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MICHIGAN STATE UNIVERSITY
DISMISSAL FOR CAUSE HEARING COMMITTEE

In the Matter of Dr. Selman Akbulut

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DISMISSAL FOR CAUSE HEARING
BEFORE COMMITTEE MEMBERS JOHN WM. REIFENBERG, JR.,
JAMES SMITH, AND GALE STRASBURG
COUNSEL FOR MSU: WILLIAM WHITBECK

East Lansing, Michigan - Tuesday, August 20, 2019

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1 East Lansing, Michigan
2 Tuesday, August 20, 2019 - 9:33 a.m.
3 MS. DOUKOURE: We're ready.
4 MR. REIFENBERG: Go ahead.
5 MS. DOUKOURE: All right.
6 CROSS-EXAMINATION
7 BY MS. DOUKOURE:
8 Q Good morning, Mr. Pappas.
9 A Yes. Hi. Good morning.
10 Q My name is Amy Doukoure. I'm an attorney who is
11 acting on behalf of Professor Akbulut.
12 A Sure.
13 Q While I'm questioning you, I don't want you to
14 assume what I'm asking you, I don't want you to
15 guess, I just want you to give us your honest
16 answer from your best recollection. Okay?
17 A Sure.
18 Q I have a tendency to talk very quickly. So if you
19 do not understand me, please tell me to slow down.
20 A Okay.
21 Q I will not be offended.
22 When you testified yesterday, you spent
23 some time discussing the abrogation of duty penalty
24 that you reviewed; is that correct?
25 A Yes.

1 Q And there was some discussion about whether or not
2 Luke Williams was allowed to take a class; correct?

3 A Yes, I did mention it, yes.

4 Q The course --

5 A Allowed is not the right word here, but if -- the
6 discussion what I talked about is if he did
7 register or not.

8 Q Right. And he -- and it's your understanding that
9 he did not register; correct?

10 A Yes, he did not register.

11 Q In order to register for that class, would Luke
12 Williams need a faculty override?

13 A I think so, yes.

14 Q Who would give that override? Would it be
15 Professor Akbulut or somebody else?

16 A I think it's Professor Akbulut. But still the
17 student needed to register after the override is my
18 understanding.

19 Q Sure. But so if the student wants to register for
20 a Ph.D.-level class --

21 A Right.

22 Q -- wouldn't it actually be the grad student
23 secretary that would actually do the overrides?

24 A I'm not sure what you mean by this. The grad
25 student would do -- the grad secretary would do the

1 overrides, but the student can't do the override.

2 Q When a student wants to register for one -- you

3 teach graduate-level classes; correct?

4 A Yes.

5 Q Okay. When you want to teach -- when a student

6 wants to teach your class, they would need an

7 override; correct?

8 A That's correct. Yes.

9 Q Do you physically go into a computer system or

10 somewhere and put those overrides in?

11 A That depends. Maybe then it was not a computer

12 system, I don't remember. But, yes, you apply for

13 the overrides --

14 Q I'm asking you if you go in and put the override

15 in.

16 A I don't know what "put the override in" means. I

17 mean, the student putting the request for

18 overriding in?

19 Q No. The student will put in the request; correct?

20 A Okay. Correct.

21 Q And then would you go in and -- to the computer

22 system and register that override for the class, or

23 would somebody else --

24 A I'm the professor. Or I'm not a professor who

25 would approve or deny the override.

1 Q Right. But you don't actually go into the computer
2 system?

3 A I do go. Yes, I do.

4 Q And you put that in the class?

5 A No, this is not the end of the story. I think
6 after the override is starting to be approved, then
7 the student has to register. That's my
8 understanding.

9 Q And you -- so the secretary doesn't do anything.
10 There's nobody else who has to go into the computer
11 and put anything in for the override?

12 A I'm not sure. I have never been the graduate
13 director, and I don't know the mechanics of this
14 procedure. What I know is as a -- as a faculty
15 member, if somebody wants an override, then usually
16 we would approve it, for example. And then, if all
17 goes well, maybe the student registers and he
18 appears in my class.

19 If the student -- or I cannot approve the
20 override, then the student might change his mind.
21 Then he doesn't register.

22 Q I'm not asking you that.

23 You're not actually in charge of helping
24 students register for classes?

25 A No.

1 Q So once you approve the override, you don't know
2 what happens; correct?

3 A What do you mean "you don't know what happens"?

4 Q I mean, you don't know if the secretary has a part
5 in it. That's what your testimony is. You don't
6 know.

7 You approve an override, the student
8 appears in your class I believe is what your
9 testimony just was.

10 A Yeah, for mine. When it's a student for me. I
11 said -- I explained the procedure from the point of
12 view of the faculty --

13 Q Right.

14 A -- then in --

15 Q So your testimony is --

16 A -- this situation, yes.

17 Q So your testimony is that once you approve the
18 override, you don't know what happens next? You
19 said --

20 MS. KELLEY: I don't think that's what
21 his testimony was.

22 Sorry. I didn't mean to interrupt you.
23 Sorry.

24 Q (MS. DOUKOURE) You testified that you approve an
25 override, a student appears; correct?

1 A I -- well, if I think it's appropriate I do, yes.

2 Q We're just going to go on the assumption that you

3 approved an override. That's what you testified.

4 You approve an override and the student appears;

5 correct?

6 A I approve an override and the student appears if

7 the student --

8 Q I'm not asking you --

9 A As long as he registers.

10 Q We're assuming this student registered.

11 A Well, we can assume he registers which is an act

12 that happens after the approval of the override,

13 yes.

14 Q I am asking you very specific questions. I would

15 like you to listen to the actual question I am

16 asking you.

17 A All right.

18 Q Answer just that question, please.

19 A Yes. Repeat the question.

20 Q I said your testimony was that you approve an

21 override and that a student appears in your class;

22 correct?

23 A No, that's not my testimony.

24 Q So -- but between you -- if you approved an

25 override for a student and he went on and

1 registered for your class and they've appeared, you
2 don't know what happens in the middle, do you?
3 A Usually not.
4 Q Usually not.
5 A Yes.
6 Q So once you've approved an override, between you
7 approving that override and the student coming into
8 your class, you don't know what took place?
9 A No, I don't, unless I try to find out.
10 Q So, generally, you don't know?
11 A Generally, I don't know as a faculty member, yes.
12 Q Okay. Do you have grant money?
13 A Yes, I do.
14 Q And sometimes professors who have grant money, they
15 allocate those grant -- that -- those grant funds
16 for future events such as visiting guests, things
17 like that; correct?
18 A Yes.
19 Q That's called encumbrance; correct?
20 A Yes, that's right.
21 Q If you've promised funds out and then change your
22 mind -- are you capable of doing that?
23 A Yes, but it's --
24 Q So you're allowed to reallocate funds; correct?
25 A Absolutely. Yeah.

1 Q And the ability to allocate funds and reallocate
2 funds belongs to the person, the PI, correct --
3 A Yes.
4 Q -- on a grant?
5 A Well, unless -- well, it's not that simple, because
6 sometimes the encumbrances include promises that
7 are binding.
8 Q But there are circumstances that are not binding,
9 and you could reallocate those funds 50 times if
10 you wanted to; correct?
11 A Sure.
12 Q Have you done that before?
13 A Actually, I've never changed my mind on an
14 encumbrance, but I think -- but I think it's
15 possible.
16 Q But it's possible.
17 And who's the person who could do that?
18 Could Professor Promislow, like, re-encumber your
19 grants or change the funding on your grant?
20 A No, I don't think so. There's always some approval
21 by the PI would be needed of some sort I would
22 think.
23 Q There was some discussion with a previous professor
24 about checking funds on grants for other
25 professors. Are you capable of going to other

1 professors' -- the database that houses other
2 professors' grants and check whether or not their
3 grants are encumbered at all?
4 A I'm not sure. I don't know.
5 Q Have you ever tried?
6 A No. I mean, for me to go physically on the
7 database and do this, I have never tried to do it.
8 Q But you testified yesterday that you checked
9 Professor Akbulut's grants to see whether they were
10 encumbered or not?
11 A No, I did not testify that we checked, I testified
12 that we asked the grant secretary --
13 Q And so you --
14 A -- to verify that our statement that we wrote in
15 the review is correct.
16 Q So you asked the grant secretary whether the
17 statement that you had already made was correct?
18 A Yes. No. No. No.
19 Q I mean -- I mean, that's what you --
20 A Okay. First we -- we asked her what the situation
21 was with the grant encumbrance. She gave us some
22 description of her opinion of that. We wrote the
23 statement in our report, and then we showed the
24 statement that we had written to the secretary
25 again, and she said -- and said that that

1 represents my opinion.

2 Q And if she changed her mind and she sent emails and
3 memos stating that that grant wasn't encumbered,
4 would that surprise you?

5 A Would not -- I cannot answer this.

6 Surprise me?

7 Q Did you ever see an email from her stating that
8 Professor Akbulut's grants were not encumbered in
9 2014?

10 A No.

11 Q Did you ever see a memo from her?

12 A Yes, I saw a memo stating the full amount of the
13 grant that was in the file of Professor Akbulut.

14 Q So if he had monies in his grants --

15 A Yes.

16 Q -- he could change the encumbrance of those grants;
17 correct?

18 A Correct.

19 Q So he could have removed one encumbrance in order
20 to pay the tuition of Luke Williams if he had
21 chosen; correct?

22 A I'm not sure about that, because I told you
23 sometimes there's binding encumbrance. For
24 example, sometimes money is used to secure a visa
25 or things like that. So my --

1 Q But I asked --

2 A So my answer to this, I am not -- I don't know.

3 Probably I would have to say no, I don't think it's

4 an automatic thing.

5 Q Did you -- did anybody provide you with any

6 information or any specific encumbrances on the

7 grant that showed that he could not do that?

8 A That he showed that he could not do it? No.

9 Q So nobody showed you any data, information,

10 contracts or anything that tended to show that

11 Professor Akbulut's grants were encumbered in a way

12 where he would not be able to reallocate funds?

13 A Well, here -- your question is trying to trick me.

14 I mean --

15 Q I'm not trying to trick you --

16 A Yes, you are.

17 Q -- I'm asking you about information that you were

18 shown.

19 A Yes.

20 Q And did anybody show you any specific information

21 about Professor Akbulut's grants other than the

22 grant amount?

23 A We -- we were shown the fact that the encumbrance

24 was negative meaning like there was -- that the

25 grant was fully encumbered. That's the information

1 we got from the secretary, grant secretary.

2 Q Did she -- did she or anybody else provide you with

3 any information that showed the specific nature of

4 any of the encumbrances on his grants?

5 A Actually, yes. I mean, there was an email from

6 Professor Akbulut that was promising some money to

7 visitors.

8 Q And he promised money to visitors.

9 A That's right.

10 Q Did he change his mind?

11 A He could change his mind, but unless, as I said,

12 for the money he's used to obtain a visa, because

13 people that enter the U.S. need to display --

14 Q Do you know --

15 A -- some sort of income.

16 MS. KELLEY: Can the witness finish his

17 answer, please?

18 THE WITNESS: Sorry. What?

19 MS. KELLEY: I just wanted you to be able

20 to finish your answer.

21 THE WITNESS: Right.

22 MR. REIFENBERG: Are you representing the

23 charging party or is he representing the charging

24 party?

25 MS. KELLEY: He is the charging party.

1 I'm legal counsel for the --

2 MS. DOUKOURE: And he questioned the

3 witness, therefore he is the appropriate person.

4 MS. KELLEY: And I would just say for the

5 record those are rules founded by legal counsel to

6 the hearing committee, they are not rules under the

7 policy that's supposed to govern this process.

8 JUDGE WHITBECK: What was her answer?

9 MR. REIFENBERG: Are you going to

10 continue through this?

11 MS. KELLEY: Not if you don't allow me.

12 MR. REIFENBERG: You're saying that the

13 rules --

14 MS. KELLEY: Understood. I am saying

15 that's not what the policy says. But I understood

16 what you said at the beginning of the hearing.

17 Q (MS. DOUKOURE) Did anybody provide you with any --

18 and this is a yes or no question, this does not

19 require significant discussion -- did anybody

20 provide you with any information that showed that

21 Professor Akbulut had promised to get somebody a

22 visa?

23 A This is not a yes or no question because Professor

24 Akbulut did not provide visa to anybody.

25 Q Did he -- did anybody provide you any information

1 that showed that his grants were encumbered but
2 because he was supposed to pay for a visa out of
3 his grant money for somebody?
4 A Yes.
5 Q What information did they show you?
6 A I think there was an email saying that there was --
7 some Iranian visitor needed to display some money
8 as income --
9 Q Is income the same as a visa?
10 A -- to secure the visa. The counselor usually needs
11 you to provide --
12 Q Do you know whether or not the visitor's visa was
13 paid for out of Professor Akbulut's grants?
14 A No, I don't know.
15 Q Did anybody provide you information that his visa
16 was paid out of Professor Akbulut's grants?
17 A No.
18 Q Did anybody --
19 A Now, this is a --
20 Q -- provide you any -- did anybody -- I'm asking you
21 very specific questions.
22 A I understand.
23 MR. REIFENBERG: Could you please let
24 him -- if you have a question, let him answer the
25 question.

1 MS. DOUKOURE: Sure. But I would just
2 like him to, like, answer the question. I don't
3 want him to guess or try to assume how this is
4 going to make him look.

5 I just -- I'm asking him yes or no
6 questions. I would like him to just answer.

7 MR. REIFENBERG: And if he says he
8 doesn't know --

9 MS. DOUKOURE: That's fine. If he
10 doesn't know, he doesn't know. I mean, that's
11 fine.

12 MR. REIFENBERG: At least let him answer
13 the question.

14 MS. DOUKOURE: Sure.

15 Q (MS. DOUKOURE) Did anybody provide you any
16 documentation regarding any of the specific
17 encumbrances from Dr. Akbulut's grants besides the
18 one email that you already have spoken about sent
19 by Professor Akbulut?

20 A No, I . . .

21 Q I can't hear you, I'm sorry.

22 A No.

23 Q Thank you. So the entirety of your basis about
24 whether or not Professor Akbulut's grants were
25 fully encumbered was based on the assertion of a

1 dollar amount from somebody, I'm assuming Carolyn
2 Wemple; correct?

3 A Yes.

4 Q And you were not provided any specific basis for
5 that encumbrance; correct?

6 A What do you mean "basis"? Do you mean details
7 of --

8 Q Yes.

9 A -- what all the amounts are?

10 Q Yes.

11 A No, we were not provided this.

12 Q Thank you. I'd like to go through a few of the
13 exhibits if that's okay.

14 A Sure.

15 Q I'm going to start with CP-44 listed as Item 1.l, I
16 think, lower case l.

17 A Well, I don't have anything --

18 Q I'm going to give it to you. Don't worry, I'm
19 going to give it to you.

20 MR. REIFENBERG: Can you repeat that
21 again?

22 MS. DOUKOURE: I don't know the full
23 citation because I took it out of my book and put
24 it in order, but it is Item 1.l is what it's listed
25 as. I think it's under Tab 11.

1 DR. PROMISLOW: 13.
2 MS. DOUKOURE: 13. Just kidding. It's
3 under Tab 13.
4 DR. SMITH: So it's 13.1.l.
5 MS. YERMAK: It's 1.5 I believe.
6 MS. DOUKOURE: I's and L's can be tricky
7 depending on the font. Sorry about that.
8 MS. YERMAK: It's 13.1.I.
9 DR. SMITH: So we're looking at "My
10 review of the chair's committee to review me and
11 himself"?
12 MS. YERMAK: That is correct.
13 DR. SMITH: Okay.
14 MS. DOUKOURE: Are we all ready?
15 Q (MS. DOUKOURE) Do you recognize this email?
16 A Yes.
17 Q Do you recall testifying about this email
18 yesterday?
19 A Yes, I do.
20 Q Who is this email sent to?
21 A I think to it says hiring faculty, the dean and
22 Terry Curry. I don't know if there's more copied,
23 but this is what -- that's what I see here.
24 And I'm a member of the hiring faculty.
25 Q And you're a member of this. I remember we went

1 over that yesterday.

2 And this email contains what?

3 A This email contains the link to a file on Professor

4 Akbulut's Math Department web page.

5 Q When you opened up this email, when you -- you

6 received this email; correct?

7 A Yes, I did.

8 Q You opened this email; correct?

9 A Yes, I did.

10 Q When you opened this email, did that link

11 automatically send you -- did it create a pop-up?

12 A Yes.

13 Q It created a pop-up?

14 A It's a PDF file.

15 Q Did you have to click on it to do that?

16 A Sorry. What?

17 Q Did you have to click on the link?

18 A Yes.

19 Q So you had to click on the link to see what it

20 says?

21 A Exactly.

22 Q So it didn't create a system by as soon as you

23 opened the email, the content, the PDF, was

24 available to --

25 A Usually it does. Maybe there are browsers --

1 Q I'm not asking you about --
2 A -- which do all this. For my browser, I had to
3 click on it, yes.
4 Q Okay. I'm not asking you about usual, I'm asking
5 you about what happened.
6 A Okay. So yeah --
7 Q Just so we're clear.
8 DR. PROMISLOW: Please let the witness
9 answer.
10 THE WITNESS: Yeah, I had to click on it,
11 yes.
12 Q (MS. DOUKOURE) So it didn't pop up?
13 A No.
14 Q So you could have chosen not to click on it;
15 correct?
16 A Sure.
17 Q Okay. I want to move on to CP-45.
18 MR. REIFENBERG: Would you give us the
19 parallel citation?
20 MS. YERMAK: 11 to 11B is what I have.
21 MS. DOUKOURE: 11, 11B.
22 MR. REIFENBERG: 11, Item B.
23 Q (MS. DOUKOURE) Professor Pappas, do you recognize
24 this email?
25 A Yes.

1 Q Did you testify about this email yesterday?
2 A Yes, I did.
3 Q And this email also went to the prior hiring
4 committee; correct?
5 A Not hiring committee, hiring faculty. Hiring
6 faculty is basically all the tenure track and
7 tenure faculty from the Math Department.
8 Q So people who hire people?
9 A Yes.
10 Q And you sit on the hiring committee; correct?
11 A Apparently, yes. This reminds me of this, yes.
12 Q Apparently or you did?
13 A Yes, I did.
14 Q And when were you appointed to the hiring
15 committee?
16 A Sorry. Say that again?
17 Q I'm sorry. When were you appointed -- you were on
18 the hiring committee?
19 A Yes, I was on the hiring committee, and apparently
20 that's 2017. So I guess, yeah, I was on the hiring
21 committee that year.
22 Q Are you appointed to --
23 A The hiring committee's entirely appointed --
24 Q By who?
25 A By the chairman.

1 Q Who were you appointed by?

2 A By the chair.

3 Q Which was --

4 A Keith Promislow.

5 Q Thank you.

6 A As together with every other person who's ever been

7 on the hiring committee.

8 Q How long do you serve on the hiring committee?

9 A It's a year, the hiring season starting from I

10 guess September until March.

11 Q So if somebody had a concern about somebody being

12 on the hiring committee, they -- you don't think

13 they have a right to voice that concern?

14 A Well, they do have the right to voice their

15 concern. My objection, as I testified yesterday,

16 is about the expression "fraudulent document" and

17 the fact "this disqualifies him working in any

18 other department committee."

19 Q If the document has information that's not true,

20 and if it has documentation that's not true because

21 somebody produced information that's not true, that

22 would be considered a fraudulent document; correct?

23 A No. Fraudulent implies a purpose in the falsity.

24 Q Right.

25 A That you're doing this on purpose.

1 Q But you can sign a fraudulent document based on
2 fraudulent information that you didn't create
3 yourself don't you think?

4 A I'm not so sure if it's fair, then, to --

5 Q I'm not asking you if it's fair, I'm asking you if
6 that's a possibility.

7 A To sign a fraudulent document -- say that again?
8 I'm sorry.

9 Q I said if somebody provided you with fraudulent --
10 on your definition purposefully wrong information,
11 and then that information, through no fault of your
12 own, was reiterated in a document that you -- that
13 somebody signed, that can still be a fraudulent
14 document; correct?

15 A It could be a fraudulent document. But I don't see
16 how this would disqualify me working on the
17 committee.

18 Q That's a different issue.
19 But that could still be a fraudulent
20 document; correct?

21 A I guess so.

22 Q So if the information that you relied on, the
23 incomplete information that you relied on, was
24 fraudulent, the document itself could be
25 fraudulent; correct?

1 A I object to saying "incomplete." I mean, what do
2 you mean?

3 Q Do you know the basis of the encumbrances for
4 Professor Akbulut's grants?

5 A Well, I'm sorry, but the grants was really not an
6 important aspect of our review. I mean, it was
7 like --

8 Q But if the grants being encumbered led --

9 A The grants --

10 Q -- to some -- I'm asking you a question. I'm
11 asking you a question.

12 A Sure.

13 Q If the grants that were not encumbered but somebody
14 stated they were and that led to the entire system
15 of events that led to the abrogation of duty
16 penalty, that could still be a fraud; correct?

17 A It's -- no.

18 Q No.

19 A No.

20 Q So if somebody lied to keep somebody else out of
21 class --

22 A I totally object to this because the -- it's not
23 enough -- if magically the grant was there, it
24 would still not register that student in the class.

25 Q If that student --

1 A And this is the basis of our decision --

2 Q I understand what the basis of your decision is.

3 We're not rehashing that decision.

4 A Right.

5 Q That's not --

6 A Well, I think you are.

7 Q -- what I'm asking.

8 MR. REIFENBERG: Let him finish, and

9 then --

10 MS. DOUKOURE: He was finished, and I was

11 asking a question, and he continued to talk over

12 me.

13 MR. REIFENBERG: Why don't we all take

14 one second's time between asking the question --

15 THE WITNESS: Sure.

16 MR. REIFENBERG: -- answering the

17 question, asking the question.

18 MS. DOUKOURE: Sure.

19 Q (MS. DOUKOURE) We're not relitigating that.

20 If there were five students in Professor

21 Akbulut's class, would it have been canceled?

22 A No.

23 Q Would he have been required to teach another class?

24 A No.

25 Q Okay. So if there was something happened that kept

1 a student from enrolling -- maybe the SL grant,
2 maybe the SL grant in conjunction with some other
3 things that you might not be aware of -- and that
4 student was kept from enrolling to keep the number
5 at five, and then he was assigned a different class
6 to teach on a false premise created by somebody
7 intentionally, that would still be a fraudulent
8 thing that happened to him; correct?

9 A It would still be a fraudulent thing that happened
10 to him -- I don't know how to answer --

11 Q Okay.

12 A -- what is a fraudulent thing happened to him.

13 Q Okay.

14 A I mean . . .

15 Q We'll move on.

16 A So I don't know.

17 Q You don't know.

18 So if somebody bases a decision on
19 somebody else's lie, the lie is no longer
20 fraudulent is what you're testifying to?

21 A I don't think I'm testifying to this, no. I would
22 not think that -- I don't really understand the
23 logic of your -- what you're trying to tell me,
24 so -- so I have to just say I don't know how to
25 answer this.

1 Q But you agree that if somebody has a concern about
2 somebody sitting on a committee based on their
3 prior actions, they should generally have the
4 ability to voice those concerns to the people who
5 can redress that situation; correct?

6 A I'm not so sure that -- no, I do not agree with
7 this. I do not agree that one can send a public
8 email to the whole hiring faculty about that. They
9 can address the person themselves. They can
10 address the hiring committee. They can address the
11 chair. They can go to the Advisory Committee in
12 our department.

13 Q So people in the department don't have a right to
14 know about fraudulent things that are going on
15 inside the department?

16 A Well, I think that just making the statement
17 "fraudulent things that are going on with the
18 department," there is an assumption being made
19 there already, and it is abusive.

20 Q It's abusive?

21 A It is abusive because -- yes.

22 Q So if somebody says something that's a lie about
23 you, that's abusive, but if somebody says something
24 that's a lie about Professor Akbulut, that's not
25 abusive to him?

1 A Sorry, but who proved it's a lie?

2 Q I mean, we will get to that.

3 A Yes.

4 Q So if somebody says something was a lie about

5 Professor Akbulut, that would be equally abusive;

6 correct?

7 A I guess so.

8 Q And if --

9 A If it was sent publicly and unsolicited in that

10 fashion, yes.

11 Q Does everybody in the department know that

12 Professor Akbulut received an abrogation of duty

13 penalty?

14 A Yes, I guess so. But the reason is that he himself

15 has been sending all of the abrogation of duty

16 communication to the whole faculty list.

17 Q Have you had any conversations with other people on

18 the faculty about Professor Akbulut?

19 A Yes, I guess so. Yes.

20 Q Have you said disfavorable things about him?

21 A Can I say what?

22 Q Things that are not nice about him.

23 A Have I said things that are not nice?

24 Q Yes.

25 A In my own house?

1 Q I'm not talking --
2 A Yes, maybe I did.
3 Q I said on the faculty. I said on the faculty.
4 Did the faculty live in your house?
5 A Actually, one does, but that's another story.
6 But have I said things that are not nice?
7 Not -- definitely not in a public setup.
8 Q Have you complained to other faculty members about
9 Professor Akbulut?
10 A Yes, I did. For example, I complained to Chair
11 Promislow --
12 Q Have you complained --
13 A -- and the Advisory Committee.
14 Q Have you complained to anybody else?
15 A Maybe to my -- maybe.
16 Q Maybe?
17 A Yes.
18 Q Okay. We'll move on the CP-46. I can get the
19 document.
20 DR. PROMISLOW: 11W5.
21 DR. SMITH: 11W5.
22 MR. REIFENBERG: Is that after the items?
23 Is it after the Ss?
24 DR. PROMISLOW: After Ss and Ns. S, N,
25 W.

1 MR. REIFENBERG: It's someplace in the
2 back.

3 MS. KELLEY: It's MSU shell game, if you
4 remember that one.

5 Q (MS. DOUKOURE) Professor Pappas, you recall this
6 document yesterday?

7 A Yes.

8 Q You recall testifying about this document
9 yesterday?

10 A Yes.

11 Q In your direct testimony yesterday you said this
12 document called you minions; correct?

13 A Yes.

14 Q Show me in this document where it calls you a
15 minion, please.

16 A In this document I cannot show you, but I have
17 other evidence --

18 Q Does this --

19 A -- if you would like.

20 Q You testified yesterday that this document stated
21 that you are a minion. I would like you to show
22 this committee where in this document the word
23 minion appears.

24 A I don't think it appears on the document itself.
25 It's the link that leads to this document. When

1 you click it goes --

2 Q So this document --

3 A -- to a document --

4 Q -- doesn't call you a minion?

5 A -- entitled minions.

6 And then I can see on page 3 our five --

7 our names are listed there.

8 Q Does it call you a minion?

9 A I don't think so.

10 Q Does it call --

11 A Not this specific one.

12 Q Does it call anybody a minion?

13 A Probably in this one the name -- the word minion

14 does not appear inside the document. As I said, it

15 appears on the file link.

16 Q Well, let's -- let's look at this document in

17 conjunction with the other exhibit which is CP-44.

18 CP-44 is the email that you were talking

19 about with the link that says minions; correct?

20 A That's right.

21 Q Does that link have anybody's name on it?

22 A I don't remember because there was --

23 Q I'm asking you about the link that's in front of

24 you.

25 A Oh, this? This one?

1 Q No.

2 A This link? Oh, the link doesn't have any names.

3 On the other hand, let me say this: On

4 Professor Akbulut's web page, this link is hidden

5 under -- not is hidden -- appears with the title

6 "Fibber and his Five Minions."

7 Q I believe that that's an inaccurate assertion of

8 the --

9 A Not right now, but at that time it did.

10 Q Oh. I see.

11 A Yes.

12 Q That time it did.

13 Did your name appear under the link

14 minions?

15 A It appears in the document, not in the link.

16 Q How many names appear in that document besides you?

17 A Several names, but --

18 Q More than five?

19 A Sure.

20 Q Sure.

21 A I guess.

22 Q So there's no place where anybody actually calls

23 you a minion. Not in this document and not on the

24 website; correct?

25 A Not in this document, not in -- yes, not in this

1 document.

2 Q And not on the website; correct?

3 A Not on the website. You have to be, though, pretty

4 thick not to make the implication that fibber and

5 the five minions, the five minions is the five

6 members of the committee.

7 Q I mean, that's your assumption. It doesn't say

8 that; correct?

9 A It's not only my assumption, Professor Akbulut

10 admitted to this. I have an email from December 6,

11 2017, in which he said as a result of his

12 discussion with Professor Tomlinson that he agrees

13 to change the title of his web page link from

14 "Fibber and His Five Minions" to "Keith Promislow

15 and His Committee, George Pappas," blah, blah,

16 blah, and listing --

17 Q So he's never --

18 A -- the five names.

19 Q -- actually called you a minion?

20 A Well, how much more can you get from this --

21 Q Has he ever called you a minion?

22 A Physically? Not out of the email? No.

23 Q In his document?

24 A Not in the document.

25 Q On that website link?

1 A On the website I think he does.

2 Q On that website link, sir?

3 A The implication is very -- on the link, no.

4 Q So people who received this document and received

5 that link were never told that you were a minion?

6 A I'm afraid that if one actually reads the document,

7 minion is very milder from what I'm called --

8 Q I'm asking you a question. Please answer my

9 question.

10 A No. No, they don't. They don't. They see the

11 word minion later. Read the document. I answered

12 that a long time ago.

13 MS. DOUKOURE: Okay. I just want him to

14 answer my questions. He's going on a long

15 coliloquy about things that I'm not asking him

16 about, and I really would like to get through this

17 testimony by having him answer some questions.

18 MR. REIFENBERG: I'm not sure that he's

19 finished answering unless you give him enough time

20 to have some -- a spot of time at the end of it.

21 So how do you know he's finished?

22 MS. DOUKOURE: Because he's saying a lot

23 of things that don't address the actual question

24 that I've asked. He's going on and on and on about

25 the topics that he wants to talk about that are not

1 related to the actual question that I've asked him.

2 MR. REIFENBERG: Let him answer the
3 question, please.

4 MS. DOUKOURE: If the Committee can
5 direct him to answer questions too, that would be,
6 probably, most helpful.

7 MR. REIFENBERG: Can you directly answer
8 the questions? As directly as --

9 THE WITNESS: I'll try. I did. I think
10 I said in this document I'm not called a minion.
11 In this specific document I'm not called a minion.

12 Q (MS. DOUKOURE) But yesterday you testified that
13 this document called you a minion; correct?

14 A I did not testify that the document called me a
15 minion, I testified that the document implies that
16 we are the minions --

17 Q You said "implies"?

18 A -- of the chair.

19 I guess so.

20 Q I don't think you did. What you said is -- and we
21 can read it back if you'd like --

22 A Sure.

23 Q -- is that this document -- in this document
24 professor Akbulut called you a minion. And that's
25 not true; correct?

1 A If I said it like that, maybe it's not true,
2 but . . .

3 Q I'd like to move now to Plaintiff's Exhibit 25.

4 MR. REIFENBERG: Kara, do you know what
5 the parallel citation would be?

6 DR. PROMISLOW: 11.14.

7 MR. REIFENBERG: Item 14?

8 DR. PROMISLOW: At 11, Item 14. December
9 25th, 2017.

10 Q (MS. DOUKOURE) Do you recall testifying about this
11 document yesterday?

12 A Yes, I do.

13 Q Isn't it true that in your testimony yesterday that
14 you said this document was addressed to the
15 minions?

16 A Yes, I used the word minions as my shorthand
17 expression for the five members of the committee.
18 And then you objected to this, and then I stopped
19 using this.

20 Q Is this document addressed to the minions?

21 A The document -- actually, I don't -- well, it's
22 addressed to the five members of our committee.

23 Q Does the word minions appear in this document?

24 A No.

25 Q So when you said it was addressed to the minions,

1 that was your -- your colloquialism --

2 A Yes.

3 Q -- not pursuant to the document; correct?

4 A That's right.

5 Q When did your final report come out regarding

6 the -- your overview of what happened to Professor

7 Akbulut's abrogation of duty?

8 A It was beginning of May 2016.

9 Q Beginning of May 2016.

10 When is this document signed?

11 A That's December 25, 2017.

12 Q So this document is a year and a half later;

13 correct?

14 A Yes.

15 Q And Professor Akbulut was still upset about

16 receiving the penalty that he believes was unfairly

17 given to him; correct?

18 A Apparently.

19 Q But he doesn't use any derogatory terms to talk

20 about you in his email, does he?

21 A Well, I have to read it again to -- to remind

22 myself what derogatory would mean here.

23 Q He calls the document fraudulent. That's not about

24 you; correct? That's about the document.

25 A He's not having any derogatory, but he still

1 insists on things like we refuse to fact check, and
2 you did this to allow the dean to penalize me while
3 the abrogation of duty was something that was given
4 to him by Terry Curry. We did not give him the
5 penalty.

6 Q But he doesn't use the word minions; correct?

7 A No, he doesn't --

8 Q He doesn't write any derogatory information about
9 you; correct?

10 A Not as far as I can see right now.

11 Q I'd like to move on to CP-47, please.

12 DR. PROMISLOW: It's 11.17.

13 Q (MS. DOUKOURE) This one's very small.

14 Professor Pappas, do you recall
15 testifying about this document yesterday?

16 A Yes.

17 Q This document is also accusing the report as being
18 faulty and not being fact checked; correct?

19 A Yes.

20 Q You already testified today that you relied solely
21 on Carolyn Wemple's statement regarding the NSF
22 grants as being fully encumbered; correct?

