

Exhibit 28

In The Matter Of:
D.C. Council Investigation
Interview of John Ray, Esq.

October 02, 2019

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D.C. Council Investigation

Interview of John Ray, Esq.

By

Steve Bunnell, Esq.

Rahul Kohli, Esq.

Also present:

Pamela Bresnahan, Esq.

Stephanie Gardner, Esq.

Teresa Shoemaker, Legal Assistant

Wednesday, October 2, 2019, 1:17 p.m.

O'Melveny & Myers

1615 I Street, N.W.

10th Floor

Washington, D.C. 20006-4061

P R O C E E D I N G S

1:17 p.m.

1
2
3 MR. BUNNELL: Why don't we go on the
4 record.

5 I guess we should go around the room and
6 maybe introduce ourselves first.

7 I'm Steve Bunnell with O'Melveny, and
8 I'll just say O'Melveny is here as Special Counsel
9 to the District of Columbia City Council pursuant to
10 a resolution that was passed in July of this year
11 tasked with investigating certain ethics allegations
12 involving Council Member Jack Evans. So we are here
13 today conducting fact development in connection with
14 that investigation and appreciate Mr. Ray being
15 available.

16 Let me ask you to put your name on name
17 on the record.

18 MR. KOHLI: Rahul Kohli from O'Melveny.

19 MS. BRESNAHAN: Pam Bresnahan, Vorys
20 Sater, representing Mr. Ray.

21 MS. GARDNER: Stephanie Gardner, Vorys
22 Sater.

1 MS. SHOEMAKER: Teresa Shoemaker,
2 Litigation Assistant, Vorys Sater.

3 MR. BUNNELL: We have Mr. Ray here, as
4 well.

5 BY MR. BUNNELL:

6 Q. Let me just ask you to state your name
7 for the record, as well, sir.

8 A. John Ray.

9 Q. Where are you currently employed, sir?

10 A. Manatt, Phelps & Phillips.

11 Q. What is your position there?

12 A. Partner.

13 Q. How long have you been there?

14 A. A little over 20 years.

15 Q. Without getting into too much
16 detail, can you give me just a high level of your
17 professional career? Just when did you graduate
18 from college what you did going forward from there.

19 A. I graduated from college in 1970. I
20 graduated from law school in 1973.

21 Q. Where did you go to college and law
22 school?

1 A. George Washington University.

2 Q. And then after getting out of law
3 school, what did you do?

4 A. Clerked for Judge Spottswood Robinson,
5 United States Court of Appeals.

6 Q. Was he on the District Court or the
7 Court of Appeals?

8 A. Court of Appeals.

9 Q. Court of Appeals? Okay.

10 A. After the clerkship, what did you do?

11 A. I went to work for the United States
12 Senate.

13 Q. For a particular committee?

14 A. Antitrust and Monopolies Subcommittee at
15 that time.

16 Q. I'm sorry. I missed your --

17 A. Antitrust and Monopolies Subcommittee at
18 that time. It does not exist today.

19 Q. What was your position there?

20 A. Counsel.

21 Q. How long were you there?

22 A. About two and a half years.

1 Q. And then where?

2 A. To the Justice Department.

3 Q. Which --

4 A. Office of Legal Counsel.

5 Q. So we're now what period of time?

6 A. We're into the Jimmy Carter
7 administration.

8 Q. Is that a political job or a career job
9 that you took?

10 A. Well, I can't remember what it was. I
11 took a job.

12 Q. It was a job.

13 A. Yeah.

14 Q. Okay. So you were in the Office of
15 Legal Counsel. How long did you stay there?

16 A. I was there for about two years.

17 Q. And then what?

18 A. Then I went into local politics.

19 Q. Did you run for the City Council at that
20 point?

21 A. Yes.

22 Q. I was in the city at that point, but

1 I don't recall. Did you win your first term
2 your first try?

3 A. Well, I was appointed first time.

4 Q. Which seat were you appointed to?

5 A. Marion Barry.

6 Q. Oh, okay. So that would have been --

7 A. 1979.

8 Q. 1979. So how long were you on the
9 Council?

10 A. Eighteen years.

11 Q. Which Ward?

12 A. At-large.

13 Q. So 18 years takes us up to, we're in the
14 late nineties?

15 A. Yeah.

16 Q. So what did you do after your Council
17 service?

18 A. Went to Manatt.

19 Q. Which brings us up to the present?

20 A. Correct.

21 Q. Any other businesses or law firms that
22 you've been affiliated with?

1 A. Yeah. Baker Hostetler.

2 Q. Was that before Manatt or --

3 A. Before Manatt, yes.

4 Q. Did you work with Jack Evans at Baker
5 Hostetler?

6 A. Yes.

7 Q. About what period of time would that
8 have been?

9 A. In the eighties.

10 Q. Did the two of you overlap on the
11 Council?

12 A. Somewhat, yes.

13 Q. What committee did you oversee or chair?

14 A. Consumer and Regulatory Affairs.

15 Q. And during the time you overlapped, was
16 Council Member Evans doing Finance and Revenue?

17 A. No.

18 Q. Do you recall what he was doing then?

19 A. I don't remember, no.

20 Q. How would you describe your practice at
21 Manatt? What do you do? What are you selling?

22 A. Well, I'm working in the government

1 practice group. What do you want to know?

2 Q. What sort of government issues do you
3 focus on, particular parts of government?

4 A. Well, diverse. We do what is
5 commonly called lobbying. I did a lot of work at
6 the Federal level for a while, a lot of work and
7 still do at the local level. I also do a lot of
8 zoning, land use, as well.

9 Q. So it would be fair to say it's a
10 combination of, at least on the local level, it's a
11 combination of D.C. Council and D.C. government-
12 related issues?

13 A. Yes.

14 Q. Do you work in the surrounding
15 jurisdictions at all?

16 A. No. No.

17 Q. When you say lobbying, are you using
18 that in a technical term? Let me just ask you, what
19 does that mean when you use that term?

20 A. I'm just using it as most folks use it,
21 in quotes.

22 Q. Just in quotes? Okay.

1 Are you registered as a lobbyist under
2 D.C. law?

3 A. Well, you just, you don't just register
4 as a lobbyist. You register related to the matter
5 that you're doing.

6 Q. So it's a matter-by-matter registration
7 requirement?

8 A. That's correct, yeah.

9 Q. So have you registered in the past?

10 A. Many times.

11 Q. Many times? Is that a burdensome
12 process, each matter, or does it get pretty routine
13 once you've done it a bunch?

14 A. Well, I don't know. I mean, it is what
15 it is, you know?

16 MS. BRESNAHAN: Is that uncomfortable?

17 THE WITNESS: What?

18 MR. BUNNELL: Is that chair all right
19 for you?

20 THE WITNESS: No, it's okay.

21 BY MR. BUNNELL:

22 Q. This is, by the way, although we're

1 happy to have the court reporter here, especially
2 since she seems to be a very good court reporter.

3 MS. BRESNAHAN: She's the best.

4 MR. BUNNELL: I've heard that.

5 BY MR. BUNNELL:

6 Q. But this is not a formal proceeding.
7 We are typically just doing interviews in this
8 investigation, so if you want to take a break, if
9 you want to confer at any point, that is perfectly
10 permissible. It will not be held against you in any
11 way. All right?

12 MS. BRESNAHAN: Don't worry. He won't.

13 MR. BUNNELL: Are you telling me I
14 couldn't stop him if he wanted to?

15 MS. BRESNAHAN: Well, he has some
16 issues, physical issues, with his neck right now,
17 which is why I was asking him, which is why he's
18 doing this (indicating).

19 MR. BUNNELL: Well, I'm sensitive to
20 that. I don't want you to be uncomfortable here.

21 MS. BRESNAHAN: Yeah. That's why I
22 asked.

1 BY MR. BUNNELL:

2 Q. Let me ask you about Jack Evans. You
3 mentioned that you had overlapped with him on the
4 Council. Do you recall when you first met
5 him?

6 A. I don't know if I recall when I first
7 met him, but I first met him at Baker and Hostetler.

8 Q. So was he already on the Council at that
9 point?

10 A. No.

11 Q. So you were colleagues at Baker
12 Hostetler then?

13 A. That's correct.

14 Q. And how would you characterize your
15 relationship over the years? Were you personal
16 friends?

17 A. Yes. He's a very good friend. Yes.

18 Q. Do you socialize outside of work-related
19 things?

20 A. Well, I mean, I can't -- I don't see him
21 every two months but, you know, we get together for
22 breakfast, lunch, sometimes for dinner.

1 Q. Have you ever had any shared business
2 interests, investments or anything of that nature
3 with him?

4 A. No.

5 Q. Other than I guess working at the same
6 law firms?

7 A. No.

8 Q. At some point Mr. Evans was looking to
9 or was applying to Manatt for a position. Were you
10 involved in the sort of recruitment or discussions
11 around his sort of considering Manatt?

12 A. Well, not recruitment, but I was
13 involved in his interest in coming to Manatt.

14 Q. You weren't recruiting him?

15 A. No.

16 Q. You didn't think it would be a good fit?

17 A. Well, I didn't say that. I just, I
18 didn't recruit him.

19 Q. What was your involvement with him?

20 A. My involvement was he informed me he was
21 looking for a job, and he'd like Manatt to consider
22 him.

1 Q. So he had worked -- when I say he, Mr.
2 Evans -- worked at other law firms in the past; is
3 that correct?

4 A. One or two, yes.

5 Q. Did you have an understanding of why he
6 was looking to change to Manatt?

7 A. Well, he told me why.

8 Q. What did he tell you?

9 A. [REDACTED]

10 [REDACTED]

11 Q. So he had been at Squire Patton, which
12 had Patton Boggs before that, right?

13 A. Yes.

14 Q. And so after the Squire Patton, Squire
15 Sanders-Patton Boggs merger, I guess they may have,
16 things may have changed a bit at the firm, I guess.

17 A. Well, I have no knowledge of what was
18 going on.

19 Q. Do you recall when it was that Mr.
20 Evans started talking with Manatt about possible
21 employment?

22 A. Well, when you say Manatt, are you

1 talking about me or are you talking about Manatt?

2 Q. Well, that's a fair question. I mean,
3 you were part of Manatt at the time, correct?

4 A. Absolutely.

5 Q. So putting aside whether it was --
6 putting aside how we might characterize it, let's
7 just talk about what happened.

8 Did you talk to him in any capacity
9 about coming to, potentially coming to Manatt at some
10 point?

11 A. Yes.

12 Q. So what was the earliest that you recall
13 that conversation occurring?

14 A. I don't remember the exact time or date.
15 I just remember it was shortly after he left what I
16 guess is now Squire Sanders Patton Boggs.

17 Q. I think it was Squire Patton at the time
18 he left. So he left, I'll represent to you that he
19 left Squire Patton at the end of 2014, and he ended
20 up, based on records I've seen, he ended up I think
21 formally starting at Manatt on October 1 of 2015.

22 Does that sound about right?

1 A. Yeah.

2 Q. If I'm off a day or two, I'm sure
3 counsel can correct me. But I think that's
4 basically -- so we've got essentially a ten-month
5 period between the two firms.

6 Is it your recollection that it was
7 shortly after he left in December of 2014 that, after
8 he left Squire Patton, that he started talking to
9 you?

10 A. Shortly thereafter, yes. Uh-huh.

11 Q. And so what was the process, then?
12 Were you talking to him initially as kind of a friend
13 and at some point did it become a more formal
14 conversation?

15 A. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. Let me just direct you to Tab 2 in your
19 book, which I think you have --

20 MS. BRESNAHAN: That's it.

21 BY MR. BUNNELL:

22 Q. You anticipated it perfectly. You've

1 already got it open. It's impressive. So --

2 MS. BRESNAHAN: Given that Tab 1 is
3 blank, it was not rocket science.

4 BY MR. BUNNELL:

5 Q. Yeah. We tried to streamline this a
6 little for you.

7 Tab 2 is an email from Schannette Grant
8 to you dated January 14, 2015, and it relates, the
9 subject is forwarding documents from Jack Evans; is
10 that right?

11 A. Yeah.

12 Q. Do you know who Schannette Grant is?

13 A. Yes.

14 Q. Who is she?

15 A. She's a staff of Mr. Evans.

16 Q. And she is, in her email, she is just
17 sending along, Per your conversation with Jack,
18 please find his resume and business plan attached.
19 Hope you're doing well, right?

20 If you flip to behind the blue divider
21 behind that email, you'll see a document that is
22 titled Business Plan for Jack Evans.

1 A. Yes.

2 Q. And there is also a resume behind the
3 next blue divider, Jack Evans' resume.

4 A. Yes.

5 Q. This would appear to indicate that at
6 least in January of 2014, you were already having
7 some at least preliminary conversations about
8 possible employment; is that fair?

9 A. You mean 2015.

10 Q. January 14, 2015 is the date of the
11 email. I'm just trying to put a date on this.

12 A. Yeah. 2015. Yes. Uh-huh.

13 Q. Do you believe that there were
14 conversations prior to this email exchange?

15 A. I don't remember, but it may. I don't
16 remember.

17 Q. Let me ask you, within Manatt is there a
18 process for lateral hiring?

19 A. Yes. I mean, there's a process for all
20 hiring.

21 Q. I would think. A bunch of lawyers,
22 you're going to have a process for everything, right?

1 What is the process within Manatt? I don't need all
2 the details, but who are the people that would have
3 to be involved in making a lateral hiring decision
4 like bringing Jack Evans on board?

5 A. Well, it would depend on who is
6 supporting the person, who is trying to bring him on
7 board.

8 Q. Fair enough. In this case, in
9 Mr. Evans', I presume you were supportive of him
10 joining Manatt at that time?

11 A. That's correct.

12 Q. And why did you think it would be a good
13 thing for Manatt to have him join?

14 A. It wasn't an evaluation of good or bad
15 for me. I mean, Jack was a friend. He needed a job.
16 I had known him for a long time. He's a very smart
17 fellow, so I thought he'd do a good job and I
18 supported him.

19 Q. What sort of work did you think he would
20 bring or -- let me rephrase that -- what was the
21 specific value that he would bring to the law firm
22 other than just being a good guy and smart?

1 A. I'm not sure I thought he would really
2 bring any value. I thought he would bring that of a
3 good lawyer who's a very smart person who I worked
4 with at Baker & Hostetler when he was a very young
5 associate.

6 He was looking for a job to work as
7 a lawyer, and I felt that I wanted to offer an
8 opportunity to him as a friend. So I didn't get
9 into evaluating on whether he would bring 15 clients
10 or not.

11 Q. Right. Was it your notion that he would
12 work with you and your government affairs practice?

13 A. Not necessarily. Jack's background is
14 finances, so, you know, I mean, I thought he could
15 work, work in that, he'd maybe work some with me.

16 Q. Did you get involved in the discussions
17 about how much he would be paid?

18 A. No.

19 Q. Who figures that stuff out at Manatt?

20 A. Managing partner.

21 Q. Managing partner of the office or the
22 firm?

1 A. The firm.

2 Q. The firm. I don't know that much about
3 Manatt, so how is Manatt organized? Is there a
4 headquarters office somewhere?

5 A. There's a managing partner, CEO, who
6 is in Los Angeles. And then there's the managing
7 partner of the Washington, D.C. office and New York
8 office, whatever.

