there is evidence that she</p> <p>6 received salary checks from Capital Financial. And one of</p> <p>7 the reasons again, this is in the record. This is not in</p> <p>8 testimony yet. That the foundation had no funds, or in</p> <p>9 adequate funds at the time. Who funded the foundation?</p> <p>10 MR. LEE: I raise -- I think I raised most of the money</p> <p>11 if not all of it for the foundation.</p> <p>12 HEARING EXAMINER PRAGER: And where did that money go?</p> <p>13 MR. LEE: To the Foundation bank account.</p> <p>14 HEARING EXAMINER PRAGER: For what purpose?</p> <p>15 MR. LEE: To cover expenses for travel,</p> <p>16 reimbursements.</p> <p>17 HEARING EXAMINER PRAGER: But not, you say, to --</p> <p>18 MR. LEE: Not to draw salaries from it.</p> <p>19 HEARING EXAMINER PRAGER: Not to salaries?</p> <p>20 MR. LEE: No.</p> <p>21 HEARING EXAMINER PRAGER: Is that what you would say?</p> <p>22 Now, this hasn't been introduced either thus far, but there</p> <p>23 is in what has been filed, at one point or another that</p> <p>24 there was a -- Ms. Pautrat had a contract. It was with both</p> <p>25 the Foundation and Capital Financial. And if I recall</p>	<p>179</p> <p>1 HEARING EXAMINER PRAGER: All right. And how was it</p> <p>2 that the two organizations shared that space? What</p> <p>3 arrangements were made to do that?</p> <p>4 MR. LEE: There were no specific agreements or</p> <p>5 arrangements. We just shared the same space. Capital</p> <p>6 Financial Partners paid all the expenses.</p> <p>7 HEARING EXAMINER PRAGER: So among the things the --</p> <p>8 the money that you raised rent was not one of the expenses</p> <p>9 that you --</p> <p>10 MR. LEE: No.</p> <p>11 HEARING EXAMINER PRAGER: All right. Tell me a little</p> <p>12 bit about Mr. Sewell's relationship to the Foundation.</p> <p>13 MR. LEE: Same deal. He was an employee of Herman,</p> <p>14 Inc. and he was a volunteer for the Foundation. He gave</p> <p>15 talks. So he gave educational workshops.</p> <p>16 HEARING EXAMINER PRAGER: You -- I don't understand.</p> <p>17 This is a word you used throughout your testimony. You say</p> <p>18 volunteer.</p> <p>19 MR. LEE: So he wasn't --</p> <p>20 HEARING EXAMINER PRAGER: Did anybody realize they</p> <p>21 were just volunteering?</p> <p>22 MR. LEE: Sure. So Web knew that when he gave talks an</p> <p>23 educational talks and educational stuff that he was doing</p> <p>24 that as a volunteer.</p> <p>25 HEARING EXAMINER PRAGER: Just out of the goodness of</p>
<p>178</p> <p>1 correctly, your signature appears on that.</p> <p>2 MR. LEE: So that's probably a non-solicitation</p> <p>3 agreement. I don't think it's an employment contract</p> <p>4 because I didn't have -- the Foundation didn't have</p> <p>5 employment contracts.</p> <p>6 HEARING EXAMINER PRAGER: Well, we'll get to that. I</p> <p>7 am assuming that Mr. Chong, you are introducing that at</p> <p>8 some point?</p> <p>9 MR. CHONG: I believe so, yes.</p> <p>10 HEARING EXAMINER PRAGER: All right. Well, we'll find</p> <p>11 out at that point. Now the Foundation and Capital Financial</p> <p>12 shared headquarters until recently. Who owned the building</p> <p>13 in which you -- in 2010 say until last year --</p> <p>14 MR. LEE: Who owned the building?</p> <p>15 HEARING EXAMINER PRAGER: Yes.</p> <p>16 MR. LEE: I think up until very recently it was the</p> <p>17 Washington Real Estate Investment Trust.</p> <p>18 HEARING EXAMINER PRAGER: Okay. So it was not owned by</p> <p>19 either Herman, Inc. or --</p> <p>20 MR. LEE: No, no.</p> <p>21 HEARING EXAMINER PRAGER: -- or by the Foundation; is</p> <p>22 that correct?</p> <p>23 MR. LEE: No.</p> <p>24 HEARING EXAMINER PRAGER: So you were tenants?</p> <p>25 MR. LEE: Yes.</p>	<p>180</p> <p>1 his heart basically, is what you're saying?</p> <p>2 MR. LEE: Yeah.</p> <p>3 HEARING EXAMINER PRAGER: All right. Now, did the</p> <p>4 Foundation, aside from the money that you raised or other</p> <p>5 people raised, did you get financial contributions from</p> <p>6 Herman, Inc. or from the -- from Capital Partners?</p> <p>7 MR. LEE: Financial contributions directly to the</p> <p>8 Foundation, I do not believe so.</p> <p>9 HEARING EXAMINER PRAGER: So there was no flow of</p> <p>10 money between the organizations that went to the</p> <p>11 Foundation?</p> <p>12 MR. LEE: No. Not to my knowledge.</p> <p>13 HEARING EXAMINER PRAGER: Did it work the other way</p> <p>14 around? Did you give money to Capital Partners?</p> <p>15 MR. LEE: No. Not to my knowledge.</p> <p>16 MR. SCHILLER: And when you say you, you are referring</p> <p>17 to the Foundation?</p> <p>18 HEARING EXAMINER PRAGER: Yes.</p> <p>19 MR. SCHILLER: Okay.</p> <p>20 HEARING EXAMINER PRAGER: The Foundation. And you may</p> <p>21 have already testified about this, but I am not quite sure</p> <p>22 I know -- what was Elizabeth de Santos' position as far as</p> <p>23 you know in either of these two organizations?</p> <p>24 MR. LEE: I think she was -- in general I think she</p> <p>25 was called a marketing director or something of that</p>

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<p>181</p> <p>1 nature. Director of marketing, community outreach 2 coordinator, one of those types of titles. 3 HEARING EXAMINER PRAGER: And this is a title given by 4 whom? 5 MR. LEE: Given by each individual company. So Herman, 6 Inc. would have been given by Nick Herman. The Foundation 7 the title I probably would have let her pick that title for 8 herself. 9 HEARING EXAMINER PRAGER: What about Mr. Sewell, what 10 was his position, in your organization first from the 11 Foundation. 12 MR. LEE: I don't remember his exact title. It's in 13 the exhibit though. He was like some kind of director or 14 human resources manager of some sort. It's in the exhibit 15 for the F3E flow chart. 16 HEARING EXAMINER PRAGER: Say that again? 17 MR. LEE: Web Sewell's title is in here. 18 HEARING EXAMINER PRAGER: What -- tell me again -- 19 MR. LEE: I don't remember. 20 HEARING EXAMINER PRAGER: Tell me again what you 21 thought his title would be? 22 MR. LEE: Some type of HR director/manager. 23 HEARING EXAMINER PRAGER: All right. But this would be 24 an HR Manager for an organization -- 25 MR. LEE: For Herman, Inc.</p>	<p>183</p> <p>1 have 20, 25 different classes so I kept all that stuff 2 going, and I would definitely say I had supervisory -- some 3 supervisory responsibility over Elizabeth de los Santos and 4 over Michael Fahey who was another employee of the 5 Foundation. 6 HEARING EXAMINER PRAGER: And did you have any control 7 over how money was spent by the Foundation? 8 MR. LEE: I definitely had some control over how I 9 spent money but other people also had access to spending 10 money and I don't say I -- you know. 11 HEARING EXAMINER PRAGER: But nobody had to ask you 12 how to spend the money that you've raised? 13 MR. LEE: I mean it was -- we didn't have any massive 14 expenditures. It was mostly just little expense 15 reimbursements for travel mostly. And then whatever -- we 16 had a couple of employees from here to there. I mean, we're 17 talking about maybe \$100,00 of income and expenses per 18 year. It wasn't a ton. 19 HEARING EXAMINER PRAGER: Did -- in anything that 20 appears in the record or anything that you know about was 21 the word volunteer used for the people who were working at 22 the Foundation, not necessarily for the Foundation, but at 23 the Foundation, was the word volunteer ever in writing 24 anywhere? 25 MR. LEE: Was the word volunteer ever in writing?</p>
<p>182</p> <p>1 HEARING EXAMINER PRAGER: And that -- 2 MR. LEE: That's for Herman, Inc. 3 HEARING EXAMINER PRAGER: Okay. Well, I asked you for 4 the -- 5 MR. LEE: For the foundation it was probably volunteer 6 educator. Most of our guys had volunteer educator titles or 7 something similar to that. 8 HEARING EXAMINER PRAGER: Was his role -- did you 9 understand his role also to be legal counsel in a way? 10 MR. LEE: Well, he had a law degree so he could 11 definitely give us advice, but he couldn't file anything 12 with the court or do any type of actual legal work for us 13 directly. He was considered some kind of general counsel, I 14 guess. 15 HEARING EXAMINER PRAGER: Well, Mr. Lee, I've heard 16 your testimony throughout this afternoon, or this morning 17 and afternoon and you seem to have no supervisory 18 responsibility for the Foundation even though you were the 19 CEO. Usually CEOs have some responsibilities. You're saying 20 you had none other than to raise money by going around the 21 country; is that correct? 22 MR. LEE: Fundraising for the Foundation was my main 23 responsibility. I did a lot of the -- I wrote all the 24 classes so that took me a ton of time. I wrote all the 25 curriculum -- most of the curriculum for the classes. We</p>	<p>184</p> <p>1 HEARING EXAMINER PRAGER: Correct. 2 MR. LEE: Only correspondences that we had with people 3 what would hire us to go do the educational stuff. I think 4 they knew us as volunteers. But I don't know if the people 5 actually in the office, if we had in writing that those 6 were volunteers. But it's possible. I don't -- we had 7 personnel files on them all, just to get a little 8 background on them and in the personnel files they might 9 have had a job description that said volunteer. But I 10 couldn't say that for sure. 11 HEARING EXAMINER PRAGER: Well, if Ms. Pautrat was a 12 volunteer why did you interview her? 13 MR. LEE: Because we don't let just anybody volunteer. 14 But I was interviewing her for Herman, Inc. As an employee 15 for Herman, Inc. I was an employee of Herman, Inc. I was 16 interviewing her to get hired by Herman, Inc. and then also 17 do some volunteer work for the Foundation. 18 HEARING EXAMINER PRAGER: You say you were an employee 19 of Herman, Inc. So they paid you a salary; is that correct? 20 MR. LEE: Yes, they did. 21 HEARING EXAMINER PRAGER: Okay. And none of the money 22 that the Foundation had went to your salary; is that 23 correct? 24 MR. LEE: That's correct. 25 HEARING EXAMINER PRAGER: And none of the money just</p>

