

P R O C E E D I N G S

(THURSDAY, FEBRUARY 6, 2014)

(CROSS-EXAMINATION TESTIMONY OF CLARENCE RAY NAGIN)

CROSS-EXAMINATION

BY MR. COMAN:

Q. Mr. Nagin, you were the mayor of the city of New Orleans from May 5, 2002, to May 3rd, 2010; is that correct?

A. Sounds right.

Q. And as part of that elected position you swore out two separate oaths, correct?

A. Two separate oaths?

Q. Oaths of office.

A. Yeah.

MR. COMAN: May I approach the witness, Judge?

THE COURT: Yes.

BY MR. COMAN:

Q. Go ahead and take a look at Government Exhibit 287. And on the second page, do you recognize your signature for the second term and the last page for your first term?

A. Yes.

Q. And as the mayor, you were responsible for contracting with various vendors, correct?

A. I was the ultimate signer of those agreements.

14:42:05 1 Q. On direct examination though you used the word responsible. It
14:42:09 2 was your responsibility for contracting, correct?

14:42:12 3 A. It was my responsibility to put together a process for
14:42:18 4 professional service contracts and to ultimately sign those
14:42:21 5 contracts.

14:42:22 6 Q. And as part of that process you awarded those contracts for
14:42:27 7 both professional services as well as construction contracts, bid
14:42:31 8 contracts?

14:42:31 9 A. I would sign those contracts.

14:42:35 10 Q. And you were the ultimate decision maker for the City of New
14:42:40 11 Orleans on all contracts, correct?

14:42:42 12 A. I was the ultimate decision maker?

14:42:46 13 Q. Uh-huh.

14:42:47 14 A. I think the City Council had their own contracts, some of the
14:42:52 15 boards had their own contracts.

14:42:55 16 Q. Let's talk about executive branch contracts, construction bids,
14:43:00 17 RFP's, RFQ's, separate from the City Council, separate from the
14:43:04 18 boards, those type of contracts that we've spoken about over the
14:43:08 19 last two weeks; you were the ultimate decision maker on those
14:43:11 20 contracts, correct, Mr. Nagin?

14:43:12 21 A. I had final approval.

14:43:14 22 Q. And let's talk about RFP's. For RFP's who was responsible for
14:43:20 23 making the final decision as to who was awarded a contract?

14:43:23 24 A. Who?

14:43:24 25 Q. Who?

14:43:25 1 A. It was the process that had the lowest responsible bidder.

14:43:31 2 Q. For an RFP?

14:43:33 3 A. Yes.

14:43:34 4 Q. RFP is not the lowest responsible bidder, correct?

14:43:37 5 A. Oh, RFP?

14:43:40 6 Q. Yes, sir.

14:43:41 7 A. Request for proposal.

14:43:42 8 Q. For professional services contracts.

14:43:44 9 A. Okay. I misunderstood --

14:43:46 10 Q. Sure, sure.

14:43:47 11 A. -- what you were saying.

14:43:48 12 Q. For professional services contracts, not bids; the other things
14:43:51 13 that we've been talking about today, professional services contract.

14:43:54 14 A. I had final sign off on those selected, yes.

14:43:58 15 Q. And was it within your discretion to select contractors?

14:44:02 16 A. Ultimately, yes.

14:44:05 17 Q. In fact, was it within your sole discretion to select who was a
14:44:11 18 contractor and who was not?

14:44:12 19 A. That's not the process we had, sir.

14:44:14 20 Q. Let's look at Government Exhibit 42. If we could go to the
14:44:25 21 second page there, please, Michael, and I'll give you a hard copy,
14:44:29 22 Mr. Nagin, as well. Do you recognize your signature on the second
14:44:33 23 page?

14:44:34 24 A. Yes.

14:44:35 25 Q. This is a letter you signed and wrote?

14:44:40 1 A. Yes.

14:44:40 2 Q. Let's go to the first page. We'll go to the third paragraph.
14:44:48 3 Go ahead and read what's highlighted right there.

14:44:50 4 A. "I will make the final decision as to who is awarded the
14:44:53 5 contract to perform the needed services on behalf of the French
14:44:58 6 Market Corporation."

14:45:00 7 Q. Let's go to the bottom of that letter. What did you write in
14:45:04 8 regards to selecting a contractor?

14:45:06 9 A. "In my sole discretion, all in accordance with Section 11 of
14:45:09 10 the Executive Order CRN 08-01."

14:45:14 11 Q. So it was within your sole discretion, correct, Mr. Nagin?

14:45:17 12 A. After it went through the process.

14:45:18 13 Q. Go ahead and read it again.

14:45:21 14 A. "In my sole discretion, all in accordance with Section 11 of
14:45:25 15 Executive Order CRN 08-01."

14:45:29 16 Q. And in addition to this letter, as an example, you passed an
14:45:34 17 executive order where you re-confirmed your sole and ultimate power
14:45:37 18 in awarding contracts, and that's going to be Exhibit 152, and
14:45:40 19 that's 08-01. You've seen that before, correct, Mr. Nagin? You
14:45:45 20 testified to this on direct examination.

14:45:46 21 MR. JENKINS: Judge, he won't let him answer.

14:45:47 22 THE WITNESS: I've seen a lot of different executive
14:45:49 23 orders, sir.

14:45:49 24 THE COURT: Don't interrupt him, please.

14:45:51 25 MR. COMAN: Yes, ma'am.

14:45:52 1 THE WITNESS: I've seen a lot of different executive
14:45:54 2 orders.

14:45:55 3 BY MR. COMAN:

14:45:55 4 Q. Go ahead and look at this one. Tell us if you recognize it.

14:45:58 5 A. Yeah, it looks like an executive order.

14:46:00 6 Q. Looks like or is it?

14:46:01 7 A. It looks like it.

14:46:02 8 Q. Let's flip to the signature page then, Michael, if we could,
14:46:06 9 let's make sure if it's something that you recognize. 152. Do you
14:46:35 10 recognize your signature on that executive order, Mr. Nagin?

14:46:38 11 A. (WITNESS REVIEWS DOCUMENT.) Yes, sir.

14:47:13 12 Q. And if you could flip to page 12, please. Paragraph 11. The
14:47:25 13 sentence, Michael, if you could please highlight beginning, "the
14:47:29 14 mayor may." Go ahead and read for us out loud what you wrote in
14:47:34 15 that executive order, please.

14:47:36 16 A. This executive order that was prepared by the city attorney
14:47:39 17 says: "Final selection --

14:47:41 18 Q. Oh, I'm sorry, I'm sorry. Did the city attorney sign this or
14:47:45 19 did you sign this?

14:47:46 20 A. I thought I just said the city attorney prepared this executive
14:47:52 21 order.

14:47:52 22 Q. Did she sign this or did you sign this?

14:47:54 23 A. And I already said that I signed it.

14:47:56 24 MR. JENKINS: Judge, objection.

14:47:56 25 THE COURT: Please don't interrupt him.

14:47:59 1 THE WITNESS: What do you want?

14:48:00 2 BY MR. COMAN:

14:48:00 3 Q. Who signed this?

14:48:01 4 A. I signed it.

14:48:02 5 Q. Whose executive order is it?

14:48:04 6 A. It's the mayor's executive order as prepared by the city
14:48:07 7 attorney.

14:48:09 8 Q. Please read for us that sentence that says "the mayor may".

14:48:12 9 A. Okay. The mayor may.

14:48:17 10 Q. Do you see it right there, it's highlighted on the screen?

14:48:19 11 A. "The mayor may make a selection for the award of the
14:48:23 12 professional services contract from any of the proposal submitted to
14:48:26 13 him by the selection review panel, after giving consideration to the
14:48:31 14 written evaluations prepared by the selection review panel; (b) make
14:48:37 15 multiple selections for awards from the proposals submitted to him
14:48:41 16 by the selection review panel; or reject all proposals, in his sole
14:48:47 17 discretion.

14:48:51 18 Q. In whose sole discretion?

14:48:52 19 A. It says the mayor's sole discretion.

14:48:54 20 Q. Go ahead and flip to page 16, please. Paragraph F. And could
14:49:05 21 you blow that up, please, Michael.