9 Q. So when you say managing, the comp
10 decisions would have to be made by the firm
11 management based out of LA?

12 A. That's correct.

13 Q. Not the D.C. office?

14 A. That's correct.

15 Q. Do you know whether he was looking at
16 other law firms during this period of time?

17 A. Yes.

18 Q. What other law firms was he looking at?

19 A. I don't know. I didn't talk to him. He
20 was looking.

21 Q. Did there come a point where he was
22 choosing between more than one firm and you talked to

1 him about that?

2 A. No. I didn't have that conversation as
3 far as making the decision between Manatt and
4 this law firm. I know that he was talking.

5 Q. So he didn't seek your advice on other
6 opportunities that might be out there?

7 A. No.

8 Q. Let me just ask you to look at the
9 business plan, which I guess is behind the first blue
10 tab, the blue divider. If you would flip to the
11 second page of that?

12 A. You mean back page?

13 Q. It's the back of the first page,
14 correct. And there's a subsection 3 A, I guess it
15 is, which is called Local Business.

16 As part of his business plan, Mr. Evans
17 says in that section that, "With the support of a
18 law firm and utilizing the contacts I have made, I
19 recommend contacting major local businesses in
20 the metropolitan area seeking to provide legal
21 representation, for example, potential clients
22 include -- " and then he lists a bunch, the Forge

1 Company, Exelon, [REDACTED]. Did you see that
2 list there?

3 A. Yeah. Uh-huh.

4 Q. Were any of those companies already your
5 clients?

6 A. Yes.

7 Q. Which ones?

8 A. Exelon.

9 Q. How about Forage Colonial?

10 A. No.

11 Q. How about Willco?

12 A. Yes.

13 Q. Fort Myer?

14 A. No.

15 Q. Eagle Bank?

16 A. No.

17 Q. Just looking at the list, are there any
18 others there that --

19 A. No. Those two.

20 Q. So Colonial, Exelon -- no. Colonial,
21 you said no?

22 A. I said no. Just Exelon and Willco.

1 Q. Exelon and Willco. Okay. When I say
2 your clients, I just want to make sure I'm picking up
3 any work that Manatt as a firm was doing, as opposed
4 to just you personally.

5 A. Uh-huh.

6 Q. Same answer?

7 A. Same answer.

8 Q. Did you have any concern about how
9 Mr. Evans would balance his ethical duties as a
10 council member with his law firm responsibilities
11 representing clients such as the ones on that list?

12 A. Your question is did I have any ethical
13 concern?

14 MS. BRESNAHAN: No. Did you have any
15 concerns?

16 BY MR. BUNNELL:

17 Q. Did you have any concerns or did you --
18 well, let me ask you, do you recall any discussions
19 with Mr. Evans about how he was going to balance his
20 duties as a council member, which include ethical
21 duties, and his duties as a Manatt counsel or partner
22 or whatever position you were thinking about?

1 A. I don't have any recollection that we
2 had a long discussion about this.

3 Jack and I both, you know, I served on
4 the City Council at Baker & Hostetler, and so did
5 Jack and he had been on the City Council during this
6 whole period at Patton & Boggs, so we both knew how
7 to deal with issues of that concern. I mean, it
8 wasn't something that we --

9 Q. It wasn't a mystery to you personally, I
10 guess.

11 A. Nor to him. Should not have been, at
12 least.

13 Q. I guess I may have glossed over this a
14 bit. Were you working at Baker Hostetler during the
15 period of time you were serving on the Council?

16 A. Yes.

17 Q. The entire time were you at Baker
18 Hostetler?

19 A. The entire time, yes.

20 Q. Were the ethics rules during that period
21 of time the same or different --

22 A. No.

1 Q. -- than they are today?

2 A. No. They have changed. They have
3 changed.

4 Q. They have changed?

5 A. Yes.

6 Q. Have they changed with regard to how you
7 manage outside employment?

8 A. Well, I don't know that they've changed
9 all that much in terms of how you manage outside
10 employment. I mean, I think the biggest changes have
11 been around the raising of money and defining what is
12 a conflict, those kinds of things.

13 Q. Am I correct there were other Council
14 Members during the period that you were on the
15 Council who worked at law firms or had --

16 A. Yes.

17 Q. -- outside sort of consulting
18 employment; is that right?

19 A. Yes.

20 Q. Can you think of others off the top of
21 your head?

22 A. Well, H.R. Crawford, Bill Lightfoot,

1 Wilhelmina Rolark.

2 Q. Did they work at law firms?

3 A. Wilhelmina Rolark worked at a law firm.
4 Bill Lightfoot worked at a law firm. H.R. had his
5 own real estate company.

6 Q. Any others that come to mind, maybe
7 after your time?

8 A. I don't remember any, no. There may be.
9 I just, I don't remember.

10 Q. When you were first on the Council, did
11 most Council Members have outside jobs or were most
12 of them doing the Council full-time?

13 A. My recollection is that most of them did
14 not.

15 Q. Most of them did not have --

16 A. Did not have --

17 Q. -- outside jobs?

18 A. Yes.

19 Q. Has that changed over time or --

20 A. Well, I think it's about the same. I
21 think there's three or four members on the City
22 Council now that have outside employment, and there's

1 three or four during my time, yeah.

2 MR. KOHLI: When you worked on the
3 Council and then also worked at Baker Hostetler, did
4 Baker have a D.C. lobbying practice or were they
5 mainly just a normal commercial law firm?

6 MR. RAY: I don't think they had a
7 specific D.C. lobbying practice, but if there were
8 issues that they wanted to be involved in in D.C.
9 from the standpoint of a client, they did some D.C.
10 lobbying, yes.

11 BY MR. BUNNELL:

12 Q. Who is Charity Garrett?

13 A. My secretary.

14 Q. Was she also Jack Evans' secretary when
15 he was with Manatt?

16 A. My recollection is that she was, yes,
17 uh-huh. Yes.

18 MR. BUNNELL: Do we have Tab 3 in the
19 book?

20 MR. KOHLI: No. I took that one out. I
21 think this one may have it, yes. Should we show it
22 to him?

1 MR. BUNNELL: Yes.

2 We tried to take out ones that I thought
3 I wasn't going to ask about, but now I've changed my
4 mind.

5 MS. SHOEMAKER: Do you want this copy?

6 MR. KOHLI: Yes.

7 BY MR. BUNNELL:

8 Q. I'll give you a second. I'm sorry.
9 I've got one. Just take a second to look at that.

10 A. Okay. Yes.

11 Q. This appears to be maybe an ongoing
12 conversation of some sort between Schannette Grant,
13 who is Jack Evans' chief of staff, and Charity
14 Garrett, who was your assistant at Manatt. Is she
15 still your assistant today?

16 A. Yes.

17 Q. Schannette Grant is asking Charity about
18 the possibility that conflicts may arise with Jack
19 Evans as an elected official and clients of Manatt's
20 that may have matters before the Council.

21 "We've been advised by our General
22 Counsel that Jack would need to recuse himself from

1 matters before the Council involving clients of
2 Manatt. I'm attempting to be put in contact with the
3 person who would be responsible for ensuring there
4 are no conflicts for members of the firm."

5 Do you remember -- now, this is in April
6 of, it's April 7th of 2016, so we're fast-forwarding
7 a little bit from the hiring decisions that we were
8 just talking about. So this is into the period after
9 he's come on board.

10 Do you recall a discussion about this
11 particular issue that's referenced in this email to
12 your assistant?

13 A. No.

14 Q. Do you remember talking to -- do you
15 know who the attorney at, the person at Manatt who
16 would be responsible for ensuring there would be no
17 conflicts? Who was that person? Is it Pam?

18 MS. BRESNAHAN: God, no. What a
19 terrible thought.

20 MR. RAY: Well, we approached this from
21 the standpoint of anything that, any client that Jack
22 brought to the law firm he had to discuss with me

1 beforehand.

2 BY MR. BUNNELL:

3 Q. Sure.

4 A. But this email, as I read it, is really
5 talking about a much broader issue.

6 Q. Yeah. It's pretty broad.

7 A. Which there's a very simple answer to
8 it. You know, if Jack is sitting on the City Council
9 and a client of Manatt's comes before the City
10 Council on a particular matter, it's a conflict.

11 Q. That does seem to be kind of the
12 principle that's in the email.

13 A. Yeah.

14 Q. Was that the way you approached Baker
15 Hostetler clients when you were on the Council for 18
16 years?

17 A. Well, I mean, it's not a matter of
18 approach. I mean, the rules of the City Council are
19 that if you vote on a matter which you might have a
20 financial interest in, you have to declare and recuse
21 yourself. It hasn't changed.

22 Q. Would it be more than just voting? In

1 other words, could it involve helping a client in
2 some other way?

3 A. I'm telling you what it says. It says
4 voting, you have to recuse yourself. That's what
5 recusal means, recuse yourself from voting.

6 Q. Your understanding is, is it only
7 applies to voting?

8 A. That's my understanding, yes.

9 Q. So if, using Manatt as an example here
10 because we're talking about a Manatt email, if, let's
11 say you had a Manatt client who had a problem with
12 the Mayor's office. Would it be appropriate for you
13 during the period of time that Jack Evans was working
14 at Manatt, would it be appropriate for you to ask
15 Jack Evans to pick up the phone and call the Mayor
16 and get that problem straightened out?

17 A. That's a different issue.

18 Q. That's why I'm asking it.

19 A. No. I mean, I think the law prohibits
20 that, as well.

21 Q. Not because it's a vote, but because
22 why? Just because it creates an appearance or a

1 conflict --

2 A. No, because the law makes it clear that
3 you can't go and lobby the D.C. government, an
4 elected official, not me, but an elected official.

5 Q. Would it make a difference if it were
6 DCRA or some --

7 A. No.

8 Q. -- component of the executive branch?

9 A. It wouldn't make any difference.

10 MS. BRESNAHAN: Do you want something to
11 drink?

12 MR. RAY: No, I'm fine.

13 (Discussion held off the record.)

14 BY MR. BUNNELL:

15 Q. Let's go to Tab 4. I promise I'm
16 going to move a little bit faster here. Tab 4 is an
17 email exchange from Charity Garrett and Windy Rahim
18 talking about Exelon and PEPCO. Do you see that?

19 A. Uh-huh.

20 Q. Who is Windy?

21 A. I have no idea.

22 Q. Do you know who she is?

1 A. No.

2 Q. I will represent to you she does
3 scheduling for Council Member Evans' office.

4 A. Okay.

5 Q. So if you look at the bottom email --

6 A. Yeah.

7 Q. -- or the first one in the chain,
8 Charity is asking Windy if Evans has availability to
9 meet with John later this week or next week.

10 And then if you flip behind the blue tab
11 or the blue divider, you will see a calendar entry.
12 Again, this is Mr. Evans' calendar, so this isn't a
13 Manatt calendar, as I understand it.

14 There's an entry there. This is, the
15 date on this is October 2nd, 2014, and the subject is
16 Jack meets with John Ray regarding Exelon/PEPCO.

17 If we go to the next tab, 5, we're now
18 fast forward a little bit a few months. We're into
19 January of 2015, January 27th of 2015. There's an
20 email from Tina Ang to Sherri Kimbel, who is -- do
21 you know who Sherri Kimbel is?

22 A. No.

1 Q. Sherri Kimbel is another staff person in
2 Jack Evans' office, and you're actually copied on
3 this email. Do you see that?

4 A. Uh-huh.

5 Q. And so Tina is saying, "Can I stop by
6 and talk PEPCO merger? Time sensitive. Thanks,"
7 et cetera. All right?

8 A. Uh-huh.

9 Q. Who is Tina Ang, by the way?

10 A. She works for Manatt.

11 Q. What does she do?

12 A. She works basically with the local
13 government. She does work at the City Council.
14 Also, she does land use, as well.

15 Q. Does she work in support of you,
16 typically, or does she --

17 A. Yes.

18 MS. BRESNAHAN: Don't look at documents,
19 and listen to his question, okay?

20 BY MR. BUNNELL:

21 Q. Does she work in support of your
22 practice, typically?

1 A. Yeah. She works with me, yes.

2 Q. Does she work with other people, as
3 well?

4 A. Yes. Yes. She works for others, as
5 well.

6 Q. Is there a government relations group --

7 A. Yeah.

8 Q. -- that you're part of?

9 A. Uh-huh.

10 Q. Who are the lawyers in that group? Just
11 focus on D.C. government stuff. That can't be too
12 big, is it?

13 A. No. Well, the group is made up of both
14 Federal and D.C.

15 Q. Well, if it's easier to talk about it
16 that way --

17 A. Yeah. I mean --

18 Q. -- that may be a bigger universe.

19 A. Well, I mean, the government practice
20 group is local and Federal, and there was a time when
21 I probably did more Federal work than local work.
22 But I do local work, but Tina Ang and myself, we do

1 most local work, yeah.

2 Q. So are you and Tina kind of the people
3 that would -- well, maybe you just answered
4 this -- if I'm a partner at Manatt and I do -- I
5 don't know. I'm a litigation partner in LA and I've
6 got a client who has got a D.C. government issue and
7 I want to refer that to somebody within Manatt to
8 handle it. Are you and Tina likely to be the people
9 that are going to get the call?

10 A. That's correct.

11 Q. Are there other people that would sort
12 of be on somebody's short list within Manatt or --

13 A. No.

14 Q. So you?

15 A. Yeah.

16 Q. Let's look at a couple other of these.
17 I'm trying to just refresh your recollection on this
18 PEPCO thing. Tab 6, the email from Jack Evans to you
19 regarding --

20 A. Tab 6?

21 Q. Do we have Tab 6?

22 A. Maybe I --

1 Q. Flip forward one.

2 A. I'm on 5.

3 Q. I'm jumping a little bit here.

4 This is an email from, at the top
5 is an email from Jack Evans to you. It looks like
6 he's just sending some materials FYI. What he's
7 forwarding is an email from an individual named Ian
8 Muir about the PEPCO-Exelon merger, I guess, and the
9 fact that the Maryland Attorney General objects to it
10 strongly. Do you see all that?

11 A. Yes. Yeah.

12 Q. Can you just give me a brief description
13 of what Manatt's -- well, why don't we start with a
14 brief description of the PEPCO-Exelon issue. That
15 was a merger and those are the energy companies, I
16 guess?

17 A. Yes. Both of them.

18 Q. What was Manatt's interest in that?

19 MS. BRESNAHAN: Well --

20 BY MR. BUNNELL:

21 Q. Who did you represent?

22 MS. BRESNAHAN: Wait.

1 MR. RAY: Well, we represented, Manatt
2 represented both Exelon and PEPCO.

3 BY MR. BUNNELL:

4 Q. So in terms of the issue of whether the
5 merger was a good or bad idea, you were in favor of
6 the merger; is that fair to say?

7 MS. BRESNAHAN: Well, they were
8 representing. I mean, let's get -- let's not do
9 that.

10 BY MR. BUNNELL:

11 Q. I was just trying to keep it
12 conversational, but yes, obviously, I'm not talking
13 about your personal views.

14 MS. BRESNAHAN: Right.

15 BY MR. BUNNELL:

16 Q. I'm talking about your clients.

17 A. We were supporting, we supported a
18 merger, because Exelon and PEPCO is our client.

19 Q. So this email that we're looking at
20 right now at Tab 6, you're reaching out, you're
21 communicating with Jack Evans about this?

22 MS. BRESNAHAN: No. Jack Evans sent

1 this to him.

2 MR. RAY: Yeah. I don't think I was
3 reaching out, yeah.

4 MS. BRESNAHAN: It was just forwarded
5 from Jack to John.

6 BY MR. BUNNELL:

7 Q. There's a series of emails that we just
8 looked at. The first one that we started with on Tab
9 4 says, "John would like to talk with you about
10 Exelon and PEPCO."

