

1 District Court, County of Adams |
State of Colorado |
2 17th Judicial District |
1100 Judicial Center Drive |
3 Brighton, Colorado 80601 |
Telephone: 303.659.1161 |

COURT USE ONLY

4 _____ |
5 Plaintiff: THE PEOPLE OF THE |
STATE OF COLORADO |
6 Defendant: JERRY GEROME WILSON |

Case No. 14CR327
Division Q

7 _____
8 REPORTER'S EXCERPTED TRANSCRIPT OF TRIAL:
TESTIMONY OF PHILIP CRANE
9 _____

10 This matter came on for Trial on Tuesday,
September 1, 2015, before the Honorable Craig Welling,
11 District Court Judge.
12 _____

13 APPEARANCES:

14 FOR THE PEOPLE: THEODORE D'ARCY, ESQ.
Reg. No. 26004

15 FOR THE DEFENDANT: JULIA STANCIL, ESQ.
16 Reg. No. 36475

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1 (The transcript is an excerpt requested by
2 ordering party.)

3

4 THE COURT: First witness for the People?

5 MR. D'ARCY: Yes, Your Honor.

6 Your Honor, the People would call Mr. Philip
7 Crane.

8 THE COURT: Very good.

9 Please raise your right hand.

10 PHILIP CRANE,

11 having been first duly sworn to state the whole truth,
12 testified as follows:

13 THE COURT: Please be seated.

14 Once you get settled, if you would pull up the
15 microphone. And please state your full name, spelling your
16 first, middle, and last name for the record.

17 THE WITNESS: Philip Scott Crane, P-h-i-l-i-p,
18 S-c-o-t-t, C-r-a-n-e.

19 THE COURT: Thank you, Mr. Crane.

20 You may proceed, Mr. D'Arcy.

21 MR. D'ARCY: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. D'ARCY:

24 Q. Now, Mr. Crane, how are you employed?

25 A. I'm sorry?

1 Q. How are you employed?

2 A. I work for Docupak.

3 Q. In what capacity are you with Docupak?

4 A. The president.

5 Q. And as president, what -- can you just give us an
6 overview of what the president of Docupak does?

7 A. Well, oversee the day-to-day operation -- from
8 financial management, warehousing, and distribution, and
9 total customer satisfaction.

10 Q. Great. And how long have you been with Docupak?

11 A. Since 1998.

12 Q. Is that -- in 1998, is that when Docupak was
13 founded?

14 A. It is.

15 Q. Were you part of that?

16 A. Yes, sir.

17 Q. So you were one of the founding individuals of
18 Docupak?

19 A. Yes, sir.

20 Q. All right. And at that time, what -- what does
21 Docupak do? What type of company are they?

22 A. Marketing and advertising company. In this
23 particular instance, our focus was on providing services to
24 the United States government Department of Defense for
25 recruiting and retention purposes.

1 Q. Okay. And you described that -- is that what you
2 are referring to as the Guard Recruiting Assistance
3 Program?

4 A. That is one of the programs, yes, sir.

5 Q. All right. How many programs did -- recruiting
6 programs did Docupak essentially administer?

7 A. Over the course of our contracts, it would be
8 dozens of them, this being one of them. So 20 to 30.

9 Q. And so let's specifically talk about the Guard
10 Recruiting Assistance Program. That's also known as G-RAP;
11 is that correct?

12 A. That is correct.

13 Q. And what is the G-RAP program?

14 A. The Guard Recruiting Assistance Program was
15 started in 2005. And it was what the military called a
16 force multiplier, which encouraged members in good standing
17 of the Army National Guard to go out and to share their
18 story with other individuals who might have a propensity to
19 also serve in the military.

20 Q. Okay. And what were the goals of G-RAP?

21 A. It's to increase accession so that the National
22 Guard would be at full authorized strength.

23 Q. And did it attain that goal?

24 A. It did. Yes, sir.

25 Q. So it was a successful program?

1 A. Yes, sir.

2 Q. Now let's talk about how Docupak managed G-RAP.
3 Can you explain -- get us started on what Docupak's role
4 was in administering the G-RAP program?

5 A. We coordinated with the Federal government and
6 representatives from the National Guard Bureau to establish
7 the guidelines and the protocols of what the rules and
8 regulations of engagement would be. The program was
9 primarily a web-based program to where a soldier would have
10 the opportunity to go in and to sign up his or her own
11 willingness to do so. And if they brought someone into the
12 National Guard and they shipped to basic training, then
13 they would be financially compensated \$2,000 for that
14 effort.

15 Q. All right. And so how would these individuals
16 get signed up with the G-RAP program to do that, to do
17 those type of -- to do that, to go out and seek out
18 individuals to enlist?

19 A. Okay. A soldier must have been qualified as an
20 RA, which was independent of their affiliation with their
21 state or local unit in the National Guard. They would come
22 onto our website, which was guardrecruitingassistant.com,
23 and they would fill out an application and go through an
24 online training process. And once they completed that, we
25 would validate that against government files to make sure

1 that they were in the proper status. And then they would
2 be eligible to participate in G-RAP.

3 Q. All right. So you used the term "RA." What's
4 "RA" stand for?

5 A. Recruiting assistant.

6 Q. And did Docupak essentially market this program
7 to the various National Guard contingents around the
8 country?

9 A. We did, in conjunction with the National Guard
10 Bureau; correct.

11 Q. All right. So the idea was to get out the word
12 that this program was available to folks to get some
13 additional compensation for bringing enlistments in to the
14 National Guard; is that a fair statement?

15 A. That is correct.

16 Q. All right. And by doing that, they, as you
17 indicated, would register as an RA?

18 A. That's correct.

19 Q. And what were the requirements of being an RA?
20 Can you explain that?

21 A. First, you would have to be in the military
22 status of what's called TPU, or would be a traditional
23 reservist, two weekends -- every other weekend and two
24 weeks a year. And if you were in that status, and that
25 status was based on government criteria of which we

1 received on a daily basis. And once you completed the
2 online training, then you would be eligible to participate.

3 Q. All right. And -- well, let's -- so then what --
4 once you became an RA, what would the RAs then do?

5 A. Well, that would be their decision, but as a
6 general statement, the RAs would share their stories within
7 their sphere of influence, whether it be a community
8 center, high school, church, or any other place of worship.
9 That they go out, and they would basically tell what their
10 real story of what was going on in their life, in their
11 real life experiences in the military.

12 Q. All right. And could they wear their uniform
13 when they --

14 A. That was disallowed in the program.

15 Q. Could they do any of that on a military base or
16 National Guard base?

17 A. No, sir.

18 Q. And so they would go out into their communities
19 to engage folks, tell their story, but for what purpose?

20 A. To develop a -- to get someone to join the
21 National Guard.

22 Q. And if somebody indicated interest to the RA,
23 what would the RA then do?

24 A. They would gather a certain amount of critical
25 information, PII, personal identifiable information, and

1 they will log into their account at
2 guardrecruitingassistant.com where they would put that
3 information in, and then that potential soldier, or PS,
4 would be assigned to that particular recruiting assistant.

5 Q. And once an RA had identified somebody and
6 submitted them, did they have any continuing
7 responsibilities or obligations?

8 A. Yes, sir. We encouraged them to put notes in the
9 system of what type of communication was going on between
10 the RA and the potential soldier, and there was a place
11 within the website in order to do that.

12 Q. Well, would they also continue on a personal
13 level with these individuals?

14 A. Correct. They were -- they were to be a mentor
15 to those potential soldiers.

16 Q. All right. Were they to assist them in
17 completing the process of finalizing enlistment with the
18 National Guard?

19 A. Correct.

20 Q. All right. And for submitting their information
21 to the G-RAP program, they were compensated; is that
22 correct?

23 A. Not just for submitting, but based upon a
24 successful contract, then they would receive compensation.

25 Q. And why don't you -- can you explain how the

1 compensation worked for the program?

2 A. Correct. The payments were split. So once an
3 individual who had been nominated into the system showed up
4 in a government file, ARISS, then that would trigger the
5 first \$1,000 payment.

6 The second payment would be issued once that
7 individual successfully shipped to basic training.

8 Q. Okay. And if you brought in somebody with prior
9 military experience, was that still how you were
10 compensated?

11 A. No, sir. The payment system was different in
12 that aspect. That once a prior service soldier would enter
13 the National Guard, the \$2,000 payment would be made all at
14 one time since basic training was not required at that
15 point.

16 Q. Okay.

17 MR. D'ARCY: Your Honor, may I approach the
18 witness?

19 THE COURT: Yes.

20 Q. (BY MR. D'ARCY) Now, Mr. Crane, I'm going to
21 hand you a packet of exhibits. It's People's Exhibits 1
22 through 10. I'm going to ask you to take a look at those.
23 And then we'll talk about each one individually.

24 THE COURT: Just for the record, you showed
25 Ms. Stancil those before presenting them to the witness?

1 MR. D'ARCY: I have, Your Honor. Thank you.

2 Q. (BY MR. D'ARCY) So if you will take a moment to
3 look at those.

4 THE COURT: Mr. D'Arcy, you may proceed.

5 MR. D'ARCY: Thank you.

6 Q. (BY MR. D'ARCY) Now, Mr. Crane, if I could just
7 turn your attention to Exhibit 1. Can you -- have you ever
8 seen that document before?

9 A. Yes, sir.

10 Q. What is that?

11 A. That is the overview profile of the recruiting
12 assistant.

13 Q. Okay. And what is the overview of -- profile of
14 a recruiting assistant? Can you describe what that is?

15 A. Well, it would be their address, contact
16 information, direct deposit information for payment
17 purposes, and their rank and so forth.

18 Q. All right. And how was this document generated
19 or prepared?

20 A. The data would be input by an RA.

21 Q. All right. And once the data is inputted by the
22 RA, what happens to it on Docupak's end?

23 A. It would be saved in our database.

24 Q. All right. So the document you have in front of
25 you, is that a record that you keep in the ordinary course

1 of your -- of Docupak's business?

2 A. Yes, sir.

3 Q. And what you are looking at, is that an actual --
4 is that a true and accurate copy of a computer generated
5 record?

6 A. Yes, sir. It appears to be.

7 Q. And a computer generated -- that's a true and
8 accurate one that would be maintained by Docupak as a
9 business record?

10 A. That's correct.

11 Q. And where are these type of -- where is this type
12 of record maintained with Docupak?

13 A. In our server room at our home office in Alabama.

14 Q. All right. So it's essentially data that's
15 contained on a computer system with Docupak?

16 A. That's correct.

17 Q. All right. And this would be a printout of that
18 information?

19 A. I believe this is actually a screen shot.

20 Q. All right. And is this a document -- are these
21 computer records, including Exhibit 1 here -- are these
22 documents that are the type that are kept under your
23 custody and control as president of Docupak?

24 A. Yes, sir. Yes, sir.

25 Q. All right.

1 MR. D'ARCY: Your Honor, I would move for
2 admission of People's Exhibit 1.

3 THE COURT: Objection or voir dire?

4 MS. STANCIL: Voir dire.

5 THE COURT: You may proceed, Ms. Stancil.

6 VOIR DIRE EXAMINATION

7 BY MS. STANCIL:

8 Q. Good morning, Mr. Crane.

9 A. Good morning.

10 Q. I would like to ask you a few questions about the
11 custody and control of the records that you have just
12 mentioned.

13 You just mentioned that those were -- look like
14 screen shots to you?

15 A. That's correct.

16 Q. What does that mean?

17 A. Where we actually use a program called SnagIt, so
18 when you pull the image up on your computer screen, it
19 takes a physical photograph of what's on the screen.

20 Q. Okay. And that's something that your company
21 regularly uses to provide documents in these cases?

22 A. That's correct, yes, ma'am.

23 Q. Okay. And when you are looking at that screen
24 shot and you're looking at that copy, did you yourself
25 actually provide that to the district attorney's office in

1 this case?

2 A. I did not provide this particular one, no, ma'am.

3 Q. Are you aware of how it is that the district
4 attorney's office received that document?

5 A. It would have been requested probably through
6 CID, and at that time we had an employee working with CID
7 to provide this information.

8 Q. But you weren't that employee?

9 A. I was not.

10 Q. And in terms of the keeping of records, are there
11 records regarding the recruiting assistant program that can
12 be accessed online?

13 A. Not currently, no, ma'am.

14 Q. And that's because the program was shut down?

15 A. That's correct.

16 Q. And were all of the records for all of the
17 recruiting assistants kept in your database?

18 A. Yes, ma'am.

19 Q. Were any of the records lost?

20 A. No, ma'am.

21 Q. When you were talking about having been the
22 president of Docupak, you've been there since 2000 -- since
23 1998?

24 A. Yes, ma'am. Correct.

25 Q. And when you -- throughout the time of the

1 recruiting assistant program, were you working in the daily
2 operations of the business?

3 A. Of the business, I was; correct.

4 Q. Okay. Did you have anything to do with the
5 document maintenance or the document storage during the
6 years of the G-RAP program?

7 A. No. That was assigned to our CTO who is
8 responsible for that. Our chief technology officer, excuse
9 me.

10 Q. And that's a person that works within the
11 company?

12 A. That is correct.

13 Q. And has been the same person throughout the
14 entire period of the G-RAP program?

15 A. He started in 2007, so the program was started
16 for 18 months prior to him coming onboard.

17 Q. Okay. And having reviewed those documents, is
18 there anything in those documents that you believe is
19 inaccurate or incomplete?

20 A. Not that I could tell, no, ma'am.

21 MS. STANCIL: No further questions.

22 THE COURT: Any objection to the admission of
23 Exhibit 1?

24 MS. STANCIL: No, Your Honor.

25 Actually, are you moving the admission of

1 Exhibit 1?

2 MR. D'ARCY: Yes.

3 THE COURT: No objection?

4 MS. STANCIL: No objection.

5 THE COURT: Exhibit 1 is admitted.

6 (People's Exhibit 1 was admitted into evidence.)

7 DIRECT EXAMINATION

8 BY MR. D'ARCY:

9 Q. Now, Mr. Crane, let's turn your attention to
10 People's Exhibit 2. Do you recognize that document?

11 A. Yes, sir.

12 Q. What is that document?

13 A. That is a screen shot of the payment records
14 disbursed.

15 Q. And when you say "payment records," what's
16 reflected in this particular screen shot or screen shots?

17 A. The amount of payment made and for the individual
18 that is being paid for.

19 Q. All right. So this reflects payment from Docupak
20 to -- or to an individual who nominated somebody to the
21 G-RAP program?

22 A. That is correct.

23 Q. And does it list the nominees in this document?

24 A. Yes, sir, it does.

25 Q. And, again, is this -- you used the term

1 "SnagIt." And I don't think that came out during my
2 direct. But is this something that would be generated
3 through your SnagIt -- is that -- am I pronouncing that
4 right?

5 A. Yes, sir. SnagIt is a commercially available
6 software.

7 Q. All right. And using SnagIt, is this a document
8 that would -- or was produced through your SnagIt program?

9 A. Yes, sir.

10 Q. All right. And, again, it's representation of
11 screen shots?

12 A. Correct.

13 Q. All right. And, again, this is a document that
14 is kept in the ordinary course of Docupak's business?

15 A. Yes, sir.

16 Q. And this appears to be a true and accurate copy
17 to the best of your recollection of the information that
18 would be produced through your SnagIt program?

19 A. It does.

20 Q. And, again, these are the type of -- or this is a
21 document that would be kept under your custody and control
22 as president of Docupak?

23 A. It is.

24 MR. D'ARCY: Your Honor, I would move for
25 admission of People's Exhibit 2.

1 THE COURT: Any objection or voir dire with
2 respect to Exhibit 2?

3 MS. STANCIL: No objection.

4 THE COURT: Exhibit 2 is admitted.

5 (People's Exhibit 2 was admitted into evidence.)

6 MR. D'ARCY: Thank you, Your Honor.

7 Q. (BY MR. D'ARCY) I'm also going to ask you to
8 take a look now -- well, you have looked at People's
9 Exhibits 3 through 10. And I believe they're all similar
10 type documents. Is that correct?

11 A. Yes, sir.

12 Q. What are these documents?

13 A. This would be the field which the PII would have
14 been put in for nominated potential soldier.

15 Q. All right. And, again, these are screen shots of
16 your SnagIt program?

17 A. Yes, sir.

18 Q. And these are records kept in the regular course
19 of Docupak's business?

20 A. Yes, sir.

21 Q. And, again, these are documents that would be --
22 are kept under your custody and control as president of
23 Docupak?

24 A. They are.

25 MR. D'ARCY: Your Honor, I would move for

1 admission of People's Exhibits 3 through 10.

2 THE COURT: Any objection or voir dire with
3 respect to Exhibits 3 through 10?

4 MS. STANCIL: No objection.

5 THE COURT: Exhibits 3 through 10 are admitted.
6 (People's Exhibits 3 through 10 were admitted
7 into evidence.)

8 MR. D'ARCY: Your Honor, may I approach the
9 witness to receive those?

10 THE COURT: Yes.

11 MR. D'ARCY: Your Honor, I would ask permission
12 to publish these to the jury.

13 THE COURT: Permission is granted.

14 MR. D'ARCY: Your Honor, may I just have one
15 moment to consult with my staff?

16 THE COURT: Absolutely.

17 You have to change your source.

18 MR. D'ARCY: That's what I have to figure out,
19 Judge.

20 THE COURT: I think the issue is down below with
21 the input it's trying to read off of. It is using the
22 laptop as opposed to --

23 MS. STANCIL: I unplugged.

24 THE COURT: It is looking for something coming in
25 through that cable as opposed to --

1 MS. STANCIL: Maybe close that screen.

2 THE COURT: That's the projector.

3 MR. D'ARCY: Okay. I think we got it.

4 Thank you for your patience, Your Honor.

5 THE COURT: Not a problem.

6 All of a sudden everybody is going to stand on
7 their head -- there you go. And let us know when you want
8 us to catch the lights.

