

OFCCP vs. Oracle America, Inc.

**Videotaped Deposition of
HEA JUNG ATKINS
June 10, 2019**



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Page 1

1 UNITED STATES DEPARTMENT OF LABOR
 2 OFFICE OF ADMINISTRATIVE LAW JUDGES
 3 ---oOo---

4 OFFICE OF FEDERAL CONTRACT
 COMPLIANCE PROGRAMS, UNITED
 STATES DEPARTMENT OF LABOR,
 Plaintiff,
 vs. OALJ No. 2017-OFC-00006
 OFCCP No. R00192699

8 ORACLE AMERICA, INC.,
 Defendant.

14 VIDEOTAPED DEPOSITION OF
 HEA JUNG ATKINS

17 SAN FRANCISCO, CALIFORNIA
 18 MONDAY, JUNE 10, 2019

21 REPORTED BY:
 22 HOLLY THUMAN, CSR No. 6834, RMR, CRR
 23 Job No.: 10056896

Page 2

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 OFCCP No. R00192699

8 ORACLE AMERICA, INC.,
 Defendant.

12 --oOo--

13 Videotaped deposition of HEA JUNG ATKINS, taken on
 14 behalf of the Defendant, at ORRICK, HERRINGTON &
 15 SUTCLIFFE LLP, The Orrick Building, 405 Howard Street,
 16 San Francisco, California 94105-2669, commencing at
 17 10:05 A.M. and ending at 4:35 P.M. on MONDAY, JUNE 10,
 18 2019, before me, HOLLY THUMAN, Certified Shorthand
 19 Reporter 6834, RMR, CRR.

20 --oOo--

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1 --oOo--
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 15 ALSO PRESENT:
 16 MARISA RAMOS, Videographer

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15				15	located at 405 Howard Street, San Francisco,		
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17				17	videographer. The court reporter today is Holly		
18	Exhibit 25	7/2/2015 email, Atkins to Holman-Harries, Subject: Employee Interviews and Pleasanton list (ORACLE_HQCA_0000005471 through -472)	140	18	Thuman, and we are both here representing Aptus,		
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21				21	Please note that audio and video recording		
22				22	will continue to take place unless all parties		
23				23	agree to go off the record.		
24	Exhibit 27	July 9, 2015, Orrick letter, Gary R. Siniscalco to Hea Jung Atkins (ORACLE_HQCA_0000000201 through -206)	150	24	Microphones are sensitive and may pick up		
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1 cell phones and other electronic devices or place
 2 them away from microphones, as it may interfere
 3 with the deposition audio.
 4 Counsel, would you please state your
 5 appearance and affiliations for the record, after
 6 which the court reporter will swear in the witness.
 7 MR. SHWARTS: Robert Shwarts and Toni
 8 Lambert, Orrick, Herrington & Sutcliffe, on behalf
 9 of Oracle America, Inc.
 10 MR. SHULTZ: Andrew Shultz for the U.S.
 11 Department of Labor.
 12 --o0o--
 13 HEA JUNG ATKINS,
 14 _____
 15 called as a witness, having been first duly
 16 sworn, was examined and testified as follows:
 17 ---oOo---
 18 EXAMINATION BY MR. SHWARTS
 19 BY MR. SHWARTS:
 20 Q. Good morning, Ms. Atkins.
 21 A. Good morning.
 22 Q. My name is Rob Shwarts. I'm representing
 23 Oracle here today.
 24 Have you ever had your deposition taken
 25 before?

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1 A. Never.
 2 Q. Well, you're in for a treat. It must mean
 3 you're doing something important.
 4 So I'm going to go through a few ground
 5 rules. Although you may have done so with your
 6 counsel, I want to make sure it's on the record so
 7 we have an understanding of how we're proceeding
 8 today.
 9 You've just given an oath. It's the same
 10 oath that you would give in a court of law or in
 11 front of the administrative law judge in this case
 12 to tell the truth as if you were in a court of law.
 13 Do you understand that?
 14 A. Yes.
 15 Q. Okay. We're going to be going through a
 16 lot of questions and a lot of documents today.
 17 Sitting to your right is a stenographer, and she is
 18 taking down everything that you say, everything
 19 that I say, and everything that your counsel says.
 20 She'll eventually, when we're done, have
 21 that prepared in a little booklet. You'll have the
 22 opportunity to review it and to make any changes to
 23 the transcript that you feel are appropriate. I do
 24 caution you, however, that if you make any
 25 substantive changes, meaning if you changed a "yes"

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1 answer to a "no" answer, we would have the
 2 opportunity to comment on that at the time of the
 3 hearing as to your credibility.
 4 Do you understand?
 5 A. Yes.
 6 Q. And while we do have a videographer here
 7 who's making a video of this deposition, the most
 8 important person is the woman to your right. So
 9 she cannot take down nods of the head or uh-huhs or
 10 things of that nature. So please make sure you
 11 give your answers audibly and completely. Okay?
 12 A. Okay.
 13 Q. If at any time you don't understand any
 14 question that I ask you, please tell me, and I'll
 15 try to rephrase it so you do understand.
 16 I will be -- you know, we're going to go
 17 for a while today, and we'll take regular breaks.
 18 If at any time point, though, you feel you need to
 19 take a break, please, I only ask you to answer the
 20 pending question, and then we'll take a break.
 21 Okay?
 22 A. Okay.
 23 Q. What is your current position?
 24 A. Director of Planning and Support.
 25 Q. Is that at OFCCP?

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1 A. Yes.
 2 Q. When did you take that position?
 3 A. Probably two years ago. Two and a half
 4 years ago.
 5 Q. So sometime in 2017? Was it before the
 6 Trump administration took over, as a -- as a
 7 guiding date?
 8 A. It was probably around that time.
 9 Q. Okay. Let me work backwards a little bit.
 10 A. Okay.
 11 Q. When did you first start work at OFCCP?
 12 A. 2010. October 2010.
 13 Q. Okay. What was your -- what was your
 14 first position at OFCCP?
 15 A. District Director of the San Jose District
 16 Office.
 17 Q. How long did you hold that position?
 18 A. A year and a half, I believe.
 19 Q. Okay. What was your next position?
 20 A. District Director of the San Francisco
 21 District Office.
 22 Q. Can you give me an approximate date of
 23 when you started that position?
 24 A. Maybe around April of 2012.
 25 Q. And how long did you hold the position of

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1 **District Director for the San Francisco District?**
 2 A. Perhaps three years.
 3 **Q. So that would be from sometime in 2012**
 4 **till sometime in 2015?**
 5 A. Probably. It's -- I've had multiple
 6 positions, so -- yeah. I would think three years,
 7 maybe.
 8 **Q. Okay. And then after being District**
 9 **Director for the San Francisco District, what was**
 10 **your next position?**
 11 A. Special Assistant to the Regional Director
 12 and Deputy Regional Director.
 13 **Q. And during what time period did you hold**
 14 **that job?**
 15 A. I believe I held it for a year, or -- yes,
 16 probably approximately a year.
 17 **Q. What was your next position after that?**
 18 A. And then I was in an acting role for the
 19 Director of Planning and Support for the regional
 20 office.
 21 **Q. And during what time did you hold that**
 22 **position?**
 23 A. So it was right after that approximate
 24 year period. So I don't know what year we're in
 25 now, but I -- I believe I've had this position for

Page 14

1 maybe two years.
 2 **Q. The immediate prior position, prior to**
 3 **your current one --**
 4 A. Right.
 5 **Q. -- was that the acting role?**
 6 A. It was the acting role to this current
 7 position, and then before that it was the Special
 8 Assistant position.
 9 **Q. Okay. Why don't we focus on the jobs that**
 10 **you had during the relevant time period here.**
 11 A. Okay.
 12 **Q. Okay? So the District Director for the**
 13 **San Francisco District, which I believe you said**
 14 **you ascended to in 2012 and had for a couple of**
 15 **years?**
 16 A. Yes.
 17 **Q. Okay. And that was the position that you**
 18 **were in at the time that the audit that led to this**
 19 **litigation commenced?**
 20 A. I believe I was still in that role when it
 21 started, yes.
 22 **Q. And I know -- along the path you've**
 23 **changed, and we'll get to that.**
 24 **If you can describe for me what your**
 25 **duties and responsibilities were during the time**

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1 **that you served as the District Director for the**
 2 **San Francisco District.**
 3 A. So I was managing the enforcement
 4 activities of that office and the compliance
 5 officers in their investigations. Also in --
 6 managing the administrative needs of the office.
 7 So everything from investigating to assigning work
 8 to reviewing work to making sure that the office is
 9 supplied and hiring and, you know, leave issues and
 10 personnel issues for the office.
 11 **Q. What position did you report up to during**
 12 **that time when you were a District Director for the**
 13 **San Francisco office?**
 14 A. It would have been to the Deputy Regional
 15 Director at the time.
 16 **Q. Okay. Was -- during the time that you**
 17 **held that job, meaning District Director for**
 18 **San Francisco, did one person hold the Deputy**
 19 **Director job -- Deputy Regional Director job, or is**
 20 **there more than one person?**
 21 A. Oh. There may have been a transition
 22 during that time period.
 23 **Q. Which individuals do you recall holding**
 24 **the Deputy Regional Director position while you**
 25 **were the Deputy Director -- sorry, while you were**

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1 **the District Director for San Francisco?**
 2 A. I believe maybe Alice Young was still
 3 there at the time, but I'm not -- I'm not
 4 completely sure.
 5 **Q. And who else?**
 6 A. And then Jane Suhr was acting before she
 7 became the official deputy.
 8 **Q. And who was the Regional Director during**
 9 **the time that you were the District Director?**
 10 A. So Bill Smitherman was the Regional
 11 Director -- was he still there? I can't remember
 12 if he was still there when I was in the
 13 San Francisco District Office. And then -- and
 14 then it would have been Janette Wipper.
 15 **Q. Do you know when Ms. Wipper ascended to**
 16 **her position, your best estimate?**
 17 A. I believe she was there for maybe
 18 three years, approximately.
 19 **Q. During most of the time that you were**
 20 **the --**
 21 A. Yes.
 22 **Q. -- District Director?**
 23 A. I think so. I -- actually, I started in
 24 2010 -- no, I'm sorry. Did I start OFCCP in 2010?
 25 **Q. That's what you said earlier.**

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1 A. Did I -- yeah. I'm just really -- time
 2 is -- when I was in San Francisco, she -- yes. She
 3 probably was the Regional Director most of the time
 4 that I was in the San Francisco office.
 5 **Q. Okay. Again focusing on your role as**
 6 **District Director, is part of your role to**
 7 **personally partake in audits that are ongoing?**
 8 A. If it's a big case, I will go on site with
 9 the compliance officers.
 10 **Q. What do you mean by a big case?**
 11 A. Well, they may need additional staff
 12 involved that we may be short-staffed on. So I've
 13 been on several on-sites with the team. Entrance
 14 conferences, exit conferences, usually a manager is
 15 present.
 16 **Q. As best as you can recall, can you think**
 17 **of, during the time that you served in the role as**
 18 **District Director for San Francisco, how many**
 19 **audits you personally attended, aside from the one**
 20 **in this case?**
 21 A. Let's see. Maybe about seven.
 22 **Q. All right. Can you identify for me the**
 23 **names of the companies that you personally went out**
 24 **to to audit?**
 25 A. Could I do that? I don't --

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1 **Q. I'm --**
 2 A. I mean, I would be --
 3 MR. SHULTZ: I'm just going to object. If
 4 it's not -- if it's not public information that
 5 OFCCP usually discloses in terms of who they're
 6 investigating, then the witness can't identify
 7 those companies.
 8 BY MR. SHWARTS:
 9 **Q. Well, if you say to me there were seven**
 10 **companies, I presume you know the names of the**
 11 **seven companies you went to visit.**
 12 A. I know most of them, and then I
 13 probably -- yeah, I know most of them. And I
 14 probably assumed that there were a few others that
 15 I just can't remember the names of.
 16 **Q. Are you willing to disclose to me the**
 17 **names of the other companies that you went out to**
 18 **audit?**
 19 A. It -- is that okay to disclose the names
 20 of? I don't know if it's permitted.
 21 **Q. I'm not going to get beyond that. Just I**
 22 **want to get a sense of the kind of companies that**
 23 **you deemed to be worthy of your time to go on site.**
 24 **So that's where I'm going. I'm not going to get**
 25 **into the specifics of what you were alleging or**

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1 **anything like that. I just want to simply know the**
 2 **names of the companies that you went to visit.**
 3 MR. SHULTZ: I'm going to object and
 4 instruct the witness not to disclose the names of
 5 the companies that she's investigated.
 6 And I'll just state for the record that if
 7 you need the names or want the names, I'll look
 8 into whether we can get you the specific names.
 9 BY MR. SHWARTS:
 10 **Q. In these other audits, these other seven,**
 11 **did you deem those also to be big audits?**
 12 A. Well, maybe I should say it's just more
 13 than the size of the company. It's whether we have
 14 enough staff available and the resources available
 15 and the type of case it may be. So --
 16 **Q. Well, let me ask you on the type of case**
 17 **the Oracle case was.**
 18 **You went on site in 2015 for the**
 19 **initial -- actually, there were a couple different**
 20 **visits to the Oracle headquarters. Correct?**
 21 A. So I definitely went on site for one week
 22 for the headquarters case. I actually don't recall
 23 if I went again.
 24 **Q. Okay.**
 25 A. I might have --

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1 **Q. Certainly in March of 2015 you did.**
 2 **Correct?**
 3 A. I'm not a hundred percent sure of the
 4 month.
 5 **Q. Well, we'll get to some documents that may**
 6 **help refresh you on that.**
 7 **But do you recall why, in this particular**
 8 **case, that you personally went on site for the**
 9 **Oracle audit?**
 10 A. I was actually asked to help, to go on
 11 site, so I went.
 12 **Q. Asked by whom?**
 13 A. Janette.
 14 **Q. Did Janette Wipper tell you why she wanted**
 15 **you to help on this audit?**
 16 A. They needed people to help with the
 17 investigation of the -- I mean, conducting
 18 interviews while on site. That was my
 19 understanding. They just -- they needed additional
 20 interviewers.
 21 **Q. Is that what she told you, or are you just**
 22 **guessing?**
 23 A. I remember her saying that, too.
 24 **Q. All right. We'll come back to that.**
 25 **There came a point when you became the**

Page 21

1 Special Assistant to the Regional Director and the
 2 Deputy Regional Director.
 3 Again, any sense of -- and because it's
 4 relevant to the dates we're operating under here,
 5 any better sense of when you switched out of your
 6 District Director role into that role?
 7 A. I'm sorry. I don't -- I don't know beyond
 8 the approximate years that I mentioned before.
 9 Q. Okay. At the time that you became a
 10 Special Assistant, how did your duties and
 11 responsibilities change, if at all?
 12 A. It's more project oriented, based on
 13 whatever assistance they needed. I would help,
 14 whether it's casework or outreach. Yeah, in that
 15 way. And I didn't manage anybody at that time.
 16 Q. Who was the -- who were the two people you
 17 were assisting as Special Assistant at that time?
 18 Was it Ms. Wipper still?
 19 A. Yes. Ms. Wipper and Jane Suhr.
 20 Q. During the time that you served in the
 21 position of Special Assistant, did you have any
 22 responsibility for the ongoing Oracle audit?
 23 A. I participated in whatever area they
 24 needed help on.
 25 Q. The answer to my question is you were --

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1 you remained involved?
 2 And again, we will -- there are documents
 3 that are going to reflect --
 4 A. Yeah.
 5 Q. -- that you were, so we'll go through
 6 those. But based on your just memory here, you had
 7 no specific responsibility? You had tasks that
 8 were assigned to you?
 9 A. Yes.
 10 Q. Again, by either Ms. Wipper or Ms. Suhr?
 11 A. Uh-huh.
 12 Q. That's a yes?
 13 A. Yes.
 14 Q. You have to answer audibly.
 15 A. Yes.
 16 Q. And you remained in that job until you,
 17 again, became acting for your current job.
 18 Correct?
 19 A. Yes.
 20 Q. Again, any sense of when that happened as
 21 you sit here?
 22 A. Let me see. I'm just trying to remember
 23 how long I've been doing this current job.
 24 It's still -- I'm just thinking two and a
 25 half years, maybe.

Page 23

1 Q. So you became the Acting Director of
 2 Planning and Support at some point, and then
 3 eventually the name --
 4 A. Yes.
 5 Q. Regardless of -- I assume the job is the
 6 same whether acting or official in terms of your
 7 duties?
 8 A. Yes.
 9 Q. All right. What are your duties and
 10 responsibilities as Director of Planning and
 11 Support?
 12 A. So it's -- it's more administrative. It's
 13 regarding budgets, union issues, attending meetings
 14 with other DOL managers from other agencies, office
 15 spaces. Also some outreach. Personnel.
 16 Q. Do you have any audit -- do you have any
 17 audit responsibilities in this job?
 18 A. So while I was the -- in my current job I
 19 have been involved in some cases, you know, still.
 20 So -- but it's not my official role.
 21 Q. Is Oracle one of those cases that you're
 22 still involved in?
 23 A. No.
 24 Q. If you can put a date on it, when do you
 25 believe you stopped being involved in the Oracle

Page 24

1 audit and/or litigation?
 2 A. So I remember attending a conciliation
 3 meeting for this case, the Oracle case. I don't
 4 recall what date that was. I'm thinking it may
 5 have been several years ago.
 6 Q. And in your mind that's the last time you
 7 were involved in the Oracle audit and/or
 8 litigation?
 9 A. Yes.
 10 Q. Okay.
 11 A. There may have been actually -- when you
 12 say "involved," searching for documents -- no,
 13 actually, that is the last actual involvement I'm
 14 thinking, yes, that conciliation meeting.
 15 Q. Was Ms. Wipper the Regional Director the
 16 whole time that you served as Special Assistant to
 17 the Regional Director?
 18 A. Yes.
 19 Q. All right. Let's talk -- by the way, were
 20 you ever admitted to the California bar?
 21 A. Yes.
 22 Q. Are you still an active member of the
 23 California bar?
 24 A. No.
 25 Q. When did you stop being active in the --

Page 25

1 first of all, let me step back.
 2 When were you admitted -- what year were
 3 you admitted to the California bar?
 4 A. 2000? I don't remember.
 5 Q. When -- did you at some point become
 6 inactive?
 7 A. I did.
 8 Q. Do you recall when that occurred?
 9 A. I think I remained active for a couple of
 10 years. I never practiced, so I went into the
 11 inactive stage.
 12 Q. Let's just make sure we have some general
 13 terminology and responsibilities set forth.
 14 In general, what is -- what is the
 15 OFCCP's -- from your understanding as a former
 16 District Director and then ultimately Acting
 17 Special Assistant to the Regional Director, what is
 18 the OFCCP's purpose?
 19 A. The purpose.
 20 Q. Yes. What does it do?
 21 A. So it just ensures that federal
 22 contractors and subcontractors are practicing
 23 affirmative action and not discriminating against
 24 applicants and employees because of their race,
 25 gender, disability, vet status.

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1 Q. And I take it the OFCCP has divided itself
 2 into various regions?
 3 A. Yes.
 4 Q. What region is the San Francisco District
 5 in?
 6 A. Pacific.
 7 Q. Okay. So when you say, you know,
 8 Ms. Wipper was the Regional Director, she was the
 9 Pacific Regional Director?
 10 A. Yes.
 11 Q. And your district that you were -- when
 12 you were the District Director for San Francisco,
 13 what -- geographically, can you give me a sense of
 14 what area that covered?
 15 A. It covered all of California -- Northern
 16 California from Santa Clara County north, and then
 17 east into Northern Nevada.
 18 Q. How about north of here?
 19 A. Up to the Oregon border.
 20 Q. So Sacramento would be in your district?
 21 A. Yes.
 22 Q. And at some point, given that you had
 23 worked in the San Jose district, at some point --
 24 you know, you don't go any further south than Santa
 25 Clara County?

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1 A. For the San Jose District Office?
 2 Q. No, for San Francisco.
 3 A. Right, right.
 4 Q. So you did not have Santa Clara County
 5 when you ran San Francisco?
 6 A. I -- yeah, I believe Santa Clara County is
 7 San Jose's district.
 8 Q. Okay. So again, focusing on the time that
 9 you were San Francisco District Director, how would
 10 you as the director of the district go about, you
 11 know, enforcing OFCCP's mandate as it relates to
 12 federal contractors?
 13 A. How would we enforce that.
 14 Q. Yeah. How do you -- how do you make sure
 15 that federal contractors are complying with the
 16 executive order that the OFCCP functions under?
 17 A. So contractors submit their affirmative
 18 action plan after they are scheduled to be
 19 reviewed. The plan is reviewed by a compliance
 20 officer. They'll look at the workforce, the job
 21 groupings. They'll look at the hiring pattern --
 22 you know, hiring numbers, termination numbers,
 23 compensation figures, conduct analysis on all of
 24 that, ensure that there's affirmative action being
 25 conducted too, and that's how they review.

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1 Q. So you had with -- under your district,
 2 you had a number of compliance officers?
 3 A. Uh-huh.
 4 Q. Yes?
 5 A. Yes.
 6 Q. All right. But do those -- that position,
 7 does that position report directly to you as
 8 District Director, or was there another layer of
 9 manager?
 10 A. So as District Director, there should be
 11 another layer of manager, the Assistant District
 12 Director. But there wasn't an Assistant District
 13 Director in the San Francisco office, so they
 14 reported directly to me.
 15 Q. So how many compliance officers did you
 16 have reporting to you during the time that you
 17 served as the San Francisco District Director?
 18 A. Let me see. Probably between seven and
 19 eight.
 20 Q. For that whole region? For that --
 21 A. Yes. Of course, those numbers -- you
 22 know, some people left during the time, too, so
 23 there's been -- I think the lowest -- the fewest we
 24 had was maybe five.
 25 Q. Can you give me your best -- your best

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1 estimate of how many federal contractors would have
 2 been covered by the San Francisco District during
 3 your time as its District Director?
 4 A. So how many ongoing reviews we had?
 5 **Q. No, no, no. Just -- my understanding is**
 6 **that all federal contractors are subject to the**
 7 **executive order. Correct?**
 8 A. Right.
 9 **Q. Do you understand? Is that your**
 10 **understanding?**
 11 A. Yes, as long as they meet certain
 12 thresholds.
 13 **Q. Certain thresholds. Assuming they're**
 14 **above the threshold. I was just looking for sort**
 15 **of a scope of your responsibility in terms of --**
 16 **and your staff's responsibility for reviewing**
 17 **federal contractors.**
 18 **So any sense of the number of companies**
 19 **that qualified for your -- you know, that would be**
 20 **federal contractors that met the threshold for**
 21 **being covered by the executive order in your**
 22 **district?**
 23 A. For potential scheduling?
 24 **Q. For any -- yeah. I mean, so if there's a**
 25 **company that's in your district that's a federal**

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1 contractor that is a certain size or however the
 2 criteria is, I was just curious as to how many of
 3 those companies there were overall. Not that you
 4 necessarily need to do an audit for all of them,
 5 but simply --
 6 A. Oh, in that jurisdictional --
 7 **Q. Yeah, in your jurisdiction, yeah.**
 8 A. I don't know. I actually don't know.
 9 **Q. Hundreds?**
 10 A. I have -- I don't know.
 11 **Q. During the time that you served as**
 12 **District Director, how would you and your**
 13 **compliance officers decide which companies would**
 14 **require you to, you know, do more than just**
 15 **reviewing the papers, actually engage with that**
 16 **company and potentially do an audit?**
 17 A. I'm sorry. Could you repeat that?
 18 **Q. Sure. Well, let's get -- let me get some**
 19 **terms.**
 20 **I understand there's a term called a desk**
 21 **audit.**
 22 A. Uh-huh.
 23 **Q. What is a desk audit?**
 24 A. It's reviewing the company's affirmative
 25 action plan.