11 Do you see that?

12 A. Yeah.

13 Q. So you were at least at that point, back
14 in 2014, reaching out to Jack Evans; is that fair?

15 A. Well, in 2014, Jack Evans was not with
16 Manatt. So --

17 Q. I didn't say he was.

18 A. So --

19 Q. Were you reaching out to him in 2014 on
20 this issue?

21 A. Yes. I mean, I was reaching out with --

22 Q. And did the outreach by Manatt and other

1 colleagues at Manatt continue into 2015, as indicated
2 in Tab 5?

3 A. Sure.

4 Q. At Tab 6, Jack is sending you back some
5 information about the same merger, correct?

6 A. Yes.

7 Q. Tab 7, I'll give you a chance to look at
8 that. We're now up to June 3rd, 2015, correct?

9 A. Yes.

10 Q. The email. It's an email from Charity
11 Garrett to Windy Rahim. Charity is indicating that
12 you are requesting a meeting with Jack Evans to
13 discuss Council Member Cheh's proposed study language
14 in the BSA regarding PEPCO. Is that what it says?

15 A. Yes.

16 Q. So throughout this period of time, there
17 is a regular engagement between Manatt and Jack
18 Evans' office about PEPCO and the Exelon merger; is
19 that right?

20 A. Well, in the 6, 2015, which is there a
21 Tab I guess 6 or 7, this is not anything about a
22 merger. I mean --

1 Q. Okay. What is it about?

2 A. I mean, you said it was about the
3 merger.

4 Q. Okay. I may have misspoke.

5 A. I haven't seen anything about a merger
6 there.

7 Q. Do you know what the language in the BSA
8 regarding PEPCO refers to?

9 A. Well, I mean, Mrs. Cheh introduced a
10 bill which had to do with having a study conducted
11 which relates to PEPCO, not to, not --

12 Q. So --

13 A. This was a piece of legislation which
14 related to PEPCO.

15 Q. So this was a separate issue and
16 distinct from the merger, so that you had more than
17 one issue involving PEPCO?

18 A. There were many issues.

19 Q. There were many issues?

20 A. Yeah.

21 Q. So we have the merger issue and then we
22 had this additional issue which, frankly, I don't

1 know that much about.

2 A. It was a piece of legislation.

3 Q. Do you know what it would provide?

4 A. It was a study, what it says. It was a
5 study to determine whether or not the citizens of the
6 District of Columbia should be allowed to buy PEPCO.

7 Q. Should be allowed to buy PEPCO?

8 MS. BRESNAHAN: Purchase PEPCO.

9 BY MR. BUNNELL:

10 Q. So that's different from the merger
11 issue?

12 A. Yes. Whether or not it would allow the
13 citizens to buy a publicly-owned utility.

14 Q. Let's go to Tab 8. Tab 8 is a letter
15 dated October 16th, 2015, right?

16 A. Uh-huh.

17 Q. And it's directed to the Public Service
18 Commission, Commissioners, of D.C. regarding the
19 merger of PEPCO and Exelon, correct?

20 A. Yep.

21 Q. And it's signed by a number of members
22 of the City Council on the third page, right?

1 A. Yep.

2 Q. Including Jack Evans, right?

3 A. Uh-huh.

4 Q. Are you familiar with this letter?

5 A. Yes. I've seen the letter before.

6 Q. Did you play any part in drafting the
7 letter?

8 A. [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. Did you, putting aside the
12 communications you had with your client, did you
13 communicate with the signatories of this letter about
14 this letter?

15 A. I don't remember that, that I did, but I
16 talked to a lot of people about the merger.

17 Q. I hope so. That was your job, right?
18 You were supposed to be talking to them about this.
19 is that fair to say?

20 A. Yeah. As I said, I talked to a lot
21 of people about the merger. I don't remember
22 specifically talking to anyone about this particular

1 letter.

2 Q. Okay. But was it part of your work on
3 behalf of your clients to communicate with the City
4 Council about the merger?

5 A. I think that's privileged between my
6 clients, whatever I did on their behalf.

7 Q. So you think it's privileged that you
8 had communications with people who are not clients
9 about PEPCO?

10 MS. BRESNAHAN: Well, wait a minute.
11 That's a different question. Why don't you ask the
12 question again? Let's try it again.

13 BY MR. BUNNELL:

14 Q. I'm just trying to understand why you
15 would think it is privileged that you communicated
16 with members of the City Council about the PEPCO-
17 Exelon merger --

18 MS. BRESNAHAN: He answered that.

19 BY MR. BUNNELL:

20 Q. -- because that's what I hear you
21 saying. Is that your view?

22 A. I said I communicated with I'm sure with

1 probably every member of the City Council.

2 Q. And in terms of what you said to them
3 about the merger, is it your position that what you
4 said, the substance of what you said to a City
5 Council member is privileged?

6 A. Absolutely.

7 Q. Do you want to explain to me your
8 thinking on that, or should we talk as counsel about
9 it?

10 MS. BRESNAHAN: Well, part of the
11 problem is, is that most of the cases that look at
12 this say that if the person who was talked to can
13 recount a conversation is one thing, but his thought
14 process and then he talks to somebody is privileged.

15 And I think that what John is saying is
16 that he doesn't remember, he doesn't remember --
17 he remembers talking to all these people but not
18 specifically what he knows what his thought process
19 was in trying to get the merger done and that's
20 privileged. I think that's --

21 MR. BUNNELL: I don't care about his
22 thought process.

1 MR. BUNNELL: I want to know what you
2 said.

3 MS. BRESNAHAN: All right.

4 Do you have any knowledge of what you
5 said to any of these people with respect to the
6 merger?

7 MR. RAY: I can't remember that.

8 MS. BRESNAHAN: I mean, it's not going
9 to be -- it's going to be numerous conversations over
10 various, I mean, the process went on for almost 18
11 months.

12 MR. RAY: Longer than that.

13 MS. BRESNAHAN: Well, at the end.

14 MR. RAY: Two years.

15 MS. BRESNAHAN: Almost two years.

16 BY MR. BUNNELL:

17 Q. Do you remember talking about the letter
18 specifically that we're looking at right now?

19 A. I don't remember talking specifically
20 about the letter.

21 Q. At some point, and I believe
22 October 1st, 2015 is the date, Jack Evans became a

1 member of Manatt; is that right?

2 A. It's about that time, yes.

3 Q. So that's two weeks before this letter,
4 right?

5 A. Uh-huh.

6 Q. Did you do things differently about your
7 communications with Jack Evans after he became a
8 member of Manatt?

9 MS. BRESNAHAN: He was never a member --

10 BY MR. BUNNELL:

11 Q. An employee of Manatt.

12 MS. BRESNAHAN: Right.

13 THE WITNESS: I'm not sure. I don't
14 understand your question.

15 BY MR. BUNNELL:

16 Q. It wasn't a very good question. Let me
17 try it again.

18 You pointed out, actually, earlier when
19 I was asking about one of these documents that the
20 communication occurred at a time prior to when
21 Mr. Evans was with Manatt. Remember, you pointed --
22 I forget which document it was.

1 So now we're looking at a period of time
2 when he's at Manatt, and he's signing a letter about
3 an issue involving Manatt clients, right?

4 A. Yes.

5 Q. And you had explained earlier that you
6 thought that would be problematic for him to be
7 working on issues involving Manatt clients while he
8 was a Council Member. I don't want to put words in
9 your mouth, but you said --

10 A. No, I -- well, I, I don't remember
11 saying that. I mean --

12 Q. Well, let me ask you this: Do you see
13 any problem with Jack Evans as Council Member and
14 employee of Manatt in October of 2015 advocating on
15 behalf of the PEPCO merger to the Public Service
16 Commission? Does that create an issue for you at
17 all?

18 A. No. I don't see a problem with it. You
19 know, Jack Evans had announced his support of the
20 merger long before --

21 Q. Right.

22 A. -- before this. And as I know the

1 ethics laws, they do not prohibit this.

2 Q. They do not prohibit it because he had
3 announced his support earlier?

4 A. They do not prohibit it at all.

5 Q. Does it matter whether he had supported
6 it beforehand or not, as far as you're concerned?

7 A. Not as far as I'm concerned.

8 Q. I just want to make sure we're not
9 losing each other with double negatives here.

10 So you mentioned that he had been a
11 supporter of it for some time, right?

12 A. Yes.

13 Q. Does that change the ethical issue as
14 far as you're concerned because of when he writes a
15 letter in support of it later?

16 A. I'm saying it may change perception, but
17 it doesn't change the law, and I don't know anything
18 in the law that says he couldn't do this.

19 Q. Okay.

20 BY MR. KOHLI:

21 Q. Do you remember speaking with Council
22 Member Evans about this letter?

1 MR. BUNNELL: I had one quick follow-up
2 on Tab 7.

3 BY MR. KOHLI:

4 Q. If you look at Tab 7 again, which was
5 the proposed study language, do you know if that
6 issue ever came before the Council, and did the
7 Council vote on it? Or whatever happened with that,
8 with that issue?

9 A. My recollection, it did come before the
10 City Council and it was voted on.

11 Q. Do you know roughly the time period that
12 it came?

13 A. I have no recollection of the time it
14 came for a vote. This was -- 6 -- sometime after
15 June.

16 Q. Do you know if it was before or after
17 Evans started at Manatt?

18 A. Do I know what?

19 Q. If the issue came before the Council
20 before or after Evans started at Manatt?

21 A. I don't remember.

22 Q. Is that a no?

1 A. I said I don't recall if it was before
2 or after.

3 BY MR. BUNNELL:

4 Q. Let's look at Tab 9. This is an
5 email -- it's actually two emails, but the bottom
6 email is from you to Schannette Grant, her Gmail
7 account, dated June 22nd, 2016 and it's regarding
8 BEGA opinion request dated May 20th, 2016.

9 And so this is you to Schannette. You
10 say, "I hope this short email finds you well. I made
11 a few changes to Jack's draft letter to BEGA. Please
12 have Jack look at this revised draft and let me know
13 if he's okay with it. If yes, I have to have one
14 other person look at it and then we'll be good to
15 go."

16 And then she forwards that on to Jack
17 Evans at the top of the chain. Do you see that?

18 A. Sure.

19 Q. And then if you flip behind the blue
20 divider, there's a draft letter made out on the date
21 of May 20th, and it would be from Jack Evans to
22 Darren Sobin, who's the Director of Government Ethics

1 at BEGA. And the letter is basically writing to
2 request a formal opinion from BEGA.

3 It says he's employed part-time at
4 Manatt. "It's come to my attention that Manatt
5 continues to represent PEPCO and Exelon. I receive a
6 flat salary from Manatt. It excludes any incentives,
7 and Manatt agrees not to lobby the Legislature and
8 the Executive Branches of the District government.
9 I ask for your opinions as to whether I may vote on
10 matters before the Council affecting PEPCO and
11 Exelon."

12 Was this something that you drafted for
13 him, for Jack to send?

14 A. I don't remember whether I did the
15 initial draft or whether I did some edits to it. I
16 assume from reading this that it's probably something
17 he drafted, I took a look at it and made some changes
18 to it. That would be my -- but I don't remember.

19 Q. So in your email to Schannette, you say
20 you have another person who needs to look at it and
21 then we'll be good to go. Do you see that?

22 A. Yeah.

1 Q. Do you recall who that other person was
2 that you were referring to?

3 A. I don't. I don't recall who that other
4 person was at this time, but, you know, probably
5 someone in the law firm.

6 Q. Does the firm have a General Counsel --

7 A. Yeah.

8 Q. -- who polices things like conflicts?

9 A. Yeah.

10 Q. Most law firms do that?

11 A. Yep. Yep. We have someone. But I
12 don't know that that was the person I was referring
13 to.

14 Q. I'm sorry? What?

15 A. I do not know if that's the person that
16 I was referring to, yeah.

17 Q. Are there other likely possibilities?

18 A. Yeah. I mean, it could have been
19 someone else, yes.

20 Q. Where do you go within Manatt for advice
21 about D.C. government ethics?

22 A. Most of them come to me.

1 Q. I was going to say, right?

2 Is Tina Ang somebody who is familiar
3 with Council ethics rules?

4 A. I think so, yes.

5 Q. Do you believe it's likely you would
6 have asked her to look at this letter?

7 A. Maybe. I just don't remember.

8 Q. That's fair.

9 BY MR. KOHLI:

10 Q. Was there a particular issue that was
11 going to come before the Council that had to do with
12 PEPCO and Exelon that this letter refers to, or was
13 it just sort of generally referring to any possible
14 issue?

15 A. Well, it was a sort of general thing.
16 We --

17 MS. BRESNAHAN: You have to take your
18 hands away from your mouth. You're going to drive
19 Lu Anne crazy. See, she's nodding.

20 MR. RAY: It was just a general letter
21 to get an answer to a question we had.

22 BY MR. BUNNELL:

1 Q. Did you talk directly to Mr. Sobin or
2 other people at BEGA about this issue?

3 A. No.

4 Q. Did you ever communicate with BEGA or
5 the General Counsel of the Council about Jack Evans'
6 ethical issues or questions?

7 A. No.

8 Q. Do you know Mr. Sobin?

9 A. I do not. I'm sure I've met him, but I
10 don't know him, wouldn't know him if he walked in
11 this room.

12 MR. BUNNELL: By the way, we've been
13 going an hour and 20 minutes or so. Are you good?
14 Do you want a break?

15 MS. BRESNAHAN: I do.

16 MR. BUNNELL: Why don't we take five.

17 (Recess at 2:20 p.m., resuming at
18 2:25 p.m.)

19 MR. BUNNELL: Let's go back on the
20 record.

21 BY MR. BUNNELL:

22 Q. Let me just shift gears on you for just

1 a second, Mr. Ray.

2 Just as a general matter, within
3 Manatt, was there a process for sort of managing the
4 ethics issues that might arise in connection with
5 Mr. Evans' employment by Manatt, or was that
6 something that just each attorney is kind of
7 responsible for figuring out on their own?

8 A. No. In terms of Jack, the protocol
9 was that in terms of the clients that Jack brought to
10 the law firm or in terms of an issue that we had
11 before the D.C. government, that Jack would talk to
12 me about it.

13 And, you know, we met every so often to
14 sit down and talk about things and let him know where
15 we were, what we were working on so he was aware of
16 it so he wouldn't get blind-sided by something before
17 the City Council.

18 Q. So you were making him aware of Manatt
19 work that you might be bringing in front of the
20 Council so he could make a decision on whether he
21 needed to recuse or not?

22 A. Yeah. I mean, I'm not sure that Jack

1 was aware of every issue that we were working on.

2 Q. Sure.

3 A. And so this was to try to keep him aware
4 of what we were working on so something didn't come
5 before the City Council and he didn't know whether if
6 Manatt was involved in one way or another.

7 Q. Was that something that was kind of a
8 regularly scheduled thing or it's just you sort of
9 talked when you had something new come up?

10 A. No. I mean, we got together and chatted
11 probably once or twice a month, yeah.

12 Q. Did he have a schedule where he came by
13 the office on certain days or certain times when he
14 was working at Manatt?

15 A. I don't think he had a regular schedule,
16 no.

17 Q. How about you? Are you --

18 A. Charity would know that.

19 Q. Charity would know. I guess that's
20 true.

21 Are you in on a full-time basis these
22 days?

1 A. Uh-huh.

2 Q. Did you ever provide him a list of
3 Manatt clients so he could share it with, say, his
4 staff so they could know if these folks come up, you
5 need to recuse yourself from this or at least make a
6 judgment on it?