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<p>185</p> <p>1 to -- because I'm not sure I asked this question before but</p> <p>2 I may have. None of the money that you raised or that came</p> <p>3 into the foundation went to Herman, Inc.</p> <p>4 MR. LEE: Not to my knowledge.</p> <p>5 HEARING EXAMINER PRAGER: All right. Not to your</p> <p>6 knowledge. Who would have that knowledge?</p> <p>7 MR. LEE: Nick Herman. If he -- he had the ability to</p> <p>8 write a check from the Foundation to Herman, Inc. I don't</p> <p>9 know if he did or not, but I don't think so. Again, if it</p> <p>10 was it would be for expense -- mostly just expense</p> <p>11 reimbursement type stuff.</p> <p>12 HEARING EXAMINER PRAGER: Now, Ms. Pautrat filed a</p> <p>13 complaint about your conduct and I think your testimony was</p> <p>14 that you don't recall receiving the complaint from Ms. de</p> <p>15 los Santos. That strikes me as very odd. If you're the</p> <p>16 accused one would think you would at least be given an</p> <p>17 opportunity to respond to the accusation and you're saying</p> <p>18 that Ms. de los Santos just wouldn't disclose that to you?</p> <p>19 MR. LEE: No, she definitely disclosed it to me</p> <p>20 eventually but at the beginning when the complaint happened</p> <p>21 I think she had told me that Ms. Pautrat had asked her to</p> <p>22 keep the complaint confidential so I didn't hear about it</p> <p>23 right away. And then later on, I'm not sure how much time</p> <p>24 went by after that happened, Ms. de los Santos said it's --</p> <p>25 I can't keep this confidential. I need to let the company</p>	<p>187</p> <p>1 those are my only questions thus far. Mr. Chong, you're --</p> <p>2 redirect.</p> <p>3 MR. CHONG: Thank you. On examination by Mr. Abramson,</p> <p>4 Mr. Lee, you said that in the interview you conducted with</p> <p>5 Ms. Pautrat that you talked about, among other things, her</p> <p>6 work history, her relationship with Toby and what</p> <p>7 opportunities F3E had to offer her, right?</p> <p>8 MR. LEE: That's right.</p> <p>9 MR. CHONG: What were those opportunities?</p> <p>10 MR. LEE: Just the ability to do more than just be an</p> <p>11 administrative person. We had marketing opportunities,</p> <p>12 sales opportunities, a lot of different opportunities.</p> <p>13 MR. CHONG: But earlier your testimony was that she</p> <p>14 was hired as an admin addition, right?</p> <p>15 MR. LEE: Yes, absolutely.</p> <p>16 MR. CHONG: So you are talking about hiring her as an</p> <p>17 admin position but why would you talk to her about</p> <p>18 opportunities to do marketing and sales?</p> <p>19 MR. LEE: All of our great marketing people usually</p> <p>20 come from admin positions, so you could identify talent and</p> <p>21 mentor them and train them to do other things rather than</p> <p>22 stay in admin. The admin positions turnover because they</p> <p>23 are low paid positions, they are \$15 an hour positions so</p> <p>24 they turn over.</p> <p>25 MR. LEE: Ms. Pautrat was salaried wasn't she?</p>
<p>186</p> <p>1 know and I think she let Web know and I think she let me</p> <p>2 know. And I'm sure she let Nick Herman know too.</p> <p>3 HEARING EXAMINER PRAGER: I believe you testified that</p> <p>4 you understood that Ms. Pautrat was fired for quote poor</p> <p>5 work performance. I take it you never assessed Ms.</p> <p>6 Pautrat's work?</p> <p>7 MR. LEE: Not personally.</p> <p>8 HEARING EXAMINER PRAGER: Because?</p> <p>9 MR. LEE: Because I didn't want to be involved in it</p> <p>10 not working out for her because of my relationship with the</p> <p>11 owner of SPS Consulting that referred her over.</p> <p>12 HEARING EXAMINER PRAGER: And is it my understanding</p> <p>13 that this was an exception to other people who worked</p> <p>14 there, you would, if they were performing poorly, you would</p> <p>15 make that known?</p> <p>16 MR. LEE: Yeah. If I had -- if I was overseeing</p> <p>17 somebody and they weren't performing I would let it be</p> <p>18 known, sure.</p> <p>19 HEARING EXAMINER PRAGER: But Ms. Pautrat was the sole</p> <p>20 exception to that?</p> <p>21 MR. LEE: No, I had very little managerial oversight</p> <p>22 over anybody. Most of my, like I said, most of my stuff was</p> <p>23 all education based, raising money. I travel -- I still to</p> <p>24 this day travel almost every week.</p> <p>25 HEARING EXAMINER PRAGER: All right. Well, I think</p>	<p>188</p> <p>1 MR. LEE: She was salaried, yes.</p> <p>2 MR. CHONG: Okay. And you offered her a commission,</p> <p>3 right?</p> <p>4 MR. LEE: I didn't offer a commission. Herman, Inc. --</p> <p>5 MR. CHONG: She was paid --</p> <p>6 MR. LEE: -- offered her a commission.</p> <p>7 MR. CHONG: All right. What would that commission be</p> <p>8 based on?</p> <p>9 MR. LEE: I'm not really sure. Probably revenue</p> <p>10 generated through Herman, Inc.</p> <p>11 MR. CHONG: And as an admin person what kind of</p> <p>12 revenue was she generating?</p> <p>13 MR. LEE: Well, she wasn't just doing admin stuff. She</p> <p>14 was doing other things. Like she was making marketing phone</p> <p>15 calls and other things like that.</p> <p>16 MR. CHONG: So making marketing phone calls is not</p> <p>17 admin work the way you are talking about it now?</p> <p>18 MR. LEE: The marketing phone calls -- there are two</p> <p>19 different phone calls. One phone call is calling clients to</p> <p>20 coming in the has requested a meeting. That is</p> <p>21 administrative. She was also trying to make admin phone</p> <p>22 calls to introduce new organizations to us so that we can</p> <p>23 go in and do our educational curriculum. I don't think she</p> <p>24 -- to my knowledge she didn't have any success doing that</p> <p>25 and never brought in a single group. So she was given the</p>