23 A No, I don't -- I didn't say I solely relied on
24 this. I don't think so. I mean, for example, we
25 also looked at Professor Akbulut's information that

1 he provided to us.

2 Q The information he provided for you guys?

3 A Right.

4 Q But did you look at any of the actual encumbrances?

5 A Yeah, we've been through this. No, we have not

6 looked at the actual encumbrances.

7 Q So if Professor Akbulut stated that he had money

8 available, did you double-check that with any --

9 other than Carolyn Wemple's version of

10 encumbrances?

11 A I guess not.

12 Q I guess not.

13 A But there's no other way to double-check, actually.

14 Q Actually, could you check the encumbrances?

15 A No, we could not. The only way that I know how --

16 we know how to check this -- well, in 2016 maybe

17 it's not even possible to go back and check.

18 Q How did they --

19 A So you had to rely on the information of our grant

20 person.

21 So I don't know how to go back and say

22 the encumbrances of two or three years or anything

23 like that. I don't know how to do that with my own

24 grant.

25 Q So when you encumber your grants, you just do it by

1 verbally?

2 A Usually there is an email.

3 Q So there is documents that can show the nature of

4 the encumbrances?

5 A But not every -- every little -- every dollar.

6 Q Aren't you required to account for every dollar of

7 your grant money?

8 A But there is some -- there is some encumbrances

9 from the salary. There are some from the overhead.

10 There are technical things that are being

11 calculated, and they don't appear via explicit

12 instructions. So I -- you know --

13 Q But if --

14 A -- I don't know how to answer this every single

15 dollar.

16 Q If we're -- if we're a year and a half into this

17 situation when you hear the -- the administrative

18 review, surely those expenses would have been

19 actual expenses at that time; correct?

20 A Not necessarily.

21 Q So overhead that is paid for by the grant in 2014

22 by the year 2016 when you did your administrative

23 review would have happened already?

24 A The overhead, yes. But there are situations, say,

25 by some visitor, we promise him money, promise him

1 something, this encumbers your grant, then the
2 visitor doesn't come. Or something changes about
3 his situation, then this money's not being used and
4 you can use it for something else.

5 Q And surely you would have known that by 2016 for
6 money that -- for a situation -- for a time period
7 in 2014; correct?

8 A No.

9 Q No?

10 A This is not the same thing. I mean, encumbered
11 means it's promised. But promises might not
12 materialize.

13 Q Is that going to be a promise between me and you or
14 a promise that somebody else has to know about?

15 A It is a promise, I guess, between -- I mean, it's
16 not clear to me technically. I mean, between the
17 PI and the grant office of the University maybe?

18 Q So that would be information that Carolyn Wemple
19 would have; correct?

20 A Yes.

21 Q So you could have asked her or she could have
22 provided information regarding the nature of the
23 promises made on Professor Akbulut's grant;
24 correct?

25 A Yes, but we did -- yes, and we did get information

1 about the two visitors, as I told you.

2 Q You said that information came from Professor

3 Akbulut, and you also testified that that --

4 A No.

5 Q -- that information -- I'm not done --

6 A Okay.

7 Q -- and that that information did not give you any

8 status of whether that could have been a revocable

9 promise; correct? That was your testimony earlier.

10 A There's two parts to this. First, did the

11 information come from Professor Akbulut? No. This

12 information came from an email that Keith Promislow

13 sent to us as part of the file. So -- yes.

14 Q Okay.

15 A Okay? So then the second part I forgot.

16 Q And the second part is you already testified --

17 A Yes.

18 Q -- that you didn't know whether or not -- the

19 nature of that promise, whether it was revocable or

20 not; correct?

21 A No, but, of course, not relevant to our

22 investigation at all.

23 Q So you're admitting that you didn't really, really

24 check into the grants, you just relied on what

25 Keith had sent you and what Carolyn Wemple had sent

1 you; correct?

2 A We checked very well and also what Professor

3 Akbulut sent us. But I object to we didn't check

4 on the grants.

5 Q Because you've already testified you didn't know

6 the nature of the encumbrances; correct?

7 A Well, I doubt that any person knows the nature of

8 encumbrance as to every dollar unless going back in

9 the past. You can only do it today for my grant.

10 I cannot do it for my grant two or three years

11 back. Even for my own grant I would have to rely

12 on some memory or some information like that.

13 Q So you don't keep actual documents about your money

14 that you've promised out that you've spent? You

15 just --

16 A No.

17 Q -- spend it until it's gone?

18 A No, I don't keep precise -- precise information, I

19 rely on the grant person to do that. The grant

20 secretary does that.

21 Q Are you provided with an accounting for your grants

22 at the end of each fiscal year?

23 A Not every time. I mean, if you ask, they can

24 provide to you some details.

25 This year I did get some information, but

1 I think that was, like, special, or they started
2 doing this now.

3 Q So NSF or some other agency gives you a bunch of
4 money?

5 A Yes.

6 Q And you never look at how that money's spent again.
7 It just goes into the office, and you send emails,
8 and you maybe keep track of it and you don't, and
9 then the money is spent?

10 A But I kind of keep track of how I spend it, but not
11 for every dollar.

12 Q But you --

13 A Now, you are talking about personally me; right?

14 Q Yes.

15 A I mean, you're asking me personally. No, I do not
16 keep track, and I don't know exactly what amount I
17 have every day.

18 Q But other people might take money more seriously
19 and keep better track; correct?

20 A Sure.

21 Q And you don't know whether Professor Akbulut
22 promised his money in a way that couldn't be --
23 that he couldn't change his mind; correct?

24 A I know he promised the money.

25 Q I'm asking you a specific question.

1 A Yes. No, I don't know if he could --

2 Q And you didn't do anything to double-check that

3 other than rely on what he and Caroline Wemple

4 said; correct?

5 A No.

6 Q Thank you. We're going to move on to CP-48. It

7 says Item 24B.

8 MS. YERMAK: So it's Tab 11, Item 24B.

9 MR. REIFENBERG: Tab 11?

10 MS. YERMAK: Tab 11.

11 Q (MS. DOUKOURE) Do you recall testifying about this

12 document yesterday?

13 A Yes, I do.

14 Q Isn't it true that the bottom of this document

15 where it starts off as "Dear Jeff, George, Matt,

16 Sasha and Baisheng" -- I don't want to butcher that

17 but I think that's how you say it -- is the same

18 document that we just went over?

19 A It appears to be, yes.

20 Q And isn't it true that there -- that there appears

21 to be an email missing from between that document

22 and the response provided to Professor Akbulut?

23 A I'm not sure, but let me . . .

24 Q Because --

25 A So where -- where would it be the missing email? I

1 don't know what you mean missing.

2 Q Well, let's read this document.

3 A Sure.

4 Q This document says "Dear Keith. Today at tea I was
5 pointed out by one of our colleagues that the mail
6 attributed to me which you attached to your email
7 is outdated."

8 So it appears that he had sent an email;
9 correct?

10 A "Which you attached to your email." I don't
11 understand this, actually.

12 Q But you testified about this document yesterday,
13 and now you're saying you don't understand it?

14 A No, I testified that we received this document, and
15 it's a repetition of the January 22 email.
16 That's -- that's what I said.

17 I understand that that is the same --
18 pretty much the same, and that's what I testified,
19 the same email sent again to us.

20 Q The same email, but it's asking -- but it appears
21 that he's responding to something that Keith sent;
22 correct? Because it's directly addressed to Keith.

23 A Yes.

24 Q And it appears that there's no new information in
25 this document; correct?

1 A Well, as far as I'm concerned, I don't see any new
2 information in this document; however, the fact
3 that the same -- the same abuse, in my opinion,
4 happens again after a week is significant.

5 Q But doesn't it appear that he also disseminated
6 this email?

7 A No.

8 Q It says "Keith, it appears that the mail attributed
9 to me you attached to your mail is outdated. Here
10 is the updated version."

11 So doesn't it appear that Keith had
12 disseminated this email also?

13 A No, I don't conclude this from this.

14 I mean, for example, I would not have
15 gotten this email if -- again, if Professor Akbulut
16 did not send it.

17 Q So what do you think it means when it says the mail
18 attributed to me -- here's -- the mail that you
19 attribute to me is not correct -- is not updated,
20 here's an updated version? Does it appear that
21 Keith sent an email with a version that wasn't
22 correct?

23 A Actually, I have no idea what that means, honestly.
24 What I take from this is the fact that the email to
25 us is being repeated.

1 Q Yes, because that's beneficial to you and your
2 story; correct?

3 A Sure. But beneficial to me or my story, I don't
4 know. I honestly do not understand --

5 Q Because ten --

6 A -- this --

7 Q -- ten minutes ago you asked us and you told us
8 that something that was titled minions, we should
9 draw this broad inference about what that means
10 even though the word minions doesn't appear in the
11 document. And now we're sitting here and you're
12 unable to read a plain English document and draw a
13 conclusion about what might have taken place;
14 right?

15 A No, I'm not saying I cannot read English, I'm
16 saying I do not understand or recall the meaning of
17 "Today at tea I was pointed out by one of our
18 colleagues that the mail attributed to me which you
19 attached to your email is outdated."

20 Q Doesn't it infer or imply --

21 A What infer?

22 So let me try -- okay. Go on, ask me.

23 Q Doesn't that imply that he had sent an email with
24 the content and attributed the content to Professor
25 Akbulut?

1 A Well --

2 DR. PROMISLOW: Objection, asked and
3 answered.

4 THE WITNESS: So I think that what it
5 implies is that Keith sent to Professor Akbulut a
6 copy of Professor Akbulut's email back to himself,
7 that's what I understand from this.

8 Q (MS. DOUKOURE) But it says "as pointed out by one
9 of our colleagues" meaning somebody else saw that
10 email; correct?

11 A Maybe, yes. Maybe it was sent to somebody else.
12 But I don't recall, so what can I say?

13 Let me add here it is impossible to,
14 honestly, keep track of all emails that have been
15 going back and forth in this story. As I wrote in
16 my statement, I have 468 emails in four years from
17 Professor Akbulut. So you're telling me to recall
18 specific things. That's really very difficult.

19 Q I mean, you testified very specifically about very
20 specific things here over the last two days --

21 A That's true.

22 Q -- and now you can't recall something else
23 specific. That seems kind of self-serving, don't
24 you think?

25 MR. REIFENBERG: But he has said he

1 doesn't recall.

2 MS. DOUKOURE: Right.

3 MR. REIFENBERG: So he's answered the

4 question.

5 MS. DOUKOURE: I know. We're moving on.

6 But his last statement was that he can't recall

7 anything.

8 Q (MS. DOUKOURE) Right?

9 A Yes, so --

10 Q So your memory's faulty then; correct?

11 A Well, I mean, as faulty as every person's I guess.

12 Q And you have no problem recalling information when

13 it's beneficial to your side of the argument, but

14 you have a difficulty --

15 A Well --

16 Q -- providing other information; correct?

17 A No.

18 Q Okay. We're going to move on to CP-49, please.

19 Professor Pappas, do you recall

20 testifying about this email yesterday?

21 A Yes, I did. I do.

22 Q Yesterday you testified that this email was

23 threatening. Does this email make any threats to

24 you?

25 A I'm not sure if I said it's threatening. If I did,

1 I misspoke. So I am not sure. I said that
2 that's -- maybe it's abusive, but . . .

3 Q And at the bottom part of this email, just so we're
4 clear, is the same email that we talked about in
5 the last two exhibits; correct?

6 A Yes, that's right.

7 Q And all of the people on the top of this email had
8 already received this email; correct?

9 A Well, I don't remember the previous one to say
10 exactly the list of recipients. So I remember the
11 previous email, one would be these emails were sent
12 to the president of the American Math Society and
13 the NSF. This one does not appear to have those.
14 The attorney general of Michigan.

15 So I'm not so sure. This list of
16 recipients seems to have changed slightly.

17 Q Slightly. But this email's not addressed to you;
18 correct?

19 A This email is not addressed to me, no, but it's --

20 Q And this email . . .

21 A No.

22 Q This email's not addressed to you.

23 And this email actually doesn't say
24 anything negative about you; correct? Other than
25 the bottom portion that you already talked about?

1 I'm talking about just the new email.

2 A You're talking about that -- the top?

3 Q Yes, the one that's dated -- the one above the,
4 like, dotted lines.

5 A It says that we wrote a report without fact
6 checking; right?

7 Q It doesn't -- it says having --

8 A Oh, actually, it says it's for -- it's for the
9 dean. Okay.

10 Q Correct.

11 A But it says -- I'm trying to remind myself.

12 Q Sure. If you need a second to read it, you can
13 take a minute to read it. I have no real issues
14 with that. Let me know when you're ready.

15 A Yeah, the only thing that -- that, you know,
16 relates to us is, again, the link minions and the
17 file under that that was sent. And the fact that
18 we have the same thing below it. I think I
19 testified to the fact that the email that I've seen
20 from the email again below was abusive because it
21 contains for us no new information.

22 Q Right. No new information. So nobody's accusing
23 you anything different; correct?

24 A I don't think so.

25 Q And that email does not have any threats to you?

1 A I don't think I can see threats, no.

2 Q And it calls the document faulty; correct?

3 A That's correct, yes.

4 Q But it doesn't call you faulty or fraudulent or

5 anything like that; correct?

6 A Certainly not at the top of it, no. The top part

7 no for sure. The second part is as we discussed

8 before, so I don't want to revisit that part.

9 Q Well, that part doesn't call you faulty or

10 fraudulent or a liar either; correct?

11 A Not the actual email. But if one clicks on the

12 links, as I said --

13 Q But that's not -- but they could choose not to

14 click on the links?

15 A They could choose not to click on the link. But

16 they --

17 Q And, in fact, people -- I'm sorry.

18 And, in fact, at this point people had

19 started ignoring Professor Akbulut's emails;

20 correct?

21 A I'm not so sure about that. That is not -- I will

22 not assume this.

23 Q And the top of the email is not addressed to you;

24 correct?

25 A True.

1 Q It doesn't address you at all; correct?

2 A No, not at the top.

3 Q It doesn't have any threats to you; correct?

4 A No threats to me.

5 Q And the actual document that it links to, even

6 though it's titled minions, it is -- do you know

7 what that document is?

8 A The document is what we saw before under the title

9 "MSU shell game."

10 Q And that document outlines all of the things that

11 Professor Akbulut thinks went wrong with his NSF

12 and his abrogation of duty?

13 A Yes. And also concludes with our description, as

14 we discussed.

15 Q Sure. And then -- and this is directing that to

16 that for the purpose of showing -- and it literally

17 says "I have underlined the factually incorrect

18 paragraphs in that report"; correct?

19 A That's correct, yes.

20 Q So this email doesn't threaten you, it doesn't

21 harass you, and it doesn't disparage you; correct?

22 A It does harass me and disparage me because -- for

23 the following reason: If we're open to discuss

24 something, we give the opinion, normally

25 information is being provided, and the other part

1 is saying the same thing a hundred times, then in
2 my opinion this is harassment.

3 I told Professor -- we told Professor
4 Akbulut this is our opinion. This is what we
5 wrote. We're not going to change it because you're
6 not providing with any new information. So why
7 keep sending these emails again and again and again
8 and again. That's why I think it's harassment, not
9 because there's any threats in it specifically.

10 Q So if somebody does something to you and it isn't
11 corrected, you just let it go?

12 A No, I go to the proper authorities.

13 Q And if the proper authorities don't take care of
14 it, you just let it go?

15 A What, I knock on his door a hundred times every day
16 stalking him? Because this --

17 Q I'm not --

18 A -- is my opinion of --

19 Q I'm asking the question. I'm not suggesting
20 anything. And you don't get to ask me questions.

21 A Okay. Okay.

22 Q I get to ask you questions.

23 A Okay. Sorry.

24 Okay. Repeat the question. Sorry.

25 Q My question is if somebody did something to you,

1 and you went to the proper authorities --

2 A Right.

3 Q -- and they didn't take care of it because they had

4 an interest in not taking care of it, you just let

5 it go?

6 A Yes, I would let it go.

7 Q So you wouldn't defend your reputation?

8 A It depends.

9 Q It depends?

10 A Yes.

11 Q What does it depend on whether or not your

12 reputation is important to you?

13 A No, it depends on how much this affects my

14 reputation.

15 Q Okay. Does it depend on how much other people

16 might like you or dislike you?

17 A I'm not so sure about that. Maybe no.

18 Q So if somebody impugned your reputation and people

19 made a decision based on faulty information, you'd

20 just let it go?

21 A No, I would not let it go. But I never felt that

22 cancelling a graduate course, which is something

23 that happens routinely in our department, had

24 anything to do against the reputation of the

25 professor.

1 Q Is that all that happened to Professor Akbulut,
2 they canceled his class, or did you -- do you think
3 that he feels that something else happened?

4 A I think that we have been discussing here for an
5 hour that this is the main complaint. I mean,
6 he's --

7 Q He doesn't -- he doesn't complain about his NSF
8 grants?

9 A Well, he complains about his NSF grants because
10 he's claiming that -- that the -- the confusion
11 let's say about the NSF grants led to cancellation
12 of the class.

13 Q So if upper management doesn't do anything about
14 something that happened that impugns your
15 reputation based on something that you believe to
16 be factually incorrect, that's okay?

17 A If I was faced under -- let me answer it this way:
18 If I was faced with the same circumstance, it would
19 definitely be okay. For me. I cannot speak for
20 any other person. I would not care if my --

21 Q And if you -- if you believed that that type of
22 behavior was not just directed towards you, but
23 others, and created an overall level of corruption
24 in the entire department which impugned the
25 integrity of not just yourself but the department

1 itself, you wouldn't say anything either?

2 A No, maybe then I would say.

3 MS. DOUKOURE: Okay. Thank you.

4 We're going to go to CP-50, please.

5 MS. YERMAK: It's Item 11 -- I'm sorry.

6 It's Tab 11, Item 33.

7 Q (MS. DOUKOURE) Professor Pappas, do you recall

8 testifying about this email yesterday?

9 A Yes, I do.

10 Q Isn't it true that the bottom portion where it says

11 after -- it says "begin forwarded message," is this

12 the email we had talked about on the last three

13 exhibits at this point?

14 A Yes, definitely.

15 Q Who's this email addressed to?

16 A To the provost.

17 Q What is this email asking for, if anything?

18 A Well, it's just a sentence, but I can read it. "I

19 am sending this reminder to you so you will

20 remember to resolve these issues as soon as

21 possible."

22 Q So in this message -- this is sent by Professor

23 Akbulut; correct?

24 A Yes.

25 Q So what is he doing in this email?

1 A He's sending and -- well, he's essentially
2 forwarding the email with all these links to the
3 provost, to us again, to Bill Donahue, I guess, and
4 to Keith Promislow.

5 Q While all that --

6 A Yeah. I mean, I don't know what to say more than
7 that.

8 Q While all that stuff is true --

9 A Yes.

10 Q -- isn't it true that he's asking for Provost Yost
11 -- Youst --

12 PROFESSOR AKBULUT: Youatt.

13 Q (MS. DOUKOURE) -- Youtt, sorry -- to resolve that
14 issue that he thinks is taking place?

15 A Yes.

16 Q He's asking for assistance; correct?

17 A Sure.

18 Q In resolving an issue that he thinks is taking
19 place; correct?

20 A Yes.

21 Q And there's nothing new in this email other than
22 that; correct?

23 A It is not new to -- with regards to me --

24 Q Thank you.

25 A -- but a new thing is that -- maybe it's new, or

1 maybe it happened before -- but this is now being
2 sent to the provost. If the provost wants to click
3 on this -- probably the provost doesn't care -- but
4 if she does, then --

5 Q So if the provost doesn't care --

6 A -- she can read all this --

7 Q -- and didn't click on a link --

8 A I said maybe. I don't know. I'm not the provost.

9 Q So if the provost doesn't care and didn't click on
10 the links, then she would never have read a single
11 bad thing that you supposedly say Professor Akbulut
12 said about you; correct?

13 A No, not true. There's still that you signed the
14 faulty document parts that we discussed before.
15 I'm saying --

16 Q But that's not in this email, is it?

17 A It is below it.

18 Q Does this email say that George Pappas -- that
19 Professor Pappas signed a faulty email? Does it
20 say that?

21 A A faulty document. Yes, it does.

22 Q Where?

23 A Here on this first line.

24 Q Okay. So it says you signed a faulty document?

25 A Yes.

1 Q Is it calling you faulty?

2 A No.

3 Q Is it saying that there's something wrong with the

4 documents?

5 A He's saying there's something wrong with the

6 document --

7 Q Thank you. We're going to move on to CP-51.

8 DR. PROMISLOW: 11S2. S2.

9 MR. REIFENBERG: Can you say it again?

10 DR. PROMISLOW: S2.

11 Q (MS. DOUKOURE) Do you recall testifying about this

12 document yesterday?

13 A Yes, I do.

14 Q This is the document where Professor Akbulut --

15 there's a chain of emails where Professor Akbulut

16 has sent out a survey about the chair position;

17 correct?

18 A Yes.

19 Q And then you had testified a lot about Dean Sisk

20 having created his own committee for this; correct?

21 A Dean Sisk I think asked the Advisory Committee of

22 our department to carry this out.

23 Q Right. So Dean Sisk had asked some other people to

24 do something very specific in regards to the chair;

25 correct?

1 A It's not that group around the group of people --
2 Q I didn't say that. I asked a question.
3 A Okay. Yes?
4 Q And you testified that Professor Akbulut shouldn't
5 do this because it created confusion because people
6 thought this came from Dean Sisk's office; correct?
7 A That is one part why he should not do this.
8 Q Does this email anywhere say that Professor -- the
9 email that sent the link out, does it anywhere say
10 that Professor Akbulut is doing this under the
11 direction of anybody at MSU?
12 A He's -- say that again? Sorry.
13 Q Does this email that sent the link out anywhere say
14 that Professor Akbulut sent this survey at the
15 behest of anybody at MSU?
16 A No, just for himself, I guess.
17 Q Just for himself?
18 A Yes.
19 Q And you testified that he had done this before, so
20 this is not out of character for him; correct?
21 A No.
22 Q Did you take this survey?
23 A Actually, I don't remember. I don't think so.
24 Q Because you're not required to take the survey;
25 correct?

1 A No.

2 Q The people who took the survey could have been
3 interested in providing information to the survey;
4 correct?

5 A Sure.

6 Q And the people who took the survey could have
7 decided that there was some value in creating a
8 collective understanding in community, like in the
9 broader math community, especially the chair
10 position; correct?

11 A There is a survey that is supposed to do -- no,
12 that's not correct, because there is a survey
13 that's -- that's around -- physical survey through
14 the use of rules of our department.

15 Q I'm not asking whether you found it valuable, I'm
16 asking you whether or not people who actually took
17 the survey might have found it valuable to do so.

18 A I cannot -- I don't know.

19 Q So since you didn't take the survey, you could --
20 people could ignore the survey if they wanted to;
21 correct?

22 A Sure. People can ignore everything.

23 Q There's nothing in this email that says you're
24 required to take this survey?

25 A No.

1 Q There's nothing in this email that says if you
2 don't take the survey, I'm going to punish you or
3 do anything negative to you; correct?
4 A No.
5 Q This email is just a link to a survey; correct?
6 A That's right.
7 Q Have other professors ever conducted a survey like
8 this before?
9 A No.
10 Q What about Professor Wolfson? Did he never put out
11 his own survey?
12 A No.
13 Q You testified that somebody may have said that they
14 saw that things were populated on the screen
15 already when they took the survey?
16 A Yes.
17 Q Did you see that?
18 A Yeah, I did, actually. I remember I clicked on
19 some of the links, and all the entries appeared in
20 the lowest possible rating. Terrible.
21 Q Did you click on the link that was forwarded by
22 somebody else while you guys were having internal
23 communications about this?
24 A Yeah, that's what I remember.
25 Q So it's possible that you clicked on somebody

1 else's survey that they had already completed;
2 correct?

3 A No, actually, I clicked on what Professor Akbulut
4 provided. But there was some mixup I think.

5 Q There was some mixup?

6 A Yes.

7 Q So you don't know whether the survey was populated
8 before like --

9 A No. No, I don't.

10 Q But that was your implication earlier in your
11 testimony; correct?

12 A No, my implication was that because of this fact
13 that I clicked on it and I saw it being already
14 filled out that it was not reliable, that's all.

15 Q So you determined that it wasn't reliable, but it
16 wasn't being used by you; correct?

17 A No.

18 Q Was it being used by the department?

19 A Sorry. Repeat, please?

20 Q It wasn't being used by the department either;
21 correct?

22 A I guess not, no.

23 Q It was only being used by, from your understanding,
24 by Professor Akbulut; correct?

25 A That's right.

1 Q Okay. We're going to move on to CP-52, please.

2 DR. PROMISLOW: 11E. So it's further

3 back towards the back in Tab 11.

4 Q (MS. DOUKOURE) Professor Pappas, do you recall

5 testifying about this document?

6 A Yes, I do.

7 Q This document was your impact statement; correct?

8 A Yes.

9 Q And this document was used for what purpose, if you

10 know?

11 A Repeat that, please?

12 Q Why did you write this document?

13 A There was -- well, this started with, I guess, the

14 effort to have some of the minions, etc., files

15 removed from the department math web page. And

16 this escalated to some disciplinary procedure for

17 Professor Akbulut, and so I wrote an impact

18 statement.

19 Q I'm going to ask you again: Did anybody -- did

20 anything that we've seen today call you a minion?

21 A Yes.

22 Q Something -- which document -- please point to

23 which document called you a minion.

24 A The document that -- whose file is entitled Minions

25 1.

1 Q Did that document have the word minion in it
2 anywhere? It did not; correct?

3 A No.

4 Q And the title minions did not have your name on it;
5 correct? It did not have "minion Pappas"?

6 A No.

7 Q Just so we're clear, the word minion that you're
8 using here is associated to you using that as your
9 own colloquialism?

10 A If you like, yes.

11 Q Yes. Who asked you to write this letter?

12 A I think it was Chairman Promislow.

13 Q Chairman Promislow?

14 Did you discuss this letter before with
15 Professor Promislow?

16 A No.

17 Q When he asked you to write this letter, did he tell
18 you what it was going to be used for?

19 A Yes, it was for business and planning procedure.

20 Q And when you wrote this letter, did he get a copy
21 of it before you sent it, or did you send it
22 directly to him?

23 A I think I sent it directly to him. Yes, I think
24 that's what I remember.

25 Q And prior to having this email sent, how many

1 conversations had you had with Professor Promislow?

2 A How many conversations? I don't recall.

3 Q A lot?

4 A This had been going on for several years, so I

5 guess that would be yes.

6 Q In fact, there was a lot of conversation in the

7 department including yourself, Professor Promislow,

8 and collective other groups where you sat and

9 discussed Professor Akbulut at length; correct?

10 A There was the last conversation with a number of

11 emails I received.

12 Q Is that a yes?

13 A Depends what you mean by a lot.

14 Q More than two?

15 A Yes, more than two.

16 Q More than five?

17 A More than five.

18 Q More than seven?

19 A Yes.

20 Q More than ten?

21 A Maybe ten.

22 Q So you guys got around and talked a lot about --

23 A Who is --

24 Q -- and complained a lot about --

25 A -- these guys that came around? I don't know what

1 you mean by this.

2 Q Sure.

3 A So . . .

4 Q Let's look at the third paragraph. You used some

5 very specific words that you put in quotes.

6 A Yes.

7 Q Do you have an email where Professor Akbulut calls

8 you the administration's loyal bootlicker?

9 A Not an email, but there is a web posting in his web

10 page.

11 Q There's a web posting?

12 A Yes.

13 Q That people are free to go or not go to?

14 A Yes.

15 Q Sure. But he didn't call you that in an email or

16 anything?

17 A That I -- no, I don't remember.

18 Q Is there an email where he calls you a crony?

19 A I don't remember.

20 Q Did you provide one to Professor Promislow?

21 A Sorry. Say that again?

22 Q Did you provide an email with that word in it

23 calling you a crony to Professor Promislow?

24 A No, I did not provide specific examples of this.

25 Q Is there an email that was disseminated widely or

1 disseminated at all where Professor Akbulut said
2 you were bribed with perks and privileges?
3 A This is, again, his -- it was on his department web
4 page.
5 Q So that's a no?
6 A It's a no to -- on the other hand -- let me answer
7 this: Professor Akbulut circulated a list of our
8 salaries.
9 Q Are your salaries public information?
10 A They are, but --
11 Q If you go to the website today, can you figure out
12 what your salary is today?
13 A Absolutely.
14 Q Okay.
15 A But making a comparative list and saying that these
16 people got a big raise because, I think that it is
17 pretty much --
18 Q Is there an email that says that you got a raise
19 because you signed a document?
20 A This appears in the minion and the MSU shell game
21 file.
22 Q But it's not an email; correct?
23 A No, it's not an email.
24 Q Did he circulate an email to anybody, including
25 yourself, where he says anything -- calls you a

1 fibber or his five minions?

2 A There was a post on his department web page --

3 Q I'm talking about emails.

4 A Email? No.

5 It's clear here I am saying that there

6 had been posts, but I'm not saying that there had

7 been emails entitled fibber and his five minions.

8 Q I know, but I'm asking very specific questions.

9 A Okay.

10 MS. DOUKOURE: I'd like to move to CP-53,

11 please.

12 MS. YERMAK: It's Tab 11S as in Samuel 8.

13 Q (MS. DOUKOURE) Professor Pappas, do you remember

14 testifying about this document yesterday?

15 A Yes, I do.

16 Q Do you believe that people who are evaluating other

17 faculty members need to be fair and impartial?

18 A Yes.

19 Q Do you believe that they put their personal

20 feelings aside?

21 A Yes.

22 Q Do you believe that the chair or personnel

23 committee -- strike that.

24 Do you think that somebody on the

25 personnel committee needs to be ethical?

1 A Yes.

2 Q Do you stand behind the document that you wrote?

3 A I didn't hear it. Say it again?

4 Q The document that you wrote against Professor

5 Akbulut upholding his penalty, do you stand behind

6 it?

7 A Yes, I do stand behind it, as I said.

8 Q Do you believe it's honest and fair?

9 A Yes, I do.

10 Q Do you believe that if somebody makes a mistake,

11 they should correct their own mistake?

12 A Yes.

13 Q Who is this email sent to?

14 A To the math hiring faculty which is, again, all the

15 tenure and tenure track faculty.

16 Q Who determines how somebody gets put on -- whether

17 somebody gets put on a personnel committee?

18 A The personnel committee is -- is elected -- I don't

19 remember exactly. Partially elected and partially

20 appointed I think?

21 Q So it's fair to say you have to be nominated and,

22 like --

23 A Elected.

24 Q Elected.

25 A There is a department election, a secret -- you

1 know, a secret election.

2 Q All the people on that hiring faculty, would they

3 be able to participate in the election?

4 A Yes.

5 Q Were you elected or were you appointed by chair?

6 A Sorry, I don't remember, actually.

7 Q You don't remember?

8 A No, I don't.

9 Q All right.

10 A No, I think -- oh, this is a recent. I was

11 elected.

12 Q You were elected?

13 A I was elected. In '18 I was elected.

14 Q And, again, all those people that this email went

15 to would have been able to -- would have had an

16 interest in your election; correct? Whether they

17 wanted you or they didn't want you, they would be

18 interested in that?

19 A I guess so, yeah.

20 Q And do you -- would you review people that are --

21 you review people's academic performance; correct?

22 A Yes. But our reviews are just advisory to the

23 chair. So we did fill out forms, we rate faculty,

24 their service, teaching service, and --

25 Q So you participated in creating -- not you

1 personally, but the --

2 A The whole committee, yes.

3 Q -- personnel committee would participate in

4 deciding how somebody's overall rating for each of

5 the criteria set forth by MSU?

6 A Yes, that's correct.

7 Q So other people in the department would have an

8 interest in ensuring that their own reviews are

9 fair and impartial?

10 A Yes, true.

11 Q And not biased by people's -- whether they're

12 friends with somebody per se?

13 A Yes.

14 MS. DOUKOURE: I'm going to move on to

15 CP-55.

16 MR. REIFENBERG: We're . . .

17 MS. DOUKOURE: Can we just do this last

18 document? It will take me five minutes, and then

19 I'm done.

20 MR. REIFENBERG: One more document.

21 MS. DOUKOURE: I promise. Cross my

22 heart.

23 MS. YERMAK: I don't have a CP-55.

24 DR. PROMISLOW: 54? 54.

25 MS. DOUKOURE: Yeah, probably. I

1 probably numbered wrong. Thank you.

2 MS. YERMAK: It's Tab 11, Item S as in

3 Samuel, 10.

4 Q (MS. DOUKOURE) Professor Pappas, do you recall

5 testifying about this email yesterday?

6 A Yes, I do.

7 Q And this email's about an interview that's going to

8 take place to hire possibly another individual?

9 A Yes.

10 Q And this email -- the original email's not

11 addressed to you; correct?

12 A No.

13 Q It's addressed to Rajesh; correct?

14 A Yes.

15 Q And it is asserting that Rajesh wrote a letter --

16 it's an email -- but the letter that's disfavorable

17 to Professor Akbulut; correct?

18 A It was an impact letter of Professor Kulkarni. And

19 yes, you can call it disfavorable, yes.

20 Q It wasn't -- wasn't -- it didn't say flattering

21 things about Professor Akbulut?

