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6 COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

7 U.S. HOUSE OF REPRESENTATIVES

8 WASHINGTON, D.C.

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12 INTERVIEW OF: BRUCE GOLDBERG

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16   Wednesday, April 6, 2016

17   Washington, D.C.

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20   The interview in the above matter was held in Room 2247,

21 Rayburn Office Building, commencing at 9:04 a.m.

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23   Appearances:

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25   For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

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36   For BRUCE GOLDBERG:

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42   E X H I B I T S

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65   ██████████   This is the deposition of Bruce Goldberg

66   conducted by the House Committee on Oversight and Government

67   Reform. This deposition is occurring under subpoena issued

68   by Chairman Chaffetz as part of the committee investigation

69   of Cover Oregon.

70   Before I get into my preamble, I'll mark the subpoena as

71   Exhibit 1 and enter it into the record. Mr. Goldberg declined

72   the chairman's invitation to appear voluntarily, so we're

73   proceeding with the subpoena in place.

74   Would the witness please state your name for the record.

75   Mr. Goldberg. Bruce Goldberg.

██   ██ ████████   My name i█████████████   █████████

77   ████████   for Chairman Chaffetz committee staff. I'm going

78   to ask everyone present to also introduce themselves for the

79   record.

80   ██ ██████ ███████████   with Chairman Chaffetz'

81   staff.

82   ██ ████ ██████████   Chairman Chaffetz' staff.

83   ██ ██████ ████████████

84   ██ ██████ ███████████   with Ranking Member

85   Cummings.

86   ██ ██████ █████████████   with Ranking Member

87   Cummings.

88   ██████████. Because the witness is compelled to be here

89   by subpoena, we're operating pursuant to committee rules,

90   specifically rule 15, which covers the guidelines for today's

91   deposition. We have copies the rule here with us today, so

92   we can all stay on the same page. I'll go over them now briefly

93   for the record.

94   The way the questioning proceeds, the majority will ask

95   questions first for up to an hour and the minority will have

96   the opportunity to ask questions for an equal period of time.

97   We will firmly adhere to the one-hour time limit for each

98   side and I'll manage the clock so that we all know exactly how

99   much time is remaining in any given hour.

100   Questions may only be asked by a member of the committee

101   or a staff attorney designated by the chairman ranking member.

102   We will rotate back and forth, one hour per side, until we're

103   out of questions. We understand your hard stop.

104   As I mentioned, we're operating under compulsion, unlike

105   under a voluntary induce setting. The witness is required to

106   answer all questions posed, except to preserve a privilege.

107   The witness or his counsel may object to a question to preserve

108   a privilege and not for any reason, such as if the answer were

109   to be uncomfortable or confidential. If the witness objects

110   to a question, the objection should be stated clearly in a

111   non-argumentative manner. Members of committee staff are not

112   permitted to raise formal objections. The chairman will rule

113   on the objection after the deposition has adjourned and there

114   is a process for adjudicating an objection.

115   With respect to objections, be apprised that the House

116   of Representatives and the committee do not recognize any

117   purported nondisclosure privileges associated with common

118   law, concluding, but not limited to, delivery process

119   privilege, attorney/client privilege, attorney work product

120   protection and any purported contractual privileges, such as

121   nondisclosure agreements.

122   As you can see we have an official reporter taking down

123   everything we say to make a written record. So we ask that

124   you give verbal responses to all questions. It's also

125   important that we don't talk over one another, so that the

126   reporter can make a clear record. Do you understand that?

127   Mr. Goldberg. Yes.

128   ████ ████████ All witnesses who appear before the

129   committee may be accompanied by counsel and are appearing today

130   with counsel.

131   Would counsel please state your name for the record.

████   ███ ██████. ██████████████████ ████████████████████████

133   ███████

134   ████████████ We want you to answer our questions in the

135   most complete and truthful manner possible, so we'll take our

136   time. If you have any questions or if you don't understand

137   any of our questions, please, just let us know. If honestly

138   you don't know the answer to a question or don't remember, it's

139   best not to guess. Just give us your best recollection. It's

140   okay if you tell us if you're aware of the information from

141   someone else. Just indicate how you came to know the

142   information. If there are things you don't know or can't

143   remember, you can say so, but please inform us who to the best

144   of your knowledge might have that information to provide a more

145   complete answer to the question.

146   We'd like to take a break whenever it's convenient for

147   you. It can be after every hour of questioning or just after

148   a couple of rounds, whichever you prefer. During a round of

149   questioning, if you need anything, a sip of water or a quick

150   break, please just let us know and we'll go off the record and

151   stop the clock. We want to make this process easy and

152   comfortable for you.

153   Committee Rule 15(b) requires a member of the committee

154   to be present during the deposition. It's my understanding

155   the Mr. Goldberg has waived that requirement for today's

156   deposition.

157   █████ ██████   That's correct. It's actually Dr.

158   Goldberg.

159   █████ ████████   My apologies.

160   █████ ██████   No problem.

161   ████████████   In a moment, you'll be placed under oath.

162   Title 18 Section 1621 of the US Code require that you answer

163   questions truthfully when you're under oath; also Title 18

164   Section 1001 requires you to answer questions truthfully. Do

165   you understand?

166   Mr. Goldberg. Yes, I do.

167   ██ ████████   It also applies to questions posed by

168   congressional staff. Do you understand?

169   Mr. Goldberg. Yes.

170   ████████████   It also says those who knowingly provide

171   false testimony could be subject to criminal prosecution. Do

172   you understand?

173   Mr. Goldberg. Yes.

174   ███████████   Is there any reason that you're unable to

175   provide truthful answers to today's questions?

176   Mr. Goldberg. No.

177   ██████████   Pursuant to committee rules, the witness

178   will be sworn in before providing testimony during the

179   deposition.

180   The record will reflect the witness answered in the

181   affirmative. I'd like to note that the content of what we

182   discuss here today is confidential. We ask that you not speak

183   about what we discuss in this deposition to any outside

184   individual, other than your counsel.

185   That is the end of my preamble. My colleague, ███████

186   ████████ will start questioning.

187   EXAMINATION

188   ███████ ███████:

189   Q.   Good morning.

190   Can you please describe your current occupation.

191   A.   I am currently employed at Oregon Health Sciences

192 University. I work on the center for Health Systems Effectiveness

193 in the Oregon Rural Practice Research Network.

194   Q.   Can you please explain your role as the director of the

195 Oregon Health Authority?

196   A.   Yes. I was director of the Oregon Health Authority from

197 its creation in between 2009 and 2011. The state of Oregon had,

198 by law, split a large Department of Health and Human Services; the

199 Department of Human Services into a Department of Human Services

200 and the Oregon Health Authority.

201   I was the head of the Department of Human Services. I

202 oversaw the transition into two agencies, was then the head of the

203 Oregon Health Authority from -- somewhere between 2009 and 2011 as

204 the organization was transitioning and then officially from 2011

205 through 2013.

206   The Oregon Health Authority is a large healthcare

207 organization responsible for Medicaid, public health, mental

208 health services, substance abuse and I was the director of the

209 agency responsible for all those activities.

210   Q.   Who did you report to in this role?

211   A.   I reported to Governor Kitzhaber from 2000 and '11 on,

212 and prior to that reported to Governor Kulongoski.

213   Q.   Why did you stop serving in this role in 2013?

214   A.   In 2013 I was asked to temporarily lead the Cover

215 Oregon -- Mr. Rocky King, who had been the director, become suddenly

216 ill, unable to perform his duties and I was asked to take over Cover

217 Oregon on an interim basis.

218   Q.   Who asked you to take over on an interim basis at Cover

219 Oregon?

220   A.   I was ask by both, Governor Kitzhaber as well as by the

221 board of Cover Oregon.

222   Q.   Who asked you first, Governor Kitzhaber or the board?

223   A.   I believe Governor Kitzhaber first and then formally the

224 board.

225   Q.   Thank you. How long did you serve in this role?

226   A.   I served from the beginning of December 2013, until April

227 11th of 2014.

228   Q.   Then after ending your term April 11th, 2014, how long

229 did you continue to work for Cover Oregon in any role?

230   A.   I worked for Cover Oregon, I believe, for -- between two

231 and four weeks, following my official resignation on April 11th to

232 help Mr. Clyde Hamstreet transition the organization.

233   Q.   Then after that two to four week period, you no longer

234 worked for Cover Oregon?

235   A.   Correct. I went back and I had been on leave from the

236 state of Oregon. Cover Oregon was a public corporation, a

237 different personnel system, so I had to take a leave of absence from

238 the state to take my position at Cover Oregon. I worked through

239 that time at Cover Oregon, then I went back, took a -- what is known

240 as terminal leave from the state. I had accumulated a couple of

241 months of leave time, took that leave time as -- and was paid for

242 that and then terminated my employment with the state.

243   Q.   What were your primary duties when you were serving as

244 the interim director of Cover Oregon?

245   A.   As the interim director of Cover Oregon, I was

246 responsible for all of Cover Oregon's activities in terms of getting

247 people enrolled into healthcare in the Oregon insurance exchange

248 and also in terms of -- at that point helping to oversee the website

249 and getting the website up and operational.

250   Q.   Who did you report to while you were serving as the

251 interim executive director?

252   A.   I reported to the -- there's a board of directors of Cover

253 Oregon that was created by statute and I was employed -- an employee

254 of that board.

255   Q.   Did you typically consult with the governor's office on

256 issues when you were serving in your role as interim director?

257   A. I did, yes.

258   Q. Why did you consult with the governor's office on issues?

259   A. For a number of reasons. At that point we -- the website
260 was not working. We had begun a paper process to get people
261 enrolled in the insurance exchange and into Medicaid and that began
262 in late October, earlier November. I was responsible for that and
263 had overseen that and there was a lot of overlap in activity between
264 both the Oregon Health Authority that helped staff and provide
265 resources to that paper process, as well as Cover Oregon. So it
266 involved both agencies, in addition healthcare was an important
267 issues for the governor, who was very engaged in healthcare and was
268 very interested in progress and making certain that all that was
269 happening within healthcare was successful, so I did consult with
270 him quite a bit.

271   Q. Then why did you stop serving in your role as interim
272 executive director of Cover Oregon?

273   A. I stopped for a number of reasons. I had taken the job
274 on an interim basis and I had hoped that it would be an eight- to
275 12-week assignment. It was becoming clear that it was going to be
276 longer than that. I had been planning to leave government, and what
277 was looking for an opportunity to do that, there was obviously a
278 lot of issues around Cover Oregon, the website. I had gotten a lot
279 of people enrolled, was proud of that and felt at that point, quite
280 frankly that, you know, it was time to leave.

281   Q.   Did anyone ask you that you should leave Cover Oregon or

282 resign?

283   A.   No. I had tendered my resignation. I had offered to

284 resign multiple times over the years for a number of reasons and

285 this time my resignation was accepted.

286   Q.   There were no discussions before March 20, 2014 with you

287 about potentially stepping down?

288   A.   I raised the issue.

289   Q.   Who did you raise the issue to?

290   A.   I raised the issue with both, Mike Bonetto and Patricia

291 McCaig.

292   Q.   Why did you raise the issue with Patricia McCaig?

293   A.   I raised the issue with Patricia McCaig because she was

294 helping work in the governor's office around issues of

295 communication and transition and I talked to her on a number of

296 occasions and so I talked to her about that as well.

297   Q.   Have you held any other positions with the state of

298 Oregon?

299   A.   Yes. Prior to the ones I spoke about?

300   Q.   Yes. Any other ones?

301   A.   Yes. I began my service with the state of Oregon in 2003.

302 I was asked by Governor Kulongoski to lead the state's Office of

303 Health Policy. I led that office from 2003 until 2005. In 2005

304 I was asked by Governor Kulongoski to lead the Department in Human

305 Services and I led the Department of Human Services in 2005 through

306 that period of transition I discussed, between 2009 and 2011.

307 Q. Thank you. Then did you have any role with Governor

308 Kitzhaber's 2014 reelection campaign?

309 A. No, I did not.

310 Q. Are you familiar with the Area 51 Team for the governor's

311 reelection campaign?

312 A. No, I'm not.

313 Q. Thank you.

314 You worked for the state of Oregon for a significant

315 period of time. During this time, did you often work with unpaid

316 advisors to the governor?

317 A. I don't know who is paid and who wasn't paid, so I really

318 don't know.

319 Q. Did you work with Patricia McCaig on multiple issues

320 throughout this time?

321 A. I worked with Patricia McCaig on -- solely on the Cover

322 Oregon issue from -- you know, my recollection is sometime in

323 February, you know, through March.

324 Q. Did you work with Tim Raphael?

325 A. Yes, I worked with Tim. Particularly, I worked with Tim

326 when Tim was the communications director for Governor Kitzhaber.

327 Q. Did you work with him after he left as communication

328 director for the governor?

329   A.   No.

330   Q.   Do you consider yourself to you have a close working

331 relationship with John Kitzhaber?

332   A.   Yes, I do. You know, the -- healthcare was an important

333 issue for the governor. He came in to office looking to --

334   Q.   That was going to be my next question.

335   A.   That's fine.

336   Q.   Thank you, though.

337   Did you consider yourself to have a close working

338 relationship with Mike Bonetto?

339   A.   Yes.

340   Q.   Did you consider yourself to have a close working

341 relationship with Sean Kolmer?

342   A.   Yes.

343   Q.   What did you do to prepare for this deposition?

344   A.   I spoke with counsel and I reviewed some documents.

345   Q.   When was the last time that you had a conversation with

346 CMS about Cover Oregon or the health insurance marketplace in

347 Oregon?

348   A.   My recollection is sometime in late March or earlier

349 April, were the last times that I spoke -- 2014. Sorry. In March,

350 April of 2014, when I was employed by Cover Oregon, nothing sense

351 thence.

352   Q.   Did you ever speak with anyone from the White House of

353   Health Reform about Cover Oregon?

354   A.   I don't recall. I spoke with a number of people at CMS

355   and CCIIO. I don't know. I honestly don't know.

356   Q.   Thank you.

357   When did you first become involved in the Cover Oregon

358   project?

359   A.   I was involved in the Cover Oregon project from the

360   inception in a number of ways. Statutorily I sat on the Cover

361   Oregon Board. So I was a board member from the beginning of Cover

362   Oregon. In addition, before there actually was a Cover Oregon, the

363   state of Oregon had applied to CMS for some of their grants to put

364   together health insurance exchange and that was done by my agency,

365   the Oregon Health Authority.

366   Q.   Do you know why Oregon decided to have a state based

367   exchange?

368   A.   Yes. For several reasons. At that point, I think, the

369   state was embarked in a large scale effort to make a better

370   healthcare system, to have lower cost and better quality. And the

371   state felt that by having its own exchange, it would be able to

372   better set the contracting criteria and better able to align the

373   private healthcare market with a lot of the reforms that were

374   happening in Medicaid. So there was a clear policy effort to try

375   and do that to health insurance exchange.

376   Q.   Can you describe the vision that Oregon had for its

377   healthcare technology systems?

378   A.   I think the vision for the healthcare technology systems,

379   in terms of enrollment, was to have a single point of enrollment

380   for both, Medicaid and for the health insurance exchange, that would

381   be seamless so that individuals could come to one place and be able

382   to seamlessly enroll in both, Medicaid, if they were eligible or

383   to enroll in the health insurance exchange. The vision was also

384   to be able to provide people with good comprehensive information

385   so that they could make choices.

386   Q.   Can you describe the modernization project in Oregon that

387   was occurring at the same time?

388   A.   I could describe the modernization project at a high

389   level. I wasn't very, very involved in that. But the

390   modernization project was primarily run through the Department of

391   Human Services and it was an effort to modernize and align a number

392   of the public services that were provided through the agency, many

393   of which served the same clients -- food stamps, Medicaid. There

394   was a tremendous amount of overlap between the clients on all of

395   those and the modernization, to my understanding, was an effort to

396   start to align and simplify and put all of those systems together

397   to make it easier for clients, to make it more cost effective for

398   the state and to make it easier for workers and create better

399   efficiency.

400   Q.   Was the modernization project connected to Cover Oregon?

401   A.   It was in how it touched Medicaid. So it did dovetail

402 with it to some degree, yes.

403   Q.   Can you explain how it dovetailed with it?

404   A.   I can't really -- I don't recall a lot of the details

405 about how that dovetailed, but I know that because of the fact that

406 the modernization was looking to help align Medicaid with all the

407 other services and the health insurance exchange was seeking

408 to -- and Cover Oregon was seeking to have a single point of

409 enrollment, there was some overlap, I think, it was particularly

410 around how many of the Department of Human Services staff

411 would -- how their work would or would not change based on what was

412 happening in the health insurance exchange enrollment process.

413   Q.   Can you describe the different state agencies that played

414 a role in the Cover Oregon project?

415   A.   Several state agencies played a role -- the Oregon Health

416 Authority, the Department of Human Services, as I just indicated,

417 due to the modernization and issues surrounding Medicaid; the

418 insurance division, as part of the consumer and business -- I'm now

419 forget the acronym, but the insurance division was a part of a larger

420 agency, Consumer and Business Affairs, and the insurance division

421 played a role in it. You know, I think peripherally some other

422 agencies, such as, you know, the Department of Justice, with

423 contracting issue and things of that nature played a role. But

424 primarily in terms of working on the project, it was the insurance

425 division, Department of Human Services and the Oregon Health

426 Authority.

427   Q.   Can you describe how these agencies worked together on

428 the project in terms of was it a conflict for a competing priority

429 among them?

430   A.   We had a steering committee that was made up between

431 the -- you know, representative from the insurance division;

432 myself, as head of the Health Authority; Erinn Kelley-Siel, who was

433 head of Department of Human Services. And, you know, it was our

434 job to work through some of that. I think that there were at

435 times -- I wouldn't call them conflicts, I would say discussions,

436 about working through how work flows and requirements for the system

437 would or should or could be changed and those were worked through

438 that, you know, at that steering committee level.

439   Q.   Did the agencies often have different opinions on how it

440 should be designed?

441   A.   I would say that there were some times when that were

442 different opinions about things that needed to be resolved.

443   Q.   Did you ever hear of any distrust between OHA and Cover

444 Oregon?

445   A.   There are certainly -- yes, I did hear of that. And

446 there certainly were some issues between the two agencies in terms

447 of -- I don't know that I would -- from my vantage point, I don't

448 know that I would call it trust. I had heard that. I think this

449   was a --

450   Q.   Who had you heard that from?

451   A.   I heard all sorts of rumors, from all sorts of people,

452   and I don't recall what individuals, but, you know, I heard that.

453   And, I guess, I would characterize it as follows: This was a

454   pretty -- this was a complex project, highly visible, tight, tight

455   deadlines, criteria that had -- we were designing a website for

456   criteria that had yet to be developed. So it was a high-stakes

457   project. The state -- the Oregon Health Authority -- I can speak

458   louder. The Oregon Health Authority was responsible for a period

459   for doing a lot of the building of the technology and the -- Cover

460   Oregon was responsible for setting up the business processes for

461   what that technology would get built to do. And I there was tension

462   around that. You know, there were times that I -- the health

463   authority was putting a lot of pressure on Cover Oregon to come up

464   with business processes. I think Cover Oregon was feeling

465   pressured that it didn't have all the information that it needed

466   to do that, so it was a stressful environment. I think that there

467   were some issues of -- there was a lot of stress between the two

468   agencies. And a lot of that was, you know, played out particularly

469   between the chief information officer for the Oregon Health

470   Authority and the director of Cover Oregon, who I'm sure you've seen

471   it, I have seen it, because I lived through it. They had a lot of

472   e-mails back and forth to each other trying to get information and

473   do a lot of things and I often found myself mediating between to

474   two.

475   Q.   Then was OHA responsible for designing the architecture

476   of the technology system?

477   A.   Designing -- I just want to be -- I'm not trying to be

478   difficult. All of this -- when we get into -- I'm not a technology

479   guy and --

480   Q.   If you can elaborate on the comment you made about OHA

481   being responsible for building -- you said Cover Oregon was more

482   operations focused.

483   A.   Yeah. So, I guess, I'd characterize it like this, you

484   know, the Oregon Health Authority had the contract with Oracle and

485   oversaw the contract with Oracle. Oracle was responsible for the

486   coding and the putting together the technology and -- for the

487   beginning of the project, that then switched over to Cover Oregon

488   later. But the Cover Oregon was responsible for telling the

489   builders what it is they needed. So they needed the website to,

490   most simply, have a place for someone to enter their name, birthday

491   and income. They wanted it to be able to, you know, choose health

492   plans and to give people a variety. You know, they told them all

493   of the things that they needed it to do. And then Cover Oregon --

494   I mean, then the health authority had the contract with

495   Oracle and Oracle were the ones to, you know, put the hammer to the

496   nails, as I would sort of put it, to build to code to have it do

497   that.

498   Q.   So was there a point that the Oregon Health Authority was

499   projected to hand the project over to Cover Oregon?

500   A.   Yes.

501   Q.   What was that date?

502   A.   I don't recall the date. What I do recall is that we

503   handed it over earlier.

504   Q.   Do you know why you handed it over earlier?

505   A.   Yes. For a couple of reasons. You know, I -- I had

506   suggested handing it over even earlier than it was, primarily

507   because of the relationship that I just talked about. I felt that

508   it actually would have been more functional to have more --

509   You know, this all started -- the Oregon Health Authority

510   was involved in it in the beginning because there was no Cover

511   Oregon. And then there was a Cover Oregon and as Cover Oregon

512   became a mature organization, it made sense to have them both

513   creating the business processes and responsible for overseeing the

514   building of that. So it -- it made sense to me to let them to that

515   sooner. That's where a lot of the tension was around that, so it

516   made a lot of sense to do that.

517   Q.   So you handed it over earlier and in your statement to

518   CMS, did you ever make any comments about the status of the project,

519   what it would be like when you handed it over to Cover Oregon?

520   A.   I saw one IAPD document the other day that -- but other

521 than that, I'm -- I didn't routinely see the statements that went

522 to --

523   Q.   I meant when you were applying for the federal funding

524 and that process, did you have a projection of how far along the

525 project, if you could see that, when you handed it over to Cover

526 Oregon?

527   A.   I don't know. I wasn't in -- involved at that level to

528 know what we had told CMS. My involvement in the project changed

529 rather dramatically in the beginning of December.

530   Q.   December 2013?

531   A.   December 2013. When I took over Cover Oregon and then

532 I had a much -- I was much more involved in the technology and all

533 that was happening.

534   Q.   Can you describe what a systems integrator is?

535   A.   To the best of my knowledge, again, I'm not a technology

536 person, you know, a systems integrator has been described to me as

537 kind of like a general contractor that helps to oversee a large

538 project and make certain that it's coordinated and working.

539   Q.   Who was the systems integrator for the project?

540   A.   We did not have a systems integrator.

541   Q.   So was the state the systems integrator?

542   A.   Yes. The state of Oregon functioned, in essence, as the

543 systems integrator. We made a decision to not hire a systems

544 integrator.

545   Q.   Can you describe the scope of the project and how it

546 changed over time?

547   A.   I can describe that at a high level. I mean, scope

548 is -- any large IT project, or any large project, there's a couple

549 of levers that change things; one is scope and sometimes scope is

550 added and sometimes it's diminished. I think over time scope, in

551 this project, was consistently ramped down to be able to meet the

552 deadlines and things. The biggest things -- I'm sure that there

553 were a lot of issues around scope that changed, most of which I

554 didn't know. I can tell you the big ones I knew about.

555   You know, one was certainly a change in scope in terms

556 of doing the SHOP, the Small Business Health Insurance Exchange,

557 that was delayed. And then I was aware of changes in scope

558 certainly around the ability of the -- towards the end, the ability

559 of the website to enroll directly with a carrier. That was taken

560 off the tables at some point to give people time just to get people

561 to be able to enroll and then Cover Oregon was going to enroll them

562 electronically with the carrier. You know, there are a number of

563 issues around scope that changed throughout the project.

564   Q.   Is it fair to say the scope never was completely

565 finalized, it was always changing in --

566   A.   I think it's fair to say that, like any project, there

567 is often changes in scope as projects progress and, you know,

568 particularly to create the ability to meet a deadline.

569   Q.   Was there ever any concern that you had tried to

570 accomplish too much given the tight deadlines established by the

571 Patient Protection and Affordable Care Act?

572   A.   You know, I think that in -- certainly in retrospect the

573 state sought to accomplish a couple of things to combine the

574 Medicaid enrollment with the private insurance market enrollment

575 and also do the small business insurance exchange. I think that

576 was an ambitious goal. And, you know, certainly now in retrospect,

577 having not achieved the ability of the website to even enroll in

578 the individual market, it's hard to not look back and say that that

579 was an ambitious goal and that -- you know, I don't know that anyone

580 knows if we had had a different goal, whether it would have ended

581 any differently, but it's certainly a fair comment to make.

582   Q.   Did CMS ever raise any concerns about your ambitious

583 goal?