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1 **Q. Is that something that's done in office,**
 2 **or is that something that's done on site at the**
 3 **company?**
 4 A. It's in office.
 5 **Q. And then there's actual audits when you go**
 6 **out to the company. Correct?**
 7 A. Well, the desk audit is part of the audit.
 8 **Q. Part of the larger audit.**
 9 A. Yes. It's a part of an audit.
 10 **Q. Okay. So the term -- I wanted to make**
 11 **sure we're using the right term.**
 12 A. Okay.
 13 **Q. So when you talk about when you actually**
 14 **engage with the company, either in writing or to go**
 15 **out to their site, you would deem that to be an**
 16 **audit. Correct?**
 17 A. It would be part of the audit.
 18 **Q. Yeah. But it's part of a larger audit.**
 19 **How do you and your team, when you were**
 20 **District Director, decide which contractors to**
 21 **audit?**
 22 A. So I guess I'm not certain about the -- do
 23 you mean which contractors to go on site for, or
 24 which --
 25 **Q. I'm --**

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1 A. -- to audit?
 2 **Q. I'm going to take this in bites here.**
 3 **Right?**
 4 A. Okay.
 5 **Q. So there's got to be a beginning of a**
 6 **process.**
 7 A. Okay.
 8 **Q. Right? So the -- what is the first step**
 9 **in a process that leads to an audit?**
 10 A. Oh, I see. Okay.
 11 So these -- we're notified -- the office
 12 is notified that we have certain companies to audit
 13 because those companies have been selected for
 14 reviews by the national office, some formulaic, you
 15 know, selection process that they have. And then
 16 they're -- the names of the companies that have
 17 come up for review are given to the office.
 18 **Q. All right. Then let's take that -- and**
 19 **what's the next step?**
 20 **So you are given the names of companies.**
 21 **Now that you've got the names, what is the next**
 22 **step for you and your staff?**
 23 A. So then we would schedule -- we send out a
 24 scheduling letter to the company in the order that
 25 we receive this list.

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1 **Q. Okay. And again, moving forward, what**
 2 **would happen next? And just in general.**
 3 A. So the scheduling letter is received by
 4 the company, and they submit their affirmative
 5 action plan.
 6 **Q. Okay. Again, moving forward, they submit**
 7 **the plan. What happens next?**
 8 A. And then the compliance officer will
 9 review the plan in the office.
 10 **Q. And then what happens after that review?**
 11 A. So if everything looks complete and
 12 acceptable and there are no indicators that we
 13 should pursue it further, it would be closed.
 14 If there are indicators that look like we
 15 need to pursue further, then we'd notify the
 16 company and let them know perhaps that we need
 17 additional information. Yeah, that would be the
 18 next step.
 19 **Q. And at that point, if you determine that a**
 20 **company -- that there are indicators and that you**
 21 **need additional information, you then reach out to**
 22 **the company and --**
 23 A. Right.
 24 **Q. -- and what is the first -- you know, what**
 25 **are the steps that then happen at that point?**

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1 A. So every case is different. It will
 2 depend on, you know, what the additional
 3 information is that we need and what that
 4 information reveals.
 5 It may be that that would be enough, and
 6 then the case may be closed. It may be that the
 7 additional information leads to further questions,
 8 and we may need more information on top of that.
 9 We may need to go on site and actually interview
 10 managers and employees.
 11 It really depends on what -- what the
 12 information reveals.
 13 **Q. To the extent you're dealing with a large**
 14 **company that has a presence in multiple districts,**
 15 **are you only responsible for the activities of that**
 16 **company in your district? Again, while you were**
 17 **running the San Francisco office?**
 18 A. So it -- that also depends. It really
 19 depends. If -- if it makes sense to coordinate
 20 with other offices, then -- then that would happen.
 21 **Q. And with a company like Oracle, were**
 22 **you -- was your office responsible for only Oracle**
 23 **within the San Francisco District, or did you have**
 24 **responsibility for Oracle outside of that district?**
 25 A. I did not have responsibility for outside.

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1 **Q. During the time that you were District**
 2 **Director, were you aware that audits of Oracle were**
 3 **taking place in other districts around the country**
 4 **at the same time?**
 5 A. I was told that.
 6 **Q. Was there any coordination between you and**
 7 **other districts with respect to the audits that**
 8 **were ongoing with Oracle at the time that you were**
 9 **running the San Francisco District?**
 10 A. I myself don't remember coordinating with
 11 any other offices.
 12 **Q. Were you privy to any updates or is there**
 13 **any communication internally that, you know, told**
 14 **you what was going on in one of the other audits or**
 15 **that you were providing to other districts as to**
 16 **what was going on in yours?**
 17 A. No, I wasn't.
 18 **Q. What does the term "entrance conference"**
 19 **mean?**
 20 A. It occurs at the beginning of an on-site
 21 with company officials just to inform them of what
 22 will happen during the on-site. The company will
 23 give an overview of their business. Usually OFCCP
 24 managers are present and the compliance officers
 25 conducting the review.

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1 It's just -- it's an overview of what's
 2 going to take place.
 3 **Q. What does the term "exit conference" mean?**
 4 A. So that occurs at the end of an on-site.
 5 It usually -- it's also with company
 6 representatives and OFCCP. Usually it's to discuss
 7 what additional information may be required, what
 8 may have been, you know, seen on -- at the on-site.
 9 The company may also be told that the case
 10 is not complete yet and that, you know, they may be
 11 contacted for additional -- you know, further --
 12 further communications may be coming as a result of
 13 the on-site. It's just a wrap-up of the on-site.
 14 **Q. Are these two terms, these entrance**
 15 **conference and exit conference, are these things**
 16 **that are mandated by OFCCP policies and procedures?**
 17 A. Mandated.
 18 **Q. Meaning do they appear in -- in the -- in**
 19 **writing somewhere that we can look to to say, well,**
 20 **in this circumstance you should be doing an**
 21 **entrance conference or an exit conference so that**
 22 **the contractor should know what to expect from an**
 23 **on-site?**
 24 A. So there is a guidance for contractors --
 25 I mean, for compliance officers, and it talks about

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1 on-site -- entrance conference and exit
 2 conferences. I don't know if it's a mandate. When
 3 you say -- like there's -- it, you know, puts down
 4 a process and the steps that usually occur and
 5 guidelines to follow.
 6 **Q. I take it, though, that at a minimum, from**
 7 **a best practices standpoint, that if you're going**
 8 **do an on-site audit of a federal contractor there**
 9 **should be both an entrance conference and an exit**
 10 **conference.**
 11 A. As a practice? Yes, most of the time I
 12 have seen entrance conferences and wrap-up exit
 13 conferences take place.
 14 **Q. You used the term "indicators."**
 15 **What is -- as you used that the term, what**
 16 **does the term "indicators" mean?**
 17 A. So there are -- it's -- and I'm using it
 18 in the way that it's not just numerical indicators,
 19 but a sign or some signal that you need additional
 20 information in certain areas. So after the desk
 21 audit, there may be certain flags to follow up on.
 22 Also, there are internal analyses that are
 23 conducted with hiring, termination, compensation,
 24 and it may look like that -- you know, that there
 25 may be some statistical significance that may be

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1 coming up that we don't have additional information
 2 or further communication.
 3 **Q. Earlier you mentioned that this audit**
 4 **process gets instituted because certain companies**
 5 **within your district are identified as companies to**
 6 **look at. And let's say an affirmative action plan**
 7 **is submitted, and it's reviewed then by a**
 8 **compliance official. Right? Compliance officer.**
 9 A. Uh-huh.
 10 **Q. Yes?**
 11 A. Yes.
 12 **Q. Who then makes the decision -- who is**
 13 **responsible for making the decision to move to the**
 14 **next level? Would that be you, or would it be**
 15 **someone above you to decide we have to now go and**
 16 **go on site?**
 17 A. Well, initially it would be the compliance
 18 officer, and then we would discuss it. The
 19 compliance officer would discuss it with me.
 20 Sometimes I will even discuss it with the regional
 21 management. If there's funding involved too, then
 22 we would have to discuss it with the regional
 23 office as well.
 24 **Q. What does that mean, if there was**
 25 **funding --**

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1 A. There may be travel costs involved. So
 2 yes, there's a -- it's usually, typically, a
 3 decision that's collectively made between
 4 management and compliance officers.
 5 **Q. Did there come a point during your tenure**
 6 **as District Director that Oracle became identified**
 7 **as a company that your district should take a look**
 8 **at for purposes of compliance with the executive**
 9 **order?**
 10 A. I'm -- I missed the first part of that.
 11 **Q. Yes. During your tenure as District**
 12 **Director, did there come a time when Oracle was**
 13 **identified to your office as a company that you**
 14 **should look at for purposes of compliance with the**
 15 **executive order?**
 16 A. Yes. It was identified as a company to be
 17 reviewed.
 18 **Q. Identified by whom?**
 19 A. I assume by the national office's formula
 20 for selecting contractors to be reviewed.
 21 **Q. I'm not asking you to assume.**
 22 **Do you recall how it was that Oracle**
 23 **became identified?**
 24 A. I don't.
 25 **Q. Do you know whether or not it was**

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1 **identified regionally or nationally?**
 2 A. I believe nationally.
 3 **Q. When it says "nationally," and you're told**
 4 **to review, is it -- you're told, look at the**
 5 **headquarters, look at their other offices?**
 6 **What kind of guidance are you then given?**
 7 A. Oh. We are actually given the address of
 8 the facility to review.
 9 **Q. So it's your best recollection that**
 10 **National told you to review the Redwood Shores**
 11 **facility for Oracle?**
 12 A. Yes.
 13 **Q. Did you assign the responsibility for**
 14 **Oracle to a particular compliance officer?**
 15 A. Yes.
 16 **Q. To which one?**
 17 A. I believe I assigned it to Hoan Vaca --
 18 Hoan -- what is his last name? Luong?
 19 However, I -- I'm just trying to remember,
 20 because the case did not -- it was handled by a
 21 different compliance officer before Hoan, I
 22 believe, and I believe Brian Mikel was the -- the
 23 manager involved in it.
 24 **Q. Is that M-I-K-E-L?**
 25 A. M-I-K-E-L, out of the Hawaii office. And

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1 I believe Jennifer Yeh was a compliance officer who
 2 initially worked on the case.
 3 I don't remember why they were initially
 4 involved, and I don't remember why it actually came
 5 to Hoan. But I remember assigning it to Hoan
 6 because the case came to me for assignment.
 7 **Q. How was it that Mr. Mikel -- Mr. Mikel was**
 8 **based in Hawaii, not in your district?**
 9 A. Right. Well, he -- yes. He's based in
 10 Hawaii, not --
 11 **Q. How was it that Mr. Mikel became involved**
 12 **in an audit that was going to be done of Oracle's**
 13 **headquarters in Redwood Shores, California?**
 14 A. I don't know.
 15 **Q. Had you ever worked with him before?**
 16 A. I worked on the Oracle case. We went on
 17 site together. That's the only time.
 18 **Q. We're not there -- we're not there yet.**
 19 A. That's the only time I worked with him.
 20 **Q. Prior to that time --**
 21 A. Yes.
 22 **Q. We're going to get there. But prior to**
 23 **that time, had you ever worked with Mr. Mikel**
 24 **before on any audit --**
 25 A. No.

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1 **Q. -- whether in San Jose or in**
 2 **San Francisco?**
 3 A. No.
 4 **Q. Had you ever heard of him being brought in**
 5 **from Hawaii to work on a California or Northern**
 6 **California audit prior to the Oracle audit?**
 7 A. No. I believe that was the first time
 8 I've heard of that.
 9 **Q. Did you ask anyone why it was that you**
 10 **needed some guy from Hawaii to be helping out on,**
 11 **you know, an audit in your district?**
 12 A. Well, he was actually managing the case.
 13 **Q. That --**
 14 A. I wasn't --
 15 **Q. Managing what case?**
 16 A. The Oracle case. It was assigned to him
 17 initially to conduct -- I guess to be the managing
 18 lead for the Oracle case.
 19 **Q. All right. So now we have a new term.**
 20 **So what is a managing lead?**
 21 A. He's the manager, and he was leading the
 22 Oracle investigation.
 23 **Q. All right. When you say "managing lead,"**
 24 **I took that to mean more than one audit. Or when**
 25 **you say "managing lead," is that of the Oracle**

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1 **Redwood Shores audit?**
 2 A. Yes.
 3 **Q. Any idea why a guy from Hawaii was**
 4 **assigned to be the managing lead for an audit that**
 5 **was taking place in Redwood Shores, California?**
 6 A. I don't know why.
 7 **Q. Did anyone ever tell you why?**
 8 A. No.
 9 **Q. Did you ask?**
 10 A. No.
 11 **Q. Did you not have enough competent people**
 12 **in your district to lead --**
 13 MR. SHULTZ: Objection. Argumentative.
 14 BY MR. SHWARTS:
 15 **Q. Did you not have enough personnel in your**
 16 **district to do that?**
 17 A. We were extremely busy at the time, so
 18 that may have been a reason for it.
 19 **Q. Do you know who it would have been who**
 20 **would have assigned Mr. Mikel from Hawaii to do**
 21 **this audit?**
 22 A. It would have been the regional managers,
 23 Jane and Janette. I don't know which one, or
 24 together.
 25 **Q. So it would have been either Ms. Suhr or**

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1 **Ms. Whipple --**
 2 A. Yes.
 3 **Q. -- Wipper, who would have brought in**
 4 **Mr. Mikel to do this audit.**
 5 A. Yes.
 6 MR. SHWARTS: Let's mark this as our first
 7 exhibit, please.
 8 (Deposition Exhibit 1 was marked for
 9 identification.)
 10 BY MR. SHWARTS:
 11 **Q. Ms. Atkins, we're going to be doing this a**
 12 **bunch, as you can see from my notebook. So I put**
 13 **before you what we've marked as Exhibit 1. It is a**
 14 **document that bears Oracle Bates Number 417302.**
 15 **And when I say "Bates number," it's the automated**
 16 **printed numbers at the bottom right side, and we'll**
 17 **be seeing those both from Oracle and from the**
 18 **Department of Labor throughout this deposition.**
 19 **Have you ever seen this document before?**
 20 A. Yes, I am sure I have.
 21 **Q. Is that your signature on the second page?**
 22 A. Yes.
 23 **Q. So what is this document?**
 24 A. This is the scheduling letter. Yes. It's
 25 notifying the contractor that they've been selected

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1 for review.

2 **Q. Is this a fair way to say, this is the**

3 **first document that starts this process? This is**

4 **the commencement document?**

5 A. Yes.

6 **Q. Has some determination been made prior to**

7 **sending out Exhibit 1 as to what areas OFCCP was**

8 **interested in?**

9 A. No.

10 **Q. You just -- you just wanted -- you just**

11 **wanted to see the affirmative action plans in**

12 **general?**

13 A. Yes.

14 **Q. Okay. So at this point there had been no**

15 **-- no analysis had been done?**

16 A. No.

17 **Q. When you -- when your region is**

18 **assigned -- you know, in this case, as you said,**

19 **assigned Oracle, are you provided with any**

20 **information about the company or -- you know, what**

21 **kind of materials are provided to you and your team**

22 **in order to get started?**

23 A. Nothing.

24 **Q. So you're starting from zero.**

25 A. Yes.

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1 **Q. So at this point you're just writing to**

2 **the contractor saying, we're getting the ball**

3 **rolling and --**

4 A. Right. That's right.

5 **Q. Okay. Prior to sending out Exhibit 1, had**

6 **you received any guidance from either Ms. Suhr or**

7 **Ms. Wipper as to how you should conduct an audit of**

8 **Oracle?**

9 A. No.

10 **Q. Had there been any communication, at least**

11 **as of this time, from Ms. Wipper or Ms. Suhr as to**

12 **the approach your office should take on audits with**

13 **respect to tech companies in general?**

14 A. No, I don't -- no.

15 **Q. Did you ever receive such guidance in**

16 **terms of how you should approach audits of tech**

17 **companies within your district from either Ms. Suhr**

18 **or Ms. Wipper?**

19 MR. SHULTZ: I'm going to object on

20 deliberative process privilege. And the witness is

21 instructed that you cannot reveal the contents of

22 any pre-decisional deliberations of officials for

23 the United States.

24 Otherwise, you can answer.

25 //

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1 BY MR. SHWARTS:

2 **Q. I'm just looking for a "yes" or "no" to**

3 **that question, if you can answer.**

4 A. No.

5 MR. SHWARTS: Mark that exhibit, please.

6 (Deposition Exhibit 2 was marked for

7 identification.)

8 BY MR. SHWARTS:

9 **Q. Ms. Atkins, I've placed before you what's**

10 **been marked as Exhibit 2. It's an email from you**

11 **to Shauna Holman-Harries at Oracle dated**

12 **October 28th, 2014; bears Oracle Bates Number 596.**

13 **Please take a look at it and let me know**

14 **when you're ready to proceed.**

15 A. (Examining document.) Okay.

16 **Q. This is an email from you to Ms. Holman**

17 **Harries. Correct?**

18 A. Right.

19 **Q. Responding to an email she sent to you?**

20 A. Uh-huh, yes.

21 **Q. You mentioned a name earlier. I'm going**

22 **to spell it. The first name is H-O-A-N; the second**

23 **name is L-U-O-N-G.**

24 A. Yes.

25 **Q. Please excuse me. Can you pronounce that**

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1 for me?

2 A. Hoan Luong.

3 **Q. Okay. So -- and that is a man?**

4 A. Yes.

5 **Q. All right. Is this -- Mr. Luong, is that**

6 **the gentleman you referred to earlier who was one**

7 **of your compliance officers?**

8 A. Yes.

9 **Q. Okay. So this email reflects the fact**

10 **that Oracle has now submitted, at the government's**

11 **request, its affirmative action plans, and then**

12 **you've advised Ms. Holman-Harries at Oracle that**

13 **Mr. Luong was going to be the person in charge, or**

14 **at least handling this facility?**

15 A. Yes.

16 **Q. Had -- is this the first time you recall**

17 **having any interaction with Ms. Holman-Harries?**

18 A. Yes, I believe so.

19 **Q. Now that this process is underway, it's my**

20 **understanding that federal contractors such as**

21 **Oracle have an obligation to respond to --**

22 **cooperate and respond to the government's request**

23 **for information such as the one you made in**

24 **Exhibit 1. Correct?**

25 A. Right.

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1 Q. And what is the government's -- from your
 2 position as a District Director, what is the
 3 government's obligation in terms of, you know,
 4 interacting with the contractor as the process
 5 moves forward?
 6 A. The obligation of how to interact with the
 7 contractor?
 8 Q. Yeah. Well, let me ask it a different
 9 way.
 10 Once this process begins and you start
 11 this audit, did you view the process as
 12 collaborative or adversarial?
 13 A. Collaborative.
 14 Q. So meaning you're asking for information
 15 from the federal contractor, and they provide it.
 16 How about when they ask you for
 17 information during the course of an audit? How did
 18 you for yourself and for your compliance officers
 19 view your obligation, if any, to respond to the
 20 contractor?
 21 A. Yes. I mean, we should answer questions,
 22 explain, and -- yeah, answer any questions that are
 23 asked.
 24 Q. To the extent that -- let's say as you get
 25 the affirmative action plan and you identify

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1 certain indicators that require more information,
 2 is it fair to say that your goal at that point is
 3 to try to, you know, first understand if there is a
 4 problem, and, if there is an issue, to resolve it
 5 between you and the contractor? Meaning to --
 6 without it getting to litigation, say?
 7 A. Without it getting to --
 8 Q. Sure.
 9 A. I mean, our aim is not litigation in
 10 compliance evaluation.
 11 Q. So it would be important -- in order to --
 12 ultimately, like I said, if you find that there is
 13 some issue that a contractor has, that you would
 14 like them to resolve it short of litigation?
 15 A. Yes.
 16 Q. And to do that, it would be helpful to
 17 provide the contractor with as much information as
 18 is helpful to them to identify the source of the
 19 issue so that they can then rectify it. Correct?
 20 A. Well, we want them to rectify, of course.
 21 We have to follow -- you know, first of all, we
 22 have to get the information and conduct the
 23 evaluation to make sure that there is a violation.
 24 So until we're -- you know, we have all the
 25 information to ensure that, we wouldn't ask the

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1 contractor to rectify anything. So --
 2 Q. I understand.
 3 A. Yeah.
 4 Q. But if there's nothing to rectify, there's
 5 nothing to rectify.
 6 A. Right.
 7 Q. I understand that. But my point being
 8 that at some point, if you determine that there's a
 9 violation of the executive order, at that point you
 10 would want to provide the contractor with as much
 11 information as possible to help that contractor
 12 remedy the alleged violation. Is that fair?
 13 A. So after a notice of violation has been
 14 issued?
 15 Q. Well, let me -- let me break it down,
 16 then.
 17 Along the way, even prior to a notice of
 18 violation, would it be helpful to the contractor to
 19 understand what the indicators are that are causing
 20 the OFCCP to request additional information? Would
 21 that be useful to a contractor?
 22 MR. SHULTZ: Objection. Speculation.
 23 BY MR. SHWARTS:
 24 Q. You may answer.
 25 A. I mean, I could answer in a general way.

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1 Q. Sure.
 2 A. Of course a contractor -- the more
 3 information that they understand would be useful.
 4 Q. And I gather the more information they
 5 have, that could again help the collaborative
 6 process, meaning if they understand what the OFCCP
 7 is looking for, they can help provide you with
 8 additional information to help you determine
 9 whether a violation exists.
 10 A. Yes. They should be able to, if they
 11 understand what we're asking for, yes, provide
 12 additional information.
 13 Q. Thank you.
 14 (Deposition Exhibit 3 was marked for
 15 identification.)
 16 BY MR. SHWARTS:
 17 Q. Ms. Atkins, I've placed before you what's
 18 been marked as Exhibit 3. This is an email from
 19 Brian Mikel to Shauna Holman-Harries, copy to you,
 20 dated February 24th, 2015. It bears Oracle Bates
 21 Number 5619 through 5643.
 22 Please take a look at it and let me know
 23 when you're ready to proceed.
 24 A. (Examining document.)
 25 Q. And I'm not going to ask you about any of

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1 the attachments. I'm only going to focus on the
 2 emails. Okay? So take a look at the emails, and
 3 let me know when you're ready to proceed.
 4 A. Okay.
 5 Q. Looking at the date here, the earlier
 6 exhibits, Oracle submitted its affirmative action
 7 plans in October of 2014. Here we are a few months
 8 later.
 9 In your letter to Ms. Holman-Harries you
 10 had indicated that Mr. Luong was going to be, you
 11 know, the person that Ms. Holman-Harries should
 12 work with on the -- on the Redwood Shores
 13 compliance review. And here, by February, we have
 14 Mr. Mikel involved.
 15 Again, did -- was -- was -- did something
 16 happen between October and February that inserted
 17 Mr. Mikel into this process?
 18 A. I don't -- I don't know. I can't
 19 remember.
 20 Q. Looking at the cc line --
 21 A. At the cc line, yes.
 22 Q. -- of the top email, Mr. Mikel's email,
 23 obviously, you're one of those cc's, as is
 24 Mr. Luong.
 25 Do you know the other individuals there

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1 that are OFCCP related? Are these other district
 2 directors or other compliance officers?
 3 A. Yes. They're compliance officers. Yes.
 4 Q. Aside from Mr. Luong, does any other
 5 person on that cc line work in your district at
 6 that time?
 7 A. Yes.
 8 Q. Which ones?
 9 A. Milton Crossland.
 10 Q. Was he a compliance officer at that time?
 11 A. Yes.
 12 Q. Was he assigned to work on the Oracle
 13 matter?
 14 A. Yes. Well, I can't remember if he was
 15 Oracle Pleasanton. He might have been.
 16 Q. Okay. Are the other people from different
 17 districts around the country? For example,
 18 Min-Chih Yeh and Rhea Lucas and Mary Sneed-Royston
 19 and Phuong Kim Nguyen, Stacey Stevens?
 20 A. They are in the region, and Mary is a
 21 Portland -- she was a Portland manager. Yes.
 22 Q. These weren't San Francisco people. They
 23 were in the region, but not San Francisco District.
 24 A. That's right.
 25 Q. Do you know why it is that Mr. Mikel is

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1 asking Ms. Holman-Harries for information covering
 2 multiple regions here?
 3 Did he have responsibilities beyond just
 4 the Redwood Shores audit?
 5 A. I believe he was coordinating the
 6 Pleasanton and Redwood Shores. I think -- yes, I
 7 believe he was -- because they were scheduled
 8 around the same time, I believe he was asking for
 9 information for both facilities at the same time at
 10 one point.
 11 Q. Looking at -- there are some acronyms.
 12 Are these acronyms -- it says "HQCA,"
 13 which is, I guess, headquarters California?
 14 A. That's right.
 15 Q. All right. Was that an acronym that
 16 Oracle had, or is that an acronym that OFCCP
 17 assigned to various establishments?
 18 A. I think that was Oracle's acronym.
 19 Q. Do you know what the other four stand for:
 20 IRCA, ROCA, HIOR, and POOR?
 21 A. ROCA especially sounds familiar. I -- it
 22 might have been another facility.
 23 Q. Is it fair to say that the first two are
 24 California facilities, the next two are Oregon
 25 facilities, given the CA and OR?

