STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CASE NO. 26-2084EC

IN RE: BRYAN LOBER,

Respondent.
_____/

TRANSCRIPT OF HEARING PROCEEDINGS

Final Hearing

VOLUME 1 (Pages 1 - 137)

DATE TAKEN: June 29, 2026
TIME: 9:33 a.m. - 1:18 p.m.
PLACE: REMOTE

BEFORE: Judge JAMES PETERSON
Administrative Law Judge

This cause came on to be heard at the time and place aforesaid, when and where the following proceedings were reported by:

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Yvonne Laflamme, additional reporter

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Proceedings began at 9:33 a.m.:

THE COURT: June 30th (sic), 2026. It's approximately 9:30 -- well, it's 9:33 a.m. eastern standard time. We're joined here today by Zoom conference for a final administrative hearings in the case of In Re: Bryan Lober before the Division of Administrative Hearings, we refer to it as DOAH. The case has been assigned DOAH case number 25-2084. I had it 22, that was some old instructions I've got here. No, it's not 25, it's 26-2084, by my agency. My name is James Peterson.

I'm known as Pete Peterson by a lot of folks. I'm the ALJ who has been -- or the Administrative Law Judge, ALJ, to whom this case has been assigned and I'll be presiding over the case today. Would the parties are their representatives or counsel, please identify themselves starting with the petitioner, or not petitioner, but the advocate. Is the advocate here? Hello?

MR. LOBER: Your Honor.

MR. SPICOLA: He's been having some microphone issues, Your Honor..

MR. LOBER: Yes, sir.

THE COURT: Microphone issues? You don't look like you're muted, but I just can't hear you. Do

you want to log out and log back in? I'll let you in. Here's a [redacted], who I'll let in. Is that your spouse, Mr. Lober?

MR. LOBER: Yes, Your Honor. That's correct.

THE COURT: She's coming.

MR. LOBER: Thank you, sir.

THE COURT: So, I'm just going to wait for them to come to log back in, something is going on. Thought I stand today. I've gotten to where I stand at my desk from time to time because I suffer from sitting too much. Let me see. Here, Mr. Burns is again. Hopefully, this is a better connection. How is that? Are you there?

I thought Mr. Malone was a technical expert. Could you get him on that? Can you have him pull with those wires on the microphone? Let's go off the record.

(Off the record.)

THE COURT: Would the representatives, please identify themselves, starting with the Commission on Ethics?

MR. BURNS: Yes, thank you, sir. My name is Joseph Burns with the Office of Attorney General, here on behalf of the Commission on Ethics.

THE COURT: Okay.

MS. HADLEY: Melody Hadley, also with the Office of the Attorney General.

MR. MALONE: Robert Malone, investigator for the State's Ethics Commission.

THE COURT: Okay, and for respondent?

MR. SPICOLA: Good morning, Your Honor. My name is William Spicola, and I'm representing Mr. Brian Lober. Mr. Luke Newman is co-counsel in this case and he is also here on listening.

THE COURT: Let me put in Luke Newman. Now, we've got two court reporters. Will there be a transcript order?

MS. HADLEY: Yes.

THE COURT: How about Mr. Spicola? Are you going to order a transcript with your court reporter? Or you can, I guess, discuss that with them off the record.

MR. SPICOLA: Yeah, we haven't made that determination yet, Your Honor.

THE COURT: So, this case involves the alleged misuse of a governmental tax exemption certificate, as I understand the pleadings, for personal benefit in violation of 112.3136 Florida Statutes and Article 2, Section 8B2 of the Florida Constitution. As noted in the prehearing stipulation, since the

advocate is asserting the affirmative, that there's been a violation of those provisions and they're seeking recommended penalties. The proof should be by clear and convincing evidence. So, Petitioner, not Petitioner, but the advocate will proceed first.

Now, both parties can give an opening statement. I think you can see I have somewhat of a grasp of what's going on here, which you can belabor it if you want to. I'm happy to see you no longer have 18 witnesses. So, I mean, to me, I don't know how controverted the evidence is. It's up to you to convince me, but we'll see as this case goes along.

So, each party can give an opening statement and after opening statements, the evidentiary portion of this final hearing will begin. Petitioners or Advocate's case first, followed by the Respondent. Each witness will testify under oath and be subject to direct examination, cross-examination by the party who did not call the witness and then redirect.

You can also expand if you want to expand so you don't have to recall witnesses. If you want to, you can agree to expand the cross-examination so that we don't have to call a witness twice if we're going to use the same witnesses. Of course, the

parties, through their representatives, may object to questions and offer documents, should need to give me a reason why, so that I can rule.

As you know, hearsay can be used for the purposes of supplementing good evidence, but it can't be used as a sole basis for a finding of fact. My role as an ALJ is to listen to the evidence, to rule on the admissibility, and to issue a recommended order with findings of fact and conclusions of law, and an ultimate recommendation as to the disposition of the case.

Are there any questions from any party? Let me ask you this. Does any party want to invoke the rule of sequestration?

MR. SPICOLA: Yes, Your Honor.

MR. BURNS: Yes, Your Honor.

THE COURT: So both parties. Do we have any witnesses that are here in the queue?

MR. SPICOLA: I believe we have two, Your Honor -- or three.

THE COURT: Who are those?

MR. SPICOLA: Ms. Rachel Sadoff, Ms. [redacted], and Mr. Hubbard.

THE COURT: I don't see here, Mr. Hubbard.

MR. SPICOLA: He's with the Commission on

Ethics. Oh, sorry, not Hubbard -- the investigator for the Commission on Ethics.

THE COURT: Well, he would be with the Commission on Ethics then. But I don't see Mr. -- he's not in. So, what I can do is put Rachel Sadoff and [redacted] in the -- I have a waiting room. It doesn't actually move you; it just moves your video into that.

Would you like to do that, or you could just wait and call back in? But it's easy if I just -- hopefully, if we can get through those witnesses quickly, I'll just move you to the waiting room, and I'll bring you out when you're ready. Does that sound okay to Ms. Sadoff and Ms. Lober?

MS. SADOFF: That's fine with me.

THE COURT: So, I'm going to put you in the waiting room. During the witness sequestration, let me just explain at one time I thought, well, what does that mean? Can I talk to my witnesses after the sequestration rule has been invoked? And the answer is, yeah, you can. As lawyers, you can talk to witnesses, but you just can't tell them what has been said in the proceeding.

The idea of the witness sequestration rule is to keep one witness from influencing the other

witness's testimony by what they say. So, after the hearing, you can talk about anything. As a matter of fact, witnesses can sit together in a room and talk about whatever, you know, gardening, fishing, whatever you'd like to, but not the case. So, I'm going to put Ms. Sadoff and Ms. Lober into the waiting room and I'll bring you out when you're needed. Okay?

MR. LOBER: Your Honor, before you do that, just for the court's identification, I wanted to point out that my wife also has a counsel on the case who's sitting adjacent to her.

THE COURT: Do you want Counsel to stay in? Is that what you're asking?

MR. LOBER: No, no, I'm just making the Court aware, just, just for the Court's knowledge that my wife, [redacted], has counsel sitting adjacent to her right now. Just so that you know, that's all sir.

THE COURT: Yes, do you want to enter an appearance for Ms. Lober or you're just there as a counsel?

MR. MAWN: I'm just here to counsel, Your Honor.

THE COURT: You've no participation or

questioning of witnesses?

MR. MAWN: That is correct.

THE COURT: Your name for the record?

MR. MAWN: Kevin Mawn, M-A-W-N.

THE COURT: Nice to meet you, Mr. Mawn.

MR. MAWN: You too, sir.

THE COURT: So, I'm going to put you all back in, the two witnesses, Ms. Lober and Ms. Sadoff into the waiting room. I don't know if you feel it or not, I think it's just something automatically happens. There you go.

MS. HADLEY: Judge Peterson.

THE COURT: Yes.

MS. HADLEY: This is Melody Hadley.

THE COURT: Yes, I recognize the voice.

MS. HADLEY: So, Attorney Spicola, mentioned Hubbard. Mr. Malone is the agency representative. While he's on the witness list, he's also the agency's representative. That's why he's remaining in the room. So, I just wanted to make others know.

THE COURT: While he is in the room, and I'm kidding when I say this, well, he behave himself.

MS. HADLEY: He promises.

THE COURT: For the parties, I know, I used to work as an advocate over 15 years ago. And Mr.

Malone and I were on cases together, so. But it's been a long time. I've just started taking Commission on Ethics cases. I've had a few, but not many over the years, but now they're coming before me. There's big gap of time in there.

So, with that, did we want to hear from you? Who is going to open first? We're going to hear from the advocate?

MR. BURNS: Sir, I will pass on giving an opening statement on this one. I think you summed it up pretty well already.

THE COURT: That's fine. Before we get started, are there any agreed exhibits? What I can do is let me open the queue up on this. By the way, did everybody have any problems getting all their exhibits filed?

MR. BURNS: No issue.

MR. SPICOLA: All the file that should be, it's on the docket.

THE COURT: Yeah, let me look here. I didn't open up the portal. So, some of this may be my own laziness of doing a video, but I think it gives the parties some ease not to have to drive across the state and the witnesses are easily -- let us see what we have got. Yes, I've got Joseph Burns

exhibits. And I don't know that if they're detailed. I've got your prehearing stipulation. But that's nice.

I see that there's just one filing for each person and I guess you just have them sublisted within that one filing. Sometimes they list them separately, and this is just fine. So, are there any agreements on the exhibits while we're here?

MR. SPICOLA: No, Your Honor.

THE COURT: There are no agreed admission of any other exhibits?

MR. BURNS: I don't believe so, sir, no.

THE COURT: Well, that's cooperative.

MR. LOBER: Your Honor, may I ask a question briefly, sir?

THE COURT: Yes.

MR. LOBER: I apologize for interrupting. I just want to make sure I understand because Mr. Spicola and I are quite a distance apart, so it's a little harder to otherwise confer with him on something like this. But with respect to sequestration, am I understanding correctly that the commission investigator is nonetheless permitted to remain?

THE COURT: Yes. In this arena, each party

gets a representative that can be there. And he's the party representative. So, you could have chosen a representative if you were a corporation or if you were an agency or something.

MR. LOBER: Thank you, Judge.

THE COURT: Or an individual, yes. So that's the reason for that.

MR. LOBER: I appreciate the clarification, sir.

THE COURT: So, we'll see. I hope we can get to brass tacks and get down and figure out what these issues are. So, first of all, we're going to go through the exhibits as they come about then, because I'm just going to keep it -- let me just get my list then. Because a lot of times parties just say, no, there's no objections to the exhibits. Have you all had a chance to review the exhibits of the other party?

MR. SPICOLA: Yes, Your Honor.

THE COURT: Okay.

MR. BURNS: Yes.

THE COURT: Now, I did see some objections in there. So, whenever you want to put your exhibits in, you can do that. If you want to try to do it right now, that's fine. Or would you rather do it

through witnesses?

MR. SPICOLA: I was going to -- my plan was to introduce my intended exhibit through the witnesses, Your Honor.

THE COURT: That's fine. And for the commission?

MR. BURNS: I'd like to move mine into evidence now.

THE COURT: Their objection's on the record; correct?

MR. BURNS: They are pretty boilerplate. I don't think there's any specific objections that actually address the merits of why any of my exhibits would not be admitted into evidence.

THE COURT: Let me see. Do I have a list here? I'm looking at the prehearing stip. That's a better way to move, writing all this down. Advocate's exhibits, I see 10 of them. Email using county tax exemption certificate number 1. Any objection, Mr. Spicola?

MR. SPICOLA: Yes, Your Honor. We object. It's unauthenticated hearsay. There's been no authentication or foundation laid for this. It's, like I mentioned, hearsay or hearsay within hearsay.

THE COURT: Hearsay can come in, but if

authentication is really your main one, but also hearsay.

MR. SPICOLA: If it was admitted as hearsay, that'd be one thing, but the sole issue of this case is the attribution. And so it could be admitted as hearsay, but it couldn't be that there's no inference as to authorship, submission, knowledge, timing of knowledge, or intent.

THE COURT: It stays out until he can do it again. I'm not going to -- I'm just saying no, it's not admitted so far. County tax-exempt certificate, number 2, any objection to that?

MR. SPICOLA: Same objection, Your honor. We don't dispute that it exists, but --

THE COURT: It comes in. Unless you have something else, I kind of cut you off, but --

(Petitioner's Exhibit 2 marked for identification.)

MR. SPICOLA: The certificates exemption doesn't establish you submitted it to Rockler.

THE COURT: I'm not establishing anything with it. But as far as the county tax-exempt certificate, is there a specific one that allegedly was used? And do you have any doubts that this is a certificate?

MR. SPICOLA: We have no doubts that is a certificate, Your Honor.

THE COURT: And then do the numbers differ?

MR. SPICOLA: No.

THE COURT: So, I'm going to let that in. The Rockler receipt for $1,700. So, any objection to that?

MR. SPICOLA: Same objection, Your Honor. This is hearsay and no proper foundation has been issued. There was no notice of business records in the record. And it's inadmissible hearsay.

THE COURT: No business records. Whose business record would it be?

MR. SPICOLA: It didn't say it would have been a business record from Rockler, but again, there's no notice of such in the record.

THE COURT: Well, we'll see how we can establish that if indeed you can. I'm just going to --

MR. BURNS: Objection. Just briefly, can I --

THE COURT: -- so that you can make argument. Yeah.

MR. BURNS: It's in the joint stipulation that, that transaction occurred for $1,700.17 from that company and on that date. That's all been

stipulated too.

THE COURT: So, what's your objection, Mr. Spicola?

MR. SPICOLA: Again, the admission of the receipt doesn't show authorization, knowledge, timing, intent. It doesn't establish who requested taxes in treatment, who applied it, who knew it, when somebody learned about it.

THE COURT: I'll keep the receipt out, but you all agree that 1717 was paid to Rockler. Is that what I'm hearing? Rockler.

MR. BURNS: Yes, sir, Rockler.

THE COURT: So, I'm going to keep it out for now. We'll see. It might change as we put feathers on this nest. Respondent March 2021, campaign finance report. Can that come in?

MR. SPICOLA: We don't object to the authenticity of the campaign finance report if it's offered as a complete and accurate campaign financial report.

THE COURT: That comes in. Same receipt on the 10399 receipt. Is that correct? The same objection.

(Petitioner's Exhibit 4 marked for identification.)

MR. SPICOLA: Yes.

THE COURT: I'll just say for now. And the other receipt saying objection. For now, it's excluded, but we'll see what they can put into get it in. Respondent's July 2021 campaign finance report?

MR. SPICOLA: Same as the previous campaign financial.

THE COURT: That comes in. The Department of Revenue response memo, does that come in?