9 MR. D'ARCY: All right. I think if we could dim
10 the lights.

11 Thank you, Judge.

12 Q. (BY MR. D'ARCY) Now, Mr. Crane, can you see that
13 document?

14 A. Yes.

15 Q. And if you need to --

16 MR. D'ARCY: If the judge could grant permission
17 for the witness to step down?

18 THE COURT: I will. It may be age, but I think
19 it's blurry to everyone, so don't think that you're not
20 able to see it. So if the witness wants to approach -- are
21 you asking him to come down with you, Mr. D'Arcy?

22 MR. D'ARCY: Well, let me see if I can pull back
23 a bit and enlarge it.

24 Does that help at all, Judge?

25 THE COURT: Nominally.

1 Maybe if you pull the projector back just a
2 little bit, you might be able to make it a little bigger.

3 I don't think anyone can actually read what's on
4 the document. I think the light may just -- or the
5 printing may be too light for the -- for it to catch good
6 focus. But it is still out of focus.

7 MR. D'ARCY: That's fine. I think I'll abandon
8 this, if I might, Judge.

9 THE COURT: That's fine.

10 MR. D'ARCY: If we could turn on the lights
11 again? Thanks.

12 All right. May I approach the witness?

13 THE COURT: Yes.

14 Q. (BY MR. D'ARCY) Mr. Crane, I'm going to hand you
15 again what's been labeled as People's Exhibit 1. That
16 document there is -- would have been the -- or is the
17 information provided to Docupak by Sergeant Wilson; is that
18 correct?

19 A. Yes, sir.

20 Q. All right. And so in order for that information
21 to be generated by Docupak, he would have had to have input
22 the information; is that correct?

23 A. Correct.

24 Q. He would have had to have --

25 MS. STANCIL: Objection. Leading.

1 THE COURT: Sustained.

2 Q. (BY MR. D'ARCY) What training would he do to
3 become an RA?

4 A. An applicant, in order to become an active RA,
5 would have had to go through a training module, which would
6 outline the guidelines of the program.

7 MS. STANCIL: I'm going to object to speculation.

8 THE COURT: Sustained. Lay foundation.

9 Q. (BY MR. D'ARCY) Now, let's go back, I'm sorry,
10 to Exhibit 1. When was this document created?

11 A. This document was created on December the 8th of
12 2009.

13 Q. All right. At what time?

14 A. 12:06 p.m.

15 Q. And so would that have been when Sergeant Wilson
16 would have accessed the application for being an RA through
17 the G-RAP program?

18 MS. STANCIL: Object to leading. Speculation.

19 THE COURT: Sustained as to -- sustained as to
20 both. You have to lay foundation as to how he knows that.

21 Q. (BY MR. D'ARCY) Whose name is on this document?

22 A. Jerry Wilson.

23 Q. And the information that would have been inputted
24 that is on this document would be gathered how?

25 A. Individual would have put this information into

1 the system.

2 MS. STANCIL: Object to speculation.

3 THE COURT: Sustained.

4 Can counsel approach?

5 (The following proceedings were held outside the
6 presence and hearing of the jury.)

7 THE COURT: Can you clarify your objection just a
8 little bit? What's the nature of what you're objecting to?

9 MS. STANCIL: What would have had to happen
10 before that input to end up on that page? I'm not
11 objecting to the idea that that information was inputted by
12 someone. But what would have had to happen in terms of
13 outside of the page before the input to get there?

14 THE COURT: First of all, you're asking generally
15 about all of the information on the page. It's simply --
16 she is going to keep objecting. It is simply not true that
17 all of this information was inputted by Mr. Wilson. The
18 "Date Created" wasn't inputted by Mr. Wilson.

19 MR. D'ARCY: I understand.

20 THE COURT: Certain information was put in by
21 Mr. Wilson.

22 The other thing is, you've got to establish how
23 he knows how each of these fields were created and what his
24 basis for that knowledge is and whether or not he can
25 actually testify to that, to the background of the

1 document. He's established the document as a business
2 record. But whether or not he has the foundation to
3 competently testify as to how it got from wherever it got
4 to create this document is a different question. Does that
5 make sense?

6 MR. D'ARCY: Yes.

7 THE COURT: And that's what you are going after.
8 And we may end up going around on this. But I want to make
9 sure we knew where we were on that.

10 MR. D'ARCY: I mean, the bottom line is obviously
11 he's not witnessing anybody inputting this data, but it is
12 being captured by Docupak.

13 THE COURT: We'll see where it takes us.

14 MR. D'ARCY: That's fine.

15 (The following proceedings were held within the
16 presence and hearing of the jury.)

17 Q. (BY MR. D'ARCY) Mr. Crane, let's redirect your
18 attention to People's Exhibit 1. Now, this document has a
19 number of fields on it, does it not?

20 A. It does.

21 Q. All right. It's got a "Name" field; is that
22 correct?

23 A. It is.

24 Q. All right. And the "Name" field has information
25 in it; is that correct?

1 A. Correct.

2 Q. And what's the information provided in the name
3 field?

4 A. "Jerry Wilson."

5 Q. And how would this "Name" field collect that data
6 indicating the name?

7 A. It would have been input by a user.

8 Q. All right. So somebody would have input it?

9 MS. STANCIL: I'm going to object to the
10 foundation. Speculation.

11 THE COURT: I don't know the basis of his
12 knowledge for this information. It's sustained.

13 And I'm going to get you to go back to the
14 podium, if you don't mind, just so you are in front of the
15 microphone.

16 So objection is sustained.

17 Q. (BY MR. D'ARCY) Let's go back, Mr. Crane. How
18 do you -- how do you know how these fields are captured?

19 A. There would be no other way for the information
20 to be loaded into our system except by someone inputting
21 this data into the system.

22 Q. All right. So the system is designed to capture
23 data from somebody inputting it?

24 A. Yes, sir.

25 Q. All right. And do you have a department within

1 Docupak that has created this? Or how was this created?

2 A. This particular program was created by our
3 internal software engineers.

4 Q. All right. And, again -- so this was done
5 internally with Docupak, the creation of this program?

6 A. That's correct.

7 Q. And so Docupak's the one capturing this
8 information into their computer systems? Does your
9 computer system have a name?

10 A. It was based on a .NET database, but it was a
11 website where the data was input.

12 Q. All right. So Docupak created a website to
13 permit individuals to input the data that was ultimately
14 captured by Docupak?

15 A. That's correct.

16 Q. And that website had a series of fields that
17 needed to be completed by the person inputting that data;
18 is that correct?

19 A. That is correct.

20 Q. And does this document identify the fields that
21 would have been on that website?

22 A. They do.

23 Q. All right. And so in order for Docupak to
24 capture that information for each of the fields on this
25 document, those would have had to have been input by

1 somebody through the website?

2 A. Yes, sir.

3 Q. All right. And so, again, the name would have
4 been a field that would have been completed by somebody
5 inputting on the website?

6 A. Correct.

7 Q. And then what's the "RA ID" field?

8 A. That was -- I'm sorry -- that was a number that
9 our system assigned to an RA.

10 Q. Okay. So that wasn't actually inputted by a
11 user? That's something that was generated by Docupak?

12 A. Yes, sir.

13 Q. All right. What about the "RA Type"?

14 A. That would distinguish which branch of the
15 military the individual was in.

16 Q. Okay. And would that be generated by Docupak, or
17 is that a field that would have been input by the user?

18 A. That would have been input by the user.

19 Q. And in this case, it says "ARNG Soldier." What
20 does "ARNG" stand for?

21 A. Army National Guard.

22 Q. Now, would the individual inputting that actually
23 type in "A-R-N-G"?

24 A. I don't recall if it was free type or if it was a
25 drop-down menu.

1 Q. And as far as the next category, "Status," what
2 does that indicate on the form?

3 A. That "TPU," that information would be generated
4 by off of government-supplied personnel files that I
5 referenced earlier.

6 Q. Is that something that would have been generated
7 by the Docupak program or inputted by the user?

8 A. No. That would have been by the Docupak program.

9 Q. What's "TPU" stand for?

10 A. I do not recall. I know its meaning, but I don't
11 know the acronym. I apologize.

12 Q. And then there's a field for "Mailing Address."
13 Is there a mailing address indicated on that form?

14 A. Yes, sir.

15 Q. Is that something that would have been inputted
16 in the website by the user?

17 A. It would have been.

18 Q. And then that information, again, would be
19 captured by Docupak?

20 A. Yes, sir.

21 Q. All right. And "Shipping Address," is there a
22 address indicated on that field?

23 A. There is.

24 Q. And would that have been a field inputted by a
25 user into the website?

1 A. Correct. It would have been.

2 Q. So that information comes externally from the
3 individual inputting the documentation?

4 A. Yes.

5 Q. What is that mailing address on there?

6 A. "16587 Franklin Court, Thornton, Colorado 80602."

7 Q. All right. And then the next field is an email
8 address. Is the data collected on that something that
9 would have been inputted into the website?

10 A. Yes, sir.

11 Q. All right. And what is that information on
12 there?

13 A. Jerry.gerome.wilson@us.army.mil.

14 Q. And then there's a Social Security number -- or
15 "SSN." What does "SSN" stand for?

16 A. Social Security number.

17 Q. And there's a number inputted on that?

18 A. There is.

19 Q. And who would have been -- or how would that
20 number have been inputted into that field?

21 A. By a user.

22 Q. All right. And through the website?

23 A. Correct.

24 Q. All right. And I won't have you describe what
25 that is.

1 Then there's a "Payment Option" field. What
2 does -- what is that field?

3 A. It just verifies that there would be a direct
4 deposit into an appropriate checking account.

5 Q. All right. And how would that field be
6 generated? Is that something a user would put in, or is
7 that something Docupak would create?

8 A. I believe this is the only payment option that
9 was available during this time.

10 Q. All right. So everything had to be done by
11 direct deposit?

12 A. Yes, sir.

13 Q. All right. And then there's an "Account Number"
14 field. Is there an account number indicated in there?

15 A. There is.

16 Q. All right. And how would that information be
17 inputted into the system?

18 A. By the user.

19 Q. And there's a routing number for a bank; is that
20 correct?

21 A. Correct.

22 Q. And there's a number associated with that as
23 well?

24 A. Yes, sir.

25 Q. And how would that information be inputted?

1 A. By the user.

2 Q. All right. And there's a "Date of Birth" field.

3 How would that information be inputted?

4 A. By the user.

5 Q. And then indication of sex?

6 A. That would be user as well.

7 Q. All right. There's looks like three more fields
8 right after that, a daytime phone number, mobile phone, and
9 fax number. How would those fields be inputted?

10 A. By the user.

11 Q. And in this case, on this document, is there a
12 daytime phone number indicated?

13 A. There is.

14 Q. What is that number?

15 A. 720.340.6727.

16 Q. All right. And a mobile phone number as well?

17 A. Correct.

18 Q. And what's that number?

19 A. 720.250.2971.

20 Q. All right. And then there's a "Shirt Size"
21 field; is that right?

22 A. Yes, sir.

23 Q. All right. How would that be inputted? How
24 would that . . .

25 A. By the user.

1 Q. All right. And it says "LG." What does "LG"
2 stand for?

3 A. In this case, large.

4 Q. Why is that field in here?

5 A. Sometimes we collected that information -- not
6 sometimes. We collected that information in case the
7 government decided they would want to send them a soft polo
8 shirt or a T-shirt to be able to do more G-RAP in.

9 Q. Now, the next field says "RA Has Agreed." What
10 is that field?

11 MS. STANCIL: Object to foundation and -- as to
12 the basis of knowledge for the answer of this question.

13 THE COURT: I think -- I think this is question
14 goes to foundation. Document's been admitted so he can
15 read from the document. This is a foundational question
16 about what that field is. So objection is overruled
17 without prejudice.

18 Go ahead.

19 Q. (BY MR. D'ARCY) What is this field?

20 A. That is an auto-generated field when someone
21 had -- it's a subsequent to this when someone agrees to
22 policies, then it would show up as yes in that block.

23 Q. How is that generated?

24 A. Through the Docupak system.

25 Q. So how -- what's the answer to this field?

1 A. Yes.

2 MS. STANCIL: Objection, Your Honor. Still
3 foundation.

4 THE COURT: He asked what does this field say.
5 I'm overruling that objection. This document has been
6 admitted.

7 Q. (BY MR. D'ARCY) How was -- how would that answer
8 have been created and generated onto this document?

9 A. When a user had agreed to the terms and
10 conditions of the program upon completing the training,
11 that would be auto-generated.

12 Q. All right. And then there's a following field,
13 the "Last Verified Date." What is that field?

14 A. I cannot answer that question.

15 Q. All right. And then there's fields concerning
16 "Current Service." There's a "User Supplied Branch." How
17 would that information be generated for that field?

18 A. I can't be for certain if that was auto-generated
19 or if that was user input. I'm not for sure.

20 Q. All right. And then there's a series of fields
21 regarding "User Supplied Rank," "Military Rank," "Military
22 MOS," and "Military Unit." How would those fields be
23 generated?

24 A. Those would have been input by the user.

25 Q. All right. And then there's a field as to

1 when -- it says, "Date Created." What does that mean?

2 A. It's when the account would have been created.

3 Q. And how would that have been -- how would the
4 answer to that field be generated?

5 A. Through our system.

6 Q. And so through your system, how would that
7 trigger that date and time?

8 A. Could you repeat the question, please?

9 Q. How would that specific date and time for that
10 field be generated through your system?

11 A. The system would capture when an activity
12 occurred, and it would time and date stamp when that
13 activity, in this case, started.

14 Q. Okay. So what's reflective of that specific date
15 on this form?

16 A. The date?

17 Q. Yes.

18 A. It's "12/8/2009."

19 Q. And what's, again, the significance of that
20 specific date?

21 A. That is when this account would have been in the
22 process of being created.

23 Q. And that would have meant at least some user
24 on -- would have been inputting data to become an RA?

25 A. That is correct.

1 Q. And then the next field is "Completed Training."
2 What is that field?

3 A. It's when the individual would have successfully
4 completed the entire training module.

5 MS. STANCIL: I'm going to object to foundation,
6 speculation.

7 Q. (BY MR. D'ARCY) What is --

8 THE COURT: Sustained as to that answer. The
9 jury is to disregard the answer.

10 You need to lay some foundation.

11 Q. (BY MR. D'ARCY) Is there a training procedure
12 that Docupak required to become an RA?

13 A. Yes, sir.

14 Q. What is that?

15 A. It was an online process.

16 Q. Can you describe what that process is?

17 A. Well, it would have been by form and by module to
18 where an individual would have to go through section by
19 section. And at the end of the entire process, there would
20 be a short quiz that one would have to take in order to be
21 qualified as an active RA.

22 Q. All right. How would an individual access that
23 training module?

24 A. Through the website.

25 Q. All right. And, again, what was that website?

1 A. Recruiting -- guardrecruitingassistant.com.

2 Q. And once they're on that website, what would they
3 have to do to get to the training module?

4 A. They would have to log in their account so that
5 they would be credited for their procedures.

6 Q. And how did they -- I guess, how would you create
7 an account to do that? I mean, you said you have to log
8 on. I'm assuming that's done before you do the training
9 module. Is that correct?

10 A. That is correct.

11 Q. So you create a logon --

12 A. You would create a user profile prior to the
13 training process.

14 Q. All right. And once that's done, then you would
15 have access within the website to a training module?

16 A. That is correct.

17 Q. Can you describe in more detail what that
18 training module is, or that would be accessed through the
19 website?

20 A. It was basically the do's and don'ts of the
21 programs -- of the program, who's eligible, who's not
22 eligible, what the payment process would be, how would it
23 affect your military career as far as promotions. It
24 outlined -- it was a complete voluntary, civilian-type
25 program. And then you would have to consent to all the

1 terms that had been previously described.

2 Q. And in what format would that have been?

3 A. It would have been just a click-through on the
4 screen with traditional verbiage on the screen itself.

5 Q. Is it a text document?

6 A. It would have been a text document; correct.

7 Q. All right. And you described a quiz. Would that
8 be part of the text, or is that something separate?

9 A. It would be part of the text itself.

10 Q. All right. And do you know specifically what
11 format that text is in?

12 A. I do not.

13 Q. But anybody accessing that or having the ability
14 to access the test should be able to read the contents of
15 those materials; is that correct?

16 MS. STANCIL: Objection. Speculation.

17 THE COURT: Sustained.

18 Q. (BY MR. D'ARCY) Now, the training, once an
19 individual has access to that and they complete the quiz,
20 what occurs?

21 A. They would be qualified as an active RA and be
22 able to nominate individuals at that time.

23 Q. All right. And if they completed that online,
24 would that time and date be indicated on People's
25 Exhibit 1?

1 A. Yes.

2 Q. Is that the field "Completed Training"?

3 A. Yes.

4 Q. All right. And what is that date?

5 A. It's "12/8/2009" at "2:38 p.m."

6 Q. All right.

7 MR. D'ARCY: Your Honor, may I approach the
8 witness?

9 THE COURT: Yes.

10 And for the record, you have just showed
11 Ms. Stancil what you are approaching the witness with.

12 MR. D'ARCY: Thank you, Judge.

13 Your Honor, I'm providing Mr. Crane with People's
14 Exhibits 11 and 12.

15 Q. (BY MR. D'ARCY) Mr. Crane, would you take a look
16 at those documents.

17 Have you had an opportunity to take a look at
18 those?

19 A. Yes, sir.

20 Q. All right. So People's Exhibit 11, what is that
21 document?

22 A. That is the training module that was in effect
23 during this time.

24 Q. And how was the training module prepared?

25 A. Of how it was --

1 Q. Yeah. How was it created?

2 A. It was created in conjunction with
3 representatives from our company as well as government
4 representative from the National Guard Bureau.