14:49:07 22 Go ahead and read that into the record, Mr. Nagin, what
14:49:09 23 does that executive order state?

14:49:11 24 A. "Only the mayor may select a provider to receive a professional
14:49:16 25 services contract. The mayor may make multiple selections for

14:49:19 1 awards from the proposals submitted to him by the chief
14:49:23 2 administrative officer."

14:49:24 3 Q. First three words of that sentence was what again, only the
14:49:30 4 who?

14:49:30 5 A. Only the mayor.

14:49:31 6 Q. And in addition to this 08-01, you re-confirmed your power in
14:49:41 7 the next executive order, 09-01, and that is Government Exhibit 154.
14:49:47 8 Take a look at that.

14:49:50 9 A. (WITNESS REVIEWS DOCUMENT.)

14:49:57 10 Q. Again, Mr. Nagin, do you recognize this as an executive order
14:50:01 11 with your initials CRN 09-01?

14:50:04 12 A. Yes, sir.

14:50:04 13 Q. And in this executive order you suspended the selection review
14:50:10 14 panels, correct?

14:50:11 15 A. No.

14:50:13 16 Q. Okay. Why don't you read for us the heading then.

14:50:17 17 A. Which part of it?

14:50:20 18 Q. Right underneath your initials, on the first page.

14:50:22 19 A. "Competitive selection procedure for professional services
14:50:26 20 contracts: Suspension of ad hoc selection review panels to further
14:50:32 21 prevent delays of recovery efforts."

14:50:34 22 Q. And flip to page 8 of 13, please. If you see there, starting
14:50:49 23 at the bottom, selection of contractor.

14:50:51 24 A. Yes.

14:50:52 25 Q. And the last sentence starting with "the mayor may." Read that

14:50:59 1 out for us.

14:51:00 2 A. The mayor may utilize, that's what you want?

14:51:02 3 Q. The mayor may make, the bottom sentence there.

14:51:05 4 A. "The mayor may make a selection for the award of a professional

14:51:09 5 services contract from the proposals submitted; make multiple

14:51:14 6 selections for awards from the proposals submitted; or reject all

14:51:18 7 proposals at his sole discretion."

14:51:21 8 Q. At whose discretion?

14:51:22 9 A. The mayor's.

14:51:23 10 Q. And who was the mayor?

14:51:24 11 A. I was.

14:51:24 12 Q. And even on contracts -- you can take that down, Michael. Even

14:51:29 13 on contracts that were advertised --

14:51:32 14 A. There's no signature page, by the way, on this.

14:51:34 15 Q. Okay. Do you know if that's an accurate depiction of your

14:51:38 16 executive order?

14:51:38 17 A. Man, I don't know what you guys are presenting.

14:51:40 18 Q. Do you have any reason to doubt that that's your executive

14:51:43 19 order 09-01?

14:51:46 20 A. It looks like it.

14:51:48 21 Q. And let's talk about low bid cases now.

14:51:51 22 A. Low bid?

14:51:52 23 Q. Low bid.

14:51:53 24 A. So this is bid you're changing to?

14:51:55 25 Q. Yes, bid.

14:51:55 1 A. Okay.

14:51:55 2 Q. We're done with RFP's.

14:51:58 3 A. Beautiful.

14:51:58 4 Q. We're going to talk about low bids now. Even with those
14:52:03 5 contracts, you were still the only one that could award that
14:52:05 6 contract in the end, correct?

14:52:06 7 A. I was the only one who could sign the contract on behalf of the
14:52:10 8 City.

14:52:10 9 Q. And if you didn't sign it, there's no contract, no City money
14:52:14 10 going to that vendor, correct?

14:52:16 11 A. And the vendor would sue the City for their lost revenues.

14:52:21 12 Q. And as mayor you dealt with contractors that still bid via low
14:52:25 13 bid, correct?

14:52:26 14 A. I don't know if I understood what you said, sir.

14:52:28 15 Q. Okay. My question was, in addition to the RFP's that we
14:52:34 16 already talked about, you dealt with contractors who were trying to
14:52:38 17 get work from the City via low bid, correct?

14:52:41 18 A. I was aware of -- we had -- yes, I was aware of contractors who
14:52:49 19 were seeking bid work.

14:52:50 20 Q. I know you were aware. Did you make contact with contractors
14:52:54 21 seeking low bid work and/or obtaining low bid work?

14:53:00 22 MR. JENKINS: Object to the vagueness of the question,
14:53:03 23 Judge, did he make contact?

14:53:05 24 MR. COMAN: Did you have contact.

14:53:06 25 THE COURT: That's okay.

14:53:07 1 THE WITNESS: Sir --

14:53:09 2 BY MR. COMAN:

14:53:10 3 Q. It's a yes or no and then you can explain.

14:53:12 4 A. Yes. We did contractor seminars and colleges where we educated
14:53:19 5 contractors on how to do business with the City of New Orleans. At
14:53:25 6 those particular events I would talk to contractors.

14:53:31 7 Q. Did you consider yourself the key contact on behalf of City of
14:53:33 8 New Orleans for winning bidders, even with low bid contracts?

14:53:36 9 A. No, sir. After Hurricane Katrina --

14:53:40 10 Q. Yes or no and then you can explain.

14:53:42 11 MR. JENKINS: Objection, Judge, he will not let him
14:53:44 12 answer.

14:53:45 13 THE COURT: He can explain his answer.

14:53:46 14 THE WITNESS: After Hurricane Katrina, sir, there were
14:53:49 15 thousands of contracts we were letting. There was \$1.5 billion
14:53:55 16 worth of construction activity we were trying to manage. There's no
14:53:58 17 way I can talk to every contractor who was trying to get business
14:54:01 18 from the City of New Orleans.

14:54:02 19 BY MR. COMAN:

14:54:03 20 Q. So you didn't consider yourself the key contact, correct, is
14:54:07 21 that what you're saying now?

14:54:08 22 A. I don't know what you're trying to say. I was the chief
14:54:13 23 executive of the City of New Orleans who by charter had to sign all
14:54:16 24 contracts.

14:54:17 25 Q. Let's look at Government Exhibit 355, please. And I will give

14:54:22 1 you a hard copy here as well. Take a look at this e-mail.

14:54:30 2 A. Thank you.

14:54:30 3 Q. Sure. And go to the second page, bottom of the second page,

14:54:34 4 please, Mr. Nagin.

14:54:36 5 A. Bottom?

14:54:37 6 Q. Bottom of the second page, yes, sir.

14:54:39 7 A. Okay.

14:54:40 8 Q. All right. Go ahead. And is this an e-mail that you wrote to

14:54:44 9 Dr. Brenda Hatfield?

14:54:45 10 A. It looks that way.

14:54:46 11 Q. And what's it say in the subject line?

14:54:48 12 A. "City make street maintenance a priority."

14:54:54 13 Q. And go ahead and read what you wrote to Dr. Hatfield on that

14:54:59 14 date.

14:54:59 15 A. This contract or these -- I don't know whether it says these or

14:55:03 16 this -- "these contract --" singular "-- should not go out without

14:55:08 17 my knowledge. Get me the phone numbers of the winning bidders as I

14:55:11 18 will call them personally so the key contact is not a department

14:55:15 19 head but the mayor."

14:55:18 20 Q. I will call them personally so the what is not a department

14:55:22 21 head?

14:55:23 22 A. The key contact.

14:55:25 23 Q. You were the key contact, correct, is that what you're

14:55:28 24 referring to in that e-mail?

14:55:31 25 A. Sir, I don't know, I don't remember this e-mail. Nor do I

14:55:34 1 remember the circumstances. This could have been a bid protest,
14:55:37 2 this could have been something that we were being sued on. There's
14:55:40 3 no way to determine that from what you're presenting.

14:55:43 4 Q. Why don't we flip then to the next page where this e-mail
14:55:47 5 thread started with, if you could flip to the last page.

14:55:49 6 A. The last page?

14:55:50 7 Q. The last page.

14:55:51 8 A. Okay.