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1 A. Maybe that's why Mary is cc'd in here, so
 2 possibly.
 3 Q. Do you know whether Mr. Mikel had
 4 responsibility for audits that were happening in
 5 Oregon as well?
 6 A. I believe it was just an information
 7 coordination request. I don't remember hearing
 8 that he was -- he was responsible.
 9 (Deposition Exhibit 4 was marked for
 10 identification.)
 11 BY MR. SHWARTS:
 12 Q. Ms. Atkins, I've placed before you what's
 13 been marked as Exhibit 4. It's an email from
 14 Mr. Mikel to Shauna Holman-Harries, copied to you,
 15 dated February 26, 2015, bearing Oracle Bates
 16 Number 5554.
 17 Take a look at it and let me know when
 18 you're ready to proceed.
 19 A. (Examining document.) Okay.
 20 Q. So it looks like now Mr. Mikel has been
 21 inserted to the point where he's now been -- you
 22 know, he is now visible to Oracle. Is that
 23 correct?
 24 A. Yes.
 25 Q. So at this point he is -- has he

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1 supplanted Mr. Luong as the person who's -- I mean,
 2 what is the -- let me put it a different way.
 3 As it relates to this audit, what was his
 4 role versus your role?
 5 A. He was managing the audit at this point.
 6 Q. Did Mr. Luong have to report to him for
 7 purposes of this audit?
 8 A. Yes.
 9 Q. Okay. It says in his email, "Based on the
 10 results of the desk audit."
 11 Were the results of the desk audit
 12 something that -- is that a written document that
 13 someone prepared?
 14 A. A written document -- it would have been
 15 a -- like a report?
 16 Q. Yeah. I mean, it says, "Based on the
 17 results of the desk audit." I assume -- I'm not --
 18 shouldn't assume.
 19 When he refers to the results of the desk
 20 audit, is that an internal OFCCP document that was
 21 created by either Mr. Mikel or Mr. Luong or someone
 22 who reviewed the affirmative action plans?
 23 A. There is a work-in-progress document that
 24 would have each stage of the review written,
 25 hopefully, as the case is progressing.

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1 Q. Do you have any recollection as you sit
 2 here today as to what were the results of the desk
 3 audit for Oracle?
 4 A. I don't know.
 5 Q. Did you know at the time? Was that
 6 something that would have been made -- something
 7 that you would have been advised of?
 8 A. No, because Brian was leading this.
 9 Q. Okay. He lists five steps.
 10 A. Uh-huh.
 11 Q. Looking at these five steps that Mr. Mikel
 12 lists here, is that something, based on your
 13 experience, that is typical for an on-site audit?
 14 A. Yes.
 15 Q. Okay. You mentioned the entrance
 16 conference earlier.
 17 When it says "physical inspection,"
 18 okay -- I mean, sort of walking around the
 19 facility? Is that what that means?
 20 A. Yes.
 21 Q. Anything else besides just simply getting
 22 a tour and --
 23 A. Oh, it's looking at posters, bathroom
 24 facilities, just looking at the work site for the
 25 employees who are working in this -- you know,

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1 the -- employees that would be interviewed, usually
 2 where they are working, their locations.
 3 Q. Then the examination of personnel records
 4 and files, that would be -- I presume you're going
 5 to tell the company, such as Oracle in this
 6 instance, what they needed to provide to you so
 7 they could have it available for inspection.
 8 A. Yes.
 9 Q. Then there's interviews. You're going
 10 to -- you know, there will be a proof of interviews
 11 of employees and managers conducted.
 12 A. Yes.
 13 Q. And then we noted the exit conference
 14 previously.
 15 A. Yes.
 16 (Deposition Exhibit 5 was marked for
 17 identification.)
 18 BY MR. SHWARTS:
 19 Q. I've placed before you what's been marked
 20 as Exhibit 5. It's an email from Brian Mikel to
 21 Shauna Holman-Harries, copied to you, dated
 22 March 3rd, 2015, bearing Oracle Bates Number 401
 23 through 404.
 24 Please take a look at it and let me know
 25 when you're ready to proceed.

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1 A. (Examining document.) Okay.
 2 Q. If you look with me on the second page --
 3 sorry, the third page, in the middle of the page
 4 Ms. Holman-Harries writes to Mr. Mikel, copying
 5 you, and indicates and asks that, you know, "we
 6 need more information from you on who you might be
 7 interested in interviewing and what kind of
 8 documents."
 9 His response, which starts at the bottom
 10 of page 402, he says, "The issues that warrant
 11 further investigation include areas of hiring,
 12 promotion, termination and compensation."
 13 At that time, did OFCCP have more specific
 14 information that would itemize its concerns, or at
 15 this time was it concerned -- its level of concern
 16 only that general?
 17 A. I don't know. I mean -- yeah. I don't
 18 know the -- I don't -- I don't remember. And I
 19 don't think I even knew the details of what -- you
 20 know, what -- what particularly would -- you know,
 21 was of issue with promotion, termination, and
 22 compensation.
 23 Q. At this -- I mean, as of this date, you
 24 didn't know?
 25 A. No.

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1 Q. Moving up to the next email above that, on
 2 the next day, again copied to you,
 3 Ms. Holman-Harries says:
 4 "While we understand the general areas
 5 you may want to cover, it would really be
 6 helpful to know ASAP what you are looking
 7 at."
 8 And then moving forward, she says:
 9 "Below you mention that the on-site will
 10 include areas of hiring, promotion,
 11 termination and compensation. However, we
 12 have not been informed of any OFCCP concerns
 13 in this area. In order to identify the right
 14 people and confirm interview availability, we
 15 request that you provide specifics on any
 16 identified concerns in these areas and
 17 identify topics you will want to cover."
 18 Would you deem that to be an inappropriate
 19 request --
 20 A. No.
 21 Q. -- of a contractor?
 22 Would this be the kind of -- I mean, in
 23 this collaborative process we've discussed, the
 24 kind of request that OFCCP should respond to
 25 substantively?

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1 A. Yes. The agency should respond, answer
 2 the question.
 3 Q. Going to the top email, Mr. Mikel lists a
 4 variety of individuals.
 5 Do you know who it would have been that
 6 would have compiled this list?
 7 A. I -- the compliance officer, and probably
 8 reviewing it with the manager before it's issued.
 9 Q. You'll agree with me that Mr. Mikel's
 10 response --
 11 A. Oh, Mikel.
 12 Q. I'm sorry. Mr. Mikel's response to
 13 Ms. Holman-Harries does not address the questions
 14 that she posed to him on February 27th with respect
 15 to issues of concern?
 16 A. Do I agree that they don't respond?
 17 Q. Yeah. I mean, does Mr. Mikel's
 18 response --
 19 A. Yes.
 20 Q. -- provide any information that identifies
 21 OFCCP's concerns so Oracle can help identify the
 22 appropriate people and information to provide?
 23 A. Well, it looks like Mr. Mikel provided the
 24 names of the individuals and their job -- I mean,
 25 where they are -- I don't know if these are job

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1 titles, but they're what they do.
 2 It looks like he also identified the
 3 departments that are of concern. So it looks like
 4 he provided additional information, more specific
 5 information.
 6 (Deposition Exhibit 6 was marked for
 7 identification.)
 8 BY MR. SHWARTS:
 9 Q. Ms. Atkins, I've placed before you what
 10 we've marked as Exhibit 6. It's an email from
 11 Brian Mikel to Shauna Holman-Harries copied to you
 12 on the same day, March 5, regarding the Oracle
 13 on-site. It bears Bates numbers Oracle 395 through
 14 400.
 15 Please take a look at it -- there's an
 16 attachment to the email -- and let me know when
 17 you're ready to proceed.
 18 A. (Examining document.)
 19 (Ms. Grundy entered the deposition
 20 room.)
 21 BY MR. SHWARTS:
 22 Q. Are you ready?
 23 A. Yes.
 24 Q. Okay. Exhibit 6 is -- has just one new
 25 email, which is the top email, again from

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1 Mr. Mikel, but this time he notes an attachment
 2 which he refers to as the on-site letter, which is
 3 pages 399 and 400.
 4 Can you turn to that, please?
 5 A. Okay.
 6 Q. It looks like he's now working in LA?
 7 A. LA.
 8 Q. Yeah. It's -- he describes himself as the
 9 Acting Assistant District Director for the LA
 10 district.
 11 A. Oh.
 12 Q. Earlier he had a Hawaii/Guam designation.
 13 Now I guess he's moved to LA at this point?
 14 A. He was always in Hawaii, but he may have
 15 been acting for that office in LA remotely while in
 16 Hawaii.
 17 Q. Okay. He repeats again the five things
 18 that appeared in one of the earlier communications
 19 to Ms. Holman-Harries, but then he lists four areas
 20 of concern that he's asking Oracle to provide
 21 information on. Is that correct?
 22 A. The additional information?
 23 Q. Correct.
 24 A. Yes.
 25 Q. All right. So again he lists, you know,

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1 issues with respect to maternity leave, veterans,
 2 employees for religious -- who have taken religious
 3 observances and disability, and individuals who
 4 have made complaints of discrimination, harassment,
 5 retaliation.
 6 These are the four areas that at least
 7 he's identified to Oracle as areas for which they
 8 need additional information for this audit.
 9 Correct?
 10 A. Correct.
 11 Q. At that time, was -- were those the only
 12 areas of concern at the time that --
 13 A. No. They couldn't have been the only
 14 areas.
 15 Q. So again, Ms. Holman-Harries had asked in
 16 the prior communications for Mr. Mikel to identify
 17 areas of concern, so clearly this is incomplete.
 18 Correct?
 19 A. I think this is -- no. I believe this is
 20 in -- I believe the previous exhibit was his
 21 response to that question, and this is additional
 22 information while on site, areas to look at.
 23 Q. All right. So the previous exhibit, and
 24 including -- it's also in this exhibit -- it was a
 25 list of individuals they wanted to identify, but it

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1 did not, as we noted, identify any areas of
 2 substantive concern other than identifying
 3 individuals. This document identifies substantive
 4 areas for which additional information is required.
 5 Again, so if there were -- between these
 6 two communications, Exhibit 5 and Exhibit 6,
 7 preaudit OFCCP has not advised Oracle of any other
 8 areas of concern even if they had them. Is that
 9 fair?
 10 A. I can't -- I can't say -- I can't say
 11 that.
 12 Q. Well, certainly between these two exhibits
 13 Oracle doesn't know what OFCCP's areas of concern
 14 are at this point. Is that fair?
 15 A. I can't speak for Oracle, what they
 16 believed.
 17 Q. So the communications that have been given
 18 to Oracle don't contain -- aside from the four
 19 topics in Exhibit 6, don't contain any listing of
 20 the substantive concerns that OFCCP had as it's
 21 approaching the audit on site?
 22 A. I believe Mr. Mikel did respond to
 23 specifics in the previous email with the names of
 24 people, where they're located, and specific
 25 departments of what he will be looking at further

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1 while on site.
 2 I mean, this list of four is --
 3 Q. Well --
 4 A. -- also a listing that they're asking
 5 for --
 6 Q. I mean, they list a bunch of people, but
 7 it doesn't identify whether OFCCP is concerned with
 8 compensation, are they concerned with hiring, are
 9 they concerned with firing, are they concerned
 10 with, you know, reasonable accommodation?
 11 You can't tell from his email why they
 12 have any interest in talking to these specific
 13 groups of people beyond the executives.
 14 A. I thought -- I don't know. I mean, didn't
 15 he mention hiring, promotion, termination,
 16 compensation?
 17 Q. Well, that covers just about the entire
 18 OFCCP mandate now.
 19 A. For these groups and departments?
 20 Q. We've been going for a while. Would you
 21 like to take break?
 22 A. Sure.
 23 MR. SHWARTS: Yeah. Why don't we take a
 24 short break.
 25 THE VIDEO OPERATOR: We are going off the

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1 record. The time is 11:27 A.M.
 2 (Recess from 11:27 A.M. to 11:35 A.M.)
 3 THE VIDEO OPERATOR: We are back on the
 4 record. The time is 11:35 A.M.
 5 MR. SHWARTS: Let's mark the next one,
 6 please.
 7 (Deposition Exhibit 7 was marked for
 8 identification.)
 9 BY MR. SHWARTS:
 10 Q. Ms. Atkins, we've placed before you what's
 11 been marked as Exhibit 7. It's an email chain that
 12 ends with an email from you to Shauna
 13 Holman-Harries on March 13th, 2015. It bears
 14 Oracle Bates Number 652-653. And I'm going to look
 15 at the whole chain, so why don't you take a look at
 16 it and let me know when you're ready to proceed.
 17 A. (Examining document.) Okay.
 18 Q. Exhibit 7 is an email chain. It starts on
 19 the second page with an email from
 20 Ms. Holman-Harries to Mr. Mikel. You're not copied
 21 on this, but there's a reference there to a
 22 telephone call.
 23 I was wondering if you were a participant
 24 in a call with, among others, Mr. Mikel and
 25 Ms. Holman-Harries that she's referring to here.

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1 A. I don't believe so.

2 Q. Okay. Her question to Mr. Mikel, which he

3 responds to later, copy to you, says, "As a

4 follow-up to our telephone call, I wanted to ask

5 you what, if any, indicators have you found in your

6 initial analysis?"

7 Is that a reasonable question from a

8 contractor to pose in advance of an on-site?

9 A. Sure.

10 Q. Okay. So it's the kind of question that

11 you would expect OFCCP to respond to in advance of

12 an audit if a -- if a contractor asked for what the

13 initial indicators are?

14 A. The -- yeah, the agency should answer

15 questions.

16 Q. Okay. Mr. Mikel's response, after further

17 prompting from Ms. Holman-Harries, is -- this time

18 copied to you -- is at the top of the second page

19 in that first paragraph.

20 He makes reference to job titles that are

21 within the PT1, PT2, and PT3 job groups.

22 Are those AAP terms?

23 A. AAP terms --

24 Q. Affirmative action plan terms?

25 A. I --

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1 Q. Well, let me ask it a different way.

2 Do you know what those terms refer to,

3 PT1, PT2, and PT3?

4 A. I don't know what PT1 stands for, or 2 or

5 3, what it stands for. I don't know. I don't

6 remember.

7 Q. So is this something that's

8 Oracle-specific?

9 A. I believe so.

10 Q. All right. Turning to the first page,

11 Ms. Holman-Harries responds to Mr. Mikel and, among

12 other things, indicates that it doesn't provide

13 sufficient enough detail for Oracle to know what to

14 look for.

15 She makes reference to "AAP Job Groups."

16 Did you understand what that meant when she

17 referred to "AAP Job Groups"?

18 A. Yes, job groups.

19 Q. And what does that refer to?

20 A. It's groupings of job titles, number of

21 employees. I -- I mean, it's manager -- this --

22 whether they're managers and -- executives and

23 other -- other --

24 Q. Again, looking at the bottom of her email,

25 she says, "We understand that OFCCP might choose to

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1 aggregate by Job Group."

2 Do you know what she's referring to when

3 she says that you may choose to aggregate by job

4 group?

5 A. I don't.

6 Q. She says, "I don't see how that can result

7 in any meaningful analysis or identify any relevant

8 indicators in any of the job in PT1, 2, or 3."

9 Again, does that help you have an

10 understanding of what PT1, 2, or 3 mean?

11 A. I don't know. I don't remember.

12 Q. Why did you respond to this rather than

13 Mr. Mikel?

14 A. I believe he says that he was going away

15 or out of the office until -- he's out until next

16 Wednesday.

17 Q. Okay. Your response to the request from

18 Ms. Holman-Harries on behalf of the contractor was

19 that, "Your concerns regarding our aggregation

20 techniques during the initial analysis have been

21 noted."

22 What did you mean by that?

23 A. Received -- and I believe I meant it's

24 been received and --

25 Q. But you weren't going to do anything about

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1 it. You weren't going to respond to it.

2 A. I don't remember if I'm -- I think I

3 responded because Brian was out for a couple of

4 days, and so it could have well been that I was

5 just, you know --

6 Q. Kicking the can down the road while Brian

7 was gone?

8 A. Well, responding right away so that when

9 he comes back he could look at it further. That's

10 probably what happened.

11 Q. Is it fair to say you took no personal

12 action in response to this email?

13 A. What do you mean?

14 Q. I mean, did you have enough information

15 about what was going on in preparation for this

16 on-site that you could have given a substantive

17 response as to what Mr. Mikel was planning for the

18 on-site?

19 A. I don't remember how much -- how much I

20 knew at that time.

21 (Deposition Exhibit 8 was marked for

22 identification.)

23 BY MR. SHWARTS:

24 Q. Ms. Atkins, I've placed before you what's

25 been marked as Exhibit 8. This is an email -- the

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1 last email -- an email chain which ends in an email
 2 from Shauna Holman-Harries to you dated March 13th,
 3 2015. It bears Department of Labor Document
 4 Number 1299 through 1301.
 5 Now, this is her response to the email
 6 that concluded Exhibit 7. So the only new
 7 information here is the top email. So please take
 8 a look at it and let me know when you're ready to
 9 proceed.
 10 A. (Examining document.) Okay.
 11 Q. It appears that Ms. Holman-Harries was not
 12 satisfied with your response earlier that day.
 13 Firstly, did you -- were you aware of the
 14 breadth of OFCCP's audits of Oracle prior to the
 15 one that you were addressing here?
 16 A. Do you mean the number of compliance
 17 reviews of Oracle?
 18 Q. Not the specific number, but, you know, in
 19 general that Oracle has worked with a number of
 20 OFCCP regions in the recent past prior to this
 21 audit.
 22 A. I believe I -- I believe Ms. Harries --
 23 Holman-Harries told us.
 24 Q. You were -- aside from her telling you,
 25 you were not aware of it --

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1 A. No.
 2 Q. -- just from doing your job.
 3 A. No.
 4 Q. She adds at the bottom paragraph:
 5 "I will add, however, that I feel that
 6 OFCCP, for some reason, is unwilling in this
 7 instance to be forthcoming and provide us
 8 with sufficient information to enable us to
 9 work with OFCCP and to have some reasonable
 10 and basic understanding of what OFCCP is
 11 looking at or for. I must confess that given
 12 my work and experience with OFCCP's practices
 13 in every other region I feel that here OFCCP
 14 is for some unexplained reasons avoiding a
 15 transparent and cooperative approach to its
 16 identifying, and enabling us to address, any
 17 perceived concerns."
 18 All right. Again, a contractor here is
 19 basically accusing you and your district of not
 20 being transparent in advance of an on-site. Is
 21 that fair?
 22 A. Yes. That's what she's saying.
 23 Q. All right. Did you discuss this email
 24 with anyone after receiving it?
 25 A. I don't remember.

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1 Q. Did you share it? Did you forward it on
 2 to Ms. Suhr or to Ms. Wipper?
 3 A. I don't remember.
 4 Q. What was your reaction to receiving it?
 5 A. My reaction was -- I mean, I am just --
 6 I'm hearing what she's saying.
 7 Q. Did you -- did you agree with her? Sorry.
 8 Did you disagree? Did you feel that you
 9 had been forthcoming with the information based on
 10 the two emails that -- or the one email that
 11 Mr. Mikel had sent with the general overview of
 12 what was the concerns? Did you feel that her
 13 response to that in accusing OFCCP of being
 14 nontransparent was fair?
 15 A. I don't really have an opinion of how --
 16 you know, whether her reaction or response is fair
 17 or not. It's -- I would like to try and, you know,
 18 understand what she's saying and to respond to it.
 19 I don't have any knowledge of how other
 20 regions have responded in the past, so -- or in
 21 other Oracle reviews. So --
 22 Q. Did it concern you that a contractor who
 23 was working with you was basically accusing your
 24 region of not being transparent versus all of the
 25 other regions that they had been working with?

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1 A. Did it concern me. I just didn't have a
 2 reference to know really what -- I -- I mean, I --
 3 I don't -- I don't know if I was actually concerned
 4 or not. I --
 5 Q. How about, did you go to Mr. Mikel and
 6 say -- did you -- you know, "We should give them
 7 more information in advance of the audit"?
 8 A. No. I did not tell him how to lead the
 9 investigation.
 10 Q. Did you inquire at all as to whether or
 11 not more information should be provided to the
 12 contractor prior to the audit given their specific
 13 feelings about it?
 14 It seems that this is putting you and --
 15 "you" meaning the OFCCP and its contractor on
 16 almost an adversarial footing in advance of an
 17 on-site.
 18 A. She does sound upset, and so --
 19 Q. Were you under any directive, you or
 20 Mr. Mikel, not to provide additional information to
 21 them in advance of the on-site?
 22 A. I don't remember being told not to provide
 23 information.
 24 Q. Clearly you had more specific information
 25 in your possession in advance of the on-site

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1 besides what Mr. Mikel had told them. Correct?

2 A. I don't think I even knew what the minute

3 details of the investigation -- I don't -- I don't

4 remember even knowing the results of any prior

5 on-site evaluations. From --

6 Q. Well, those were -- that was the result of

7 a desk audit at this point. Correct?

8 A. Right.

9 Q. Which would have had certain indicators

10 that concerned OFCCP enough to decide to go on site

11 and do an audit. Correct?

12 A. Yes.

13 Q. All right. And I presume that it was more

14 detailed than the information that is in the first

15 paragraph of Mr. Mikel's March 12th email.

16 A. Yes. They would have known what the

17 results of internal analysis are.

18 Q. And what areas of concern OFCCP had.

19 A. Yes.

20 Q. All right. So certainly that information

21 had not been provided to Oracle beyond what was in

22 Mr. Mikel's prior email. Correct?

23 MR. SHULTZ: Objection. Speculation.

24 THE WITNESS: I -- I mean, yeah, other

25 than what I see here in this exhibit, I don't know.

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1 MR. SHWARTS: All right.

2 (Deposition Exhibit 9 was marked for

3 identification.)

4 BY MR. SHWARTS:

5 Q. I've placed before you what's been marked

6 as Exhibit 9. It is an email from you to Shauna

7 Holman-Harries the following day, on March 16th,

8 2015.

9 Please take a look at it and let me know

10 when you're ready to proceed -- sorry, not the

11 following day. The following Monday.

12 A. (Examining document.) Okay.

13 Q. This was an email you sent to

14 Ms. Holman-Harries?

15 A. Yes.

16 Q. All right. On the -- at the top of it

17 there's a list of OFCCP -- OFCCP personnel that

18 would be coming on site.

19 How did you get this information? Who

20 provided it?

21 A. I believe I got it from the regional

22 management. Jane or Janette.

23 Q. They're the ones who decided who would go

24 on site for this audit?

25 A. Yes, probably.

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1 Q. Is that unusual for the Regional Director

2 to decide who was going to be attending an on-site?

3 A. No, not if there's multiple people from

4 other offices involved.

5 Q. Looking here, there is Mr. Luong, who has

6 already been involved with this audit. Correct?

7 A. Right.

8 Q. And then there's an Anna Liu. Did I

9 pronounce that correctly?

10 A. Yes.

11 Q. Was she also one of yours?

12 A. Yes.

13 Q. Then yourself?

14 A. Yes.

15 Q. Then Mr. Mikel was going to be there?

16 A. Okay.

17 Q. Then who is Robert Doles?

18 A. He was the Director of Regional Operations

19 at that time.

20 Q. And what is that job?

21 A. So that person is located in the regional

22 office, and they are, I guess, overseeing and

23 coordinating all the enforcement activities

24 regionwide in the various field offices.

25 Q. Does he report to Ms. Wipper?

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1 A. No. The Deputy Regional Director.

2 Q. So he reports to Ms. Suhr.

3 A. Yes.

4 Q. Who reports to Ms. Wipper.

5 A. Yes.

6 Q. So these are the top three people in the

7 entire Pacific region. Correct?

8 A. Yes.

9 Q. During your tenure as District Director

10 for San Francisco, how many other times -- and I'm

11 just looking for a number -- did Janette Wipper

12 come to an on-site besides this time?