22 A Honestly, because I remember this letter, it never

23 mentions Professor Akbulut by name at all, he is

24 just complaining about the atmosphere in the

25 department --

1 Q That letter --

2 A -- created by his emails.

3 Q But that letter was an impact statement as well?

4 A It was an impact statement for Professor Akbulut's

5 actions.

6 Q Right. Just so we're clear, it was solicited by

7 Professor Promislow for the same purpose as your

8 letter; correct?

9 A Yes.

10 Q It was intended to provide evidence against

11 Professor Akbulut; correct?

12 A I guess you could say that, yes.

13 Q Were any of the letters -- did any of the letters

14 that were solicited by Professor Promislow, did you

15 read them all?

16 A Yes, I did.

17 Q Did any of them defend Professor Akbulut's actions?

18 A No.

19 Q So it's fair to say that those letters were

20 solicited from people who would have disfavorable

21 things to say about Professor Akbulut; correct?

22 A Sure. But Professor Akbulut had the time to

23 collect his own letters I assume.

24 Q You assume --

25 A This is not my -- I don't know. I mean --

1 Q You assume, but you don't know; correct?

2 A No, I don't.

3 Q So you don't know whether he was allowed to

4 participate in the process?

5 A This is not my -- my purview at all. I'm --

6 Q Okay.

7 A I'm not running the disciplinary part or anything

8 like that.

9 Q Right. Which is why at the beginning I asked you

10 please only to answer from your memory.

11 A Sure.

12 Q So Professor Rajesh's email may not have --

13 A It's Kulkarni.

14 Q I'm sorry. It says Rajesh as the -- at the

15 beginning.

16 So Professor Kulkarni's letter was

17 disfavorable to Professor Akbulut even though it

18 didn't mention his name; correct?

19 A You could say that, yes.

20 Q Professor Akbulut could have had his feelings hurt

21 by that letter you think?

22 A I don't know.

23 Q If somebody wrote a letter about you, you --

24 intended to be used to discipline you and it said

25 bad things about you, you wouldn't be very happy

1 about it; correct?

2 A I would not be happy about it.

3 Q And it might hurt your feelings; correct?

4 A Yes. But I would not describe this as hate mail.

5 Q I mean, that's -- but you and Professor Akbulut

6 don't have the same personality; correct?

7 A True.

8 Q And you don't have the same feelings; correct?

9 A I guess so.

10 Q And you might not respond exactly the same way in

11 every situation; correct?

12 A Obviously not.

13 Q So this email that didn't concern you and wasn't

14 addressed to you, you responded to it; correct?

15 A Yes, I did.

16 Q And then the email on top which you say targets you

17 is actually Professor Akbulut responding to your

18 direct email addressing him; isn't that correct?

19 A Yes. I didn't say targets me, I just objected to

20 the characterization of my impact letter as hate

21 mail, that's what I testified.

22 Q Right. But he's directly responding to you;

23 correct?

24 A Yes.

25 MS. DOUKOURE: I have no further --

1 THE WITNESS: And it's, again, sent to
2 all the department, of course.

3 Q (MS. DOUKOURE) But he's responding to your --
4 A True.

5 Q -- response to the email --
6 A Yes, that's true. Yes. True.

7 Q -- to an email -- if I could get the whole question
8 out we could be done, I promise.

9 A Sure.

10 Q He is responding to your email in response to an
11 email that doesn't address you at all; correct?

12 A Yes.

13 MS. DOUKOURE: Thank you. I have no
14 further questions of this witness.

15 MR. REIFENBERG: We can take a break now.
16 (Break taken at 11:09 a.m.)
17 (Break concluded at 11:21 a.m.)

18 DR. PROMISLOW: Hello, George. Just a
19 couple quick questions.

20 REDIRECT EXAMINATION

21 BY DR. PROMISLOW:

22 Q So could you just remind us, what was the central
23 issue that the Administrative Review Panel
24 addressed? What was the core issue that you had to
25 determine?

1 A The core issue was Professor Akbulut's refusal to
2 teach the assigned course 124 which was assigned to
3 him after his 996 course was canceled.

4 Q So was the issue of grant encumbrance central to
5 this? Would it have made a difference if his grant
6 had not been encumbered?

7 A Not at all.

8 DR. PROMISLOW: Thank you. I'm done with
9 the witness.

10 MR. REIFENBERG: So we've had cross.
11 We've had redirect.

12 Any questions?

13 DR. SMITH: So one thing that I still
14 don't know.

15 THE WITNESS: For me?

16 DR. SMITH: -- yeah -- is how do you find
17 out that there was not -- that 124 was not going to
18 be taught? Was there an official announcement that
19 124 was not going to be taught by Professor
20 Akbulut, or did he just simply not show up for the
21 first day of class?

22 THE WITNESS: What I have seen is an
23 email which he says I'm not going to show up.

24 DR. SMITH: Okay. And when did that
25 happen?

1 THE WITNESS: I don't remember exactly.

2 DR. SMITH: Okay.

3 THE WITNESS: But I remember seeing such
4 an email. And then, of course, he really didn't
5 show up, I guess.

6 DR. SMITH: Okay.

7 MS. DOUKOURE: If I may, if it's okay
8 with Ms. Kelley, we will stipulate to the fact that
9 he did not teach that course. There's no --
10 there's no -- in my opinion there's no dispute
11 about whether he taught the reassigned course or
12 not. He didn't teach it.

13 MS. KELLEY: I think the testimony has
14 been clear, yeah.

15 MS. DOUKOURE: Yeah. I'm willing to
16 stipulate to the fact he has not -- he did not
17 teach the course.

18 DR. SMITH: I know that --

19 MS. DOUKOURE: Okay.

20 DR. SMITH: -- but what I'm wondering is
21 to me it's -- were people in the department made
22 aware of the fact that he was not going to be there
23 the first day of class.

24 THE WITNESS: Yes. Yes, we were.

25 DR. SMITH: So it was not a surprise?

1 DR. PROMISLOW: It was telegraphed in
2 advance, yes.

3 DR. SMITH: Okay. Thank you.

4 MS. DOUKOURE: And we'll stipulate to
5 that too, that it was telegraphed way in advance.

6 DR. SMITH: Okay. Thanks.

7 MR. REIFENBERG: Are you finished with
8 redirect?

9 DR. PROMISLOW: I'm done.

10 JUDGE WHITBECK: Thank you.

11 MR. REIFENBERG: Thank you.

12 (The witness stepped down.)

13 DR. PROMISLOW: We have another witness,
14 Mark Waddell.

15 THE COURT REPORTER: Do you swear or
16 affirm that the testimony you are about to give
17 will be the truth, the whole truth, and nothing but
18 the truth, so help you God?

19 DR. WADDELL: I do.

20 MARK WADDELL,
21 a witness herein, was called for examination, and
22 after having been sworn, was examined and testified
23 on his oath as follows:

24

25

1 DIRECT EXAMINATION

2 BY DR. PROMISLOW:

3 Q Can you identify yourself.

4 A I'm Mark Waddell. I'm an associate professor in
5 the Lyman Briggs College.

6 Q Can you tell us what your role is in this matter
7 today?

8 A So as a member of the University Committee on
9 Faculty Affairs, in the 2017-'18 academic year I
10 was part of a volunteer pool to potentially serve
11 on what's known as a Serious Discipline Review
12 Panel, and this is part of the -- MSU's process if
13 a faculty member is notified that he or she might
14 have serious discipline imposed by a chair or
15 director or dean, they have the right to appear in
16 front of this panel. And the panel is from
17 colleges that are not affiliated with those
18 involved. We're neutral. We don't know the facts
19 of the case until they're presented to us. And we
20 hear both sides and we write a brief report. And
21 so I was one of the three members of that panel.

22 Q So, specifically, you served -- or did you serve on
23 the UCFA panel that heard Professor Akbulut's
24 appeal on April 27, 2018?

25 A Yes.

1 Q Did you know Professor Akbulut prior to serving on
2 the panel?

3 A I did not.

4 Q Can you indicate what the scope of the panel's
5 mandate was? What was -- what were you charged to
6 do?

7 A So you, Dr. Promislow, had decided to or were
8 attempting to impose serious discipline, and we
9 were asked to review the facts surrounding your
10 intention to impose serious discipline, to hear
11 both sides, and to prepare a report with
12 recommendations and whether we believed serious
13 discipline should or should not be imposed.

14 Q So there were presentations made by both sides, by
15 myself and by Professor Akbulut; is that correct?

16 A Yes.

17 Q Can you describe the sort of points that Professor
18 Akbulut addressed in this panel review? Did he
19 focus on particular issues?

20 A So he wanted to relitigate, it seemed, a series of
21 complaints and issues going back to I believe 2013,
22 possibly earlier. We were supposed to be -- we
23 were asked to focus on the imposition of serious
24 discipline related to his response to the ARP
25 findings of I believe 2016, but that was not the

1 focus of his presentation during that panel
2 hearing.

3 Q Did he discuss his actions since the -- that he had
4 taken since the findings of the Administrative
5 Review Panel made their decision in May 2016? Did
6 he discuss any of the events after that?

7 A He did not in any detail.

8 Q I'd like to hand you an item here. It's the
9 contents of Tab 11.40. Tab 11.40.

10 Do you recognize this document?

11 A I do.

12 MS. DOUKOURE: I'm sorry. Has that
13 already been admitted?

14 DR. PROMISLOW: I -- no, no, not in my
15 records.

16 MS. DOUKOURE: Okay. You said 11.40?

17 DR. PROMISLOW: 11.40. Make sure -- oh,
18 I'm sorry. Do I have a typo here?

19 MS. DOUKOURE: Because I don't have a
20 document there, that's why I'm asking.

21 MS. KELLEY: Item 40 behind Tab 11.

22 MS. DOUKOURE: Yeah, I'm there. I don't
23 have anything there.

24 DR. PROMISLOW: 11.40? It should be --
25 it should be the --

1 MS. KELLEY: 11.41 is CP-36.

2 MS. DOUKOURE: 11.41 is actually still in
3 the binder. It's not been admitted yet. 11.40 is
4 gone and has been admitted.

5 MS. YERMAK: Item 40 is CP-36.

6 MS. DOUKOURE: Oh.

7 MR. REIFENBERG: So we're talking about
8 11.40, CP-36?

9 DR. PROMISLOW: Let me hand him -- I'll
10 hand him this one then. All right.

11 Q (DR. PROMISLOW) Do you still recognize the
12 document?

13 A I do.

14 Q Okay. Thank you. Can you describe it to us a
15 little bit?

16 A So this is the report that the Serious Discipline
17 Review Panel prepared and sent copies both to
18 yourself and I believe to Terry Curry. We had to
19 prepare this within seven days of hearing, which we
20 did. It's a brief report.

21 Would you like me to describe what's in
22 the report?

23 Q I'm sorry?

24 A Would you like me to describe what's in the report?

25 Q If you could just characterize the principal

1 conclusions of the document.

2 A Yeah. So we concluded that you were within your
3 rights as chair to impose the serious discipline
4 you had recommended.

5 Q How comfortable were you with the finding that the
6 UCFA -- its finding? Was this -- was this --

7 A Very comfortable.

8 Q With their decision.

9 Did you find that Professor Akbulut had
10 provided evidence of wrongdoing that justified the
11 actions he took towards the Administrative Review
12 Panel?

13 A No, there is no justification for the actions that
14 he took.

15 Q You had asked him at some point in the proceeding
16 if he -- to describe how he thought his actions
17 might be perceived by those that received the
18 targeting behavior.

19 MS. DOUKOURE: I'm going to object
20 because that assumes facts not in evidence. This
21 witness did not state anything about anything that
22 took place at the proceeding.

23 DR. PROMISLOW: I'm sorry?

24 MS. DOUKOURE: Professor Promislow's
25 putting words in the mouth of this witness, and I'm

1 objecting to that.

2 DR. PROMISLOW: Okay. Can I rephrase the
3 question?

4 Q (DR. PROMISLOW) Did you at the panel, did you ask
5 Professor Akbulut about his -- how he felt his
6 actions may have impacted the people that received
7 this email?

8 A I did.

9 Q Do you recall his response? Can you -- do you
10 recall what you remember was his response?

11 A I recall he seemed dismissive and uncaring of
12 any -- what the impact might have been on his
13 colleagues and those he had targeted. He, I
14 believe, claimed the right to, effectively, pass
15 judgment on those who he thought had wronged him.
16 I'm paraphrasing of course.

17 Q Okay. I'd like to present you with another -- oh,
18 I'd like to move to admit this document. No, this
19 document's already in evidence. Okay. So I'll
20 just take it back from you, then, and I'll replace
21 it with another one.

22 I'd like to replace it with the contents
23 of Tab 11.43, which I believe is not in evidence.

24 MR. REIFENBERG: Objections? This hasn't
25 been admitted.

1 MS. DOUKOURE: No, it hasn't. It hasn't
2 even been authenticated yet.

3 DR. PROMISLOW: What are we up to?

4 MS. DOUKOURE: No, there's no objection.
5 We're just clarifying whether it was
6 admitted or not.

7 DR. PROMISLOW: Okay. Yeah. This one's
8 not admitted.

9 Q (DR. PROMISLOW) Okay. Do you recognize this
10 document?

11 A I do.

12 Q Can you tell us who -- it's an email; correct? Is
13 it correct it's an email?

14 A It's an email, yes, from Professor Akbulut.

15 Q Can you tell us who it's addressed to?

16 A It's addressed to myself, the other two members of
17 the UCFA Serious Discipline Review Panel, also to
18 the then chair UCFA, the entire math faculty, to
19 Terry Curry, to the provost, to the then interim
20 dean of NatSci, and to the potentially incoming
21 dean of NatSci.

22 Q What's the date of the email?

23 A May 5th, 2018.

24 Q So how does this date -- or how is this dated in
25 relationship to the release of your report?

1 A So this was written, I believe, one to two days
2 after our report was submitted.

3 Q Can you just scan through the email -- we don't
4 want you to read it -- just scan through it, and
5 can you identify a few lines that sort of had the
6 most impact on you when you received and read this
7 email initially?

8 A Well, it starts -- it addresses the three members
9 of the panel, specifically claims that we had been
10 gathered by UCFA to testify and rule against him.
11 He implies that because we are potentially up for
12 promotion, we could be somehow coerced or bribed by
13 the administration. He mentions me by name, and
14 then says, basically, we have submitted a
15 fraudulent report.

16 Q Do you feel these claims are accurate? Do you
17 agree with these?

18 A I don't. And I just could add one of the three
19 members of the panel at that point was an assistant
20 professor pretenure. To have her called out by
21 name to the provost and to Terry Curry before she
22 had been awarded tenure by a senior full professor
23 at the University is, I think, outrageous and a
24 clear act of harassment and bullying.

25 So when this came across my in box, I was

1 not surprised. It followed a lot of patterns we'd
2 seen in previous documents. But I was especially
3 concerned for my colleague on the panel.

4 Q So both sides had been able to present their
5 documents. So do you feel -- do you feel that his
6 accusation is justified that you had not considered
7 his side?

8 A No.

9 Q At one point in the email there is a quote, I
10 believe, that he characterizes his emails as polite
11 inquiries requesting correction.

12 Do you find that to be an accurate
13 description of the emails that were presented to
14 you?

15 A I do not.

16 DR. PROMISLOW: Okay. I move to admit.
17 MS. DOUKOURE: No objections.
18 DR. PROMISLOW: 55. CP-55.
19 MARKED FOR IDENTIFICATION:
20 CHARGING PARTY EXHIBIT 55
21 11:38 a.m.
22 DR. PROMISLOW: Another document, this is
23 in the dreaded W part of Tab 11, W, so after S and
24 N, W4. Tab 11W4.
25 MS. DOUKOURE: I'm sorry, Keith, W4?

1 DR. PROMISLOW: W4, yeah.

2 Q (DR. PROMISLOW) Apparently, there's four pages in
3 here. I'm just going to take the first page out of
4 there entitled "My day in the kangaroo court."
5 That's all I'm going to submit, the first page, "My
6 day in kangaroo court."

7 Do you recognize this document?

8 A I do.

9 Q Can you just look it over quickly? Don't read it
10 out to us, just give us a sense of what are the
11 main points that stick with you when you first read
12 it.

13 A So this is Professor Akbulut's description of this
14 panel hearing in which I participated. He names,
15 again, the three of us by name. This is on his
16 private website, I assume. He makes subjective
17 judgments. It says that we were clearly
18 uncomfortable being used by the administration
19 against him. He later says that we appeared to be
20 bored when he was presenting his own case.

21 And, you know, at the end he basically
22 says, well, those of us who wrote the report have
23 now to be concerned about our own reputations and
24 makes some attempt to connect what he sees as our
25 lack of integrity with that of the administration

1 at MSU and rape accusations.

2 Q You were at the meeting; right? I mean, you were

3 there?

4 A I was there.

5 Q So you know -- you understand --

6 MS. DOUKOURE: I'm going to object

7 because Professor Promislow is again putting words

8 in this witness's mouth.

9 Q (DR. PROMISLOW) Were you at the meeting?

10 A I was.

11 Q Do you consider this to be an accurate -- a

12 recollection of the events as you perceived?

13 A He got our names right, but beyond that, no.

14 Q Have you ever served in the capacity to evaluate

15 others before? Have you ever been asked to

16 evaluate people?

17 A I have in Lyman Briggs as part of the annual review

18 process where I review my colleagues on an annual

19 basis.

20 Q Do you ever have to give negative feedback in the

21 context of reviewing other people?

22 A I would say I have constructive but critical

23 feedback, yes.

24 Q How do people accept negative feedback?

25 MS. DOUKOURE: I'm going to object to

1 this witness testifying about how other people
2 accept negative feedback. This witness can only
3 testify as to what he does and what he sees.

4 He is not a psychologist, I'm assuming.
5 I don't know what Lyman Briggs is, but I'm assuming
6 that's not psychology. So he cannot testify about
7 other people's state of mind or what other people
8 have done.

9 DR. PROMISLOW: Can I rephrase, then?

10 Q (DR. PROMISLOW) How -- and when you have provided
11 negative feedback to people, can you recall any
12 responses to any -- specifically to negative
13 feedback you gave?

14 A So without knowing their specific state of mind, I
15 can say I have received cordial and professional
16 responses. People recognizing that the feedback is
17 intended in the spirit of collegiality. I have not
18 been personally attacked by anyone who I have
19 reviewed and to whom I've given critical feedback.

20 Q Have you ever seen anything similar to the behavior
21 displayed in Professor Akbulut's emails and on his
22 web postings before in an academic setting?

23 A I have not. This is above and beyond anything I
24 can even imagine happening at any situation.

25 DR. PROMISLOW: Thank you. No further

1 questions.

2 MR. REIFENBERG: We admitted this

3 document?

4 MS. DOUKOURE: We didn't admit this

5 document.

6 DR. PROMISLOW: No, I did not, I'm sorry.

7 Let me -- thank you. Allow me to -- sorry.

8 Can I admit -- move to admit 11 --

9 MS. DOUKOURE: I have no objections.

10 DR. PROMISLOW: -- W4.

11 JUDGE WHITBECK: As?

12 MR. REIFENBERG: As?

13 DR. PROMISLOW: CP-56.

14 MARKED FOR IDENTIFICATION:

15 CHARGING PARTY EXHIBIT 56

16 11:43 a.m.

17 CROSS-EXAMINATION

18 BY MS. DOUKOURE:

19 Q Can you please state your name for me one more time

20 so I can say it correctly?

21 A I'm Mark Waddell.

22 Q Waddell?

23 A Uh-huh.

24 Q Is it okay if I call you Mr. Waddell?

25 A You can call me Dr. Waddell, sure.

1 Q And is it okay if I sit? Do you mind if I sit
2 while I question you?

3 A I don't mind at all.

4 Q So it was your testimony just a few minutes ago
5 that you were -- was it a committee or a panel? I
6 don't want to use incorrect terminology.

7 A It was a panel.

8 Q That your panel was tasked only to determine
9 whether or not Professor Promislow would be
10 justified in bringing serious discipline against
11 Professor Akbulut?

12 A That's right.

13 Q And that was with regards to his series of emails?

14 A That was in regard to his behavior after the ARP,
15 yes.

16 Q What did you consider besides emails?

17 A We considered whatever information was provided.
18 Professor -- he provided us a huge amount of
19 information going back to 2013 which we did not
20 consider, we considered only what was germane to
21 the case.

22 Q And when you say he provided you, I'm assuming
23 you're talking about Professor Akbulut?

24 A That's right.

25 Q Just so that we're clear.

1 A Yes.

2 Q So your testimony is that you did not investigate
3 the validity of any of the complaints that
4 Professor Akbulut made in a series of emails that
5 you were shown by Professor Promislow; correct?

6 A It was not our place to do so. So no, we did not.

7 Q Thank you. You considered just his conduct and not
8 what led up to that conduct; correct?

9 A No, we were considering whether the chair had the
10 -- whether he was justified in this particular --
11 in imposing this particular serious discipline.

12 Q But you did not investigate any of Professor
13 Akbulut's claims?

14 A Again, it is not our job to investigate. We only
15 are intended to be an objective panel that hears
16 both sides and then comes to a conclusion.

17 Q So you made no determination about whether
18 Professor Akbulut's claims were true or false?

19 A We had information from, I believe, OIE reports and
20 other sources suggesting that his activities did
21 violate MSU policy.

22 Q But you did not have any independent information
23 about whether his claims were true or false;
24 correct?

25 A Could you define what independent means?

1 Q Did you look at anything provided with regards to
2 the underlying claims of Professor Akbulut by way
3 of evidence other than reports that were written
4 about his conduct?

5 A So I'm a little unclear as to what other
6 information would be available.

7 Q Well, the OIE report is about misconduct; correct?

8 A Correct.

9 Q It's not about his claim of the NSF grants being
10 encumbered, is it?

11 A So that had nothing to do with our hearing because
12 that happened long before.

13 Q That's what I'm asking.

14 A Yes.

15 Q So you didn't -- you didn't utilize any information
16 with regards to the underlying claims that there
17 was an untruth told about his NSF grants; correct?

18 A So, again, because our job and our purview was not
19 to investigate claims or to question claims made
20 prior to the ARP, which is what began the process
21 of the chair instigating a serious discipline, no.

22 Q All right. That's all I need is a yes or a no.

23 A Uh-huh.

24 Q Did you investigate his claims about any targeting
25 behavior that led to his class being closed in

1 2014?

2 A No.

3 Q During this hearing, you stated that you looked at
4 the impact of Professor Akbulut's behavior on his
5 colleagues; correct?

6 A No. I was concerned and I asked him specifically
7 what he thought his -- the impact of his actions
8 were on his -- on his specifically junior
9 colleagues because he refused to discuss that
10 during the hearing itself.

11 Q And you said he appeared to be dismissive and
12 uncaring?

13 A That's right.

14 Q That's your inference of his behavior; correct?

15 A Absolutely.

16 Q And did he provide any anecdotal evidence that he
17 was dismissive and uncaring?

18 A Such as shaking his head, leaning back in his
19 chair. He appeared -- again, I am not a
20 mindreader.

21 Q Right.

22 A I can only speak to what I saw and how I attributed
23 it.

24 He did not appear interested in answering
25 my question and --

1 Q But that's your inference, that's not anecdotal.
2 A It's an anecdote of what I saw in the room.
3 Q Anecdote has a very specific meaning.
4 A Okay. Well, it was my inference of his behavior,
5 yes.
6 Q Did you ask Professor Akbulut how he had been
7 impacted by the goings on of the previous several
8 years?
9 A We didn't have to ask him because he explained that
10 at great length.
11 Q Okay. Did he seem like he was happy?
12 A Certainly not. I don't think anyone in this room
13 was happy.
14 Q Did he seem like he enjoyed what he was going
15 through?
16 A Yeah, no one did, no.
17 Q Okay. And you claim that Professor Akbulut felt
18 that he had a right to pass judgment on people who
19 had wronged him; correct?
20 A Correct.
21 Q Do you feel that Professor Akbulut felt that he had
22 been wronged?
23 A I do believe that he felt that, yes.
24 Q Do you feel that he sincerely felt that he was
25 wronged?

1 A I do.

2 Q Do you feel that Professor Akbulut, based on your
3 interactions with him that day, had felt that a
4 grievous miscarriage of justice had happened to
5 him?

6 A Again, I can't speak to his state of mind. I do
7 believe that he felt that, yes, he had been treated
8 poorly.

9 Q All right. Do you recall any specific emails that
10 were submitted to you?

11 A When?

12 Q During your -- while you were on the panel.

13 A So shortly before we met, the professor did send a
14 huge amount of information to all of us --

15 Q Which professor? We've been talking about two
16 professors.

17 A Professor Akbulut, yes.

18 Q Thank you.

19 A So he sent us, because he received our names, which
20 was standard, he proactively sent us an email with
21 a bunch of information, all of it one-sided I would
22 say, many of --

23 Q How about Professor Promislow? Was his information
24 one-sided?

25 A Most of that was emails that he had received from

1 Professor Akbulut and --

2 Q Did he provide you with any information that was

3 favorable to Professor Akbulut?

4 A Favorable in what way?

5 Q Like shows him in good -- what you would consider

6 to be a good light?

7 A Things like annual review documents or things like

8 that, no, that was not part of what we had to

9 investigate.

10 Q So it's fair to say that Professor Promislow sent

11 you those documents that he felt were most

12 favorable to his side of the opinion, and it was

13 therefore one-sided; correct?

14 A He -- actually, he did not submit anything. Terry

15 Curry's office submitted those to us.

16 Q Fair enough.

17 But all the documents that were submitted

18 to you were intended to prove a point; correct?

19 A They were intended to illustrate a pattern of

20 behavior, yes.

21 Q So they were one-sided; correct?

22 A Possibly.

23 Q And Professor Akbulut as the nature of defending

24 himself would, necessarily, show you documents that

25 were one-sided in favor of him?

1 A For him to contact us independently is not normal
2 procedure, as I understand it, so that was unusual.
3 And, again, he was sending us documents from 2013
4 that had nothing to do with the case that we were
5 looking at.

6 Q What documents did he send you from 2013?

7 A He was sending us documents about, again, this
8 encumbrance on his research funds.

9 Q That did not happen in 2013.

10 A I don't remember the exact year because my --

11 Q Okay.

12 A Yeah. Maybe it was 2014, maybe it was 2015.

13 In any case, it was before the ARP,
14 before anything that was germane to our review.

15 Q Okay. Do you recall -- so what evidence -- so when
16 you received evidence from the provost, not
17 Professor Promislow, you received that before or
18 after the review panel?

19 A We saw it before.

20 Q So you saw his information before Professor Akbulut
21 was not given -- was not necessarily by procedure
22 given an opportunity to submit documents ahead of
23 time?

24 A Well, he did submit them to us, but --

25 Q But you had just testified it's not your procedure

1 -- a normal procedure.

2 A Nevertheless, he did do it, so --

3 Q I'm asking you a very specific question.

4 A Which is whether --

5 Q Whether or not --

6 A -- he had the opportunity to do it?

7 Q Whether or not it would have been standard

8 procedure to allow him to submit documents ahead of

9 time the way that you received documents ahead of

10 time from the opposing party.

11 A I can't speak to that.

12 Q You just spoke to that. You said -- when you

13 testified -- and we can read it back if you like --

14 you testified that Professor Akbulut sent emails

15 which is not standard procedure.

16 A Correct.

17 Q So now you're saying you can't testify to that.

18 A I cannot testify to what sorts of documents would

19 have been included in the documents provided by the

20 provost's office. What I am saying, it is unusual

21 for one of the individuals in that case to contact

22 the panel directly using his personal email, using

23 our personal emails. That is not standard

24 practice.

25 Q So would he -- was he solicited by the panel for

1 any documents prior to the hearing date?

2 A No.

3 Q So the only documents you're given opportunity to

4 see are the documents of the provost prior to the

5 hearing date?

6 A We saw things like the OIE report, which is not the

7 provost's office.

8 Q That's not what I asked.

9 JUDGE WHITBECK: Let's go off the record.

10 (Discussion held off the record.)

11 JUDGE WHITBECK: Okay.

12 THE WITNESS: So we saw documents from

13 the provost's office that outlined and from the

14 chair outlining behavior. So --

15 Q (MS. DOUKOURE) So all the people attempting to

16 impose serious discipline on my client were allowed

17 to submit documents ahead of time; correct?

18 A The only person imposing serious discipline was the

19 chair. Yes, he was allowed to submit documents.

20 Q But the person who was being accused was not

21 solicited for documents prior to the hearing?

22 A He was not being accused of anything, he was merely

23 subject to serious discipline, potentially --

24 Q The subject of the discipline, serious discipline,

25 was not allowed an opportunity to provide documents

1 in advance?

2 A Again, I cannot say whether he was allowed to
3 submit documents, I am telling you how he did
4 submit documents to us, which I know is not usual.

5 Q Have you sat on this panel before?

6 A No.

7 Q This was the first time?

8 A Yes.

9 Q Have you sat on this panel since?

10 A I have not.

11 Q So when you say that it's not standard procedure,
12 you're only talking about the procedure of that one
13 specific incident that you're aware of, you're not
14 speaking as a general rule of thumb because you
15 don't know that?

16 A I do know that having not participated directly in
17 but I have served on UCFA for two years now, I know
18 other people who have served on similar panels. I
19 don't know particulars about those cases, but I do
20 know that they were not contacted independently.

21 Q Okay. Let's go about this a different way.

22 Did anybody on that UCFA panel that you
23 sat on that was hearing the imposition of serious
24 penalty against Dr. Akbulut request a single piece
25 of paper or documentary evidence from him prior to

1 the hearing date?

2 A No.

3 Q Was it your intent to do so?

4 A No.

5 Q Thank you. How many emails did you receive from

6 Professor Akbulut following?

7 A I believe one.

8 Q Just one.

9 So he didn't continuously send emails, it

10 was just this one email outlining his problems with

11 what took place that day?

12 A That's right.

13 Q Did he send you a copy of "My day in kangaroo

14 court"?

15 A I don't believe so.

16 Q And you said it was on his private website;

17 correct?

18 A That's right.

19 Q So you sought out this document; isn't that

20 correct?

21 A So I did afterwards, yes.

22 Q So you did seek out this document, he didn't

23 provide it to you?

24 A Oh, no, he did.

25 Q How?

1 A Oh, sorry. No.

2 He had provided other -- other materials

3 from his private website.

4 Q To whom?

5 A To the members of the panel beforehand.

6 Q Beforehand?

7 A Yes.

8 Q But this document was created afterwards; correct?

9 A That's correct.

10 Q So he had provided you with this document?

11 A With that one, no.

12 Q So you sought it out?

13 A I did.

14 MS. DOUKOURE: Thank you. No further

15 questions.

16 DR. PROMISLOW: We don't have any

17 redirect.

18 JUDGE WHITBECK: Thank you.

19 (The witness stepped down.)

20 THE COURT REPORTER: Do you swear or

21 affirm that the testimony you are about to give

22 will be the truth, the whole truth, and nothing but

23 the truth, so help you God?

24 DR. HEDDEN: Yes, I do.

25

1 MATT HEDDEN,
2 a witness herein, was called for examination, and
3 after having been sworn, was examined and testified
4 on his oath as follows:

5 DIRECT EXAMINATION

6 BY DR. PROMISLOW:

7 Q Hi. Can you please identify yourself for the court
8 reporter.

9 A My name is Matt Hedden.

10 Q Can you tell us what your position is at MSU and
11 what your involvement is with the matter here?

12 A I'm a professor in the Math Department. I've been
13 involved with this since it began in fall 2014. So
14 prior to that time I was an untenured assistant
15 professor.

16 Q How would you describe the proximity of your area
17 of research in mathematics to that of Professor
18 Akbulut's?

19 A We're very closely related mathematically. When I
20 arrived, he and our former colleague, Ron
21 Fintushel, were very much the closest people in our
22 group to my research, and so they were a big draw
23 for me coming here.

24 Q So is it fair to say -- I guess you just said --
25 that Professor Akbulut's presence here was a

1 positive factor in your coming to MSU?

2 A Yes, sir.

3 MS. KELLEY: Can you please speak up?

4 DR. PROMISLOW: Oh. I'm sorry. I'll
5 just stay behind the microphone. No matter how
6 hard I try to speak loudly, I cannot do that.

7 Q (DR. PROMISLOW) Okay. So were you a member of the
8 Math Advisory Committee in 2015 and 2016?

9 A I became a member in spring 2015 and was a member
10 in 2016 as well and then in the spring of 2017. I
11 guess in the fall of 2016 as well. So I was
12 elected to that committee in the spring faculty
13 meeting in 2015.

14 Q That you were elected?

15 A I was elected to the Advisory Committee in spring
16 2015, and my duties began immediately, as far as I
17 can remember.

18 Q Thank you. Okay. I'm going to hand you a document
19 here which is Binder Tab 13.1A. Can you describe
20 this document? Do you recognize it?

21 A Yeah, I recognize this document. This is a
22 document that outlines a resolution of the conflict
23 surrounding Selman's course cancellation and his
24 subsequent teaching of a different course other
25 than what he was assigned and not teaching a course

1 that he was assigned.

2 So this -- throughout the course of that
3 spring, my colleague Tom Parker and I had talked
4 extensively with him to try to come to some type of
5 a resolution of a really unpleasant conflict within
6 our department surrounding this course
7 cancellation.

