UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION
- - -

UNITED STATES OF AMERICA,	:	**CASE NO. 1:20-CR-0077**
Plaintiff,	:	**JURY TRIAL, DAY 13**
vs.	:	**15th day of February, 2023**
LARRY HOUSEHOLDER, et al.	:	**9:24 a.m.**
Defendant.	:	

- - -

EXCERPTED TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE
- - -

APPEARANCES:

For the Plaintiff:

Emily N. Glatfelter, Esq.
Matthew Charles Singer, Esq.
Megan Gaffney Painter, Esq.
Assistant United States Attorneys
221 East Fourth Street, Suite 400
Cincinnati, Ohio 45202

For the Defendant, Larry Householder:

Nicholas R. Oleski, Esq.
Robert T. Glickman, Esq.
McCarthy, Lebit, Crystal & Liffman Co.
1111 Superior Avenue East, Suite 2700
Cleveland, Ohio 44114
and
Steven L. Bradley, Esq.
Marein and Bradley
526 Superior Avenue, Suite 222
Cleveland, Ohio 44114

For the Defendant, Matthew Borges:

Karl Herbert Schneider, Esq.
Todd Aaron Long, Esq.
McNees Wallace & Nurick, LLC
21 East State Street, Suite 1700
Columbus, Ohio 43215

Also present: Larry Householder
Matthew Borges

Law Clerk: Cristina V. Frankian, Esq.

Courtroom Deputy: Rebecca Santoro

Stenographer: Mary Schweinhagen, RDR, RMR, CRR
United States District Court
200 West Second Street
Dayton, Ohio 45402

Proceedings recorded in stenotype.
Transcript produced with computer-aided transcription.

EXCERPTED TRANSCRIPT

* * *

THE COURT: If we could call for the witness. I think someone's gone to do that.

Good morning, sir. If you'd be willing to retake the witness stand.

(Witness took the stand.)

THE COURT: Good morning.

THE WITNESS: Good morning.

THE COURT: You remain under oath and you understand?

THE WITNESS: I do.

THE COURT: All right. I think it's Mr. Borges' counsel's opportunity to examine.

MR. LONG: Yes, Your Honor. May I approach the podium?

THE COURT: Yes.

MR. LONG: Thank you.

JUAN CESPEDES

of lawful age, Witness herein, was examined and testified as follows:

CROSS-EXAMINATION

BY MR. LONG:

Q. Good morning.

A. Good morning.

Q. Sir, I'd like to go back to the October 10, 2018, meeting. Do you recall that?

A. I do, sir.

Q. And that was the meeting in which a check for $400,000 was given to Mr. Householder, right?

A. That is correct, sir.

Q. Now, on direct you testified that Mr. Borges was aware of not only that meeting but passing the check and the conversation based on some text messages you had with him, right?

A. What I said was he was aware of the information. I don't believe I said that it was specifically text messages.

MR. LONG: Can we bring up Government's Exhibit 291B? Your Honor, it's already been admitted.

THE COURT: To publish?

MR. LONG: To publish it, yes.

THE COURT: Give us just a moment while the machine warms up.

Q. Do you recognize this exhibit?

A. I do. This is a text message exchange between Matt Borges and myself.

Q. And you testified yesterday that "we had a good day yesterday" meant the check was well received. Do you recall that?

A. I do recall this text, correct.

Q. Do you recall testifying yesterday that by "good day yesterday," that that meant the check was well received?
A. Yes, that is correct. I misunderstood your first question.
Q. Well, you'll agree with me that there is no mention of the check in your text message, correct?
A. That's correct.
Q. You'll also agree that your message is not just about a meeting with Larry Householder, was it?
A. No, it was not.
Q. No. There was a meeting with Obhof and DeWine and Husted, right?
A. That is correct.
Q. Now, Mr. Bradley asked you about some proffers and prep sessions that you had with the government. Do you recall that?
A. I do, sir.
Q. You met with the government on July 27th of 2020, right?
A. I believe that to be true, sir.
Q. August 19th of 2020, right?
A. I assume that is correct, sir.
Q. September of 2020?
A. That could be true, sir.
Q. January 5th, just less than two months ago?
A. That is true.