14:55:52 9 Q. Okay. And on the last page here, what do you say at the top
14:55:58 10 here, what's that from?

14:56:00 11 A. Street maintenance, it's the mayor's press office on city make
14:56:06 12 street maintenance a priority.

14:56:07 13 Q. This is, in fact, a press release, correct me if I'm wrong,
14:56:11 14 regarding a low bid contract won by Hard Rock Construction --

14:56:11 15 A. It's Boh Brothers.

14:56:16 16 Q. -- and Boh Brothers. Do you see that?

14:56:20 17 A. Okay, yeah, I do see that.

14:56:21 18 Q. So this is a low bid scenario, correct?

14:56:24 19 A. It looks like it.

14:56:25 20 Q. So flip back to the e-mail.

14:56:28 21 A. If you don't mind, I would like to read the press release so I
14:56:32 22 can become totally familiar with this situation.

14:56:33 23 Q. Sure, sure.

14:56:34 24 A. Is that okay?

14:56:35 25 Q. Sure.

14:56:36 1 A. All right. Thank you.

14:56:36 2 Q. Tell us when you're done.

14:56:38 3 A. I sure will.

14:56:39 4 MR. JENKINS: Judge, can you ask him to stop standing over
14:56:41 5 him.

14:56:42 6 THE WITNESS: That's okay, he's good. I can deal with
14:56:44 7 him.

14:56:44 8 MR. COMAN: I'll back up if that makes you happy.

14:56:47 9 THE WITNESS: No, no, get closer, man.

14:56:49 10 MR. JENKINS: That would make me happy.

14:56:50 11 THE WITNESS: We're friends. (WITNESS READS DOCUMENT.)

14:57:30 12 Okay. All right.

14:57:30 13 BY MR. COMAN:

14:57:30 14 Q. So that was a construction bid contract?

14:57:32 15 A. Yeah. But there must have been some type of dispute with this.

14:57:35 16 Q. Is there any reference in this press release to a dispute?

14:57:39 17 A. No.

14:57:40 18 Q. This is the same type of contracts that Mr. Fradella's company
14:57:43 19 wanted on a regular basis with the City, correct, low bid
14:57:47 20 construction type?

14:57:48 21 A. Looks like it.

14:57:49 22 Q. So flip back to that second page then, the bottom. And after
14:57:52 23 that press release right -- I mean, what did you write to
14:57:56 24 Dr. Hatfield? Read that out.

14:58:00 25 A. You want me to read the same --

14:58:03 1 Q. Yeah. Now knowing that the press release is there, now tell us
14:58:06 2 what you wrote at that point in response to the press release.

14:58:09 3 A. "These contracts should not go out without my knowledge. Get
14:58:12 4 me the phone numbers of the winning bidders, as I will call them
14:58:15 5 personally so the key contact is not the department head but the
14:58:20 6 mayor."

14:58:20 7 Q. Now let's talk about Three Fold Consultants, Mr. Nagin. Now,
14:58:24 8 as mayor you were familiar with Rodney Williams' company, correct?

14:58:26 9 A. Yes, sir.

14:58:27 10 Q. And that company was owned by Rodney Williams, Bassam Mekari,
14:58:34 11 and Tarek Elnaggar, correct?

14:58:35 12 A. That's correct.

14:58:36 13 Q. And you've been here throughout the trial, as we all have, and
14:58:39 14 Mr. Williams and Mr. Mekari testified in court, correct?

14:58:42 15 A. Yes.

14:58:42 16 Q. If we could put up 150, please. And this picture here taken a
14:58:52 17 long time ago on this fishing trip back at the beginning of your
14:58:57 18 term was something you went on with Mr. Williams and his two
14:59:00 19 partners, correct?

14:59:01 20 A. Yeah. When was this again, what date?

14:59:03 21 Q. You tell me. Ball park.

14:59:07 22 A. 2002, 2003, I have no idea.

14:59:10 23 Q. Sounds about right. And when your attorney Mr. Jenkins was
14:59:15 24 asking you questions about this he had this up and he was asking you
14:59:19 25 questions and you were testifying that, well, it started out with

14:59:23 1 Rodney Williams regarding because he was a DBE, correct? Do you
14:59:27 2 remember that part of your testimony?

14:59:28 3 A. No. This started out as just a friendly kind of get-together
14:59:33 4 to get to know the capabilities of this firm.

14:59:36 5 Q. Okay. And in addition to the fishing trip, he also went on the
14:59:42 6 trip to Brazil, correct?

14:59:43 7 A. He was invited with and came, yes, with a number of other
14:59:48 8 business people from the city.

14:59:49 9 Q. Right. And Mr. Mekari his partner came with him as well,
14:59:55 10 correct?

14:59:55 11 A. I don't recall that, sir.

14:59:57 12 Q. Now, after this fishing trip, though, we've already heard
15:00:03 13 testimony and the facts show that Mr. Williams and his company
15:00:06 14 didn't get anymore City work because of this fishing trip, correct?

15:00:11 15 MR. JENKINS: Objection, that's not what the testimony
15:00:13 16 says.

15:00:14 17 MR. COMAN: That is exactly what it says.

15:00:15 18 THE COURT: Well, let's not argue about it. Can you
15:00:18 19 answer the question?

15:00:19 20 THE WITNESS: Of course, your Honor, I would love to.

15:00:20 21 THE COURT: Okay. Go ahead.

15:00:22 22 THE WITNESS: In 2002, 2003 the City had very little work
15:00:25 23 to offer to contractors. As I've stated earlier, we on average did
15:00:32 24 maybe 20 to \$25 million per year of construction-related contracts.
15:00:40 25 After Katrina your chart shows their work expanded. Everybody's

15:00:48 1 work expanded. We had work than local contractors could handle.

15:00:51 2 BY MR. COMAN:

15:00:52 3 Q. So you're saying that it was Katrina and not the \$60,000 that
15:00:55 4 made their income spike from the City?

15:00:57 5 A. Look, you're trying to tie in the \$60,000 and, you know, God
15:01:00 6 bless you.

15:01:00 7 Q. I am not trying to tie in anything.

15:01:00 8 A. Yes, you are. Yes, you are.

15:01:01 9 Q. I'd appreciate you answering my questions.

15:01:01 10 MR. JENKINS: Objection, Judge, let him finish.

15:01:03 11 THE WITNESS: If I could finish it would be great.

15:01:04 12 MR. COMAN: Well, if you could answer the question and not
15:01:04 13 comment on everything.

15:01:06 14 MR. JENKINS: Objection, your Honor.

15:01:06 15 THE WITNESS: I'll do whatever you want me to do, sir.

15:01:12 16 MR. COMAN: How about just answer the question?

15:01:13 17 MR. JENKINS: Why don't you restate the question.

15:01:15 18 THE WITNESS: Can you restate the question?

15:01:16 19 BY MR. COMAN:

15:01:16 20 Q. The question was, after this fishing trip they did not get
15:01:18 21 anymore work from the City of New Orleans and you, correct?

15:01:22 22 MR. JENKINS: Objection, that's not even what the evidence
15:01:25 23 said.

15:01:25 24 MR. COMAN: It's a question, this is cross-examination.

15:01:27 25 THE COURT: If you can answer the question --

15:01:28 1 THE WITNESS: I'm not sure what business they got after
15:01:29 2 the fishing trip --

15:01:30 3 THE COURT: Okay, hold on a second. If you want to
15:01:32 4 correct, if some misrepresentation has been made, you can correct
15:01:34 5 it, to the extent you can remember. Go ahead.

15:01:36 6 THE WITNESS: Well, your Honor, I mean, misrepresentation,
15:01:40 7 that's kind of what this is about.

15:01:42 8 THE COURT: Your attorney made a comment about that. So I
15:01:45 9 am just asking, if you can answer the question, answer it; if you
15:01:47 10 can't, that's okay, too.

15:01:49 11 THE WITNESS: Sir, I can't tell you what work they got
15:01:53 12 after this fishing trip.

15:01:55 13 BY MR. COMAN:

15:01:55 14 Q. Do you have any evidence to show us that they did get work, do
15:01:59 15 you have anything that we haven't seen?