584   A.   Not to my knowledge. I mean, I -- I -- I was aware that

585 we had, you know, multiple gate reviews and interactions with CMS.

586 I was never aware of that being raised as an issue.

587   Q.   Were you ever involved in any way with the application

588 process for the federal funds for Cover Oregon that were both

589 awarded to OHA and Cover Oregon?

590   A.   I -- as head of the Oregon Health Authority, as I

591 indicated, we applied for those initial grants to get those and then

592 the contracting with Oracle. I was -- I wasn't directly involved

593   in those. These were standard grants and procurements, which as

594   a large state agency, we did a lot of. I was kept informed of

595   progress, but I wasn't directly involved in, either the

596   applications, or the selections of contractors.

597   Q.   Did you received -- did Cover Oregon receive any funding

598   from any sources other than CMS for the project?

599   A.   I don't -- well, Cover Oregon did get -- while I was

600   there, did get a certain percentage of the premium, that was part

601   of the business plan. So Cover Oregon did get some resources.

602   That was part of the long term discuss sustainability plan. So it

603   certainly got resources from a percent of the premium dollar, that

604   was actually set, I believe, in statute. I'm not aware of anything

605   other than the federal money but -- I'm not aware.

606   Q.   Then did OHA get funding from any other sources other than

607   CMS for the Cover Oregon Project?

608   A.   OHA got money from CMS and there was some state money.

609   Q.   For the state supported IT platform or was it state money

610   for a different project?

611   A.   There was some state money in there and I don't

612   know -- and this gets at, I think, some of the overlap between

613   modernization and the Cover Oregon IT project. I know that there

614   was some state dollars that drew down some IT match from Medicaid

615   that helped support the project, so I know that there was some state

616   dollars in there. It was primarily federally funded. But there

617   was a relatively small amount of, I believe, some state dollars in

618   the project as well.

619   Q.   Are you familiar with how the funding was allocated for

620   the share infrastructure for technology systems and for the

621   Medicaid and the private enrollment?

622   A.   No, I was not very familiar with that.

623   Q.   Did you have any involvement in tracking the budget and

624   allocating the cost at the Oregon Health Authority?

625   A.   When I was at the Oregon Health Authority, yes. You

626   know, I was directly responsible for the agency and for its

627   finances. And, you know, met with our, you know, financial people

628   regularly to track our finances, yes.

629   Q.   How did you track the finances? Did you ever notice that

630   you potentially had less funds than you anticipated?

631   A.   Cover Oregon was -- we were operating within a budget

632   and, you know, what I tried to do -- when I was there and we had,

633   you know, multiple meetings with our finance committee, as well as

634   others. Was -- you know, we had a budget and it was our

635   responsibility to operate within that. You know, my job as head

636   of the agency was to help manage the work of the agency to live within

637   that budget. There were certainly times when the -- we would -- it

638   was expressed to me that it we be great to have more money to have

639   do X, Y, Z. And my response was always but this is the money we

640   have and this is how we're going to allocate it to work with it.

641   Q.   I guess my question was, when you handed the project over

642 from OHA to Cover Oregon, was part of that reason a budgeting issue?

643   A.   It's a different issue. I'm sorry. I didn't --

644   Q.   That's okay.

645   A.   There was and I can't tell you a lot of the details but --

646   Q.   Who would be able to?

647   A.   It's a gentleman named Jim Scherzinger, who, to my

648 knowledge, had some of the best information about that and that was

649 on the state side. He was the chief financial officer for the

650 Department of Human Services and whoever at the time was the chief

651 financial officer for Cover Oregon, those two individuals.

652   The issue was -- at a high level, as I understood it, was

653 transitioning from one grant to another. That -- this was a large

654 project and it was certainly -- I think the initial state grant was

655 48 million. It was always known that the project would cost much

656 more than 48 million, several hundred million dollars more. And

657 my understanding of that situation -- and it was a while ago so I'm

658 trying to remember that -- was that the Oregon Health Authority had

659 looked at using more than that 48 million because the project was

660 going to cost more than 48 million. So when you accounted -- it

661 was an issue of accounting for funds going from one grant to the

662 next. It was always about there was a budget for the project. And

663 that was the issue and the fact that the project at that point, like

664 most projects, was starting to cost more. So there needed to be

665   some budget adjustments for things like outreach, communication,

666   some other things that had been, you know, funded at a fairly high

667   level, you know, advertising and things like that. So there needed

668   to be an attempt to work within that budget, to trim some of the

669   expenses on one side, to add to some of the expenses on the

670   technology side.

671   Q.   Do you know if anyone notified CMS when you started using

672   grant funds from one grant earlier than expected?

673   A.   I don't know. And I -- let me back up. I don't know that

674   I would characterize it has using more from one. I don't know how

675   the payments got made from those grants, so I don't know there to

676   be any confusion about that. I was trying to explain it at a high

677   level. I don't know how things were invoiced, et cetera.

678   Q.   Thank you. I'm introducing Exhibit 2 into the record.

679   Are you familiar with this document?

680   A.   I briefly saw this the other day.

681   Q.   Did you see this before the other day?

682   A.   I don't recall. I usually did not see these IAPDs.

683   I -- so I would think not.

684   Q.   So in your role as director of the Oregon Health

685   Authority, you do not usually see these IAPDs?

686   A.   Sorry. It took me a while to know what it stood for and

687   I don't think I could tell you without reading it. Yes. Correct.

688   I routinely did not see those.

689   Q.   You didn't see this. Are you familiar with the purpose

690   of these documents?

691   A.   Not in any great detail. My understanding is they were

692   a way of reporting progress, but that's about the extent of my

693   knowledge.

694   Q.   Do you know who at the Oregon Health Authority or the

695   Oregon Department of Human Services were responsible for overseeing

696   these documents?

697   A.   It's my understanding that generally it was our IT

698   department.

699   Q.   Who in your IT department?

700   A.   The director of IT for this project, Carolyn Lawson.

701   Q.   Thank you.

702   A.   She was both, the head of IT, for both Department of Human

703   Services and the Oregon Health Authority.

704   Q.   If you would please, turn to page five. On page five,

705   under 2.2 accomplishments, it says, "OHA through the HIX-IT project

706   successfully delivered a functional insurance exchange to Cover

707   Oregon on April 30th, 2013."

708   Do you agree with that statement?

709   A.   The -- we know now that certainly the insurance exchange

710   didn't work to enroll people. At this point in time, my

711   understanding is that -- that Oracle and others we were building

712   the project, were telling us that things were working as planned,

713   but certainly in retrospect, that's not the case.

714   Q.   So at this point in August 2013, you had not heard that

715   there were delays with the launch of the site potentially?

716   A.   In August of 2013, I had heard in July or -- in July,

717   August, in that range, somewhere in there, that -- that we would

718   likely do a "soft launch," that the exchange would be launched on

719   October 1 for agents and community partners and then two weeks after

720   that for the general public, but that things were moving forward.

721   That soft launch was described as kind of like a soft opening for

722   a restaurant and I think the issue was that -- and it's germane to

723   this about April 30th -- is that there just had not been sufficient

724   time to test things, that it was built, it was felt to be

725   operational, but it hadn't been adequately tested.

726   Q.   Do you know if Rocky King, before that July or August

727   period ever raised concerns to you about delays in the share of

728   services potentially implicating the launch?

729   A.   Yes.   Multiple conversations between, you know, Rocky

730   and myself and Carolyn Lawson, about some of the Medicaid interfaces

731   and --

732   Q.   When did those conversations begin; do you recall?

733   A.   I don't recall, but I know we had multiple conversations

734   about that and there were concerns about the delivery of the

735   Medicaid interfaces.   We, to my understanding, worked through

736   those.   It was always my opinion that we would either get the

737   Medicaid interfaces done to be able to launch the exchange or if

738   we couldn't, the exchange would launch for the individual insurance

739   market. That was the major reason to have the website was to get

740   people enrolled in the private market. We were already enrolling

741   people in Medicaid. And, you know, the state had been enrolling

742   people in Medicaid for decade. So the really issue here was being

743   able to get a website up and going for the private market and the

744   insurance exchange because that was new.

745   Q.   Do you know if you ever raised those concerns to the

746   governor's office about the Medicaid interfaces not being completed

747   on time?

748   A.   I believe there was some conversations with Mike Bonetto

749   and Rocky and Carolyn Lawson and myself about some of those issues,

750   yes.

751   Q.   Thank you.

752   Can you describe the governance process at Cover Oregon,

753   how it was established under Oregon law?

754   A.   To the best of my recollection, the Cover Oregon was

755   established as a -- I believe the entity is called a public

756   corporation, where they were board members that were, I believe,

757   and you'd have to check and verify in the statute, but I believe

758   the governance was a board of director that was appointed by the

759   governor and approved by the Oregon Senate and that was the board

760   of directors. There were a couple of seats that were statutorily

761 mandated, as I had indicated, the director of the Oregon Health

762 Authority, I believe, and I think somebody from the Department of

763 Consumer and Business Affairs, but other than that, the board was

764 appointed by the governor, approved by the senate.

765   Q.   Did the governor have any oversight authority over Cover

766 Oregon?

767   A.   No. It was -- his only involvement in the statute was

768 the appointing of the board.

769   Q.   So was the Cover Oregon Board of Directors responsible

770 for making decisions about Cover Oregon?

771   A.   Yes.

772   Q.   The executive director of Cover Oregon, did they report

773 to the Cover Oregon Board of Directors?

774   A.   Yes, they're hired by and reported to and -- to the board

775 of directors and paid by Cover Oregon as its own entity.

776   Q.   We talked about this a little bit earlier. Can you

777 please describe how the website launched on October 1, 2013?

778   A.   Yes. It didn't launch on October 1, 2013. I mentioned

779 that it was planned to launch October 1, 2013 and -- well, initially

780 the plan was the whole thing would launch October 1. Then that was

781 changed to where it would only launch initially for agents and

782 community partners. And then two weeks later or so, as some of the

783 "bugs" were worked out, it would open to the general public. But

784 it never opened to agents and community partners on October 1. In

785 fact, it wasn't until, I believe, sometime in February that we

786 opened the website to agents and community partners.

787   Q.   Can you describe how IT teams responded to the failed

788 launch on October 1, 2013?

789   A.   I think that my sense at that time was that, you know,

790 there were lots and lots of efforts to make this website work. And

791 that the response was by everybody involved was trying to roll up

792 their sleeves and make this thing work. And I believe that

793 everybody, both -- you know, quite frankly, on the state side, on

794 the Cover Oregon side, on the oracle side -- everybody rolled up

795 their sleeves and tried to make this thing work.

796   I mean, the problem was every time it got tested, there

797 were more problems, then there was more delays, and we went over

798 a series of delay and delay and delay and as I indicated it wasn't

799 October, November, December, January. It wasn't until February

800 that it even launched for the agents and community partners.

801   Q.   Were additional staffers brought on by you or any state

802 entity after the failed launch in October 1, 2013?

803   A.   In late October, beginning of November, as the Oregon

804 Health Authority, I brought on several hundred people. Those

805 individuals were brought on to process applications. We -- at that

806 point it was not a functional website. It was no way for people

807 to enroll and so we began a -- we called a hybrid process, because

808 it involved paper -- a paper application and then behind the scenes

809   some of the technology to get people enrolled, so it brought on

810   several hundred. And then when I was at Cover Oregon, I recall

811   bringing on several individuals.

812   Q.   Do you know if Oracle or any of the other IT vendors

813   brought on additional staff?

814   A.   I don't recall.

815   Q.   Are you familiar with how OHA, Cover Oregon and the Oracle

816   teams worked while fixing the website after October 2013?

817   A.   I would say I was most involved from the period in the

818   beginning of December onward. I didn't have a great window into

819   how everybody was working and what they doing in December and

820   October -- in October and November of 2013, as I was primarily

821   responsible for the paper process and getting that enrolled.

822   After, when I went over to Cover Oregon, I was very

823   familiar with how the teams worked together. And as I had

824   indicated, I think a lot of people worked really hard to try and

825   get this thing up and going.

826   In December, January, and February things fell

827   apart -- end of February and beginning of March, when, you know,

828   Oracle rolled, you know, hundreds or so people off the project.

829   But, you know, before then, I think everybody was making a concerted

830   effort to make this thing work.

831   Q.   Thank you. I'm introducing Exhibit 3 into the record.

832   Did you send this e-mail on April 2nd, 2014 about financial

833   sustainability?

834   A.   Yes.   It certainly appears that way.   My name is on the

835   top.

836   Q.   I just wanted to make sure that was you, that there wasn't

837   another Bruce Goldberg in Oregon.

838   A.   Yes.

839   Q.   In the e-mail you state, "If Cover Oregon continues to

840   track, as it currently is, to the revise enrollment projections,

841   it can be financially sustainable to garner sufficient revenue to

842   fund its revised budget."

843   So is this correct, that you believed that Cover Oregon

844   could be financial sustainable?

845   A.   Yes.

846   Q.   Did you continue to believe that Cover Oregon could be

847   financial sustainable?

848   A.   I believe that Cover Oregon could be financial

849   sustainable if it had a working website.   You know, the issue

850   here was the agency, as indicated in here, looked to fund itself

851   out into the future on the assessment -- the percentage of the

852   assessment that it got once it came off of the federal grant.

853   If Cover Oregon was able to have somewhere upwards of a

854   hundred thousand enrollments, I'll felt at that point that the

855   organization could be sustainable, with one big caveat.   And that

856   caveat really relates to some of the decisions that were made, which

857 was -- the caveat was how much of the budget needed to go into the

858 website. And, as you can imagine, if there was $200 million budget

859 and it was going to cost $150 million to fix the website, that

860 wouldn't have been sustainable. If it was a $200 million -- I'm

861 just picking round figures. I don't know that the budget was $200

862 million. If it was $200 million and it only cost, you know, 25 to

863 $40 million to fix and maintain the website, then it was

864 sustainable. But, you know, these protections were based on having

865 a functioning website that needed, you know, minimal dollars to fix

866 and maintain.

867   Q.   When you say "maintain," were there any discussions about

868 whether the staffing at Cover Oregon was appropriate to maintain

869 the website?

870   A.   Yes, there were discussions about that.

871   Q.   What did you guys discuss, was there appropriate staff

872 at Cover Oregon to maintain the website?

873   A.   There were a lot of discussions about that and I would

874 say that what was -- it was unclear at that -- I mean, we didn't

875 have a working website at that time and it was unclear exactly what

876 staff we would need. It was going to depend on a whole variety of

877 decisions that would get made down the road about the website. So,

878 yes, there were a lot of discussions about that. Obviously, if it

879 was a smoothly running website that needed very little maintenance,

880 that would have led to one kind of a staffing scenario. A scenario

881 where there were constantly things that needed to be fixed, would

882 have needed a lot more people.

883   Q.   Is it fair to say that the states who had websites up and

884 running, because the requirements were changing between 2013 and

885 2014, were going to have to change their system in some way,

886 regardless of the status of their website?

887   A.   There were always changes so, yes, people would always

888 need to change some things. And I think the issue there is

889 what -- how substantive the work is to change something. You know,

890 in my experience that's always the big difference between the

891 technocrats and the policy people. The policy people say, "Oh,

892 we're just going to change this one thing and that's not a big deal."

893   And the technology people come back to you and say, "Well,

894 yeah, it sounds like it's not a big deal, but that is going to

895 be -- you know, take a huge amount of money." And I have been

896 surprised on both ways. Changes that I thought would be tremendous

897 in positions on staff, they say, "Oh that's actually really easy."

898 So I think it really depends.

899   Q.   Did you see that at Cover Oregon a lot, where the policy

900 people had small changes, they wanted to make some type of revision

901 in terms of how the system would operate?

902   A.   That was always a source of negotiation between the

903 policy people at Cover Oregon and the web people who were putting

904 it together, yes.

905   Q.   Thank you.

906   Are you familiar with technology advisory group that was

907   convened for Cover Oregon?

908   A.   Yes, very familiar with that.   I put that group together.

909   Q.   That's my next question.   So you established technology

910   advisory group?

911   A.   Yes.

912   Q.   What was the purpose of the technology advisory group?

913   A.   The purpose of that group was -- this was late February.

914   The dates -- I don't recall the exact dates.   But this was, you

915   know, late February, earlier March.   We did not have a functioning

916   website and we now needed to very quickly make some decisions, not

917   for the current enrollment period, but the next open enrollment

918   period was eight, nine months away.   And we didn't have a working

919   website and we needed to make some decisions about the future.

920   So I put together a group of IT experts from the CIOs from

921   some insurers and large health systems and a couple of board members

922   to work through a process to look at, one, what our options were

923   for the next open enrollment and to make a decision about that,

924   because we needed to make a decision promptly about what to do and

925   the group considered --

926   Q.   I'm sorry.   We'll get to that later.   I wanted to --

927   A.   Sorry.

928   Q.   That's fine.   I appreciate it.   We'll get there.

929   A.   Feel free to cut me off.

930   Q.   I just want to make sure we're on time.

931   I want to take a step back. You said you established the

932 technology advisory group. Did you work with anyone to establish

933 it or did you independently?

934   A.   I worked with some members of the board.

935   Q.   Members of the Cover Oregon Board?

936   A.   Yes.

937   Q.   Do you recall what members of the Cover Oregon Board?

938   A.   Primarily with the chair, Liz Baxter.

939   Q.   What do you mean by you worked with them?

940   A.   Well, talked about who should be on it. You know, I said,

941 "Here's what I think we need. You know, we need some people with

942 expertise and here are the people that I think we should have on

943 it," and that's how we worked together.

944   Q.   Did you talk to anyone from the governor's office about

945 who should be on the technology advisory group or how it should be

946 structured?

947   A.   You know, I don't recall, but I my sense is that I probably

948 did talk to people about membership on it, yes.

949   Q.   Was there a chair of the technology advisory group?

950   A.   Good question. I'm trying to remember. You know, I

951 don't remember. I don't remember whether I led it or we appointed

952 a chair or if Liz Baxter led it. I honestly don't remember.

953   Q.   I think you might want to take another step back --

954   A.   Yes.

955   Q.   You said you might have reached out to the governor's

956 office, but you don't recall. Why would you feel that you probably

957 would have reached out to the governor's office?

958   A.   Because I was in the habit of keeping the governor's

959 office informed about a lot of the important issues involving the

960 Cover Oregon so, you know, indeed, would inform them that I was going

961 to put together this group.

962   Q.   Was anyone from the governor's office on the technology

963 advisory group?

964   A.   I don't think so. The membership, I'm sure is there

965 somewhere. I don't -- I'm pretty sure not.

966   Q.   Did the membership change over time, do you recall that

967 or was it consistent from the first day until the end or was there

968 a change in membership in the group?

969   A.   My recollection is pretty consistent. There might have

970 been a person who, for time reasons, might have thought they could

971 have devoted the time to it and then found they couldn't and then

972 dropped out, but I don't recall any major changes in that group.

973   ██ ████████   Thank you. No further questions.

974   (Off the record.)

975   EXAMINATION

976   BY ██ ████████

977   Q.   Hi, Dr. Goldberg.

978   My name is ███████████████████ for the minority and

979   I'll be leading this hour of the deposition. I just wanted to ask

980   you a couple of questions. Some of the answers you've given

981   probably -- you've already given to my colleague, but we'll just

982   go more in depth with those.

983   A.   Happy to.

984   Q.   Let's talk about Oracle's roles and responsibilities as

985   it comes to the Cover Oregon state exchange. So we're going to

986   backtrack a little bit from what my colleague, █████████████, and

987   majority mentioned.

988   At some point Oregon did decide that they were going to

989   have their own state health insurance exchange, correct?

990   A.   Correct.

991   Q.   Do you know when this decision was made?

992   A.   The decision was made probably 2011 or so. I actually

993   don't recall the exact date. It was when there were opportunities

994   for states to do this by CMS or some planning grants put out and

995   the state decided and applied for that.

996   Q.   Were you involved in any way in that decision making

997   process?

998   A.   I was indirectly involved. I wasn't directly involved.

999   The Oregon Health Authority, which I was the head of, applied for

1000   those grants from CMS and I was informed of the applications, but

1001   I wasn't directly involved in the team.

1002   Q.   At some point Oregon decided that they were going to

1003   select a vendor to create the state exchange website, correct?

1004   A.   Correct.

1005   Q.   Who did the state select as its vendor?

1006   A.   The state selected Oracle.

1007   Q.   Do you know why the state selected Oracle?

1008   A.   Yes. At a high level. I mean, there was a procurement

1009   process. We had engaged consultants. It was a standard process.

1010   I wasn't directly involved in that process. But my understanding

1011   was that Oracle was the best fit for what we were doing, both in

1012   modernization, as well as with the insurance exchange; that they

1013   had a number of modules, as it was explained to me, that there was

1014   already configured or could be configured and that they could be

1015   put together rather easily and they seemed to be the best choice

1016   from the group that chose them.

1017   Q.   So Oracle knew what the project entailed -- the IT

1018   project entailed?

1019   A.   I can't speak to what Oracle knew.

1020   Q.   I'm sorry. To your knowledge --

1021   A.   I would certainly suspect that in bidding for the

1022   project, they knew.

1023   Q.   The state clearly informed Oracle of what they were hired

1024   to do.

1025   A.   Correct.

1026   Q.   What were they exactly hired to do?

1027   A.   My understanding is they were hired to provide the

1028 technology to build the website that was going to do, you know, at

1029 that point, in essence, three big things: You know, one was the

1030 Medicaid enrollment; second was the individual insurance exchange

1031 market enrollment; and third was the small group or what is known

1032 as the SHOP exchange.

1033   Q.   Do you know if Oracle was made aware of the deadline to

1034 have the website -- the health insurance exchange website up and

1035 running?

1036   A.   Again, I can't speak to that, but I would say that pretty

1037 much everybody in this country that was involved and worked with

1038 the insurance exchanges, whether that be states, contractors,

1039 politicians and otherwise, knew that open enrollment was going to

1040 start October 1 of 2013 and that was the deadline to have things

1041 operational.

1042   Q.   You said "every one knew," how would they know that

1043 information?

1044   A.   That certainly in Oregon there were public service

1045 announcements, there was lot of information that went to media, and

1046 I'm assuming that those were there direct discussions between the

1047 staff at Cover Oregon and the staff at the health authority. It

1048 was common knowledge. Everybody was driving towards October 1.

1049 You know, that wasn't just -- I guess, it's a lawyerly question,

1050 how does someone know common knowledge, but we all knew it.

1051   Q.   To be clear: To the best of your knowledge, Oracle knew

1052 the deadline to have the website up and running was October 1st,

1053 2013.

1054   A.   Yes.

1055   Q.   Did you ever meet with Oracle representatives after the

1056 state entered into a contract with Oracle?

1057   A.   A couple of times. I recall two meetings that I would

1058 characterize as probably courtesy meetings with the governmental

1059 affairs people from Oracle letting me know that we're all working

1060 well together and things were going just fine.

1061   Q.   Was there a discussion of the October 1st, 2013, deadline

1062 during any of these meetings?

1063   A.   I don't recall.

1064   Q.   Were there any representatives from other entities for

1065 Oregon -- the Department of Human Services, Cover Oregon --

1066   A.   The two meetings I had were myself and a person or two

1067 from Oracle and Carolyn Lawson may or may not have been at one or

1068 two of those. I don't recall. But they were small, short informal

1069 meetings.

1070   Q.   As you discussed earlier, at some point the state did

1071 decide to create the Cover Oregon Corporation, correct?

1072   A.   Correct.

1073   Q.   What was Cover Oregon?   What was the purpose of the Cover

1074   Oregon Corporation?

1075   A.   The purpose of Cover Oregon was to serve as the

1076   organization that was responsible for the private insurance market

1077   under the Affordable Care Act for the small group market, for

1078   getting people enrolled in coverage, for contracting with carriers

1079   for all of the different functions of the individual insurance

1080   exchange market, anything from contracting with carriers, setting

1081   standards for participation, outreach to consumers, enrollment,

1082   obviously was a big piece of it, but everything from enrollment

1083   information to consumers, working with carriers.

1084   Q.   At what point did Cover Oregon take this authority?

1085   A.   Cover Oregon came into the existence, I believe, sometime

1086   in 2012, but my dates may be a little off on that.   It was whenever

1087   the law passed -- and, you know, began to staff up and do its work.

1088   And then, you know, I think, germane to a lot of the discussions

1089   here, you know, as we had indicated in the initial contracts with

1090   Oracle, to build the website were with the state, with the Oregon

1091   Health Authority and those were transferred over to Cover Oregon

1092   I believe sometime in mid 2013.

1093   Q.   So let's discuss Oracle's work leading up to the go-live

1094   deadline of October 1, 2013.   We can talk about a couple months

1095   leading up to it.

1096   I'm handing you what has been labeled Exhibit 4.   It's

1097   a report from First Data entitled, "Cover Oregon Website

1098   Implementation Assessment," dated April 24th, 2014. Do you

1099   recognize this report?