Q. That's four, right?
A. That is correct.
Q. You testified that you had six or seven prep sessions. So after January 5th, when did you have additional prep sessions with the government?
A. My prep sessions were approximately between one and two weeks ago in two cases, I believe. I'd have to refresh my dates, but they were very -- they were leading up to my testimony in trial.
Q. So you had two sessions, one to two weeks ago; is that right?
A. Two -- two sessions that were in person and one by zoom, sir.
Q. So three?
A. Yes.
Q. So we're at 7 total sessions?
A. I believe that's what I said, yes, sir.
Q. Well, for each of these meetings, is it fair to say that they wanted you to be complete in what you told them?
A. The only requirement of me was to be honest, and, obviously, when you're trying to recall information, in many cases that happened three, four years ago, and when you're looking at as many documents as you have had to look at and I have had to look at, it was obviously helpful and necessary for me to revisit a lot of that information.

Q. So you'd agree with me then that your recollection in 2020 was probably fresher than it was a week or two ago, right?

A. It was very helpful to see the documents.

Q. So your recollection was fresher in 2020 than it was a week or two ago, right?

A. I would say that's true.

Q. Because that's a year or less from the time of these events, right, in some cases?

A. That is correct.

Q. And now we are 2023, right?

A. We are.

Q. So when your recollection was fresher in July of 2020, you told Mr. Wetzel about that October 10th meeting, right? Do you recall that?

A. I believe that is true, yes.

Q. Okay. And you told him all the details you remembered about that meeting in July of 2020?

A. Again, you know, trying to put myself in that particular day a few years ago, my assumption would be that I did.

Q. Then in August of 2020, you talked about that meeting again, right? You probably recalled some additional things?

A. That's likely, yes.

Q. And again in September of 2020, you talked about that

October meeting -- October 10th meeting yet again, right?

A. That is possible, yes.

Q. Now, the January 5th meeting, did it include Mr. Wetzel as well; Agent Wetzel?

A. I do not believe it did.

Q. Well --

A. Actually -- let me take that back. It may have. It may have.

Q. You don't recall?

A. I believe it -- I believe it did.

Q. But you're not certain?

A. At this moment, no.

Q. And that was six weeks ago, less?

A. Approximately.

Q. Do you recall that in that January 5th meeting there were a lot of questions about Mr. Borges, right?

A. That was a topic of conversation, yes.

Q. He was a big topic of your conversation in that meeting, wasn't he?

A. That's likely true, yes.

Q. Now, in none of those meetings -- July 2020, August 2020, September of 2020, January of 2023 -- did you say -- did you tell the government that Mr. Borges was aware of the $400,000 check and the circumstances surrounding it, did you?

A. I believe I did.

Q. What date?
A. It would have taken place on one of those five meetings that you mentioned.
Q. So there is no mention of that in any of the 302s, the FBI made a mistake?
A. I obviously did not document the meetings. I was there participating. Matt and I have had a lot of communication. As you are aware, he was hired in June of that year. I was trying to get him onboarded in April and May. He was a member of Dewey Stokes as a consultant so he was working hand in hand with me. Our conversations are not just limited to texts. This is someone I saw all the time, either in his office or our athletic club. So the conversations did take place. He was very familiar with what was happening on a daily basis.
Q. You're talking about April/May of 2019, right? That's when he was onboarded for --
A. He was.
Q. -- House Bill 6?
A. He would have been onboarded for House Bill 6, I believe -- I believe it would have been '18, but I'd have to look at the dates again.
Q. In looking at the 302s, the notes from those proffer sessions help you figure out what day you told the FBI that Matt Borges was aware of the $400,000 check and the

circumstances surrounding it?
A. Sir, looking at notes that I did, right, is not going to be helpful to me at this time.
Q. So you never reviewed Agent Wetzel's 302s in any of the proffer -- the prep sessions for your testimony this week?
A. My -- my testimony this week and my review was of documents that I created in most cases, that I participated in, and also my plea deal.
Q. In your daily communications with Mr. Borges, right?
A. Yes.
Q. Calls and texts frequently?
A. We did, yes.
Q. Matt was your sounding board, wasn't he?
A. Very much so.

MR. LONG: Can we bring up Government Exhibit 738? Your Honor, this has already been admitted, and we'd ask that it be published.

THE COURT: Yes.

Q. Do you see this document?
A. I do, sir.

MR. LONG: PJ, can we bring out the October dates.

Q. How many calls did you have with Matt Borges in October of 2018?
A. This looks like there were -- I can count -- I'm sorry. That would be two.