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<p>189</p> <p>1 opportunity to do things outside of admin and never was 2 able to do anything to my knowledge. 3 MR. CHONG: Did F3E train her on how to bring in 4 outside clients? 5 MR. LEE: I'm sure Elizabeth de los Santos, that was 6 part of her job. 7 MR. CHONG: Okay. You also testified on examination 8 that the word volunteer probably shows up on some business 9 cards and some emails; is that what you testified to? 10 MR. LEE: Yes, I've seen it before. 11 MR. CHONG: All right did that word volunteer appear 12 one Ms. Pautrat's business card? 13 MR. LEE: I couldn't say. 14 MR. CHONG: Okay. Did they appear on her email? 15 MR. LEE: I couldn't say. 16 MR. CHONG: Okay. Let's take a look in the black 17 binder, Exhibit C 26. Do you see what I'm talking about? 18 MR. LEE: I do. 19 MR. CHONG: It appears to be an email; is that right? 20 MR. LEE: Yes. 21 MR. CHONG: And the only reason I think this is an 22 important email, I'm not concerned about the content of the 23 email -- 24 MR. SCHILLER: Objection. Is there a question? 25 HEARING EXAMINER PRAGER: No, I think he's trying to</p>	<p>191</p> <p>1 Pautrat's signature line? 2 MR. LEE: I do. 3 MR. CHONG: And it does not contain the word 4 volunteer; isn't that right? 5 MR. LEE: Yes. 6 MR. CHONG: Here, flip the page to the next page. 7 GP0137 is another email from Ms. Pautrat to a potential 8 client, I suppose, and again, it does not have the word 9 volunteer in the signature line either, does it? 10 MR. LEE: No. 11 MR. CHONG: Your Honor, I would move the admission of 12 Exhibit C 26. 13 HEARING EXAMINER PRAGER: Any objections? 14 MR. SCHILLER: One moment, may I discuss something 15 with my client. No objection. 16 HEARING EXAMINER PRAGER: Mr. Abramson, any 17 objections? 18 MR. ABRAMSON: No objections. 19 HEARING EXAMINER PRAGER: Exhibit C 26 is admitted. 20 (Exhibit C 26 was admitted into evidence.) 21 MR. CHONG: At what point did Ms. de los Santos talk 22 to you about her perceived deficiencies in Ms. Pautrat's 23 performance? 24 MR. LEE: It was pretty early on in her employment and 25 she was giving her the opportunity to perform. I couldn't</p>
<p>190</p> <p>1 make an explanation. Let him finish his explanation. 2 MR. CHONG: Thank you. I'm not concerned about the 3 content of the email I just want to bring your attention to 4 the -- 5 HEARING EXAMINER PRAGER: Wait, wait. There has been 6 an objection. What is your reason for introducing this? 7 MR. CHONG: That's what I would like to talk about 8 now. 9 HEARING EXAMINER PRAGER: All right, well, tell me. 10 MR. CHONG: Oh, okay. The circled portion on the 11 bottom of the page the signature line for Ms. Pautrat's 12 email does not have the word volunteer in it. 13 HEARING EXAMINER PRAGER: Okay. Mr. Schiller, any 14 objections as to whether -- 15 MR. SCHILLER: To him asking a question -- that 16 question? 17 HEARING EXAMINER PRAGER: Uh-huh. 18 MR. SCHILLER: No. That wasn't what my objection was. 19 HEARING EXAMINER PRAGER: Oh, what was your -- 20 MR. SCHILLER: He was testifying. 21 HEARING EXAMINER PRAGER: Oh. Okay. I'm sorry, I 22 misunderstood. So there is no objection to your asking 23 questions about this document. Go ahead, Mr. Chong. 24 MR. CHONG: Thank you. So on the page marked GP0136 do 25 you see how the signature line on the bottom is Ms.</p>	<p>192</p> <p>1 tell you exactly the day. 2 MR. CHONG: You don't have exact dates? 3 MR. LEE: No. But it was definitely before I heard of 4 any type of complaint that she had about any type of 5 harassment or uncomfortable work environment. 6 MR. CHONG: And the nature of those complaints was 7 what again? 8 MR. LEE: The complaints? 9 MR. CHONG: The deficiencies identified by Ms. de los 10 Santos. 11 MR. LEE: She just told me that she wasn't meeting her 12 job duties and that she wasn't performing well and that it 13 probably wasn't going to work out. And she was an employee 14 of ours for a very, very short period of time then. You can 15 usually tell pretty early on if people are going to work 16 out. 17 MR. CHONG: And by not meeting job duties are you 18 talking -- you're talking about not being able to schedule 19 20 appointments a week; isn't that correct? 20 MR. LEE: I don't know. That wasn't my number, I 21 didn't give her that number so I don't know. 22 MR. CHONG: But that was the standard that she was 23 being held to that was not being met, correct? 24 MR. LEE: I can't attest to that. 25 MR. CHONG: Okay. So you just generally know she</p>

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<p>193</p> <p>1 wasn't performing well?</p> <p>2 MR. LEE: Yes, that's what was communicated to me.</p> <p>3 MR. CHONG: All right. I have no more questions.</p> <p>4 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>5 MR. SCHILLER: Yes. The tax returns, who prepared for</p> <p>6 -- in 2015 and 2016 for the Foundation, who prepared the</p> <p>7 tax returns?</p> <p>8 (Exhibit CFP 3 was introduced into the record.)</p> <p>9 MR. LEE: It said the preparer on here is Barry</p> <p>10 Markowitz.</p> <p>11 MR. SCHILLER: Okay. Do you know who that is?</p> <p>12 MR. LEE: Yes, he's our accountant.</p> <p>13 MR. SCHILLER: Okay. And who provided him the</p> <p>14 information to prepare the tax returns?</p> <p>15 MR. LEE: I'm -- it wasn't me so I -- it was Nicholas</p> <p>16 Herman since he wrote his name on there.</p> <p>17 MR. SCHILLER: Okay. And that was my next question, do</p> <p>18 you know who signed and cause to be filed the returns?</p> <p>19 MR. LEE: It wasn't me so I can only assume, based</p> <p>20 upon the name on this document it was Nicholas Herman.</p> <p>21 MR. SCHILLER: Okay. And do you have a copy? Do you</p> <p>22 personally have a copy at your house or office --</p> <p>23 MR. LEE: I do not.</p> <p>24 MR. SCHILLER: -- of these tax returns?</p> <p>25 MR. LEE: I've never seen these before.</p>	<p>195</p> <p>1 HEARING EXAMINER PRAGER: All right. I have one</p> <p>2 question because I didn't quite understand an answer to a</p> <p>3 question about who prepared this tax return, you mentioned</p> <p>4 an accountant.</p> <p>5 MR. LEE: Yes.</p> <p>6 HEARING EXAMINER PRAGER: Is this an outside</p> <p>7 accountant?</p> <p>8 MR. LEE: It is an outside accountant, yes.</p> <p>9 HEARING EXAMINER PRAGER: And say the name again.</p> <p>10 MR. LEE: Barry Markowitz.</p> <p>11 HEARING EXAMINER PRAGER: Markowitz.</p> <p>12 MR. LEE: Yes.</p> <p>13 HEARING EXAMINER PRAGER: Spell it for me, please.</p> <p>14 MR. LEE: M-A-R-K-O-W-I-T-Z.</p> <p>15 HEARING EXAMINER PRAGER: All right. Thank you. You</p> <p>16 may now call your next witness, Mr. Chong.</p> <p>17 MR. CHONG: Next up is Ms. Pautrat.</p> <p>18 HEARING EXAMINER PRAGER: I'm sorry?</p> <p>19 MR. CHONG: Ms. Pautrat.</p> <p>20 HEARING EXAMINER PRAGER: All right. So why don't we,</p> <p>21 at that point, take a 10-minute recess. I have -- we'll go</p> <p>22 off the record.</p> <p>23 (Off the record at 2:49 p.m.)</p> <p>24 (On the record at 3:01 p.m.)</p> <p>25 HEARING EXAMINER PRAGER: We're back on the record.</p>
<p>194</p> <p>1 MR. SCHILLER: Other than this litigation in these</p> <p>2 books?</p> <p>3 MR. LEE: That's right.</p> <p>4 MR. SCHILLER: All right. Do you know who blacked out</p> <p>5 the signature line?</p> <p>6 MR. LEE: I do not.</p> <p>7 MR. SCHILLER: All right. And do you have any</p> <p>8 information as to how it was filed? Whether it was filed</p> <p>9 electronically or mailed?</p> <p>10 MR. LEE: I have no idea.</p> <p>11 MR. SCHILLER: All right and you -- have you ever seen</p> <p>12 an electronic filing page like a cover sheet authorizing an</p> <p>13 e-file?</p> <p>14 MR. LEE: No. Not for this company. I've done</p> <p>15 electronic filing for myself but not here.</p> <p>16 MR. SCHILLER: All right. No further questions related</p> <p>17 to his direct examination by the Complainant.</p> <p>18 HEARING EXAMINER PRAGER: I'm sorry?</p> <p>19 MR. SCHILLER: Yeah, no further questions --</p> <p>20 HEARING EXAMINER PRAGER: No further --</p> <p>21 MR. SCHILLER: -- just based on the scope and subject</p> <p>22 matter of him being in Complainant's case in chief.</p> <p>23 HEARING EXAMINER PRAGER: Okay. Good. All right. Mr.</p> <p>24 Abramson.</p> <p>25 MR. ABRAMSON: Nothing further.</p>	<p>196</p> <p>1 Mr. Chong, would you call your next witness?</p> <p>2 MR. CHONG: Call Giselle Trapp.</p> <p>3 HEARING EXAMINER PRAGER: Ms. Pautrat, would you raise</p> <p>4 your right hand? Do you swear to tell the truth, the whole</p> <p>5 truth and nothing but the truth under the penalty of</p> <p>6 perjury?</p> <p>7 MS. PAUTRAT: Yes, sir.</p> <p>8 HEARING EXAMINER PRAGER: All right. State your full</p> <p>9 name, please.</p> <p>10 MS. PAUTRAT: Giselle Trapp.</p> <p>11 HEARING EXAMINER PRAGER: Thank you. Mr. Chong, can</p> <p>12 you proceed, please?</p> <p>13 MR. CHONG: Sure. Ms. Pautrat, how did you -- you were</p> <p>14 employed by who for purposes of this hearing, do you know?</p> <p>15 MS. PAUTRAT: F3E.</p> <p>16 MR. CHONG: F3E. How did you get this job?</p> <p>17 MS. PAUTRAT: I was told about the job from Toby, who</p> <p>18 was like my former mentor.</p> <p>19 MR. CHONG: And this is Toby Studley?</p> <p>20 MS. PAUTRAT: Correct.</p> <p>21 MR. CHONG: Okay. I'm going to show you what's</p> <p>22 previously been marked as -- you know, actually here's --</p> <p>23 Counsel, in the black binder at Exhibit C 8, I don't want</p> <p>24 to talk about the whole thing, I just want to turn to page</p> <p>25 GP54.</p>