(Petitioner's Exhibit 7 marked for identification.)

MR. SPICOLA: Yes, Your honor.

THE COURT: That comes in. And referral from FDLE, does that come in?

(Petitioner's Exhibit 8 marked for identification.)

MR. SPICOLA: I mean, that's complete and unadulterated hearsay, Your Honor. There's also a substantial portion of that has nothing to do with the allegations in this case as well.

THE COURT: I'm not going to let it in right now. And then report of investigation, how about that?

MR. SPICOLA: Same objection.

THE COURT: We got the author of it. I guess we do. Did Mr. Malone write that report?

MR. BURNS: Yes.

MR. SPICOLA: I believe so.

THE COURT: He's here. So, for now, I'm going to keep it out. But maybe you get him to authenticate it and get it into evidence. Okay? So that's where we are with those exhibits. As far as the other exhibits, is there anything that you would just agree to?

MR. SPICOLA: I don't know if Mr. Burns would be willing to agree the admissibility of our exhibits.

THE COURT: Any of them, Mr. Burns?

MR. SPICOLA: Number 17.

MR. BURNS: I did see some emails that are from Mr. Lober, they were provided. I would agree to those coming in.

THE COURT: Well, I mean to those, do we have numbers? I mean, I deal with numbers.

MR. BURNS: I apologize. I don't have the numbers in front of me.

THE COURT: If y'all can come up with what you agree to, we can get them in, and it may help Mr. Spicola's presentation and maybe yours as well. But

for now, I'm just going to leave them all out. Mr. Spicola, if you have a list that you want to talk about. I think the list is here.

MR. SPICOLA: And Your Honor, I'm only going to introduce two of those exhibits, I believe. So, I don't know.

THE COURT: Which ones?

MR. SPICOLA: Exhibit 17 and Exhibit 22.

THE COURT: 17.

MR. SPICOLA: That is a campaign finance records from Mr. Lober's campaign. And 22 is the notarized statement of Ms. [redacted].

THE COURT: Are they identified separately on the prehearing stipulation? Are they numbered?

MR. SPICOLA: They are, it's Exhibit 17 on the pre-hearing stipulation.

THE COURT: 17. Is there any objection for 17?

MR. BURNS: No objection to 17.

THE COURT: That comes in. And then the other one, Mr. Spicola?

(Respondent's Exhibit 17 marked for identification.)

MR. SPICOLA: That's Exhibit 22. That's the affidavit of [redacted].

THE COURT: Any objection?

MR. BURNS: No objection to that one either.

(Respondent's Exhibit 22 marked for identification.)

THE COURT: And she'll be a witness, so she can identify it as well so. You may proceed, Advocate.

MR. BURNS: Just as a point of order, I did not hear if Mr. Spicola wanted to give an opening. I just wanted to ensure he has.

THE COURT: I'm sorry. Yes, he can either give one now or wait. Thank you for that point of order.

MR. SPICOLA: Thank you, Mr. Burns. And Your Honor, I was just going to wait.

THE COURT: That's fine. So with that, the advocate, Mr. Burns, do you want to call your first witness?

MR. BURNS: Yes, sir. I'd like to call Mr. Bryan Lober.

THE COURT: Mr. Lober, would you raise your right hand please? Do you swear or affirm that the testimony or evidence you'll give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MR. LOBER: Yes, sir.

Thereupon:

BRYAN LOBER,

having been first duly sworn, was examined and testified as follows:

THE COURT: Thank you. Did I ask the question we are going to have a transcript? Is that correct? Mr. Burns, you're going to order a transcript?

MR. BURNS: Yes, you did cover that. Yes, sir.

THE COURT: I thought I did. Good enough. So, it affects the way I take notes. My notes are terrible anyway, but we'll do this. Your witness.

MR. BURNS: Thank you, sir.

DIRECT EXAMINATION

BY MR. BURNS:

Q. Good morning, Mr. Lober.

A. Good morning.

Q. I'm sorry, what was that?

A. I was just saying good morning.

Q. Oh, good morning. Could you please state your name for the record?

A. Certainly. It's Bryan Andrew Lober. It's L-O-B-E-R.

Q. And what do you currently do for a living?

A. I'm an attorney, sir.

Q. What kind of work are you doing?

A. It's a mixture. Right now, I've got a pro bono case with an animal rescue. I've got a stalking

injunction that's pro bono. I've got a lot of transactional work that I've been doing as well. Large complex commercial transactions. It's varied.

Q. So, that's a private firm, I take it.

A. Yes, I'm, I'm essentially an owner or the owner of Lober Brown & Lober, PLLC.

Q. And where are you practicing out of?

A. Central Florida. So, I've, I've got -- I've got one pro bono matter, actually four pro bono matters that are all related in Flagler. I've got one that's an injunction pro bono matter in Brevard, and I've got a slew of transactional work mostly in Brevard.

Q. Anywhere else?

A. At this time, no, not that I recall. No.

Q. Can you give me just a moment, please?

A. Take your time.

Q. I'm going to go ahead and share my screen. If that's all right with the Judge. Do I have permission to do that?

THE COURT: Of course.

BY MR. BURNS:

Q. Do you recognize this? Can you see?

A. Yeah, it's, it's relatively small, but I'm, I'm kind of afraid to enlarge it, for fear of closing it out. It looks like a photo of me from -- maybe from the

Florida Bar's website.

Q. Is that your bar number?

A. That is my bar number.

Q. And what's the mail address that's listed there? Can you read that, please?

A. It's a private mailbox, 5747 Nanjack Circle, in Memphis, Tennessee.

Q. So, you just said that you're practicing in Central Florida. Why would you have a mailing address in Tennessee if you're exclusively practicing in Florida?

A. I'm not admitted to Tennessee. I think the last time I've been in Tennessee was probably during a hurricane evacuation a year or two ago. I have that because I have a gentleman that was essentially stalking me. Brevard County Sheriff's Office investigated him. They found his IP was used to impersonate my identity. I had both Rockledge Police Department and Brevard County Sheriff's Office, law enforcement officers outside of my house.

And I originally had a PO box that was not reliably forwarding mail, so I selected that as a private mailbox option. But no, I've not been in Tennessee other than perhaps driving through during a hurricane evacuation, but certainly not this year. So, I'm not doing anything in Tennessee.

Q. If you were asked to, would you be able to provide documentation of those police issues?

A. I would imagine BCSO can do it, but yeah, I can -- I call the sheriff or you can call the sheriff. I mean, it's, it's also, there was a -- I mean, I, I can help you out here to save you the time. There was a press release by the same state attorney, that issued a press release in the instant matter.

Interestingly, well, it was someone that was impersonating my identity. My understanding -- and this is going back some years, but my understanding here is that they said they couldn't place him at the keyboard as though his house was like an internet cafe. And then anyone else would have a basis to come after me. So, I mean, there's that -- actually may have been -- may have been the state attorney's office out of the 18th.

Yeah, it was the state attorney's office out of the 18th, that released information on that. So, I don't know that I need to produce it. I think it's publicly available if you Google it.

Q. So, you had some stalking issues, I take it. So, in short, how does your mailing address here in Tennessee relate to that?

A. Because I had a local PO box. I think it was PO box 140. I'll give you as much specificity as I

possibly can remember. PO Box 140, in Sharpes, Florida. I had an issue where mail was not being properly forwarded from that address to my home. So, I paid to have a private entity as opposed to the US Postal Service forward -- basically scan and forward mail to me. That's where the entity is located.

I intentionally chose a place that was close to Florida so that it wouldn't have a multi-day wait for mail to arrive there and then have a delay in being able to respond to official correspondence.

Q. Memphis is close to Florida?

A. Yeah, in comparison to California or Washington State, yes.

Q. Can you read the email? Go ahead, finish your question, I'll answer.

A. No, I was going to say as far as the time it takes to get mail received and delivered, mail sent from Tallahassee and they get to Memphis just as quickly as it gets to Melbourne. Or mail sent from Orlando and they get there just as quickly. It's certainly within a day.

Q. Can you read the email that is listed there, please?

A. Sure, it's Loberb, I'll spell it out. It's L as in Lima, O as in Oscar, B as in Bravo, E as in Echo, R as in Romeo, B as in Bravo at gmail dot com.

MR. BURNS: Judge, I'd like to admit this into evidence as the respondent's Florida Bar profile.

THE COURT: Was that previously disclosed?

MR. BURNS: It's not. It's an impeachment exhibit.

THE COURT: Impeachment from what? What are you impeaching?

MR. BURNS: Well, I mean, it seems like he's deliberately --

THE COURT: Is there any objection, Mr. Spicola, for this coming in. We've already got testimony on it.

MR. SPICOLA: I would object, Your Honor. I don't know what the relevance of this is.

THE COURT: Well, as far as the relevance, the problem is, it wasn't previously disclosed. And I don't know what it impeaches. So, it's not going to be admitted as an additional exhibit.

MR. BURNS: Okay.

THE COURT: But the information you just derived from the witness on this, so I don't need the exhibit.

MR. BURNS: Understood, thank you, Judge.

BY MR. BURNS:

Q. Mr. Lober, so you just read off the email

address that you have on the Florida Bar website, and it's loberb@gmail.com?

A. Yes, sir, that's correct.

Q. So, is it correct to say that you are advertising to the public that, that email address is how you are to be contacted?

A. I think it's correct to say that that's an address that I've listed with the Florida Bar. I don't -- I don't seek new clients. If you look at my LinkedIn profile, I've not sought new, new clients in over two years. So, I'm, I'm not soliciting anything from the public. I'm required to indicate an email address that I've done so.

Q. So, you're required to indicate an email address for yourself. Is that correct?

A. I, I believe so. I believe that's what I'm saying, yes.

THE COURT: Stop sharing that screen.

MR. BURNS: Oh, yes, sir, thank you. I will do that.

BY MR. BURNS:

Q. Did you ever serve as a Brevard County Commissioner?

A. Yes, sir.

Q. And do you understand that we're here today

about some purchases that were made regarding your reelection campaign?

A. I understand that we're here about three specific individual Rockler transactions, yes.

Q. Can you just tell us about those transactions?

A. I don't know. It's too vague for me, I'm sorry.

Q. You don't know anything about those transactions?

A. No, your question was so open-ended and vague. I won't -- wouldn't know how to begin to answer that. If you can make it more precise, I'd be happy to answer what you ask.

Q. Were those three transactions made for your reelection campaign?

A. Yes.

Q. And were they paid for with a card that was associated with your reelection campaign?

A. I believe so, yes.

Q. And did you pay taxes on those expenses?

A. At the time they were placed, to my understanding, no. Subsequent to that, yes.

Q. When did you pay taxes on those?

A. I don't want to speculate, my attorney paid on my behalf.

Q. So, you don't know?

A. I, I don't know the specific dates.

Q. So, you said you would have to speculate. So that would indicate that you don't know that the taxes were paid. Is that correct?

A. No, I do know to an absolute, unequivocal certainty. Based upon my conversations with Mr. Spicola, in correspondence that he since shared with me, some of which may be privileged, the taxes were, in fact, paid. I believe that was also included as an exhibit that he sent you, so I, I'm surprised that you're not aware of that.

Q. But you're saying that he paid them on your behalf?

A. Yes, out of -- as I recall, out of the retainer that I had paid him. But, yes, he paid them on my behalf to DOR directly, yes.

Q. How is it that taxes were not paid at the time?

A. How is it that they weren't paid at the time? Are you asking me as to all transactions or an individual transaction? I, I really need you to be specific, so that I can give you an appropriate answer.

Q. So, we're only talking about those three transactions, where no taxes were paid. So, how is it that no taxes were paid on those?

A. Are we talking about all three in aggregate or individually? I'm, I'm going to ask again because I'd like to answer but I don't want to answer something other than what you're asking me.

Q. So, is the reason that -- is the reason different that there were no taxes paid on each, or is it for the same reason?

A. To my understanding, the reason may be very different between the first and the subsequent two transactions.

Q. So, what is the reason that no taxes were paid on the first?

A. Because there was an erroneous understanding of my wife's part that the transactions were for my district to commission office and not for my district to campaign. As a result, she sent an email, to my understanding, to Rockler, on or about the same date as the transaction indicating they were tax-exempt. That's, to my understanding, the reason that the initial transaction did not have tax collected.

As to the subsequent transactions, I don't believe that anyone during any of the investigations has identified any request by me, by my wife, by any other human being, by any entity, where we've asked anyone not to assess sales taxes to those transactions. Just as the

state said, there's no evidence whatsoever; that's why it wasn't pursued for those.

Q. So, you said that your wife sent an email to that company, and you're saying it's based on a misunderstanding. But that she sent an email to that company asking for a tax-exempt treatment on the transaction?

A. On the singular first transaction, that's my understanding. Again, this is based on what I've learned from her. I don't have firsthand knowledge of that.

Q. I'm going to go ahead and share my screen again. Just a moment, please.

A. Take your time.

Q. Can you see an exhibit on your screen now?

A. Is it possible to zoom in? I have it, but it's just not very clear.

Q. How about now?

A. I'm, I'm going to try to enlarge my window. I'm sorry, bear with me; if I cut out, I'll sign right back. Okay, I've got it.

Q. Can you read the top line that you can see on this exhibit?

A. There's text that's cut off at the very periphery at the top underneath that teal or blue border, so I, I can't read that very top line that's cut off. I

can only read the from line as the top.

Q. Yeah, start with the from line. I'm showing you Advocate's Exhibit A. That's the whole thing.

A. Okay.

Q. And so, yeah, can you start with the from line there?

A. Certainly, it says from, it's got my last name Lober in, in upper case, a comma, then my first name Bryan with a Y, middle initial A with a period, and then it's got N, characters are in brackets, I guess you'd call them. Loberb@gmail.com.

Q. And is that the same email address that's from your Florida bar profile that I showed you earlier?

A. It's the same one listed on the Florida bar profile; correct.

Q. Now I'm not going to ask you to read out these links and read out all the characters that aren't necessary, but could you read the email, please?

A. Thank you. Sure, it says, "Dear sir/madam," and it's got a colon. It says, "I spoke with Marilyn at Rockler's customer service line at approximately 8:05 a.m. eastern, this morning regarding a sales tax question." It says, "As I mentioned to Marilyn, your FAQ page," and then it's got a paren with a long URL or website address, "Indicates that the, the tax-exempt

certificate must be signed." And then it's got a paragraph.

It says, "As I advised Marilyn, Florida does not have an area for which a signature is normally affixed on our tax-exempt certificates. Marilyn advised that I go ahead and place the order and subsequently email." It's got an email address, with my order number in the subject line and a copy of my tax-exempt certificate, and then paren, it has got number that's got the full number. Would you like me to read that?

Q. If you can just say what --

THE COURT: I mean, I've got that. Well, are we going to put this exhibit in? Did you author this? Can you cut to the chase?