15:02:03 16 A. I don't have anything, sir.

15:02:04 17 Q. And the Brazil trip, same question, did they get anymore work
15:02:09 18 from the City of New Orleans from you after that Brazil trip?

15:02:13 19 A. I don't know, sir.

15:02:14 20 Q. If I told you they didn't, do you have anything in your
15:02:19 21 mind-set that says otherwise to contradict that?

15:02:21 22 MR. JENKINS: What kind of question is that "if I told
15:02:23 23 you"?

15:02:23 24 THE COURT: That's a legitimate question. Go ahead.

15:02:26 25 THE WITNESS: Sir, I don't know. I mean, they were one

15:02:30 1 contractor of many in the city of New Orleans.

15:02:35 2 BY MR. COMAN:

15:02:35 3 Q. Let's look at these RFP's here, 157. And I'll give you a hard
15:02:42 4 copy. And it will be on the screen as well.

15:02:48 5 A. Thank you, sir.

15:02:50 6 Q. Sure. Do you recognize, Mr. Nagin, this request for
15:02:57 7 professional services solicitation from the Capital Projects
15:03:00 8 Administration?

15:03:00 9 A. I mean, I can't tell you I've seen this before, but I am
15:03:05 10 looking at the document, yes.

15:03:06 11 Q. Have you seen it during the trial? It's been introduced into
15:03:09 12 evidence and it's been on the screen about 25 times.

15:03:12 13 A. You put a lot on the screen, sir.

15:03:15 14 Q. So did your attorney.

15:03:16 15 A. I don't have personal recall.

15:03:18 16 THE COURT: Let's just stick on to -- just ask him about
15:03:21 17 it.

15:03:21 18 BY MR. COMAN:

15:03:22 19 Q. Why don't you go ahead and look right there, and give us --
15:03:24 20 what is the date on this?

15:03:24 21 A. On the top?

15:03:25 22 Q. This date right here (INDICATING). Yes, sir.

15:03:27 23 A. It's November 1st, 2007.

15:03:31 24 Q. And flip to -- I'm sorry. Look at page -- I'm sorry, paragraph
15:03:37 25 two, the means proposed to satisfy the need and purpose. What does

15:03:42 1 it say underneath that?

15:03:42 2 A. "Procure for a pool of A&E firms to prepare bid documents under
15:03:49 3 multiple contracts."

15:03:50 4 Q. And flip, if you can, to the second page and give us the due
15:03:53 5 date, which is highlighted on the screen.

15:03:55 6 A. December 11, 2007.

15:03:58 7 Q. December 11th, 2007. And again, for the second RFP, which is
15:04:07 8 marked Government Exhibit 158.

15:04:10 9 A. I'm finished with this one, sir?

15:04:12 10 Q. Yes. Thank you. And 158.

15:04:15 11 A. Thank you.

15:04:16 12 Q. And for this request for professional services solicitation for
15:04:25 13 public works, and what is the date for this one?

15:04:27 14 A. It says November the 12th, 2007.

15:04:29 15 Q. And if you could flip to the second to last page.

15:04:34 16 A. Second to last page?

15:04:35 17 Q. Yes, sir.

15:04:39 18 A. Okay. It says City of New Orleans, Department of Public Works,
15:04:42 19 Addendum No. 1?

15:04:44 20 Q. Yes, looking for the due date.

15:04:45 21 A. But I'm on the right page, Addendum No. 1?

15:04:49 22 Q. That's it.

15:04:50 23 A. Okay. January 4th, 2007.

15:04:52 24 Q. That's the date of the addendum. Lower down the line does it
15:04:57 25 say when it was changed to, the due date?

15:05:00 1 A. The first change?

15:05:01 2 Q. January 11?

15:05:03 3 A. The first one says change from Tuesday, January 8th, 2002
15:05:09 4 (VERBATIM) by 4 P.M. in Room 6W03, City Hall, 1300 Perdido, New
15:05:15 5 Orleans, Louisiana, change to Friday, January 11, 2008, by 4 P.M. in
15:05:20 6 Room 6W03, City Hall, 1300 Perdido, New Orleans.

15:05:26 7 Q. And Rodney Williams and his company applied for both of these
15:05:32 8 solicitations with the City, correct?

15:05:33 9 A. You know better than I do, sir.

15:05:35 10 Q. Well, you've been sitting throughout this trial, have you heard
15:05:38 11 testimony regarding that, Mr. Nagin?

15:05:41 12 A. I guess, sir.

15:05:42 13 Q. Let me show you 353. And what is the date of this document in
15:05:57 14 the upper right-hand corner, Mr. Nagin?

15:05:59 15 A. December 11, 2007.

15:06:01 16 Q. And what is the department and city on the upper left-hand
15:06:08 17 corner?

15:06:08 18 A. City of New Orleans, Capital Projects Administration.

15:06:12 19 Q. Okay. And under the RFP number, what does it say?

15:06:16 20 A. Pool of architectural/engineering firms.

15:06:20 21 Q. And what's the company name listed?

15:06:24 22 A. Three Fold Consultants, LLC.

15:06:27 23 Q. And flip to the second page at the bottom.

15:06:34 24 A. Second page at the bottom.

15:06:36 25 Q. It's on the screen right here.

15:06:37 1 A. Okay.

15:06:38 2 Q. This shows that selection review committee didn't even
15:06:46 3 recommend Rodney Williams for City work, correct?

15:06:48 4 A. Where is that?

15:06:49 5 Q. The bottom.

15:06:53 6 A. The bottom?

15:06:56 7 Q. I can show you. If you could read off for both small, medium
15:07:01 8 and large, what the review committee found as to Rodney Williams'
15:07:06 9 company for that solicitation. What does it say?

15:07:11 10 A. Sir, this is the Capital Projects Administration, which is one
15:07:14 11 aspect of the work that we were doing. And this particular
15:07:18 12 committee, which there are many committees, did not recommend them
15:07:22 13 for small, medium or large firms.

15:07:25 14 Q. And that's what it says on the document for the record,
15:07:28 15 correct, Mr. Nagin?

15:07:29 16 A. Yeah, but I think you ought to go to the comment section if you
15:07:33 17 don't mind.

15:07:34 18 Q. Sure.

15:07:34 19 A. All right. Says: "Prime did not assemble a full team of
15:07:37 20 disciplines needed for typical projects of the city of this kind.
15:07:40 21 Firm experience is in water and sewer work with no architectural
15:07:45 22 experience listed."

15:07:45 23 Q. Correct. And what did --

15:07:48 24 A. So the committee was concerned about the type of work that they
15:07:51 25 were applying for at this time.

15:07:52 1 Q. I understand. And so their ultimate decision was, at least as
15:07:56 2 far as their input was: Not recommended, not recommended, not
15:07:59 3 recommended, correct?

15:08:00 4 A. Yeah, for this particular issue.

15:08:06 5 Q. Correct. And that's for the whole architectural pool for
15:08:08 6 capital projects, correct?

15:08:09 7 A. At this particular time for whatever jobs. So if I could help
15:08:16 8 you understand this.

15:08:17 9 Q. No, I understand it, but you can go ahead and explain.

15:08:21 10 MR. JENKINS: Objection, let him explain, please, Matt.

15:08:23 11 THE COURT: Yes.

15:08:23 12 THE WITNESS: Capital projects went out periodically and
15:08:25 13 evaluated firms based upon the type of jobs that were up for bid at
15:08:30 14 that time. So this is one particular type of job. There were other
15:08:34 15 solicitations that happened throughout this recovery.

15:08:39 16 BY MR. COMAN:

15:08:39 17 Q. It's not just one project though, we're talking about multiple
15:08:43 18 projects from the same RFQ, RFP, correct?

15:08:46 19 A. Yeah. But -- after Hurricane Katrina 80 percent of the city
15:08:50 20 was damaged, there's no way you could solicit every project that the
15:08:57 21 City was getting ready to do in one setting.

15:08:59 22 Q. And at this same time period with the submissions out, the
15:09:06 23 applicants filed their responses, to include Three Fold, the
15:09:11 24 selection review committee says not recommended, that's when you
15:09:14 25 asked Rodney Williams for \$60,000, correct?