5 Q. And is this a document that is kept in the
6 ordinary course of Docupak's business?

7 A. Yes, sir.

8 Q. All right. This particular document, you
9 described it as modules. Is there more than one module?
10 Has there been more than one module?

11 A. There have been.

12 Q. How many modules have there been?

13 A. Five throughout the course of the program.

14 Q. All right. And which module would this be?

15 A. This would be Version 3.

16 Q. And when was Version 3 created?

17 A. It was implemented in I believe January of 2009.

18 Q. All right. And it was created in conjunction
19 with the NGB. What's the NGB?

20 A. National Guard Bureau.

21 Q. And how was that done? I mean, what was the
22 process for actually coming up with this document?

23 A. Well, they had points of contact which were
24 assigned to help design the program from the government
25 side. So whoever was designated as the contracting officer

1 representative is who our representative would have
2 collaborated with.

3 Q. Were you involved in the creation of this
4 document?

5 A. In 2005, I would have been.

6 Q. In this version, did you review and approve it
7 before it was implemented?

8 A. This particular one, no, sir.

9 Q. Who would have done that?

10 A. Our program manager.

11 Q. And who was that program manager?

12 A. John Copeland.

13 Q. And he did so on behalf of Docupak?

14 A. That is correct.

15 Q. And this became a record of Docupak?

16 A. Yes, sir.

17 Q. And, again, it's a document that has been
18 maintained and -- well, how is it maintained with Docupak?
19 How is it -- where is it maintained with Docupak?

20 A. In our corporate office in Alabama.

21 Q. All right. Is this also representative of the
22 material that an individual would have reviewed as far as
23 training?

24 A. Yes, sir.

25 Q. How did that work?

1 A. Well, on the website it was modular. So it would
2 take you through each section. And it would be a
3 click-through process.

4 Q. So this exact text is what would be duplicated on
5 the training module that somebody would access online?

6 A. That is correct.

7 Q. Any changes or any differences in the module that
8 would have been accessed online?

9 MS. STANCIL: I'm going to object to foundation,
10 speculation.

11 THE COURT: Sustained.

12 Q. (BY MR. D'ARCY) How was this document -- how was
13 this document inputted into the website?

14 MS. STANCIL: Same objection, Your Honor.
15 Foundation and speculation.

16 MR. D'ARCY: Just asking how --

17 THE COURT: Sustained.

18 Let's go ahead and take our morning break. So we
19 are going to -- we reached about 10:15. We are going to
20 break for about 15. And so if you would just regather out
21 front of the courtroom at around 10:30.

22 I am going to remind you of the admonitions that
23 I have given you throughout the trial. I know I'm
24 beginning to sound like a broken record, but please do not
25 discuss the case among yourselves or with anyone else.

1 Don't let anyone discuss the case in your presence. Don't
2 do any outside research or reading about the case. Do not
3 have any communications or contacts with any of the
4 lawyers, defendant, or witnesses in this case. Follow all
5 of the admonitions that I gave yesterday.

6 With that, you are welcome to go on break.

7 (The following proceedings were held outside the
8 presence and hearing of the jury.)

9 THE COURT: Very good. We are outside the
10 presence of the jury.

11 I am going to go ahead and let the witness out of
12 the courtroom. I have something I need to discuss with the
13 lawyers. Just for -- to be cautious, if you would just
14 wait in the breezeway to make sure you don't have contact
15 with the jurors who have just left.

16 Everybody else may be seated.

17 MS. STANCIL: Your Honor, may I ask, our
18 computer -- real-time has been not working for a long time.

19 THE COURT: Okay. We'll address that on break.

20 I want to address the evidentiary issue that is
21 arising and continues to rearise. An objection as to
22 speculation is in essence a lack of foundation objection.
23 I don't want to know -- before he can testify about what
24 happened, I want to know how he knows what he's going to
25 testify about, what is his basis for that knowledge. How

1 did it get on the web?

2 Did this exact information appear on the website?

3 Yes. That's speculation unless I know how he knows that
4 information, how did he come into that information, what is
5 the foundation for his knowledge so that the jury can test
6 the reliability of his testimony. He doesn't get to
7 testify about what occurred unless he testifies about how
8 he knows about what occurred.

9 MR. D'ARCY: Understood, Judge.

10 THE COURT: And that I think is where we keep
11 getting at an impasse is you are asking him the "what
12 happened next" question and the important question before
13 he can answer that is how he knows that information. Then
14 we can answer the question as to whether or not there's an
15 adequate foundation. He very well may have a foundation to
16 testify, and the objection will simply go to weight. But
17 the jury needs to know in measuring that how he knows. Was
18 he part of it? Did somebody in the company help? Was it
19 procedure? Whatever it is, with respect to that, we need
20 to know how he knows.

21 Is that where we are getting into chasing our
22 tails?

23 MS. STANCIL: Exactly.

24 MR. D'ARCY: That's fine, Judge.

25 THE COURT: We have reached a point where this

1 conversation may just help move things along to at least
2 tee up what's the essence of her -- of her objection as
3 opposed to playing hide the ball without really what the
4 basis of that objection is.

5 So with that, we'll be in recess until 10:30.

6 And Amanda may be able to help you with
7 real-time.

8 (Recess from 10:17 to 10:36 a.m.)

9 THE COURT: We're back on the record in 14CR327.
10 We are outside of the presence of the jury. Counsel, the
11 defendant, and the advisory witnesses are present.

12 Any matters we need to address before we bring
13 the jury back in?

14 MR. D'ARCY: Not from the People, Your Honor.

15 THE COURT: For the defense?

16 MS. STANCIL: None for the defense, Judge.

17 MR. D'ARCY: Should I grab Mr. Crane?

18 THE COURT: Go ahead and grab Mr. Crane.

19 We ready for the jury? I'm going to take your
20 silence as yes.

21 MR. D'ARCY: Judge, I'm sorry.

22 THE COURT: We ready for the jury? All right.
23 We'll bring in the jury.

24 (The following proceedings were held within the
25 presence and hearing of the jury.)

1 THE COURT: Everyone may be seated.

2 We are back on the record in 14CR327. We are in
3 the presence of the jury. Mr. Crane is on the stand.

4 Mr. D'Arcy, you may resume your direct
5 examination.

6 MR. D'ARCY: Thank you, Your Honor.

7 Q. (BY MR. D'ARCY) Now, Mr. Crane, do you still
8 have People's Exhibit 11 up there?

9 A. Yes, sir.

10 Q. Again, what is that document?

11 A. It's a G-RAP training module.

12 Q. And I believe you had previously testified that
13 that is a Training Module 3. Is that correct?

14 A. That is correct.

15 Q. Can you describe how the training module is made
16 part of the training process for an RA?

17 A. Could you restate your question?

18 Q. Sure. How is the training module made accessible
19 to the RA?

20 A. It was online at the Guard recruiting assistant
21 website.

22 Q. And how was the document made part of the online
23 website?

24 A. Well, the verbiage would have been created into
25 an HTML which would be uploaded to a website, typical

1 website you see.

2 Q. Is that what was done with this document?

3 A. Yes, sir.

4 Q. And who would have done that?

5 A. Our programming staff, our software engineers.

6 Q. And would you have -- would you have gotten
7 notification that that was done for this particular module?

8 A. I personally would have not, but our staff would
9 have been.

10 Q. And then once it was uploaded to the website, how
11 would it be accessible by the RA itself, that individual?

12 A. Just by logging into their account is how they
13 would access it.

14 Q. All right. And then within the website, they
15 would have the ability to go directly to the module?

16 A. I don't know if you could go directly to
17 different modules, but I know during the training process,
18 if you had not completed it, it would take you to the last
19 module viewed.

20 Q. And you are talking in terms of multiple modules.
21 Are we talking that there were multiple modules for an RA
22 to complete?

23 A. Yes, sir.

24 Q. But when was this one -- this particular module
25 uploaded to the website?

1 A. Well, this would be -- there is a difference
2 between version and module, just to clarify.

3 Q. I'm sorry. Why don't you explain that real
4 quick.

5 A. Okay. So Exhibit 11 would be the entire
6 training -- the version of the training which -- in this
7 document would be the different modules. For example, in
8 this particular document, there's G-RAP overview, G-RAP
9 responsibilities. Those would be the different modules
10 within the training -- overall training module version.

11 Q. So we are talking Exhibit 11 is actually a
12 version of a -- a version of what?

13 A. Of our training.

14 Q. Okay. And do you know when this version was
15 uploaded to the website?

16 A. I believe January of 2009. I believe that is the
17 date.

18 Q. Okay.

19 MS. STANCIL: And I object to speculation and
20 foundation.

21 THE COURT: Sustained.

22 The jury is to disregard that answer.

23 Q. (BY MR. D'ARCY) Do you know for a fact whether
24 it was uploaded prior to December 8th of 2009?

25 A. Yes.

1 Q. And so any RA --

2 THE COURT: No. Let's be clear what the question
3 was and what the answer was. The question was whether or
4 not he knew.

5 MR. D'ARCY: Correct.

6 THE COURT: Not whether or not it was.

7 Q. (BY MR. D'ARCY) Was it uploaded prior to
8 December 9th, 2009?

9 A. Yes, sir.

10 Q. All right. And how do you know that?

11 A. We keep data records of when our new versions of
12 the website was pushed out. And so when they were sent
13 out, we would update the entire website. And that was
14 something we had someone in our G-RAP department working.

15 Q. But do you know -- I guess the question again is
16 how -- how do you know that it was uploaded prior to
17 December of 2009?

18 A. I could not testify that I have personal
19 knowledge that it was uploaded prior to that time.

20 Q. The -- the document that -- well, a version of it
21 would have been uploaded prior to December 2009?

22 A. That is correct.

23 MS. STANCIL: And I object to speculation,
24 foundation for that question.

25 THE COURT: Sustained.

1 Q. (BY MR. D'ARCY) How was -- now, you -- let's go
2 back. You had indicated that Exhibit 11 was a document
3 that was prepared between Docupak and -- is it NGB? --
4 correct?

5 A. Yes.

6 Q. And when was that done again?

7 A. It was in 2009, according to the records that I
8 have in my office.

9 Q. All right. And once -- do you know when the
10 finalized copy or the finalized version of Version 3 would
11 have been prepared by Docupak and NGB?

12 MS. STANCIL: I'm going to object to lack of
13 foundation and asked and answered.

14 THE COURT: This is foundational. He asked if he
15 knows. Overruled as to that limited question.

16 Do you want to repeat the question?

17 MR. D'ARCY: Yes.

18 Q. (BY MR. D'ARCY) Do you know when the final
19 version of Version 3 would have been prepared by Docupak
20 and NGB?

21 A. It would have been --

22 THE COURT: No. "Do you know" is the question.

23 MR. D'ARCY: Correct.

24 A. Not date specific, no, sir.

25 Q. (BY MR. D'ARCY) Do you have an idea of when

1 during 2009?

2 MS. STANCIL: Objection. Speculation.

3 THE COURT: Again, the question is whether or not
4 he has an idea. So that is the yes/no question. Is not
5 the next question. So he can answer this question.

6 Q. (BY MR. D'ARCY) You can answer.

7 A. Could you repeat?

8 Q. Do you know when --

9 THE COURT: "Do you have an idea when" was the
10 question.

11 Q. (BY MR. D'ARCY) Do you have an idea of when the
12 final version of Version 3 would have been prepared by
13 Docupak?

14 A. Yes.

15 Q. When was that?

16 A. I believe it was the springtime of 2009.

17 Q. So it would have been prior to December 2009?

18 A. I believe it to be, yes.

19 Q. So in 2009, it would be the version -- the active
20 version as part of the training module on the website?

21 A. That is correct.

22 MR. D'ARCY: And, Your Honor, I would move for
23 admission of People's Exhibit 11.

24 THE COURT: Objection or voir dire?

25 MS. STANCIL: Objection, Your Honor. If you

1 would like -- if the Court would like me to do voir dire, I
2 can.

3 THE COURT: Your choice. Do you want to state
4 your objection, or do you want to voir dire and then state
5 your objection? I leave it up to you.

6 MS. STANCIL: I'll voir dire.

7 THE COURT: Go ahead.

8 VOIR DIRE EXAMINATION

9 BY MS. STANCIL:

10 Q. Mr. Crane, you have never yourself personally
11 logged on to the G-RAP website and taken the test that you
12 are referring to in Exhibit 11; correct?

13 A. Correct.

14 Q. And you have no personal knowledge about exactly
15 when that would have been uploaded onto the system;
16 correct?

17 A. Correct.

18 Q. Any knowledge that you do have that the document
19 was created in 2009 is from records that you have back at
20 your office; right?

21 A. That is correct.

22 Q. So somebody else told you that?

23 A. That is correct.

24 Q. But you don't have personal knowledge that that
25 document was created in 2009 because you were a part of it?

1 A. That is correct.

2 Q. And you didn't have anything to do with the
3 design or implementation of the program involving the
4 pop-up menu or the testing modules?

5 A. I did in the original inception of the program in
6 2005, which this is a continuation of that.

7 Q. Okay. So in 2005, we were talking about
8 Version 1.0; correct?

9 A. Yes, ma'am.

10 Q. And then there was Version 1.4. When was that?

11 A. Well, we called them Version 1, Version 2,
12 simply -- so Version 2 came out in November of 2007. And
13 then Version 3 was obviously subsequent to that.

14 Q. Okay. And you don't know about a Version 1.4?

15 A. I am not familiar with a Version 1.4 document,
16 no, ma'am.

17 Q. You are not familiar with a Version 1.5?

18 A. I'm not sure. I'm not familiar with how they
19 were -- the files were saved, no, ma'am.

20 Q. Okay. And you can't say whether or not a person
21 logging into the account in 2009 -- what version they would
22 have looked into other than what people have told you?

23 A. That's correct.

24 MS. STANCIL: Your Honor, I'm going to object to
25 the admission of this document for lack of foundation.

1 THE COURT: Mr. D'Arcy?

2 MR. D'ARCY: Your Honor, I believe he's testified
3 that this was a document that was created in 2009, was
4 created before December of 2009, and that -- I mean, I can
5 ask the question whether it was -- I don't think he had
6 personal knowledge that it was uploaded in 2009.

7 THE COURT: There's something that I need to talk
8 to the lawyers about, and it would probably be easier than
9 having you all suffer through the white noise while I try
10 to do this. And I hate to do this so soon after we already
11 broke, but I'm going to ask the jury to step outside.

12 Do not speculate about what we're talking about.
13 And do not discuss the case among yourselves. Follow my
14 prior admonitions.

15 I'll bring you back in right around 11 o'clock.
16 Don't wander too far.

17 (The following proceedings were held outside the
18 presence and hearing of the jury.)

19 THE COURT: Very good. The jury has exited.

20 I'm going to ask you, Mr. Crane, to wait in the
21 side room.

22 And everybody else may be seated.

23 Here is the nub of the issue. Exhibit 11 is only
24 relevant if it was on the website at the time that
25 Mr. Wilson took it; correct?

1 MR. D'ARCY: Correct.

2 THE COURT: Okay. And you are asking this
3 witness to testify about his knowledge with respect to when
4 it was created and when it was uploaded; correct?

5 MR. D'ARCY: Correct.

6 THE COURT: And you're also asking -- and that's
7 based upon his role as president of the company and his
8 familiarity with how these modules were modified and the
9 like; correct?

10 MR. D'ARCY: Correct.

11 THE COURT: Okay. And you're objecting to this
12 on lack of foundation, lack of personal knowledge, and
13 hearsay; correct?

14 MS. STANCIL: Correct.

15 THE COURT: And we talked about the issues
16 related to these -- to these documents and his ability to
17 lay the foundation. So getting this in as a business
18 record is a very different question from establishing
19 relevancy.

20 Here's where we get into how he gained this
21 knowledge. He gained this knowledge in the course of his
22 presidency and his supervision of the company and his
23 understanding of how the company generally operates by
24 virtue of being president. That's a foundation that he
25 could testify to. Everybody agree with that?

1 MR. D'ARCY: Yes.

2 MS. STANCIL: Yes.

3 THE COURT: It raises an entirely different
4 question if the reason that he's familiar with the details
5 of when particular modules were uploaded is if it was in
6 the course of an investigation or a trial -- not for this
7 trial, but for the general investigator purposes. If it
8 was to gather information and familiarize himself with when
9 these modules were used in prep-- -- because there was an
10 ongoing investigation into potential criminal conduct, not
11 simply by Mr. Wilson but by any of the G-RAP officers;
12 right?

13 MR. D'ARCY: Correct.

14 THE COURT: And if he gained that knowledge at
15 that time in the course of an investigation, then --
16 because it's potential hearsay exception and he has
17 foundation to offer it as a lay witness under 701 if it's
18 just in the course of his presidency; right?

19 MR. D'ARCY: Yes.

20 THE COURT: But if he gathered this information
21 in the course of investigation and talking to people in
22 order to prepare for the ongoing investigation, then we
23 have a confrontation clause problem, don't we? It becomes
24 testimonial in nature. And the people he gathered that
25 information from aren't subject to cross-examination. So

1 notwithstanding whether or not you have a well-settled and
2 well-established hearsay exception or a basis of lay
3 opinion to get it in, you have got a confrontation issue.