Q. Two calls between you and Matt Borges in October 2018?
A. That's -- am I reading this wrong? I'm sorry.
Q. Well, what is your name?
A. Oh, apologize. I am reading it wrong. There were no calls at this time.
Q. The whole month of October 2018, right?
A. That's what it appears.
MR. LONG: PJ, can we bring up the line above September 2018, the lines of September.
Q. How many calls did you have with Mr. Borges in September of 2018?
A. This particular month, I would have had one call with him.
Q. One call?
A. Correct.
MR. LONG: You can take that down, please.
Q. You testified yesterday that Mr. Kiani was positioning things to eventually sell the company, right?
A. I did, yes.
Q. And you had discussions with Mr. Kiani about that after the referendum was over but before your arrest in July of 2020, right?
A. I did.
Q. And at that point, FirstEnergy Solutions had become Energy Harbor, right?

A. That is correct.
Q. And so you learned that there was a plan to sell Energy Harbor and that it may be happening pretty soon, right?
A. I did.
Q. And that's a year or so or less after the House Bill 6 had become law and FirstEnergy Solutions, now Energy Harbor, was getting -- or poised to get this subsidy, right?
A. Correct.
Q. How do you think that that would be regarded around Capitol Square?
A. I did not believe it would be well received.
Q. But Energy Harbor, FES, they wanted your help in that regard, right?
A. Absolutely.
Q. That was a big project they wanted you involved in?
A. Yes.
Q. They wanted you as their quarterback on Capitol Square, right?
A. I had been, yes.
Q. They wanted you on that project, right?
A. By point of project, you mean continuing to serve as their lead lobbyist and managing the relationship on Cap Square?
Q. Regarding the sale of the company.
A. Well, obviously, I -- I mean --

Q. Let me ask the question a better way.
A. Yeah, yeah, yeah, please.
Q. Because that may not have been clear.
They wanted you during this period where they are preparing to sell the company to be their point person on Capitol Square, right?
A. Yes.
Q. And after some negotiations, you had agreement to make $3 million on that project, right?
A. It was not 3 million, but I did have an agreement.
Q. Well, it was initially offered at 750,000, right?
A. That -- that is correct.
Q. And you -- you thought that was too low because you'd burn up too much of your political capital, right?
A. That also is correct.
Q. And so you upped it to a million and a half, right?
A. That's -- that is correct.
Q. And they said -- you said 2 million, right?
A. I -- I had multiple conversations. When I upped it to a million and a half, the conversation changed from the executive I was speaking with to his right-hand person. He basically said that we're going to get this done. It was open-ended. But the number did not -- the number was not 3 million, but it was in the ballpark.
Q. In the ballpark of 3 million?

A. Yeah. I mean, we probably would have settled somewhere around 2.

Q. So you didn't tell Agent Wetzel that it was $3 million?

A. Well, again, it was a negotiation that had not actually been completed. It was not documented. It was not written. It was fluid. I believe that ultimately, after some negotiation, it would have ended up at 2. But, you know, for the purpose of this, 2, 3 million, it was a significant amount of money to me.

Q. You never told Matt Borges about that, did you?

A. I don't remember if we had that conversation. I believe by that time Matt had been retained by a competitive energy company as a lobbyist, so our communication regarding those issues slowed down a bit.

Q. Well, Matt was a -- one of his clients in 2020 was AEP, right?

A. Correct.

Q. Now, you testified yesterday that you didn't want Mr. Kiani to know about the plan regarding Tyler, right?

A. That's correct.

Q. Kiani was an aggressive guy, wasn't he?

A. He was.

Q. You were concerned he'd put a lot of pressure on you if he found out, right?

A. Myself and Matt.

Q. Kind of guy, he just wouldn't let something go, would he?
A. He is very aggressive.
Q. And you testified about a text between you and Mr. Kiani.
MR. LONG: Can we bring up, Your Honor, Government's Exhibit 611C? It's already been admitted, and may we publish?
THE COURT: Yes.
MR. LONG: If we could go to page 2, please.
Q. Do you recall this text message?
MR. LONG: If we can blow up the top bubble.
THE WITNESS: I do.
Q. Mr. Kiani writes, what happened to black ops. Did I read that right?
A. You did.
Q. Now, you testified on direct when Mr. Singer asked you that that was really a reference to Tyler Fehrman and the plan to pay him for private information. Do you remember that?
A. I do remember that.
Q. And Mr. Singer said, he'd come back to Tyler in a little bit. Do you remember that?
A. Repeat that, please.
Q. And Mr. Singer said he would come back to Tyler in a little bit. Do you recall that?
A. Who is "he"?
Q. Mr. Singer.
A. Oh, okay.