7 A. No.

8 Q. Do you recall any instances where he did
9 recuse himself from a Manatt matter? When I say he,
10 I mean Mr. Evans.

11 A. I can't remember where he actually
12 recused himself, and I think that, you know,
13 listening to you talk, you may be using the word
14 recuse different than I use the lingo. You know, we
15 start with a conflict, you know, if you have a
16 conflict.

17 Q. Sure.

18 A. Recuse means to me that there's
19 something that comes before the City Council and you
20 actually recuse yourself from voting on the matter.

21 Q. That's a fair point. There's a formal
22 process --

1 A. Yes.

2 Q. -- called recusal.

3 A. Yeah.

4 Q. There's also just --

5 A. A conflict.

6 Q. I want to stay away from that.

7 A. Yeah. Conflict.

8 Q. Okay. I mean, you could have a conflict
9 and not do anything about it or you could have a
10 conflict and do something about it.

11 A. Well, you might have a conflict and
12 never recuse yourself, yeah, is what I'm saying,
13 because it never comes before the City Council.

14 Q. I see. I see. Well, then maybe we
15 should break my question into two parts.

16 A. Okay.

17 Q. In terms of the formal recusal from a
18 vote that you've been referring to, can you think of
19 any time during the two years or so that Mr. Evans
20 was at Manatt where he recused himself from a vote
21 because of a Manatt client matter?

22 A. I do not remember.

1 Q. How about situations where he may have
2 had a conflict or a potential conflict that you
3 flagged for him so he could avoid getting himself
4 into a potential conflict?

5 A. Yeah.

6 Q. You do?

7 A. Yes.

8 Q. You remember it? I know it's been a few
9 years, but can you recall specifics as you sit here
10 today, specific matters or --

11 A. Yeah. I mean, the Supreme Council at
12 1633 16th Street would be an example. I'm sorry.
13 1733 16th.

14 Q. I'm familiar. That's that big building
15 there, right?

16 A. Uh-huh.

17 Q. Okay. Any others that come to mind?

18 A. No. I can't think of any.

19 Q. Let's go up to Tab 10.

20 Before getting into this document, let
21 me just ask you about the Forge Company and Colonial
22 Parking. Are you familiar with that entity or those

1 entities?

2 A. I'm very familiar with Colonial Parking
3 and fairly familiar with Forge Company.

4 Q. Presumably, you're familiar with Rusty
5 Lindner?

6 A. Absolutely.

7 Q. How do you know Rusty Lindner?

8 A. His father and I were very good friends.
9 We both went to GW. He went there before I did, and
10 I met Rusty through him.

11 Q. How would you describe your relationship
12 with Rusty other than being alums of GW?

13 A. Well, I don't think Rusty is an alum of
14 GW. His father is an alum of GW.

15 Q. Oh. So his father is the -- okay.
16 Who do you have the relationship
17 with?

18 A. I have a relationship with both of them.
19 I'm saying that his father was a good friend of mine.

20 Q. I got it.

21 A. His father went to George Washington
22 University before I did. Colonial is called Colonial

1 because he started his first parking lot at GW, which
2 is the Colonials. That's why it's called --

3 MS. BRESNAHAN: That was the name of the
4 sports team.

5 BY MR. BUNNELL:

6 Q. I didn't know. Oh. That's interesting.

7 A. That's why it's called Colonial Parking.

8 Q. You know, good. I've learned my one
9 thing today.

10 A. And his father introduced me to Rusty,
11 the son.

12 Q. I see. All right. Is Rusty, the son,
13 somebody that you would consider a social friend, as
14 well as --

15 A. Not a social friend.

16 Q. Acquaintance of some sort?

17 A. Just acquaintance, yes.

18 Q. It appears from Tab 10 that he was a
19 client at some point; is that correct?

20 A. Yes.

21 Q. I know this makes Pam uncomfortable, but
22 we've got a couple of engagement letters here that

1 were produced by somebody else.

2 MS. BRESNAHAN: Produced by the client.

3 MR. BUNNELL: Yeah. Well, the client --

4 MS. BRESNAHAN: Or whoever.

5 MR. BUNNELL: The client I guess has the
6 right to waive the privilege.

7 MS. BRESNAHAN: Apparently.

8 BY MR. BUNNELL:

9 Q. So if you look at Tab 10 and then you
10 go to Tab 11 and Tab 12, there's a series of letters
11 here relating to an engagement for legal services
12 between Manatt and Forge. And Rusty Lindner is the
13 sort of signatory on behalf of Forge. He's the
14 chairman and CEO, right?

15 A. Yes. Uh-huh.

16 Q. Did Lindner come to Manatt as a client
17 through Jack Evans?

18 A. Yes.

19 Q. What do you recall about that?

20 A. I'm not sure, I'm not sure, you know,
21 I'm not sure what you mean. What do I recall about
22 him as a client or what I recall about him becoming a

1 client? What --

2 Q. Well, I was trying to see if you could
3 just give a description of how he came to be a client
4 of Manatt's and how Jack Evans was involved in that.

5 A. Well, he came to become a client through
6 Jack. I can't remember the exact occasion, but at
7 some point Jack told me that Rusty is going to be a
8 client of the law firm, and Rusty and I met and we
9 chatted. As a result of that, are these two
10 engagement letters.

11 Q. Did the engagement end at some point?

12 A. Yes. I think, I think -- I don't think
13 we have any engagement with Forge or Colonial now.
14 I'm not 100 percent sure of that, but I think that's
15 correct.

16 Q. The engagement was a retainer, a monthly
17 retainer, and it looked like you were going to
18 provide a monthly update on political matters and
19 issues of that nature, right?

20 A. Well, I would call it like a monthly
21 newsletter or something like that. There was a
22 monthly newsletter that Tina put together, and

1 basically it was a letter that says, you know, this
2 bill has passed. She tried to do things that would
3 be of interest to the client.

4 A. Right. I assume that's a fairly typical
5 type of engagement that you would have in the
6 government relations practice.

7 A. Well, I mean, yeah.

8 Q. Keeping people informed on government
9 activities that are relevant to their interests.

10 A. It's not unusual. I wouldn't say we
11 were doing 500 newsletters.

12 MS. BRESNAHAN: One would hope not.

13 BY MR. BUNNELL:

14 Q. If you find a way to sell that, let me
15 know.

16 MS. BRESNAHAN: Yeah, really.

17 BY MR. BUNNELL:

18 Q. There came a time when Jack Evans had
19 his own consulting firm in addition to being at
20 Manatt, right?

21 A. Yes.

22 Q. And Rusty Lindner and Forge/Colonial

1 hired Jack Evans' consulting firm to provide
2 services. Are you familiar with that?

3 A. I am now, yes.

4 Q. You're just learning about it from me,
5 or --

6 A. No. I mean, I said I am now, but I
7 didn't mean today. I meant --

8 MS. BRESNAHAN: Recently.

9 MR. RAY: Recently, yeah.

10 BY MR. BUNNELL:

11 Q. Did you have a division of
12 responsibility between what you and Tina were doing
13 as part of this engagement and what Jack Evans was
14 doing in whatever he was doing?

15 Were there different types of services
16 here or is it you guys are all doing kind of the same
17 thing? I'm just trying to understand what was sort
18 of being offered here.

19 A. Well, I'm not sure of your question, but
20 maybe you can ask it again.

21 Q. I'm just trying to get you to hum a few
22 bars, but you're being very lawyerly on me. I can

1 break it out if you want to fiddle a little bit
2 longer.

3 A. Yeah. I mean, tell me exactly what you
4 want to know. I mean, I'll try to answer, if I can.

5 Q. I'll put it this way: It seems to me
6 that you and Tina have quite a bit of expertise on
7 what's going on on the City Council. I assume you
8 would agree with that.

9 A. Yes.

10 Q. So why would Rusty Lindner also need to
11 hire somebody else on the City Council to give him
12 advice about what's going on in the form of Jack
13 Evans? That's what I'm trying to understand. Do you
14 have any insight that you could share?

15 A. I don't know why. I don't know why, if
16 he thought that. I don't know why he made a
17 decision, or Jack. I don't know why. No one talked
18 to me about it.

19 Q. The letters that we've been looking at,
20 the engagement letters, are these basically form
21 engagement letters that Manatt typically uses?

22 A. Well --

1 Q. With the caveat they've been customized
2 for this particular matter?

3 A. Yeah. These letters are, in a sense,
4 form in some paragraphs. In others, they're
5 customized to fit the situation, yes.

6 Q. The language about --

7 MS. BRESNAHAN: Are we talking -- just a
8 minute.

9 MR. BUNNELL: Yeah, yeah.

10 MS. BRESNAHAN: Because the first one --

11 MR. BUNNELL: I got you --

12 MS. BRESNAHAN: -- is not an -- it could
13 be called an engagement letter but you're really
14 talking about the second two, right?

15 MR. BUNNELL: Correct. I'm talking
16 about Tabs 11 and 12 --

17 MS. BRESNAHAN: That's what I thought.

18 MR. BUNNELL: -- which are on Manatt
19 letterhead.

20 MS. BRESNAHAN: Because 11 is not --

21 MS. BUNNELL: 11 is from Forge.

22 MS. BRESNAHAN: Right.

1 MR. BUNNELL: Fair point.

2 BY MR. BUNNELL:

3 Q. And really I'm assuming, and you can
4 correct me, that you didn't draft most of this
5 language yourself. You were starting with a form and
6 then adapting it to the particular client and matter,
7 right?

8 A. That's correct.

9 Q. That's the way it works in my law firm.

10 A. Yeah.

11 Q. There is, however -- let's look at Tab
12 12, the engagement for legal services letter dated
13 February 18, 2016. If you flip to that, if you go to
14 the third page of that, there's a paragraph down at
15 the bottom of Page 3. I'll give you a second to find
16 it. It's down at the bottom of Page 3.

17 It says Specific Disclosure and Waiver
18 Regarding District of Columbia, and it's talking
19 about Manatt's duties and disclosure policies and
20 notifying the client that their attorneys at this
21 firm, including me, have represented and advised the
22 District of Columbia governing entities, bodies, et

1 cetera. And as I believe you are aware, Manatt
2 professional Jack Evans serves as a Council Member on
3 the Council of the District of Columbia and began his
4 service in 1991. Per ethical rules, Mr. Evans will
5 not lobby the District of Columbia government on your
6 behalf in connection with the projects.

7 Do you see that --

8 A. Yes.

9 Q. -- language?

10 A. Uh-huh.

11 Q. Is that language that you put in there
12 for this particular matter?

13 A. Well, it's language that [REDACTED], who is
14 [REDACTED] in the law firm, and the intake
15 committee over the years -- I mean, we've probably
16 changed it a little bit -- but it would be a
17 standard procedure in there for someone like Jack,
18 who is with the law firm.

19 Q. But [REDACTED] last name is, do you
20 remember?

21 A. [REDACTED].

22 Q. [REDACTED]?

1 A. [REDACTED].

2 Q. [REDACTED]?

3 MS. BRESNAHAN: [REDACTED].

4 MR. RAY: [REDACTED].

5 MR. BUNNELL: [REDACTED].

6 MS. BRESNAHAN: Pronounced like the
7 [REDACTED].

8 MR. BUNNELL: I've spoken with him
9 before I spoke to you.

10 BY MR. BUNNELL:

11 Q. I guess my question is whether there was
12 anything unusual about Mr. Evans' situation with
13 respect to Colonial or whether this is just sort of a
14 general provision?

15 A. No. This language would go into any
16 client who is in a similar position that Mr. Lindner
17 was in. Standard.

18 Q. Let's look at Tab 13. This is an email
19 chain. It starts with something from Tina Ang to you
20 and Jack Evans. And then it looks like Jack Evans
21 forwarded it from his AOL and Manatt account to his
22 D.C. Council email. This is dated November 14, 2017,

1 right?

2 MS. BRESNAHAN: Well --

3 MR. KOHLI: The first email is not --
4 it's January 15th, 2016, but Evans forwarded it to
5 his account a year later, in 2017.

6 MR. BUNNELL: I see. Correct. I'm
7 sorry.

8 BY MR. BUNNELL:

9 Q. That's after he left Manatt, isn't it?

10 A. He left at the end of -- I think like
11 October, thereabout. But I can't remember the exact
12 date.

13 Q. And then we have got a couple of other
14 emails about the EZ Zone re-creation issue, which was
15 something that Rusty Lindner seemed to be interested
16 in. Do you remember that?

17 A. Yes.

18 Q. Just so we have it on the record, what,
19 in a nutshell, was the EZ zone issue about?

20 A. Empowerment zone. There are economic
21 incentive zones. I mean it's, there are zones
22 that are created by the United States Congress and

1 if you are an employer within that zone, you get
2 certain incentives.

3 Q. I see. So if you hire people who -- at
4 a certain wage level, you could get some sort of tax
5 benefit or something?

6 A. Yeah. Well, wage level, just being in
7 their --

8 Q. Residents?

9 A. -- building. It's designed to give
10 incentives to entrepreneurs to develop and --

11 Q. And D.C. for some reason wasn't eligible
12 for this?

13 A. No, it was. I mean, it was -- D.C. had
14 empowerment zone city-wide at one time, but Congress
15 creates these and so I don't know. For whatever
16 reason they decided not to continue.

17 Q. It sounds like the issue at this point
18 was whether to recreate them in D.C.?

19 A. Yeah. The issue was to try to get
20 Congress to include the District again.

21 Q. So was that an issue before the Council
22 or is that really more of a Congressional --

1 A. It's total Federal.

2 Q. Total Federal?

3 A. City Council has nothing to do
4 with it. It's a Federal law.

5 Q. Just so I'm understanding the issue, it
6 sounds like it's an issue that would apply generally
7 to businesses in the city as opposed to a sort of
8 particular person or a particular sort of category of
9 people.

10 A. Yeah. No. That's, it doesn't, it
11 doesn't apply to a particular person. I mean, if
12 you, if you create an empowerment zone, if you're
13 in the zone, whoever you are, and you're running a
14 business and you're in the zone, you can benefit
15 from it.

16 Q. No. The reason I'm asking that
17 question is because the conflicts rules only apply
18 to particular matters, not to matters that apply
19 generally.

20 A. Yeah. I mean, this, this law applies to
21 anyone who, if you have a business and you're in the
22 empowerment zone, you qualify for all of the various

1 incentives that come with the law.

2 Q. So if we go to Tab 15, this is a daily
3 calendar from Council Member Evans' office.

4 A. Uh-huh.

5 Q. And if you look at 4:00 p.m. on there,
6 CE, is Council Member Evans, meets with Eleanor
7 Holmes Norton and John Ray at the Manatt office.

8 A. Uh-huh.

9 Q. And this is April 6th, 2016. Do you
10 recall meeting with Eleanor Holmes Norton and Jack
11 Evans about EZ zone issues?

12 A. Notwithstanding this wonderful schedule
13 here, it never happened.

14 Q. Oh. It never happened? So you recall
15 that it did not happen?

16 A. That's right.

17 Q. Do you recall why it did not happen?

18 A. I don't even ever recall the meeting
19 being scheduled or otherwise.

20 Q. Did you ever talk to Eleanor Holmes
21 Norton about this issue?

22 A. Oh, yeah. We had one meeting with her.

1 Myself, Tina asked her about introducing the measure.
2 Tina had some follow-up discussion with her, and she
3 introduced it.