1100   A.   Yes, I do.

1101   Q.   Are you familiar with this report, Dr. Goldberg?

1102   A.   I'm generally familiar with it, yes.

1103   Q.   Can you please turn to the page marked 64.

1104   A.   Yes.

1105   Q.   Now, this is a timeline of key Cover Oregon project events

1106   from March 2013 through November 2013. Do you recognize this

1107   timeline?

1108   A.   I've seen the report before, so I have seen this. I'm

1109   not intimately familiar with all the dates, but yes.

1110   Q.   Let me turn your attention to the column of "Key Timeline

1111   and Milestone Points," May 29, 2013. It reads, "Governor's office

1112   briefing meeting on IT project with call Sean Kolmer, Mike Bonetto,

1113   Rocky King, Aaron Karjala, Erinn Kelley-Siel, Bruce Goldberg,

1114   Carolyn Lawson. Update, project on track."

1115   Let me first start with, who is Sean Kolmer?

1116   A.   Okay. Sean Kolmer was the deputy health advisor to the

1117   governor.

1118   Q.   May 29th, 2013.

1119   A.   Thank you.

1120   Q.   Who is Rocky King?

1121   A.   Rocky King was the executive director of Cover Oregon.

1122   Q.   Who is Aaron Karjala --

1123   A.   Aaron Karjala. He was the chief -- he was the CIO for

1124 Cover Oregon.

1125   Q.   -- and Erinn Kelley-Siel --

1126   A.   Erinn Kelley-Siel was the director of the Department of

1127 Human Services for the state of Oregon.

1128   Q.   -- and Carolyn Lawson?

1129   A.   Carolyn Lawson was the chief information officer for both

1130 the Health Authority and the Department of Human Services.

1131   Q.   Do you recall an Oracle representative being at this

1132 meeting on May 29th, 2013?

1133   A.   No, I don't. I don't believe there was one.

1134   Q.   To be clear: You were having a meeting with

1135 representatives from the governor's office, Oregon Health

1136 Authority, Department of Human Services and Cover Oregon, correct?

1137   A.   That is correct.

1138   Q.   Let's just go back to the May 29, 2013 -- what was

1139 discussed during this meeting?

1140   A.   I don't recall the exact issues that were discussed. We

1141 had a series of meetings over the spring of 2013. Briefing

1142 both -- briefing primarily Mike Bonetto and Sean Kolmer about the

1143 status of the website. And, you know, we talked a lot about how

1144 things were going, how things were going on some of the Medicaid

1145 interfaces and whether or not the project was on track.

1146   Q.   This May 29th, 2013, this -- there is a statement that

1147 says, "Update, project on track." What did you understand project

1148 on track to mean?

1149   A.   To me project on tract meant October 1 the website was

1150 going to launch and people could enroll in healthcare.

1151   ███████. Just for the record, you keep saying May. I

1152 think it's June; is that correct?

1153   Mr. Goldberg. No. It's --

1154   ███ ████████ May.

1155   Mr. Goldberg. I got corrected.

1156   ███ ████████ No. May 29, 2013.

1157   ███ ██████ I got you, perfect.

1158   ██ ███████████

1159   Q.   "Project on track," did that pertain to Oracle's work in

1160 creating the website for the state?

1161   A.   Yes.

1162   Q.   What you're saying is on track would be on track for the

1163 October 1st, 2013, Oracle providing a fully functional website by

1164 that time, correct?

1165   A.   Correct.

1166   Q.   What was your basis for believing that the project was

1167 on track?

1168   A.   My basis for believing that was Rocky King, Aaron

1169   Karjala, and Carolyn Lawson letting us know that that was happening,

1170   that was the -- because they were the three that were most

1171   intimately involved in the project. So it was, you know, their

1172   statements and their descriptions of what was going on. As well

1173   as, at that point, in May 2013, you know, we had had a number of

1174   gate reviews from CMS that we had gone through that seemed to

1175   indicate that things were moving towards things working.

1176   Q.   What were these gate reviews?

1177   A.   I only know of gate reviews at a very high level. The

1178   gate reviews were CMS staff would come out and meet with a lot of

1179   the IT folks and would look at and gauge progress in how we were

1180   doing.

1181   Q.   Were the statements by, you said, Carolyn Lawson, Aaron

1182   Karjala and Rocky King, were those -- were their statements based

1183   on representations that they received from Oracle?

1184   A.   You know, I have since come to learn that, yes, that they

1185   were continually assured that things were working; that, you know,

1186   they were shown different pieces of this and that they were, you

1187   know, by report and by observation different pieces of it were

1188   working, but that as you go forward in the end, when you put the

1189   whole thing together and tested it, it didn't work.

1190   Q.   Let's now go to the June 3rd, 2013, date on the timeline.

1191   A.   Okay. Got it.

1192   Q.   It reads, "Rocky King briefs Mike Bonetto and Bruce

1193 Goldberg that the interface connections with insurance carriers is

1194 behind schedule and that Medicaid eligibility and enrollment may

1195 need to be modified to only a Medicaid assessment."

1196   Did I read that correctly?

1197   A.   Yes.

1198   Q.   What did you interpret that -- what was that referring

1199 to there?

1200   A.   That was referring to that the -- the website was

1201 supposed to do a couple of things. It was supposed to enroll people

1202 in the individual insurance market, but it was also managed to be

1203 one stop where anybody could come in and if you were eligible for

1204 Medicaid, it would enroll you in Medicaid; and if you were eligible

1205 for the private insurance market, you could chose a plan and go

1206 through that.

1207   We were working on some interfaces. There had been some

1208 delays in that. And there were concerns that we may not be able

1209 to make the deadline to be able to include Medicaid eligibility as

1210 part of the enrollment, which meant that -- and this is what most

1211 other states did. If someone came on to the website and they were

1212 eligible for the insurance market -- private insurance market, they

1213 could enroll in a plan. If they were eligible for Medicaid, it

1214 would "do an assessment." It would do an assessment and it would

1215 tell someone you may be eligible for Medicaid, call this number,

1216 do whatever to enroll and they would have to enroll someplace else.

1217   So we were looking at this point about whether that would need to

1218   be a contingency or not.

1219   Q.   Was the Medicaid eligibility and enrollment that you're

1220   referring to, was that considered as part of the IT project with

1221   the state exchange?

1222   A.   Yes.

1223   Q.   Was Oracle working on the Medicaid -- this part of the

1224   Medicaid system?

1225   A.   Yes, they were.

1226   Q.   As you alluded to, the document reads, "the interface

1227   connections with insurance carriers is behind schedule."

1228   You said you were concerned. Were you concerned that

1229   part of the IT project was behind schedule?

1230   A.   I think that this was the first indication that some of

1231   the interfaces were behind schedule and, you know, this clearly

1232   pretended other things. At this point, you know, my recollection

1233   is there was a concern that we were behind schedule, but that we

1234   could make up time and that things would be operational.

1235   Q.   That was for the Medicaid system, correct?

1236   A.   No. I'm sorry. The interface connections with

1237   insurance carriers were not for Medicaid. Those were interfaces

1238   with the private carriers for the private market. There are two

1239   things. It was -- the Medicaid interfaces, were one piece of this;

1240   and the interface -- we had 12, 13, 14 carriers and those were the

1241 interfaces where the system had to interface with the carrier to

1242 get someone enrolled in that carrier's project.

1243   Q.   At this point, were you concerned that the state exchange

1244 would not meet the October 1st, 2013 deadline?

1245   A.   No. I think that at this point we were beginning to

1246 understand and you can see in June that we were not -- we had a sense

1247 that we wouldn't have all of the "bells and whistles" and all of

1248 the functionality, but that, generally, the exchange would be able

1249 to enroll people. I mean, the goal of this was to get people to

1250 signed up for a health plan.

1251   There was, in the beginning, a concern that certain

1252 functions might need to be added later, but that it would be able

1253 to do most of what it could do. It would be functional.

1254   Q.   Let's move to the June 19th, 2013, date on the same page.

1255   A.   Yes.

1256   Q.   It reads, "Governor's office briefing meeting on IT

1257 project with Sean Kolmer, Mike Bonetto, Rocky King, Aaron Karjala,

1258 Erinn Kelley-Siel, Bruce Goldberg, and Carolyn Lawson. Update,

1259 project on track."

1260   What do you interpret project on track to mean here?

1261   A.   You know, there's -- the sense, again, was that on

1262 October 1 we would be able to enroll people in the private market;

1263 that the project was on track to be able to enroll people. We had

1264 heard previously that it might not have full functionality, but,

1265 you know, those things were not felt to be the kinds of things that

1266 were integral to enrollment, but that the system -- you would be

1267 able to go on a website and pick a health plan.

1268   Q.   You said that you thought you could make up the time.

1269 Does this mean that the project had made up that time?

1270   A.   You know, I don't know. You know, I don't know whether

1271 at that point the project had made up the time or not.

1272   Q.   At this point did you believe that Oracle would be able

1273 to produce a fully functional operational website by the October

1274 1st, 2013, deadline?

1275   A.   At this point I had nothing to suggest otherwise, that

1276 we wouldn't be operational again. We would not, perhaps, have all

1277 of the things that someone might have wanted, but that generally

1278 we would have a functional website.

1279   Q.   Who told you that the IT project was on track?

1280   A.   That came from Rocky King and Aaron Karjala and Carolyn

1281 Lawson.

1282   Q.   Is it your understanding that they were relaying to you

1283 what Oracle had represented to them?

1284   A.   Yes, that is my understanding.

1285   Q.   If you could turn to the next page, page 65, and go to

1286 date, July 12th, 2013, the first date. Are you there?

1287   A.   Yes.

1288   Q.   It says, "Governor's office briefing meeting on IT

1289   project with Sean Kolmer, Mike Bonetto, Rocky King, Aaron Karjala,

1290   Erinn Kelley-Siel, Bruce Goldberg and Carolyn Lawson. Update,

1291   project on track."

1292   Did I read that correctly?

1293   A.   Yes.

1294   Q.   Here, what did you interpret project on track to mean?

1295   A.   I interpreted that we were going to be able to get people

1296   enrolled in the private insurance market on October 1.

1297   Q.   Did on track pertain to Oracle's work creating this

1298   website?

1299   A.   Yes.

1300   Q.   From your understanding on track meant that Oracle would

1301   produce that fully functional website by October 1st, 2013?

1302   A.   I would modify that with the exception with not fully

1303   functional but functional. That it had -- it would be functional,

1304   be able to enroll people, but that it wouldn't have every single

1305   function that we had wanted. I mean, that's part of the

1306   project -- is continuing to adjust scope so you can meet a deadline,

1307   but that it would do its job. The job of this was to enroll people

1308   in care and that it would be able to allow people to go on a website,

1309   choose a health plan, apply, have their subsidies taken care of and

1310   get enroll in a health plan. That was always my understanding of

1311   what on track meant.

1312   You know, the project and technical people, you know,

1313   they had a list of 130 things that -- and it might have been that

1314   we were only going to get to a hundred on October 1 and a

1315   hundred -- next ten on November 1 and, et cetera, but that, you know,

1316   this was going to work.

1317   Q.   If we could move to July 27th, 2013, the next date on the

1318   same page. It says, "Governor's office briefing meeting on IT

1319   project with Sean Kolmer, Mike Bonetto, Rocky King, Aaron Karjala,

1320   Erinn Kelley-Siel, Bruce Goldberg and Carolyn Lawson. Update,

1321   project on track."

1322   A.   Correct.

1323   Q.   Here, what did you interpret project on track to mean?

1324   A.   I interpreted that we would be able to get people enrolled

1325   in the private insurance market, have them choose a health plan,

1326   their subsidies and enroll in care.

1327   Q.   Did this pertain to Oracle's work in creating that

1328   functional website --

1329   A.   Yes.

1330   Q.   -- by October 1st, 2013?

1331   A.   That was what on track meant. On track was, using our

1332   train metaphor, it would pull in on October 1. It was on track.

1333   Q.   Who told you the project was on track?

1334   A.   Rocky King and Aaron Karjala and Carolyn Lawson, who were

1335   most involved in the day-to-day operations of the project.

1336   Q.   Is it your understanding that at this point they informed

1337 you that -- is it your understanding that at this point they were

1338 relaying to you what Oracle had represented to them --

1339   A.   Yes.

1340   Q.   -- and that the website is on track for the October 1st,

1341 2013, deadline?

1342   A.   Correct.

1343   Q.   If you could go to the next date on the page, it's July

1344 31st, 2013, it reads, "Governor's office briefing meeting on IT

1345 project with Sean Kolmer, Mike Bonetto, Rocky King, Aaron Karjala,

1346 Erinn Kelley-Siel, Bruce Goldberg and Carolyn Lawson. Update, may

1347 need to do a stage launch, but project on track."

1348   What does stage launch mean?

1349   A.   Stage launch meant that on October 1 was open the agents

1350 and community partners and then a couple of weeks later to open to

1351 the general public. And the reason for that was agents were a

1352 smaller universe. You wouldn't have had a hundred thousand people

1353 coming onto the website. It would have been, you know, maybe two,

1354 3,000; and that this would be a great way to be able to work out

1355 some of the bugs and test things, particularly, also with people

1356 who you could communicate with and then open it up to the general

1357 public two or three weeks later. So that was what a stage launch

1358 meant, was that October 1, agents and partners and then later on

1359 to the general public.

1360   Q.   Would you consider this stage launch to be reducing the

1361 scope of the IT project?

1362 A.   I -- you know, now we kind of get into semantics. I

1363 guess, from my standpoint, it wasn't scope so much as timing. It

1364 was that we would launch with agents and partners on October 1 and

1365 a couple of weeks later.

1366   Obviously, it wasn't ideal. The plan was that everybody

1367 would be able to go on this website on October 1 and this was the

1368 first point in which we had a sense that it's not going to happen.

1369 Q.   Who asked to narrow the group of individuals that the

1370 website would go live to?

1371 A.   That came from Rocky King, who, you know, at that point,

1372 I think, was having some concerns, as he put it in that meeting and

1373 a number of other meetings, that he was beginning to get a sense

1374 that things were going to be a little, as he always said, bumpy;

1375 that there were things that -- it was becomes clear that needed more

1376 time to work out some of the bugs.

1377 Q.   Did this request originate from Oracle?

1378 A.   I don't know.

1379 Q.   But it still says under the date, "but project on track."

1380 Does that mean that Oracle was on track to produce this functional

1381 website by the go-live date of October 1st, 2013?

1382 A.   Well, to me that meant we are doing a -- may need to do

1383 a stage launch, that we were on track to open to agents on October

1384 1, but not to the general public. You know, I don't know that I

1385   would have said on track at that point, but, you know, it is what

1386   it is.

1387   Q.   So you were concerned that the state exchange website

1388   would possibly not go live on October 1st, 2013.

1389   A.   Correct. That was the first inkling that we were

1390   starting to miss deadlines.

1391   Q.   Let's go to page 66, to the September 3rd, 2013, date.

1392   Do you see it?

1393   A.   Yes.

1394   Q.   It reads, "Governor's office briefing meeting on IT

1395   project with Sean Kolmer, Mike Bonetto, Rocky King, Aaron Karjala,

1396   Erinn Kelley-Siel, Bruce Goldberg and Carolyn Lawson. Update,

1397   will be a stage launch, but project on track."

1398   Here, what does stage launch mean?

1399   A.   Well, this was -- now the decision was made that there

1400   was no way that we could open to the general public as planned on

1401   October 1; and that there would be a stage launch, that the launch

1402   on October 1 would be to agents and community partners and at some

1403   point later to the general public.

1404   Q.   Who made that decision to do a stage launch on October

1405   1st, 2013?

1406   A.   That was Rocky King's decision and the insurance

1407   exchange.

1408   Q.   Do you know the basis of his decision?

1409   A.   I think the basis -- my understanding at the time was that

1410   there hadn't been sufficient testing of the system; there were still

1411   some "bugs" to get worked out; and that the system wouldn't be

1412   functional for the general public on October 1; and that the hope

1413   was that some of the -- because there hadn't been enough time to

1414   fully test, that, in essence, there would be testing and fixing with

1415   the agents, that there would be a process of testing and fixing;

1416   there would be an ability to close down the site for a couple of

1417   days to be able to make some of the fixes and then open it back up,

1418   because, again, it was a smaller universe of people, before opening

1419   it up but that's what -- that's my understanding of what that meant.

1420   Q.   Here it still says, "but project on track." Did you

1421   believe the project to be on track?

1422   A.   I believed at that point that it would open the community

1423   agents -- agents and community partners on October 1 and to

1424   individuals at some later state. I probably, at that point,

1425   wouldn't say on track, but others might. I mean, now you're getting

1426   into semantics. But that changes pretty quickly. In September

1427   when it just doesn't work for -- it doesn't -- then we get -- we

1428   quickly become off track.

1429   Q.   Who relayed to you that the project was on track at that

1430   point?

1431   A.   I think that was Rocky King saying, you know,

1432   "Technically, we're on track because we're going to open, but, you

1433 know, it's not going to be a full opening." It's going to be a

1434 partial opening.

1435   Q.   Is it your understanding that he was relaying information

1436 that he had received from Oracle that they would be on track to

1437 deliver this functional website for community partners and agents?

1438   A.   I think both from Oracle and from his experience now

1439 seeing more and more of the demoes as it was getting closer and

1440 closer and he was getting more concerned about there being bugs.

1441 I think at that point it was his hope and his understanding that

1442 a lot of the things that he was seeing were things that could get

1443 fixed in -- over the course of a couple of weeks and I think that

1444 was his understanding at that point.

1445   Q.   What was his understanding based on?

1446   A.   I think his understanding was based on a couple of things

1447 at that point -- was seeing demoes, was assurances he had from the

1448 Oracle folks. Those were probably the two biggest pieces of

1449 information, but I don't know exactly all of the things Rocky King

1450 was looking at. You know, I had a much better insight into the

1451 technology come December.

1452   Q.   Let's go to, on the same page, the date of September 16th,

1453 2013. It reads, "Rocky King presents to joint meeting of the House

1454 and Senate Healthcare Committees. Rocky King described the

1455 intended stage launch concludes presentation with 'bottom line, we

1456 are on track to launch.'"

1457   What are the House and Senate Healthcare Committees?

1458   A.   That refers to the Oregon House of Representatives and

1459 the Oregon Senate, both of those had a healthcare committee and we

1460 frequently gave updates to those committees.

1461   Q.   Were you in attendance at this meeting?

1462   A.   I don't recall.

1463   Q.   Let's go to page -- if you can turn to page 68, to the

1464 date September 28th, 2013.

1465   A.   Yes.

1466   Q.   It reads, "Cover Oregon conducts an internal website

1467 end-to-end test with Oracle leadership that failed. Rocky King

1468 declared at the meeting that 'he was pulling the plug,' on the

1469 website."

1470   What is an end-to-end test?

1471   A.   My understanding of what an end-to-end test was that

1472 someone could sit down at a computer, could enter their information

1473 and they could choose a health plan and get enrolled, that they could

1474 sit down and complete the process from end-to-end. I think

1475 previously Rocky King and others had seen, you know, different

1476 pieces of the system. And now this was, you know, sort of putting

1477 it all together and sitting down and it didn't work. So you

1478 couldn't enroll somebody. That's what end-to-end meant.

1479   Q.   What did you interpret Rocky's statement he was pulling

1480 the plug to mean?

1481   A.   That we weren't going to have that soft launch on October

1482   1, that it wasn't going to even work for community partners and

1483   agents on October 1.

1484   Q.   So at this point you were informed that the website that

1485   Oracle was developing would not be functioning and go live on

1486   October 1st, 2013?

1487   A.   Correct.

1488   Q.   So did the website, in fact, go live on October 1st, 2013?

1489   A.   No, it did not.

1490   Q.   Did the website go live to the community partners and

1491   agents on October 1st, 2013?

1492   A.   No, it did not. The website didn't go-live to community

1493   agents and partners until sometime in February of 2014.

1494   Q.   So we already know now that Oracle didn't provide the

1495   functioning website, didn't go live on October 1st, 2013. So let's

1496   talk about the months following the go-live date. You can put the

1497   report to the side.

1498   By the end of October 2013, had Oracle delivered this

1499   functioning website to the state?

1500   A.   No, it had not.

1501   Q.   Did Oracle deliver this functioning website in November

1502   of 2013?

1503   A.   No, it did not.

1504   Q.   Were you and the state given any other go-live dates from

1505   Oracle?

1506   A.   There were multiple go-live dates. I don't recall them

1507   all. I know there were several go-live dates in November and

1508   December that were not met and then --

1509   Q.   Why weren't those in December met?

1510   A.   The website didn't work to enroll people end-to-end.

1511   Q.   How did you know that?

1512   A.   I can speak directly to after December. I wasn't

1513   at -- after December, I knew that because we'd sit down and try and

1514   use the website and couldn't enroll. We had multiple

1515   demonstrations of the live website and it didn't work and then

1516   had -- I had brought in, in February, consumers to test it out and

1517   only about half of them were able to enroll. And we knew from when

1518   we went live with agents and partners the problems we were having.

1519   And so after December I knew multiple ways it wasn't

1520   working both, by having internal demonstrations -- there was a

1521   process in this that I came to learn where defects get fixed, then

1522   they get put into preproduction and they -- defects get identified.

1523   They get tested. They get fixed. They get tested again. They get

1524   put into a live environment and you see if it works. And we had

1525   multiple times over December, January, and February where I saw

1526   firsthand things being identified that needed to get worked on,

1527   people going, fixing them, testing them and then something else

1528   breaking and the site just not working.

1529   Q.   So based on your actual use of the website, the website

1530 was not functioning in December 2013?

1531   A.   Correct.

1532   Q.   And the website was not functioning in January 2013?

1533   A.   Correct.

1534   Q.   Okay.

1535   A.   I never saw it work for individuals.

1536   Q.   What do you mean by you never saw it work?

1537   A.   It never went live for individuals. I don't think it

1538 ever could. It wasn't working. It only was -- it was only able

1539 to enroll people about half of the time.

1540   Q.   So in February -- February 2014, where there still bugs

1541 in the system?

1542   A.   Yes, there was.

1543   Q.   Could you give me examples of what type of defects were

1544 currently in the system in February 2014?

1545   A.   I can't tell you technically what the defects were. I

1546 can tell you what would happen that -- and what I saw. I'm not the

1547 technical person. You know, to me this was just really enroll

1548 people. And what would happen and is that people would get stuck.

1549 They would, at various point in the enrollment process -- something

1550 would happen where you'd get a little spinning wheel and the wheel

1551 would just spin. And sometimes it would spin for three or four

1552 seconds and then move on and sometimes it would just spin forever

1553   and someone was blocked from going onward. And that's what I saw

1554   or someone would put information in and it would tell you, you can't

1555   do that; or, I mean, it just -- you couldn't progress from sitting

1556   down at the computer and putting your information in, choosing a

1557   health plan and enrolling. It thwarted you from doing that. It

1558   was not -- I'm not a technical person. I turn the key of the car.

1559   I don't know how an engine works. But what I do know is when I turn

1560   the key of the car -- I don't know how internal combustion engines

1561   works, but I put my foot on the gas and my car moves forward. This,

1562   you sat down at the driver seat and it didn't move forward.

1563   Q.   I'm handing you what has been marked as Exhibit 5.

1564   A.   Okay.

1565   Q.   Dr. Goldberg, this appears to be an e-mail from you to

1566   Governor Kitzhaber, dated on February 27th, 2014; is that correct?

1567   A.   That's correct.

1568   Q.   Are you familiar with this e-mail?

1569   A.   Yeah, I'm very familiar. I actually appreciate your

1570   bringing it up, because it's been misinterpreted in a number of

1571   places, so I appreciate the opportunity to set the record straight.

1572   Q.   Okay. Let's go through this e-mail. So the beginning

1573   of the e-mail you include a title, so to speak, that says "Cov Oregon

1574   vs Oracle Perspective." Is Cov Oregon short for Cover Oregon?

1575   A.   Yes, it is.

1576   Q.   Why did you include this title? What does it mean?

1577   A.   Well, this was around the time the governor and others

1578 had a meeting with Oracle executives. I don't know whether it was

1579 right before or right after, but the governor had wanted some

1580 information from me, because he was being told by some conversations

1581 he had had with individuals at Oracle that the website was working

1582 and we should go live. And I was telling him some different

1583 information and so he wanted to understand a couple of things. He

1584 wanted to understand, one, what we were shooting for, you know, what

1585 the target was, what it meant for a system to be ready and

1586 operational and where we were in that scheme of things. And those

1587 were the two questions he asked and that was the information that

1588 I provided him.

1589   Q.   Would the title be a dispute between what Cover Oregon

1590 believes is the status of the website and what Oracle believes is

1591 the status?