Q. On your direct said we'll come back to Tyler, right?
A. That's possible, yes.
Q. Okay. Now, Mr. Kiani did not know about the plan with Tyler until you said Mr. Borges let it slip in a telephone call, right?
A. Yeah, it was an accident.
MR. LONG: We can take that exhibit down, please. Your Honor, if we could publish Government's Exhibit 623C. It's already been admitted.
THE COURT: Yes.
MR. LONG: If we could go to page 2, please.
Q. What's the date of that text message?
A. This date is September 2nd of 2019.
Q. And can you please read what you wrote?
A. The only danger of telling Kiani today is it means we have to close him. I think it was absolutely the right call in hindsight.
Q. So clearly at that point you had not told Mr. Kiani about Tyler, right?
A. It doesn't appear so.
Q. You had not told Mr. Kiani at that point, correct?
A. It absolutely does not appear so, correct.
Q. But you said black ops meant Tyler, in the plan to pay Tyler for information, right? That's what you testified to, right?

A. So black ops, I believe I also testified that it referred to a series of things that we were doing in 17 Consulting, including that. But, yes, black ops absolutely was a reference to Tyler as well.

Q. So -- so when Mr. Kiani said black ops, that meant Tyler, right?

A. On occasion, yes.

MR. LONG: Your Honor, if we could republish Government's Exhibit 611C, please.

THE COURT: Yes.

MR. LONG: Go to page 2, please.

Q. You'd agree with me, that text is August 31, 2019, right?

A. That's correct.

MR. LONG: We can take that down, please.

Q. Now, regarding Tyler Fehrman, you testified yesterday that you had multiple conversations with Mr. Borges about his conversations with Tyler, right?

A. I did.

Q. So you knew that Mr. Borges was talking to Tyler about his employment contract, right?

A. No. I knew that Mr. Borges was talking to Tyler about information we needed. I was aware that he had referenced an employment contract.

Q. You were aware of that because Matt actually texted you a screenshot about, hey, Tyler, send me your employment

contract, right?

A. That is possible.

Q. Well, there's a binder on the desk there. If you could please turn to Exhibit 238. And if you can go -- it's kind of small. In the bottom right corner, you will see page numbers.

A. I do see them.

Q. If you can go to 101 of 192.

A. I'm there.

Q. Now, take a look at the document in front of you. Do you recognize this as a series of text messages between you and Mr. Borges?

A. I do.

Q. And about a third of the way down, there is a screenshot. Do you see that?

A. I do.

Q. That's kind of small, so if you need to take it out of the binder that's okay.

Do you see that in that screenshot it says, "Tyler"?

A. I do.

Q. Do you see in the gray bubble, just emailed you my contract. Do you see that?

A. I do.

Q. Went through it. Didn't see an NDA. Do you see that?

A. I do.

Q. That's a text message you received from Mr. Borges,

right?

A. It is.

Q. So you were aware that Matt had asked Tyler for a copy of his employment contract, right?

A. He did ask him for a copy, yes.

Q. Do you see where Tyler said he emailed it to him, right?

A. Yes.

Q. Having multiple conversations with Matt about his conversations with Tyler, you were aware that Matt talked to Tyler about that employment contract, right?

A. He did -- he did discuss it.

Q. He talked about the noncompete provision of it, right?

A. I believe so, yes.

Q. And he talked about the nondisclosure agreement provision of it, right?

A. I believe so, yes.

Q. You said there was absolutely no plan to hire Tyler Fehrman, right?

A. There was not.

MR. LONG: Your Honor, if we may publish Government's Exhibit 613D. It has already been admitted.

THE COURT: Yes.

MR. LONG: If we can scroll to the next page, please. And the bottom two messages, can you blow those up, please.

Q. What's the date of that text message?

A. This text message is September 10th of 2019.

Q. Can you read what you wrote?

A. How are we doing with the employment lawyers? I'm getting questions there about options.

MR. LONG: You can take that down.