13 A. That I know of? Because I know she's been

14 involved -- or she probably went on site --

15 Q. No, ones that you participated in.

16 A. Oh, me, okay. Let me see.

17 I believe during the -- I'm sorry.

18 What --

19 Q. While you were --

20 A. -- part of the phase?

21 Q. Sorry. While you were --

22 A. Yes.

23 Q. -- the District Director for

24 San Francisco, how many other times, aside from

25 this one, did Ms. Wipper attend an audit that you

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1 also attended?
 2 A. Attend an on-site.
 3 Q. On-site, yes.
 4 A. Okay. I believe I was at one other
 5 on-site with her.
 6 Q. Was that also a tech company?
 7 A. Yes.
 8 Q. How many other times did Ms. Suhr attend
 9 an audit with you present -- on-site audit?
 10 A. I don't remember her in any other on-site.
 11 Q. So is this was the only one in your
 12 district that she participated in that you also
 13 attended?
 14 A. As far as I remember.
 15 Q. The next paragraph, it says, "We
 16 appreciate the comments you and Neil raised" --
 17 that's Mr. Bourque -- "during this morning's
 18 telephone call."
 19 Do you recall what that telephone call was
 20 about?
 21 A. I don't.
 22 Q. And in the next paragraph, it says,
 23 "Nonetheless, in response to your request, we
 24 shared the information that we have available at
 25 this time about indicators and relevant job groups

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1 at Oracle."
 2 Do you recall what -- as best you can what
 3 information you then share to them in advance of
 4 the audit?
 5 A. I don't.
 6 Q. I take it that at this point, you having
 7 been named as someone who was going to participate
 8 on the on-site, that you would have received some
 9 additional information that would have helped you
 10 do your job effectively.
 11 A. I might have. I might have. There are --
 12 yeah. I might have.
 13 Q. Was there any discussion amongst this
 14 group of seven people as to what roles each person
 15 would have at an on-site?
 16 MR. SHULTZ: Objection. Deliberative
 17 process privilege. The witness is instructed that
 18 you can't reveal any pre-decisional deliberations
 19 with United States officials.
 20 But otherwise, you can answer.
 21 BY MR. SHWARTS:
 22 Q. Let me ask it a different way.
 23 What was Ms. Wipper's role to be at the
 24 on-site?
 25 A. Well, if available, the regional

Page 83

1 management could attend an on-site. So during an
 2 entrance conference sometimes they are there.
 3 Q. So to the extent that you're -- to the
 4 extent Ms. Wipper is going to participate, it would
 5 be for purposes of an entrance conference?
 6 A. Yes.
 7 Q. Was she to have any other role on the
 8 on-site other than attending the entrance
 9 conference to your memory?
 10 A. She could. There's nothing to say she
 11 couldn't. In this case, I believe that's the only
 12 time she was actually present during the entrance
 13 conference.
 14 Q. What about Ms. Suhr? Did she do anything
 15 else -- did she attend the entrance conference?
 16 A. Yes, I believe so.
 17 Q. Did she do anything else for this audit on
 18 site?
 19 A. I don't -- I don't -- I don't think so.
 20 Q. What about Mr. Doles? Did he attend the
 21 entrance conference?
 22 A. I actually don't remember Mr. Doles being
 23 there.
 24 Q. You don't recall whether he was present or
 25 not?

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1 A. I don't. I don't remember him ...
 2 Q. Did Mr. Mikel attend the on-site?
 3 A. Yes.
 4 Q. What was his role for the on-site?
 5 A. He was -- he was the main speaker for the
 6 agency explaining what would take place during --
 7 you know, thanking them for being present, what
 8 would take place. He gave the overview of the
 9 on-site process.
 10 Q. Did he interview any employees during the
 11 on-site?
 12 A. Yes, I think he did.
 13 Q. Did you?
 14 A. Yes.
 15 Q. So part of your role there was not just to
 16 be there for the entrance conference, but to
 17 actually help do the on-site --
 18 A. Yes.
 19 Q. -- evaluation.
 20 And the same would be true of Mr. Luong
 21 and Ms. Liu?
 22 A. Yes.
 23 Q. Below -- at the bottom you gave to
 24 Ms. Holman-Harries a communication that you wanted
 25 to be sent to Oracle employees.

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1 **Did you prepare that, or is this something**
 2 **that is a form that's been used in other audits, or**
 3 **was this customized for Oracle?**
 4 A. It was -- it was not a form. I believe it
 5 had been done before in other audits. I believe I
 6 received it -- a copy -- or information for it to
 7 be issued to Shauna.
 8 **Q. Do you recall in other audits in your**
 9 **district sending -- you know, requiring the**
 10 **contractor to send out such a communication to its**
 11 **employees in advance of an on-site?**
 12 A. Yes.
 13 **Q. Okay. So this was not unusual -- this was**
 14 **not Oracle-specific.**
 15 A. No.
 16 **Q. All right.**
 17 (Deposition Exhibit 10 was marked for
 18 identification.)
 19 BY MR. SHWARTS:
 20 **Q. Ms. Atkins, I've placed before you what's**
 21 **been marked as Exhibit 10. It is the same email as**
 22 **Exhibit 9, except it has one more email on top,**
 23 **which is an email from Shauna Holman-Harries to you**
 24 **dated March 17th, 2015. Bears Department of Labor**
 25 **Bates Number 1292 to 1294.**

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1 **Let me know when you've had a chance to**
 2 **read it, and we'll proceed.**
 3 A. (Examining document.) Okay.
 4 **Q. This is an email you received from**
 5 **Ms. Holman-Harries?**
 6 A. Yes.
 7 **Q. Do you recall ever responding to**
 8 **Ms. Holman-Harries, her request in the second**
 9 **paragraph?**
 10 A. To this email?
 11 **Q. Yeah. She sent you an email. Do you**
 12 **recall responding to her orally or in writing as to**
 13 **her two requests?**
 14 A. I don't recall.
 15 **Q. Was a communication ever sent out to the**
 16 **employees in advance of the on-site?**
 17 A. I don't remember.
 18 **Q. Do you recall whether OFCCP sent it?**
 19 A. I don't remember.
 20 (Deposition Exhibit 11 was marked for
 21 identification.)
 22 BY MR. SHWARTS:
 23 **Q. I've placed before you what's been marked**
 24 **as Exhibit 11. It is an email from Shauna**
 25 **Holman-Harries to you on March 17th with**

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1 **attachments. It bears Oracle Bates Number 414988**
 2 **through -989.**
 3 **I'm not going to get into the deep detail,**
 4 **but take a look at it so you can identify it.**
 5 A. (Examining document.)
 6 This is in response to -- oh, it's -- oh.
 7 Okay.
 8 **Q. Curiously -- so this was data that had**
 9 **been requested by OFCCP that Oracle was now**
 10 **providing.**
 11 A. Okay.
 12 **Q. Correct?**
 13 A. It looks like it, yes.
 14 **Q. In her letter she notes that -- the time**
 15 **that it took to do it and plus responding to**
 16 **requests from other compliance reviews that are**
 17 **going on around the country.**
 18 **Was there any -- and did your office have,**
 19 **you know, any information at all about what**
 20 **requests were being made of the contractor by the**
 21 **various other OFCCP districts?**
 22 A. I don't know. I -- I don't -- I
 23 personally didn't know, but ...
 24 **Q. Okay. So it's quite possible that various**
 25 **OFCCP districts were making similar demands of the**

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1 **same contractor at the same time without**
 2 **coordinating amongst the various offices?**
 3 MR. SHULTZ: Objection. Speculation.
 4 BY MR. SHWARTS:
 5 **Q. You may answer.**
 6 A. Is it possible?
 7 **Q. Sure. Yeah.**
 8 A. Yeah, but I mean for different facilities,
 9 but yes.
 10 **Q. Right.**
 11 A. Compensation -- this looks like
 12 compensation, so they probably were asking for
 13 compensation data.
 14 **Q. Okay. You can put that aside.**
 15 (Deposition Exhibit 12 was marked for
 16 identification.)
 17 BY MR. SHWARTS:
 18 **Q. Ms. Atkins, I've placed before you what**
 19 **we've marked as Exhibit 12. It is an email from**
 20 **Brian Mikel to Shauna Holman-Harries, copy to you,**
 21 **on March 19, 2015.**
 22 **It does not have the -- the attachment.**
 23 **Just the cover email, not the list of employees.**
 24 **Let me know when you're ready to proceed.**
 25 A. (Examining document.) Okay.

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1 Q. To the extent that Mr. Mikel had attached
 2 a list of employees, who would have compiled that?
 3 Would you have participated in that?
 4 A. I don't remember being asked to
 5 participate in that.
 6 Q. That would have been done by Mr. Mikel or
 7 someone at his direction?
 8 A. Yes, probably.
 9 Q. In terms of all the information that's
 10 being requested or directions that are being given,
 11 again, did you consult with Mr. Mikel about that,
 12 or is this something he did on his own?
 13 A. I'm sorry, I missed the first part.
 14 Q. Right. Below that, the body of this email
 15 is instructions to Ms. Holman-Harries and requests
 16 for information or things to be provided for the
 17 on-site.
 18 Did you consult on the substance of this
 19 with Mr. Mikel, or is this something he did on his
 20 own?
 21 A. I did not consult with him.
 22 (Deposition Exhibit 13 was marked for
 23 identification.)
 24 BY MR. SHWARTS:
 25 Q. Ms. Atkins, I've placed before you what

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1 we've marked as Exhibit 13. It's an email from
 2 Shauna Holman-Harries to Mr. Mikel, copy to you and
 3 others, dated March 20th, 2015. It bears
 4 Department of Labor Bates Number 1247 to 1249.
 5 The top email is the new one, and it is a
 6 response to the prior exhibit. Please take a look
 7 at it and let me know when you're ready to proceed.
 8 A. (Examining document.) Okay.
 9 Q. Now, this is an email you would have
 10 received, given that you were a cc?
 11 A. Yes, I would have gotten it.
 12 Q. Okay. In the second paragraph,
 13 Ms. Holman-Harries says:
 14 "I would like to say that we are
 15 confused, and frankly I am frustrated, as to
 16 why you would wait until late Thursday
 17 evening to send us a list of just under 400
 18 employees that you would like to talk to. In
 19 fact, you sent this Thursday night just an
 20 hour after I complained to Hea Jung about
 21 lack of notice. We would like an explanation
 22 of why you waited until last night to send
 23 this enormous request."
 24 Do you recall what she is referring to
 25 when she says that -- "an hour after I complained

Page 91

1 to Hea Jung"?
 2 A. Other than what's stated here?
 3 Q. Yeah. Do you recall having a phone
 4 conversation with Ms. Holman-Harries? Because we
 5 don't have an email, so I take it that it was a
 6 phone call.
 7 A. I don't recall a phone call.
 8 Q. Do you recall her complaining in any
 9 respect about the fact that just a couple days
 10 before the on-site they were provided with a list
 11 of 400 employees that they had to advise that you
 12 wanted to interview?
 13 A. I remember this whole incident and her
 14 frustration about this -- receiving this late. But
 15 I don't remember -- I don't remember the exact
 16 timeline or --
 17 Q. Did you have any discussion with Mr. Mikel
 18 on or around March 20th about getting more
 19 information to Oracle or alleviating their
 20 frustration?
 21 A. I would have had -- I would have contacted
 22 Mr. Mikel about any discussion I had about the case
 23 with Shauna Holman-Harries outside of his knowledge
 24 just because he is the lead in the case, so I would
 25 have told him if she -- if she and I spoke.

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1 Q. Do you recall that she was frustrated
 2 about --
 3 A. Yes, I recall.
 4 Q. -- the timing? All right.
 5 Was she being in any way unprofessional in
 6 her communications with you about expressing her
 7 frustration?
 8 A. I never thought of it -- I mean, people
 9 express frustrations. I don't think it's
 10 unprofessional.
 11 Q. Did you think that her communication of
 12 her frustration in this regard was inappropriate in
 13 any way?
 14 A. I just didn't make a judgment on whether
 15 it's appropriate or inappropriate. I -- I don't --
 16 I don't remember thinking it was inappropriate.
 17 Q. You would agree with me that here you have
 18 a federal contractor that not only is expressing
 19 frustration, but is, in fact, questioning whether
 20 or not OFCCP is seeking -- is being cooperative
 21 with a federal contractor.
 22 Did you discuss Ms. Holman-Harries'
 23 concerns with Mr. Mikel?
 24 A. I would have, yes.
 25 Q. Do you recall --

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1 A. If she contacted me without him.

2 **Q. Right. Do you -- do you recall having**

3 **such discussions with Mr. Mikel?**

4 A. I don't.

5 **Q. Do you recall speaking with anyone else**

6 **that was participating in the on-site with respect**

7 **to Ms. Holman-Harries's concerns that she believed**

8 **on behalf of Oracle that the government was not**

9 **being cooperative in advance of the on-site?**

10 A. Do I remember discussing it. I would have

11 if Mr. Mikel was absent, because they may have

12 additional knowledge that I don't have.

13 **Q. Do you have any -- as you sit here today,**

14 **do you have any specific recollection of discussing**

15 **amongst the audit on-site team Oracle's concerns**

16 **that the government was not being cooperative?**

17 A. I don't remember a discussion.

18 **Q. Was there any pre-meeting amongst the**

19 **on-site team to discuss a game plan for what you**

20 **would be doing on site?**

21 A. There typically is.

22 **Q. Was there in this case?**

23 A. I'm sure there is -- there was, but I

24 don't -- I don't -- I can't -- I can't remember in

25 my mind. But I'm sure there was, 'cause there

Page 94

1 typically is.

2 **Q. So as you sit here, you have no specific**

3 **recollection of any pre-meeting amongst the on-site**

4 **team to discuss what would be done?**

5 A. There were so many on-sites taking place

6 during this time period, and the cases were very

7 similar. And so specifically for Oracle

8 headquarters, a meeting, I'm sure there was.

9 **Q. You indicated in your earlier testimony**

10 **that during your entire time you recalled only**

11 **seven other audits in which you went on site.**

12 **Were any of the others that you're talking**

13 **about happening at this same time?**

14 A. Yes.

15 **Q. That you were personally going on site?**

16 A. Yes.

17 **Q. Had the audit team -- going on site, did**

18 **they receive any instructions or directions from**

19 **the region on how this on-site should be conducted**

20 **prior to going on site?**

21 A. There would have been a meeting with --

22 with a group of people, so yes, there had been

23 discussions. There would have been discussions.

24 **Q. Do you have a memory, even if you don't**

25 **remember -- let's start just with the meeting**

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1 **itself.**

2 **Do you recall that there was a meeting and**

3 **who was at least present for it, either in person**

4 **or by phone?**

5 A. Yes. Probably, yes.

6 **Q. So was there one meeting or more than one**

7 **in advance?**

8 A. I don't remember. I don't remember.

9 **Q. At least one?**

10 A. There -- yes, of -- I'm sure there was at

11 least one.

12 **Q. All right. Would Mr. Mikel -- Mikel have**

13 **led the meeting?**

14 A. Yes.

15 **Q. All right. Was Ms. Wipper present for it?**

16 A. I believe everybody listed on the entrance

17 conference would have been present.

18 **Q. Okay. But this is in advance of going to**

19 **the headquarters. Right?**

20 A. Yes.

21 **Q. As best as you can recall, what was**

22 **discussed in terms of how the audit would proceed?**

23 MR. SHULTZ: Objection. Deliberative

24 process privilege. The witness is instructed that

25 your answer cannot reveal the contents of any

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1 pre-decisional deliberations of US government

2 officials.

3 But otherwise, you can answer.

4 BY MR. SHWARTS:

5 **Q. I'm not asking for any -- I'm just asking**

6 **about process in terms of how this audit would be**

7 **conducted.**

8 **What do you recall being discussed amongst**

9 **this group of people as to how the audit on site at**

10 **Oracle was going to proceed?**

11 A. Whenever there's a meeting, pre on-site

12 meeting, what's discussed is what will be conducted

13 at the on -- you know, what will be looked at, what

14 will be done during the on-site. Scheduling,

15 location, logistics.

16 **Q. How many days was this audit supposed to**

17 **take?**

18 A. You mean the on-site?

19 **Q. On-site.**

20 A. One week, I believe. That was the --

21 **Q. Was there a --**

22 A. -- this one.

23 **Q. -- tentative date set for when the exit**

24 **conference was to take place?**

25 A. It's usually the last day of the on-site.

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1 **Q. Was there a discussion amongst the team as**
 2 **to who would be present at any exit conference?**
 3 A. I don't remember.
 4 **Q. Were you scheduled to be present at any**
 5 **exit conference?**
 6 A. At any exit conference or this particular
 7 one?
 8 **Q. At the Oracle exit conference.**
 9 A. I can't remember if I was asked to be
 10 present for this one.
 11 **Q. Ms. Atkins, you would agree with me that**
 12 **Oracle is one of the largest federal contractors in**
 13 **your district. Correct?**
 14 A. Yes. It was -- it was one of the largest
 15 ones.
 16 **Q. Right. This was a big audit. Correct?**
 17 A. Right.
 18 **Q. You're going on site for a big audit, and**
 19 **you're the district director. One would presume**
 20 **that you would be an important person to have**
 21 **present at both an entrance and an exit conference.**
 22 **Correct?**
 23 A. I wasn't the lead managing it, so I
 24 didn't -- I was assisting in any way I could with
 25 this one.

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1 **Q. Okay. You had -- two of your compliance**
 2 **personnel were present. Correct?**
 3 A. For the exit conference?
 4 **Q. No, just on this audit. On this --**
 5 A. Yes.
 6 **Q. All right. The only other people involved**
 7 **were three people above you and Mr. Mikel -- Mikel.**
 8 **Correct?**
 9 A. I actually don't remember how
 10 many compliance officers were involved in the
 11 interviews. I can't remember if there's more than
 12 the people who were just at the entrance
 13 conference.
 14 **Q. All right. But an exit conference would**
 15 **involve not just compliance officers. It would**
 16 **involve more senior people, would it not?**
 17 A. It could just be the compliance officers
 18 sometimes.
 19 **Q. How about in this case for Oracle? Do you**
 20 **have any memory?**
 21 A. I don't remember who was at the exit
 22 conference. I don't believe I was at the exit
 23 conference.
 24 **Q. Do you have any memory of an exit**
 25 **conference happening at all?**

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1 A. I remember hearing that an exit conference
 2 happened.
 3 **Q. From who?**
 4 A. The team.
 5 **Q. Are you sure about that?**
 6 A. As far as I can remember, yes.
 7 **Q. Okay.**
 8 (Deposition Exhibit 14 was marked for
 9 identification.)
 10 BY MR. SHWARTS:
 11 **Q. I've placed before you what's been marked**
 12 **as Exhibit 14. It's an email from Shauna**
 13 **Holman-Harries to you and Brian Mikel on**
 14 **March 23rd, which is a Monday. This email**
 15 **identifies who from Oracle will be present.**
 16 **Seeing those names, do you recall being at**
 17 **the entrance conference?**
 18 A. I do.
 19 **Q. Okay. Do you recall -- now that -- seeing**
 20 **that and seeing the names, do you recall the**
 21 **participants from the OFCCP side who were actually**
 22 **at the entrance conference?**
 23 A. I probably wouldn't be able to recall
 24 every single one.
 25 **Q. What's your best recollection, which I'm**

Page 100

1 **entitled to?**
 2 A. So Brian Mikel, of course; Jane; Janette;
 3 Hoan; Anna Liu. That's -- that's all I remember.
 4 **Q. Who did the talking, as best you can**
 5 **recall, from the OFCCP side?**
 6 A. I believe Brian did most of the talking.
 7 **Q. Did Ms. Wipper or Ms. Suhr interject**
 8 **anything at this meeting?**
 9 A. They probably did.
 10 **Q. Do you have any specific recollection as**
 11 **you sit here?**
 12 A. I don't.
 13 **Q. Was anyone taking notes?**
 14 A. Yes.
 15 **Q. Who was taking notes during the entrance**
 16 **conference?**
 17 A. I always take notes, so I'm sure I had
 18 some notes.
 19 **Q. Are those notes that you saved?**
 20 A. I would have saved them. I believe Anna
 21 took notes. I don't know who else.
 22 **Q. To the extent that you saved notes from**
 23 **the entrance conference, would you have -- were**
 24 **these electronic notes, or did you take them in**
 25 **hard copy?**

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1 A. They would have been electronic.

2 **Q. All right. After you made them, what was**

3 **your practice of how you saved them afterwards?**

4 A. I just saved them on my drive.

5 **Q. Did you send them to -- were they sent to**

6 **a larger file for -- you know, the Oracle file or**

7 **something like that?**

8 A. Oh, saved on the --

9 **Q. Yes. Where did -- where would -- if**

10 **someone were to look for those notes, where would**

11 **they find them?**

12 A. I probably did -- I mean, I try and

13 organize as best I can --

14 **Q. Right. That's why I'm asking.**

15 A. -- so I probably did save it on the file

16 with a name of a case.

17 **Q. Is -- was it your practice to distribute**

18 **your notes --**

19 A. Yes.

20 **Q. -- to other members of the team?**

21 A. Yes.

22 **Q. So this would have been by email --**

23 A. Yes.

24 **Q. -- to other members of the team? Okay.**

25 **Now, as best as you can recall,**

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1 **substantively, what was discussed at the entrance**

2 **conference?**

3 A. General information, just thanking

4 everybody for being present, introductions, what

5 would take place, the logistics. The company

6 talked about the company and what they do. I -- I

7 think that's it.

8 **Q. Was there any discussion in that entrance**

9 **conference about the indicators that were of**

10 **concern to OFCCP?**

11 A. There would have been, I believe -- I

12 can't remember, but I -- I would assume that there

13 would have been notification of why we're there.

14 **Q. I'm not asking you to assume. I'm asking**

15 **for your memory about whether or not there was any**

16 **discussion at this entrance conference of the**

17 **indicators.**

18 A. I don't remember specifically about

19 indicators.

20 **Q. All right. When you say about why we were**

21 **there, I mean, other than saying we're here because**

22 **you're a federal contractor and we have some**

23 **concerns, do you recall anyone on behalf of OFCCP**

24 **being any more specific about the concerns OFCCP**

25 **had and what they were going to be looking for**

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1 **during this audit?**

2 A. I don't remember how specific -- I don't

3 remember the specific information that was given.

4 **Q. During this meeting, did anyone from**

5 **Oracle raise any issues or concerns about how OFCCP**

6 **was conducting itself?**

7 A. I don't remember.

8 **Q. Do you remember that -- the mood of the**

9 **meeting? Was it -- and again, based on experience**

10 **you've had at prior entrance conferences, was the**

11 **mood civil, was it professional, was it**

12 **confrontational?**

13 A. It was civil, I think.

14 **Q. Was there a tension between the parties to**

15 **your memory?**

16 A. Actually, I do remember something.

17 Something was said that created some tension. I

18 remember something like that.

19 **Q. What do you recall being said that**

20 **caused -- created tension?**

21 A. Maybe something about honesty. I don't

22 remember the details.

23 **Q. Said by whom?**

24 A. Maybe Brian, 'cause he did most of the

25 talking.

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1 **Q. And so was Brian accusing Oracle of not**

2 **being honest?**

3 A. I don't -- I don't remember him accusing

4 Oracle of being dishonest.

5 **Q. What do you recall him saying that caused**

6 **tension?**

7 A. I think he -- I mean, I just -- what I

8 sort of remember a little bit of is he was talking

9 about a contractor's obligation to provide honest

10 information. And I think that created some

11 tension. That's what I remember.

12 **Q. Do you recall anyone specifically from the**

13 **Oracle side responding to Mr. Mikel and his comment**

14 **there?**

15 A. No.

16 **Q. Do you recall how the audit progressed in**

17 **terms of your role? Do you recall how many days**

18 **you personally were on site?**

19 A. I -- I know I planned to stay all

20 five days. I remember getting sick during some

21 on-site, and I think the Oracle -- it was -- with

22 the Oracle on-site. So I'm not sure if I had to

23 cut my interview days short.

24 **Q. Is there a particular format that -- when**

25 **OFCCP does interviews with a contractor's**

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1 employees, is there a particular format of notes
 2 that are supposed to be used?
 3 A. There's generally draft questions that
 4 are -- that are planned. The -- there's no
 5 restrictions as to, you know -- because every case
 6 is different and every interviewee is different,
 7 so ...
 8 MR. SHWARTS: Let's mark this as the next
 9 exhibit, please.
 10 (Deposition Exhibit 15 was marked for
 11 identification.)
 12 BY MR. SHWARTS:
 13 Q. I've placed before you what's been marked
 14 as Exhibit 15. This is a document which is
 15 entitled "Oracle onsite interview With Madhawi
 16 Cheruvu" by you and Anna Liu on March 24, 2015. It
 17 bears DOL Bates Number 36748 through 36754.
 18 Just -- my first question -- firstly, was
 19 Ms. Cheruvu one of the people that you interviewed
 20 on site, if you recall?
 21 A. Probably. She's written here in this
 22 interview.
 23 Q. But do you have any -- as you sit here
 24 today, any specific recollection of interviewing
 25 Ms. Cheruvu?