MR. LOBER: No.

THE COURT: This is not your email?

MR. LOBER: It's my email address that I and my wife use. I did not author that email. I've been clear with, with anyone and everyone from the time this became a dispute. I did not author that email. It's the entire -- yeah, that's the entire crux of this, yeah.

THE COURT: Okay.

MR. BURNS: So, Judge, I'd like to move this into evidence based on the fact that the witness was

able to testify to the --

THE COURT: I'm going to allow it into evidence. He's denying it that he authored it, but I'm going to allow it into evidence. There may be some problem with tying this to Mr. Lober, but I'm going to allow it into evidence. Mr. Spicola, did you want any hear on that?

MR. SPICOLA: Again, Your Honor, my objection to this is simply it is attribution. As Mr. Lober testified, he didn't author this email, he didn't know anything about it at the time it was sent. This email is inauthentic hearsay that hasn't been authenticated. And we have a serious issue with any sort of attribution that the advocate is trying to make solely by the nature of the fact that it came from a particular email address.

THE COURT: I understand. Over objection is being accepted and Mr. Lober denies authorship. For what it is, I'd like to at least have it. So, it's in the record, but it doesn't necessarily mean that what it says, it's subject to the hearsay objection, especially if he denies authorship. So, that's that. But it's in.

(Petitioner's Exhibit A marked for identification.)

MR. BURNS: Understood, thank you, sir.

BY MR. BURNS:

Q. So, can you continue reading from where you left off, please, Mr. Lober?

A. I think we were at the open parens with the number.

THE COURT: I don't need him to read it -- I don't need him to read it. He's denying authorship. It's in evidence.

MR. BURNS: Understood. Thank you, sir.

BY MR. BURNS:

Q. Can you explain this first line here where it says, "I spoke with Marilyn at Rockler's"? If you didn't write this email, then who spoke with Marilyn at Rockler's?

A. Would you like me to speculate?

Q. You have no idea who spoke with --

A. I have -- I have an idea. Would you -- would you like -- but I don't -- I don't have firsthand personal knowledge, but would you like me to speculate?

Q. Well, you said you have an idea. So, yeah, go ahead and state your idea.

A. Based upon my wife's notarized statement and privileged conversations I've had with her, I believe my wife spoke with Marilyn at Rockler's, but I don't

personally know that to an unequivocal certainty.

Q. Okay.

THE COURT: Are you suggesting Mr. Lober, that your wife authored this email?

MR. LOBER: Yes, sir.

THE COURT: And we're going to hear from her though; right?

MR. LOBER: That's my understanding, sir.

THE COURT: We can move on.

BY MR. BURNS:

Q. Last thing at the bottom, could you read the signature, what that says?

A. Truly, comma, a blank line, then Bryan, B-R-Y-A-N.

Q. Is your wife's name Bryan?

A. No, that would be rather troubling if it were.

Q. Thank you. So, you're saying all three purchases came from the same company; right? They all came from Rockler, but they had different reasons for the tax-exempt treatment?

A. Sir, your question is compound, could you please simplify it for me? I, I was born in the south, and I'm, I'm really not able to follow something that complex.

Q. Sure. Did you previously say that there were

different reasons that the three transactions were not charged taxes?

A. What I attempted to convey, and I don't recall my verbatim words at this point several minutes later, was that, I view this as, as sort of a bifurcated causal situation whereby the initial transaction was caused by a misunderstanding of my wife's part. I think the subsequent transactions were caused by an error on Rockler's part.

On that document that you just showed, that Exhibit A -- Advocate's or Commission's Exhibit A, the part that I don't think you had me read, that I've seen when I looked at the exhibit when it was sent to me, was that there would be notations, and I'm paraphrasing here because I, I don't have a memory that's photographic, but that there would be notations made to any subsequent orders, should they require tax-exempt treatment.

There were no notations of that sort or any sort, to my understanding made as to either of those potential -- as to either of those two future orders from July, I believe it was. So, it seems to be an error on Rockler's part. Hence the reason when the state attorney's office started, it wasn't that it was barred by a statute of limitations. They said there was no evidence whatsoever that I had requested, or that I think

that anyone requested, tax-exempt treatment as those two subsequent transactions.

I think that's also part of the stipulations that you know, Mr. Spicola entered that are -- that are before the Court today.

Q. Could you recall what was purchased?

A. Vaguely, from over five years ago, I believe all three purchases related to sign building tools, and if I may just -- since I took an oath to tell the whole truth, I'm not even certain because, again, it's been over five years, that the 2nd and 3rd July purchases; I'm not even certain they were distinct purchases.

My recollections is they may have been one purchase that, for whatever reason, were bifurcated after they were placed. I, I don't know that -- I don't know that that's necessarily hugely relevant, but I, I just -- in the interest of being fully candid and open with the Court, I wanted to put that out there.

Q. So, sign building?

A. Sign building basically. So, for political campaigns, name recognition has a value, as I've come to learn. And being able to have signs that will withstand a little bit of wind has a value. So, sign building supplies is my recollection, but again, it's been over five years. I, I can't tell you that to an absolute

certainty.

Q. Is there any reason that anyone would ever purchase or -- strike that. Let me take that back.

Your public duties as a Brevard County commissioner, did you ever --

A. Yes, sir.

Q. -- is there any reason that a Brevard County Commissioner would be the one to go purchase sign building tools, if it were for the county?

A. I'm not going to speculate. I suppose almost anything is possible, but I'm not going to speculate if there could be a reason. I, I don't think that's an appropriate question. I'm sorry.

Q. So, you're indicating that your wife wrote that email. How did your wife --

A. No, sir. No, sir, I'm not indicating that my wife wrote that specific email. That's -- I think that's putting words into my mouth. I understand that my wife wrote an email to Rockler on or about the date of that transaction. I don't know whether it was that specific email. I don't know that. I read her notarized statement. It doesn't attach the email. I don't even know that it provides the date for the email. It doesn't quote the email.

So, I presume it may have been that email but

I, I don't want to take that leap and say that she wrote that specific email because I just don't know.

Q. And you said that your wife's notarized statement does not attach to that email?

A. I don't believe it attached that email.

Q. But you do believe your wife made the purchase for you?

A. Yes, I'm confident in that, yes.

Q. Why is that? Why is your wife making purchases for your reelection campaign?

A. My wife has helped me with everything from personal purchases and activities to professional to political activities and purchases. It's routine, we've done it throughout my marriage when I was a baby attorney back in 2010 or I guess it would have been 2011 working for regional conflict counsel.

I had her help me as she mentioned in her, her notarized affidavit lining up witnesses when I had back-to-back trials when one jury was out, when I was picking the next jury because it was, you know, it was basically trying to tread this day above water. She has helped me with a variety of items. So, there's nothing that's atypical or abnormal in any way based on our -- or having known each other for, God the better part of 20 years now.

I mean, we, we operate as a team. We've always operated as a team. So, so the why -- I mean, it's -- why not?

Q. So, how did she know that you needed these tools?

A. Presumably, we had a conversation but this -- you got to understand, this is over five years, over half a decade ago. You're asking me to remember something that frankly wasn't for any reason terribly noteworthy. It was a routine campaign purchase. I, I don't remember the specifics of a conversation but I would imagine, I would speculate we had a conversation where I told her what I needed or maybe said, "Hey I need to get this part, buy this."

And I, I don't know. It's over five years ago. This is -- we didn't buy a house where I'd, I'd, never forget. We didn't buy an aircraft or a yacht. And this was minutia at the time.

Q. Yeah, so, I mean, I'm not asking you to quote the conversation or anything, but it seems reasonable. You believe that you had some kind of conversation whether at some point you indicated to her that you needed these things and so she purchased them for you. Is that correct?

A. Yes, that's my understanding. That's correct.

Yes, sir.

Q. So, you mentioned in your answers to previous questions that there was an investigation with FDLE; right?

A. Oh, there were multiple investigations, yes.

Q. Did you ever tell any of those investigators that your wife made that purchase?

A. They never asked me, and I specifically invited written questions to be submitted to me, as you well know sir. I was never asked anything. I was not even given the opportunity to address anything when the audit release -- audit report was released. As would ordinarily be the customary way if you're really conducting an audit in good faith to allow someone to respond.

I had a written offer as I understand -- I believe, and an emailed offer to the clerk's office which I was never taken up on. And then to the commission investigator, my attorney, that's another exhibit that you should have seen, sir. Notarized, I believe under oath, that he offered the commission investigator to answer any written questions. None were submitted.

And I'm, I'm not sure and I didn't want to press my attorney as to whether we made the same offer of FDLE because it's been so long and there have been so

many actions that have gone on in relation to one investigation or another. I think we may have made the same offer of FDLE but I, I can't in good conscience tell you that to an absolute certainty. So, why didn't I -- why didn't I offer because I was never asked.

I didn't even know that with Rockler, the sales tax was an issue until there was a press release by the state attorney's office and then reports being released. So, I don't know what, what -- at what point in time you think I had the opportunity to, to, with a crystal ball, understand that they were going to look into something that had nothing to do with the subject matter. They were asked to perform a purchase card audit as I understood it, by the board of county commissioners.

I voted in favor of a purchase card audit and somehow a purchase card audit yielded nothing criminal in relation to purchase card purchases, but somehow had interjected into it, insinuations and allegations regarding things beyond the scope of the audit. So, I, I really -- I don't understand what you're asking me.

Q. All those investigations, the insinuations, the press releases, that amounted to a lot of bad press for you; right?

A. Yeah, it's ongoing, yes. Over five years later, yes.

Q. So, you never decided to volunteer the information to anyone, "Hey, I didn't make that purchase"?

A. Who would you -- who should I volunteer that to knowing that additional investigations were ongoing and that anything I said or didn't say was going to be used against me. I mean, this is ongoing. You want -- you want me to lock myself into something for, for your benefit to be able to twist, no, no, sir.

Q. So, you're saying you're not sure who you should have volunteered the information to FDLE? For example, FDLE had an investigation, reach out and say, "I didn't make that purchase, there's been a mistake."

A. They could have -- they could have sent me a written question, they may have had and express offer for that. I'm not absolutely certain about that, but in any event, the clerk had a standing offer that was never rescinded, revoked, or otherwise stricken. They could have asked the clerk's office to ask me whatever they wanted to ask me. They could have asked me about, where I was on a day? What I purchased? Why I purchased? Whether my wife purchased? What she was wearing?

They could have asked me anything. Same thing with the commission investigator. So, I, I appreciate that you're trying to draw some, you know, some bad look

because I didn't, you know, anticipate that I was going to be lambasted about something and then go in and try to fix it. I, I don't think that anyone was going to, to make a correction after the fact. I mean the bottom line is, this was a very -- a very intentional, very heavy handed audit investigation.

This was not something done for my benefit. This was something with a predetermined conclusion that basically was a fishing expedition or a witch-hunt. I think there's a lot of evidence that I'm sure you're going to object to later on in testimony that goes to that end. So no, I don't think it would have helped to have said anything, no.

MR. BURNS: That's all I have for now for Mr. Lober. Thank you. I'm sorry, just a moment, please.

MR. LOBER: And I apologize, Judge. I'm getting a little fired up about this. do apologize.

THE REPORTER: Good morning, Judge. This is the other court reporter. I just wanted to clarify something for the record real fast before we get too far in. I did notice that they were using Exhibit A, but on the pretrial stip, it said Exhibit 1. So I just wanted to clarify that for the record.

THE COURT: Thank you for that. We're using the numbers that have been assigned in the prehearing stipulation. And you are correct, they are numerical not alphabetical. So, we're talking 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and we discussed them briefly. Some of them are in already.

THE REPORTER: Yes, sir. Thank you.

THE COURT: The ones that are already in are, 1 over objection. 2, without objection. 4, without objection.

THE REPORTER: 7 and 8.

THE COURT: 7 8 without objection. The others are out.

THE REPORTER: Yes, sir. Thank you.

MR. BURNS: Judge, thank you for your patience.

BY MR. BURNS:

Q. Just a couple of follow-up questions for Mr. Lober.

A. Yes sir.

Q. So, regarding the email account loberb@gmail.com, who has access to it?

A. My wife and I.

Q. Anyone else?

A. Not ordinarily, no.

Q. So, if you didn't write that email who wrote

the email?

A. If I didn't write that email, who wrote that email? I, I can just repeat what I stated before. The only two that routinely have access to that account are my wife and myself.

Q. Did you ever go back and look at it, and log into loberb@gmail.com, and go back and look for this email specifically and see what happened?

A. I have over 250,000 messages, legit. Over 250,000, not 25,000, not 2500. Over 250,000, maybe over 300,000 messages at this point in that email address. No, I didn't go back to look for that specific email. I'm not saying that it didn't come from, from my email account. I don't doubt it.

Q. So, you didn't, there's a lot. But you were mentioning about the bad press that you were getting about this, and it wasn't important enough to you to go back and try to figure out what happened?

A. That's a great way to characterize it, but the, the accurate way of characterizing it is FDLE, and I believe also the clerk's report, included a copy of the email, so I didn't need to go back to look at anything.

Q. So, if you saw that -- if you saw a copy of that email in that clerk's report, you didn't think it was suspicious that may be --

A. I didn't. Let, let me help you here. I had a conversation with my wife after that because, as I mentioned, we're the only two that have access to that email account with any degree of frequency. Based upon the conversation I had with my wife, I didn't feel it necessary to go back and look through the email to verify anything. But this is years after the transaction, years.

Q. So, you're saying that eventually the taxes were paid on the transactions. When was that?

A. That's asked and answered, sir. I'm, I'm not going to -- I mean, you can -- you can ask the court reporter to read back my words, but I, I told you.

Q. You said that you're not the one who made the transaction, or you're not the one who paid the taxes on it, that Mr. Spicola paid it for you. So, was that after the Florida Commission on Ethics referral was filed?

A. I had retained him to assist me with the Commission on Ethics issue. I don't know the specific date at which the referral was filed and/or whether or not there was some proceeding that was corollary to this that, that may have been earlier. I don't know, but I, I presume it's, you know, it's after I learned there was a Commission on Ethics issue that he was, you know, that, that he was given the money by form of a retainer

replenishment and then paid it.

So, I, I would presume yes, but I, I don't have that level of scientific certainty to be able to tell you the particular date or where it was in the process. Yes, there was a DOE issue that was pending. But as to its, its, you know, granular status, I can't tell you.

Q. Ultimately, your final answer was, on the FDLE investigation, you did not participate. Is that correct?

A. I'm not sure that I understand what you mean by, "did not participate?" I never refused to answer any written questions.

Q. Did you participate in the investigation? Did you ever answer any questions, provide them with any information, sit down, and have a talk with an investigator?