8 So this is an email that you sent to the
9 department in the summer, you know, that sort of
10 outlines, you know, what became of those
11 negotiations and that agreement.

12 As I say, I mean, you know, the -- the
13 trouble began in fall 2014 but -- and at that time,
14 you know, I was up for tenure, and I -- we had, you
15 know, two one-year-old twins at home. And I
16 just -- I kind of had counted on my senior
17 colleagues to handle this because I thought it
18 wasn't really my place to be involved in it.

19 In retrospect, you know, it's certainly a
20 mistake, because by the time I got involved that
21 spring, Selman had already decided not to teach the
22 calculus course that he was assigned, and at that
23 point it was going to be a really difficult thing
24 to -- to -- to negotiate. So . . .

25 Q Did you and Tom Parker discuss -- meet with Selman

1 to --

2 A Yeah, I talked to Selman extensively throughout the
3 spring semester. I didn't talk to him at all in
4 the fall, I just thought I didn't want to get
5 involved. I had a lot on my plate at that time.

6 I'm also the junior member of this group,
7 and it didn't seem like -- you know, it didn't seem
8 like my place.

9 But in spring it became clear that things
10 were going really badly, and so and I started
11 talking with Selman a lot during that semester, you
12 know, about the way that he was treated with regard
13 to the course cancellation, with the way it went
14 down, and about his decision-making process with
15 regard to not teaching the calculus course.

16 And so during the course of those
17 conversations and with Tom, you know, I said, like,
18 how can we figure something out where people aren't
19 going to be -- how are we going to get past this as
20 a department, and how, you know, Selman's going to
21 come out unscathed.

22 I mean, you know, it's not just that I
23 knew Selman was here coming in, but, you know, I
24 have long regarded him as a friend. And so I
25 wanted to help in the ways that I could, and I felt

1 a lot of sympathy towards him because of the
2 situation that he was in.

3 Q So can you just remind us, how long after this
4 course cancellation does this start, how many
5 months?

6 A So, you know, I don't know what exact month it was
7 where -- I mean, I think it was October where the
8 deadline for the graduate courses -- I think it was
9 roughly October 1 the deadline for graduate courses
10 sort of came in, the one that was set by the
11 director of grad studies and when it was determined
12 that Selman hadn't met the requirements and then
13 when his course was canceled. So I think that was
14 about October.

15 So we -- I think that the -- that this
16 agreement -- you know, we talked about it sort of
17 late spring I think is when -- you know, I had
18 talked to Selman a lot throughout the spring
19 semester before Tom and I came to you. I think I
20 only -- I think we only sort of started discussing
21 it, an actual agreement, once I was on AdCom, which
22 would have been probably May. And I thought that
23 we came to an agreement fairly quickly, although
24 this email is dated August.

25 I think the point of that was just that,

1 you know, school was out for the term, and, you
2 know, although we had come to -- I think we came to
3 the agreement probably late May or Mayish, maybe
4 early June --

5 JUDGE WHITBECK: This is all 2015?

6 THE WITNESS: This is all spring 2015.
7 Spring/summer 2015, yeah.

8 Q (DR. PROMISLOW) Can you just clarify, when you say
9 "we," can you explain who "we" is?

10 A So "we" is the -- me, Tom Parker. Tom Parker was
11 also on the Advisory Committee at the time, but he
12 was on his way out, I believe. So Tom was an
13 elected member and I was his replacement on that
14 committee. And so as I was coming in and he was
15 going out, we met with the Advisory Committee and
16 Keith to try to come up with this solution.

17 And I don't know if this has been
18 discussed. I mean, should I say what the solution
19 was or what the agreement was?

20 Q Yeah, I'd be happy for you to characterize the --

21 A Yeah. The agreement was --

22 Q Would you characterize the -- would you
23 characterize the --

24 A Yeah. So Selman had this -- he had proposed a
25 graduate course in the fall. It was canceled due

1 to underenrollment in accordance with the sort of
2 guidelines that had been -- the rules that had been
3 set by the director of grad studies. And then he
4 was reassigned as is -- you know, this is a -- as
5 in always the case. I mean, we've all had graduate
6 courses cancel at points. This is a common thing
7 where you're reassigned a course.

8 And so even if I get -- you know, there's
9 been times in my career where -- and, in fact, you
10 know, just a couple weeks ago I was worried. I
11 didn't know whether my course was going to run.
12 You know, I'm teaching a capstone course, and it
13 looked like it might have been underenrolled, and I
14 had to go and say, well you know, is my course that
15 I was assigned last spring, like, I had this email
16 that said, oh, this is my course assignment. But I
17 knew because it's always the case that, you know,
18 that course assignment might change even at the
19 last minute due to underenrollment or for whatever
20 reason. And so I was kind of scrambling around.

21 And, frankly, I'm stressed out because it
22 is going to run and I thought it wasn't, and so I'm
23 trying to figure out how to do that next week. But
24 anyway.

25 So it is common practice for the courses

1 to change your -- and to get a different course
2 assignment after a course is canceled for whatever
3 reason. And so he was reassigned Math 124 and --
4 and then -- and then didn't teach it.

5 And so -- but, you know -- and so what he
6 did instead of teaching Math 124 is there's also a
7 common practice within the department of hosting
8 reading courses for graduate students. And I do
9 this on a regular basis. Selman has done it
10 undoubtedly many times throughout his career as
11 a -- you know, most faculty that are involved with
12 the graduate program do this because it's really
13 good for the students. I think they have some
14 formal requirements of taking reading courses.

15 But these reading courses don't count to
16 my teaching load. They don't count to the faculty.
17 It's something we do out of the goodness of our
18 hearts; you know, whatever goodness there is in our
19 hearts. But I'm not compensated. I do this every
20 semester. Usually it's just for one or two
21 students. Often it's for students who are sort of
22 debating, oh, do I want to have this person as my
23 advisor? What kinds of things are they saying? So
24 it's a way to get to know the students.

25 But what Selman did that semester, he

1 used one of these courses, much to his -- you know,
2 I applaud him for doing this -- he used one of
3 those courses to run the course that he had
4 proposed.

5 So, you know, he had -- so his -- his --
6 the course that he proposed was canceled, but he
7 then hosted a reading course, you know. And he
8 had -- I don't know how many students were in it,
9 but five students, six students in it and a regular
10 attendance. So it was running not like a reading
11 course would typically run where, you know, maybe I
12 have three students max in a reading course that's
13 in my office, it's pretty informal, but he was
14 running the course as a real course, you know, but
15 under the sort of official blanket of these reading
16 courses which don't bear any credit for us, and
17 they don't count as our assignment.

18 And so because he had done that, and
19 because, you know, the fact that that course ran,
20 it ran as a real course and he had the number of
21 students that were -- that would have met the
22 requirement had they been there at the right time
23 in that course.

24 We said, well, listen, you know, he
25 should have taught his course, you know, if the

1 course was assigned, but, like, he did teach this
2 other course which, you know, as it turns out was
3 a -- you know, ran like a legitimate course that he
4 proposed. So we said that he should get credit for
5 this, and maybe that would be something that he
6 would be able to live with and that the department
7 would be able to live with.

8 So Tom and I talked it over with the
9 AdCom and various members of the department, and
10 everybody thought this is -- this is reasonable
11 because he did have a course that he ran. He
12 taught, you know, three days a week or two days a
13 week, I don't know, but, you know, taught this sort
14 of typical timeline for a course that he would have
15 taught. He thought the typical number of students;
16 maybe even more than some courses might have. I
17 don't know how many he had sort of sitting in,
18 because often the registration versus sitting in is
19 different.

20 But it was -- you know, he taught what
21 would have filled a teaching assignment if it had
22 been under the right -- you know, under the right
23 heading or whatever.

24 And so -- so we talked with Selman about
25 this, we talked with Keith, we talked with AdCom.

1 I thought that everybody said this was something
2 that we could live with. And this is -- and this
3 email here outlines that.

4 It also says sort of, you know, the
5 things that we're going to do in the future to
6 avoid this type of conflict again, you know.

7 We had had a pretty dramatic change at
8 that point in the department between sort of the
9 way that graduate courses were -- the sort of --
10 the deadlines for graduate courses enrollments.
11 You know, when graduate courses were canceled
12 typically and before that semester had been much,
13 much later. But one of the issues with that is
14 that then we were always in this position of, like,
15 you know, late summer or, you know -- you know,
16 January 3rd or something saying, oh, my gosh, this
17 course isn't going to run. It was really very --
18 it was becoming an untenable situation with regard
19 especially to the undergraduate course staffing.
20 And so we needed to have things settled with the
21 graduate courses much earlier so that we could
22 staff the undergraduate courses.

23 But this semester was the first time that
24 the new system had been in place, and we thought --
25 you know, this email I think was part of the

1 negotiation. We're saying, well, let's begin a
2 better way to do this so that we don't run into
3 this situation again. Make it even more clear.
4 Make this, you know, the guidelines for running
5 graduate courses extremely clear and more flexible
6 than maybe they had been that semester.

7 Q So when this agreement was more or less finalized,
8 did you feel that this addressed all the relevant
9 issues to all people involved?

10 A Yeah, I thought that this -- I thought -- I mean,
11 my understanding at the time was that everybody
12 seemed -- seemed comfortable with it and that
13 everybody's concerns about both the graduate course
14 process and regarding, you know, the -- the
15 monetary loss that Selman had incurred from not
16 teaching Math 124, I thought that this addressed
17 this.

18 Because he was docked, I think, 10
19 percent of his salary or maybe \$15,000 or
20 something, you know, and -- but given, you know,
21 this agreement gave him credit for the course
22 that -- this other course that he had taught, this
23 noncredit-bearing reading course.

24 So kind of the net result of that was
25 that, you know, he had to pay either 10 percent of

1 his salary or \$15,000, whatever it was, for a
2 one-course buyout. Which is a pretty -- I mean,
3 which is a good deal.

4 Like for me to buy out a course in my
5 department, it's one-seventh of my salary. So for
6 him maybe it was a tenth of his salary or \$15,000.
7 I imagine he makes more than \$150,000, so I don't
8 know what the actual number is, but -- so -- you
9 know, so I thought it was, like, a good -- it was a
10 good deal financially. Although I wouldn't -- I
11 don't think I'll try to do it myself.

12 Q So would you characterize this as a good faith
13 effort by all involved to solve the problem?

14 A Yeah. I thought -- I thought we had -- I mean,
15 that's what it was. I was -- had a vested interest
16 at that point to try to maintain the peace within
17 the department, particularly within -- you know,
18 for its topology members.

19 Q And you thought it would work at the time?

20 A Yeah, I thought it would work.

21 Q Did it work?

22 A It didn't work, no. I mean -- yeah. After this
23 arrangement, I'm not sure at what point it became
24 clear that -- you know, that Selman wanted the
25 provost letter to be rescinded and for that

1 whatever mark that has on his academic record to be
2 removed.

3 And it also wasn't totally clear to me
4 during that period whether he also wanted to have
5 his salary, you know, whatever percentage of his
6 salary was withheld, I didn't know if maybe he
7 wanted that reinstated as well.

8 And so it wasn't clear to me, although I
9 had asked in faculty meetings where he brought this
10 up whether he wanted both the course release and
11 the money back and the provost's letter rescinded.
12 I mean, you know, but if that were the case, then
13 it's like not only has he gotten a good deal from
14 the course buyout, but he got a free course buyout.
15 So that -- that seemed -- if he wanted the money
16 back, that seemed like that -- you know, now it's
17 not only -- now it's kind of a shady operation.

18 But even at -- even so, I mean, if you
19 want the abrogation of duties letter rescinded, I
20 mean, at that time when it started, it wasn't clear
21 how we would even go about doing that. And it was
22 also seemed like that's going to be a really uphill
23 battle for us as a department or for any of us
24 because, you know -- like, you know, one of the
25 only things we have to do here is teach our

1 courses. And if you don't teach it, a course
2 you're assigned, I mean, it's going to be really
3 hard to sort of recommend that you -- you know,
4 that -- that a letter that says that you should
5 have taught your courses be revoked. Because, I
6 mean, it's just saying you need to teach your
7 courses because this is your job and -- you know.

8 So at that point it became, you know,
9 okay, I understand why he would want that letter to
10 be gone, but it seemed like completely out of the
11 purview of me or Tom or the AdCom or any of us to
12 be able to grant him that type of -- that type of
13 pardon, I guess. Like, I just -- I didn't know how
14 we would have the power to do that let alone how
15 any of the -- you know, given what we understood
16 about the situation, like, how that could even be
17 reasonable for us to try to -- to try to
18 orchestrate it.

19 Q Do you know if Selman availed himself of the course
20 teaching reduction that was a part of this
21 agreement?

22 A I mean, I don't know for sure, but I heard that he
23 did. So, you know, I don't have the -- I didn't
24 follow the records of when he taught courses after
25 that or whatnot. But I heard that he did, so --

1 and that probably you have records if he submitted
2 them.

3 Q But did Selman bring up -- so subsequent to this
4 agreement, I call it the olive branch if there's no
5 objection, just to give it a name -- after this
6 were there -- did Professor Akbulut raise this
7 issue at department meetings?

8 A Yeah. I mean, that -- yeah. Like it was -- it was
9 at this point where things kind of turned and where
10 it became more -- so after this arrangement, things
11 got more heated, not less.

12 And, you know, at -- I remember
13 particularly the fall 2015 faculty meeting where
14 Selman had proposed a motion to discuss this issue,
15 and it just turned into -- I mean, it was -- it was
16 a farce. I mean, you know, like, he took over the
17 meeting. And people weren't -- nobody was
18 listening to anybody --

19 DR. PROMISLOW: Will you please instruct
20 Dr. Akbulut not to interrupt the witness?

21 THE WITNESS: So, I mean, you know -- and
22 at some point, you know, this is a meeting I think
23 ostensibly run by the chair, but then someone had
24 taken the meeting over and was -- everybody was
25 fighting with each other. There were a lot of

1 accusations. You know, Selman had accused you of
2 fraud, of stealing money from his NSF grant, and it
3 wasn't a productive way to have a conversation
4 about this.

5 And the thing that I found quite
6 unsettling about that was, you know, during that
7 meeting, during the discussion and motion, I was
8 trying to -- you know, I and others were trying to
9 be calm about this, have a discussion about it.
10 And I tried to understand this point that I had
11 raised a moment ago about whether Selman -- what
12 Selman wanted exactly, because it wasn't clear to
13 me, as I said, whether he wanted both the money
14 back and the letter rescinded, in which case he got
15 a course release, you know, and all of his salary
16 back and -- you know, and this letter gone so that
17 somehow he came out even better, he got a free
18 course release, which couldn't have been
19 acceptable, I think, to anybody, or whether he just
20 wanted the letter revoked. And he -- and he was at
21 that point saying he wasn't going to take the
22 course release.

23 So I was just trying to understand was he
24 rejecting our previous agreement completely and
25 saying I want just the money back and, you know,

1 the letter rescinded, or am I going to take the
2 course release, I want the money back and the --
3 and the letter rescinded, or do I just want the
4 letter rescinded.

5 So both Teena Gerhardt and myself asked
6 this question, tried to understand -- tried to get
7 the -- tried to get the answer.

8 One of the things that struck me about
9 that faculty meeting in addition to the kind of
10 severe discord that was present there was that
11 afterwards Selman made what he referred to as
12 transcripts of that meeting and where he quoted
13 people from the meeting, myself and Teena Gerhardt
14 included, and -- you know, and presented these --
15 this transcript as though they were quotes of what
16 happened. But all who were present, those weren't
17 the things that we said. They weren't quotes.
18 They were twisted slightly so that it
19 misrepresented what we actually said and what we
20 were trying to -- we were trying to understand what
21 it was he wanted. And the quotes were sort of not
22 what we said.

23 And so there were -- and -- so at that
24 point there was a number of times where, you know,
25 it -- it became sort of clear that the -- what --

1 or it seemed to me that what Selman was hearing
2 people say or seeing and witnessing was in contrast
3 to his retelling of the events at later points.
4 And this faculty meeting was one place where I
5 really saw that markedly. And so for me kind of
6 started to raise a red flag about, you know -- you
7 know, whether or not I could trust what he was
8 telling me regarding things that had been said to
9 him during the course of his course cancellation
10 and the subsequent time period.

11 Q (DR. PROMISLOW) So at this point have you looked
12 into -- carefully into any of the details of the
13 past history of course cancellation?

14 A No, at that point, you know, I hadn't really gone
15 into it. I mean, at that point I had mostly -- you
16 know, when we brokered this agreement, I was really
17 just trying to -- to make peace for all parties
18 involved, and I didn't know the details, I mean all
19 the details, the minutia, the way that I,
20 unfortunately, now do.

21 Q So as a member of the Math Advisory Committee, is
22 it true that you were appointed to the
23 Administrative Review Panel that examined Professor
24 Akbulut's abrogation of duty penalty in spring
25 2016?

1 A Yes.

2 Q Can you describe the scope of the materials you
3 reviewed and give me a sense of -- give us a sense
4 of the discussion among the panel members when you
5 start?

6 A Yeah. I mean, we were unsure at the beginning what
7 our purpose was, whether or not we had any
8 authority or what authority we had, so we met with
9 the dean about this to try to clarify what our role
10 was.

11 And so, you know, as a mentioned, you
12 know -- you know, it's going to be an uphill battle
13 if you're going to try to justify someone in a
14 university not to teach an assigned course, and,
15 like -- so we kind of knew that going in. But I
16 wouldn't say that that's -- that wasn't really
17 biased, because what we did and what our discussion
18 was, we said, look, Selman has told us about, like,
19 all these sort of -- you know, he's basically said
20 that, you know, there's this -- he's been
21 mistreated. He's alluded at this point at numerous
22 times about conversations that he had recorded
23 of -- with -- you know, his conversations with
24 Keith that had been recorded unbeknownst to Keith.
25 And he said, you know, in the context of these

1 conversations, Keith said this, and, you know, if
2 you listen to these tapes, you know, you're going
3 to see that this is -- you know, Keith is lying and
4 he's -- and, you know -- and is -- you know, it
5 sounded like a conspiracy. You know, he'd accused
6 Keith of fraud, sort of embezzling money from his
7 NSF grants or misusing it.

8 And so, you know, we knew that it was
9 going to be hard for us given, like, the way that
10 the University works to sort of condone not
11 teaching a class. But what we went into it saying
12 is what -- you know, we viewed our role as -- we
13 said, well, let's try to get to the bottom of this.
14 Let's try to look at all the facts that we can
15 verify.

16 So a verifiable fact is something where
17 there's a record, something where there's an email,
18 where there's -- you know, in the case of these
19 conversations, where there's a recording, where
20 there is time-stamped documentation from University
21 servers.

22 So we wanted to look at, like, actual
23 data, actual hard data. And so we said we're going
24 to look at everything we can. We're going to see
25 if there's some conspiracy. We're going to see if

1 there was fraud committed, or try to get to the
2 bottom of that as much as we can.

3 And so our -- our take on it was we're
4 going to examine every possible aspect of this --
5 of this case, and we're going to look at everything
6 Selman sends us. We're going to look at everything
7 Keith sends us.

8 And we didn't -- you know, we didn't talk
9 to you, Keith. We didn't talk to Selman in person
10 about this. And our decision on that was
11 motivated, as I mentioned, by the fact that we
12 wanted to see documents. We wanted to be able to
13 have actual verifiable information.

14 Because, you know, as I mentioned, you
15 know, I had had a lot of conversations with Selman,
16 you know, over the course of spring 2015 when his
17 course was -- when he wasn't teaching a course, he
18 was teaching this other course. And we'd all been
19 witness to the events at the faculty meetings where
20 things were sort of described after the fact not
21 the way that we saw them as a collective, excluding
22 him.

23 And so we wanted to make sure that we --
24 you know, it wasn't clear to us what having a
25 conversation was going to -- was going to add to it

1 because we all had lots of conversations with
2 Selman before. So we wanted to get all the
3 documentation we could.

4 And -- and moreover, you know when I
5 emailed Selman during that process and asked for
6 everything he had, he sent me a list -- or he sent
7 me a package of documents maybe 30 to 40 pages
8 long. And his email response to me that included
9 all of these documents, he said, I think this
10 pretty much sums it up. I think this pretty much
11 has everything, although I also have these -- these
12 conversations that I recorded.

13 And so we looked at all of his documents.
14 We looked through them. I read them numerous times
15 and then -- and then went back.

16 And after looking at that, you know, I
17 have to say that, like, you know, the thing that,
18 like, is -- you know, the thing that was really
19 bizarre about it was that, like, all of the stuff
20 that he sent us was, you know, supporting his case,
21 but if you read it, it didn't support the things
22 that he was -- that he was telling us. I mean,
23 it -- it made it clear in those documents that Luke
24 didn't register. That he didn't -- and it made it
25 clear from that that he had been -- that -- you

1 know, that Jon had sent out these emails about when
2 the deadlines were for courses to be enrolled with
3 this number. He had been warned from email that he
4 didn't have the number of students at a certain --
5 at the time when it was going to be canceled. And
6 then the one student who could have put him up to
7 five who was, I think, a source of much of the
8 contention, like, chose not to register. Didn't
9 attempt to register.

10 And so those -- this -- the documentation
11 that he gave us more or less sort of really
12 emphasized that his course was canceled in
13 accordance with the rules. That there wasn't any
14 malfeasance regarding Luke's attempted enrollment
15 because he didn't attempt to enroll. Those
16 documents make it clear that Luke chose not to
17 enroll.

18 JUDGE WHITBECK: Excuse me. Who is this?

19 MS. DOUKOURE: Luke Williams.

20 THE WITNESS: What's that?

21 MS. DOUKOURE: Luke Williams.

22 THE WITNESS: Yeah, Luke Williams.

23 So, you know. But, nonetheless, we said,
24 well, okay, you know -- you know, there was
25 other -- there were a couple other allegations

1 made.

2 So the first was that Luke was prevented
3 from enrolling, and Selman's documents made it
4 clear that he wasn't prevented from enrolling, he
5 just chose not to enroll.

6 And the other is that -- so, you know,
7 the reason he chose not to enroll is because he
8 would have -- somebody would have had to pay \$600 I
9 think. I think that's the right number. So this
10 \$600 because he -- you know, the fellowship, the
11 University fellowship he was, on didn't allow him
12 to take courses because it was like a completion
13 fellowship. And there's all sorts of things you
14 can debate about whether or not that's the right
15 call, and, you know, we've debated it since then, I
16 mean, in large part because of the issues that came
17 out of this.

18 But -- but the fact of the matter was
19 that he couldn't take that course without somebody
20 paying \$600 because it wasn't -- his fellowship
21 didn't support it.

22 And he didn't want to pay it. I mean,
23 obviously, no student wants to pay tuition in their
24 last year in their Ph.D., or any year in their
25 Ph.D. for that matter. So Selman had -- I think

1 had hoped to pay for it out of his grant.

2 And so then there was a secondary issue
3 which I should emphasize was not an issue because
4 Luke did not attempt to enroll after he was -- said
5 that he had to pay the \$600, was whether or not
6 Selman could have supported his enrollment with
7 that -- with \$600 from grant money.

8 And so there was this, then, kind of
9 allegation of fraud, you know, that Keith prevented
10 him from using that money, or maybe Carolyn, the
11 grant administrator, had prevented him from using
12 his grant money to support Luke. And so -- so we
13 looked into that as well. And, I mean, nothing
14 that Selman sent us indicated that he had been
15 prevented from using that \$600. I mean, that --
16 so -- so there was this -- he had a number of
17 grants at the time, and what he sent us regarding
18 his grant funds was a number -- I can't remember
19 the exact number, maybe let's like on the order of
20 several hundred thousand dollars, you know. This
21 was a CDA number sort of given to him from --
22 either from the University or from the NSF itself.
23 This is the total amount of funds that he has. All
24 of his grants. Okay?

25 So first off, one of the grants is a

1 conference grant. You're not going to be able to
2 use that for -- to support a graduate student.

3 Another one is an FRG grant which, you
4 know, maybe there's money in there for graduate
5 students, maybe there's not.

6 And another is a personal grant, which I
7 think is the one he was trying to use.

8 But the one that he was attempting to
9 draw funds from to support Luke, the claim had been
10 made that this was encumbered. Okay?

11 So -- and we got emails from Carolyn
12 Wemple. We sought her -- she was the grant
13 coordinator. We sought her input on this. And she
14 sent us emails that Selman had responded to and had
15 taken part in these conversations where it made it
16 clear that he had encumbered -- that he agreed to
17 use all of the remaining funds for the grant that
18 he was trying to use for Luke's tuition, he had
19 used it -- he had agreed to support a visitor,
20 Asadi, for \$10,000, and then the remaining \$8,000
21 of the 18,000 that was in this grant to support a
22 visitor Yusui.

23 So those emails, you know, made it clear
24 to us that -- you know, that the grant -- or
25 indicated to us that the grant was encumbered at

1 the time.

2 Now, you know, like, I don't have any
3 doubt that he could have figured out a way to
4 rearrange it. He did have money in his grants. He
5 probably could have figured it out. But the
6 question was did he figure it out by the time that
7 the course was canceled and when the enrollment
8 deadline was. And it was clear that it hadn't, you
9 know.

10 And -- you know, and so this gave me
11 sympathy for him in some sense because I said,
12 well, you know, he could have figured it out if
13 people could have talked to each other, you know,
14 if maybe they could have worked something out. But
15 he didn't, and so the -- you know, the course was
16 cancelled.

17 And it wasn't against the rules. It
18 wasn't -- you know, it wasn't any different than
19 anybody else was treated.

20 That's another thing that we looked into.
21 There was claims made that other courses ran with
22 fewer than five students. So we looked into that.

23 And, I mean, you know, we really spent a
24 lot of time, like, getting the time-stamped
25 enrollment numbers from the server at the time of

1 the cancellation. And, you know, there were no
2 courses except for the ones that had to run because
3 they were required courses for the first year
4 students that ran with fewer than -- fewer than
5 five students or that went forward with fewer than
6 five students on that date.

7 So we didn't see any evidence of, you
8 know, discrimination or prefatory treatment for
9 other faculty versus Selman.

10 And -- yeah, I mean, what else did we
11 look into?

12 We went through everything. We contacted
13 the former chairs of the department. We
14 contacted -- we looked at University bylaws to see,
15 you know, who has the authority to assign classes.
16 Could Keith assign him Math 124. Does he have that
17 power?

18 And so we looked into University bylaws,
19 our departmental bylaws. We looked at -- you know,
20 we looked at all of our -- we contacted all the
21 former chairs of the department that we could that
22 said what's the precedent for who has the authority
23 to assign courses. You know, was it -- and all of
24 it indicated that, you know, Keith being the chair
25 at the time had the power to assign the courses.

1 And that was where, you know, that ultimately
2 rested.

3 The faculty, although we try to give
4 preference to them because, you know, faculty are
5 respected, we try to give preference to their -- or
6 we try to give them some input as to what courses
7 they teach, I mean, there's no precedent or even
8 understanding for most of us that we're going to be
9 guaranteed to teach what we want to teach when we
10 want to teach it.

11 So, yeah. I mean, we spent a lot of
12 time.

13 And, you know -- and it wasn't like we
14 were trying -- we weren't trying to get Selman.
15 Like, my attitude going into this is I was trying
16 to get Selman out of this. And, like, I just
17 couldn't get it. Like, there wasn't -- like I
18 wanted to -- you know, in part, we wanted -- I
19 wanted to get him out of it. But, like, the other
20 group, I mean, like -- you know, of course we're
21 all biased in our own way. We're in the
22 department.

23 I don't understand why we were ever put
24 in this position to sort of go over this. I think
25 it was a mistake on the University's part to have

1 us evaluate this. But we did. And the way we went
2 about it is we said we're going to do the best job
3 we can. We're going to look at everything we have.
4 And our attitude was we wanted to -- we had hoped,
5 really, that that document we wrote -- and we spent
6 a long time writing it. Many, many drafts. And we
7 spent, I mean, hours and hours and hours, like,
8 over the course of six weeks.

9 I mean, me personally, I don't know how
10 many -- I mean, I, you know -- oh, yeah, I mean, we
11 went over -- we -- we -- at some point, because I
12 said, well, what else does Selman say that he has
13 on this. Well, he had these tapes. So I said --
14 you know, I asked Keith -- one of us asked Keith,
15 Can we listen to these tapes? Do you agree to
16 that?

17 So we got the tapes. And we listened to
18 them. And, you know, he had these reading guides.
19 But I listened to the entirety of these tapes, I
20 mean, multiple times. And the specific places
21 where he instructed us I listened to them over
22 again and just -- and, again, you know, the things
23 that he was claiming I said didn't match up with
24 what I was hearing. And so, you know, I didn't
25 understand why the discord between his

1 interpretation of these facts that I was listening
2 to and -- and my hearing of it.

3 And so, you know, we went through every
4 avenue we could, and our goal in writing that and
5 in trying to go through all this is we wanted to
6 settle this for the department. We wanted this to
7 be behind us.

8 And the document we drafted, I mean, you
9 know, honestly, I was surprised at the -- kind of
10 like the blow-back that we received from Selman
11 because, you know, like, I thought it was -- we
12 thought -- we tried to give him as much credit as
13 we could.

14 Like, I mean, he has done a lot for the
15 department over the years and he's taught courses,
16 he's invited students and -- but, like, you know,
17 in the end, like, we can't say that we -- we can't
18 say, oh, well, you don't have to teach your
19 courses, because that's what you do. And even if
20 you don't like the courses, and even if your
21 courses cancel, you know, you still have to teach
22 the courses you're assigned. And so, like, that's
23 essentially what that document said.

24 But, you know, I don't know to what
25 extent, like, all of the drama surrounding this in

1 the subsequent years is because of a couple lines
2 in that or what.

3 But, you know, we -- we looked at
4 everything that you sent us or that Selman sent us.
5 And -- and numerous times since then I've tried to
6 reach out and say as much, is that I did as much as
7 I could, and I really went to bat and tried to
8 do -- I looked at everything. I tried to get all
9 the information that he had, and I've looked at
10 everything he's ever sent me. Everything he's ever
11 told me about this, I've looked at it. And it
12 just -- if there was any more, I'd look at it. If
13 he sent me something, I'd look at it, I'd read it.

14 But, like -- and if there was something
15 different that indicated that there was a fraud or
16 that -- you know, then I'd be open to it. But he
17 hasn't sent me anything. He hasn't presented any
18 more information.

19 And so it's just been hard, because I
20 feel like I've really tried to help here, and, you
21 know, because of my trying to help, I've been sort
22 of harassed and, you know, our friendship, or what
23 I thought was our friendship, is like, you know,
24 sort of meaningless if I'm not able to compromise
25 my integrity to say something that I don't believe

1 in.

2 Q (DR. PROMISLOW) Can you just briefly summarize the
3 primary decision?

4 A Yeah, I mean, I think I more or less did, but I'll
5 do it briefly.

6 I mean, we said, you know, we thought
7 that -- you know, that the chair had the ultimate
8 power to assign classes, that he did that, that
9 Selman chose not to teach a course he was assigned.
10 And after looking at all of the -- all of the
11 evidence of the course cancellation and the -- and
12 anything else that was submitted, we didn't see any
13 reason to -- you know, for him not to have taught
14 the course he was assigned. And so we couldn't
15 recommend to the provost that she rescind her
16 letter.

17 But despite that, we did, you know,
18 applaud him for the work that he did with the
19 course that he taught, the other course that he
20 taught, and I think sort of reiterated this -- the
21 fact that we had -- that he'd been given a course
22 release.

23 DR. PROMISLOW: I'm not done, but is this
24 sort of a natural point -- if you are going to
25 break for lunch, this is a good place to do it.

1 Otherwise, I can continue.

2 MR. REIFENBERG: So you're not done with
3 this witness?

4 DR. PROMISLOW: I'm not done, but
5 probably -- I may be another ten minutes, but I
6 don't know. But we could break or -- I don't know.

7 MR. REIFENBERG: Let's break for lunch
8 and come back.

9 DR. PROMISLOW: Okay. And then we'll
10 come back.

11 MS. DOUKOURE: Before we go, are you
12 going to admit this document or not?

13 DR. PROMISLOW: Oh. I forgot I had a
14 document there.

15 I'd like to move to admit, yes.

16 MS. DOUKOURE: I have no objection.

17 THE WITNESS: Is this the document we're
18 discussing now?

19 DR. PROMISLOW: This is -- well, that's
20 what we started with. Anyway, we got to move to
21 admit. So it is now CP-57.

22 MARKED FOR IDENTIFICATION:

23 CHARGING PARTY EXHIBIT 57

24 12:41 p.m.

25 MR. REIFENBERG: So the document has been

1 submitted.

2 DR. PROMISLOW: So now we're breaking for

3 lunch?

4 MR. REIFENBERG: Now we'll break for

5 lunch.

6 DR. PROMISLOW: When do we reconvene?

7 MR. REIFENBERG: Well, it's usually 1:15.

8 DR. PROMISLOW: But we are a bit late.

9 MR. REIFENBERG: We lost about 15

10 minutes.

11 Do we want to come back at 1:15 or 1:30?

12 (Discussion held off the record.)

13 MR. REIFENBERG: Okay. So we'll come

14 back at 1:30, and we'll break at 3:00.

15 MS. DOUKOURE: That's fine.

16 (Lunch break taken from

17 12:42 p.m. to 1:37 p.m.)

18 Q (DR. PROMISLOW) I'd like to hand you -- I hope it's

19 okay -- four consecutive CPs: 47, 48, 49, 50.