Q. You were aware that Matt, Mr. Borges, had a meeting that very day with Tyler Fehrman, didn't you?

A. Yes, that's correct.

Q. And during that meeting, Matt was talking about options, wasn't he?

A. I was not at the meeting, sir.

Q. Well, he told you about it, didn't he?

A. The options were how do we secure the information that Tyler had that we needed.

Q. And the conversation that you say Matt would have told you about, you're aware then that one of the options Matt was talking to Tyler about was hiring him away from his current employer, right?

A. That would have not made sense for us. What we were trying to do was see if we could pull this off in a way which we could not. So we did go through the exercise of trying to look at his contract, but ultimately, we determined that it was not something that we'd proceed with.

MR. LONG: If we can bring up Government Exhibit

622J.

Your Honor, it has already been admitted, and we'd ask that it be published.

THE COURT: Yes.

Q. So you and Matt came to the conclusion there wasn't a feasible way. Is that why Matt texted Tyler, let's do a three-month agreement to work on political projects that I need help with? Is that why you did that?

THE COURT: Excuse me. Is there an objection?

MR. SINGER: This witness cannot testify why Mr. Borges texted this message to Mr. Clark.

THE COURT: Sustained. You can take another shot at it.

Q. Matt told you that he was going to go a different route, right?

A. He did not tell me that. He -- I read this message as a CYA and not actually what we were trying to accomplish.

Q. Well, we can agree that you testified yesterday that you believed it simply didn't work out with Tyler, right?

A. We didn't get the information that we were looking for. So it --

Q. You never had another conversation with Tyler -- with Matt probably after September 10th about paying Tyler for information, did you?

A. At some point, we assumed he was not going to be

successful, and we did not revisit that topic, as it was very sensitive.

Q. Yesterday, Mr. Bradley --

MR. LONG: We can take that exhibit down, please.

Q. Yesterday, Mr. Bradley asked you who funded the referendum effort. Do you remember that?

A. Yes.

Q. And you said you didn't know. You didn't have personal knowledge. Do you recall that?

A. Of who funded the referendum effort?

Q. For the opposition that was running the petition effort for the referendum.

A. I remember. Obviously, the assumption was made that oil and gas was opposing us, but I did not know the full complexion of the opposition.

Q. Well, do you remember telling Agent Wetzel in September of 2020 that Calpine and Vistra were funding that effort?

A. They were two of the many people funding. As I mentioned, oil and gas were purely our opposition. It was very obvious as we discussed yesterday. But the way I answered the question was, the full question, I don't know about everyone.

Q. So the complete answer is I don't know everyone but I know Calpine and Vistra, right?

A. Correct.

Q. But you didn't say that on -- when you were answering Mr. Bradley's question, did you?

A. I answered a lot of questions yesterday as honestly as I could, sir. And I don't remember exactly what my answer was.

Q. Well, you didn't volunteer the names Calpine and Vistra when he asked you that question, did you?

A. I don't remember saying Calpine and Vistra yesterday.

Q. Well, what is Calpine?

A. Calpine is an energy company based in Houston, Texas.

Q. And what is Vistra?

A. Vistra is -- I'm not -- I'm not quite sure where they are headquartered or what they do, but they -- but they also are somewhere in the energy space.

Q. Now, you testified pretty extensively yesterday -- maybe the day before -- about your interactions with Pat Tully.

A. Yes.

Q. That had to do with drafts and edits to what would be introduced as House Bill 6, right?

A. That is correct, sir.

Q. And you testified that when you saw that draft legislation, it was a surprise, right?

A. The -- the initial -- the initial draft of the legislation was something different than we assumed it would be, correct.

Q. Wasn't it -- it was unlike anything you were expecting, right?

A. Initially, that's correct.

Q. It's complex?

A. It was very complex.

Q. Now, remind us who Pat Tully is at the time.

A. Pat Tully is the energy policy director for the Speaker of the House.

Q. He's a staffer?

A. Correct.

Q. And you said that you and Mr. Tully were exchanging paper copies, right?

A. We were.

Q. And you were really concerned about being seen with drafts of that proposed potential legislation, right?

A. I did not want anyone to see it in my possession, correct.

Q. And you had a dozen times back and forth with Mr. Tully, right?

A. Yes, I would say that.

Q. But Pat Tully wasn't the only one working on drafting that legislation, was he?

A. There's many people involved in that process.

Q. Sam Randazzo was very involved in drafting that legislation, wasn't he?

A. I don't have firsthand knowledge of what exactly Sam Randazzo did as it relates to drafting the legislation. But my assumption is that he had participated in some degree.