4 Do we not need to inquire into when he got this
5 issue to see if there's a confrontation problem?

6 MR. D'ARCY: Yes, we could do that, Judge.

7 THE COURT: Does that make sense?

8 MS. STANCIL: That does, Your Honor.

9 THE COURT: Bring him back in, and let's do this.
10 Any objection to do this outside the presence of
11 the jury to see if we have an issue here?

12 MR. D'ARCY: No objection, Judge.

13 MS. STANCIL: No objection.

14 THE COURT: Let's go ahead and bring the witness
15 back in, just the witness.

16 Mr. Crane, I just remind you that you are still
17 under oath. We are going to -- we have some inquiry that
18 needs to be made outside the presence of the jury.

19 You may be seated.

20 Mr. D'Arcy, I'll let you take the first run at
21 it.

22 MR. D'ARCY: Now, Mr. Crane, regarding
23 Exhibit 11, when -- when did you first have knowledge of
24 this document? When did you first see it?

25 THE WITNESS: In the last few days.

1 MR. D'ARCY: You have never seen it before that?

2 THE WITNESS: Not to my knowledge, no, sir.

3 MR. D'ARCY: Have you at any point talked to --
4 and you never approved this form prior -- or back in 2009?

5 THE WITNESS: No, sir.

6 MR. D'ARCY: You didn't participate -- I know I
7 am beating a dead horse here. You didn't participate in
8 the negotiates of any changes to Version 3 with NGB in
9 2009?

10 THE WITNESS: Not personally, no, sir.

11 MR. D'ARCY: And you don't know the time frame of
12 when this would have been uploaded to the website?

13 THE WITNESS: Could you repeat the question?

14 MR. D'ARCY: You don't know when this would have
15 been uploaded to the website?

16 THE WITNESS: Not specific date, no, sir.

17 MR. D'ARCY: Nobody ever told you or consulted
18 with you about this document being uploaded to the website?

19 THE WITNESS: Not to my recollection, no, sir.

20 MR. D'ARCY: Your Honor, I think that's going to
21 be a problem if he has seen the document only three days
22 ago.

23 You have seen versions of this from 2005, but not
24 this specific document?

25 THE WITNESS: Correct. And I may have seen it,

1 but I don't recall specifically seeing it when that would
2 be. I know for sure that I read it in the last two or
3 three days to be prepared.

4 MR. D'ARCY: And it is a document that's
5 maintained by Docupak.

6 THE WITNESS: Yes, sir.

7 MR. D'ARCY: It's in your care and custody as
8 president?

9 THE WITNESS: Yes, sir.

10 MR. D'ARCY: So it's a record that -- and this --
11 without -- do you have any idea whether this is a true and
12 accurate copy of Version 3 maintained by Docupak?

13 THE WITNESS: If that document was submitted by
14 our company at the request of CID, then that would be an
15 accurate representation.

16 MR. D'ARCY: But you don't know whether this is a
17 true and accurate representation?

18 THE WITNESS: That's correct.

19 MR. D'ARCY: All right. I think that's -- I
20 don't see how this witness can authenticate this document
21 for purposes of admission in this trial.

22 THE COURT: Do you want to do any cross or any
23 record that you want to lay with respect to the issues that
24 I raised so that we can refer back to them in some
25 shorthand in the jury's presence?

1 MS. STANCIL: Yes, Your Honor. And particularly
2 because there are additional documents that I intended to
3 present to this witness and also I think there's also
4 Exhibit 12 that's up there.

5 MR. D'ARCY: Right.

6 THE COURT: Okay. Let's take care of these
7 issues right now to see if we've got -- we've got a
8 confrontation clause issue. And I don't know what
9 Exhibit 12 is.

10 Ms. Stancil, do you want to -- do you have
11 questions you want to ask outside the presence of the jury?

12 MS. STANCIL: Yes.

13 THE COURT: Go ahead.

14 MS. STANCIL: Mr. Crane, I'll just direct you to
15 Exhibit 12. And Exhibit 12 is -- do you recognize that?

16 THE WITNESS: I do, yes, ma'am.

17 MS. STANCIL: That's something you have seen
18 before?

19 THE WITNESS: Yes.

20 MS. STANCIL: Where have you seen that?

21 THE WITNESS: I have seen that because of the
22 authentication program that everybody had to reregister in
23 2009. I am familiar with this document.

24 MS. STANCIL: Okay. And so in 2009, you believe
25 that this was on the website?

1 THE WITNESS: Yes, ma'am.

2 MS. STANCIL: And how do you know that?

3 THE WITNESS: Because we were mandated to do a
4 recertification for the new acknowledgment, and that was
5 May of 2009, by NGB.

6 MS. STANCIL: Okay. Were you present for those
7 discussions?

8 THE WITNESS: Not for the discussions, no, ma'am.
9 I was briefed on them.

10 MS. STANCIL: Okay. And you were told that there
11 had to be some type of acknowledgment from an RA?

12 THE WITNESS: A change to the acknowledgment that
13 was currently in the system.

14 MS. STANCIL: Okay. So there was an
15 acknowledgment sometime before?

16 THE WITNESS: Yes, ma'am.

17 MS. STANCIL: And this was added at some time
18 later?

19 THE WITNESS: It was substituted for the original
20 one, yes, ma'am.

21 MS. STANCIL: And did you receive notification
22 from anybody that this was uploaded onto the system?

23 THE WITNESS: That was 2009, so I can't recall
24 specifically.

25 MS. STANCIL: Do you recall anybody -- did you

1 ever get on the website yourself and check that the
2 notification was present?

3 THE WITNESS: I did not, no, ma'am.

4 MS. STANCIL: You don't have a personal basis of
5 knowledge that this was actually added to the website in
6 2009?

7 THE WITNESS: That is correct.

8 MS. STANCIL: There's also an asterisk statement
9 on there, on that piece of paper. Do you understand that?

10 THE WITNESS: Yes, ma'am.

11 MS. STANCIL: Can you read that?

12 THE WITNESS: "This is the acknowledgment that
13 RAs have to read and agree to prior to continuing their
14 account. This was added to the website at the pop-up
15 window in May 2009."

16 MS. STANCIL: And those words, do you know who
17 typed those in?

18 THE WITNESS: I do not know for sure who typed
19 those letters in. It would have been one of our staff
20 clarifying what this is.

21 MS. STANCIL: You don't know who?

22 THE WITNESS: That is correct.

23 MS. STANCIL: And you didn't add those yourself?

24 THE WITNESS: No, ma'am.

25 MS. STANCIL: And that wasn't a part of any

1 acknowledgment that would have been on the website anyway;
2 correct?

3 THE WITNESS: That is correct.

4 MS. STANCIL: So you don't have a personal basis
5 of knowledge for how that asterisk statement would have
6 gotten on there?

7 THE WITNESS: No, ma'am.

8 MS. STANCIL: But it would be fair to say that it
9 could have been -- I mean, in terms of this acknowledgment,
10 this piece of paper, when was the first time you saw it in
11 this format?

12 THE WITNESS: In the screen shot format, I would
13 say probably in the last year or so.

14 MS. STANCIL: And was that in -- for the purposes
15 of the criminal investigation with the CID and the
16 investigation of G-RAP fraud?

17 THE WITNESS: Yes, ma'am.

18 MS. STANCIL: Was it for the purposes of
19 conducting your business? Or for the purposes of assisting
20 in the investigation?

21 THE WITNESS: Could you rephrase the question?
22 I'm sorry.

23 MS. STANCIL: I'll withdraw the question. It was
24 a bad question. Good thing the jury is not here.

25 No further questions.

1 THE COURT: Any record that you'd like to make or
2 questions?

3 MR. D'ARCY: I don't think so on that, Your
4 Honor.

5 THE COURT: We are going to run into this with
6 other documents?

7 MS. STANCIL: Yes.

8 MR. D'ARCY: I think there is just that one other
9 document.

10 MS. STANCIL: I have no documents.

11 MR. D'ARCY: What's that?

12 THE COURT: Okay.

13 MR. D'ARCY: Here's one of the issues, Your
14 Honor, is what -- I guess my plan at this point would be to
15 ask Mr. Crane about certain criteria for the G-RAP program
16 that were in place in 2005 and ask him if he's got personal
17 knowledge as to whether any of those criteria had changed
18 and would --

19 THE COURT: Let's -- Mr. Crane, if you would step
20 back into the waiting room. I'm sorry to keep shuffling
21 you back and forth.

22 Mr. Crane is out of the courtroom.

23 MR. D'ARCY: Right.

24 THE COURT: So is to ask him when these changes
25 were implemented and for what purpose; right?

1 MR. D'ARCY: Well, to ask him about certain
2 criteria, you know, requirements that an RA has, that they
3 must follow as part of being an RA, as part of module -- I
4 guess Version 1, and that those never changed from 2005
5 until the end of the program.

6 THE COURT: Okay. From a foundational
7 standpoint -- first of all, I assume based on our -- what
8 we have just occurred, you are withdrawing Exhibit 11.

9 MR. D'ARCY: Well, I mean, I can ask that it be
10 admitted.

11 THE COURT: Do you have a basis for doing so?

12 MR. D'ARCY: I don't. So I'm not going to. I'll
13 withdraw it.

14 THE COURT: Okay. So --

15 MR. D'ARCY: I'm sorry.

16 THE COURT: No. Fair enough.

17 MR. D'ARCY: The wheels were turning in the mind.

18 THE COURT: You were hoping that a reason, a
19 basis for asking it to be admitted may pop into your head
20 before I got to the end of my question.

21 So let me ask my question again. Are you going
22 to -- are you going to ask to admit Exhibit 11?

23 MR. D'ARCY: No.

24 THE COURT: So is there any objection to my just
25 asking the jury to disregard any discussion regarding

1 Exhibit 11?

2 MR. D'ARCY: I have no issue with that, Judge.

3 THE COURT: Is that --

4 MS. STANCIL: Your Honor, I feel like I'm going
5 to need to clear one thing up about whether or not --
6 because regardless of whether or not Exhibit 11 is
7 admitted, it's an example of what somebody would have
8 taken, but they don't actually retain copies of actual
9 tests. And so I may ask about that. And I just wanted to
10 clear that up.

11 THE COURT: I think you can ask about whether or
12 not they retained copies of actual tests and the like. I
13 mean, it's up to you. Now, whether or not you end up
14 ultimately opening the door is -- is a different issue.
15 But I don't think that question in and of itself opens the
16 door to a particular test, whether or not they retained
17 copies or not.

18 So here's where we're at with respect to these
19 exhibits is when he's asked to authenticate an exhibit, lay
20 the foundation, and laying the business records foundation
21 is fine. And I don't think that the questions you asked
22 about his personal knowledge of what's on that exhibit goes
23 to its admissibility. He's established and I am going to
24 have you do that in front of the jury that it is kept in
25 the ordinary course of business, made at or about the time,

1 and that it's retained by the company and the like.

2 But questions about when it was used, how it was
3 used, when it was made available to RAs, how it was made
4 available, he needs to specify with respect to that
5 information how he -- how he knows that and when he came
6 into that knowledge.

7 And just to be clear, based on this discussion,
8 if it's -- if he came into that knowledge at or about the
9 time -- for example, the way that he testified about a
10 recertification process was going on in the company, they
11 were ordered to change the certification, he laid the
12 adequate foundation as to 12 around that.

13 He was familiar with it at the time. This was
14 the certification. This is why it was done. He was
15 involved and aware as president of the company that this
16 was going on. That was not -- he did not indicate that he
17 came into that knowledge in the course of this
18 investigation, that somebody told him or he looked into it
19 in the course of this investigation. Instead, this is in
20 the category of knowledge that he has as president and as
21 administering or being responsible for those who administer
22 the program. So it doesn't raise -- it's nontestimonial in
23 nature because it wasn't for the purposes of this or
24 related investigation.

25 But with respect to the other foundational

1 issues, I think those are important foundational questions
2 to ask that will go to whether or not there's a basis for a
3 confrontation clause-based objection. Does that make
4 sense?

5 MS. STANCIL: You know, the questions I was
6 asking were about, you know, a typed out commentary on the
7 bottom of this exhibit. Is that what you were talking
8 about in terms of confrontation clause? Because that would
9 be an objection for me.

10 THE COURT: And you can make the objection. But
11 all I'm saying is that -- all you established is he doesn't
12 know who put that on that document but that that's on the
13 document in the regular -- and maintained in the regular
14 course of business. So he didn't -- he didn't testify that
15 his only knowledge about the content of this document comes
16 from the course of the investigation. He testified very
17 differently from that. Didn't he?

18 MS. STANCIL: Except that -- I mean, he said that
19 what would have been kept in the normal course of business
20 would have been this certification and the "I accept"
21 button, but not this asterisk -- "This acknowledgment is
22 what the RAs had to read and agree to prior to continuing
23 their account, and this was added to the website as a
24 pop-up window in May 2009." He doesn't know who wrote that
25 and whether it was for the course of the investigation.

1 THE COURT: You didn't ask him the right
2 questions as to that. You asked him whether he typed it
3 up. And so depending upon how that -- when that got on the
4 document, for what purpose it was put on the document -- I
5 didn't hear a clear answer one way or the other about how
6 that was maintained, how that got on the document, if that
7 was put on the document at the time of change or if it was
8 put on the document subsequent as part of documenting the
9 investigation or for an investigatory purpose or has
10 testimonial character to it.

11 MS. STANCIL: Well, I can ask better questions
12 this time. But this was a screen shot that was provided to
13 CID. Below the screen shot is the typed-out information.
14 You don't have the benefit of seeing this document.

15 THE COURT: I don't. Can I see 12?

16 MR. D'ARCY: Sure.

17 MS. STANCIL: May I approach, Your Honor?

18 THE COURT: This doesn't appear to be part of the
19 screen shot.

20 MS. STANCIL: Right. And may I approach? This
21 is the copy I have. This is for law enforcement use only.

22 THE COURT: This doesn't appear to be part of
23 their records, the marginalia.

24 MR. D'ARCY: He'd need to be asked about that,
25 Judge. I don't know. It could be a screen shot that was

1 then the copy was made and then that was added to it by
2 Docupak. But I don't think he did it.

3 THE COURT: The question is, when was this added?
4 This does have a testimonial character to it depending upon
5 when and for what purpose it was added.

6 MR. D'ARCY: Right.

7 THE COURT: I mean, this -- the top part is the
8 Docupak record.

9 MR. D'ARCY: Correct.

10 THE COURT: The bottom part is commentary.

11 MR. D'ARCY: That's correct. And I don't know if
12 that was added by Docupak.

13 THE COURT: Okay. You can deal with it in the
14 course of admission, and I'll allow you to reserve -- I'm
15 sorry -- I'll allow you to reserve an objection to --
16 particularly to the marginalia. And when we talk about it,
17 we can refer to it as the asterisk material unless and
18 until it's admitted.

19 All right. Anything else before we bring
20 Mr. Crane and the jury back in?

21 MR. D'ARCY: Judge, just to be clear, so
22 Exhibit 11 has been withdrawn; Exhibit 12 is pending.

23 THE COURT: Is this going to continue to rearise?

24 MR. D'ARCY: Those are the only lingering
25 documents from Docupak that I'm looking to admit.

1 THE COURT: Okay.

2 MR. D'ARCY: Now, Ms. Stancil has some that I
3 think she may want to admit. And I suppose the issue could
4 arise.

5 THE COURT: Okay. To the extent there's
6 confrontation issue, that's a right to be asserted by the
7 defense. But it also potentially opens the door. I don't
8 know what documents you have. We'll deal with it as it
9 comes.

10 MR. D'ARCY: Well, and, actually, I do -- okay.

11 THE COURT: Something that would be worthwhile
12 addressing?

13 MR. D'ARCY: No. I just have 1099s that I was
14 going to admit, but I don't -- I think those come in fairly
15 easily.

16 THE COURT: Is there going to be any issue with
17 those?

18 MS. STANCIL: No, Your Honor.

19 THE COURT: Okay. All right. Let's go ahead and
20 bring Mr. Crane back in and then the jury.

21 (The following proceedings were held within the
22 presence and hearing of the jury.)

23 THE COURT: You may be seated.

24 We are back on the record in 14CR327. And we are
25 in the presence of the jury. Mr. Crane is on the stand.

1 within the National Guard of whether they would be eligible
2 or not.

3 Q. Eligible to do what?

4 A. To participate as an active RA.

5 Q. And so this document reflected changes to the
6 eligibility?

7 A. Either changes or clarifications to eligibility.

8 Q. Do you know when this document was created?

9 A. This document was created in May of 2009.

10 Q. How do you know that?

11 A. It was posted live on the site May of 2009.

12 Q. And how was it posted to the site? I mean, how
13 was it done? How was it uploaded to the site?

14 A. Traditional web into an HTML document to where it
15 would be a pop-up on the screen when someone was on the
16 Guard website.

17 Q. All right. Now, this document has a screen shot,
18 but it also has some text below the screen shot. That text
19 below the screen shot, is that -- where does that come
20 from?

21 A. This was obviously added by a Docupak staff
22 member for clarification of what this document is.

23 Q. Do you know -- you didn't add it yourself?

24 A. No, sir.

25 Q. Have you seen that -- that verbiage -- or when

1 did you see that verbiage for the first time?

2 A. When this exhibit was given to me.

3 Q. How do you know that that verbiage was prepared
4 by somebody at Docupak?

5 A. I have no firsthand knowledge. That was an
6 assumption on my part that when the document was given to
7 CID, our staff would have put that on there for the
8 convenience of the government.