20 DR. PROMISLOW: Is that okay? They are

21 different binder tabs. Tab 11.17, 11 -- should I

22 do them one by one or . . .

23 MR. REIFENBERG: Are they in sequential

24 order or no?

25 DR. PROMISLOW: Well, in sequential and

1 the CP-47, 48, 49, and 50. They are -- they are
2 four similar emails, not identical though.

3 MR. REIFENBERG: These are just before
4 you get to the Ss?

5 DR. PROMISLOW: Yeah. So the first one
6 is 11.17, Tab 11.17. I think if you see the first
7 one, then you may remember the other ones.

8 MS. DOUKOURE: Can you repeat that?

9 DR. PROMISLOW: The CP numbers are 47,
10 48, 49, 50.

11 MS. DOUKOURE: Okay. Thank you.

12 Are you giving them all to him?

13 DR. PROMISLOW: I am unless --

14 MS. DOUKOURE: I'm fine with that.

15 DR. PROMISLOW: Yes, just for efficiency.

16 Q (DR. PROMISLOW) So I just -- Matt, can you identify
17 these four exhibits?

18 A It looks like a sequence of four emails that Selman
19 sent to, oh, man, you know, all sorts of people.
20 But certainly our -- it's addressed to the math
21 faculty, which includes not just tenure stream
22 faculty but the postdocs and the postdocs that I --
23 that I supervise. It's addressed to people in the
24 upper administration. I'm not sure -- I mean, at
25 this time period I think some of the emails he was

1 sending were addressed to the NSF officers,
2 president of the American Math Society our
3 professional society, people in the State of
4 Michigan's government that I don't -- I didn't know
5 who they were before these -- maybe I looked them
6 up at the time, but I've since forgotten, but just
7 all sorts of people.

8 And I think all of these emails are more
9 or less -- have the same kind of -- have a section
10 which contains the body of maybe the first email.
11 It's addressed specifically to myself and the other
12 four members of the Academic Review Committee.

13 JUDGE WHITBECK: Can we stop just for a
14 minute? Off the record.

15 (Discussion held off the record.)

16 Q (DR. PROMISLOW) Can you just remind us roughly of
17 the dates of these? When were they?

18 A Yeah. They started in kind of mid to late January
19 2018. Continues January 22nd, January 30th,
20 February 2nd, March 1st.

21 And, you know, basically content of this
22 section or this initial letter and subsequent
23 recopying of it, you know, more or less accusing
24 myself and the other members of the committee of
25 fraud, you know, of -- you know, of not -- I

1 re-read this recently, and, you know, I -- because,
2 you know, I hadn't thought about it or tried to
3 whittle it out of my brain for a while.

4 But, you know, I -- you know, it
5 alludes -- you know, it says -- you know, it
6 asserts that we didn't fact check, which I've
7 disputed all along. I mean, I sent him emails and
8 got responses indicating that he had sent us
9 everything he thought relevant.

10 So it seemed disingenuous to say
11 something like that, particularly in front of this
12 broad audience. It accuses us of signing a faulty
13 document, alludes or perhaps explicitly says
14 that -- you know, that we didn't write this
15 document ourselves and -- which I indicated to him
16 in private communication since and before -- since
17 the initial dissemination of the -- our document
18 and before these emails were sent, I calmly had
19 tried to politely de-escalate the situation and
20 explain to him that I did go into a great -- I went
21 to great lengths to look at all the documents he
22 sent us and to examine the case from all the
23 possible angles that we saw. And that I took a lot
24 of time personally, and as a group we took a lot of
25 time trying to put aside any kind of biases or

1 initial -- initial ideas about the case and just
2 look at what the facts were and try to write a
3 reasonable document, and that it wasn't just a
4 matter of, as he indicates to us, sort of signing
5 some -- or, you know, as he frequently said
6 throughout the course of, I don't know about these
7 emails, but many of the emails rubber stamping as
8 he liked to say a document for the dean and for
9 Keith, you know. For what purposes? You know, he
10 often alluded to for the purpose of garnering
11 raises ourself or having -- seeking, you know,
12 reward somehow. I mean, that wasn't the case, you
13 know.

14 This email sort of accuses us of fraud
15 and, you know, not checking with him, and trying to
16 advance our own careers somehow by besmirching his
17 reputation. And it links to some documents that I
18 found quite slanderous. Like this minions document
19 that accuses me by name and my colleagues here of,
20 you know, all sorts of things.

21 MS. DOUKOURE: I'm going to have to
22 object because there hasn't been a question for at
23 least three minutes.

24 Before we left for lunch -- I don't mean
25 to be disrespectful, I really don't -- but before

1 we left for lunch, this witness talked for 45
2 minutes without a question being asked.

3 Professor Promislow asked him a very
4 specific question which he has now answered, and
5 he's continued to talk without direction for three
6 minutes.

7 I would ask there be direct questions for
8 the witness.

9 MR. REIFENBERG: Do you have questions
10 about this document?

11 DR. PROMISLOW: I do have a question, but
12 I didn't want to interrupt him. I thought I was
13 supposed to -- the objection -- last time I was
14 putting words in his mouth, now -- a balance.

15 Sorry. I'm also learning.

16 MS. DOUKOURE: I find that to be sort of
17 disrespectful to me. And I have to say that the
18 way his flippant comments to me, that's like the
19 third time today about, oh, I thought we were
20 supposed to do this, oh, balance, and then
21 motioning to me, I find that to be disrespectful,
22 and I would ask that Professor Promislow not do
23 that to me. I have not done that to him.

24 DR. PROMISLOW: Thank you.

25 Q (DR. PROMISLOW) Okay. So can you describe sort of

1 the impact that these emails had on you when you
2 received them?

3 A Well, I thought that they were inappropriate to
4 send this type of email with all of those -- all of
5 the people that were cc'd on them. I didn't think
6 that those people that were cc'd, particularly like
7 my NSF officer, the president of the MS. I mean, I
8 don't -- I thought that, you know, sending an email
9 accusing me of things that I didn't do and
10 misrepresenting the facts of the situation to this
11 broad audience was potentially damaging to myself,
12 the other members of the committee, and -- but,
13 more than that, to the department as a whole. I
14 thought this was really a destructive type of
15 behavior for our department and for our ability to
16 maintain its success.

17 Q Did you feel that Professor Akbulut was trying to
18 offer you new information in this process?

19 A I didn't --

20 Q Was he giving you something you hadn't already
21 reviewed?

22 A No.

23 Q At this point were you still in frequent
24 communication, personal communication, with
25 Professor Akbulut or . . .?

1 A No, not -- not on a regular basis.

2 Q So that had changed because of your interactions?

3 A I had found it difficult to talk with him in person
4 for a while after some unpleasant experiences I had
5 in his office, and I think we had a different
6 opinion about the nature of our conversations. But
7 they were -- certainly on my part I was emotional.
8 I felt kind of -- you know, I -- at some point I
9 indicated to him that I was trying to help him and
10 that I was trying to -- as I recall, said something
11 of the form that I was trying to reintegrate him
12 into the department.

13 He had, you know, in the course of our
14 many conversations in the spring of 2015, he had
15 indicated to me that he felt that his opinions
16 weren't taken seriously within the department and
17 that he was being shut out. And so I said I was --
18 I had said something at one of these conversations,
19 you know, I'm trying to, you know, reintegrate you
20 or trying to bring you back in. And he really got
21 angry about that, at least that's my recollection
22 of it. He disputes this in the course of his
23 emails.

24 And I think he raised his voice at me and
25 told me how dare I and said something to the effect

1 of I shouldn't be talking to my elders that way.
2 You know, he said -- in email form in that
3 conversation he said, you know, I've been in this
4 department since you were born and sort of accused
5 me of disrespect, which I didn't think I was
6 displaying.

7 And so after that it was upsetting for
8 me, and, you know, I was -- you know, maybe I was
9 angry too. But it was certainly upsetting in a way
10 that made it difficult for me to talk about this
11 subject with him after that, after those
12 conversations, because this happened twice.

13 So it was -- so after that I didn't
14 really -- I tried on several occasions to
15 communicate with him via email about this and tried
16 to have calm and rational discussion with him in
17 that context, but these emails that you're
18 referring to occurred after that.

19 Q Okay. Thank you.

20 I'm going to hand you CP-28, Binder Tab
21 11.20. CP-28.

22 JUDGE WHITBECK: Did you move 47, 48?

23 DR. PROMISLOW: Oh. These are already
24 admitted, right? I hope? 47, 48, 49, 50 are in
25 evidence.

1 MR. REIFENBERG: Is Item 20 also -- is it
2 also in evidence? Because I think we've seen this.

3 DR. PROMISLOW: So the first four were in
4 evidence and this one is also. This is CP-28.

5 Yeah, this is in evidence. This is CP-28, Binder
6 Tab 11.20, and there's three pages. It's three
7 pages.

8 Q (DR. PROMISLOW) So do you recognize this document,
9 Matt?

10 A Yeah. This is an email that Selman sent to the
11 math faculty. So, again, this includes postdocs
12 under my supervision. And the document is a list
13 of raises that -- percentage raises plotted next to
14 or copied next to number of publications in the,
15 you know, review database MathSciNet during various
16 time periods. And so that's what the document is.

17 Q Could you just either read or briefly summarize --
18 there's a highlighted sentence in the middle of the
19 text on the first page that starts, really, the
20 quote "note that."

21 A "Note that the top seven raises in the 2016 list go
22 to you," referring to Keith, "plus four of five
23 colleges" -- I mean colleagues I assume -- "who
24 signed that faulty document about my academic
25 record to justify Dean Kirkpatrick to penalize me

1 in that year. The list which was averaged over
2 five years is not that much different."

3 Q Okay. That's fine.

4 So what did that mean to you, that
5 sentence? What did you infer?

6 A Well, he was -- I think this was -- clearly tried
7 to insinuate that myself and others of this
8 committee were being rewarded monetarily through
9 our cooperation and his penalization and that he
10 was being at the same time penalized for, you know,
11 his behavior.

12 Q So what impact did this have on you?

13 A Well, so on me personally, you know, I -- like, I
14 think that -- we're all mathematicians in our
15 department, so I thought, like, well, anybody in
16 the department seeing this has got to realize that,
17 you know -- you know, look at this list over five
18 years, which is more relevant than the other one,
19 that, like -- you know, although maybe he had a 9
20 percent raise from 2012 to 2016, 9 percent of a lot
21 is a lot more than, say, 64 percent of nothing.

22 And so -- so, I mean, like, I kind of
23 knew, like, everybody realizes these numbers
24 aren't -- aren't really that telling. But, you
25 know, what bothered me about it was that, in

1 particular, this was sent to postdocs in our
2 department. So this is sort of trying to stir up
3 controversy, trying to indicate that I'm being
4 rewarded. It's trying to sort of make me or my
5 colleagues look bad by number of publications
6 versus the number of publications he had during
7 that time period. And so it is sent to my
8 postdocs.

9 But what really struck me about this and
10 what bothered me a lot is that not only was this
11 sent to, you know, my colleagues and my -- and --
12 and subordinates within the department, but it --
13 you know, this was sent -- and there's all these
14 other people at the University. But what bothered
15 me is that this was also sent to my colleagues at
16 other institutions. And those people aren't cc'd
17 here. Because I heard from colleagues at other
18 institutions that they received this email.

19 And so it's at this point that I start to
20 think to myself, well, where are all of these
21 emails going to? Where are all the people that are
22 blind cc'd or that are just being sent copies of
23 these emails?

24 And, you know, at that point I started to
25 really question, like, you know, what kind of

1 effect this is going to have on the department and
2 our ability to recruit faculty and retain faculty.

3 And the other -- yeah. So it also sort
4 of targets my wife and specifically with who is the
5 leader of the sort of raise percentages. But, you
6 know, what it doesn't say, which everybody that was
7 a senior faculty and that was there since we were
8 hired knows is that this raise reflects the fact
9 that she was moved out of Lyman Briggs and carried
10 with it just -- it's just a raise that made her
11 salary commensurate with other assistant professors
12 in the department.

13 And, you know, the sort of lower number
14 of publications doesn't sort of reflect that, you
15 know, during this time both she and I were on
16 parental leave. I felt like that we were targeted
17 for that. And that at that time period she was
18 also doing a very important service work for the
19 department involving Math 124 curriculum
20 redevelopment.

21 So she felt particularly targeted by
22 this. And, you know, due to our close
23 relationship, that hurt me as well.

24 Q Just as a point of -- you know, if I could clarify
25 that your wife is Teena Gerhardt?

1 A Yes, Teena Gerhardt spelled with a T.
2 Another -- you know, he always misspells
3 her name in every email that she's ever been in and
4 frequently misspells my name. And I don't know if
5 that's intentional, but, you know . . .
6 Q Okay. I'm going to hand you one last document
7 here, Tab 11A.
8 JUDGE WHITBECK: Page?
9 DR. PROMISLOW: It's a little bit
10 complicated. It is one page and then blue sheets
11 that separate four emails.
12 Is it okay if we grab them all at once
13 just for convenience, all the contents?
14 MR. REIFENBERG: Say that again?
15 DR. PROMISLOW: Tab 11A as in alpha, 11
16 alpha. And it's one piece of paper and then four
17 emails each separated by a blue sheet of paper.
18 MS. DOUKOURE: Are you entering all
19 these?
20 DR. PROMISLOW: I was going to hope to
21 enter them all as one. Is that okay? Is that
22 acceptable? They are in one tab.
23 MS. DOUKOURE: Four total documents?
24 DR. PROMISLOW: Well, that's a good
25 question.

1 MS. DOUKOURE: Or five maybe?

2 DR. PROMISLOW: It's five pieces of paper
3 from one tab. I do not know the form.

4 Is it going to be five? I would like to
5 do it as one item. I'd like to enter it as one
6 exhibit.

7 MS. DOUKOURE: I'm just making sure it's
8 five pieces of paper.

9 DR. PROMISLOW: Yeah, I don't have the
10 page count. It's one and then four emails. I
11 think some of the emails have two pages.

12 JUDGE WHITBECK: I'm totally lost.

13 DR. PROMISLOW: Okay.

14 JUDGE WHITBECK: What tab are you?
15 Don't come up here, just tell me.

16 DR. PROMISLOW: Tab 11A as in alpha.

17 MS. KELLEY: Toward the back of 11.

18 MR. REIFENBERG: And then you're saying
19 that you want to include several emails?

20 DR. PROMISLOW: Yeah, and all of the blue
21 sheets of paper. Everything that's -- there's
22 emails separated by pieces of paper.

23 MR. REIFENBERG: Four emails.

24 DR. PROMISLOW: The emails are labeled 1,
25 2, 3, 4.

1 Everyone with us?

2 MS. DOUKOURE: I just want to clarify how

3 many pieces of paper I'm supposed to have, because

4 the tabulation on this is not --

5 THE WITNESS: It looks like seven to me.

6 One, two, three, four, five, six, seven sheets of

7 paper --

8 DR. PROMISLOW: Seven sheets of paper.

9 THE WITNESS: -- separated by four blue

10 sheets what I have here.

11 MS. DOUKOURE: Okay. Thank you.

12 THE WITNESS: Is that what you have?

13 MS. DOUKOURE: I think so, yeah.

14 DR. PROMISLOW: Seven sheets of paper,

15 four blue separators.

16 MS. DOUKOURE: Thank you.

17 Q (DR. PROMISLOW) Okay. Can you look at the first --

18 the top sheet of paper? Do you recognize this

19 document?

20 A Yes.

21 Q Can you explain it to us? Can you explain its

22 context?

23 A This is a statement of impact that I wrote. It's

24 in response to the preceding four years or so of

25 events and the behavior that Selman had

1 demonstrated towards myself and my colleagues
2 regarding our participation with the review
3 process.

4 I talk about -- I just mention that he'd
5 sent emails that target me and other members of the
6 committee to all sorts of people, including my NSF
7 program officer and president of the American Math
8 Society I mention, and that I considered leaving
9 the University because of the way he's been
10 treating me.

11 And, you know, on the second paragraph I
12 say this is really concerning. And it's not just
13 because it's hurtful but because I worry that --
14 you know, that we're going to have a difficult time
15 recruiting and retaining faculty, postdocs, grad
16 students because of this behavior.

17 You know, it's really led to a toxic
18 environment where people were scared to write
19 emails in our department and, you know, that people
20 don't want to do service work, because every time
21 somebody's on a committee and they have to write an
22 email, you know, you know you're going to get, you
23 know, into the fray, because Selman is going to
24 start, you know -- every time I'm on a committee or
25 Jeff's on a committee we get these emails that --

1 saying we don't -- we aren't qualified to do this
2 because we're frauds or -- and so, you know, I just
3 leave it that I think this behavior has to stop in
4 order for us to function as a department, function
5 successfully. We have to have that stop. And I,
6 you know, wish that --

7 Q Have your feelings changed since you wrote it?

8 A No.

9 Q You did write this yourself? These are your words?

10 A Yeah, these are my words.

11 Q Can we -- can you look at the second email? So
12 skip over email one and turn to email two. It
13 should be --

14 A The second email?

15 Q There's a blue marker. It's the second email.
16 It's page 3.

17 A Page 3? Okay.

18 Q I think this should be the third -- my notes, it's
19 the third page. I don't --

20 MS. DOUKOURE: It is the third page.

21 THE WITNESS: "Where is my grievance
22 process?"

23 MS. DOUKOURE: Yes.

24 Q (DR. PROMISLOW) Can you just identify who it is
25 from and to?

1 A It's to Matthew Hedden, and the entire department
2 is, again, cc'd. Terry Curry. So the department,
3 again, includes postdocs, staff. I don't know
4 whether it's graduate students.

5 Q So this was an email that -- is this an email
6 that -- did you submit this as part of your
7 statement of impact?

8 A I did.

9 Q So this is something you attached yourself? Okay.

10 So can you give us the context of this
11 email? What's going on right now? How did it --
12 what was the exchange that's going on?

13 A This was an email exchange that actually started
14 nearly a month prior to this.

15 So at that time one of our former
16 colleagues had been asked his opinion about the
17 qualifications of Selman for a distinguished
18 lecture series at the University, and our former
19 colleague basically said he didn't think it was a
20 good choice for that, but said some really nasty
21 things, you know, hurtful things in the process.

22 And that email that he -- that our former
23 colleague had sent saying some sort of unflattering
24 words about Selman got out to that department and
25 was subsequently made known to Selman.

1 After that Selman, you know, wanted to
2 find out who did this and was emailing our
3 department on numerous occasions during that time
4 period saying, you know, who did this to me. Who
5 would say these horrible things, you know. Or,
6 like -- you know, or I'm glad that you're -- you
7 know, my colleagues think so highly of me.

8 So at that point, you know, I -- you
9 know, I could understand where he's coming from.
10 Yeah, it was hurtful things, and I would be hurt in
11 that situation.

12 So I wrote him an email. I said, you
13 know, Dear Selman, like, needless to say, I didn't
14 write those things about you, Matt, just trying to
15 reach out, you know.

16 And Selman wrote me back and said
17 something to the effect of, you know, thank you
18 but, like, you need to take your name off this
19 document that you signed.

20 And then he said, you know, why -- and at
21 some point I think he asked me why wasn't I
22 consulted. Why didn't you ever consult me. How
23 could you do this. You need to take your name off
24 the document.

25 Which I responded saying, look, I think I

1 consulted you, and I made a copy of the email that
2 -- where I consulted you. This was me consulting
3 you.

4 And I said, look, I wrote an email saying
5 I did everything I could do to take all that you
6 sent me and read it and do the best I could with
7 it. And I said in that email, you know, and
8 because I did this, and I don't agree with the way
9 that you sort of saw the events, that, like, I felt
10 like you're going to bully me for forever because
11 of this.

12 And it wasn't that I'm trying to get at
13 you. I'm not trying to hurt you. I just can't act
14 like -- I saw it differently. I saw what you gave
15 me, I saw what you gave -- and I looked at all that
16 stuff, and I just didn't see it that way. I
17 thought you had to teach your class.

18 And because I said this and because I
19 didn't sort of say something I didn't think was
20 true, I felt like now I'm going to have to live
21 with this for the rest of my life.

22 And so then after I sent that email he
23 sent me the contents of the email that you just
24 brought up, this asking these questions.

25 Q Okay.

1 A He sent that to me personally at the time.

2 A couple weeks later I sent him the email

3 that's before that in your binder regarding a

4 seminar that we had to coordinate. And then at

5 that point I had had some time to reflect and said,

6 you know, here's the answer to your questions that

7 you asked me. And you can read my answer. I

8 thought it was -- you know, essentially what I --

9 it outlines sort of the reason that I came to my

10 understanding of the events surrounding his course

11 cancellation and why -- why we did that.

12 Q So, I guess, draw your attention -- so email two at

13 the bottom paragraph, three lines down there's a

14 sentence that has the words "true and false" in all

15 caps. Could you just read that one sentence?

16 A "Either something is true or false. There is no in

17 between."

18 Q Does that have any -- what does that mean to you?

19 A Well, you know, this combined with many other

20 things that were said in similar types of kind of

21 stark dichotomies, you know, I just took it to mean

22 that there's not -- you know, it was going to be

23 very difficult or more likely impossible to come to

24 any kind of resolution. It was either everything

25 he says is true and I agree with everything he says

1 and I rubber stamped it, so to speak, or I'm
2 against him. And that's just not the way I see it.
3 I thought -- I thought I'd look at the evidence and
4 I'd do with it the best I can.

5 Q Okay. So on the third email, I think it's the
6 fourth page of all this, email three, just look at
7 that. You already talked about this, I believe, in
8 this prior testimony, brought up many points, but
9 if there's anything you would like to add without
10 recapitulating everything, just -- is there
11 anything in this fourth email that -- I'm sorry,
12 this third email, fourth page, email three,
13 particularly your --

14 A "Dear Selman, I already responded to your
15 questions"?

16 Q Yeah. Is that --

17 A That one?

18 Q Yes. Is there something there -- is there anything
19 there that jumps out at you that you want to add
20 that you didn't cover already?

21 A You know, just that, like -- that this is me
22 again -- he had sent that previous email to the
23 entire department. This is me again trying to take
24 it back to a level of where I can converse with him
25 in a rational way and trying to give him my

1 perspective. And the fact that then this email was
2 also taken and put piecemeal in front of the
3 department and I don't know who else. You know, it
4 became clear to me after this that there was no way
5 for me to have a conversation with him about it
6 that would not be adverse for the department.

7 I wanted to talk with him about it, I
8 wanted to talk rationally and calmly about it, but
9 it became clear that it wasn't going to happen
10 because I was at risk of exacerbating the problem
11 from the perspective of the department any time I
12 would try to reach out.

13 Q So you said that he responded in a piecemeal
14 fashion. You're referring to email four now? Is
15 that the next email?

16 A In email four he just took snippets of what I said
17 and, again, forwarded them on to the whole
18 department, again including people that I'm
19 responsible for who I'm going to write letters of
20 recommendation for who were counting on me to sort
21 of further their careers who are under the
22 impression when they're hired into the department
23 that the topology faculty acts as a group and that
24 we can get along.

25 And, you know, it just -- you know, it

1 contradicts everything I say, which is fine, but we
2 have a different opinion. I know that
3 conversations can be taken different ways. And so,
4 you know, I remember it differently than him.

5 But it wasn't a -- yeah. I just -- like,
6 this kind of discourse wasn't going to be
7 productive. And I didn't see a way for us to move
8 forward with de-escalating, you know, this
9 situation or coming to some kind of resolution
10 between he and I personally or the department more
11 generally.

12 Q So how has your perception of Professor Akbulut
13 changed since the olive branch agreement in summer
14 of 2015?

15 A Well, I mean, I thought at that time period that I
16 could talk to you rationally, that we could have a
17 conversation about it, and that there was some hope
18 that this could be resolved in a way that was going
19 to continue -- that was going to allow the
20 department to function in a positive way.

21 And, like, you know, lots of times you
22 said, "I'm never going to let this die." And at no
23 point when I tried to explain myself and my
24 perspective did I ever feel like you were hearing
25 it or listening.

1 And, you know -- and, like, this
2 impact -- you know, you refer to this as hate mail,
3 but I don't hate you. I've never hated you. Like,
4 that hurts when you say that I hate you, that this
5 is hate mail or a hate letter. I don't hate you.

6 You know, I'm, like, dreading this.
7 Dreading this. I don't want to do this. This is
8 the last thing I want for you or this department.
9 I don't want you out of this department. But we
10 can't function with your behavior.

11 And if I thought there was any way that
12 you were going to drop this and stop harassing us
13 and stop every time somebody sends an email that
14 it's going to inflame the department and there's
15 going to be all this chaos and that you're going to
16 spread misinformation about us, like, I would say,
17 yeah, come on.

18 And I could resolve this, I could go
19 back -- I'd be happy to go back, because you have
20 lots to offer. But, like, it can't -- right now we
21 can't function as a department with the way that
22 things are.

23 And so, you know, this is the last place
24 I want to be, but I don't feel like I have a
25 choice.

1 DR. PROMISLOW: Move to admit.

2 MS. DOUKOURE: I have no objection.

3 MR. REIFENBERG: So you're admitting all
4 these emails and the --

5 MS. DOUKOURE: Just for clarification, if
6 I could ask one question of the witness
7 specifically just about these documents, not the
8 contents of them? If that's okay, I just want to
9 voir dire.

10 VOIR DIRE EXAMINATION

11 BY MS. DOUKOURE:

12 Q It's my understanding from your testimony that
13 you -- the emails that you just testified about you
14 submitted with the letter that you wrote; correct?

15 A Yeah, I submitted these and a bunch of other emails
16 as well.

17 Q Okay.

18 A Like the ones that I alluded to that sort of lead
19 up to the ones that were there in particular, and a
20 number of other ones too that I think maybe you've
21 seen in other contexts, I don't know. Probably
22 other people were privy to those emails as well.

23 MS. DOUKOURE: Then I have no objections
24 to them being submitted as a unit because they were
25 utilized --

1 DR. PROMISLOW: As a unit.
2 MS. DOUKOURE: -- as a unit.
3 DR. PROMISLOW: That's exactly my term.
4 JUDGE WHITBECK: What's the number?
5 MS. KELLEY: 58. 58.
6 DR. PROMISLOW: Oh, 58.
7 MARKED FOR IDENTIFICATION:
8 CHARGING PARTY EXHIBIT 58
9 2:11 p.m.
10 DR. PROMISLOW: No further questions.
11 CROSS-EXAMINATION
12 BY MS. DOUKOURE:
13 Q Professor, do you pronounce your name Hedden or
14 Hayden?
15 A Hedden.
16 Q Hedden?
17 A Yep.
18 Q My name is Amy Doukoure. I'm an attorney that is
19 representing Professor Akbulut in these
20 proceedings.
21 Do you have any objection to me sitting
22 and questioning you?
23 A No.
24 Q Okay. It was your testimony you sat on the
25 Administrative Review Panel that over -- that

1 overheard the review after the penalty was already
2 given; is that correct?

3 A Yes.

4 Q And during that time, you and other members of the
5 panel, but you specifically, reviewed a lot of
6 information presented by both parties; correct?

7 A Yes.

8 Q Did you interview any people?

9 A Like in person?

10 Q Yes.

11 A Did we bring somebody in?

12 Q Yes.

13 A No.

14 Q Did you as a collective group allow him to come in
15 front of the Administrative Review Panel and
16 provide testimony?

17 A No.

18 Q Did Professor Promislow provide any testimony at
19 the review panel hearing?

20 A No. Nobody -- nobody was seen before us. Nobody
21 came in person in front of our -- in front of our
22 group.

23 Q So you reviewed just documents; correct?

24 A What's that?

25 Q I'm sorry. You reviewed just documents; correct?

1 A Just documents. And we solicited documents and
2 opinion by email.

3 Q Sure. And you stated that you reviewed a graduate
4 course registration with time stamps; correct?

5 A Correct.

6 Q Do you know -- are you -- do you recall any of the
7 numbers specifically with those classes?

8 A I -- I mean, at this point, the exact numbers, I
9 can't say something definitive. But I do know
10 that -- and I also should say that we got these, I
11 believe, from Rick Hensch. And I was not the
12 person that got them from Rick Hensch.

13 Q But you did review them?

14 A But we did review them and we -- yeah.

15 Q Do you know if Professor Goldberg (phonetic) had a
16 class labeled as Analysis II that semester?

17 A No, I don't know.

18 Q And it's your testimony here today that -- well,
19 let me ask you.

20 The policy that listed -- that required
21 five or more students to be in a grad course, that
22 was a new policy; correct?

23 A I don't know that it was a new policy insomuch as
24 it was a new implementation of the policy very
25 similar to what had been in practice before in

1 terms of the actual numbers.

2 Q But I believe that you testified -- and if I'm

3 wrong, correct me -- that Professor Promislow when

4 he became chair moved up the date specifically for

5 when registration would be reviewed and classes

6 would be dropped?

7 A I don't know whether it was Professor -- I don't

8 know whether it was Professor Promislow that -- I

9 would say that it was the director of graduate

10 studies who had the new -- had the new date. And

11 it was -- may well have been in response to a

12 request from Keith or perhaps from Jeanne Wald over

13 the director of undergraduate studies because we

14 were having hard -- very serious issues at the time

15 with not knowing who was teaching --

16 Q Sure.

17 A -- coming up to the semester.

18 Q But that -- but that was the first year that it was

19 moved up that early?

20 A That was the first year it was moved up that early,

21 yeah.

22 Q Okay. That was, really, the course of my question.

23 A Yes.

24 Q It wasn't very eloquently asked, but that was the

25 course of my question.

1 And you also testified that since that
2 date that the policy is much more flexible; isn't
3 that correct?

4 A I mean -- yeah, it is. I mean, I think so. So now
5 we actually have lowered the requirements to have a
6 graduate course.

7 Q What's the current requirement?

8 A I don't -- I don't know, honestly. It's
9 embarrassing.

10 Q That's okay. But it's less than five?

11 A Given that I think I was part of the body that --
12 yeah, I think three or four maybe has to --

13 Q But definitely less than the five that was --

14 A It's less than the five. I mean, but I think this
15 is not just in response to that but it's also in
16 response maybe to a change -- changes in our
17 graduate program. There's a lot of changes that
18 occurred. And so I don't know how to link them all
19 together.

20 Q Sure. And I'm not going to ask you to link them
21 together, honest.

22 And so the requirements were lowered.

23 Did the date remain the same for dropping
24 courses?

25 A I don't know. It's still significantly earlier

1 than it used to be, maybe even earlier than the one
2 in which -- in the semester which it occurred, but
3 I don't know for sure.

4 Q So what's the date this year, do you know?

5 A No. I know that when it happens, I'm well aware of
6 it and everybody in the department is well aware of
7 the date.

8 Q Sure. Do you know whether or not -- and if you
9 don't, you can just say you don't -- the course
10 that Professor Akbulut was supposed to teach in
11 replacement of the one that was dropped, do you
12 know whether or not that class was already
13 scheduled or if that's something they developed
14 just to give Professor Akbulut another class?

15 A Well, Math 124 has many, many sections, and it's
16 always scheduled, yes.

17 Q Do you know if the section that he was scheduled to
18 teach had already been scheduled?

19 A I don't know.

20 Q You testified that the class that he ran which was
21 labeled as a reading course was actually not a
22 reading course; isn't that true?

23 A He ran it like a traditional course, yes.

24 Q So the students received all of the benefit of a
25 traditional course?

1 A Yes. I didn't sit in the class, but that was my
2 understanding --

3 Q Sure.

4 A -- based on talking with students and him.

5 Q I'd like to go over one of the exhibits that you've
6 spoken about already, so I'm going to hand it back
7 to you. And now that I've handed it to you, I'll
8 be able to reference it. I would like to go over
9 what is complaining party's Exhibit 57. It's
10 13.1A.

11 Do you remember testifying hours ago
12 about this document?

13 A Yeah.

14 Q All right. This is the document that -- that's an
15 email between -- actually, it's sent to the entire
16 hiring faculty which would be -- which would
17 include you; correct?

18 A Correct.

19 Q And you said that this document was created in
20 response to some mediation that you had done to try
21 to resolve the issue of the abrogation of duty
22 penalty, the tension that was causing; correct?

23 A Yeah, that's correct.

24 Q Do you believe that the statements made in this
25 document are a full and accurate representation of

1 how people felt at that time?

2 A Well, no.

3 Q Who didn't feel that way?

4 A Clearly Selman.

5 Q Other than Selman, the statements that were made

6 specifically with regard to paragraph number 3, the

7 statements that were made about the Advisory

8 Committee, you stand by those statements that are

9 made that are attributed to the committee you sat

10 on?

11 A Yeah.

12 Q You stand by it?

13 A Sure.

14 Q Sure. So you believe that at this time when this

15 document was created, you believe that everybody

16 was acting in good faith?

17 A At this time, yeah. I should say that when this

18 document was written, I did not have access to all

19 the information that had been submitted by either

20 Selman or Promislow that we looked at and reviewed

21 when we did the academic review. So I was acting

22 just on what I had been told from Selman at that

23 point.

24 Q But you believed at that time that everybody was

25 acting in good faith?