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<p>197</p> <p>1 HEARING EXAMINER PRAGER: What was the exhibit?</p> <p>2 MR. CHONG: Exhibit C 8. And I'm looking at pages GP54</p> <p>3 and 55.</p> <p>4 MR. SCHILLER: Are you talking about her resume?</p> <p>5 MR. CHONG: Yes.</p> <p>6 HEARING EXAMINER PRAGER: Go ahead.</p> <p>7 MR. CHONG: All right. Ms. Pautrat, do you recognize</p> <p>8 pages 54 and 55?</p> <p>9 MS. PAUTRAT: Yes, it's my resume.</p> <p>10 MR. CHONG: Okay. Is this the resume that you</p> <p>11 submitted when you sought employment with F3E?</p> <p>12 MS. PAUTRAT: I believe so, yes.</p> <p>13 MR. CHONG: Okay. Move the entry of pages 54 and 55 of</p> <p>14 Exhibit 8.</p> <p>15 HEARING EXAMINER PRAGER: Mr. Schiller, you have any</p> <p>16 objections?</p> <p>17 MR. SCHILLER: No objection.</p> <p>18 HEARING EXAMINER PRAGER: Mr. Abramson, any</p> <p>19 objections?</p> <p>20 MR. ABRAMSON: No objection.</p> <p>21 HEARING EXAMINER PRAGER: Okay.</p> <p>22 MR. SCHILLER: Well, wait a minute. 58?</p> <p>23 MR. CHONG: No, 54 and 55 of Exhibit C 8.</p> <p>24 MR. SCHILLER: Oh, just two pages?</p> <p>25 MR. CHONG: Yes.</p>	<p>199</p> <p>1 MS. PAUTRAT: No, not at all. I didn't sign any</p> <p>2 documentation and that wasn't what was explained to me.</p> <p>3 MR. CHONG: Okay. So as far as you know you were</p> <p>4 introduced to the job not by Mr. Studley in his</p> <p>5 professional capacity; is that what you're testifying to?</p> <p>6 MS. PAUTRAT: Correct.</p> <p>7 MR. CHONG: Okay. Did you interview for this job?</p> <p>8 MS. PAUTRAT: Yes.</p> <p>9 MR. CHONG: And with whom did you interview?</p> <p>10 MS. PAUTRAT: I interviewed with Jonathan.</p> <p>11 MR. CHONG: And did you interview with anybody else?</p> <p>12 MS. PAUTRAT: No.</p> <p>13 MR. CHONG: When did you interview for this job?</p> <p>14 MS. PAUTRAT: I interviewed with him probably -- I</p> <p>15 know, I'm going to calculate, February -- the exact date</p> <p>16 I'm drawing a blank on right now.</p> <p>17 MR. CHONG: Okay, but in February?</p> <p>18 MS. PAUTRAT: Approximately, yes.</p> <p>19 HEARING EXAMINER PRAGER: Excuse me, this is 2015?</p> <p>20 MS. PAUTRAT: Correct, 2015. My apologies.</p> <p>21 MR. CHONG: And do you remember where you had that</p> <p>22 interview?</p> <p>23 MS. PAUTRAT: At the West Gude office, near -- like in</p> <p>24 Rockville.</p> <p>25 MR. CHONG: Do you remember what time that interview</p>
<p>198</p> <p>1 MR. SCHILLER: Okay. All right, got it. No objection.</p> <p>2 MR. CHONG: All right.</p> <p>3 HEARING EXAMINER PRAGER: Just a moment. Pages 54 and</p> <p>4 55 of Exhibit C 8 are admitted.</p> <p>5 (Exhibit C 8, pages 54 and 55 were admitted into</p> <p>6 evidence.)</p> <p>7 MR. CHONG: Thank you. So who is Toby Studley?</p> <p>8 MS. PAUTRAT: So Toby Studley was my former mentor. I</p> <p>9 met him when I was younger, him and his wife helped me out</p> <p>10 during some hard times. And so he had recommended this</p> <p>11 position because of -- I did a lot of social work and so he</p> <p>12 wanted me to have a position where I wasn't constantly</p> <p>13 stressing out about money but had the opportunity to make</p> <p>14 more money.</p> <p>15 MR. CHONG: What was your understanding of Mr.</p> <p>16 Studley's relationship with F3E?</p> <p>17 MS. PAUTRAT: I didn't know that F3E and Toby Studley</p> <p>18 had a relationship at all. I just thought that he knew</p> <p>19 Jonathan and therefore it was like, here's my friend, let</p> <p>20 me go ahead and get you -- help me get a job through them.</p> <p>21 MR. CHONG: Okay. Now, you now that Mr. Studley runs a</p> <p>22 job placement agency, right?</p> <p>23 MS. PAUTRAT: Yes.</p> <p>24 MR. CHONG: Is it your understanding that you were his</p> <p>25 client for that purpose when he placed you with F3E?</p>	<p>200</p> <p>1 took place?</p> <p>2 MS. PAUTRAT: The interview happened in the evening. I</p> <p>3 would say anywhere between 6 and 7-ish because I had to get</p> <p>4 from my previous employment to there.</p> <p>5 MR. CHONG: Okay. Did you request that the interview</p> <p>6 take place in the evening time?</p> <p>7 MS. PAUTRAT: I don't recall at this point.</p> <p>8 MR. CHONG: Okay. During your interview with Mr. Lee,</p> <p>9 did you talk about job duties and responsibilities if you</p> <p>10 were hired?</p> <p>11 MS. PAUTRAT: Yes.</p> <p>12 MR. CHONG: And what did he tell you what those job</p> <p>13 duties and responsibilities would be?</p> <p>14 MS. PAUTRAT: So he told me that my job duties would</p> <p>15 be a variety of things and that one of the things that they</p> <p>16 would want me to do is to do the financial presentations</p> <p>17 for F3E, the non-profit and once I learned that material</p> <p>18 then I would be out doing that. But that I would probably</p> <p>19 do some other responsibilities in the office as well, like</p> <p>20 office stuff.</p> <p>21 MR. CHONG: In terms of doing financial presentations</p> <p>22 what is your understanding about what that entailed?</p> <p>23 MS. PAUTRAT: My understanding is you give me the</p> <p>24 material to study and to review and then I would go into</p> <p>25 the different organizations/companies, present that</p>

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51 (201 to 204)

<p>201</p> <p>1 information because I would have a history of public 2 speaking so that was my understanding. 3 MR. CHONG: Was this a full-time job or a part-time 4 job as you understood it? 5 MS. PAUTRAT: It was full-time. 6 MR. CHONG: Okay. Was the word volunteer ever brought 7 up during this interview? 8 MS. PAUTRAT: No. 9 MR. CHONG: Okay. Does your resume include any 10 background on the financial products industry? 11 MS. PAUTRAT: No. 12 MR. CHONG: What training or course work or other 13 knowledge do you have about the financial products industry 14 before starting this job? 15 MS. PAUTRAT: I didn't have any. 16 MR. CHONG: Okay. 17 MS. PAUTRAT: In terms of financing. 18 MR. CHONG: So what were you expecting that this job 19 would entail when you -- if you were to get it? 20 MS. PAUTRAT: I was expecting to do the presentations. 21 I was expecting to learn the material and to do them 22 because in my previous jobs that's all I had ever done is 23 perform presentations. The job before that I was with a 24 teen and young adult health connection and they gave me 25 materials on sexual health and education and based on that</p>	<p>203</p> <p>1 MS. PAUTRAT: So during the interview, we did talk 2 about my resume, the job and responsibilities. We talked 3 about my marital status. We talked about whether or not I 4 wanted to have children because the person who was in the 5 position before me that I was interviewing for she had 6 gotten pregnant so therefore she wasn't going not be there 7 anymore so he wanted to make sure that I was going to be 8 around. We also talked about my relationship with Toby. And 9 he told me in the interview that I was attractive and that 10 other women in the office would have a problem with me 11 because of that. 12 MR. CHONG: All right. Now, are you aware that asking 13 about marital status and -- did the intent to have children 14 is an unlawful -- 15 MR. SCHILLER: Objection. 16 HEARING EXAMINER PRAGER: What's your objection? 17 MR. SCHILLER: Whether she's aware. She's testifying 18 to what was discussed in the meeting -- of the interview in 19 2015. 20 HEARING EXAMINER PRAGER: Mr. Chong? 21 MR. CHONG: I think it's important to recognize that 22 Ms. Pautrat did not feel that she was -- that Ms. Pautrat 23 wanted this job and so would not respond to an unlawful 24 question -- would not decline to respond to an unlawful 25 question.</p>
<p>202</p> <p>1 material that they gave me, I learned it and I was able to 2 do the presentations. 3 MR. CHONG: So you were -- 4 HEARING EXAMINER PRAGER: Excuse me. Mr. Abramson are 5 you able to hear her? 6 MR. ABRAMSON: Barely, but I'm making out, thank you. 7 HEARING EXAMINER PRAGER: All right. Would you try to 8 keep your voice up because he has to hear what you're 9 saying too. 10 MS. PAUTRAT: I will definitely try, sir. 11 HEARING EXAMINER PRAGER: Okay. Thank you. 12 MS. PAUTRAT: Thank you. 13 MR. CHONG: So you were expecting that you would be 14 trained on a subject matter material to be able to engage 15 in these presentations? 16 MS. PAUTRAT: Correct. 17 MR. CHONG: Okay. What interest did you have in the 18 financial services field? 19 MS. PAUTRAT: Just doing the presentations, what I was 20 comfortable with. 21 MR. CHONG: Okay. How long did this interview last? 22 MS. PAUTRAT: It lasted about like an hour or so. 23 MR. CHONG: Okay. And during this interview what else 24 did you talk about besides jobs, your job duties and 25 responsibilities?</p>	<p>204</p> <p>1 HEARING EXAMINER PRAGER: Well, I agree with Mr. 2 Schiller. There is no question, you can't ask her about 3 what's lawful or not. 4 MR. CHONG: All right. Don't answer that question. So 5 during the interview did you discuss or was the 6 relationship between Capital Financial Partners and F3E 7 discussed? 8 MS. PAUTRAT: Yes. 9 MR. CHONG: And what did you learn about the 10 relationship between CFP and F3E during this interview? 11 MS. PAUTRAT: So my understanding was that CFP was 12 like an umbrella, the for-profit umbrella and that F3E was 13 underneath that as a nonprofit. And that essentially that 14 was the relationship that F3E get the clients into the door 15 under the nonprofit presentations and then have them speak 16 to a financial advisor from CFP. 17 MR. CHONG: And during the interview were you told 18 which entity was hiring you? 19 MS. PAUTRAT: I was going to be working for F3E. 20 MR. CHONG: Okay. Was there any discussion of being 21 hired by CFP? 22 MS. PAUTRAT: No. 23 MR. CHONG: Could you turn to Exhibit C 14, please? 24 Can you identify that document? 25 MS. PAUTRAT: Yes, this is the employee application I</p>