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1 A. I don't.
 2 Q. Okay. Looking at this format, there's
 3 a -- some initial information, and then a series
 4 of --
 5 A. Oh, I do now. Madie.
 6 Q. Yes.
 7 A. I've seen her name, yes.
 8 Q. Okay. This form has got a series of
 9 questions and written answers. Who prepared the
 10 questions before the interview?
 11 A. Who prepared them.
 12 Q. Was it --
 13 A. I don't remember.
 14 Q. Was it something you were given, or did
 15 you prepare them?
 16 A. The -- I believe the team got interview
 17 questions, general interview questions.
 18 Q. From whom?
 19 A. I can't remember if -- I can't remember
 20 who actually distributed the interview questions.
 21 Q. It's not something that you personally
 22 prepared?
 23 A. I would have reviewed them, and I may
 24 have -- I may have provided input.
 25 Q. Was there an understanding that Oracle

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1 managers, to the extent they were being interviewed
 2 in their managerial capacity, would have an Oracle
 3 representative present?
 4 A. Yes.
 5 Q. And to the extent that you were
 6 interviewing employees, including managerial
 7 employees, that -- about their personal experiences
 8 as an Oracle employee, they could appear alone,
 9 without any representation?
 10 A. They could, yes.
 11 Q. They could ask for some. Is that fair?
 12 A. They could ask for someone.
 13 Q. Right. But -- now, and Oracle -- and
 14 OFCCP had committed to Oracle that it would advise
 15 both Oracle and the employee when -- with respect
 16 to managerial employees as to when they'd be
 17 questioning them with respect to their managerial
 18 duties versus when they'd be asking them about
 19 their personal experiences as Oracle employees?
 20 A. Yeah, probably, yes.
 21 Q. Do you recall whether that was something
 22 that OFCCP had committed to do with respect to
 23 Oracle managers?
 24 A. I mean, we understood that managers would
 25 have representatives.

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1 Q. And to the extent that any questioning of
 2 managers would cover both personal experiences of
 3 that individual and their managerial
 4 responsibilities, you would either -- you would
 5 advise the employee if you were going to be
 6 switching topics so they could have representation
 7 of Oracle present?
 8 A. Are you -- I'm -- so are you saying that
 9 there were employee --
 10 Q. I'm -- well --
 11 A. -- managers --
 12 Q. Yeah. To the extent that you would be
 13 interviewing employees that were managers, both in
 14 their personal capacity and in their managerial
 15 capacity, you would advise the employee if you were
 16 going to be switching from interviewing them in
 17 their individual capacity?
 18 A. Yes. I remember advising managers
 19 sometimes, that we would ask them questions during
 20 what capacity they were working at Oracle.
 21 Q. Now, at the end of this document there's a
 22 box for somebody to sign.
 23 Are these typically provided to the
 24 interviewee for their review and signature?
 25 A. Typically, yes.

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1 **Q. Was that done in this case?**
 2 A. I believe it would have been.
 3 **Q. All right. Do you know whether or not any**
 4 **of these employees ever signed and returned --**
 5 A. I don't remember.
 6 **Q. Was there an issue that came up during the**
 7 **audit about communication that went out from Oracle**
 8 **to the employees about what OFCCP was doing on**
 9 **site?**
 10 A. Could you repeat that?
 11 **Q. Right. Do you recall an issue arising**
 12 **during the audit, on-site audit, about the**
 13 **communication, the email communication, that Oracle**
 14 **had sent to its employees?**
 15 A. Maybe there was. Maybe there was a -- I'm
 16 starting to remember a little bit about -- you mean
 17 the general notice to employees that the agency
 18 asked to be sent out. And I think Oracle may have
 19 sent out a different version or said something
 20 other than what the agency had asked it to send
 21 out, and there may have been an issue about that.
 22 (Exception Exhibit 16 was marked for
 23 identification.)
 24 BY MR. SHWARTS:
 25 **Q. Ms. Atkins, I've placed before you what**

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1 **we've marked as Exhibit 16. It's an email from**
 2 **Shauna Holman-Harries to you and Mr. Mikel on**
 3 **March 25, which would have been during the audit on**
 4 **site.**
 5 **Please take a look at it and let me know**
 6 **when you're ready to proceed.**
 7 A. (Examining document.) Okay.
 8 **Q. Is this an email you would have received?**
 9 A. Yes.
 10 **Q. All right. Ms. Holman-Harries says, "I**
 11 **know we started off with a few hiccups yesterday**
 12 **morning."**
 13 **Do you know what she was -- recall what**
 14 **she was referring to?**
 15 A. I don't.
 16 **Q. Okay. Ultimately, did Oracle then send**
 17 **out the form of email that OFCCP was requesting in**
 18 **order to schedule more interviews with employees?**
 19 A. I missed the first part of that.
 20 **Q. Sorry. Do you recall that going forward,**
 21 **that Oracle sent out the email that OFCCP requested**
 22 **in order to schedule interviews with more**
 23 **employees?**
 24 A. I -- I don't remember. I don't know if
 25 this is the email that was requested.

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1 **Q. Was there any further issue after this**
 2 **during the on-site about emails going to employees**
 3 **if you recall?**
 4 A. I think it just occurred in the beginning.
 5 Could we take a break?
 6 MR. SHWARTS: Yes. Absolutely.
 7 THE VIDEO OPERATOR: We are going off the
 8 record. The time is 12:43 P.M.
 9 (Recess from 12:43 P.M. to 12:49 P.M.)
 10 THE VIDEO OPERATOR: We are back on the
 11 record. The time is 12:49 P.M.
 12 BY MR. SHWARTS:
 13 **Q. Ms. Atkins, returning a moment -- for a**
 14 **moment to the entrance conference, do you recall if**
 15 **during that entrance conference that Mr. Mikel**
 16 **threatened Ms. Holman-Harries with criminal**
 17 **prosecution for lying to the government?**
 18 A. No.
 19 **Q. Do you recall him raising an issue of the**
 20 **fact that she had not provided all of the**
 21 **complaints that Oracle had been asked to provide,**
 22 **and because of that she was in essence lying to the**
 23 **government, and that was the cause of the tension**
 24 **in the room because of the accusation made by**
 25 **Mr. Mikel against Ms. Holman-Harries?**

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1 A. I remember something about complaints,
 2 and -- yes, I remember complaints and not receiving
 3 complaints.
 4 **Q. Did Mr. Mikel make accusations against**
 5 **Ms. Holman-Harries in the entrance conference about**
 6 **her not complying with requests of the government?**
 7 A. I don't remember accusations.
 8 **Q. It was -- whatever he said was a source**
 9 **of -- became a source of tension in the room?**
 10 A. Yes, now that you mention the details.
 11 **Q. Did he mention consequences of failing to**
 12 **provide information?**
 13 A. I remember him talking about obligations
 14 to provide information that's requested.
 15 **Q. At the time, do you feel like Mr. Mikel**
 16 **was handling the situation appropriately?**
 17 A. I didn't think it was appropriate or
 18 inappropriate. I just didn't make that kind of ...
 19 **Q. You have a memory of not being there the**
 20 **whole time because you got ill?**
 21 A. I don't know if it's this on-site, but I
 22 do remember it was an Oracle on-site, and I was not
 23 well, and I had to leave.
 24 **Q. Again, given your participation in this**
 25 **audit and -- would you presume that if you were not**

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1 sick and were present, if there was an audit -- if
 2 there was an exit conference in March during this
 3 initial on-site, if an exit conference had been
 4 held, that you would have been present had it been
 5 held, assuming you were not sick?
 6 A. I wasn't the lead on the case, so -- I
 7 don't know. If I was asked to, I would have been
 8 present, but I don't remember --
 9 Q. Do you recall receiving a written summary
 10 of an exit conference that was held in March
 11 following the on-site?
 12 A. No.
 13 Q. Do you recall having a conversation with
 14 Mr. Mikel in which he discussed with you an exit
 15 conference that took place in March of 2015 at the
 16 on-site?
 17 A. I remember a discussion about an exit
 18 conference, but I don't remember the details or
 19 with who.
 20 Q. So you wouldn't have any idea on what date
 21 it was held or who was present or what was
 22 discussed if it happened at all?
 23 A. No.
 24 Q. Okay.
 25 A. It would have been the last day, just

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1 through practice.
 2 Q. Is that the kind of thing that the lead or
 3 whoever was scheduling would have sent to the -- to
 4 Ms. Holman-Harries or someone like
 5 Ms. Holman-Harries to schedule the exit conference
 6 and say, we're going to have the exit conference at
 7 this time and --
 8 A. You mean --
 9 Q. It was the kind of -- would it be the kind
 10 of thing that it would be scheduled with the
 11 contractor?
 12 A. I think -- I think in the previous emails
 13 an exit conference was mentioned, so --
 14 Q. Right. But with the entrance conference,
 15 there was an email that said, "We're going to meet
 16 you on 9:30 on Tuesday morning for the entrance
 17 conference."
 18 A. Yes.
 19 Q. Would it be typical that there would be a
 20 further email communication with the contractor to
 21 say, "We're done. We're going to do an exit
 22 conference at this time"?
 23 A. I don't know.
 24 Q. After the on-site was concluded, what was
 25 the next substantive step that took place with

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1 respect to this ongoing audit of the Oracle
 2 Redwood Shores facility?
 3 A. I don't know. I know for me it was
 4 reviewing the notes, the interview notes.
 5 Q. When you say reviewing the notes, notes of
 6 all the interviews that had been done --
 7 A. That I had been part of.
 8 Q. Oh, just you?
 9 A. Right.
 10 Q. Transcribing and --
 11 A. Yeah.
 12 Q. -- proofreading and things like that?
 13 A. Exactly.
 14 Q. Would you then distribute them to other
 15 members of the team?
 16 A. Just to the lead compliance officer and --
 17 yes. I remember -- maybe Brian Mikel.
 18 Q. Did you review -- aside from your own
 19 notes, do you recall reviewing any other
 20 information that had been gathered?
 21 A. I don't.
 22 Q. Whose job would it have been to at that
 23 point review all of the information that Oracle had
 24 provided either in documentary form or through all
 25 the interviews that had been done over the course

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1 of the on-site?
 2 A. Compliance officer.
 3 Q. In this case that would have been
 4 Mr. Luong?
 5 A. Right.
 6 Q. Was he still involved -- was he the
 7 main -- your main compliance officer on this audit
 8 at that time?
 9 A. As far as I remember, yes.
 10 Q. And what was -- what would be his job with
 11 the -- you know, he's got all this information now.
 12 What's he supposed to did with it?
 13 A. He's supposed to analyze it and make sure
 14 that there -- that we -- the information that we
 15 needed is there and complete and see if there's
 16 additional information that's missing.
 17 Q. At this point, is it just a -- is it still
 18 in the information-gathering stage versus making
 19 any substantive determination about whether there's
 20 a violation or not?
 21 A. Immediately after the on-site?
 22 Q. Yeah, in the first weeks after the
 23 on-site.
 24 A. I don't know. He would have -- yeah, I
 25 don't know what he did.

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1 **Q. In the hierarchy, ultimately, whose**
 2 **responsibility is it to make a determination about**
 3 **whether or not there is a violation following an**
 4 **audit?**
 5 **Is it the compliance officer's, is it**
 6 **yours as District Director, is it above you?**
 7 A. Ultimately?
 8 **Q. Yeah.**
 9 A. The regional director would sign the
 10 notice of violation.
 11 **Q. Would that be based on recommendations**
 12 **from people below the Regional Director?**
 13 A. Yes.
 14 **Q. Would that include you?**
 15 A. In this case --
 16 **Q. I'm not asking yet in this case. I'm**
 17 **asking generally.**
 18 A. Oh, as a -- yes.
 19 **Q. So from a process standpoint, would your**
 20 **compliance officers be making an initial**
 21 **recommendation that there be notice of -- that**
 22 **there were violations and then an NOV should issue?**
 23 A. Yes.
 24 **Q. And then that would go to you?**
 25 A. Yes.

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1 **Q. And you would review it?**
 2 A. Uh-huh.
 3 **Q. And would that be something that you would**
 4 **look at and make a decision, you know, I agree, or**
 5 **I disagree?**
 6 A. Yes.
 7 **Q. During your tenure as District Director,**
 8 **was there ever a time in which you or one of your**
 9 **compliance officers recommended an NOV and you**
 10 **reversed that decision and did not cause an NOV to**
 11 **issue?**
 12 A. I don't remember.
 13 **Q. Or was -- is it the case where you're --**
 14 **where -- I guess in the district of San Francisco,**
 15 **where you were the director, that in each instance**
 16 **in which one of your compliance officers**
 17 **recommended that an NOV issue you said yes and**
 18 **passed it along?**
 19 A. I don't remember.
 20 **Q. There's none that stick out to you that**
 21 **you rejected?**
 22 **I'm not going to ask the specific. I'm**
 23 **just wondering if it ever happened.**
 24 A. I mean, because we're in constant
 25 communication, it's hard to say. I -- it's hard to

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1 say that it ever got to the actual NOV submission
 2 point before I said, "I don't think it should go
 3 there."
 4 **Q. So you would be in collaboration,**
 5 **communication, with your compliance officer while**
 6 **they're determining whether one should issue, and**
 7 **in that collaboration there may have been instances**
 8 **in which it was decided no NOV should issue based**
 9 **on your input?**
 10 A. I don't remember, but there could have
 11 been.
 12 **Q. All right.**
 13 (Deposition Exhibit 17 was marked for
 14 identification.)
 15 BY MR. SHWARTS:
 16 **Q. Ms. Atkins, I've placed before you what**
 17 **we've marked as Exhibit 17. It's an email from you**
 18 **to Shauna Holman-Harries, copy to others, on**
 19 **April 27, 2015, with an attachment.**
 20 **Please take a look at it, especially the**
 21 **attachment, and let me know when you're ready to**
 22 **proceed.**
 23 A. (Examining document.) All right.
 24 **Q. Okay. Focusing on the attachment -- let**
 25 **me just identify the document.**

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1 **This is an email dated April 27, 2015,**
 2 **with an attachment, which is a letter from --**
 3 **dated -- of the same date from you to Shauna**
 4 **Holman-Harries, and it bears the Bates Number**
 5 **Oracle 5496-5499.**
 6 **This is a letter from you to**
 7 **Ms. Holman-Harries?**
 8 A. Yes.
 9 **Q. And it bears your signature?**
 10 A. Yep.
 11 **Q. Did you draft this letter, or did someone**
 12 **draft it for you?**
 13 A. I believe I -- well, I drafted it with
 14 input.
 15 **Q. Input from whom?**
 16 A. I can't remember. I can't remember
 17 specifically. I would have gotten input from the
 18 team and -- yes, the team.
 19 **Q. So when you say "the team," at this point,**
 20 **we are a month past the on-site based on the dates**
 21 **in your letter.**
 22 **Who is the team you are referring to?**
 23 A. So people who were at the on-site. And
 24 I -- and my managers.
 25 **Q. Okay. So your letter says -- and it**

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1 identifies the date of the audit. It says, "It is
 2 our desire to complete this compliance evaluation
 3 in an efficient and effective manner."
 4 When you used the term "compliance
 5 evaluation," are you referring to the broader audit
 6 or just the on-site?
 7 A. The broader audit.
 8 Q. Okay. You say, "In order to complete the
 9 on-site phase of the compliance evaluation, we will
 10 need to conduct a follow-up on-site."
 11 That leads me to believe that it would --
 12 was there some determination made during the March
 13 on-site that there was definitely going to need to
 14 be more work to be done and that the on-site was
 15 not concluded in March?
 16 A. Yes.
 17 Q. All right. Would that lead me to believe
 18 that there would not have been an exit interview in
 19 March because you guys weren't done yet?
 20 A. I don't know.
 21 Q. Is there a reason why this letter came
 22 from you and not from Mr. Mikel, who was apparently
 23 the leader on this, according to you?
 24 A. Yes. He initially was the leader. And
 25 then I remember getting more involved in the case.

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1 I can't remember exactly at what point.
 2 Q. I'll tell you that by a few weeks from
 3 this letter we no longer see Mr. Mikel on any
 4 communications regarding this audit.
 5 A. April?
 6 Q. By May --
 7 A. May.
 8 Q. -- he is off the communications
 9 altogether. I can show you something if it helps.
 10 But did something happen that he was
 11 removed or was transferred or something else
 12 happened to him that he was no longer the lead on
 13 this audit or involved in it in any way?
 14 A. I don't know why.
 15 Q. Well, did -- was it -- were you informed
 16 by some communication that Mr. Mikel was no longer
 17 going to be involved in the Oracle audit?
 18 A. I remember being asked to be more involved
 19 in it.
 20 Q. By whom?
 21 A. My managers, Jane and Janette. I don't
 22 know which one.
 23 Q. Did they tell you why?
 24 A. No.
 25 Q. Was there any concern about Mr. Mikel's

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1 performance on the audit to date?
 2 A. They didn't tell me about his performance.
 3 Q. So in terms of you getting more involved,
 4 was that at your own initiative, or was that at the
 5 request of Ms. Suhr and/or Ms. Wipper?
 6 A. It was not my request.
 7 Q. Just based on this -- the fact that you
 8 had written this letter, do you believe that it
 9 would have happened before you sent this letter
 10 that you were asked to become more involved?
 11 A. No. I don't remember.
 12 Q. Do you recall -- again, with respect to
 13 the specific requests that are contained in here,
 14 do you recall being involved in consultation with
 15 your team, as you define it, in order to come up
 16 with the new information that you wanted for
 17 further on-site evaluation?
 18 A. Do I recall a --
 19 Q. Yeah. That your team met and said, gosh,
 20 we need this, we need this, we need this, based
 21 upon our March on-site?
 22 A. I don't remember, but, you know, that
 23 would have been typical. But I don't remember.
 24 Q. I mean, is this something that would have
 25 happened without you, and then you would just

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1 simply say --
 2 A. No.
 3 Q. -- here, you know, Hea Jung, we need -- we
 4 need this stuff?
 5 A. No. It wouldn't have happened without me.
 6 Q. Right. So this is stuff that you also
 7 agreed was necessary in order to complete the
 8 on-site.
 9 A. Yes. I mean, we need -- we would have --
 10 I would have -- I would have agreed that we needed
 11 more information, so ...
 12 Q. At this point, had any -- had any members
 13 of the team reached any determinations about
 14 whether there was violations or potential
 15 violations, or was this too early for that?
 16 MR. SHULTZ: Objection. Deliberative
 17 process privilege. The witness is instructed that
 18 you can't reveal the pre-decisional deliberations
 19 of any officials of the United States.
 20 Otherwise, you can answer.
 21 BY MR. SHWARTS:
 22 Q. Do you recall whether or not -- I mean,
 23 I'm looking for a "yes" or "no" -- that at this
 24 point had any determinations or recommendations
 25 been made regarding a prospective violation, or is

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1 it too early in the process for that, knowing that
 2 an NOV is eventually issued?
 3 From a timing standpoint, is this just too
 4 early in the game, or --
 5 A. It would have been too early, because we
 6 need more information.
 7 Q. Did the on-site get scheduled for June
 8 because of timing at Oracle?
 9 A. I don't remember when it was scheduled.
 10 Q. If it helps --
 11 Can I have 46, please?
 12 (Deposition Exhibit 18 was marked for
 13 identification.)
 14 BY MR. SHWARTS:
 15 Q. Ms. Atkins, I've placed before you what's
 16 been marked as Exhibit 18. It's an email string
 17 that ends in an email from you to Shauna
 18 Holman-Harries on April 29, 2015.
 19 Take a look at it. I'm just doing this
 20 sort of to frame the dates. If you'd look at it,
 21 you look at the email in the middle of the page
 22 from Shauna Holman-Harries to you on the 28th of
 23 April, she notes scheduling issues, and you note at
 24 the top, the week of June 22nd works for OFCCP.
 25 Does that refresh your recollection that

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1 the on-site was rescheduled for late June?
 2 A. If it says so here, then ...
 3 Q. You don't have any independent
 4 recollection?
 5 A. No.
 6 Q. You note -- in this email string,
 7 there's -- Mr. Luong is on it -- I'm sorry. Never
 8 mind. Never mind. Strike that question.
 9 Are you hungry?
 10 A. Getting there, yes.
 11 MR. SHWARTS: All right. So why don't
 12 we -- this would be a good time to take a lunch
 13 break, so why don't we do that.
 14 THE VIDEO OPERATOR: We are going off the
 15 record. The time is 1:09 P.M.
 16 (Recess from 1:09 P.M. to 2:10 P.M.)
 17 --o0o--
 18 AFTERNOON SESSION
 19 THE VIDEO OPERATOR: We are back on the
 20 record. The time is 2:10 P.M.
 21 BY MR. SHWARTS:
 22 Q. Good afternoon, Ms. Atkins.
 23 Ms. Atkins, did you meet with anyone to
 24 prepare for your deposition today?
 25 A. Yes.

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1 Q. And who did you meet with?
 2 A. RSOL.
 3 Q. Aside from him, did you meet with anybody
 4 else?
 5 A. Another person in RSOL, too. Two people
 6 in RSOL.
 7 (Reporter requested clarification.)
 8 THE WITNESS: Oh, attorneys. Two
 9 attorneys.
 10 BY MR. SHWARTS:
 11 Q. Do you recall the name of the other person
 12 you met with?
 13 A. Abigail. I forgot her last name.
 14 Q. Is it Daquiz?
 15 A. I think so.
 16 Q. Have I said that right?
 17 A. I don't know.
 18 Q. Did they show you documents to help
 19 refresh your recollection at all?
 20 A. No.
 21 Q. Okay. So to the extent I'm showing you
 22 documents today from back in 2015, this is the
 23 first time you've seen them since 2015?
 24 A. Probably. Yes.
 25 Q. Okay. Were you asked at any point to

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1 collect documents personally to help make document
 2 production in this case, or did someone else
 3 collect -- I mean, to the extent that the
 4 Department of Labor has produced documents that are
 5 your emails or emails that were sent to you, were
 6 you the one that collected them, or did someone
 7 collect them for you?
 8 A. Collect my emails?
 9 Q. Yeah. So both Oracle and the government
 10 have produced, as you can see, documents to each
 11 other and, you know, my question is, did you --
 12 were you asked by the government to search for
 13 documents that are relevant to this case, or did
 14 someone else do that to find your emails?
 15 A. I think there were a few documents that I
 16 was asked to search for.
 17 Q. And did you do so?
 18 A. Yes.
 19 Q. And did you produce those documents to
 20 lawyers for the government?
 21 A. Yes.
 22 Q. Okay. But in general, the broader emails
 23 and whatnot, that was searched for by others?
 24 A. Yes. I believe so. I don't remember
 25 doing it.

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1 Q. Okay. Let's return if we can to the
 2 spring of 2015 and the period between the -- the
 3 March on-site and then what was scheduled to be the
 4 June, late June on-site.
 5 In one of our earlier exhibits we saw your
 6 March -- your April 27th letter, and we looked at
 7 that earlier, which had a list of 11 items that you
 8 had asked Oracle to start compiling.
 9 Did you -- in that period of time were you
 10 working with Oracle to have the information
 11 provided to you?
 12 A. Was I working with Oracle --
 13 Q. Yes. Were you engaging with
 14 Ms. Holman-Harries or others on the Oracle team to
 15 get that information and respond to questions from
 16 Ms. Holman-Harries, things of that nature?
 17 A. I believe so. I sent the letter, so --
 18 Q. Right. But do you have any recollection
 19 of engaging with Oracle during that period?
 20 A. No, I don't.
 21 Q. Is there any particular issue that stood
 22 out as problematic or caused concern in advance of
 23 the June --
 24 A. I don't remember anything in particular
 25 standing out.

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1 Q. This is good for you as I flip tabs.
 2 (Deposition Exhibit 19 was marked for
 3 identification.)
 4 BY MR. SHWARTS:
 5 Q. Ms. Atkins, I've placed before you what's
 6 been marked as Exhibit 19. It is an email from
 7 Shauna Holman-Harries to you dated June 19, 2015.
 8 It bears Oracle Bates Number 416448 through -51.
 9 Take a look at it. Let me know when
 10 you're ready to proceed.
 11 A. (Examining document.)
 12 Q. Okay. Do you recognize at least that you
 13 were sent and received these emails?
 14 A. Yes.
 15 Q. Looking in the middle, the middle email,
 16 which is your email which is sent on Friday,
 17 June 19th, you're providing a list of employees --
 18 and there's various versions of this email, but at
 19 least this is one of them -- identifying the people
 20 that would be present at the June 22 through
 21 June 25 on-site.
 22 Who is Francisco Melara?
 23 A. He's a regional liaison.
 24 Q. What is -- what is that position?
 25 A. So that -- that position is somebody

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1 who's -- well, he's located in the regional office,
 2 and he -- he assists the field offices with
 3 documents that would come into the regional office
 4 for submission. He will review it, make sure that
 5 it's consistently being done in the field offices.
 6 Q. Why was he included on this second
 7 on-site?
 8 A. Oh, because I think we needed personnel,
 9 additional staff -- people to help conduct the
 10 on-site.
 11 Q. Any other reason besides just you needed
 12 some bodies?
 13 A. No.
 14 MR. SHWARTS: Are you okay?
 15 MR. SHULTZ: Yeah, sorry.
 16 MR. SHWARTS: No worries.
 17 MR. SHULTZ: Swallowed wrong.
 18 MR. SHWARTS: Didn't want you choking.
 19 Q. Who is Molly Almeida?
 20 A. She was a compliance officer.
 21 Q. In your district?
 22 A. Yes.
 23 Q. Same with Milton Crossland, as we talked
 24 about earlier?
 25 A. Yes.