1 A I believed at that time, yeah.

2 Q And that you believe there might have been
3 miscommunication?

4 A Yeah.

5 Q And you believe that Professor Akbulut actually
6 taught a class and substituted a class that was
7 dropped?

8 A Well, I believe that he taught a class, yes.

9 Q That was similar in substance if not the same?

10 A I believe he taught a class that was, you know, the
11 class that he wanted to teach.

12 Q So he did teach a full class with all the
13 requirements that that would hold?

14 A I don't think that all the requirements that would
15 hold because it wasn't under the -- I mean, there
16 are requirements in the University, and different
17 courses have different credit hours. I don't think
18 that that course had the requirements either for
19 his -- for his teaching load or for the teaching --
20 or for the credit load of the students.

21 Q That's not what I'm asking.

22 A Oh. So what --

23 Q Had he taught --

24 A -- are you asking?

25 Q -- that class, and it was allowed to be classified

1 as the Topics in Topology class, the content of
2 that class would have met the requirements for that
3 teaching assignment?

4 A Oh, yeah. That would -- the content of that would
5 have met the requirements for Math 996.

6 Q And that was --

7 A As far as I know, again.

8 Q Right. Right. And that was the basis for why you
9 thought that this was a fair settlement; correct?

10 A Yes.

11 Q Could you see -- and I'm not asking you to judge
12 Professor Akbulut's state of mind, just in general,
13 could you see or understand how, if somebody was
14 accused of doing something and received a penalty
15 that included not only a monetary penalty but also
16 a formal academic scratch or mark on their record,
17 and if there was a determination that he had acted
18 in good faith, and that maybe there was
19 communication, that he -- why that person might
20 want to have the written scratch removed from their
21 record?

22 A I can't see anybody not teaching a course they're
23 assigned as a university faculty.

24 Q That's not what I asked you.

25 A So ask me the question again, please.

1 Q If somebody said -- let's take you for instance.
2 A Okay.
3 Q If somebody said to you that you had done something
4 wrong that resulted in a penalty of money --
5 A Uh-huh.
6 Q -- and also an academic -- written academic scratch
7 or negative mark or something on your academic
8 record --
9 A Right.
10 Q -- and then it was later determined by people you
11 were acting in good faith and that the penalty
12 should be removed, wouldn't you also want the
13 written scratch removed as well?
14 A Not if I had done what the scratch was for. I
15 mean, if I had acted -- if I had -- if I had taken
16 an action and there was a consequence for that
17 action --
18 Q So if there --
19 A -- I would accept the consequences of my actions.
20 Q So if --
21 A These are -- you're talking about two different
22 things.
23 Q I don't think I am.
24 But if there's an honest mistake that
25 somebody made that led to a very serious blight on

1 their long and what you have categorized as a very
2 reputable reputation here and a -- and it was later
3 determined that it was sort of a mistake and
4 everybody was doing a good thing --

5 A Well, here's another question, I guess, is that --

6 Q You don't get to ask me questions.

7 A Okay.

8 Q You don't think that that person would want that
9 removed?

10 A He obviously wanted it removed. That was the
11 nature --

12 Q And do you think that's reasonable?

13 A -- of his complaint.

14 He can want what he wants. But I can't
15 give him what he wants if I don't believe him.

16 Q I'm not asking you if you can give it to him, I'm
17 asking you if you think it's reasonable that if
18 there was a finding that maybe this was an honest
19 mistake and he didn't intend to --

20 A We did not find that it was an honest mistake that
21 he didn't teach his class.

22 Q I'm not asking about your findings, I'm asking
23 about this letter. At this time you said it was an
24 honest mistake.

25 A We did not say that him failing to teach his class

1 was an honest mistake. That's not what we said.
2 We said that the mistake occurred with regard to
3 the course cancellation.
4 Q So if the course wasn't canceled, would he have
5 gotten the abrogation of duty penalty?
6 The answer to that --
7 A I would say --
8 Q The answer to that is no; correct? Because he was
9 assigned two classes. If one of them wasn't
10 canceled, he would not have been assigned another
11 class, would he?
12 A He was never assigned a third class.
13 Q That's not what I'm asking you.
14 A You just asserted a falsity.
15 Q No, I didn't.
16 A You said third class --
17 Q I asked you if his class was not canceled, would he
18 have received an abrogation of duty penalty for the
19 124 class.
20 A I don't know. If he was not born, he wouldn't have
21 received an abrogation of duty penalty --
22 Q That's not what I'm asking you. And I'd like the
23 combateness and the idea that you won't answer a
24 question because it doesn't really lead to the
25 result that you wanted is unnecessary.

1 A Well, if you think that there's only one answer,
2 then you've answered it.

3 Q Right. But I want people in this room to be honest
4 and answer questions honestly, that's all I'm
5 asking.

6 A Okay.

7 Q Would he have been assigned Math 124 had his class
8 not been cancelled?

9 A Obviously, no.

10 Q No. Right. And he was assigned an abrogation of
11 duty penalty for not teaching the 124 class;
12 correct?

13 A Correct.

14 Q So if he had not had his class canceled, and he
15 would not have been assigned 124, which he did not
16 teach, he would not have received the penalty that
17 he received; correct?

18 A Yeah.

19 Q That was very simple.

20 You testified earlier about Selman's
21 grant encumbrance in relation to Luke Evans;
22 correct? Or Luke Williams, I'm sorry.

23 A Uh-huh. Yes.

24 Q Yes. Just for the record, if you say uh-huh or
25 uh-uh --

1 A Sure.

2 Q -- the transcript reads exactly the same way.

3 And you testified that you saw emails

4 that Professor Akbulut had promised money to

5 visiting professors; correct?

6 A Yes, I saw those emails.

7 Q And you also testified that he might -- he probably

8 could have figured out a way to reallocate those

9 funds that were already promised; correct?

10 A I don't know for sure, but I wouldn't be surprised

11 if he could have.

12 Q Because sometimes that could happen, like where

13 Professor Promislow --

14 A Sure, I could imagine it happening, yeah. I didn't

15 keep track of them after the fact.

16 Q Sure. But it does happen from time to time where a

17 professor might promise money, and in reality those

18 funds --

19 A Yeah, but I think there's a process that -- by

20 which you have to do that.

21 Q Right. There probably is. Any time there's money,

22 there's a process; right?

23 But it is a possibility?

24 A I -- I said as much in the document, I mean, that

25 we wrote.

1 Q Did you see any emails from Luke Williams where he
2 stated that he was told that he couldn't register
3 for Professor Akbulut's class because of a
4 one-credit restriction?

5 A I didn't see any that he said that he couldn't
6 register, no. But I don't -- I mean, I didn't
7 review the email recently. It's been years now.

8 Q Okay. So it's a possibility that it exists?

9 A No. I mean, we were pretty careful about looking
10 at that. And I looked at the document that we
11 wrote which reflects our very careful consideration
12 of it, and there was no document at that time that
13 said that Luke was not allowed to register.

14 Q There was no document from Luke saying that
15 somebody told him he couldn't register because of
16 his -- you testified about the fellowship; correct?

17 A Yes.

18 Q And the restrictions for that fellowship?

19 A Yeah. There was no requirement -- there was no
20 restriction on him registering, it's just that he
21 would have to pay. He wasn't ever prevented from
22 registering.

23 Q Has anybody ever taken a topology -- that Topics in
24 Topology class for one credit before?

25 A Taken a Topics in Topology for one credit?

1 Q Yes.

2 A I don't know.

3 Q It's possible that it's happened; correct?

4 A I don't know.

5 Q And a fellowship would have allowed Luke Williams

6 to take one credit; correct?

7 A I don't know.

8 Q If there was an email that said that, surely you

9 would have saw that; correct?

10 A If there was an email that said he could take it

11 for one credit?

12 Q No. If there's an email that said there was a

13 restriction on the fellowship, and he was only

14 allowed to take one credit pursuant to the

15 fellowship, you would have seen that email;

16 correct?

17 A We saw the requirements for the -- I mean, we saw

18 that there was an email from Luke that said that he

19 was not -- that he chose not -- he did not

20 choose -- he did not choose to take the course.

21 Q That's your characterization of the email?

22 A Luke said -- so Luke was made aware that he would

23 have to pay in order to take the course is my

24 recollection of it.

25 Q You testified just a few minutes ago that when

1 people are representing things that happen or
2 understanding things that happen, that two people
3 might understand those same things differently;
4 correct?

5 A Yes.

6 MS. DOUKOURE: I'm going to move to CP-47
7 through 50 which is -- it's the emails and the
8 documents that -- that he handed him all together
9 which are --

10 MR. REIFENBERG: CP-47?

11 MS. DOUKOURE: Yeah. CP-47 through 50
12 that -- they were presented to the -- and this
13 witness presented them all together, so I'm going
14 to present them all together again. And they're
15 11 -- Binder Tab 11.17, 11.24B, 11.25, and 11.33.

16 Q (MS. DOUKOURE) You testified previously just a few
17 minutes ago that none of these emails provided any
18 new information to you; correct?

19 A Yes, I testified to that.

20 Q And you testified that these emails accuse you of
21 committing fraud; isn't that correct?

22 A Yes.

23 Q Can you show me where are in any of these emails it
24 says that you committed a fraud?

25 A Have you looked at the links that these documents

1 go to?

2 Q I'm not asking about the links, I'm asking about

3 this document.

4 A He didn't use the word "fraud."

5 Q In fact, he says "faulty document"; correct?

6 A Faulty document.

7 Q And he says correction. He's not asking but more

8 likely demanding a correction from that faulty

9 document; correct?

10 A Yeah, he's demanding that, yes.

11 Q A correction of the faulty document?

12 A I mean, he's accusing us of being -- perhaps being

13 caused to do this.

14 Q Right. He's saying that something caused you to do

15 this?

16 A They, "they" being the administration. He's

17 indicating that we were coerced to sign a document

18 that we didn't believe in.

19 Q Did it say that you were coerced?

20 A "They may have caused you to do this."

21 Q Right. But them causing you to do that could also

22 be providing you with faulty information; correct?

23 A Yeah, sure.

24 Q I mean, as an equally likely interpretation of

25 those words; correct?

1 A Okay.

2 Q Thank you. I'd like to move on to CP-28 which is
3 Binder Tab 11.20.

4 JUDGE WHITBECK: Did you say 28?

5 MS. DOUKOURE: It is 28, and it's Binder
6 Tab 11.20. But it's also three documents that
7 follow -- follow that. I think they're all marked
8 20 though.

9 Q (MS. DOUKOURE) You recall testifying about these
10 documents; correct?

11 A Yes.

12 Q I know that sounds like a dumb question, but it's
13 sort of required.

14 Are these documents factually correct?

15 A I don't know.

16 Q Do you have any reason to believe that he falsified
17 your information?

18 A No.

19 Q Is this information publicly available to everybody
20 in the world?

21 A Yes. Well, no.

22 Q I couldn't go to the website right now and find it?

23 A No.

24 Q Are you sure?

25 A Yes.

1 Q Who is this information public to?

2 A Mathematicians with access to MathSciNet.

3 Q Could anybody with access to the University library

4 access this information?

5 A Anybody that has access to the -- to the online

6 database, which is not everybody. That's a paid

7 subscription.

8 Q You testified that this document does not reflect

9 many things including your publications. Does it

10 talk about your publications?

11 A It lists the number of publications on this

12 database and --

13 Q On this document.

14 A What?

15 Q Does this document list the number of publications

16 you have?

17 A My total number of publications?

18 Q Yes, this document here.

19 A You're asking whether or not this document here

20 lists my total number of publications?

21 Q Yes.

22 A No.

23 Q So when you testified that -- about your

24 publications with reference to this document, I'm

25 confused.

1 A I don't understand what you're confused about. Can
2 you clarify?

3 Q Yes. You testified that this document has some
4 correlation to how any publications that you made.
5 But this doesn't make any accusation about your
6 ability to teach, does it?

7 A No.

8 Q It doesn't make any accusations about your
9 intellectual abilities with regards to publishing?

10 A I think that the attempt of this document is to
11 make such a correlation.

12 Q I mean, you interpreted it that way; right?

13 A Well, it's listing the number of publications
14 during a certain time period that were on this
15 database.

16 Q Can you point to where on this document it talks
17 about publications?

18 A Oh. Oh, yeah, I guess it doesn't say anywhere
19 because he misspells publications. "Puplications."

20 Q Where at?

21 A "Number of puplications appear in MathSciNet 2011
22 to 2015." I interpreted that as publications, and
23 it was a typo.

24 Q I'm not sure where you got that.

25 A You have an email that says "Dear Keith. Since you

1 have been threatening me with obstructing my salary
2 raises, I decided to look at some list of people's
3 salary raises which I had looked at last year from
4 the library. Remember I had chosen --" is this
5 what you're looking at? I might have a
6 different --

7 Q Yes, I am.

8 A You have CP-28?

9 Q Yes, I do.

10 A Okay. That's what I'm looking at too. It's three
11 sheets of paper.

12 Q Yes.

13 A The second and third sheets are two kind of --

14 Q Oh, I see. I gotcha.

15 A Okay.

16 Q It's not in the body of the document -- it's not in
17 the body of the text, though; correct?

18 A No. No, it's not.

19 Q Okay.

20 A Yeah. I think that --

21 Q That's why I was confused. I think you and I were
22 talking about apples and oranges.

23 A I see. Okay.

24 Well, I just interpreted, you know, it to
25 be about the email and its content which includes

1 the attachments.

2 Q That's my bad.

3 So the email itself, the content of the
4 writing from Dr. Akbulut, does not mention
5 anybody's publications; correct?

6 A No. I guess those words that he said that -- in
7 the -- yeah, that doesn't -- doesn't seem to
8 mention --

9 Q And the highest percentage of raises go -- do go to
10 the people that he says that they go to; correct?

11 A Well, on this list, that's true. But, you know,
12 this is not our whole department.

13 And so that was another thing that was
14 kind of interesting about this, that why would
15 he -- for all I know there are lots of other people
16 that are not amongst the group that he's apparently
17 trying to target here that received high raises. I
18 don't know because I didn't --

19 Q Have all of them been there since 2012, all the
20 other people you speak about?

21 A Yeah. We have a faculty of, I don't know, upwards
22 of 50, 60 people in the department, and this just
23 lists the people that he's trying to pinpoint for
24 whatever reason. I mean, the five of us, it was
25 pretty clear why he was trying to target us, but --

1 Q It was clear to you; correct?

2 A Well, it was clear to us. Clear to us. I mean,
3 maybe, you know, he had a different intention. But
4 it was clear to us, it was clear to my colleagues
5 in Indiana University that contacted me and --

6 Q I mean, you can't really testify what's clear to
7 other people, can you?

8 A Well, I thought that's what we were discussing,
9 what's clear from this and who it's clear to.

10 Q Well, you can't testify to other people's beliefs
11 or ideologies or --

12 A Oh, okay.

13 Q -- mental impressions, can you?

14 A I guess not.

15 Q Okay. So I'm really only asking you --

16 A I can only go with what they tell me.

17 Q I'm really only asking you about your --

18 A Okay.

19 Q -- ideas.

20 A Yeah.

21 Q But, over all, the information in here is accurate
22 about your salary; correct?

23 A I don't know, I didn't verify it. It's probably
24 accurate. I don't know why he would -- I mean, he
25 may have made a mistake, but I don't think it was

1 intentional if he made a mistake. I didn't check
2 it.

3 Q So you don't think he lied about your salary?

4 A He might have something incorrect, but I don't
5 think he lied if that's -- if we're going to
6 formulate a definition of lying, and that's
7 intentionally misconstruing the truth, I don't
8 think he did that.

9 Q Okay. And you testified that this document, not
10 the email but the graphs behind it, any
11 mathematician would realize that they don't really
12 mean anything because they're comparing basically
13 apples and oranges because a higher percentage of
14 lower salary versus lower percentage of higher
15 salary equals out in a way that's not -- that would
16 not necessarily be seen on this?

17 A Yeah, I think that somebody that thinks about it
18 clearly would see that this does not contain that
19 much information.

20 Q So it's not really damaging to you, is it?

21 A I think it was intended to be damaging.

22 Q But it wasn't really, right, because the
23 information doesn't really mean anything. That was
24 your testimony.

25 A Well, it didn't damage me personally.

1 Q And you testified that your wife's salary was on
2 here, and you found that offensive too; correct?
3 A Yes.
4 Q Because she had just received a promotion; correct?
5 A She had been moved from one unit to another.
6 Q Why was she moved?
7 A Because she did not want to be in that unit any
8 longer.
9 Q Did she fill the position that was intended for a
10 diversity candidate?
11 A No.
12 Q And you stated that Professor Akbulut misspelled
13 her name in this email; is that correct?
14 Or not in an email. Sorry. Your wife's
15 name?
16 A That's correct.
17 Q And that he often misspelled your wife's name?
18 A It's happened on numerous occasions.
19 Q And you weren't sure if it was intentional;
20 correct?
21 A Yeah.
22 Q How many other misspellings have you pointed out?
23 At least five since you've been testifying;
24 correct?
25 A Many.

1 Q So is the purpose of saying that he may or may not
2 have misspelled your wife's name intentionally
3 incorrect just inflammatory then?
4 A No. It still hurts her feelings.
5 Q I'm sure it does. But if it's not intentional, why
6 would you say that you're not sure his intention?
7 Why bring it up when you realize there's many, many
8 misspellings in this document, two of which you
9 just pointed out to us about publications?
10 A Well, because her name is frequently misspelled and
11 nobody else's is except mine potentially.
12 Q Yours and hers?
13 A Yes.
14 Q And several of the words in this document?
15 A I think misspelling people's names when you're
16 addressing them is -- can be, you know, hurtful.
17 Q They can. I agree. I'm just trying to find out
18 what your intent for bringing it up.
19 Do you think he misspelled your name
20 intentionally to hurt you, or do you think that's
21 just sort of --
22 A I don't know.
23 Q -- par for the course? Okay.
24 A Initially, I thought it was an accident.
25 Q You testified that somebody else told you that they

1 may have seen this email from a different
2 university?

3 A Yes.

4 Q Did you see that email?

5 A Did I see that email?

6 Q Yeah. Did anybody forward to you --

7 A No.

8 Q -- the email that they received from an outside
9 university?

10 A No.

11 Q Do you know how they received that email?

12 A Through -- from Selman I assume.

13 Q You assume, but you don't know, do you?

14 A Well, that's what they told me.

15 Q That's what they told you.

16 Who is this person?

17 A I don't want to give that name.

18 Q Well, you testified. How are we going to test your
19 credibility if you can't give the name of the
20 person who supposedly received an email from
21 Professor Akbulut so we can check it?

22 A Okay. You can strike that whole thing if you'd
23 like.

24 Q I mean -- well, you have already said it out of
25 your mouth.

1 A Okay.

2 Q So who is the person?

3 A I'm not going to tell you.

4 DR. PROMISLOW: I object. I don't think

5 this is relevant.

6 MS. DOUKOURE: It goes to credibility,

7 and credibility of the witness is always relevant.

8 THE WITNESS: Would you like me to tell

9 you?

10 Q (MS. DOUKOURE) Yes.

11 A I mean, Selman already knows.

12 Q Okay.

13 A Chuck told me.

14 Q Chuck told you.

15 A He told me that you sent that email to him.

16 Livingston. So . . .

17 Q And at what university is he?

18 A At Indiana University.

19 I assume that Bob Kirby also received

20 that email. You can contact him and ask him if he

21 received such emails.

22 Q Do you know that he did?

23 A I don't know.

24 Q But you assume?

25 A I wouldn't be surprised.

1 Q But you're testifying to your assumptions, not to
2 anything you know of firsthand; correct?

3 A Sure.

4 Q Thank you.

5 A But if you want to get to the bottom of it, I feel
6 like you should contact people and ask them if you
7 want to contact people.

8 Q Well, I'm just trying to -- it's your credibility,
9 that's what I'm trying to do.

10 A Oh, okay.

11 Q You said a very specific statement out of your
12 mouth about an email that somebody told you that
13 they had received.

14 A Yeah. Sure. Got it.

15 Q I'd like to check it.

16 A Yeah, I understand.

17 Q Thank you. You said that somebody from the
18 department, a former colleague I believe, had sent
19 a very unflattering email response to an inquiry
20 about Professor Akbulut being part of a
21 distinguished lecture series; isn't that correct?

22 A That's correct.

23 Q That email was to people here at MSU or to others
24 at a different University?

25 A It was to the chair of a different university.

1 Q To the chair of a different university.

2 Did that email discuss Professor

3 Akbulut's abilities or -- of giving the lecture or

4 more of a personal attack about his character?

5 A It -- you know, it was just a snippet that I

6 received which alluded to his not being qualified

7 for the lecture series mathematically but then went

8 on to comment on his personality.

9 Q Do you think that Professor Akbulut is not a top

10 mathematic -- mathematician, which I cannot say for

11 whatever reason -- mathematician in his field?

12 A He's a well-respected mathematician in his field.

13 Q He speaks all over the world, doesn't he?

14 A Many of us do.

15 Q So if somebody said he's not qualified to give a

16 lecture on his topic, would that be an accurate

17 assessment of his abilities?

18 A I don't think that's the question that was being

19 asked.

20 Q But you stated just now in your testimony that that

21 email talked about Professor Akbulut's

22 qualifications.

23 A No, you said his qualifications to give a lecture

24 on his research. He's perfectly well qualified to

25 give a lecture on his research. The question was

1 whether or not his research was -- had merited the
2 distinguished lecture series in question. And the
3 professor that has written this email was -- his
4 opinion was that his -- that Selman's research was
5 not of the caliber that warranted a special lecture
6 series based upon it.

7 Q And then the rest of the email said what about
8 Professor Akbulut?

9 A I think the rest of the email says something to the
10 effect of, you know, his -- you know, mathematics
11 notwithstanding, he said something like, you know,
12 I find him to be one of the most odious people I've
13 ever met.

14 Q It was a complete character assassination of
15 Professor Akbulut, was it not?

16 A I think that the person in question had asked about
17 the -- had asked about --

18 Q That's not what I'm asking you. I'm asking you
19 whether or not the response was a complete
20 character assassination of Professor Akbulut.

21 A Could you define "complete character
22 assassination"?

23 Q If you called somebody odious at a university
24 that's -- where they're not working, would that
25 give them a good opinion or a bad opinion about

1 Professor Akbulut's character?

2 DR. PROMISLOW: I have an objection.
3 We're discussing an email that apparently has been
4 seen, but I don't -- I'd like to see it. If I
5 could see it --

6 MS. DOUKOURE: He already testified to it
7 on direct examination. Professor Promislow did not
8 need to see it, you know, when this witness was
9 testifying about it on direction examination.

10 DR. PROMISLOW: It wasn't discussed at
11 length and content was not discussed.

12 MS. DOUKOURE: It doesn't matter, it was
13 introduced on direct. I'm asking this witness who
14 already testified about his recollection, he has
15 testified at length right now about the contents of
16 that email. Whether or not I admit it as an
17 exhibit happens to be my decision.

18 MR. REIFENBERG: This particular email --

19 THE WITNESS: Would you like me to pull
20 it up?

21 MS. DOUKOURE: No. That's not even a
22 proper process.

23 MR. REIFENBERG: Do we have access to
24 that email?

25 DR. PROMISLOW: It's in her binder.

1 MS. DOUKOURE: It's in my binder.
2 JUDGE WHITBECK: Well, it's not in
3 evidence.
4 MS. DOUKOURE: It's not, but he's
5 discussed it, and he discussed it on direct
6 examination.
7 JUDGE WHITBECK: Counsel, I'm talking to
8 him.
9 MS. DOUKOURE: I'm sorry.
10 MR. REIFENBERG: You can go ahead and ask
11 since he brought it up.
12 MS. DOUKOURE: Thank you.
13 MR. REIFENBERG: But be careful that
14 we're not talking about specifics of it since we
15 don't have it.
16 MS. DOUKOURE: I mean, I'm only asking
17 this witness his present sense recollection of the
18 email. So if he brings up specifics that he
19 remembers from it, I feel like that's fair game.
20 Q (MS. DOUKOURE) So you just testified that this
21 email said that Professor Akbulut had an odious
22 personality, correct, or something to that effect?
23 A The word odious was definitely in that email.
24 Q Is that about his work?
25 A No.

1 Q That was about his what?

2 A That was about his presence, I suppose --

3 Q Right.

4 A -- or his personality.

5 Q His personality.

6 And that's unflattering; correct?

7 A Sure.

8 Q That went to somebody outside of this university;

9 correct?

10 A It went to one person.

11 Q Somebody -- you don't know who else it went to

12 after it went there; correct?

13 A I know where it went after that.

14 Q You know every person they sent that email to?

15 A I know some subset of people it went to after that.

16 Q So it did go to some other people besides that

17 person; correct?

18 A It was -- it went to -- it went to that person.

19 That person inadvertently released it to others.

20 Q To others including students; correct?

21 A I don't know about students, but I know that

22 students eventually saw it.

23 Q So students saw an email from somebody on the --

24 that person who sent the email --

25 A This person was not on our faculty. This person

1 was not employed by the University when he sent
2 that email.

3 Q He was -- he had already left; correct?

4 A Yes.

5 Q But he had sat on the Advisory Committee; correct?

6 A At some point. Not during the proceedings of this.

7 Q But he had -- so he was speaking from -- possibly
8 with the person who was inquiring about Professor
9 Akbulut would have seen him as a -- having a
10 position, a prior position of authority or
11 knowledge within the University; correct?

12 A Can you repeat that? I didn't catch it.

13 Q Sure. That was a very ineloquent question, I
14 agree.

15 The person who inquired about this former
16 faculty member that sent this email calling
17 Professor Akbulut odious reached out to that
18 specific faculty member because he probably saw him
19 as some authority or some person of respect at MSU;
20 correct?

21 A Yes.

22 Q And that person chose -- who used to be on faculty
23 and the Advisory Committee sent a very disparaging
24 email that got widely disseminated; correct?

25 A Yes.

1 Q I'd like to move on very briefly to Exhibit CP-58
2 which is 11A, 1 through 4.

3 You've already testified that this is a
4 letter that you wrote regarding -- that you wrote
5 and submitted several emails including the ones
6 that are here; correct?

7 A Yes.

8 Q This is not the full set of emails that you
9 submitted with this document; correct?

10 A Yes.

11 Q The letter that was written, who solicited you to
12 write this letter?

13 A Keith asked me if I wanted to write a letter.

14 Q And you said that you took exception to some of the
15 quotes in the email, specifically "I'm trying to
16 make you acceptable to the department, but you
17 are --" you're saying that's not a correct quote?

18 A Yeah.

19 Q You testified also that you tried to say that you
20 were working to reintegrate Professor Akbulut to
21 the department because he was kind of by himself at
22 that point; correct?

23 A We had a number of conversations in the spring
24 that -- where his -- spring 2015 where he had
25 indicated to me that he felt like he was being left

1 out, his opinions weren't being taken seriously,
2 and that he wasn't on committees and this type of
3 thing.

4 Q That was in spring 2015?

5 A That was when I had those conversations with him,
6 yes.

7 Q And this is when?

8 A When is this conversation happening?

9 Q This email. When?

10 A This email?

11 Q This series of emails.

12 A This series of emails is in 2017.

13 Q 2017. Two years later?

14 A Yeah. So this is -- yeah, so I had -- in response
15 to his -- in response to his concerns about, you
16 know, feeling like he wasn't being a part of -- or
17 he wasn't being included in the decision-making
18 process of the University.

19 So part of what I did in addition to
20 trying to negotiate some settlement regarding his
21 course was I also recommended to Keith that he
22 appoint Selman to the Advisory Committee so that
23 Selman's voice could be heard.

24 Q So --

25 A Which he did.

1 Q I'm sorry?

2 A Which he did.

3 Q Sure.

4 A Selman was appointed to the Advisory Committee for

5 that year.

6 Q For that year. But you admit that you said, "I'm

7 trying to reintegrate"?

8 A I don't know what I said, but it was something --

9 it was to that effect, yeah. I was trying to -- I

10 was trying to get him back into the department so

11 that his voice could be heard. That was the

12 content of what I was trying to say.

13 Q So you put quotes around "I'm trying to reintegrate

14 you to the department." That's not a direct quote

15 you're saying now; correct?

16 A No. Look, I said -- I said something of the form,

17 which is not a direct quote. I make it clear that

18 I'm not putting a direct quote because I don't know

19 exactly what I said because I don't record

20 conversations without telling people.

21 I am trying to make you acceptable -- I

22 said -- for instance, I never said, quote -- that's

23 his quote -- I am trying to make you acceptable to

24 the department, but you're refusing to cooperate.

25 Then I said -- I said something of the

1 form I am trying to -- trying to reintegrate you
2 into the department. The quotes there are intended
3 quotes in the sense of the English language where a
4 speaker is using quotes, not in the sense of a
5 direct quotation. And I emphasize that by I said
6 "something of the form" because I don't have
7 autographic memory.

8 Q But saying that somebody's going -- you're trying
9 to reintegrate them is not that far off of trying
10 to make them acceptable. That can be a different
11 interpretation of the understanding?

12 A I mean, the statement was in response to a prior
13 conversation that I had had with him on the park
14 bench outside of Wells when he complained to me
15 that nobody listens to him or consults regarding
16 departmental issues.

17 Q Right. But what I'm asking you is Selman saying
18 that you're trying to make him acceptable to the
19 department is not that far off from you saying
20 reintegrate?

21 A I think it's fairly far. And he obviously
22 interpreted it in the way that you're saying. And
23 I can understand, you know, he got angry about
24 that. But that's not what I said, and that wasn't
25 what I was trying to convey.

1 Q But he interpreted it that way?

2 A He interprets things differently often than what
3 people say.

4 Q People interpret things based on their own
5 experiences; correct?

6 A Yes.

7 Q You and I are sitting in this room today. We're
8 not going to interpret the situation the same, are
9 we?

10 A Yeah, of course. Yeah, of course.

11 Q And everybody's entitled to their interpretation?

12 A Everybody's entitled to their interpretation and is
13 responsible for their reaction to it.

14 Q I mean, I didn't dispute that.

15 But everybody is entitled to their own
16 interpretation; correct?

17 A Yeah, of course.

18 Q If Selman felt starting in 2015 that he had been
19 attacked and wronged, some of his
20 misinterpretations could be a result of his
21 continued belief that he was being attacked and
22 wronged and nobody was correcting it; correct?

23 A He has interpreted it -- yeah, he can interpret
24 things, and he can respond to them according to his
25 interpretation.

1 Q I'm not asking you about his response, I'm asking
2 you whether it's possible that somebody who felt
3 like somebody did something wrong to them and
4 didn't have their -- their redress -- their
5 questions redressed could have a tendency to
6 continue to interpret things as being negative
7 towards them.

8 A Yes. Certainly if somebody interprets everybody is
9 against them they will react in an aggressive
10 fashion.

11 Q I'm not asking you about his reaction, I'm asking
12 you whether it's reasonable that if somebody did
13 not have their concerns addressed and felt like
14 something had happened to them intentionally that
15 they may be defensive or interpret things in
16 certain ways other than what you might intend it to
17 be?

18 A Okay.

19 Q Is that a yes?

20 A As much as it's a question that I can answer it,
21 I'll say yes. Yeah. But . . .

22 Q This email on -- I'm going to try to count the
23 pages from the beginning because it's several
24 separate documents.

25 well, let's just look at the second page.

1 A Is this the page that begins "Dear Matthew Hedden"?
2 Q It is not, it is the second page of the entire
3 packet.
4 A Oh, sorry. "Dear Selman. I will no longer need
5 the Monday seminar next week"?
6 Q Yes.
7 A Yeah. Okay.
8 Q Can you -- the last paragraph of this email before
9 your salutation of "All the best, Matt" --
10 A Yeah.
11 Q -- you start off with, "I agree with you that a
12 faculty grievance committee should have been
13 formed."
14 A "I agree with you that a faculty grievance
15 committee should have been formed, and I even
16 looked into it for you to see if it could be done,
17 but you missed the statute of limitations on
18 submitting one, which, frankly, seems like too
19 short of time -- I think it's like two months or
20 something -- but I didn't see a workaround. But I
21 was asked to review the provost's decision to write
22 you a letter of abrogation of duty. You were
23 assigned a course that you didn't teach, and I
24 wasn't, in good conscience, able to condone this
25 behavior by recommending that she rescind her

1 letter.

2 "Given the series of misunderstandings
3 and the fact that in the past the rules had been
4 more flexible and that your course ran
5 successfully, I went out of my way with Tom to try
6 to improve the outcome for you, and I'm told you
7 accepted and utilized the course release we argued
8 for, but I can't say that you were -- that you were
9 correct not to teach your assigned course. I don't
10 believe that. To say otherwise would compromise my
11 integrity."

12 Q Sure. So you believed that Selman should have had
13 a grievance like --

14 A Yeah, I think that could have -- I mean, I would
15 have loved it if that -- if he -- maybe that would
16 have solved everything. We wouldn't be here today.
17 I don't know.

18 Q Did Selman -- do a lot of Selman's emails talk
19 about how he felt like he didn't have due process?

20 A Yeah, he mentioned that many times.

21 Q Did he ask many, many times about having some kind
22 of formal hearing?

23 A He brought it up on numerous occasions, yes.

24 Q Was there a lot of frustration expressed in
25 Selman's emails indicating that he had not -- felt

1 that he had been hurt about the entire situation?

2 A Yeah, he made that clear.

3 Q And you agree that maybe he could have been given

4 more process?