4 But I never discussed it with her
5 otherwise, never met with her otherwise and this is
6 news to me. I don't think Eleanor has ever been to
7 Manatt.

8 Q. You would remember that.

9 A. I think so.

10 Q. Do you remember if Jack Evans did
11 anything on this issue?

12 A. I don't know. Maybe he had a meeting at
13 Manatt without me.

14 Q. Without you?

15 A. I don't know. Without me.

16 Q. Did you ask him to do anything --

17 A. No.

18 Q. -- to help with the Federal, on the
19 Federal side, not the Council, but did you ask him to
20 talk with anybody on the Hill?

21 A. No. Never did. And never did.

22 Q. Do you know who [REDACTED] is?

1 A. Yep.

2 Q. Who is [REDACTED]?

3 A. [REDACTED] is a developer in the
4 city. His company is.

5 Q. We can go to Tab 18, if you want, see
6 another one of these nice schedules.

7 A. Uh-huh. Yes.

8 Q. So this is a schedule from June 15,
9 2015.

10 A. Uh-huh.

11 Q. Again, this is a copy of Jack Evans'
12 daily schedule. It indicates on the schedule that at
13 noon that day he was going to meet with you and
14 [REDACTED], and you've got Charity Garrett as
15 the contact. Does that suggest to you that the
16 meeting would have been at Manatt as opposed to in
17 his Council office, or is that not -- that's
18 speculative?

19 A. Well, I don't remember this particular
20 specific meeting or where it was at or where it was
21 not at, but I would say the meeting probably took
22 place.

1 Q. If you flip, and I'm not trying to play
2 memory games here with you, if you would flip -- I'm
3 just trying to reconstruct for your benefit and ours.

4 If you go behind the next page, the blue
5 divider page, you'll see there's a Manatt, looks like
6 a Manatt calendar printout, right?

7 A. Uh-huh.

8 Q. From Christie Garrett's Manatt email?

9 MS. BRESNAHAN: Charity.

10 MR. BUNNELL: I'm sorry. Charity.

11 Thank you.

12 BY MR. BUNNELL:

13 Q. And the location here is specified
14 Manatt, D.C. It's a meeting with [REDACTED]
15 and [REDACTED]. Who is [REDACTED]?

16 A. She's [REDACTED].

17 Q. [REDACTED]?

18 A. Uh-huh, yes.

19 Q. [REDACTED] is -- maybe I missed
20 what you were just saying. What are they? What do
21 they do?

22 A. It's development.

1 Q. Particular types of development?

2 A. [REDACTED]

3 [REDACTED]

4 Q. Are they D.C. based or --

5 A. No. Well, I think they're sort of a
6 regional company. They do work in D.C., Virginia and
7 Maryland, but they probably do some work as far away
8 as Connecticut, but by and large they're a regional
9 company. Their office is in Virginia.

10 Q. It looks like there were a bunch of
11 people that were included as attendees, including
12 Jack Evans and some other folks, or maybe they're
13 just on there for calendaring. I don't know. Do you
14 recall whether this meeting happened? This is
15 October 29, 2015.

16 A. I don't specifically remember the
17 meeting, but I would be willing to say it probably
18 took place, this meeting.

19 Q. [REDACTED] have issues that you
20 were talking to the Council about?

21 A. [REDACTED] has been a client
22 of the law firm. They're not right now, I don't

1 think. 2015, I'm not sure that they were an
2 active client at that time. It may have been they
3 wanted to meet about a project they were considering
4 or something of that nature, but I can't remember
5 what the topic may have been about it.

6 Q. Just go to Tab 19. It should be the
7 next one going the other way.

8 A. Yeah.

9 MR. KOHLI: It starts on the back.

10 BY MR. BUNNELL:

11 Q. Yeah. So if you go, if you flip to the
12 back side of that page, you'll see the bottom of the
13 email chain.

14 A. The back side of this page here?

15 Q. Yes. Flip that over. You'll see the
16 back. There (indicating). It starts with an email
17 chain from an individual named [REDACTED]. It
18 looks like he's emailing somebody named [REDACTED]
19 at [REDACTED]. He's talking about how
20 he spoke with [REDACTED] today, would like to
21 schedule meeting with you the week of March 28th.
22 For that meeting, he'd like to bring up the Mayor of

1 D.C., my longtime friend, Chair of Finance and
2 Revenue Committee Jack Evans and his partner [REDACTED]
3 [REDACTED]. The site is of interest for
4 [REDACTED] -- the site that is of interest to
5 [REDACTED] is the [REDACTED],
6 which is [REDACTED] and is next to the [REDACTED]
7 [REDACTED]

8 Is that an issue that you recall having
9 involvement in?

10 A. Yeah. Absolutely.

11 Q. What was the interest here for [REDACTED]
12 [REDACTED] and [REDACTED]? They wanted to build
13 something [REDACTED]?

14 A. Well, I don't think that [REDACTED]
15 wanted to do anything there. If you've ever been to
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Q. Yeah. I've seen that thing. It's on
20 the [REDACTED].

21 A. [REDACTED], yeah. They have marriages
22 and everything.

1 Q. Yeah.

2 A. And [REDACTED] had some interest in
3 trying to build one, and he may still have some
4 interest in it, [REDACTED]

5 [REDACTED]. Because it needs [REDACTED]
6 [REDACTED], they just --

7 MS. BRESNAHAN: They go [REDACTED]

8 MR. RAY: Yeah. They go [REDACTED].

9 MS. BRESNAHAN: Like mine do.

10 BY MR. BUNNELL:

11 Q. I was going to say, all mine [REDACTED]
12 [REDACTED]. I thought that's what you're supposed [REDACTED]
13 [REDACTED].

14 A. So [REDACTED], he sort of put the
15 meeting together or was trying to put the meeting
16 together, and him and [REDACTED] have done some work
17 together, and I think he was just trying to let
18 [REDACTED] know who some of the people he knew
19 and some of the projects they were doing. He
20 [REDACTED] in here.

21 Q. Yeah, he does.

22 A. And [REDACTED], they

1 were doing one of the largest projects in the city
2 near where [REDACTED].

3 Q. The one off North Capitol Street?

4 MS. BRESNAHAN: No. 16th.

5 MR. RAY: It's between 16th and
6 Georgia Avenue.

7 BY MR. BUNNELL:

8 Q. Yeah. Yeah. So the stuff up North
9 Capitol, that's the [REDACTED]

10 A. [REDACTED], yeah.

11 Q. I always get those confused.

12 If you go and flip back to the front of
13 the page there at the bottom of the page, there is an
14 email from a woman named [REDACTED] to Charity
15 Garrett and it says, "[REDACTED] changed his mind. He
16 would like Jack to come as counsel [REDACTED], not
17 representing D.C."

18 Do you recall any discussion about sort
19 of which hat Jack should be wearing on this project?

20 A. No, I don't. Charity, Charity didn't
21 mention this to me, so --

22 Q. She did not mention it?

1 A. She did not mention this to me, yeah,
2 so, I mean, it says what it says.

3 Q. It does, indeed. I can't disagree with
4 that one.

5 How as a general matter did you kind of
6 keep straight which hat Jack Evans was wearing in
7 particular roles and meetings and things that he's
8 doing?

9 Because if he is both a Council member
10 and he's a lawyer for a Manatt client and he's going
11 to a meeting like this or some other meeting, similar
12 meeting, there might be confusion about who he's
13 representing, right?

14 A. Well, I didn't think there would be any
15 confusion here. I mean, what [REDACTED] is saying, that
16 he would like Jack to come as counsel [REDACTED], not
17 representing D.C. So I mean, he's trying to make it
18 clear, it seems to me, you know.

19 Q. He's trying to clarify the, avoid the
20 confusion?

21 A. Yeah.

22 Q. But how is that supposed to work? He is

1 not supposed to use anything he learns in the meeting
2 in his D.C. capacity? Or I don't quite understand
3 what this means in practice.

4 He's going to the meeting. He works at
5 Manatt and he works at the Council. How can he turn
6 off one part of that?

7 A. I don't think it's a matter of turning
8 it off. I mean, he, the way he's got to do it, he's
9 got to do it by law. The D.C. law allows members of
10 the City Council to have part-time jobs. They allow
11 them to work as lawyers or architects, nurses or, you
12 know, law professors or whatever.

13 So, you know, he's just got to make sure
14 that this meeting -- I don't even remember where the
15 meeting was at. I assume it was a meeting either at
16 Manatt or at [REDACTED] office or vice versa.
17 So if he did that, you know, it's fine.

18 Q. What difference does it make? He's
19 there either way.

20 A. I'm sorry?

21 Q. He's there either way, right? What
22 difference does it make?

1 A. Well, he says here █████ changed his
2 mind. He would like Jack to come as counsel for
3 █████, not representing D.C.

4 Q. Let me ask --

5 A. So --

6 Q. Yeah.

7 A. You know, I read that, it's pretty clear
8 what he wants. He's saying, Jack, I want you to come
9 as counsel █████.

10 Q. Does that mean that █████ wants to pay
11 him his billable rate for the meeting as opposed to
12 not?

13 A. Well, I don't know what █████ had in
14 mind. I can only say to you I can assure you he
15 didn't pay Jack anything.

16 MS. BRESNAHAN: I can assure you of
17 that, also.

18 BY MR. BUNNELL:

19 Q. Did Jack bill his time for the work he
20 did, or was it just a flat retainer deal?

21 A. Well, I mean, you know, he billed his
22 time. I mean, Jack did not spend a long time in the

1 office.

2 Q. Do you recall ever seeing a time entry
3 by Jack Evans?

4 A. Sure.

5 Q. You do?

6 A. Yeah. Because I review all the bills.

7 Q. I'm sure you do.

8 You said that he didn't work a lot of
9 hours on Manatt matters?

10 A. That's correct.

11 Q. Was his primary value as kind of
12 somebody who could get introductions to clients as
13 opposed to -- so is his primary value as a business
14 development person versus somebody who's going to
15 crank out billable hours?

16 A. Well --

17 Q. There may be some other options in
18 there, too. I don't want to suggest those are the
19 only two possibilities.

20 A. Well, my own view is how we used Jack is
21 privileged, from my standpoint. If there's something
22 specific you want to discuss about Jack today, I'm

1 willing to do that, but how we use Jack or where we
2 use him, to me, that's privileged.

3 Q. Did Manatt publicize the fact that Jack
4 Evans was affiliated with them?

5 A. I don't think so.

6 Q. It wasn't on the website?

7 A. Well, I don't have any recollection of
8 whether it was or not, but I mean, we didn't, we
9 didn't hire any PR company to come in and announce
10 that Jack Evans had joined Manatt.

11 Q. So when you're pitching for business,
12 you didn't mention that you had the benefit of Jack
13 Evans' counsel and skill?

14 A. Well, as I said, I'll say it, we really
15 didn't hire Jack because he was a Council member. ■

16

17

18 Q. Okay.

19 A. It's as simple as that.

20 Q. I got it. Okay. I don't know if you
21 know, but if we go back to the back side of that
22 document that you've got in front of you --

1 A. Right here?

2 Q. Yes.

3 A. Okay.

4 Q. Go to the back of that to that first
5 full paragraph about, "I spoke with [REDACTED]."

6 A. Yeah.

7 Q. And then it makes reference to [REDACTED]

8 [REDACTED] Do you see that? It's
9 at the end of the first line.

10 A. Yes. Uh-huh.

11 Q. How do you interpret that? Do you
12 interpret that as referring to you?

13 MS. BRESNAHAN: His partner [REDACTED]
14 [REDACTED]

15 MR. BUNNELL: I see.

16 BY MR. BUNNELL:

17 Q. [REDACTED]? [REDACTED] a person
18 or --

19 MS. BRESNAHAN: It's a developer.

20 MR. RAY: It's a, [REDACTED] is a company
21 out [REDACTED], as I remember.

22 MS. BRESNAHAN: Big developer from

1 [REDACTED].

2 MR. RAY: They developed, they are
3 famous for doing the [REDACTED]. What is
4 that place called?

5 MS. BRESNAHAN: The what?

6 MR. RAY: [REDACTED].
7 What is it called now?

8 MS. BRESNAHAN: The Mayor Walter
9 Washington Center, the convention center.

10 MR. RAY: [REDACTED]. What is it --
11 it's called something. I can't think of the name of
12 it now. It's [REDACTED].

13 MS. BRESNAHAN: [REDACTED], right

14 [REDACTED]

15 MS. GARDNER: [REDACTED].

16 MR. RAY: [REDACTED].

17 BY MR. BUNNELL:

18 Q. Where [REDACTED]

19 A. [REDACTED]

20 Q. [REDACTED]

21 [REDACTED]

22 A. Yeah. Right. Yeah.

1 Q. It used to be a parking lot.

2 A. Yeah. Yeah. [REDACTED]

3 Q. So they updated all that, so they're a
4 major operation.

5 MS. BRESNAHAN: They do a lot of retail
6 and mixed use country-wide.

7 MR. RAY: And [REDACTED] and them are doing
8 the [REDACTED].

9 MS. BRESNAHAN: They're like [REDACTED]
10 [REDACTED].

11 MR. BUNNELL: It's not my world, so I
12 appreciate the background on it.

13 BY MR. BUNNELL:

14 Q. Let me ask you to look at Tab 20. Just
15 for the record, this is a letter from the Mayor,
16 Mayor Bowser, to Phil Mendelson as Chairman of the
17 Council. It's dated November 2nd, 2015, and it's
18 enclosing, the letter is enclosing for consideration
19 by the Council a proposed bill entitled The Walter
20 Reed Development Omnibus Act of 2015, which
21 involved the approval for and acquisition and
22 disposition of some property bordered by Fern Street

1 and Alaska Avenue. This is Walter Reed, right?

2 MS. BRESNAHAN: Uh-huh.

3 MR. RAY: Uh-huh.

4 BY MR. BUNNELL:

5 Q. If I'm skimming through this correctly,
6 there was a project at that location, the Walter Reed
7 location, that was awarded to the Hines Urban
8 Atlantic Triden joint venture?

9 A. Yeah.

10 Q. That's referenced later on in the
11 letter.

12 A. Uh-huh.

13 Q. Is that something you're familiar with,
14 that project?

15 A. Well, I mean, the project that she's
16 talking about here is the Walter Reed project, yeah.
17 It is a project which Hines and Urban Atlantic has
18 developed.

19 Q. As far as you know, did Jack Evans have
20 some role in this project, either in his Manatt
21 capacity or his Council capacity?

22 A. I'm sure that he had some capacity in

1 it, because there were various issues that would
2 involve passing a bill that we authored the
3 development of a project of this size.

4 Q. So something with this dollar amount,
5 you would have to get a bill through. You would have
6 to get something through the Council to approve it,
7 right?

8 A. That's correct. Uh-huh.

9 Q. And so you're representing Urban
10 Atlantic in connection with this; is that --

11 A. No.

12 Q. No?

13 A. Unh-unh.

14 Q. Did you have a client in this matter?

15 A. No.

16 Q. Again, when I say "you", I'm referring
17 to --

18 A. Manatt.

19 Q. -- Manatt, right?

20 A. Yes.

21 Q. All right.

22 Let's go, let's talk about Supreme

1 Council. There's some documents relating to that
2 that start at Tab 21. Some of these are documents
3 that you're not on, but there's an individual named
4 [REDACTED] with Perseus Realty?