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1 (Deposition Exhibit 20 was marked for
 2 identification.)
 3 BY MR. SHWARTS:
 4 Q. Ms. Atkins, I've placed before you what we
 5 have marked as Exhibit 20. It is a series of
 6 emails ending in an email from Shauna
 7 Holman-Harries to you on June 20th, 2015.
 8 Please take a look at it, especially the
 9 last two or three, and let me know when you're
 10 ready to proceed.
 11 A. (Examining document.) Okay.
 12 Q. Are these emails you received --
 13 A. Yes.
 14 Q. -- and sent?
 15 A. Yep.
 16 Q. It seems like there's -- an issue has
 17 arisen amongst and between Oracle and your office
 18 regarding the contact of employees. Would you view
 19 it that way?
 20 A. Yeah, it looks like it.
 21 Q. Do you recall that?
 22 What was your concern at this time, if
 23 any?
 24 A. It looks like at this point we had
 25 identified nonmanagement employees to be -- that we

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1 wanted to speak to while on site, and instead of
 2 scheduling those employees, an email had been sent
 3 to them asking them if they wanted to be
 4 interviewed. And that's not generally what we ask
 5 them to do, so ...
 6 **Q. In response, Ms. Holman-Harries says to**
 7 **you:**
 8 "We have afforded you wide latitude in
 9 conducting employee interviews. Mr. Mikel
 10 abused this process and annoyed a number of
 11 employees in March by failing to properly
 12 contact employees who were willing to meet."
 13 **Do you recall that being an issue during**
 14 **the March on-site?**
 15 A. No.
 16 **Q. Do you have -- you're saying it didn't**
 17 **happen, or you just don't remember whether it did?**
 18 A. I don't remember that being an issue or it
 19 even occurring.
 20 **Q. She says -- goes on to say, quote, "You**
 21 **seem now to be abusing this process by your demands**
 22 **for them to appear before you in person."**
 23 **It seems as though the relationship**
 24 **between your office and Oracle is -- is it fair to**
 25 **say it is deteriorating at this point, or do you**

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1 **think it's fine?**
 2 A. It sounds like there's definitely a
 3 misunderstanding. I don't know if it's
 4 deteriorating.
 5 **Q. From your perspective as the District**
 6 **Director of the San Francisco region conducting**
 7 **this audit, at this point in time as you're now**
 8 **on-site for your second on-site visit, how did you**
 9 **view the interaction between your office and**
 10 **Oracle?**
 11 **Was it fine? Was there tension? Was**
 12 **there --**
 13 A. There was definitely tension, and issues
 14 needed to be cleared up.
 15 **Q. Did you -- as the District Director in**
 16 **San Francisco, did you feel that Oracle was being**
 17 **uncooperative?**
 18 A. I mean, "uncooperative" sounds willful. I
 19 just -- I feel like -- I don't remember -- it
 20 wasn't as smooth as it could have been, let's just
 21 say that.
 22 **Q. You're not ascribing blame. You feel**
 23 **there was miscommunication between the parties?**
 24 A. There's clear misunderstanding here.
 25 **Q. Was there an issue that week about**

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1 **speaking to employees in their individual versus**
 2 **personal capacities -- I mean managerial**
 3 **capacities?**
 4 A. I'm sorry. Can you --
 5 **Q. Did issues arise during that week during**
 6 **your interviews about interviewing people in their**
 7 **personal capacities versus their managerial**
 8 **capacities?**
 9 A. I don't remember.
 10 **Q. It might have happened; you just don't**
 11 **recall?**
 12 A. It might -- I mean, I don't remember it --
 13 yeah, I don't remember.
 14 (Deposition Exhibit 21 was marked for
 15 identification.)
 16 BY MR. SHWARTS:
 17 **Q. Ms. Atkins, we've placed before you what**
 18 **we've marked as Exhibit 21. It is an email from**
 19 **Shauna Holman-Harries to you on June 22nd, 2015,**
 20 **bearing Department of Labor Bates Number 38558**
 21 **to -59. Please look at it and let me know when**
 22 **you're ready to proceed.**
 23 A. (Examining document.) Okay.
 24 **Q. Does this refresh your memory that there**
 25 **was an issue during the second on-site at Oracle**

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1 **about interviewing of managers?**
 2 A. Yes.
 3 **Q. All right. Did you do anything to try to**
 4 **address the issue?**
 5 A. I talked to the interviewers to find out
 6 what happened.
 7 **Q. Did you -- were any -- was any action**
 8 **necessary on your part?**
 9 A. Any action?
 10 **Q. Yeah. Did you advise them to change their**
 11 **conduct in any way, or did you give them any**
 12 **direction that changed the way they were**
 13 **approaching their interviews?**
 14 A. I don't remember the details of it. I
 15 remember talking to them about receiving this from
 16 Ms. Holman-Harries, Shauna Holman-Harries, and I
 17 remember asking them what happened. I don't
 18 remember all of the details.
 19 **Q. Do you remember needing to advise them to**
 20 **change their behavior in conducting these**
 21 **interviews in order to make sure that it was clear**
 22 **when they were interviewing them in their**
 23 **managerial capacity versus when they were**
 24 **interviewing them in their personal capacity?**
 25 A. I don't remember needing -- telling them

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1 that they needed to change their behavior.
 2 **Q. Do you recall whether or not any changes**
 3 **were made that -- such that this issue got**
 4 **alleviated?**
 5 A. I don't remember.
 6 (Deposition Exhibit 22 was marked for
 7 identification.)
 8 BY MR. SHWARTS:
 9 **Q. Ms. Atkins, I've placed before you what's**
 10 **been marked as Exhibit 22. It's an email from**
 11 **Shauna Holman-Harries to you on June 23rd, 2015,**
 12 **bearing Department of Labor Bates Number 38560.**
 13 **In this Ms. Holman-Harries is thanking you**
 14 **for what she describes as a change of approach by**
 15 **the interviewers.**
 16 **Does this refresh your recollection that**
 17 **you may have done or had some discussion with your**
 18 **interview team to at least modify the way they were**
 19 **approaching this issue?**
 20 A. I -- I remember discussing the first email
 21 with them. I don't remember -- I don't remember
 22 any violations of what they did in discussing that
 23 they have to change their behavior in any way.
 24 **Q. Well, clearly what you said must have had**
 25 **some impact, because you got a nice note from**

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1 **Ms. Holman-Harries thanking you for whatever you**
 2 **did.**
 3 A. I can't --
 4 **Q. You don't recall?**
 5 A. I don't -- I don't recall any ...
 6 (Deposition Exhibit 23 was marked for
 7 identification.)
 8 BY MR. SHWARTS:
 9 **Q. Ms. Atkins, I've placed before you what**
 10 **was marked as Exhibit 23. It's an email from**
 11 **Ms. Holman-Harries to you dated June 25, Bates**
 12 **Number Oracle 5355.**
 13 **Let me know when you're ready to proceed.**
 14 A. (Examining document.) Okay.
 15 **Q. Looking at this email, it appears that, at**
 16 **least during this June on-site, this may have been**
 17 **the on-site in which you took ill.**
 18 A. Yes.
 19 **Q. Does this help refresh your memory that**
 20 **that's, in fact, what happened?**
 21 A. Yes, I remember.
 22 **Q. So did you get sick twice, or was it just**
 23 **on the one time?**
 24 A. I think I got sick on a different on-site
 25 as well as this one.

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1 **Q. But --**
 2 A. But yes, one time at Oracle.
 3 **Q. Right. So based on this, it seems like**
 4 **you were present for the full on-site in March.**
 5 A. Yes. I probably was.
 6 **Q. Okay. So now, again, with these documents**
 7 **helping you refresh your memory, do you recall**
 8 **being present in March for any exit conference --**
 9 A. No, I don't remember.
 10 **Q. Okay. Here -- Ms. Holman-Harries is**
 11 **asking here, it says, "I would like to get a sense**
 12 **from you of next steps and more importantly a**
 13 **debrief (exit conference) with regard to the**
 14 **on-site."**
 15 **So at least at this point she's asking for**
 16 **one to take place in this instance. Correct?**
 17 A. Right.
 18 **Q. Okay.**
 19 (Deposition Exhibit 24 was marked for
 20 identification.)
 21 BY MR. SHWARTS:
 22 **Q. We've placed before you what's been marked**
 23 **as Exhibit 24. It is an email from Shauna**
 24 **Holman-Harries to you dated July 2nd, 2015, Bates**
 25 **Number Oracle 190.**

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1 A. (Examining document.)
 2 **Q. Do you agree with me here that**
 3 **Ms. Holman-Harries is requesting an exit conference**
 4 **so she can learn of any concerns or issues**
 5 **identified by the OFCCP team?**
 6 A. Yes.
 7 (Deposition Exhibit 25 was marked for
 8 identification.)
 9 BY MR. SHWARTS:
 10 **Q. Ms. Atkins, we've placed before you what's**
 11 **been marked as Exhibit 25. It is an email from you**
 12 **to Shauna Holman-Harries on July 2nd, 2015, without**
 13 **attachment, which is a -- noted as an interview**
 14 **list, but the email is what I'm concerned about**
 15 **here.**
 16 **It bears Oracle Bates number 5471 to 5472.**
 17 **Please take a look at it and let me know when**
 18 **you're ready to proceed.**
 19 A. (Examining document.) Okay.
 20 **Q. Did you write this email, or did someone**
 21 **write it for you?**
 22 A. Someone helped with it.
 23 **Q. Who helped with it?**
 24 A. I believe Janette helped me.
 25 **Q. How much of this is you and how much of**

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1 this is Ms. Wipper?
 2 Most of it was Ms. Wipper, wasn't it?
 3 Especially all the legal stuff at the bottom.
 4 A. At the bottom.
 5 Q. Bottom of the first page.
 6 A. Oh.
 7 Q. Like the entire second half of the first
 8 page. It's all right. She's not your boss
 9 anymore. She wrote most of this, didn't she?
 10 A. Yeah. I would say she helped write it.
 11 Q. When you say "helped write it," meaning
 12 she wrote it and you proofread it to make sure
 13 there was nothing that was inaccurate?
 14 A. Yeah. I would have known the details of
 15 what happened.
 16 Q. Right. But she wrote this email. You
 17 read it to make sure you agreed with it, and then
 18 it went out under your name. Is that fair?
 19 A. You know, I can't say for a hundred
 20 percent sure, but --
 21 Q. It sounds right, doesn't it?
 22 A. -- she helped, yes.
 23 Q. So. You keep saying she helped. I'm
 24 asking if she is the drafts person of this email.
 25 The answer to my question is yes?

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1 A. I can't -- I mean, I don't know if other
 2 people were also involved. I can't remember how
 3 many eyes went onto it or --
 4 Q. All right. But at some point you were
 5 provided with this email to send out, meaning you
 6 didn't draft this yourself.
 7 A. I didn't draft it all myself, no.
 8 Q. No. Some other group of people drafted
 9 it, the substance was provided to you, and then you
 10 sent it out under your name.
 11 A. Yes. I sent it out.
 12 Q. Right. Does it accurately reflect your
 13 sentiments as of this point in time?
 14 A. Yes.
 15 Q. All right. You felt that -- let me start
 16 at the back. At the very end there's a last
 17 paragraph which says:
 18 "Today you emailed me asking to schedule
 19 an exit conference for Oracle Redwood Shores.
 20 We are not prepared to conduct an exit
 21 conference at this time as in addition to the
 22 need to conduct employee interviews, we are
 23 still awaiting outstanding items in our
 24 April 27, 2015 letter. We will schedule an
 25 exit conference at the conclusion of our

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1 offsite analysis."
 2 Does this refresh your memory that to this
 3 point no exit conference had been conducted for the
 4 on-sites at Oracle?
 5 A. It must not have been conducted if it's
 6 written here.
 7 Q. Okay. On the -- if you move on the -- the
 8 first page, you state in the second paragraph:
 9 "It is important to address these issues
 10 now before the Pleasanton on-site as we are
 11 extremely concerned with how Oracle has
 12 continued to mischaracterize facts in an
 13 apparent attempt to interfere and obstruct
 14 our audit while creating a false record of
 15 OFCCP's audit of Oracle Redwood Shores."
 16 Did you believe that Oracle was trying to
 17 create a false record of what had happened at the
 18 on-site?
 19 A. I don't know if it was trying to, but I
 20 remember some of the statements that Shauna was
 21 saying, such as "abuse of process," needed to be
 22 clarified.
 23 Q. Anything else that Oracle was doing
 24 that -- at the time that made you feel that it was
 25 attempting to interfere and obstruct the audit?

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1 A. The email notice to the employees that we
 2 wanted to conduct interviews with while on site, we
 3 didn't ask her to do that, send out an email
 4 notice. We just wanted to speak them.
 5 Q. Were there employees that then refused to
 6 speak to you?
 7 A. I don't remember.
 8 Q. It says at the bottom of the third
 9 paragraph, "As a result of Oracle's interference,
 10 OFCCP was only able to conduct 8 out of the 132
 11 employees named during the June 22 to 25 Oracle
 12 Redwood Shores on-site."
 13 Was that accurate?
 14 A. I don't remember. It probably was if it's
 15 here, but I don't remember --
 16 Q. You were there for three days and only did
 17 eight interviews?
 18 A. I don't -- I don't remember.
 19 Q. Besides interviewing these eight people,
 20 do you recall what else was done during the
 21 three days you were on site in June of 2015?
 22 A. Well, there's probably manager interviews
 23 too.
 24 Q. Two paragraphs down you say, "I have since
 25 had the opportunity to discuss your email with my

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1 team members."
 2 Which team members are you referring to?
 3 A. That would have been on-site team members
 4 and also my managers.
 5 Q. Ms. Wipper and Ms. Suhr.
 6 A. Yes, probably.
 7 Q. Next sentence, you say:
 8 "OFCCP acted appropriately during the
 9 on-site and indeed found Oracle
 10 representatives to have intimidated
 11 interviewees through strong and misleading
 12 messages such as repeated statements that
 13 representation is a right without proper
 14 disclosure of Oracle's conflict of interest
 15 with employees in this audit, and by making
 16 demands of OFCCP, in the interviewee's
 17 presence, that the interviewee be informed of
 18 their rights."
 19 Aside from what's written in this
 20 sentence, is there any other basis that you recall
 21 for accusing Oracle of acting inappropriately?
 22 A. I don't remember -- I don't remember. It
 23 might have been from the discussion I had with the
 24 employees. I don't remember.
 25 Q. You state here that Oracle has a conflict

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1 of interest with its employees.
 2 What is that conflict of interest as of
 3 July of 2015?
 4 A. I believe that was in reference to Oracle
 5 attorneys being present in nonmanagement
 6 interviews.
 7 Q. When you say Oracle attorneys, you mean
 8 in-house attorneys or outside attorneys?
 9 A. I can't remember who was there
 10 representing Oracle.
 11 Q. So you recall there being Oracle
 12 lawyers -- Oracle lawyers, whether in-house or
 13 outside, sitting in on non-manager interviews?
 14 A. I don't remember.
 15 Q. Any other reason why you believe that
 16 Oracle -- what conflict of interest Oracle had as
 17 of July of 2015 with its employees?
 18 A. That's what stands out. I'm not sure if
 19 there was something else.
 20 Q. Okay. Last sentence of that paragraph
 21 says, "Oracle representatives also misled employees
 22 to believe that Oracle represented their interest
 23 in this audit instead of its own."
 24 Do you recall what it was that individuals
 25 said that caused you to put your name to that

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1 sentence?
 2 A. I can't remember the details of what that
 3 was.
 4 (Deposition Exhibit 26 was marked for
 5 identification.)
 6 BY MR. SHWARTS:
 7 Q. Ms. Atkins, I've placed before you what
 8 we've marked as Exhibit 26, which is an email from
 9 Shauna Holman-Harries to you dated July 7th, 2015,
 10 which is a response to Exhibit 25.
 11 Please take a look at it and let me know
 12 when you're ready to proceed.
 13 A. (Examining document.) Okay.
 14 Q. Did you receive this email from
 15 Ms. Holman-Harries?
 16 A. Yes.
 17 Q. All right. He notes that -- she notes,
 18 I'm sorry, that your email was referred to counsel,
 19 and I'll get to that in a minute. But at the
 20 bottom paragraph, it says:
 21 "One additional item, regarding
 22 Redwood Shores. It's been over three months
 23 since the interviews were conducted in March.
 24 No one to my knowledge has been provided with
 25 a copy of your interview notes. Our

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1 experience in other audits, and my
 2 understanding of OFCCP process, has been that
 3 interview notes typically have been provided
 4 to interviewees for review promptly after an
 5 interview, while recollection is fresh."
 6 Firstly, was it in your experience, both
 7 as a District Director in San Jose and in
 8 San Francisco, that after an on-site audit where
 9 employees are interviewed the interview notes are
 10 provided promptly to interviewees -- to the
 11 interviewees?
 12 A. Yes. We try to do that.
 13 Q. And the importance of doing that is
 14 because you want the employees to be able to
 15 remember what they said in -- as close as possible
 16 in time to when they gave the interview.
 17 A. Yes.
 18 Q. Is she correct that as of -- almost three
 19 and a half months post the original on-site that
 20 the March interview notes had not been provided to
 21 any of the interviewees for the March on-site?
 22 A. Yes, if that's what the date -- yeah.
 23 Q. And why not?
 24 A. I don't remember. I don't remember.
 25 Q. Was it -- was there a conscious decision

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1 made by you or anyone working for you not to do
 2 that?
 3 A. No.
 4 Q. At this point wouldn't it have been kind
 5 of unfair to the individual employees to ask them
 6 to recall and swear to the accuracy of an interview
 7 they had -- you know, gave three and a half months
 8 before?
 9 A. Unfair?
 10 Q. Unfair to them. You're putting a document
 11 in front of them and saying, "Well, this is based
 12 on our contemporaneous notes, but we'd like you to
 13 review this and swear that it's true."
 14 A. I mean, that would be an opinion. Right?
 15 I don't know if it's --
 16 Q. Well, it's fair, though, that this was out
 17 of the ordinary, meaning that to the extent that it
 18 was important to get interview notes promptly to
 19 the interviewees so their recollection is fresh,
 20 that was not followed by OFCCP in this case.
 21 A. We -- I don't remember even -- so -- I
 22 mean, typically we try and even print out the
 23 interviews after the interview is conducted. So --
 24 but in this case, I'm not -- I don't remember what
 25 happened.

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1 Q. Do you know if you ever got it to them?
 2 A. I don't remember.
 3 Q. As a result of getting this email from
 4 Ms. Holman-Harries did you, "Oh, my gosh, we forgot
 5 to do this" and had your team get right on it and
 6 get them the interview notes, or did you just
 7 ignore it?
 8 A. I wouldn't have ignored it, but I don't
 9 remember --
 10 Q. Then what action would you have taken to
 11 ensure that interview notes were now provided to
 12 the March interviewees?
 13 A. I would have discussed it and found out
 14 what's -- what the status is and what ...
 15 Q. Do you recall any recollection of -- any
 16 recollection as you sit here today of actually
 17 doing so?
 18 A. I don't remember. I don't remember what I
 19 actually did. I think -- yeah, I just don't
 20 remember.
 21 (Deposition Exhibit 27 was marked for
 22 identification.)
 23 BY MR. SHWARTS:
 24 Q. Ms. Atkins, I've placed before you what's
 25 been marked as Exhibit 27. It is a letter from my

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1 partner Gary Siniscalco to you on July 9th, 2015,
 2 responding to your email that we've marked earlier
 3 as Exhibit 25.
 4 My first question to you is, when you
 5 received this letter, did you deal with it
 6 personally, or did you pass it on to others to be
 7 dealt with?
 8 A. I would have discussed it with my
 9 supervisors, yes.
 10 Q. So when you -- if I could use the passive
 11 tense, did you discuss this with your supervisors?
 12 A. Yes. I'm pretty sure I did.
 13 Q. Do you -- as you sit here today, do you
 14 recall this letter?
 15 A. Let me see. Yes, I remember getting it.
 16 Q. Did -- did you ever respond to it?
 17 A. I don't remember responding, but --
 18 Q. Because I don't have a written response
 19 that you ever sent. I'm asking if you recall there
 20 ever being one.
 21 A. I don't remember.
 22 Q. If you take a look at it, because there
 23 are some things I want to get your thoughts on,
 24 since it was written to you.
 25 If you look at the top of the second page.

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1 Mr. Siniscalco says:
 2 "In the 38 other OFCCP audits to date
 3 (other than Redwood Shores and the upcoming
 4 on-site in Pleasanton) OFCCP has followed its
 5 policies, regulations, and FCCM processes,
 6 treating Ms. Holman-Harries, her team, and
 7 other Oracle employees with mutual respect."
 8 Firstly, were you aware that prior to this
 9 time there had been 38 separate OFCCP audits of
 10 Oracle --
 11 A. No.
 12 Q. -- that Ms. Holman-Harries and her team
 13 were working on?
 14 A. No. I learned from Ms. Holman-Harries
 15 that there were a lot of audits.
 16 Q. Was that a surprise to you?
 17 A. I didn't have any expectations, so I
 18 didn't -- you know, it wasn't a surprise.
 19 Q. All right. But you have no reason to
 20 dispute this number, do you?
 21 A. No.
 22 Q. What is FCCM -- FCCM processes?
 23 A. It's a general guideline for compliance
 24 officers --
 25 Q. Stand for Federal Contract Compliance

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1 **Manual?**
 2 A. Yes, I believe so. I think that's what
 3 the "F" is.
 4 **Q. Is that a manual that you and your staff**
 5 **are supposed to follow in conducting audits?**
 6 A. It's a guideline to -- that generally
 7 lists out the process of conducting an audit and
 8 provides compliance officers and the field offices
 9 what to do next if certain situations arise in the
 10 process, what the next step would be.
 11 **Q. When you joined the OFCCP, were you**
 12 **provided training on how to conduct audits?**
 13 A. I went to a new compliance officer
 14 training, yes.
 15 **Q. And was the FCCM processes part of that**
 16 **training?**
 17 A. I don't remember going through the FCCM
 18 step by step in the training, but --
 19 **Q. Were you advised in your training that the**
 20 **FCCM -- the FCCM processes were something that as a**
 21 **compliance officer you should be referring to as**
 22 **guidance for how to conduct an audit?**
 23 A. Yes. They're -- they're provided
 24 knowledge of it and told to refer to it if needed.
 25 **Q. Two paragraphs down from that**

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1 **Mr. Siniscalco says:**
 2 **"Only two working days before coming on**
 3 **site in March (in violation of OFCCP's**
 4 **express directives to COs regarding written**
 5 **notice of on-site demands) Mr. Mikel emailed**
 6 **Ms. Holman-Harries with a list of nearly 400**
 7 **employees that he wanted to schedule for**
 8 **interview the next week."**
 9 Firstly, that's accurate. He did wait
 10 until a week before to send a letter asking for 400
 11 employees to be interviewed. Correct?
 12 A. I think in the previous exhibits, yes,
 13 there was something about last-minute --
 14 **Q. Mr. Siniscalco makes reference to**
 15 **directives to compliance officers regarding notice**
 16 **of on-site demands.**
 17 **Do you know what he's referring to?**
 18 A. Can you -- can you say that again?
 19 **Q. Sure. Mr. Siniscalco makes reference to**
 20 **OFCCP's directives to compliance officers regarding**
 21 **written notice of on-site demands.**
 22 **Do you know what he's referring to?**
 23 A. I don't.
 24 **Q. Are there directives to compliance**
 25 **officers about how far in advance of an on-site**

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1 **audit you should be asking the contractor for**
 2 **information?**
 3 A. Express directives? I -- I don't know.
 4 **Q. Is there guidance?**
 5 A. There's guidance. I don't recall the
 6 number or --
 7 **Q. Can you give me your best estimate as to**
 8 **how far in advance of an on-site you were guided --**
 9 **your compliance officers are guided to request**
 10 **information from a federal contractor to prepare**
 11 **for an on-site?**
 12 **More than a week? More than two weeks?**
 13 A. It should be reasonable, depending on the
 14 number of people requested to be interviewed, so --
 15 **Q. In the case of asking for 400 people to be**
 16 **interviewed, more than a couple days' notice would**
 17 **be reasonable. Correct?**
 18 **Meaning, in this case, Mr. Mikel sending a**
 19 **list of 400 people less than a week before the**
 20 **audit was unreasonable. Correct?**
 21 A. Did he want to speak to all 400 of these
 22 people? I don't -- I mean -- I -- I don't
 23 remember -- I don't know what specifically was said
 24 in the request, I guess, is my --
 25 **Q. To the extent that Mr. Mikel sent a**

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1 **note -- a letter asking to schedule interviews with**
 2 **400 people less than a week before an on-site, that**
 3 **would be unreasonable, would it not?**
 4 A. It depends on how he phrased it. It could
 5 be that 400 names -- sometimes names -- more names
 6 are requested than on-site scheduling will allow so
 7 that if somebody is not available, then somebody
 8 else could be interviewed. So it really depends on
 9 how it was requested and what was requested.
 10 **Q. Regardless, Ms. Holman-Harries and her**
 11 **staff were given a list of 400 names to see who**
 12 **would be available the following week. That's**
 13 **still 400 people they would have been required to**
 14 **contact in less than a week's time.**
 15 **Did you find that to be reasonable?**
 16 A. I mean, I -- I don't know what
 17 Ms. Holman-Harries said to them to -- to make it
 18 possible that 400 names may be a reasonable -- for
 19 example, if she had said something like, everybody
 20 has schedules that could change at the last minute,
 21 maybe she was not aware of who would be available
 22 or not because of travel or something like that, it
 23 could be something that could be reasonable.
 24 So it really -- I just don't know what
 25 the -- what was involved there.