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52 (205 to 208)

<p>205</p> <p>1 filled out.</p> <p>2 MR. CHONG: All right. And when did you fill that out?</p> <p>3 MS. PAUTRAT: I believe it was the night that I</p> <p>4 interviewed.</p> <p>5 MR. CHONG: Okay. Is there a date on the end of it?</p> <p>6 MS. PAUTRAT: February 3rd.</p> <p>7 MR. CHONG: Of what year?</p> <p>8 MS. PAUTRAT: Of 2015.</p> <p>9 MR. CHONG: Okay. Your Honor, I move the admission of</p> <p>10 C 14.</p> <p>11 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>12 MR. SCHILLER: No objection.</p> <p>13 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>14 MR. ABRAMSON: No objection.</p> <p>15 HEARING EXAMINER PRAGER: Exhibit C 14 is admitted.</p> <p>16 (Exhibit C 14 was admitted into evidence.)</p> <p>17 MR. CHONG: At the time that you filled out this form</p> <p>18 did you have an understanding as to who you were applying</p> <p>19 with a job for?</p> <p>20 MS. PAUTRAT: Yes, for F3E.</p> <p>21 MR. CHONG: F3E. Okay. And did you receive an offer to</p> <p>22 work?</p> <p>23 MS. PAUTRAT: Yes.</p> <p>24 MR. CHONG: When did you receive that offer?</p> <p>25 MS. PAUTRAT: I received that offer shortly after the</p>	<p>207</p> <p>1 HEARING EXAMINER PRAGER: Go ahead, Mr. Chong.</p> <p>2 MR. CHONG: And so --</p> <p>3 HEARING EXAMINER PRAGER: And I'm sorry. I should have</p> <p>4 said that Page 134 of Exhibit C 25 is admitted.</p> <p>5 MR. CHONG: Thank you. This email that we just</p> <p>6 admitted is from Nick Herman, as you testified. Does it say</p> <p>7 what organization he is representing?</p> <p>8 MS. PAUTRAT: Here it says in the signature Capital</p> <p>9 Financial Partners.</p> <p>10 MR. CHONG: Okay. Thank you. When did you actually</p> <p>11 start working?</p> <p>12 MS. PAUTRAT: I started working March 9th.</p> <p>13 MR. CHONG: Okay. Excuse me. My binder falls apart.</p> <p>14 Can you turn please to Exhibit C 15.</p> <p>15 MR. SCHILLER: Which one are we on?</p> <p>16 MR. CHONG: C 15. Do you recognize this document, Ms.</p> <p>17 Pautrat?</p> <p>18 MS. PAUTRAT: Yes, I do.</p> <p>19 MR. CHONG: What is it please?</p> <p>20 MS. PAUTRAT: It's the non-compete form that I signed.</p> <p>21 MR. CHONG: And who presented this document to you?</p> <p>22 MS. PAUTRAT: Web.</p> <p>23 MR. CHONG: And that's Web Sewell?</p> <p>24 MS. PAUTRAT: Correct.</p> <p>25 MR. CHONG: Move the admission of C 15.</p>
<p>206</p> <p>1 email.</p> <p>2 MR. CHONG: Okay.</p> <p>3 MS. PAUTRAT: Shortly after my interview, I'm sorry.</p> <p>4 MR. CHONG: All right. And from whom did you receive</p> <p>5 that offer?</p> <p>6 MS. PAUTRAT: I received the offer from Nick Herman.</p> <p>7 MR. CHONG: Okay. Could you turn please to Exhibit</p> <p>8 C 25? And --</p> <p>9 HEARING EXAMINER PRAGER: Wait just a moment. Go</p> <p>10 ahead.</p> <p>11 MR. CHONG: And I'd like to direct your attention to</p> <p>12 page GP134 of that exhibit. Do you recognize that email?</p> <p>13 MS. PAUTRAT: Yes.</p> <p>14 MR. CHONG: And what is that?</p> <p>15 MS. PAUTRAT: It's the offer letter that Nick sent me</p> <p>16 via email.</p> <p>17 MR. CHONG: All right. Move the admission of page 134</p> <p>18 from Exhibit C 25.</p> <p>19 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>20 MR. SCHILLER: No objection.</p> <p>21 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>22 MR. ABRAMSON: No objection.</p> <p>23 HEARING EXAMINER PRAGER: Just a moment.</p> <p>24 (Exhibit C 25 page 134 was admitted into</p> <p>25 evidence.)</p>	<p>208</p> <p>1 HEARING EXAMINER PRAGER: Mr. Schiller?</p> <p>2 MR. SCHILLER: No objection.</p> <p>3 HEARING EXAMINER PRAGER: Mr. Abramson?</p> <p>4 MR. ABRAMSON: No objection.</p> <p>5 HEARING EXAMINER PRAGER: Exhibit C 15 is admitted.</p> <p>6 (Exhibit C 15 was admitted into evidence.)</p> <p>7 MR. CHONG: Calling your attention to the last page of</p> <p>8 that exhibit, please. Besides yours, whose signature</p> <p>9 appears at the bottom of this document?</p> <p>10 MS. PAUTRAT: That's Web Sewell's.</p> <p>11 MR. CHONG: Okay. And above his name what</p> <p>12 organizations are listed?</p> <p>13 MS. PAUTRAT: It says Capital Financial Partners, and</p> <p>14 Foundation for Financial Education.</p> <p>15 MR. CHONG: Did you read this document when you signed</p> <p>16 it?</p> <p>17 MS. PAUTRAT: Yes.</p> <p>18 MR. CHONG: Do you have an understanding of what it</p> <p>19 purports to be?</p> <p>20 MS. PAUTRAT: Yes.</p> <p>21 MR. CHONG: Did Mr. Sewell, when he presented you with</p> <p>22 this document make any representations about who you worked</p> <p>23 for?</p> <p>24 MS. PAUTRAT: I had assumed it would be Financial --</p> <p>25 Foundation for Financial Education because it was here and</p>

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53 (209 to 212)

<p style="text-align: right;">209</p> <p>1 Capital Financial Partners, like they're both all tied into 2 this document, to my non-compete. 3 MR. CHONG: All right. So let's -- again, I draw your 4 attention to the first page of this document. Who is 5 identified as the employer in this document? Or the 6 company? 7 MS. PAUTRAT: It say the Capital Financial Partners 8 and the Foundation for Financial Education, both Maryland 9 corporations. 10 MR. CHONG: All right. And both of those organizations 11 are identified as the company; is that correct? 12 MS. PAUTRAT: Correct, it says the company. Both 13 parties agree as follows. 14 MR. CHONG: And what is the title of the document? 15 MS. PAUTRAT: The title says employee confidentiality 16 non-competition and non-solicitation agreement. 17 MR. CHONG: Okay. Thank you. From whom did you receive 18 your paychecks? 19 MS. PAUTRAT: I received my paychecks from Nick Herman 20 and it said Capital Financial Partners on it, as well. 21 MR. CHONG: And from whom did you receive your W-2 at 22 the end of the year? 23 MS. PAUTRAT: Nick Herman. 24 MR. CHONG: Was it Nick Herman or a corporation? 25 MS. PAUTRAT: Herman, Inc. Herman, Inc.</p>	<p style="text-align: right;">211</p> <p>1 it on two, possibly two separate occasions and on May 6 2 actually wrote an email outlining my complaint. 3 MR. CHONG: Move the admission of C 6. 4 HEARING EXAMINER PRAGER: Mr. Schuller? 5 MR. CHONG: No, it's already been admitted. 6 HEARING EXAMINER PRAGER: Pardon? 7 MR. CHONG: I believe it has already been admitted. 8 HEARING EXAMINER PRAGER: Let me just check. Yes, C 6 9 has been admitted. 10 MR. CHONG: Apologies. 11 MR. CHONG: Can I turn your attention to Exhibit C 9, 12 please. 13 MS. PAUTRAT: C 9. And do you recognize that document? 14 MS. PAUTRAT: Yes. 15 MR. CHONG: And what is that, please? 16 MS. PAUTRAT: This is the email that I sent to 17 Elizabeth stating that I was being sexually harassed and 18 retaliated against. 19 MR. CHONG: And is this the email that you are 20 referring to just now when you said that you sent an email 21 to her on May 6, 2015? 22 MS. PAUTRAT: Correct. 23 MR. CHONG: Move the admission of Exhibit C 9. 24 HEARING EXAMINER PRAGER: Any objection, Mr. Schiller? 25 MR. SCHILLER: Not for the purposes of notice and</p>
<p style="text-align: right;">210</p> <p>1 MR. CHONG: Were there any other names on the W-2? 2 MS. PAUTRAT: On the W-2, not that I can remember, 3 just on my paychecks. 4 MR. CHONG: Okay. Do you recall receiving an employee 5 manual? 6 MS. PAUTRAT: At some point, yes. 7 MR. CHONG: Did you receive it at the beginning of 8 your employment or later on? 9 MS. PAUTRAT: I don't remember if I received it 10 exactly at the beginning of my employment or later on. 11 MR. CHONG: Okay. Let's turn to Exhibit C 6, please. 12 Flipping the page to the second page of the exhibit, that's 13 GP13. Do you recognize that document? 14 MS. PAUTRAT: Yes. 15 MR. CHONG: And what is that? 16 MS. PAUTRAT: This is an excerpt from the employee 17 handbook that was sent to me. 18 MR. CHONG: And by sent to you, who sent it to you? 19 MS. PAUTRAT: Elizabeth de los Santos. 20 MR. CHONG: And when did she send that to you? 21 MS. PAUTRAT: She sent to me after I had complained 22 about sexual harassment and about Jonathan. 23 MR. CHONG: Okay. And when did you make that complaint 24 to Ms. de los Santos? 25 MS. PAUTRAT: I had spoken to her on the phone about</p>	<p style="text-align: right;">212</p> <p>1 complaint, no. 2 HEARING EXAMINER PRAGER: And Mr. Abramson? 3 MR. ABRAMSON: No objection. 4 MR. CHONG: Uh -- 5 HEARING EXAMINER PRAGER: Wait just a moment. All 6 right. We are going to go off the record. while I read 7 this. Exhibit C 9 is admitted. 8 (Exhibit C 9 was admitted into evidence.) 9 MR. CHONG: Thank you. Turning your attention back to 10 Exhibit C 6 which is the in page out of the employee 11 manual. Is it your understanding that this handbook applied 12 to CFP as well as F3E employees? 13 MS. PAUTRAT: Yes. 14 MR. CHONG: When you say that? 15 MS. PAUTRAT: Because it is referenced CFP/F3E in 16 several places on this page, and almost each section. 17 MR. CHONG: Okay. All right. Let's talk about when you 18 started work. Describe your first day at work. 19 MS. PAUTRAT: My first day at work I was introduced to 20 the staff. I was shown where my office space was going to 21 be. I did probably some onboarding paperwork, becoming 22 familiar with the system that I would be using to set up 23 the appointment. 24 MR. CHONG: At that time were you given an email 25 address? A contacting email address?</p>