5 A. Yes.

6 Q. Do you know who that person is?

7 A. Yes.

8 Q. Who is he?

9 A. I think [REDACTED] has a title of maybe a
10 [REDACTED] of the company.

11 Q. What does Perseus Realty do?

12 A. Pretty much same thing that [REDACTED]
13 [REDACTED]. They build residential buildings,
14 mixed use buildings, office buildings.

15 Q. So did Perseus Realty have something to
16 do with the Supreme Council tax abatement issue?

17 A. Yes. They're the, they're the
18 developers of a residential building owning property
19 and the tax abatement of this property.

20 Q. And your client at least at that time or
21 a client of yours at that time was the Supreme
22 Council of the Scottish Rite?

1 A. Uh-huh.

2 Q. Is that the correct name?

3 A. Yes. Uh-huh.

4 Q. If you go to Tab 22, there is an email
5 from Tina Ang to Ruth Warner. Do you know who Ruth
6 is?

7 A. Sure.

8 Q. Who is Ruth Warner?

9 A. She's committee clerk. She's the clerk
10 for, well, she was the committee clerk for the
11 Finance and Revenue Committee.

12 Q. I'm sorry. For you?

13 A. No. No. She was for Jack's committee.

14 Q. For Jack's committee.

15 A. Yeah.

16 Q. So she works for Jack Evans?

17 A. Yeah. Well --

18 Q. Or for the committee that Jack Evans
19 was the chairman --

20 A. There's no committee now, and --

21 Q. Right. At the time of this.

22 A. Yeah. At the time of this, yes. And

1 she no longer works with Jack. I think she's over in
2 the -- she moved to somewhere else.

3 Q. But back in June, on June 13, 2017,
4 which is the date of this email behind Tab 22, she
5 worked with Jack Evans in particular in connection
6 with his Finance and Revenue Committee work, I
7 believe. Does that sound right to you?

8 A. That's correct. Uh-huh.

9 Q. And Tina Ang was obviously someone who
10 worked with you at Manatt?

11 A. That's correct.

12 Q. I'm just looking at the email here. It
13 relates to the Scottish Rite or the Supreme Council
14 tax abatement issue, right?

15 A. Uh-huh.

16 MS. BRESNAHAN: You've got to say yes or
17 no.

18 MR. RAY: I said --

19 MS. BRESNAHAN: You said uh-huh.

20 MR. RAY: Yes.

21 MR. BUNNELL: I think it was a yes
22 uh-huh as opposed to a negative unh-unh. It was a

1 positive.

2 MS. BRESNAHAN: Sorry. I was distracted
3 by the uh-huh.

4 BY MR. BUNNELL:

5 Q. Did you personally talk with Jack Evans
6 about the Supreme Council of the Scottish Rite tax
7 abatement issue?

8 A. I'm sure that I talked to him two or
9 three times or maybe four times about it, yes.

10 Q. And this was during a period of time
11 when Jack is at Manatt and you're at Manatt?

12 A. Uh-huh.

13 Q. He's also on the Council and the Council
14 is going to have to vote on this tax abatement thing,
15 right?

16 A. Uh-huh.

17 Q. So when you were talking to him, were
18 you talking to him as a colleague at Manatt or were
19 you talking to him as the guy on the Council who is
20 going to have to vote on this, or was it not clear?

21 A. No. It was very clear. Jack had a
22 conflict, a clear conflict of interest in this

1 matter.

2 Q. Explain that one to me. Why did he have
3 a conflict on this one and not some of the other
4 things we've been talking about?

5 A. Well, because the Supreme Council was a
6 client of Manatt, and so from the very beginning, you
7 know, I informed Jack that he had a conflict of
8 interest. And while the project itself is in Jack's
9 Ward and Jack would have been the logical person to
10 introduce the tax abatement, the tax abatement was
11 introduced by Council Member McDuffy from Ward 5. It
12 was done that way because Jack had a clear conflict
13 of interest.

14 Q. All right.

15 A. Now, these discussions here, many of
16 them, were discussions about, okay, we need to
17 schedule a hearing on this.

18 It had nothing to do with vote or
19 anything like that, you know. Jack could not hold
20 the hearing.

21 Q. I see.

22 A. So either someone on the committee or

1 the chairman had to do it.

2 Q. I see.

3 A. We're not able to get Jack to do it, not
4 because of any other reason but because of political
5 reasons, political reasons being he was in a hell of
6 a lot of trouble in his Ward.

7 Q. That does sound like a political
8 problem.

9 A. A big political problem for him.

10 Q. When you say he was in trouble, meaning
11 that people in his Ward didn't like the idea of this
12 project?

13 A. Well, I don't think it was that. I
14 mean, it was just at this time all this stuff was
15 starting to brewing and so forth and he wanted to run
16 for re-election. So he told me point blank, you
17 know, politically, I can't do it. You know, he
18 wouldn't let anyone else hold the hearing.

19 He just said, If I let Ruth do it, they
20 are going to know I let them do it, so I'm not going
21 to do it.

22 Q. So he was in a position where his

1 political position was contrary to what the Manatt
2 client wanted to accomplish; is that correct? I just
3 want to make sure I understand this. Because you
4 were trying to get this thing approved on behalf of
5 the Supreme Council, right?

6 A. It didn't matter to me what his
7 political position was.

8 Q. Well, he was against it, though, for
9 whatever reason?

10 A. He wasn't against it. I mean, he wasn't
11 against it.

12 Q. Well, all right. Was he for it?

13 A. Well, I -- you know.

14 Q. Well, you've got to be one or the other.

15 A. You know, politics. I mean, it was a
16 political thing.

17 Q. I understand. He's a politician. He's
18 entitled to consider politics, right? I'm just
19 trying to understand. I'm not interested in all the
20 nuance or any kind of internal communications around
21 it.

22 Just at a high level, what I'm hearing

1 you say is Jack, for whatever reason, political or
2 otherwise, he couldn't do it. In other words, he
3 couldn't support this project because it was --

4 A. No. No. It's not about him not
5 supporting it.

6 Q. No? Am I misunderstanding?

7 A. It's a conflict of interest. He's out.

8 Q. Did it matter whether he was supporting
9 it or not?

10 A. It doesn't matter. He couldn't vote for
11 it. He couldn't do anything. I mean, the only issue
12 remaining was for someone --

13 Q. Just a procedural step?

14 A. Yes. It's a procedural. It's just for
15 someone who didn't have a conflict of interest to
16 hold the hearing, and normally what you do in these
17 situations, some other member of the committee holds
18 a hearing.

19 Q. Sure. Sure.

20 A. He wouldn't let that happen.

21 Q. Who wouldn't let that -- oh. Jack
22 wouldn't let that happen?

1 A. Yeah. He wouldn't let it happen.

2 Q. I see. I missed that part. So just
3 because even that would still come back on him?

4 A. Yeah. It was one of those things. He
5 wanted to run for re-election. He was having all
6 these problems, newspaper articles. So, I mean, he
7 just said, I, you know, I can't do it. Because if I,
8 if I let some other member do it, these folks are
9 going to still know it wouldn't have happened if I
10 didn't let it.

11 Q. Because he didn't stop it.

12 MS. BRESNAHAN: Right.

13 BY MR. BUNNELL:

14 Q. Would it have made any difference if he
15 was in favor of doing it and politically it was a
16 good thing for him to do? Would he still have a
17 conflict?

18 A. Well, I mean --

19 Q. Because it was a Manatt client.

20 A. Well, he had a conflict because the
21 Supreme Council was a client of Manatt, period. And
22 Jack was with Manatt. So, as I said, it was a clear

1 conflict of interest.

2 Q. All right.

3 A. If Jack had voted on it, he would have
4 been voting in his own interest, in Manatt's
5 interest. So, I mean, he couldn't vote.

6 Q. Either way, he couldn't vote?

7 A. Either way, he couldn't do nothing. And
8 that's why, you know, we got McDuffy to introduce the
9 bill. I mean --

10 Q. So what ended up happening? Did it just
11 die?

12 A. No. It's still there, and we're going
13 to get it introduced again. We, obviously, we don't
14 have a problem now.

15 Q. That's true.

16 A. In October of last year, we went to Phil
17 Mendelson and asked him that, when we'd gotten it
18 reintroduced at the time, when Mr. Evans was still
19 chairman of this committee, we asked him, because of
20 the conflict of interest, that he put it in as a
21 hold. He said he would think about it.

22 But in the meantime, now, I mean, the

1 Finance and Revenue Committee doesn't exist anymore,
2 so --

3 Q. Someone else will have to tee it up?

4 A. Well, it's in Mr. McDuffy's committee.

5 Q. I see. So then that property, that lot,
6 is still just sitting there?

7 A. No. No. No. Well, the lot is there,
8 but we're moving forward. I mean, the issue is
9 whether or not we will get the tax abatement on it.

10 Q. I see. So the development will happen
11 either way. It's just a question of whether --

12 A. Yeah. The project has been approved by
13 the ANC. It's been approved by the Historic
14 Preservation Board. I mean --

15 Q. So either way, the Supreme Council will
16 get some stream of payments off of that they can use
17 for some of the renovations?

18 A. Well, there's two issues here, the tax
19 abatement --

20 Q. Right.

21 A. And the tax abatement has to go through
22 the hearing process and the City Council has to vote

1 on it, and that has not happened.

2 Q. I see.

3 A. So we'll get the bill reintroduced and
4 hopefully hold a hearing on it and the Council will
5 vote it up or down.

6 Q. We're actually getting towards the end.
7 I know that disappoints you.

8 MS. BRESNAHAN: I need to go get water.

9 MR. BUNNELL: Do you want to take a
10 little break?

11 MS. BRESNAHAN: If you mean close to the
12 end within a half hour, no.

13 MR. BUNNELL: Yeah, we're within a half
14 hour unless you want to talk about something else.

15 BY MR. BUNNELL:

16 Q. I want to ask you a few questions about
17 Richard Cowen and Willco.

18 A. Uh-huh.

19 Q. You mentioned earlier that Willco was a
20 client of Manatt's, right?

21 A. Yes. They were a client before Evans
22 came, yeah.

1 Q. Again, I want to get a good transcript.

2 MS. BRESNAHAN: Lu Anne wants to be able
3 to hear him.

4 BY MR. BUNNELL:

5 Q. Tab 26 is a document that's titled "The
6 Understanding", and it's an understanding between
7 Manatt and Willco, specifically that John Ray and
8 Jack Evans will assist Willco in obtaining lease
9 extensions for some properties, several properties,
10 its looks like. If you go to the back page, it's
11 signed by you, appears to be signed by you.

12 A. Uh-huh. And Jason Goldblatt.

13 Q. And Jason Goldblatt, right. And it's
14 dated December 15, 2015, right?

15 A. Uh-huh.

16 Q. Who is Jason Goldblatt? I can see his
17 title there, but --

18 A. Well, at that time, exactly what he
19 says. He's president and CEO of Willco. He's no
20 longer there.

21 Q. And what is his relationship to Richard
22 Cowen? He worked for Richard Cowen in some capacity,

1 in your understanding?

2 A. Well, I mean, he, as I said, he was
3 president and CEO of Willco Construction Company.
4 Richard Cowen's title is chairman.

5 Q. That sounds like a bigger title.

6 A. Yeah. I suppose so, yeah.

7 Q. Let me start with Richard Cowen. Who is
8 Richard Cowen?

9 A. Well, Richard Cowen is the owner of
10 Willco Construction Company, and they're developers
11 just like [REDACTED] and Perseus. So they have office
12 buildings, residential buildings, probably some strip
13 malls out in Montgomery County, Prince George's
14 County.

15 Q. Had you done work for Willco prior to
16 this understanding in December of 2015?

17 A. Yes.

18 Q. Over what period of time?

19 A. Oh. Ten years or so.

20 Q. Similar types of work [REDACTED]

21 or --

22 A. No. No. This was the first time that

1 we did this kind of [REDACTED] with buildings,
2 smaller stuff. This is, these buildings, I mean,
3 you can glean from The Understanding are large
4 buildings where, [REDACTED] [REDACTED]
5 [REDACTED], you know?

6 Q. What was Jack Evans' role in this
7 project? What was he supposed to do specifically?

8 A. Well, as The Understanding states purely
9 on its face, that Manatt was to assist in [REDACTED]

10 [REDACTED]
11 Q. Right. What does assist mean in this
12 context? What would that assistance consist of?

13 A. [REDACTED], they have a
14 pretty standard procedure for [REDACTED] and,
15 obviously, there are some variations.

16 I mean, you can do what is called an
17 [REDACTED], or you can just wait until they
18 put out what I will refer to here as RFP for -- what
19 it's basically, RF something else. They don't call
20 it an RFP. I just can't remember the proper term at
21 this time.

22 And you can throw your hat in with

1 everyone else. If you do an [REDACTED],
2 then in a sense people sort of respond somewhat to
3 what you put out on the table.

4 So in this particular case, we followed
5 the procedures.

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]. I mean --

10 Q. Right.

11 A. -- part of the [REDACTED] [REDACTED]
12 has to authorize.

13 Q. To spend the money, yeah.

14 A. To spend the money, yeah.

15 So technically, that's what we were to
16 do. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. All good for [REDACTED].

21 A. Well, [REDACTED] first, yeah.

22 Q. Yeah, all that. Was there a D.C. angle

1 on this? Was there anything the D.C. government or
2 the D.C. Council had to do?

3 A. No. I mean, D.C. is not involved in
4 this at all. [REDACTED] [REDACTED]

5 [REDACTED].

6 Q. DCRA? Any kind of permitting or
7 anything like that?

8 A. No. No, no.

9 Q. Do you recall whether Jack Evans was
10 meeting with [REDACTED] [REDACTED] [REDACTED].

11 A. No.

12 Q. Is that something you would be handling,
13 those kinds of meetings?

14 A. Jack had no meetings with no one.

15 Q. You say that with some confidence.

16 A. 100 percent confidence. The only
17 meeting that took place was with me.

18 Q. All right. So the understanding that
19 [REDACTED] had with Manatt and you and Jack that you all
20 were going to assist really ended up being you
21 assisting and not Jack assisting; is that correct?

22 A. That's correct. That's correct.

1 Q. Did you end up getting the success bonus
2 on this stuff?

3 A. Well, no. [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED]. I mean, everything stopped,
6 and I don't know if, I really don't know if they ever
7 took any action on the leases. I don't know. All I
8 know is the Peace Corps is still there.

9 Q. [REDACTED] there?

10 MS. BRESNAHAN: Yes, in the [REDACTED]

11 [REDACTED].

12 BY MR. BUNNELL:

13 Q. I've got one last area.
14 Take a look at Tab 29, which is a
15 lengthy thing. You're going to be glad to know I'm
16 not going to ask you to read through that.

17 MS. BRESNAHAN: Where are we now?

18 MR. BUNNELL: Tab 29.

19 MR. RAY: Is this the Home Rule Act
20 or --

21 BY MR. BUNNELL:

22 Q. Looks like a budget of some sort. If

1 you flip to Page 10 of the document, and I'm doing
2 this really more to refresh your recollection of an
3 issue, Page 10, there is something titled Part 2 and
4 it says Gas Station Advisory Board.

5 A. Yes. Uh-huh.

6 Q. It's pretty hard to figure out from
7 this exactly what it's doing, because it is just
8 statutory amendment language, but there was an issue
9 about abolishing the Gas Station Advisory Board at
10 some point. Do you remember that issue?

11 A. Yes. Uh-huh.

12 Q. Could you describe what the issue was
13 that was sort of to be decided?

14 A. Yeah. This 314 --

15 Q. Take your time. I'm not trying to rush
16 you through it, but I also don't really need to get
17 into the nuances of it. I'm just trying to establish
18 whether you and Manatt were involved in this issue at
19 some point.