1592   A.   Yes.

1593   Q.   The first line of the first full paragraph of your e-mail

1594 it reads, "Cover Oregon's perspective of system readiness is that

1595 the system can function with a 90 plus percent of accuracy for 90

1596 to 95 percent of the population."

1597   Did I read that correctly?

1598   A.   Yes, you did.

1599   Q.   What did you mean by this statement?

1600   A.   I meant that the -- a system was ready and working. The

1601   standard for a system. And I was very clear to say not this system,

1602   our system, et etcetera, but the perspective of a system standard,

1603   so to speak, that we were shooting for, what was the -- you know,

1604   what was the goalpost was that our perspective was that the system

1605   would be ready. And now in retrospect, I might be worded this a

1606   little differently to be a little clearer, but Cover Oregon's

1607   perspective of system readiness -- a system's readiness is that the

1608   system can function at 90 plus percent accuracy for 90 to 95 percent

1609   of the population. Meaning, that some -- 90 percent of the people

1610   can sit down -- over 90 percent of the people can sit down and enroll

1611   and they'll be enrolled with 90 plus percent accuracy; meaning, the

1612   system would figure out its tax credits. You know, it wasn't just

1613   that you could pick plan a, but that it would calculate your tax

1614   credits correctly so that -- you know, when someone get on the

1615   website and choses something on Amazon, almost all the time, it

1616   correctly tells you what the item, what it costs, and you go through

1617   the process and you sit down and you can buy something, it's well

1618   over 90 percent. But this is what we were shooting for.

1619   So this was my perspective on when a system -- when our

1620   system would be ready. It in no way said that this is the

1621   functioning of the system right now. Had it been, we would have

1622   gone live.

1623   Q.   So the website that Oracle developed did not fit the

1624   standard that you were implying --

1625   A.   Correct.

1626   Q.   -- 90 plus percent of accuracy for 90 to 95 percent of

1627 the population.

1628   A.   Correct.

1629   Q.   So let's go to the second paragraph. You write, "Oracle

1630 also said that the cause of only processing eligibility and

1631 enrollment at about 50 percent on the first try is largely due to

1632 Cover Oregon changing requirement specifications."

1633   Did I read that correctly?

1634   A.   You did.

1635   Q.   Were you saying here that the Oracle created website is

1636 functioning at about 50 percent at the time of this e-mail, which

1637 is the end of February 2014?

1638   A.   Yes, about at time that was approximately how well it was

1639 working. About half the time someone could enroll and about half

1640 the time someone couldn't.

1641   Q.   How would you compare the website that Oracle had created

1642 at this time to Cover Oregon's standard of 90 plus percent of

1643 accuracy for 90 to 95 percent of the population?

1644   A.   It was not working at the standard that we were expecting.

1645 It was working far below that.

1646   Q.   Let's go to the third paragraph of your e-mail. You

1647 write, "Cover Oregon's perspective is that the larger issue

1648 blocking full individual launch has been late delivery of

1649   development and defects in the system."

1650   Did I read that correctly?

1651   A.   Yes.

1652   Q.   At the time of this e-mail, February 27th, 2014, the

1653   website that Oracle developed was full of defects which prevented

1654   it from fully launching to the public, correct?

1655   A.   That's correct.

1656   Q.   What types of defects -- could you describe those again

1657   what types of defects were in the system at this time?

1658   A.   At that point the defects were -- I can't technically

1659   tell you what they were, but I can tell you what happened, which

1660   is that you would sit down to enroll and the wheel would spin and

1661   you couldn't enroll. We had at this point -- this was late

1662   February. And what had happened over the ensuing months leading

1663   up to this was a series of problems identified jointly by both, Cover

1664   Oregon and Oracle, saying here are the technical problems, this is

1665   what needs to get fixed to go live and date were given. We had a

1666   February 3rd date and we had a number of dates. And then a process

1667   would happen and the process was that the technical people would

1668   fix those things and they would test them, often when they tested

1669   them, they would find other things that broke and then they would

1670   fix other things and then they would put them into the live

1671   production environment and when they did that, sometimes the whole

1672   system would go down. I mean, it was a -- this had become a

1673 recurring theme. And from, you know, time onward, that was what

1674 happened and that there were just defects in this system that people

1675 would fix one thing and then something else would not happen.

1676   Again, I'm not the technical person, but all I know is

1677 people were working earnestly to get it fixed, but it was not

1678 working.

1679   And, you know, the statement that, you know, it was due

1680 to changing requirements, we had it -- we would sit down and agree

1681 on what the requirements were. And we had a series of agreements

1682 on scope and requirements. And I can only remember -- one time when

1683 we wanted to have something changed and we were told if we did that,

1684 it would put things back a week or two. That was in December, but

1685 that wasn't out in February.

1686   So the issue was there were just -- there were defects

1687 in this system. It didn't work.

1688   Q.   As you may be aware, Oracle claims that they produced a

1689 fully functional website to the state by the end of February 2014.

1690   A.   Yes.

1691   Q.   In your opinion and from your review and use of the

1692 system, did Oracle produce a fully functioning website to the state

1693 by the end of February 2014?

1694   A.   No.

1695   Q.   Were there other technical issues in the system beyond

1696 February 2014?

1697   A.   You know, beyond February -- around in March and at some

1698 point in March and -- you know, it was some point in earlier March

1699 we were, you know, in essence approaching the end of open

1700 enrollment. And so at that point, I think on March 1, Oracle had

1701 rolled about hundred people off of the project. And throughout

1702 March, we were just trying to maintain the parts of it that were

1703 working to enroll people through the processes that we had created.

1704   Q.   How did people enroll into healthcare?

1705   A.   It was a complicated process and -- it went something

1706 like this, someone would fill out an application, they would send

1707 it in to the state, we would use that application to figure out what

1708 they were eligible for, whether they were eligible for Medicaid or

1709 the private insurance market, and we would calculate their tax

1710 subsidy. We would then send them back info. So they would send

1711 it into us. It would take a couple of days to process. We would

1712 then let them know, you're eligible for Medicaid and you're going

1713 to get enrolled or you're eligible for the insurance exchange and

1714 here's what your tax subsidy is and then you could pick a plan and

1715 then call us back and let us know what plan you have chosen and we'll

1716 then get you enrolled in that plan. So it was a very labor intensive

1717 process. It took a period of time from the time someone sat down

1718 to when they were able to get enrolled, anywhere between, you know,

1719 five days and more. The time got shorter as we got better at it,

1720 but that was the process we were using.

1721   Q.   Did the state have to use additional resources in order

1722   for Oregonians to enroll in healthcare?

1723   A.   We hired several hundred people to do that work. It

1724   was -- it was a tremendous amount of interest in the insurance

1725   exchange. We had -- you know, we ended up enrolling, I believe,

1726   close to a hundred thousand people through that process. We also

1727   enrolled several hundred thousand people in Medicaid. In fact, the

1728   state enrolled, you know, one of the highest numbers of people. But

1729   it was a very labor intense process and we, yes, we had to hire a

1730   lot of people to do that.

1731   Q.   Do you know how much money the state spent?

1732   A.   Oh, I did at one point, but I can't tell you now. We had

1733   budget figures. It was several million dollars.

1734   Q.   Was it an additional cost to hire and train additional

1735   staff and enroll Oregonians in this type of process?

1736   A.   Yes, it was.

1737   Q.   You mentioned earlier that Oracle rolled a few people off

1738   of the project in March. Do you know why?

1739   A.   You know, at that point my recollection was that -- you

1740   know, we were in a dispute with Oracle at this point on a number

1741   of fronts. We were clearly disputing that this website wasn't

1742   working and we were also not paying them until they would deliver

1743   a working website. So we had withheld some, you know, financial

1744   resources from them. We had legal teams working with each other.

1745 Things were heating up. Oracle felt that they had delivered what

1746 they needed to deliver and because we were not paying them, they

1747 were going to pull their people off of the project. So they pulled

1748 a lot of people off the project because we weren't paying them.

1749   Q.   After pulling people off the project, did Oracle ever

1750 produce a functioning website to the state?

1751   A.   To my knowledge, no.

1752   Q.   Was it Oracle's position that a website working only half

1753 the time was sufficient?

1754   A.   Yes. They thought that that was going to be okay. And,

1755 you know, the issue was a couple of fold: One, as -- we had a

1756 process that was working and, as you can imagine, if someone tried

1757 to enroll and they got one of those stops, they would have been

1758 informed to call customer service. We would have had to staff up

1759 and hire hundreds of people to answer the telephones. And then the

1760 issue is we couldn't fix it. I mean, it wasn't as if then you could

1761 say, "Oh, let's just do this," so you would have actually had to

1762 have people go and start the same paper process that everyone else

1763 was using. So in order to go live, it had to be better than what

1764 we were doing at the time. That simply wasn't going to be better.

1765 It was going to be more frustrating for consumers, more confusing

1766 to tell people, "Oh, there's a website. You can enroll," and then

1767 to have them get on it and not enroll, that would not have been a

1768 good thing to put forward for consumers. So it was wasn't working.

1769   ██████ ████████   Thank you.

1770   (Off the record.)

1771   EXAMINATION

1772   ██████ ████████

1773   Q.   Were you aware at the time -- so going back to before the

1774 website, October 1, 2013, so well before that --

1775   A.   Correct.

1776   Q.   Were you aware at the time that delaying the launch of

1777 the exchange on October 1, 2013, may have been politically

1778 inconvenient for supporters of the Affordable Care Act?

1779   A.   Excuse me.   I didn't hear the end of that.

1780   Q.   Were you aware that it may have been politically

1781 inconvenient for supporters of the Affordable Care Act?

1782   A.   I wasn't aware of that being inconvenient for any

1783 individual, but I can certainly understand in a larger political

1784 perspective that not launching on time would be a black eye, so to

1785 speak, for people who were supporters of the Affordable Care Act.

1786   Q.   Did you ever feel any pressure from CMS to attempt to

1787 launch on October 1, 2013?

1788   A.   I didn't personal, no.

1789   Q.   Do you know if anyone felt pressure or thought there might

1790 be pressure?

1791   A.   No.   My sense was everybody was working earnestly to get

1792 this thing working.   I mean, so in the sense that there was

1793   pressure, I mean, everybody had self imposed pressure to get this

1794   thing working. I didn't feel there was any external political

1795   pressure.

1796   Q.   I'm introducing Exhibit 6 into the record.

1797   A.   Okay.

1798   Q.   I want to direct your attention to the e-mail sent by you

1799   at the bottom of the first page. This is an e-mail sent by you on

1800   March 13th, 2014, correct?

1801   A.   Yes.

1802   Q.   In the e-mail, starting with the first full paragraph,

1803   you say, "Deloitte is not making a recommendation to us. They were

1804   engaged to provide some preliminary background information on

1805   potential alternatives to our current IT arrangement. However, we

1806   have engaged Point B to provide additional analysis and to help lead

1807   some Cover Oregon staff, local private sector CIOs, CEOs and board

1808   members through a process to look at current system capabilities

1809   and potential alternatives."

1810   What did you mean by this statement that Deloitte is not

1811   making a recommendation to us and that you had engaged them to

1812   provide some preliminary background information?

1813   A.   I meant that to mean Deloitte was not making any

1814   recommendations. We had asked Deloitte previously to lay out

1815   some -- what were the potential options and some pros and cons and

1816   I could briefly tell you what those options are, or not.

1817   Q.   That's okay.

1818   A.   Okay. Just to lay out some options. And what this

1819 referred to was that they were not making a recommendation on any

1820 of those options. There were -- and this was an e-mail to someone

1821 else in the industry, a competitor, and there were concerns raised

1822 that the optics of Deloitte, who could potentially be a bidder for

1823 this, had made a recommendation. And so I was reassuring this

1824 vendor that Deloitte wasn't make a recommendation and that, as a

1825 matter of fact, I had called in a neutral party, who wasn't a vendor,

1826 Point B, to lead through that process so that there wouldn't be any

1827 sense that any vendor had an upper hand in this.

1828   Q.   How long was Deloitte engaged in the process to evaluate

1829 the different technology options?

1830   A.   Deloitte had done a couple of -- my understanding was

1831 Deloitte had been involved, sort of, tangentially to the process

1832 over the course of a year or two in terms of developing certain

1833 little pieces that were used by the public, I think. I engaged

1834 them, so they were aware of what was going on. And because they

1835 were around and because they were aware and somewhat peripherally

1836 involved in the project -- asked them in terms of the

1837 recommendations -- sometime in, I believe, it was earlier February

1838 or maybe January, to start putting together a list of what were the

1839 options for the future. I don't know the exact date, but it was

1840 at some point January, February, would be my recollection.

1841   Q.   Are you familiar with a February 10th report that

1842 Deloitte issued on Cover Oregon technology options -- or how many

1843 reports did they issue on technology options for Cover Oregon?

1844   A.   I believe they issued one and I don't recall the date,

1845 but that's the February 10th report. They issued a report that laid

1846 out a number of options and some of the pros and cons of each of

1847 those options.

1848   Q.   So Deloitte only issued one report on the technology

1849 options?

1850   A.   That's my understanding.

1851   Q.   After they issued the report, did they continue to

1852 evaluate the technology options for Cover Oregon?

1853   A.   Yes. They helped us and helped work with the Point B

1854 people to work through some of what the cost would be. We were on

1855 a pretty tight timeframe and so, yes, they did help work with some

1856 of that.

1857   Q.   You said you engaged Point B --

1858   A.   Yes.

1859   Q.   -- to help evaluate the technology options. What role

1860 did Point B have?

1861   A.   Point B had been working with -- Point B is a firm. I

1862 don't know if they are just local or national. They help

1863 organizations with a variety of operational issues they had been

1864 working with Cover Oregon for sometime, helping provide some

1865 expertise. And there were a couple of individuals with Point B who

1866 I was particularly impressed with, one gentleman, Tom McKiver,

1867 about his ability to understand some of the technology -- he had

1868 been a CIO for a number of large companies -- and asked them to help

1869 lead and evaluate the process as well. It was a short time frame,

1870 so Point B did it with some help and input from Deloitte.

1871   Q.   Did Point B create any cost estimates for the suggested

1872 processes to the --

1873   A.   Yes, there were some cost estimates that were done.

1874   Q.   Were those the last cost estimates that were done for

1875 Cover Oregon?

1876   A.   The last?

1877   Q.   The last.

1878   A.   I don't know. I know that much like any of these, I

1879 think, the cost estimates changed as people knew more. Obviously,

1880 the cost of fixing the system would depend on knowing more about

1881 how much needed to get fixed. There were options about moving to

1882 another state's exchange and -- I think the cost estimates

1883 were -- my understanding was it was difficult for a lot of the

1884 individuals involved to get a -- you know, an ironclad estimate on

1885 the cost. So I know there was lot of work done on costs.

1886   Q.   At one point did you believe that the technology advisory

1887 group may recommend to use Oracle as a systems integrator in the

1888 future?

1889   A.   I know that those were one of the options. I don't know

1890 that -- that's where the group was headed.

1891   Q.   Did you consider it was a possibility that the group might

1892 be headed in that direction?

1893   A.   Oh, yes. I think there were several. I mean, there were

1894 four options -- four or five options that they considered. One was

1895 to stay with the current technology, with the current vendor,

1896 meaning Oracle; one was to stay with the current technology, but

1897 use a different vendor that could do the work at a lower cost. My

1898 understanding was that there was different people that work with

1899 the Oracle software at different hourly rates and that we could have

1900 brought in a different firm to do the work at a lower hourly rate.

1901 So those two options were considered. There was moving to another

1902 state. There was moving to the federal technology. And I believe

1903 germane to this e-mail, there was also looking at a particular

1904 technology which was Exidor and I think the group looked at all

1905 those.

1906   Q.   Did you ever tell the governor's office that the

1907 technology advisory group may recommend continuing to use Oracle

1908 as a systems integrator in the future?

1909   A.   I told them that they were considering all options.

1910   Q.   Did the governor's office have any opinion on that

1911 possibility of continuing to use Oracle as a systems integrator in

1912 the future?

1913　　　　A.　　I am unaware of any opinion by the governor's office on

1914　　that.

1915　　　　Q.　　Did the technology advisory group make a recommendation

1916　　at the end of March for Cover Oregon's technology option?

1917　　　　A.　　I don't recall exactly when the committee made its final

1918　　recommendation.　I believe it was after the end of March, because

1919　　I resigned April 11.

1920　　　　Q.　　Did the committee make a preliminary recommendation?

1921　　You were a member of the technology advisory group, correct?

1922　　　　A.　　Yes.　I was up until I resigned.

1923　　　　Q.　　Did you attend all the technology advisory group

1924　　meetings?

1925　　　　A.　　I believe I attended all of them.

1926　　　　Q.　　On March 27th, 2014, do you recall if the technology

1927　　advisory group discussed continuing to build out the existing

1928　　platform and use the existing technology with the FFM's

1929　　contingency?

1930　　　　A.　　I'm sure that they consider that, yes.

1931　　　　Q.　　Do you recall if that was the preliminary recommendation

1932　　they had made on that date?

1933　　　　A.　　I don't -- I don't recall what the preliminary

1934　　recommendations were.　Actually, now you reminded me.　So I

1935　　believe at one point, and it's probably in the minutes there, they

1936　　was still a sense of a series of milestones that needed to happen.

1937 And if certain milestones happened, we would continue; and if not,

1938 to move to another state or another vendor. So that's certainly

1939 possible, but to be honest, I don't recall all of the details around

1940 that.

1941   Q.   Who do you think is the most knowledgeable about the

1942 technology advisory group's work?

1943   A.   I'd say several people. I would say members of the

1944 committee. I would say Mr. McKiver, who I just mentioned.

1945   Q.   Was he a member of the technology --

1946   A.   No. He was the point -- he was staffed to the committee,

1947 Point B. And I would say also Alex Pettit, who is the state's chief

1948 information officer. We had bought him in and began to involve him

1949 in the project. He had a large role with the technology group and

1950 particularly working with a lot of those CIOs. So he would be one

1951 of the best people.

1952   Q.   Then do you recall if the technology advisory group

1953 received any updates between their March 31st, 2014, meeting and

1954 then their April 24th, 2014, meeting?

1955   A.   I do not recall. You know, that period in April -- I

1956 resigned April 11th and I was not as intimately involved during that

1957 time so I --

1958   Q.   Then --

1959   A.   I'm sure there is some records and minutes and things.

1960   Q.   So you resigned in April. Earlier today you had said you

1961 stayed involved in Cover Oregon for about two to four weeks.

1962 A.   Correct.   I helped with the transition, but I wasn't very

1963 involved in the technology assessment group.

1964 Q.   Did you help prepare for the April 24th, 2014, technology

1965 advisory group meeting?

1966 A.   I may have.   I don't recall.

1967 Q.   Then are you familiar with the Cover Oregon SWAT team that

1968 was established by the governor's office?

1969 A.   Not of anything called the SWAT team --

1970 Q.   Are you familiar --

1971 A.   -- but I might be --

1972 Q.   Are you familiar with the Cover Oregon team established

1973 by the governor's office?

1974 A.   No.   I'm aware of who I -- you know, my discussions with

1975 people in the governor's office, but not of a SWAT meeting.

1976 Q.   Who did you have discussions with in the governor's

1977 office most frequently?

1978 A.   Most frequently with, you know, Mike Bonetto, Sean

1979 Kolmer, and in February and March with Patricia McCaig.   Those were

1980 my major contacts.

1981 Q.   Did you talk to anybody else from the governor's office

1982 in that period?

1983 A.   I'm sure I did, you know.

1984 Q.   Did you talk to Kevin Looper?

1985   A.   That's not from the governor's office.

1986   Q.   Patricia McCaig was?

1987   A.   Patricia McCaig was. But it's my understanding I

1988 did -- Mr. Looper was part of a campaign team and I had one

1989 discussion with Mr. Looper and several others at some point in

1990 probably February, but I don't know the exact date.

1991   Q.   What did you have a discussion with about with

1992 Mr. Looper?

1993   A.   I was asked to brief them on where things were with Cover

1994 Oregon.

1995   Q.   You were asked to brief the campaign team?

1996   A.   Yes.

1997   Q.   What were they interested in about Cover Oregon?

1998   A.   They want to know what was going on, how it was going,

1999 would -- you know, would what was my sense of when and how this would

2000 get fixed and, you know, just had a lot of questions about the

2001 website, how it was functioning, whether it was fixable, those kinds

2002 of things.

2003   Q.   Do you recall who from the campaign team attended this

2004 meeting?

2005   A.   It was on the telephone. So I don't know all the people

2006 that were on it. I do know two of the names, which were Kevin Looper

2007 and Mark Wiener, but other than that, I think the may have been one

2008 or two other people on the phone, but I don't recall.

2009   Q.   Do you know if Tim Raphael was on the call?

2010   A.   I don't know.

2011   Q.   Do you know if Sylvia Hayes was on the call?

2012   A.   I don't know.

2013   Q.   Do you know if Govern Kitzhaber was on the call?

2014   A.   No. Yes, I know the governor wasn't on the call.

2015   Q.   Was or was not on the call?

2016   A.   Was not on the call.

2017   Q.   Was Mike Bonetto on the call?

2018   A.   I don't know.

2019   Q.   Was Patricia McCaig on the call?

2020   A.   I don't know.

2021   Q.   Who were the only people that you do recall --

2022   A.   I recall there being Kevin Looper and Wiener. And, as

2023 I indicated, it was a phone call. There were several other people

2024 on the call. I don't recall who else.

2025   Q.   Who was it that asked you to brief this team?

2026   A.   I do not recall. Someone in the governor's office, the

2027 exact person, I don't know.

2028   Q.   Did they give you a purpose as to why the interim

2029 executive director of Cover Oregon would be briefing the governor's

2030 campaign team?

2031   A.   I think they had a lot of questions and felt I could answer

2032 them the best.

2033   Q.   I'm introducing Exhibit 7 into the record.

2034   A.   Yes.

2035   Q.   Is this an e-mail that you sent to Michael Bonetto, Sean

2036 Kolmer, and Tina Edlund on March 25th, 2014?

2037   A.   Yes.

2038   Q.   So why are you sending a matrix about a technology option

2039 to this group of individuals?

2040   A.   I don't recall why I would have -- my sense was this was

2041 for a meeting we were -- it said for this morning. So it was for

2042 a meeting laying out some of the issues around continuing with the

2043 current technology versus going to the federal website.

2044   Q.   Did the governor's chief of staff, Michael Bonetto,

2045 request that you collect information about different technology

2046 options in this manner?

2047   A.   I don't recall. I would -- I would assume this was

2048 requested of me and that's why I put it together, but I don't recall

2049 the exact request.

2050   Q.   Did anyone ever tell you that the governor felt that he

2051 would be the one to make a technology decision for Cover Oregon?

2052   A.   No. It was always my understanding that the technology

2053 decision would be made by the -- by the technology committee and

2054 by the board; that the technology committee -- actually, the

2055 decision was made by the board, not the technology committee. The

2056 technology committee was clearly formed as a subgroup of the board,

2057 with some board members on it. It was very public about that. And

2058 that the committee was going to make recommendations to the board

2059 and that the board would make that final decision.

2060   Q.   So you never felt as though Michael Bonetto or anyone from

2061 the governor's office or Governor Kitzhaber, himself, felt that

2062 they might be the ones who needed to make the decision for the

2063 technology of Cover Oregon?

2064   A.   I don't know whether they felt they could do it or not.

2065 It was -- I mean, it was head of Cover Oregon. I was reporting to

2066 the board. We formed this committee. It was all pretty public

2067 and, you know, board meetings were public. And the whole idea was

2068 the vet this in a very public way and have the board be able to make

2069 that decision. I know that Mike and the governor and everybody else

2070 in the state was very interested in the workings of this. It was

2071 in the newspaper all the time and there was a tremendous amount of

2072 interest in it from all sorts of people.

2073   But my understanding of this process, as I had set it up,

2074 was get together a group of experts because this is really

2075 complicated and let them make some recommendations, but ultimately

2076 it's the board that makes the decision.

2077   Q.   Why were you sending this information from your personal

2078 e-mail account?

2079   A.   I don't know.

2080   Q.   Why did you send this e-mail to Michael Bonetto, Sean

2081 Kolmer and Tina Edlund's personal e-mail accounts?

2082   A.   I don't know.

2083   Q.   Did you typically e-mail from your personal e-mail

2084 account?

2085   A.   No. I did that pretty rarely. You know, I had been

2086 asked to look at my e-mail account and, you know, I think there were

2087 maybe 20 or 30 instances over several years where I e-mailed from

2088 my private account and have made those available, but I don't know

2089 why in this particular instance I did that.

2090   Q.   When did you usually, in these instances, use your

2091 personal e-mail account?

2092   A.   You know, I primarily use my personal e-mail account in

2093 generally one circumstance where a lot of people in the -- not a

2094 lot -- but probably two or three people in the agency had access

2095 to my e-mails and read them, staff who helped triage some of them

2096 and answer them when I couldn't get to all of them. And, you know,

2097 sometimes I would, from time to time, use my personal e-mail when

2098 I didn't want news of something to get out of head of that happening,

2099 because there were a lot of people that saw my e-mail.