A. Oh, oh the questions that they never provided me, that they never requested? No, I didn't answer the questions that they didn't ask me. That's terrible.

Q. Are you saying that they had no interest in talking to you?

A. I'm not saying that. I'm saying that I had a long-standing -- it's heck. I think to this date it hasn't even been revoked. I had a, a written offer to the clerk's office to answer whatever questions they cared to pose in writing. They never posed any. I think

we may have, through Brian Onek who is my, my counsel, local counsel at the time. I think he may have extended the same offer to FDLE. I don't know that to an absolute certainty because it's been years.

And what's more, the commission investigator had an offer to, guess what, respond to written questions. We never got questions from anyone. If-- even if we didn't offer FDLE to answer written questions, the bottom line is they could have gone through the clerk. Clearly, they were in touch. No one asked me anything, so to try to fault me for not answering something that they never asked me is ridiculous.

Q. So, you never answered any questions or volunteered any information to the Commission on Ethics investigator either?

A. Sir, I think we've been over this. I offered to answer any and all written questions. I was presented with none.

Q. You offered to answer written questions. Is that correct?

A. Correct.

Q. And is that not essentially discovery interrogatories?

A. No, no, it's not essentially discovery, sir. No, you can ask an unlimited number of questions. The

questions wouldn't be subject to objections. You ask whatever you want, and you get it.

Q. So, that was the only -- that was the only form of communication that you were willing to engage in with any of these investigators was in written form?

A. After I was objectively misquoted by the clerk's office, yes.

Q. So, you offered to have them send you written questions, and they refused, and you're saying that you never offered to sit down with them and have a talk, never offered to have a phone call with them, nothing like that?

A. That's a mischaracterization. I met with the clerk's office on at least two occasions in my office. But as far as answering specific questions, because I had been misquoted, I think I was entirely correct instating to avoid additional potential misquotes, things needed to be reduced to writing. It keeps everyone fair. It's bilateral, it's mutual, there's no question as to who said what. And given that there was already a misquote, why would I expose myself to further misquotes?

THE COURT: Mr. Lober, what clerk's office are you referring to?

MR. LOBER: The Brevard County Clerk of the Circuit Court and Comptroller.

THE COURT: Okay.

BY MR. BURNS:

Q. Why not just record the conversation?

A. I guess that's another option. I, I don't -- I mean, I, I offered that, and I was just told, no.

Q. Hold on. You offered to sit down and have a recorded conversation?

A. No, no, that's not what I'm saying. I offered to have written questions, and I was told, no. Simple.

Q. But they asked to talk to you, either on the phone or in person, and you said, no?

A. I met with them at least twice in person at the clerk's office.

Q. So for this, I'm just talking about FDLE or the Commission on Ethics investigator?

A. So, let's, let's break it down one by one. So, as to FDLE, no, I was not willing to meet with a law enforcement organization to answer anything. As, as I mentioned earlier in my testimony, my first few years as a baby attorney were at, at Criminal Conflict Counsel, CCCRC, I would be a fool, having done nothing wrong, to go and have my words twisted against me. Why would I do that? I think I went above and beyond in offering to answer written questions. I didn't have to do that.

Q. But you said that you could have just had a

recorded conversation, but you also did not do that?

A. We've established that, yes.

MR. BURNS: Now, that's all for me, thank you.

MR. LOBER: Thank you, sir.

THE COURT: Thank you. Mr. Spicola, you need a break, or do you want to go straight through with your --

MR. LOBER: Judge, I apologize, sir. May I grab just a little bit more water before we start?

THE COURT: Absolutely, I may do the same. Let's do a five-minute break.

MR. SPICOLA: Do we do a five-minute break, Your Honor, please.

THE COURT: Yes, we're going to get back -- we're going to be back at 5 after 11:00; okay?

MR. BURNS: Thank you, sir.

THE COURT: What I'll do is just mute and turn off the video.

(Off the record.)

THE COURT: So, cross/direct?

MR. SPICOLA: Yes, Your Honor.

THE COURT: Yes.

MR. SPICOLA: Are we ready?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. SPICOLA:

Q. Mr. Lober, are you married?

A. I am indeed, sir.

Q. And what's your wife's full name?

A. [redacted], common spelling, [redacted], common spelling, [redacted].

Q. And how long you've been married to [redacted]

A. We're going on 15 years.

Q. Is your wife also a licensed attorney?

A. Yes, sir. She has been for over 14 years.

Q. In which jurisdictions is your wife's license to practice law?

A. I know that she's admitted in Florida and has been without gap for over 14. I know at one point she was licensed in the middle district, but may have let that lapse. I'm, I'm not sure in the federal side, but, but Florida is the only state court.

Q. What's your wife's current standing with the Florida Bar?

A. She's always been in good standing.

Q. Has she ever been disciplined by the Florida Bar, or participated in diversion program in lieu of discipline?

A. Never.

Q. How about you? What's your current standing with the Florida Bar?

A. I've always been in good standing with the Florida Bar.

Q. Have you ever been disciplined by the Florida Bar, or participated in a diversion program in lieu of discipline?

A. Never once, no.

Q. During your marriage, has your wife assisted you with your professional and political responsibilities?

A. Yes, sir. As I mentioned to the advocate, yes. It's, it's commonplace, it's been commonplace.

Q. Has it been the practice throughout your marriage to make calls or send texts and emails on each other's behalf.

A. Oftentimes, yes. You know, certainly there are -- there are months or weeks where it's more or less frequent than others, but yes.

Q. Have you and your wife used one another's email accounts when assisting each other?

A. Yes, sir. I mean, I'll, I'll put it this way. I have her email logged in on my phone now as well as mine. She has my email, as I understand it, logged in on her phone as well as hers. We share a laptop computer

that she's using now, I believe, in the waiting room for Zoom. We share a desktop computer. For anything, you know, anything that we're able to assist each other on, it's, it's not at all uncommon for one of us to do that.

If she has a hearing during a particular day, or more likely, if I have a hearing on a particular day, and I need her to help me with something, she'll do it.

Q. Would you say that that level of collaboration between the two of you guys is routine in your marriage?

A. Yes, as it has been.

Q. Mr. Lober, I want to discuss the Rockler order real briefly.

A. The initial one, sir?

Q. The initial one, but before we get to that, what is the purpose of these woodworking tools?

A. Again, we're going back over half a decade. My recollection was it all pertained to sign building.

Q. Why would you build signs?

A. To get your name out there or to further entrench your name in the minds of, of voters or of constituents.

Q. So, let's go back several years ago to around that time, back in March of 2021, when you were serving on the Brevard County Commission.

A. Yes, sir.

Q. During that time, do you recall asking your wife to place an order for certain woodworking materials for your campaign?

A. I recall that we had a conversation about it. I do not recall as to the two subsequent orders, whether she or I place them. I may well have, I probably did. But as to the, the earlier order, I vaguely recall having had a conversation with her. Although, I will say, based on my conversations with her, her recollection is much stronger than mine.

Q. At the time you made this request, did you request that tax-exempt treatment be applied to any Rockler transaction?

A. Mr. Spicola, well, I don't have the strongest memory of that particular conversation or those conversations. I can tell you unequivocally, I would never have asked her or anyone else to apply tax-exempt status or treatment to anything that didn't legitimately require or, or entail it, so, no. I can tell you to an absolute certainty, I did not ask her to do that.

Q. Did you knowingly cause tax-exempt treatment to be applied to any Rockler transaction?

A. No, no.

Q. Following that March order -- sorry, waiting on a bus -- following that March order, were other orders

placed with Rockler?

A. Yes, but as I, I may have mentioned on direct with the advocate, I'm not entirely certain that there were in fact two separate orders. There may well have been, but it also may have been one order that was bifurcated for reasons unbeknownst to me, by the vendor. I, I don't know that it's really, you know, hugely relevant, but again, since I took an oath to tell the whole truth, I just want to put that out there, so I'm not hiding something.

Q. For that July order or orders, did you request tax-exempt treatment be applied to those transaction or transactions?

A. In no way, shape, or form. Not directly not indirectly.

Q. So, you didn't send any emails to Rockler in July to ask them?

A. No, sir.

Q. So, there's no communication between you and Rockler regarding the July transactions?

A. No, sir. And I, I believe, if I may, the state attorney's office, in deciding whether or not to pursue charges for those particular transactions, which were not, to my understanding, barred by any, any statute of limitations noted, and I'm paraphrasing here, that there

was no evidence whatsoever that there was any request to treat them with tax-exempt status.

Q. Mr. Lober, in connection with placing this order, do you have any recollection of providing your wife with payment card details?

A. You're talking about the initial order, sir?

Q. The initial order in March, yes, sir.

A. Again, yes, but not, not as strongly as I understand that she does, yes.

Q. What was your understanding about where the payment was supposed to come from?

A. The payment was supposed to and did in fact come from a payment card that was associated with my campaign, not, not with government office purchase card.

Q. Did you have physical possession of the card?

A. Yes, I typically held on to it. Yes, based on the conversations, both my recollection combined with the conversations I've had with my wife, yes. I retain physical possession of it. Where I'm sitting in front of a desktop computer now, I've had the same shredder to my left for some years. Typically, I would leave something on a post-it note, or, you know, or a scrap of paper, with whatever it needed and that it would get shredded.

So, whether it was a, you know, Social Security number in, in relation to a client matter or whether it

was something that needed to be redacted due to a 119 concern or whether it was -- whether it was a payment detail or bank account number, routinely I would give her -- I don't want to call them sensitive, but items that you wouldn't ordinarily put in the trash on either a post-it note, or on a sheet of paper, or part of a sheet of paper and then the understanding if she would just shred them when she was done with them.

Q. Regarding that first Rockler transaction in March, do you have any personal knowledge of how the billing address was populated for that transaction?

A. The billing address, again, yes and no. Some of this is based on my recollection at the time and some of this is based on conversations I had with my spouse. The billing address, in all likelihood, would have auto-populated based on the card having been used previously. So, the billing address would have had -- actually, this, this is a good point for the ALJ.

So, what I mentioned, I previously had a PO box -- PO box 140 in Sharpes, prior to the Nanjack Memphis switch. We at that time -- the, the campaign used the PO Box 140 address as the official campaign address, so it -- that's what would have auto-populated because that's what was associated with that card on either Chrome or Edge, or Safari, or whichever browser was used, probably

all of them, it would have been associated.

Q. Do you have any personal knowledge of what contact phone number your wife entered for the order?

A. Yes, partly based on what was released by FDLE, she entered the District 2 County Commission's main public-facing office phone number, a governmental number, that's always been governmental to my knowledge.

Q. And if somebody from Rockler called that number, where would that phone ring?

A. At the time I was in office, and again, it's been a few years, it would ring, quite literally, every phone in the District 2 County Commission office. So, at the time I had a part-time receptionist, it would have rang her phone. There was a lunch break room, it would have rang the phone in there. There was an area that we had for a -- an intern or an extern, that would have rang there.

My chief of staff had a phone in his room, it would have rang there. My legislative assistant had a phone in her room, it would have rung there. And it would have rung in my, my portion of the office where I had my desk. I may even be forgetting an additional phone. It rang every phone in that office.

THE COURT: For the purpose of the record, we're looking at that March 20th, 2021 order?

MR. SPICOLA: Yes, Your Honor.

THE COURT: And the phone number ends in a 6601?

MR. LOBER: Yes, sir, that's the number I'm referring to.

THE COURT: $1,500 before taxes. I guess after taxes too. Go ahead.

BY MR. SPICOLA:

Q. And did that phone number ever ring at your cell phone or any personal number?

A. To my knowledge, it never rang at any number for me personally. I say that with the caveat to my knowledge because I do understand that at least my chief of staff was able to forward. During the time, we had limited office staffing for COVID, was able to forward that number either to himself or to other staff members, but I never asked and I never received any calls on my cell phone or any, any home phone that I would have had, any personal private number of my own.

I, I never asked to have anything forwarded there. I'm not aware that anything ever was forwarded there. I don't believe anything was ever forwarded there. So, I'm, I'm hoping that answers your question. Is that -- is that sufficient?

Q. Yes. Again, referring to the March 2021 order,

what actions did you take personally with connection to that order?

A. With the initial Rockler order from March?

Q. Yes.

A. I simply asked my wife to place the order for the D2.

Q. Did you request the tax-exempt treatment be applied to any Rockler transaction?

A. I can broaden that from March to all of the, the Rockler orders. No, I've never -- I've never requested in any way, shape, or form directly, indirectly. However, through carrier pigeon, smoke signal, words type, written, however you want to view it, I've never requested tax-exempt treatment on anything pertaining to Rockler.

Q. Mr. Lober, are you aware that the vendor called the phone number that your wife provided?

A. Yes, I'm, I'm quite aware of that based on one of -- one or more of the reports that were released in, in connection with the many investigations into this matter, yes.

Q. So, when the vendor, Rockler called, where did that call ring?

A. Based on what I saw in the reports, it rang to my -- well, it rang all the phones, but my receptionist

picked it up.

Q. Did any person from Brevard County ever contact you about the call they received from Rockler about the use of the tax-exempt certificate?

A. Through the time I was a commissioner, past the time that all of these investigations had already taken off, no one ever asked me about Rockler or sales tax. I didn't even know that Rockler sales tax was an issue to, to think about or be on, on, you know, to have on my radar. It was -- to me, it was an ordinary campaign purchase at the time. I didn't have any questions that were posed to me by the clerk's office, by county staff, at all, during the time I was a commissioner.

So, not, not just in 2021, but even going into the year beyond that, it never came up, never, not in any way.

Q. Mr. Lober, do you routinely open packages at your office?

A. I did sometimes, but my, my standing sort of -- standard, standard operating procedure, if you want to call it that, was any of my employees could open packages. We weren't hiding things. It was a government office.

Q. Did you personally sign for the Rockler when it came?

A. No.

Q. March order?

A. If we're talking about the March order, no. No, I didn't personally sign for that, no.

Q. Why wouldn't you be at the office to receive that initial March, Rockler order?

A. I'm not sure whether I was in the office at the time or not. I, I may have been, I may not have been. Again, this was during COVID, we had a local state of emergency that, that had been declared, that had been repeatedly extended, right, wrong, or indifferent. We had reduced staffing in the office. I may not have been in, I may have been in. I just don't remember now, over five years after the fact. But even if I was in, which I'm not sure that I was, you'd get to my receptionist before you get to me.

So more often than not, my receptionist would sign whatever needed to be signed to receive for packages.

Q. Were there any reason to try to prevent your staff from opening a package that came to your office?

A. Would there be reason to prevent them, I guess, if I were trying to hide something, sure.

Q. Did your staff open the package that came from Rockler based on the March order?

A. Yeah, because they -- yes, sir, because they had no instruction to do otherwise, again, because I had no reason to suspect there was any sales tax issue at all.