Q. In July of 2020, didn't you tell Agent Wetzel that Randazzo already had a plan for the legislation?

A. What I -- what I told him is that we had had a meeting where Mr. Randazzo laid out ideas that later appeared in legislation, which is why I said I assume.

Q. You told Agent Wetzel that Randazzo shepherded Mr. Tully through the process of drafting the legislation, right?

A. I -- I don't remember saying that. But, again, Sam Randazzo at the time was the director of public utilities, and I assume that he did have a role in drafting the legislation, yes.

Q. You didn't tell Agent Wetzel that those were just assumptions, though, did you? You told him that that's what Sam Randazzo did, right?

A. My assumption is that that is exactly what happened.

Q. You had every opportunity to tell this jury about who all was involved in drafting that legislation, didn't you?

A. Well, sir, the Legislative Services Commission was involved, my members of my company were involved. I don't know if I was asked to describe everyone involved, but the answer is yes. But I don't remember it coming up.

Q. But it was important enough to mention Sam Randazzo when

you were meeting with the government in your proffer sessions, wasn't it?

A. I don't remember how his name came up, whether it was something I volunteered or if it was a piece of information that I looked at. But it obviously did.

Q. But in your testimony, you just laid it all at the feet of Pat Tully, the staffer, right?

MR. SINGER: Objection. Can we approach on the side, sidebar, Your Honor?

THE COURT: Yes.

MR. LONG: Your Honor, I can just move on?

THE COURT: Sorry. You can't come up. He's going to move on. Does that vacate your need to chat?

MR. SINGER: Your Honor, we move to strike then.

THE COURT: Stricken.

Q. Sir, you'd agree, there is only one truth in these matters, right?

A. That's what I said yesterday, yes.

MR. LONG: Your Honor, I have no further questions for this witness.

THE COURT: Very well. Does the government have redirect?

MR. SINGER: Yes, briefly, Your Honor.

THE COURT: Very well.

REDIRECT EXAMINATION

BY MR. SINGER:

Q. Good morning.

A. Good morning.

Q. You were just asked some questions about the legislation that was proposed in the spring of 2019. Do you recall that?

A. Yes.

Q. That's House Bill 6, right?

A. It is.

Q. And can you describe whether or not you were happy with the legislation that was passed?

A. I was happy with the legislation that was passed.

Q. And why is that?

A. Because it succeeded in achieving our goals, which was giving up nuclear subsidies that we needed to continue to operate the power plants.

Q. You were asked some questions about black ops. Do you recall that?

A. Black ops, I do.

Q. Can you explain the conversations you had with John Kiani relating to black ops?

A. Yes. We had multiple conversations. Black ops obviously is short for black operations. They were things that we were doing as part of 17 Consulting, which were a number of -- of things that were not Generation Now's responsibility. They were of Matt Borges and myself. They

included the private investigators I discussed and they included attempting to bribe Tyler Fehrman. So black ops was in reference to multiple things that were happening, although at different points in the conversations I knew what he was talking about because of what was happening in that moment.

Q. Moving to some questions that I received from yesterday. Do you recall you were shown a whip list that was attached to a November 2019 email? Do you remember that?

A. I do, yes.

MR. SINGER: Your Honor, permission to publish what's been previously admitted as Householder Exhibit 211?

THE COURT: Yes.

Q. Do you recognize this from yesterday?

A. It's not up on my screen yet, but I am aware of what you are discussing.

Yes, I'm familiar.

Q. Do you remember yesterday about this document?

Now, did you create this list?

A. I did not.

Q. Did you manage this list?

A. I did not manage the list, no.

Q. And did you know whether whoever maintained this list had all the information you had about Mr. Householder's position with regards to legislation?

A. They did not. This was managed by someone outside of my firm.

MR. SINGER: May we please publish what's been previously admitted as Government's Exhibit 322E?

THE COURT: Yes.

Q. Do you see this document?

A. I do.

Q. Do you recall discussing this document a couple days ago?

A. I do.

Q. And what is it?

A. This is a -- it is a whip list. It's a -- it's a sample whip list based on a conversation that I had with the FirstEnergy parent company employee.