2100   Q.   Was this one of these times?

2101   A.   I don't know. It doesn't look like it, but I don't know,

2102 because it doesn't look like -- I mean, to me --

2103   Q.   Was there any --

2104   A.   -- it looked like I had put together -- this was about

2105   a lot of the --

2106   Q.   Was there any reason that you wouldn't want the staff to

2107   see that you were sending the governor's office this information?

2108   A.   No.   I would -- I don't think so, because I think people

2109   knew I communicated with the governor's office and it wasn't a

2110   surprise to anybody.

2111   Q.   If I look on the, I think, it's the third page, the Bates

2112   stamp ending in the number ten.   In the material you provide

2113   information about the cost of the current technology and the federal

2114   technology.   Where did this cost information come from?

2115   A.   The these numbers came from the work that -- my sense and,

2116   again, it said earlier estimates, still need work at the top.   This

2117   came from what Point B and Deloitte were putting together for the

2118   technology group.

2119   Q.   Then in the body of the e-mail to this group of

2120   individuals you say that you're not totally comfortable with some

2121   things in the pro forma.   Do you recall what you were not totally

2122   comfortable with?

2123   A.   Yes.   Well, I recall being uncomfortable with some of the

2124   assumptions and that perhaps there needed -- I mean, costs are

2125   always based on assumptions.   And I think my discomfort, as I

2126   recall, was that every one hadn't thought through all of the

2127   assumptions here that the cost were based on.   And I think that's

2128   why I particularly said, "early estimate, still need work."

2129   Q.   Do you have any background in IT work?

2130   A.   No, I don't.

2131   Q.   The Cover Oregon Technology Project, was that the first

2132 technology project that you really delved into details on?

2133   A.   Yes. As head of the Oregon Health Authority and as head

2134 of DHS, obviously, very large state agencies with lots of different

2135 technology projects and we had lots of technology projects going

2136 on and this was the first -- when I went over to Cover Oregon, this

2137 was the first time I was directly involved in that, yes.

2138   Q.   I'm introducing Exhibit 8 into the record.

2139   A.   Okay.

2140   Q.   Is this the March 22nd, 2014, e-mail that you

2141 sent -- e-mail to you from Mike Bonetto copying Sean Kolmer.

2142   A.   Yes.

2143   Q.   Then underneath Mike Bonetto's e-mail, is that an e-mail

2144 that you send on March 22nd, 2014?

2145   A.   Yes.

2146   Q.   In the e-mail you say, "Talking through again with the

2147 gov perhaps without George and Greg might be helpful."

2148   Who is George?

2149   A.   George Brown was one of the Cover Oregon board members

2150 and head of one of the hospital systems in the state.

2151   Q.   Who is Greg?

2152   A.   Greg Van Pelt was an individual I had asked to come in

2153 and help me out at Cover Oregon, who was recently retired as the

2154 head of one of our large healthcare systems.

2155   Q.   What was he doing to help you out at Cover Oregon?

2156   A.   He was -- you know, initially he came in to help me put

2157 together a paper process. I actually brought him to help me out

2158 before I went to Cover Oregon when I was with the Oregon Health

2159 Authority. And Greg provide -- Greg was, you know, an experienced

2160 CEO who was used to running large projects and brought him in for

2161 some additional help and expertise.

2162   Q.   Do you recall what you were recommending that you and

2163 Michael Bonetto talk through again without George and Greg?

2164   A.   No. What I can infer from this e-mail was that there had

2165 been a request to me about understanding what the -- about the cost

2166 of the technology investment. In other words, at this point -- and

2167 I think this is what this referred to, was there had been a large

2168 expenditure on this e-mail system -- e-mail -- if only it were.

2169 My apologies. On this technology system. And the, you know, the

2170 question -- there were a lot of questions about how much of this

2171 technology was "salvageable," what of the investment we were using

2172 in -- continuing to use in Medicaid, what we could continue to use

2173 forward, was all of the investment lost, was is some of it going

2174 to be utilized in any of these other options -- there were a lot

2175 of questions about that and I think that's what this refers to.

2176   Q.   In this time period, in the March 22nd, 24th, 25th range,

2177 had the governor's office expressed a preference to you to move to

2178 healthcare.gov?

2179   A.   I don't recall a preference being told to me.

2180   Q.   Can you describe the role of the governor's office in

2181 deciding that Cover Oregon should switch from the state supported

2182 IT platform to healthcare.gov?

2183   A.   You know, my sense was that -- again, the

2184 governor -- this was -- Cover Oregon was an organization ran by

2185 the -- ran by a board and the CEO. We had put together this

2186 technology assessment group. It was slated to give a report to the

2187 board and the decision was set up as a decision by the board.

2188   I think the governor was always really interested, as he

2189 was in all things relating to the website and to healthcare. But,

2190 in the end, I think I certainly understood and I always assumed he

2191 understood, that the decision ultimately is going to be made by the

2192 Cover Oregon Board.

2193   Q.   Do you know if the governor had a lot of conversations

2194 with Cover Oregon board members?

2195   A.   That I don't know.

2196   Q.   In 2014 did the governor's office ever discuss that they

2197 did not want an IT platform that would be highly scrutinized for

2198 the next few years?

2199   A.   You know, what I heard was certainly wanting something

2200 that we could have some assurance that worked. I don't think it

2201 was a -- I never heard about being scrutinized, but I think the

2202 preference of the governor, as well as the preference of myself and

2203 board members was to try and choose an option that "had the best

2204 chance of success." And I think the reason for that was we had just

2205 been through a pretty big trauma with all of this and no one wanted

2206 to, you know, relive doing that on something that might not work.

2207 So that was certainly one of the considerations that the -- you

2208 know, the team looked at, the committee.

2209   Q.   Just a yes or no answer would be fine for this.

2210   A.   Sorry.

2211   Q.   Just to save time.

2212   Did the governor's office ever discuss not wanting to

2213 hedge their bets with the federal exchange as the backup?

2214   A.   Not that I recall.

2215   Q.   Can you explain how it was decided that Alex Pettit would

2216 serve as the interim chief information officer of Cover Oregon

2217 beginning in April 2014?

2218   A.   Yes. You know, I was actually, during my time at Cover

2219 Oregon, was looking to potentially bring in a different CIO. And

2220 add some expertise to what we were going through and I had looked

2221 around. I had had some conversations with some firms that do -- CIO

2222 and things like that to try and bring in some extra expertise. Alex

2223 Pettit came to the state sometime between this fall and winter of

2224 that year of 2013, 2014. He had a lot of expertise. I felt we

2225 needed some additional expertise. And I remember a number of

2226 discussions with Mike Bonetto and others in the governor's office

2227 about having Alex help us out and that sort of quickly morphed

2228 into -- from just providing some additional expertise to

2229 functioning as the CIO?

2230   Q.   Did Alex ever pushback as serving as the interim CIO of

2231 Cover Oregon?

2232   A.   I think he did.

2233   Q.   Do you know why?

2234   A.   Yes. It wasn't what he signed up for when he came to

2235 Oregon. He came to Oregon to -- I understood that. He came to

2236 Oregon be the "CIO" for the state and, you know, here he was new

2237 to Oregon and now he was getting farmed out to a different

2238 responsibility. I don't think he was too happy with that.

2239   Q.   Did Alex ever receive any direction from the governor's

2240 office before beginning in the role as interim CIO?

2241   A.   I don't know.

2242   Q.   I'm introducing Exhibit 9 into the record.

2243   A.   Okay.

2244   Q.   Is this an e-mail chain between you, Sean Kolmer and

2245 Michael Bonetto from April 1st and 2nd.

2246   A.   Yes.

2247   Q.   So on April 1st you said that you've been reflecting on

2248 your anger and reactions on presumably Sunday, March 30th. Do you

2249   recall what made you angry?

2250   A.   Yes, I do.

2251   Q.   What was that?

2252   A.   I had heard that from somebody that they were -- someone

2253   from the Department of Administrative Services was coming over to

2254   work at Cover Oregon and I had not heard about that. And I was very

2255   angry that I learn about that from that person and not from Mike

2256   and Sean Kolmer, who clearly had been involved in that.

2257   Q.   Why would you have learned that information from Mike and

2258   Sean as the executive director of Cover Oregon -- or the interim

2259   director? Did you have control over staffing at Cover Oregon?

2260   A.   I did and that's what concerned me that someone was being

2261   sent over to work with us and I had not been a part of that discussion

2262   and when I found out about it, I was really angry.

2263   Q.   Do you know who made the decision to send this individual

2264   over to Cover Oregon?

2265   A.   No, I do not.

2266   Q.   Do you know why the decision was made?

2267   A.   Yes. This was -- you know, this was around the time of

2268   the Alex Pettit coming over as CIO. And we had had discussions

2269   about Alex coming over and had total agreement about that. And this

2270   was someone who Alex was work bringing over with him to work with

2271   him. And I didn't think that was part of the deal. And it had not

2272   been mentioned to me before and I was upset about it.

2273   Q.   Was this individual Sarah Miller?

2274   A.   Yes.

2275   Q.   Were you ever concerned that the governor's office was

2276   taking control over Cover Oregon?

2277   A.   No. I wasn't upset about them taking control of Cover

2278   Oregon. You know, in this circumstance I was -- I was concerned

2279   that two people that I had worked closely with and had good

2280   communications with for a lot of years hadn't told me about this

2281   and so I was pretty angry about that.

2282   Q.   Do you know why they hadn't told you about it?

2283   A.   You know, I think -- my sense was when we kind of unpacked

2284   the whole thing was that Alex had made some assumptions, hadn't

2285   really communicated them to Mike and Sean and there were a lot of

2286   assumptions made and that was pretty much it. It was just poor

2287   communication. You know, in the end, she came over. In the end,

2288   you know, Ms. Miller came over and worked and I was glad she did,

2289   but at that time I was pretty upset.

2290   Q.   Did you feel that Alex Pettit made those assumptions

2291   because you were resigning?

2292   A.   I don't know. I think -- honestly, I think Alex -- Alex

2293   wanted some help. It was a big job. Again, he was coming in, he

2294   wanted someone who could help him out and who -- he felt he needed

2295   some more person power and, you know, I felt, in the end -- that's

2296   why I -- in the end sort of felt a bit contrite in that -- you know,

2297 in the end, it all worked out. I got pretty angry at the time.

2298   Q.   Thank you.

2299   Are you aware of the governor's office being briefed by

2300 Alex Pettit in earlier April about the technology group's

2301 preliminary recommendation?

2302   A.   No, I don't recall that.

2303   Q.   Did you attend a briefing by Alex Pettit to the governor's

2304 office?

2305   A.   I don't recall, I may have. There were a lot of briefings

2306 and a lot of meetings and I can't recall which ones I was involved

2307 in and which ones I wasn't.

2308   Q.   Did you participate in a briefing by Alex Pettit to

2309 Patricia McCaig and others from the governor's office about the

2310 technology recommendations -- preliminary recommendations from

2311 the technology advisory group?

2312   A.   There were a couple of phone calls that I recall being

2313 on.

2314   Q.   When did these phone calls occur?

2315   A.   Late March, earlier April.

2316   Q.   What did you --

2317   A.   About, you know, Alex explaining some of the technology

2318 discussions and rationales.

2319   Q.   Do you recall if Alex Pettit was on the call that you

2320 discussed earlier today about -- campaign staff with Kevin Looper

2321   that you had at the governor's office?

2322   A.   He was not on that call.

2323   Q.   Thank you.

2324   I'm introducing Exhibit 10 into the record.

2325   A.   Okay.

2326   Q.   Is this an April 4th, 2014, e-mail from a member of the

2327   technology advisory group, Aaron Patnode, to you to ask whether

2328   Cover Oregon made one of the key trigger dates?

2329   A.   Yes.

2330   Q.   You respond, "You have the go ahead to go sole source,"

2331   and that it was secured on Wednesday.

2332   Who gave you the approval to go sole source?

2333   A.   I believe it was the Department of Justice.

2334   Q.   Then you tell Mr. Patnode and the others that are copied

2335   on the e-mail chain that you can discuss further at the meeting on

2336   Monday.

2337   Did this meeting on Monday occur?

2338   A.   I don't know. I'm assuming it's the meeting -- this is

2339   the technology group and I'm assuming there's minutes from that.

2340   I don't know.

2341   Q.   So you don't recall if the meeting was canceled?

2342   A.   I don't recall.

2343   Q.   Thank you.

2344   I'm introducing Exhibit 11 into the record.

2345   A.   Okay.

2346   Q.   So your e-mail on April 6, 2014, indicates that you had

2347 a call with Alex Pettit, Mike Bonetto, Patty Wentz, and Sean Kolmer

2348 on April 5th. Is that your understanding as well?

2349   A.   Yes. It says follow up on our call from yesterday, so

2350 yes.

2351   Q.   Do you recall why you had this call with this group of

2352 individuals?

2353   A.   No. I can't recall the exact call. I can make some

2354 inferences by what is in the e-mail and based on the events at the

2355 time.

2356   Q.   Why would you be having a call with these individuals at

2357 this time?

2358   A.   You know, we were in the process of working with the

2359 technology team and making decisions and having them make decisions

2360 and putting out information for that team to deal with. Mike and

2361 Sean and Patty Wentz, we had all worked very closely over the years

2362 on how to prepare information for the public so that we didn't get

2363 information out too soon that was going to change, so that we could

2364 present something. And this was a call that helped -- I think we

2365 were organizing the work about how to communicate a lot of what was

2366 going on at the technology committee.

2367   Q.   Do you recall what nine a.m. meeting you were asking Mike

2368 to schedule for Monday?

2369   A.   No, I don't.

2370   Q.   Do you recall if in this period you discussed with this

2371 group of individuals giving contractors their 30-day notice?

2372   A.   Contractor --

2373   Q.   I will find the e-mail where I was going to ask for

2374 clarification.

2375   A.   Okay. Sure.

2376   Q.   I'm introducing Exhibit 12 into the record.

2377   A.   Okay.

2378   Q.   Do you know what Patty Wentz means that Alex had discussed

2379 giving contractors their 30-day notice on the call?

2380   A.   I don't know exactly. I can infer. I recall at the time

2381 there was -- I mean, one of the issues Alex was looking at -- at

2382 cost and staffing of his IT operation. And I remember one of the

2383 contracts was Point B. There may have been others but --

2384   Q.   Do you know what -- Point B was one of the contractors

2385 you would have --

2386   A.   I believe so.

2387   Q.   What work were these contractors performing for Cover

2388 Oregon?

2389   A.   Point B provided a lot of -- a variety of technical

2390 support to Aaron Karjala and his team. And I think that Alex felt

2391 that he didn't need that.

2392   Q.   Do you know if Cover Oregon canceled their contract with

2393   Deloitte on April 11, 2014?

2394   A.   I don't know. Certainly it could have been one of the

2395   contractors as well.

2396   Q.   I'm introducing Exhibit 13 into the record.

2397   A.   Okay.

2398   Q.   Did you send this e-mail to Sean Kolmer and Mike Bonetto

2399   on April 8th, 2014?

2400   A.   Yes, I did.

2401   Q.   In the e-mail you tell Mike Bonetto that you and Sean you

2402   had a call with Marilyn Tavenner regarding timeline for decision

2403   making about the exchange. Can you describe the conversation that

2404   you had with Marilyn Tavenner?

2405   A.   To the best of my recollection, the call was regarding

2406   a couple of things. You know, one was letting Ms. Tavenner know

2407   where we were. The website was not operational, what we were doing

2408   and what our plans were and she was aware that we were making some

2409   decisions about future technology. And this was to let her know

2410   about the timeline and the process for the decision making.

2411   It was also a call to get some sense from her about the

2412   availability of federal funds, because that was certainly -- you

2413   know, one of the options was to move to the federal technology and

2414   trying to figure out, again, within a budget, they wanted to know

2415   what, if any, there would be in terms of support from the feds.

2416   Q.   Did you discuss with her on this call the availability

2417 of federal funds?

2418   A.   I believe we did.

2419   Q.   Do you recall what she said in response to your --

2420   A.   No, I don't recall exactly. My recollection was it was

2421 unclear that -- there was certainly no commitment made.

2422   Q.   So in the e-mail you reference Teresa Miller. Who is

2423 Teresa Miller?

2424   A.   Teresa Miller was -- had a position, I believe, at CCIIO

2425 and whether she -- I don't know exactly what it was, but she was

2426 very -- we were involved with her throughout the Cover Oregon

2427 process.

2428   Q.   So in the e-mail you say that two weeks ago you had talked

2429 to Teresa Miller and her team and that they were very clear that

2430 states that go to the FFM will not get any funding and that they

2431 now had reconsidered that and should you choose to go to the FFM

2432 they would consider that any state that goes to the FFM a state based

2433 market.

2434   Do you know why they changed their position?

2435   A.   I don't know.

2436   Q.   Did you ask them why they changed their position?

2437   A.   I don't recall.

2438   Q.   Why were you sending this update from CMS to Michael

2439 Bonetto?

2440   A.   You know, I was on the call with Sean Kolmer, who is Mike's

2441 deputy, and -- keeping Mike informed.

2442   Q.   Was this decision or this change of position from CMS

2443 influential in the decision to move to healthcare.gov, to know that

2444 by moving to the FFM would still be considered state based market

2445 and potentially receive federal funding?

2446   A.   No. I think -- no. My personal sense of what drove the

2447 decision and what a lot of the technology people looked at was, you

2448 know, a couple of things.

2449   We had a technology that wasn't working and an unclear

2450 sense of how much it would cost to fix it, but it looked like the

2451 cost would be very high and there was increasing sense that -- it

2452 was unclear whether that technology would work. And then there

2453 was a -- the other technology was the federal exchange. And many

2454 of the carriers that we were working with and people who were on

2455 the workgroup already were working with the federal exchange --

2456   Q.   Do you remember the number of carriers that were

2457 interfaced to work with the exchange?

2458   A.   Maybe three or four.

2459   Q.   I'm introducing Exhibit 14 into the record.

2460   A.   Okay.

2461   Q.   So this e-mail indicates that you participated in a phone

2462 call with the governor's office, Patricia McCaig, Alex Pettit and

2463 others on April 8th, 2014. Do you agree? If you look, Patricia

2464 McCaig's e-mail says, "Here's what I think we are expecting

2465   information on tonight from Alex and Bruce."

2466   A.   I'm assuming that call happened, yes.

2467   Q.   Do you recall this call?

2468   A.   No. As I indicated, there were a lot of calls with that

2469   group and I can't remember this particular one.

2470   Q.   Who is that group?

2471   A.   The group meeting -- I'm assuming that group was Alex,

2472   myself, Mike, Sean, Patricia McCaig and --

2473   Q.   Is Kevin Looper on the group? He's on the e-mail.

2474   A.   No.

2475   Q.   Was he on the calls that you participated in?

2476   A.   Only the one -- my recollection is only the one I had

2477   indicated previously.

2478   Q.   Why were you having these calls with this group?

2479   A.   I think to continue to brief them on what were the costs,

2480   where this was going, what the process was, what that -- what the

2481   deadlines were, when would the decision be made, how it would be

2482   communicated, et cetera.

2483   Q.   Do you know why they were expecting this information?

2484   Was this information you had already gathered or was this

2485   information that you were gathering specifically for the governor's

2486   office, this list that Patricia McCaig provides in her e-mail?

2487   A.   This was already -- this was the work of the technology

2488   committee and so they -- this was continuing to keep Michael, Sean

2489   and others and Patricia updated as to what was going on with the

2490   process and what the deadlines were and the process for making.

2491   Q.   Can you describe your understanding of Patricia McCaig's

2492   role as it relates to Cover Oregon?

2493   A.   I can tell you what my understanding was. My

2494   understanding was, you know, Patricia had been brought into the

2495   governor's office by the governor to help at a time of a number of

2496   staff transitions that there had been transitions from -- in chief

2497   of staff, there were transitions in communications people. And

2498   Patricia was brought in to help with that.

2499   And one of the issues that she was helping with was the

2500   Cover Oregon issue.

2501   Q.   Did Patricia McCaig have an opinion on the technology

2502   options for Cover Oregon?

2503   A.   She had a lot of opinions about how to communicate things.

2504   I don't recall whether she had an opinion about what the options

2505   should be.

2506   Q.   Do you recall if you shared information you had learned

2507   from CMS earlier in the day with this group of individuals on this

2508   call?

2509   A.   I don't recall.

2510   Q.   Do you know if any decisions were made on this call?

2511   A.   I don't recall.

2512   Q.   Did anyone give you instructions about your presentation

2513 to the Cover Oregon Board of Directors on April 10th, 2014?

2514   A.   I often got advice from a lot of people about my

2515 presentations. So I would not be surprised that I got advice from

2516 the communication staff at Cover Oregon, the communication staff

2517 from OHA, Mike and Sean, at that point, even Patricia McCaig.

2518   I -- you know, part of this whole issue, as we moved

2519 forward, was how to communicate effectively with the public and

2520 others. And our board meetings were a time where information was

2521 communicated, there was a lot of interest, there were a lot of people

2522 from the press and it was good to be prepared and I tried to prepared

2523 myself.

2524   Q.   Do you recall what Patricia McCaig or the governor's

2525 office talked to you about before the April 10th, 2014, Cover Oregon

2526 board meeting about what to discuss that day?

2527   A.   No, I do not. I don't recall the board meeting.

2528   Q.   You don't recall the April 10th -- was that your last

2529 Cover Oregon board meeting?

2530   A.   Yes.

2531   Q.   I'm introducing Exhibit 15 into the record. So this is

2532 just a meeting invitation preparing for the board meeting on

2533 Wednesday, April 9th, 2014, at 9:30 a.m. and it's -- the meeting

2534 invitation, it says, from Patty Wentz to Patricia McCaig, Tim

2535 Raphael and Mike Bonetto, but you would agree that you then did meet

2536 with them for the Cover Oregon April 10th meeting?

2537   A.   With them --

2538   Q.   On the -- did you meet with -- yes.

2539   A.   I don't know that I would say I meet with all of them,

2540 because I didn't meet very regularly with Tim Raphael, but Patricia

2541 and Mike -- and Patty Wentz, I was in touch with every day. So

2542 I'm -- I mean, I had a lot of meetings and discussions with all of

2543 these people, other than Tim, but, I mean, I don't know about -- I

2544 was not on this call.

2545   Q.   Were you ever in any conversations about staging the

2546 final meeting of the technology advisory group?

2547   A.   Yes. I was on some calls about how to present that

2548 information, yes.

2549   Q.   What was discussed during those phone calls?

2550   A.   I think how to be able to present what was complicated

2551 complex information in a way that --

2552   Q.   To the technology advisory group? To the technology

2553 advisory group meeting -- the technology advisory group, who was

2554 a member of the technology advisory group, were they experts in IT?

2555   A.   Some were experts in IT, some were board members.

2556   Q.   Who participated in these phone calls to discuss how to

2557 present information to them?

2558   A.   Myself; when Alex came on, Alex; Mike and Sean Kolmer,

2559 sometimes Patricia.

2560   Q.   Why did you feel that it needed to be discussed how to

2561 present information to them about the technology options?

2562   A.   You know, my sense at the time, again, was that, you know,

2563 this was a committee for the board. It was also being looked at

2564 very publicly that -- sometimes technology people talk to

2565 technology people in ways that the rest of us don't understand and

2566 I felt it was really important to be able to have these meetings

2567 presented in such a way that not only the technology people

2568 understood it, but the general public did. It was a way of getting

2569 to me some sort of a gut check on were we considering the right

2570 things, had all of the assumptions been there, how would this be

2571 looked at, would there be some credibility to this process.

2572   Q.   Do you feel like that interfered with the information the

2573 technology advisory group was given, if it was being vetted through

2574 this other group of individuals?

2575   A.   No, I don't, because that group felt really free to call

2576 Alex and have -- I know a lot of them had one-on-one phone calls

2577 with Alex. I felt that group, pretty much, got a lot of the

2578 information that that needed. I don't think it impeded with that.

2579   Q.   Did you tell the Cover Oregon Board of Directors on April

2580 10th that you needed a decision on the technology by the end of

2581 April?

2582   A.   I would assume if it's in the minutes of the board meeting

2583 that I did, but we were driving towards a decision pretty quickly.

2584 Yes.

2585   Q.   Do you know why you would have told them that you needed

2586 a decision by the end of April?

2587   A.   The issue was that time was ticking until the next open

2588 enrollment, November 1, 2014. We couldn't make a decision in July

2589 for something that would take ten months to do. A lot -- all of

2590 those options, whether it was another state or whatever, all had

2591 different timeframes or what it would take. So you needed to get

2592 working on this ASAP and there was a lot of time pressure.

2593   ██ ████████   Thank you. I think we're out of time.

2594   (Off the record.)