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54 (213 to 216)

<p>213</p> <p>1 MS. PAUTRAT: I'm not sure if it was that first day 2 but I know it was within the first couple of days I ended 3 up getting about four different email addresses. 4 MR. CHONG: What were your four email addresses? 5 MS. PAUTRAT: I had a Gmail and I also had an F3E, but 6 I don't remember what the other email addresses were for. 7 So I only use the F3E email when I was working. 8 MR. CHONG: And when you say the F3E email is that -- 9 what's the domain name on that one? 10 HEARING EXAMINER PRAGER: Mr. Chong, would you please 11 keep your voice up? 12 MR. CHONG: I apologize. When you say the F3E email 13 what is the part that comes after the @ in that email? 14 MS. PAUTRAT: I think it's F3E.com, .org, I'm not 100 15 percent sure. 16 MR. CHONG: Okay. And that is the email that you 17 primarily used; is that what you testified to? 18 MS. PAUTRAT: Yes, that is the email that I used to 19 (inaudible) 4:38:29. 20 MR. CHONG: All right. You also mentioned you had a 21 Gmail account, do you remember what that Gmail account was 22 assigned to you do you remember -- 23 MS. PAUTRAT: I don't. 24 MR. CHONG: Okay. Exhibit C 26 was previously 25 admitted. If you take a look at these emails does that</p>	<p>215</p> <p>1 MR. CHONG: So when you say our financial advisors 2 what is your understanding of -- let me back up for a 3 second. Does F3E employ financial advisors to your 4 knowledge? 5 MS. PAUTRAT: No. So once I made the call and I set up 6 the client with a financial advisor, the financial advisors 7 were all on the for-profit side which was CFP. So once that 8 was done I no longer had any interaction with the people 9 that I made appointments for because they already were 10 transferred to the CFP side to meet with one of the 11 advisors. 12 MR. CHONG: So when you said if -- when you said you 13 would tell people -- well, you would ask quote our 14 financial advisors, you were referring to CFP financial 15 advisors; is that right? 16 MS. PAUTRAT: Correct. 17 MR. CHONG: Okay. Did you -- when you were making 18 these appointments did you ever refer any of these people 19 to any financial advisors who were not employed by CFP? 20 MS. PAUTRAT: No. 21 MR. CHONG: Did you receive training on how to make 22 these phone calls? 23 MS. PAUTRAT: Yes. So within -- maybe it was my second 24 week of working Elizabeth came from Texas to train me, 25 Simon, and Lauren on how to make these calls.</p>
<p>214</p> <p>1 refresh your recollection as to at least one of your email 2 accounts? 3 MS. PAUTRAT: Yes. 4 MR. CHONG: And that address was what? 5 MS. PAUTRAT: Giselle@F3Eonline.org. 6 MR. CHONG: Okay. You previously testified that you 7 thought this job would involve giving presentations to 8 groups of people about financial services and financial 9 products. When did you start performing that work? 10 MS. PAUTRAT: I never did. 11 MR. CHONG: What were you doing instead? 12 MS. PAUTRAT: Instead, what my role was to make phone 13 calls. So as the financial presentations were given from 14 F3E at the end of those they would give the attendees 15 surveys and the attendees would indicate what topics they 16 wanted to meet with a financial advisor about it could have 17 been retirement, taxes, whatever the case may be. So when 18 the presenters came back they would give the callers -- me 19 -- they would give me, Simon, and Lauren, like, the stack 20 then we would call and ask, you know, this is Giselle 21 calling from the Foundation for Financial Education. You 22 attended one of our workshops. It's indicated here that you 23 are interested in having a consultation with one of our 24 financial advisors, and then I would schedule it and put it 25 in the calendar.</p>	<p>216</p> <p>1 MR. ABRAMSON: Could you repeat that, please? 2 MS. PAUTRAT: During about my second week of work 3 Elizabeth de los Santos came from Texas to train me, Simon, 4 and Lauren on how to make the calls. 5 MR. CHONG: And when you say how to make the calls, 6 what does that entail? 7 MS. PAUTRAT: The script basically, how you would 8 present yourself. Hello, my name is Gisele, I'm calling 9 from the Foundation for Financial Education. You know, you 10 attended one of our workshops. Basically how to say all of 11 that. How to overcome objectives if somebody was saying 12 that they didn't want to meet with anybody, well this is 13 what you said in your survey that you wanted more 14 information about, I'm just going to use retirement as an 15 example, retirement. And how to then put it into the 16 database. 17 MR. CHONG: Okay. And what was the goal of these 18 calls, again? 19 MS. PAUTRAT: The goal was we had to make 20 phone 20 calls -- 20, excuse me, 20 appointments a week. 21 MR. CHONG: Okay. Was that just a goal for you, or was 22 that a goal for other people in the office as well? 23 MS. PAUTRAT: To my understanding it was a goal for 24 me, and for Simon. 25 MR. CHONG: Okay. Did Lauren have the same goal?</p>

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55 (217 to 220)

<p>217</p> <p>1 MS. PAUTRAT: Her goal was different, but I don't know 2 exactly what her number was. 3 MR. CHONG: Okay. Did you raise any concerns with 4 anyone that this was not what you thought you were being 5 hired to do? 6 MS. PAUTRAT: No. 7 MR. CHONG: Why not? 8 MS. PAUTRAT: Because I assumed at some point I would 9 end up doing presentations. You just do what you're told. 10 MR. CHONG: What would your normal workday consist of? 11 MS. PAUTRAT: So my normal workday consisted of coming 12 in approximate, like 8:30. I had been given that schedule 13 by Jonathan. I would prepare, like, the surveys that I was 14 going to go ahead and call for that day. See who I had 15 called the day before through the system, see what phone 16 calls I would be making. So just preparing originally in 17 the morning. And then I would start my calls later on. 18 MR. CHONG: Did you say Simon was also making these 19 calls? 20 MS. PAUTRAT: Correct. 21 MR. CHONG: And did you say that he also had the same 22 goal? 23 MS. PAUTRAT: Yes. We actually had, like a little 24 competition between him and I going to see who would make 25 the most calls in a day, or set up the most appointments in</p>	<p>219</p> <p>1 people had retirement or anything like that. He would take 2 the lower ones and try to schedule them and present to them 3 and advise them on what to do. 4 HEARING EXAMINER PRAGER: Mr. Chong, were going to 5 have to interrupt at this point for a minute. Nate, can you 6 come in? 7 NATE: I sure can. 8 (Off the record at 3:34 p.m.) 9 (On the record at 3:42 p.m.) 10 HEARING EXAMINER PRAGER: Sorry to interrupt. Mr. 11 Chong, you may ask your next question. 12 MR. CHONG: Thank you. Did you meet with Mr. Lee one 13 on one for lunch after starting work? 14 MS. PAUTRAT: Yes. 15 HEARING EXAMINER PRAGER: Raise your voice, please. 16 MS. PAUTRAT: Yes. 17 HEARING EXAMINER PRAGER: No, ma'am. I'm sorry. 18 MS. PAUTRAT: I'm sorry. 19 HEARING EXAMINER PRAGER: Mr. Chong is the one I 20 didn't hear. 21 MR. ABRAMSON: I only heard the first half of the 22 question. 23 MR. CHONG: Did you meet with Mr. Lee one on one for 24 lunch after starting work? 25 MS. PAUTRAT: Yes.</p>
<p>218</p> <p>1 a week. And we would tally it on a whiteboard in Simon's 2 office. 3 MR. CHONG: Did you ever this weekly target of 20 4 appointments a week? 5 MS. PAUTRAT: No. 6 MR. CHONG: Did you come close? 7 MS. PAUTRAT: I came in like -- so 13 to 17 8 appointments. That was kind of like what I would average. 9 MR. CHONG: Now, you said you kept track of your 10 successful appointments on a whiteboard with Simon? 11 MS. PAUTRAT: Uh-huh. 12 MR. CHONG: Does that mean you can see the 13 appointments that Simon had made too? 14 MS. PAUTRAT: Yes. 15 MR. CHONG: Did Simon ever reach his weekly target? 16 MS. PAUTRAT: While I was there he may have reached it 17 once. 18 MR. CHONG: Just once? 19 MS. PAUTRAT: Once or twice maybe. 20 MR. CHONG: Okay. 21 MS. PAUTRAT: But he also had a little bit of an 22 advantage? 23 MR. CHONG: And how is that? 24 MS. PAUTRAT: He would take the clients that were, 25 like, had less money, not like the big portfolios that</p>	<p>220</p> <p>1 MR. CHONG: And what precipitated this lunch meeting? 2 MS. PAUTRAT: I was having issues with the health 3 insurance and so we met to talk about it and the importance 4 of me getting that situated and the financial portion taken 5 care of. Like I needed to know how much it was going to 6 cost me out of pocket and how much I was going to get 7 reimbursed because I take care of myself, and I take care 8 of my parents too financially. 9 MR. CHONG: Did you ask for this discussion to take 10 place over lunch? 11 MS. PAUTRAT: No. 12 MR. CHONG: So you -- 13 MS. PAUTRAT: He offered. 14 MR. CHONG: Okay. To your understanding could these 15 questions have been resolved in the office? 16 MS. PAUTRAT: Yes. 17 MR. CHONG: Did you speak with anyone else about the 18 fact that you went out to lunch with him? 19 MS. PAUTRAT: Yes. 20 MR. CHONG: Who? 21 MS. PAUTRAT: I spoke to Lauren about it. 22 MR. CHONG: And -- 23 HEARING EXAMINER PRAGER: I'm sorry, who is Lauren? 24 MS. PAUTRAT: Lauren Byers who testified earlier this 25 morning.</p>