Q. And who created it?

A. This was actually created by myself and Ty Pine.

Q. And if you'd go to the third column, what does that represent?

A. The third column is the whip number, 1 to 5, 1 meaning, a sure yes and 5 meaning very against.

MR. SINGER: Can you turn to page 2, please.

Q. Do you see Larry Householder about two-thirds of the way down the page?

A. I do. He's rep No. 27.

Q. And what's the whip number next to Mr. Householder?

A. There is no information next to Mr. Householder.

Q. And why is that?

A. Because it wasn't -- it wasn't even necessary to put down. We knew that he was a champion of our issue. We knew that he was going to lead legislation if he was elected Speaker and there was really no conversation or lobbying necessary there.

Q. And this is a document you created?

A. Yes, correct.

Q. Can you explain whether you've had any doubts as to whether Mr. Householder would push for the nuclear ballot legislation as Speaker following the October 10, 2019 meeting?

A. I had no doubt.

Q. You were asked about the legislative timeline from late 2018 that you created. Do you recall that?

A. I was.

MR. SINGER: May we please publish what's been previously admitted as Government's Exhibit 322C?

THE COURT: Yes.

Q. Focusing on the fifth bullet down under Speaker's race clarity mid-December, but not guaranteed. Do you see that?

A. Correct.

Q. Why did you write, if Householder's successful, the effort will likely be led from his chamber?

A. Because I knew that he would introduce legislation, and I knew that that would be the chamber that our legislation

would come out of.
Q. In the next sentence, there's a reference to his votes. What did that refer to?
A. It referred to the candidates that were running for election who were Team Householder who he controlled.
Q. And can you explain whether you believe Mr. Householder would have the same ability to secure his votes if he was not the Speaker?
A. That was uncertain, but he did still have a significant hold and tight relations with those people.
Q. Would it be the same if he was Speaker versus if he was not Speaker?
A. No. If you're not Speaker, you don't have obviously as much influence over members.
Q. You were asked about FirstEnergy Solutions continuing lobby activities at your direction even after you paid Mr. Householder the $500,000 in checks. Do you recall that?
A. Yes.
Q. And can you explain to the jury again what government bodies are necessary to pass legislation in Ohio?
A. In Ohio, the Ohio House, the Ohio Senate, and then a signature from the governor is what's necessary.
Q. So if you had support of the Speaker and all 20 or so of his team, could you get legislation to pass fast based on that alone?

A. No.
Q. If you had 100 percent of all the members of the House of Representatives, could you pass legislation based on that alone?
A. No.
Q. And can you explain how this impacted your strategy?
A. Well, it caused me to hire consultants that specialized in other areas outside the House, which we felt we had strong control of.
Q. You were asked yesterday about daily calls that you had with consultants and individuals from companies like FieldWorks and Lincoln Strategy Group who were involved in the referendum campaign. Do you recall that?
A. Correct.
Q. Now, were any of these representatives included in the July 29, 2019, call that you had with Mr. Kiani and Mr. Householder?
A. No.
Q. Did you discuss with those individuals the money that FirstEnergy Solutions was paying to Householder through Generation Now?
A. No.
Q. Did you discuss with these individuals your conversations with Mr. Householder about passing additional legislation if the number of signatures was attained?

A. No.

Q. Who did you discuss those things with?

A. Those things were discussed with Speaker Householder, myself, Mr. Kiani, and our executive leadership.

Q. Did you discuss these things with Mr. Borges?

A. Mr. Borges was aware of those things as well, correct.

MR. SINGER: No further questions, Your Honor.

THE COURT: Very well.

MR. BRADLEY: One moment, Your Honor.

THE COURT: I didn't hear you. I'm sorry.

MR. BRADLEY: Just one moment to confer.

THE COURT: Very well.

MR. BRADLEY: I have no questions, Your Honor. Thank you.

THE COURT: Very well. Mr. Long?

MR. LONG: No questions, Your Honor. Thank you.

THE COURT: Sir, you have completed your testimony, and you are free to go.

THE WITNESS: Thank you, sir.

EXCERPT CONCLUDED

I, Mary A. Schweinhagen, Federal Official Realtime Court Reporter, in and for the United States District Court for the Southern District of Ohio, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct excerpted transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

s/Mary A. Schweinhagen
_____ 27th of February, 2023
MARY A. SCHWEINHAGEN, RDR, CRR
FEDERAL OFFICIAL COURT REPORTER