Q. Mr. Lober, at the time your wife placed this order and took these actions, did you have any reason to believe you are acting inappropriately?

A. No.

Q. Do you have any reason to believe your wife would use Brevard County's tax exemption certificate for a campaign purchase?

A. No, I had -- I, I was shocked.

Q. Did you have any intent to misuse public resources?

A. No, not, not hardly, no.

Q. Did you have any intent to misrepresent the purpose of the March Rockler order?

A. Mr. Spicola, no. I, I disclosed the amount of the order, I believe it was the name of the merchant. This is in one of our exhibits. A brief description of what the, the purchase was for in a public filing to the supervisor of elections office. If -- it doesn't make sense to me, and I'm having a hard time even wrapping my head around the question, no, I -- there's -- there was nothing hidden or, or illicit, or anything of the sort.

The, the phone number used, as I understand it now, was the main office number.

The shipping address was the main office. The, the transaction on my end, as far as my handling of it, was reported, presumably, again five years after -- more than five years after the fact. Based on the amount that posted to the payment card account for the campaign, I copied and pasted that or retyped it into the, the monthly reconciliation for the supervisor's office. Literally, nothing was handled.

If, if my wife or I wanted to hide this, we would have used a different phone number, we would not have shipped it to an office where we know they're answering things. I mean there are -- it just -- it's inconceivable that, that we would do this. We would have to be at the point of, you know, knuckle dragging, to try to hide something by making it as prominent and visible as humanly possible, which is exactly what this was, as visible as humanly possible.

Q. Mr. Lober, approximately what was the value of the materials ordered in the March transaction?

A. Maybe 16, 1700, let's say $1700, ballpark.

Q. And the sales tax owed upon that would have been approximately $120?

A. About that, and I, I do want to point out

again, because I took it out to tell the whole truth. The numbers that have been put forth in the investigative reports are, are objectively wrong. And I, I don't know to what degree it matters. But sales tax in Brevard County, for the time I've been here, has always been seven percent. It was six percent base state tax to which the county adds one penny in the form of two half pennies.

So, the amount that FDLE and the clerk to my extension, but certainly FDLE and by extension the commission relied upon, it's not even -- it's not reflective of the accurate tax rate in Brevard County, it's an escalated number. So if they say it's 140, it's actually less than 140, because the math simply doesn't add up.

Q. Are you aware of the publicly filed campaign finance reports related to your campaign?

A. Very well, yes, sir.

Q. And in these reports, what are you required to file?

A. Basically, anything coming into the campaign or anything going out of the campaign needs to be filed. And that's, I mean, that's kind of a simplification, but that's, that's the crux of it.

Q. For all the financial transactions?

A. Correct, yes, sir, all of the financial transactions, anything adding or that I'm -- again, I'm paraphrasing, this is not the rule of the statute -- but anything adding or deducting value from the campaign, even if you receive something where there's an in-kind value, you have to list that as well.

Q. Mr. Lober, talking about your campaign for a moment.

A. Yes, sir.

Q. Are you aware of any --

THE COURT: Mr. Spicola, are we calling this witness out of turn? You're not going to re-call him in your case in-chief?

MR. SPICOLA: That is correct, Your Honor.

THE COURT: Okay, good.

BY MR. SPICOLA:

Q. Let me ask the question again.

A. Yes, sir.

Q. Mr. Lober, are you aware of contribution limit checks that your campaign received from political action committees?

A. Yes, sir, I'm well aware.

Q. What happened to those checks?

A. First, as far as PACs and ECOs, whether it was the first campaign or my reelection campaign, I did not

accept any money from PACs or, or ECOs. To that extent, if I knew someone was affiliated with a PAC or an ECO and they brought up or I had an inkling that they were inclined to send me a check, it made my life easier to tell them, "Please don't send me a check. I, I don't accept contributions from PACs or ECOs."

However, some PAC and ECO check still, still came through despite that, because I, I didn't get any -- you know, I didn't know every PAC or ECO authorized individual who would send me a check. The, the checks that we received from PACs or ECOs were immediately stamped void. There's a form that the -- either the state or the local supervisor of elections require is called a, I think it's a DSDE2, with a hyphen somewhere in there, where you have to list what checks are being returned uncashed.

So, I filled out all the required information on these DSDE2 forms as to the PAC checks or ECO checks. Having voided them, and then along with the form that I submitted, I, I scanned and sent with the account number redacted, a copy of the voided check, and then I also have a copy of the, the envelope where the, the check was returned. So, I, I did not accept them. They never hit my bank account.

They were just returned voided and uncashed.

And the, the required forms were filled out to indicate to the supervisor and potentially, I guess, the state as well that I, I refused to accept and returned those contributions.

MR. SPICOLA: Your Honor, may I share my screen?

THE COURT: Sure.

BY MR. SPICOLA:

Q. Mr. Lober, I'm showing you what has been marked as Respondent's Composite Exhibit 17.

THE COURT: It's in evidence.

MR. LOBER: Hang on, Mr. Spicola, I'm just trying to enlarge it a little bit, so I can see it better. Okay, thank you, sir. I can see it. And there's the PO box 140 again that I had mentioned earlier.

BY MR. SPICOLA:

Q. And just leafing through this, it's already in evidence, is this what you just described as it relates to the return of campaign and PAC checks?

A. Precisely, sir, yeah. This shows -- this shows a check prior to the initial Rockler transaction, I believe same year, and a check after the initial Rockler transaction. Both of them appear to be contribution limit $1000 PAC checks.

Q. Thank you. And now, I am going to stop sharing my screen. Were these checks received before or after the transactions?

A. Both.

Q. So, your campaign returned $1000 checks both before and after these Rockler transactions?

A. We bookended the transactions with that, yes.

Q. Has the sales tax on the Rockler transaction been paid?

A. Help me, Mr. Spicola. Are you referring to the, the three transactions or just the initial transaction?

Q. All three transactions, has the sales tax on all of those transactions been paid?

A. Frankly, I think we've overpaid it because we stayed -- we paid the amount that was alleged by FDLE, which is the objective fact, does not match the sales tax rate in Brevard County. It's over 7 percent. So, yes, we've paid it and then some.

MR. SPICOLA: Your Honor, may I share my screen again?

THE COURT: Yes.

BY MR. SPICOLA:

Q. Mr. Lober, I'm showing you what's been marked as Respondent's Composite Exhibit 19.

A. Yes, sir.

THE COURT: That's not one that you asked for. We got 17 and 22. I thought you weren't going to introduce any other exhibits.

MR. SPICOLA: Mr. Burns mentioned the payment of the sales tax, Your Honor. So I did want to introduce this one as a evidence.

THE COURT: Any objection to that coming into evidence, Mr. Burns?

MR. BURNS: No, sir, no objection.

THE COURT: So, that's number 19.

(Respondent's Exhibit 19 marked for identification.)

MR. SPICOLA: Yes, Your Honor, number 19.

THE COURT: Showing sales tax?

MR. SPICOLA: Yes, sir.

THE COURT: On the Rockler transactions?

MR. SPICOLA: I was going to have Mr. Lober read the --

THE COURT: Yeah, that's fine.

BY MR. SPICOLA:

Q. Mr. Lober, if you would please read the full paragraph that you see there.

A. Yes, sir. It says, "It's been brought to my attention that sales tax went unpaid for purchases made

by Bryan A. Lober's campaign. There was an error regarding the use of a sales and use exemption certificate. The tax totaling 134.77 and again, I think that's the higher number. The tax totaling 134.77 was not collected for three transactions in Merritt Island, Brevard County, Florida, to purchase power tools online.

The Department of Revenue has not contacted anyone regarding the unpaid tax. The purchaser is a consumer and does not have an applicable sales and use tax certificate number or business partner number and does not need to register for sales and use tax. This voluntary disclosure includes a check for $134.77 cents, drawn from my trust account. I respectfully request that the department accept this voluntary disclosure."

Q. And then moving on past that communication with the department of revenue.

A. Yes, sir.

Q. What does that next page show?

A. It appears to be a transaction details from a Bank of America trust account for your practice showing a payee of Florida Department of Revenue that same $134.77 amount, with the notation and the memo field saying, "Bryan Lober campaign," and I, I can't read your chicken scratch for the remainder. I'm sorry, Mr. Spicola. And then it's signed.

Q. Thank you. When you were a county commissioner, did you ever advocate for increasing the salaries of the county commissioners?

A. Quite the opposite, sir. Back in 2018, when I first became a commissioner --

MR. BURNS: I'm going to object as the relevance here.

MR. SPICOLA: It goes to motive, Your Honor.

THE COURT: I mean, it's a little far, but relevance to me is throw a pebble in the Atlantic on New York side. It makes a ripple on the other side.

MR. SPICOLA: And I'll be very brief.

THE COURT: Please.

BY MR. SPICOLA:

Q. So, what was your position on the salaries of county commissioners?

A. So, consistent with the exhibit that I believe is, is not being pursued at this point, when I first began as a county commissioner in '18, I sought to have the county commission salary reduced to match the median income for Brevard County. That would have resulted in all the commissioners, including myself as a brand new commissioner, having a reduction of over $8,000 a year. I learned during that effort in 2018 that the commission itself did not singularly or in aggregate have the

ability to put forth that sort of a change.

I was told essentially that it had to come through charter review. So, when charter review process began in either 2021 or 2022, I emailed all of my charter review appointees and asked them to pursue the same. However, based on the space industry we're covering here in Brevard County, the impact would have been smaller. So, instead of being over $8,000 a year less, it would have been a little over $1,000 a year less. But I pursued that as well.

Q. Finally, Mr. Lober, prior to the matter that we are discussing here today, have you ever been accused of any similar conduct?

A. No, sir.

Q. Have you ever been investigated for a similar matter?

A. Unless it was clandestine and not to my knowledge, no.

Q. To your knowledge, has your wife ever been accused of any similar conduct prior to this matter?

A. Absolutely not.

Q. Has she ever been investigated for any similar matter prior to this?

A. Again, unless there's something that's -- that was so clandestine, neither of us remain aware, no.

MR. SPICOLA: At this point, Your Honor, if you would give me a moment to confer with Co-counsel.

THE COURT: Sure.

MR. SPICOLA: Thank you, Your Honor. I don't have any further questions.

THE COURT: Was there any redirect to the extent that was direct to begin with?

MR. BURNS: Yes, sir. I've got a few more questions. Yes.

REDIRECT EXAMINATION

BY MR. BURNS:

Q. So, Mr. Lober, you just testified to the payment of those taxes, and on the exhibit, it says, "February 19th of 2025." Is that correct?

A. The exhibit is no longer in front of me. But if that's what the exhibit says, that's what the exhibit says, sir.

Q. So, why wait so long to pay the taxes?

A. Why wait so long to pay the taxes?

Q. Yeah, so that was after the commission on ethics referral, wasn't it?

A. Yes.

Q. Was that after the FDLE investigation?

A. Yes, I believe it was based on that date, yes.

Q. And those same investigations where you refused

to sit down and talk with the investigators?

A. I think that's a major mischaracterization. I did sit down with the clerk's office. I offered repeatedly to answer written questions.

THE COURT: Let's don't go through this again, please, Mr. Burns.

MR. LOBER: So, to answer your question --

THE COURT: No, there's no question pending. I know you offered to answer written questions. That's what this is going to. So, go ahead, Mr. Burns.

MR. LOBER: Thank you, sir.

THE COURT: I'm just trying to get through this.

MR. BURNS: Nothing further for me for now. Thank you, sir.

THE COURT: Thank you. Next. Mr. Burns.

MR. BURNS: I'd like to call [redacted], please.

THE COURT: I will bring her in.

MR. LOBER: And sir, if it's okay, I'm just going to go on mute at this point.

THE COURT: Of course, you may.

MR. LOBER: Thank you, sir.

THE COURT: I've asked her to unmute. I don't

know that she -- let me see. Maybe I'll chat.

MS. LOBER: I just heard some noise.

THE COURT: There you are.

MS. LOBER: Hi, good morning. Can you hear us?

THE COURT: I can.

MS. LOBER: Okay, great. Thank you, Judge.

THE COURT: She's your next witness, Mr. Burns?

MR. BURNS: Yes, sir.

THE COURT: Where are you? There you are, okay. Ms. Lober, if you raise your right hand, please.

MS. LOBER: Yes, I'm just turning up my volume, Judge. One moment.

THE COURT: Do you swear or affirm the testimony or evidence you'll give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MS. LOBER: Yes, I do.

Thereupon:

[redacted],

having been first duly sworn, was examined and testified as follows:

THE COURT: Thank you for that. Your witness, Mr. Burns.

MR. BURNS: Thank you, sir.

DIRECT EXAMINATION

BY MR. BURNS:

Q. Good morning, Ms. Lober.

A. Good morning.

Q. Can you state your name for the record, please?

A. [redacted].

Q. And what do you do for a living?

A. I'm a contract administrator.

Q. Are you also a licensed attorney?

A. Yes, I am.

Q. And where do you currently work?

A. I'd prefer not to reveal my employer.

Q. Is it a private entity?

A. It is a nonprofit organization.

Q. How do you know Bryan Lober?

A. He's my husband.

Q. How long have you been married?

A. Over 14 years.

Q. Was he ever associated with Brevard County in any way?

A. Yes, he was.

Q. And what did he do?

A. He was an elected official for District 2.

Q. Is that a county commissioner?

A. Yes, that's correct.

Q. And when he was a county commissioner, what did you do for work?

A. I held various jobs while he was a commissioner.

Q. Were any of those also associated with Brevard County?

A. Not Brevard County, no.

Q. How about the Brevard County Clerk of Court?

A. Yes, I was employed by the clerk's office at that time.

Q. Do you recall an audit or investigation of county purchases while you and Mr. Lober were working for the county?

A. I wasn't working for the county. Can you clarify, please?

Q. For ease of conversation here, the Brevard County Clerk of Court, is that not an elected official of the county, at the county level?

A. The clerk is an elected official separate from Brevard County.

Q. So, while you were an employee of the clerk of court and Mr. Lober was a county commissioner, do you recall an audit or an investigation of county purchases?

A. Yes, I do.

Q. When was that?

A. From over five years ago, 2021, '22, in that neighborhood.

Q. How about an investigation by FDLE?

A. I don't know when they started their investigation. I'd be speculating.

Q. Was it around the same time?

A. Again, I'd be speculating. I, I don't know the exact time frame.

Q. Did you ever speak to any FDLE investigators?

A. No, I did not.

Q. Have you ever spoken to any commission on ethics investigators?

A. No, I have not.

Q. Your Honor, I'd like to share my screen. Showing you the Exhibit A.

THE COURT: A, no, you need to be clear, because I've got it listed as 1, right? So, you need to clarify that when referring to them here on the record. And if you show me something, we need to make sure that it's the right, because there are some A's and B's. I've looked through your exhibits. I see some F's. But that is an A, but you have it listed as 1. Is that correct?