9 Q. But -- so you have not reviewed this document --
10 or you did not review this document in May of 2009?

11 A. I don't recall specifically because it was almost
12 six years ago. But I do recall the process of this being
13 implemented and being discussed with government
14 representatives.

15 Q. All right. And when was that?

16 A. It would in the spring -- it would have been
17 prior to May of 2009.

18 Q. Okay. Do you know when this extra verbiage would
19 have been added? Do you have any personal knowledge as to
20 when that would have been added to this document?

21 A. I do not.

22 Q. Is this a document that's kept in the regular
23 course of business with Docupak?

24 A. Yes, sir.

25 Q. And how is this document maintained at Docupak?

1 Q. But that verbiage on the bottom, you don't know
2 where that came from; fair to say?

3 A. That is correct.

4 Q. Is it fair to say that could have been written in
5 by this CID agent over here?

6 A. Possibly. Could have been.

7 MS. STANCIL: No further questions.

8 THE COURT: Is there an objection -- certainly
9 you're objecting to the asterisked material; correct?

10 MS. STANCIL: Correct.

11 THE COURT: Is there an objection to the balance
12 of the document?

13 MS. STANCIL: The objection is to the document in
14 its current form.

15 THE COURT: Objection as to the document in its
16 current form is sustained. Lack of foundation.

17 MR. D'ARCY: May I have just a moment, Your
18 Honor?

19 THE COURT: Yes.

20 MR. D'ARCY: Your Honor, may I resume?

21 THE COURT: Yes.

22 DIRECT EXAMINATION

23 BY MR. D'ARCY:

24 Q. Now, Mr. Crane, in 2005, there were criteria
25 created for -- was there criteria created for what a RA --

1 or how an RA would get nominees?

2 A. Yes.

3 Q. And do you know how that criteria was created?

4 A. That criteria would have been given to us by NGB
5 representatives.

6 Q. Were you privy to those conversations?

7 A. I was.

8 Q. Were you part of the process in coming up with
9 that criteria?

10 A. I was.

11 Q. What was the criteria at that time were an RA to
12 essentially contact and submit a nominee?

13 MS. STANCIL: Your Honor, objection. Relevance
14 to the criteria in 2005.

15 THE COURT: Mr. D'Arcy?

16 MR. D'ARCY: Your Honor, I'm laying a foundation
17 for what the criteria was at that time and then going
18 forward from there.

19 THE COURT: Objection is overruled on relevancy
20 grounds.

21 Q. (BY MR. D'ARCY) You can answer the question.

22 Do you remember the question, Mr. Crane?

23 A. For clarification, please repeat.

24 Q. All right. What was the criteria at that time in
25 2005 for RAs to contact and submit nominees to G-RAP?

1 A. The criteria was for an active Army National
2 Guard soldier and in a part-time status that would meet
3 individuals within their sphere of influence and to help
4 mentor and show them through the process of joining the
5 National Guard.

6 Q. And what's a sphere of influence?

7 A. It would be individuals that you meet within your
8 community, your place of worship, your school, in your
9 everyday activity in civilian life.

10 Q. All right. And were they permitted to wear
11 uniform?

12 A. They were not.

13 Q. How did -- were there criteria on gathering
14 personal identification of a nominee?

15 A. The RA had the obligation to disclose to the
16 individual they were meeting with of why they were
17 gathering their information and then how that information
18 would be used.

19 Q. All right. Was there any sort of consent
20 required?

21 A. Yes. That was -- that was in the rules of the
22 program.

23 Q. And what was that rule?

24 A. That the RA would need the consent of the
25 potential soldier in order to input it into the system.

1 Q. Was the RA required to know the nominee?

2 A. Yes.

3 Q. Were these criteria at any point that -- the
4 criteria that you have described at any point from 2005 to
5 the present modified?

6 A. Not those basic fundamentals, no.

7 Q. Those have always been in place?

8 A. That's correct.

9 Q. Those would have been in place in December of
10 2009?

11 A. Yes, sir.

12 Q. All right. Now --

13 MR. D'ARCY: May I just have one moment, Judge?

14 THE COURT: Yes.

15 Q. (BY MR. D'ARCY) And, Mr. Crane, just one
16 follow-up on criteria. Was a RA permitted to contact a
17 nominee while they were on active duty?

18 THE COURT: Can you clarify the pronoun? Well,
19 who was on active duty?

20 Q. (BY MR. D'ARCY) While the RA was on active duty?

21 A. They could contact them, yes. They could not
22 nominate them.

23 Q. Okay. So they could have interaction, but they
24 couldn't nominate them if they were contacting, and that is
25 the RA was contacting them, while they were fulfilling

1 their duties as a soldier?

2 A. That is correct.

3 Q. And did that criteria ever change from 2005 to
4 the present?

5 A. No, sir.

6 Q. Now, Mr. Crane, I'm going to hand you back --

7 MR. D'ARCY: If I may approach, Judge? I'm going
8 the return Exhibits 3 through 10 to the witness.

9 THE COURT: You may.

10 Q. (BY MR. D'ARCY) Now, Mr. Crane, those have
11 previously been admitted. Could you just refresh our --
12 the jury's idea of what those documents are?

13 A. These are the overview nominations screens for
14 the potential soldier who had been nominated.

15 Q. All right. And those particular ones, who --
16 whose RA account do those relate to?

17 A. Mr. Wilson.

18 Q. And who are the -- for Exhibit 3, who is that
19 nominee?

20 A. Mr. Joshua Blackmon.

21 Q. And so Mr. Joshua Blackmon would have been
22 submitted by Mr. -- or Sergeant Wilson as a nominee for
23 compensation through the G-RAP program; is that correct?

24 A. Yes, sir.

25 Q. All right. And how about Exhibit 4? Who's that

1 gentleman that was nominated?

2 A. Cameron Denton.

3 Q. And, again, that's somebody that Sergeant Wilson
4 would have received compensation for as a nominee?

5 A. Yes, sir.

6 Q. And how about Exhibit 5?

7 A. Mr. Mack Frederick.

8 Q. Again, is that an individual that Mr. Wilson
9 would have received compensation for as a nominee?

10 A. Yes, sir.

11 Q. And how about Exhibit 6? Who is -- who is that
12 nominee?

13 A. Mr. Christopher Garrett.

14 Q. And is that a nominee that Mr. Wilson would have
15 submitted for compensation to the G-RAP program?

16 A. Yes, sir.

17 Q. All right. And the next exhibit -- I'm sorry.
18 Are we on Exhibit 8? Exhibit 7. I'm sorry.

19 Who is the nominee identified on that exhibit?

20 A. Mr. Ryan Gonzalez.

21 Q. Is that a nominee that Mr. Wilson would have
22 received compensation from for the G-RAP program?

23 A. Yes, sir.

24 Q. And Exhibit 8, who is that nominee?

25 A. Mr. Corbin Korsgard.

1 Q. And is that a nominee that Mr. Wilson would
2 receive compensation for as a submitted nominee to the
3 G-RAP program?

4 A. Yes, sir.

5 Q. And Exhibit 9?

6 A. Mr. Shon Leatherman.

7 Q. And is that an exhibit -- excuse me -- is that a
8 nominee that Mr. Wilson would have received compensation
9 from the G-RAP program?

10 A. Yes, sir.

11 Q. And the final exhibit, Exhibit 10?

12 A. Mr. Patrick Kreh, I believe is the last name.

13 Q. Is that a nominee that Mr. Wilson would have
14 received compensation from as a submission to the G-RAP
15 program?

16 A. That is correct.

17 Q. Thank you.

18 MR. D'ARCY: Your Honor, may I approach the
19 witness?

20 THE COURT: Yes.

21 Q. (BY MR. D'ARCY) Mr. Crane, I'm going to hand you
22 what's been identified as People's Exhibit 13. Can you
23 take a look at that?

24 What is that document?

25 A. It is the pop-up screen for acknowledgment of the

1 program that was established in 2009.

2 Q. All right. And how do you know that?

3 A. Because we had discussions with NGB
4 representatives to offer clarification of eligibility
5 purposes.

6 Q. All right. And were you part of those
7 conversations?

8 A. I was.

9 Q. And is that an accurate representation of what --
10 is that an accurate copy of the document that was
11 ultimately produced as a result of those conversations?

12 A. Yes, sir.

13 Q. Is that a document that's -- where is that
14 document maintained at Docupak?

15 A. On our servers in our office in Birmingham.

16 Q. And is that a document that's kept in the regular
17 course of business with Docupak?

18 A. Yes, sir.

19 Q. And is that a document that's kept as -- in your
20 care and custody as president of Docupak?

21 A. Yes, sir.

22 Q. All right. And is that a document that would
23 have been uploaded to the website?

24 A. It is.

25 Q. And how do you know that?

1 A. Well, during the discussions, that was the plan
2 of action. And then I had been reported back that that had
3 actually taken place.

4 Q. All right. Do you know when that occurred?

5 A. It was in May of 2009.

6 Q. All right. And how was that uploaded to the
7 website?

8 A. Well, the verbiage would have been given to our
9 web team, and they would have made it in digital format to
10 upload to the site.

11 Q. And was that then accessible to an RA?

12 A. Yes.

13 Q. And what's the significance of that document?

14 A. Well, it was to clarify the eligibility of status
15 of who was eligible to participate and those who were not.
16 And this only popped up one time on an RA's account. So
17 once he or she acknowledged it, it was in the database of
18 record of acknowledgment, and then the pop-up screen would
19 disappear.

20 Q. Okay. But you don't have -- well --

21 MR. D'ARCY: I would move for admission of
22 People's Exhibit 13, Judge.

23 THE COURT: Objection or voir dire?

24 MS. STANCIL: No objection.

25 THE COURT: Exhibit 13 is admitted.

1 (People's Exhibit 13 was admitted into evidence.)

2 Q. (BY MR. D'ARCY) Now, in regards to Sergeant
3 Wilson specifically, does Docupak have a document that was
4 completed -- that document, Exhibit 13, or a reasonable
5 facsimile of that document completed by Sergeant Wilson?

6 A. We do not.

7 Q. Why not?

8 A. Because the only way to proceed through the
9 program would be is if you accepted it, it would be time,
10 date and stamped that they accepted this particular
11 agreement. It would be saved into the database and then
12 allowed to proceed.

13 MS. STANCIL: I object to the foundation of that.

14 THE COURT: Sustained.

15 MR. D'ARCY: I'll withdraw the question, Judge.

16 THE COURT: Very good.

17 The jury is to disregard the question and the
18 answer.

19 MR. D'ARCY: Your Honor, may I approach the
20 witness?

21 THE COURT: You may.

22 Q. (BY MR. D'ARCY) Mr. Crane, I'm handing you
23 what's identified as People's Exhibit 14. How many pages
24 is that document?

25 A. Three.

1 Q. Okay. And what are those documents? Can you
2 take a look at them?

3 A. Those are copies of the 1099s that were produced.

4 Q. And what time period are those 1099s?

5 A. From 2010 to 2012.

6 Q. And how are those 1099s prepared?

7 A. Our company prepared them based on compensation
8 received for that time period.

9 Q. And -- I mean, how are they prepared actually by
10 Docupak? Are they prepared --

11 A. We had a third party. We sent the files. A
12 third party actually prepares the 1099s form.

13 Q. Those documents, then, are sent out as -- how are
14 they sent out?

15 A. U.S. mail.

16 Q. All right. And who are they sent to?

17 A. To the name of record.

18 Q. Do you maintain these records as business
19 records?

20 A. We do.

21 Q. All right. Do you maintain -- how are these
22 records maintained at Docupak?

23 A. Digitally.

24 Q. And are these documents kept under your control
25 and custody as president of Docupak?

1 A. They are.

2 Q. And what are the time periods again for those
3 documents?

4 A. 2010, 2011, and 2012.

5 Q. And those are 1099s for each of those years?

6 A. Yes, sir.

7 Q. And are those 1099s -- well, what do those 1099s
8 represent?

9 A. The amount of compensation that the recipient
10 received for that -- for that year.

11 Q. And who is the recipient on those?

12 THE COURT: Before he starts testifying from the
13 document, I'm going to --

14 MR. D'ARCY: That's fine. I'll move to admit
15 People's Exhibit 14.

16 THE COURT: Is there an objection or voir dire?

17 MS. STANCIL: No, Your Honor.

18 THE COURT: Okay. Exhibit 14 is admitted.

19 (People's Exhibit 14 was admitted into evidence.)

20 THE COURT: Now you can have him testify from
21 that document.

22 Q. (BY MR. D'ARCY) Who is the recipient of those
23 funds?

24 A. Mr. Wilson.

25 Q. All right. And a 1099, is that a document that's

1 sent out to an employee of Docupak?

2 A. A subcontractor.

3 Q. Okay. So are the RAs subcontractors of Docupak?

4 A. Yes, sir.

5 Q. All right. And Mr. Wilson would have been a
6 subcontractor of Docupak?

7 A. That is correct.

8 Q. And would those payments in that be reflective of
9 compensation received for the G-RAP program?

10 A. Yes, sir.

11 Q. Thank you, Mr. Crane.

12 MR. D'ARCY: If I may just have one moment,
13 Judge?

14 THE COURT: Certainly.

15 MR. D'ARCY: Your Honor, may I approach the
16 witness?

17 THE COURT: Yes.

18 Q. (BY MR. D'ARCY) Mr. Crane, I'm going to give you
19 back what's been labeled as People's Exhibit 2. I believe
20 you previously testified that those are screen shots of
21 payments that are documented by Docupak to Mr. Wilson. Is
22 that correct?

23 A. Yes, sir.

24 Q. All right. Do you see payments made to
25 Mr. Wilson for the nominee of Mr. Korsgard, Corbin

1 Korsgard?

2 A. Yes, sir.

3 Q. Do you see payments reflective from Docupak to
4 Mr. Wilson for Joshua Blackmon?

5 A. Yes, sir.

6 Q. And I'm sorry. How much -- how much was paid by
7 Docupak to Mr. Wilson for Joshua Blackmon?

8 A. Two \$1,000 payments.

9 Q. For a total of?

10 A. \$2,000.

11 Q. And how much was paid from Docupak to Mr. Wilson
12 for Mr. Corbin Korsgard?

13 A. There again, two \$1,000 payments for a total of
14 \$2,000.

15 Q. And how much was paid by Docupak to Mr. Wilson
16 for Cameron Denton?

17 A. \$2,000, single payment.

18 Q. All right. And, again, why would that be a
19 single payment?

20 A. That would have been a prior service soldier.

21 Q. All right. And how much was paid by Docupak to
22 Mr. Wilson for Mr. Gonzalez, Ryan Gonzalez?

23 A. \$2,000.

24 Q. Is that a single payment or multiple payment?

25 A. Single payment.

1 Q. And same reasoning as you just previously
2 testified regarding the prior nominee?

3 A. Yes, sir.

4 Q. All right. And how much was paid by Docupak to
5 Sergeant Wilson for Patrick Kreh?

6 A. A single \$2,000 payment.

7 Q. All right. And how much was paid by Docupak to
8 Sergeant Wilson for Shon Leatherman?

9 A. Two \$1,000 payments.

10 Q. And for a total of?

11 A. \$2,000.

12 Q. And how much was paid by Docupak to Sergeant
13 Wilson for Christopher Garrett?

14 A. Two \$1,000 payments for a total of \$2,000.

15 Q. And how much was paid by Docupak to Mr. Wilson or
16 Sergeant Wilson for Mack Frederick?

17 A. Single \$2,000 payment.

18 Q. Now, these \$2,000 payments, where does that money
19 come from?

20 MS. STANCIL: Objection. Foundation.

21 THE COURT: Sustained.

22 Lay some foundation.

23 Q. (BY MR. D'ARCY) How is the G-RAP program funded?

24 A. We received the money from the Federal
25 government, Department of Defense.

1 Q. I'm sorry?

2 A. Department of Defense. I'm sorry.

3 Q. Okay. And how much did Docupak receive to fund
4 this program?

5 A. Through the entire program?

6 Q. Yes. Do you know?

7 A. Through the entire course of the program,
8 \$350 million.

9 Q. All right. Docupak then managed that money for
10 payment to RAs for submitting nominees?

11 A. That is correct.

12 Q. And how was payments made by Docupak to the
13 nominees?

14 A. During this time frame, it was direct deposit.

15 Q. And was that required by the program?

16 A. It was, yes, sir.

17 Q. Was that managed by an accounting department at
18 Docupak?

19 A. It was.

20 Q. And the money -- well, did Docupak receive
21 compensation for the nominees?

22 A. For the nominees, no.

23 Q. I mean, how did Docupak get paid for these, these
24 individuals?

25 A. We were paid after a successful accession

1 occurred and/or a successful basic -- shipment to basic
2 training.

3 Q. And what's an accession?

4 A. When someone signed a contract to join the
5 military.

6 Q. All right. And how much were you paid for each
7 completed transaction?

8 A. \$325.

9 Q. And then the actual RA would receive payment from
10 Docupak out of the funding that you received from DOD; is
11 that correct?

12 A. That's correct.

13 Q. And so essentially the money going to -- or
14 through Docupak was money that essentially belonged to the
15 Federal government?

16 A. That is correct.

17 Q. And that money -- and so the payments made to
18 Mr. Wilson that you've just described would have been money
19 that Docupak remitted for the nominees submitted by
20 Mr. Wilson?