5 A I agree that what I -- a Faculty Grievance

6 Committee, the advantage that I saw and that I was

7 trying to convey with this email is that it would

8 have been a grievance committee that could have

9 been handled by people outside of our department

10 where there would have been less sort of

11 preconceived notions where the, you know,

12 procedural allegiances wouldn't have been strong,

13 and I think that it would have been a healthier way

14 to address that situation. And if it had happened

15 early on in the process, I would have hoped that

16 things could have gone differently.

17 Q And, in fact, Professor Akbulut repeatedly

18 expressed his frustration about the fact that that

19 specific thing that you just talked about never

20 happened; correct?

21 A He said that. I don't know whether the -- I

22 don't -- I mean, he said that he never had a

23 faculty grievance process.

24 Q And he asked for his due process; correct?

25 A He never asked for due process, as far as I know,

1 he asked for a Faculty Grievance Committee. I
2 don't know if that's -- those are synonymous.

3 Q Okay. You don't recall emails where he uses the
4 term due process?

5 A I -- probably I was. If they exist, then I was
6 probably on them, but I don't recall off the top of
7 my head.

8 Q That's a sufficient answer. You can just say "I
9 don't remember." That's fine. You're allowed to
10 not remember.

11 MR. REIFENBERG: Are you finished with
12 this document?

13 MS. DOUKOURE: I'm finished with this
14 document and I'm finished with this witness.

15 MR. REIFENBERG: So are you finished with
16 him?

17 MS. DOUKOURE: I'm finished with him.

18 MR. REIFENBERG: We'll stop here and take
19 a break, and then we'll find out if -- can we --
20 I'm sorry. Redirect?

21 DR. PROMISLOW: I don't think I have any
22 redirect.

23 MR. REIFENBERG: Well, let's stop now.

24 DR. PROMISLOW: Okay.

25 MS. DOUKOURE: Are you guys going to ask

1 any questions?

2 MS. KELLEY: Because then he can go if
3 you're not.

4 MS. DOUKOURE: That's what I -- that's
5 what I was thinking too.

6 DR. PROMISLOW: I don't have -- I don't
7 anticipate redirect.

8 MR. REIFENBERG: I do.

9 DR. PROMISLOW: Oh, you do.

10 MR. REIFENBERG: I know somebody has a
11 question. So we'll stop here.

12 (Break taken at 3:10 p.m.)

13 (Break concluded at 3:25 p.m.)

14 MS. KELLEY: I'd like this on the record.

15 MR. REIFENBERG: I have a copy of the
16 guidelines. Does somebody have a copy of the
17 policy?

18 MS. KELLEY: Yes, it's an exhibit. But
19 I'm happy to give you my policy as well.

20 MS. YERMAK: I have one here. Does
21 anybody need a copy? Are you in the appendix?

22 MS. KELLEY: I'm in the Appendix 2. It's
23 10, 11, 12.

24 And I can explain my objection if the
25 hearing committee wants to hear it.

1 MR. REIFENBERG: Well, let me look at
2 this first.

3 MS. KELLEY: Okay.

4 MR. REIFENBERG: This is the appendix?

5 MS. KELLEY: Yes, it's the appendix to
6 the discipline and dismissal for cause policy under
7 which this proceeding is taking place.

8 MR. REIFENBERG: Is this the entire
9 policy?

10 MS. KELLEY: No.

11 MR. REIFENBERG: It's just the appendix.

12 Well, I don't see it in the policy or in
13 the appendix. I do see it in the guidelines.

14 MS. KELLEY: Okay. So, I mean, it's not
15 the policy, and I think for good reason.

16 I don't want to turn this into a
17 proceeding, and I don't think the hearing committee
18 should turn this into a proceeding whereby we have
19 to make legal arguments on what constitutes free
20 speech, what defamation is --

21 MR. REIFENBERG: I think the --

22 MS. KELLEY: Wait. Okay. I'm sorry.
23 What slander is --

24 MR. REIFENBERG: It's not the
25 justification, it's which of these sets of rules

1 governs.

2 MS. KELLEY: Well, the guidelines were
3 created by legal counsel for the hearing committee.
4 They're not University policy. The only University
5 policy that governs this proceeding are -- is the
6 discipline and dismissal for cause of tenured
7 faculty policy.

8 MR. REIFENBERG: When these guidelines
9 were given out, did the parties agree to the
10 guidelines?

11 MS. DOUKOURE: I heard no objections.

12 MS. KELLEY: I don't know if we ever
13 agreed to them or not, but at some point they were
14 dished out, yes.

15 MS. DOUKOURE: And if I -- further, by
16 way of further argument is that the policy itself
17 is silent on the idea of briefs. It doesn't
18 mention them, it doesn't prohibit them, and is in,
19 in fact, silent on the idea of posthearing briefs.

20 MS. KELLEY: I mean, the sole question
21 that this hearing committee -- not sole question
22 but the central question that the hearing committee
23 is supposed to decide is is there a violation of
24 the University policy.

25 So I don't want to turn this into a --

1 you know, a legal argument. That's for another
2 venue, it's not for this hearing committee to
3 decide.

4 So I'm -- and, you know, unless you want
5 us to brief University policy, I don't want to be
6 required to brief the hearing committee on issues
7 of law. Everything regarding University policy,
8 what these charges are based on, is before the
9 hearing committee.

10 MS. DOUKOURE: With that in mind,
11 nobody's saying, like, we're briefing broad issues
12 of law. But providing a brief which does discuss
13 things like charging party's burden of proof, the
14 evidence which may or may not meet that burden of
15 proof, the evidence and the interpretation of the
16 evidence that has been put before this committee
17 with regards to the actual rules and regulations,
18 it happens all the time.

19 And the -- it is apparent from the
20 guidelines that were submitted to us that there
21 was -- there was possibly an expectation of a
22 brief. And the administrative rules are silent on
23 it.

24 So, yes, there are technical legal
25 standards of burden of proof that apply, and

1 briefing that issue with regards to pinpointing
2 evidence that's been put in place, I don't see the
3 harm.

4 MS. KELLEY: That's why the hearing
5 committee has legal counsel.

6 MS. DOUKOURE: We have to argue whether
7 or not the burden of proof has been met.

8 JUDGE WHITBECK: Ma'am, first of all,
9 yes, I prepared this, but the hearing committee
10 issued. So it's the hearing committee's document.

11 Secondly, this is a documents case.
12 It's -- the documents themselves are inordinately
13 complex.

14 Your burden and one that I think you can
15 establish through your briefs is to make sense out
16 of all of this for us. Why you would not want to
17 do that is beyond me.

18 MS. KELLEY: We have closing arguments
19 for that.

20 JUDGE WHITBECK: Ma'am, with all due
21 respect, what people say in closing arguments shows
22 up in a transcript. It's oral, it's off the cuff.
23 What you write and where the development of law is
24 shown, practiced before the Supreme Court, they
25 don't rely on oral arguments much anymore, they

1 rely on briefs.

2 This committee is entitled to get the
3 best advice that it can from the parties. Again,
4 why you would not want to do that is beyond me.

5 MS. KELLEY: Because I'm encouraging this
6 hearing committee to follow the policy and treat
7 this as an informal proceeding to the greatest
8 extent possible. And requiring a charging party
9 who may or may not be represented by legal counsel
10 to write a brief is not within the contemplation of
11 this policy, and that's why.

12 I'm sorry, I did not mean to --

13 MR. REIFENBERG: When the guidelines were
14 distributed --

15 MS. KELLEY: I'm sorry. What?

16 MR. REIFENBERG: When the guidelines were
17 distributed, why wasn't that brought up?

18 MS. KELLEY: I tried to raise many
19 objections at the prehearing meeting, but no one
20 wanted to hear them.

21 JUDGE WHITBECK: I'm sorry, that's just
22 not so.

23 MS. KELLEY: I'm talking about OIE,
24 discrimination, all of that, and it was all set for
25 a later date. So I reserved all of my -- my

1 complaints about the process for the start of the
2 hearing as requested at the prehearing meeting.

3 And I --

4 MS. DOUKOURE: Not only was this specific
5 document not brought up in any of her objections,
6 mainly our defenses were brought up in her
7 objections. Not only was this document not
8 mentioned in any single objection Ms. Kelley
9 represented, this hearing is not precedential over
10 any other hearing that takes place. And in fact,
11 in this hearing, the charging party is represented
12 by legal counsel.

13 So her argument that this couldn't
14 possibly -- what happens if the charging party is
15 not represented by legal counsel is erroneous, not
16 relevant to this actual proceeding because this
17 proceeding doesn't provide precedent over any other
18 proceeding.

19 MR. REIFENBERG: All right. I am going
20 with the guidelines. Guidelines have the power to
21 ask for briefs.

22 Now, you can ask me to make that decision
23 now, or you can wait to ask me to make that
24 decision.

25 MS. DOUKOURE: We can wait.

1 MR. REIFENBERG: You can wait?

2 MS. DOUKOURE: We can wait.

3 MS. KELLEY: I guess I don't understand
4 what you said, I'm sorry.

5 MR. REIFENBERG: All right. I have the
6 power to make the decision about briefs, whether or
7 not to request briefs. All right? And according
8 to the fact that you had the guidelines, no one
9 made any challenges to the guidelines. I
10 decided -- I have the power to ask for briefs if I
11 want to. I can ask for them now so you have some
12 warning about that or we can wait and I'll ask them
13 later when -- when the arguments are all --

14 MS. KELLEY: But you're going to ask for
15 them; is that what you're saying? Or you're going
16 to make a determination?

17 MR. REIFENBERG: Well, I'm going to make
18 a decision.

19 MS. KELLEY: Understood. Understood.

20 MR. REIFENBERG: Okay? But if you want
21 me to make the decision now, I can make the
22 decision now so you have -- if I decide that we
23 should have briefs so you can be warned. If you
24 want, I can wait.

25 MS. KELLEY: I prefer you wait till the

1 hearing's over, and then you'll be able to assess
2 whether you really need to request a brief.

3 MS. DOUKOURE: I don't disagree.

4 MR. REIFENBERG: All right. Well --

5 MS. DOUKOURE: I didn't intend for this
6 to be lengthy.

7 MR. REIFENBERG: Then if -- I've made a
8 ruling about my power. I haven't asserted that
9 power.

10 Then we are in -- you've redirected?

11 DR. PROMISLOW: I'm done.

12 MR. REIFENBERG: Still no questions?

13 All right. Then I have a question. This
14 is something that's troubled me about the argument
15 from the beginning.

16 You mentioned in your description of the
17 actions in the committee that you thoroughly
18 investigated just about everything that you
19 anticipated.

20 In your investigation, did you determine
21 why the student didn't register for the course?

22 THE WITNESS: He didn't want to pay the
23 \$600 that he would have had to pay to register for
24 the course, so he chose not to.

25 MR. REIFENBERG: And he said that?

1 THE WITNESS: That's --

2 MR. REIFENBERG: What I'm trying to get
3 at is, you know, there's the argument that he
4 didn't do this because of the link to the
5 encumbrance and the rest, and there's the argument
6 that he just went ahead and independent . . .

7 THE WITNESS: I mean -- so . . .

8 MR. REIFENBERG: And for me it's crucial
9 to know where -- why he did that.

10 THE WITNESS: Yeah. So do you want
11 like -- in what sense do you want a fact?

12 MR. REIFENBERG: Well, what I want to
13 find out --

14 THE WITNESS: I don't -- I don't know
15 that I have a fact.

16 MR. REIFENBERG: Did anyone --

17 THE WITNESS: I don't know that I have a
18 verifiable fact.

19 MR. REIFENBERG: Did anyone find out from
20 the student -- in your investigation did anyone
21 find out from the student why he decided not to
22 register? Not inferences about . . .

23 It's okay. If you don't know, just . . .

24 THE WITNESS: I don't remember. I did
25 not personally contact Luke regarding it. I don't

1 know whether someone on our committee did.

2 MR. REIFENBERG: And the only reason I'm
3 asking you is because you made the point that
4 you -- you -- your committee investigated it as
5 much as you possibly could and tried to answer all
6 the questions.

7 THE WITNESS: Yeah. I mean, when this
8 went down -- yeah. And from his documentation,
9 Selman's documentation, you know, as far as I know,
10 he was going to register, he was told he had to pay
11 \$600 in order to do so. I think that he talked
12 with Selman at that point or somebody talked with
13 Selman. Selman said I'm going to make this happen,
14 you know, get the money together to pay for it so
15 that you can take the course.

16 MR. REIFENBERG: But nobody --

17 THE WITNESS: And nothing happened. He
18 just didn't register.

19 MR. REIFENBERG: So all we know is he
20 didn't register. We don't --

21 THE WITNESS: I mean, the reality of this
22 is that, you know, if a student's going to have to
23 pay \$600 to take a course, he's just not going to
24 register for it because he knows that he can sit in
25 on the course if it's running. You know what I

1 mean? It's not . . .

2 MR. REIFENBERG: Is it possible for
3 students to change their minds?

4 THE WITNESS: To change their mind and
5 not register? Oh, yeah. Sure.

6 MR. REIFENBERG: Which means that the
7 \$600 doesn't make any difference if it was an
8 independent decision.

9 THE WITNESS: Well, I don't -- I mean,
10 he -- he didn't register.

11 MR. REIFENBERG: Okay.

12 THE WITNESS: So, you know.

13 MR. REIFENBERG: So we don't . . .

14 THE WITNESS: Like -- might be worth
15 asking him now, I mean, or asking someone -- I
16 mean . . .

17 MS. DOUKOURE: Can I ask -- are you done?
18 I'm sorry, I didn't mean to cut off your question.

19 MR. REIFENBERG: That was just my
20 question. I haven't seen anything from -- any
21 evidence from the student or from somebody
22 interviewing the student why he didn't register.

23 MS. DOUKOURE: Can I ask one follow-up
24 recross question that might clarify that for you?

25 MR. REIFENBERG: Do you have -- do you

1 have information about that?

2 MS. DOUKOURE: I'll be getting that
3 information, and we will present the information.

4 I just want to ask this witness whether
5 or not he knew whether Luke ultimately took the
6 course that was assigned a reading credit.

7 MR. REIFENBERG: I don't think you have
8 the right to do that.

9 MS. DOUKOURE: Okay. I mean, we can
10 bring it in a different way, I just was going to
11 ask this witness. Because you were asking
12 questions, I wanted to clarify it.

13 DR. PROMISLOW: This point is in both her
14 binder and my redirect -- my -- in my --

15 MR. REIFENBERG: It seems to me a crucial
16 kind of thing because are you -- for example, Terry
17 Curry talked about it as being -- I think he
18 characterized it as an independent thing.

19 DR. PROMISLOW: Yeah.

20 MR. REIFENBERG: And if it's independent,
21 then --

22 MS. DOUKOURE: Right. I think --

23 MR. REIFENBERG: -- it affects your
24 argument. If it's not independent --

25 MS. DOUKOURE: Right.

1 MR. REIFENBERG: So I . . .

2 MS. DOUKOURE: I think that -- I think
3 that your question really was getting to whether or
4 not there was a -- the student had interest.
5 Because your question really was whether or not he
6 could have made his own decision not to take the
7 class. So whether he ended up --

8 MR. REIFENBERG: Whether the decision was
9 an economic decision or whether the decision was
10 motivated by something else.

11 MS. DOUKOURE: Right. So I think that
12 his motivation can be determined from whether or
13 not he took the class, and that's why I was going
14 to ask the follow-up question. Because this class
15 ran.

16 So I'll -- that's okay. I'll present it
17 a different way. It's not a problem.

18 DR. PROMISLOW: I'd rather leave that for
19 some discussion rather than have the counsel --

20 MR. REIFENBERG: That's the only
21 question.

22 JUDGE WHITBECK: These are really just
23 clarifying. There's no particular deep substance
24 to them.

25 You talked about reading classes?

1 THE WITNESS: Yeah.

2 JUDGE WHITBECK: I understand that the
3 professor does not -- this does not count as
4 teaching the course.

5 For the student who takes a reading
6 class, does that student get credit for the class?

7 THE WITNESS: I think they get credit,
8 yeah.

9 JUDGE WHITBECK: The agreement that you
10 attempted to work out and which one of the exhibits
11 refers to, was that ever reduced to writing? Was
12 there a document that reflects this preliminary
13 agreement, which I understand to be essentially
14 that Dr. Akbulut would get course relief?

15 THE WITNESS: Yeah.

16 JUDGE WHITBECK: And that's what he got
17 out of it. But the penalty would, in essence, be
18 mitigated in that regard.

19 THE WITNESS: Which penalty are you
20 referring to?

21 JUDGE WHITBECK: The salary reduction.

22 THE WITNESS: Salary reduction? Yeah, I
23 mean, to the best of my knowledge, the primary
24 document outlining that was the one that was sent
25 out on August 24th that we went over.

1 JUDGE WHITBECK: Dr. Promislow's letter.

2 THE WITNESS: Yeah, as far as -- I mean,
3 there may have been other emails, but it's been so
4 long now -- another email sent to Professor
5 Akbulut. But, you know, I either didn't have
6 privy -- I wasn't -- wasn't had access that I know
7 or I've since forgotten it, you know. But that
8 email stands out as one which outlines the terms.

9 JUDGE WHITBECK: Gotcha. If you know,
10 did the course release, did Professor Akbulut
11 actually take that?

12 THE WITNESS: Yeah, I don't know. I
13 still -- I mean, I have been told that he did. But
14 I don't know -- I couldn't tell you at the moment
15 who -- who of the several people indicated to me
16 that he took that -- that he took the course
17 release and nor do I know how they verified that
18 information.

19 So that's something that should be easily
20 verifiable, but I haven't done the work personally
21 to go through --

22 JUDGE WHITBECK: We can develop it later.

23 THE WITNESS: Yeah. But I've been told
24 that he -- that he took it.

25 JUDGE WHITBECK: Last question: This is

1 just because it's fuzzy in my mind, and so it may
2 be fuzzy in the mind of the hearing committee.

3 There's been repeated references to
4 recordings that Dr. Akbulut made. First question:
5 Recordings of what?

6 THE WITNESS: Conversations.

7 JUDGE WHITBECK: With whom?

8 THE WITNESS: With Keith Promislow.

9 JUDGE WHITBECK: Anyone else?

10 THE WITNESS: In those recordings, some
11 of them had recordings of his conversations with
12 his students.

13 JUDGE WHITBECK: Also with students?

14 THE WITNESS: Yes.

15 JUDGE WHITBECK: Is that what you just
16 said, with students?

17 THE WITNESS: Yeah. I mean, so some of
18 the tape, I don't know to what extent he's recorded
19 conversations outside of the ones he sent us. But
20 the ones that he sent us were the ones that he
21 indicated he had of conversations that he had had
22 with Keith that incriminated Keith.

23 JUDGE WHITBECK: That's all I'm talking
24 about is the ones that you --

25 THE WITNESS: Yeah. And in those -- in

1 those conversations with Keith, those recordings
2 contained independent conversations,
3 nonsimultaneous independent conversations with
4 students. So they were just a long -- a long
5 recording that had both the recording of student
6 conversation and then somewhat later Keith enters
7 the office and then a different conversation.

8 JUDGE WHITBECK: And the full committee
9 heard these recordings?

10 THE WITNESS: We did not listen to them
11 together, I believe, but we all listened to them
12 independently.

13 JUDGE WHITBECK: Okay. Last question:
14 Were there --

15 THE WITNESS: Let me -- let me go back.
16 We did listen to them together,
17 especially the parts that Selman pointed out. So
18 there were parts that we listened together and
19 discussed. And we also before that meeting
20 listened to the entirety of them.

21 I mean, there were hours of conversation.
22 So we listened to those. I myself listened to them
23 a couple of times. And then we came in to discuss
24 our listening of them and to replay the specific
25 snippets and, you know -- that he had thought were

1 so telling.

2 JUDGE WHITBECK: Last question: Were
3 there transcripts of these recordings? In other
4 words, were they reduced to a written transcript of
5 any kind?

6 THE WITNESS: Not that I know of.

7 JUDGE WHITBECK: Okay. Thank you.

8 THE WITNESS: Yep.

9 MR. REIFENBERG: I think we're finished
10 with him.

11 MS. DOUKOURE: I think you're free.

12 THE WITNESS: Okay.

13 JUDGE WHITBECK: Thank you again.

14 (The witness stepped down.)

15 MR. REIFENBERG: Do you have another
16 witness waiting?

17 DR. PROMISLOW: We do.

18 THE COURT REPORTER: Do you swear or
19 affirm that the testimony you are about to give
20 will be the truth, the whole truth, and nothing but
21 the truth, so help you God?

22 MS. FLOYD: I do.

23 PHYLLIS FLOYD,
24 a witness herein, was called for examination, and
25 after having been sworn, was examined and testified

1 on her oath as follows:

2 DIRECT EXAMINATION

3 BY DR. PROMISLOW:

4 Q Thank you. Can you state your name.

5 A My name is Phylis Floyd.

6 Q Can you introduce yourself and indicate your role
7 in this matter today?

8 A Okay. I'm an associate professor of art history in
9 the Department of Art, Art History, and Design. I
10 for a number of years served on the University
11 Committee on Faculty Affairs and in that capacity
12 volunteered to serve on an appeals -- or I don't
13 know what they call it exactly. It's a stage in
14 the process of various sanctions for faculty
15 disciplinary sanctions. And so I was a member of
16 that board in this case.

17 Q And you served on the UCFA review panel, Professor
18 Akbulut's case?

19 A Correct. Correct.

20 Q In April of 28?

21 A Correct.

22 Q How long -- how long and in what capacity have you
23 served on the UCFA?

24 A I was a member, I was elected, reelected, so a
25 total of I think six years. And during that time

1 at least twice I was chair of the UCFA committee.

2 Q Did you know Professor Akbulut prior to the case?

3 A No, not at all.

4 Q Can you tell me, what was the assigned role of the

5 UCFA, the review panel? What were you charged to

6 do?

7 A In a revision to the disciplinary action guidelines

8 in the faculty handbook there is a step where

9 anyone who is being sanctioned is allowed the

10 opportunity to meet with members of the University

11 Committee on Faculty Affairs who understands the

12 bylaws, who have helped write those bylaws and

13 oversee the various components of it to see --

14 well, to make a case about their situation. And so

15 our committee served in that capacity to review the

16 materials.

17 Q So in this case, this particular case that we're

18 addressing today, when you were involved, were both

19 sides provided opportunity to submit evidence prior

20 to the meeting?

21 A Oh, yes. Yes. I think -- yes. Yes. Absolutely.

22 And substantial evidence I think.

23 Q You received evidence from both sides?

24 A From both sides, yes. Uh-huh.

25 Q During the review process, did Professor Akbulut --

1 did Professor Akbulut's presentation address his
2 actions after the Administrative Review Panel
3 finding of May 2016, or were they primarily before,
4 the events before?

5 A I -- let's see. This is confusing.

6 My -- let's see. What's confusing about
7 this is that, ostensibly, we were there to review a
8 sanction for particular relief because of the
9 decision that behavior over the six months, I
10 think, prior was out of alignment with the
11 University guidelines, and yet most of what was
12 discussed at the hearing were situations, events,
13 that happened much before. And, in fact, I don't
14 recall -- and there were several direct questions
15 about were the accusations that were the grounds
16 for that disciplinary action -- I don't believe he
17 ever -- ever addressed that. It always went back
18 to what happened before.

19 Q So when you just said most of what was presented,
20 were you referring to Professor Akbulut's
21 testimony?

22 A Correct. Correct. Sorry. Yes.

23 Q So what sort of impression did you gather from
24 Professor Akbulut's presentation? What were you
25 convinced?

1 A I'll try and be as straightforward as I can be.
2 My impression was that the focus wasn't
3 on the core issue, it was relitigating, refighting
4 something or a decision had already been made, and
5 the contentiousness was as a consequence of not
6 accepting that decision. For example, sending
7 emails to colleagues. Saying things that were kind
8 of a recrimination about the grounds for decisions
9 that have been made previously.
10 I absolutely heard and I believe that the
11 professor is a very renowned scholar, very fine
12 teacher, and that came through. But I don't think
13 that was the grounds for what was the situation at
14 hand. And the situation at hand was more conduct
15 appropriate to the collegial environment.
16 Q I'd like to hand you a document, Binder Tab 11.40.
17 It's already introduced, but I don't have the CP
18 number.
19 MS. KELLEY: 36.
20 MS. YERMAK: It's 11.36.
21 MS. KELLEY: It was earlier admitted.
22 DR. PROMISLOW: 36. CP-36, Binder Tab
23 11.40.
24 JUDGE WHITBECK: 11.40 or 11.4?
25 DR. PROMISLOW: 40.

1 Q (DR. PROMISLOW) So, Phylis, do you recognize this
2 document?

3 A Yes. It's a statement that our panel prepared in
4 response to the hearing or the event or whatever we
5 call that meeting. I guess it was a hearing of
6 sorts.

7 Q Can you just summarize the primary findings of your
8 committee that's presented in this document?

9 A The primary findings is that our -- we were
10 collectively very much in agreement that the
11 sanctions were appropriate to the circumstances,
12 that the behavior was very much out of line with
13 University guidelines of faculty rights and
14 responsibilities. And while this expression
15 "relation with colleagues" can be somewhat vague, I
16 think there is overall an understanding that
17 intimidation is not a collegial behavior, and that
18 the real focus was that it's almost like sometimes
19 the aftermath of an event becomes worse than the
20 original event, whatever that was.

21 Sort of like -- well, I'm reminded, and I
22 probably shouldn't say it like this, but I -- when
23 my son was little and would not accept certain
24 punishment, he would have the worst meltdowns and
25 temper tantrums. Just say -- just -- it's -- it's

1 an appropriate punishment. The timeout is
2 appropriate. You have a temper tantrum, it becomes
3 even worse to the original event. And that's kind
4 of what it felt like, because we ended up not
5 addressing what happened in that subsequent period
6 of time, the kinds of relations with colleagues
7 that were detrimental to the environment of the
8 University, to the well-being of learning within
9 that University community. And it took away from,
10 in my sense, the overall history and respect for a
11 colleague who's done some significant work.

12 Q So what element of the guidelines for faculty
13 rights and responsibilities do you feel that
14 Professor Akbulut had violated?

15 A Not only intimidating in terms of harassing emails,
16 tones of conversation that were intimidating. It
17 wasn't -- discussions that ensued, posts on
18 websites that were -- that were intended to
19 challenge the fairness of the people who had made
20 the decision.

21 Q In your experience with the UCFA, have you
22 encountered behavior similar to Professor Akbulut's
23 before?

24 A No. I was a member of another panel, similar
25 panel, I think the year before, and someone was

1 sanctioned not unlike. And while they chose to
2 meet with our committee, the feeling was it was a
3 respectful recognition that this is part of the
4 process. I'd like to be heard, but I accept
5 whatever decision is made. And I felt that even in
6 this case that did not happen. Including what
7 happened after our report was issued.

8 Q Okay. I'd actually like to hand you contents of
9 Binder Tab 11.43. It's also been admitted pretty
10 recent. So I need to retract -- I need to recover
11 this one from you.

12 MS. DOUKOURE: That's Exhibit 55?

13 DR. PROMISLOW: So, yeah, I think it's
14 50-something. It's going to be very recent.

15 Q (DR. PROMISLOW) Exhibit 55. Do you recognize this
16 document?

17 A Yep. Yep, I do.

18 Q Can you tell us who sent the email? What it's
19 about? When it was sent?

20 A Yeah. Professor Akbulut sent this email to our
21 committee after receiving the letter that we -- the
22 panel decision. And I -- without going into all
23 the specifics of this, I opened it, I looked at it,
24 and I went, oh, this is evidence of exactly why the
25 disciplinary action was inaugurated in the first

1 place, because I felt it was intimidating. It
2 was -- it didn't carry the flavor of, okay, you
3 took your time to review all these things, you're
4 volunteering your time to do this. And I don't
5 agree with you, but at the same time it -- it felt
6 to me, as I read it, felt disrespectful to the
7 process, and as if we had not done a job that
8 needed to be . . .

9 I want to say this: I have served on
10 University governance in various capacities,
11 hearing boards, you know, reviewing bylaws since
12 I've been at Michigan State since the very first
13 year off and on, and it's -- it's a lot of work.
14 And we don't get paid for that. I get a lot of
15 parking tickets because my meetings are all across
16 campus. And those aren't forgiven. And it takes
17 away time, my time from my research, for example,
18 from things I think are equally important.

19 But the bottom line, I think, is this is
20 an institution that it's really important that
21 peers govern peers, that we respect one another's
22 values, that we respect one another's efforts, and
23 that we try and maintain that level of
24 collegiality, that level of justness about the very
25 job that is here to be done.

1 And so when you do that job and are met
2 with what I felt was a kind of like belittling the
3 work that we had done, not even -- and I
4 understand -- I understand people are upset. I
5 understand they're hurt. I understand what that
6 means. I do. I've been in situations like this
7 before. But to turn around and then sort of act
8 like we weren't being fair-minded is further
9 evidence of not respecting the process.

10 And part of this is about that.
11 Respecting the process. Whether we always agree
12 with the outcome or not, there is a process that
13 has played out, and in most of them are done in a
14 very fair-minded way.

15 Q Anything else you want to add?

16 A (Moves head from side to side.)

17 DR. PROMISLOW: Thank you. I have no
18 further questions.

19 I'll take the document back. Thank you.

20 CROSS-EXAMINATION

21 BY MS. DOUKOURE:

22 Q Good afternoon, Professor Floyd. My name is Amy
23 Doukoure. I'm an attorney. I'm working for
24 Professor Akbulut in this matter.

25 Is it okay if I sit?

1 A I'm sorry?

2 Q Is it okay with you if I sit while I question you?

3 A Oh, well, yeah, certainly.

4 Q Okay. So you testified a few minutes ago that

5 Professor Akbulut provided you with a lot of

6 materials, but none of them addressed the core

7 reason why you were there; correct?

8 A Correct.

9 Q And so it's fair to say that you and the committee

10 did not consider whether -- what had brought

11 Professor Akbulut to that point; correct?

12 A No, I wouldn't say that's true. I would not say

13 that's true.

14 Q Your testimony was that since the abrogation of

15 duty penalty was submitted --

16 A Right.

17 Q -- against him --

18 A Right.

19 Q -- you looked at his behavior after that.

20 A By his -- I'm not sure I'm understanding this.

21 Q What types of information did you consider?

22 A We considered a paper trail of communication by him

23 with colleagues. So I'm not sure that we didn't

24 look at that.

25 Q But did you -- but you didn't look at any of the

1 underlying reasons for Professor Akbulut's discord?

2 A No in this sense: That wasn't our job --

3 Q Right.

4 A -- in this process.

5 Q Sure.

6 A And, furthermore, that wasn't what was at issue.

7 For example, for me to go out and steal

8 something because I felt like somebody stole

9 something from me doesn't make it right that I

10 stole something.

11 Q Did Professor Akbulut steal in this matter?

12 A No. I'm using that as an analogy.

13 Q I'm just saying he didn't steal anything in this

14 case, did he?

15 A No, I'm -- no.

16 Q No.

17 A Did he behave collegially in the wake of a decision

18 by his colleagues about certain items? I don't

19 believe that he did, and that's why the sanction

20 was there.

21 Q Do you recall any of the emails that you reviewed

22 prior to making your determination?

23 A I don't have them in front of me, but I recall some

24 of them, yes.

25 Q Do you recall any emails where Professor Akbulut

1 was asking for due process?

2 A There was so much paper. I'm not -- you know, I'm

3 not sure what you're asking me.

4 Q I'm asking you whether or not you saw an email sent

5 by Professor Akbulut in the emails that you

6 considered --

7 A Right.

8 Q -- where Professor Akbulut is asking for due

9 process.

10 Yes, no, or I don't know are all

11 acceptable answers.

12 A Everything he said was about not feeling he was

13 being heard.

14 Q Right. So you talk a lot about just now in your

15 testimony about not respecting the process;

16 correct?

17 A I'm not following your question.

18 Q Did you -- like, the idea of the process itself

19 is --

20 A Is extremely important. Okay.

21 Q -- a big deal to you?

22 A Right.

23 Q And Professor Akbulut made a lot of complaints

24 about -- complaints -- if I can get all my words

25 out -- about what he felt was not reasonable

1 process --

2 A Okay. May I say --

3 Q -- is that correct?

4 A -- that we saw documents about hearings. We saw

5 documents about different events. To me not having

6 those is a lack of due process. Having those does

7 not mean it's not following due process.

8 Q Did he make a complaint about not receiving

9 process?

10 A He made a complaint that he did not like the

11 process.

12 Q He said I don't like the process or he said I was

13 not given proper process? Those are two completely

14 different statements.

15 A He presented the case that he did not feel that he

16 was treated fairly.

17 Q That he was not treated fairly?

18 A Correct.

19 Q One of the things he said he was not treated fairly

20 about was receiving appropriate -- what he would

21 consider appropriate process.

22 I'm not asking you for your definition of

23 process, I'm asking you whether or not Professor

24 Akbulut -- if you saw emails where Professor

25 Akbulut was complaining about what he thought was

1 inadequate process.

2 A I did not see in the paperwork any evidence that he

3 did not receive due process.

4 Q That is not what I'm asking.

5 A Well, that's what I'm telling you.

6 Q I'm asking you whether or not Professor Akbulut

7 complained about the adequacy of the process. Not

8 whether you thought it was adequate, not whether

9 the University thought it was adequate, whether he

10 complained about not receiving adequate process.

11 A You're asking me for a yes or no answer to

12 something -- I cannot get inside his head.