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1 Q. Turn with me to page 5 of the letter.
 2 Mr. Siniscalco writes:
 3 "Despite several requests from Oracle
 4 before the on-site visit for specifics
 5 regarding OFCCP's summary assertion that
 6 there were 'indicators' of possible bias in
 7 hiring and compensation, OFCCP refused to
 8 respond and continues to this date."
 9 It's true, is it not, that as of July of
 10 2015 OFCCP had not provided any specifics
 11 underlying its general assertion that there might
 12 be indicators with respect to hiring and
 13 compensation?
 14 A. I can't -- I mean, I can't remember what
 15 exactly was provided or all the information that
 16 was provided.
 17 Q. Well, you certainly had not provided
 18 anything -- we've seen one paragraph that was sent
 19 by Mr. Mikel two weeks before the on-site making
 20 reference to compensation and hiring and PT -- you
 21 know, P1, P2, and P3.
 22 Aside from that one paragraph, are you
 23 aware of any other specific information that was
 24 provided to Oracle prior to July of 2015 that
 25 provided some specifics as to the indicators that

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1 raised concerns around hiring and compensation?
 2 A. I don't remember, other than what I saw in
 3 that last exhibit.
 4 Q. Following that, Mr. Siniscalco says:
 5 "At the beginning of the entrance
 6 conference, in the presence of senior Oracle
 7 executives who were there to welcome OFCCP
 8 and share their overall perspective of Oracle
 9 and its practices, and in the presence of the
 10 Regional Director Whipper, one OFCCP official
 11 made unprofessional, inaccurate and blatantly
 12 bullying comments, including a threat of
 13 possible criminal prosecution for giving
 14 supposedly false information."
 15 Does this refresh your recollection of
 16 comments that were made by Mr. Mikel at the
 17 entrance conference in March?
 18 A. I don't remember threats. I remember him
 19 explaining what their obligation is for speaking
 20 truthfully.
 21 Q. And did Mr. Mikel state that if it was a
 22 failure to speak truthfully, they could face
 23 criminal prosecution?
 24 A. I don't remember.
 25 Q. Possible; you just don't remember?

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1 A. Possibly. I don't remember.
 2 Q. Two paragraphs down, it says:
 3 "I explained to Mr. Mikel on March 31,
 4 several senior executives who were
 5 interviewed (women and minorities) felt
 6 disrespected and explained that their roles
 7 and efforts in affirmative action, diversity
 8 and inclusion were ignored due to the type
 9 and nature of some of the questions."
 10 Did Mr. Mikel ever share with you his
 11 conversation with Mr. Siniscalco?
 12 A. No.
 13 Q. So you have no way of saying whether that
 14 statement is true or not, meaning that he had that
 15 conversation with Mr. Mikel?
 16 A. I don't know.
 17 Q. Okay. He goes on to make comments about
 18 the audit. He says:
 19 "As a further example, despite OFCCP's
 20 insistence on having a large group of senior
 21 executives set aside times from their busy
 22 schedules for their interviews in March, many
 23 were canceled by your team at the last
 24 minute."
 25 Is that true? Did your team cancel

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1 interviews with senior executives?
 2 A. I don't remember that happening.
 3 Q. When you say you don't remember it
 4 happening, does it mean it didn't happen or you
 5 just don't remember it?
 6 A. I don't know.
 7 Q. It may have happened; you just don't
 8 remember?
 9 A. I don't know if it happened or not.
 10 Q. Okay. That's what I was getting to.
 11 Okay.
 12 So after the June -- after the
 13 June on-site, there was a July on-site scheduled as
 14 well?
 15 A. I don't remember.
 16 Q. Never mind. I'm skipping that. I looked
 17 at it and changed my mind.
 18 Was the June on-site -- was that the final
 19 on-site for Redwood Shores?
 20 A. I don't know.
 21 Q. You did one in Pleasanton in late July.
 22 Correct?
 23 A. I did one in Pleasanton. I don't know
 24 when.
 25 Q. Okay. Do you have memory of thereafter

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1 going back on site to Redwood Shores?
 2 A. I don't.
 3 (Deposition Exhibit 28 was marked for
 4 identification.)
 5 BY MR. SHWARTS:
 6 Q. Ms. Atkins, I've placed before you what
 7 we've marked as Exhibit 28, a series of emails that
 8 ends in an email from Hoan Luong to Shauna
 9 Holman-Harries in October, but there are some
 10 earlier emails that do involve you.
 11 One of my questions is, even though the
 12 "Re" lines in several of these later emails, the
 13 ones that involve you, say, "Re: Redwood Shores,"
 14 it was unclear to me as to whether or not the
 15 request for information here related to
 16 Redwood Shores or whether they related to
 17 Pleasanton.
 18 A. Which email?
 19 Q. Well, it starts on the bottom, and then
 20 there's an August 26 email, and this was provided
 21 by you. We don't have a copy of the -- your
 22 original email. It says, "We haven't received
 23 responses to the attached letter."
 24 So there must have been some information
 25 requested there. Then it moves up, and there's an

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1 email from Hoan Luong to Shauna Holman-Harries,
 2 copy to you, and it looks like there was
 3 compensation database information that was
 4 requested.
 5 Do you recall requesting compensation
 6 database information at the end of August?
 7 A. I don't remember.
 8 Q. Would that be something that would be a
 9 normal part of an audit on compensation?
 10 A. I mean, it depends on what may have been
 11 found out during the on-site.
 12 Q. Do you have any memory of there being in
 13 the summer of 2015 issues on compensation that
 14 would have required you to request compensation
 15 information?
 16 A. I don't remember.
 17 Q. If you look with me on the first page,
 18 you're off this email. I don't know why. But
 19 there are some things I want to ask you just to
 20 help me out here.
 21 Do you know what the -- he's referring
 22 to -- he says, "I want to bring to your
 23 attention" -- in the second paragraph -- "regarding
 24 the Labor Condition Applications (LCAs)" -- had
 25 submitted to OFCCP.

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1 Do you know what he's referring to there,
 2 what these LCAs are?
 3 A. Other than Labor Condition Applications?
 4 Q. Yeah. I'm asking, what are they?
 5 A. Oh. I think they were filings -- I mean,
 6 I'm not -- you know, for visas maybe. Labor
 7 Condition Applications.
 8 Q. All right. This is for audits relating to
 9 visa holders or visa --
 10 A. Probably.
 11 Q. Okay. In his fourth paragraph, he says --
 12 and this is dated October 1, 2015 -- "The OFCCP
 13 wish to expedite the audit but unable to do so as
 14 we are still waiting for multiple outstanding items
 15 to be submitted to OFCCP."
 16 Was it your understanding that as of
 17 October of 2015 the OFCCP was looking to expedite
 18 the audit?
 19 A. We're always trying to expedite the audit
 20 so --
 21 Q. There's nothing specific -- so was it true
 22 in the case of Oracle that you were trying to
 23 expedite the audit?
 24 A. Yes, of course.
 25 Q. But nothing unusual about that --

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1 A. No.
 2 Q. -- by your reaction.
 3 A. No.
 4 MR. SHWARTS: Okay. You know what? Why
 5 don't we take a short break. We're making good
 6 progress here, so ...
 7 THE VIDEO OPERATOR: We are going off the
 8 record. The time is 3:15 P.M.
 9 (Recess from 3:15 P.M. to 93:23 P.M.)
 10 THE VIDEO OPERATOR: We are back on the
 11 record. The time is 3:23 P.M.
 12 BY MR. SHWARTS:
 13 Q. At some point, OFCCP issued a notice of
 14 violation to Oracle based on its audit. Correct?
 15 A. Yes.
 16 Q. Do you recall when that happened?
 17 A. No.
 18 MR. SHWARTS: Let's mark this, please.
 19 (Deposition Exhibit 29 was marked for
 20 identification.)
 21 BY MR. SHWARTS:
 22 Q. Just for the moment -- and we're going to
 23 come back to it, but all I want you to do right now
 24 is look to see if that is, in fact, the notice of
 25 violation, and I want to remind you of the date,

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1 because that's what I'm interested on for the
 2 moment is the date.
 3 **So take a look at it and confirm for me**
 4 **that this is, in fact, the NOV and the date that it**
 5 **was issued.**
 6 A. Yes, yes. Notice of violation. Uh-huh.
 7 **Q. And it was in March -- on March 11, 2016?**
 8 A. Yes.
 9 **Q. Okay. So now that we have that date, I'd**
 10 **like to back up a little bit and understand from a**
 11 **process perspective, we had had the March on-site.**
 12 **Correct?**
 13 A. Right.
 14 **Q. In 2015. We had a June on-site at late**
 15 **June 2015 at Redwood Shores.**
 16 A. Okay.
 17 **Q. I've seen no indication of any further**
 18 **on-site, and --**
 19 A. Okay.
 20 **Q. -- you do not appear to have any**
 21 **recollection of any further on-site.**
 22 A. I don't.
 23 **Q. It appears there had been some requests**
 24 **for some comp data and other follow-up requests for**
 25 **information following the June on-site. Is that**

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1 **your recollection?**
 2 A. Yes.
 3 **Q. What was the next step in the process that**
 4 **led to Exhibit 29 following these requests for**
 5 **information over the summer of 2015?**
 6 A. So there would have been reviews
 7 conducted, the interviews and documents.
 8 Additional analysis would have been conducted. So
 9 all the evidence on hand would have been reviewed
 10 and analyzed, and then a determination would have
 11 been made.
 12 **Q. Okay. Was -- were there -- was there a**
 13 **statistical analysis conducted?**
 14 A. Yes.
 15 **Q. By whom?**
 16 A. I don't know specifically who. I think --
 17 I don't know if it was conducted by the statistical
 18 unit or if we had a contractor on board at the time
 19 who conducted the review.
 20 **Q. Do you know a man by the name of Robert**
 21 **LaJeunesse?**
 22 A. Yes.
 23 **Q. Does he work -- in 2015 and 2016 did he**
 24 **work for OFCCP?**
 25 A. I don't know when he started, but he -- he

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1 is at OFCCP.
 2 **Q. Is he a statistician?**
 3 A. Yes. I think he -- he was managing the
 4 unit in DC.
 5 **Q. Yeah, this is not a San Francisco unit.**
 6 **This is a national unit based in the home office,**
 7 **as it were.**
 8 A. There are statisticians located in field
 9 offices too, but --
 10 **Q. Did you have a statistician that was**
 11 **assigned to your San Francisco District Office at**
 12 **the time?**
 13 A. There's a statistician housed in the
 14 office, but he also works on other regional cases.
 15 **Q. Was the statistician that was housed in**
 16 **your office, did he work on the statistics that**
 17 **underlie Exhibit 29?**
 18 A. I don't remember.
 19 **Q. What was that person's name?**
 20 A. Andy Liu.
 21 **Q. But you don't recall whether Mr. Liu**
 22 **worked and did a statistical analysis that found**
 23 **its way into Exhibit 29, or whether that was done**
 24 **by Mr. LaJeunesse and his group in DC?**
 25 A. Well, Andy Liu is part of Mr. LaJeunesse's

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1 group, so -- but I don't know -- I can't remember
 2 who specifically worked on it.
 3 **Q. At some point was your office provided**
 4 **with a statistical analysis as part of this**
 5 **evaluation process?**
 6 A. Yes.
 7 **Q. When you say determinations were made,**
 8 **again, was an initial determination made by the**
 9 **compliance officers as to what action, if any,**
 10 **should be taken against Oracle?**
 11 A. Yes. They would have been making
 12 decisions too.
 13 **Q. Well, what I'm trying to get to is -- I'm**
 14 **trying to get a sense of, you know, in this**
 15 **instance, for Exhibit 29, where the decision was**
 16 **made. Was it made by the compliance officers, was**
 17 **it made by you, or was it made someplace else that**
 18 **was not you?**
 19 A. It was made -- it was -- I can't remember
 20 who initially made it, but it would have gone
 21 through everybody.
 22 **Q. Did it -- well, let me ask it a different**
 23 **way.**
 24 **Did a decision to issue Exhibit 29**
 25 **originate in your district office, or was a**

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1 decision made at the regional level to initiate the
 2 notice of violation?
 3 A. I'm just trying to remember if I was
 4 even -- I can't remember the details of the NOV,
 5 and so I can't remember if I was -- if I know even
 6 if I was involved in that stage of it.
 7 Q. Was there -- now here we are -- we're in a
 8 time period where your job -- I'm not quite sure --
 9 this is where the timing is kind of off.
 10 A. Yes.
 11 Q. Because there was a period of time in
 12 which you were the assistant to -- or the
 13 assistant -- or the term you used was --
 14 A. Special Assistant.
 15 Q. -- Special Assistant to the Regional
 16 Director and Deputy Regional Director.
 17 A. Yes. I think -- I think it might have
 18 been around this time period, and that's why I
 19 can't remember.
 20 Q. During your time working as the Special
 21 Assistant, would you have been involved assisting
 22 in what ultimately became Exhibit 29?
 23 A. I can't remember -- at this time in the
 24 process, I can't remember how much involvement I
 25 had with this case, and -- I mean, I -- I guess --

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1 let me just try and -- I was sort of pulled in and
 2 out when I became the Special Assistant.
 3 Q. So when you say "pulled in and out,"
 4 pulled in and out by whom?
 5 A. Working -- oh, by Janette.
 6 Q. Okay. So she'd ask you for help here and
 7 there on --
 8 A. Yes. That's how I remember it.
 9 Q. Did you work with or have any interaction
 10 with Mr. Doles with respect to the -- I see here
 11 that he signed this letter as District Director.
 12 A. So I must have been the Special Assistant
 13 during this time period.
 14 Q. So was he the District Director for
 15 San Francisco District during --
 16 A. I think he was --
 17 Q. -- a certain period of time?
 18 A. I don't think he was official -- I think
 19 he was acting -- I -- he might have been acting.
 20 I'm not sure. But he -- I mean, I don't remember
 21 him being officially the District Director.
 22 Q. So just from a -- the way things played
 23 out, for a period of time you were the District
 24 Director for San Francisco, and he was in a
 25 regional role.

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1 A. Yes.
 2 Q. And at some point it seems like you went
 3 to a regional role and he went to a district role.
 4 A. He could have been doing two roles at the
 5 same time. The regional -- the regional -- the
 6 Director of Regional Operations role as well as an
 7 acting role.
 8 Q. Was there some -- do you know why it was
 9 that you stopped being the District Director and
 10 took on this regional role?
 11 A. They -- they wanted me to be in this other
 12 role. They -- they asked me if I wanted to. It
 13 sounded interesting. It was a non-managerial role.
 14 I thought it would be something different, so I
 15 voluntarily took it.
 16 Q. And then you went back to doing the same
 17 thing again.
 18 A. What do you mean?
 19 Q. Because then you wound up going back to
 20 being --
 21 A. The District --
 22 Q. -- the District Director.
 23 A. I didn't go back to being the District
 24 Director.
 25 Q. Oh, you've got a policy and compliance

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1 role now.
 2 A. It's -- I mean, it's less casework now.
 3 Q. Okay. So as best as you can recall, what
 4 exposure, if any, did you have to the process that
 5 helped generate Exhibit 29?
 6 A. So I'm -- I -- you know --
 7 Q. Let me ask it a different way.
 8 A. Yeah.
 9 Q. To the extent that, if at all, there were
 10 different levels of recommendation that Exhibit 29
 11 should issue, were you part of that chain, meaning
 12 did you have any input into the process?
 13 A. Not the final process.
 14 Q. So while you were district director, you
 15 had input. Did you have input after you were
 16 district director?
 17 A. I was involved in helping to analyze
 18 certain parts of it, I believe. I believe I was
 19 involved in some of the conciliation discussions.
 20 Q. That's later.
 21 A. Yeah.
 22 Q. Not there yet.
 23 A. Other than that, I don't remember.
 24 (Discussion off the record.)
 25 THE VIDEO OPERATOR: We are back on the

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1 record. The time is 3:44 P.M.
 2 BY MR. SHWARTS:
 3 **Q. Thank you.**
 4 **Sorry, we've just -- we had a little issue**
 5 **with the court reporter. Let me just follow up a**
 6 **little bit on what we were talking about before we**
 7 **were interrupted.**
 8 **I just want to have an understanding in**
 9 **terms of your role as of winter-spring of -- you**
 10 **know, early 2016, and the role you would have had,**
 11 **if any, in the creation of Exhibit 29.**
 12 A. I did not help draft Exhibit 29 or -- I
 13 don't recall having a role. I mean --
 14 **Q. Were you -- was part of your job in any**
 15 **respect making recommendations as to whether or not**
 16 **from a substantive standpoint Exhibit 29 should**
 17 **issue?**
 18 A. No. I did not have a role in that.
 19 **Q. You would have had that role were you**
 20 **still District Director; but since you weren't in**
 21 **that role, you didn't partake in that process?**
 22 A. Right.
 23 **Q. Do you have any recollection of when it**
 24 **was that you stepped out of the District Director**
 25 **role?**

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1 A. I don't know what part of the process
 2 before this.
 3 **Q. Well, let me ask it a different way.**
 4 **Do you recall at what -- what was the --**
 5 **what stage of the process were things with the**
 6 **Oracle audit at the time you stopped being District**
 7 **Director?**
 8 A. I don't know. I don't remember.
 9 **Q. Had any decisions been made at that point**
 10 **as to whether or not a Notice of Violation would be**
 11 **recommended to be issued before you stepped down?**
 12 MR. SHULTZ: Objection. Deliberative
 13 process privilege. The witness is instructed not
 14 to reveal the contents of deliberations,
 15 pre-decisional deliberations of government
 16 officials.
 17 Otherwise, you can answer.
 18 BY MR. SHWARTS:
 19 **Q. I'm not asking for substance of a**
 20 **conversation. I'm just saying that from a**
 21 **status -- time standpoint, at the time that you**
 22 **left, had any -- had the process which led to**
 23 **Exhibit 29 begun in terms of recommendations**
 24 **starting at the compliance officer level -- if**
 25 **that's, in fact, where they started, had that**

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1 **process begun before you stepped out of your role?**
 2 A. I don't remember.
 3 **Q. Do you remember yourself making any**
 4 **recommendations, pro or con, with respect to a**
 5 **prospective Notice of Violation before you stepped**
 6 **out of your role?**
 7 A. No.
 8 **Q. Do you have any understanding as to what**
 9 **role the statistical analysis played in the**
 10 **issuance of Exhibit 29?**
 11 A. It would have played a strong role in the
 12 compensation, and I remember the compensation, it
 13 playing a strong role in that. I don't remember
 14 details about the other.
 15 **Q. Well, if you look at Exhibit 29,**
 16 **Violation 2, Violation 3, Violation 4, Violation 5,**
 17 **all refer to Attachment A, which is the -- what is**
 18 **called a -- what's referred to as a progression**
 19 **analysis.**
 20 A. Okay.
 21 **Q. So at least with respect to those?**
 22 A. Yes. There would have been statistical
 23 analysis.
 24 **Q. Meaning but for that statistical analysis,**
 25 **the NOV would not have issued?**

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1 A. But for --
 2 **Q. For those violations. Those violations**
 3 **are based on -- to your understanding were based on**
 4 **a statistical analysis.**
 5 A. Right.
 6 **Q. In Violation 1 there's a reference to**
 7 **Asian Indians as a group.**
 8 **Is that a category that you were working**
 9 **doing analysis of when you were District Director?**
 10 A. I remember looking at Asian Indians,
 11 analyzing.
 12 **Q. Do you know whether or not Oracle, you**
 13 **know, gathered information and provided you**
 14 **information that actually separated out Asian**
 15 **Indians as -- you know, by that designation as**
 16 **employees?**
 17 A. I don't remember that they actually
 18 designated employees as Asian Indians.
 19 **Q. Then how did you and your team decide who**
 20 **was an Asian Indian and who was not?**
 21 A. I believe it was mentioned in the -- let's
 22 see. Somewhere it was mentioned how the analysis
 23 was conducted. I can't remember where it was
 24 explained how that was done.
 25 **Q. Okay. And that was not explained in**

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1 **Exhibit 29. Right?**
 2 A. Yeah. Not explained here.
 3 **Q. You'll agree with me that Exhibit 29 --**
 4 **although Violation Number 1 does not make a**
 5 **specific reference to Attachment A, it does make**
 6 **reference to a statistical analysis in reference to**
 7 **standard deviation. So like Violations 2 through**
 8 **5, Violation 1 was also based on a statistical**
 9 **analysis.**
 10 A. Yes. There were standard deviations here.
 11 **Q. All right. So at the end of the day,**
 12 **despite all the on-site interviews and other**
 13 **information that was conducted, Violations 1**
 14 **through 5 in the NOV were based on statistics,**
 15 **based on an analysis of statistics based on**
 16 **information that was provided electronically by**
 17 **Oracle. Correct?**
 18 A. It was based on the whole of the evidence.
 19 So including interviews, any policies submitted --
 20 **Q. But for the standard deviations that**
 21 **appeared and are contained in Exhibit 29, it's fair**
 22 **to say that no NOV would have issued but for the**
 23 **statistical analysis. Is that fair?**
 24 A. I can't say that, because I wasn't -- I
 25 don't remember this -- this part of it, so I don't

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1 remember if I could -- I don't think I could say
 2 that.
 3 **Q. That is certainly what is called out,**
 4 **though, in Exhibit 29. Violation 1 refers to**
 5 **hiring data, and the remaining violations refers to**
 6 **the Attachment A.**
 7 **The balance of the violations, 6 onward,**
 8 **are more in the terms of practice violations in**
 9 **terms of record retention and --**
 10 A. It says, "Through regression and other
 11 analysis."
 12 **Q. So that leads you to believe that -- that**
 13 **besides the actual statistical analysis, there may**
 14 **have been some other analysis that would bear upon**
 15 **the reason why Exhibit 29 was entered, was issued?**
 16 A. Yes, it looks like it's statistical
 17 analysis and other analysis.
 18 **Q. All right. We'll come back to that in a**
 19 **couple minutes.**
 20 **Can I have 98, please.**
 21 (Deposition Exhibit 30 was marked for
 22 identification.)
 23 BY MR. SHWARTS:
 24 **Q. Ms. Atkins, I've placed before you what**
 25 **we've marked as Exhibit 30. It's a letter from**

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1 **Robert Doles to Shauna Holman-Harries, copy to you,**
 2 **on March 29, 2016.**
 3 A. Okay.
 4 **Q. Did you see a copy of this before it was**
 5 **sent out, or did you just receive a copy of it**
 6 **after it was prepared and sent out?**
 7 A. I don't remember receiving it before.
 8 **Q. Mr. Doles says to Ms. Holman-Harries:**
 9 **"During the entrance conference held on**
 10 **March 24, 2015, OFCCP discussed with you and**
 11 **other Oracle representatives the preliminary**
 12 **indicators and areas of concern at issue in**
 13 **the compliance evaluation, including Oracle's**
 14 **compensation and hiring practices."**
 15 **Other than simply saying that there was**
 16 **concerns about their compensation and hiring**
 17 **practices, what other information was provided at**
 18 **the preliminary -- at the entrance exam -- entrance**
 19 **conference?**
 20 A. I don't remember the details.
 21 **Q. Do you have any recollection of any**
 22 **substantive information being provided at the**
 23 **entrance conference other than a statement of**
 24 **general concern?**
 25 A. No, I don't remember. I don't remember