MR. BURNS: I believe that's correct, sir.

THE COURT: So, verify for the record, this is

already in evidence over objection.

MR. BURNS: Yes, sir.

BY MR. BURNS:

Q. So, Ms. Lober, do you recognize this email?

A. I just want to make sure I'm looking at the correct email you're trying to reference. One dated Saturday, March 20th, 2021 at 3:59 p.m.?

Q. Correct, yes.

A. I'm reviewing it. Can you please scroll down?

Q. Sure.

A. Can you scroll down more, please? Can you repeat your question, please?

Q. Sure. Do you recognize this email?

A. I do recognize it.

Q. How do you recognize it?

A. I'm invoking the Fifth Amendment.

MR. BURNS: Judge, I'd like to ask you to take notice of the adverse inference doctrine, which I can fully brief the court on later after a break.

THE COURT: Yeah, I will put that in your argument. I understand the argument.

MR. BURNS: Thank you, sir.

BY MR. BURNS:

Q. Did you read the first sentence of this email at the top?

A. I've read that first sentence.

Q. Could you read it out loud, please?

A. "I spoke with Marilyn at Rockler's customer service line at approximately 8:05 a.m. (eastern) this morning regarding a sales tax question."

Q. Did you speak with Marilyn at Rockler's customer service?

A. I invoke the Fifth Amendment.

Q. Did you place an order with Rockler for -- strike that.

Did you make a purchase from Rockler companies on March 20th of 2021?

A. I invoke the Fifth Amendment.

Q. Do you have any familiarity with the account rockler@bryanlober.com?

A. I invoke the Fifth Amendment.

Q. Have you ever used that account for personal purchases in the past?

A. I'm not aware of doing so.

Q. Did you make subsequent purchases of Rockler companies after March 20th of 2021?

A. I invoke the Fifth Amendment.

Q. I'm going to stop sharing my screen. Give me just a moment. I'm going to show you a different -- can you see my screen, or this new exhibit, rather?

A. Yes, I can see the screen.

Q. What do you see on the screen?

A. That's my Florida Bar member profile.

Q. Can you read the mailing address, please?

A. [redacted]

Q. Do you have any connection to Memphis, Tennessee, in your practice?

A. In my practice of what? Can you clarify?

Q. Your legal practice or your work? Do you work out of Memphis, Tennessee?

A. No, I do not work out of Memphis, Tennessee.

Q. So, why do you have a Memphis, Tennessee, mailing address on your official Florida bar profile?

A. This is a mail service that both Bryan and I use, after we had issues with our PO box and forwarding being delayed or not received at all.

Q. Can you read the email that you have?

A. [redacted].com.

Q. Do you use your husband's email address?

A. I have from time to time.

Q. For what purpose?

A. Various purposes.

Q. Like what?

A. Professional, personal, various purposes.

Q. Can you give me an example of something you might have used it for?

A. I recall coordinating events on his behalf using his email.

Q. Can you explain why an email address coming from loberb@gmail.com would say, "Truly, Bryan" at the bottom?

A. I would have to speculate. I'm not sure I understand the question.

Q. Did you write an affidavit regarding your practice of helping your husband with his personal and professional needs?

A. I wrote an affidavit.

Q. Are you aware that there was an affidavit submitted in connection with this case?

A. Yes.

Q. So, that's the affidavit I'm referring to. When did you write that affidavit?

A. I believe it was September of 2025. I don't recall the exact date. I'd have to refer back to the affidavit.

Q. So, why would you wait until September of 2025 to write that affidavit?

A. Because nobody had questioned those issues previously?

Q. Were you aware that your husband, Mr. Lober, was being investigated by FDLE, the state attorney, and the commission on ethics?

A. I was aware.

Q. Did you ever at any time speak up and say, "I made those transactions"?

A. Those communications with my husband are going to be privileged by spousal privilege.

Q. I didn't say to him, I mean to FDLE or to the state attorney or the commission on ethics. Did you ever tell any of them that you made any of his campaign transactions, specifically with Rockler companies?

A. I invoke the Fifth Amendment.

Q. What does your affidavit refer to?

A. That's narrative. Do you have specific questions?

Q. What is the subject of it? Just in one sentence, what is the subject of the affidavit?

A. My involvement with Rockler and the tax-exempt status.

Q. Do you ever refer to Rockler by name in that affidavit?

A. I've had to review the affidavit again, I don't recall.

Q. Regarding the purchases, the email referenced

rockler@bryanlober.com. Why would you not use that account for the transactions?

A. I invoke the Fifth.

Q. Did any of your job duties for the Brevard County Clerk of Court involve purchasing woodworking materials or sign-building materials?

A. No.

Q. Where did you obtain the county tax-exempt certificate number?

A. I invoke the Fifth Amendment.

MR. BURNS: Give me just a moment, Judge.

THE COURT: What're you telling?

MR. BURNS: That's all I have for now. Thank you, Judge.

THE COURT: Thank you. Cross-examination?

MR. LOBER: Mr. Spicola, could you take a look at the note that I just sent you?

MR. SPICOLA: Give me just one moment, Your Honor. Can I have a moment to confer with Counsel, Your Honor?

THE COURT: Absolutely.

MR. SPICOLA: Thank you.

THE COURT: Five minutes, is that enough?

MR. SPICOLA: Yes, Your Honor.

THE COURT: We'll just come back at five after

noon. I don't know. Is this going to go into the afternoon? Do we need a break? What do you think? Are we going to get done pretty quickly?

MR. SPICOLA: I can tell you. I think that we'll be done with this witness relatively quickly.

THE COURT: No, I mean, the trial. I mean, how long is it going to take us here?

MR. BURNS: We've only got one more witness after Ms. Lober, Judge, so I think it's -- so.

MR. SPICOLA: I don't believe I have any additional witnesses.

THE COURT: So, we're going to be done pretty quick, so that's good. We'll come back at five afternoon, okay? I just wonder if we need to take a break. I don't think. I mean, the big break. So, we'll decide, but I'm going to go off the record for just a bit. Till five afternoon.

(Off the record.)

MR. BURNS: Yeah, I think we're waiting on a cross for Ms. --

THE COURT: Oh, we are. Thank you. Was there anything to cross?

MR. SPICOLA: Yes, Your Honor.

THE COURT: Okay.

CROSS-EXAMINATION

BY MR. SPICOLA:

Q. Ms. Lober, you're married to Mr. Lober; right?

A. Yes, I am.

Q. And you all have been married for over 14 years; correct?

A. Yes.

Q. During your marriage, you've assisted your husband with his professional and political responsibilities; right?

A. Yes, I have.

Q. So, it's been your practice in your marriage to make calls and texts and emails on each other's behalf; correct?

A. We have.

Q. And you and your husband have used each other's email accounts when helping each other?

A. We both have, yes.

Q. And that's normal in your marriage.

A. Yes.

Q. I want to look back several years ago when your husband was serving his elected position at Brevard County. Your husband asked you to place an order for some material for him; right?

A. That would be privileged under spousal privilege. I placed an order, though.

Q. At the time he made the request, what did you understand about the purpose of the order?

A. It was for his District 2 office.

Q. Why did you believe it was for his official government office?

A. I, I believe he told me it was for D2.

Q. And D2 is his district?

A. Yes, District 2 in Brevard County.

Q. So, the order you placed in March, you believe that was for campaign purposes?

A. I placed an order on his behalf.

Q. Did you think it was for his campaign or for county business?

A. I thought it was for county business.

Q. Ms. Lober, did your husband provide you with the payment details for this order?

A. He did.

Q. Why did you believe the purchase was associated with his government office?

A. I believe that he had said that it was for his -- for D2.

Q. What shipping address did you designate for the order?

A. His District 2 County Commission office.

Q. And what phone number did you put for that

order?

A. It was his county office number.

Q. So, both the address and the phone number you placed for the order were his county address and his county phone number?

A. Yes.

Q. Ms. Lober, what is a government-issued tax-exempt certificate?

A. It's seeking for tax-exempt status on products.

Q. So, how does the government-issued tax-exempt certificate work?

A. You use it to apply to, to vendors for their use.

Q. So, if someone wanted sales tax not to be collected, what would they have to do with the government-issued tax exemption certificate?

A. It would have to be presented to the vendor.

Q. Did you send Brevard County's tax-exempt certificate in connection with this order?

A. I did.

Q. And was that because you believed it was for county business?

A. Yes.

Q. Prior to providing your written statement back in September of last year, did anyone from the clerk's

office ask you about this matter?

A. No.

Q. Did anyone from the Florida Department of Law Enforcement ever ask you about payment of Rockler sales tax?

A. No.

Q. Did anyone from any other agency ask you about the payment of Rockler sales tax?

A. No.

MR. SPICOLA: Your Honor, may I share my screen, please?

THE COURT: Sure.

MR. SPICOLA: Sorry about that.

THE COURT: Is it one of the exhibits that are in evidence?

MR. SPICOLA: This is exhibit number 22.

THE COURT: Oh, yes.

BY MR. SPICOLA:

Q. Ms. Lober, I'm showing you what has been previously marked as respondent's Exhibit 22. Would you please take a minute and read through it? And please let me know when you need me to scroll or if I need to zoom.

A. Please scroll. You can scroll to the next slide, please. Please, scroll again. Finished.

Q. Do you recognize this?

A. I do.

Q. And what is it?

A. It's my affidavit that I wrote.

Q. Did you provide this statement voluntarily?

A. Yes, I did.

Q. Were you coerced when you're providing the statement?

A. No.

Q. Is this the same statement that you provided back in September 5th of 2025?

A. Yes, it is.

Q. Is that your signature on the document?

A. Yes, it is.

Q. Was the statement notarized?

A. Yes.

Q. Who is the notary public?

A. Toni Josette Wright.

Q. And what was the commission number?

A. 7535126.

Q. And what identification did you provide to the notary?

A. My passport.

Q. Does this document that you just reviewed fairly and accurately represent your notarized statement?

A. Yes, it does.

Q. Is everything contained in this statement true and accurate to the best of your knowledge and recollection?

A. Yes.

Q. As you sit here today, do you wish to update or correct any portion of it?

A. No, I do not.

Q. Ms. Lober, in providing your statements, did you waive any legal privileges or rights?

A. No.

Q. What privileges or rights did you specifically reserve?

A. Any and all rights and defenses and rights.

Q. Are you aware of your constitutional right against self-incrimination?

A. Yes.

Q. Are you aware of the marital communications privilege under Florida law?

A. Yes.

Q. Did you reserve those rights in your statement?

A. Yes, I did.

Q. May I ask why?

A. I reserved those rights so that I could be cautious in my response. And here today, while testifying truthfully, I was worried about, about

anything being used to get it to me. After having gone through over five years of investigations and inquiries, and, and related legal matters in connection with this, I'm simply being cautious.

Q. Ms. Lober, is there anything else you would like to add to clarify your role in this matter?

A. No.

Q. Do you stand by the statement that you provided?

A. Yes, I do.

Q. And have you testified truthfully here today?

A. Yes, I have.

MR. SPICOLA: Your Honor, I'll ask that Respondent's Exhibit 22 be moved into evidence.

THE COURT: It has been moved previously. It came in early on. It's been accepted.

MR. SPICOLA: Thank you.

THE COURT: And it is clearly marked. Are you done with this witness?

MR. SPICOLA: May I have just a brief moment, Judge.

THE COURT: Sure, absolutely.

MR. SPICOLA: Thank you, Your Honor. No further questions at this time.

THE COURT: Thank you. Any cross-examination?

MR. BURNS: Yes, sir.

REDIRECT EXAMINATION

BY MR. BURNS:

Q. Ms. Lober, you just testified after Mr. Spicola's question that you did in fact make an order for your husband. So, I'd like to share my screen again. Is this the order that you're talking about?

A. Can you repeat your question?

Q. Earlier when I was asking you questions, you invoked the Fifth Amendment. Just now, when Mr. Spicola was asking you questions, you did admit that you made an order for your husband. Is this the order?

THE COURT: What are you showing her? I mean, I can see it, but are you going to tell us for purposes of the record?

MR. BURNS: So, this is the order number right here. It was the order --

THE COURT: No, marked Exhibit number 1?

MR. BURNS: Exhibit 1.

THE COURT: Yeah.

BY MR. BURNS:

Q. And it references order number 1004191024. It was made on March 20th of 2021, from Rockler Companies. Is that the order that you're talking about in your testimony?

A. I don't know by order number. This is an email.

Q. What about the date or the company name?

A. I invoke the Fifth.

MR. BURNS: Judge, I'm going to argue that she waived the Fifth when she was answering questions for Mr. Spicola.

THE COURT: You can argue that. I'm not going to force her to testify against her Fifth Amendment privilege. We'll see what you can -- I want to hear legal argument on that after the fact, but I'm not going to force this witness anything beyond her asserted privilege.

MR. BURNS: Understood. Just a moment, please, Judge. Nothing further for us, Judge.

THE COURT: Thank you. Do we have another witness?

MR. BURNS: Yes, sir. Ms. Rachel Sadoff.

THE COURT: Okay.

MS. LOBER: Before we move on to the next witness, Judge, may I ask a question, please?

THE COURT: Yes.

MR. BURNS: No objection.

MS. LOBER: I just wanted to know if I'm -- I just wanted to know if we were excused from the

matter, or if we're still needed.

THE COURT: Yeah, no objection; right?

MR. BURNS: No objection to that, Judge.

THE COURT: I'm assuming, Mr. Spicola, no further use of this witness?

MR. SPICOLA: No, Your Honor.

THE COURT: You are excused, and thank you for your appearance.

MR. SPICOLA: Thank you.

MS. LOBER: Thank you, Judge.

THE COURT: Thank you. Bye-bye.

MS. LOBER: Bye-bye.

THE COURT: Here comes Ms. Sadoff.

MR. BURNS: And Judge, I want to apologize. Earlier, I said I have one more witness. I've got two. I've also got Mr. Malone here. But they will be brief. I think they'll both be brief, so. But I just want to clarify that earlier I said I only had one more. I've got two more.

THE COURT: That's okay. Just remember, verbosity is an atrocity.

MR. BURNS: Understood.

THE COURT: Here we are. Ms. Sadoff, how are you?

MS. SADOFF: I'm good. How are you?

THE COURT: Very good. You've been called as a witness. You'll be subject to direct examination, cross-examination, and redirect. If you'd raise your right hand, please. Do you swear or affirm the testimony or evidence you will give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MS. SADOFF: I do.