21 A. For the accessions.

22 Q. For the accessions, yes. So the accessions,
23 again, being completed transactions of enlistment?

24 A. Yes, sir.

25 Q. All right. And, again, the money received by

1 Mr. Wilson would be money that belonged to the U.S.
2 government?

3 A. That's correct.

4 Q. All right.

5 MR. D'ARCY: If I may just have a moment, Judge?

6 THE COURT: Yes.

7 MR. D'ARCY: If I may resume, Your Honor?

8 THE COURT: Yes.

9 Q. (BY MR. D'ARCY) Now, Mr. Crane, the -- the
10 either thousand or \$2,000 payments that were remitted to an
11 RA for a completed accession, what was that compensated?
12 What was that compensation actually for? What was -- what
13 were the -- what was that compensation actually for?

14 A. For the nomination of a potential soldier and
15 that potential soldier joining the military.

16 Q. Did that compensation include travel to meet with
17 a nominee?

18 A. No, sir.

19 THE COURT: I'm sorry. I missed that question.

20 MR. D'ARCY: Did the travel -- or did that money
21 include -- include travel to meet with a nominee?

22 THE COURT: Okay. Thank you.

23 Q. (BY MR. D'ARCY) Did that travel -- or did that
24 money -- was that money related to any other activities
25 that the RA would have conducted in seeking out the nominee

1 and submitting them to Docupak?

2 A. No.

3 Q. If a recruit -- excuse me. If an RA -- let me
4 put it this way: Was an RA authorized to receive
5 compensation if he did not get consent for a PI?

6 A. No, sir.

7 Q. Who ultimately was damaged by RAs receiving
8 compensation that they weren't entitled to?

9 MS. STANCIL: I'm going to object to speculation,
10 foundation.

11 THE COURT: Sustained.

12 Q. (BY MR. D'ARCY) Well, who are the victims?

13 MS. STANCIL: Objection. Again, lack of
14 foundation, relevance, and speculation.

15 THE COURT: Rephrase.

16 Q. (BY MR. D'ARCY) Was Docupak out any money for
17 any submissions that RA wasn't entitled to receive or to
18 submit?

19 A. I hate to ask that. Could you please ask that
20 question again?

21 Q. Well, what I'm trying to get at is for any
22 fraudulent behavior, for any submissions made through the
23 G-RAP program that were not permissible, who is the victim?

24 MS. STANCIL: Objection. Relevance and
25 foundation.

1 THE COURT: Sustained as to how you are phrasing
2 it.

3 Q. (BY MR. D'ARCY) Docupak managed the DOD money
4 for the G-RAP program; is that correct?

5 A. That is correct.

6 Q. And so money that was paid out to RAs who did not
7 properly follow the rules of the G-RAP program, is it the
8 DOD that's out that money?

9 A. Yes, it is.

10 MS. STANCIL: Objection to speculation.

11 THE COURT: Can you lay some -- overruled.
12 Foundation has been laid.

13 MR. D'ARCY: Thank you, Judge.

14 Your Honor, I don't believe I have any further
15 questions. Thank you.

16 THE COURT: Very good.

17 I think it may make some sense to go ahead and
18 break for lunch and come back and pick up with
19 cross-examination after lunch. Let's go ahead and break
20 for lunch until about five till 1.

21 Are they meeting downstairs?

22 THE CLERK: Yes.

23 THE COURT: So if you would meet back in the jury
24 assembly room where you gathered this morning shortly
25 before 1 o'clock, at about five till. When you are all

1 together, you'll be brought up.

2 My admonitions throughout trial remain in effect
3 during the lunch hour. Do not discuss the case with anyone
4 else. Do not allow anyone to discuss the case in your
5 presence. Do not have any discussions or contact with
6 lawyers, witnesses, or the defendant in this case. Do not
7 do any independent research from any source or read any
8 news articles about this case or any cases of this kind.

9 And with that and the prior admonitions I gave
10 you, you are released, and I'll see you right back here
11 around 1 o'clock.

12 (The following proceedings were held outside the
13 presence and hearing of the jury.)

14 THE COURT: Very good. The jurors have exited
15 the courtroom.

16 Are there any matters that we need to address
17 before we release everybody for lunch? For the People?

18 MR. D'ARCY: Not from the People.

19 THE COURT: For the defense?

20 MS. STANCIL: None for the defense.

21 THE COURT: Very good. The doors will be open
22 somewhere between quarter till and 10 till. And once the
23 jury is gathered downstairs, we'll bring them back up and
24 resume cross-examination.

25 (Recess from 11:52 to 12:59 p.m.)

1 THE COURT: We'll go on the record in 14CR327.

2 The counsel is present along with their -- with the
3 defendant and their -- and each side's advisory witness.

4 Any housekeeping issues that we need to address
5 before we call for the jury? For the People?

6 MR. D'ARCY: Not for the People, Your Honor.

7 Thank you.

8 THE COURT: For the defense?

9 MS. STANCIL: Not for the defense, Your Honor.

10 THE COURT: Very good.

11 Then let's go ahead and call up the jury. And
12 while Kathleen is doing that, I think one of the things I
13 want to let the jury know -- Amanda pointed this out to me,
14 and I think it's a good idea -- is when they get here, just
15 to let them know that they will have all of the exhibits
16 for deliberations, that way they're not concerned about
17 whether they are expected to be writing everything down
18 that's being testified from an exhibit or whether or not
19 they'll end up ultimately getting them.

20 Any problem with me just alerting the jury to
21 that fact so that it may be potentially -- puts their mind
22 at ease or at least gives them the right perspective with
23 which to listen to the evidence?

24 MR. D'ARCY: No issues on my end, Judge.

25 THE COURT: Okay. Are you okay with that,

1 Ms. Stancil?

2 MS. STANCIL: Yes, Your Honor.

3 THE COURT: Okay.

4 (The following proceedings were held within the
5 presence and hearing of the jury.)

6 THE COURT: Thank you, everybody. Go ahead and
7 be seated.

8 We are back on the record in 14CR327, the
9 People v. Wilson. We are in the presence of the jury, and
10 Mr. Crane is on the stand.

11 Before I turn Mr. Crane over to Ms. Stancil for
12 cross-examination, one thing I just wanted to let the jury
13 know, because this may assist the way that you listen to
14 the evidence, when -- once the trial is completed and all
15 the evidence is submitted and you have heard arguments and
16 you go back to deliberate, you will be provided copies of
17 all of the -- you'll actually be provided the exhibits that
18 are admitted into evidence. So you'll have those in the
19 jury deliberation room. So don't feel as though you
20 need -- take notes or listen to the evidence with that
21 understanding. That's all I'll tell you. So -- because I
22 think I saw some concerned faces when those exhibits were
23 being talked about. So you'll have those.

24 With that said, Ms. Stancil?

25 MS. STANCIL: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MS. STANCIL:

3 Q. Good afternoon, Mr. Crane. I'd like to ask you a
4 few questions on behalf of Sergeant Wilson.

5 A. Okay.

6 Q. I want to talk to you about this contract that
7 you have testified about on direct which you said was worth
8 about \$350 million; is that correct?

9 A. That's correct.

10 Q. Now, I've reviewed an audit that occurred in
11 2013. Are you aware of that Army audit?

12 A. Yes, ma'am.

13 Q. That reviewed the contracts in this case?

14 A. Yes, ma'am.

15 Q. And you're aware that in that case, they cite
16 that this contract could have been worth nearly
17 \$487 million?18 A. That -- that could be true. I apologize if my
19 numbers are wrong.20 Q. Because there were contracts both with the Army,
21 the big Army, and the National Guard; is that correct?

22 A. That's correct.

23 Q. There were multiple different recruiting programs
24 besides G-RAP?

25 A. That is correct.

1 Q. But the G-RAP program itself was in the hundreds
2 of millions of dollars, the contract that your company
3 received?

4 A. Yes, ma'am.

5 Q. Now, you were also present during a subcommittee
6 meeting at the Senate on financial and contracting
7 oversight; is that correct?

8 A. Yes, ma'am.

9 MR. D'ARCY: Your Honor, I'm going to object on
10 relevance of this line of questioning.

11 THE COURT: Can counsel approach?

12 (The following proceedings were held outside the
13 presence and hearing of the jury.)

14 THE COURT: The door was opened to a certain
15 extent on this and the size of the contract by some of the
16 questions, but I want to know -- I want an offer of proof
17 from you as to where you are going with this and what its
18 relevance is.

19 MS. STANCIL: The contract itself was found to
20 have violated -- the issuance of the contract was found to
21 have violated three separate federal statutes, which is why
22 the investigation into the soldiers themselves is simply a
23 distraction from the fact that the overall program itself
24 was illegal to start. And it goes to bias and motive of
25 the witness who's also the alleged victim in this case.

1 THE COURT: I'm going to allow some latitude
2 but --

3 MS. STANCIL: It'll be brief.

4 THE COURT: Okay.

5 (The following proceedings were held within the
6 presence and hearing of the jury.)

7 THE COURT: You may continue, Ms. Stancil.

8 Q. (BY MS. STANCIL) I'm bringing you back to the
9 subcommittee on financial and contracting oversight on
10 February 3rd, 2014.

11 A. Yes, ma'am.

12 Q. And you were present on that day to testify on
13 the panel, is that correct, in front of Senator McCaskill?

14 A. That is correct.

15 Q. And the subject of that testimony and that
16 meeting that day was the initial contracts that were given
17 to Docupak to run the G-RAP program; correct?

18 A. Could you rephrase the question? I'm sorry.

19 Q. One of the subjects of that hearing was the
20 awardance of the contract to Docupak by the National Guard
21 Bureau to run the G-RAP program; correct?

22 A. Yes, ma'am.

23 Q. And it discussed the Army audit findings that the
24 original issuance of the contract -- contract actually
25 violated several federal regulations?

1 MR. D'ARCY: Your Honor, I'm going to renew my
2 relevancy objection.

3 THE COURT: Overruled subject to renewal.

4 I'm going to give you some latitude here.
5 Continue.

6 Q. (BY MS. STANCIL) That the issuance of the
7 original contract for hundreds of millions of dollars
8 actually violated federal law; correct?

9 A. That was what was in the audit; correct.

10 Q. And that the audit found that it shouldn't have
11 been up to a contracting agency to pay those payments which
12 were considered bounties under federal law?

13 A. I'm not familiar with all the audit information,
14 but I wouldn't argue with that.

15 Q. And the finding was also that it was a
16 sole-source contract that was offered just to Docupak
17 without competition from other qualified companies?

18 MR. D'ARCY: Again, I'm going to renew my
19 objection on relevance, Judge.

20 THE COURT: Overruled.

21 A. That is not correct.

22 Q. (BY MS. STANCIL) The findings were that in 2007,
23 there was a bridge contract that was awarded without offer
24 of sufficient competition; correct?

25 A. On the bridge contract; correct.

1 Q. So not the original contract in 2005, but in
2 2007?

3 A. Correct.

4 Q. And that violates a federal law as well?

5 A. I wouldn't know that but . . .

6 Q. Those were the findings of the audit?

7 Are you aware of the audit?

8 A. Some parts of it. I was never given the audit in
9 its entirety.

10 Q. Okay. But it was discussed at the hearing in
11 front of the Senate and Senator McCaskill?

12 A. Yes, ma'am.

13 Q. So you're aware of that finding?

14 A. Correct.

15 Q. So I want to talk about the payments that were
16 made for G-RAP to the individual recruiting assistants.
17 Okay? So when we are talking about RAs, RAs are recruiting
18 assistants; correct?

19 A. That is correct.

20 Q. They are not recruiters?

21 A. That is correct.

22 Q. In fact, the only people that weren't eligible to
23 be recruiting assistants were recruiters; fair to say?

24 A. Yes, that's correct.

25 Q. But under the program, there was supposed to be

1 some collaboration with recruiters in terms of, you know,
2 recruiting assistant was supposed to initiate a meeting
3 with the recruiter; correct?

4 A. That's correct.

5 Q. And, in fact, the guidelines say was that the
6 meeting with the RA should normally occur prior to the
7 meeting with the recruiter; correct?

8 A. That's correct.

9 Q. But the rules did not say must; isn't that fair
10 to say?

11 A. That is correct.

12 Q. They said "should normally occur"?

13 A. Correct.

14 Q. So when a recruiting assistant would nominate
15 somebody, they would have to get in the system, the Docupak
16 system, and enter notes; correct?

17 A. That is correct.

18 Q. They would enter notes on how they met an
19 individual?

20 A. Correct.

21 Q. And when they thought that individual might join?

22 A. That is correct.

23 Q. And they also entered information that would
24 allow a Docupak employee to check up on that information?

25 A. That is correct.

1 Q. And if the person then enlisted, the recruiting
2 assistant would receive a direct deposit for a thousand
3 dollars; correct?

4 A. For nonprior service; correct.

5 Q. And the payment for enlistment meant that that
6 soldier had signed up and given a contract to the Army
7 National Guard?

8 A. Yes, ma'am.

9 Q. And then if they made it all the way to boot
10 camp, which was months down the road, and they got into
11 boot camp or were shipped for boot camp, the second payment
12 would occur; correct?

13 A. That is correct.

14 Q. And after those payments occurred to the
15 recruiting assistant, Docupak took a payment for \$325; is
16 that your testimony?

17 A. That is correct.

18 Q. And so one of the subjects of the subcommittee on
19 the contracting oversight discussed the fact that your
20 company received that bonus and that that bonus was not
21 negotiated; is that correct?

22 MR. D'ARCY: Your Honor, relevance.

23 THE COURT: Overruled.

24 A. The fee was submitted as part of our proposal for
25 the Guard recruiting assistant's contract from the

1 government.

2 Q. (BY MS. STANCIL) Right. And it was too high,
3 correct, under normal federal guidelines?

4 A. I'm not aware of that.

5 Q. Okay. Are you aware of the finding that because
6 they did not negotiate the contractor fee, they believe the
7 National Guard Bureau overpaid Docupak by \$9.2 million?

8 MR. D'ARCY: Relevance, Your Honor. Objection.

9 THE COURT: Overruled.

10 Q. (BY MS. STANCIL) Are you aware of that, sir?

11 A. I'm aware of the claim; that's correct.

12 Q. Is it fair to say that Docupak has not repaid the
13 National Guard Bureau \$9.2 million?

14 MR. D'ARCY: Objection. Relevance, Judge.

15 THE COURT: Overruled.

16 A. That is correct.

17 Q. (BY MS. STANCIL) That is correct that you have
18 not repaid that money?

19 A. We have not; correct.

20 Q. Now, for example, if a recruiting assistant
21 nominated a number of individuals, let's say 22
22 individuals, and was paid by your company, Docupak,
23 \$44,000, as an example, are you aware of what the Docupak
24 fee would have been for that -- those accessions?

25 A. 6,000 something dollars if I do it in my head.

1 Q. If I came up with roughly 7,900, does that sound
2 correct?

3 A. Sure.

4 Q. And in the case of this particular Sergeant
5 Wilson in this case, have you paid back the National Guard
6 Bureau any of the contractor fee associated with his
7 nominations?

8 MR. D'ARCY: Objection on relevance, Judge.

9 THE COURT: Overruled.

10 A. Not to my knowledge, no.

11 Q. (BY MS. STANCIL) And you're the president of
12 Docupak, so you'd probably know; correct?

13 A. That is correct.

14 Q. Now, your company is in Alabama?

15 A. Correct.

16 Q. Where exactly in Alabama?

17 A. Birmingham.

18 Q. Birmingham.

19 And on your website, it talks about a hundred
20 thousand square foot distribution center. Is that for
21 products?

22 A. It is.

23 Q. Okay. So what happens at that distribution
24 center?

25 A. Nothing any longer. It was a warehouse for the

1 government, but it's no longer in operation.

2 Q. Because the contract -- you're no longer
3 contracting with the government?

4 A. That is correct.

5 Q. Okay. So at the time when the G-RAP is going on,
6 that distribution center had products to be used for the
7 recruiting programs?

8 A. That is correct.

9 Q. And those products were things like T-shirts and
10 personal business cards and things like that?

11 A. That is correct.

12 MS. STANCIL: Your Honor, may I approach?

13 THE COURT: Yes.

14 Just for the record, Ms. Stancil has shown
15 Mr. D'Arcy the exhibit she is presenting to the witness.

16 Q. (BY MS. STANCIL) Take a look at this document.
17 Do you recognize it?

18 A. Yes, I do.

19 Q. And what is it?

20 A. It was a new hire kit that we launched for the
21 program when people originally joined, signed up.

22 Q. Okay.

23 THE COURT: Has that been marked as Exhibit A for
24 the record? I just want to make sure the record is clear.

25 MS. STANCIL: I'm going to mark it Exhibit A for

1 the record.

2 THE COURT: Thank you.

3 Q. (BY MS. STANCIL) And how do you know what it is?

4 A. We produced those items.

5 Q. And that was part of your original implementation
6 in 2005?

7 A. That is correct.

8 Q. Okay. And would you describe what you see?

9 A. Sure. It's a T-shirt with noted "Ask me about
10 the National Guard" to gain attention that the RAs would
11 wear, along with business cards.

12 Q. Okay. And then do you see this right there?

13 A. The "Courtesy of Docupak"?

14 Q. Right.

15 A. Correct.

16 Q. Do you know where this was published?

17 A. I do not know where that was published.

18 Q. Okay. But despite not knowing where it was
19 published, do you think this is a reasonably accurate
20 portrayal of a published article from your company?

21 A. It could be. I notice here it's on the GX
22 magazine, which was a publication we were associated with.
23 Correct.

24 Q. Okay. What's the GX magazine?

25 A. It was called The Guard Experience magazine. And

1 so it would just talk about deployment cycles, issues that
2 families were facing. Kind of an informative magazine.

3 Q. And part of your cooperation with the National
4 Guard Bureau in running this program, did you supply them
5 with, you know, advertisements or things like that about
6 the G-RAP for GX magazine?