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56 (221 to 224)

<p>221</p> <p>1 MR. CHONG: Did she respond to the suggestion that you 2 went out to lunch with Mr. Lee? 3 MS. PAUTRAT: She had asked me why I had gone out to 4 lunch with him, that she had some similar questions and he 5 didn't take her out to lunch. 6 MR. CHONG: Did you talk about anything else with Mr. 7 Lee over lunch? 8 MS. PAUTRAT: And that's when I stressed the 9 importance of getting my finances altogether with this job 10 because I'm the one who helps take care of my parents so 11 that I financially needed to be okay. 12 MR. CHONG: Did there come a time when you started 13 receiving communications from Mr. Lee outside of the 14 office? 15 MS. PAUTRAT: Yes. 16 MR. CHONG: And when did that start happening? 17 MS. PAUTRAT: So really like, a couple of weeks after 18 I started working I was getting some text messages and some 19 phone calls. 20 MR. CHONG: And when it first started were you opposed 21 to receiving text messages from him? 22 MS. PAUTRAT: Not work-based, no. 23 MR. CHONG: But were his texts limited to work 24 matters? 25 MS. PAUTRAT: No. He had asked me once to go to, like,</p>	<p>223</p> <p>1 him? 2 MS. PAUTRAT: No. 3 MR. CHONG: Okay. At some point did Mr. Lee go on 4 vacation? 5 MS. PAUTRAT: Yes. 6 MR. CHONG: Do you recall when that was? 7 MS. PAUTRAT: It was about mid-April. 8 MR. CHONG: Any time before then? 9 MS. PAUTRAT: Possibly. He traveled a lot. 10 MR. CHONG: Okay. Did he text you from that trip? 11 MS. PAUTRAT: Yes, he did. 12 MR. CHONG: What did he say? 13 MS. PAUTRAT: He texted me from where he was, like his 14 resort breakfast. He told me that -- sorry. He was 15 basically saying how he was checking on me, how he missed 16 me and he was sending me pictures of his vacation. 17 MR. CHONG: Okay. Where was he? 18 MS. PAUTRAT: I believe he was in Florida. 19 MR. CHONG: And again, relative to your start date 20 when did these texts arrive? 21 MS. PAUTRAT: A couple of weeks after I started 22 working. 23 MR. CHONG: Okay. 24 MS. PAUTRAT: This one was probably, like I said, when 25 he was on vacation.</p>
<p>222</p> <p>1 a basketball game. 2 MR. CHONG: Do you remember what basketball game? 3 MS. PAUTRAT: I have no idea because I don't follow 4 basketball, and I wasn't sure. 5 MR. CHONG: And did this come via text? 6 MS. PAUTRAT: Yes. 7 MR. CHONG: And when did you receive this request? 8 MS. PAUTRAT: So I don't know exactly what time it 9 was, but it was mostly like -- it was like towards the 10 afternoon/evening. 11 MR. CHONG: Okay. 12 MS. PAUTRAT: But I wasn't at work, it had nothing to 13 do with work. 14 MR. CHONG: Did it -- relative to your start date when 15 did you receive this invitation? 16 MS. PAUTRAT: Probably a couple of weeks after 17 starting work. 18 MR. CHONG: Okay. Did you see a business related 19 reason that you would attend a basketball game with him? 20 MS. PAUTRAT: No. 21 MR. CHONG: Did he try to articulate a business 22 related reason why you should go to a basketball game with 23 him? 24 MS. PAUTRAT: No. 25 MR. CHONG: And did you end up going to the game with</p>	<p>224</p> <p>1 MR. CHONG: And do you have an understanding of 2 whether he was on vacation by himself or not? 3 MS. PAUTRAT: I was under the assumption that he was 4 with his girlfriend because he had told me that -- 5 previously that he didn't really want to go on vacation, 6 that he wouldn't have a chance to talk to me and that he 7 would reach out. So I was under the assumption that he was 8 with her. 9 MR. CHONG: And did you receive a telephone call? 10 MS. PAUTRAT: Yes. When I was in the office he called 11 the office line. I answered. This is Gisele, thank you for 12 calling Foundation for Financial Education. And he spoke 13 and I didn't recognize his voice. So he was like, oh, you 14 don't recognize my voice. And I said, no, am I supposed to? 15 And then he said who he was that he was Jonathan and that 16 he knows my voice and that he would always recognize my 17 voice. 18 MR. CHONG: And how long were you at the job at this 19 point? 20 MS. PAUTRAT: Maybe like a month or so, maybe. 21 MR. CHONG: Okay. 22 MS. PAUTRAT: Or two, I'm not 100 percent sure. 23 MR. CHONG: Mr. Lee travels frequently, correct? 24 MS. PAUTRAT: Correct. 25 MR. CHONG: Did the subject of you traveling with him</p>

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<p>225</p> <p>1 ever come up?</p> <p>2 MS. PAUTRAT: Yes.</p> <p>3 MR. CHONG: How would it come up?</p> <p>4 MS. PAUTRAT: He had asked me if I would travel with</p> <p>5 him and I didn't respond.</p> <p>6 MR. CHONG: How would he ask you to go traveling with</p> <p>7 him?</p> <p>8 MS. PAUTRAT: He would just ask me in general if I</p> <p>9 would travel with him. There was different, you know,</p> <p>10 opportunities.</p> <p>11 MR. CHONG: Were these business related travel that he</p> <p>12 was asking you on?</p> <p>13 MS. PAUTRAT: That and in general. Some would be</p> <p>14 business, some would just be generic, like, do you want to</p> <p>15 travel? Would you like to travel with me?</p> <p>16 MR. CHONG: And how did you respond to his requests to</p> <p>17 go traveling with him?</p> <p>18 MS. PAUTRAT: I didn't say anything.</p> <p>19 MR. CHONG: Okay. Were you inclined to go traveling</p> <p>20 with him?</p> <p>21 MS. PAUTRAT: No. I knew that also, like, businesswise</p> <p>22 they were people that were there before me, like longer and</p> <p>23 they hadn't traveled so if it was work related they should</p> <p>24 go. But I wasn't going to go on a personal trip with him,</p> <p>25 especially knowing his status.</p>	<p>227</p> <p>1 MS. PAUTRAT: J-I-Z-Z.</p> <p>2 MR. CHONG: How often did he call you that?</p> <p>3 MS. PAUTRAT: He called me that often enough to where</p> <p>4 Elizabeth knew it, Simon had heard it --</p> <p>5 MR. SCHILLER: Objection.</p> <p>6 MS. PAUTRAT: And Toby had heard it.</p> <p>7 MR. SCHILLER: Objection. Three objections.</p> <p>8 HEARING EXAMINER PRAGER: Huh?</p> <p>9 MR. SCHILLER: Three objections.</p> <p>10 HEARING EXAMINER PRAGER: Yes, say what they are.</p> <p>11 MR. SCHILLER: Speculation as to whether -- you know,</p> <p>12 foundation and not personal knowledge as to what other</p> <p>13 people heard or may have heard. She's testified each time</p> <p>14 that someone else heard it.</p> <p>15 HEARING EXAMINER PRAGER: Mr. Chong, would you like to</p> <p>16 clarify this?</p> <p>17 MR. CHONG: You mean in terms of testimony or?</p> <p>18 HEARING EXAMINER PRAGER: Uh-huh.</p> <p>19 MR. CHONG: Sure. You've heard to objection that it's</p> <p>20 speculation that these people heard Mr. Lee call you that.</p> <p>21 Did Mr. Lee call you that name in front of these people?</p> <p>22 MS. PAUTRAT: Yes.</p> <p>23 MR. CHONG: And so you observed these people hearing</p> <p>24 Mr. Lee call you that name?</p> <p>25 MR. SCHILLER: Objection.</p>
<p>226</p> <p>1 MR. CHONG: Is there a reason you wouldn't want -- it</p> <p>2 sounds -- it sounds like what you're saying is you didn't</p> <p>3 want to leapfrog over other people to get these business</p> <p>4 travels; is that accurate?</p> <p>5 MS. PAUTRAT: Uh-huh.</p> <p>6 MR. CHONG: Is there a reason you are sensitive to not</p> <p>7 taking advantage of these opportunities before other people</p> <p>8 did?</p> <p>9 MS. PAUTRAT: Well one, it would look bad if I'm being</p> <p>10 given an opportunity to travel to different places, there</p> <p>11 would be like favoritism and stuff. The other is just I</p> <p>12 didn't feel comfortable. I didn't want to be in a situation</p> <p>13 where I am in a different state or a different place and be</p> <p>14 alone and not know if, you know, I could call somebody or</p> <p>15 anything like that. I didn't know if anybody else was going</p> <p>16 to be around. I didn't want to look bad.</p> <p>17 MR. CHONG: All right. Did Mr. Lee have a nickname for</p> <p>18 you?</p> <p>19 MS. PAUTRAT: Yes.</p> <p>20 MR. CHONG: What was that nickname?</p> <p>21 MS. PAUTRAT: The nickname was Jizz.</p> <p>22 HEARING EXAMINER PRAGER: Was what?</p> <p>23 MS. PAUTRAT: Sorry, Jizz.</p> <p>24 HEARING EXAMINER PRAGER: Spell it for me as best you</p> <p>25 can.</p>	<p>228</p> <p>1 MS. PAUTRAT: Yes, and one of them told me --</p> <p>2 HEARING EXAMINER PRAGER: What's your objection?</p> <p>3 MR. SCHILLER: You can't observe hearing unless</p> <p>4 there's a --</p> <p>5 HEARING EXAMINER PRAGER: You can notice if somebody</p> <p>6 is hearing something. So I'm not sure I fully understand</p> <p>7 your objection. If it was done in the presence of the other</p> <p>8 people and they were within easy earshot she could tell</p> <p>9 that they would hear it. So I -- the objection is</p> <p>10 overruled.</p> <p>11 MR. CHONG: And when did he start using this nickname</p> <p>12 for you relative to your start date?</p> <p>13 MS. PAUTRAT: I mean not that long after because he</p> <p>14 had a nickname, Elizabeth had a nickname, and I had a</p> <p>15 nickname. His was Jon from Jonathan. Liz from Elizabeth,</p> <p>16 and he called me that. And Toby didn't like it because he</p> <p>17 heard it and called me out on it. And Simon heard it and</p> <p>18 asked me why was I being called that.</p> <p>19 MR. CHONG: Okay. Do you have an appreciation for what</p> <p>20 that word means?</p> <p>21 MS. PAUTRAT: Yes.</p> <p>22 MR. CHONG: Okay. Did Ms. de los Santos make any</p> <p>23 comments to you about the fact that he called you that?</p> <p>24 MS. PAUTRAT: No.</p> <p>25 MR. CHONG: Okay. All right, calling your attention to</p>