Thereupon:

RACHEL SADOFF,

having been first duly sworn, was examined and testified as follows:

THE COURT: Thank you. You can put your hand down. Your witness, Mr. Burns. Go ahead.

MR. BURNS: Thank you, Judge.

DIRECT EXAMINATION

BY MR. BURNS:

Q. Good afternoon, Ms. Sadoff. Could you please state your name for the record?

A. My name is Rachel Sadoff.

Q. And what do you do for living?

A. I am the Brevard County Clerk of Court and Comptroller .

Q. And how long have you been in that role?

A. I was elected in 2020. I was appointed by the

chief Judge in December of 2020, and then I took my elected position in 2021, January 2021.

Q. So, it sounds like you started serving in that role overall in December of 2020?

A. Yes, at the very end.

Q. Can you describe your job duties, please?

A. Yes, I am Brevard County as the clerk and the comptroller role, I had both roles. On the clerk side -- well, the clerk oversees over a thousand duties, and on the clerk side we have the courts and we have the customer service, we have guardianship, we have case managements for the courts, we have jury, jury maintenance, jury summons, the court finds, things like that. Record filing, images of court records, the intake of court fines.

And on the comptroller side is -- we oversee clerks of -- I oversee clerks of the board, which is the minutes of the county commission meetings for the official record, the official records of your deeds, your mortgages, notice of commencements, things like that. Passports, we are a passport compliance agent and so we do take in passports, recording of marriage license, of course, the recording of any final judgments.

And then I also have the child support and all of county finance and clerk finance. So, I am the

payroll of the, the county, anybody that comes under the county manager and the county commissioners. I oversee all county funds. And so the clerk/comptroller, our name was changed by statute a few years ago prior to me taking office, actually. And one of the roles under the comptroller is also as the auditor for the county funds. And I, I mean, I could go on.

Q. No, it's okay. Thank you. That's a very good overview, I think. Do you personally supervise a general counsel for your office?

A. I do, yes.

Q. Was [redacted] ever in that role as general counsel for your office?

A. Yes.

Q. Can you think of any reason why she might not recall that?

A. No.

Q. Can you describe the duties of the general counsel for your office?

A. Yes. General counsel. Well, as any clerk employee clock in and clock out on time card managers submit their time cards for us to sign. They oversee day-to-day any questions that our, our clerks might have on both sides. Mainly, the general counsel doesn't work on the comptroller side, but we do have, have them assist

with some of those duties. They go to court for us, especially for any court hearings.

They file their notice of appearance for all those court hearings that they must represent the clerk if it's either we are a party of interest or we've been added as a party. This could be a foreclosure case, a missing document, all types of different court cases.

Q. Is there any reason that the general counsel would be responsible for making county purchases for materials that they might need?

A. No.

Q. Does the county have a tax-exempt certificate?

A. Yes.

Q. What is that for?

A. It's for purchases that fall under the, the exemption. And so that the taxes aren't paid for that product. Can also --

Q. Can you describe --

A. -- sorry. Go ahead.

Q. No, I'm sorry. Finish your answer, please.

A. Employees in the county and in the clerk's office are to only use that for, for goods that are being purchased for public purpose and come under, they, they use that certificate or that -- or a company might already hold our certificate and place that in as a hold

and know that we are an exempt and the purchases are exempt.

Q. Is there a proper or set procedure for making tax-exempt purchases on behalf of the county?

A. I -- off the top of my head, I don't know. Yes, there is. I mean, there's a statute that comes, so that would be in a policy, and it's clear that employees are not to use that form, or anyone be able to use that form throughout a public purpose.

Q. Is there a form associated with getting a purchase approved for tax-exempt application?

A. Say that one more time. Is there a form -- say that again?

Q. So, hypothetically, I'm a county employee, and I believe I need to make a purchase for the county, which would be tax-exempt. How do I go about doing that?

A. So, the, the document is on the Beach (phonetic). And only so many people have access to the Beach, which is a county application. Not everybody has access to the Beach and they can get that form from there or be provided that form from HR or finance and then they would utilize that form.

Q. I'm going to share my screen here. Sorry, just one moment. Bear with me, please. So this is actually mislabeled as B, but this is what's in evidence as

Advocate's Exhibit 2. Do you recognize this?

A. I'm seeing it a little closer. It's the exemption form for the county.

Q. Can you read the first three lines here?

THE COURT: (indiscernible) It's in evidence.

MR. BURNS: Understood, Judge. Thank you.

BY MR. BURNS:

Q. In your time with the county, have there been issues with fraud, waste, and abuse?

A. Yes.

Q. Is there anyone who comes to mind when I ask you about fraud, waste, and abuse?

A. Well, I mean --

MR. SPICOLA: Objection, Your Honor.

THE COURT: I sustain the objection. That's way too broad, and I don't know where you're going with that.

BY MR. BURNS:

Q. Have you ever overseen any audits of county funds?

A. Yes.

Q. When did you do that?

A. I'm sorry. I thought somebody was saying something. Throughout my career, there were different times that I was brought into audit, so I oversaw the

internal auditors and also under guardianship we have audits and so I oversaw those, and then the audit with the P-card.

Q. What was the P-card audit about?

MR. SPICOLA: I'm going to object, Your Honor. This is beyond the scope of the hearing.

THE COURT: This is not about P-card, let's move on. I mean, it's probably semi-relevant, just have her audited experience, but she's already testified to that.

MR. BURNS: Understood.

THE COURT: Move on.

BY MR. BURNS:

Q. Are you aware of any misuses of the county's tax-exempt certificate?

A. Yes.

MR. SPICOLA: Objection. Calls for a legal conclusion.

THE COURT: Overruled.

MR. BURNS: Yes, sir. Thank you.

BY MR. BURNS:

Q. Who committed those misuses?

MR. SPICOLA: Objection, Your Honor. Calls for a legal conclusion.

THE COURT: I do sustain that objection.

Unless she knows someone that's been convicted of that. Is that's what are you asking?

MR. BURNS: I'm not asking about a criminal conviction. Just she oversees the county's funds, and if she's qualified to recognize a misuse of a county resource, she's certainly able to say --

THE COURT: Yeah, are you asking about this particular case?

MR. BURNS: Yes.

THE COURT: And you're asking her to conclude that there was a misuse of office, or a misuse of the tax certificate by Mr. Lober. Is that what you're asking her?

MR. BURNS: Yes. Yes, sir.

MR. SPICOLA: Your Honor, she has no personal knowledge of that. And it, again, calls for a legal conclusion.

THE COURT: You can disperse the legal conclusion. He can ask her what her knowledge basis on use of a tax certificate. But subject to cross-examination, I'm going to allow him to do that. Go ahead.

BY MR. BURNS:

Q. So, Ms. Sadoff, you mentioned that you're aware of misuses of the county's tax-exempt certificate. Who

committed those misuses?

MR. SPICOLA: Objection, Your Honor.

MR. BURNS: This is the same objection you just ruled on, Judge.

MR. SPICOLA: This isn't the same objection. No speaking objections. My apologies.

THE COURT: She can answer that question. I mean, let's ask. Ms. Sadoff, over the years, have you known people who misused the tax certificate?

MS. SADOFF: Yes.

THE COURT: And what does that form look like? What happens when someone misuses one?

MS. SADOFF: It could be -- and we're talking across the board, Your Honor?

THE COURT: Yes.

MS. SADOFF: Okay. So, we've had individuals use the card or the -- I'm sorry. You're asking about tax-exempt, not the card. I am not aware of anyone except for when we were working on this audit for a tax exemption.

THE COURT: So, the tax-exempt certificate, you don't know of anyone specifically that has misused the tax certificate?

MS. SADOFF: I -- yes, I shouldn't -- yes, I do. We've had people that have used it for -- the

county has -- I just saw in blank -- Amazon. And so there are things that are on Amazon or something that would be tax-exempt. And they might have used it. It was saved in there and they used it. And then they've had to pay back the taxes to the department, yeah.

THE COURT: Are you aware of facts or circumstances that indicate that, that may have been done by Mr. Lober in this case?

MS. SADOFF: Yes.

THE COURT: You're just aware of facts, not a legal conclusion or not concluding that he did it, but there are facts and circumstances that you're aware of that would suggest there was a misuse of a tax exemption certificate?

MS. SADOFF: Yes.

THE COURT: She can explain that and subject to cross-examination. It's not saying that, as far as the legal conclusion, I agree with your objection, Mr. Spicola. But as far as her being aware of facts and circumstances, she can certainly, they are already in the record.

MR. SPICOLA: Yes, Your Honor.

THE COURT: Go ahead. Mr. Burns, go ahead.

MR. BURNS: Actually, that's all I had for Ms.

Sadoff.

THE COURT: Good. Thank you. Cross-examination, Mr. Spicola?

MR. SPICOLA: Yes, Your Honor. Real briefly.

CROSS-EXAMINATION

BY MR. SPICOLA:

Q. Earlier, the advocate asked you about a specific procedure for the use of the tax exemption form, right?

A. Yes.

Q. And there is no specific procedure. You mentioned the statute, but there's no specific clerk's office procedure or rule or set of particular forms that have to be filled out prior to using the sales tax exemption; right?

A. No.

Q. So basically, the form that you're referring to is just the tax exemption form that someone would pull off of the Beach and then give that to a vendor?

A. Yes, correct.

Q. And anybody with access to the Beach has access to the county tax exemption certificate?

A. I honestly don't know the answer to that because I don't know if the Beach has access controls.

Q. Well, how about this? If somebody requested a

copy of the county sales tax exemption certificate as part of a public records request, you'd be obligated to provide it; right?

A. I do believe we would be obligated. I do not know if anything would be redacted.

Q. Relating to the use of the tax exemption certificate in this matter we're here for today. You didn't witness anybody send an email to Rockler requesting tax-exempt treatment for any particular purchase; right?

A. I did not witness anyone.

Q. And nobody told you that they were the ones that sent a particular email to Rockler about these transactions; right?

A. No.

Q. And you have no personal knowledge of anything that you ever saw or witnessed related to who sent the Rockler transactions. Is that right?

A. Yes, correct.

MR. SPICOLA: No further questions.

THE COURT: Thank you very much, Ms. Sadoff.

Did you have any follow up, Mr. Burns?

MR. BURNS: Yes, sir.

REDIRECT EXAMINATION

BY MR. BURNS:

Q. Ms. Sadoff, when you were conducting your audit, did Mr. Lober ever explain any of these issues to you?

A. No.

Q. Did you ever sit down with him and ask him questions, have him provide answers, nothing like that?

A. No.

MR. SPICOLA: Anything else?

MR. BURNS: That's all I have. Thank you.

THE COURT: Thank you.

MR. SPICOLA: I've got just one brief -- I apologize.

THE COURT: Yeah, I'm going to let you. I'll let it just so that we're done with this witness. Go ahead, Mr. Spicola.

RECROSS EXAMINATION

BY MR. SPICOLA:

Q. And Ms. Sadoff, you never spoke with Mr. Lober about Rockler transactions; right?

A. No.

Q. Or sales tax?

A. No.

MR. SPICOLA: That's all I have.

THE COURT: Thank you. Any follow up on that? Since I opened it back, Mr. Burns.

MR. BURNS: No, sir.

THE COURT: Thank you again, Ms. Sadoff. So, these things are on the Beach. What if you're on the east side of the county?

MS. SADOFF: I am.

THE COURT: I assume that's a platform.

MS. SADOFF: Yes.

THE COURT: Computer system, yes.

MS. SADOFF: Yes. Thank you.

THE COURT: Thank you. You take care. Bye-bye.

MS. SADOFF: Thank you. You too. I may exit now?

THE COURT: Yes, you may. Thank you.

MS. SADOFF: Thank you.

THE COURT: And so, it brings us to the final witness on your side, Mr. Burns?

MR. BURNS: Yes, sir. Can I ask for five minutes, please?

THE COURT: Yes, you may.

MR. BURNS: Thank you.

THE COURT: And we'll come back at -- let's see it. We'll come back at -- five minutes would be about 55 of, okay?

MR. BURNS: Yes, sir.

(Off the record.)

THE COURT: One more witness. And it's Mr. Malone.

MR. MALONE: Yes, sir.

THE COURT: Mr. Malone, would you raise your right hand, please? Do you swear or affirm the testimony or evidence you'll give in this proceeding will be the truth, the whole truth, and nothing but the truth?

MR. MALONE: I do.

Thereupon:

ROBERT MALONE,

having been first duly sworn, was examined and testified as follows:

THE COURT: Thank you. Your witness, Mr. Burns.

MR. BURNS: Thank you, sir.

DIRECT EXAMINATION

BY MR. BURNS:

Q. Can you state your name for the record, please?

A. Robert Malone, last name spelled M-A-L-O-N-E.

Q. And what do you do for a living?

A. I'm an ethics investigator for the commission of ethics.

Q. And how long have you been doing that?

A. For about 38 years. I did have a year off retirement and then came back.

Q. Got it. So, when you're conducting an investigation, do you have a normal process for that?

A. Typically, yes. Yeah. We work off of the order to investigate that's written by our legal staff and signed out by our executive director. And that outlines what statutes and what allegations were to investigate. So, I go ahead and read that over and then contact usually the complainant first, and, and gets more details from them if they have any. And then I usually contact the respondent to get a statement from them. Subsequently, I write up a report investigation.

Q. Understood. Did you investigate Mr. Lober in this case?

A. Yes, sir.

Q. Give me just a moment to get an exhibit prepared, please.

THE COURT: Is that already an evidence?

MR. BURNS: It is not yet an evidence. No, sir.

THE COURT: Well, why not? Is it one of these exhibits, 1 through 6?

MR. BURNS: No, sir. This would be number 10, the report of investigation.

THE COURT: Oh. Any objection?

MR. SPICOLA: Same objection as before. Just that it's uncorroborated hearsay. It'd be a --

THE COURT: Well, leave the author, I would think. Right? So we can get that. So, report of investigation, that's number 10. Let me see if I -- go ahead.

MR. BURNS: Thank you, sir.

BY MR. BURNS:

Q. I'm going to go ahead and share my screen on that exhibit. This is marked as Advocate's Exhibit number 10. Do you recognize this page here?

(Petitioner's Exhibit 10 marked for identification.)

A. Yes, I do. And that's my chicken scratch signature there. The date when it was signed off by an executive director, it's February 3rd, 2025.

Q. Thank you.

MR. BURNS: Judge, did you clearly move this into evidence? If not, I'd like to ask you.

THE COURT: I didn't move into evidence. The only thing we've discussed is 1 through 6. 10, you're asking for the ROI, the report of investigation to be moved into evidence.

MR. BURNS: Yes, sir.

THE COURT: If you've laid the foundation, Mr. Spicola, are you satisfied with that or no?