7 A. We did.

8 Q. Okay. And does this look like one of them?

9 A. Sure. Yes, ma'am.

10 MS. STANCIL: I move to publish Defendant's
11 Exhibit A and publish to the jury.

12 THE COURT: Objection or voir dire?

13 MR. D'ARCY: No objection.

14 THE COURT: Very good.

15 Exhibit A is admitted and permission to publish
16 is granted.

17 (Defendant's Exhibit A was admitted into
18 evidence.)

19 Q. (BY MS. STANCIL) So just looking at this right
20 here --

21 THE COURT: If you need stand up, you are free to
22 do so.

23 Q. (BY MS. STANCIL) Are you able to see it?

24 Would you describe what is shown right here? I'm
25 sorry. Where I'm pointing my pen.

1 A. Oh, the T-shirt. I apologize.

2 Q. So tell me about that T-shirt.

3 A. It was just a T-shirt to wear. RAs would be
4 encouraged to wear them around town so someone saw them,
5 they would ask them about the Guard to create curiosity.

6 Q. Now, if somebody wearing this T-shirt was walking
7 around and was asked about the Guard and then that person
8 later enlisted, would that be an eligible payment under the
9 G-RAP program?

10 A. If they simply ask you about the Guard, no,
11 ma'am.

12 Q. Okay. So somebody -- this is asking about the
13 Guard. Okay? Somebody comes up to this person and
14 initiates the contact and then they have further
15 conversations about the National Guard experience and
16 something about that motivates a person to enlist.

17 A. Yes.

18 Q. Okay. So how long does that conversation need to
19 occur?

20 A. It's not specified in the training.

21 Q. Okay. How many times does a person need to talk
22 to the nominee?

23 A. That is not specified either.

24 Q. Fair to say it could be one really meaningful
25 conversation and that would be eligible; correct?

1 A. That is correct.

2 Q. And it's also fair to say that the person wearing
3 this T-shirt doesn't have to go up to unwitting or
4 uninterested people in society; correct?

5 A. That is correct.

6 Q. They don't have to initiate the contact; fair to
7 say?

8 A. Correct.

9 Q. And then these over here are -- I am just going
10 to point to this. What does that look like to you?

11 A. Business cards.

12 Q. And tell me about those business cards. What
13 would be on there?

14 A. I can't see that, but if I'm working off memory,
15 it was typical email address, cell phone number, and their
16 name would be the typical information that would be shared.

17 Q. Okay. So the recruiting assistant when they sign
18 up and say, "I want to be an RA," they would get this new
19 kit; correct?

20 A. Not throughout -- at certain times of the
21 program; correct.

22 Q. Okay. Do you think in 2009, a person would have
23 received a kit like this?

24 A. It's very possible. I don't know my dates for
25 sure when those kits were distributed.

1 Q. Okay. And so they would put their name, their
2 number, any cell phone number would do; right?

3 A. Yes, ma'am.

4 Q. And they would hand those cards out to people and
5 then those people could call them any time; right?

6 A. That is correct.

7 Q. And if they got a call from somebody that had
8 seen their card somewhere or that they had been handed a
9 card to, that would be a person that could be a potential
10 soldier for a nominee?

11 A. That is correct.

12 Q. You call them PSs?

13 A. Yes, ma'am.

14 Q. In the Docupak notes, that's how you refer to
15 potential soldiers; correct?

16 A. That is correct.

17 Q. And then this right there, do you recall was that
18 sort of an advertisement for your company or for the G-RAP
19 program that was in the magazine?

20 A. It would have been for the program; correct.

21 Q. Okay.

22 MS. STANCIL: May I approach?

23 THE COURT: Yes.

24 MS. STANCIL: Defendant's Exhibit B.

25 May I approach?

1 THE COURT: Yes.

2 And Ms. Stancil has shown it to Mr. D'Arcy.

3 Q. (BY MS. STANCIL) Why don't you take a look at
4 this document.

5 A. Okay.

6 Q. What is it, if you know?

7 A. I do not know, but it appears to be an interview
8 with a young soldier of what makes her successful in G-RAP.

9 Q. Okay. Had you seen that before? Have you seen
10 articles like that before?

11 A. I have not seen this particular article, no.

12 Q. Okay. Does it appear to be from the GX magazine?

13 A. It does.

14 Q. And is it talking about the G-RAP program that
15 you were running?

16 A. It does.

17 Q. Does it appear to be an accurate representation
18 of what may have been in the GX magazine at that time?

19 A. It does.

20 MS. STANCIL: Move to admit Defendant's
21 Exhibit B.

22 THE COURT: Objection or voir dire?

23 MR. D'ARCY: I'm going to object on foundation.

24 THE COURT: Ms. Stancil?

25 MS. STANCIL: Your Honor, I think that the

1 witness has laid an adequate foundation that he worked with
2 the National Guard Bureau and this is a Bureau publication
3 and that it's talking about G-RAP, the program that he ran.

4 THE COURT: What purpose is it being offered for?

5 MS. STANCIL: It's for -- being offered for
6 impeachment.

7 THE COURT: Of his statements?

8 MS. STANCIL: Yes.

9 THE COURT: I'm going to be -- I'm going to let
10 it in for that limited purpose, not for the truth of the
11 matter.

12 Can counsel approach? And let me actually see
13 the document.

14 (The following proceedings were held outside the
15 presence and hearing of the jury.)

16 THE COURT: What's the potential impeachment?

17 MS. STANCIL: I was just going to go back and ask
18 him the question. I should have asked it before I walked
19 up to him.

20 MR. D'ARCY: That would be improper impeachment
21 evidence if it's not a statement that he's created.

22 THE COURT: Or that his company has created.

23 MR. D'ARCY: Correct.

24 THE COURT: So I'm going to sustain it subject to
25 additional foundation. He hasn't -- just because some

1 article appears about the program, if there's nothing
2 attributable to him or his company, then I just don't think
3 an adequate foundation has been laid for even using this
4 for impeachment purposes.

5 MS. STANCIL: That's fine.

6 (The following proceedings were held within the
7 presence and hearing of the jury.)

8 THE COURT: So I am going to let you attempt
9 to -- I'm sustaining the -- sustaining the objection unless
10 you are going to attempt to lay --

11 MS. STANCIL: I'll discuss it with somebody else.

12 THE COURT: Okay. So the objection is sustained.

13 Actually, you do need to let Amanda keep a copy
14 of it because it's been tendered. If I need to get you
15 another copy of it during trial, that's fine. But I want
16 it for the appellate record.

17 You may continue, Ms. Stancil.

18 MS. STANCIL: Thank you.

19 Q. (BY MS. STANCIL) Prior to coming here to
20 testify, did you review the Docupak profile for Sergeant
21 Wilson?

22 A. I did not.

23 Q. Are you aware, given your position in the
24 company, of whether or not Sergeant Wilson was ever
25 terminated or fired by Docupak?

1 A. I am not aware, no, ma'am.

2 Q. I'm going to approach with Defendant's Exhibit C.

3 MS. STANCIL: May I approach?

4 THE COURT: Yes.

5 And thank you for showing it to Mr. D'Arcy.

6 Q. (BY MS. STANCIL) Showing you what's been marked
7 as Defendant's Exhibit C. Do you recognize that?

8 A. Yes, ma'am.

9 Q. What is that?

10 A. That would be a representation of screen shots
11 from Mr. Leatherman's nomination page.

12 Q. And how do you know that?

13 A. Just representative of what the internal workings
14 of our system looks like.

15 Q. And is that a document that's kept in the
16 ordinary course of business?

17 A. Yes, ma'am.

18 Q. Okay. And can you take the -- a look at the
19 second page. There's four pages actually total.

20 MS. STANCIL: If the Court is all right, I would
21 like to have it be just one exhibit.

22 THE COURT: That's fine.

23 Q. (BY MS. STANCIL) Page 2, do you know what that
24 is?

25 A. Yes, ma'am. That would have been the entry

1 screen for Mr. Leatherman's information was input.

2 Q. Okay. Thank you.

3 Can you take a look at page 3.

4 A. It's the same image.

5 Q. Okay.

6 A. It's portrait versus landscape.

7 Q. Okay. Thank you.

8 And the fourth page?

9 A. That would have been the status history screen of
10 where Mr. Leatherman was at the end of the accession
11 process.

12 MS. STANCIL: I believe I've laid an adequate
13 foundation to move to admit Defense Exhibit C.

14 THE COURT: Objection or voir dire?

15 MR. D'ARCY: Your Honor, I'm fine with that. No
16 objection.

17 THE COURT: Okay. Exhibit C is admitted.

18 (Defendant's Exhibit C was admitted into
19 evidence.)

20 MS. STANCIL: Thank you.

21 We are going to try to do this on the Elmo.

22 THE COURT: Are you asking permission to publish?

23 MS. STANCIL: Permission to publish?

24 THE COURT: Granted.

25 Do you want us to drop the lights?

1 MS. STANCIL: Please.

2 I don't know why that's creating a shadow.

3 THE COURT: Because the light's not on, the
4 secondary light.

5 MS. STANCIL: This one?

6 THE COURT: Yep.

7 MS. STANCIL: Perhaps if we just turn the lights
8 on, that would be fine.

9 THE COURT: Let's do that.

10 Q. (BY MS. STANCIL) You are going to need to put
11 your glasses on.

12 A. They only work up close.

13 Q. This is a screen shot so not perfectly clear, but
14 could you just explain to the jury what this represents?

15 A. May I walk up? Because I'm having a hard time
16 seeing.

17 THE COURT: Any objection to him walking up to
18 see the exhibit with you?

19 MS. STANCIL: Not at all.

20 THE COURT: Go ahead.

21 Again, you will get these exhibits. This is why
22 I clarified earlier.

23 A. This particular screen would be -- would be the
24 initial questions that the RA would have to answer
25 regarding how he met the potential soldier.

1 Q. (BY MS. STANCIL) Okay. And those would be
2 entered by -- is there an "Entered By" line?

3 A. Yes, ma'am. By Mr. Wilson.

4 Q. Okay. So these would have been notes that would
5 have had to be entered by Mr. Wilson?

6 A. That is correct.

7 Q. Okay. And so on the first question, is it fair
8 to say that it says, "When did you first meet the nominee?"
9 Answer: "One week ago"?

10 A. Correct.

11 Q. Is that a drop-down menu?

12 A. No. I do not believe so. I believe it's free
13 type.

14 Q. Okay. Could it have been a drop-down menu?

15 A. It could have been, yes, ma'am.

16 Q. Okay. And then there are a series of other
17 questions about, you know, where did you meet the nominee
18 and how, et cetera. I'd like you to look down to the
19 bottom of the screen at 9/21/2010. Can you read that
20 entry?

21 A. Can I read it off this?

22 Q. Yes.

23 A. "Please withdraw this nomination."

24 Q. Okay. So would that have been entered by
25 Mr. Wilson?

1 A. It appears to be, yes, ma'am.

2 Q. Okay. So it looks like the notes were entered
3 originally on September 7th and then on the 21st, there's
4 an entry of "Please withdraw the nomination"; correct?

5 A. Correct.

6 Q. Okay. And then I'm just going to skip ahead to
7 this page. This is the last page, the fourth page that I
8 showed you. And this is the payment notes?

9 A. Yes, ma'am.

10 Q. And can you tell us who was -- who the nominee
11 was?

12 A. It would be Mr. Leatherman.

13 Q. Okay. Is that the same person that the notes
14 were about on the first page?

15 A. I believe so, yes, ma'am.

16 Q. You can check if you need to. Are we talking
17 about Shon Leatherman?

18 A. That is correct.

19 Q. Okay. So the nomination where he says, "Please
20 withdraw the nomination," that's about Shon Leatherman.
21 Okay. And then on page 4, looks like a payment was made;
22 is that correct?

23 A. That's correct.

24 Q. And the payment was made -- can you see what
25 date?

1 A. The initial payment was for the 11th, I believe.
2 4/31/2011.

3 Q. Okay. And back to the first page, when was the
4 nomination requested to be withdrawn?

5 A. 9/21 of '10.

6 Q. So after that note was entered, it looks like
7 Mr. Wilson was paid?

8 A. That is correct.

9 Q. And it looks like about over a year later?

10 A. Yes, ma'am.

11 Q. Okay. Thank you.

12 We talked about the 1099. The 1099 would be
13 received at the end of the year by the recruiting
14 assistant; correct?

15 A. Correct.

16 Q. And that was the record showing how much they
17 made by Docupak and packaging brokers; correct?

18 A. That is correct.

19 Q. On that 1099 that someone would receive at the
20 end of the year, it didn't list what all the payments were
21 for; is that fair to say?

22 A. That's right.

23 Q. Because people weren't just paid right when they
24 made a nomination; is that fair?

25 A. That is correct.

1 Q. They were paid at some point in the future if
2 someone had a verified enlistment, and then later if they
3 had a verified ship to basic boot camp training?

4 A. That is correct.

5 Q. So as in this case, it's not unusual that a year
6 or more would go by before an RA would get paid?

7 A. No, that would not be unusual.

8 Q. Now, for a 1099 employee, is a 1099 an employee
9 or an independent contractor?

10 A. Independent contractor.

11 Q. And Docupak saw its recruiting assistants as
12 independent contractors; is that right?

13 A. That's correct.

14 Q. So there was no employee manual; fair to say?

15 A. That is correct.

16 Q. Did you have employees at Docupak?

17 A. We did.

18 Q. How many employees did you have when you were
19 running this program?

20 A. A hundred or so.

21 Q. Okay. And were those mostly call center
22 employees that took calls from RAs?

23 A. Yes, ma'am.

24 Q. And they also placed calls to potential soldiers
25 to see -- to verify how they were meeting?

1 A. That is correct.

2 Q. So aside from the call center employees, did you
3 have a team of employees that went around and did hands-on
4 training with any of the RAs?

5 A. We did in the beginning of the program, but then
6 it wasn't cost effective, so we scaled that back. I don't
7 remember the exact year, however.

8 Q. By the time 2009 came around, is it fair to say
9 there were over a hundred thousand recruiting assistants?

10 A. That would be accurate.

11 Q. And they were pretty much being monitored by the
12 folks in your call center?

13 A. That is correct.

14 Q. And Docupak was in charge of the training portion
15 of G-RAP; is that right?

16 A. Yes.

17 Q. The National Guard was not supposed to be
18 training people on G-RAP; fair to say?

19 A. That is correct.

20 Q. And did Docupak go out and train the commanders
21 about Docupak?

22 A. No. The training of the uniform full-time
23 soldiers was the responsibility of NGB. Our responsibility
24 were the RAs.

25 Q. Okay. So the training for the soldiers was the

1 responsibility of the Guard; correct?

2 A. Yes, ma'am.

3 Q. And your responsibility was to train the
4 recruiting assistants?

5 A. That is correct.

6 Q. And you were also in charge of creating what
7 guidelines there were?

8 A. In conjunction with NGB regarding the program
9 guidelines.

10 Q. Okay. So you got some advice from them, but
11 ultimately this was your decision how to run the thing?

12 A. Not totally. We had input from National Guard
13 Bureau because they had to meet certain criterias based on
14 what the contracts were.

15 Q. Okay. I mean, it's fair to say at some point on
16 the website, you list the responsibilities of Docupak;
17 right?

18 A. Yes, ma'am.

19 Q. So "Who do I get paid by?" The answer is
20 Docupak; right?

21 A. That is correct.

22 Q. "If I have questions about my duties as an RA,
23 who do I ask?" The answer is Docupak; right?

24 A. That is correct.

25 Q. Those are the kind of questions that were on the

1 sort of theoretical modules that we were talking about;
2 correct?

3 A. That's accurate.

4 MR. D'ARCY: And, Your Honor, I wonder if we
5 could get clarification as to the time frame we're talking
6 about.

7 THE COURT: Very good.

8 Could you just -- I'm going to sustain the
9 objection on vagueness.

10 So if you want to clarify the time frame that you
11 are discussing.

12 Q. (BY MS. STANCIL) I guess I wasn't getting into
13 the specific words, but throughout the entire program, the
14 entire time it existed, 2006 through 2012, is that the time
15 frame?

16 A. Yes.

17 Q. So throughout the time frame, Docupak had the
18 responsibilities for development, implementation, tracking
19 of quantitative goals and objectives, training, hardware
20 and software assets, supporting the campaign effort, and
21 fraud prevention?

22 A. That's accurate.

23 Q. That ever change?

24 A. No.

25 Q. Was there ever a time that a recruiting assistant

1 would go to their command for advice on being an RA, aside
2 from asking for permission?

3 A. I wouldn't have any knowledge of that, if that
4 conversation took place.

5 Q. Okay. But as far as Docupak was concerned and as
6 far as the information you were relaying to the RAs,
7 Docupak was supposed to be the point of contact for
8 questions?

9 A. That is correct.

10 Q. And when you were talking about, you know, a quiz
11 someone would have to take, theoretically, on the website,
12 you're talking about true/false answers; right?

13 A. I believe most of them were; correct.

14 Q. And to be clear, regardless of what module or
15 whatever, you don't have any evidence of an individual
16 training or question-and-answer sheet that was completed by
17 Sergeant Wilson?

18 A. No.

19 Q. And you don't have evidence of that sheet that
20 said, "Click, I agree, to the terms and conditions" we were
21 talking about in 2009, I believe it's Exhibit 12?