2595   EXAMINATION

2596   ██████ ████████

2597   Q.   Back on the record, Dr. Goldberg.

2598   A.   Good afternoon.

2599   Q.   So I want to go back to Exhibit 12. It's the e-mail from

2600 Patty Wentz to Alex Pettit that you were shown in the last hour.

2601   A.   Yes.

2602   Q.   I just want to clarify -- I just want to get some

2603 clarification about a statement that you made.

2604   This e-mail mentions contractors may be given a 30-day

2605 notice. So you mentioned that the state was contemplating letting

2606 some of the contractors go, but this wouldn't necessarily be the

2607 result of any final decision made to switch to the federal

2608 technology, correct?

2609   A.   That's correct. And that's one of the -- the issues in

2610 sort of working with communications people and others is that

2611 oftentimes, you know, it's great to have a reality check of what

2612 you think something means versus how it can be perceived by others.

2613 And things can get perceived in a lot of different ways and that's

2614 why it's important to be careful about when and how you communicate.

2615   Q.   Thank you.

2616   Let's discuss some of the reviews and assessments of the

2617 Cover Oregon project by some independent third parties. The state

2618 hired a group called MAXIMUS at the start of the IT project; is that

2619 correct?

2620   A.   That's correct.

2621   Q.   What is MAXIMUS?

2622   A.   MAXIMUS was hired as a quality assurance vendor on the

2623 project to help provide some oversight and assurance of quality.

2624   Q.   Would you consider MAXIMUS employees to be experts in

2625 their field?

2626   A.   I got to know several of the MAXIMUS people, and yes.

2627   Q.   So would you consider MAXIMUS -- the purpose for MAXIMUS

2628 being hired was to provide a neutral assessment and give an

2629 independent assessment of the status of the IT project?

2630   A.   Yes.

2631   Q.   Did MAXIMUS provide reports to the state on development

2632 of the website?

2633   A.   Yes, they provided quarterly reports.

2634   Q.   Did you, as the interim executive director of Cover

2635 Oregon, receive these reports directly from MAXIMUS?

2636   A.   Yes. When I was interim director, I received them

2637 directly. As a board member, I got them as well.

2638   Q.   What would these reports detail?

2639   A.   Their -- these reports detailed a number of aspects of

2640 the project -- finances, governance, the technology. There were

2641 about seven or eight different fields of issues that they looked

2642 at. I can't recall all of them.

2643   Q.   Okay.

2644   I'm handing you an exhibit marked as Exhibit 16. It

2645 appears to be the February 2014, MAXIMUS Monthly Quality Status

2646 Report, dated March 15, 2014. Are you familiar with this document?

2647   A.   I saw it at one point. I haven't seen it recently.

2648   Q.   Can you turn to page -- I'm asking you to look at the Bates

2649 number, so the number at the bottom, GOV_HR00071552.

2650   A.   Okay.

2651   Q.   If you look under section one, introduction, I'll read

2652 a statement from the report. It says, "Cover Oregon recognizes the

2653 value of an independent third party formal quality assurance

2654 services."

2655   Did I read that correctly?

2656   A.   Yes.

2657   Q.   Is at an accurate description of what MAXIMUS was hired

2658   to do?

2659   A.   Yes.

2660   Q.   Why, in your opinion, would you think that it's important

2661   for the state to receive an independent third party formal quality

2662   assurance report?

2663   A.   These were complex projects and it was important to have

2664   a third party be able to provide and assessment, both to the state

2665   and the board, to be certain that the project was working

2666   effectively.

2667   Q.   Okay.

2668   Can you now turn to the page with Bates stamp

2669   GOV_HR00071553, it's the next page, and you go down to table one,

2670   the summary and quality standard score card.

2671   A.   Yes.

2672   Q.   Under the heading "CO Risk Level," what does MAXIMUS

2673   write?

2674   A.   High.

2675   Q.   Do you know what high meant here?

2676   A.   High meant that there was a lot of -- that there was risk

2677   to being successful and that the risk was high.

2678   Q.   How do you define successful?

2679   A.   I have always defined successful as being able to have

2680   an operational website. You know, I believe in this context it was

2681 successful in meeting whatever the recommendations were that

2682 followed in the summary tables.

2683   Q.   Let's look under the "CO Response" on that table and I'll

2684 read the bullet as you follow along. MAXIMUS writes, "Project risk

2685 remains high although Cover Oregon has been successfully processing

2686 applications and enrolling consumers through a hybrid process while

2687 it finishes testing and implementation of online individual

2688 end-to-end functionality."

2689   Did I read that correctly?

2690   A.   Yes.

2691   Q.   What does that mean? Does that mean that individuals in

2692 the state have been successfully enrolling in healthcare through

2693 the hybrid process?

2694   A.   Yes, that individuals were successful and they were

2695 being able to enroll in the hybrid process. We were still testing

2696 and trying to get the online system working.

2697   Q.   If you could turn to the next page, Bates stamp

2698 GOV_HR00071555, of the report to the row titled "Schedule," what

2699 is the risk level noted by MAXIMUS here?

2700   A.   High.

2701   Q.   What does risk level high mean here?

2702   A.   Well, that -- this was referring to -- there was a very

2703 aggressive schedule for moving the project forward and there was

2704 a lot of concern by MAXIMUS and Oracle's inability to estimate the

2705　work and deliver and -- felt that the schedule for completion to

2706　be able to go live was at risk.

2707　　　　Q.　　You were just reading from the bullet that I was going

2708　to read aloud.　It's the second bullet in the next column.　It says,

2709　"Oracle's inability to properly estimate the work and delivery with

2710　high quality for any release continues to affect the system

2711　delivery."

2712　　　　　　Is this consistent with your understanding of the product

2713　Oracle was providing in February 2014?

2714　　　　A.　　Yes.　We had a series of go-live dates come and go and

2715　unable to properly deliver on those.

2716　　　　Q.　　Are you aware of anyone, other than Oracle, who would

2717　disagree with MAXIMUS' independent conclusion that Oracle was not

2718　properly estimating the work?

2719　　　　A.　　No.　I'm unaware.

2720　　　　Q.　　MAXIMUS also found that Oracle was not delivering "high

2721　quality for any release that was affecting the system delivery."

2722　　　　　　Do you agree with MAXIMUS' independent assessment?

2723　　　　A.　　Yes.　Because the quality was such that every time

2724　something would get fixed, we would test it and something else would

2725　break?

2726　　　　Q.　　Are you aware of anyone besides Oracle who would disagree

2727　with MAXIMUS' independent conclusion that Oracle was not providing

2728　delivery with "high quality for any release and it was affecting

2729 the system delivery?

2730   A.   I'm not aware.

2731   Q.   Let's turn to the table on page with Bates stamp

2732 GOV_HR00071564. Under the risk subheading MAXIMUS wrote, the

2733 first bullet, "While applications are being processed, the lack of

2734 a fully functional IT solution is significantly affecting the

2735 perceived business success of the enterprise."

2736   Do you agree with MAXIMUS' independent conclusion that

2737 Oracle had not provided a fully functional IT solution?

2738   A.   Yes.

2739   Q.   Did anyone, besides Oracle, dispute that Oracle not

2740 provided a fully functional IT solution?

2741   A.   No, not my knowledge.

2742   Q.   MAXIMUS also found that Oracle was not

2743 providing a -- found that Oracle not providing a fully functional

2744 IT solution was significantly affecting the perceived business

2745 success of the enterprise. Do you agree with MAXIMUS' independent

2746 assessment?

2747   A.   Yes, I do.

2748   Q.   Are you aware of anyone besides Oracle who disagree with

2749 MAXIMUS' independent conclusion that Oracle not providing that

2750 fully functional IT solution was significantly affecting the

2751 success of Cover Oregon?

2752   A.   No.

2753   Q.   Let's move to the third bullet under the risk subheading.

2754   It reads, "Launching the Oracle system with known defects may result

2755   in a bad user experience, which could affect the CO brand long term."

2756   What is CO here?

2757   A.   Cover Oregon.

2758   Q.   In other words, Oracle's exchange website still had

2759   significant defects in February; is that right?

2760   A.   Yes. It was not confident in the product.

2761   Q.   So despite Oracle claiming, as we mentioned before, that

2762   they provided a Cover Oregon exchange website that was fully

2763   functional by the end of February 2014, according to MAXIMUS'

2764   independent assessment, it appears that the website was not

2765   functional by the end of February; is that your understanding?

2766   A.   That's my understanding, yes.

2767   Q.   Do you agree with MAXIMUS' independent assessment that

2768   launching the Oracle system with known defects could have negative

2769   repercussions?

2770   A.   Yes. As I had indicated in the past, releasing a system

2771   where only 50 percent of people can get in, means 50 people of the

2772   people had a, not only an unacceptable consumer experience, but a

2773   failed consumer experience. And that is no way to operate a system

2774   to get people enrolled in healthcare.

2775   Q.   Now we're going to turn back to page GOV_HR00071556.

2776   A.   Got it.

2777   Q.   Can you direct your attention to the category -- on the

2778   row board governance in the middle column.

2779   A.   Yes.

2780   Q.   The document reads, "The Cover Oregon Board" -- I'm

2781   sorry, the last bullet. "The Cover Oregon Board meets on a regular

2782   basis and receives updates from the interim director and his staff

2783   on salient business IT and stakeholder topics?"

2784   Did I read that correctly?

2785   A.   Yes.

2786   Q.   Do you agree with this determination that the board met

2787   on a regular basis with Cover Oregon -- on Cover Oregon.

2788   A.   Yes, that the board met and as interim director, I was

2789   responsible for providing those updates.

2790   Q.   You were the interim director that was --

2791   A.   Yes.

2792   Q.   Did you update the Cover Oregon Board regularly on the

2793   website project?

2794   A.   Yes, I did.

2795   Q.   The next bullet in the next column reads, "The board will

2796   engage interested parties including staff and others and the

2797   stakeholder group that will meet with finalist for the executive

2798   director position."

2799   Did I read that correctly?

2800   A.   Yes.

2801   Q.   Is that accurate?

2802   A.   Yes.

2803   Q.   So the board was actively engaged in making decisions

2804 related to Cover Oregon, correct?

2805   A.   Yes. Correct. That was for the permanent executive

2806 director, correct.

2807   Q.   If you go back to the middle column, the first bullet,

2808 it reads, "CO has hired Deloitte to conduct a risk analysis with

2809 the current system approach versus other system options. Is it

2810 expected that CO will analyze these options and convene a committee

2811 in March to examine the analysis and make a recommendation to the

2812 board."

2813   Did I read that correctly?

2814   A.   That is correct.

2815   Q.   Did the state, in fact, hired Deloitte to conduct this

2816 analysis?

2817   A.   Yes. We referred to that earlier. I had asked Deloitte

2818 to come in and provide -- I called it options. The -- MAXIMUS is

2819 calling it a risk analysis, but I believe we're referring to the

2820 same thing.

2821   Q.   So to be clear: Deloitte was hired to provide a neutral

2822 independent third party assessment of the various technology

2823 alternatives available to the state for the upcoming healthcare

2824 enrollment period, correct?

2825   A.   Correct.

2826   Q.   Actually, we'll just move on to -- I'm handing you an

2827 Exhibit, which is marked as 17. It appears to be the Deloitte

2828 Policy Alternative Assessment Preliminary Report, dated February

2829 10th, 2014. Are you familiar with this document?

2830   A.   Yes, I am.

2831   Q.   If you could turn to page five of the report --

2832   A.   Yes.

2833   Q.   -- to the "Options Overview" table --

2834   A.   Yes.

2835   Q.   -- can you tell me how many IT options Deloitte evaluated

2836 for Cover Oregon?

2837   A.   At a high level they looked at several; one was current

2838 technology with the same vendor, current technology with a

2839 different vendor. They looked at another state market -- another

2840 state's website. They looked at using Exidor. They looked at a

2841 number of permutation of moving to the federal marketplace and had

2842 some preliminary discussions about what -- I guess, what I would

2843 call a new role. There were things like direct to carrier

2844 enrollment. There were some out-of-the-box ideas.

2845   Q.   Based on this table, would you say there were

2846 approximately ten IT options that the state --

2847   A.   Approximately, yes, whether you're a lumper or a

2848 splitter. Yes.

2849   Q.   If you could turn to page nine of the report --

2850   A.   Yes.

2851   Q.   -- the table under -- the table that says, "1.1: Stay

2852 the Course, Keep the Technology." So what does Stay the Course,

2853 Keep the Technology mean?

2854   A.   It was meant to continue to use the Oracle technology and

2855 have -- there were two suboptions of this; one was to have Oracle

2856 fix it -- continue to work on fixing it or to bring in some other

2857 programmers who weren't Oracle staff, but who work on Oracle

2858 systems, that can use the same technology that wasn't working to

2859 fix it and get it to work.

2860   Q.   This alternative says, "Keep the Technology," so that

2861 would be keeping the Oracle technology, but not Oracle as the

2862 vendor, correct?

2863   A.   There were two options; one or the other, yes.

2864   Q.   If you read along with me the middle of the first

2865 paragraph, it beings -- the quote says, "Analysis indicates that

2866 this solution will have medium technical risk and would take until

2867 November 2015 to implement at a cost of 22 million in 2014, plus,

2868 150,000 hours in 2015. In addition, Oracle would need to

2869 participate in transition enhancement, remediation and production

2870 support through June 2014, which could add up to 100,000 additional

2871 hours."

2872   Did I read that correctly?

2873   A.   Yes.

2874   Q.   To your understanding was this a feasible option for the

2875   state?

2876   A.   My understanding at the time is that we didn't have the

2877   budget particularly out into 2015 to be able to do this.

2878   Q.   Okay.

2879   If you turn the page to ten, the next page --

2880   A.   Yes.

2881   Q.   -- where the title of this table says, "Stay the Course,

2882   Keep the Vendor," so this would be keeping Oracle --

2883   A.   This would -- the previous one was keep the Oracle

2884   technology, but have a lower cost programmer firm do the work.   This

2885   was keep the technology, but keep the Oracle people who billed at

2886   a higher hourly rate.

2887   Q.   If you follow along with me as I read the last sentence

2888   of the first paragraph, Deloitte writes, "Analysis indicates that

2889   this solution will have medium technical risk and would take until

2890   November 2015 to implement at a cost of 45 million in 2014, plus

2891   150,000 hours in 2015."

2892   I did read that correctly?

2893   A.   Yes.

2894   Q.   To your understanding was this a feasible option to Cover

2895   Oregon?

2896   A.   No.   My sense was at the time it was not.

2897   Q.   Is it fair to say that according to this Deloitte report,

2898   keeping Oracle as the vendor, as well as keeping the current Oracle

2899   developed technology, were not feasible options for the state for

2900   the upcoming healthcare enrollment period, correct?

2901   A.   Correct.

2902   Q.   And after reviewing this Deloitte report, would you agree

2903   that keeping Oracle as the vendor or keeping the current Oracle

2904   developed technology would not be a feasible option for the state?

2905   A.   You know, I -- I would say, I didn't think it was

2906   feasible, number one. I thought -- my sense is those cost

2907   estimates were low and they were higher later on and my personal

2908   sense was only so many times you can be promised that something is

2909   going to work and have it not deliver until you just say -- I mean,

2910   you just -- it doesn't pass the sniff test and, you know, if

2911   something --

2912   When you're given one or two deadlines, if you miss the

2913   first and make the second, it gives you some confidence, but when

2914   you miss every single deadline -- it just didn't seem to me,

2915   personally, although, we had some technology experts look that

2916   that. And I think some of the technology people rolled up their

2917   sleeves and looked at that much more carefully later on. But I

2918   personally didn't have a lot of confidence in that.

2919   Q.   Okay. At some point the state hired First

2920   Data -- brought on First Data to conduct a review of the Cover Oregon

2921   website project; is that correct?

2922   A.   That is correct.

2923   Q.   Do you know when?

2924   A.   I don't know the exact date. I believe it was sometime

2925   in February. It could have been January. I think the first

2926   preliminary report came out in March.

2927   Q.   Let's turn back to that First Data report. It is Exhibit

2928   4. Could you please turn to the page marked one under executive

2929   summary.

2930   A.   Yes.

2931   Q.   The document reads, "In January 2014 the governor's

2932   office executed a statement of work with First Data Government

2933   Solutions through master contract number 107-2852-11 to conduct an

2934   independent third party review of the state's health insurance

2935   exchange website project."

2936   Did I read that correctly?

2937   A.   That is correct.

2938   Q.   Do you agree that this first data report and analysis was,

2939   in fact, independent?

2940   A.   Yes, I agree it was independent.

2941   Q.   Do you agree that they were a third party?

2942   A.   Yes, they were a third party.

2943   Q.   Who made the decision to bring on First Data to conduct

2944   this independent review of the website?

2945   A.   I believe it was the governor.

2946   Q.   Do you know why the governor wanted to have yet another

2947 independent third party review of the website project?

2948   A.   It wasn't working and he wanted to learn more about why

2949 it wasn't and what we could learn from this.

2950   Q.   Do you also think that he wanted to ensure that the

2951 board -- the Cover Oregon Board was basing any decisions about the

2952 future of the website on independent and accurate information?

2953   A.   You know, I -- I think that may have been part of it, but

2954 I believe most of this report was really more about what had

2955 happened, than what would be in the future.

2956   Q.   How did First Data conduct their review?

2957   A.   I don't know exactly. I know they interviewed a number

2958 of people.

2959   Q.   Do you know which people they interviewed?

2960   A.   I don't know the complete list. I'm assuming it's in the

2961 report. I was one of the them and there were several other people.

2962   Q.   Do you know if Oracle's project staff, who were involved

2963 in the development of the website, if they were interviewed?

2964   A.   My understanding, and it's written in the report, and it

2965 was actually one of my concerns with the report was that they only

2966 interviewed one person from Oracle. They were not able to

2967 interview the Oracle staff who worked on the project.

2968   But I think to me the bigger issue about this report was

2969   that they never really looked at the technology. I mean, this was

2970   a report that looked at the process. And it didn't, sort of, get

2971   in the car, turn the key, and move the steering wheel and pump the

2972   brakes and try and drive it. It really looked at a lot of the

2973   process, but didn't look at, you know, the coding and the technology

2974   part of it. To be honest, that concerned me.

2975   Q.   You mentioned that the First Data staff, they only

2976   interviewed one Oracle person. Do you know why?

2977   A.   As stated in the report, it said they weren't given

2978   access.

2979   Q.   The First Data report did include some quotes from a

2980   September MAXIMUS report. Are you familiar with that report?

2981   A.   I'm not. I'm sure I saw it as -- but, no, not -- not very

2982   familiar with it.

2983   Q.   Could you turn to page 38 of this First Data report. I'm

2984   just going to read a few bullets that are included in the report.

2985   The third bullet from the bottom reads, "Oracle's performance is

2986   lacking. Their inability to adhere to industry standards and

2987   professional software and project management tenants warrants

2988   further review."

2989   The next bullet reads, "Each software release from Oracle

2990   increases the overall amount of defects."

2991   Do you agree with these conclusions?

2992   A.   Yes. My understanding is that they're accurate. I'm

2993 not a -- again, not a technology person, so I can't say that I have

2994 an intimate knowledge of what industry standards are around

2995 software development, but the performance was lacking and each

2996 release seemed to increase the overall amount of defects.

2997   Q.   You're saying that was your understanding of the website

2998 at that time?

2999   A.   Yes.

3000   Q.   So, in short, MAXIMUS, the quality assurance contractor

3001 for the state, expressed serious concerns about Oracle's

3002 capabilities, correct?

3003   A.   Yes, they did.

3004   Q.   And Deloitte's independent third party review determined

3005 that keeping Oracle as a vendor, as well as the Oracle developed

3006 website, were not feasible options for the state to use for the

3007 upcoming 2015 healthcare enrollment period, correct?

3008   A.   You know, I honestly don't know whether First Data

3009 weighed in on keeping Oracle or not. They certainly had concerns

3010 about the product, but I don't know whether the report actually

3011 stated that.

3012   Q.   So the Deloitte report --

3013   A.   Oh, the Deloitte --

3014   Q.   The Deloitte report. Did the Deloitte report determine

3015 that keeping Oracle as a vendor and keeping Cover Oregon website

3016 technology was not a feasible option for the state for the upcoming

3017 healthcare enrollment?

3018   A.   I think to be fair to Deloitte in the process, Deloitte

3019 was really asked to provide options and not to make any

3020 recommendations. I think they had some concerns. They felt there

3021 was a fair amount of risk, but I would just probably not go so far

3022 as to say that they made a recommendation.

3023   Q.   But based on the information the -- keeping Oracle as a

3024 vendor and keeping the current technology that Oracle developed was

3025 not a feasible option for it.

3026   A.   It didn't appear very feasible.

3027   Q.   All right.

3028   Would you say that there was widespread agreement among

3029 Cover Oregon staff that it was time to switch from the Oracle

3030 developed website to the federal technology?

3031   A.   I think the Cover Oregon staff, particularly the IT

3032 staff, were very frustrated. I mean, they had had, again, multiple

3033 times where they were -- we had deadlines. We would test the

3034 system, it would break again, it was not functional. And they were

3035 very frustrated with the technology and that were real concerns

3036 about just the basic integrity of the system, whether or not it could

3037 actually be fixed. You know, you keep trying to fix it and fix it

3038 and it keeps breaking and breaking. At some point do you have the

3039 strip it down to nothing and rebuild it again. There were some real

3040 concerns by Cover Oregon staff.

3041   Q.   Let's talk about the technology options workgroup that

3042   have come up a couple of times today. Who, again, made the decision

3043   to assemble this technology workgroup?

3044   A.   I did.

3045   Q.   Around what time frame was the group convening?

3046   A.   All of these dates continue to run together, so my

3047   apologies. We convened in -- I believe at some point in

3048   February -- late February and it led out to Mach and April and I

3049   could be off a few weeks on my dates.

3050   Q.   You're saying late February of what year?

3051   A.   I'm sorry, 2014.

3052   Q.   Why again was this group convened?

3053   A.   At that point there were two issues, you know, one was

3054   we were at that point trying to enroll people for that current open

3055   enrollment. The website wasn't working and now, you know, nine

3056   months away was the next open enrollment -- excuse me -- in November

3057   of 2014. And so we had an ever shrinking window to make a decision

3058   about what to use in November of 2014. You know, if it were going

3059   to take two years to implement something, we didn't have enough

3060   time.

3061   So part of the issue in looking at options, was looking

3062   at something that could happening within the appropriate time frame

3063   to be ready for November 2014. We missed October 2013. Now we

3064   needed to have something for November 1, 2014.

3065   Q.   How often did the workgroup meet?

3066   A.   It met fairly regularly, but I don't know -- every two,

3067 three weeks over the course of probably about two months.

3068   Q.   Were the meetings open to the public?

3069   A.   I don't know. I don't know. I know the board meetings

3070 always were. I don't know.

3071   Q.   What are some of the things that were discussed at these

3072 meetings?

3073   A.   What was discussed at the meetings was using those

3074 options that Deloitte had put together, those seven to ten

3075 options -- was really starting to examine each of those in greater

3076 detail and those had been put together on a preliminary basis and

3077 to look at what was going to be most feasible for November 2014.

3078 So the group was to evaluate those options and make recommendations

3079 to the board as to what should be done.

3080   Q.   I'm handing you what is marked as Exhibit 18. This

3081 appears to be the technology options workgroup final report --

3082   A.   Yes.

3083   Q.   -- titled "Cover Oregon Final Report, May 8, 2014." Are

3084 you familiar with this document?

3085   A.   Yes. I haven't seen it in sometime.

3086   Q.   Can you turn to page two of the report. Let's go to the

3087 second sentence of the report. It says, "The meetings provided

3088 workgroup members information to understand the current state of

3089 the Cover Oregon development effort to date and description of the

3090 current technology status, the technology alternatives to

3091 consider, articulation of the benefits and limitation of each

3092 solution, development of a preliminary go forward plan and

3093 finalization of the specific path forward for Cover Oregon."

3094   Did I read that correctly?

3095   A.   Yes.

3096   Q.   Is this an accurate description of what the technology

3097 options workgroup meeting consisted of?

3098   A.   Yes. With, you know, the caveat, again, that this was

3099 to make recommendations to the board.

3100   Q.   Could you turn to page three of the report, the first

3101 paragraph reads, "Information from various sources was presented

3102 to provide workgroup members an appreciation of the technical

3103 aspects of the proposed alternatives. These inputs included

3104 information prepared by third parties, calls with other state

3105 exchanges, private sector organizations and information provided

3106 by Cover Oregon staff in response to specific requests from the

3107 workgroup."

3108   Did I read that correctly?

3109   A.   Yes.

3110   Q.   So the workgroup consulted third parties to gather

3111 information that would be helpful in analyzing the different

3112 technology alternatives?

3113   A.   Yes.

3114   Q.   Is this the information the workgroup used to come to its

3115 recommendation?

3116   A.   Yes. They used all of these sources to come to their

3117 recommendations.