13 I saw --

14 Q That's not what I'm asking you.

15 A Yes, you are. Paperwork. I saw paperwork that

16 showed to me an evidence of due process.

17 Q Great. Did the paperwork that you saw have

18 Professor Akbulut complaining about the fact that

19 he did not feel the process was adequate?

20 A Can I -- I mean, you're asking me one sentence to

21 something that, if I may say, in that I think it

22 was an hour and a half meeting, it was a very long

23 meeting, let alone all the documents we read, I

24 heard every complaint about everything about people

25 not respecting him. People not appreciating his

1 work. About people not understanding the kind of
2 work that he does. I heard in that hour and a half
3 more complaints -- what -- what the bottom -- okay.

4 So I -- it's like when I work with my
5 students -- please let me finish this. Okay? When
6 I work with my students, sometimes when I meet with
7 them about a problem they are having with a grade,
8 what I'm hearing is they're hurt about something.
9 They're really hurt. They're feeling
10 misunderstood. They're feeling their work isn't
11 respected. And that's what I heard. Okay.

12 Q So you heard Professor Akbulut saying that he felt
13 misunderstood?

14 A Yes. Yes, I did.

15 Q But did you hear him say that he did not think the
16 process was adequate?

17 I mean, you just listed seven things he
18 complained about.

19 Did he complain about receiving adequate
20 process, whether you believe that process was
21 adequate or not?

22 A I don't recall that that was the center point in
23 the discussion in that hour and a half.

24 Q I'm not asking you if it was the center point, I'm
25 asking did he say it --

1 A I don't --

2 Q -- or did he not say it?

3 A -- recall that he specifically said that.

4 Q Okay. That's all I'm asking you.

5 A He said he didn't think that people respected him

6 or treated him fairly. That's what I heard.

7 Sorry, but that's what I heard.

8 Q I mean, that was a reasonable answer to whether or

9 not he said something. Your idea about whether you

10 think his argument is valid is not really what I

11 was asking you.

12 MR. REIFENBERG: Excuse me. Could you

13 tell your client not to be sitting there shaking

14 his head?

15 MS. DOUKOURE: You want me to have him

16 not react to things that she's saying?

17 They're talking. Professor Promislow is

18 making faces. He's moving. He's laughing.

19 Ms. Kelley's moving. Ms. Kelley's laughing. But

20 my client should sit here completely still and not

21 make any movement or faces?

22 MR. REIFENBERG: Don't you think that

23 that has an effect on the witness?

24 MS. DOUKOURE: I mean, I'm not sure --

25 MR. REIFENBERG: Answer my question.

1 Don't you think that has an effect on the witness?

2 MS. DOUKOURE: I'm not sure. I can't
3 read her mind.

4 But I -- he has -- she's -- everybody in
5 here has feelings, emotions and reactions.

6 If you think he's trying to intimidate
7 the witness, that's another issue.

8 If he's reacting to something that he
9 thinks is not true, then I'm not sure.

10 Do you think that Professor Promislow's
11 laughing while we're -- right now while I'm
12 questioning the witness has an effect on the
13 witness? Because everybody in this room is
14 reacting, and you're asking my client specifically
15 not to react, and I don't feel that that's fair.

16 MR. REIFENBERG: So you're suggesting
17 that their doing something that's unacceptable
18 excuses him doing something that's unacceptable?

19 MS. DOUKOURE: No, I'm saying if my
20 client has to sit here perfectly still, Professor
21 Promislow should not be mocking or making any
22 movement or comments or gestures as well.

23 MR. REIFENBERG: That's true. If, in
24 fact, that behavior is going on, everyone should
25 stop the behavior. Thank you.

1 Q (MS. DOUKOURE) You testified a minute ago that
2 sometimes the aftermath of an event is worse than
3 the event?

4 A Uh-huh.

5 Q In this case, wasn't it only worse for you, because
6 Professor Akbulut was living this every day?

7 A No, I don't believe that. I think that if I look
8 at the -- I'm trying to look at the facts. I
9 really -- I believe in being rational about
10 decisions in governance. I believe in being
11 rational about bylaw revisions. I mean, that's how
12 I think. That's how I do my research. Okay.

13 Q Do you not --

14 A Can I finish? Those are important to me.
15 And what I focused on in this narrow --
16 and it is narrow -- process, after a sanction was
17 given, okay, we were asked -- he asked our
18 committee to look at it and see if that sanction,
19 the leave I believe without pay --

20 Q Sure.

21 A -- was justified to an action. That's my role in
22 reading bylaws and helping guide the University
23 Committee on Faculty Affairs on what bylaw
24 revisions are put forward or whatever we -- in
25 different capacities we do.

1 And I've also served as a counsel for the
2 faculty grievance officer. Read materials that --
3 in print that are rational, that are logically
4 based.

5 And based on my experience, the sanction
6 was a -- it was a limited time frame. It was --
7 given what happened after the original process
8 where he was given a process, a hearing board and
9 an appeal and so on, he didn't accept that
10 decision. And because he didn't accept that
11 decision, he continued to fight it with his
12 colleagues online, sending emails to people that
13 were intimidating. And to me, that made the whole
14 situation worse.

15 If he had simply said, okay, I don't like
16 this decision -- we all have had that experience.
17 I don't like the fact that I didn't get a raise
18 very much last year --

19 Q Is this the same as not getting a raise, having
20 somebody put a mark on your academic record?

21 A No.

22 Q No.

23 A It is not, and I agree with that; however, doing
24 some of the things he did, the letters that were
25 written, the evidence of intimidation to his

1 colleagues, publicly humiliating people --

2 Q How do you -- which -- what email did you see that
3 humiliated somebody?

4 A There were several emails. I don't have the folder
5 in front of me of what we looked at in the case. I
6 can show you those I'm sure.

7 Q But you can't --

8 A There was evidence of public posts, emails that
9 were sent to his colleagues because they had served
10 on a panel that found against him.

11 Q Right.

12 A Let me just say that. Please let me just say that.

13 In my capacity, when I got the email that
14 I did after this decision, I went, oh, it happens.
15 This man does that. He doesn't like the decision,
16 so now he's going to say these things to me.

17 Subsequently I discovered there's
18 apparently a web post somewhere about me. And I'm,
19 like, you know, first of all, it's my job to do
20 what I did. I did it as rationally as I could, as
21 logically as I could, as sympathetically as I
22 could. I would not want to be in that situation.
23 That does not legitimize the behavior.

24 Q But you did not look into whether or not the
25 abrogation -- any of the claims he's making about

1 whether the abrogation of duty penalty was somehow
2 orchestrated, you didn't look at any of that;
3 correct? If somebody -- you didn't; right?

4 A How can we?

5 Q I'm asking you. You didn't; right?

6 A Well, of course not. But how could we? The
7 paperwork -- the paper trail was there.

8 Q That's not what I'm --

9 A It justified the abrogation of teaching
10 responsibility for one semester, whatever it was.

11 Q That's not what I'm asking you, and I would like
12 you to please refrain from not answering my
13 questions.

14 You did not look at any of the underlying
15 accusations that Professor Akbulut made?

16 A That was not our charge.

17 Q So that's a no?

18 A It wasn't our charge.

19 Q Is that a no?

20 A I didn't voluntarily not do it. It was not our
21 charge.

22 Q I'm not asking you voluntarily.

23 Is it hard to say no?

24 A Now you are -- you're being belligerent, I believe.

25 Q I mean, I feel like it's belligerent when I'm

1 asking you a question and I can't get a straight
2 answer.

3 A No, we did not look at it. It was not our charge.

4 Q Thank you.

5 A I did what I was asked to do in my professional
6 capacity.

7 Q Thank you. That's all I was asking.

8 So if somebody -- so going back to the
9 aftermath being worse than the original action and
10 it really only being worse for those people who
11 took the action, Professor Akbulut made it very
12 clear in the meeting he had with you that he felt
13 like he was aggrieved; correct?

14 A Yes. He was angry about everything though.

15 Q But he made it very clear that he felt like he was
16 aggrieved by something that happened to him that
17 didn't happen correctly?

18 A I heard -- I'm going to say this, absolutely. I
19 heard he was -- he felt aggrieved over many years.

20 Q Because this --

21 A And he mentioned events over many years.

22 Q Because this event -- do you know when this event
23 started?

24 A Something like four or five years before the
25 sanction.

1 Q Right. Right.

2 A Yes.

3 Q So this had been carrying on for many years;
4 correct?

5 A I wasn't a part of it. I only know what we were
6 presented in the documentation and the history of
7 what we were told to review which was the basis for
8 a sanction. The sanction of an abrogation of
9 teaching responsibility for one semester.

10 Q And when was that abrogation of teaching penalty
11 assigned?

12 A 2018 I believe.

13 Q That is not correct.

14 If I told you that his abrogation of duty
15 happened in 2015, does that sound a little bit more
16 accurate?

17 A I don't know. I was -- we were given -- I'm sorry,
18 I don't have the file in front of me.

19 We wrote a report based on certain
20 evidence. Clearly there were many years of
21 dissension and a lack of respect for the process.

22 Q And because Professor Akbulut felt like somebody or
23 some people had done some things to him; correct?

24 A You're asking me to speak for him. I only saw what
25 was in the record, and what he said to us, what he

1 said to us, what he made very clear for a very long
2 period of time -- in fact, we were not even able to
3 ask questions -- mostly it was extreme unhappiness
4 about his position and his relationship with his
5 peers in the department.

6 Q Because of the abrogation of duty penalty; correct?

7 A No, I think just other things. Other things of
8 teaching classes he was assigned. It went on. I
9 don't even know. It just went on.

10 Because when I -- and I've had this
11 experience when I've been a part of a grievance
12 process. People are upset about one thing, it may
13 be one thing that's a trigger, but it's a history
14 that goes way back. But you have to focus on what
15 is at issue at the time, not what happened five
16 years before.

17 Q And this --

18 A And yet they all contribute to the sense of
19 unfairness and feeling marginalized and feeling
20 misunderstood and not respected.

21 Q And Professor Akbulut experienced all those things?

22 A He expressed that, absolutely.

23 Q I'd like to move to CP-55. It is 11.43 in the
24 binder. It's the exhibit you were just looking at.
25 I'm going to bring it back up to you.

1 This is an email you were just speaking
2 about, is it not?

3 A Uh-huh.

4 Q You have to make a verbal answer, I'm sorry, just
5 for the record.

6 A I'm sorry?

7 Q You have to, like, actually make a verbal answer.

8 A I recognize it, yes.

9 Q And this is the email we were just --

10 A Correct. Correct.

11 Q How many emails did you receive from Professor
12 Akbulut after your hearing?

13 A I think two.

14 Q Two? This one and what was the content of the
15 other one?

16 A I don't recall. I don't think I even opened it,
17 frankly.

18 Q Okay. Would it surprise you if I said your
19 colleague who testified earlier said this was a
20 single email that he sent to the committee
21 afterwards?

22 A I don't know.

23 Q Okay. In this email, isn't it true that Professor
24 Akbulut is asking you -- not you specifically, but
25 you and in conjunction with the other committee

1 members -- to show him what you based your opinion
2 on?

3 A I'm -- this -- I'm sorry. I am not sure why we --
4 why are we here? Are we relitigating this panel?

5 Q We are --

6 A Which -- can I just say? Can we -- if we are, can
7 I go back to all the materials we read?

8 Q First of all, we're not relitigating this panel.

9 Second of all, you're a witness in here
10 called to testify. What we're litigating here is
11 something that's between the parties.

12 A I understand that, but you're asking me things that
13 are outside of where -- where . . .

14 Q You testified about the impact of this email on
15 you, so I'm asking you to provide information about
16 this email. I'm --

17 A Okay. I'll just read you the words then.

18 Q I don't want you to read the words.

19 First of all, you don't get to ask me
20 questions because you are the witness. I find it
21 very, very disrespectful the tone that you're
22 taking with me.

23 I'm asking -- I asked you a question
24 about what this email -- something about this
25 email, and instead of doing that, you are

1 questioning my rationale in defending my client.

2 JUDGE WHITBECK: Counsel, we don't need
3 this commentary, frankly.

4 Why don't you ask the question and let
5 her answer it.

6 Q (MS. DOUKOURE) In this email, isn't Professor
7 Akbulut asking you to provide him the emails that
8 you say were harassing, insulting, and retaliatory?

9 A You know, I feel like I'm winding into a circular
10 problem. You're asking -- what you're asking right
11 now, what he's asking is for us to repeat all the
12 materials that were in a file that were onerous in
13 length, emails from other people.

14 Q I'm not asking you to quote a single email, I'm
15 asking you what this document that you have in your
16 hand says.

17 A And that's what I'm saying. I'm going to read it
18 to you because that's what it asks for.

19 Q Right. That's what I'm asking you. It's asking --
20 that's what I'm asking you. I'm asking you does
21 this email ask -- does this email -- is Professor
22 Akbulut asking in his email for the committee to
23 show him the documents that they felt substantiated
24 allegations that he was harassing and intimidating.
25 Is that what this -- is that found inside of this

1 document?

2 A Two things: It starts out by saying he had no
3 input in choosing us. That's not part of the
4 process.

5 Q I didn't ask you that.

6 MS. DOUKOURE: Can this committee please
7 ask the witness to answer questions? Otherwise,
8 I'm going to ask that the entirety of her testimony
9 be stricken.

10 MR. REIFENBERG: Can you please read the
11 paragraph that starts "Now I ask you, please"?

12 THE WITNESS: Okay. Uh-huh.

13 "Now I ask you, please produce one email
14 written by me which is abusive, insulting,
15 retaliatory, inexcusable, harassing, and targeting.
16 I have copies of all my emails in front of me.
17 They're all polite inquiries requesting correction
18 of my academic record."

19 Q (MS. DOUKOURE) Isn't that statement asking the
20 committee to provide Professor Akbulut with the
21 evidence that they used? Yes or no?

22 A Yes; however, it was in the file. He saw it in the
23 file.

24 Q Right. But does he know what you based your
25 opinion on?

1 A Yes, because he had a copy of the file as well as
2 we did.

3 Q Does he know which documents that you paid
4 particular interest to or which documents you felt
5 had harassing words in it? Because, obviously, he
6 felt that they did have harassing words; correct?

7 A I don't know what he felt. I know it was in the
8 file. He participated in the process. He read the
9 words in the file. We read the words in the file.
10 Based on that, we made certain conclusions.

11 Q Right. And he's asking you what did you use to
12 make your conclusions; correct?

13 A I think it's like asking us to reproduce the whole
14 portfolio again.

15 Q Did you use his documents?

16 A I'm sorry?

17 Q Did his documents that he provided to you --

18 A It was all part of the process that we read.
19 Everything. His -- his concerns the years
20 previously. His -- his charges on public websites.
21 His -- everything was part of it.

22 Q Right. So he's asking you guys to produce those
23 emails, specific emails; correct?

24 A That doesn't make sense.

25 Q I mean, it doesn't makes sense, but I'm asking you

1 whether that's what he asked you or not.

2 A I guess --

3 Q Okay. Thank you.

4 A -- that's what he's asking. And it's like saying I

5 wasn't part of the process, so I don't know what

6 you're talking about, but he was there.

7 Q And that's your interpretation of what it means.

8 I'm asking you a very specific question.

9 A Okay. Okay.

10 Q Whether or not it's part of the process for

11 Professor Akbulut to choose you guys, did he

12 have -- did he have -- was he able to participate

13 in the choosing process?

14 A No, because that's not part of the process.

15 Q I said that.

16 So no he didn't get a chance to choose.

17 So that statement that he made there is

18 factually accurate; correct?

19 A No, because the first statement is inaccurate.

20 Q I'm not asking about that, I'm asking about the

21 statement that he had no participation in the

22 choosing.

23 A Not --

24 Q That statement is accurate; correct?

25 A Not exactly true. He is entitled to ask for that

1 hearing, he doesn't have to have that hearing.

2 Q Am I asking you about whether or not he chose to

3 have a hearing?

4 A He -- the process does not allow the person being

5 sanctioned -- he asked for that panel, a panel from

6 UCFA to be --

7 Q Right.

8 A -- selected.

9 Q And he did not get to choose who was on that panel?

10 A No one else has either.

11 Q That's not -- and he was not allowed to choose;

12 correct?

13 A No. And no one else is either.

14 Q Thank you.

15 A It is not that he was treated differently is what

16 I'm saying.

17 Q I'm not -- I'm not -- I don't want you to assume

18 what I'm asking you, I just want you to answer.

19 A Then why were you asking?

20 Q That's for me to know.

21 A Sorry.

22 Q On the last paragraph he's quoting MSU policy about

23 the principles and procedures about academic

24 dishonesty.

25 Are you familiar with that?

1 A I absolutely am.

2 Q Is that an accurate statement of that policy?

3 It may or may not be quoted correctly.

4 A I believe it is. I've served on a hearing board

5 about such things, so I believe it is, yes.

6 Q Did you ever respond to this email?

7 A No. No, I did not.

8 Q And it's your testimony today that you didn't

9 really read it? You opened it and closed it right

10 away?

11 A I opened it, read a few highlighted things. Mostly

12 because of how it began, I thought, okay, this is

13 to me evidence of exactly what happened based on

14 the last decision.

15 Q Did it have highlights when you first received it?

16 A No, it did not.

17 Q So when you say "highlighted things," what are you

18 talking about?

19 A There were certain things that stood -- as I was

20 reading through it -- I mean, I read pretty

21 quickly, so maybe I actually read it to the end.

22 And all I said was the tone of this is not

23 appropriate to someone respecting the process, as

24 stated in the last statement.

25 Q Have you never received an email where somebody

1 didn't concur with your opinion before?

2 A Oh, yes, many times. Many times.

3 Q So this isn't the only one you received?

4 A Well, I -- mostly -- I shouldn't say that. I have

5 received emails with people not concurring with a

6 decision that was made about something.

7 MS. DOUKOURE: I have no further

8 questions.

9 DR. PROMISLOW: We have no redirect.

10 MR. REIFENBERG: Any questions from the

11 panel?

12 DR. SMITH: No.

13 MR. REIFENBERG: I guess you're excused.

14 (The witness stepped down.)

15 THE COURT REPORTER: Do you swear or

16 affirm that the testimony you are about to give

17 will be the truth, the whole truth, and nothing but

18 the truth, so help you God?

19 DR. KALFAGIANNI: I do.

20 EFFIE KALFAGIANNI,

21 a witness herein, was called for examination, and

22 after having been sworn, was examined and testified

23 on her oath as follows:

24

25

1 DIRECT EXAMINATION

2 BY DR. PROMISLOW:

3 Q Can you please state your name.

4 A Effie Kalfagianni.

5 Q Can you give us a little background about you and
6 why you're here in this process?

7 A I'm on the faculty in the Mathematics Department.
8 I joined MSU in two-thousand -- I'm sorry -- in
9 1998, and I got promoted to full professor in 2008.

10 I hold a Ph.D. degree in mathematics from
11 Columbia University. I was a -- before MSU I was
12 (inaudible) and then a Hill assistant professor at
13 Rutgers --

14 MR. REIFENBERG: Can you speak more
15 slowly? You're speaking faster than she can type.

16 THE WITNESS: Okay.

17 Q (DR. PROMISLOW) Are you a member of the topology
18 group in Michigan State University?

19 A Yes, I am.

20 Q So some of your research is relatively close to
21 that of Professor Akbulut?

22 A My research is in lower dimensional topology, which
23 is the general area of research of Professor
24 Akbulut. Topology.

25 Q Were you a member of the Mathematics Advisory

1 Committee, the standing committee, in the
2 2017-2018 --

3 A I was elected for a two-year. In the fall of 2018
4 my term ended.

5 Q Would you tell me what it's like -- so you've been
6 at MSU for a long time. What have your
7 interactions been like with Professor Akbulut
8 during this time, over the long time -- time frame?

9 A I'm sorry, I couldn't hear you.

10 Q Over the long time that you've been here at MSU,
11 could you just characterize your professional
12 interactions with Professor Akbulut?

13 A First of all, when I came to MSU, Professor Akbulut
14 was a quite established mathematician. I had heard
15 his name before. We -- we had a pretty large group
16 of topology. So Professor Akbulut did not really
17 -- and I did not cooperate mathematically. Our
18 research projects were distinct. But we did
19 interact in the collaborative proposals on training
20 with other members of the topology group. He --
21 however, we often participated on committees of
22 graduate student exams. I -- he had his group of
23 students and I had a group of students. We were at
24 seminars, and we participated in each other's
25 seminars. Yes.

1 Q Okay. I'm going to hand you an item that relates
2 to your time on the Mathematics Advisory Committee.
3 So it's the contents of Binder Tab 11.23, and it's
4 been previously admitted as CP-31.

5 A This is a -- yes, I recognize this item. This is a
6 message sent to the Advisory Committee sometime in
7 the spring term of 2018. Yes.

8 It's also sent to the University
9 president, provost and dean as well as selected
10 members of the faculty. I received this as a
11 member of the Advisory Committee.

12 Q And could you just give us a sense -- so what was
13 the context of what was going on at the time?

14 A There was a lot of discussion because we were
15 agreeing that the actions, the emailing action of
16 Selman was putting us in a -- was hurting the
17 reputation of the department. So he was considered
18 for discipline. For discipline. So we were
19 discussing whether his actions may receive
20 discipline, and this message arrived just before
21 our committee.

22 Q So are there elements of the message that had a
23 particular impact on the committee? Is there
24 anything -- if you could scan it quickly --

25 MS. DOUKOURE: I'm going to object and

1 ask this witness be directed to speak only to her
2 own impact. She cannot speak to other peoples'
3 state of mind.

4 MR. REIFENBERG: That's true.

5 DR. PROMISLOW: Can we relate what she
6 observed?

7 MR. REIFENBERG: What she observed, yes.

8 DR. PROMISLOW: Okay.

9 MR. REIFENBERG: Not their state of mind.

10 DR. PROMISLOW: Yeah. So the physical
11 actions that she observed. So if I could rephrase
12 the question.

13 Q (DR. PROMISLOW) So can you identify -- first let
14 me -- it's a two-part question. First, can you
15 identify key elements of this letter? And please
16 don't -- of this email? Just key points that you
17 think had the most impact. Could you identify them
18 for us?

19 A Well, the message basically said that we --
20 Professor Akbulut advises, suggests, to the
21 Advisory Committee not to sign any documents along
22 the lines of penalizing their colleagues because
23 the previous Advisory Committee was made by
24 Promislow and Dean Kirkpatrick to send faulty
25 documents that were faulty and it contained the

1 sentence "They would go to jail for this."

2 I had seen emails of this sort before
3 saying that the -- so the previous Advisory
4 Committee, the five members, he refers to the five
5 members of his Administrative Review.

6 I had seen messages not sent to me, but
7 to the department saying that the previous
8 committee has signed fraudulent claims, they
9 were -- but this was new. This one stated that
10 they could go to jail for it.

11 Q So did the -- as a result of this email, did the
12 Advisory Committee make a decision, take a course
13 of action?

14 A As a result of this email, to be honest, if I
15 might, I was shocked to see the reaction people had
16 to this email. It was clear that although we found
17 that the situation, this hearing at the department,
18 and we wanted it to stop. Several people said that
19 they do not wish to participate anymore in this
20 discussion. The Advisory Committee of the
21 Mathematics Department should not handle this case.
22 Instead, we should ask the University to handle the
23 remaining decision.

24 Q Is that, in fact, what happened?

25 A I believe that Dean Sisk was asked to handle the

1 matter, which happened.

2 Q Okay. Thank you. I'm going to hand you a document

3 which is in Tab 11D, D as in dog. 11D.

4 I'll take this from you.

5 Two pages. Do you recognize this

6 document? Can you identify it for us?

7 A Yes. This is a letter I wrote with the statement

8 of impact for the committee of Dean Sisk, and I

9 believe it went to -- it went to the panel, the --

10 the CF -- the -- I forget the panel it was called,

11 but the . . .

12 Q The people in the room know it. UCFA.

13 A The UCFA panel, yes. And I was aware that it would

14 be read there, yes.

15 Q But you wrote this yourself? These are all your

16 own words?

17 A I'm sorry?

18 Q The words in this statement of impact, these are

19 all your own words?

20 A Yes.

21 Q No one wrote them for you?

22 A The statement and the report are in my own words,

23 and they are meant to say how -- what the impact

24 was on the group and how I saw this, yes.

25 Q Could you -- without reading it, could you just

1 sort of summarize for us your main points you were
2 trying to make with the statement of impact?
3 A The main points are that after the administrative
4 review, there were messages, multiple messages,
5 sent to the faculty, to the entire faculty, and the
6 graduate students were included where the
7 administration -- the -- first of all, the five on
8 the review panel members were called liars or
9 minions or -- it said that they were made by the
10 administration to sign faulty claims.

11 And, as I said, the really upsetting
12 thing to me was that people that were coming in the
13 department for the first time, young faculty,
14 postdocs from abroad, graduate students from all
15 over, often this was the first message they
16 received from a senior faculty member.

17 One other thing that was sent in one of
18 the emails was a list of salary raises for selected
19 faculty members with the message that in my view
20 was implying that certain members have received
21 bonuses from the administration for jobs related to
22 his review.

23 And, now, I should say that at this point
24 I was not on the review panel. I was not on the
25 Advisory Committee. I knew nothing about the case

1 more than what Selman himself had said in public
2 message, email messages, yet my name was on that
3 list with my salary, the number of papers I had
4 written in the last two years and the raise I
5 received insinuating that I was one of the people
6 that received a bonus for I don't know what.

7 I was asked I do this, sending email
8 messages saying -- accusing people of having
9 received bonuses to penalize people for
10 administrative review, this is serious. What is
11 going on? This was the question I received. And
12 this was the question I received from students and
13 from people over and over again. What is going on?
14 What are these things?

15 So this is basically what I wrote about
16 in my letter and how everyone feels receiving these
17 messages.

18 Feelings aside, this situation hurts our
19 reputation as a department to recruit graduate
20 students, to recruit young faculty members or maybe
21 our ability to have visitors over and our ability
22 to get grants. Some of his messages were sent to
23 colleagues at other universities and were sent to
24 the president of the AMS and so on.

25 So young faculty asked me at times is

1 this sort of thing okay to -- is this happening --
2 do people always send messages like that? And I
3 think that I had to do something and to write
4 something because every time I -- I sit down to
5 think how I feel about -- how I should act in the
6 department, I find myself wanting my own mentors.
7 And at times when I was younger I would go to
8 Selman. The same thing happens with postdocs and
9 then now that I mentor in our department, so
10 previous graduate students, they would call me and
11 ask questions.

12 And so I feel that being a university
13 professor, you are a mentor. So the atmosphere
14 that you set for your students, the examples that
15 you set for your department matter more than you
16 think. This was the point of this message.

17 Q So is it correct to say that you were concerned of
18 the impact this was having on the culture of the
19 department?

20 A The culture of the department.

21 MS. DOUKOURE: I'm going to object to the
22 fact that --

23 DR. PROMISLOW: I'm just trying to --

24 MS. DOUKOURE: -- that charging party is
25 trying to put words into this witness's mouth by

1 telling her is it fair to say that you mean this.
2 That's basically testifying.

3 MR. REIFENBERG: Can you just ask her
4 questions?

5 DR. PROMISLOW: Understood.

6 Q (DR. PROMISLOW) Okay. I'm going to move to another
7 document.

8 JUDGE WHITBECK: Are you going to move
9 this one?

10 DR. PROMISLOW: Oh, yeah. Thank you.
11 I'd like to move to admit this document.

12 MS. DOUKOURE: I have no objections.

13 DR. PROMISLOW: CP-59.

14 MARKED FOR IDENTIFICATION:

15 CHARGING PARTY EXHIBIT 59

16 4:49 p.m.

17 Q (DR. PROMISLOW) I would like to go -- I'm going to
18 hand you this next document. It's the content of
19 Tab 11N6. And it is not previously admitted.

20 MS. DOUKOURE: Is it before or after the
21 letters?

22 DR. PROMISLOW: It's before the letters.
23 So it's before the Ws. So it's S and N.

24 MR. REIFENBERG: And is it before S?

25 DR. PROMISLOW: S and then N. S is

1 summer, N is November.

2 MS. DOUKOURE: N6.

3 DR. PROMISLOW: N? N as in Nancy. 6.

4 Okay.

5 Q (DR. PROMISLOW) So do you recognize this item?

6 A Yes, absolutely.

7 Q Can you --

8 A In fall 2018 I received a Natural Sciences
9 Outstanding Faculty Award, and this is routine.
10 The dean -- the dean of Natural Science made the
11 announcement calling on colleagues to go and
12 congratulate their colleagues. So I participated
13 in this ceremony.

14 One -- I believe it was about one hour
15 later a message arrived from Selman again replying
16 to the dean at the address NatSci academics, the
17 department of mathematics and so on. Actually,
18 that was the address, the NatSci academics, replied
19 to them.

20 And, yes, this is the entire faculty list
21 of the College of Natural Sciences, as I found out.

22 Q Do you know how many people are on that mailing
23 list?

24 A I -- I believe there's about between 800 and 850
25 people on that list.

1 Q So it came to you.

2 Tell us, what was the content of
3 Professor Akbulut's email?

4 A Well, Professor Akbulut sent a very short message.
5 He said that "I see that this year's award winners
6 include two hate letter writers," and below he had
7 the link to my email statement which he had posted
8 on his web page.

9 It should be known by now my email
10 statement was called a hate letter. And before
11 that he sent messages to increasingly larger and
12 larger audiences calling the letter a hate letter.
13 He was public. So this is what he was referring
14 to.

15 Q So did this have any impact on you? What was your
16 emotion when you received this?

17 A First of all, I should say that the result of this
18 mailing was that now the College of Natural
19 Sciences put a filter on this address as we learned
20 a few hours later from Dean Duxbury.

21 The impact, of course, it's -- it's --
22 feelings aside, okay, I get an award and I instead
23 of getting a congratulatory message or anything at
24 all, I get this.

25 What I felt, though, once again, was that

1 I'm being hit, my position was being abused, being
2 hit. 850 people have access to a letter that is
3 called a hate letter.

4 Now, is this a hate letter? I don't
5 think that most people would call this a hate
6 letter. But most people are not going to look at
7 anything but the name.

8 What I noticed is I have an account on my
9 web page that is standard. And that night I got
10 several hundred hits of people visiting my web
11 page.

12 When I arrived at the -- after the
13 ceremony there was a reception, and several people
14 from the College of Natural Science, faculty from
15 other departments, some of whom I knew before, came
16 to tell me about this. How can this person still
17 be a professor here? How can he be a professor?

18 So, once again, not only was -- I was
19 humiliated, but there was also this input again of
20 how it reflects on us.

21 Q Thank you. Is there anything else you want to add?
22 Is there any other words you'd like to add?

23 A I'm sorry?

24 Q Are there any other words you'd like to add?

25 A Yes. I still want to talk about my impact

1 statement. This is not a statement I wrote meaning
2 to hate anyone. This is not a statement I wrote
3 meaning to fire anyone. This is a statement I
4 wrote because I strongly believe that the
5 atmosphere that we had in our department is harmful
6 to the graduate program, it is not productive, and
7 I strongly believe that this kind of behavior is
8 not acceptable by a university professor at any
9 university.

10 DR. PROMISLOW: I have no further
11 questions. I move to admit the document as CP-60.

12 MS. DOUKOURE: I have no objections.

13 MARKED FOR IDENTIFICATION:

14 CHARGING PARTY EXHIBIT 60

15 4:56 p.m.

16 MR. REIFENBERG: We have four minutes
17 left.

18 DR. PROMISLOW: I'm done.

19 MS. DOUKOURE: Would you like me to
20 start, or do you want me to wait until tomorrow?
21 It's up to you. It's your decision. This is your
22 hearing.

23 MR. REIFENBERG: Do you think it will
24 take you -- I mean, how much time is it going to
25 take?

1 MS. DOUKOURE: For sure we'll go past
2 five.

3 THE WITNESS: I could add one more
4 remark, if I may.

5 MR. REIFENBERG: It's probably better we
6 do it now.

7 MS. DOUKOURE: To do it now?

8 MR. REIFENBERG: Can you do this in a
9 reasonable amount of time?

10 MS. KELLEY: I cannot stay past five
11 today of all days, I'm sorry.

12 MS. DOUKOURE: And I have a very long
13 drive home. Probably over two hours. My
14 preference would be not to stay past five. And
15 also I would prefer to not ask ten minutes of
16 questions and then not be able to ask any more
17 questions.

18 MR. REIFENBERG: It seems that we have to
19 start tomorrow.

20 MS. DOUKOURE: Thank you.

21 MR. REIFENBERG: So cross-examination
22 starts tomorrow at 9:30.

23 Is that possible?

24 THE WITNESS: Oh, I have to come back
25 tomorrow? Okay. Yes.

1 MR. REIFENBERG: At 9:30 in the morning?
2 Because, obviously, if you can't come back, then
3 it's . . .

4 THE WITNESS: Okay.

5 MR. REIFENBERG: All right. We'll start
6 tomorrow. Cross at 9:30.

7 (Record closed at 4:57 p.m.)

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CERTIFICATE OF NOTARY PUBLIC

I certify that this transcript, consisting of 288
pages, is a complete, true, and correct transcript of
the proceedings and testimony taken in this case on
August 20, 2019.

August 27, 2019



Suzanne Duda, CSR-3199, RPR, CRR
Notary Public, Clinton County, Michigan
Acting in the County of Ingham
My commission expires: May 6, 2025

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