15:09:17 1 A. No, sir.

15:09:17 2 Q. That's when you pulled him aside at Stone Age that day, as he
15:09:24 3 testified to, and you said, "I could really use the help. I'm
15:09:29 4 tapped out." Correct?

15:09:30 5 A. No, sir.

15:09:31 6 Q. That's when you met with him that day and y'all had a
15:09:35 7 discussion about the \$60,000, correct?

15:09:37 8 A. No, sir.

15:09:38 9 Q. You never met with Rodney Williams at Stone Age?

15:09:42 10 A. I went to Stone Age one day and Rodney was there.

15:09:47 11 Q. Oh, okay. On direct testimony you said you never spoke to
15:09:50 12 Rodney Williams during this time period, correct? That's what you
15:09:55 13 said on direct.

15:09:56 14 MR. JENKINS: Objection.

15:09:57 15 THE WITNESS: I am just telling you, sir, there was a time
15:10:00 16 when I went to Stone Age and Rodney Williams was there, and as I
15:10:04 17 recall it was right after or not too shortly after my sons had
15:10:08 18 installed his granite countertop.

15:10:08 19 BY MR. COMAN:

15:10:15 20 Q. And in addition to seeing him, you spoke to him at that
15:10:17 21 meeting, correct?

15:10:18 22 A. I mean, we said a few words to each other. But it wasn't a
15:10:23 23 long conversation.

15:10:23 24 Q. Tell us what y'all talked about.

15:10:26 25 A. He said that he and Jeremy were getting along very well, and he

15:10:32 1 was trying to help them to develop more business.

15:10:34 2 Q. Did you ever speak with him over the telephone in that same
15:10:39 3 time period?

15:10:39 4 A. Sir, you're talking after Hurricane Katrina, I had hundreds and
15:10:45 5 hundreds of phone calls.

15:10:46 6 Q. And I understand, Mr. Nagin. You testified on direct and
15:10:51 7 whatever your testimony was, it is what it is; so I am not trying to
15:10:54 8 make a commentary.

15:10:55 9 But you testified on direct that you did not speak to
15:10:58 10 Rodney Williams during this time period. That's what your testimony
15:11:02 11 was.

15:11:04 12 A. I'm just telling you there was a lot going on at that
15:11:09 13 particular time.

15:11:09 14 Q. I show you what's marked as Government Exhibit 420 -- first, go
15:11:42 15 back to Government Exhibit 263. Go ahead and take a look at your
15:11:46 16 Outlook calendar, Government Exhibit 263, and on the 16th page, and
15:11:51 17 what do you have at 3:30 P.M. on this date?

15:11:54 18 A. It says Stone Age meeting.

15:11:57 19 Q. That's personal business or City business?

15:12:01 20 A. It's meeting with my sons.

15:12:03 21 Q. And let me show you what we'll mark as 420. This is Charlene
15:12:24 22 Williams' cell phone, Rodney Williams' cell phone number?

15:12:28 23 MR. JENKINS: Wait, Judge, objection, he is actually --

15:12:31 24 MR. COMAN: I'll go --

15:12:32 25 THE COURT: Can you recognize those phone numbers, or do

15:12:36 1 you recognize them?

15:12:36 2 THE WITNESS: Who me?

15:12:38 3 THE COURT: Yes.

15:12:39 4 THE WITNESS: I don't know who Charlene Williams is. Who
15:12:42 5 is that?

15:12:43 6 MR. COMAN: Rodney Williams's ex-wife.

15:12:46 7 THE WITNESS: Oh, really. Okay. I know she passed away
15:12:48 8 at some point.

15:12:48 9 MR. COMAN: She passed away, you're correct, you're
15:12:49 10 correct.

15:12:49 11 BY MR. COMAN:

15:12:50 12 Q. Do you recognize the highlighted telephone number listed there
15:12:52 13 as speaking with Mr. Williams?

15:12:54 14 A. I recognize that it's -- I mean, previous testimony said that
15:13:02 15 that was my number. I don't necessarily recall I had that number;
15:13:08 16 but if you say I did, then okay.

15:13:10 17 Q. Okay. First off, the date is, what, January 16th?

15:13:12 18 A. Yes, sir.

15:13:13 19 Q. And the phone number is (504) 906-8170, correct?

15:13:18 20 A. Yes, sir.

15:13:19 21 Q. And, Michael, why don't you go to page 2 of previously admitted
15:13:25 22 Government Exhibit 34.

15:13:29 23 A. So who did Rodney Williams -- never mind.

15:13:33 24 MR. JENKINS: Judge, objection, may we approach?

15:13:33 25 THE COURT: Yes.

15:13:35 1 (WHEREUPON, THE FOLLOWING SIDE BAR CONFERENCE WAS HELD:)

15:13:48 2 MR. JENKINS: He doesn't know if this is Charlene
15:13:51 3 Williams, he is asking him to identify this number and he told
15:13:55 4 you --

15:13:55 5 MR. COMAN: I'm looking at his number now.

15:13:57 6 MR. JENKINS: But you're doing it in a backhanded way in
15:14:00 7 the sense that they don't know who that number is, he knows his wife
15:14:04 8 has died, but you haven't verified that he knows this number.

15:14:08 9 MR. COMAN: His testimony is what it is, the documents say
15:14:10 10 what they say.

15:14:11 11 MR. JENKINS: The document says Charlene Williams, he said
15:14:14 12 he didn't know who that phone number is, he knows his wife died. So
15:14:17 13 he is trying to use this document to say this is her phone number
15:14:21 14 without establishing that he knows or somebody else knows, like
15:14:24 15 Rodney Williams.

15:14:25 16 MR. COMAN: His phone, the mayor, Mr. Nagin's phone number
15:14:28 17 is on that record.

15:14:30 18 MR. JENKINS: Right.

15:14:30 19 MR. COMAN: I am going to show now that he testified he
15:14:32 20 can't remember if that was his cell phone he had.

15:14:35 21 MR. JENKINS: His cell phone appeared on George Bush's,
15:14:37 22 too.

15:14:37 23 MR. COMAN: That's fine.

15:14:38 24 MR. JENKINS: My point is that he said he doesn't know who
15:14:40 25 that number is, you haven't established who that is.

15:14:43 1 MR. COMAN: He testified on direct under a specific
15:14:47 2 question by Mr. Jenkins during this time period, did you have any
15:14:51 3 conversations or contact with Rodney Williams and he said absolutely
15:14:55 4 not.

15:14:55 5 MR. JENKINS: Don't recall that.

15:14:57 6 MR. CHESTER: We wrote it down on three different legal
15:14:59 7 pads.

15:14:59 8 MR. JENKINS: I am not impressed with that.

15:15:01 9 MR. COMAN: But this evidence completely impeaches.

15:15:04 10 MR. JENKINS: They have to establish that first.

15:15:07 11 THE COURT: We're actually at break time. We can take a
15:15:09 12 break. Don't talk to him during the break.

15:15:12 13 MR. JENKINS: Okay.

15:15:14 14 THE COURT: Just a good idea.

15:15:15 15 MR. JENKINS: To be very honest with you, I wasn't talking
15:15:18 16 about what happened, but I didn't want him to sit there and people
15:15:21 17 started talking to him outside, so he wanted me to stay with him.

15:15:25 18 THE COURT: You can stay with him, but don't talk about
15:15:27 19 his testimony.

15:15:28 20 MR. JENKINS: I will not. He bobbed his head looking at
15:15:31 21 the jury and they didn't like it, so I made sure I stayed with him.

15:15:33 22 THE COURT: That's fine, but don't discuss his testimony.

15:15:36 23 MR. JENKINS: If you want he can stay there.

15:15:38 24 THE COURT: He probably needs to go to the bathroom.

15:15:39 25 (OPEN COURT.)

15:15:39 1 THE COURT: Ladies and gentlemen, we're going to take a
15:15:47 2 15-minute break, come on back at 3:30, if I have my calculations
15:15:53 3 right. And the weather still looks great. It's just wet.