20 MR. KOHLI: Did you point him to Page 10
21 of the --

22 MR. BUNNELL: I did, yeah.

1 MR. RAY: I'm not sure if we were
2 necessarily involved at this time, but we may have
3 been. I just, my recollection as to our involvement
4 in this particular act, I don't recall.

5 But we probably were because this law
6 impacts a long-time client of the law firm of about
7 20 years, which is --

8 Q. Which client is that?

9 A. Well, [REDACTED]
10 [REDACTED], but he has five or six
11 different companies that own these.

12 Q. Is that [REDACTED]?

13 MR. KOHLI: [REDACTED].

14 MR. RAY: Well, that's the parent
15 company.

16 MS. BRESNAHAN: That's the parent
17 company.

18 MR. RAY: That's the parent company.
19 [REDACTED] is different.

20 BY MR. BUNNELL:

21 Q. A different issue.

22 So [REDACTED] has got some gas stations, a

1 company.

2 A. [REDACTED] the gas stations
3 in the District of Columbia.

4 Q. [REDACTED]?

5 A. [REDACTED], yeah.

6 MS. BRESNAHAN: Yes.

7 BY MR. BUNNELL:

8 Q. I didn't realize that. In D.C. or just
9 generally in the area?

10 A. In D.C. Well, probably pretty close to
11 same in the certain parts of Maryland and Virginia.

12 Q. I see. So different brands of gas, too?

13 A. Well, most of them are [REDACTED],
14 probably. Most of them, yeah. So there's a law
15 which has been around for about 20 years. It
16 requires gas stations to get certain permission
17 to do certain things.

18 There was a law which first passed in
19 probably 1978 which says that if you own a gas
20 station, you can't go to gas-and-go without the
21 approval of the government. And gas-and-go, when Pam
22 and I was growing up, you had to pump your own gas,

1 right?

2 Q. That's when I was growing up, too.

3 A. But now gas-and-go, you know -- no. I
4 was just kidding when I said that.

5 MS. BRESNAHAN: He was giving me a hard
6 time.

7 MR. RAY: Giving her a hard time.

8 BY MR. BUNNELL:

9 Q. You go up to New Jersey, you can't do
10 that anymore.

11 A. Well, in the old days, they came out and
12 they pumped your gas. But gas-and-go means you pump
13 your own gas.

14 So that law passed, and what you see
15 here is various amendments that's been made to what
16 was supposed to have been a moratorium for two years
17 has been turned into a permanent law based on a
18 moratorium, a so-called moratorium, and they go in
19 and they change it.

20 And the most damaging thing now is that
21 if you own a full-service station, let's say you own
22 a piece of property and you lease the property to me

1 to operate a full service station, there's a District
2 law. What you see here talking about structured,
3 altered, there's a District law which says you cannot
4 put me out. I mean, you cannot use the property for
5 anything but a full service station.

6 Q. Okay.

7 A. And this, these amendments that you see
8 here, was to try to strengthen that law.

9 Q. I see.

10 MR. KOHLI: So to be more restrictive on
11 gas station properties?

12 MR. RAY: Full-service stations.

13 MR. KOHLI: Or full-service stations.

14 MR. RAY: Uh-huh.

15 BY MR. BUNNELL:

16 Q. I'm thinking that if you're somebody
17 that owns gas stations like --

18 A. [REDACTED]

19 Q. -- [REDACTED], he's not in favor of that.

20 A. Vehemently opposed to it.

21 Q. I think I can understand that. For
22 purposes of what we're trying to do, our project, was

1 this an issue that Jack Evans was involved in at some
2 point, as far as you know?

3 A. You know, I don't know about this
4 particular language. I don't know how involved he
5 was in it.

6 Q. Did it come up for a vote before the
7 Council?

8 A. Yes.

9 Q. Do you recall when that occurred,
10 ball-park?

11 A. Well, probably --

12 MS. BRESNAHAN: This is an old bill.

13 MR. RAY: Right around this time.
14 This is the old bill, which means this is the bill
15 that actually passed the City Council, so --

16 BY MR. BUNNELL:

17 Q. This is 2014.

18 A. Yes. This, yeah, 2014.

19 Q. There's some proposals to abolish the --

20 A. Yeah. There was a lot of things in this
21 bill, and as you see here, it says to amend on an
22 emergency basis, the District of Columbia statehood

1 initiative issue.

2 So what happened in this bill -- and we
3 have been very opposed to it. We've argued it. They
4 stuck in two bills together --

5 Q. Yes?

6 A. -- which had nothing really to do with
7 service stations.

8 MS. BRESNAHAN: Right.

9 MR. RAY: And they stuck the service
10 stations in here to sort of hide them and they passed
11 this bill, and probably only two members even knew
12 that this language was in here.

13 MS. BRESNAHAN: I don't think that the
14 gas stations have much to do with the initiative.

15 (Discussion held off the record.)

16 MR. BUNNELL: Let's go back on.

17 BY MR. BUNNELL:

18 Q. Do you remember legislation related to
19 this issue being introduced by Evans in October of
20 2017 that would amend the retail station act of '76
21 to abolish the Gas Station Advisory Board? Do you
22 remember that being an element of this issue?

1 A. I don't know about this. I remember a
2 bill being introduced by Mary Cheh which Evans may
3 have been a co-sponsor of it.

4 Q. Do you remember --

5 A. But --

6 Q. Do you remember talking to Jack about
7 it, getting his views on it?

8 A. In 2017?

9 Q. Yeah.

10 A. No.

11 Q. It's been kicking around for a long time
12 in different -- that's why it's confusing. But
13 during the period of time that he was working for
14 Manatt. That's really the --

15 A. Well, in terms of Jack and this
16 particular issue, Jack was on the wrong side of our
17 client, [REDACTED]. So it was an issue that
18 I really didn't discuss with Jack because --

19 Q. Because he wasn't going to be helpful?

20 A. Well, I mean, it wasn't an issue of
21 him being helpful or not. It's just that he
22 always, always supported the idea of the law, the

1 restrictions that the law had and he had his reasons
2 for that.

3 Q. So he -- I get confused on this issue.
4 So he's supporting the idea that the law should
5 continue to make it difficult for somebody to convert
6 the gas station property into some other use?

7 A. Yeah.

8 Q. That's a yes?

9 A. Yes. Yes.

10 Q. And the Manatt position on behalf of
11 your clients that you were articulating publicly was
12 that he wanted to change that law to make it easier
13 for somebody who owns a gas station to do something
14 different with the property; is that a fair summary?
15 I'm trying to keep it high level here.

16 A. Yeah. I mean, we believe very strongly
17 that the law is unconstitutional and violated the 5th
18 Amendment.

19 Q. It's a taking?

20 A. Taking, right.

21 Q. And Jack's view historically and I guess
22 throughout this was different.

1 A. Well, he certainly voted differently.

2 Q. All right. Was that an issue that he
3 recused himself from because of the Manatt
4 relationship?

5 A. My recollection is that he did not
6 recuse himself on this issue, no. That's my
7 recollection.

8 Q. Did you ever discuss with him whether he
9 should or shouldn't recuse?

10 A. On this particular issue?

11 Q. Yes.

12 A. I can't remember that I ever did, no. I
13 have no recollection that I did.

14 Q. Can I just direct you to Tab 30?

15 MR. BUNNELL: You took that one out?
16 We'll put that one back in.

17 We took this one out because it didn't
18 have you on it, but I'm going to put it back in.

19 MS. BRESNAHAN: I'm going to just give
20 him mine.

21 MR. BUNNELL: Have you got it?

22 MS. BRESNAHAN: Here.

1 BY MR. BUNNELL:

2 Q. Just for the record, this is a
3 memorandum from Jack Evans to Ellen Efros, who at
4 the time was the General Counsel of the D.C. Council.
5 It's dated March 28, 2016, and the subject matter is
6 Opinion on Recusal.

7 And it's basically Jack Evans writing to
8 request an opinion about whether he has to recuse
9 himself because of his employment at Manatt.
10 It related to signing a letter requesting the repeal
11 of legislation. Is that something that you ever saw?

12 A. No. Never saw it.

13 Q. Let me ask you to flip -- do we have the
14 second part of 30? Yeah. You've got the second
15 part.

16 Behind the blue tab of 30, which is my
17 fault because I had it removed because I didn't want
18 to confuse with extra documents, but I do want to ask
19 you about this. There is the response back from
20 Ellen Efros to Jack Evans in a memorandum dated April
21 13, 2016.

22 A. Yep.

1 Q. Do you see that?

2 A. Uh-huh.

3 Q. And it's her memo explaining her
4 guidance on avoiding potential conflict of interest
5 due to the employment at Manatt, right?

6 A. Yep.

7 Q. Feel free to take a second to look at
8 it, if you like. I just direct your attention to the
9 second page. It's the first full paragraph there,
10 where it says, If the Council employee knows that the
11 employee's outside employer is providing services for
12 a client or otherwise representing a client in a
13 particular matter, even if the Council employee is
14 not working in a capacity relating to the client, the
15 Council employee cannot participate in the particular
16 matter.

17 So if one were to substitute in Evans
18 for employee and Manatt for employer, this is
19 basically saying Evans can't work on anything that
20 Manatt is providing services for a client or
21 otherwise representing a client. Is that how you --
22 before the Council, involving the Council.

1 MS. BRESNAHAN: Well, in a particular
2 matter.

3 MR. BUNNELL: You're right. In a
4 particular matter before the Council.

5 BY MR. BUNNELL:

6 Q. Is this advice that you were familiar
7 with? Did Jack share this with you?

8 MS. BRESNAHAN: You mean this particular
9 piece?

10 MR. BUNNELL: Yes. This particular
11 document, this particular memo.

12 MR. RAY: No. He didn't share this with
13 me.

14 BY MR. BUNNELL:

15 Q. Based on your understanding of the
16 Council's ethics rules, does this sound like an
17 appropriate advice?

18 A. You mean this memo?

19 Q. Yes.

20 A. Yes. Uh-huh.

21 BY MR. KOHLI:

22 Q. I had a quick question. It says that he

1 wants to sign a letter requesting the repeal of a
2 provision of the New Columbia Act, which we looked
3 at, which you said strengthened the restrictions on
4 gas station owners.

5 Does that mean that Evans wanted to
6 remove those restrictions, or did he actually support
7 the restrictions?

8 MR. RAY: I'm sorry. You say he
9 said what?

10 MR. BUNNELL: If you go back to the
11 first document there, the request for the opinion, go
12 ahead.

13 BY MR. KOHLI:

14 Q. So he requested an opinion as to whether
15 he could sign a letter requesting the repeal of a
16 provision of the New Columbia Statehood Initiative
17 Act, which those amendments that we talked about
18 earlier I believe increased the restrictions on gas
19 station owners.

20 MS. BRESNAHAN: I may be getting tired,
21 but I'm not sure if there was a question there.

22 MR. RAY: Well, I'm trying to find

1 out where the letter -- I don't see where a letter --
2 maybe I'm missing it.

3 BY MR. KOHLI:

4 Q. In the first paragraph.

5 A. I'm writing to request --

6 MS. BRESNAHAN: From signing the
7 attached letter, he wants to know.

8 MR. RAY: Oh. From signing the attached
9 letter.

10 MR. KOHLI: Right.

11 MR. RAY: And your question is what?

12 BY MR. KOHLI:

13 Q. Earlier I think you said that Evans
14 supported more restrictions on gas station owners and
15 their inability to convert the property, but this
16 suggests that it's kind of the opposite, if he wants
17 to sign a letter repealing those provisions.

18 A. Well, he's not, he's not requesting a
19 letter to repeal those provisions. It says to
20 report -- where do you see that he's going to repeal
21 those provisions?

22 Q. It says, From signing the attached

1 letter requesting the repeal of a provision of the
2 New Columbia Statehood Initiative and Omnibus Boards
3 Act.

4 A. Yeah. But I don't know what, you know,
5 I don't know what that is. I mean, can you tell me
6 what, what words he's appealing, the language?

7 MS. BRESNAHAN: Where is the letter?

8 MR. RAY: I don't know what --

9 MR. KOHLI: I think we'll get to the
10 letter.

11 MR. BUNNELL: Do we have the letter?

12 MS. BRESNAHAN: No. It may be something
13 different. And also, it seems like what he's asking
14 you is, is he prohibited from doing any of that? And
15 that's -- he may want to be prohibited. That's what
16 it looks like to me, because it's like a reverse.

17 MR. RAY: You know, I don't, unless I
18 could see what the heck -- I can't answer that.

19 MS. BRESNAHAN: I kind of know the
20 answer. I think I know the answer.

21 MR. BUNNELL: If you want to put the
22 answer on the record for us, we'll save some time.

1 MS. BRESNAHAN: No. I mean, I just
2 think that what he was doing was he was trying to not
3 sign the attached letter by using a conflict in order
4 to support the position he really wanted to support,
5 which was to keep the existing gas in the rules, so
6 he was trying to --

7 MR. BUNNELL: He was trying to use the
8 conflict as a reason to not put himself in a
9 politically --

10 MS. BRESNAHAN: Politically sensitive
11 position, that's correct. That's what I think. John
12 may not agree with me, but that sounds like what he
13 was doing. John doesn't know, but if I had to guess,
14 that's what I would guess.

15 MR. BUNNELL: Well, that's fair.

16 MS. BRESNAHAN: It wouldn't be the first
17 time.

18 MR. BUNNELL: I apologize. We don't
19 have the letter attached there, and I'm just not sure
20 which letter it is, since we raised it.

21 MR. KOHLI: We think so, but we don't
22 know exactly.

1 MR. BUNNELL: Why don't you go ahead and
2 ask the question, because I'm not sure I'm tracking
3 here.

4 BY MR. KOHLI:

5 Q. If you go to Tab 31, if you flip past
6 this first page, do you have this letter from you to
7 [REDACTED] dated March 18th, 2015?

8 A. Where is it? Where -- is that --

9 MR. BUNNELL: It's a memo.

10 MR. RAY: Attachment B?

11 BY MR. BUNNELL:

12 Q. Yes.

13 A. Yeah.

14 Q. That's a year earlier. Let's move on.

15 Let's just talk about 32. Tab 32 is the
16 tax withholdings letter.

17 This is from, this is a letter dated
18 January 23, 2017. It's to Carl Racine, who is the
19 Attorney General of D.C., and it's from [REDACTED]
20 at Manatt. Is [REDACTED] still --

21 A. He's no longer there. He's no longer
22 with Manatt.

1 Q. At this time, what was his position at
2 Manatt?

3 A. He was [REDACTED]

4 Q. Is he somebody that worked with you on
5 local government affairs issues?

6 A. Yes, from time to time. He was in
7 litigation, but you know, I mean --

8 Q. Do you know whether he had any
9 interactions with Jack Evans in connection with
10 this issue, [REDACTED]?

11 A. No. I would think not. But I don't
12 know for sure. Ben could have -- you know, I don't
13 know all their conversations.

14 Q. Who is [REDACTED]? You started
15 to talk about that earlier.

16 A. Yeah. [REDACTED] is a company
17 that owns a [REDACTED]. And they
18 bought the property as an investment and they wanted
19 [REDACTED]
20 [REDACTED] and they had a development company who
21 they had entered into an agreement with and then
22 through the due diligence, the development company

1 discovered the law which says you cannot alter a
2 full-service gas station.