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1 what was said at the entrance conference.
 2 **Q. He then goes on to say:**
 3 **"At the exit conference held on March 27,**
 4 **2015, OFCCP informed you and Neil Bourque**
 5 **that the Agency would conduct further**
 6 **analysis and any Agency findings would be**
 7 **issued in a formal notice."**
 8 **Do you recall that ever happening, or is**
 9 **this just something he's just making up?**
 10 A. It might have been said when I wasn't
 11 present. It might have been -- it might have been
 12 Brian Mikel and somebody else.
 13 **Q. That wouldn't have been an exit**
 14 **conference. That would have been like, "We'll get**
 15 **back to you."**
 16 A. I don't know.
 17 **Q. Do you know if any substantive information**
 18 **was provided to Oracle on March 27th at the**
 19 **conclusion of the March on-site?**
 20 A. I don't know. I wasn't present.
 21 **Q. And he goes on to say:**
 22 **"Upon conclusion of the follow-up on-site**
 23 **review on June 25, 2015, OFCCP informed you**
 24 **and Oracle representatives Neil Bourque,**
 25 **Charles Nyakundi, and outside counsel Gary**

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1 Siniscalco that the Agency would review the
 2 information collected and conduct further
 3 analysis to determine its findings."
 4 In fact, you specifically, as we saw
 5 earlier, told them that no exit review -- exit
 6 conference would be conducted because you weren't
 7 finished with your analysis. Correct?
 8 A. Wait. Upon conclusion -- is he saying
 9 that on --
 10 Q. At the end of the June on-site.
 11 A. On June 25?
 12 Q. He's saying, "OFCCP informed Oracle that
 13 the Agency would review the information collected
 14 and conduct further analysis to determine its
 15 findings."
 16 A. I don't know. I wasn't there.
 17 Q. Well, we did recall the letter that
 18 Ms. Wipper wrote for you in which you concluded
 19 saying there was not going to be an exit conference
 20 because you weren't done with your findings yet.
 21 Do you recall that?
 22 A. Yes. There was that letter, and it said
 23 that.
 24 Q. Any other substantive information that was
 25 provided to Oracle regarding the agency's findings

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1 at the end of the June on-site?
 2 A. Not that I know of.
 3 Q. Are you aware of any other substantive
 4 findings that were provided to Oracle prior to the
 5 time that you stopped being the District Director?
 6 A. No, I don't recall.
 7 Q. Are you aware of any other substantive
 8 findings that were provided to Oracle at any time
 9 prior to the issuance of the NOV in March of 2016?
 10 A. When you say "substantive findings," do
 11 you mean actual conclusions or --
 12 Q. Yeah, actual conclusions with support and
 13 supporting information.
 14 A. I don't recall.
 15 Q. Do you recall at any time -- other than,
 16 again, the general concerns expressed by Mr. Mikel
 17 prior to the March on-site, at any time prior to
 18 you stopped -- cease being District Director, did
 19 OFCCP outline its specific concerns about
 20 employment practices at Oracle?
 21 A. I don't remember other than what may
 22 already be in the communications that are written.
 23 Q. Do you recall as District Director
 24 providing Oracle with any other specific
 25 information regarding its employment practices

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1 during the course of the audit until the time you
 2 stopped being District Director?
 3 A. I don't recall. I don't remember.
 4 Q. Does that mean it didn't happen, or --
 5 because you can't remember it, or you think it may
 6 have happened but --
 7 A. I don't remember it. I mean, if it's
 8 written somewhere, then it's probably --
 9 Q. Well, I'll represent to you that it's not
 10 based on any document production that -- I've given
 11 you what there is on this topic.
 12 Do you have any -- as you sit here, think,
 13 God, I remember writing something or sending
 14 something to Oracle that said, this is what we're
 15 concerned about, here are the specific indicators
 16 that we're concerned about?
 17 A. Nothing other than what's already been
 18 looked at.
 19 Q. Thank you.
 20 (Deposition Exhibit 31 was marked for
 21 identification.)
 22 BY MR. SHWARTS:
 23 Q. I've placed before you what's been marked
 24 as Exhibit 31. It's an email from Gary Siniscalco
 25 to you dated April 20, 2016.

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1 Do you recall receiving this note from
 2 Mr. Siniscalco?
 3 A. I believe I do.
 4 Q. He notes at the beginning, "Good to hear
 5 you are back in the SF Director's chair."
 6 Was he mistaken?
 7 A. I think so. I was not -- I did not return
 8 back to the SF Director's chair. So Mr. Doles may
 9 have left, and I might have been pulled back into
 10 this case.
 11 Q. Do you recall responding back at all to
 12 Mr. Siniscalco's email?
 13 A. I -- I don't remember -- wait. Let me see
 14 here.
 15 I don't remember responding back, but --
 16 MR. SHULTZ: Let's mark this, please.
 17 (Deposition Exhibit 32 was marked for
 18 identification.)
 19 BY MR. SHWARTS:
 20 Q. I've placed before you what's been marked
 21 Exhibit 32. It's an email from you to Shauna
 22 Holman-Harries and Juana Schurman dated April 22,
 23 2016, with an attached letter addressed to Gary
 24 Siniscalco.
 25 Please take a look at it and let me know

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1 when you're ready to proceed.
 2 A. (Examining document.) Okay.
 3 Q. First of all, did you write the attached
 4 letter or was it written for you?
 5 A. It was written for me.
 6 Q. Do you know by whom?
 7 A. I know Janette. I don't know who else.
 8 Q. Did you review its substance before you
 9 signed your name to it?
 10 A. Yes.
 11 Q. Did you have a basis -- did you like --
 12 did you check her work?
 13 A. Did I check her work?
 14 Q. Yeah, to see whether she wrote in here
 15 was -- what she wrote in here was accurate.
 16 A. As far as I know, yes.
 17 Q. As I read this letter, again, there's
 18 reference made to the statistical analysis that was
 19 referenced in Mr. Doles' letter. Correct?
 20 A. Yes.
 21 Q. Then there's an appendix, which again
 22 simply refers to the statistical analysis and
 23 provides no other additional analysis.
 24 Aside from simply noting that there is a
 25 statistical analysis that's referenced in

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1 Mr. Doles's Notice of Violations, is there any
 2 other substantive analysis that's contained in your
 3 letter to Mr. Siniscalco supporting the NOV?
 4 A. So there's a lot of footnotes here. It
 5 looks like this letter is mainly focused on
 6 statistics.
 7 Q. At this point, as of the date of your
 8 letter, other than the top-line information that's
 9 contained in the Notice of Violation and repeated
 10 in your letter, had OFCCP provided any underlying
 11 information regarding its statistical analysis that
 12 would have afforded Oracle the opportunity to rebut
 13 or challenge those statistics?
 14 A. I don't know.
 15 Q. You were not responsible for sending any
 16 to them, were you?
 17 A. I don't remember.
 18 MR. SHWARTS: Let's mark the next exhibit,
 19 please.
 20 (Deposition Exhibit 33 was marked for
 21 identification.)
 22 BY MR. SHWARTS:
 23 Q. I've placed before you what's been marked
 24 as Exhibit 33. It is a letter from you to Gary
 25 Siniscalco dated September 9, 2016.

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1 Take a look at it and let me know when
 2 you're ready to proceed.
 3 A. (Examining document.)
 4 Q. Are you ready to proceed?
 5 A. Yes.
 6 Q. Did you write this or did someone write it
 7 for you?
 8 A. I can't remember if I wrote this, but I
 9 would have reviewed it.
 10 Q. Given how other similar letters had been
 11 prepared previously, would it stand to reason that
 12 Ms. Wipper wrote this one too?
 13 A. She would have been involved in it. I
 14 don't know how to -- I can't remember in this one
 15 how -- but yes, she would have had -- she would
 16 have reviewed it.
 17 Q. You notice in the prior couple of exhibits
 18 that we have provided, including two that you've
 19 written, that the government is asking Oracle to
 20 rebut and to put in information to rebut the Notice
 21 of Violation. Correct?
 22 A. I -- yes, I believe that term was used.
 23 Q. Is that your term, or was that someone
 24 else's term?
 25 A. I think it was someone else's term.

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1 Q. Is it your understanding -- is your
 2 understanding, Ms. Atkins, that when a Notice of
 3 Violation issues, the accused contractor has to
 4 rebut the government's -- has an obligation to
 5 rebut the Notice of Violation? Has that been your
 6 experience?
 7 A. There's no requirement to rebut.
 8 Q. Now, when a Notice of Violation issues, in
 9 essence the government is saying that they're --
 10 they have found that there are violations that the
 11 company needs to correct. Is that fair?
 12 A. Yes.
 13 Q. And the best possible outcome of that
 14 would be for the company to correct those
 15 violations based on an NOV. Correct?
 16 A. Right.
 17 Q. And in order to do that, it would be
 18 helpful to the company to have an understanding of
 19 the basis for the violations in order to correct
 20 those violations. Correct?
 21 A. Yes, that's reasonable.
 22 Q. Okay. So to the extent that, for example,
 23 the government is alleging that they found some
 24 statistical disparities in compensation, it might
 25 be helpful to the contractor to understand the

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1 basis for those statistical disparities so they can
 2 understand them and either argue against them or
 3 take steps to correct them. Fair?
 4 A. Yes.
 5 Q. Okay. Now, was there ultimately a
 6 conciliation meeting scheduled between Oracle and
 7 the OFCCP?
 8 A. I remember a conciliation meeting.
 9 Q. All right. Now, I'm going to talk more
 10 generally for purposes of our deposition.
 11 In the OFCCP world, what is a conciliation
 12 meeting?
 13 A. It could be an in-person meeting. It
 14 could be by telephone. It's a discussion of the
 15 violations that have been found and steps to remedy
 16 it and come to agreement on how to do so so that
 17 the case could be resolved.
 18 Q. The purpose of it is to seek to bring --
 19 seek to resolve the Notice of Violation. Fair?
 20 A. Right.
 21 Q. Correct?
 22 A. Correct.
 23 Q. Okay. So in this case there was a
 24 conciliation meeting that was held. This was in
 25 October of 2015 -- 2016, approximately?

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1 A. Probably.
 2 Q. Were you in attendance at the conciliation
 3 meeting?
 4 A. I remember being in attendance to one of
 5 them.
 6 Q. Do you believe there was more than one or
 7 just one?
 8 A. There might have been more. I don't know.
 9 Q. At least as far as you were concerned
 10 there was only one that you attended?
 11 A. That I attended I remember.
 12 Q. Do you recall who else attended the
 13 meeting that you did?
 14 Let's start with, who attended from OFCCP?
 15 A. Okay. Jane, Janette, Hoan --
 16 Q. So let's -- that would be Janette Wipper.
 17 Correct?
 18 A. That's right.
 19 Q. Jane Suhr. Correct?
 20 A. Yes.
 21 Q. Hoan Luong?
 22 A. Yes.
 23 Q. Yourself.
 24 A. Yes.
 25 Q. Did Mr. Doles attend?

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1 A. I don't remember Mr. Doles.
 2 Q. Anyone else from the OFCCP side?
 3 A. Maybe there was somebody from the legal
 4 unit. I -- I forgot his name -- in the legal unit
 5 might have attended.
 6 Q. Anyone else you recall from the OFCCP
 7 side?
 8 A. I don't remember.
 9 Q. And how about from Oracle? Who was at the
 10 conciliation meeting that you attended from Oracle?
 11 A. So Gary Siniscalco, Erin Connell.
 12 Q. Erin Connell, yes.
 13 A. Connell, okay. Was Shauna -- I don't
 14 remember if Shauna Holman-Harries was there.
 15 Q. Was Juana Schurman there from Oracle?
 16 A. She might have been there. I remember
 17 about four to five people. I can't remember for
 18 sure.
 19 Q. Aside from Mr. Siniscalco, was it -- all
 20 the rest were women?
 21 A. I don't remember. Maybe Charles was there
 22 since he, I believe, is local.
 23 Q. Anyone else you recall?
 24 A. No.
 25 Q. Do you recall how long the meeting lasted?

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1 A. Maybe an hour.
 2 Q. All right. Do you recall what was
 3 discussed?
 4 A. That -- the Notice of Violation. I don't
 5 remember all the details.
 6 Q. Did Oracle at this meeting ask for
 7 evidence or information supporting the NOV;
 8 specifically, statistical information or
 9 information supporting the statistical information
 10 contained in the NOV?
 11 A. I can't remember the specific questions.
 12 Q. Do you recall generally if Oracle was
 13 asking for more information supporting the NOV?
 14 A. I think so.
 15 Q. Was any provided at that meeting?
 16 A. I think so verbally. I think some
 17 responses were given. I can't remember the details
 18 of it.
 19 Q. Do you recall any -- any specifics at all
 20 as to what was provided at the conciliation
 21 meeting? For example --
 22 A. I don't know.
 23 Q. -- was any -- were any documents given to
 24 Oracle supporting the underlying statistical
 25 information?

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1 A. I can't remember.

2 **Q. Were you asked to prepare any in advance?**

3 A. I don't remember.

4 **Q. Did you come to the -- to the conciliation**

5 **meeting prepared to yourself impart information to**

6 **Oracle?**

7 A. Not specifically.

8 **Q. All right. Then who on your team was**

9 **responsible for doing that?**

10 A. I don't remember the details.

11 **Q. Did any of the members of your team tell**

12 **Oracle what they needed to do in order to come into**

13 **compliance with the NOV?**

14 A. I can't remember the specifics. I mean, I

15 took notes, so I -- I didn't -- I just can't

16 remember.

17 **Q. Did you -- what happened to those notes**

18 **after you took them?**

19 A. I gave it to the team members so that they

20 could look at it, review it.

21 **Q. And then what happened to them?**

22 A. I don't know. It's in the case file

23 probably. I don't know.

24 MR. SHWARTS: Counsel, I believe in --

25 notes from a meeting where Oracle was in attendance

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1 would be responsive to our requests, and they

2 should have been produced if they have not already

3 been, and I ask that someone take a look for them.

4 And to the extent that Ms. Atkins took notes from

5 any conciliation meeting, especially given the

6 importance of that meeting to our defense in this

7 case, that we ask that they be produced and be

8 produced promptly.

9 MR. SHULTZ: And I'll get you a response.

10 BY MR. SHWARTS:

11 **Q. At any time during the meeting that you**

12 **were present at did you ever tell Oracle what it**

13 **needed to do to come into compliance with the NOV?**

14 A. I don't remember the specifics.

15 **Q. At any time are you aware of any oral or**

16 **written communication prior to the filing of this**

17 **litigation in which the OFCCP advised Oracle what**

18 **it needed to do to come into compliance with the**

19 **NOV?**

20 A. I don't remember other than what, you

21 know, letters have been exchanged. I don't

22 remember beyond that.

23 **Q. Did the OFCCP tell Oracle what concrete**

24 **programmatic changes to its policies or practices**

25 **would bring it into compliance with the NOV?**

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1 A. Again, same response: I just don't know,

2 other than what's already been exchanged through

3 writings.

4 **Q. Did at any time the OFCCP provide to**

5 **Oracle its basis or method for determining the**

6 **statistical disparities underlying the NOV?**

7 A. I don't know.

8 **Q. At any time did -- prior to the filing of**

9 **this litigation, are you aware if the OFCCP, during**

10 **conciliation or otherwise, provided Oracle with an**

11 **amount of back pay that would be sufficient to cure**

12 **the NOV?**

13 A. I don't remember.

14 **Q. Was there any discussion that you**

15 **participated in in which it was decided that**

16 **information would be intentionally withheld from**

17 **Oracle --**

18 A. No.

19 **Q. -- relating to the statistical analysis**

20 **underlying the NOV?**

21 A. No.

22 **Q. At any time did you ask people that you**

23 **work with why the basis for the statistical**

24 **analysis was not provided to Oracle?**

25 A. No.

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1 **Q. All right. Did you or any of the team**

2 **members that you worked with discuss intentionally**

3 **withholding information from Oracle as to how it**

4 **could come into compliance?**

5 A. No.

6 **Q. Do you know of any reason why the OFCCP**

7 **did not during its conciliation meetings provide**

8 **Oracle with a basis for it to come into compliance**

9 **with the NOV?**

10 MR. SHULTZ: Objection. Assumes facts.

11 BY MR. SHWARTS:

12 **Q. You may answer.**

13 A. No, I don't know.

14 MR. SHWARTS: Let me take a short break.

15 Let me check my notes. Close to done.

16 THE VIDEO OPERATOR: We are going off the

17 record. The time is 4:25 P.M.

18 (Recess from 4:25 P.M. to 4:29 P.M.)

19 THE VIDEO OPERATOR: We are back on the

20 record. The time is 4:29 P.M.

21 BY MR. SHWARTS:

22 **Q. Ms. Atkins, did you ever have any**

23 **discussions with Janet Wipper in which she**

24 **expressed a view that Oracle was not in compliance**

25 **with the executive order?**

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1 MR. SHULTZ: Object. Deliberative process
 2 privilege. Instruct the witness not to reveal any
 3 pre-decisional deliberations between US government
 4 officials.
 5 Otherwise, you can answer.
 6 BY MR. SHWARTS:
 7 **Q. I'm not asking for deliberations. I'm**
 8 **asking if the woman expressed an opinion, unrelated**
 9 **to deliberations, as to whether she believed that**
 10 **Oracle was in violation of the executive order.**
 11 A. Yes. She expressed an opinion.
 12 **Q. And what opinion did she express?**
 13 A. What's in the NOV. Right? I mean, what
 14 other --
 15 **Q. I'm asking -- well, obviously, to the**
 16 **extent that she -- Mr. Doles signed it, I assume it**
 17 **reflects her view.**
 18 A. Yeah, she reviewed --
 19 **Q. I'm asking whether or not -- I'm asking**
 20 **whether or not -- in your presence, orally, did she**
 21 **ever express her opinion that she believed that,**
 22 **aside from what's stated in the NOV, that Oracle**
 23 **was a company that was in violation of the**
 24 **executive order?**
 25 A. I remember her expressing an opinion, yes.

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1 **Q. Can you recall the context of when she did**
 2 **and where she did so?**
 3 A. I don't remember when. It would have been
 4 in the office.
 5 **Q. Do you recall what she said?**
 6 A. Not specifically.
 7 **Q. How about generally, since you recall**
 8 **something? What is it that you recall?**
 9 A. I recall about compensation, about hiring,
 10 that the -- that there's a violation.
 11 **Q. And what do you recall her saying?**
 12 A. I don't remember all the -- I don't
 13 remember the specifics.
 14 **Q. Was she commenting on statistical**
 15 **evidence, or was she just stating her own general**
 16 **opinion that she believed Oracle's compensation**
 17 **violated the executive order?**
 18 A. Can you repeat that? I don't know the
 19 distinction.
 20 **Q. Right. You said that to the extent**
 21 **that -- your testimony was, I recall about**
 22 **compensation, about hiring, that there's a**
 23 **violation.**
 24 **Anything more specific that you recall**
 25 **Ms. Wipper saying about her opinion that Oracle was**

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1 **in violation of the executive order?**
 2 A. No, I don't remember specifically what she
 3 said.
 4 **Q. You just remember that she said something.**
 5 A. I remember violations in those areas.
 6 **Q. How about Ms. Suhr? Do you ever recall**
 7 **her making any comments --**
 8 A. No.
 9 **Q. -- expressing her opinions about whether**
 10 **or not she believed that Oracle was in violation of**
 11 **the executive order?**
 12 A. I don't remember.
 13 **Q. It's possible, but you just have no memory**
 14 **of it?**
 15 A. I don't have any remember -- memory of it.
 16 **Q. Do you believe that Ms. Wipper was biased**
 17 **in any way against Oracle?**
 18 A. There's -- no, I don't. I mean, I don't
 19 -- no.
 20 **Q. You believe that the tone of the letters**
 21 **that Ms. Wipper wrote for you to sign reflected**
 22 **her -- her views with respect to Oracle's conduct**
 23 **under the audit?**
 24 A. What do you mean?
 25 **Q. Well, the letters that you signed made**

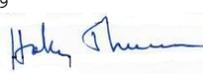
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1 **certain accusations against Oracle, accused Oracle**
 2 **of obstructing the audit, of not being cooperative**
 3 **in the audit, of engaging in various types of**
 4 **misconduct.**
 5 **Do you believe that those -- the language**
 6 **in the letters that you signed reflected**
 7 **Ms. Wipper's view of Oracle's conduct?**
 8 A. She reviewed the letters, yes, so --
 9 **Q. Well, she wrote the letters.**
 10 A. So it would reflect her view.
 11 **Q. Right.**
 12 A. Right?
 13 **Q. I mean, as we've discussed, she wrote the**
 14 **letters that you signed as you indicated that she**
 15 **prepared for you.**
 16 A. Yeah. She wrote most of them, yes.
 17 **Q. And so to that extent, it did reflect**
 18 **Ms. Wipper's view of Oracle's conduct during the**
 19 **audit.**
 20 A. To -- to the extent of what's in the
 21 letter themselves, I -- I mean, that's her view, so
 22 I can't say more than that.
 23 **Q. Okay. Aside from the document that I have**
 24 **identified, and I'll review the transcript about**
 25 **some of the deliberative-process privilege that you**

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1 asserted, I have no further questions at this time.
 2 MR. SHULTZ: Nothing from me.
 3 MR. SHWARTS: Thank you.
 4 THE VIDEO OPERATOR: This concludes
 5 today's deposition. We are off the record. The
 6 time is 4:35 P.M.
 7 (Time noted, 4:35 P.M.)
 8 --o0o--
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1 CERTIFICATE OF STENOGRAPHIC REPORTER
 2 I, the undersigned, a Certified Shorthand Reporter
 3 of the State of California, do hereby certify:
 4 That the foregoing proceedings were taken before
 5 me at the time and place herein set forth; that any
 6 witnesses in the foregoing proceedings, prior to
 7 testifying, were duly sworn; that a record of the
 8 proceedings was made by me using machine shorthand,
 9 which was thereafter transcribed under my direction;
 10 that the foregoing transcript is a true record of the
 11 testimony given.
 12 Further, that if the foregoing pertains to the
 13 original transcript of a deposition in a federal case,
 14 before completion of the proceedings, review of the
 15 transcript [] was [X] was not requested.
 16 I further certify I am neither financially
 17 interested in the action nor a relative or employee of
 18 any attorney or party to this action.
 19 IN WITNESS WHEREOF, I have this date subscribed my
 20 name.
 21
 22 Dated: June 17, 2019
 23
 24 
 25 Holly Thuman
 RMR, CRR, CSR No. 6834

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1 DECLARATION UNDER PENALTY OF PERJURY
 2 Case Name: OFCCP vs. Oracle America, Inc.
 3 Date of Deposition: 06/10/2019
 4 Job No.: 10056896
 5
 6 I, HEA JUNG ATKINS, hereby certify
 7 under penalty of perjury under the laws of the State of
 8 _____ that the foregoing is true and correct.
 9 Executed this ____ day of
 10 _____, 2019, at _____.
 11
 12
 13 _____
 14 HEA JUNG ATKINS
 15
 16 NOTARIZATION (If Required)
 17 State of _____
 18 County of _____
 19 Subscribed and sworn to (or affirmed) before me on
 20 this ____ day of _____, 20____,
 21 by _____, proved to me on the
 22 basis of satisfactory evidence to be the person
 23 who appeared before me.
 24 Signature: _____ (Seal)
 25

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1 DEPOSITION ERRATA SHEET
 2 Case Name: OFCCP vs. Oracle America, Inc.
 3 Name of Witness: Hea Jung Atkins
 4 Date of Deposition: 06/10/2019
 5 Job No.: 10056896
 6 Reason Codes: 1. To clarify the record.
 7 2. To conform to the facts.
 8 3. To correct transcription errors.
 9 Page ____ Line ____ Reason ____
 10 From ____ to ____
 11 Page ____ Line ____ Reason ____
 12 From ____ to ____
 13 Page ____ Line ____ Reason ____
 14 From ____ to ____
 15 Page ____ Line ____ Reason ____
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 22 From ____ to ____
 23 Page ____ Line ____ Reason ____
 24 From ____ to ____
 25 Page ____ Line ____ Reason ____
 26 From ____ to ____

1 DEPOSITION ERRATA SHEET

2 Page ____ Line ____ Reason ____

3 From _____ to _____

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5 From _____ to _____

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7 From _____ to _____

8 Page ____ Line ____ Reason ____

9 From _____ to _____

10 Page ____ Line ____ Reason ____

11 From _____ to _____

12 Page ____ Line ____ Reason ____

13 From _____ to _____

14 Page ____ Line ____ Reason ____

15 From _____ to _____

16 Page ____ Line ____ Reason ____

17 From _____ to _____

18 Page ____ Line ____ Reason ____

19 From _____ to _____

20 Page ____ Line ____ Reason ____

21 From _____ to _____

22 ____ Subject to the above changes, I certify that the
transcript is true and correct

23 ____ No changes have been made. I certify that the
transcript is true and correct.

24

25 _____
HEA JUNG ATKINS

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