15:16:00 4 THE DEPUTY CLERK: All rise.

15:16:03 5 (WHEREUPON, THE JURY EXITED THE COURTROOM.)

15:38:22 6 (OPEN COURT.)

15:38:22 7 THE COURT: Okay. Have a seat, please. Mr. Nagin, you're
15:38:25 8 still under oath.

15:38:26 9 THE WITNESS: Yes, Judge.

15:38:27 10 MR. COMAN: May I proceed, your Honor?

15:38:29 11 THE COURT: Yes.

15:38:30 12 BY MR. COMAN:

15:38:31 13 Q. Again, back up on the screen here for the record is Government
15:38:35 14 Exhibit 420. And showing you this document here, what is the
15:38:46 15 highlighted portion here, what is the date? Is that 1/16/08,
15:38:49 16 January 16, 2008, Mr. Nagin?

15:38:49 17 A. It just says January 16th.

15:38:53 18 Q. We can go then all the way to the top. And the billing year,
15:38:56 19 do you see the year there under date due?

15:38:59 20 A. 2/20/08, yes, sir.

15:39:03 21 Q. Okay. And the number that's highlighted there, read off that
15:39:09 22 number for us.

15:39:10 23 A. (504) 906-8170.

15:39:16 24 Q. 906-8170. Was that your cell phone at the time?

15:39:20 25 A. Yes. The other screen that you showed me right before we left,

15:39:25 1 I could see it better. But that is my cell phone.

15:39:28 2 Q. So that's your cell phone. And let me switch --

15:39:33 3 A. You're talking about this two-minute call, right?

15:39:37 4 Q. Yes, sir. And the name listed for this call detail is what,
15:39:41 5 Mr. Nagin?

15:39:42 6 A. Charlene Williams.

15:39:44 7 Q. And what's that number listed? Please read that for us.

15:39:47 8 A. (504) 421-7828.

15:39:59 9 Q. Let me switch here. And could we go to, your contact so that
15:40:09 10 is your cell phone, correct, Mr. Nagin?

15:40:11 11 A. Yes.

15:40:11 12 Q. And if we go to, Michael, page 18 of 187. And if you could,
15:40:23 13 highlight the block there 475 to 480. This is a government exhibit
15:40:33 14 that's already been introduced into evidence, that's Bassam Mekari's
15:40:37 15 cell phone records.

15:40:38 16 Do you also see on line 475 Rodney Williams's number,
15:40:46 17 421 --

15:40:46 18 MR. JENKINS: Objection to --

15:40:47 19 THE WITNESS: I don't know whose number that is, sir.

15:40:51 20 BY MR. COMAN:

15:40:51 21 Q. Okay. Well, go ahead and tell us, what does line 475 say?
15:40:54 22 What's the number listed?

15:40:54 23 A. (504) 421-7828.

15:41:00 24 Q. And while we're on this exhibit here, do you see the line 478,
15:41:08 25 Mr. Nagin?

15:41:10 1 A. 478?

15:41:12 2 Q. Yes, sir.

15:41:13 3 A. Yes.

15:41:13 4 Q. What is the phone number listed next to that?

15:41:15 5 A. (504) 982-2424.

15:41:20 6 Q. Do you recognize that cell phone as Jeremy Nagin's cell phone

15:41:25 7 at the time?

15:41:26 8 A. No, sir.

15:41:26 9 Q. You do not?

15:41:27 10 A. I do not.

15:41:28 11 Q. And again, what was it, 982 --

15:41:37 12 A. 982-2424.

15:41:37 13 Q. That's 504?

15:41:39 14 A. Yes, sir.

15:41:40 15 Q. So are you saying it's not or you just don't know?

15:41:44 16 A. I don't know whose phone that is. It is 504 area code.

15:41:49 17 Q. Right. Just don't know if that's your son's at the time?

15:41:51 18 A. Yes, sir.

15:41:52 19 Q. And this is yours here and there and there (INDICATING).

15:41:59 20 A. Just so I am straight, we're talking about 478, the one minute

15:42:06 21 call, that's what you're saying?

15:42:06 22 Q. I was just actually looking at that number, I'm actually

15:42:10 23 looking at 475, that's really the point of it, and that phone number

15:42:14 24 there, 421-7828.

15:42:14 25 A. Oh, I see, the other one minute call.

15:42:14 1 Q. While we were on the exhibit, I was trying to kill two birds
15:42:17 2 with one stone.

15:42:17 3 A. Gotcha. I see, sir.

15:42:19 4 Q. And if we could go back to page 16 of 263. And in the
15:42:33 5 highlighted block there on your calendar it shows a meeting for 3:30
15:42:38 6 at Stone Age, correct?

15:42:39 7 A. Yes, sir.

15:42:39 8 Q. So you did meet with Rodney Williams in that time period then,
15:42:44 9 correct?

15:42:45 10 A. I don't remember exactly when we met, I know there was a time
15:42:49 11 when I saw him at Stone Age.

15:42:50 12 Q. And it was during that meeting in which you told him you were
15:42:55 13 tapped out, correct?

15:42:56 14 A. I don't ever remember telling Rodney I was tapped out.

15:43:00 15 Q. You told him that you would appreciate him giving Stone Age
15:43:05 16 money, correct?

15:43:05 17 A. That's not true, sir.

15:43:07 18 Q. So Rodney Williams lied when he took the stand, correct?

15:43:10 19 A. He lied about a couple of things.

15:43:13 20 Q. Okay. But he lied about that, that's your testimony is that
15:43:16 21 Rodney Williams lied about paying you a bribe, correct?

15:43:19 22 A. Yes, sir.

15:43:19 23 Q. And Bassam Mekari testified as well, correct, Mr. Nagin?

15:43:25 24 A. Yeah, I heard him testify against Mr. Williams also.

15:43:29 25 Q. Right after Rodney Williams testified, Bassam Mekari testified

15:43:34 1 that he also paid you a bribe, correct?

15:43:36 2 MR. JENKINS: Objection, that's not --

15:43:38 3 THE WITNESS: No, sir.

15:43:39 4 THE COURT: Pardon?

15:43:39 5 THE WITNESS: No, sir.

15:43:40 6 MR. JENKINS: He's already answered, your Honor.

15:43:46 7 BY MR. COMAN:

15:43:46 8 Q. Did Bassam Mekari pay you a bribe?

15:43:48 9 A. No, sir.

15:43:49 10 Q. And shortly after that meeting -- pull up 161, please -- less
15:44:15 11 than two weeks later, each owner of Three Fold Consultants - to
15:44:20 12 include Rodney Williams, Bassam Mekari, and Tarek Elnaggar - paid
15:44:25 13 Stone Age three \$20,000 checks, correct?

15:44:28 14 A. That's my understanding, sir.

15:44:30 15 Q. And that same night -- 163, please. That same night at Gallier
15:44:40 16 Hall, right across the square from here, that's you with Rodney
15:44:43 17 Williams, correct?

15:44:44 18 A. Yeah, with 1,000 of my closest friends.

15:44:47 19 Q. Pictured here in the photo, go back to page 1. Who was
15:44:50 20 pictured in the photo with you? 1,000 friends? Who is that to your
15:44:56 21 left, on the left-hand side of the screen?

15:44:58 22 A. I don't know, sir. It looks like the back of someone's head.

15:45:02 23 Q. Go to page 2. The person you're giving a hug to.

15:45:07 24 A. That's an even worse picture. I have no clue.

15:45:10 25 Q. How about page 3. Do you recognize Rodney Williams there?

15:45:15 1 A. Kind of looks like him. I don't know who took this picture,
15:45:19 2 they weren't a good photographer.

15:45:21 3 Q. Page 4. How about that one?

15:45:25 4 A. That's a better picture.

15:45:26 5 Q. All right. Fair enough. Same person you were hugging just two
15:45:29 6 pages ago, correct?

15:45:30 7 A. No, I didn't say that.

15:45:31 8 Q. Okay. Well, let's back up. Michael, page 2. Same person?

15:45:36 9 A. No, I can't see who it is. Can you see that?

15:45:40 10 Q. I can.

15:45:41 11 A. Oh, you have X-ray vision.