22 A. That's correct.

23 THE COURT: No. Exhibit 12 wasn't admitted. I
24 believe it ended up becoming Exhibit 13.

25 MS. STANCIL: I apologize.

1 Q. (BY MS. STANCIL) Do you have Exhibit 13 up
2 there?

3 THE COURT: It's 13 that was admitted.

4 MS. STANCIL: Okay. So may I approach?

5 THE COURT: Yes. And I'm sorry for interrupting.
6 I just want to make sure the record was clear.

7 Q. (BY MS. STANCIL) Because I messed up the record,
8 I just want to make this clear. This is People's
9 Exhibit 13. This is that -- I don't know how you refer to
10 it.

11 A. An acknowledgment pop-up.

12 Q. The acknowledgment pop-up that you said would
13 come up one time; correct?

14 A. That's correct.

15 Q. And this was around 2009, and you know that
16 because that's when the program opened up to all full-time
17 soldiers; right?

18 A. There were certain soldiers that were never
19 permitted to participate. So not all of them. But it was
20 expanded.

21 Q. Correct. So everybody but recruiting and
22 retention NCOs?

23 A. And those who were members of the recruiting and
24 retention force.

25 Q. Okay. So recruiting and retention was out.

1 But somebody who, you know, was in charge of
2 training or something like that was eligible?

3 A. I believe so; correct.

4 Q. So this is when the G-RAP program opened up to
5 AGR, which is active guard reservists; fair to say?

6 A. That is correct.

7 Q. And when I talk about those terms, active duty or
8 active guard reservist -- have you been in the military?

9 A. I've not, but I'm familiar with those terms.

10 Q. Okay. So essentially it was people who worked
11 full-time as a Guard member, so that was their full-time
12 job, they could do this on their off-time; right?

13 A. That is correct.

14 Q. And so this was the new acknowledgment that you
15 believe was a pop-up window at some point in 2009; right?

16 A. Yes, ma'am.

17 Q. But there is no evidence that you can show us
18 about this particular soldier over here having
19 acknowledged; correct?

20 A. That is correct.

21 THE COURT: Thank you, Ms. Stancil.

22 MS. STANCIL: One moment, please?

23 THE COURT: Certainly.

24 Q. (BY MS. STANCIL) It's fair to say in terms of
25 the program rules that were always the same, one of those

1 was that you were not supposed to bring a soldier to drill,
2 correct, a potential soldier?

3 A. I don't recall that being one of the guidelines
4 or prohibitions that you could not bring a soldier to
5 drill.

6 Q. Could you conduct G-RAP during drill time?

7 A. No. No, ma'am.

8 Q. Okay. So -- but you could bring a soldier to
9 drill?

10 A. If they -- if my recollection serves me, if they
11 had already accessed into the Guard, then they could come
12 to drill to be getting prepared for basic training.

13 Q. But what about potential soldiers who you were
14 discussing your personal experiences with and motivating to
15 join the Guard? Could you bring them along to a drill and
16 say, "This is how it goes"?

17 A. I'm not sure. I couldn't answer one way or the
18 other. I apologize.

19 Q. Be fair to say that's not a very clear rule?

20 A. Sure. Yes, ma'am.

21 Q. Who made the decision about whether or not to pay
22 a recruiting assistant?

23 A. If -- it was an automated process to where a
24 Social Security number matched, then it would trigger an
25 automatic payment.

1 Q. Okay. But there were those notes, and there were
2 those people that were monitoring; correct?

3 A. That's correct.

4 Just one small thing about the notes section,
5 typically that would not have been a place where we'd look
6 to see if a soldier had been withdrawn.

7 Q. Where would that be?

8 A. It would have either been an email or a contact
9 or some other way because once that -- those note sessions
10 were done, we would be tracking the notes in a different
11 section of the website.

12 Q. So people would put information in notes about
13 how they were meeting soldiers and the job that they were
14 doing -- that was monitored by Docupak; right?

15 A. That is correct.

16 Q. It was part of your job to make sure people are
17 doing the right thing?

18 A. Yes, ma'am.

19 Q. And -- but you didn't really pay attention to
20 what people were entering in those notes?

21 A. We did. But my point is once the initial
22 nomination was made about how you met the individual, there
23 was a different section of where notes were input by our
24 staff in conversations with the RA.

25 Q. Can you point me to a rule or regulation that

1 you're aware of where you told somebody, "If you want to
2 withdraw a nomination, you have got to email me; don't put
3 it in your notes"?

4 A. No, I could not point to a rule.

5 Q. Let's talk about another thing. If you were
6 full-time active Guard reservist and a potential soldier
7 came up to you during drill time, were you allowed to talk
8 to that person?

9 A. Yes, ma'am.

10 Q. And were you allowed to say, "Hey, do you know
11 what? Let's meet at Denny's next week and talk about your
12 enlistment in the Guard"?

13 A. That is correct.

14 Q. That was kind of all part of it, wasn't it, to
15 get people involved and interested; right?

16 A. That is correct.

17 Q. And one of the benefits of that program and why
18 it was so successful was because soldiers with real-life
19 soldier experience were sort of the best salesmen for the
20 Guard; right?

21 A. That is correct.

22 Q. And, in fact, this program was extremely
23 successful; fair to say?

24 A. Yes, ma'am.

25 Q. The National Guard Bureau got more enlistments

1 than they even bargained for; right?

2 A. That is correct.

3 Q. They got so many that at some point, they had to
4 scale down; is that correct?

5 A. That is correct.

6 Q. And there were many other different marketing
7 efforts occurring to try to get recruits but none were so
8 successful as the G-RAP; right?

9 A. I would agree with that.

10 Q. Was your company also involved in separate
11 advertising for the National Guard Bureau?

12 A. Yes, ma'am.

13 Q. Things like Indy car races or stuff like that?

14 A. That is correct.

15 Q. You did sponsorships and, you know, rock star
16 sing songs about the Army, things like that?

17 A. We did the motor sports. We didn't do the rock
18 star sing song. I know what you are referring to, yes,
19 ma'am.

20 Q. So, I mean, at this time in our history, the
21 government was putting a lot of money into trying to get
22 people to enlist; right?

23 A. That is correct.

24 Q. And it was a serious need for the National Guard
25 Bureau; right?

1 A. Yes, ma'am.

2 Q. And if a person was able to motivate 10,
3 15 individuals to join the Guard, that would be a very
4 successful recruiting assistant; right?

5 A. It would be.

6 MS. STANCIL: No further questions. Thank you.

7 THE COURT: Mr. D'Arcy, redirect?

8 MR. D'ARCY: Thank you, Judge.

9 May we approach briefly?

10 THE COURT: Yes.

11 (The following proceedings were held outside the
12 presence and hearing of the jury.)

13 MR. D'ARCY: Your Honor, there certainly was
14 inquiry about testing, which I think opens the door to some
15 extent back to Exhibit -- People's Exhibit 11 that does
16 identify some of the questions in the back. And so what
17 I'm asking for is -- I could give it some thought. But I
18 guess I'd like a position from the Court as to whether you
19 believe the door is opened in that regard and whether I
20 have the ability to inquire about that.

21 THE COURT: Ms. Stancil? Come on up on the mike.

22 MS. STANCIL: I believe that my question --

23 THE COURT: I know.

24 MS. STANCIL: I believe that my question to
25 Mr. Crane was that the type of questions you'd see would be

1 true/false type of questions.

2 THE COURT: Right. I was listening carefully for
3 whether or not the door was open. She was careful to
4 characterize it as this alleged testing or phantom testing.
5 I don't know what her term was. But she asked, "To the
6 extent questions were asked, were they true/false
7 questions?" It was really the nature of it. I don't find
8 that it opened the door to introducing what the test was at
9 any given time. If it's an open-the-door question, I don't
10 find that it opened the door.

11 MR. D'ARCY: Okay.

12 THE COURT: To the redirection of Exhibit 11.

13 MR. D'ARCY: I guess the next -- the next issue
14 would be I think the door has been opened regarding an RA
15 completes a test and on Exhibit 1, there is a -- there is a
16 date of completed test. And I think I have some latitude
17 to discuss that with Mr. Crane that by virtue of that page
18 being produced, a test would have been taken by the RA and
19 leave it at that.

20 THE COURT: I'm sorry. You lost me. I
21 apologize. Which questions?

22 MR. D'ARCY: On Exhibit 1, there is a date of
23 completed test.

24 THE COURT: Yes.

25 MR. D'ARCY: And I believe there's some -- I can

1 at least inquire of Mr. Crane what that date means, that
2 there was a test would have been completed by the potential
3 RA.

4 THE COURT: I think you already have that
5 testimony in without an objection. I think that -- I think
6 he's testified to that without Ms. Stancil's objection. I
7 think that's already in the record on direct.

8 MR. D'ARCY: Okay.

9 MS. STANCIL: I think you can argue that in
10 closing also. It's admitted.

11 THE COURT: Can you --

12 MS. STANCIL: I think that the prosecution can
13 absolutely argue that in closing because that's been
14 admitted.

15 THE COURT: Right. And it came in on direct
16 without objection.

17 MS. STANCIL: Just can't testify to the contents
18 of that test.

19 THE COURT: Right. So I think it is already in
20 the record about the test.

21 MR. D'ARCY: The notes that you have introduced
22 are some -- are a line of questioning on the date that
23 include Mr. Leatherman was nominated -- or was nominated as
24 an RA -- or not an RA, as a soldier.

25 THE COURT: What Ms. Stancil is saying is that it

1 is in the record that he took and completed a test about
2 two and a half hours after he created his account.

3 MR. D'ARCY: Right.

4 THE COURT: And she's -- is that what you are
5 asking? I think that's in the record.

6 MR. D'ARCY: Okay. I'm good. I just don't want
7 to go down the pathway that is going to be problematic. I
8 think I understand.

9 (The following proceedings were held within the
10 presence and hearing of the jury.)

11 THE COURT: Mr. D'Arcy, redirect?

12 MR. D'ARCY: Thank you, Judge.

13 REDIRECT EXAMINATION

14 BY MR. D'ARCY:

15 Q. Now, Mr. Crane, the t-shirts --

16 MR. D'ARCY: Actually, if I may just approach to
17 grab the exhibit, Judge?

18 THE COURT: Certainly.

19 MR. D'ARCY: If I may approach?

20 THE COURT: Yes.

21 Q. (BY MR. D'ARCY) So I'm going to hand you,
22 Mr. Crane, back what's been labeled as Defendant's
23 Exhibit A. And, actually, the t-shirts and the cards, what
24 was the reasoning for Docupak to provide those to RAs?

25 A. Well, it was twofold. One is to incentivize

1 people to join and to become an RA. And then, secondly, is
2 when the RA would have an attire on to create attention in
3 his and her community.

4 Q. Would it be fair to say that an RA -- well, an RA
5 could not wear their uniform when they are contacting a
6 potential nominee; is that fair?

7 A. That is correct, with the exception of when some
8 of the rules were altered slightly throughout the program.

9 Q. Can you elaborate a little bit on that? What
10 some of these rules --

11 A. It was when the AGRs were allowed to participate
12 briefly. And I don't recall how long they were allowed to
13 participate. But if they were in a full-time AGR spot,
14 they would have been in uniform.

15 Q. All right. Was it Docupak's -- was it their
16 intent to provide these packaging material -- or these
17 materials, T-shirts and cards, to assist the RA in going
18 out to their sphere of influence to find nominees?

19 A. Yes, sir.

20 Q. To provide --

21 THE COURT: I'm going to ask you to -- just so
22 the jury can hear you better.

23 MR. D'ARCY: Sure. I don't need to be up there,
24 Judge.

25 THE COURT: Okay.

1 Q. (BY MR. D'ARCY) If I may rephrase the question?
2 Was it one of the intents of Docupak to provide that to RAs
3 so when they're out in the sphere of influence, they would
4 have materials, the cards, and/or the shirt to draw
5 attention to -- of potential nominees?

6 A. That is correct.

7 Q. Versus wearing their uniform out in the sphere of
8 influence, which was prohibited by the rule; is that right?

9 A. Correct. When this -- when this was in effect
10 here, that is correct.

11 Q. Okay. And when was that in effect?

12 A. This would have been 2006 time frame, and the
13 reason I know that is the website that's listed on the
14 shirt.

15 Q. In 2009, would that have been -- would those
16 materials have been provided to RAs? Do you know?

17 A. In 2009, they had the opportunity to get
18 materials from an alternative way of just shipping them out
19 directly to them.

20 Q. I'm sorry. I didn't catch that. Could you
21 repeat that?

22 A. In 2009, recruiting assistants could participate
23 and order items online, and we would ship it direct --
24 instead of just sending them something they may or may not
25 want, they had the opportunity to pick from various items

1 of what would be more effective in their area.

2 Q. Okay. So it was up to the RA whether they wanted
3 to obtain materials from Docupak along the lines of
4 T-shirts or cards?

5 A. Yes, sir.

6 Q. All right. Now, Ms. Stancil asked about the
7 training that Docupak was providing RAs. And in that
8 regard, when somebody was submitting an application to
9 become an RA, part of that was a training module that they
10 would complete?

11 A. Could you repeat that one time?

12 Q. You know, when somebody was submitting their
13 application to become an RA, part of that was completing
14 training that Docupak provided online?

15 A. That is correct. Yes, sir.

16 Q. And once they were accepted, and I believe in
17 regards to Mr. Wilson in Exhibit 1, there was a "Date
18 Created" field that indicated he had completed training?
19 Would you like to review that?

20 A. The "Date Created" would be for when he
21 originally started the process.

22 Q. Right.

23 A. Not completed.

24 Q. Is there a date of training on that -- a date of
25 training field on that People's Exhibit 1?

1 A. There is a "Completed Training Date," yes, sir.

2 Q. Right. And what is the significance of that
3 date?

4 A. That is where the RA would have successfully
5 completed the training process.

6 Q. All right. The training that Ms. Stancil was
7 referring to that Docupak was providing -- or part of the
8 training that Docupak was providing to the RA?

9 A. That is correct.

10 MS. STANCIL: Objection, Your Honor. I don't
11 believe defense counsel referred to any training that
12 Docupak referred to the RA.

13 THE COURT: Mr. D'Arcy?

14 MR. D'ARCY: I believe there was discussion about
15 training. I do not recall if Ms. Stancil limited it to --

16 THE COURT: Please approach.

17 (The following proceedings were held outside the
18 presence and hearing of the jury.)

19 THE COURT: I don't want to misstate anything,
20 but you asked, "Didn't Docupak provide training and wasn't
21 the training that they completed true/false questions?"

22 MS. STANCIL: That's what your question was.
23 Okay. I just -- I must have --

24 THE COURT: Before we go off and tell the jury
25 you did, in fact, ask questions about true/false tests that

1 they took, I want to make sure you don't disagree with
2 that.

3 MS. STANCIL: I thought Mr. D'Arcy's question was
4 talking with the training that master sergeant -- Sergeant
5 Wilson would have taken. Can you redo his question?

6 THE COURT: All right. I'll allow you -- why
7 don't you re-ask the question.

8 (The following proceedings were held within the
9 presence and hearing of the jury.)

10 MR. D'ARCY: May have I have just one moment?

11 THE COURT: Yes.

12 Q. (BY MR. D'ARCY) Now, Mr. Crane, just referring
13 you back to People's Exhibit 1, regarding that date of
14 completed training, what was that date again?

15 A. 12/8/2009.

16 Q. And what did that -- what would that date
17 indicate in regards to Mr. Wilson?

18 A. Under the "Date Created" or the "Completed
19 Training"?

20 Q. The "Completed Training."

21 A. That's when he would have successfully completed
22 the training -- the online training.

23 Q. All right.

24 A. And became an active RA.

25 Q. Okay. Thank you.

1 MR. D'ARCY: May have I have just one moment,
2 Judge?

3 THE COURT: Yes.

4 Q. (BY MR. D'ARCY) Just one final question. You
5 don't have any information that Mr. Wilson repaid money
6 received for Mr. Leatherman back to Docupak, do you?

7 A. Not to my knowledge, no, sir.

8 MR. D'ARCY: Your Honor, I don't have any further
9 questions. Thank you.

10 THE COURT: Ms. Stancil, any recross?

11 MS. STANCIL: Yes, Your Honor.

12 RECCROSS-EXAMINATION

13 BY MS. STANCIL:

14 Q. Just to clarify, Mr. Crane, your testimony when I
15 was questioning you was -- I'm sorry -- when Mr. D'Arcy was
16 questioning you was that at some point, there was a rules
17 change and AGR soldiers were allowed to wear their uniform;
18 correct?

19 A. That's correct.

20 Q. And that's their military uniform that we're
21 talking about?

22 A. Yes, ma'am.

23 Q. So meaning the camouflage sort of casual wear or,
24 you know, more formal military uniform; correct?

25 A. Yes, ma'am.

1 Q. And that would be while they were conducting
2 their work as an RA?

3 A. That is correct.

4 Q. And that was a rule change that happened at some
5 point when the program opened up to those individuals,
6 excluding actual recruiters?

7 A. That's correct.

8 MS. STANCIL: Thank you, Mr. Crane. No further
9 questions.

10 THE COURT: Is Mr. Crane released?

11 MR. D'ARCY: Yes, he is, Your Honor. Thank you.

12 THE COURT: Any objection to him being released?

13 MS. STANCIL: No, Your Honor.

14 THE COURT: Thank you very much, Mr. Crane. You
15 are free to go.

16 (End of excerpted proceedings.)

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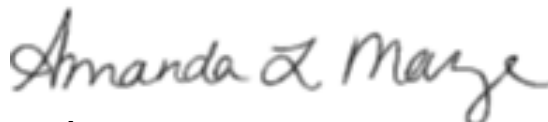
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I certify the preparation of this transcript is in compliance with the fee and format prescribed by CJD 05-03.

Dated at Adams County, Colorado, this October 1, 2015.



Amanda L. Maze, RMR, CRR, CCP