3 So the short of it was that they could
4 not turn the property into any other use.

5 MR. BUNNELL: Let's take five minutes.
6 I may be able to wrap up quickly, but I just need to
7 consult a little bit here.

8 (Discussion held off the record.)

9 BY MR. BUNNELL:

10 Q. Tab 34. Some of these are just calendar
11 invites. Actually, a lot of these are just calendar
12 invites. This Tab 34 is one, it has you as the
13 organizer. I don't know whether you were assisted by
14 anybody or you just did this yourself, but the
15 meeting was [REDACTED]
16 October 26, 2015. It included some people, including
17 Jack Evans. Do you recall what this meeting was
18 about?

19 A. No, I don't.

20 Q. Do you know whether Jack Evans performed
21 any legal services for [REDACTED] or the company he
22 was associated with?

1 A. Well, I can tell you he performed no
2 legal service for him.

3 Q. Is that because that's your general --
4 well, why do you say that?

5 A. Because if he had, I would know it. He
6 didn't.

7 Q. Was [REDACTED]
8 [REDACTED]

9 A. [REDACTED]

10 Q. Let's go to Tab 35, then. This is an
11 email from Charity Garrett to Jack Evans but relates
12 to [REDACTED] and the [REDACTED]
13 [REDACTED]

14 A. Yes. Uh-huh.

15 Q. It looks like [REDACTED] is trying to
16 get a meeting with Evans and you to continue
17 discussions. This is dated October 28th, 2015,
18 right?

19 A. Uh-huh. Yes.

20 Q. Do you remember ever meeting with
21 [REDACTED] about this issue?

22 A. I don't remember this particular

1 meeting, but very well could have had one or more
2 meetings with Jack and [REDACTED]
3 [REDACTED]. We were very supportive of the museum.

4 Q. Were they a client of yours or Manatt's?

5 A. Well, we've done some pro bono work for
6 them in their trying to develop a project.

7 Q. This is different from the big [REDACTED]
8 [REDACTED].

9 A. Yeah. [REDACTED]. I can't
10 remember the side street.

11 MS. BRESNAHAN: [REDACTED]
12 Right by [REDACTED].

13 MR. RAY: [REDACTED]
14 [REDACTED]
15 [REDACTED].

16 MS. BRESNAHAN: That's 17th Street.

17 MR. RAY: It's a, there's a Metro stop
18 there and the African museum is just right across the
19 street from [REDACTED]. There's a couple of
20 [REDACTED].

21 BY MR. BUNNELL:

22 Q. Yeah. I remember that.

1 Tab 36, meeting with Joe Johnson and
2 others. There's some email traffic about scheduling
3 a meeting with [REDACTED], John Ray, Vincent Orange
4 and I guess Jack Evans at the Hay-Adams. Looks like
5 a breakfast meeting, 8:30 a.m. Who was [REDACTED]?

6 A. [REDACTED]

7 [REDACTED], which is [REDACTED]

8 [REDACTED] facilities.

9 Q. So [REDACTED] or --

10 A. No, no, no, no. [REDACTED].

11 Q. [REDACTED]?

12 A. Yeah. They [REDACTED].

13 Q. Did [REDACTED] end up being a client of
14 yours?

15 A. They have been a client of mine off and
16 on for the last 20 years.

17 Q. They do work with the city, they being

18 [REDACTED]?

19 A. I think that [REDACTED] probably does some work
20 for the city. But years ago. There's a company
21 called [REDACTED]. It's a
22 large private builder of [REDACTED].

1 [REDACTED] was at one time involved
2 with them, and we represented [REDACTED]
3 [REDACTED] for, I don't know, eight
4 years or so.

5 And they bought [REDACTED]
6 [REDACTED] here in the District of Columbia,
7 and that's how the relationship with [REDACTED] and
8 myself developed. So I've known him for probably 20
9 years or about.

10 Q. Did Jack Evans have any involvement with
11 them, wearing a Manatt hat?

12 A. Not to my knowledge or certainly not in
13 terms of them being a client.

14 Q. Did he have any involvement with them as
15 far as you know in his Council member role, whether
16 there were any issues that came before the Council
17 that he --

18 A. No.

19 Q. -- had involvement in?

20 A. Not to my knowledge.

21 Q. Did they have issues involving the
22 Executive Branch of the D.C. government, they being

1 [REDACTED] company?

2 A. Well, they're always bidding on things
3 and trying to bid on various things, so in that
4 regard, the answer would be yes. I don't know if
5 they had anything in this particular time of this
6 bid.

7 Q. Do you remember him at this, do you
8 remember [REDACTED] at this breakfast meeting or
9 some other meeting asking Jack Evans to do anything?

10 A. No. I would think, looking at who was
11 at this meeting, [REDACTED], myself, this probably
12 had to do with just politics of the District.

13 Q. Were you guys just sitting around
14 talking about D.C. politics?

15 A. Well, I mean, you know, who are you
16 going to support? What do you think about this?
17 That's what I would think this meeting was about.

18 Q. Let's go to Tab 37. It's another
19 calendar email from Charity Garrett. The location is
20 Manatt. The importance is normal. The subject is
21 meeting with [REDACTED]. It includes you and Jack
22 Evans. We're talking January 12th, 2016. Who is

1 [REDACTED] ?

2 A. He's a [REDACTED] down in

3 [REDACTED].

4 Q. Do you recall meeting with him and with
5 Jack at some point?

6 A. Yes. Uh-huh.

7 Q. What was the meeting about?

8 A. This particular meeting was [REDACTED]
9 desire to [REDACTED]

10 [REDACTED].

11 Q. A [REDACTED] ?

12 A. Yep.

13 Q. What did he want to talk to you guys
14 about?

15 A. Well, I mean, he wanted to talk about
16 his idea and whether there was any kind of money to
17 support his idea, like TIF, any TIF funds.

18 Q. So did you end up doing work for him on
19 it?

20 A. No.

21 Q. Do you know whether Jack did any work
22 for him?

1 A. No. I don't know whether he did or not,
2 but he didn't do any at Manatt for it.

3 Q. He didn't do it through Manatt. Okay.

4 Let's go to 38. This is another one of
5 these calendar emails from Charity Garrett. This one
6 is dated January 22nd, 2016. It's regarding the
7 [REDACTED]. It included you
8 and Jack Evans. Do you know what [REDACTED]
9 [REDACTED]?

10 A. I'm not sure of the project, but I know
11 what the [REDACTED], yeah.

12 Q. Do you recall this meeting?

13 A. I don't specifically recall this
14 meeting, but there has been a lot of discussions
15 about the [REDACTED] and what are we
16 going to do about it. So I don't recall the specific
17 meeting, but --

18 Q. Is this a Manatt client project or is
19 this something else?

20 A. No. No. We, we have never done any
21 work on the [REDACTED]. There's folks
22 who will come and talk to us about it, so this may

1 have been one of those situations where someone
2 called me and spoke to me about it and I just shared
3 with Jack the fact that X came to see me about [REDACTED]
4 [REDACTED].

5 Q. Go to Tab 39. I promise you I'm getting
6 close to the end here.

7 MS. BRESNAHAN: God bless.

8 MR. BUNNELL: Do you want to take a
9 break?

10 MR. RAY: No. No.

11 BY MR. BUNNELL:

12 Q. Just another one of these meetings.
13 This time it's an email as opposed to a calendar
14 email, but it's about a meeting with [REDACTED], a
15 breakfast meeting that was taking place in February
16 of 2016. Do you know who [REDACTED] is?

17 A. Yes. Uh-huh.

18 Q. Who is she?

19 A. She's a lady who has a consultant-type
20 company. And she's active around the city socially,
21 politically.

22 Q. Did she become a client of yours or

1 Manatt's?

2 A. No. No. I don't think she can afford
3 Manatt.

4 Q. Tab 40. This is a Jack Evans
5 calendaring schedule for February 17, 2016. It's got
6 a meeting on there with John Ray and [REDACTED].
7 This is right after your meeting with --

8 A. I don't remember what the meeting was
9 about specifically, but as I said, she's involved in
10 a lot of things. It could have been trying to get
11 the law firm to support some project that she was
12 involved in. But I, I don't remember.

13 Q. You don't remember her having any
14 matters before the Council or asking Jack to do
15 anything for her?

16 A. No. I don't remember, because I don't
17 remember what the meeting was about. But as I said,
18 she's a lady about town. She is involved in a lot of
19 things. I could see her supporting a women's cause
20 on this, a charity cause on -- you know, she's that
21 kind of person. So it could have been a meeting
22 about something like that.

1 Q. I'm assuming that, given your history
2 with the city and your history on the Council and the
3 work that you're doing now, you probably have a lot
4 of meetings which are kind of just meeting people and
5 hearing about what's going on, they're not for a
6 specific client. Is that fair to say? Sort of
7 political kind of just keeping in touch with what's
8 happening kind of meetings? I'm not describing them
9 very well, but do you know what I'm saying?

10 A. Well, I mean, one of the down sides of
11 having been a politician is that folks never forget
12 you were a politician, and they will never let you
13 forget it. They're always calling you, asking you to
14 do things for them.

15 Q. How about that?

16 A. So yeah. I mean, a lot of people call
17 me every day, want to come by and talk.

18 Q. You must get a lot of lunches and
19 breakfasts out of it, though.

20 A. That's true.

21 Q. And sets of drinks?

22 A. All of which I have to pay for.

1 Q. 41, another one of these meetings. This
2 is an email that starts, it's an email chain that
3 starts from Schannette Grant to Windy Rahim about
4 scheduling a meeting with [REDACTED], who
5 apparently owns [REDACTED].
6 I'm trying to think where that is. It's [REDACTED]
7 [REDACTED]. That's got to be up --

8 MS. BRESNAHAN: Up.

9 BY MR. BUNNELL:

10 Q. Is it near [REDACTED], up that way?
11 He wants to schedule, Jack wants to
12 schedule a meeting with you and [REDACTED]. Do you
13 have any recollection of that meeting? This is March
14 of 2016.

15 A. Yeah, I do.

16 Q. What do you recall about that meeting?

17 A. Well, this is an [REDACTED]
18 [REDACTED]

19 [REDACTED], somewhere along there.

20 MS. BRESNAHAN: It's right above there.

21 [REDACTED].

22 MR. RAY: This gentleman owns two or

1 three stations there, in that area there, owns some
2 stations out in Virginia, I think. I'm not sure if
3 he owns any in Maryland.

4 BY MR. BUNNELL:

5 Q. Did he end up being a client?

6 A. I think that he is a, he is a client,
7 but [REDACTED], not something I work on. I
8 think he's, [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. Yeah.

12 A. Yeah. And I think Tina helped him with
13 that, but I'm not sure that that's still -- I don't
14 think he's a client at this point in time.

15 Q. Matters before the D.C. Council that you
16 are aware of?

17 A. I don't know that he has any matters.
18 Certainly, we have not worked for him on any matters
19 before the D.C. City Council.

20 Q. Do you know, what's Jack's involvement
21 in it, as far as you know?

22 A. Well, I think that Jack [REDACTED]

1 [REDACTED].

2 Q. That's a pretty direct interest there.
3 So Jack knows him and he's in, I guess he's in Ward 2
4 probably, right?

5 A. Yeah. This is [REDACTED], is in Ward 2,
6 yes, uh-huh.

7 Q. You do some work with the [REDACTED]

8 [REDACTED]

9 A. Yeah. We did a little work. That's the
10 [REDACTED], I think. Is that what you're talking
11 about?

12 Q. I think it's called [REDACTED]

13 [REDACTED]?

14 A. Yeah, I think it may have been called

15 [REDACTED].

16 Q. That could be.

17 A. Yeah.

18 Q. So did the work involve any issues
19 before the Council?

20 A. Only to this extent. I think we did
21 very little work for them. They had a lady working
22 with them from Holland and Knight, and, you know,

1 they, she could do just as good a job as we could.

2 As I recall, we did some work with them
3 with the department of -- oh, God -- Employment
4 Services, because they had an agreement that they
5 would get a tax abatement based on hiring a number of
6 employees from Ward 1 to work in a hotel, and they
7 were getting close to when the tax abatement would
8 kick in.

9 And what happens with that is that a CFO
10 often will look at it and see if you're in compliance
11 with the requirement in order for the tax abatement
12 to kick in.

13 And the union and some others was
14 arguing that they were not, so they asked us to help
15 them out on that. And the contact with the City
16 Council may have been to send Council Member Nadeau's
17 ward, which is Ward 1, so we may have had some
18 contact with her, but I don't remember right now.
19 But we may have had some contact with her.

20 Q. Contact with Jack at all?

21 A. What do you mean contact? You mean --

22 Q. Did you reach out to his office for

1 help?

2 A. No. No. No. I mean, it's not just
3 Ward 1. I mean, may have contacted, may have
4 had -- I don't know. When was this? March? I'm
5 sure we may have informed him that we were working on
6 this.

7 Q. Let me jump a bit into something
8 different. Do you know an individual named Adam
9 Gutbezahl?

10 A. Adam Gutbezahl?

11 Q. A young staff guy in Evans' office a few
12 years ago.

13 A. No.

14 Q. Not ringing a bell?

15 A. Unh-unh.

16 Q. Did you have any discussions that you
17 recall with anybody on Evans' staff about which sort
18 of Manatt matters Evans might have to either get an
19 opinion on or recused from?

20 A. No. I never had any communication with
21 the staff other than maybe with Schannette, who is --
22 but no one else.

1 Q. Do you know whether Tina Ang talked with
2 Gutbezahl or anybody else on the staff about how to
3 manage this potential conflicts issue?

4 A. I don't know if she did, no.

5 Q. You don't know?

6 A. No. She never mentioned it to me.

7 Q. Were you aware of any policy within
8 Evans' office that he was supposed to identify any
9 Manatt clients that had business before the office
10 and reach out to the General Counsel or to BEGA for
11 advice?

12 A. Did I have any knowledge --

13 Q. Were you aware that at least some people
14 in the office may have had that kind of policy in
15 effect?

16 A. In Jack's office?

17 Q. Yes.

18 A. No, I --

19 Q. You never heard of that?

20 A. I never heard of that.

21 Q. Given the privilege issues and sometimes
22 the client confidentiality issues, would you have

1 been able to tell Jack Evans' staff, Here are
2 Manatt's clients so you can keep Jack away from
3 them?

4 I'm paraphrasing here. Do you
5 understand what I'm saying?

6 A. Yeah. Well, we never did. I --

7 Q. You never did, so you never really had
8 to deal with the issue of whether you could?

9 A. Yeah. No. I mean, no. I mean, I never
10 talked to Jack's staff about any policy they had or I
11 never provided a list of clients to Jack.

12 MR. BUNNELL: I appreciate all your
13 patience with us. I apologize for asking convoluted
14 questions occasionally. If there is anything that as
15 a result of my questions or just that we didn't cover
16 that you think would be kind of important for this
17 situation that you want to add, I welcome to hear it.
18 I don't know if you have got any thoughts you want to
19 share, wisdom from years on the Council.

20 MS. BRESNAHAN: I think he's tired.

21 MR. BUNNELL: Maybe you all want to do
22 it now. I'm happy to hear it at any point if you

1 have anything more you want to submit.

2 MS. BRESNAHAN: When do you anticipate
3 closing down your investigation and giving your
4 report?

5 MR. BUNNELL: Well, there is another
6 interview we need to talk about that might dictate
7 the timing on that.

8 MR. KOHLI: So you're off the record?

9 MR. BUNNELL: We can go off the record.

10

11 (Thereupon, at 4:35 p.m., the interview
12 was concluded.)

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