MR. SPICOLA: Again, and this is always the interesting thing about DOAH hearings, it's admissible in this respect that it's admissible hearsay. But I just want to make sure that I state for the record that this is in fact hearsay.

THE COURT: Well, some may be. He may want to talk to this witness about it. Some may be, and it is. The thing is, in hearings, something can come in despite having hearsay. And it doesn't lose its hearsay quality, even though someone doesn't object to it.

MR. SPICOLA: And I just wanted to make that clear for the record.

THE COURT: Yes, it is. Yeah. But truly, the caveat there is for you, Mr. Burns, to clear up anything that may be hearsay to the extent you can through this witness.

MR. BURNS: Yes, sir. Understood.

BY MR. BURNS:

Q. So, Mr. Malone. On this investigation, who did you reach out to?

A. A number of people. I certainly talked to Ms. Sadoff. I talked to David Hubbard, the inspector for

FDLE at great length. I've reviewed his investigative summary and all of his notes that, that was sent to us -- when, when it was sent over to us from FDLE. And I went ahead and, and read through Ms. Sadoff's audit. And I believe I also talked, looking at my notes here, talked to Mr. Mark Peterson, the county supervisor of finance.

Attempted to talk to Mr. Lober. I believe, if I'm not mistaken, I left either one or more voicemail messages with him. And then I subsequently heard back from Mr. Brian Onek, his attorney, saying that, that -- ultimately saying that Mr. Lober did not want to make any, any sworn interview contact with us.

Q. Understood. So, you talked to agent Hubbard. What did he tell you?

A. Basically, we went

MR. SPICOLA: Objection, hearsay.

THE COURT: It is hearsay. Go ahead.

MR. MALONE: Basically, went over his investigative summary and all the people he had talked to and, and statements he had -- he had obtained.

BY MR. BURNS:

Q. How about the finance director? I believe you mentioned you talked to the finance director of Brevard County.

A. Ms. Sadoff, I believe I talked to her a couple of times on a telephone, yes. And just asked for follow-up questions about what was in her, her audit report.

Q. So, Ms. Sadoff was the clerk of court. Did you talk to the finance director? I believe his name was Mark Peterson.

A. I did, yeah.

Q. So, generally, what was his impression of this situation?

A. He sent me again -- and again I don't recall specifically what he said, but he sent me an email which specified, you know, what, what had happened as far as the finance issues.

Q. Was there ever any indication from all the people that you talked to that it was not Mr. Lober that made these purchases?

MR. SPICOLA: Object.

THE COURT: Please wait. Excuse me, go ahead and give me your objection.

MR. SPICOLA: Your Honor, this is hearsay within hearsay.

THE COURT: I don't know about --

MR. SPICOLA: Calling for a legal conclusion.

THE COURT: -- I mean, to the extent it could be collaborative, but collaborative of what? We've

got some circumstances, but did someone tell you that, Mr. Malone?

MR. MALONE: Tell me what, Judge?

THE COURT: What was the question, Mr. Burns?

MR. BURNS: I asked if there was ever any indication that it was not Mr. Lober that made these purchases?

THE COURT: Yeah. Did anyone tell you that? I guess is what you're asking; right?

MR. BURNS: Yes.

THE COURT: Or is there any indication? Did you review anything?

MR. BURNS: Any sort of indication whether -- sorry, I didn't mean to cut you off. But whether it be any sort of document or testimony from or --

THE COURT: It's question for the witness, he can answer it. I understand. The objection is overruled.

MR. MALONE: Absolutely not. No one ever brought up anything about Mrs. Lober.

BY MR. BURNS:

Q. So, to summarize your report and all the indications within it, with all the people you talked to and all the documents that you looked at, who do they all point to as having made those purchases that were tax

free from Rockler, and sent the email to them?

A. Well, primarily only person whose name was on the email was Mr. Lober. So, had no indication anyone else was involved into whatsoever.

MR. BURNS: That's all I have for the witness. Thank you.

THE COURT: Thank you. Mr. Spicola?

MR. SPICOLA: Yes, Your Honor. Just briefly.

CROSS-EXAMINATION

BY MR. SPICOLA:

Q. So, what materials were provided to you when you received the assignment to investigate this matter?

A. What materials?

Q. Yes, sir.

A. Investigative summary from FDLE.

Q. So, this complaint was referred by FDLE; right?

A. That's correct.

Q. And you got a copy of Inspector Hubbard's summary?

A. Correct, along with the thumb drive with recorded interviews that he had and other copies of documents. Everything pertaining to his investigation.

Q. When did you first review Inspector Hubbard's investigative summary?

A. When?

Q. Yeah.

A. The date? Well, let me see here. Hold on one minute. I'll look at my notes.

THE COURT: Is it in the report?

MR. MALONE: Pardon me?

THE COURT: Is it in the report?

MR. MALONE: The date of when I first contacted Hubbard, no. As mentioned earlier, the date -- the date when the report was signed off by our executive director is February 3rd of 2025. I believe, I was first assigned the case right around December 12th of 2024. And then I talked to Inspector Hubbard, on 12/18/24. Then I contacted Mr. Onek initially on December 16th of 2024. And we had sent back and forth on the phone where he asked for a list of questions.

I went and talked to my immediate supervisor as well as our executive director and asked about whether we would -- we, we typically don't ever provide written questions to the respondent. And I asked if we should make an exception to that rule and was told no, that we were sticking to our rule of no written questions. So, I then called Mr. Onek back on 12/18/24 and told them that.

And I believe the last contact I have with Mr.

Onek, it's not dated. But he, he sent me a, a letter saying, "Mr. Lober does not wish to participate in interview at the present time. If written questions can be provided at a later date, that would be greatly appreciated. Thank you, Brian Onek."

BY MR. SPICOLA:

Q. Did you conduct any other witness interviews yourself?

A. I did. As I mentioned earlier, I talked to Ms. Sadoff, Mr. Hubbard, Mr. Peterson, I believe.

Q. So, Mr. Mark Peterson, the Brevard County assistant finance director; right?

A. I have them written down here as the county supervisor of finance.

Q. Supervisor. Your report of investigation doesn't contain a statement from Mr. Peterson regarding the Rockler purchases, does it?

A. If you're -- I don't know -- I, I don't recall. Haven't, haven't, haven't looked at it close enough, I guess.

Q. The Rockler purchase on March 2021, how much was the -- how much sales tax was saved by the use of the county sales tax certificate?

A. Hold on. I'll take a look at that and tell

you. I thought I had the amount somewhere. Looks like $126.

Q. You didn't witness Mr. Lober send an email to Rockler on March 20th, 2021; right?

A. That would have been impossible.

Q. And no one you spoke with during your investigation told you that they witnessed Mr. Lober send an email to Rockler?

A. That is correct.

Q. And Mr. Lober's reelection campaign records show a campaign expenditure for Rockler on March for the amount of the purchase. Is that right?

A. Correct.

Q. And the campaign expenditure was listed as "Signs building tools and supplies/fasteners;" right?

A. Best of my recollection, yes.

Q. And there was a subsequent purchase at Rockler in July of 2021. Is that correct?

A. I believe there were two more.

Q. And sales tax wasn't collected on those purchases. Is that right.

A. That is correct.

Q. The shipping address for those purchases was to Mr. Lober's personal residence; right?

A. I don't recall.

Q. Was the shipping address for those two transactions his county office?

A. That's what I remember, but it's been a while, so.

Q. So, your testimony is that you recall the July 2021 purchases being delivered to his county office?

A. Let me -- let me retract that. I don't really remember. So, I'm just going to go with I don't recall.

Q. Inspector Hubbard confirmed that he found no evidence that Mr. Lober provided Rockler with the county exempt certificate for the July purchases; right?

A. That's my recollection.

Q. And you never determined how tax-exempt status was supplied to the July purchases. Is that right?

A. Be more specific, applied by whom?

Q. By Rockler.

A. I did not -- any documents that showed that there was a request to exempt any taxes for those two purchases.

Q. And you never personally interviewed the vendor or representative from Rockler, who the purchases were made; right?

A. Pardon me, could you repeat that?

Q. Sorry. You didn't personally interview anybody from Rockler or Rockler representative about these

purchases; right?

A. Yeah, that's correct. I think I tried to -- tried to locate Marilyn, if I'm not mistaken. Again, it's been too long ago to, to recall specifically. But I wasn't able to reach anyone there that had any knowledge.

Q. And you didn't subpoena any additional records from Rockler beyond what FDLE had obtained; right?

A. No, sir. Didn't, didn't really believe there needed to be anymore.

Q. And your report relies on Inspector Hubbard's, FDLE investigative summary for factual findings. Isn't that right?

A. Correct.

Q. And you added no new document review beyond what Inspector Hubbard reviewed; right?

A. Correct.

Q. You never obtained credit card statements from Mr. Lober's personal cards; right?

A. No, I did not.

Q. So, essentially your investigation was reviewing and summarizing FDLE's prior work?

A. Correct.

Q. Are you aware that this matter received significant media attention in Brevard County?

A. I believe usually when I sign a case, I go

ahead and look online to see if there's any information about it. And I do recall seeing one or more articles about it.

Q. Did any member of the commission on ethics express an opinion to you about Mr. Lober's conduct before you completed your investigation?

A. Absolutely not.

Q. Do you have any personal or professional relationship with any Broward County official involved in this?

A. None.

Q. And did you have any personal or professional relationship with Inspector Hubbard, before this?

A. I believe, I may have had other cases assigned to me that were referred by FDLE, that he may have been the lead investigator on, but, but I'm not -- I'm not certain.

Q. And your report doesn't conclusively determine whether Mr. Lober violated Florida ethics laws; right?

A. Not my job to do that.

Q. That job will be done by the Judge and the commission on ethics; right?

A. Correct.

Q. So, your job is just to gather the facts and present them immediately to commission; right?

A. Yes, sir.

Q. And during that gathering of the facts, you never were able to locate any witness that could tell you who sent the email to the Rockler company; correct?

A. That's correct.

MR. SPICOLA: No further questions.

THE COURT: Thank you. Any follow-up?

MR. BURNS: Yes, sir, briefly.

THE COURT: You are welcome.

REDIRECT EXAMINATION

BY MR. BURNS:

Q. I'm going to share his report again. So, showing you the email. It's attached as an exhibit to your report. It's been entered into evidence both as part of your report and independently. But Mr. Spicola, was just asking you about the amount of taxes that were saved by getting the tax-exempt treatment. Do you see anything in this email that indicates -- never mind, I'll strike that. Hang on.

So, I'm looking at this last paragraph that starts with "As such." Can you read the last sentence of that paragraph, please?

A. "Please do not process the order if, for any reason, you are unable to apply the tax-exempt certificate."

Q. So, clearly it was important enough to them to save that money.

A. It appears from that email, yes.

MR. BURNS: Thank you. Just a moment, please, Judge. Judge, can I just ask, did you confirm that the report of investigation is into evidence?

THE COURT: Yes, it is subject to hearsay. It comes in, hearsay is preserved. Mr. Malone testified as to what he could.

MR. BURNS: Understood. Yes, sir. That's all I've got, sir. Thank you.

THE COURT: Thank you. Mr. Spicola, anything else? Do you need anything for your case, or where are we?

MR. SPICOLA: Your Honor, I don't believe so, but let me just confirm. Should have forgotten something, but I think we're about finished --

THE COURT: Sure, take a moment. How much time do you need?

MR. SPICOLA: Give me four minutes, Your Honor.

THE COURT: Four minutes you've got.

MR. SPICOLA: I think that was only three and a half, Your Honor, but --

THE COURT: I'm pretty certain it was only three and a half.

MR. SPICOLA: And, Your Honor, we have no further questions. We have no further witnesses, and I believe that Your Honor has picked up on our theory of the case thus far. And I will save you what I thought was a brilliant 15-minute-long opening statement.

THE COURT: I'm sure. So, what we have now is recommended orders and do address the Fifth Amendment issue because that may play a role here.

MR. SPICOLA: Yes, sir.

THE COURT: And Mr. Burns, as well.

MR. BURNS: Yes, sir.

THE COURT: I enjoyed the presentation despite my wanting to move on for this particular matter. But as it unfolded, it was interesting. What we usually do, you've got 10 days after transcript is filed. Who's going to be filing the transcript? Is it you, Mr. Burns?

MR. BURNS: Yes, sir, I will.

THE COURT: Your court reporter will file it with us. Usually it's 10 days, but if you'll look at my cases, all of them give the parties 30 days because that's what I suggest. And I suggest you get 30 days after transcript to do your proposed recommended orders. And then mine is due 30 days

after that.

Otherwise, yours is due 10 days after transcript and mine is due 20 days after yours. Gives me 10 more days, gives you 20 more days. So, you know, take it or leave it. What do you think? Is 30 days good?

MR. SPICOLA: That would be my preference, Your Honor.

THE COURT: That's what I will give. Any objection, Mr. Burns?

MR. BURNS: That's fine with me, Your Honor. I'll take, yeah, the 30 days.

THE COURT: 30 days. And if indeed something happens, this is summertime, crunch time, if you need more time, talk to each other before you request it and make the request before the due date. So, transcript is usually -- you can talk to the court reporter about that. It's usually 10 business days, but sometimes it's a little longer depending on their schedule. Get it filed.

I'll do a scheduling order that shows your PROs are due 30 days later and that my RO is due the 30 days after your PROs. If you look, I meet the time. But if you can't, tell me ahead of time and I'll give you all the additional time, unless it's this

time next year. So with that, if nothing else, we are done here. Is that correct, Mr. Burns?

MR. BURNS: Yes, sir.

THE COURT: It was a pleasure seeing everybody. Mr. Malone, it was really nice seeing you. Mr. Spicola, good presentation. And, Mr. Lober, best of luck. Here's the deal. You can always resolve this thing. I do these ADRs these days. They're called alternative speed resolutions. While you're talking or while you're waiting for your transcript, you can always talk if there's a way to resolve this.

I'm sure you probably explored that. But if there's a way, please do so, because then I'm not making the decision for them. But I don't mind doing that either.

MR. BURNS: We'll see if we can save you some time, perhaps, sir. At least make an effort at it.

THE COURT: Sure. Well, that's what I'm saying, for the parties to talk. Good seeing you all, and best of luck.

MR. BURNS: Thank you, sir.

MR. SPICOLA: Your Honor, have a great day.

THE COURT: Thank you. Bye-bye.

(Proceedings concluded at 1:18 p.m.)

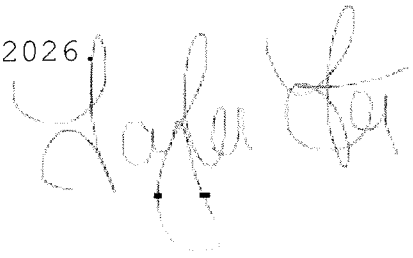
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Kanan Dutta Suyal

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