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<p style="text-align: right;">229</p> <p>1 the kitchen --</p> <p>2 HEARING EXAMINER PRAGER: Let me -- I'm a little --</p> <p>3 maybe I just didn't hear it. What is it that she was</p> <p>4 called?</p> <p>5 MR. CHONG: Jizz</p> <p>6 HEARING EXAMINER PRAGER: Okay. J-I-Z-E?</p> <p>7 MR. CHONG: J-I-Z-Z.</p> <p>8 HEARING EXAMINER PRAGER: J-I-Z-Z. Okay.</p> <p>9 MR. SCHILLER: Or G-I-S. I mean where is -- this is a</p> <p>10 little bit nutty, but I understand this is not in any of</p> <p>11 the -- any papers, emails, documents, pre-trial</p> <p>12 submissions. Why is it J-I-Z-Z? Why isn't it G-I-S? Her</p> <p>13 name is Giselle. Giselle, G-I-S, right? Do I have that</p> <p>14 right? So where -- you know. It's a good argument. Good</p> <p>15 closing but --</p> <p>16 HEARING EXAMINER PRAGER: Yeah, so it's phonetic</p> <p>17 obviously so we don't know what he meant, at least not from</p> <p>18 the testimony. So go ahead. I understand your concern but</p> <p>19 it doesn't seem to make much difference which way it was</p> <p>20 spelled.</p> <p>21 MR. CHONG: Thank you. I would like to call your</p> <p>22 attention to the kitchen area of the office.</p> <p>23 MS. PAUTRAT: Uh-huh.</p> <p>24 MR. CHONG: All right. Do you recall an incident in</p> <p>25 the kitchen?</p>	<p style="text-align: right;">231</p> <p>1 face when you said why didn't you announce yourself?</p> <p>2 MS. PAUTRAT: Yeah, it was just a smirk, like,</p> <p>3 whatever.</p> <p>4 MR. CHONG: Okay. Do you know how long he had been</p> <p>5 standing there watching you?</p> <p>6 MS. PAUTRAT: I have no idea because my back was</p> <p>7 facing the door, or the entranceway.</p> <p>8 MR. CHONG: You mentioned just now that you were at</p> <p>9 work by 8:30 in the morning, right?</p> <p>10 MS. PAUTRAT: Uh-huh.</p> <p>11 MR. CHONG: Why were you at work at 8:30 in the</p> <p>12 morning?</p> <p>13 MS. PAUTRAT: Because that was my schedule. That's</p> <p>14 what time I was supposed to be in.</p> <p>15 MR. CHONG: And who set that schedule for you?</p> <p>16 MS. PAUTRAT: Jonathan set it up.</p> <p>17 MR. CHONG: Was anyone else in the office by 8:30 in</p> <p>18 the morning?</p> <p>19 MS. PAUTRAT: No.</p> <p>20 MR. CHONG: Were you making phone calls at 8:30 in the</p> <p>21 morning?</p> <p>22 MS. PAUTRAT: No.</p> <p>23 MR. CHONG: Did you get to leave earlier than anybody</p> <p>24 else because you got there at 8:30 in the morning?</p> <p>25 MS. PAUTRAT: No.</p>
<p style="text-align: right;">230</p> <p>1 MS. PAUTRAT: Yes.</p> <p>2 MR. CHONG: Tell me what happened.</p> <p>3 MS. PAUTRAT: So most morning since I got in there at</p> <p>4 8:30 I would, aside from preparing all of my, you know,</p> <p>5 documents and everything I got my breakfast that morning. I</p> <p>6 was having yogurt with my strawberries so I was cutting up</p> <p>7 my strawberries and I had a knife in my hand. And my back</p> <p>8 was facing the entrance of the kitchen. And then I turned</p> <p>9 around and I saw Jonathan just standing there. I don't know</p> <p>10 how long he was there for but I remember saying why didn't</p> <p>11 you announce yourself. Why didn't you say that you were</p> <p>12 here? And he just like didn't respond, didn't say anything.</p> <p>13 MR. CHONG: What -- can you describe the look on his</p> <p>14 face as he was -- as you looked at him?</p> <p>15 MS. PAUTRAT: I'm sorry.</p> <p>16 MR. CHONG: Do you need me to repeat the question?</p> <p>17 MS. PAUTRAT: No, I don't.</p> <p>18 MR. CHONG: Okay.</p> <p>19 MS. PAUTRAT: I just -- the comments that are being</p> <p>20 side barred and said are really distracting and I don't</p> <p>21 appreciate it right now.</p> <p>22 HEARING EXAMINER PRAGER: All right. Just answer the</p> <p>23 question, please.</p> <p>24 MS. PAUTRAT: Can you repeat the question?</p> <p>25 MR. CHONG: Can you describe the look on Mr. Lee's</p>	<p style="text-align: right;">232</p> <p>1 MR. CHONG: Did you raise your concerns with Mr. Lee</p> <p>2 about the fact that he directed you to arrive by 8:30 in</p> <p>3 the morning?</p> <p>4 MS. PAUTRAT: Yeah, I did.</p> <p>5 MR. CHONG: And what was his response?</p> <p>6 MS. PAUTRAT: He got mad and said I didn't want to</p> <p>7 work.</p> <p>8 MR. CHONG: And in response to that then did you take</p> <p>9 any action?</p> <p>10 MS. PAUTRAT: I didn't mention it again.</p> <p>11 MR. CHONG: Okay.</p> <p>12 HEARING EXAMINER PRAGER: Mr. Chong?</p> <p>13 MR. CHONG: Yes.</p> <p>14 HEARING EXAMINER PRAGER: Are you going to pursue this</p> <p>15 line of questioning any further about this 8:30?</p> <p>16 MR. CHONG: About the 8:30, no.</p> <p>17 HEARING EXAMINER PRAGER: Okay. It's getting to be</p> <p>18 just about 4:00, so maybe this is an opportune point to</p> <p>19 stop. We can resume tomorrow morning, and you will be</p> <p>20 asking the questions. We will go off the record for a</p> <p>21 moment.</p> <p>22 (Off the record at 3:59:19 p.m.)</p> <p>23 (On the record at 3:59:35 p.m.)</p> <p>24 HEARING EXAMINER PRAGER: At this point we will</p> <p>25 conclude the hearing for today. And now at about 4:00 and</p>

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1 we will resume tomorrow morning at 9:30. With that we will  
2 close this meeting. Thank you.

3 MR. SCHILLER: Thank you.  
4 (The recording concluded.)  
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1 CERTIFICATE OF TRANSCRIBER

2 I, Molly Bugher, do hereby certify that the foregoing  
3 transcript is a true and correct record of the recorded  
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5 best of my ability from the audio recording as provided;  
6 and that I am neither counsel for, related to, nor employed  
7 by and of the parties to this case and have no interest,  
8 financial or otherwise, in its outcome.  
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Transcript of Administrative Hearing, Day 1  
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