3118   Q.   Would you agree that the workgroup conducted a thorough

3119 analysis of the different technology options to determine which

3120 option was best for the state?

3121   A.   Yes, I would agree.

3122   Q.   So let's talk about the options that were available to

3123 the state as you mentioned. Can you turn to page five. Under

3124 discussion summary heading it reads, "An assessment of each

3125 alternative within the guidelines previously outlined was

3126 performed."

3127   Do you agree?

3128   A.   Yes.

3129   Q.   The next sentence says, "Each alternative was assessed

3130 against the three criteria, risk, schedule and cost."

3131   Can you explain what each criteria meant?

3132   A.   Yes. To my understanding, and I think we touched on some

3133 of this, risk was what's the likelihood that you can actually

3134 succeed, that you would get to November 1 and have something that

3135 worked. Schedule was how long it would take. I mean, implicit in

3136 this is that the -- these had to be done by November 1. And the

3137   third was cost, how much would it -- it cost. Those were the three,

3138   sort of, general parameters for the group.

3139   Q.   Why were these three used to analyze the technology

3140   alternatives?

3141   A.   I think those were the big issues one needed to consider.

3142   Could we do it; could it be done within the -- we knew what the

3143   deadline was, November 1. Could we do it? I mean, what was the

3144   risk with this work? We had just been through an option that didn't

3145   work. So would this work? Was it going to meet the, now November

3146   1, 2014, deadline. And then the other issue was, you know, could

3147   we afford it, what is the cost? I think those are pretty standard

3148   criteria to evaluate issues at a high level.

3149   Q.   Let's go to the second paragraph on the same page. It

3150   reads, "A key consideration in evaluating the possibility of

3151   continuing with the current technology solution was the ability of

3152   Cover Oregon to effectively develop a software solution using the

3153   Oracle framework, a sophisticated and complex family of products

3154   which varied in integration from tightly to loosely coupled

3155   solutions. To address this consideration, information was

3156   collected about existing and planned management processes at Cover

3157   Oregon. The areas examined included project management, IT

3158   solution governance, solution develop like cycle management and

3159   solution deployment practices."

3160   Did I read that correctly?

3161   A.   You did.

3162   Q.   So the current technology was also included as a

3163 solution.

3164   A.   Yes, it was.

3165   Q.   And it was assessed at about the same level as the other

3166 alternative, if not more so; would you agree?

3167   A.   Correct. Yes, I would agree.

3168   Q.   So at some point as we previously discussed -- you hit

3169 on earlier in the last hour, at some point this group narrowed down

3170 the technology options to three, correct?

3171   A.   I think they narrowed it down to keep the -- if my memory

3172 serves me correctly, I believe, the three options were the current

3173 technology -- another state or the federal marketplace, were the

3174 three.

3175   Q.   Can you tell me some of the reasons why the group

3176 eliminated some of the other options?

3177   A.   You know, and the options -- it was really all -- I mean,

3178 it all sort of gets back to the three things -- risk, schedule, and

3179 cost. You know, what was -- what did these experts -- you know,

3180 risk was what did these people who are, you know, IT experts think

3181 of the likelihood of success; would we be successful; could we do

3182 it in the timeframe; and then what was the cost.

3183   Q.   Okay.

3184   I know you mentioned in the last hour that you're not too

3185   familiar with the preliminary recommendation, but do you recall the

3186   technology options workgroup considering keeping the current

3187   technology as ones that met certain milestones?

3188   A.   My memory is fuzzy about all of the different permutation

3189   during that time. I do recall there -- the group got together and

3190   there were some milestones we needed to meet, such as securing, as

3191   indicated in the last section, the ability to go sole source. I

3192   think that was with a project -- a system integrator, but I'm not

3193   sure. And I think it was looking at could we put some of the things

3194   in place to keep the current technology going. So I think in

3195   earnest, the group did. I don't know -- I don't recall what that

3196   preliminary recommendation.

3197   Q.   So would you say it would be accurate to say that keeping

3198   the current technology was strongly considered by the workgroup and

3199   it wasn't quickly eliminated by the workgroup?

3200   A.   I take it they very strongly considered it, yes.

3201   Q.   And --

3202   A.   And I can say that because I think I

3203   was -- probably had my experience had colored me to the degree

3204   where I was, you know, very frustrated with it and I think they were

3205   much more open to giving it a shot.

3206   Q.   You mentioned some of the milestones, but could you tell

3207   us what would happened if some of those milestones were not met?

3208   A.   I just -- you know, I can't describe that in any detail.

3209   I just remember there were a series of milestones laid out. And

3210   I don't remember what they were, but I remember meeting the first

3211   one, which was the ability to go sole source, but I don't recall

3212   what the other ones were.

3213   Q.   Let's turn to page eight of the report, under the heading

3214   of "Deloitte Assessment of the Current Technology." The report

3215   reads, "Findings, one, only the stabilization of the current

3216   software, completion of the online enrollment and development of

3217   renewal capabilities could be competed by November 15th, 2014

3218   leaving change of circumstance incomplete until November of 2015;

3219   two, coding bugs when decomposed to the ITIL, Information

3220   Technology Infrastructure Library, standards of severity

3221   definitions came to over 700 severity one and severity two errors

3222   indicating more work than anticipated to achieve stability; three,

3223   a decision was made to run only 67 of the 77 CMS recommended

3224   blueprint tests against the Cover Oregon codes to support an

3225   accelerated development process. This implies that more errors

3226   exist in the code, but have yet to be discovered; four, no standard

3227   processes for change control, application release management,

3228   testing improvement configuration management, root cause analysis,

3229   environment management or management of enhancement service

3230   requests have been instituted. The skills necessary for Cover

3231   Oregon to finalize the development of the existing application are

3232   not currently within the Cover Oregon staff and would need to be

3233 acquired."

3234   Did I read that correctly?

3235   A.   Yes, you did.

3236   Q.   Is this an accurate state of what you remember the finding

3237 at the time?

3238   A.   Yes.

3239   Q.   The report continues, "Deloitte's estimate for the total

3240 level of effort to achieve stabilization, completion of the current

3241 enrollment solution and development of new functionality to support

3242 renewal and change of circumstance is 390,000 hour at $200 per hour,

3243 blended rate. The cost to Oregon was estimated to approach $78

3244 million, which does not include the core cost of hardware, software,

3245 licensing and staff that Cover Oregon currently supports."

3246   Did I read that correctly?

3247   A.   Yes.

3248   Q.   Is that an accurate statement?

3249   A.   Yes.

3250   Q.   The report continues, "In summary, the timeline

3251 necessary introduces substantial risk to the project while assuming

3252 capabilities which Cover Oregon does not currently have and allows

3253 little margin for error. Not all of the necessary functionality

3254 can be completed by the November 2014 deadline. Finally, this

3255 option exceeds the resources of Cover Oregon. This option failed

3256 the reasonable gap analysis trigger previously identified."

3257   Did I read that correctly?

3258   A.   Yes.

3259   Q.   What does the statement, "This option failed the

3260 reasonable gap analysis trigger previously identified" -- what

3261 does that mean?

3262   A.   It goes back to -- I believe what that means is it failed

3263 the cost schedule and -- and risk parameters. That it was -- this

3264 indicated it was very costly, $78 million. That it was pretty risky

3265 that -- for the reasons that they outlined as well as, you know,

3266 there was some concern about being able to get it done by November

3267 and that it still wouldn't be complete. There were a lot of other

3268 changes that would need to get made after that.

3269   Q.   So is it fair to say that the current technology which

3270 failed to meet all of the three criteria that you mentioned

3271 earlier -- schedule, cost and risk -- and was this a major reason

3272 why the technology options group recommended to the state to not

3273 continue with current technology?

3274   A.   I believe it was.

3275   Q.   If we could stay on that page, under the heading, "Utilize

3276 the Federal Technology," the --

3277   A.   I'm sorry, which --

3278   Q.   Page nine, under the Utilize the Federal Technology

3279 heading.

3280   A.   Yes.

3281   Q.   The report reads, "Key findings of utilizing the federal

3282 technology; number one, provides individual enrollment, renewal

3283 and change of circumstance by the November, 2014, deadline; number

3284 two, 11 of 16 Oregon insurance carriers already have interfaces with

3285 the FFM."

3286   A.   I stand corrected. I said I didn't really know. I

3287 thought four or five, but clearly it was 11 to 16.

3288   Q.   Thank you.

3289   "Number three, Medicaid eligibility can be moved to the

3290 Oregon Health Authority, OHA, requiring no further development from

3291 Cover Oregon; number four, would lose the full integration of

3292 Medicaid and QHP to support seamless transfers from QHP to Medicaid

3293 and back without having to reenter application information; and,

3294 number five, agents would need to be certified by the FFM."

3295   Did I read that correctly?

3296   A.   Yes.

3297   Q.   What is FFM?

3298   A.   The federal marketplace, that was using the federal

3299 technology.

3300   Q.   Is this an accurate statement of the findings of the

3301 technology workgroup?

3302   A.   I believe it was, yes.

3303   Q.   Did these findings weigh in favor of using the federal

3304 technology?

3305   A.   I believe they did, yes.

3306   Q.   Why would you say that?

3307   A.   Because as indicated here for a number of reasons that

3308 it could get done by November 2014, so it met the, sort of, risk

3309 and schedule piece. This was you know, a known piece of the

3310 technology. It was working reasonably well. It outlined a couple

3311 of drawbacks, but I think it provided a better sense of -- a better

3312 option than the previous option.

3313   Q.   So is it fair to say that the findings of this report

3314 showed that switching to the federal technology would meet the three

3315 criteria of the workgroup --

3316   A.   Yes.

3317   Q.   -- risk, schedule, and cost?

3318   A.   Yes.

3319   Q.   What was the date the technology options workgroup made

3320 its final decision?

3321   A.   Well, I don't know that the date that they made their

3322 decision. The report is dated May 8th. I don't know.

3323   Q.   Are you aware of the workgroup's recommendation?

3324   A.   Yes.

3325   Q.   What was the recommendation?

3326   A.   To -- I believe the recommendation was to use the federal

3327 technology.

3328   Q.   Do you know why the group came to that recommendation?

3329   A.   I believe after weighing all of those ten

3330   different things, did their due diligence in weighing, you know,

3331   what were ten different options. They came, because of risk cost

3332   and schedule, to choosing that one. And it was the one that could

3333   get done at a price that the state could afford by November 1 or

3334   November 15th, 2014.

3335   Q.   Do you know when the group gave -- the workgroup gave

3336   their recommendation to the Cover Oregon Board?

3337   A.   No, I don't know when they provided that.

3338   Q.   Did you ever instruct the technology action workgroup to

3339   disregard the other technology alternatives that were before the

3340   workgroup?

3341   A.   No, I did not.

3342   Q.   To your knowledge, did any of the governor's advisors

3343   instruct the workgroup to disregard the other technology

3344   alternatives?

3345   A.   No. I always felt that this group was, you know, a group

3346   of primarily technical people, which is what you wanted, and they

3347   took this very seriously and asked a lot of questions. They

3348   scheduled telephone calls with experts from around the country from

3349   time to time. They talked a lot with Alex Pettit. I was actually

3350   very impressed with the degree to which a lot of very busy people

3351   put their time and effort into this process. It speaks a lot to

3352   those individuals.

3353   Q.   To your knowledge, did the governor or his staff instruct

3354   the workgroup to disregard the technology alternatives?

3355   A.   Not that I'm aware of.

3356   Q.   To your knowledge, did any of the governor's advisors

3357   ever instruct the technology workgroup to make the recommendation

3358   to switch from the state exchange to the federal technology?

3359   A.   Not that I'm aware of.

3360   Q.   To your knowledge, did the governor or his staff ever

3361   instruct the technology workgroup to make the recommendation to

3362   switch from the state exchange to the federal technology?

3363   A.   Not that I'm aware of.

3364   Q.   Was the recommendation to switch to the federal

3365   technology by the workgroup a unanimous decision?

3366   A.   I don't know. I don't know what it was.

3367   Q.   I just wanted to ask you a couple of questions about the

3368   Cover Oregon Board that's come up a few times today. What was the

3369   role of the Cover Oregon Board of Directors again?

3370   A.   Cover Oregon was formed by law as a public corporation,

3371   meaning, it had a board of directors that was appointed by the

3372   governor and approved by the Oregon Senate that was

3373   responsible -- ultimately responsible for the -- the performance

3374   of the organization. It had the fiduciary responsibility and, you

3375   know, a responsible for the operation of the organization.

3376   Q.   Do you know if there were certain criteria that had to

3377 be met to be part of the board?

3378   A.   I know there was a lot of discussion about who would be

3379 appropriate board members. I don't recall whether the legislation

3380 laid that out or not. I remember a lot of -- there was a lot of

3381 discussion about whether or not people from the health insurance

3382 industry should be on the board or not and I don't recall whether

3383 or not that was prohibited by statute or not. I just recall a lot

3384 of discussion about that.

3385   Q.   What types of decisions did the board typically make?

3386   A.   I think the board, like most boards, the biggest

3387 decisions that it made was hiring an executive director and being

3388 responsible for overseeing the work of the executive director and

3389 assuring that the organization meets it's mission.

3390   Q.   Where would you say the board fell in the hierarchy of

3391 making decisions regarding Cover Oregon state exchange?

3392   A.   Could you -- I'm not sure I totally understand.

3393   Q.   Who was responsible for make the decisions about the

3394 state's health exchange?

3395   A.   The Cover Oregon Board.

3396   Q.   Were you present at the board meeting where the board made

3397 the decision to switch to the federal technology?

3398   A.   I don't believe I was. So I believe that was out in May

3399 or June somewhere.

3400   Q.   Do you know whether the board heard multiple

3401 presentations from the workgroup about the different technology

3402 options?

3403   A.   I don't know.

3404   Q.   Just to be clear: Who had the ultimate decision making

3405 authority to switch from the state exchange to the federal

3406 technology?

3407   A.   It was the board.

3408   Q.   Do you have any reason to believe that the board was

3409 coerced or pressured into voting to switch to the federal platform?

3410   A.   I have no reason to believe that.

3411   Q.   Dr. Goldberg, the First Data report points to some issues

3412 with Cover Oregon's management of the website project. In general,

3413 do you agree with those findings of the First Data report?

3414   A.   Yes. I believe the first data report pointed out some

3415 things that, in retrospect, could have been done better, yes.

3416   Q.   So you don't dispute that there were some management

3417 issues during the Cover Oregon website project?

3418   A.   No, I don't.

3419   Q.   Do you believe that these management issues contributed

3420 to the problems running the website project?

3421   A.   I think that they contributed some, but I would say, in

3422 the end, the biggest issue, and the one mostly responsible was the

3423 fact that this -- this system was supposed to work. And, you know,

3424 at some point, you move beyond whatever management issues there were

3425 in the beginning and middle of this project, to the place where

3426 everybody had agreed on what the specifications were. We agreed

3427 on the scope. The project had been paired down. We were given

3428 multiple start dates and at -- it continued to be nonfunctional.

3429   So, you know, sure. I mean, you know, there's things

3430 that this contributed to. But, you know, at the end, my sense of

3431 this was that this was a technological failure. Could management

3432 have been better, yes. There's always ways to improve management.

3433 But I don't -- I never heard anyone say, you know, we can't go live

3434 because of -- on October 1 because you didn't manage things well.

3435 What I heard things was, "We can go live on October 1," and then

3436 we didn't. And then I never heard, when I was there, "Well, we can't

3437 go live on December, whatever, or February 3rd because of management

3438 problems." I heard we can go live on that date and then it didn't

3439 happen, not because of management problems, but because the

3440 technology didn't work.

3441   So, look, I think the First Data report lays out some of

3442 the ways the state could have improved. Absolutely. And I, you

3443 know, I think that's going to help things be better in the future.

3444   Q.   Were there any steps taken as a result of the results from

3445 the -- or the findings from the First Data report?

3446   A.   You know, I -- I don't know because I was -- you know,

3447 after that report, I was transitioning out. So I think the state

3448 certainly took a lot of those to heart and was putting together some

3449 different processes, but I can't speak directly to those.

3450   Q.   Do you know if the governor took any steps to hold any

3451 individuals accountable for the website project failures?

3452   A.   Yes. In a number of ways. One -- I mean, when I took

3453 over, I would say -- you know, when I took over Cover Oregon, I

3454 sought to hold Oracle accountable by, you know, beginning to -- you

3455 know, engage a legal team to hold Oracle accountable. And, you

3456 know, ultimately it was, you know, Cover Oregon that was

3457 accountable.

3458   You know, I think -- you know, the governor asked for a

3459 number of people at Cover Oregon to step down. Having said that,

3460 that wasn't his call. And, you know, he didn't employ those people

3461 and couldn't do that. You know, he ultimately accepted my

3462 resignation. And so, you know, I think, you know, the governor,

3463 in his own way, certainly tried to do that, but I would say, you

3464 know, at that point, as we've discussed before, you know, the Cover

3465 Oregon project was, you know, something that had morphed itself

3466 outside of state government.

3467   Q.   If I'm hearing you clearly, Cover Oregon seemed to be

3468 taking accountability, but did Oracle ever take responsibility or

3469 accountability for the website failures?

3470   A.   No. Oracle continued to claim the website was working.

3471   Q.   When did Governor Kitzhaber leave office?

3472   A.   The governor resigned approximately a year ago.

3473   Q.   Do you currently hold any positions with the current

3474 administration --

3475   A.   No, I don't.

3476   Q.   -- at Oregon Health Authority --

3477   A.   No, I don't.

3478   Q.   -- Department of Human Services?

3479   A.   No. My tenure with the state, it ended officially in

3480 July of 2014.

3481   Q.   As far as I have heard you say, the decision to switch

3482 to the federal technology was made sometime in April or May of 2014.

3483   A.   Correct.

3484   Q.   So that would be about two years ago, correct?

3485   A.   Correct.

3486   Q.   And it's been about six years since the Affordable Care

3487 Act was Enacted into law.

3488   A.   Yes.

3489   Q.   So over 20 million people who were previously uninsured

3490 have gained healthcare coverage through the ACA; does that sound

3491 about right to you?

3492   A.   Yes.

3493   Q.   Do you know how many people in Oregon enrolled into

3494 healthcare during that 2014 open enrollment period, despite the

3495 website not functioning?

3496   A.   Somewhere around more than 300,000 people.

3497   Q.   Do you know how many healthcare open enrollment periods

3498   there have been since the transition to the federal technology?

3499   A.   I believe one, but I can't say that I tracked these issues

3500   very closely since I left them.

3501   Q.   Do you know approximately how many people in Oregon have

3502   enrolled in healthcare through the federal technology since the

3503   transition?

3504   A.   I do not know.

3505   Q.   Did Oregon opt to expand Medicaid through --

3506   A.   Yes, we did.

3507   Q.   Do you know how many people obtained insurance through

3508   the expansion of Medicaid?

3509   A.   No. I believe ultimately, you know, when I quoted that

3510   figure in -- previously about coverage, it included both, Medicaid

3511   and the private market. You know, Oregon, I think, it was somewhere

3512   around 300,000 people, if not more, got healthcare as a result of

3513   expansion.

3514   Q.   To your knowledge, has Oregon experienced a drop in

3515   uninsurance (sic) since the Affordable Healthcare Act?

3516   A.   Yes, a very significant drop. You know, I believe in

3517   that we close to cut in half the number of individuals without health

3518   insurance. I'm pretty proud of that.

3519   Q.   In your opinion how has the ACA and Medicaid expansion

3520   impacted the lives of Oregonians?

3521   A.   I'm a doctor. I know a lot -- the value of healthcare

3522 to people and it improved the lives of a lot of people in a tremendous

3523 way.

3524   ███████████   Thank you.

3525   (Off the record.)

3526   EXAMINATION

3527   BY███   ████████

3528   Q.   Quick question, we just want to clear up things that

3529 we want to make sure we're correct on here.

3530   If the site got stuck or didn't work, could it be -- have

3531 been because of user error in some cases?

3532   A.   No, not really. I mean, you know, this wasn't about user

3533 error. It was, you know, more primarily -- you know, if it's -- if

3534 it's user error, it hasn't been designed right. I mean, if it says

3535 "click here" and you click there --

3536   The reasons were was that the technology was not working.

3537   Q.   Well, you would agree that if someone enters in the wrong

3538 information, it wouldn't work.

3539   A.   If they enter in a different --

3540   Q.   If they forget a field, it wouldn't work?

3541   A.   I don't know. But, you know, most of these systems are

3542 set up that if they forget a field, it's supposed to go back and

3543 have you fill it in with you press the button. And, you know, my

3544 understanding is most of it -- it wasn't working, not because of

3545 user error. It wasn't working because the system didn't work

3546 right. There was times where things like someone put in

3547 a -- something with a comma and, you know, they put in their address

3548 and they had, you know, 28th Street, comma, northwest, and if they

3549 put in a comma, it wouldn't work, but if they didn't put in a comma,

3550 it would. I wouldn't consider that user error because that's a

3551 pretty common way that a lot of users do that.

3552   Q.   I understand.

3553   When did the site launch to community agents and

3554 partners?

3555   A.   Sometime in February.

3556   Q.   Who built that?

3557   A.   I don't know the exact date.

3558   Q.   Who built the portal that community agents and partners

3559 used?

3560   A.   Oracle did.

3561   Q.   Oh, they did and it worked.

3562   A.   I would say it worked part of the time. Some of the

3563 agents I talked to indicated that it worked fairly well; others had

3564 some complaints. It was kind of a thing whereby with agents and

3565 community partners, the first time they used it, there was a greater

3566 error rate. They could be coached about how to do certain things

3567 to help make it work that made it more successful --

3568   Q.   But Oracle built that system and it did work at times.

3569   A.   I would -- yes, at times it worked.

3570   Q.   And you received positive feedback from people that it

3571 was working.

3572   A.   I received both positive and negative feedback, yes.

3573   Q.   You mentioned this too, the governor's office

3574 commissioned the First Data report, correct?

3575   A.   Yes.

3576   Q.   And members of the governors team were involved with

3577 setting up that report.

3578   A.   Yes. They laid out, I believe, what were the parameters

3579 of the report.

3580   Q.   I just want to go back to some of the e-mails. Is Exhibit

3581 5 in your pile?

3582   A.   Uh-huh.

3583   Q.   This is the 90 to 95 percent e-mail.

3584   A.   Yes.

3585   Q.   Did anyone assist you in writing that e-mail?

3586   A.   Yes.

3587   Q.   Who did?

3588   A.   Aaron Karjala assisted me in the second two paragraphs.

3589   Q.   Who is Aaron Karjala?

3590   A.   He was the CIO of Cover Oregon.

3591   Q.   Did anyone else assist you in writing that?

3592   A.   No. My recollection was Aaron, because that's a lot

3593   of -- a lot of the words in there were very technical and not how

3594   I generally wrote things.

3595   Q.   Going back to -- let's see here. This is Exhibit 4, the

3596   larger report that you got at the very beginning.

3597   A.   The First Data.

3598   Q.   Yes.

3599   A.   Yes.

3600   Q.   The April 23rd First Data report. I just wanted to go

3601   back the something that I wanted to clear up here. It's on

3602   page -- it's the last of the --

3603   A.   Page --

3604   Q.   -- 68 --

3605   A.   Uh-huh.

3606   Q.   -- at the top it just mentions that on September 28th that

3607   the end-to-end test didn't work and Rocky declared at the meeting

3608   that he was pulling the plug on the website.

3609   A.   Yes.

3610   Q.   When did the Oregon Health Authority, you, or anybody at

3611   Cover Oregon notify people in the state that the website won't work

3612   on October 1st?

3613   A.   It was in the next day or two after that. I don't

3614   remember that --

3615   Q.   Did you issue a public statement --

3616   ███   ████████   Would you let the witness finish his

3617   answer.

3618   BY ███ ████████

3619   Q.   Did you issue a public statement saying that the website

3620 would not work on October 1st?

3621   A.   I don't recall what was issued, but it was made apparent

3622 that people wouldn't be able to use the website to enroll.

3623   Q.   But it was made apparent because the website didn't work.

3624   A.   I didn't -- I'm assuming that there were some media

3625 releases and public statements, but I can't recall them.

3626   Q.   Exhibit 16 -- you don't really need to go to the

3627 thing -- but you mentioned a hybrid process here.

3628   A.   Yes.

3629   Q.   The hybrid process, did that involve computers or

3630 exchange systems built by Oracle?

3631   A.   Yes, it did.

3632   Q.   So the hybrid process was utilizing things that Oracle

3633 had built --

3634   A.   Yes.

3635   Q.   -- and they were working in the hybrid process?

3636   A.   They were work -- yes, parts of it were working in the

3637 hybrid process.

3638   Q.   Who was eventually awarded the contract to move from the

3639 state exchange to the federally facilitated market place?