15:45:42 12 Q. Rodney Williams testified, Mr. Nagin, that it was at this exact
15:45:46 13 moment that you told him that you had taken care of his company for
15:45:50 14 the RFQ for architectural services; isn't that correct?

15:45:53 15 A. That's incorrect.

15:45:54 16 Q. That is incorrect. So again, he lied when he said that,
15:45:57 17 correct?

15:45:58 18 A. He lied on a couple of things.

15:46:00 19 Q. Yes or no, did he lie when he said he paid you a bribe?

15:46:04 20 A. Yes, he lied.

15:46:05 21 Q. Let's see here. Back up just a little bit. All right. Same
15:46:18 22 photo, let's see if it's a little bit better quality here. Rodney
15:46:27 23 Williams on the left-hand side, correct?

15:46:28 24 A. Sir, I don't know. I mean, it's the back of his head --

15:46:33 25 Q. I'll flip forward.

15:46:33 1 A. -- the guy wears glasses. I mean, it could be who knows who.

15:46:38 2 Q. All right. Second picture there, same exhibit. You're giving
15:46:41 3 him a hug, that's when he told you -- that's when you told him that
15:46:44 4 you had taken care of his company at City Hall?

15:46:47 5 A. No, sir; no, sir.

15:46:48 6 Q. Right there, Rodney Williams, page 3?

15:46:49 7 A. Now that looks like Rod, that's his face.

15:46:51 8 Q. Right there, same guy?

15:46:54 9 MR. JENKINS: Judge, asked and answered.

15:46:56 10 THE WITNESS: Don't look like it to me.

15:46:59 11 THE COURT: It's repetitive. Let's move on.

15:47:02 12 MR. COMAN: Yes, ma'am, will do.

15:47:09 13 BY MR. COMAN:

15:47:10 14 Q. Now, Stone Age is a company that you formed with your son and
15:47:14 15 another relative back in 2005, correct?

15:47:17 16 A. That's correct.

15:47:17 17 Q. Let's look at 143. And we'll go to page 5. As of October 10,
15:47:37 18 2006, these were the three individuals that owned Stone Age: Jeremy
15:47:41 19 Nagin, C. Ray Nagin, and Jarin Nagin, correct?

15:47:45 20 A. I represented my wife's interests also, we're a community
15:47:47 21 property state.

15:47:48 22 Q. Okay. Go ahead and show us on that exact document where your
15:47:50 23 wife's name is.

15:47:52 24 A. You want me to show you?

15:47:53 25 Q. Yes.

15:47:53 1 A. I don't have the document.

15:47:54 2 Q. All right. Let me get it for you.

15:47:56 3 A. Thank you.

15:47:57 4 Q. Sure. Page 5.

15:48:09 5 A. Page 5, okay.

15:48:15 6 Q. I'm sorry, electronic page 5, the top page you had right there.

15:48:19 7 A. Which one?

15:48:20 8 Q. This one right here (INDICATING).

15:48:22 9 A. Okay. It's the same thing as on here.

15:48:24 10 Q. Anywhere in this document here is your wife's name listed?

15:48:28 11 A. On this page?

15:48:29 12 Q. Anywhere in this document.

15:48:31 13 A. I haven't read the whole document, sir.

15:48:33 14 Q. All right. Let me go ahead --

15:48:36 15 MR. JENKINS: Judge, can we have him back off of him

15:48:37 16 again, please.

15:48:38 17 THE COURT: If it's not bothering Mr. Nagin.

15:48:40 18 THE WITNESS: I mean, I like this guy.

15:48:46 19 MR. JENKINS: I don't like him.

15:48:48 20 THE WITNESS: You don't?

15:48:52 21 BY MR. COMAN:

15:48:52 22 Q. Go ahead and look at that entire document there, Mr. Nagin.

15:48:55 23 A. This document (INDICATING)?

15:48:56 24 Q. Yes.

15:48:57 25 A. Is this the same document that you showed earlier during the

15:48:59 1 trial which had my wife had owned 20 percent or not?

15:49:01 2 Q. No, I'm going to get to that in a second.

15:49:04 3 A. Okay. So what do you want me to do with this, sir?

15:49:08 4 Q. Show me where your wife's name is in our own operating
15:49:11 5 agreement as of 2006?

15:49:12 6 A. I don't see it on this document.

15:49:15 7 Q. Okay.

15:49:19 8 A. Where is the other document?

15:49:21 9 Q. In that operating agreement, that's the operating agreement you
15:49:24 10 gave to the Ethics Commission, do you remember that?

15:49:27 11 A. Sir, we've provided documentation on top of documentation to
15:49:33 12 ethics and to your office.

15:49:35 13 Q. And as of -- as for Stone Age, that was a company that was a
15:49:42 14 family run company, correct?

15:49:43 15 A. Yes, my sons' company.

15:49:48 16 Q. Is this your company or your sons' company?

15:49:50 17 A. Well, I have a 20 percent interest in the company, and I was
15:49:55 18 basically the financier for the company.

15:49:57 19 Q. Obviously you took more of an active role than just a passive
15:50:04 20 investor, correct?

15:50:04 21 A. No, I didn't operate the company day-to-day, sir.

15:50:08 22 Q. Didn't you go to that location on a regular basis, both on
15:50:15 23 Earhart as well as on Palm Street?

15:50:17 24 A. I would go there once a week after hours to see my family, my
15:50:22 25 wife worked there. It was kind of our time to spend together.

15:50:26 1 Q. And who was your landlord at the Earhart location?

15:50:29 2 A. I don't remember his name, sir.

15:50:30 3 Q. How about the name Timothy Norton, do you recognize that name?

15:50:35 4 A. Sounds like the guy who leased the property to my son.

15:50:38 5 Q. And, in fact, it was you that negotiated that lease with

15:50:43 6 Timothy Norton, isn't that correct? You personally leased that

15:50:47 7 building -- you personally negotiated that lease, I should say --

15:50:51 8 MR. JENKINS: Will you let him answer the question, he

15:50:54 9 asked him three questions.

15:50:55 10 THE COURT: It's one basic said several times.

15:50:58 11 THE WITNESS: Sir, I don't recall that. I know it was

15:51:00 12 after Hurricane Katrina, this is one of the few areas that was --

15:51:04 13 that didn't get severely damaged. My son found the property, I may

15:51:09 14 have gone over there and looked at the property, but I didn't

15:51:12 15 negotiate the contract.

15:51:13 16 BY MR. COMAN:

15:51:13 17 Q. Let me write that down, I'm sorry. You did not negotiate that

15:51:16 18 contract with Timothy Norton, is that what you're saying?

15:51:20 19 A. No, sir, I don't recall that.

15:51:21 20 Q. It's either I don't recall or I didn't. Which one is it?

15:51:24 21 A. What do you mean?

15:51:25 22 Q. You gave two answers.

15:51:28 23 A. They both mean kind of the same thing.

15:51:30 24 Q. Well, they don't.

15:51:31 25 A. They don't?

15:51:32 1 Q. Did you negotiate the lease for that property with Tim Norton,
15:51:38 2 yes or no?

15:51:39 3 A. I don't recall that, sir.

15:51:40 4 Q. But you do know Tim Norton was the landlord of that facility,
15:51:48 5 correct?

15:51:48 6 A. I said that sounds familiar.

15:51:50 7 Q. And in addition to negotiating the lease and overseeing that
15:52:00 8 operation, financially, you also refinanced all of those lines of
15:52:05 9 credit yourself, correct?

15:52:06 10 A. I was the financier for the company, sir. It was based upon my
15:52:11 11 signature.

15:52:11 12 Q. And you dealt with Whitney Bank, correct?

15:52:15 13 A. Yes.

15:52:16 14 Q. And you had signature authority over that operating account,
15:52:21 15 correct?

15:52:21 16 A. No. I was one of the signers on that account.

15:52:26 17 Q. Let's go ahead and look at that. 298, please, Michael, page 2.
15:52:36 18 Blow up the bottom. Do you recognize your signature as well as your
15:52:39 19 son's signature, Mr. Nagin?