3640   A.   I don't know. I was not employed at that point.

3641   Q.   Going to the final report here of the Cover Oregon report,

3642 it's Exhibit 18, I just went over. If you go to page eight, it has

3643 the assessment of the current technology. Do you know when this

3644 was conducted?

3645   A.   My understanding is this was conducted in February and

3646 March of 2014.

3647   Q.   Then on the next page you have -- page nine at the top

3648 it says $78 million.

3649   A.   Yes.

3650   Q.   Who did that assessment?

3651   A.   I believe that that came from a combination of Deloitte

3652 as well as some of the Point B people that were working on that,

3653 but I can't say for sure.

3654   Q.   Then at the bottom, the four to six million, who conducted

3655 that one?

3656   A.   Well, it says in the report from Deloitte.

3657   Q.   You were on the technology advisory group, correct?

3658   A.   Yes.

3659   Q.   Did you have a title in that group?

3660   A.   I don't. I don't think so. I know I was interim

3661 director of the agency, but I don't know that we had official titles

3662 for everybody, other than members.

3663   Q.   You just answered a number of questions about whether you

3664 were pressured or influenced by the governor's office and the

3665 technology advisory group was. Did you speak with Patricia McCaig

3666 in your capacity as being on the technology advisory group?

3667   A.   I spoke with Patricia McCaig frequently and it was in

3668 my -- my role was the interim director of Cover Oregon.

3669   Q.   When did the board ask for your resignation?

3670   A.   The --

3671   Q.   Did the board ask for your resignation?

3672   A.   No, the board didn't.

3673   Q.   You mentioned that before a couple of times that you had

3674 offer your resignation many times. Why suddenly did they say today

3675 is okay?

3676   A.   You know in -- I always felt strongly in my role in

3677 working with the state in terms of being accountable. I always felt

3678 accountable for everything that happened in the Department of Human

3679 Services and the health authority, whether it was in the state

3680 hospital or in public health, any -- good things I was accountable

3681 for. I was accountable for not so good things. And I felt that

3682 this had gone on for a long time, that the website was a public

3683 embarrassment to the state. I had offered to resign multiple times

3684 before and I expressed some of that accountability by offering to

3685 resign.

3686   Q.   When you offered to resign before, who did you offer to

3687 resign to?

3688   A.   I offered it to the governor.

3689   Q.   You didn't offer your resignation to any members of the

3690   board?

3691   A.   No, I did not at that point.

3692   Q.   Who had the ultimate authority to hire of fire the

3693   executive director of Cover Oregon?

3694   A.   The board of directors.

3695   Q.   And you were the executive director of Cover Oregon,

3696   correct?

3697   A.   Yes.

3698   Q.   We're going to go to an e-mail here. It's 71379.

3699   Actually, while we're doing that, before we get to that, I'm really

3700   curious, because you might know this. Of the Medicaid enrollments

3701   of the expansion that you did, how many were just automatic

3702   enrollments because they were on some other form of government

3703   assistance?

3704   A.   A lot.

3705   Q.   What percentage?

3706   A.   I don't know. I would say -- I mean, I would guess

3707   somewhere between half and three quarters were primarily enrolled

3708   out of what was called fast track, which was the snap enrollments.

3709   Q.   I was just curious.

3710   Exhibit 19 here. I'll allow you to take a moment to

3711   review that.

3712   A.   Okay.

3713   Q.   You'd agree this is an April 10th e-mail from Sean Kolmer

3714 to the governor with yourself copied on it?

3715   A.   Yes.

3716   Q.   And in it, it says, "Our preference is to keep the

3717 functions of the state based exchange with using the backbone of

3718 the federal technology to make Cover Oregon a success. Your team

3719 is working closely with CMS."

3720   A.   Yes.

3721   Q.   Were you part of the governor's team that was working CMS

3722 to understand the pros and cons?

3723   A.   I had had certainly a lot of conversations with CMS in

3724 my role as the Cover Oregon director during that time.

3725   Q.   You say that our preference is to keep the functions of

3726 the state based exchange. Why didn't you present this preference

3727 to the Cover Oregon Board of Directors on April 10th?

3728   A.   I felt that we had a process. This is written by Sean

3729 and it's Sean's preference stating that. My sense is we had a

3730 technology committee and I was certainly committed at that point

3731 to having that process being seen through to the end.

3732   Q.   Do you know when, approximately, it became the governor's

3733 preference to move to healthcare.gov?

3734   A.   No, I don't.

3735   Q.   Do you know when the decision was made to switch to

3736 healthcare.gov?

3737   A.   The board made that decision at some point and, I believe,

3738 it was either late April or May.   I wasn't around at that point.

3739   Q.   Do you know how Clyde Hamstreet was selected to serve as

3740 the interim executive director?

3741   A.   Yes.

3742   Q.   Would you elaborate?

3743   A.   Yes.   Sorry.   Yes, I to know.   I'll be quick.

3744 Clyde -- I had -- I was looking for some additional operational help

3745 to run the organization.   And I had had had a number of

3746 conversations with Clyde Hamstreet, who was recommended to me by

3747 the governor as someone who was a corporate turn around expert.

3748   I met with him, some board members met with him and then

3749 I had brought him on in a contract to help run the -- help me run

3750 the organizations.   When I resigned I -- you know, I was asked to

3751 stay on until an executive director was found.   I thought at that

3752 point it made a lot of sense to just get out of the way and let Clyde

3753 run the organization until a new director was found.   I suggested

3754 that to the board and you know the board accepted that.

3755   Q.   Did you track Cover Oregon's budget as the executive

3756 director --

3757   A.   Yes.

3758   Q.   Can you opine on what the status of the budget was in April

3759 of 2014?

3760   A.   The budget for -- in April of 2014 was getting tight

3761 because technology costs were increasing.

3762   Q.   Were you having ongoing conversations with people from

3763 the governor's office about the budget at this point?

3764   A.   I had a lot of conversations with the governor's office,

3765 the board, the legislature -- with a lot of people about that --

3766   Q.   Did you have conversations from -- with Patricia McCaig

3767 and people from the governor's campaign?

3768   A.   As I had indicated earlier, I had one conversation with

3769 folks from the campaign. Budget -- my recollection was budget

3770 really wasn't talked about much at that meeting. I don't know all

3771 the details of all the conversations I had with Patricia, but I would

3772 imagine budget came up from time to time. Yes.

3773   Q.   And at the time did you believe that Cover Oregon had the

3774 resources to make any move necessary or were the windows closed?

3775   A.   I felt the windows were closing. That -- you know, it

3776 was a tough period because of -- you know, it was more about the

3777 future budget, which was reliant on -- the organization was going

3778 to be transitioned into relying on its piece of the assessment.

3779 Enrollments were not quite what we had projected. What had been

3780 projected in some of the budgets -- I think, because of some, you

3781 know, lack of consumer confidence in the website, a number of

3782 individuals enrolled direct with carriers. And so Cover Oregon

3783 didn't get that piece of the -- of the premium. So the future

3784 budgets were looking tighter and tighter.

3785   Q.   And at the time are you discussing your budget with CMS?

3786   A.   You know, we had budget reports. I'm assuming budget

3787 reports went to CMS, but I don't recall, myself, having direct

3788 conversations with them.

3789   Q.   Do you believe that the May 2013 budget shortfall

3790 impacted your budget the next year?

3791   A.   I think marginally. You know, that was a -- it

3792 was -- you know, I believe in the order of $10 million in a

3793 250 -- $300 million budget over the course of the project and I felt

3794 that there were some ways that could -- you know, "manage" those

3795 expenses doing things like cutting back on advertising, et cetera,

3796 that wouldn't adversely affect the guts of the operation.

3797   Q.   You had mentioned this before. Is it your view that you

3798 spent too much on advertising?

3799   A.   You know, I think that there was a pretty rich advertising

3800 budget and I think the state invested a lot in that and, you know,

3801 certainly, in retrospect, having spent a lot of money advertising

3802 something that ultimately didn't work is a shame.

3803   Q.   I realize that you were, as you mentioned, transitioning

3804 out at this point, but so did you prepare for the April 25th board

3805 of directors meetings?

3806   A.   I don't recall. I mean, I resigned April 11th. I

3807 really -- you know, pretty much Clyde Hamstreet was in -- you know,

3808 interim director at that point and I might have been on a few phone

3809 calls helping to prepare for that -- you know, in helping Clyde

3810 prepare.

3811   Q.   Do you know if at the time that the governor's office was

3812 reaching out to members of the board of directors to discuss the

3813 technology decision?

3814   A.   I don't know.

3815   Q.   Were you involved in any discussions regarding what Alex

3816 Pettit should present as the reason for the switch to

3817 healthcare.gov?

3818   A.   I was involved in a lot of the discussions about how to

3819 best present the information from the technology committee.

3820   Q.   Who else participated in these, the technology committee

3821 and -- anybody else?

3822   A.   Well, after that I think there were discussions with Alex

3823 and Clyde and Mike Bonetto and Patricia McCaig about how best to

3824 present some of that information.

3825   Q.   Did you ever see members of the governor's office -- you

3826 know, Ms. McCaig, Bonetto or those other employees -- edit Power

3827 Point presentations that were presented to the board of directors?

3828   A.   From time to time there were suggestions made about those

3829 Power Point presentations, yes.

3830   Q.   Just curious, you injured yourself and that was why you

3831 were not able to testify before this committee.

3832   A.   Yes.

3833   Q.   We had several people tell us, so I just want to say, are

3834 you okay?

3835   A.   Yes. I fractured my leg and had a blood clot and I

3836 couldn't travel.

3837   Q.   I just -- get that on the record and --

3838   A.   Yes. I would have been happy to come then. I was -- but

3839 I was on crutches.

3840   Q.   I just wanted to give you the opportunity to clear that

3841 up because we had asked other people about it.

3842   A.   Thank you.

3843   Q.   Then in February 2014, Cover Oregon and Oracle signed a

3844 transition agreement. Were you involved in those discussions?

3845   A.   Yes, I was.

3846   Q.   Was someone in the governor's office involved in

3847 negotiating that agreement?

3848   A.   Yes, the board. The board was engaged in that. I

3849 discussed what the options were with the board, as well as with

3850 members of the governor's staff, yes.

3851   Q.   What members of the governor's staff did you discuss it

3852 with?

3853   A.   With Mike Bonetto and Sean Kolmer and with the governor.

3854   Q.   Did you discuss this agreement with any campaign

3855 advisors, like Patricia McCaig?

3856   A.   I don't remember discussing those agreements with

3857 Patricia McCaig, no. The bulk of my discussions on that were with

3858 the legal team.

3859   Q.   I'm curious also. The legal team, Cover Oregon's own

3860 legal team or the governor's legal team?

3861   A.   Cover Oregon by statute had to use the state's attorney

3862 general in the state's department of justice as its legal team and

3863 when --

3864   When I took over at Cover Oregon, I had consulted with

3865 the attorney general for some help in the contractual dispute that

3866 I saw coming on the horizon. And felt that getting some outside

3867 expertise would be beneficial and had asked the attorney general

3868 to provide that as is usual and customary and she did. So I worked

3869 primarily with a legal firm that was on contract to -- to the

3870 attorney general working for Cover Oregon that was Cover Oregon's

3871 legal team.

3872   Q.   Generally about -- because I realize that you had several

3873 different roles here. Through your move from the Oregon Health

3874 Authority to Cover Oregon, did you have a main point of contact at

3875 CMS that you would talk about the ongoing development of the project

3876 and you would then talk to as, you know, the Cover Oregon interim

3877 director? Who was your main point of contact?

3878   A.   When I was director of the Oregon Health Authority Oregon

3879 Health Authority, I can't recall talking to CMS about this project.

3880 I talked with them about a lot of other issues, but not about this

3881 project.

3882   When I was working with Cover Oregon, my -- I had several

3883 points of contact; one was our project officer, who was a gentleman

3884 named Terrance King and I talked to him a number of times and I

3885 believe there might have been a switch project I -- I talked with

3886 Teresa Miller, who in the hierarchy of things, had a higher role

3887 in supervising a lot of the exchanges that -- I don't know exactly

3888 what that was. And I believe I had one conversation with Marilyn

3889 Tavenner, head of CMS.

3890   Q.   Then the conversation with Marilyn Tavenner was related

3891 to -- I believe you discussed it earlier -- but it was related to

3892 the ability to still qualify as a state based exchange to obtain

3893 federal funding.

3894   A.   Trying to understand what it would mean to the state to

3895 do that.

3896   Q.   Just give us a second here.

3897   A.   Yes.

3898   Q.   One quick thing is that in January 2013, there was a Cover

3899 Oregon board meeting where the representatives from the federal

3900 government flew out to sort of do a site visit. Did you take -- were

3901 you present at this meeting?

3902   A.   People from the federal government --

3903   Q.   CCIIO --

3904   A.   -- at a board meeting in January --

3905   Q.   They flew out in January 2013 to --

3906   A.   I don't recall that. I may or may not have been at that

3907   meeting. I threw the minutes away. The minutes will reflect just

3908   how bad my memory is.

3909   Q.   This is Exhibit 20, take a moment to look at that.

3910   A.   Okay.

3911   Q.   So this is April 6th e-mail chain, Triz DelaRosa is

3912   e-mailing you and Mike Bonetto about concerns she heard from CCIIO,

3913   correct?

3914   A.   Correct.

3915   Q.   So officials from CCIIO's team has expressed concerns

3916   about what was going on in Oregon, correct?

3917   A.   Yes, they did from time to time.

3918   Q.   Triz DelaRosa said that Terrance and others expressed

3919   concerns about individuals within Cover Oregon exchanging

3920   positions and the apparent lack of understanding by the new staff.

3921   So you just mentioned this, Terrance was --

3922   A.   Terrance King was the project officer.

3923   Q.   The project officer. Did you discuss these concerns he

3924   had with anyone after this?

3925   A.   I don't recall discussing his concerns with anybody other

3926   than Triz at this point. I think she was concerned that there had

3927   been some testimony that -- by Mr. Van Pelt to the committee and

3928   there was clearly a communication breakdown between Cover Oregon

3929 and the folks at CMS about that.

3930   Q.   And Triz says that she spoke with Kevin Kelly last week

3931 of the same issue. Who is Kevin Kelly?

3932   A.   I don't know. I was just wondering that myself.

3933   Q.   Does it ring a bell if he is a Deloitte employee?

3934   A.   You know, Kevin -- it does ring a bell, but -- but I'm

3935 not -- it does ring -- there were a lot of people. I'm just trying

3936 to remember -- be clear about what I know.

3937   Q.   So if we were to ask you if you remember conversations

3938 between Triz and Kevin, you would not remember the conversations

3939 at this time?

3940   A.   Kevin is the person who may be with Deloitte?

3941   Q.   Yes.

3942   A.   I know that we all had a lot of conversations

3943 with -- there was a -- sort of a point person for Deloitte who spent

3944 a lot of time at Cover Oregon that we worked with a lot.

3945   Q.   Were you ever concerned that switching to the FFM would

3946 violate the terms and conditions of your agreement?

3947   A.   I had always assumed that if it would, the grants were

3948 with CMS, that that would have been an issue we would have worked

3949 through. I can't say that it occurred to me. But I considered that

3950 since we were working with our grantor, that if it was a problem,

3951 they would have brought that up.

3952   Q.   As a catchall here, just in terms of the record that

3953 existed here, because we had a lot of personal e-mails used and off

3954 the government servers. Are you aware of the deletion or -- of any

3955 e-mails at all related to the Cover Oregon, not saying after this

3956 investigation happened, even before?

3957   A.   Deletion from me?

3958   Q.   Yes.

3959   A.   No.

3960   Q.   Or other individuals.

3961   A.   No, I'm not aware.

3962   Q.   Bouncing back here.

3963   Can you describe what the impact on switching to

3964 healthcare.gov would have on Oregon's customers and carriers?

3965   A.   Yes. I mean, there was going to be an impact

3966 on -- certainly there were a number of carriers. We know the

3967 number. I believe I had flipped it -- that it was about four or

3968 five that were not working with the federal exchange. There were

3969 about 11 that were. So they already the interfaces with the federal

3970 exchange.

3971   For those carrier that were not currently on the federal

3972 exchange, it was going to be a fairly substantive impact on them,

3973 where that would have to build interfaces to the federal exchange.

3974 I think for consumers there was a substantial impact as well, in

3975 that, for consumers -- and this is where I was transitioning out --

3976   Q.   Right.

3977   A.   -- but my understanding was that consumers would have to

3978   reenroll, rather than have a very quick way to just renew. They

3979   would have to reenroll with the federal technology. So, yeah,

3980   there were concerns.

3981   Q.   I just want to make sure it's clear: It's very person

3982   who enrolled in a non-Medicaid plan would have to reenroll?

3983   A.   That was my understanding. Rather than simply renew,

3984   they would have to reenroll, but whether there was some

3985   technological way to work that out after that, I don't know.

3986   Q.   Just give us a moment, we'll just let the clock run here,

3987   that way we'll hopefully not have to go another round.

3988   A.   Yes.

3989   Q.   One thing I'd like to go back to is this Exhibit 2.

3990   A.   Yes.

3991   Q.   This is really sort of a yes, no, correct answer.

3992   A.   Okay. I'll try.

3993   Q.   I just want to make sure that the record reflects this,

3994   is that on page five of 17 -- it's the same thing we talked about

3995   early -- is OHA, through the health exchange IT project

3996   successfully delivered a functional insurance exchange to Cover

3997   Oregon on April 30th, 2013. That statement is not true, correct?

3998   A.   I wouldn't say -- yes. Correct.

3999   Q.   Do you know who drafted this document?

4000   A.   No.

4001   Q.   Do you know who drafted the final, May 8th, report to

4002 Cover Oregon?

4003   A.   That technology one, that May 8th one, I believe that was

4004 drafted by Alex Pettit. But, again, I was minimally involved in

4005 that.

4006   ███ █████. I just want to make sure that we'll

4007   be -- yield here. If there's anything else that we need to

4008   go over.

4009   That's it for now.

4010   (Off the record.)

4011   EXAMINATION

4012   BY ███ ███████:

4013   Q.   Dr. Goldberg, I have a couple of questions regarding some

4014 of the discussions from the last 30 minutes.

4015   Did Patricia McCaig pressure or coerce you at all

4016 regarding any Cover Oregon decisions?

4017   A.   No. I never felt coerced.

4018   Q.   Did Ms. McCaig direct you to make any substantive

4019 decisions regarding the Cover Oregon switch or the Cover Oregon

4020 Board?

4021   A.   No.

4022   Q.   Did Ms. McCaig direct or instruct you to switch from the

4023 state exchange to the federal technology?

4024   A.   No.

4025   Q.   Are you aware of Patricia McCaig coercing or pressuring

4026   anyone else regarding Cover Oregon?

4027   A.   I'm not aware.

4028   Q.   Are you aware of Patricia McCaig directing anyone to

4029   switch from the state exchange to the federal exchange?

4030   A.   I'm not aware.

4031   Q.   There was also a discussion about the budget shortfall.

4032   Did the budget shortfall impact the decision to switch to the

4033   federal technology?

4034   A.   I guess, I would say that certainly budget was a concern.

4035   I don't think it was the budget shortfall -- was a concern. In

4036   fact, I think -- you know, my experience was there's -- you know,

4037   there's a couple of different ways of portraying budgets; one is

4038   you can say you have a shortfall and the other is can you manage

4039   to the dollars you had.

4040   I mean, Cover Oregon, we were trying to manage to the

4041   dollars we had. And, certainly, as I indicated, the expense was,

4042   you know, a consideration in making the choice and the cost of fixing

4043   the website was unaffordable given the budget regardless of

4044   shortfall.

4045   Q.   You told my colleague that in very rare instances over

4046   the course of your several years you used personal e-mail to

4047   communicate information you did not want your staff to be privy to

4048   in realtime; is that correct?

4049   A.   Yes.

4050   Q.   You still used e-mail to communicate that information.

4051 Were you concerned that you -- were you concerned with creating a

4052 written record?

4053   A.   I understood that there was a written record and I kept

4054 those e-mails on my server.

4055   Q.   So you didn't intentionally delete any e-mails to avoid

4056 a record of the message; did you?

4057   A.   No.

4058   Q.   You said you were not aware of deletion of any e-mails

4059 related to Cover Oregon; is that correct?

4060   A.   That's correct.

4061   Q.   Are you aware that this committee has, in fact, received

4062 some of your personal e-mails that were produced in this

4063 investigation?

4064   A.   Yes. I believe I provided them.

4065   Q.   Were you using your personal e-mail to surreptitiously

4066 communicate about Cover Oregon?

4067   A.   No.

4068   Q.   There was also a discussion earlier. You were asked

4069 earlier about the hybrid process and the fact that the Oracle

4070 developed website was also used during that hybrid process. I'm

4071 going to hand you an exhibit marked 21. It appears to be an e-mail

4072 from David Ford to Cover Oregon, Oracle, and Deloitte staff, dated

4073   February 11th, 2014, that you forwarded to Mike Bonetto and Sean

4074   Kolmer on February 12th, 2014. Are you familiar with this

4075   document?

4076   A.   I have seen it before, yes.

4077   Q.   If you could turn to the second page of this e-mail with

4078   the Bates stamp GOV_HR00082872 --

4079   A.   Yes.

4080   Q.   -- it says, "one p.m. status call, troubleshooting

4081   continues for Cherry Avenue/5503 people doing manual application

4082   processing. These are the three main issues that we are tracking;

4083   number one, well, that didn't work, H300073; number two, looping

4084   primary contact screen, H3010050, in CS Web App, when you enter

4085   primary contact and hit next, it brings you back to a blank primary

4086   contact screen; number thee, OPA/Siebel Timeout Issues, HD10020.

4087   "About 50 percent of users are affected. The three

4088   symptoms may or may not be caused by the same problems. The team

4089   has rebooting a number of servers and Oracle is executing a plan

4090   for troubleshooting these issues. The plan includes taking all but

4091   one node of several services down, web, center opa, opa portlet,

4092   Siebel server to trap all the transaction into one funnel. Will

4093   turn on logging at a debugging level to get detailed data.

4094   "The trouble shooting activities could have

4095   impact -- could have an impact on response time. So the Triage Team

4096   sent a communication telling people that work is continued and to

4097 expect temporary disruptions in their connections. There is no ETA

4098 at this time from Oracle?"

4099   Did I read that correctly?

4100   A.   You did.

4101   Q.   Who is David Ford?

4102   A.   David Ford was a Cover Oregon employee, I believe.

4103   Q.   So it appears that this e-mail is detailing several

4104 technical issues that occurred with the website by users at that

4105 time, in February 2014; is that correct?

4106   A.   It's actually detailing problems with -- this is

4107 detailing problems with the hybrid process, not -- I mean

4108 users -- the public never got on the website, but what this is

4109 detailing was Cherry Avenue was where we had the couple hundred

4110 people that were processing the hybrid process. And as indicated

4111 before, the hybrid process relied on different pieces of the Oracle

4112 technology. Every time -- not every time, but often, sometimes,

4113 when we -- when things were fixed and put into production, other

4114 things would break. And this is describing a time when some things

4115 had been fixed for what was hopefully going to be a launch of the

4116 individual site. And what had happened was there was some pretty

4117 serious breakdowns in the technology so that we couldn't process

4118 the hybrid thing -- the hybrid method for some period of time during

4119 a day or two. There was a pretty substantial outage.

4120   Q.   So it's fair to say that using this hybrid process there

4121 were significant issues with the system?

4122   A.   Yes, there were. From time to time, it was a very fragile

4123 environment and there were sometimes when -- sense when we relied

4124 on the same environment, I never totally understood all the

4125 technologic reasons, but when a fix was put in for the -- for

4126 the -- what was going to be a go live for the individual site, it

4127 would -- something would break that would affect the work of the

4128 people processing the applications, as such we had to try and stage

4129 some of that work so that it wouldn't interfere with critical

4130 enrollment deadlines.

4131   Q.   And you wouldn't contribute these technical issues to

4132 "users error," correct?

4133   A.   No. These were skilled users. This was -- these were

4134 system issues.

4135   ████ ██████   Thank you.

4136   █████████   I just wanted, on the record, to thank the

4137   committee, both majority and minority staff, for accommodating

4138   both my schedule and my client's schedule. As you know, as

4139   I informed the staff that Dr. Goldberg, we requested a subpoena

4140   for him today, on the advice of the counsel in the civil

4141   litigation. So while he was willing to appear today that is

4142   what the decision was based upon. And while he has testified

4143   truthfully and accurately to his recollection, he reserves the

4144   right to supplement the record with any information that should

4145   come to his attention subsequent to it.

4146   Thank you.

4147   (Whereupon, the interview concluded at 2:10 p.m.)

4148   Certificate of Interviewee

4149

4150

4151   I have read the foregoing _____ pages, which contain the

4152 correct transcript of the answers made by me to the questions

4153 therein recorded.

4154

4155

4156   _____

4157

4158   Witness Name

4159

4160   _____

4161

4162   Date