15:52:40 20 A. Absolutely.

15:52:41 21 Q. Page 5. Again, your signature with Jeremy Nagin and Tarek
15:52:49 22 Duckworth's signature?

15:52:50 23 A. Absolutely.

15:52:51 24 Q. Page 7. Same question, your signature?

15:52:54 25 A. Yes, sir.

15:52:55 1 Q. Page 11. Again, your signature?

15:53:00 2 A. Yes, sir.

15:53:01 3 Q. And page 12. Your signature, correct?

15:53:05 4 A. Yes, sir.

15:53:06 5 Q. Exhibit 165, please, Michael. You were also on the original

15:53:12 6 Secretary of State filings for Stone Age, 7 -- I'm sorry, 165A.

15:53:22 7 That's your company paperwork with the State of Louisiana, correct?

15:53:25 8 A. Okay. Looks like it.

15:53:28 9 Q. And look at page 7 on the screen it'll come up in a second.

15:53:33 10 There you go. And as of January 31st, 2006, for Stone Age, who are

15:53:40 11 the three individuals?

15:53:42 12 A. Jeremy Nagin, C. Ray Nagin and Tarek Duckworth.

15:53:46 13 Q. Page 9, please. As of January 31st, 2008, who were the three

15:53:56 14 members of Stone Age?

15:53:57 15 A. Same members except Jarin replaced Tarek.

15:54:00 16 Q. 244, please. This Home Depot record that's already been

15:54:31 17 introduced as evidence, as of January 9th, 2007, you and your

15:54:37 18 company put down Ray Nagin as principle for Home Depot, correct?

15:54:41 19 A. Yes, I'm one of the principle's.

15:54:45 20 Q. 165, please, again. And that is a photograph of your Earhart

15:54:56 21 location for Stone Age Granite & Marble, correct?

15:55:01 22 A. That's the Earhart location for Stone Age, yes.

15:55:03 23 Q. 165B. And that's the Palm Street location, correct?

15:55:13 24 A. It says IMC Stone & Tile.

15:55:17 25 Q. Okay. Is that the building that y'all rented back then?

15:55:22 1 A. I can't tell, sir, from that picture.

15:55:24 2 Q. Okay. Palm Street, this location, correct me if I'm wrong, is

15:55:30 3 near Palmetto, the canal?

15:55:33 4 A. Yeah, I guess so.

15:55:34 5 Q. About two blocks from Airline Highway?

15:55:37 6 A. Yeah, yeah.

15:55:39 7 Q. Go to 386, please. First page. Blow that up. Whitney

15:56:00 8 documents for Stone Age account. Do you recognize this document,

15:56:03 9 Mr. Nagin?

15:56:04 10 A. Not in particular.

15:56:06 11 Q. Well, let's look at this. Page 7. Do you recognize your

15:56:13 12 signature on that loan document, Mr. Nagin?

15:56:15 13 A. That looks like my signature.

15:56:17 14 Q. Did someone forge your signature?

15:56:21 15 A. I don't know when this document was -- it has no date on it, I

15:56:26 16 don't know anything about it. This is my first time seeing it. Or

15:56:29 17 maybe my second time seeing it.

15:56:30 18 Q. Let me give you a hard copy here, if that helps since there's

15:56:35 19 multiple pages.

15:56:37 20 A. Thank you.

15:56:37 21 Q. Sure. If you would flip to page 2.

15:56:46 22 A. Page 2?

15:56:48 23 Q. Yes, sir. Upper left-hand corner blow that up, please.

15:56:51 24 Highlight, see date submitted, what does it say in that column?

15:56:55 25 It's on the screen.

15:56:55 1 A. Date submitted 4/9/06.

15:56:59 2 Q. 4/19?

15:57:00 3 A. Nineteen, I'm sorry.

15:57:01 4 Q. So back to page 7 here on the screen, Mr. Nagin.

15:57:04 5 A. Okay.

15:57:05 6 Q. Your signature and your son's signature, correct?

15:57:09 7 A. Yeah, it looks like my signature, absolutely.

15:57:11 8 Q. Page 12. Your signature?

15:57:15 9 A. Yes.

15:57:16 10 Q. Thirteen, next page. Without belaboring this point --

15:57:26 11 A. What are you asking, I'm sorry?

15:57:27 12 Q. Your signature on these Whitney loan documents for Stone Age --

15:57:31 13 A. Yes, sir.

15:57:31 14 Q. -- I found it 17 times. Do you have any information that says
15:57:35 15 I am wrong when I count that?

15:57:37 16 A. I'll take your word for it. The bank required those
15:57:42 17 signatures, I did it.

15:57:44 18 Q. And when your checking account in Stone Age, LLC was empty,
15:57:53 19 went into the red in January of 2008, that's when you asked Rodney
15:57:59 20 Williams, the City contractor, for the \$60,000, correct?

15:58:01 21 A. Incorrect.

15:58:02 22 Q. Let's look at C4. The account balance for Stone Age as of
15:58:10 23 before those checks were deposited, January 31st, read that out,
15:58:14 24 please, Mr. Nagin, what was the account balance?

15:58:16 25 A. \$2,623.20.

15:58:24 1 Q. And that's in the red, though, that's a negative, correct?

15:58:26 2 A. Yeah, it's a negative.

15:58:28 3 Q. Negative. And once you got the \$60,000 it went back up to this
15:58:34 4 balance of 55,000, correct?

15:58:36 5 A. Yeah, it looks like it.

15:58:39 6 Q. And if we can look at 162, please. As part of this transaction
15:58:56 7 as a way to dress it up, you provided Rodney Williams, Bassam
15:59:04 8 Mekari, and Tarek Elnaggar this investment paperwork, correct?

15:59:08 9 A. I didn't provide that to them.

15:59:09 10 Q. Who provided it to them?

15:59:11 11 A. I'm sure Jeremy did.

15:59:12 12 Q. And what's it say in the upper left-hand corner, sale of?

15:59:17 13 A. Sale of membership interest in Stone Age.

15:59:20 14 Q. And what are the three names listed there, Jeremy Nagin, C. Ray
15:59:25 15 Nagin and Jarin Nagin, correct?

15:59:27 16 A. Yes, sir.

15:59:28 17 Q. And sold to, it says, in type BTR, but then it's struck out and
15:59:33 18 it says BRT Investment Group, LLC, correct?

15:59:38 19 A. Yes, sir.

15:59:38 20 Q. Page 2. Again there, your signature, correct?

15:59:44 21 A. Yes, sir.

15:59:44 22 Q. Along with -- scroll down, please, Michael -- Rodney Williams,
15:59:51 23 Tarek Elnaggar, and Bassam Mekari, correct?

15:59:52 24 A. Looks like it, yes.

15:59:54 25 Q. 164. BRT Investment Group this name did not even exist as of

16:00:12 1 that date that you all signed that contract?

16:00:12 2 MR. JENKINS: Objection, it's not a question, he is
16:00:16 3 testifying.

16:00:16 4 MR. COMAN: It is a question.

16:00:17 5 MR. JENKINS: It is not.

16:00:19 6 THE COURT: Yeah, sustained. In fact, we're actually at
16:00:21 7 the point where we need to break, so it looks like you're about to
16:00:24 8 change on to something else.

16:00:25 9 MR. COMAN: Yes, ma'am.

16:00:26 10 THE COURT: Recess until tomorrow morning at nine o'clock.
16:00:29 11 See you all at nine o'clock tomorrow morning.

16:00:31 12 THE DEPUTY CLERK: All rise.

16:00:31 13 (WHEREUPON, THE JURY EXITED THE COURTROOM AND THE PROCEEDINGS
16:01:17 14 WERE CONCLUDED FOR THE DAY.)

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REPORTER'S CERTIFICATE

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20 I, Karen A. Ibos, CCR, Official Court Reporter, United
21 States District Court, Eastern District of Louisiana, do hereby
22 certify that the foregoing is a true and correct transcript, to the
best of my ability and understanding, from the record of the
proceedings in the above-entitled and numbered matter.

23

24

25

Karen A. Ibos, CCR, RPR, CRR, RMR
Official Court Reporter